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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Tuesday, July 10, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O God, that our most treasured gifts are not in the power of our might, nor the majesty of our creation, or in the quality of our skills. But rather, O God, remind us that we are truly Your people when we care for each other and when we strengthen the bonds of our shared humanity and learn to relate to each other with kindness and with compassion. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey [Mr. SAXTON] please come forward and lead the House in the Pledge of Allegiance.

Mr. SAXTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 344. Concurrent resolution permitting the use of the rotunda of the Capitol to allow Members of Congress to greet and receive His All Holiness Patriarch Dimitrios.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3033. An act to control the export, to countries pursuing or expanding the ability to produce or deliver chemical or biological weapons, of items that would assist such countries in acquiring such ability, to impose sanctions against companies which have aided in the proliferation of chemical or biological weapons, to provide for sanctions against countries which use or prepare to use chemical or biological weapons in violation of international law, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3033) "An Act to control the export, to countries pursuing or expanding the ability to produce or deliver chemical or biological weapons, of items that would assist such countries in acquiring such ability, to impose sanctions against companies which have aided in the proliferation of chemical or biological weapons, to provide for sanctions against countries which use or prepare to use chemical or biological weapons in violation of international law, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1630) "An Act to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes," agrees to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. BURDICK, Mr. MOYNIHAN, Mr. MITCHELL, Mr. BAUCUS, Mr. CHAFEE, Mr. SIMPSON, and Mr. DURENBERGER; from the Committee on Finance, for matters within their jurisdiction: Mr. BENTSEN, Mr. MOYNIHAN, Mr. BAUCUS, Mr. MITCHELL, Mr. PACKWOOD, Mr. CHAFEE, and Mr. DURENBERGER; to the conferees on the part of the Senate.

The message also announced the Senate had passed a bill, joint resolutions and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 2461. An act to authorize appropriations to provide for and improve the drug treatment waiting period reduction grant program under the Public Health Service Act, and for other purposes;

S.J. Res. 279. Joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week;"

S.J. Res. 282. Joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child;"

S.J. Res. 313. Joint resolution designating October 3, 1990, as "National Teacher Appreciation Day;"

S.J. Res. 324. Joint resolution to designate June 3 through 9, 1990, as "Week of the National Observance of the 50th Anniversary of World War II;"

S.J. Res. 326. Joint resolution to designate December 21, 1990, as a "Day of Observance for the Victims of Terrorism;"

S.J. Res. 338. Joint resolution to designate July 1, 1990, as "National Ducks and Wetlands Day;"

S.J. Res. 339. Joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day;"

S. Con. Res. 60. Concurrent resolution expressing the sense of the U.S. Senate that an impartial investigation of all alleged sightings of Raoul Wallenberg since 1947 be made; and

S. Con. Res. 137. Concurrent resolution to express the sense of the Congress that the 1990 Nuclear Non-Proliferation Treaty [NPT] Review Conference should reaffirm the support of the parties for the objectives of the NPT, in particular preventing the spread of nuclear weapons to additional countries.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
June 29, 1990.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received at 9:50 a.m. on Friday, June 29, 1990, the following message from the Secretary of the Senate: That the Senate passed without amendment H.J. Res. 599, H.R. 1028, H.R. 4525, H.R. 4252, H. Con. Res. 287 and H.R. 5149.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill and joint resolutions on Friday, June 29, 1990:

H.R. 5149. An act to amend the Child Nutrition Act of 1966 to provide that the Secretary of Agriculture may not consider, in allocating amounts to a State agency under the Special Supplemental Food Program for Women, Infants, and Children for the fiscal year 1991, any amount returned by such agency for reallocation during the fiscal year 1990 and to allow amounts allocated to a State for such program for the fiscal year 1991 to be expended for expenses incurred in the fiscal year 1990;

H.J. Res. 599. Joint resolution to designate July 1, 1990, as "National Ducks and Wetlands Day;" and

S.J. Res. 271. Joint resolution to designate July 10, 1990, as "Wyoming Centennial Day."

And the following enrolled bills on Tuesday, July 3, 1990:

H.R. 1028. An act to require the Secretary of the Treasury to mint coins in commemoration of the golden anniversary of the Mount Rushmore National Memorial;

H.R. 2514. An act amending subchapter III of chapter 84 of title 5, United States Code;

H.R. 4252. An act to authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, New Hampshire; and

H.R. 4525. An act to amend the ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for the Department of Transportation and related agencies, and for other purposes, for the fiscal year ending September 30, 1991.

Mr. COUGHLIN reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

BUSH ADMINISTRATION REFUSES TO BRING FULL RESOURCES OF THE JUSTICE DEPARTMENT TO BEAR ON S&L CROOKS

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, the Bush administration's handling of the S&L bailout is indicative of the President's failure to lead.

The 21,000 S&L fraud and embezzlement cases are pending action, but the President has refused to bring the full resources and manpower of the Justice Department to bear.

Only a handful of those who stole from the accounts of depositors have been indicted.

In fact, you are more likely to go to jail for sticking up a 7-11 for $20 than stealing a million from a savings and loan.

This is deplorable, considering each taxpayer will pay up to $2,000 for this bailout.

Those individuals who acted fraudulently—who betrayed the trust of their depositors and the U.S. taxpayer—must pay for their actions.

Mr. Speaker, if there was ever a group of people who needed to be brought to swift, severe justice it is the S&L crooks.

STAN PARRIS SOUNDED THE ALARM ON THE S&L CRISIS

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I am aghast at the remarks of the gentleman from Indiana [Mr. VISCLOSKY]. I am proud to be a member of the Republican Party, and I am proud that it was a Republican, our colleague from Virginia, STAN PARRIS, who first sounded the warnings that a crisis was developing in the S&L industry. It was in 1985 that the distinguished gentleman from Virginia took to the floor of the House and warned the Congress about the impending doom of the FSLIC and over one-third of the S&L industry. Each subsequent year after 1985, until the Congress enacted legislation to resolve the thrift crisis, it was STAN PARRIS who urged and pleaded on the floor of this Chamber the need to address and resolve what has become our Nation's worst financial disaster.

In 1985, it was STAN PARRIS who warned that problems in the thrift industry threatened the stability of our financial system, and he estimated at that time that losses could amount to $15 to $20 billion. In 1986 he warned that we were facing a $23 billion problem in the S&L industry. In 1987 he projected that the thrift fiasco had grown to $35 to $45 billion, and in 1988 he stated on the floor of the House that the Nation's S&L problem was approximately $50 to $60 billion.

If the Democrats controlled House and Banking Committee had only heeded STAN PARRIS' warnings in 1985 and took action, the American taxpayers could have been saved hundreds of billions of dollars.

While Republicans may not control the House of Representatives, when it comes to the S&L crisis the Democrats cannot say that we didn't try to warn them.

THE FATE OF THE GREAT WHALES RESTS WITH PRESIDENT BUSH

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, right now, as I speak, the continued existence of the most magnificent mammals ever to live on Earth, the great whales, rests in the heart and mind of the American President George Bush. Will he instruct the United States delegates to the International Whaling Commission, now meeting in The Netherlands, to insist on continuing the ban on the commercial slaughter of whales? Or, will he instruct them to wimp out under pressure from Japan, Norway, and Iceland, whose greed would turn these greatest of God's creatures into dog food and cosmetics? The American people are waiting and watching you Mr. President. Whether the whales of this world are driven to extinction is up to the immediate decision of one man, and that man is you.

PRESIDENT BUSH'S SON MUST PAY THE PIPER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, Neal Bush, the President's son, said that Democrats are out to get him. He said that after all, the $100,000 loan that he got from a Denver investor was strictly business. It may have been a sweet deal, but strictly business.

Sweet deal? I will say so. Those are some real lollipops.

Now, $100,000, you do not have to pay any of it back, no principal, no interest, no nothing; but guess what, 6 years later he says, "What's the big deal. I'm going to claim it on my 1990 tax form."

Mr. Speaker, let us tell it like it is. Neal Bush rode Silverado roughshod.

This is not a sweet deal. This is diabetes, and the American people are dying from too much of the sugar. It is time to tell Mr. Bush, President's son or not, he has to face the facts. America does not run a five and dime store. He is going to have to pay the piper.

EXPENSIVE EDUCATION OPTIONS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, on Thursday the House will consider the Equity and Excellence in Education Act (H.R. 5115). This bill authorizes $1 billion in completely new spending for education. Having just returned from the July 4th recess, few Members have had a chance to thoroughly examine this complex, expensive new expansion of education programs.

As a result, this bill may be "rubber stamped" by the Congress in an election year frenzy to do good deeds for America's youth. Unfortunately, this is not the best answer for our children or for education.

The President proposed a modest expansion of education programs targeting limited Federal resources toward specific education needs. The price tag on the President's bill was $400 million. Important aspects of the Presidents' programs were excluded or significantly changed in H.R. 5115. The bill also includes "statements of policy" that in the long run call for more excessive spending and expansion of Federal programs.

We face a budget deficit of over $160 billion. Can we afford a $600 million increase over the President's education proposal—$1 billion in new education spending? As you continue to review this bill, think about the other new legislation the House has supported this year, including a $47 billion child care bill.

I want to provide the best possible education for our children, I also do not want the burden of the Federal deficit on their backs in future years, it is time to make some tough, but responsible decisions about our children's financial future. I believe that the billion dollar bill is one our children can do without.

Please join me in this effort.

NEW HEIGHTS IN GREED AND CORRUPTION IN SAVINGS AND LOAN BAILOUT

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, yesterday reports confirmed that the Federal Government provided almost $2 billion in tax free subsidies to an Arizona insurance executive, appropriately named Mr. Fail, so that he could take over 15 failed thrifts, while he put up only $1,000 of his own money. Even more outrageous is that the sale was approved by both the Federal Home Loan Bank and the FDIC, despite the fact that this man, who should be known as Mr. Succeed, had been previously indicted for securities fraud.

Exactly 1 month ago I asked the question, "Where did all the money go in the savings and loan scandal?" Unfortunately, no one in the Bush administration has an answer for me; but when I read about $2 billion here and $2 billion there, I am dismayed and disgusted that the Federal Government is now sticking each and every taxpayer with over a $2,000 tab to pay for this mess. The savings and loan scandal is an embarrassment to responsible, sound government, and it ought to stop.

SAVE THE HURRICANE HUNTER PLANES

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, it was less than a year ago that Hurricane Hugo ravaged the coast of South Carolina. We all remember the devastation and loss of life caused by this monstrous storm.

We also know that, at the last moment, the WC-130 Hurricane Hunter planes noticed a change in direction of the storm that the satellite had missed. This helped emergency workers better prepare.

Despite this, the Department of Defense has now announced that, once again, they will be discontinuing the hurricane hunter program. This is completely unacceptable.

To make matters worse, there is only one GOES tracking satellite doing the job meant for three and the new satellites will not be working before 1994.

Cutting the program is irresponsible and dangerous. To dismantle this fleet as hurricane season begins places all of our coastal residents in peril.

Last year, the House passed my bill to continue this program for 5 years, the Senate Commerce Committee agreed. I urge the full Senate to act quickly and again urge the Department of Defense to reverse this outrageous decision.

Mr. Speaker, there is no better expenditure of peacetime dollars than protecting our citizens and saving the lives of American citizens.

GOING AFTER THE S&L CROOKS

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, the American people want to put the savings and loan crooks in jail. I want to report that the Financial Institutions Subcommittee, which I chair, is taking steps to get every savings and loan crook a day in court.

On June 28, the Financial Institutions Subcommittee marked up H.R. 5050, a bill which gives the Justice Department additional tools to go after the crooks and authorizes the resources to use them.

This bill will make it a crime for the S&L crooks to hide their loot from Federal bank regulators. It will also provide that any hidden assets that are discovered are forfeited to the United States. In short, the crooks will not be able to use elaborate legal arguments to keep their ill-gotten loot out of the hands of the bank regulators.

The bill also strips the crooks of one of their favorite scams: protecting assets by filing for bankruptcy. Some States allow generous bankruptcy protection for mansions and expensive cars. It is outrageous that those who looted S&L's can protect their loot by building a miniature version of the Taj Mahal and declaring it their residence. H.R. 5050 will put an end to that nonsense.

Mr. Speaker, H.R. 5050 contains many other worthwhile provisions that will help in the war against the savings and loan crooks. I hope that the full Banking Committee and the other committees to which it has been referred will act promptly on this bill so that we can put the S&L crooks in jail.

BLAMING GEORGE BUSH FOR S&L CRISIS WILL NOT SOLVE THE PROBLEM

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, what a difference 1 year in a political campaign makes. I am really stunned to hear my colleagues on the other side of the aisle criticize George Bush. I will never forget on February 8 of last year he stood right here and he said to us, "I want this Congress within 45 days to get to my desk major sweeping reform legislation to deal with the thrift crisis."

Well, by late August we had gotten it to him, well beyond the date he had requested it.

□ 1220

Many people on the other side of the aisle complimented President

Bush for the fact that he did step up to the plate and address this issue head-on.

It is very clear that we have a problem and a challenge, but blaming George Bush for the problem is not in any way going to bring us a proper solution.

SERIOUS CONFLICTS OF INTEREST IN THE S&L SCANDAL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, this morning in Denver over a thousand pages of documents were released in the Silverado S&L case. They are very serious, and they show what this whole S&L issue is all about.

They point out that it appears that the President's son, Neil Bush, is involved in one of the worst kinds of conflict of interest. While he sat on the board of the savings and loan, which is an insured deep pocket, he is supposed to reveal any conflicts he might have in a private company that is not insured. He apparently did not do that when extending credit to someone who was going to use it to help him with his private company, nor in the end, as some of the people were defaulting on their loans to the savings and loan, which means then the taxpayer had to pick up that default on those loans, did he reveal at the very same time those people were also making further contributions to his private company.

These are serious conflicts of interest, and this is really indicative of what so much of the savings and loan scandal has been about.

VOTE FOR MINETA AMENDMENT ON WEDNESDAY

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, on Wednesday the House will consider H.R. 5170, a bill to amend the Airport and Airways Improvement Act of 1982.

It is expected, if the Committee on Rules cooperates, that we will sponsor an amendment to take the trust funds and make them available for the purpose for which they were intended.

Let me explain: presently if one purchases an airline ticket, 8 percent of the cost of that ticket goes into a trust fund for the purpose of improving our airway system, capital improvements to build new airports, to use the latest technology in our air traffic control system. However, we have not been doing that for many years. We have not built a new airport in America since 1978.

Since that time, the traveling public and airways have more than doubled, and our airports are not only overcrowded but our system is antiquated.

We now have $14 billion sitting in the airways trust fund available tomorrow if it will just be released.

The gentleman from California [Mr. MINETA], hopefully on Wednesday, will offer an amendment that will permit us to release those funds for the purposes for which they were intended.

The last time it was sponsored by Congressman HOWARD, the chairman of the Committee on Public Works and Transportation, it failed by only three votes. We encourage all Members of the House to look seriously at the amendment and do what is good for the air safety of our traveling public and vote for the Mineta amendment on Wednesday.

ADDRESS S&L CRISIS ANEW

(Mr. LAFALCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAFALCE. Mr. Speaker, for the past decade a combination of sloganeering and partisanship has precluded the administration and Congress from dealing effectively with our budget deficit problems, and those problems have festered and been handed on to future generations of America.

I hope we will not witness the same thing with respect to the S&L crisis. The S&L crisis is very complex.

In my judgment, it has gone through three separate and distinct phases. The first phase was the interst-rate-mismatch phase; the second phase, the bad-assets-terrible-atrocious-supervision phase; and the third phase, the FIRREA phase.

There probably has been culpability on so many individuals' parts that it is going to be difficult to assess blame. I think the primary blame is on the poor supervision that we witnessed except for this third phase.

This third phase, the FIRREA phase, turned a basically regional problem into a national crisis. It was a terrible misdiagnosis of the problem. It was a terrible misprescription for the misdiagnosis. We have also witnessed malpractice in the implementation of the legislation.

We must address the issue anew.

DO NOT SUPPORT AT&T IN CHINA

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, it has come to my attention that AT&T plans to sell a 5ESS digital switch to the People's Republic of China for $4 million. This device will control 16,000 new phone lines. These lines will be used solely by the military; under the control of the general who ordered the massacre of hundreds of Chinese students last summer in Tiananmen Square.

I rise today to point out that if Communist China did not have most-favored-nation status; such a sale would be more difficult to arrange and probably would not take place at all.

Mr. Speaker, I urge my colleagues to rally against the most-favored-nation status given to China, if not for the advance of democracy itself then for the sake of the students who died trying to attain what so many Americans take for granted.

MORE EFFORT NEEDED TO PUT S&L CROOKS BEHIND BARS

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, my Republican colleagues have increased their attacks recently on the Democrats for their role in the S&L debacle.

Let us get the facts straight as to who is responsible for causing the bailout numbers to escalate from the absurdly low numbers the administration predicted when FIRREA was passed.

It was the Bush administration's insistence on putting the bailout off-budget and the resulting escalating interest payments which is the greatest cause of the growing bailout cost.

It is the bungling of the administration's creature, the RTC, which is costing the taxpayer more and more for the S&L bailout.

And it was Republican Danny Wall who handed over billions of taxpayer dollars, without congressional approval, to high-flying financial speculators. Originally, Wall stated the Southwest deals would cost $8 billion; now this Christmas gift, as Chairman GONZALEZ has characterized it, will be charged to the taxpayer at $52 billion.

Let me suggest to my Republican colleagues that they spend a little less time mud-slinging and spend a little more effort on encouraging the Justice Department to finally start putting some S&L crooks behind bars.

THE KEATING FIVE—CRANSTON

(Mr. THOMAS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of California. Mr. Speaker, Ron Brown, the chairman of the Democrat Party wants to make the S&L crisis the No. 1 issue in the fall elections.

I think this is an excellent idea. For once, the American people can get a first hand look at how Congress works

with Democrats in control. They should also get a bird's eye view of how one Democrat Senator from California, conducted his Banking Committee work.

Let us look at the Cranston relationship to Charles Keating. During his 1986 reelection campaign Senator CRANSTON, got Mr. Keating to give $85,000 to the California Democrat Party for get-out-the-vote drives. Mr. CRANSTON attributed his narrow 1986 reelection to the get-out-the-vote effort. Mr. CRANSTON's campaign also received nearly $47,000 from Keating for his reelection.

Then in early 1987, Mr. CRANSTON was one of the ring leaders in the Keating Five. The five held two meetings with regulators to help out Charlie Keating and Lincoln Savings. Their intervention was considered unprecedented. Imagine five Senators in one room, for one company. The delay in closing Lincoln will cost the taxpayers nearly $2 billion.

After the meetings with Ed Gray and the other regulators, Mr. CRANSTON went back to the well, this time seeking really big bucks. In late 1987 and early 1988, Mr. CRANSTON solicited and received nearly $850,000 from Keating and Lincoln, for three private organizations founded or controlled by the Senator.

It did not end there. One week after the Keating Five meeting, CRANSTON's banking aide took a trip to Phoenix to visit Lincoln. Guess who paid for it? Charlie Keating, of course. Right up to the date before Lincoln was closed, Senator CRANSTON's banking committee staff were calling the Bank Board to question the closing of Lincoln Savings.

I say let us make the S&L crisis an issue. But let us begin by looking at the record of those in control—the Democrats.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. VISCLOSKY). The Chair would caution that personal references to Members of the other body are considered out of order.

BLUEBONNET S&L

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, the average working American must make a downpayment of about $1,500 to $3,000 to buy a car. And he or she would have to save up at least $5,000 to buy a small home.

But the rules of the road in America do not apply to well-connected felons. If you have been convicted of financial fraud, and if you want to buy a baker's dozen of sick S&L's, and if you would not mind receiving $2 billion worth of Government subsidies to boot, all you need is $1,000. That, plus a lobbyist whose last job was as an aide to George Bush.

And, Mr. Speaker, if you are that same felon, and you do not feel like coughing up an additional $10 million to buy the thrifts, do not worry. Just put the tab on the taxpayers. They are already paying $1.4 trillion over 40 years—so what is another $10 million.

This is no tall tale, Mr. Speaker. It really happened to a man named James Fail. Apparently, his name was no bar to success. The only thing that is failed is the ability of a Republican administration to protect the interests of American taxpayers. Even now, when the Congress wants to call the culprits to testify, they refuse. When it comes to answering to the American people for the S&L scandal, this administration would rather just say "no." What a disagrace.

□ 1230

STATE CHARTERS TO BLAME

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, much of the S&L crisis can be blamed on liberal State charter laws for S&L's. Many of the most spectacular thrift failures have been State-chartered S&L's. Lincoln, Centrust, Vernon, Sunbelt, just to name a few.

Perhaps the most liberal State-chartered law for thrifts is in California. Between 1980 and 1987, 42 California thrifts failed, more than any other State.

In 1982, California passed a law that allowed thrifts to place 100 percent of their assets in any kind of direct investment. Thus, the assets of an entire thrift could be invested in a risky real estate venture.

Who could have allowed such liberal deregulation? The former Democrat Governor that's who. He along with a Democratic-controlled legislature passed the most liberal State charter law in the country.

And now the American taxpayers are picking up the tab for the deregulation efforts of that former Democratic Governor.

The State of Texas is no better. During the term of another former Democratic Governor, State thrift charter laws were liberalized. In fact, in 1987, an investigation of the Texas State Department of Savings and Loan, found that there were only 13 examiners for 254 State-chartered thrifts. There were field examiners with no college degrees, and some with degrees in English and biology. All in all, the State S&L Department was shabbily run during that Democratic Governor's administration.

Now the American taxpayer will have to pick up the tab for the $25 billion that failures in Texas will cost.

How is George Bush responsible for the States of California and Texas's liberal charter laws for S&L's?

ATTORNEY GENERAL MUST INVESTIGATE EXECUTIVE BRANCH

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, the S&L debacle in America has two principle components. How it is that America's savings and loan industry was led into bankruptcy, and, an equally compelling question, why, after the bankruptcy began, nothing was done to close them, and how a financial problem became a national financial crisis.

One explanation is inappropriate political considerations. It appears now that during the 1988 Presidential campaign, the Bush 1988 committee is reported to have received a non-Federal campaign contribution of $100,000 from the now-famous Charles Keating.

Meanwhile, the Federal Home Loan Bank Board allowed Keating's failing thrift, Lincoln Savings, to remain open until after the 1988 elections despite recommendations to the contrary by the San Francisco Federal Home Loan Bank more than 1 year before. There are many such cases. This one, in detail, raises the following questions:

Did the President intervene on behalf of Lincoln Savings or other troubled S&Ls? Did the President or his representatives attend meetings at which it was decided to allow Lincoln to remain open until after the November 1988 election?

This Congress has faced questions. It is investigating its Members that may have acted improperly. The Attorney General must do the same with the White House. What did the President do? What did the White House do? Did they act improperly on behalf of their own contributors?

CONGRESS SHOULD LOOK INWARD WHEN ASSESSING BLAME IN S&L CRISIS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, while we are busy trying to assess blame and to blame the President of the United States for S&L crises, we ought to be looking inward. It is the Congress who has failed time and time again to do the right thing in this issue. Failure to

fund properly, failure to come to grips with the Bush proposal in the State of the Union message and before, and other failures of the Congress.

One of the latest ones that we uncovered is that it is now possible under the current law, because of the failures of the Congress, for an S&L executive who was convicted of fraud to be able to go to court, be convicted, made a criminal, sentenced to pay restitution, and then go to the next court and declare bankruptcy and escape the responsibility of paying restitution.

We have introduced legislation to try to correct that. Because of the failure of Congress in the proper handling of bankruptcy cases, we face another crisis. We want to repair that law to prevent a savings and loan executive or anybody defrauding the Federal Government from going bankrupt and escaping his responsibility.

THOSE IN CHARGE FOR PAST 10 YEARS MUST ACCEPT S&L BLAME

(Mr. HEFNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, it seems strange to me, and sometimes kind of funny, that all the good things that have happened in the past 10 years have been the direct result of what the Reagan administration and Bush administration did. But what about the bad things like the savings and loan mess? Who has been in charge of that for the past 10 years? Ed Gray, the former Federal Home Loan Bank Board Chairman, has testified before the House Committee on Banking, Finance and Urban Affairs that the Reagan-Bush administration policy of getting the Government off the backs of the business community included getting government of the backs of the thrifts.

He said that when he asked the administration for more examiners and more staff to monitor what has been going on, he was refused. That meant that the savings and loan managers could take a free-wheeling hand with other people's money. The thrift regulators were off the backs of the S&L's, leaving the resulting mess directly on the backs of the taxpayers.

The taxpayers should not have to pick up the tab for the greed and the deceit of the managers and the failures of those whose job it was to police them.

Who has been in charge for the past 10 years? Who hired the examiners, and whose responsibility was it to oversee this tragedy that has taken place in our country today?

COSPONSOR THE TITLE X PREGNANCY COUNSELING ACT

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the distinguished gentleman from Oregon, Congressman RON WYDEN, and I are today introducing the Title X Pregnancy Counseling Act. Our bill clarifies that when a woman requests information on how to deal with an unintended pregnancy she will be told about prenatal care, about foster care, and adoption, and about pregnancy termination. When she makes up her own mind, she will be referred to an appropriate provider.

This nondirective, informed consent counseling, is how the program was run prior to 1988 when new regulations were imposed. Under these new rules, a woman cannot be told that abortion is an option.

These rules have undermined the domestic family planning program. They also violate medical ethics which require a physician to inform a patient of all her options and let the patient decide for herself. Under these regulations, a physician must choose between violating medical ethics or violating Federal law, and that is not acceptable.

The HHS gag rule has been the subject of several suits. But Congress, not the courts, should decide this issue, and I urge all Members to cosponsor the Title X Pregnancy Counseling Act.

SOVIET DEFENSE CUTS WOULD BE GOOD MEDICINE FOR SOVIET ECONOMY

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the news must be confusing to someone who has recently been in a coma. They awake now to discover that the Soviet Union is asking for foreign aid from the United States and other Western governments. The Soviet Union is a country that spends over $300 billion on defense, and they want foreign aid?

If Western government leaders offer foreign aid to the Soviets, they ought to have their heads examined. I will tell you how the Soviets can get some foreign aid: They can cut their defense spending. The United States and other Western countries ought to tell the Soviets, do you want $30 billion or $50 billion in aid? Cut your defense spending by $30 billion or $50 billion. That would be good medicine for you, and be good news for the rest of the world.

PROGRAM CUTS

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, for the last months Members on that side of the aisle have been spitting out rhetoric about the savings and loans. Why? To cover up their irresponsible spending habits.

The pressure is on Congress to change the way it does business. The American taxpayers should no longer have to suffer the consequences of Federal irresponsibility in handling the national budget.

The Community Development Block Grant Program awards grants to State and local governments for "adequate housing, suitable living environment, and expanded economic opportunities for low income groups." CDBG dollars are supposed to be given to the country's neediest communities. However, as is so often the case, after trickling through the hands of thousands of bureaucrats, funds are misconstrued. Consequently, an increasing number of affluent cities have been receiving CDBG funds. The Congressional Budget Office now states that "the entitlement component of CDBG program now provides aid regardless of need."

Furthermore, this program removes all incentives from the private sector. If Congress were to create a program of Federal incentives for urban enterprise zones, the end result could be much more effective as well as cost efficient to the Government. Tax incentives which reward free market operations—private investment, job creation, and overall economic development—would be much more effective.

Federal programs must be cut to the point at which there is no allowance for abuses and inefficiencies in Government spending. The time is now.

□ 1240

S&L BAILOUT UNFAIR TO KENTUCKY TAXPAYERS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, 2 weeks ago I stood before this Chamber to bring to my colleagues' attention the inequity of the S&L bailout bill for 37 States, including Kentucky, which regulated their S&L institutions carefully and conservatively.

These States are being asked to foot the bill to bail out 13 other States, which failed to carefully supervise their S&L's. I voted against the bailout for lots of reasons. And, had I known last year of this transfer of wealth from 37 States to 13 States, I

would have had another good reason to vote against the bailout.

Mr. Speaker, with every day that passes, this bailout becomes messier and smellier and less fair to Kentucky.

Example: Neil Bush, the President's son, has been talking about the "incredibly sweet deal" he got a while back. It was a $100,000 loan from a developer which was forgiven because Bush's investment did not return a profit. The developer was deep into Silverado Savings & Loan which went belly up. This is now costing the taxpayers $10 billion.

While Mr. Bush may be convinced that this "sweet deal" was not related to his work as director of Silverado, the appearances are unavoidable.

An even sweeter deal is being investigated by the junior Senator from Ohio in the other body. He cites an agreement which allowed an investor—who, incidentally, had been convicted of securities fraud in 1976—to acquire 15 bankrupt Texas thrifts, using exactly $1,000 of his own funds. In return, the investor received $1.85 billion in Federal, tax-free subsidies. He is now sitting pretty, clipping tax-free coupons at the taxpayers expense.

This "incredibly sweet deal" was approved by M. Danny Wall, then-Chairman of the Federal Home Loan Bank Board, and engineered by a Washington lobbyist who was a former aide to President Bush when he was Vice President.

Mr. Speaker, States, like Kentucky now are paying for these "incredibly sweet deals". This is not fair. This is not equitable.

JUSTICE DEPARTMENT AUTHORIZATION

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, many on this floor have criticized the Justice Department for not moving fast enough on S&L crimes. Well, let us look at the priority this House has placed on Justice Department activities. It has been over 10 years since this body has passed a Justice Department authorization. I find this unconscionable. How can we criticize the Justice Department when in fact we have failed to give them direction as to how to proceed. If Congress is serious about pushing the Justice Department to prosecute the S&L crooks, then the House majority leadership and the Judiciary Committee should bring a Justice Department authorization bill to the floor, placing the highest priority on prosecuting the S&L criminals. I will be waiting to see if this occurs and American will be waiting.

Additionally, this Congress failed to appropriate adequate funds to the Justice Department in 1989 when the Government prosecutors began to prepare to aggressively attack the S&L criminals. In 1989, President Bush asked for an additional $36.8 million in Justice Department funding for prosecutorial and investigative resources to be used in S&L cases. This Congress and the majority party refused to allocate these resources. To now criticize the Justice Department for not moving fast enough against the S&L crooks, after withholding the necessary resources in 1989, strikes me as utter hypocrisy.

This Congress will soon have an opportunity to demonstrate how serious it is concerning problems of fraud and abuse in the financial services industry. The Banking Committee's Financial Institutions Subcommittee has just unanimously reported out H.R. 5050, the Financial Crimes Prosecution and Recovery Act of 1990, a tough measure to combat financial crimes. Instead of throwing rhetoric at the problem, this bill takes concrete steps to enhance prosecutions and increase recoveries at failed financial institutions. Already we are starting to hear signals that the majority leadership of this House believes that this bill is too tough. Well if Members are truly serious about jailing the S&L crooks, they will work to expeditiously consider H.R. 5050 and pass it out of this House before the August recess. Only then will we see if the tough talk coming from the other side of the aisle can be backed up by tough action.

HELP AMERICA'S NEEDY FIRST

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the people of Shadyside, OH, and that area, and Adena, and Dillonvale, and Dunglen have suffered the ravages of a terrible, terrible flood in which 26 people died and there was much loss of property.

These people are very resilient and they are very tough. They come from the Ohio Valley. They have faced adversity in the past, and they have fought back. They are people with a great amount of pride.

But this will be a longer road for these people. Many people lost their homes completely; they were swept off their foundations. There was injury to their homes, to their water heaters, to their gas furnaces, to their automobiles which they cannot use, and they do not have the money to be able to restore them. And there is no government help for them.

The Government programs that have come forth to assist have been good, but they have been restricted because there has been so much money that has been cut out of these programs, and it does not allow enough to help those people who are in need, and they need that help now.

We send these billions to these other countries right away when there is a catastrophe. Charity begins at home. Let us help our own Americans when they are in trouble.

WELCOME TO HIS HOLINESS DEMETRIOS I, ARCHBISHOP OF CONSTANTINOPLE AND ECUMENICAL PATRIARCH OF THE EASTERN ORTHODOX CHURCH

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, I rise today to welcome a very special guest who will be joining us here in the Capitol of the United States later this afternoon. His Holiness Demetrios I, the Archbishop of Constantinople and Ecumenical Patriarch of the Eastern Orthodox Church, the spiritual leader of Orthodox Christians around the world, is presently on a month-long tour of the United States that will include pastoral visits to Orthodox communities in cities from coast to coast.

Patriarch Demetrios is the 269th successor to the Apostle Andrew, who founded the Church of Byzantium in the year of 36 A.D. This visit is especially historic because it marks the first visit in history of an ecumenical patriarch to the Western Hemisphere.

This visit is a cause for tremendous joy and celebration by all Orthodox Christians throughout the United States, and I would ask all my colleagues in the House of Representatives to join with me and my six fellow Orthodox Members of this Congress in giving Patriarch Demetrios a very special welcome to our Nation's Capitol.

JIM WRIGHT'S PAL, TOM GAUBERT

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, Tom Gaubert, a Texas high flyer, owned Independent American Savings, and was also an influential fundraiser for the Democratic Party. In 1985, Jim Wright asked Tom Gaubert, owner of Independent American Savings, to raise money for the "East Texas 1st" PAC to benefit the Democratic candidate in a hotly contested congressional race. Gaubert raised $100,000. Most of the contributions to this PAC were from people associated with Sunbelt, Vernon, and Independent American. Eleven of the East Texas 1st contributors have been convicted of savings and loan fraud. One, Woody Lemons, former CEO of Vernon Savings is serving a 30-year prison term for thrift

fraud. Tom Gaubert did such a good job on the East Texas 1st PAC that Tony Coelho, former Democratic whip, made him the treasurer of the Democratic Congressional Campaign Committee. That year they raised $900,000 for the DCCC.

It is good to know that hard work gets you friends in high places. When Gaubert was kicked out of his thrift for shady dealings and causing the institution's insolvency, his good friend Jim Wright attempted to get him reinstated. Wright called Ed Gray and demanded that Gaubert be put back.

Gaubert's action in causing the failure of Independent American will cost the taxpayers $900 million. The former Democratic leadership has a lot to answer for when it comes to the responsibility for the thrift crisis.

GETTING ANSWERS ABOUT THE GANDER PLANE CRASH

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, on the Friday before our July Fourth break, Pittsburgh, TV station KDKA filed suit against several Federal agencies for documents pertaining to the 1985 Gander plane crash that killed 248 soldiers of the 101st Airborne.

Named as defendents are the FBI, the National Transportation Safety Board, the Armed Forces Institute of Pathology among others. The suit was filed after freedom of information requests by the station on behalf of victims' families were repeatedly denied.

I have been barking up the same tree and getting the same non answers. And like KDKA, I am prepared to exhaust all options either legislatively or judicially to find out what happened and I urge my colleagues to join me.

JIM WRIGHT, THE S&L SPEAKER

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, Democrats forget, or want to forget, history, former Speaker Jim Wright, and former Democrat whip Tony Coelho, and their involvement in the S&L debacle.

Jim Wright was a good friend of Tom Gaubert of Independent American Savings. Gaubert and his friend, Donald Ray Dixon of Vernon Savings, helped the Democrat Party, Speaker Wright, and Democrat whip Coelho.

Gaubert, Wright's friend, raised $9 million for the Democratic Congressional Campaign Committee in 1986 alone. Dixon let Coelho use his 112-foot yacht *High Spirits* to raise campaign funds for the Democratic Party.

And what did the former Speaker and the leaders do for these favors?

Jim Wright not only intervened with the regulators on behalf of his friends, he also used his power in the Democratic Caucus to stop legislation that the S&L industry did not want. According to Federal court testimony in Dallas, "In return for contributions, Jim Wright guaranteed the legislation would not get out of committee."

Additionally, in 1986 when the FSLIC was desperately in need of money, Jim Wright pulled a $15 billion recap bill from the suspension calendar and proceeded to delay and water down the bill when it was finally considered in 1987.

Jim Wright will be remembered as the S&L Speaker.

□ 1250

CENTRUST SAVINGS AND LOAN

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we heard a Member earlier today ask the question of what happened to all the money lost in the S&L scandal. I would like to discuss one institution that has contributed significantly to the taxpayers' burden.

CenTrust Savings and Loan of Miami, FL, is expected to eventually cost the taxpayers $1.5 to $2 billion.

In March of this year, the House Banking Committee had fascinating hearings concerning CenTrust and its chief executive officer David Paul. The committee hearings made startling revelations concerning David Paul's lavish lifestyle which included a priceless art collection, private jets, and big bodacious yachts. The committee also revealed a pattern of activity with which this House has become well acquainted. David Paul regularly provided the services of his plane and his yacht to the Democratic Senatorial Study Committee much like others provided the services of their planes and yachts to Jim Wright, Tony Coelho, and the Democratic National Campaign Committee. David Paul was in fact honored at the 1988 Democratic National Convention in Atlanta for his service to the Party. Mr. Paul, incidentally, provided $50,000 to help fund that convention. Several questions remain as to the activities of David Paul related to elected officials, but I would hope that our Banking Committee would hold further hearings to get to the bottom of this issue.

WHERE WERE YOU?

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, I have listened with some interest and amusement to the increasing volume of comments by my colleagues on the savings and loan situation here this morning, including some 1-minute's. Obviously, I cannot respond to all of the exaggerations and half-truths that were repeated in the 1 minute allotted to me.

But as has already been so generously mentioned this morning, I have stood at this microphone on the floor of this Congress for over 4 hours over a period of 4 years attempting to warn my colleagues about the circumstances that were developing in the savings and loan industry. Where were you then? Why do you now come in here in this 11th hour, wring your hands and talk about the politics of savings and loans?

How many of you voted for the $100,000 increase in deposit insurance that was advocated by the Democratic chairman of the Banking Committee in a closed-door session in 1980 and subsequently adopted by this Congress?

That legislation was signed by Jimmy Carter before Reagan ever got to the White House. How many of you voted for that? How many of you cosponsored a bill that I introduced in 1987 to establish a National Thrift Commission to investigate the cause of, the status of, cost of resolution of, and solutions to the S&L crisis and to make recommendations to us for that purpose? Where were you then?

Let us not talk about who is to blame here and how many people are culpable in this enormously complex situation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. VISCLOSKY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 or rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

VETERANS EMPLOYMENT AND TRAINING AMENDMENTS OF 1990

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rule and pass the bill (H.R. 4087) to amend title 38, United States Code, with respect to employment and training programs for veterans, as amended.

The Clerk read as follows:

H.R. 4087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Employment and Training Amendments of 1990".

SEC. 2. EMPLOYMENT AND TRAINING.

(a) DUTIES OF DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS.—(1) Section 2003A(b)(1) of title 38, United States Code, is amended—

(A) in the material preceding subparagraph (A), by striking out "eligible veterans," and inserting in lieu thereof "eligible veterans and members of the Armed Forces described in subsection (c)(11) of this section,";

(B) in subparagraph (A), by striking out "of the Vietnam era";

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) Services to members of the Armed Forces described in subsection (c)(11) of this section."; and

(D) by redesignating subparagraph (C) as subparagraph (D).

(2) Section 2003A(c) of such title is amended—

(A) in the material preceding subparagraph (1), by inserting "and members of the Armed Forces described in subparagraph (11) of this subsection" after "veterans"; and

(B) by adding at the end the following new subparagraph:

"(11) Provision of employment and training information and services to individuals serving on active duty with the Armed Forces who are within 180 days of the estimated date of such individual's discharge or release from active duty under conditions other than dishonorable, including those who are making a determination of whether to continue as members, or be discharged or released from, the Armed Forces.".

(b) DUTIES OF LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.—Section 2004(b) of such title is amended—

(1) by striking out subparagraph (1) and inserting in lieu thereof the following:

"(1) functionally supervise the providing of—

"(A) services to eligible veterans and eligible persons by the local employment service staff; and

"(B) employment and training information and services to members of the Armed Forces described in section 2003A(c)(11) of this title by such staff;"; and

(2) in subparagraphs (3) and (8), by striking out "and eligible persons" and inserting in lieu thereof ", eligible persons, and members of the Armed Forces described in section 2003A(c)(11) of this title".

(c) EXTENSION.—Section 2011(2)(B) of such title is amended by striking out "1991" and inserting in lieu thereof "1996".

SEC. 3. COMMITTEE ON VETERANS' EMPLOYMENT.

(a) IN GENERAL.—Section 2010 of title 38, United States Code, is amended to read as follows:

§ 2010. Advisory Committee on Veterans Employment and Training

"(a)(1) There is hereby established within the Department of Labor the Advisory Committee on Veterans Employment and Training.

"(2) The committee shall—

"(A) assess the employment and training needs of veterans;

"(B) determine the extent to which the programs and activities of the Department of Labor are meeting such needs; and

"(C) carry out such other activities that are necessary to make the reports and recommendations referred to in subsection (f) of this section.

"(b) The Secretary of Labor shall, on a regular basis, consult with and seek the advice of the committee with respect to the matters referred to in subsection (a)(2) of this section.

"(c) The Secretary of Labor shall, within 60 days after the date of the enactment of this section, appoint at least 12, but no more than 18, individuals to serve as members of the committee consisting of—

"(1) representatives nominated by chartered veterans' organizations having a national employment program; and

"(2) not more than 6 individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of the Department of Labor.

"(d) The following, or their representatives, shall be ex officio, nonvoting members of the committee:

"(1) The Assistant Secretary of Labor for Veterans Employment and Training.

"(2) The Secretary of Veterans Affairs.

"(3) The Secretary of Defense.

"(4) The Secretary of Health and Human Services.

"(5) The Secretary of Education.

"(6) The Director of the Office of Personnel Management.

"(7) The Chairman of the Equal Employment Opportunity Commission.

"(8) The Administrator of the Small Business Administration.

"(9) The Postmaster General.

"(10) The Assistant Secretary of Labor for Employment and Training.

"(11) The Director of the United States Employment Service.

"(12) Representatives of nationally based organizations with a significant involvement in veterans employment and training programs and of other Federal departments and agencies requesting a representative on the committee, as determined necessary and appropriate by the Secretary of Labor.

"(e)(1) The committee shall meet at least quarterly.

"(2) The Secretary of Labor shall appoint the chairman of the committee who shall serve in that position for no more than 2 consecutive years.

"(3)(A) Members of the committee shall serve without compensation.

"(B) Members of the committee shall be allowed reasonable and necessary travel expenses, including per diem in lieu of subsistence, at rates authorized for persons serving intermittently in the Government service in accordance with the provisions of subchapter 1 of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of the responsibilities of the Board.

"(4) The Secretary shall provide staff and administrative support to the committee through the Veterans Employment and Training Service.

"(f)(1) Not later than July 1, 1991, and not later than July 1 of each year thereafter, the committee shall submit to the Secretary of Labor a report on the employment and training needs of veterans. Each such report shall contain—

"(A) an assessment of the employment and training needs of veterans;

"(B) an evaluation of the extent to which the programs and activities of the Department of Labor and meeting such needs; and

"(C) such administrative, legislative, and other recommendations as the committee considers appropriate.

"(2) In addition to the reports made under paragraph (1), the committee may make recommendations to the Secretary of Labor with respect to the employment and training needs of veterans at times and in the manner determined by the committee.

"(g) Within 60 days after receiving each such report from the committee, the Secretary of Labor shall transmit to the Congress a copy of the report together with any comments concerning the report that the Secretary considers appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 41 of such title is amended by striking out the item for section 2010 and inserting in lieu thereof the following:

"2010. Advisory Committee on Veterans Employment and Training.".

SEC. 4. TECHNICAL AMENDMENT.

Section 2004 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking out "assignment" each place it appears in the material preceding subparagraph (A) and inserting in lieu thereof "appointment";

(2) in subsection (a)(1)(C), by striking out "assignment" and inserting in lieu thereof "appointment";

(3) in subsection (a)(4), by striking out "assigning" and inserting in lieu thereof "appointment"; and

(4) by striking out subsection (d).

The SPEAKER pro tempore. Is a second demanded?

Mr. STUMP. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4087, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4087, as amended, would make improvements in various employment programs for veterans administered by the Department of Labor.

Over the years, Congress has enacted many programs designed to enhance the ability of veterans seeking employment to get decent jobs following military service. This bill, H.R. 4087, is designed to go a step further. Last year we enacted legislation that established a pilot program to furnish employment and training information

and services to members of the Armed Forces before being discharged. H.R. 4087 would, among other things, provide permanent authority for that program to be expanded.

This provision is particularly timely because, during the next 4 or 5 years, several hundred thousand military personnel may be discharged from service due to a reduction in force. Mr. Speaker, these will be some of the finest young men and women who have ever served in our Armed Forces. We enacted a number of programs designed specifically to get the best and brightest young people to join the military, and those programs were very successful. If there is a reduction in force, we must do all we can to ease the pain for these excellent men and women who are forced to leave service involuntarily. When we needed them, they answered the call to service. We must now be willing to provide them assistance during the transition to civilian life.

I want to commend the very able chairman of our Subcommittee on Education, Training and Employment, the distinguished gentleman from Minnesota [Mr. PENNY] for his leadership in this area. He has been on top of the situation since his first day as subcommittee chairman.

Mr. Speaker, I now yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY] for a brief explanation of the bill.

Mr. PENNY. Mr. Speaker, I thank the chairman for yielding time to me.

Mr. Speaker, H.R. 4087, as amended, the Veterans Employment and Training Amendments of 1990, is a measure which would enhance employment and training services for veterans. Briefly, the bill would authorize DVOP's and LVER's, the Veternans' Employment Specialists in Local Job Service Offices, to provide employment services to active duty service members who are within 180 days of their date of discharge or release. Although specific numbers are still unknown, it is clear significant military manpower reductions will occur over the next few years. This provision would enable our employment specialists to assist these individuals in their transition to the civilian work force.

Additionally, the bill would extend the definition of a veteran of the Vietnam era for eligibility purposes under chapter 42, title 38, from December 31, 1991 to December 31, 1996. The primary effect of this provision would be to maintain DVOP staffing near the current levels.

Finally, this measure would replace the existing Secretary of Labor's Committee on Veterans Employment with an Advisory Committee on Veterans Employment and Training. Testimony we received made it clear the current committee structure does not facilitate a constructive exchange of recommendations and information between the Secretary and committee members. We believe the restructuring included in H.R. 4087 would enable the committee to make meaningful contributions to the development and implementation of veterans' employment programs.

I want to thank CHRIS SMITH and all members of the subcommittee for their help and assistance in developing this and the other bills we are considering today. I also want to thank the chairman and the ranking minority member of the committee, BOB STUMP, for their cooperation and support.

H.R. 4087, as amended, would improve employment services for veterans, and I urge my colleagues to support this measure.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking minority member, I rise in strong support of H.R. 4087, the Veterans' Employment and Training Program Amendments of 1990.

With the possibility of substantial force reductions in our armed services over the next several years, the Federal Government should be planning and preparing for the transition. The Veterans' Affairs Committee is doing its part by proposing new authorities for employment and training of veterans.

It gives me real pleasure in joining our chairman, SONNY MONTGOMERY, to recognize the outstanding work in behalf of veterans by TIM PENNY and CHRIS SMITH, the chairman and minority ranking member of the Subcommittee on Education, Training and Employment. Along with my good friend, SONNY MONTGOMERY, they are leading the way in an area which has suddenly become critically important.

I will defer to the gentleman from New Jersey for his more specific remarks on the legislation which he has helped to craft, but before doing so I reiterate my strong support for H.R. 4087.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as the ranking minority member of the Veterans' Affairs Subcommittee on Education, Training, and Employment, I rise in strong support of H.R. 4087, as amended, the Veterans' Employment and Training Amendments of 1990.

I would first like to thank the chairman and ranking minority member of the full Veterans' Affairs Committee, Mr. MONTGOMERY and Mr. STUMP for their contributions to this legislation. I would also like to commend Mr. PENNY, the chairman of the subcommittee, for his leadership on this matter.

H.R. 4087, as amended, provides job counseling and training for service members who are ready to consider separating from the service. The bill enables specially trained advisers—disabled veterans outreach program specialists and local veterans' employment representatives—to participate in the counseling of service members who within 180 days are eligible to separate from service.

Currently, Mr. Speaker, this benefit is not available until after the individual has ended his or her tour of duty; but by providing counseling and instruction prior to separation, veterans will be more accessible to the Department of Labor and receive services at the appropriate time. The provision of this service is particularly appropriate considering the number of veterans in need of employment services today and the many more who are likely to need services subsequent to the downscaling of United States forces because of the democratization of East Europe and reform in the Soviel Union.

Additionally, Mr. Speaker, H.R. 4087, as amended, restructures the Secretary of Labor's Committee on Veterans' Employment and Training. The committee has been responsible for assessing employment programs as related to veterans. Due to the makeup of the committee, however, its ability to objectively evaluate policies and recommend change is limited. The new advisory committee created by H.R. 4087, as amended, will facilitate a freer and fuller exchange of ideas among committee members and better enable them to act on their findings.

H.R. 4087, as amended, extends the definition of a "Vietnam era veteran" in order to extend eligibility for certain veterans benefits. Without this change in law, Mr. Speaker, certain Vietnam veterans would lose preference for affirmative action in employment and the number of special job counselors for these veterans would be cut drastically.

Mr. Speaker, H.R. 4087, as amended, is an excellent bill offering significant improvements to veterans employment programs. I support the bill and urge my colleagues to join in my support.

□ 1300

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I want to again commend the gentleman from Minnesota [Mr. PERRY] and the gentleman from New Jersey [Mr. SMITH], ranking minority member of the Subcommittee on Education, Training and Employment and all members of the subcommittee, for moving this legislation. I also want to thank the ranking minority member of the full committee, my

friend, the gentleman from Arizona [Mr. STUMP] for his support and cooperation on this bill and the next bill on the calendar.

H.R. 4087 is a good bill, and I urge my colleagues to support it.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 4087, a measure to furnish employment and training information and services for active duty servicemen.

I would like to commend the gentleman from Minnesota [Mr. PENNY] for introducing this important measure, and the distinguished chairman of the Veterans Committee, the gentleman from Mississippi [Mr. MONTGOMERY] and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their unceasing efforts on behalf of our Nation's veterans.

H.R. 4087 will establish a pilot program to furnish employment and training information and services to members of the armed services on active duty who are within 180 days of discharge or release from active duty. These programs will be administered through disabled veterans' outreach program specialists and local veterans' employment representatives.

This measure will establish an Advisory Committee on Veterans Employment and Training. The committee's duties will be to: assess the employment and training needs of veterans, determine the extent to which the programs and activities of labor are meeting such needs, and report on and make recommendations regarding the employment and training needs of veterans.

The committee which will be appointed will include 12 and 18 individuals and will consist of representatives nominated by chartered veterans' organizations having a national employment program and individuals who are recognized authorities in the fields of business employment, training, rehabiliation or labor.

Mr. Speaker, ensuring the integrity of the veterans educational system should remain an important concern of this body. Accordingly, I strongly support this meaure, and urge my colleagues to vote in favor of it.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. VISCLOSKY). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4087, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VETERANS EDUCATIONAL AND VOCATIONAL COUNSELING AMENDMENTS OF 1990

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4089) to amend title 38, United States Code, with respect to educational and vocational counseling for veterans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "Veterans Educational and Vocational Counseling Amendments of 1990".

SEC. 2. EDUCATIONAL AND VOCATIONAL COUNSELING; VOCATIONAL REHABILITATION.

(a) COUNSELING SERVICES.—(1) Chapter 36 of title 38, United States Code, is amended by adding at the end of subchapter II the following new section:

§ 1797A. Educational and vocational counseling

"(a) The Secretary shall make available to an individual described in subsection (b) of this section, upon such individual's request, counseling services, including such educational and vocational counseling and guidance, testing, and other assistance as the Secretary determines necessary to aid the individual in selecting—

"(1) an educational or training objective and an educational institution or training establishment appropriate for the attainment of such objective; or

"(2) an employment objective that would be likely to provide such individual with satisfactory employment opportunities in the light of the individual's personal circumstances.

"(b) For the purposes of this section, the term 'individual' means an individual who—

"(1) is eligible for educational assistance under chapter 30, 31, or 32 of this title or chapter 106 of title 10;

"(2) was discharged or released from active duty under conditions other than dishonorable if not more than one year has elapsed since the date of such last discharge or release from active duty; or

"(3) is serving on active duty with the Armed Forces and is within 180 days of the estimated date of such individual's discharge or release from active duty under conditions other than dishonorable, including those who are making a determination of whether to continue as members of the Armed Forces.

"(c) In any case in which the Secretary has rated the individual as being incompetent, the counseling services described in subsection (a) of this section shall be required to be provided to the individual before the selection of a program of education or training.

"(d) At such intervals as the Secretary determines necessary, the Secretary shall make available information concerning the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent the Secretary determines practicable.

"(e) The Secretary shall take appropriate steps (including individual notification where feasible) to acquaint all individuals described in subsection (b) of this section with the availability and advantages of counseling services under this section.".

(2) Chapter 34 of such title is amended—

(A) by striking out section 1663; and

(B) in the table of sections of such chapter, by striking out "1663. Educational and vocational counseling.".

(3) Sections 1434(a)(1) and 1641(a)(1) of such title and amended by striking out "1663,".

(4) Section 1797(a) of such title is amended by inserting "under section 1797A of this title or to an individual" after "individual".

(5) The table of sections of chapter 36 of such title is amended by adding the following new item at the end of the items of subchapter II:

"1797A. Educational and vocational counseling.".

(b) REHABILITATION UNDER CHAPTER 31.—Section 1502(1)(B) of such title is amended by striking out "for a service-connected disability" and all that follows through "determines" and inserting in lieu thereof "or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that (i) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment either is doing so under contract or agreement with the Secretary concerned or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned, and (ii) the person is suffering from a disability which".

(c) HANDLING FEES.—(1) Section 1504(a)(7) of such title is amended—

(A) by inserting "(A)" before "Vocational";

(B) by redesignating clauses (A) and (B) as clauses (i) and (ii);

(C) by striking out "and licensing" and inserting in lieu thereof "handling charges licensing"; and

(D) by adding at the end the following new subparagraph:

"(B) Payment for the services and assistance provided under subparagraph (A) of this paragraph shall be made from funds available for the payment of readjustment benefits.".

(2) The amendments made by this subsection shall apply only to payments made on or after October 1, 1990, or after the date of the enactment of this Act, whichever is later.

(d) AMOUNT OF ALLOWANCE.—Section 1508(c)(2) of such title is amended by inserting ", State, or local governmental" after "Federal".

SEC. 3. REPEAL OF CERTAIN REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 1642 and paragraph (3) of section 1798(e) of title 38, United States Code, are repealed.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 32 of such title is amended by striking out the item of section 1642.

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—Chapter 36 of title 38, United States Code, is amended by inserting after section 1784 the following new section:

"§ 1784A. Procedures relating to computer matching programs

"(a)(1) Notwithstanding section 552a(p) of title 5 and subject to paragraph (2) of this subsection, the Secretary may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under an educational assistance program provided for in chapter 30 or 32 of this title or in chapter 106 of title 10 in the case of any individual or take other adverse action against such individual, based on information produced by a matching program with the Department of Defense.

"(2) The Secretary may not take any action referred to in paragraph (1) of this subsection until—)

"(A) the individual concerned has been provided a written notice containing a statement of the findings of the Secretary based on the matching program, a description of the proposed action, and notice of the individual's right to contest such findings within 10 days after the date of the notice; and

"(B) the 10-day period referred to in subparagraph (A) of this paragraph has expired.

"(3) In computing the 10-day period referred to in paragraph (2) of this subsection, Saturdays, Sundays, and Federal holidays shall be excluded.

"(b) For the purposes of subsection (q) of section 552a of title 5, compliance with the provisions of subsection (a) of this section shall be considered compliance with the provisions of subsection (p) of such section 552a.

"(c) For purposes of this section, the term 'matching program' has the same meaning provided in section 552a(a)(8) of title 5.".

(b) RATIFICATION.—Any use by the Department of Veterans Affairs, during the period beginning on July 2, 1990, and ending on the date of the enactment of this Act, of any category of information provided by the Department of Defense or the Department of Transportation for making determinations described in section 413(b) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) is hereby ratified.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1784 the following new item:

"1784A. Procedures relating to computer matching programs.".

"(d) EFFECTIVE DATE DELAYED FOR CERTAIN EDUCATION BENEFITS COMPUTER MATCHING PROGRAMS.—(1) In the case of computer matching programs between the Department of Veterans Affairs and the Department of Defense in the administration of education benefits programs under chapters 30 and 32 of title 38 and chapter 106 of title 10, United States Code, the amendments made to section 552a of title 5, United States Code, by the Computer Matching and Privacy Protection Act of 1988 (other than the amendments made by section 10(b) of that Act) shall take effect on October 1, 1990.

"(2) For purposes of this subsection, the term "matching program" has the same meaning provided in section 552a(a)(8) of title 5, United States Code.

SEC. 5. TECHNICALS.

(a) TITLE 38 TECHNICAL AMENDMENTS.—Title 38, United States Code, is amended as follows:

(1) Section 1418(b)(4) is amended—

(A) by striking out the comma after "service" and inserting in lieu thereof "(i)"; and

(B) by inserting ", or (ii) has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree" before the semicolon.

(2) Section 1433(b) is amended by striking out "section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note)," and inserting in lieu thereof "chapter 109 of title 10".

(3) Section 1685(a)(1) is amended—

(A) by redesignating clauses (1) through (5) in the second sentence as clauses (A) through (E); and

(B) in clause (E) as redesignated by subparagraph (A), by inserting after "Department of Defense facilities" the following: "or facilities of the Selected Reserve of the Ready Reserve".

(4) Section 3013(a) is amended by inserting "or chapter 106 of title 10" after "of this title".

(5) Section 1411(a)(3) is amended—

(A) by redesignating clause (C) as clause (D); and

(B) by striking out clauses (A) and (B) and inserting in lieu thereof the following:

"(A) continues on active duty;

"(B) is discharged from service with an honorable discharge;

"(C) is released after service on active duty characterized by the Secretary concerned as honorable service and is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or".

(6) Section 1774(a)(1)(A) is amended by striking out "chapters 106 and 107" and inserting in lieu thereof "chapter 106".

(b) TITLE 10 TECHNICAL AMENDMENT.—Section 2136(b) of title 10, United States Code, is amended by striking out "1434(b),", "1663,", and "1780(g),".

The SPEAKER pro tempore. Is a second demanded?

Mr. STUMP. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4089, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4089, as amended, would extend eligibility for educational and vocational counseling, guidance, testing and other assistance to certain veterans through programs administered by the Department of Veterans Affairs.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY], the chairman of the Subcommittee on Education, Training and Employment.

Mr. PENNY. Mr. Speaker, H.R. 4089, as amended, the Veterans Educational and Vocational Counseling Amendments of 1990, would make improvements in educational and vocational counseling for veterans.

In brief, this measure would extend eligibility for educational and vocational counseling and other assistance provided by the Department of Veterans Affairs to an individual who is not eligible for DVA education programs and who has been out of the military for no more than 1 year. The bill would also permit this assistance to be extended to an active duty service member who is within 180 days of discharge or release from the Armed Forces.

Additionally, the subcommittee adopted an amendment offered by CHRIS SMITH. That provision would extend eligibility for vocational rehabilitation to an individual who is awaiting discharge or release from active duty and who is hospitalized or receiving outpatient treatment for a service-connected disability in a military or VA hospital.

H.R. 4089, as amended, would also require that a veteran pursuing on-job training or work experience as part of a vocational rehabilitation program in a State or local government be paid the appropriate subsistence allowance for an institutional program provided for under chapter 31, title 38.

Finally, section 4 of H.R. 4089, as amended, would establish a new advance notice requirement for adverse actions resulting from information produced by computer matching programs between the Department of Veterans Affairs [DVA] and the Department of Defense [DOD] in connection with certain educational assistance programs. This provision would avoid increased overpayments in these programs and, at the same time, protect the rights of individuals who are program beneficiaries.

DVA makes thousands of determinations each month regarding eligibility for education programs and, in order to make these determinations quickly and accurately, relies on computer data received from the Department of Defense. Under the Computer Matching and Privacy Protection Act, Public Law 100-503, DVA would be prohibited from reducing or terminating a person's educational assistance benefit on the basis of DOD computer data until it has verified the DOD information. Verification would be accomplished by providing the benefit recipient a notice of the impending benefit reduction and providing him or her 30 days in which to submit information disputing DOD data.

Because of problems with the implementation of the act, Congress, under provisions of Public Law 101-56 and Public Law 101-372, twice postponed the application of Public Law 100-503. If the requirements of this act are implemented, DVA will be required to continue payment of benefits to some individuals who are actually ineligible to receive them, thus creating education overpayments.

Accordingly, section 4 of H.R. 4089, as amended, would require DVA to

provide a benefit recipient 10 days from the date of the notice of ineligibility—excluding Saturdays, Sundays, and holidays—to dispute the data provided by DOD. We believe this period of time is adequate to enable an individual to contact DVA if he or she believes an erroneous decision regarding eligibility has been made. We expect DVA to include in the notification information, such as the address and telephone number of the nearest regional office, which would enable the individual to promptly reply to the notice of ineligibility. Further, we expect DVA to comply with the provisions of section 3004 of title 38, United States Code, concerning decisions and notices of decisions which affect the provision of benefits to a claimant. Additionally, the notice of ineligibility should explain that the impending adjustment in benefits is based on data received from the Department of Defense. A notice sent to a participant in the Montgomery GI bill-Selected Reserve—chapter 106, title 10, United States Code—should advise the individual to contact his or her selected reserve unit for additional assistance if the individual intends to dispute the notice of ineligibility.

In the event a claimant does not contact the DVA and express disagreement regarding the ineligibility notice during the initial 10-day period, the requirement for verification would be considered to be met and the benefit would be adjusted or terminated. If, however, the individual does dispute the finding of ineligibility within the required period, the committee intends that such person should have an additional period of time—to equal 30 calendar days from the date the notice is postmarked—to submit the evidence necessary to substantiate his or her claim. During this period, payment of benefits would continue. If, however, information necessary to confirm benefit eligibility is not provided by the individual during the 30-day period, or the individual does not contract the DVA regarding a delay in transmitting the necessary evidence, benefit payment would be amended or terminated.

Section 4 would also delay the effective date or Public Law 100-503 to October 1, 1990, with respect to any matching program between DVA and DOD. This postponement would provide DVA with the time necessary to fully implement the provisons of the bill we are considering today. Finally, this section would ratify any action taken by the Secretary to suspend, terminate, reduce, or deny education assistance between July 2, 1990, and the date of enactment of this section.

This measure would improve vocational rehabilitation services to those individuals who are service-connected disabled, and I believe H.R. 4089 merits your support.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking minority member, I rise in strong support of H.R. 4089, the Veterans Educational and Vocational Counseling Amendments of 1990.

Among the provisons of the bill is one to extend certain educational and vocational counseling to individuals serving in the Armed Forces on active duty who are within 180 days from discharge, or, in other words, who may soon be veterans.

This would be part of the comprehensive approach, along with H.R. 4087, for assisting the transition of those members of the Armed Services unexpectedly finding themselves about to become civilians once again.

During the debate on H.R. 4087, I recognized the leadership of SONNY MONTGOMERY, TIM PENNY, and CHRIS SMITH in our committee, and suffice it to say that my laudatory remarks apply to this legislation as well.

Mr. Speaker, H.R. 4089 is another example of bipartisan veterans legislation we can all be proud of, and I urge my colleagues to support it. I defer to Mr. Smith of New Jersey for further remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, as coauthor with the gentleman from Minnesota [Mr. PENNY] of the legislation we bring to the floor today, I rise in strong support of H.R. 4089, as amended, the Veterans Education and Vocational Counseling Amendments of 1990.

H.R. 4089, as amended, does the following:

Stipulates that certain vocational rehabilitation expenses are paid from readjustment benefit funds; thereby making these payments consistent with the payment of similar vocational rehabilitation expenses.

Adjusts the subsistence allowance paid to veterans working in State or local government in a vocational rehabilitation program to a level consistent with the amount paid for an institutional program

Extends eligibility for education and vocational services to individuals eligible for—but not necessarily participating in—various VA education programs, veterans recently discharged from the service, and service members within 180 days of their separation date.

Enables the VA to provide vocational rehabilitation services to disabled service people pending discharge and receiving treatment in VA hospitals, outpatient facilities, or a specialized or private facility under VA authority.

Eliminates requirements for certain education program reports.

Permits the VA to continue basing their decisions regarding benefit payments on information received from the Department of Defense.

Mr. Speaker, H.R. 4089, as amended, makes administrative improvements in the vocational rehabilitation program and enables the VA to provide education and vocational counseling to those veterans and service members most in need of the services.

The bill expands vocational and education counseling to soon-to-separate service members and individuals recently separated from the service. By providing counseling services at these times, veterans will be more accessible to the VA and receive services when they are most receptive and interested.

The legislation also allows for services to individuals who are eligible for—but not necessarily participating in—VA education programs. This provision opens the program to veterans who, though qualified, chose not to pursue a VA education program and now may be in special need of counseling services to adjust to life outside the military.

Also contained in H.R. 4089, as amended, is a provision to enable the VA to provide vocational rehabilitation services to disabled service people pending discharge and receiving treatment in VA hospitals, outpatient facilities, or a specialized or private faciality under VA authority. Again, this provision merely allows the VA to provide services to an individual at the optimum time—when they need it most.

Mr. Speaker, I would like to thank the chairman and ranking minority member of the Veterans Affairs Committee, Mr. MONTGOMERY and Mr. STUMP, for their support and assistance in drafting this legislation and would also like to commend the chairman of our subcommittee, Mr. PENNY, for his fine leadership.

H.R. 4089, as amended, is a good bill and will help the VA to deliver timely and efficient services. I support the measure and urge my colleagues to join in my support.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one provision of the bill involves an amendment to the Computer Matching and Privacy Protection Act of 1988 which comes under the jurisdiction of the Government Operations Committee and I would like to speak on that provision of the bill. Our Subcommittee on Education, Training and Employment has been doing a fine job of overseeing administration of the Montgomery GI bill. As a result of the subcommittee's earlier work, we discovered a problem which, if not corrected, could lead to increased overpayments of education benefits. The problem arose as a result

of the enactment of the Computer Matching and Privacy Protection Act of 1988.

We advised the Committee on Government Operations of the problems created by the act. I would like to commend the chairman of that committee, the gentleman from Michigan, Mr. CONYERS, and the ranking minority member, Mr. HORTON, for their willingness to solve this problem. As amended, H.R. 4089 would modify the application of the Computer Matching Act. When the Department of Veterans Affairs is notified by DOD of a change in a person's eligibility for education benefits under the Montgomery GI bill, a notice will be sent to the veteran advising him of the pending action. The veteran will then have 10 days to contest the VA's proposed action. A that point, the VA will review the eligibility status of the veteran and take action to resolve the problem. Again, I want to thank the chairman and ranking minority member of the Government Operations Committee for their cooperation in this matter. Mr. Speaker, at the conclusion of this statement I will insert a copy of the letter from Chairman CONYERS dated June 27, 1990.

I again want to commend Mr. PENNY, Mr. SMITH of New Jersey, and the distinguished ranking minority member of the full committee, BOB STUMP of Arizona for their efforts in bringing this bill to the House. I urge adoption of the bill, as amended.

HOUSE OF REPRESENATIVES, COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, June 27, 1990.

Hon. G.V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you are aware, on May 17, 1990, I wrote to you expressing my concerns about a provision in H.R. 4089 which is within the legislative jurisdiction of the Committee on Government Operations. That provision would exempt a program of the Department of Veterans Affairs (VA) from the Computer Matching and Privacy Protection Act of 1988.

Shortly after my letter of May 17, in full consultation with my staff, you drafted a proposed amendment to H.R. 4089 regarding the issue of VA compliance with the Computer Matching Act. You indicated in a letter to me dated June 6, 1990, that you intend to offer this amendment when the bill is brought up for a vote on the House floor.

Your proposed amendment resolves my substantive concerns with the bill. With your assurance that you fully expect this amendment to be adopted and included in final passage of H.R. 4089, I have no objections to this bill being placed on the suspension calendar as soon as possible.

I appreciate the cooperation which you and your staff displayed on this issue.

Sincerely,

JOHN CONYERS, Jr.,
Chairman.

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Again, Mr. Speaker, I want to commend the gentleman from Minnesota [Mr. PENNY], the gentleman from New Jersey [Mr. SMITH], and the distinguished ranking minority member, the gentleman from Arizona [Mr. STUMP], for their efforts in bringing this legislation to the House.

Mr. Speaker, we have blue sheets on the table here that further explain the bills before us today.

I urge adoption of this bill.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 4089, a measure to extend the eligibility for educational and vocational counseling programs.

I would like to commend the gentlemen from Minnesota [Mr. PENNY] and the gentleman from New Jersey [Mr. SMITH] for introducing this important measure, and the distinguished chairman of the Veterans' Committee, the gentleman from Mississippi [Mr. MONTGOMERY] and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their unceasing efforts on behalf of our Nation's veterans.

H.R. 4089 will extend the eligibility of the educational and vocational counseling programs to: Those members of the Armed Forces who are within 180 days of receiving a discharge—other than dishonorable—those being released from active duty, and veterans who are not eligible for education benefits and who were discharged or released from active duty—other than under dishonorable conditions—within the last year.

Mr. Speaker, our support of this measure confirms the support in Congress for our veterans by extending counseling services to all veterans. H.R. 4089 will extend counseling service to veterans—with other than dishonorable status—within 1 year of release from active duty, whereas counseling services are presently available to only those who elect to participate in the Department of Veterans Affairs education assistance programs, at the present time.

This measure will allow the Department of Veterans Affairs to provide chapter 31 vocational rehabilitation services to service-disabled active duty military personnel being treated in non-Department of Defense facilities, as well as to continue to treat service-connected disability veterans who are in a Department of Defense facility.

Mr. Speaker, H.R. 4089 establishes educational and vocational counseling programs that will improve the quality of life for our Nation's veterans. Accordingly, I strongly support this measure, and urge my colleagues to vote in favor of it.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. VISCLOSKY). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4089, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

STRATEGIC AND CRITICAL MINERALS ACT OF 1990

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4111) to amend the Mining and Mineral Resources Research Institute Act of 1984, and for other purposes; as amended.

The Clerk read as follows:

H.R. 4111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Strategic and Critical Minerals Act of 1990".

SEC. 2. ESTABLISHMENT OF GENERIC CENTER.

The Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221 and following) is amended by adding the following new section at the end thereof:

"SEC. 12. STRATEGIC RESOURCES GENERIC MINERAL TECHNOLOGY CENTER.

"(a) ESTABLISHMENT.—The Secretary of Interior is authorized and directed to establish a Strategic Resources Mineral Technology Center (hereinafter referred to as the 'center') for the purpose of improving existing, and developing new, technologies that will decrease the dependence of the United States on supplies of strategic and critical minerals.

"(b) FUNCTIONS.—The center shall—

"(1) provide for studies and technology development in the areas of mineral extraction and refining processes, product substitution and conservation of mineral resources through recycling and advanced processing and fabrication methods;

"(2) identify new deposits of strategic and critical minerals resources; and

"(3) facilitate the transfer of information, studies, and technologies developed by the center to the private sector.

"(c) CRITERIA.—The Secretary shall establish the center referred to in subsection (a) at a university that—

"(1) does not currently host a generic mineral technology center;

"(2) has established advanced degree programs in geology and geological engineering, and metallurgical and mining engineering;

"(3) has expertise in materials and advanced processing research; and

"(4) is located west of the 100th meridian.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.".

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENEAL LEAVE

Mr. RAHALL Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the

legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. SPEAKER, there are currently six generic mineral technology centers located at various universities that receive grants through the Bureau of Mines.

Generic Technology Centers are headed by a university, with a number of affiliate schools participating, and each has a specific area of mining and mineral technology.

This legislation, introduced by the gentleman from Idaho, LARRY CRAIG, seeks to establish a seventh generic mineral technology center to focus on strategic and critical minerals issues.

The fact of the matter is that we are extremely dependent upon foreign, and often politically volatile, countries for a number of minerials that are essential to our defense and industrial base. This has long been a concern of the gentleman from Idaho and myself.

With this legislation, we are seeking to establish the means by which research aimed at the development of new technologies that will decrease the U.S. dependence on foreign sources of strategic and critical minerials can be developed.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4111, the Strategic and Critical Minerals Act of 1990, introduced by my colleague on the Mining Subcommittee, the gentleman from Idaho [Mr. CRAIG]. There are currently 32 mineral institutes in this country that compete for grants in six generic mineral technology areas—mine systems design and ground control, comminution, mineral industry waste treatment and recovery, pyrometallurgy, marine minerals, and respirable dust. For each of these subject matter areas there is a generic center and affiliated mineral institutes.

The University of Nevada-Reno's Mackay School of Mines is the generic center for research on waste treatment and recovery. University programs from the States of Alabama, Arizona, California, Colorado, Minnesota, Montana, New Mexico, and Oklahoma are affiliated with University of Nevada-Reno in this subject area.

This bill would authorize the creation of a generic center for a new program area—strategic and critical minerals. Its function will be to develop innovative ways to meet our needs for minerals and materials critical to the Nation's strategic and economic well-being. Our country is heavily import-dependent upon many mineral commodities now used in advanced technology applications in aviation and aerospace, superconductivity, electronics, and the like.

Mr. Speaker, the objective of this bill is to foster study into the identification of domestic sources of critical minerals, as well as the development of alternative extraction methods, product conservation and recycling, and processing and fabrication improvements. The minerals institutes around the country will compete for research grants to solve these problems and then support transfer of the technology gains to the private sector for actual application.

I believe that a generic center for critical and strategic minerals will pay dividends to our Nation by helping us to be competitive in the global marketplace, and I urge passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, one of the things that caught my attention in the committee report on this legislation—legislation which I think is very well drafted and will serve the national purpose in a very important area—one area that caught my attention was a reference to the fact that the University of Idaho in particular might meet the criteria set forth in the bill to qualify for the center.

Mr. Speaker, I am pleased to represent the State of Colorado, and our School of Mines would also appear to qualify very nicely under these criteria, and I just want to make sure on the record that that reference in the committee report should not be interpreted as reflecting any predisposition as to where the center might finally be located.

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from West Virginia [Mr. RAHALL], the distinguished chairman, to clarify that point.

Mr. RAHALL. Mr. Speaker, in response to the concerns of the gentleman from Colorado [Mr. SKAGGS], I would say that the bill establishes a number of criteria as to where these centers will be established.

For example, the report says that the center will be established by the Secretary of the Interior at a university that does not currently host generic mineral technology center; No. 2, has established advanced degree programs in geology and geological engineering; and, No. 3, metallurgical and mining research and is located west of the 100th meridian. So, I would say to the gentleman from Colorado [Mr. SKAGGS] that certainly it is not the intent of the author of this legislation to exclude any universities.

Mr. Speaker, we mentioned the University of Idaho at Moscow as having met this criteria, but that is not to exclude others.

Mr. SKAGGS. Mr. Speaker, I appreciate the response of the gentleman from West Virginia [Mr. RAHALL], and I am sure since he is a Representative from a State that is east of the 100th meridian, speaking facetiously, it galls him somewhat to see the State of West Virginia excluded.

Mr. Speaker, I greatly appreciate this clarification on the bill's intent, and I wanted to make sure that it was, in fact, open to competition to any qualified university that meets the stated criteria.

Mr. CRAIG. Mr. Speaker, on February 27th of this year I introduced H.R. 4111, the Strategic and Critical Minerals Act of 1990. This bill would authorize the creation of a new mining and mineral resources generic research institute. The function of this institute will be to develop new and innovative ways of addressing the problems and shortfalls that this country faces in the area of critical and strategic minerals.

Our country depends almost exclusively on foreign sources for critical minerals. U.S. Bureau of Mines studies reveal that 95 percent of world production of the platinum group metals comes from the Soviet Union and southern Africa. The sum of 59 percent of the United States vanadium needs come from South Africa.

These minerals and the other critical materials that would be the focus of a strategic and critical minerals center are crucial to this Nation's defense and economic well-being. For instance, critical and strategic minerals are essential for producing high temperature tolerant metals for use in jet and rocket engines and turbines. Without the platinum group metals there would be no catalytic converters in our automobiles, and our Nation's air quality would suffer. These materials must also be available if we are to develop the science of superconductivity.

The future availability of these critical minerals from foreign sources is not certain. It would be unwise for this country to have no alternative materials or strategies available to assure that these important materials are available in the future.

For this reason, I introduced H.R. 4111. The bill establishes a strategic and critical mineral technology center that has as its objective to decrease the dependence of the United States on strategic and critical minerals. This objective will be accomplished by the institution providing for studies and technology development in mineral extraction and processes; product substitution and conservation of critical and strategic minerals through recycling, advanced processing and fabrication; and the dissemination of the center's findings to the private sector. Another major responsibility of the center will be to identify new deposits of strategic and critical mineral resources.

As we move into the next century, this Nation must have the natural resources to compete and move forward with new and

emerging technology. It is my intention that the establishment of a mining and mineral resources institute for strategic and critical minerals will help us meet the challenge.

I wish to note that the administration is not opposed to the creation of a strategic and critical minerals institute.

Mr. EMERSON. Mr. Speaker, I am delighted to offer my strong support for H.R. 4111, the Strategic and Critical Minerals Act of 1990 which has come to the House floor today. I commend my colleagues on the Interior Committee for their quick and favorable action on this bill, as it is important to the future of our country for the development and monitoring of our strategic minerals needed in the defense of our country.

The legislation authorizes the establishment of a new strategic resources generic mineral technology center which will play an important part in improving existing technologies and developing new ones that would decrease the dependence of the United States of foreign sources of strategic and critical minerals. In the Eighth Congressional District of Missouri, we already have an established mineral technology center at the University of Missouri-Rolla. The information they provide is a valuable service to this country and I strongly support the addition of another center as a valuable asset to our strategic and critical minerals program.

I urge my colleagues to favorably consider this legislation, and hope for its speedy passage by the Senate and the President.

Mrs. VUCANOVICH. Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4111, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COALFIELD ENVIRONMENT ENHANCEMENT ACT OF 1990

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4053) to amend the Surface Mining Control and Reclamation Act of 1977 to provide for the remining of certain abandoned coal mine lands, as amended.

The Clerk read as follows:

H.R. 4053

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coalfield Environment Enhancement Act of 1990".

SEC. 2. REMINING OF ABANDONED COAL MINE LANDS.

(a) AMENDMENTS TO TITLE IV OF SURFACE MINING ACT.—Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by inserting:

"Subtitle A—Abandoned Mine Reclamation Fund"

immediately before section 401 and by adding the following new subtitle at the end thereof:

"Subtitle B—Remining Abandoned Mines

"SEC. 421. DEFINITIONS.

As used in this subtitle—

"(1) The term 'unanticipated event or condition' means an event or condition encountered in a qualified remining operation which was not contemplated by the applicable reclamation plan, except that such term shall not include an event or condition involving more than a minimal amount of acid or toxic overburden or pre-existing acid or toxic discharges.

"(2) The term 'qualified permittee' means an operator covered by insurance under this subtitle carrying out a surface mining operation pursuant to a permit under title V on lands eligible for remining.

"(3) The term 'qualified applicant' means an operator who applies to a State for insurance under a State Remining Insurance Program under this subtitle as part of a permit application for a surface coal mining operation under title V.

"(4) The term 'qualified remining operation' means a remining operation carried out by a qualified permittee on lands eligible for remining, except that such term shall not include an operation subject to a permit pursuant to section 515(c).

"(5) The term 'lands eligible for remining' means those lands that would otherwise be eligible for expenditures under section 404; except that such term shall not include such lands which the State has determined to have been previously stabilized and no longer requires reclamation in order to provide the protections set forth in paragraphs (1) and (2) of section 403 or the restoration referred to in section 403(3).

"SEC. 422. STATE REMINING INSURANCE PROGRAMS.

"(a) STATE REMINING INSURANCE PROGRAMS.—(1) Any State with an abandoned mine reclamation program approved under section 405 may establish a State Remining Insurance Program under this subtitle. The program shall be administered by the State and shall include a State Remining Insurance Fund pursuant to section 423 (hereinafter referred to as the 'State Fund'). To establish a State Remining Insurance Program under this subtitle, the State shall apply to the Secretary for approval of such program. The Secretary shall approve the program if it meets the requirements of this subtitle.

"(2) Each State Remining Insurance Program submitted to the Secretary shall include each of the following:

"(A) Priorities for providing insurance under a State Remining Insurance Program in situations where amounts available in a State Fund are inadequate to provide insurance coverage for all qualified applicants. The priorities shall ensure that insurance under the State Remining Insurance Program and State Fund is provided to those remining operations which will provide the greatest environmental benefit with the least financial exposure for the State Fund.

"(B) Provisions for the establishment of insurance premiums charged to qualified permittees for the insurance provided under a State Remining Insurance Program and State Fund.

"(C) Procedures to provide for the resolution of any dispute between the State and a qualified permittee relating to the liability of a State Remining Insurance Program and State Fund.

"(D) Standards and procedures to provide—

"(i) for remedial actions to be taken by the State to mitigate adverse environmental effects resulting from any unanticipated event or condition pursuant to subsection (b); and

"(ii) for any continuing reclamation responsibility to be taken by the State pursuant to subsection (b).

"(E) Criteria relating to the management of the State Fund to insure its fiscal integrity.

"(F) Such other information and requirements as the Secretary deems necessary to ensure the program meets the purposes of this subtitle.

"(b) INSURANCE COVERAGE.—(1) Whenever a State has provided insurance under a State Remining Insurance Program under this subtitle to a qualified permittee with respect to a qualified remining operation insured under this subtitle, the State Fund shall—

"(A) assume any liability which the permittee would otherwise have had, to take any response or remedial action, to mitigate adverse environmental effects resulting from any unanticipated event or condition encountered in such qualified remining operation, except that in no event shall such liability be assumed for any pre-existing acid or toxic discharges; and

"(B) assume any continuing reclamation responsibility at such operation after termination of the bond and release of responsibility under subsection (c)(1).

"(c) BONDS.—(1)(A) Except as provided in subparagraph (B), in the case of a qualified remining operation insured under this subtitle, in lieu of the period for bond release specified in section 515(b)(20), the State shall terminate the bond required under section 509 and release any collateral required to be provided pursuant to such bond not later than 2 years after the last year of augmented seeding, fertilizing, irrigation, or other work pursuant to the reclamation plan and the reclamation requirements applicable to such qualified remining operation under section 530.

"(B) In any area or region of the country where the annual average precipitation is 26 inches or less, the bond termination and release of collateral referred to in subparagraph (A) shall be on the date not later than 4 years after the last year of such augmented seeding, fertilizing, irrigation, or other work.

"(2) No bond obtained for purposes of compliance with section 509 shall be forfeited by reason of any unanticipated event or condition for which a qualified permittee is covered by insurance under this subtitle.

"(d) DETERMINATION OF UNANTICIPATED EVENT OR CONDITION.—(1) In order to assist in the determination of an unanticipated event or condition encountered in a qualified remining operation, and to assist the State in determining the priority of qualified applicants referred to in subsection (a)(2)(A), a qualified applicant shall include in a permit application submitted to the State for a surface coal mining operation an identification of those conditions that may be found within or adjacent to the proposed permit with a risk potential that justifies insurance coverage under subsection (b).

"(2) Upon receipt of the application referred to in paragraph (1), the State shall request any additional base line data and analysis it deems necessary in order to assess the level of risk and potential financial exposure to the State Fund, and the environmental benefits to be derived from the remining operation.

"(3) After review and opportunity for public comment, based on its assessment of the level of risk and potential financial exposure to the State Fund, and the environmental benefits to be derived from the remining operation (including consideration of all reasonable modifications to the application that may lessen the exposure of the State Fund while achieving a similar environmental benefit), the State shall grant, deny or modify the application referred to in paragraph (1).

"SEC. 423. STATE REMINING INSURANCE FUND.

"(a) STATE REMINING INSURANCE FUND.—Each State Remining Insurance Program shall include a State Remining Insurance Fund under this section to be used to provide the insurance under such program.

"(b) SOURCE OF FUNDING.—

"(1) Notwithstanding the proviso contained in section 402(g)(2), following approval of a State Remining Insurance Program by the Secretary under section 422(a), the State may transfer to the State Fund up to 20 percent of the annual grant available to the State under section 402(g) each year.

"(2) In addition to the amounts transferred by a State to a State Fund pursuant to paragraph (1), a State may, as its discretion, transfer additional amounts from any source (other than funds available under subtitle A of this title) to such Fund at any time.

"(c) INTEREST AND PREMIUMS.—The State shall invest such portion of the State Fund which is surplus to its liabilities. All interest and investment proceeds earned through such investment, and all premiums charged for insurance provided pursuant to a State Remining Insurance Program and State Fund, shall be deposited in and form a part of the State Fund.

"SEC. 424. PENALTIES AND ENFORCEMENT.

"In the case of any qualified remining operation for which insurance has been provided under a State Remining Insurance Program and State Fund under this subtitle—

"(1) no fines or penalties may be imposed on a qualified permittee under section 518 for any violation of any provision of this Act which results from an unanticipated event or condition;

"(2) no enforcement action may be brought against a qualified permittee under section 521 for any violation of this Act or of any permit under this Act if such violation results from an unanticipated event or condition; and

"(3) no permit shall be denied under section 510 on the basis of any violation of this Act or of any permit under this Act if the violation results from an unanticipated event or condition.".

(b) TABLE OF CONTENTS.—The table of contents for title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) is amended by inserting "Subtitle A—Abandoned Mine Reclamation Fund" immediately before section 401 and by adding the following new items at the end:

"SUBTITLE B—REMINING ABANDONED MINES

"Sec. 421. Definitions.
"Sec. 422. State remining insurance programs.
"Sec. 423. State remining insurance fund.
"Sec. 424. Penalties and enforcement.".

(c) REGULATIONS.—The Secretary shall issue final regulations to implement the amendments made by this section within 180 days after enactment of this Act.

SEC. 3. CONFORMING AMENDMENTS.

(a) The first sentence of section 509(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1259(b)) is amended by inserting ", or section 422(c)(1) in the case of a qualified remining operation pursuant to subtitle B of title IV".

(b) Section 519(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1269(c)) is amended as follows:

(1) In paragraph (2) after "section 515" insert "or section 422(c)(1), as the case may be,".

(2) In paragraph (3) after "section 515" insert "or section 422(c)(1), as the case may be,".

SEC. 4. SPECIAL RULES APPLICABLE TO REMINING OPERATIONS.

(a) ADDITIONAL AMENDMENTS TO SURFACE MINING ACT.—Title V of the Surface Mining Control and Reclamation Act (30 U.S.C. 1251 and following) is amended by adding the following new section at the end thereof:

"SEC. 530. SPECIAL RULES APPLICABLE TO REMINING OPERATIONS.

"In the case of any remining operation on lands that would otherwise be eligible for expenditure under section 404 and for which a permit is required under this title, and for any qualified remining operation under subtitle B of title IV—

"(1) the provisions of section 508(a)(2) (B) and (C) and of section 515(b)(12) shall not apply.

"(2) in lieu of compliance with the requirements of section 515(b)(3) or section 515(d)(2), the permittee shall be required to backfill the highwall to the extent the availability of spoil material is sufficient for such purposes and grade the backfill to a shape that is compatible with the postmining land use plan required under section 508 providing for adequate drainage, long-term stability, and protection of public health and safety; and

"(3) the permittee shall, to the extent reasonably possible, meet the requirements of section 515(b)(19) but at a minimum, the permittee shall establish a permanent vegetative ground cover that shall, at a minimum, be not less than the ground cover existing before redisturbance and shall be adequate to control erosion.".

(b) TABLE OF CONTENTS.—The table of contents for title V of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1251 and following) is amended by adding the following new item at the end:

"Sec. 530. Special rules applicable to remining operations.".

SEC. 5. ABANDONED COAL REFUSE PILES.

(a) IN GENERAL.—Notwithstanding any other provision of the Surface Mining Control and Reclamation Act of 1977 to the contrary, the Secretary of the Interior shall, within one year after the enactment of this Act publish proposed regulations in the Federal Register, and after opportunity for public comment publish final regulations, establishing environmental protection performance and reclamation standards, and a separate permit system, as provided for in this section that may be applicable to—

(1) operations for the on-site reprocessing of abandoned coal refuse piles at a qualified remining operation under subtitle B of title IV of the Surface Mining Control and Reclamation Act of 1977; and

(2) operations for the removal of abandoned coal refuse piles on lands that would otherwise be eligible for expenditure under section 404 of the Surface Mining Control and Reclamation Act of 1977.

(b) STANDARDS.—(1) The standards referred to in paragraphs (1) and (2) of subsection (a) shall—

(A) be in addition to the special rules pertaining to remining operations in general set forth in section 530 of the Surface Mining Control and Reclamation Act of 1977;

(B) distinguish between those operations which reprocess abandoned coal refuse piles on-site, and those operations which completely remove an abandoned coal refuse pile from a site for the direct use of such coal refuse, or for the reprocessing of such coal refuse, at another location; and

(C) be premised on the distinct differences between operations for the on-site reprocessing, and operations for the removal, of abandoned coal refuse piles and other types of surface coal mining operations.

(2) The Secretary may devise a different standard than those set forth in section 515 and section 516 of the Surface Mining Control and Reclamation Act 1977, and devise a separate permit system, if he determines, on a standard-by-standard basis, that a different standard may facilitate the on-site reprocessing, or the removal of abandoned coal refuse piles in an environmentally responsible fashion.

(c) RECLAMATION FEE.—Upon the publication of final regulations in the Federal Register implementing this section, operations for the removal of abandoned coal refuse piles for the direct use of such coal refuse, without reprocessing, at another location shall not be deemed to be subject to the payment of the reclamation fee under section 402 of the Surface Mining Control and Reclamation Act of 1977.

(d) REPORT.—Not later than 30 days prior to the publication of the proposed regulations referred to in subsection (a), the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate containing a detailed description of any environmental protection performance and reclamation standards, and separate permit systems, devised pursuant to this section.

SEC. 6. MISCELLANEOUS.

(a) ADMINISTRATION.—Section 705(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1295(a)) is amended by inserting "(1)" after "(a)", by inserting before the period at the end thereof: ", except as provided under paragraph (2)" and by adding the following new paragraph:

"(2) The Secretary shall increase the 50 percent limit referred to in paragraph (1) up to 80 percent, for a period not to exceed two consecutive years, if either of the following apply:

"(A) The Secretary determines, after notice and opportunity for public comment, the State has insufficient fiscal resources to adequately implement its State program.

"(B) The State has entered into a Memorandum of Understanding with the Secretary for the implementation of the Applicant Violator System settlement agreement.".

(b) DEMONSTRATION PROJECT.—Notwithstanding any other provision of law, in order to demonstrate the efficacy of utilizing effluents from abandoned coal mines for the purpose of establishing fishery resources the State of West Virginia may transfer up to $2,500,000 of the annual grants available to the State under section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977 for the purpose of establishing a fish hatchery in McDowell County, West Virginia. Such amount shall be used by the West Virginia Divison of Natural Resources, in consultation with the United States Fish and Wildlife Service, to conduct a feasibility study on establishing a fish hatchery, and conditioned upon the completion of the feasibility study and the location of a suitable site and water supply, the construction of a hatchery operation as provided for in the feasibility study.

(c) DISCLAIMER.—Nothing in this Act affects or modifies, in any way, the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the disposal or release of hazardous substances, pollutants or contaminants, as defined under Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601).

The SPEAKER pro tempore. Is a second demanded?

Mrs. VUCANOVICH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this bill is to mitigate the health, safety and environmental threats posed to coalfield residents from abandoned coal mine lands. This would be accomplished by augmenting the work being done under the Abandoned Mine Reclamation Program with incentives for industry to remine and consequently, reclaim, eligible abandoned coal mine sites.

A great deal of bipartisan effort has been made over the years in devising a legislative package of environmentally responsible remining incentives. In particular, I would like to recognize the work of BILL CLINGER, of Pennsylvania, and RICK BOUCHER, of Virginia. In addition, I would note the assistance of our colleague AUSTIN MURPHY as well.

We are all mindful of the fact that even if the abandoned mine reclamation fund is extended, there will never be enough money generated to reclaim all high-priority sites in the Appalachian region.

As such, several years ago BILL CLINGER and I got together and first raised the issue of the need to provide some type of incentive for the coal industry to go back into previously disturbed areas. With input from Chairman UDALL, we managed to amend the Clean Water Act in 1987 with a provision that provides for modifications from the national effluent standards for coal remining operations.

Despite the fact that some progress in fashioning remining incentives has been made, it is now apparent that additional measures are necessary.

The Surface Mining Act's reclamation performance standards were devised to address surface coal mining on undisturbed, virgin, lands. They do not necessarily take into account the conditions found in lands that were previously mined and left unreclaimed. The unintended result of this situation is to discourage remining.

The bill we are considering today represents our best effort to address this predicament. The incentives it would offer largely deal with providing protections from liability for events or conditions that may be encountered during a remining operation that were not anticipated in the required reclamation plan, and, date certain release of an operator's surety bond.

The incentives would be made possible due to the establishment of State remining insurance funds that would assume the liability for addressing unanticipated events or conditions, and for any continuing reclamation measrues that may be required after the release of an operator's bond. The legislation would also provide for several modified reclamation standards for coal remining operations.

With this legislation we are, as such, assured of a high degree of environmental protection for coalfield citizens while at the same time promoting the remining of abandoned coal mine lands.

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Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge passage of H.R. 4053, the Coalfield Environmental Enhancement Act of 1990.

The intent of this bill is to allow abandoned coal mines to be reclaimed through the practice of remining. To pursue remining as a method of correcting past mining abuses, located mainly in the eastern coalfields, is an appealing proposal. Remining will tend to lessen the burden that is placed on the abandoned mine land fund, and in the long run lessen the financial burden that is placed on each and every consumer that receives electric power from coal-fired generating plants.

Rather than Appalachian and Midwestern States having to continue to bury the scars of improperly abandoned coal mines from past decades, abuses made before the enactment of the Surface Mining Control and Reclamation Act of 1977, this bill moves in the direction of allowing sites to be reclaimed through mining the coal that remains within these environmental wastelands. The added benefit is that coal that would otherwise be left unmined could now be exploited if the economics were favorable.

Although this bill moves in the right direction, it is my opinion the definition of an unanticipated event needs further refinement. The question of liability remains too ambiguous to allow remining to become a common practice that will correct the past errors in the eastern coalfields.

In spite of this, H.R. 4053 moves in the right direction, and I urge its passage. I note the administration has no objection to the passage of H.R. 4053 but will seek amendments in the other body.

Mr. CLINGER. Mr. Speaker, I appreciate the opportunity to speak in support of H.R. 4053, the Coalfield Environmental Enhancement Act of 1990. This legislation is the product of countless hours of debate between the varied parties interested in the issues of remining. I commend Chairman NICK RAHALL for his openness and willingness to work with this Member and others in arriving at today's legislation.

Despite Congress' good intentions, implementation of the Surface Mining Control and Reclamation Act of 1977 has revealed a number of problems that require Congress' attention. It is important to remember that SMCRA and its subsequent regulations were primarily designed to ensure that future mine sites would be reclaimed, and not necessarily as an abandoned mine reclamation program. However, there was still great confidence that the reclamation fees authorized under SMCRA would provide the funding necessary to ensure that abandoned surface coal mines would be reclaimed. Unfortunately, that has not proven to be the case. Although the Abandoned Mine Land fee has generated close to $3 billion to fund reclamation efforts, a recent inventory of just priority 1 and priority 2 abandoned mine sites puts reclamation costs at $6 billion. Those who would suggest increasing reclamation fees on coal to address this backlog of dangerous abandoned mine sites do not understand the market conditions which have decimated the industry in recent years. Further governmental regulation contained in legislation already passed by the House this year will only further depress coal markets.

So what is the answer? Much of the answer is addressed in H.R. 4053 which, innovatively, would authorize States to establish effective remining programs. Although I am concerned about changes made to H.R. 4053 during committee consideration, particularly those changes that pertain to preexisting discharges associated with abandoned mine sites, I believe that H.R. 4053 is an important step in the right direction. They key to a successful remining bill is to provide active surface coal operators with sufficient incentives so that they might be enticed into participating in the program, while at the same time reducing or eliminating those seemingly endless liabilities that discourage operators from entering a previously affected area. H.R. 4053 is designed to do that.

Under this bill, a successful remining effort would have an operator reclaim an abandoned mine site permitting the operator to access remaining coal resources and then return the site to a condition that ensures that the environment and human health are protected. The beneficiaries of H.R. 4053 are:

First, the environment and the surrounding communities which will benefit from the elimination of high walls and acid mine drainage, which without remining incentives stand to go unreclaimed for years;

Second, industry which can access coal resources with new flexibility that avoids the problems associated with prolonged bond release procedures and assurances that such operators' bond resources will not be held hostage to unanticipated and unforeseeable events; and

Third, the American taxpayer, who, if this program is successful will not be called upon to foot the bill for much of the remaining $3 billion in reclamation work that is needed.

In essence, remining provides Congress with a "win-win-win" situation, with no losers. Too rarely is Congress provided with an opportunity like H.R. 4053. I urge you to support the Coalfield Environmental Enhancement Act.

Mr. ROGERS. Mr. Speaker, I rise today in strong support for H.R. 4053, the Coalfield Environmental Protection Act of 1990. This measure encourages the remining and reclamation of abandoned coal mine lands in an environmentally responsible fashion by addressing the major remaining impediments to coal remining operations; namely soaring liability costs.

As background to this issue, let me remind my colleagues, that H.R. 4053 recognizes, that in remining situations, a coal operator's potential liability is heightened by the fact that the Surface Mining Act's reclamation standards were devised to address mining on virgin lands. The act did not take into account what happened years ago, when areas were mined and then left without proper reclamation.

Mr. Speaker, H.R. 4053 would free a qualified operator from the type of liability that might be incurred as a result of going into lands that have already been mined. The liability for cleanup, which normally is covered by bonding obained by the coal operator, would be transferred under certain circumstances to a new State insurance fund program.

As the chairman of the Mining Subcommittee has pointed out, the federally approved, State-run fund would consist of up to 20 percent of a State's abandoned mine reclamation fund grants, State voluntary continbutions, interest accumulated by the fund, and money from insurance premiums that would be charged to coal operators who participate in the remining program.

The fund would then be used to cover the cost of cleanup and restoration for unanticipated events—events or conditions not expected when a reclamation plan was developed by the coal operator.

Mr. Speaker, these are just some of the important incentives advanced by the Coalfield Environmental Enhancement Act. The need for this legislation has already been emphasized by Chairman RAHALL, and the existence of H.R. 4053 is ample evidence that the Congress is not only well aware of this need, but is prepared to act on that need.

Although I will not belabor the need for legislation to encourage remining, I would be remiss if I did not commend the chairman of the Subcommittee on Mining and Natural Resources, Mr. RAHALL, for his outstanding leadership in this area.

I must also compliment Congressmen CLINGER, BOUCHER, and MURPHY for their commitment to develop a consensus and move forward with the remining issue. The Coalfield Environmental Enhancement Act is a thoughtful, well-crafted approach to the remining issue, and I urge my colleagues to suspend the rules and pass this important measure.

Mrs. VUCANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4053, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR A VISITOR CENTER AT SALEM MARITIME NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4834) to provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts as amended.

The Clerk read as follows:

H.R. 4834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VISITOR CENTER FOR THE SALEM MARITIME NATIONAL HISTORIC SITE.

Section 1(b) of the Act entitled "An Act to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes" (102 Stat. 649) is amended—

(1) by striking "LANDS.—The" and inserting "LANDS.—(1) The"; and

(2) by adding at the end the following:

"(2)(A) Subject to subparagraph (B), the Secretary may acquire under this subsection property or an interest therein in the city of Salem for use as a visitor center for the national historic site. The Secretary shall conduct an economic analysis of the costs and benefits of acquiring such property or interest therein. Funds appropriated for the development and operation of the visitor center may be expended on property in which the Secretary has acquired less than a fee simple interest.

"(B)(i) Any acquisition under this paragraph shall provide that—

"(I) under any lease, the leased period shall not be less than 25 years and shall contain an option to renew for an additional 25 years;

"(II) the owner of the property shall maintain the property to a standard acceptable to the Secretary;

"(III) under any lease, rental amounts paid by the Secretary may not exceed the fair market value of the leased premises, as determined by an independent party acceptable to both the lessor and the Secretary; and

"(IV) under any lease, rental payments be reduced by the fair market value of improvements in the leased premises made by or at the expense of the Secretary.

"(ii) The Secretary may not acquire an interest in more than 12,000 square feet under this paragraph.

"(iii) The Secretary shall submit the economic analysis, together with any proposed acquisition, to the appropriate committees of Congress for their review at least 120 days before the effective date of such acquisition.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and including therein extraneous material, on H.R. 4834, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Salem Maritime National Historic Site preserves key parts of our maritime history from the colonial and early national periods. Its

wharves were once busy with international commerce, its ships traveled to what were then the ends of the earth, opening ports to American trade. Duties collected at Salem provided a significant portion of this country's funds. Salem National Historic Site preserves and interprets key parts of this heritage, with its wharves, Custom House where Nathaniel Hawthorne once worked, warehouses, and residences.

Although Salem Maritime National Historic Site has been a unit of the National Park System since 1938, 52 years, it has no formal visitor center. H.R. 4834, introduced by Congressman NICK MAVROULES, authorizes the historic site to open a visitor center in the Salem Armory.

The city of Salem is famous for other parts of our Nation's history and houses two major museums, the Essex Institute and the Peabody Museum. These institutions seek to join with the National Park Service in a visitor center to serve the public from a central location. H.R. 4834 makes such a cooperative venture possible. The committee amended the bill as introduced to ensure that the Federal interest was appropriately protected. As amended, the bill specifies that the lease shall run 25 years with an option to renew, with any amounts paid not to exceed fair market value, with the lease to be submitted to the Congress for our review and with a limitation on the square footage the National Park Service may occupy. These provisions are designed to clarify the National Park Service's role and responsibilities in the visitor center. To the extent that the Secretary makes capital improvements in that portion of the premises the National Park Service occupies, the payment should be reduced accordingly. The National Park Service, after preparation of an economic analysis, may choose to purchase an interest in a portion of the Salem Armory instead of leasing. This will give the National Park Service flexibility and if it chooses, partial ownership of the building.

As always, the focus of the National Park Service's efforts must be on the resources they manage, in this case, the historic wharves, homes, and custom houses. This visitor center, like any other, should complement the park's resources, not substitute for them. The operation of the visitor center must be joint, with the different parties cooperating together. Mr. Speaker, I believe that this visitor center presents an opportunity for the National Park Service to improve its ability to preserve and interpret the resources at Salem Maritime National Historic Site. I endorse this bill, and urge its passage.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4834, a bill which would authorize construction of a visitor center for Salem Maritime National Historic Site.

The amended version of the bill before us today incorporates a number of important changes which address concerns raised by the administration and members of the National Parks and Public Lands Subcommittee. In particular, this bill makes it clear that the purpose of this visitor center is to serve the specific needs of Salem Maritime National Historic Site. The revised bill also requires the National Park Service to conduct an economic analysis of the various options for developing the visitor center. In combination with a new provision permitting acquisition of an interest in any proposed visitor center, I envision that the Federal Government could end up saving millions of dollars under this revised bill.

I would like to express my appreciation to Mr. MAVROULES for his patience in working with the subcommittee on this bill. I believe that this final bill will meet the interests of Salem Maritime National Historic Site, which he so ably represents, and of the broader interests of the National Park Service which is served by the subcommittee. I would also like to express my appreciation to the subcommittee chairman, the gentleman from Minnesota [Mr. VENTO] for his willingness to work with those of us on this side of the aisle and with the administration on this issue. I hope that we will be able to search out ways in the future to continue to improve the linkage between the authorization and appropriation processes for the National Park Service.

Mr. Speaker, I urge my colleagues to join me in supporting this bill.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MAVROULES], the principal sponsor of this measure.

□ 1330

Mr. MAVROULES. Mr. Speaker, first I would like to thank the chairman and members of the House Interior and Insular Affairs Committee, particularly Mr. VENTO who chairs the Subcommittee on National Parks and Public Lands, and his staff for all of their hard work moving this bill to the floor. I want to express my deep appreciation also to Mr. YOUNG and Mr. LAGOMARSINO and others for cooperating with this effort.

H.R. 4834 is noncontroversial and is greatly needed. It was unanimously reported from the committee, and should be supported by Members on both sides of the aisle. As the original author of this legislation, I urge my colleagues to support this measure, which directs the Secretary to conduct an economic analysis for acquiring, or leasing property, to establish a visitor center for the Salem Maritime National Historic Site. This analysis is expected to be completed in less than 60 days.

The Salem Maritime National Historic Site, which was established in 1938, and is the oldest historic site in the U.S. Park Service, accommodated nearly 700,000 visitors in 1989. Given the acquisition of the St. Joseph Polish Club in fiscal year 1989, with its priceless museum objects and artifacts, tourism is expected to continue to grow. In fact, well over 1 million international and national visitors are expected to descend upon Salem during the celebration of the 300th anniversary of the world famous witchcraft trials in 1692.

Currently, there is no centralized location for visitor information and orientation. Several years ago a general management plan prepared by the National Park Service concluded that a visitor's center is indeed needed for the Salem Maritime National Historic Site. The Park Service study was reinforced by several studies including a comprehensive study by the Resource Center for Business at Salem State College. In brief, this study determined that locating this center in downtown Salem will provide excellent access to and from major thoroughfares; it will provide central tourism information and access to other Salem-area visitor attractions.

Additionally, the Salem Armory in which the visitor center is proposed to be located is across the street from the Peabody Museum of Salem, America's first maritime museum, which was founded in 1799, and next to the Essex Institute. The Peabody Museum, which is listed in the National Register of Historic Places, has a collection of 300,000 objects, documents maritime history, Asian export art, ethnology—native American, Asian, Pacific and African cultures, natural history and archeology. Establishing the Salem Armory Center as the focal point for visitor attractions and cultural activities will allow tourists to have a full maritime and cultural experience of Salem's rich history and allow essential services to be provided to tourists while connecting the waterfront and downtown. This site also fulfills the National Park Service's space requirements for a visitor center.

This project is unanimously supported by the local community. In fact, a $994,180 urban development action grant [UDAG] has been awarded to aid in the rehabilitation of the Salem Armory and the museums have spent approximately $358,000 toward this project to date.

Mr. Speaker and my colleagues in this body, I urge your support for this legislation which allows for a coopera-

tive arrangement with the museums and the National Park Service for the establishment of a visitor center for the Salem Maritime National Historic Site to go forward.

Mr. Speaker, once again, I give to the chairman and to the minority my deepest appreciation for their cooperation.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a good bill as is indicated by all of those who have responded in speaking on it. I commend it to the House.

Mr. ATKINS. Mr. Speaker, I rise to record my support of H.R. 4834, a bill to provide a visitor center for Salem Maritime National Historic Site.

The rocky Atlantic coastline and picturesque Salem Harbor, with it's extant colonial period wharves, provide an evocative setting for this nationally significant historic area. Salem was the first town in the Massachusetts Bay Colony, and within the boundaries of the historic site are 17th and 18th century structures that enhance the story of America's early settlement and maritime commerce embodied in this place. However, the face and shape of Salem have changed over the years and the resources that comprise the National Historic Site are not easily identified and located—and are often interpreted out of context in the culturally rich, diverse city that exists today. Without the means to tell its story effectively, Salem NHS remains isolated within a community who's roots are in that story. Today an opportunity exists to remedy that situation, to enhance the visitor experience in Salem and to enlighten the public about this important part of America's heritage.

Authorization for the national Park Service to develop a visitor center within downtown Salem recognizes the critical importance of integrating the site within the community at large. Centrally locating a National Park Service presence in the midst of the downtown historic district will be key to directing visitors to the site itself, while providing an accurate interpretive context. Additionally, providing a downtown facility that complements private and State endeavors to tell the Salem story will enhance the National Park Service's commitment to interpretive excellence and visitor services—but more importantly, it will enhance the significant story of Salem Maritime National Historic Site.

In closing I would like to commend the chairman of the House Interior Subcommittee on National Parks and Public Lands for his leadership on this issue and I ask my colleagues to support this bill.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4834, as amended.

The question was taken.

Mr. BROWN of Colorado. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

REGARDING ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 666) to enroll 20 individuals under the Alaska Native Claims Settlement Act, as amended.

The Clerk read as follows:

S. 666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to enroll the following named individuals as Natives under the Alaska Native Claims Settlement Act (Public Law 92-203): Marilyn Jean (Warren) Sanchez, Theresa A. (Warren) Forbes, Linda (Graham) Raymond, Carol (Graham) Kistler, Debra (Sellers) Page, Glenn Sellers, David P. Schmalzried, Odman H. Schmalzried, Carol Guzialek, Corbin Kooly, Charmaine I. (Warren) Forbes, John A. Warren, Jr., Phillip Graham, Sharon (Graham) Skinner, Wanda (Sellers) Clancy, Georgia A. (Schmalzried) Flood, Rhonda S. (Schmalzried) Koski, Paula (Guzialek) Smith, Pamela Kooly, and Darrell Kooly. Each individual is entitled to receive one hundred shares of stock in Cook Inlet Region, Inc., and such other benefits as the Board of Directors of that corporation may approve. No individual enrolled pursuant to this Act shall be entitled to share in any dividends or Alaska Native Claims Settlement Act distributions made by the United States or Cook Inlet Region, Inc., prior to the individual's enrollment. Enrollment of these individuals shall not alter the entitlement to or distribution of land to Cook Inlet Region, Inc., under the terms of the Alaska Native Claims Settlement Act.

TITLE II

SEC. 201. TITLE AND PURPOSE.

(a) TITLE.—This title may be cited as the "Admiralty Island National Monument Land Management Act of 1990.".

(b) PURPOSE.—The purpose of this title is to improve Federal management of lands on Admiralty Island, Alaska, as provided herein.

SEC. 202. FINDINGS.

The Congress hereby finds that—

(1) Admiralty Island National Monument, Alaska, is an area of unparalleled natural beauty containing multiple values including but not limited to, fish and wildlife, forestry, recreational, subsistence, educational, wilderness, historical, cultural, and scenic values of enduring benefit to the Nation and the Native peoples residing therein; and

(2) land management and Federal administration of Admiralty Island National Monument may be enhanced by Federal land acquisitions, through land exchanges or otherwise, and by cooperative agreements between the Federal Government and the indigenous residents of the island, the people of the city of Angoon and the Native Village Corporation, Kootznoowoo, Incorporated.

SEC. 203. LAND ACQUISITION AND EXCHANGE.

(a) Section 506(a) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) is hereby amended by adding at the end thereof the following new paragraph:

"(9)(A) The Secretary is authorized and directed to enter into such cooperative agreements and agreements for land acquisitions, through exchange or otherwise, with Kootznoowoo as are deemed necessary by the Secretary to carry out the purposes specified in sections 101 and 503 of this Act and to improve the management of Federal lands on Admiralty Island.

"(B) The Secretary shall make every effort to complete agreements within eighteen months of the date of enactment of this paragraph.

"(C) The Secretary shall report to Congress before the end of such eighteen-month period on the status and results of negotiations with Kootznoowoo. The report shall include, but not be limited to, any Kootznoowoo properties proposed to be acquired by the United States, any Federal land or other compensation to be offered in exchange, and the text of any proposed or executed agreements.

"(D) Any lands on Admiralty Island acquired by the United States pursuant to this paragraph shall be added to and incorporated within the Admiralty Island National Monument.

"(E) The inability of the Secretary and Kootznoowoo to reach agreement shall not preclude subsequent negotiations at any time for the purposes of land exchanges or other matters.

"(F) Enactment of this paragraph shall not create any right or cause of action by Kootznoowoo, Incorporated, or any other party against the United States."

SEC. 204. LAND SELECTION CONSOLIDATION.

(a) Section 506(a)(5) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) is hereby amended by adding at the end thereof the following new subparagraphs:

"(C) In order to consolidate Federal land ownership and improve management of all land and timber resources in the area, the lands between such sale area and lands lying to the east of such sale area which have been or may be conveyed to Kootznoowoo pursuant to this paragraph shall be made available by the Secretary for an exchange between the Federal Government and Kootznoowoo, Incorporated, pursuant to the terms of section 1302(h) of this Act. If such sale is voluntarily terminated, or is canceled or forfeited in accordance with applicable law and regulations, then the lands within the sale area shall also be made available for exchange. The availability of the lands within the sale area for exchange shall continue for one year following the date the sale is completed and closed, or for one year following its termination, cancellation, or forfeiture, whichever is later. Nothing in this section shall affect valid land selections which the State of Alaska has filed with the Federal Government pursuant to Public Law 85-508, nor shall this section cause these lands to be removed from entry pursuant to the Mining Law of 1872.

"(D) Subject to lode mining claims, known as KAEL 1-216 inclusive, and valid existing

rights, the subsurface estate in the lands conveyed to Kootznoowoo, Incorporated, pursuant to subparagraph (C) shall be granted to Sealaska, Inc.".

SEC. 205. ADMINISTRATIVE PROVISIONS.

(a) Section 703(a)(1) of the Alaska National Interest Lands Conservation Act is amended by deleting the words "Admiralty Island National Monument Wilderness" and inserting in lieu thereof "Kootznoowoo Wilderness".

(b)(1) All rights, title, and interests to that portion of the approximately seventeen and thirty-four one hundreds acres comprising the Angoon Administrative Site which, pursuant to paragraph (b)(2) of this section, the Secretary dedicates for uses related to the administration of the Tongass National Forest, are hereby confirmed in the United States, said parcel being a valid existing Federal administrative site as referenced in section 506(a)(3)(A) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended). Said administrative site is located on Admiralty Island in township 50 south, range 68 east, setion 31, Cooper River Base and Meridian and township 50 south, range 67 east, section 36, Cooper River Base and Meridian.

(2) Within one year of enactment of this paragraph, the Secretary of Agriculture shall adjust, and resurvey as necessary, the boundaries of the Angoon Administrative Site to include only that portion of the site described as follows:

(A) Those lands which lie within the following described boundaries, comprising four and sixty-eight one-hundredths acres more or less:

Beginning at corner, 1, also corner 9 of United States survey numbered 8756;

Thence north 45 degrees 30 minutes west, 540.79 feet to corner 2;

Thence north 45 degree 00 minutes east, 876.60 feet to corner 3;

Thence south 45 degrees 30 minutes east, 450.79 feet to corner 4;

Thence south 45 degrees 00 mintes west, 876.60 feet to corner 1, also corner 9 of United States survey numbered 8756, the point of beginning.

(B) Those lands which lie within that area adjoining the northeastern boundary of the four and sixty-eight one-hundredths acre tract and the mean high tide line of Kootznoowoo Inlet, subject to a perpetual public easement for the existing Angoon-Killisnoo Road; and

(C) An easement for road and utility access to the four and sixty-eight one-hundredths acre tract from the western or southern boundary of the seventeen and thirty-four one-hundredths acre site. To the maximum extent feasible, the Secretary shall locate said easement to connect and follow the existing right of way for Relay Road, which lies between lots 1 and 6 of the Samuel G. Johnson subdivision. Said easement shall be at a precise location and of dimensions which the Secretary determines are reasonably necessary for present and projected Federal uses of the site related to administration of the Tongass National Forest. Said easement shall be subject to any valid existing rights except those of Kootznoowoo, Incorporated: *Provided*, That the easement shall not be located on any lands conveyed by Kootznoowoo, Incorporated, to a third party prior to June 1, 1988, without the express consent of such party: *Provided further*, That the Secretary shall exclude from the lands so retained those lands which were occupied on June 1, 1988, by structures and improvements that were not constructed by or for the United States including easements related thereto, or which were constructed by or for the United States but which the Secretary determines are not reasonably necessary for present or projected Federal uses related to the administration of the Tongass National Forest: *Provided further*, That the Secretary shall not exclude from the four and sixty-eight one-hundredths acre tract any lands occupied by existing power or utility lines or poles, and the lands so occupied shall be subject to an easement to allow for their continued use, maintenance, and repair.

(3) Title to all lands within the seventeen and thirty-four one-hundredths acre administrative site which are not included by the Secretary in the adjusted area provided by paragraph (b)(2) shall be conveyed by the Secretary of Agriculture by quitclaim deed to Kootznoowoo, Incorporated.

(4) The provisions of paragraphs (b)(2) and (b)(3) are subject to the condition precedent that Kootznoowoo Incorporated, executes an appropriate written agreement acceptable to the United States Attorney for the District of Alaska to dismiss, with prejudice, the pending litigation entitled Kootznoowoo, versus United States Department of Agriculture, Forest Service, Civil Numbered A84-575, in the United States District Court for the District of Alaska, and agrees therein that Kootznoowoo, Incorporated, and the United States shall each bear their respective costs of said litigation, including attorney's fees."

TITLE III

Section 301. Subsection (d) of section 37 of the Alaska Native Claims Settlement Act is amended by—

(1) inserting the words' and such resolution is not validly rescinded pursuant to paragraph (2)(B)(ii) before the period at the end of paragraph (1)(A);

(2) by redesignating paragraph (2)(B) as paragraph (2)(B)(i); and

(3) by adding the following new clauses to paragraph (2)(B):

"(ii) In lieu of approving the amendment to the articles of incorporation described in clause (i) and submitting such amendment to a vote of the shareholders, at any time prior to January 1, 1991, the board of directors of a Native Corporation that has approved a resolution described in paragraph (1)(A) may approve a new resolution rescinding that prior resolution. Upon approval of the new resolution rescinding a resolution described in paragraph (1)(A), the latter resolution shall be void and alienability restrictions on the Settlement Common Stock of such corporation shall continue subsequent to December 18, 1991, until such time as the alienability restrictions are terminated pursuant to the procedure described in subsection (b).

"(iii) Notwithstanding any other provision of law, a civil action that challenges the constitutionality of any provision in clause (ii) shall be barred unless it is filed within one year after the date of the vote of the board of directors approving a resolution to rescind a prior opt-in election under paragraph (1)(A). Any such civil action shall be filed in accordance with section 16(b) of the Alaska Native Claims Settlement Act Amendments of 1987 (101 Stat. 1813-1814).".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 666, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 666, as reported by the Interior Committee, deals with three small issues that have arisen in connection with the Alaska Native Claims Settlement Act [ANCSA] and the Alaska National Interest Lands Conservation Act [ANILCA].

Title I of the bill simply authorizes the enrollment of 20 individuals as Alaska Natives in Cook Inlet Region, Inc., a Native regional corporation formed pursuant to the Alaska Native Claims Settlement Act. These individuals were unfairly precluded from being enrolled as Alaska Natives under the Settlement Act because of an erroneous determination of their degree of Native blood during the enrollment period and, therefore, from sharing in the benefits of the act. No administrative authority exists to correct this inequity and legislation is required.

Title II of the bill amends the Alaska National Interest Lands Conservation Act to authorize the Secretary of Agriculture to enter into agreements with Kootznoowoo, Inc., the Native corporation for the village of Angoon, for land exchanges and cooperative management of lands within the Admiralty Island National Monument Wilderness. Mr. Speaker, as noted in the committee report, Admiralty Island in southeast Alaska is a national treasure of unparalleled quality and provides natural values and historic and cultural attributes of unique and irreplaceable character. Enactment of title II of S. 666 would permit the exchange of lands with Kootznoowoo to add important tracts to the wilderness and cooperative agreements to better manage both Federal and Native lands to meet the purposes of the wilderness. In addition, litigation between the United States and Kootznoowoo over a small tract of land would be resolved by title II.

Finally, Mr. Speaker, title III of S. 666 amends section 37 of the Alaska Native Claims Settlement Act relating to procedures by which Native regional and village corporations could extend the period during which their stock would be inalienable. The Settlement Act of 1971 provided that Native shareholders in the corporations could sell their shares after December 18, 1991. At the urging of most Natives, the act was amended in 1987 to permit corporations to take action to extend that period of inalienability.

One option provided was the so-called opt-in approach under which a corporation could, by resolution of the board of directors, elect to retain the 1991 deadline unless the shareholders voted to extend the period. The few corporations which made such an election now realize the error of that decision, but are foreclosed by law from rescinding the action. Title III amends ANCSA to permit such corporations to rescind such a resolution and to retain the period of inalienability until such time as it is terminated by other affirmative action.

Mr. Speaker, this legislation, as favorably reported by the committee, has the support of the Alaska congressional delegation and the Alaska Native corporations involved. I urge the passage of the bill.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation provides for three technical amendments to the Alaska Native Claims Settlement Act of 1971 and the Alaska National Interest Lands Conservation Act of 1980, respectively:

Title I would provide for the enrollment of 20 people who are descendants of an Alaska Native who were left off the rolls of ANCSA. The enrollment disqualification has been ruled to be erroneous by the regional solicitor of the Department of the Interior. The regional solicitor ruled that new evidence demonstrated that the requirements for enrollment based upon recognition of the individuals, grandmother as an Alaska Native entitled to enrollment.

Title II would authorize the Forest Service to consider land exchanges consolidating the land selections of Kootznoowoo, Inc., an Alaska Native village corporation. This legislation imposes a duty on the Forest Service to consider exchange proposals and report to Congress within 18 months on the feasibility of such land exchanges. Also, the bill authorizes the Forest Service to enter a settlement of litigation regarding an administrative site. This authorization is contained at the administration's request.

Title II would authorize an Alaska Native corporation to rescind a vote of the board of directors which would have required a vote of the shareholders to retain stock sale restrictions imposed by Federal law. The board has voted to rescind its previous vote. Without this change in law, a separate vote would be required.

Mr. Speaker, each title represents a needed clarification of existing law to carry out the full purposes of these Alaska lands statutes.

Although the administration remains opposed to titles I and II, I would like to point out that neither title results in significant expenditures. Additionally, both are nearly identical to legislation which passed this body in the previous Congress. Where changes have been made, they have been to remove certain provisions the administration has found objectionable.

Mr. Speaker, I know of no opposition to this legislation on our side. I commend the chairman of the subcommittee, Mr. VENTO, on his cooperation and Mr. YOUNG for his leadership in moving forward on the bill at this time.

□ 1340

Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of S. 666. This legislation contains three minor technical but important changes to the two major Alaska lands statutes.

Title I, sponsored by Senator MURKOWSKI, passed the other body opposition on June 6. It resolves an enrollment issue in favor of 20 individuals. It does so in compliance with an opinion by the regional solicitor that the 20 individuals, all members of one family, were wrongly denied enrollment under ANCSA.

Title II clarifies exchange authorities of the Federal Government with respect to the village corporation of Kootznoowoo. This title would authorize the Forest Service to consider land exchanges consolidating the land selections of an Alaska village corporation located in the Tongass National Forest. This title would require the Forest Service to report within 18 months of enactment on the feasibility of such a land consolidation. A similar bill passed the House during the previous Congress.

Title III would authorize an Alaska Native corporation to rescind a vote of the board of directors by which the corporation would remove stock restrictions otherwise imposed by Federal law. In order for the board rescission to be effective, a change in Federal law is necessary. Since a large majority of individual shareholders in the Bristol Bay Native Corp., have contacted me in favor of the amendment. I believe it is only fair to relieve the shareholders of the technical restriction in the law and allow the intent of ANCSA to protect land ownership to be maintained.

I have worked with Mr. MILLER and before that Mr. Seiberling on the land consolidations called for in Title II. Land consolidations and exchanges will continue to be necessary in Alaska for better land management. As Alaska Native corporations continue to mature, we need to provide them with some flexibility in land ownership to help Federal land managers, Native people, and the State of Alaska.

Mr. Speaker, I appreciate the cooperation extended on this legislation by Mr. VENTO and Mr. MILLER. I hope we can continue to work together to successfully enact other Alaska legislation for the benefit of Alaska and the rest of the United States.

I am glad we were able to work these amendments out and I urge adoption of this bill.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, these are narrowly drawn provisions that address unique circumstances under this law. I think under any circumstance we consider them minor amendments. Of course, they are not minor to those impacted.

When ANCSA rolls were closed off at a previous date, there was no reason to believe that individuals were being left off that really had an entitlement and should be on the rolls of those native groups in Alaska. The first section of this simply addresses that.

I do not know how we could come to any other type of conclusion. It is not possible, apparently, to do this administratively, so we need to address it, and have done so.

Similarly, the provisions of title II, which apparently have inspired some concern, simply permit the administration itself to enter into these negotiations, to clarify some of the problems that have occurred with regard to lands in and around Admiralty Island, concerning the Angoon native group, and to solve those problems.

Mr. Speaker, I really think this is done on a fair basis, and I cannot understand why there would be any questions really raised. Anything that was controversial had been removed during the discussion of this. So I would hope that we could move forward with these and have a better understanding as the process evolves.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 666, as amended.

The question was taken.

Mr. BROWN of Colorado. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERTAINING TO THE USE OF PROPERTY IN ROCKINGHAM COUNTY, VA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3888) to allow a certain parcel of land in Rockingham County, VA, to be used for a child care center, as amended.

The Clerk read as follows:

H.R. 3888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL USE AUTHORIZED.—Subject to the requirements of this Act, the County of Rockingham, Commonwealth of Virginia, hereafter referred to as "the county", is authorized to permit use of the land described in section 3, hereafter referred to as "the land", for purposes of a child care center, notwithstanding the restrictions on use of such land otherwise applicable under the terms of the conveyance of such land to the county by the United States.

SEC. 2. REQUIREMENTS.—(a) A use permitted under this Act shall be confined to buildings in existence as of the date of enactment of this Act (which may be appropriately modified or altered so as to meet other applicable requirements of law) and shall involve fencing or enclosing of no more than 3,500 square feet of the open space portions of the lands, and shall not preclude use of any of the land for other permissible purposes, subject to reasonable restrictions necessary to allow a use authorized under this Act.

(b) The authority of the county under this Act shall be limited to the authorization of use of the land by a child care center serving children without regard to their race, creed, color, national origin, physical or mental disability, or sex, operated by a nonsectarian organization on a nonprofit basis and in compliance with all applicable requirements of the laws of the United States and the Commonwealth of Virginia.

(c) Except as specified in this Act, this Act shall not increase or diminish the authority or responsibility of the county with respect to the land.

(d)(1) If the county, pursuant to this Act, authorizes use of the lands for a child care center, the county shall include information concerning such use in the biennial reports to the Secretary of the Interior required under the terms of the conveyance of the land to the county by the United States and shall also provide a copy of such information to appropriate officials of the United States and the Commonwealth of Virginia responsible for implementation of laws concerning the operation of child care centers.

(2) Any violation of the provisions of this Act shall be deemed to be a breach of the conditions and covenants under which the lands were conveyed to the county by the United States, and shall have the same effect, as provided in the deed whereby the United States conveyed the lands to the county.

SEC. 3. LAND DESCRIPTION. The land referred to in Sections 1 and 2 is that parcel comprised of approximately 3.03 acres of land transferred by the United States on April 11, 1989, to the county of Rockingham, Virginia, in deed book number 953 at page 600, together with improvements thereon.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3888 is a bill by Mr. OLIN of Virginia, who deserves credit for this assistance in meeting the needs of his constituents.

The bill deals with a tract of about 3 acres that was once used by the Forest Service as a work station. The land and building—a maintenance building and a smaller storage structure—were transferred to Rockingham County, VA, after the Forest Service no longer needed them.

Under the terms of the transfer, recreation is the only permitted use of the property. The county would now like to be able to authorize a nonprofit organization to use the maintenance building for a day-care facility for families in the county, but cannot do so because of the restrictions on use of the tract. The bill is intended to give the county the authority to allow this use, through a permit or lease.

At our hearing, the administration supported the request of the county, but had some suggestions about technical revisions to the bill. Those revisions and some others have been incorporated into the bill as reported by the Interior Committee that is now before the House.

The bill before us would authorize the county to permit use of existing buildings for a child-care center. In addition, the county could permit up to 3,500 square feet of the open-space portion of the tract to be fenced or enclosed—in case this was necessary for safety of children playing outside the building. A child-care center authorized to use the site would have to serve children on a nondiscriminatory basis, and would have to be operated on a nonprofit basis by a nonsectarian organization. The child-care center could not preclude continued use of the property for recreation. And, of course, operation of any child-care center would have to be in a manner that complies with all applicable State and Federal laws, as in fact, we are sure will be the case.

Violation of these limitations would have the same effect as violation of the existing restrictions on use of the property: That is, reversion of the property to the United States.

I believe that the bill will give the county the authority they need to allow use of the property for the proposed child-care center, and has appropriate safeguards to protect the public interest, and I urge its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. OLIN].

□ 1350

Mr. OLIN. Mr. Speaker, I thank the gentleman from Minnesota [Mr. VENTO] for yielding time to me, and particularly thank him and the gentleman from California [Mr. LAGOMARSINO] for moving this bill through the Interior and Insular Affairs Committee and getting it to the floor.

Mr. Speaker, I rise in support of H.R. 3888, which would permit a tract of land and a garage in Rockingham County, VA, that was formerly used by the Forest Service to be used as a day-care center as well as for recreation. As Chairman VENTO has explained, this land was deeded to Rockingham County under the surplus land program with the restriction that it could only be used for recreational use.

A group of private citizens in Rockingham County have been trying to establish a nonprofit day-care center in the area. They had a great deal of trouble finding a place to house the day-care center. The citizens finally determined that the only viable option was the garage that had been used by the Forest Service. They came up with a plan to improve the garage so that it could be used for day care during the day and public recreation during the evenings and on weekends. The county Board of Supervisors voted to support this plan as long as Federal approval could be obtained.

Unfortunately the Park Service, which is the Federal agency that had deeded them the land, advised the county that the facility could not be used for day care under the law governing the surplus property program. So I talked to the regional director for the U.S. Park Service and he told me that there was no way that the facility could be used for a day-care center under current law. Thus my only option was to introduce legislation.

The day-care center would only take up a small portion of the property. Most of the land would still be open for public recreation. This is an area where there is no shortage of recre-

ational opportunity. The county would still retain ownership of the land and the building. They would just have the right of allowing a child care to use the facilities.

I would like to thank Chairman VENTO and Chairman UDALL for their help getting this bill to the floor. This may seem like a small issue to the Congress of the United States, but it is vitally important to Rockingham County.

Mr. Speaker, this is a bill that will not cost the Government anything. A group of private citizens want to help provide child care, which is a critical need in Rockingham County, with private funds. Rockingham County already owns the facility; this bill would just allow them to use it for a day-care center. I urge the passage of H.R. 3888.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3888 introduced by Mr. OLIN—who I might add has been very supportive of minority members of the Interior Committee when bills affecting their districts have come before the House.

H.R. 3888 is needed to allow the county of Rockingham, VA, to authorize a nonprofit day-care organization to use Forest Service buildings that have been transferred to the county. Current restrictions contained in the transfer deed from the United States to the county would preclude this important use if not addressed through this legislation.

The current version of H.R. 3888 is supported by the administration and was approved at the subcommittee and full committee levels by a voice vote.

I commend chairman VENTO and Mr. OLIN for their fine work on this legislation. I urge my colleagues to support H.R. 3888.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3888, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CAMP W.G. WILLIAMS LAND EXCHANGE ACT OF 1989

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 988) entitled the "Camp W.G. Williams Land Exchange Act of 1989," as amended.

The Clerk read as follows:

H.R. 988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Camp W.G. Williams Land Exchange and Withdrawal Act of 1990".

(b) DEFINITIONS.—As used in this Act—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "public lands" means lands in Federal ownership managed by the Bureau of Land Management.

(3) The term "camp boundaries" means the exterior boundaries of Camp W.G. Williams, in Utah and Salt Lake Counties, Utah, as generally depicted on the map referenced in section 2(a) of this Act.

SEC. 2. EXCHANGE.

(a) OFFERS.—As soon as possible after the date of enactment of this Act, the Secretary shall offer to exchange public lands identified as "lands proposed for exchange to private owners" on a map entitled "Proposed Exchange for Camp W.G. Williams, Utah", dated February 1990, to the owners of tracts of private lands identified as "lands proposed for United States acquisition by exchange" on such map. If the owners of any or all of such tracts of private lands accept the offer within 2 years after the date of enactment of this Act, then the Secretary shall convey to such owner or owners or their designee title to so much of the identified public land as is equal in value to such tracts of private land as are simultaneously conveyed to the United States.

(b) MANAGEMENT.—All land acquired by the United States through an exchange under this section during the period of withdrawal of lands within the camp boundaries shall immediately become a part of Camp W.G. Williams and shall be treated for all purposes as public lands withdrawal for military purposes under this Act and shall be managed accordingly.

SEC. 3. MAPS AND LEGAL DESCRIPTIONS.

As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a legal description of the lands proposed to be exchanged by this Act and shall file such maps and the legal descriptions with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives. The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SEC. 4. WITHDRAWAL, ETC.

(a) WITHDRAWAL.—The public lands and any other lands within the camp boundaries which are or may become owned by the United States are hereby withdrawn from all forms of settlement, sale, location, and entry under the general land laws, including the mining laws, but not the mineral or geothermal leasing laws, and reserved for use by the Department of the Army.

(b) ACQUISITIONS.—(1) The Secretary is hereby authorized to acquire solely by donation or exchange any lands within the camp boundaries or lands that are contiguous or reasonably adjacent to such boundaries, for the explicit purpose of addition to Camp W.G. Williams, but acquisition of lands outside such boundaries for such purposes shall not exceed 5,000 acres in the aggregate.

(2) The Secretary may modify the camp boundaries so as to encompass lands acquired pursuant to this subsection.

(3) Effective upon their acquisition, all lands acquired pursuant to this subsection that at the time of acquisition are outside the camp boundaries shall be deemed to be withdrawn pursuant to subsection (a) of this section and shall be managed accordingly.

SEC. 5. REVOCATION OF EXECUTIVE ORDER, ETC.

(a) REVOCATION.—(1) Executive Order 1922 of April 24, 1914, is hereby revoked, insofar as it affects lands within the camp boundaries.

(2) The executive order identified in paragraph (1) shall be deemed revoked with respect to lands outside the camp boundaries upon acceptance by the Secretary of an appropriate certification by the Secretary of the Army that such lands do not contain any hazardous materials or substances, as defined by applicable Federal law. Upon such revocation, affected lands shall be returned to public domain status and managed accordingly.

(3) The Secretary of the Army shall cause to be performed all inspections and other actions necessary to make the certification referred to in paragraph (2), and shall report his findings to the Secretary of the Interior, within 1 year after the date of enactment of this Act. Thereafter the Secretary of the Army shall hold harmless the Secretary of the Interior for any liability associated with any hazardous materials or substances as defined by applicable Federal law that were placed upon or reasonably appear to have been placed upon the land prior to the return of the subject lands to public domain status.

(b) LIABILITY.—Upon the acquisition by the United States of any lands or interest in land pursuant to this Act, any liability accruing to the United States as a result of such acquisition shall be deemed to vest in the United States Department of the Army. In no event shall liability vest in the Department of the Interior.

SEC. 6. MANAGEMENT.

(a) ARMY.—Except as otherwise provided by applicable law, including this Act, the Secretary of the Army shall be responsible for management of the lands withdrawn pursuant to section 4 during the period of such withdrawal. All nonmilitary uses of such lands shall be subject to such conditions and restrictions as may be necessary to permit the use of such lands for military purposes.

(b) INTERIOR.—(1) To the extent consistent with applicable law, including this Act, the lands withdrawn pursuant to section 4 shall be managed by the Secretary of the Interior so as to permit use of such lands for—

(A) protection of wildlife and wildlife habitat;

(B) control of predators and other wildlife;

(C) recreation; and

(D) prevention and suppression of brush and range fires resulting from nonmilitary activities.

(2) The Secretary may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of lands withdrawn under section 4 only with the concurrence of the Secretary of the Army.

SEC. 7. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this Act shall terminate 15 years after the date of enactment of this Act.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 12 years after the date of enactment of this Act, the Secretary of the military department concerned shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this Act for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Army shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in Utah in order to receive public comment on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this Act may not be extended or renewed except by an Act or joint resolution.

SEC. 8. RENEWAL OR RELINQUISHMENT.

(a) NOTICE AND FILING.—(1) No later than 11 years after the date of enactment of this Act, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Secretary of the Army will have a continuing military need for any of the lands withdrawn under section 4 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Army concludes that there will be a continuing military need for any of such lands after the termination date, that Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If during the period of withdrawal and reservation, the Secretary of the Army decides to relinquish all or any of the lands withdrawn and reserved by this Act, such Secretary shall file a notice of intention of relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the military department concerned, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Army, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purposes.

(d) ALTERNATIVE.—If the Secretary of the Interior, after consultation with the Secretary of the Army, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this Act which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this Act the Secretary of the Interior determines that some of the lands withdrawn by this Act are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws——

(1) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry into such lands;

(2) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this Act as it applies to such lands. Should the decision be made to evoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 9. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or of the Army under this Act may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this Act may be delegated, except that an order described in section 8(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 10. WATER RIGHTS.

Nothing in this Act shall be construed to establish a reservation to the United States with respect to any water or water right on the lands described in section 1 of this Act. This section shall not be construed to affect water rights acquired by the United States before the date of enactment of this Act.

SEC. 11. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this Act shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 12. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this Act, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this Act at least at the level of cleanup achieved on such lands in fiscal year 1990.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this Act and for each subsequent fiscal year, the Secretary of the Army shall transmit to the Committee on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including——

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 988 deals with a number of management problems at a

long-established military installation in Utah created in 1914 by reservation from the public domain.

As reported by the Interior Committee, the bill would do four things. First, it would facilitate an exchange whereby the United States would trade some of the lands originally withdrawn for the camp, but which the Army no longer needs, for the last remaining private inholdings, on an equal-value basis. Second, it would revoke the 1914 executive order establishing the camp, so that the rest of the excess withdrawn land can be returned to the public domain; third, it would withdraw for military use some BLM land that is within the actively-used area; and, finally, the bill would also put this longstanding military installation on a legal footing similar to that of other, newer installations that have been established under the 1958 Engle Act.

Therefore, under the bill the lands would be withdrawn and reserved for the military for 15 years, after which Congress would have to act if the withdrawal is to be renewed or extended. To lay the groundwork for a congressional decision, if the Army wanted to seek a renewal or extension, they would have to prepare an environmental impact statement. And, during the period of withdrawal, the Army would be required to continue its present decontamination work, at least to the extent that funds are appropriated for that purpose.

Mr. Speaker, the Engle Act, enacted in 1958 as Public Law 85-337, provides for periodic congressional review of the extent to which public lands reserved for military uses are still needed for those purposes. Now that world conditions have changed and we are reevaluating basic questions of national defense, I think it is appropriate to provide for such review of areas withdrawn prior to 1958, and H.R. 988 would do this for Camp Williams.

The Interior Committee has closely patterned H.R. 988 after the Omnibus Military Lands Withdrawal Act of 1986, which renewed the withdrawal of long-used military installations in Nevada, Arizona, New Mexico, and Alaska. Thus it provides for informed congressional analysis if and when we are asked to renew withdrawal of the Camp Williams lands, and it also addresses the need for decontamination efforts on those lands.

Mr. Speaker, as reported by the Interior Committee, H.R. 988 is a sound bill that addresses present land-management problems at Camp Williams and also provides for informed decisions about the future use of those lands. It is a sound, prudent measure, and I urge its approval by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise in support of H.R. 988. This legislation would direct the Secretary of the Interior to take actions that he determines necessary to complete, within 2 years, an exchange of certain lands in Salt Lake and Utah County, UT. The bill was introduced by our esteemed colleague from Utah [Mr. NIELSON], who represents this area and will speak about the legislation in a short time. He has worked extensively on the legislation with Federal agencies and interested parties and other Members of Utah delegation including Mr. HANSEN and Mr. OWENS who are members of the Interior Committee.

The present version is the committee substitute which addresses some of the administration's concerns regarding military operations in the area.

Camp Williams is an active military reservation, used by the Utah National Guard. The Department of the Army, on behalf of the Gaurd, has been acquiring privately owned lands within the camp in order to improve operations and reduce public safety problems.

Two landowners do not wish to sell to the Federal Government, but are willing to exchange their lands. The lands to be exchanged are currently withdrawn. The proposed legislation would provide a speedier mechanism for revocation of the withdrawal to allow exchange of these lands through avoidance of many administrative steps and time delays.

A companion bill, S. 393 was introduced in the Senate on February 9, 1989. The administration is not opposed to the bill, but will seek amendments in the Senate concerning current land use planning requirements which would be imposed by the bill as well as requirements for recreation management.

Also, the Utah delegation still has some reservations about this bill and it is my hope that we will continue to work with them as this legislation progresses to resolve their concerns.

Mr. Speaker, I urge adoption of this legislation.

Mr. Speaker, I yield 4 minutes to the gentleman from Utah [Mr. NIELSON], the author of the bill.

Mr. NIELSON of Utah. Mr. Speaker, I rise to voice my support for H.R. 988—the Camp W.G. Williams Land Exchange Act of 1990.

I would first like to express my thanks to Mr. VENTO, chairman of the Subcommittee on National Parks and Public Lands, and Mr. UDALL, Chairman of the Committee on Interior and Insular Affairs for moving this bill to the floor on the Suspension Calendar.

In particular, I commend my colleague from Utah, Mr. HANSEN, who has given me unstinting support from this position on the Interior and Armed Services Committees over the more than 3 years I have been working to resolve the dangerous condition that exists at Camp Williams. I also acknowledge the cosponsorship of my other Utah colleague, Mr. WAYNE OWENS. The full support of the Utah delegation has been essential to bring this bill to the floor.

The efforts of Gen. John Matthews, adjutant general of the Utah National Guard, and his staff must be acknowledged. They initially identified the problem and provided technical assistance for drafting the legislation as well as giving testimony at the various hearings. This assistance was essential and appreciated as the bill made its way through committee.

By way of background, in 1914 by Executive order a tract of approximately 28,000 acres astride the Utah and Salt Lake County lines was withdrawn for military purposes. The reservation has been in continuous use since through World War I, World War II, the Korea and Vietnam conflicts as well as the intervening periods to the present time. The reservation is wholly within my congressional district, the Third District of Utah.

Unfortunately, the external boundaries encompass not only those lands reserved for military purposes, but other Federal lands acquired but still needing withdrawal. More significantly, private inholdings are also within the boundaries.

Camp Williams is critically important resources for realistic live-fire training for the Utah National Guard, Guard and Reserve units from other States as well as Regular Army units. The present world situation suggests the reduction of active duty forces in favor of Reserve and National Guard units. Under this condition Camp Williams can be an even more valuable asset to national preparedness.

Since live-firing of military weapons up to and including 155MM Howitzers regularly occur on the reservation, the hazard to those who exercise their right to access their inholds, to those who ignore warning signs or otherwise happen upon unexploded ordnance is obvious. Civilian injuries have occurred on the range. One child has been killed and the case is yet to be settled.

Because this bill offers a solution with little or no cost to the Treasury, it would be unconscionable not to seize the opportunity we now have to do so.

To those ends I introduced H.R. 5224 in the last Congress. Unfortunately, time did not permit full consideration at that time. But with the help of Mr. DELLUMS, chairman of the House Subcommittee on Military Installations and Facilities, I was able to obtain approval for purchase of some high-priority parcels within or adja-

cent to the reservation. Those acquisitions have been made which improve the safety and integrity of the facility. While those purchases are helpful, the final step, represented by the bill we are addressing today, must be taken to consolidate and enhance those gains.

I reintroduced the measure as H.R. 988 in February 1989. In negotiations with and between the Utah Guard, the Army Corps of Engineers, the Bureau of Land Management and with Senator GARN, who introduced a similar bill in the other body, it became apparent that provisions should be made to hold harmless the Bureau of Land Management on lands relinquished to that Agency even though those lands have been thoroughly swept by the Defense Department. In addition, waivers of environmental assessment, mineral reports, et cetera should be implemented where appropriate. Those adjustments have been largely made.

Nevertheless, I am not completely pleased with the product that finally has reached the floor.

For example, the committee has included the provisions of the Engle Act, Public Law 85-337, which includes reporting requirements regarding water rights, mineral, gas and oil exploration and even hunting and fishing on withdrawn lands. These requirements can only interfere with the primary mission of the reservation. Furthermore, giving the Interior Department jurisdiction over recreational activities on Camp William could cause conflicts with Defense Department activities.

From my own perspective I don't believe that the Engle Act should be included in the bill since the act applies only to withdrawals of more than 5,000 acres. Here we are talking about a lesser amount.

Of the private inholdings, about 834 acres of private land is to be exchanged on a willing basis for approximately 867 of Federal land. Also, to shore up the external boundaries and remove other public land from within those boundaries, an exchange of some Federal lands is contemplated. In toto the reservation would give up about 2,800 acres and acquire approximately 2,330 with a net loss of about 470 acres.

Despite these concerns, which are shared by the State of Utah and its National Guard, I believe it is mandatory that we pass H.R. 988 today. The Senate version, S. 393, does not contain these unwelcome elements. I trust that we can solve these differences in conference.

□ 1400

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. OWENS], a member of the committee, one of the sponsors of this measure before us.

Mr. OWENS of Utah. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, H.R. 988, the Camp W.G. Williams Land Exchange and Withdrawal Act of 1990, will resolve serious safety programs which now exist at Camp Williams, a military installation located in Salt Lake and Utah Counties, UT. Currently there are private inholdings within the boundaries of the installation which interfere with military operations. This bill will transfer those private lands out of the camp.

Camp Williams is heavily used for training by Utah National Guard units. The training includes the use of live ammunition and, as a result, unexploded munitions now litter both the private and Federal lands in the camp. Because the private inholdings make limiting access difficult it is especially dangerous for the military to use live ammunition in the area. These lands must be removed from the camp boundaries.

There are approximately 950 acres of private land remaining in the camp. The tract owners are willing to exchange their property for Bureau of Land Management lands outside the military installation and this bill authorizes these exchanges on an equal value basis.

Military personnel in Utah have raised concerns about the current version of the bill, especially that provision which places the camp under the terms of the Engel Act rather than the requirements of the Federal Land Management Policy Act. My colleague, Mr. NIELSON has spoken in some detail of those concerns. However, Utah National Guard leaders have indicated to me that they nonetheless support this bill so that the potential danger for civilians with property within Camp Williams will be removed. Difficulties that exist in the current bill can be worked out in conference.

I would like to thank the gentleman from Minnesota [Mr. VENTO], chairman of the National Parks and Public Lands Subcommittee, who has guided this legislation to the floor today.

Also my colleague, the gentleman from Utah [Mr. NIELSON], for having sponsored and followed very carefully this legislation through its process, and the gentleman from Utah [Mr. HANSEN], my other colleague who with me serves on this committee.

Mr. Speaker, H.R. 988 will permit us to keep our military trained and our civilians out of the line of fire.

Mr. Speaker, I urge my colleagues to support this bill today.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I take this time to ask a couple of questions if I may, of the chairman, the gentleman from Minnesota [Mr. VENTO], because I am concerned about one section of the bill, section 6 under management that would seem to indicate that the Secretary of the Interior is going to be given the job of managing the lands under the bill and that he is going to be required to manage the lands in such a way as to protect wildlife and wildlife habitat, control predators, and for recreational purposes.

Now, my understanding is that the nature of this facility is such that there is a lot of unexploded ammunition in the facility. I think that we give the Secretary of the Interior a bit of an impossible task if we are telling him to manage something for recreational purposes that has unexploded ammunition.

Mr. Speaker, could the gentleman give me some assurance that, first of all, that that is not the intent of this and, second, that there will be an attempt made to do something to correct this in conference so that the Secretary of the Interior is not given that kind of an assignment.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I do not think we need to correct it in conference.

The intent here insofar as these activities dealing with wildlife, wildlife habitat and recreation, as the gentleman pointed out, the control of predators and other wildlife, prevention of and suppression of brush in range fires, these are responsibilities that lie under the Department of the Interior with regard to public lands.

I am sure that the gentleman understands these lands have been withdrawn for a military purpose. Those types of uses or those activities are subordinate to the use by the military of these facilities.

So if the gentleman were to continue to read in section 6, he would recognize that the Secretary may do all these things, yes, he can use it for recreation but only with the concurrence of the military, with the Secretary, in this case, I think it is, of the Army. So he can only do those things in concurrence with the Secretary of the Army.

But the gentleman is correct, this language is the standard language that we use, and it provides for the opportunity to adequately limit those types of activities.

Mr. WALKER. My point is that we are setting up the standard here, though, for management that is a ridiculous standard on the face of it. Obviously, if you have unexploded munitions on a facility, it makes recreational use impossible.

Mr. VENTO. I agree.

Mr. WALKER. It seems to me that to use standardized language, then, which gives the administrative officer an impossible assignment does not make much sense and we would be far better off to modify the language rather than to do something which does not——

Mr. VENTO. If the gentleman would yield, I do not disagree with the gentleman. Obviously, one way to manage recreation is to prohibit it. In other words, that would be one of the options.

Mr. WALKER. Or just strike that.

Mr. VENTO. They could prohibit it.

□ 1410

One way is to completely prohibit it. This requires the concurrence of the Secretary of Defense. Clearly, we think that this has not been a problem in the past that I know of with regard to this matter in terms of public lands.

Mr. WALKER. Mr. Speaker, I would say to the gentleman that evidently someone in the administration does feel as though there is a problem here, and it could cause future management problems.

All I would say to the gentleman is that it seems to me we could correct it by simply striking part C that refers to recreation, and not have that as a problem, and that could easily be done in conference.

Mr. VENTO. Mr. Speaker, if the gentleman will continue to yield, we certainly will consider the gentleman's concern. We do not have any disagreement of opinion on this. It may be possible in the future as the lands are decontaminated and other changes occur. The fact is the military wants to hold itself and the land as being multiple-use lands.

I think the problem, as the gentleman has noted, it is hard to do that when we have ordnance laying around that is unexploded, in terms of recreation.

Mr. WALKER. Control of predators may not be a problem if one steps on a land mine, but I do not think we want to submit it as a recreation use.

Mr. VENTO. I appreciate the gentleman's concern.

Mr. LAGOMARSINO. Mr. Speaker, I yield 4 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I rise today in support of H.R. 988, which exchanges about 840 acres of Federal land for about 870 acres of private inholdings as a willing exchange. This exchange would add 2,330 acres to the reservation within the boundaries of Camp Williams in return for about 2,800 acres.

I would like to first thank my good friend HOWARD NIELSON for the hard work that he has undertaken to help benefit the entire State of Utah and the U.S. military. Camp Williams is wholly within the gentleman's district and he has tirelessly been working on this bill for more than 3 years and deserves a large amount of appreciation.

At Camp Williams we have a hazardous situation wherein private landholdings are located on a live firing range. These private inholdings within, and adjacent to, the Utah National Guard weapons range at Camp Williams can only be seen as very dangerous. Shells from 105mm howitzers are fired over private land. The possibility of dangerous situations arising are very high. Civilian injuries have occurred in the past and something must be done to prevent any future accidents from happening. This bill goes to solve the problem.

The practice range at Camp Williams has been an important part of the camp for over 70 years. It is an essential part of live-fire training not only for the Utah National Guard, but also Guard and Reserve units from surroundings States as well as Regular Army units. The new configuration of Camp Williams will contribute significantly to the readiness of these units and our national defense as well as solve what is now a very dangerous situation.

While I support this legislation, I still have concerns about the legislation language which puts this military installation on the same footing as installations covered under the Engle Act. Among other issues this would mean that withdrawal of these lands at Camp Williams would terminate after 15 years unless renewed by Congress. I am hopeful as the legislation continues to move through Congress that these issues will be resolved. Notwithstanding these concerns, I urge adoption of the legislation.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 988, as amended.

The question was taken.

Mrs. MARTIN of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

DRUG ABUSE RESISTANCE EDUCATION ACT OF 1990

Mrs. UNSOELD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5064) to amend the Drug-Free Schools and Communities Act of 1986 to provide for a program of grants to local educational agencies for drug abuse resistance education program as amended.

The Clerk read as follows:

H.R. 5064

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Drug Abuse Resistance Education Act of 1990".

SEC. 2. REPLICATION OF SUCCESSFUL DRUG ABUSE EDUCATION PROGRAMS.

(a) RESERVATION OF FUNDS.—Section 5112(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182(a)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) $15,000,000 for grants under section 5136.".

(b) PROGRAM AUTHORIZED.—Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211 et seq.) is amended by adding at the end the following:

"SEC. 5138. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to consortia of local educational agencies and entities that have experience in assisting local educational agencies to provide instruction to students in kindergarten through grade 6 designed to teach such students to recognize and resist pressures that influence such students to use illicit drugs or alcohol.

"(b) SERVICES.—A consortium described in subsection (a) shall not be eligible for a grant under this section unless such consortium agrees to use assistance provided under such grant to provide or arrange for the provision of services that shall include—

"(1) drug abuse resistance education instruction for students in kindergarten through grade 6 that is designed to teach such students to recognize and resist pressures that influence such students to use illicit drugs or alcohol, including instruction in the areas of—

"(A) drug use and misuse;

"(B) understanding the consequences;

"(C) resistance techniques;

"(D) assertive response styles;

"(E) managing stress without taking drugs;

"(F) decisionmaking and risk-taking;

"(G) media influences on drug use;

"(H) positive alternatives to drug abuse;

"(I) interpersonal and communication skills;

"(J) activities designed to build self-esteem;

"(K) resistance to peer pressure;

"(L) role modeling;

"(M) forming a support system; and

"(N) the role of police and practices for student safety;

"(2) provisions for parental involvement;

"(3) classroom instruction by uniformed law enforcement officials, coupled with activities taught by the regular classroom teacher;

"(4) the use of positive student leaders to influence younger students not to use drugs;

"(5) an emphasis on activity-oriented techniques designed to encourage student-gener-

ated responses to problem-solving situations; and

"(6) the awarding of a certificate of achievement to each student who participates in a drug abuse resistance education program.

"(c) APPLICATION.—A consortium described in subsection (a) that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information and assurances as the Secretary may reasonably require. Each such application shall contain—

"(1) an assurance that the consortium concerned will provide assistance, in cash or in kind, for the services assisted under the grant in an amount equal to not less than 10 percent of the amount provided under the grant; and

"(2) an assurance that funds received under the grant shall be used to supplement, not supplant, the amount of other Federal State, and local funds expended for support of services of the type described in subsection (b).".

SEC. 3. TECHNICAL AMENDMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 2 of the Drug-Free Schools and Communities Act Amendments of 1989 is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking paragraph (1) and inserting the following:

"(1) in paragraph (1), by inserting after "part C" the following: "and section 5136"; and

"(2) in paragraph (2)—

"(A) in subparagraph (A), by striking 'and $20,000,000' and all that follows and inserting the following: '$20,000,000 for the fiscal year 1990, and $35,000,000 for each of the fiscal years 1991, 1992, and 1993."; and

"(B) in subparagraph (B), by striking '$230,000,000' and inserting '$215,000,000'; and".

(b) RESERVATIONS AND STATE ALLOTMENTS.—Subsection (a) of section 5112 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182) is amended in the matter preceding paragraph (1) by inserting ", from" after "subsection (c)".

(c) RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.—

(1) CORRECTION OF PUNCTUATION.—Section 5124(a)(4)(B) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3194(a)(4)(B)) is amended by striking the comma at the end of clause (ii) and inserting a period.

(2) CORRECTION OF REFERENCE.—Section 7(2) of the Drug-Free Schools and Communities Act Amendments of 1989 is amended in subparagraph (A) by inserting "the first place it appears" before "the following".

(d) FEDERAL ACTIVITIES.—Section 5132(b) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3212) is amended by striking "and" at the end of paragraph (5).

(e) EMERGENCY GRANTS.—The heading for section 5136 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3216) is amended to read as follows:

"SEC. 5136. EMERGENCY GRANTS.".

(f) CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS.—Section 22(b) of the Drug-Free Schools and Communities Act Amendments of 1989 is amended—

(1) in paragraph (1), by striking "Part D" and inserting "Part E"; and

(2) in paragraph (2), by striking "5126(e)" and inserting "5126(a)".

(g) DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE.—Section 18 of the Drug-Free Schools and Communities Act Amendments of 1989 is amended by striking "Part D" and inserting "Part E".

(h) LIMITATION.—The amendments made by this section shall not take effect if the Anti-Drug Education Act of 1990 is enacted before the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington [Mrs. UNSOELD] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognize the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first want to thank our estimated chairman, Mr. HAWKINS, for his support in guiding this bill through the Education and Labor Committee. I also want to thank Mr. FORD and Mr. GOODLING for their help and the other members of the committee who supported this DARE legislation.

The DARE Program is important to the Education and Labor Committee because it is a critical element in improving education in this country. If our students are to succeed, we must eliminate drug and alcohol abuse. Even the President and our Nation's Governors highlighted drug-free schools as an education goal that must be met before we begin the 21st century.

The Drug Abuse Resistance Education Program, better known as DARE, is one of the most successful antidrug education strategies being taught in our schools. Sheriffs, teachers, and parents alike claim it is reducing drug use among our youth. So I introduced this bill to more effectively target our drug education dollars toward this proven program.

Over a year ago, a local sheriff pulled me aside after a town meeting and clued me in to the DARE Program because it was proving its worth in Washington State. The sheriff told me they have tried scaring kids and locking them up, but none of it makes half the dent prevention and education does. He recommend DARE because it was cutting the demand for drugs.

DARE goes beyond the traditional antidrug education programs. It uniquely brings together parents, students, teachers, and law enforcement officers. It develops a positive, trusting relationship between students and the police. It opens communication channels that were previously nonexistent.

DARE puts patrol-hardened, experienced officers into the schools to shore up the classroom teacher's antidrug instruction. Our teachers have one of the toughest and most important jobs in society. They need our support and veteran DARE officers provide the added sophistication and experience.

The DARE officers not only teach kids to say "no," but how to say "no" to drugs and alcohol. DARE lessons help students build their self-esteem, manage stress, develop techniques for refusing drugs, and identify healthy alternatives to drug use. Most importantly, DARE prepares kids to make informed decisions and teaches them to think about the consequences of their actions.

John Wurner, my police chief in Olympia, WA, recently wrote to me in support of the DARE Program and he said.

In my twenty-five years of law enforcement in California and Washington, DARE is the most promising program I have seen to keep our young, the future leaders of this country, off drugs. In the broader sense, DARE has uniquely prepared these young people to make informed decisions of the most difficult type under great pressure regarding actions that affect the rest of their lives.

This bill would require the Secretary of Education to reserve $15 million of appropriated Drug Free Schools and Communities Act money for grants to DARE programs. This bill does not call for additional spending, it merely targets existing funding to DARE. It would help extend DARE to more schools and commit more law enforcement officers to DARE duty without sacrificing patrol strength. I believe we should be supporting drug education programs that are truly working and this bill is an effort to help our communities offer an effective program—DARE.

Offering a DARE Program takes the commitment of an entire community. Currently, support for DARE comes from State and local resources, and donations from parents, schools, and local businesses. Costs to replace an officer on patrol can reach $36,000 in the State of Washington. More focused Federal funding would help many urban and rural communities who want DARE but have had to forego the program because they lack the necessary funding.

Mr. Speaker, when sheriffs, police chiefs, teachers, prosecutors, and parents all say, "This is a program that works," we should not only listen, we should act. In a nation that is desperately seeking solutions to our drug problems, DARE stands out as a proven weapon. I feel strongly that we have an obligation to get programs that are working into our schools and communities. DARE is an effective way to target our antidrug funds.

I urge my colleagues to dare to say yes to this cost-effective, gutsy strategy.

□ 1420

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Drug Abuse Resistance Education Act of 1990 presented by the gentlewoman from Washington [Mrs. UNSOELD].

Mr. Speaker, H.R. 5064 will reserve $15 million of the money under the Drug-Free Schools and Communities Act for the replication of drug abuse resistance education [DARE] programs. DARE brings law enforcement officers into the classroom to work with elementary school students on understanding the consequences of drug use, resisting peer pressure to use drugs, and building self-esteem through positive decisionmaking. This program has been widely used and has been a compelling force in the war against drugs in many communities.

My only concern with H.R. 5064 is directed at the funding mechanism contained in the bill which would reserve drug-free schools money to support DARE programs. It may not be prudent to reserve funds for such a specific purpose when we have sought to preserve local control under the Drug-Free Schools Act to implement a drug and alcohol abuse prevention plan that meets community needs and when many successful drug education curriculums have been developed.

The joint efforts of law enforcement officers and schools through DARE has been shown to work in many communities. I believe that support of DARE should be an element of our comprehensive national program to eliminate the scourge of drug use from our communities and schools. The omnibus drug bill that is, I believe, being developed offers an opportunity to meld our support of DARE with the other weapons we are using in the war against drugs. I believe that a coordinated approach through an omnibus bill is a must and the DARE Program should be a part of it.

Mr. Speaker, I reserve the balance of my time.

Mrs. UNSOELD. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I want to give my whole-hearted endorsement to this legislation.

I have recently been holding a series of meetings with law enforcement people in my district in Colorado, and the DARE Program has been endorsed without exception by these people as an absolutely key part of any antidrug strategy that makes sense for this country. I have been asking them, "What really is going to provide the payoff for us in our spending in the war against drugs?" Not surprisingly, the law enforcement community clearly supports strong and continued enforcement efforts to keep the lid on drug trafficking and to improve the interdiction of drugs at and beyond our borders. But when asked "What is really going to make the difference in the long run?" they uniformly point to education as the critical component: Changing the minds of our kids as to what is acceptable behavior, and keeping them on the right track about not using drugs. That is what eventually will get us out of the woods with our drug abuse problem in the United States.

It may not be the most dramatic strategy. It may not be the one that lends itself most easily to political rhetoric. It is simply the most effective. And the DARE Program is among the most effective pieces of that education, demand reduction, approach to the problem.

We need to create more realistic expectations in this country about the rate of progress we are likely to make in the war on drugs. It is simply not going to happen overnight. We have got to realize that it will take several years of concerted effort to change the pattern of behavior that has regrettably grown up over many years in this country. Education, reinforced by good law enforcement, is the way that is going to happen. We must have the political will and perseverance to see this through to a successful conclusion.

Mr. Speaker, DARE is absolutely vital to that undertaking, and I urge my colleagues to pass H.R. 5064. Again I thank the gentlewoman from Washington for yielding this time.

Mr. GOODLING. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, I rise in support of the program and of the bill, H.R. 5064.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Speaker, I rise in support of this effort for the Drug Abuse Resistance Education Program.

The challenge that this body and the other body has as we deal with our problem of drugs is society's biggest challenge, because part of it is a domestic challenge and part of it is international in terms of supply. Certainly also it is an issue of enforcement and education.

We in this Congress will work on some tough, strong law-and-order measures, but there is another side to it, and that is education, making sure that we do not overwhelm the treatment problem and making sure that we teach young men and women the perils and the evils of drug and substance abuse.

In the State of Michigan, the DARE Program and other programs similar to it are doing a marvelous job of making sure that young people learn peer resistance techniques, how to say no and how to look to losers and say, "Get out of my face." That is what we are doing in grade schools in Michigan and, frankly, all across the country.

I introduced similar legislation to this back in November, and that is why I am so pleased to see this House today on the Suspension Calendar taking this bill up, because this is enforcement and education, and here today this House is coming forward and saying that we are going to make sure we do not turn our backs on a generation of young people, and that we are going to help our young people learn the perils and ills of substance abuse.

Mr. Speaker, I compliment the gentleman from Pennsylvania [Mr. GOODLING] and the gentlewoman from Washington [Mrs. UNSOELD] as well.

Mrs. UNSOELD. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

Mr. Speaker, during my time and service in Congress, illegal drugs have plagued our youth of this Nation with a vengeance unlike any other that I know about in modern history.

H.R. 5064 would attempt to address the problem of illegal drugs by setting aside $15 million of funds already appropriated under the Drug-Free Schools and Communities Act for an effective antidrug abuse program called DARE [Drug Abuse Resistance Education]. DARE projects across the Nation have successfully helped students recognize and resist the pressures that cause them to experiment with illegal drugs. This year, local law-enforcement officers and educators will bring the DARE Program to over 4.5 million children.

In Jonesboro, the largest city in my district, community leaders like Larry Duke, who is visiting us here today and from whom I learned about the DARE Program, as well as law-enforcement officers, educators, and student leaders, are coming together under the auspices of DARE to fight the war against illegal drugs.

Last March the city of Jonesboro raised $30,000 in business and private donations. Those donations are being used to train two law-enforcement officers who will bring the DARE Program to over 1,300 Jonesboro students. No government funds were available to match this $30,000. By setting aside $15 million of drug-free schools and communities funding, we can ensure that people like Larry Duke have the resources to continue their work.

Jonesboro business leaders are devoting their time and money to the DARE Program because they believe it's a worthwhile investment in the community's future.

We need to match that effort. The DARE Program works. By passing these bills, we can ensure that Federal funds are available to put it in place.

Mr. Speaker, I commend the gentlewoman from Washington [Mrs. UNSOELD] for her leadership and the committee for bringing this legislation to us here today. I wish to congratulate the committee in every way, and I rise in strong support of this legislation that has been brought before us this afternoon.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Mrs. UNSOELD. Mr. Speaker, I also yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentlewoman from Ohio [Ms. OAKAR] is recognized for 2 minutes.

Ms. OAKAR. Mr. Speaker, I want to thank my colleagues on both sides of the aisle for sponsoring this bill and for their fine work and for yielding time to me.

Mr. Speaker, I rise in strong support of this bill. DARE does work. I also want to put in a word for the next bill that will be coming up, but I would like to frame my remarks on an issue that I think is of critical importance and one that is often ignored.

□ 1430

Mr. Speaker, I heard the gentleman from Arkansas [Mr. ALEXANDER], my colleague, talk about illegal drugs. The fact is that very often we do not; and they will be illegal, whether it is alcohol or drugs for students who are under 18 in most States, but the fact is we do not talk enough, I believe, about the No. 1 drug in this country, which is alcohol, and we certainly do not do enough in the area of education and prevention. In the Omnibus Drug Act, which is an $8½ billion act, there is only $400 million, I believe, for education. Sixty-four percent of the request was for law enforcement, and that is why these bills are so very, very important.

Mr. Speaker, alcohol is responsible for thousands of deaths in our country. It has $130 billion in economic costs. Half of all the deaths in auto accidents are alcoholic related.

In my city of Cleveland we had the valedictorian of the class, a high school class, and his two buddies go out after graduation and drink, and unfortunately they were killed, and what a loss of talent and sadness to the school and family in that community.

So, Mr. Speaker, I say to my colleagues that I know the Committee on Education and Labor is right on target in trying to get more funds for education, but we ought to be doing more, and we ought not to be hyping this whole issue. We only hear Secretary Bennett talking about drugs, never about alcohol, which is such a critical problem, and I was delighted when the gentlewoman from Washington [Mrs. UNSOELD], my friend, used that term, drugs and alcohol, or alcohol and drugs, in describing the bill, not just drugs because people think we are just talking about cocaine and so forth.

My colleagues, let us focus in on all drugs, including alcohol, and let us not keep focusing on illegal drugs. Let us talk about drugs inclusively.

Mr. Speaker, I would like to ask the gentlewoman from Washington [Mrs. UNSOELD] if the DARE Program does include instruction related to alcohol.

Mrs. UNSOELD. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentlewoman from Washington.

Mrs. UNSOELD. Yes; it does. Alcohol, although a legalized drug, is no less a drug, and this program does accommodate instructions on both.

Ms. OAKAR. Mr. Speaker, I thank the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I would like to commend my colleague from Washington, Congresswoman JOLENE UNSOELD, for her time and effective efforts in bringing about this important legislation. The fight for Federal funding of social programs has been particularly tough in the past decade. Legislators have been forced to winnow out the truly excellent, effective programs to receive the little money that has been available. Thus, Congress must be certain of a high-cost benefit ratio before it allocates any funding. I am pleased to relate that the DARE Program meets such a criterion.

First, DARE is far-reaching. It educates 4.5 million students in 49 States and the District of Columbia. It has also been adopted for international use in the Department of Defense dependent schools.

Second, DARE takes a unique, community-oriented approach to curbing and preventing drug abuse through education. Law enforcement, teachers, school administrators, parents, and students work together to promote the curriculum. The 17-week course includes subjects such as drug use and misuse, decisionmaking and risk-taking, resistance techniques, and assertive response styles. Other classes help students understand self-image, recognize stress and manage it without drugs, and analyze and resist media presentations about drugs and alcohol.

Third, DARE has been proven to be an extremely successful weapon in preventing drug use. Independent research has confirmed that graduates of the program are both less accepting of drug use and more able to resist peer pressure. The program also contributes to improved grades and study habits, decreased vandalism and gang activity, improved relations between ethnic groups, and a more positive attitude toward the police and school.

DARE has become one of the Nation's most effective weapons in fighting the war on drugs. It has set the national standard for drug education programs because it is ubiquitous, innovative, and it works. I know of no similar programs that share such clear and overwhelmingly successful results. The time has come for the Government to invest in prevention. We can no longer afford not to do so. I urge my colleagues to join me in support of this bill.

Mrs. UNSOELD. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, as an original cosponsor of H.R. 5064, I rise in strong support of this legislation.

Throughout the Nation, the Drug Abuse Resistance Education Program is performing admirably in helping our Nation's children fight back against the drug menace. This essential program gives our school-aged children the skills they need to resist the pressures which contribute to drug abuse. That is absolutely essential if we hope to protect our Nation's children from the very serious dangers associated with drugs and drug-related crime.

In the 20th Congressional District in New York, I have seen first hand the success of the DARE approach to drug abuse prevention and education. By bringing law enforcement officials into the classroom to explain the dangers of drugs and to teach resistance techniques, and by involving parents in the process, DARE gives students the skills to recognize and resist pressures that result in experimentation with drugs.

But New York is not the only location where DARE is demonstrating enormous and positive results. DARE has expanded into more than 2,000 communities in 49 States and several foreign countries. The program is expanding rapidly because, on the local level, parents and educators have watched it change attitudes and reduce drug abuse among local students.

Today, we have before us legislation that provides additional, urgently-needed support for the DARE Program. H.R. 5064 acknowledges the unique success of this program by providing additional funding for replication of the DARE Program. These

funds will be used to help establish additional DARE Programs in communities all over the Nation.

When we recognize that a particular program is of significant help in fighting student drug abuse, we must do what we can to ensure that this program gets the support it deserves. That is what this bill accomplishes. It will help communities across the Nation fight back against the drug menace.

Mr. Speaker, the problem of youthful drug abuse is among the most important problems our Nation faces today. Unless we reduce drug abuse and ensure that each of our students receives a quality education, we will not remain competitive in the world marketplace, and our economic future will be in doubt.

We should not let this happen. We must insist that all of our students are ready to meet the challenges of the 21st century. That means our students must be drug- and alcohol-free. And the DARE Program is helping us achieve this all-important goal.

I would urge all of my colleagues to join in strong support of H.R. 5064, which will help save the future of our Nation—our children.

Mr. BRENNAN. Mr. Speaker, I rise today in strong support of the Drug Abuse Resistance Education Act. This bill would secure $15 million for the DARE Program, which teaches kids to stay off drugs. If there is an area in our Nation's war against drugs that deserves more attention. It is clearly drug abuse education and prevention.

The DARE Program establishes a unique law enforcement-education partnership. It brings trained police officers into the classroom to teach children not only to "just say no" but how to say no. Kids today need strategies to deal with peer pressure, personal and family problems, and individual decisions about drug use.

DARE serves several thousand students in my home State of Maine. These youngsters participate in a structured 17-week course that focuses on a variety of drug-related issues. Students learn about personal safety as it relates to drug use and misuse. They discuss the consequences of drug use, including the legal, medical, and social ramifications. DARE participants discover alternatives to drug use and learn how to build and utilize support networks.

Perhaps most importantly, DARE aims to develop a student's self-esteem and to identify positive goals and aspirations. I have met with DARE officers in Maine and I believe this program serves to empower students with the ability to make informed and conscientious decisions about drug use.

I urge my colleagues to join me in support of DARE and to strengthen drug education and prevention efforts in our Nation's schools.

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of H.R. 5064, the Drug Abuse Resistance Education [DARE] Act of 1990.

In order to have a successful national drug control strategy, we all must do our part. It is extremely important that Congress listen to the recommendations and concerns of those who work everyday to heal, protect, and preserve our communities. A million speeches telling our children about the harmful effects of drugs, would not have better effect on our kids than one heart-to-heart talk between a child and teacher, or parent, or respected member of the community.

That's what DARE is all about, a program that works with our kids and gives them support they need to resist drug use pressure.

Recently I had the chance to meet with police Sergeant Tom Hubal, who is also the director of the DARE Program in Rome, NY, a city within the district I represent. I have also met with students in the Rome School District and heard their views of the program. It is plain to see that this program works. Through teaching students the skills necessary to say no to drugs, this program has been a resounding success.

Mr. Speaker, the War on Drugs has many fronts. Foreign interdiction and increased law enforcement are important, but we also have to give those who are on the front lines in this war, our children, the support they need to successfully battle against illegal drugs. That's what DARE does, teaches about the ill effects of crack, heroin, marijuana, and other poisons, and gives them the support they need to resist peer pressure and build self-esteem.

Mr. GILMAN. I am pleased to rise in support of this measure and I would like to commend the gentlewoman from Washington [Mrs. UNSOELD] and the ranking minority member on the Education and Labor Committee, the gentleman from Pennsylvania [Mr. GOODLING] for their efforts in bringing this bill to the floor.

Mr. Speaker, I have long been an advocate of a strong antidrug effort to be carried out by the Federal Government, and I was more than pleased when this body enacted the Drug-Free Schools and Communities Act which established a block grant system for antidrug education programs, mandating that every school in receipt of Federal funds establish a drug-free school policy. I know that we all agree on the importance of education in combatting drug use.

However, throughout my antidrug endeavours I have witnessed several education programs that have been worthy. One uniquely successful program has been the Drug Abuse Resistance Education [DARE] Program. Mr. Speaker, 49 States already award grants under the DARE Program. I believe all States should explore the benefits of this program.

H.R. 5064 establishes within the Drug-Free Schools and Communities Act, a Drug Abuse Resistance Education Program. The bill would reserve $15 million of Drug-Free Schools and Communities Act funds for DARE. I believe reserving $15 million for DARE will ensure that at least these funds will be well spent.

Mr. Speaker, I am pleased to support this measure and urge all my colleagues to do the same.

Mrs. UNSOELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentlewoman from Washington [Mrs. UNSOELD] that the House suspend the rules and pass the bill, H.R. 5064, as amended.

The question was taken.

Mrs. MARTIN of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

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Mrs. UNSOELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5064, the bill just considered.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentlewoman from Washington?

There was no objection.

ANTI-DRUG EDUCATION ACT OF 1990

Mrs. LOWEY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5124) to expand and improve drug abuse education, prevention, and counseling services, to provide for positive alternative activities to drug abuse, to provide for certain activities to ensure student safety, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Drug Education Act of 1990".

SEC. 2. FINDINGS AND STATEMENT OF RESPONSIBILITY.

(a) FINDINGS.—The Congress finds that use of illicit drugs and alcohol by the youths of the Nation continues to be a major problem that threatens the safety of the children of the Nation and impedes their ability to succeed in school and in their lives; and

(b) STATEMENT OF RESPONSIBILITY.—It is the responsibility of the Federal Government—

(1) to prevent and reduce students abuse of alcohol and illicit drugs by expanding and improving drug abuse education, prevention, and counseling services in the schools and by providing students with positive alternative activities after school hours; and

(2) to help ensure the safety of students on school grounds and on their way to and from school by expanding cooperative efforts with local law enforcement officials and establishing drug-free school zones.

SEC. 3. STRENGTHENING OF DRUG-FREE SCHOOL ZONES.

(a) GENERAL AUTHORITY.—Paragraph (8) of section 5122(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(a)) is amended by striking the period

and inserting the following: ", which shall include—

"(A) the determination, with the assistance of municipal authorities and local law enforcement agencies, as appropriate, of the geographical boundaries of schools within the State and the posting of signs identifying school properties as drug-free school zones;

"(B) drug-abuse education and prevention programs and enforcement policies designed to eliminate the illicit use of alcohol and drugs in such zones;

"(C) assisting teachers, administrators, athletic directors, and other school personnel in cooperating fully with law enforcement officials to punish violations of laws relating to illegal drugs;

"(D) informing the community—

"(i) of the content and intent of laws relating to school safety and laws relating to illegal drugs as they affect schoolchildren; and

"(ii) of the perimeters of the drug-free school zones;

"(E) employing the services of the local or substate regional advisory council on drug abuse education and prevention established or designated by the local application submitted under section 5126(a) as a resource for advice and support with respect to implementation of such zones; and

"(F) communication to students, teachers, athletic directors, and other school personnel by administrators that activities that are illicit and harmful to the health and well-being of the students will not be tolerated within schools and their surrounding environments.".

(b) CONFORMING AMENDMENT.—Subsection (a) of section 5137 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3217) is amended by inserting before the period at the end of the first sentence the following: "as described in section 5122(a)(8)".

SEC. 4. REPLICATION OF SUCCESSFUL DRUG ABUSE EDUCATION PROGRAMS.

(a) RESERVATION OF FUNDS.—Section 5112(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182(a)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) $5,000,000 for grants under section 5138.".

(b) PROGRAM AUTHORIZED.—Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211 et seq.) is amended by adding at the end the following:

"SEC. 5138. PROGRAMS OF DRUG ABUSE EDUCATION, PREVENTION, OR COUNSELING.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to local educational agencies or consortia of local educational agencies and private nonprofit entities to provide drug abuse education, prevention, or counseling services to students in kindergarten through grade 12.

"(b) ELIGIBILITY.—A local educational agency or consortium described in subsection (a) shall not be eligible for a grant under this section unless such agency or consortium agrees—

"(1) to use assistance provided under such grant to provide or arrange for the provision of programs offering drug abuse education, prevention, or counseling to students of compulsory school age, including—

"(A) programs to provide drug abuse counseling in the schools by trained personnel;

"(B) programs that stress the use of peers to combat student abuse of drugs and alcohol;

"(C) programs that stress parental involvement in combating student abuse of drugs and alcohol; and

"(D) other appropriate programs;

"(2) that programs provided with assistance under the grant shall be designed to prevent or eliminate student abuse of drugs or alcohol;

"(3) to use assistance provided under the grant to expand or replicate a program that has a demonstrated record of success at either the State or local level in preventing or eliminating student abuse of drugs or alcohol; and

"(4) to ensure that the program to be expanded or replicated is appropriate for the students to be served, based on an assessment of their most important needs.

"(c) APPLICATION.—A local educational agency or consortium described in subsection (a) that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information and assurances as the Secretary may reasonably require. Each such application shall contain—

"(1) a discussion of why the particular program to be assisted under the grant is appropriate for and responds to the particular needs of the students to be served;

"(2) a complete description of the success of the program to be assisted under the grant in reducing or eliminating drug or alcohol abuse among students of compulsory school age;

"(3) an assurance that the consortium concerned will provide assistance, in cash or in kind, for the program assisted under the grant in an amount equal to not less than 10 percent of the amount provided under the grant; and

"(4) an assurance that funds received under the grant shall be used to supplement, not supplant, the amount of other Federal, State, and local funds expended for support of programs of the type described in subsection (b).".

SEC. 5. SUPPORT OF SCHOOL-BASED RECREATIONAL ACTIVITIES.

Section 5125(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (16);

(2) by redesignating paragraph (13) the second place it appears as paragraph (14);

(3) by striking "and" at the end of paragraph (14) (as redesignated by paragraph (2) of this section); and

(4) by inserting after paragraph (14) the following:

"(15) in the case of a local educational agency that determines that it provides sufficient drug and alcohol abuse education during regular school hours, after-school programs that provide drug and alcohol abuse education for school-aged children, including children who are unsupervised after school, and that may include school-sponsored sports, recreational, educational, or instructional activities; and".

SEC. 6. SUPPORT OF SCHOOL-BASED DRUG ABUSE COUNSELING PROGRAMS.

(a) GENERAL AUTHORITY.—Part C of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3201) is amended to read as follows:

"PART C—TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL

"SEC. 5128. GRANTS FOR TRAINING OF TEACHERS.

"(a) IN GENERAL.—From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall make grants to State educational agencies, local educational agencies, and institutions of higher education for teacher training programs in accordance with this section.

"(b) USE OF FUNDS.—Amounts made available under grants under this section shall be used to establish, expand, or enhance programs and activities for the training of elementary and secondary school teachers and administrators, and other elementary and secondary school personnel concerning drug and alcohol abuse education and prevention.

"SEC. 5129. GRANTS FOR TRAINING OF COUNSELORS.

"(a) IN GENERAL.—

"(1) From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall give priority to making a substantial number of grants to qualified State educational agencies, local educational agencies, and institutions of higher education for programs to train counselors, social workers, psychologists, or nurses in accordance with this section.

"(2) The Secretary may also make a grant under this part to any private nonprofit agency that has an agreement with a local educational agency to provide training in drug abuse counseling for individuals who will provide such counseling in the schools of such local educational agency.

"(b) USE OF FUNDS.—Amounts made available under grants under this section shall be used to establish, expand, or enhance programs and activities for the training of counselors, social workers, psychologists, or nurses who are providing or will provide drug abuse prevention, counseling, or referral services in elementary and secondary schools.

"SEC. 5130. APPLICATIONS.

"(a) IN GENERAL.—Any State or local educational agency, institution of higher education, or consortium of such agencies or institutions that desires to receive a grant under this part in any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(b) CONTENTS.—Each application submitted under this section shall—

"(1) set forth the activities and programs to be carried out with funds paid under this part;

"(2) contain an estimate of the cost for the establishment and operation of such activities and programs;

"(3) provide assurances that the Federal funds made available under this section shall be used to supplement, and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds;

"(4) provide assurances of compliance with this part;

"(5) in the case of a grant under section 5129, contain a discussion of how the training to be assisted under the grant will assist the applicant to—

"(A) increase the number of school personnel who are trained to provide drug abuse counseling services; and

"(B) improve the quality of drug abuse counseling services offered by the applicant or the local educational agency concerned; and

"(6) include such other information and assurances as the Secertary reasonably determines to be necessary.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Subparagraph (A) of section 5111(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181(a)(2)) is amended by striking "$35,000,000" and inserting "$50,000,000".

SEC. 7. ADDITIONAL REQUIREMENTS FOR LOCAL APPLICATIONS.

Section 5126(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(a)(2)) is amended—

(1) by redesignating subparagraphs (N) and (O) as subparagraphs (P) and (Q), respectively; and

(2) by inserting after subparagraph (M) the following:

"(N) describe how, to the extent practicable, assistance provided under the grant will be used to provide drug abuse counseling services to children of all ages, including students in the elementary schools;

"(O) describe how, to the extent practicable, activities assisted under the grant will be coordinated with local law enforcement agencies in order to improve security on school grounds and in the surrounding community and to educate students about—

"(i) the dangers of drug use and drug-related violence;

"(ii) the penalties for possession of or trafficking in illegal drugs;

"(iii) techniques for resisting drug abuse; and

"(iv) the importance of cooperating with law enforcement officials in eliminating drug abuse and identifying individuals who supply drugs to students;".

SEC. 8. IDENTIFICATION OF FEDERALLY-ASSISTED PROGRAMS.

Part G of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3231 et seq.) is amended by adding at the end the following:

"SEC. 5193. IDENTIFICATION OF FEDERALLY-ASSISTED PROGRAMS.

"Every local recipient of funds under this title shall, in any publication or public announcement, clearly identify any program assisted under this title as a Federal program funded under the Drug-Free Schools and Communities Act of 1986.".

SEC. 9. TECHNICAL AMENDMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 2 of the Drug-Free Schools and Communities Act Amendments of 1989 is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking paragraph (1) and inserting the following:

"(1) in paragraph (1), by inserting after "part C" the following: "and section 5136"; and

"(2) in paragraph (2)—

"(A) in subparagraph (A), by striking 'and $20,000,000' and all that follows and inserting the following: '$20,000,000 for the fiscal year 1990, and $35,000,000 for each of the fiscal years 1991, 1992, and 1993,"; and

"(B) in subparagraph (B), by striking '$230,000,000' and inserting '$215,000,000'; and".

(b) RESERVATIONS AND STATE ALLOTMENTS.—Subsection (a) of section 5112 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182) is amended in the matter preceding paragraph (1) by inserting ", from" after "subsection (c)".

(c) RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.—

(1) CORRECTION OF PUNCTUATION.—Section 5124(a)(4)(B) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3194(a)(4)(B)) is amended by striking the comma at the end of clause (ii) and inserting a period.

(2) CORRECTION OF REFERENCE.—Section 7(2) of the Drug-Free Schools and Communities Act Amendments of 1989 is amended in subparagraph (A) by inserting "the first place it appears" before "the following".

(d) FEDERAL ACTIVITIES.—Section 5132(b) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3212) is amended by striking "and" at the end of paragraph (5).

(e) EMERGENCY GRANTS.—The heading for section 5136 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3216) is amended to read as follows:

"SEC. 5136. EMERGENCY GRANTS.".

(f) CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS.—Section 22(b) of the Drug-Free Schools and Communities Act Amendments of 1989 is amended—

(1) in paragraph (1), by striking "Part D" and inserting "Part E"; and

(2) in paragraph (2), by striking "5126(e)" and inserting "5126(a)".

(g) DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE.—Section 18 of the Drug-Free Schools and Communities Act Amendments of 1986 is amended by striking "Part D" and inserting "Part E".

(h) LIMITATION.—The amendments made by this section shall not take effect if the Drug Abuse Resistance Education Act of 1990 is enacted before the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from New York [Mrs. LOWEY] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very thankful for the opportunity to bring this legislation to the floor of the House today.

All Members of this body are well aware of the challenge we face in ridding our schools of drugs and alcohol.

Drugs and learning do not mix, and so long as drugs continue to pervade our schools at all levels, many of our students will be doomed to failure or even to death.

All of us are intent on achieving significant improvements in our educational system, so that we can maximize the opportunities available to each American citizen and help our Nation compete in the world marketplace.

Making our schools drug- and alcohol-free is a prerequisite to achieving educational excellence throughout the Nation. Absent this step, our schools will not make the progress that we all know is needed to keep our Nation strong in the years to come.

This Congress, under the leadership of Chairman HAWKINS, Chairman FORD and the ranking member, Mr. GOODLING, has made major strides in the fight to rid our schools of drugs. The drug education and prevention strategies supported by the Drug-Free Schools and Communities Act are making an important difference in many communities.

The bill before us today, H.R. 5124, seeks to build upon the progress that has already been made. It makes several important improvements in the Drug-Free Schools and Communities Act and helps ensure that successful antidrug strategies are given the support that they deserve.

Since introduction of the legislation, I have worked closely with Mr. GOODLING and other Republican Members to accommodate several concerns that they raised about the legislation. As a result of these discussions, I offered a substitute with Mr. GOODLING at the committee level which made several important changes to the bill. I would like to thank Mr. GOODLING for his cooperation in this regard, and to commend him for his commitment to ridding our schools of drugs. I certainly value his support for this important legislation.

The bill, as amended, increases the authorization of funds for the training of teachers, counselors, and school personnel from $35 million to $50 million. In doing so, it provides much-needed support for training of antidrug counselors, who are particularly effective in preventing and eliminating student drug abuse.

It provides $5 million in essential funding for the replication of successful antidrug education and prevention strategies at the local level. Many of these strategies are proving uniquely successful, and we need to take full advantage of this by ensuring that these programs are replicated around the Nation.

The bill calls on local education agencies to do what they can to cooperate with local law enforcement officials to improve security for the student population. And it calls on LEA's to expand the availability of antidrug counseling activities, if it is practical to do so.

In cases where school districts have established sufficient antidrug education programs during the regular school hours, the bill provides support of after-school programs with an antidrug component.

Also included are important provisions authored by Mr. RAHALL to

strengthen the criteria for the establishment of drug-free school zones. This will help ensure that drug-free school zones are of maximum effectiveness in fighting drugs and drug-related crime on or near school grounds.

The bill originally contained important provisions authored by Mr. MARTINEZ to allow loan forgiveness for college graduates who pursue law enforcement as a career. These provisions were designed to act as an incentive for students to enter the law enforcement field, contributing significantly to the war against drugs and drug-related crime.

However, in response to concerns raised by the administration and Mr. COLEMAN of Missouri, these provisions have been removed from the bill before us today. I strongly believe that these provisions would be of significant value to the Nation in fighting drugs and crime. However, I understand the concerns of some Members regarding the consideration of this provision, which is somewhat controversial, under suspension of the rules. Therefore, I have agreed not to pursue this particular provision at this time. I hope that through an omnibus drug bill or another vehicle this issue can be reviewed again.

As a whole, H.R. 5124 will contribute significantly to making our schools drug-free. And in turn, this will contribute to the goal of ensuring educational excellence and American economic supremacy in the years to come.

I would like to once again thank Chairman HAWKINS, Chairman FORD, and the ranking member of the committee, Mr. GOODLING, for their assistance in developing this legislation and their cooperation in arranging for it to be considered today. Their leadership and commitment to fighting drugs in our schools has benefited students all over the Nation. In addition, I would like to thank all of the other members of the Education and Labor Committee who participated in drafting this legislation.

I would urge all of my colleagues to join in support of this bipartisan bill, which seeks to build on the prior accomplishments of this Congress in the area of drug-free schools and will help solve one of the most pressing problems we face in improving our Nation's schools.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5124, the Anti-Drug Education Act of 1990, offered by the gentlewoman from New York [Mrs. LOWEY].

This bill would strengthen Federal efforts in several areas of drug and alcohol abuse education and prevention including counseling programs, after-school programs, and programs aimed at student safety. At the risk of sounding repetitive, while H.R. 5124 does provide important Federal leadership in giving schools and commmunities weapons to fight the war against drugs, I want it to become a part of a comprehensive program.

Again, I believe that the ideas contained in H.R. 5124 are good ones. Counseling programs have proved an important element in the drug and alcohol abuse education and prevention plans in many schools. Similarly, providing positive alternatives to drug and alcohol use has been widely discussed as an essential piece of any successful prevention plan. Finally, it goes without saying that student achievement will be hampered if students do not feel secure in their educational environment.

As I mentioned before, an omnibus approach to formulating the Federal strategy in the war on drugs will allow us to coordinate our various efforts in the area of education with other efforts in the areas of intervention and treatment. The concepts contained in H.R. 5124 should become a piece of our comprehensive national strategy.

Mrs. LOWEY of New York. Mr. Speaker, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I rise in support of H.R. 5124, the Drug Abuse Education and Prevention Act, being offered by my colleague on the Education and Labor Committee, Nita Lowey.

As we seek solutions to our Nation's pervasive drug problems, I believe we must recognize drug education efforts that are making a difference in our schools and beef them up. Antidrug counseling efforts in our schools are making a difference in the lives of our kids. Counseling provides our kids with the help and attention they so desperately need. Counseling enables kids of all ages, in all schools, to be taught life skills to make good decisions in an increasingly complex society where they are faced with intense peer pressure and an ever-changing and perhaps uncertain support structure.

This bill strengthens drug counseling programs in our schools and I applaud this action. I urge my colleagues to support this vital legislation.

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Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to acknowledge the statement of the sponsor of the bill regarding a section that was taken out of the bill today for the floor action which I was prepared to oppose. I appreciate her willingness to accommodate and to work with me. It was a loan-forgiveness provision of the bill. It was not her original bill, but it was amended in the committee in which it would have provided loan forgiveness for police officers or people going into law enforcement training.

I had a number of reasons to object to that, one being that there were no hearings held on this particular provision. We do not know how much it would have cost. It singles out a special occupation and group, and, frankly, when we are losing billions of dollars in student loans through defaults, this would have allowed millions of dollars to be forgiven from repayment due to the special exemption that we provided by this legislation.

I think she was wise in providing to take that out, because I think it did put the bill in jeopardy, and I certainly do not oppose the bill as it currently reads.

Again, for the record, I appreciate that. I think we had differences of opinion on this section that have been omitted. But I would think that this bill now would probably pass with wide support here on the floor.

Mrs. LOWEY of New York. Mr. Speaker, I thank the gentleman. I hope to work with him in the future on this issue.

Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise once again in strong support of this drug education legislation that we are considering today.

Mr. Speaker, I applaud and compliment the leadership of the gentlewoman from New York and the gentleman from Missouri in bringing this vital and important bill to us today for consideration. It is difficult to imagine that the drug problem, the illegal-drug problem and alcohol-abuse problem, might be as difficult in Arkansas as it is in New York, but it is. The scourge of drugs, illegal drugs, and the problems that are associated with it reaches its long arm out beyond the Appalachians and touches every region of this country. Although we think that people living close to the land are immune from some of those despicable problems that are generally associated with the city, the fact remains that data reported by the Arkansas State Police show that about one-third of all crimes in the State of Arkansas are drug-related.

We place great emphasis upon the prosecutorial aspects of illegal drugs and crimes associated with them and devote much of our resources to law enforcement efforts. However, punishment alone is not a deterrent. While it is important to prosecute those associated with illegal drugs, education is,

likewise, needed. In order to prevent people from using drugs, their motivation must come from within. People must decide for themselves, by making their own judgments not to use drugs.

We have sorely neglected the prevention and education aspects of drug abuse in our overall comprehensive plan against illegal drugs. I want to compliment the gentlewoman from New York and the gentleman from Missouri in bringing this bill to us today.

Mrs. LOWEY of New York. Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I rise in strong support of three education-related bills that are before us today. We will be considering two drug education/prevention bills. First is a bill sponsored by the gentlewoman from the State of Washington [Mrs. UNSOELD], known as DARE, the Drug Abuse Resistance Education Act. Her bill will allow the replication of DARE programs in other school districts outside those on the west coast, where DARE is already well documented as one of the most successful in reaching young people and teaching them to resist peer pressures and other inducements leading to drug abuse.

The second bill before us today is H.R. 5124, which is a strengthening of existing programs under the Drug Free Schools and Communities Act.

Mr. Speaker, the Congress has already committed nearly $10 billion nationwide in our fight against drugs. Of that $10 billion, there are $539.2 million available for the Drug Free Schools and Communities Act [DFSCA]. H.R. 5124, introduced by the gentlewoman from New York [Mrs. LOWEY] and myself, strengthens many of the preventive drug abuse programs already in place under the DFSCA, such as the drug free school zones authority, and provides for modest new programs of training for counselors and other school personnel.

H.R. 5124 requires the Education Department to reserve $5 million of appropriated funds for grants to replicate successful drug abuse education programs, and it allows school districts to use funds for afterschool drug abuse prevention programs. Importantly, H.R. 5124 divides the current drug abuse grant program into two programs—one for teachers and school personnel and one for training antidrug counselors in the schools. The bill also requires school districts receiving funds to demonstrate how they are being used both for providing counseling to children of all ages, as well as how they are coordinating their antidrug activities with local law enforcement agencies.

Mr. Speaker, last year I was able to achieve authorization of my drug free school zones legislation by making it a permissible use of a Governor's 30-percent set-aside of money under the DFSCA. Since that time, I have been asked, by my own Governor's office, as well as by teachers and others in my State and district, just how a school could go about establishing a drug-free school zone. H.R. 5124 that is now before us will codify in law the criteria suggested for establishing drug-free school zones. These criteria were contained in H.R. 3602 when I introduced it last year, but were dropped during the House-Senate conference on the reauthorization of the DFSCA.

I am pleased to be able to set forth a blueprint of sorts for the use of Governor's offices and school officials in setting up drug-free school zones, and I urge all Governors to commit a portion of their annual DFSCA set-aside for this purpose.

As has been said earlier, Mr. Speaker, the Congress has made available to this Nation nearly $10 billion to help fight the drug wars. While far too small a portion of those billions of dollars are spent on Drug-Free Schools and Communities Act programs, certainly a portion, however modest, could and should be spent on establishing drug-free school zones.

Some people, particularly of the print media, made light of the Drug-Free School Zones Act, saying that it has no teeth in it. Mr. Speaker, the teeth that reporters were looking for were dollars, pure and simple—yet they ignored the fact, which I stress once again, that there are nearly $10 billion already available to the States and local governments for fighting the drug war.

That is a lot of teeth in my view.

The intent to the drug abuse education and prevention legislation aimed at school and communities is that it be used wisely and well, however modestly funded, in keeping drugs off our school grounds and out of kid's lockers. While the education programs are set up to help children learn and understand the devastating and lifelong effects of drug abuse, the drug-free school zones portion of the overall DFSCA is urgently needed to provide children, school officials, and parents in the community with the tangible evidence of our effort to assure that our schoolchildren have been safeguarded in as many ways as we are able to devise and design.

If such zones are established, and particularly in those States where school safety laws have been enacted, they will become a powerful deterrent to those criminals who have in the past and who will continue to try to enter onto school property in order to sell their poisons to innocent children.

I strongly believe in the power of drug-free school zones, and again I send a most urgent message to the Governors of our 50 States—requesting that they all commit a portion of their drug-free schools and communities funds to establishing those zones.

I wish to commend Mrs. LOWEY for bringing H.R. 5124 to the floor today, and I strongly urge my colleagues to get behind this urgently needed legislation and pass it overwhelmingly.

Finally, Mr. Speaker, we are considering H.R. 5140, a bill intended to increase the number of federally funded dropout prevention demonstration programs, and to encourage States to adopt specific plans to increase the secondary school completion rates. One of the objectives, or goals, of the recent education summit conducted by the President and the Governors of our States is to see to it that high school graduation rates among students reach at least 90 percent by the year 2000. I think that is an objective we must meet and surpass if we are to survive as a competitive Nation in the coming decade. I commend my colleague and one of our new Members, Mr. SERRANO of New York, for his work in bringing this urgently needed legislation to the floor today, and I urge my colleagues to support its passage.

There will be another bill up on the floor this week, also one which has my name on it—the Equity and Excellence in Education Act formerly called the President's Educational Excellence Act. During the all-too-brief period during which I was privileged to serve on the Education and Labor Committee as a temporary member, it was our deeply held belief that this educational excellence bill had to be more than just a Rose Garden photo opportunity for the President. Given the goals and incentives adopted by the education summit to provide excellence in our schools and among our children, it was our solemn duty to place before you a bill that would further those stated objectives. The bill that will come up later this week, H.R. 5115, is an omnibus education bill outlining an initial plan of action for the Federal Government to assist the States, local schools, and institutions of higher education to meet the six national education goals agreed to by the President and the Governors in September 1989.

Mr. Speaker, again I commend the chairman of the Education and Labor Committee, the distinguished gentleman from California, for the strength of his commitment to the highest educational goals we can possibly perceive for our children, and for his perseverance in bringing these three urgently needed bills to the floor today, and for H.R. 5115 which he will place before us later this week.

I urge my colleagues to vote in support of the bills before us and hope they are enacted into law.

Mrs. LOWEY of New York. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I would just like to stand in strong support of H.R. 5124, a bill that certainly is extremely necessary at this time.

Being a former shoolteacher and knowing the importance of education, knowing the importance that young people have the opportunity to learn in an environment which is conducive for learning, I strongly commend the gentlewoman from New York for this very thoughtful and important piece of legislation.

We have an opportunity with glasnost and perestroika going on throughout the world that we will need to have our future generations better educated in order for us to compete worldwide. One way to move toward adequate, thorough, and efficient education is by ridding our schools of the menace of drug addiction and drug activities.

I strongly feel that in order for us to reduce the number of illiterate Americans, and we have 30 million at this time, in order to give every American the opportunity to learn, in order for us to once again regain our rightful place as an industrial manufacturing country, I would strongly urge that we start with eliminating drugs from our schools in order for us to see that we once again get to our rightful place in the world.

I strongly urge my colleagues to vote overwhelmingly for the support of this bill.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 5124, and I would like to commend the gentlewoman from New York [Mrs. LOWEY] as well as the distinguished chairman and ranking minority member of the Education and Labor Committee, the gentleman from California [Mr. HAWKINS] and the gentleman from Pennsylvania [Mr. GOODLING] for their continued support in ensuring that antidrug education remains a priority of this Congress.

H.R. 5124, the Antidrug Drug Education Act of 1990, would strengthen the Drug-Free Schools and Communities Act by providing criteria for the establishment of drug-free school zones. Antidrug education has received national attention, but many of these programs have not been successful. This measure would reserve $5 million of grants to replicate successful drug abuse education, prevention, and counseling programs.

Mr. Speaker, I would like to also note that H.R. 5124 highlights a very integral component in drug-free schools—counseling. Many students in our country turn to drugs for reasons other than peer pressure; they turn to drugs due to the pressures of personal and family problems, because of undiagnosed learning disabilities, and low self-esteem.

Mr. Speaker, this measure goes far in ensuring a more successful program of drug-free education. I fully support H.R. 5124, the Anti-Drug Education Act of 1990 and urge my colleagues to vote in favor of this measure.

Mr. LEVIN of Michigan. Mr. Speaker, H.R. 5124 is a continued effort to eliminate drug and alcohol abuse by improving a program that already is reaching our children, the future of America.

Back in January, I held a forum in my district for my constituents in law enforcement, education, prevention, and treatment to update them on the myriad Federal programs now dedicated to fighting the drug war. More than 200 people participated in the seminar discussions with Federal and State administrators of the various federally funded programs.

Comments from the law enforcement community focused on the need for more personnel. This bill would encourage people to enter the law enforcement field. Comments from the prevention and treatment community focused on the need for trained personnel to conduct counseling. This bill would allow for additional training of these personnel. Comments from the education community underscored the need for a continuum of prevention efforts. This legislation would fulfill this as well.

In sum, the legislation will improve our current efforts to prevent and fight drug abuse and focus our attention on those who will be leading this country in future years, the children of America.

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Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. LOWEY of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentlewoman from New York [Mrs. LOWEY] that the House suspend the rules and pass the bill, H.R. 5124, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. LOWEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on H.R. 5124, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

SCHOOL DROPOUT PREVENTION AND BASIC SKILLS IMPROVEMENT ACT OF 1990

Mr. SERRANO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5140) to amend the Elementary and Secondary Education Act of 1965 to improve secondary school programs for basic skills improvement and dropout prevention and reentry, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "School Dropout Prevention and Basic Skills Improvement Act of 1990".

SEC. 2. FINDINGS AND STATEMENT OF RESPONSIBILITY.

(a) FINDINGS.—The Congress finds that—

(1) the people of the Nation have become increasingly concerned about the number of students who do not complete secondary school; and

(2) in order for the Nation to regain its economic competitiveness, each child in the United States must be educated to his or her greatest potential and must be encouraged to finish secondary school.

(b) STATEMENT OF RESPONSIBILITY.—It is the responsibility of the Federal Government to—

(1) increase the number of Federally funded demonstration programs that have proven successful in increasing the secondary school completion rate;

(2) encourage States to adopt specific plans to increase secondary school completion rates; and

(3) enlist the assistance of community-based organizations in preventing students from dropping out of school.

SEC. 3. REVISIONS TO SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY.

(a) RESERVATIONS.—

(1) GENERAL RULE.—Subsection (a) of section 1102 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2761) is amended to read as follows:

"(a) RESERVATIONS.—From the amount appropriated under section 1110 for each of the fiscal years 1992 and 1993, the Secretary shall first reserve—

"(1) an amount equal to 3 percent of such amount for programs consistent with the purpose of this part for school dropout prevention and reentry programs and secondary school basic skills improvement programs for migrant children, to be conducted through the Office of Migrant Education; and

"(2) an amount equal to 5 percent of such amount for replication and technical assistance activities.".

(b) USES OF FUNDS.—Section 1103 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2763) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL RULE.—

"(1) A local educational agency may use—

"(A) not to exceed 50 percent of funds paid under this part in any fiscal year for dropout prevention and reentry activities pursuant to subsection (c); and

"(B) the remainder of such funds for secondary schools basic skills improvement activities pursuant to subsection (b).

"(2) A community-based organization shall use all funds paid under this part in any fiscal year for dropout prevention and reentry activities pursuant to subsection (c).";

(2) by amending subsection (d) to read as follows:

"(d) WITHIN-STATE ALLOCATION.—

"(1) Each State educational agency, from funds received under this part—

"(A) shall first reserve an amount equal to 5 percent of such funds for programs con-

sistent with the purpose of this part for school dropout prevention and reentry programs conducted by community-based organizations that have demonstrated effectiveness in programs for dropout prevention and reentry activities or basic skills improvement activities; and

"(B) shall then allocate funds among local educational agencies in the State on the basis of—

"(i) the eligibility of such agency for funds under section 1005; and

"(ii) the criteria described in section 1105.

"(2) Each local educational agency may carry out the activities described in section 1103 in cooperation with community-based organizations.".

(c) PLAN FOR PROGRAM TO INCREASE THE SECONDARY SCHOOL COMPLETION RATE.—Section 1104 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2764) is amended—

(1) in subsection (a), by inserting "or community-based organization" after "local educational agency";

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (10) as paragraphs (3) through (12), respectively;

(B) by inserting before paragraph (3) (as redesignated by subparagraph (A) of this paragraph) the following:

"(1) contain a plan that describes specific proposals for a program to increase the secondary school completion rate of the State by not later than January 1, 2001, by a percentage equal to one-half the difference between 100 percent and the secondary school completion rate for individuals in the State aged 18 to 35, inclusive, as of January 1, 1990;

"(2) assure that requirements for obtaining a certificate of graduation from a school providing secondary education or its equivalent will not be lowered;";

(C) in paragraph (4) (as redesignated by subparagraph (A) of this paragraph), by inserting "or community-based organization" after "local educational agency";

(D) in paragraph (5) (as redesignated by subparagraph (A) of this paragraph), by inserting "or areas" after "schools";

(E) in paragraph (9) (as redesignated by subparagraph (A) of this paragraph), by striking "community-based organizations," and inserting "the local educational agency concerned or community-based organizations, as appropriate,";

(F) in paragraph (10) (as redesignated by subparagraph (A) of this paragraph), by inserting "or community-based organization" after "local educational agency"; and

(G) in paragraph (11) (as redesignated by subparagraph (A) of this paragraph)—

(i) by inserting "concerned" after "local educational agency"; and

(ii) by inserting "or community-based organization" after "such agency"; and

(3) by amending subsection (d) to read as follows:

"(d) TIME FOR SUBMISSION OF APPLICATIONS.—

Each State shall submit to the Secretary—

"(1) an initial application that covers a 3-year period by not later than January 1, 1992;

"(2) an initial or a renewal application that covers a 3-year period by not later than January 1, 1995; and

"(3) a renewal application that covers a 3-year period by not later than January 1, 1998.".

(d) AWARD OF GRANTS.—Section 1105 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2765) is amended—

(1) by inserting "(a) GENERAL AUTHORITY.—" before "Each State";

(2) in subsection (a) (as designated by paragraph (1) of this subsection), by inserting "and community-based organizations" after "local educational agencies" in the matter preceding paragraph (1); and

(3) by adding at the end the following:

"(b) PRIORITIES FOR GRANTS TO COMMUNITY-BASED ORGANIZATIONS.—

"(1) The State educational agency shall give priority for grants from amounts reserved under section 1103(d)(1)(A) to community-based organizations that intend to use funds under the grant to establish or operate model secondary school community education employment centers to meet the education needs of inner-city, low-income youths or rural youths by awarding grants to eligible recipients to establish community education employment centers to provide students with the education, skills, support services, and enrichment necessary to ensure—

"(A) graduation from secondary school;

"(B) successful transition from articulated vocational and academic programs to a broad range of post secondary institutions;

"(C) employment, including military service; and

"(D) integration into America's economic mainstream.

"(2) Each center that is assisted with a grant under this part shall offer—

"(A) a comprehensive program of confidential guidance counseling;

"(B) professional staff members who demonstrate the highest academic, teaching, guidance, or administrative standards, as appropriate; and

"(C) active and informed parental and community participation.".

(e) REPORTS, DEVELOPMENT OF INFORMATION BASE.—Part C of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2761 et seq.) is amended—

(1) by redesignating sections 1106, 1107, and 1108 as sections 1108, 1109, and 1111, respectively; and

(2) by inserting after section 1105 the following:

"SEC. 1106. REPORTS; DEVELOPMENT OF INFORMATION BASE.

"(a) REPORTS TO STATES.—Each local educational agency or individual school that receives assistance under a grant made under this part shall annually submit a report to the State describing activities carried out with such assistance and progress toward increasing the secondary school completion rate achieved as a result of such activities.

"(b) REPORTS TO SECRETARY.—Each State shall annually submit a report to the Secretary describing activities carried out with assistance received under this section and progress achieved toward increasing the secondary school completion rate as a result of such activities.

"(c) DEVELOPMENT OF INFORMATION BASE.—From information contained in the reports required under subsection (b), the Secretary shall create an information base containing information on dropout prevention programs for use by State and local educational agencies, elementary and secondary schools, and interested community organizations in the development or refinement of dropout prevention programs. The Secretary shall ensure that such information base is easily accessible to such agencies, schools, and organizations.".

(f) COORDINATION AND DISSEMINATION.—Part C of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2761 et seq.) is amended by inserting after section 1106 (as inserted by subsection (e)(2) of this section) the following:

"SEC. 1107. COORDINATION AND DISSEMINATION.

"(a) GRANTS TO REGIONAL LABORATORIES.—From an amount equal to 65 percent of the amount reserved under section 1102(a)(2), the Secretary shall make grants to regional laboratories supported by the Secretary under section 405(d)(4)(A)(i) of the General Education Provisions Act for the purposes of—

"(1) identifying model programs for dropout prevention and reentry in their regions;

"(2) disseminating such programs; and

"(3) providing assistance to schools in replicating such programs.

"(b) ACTIVITIES OF THE NATIONAL DIFFUSION NETWORK.—The Secretary shall provide an amount equal to 45 percent of the amount reserved under section 1102(a)(2) to the National Diffusion Network established under section 1562 for the purpose of replicating model programs for dropout prevention and reentry.".

(g) FISCAL REQUIREMENTS AND COORDINATION PROVISIONS.—Paragraph (3) of section 1108(a) of the Elementary and Secondary Education Act of 1965 (as redesignated by subsection (e)(1) of this section) is amended by inserting "and community-based organizations" after "Local educational agencies".

(h) DEFINITION ESTABLISHED.—Part C of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2761 et seq.) is amended by inserting after section 1109 (as redesignated by subsection (e)(1) of this section) the following:

"SEC. 1110. DEFINITION OF SECONDARY SCHOOL COMPLETION RATE.

"The Secretary shall establish a definition for the term 'secondary school completion rate' for purposes of this part.".

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. SERRANO] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am grateful for the opportunity to bring before the House H.R. 5140, the School Dropout Prevention and Basic Skills Improvement Act. I rise in strong support of this measure, which amends part C of chapter I, the Secondary School Program for Basic Skills Improvement and Dropout Prevention and Re-entry, to strengthen State and local school districts' reporting requirements regarding school dropout rates. These reporting requirements are strengthened by requiring local school districts to submit plans to the States and the

States to submit plans to the Secretary of Education describing how they will increase secondary school completion rates. In addition, local education agencies are required to submit annual reports to the States describing progress made toward decreasing the school dropout problem.

Further, provisions in H.R. 5140 reserve 5 percent of the funds authorized under current law for the replication and dissemination of successful school dropout programs; 65 percent of this 5-percent reserve is designated for the regional laboratories, and 45 percent of the remainder is directed to the National Diffusion Network for the purposes of replication and dissemination of exemplary programs.

Another 5 percent is designated for community-based organizations with a priority to those establishing or operating Community Education and Employment Centers. These centers are institutions whose purpose is to service at-risk youth from urban and rural areas through a comprehensive education program in vocational-technical skills and academic course work. The ideal center is one which offers, in addition to academic and vocational-technical courses, such courses as health, safety, nutrition, parenting and environmental issues as well as provide on-site career guidance, development and employment counseling, labor market information, and assistance in job placement.

Finally, the measure requires that the Secretary create an information base containing information on dropout prevention programs and ensure that such information base be accessible to State and local educational agencies, elementary and secondary schools, and interested community organizations in the development or refinement of dropout prevention programs.

Mr. Speaker, there are two important features in this bill. First, it is designed to decrease dropout rates among high school students. Secondly, but most importantly, according to the Congressional Budget Office, which has examined the bill, there would be no effect on Federal Government costs as a result of enactment of this bill. I hope that I have the authority to speak for my colleagues on the Committee from both sides of the aisle by stating that we respectfully request that the Appropriations Committee gives full consideration to appropriating the necessary funds as authorized under current law.

Dropping out of high school is a very serious national problem. The numbers in our large urban school districts and in our rural school districts are especially alarming. High dropout rates threaten the Nation's productivity and represent a terrible waste of our youth. If the United States is to regain its economic prominence, then each child in the United States must be educated to his or her fullest potential, and above all, must be encouraged to finish secondary school.

A recent Congressional Research Service report revealed that more than 550,000 American students in grades 8 through 12 drop out each year, and that the dropout rates for African-Americans, Latinos and Native American continue to be higher than for any other group. More than 4 million Americans have left school without a diploma or a certificate. This is a disturbing trend, one that needs to be addressed on a broad scale and without delay.

Mr. Speaker, this measure could not have reached the House floor without the strong and bipartisan support of our distinguished full committee chairman, Hon. GUS HAWKINS, the ranking minority member Mr. GOODLING, and all of the members of the Education and Labor Committee. I thank them for their unwavering and dedicated support.

Mr. Speaker, H.R. 5140 is an important statement of support by this Congress. I urge my colleagues on both sides of the aisle to support final passage.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering a bill to amend part C, of chapter 1, the Secondary School Program for Basic Skills Improvement and Dropout Prevention and Reentry.

The thrust of the amendments in this bill would help to improve the efforts of State and local educational agencies in providing educational services to students at risk of dropping out or who have already dropped out of school.

While I am somewhat hesitant to make changes in a program we created only last Congress and while I have worked with Mr. HAYES and Chairman HAWKINS to fund the Dropout Demonstration Program and while I believe strongly that we need a unified Federal approach to programs for dropout prevention, I am sympathetic to the fact that this program has been authorized since 1988, and has yet to receive an appropriation.

In committee two amendments I offered were included. One guarantees that the community-based organizations that receive assistance under this program have demonstrated success in dropout prevention or basic skills education. The second amends the priority for programs serving innercity low-income youths to also place a priority on programs for rural youths.

Even though the administration opposes this bill because of the money allotted to community-based organizations, I would remind my colleagues that in its current form this program has not been funded. I rise in support of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SERRANO. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, I cannot help but mention the direct connection between the two bills that we just adopted ahead of this and the bill we are talking about now, the High School Dropout and Basic Skills Improvement Act of 1990.

Mr. Speaker, it disturbed my mind when I left Chicago this morning and heard on the radio last night where two 16-year-old kids were languishing in jail, having been apparently, according to them, given $50 apiece to lure a policeman, who was on the drug beat, into a van, where he was shot four or five times by the drug dealer.

These two young men, 16 years old, obviously if convicted, and I think they might be, will undoubtedly be good and grown when they get out of prison. They sought the short way to try to make easy bucks. The reason that they were employed by the dealer was he was really concerned about being detoured in his efforts to make big bucks by this policeman who was on the drug beat.

Mr. Speaker, I am pleased to rise today along with my colleague and friend Mr. SERRANO and Mr. GOODLING, in support of H.R. 5140, the School Dropout and Basic Skills Improvement Act.

As an original sponsor of this legislation, I am very pleased that today we will have the opportunity to cast our votes in support of this measure. The national dropout problem is very urgent. Nationwide only about 71 percent of ninth-graders complete their high school education. This figure is not acceptable to me and should not be to the Members of this body.

President Bush in his State of the Union Address stated that his goal is to graduate 90 percent of high school students by the year 2000. Well, the year 2000 is slowly but surely catching up with us, and I believe that the legislation before us today will go far in helping the President reach his goal.

We should all remember, however, that while making necessary improvements to this program is helpful, the real issue is the need for funding, and more funding for dropout programs.

Mr. Speaker, I truly encourage my colleagues' support today and in closing want to thank my chairman, GUS HAWKINS, for his ongoing support on this issue, and I again thank Mr. SERRANO for his efforts to improve the opportunity for a quality education for all of our Nation's youth.

□ 1510

Mr. SERRANO. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I rise in support of H.R. 5140, the School Dropout Prevention and Basic Skills Act of 1990. One of the Presidents' national education goals is that by the year 2000, the school completion rate will increase to 90 percent. However, the sad reality is that annually, a half million children drop out of school in the United States.

Another reality is that by the year 2000, 85 of 100 new entrants into the work force will be minorities and women. Accordingly, the extent to which this country is able to compete against the European Economic Community and in the international community as a whole, will depend on how well we equip the new entrants into the work force with appropriate skills and experiences. Therefore, there is an economic need to ensure that children stay in school.

H.R. 5140 is a positive effort to achieve the school completion goal. It offers a real opportunity to reach at-risk youth; improve their chance of success; and share information about succesful programs.

One of the provisions included in H.R. 5140 would provide for a 5-percent set-aside for community-based organizations with a priority to those establishing or operating secondary school community education employment centers.

I authored this provision in order to encourage community-based organizations to make every effort to remove the existing barriers to education which confront so many at-risk children.

A community education and employment center would operate as a full-day, full-year facility offering a varied curriculum including academic, vocational, and health related courses. The centers would also provide on-site counseling to assist students in all aspects of their education and potential employment.

In addition to making available grants to help achieve an increase in secondary school completion, H.R. 5140 would also require the development of an information data base to assist in the dissemination of information concerning successful programs.

I commend my colleague from New York [Mr. SERRANO] for introducing this legislation. I believe it will begin to bring us closer to an assurance of having an educated and informed citizenry capable of meeting the challenges of the 21st century.

Mr. SERRANO. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, I thank the gentleman from New York for yielding time to me.

Mr. Speaker, I would like to point out that many of these provisions, as have been alluded to, were by our former colleague from the State of Florida, Mr. Pepper, who provided an awful lot of leadership I think in this Congress, and I am proud to have had a number of those provisons put into legislation that I introduced and that have now been adopted.

Mr. Speaker, I rise today in support of H.R. 5140, the School Dropout Prevention and Basic Skill Improvement Act of 1990 introduced by Congressmen JOSÉ SERRANO and CHARLES HAYES. I am particularly pleased that this legislation incorporates many of the provisions of H.R. 3161 and H.R. 3365, two bills I introduced to address our Nation's dropout problem. As in my legislation, H.R. 5140 sets aside funds for dropout programs operated by community-based organizations, requires States to submit dropout reduction plans to the Secretary of Education, and creates a data base to disseminate information on successful dropout prevention programs for schools and educational organizations to use in the development or refinement of their own programs. Also, this legislation focuses on high school completion rates rather than high school dropout rates. The dropout rate looks at students who were in school a few years ago but who are not in school today. The completion rate is more comprehensive because it asks how many people in the whole population have completed high school.

Over 4.2 million children dropped out of school last year. It has been estimated that each year's class of dropouts costs the Nation more than $240 billion in lost earnings and foregone taxes over their lifetimes. This is shocking in itself, but consider it in terms of its ultimate effect on the rest of our society. Without the minimal requirement of a high school education, these children are destined for a permanent economic underclass. Our democratic ideals mean little to those who have no hope for the future. We must do everything we can to ensure that we, as a caring society, join together to make that hope a reality.

The teachers and administrators I have spoken with about dropout prevention strategies have all been enthusiastic and willing to contribute what they can. The problem is time. There is a common myth that a teacher's day ends at 3 o'clock when the students go home. In fact, there are many more hours of paper grading, test scoring, lesson preparation, and the completion of progress reports, and little time is left for new programs and initiatives.

There are, however, community organizations that are willing and able to help and H.R. 5140 would allow these groups to participate more fully in helping students complete their education. I have watched with satisfaction as groups in my district such as the El Paso Education Alliance have organized to work constructively with schools on the dropout issue. Community involvement—the commitment of individuals to solving social problems—is the only answer for the host of social ills we as a nation must face. It is not enough for the public to sit passively by waiting for the government to solve problems of this nature and it is foolish when the government thinks it can. It will take a bigger effort, a combination of government and community support to make things happen.

I believe that the Federal Government plays an essential role in ensuring that a quality education is available to all of our children. The dropout problem exists on such a huge scale that Federal support is essential to solve it. Yet, during the 1980's, the Federal commitment to education declined in real dollars by 23.3 percent. This provides support for 1 out of every 5 low-income children in need of preschool education, 2 out of every 5 children in need of remedial education, 1 out of every 4 children in need of bilingual education, and 1 out of every 20 youths in need of job training. These are all components of the dropout problem.

This is not enough. We must renew our Nation's commitment to education at the Federal level. Without this, the sheer number of at-risk youth will inevitably overwhelm fragmented efforts to address the problems seen in individual communities.

H.R. 5140, if passed, can make an enormous difference to the futures of our growing population of at-risk children. By ensuring that our children have the support necessary to complete a basic education we are ensuring a better future for the entire Nation.

Mr. SERRANO. Mr. Speaker, I would like to commend the gentleman from Texas for the work he has done in the past in this area. Even though I have only been here 3 months, I am aware of the work the gentleman has done in the past in this area, and I am very grateful for it.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SERRANO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New York [Mr. SERRANO] that the House suspend the rules and pass the bill, H.R. 5140, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SERRANO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5140, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

The Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 4834 by the yeas and nays;

S. 666 by the yeas and nays;

H.R. 988 by the yeas and nays; and

H.R. 5064 by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

PROVIDING FOR A VISITOR CENTER AT SALEM MARITIME NATIONAL HISTORIC SITE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4834, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4834, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 393, nays 8, not voting 31, as follows:

[Roll No. 211]

YEAS—393

Ackerman	Carper	English
Alexander	Carr	Erdreich
Anderson	Chapman	Espy
Andrews	Clarke	Evans
Annunzio	Clement	Fascell
Anthony	Clinger	Fawell
Applegate	Coble	Fazio
Archer	Coleman (MO)	Fish
Armey	Coleman (TX)	Flake
AuCoin	Collins	Flippo
Baker	Combest	Ford (MI)
Ballenger	Conte	Frank
Barnard	Conyers	Frenzel
Bartlett	Cooper	Frost
Barton	Costello	Gallegly
Bateman	Coughlin	Gallo
Bates	Courter	Gaydos
Beilenson	Cox	Gejdenson
Bennett	Coyne	Gekas
Bentley	Dannemeyer	Gephardt
Bereuter	Darden	Geren
Berman	Davis	Gibbons
Bevill	de la Garza	Gillmor
Bilbray	DeFazio	Gilman
Bilirakis	DeLay	Gingrich
Bliley	Dellums	Glickman
Boehlert	Derrick	Gonzalez
Boggs	DeWine	Goodling
Bonior	Dickinson	Gordon
Borski	Dicks	Goss
Bosco	Dingell	Gradison
Boucher	Dixon	Grandy
Boxer	Donnelly	Grant
Brennan	Dorgan (ND)	Gray
Brooks	Dornan (CA)	Green
Broomfield	Douglas	Gunderson
Browder	Downey	Hall (OH)
Brown (CA)	Dreier	Hamilton
Brown (CO)	Duncan	Hammerschmidt
Bruce	Durbin	Hansen
Bryant	Dwyer	Harris
Buechner	Dymally	Hastert
Bunning	Dyson	Hatcher
Bustamante	Early	Hawkins
Byron	Eckart	Hayes (IL)
Callahan	Edwards (CA)	Hayes (LA)
Campbell (CA)	Edwards (OK)	Hefley
Campbell (CO)	Emerson	Hefner
Cardin	Engel	Henry
Herger	Miller (WA)	Schroeder
Hertel	Mineta	Schuette
Hiler	Moakley	Schulze
Hoagland	Molinari	Schumer
Hochbrueckner	Montgomery	Serrano
Holloway	Moody	Sharp
Hopkins	Moorhead	Shaw
Horton	Morella	Shays
Houghton	Morrison (CT)	Shumway
Hoyer	Morrison (WA)	Shuster
Hubbard	Mrazek	Sikorski
Huckaby	Murphy	Sisisky
Hughes	Murtha	Skaggs
Hutto	Myers	Skeen
Hyde	Nagle	Skelton
Inhofe	Natcher	Slattery
Jacobs	Neal (MA)	Slaughter (NY)
Jenkins	Neal (NC)	Slaughter (VA)
Johnson (CT)	Nielson	Smith (IA)
Johnson (SD)	Nowak	Smith (NE)
Johnston	Oakar	Smith (NJ)
Jones (GA)	Oberstar	Smith (TX)
Jones (NC)	Obey	Smith (VT)
Jontz	Olin	Smith, Denny (OR)
Kanjorski	Ortiz	
Kaptur	Owens (NY)	Smith, Robert (OR)
Kasich	Owens (UT)	
Kastenmeier	Oxley	Snowe
Kennedy	Packard	Solarz
Kennelly	Pallone	Solomon
Kildee	Panetta	Spence
Kleczka	Parker	Staggers
Kolbe	Parris	Stallings
Kolter	Pashayan	Stangeland
Kostmayer	Patterson	Stark
LaFalce	Paxon	Stenholm
Lagomarsino	Payne (NJ)	Stokes
Lancaster	Payne (VA)	Studds
Lantos	Pease	Sundquist
Leach (IA)	Pelosi	Swift
Leath (TX)	Penny	Synar
Lehman (CA)	Perkins	Tallon
Lehman (FL)	Petri	Tanner
Levin (MI)	Pickett	Tauke
Levine (CA)	Pickle	Tauzin
Lewis (CA)	Porter	Taylor
Lewis (FL)	Poshard	Thomas (CA)
Lewis (GA)	Price	Thomas (GA)
Lightfoot	Pursell	Torres
Lipinski	Quillen	Torricelli
Livingston	Rahall	Traficant
Lloyd	Rangel	Traxler
Long	Ravenel	Udall
Lowery (CA)	Ray	Unsoeld
Lowey (NY)	Regula	Upton
Luken, Thomas	Rhodes	Valentine
Machtley	Richardson	Vander Jagt
Madigan	Ridge	Vento
Manton	Rinaldo	Visclosky
Markey	Ritter	Volkmer
Martin (IL)	Roberts	Vucanovich
Martin (NY)	Robinson	Walgren
Martinez	Roe	Walsh
Matsui	Rogers	Washington
Mavroules	Ros-Lehtinen	Watkins
Mazzoli	Rose	Waxman
McCandless	Rostenkowski	Weber
McCloskey	Roth	Weiss
McCollum	Roukema	Weldon
McCrery	Rowland (CT)	Wheat
McCurdy	Rowland (GA)	Whittaker
McDade	Roybal	Whitten
McDermott	Russo	Williams
McEwen	Sabo	Wise
McGrath	Saiki	Wolf
McHugh	Sangmeister	Wolpe
McMillan (NC)	Sarpalius	Wyden
McMillen (MD)	Sawyer	Wylie
McNulty	Saxton	Yates
Meyers	Schaefer	Yatron
Mfume	Scheuer	Young (AK)
Michel	Schiff	Young (FL)
Miller (OH)	Schneider	

NAYS—8

Burton	Sensenbrenner	Stearns
Crane	Smith, Robert (NH)	Stump
Hancock		Walker

NOT VOTING—31

Aspin	Craig	Ford (TN)
Atkins	Crockett	Guarini
Chandler	Feighan	Hall (TX)
Clay	Fields	Hunter
Condit	Foglietta	Ireland
James	Miller (CA)	Spratt
Kyl	Mollohan	Thomas (WY)
Laughlin	Nelson	Towns
Lent	Rohrabacher	Wilson
Lukens, Donald	Savage	
Marlenee	Smith (FL)	

□ 1540

Mr. WALKER and Mr. SMITH of New Hampshire changed their vote from "yea" to "nay."

Mr. COX changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

REGARDING ALASKA NATIVE CLAIMS SETTLEMENT ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 666, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 666, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 361, nays 43, not voting 28, as follows:

[Roll No. 212]

YEAS—361

Ackerman	Boucher	Coble
Alexander	Boxer	Coleman (MO)
Anderson	Brennan	Coleman (TX)
Andrews	Brooks	Collins
Annunzio	Broomfield	Combest
Anthony	Browder	Condit
Applegate	Brown (CA)	Conte
AuCoin	Brown (CO)	Conyers
Baker	Bruce	Costello
Ballenger	Bryant	Coughlin
Bateman	Buechner	Courter
Bates	Bunning	Coyne
Bennett	Burton	Crane
Bentley	Bustamante	Darden
Bereuter	Byron	Davis
Berman	Callahan	de la Garza
Bevill	Campbell (CA)	DeFazio
Bilbray	Campbell (CO)	Dellums
Bilirakis	Cardin	Derrick
Bliley	Carper	DeWine
Boehlert	Carr	Dickinson
Boggs	Chapman	Dicks
Bonior	Clarke	Dingell
Borski	Clement	Dixon
Bosco	Clinger	Donnelly

Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fish
Flake
Flippo
Ford (MI)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hiler
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Mineta
Moakley
Molinari
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spence
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—43

Archer
Armey
Barnard
Bartlett
Barton
Beilenson
Cooper
Cox
Dannemeyer
DeLay
Douglas
Edwards (CA)
Frenzel
Gingrich
Hancock
Hansen
Henry
Herger
Holloway
Hopkins
Inhofe
Jenkins
Kanjorski
Miller (WA)
Moody
Moorhead
Neal (NC)
Nielson
Packard
Petri
Porter
Roth
Sensenbrenner
Shumway
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stearns
Stump
Sundquist
Walker

NOT VOTING—28

Aspin
Atkins
Chandler
Clay
Craig
Crockett
Feighan
Fields
Foglietta
Ford (TN)
Guarini
Hall (TX)
Hunter
Ireland
Kyl
Laughlin
Lent
Lukens, Donald
Marlenee
Miller (CA)
Mollohan
Nelson
Rohrabacher
Smith (FL)
Spratt
Thomas (WY)
Towns
Wilson

□ 1550

Messrs. BEILENSON, SOLOMON, HENRY, FRENZEL, and DOUGLAS changed their vote from "yea" to "nay."

Mr. CRANE changed his vote from "nay" to "yea."

Mr. DREIER of California changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1550

CAMP W.G. WILLIAMS LAND EXCHANGE ACT OF 1989

The SPEAKER pro tempore (Mr. MONTGOMERY). The pending business is the question of suspending the rules and passing the bill, H.R. 988, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by he gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 988, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 401, nays 1, not voting 30, as follows:

[Roll No. 213]

YEAS—401

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fish
Flake
Flippo
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway

Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—1

Crane

NOT VOTING—30

Aspin
Atkins
Chandler
Clay
Craig
Crockett
Feighan
Fields
Foglietta
Ford (MI)
Ford (TN)
Guarini
Hall (TX)
Hunter
Ireland
Kyl
Laughlin
Lent
Lukens, Donald
Marlenee
Miller (CA)
Mollohan
Nelson
Rohrabacher
Smith (FL)
Smith (VT)
Spratt
Thomas (WY)
Towns
Wilson

□ 1557

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DRUG ABUSE RESISTANCE EDUCATION ACT OF 1990

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5064, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Washington [Mrs. UNSOELD] that the House suspend the rules and pass the bill, H.R. 5064, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 13, not voting 31, as follows:

[Roll No. 214]

YEAS—388

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Dannemeyer
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—13

Archer
Burton
Crane
DeLay
Frenzel
Hancock
Hansen
Michel
Nielson
Packard
Shumway
Stump
Sundquist

NOT VOTING—31

Aspin
Bilirakis
Chandler
Clay
Craig
Crockett
Early
Fields
Ford (TN)
Guarini
Hall (TX)
Hunter
Ireland
Johnson (CT)
Kyl
Laughlin
Lent
Lukens, Donald
Marlenee
McCloskey
Miller (CA)
Mollohan
Nelson
Paxon
Porter
Rohrabacher
Smith (FL)
Spratt
Thomas (WY)
Towns
Wilson

□ 1607

Mr. FRENZEL and Mr. BURTON of Indiana changed their vote from "yea" to "nay."

Mr. HASTERT changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall Nos. 211, 212, 213, and 214.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I was unavoidably detained and could not be on the House floor during rollcall No. 214, the vote on the Drug Abuse Resistance Education Act of 1990. Had I been present, I would have voted "aye."

EXPLANATION OF VOTE

Mr. PORTER. Mr. Speaker, I inadvertently failed to vote on H.R. 5064, the Drug Abuse Resistance Education Act of 1990, considered on suspension, rollcall No. 214. I was present and had I voted I would have voted in favor of the legislation.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5170, FEDERAL ADMINISTRATION RESEARCH, ENGINEERING, AND DEVELOPMENT AUTHORIZATION ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-582) on the resolution (H. Res. 428) providing for the consideration of the bill (H.R. 5170) to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1991 and 1992, to improve aviation safety and capacity, to reduce the surplus in the airport and airway trust fund, to authorize the Secretary of Transportation to grant authority for the imposition of airport passenger facility charges, and for other purposes, which was referred to the House Calendar and ordered to be printed.

FAMILY AND MEDICAL LEAVE ACT OF 1990—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-209)

The SPEAKER pro tempore (Mr. MONTGOMERY) laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 770, the "Family and Medical Leave Act of 1990." This bill would mandate that public and private employers with 50 or more employees, and the Federal Government, provide their employees with leave under specified circumstances.

In vetoing this legislation with its rigid, federally imposed requirements, I want to emphasize my belief that time off for a child's birth or adoption or for family illness is an important benefit for employers to offer employees. I strongly object, however, to the Federal Government mandating leave polices for America's employers and work force. H.R. 770 would do just that.

America faces its stiffest economic competition in history. If our Nation's employers are to succeed in an increasingly complex and competitive global marketplace, they must have the flexibility to meet both this challenge and the needs of their employees. We must ensure that Federal policies do not stifle the creation of new jobs, nor result in the elimination of existing jobs. The Administration is committed to policies that create jobs throughout the economy—serving the most fundamental need of working families.

The strong American labor market of the past decade is a sign of how effectively our current labor policies work. Between 1980 and 1989, the United States created more than 18 million new jobs. In contrast, within European countries, where mandated benefits are more extensive and labor markets less flexible, job growth has been weak. Between 1980 and 1989, all of Europe generated only 5 million new jobs. As a Nation, we must continue the policies that have been so effective in fostering the creation of jobs throughout our economy. H.R. 770 is fundamentally at odds with this crucial objective.

H.R. 770 ignores the realities of today's work place and the diverse needs of workers. Some employees may believe that shorter paid leave is more important than the lengthy, unpaid leave mandated by this legislation. Caring for a sick friend, aunt, or brother might be just as critical to one employee as caring for a child is to another. In other cases, some employees may prefer increased health insurance or pension coverage rather than unpaid family and medical leave.

Choosing among these options traditionally has been within the purview of employer-employee negotiation or the collective bargaining process. By substituting a "one size fits all" Government mandate for innovative individual agreements, this bill ignores the differing family needs and preferences of employees and unduly limits the role of labor-management negotiations.

We must also recognize that mandated benefits may limit the ability of some employers to provide other benefits of importance to their employees. Over the past few years, we have seen a dramatic increase in the number of employers who are offering child care assistance, pregnancy leave, parental leave, flexible scheduling, and cafeteria benefits. The number of innovative benefit plans will continue to grow as employers endeavor to attract and keep skilled workers. Mandated benefits raise the risk of stifling the development of such innovative benefit plans.

My Administration is strongly committed to policies that recognize that the relationship between work and family must be complementary, and not one that involves conflict. If these policies are to meet the diverse needs of our Nation, they must be carefully, flexibly, and sensitively crafted at the work place by employers and employees, and not through Government mandates imposed by legislation such as H.R. 770.

GEORGE BUSH.

THE WHITE HOUSE, *June 29, 1990.*

□ 1610

The SPEAKER pro tempore (Mr. MONTGOMERY). The objections of the President will be spread at large upon the Journal and the message and the bill will be printed as a House document.

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that further consideration of the veto message of the President on bill (H.R. 770) to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave, be postponed until Wednesday, July 25, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. GRANDY. Mr. Speaker, reserving the right to object, I rise only to inquire of the distinguished chairman of the Committee on Post Office and Civil Service: We are requesting now that the vote on the override will be held on July 25? Do I understand the gentleman correctly?

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. GRANDY. Further reserving the right to object, I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, the gentleman is correct.

Mr. GRANDY. Further reserving the right to object, Mr. Speaker, we will not be voting on another parliamentary maneuver to either refer the bill to committee or postpone to another time?

Mr. FORD of Michigan. If the gentleman will yield further, that is correct. The unanimous-consent request was to avoid having to have two votes to get to the veto message.

Mr. GRANDY. Mr. Speaker, further reserving the right to object, our side has no objection to putting it off to a date certain, on July 25, 1990.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

IMPROVING ABILITY OF SECRETARY OF THE INTERIOR TO MANAGE CERTAIN RESOURCES

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2844) to improve the ability of the Secretary of the Interior to properly manage certain resources of the National Park System, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. DEFINITIONS.

As used in this Act the term:

(a) "Attorney General" means the Attorney General of the United States.

(b) "Damages" includes the following:

(1) Compensation for—

(A)(i) the cost of replacing, restoring, or acquiring the equivalent of a park system resource, and

(ii) the value of any significant loss of use of a park system resource pending its restoration or replacement or the acquisition of an equivalent resource; or

(B) the value of the park system resource in the event the resource cannot be replaced or restored.

(2) The cost of damage assessments under section 3(b).

(c) "Response costs" means the costs of actions taken by the Secretary of the Interior to prevent or minimize destruction or loss of or injury to park system resources; or to abate or minimize the imminent risk of such destruction, loss, or injury; or to monitor ongoing effects of incidents causing such destruction, loss, or injury.

(d) "Park system resource" means any living or nonliving resource that is located within or is a living part of a marine regimen or a Great Lakes aquatic regimen (including an aquatic regimen within Voyageurs National Park) within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.

(e) "Regimen" means a water column and submerged lands, up to the high-tide or high-water line.

(f) "Secretary" means the Secretary of the Interior.

SEC. 2. LIABILITY.

(a) IN GENERAL.—Subject to subsection (c), any person who destroys, causes the loss of, or injures any park system resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

(b) LIABILITY IN REM.—Any instrumentality, including but not limited to a vessel, vehicle, aircraft, or other equipment that destroys, causes the loss of, or injures any park system resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury to the same extent as a person is liable under subsection (a).

(c) DEFENSES.—A person is not liable under this section if such person can establish that—

(1) the destruction, loss of, or injury to the park system resource was caused solely by an act of God or an act of war;

(2) such person acted with due care, and the destruction, loss of, or injury to the park system resource was caused solely by an act or omission of a third party, other than an employee or agent of such person; or

(3) the destruction, loss, or injury to the park system resource was caused by an activity authorized by Federal or State law.

(d) SCOPE.—The provisions of this section shall be in addition to any other liability which may arise under Federal or State law.

SEC. 3. ACTIONS.

(a) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—The Attorney General, upon request of the Secretary after a finding by the Secretary—

(1) of damage to a park system resource; or

(2) that absent the undertaking of response costs, damage to a park system resource would have occurred

may commence a civil action in the United States district court for the appropriate district against any person who may be liable under section 2 for response costs and damages. The Secretary shall submit a request for such an action to the Attorney General whenever a person may be liable or an instrumentality may be liable in rem for such costs and damages as provided in section 2.

(b) RESPONSE ACTIONS AND ASSESSMENT OF DAMAGES.—(1) The Secretary shall undertake all necessary actions to prevent or minimize the destruction, loss of, or injury to park system resources, or to minimize the imminent risk of such destruction, loss, or injury.

(2) The Secretary shall assess and monitor damages to park system resources.

SEC. 4. USE OF RECOVERED AMOUNTS.

Response costs and damages recovered by the Secretary under the provisions of this Act or amounts recovered by the Federal Government under any Federal, State, or local law or regulation or otherwise as a result of damage to any living or nonliving resource located within a unit of the National Park System, except for damage to resources owned by a non-Federal entity, shall be available to the Secretary and without further congressional action may be used only as follows:

(a) RESPONSE COSTS AND DAMAGE ASSESSMENTS.—To reimburse response costs and damage assessments by the Secretary or other Federal agencies as the Secretary deems appropriate.

(b) RESTORATION AND REPLACEMENT.—To restore, replace, or acquire the equivalent of resources which were the subject of the action and to monitor and study such resources: *Provided*, That no such funds may be used to acquire any lands or waters or interests therein or rights thereto unless such acquisition is specifically approved in advance in appropriations Acts and any such acquisition shall be subject to any limitations contained in the organic legislation for such park unit.

(c) EXCESS FUNDS.—Any amounts remaining after expenditures pursuant to subsections (a) and (b) shall be deposited into the General Fund of the United States Treasury.

(d) REPORT TO CONGRESS.—The Secretary shall report annually to the Committee on Appropriations and the Committee on Energy and Natural Resources of the United States Senate and the Committee on Appropriations and the Committee on Interior and Insular Affairs of the United States House of Representatives on funds expended pursuant to this Act. The report shall contain a detailed analysis and accounting of all funds recovered and expended, including, but not limited to, donations received pursuant to section 5, projects undertaken, and monies returned to the Treasury.

SEC. 5. DONATIONS.

The Secretary may accept donations of money or services for expenditures or employment to meet expected, immediate, or ongoing response costs. Such donations may be expended or employed at any time after their acceptance, without further congressional action.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I do so to inquire of the chairman of the subcommittee if he might explain what this bill would do.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Further reserving the right to object, I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I would be glad to explain my request.

Mr. Speaker, H.R. 2844 was passed by the House almost a year ago. In fact, that was the third time its provisions had been approved by the House.

As passed last year, H.R. 2844 was identical to title II of H.R. 1485, as passed by the House on June 20, 1989. Its purpose is to give the Secretary of the Interior additional legal tools to respond to and recover for damages to certain resources of the National Park System.

The effect of the bill would be to apply to appropriate National Park System units provisions related to damage to marine and aquatic resources similar to those that now apply to national marine sanctuaries, under legislation passed in the last Congress.

Originally, these provisions were prompted by the grounding of a ship on a coral reef in Biscayne Bay, in Florida, and as I mentioned similar provisions were passed by the House in the last Congress. Unfortunately, the Senate did not complete action on them at that time, and so the Interior Committee included them in H.R. 1485, a bill dealing with transfer of certain lands in Nevada, when we reported that bill to the floor.

The Senate then decided that these provisions should be considered apart from the remainder of H.R. 1485 as passed by the House, and so they returned that bill to us without title II. Representative BILBRAY and I therefore reintroduced what had been title II of that bill as H.R. 2844 and the House passed it on July 19, 1989.

Mr. Speaker, as I said when the House considered the bill last July, the provisions of H.R. 2844 are very important. Their importance has been further dramatized by repeated instances of damages to park resources in the Virgin Islands and the Dry Tortugas off Florida, as well as by the wreck of the *Exxon Valdez* and the consequent damage to several national park areas in Alaska. So, I am very glad that the Senate has now passed the bill, even in amended form.

Mr. Speaker, we have carefully examined the Senate's changes in the bill as passed by the House, and we believe that they are acceptable. In fact, to some extent they clarify certain provisions, and make some other improvements, even though I do regret that the bill's explicit provision for injunctive relief has been deleted.

In that regard, I want to stress that omission of that provision will in no way diminish the existing authorities and responsibilities of the Secretary of the Interior and the Attorney General in this area. The Secretary of the Interior has the duty to protect the resources and values of the National Park System, not just by reacting to situations where they have actually been damaged, but also by taking steps to prevent damages that might occur. Seeking an injunction or other court order is one of the options now available for that purpose, and it will and must remain available after this bill is enacted.

In short, Mr. Speaker, the Senate changes are acceptable, and so I am seeking unanimous consent for us to concur in them and clear this bill for signature by the President.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I rise in strong support of H.R. 2844, a bill which would authorize the Secretary of the Interior to initiate legal action against individuals who destroy or injure marine or Great Lakes aquatic resources and enable the Secretary to use funds recovered to restore or replace resources.

This is an important measure and one which would have been directly applicable on at least two occasions in as many years at Channel Islands National Park within my district. While the marine sanctuary surrounding that National Park already has this level of protection, it is important that the same level of protection now be extended to the park, and similar NPS units, which have resources equally at risk.

Beyond the resource protection provisions of this bill, the funding mechanism is equally important. NPS has advised me that there have been several cases where the "primary responsible party" has come to the NPS with check in hand to compensate the agency for costs incurred in cleanup activities, but the agency was unable to accept those funds for purposes of offsetting their costs. This arrangement will not only benefit the NPS by insuring that these unprogrammed costs are recovered, but the primary responsible parties will likely find that their cleanup costs will be reduced due to both the rapid response time which can be provided by the NPS and the comparative costs between NPS and some private contractors.

Mr. Speaker, I view this bill as a first important step toward protecting park resources from persons who damage them. I look forward to working with the subcommittee chairman to extend the same level of damage recovery to the full spectrum of resources under the jurisdiction of the NPS.

I urge my colleagues to join me in supporting this bill.

Mr. Speaker, I withdraw my reservation of objection.

□ 1620

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

HAPPY BIRTHDAY, WYOMING—THE EQUALITY STATE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

The SPEAKER pro tempore. Without objection, the gentlewoman from Colorado, is recognized for 1 minute.

There was no objection.

Mrs. SCHROEDER. Mr. Speaker, this week Wyoming celebrates its 100th birthday.

Wyoming, Colorado's neighbor to the north, is called the Equality State because it was the first state to grant women the right to vote.

The 100th birthday party will be more than a fitting festival. The people of Wyoming are establishing new historical museums and centennial parks, commissioning works of art, renovating historical buildings, and planting trees.

Schoolchildren are interviewing Wyoming oldtimers for oral history projects and school teachers are going back to school to refresh their knowledge of Wyoming history.

I know my colleagues will join me in saluting Wyoming, 100 years young this week.

COMMEMORATION OF 50TH ANNIVERSARY OF BATTLE OF BRITAIN

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, today is the 50th anniversary of a battle, but the anniversary will continue for the next several months because it is the 50th anniversary of the beginning of the Battle of Britain, the world's first air battle and the only battle ever fought totally in the air.

It started on July 10, 1940, and reached a peak on what the British call the Battle of Britain on September 15, and then dwindled off, with still tremendous loss of life on both sides, to October 31, when it was obvious that Great Britain alone had prevailed.

I am reading my sixth book on this. I have the honor of leading the Presidential delegation to Great Britain in September when the focus of the celebration will be around the Farnborough Air Exposition, and then September 15, when the Queen will come out and shake the hand of every survivor from this great battle.

This is the conflict that Winston Churchill said never in the course of human conduct was so much owed by so many to so few.

In reading these great historical texts, it comes home to me again how very close Hitler came to conquering Great Britain, and how a handful of Hurricane and Spitfire pilots, 32 Hurricane squadrons and 20 Spitfire squadrons, saved Western civilization.

There were seven identified Americans flying in that conflict, along with Poles and Dutch and Czechoslovakian pilots and people from all over the Commonwealth, Canada to Australia, New Zealand, Ireland.

There were other Americans who had to change their name or at least their citizenship to fly because of a bill passed in this House called the Neutrality Act. To fight for Western civilization and freedom, they had to fight and die under false colors. I am trying to identify many of those Americans if they are still alive in their sixties and seventies so we can take them on the Presidential airplane in September to the 50th anniversary of the Battle of Britain.

This is great reading for you young people who follow the proceedings of this House. Read how close we came to losing the Second World War and the honor we owe to those few pilots, some of them who died in flames, fighting for Western civilization, not just for Great Britain.

S&L CRISIS RESPONSIBILITY ASSESSMENT

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous material.)

Mr. RICHARDSON. Mr. Speaker, my constituents do not want to hear about economic summits in Houston. They do not want to hear about arts restrictions, the flag and the deficit. They want to know why the administration is not acting on the savings and loan crisis.

What we have is the administration's continuing reluctance to act responsibly for the S&L debacle. We all know that the moral and economic price is enormous and yet to be paid. Every day that the administration stalls, it is costing the taxpayers $14 million.

Thrifts are still collapsing. Over 1,700 are expected to fail by 1995. To

this date, only 96 have been closed or sold. The total cost to the taxpayers is going to be close to $500 billion; $2,500 per family in America.

Mr. Speaker, what we have is an administration unwilling to act on those who are responsible. The Attorney General estimates that 25 to 30 percent of thrift miscreants are not being prosecuted.

Mr. Speaker, I am frightened by the administration's continuing reluctance to act responsibly on the S&L debacle. We all know that the moral and economic price is enormous, and yet to be paid.

More significantly, the current administration is betraying the people's mandate to govern. After the congress approved raising the ceiling on deposit insurance, the administration cut the number of Federal regulators from 850 to 747. Deregulation does not mean overlooking corruption. It is estimated that over 60 percent of the failed thrifts are marred by fraud. The administration's solution sent a clear message to the public: The people can pay. The people can pay for mismanaging funds, for reckless risktaking, and for interest peddling. The legacies of procrastination, evasion, and diversion are undermining the people's confidence in their government. Mr. Speaker, those who gambled the depositors money for fast and easy profits, and the people that protected them, ought to bear the cost of their failure. In Evansville, IN, on June 20 a Thomas Schooley was arrested and held on $1,000 bond for robbing someone of 11 cents. Yet the S&L managers who fleeced the taxpayers for billions of dollars walk free. Mr. Speaker, the people demand justice.

I include the following article:

[From U.S. News & World Report, May 28, 1990]

LOADED PISTOLS ON THE POTOMAC

(By David R. Gergen)

The politicians in Washington are playing with loaded pistols. Scared by the way federal deficits are again spinning into the stratosphere, they are huddling behind closed doors to find some answers. In prospect is an agreement sometime this summer on a massive budget package of spending cuts and tax hikes that would reduce the federal deficit by $50 billion to $60 billion next year. That would be at least twice as big as any previous budget package and about four times the size of the average cut during the 1980s.

Before they sign on the dotted line, the politicians owe two solemn obligations to the country. First, President Bush ought to come forward and explain why wrenching cuts must be made in a lot of popular programs and why he must break his vow against raising taxes. For more than a decade, some leading Republicans have been lulling the country into falsely believing that deficits don't matter. And many Republicans—George Bush included—have been winning elections by telling voters not to worry. Now that the Republican hierarchy has apparently changed its mind, the White House should at least have the courage to tell people that big deficits matter after all: They raise interest rates, reduce long-term growth and gradually suck away economic vitality. The piper must always be paid. We don't ask much of our politicians these days, but surely there are some minimum standards of intellectual honesty.

The second obligation is equally important: If taxes are to be raised, as Democrats think necessary, taxpayers deserve much better assurances that their money will be well spent. The knee-jerk view in Washington is that voters are too greedy: they want more and more services but don't want to pay for them. The reality is that voters are not so much greedy as cynical: They see too much of their tax money dribbling into the pockets of assorted supplicants and scoundrels. Why pay even more? The Democrats who erected most of today's social programs ought to have the courage to say that they aren't working and should join the President and other eager Republicans in overhauling them.

Since the early 1960s, American citizens have tripled their expenditures, measured in real dollars, on children in elementary and secondary schools. The United States now spends more for education per child than any other country except Switzerland. Yet our students now rank near the bottom in most international tests, and Scholastic Aptitude Test scores for college admission have been lousy for a decade. Too much money is spent on bureaucracy, not enough on good teachers. Similarly, public expenditures on health care have doubled in the past decade, so that the United States now spends more money than any other nation on earth. Yet the country is tied for 10th in life expectancy and ranks 20th in infant mortality.

More than 30 million Americans don't even have insurance, a scandal by the standards of Western Europe. In the environmental area, the U.S. Environmental Protection Agency has spent more than $4 billion on toxic-waste dumps but cleaned up fewer than 1 in 20. A congressional study says that 50 to 70 percent of the money has been used ineffectively.

No one can tell how much public money will be sunk into the S&L rat hole. Every new tab is higher than the last, driving up the deficit, and the bill could eventually top $500 billion. What the public wants to know is who will hang for this fiasco. The Attorney General estimates that 25 to 30 percent of thrift failures can be laid to miscreant bank officials. So far, however, only seven thrift owners have been convicted; 56 cases are now pending. In the HUD scandal, where some 1,500 cases are being investigated, only one person is known to be in jail. Why shouldn't the voters be cynical?

Of course, a good deal of the mismanagement occurs in state and city government. But years ago, Washington assumed the leadership for the nation's social welfare. Now that the politicians here are finally facing up to the nation's financial mess, they ought to seize this opportunity to begin reforming government spending from top to bottom. Let's strip away the bureaucracies and useless rules. Let's put more crooks behind bars. And wherever possible, let's empower individual Americans to run their own lives.

HONORING ANNIVERSARY OF BIRTH OF NIKOLA TESLA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognzied for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, I rise today to ask my colleagues to join me in honoring the anniversary of the birth of one of our Nation's foremost scientists, Nikola Tesla.

A scientists was born 134 years ago today in Serbia, who would change the way we think about electricity. Nikola Tesla is the man who advanced electrical science past Thomas Edison's simple direct current by inventing the alternating current system and many of the machines which make it the form of electrical power used daily all over the world.

Tesla also developed the Tesla coil, an integral component in radios and television sets. It was Tesla, not Marconi, who first demonstrated the wireless radio set. It was Tesla, not Edison, who first demonstrated the feasible long-distance transmission of electrical energy. It was Tesla who first demonstrated the use of radio in controlling torpedoes and model boats. And it was Tesla who demonstrated the precursor to the fluorescent light bulb.

Tesla is credited with approximately 700 inventions. He obtained the patronage of such notable figures as George Westinghouse and J.P. Morgan. And his designs and inventions for the alternating current system resulted in his being awarded 40 patents. Truly, Tesla's achievements are more than worthy of recognition.

Perhaps the most outstanding example of Tesla's genius is his use of the induction motor and polyphase system to harness the tremendous powers of Niagara Falls. The decision to use the Falls to produce alternating current was the decisive battle that won the raging war between direct and alternating current.

Soon thereafter, requests from industry to be hooked up to the new alternating current system came in faster than they could be granted. The high voltages that could be supplied only by alternating current made possible the large-scale production of aluminum and alloyed metals necessary for the aircraft industry. Were it not for Tesla, we might still be taking small ocean craft across the oceans.

Nikola Teslas is truly the embodiment of the American dream. A Serbian immigrant from what is now part of Yugoslavia, Tesla came to America in 1884 to work with the electrical giants of the day. Carrying only his personal belongings, a letter of introduction, and 4 cents, Tesla set out into the brave new world, landing a job with Thomas Edison, making $18 a week. But he soon became frustrated, and left Edison's laboratory to start his own in 1887.

Four years later, on July 30, 1891, he became a U.S. citizen. I would note,

Mr. Speaker, that while Tesla thought little of honorary degrees and certificates, filing them away in drawers, he always kept his naturalization certificate in a safe. His citizenship, Tesla always asserted, was more important than any honors his scientific abilities could garner. He rightfully can claim his place alongside the likes of Franklin, Edison, and Einstein as a truly great American scientist.

Tesla won the respect of the American scientific, business, and social community with his quick wit, gracious charm, and undeniable genius. People would listen to him, transfixed, as he expounded upon a new idea or invention. He often would give demonstrations of new inventions and recently discovered scientific principles.

Some of the more shocking, if you'll pardon the pun, demonstrations involved him electrocuting a laboratory animal with a device through which a few thousand volts flowed, then hooking himself up to the same device and allowing millions of volts of alternating current to flow through his body, demonstrating a scientific principle many scientists today cannot comprehend.

Tesla even earned the grudzing respect of Thomas Edison, a fellow inventor whose direct current went the way of the dinosaur in the face of Tesla's alternating current.

The first job Tesla performed for Edison involved repairing the entire dynamo system on a large ship. Working throughout the night, Tesla managed to do in several hours what would have taken other members of Edison's staff several days, at least. Upon hearing of Tesla's feat, Edison uttered perhaps the only positive statement he ever made about Tesla, "That is a damn good man."

Mr. Speaker, every Member of this Congress may take great pride in the fact that our Nation provided the opportunities needed for a poor immigrant to develop a system of electrical power used the world over.

We also may recognize the fact that this man achieved success despite great adversity. His improvements to Edison's dynamos were made without giving Tesla any financial consideration. In fact, Tesla seldom received enough personal financial support to allow him to do anything but break even. Even today, many standard texts, including government publications, do not recognize his contributions to the world of electrical engineering. Tesla is quite possibly the least known of the great scientists our Nation has produced.

Tesla often was cheated out of the benefits of his accomplishments. He often would be so caught up in the joy of discovery that he would forget to patent his inventions, inventions which would be stolen and patented by those with whom he worked. Edison himself refused to make good on a promised $50,000 bonus.

Fortunately, justice did sometimes prevail. One prime example of this is in what became known as the Great Radio Controversy. In the 1943 case of Marconi Wireless Telegraph Co. of America versus United States, the Supreme Court ruled that it was Nikola Tesla, not Marconi, who first invented radio.

Nevertheless, Tesla continued his work until his death. His work during the latter half of his life was dedicated to improving the Tesla coil and making feasible the transmission of electrical energy without wires. He also began laying the groundwork for the discovery and application of scientific theory leading to robotics, nuclear power, and the cyclotron, or nuclear accelerator.

Tesla's greatest love was the pursuit of scientific knowledge, and the application thereof. He had the uncanny ability to formulate working models of his inventions in his head; nobody knows what other wonderful developments went with him to the grave. Tesla was unwilling—indeed, unable—to put boundaries on his thought.

Tesla taught his young assistants to be thinkers, dreamers, and creators, As Maj. Edwin H. Armstrong, a later contributor to radio science, once noted:

> Not only did he teach by accomplishment, but he taught by the inspiration of a marvelous imagination that refused to accept the permanence of what appeared to be insuperable difficulties: An imagination the goals of which, in a number of instances, are still in the realms of speculation.

Mr. Speaker, Nikola Tesla is a naturalized American in whom every citizen may take pride. By honoring the birth of this great individual, we honor the country that made it all possible. Tesla came to America because of the opportunities it provided—and still provides.

Our Constitution gives us the power "[t]o promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writing and discoveries." Were this not the case, Tesla could not have made the scientific advancements he made.

Truly, Nikola Tesla is a man who changed the world. His work has made possible the large-scale transmission of electrical energy, as well as the use of radio in many different applications. He has inspired countless scientists and engineers to perform the hitherto impossible. And he has furthered the reputation of America as a place where dreams become reality.

Mr. Speaker, today is a day on which we all should stop for a moment and recognize the accomplishments of a great American. Nikola Tesla is a man who changed electrical engineering forever, and we must consider his contribution to science as one of the most important of any scientist.

Certainly the United States would not be enjoying its standard of living without the genius of Nikola Tesla who applied that genius to accomplishments.

Tesla had a dream of a new world, and he worked toward it with fervent energy. In his words, it would be a world "in which there shall be no exploitation of the weak by the strong, of the good by the evil, where there will be no humiliation of the poor by the violence of the rich; where the products of the intellect, science, and art will serve society for the betterment and beautification of life, and not the individuals for achieving wealth. This new world shall not be a world of the downtrodden and humiliated, but of free men and free nations, equal in dignity and respect for man."

As a first generation Serbian-American, I am very proud of this man who was born of humble parents—his father was a priest—in the mountains of Serbia and who died, more than a century ago, to venture into a strange, unknown world, that technology in an era where it just was not done.

How fortunate we all are that he was born 134 years ago in the mountains of Serbia.

□ 1640

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

[Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ROHRABACHER (at the request of Mr. MICHEL), for today, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 60 minutes, on July 12.

Mr. DANNEMEYER, for 60 minutes each day, on July 17, 18, and 19.

Mr. CRAIG, for 60 minutes each day, on July 11, 12, and 13.

Mr. CRANE, for 60 minutes today.

Mr. DORNAN of California, for 60 minutes, today.

Mr. GINGRICH, for 60 minutes each day, on July 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26, and 27.

Mr. BURTON of Indiana, for 60 minutes each day, on July 11 and 12.

Mr. HUNTER, for 60 minutes, on July 12.

Mr. PASHAYAN, for 60 minutes, on July 24.

Mrs. BENTLEY, for 60 minutes each day, on July 24, 25, and 26.

Mr. EMERSON, for 60 minutes on July 18.

(The following Members (at the request of Mr. MCCURDY) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PICKLE, for 60 minutes, today.

Mr. PICKLE, for 60 minutes each day, on July 11, 12, and 13.

Mr. FEIGHAN, for 60 minutes, on July 18.

Mr. GEREN, for 60 minutes, on July 12.

Mr. DELLUMS, for 60 minutes, on July 19.

Mrs. COLLINS, for 60 minutes, on July 19.

Mr. LIPINSKI, for 5 minutes each day, on July 17, 24, and 31.

Mr. LIPINSKI, for 60 minutes each day, on July 11, 18, and 25.

Mr. GONZALEZ, for 60 minutes each day, on July 13, 23, 27, and 30.

Mr. MCCURDY, for 60 minutes each day, on July 17, 18, and 19.

Mr. OWENS of New York, for 60 minutes each day, on July 10, 11, 12, 13, 16, 17, 18, 19, and 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. BILIRAKIS.

Mr. BROOMFIELD in two instances.

Mr. LAGOMARSINO.

Mr. GALLO.

Mrs. BENTLEY.

Mr. WALKER.

Mr. SOLOMON in three instances.

Mr. DORNAN of California.

Mr. EMERSON.

Mr. BURTON of Indiana.

Mr. MADIGAN.

Mr. COBLE.

Mr. INHOFE.

(The following Members (at the request of Mr. MCCURDY) and to include extraneous matter:)

Mr. ANDERSON in two instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. SAWYER.

Mr. OWENS of New York.

Mr. NELSON of Florida.

Mr. MORRISON of Connecticut.

Mr. MAZZOLI in two instances.

Mr. STOKES in two instances.

Mr. FASCELL in two instances.

Mr. TORRES.

Mr. KOSTMAYER in two instances.

Mr. RICHARDSON.

Mr. DORGAN of North Dakota.

Mr. ATKINS.

Mr. LIPINSKI.

Mr. EDWARDS of California in two instances.

Mr. TRAFICANT.

Mr. LEVIN of Michigan.

Mr. HOCHBRUECKNER.

Mr. SCHROEDER.

Mr. HOYER.

SENATE BILL JOINT RESOLUTIONS AND CONCURRENT RESOLUTIONS REFERRED

A bill and joint resolutions and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2461. An act to reauthorize appropriations to provide for and improve the drug treatment waiting period reduction grant program under the Public Health Service Act, and for other purposes; to the Committee on Energy and Commerce.

S.J. Res. 279. Joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week;" to the Committee on Post Office and Civil Service.

S.J. Res. 282. Joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child;" to the Committee on Post Office and Civil Service.

S.J. Res. 313. Joint resolution designating October 3, 1990, as "National Teacher Appreciation Day;" to the Committee on Post Office and Civil Service.

S.J. Res. 324. Joint resolution to designate June 3 through 9, 1990, as "Week of the National Observance of the 50th Anniversary of World War II;" to the Committee on Post Office and Civil Service.

S.J. Res. 326. Joint resolution to designate December 21, 1990, as a "Day of Observance for the Victims of Terrorism;" to the Committee on Post Office and Civil Service.

S.J. Res. 339. Joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day;" to the Committee on Post Office and Civil Service and Foreign Affairs.

S. Con. Res. 60. Concurrent resolution expressing the sense of the U.S. Senate that an impartial investigation of all alleged sightings of Raoul Wallenberg since 1947 be made; to the Committee on Foreign Affairs.

S. Con. Res. 137. Concurrent resolution to express the sense of the Congress that the 1990 Nuclear Non-Proliferation Treaty [NPT] Review Conference should reaffirm the support of the parties for the objectives of the NPT, in particular preventing the spread of nuclear weapons to additional countries; to the Committee on Foreign Affairs.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1028. An act to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial;

H.R. 2514. An act amending subchapter III of chapter 84 of title 5, United States Code;

H.R. 4252. An act to authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, NH;

H.R. 4525. An act to amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics;

H.R. 5149. An act to amend the Child Nutrition Act of 1966 to provide that the Secretary of Agriculture may not consider, in allocating amounts to a State agency under the special supplemental food program for women, infants, and children for the fiscal year 1991, any amount returned by such agency for reallocation during the fiscal year 1990 and to allow amounts allocated to a State for such program for the fiscal year 1991 to be expended for expenses incurred in the fiscal year 1990; and

H.J. Res. 599. Joint resolution to designate July 1, 1990, as "National Ducks and Wetlands Day."

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 271. Joint resolution to designate July 10, 1990, as "Wyoming Centennial Day."

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolution of the House of the following titles:

On June 29, 1990:

H.R. 5075. An act to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes; and

H.R. 770. An act to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave.

On July 3, 1990:

H.J. Res. 599. Joint resolution to designate July 1, 1990, as "National Ducks and Wetlands Day;" and

H.R. 5149. An act to amend the Child Nutrition Act of 1966 to provide that the Secre-

tary of Agriculture may not consider, in allocating amounts to a State agency under the special supplemental food program for women, infants, and children for the fiscal year 1991, any amounts returned for such agency for reallocation during the fiscal year 1990 and to allow amounts allocated to a State for such program for the fiscal year 1991 to be expended for expenses incurred in the fiscal year 1990.

On July 6, 1990

H.R. 4252. An act authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, NH;

H.R. 4525. An act to amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics;

H.R. 1028. An act to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial; and

H.R. 2514. An act amending subchapter III of chapter 84 of title 5, United States Code.

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 42 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 11, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communciations were taken from the Speaker's table and referred as follows:

3486. A communication from the President of the United States, transmitting amendments to the fiscal year 1991 request for appropriations for the Department of Energy, the Office of Personnel Management, the National Archives and Records Administration, and the Office of Government Ethics, pursuant to 31 U.S.C. 1107 (H. Doc. 101-211); to the Committee on Appropriations and ordered to be printed.

3487. A letter from the Comptroller General, the General Accounting Office, transmitting deferrals of budget authority not reported to the Congress by the President in military construction programs financed by the Military Construction Appropriations Act for the Department of Defense, 1990, pursuant to 2 U.S.C. 686(a) (H. Doc. 101-210); to the Committee on Appropriations and ordered to be printed.

3488. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Spain for defense articles (Transmittal No. 90-40), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3489. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Greece for defense articles (Transmittal No. 90-42), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3490. A letter from the Comptroller, Department of Defense, transmitting the Department of the Navy's supplemental contract award report for the period July 1, 1990 to August 31, 1990, pursuant to 10 U.S.C. 2431(b); to the Committee on Armed Services. July 10, 1990.

3491. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Indonesia for defense articles (Transmittal No. 90-44), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3492. A letter from the Secretary of the Army, transmitting the fiscal year 1989 report and the annual inspection report of the U.S. Soldiers' and Airmen's Home, pursuant to 24 U.S.C. 59, 60; to the Committee on Armed Services.

3493. A letter from the Secretary of Energy, transmitting his accepted recommendations by the Defense Nuclear Facilities Safety Board [Defense Board]; to the Committee on Armed Services.

3494. A letter from the Secretary, Department of Housing and Urban Development, transmitting the first annual report on the Federal Home Loan Mortgage Corporation for 1989 and the 1988-89 report on the Federal National Mortgage Association, pursuant to 12 U.S.C. 1452; 12 U.S.C. 1723a(h); to the Committee on Banking, Finance and Urban Affairs.

3495. A letter from the President, Oversight Board Resolution Trust Corporation, transmitting the annual report on the operations, activities, budgets, receipts, and expenditures of the Oversight Board for the calendar year 1989; to the Committee on Banking, Finance and Urban Affairs.

3496. A letter from the President, Oversight Board Resolution Trust Corporation, transmitting the Board's annual report on the Resolution Funding Corporation for the calendar year 1989; to the Committee on Banking, Finance and Urban Affairs.

3497. A letter from the Secretary of Energy, transmitting notice that beginning with its 1989 report, the Interagency Council on the Homeless will include, as a separate second section, descriptions of each individual agency's activities to assist the homeless; to the Committee on Banking, Finance and Urban Affairs.

3498. A letter from the Administrator, Energy Information Administration, transmitting the 1990 first quarterly report and annual summary on U.S. coal imports, pursuant to 42 U.S.C. 7277(a); to the Committee on Energy and Commerce.

3499. A letter from the Assistant Secretary of State (Legislative Affairs), transmitting the President's determination (No. 90-26) in relation to the International Civil Aviation Organization, the International Labor Organization, the World Health Organization, the United Nations Industrial Development Organization, and the World Meteorological Organization for payment related to the calendar year 1989 assessed budgets of those organizations, pursuant to 22 U.S.C. 287e nt.; to the Committee on Foreign Affairs.

3500. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed authorization for the export of defense articles and defense services sold commercially to the Republic of Korea (Transmittal No. MC-14-90), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3501. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export of defense equipment sold commercially to Canada (Transmittal No. MC-17-90), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3502. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the President's determination (No. 90-25) for payment of the outstanding fiscal year 1990 funds toward the calendar year 1989 budget of the United Nations, pursuant to 22 U.S.C. 287e nt.; to the Committee on Foreign Affairs.

3503. A letter from the Assistant Secretary of State (legislative Affairs), transmitting the Department's quarterly report concerning human rights activities in Ethiopia, covering the period January 15 through April 14, 1990, pursuant to Public Law 100-456, section 1310(c) (102 Stat. 2065); to the Committee on Foreign Affairs.

3504. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Indonesia for defense articles and services (Transmittal No. 90-44), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3505. A letter from the Acting Director, Defense Security Assistance Agency, transmitting an addendum to the listing of all outstanding letters of offer to sell any major defense equipment for $1 million or more; an addendum to the listing of all letters of offer that were accepted, as of March 31, 1990; an addendum to the waivers of nonrecurring cost recoupment charges and royalty fees as of July 31, 1981, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

3506. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Spain for defense articles and services (Transmittal No. 90-40), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3507. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Greece for defense articles and services (Transmittal No. 90-42), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3508. A letter from the Assistant Secretary (Legislative Affairs), Department of State, transmitting the 38th report on the extent and disposition of United States contributions to international organizations for fiscal year 1989, pursuant to 22 U.S.C. 262a; to the Committee on Foreign Affairs.

3509. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3510. A letter from the Chairman, Farm Credit Administration, transmitting the Inspector General's semiannual report for the period October 1, 1989 through March 31, 1990; to the Committee on Government Operations.

3511. A letter from the Chairman, Federal Communications Commission, transmitting a report of its activities during calendar year 1989 under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3512. A letter from the Director, Norfolk Naval Shipyard Co-operative Association, transmitting a copy of the annual report for

the Norfolk Naval Shipyard pension plan for 1988, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3513. A letter from the Secretary to the Board, Railroad Retirement Board, transmitting the Board's determination that it is in the public interest to award contracts to the two low responsive and responsible bids submitted in response to invitation for bid [IFB] No. 90-A-16 for data entry services to convert source documents to magnetic tape used to generate payments to annuitants and claimants, pursuant to 41 U.S.C. 253(c)(7); to the Committee on Government Operations.

3514. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3515. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3516. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3517. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3518. A letter from the Chairman, National Park Foundation, transmitting the Foundation's annual report for fiscal year 1989, pursuant to 16 U.S.C. 19n, 19dd(f); to the Committee on Interior and Insular Affairs.

3519. A letter from the National Council on Radiation Protection and Measurements, transmitting the 1989 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, a federal chartered corporation, pursuant to Public Law 88-376, section 14(b) (78 Stat. 323); to the Committee on the Judiciary.

3520. A letter from the Chairman, National Research Council, transmitting a report entitled, "Truck Weight Limits: Issues and Options"; to the Committee on Public Works and Transportation.

3521. A letter from the Deputy Under Secretary for Acquisition, Department of Defense, transmitting a report on the Department's procurement from small and other business firms for the period October 1989 through April 1990, fiscal year 1990, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

3522. A communication from the President of the United States transmitting notification of his intention to add Bahrain to the list of beneficiary developing countries under the Generalized System of Preferences [GSP], pursuant to 19 U.S.C. 2462(a) (H. Doc. 101-212); to the Committee on Ways and Means and ordered to be printed.

3523. A letter from the Chairman, Prospective Payment Assessment Commission, transmitting a report entitled, "Hospital Outpatient Services: Background Report," pursuant to Public Law 101-239, section 6137(b)(1) (103 Stat. 2223); to the Committee on Ways and Means.

3524. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to provide for the protection of distinguished persons by personnel of the Department of Defense and for other purposes; jointly, to the Committee on Armed Services and the Judiciary.

3525. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend section 3413 of title 12, United States Code, to add an exception authorizing financial institutions to disclose to the Department of Veterans Affairs the names and current addresses of their customers who are receiving payments, by direct deposit or electronic funds transfer into their accounts, of compensation, dependency and indemnity compensation or pension benefits under title 38, United States Code; jointly, to the Committee on Banking, Finance and Urban Affairs and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Pursuant to the Order of the House on June 28, 1990 the following report was filed on July 6, 1990.

Mr. HAWKINS: Committee on Education and Labor. H.R. 5115. A bill to improve education in the United States; with an amendment (Rept. 101-570). Referred to the Committee of the Whole House to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 4982. A bill to promote the study of mathematics and science in elementary and secondary schools, to provide training for mathematics and science teachers, and for other purposes; with an amendment (Rept. 101-571). Referred on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 5064. A bill to amend the Drug-Free Schools and Communities Act of 1986 to provide for a program of grants to local educational agencies for drug abuse resistance education programs, with an amendment (Rept. 101-572). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 5124. A bill to expand and improve drug abuse education, prevention, and counseling services, to provide for positive alternative activities to drug abuse, to provide for certain activities to ensure student safety, and for other purposes; with an amendment (Rept. 101-573). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 5140. A bill to amend the Elementary and Secondary Education Act of 1965 to improve secondary school programs for basic skills improvement and dropout prevention and reentry, and for other purposes; with an amendment (Rept. 101-574). Referred to the Committee of the Whole House on the State of the Union.

Submitted July 10, 1990

Mr. UDALL: Committee on Interior and Insular Affairs. S. 666. An act to enroll twenty individuals under the Alaska Native Claims Settlement Act; with amendments (S. Rept. 101-575). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R.4834. A bill to provide for visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts; with an amendment (Rept. 101-576). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 988. A bill entitled the "Camp W.G. Williams Land Exchange Act of 1989"; with an amendment (Rept. 101-577). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3888. A bill to allow a certain parcel of land in Rockingham County, Virginia, to be used for a child care center; with an amendment (Rept. 101-578). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2926. A bill to require tuna products to be labeled respecting the method used to catch the tuna and for other purposes; with amendment (S. Rept. 101-579, Pt 1). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 132. A bill to promote fisheries and wildlife conservation; with an amendment (Rept. 101-580, Pt 1). Ordered to be printed.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 5170. A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1991 and 1992, to improve aviation safety and capacity, to reduce the surplus in the Airport and Airway Trust Fund, to authorize the Secretary of Transportation to grant authority for the imposition of airport passenger facility charges, and for other purposes; with an amendment (Rept. 101-581). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. H.Res. 428, a resolution for the consideration of H.R. 5170, a bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1991 and 1992, to improve aviation safety and capacity, to reduce the surplus in the Airport and Airway Trust Fund, to authorize the Secretary of Transportation to grant authority for the imposition of airport passenger facility charges, and for other purposes. (Rept. 101-582). Referred to the House Calendar.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 3789. A bill to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes; with an amendment (Rept. 101-583, Pt. 1). Ordered to be printed.

Mr. LEHMAN of Florida: Committee on Appropriations. H.R. 5229. Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-584). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 4949. A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for aviation research, engineering and development, and demonstrations for fiscal years 1991 and 1992, and for other purposes; with an amendment (Rept. 101-585). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Pursuant to the order of the House on June 28, 1990 the following report was filed on July 3, 1990.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3950. A bill, entitled, the "Food and Agricultural Resources Act of 1990"; with an amendment; referred to the Committees on Education and Labor, Foreign Affairs, and Ways and Means for a period ending not later than July 18, 1990, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of those committees pursuant to clause 1(g), (i), and (v), rule X (Rept. 101-569, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LEHMAN of Florida:

H.R. 5229. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

By Mr. JONES of North Carolina (for himself (by request), Mr. DAVIS, and Mr. LENT):

H.R. 5230. A bill to amend the Merchant Marine Act, 1936, as amended, so as to revitalize the U.S.-flag merchant marine; to the Committee on Merchant Marine and Fisheries.

By Mr. PORTER (for himself and Mr. WYDEN):

H.R. 5231. A bill to amend the Public Health Service Act to provide clarification with respect to the authority of grantees under title X of such act to provide information and counseling regarding family planning; to the Committee on Energy and Commerce.

By Mr. ROE:

H.R. 5232. A bill to establish a uniform Federal system for the review and authorization of releases into the environment of genetically modified organisms, to promote research into and collection of data regarding the effects of such releases, and for other purposes; jointly, to the Committees on Energy and Commerce Science, Space, and Technology, and Agriculture.

By Mrs. SCHROEDER:

H.R. 5233. A bill to restrict the use of contributions by the Secretary of Defense to the NATO Infrastructure Program; to the Committee on Armed Services.

By Mr. SIKORSKI:

H.R. 5234. A bill to amend title XIX of the Social Security Act with respect to requirements relating to nursing homes under the Medicaid Program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STOKES:

H.R. 5235. A bill to designate the Owens Finance Station of the U.S. Postal Service in Cleveland, OH, as the "Jesse Owens Building of the U.S. Postal Service"; to the Committee on Post Office and Civil Service.

By Mr. THOMAS of Georgia:

H.R. 5236. A bill to declare the Sidney Lanier Bridge an obstruction to navigation; to the Committee on Public Works and Transportation.

By Mr. UDALL:

H.R. 5237. A bill to provide for the protection of native American graves, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STOKES:

H.R. 5238. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States and on the Great Lakes in trade with Canada, for the vessel *Seagull*; to the Committee on Merchant Marine and Fisheries.

By Mr. DERRICK:

H.J. Res. 615. Joint resolution to designate the week of November 18 through 24, 1990, as "National Wild Turkey Week" and November 22, 1990, as "National Wild Turkey Day"; to the Committee on Post Office and Civil Service.

By Mr. McDADE:

H.J. Res. 616. Joint resolution to designate the week of September 16 through 22, 1990, as "National Rehabilitation Week"; to the Committee on Post Office and Civil Service.

By Mr. RAVENEL:

H.J. Res. 617. Joint resolution to designate the month of September, 1990, as "National Awareness Month of Children with Cancer"; to the Committee on Post Office and Civil Service.

By Mr. RICHARDSON (for himself, Ms. PELOSI, Mr. MCDERMOTT, Mr. SHARP, Mr. WALGREN, Mr. BRYANT, Mr. COOPER, Mr. COURTER, Mr. WYDEN, Mr. DONNELLY, Mr. DORNAN of California, Mr. DE LUGO, Mr. LEVIN of Michigan, Mr. CONTE, Mr. KILDEE, Mr. SYNAR, Mr. HYDE, Mr. FAZIO, and Mr. KENNEDY):

H.J. Res. 618. Joint resolution designating August 13 through 19, 1990, as "Home Health Aide Week"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

461. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to Vietnam veterans; to the Committee on Veterans' Affairs.

462. Also, memorial of the General Assembly of the State of California, relative to school lands; jointly to the Committees on Energy and Commerce and Armed Services.

463. Also, memorial of the Legislature of the State of Louisiana, relative to surplus property of the Federal Government; jointly, to the Committees on Government Operations, Armed Services, and Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 118: Mr. STEARNS and Mr. CONDIT.

H.R. 500: Mr. STEARNS.

H.R. 726: Ms. KAPTUR.

H.R. 933: Mr. MAVROULES.

H.R. 969: Mrs. UNSOELD.

H.R. 1068: Mr. KASTENMEIER and Mr. SMITH of Iowa.

H.R. 1085: Mr. SCHEUER.

H.R. 1200: Mr. SERRANO.

H.R. 1260: Mr. DURBIN.

H.R. 1676: Ms. ROS-LEHTINEN, Mr. WOLPE, Mr. DORNAN of California, Mr. REGULA, Mr. IRELAND, Mr. LEHMAN of Florida, Mr. MACHTLEY, and Mr. ANNUNZIO.

H.R. 1684: Mr. ANDERSON.

H.R. 1693: Mrs. MORELLA, Mr. STARK, and Mr. KENNEDY.

H.R. 1767: Mr. KOSTMAYER.

H.R. 1875: Mr. FORD of Michigan and Mr. WYLIE.

H.R. 2121: Mr. SKEEN and Mr. ROBERT F. SMITH.

H.R. 2316: Mr. MADIGAN and Mr. HASTERT.

H.R. 2353: Mr. THOMAS of Wyoming, Mr. SLAUGHTER of Virginia, Mr. MCDADE, and Mr. HASTERT.

H.R. 2418: Mr. BERMAN.

H.R. 2532: Mr. CAMPBELL of California, Mr. MACHTLEY, Ms. MOLINARI, Mr. GIBBONS, and Mr. BUSTAMANTE.

H.R. 2584: Mrs. MARTIN of Illinois.

H.R. 2816: Mr. CARDIN, Mr. MCMILLEN of Maryland, and Mr. KANJORSKI.

H.R. 2853: Mr. BUSTAMANTE.

H.R. 2881: Mr. DEWINE.

H.R. 2972: Mr. JONES of Georgia.

H.R. 3037: Mr. SMITH of New Jersey.

H.R. 3123: Mr. COURTER, Mr. CLARKE, Mr. NEAL of Massachusetts, and Mr. AUCOIN.

H.R. 3167: Mr. GORDON.

H.R. 3333: Mr. BRUCE, Mr. DELAY, Mr. CAMPBELL of Colorado, and Mr. MACHTLEY.

H.R. 3346: Mr. GEREN and Mrs. BYRON.

H.R. 3363: Mr. MCEWEN.

H.R. 3501: Mr. SLAUGHTER of Virginia.

H.R. 3569: Mrs. COLLINS, Mr. HORTON, Mr. MACHTLEY, Mr. TOWNS, and Mr. WOLF.

H.R. 3651: Mr. SISISKY.

H.R. 3705: Mr. SCHEUER.

H.R. 3757: Mr. WEISS.

H.R. 3772: Mr. SAXTON.

H.R. 3842: Mr. HUTTO and Mr. CALLAHAN.

H.R. 3860: Mr. FOGLIETTA and Mr. EVANS.

H.R. 3923: Mr. HEFLEY.

H.R. 3925: Mr. FORD of Tennessee, Mr. MCDERMOTT, Mr. NEAL of North Carolina, Mr. RAVENEL, Mr. VALENTINE, and Mr. WHITTAKER.

H.R. 3936: Mr. OBEY, Mr. FASCELL, Mr. EARLY, Mr. MCHUGH, Mr. DIXON, Mr. KANJORSKI, Mr. MCMILLEN of Maryland, Mr. WISE, and Mr. BROWN of California.

H.R. 3979: Mr. WOLPE and Mr. MACHTLEY.

H.R. 4011: Mr. NEAL of North Carolina, Mr. ECKART, Mrs. COLLINS, Mr. OWENS of New York, and Mr. GRANDY.

H.R. 4157: Mr. GORDON.

H.R. 4181: Mr. BRYANT, Mr. BILIRAKIS, Mr. CHAPMAN, Mr. COMBEST, Mr. DORGAN of North Dakota, Mr. FASCELL, Mr. GILLMOR, Mr. Goss, Mr. LEHMAN of Florida, Mr. LEWIS of Georgia, Mr. STENHOLM, and Mr. VOLKMER.

H.R. 4219: Mr. HORTON, Mr. MOODY, Mr. DEFAZIO, Mr. STARK, Mr. LEHMAN of California, Mr. RUSSO, Mrs. COLLINS, Mr. ANTHONY, Mr. BATES, Mr. MRAZEK, Mr. BOSCO, Ms. SCHNEIDER, Mrs. BOXER, Mr. BEILENSON, Mr. LEVINE of California, and Mrs. SCHROEDER.

H.R. 4226: Mr. MCCOLLUM.

H.R. 4231: Mr. BLILEY, Mr. FRANK, Mr. LEWIS of Florida, Mr. PAYNE of Virginia, and Mr. WALSH.

H.R. 4258: Mr. HUBBARD, Mr. HANCOCK, Mr. YATRON, Mr. SANGMEISTER, Mr. WOLPE, Mr. VANDER JAGT, and Mr. FLIPPO.

H.R. 4268: Mr. MARTINEZ, Mr. BRUCE, Mr. PEASE, Mr. OBERSTAR, Mr. JONES of Georgia, Mr. SHUMWAY, Mrs. COLLINS, Mr. FUSTER, and Mr. JOHNSON of South Dakota.

H.R. 4310: Mr. WEISS.

H.R. 4332: Mr. MACHTLEY and Mr. HEFLEY.

H.R. 4362: Mr. MOORHEAD.

H.R. 4375: Mr. SUNDQUIST.

H.R. 4407: Mr. BROWN of California.

H.R. 4418: Mr. MACHTLEY.

H.R. 4424: Mr. BLILEY, Mr. WYLIE, Mrs. SMITH of Nebraska, Mr. STANGELAND, Mr. SLAUGHTER of Virginia, and Mr. RAVENEL.

H.R. 4431: Mr. JENKINS.

H.R. 4468: Mr. YOUNG of Alaska.

H.R. 4475: Mr. SHAW, Mr. SPENCE, Mr. ROBERT F. SMITH, Mr. FISH, Mr. PORTER, Mr. GUNDERSON, Mr. TAYLOR, Mr. GEKAS, Mr. MCCRERY, Mr. SUNDQUIST, Mr. JONTZ, Mr. ENGLISH, Mr. BUECHNER, Mr. GRANDY, Mr. LOWERY of California, Mr. PARRIS, Mr. VANDER JAGT, Mr. TALLON, and Mr. FLIPPO.

H.R. 4481: Mr. MORRISON of Washington, Mr. TRAXLER, and Mr. HERGER.

H.R. 4483: Mr. SERRANO, Mr. JOHNSTON of Florida, Mr. EVANS, Mr. DERRICK, Mr. HORTON, Mr. FROST, Ms. SLAUGHTER of New York, Mr. STALLINGS, Mr. TRAXLER, Mr. COLEMAN of Texas, Mr. SKAGGS, Ms. PELOSI, Mr. RANGEL, and Mr. FAUNTROY.

H.R. 4492: Mrs. BOXER and Mr. PAYNE of New Jersey.

H.R. 4494: Mr. THOMAS of Georgia, Mr. OBERSTAR, Mr. ARCHER, Mr. DICKINSON, Mr. HEFNER, Mr. NIELSON of Utah, Mrs. ROUKEMA, Mr. PETRI, Mr. BOUCHER, Mr. PEASE, and Mr. BALLENGER.

H.R. 4499: Mr. DREIER of California.

H.R. 4506: Mr. FAZIO, Mr. SCHUMER, and Mr. BEILENSON.

H.R. 4520: Mr. KILDEE.

H.R. 4528: Mr. OWENS of New York.

H.R. 4529: Mr. BRYANT, Mr. LEWIS of Georgia, Mr. WEISS, and Mr. CONYERS.

H.R. 4531: Mr. STARK, Mr. BORSKI, Mr. MCNULTY, Mr. SERRANO, Mr. THOMAS of Georgia, Mr. FOGLIETTA, Mr. ENGLISH, Mr. HERTEL, and Mr. DELLUMS.

H.R. 4548: Mr. GONZALEZ, Mr. DEFAZIO, and Mr. ACKERMAN.

H.R. 4594: Mr. EMERSON and Mr. MCMILLEN of Maryland.

H.R. 4597: Mr. OWENS of New York and Mr. FISH.

H.R. 4640: Mr. TANNER.

H.R. 4641: Mr. OWENS of New York, Mr. HANSEN, Mr. HAYES of Illinois, Mr. NEAL of North Carolina, Mr. MOORHEAD, and Mr. PETRI.

H.R. 4659: Mr. GUARINI.

H.R. 4684: Mr. FLAKE.

H.R. 4690: Mr. KLECZKA, Mr. JACOBS, Mr. EMERSON, Mr. PORTER, Mr. VANDER JAGT, and Mr. ACKERMAN.

H.R. 4741: Mr. SANGMEISTER, Mr. DE LUGO, Mr. DEFAZIO, Mr. MCCLOSKEY, Mr. HAYES of Illinois, and Mr. STAGGERS.

H.R. 4761: Mr. BURTON of Indiana and Mr. SCHUETTE.

H.R. 4763: Mr. BARNARD, Mr. WEISS, and Mr. OWENS of New York.

H.R. 4824: Mr. OWENS of New York and Mr. BUSTAMANTE.

H.R. 4830: Ms. SLAUGHTER of New York.

H.R. 4840: Mr. HALL of Ohio.

H.R. 4847: Mr. LAGOMARSINO, Mr. DANNEMEYER, Mr. LEWIS of Florida, and Mr. DEWINE.

H.R. 4855: Mr. HUGHES and Mr. SPRATT.

H.R. 4856: Mr. HUGHES and Mr. SPRATT.

H.R. 4873: Mr. SKAGGS and Mr. NAGLE.

H.R. 4880: Mr. LAGOMARSINO, Mr. ACKERMAN, Mrs. COLLINS, and Mr. FALEOMAVAEGA.

H.R. 4923: Mr. ATKINS.

H.R. 4955: Mr. SKEEN, Mr. ACKERMAN, and Mr. DWYER of New Jersey.

H.R. 4972: Mr. DANNEMEYER.

H.R. 4976: Mr. KOLTER, Mrs. COLLINS, Ms. KAPTUR, and Mr. PARRIS.

H.R. 4979: Mr. NATCHER.

H.R. 4990: Mr. EVANS, Mr. OWENS of New York, and Mr. FAZIO.

H.R. 4999: Mr. LANCASTER.

H.R. 5000: Mr. FALEOMAVAEGA, Mr. LAGOMARSINO, and Mr. MCMILLEN of Maryland.

H.R. 5013: Mr. ROBERTS, Mr. COMBEST, Mr. STANGELAND, Mr. BATEMAN, and Mr. LEATH of Texas.

H.R. 5028: Mr. BUSTAMANTE.

H.R. 5030: Mr. LIVINGSTON, Mr. WALKER, Mr. GOSS, Mr. CONTE, and Mr. FRENZEL.

H.R. 5031: Mr. LIVINGSTON, Mr. ARMEY, Mr. WALKER, and Mr. FRENZEL.

H.R. 5032: Mr. LIVINGSTON, Mr. WALKER, Mr. GOSS, Mr. CONTE, and Mr. FRENZEL.

H.R. 5033: Mr. LIVINGSTON, Mr. ARMEY, Mr. WALKER, Mr. GOSS, Mr. MACHTLEY, and Mr. FRENZEL.

H.R. 5034: Mr. LIVINGSTON, Mr. ARMEY, Mr. WALKER, Mr. CONTE, Mr. MACHTLEY, and Mr. FRENZEL.

H.R. 5035: Mr. LIVINGSTON, Mr. ARMEY, Mr. WALKER, Mr. GOSS, Mr. CONTE, Mr. MACHTLEY, and Mr. FRENZEL.

H.R. 5036: Mr. LIVINGSTON, Mr. ARMEY, Mr. WALKER, Mr. CONTE, Mr. MACHTLEY, and Mr. FRENZEL.

H.R. 5037: Mr. LIVINGSTON, Mr. ARMEY, Mr. WALKER, Mr. GOSS, Mr. CONTE, Mr. MACHTLEY, and Mr. FRENZEL.

H.R. 5038: Mr. LIVINGSTON, Mr. ARMEY, Mr. WALKER, Mr. GOSS, and Mr. FRENZEL.

H.R. 5039: Mr. LIVINGSTON, Mr. ARMEY, Mr. WALKER, Mr. GOSS, Mr. CONTE, Mr. MACHTLEY, and Mr. FRENZEL.

H.R. 5044: Mr. DEFAZIO, Mr. SCHEUER, Ms. SLAUGHTER of New York, Mr. VALENTINE, and Mr. JONTZ.

H.R. 5078: Mr. HORTON, Mr. LEWIS of Florida, Mr. MACHTLEY, Mr. OWENS of New York, Mr. RUSSO, Mr. STEARNS, and Mr. TOWNS.

H.R. 5097: Mr. DORGAN of North Dakota, Mrs. SMITH of Nebraska, and Mr. STANGELAND.

H.R. 5101: Mr. OWENS of New York and Mr. MORRISON of Connecticut.

H.R. 5129: Mr. BARTON of Texas, Mr. SCHEUER, Mr. MARTINEZ, Mr. WILSON, Mr. MCNULTY, Mr. FAUNTROY, Mr. DELLUMS, Mr. WAXMAN, Ms. SLAUGHTER of New York, Mr. BRUCE, and Mr. LEVINE of California.

H.R. 5208: Mr. BATES, Mr. LAFALCE, Mr. OBERSTAR, Mr. ANDREWS, Mr. HANSEN, Mr. MACHTLEY, Mr. DEFAZIO, Mr. MCDERMOTT, and Mr. RITTER.

H.R. 5218: Mr. BALLENGER and Mr. LOWERY of California.

H.J. Res. 81: Mr. SLAUGHTER of Virginia.

H.J. Res. 110: Mr. WOLF, Mr. STUMP, Mr. ROBINSON, Mrs. SAIKI, Mr. THOMAS of Wyoming, Mr. DENNY SMITH, Mr. BROOMFIELD, Mr. SKEEN, Mr. LAGOMARSINO, and Mr. BURTON of Indiana.

H.J. Res. 127: Mr. HEFNER.

H.J. Res. 374: Mr. GILMAN, Mr. TORRES, and Mr. PAXON,

H.J. Res. 431: Mr. BEREUTER, Mr. CONTE, Mrs. MORELLA, Mr. HARRIS, Mr. VALENTINE, Mr. JONTZ, and Mr. TAUKE.

H.J. Res. 439: Mr. MCCOLLUM.

H.J. Res. 459: Mr. CARDIN, Mr. WAXMAN, Mr. FAZIO, Mr. HOCHBRUECKNER, Mr. BEREUTER, Mr. PAYNE of New Jersey, Mr. DWYER of New Jersey, Mr. VANDER JAGT, and Mr. DORNAN of California.

H.J. Res. 462: Mr. HAYES of Illinois, Mr. KASICH, Mr. MURTHA, Mr. STANGELAND, Mr. OWENS of Utah, Mr. RAHALL, and Mr. DEFAZIO.

H.J. Res. 469: Mr. BOEHLERT, Mr. BROWN of Colorado, Mr. COX, Mr. HOYER, Mr. MCMILLEN of Maryland, Mr. RAY, Mr. SCHEUER, Mr. SMITH of New Jersey, Mr. SMITH of Florida, Mr. STALLINGS, and Mr. STEARNS.

H.J. Res. 481: Mr. BEREUTER, Mrs. COLLINS, Mr. DOUGLAS, Mr. FRANK, Mr. HAMMERSCHMIDT, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LEVINE of California, Mr. STUDDS, Mr. STOKES, Mr. STANGELAND, Mr. SOLOMON, Ms. SLAUGHTER of New York, Ms. OAKAR, Mr. PARRIS, Mr. ROWLAND of Connecticut, Mr. RICHARDSON, Mr. CLEMENT, Mr. CONYERS, Mr. HAMILTON, and Mr. STALLINGS.

H.J. Res. 507: Mr. KASICH, Mr. MCDERMOTT, Mr. FAUNTROY, Mr. FALEOMAVAEGA, Mr. MILLER of Washington, Mr. LEVIN of Michigan, Mr. PURSELL, Mr. HOCHBRUECKNER, and Mr. DORNAN of California.

H.J. Res. 509: Mr. MCDADE, Mr. CLINGER, Mr. HUBBARD, Mr. MCCLOSKEY, Mr. HOCHBRUECKNER, Mr. FAWELL, Mr. WELDON, and Mr. BRENNAN.

H.J. Res. 515: Mr. SARPALIUS, Mr. SMITH of Florida, Mr. GORDON, Mr. HORTON, Mr. LAFALCE, Mr. HYDE, Mr. YOUNG of Alaska, Mr. RUSSO, Mr. GUARINI, Mr. BRYANT, Mr. CHAPMAN, Mrs. BENTLEY, Mr. FAWELL, Mr. LEHMAN of Florida, Mr. MRAZEK, Mr. NEAL of North Carolina, Mr. ORTIZ, Mr. MATSUI, Mr. QUILLEN, Mr. DORNAN of California, Mr. BEVILL, Mr. RICHARDSON, Ms. OAKAR, Mr. FAUNTROY, Mr. FRENZEL, Mr. LEVIN of Michigan, Mr. COLEMAN of Texas, Mr. FOGLIETTA, Mr. ANDREWS, Mr. PARRIS, Mr. TALLON, Mr. ROBINSON, Mr. SCHEUER, Mr. DEFAZIO, Mr. TRAFICANT, Mr. WALGREN, Mr. FLIPPO, Mr. CARDIN, Mr. GONZALEZ, Mr. WYDEN, Mr. LAUGHLIN, Mr. KLECZKA, Mr. THOMAS of Wyoming, Ms. SLAUGHTER of New York, Mr. BROOKS, Mrs. LLOYD, Mr. STENHOLM, Mr. VALENTINE, Mr. WILSON, Mr. MCGRATH, Mr. SOLOMON, Mr. VANDER JAGT, Mr. DOWNEY, Mr. MARKEY, Mr. HOYER, Mr. LEATH of Texas, Mr. SUNDQUIST, Mr. UDALL, Mr. WASHINGTON, Mr. HAMMERSCHMIDT, Mrs. ROUKEMA, Mr. NAGLE, Mr. MCCLOSKEY, Mr. MCMILLEN of Maryland, Mr. PAYNE of New Jersey, Mr. TAUZIN, Mr. STARK, Mr. WELDON, Mr. CHANDLER, and Mr. KASICH.

H.J. Res. 521: Mr. NEAL of North Carolina, Mr. CRANE, and Mr. WEISS.

H.J. Res. 578: Mr. THOMAS A. LUKEN.

H.J. Res. 592: Mr. LEVINE of California.

H.J. Res. 593: Mr. LEVINE of California.

H.J. Res. 594: Mr. LEVINE of California.

H.J. Res. 603: Mrs. BENTLEY, Mr. BILIRAKIS, Mr. CHAPMAN, Mr. DEFAZIO, Mr. DE LA GARZA, Mr. FALEOMAVAEGA, Mr. GEKAS, Mr. HUTTO, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCNULTY, Mr. MATSUI, Mr. NAGLE, Mr. OWENS of New York, Mr. ROE, Mr. SLATTERY, Mr. SOLOMON, Mr. SPENCE, Mr. TRAXLER, Mr. WEBER, Mr. WOLF, Mr. BATES, Mr. BLILEY, Mrs. BOXER, Mr. COBLE, Mr. CONTE, Mr. COSTELLO, Mr. CRAIG, Mr. FAUNTROY, Mr. GONZALEZ, Mr. HORTON, Mr. HUGHES, Mr. JONTZ, Mr. LEVINE of California, Mr. NIELSON of Utah, Mr. OBEY, Mr. PARRIS, Mr. PAXON, Mr. ROBERTS, Mr. SKEEN, Mr. THOMAS of Wyoming, Mr. YOUNG of Alaska, Mr. ANDERSON, Mr. LANCASTER, Mr. WAXMAN, and Mr. KENNEDY.

H. Con. Res. 128: Mr. EMERSON.

H. Con. Res. 246: Mr. CROCKETT, Mr. PEASE, Mr. JOHNSON of South Dakota, Mr. BARNARD, Mr. MCGRATH, Mr. DICKINSON, Mr. LENT, Mr. FISH, and Mr. DEWINE.

H. Con. Res. 270: Ms. SLAUGHTER of New York, Mr. LEVINE of California, and Mr. BOSCO.

H. Con. Res. 293: Mr. STUDDS and Mr. WOLPE.

H. Con. Res. 294: Mr. TOWNS.

H. Con. Res. 315: Mr. ARMEY, Mr. CONYERS, Mr. MILLER of California, Mr. MINETA, and Mr. VENTO.

H. Res. 134: Mr. LEATH of Texas, Mr. CALLAHAN, Mr. TANNER, and Mr. SMITH of New Hampshire.

H. Res. 314: Mr. JONES of Georgia, Mr. JACOBS, Mr. SERRANO, Mr. HORTON, and Mr. LEHMAN of California.

H. Res. 347: Mr. MCMILLEN of Maryland.

H. Res. 390: Mr. ATKINS and Mr. OWENS of New York.

H. Res. 396: Mr. ACKERMAN, Mr. AUCOIN, Mr. BATEMAN, Mrs. BYRON, Mr. DEFAZIO, Mr. HUGHES, Mr. HORTON, Mr. KLECZKA, Mr. KENNEDY, Mr. LAGOMARSINO, Mr. NOWAK, Ms. PELOSI, Mr. PENNY, Mr. WAXMAN, Mr. Bosco, and Mr. DWYER of New Jersey.

H. Res. 418: Mr. JOHNSON of South Dakota, Mr. GIBBONS, Mr. DWYER of New Jersey, and Mr. COLEMAN of Missouri.

H. Res. 419: Mr. HORTON, Mr. NELSON of Florida, Mr. TOWNS, Mr. JACOBS, Mr. ARCHER, Mr. BALLENGER, Mr. BARTLETT, Mr. BARTON of Texas, Mr. BEREUTER, Mr. BLILEY, Mr. BUECHNER, Mr. BUNNING, Mr. CALLAHAN, Mr. CLINGER, Mr. COMBEST, Mr. CONTE, Mr. COX, Mr. CRAIG, Mr. CRANE, Mr. DOUGLAS, Mr. DUNCAN, Mr. FRENZEL, Mr. GALLO, Mr. GEKAS, Mr. GOSS, Mr. GRADISON, Mr. GRANDY, Mr. HANCOCK, Mr. HANSEN, Mr. HASTERT, Mr. HEFLEY, Mr. HERGER, Mr. HOLLOWAY, Mr. HOUGHTON, Mr. INHOFE, Mr. JAMES, Mr. KYL, Mr. LEWIS of Florida, Mr. CONYERS, Mr. MACHTLEY, Mr. MARLENEE, Mr. MCCRERY, Mrs. MEYERS of Kansas, Mrs. MORELLA, Mr. NIELSON of Utah, Mr. PAXON, Mr. RAVENEL, Mr. ROGERS, Mr. ROHRABACHER, Mr. ROTH, Mr. SAXTON, Mr. SCHAEFER, Mr. SCHULZE, Mr. SHAW, Mr. SKEEN, Mr. SMITH of Vermont, Mr. SMITH of Texas, Mrs. SMITH of Nebraska, Mr. SPENCE, Mr. STEARNS, Mr. STUMP, Mr. UPTON, Mr. WALSH, Mr. WELDON, Mr. WYLIE, Mr. ASPIN, Mr. TRAXLER, and Mr. RICHARDSON.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5115

By Mr. HAWKINS:

—Title IX is amended by adding a new part:

"PART —REPORTS, PLANS AND REGULATIONS

The General Education Provisions Act is amended by adding a new part:

PART —REPORTS, PLANS AND REGULATIONS

"(a) REPORTS.—Any report required by law to be conducted by the Department of Education shall not be subject to prior review or approval by the Office of Management and Budget.

"(b) RESEARCH AND PLANS.—Any research or evaluation plans, methodology, surveys or findings developed pursuant to law by the Department of Education shall not be subject to prior review or approval by the Office of Management and Budget.

"(c) REGULATIONS.—The final determinations made by the Office of Management and Budget regarding any regulations issued by the Secretary of Education—

"(1) shall be made in writing;

"(2) such include an explanation of such determinations; and

"(3) shall be part of the public rulemaking record."

—Title IX is amended by adding a new part:

"PART —NEGOTIATED RULEMAKING

The General Education Provisions Act is amended by adding a new part:

"PART —NEGOTIATED RULEMAKING

"(a) IN GENERAL.—When developing and promulgating regulations for any programs administered by the Department of Education, the Secretary shall use the negotiated rulemaking procedure provided by the Administrative Conference of the United States in Recommendation 85-5, 'Procedures for Negotiating Proposed Regulations' (December 13, 1985) and any successor regulation.

"(b) PROCEDURE.—

"(1) Before publishing proposed regulations for any applicable program, the Secretary shall convene regional meetings which shall provide comments to the Secretary on the content of proposed regulations. Such meetings shall include representatives of Federal, State and local interested parties, as appropriate for the program for which the regulations are being promulgated.

"(2) After holding regional meetings and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations and submit each such regulation to the negotiated rulemaking process. The Secretary shall follow the guidance provided by the Administrative Conference of the United States in Recommendation 85-5. "Procedures for Negotiating Proposed Regulations" (December 13, 1985) and any successor regulation. Participants in the negotiation process shall be chosen by the Secretary from among participants in the regional meetings, representing the groups described in paragraph (1) and all geographic regions. The negotiation process shall be conducted in a timely manner in order that final regulations may be issued by the Secretary within the 240-day period required by section 431(g) of the General Education Provisions Act.

"(3) If a regulation must be issued within a very limited time period to assist State and local educational agencies and institutions of higher education with the operation of a program, the Secretary may issue a regulation without fulfilling the requirements of paragraphs (1) and (2), but shall immediately convene regional meetings to review the regulation before it is issued in final form.".

—H.R. 5115 is amended to add a new title:

TITLE —ACCESS TO EDUCATION

SECTION 1. SHORT TITLE.

This Act may be cited as the "Access to Education Act of 1989".

SEC. 2. PURPOSE.

The purpose of this Act is to remove barriers to access to educational excellence from Federal education programs, and to support State and local efforts to increase the opportunities for parents, particularly parents of disadvantaged children, parents of minority children, and parents of children who reside in rural areas, to enroll their children in excellent schools and educational programs of their own selection.

PART A—ACCESS AND CHOICE IN FEDERAL EDUCATION PROGRAMS

SEC. 101. AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

(a) USES OF CHAPTER 1 FUNDS.—Subsection (b) of section 1011 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2721) is amended to read as follows:

"(b) INNOVATIVE PROJECTS.—

"(1) IN GENERAL.—Subject to the approval of the State educational agency, a local educational agency may use not more than 5 percent of payments under this part for the costs of conducting innovative projects developed by the local educational agency that include only—

"(A) the continuation of services to children eligible for services in any preceding year for a period sufficient to maintain progress made during their eligibility;

"(B) the provision of continued services to eligible children transferred to ineligible areas or schools as part of a desegregation plan or open enrollment system;

"(C) incentive payments to schools that have demonstrated significant progress and success in attaining the goals of this chapter;

"(D) training of chapter 1 and nonchapter 1 paid teachers and librarians with respect to the special educational needs of eligible children and integration of activities under this part into regular classroom programs;

"(E) programs to encourage innovative approaches to parental involvement or rewards to or expansion of exemplary parental involvement programs;

"(F) encouraging the involvement of community and private sector resources (including fiscal resources) in meeting the needs of eligible children; and

"(G) assistance by local educational agencies of schools identified under section 1021(b).

"(2) ADDITIONAL FUNDS FOR CONTINUATION OF SERVICES.—In addition to any amounts used by a local educational agency under paragraph (1) for the purpose described in subparagraph (B) of such paragraph, a local educational agency may use not more than 15 percent of payments under this part for such purpose.".

(b) CHILDREN PARTICIPATING IN DESEGREGATION AND OPEN ENROLLMENT SYSTEMS.—Section 1014 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2724) is amended by adding at the end the following new subsection:

"(e) CHILDREN PARTICIPATING IN DESEGREGATION AND OPEN ENROLLMENT SYSTEMS.—A local educational agency may provide services in accordance with this part to educationally deprived children who, under a desegregation plan or open enrollment system, attend a school which is not located in an eligible school attendance area.".

(c) ACTIVITIES TO INCREASE PARENTAL INVOLVEMENT.—Section 1016(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2726(b)) is amended—

(A) by striking "and" at end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) to provide parents of participating students with information about existing opportunities with respect to choosing the school or program funded under this chapter in which the student will be enrolled, and, if the local educational agency is under an open enrollment system, to describe the services under this chapter that will be provided to the student, pursuant to sections 1011(b)(1)(B), 1011(b)(2), and 1014(e), if the parent elects to enroll the student in a school which is not located in an eligible school attendance area.".

(d) PROGRAM IMPROVEMENT.—The last sentence of paragraph (2) of section 1020(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2731(b)(A)(ii)) is amended by inserting before the period the following: "including systems under which

parents may select, from among available programs assisted under this chapter, the program in which their child participates".

(e) DEFINITION OF OPEN ENROLLMENT SYSTEM.—Section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891) is amended—

(1) in paragraph (7), by inserting after "secondary school levels" the following: ", that may be a part of an open enrollment system,"; and

(2) by adding at the end the following new paragraph:

"(24) The term 'open enrollment system' means a system adopted by a State educational agency or local educational agency under which parents may select the school or program in which their child is enrolled.".

(f) TARGETED USE OF FUNDS.—Paragraph (6) of section 1531(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2941(b)) is amended by inserting after "technology education programs," the following: "planning and implementation of open enrollment systems,".

(g) EFFECTIVE SCHOOLS.—Section 1542 of the Elementary and Secondary Education Act (20 U.S.C. 2952) is amended by inserting after "secondary school levels" the following: ", that may be a part of an open enrollment system,".

SEC. 102. AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965.

Section 484 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(k) SPECIAL RULES FOR SECONDARY SCHOOL PARTICIPANTS IN OPEN ENROLLMENT SYSTEMS.—(1) For purposes of the grant assistance programs under subparts 1, 2, and 3 of part A of this title, a secondary school student who is enrolled or accepted for enrollment in classes offered by an institution of higher education pursuant to an open enrollment system provided in accordance with State law, and who is otherwise eligible for such grant assistance, shall be eligible for such a grant notwithstanding—

"(A) that such student is not enrolled in a degree, certificate, or other program leading to a recognized educational credential as required by subsection (a)(1) of this section;

"(B) any prohibition on eligibility contained in such subparts with respect to students attending on less than a full-time or half-time basis;

"(C) the last sentence of subsection (d) of this section.

Subparagraph (B) of this paragraph shall not operate to grant to any such secondary school student a priority or preference in the award of such grant assistance.

"(2) A period of enrollment during which a student described in paragraph (1) receives grant assistance shall not be counted towards the limitations contained in sections 411(c)(1)(A) and 413B(b) of this title.

"(3) An institution shall not be regarded as violating the requirements of section 1201(a)(1) by reason of the admission of students described in paragraph (1) of this subsection.

"(4) The total amount of grant assistance described in paragraph (1) that may be awarded to a student described in such paragraph shall not exceed the cost of attendance for such student, less the portion of such cost which is provided by a State or local educational agency pursuant to an open enrollment system.

"(5) For purposes of this subsection, the term 'open enrollment system' has the meaning given such term in section 1471(24) of the Elementary and Secondary Education Act of 1965, except that such term does not include a system established by a State or local educational agency if such agency reduces the portion of the cost of attendance it otherwise provides to a student under such system on the basis of the student's eligibility for grant assistance described in paragraph (1) of this subsection.".

SEC. 103. AMENDMENT TO THE DEFENSE DEPENDENTS EDUCATION ACT OF 1978.

Subsection (b) of section 1407 of the Defense Dependent's Education Act of 1978 (20 U.S.C. 926) is amended by striking the first sentence and inserting the following: "The Secretary of Defense shall provide funds to allow any dependent in an overseas area to attend a school other than a school established under subsection (a) whenever the parent of such dependent determines that attendance at such school will be in the best interest of the dependent. Such funds may be used only for the costs of tuition and incidental education expenses, including books, materials, and travel expenses where necessary. The amount of funds the Secretary shall provide to the parent under this subsection for such tuition and expenses shall be equal to the average per pupil cost at the school established under subsection (a) in which the dependent would otherwise be enrolled, unless the Secretary determines that the actual cost of such tuition and expenses is less than such average per pupil cost.".

PART B—DEMONSTRATION PROJECTS AND RESEARCH

SEC. 201. GRANTS TO STATE EDUCATIONAL AGENCIES.

(a) STATEMENT OF PURPOSE.—The Secretary is authorized to make grants to State educational agencies to develop and expand policies, programs, and projects that increase opportunities of parents, particularly parents of disadvantaged children, parents of minority children, and parents of children who live in rural areas, to select the school or program attended by their children.

(b) ELIGIBILITY.—Any State educational agency, or consortium of such agencies, is eligible to receive a grant under this section.

(c) USES OF FUNDS.—Funds provided under grants under this section may be used to—

(1) assist in the development of State policies and procedures for open enrollment among schools or programs;

(2) develop materials and disseminate information that will assist parents, particularly parents of disadvantaged children, parents of minority children, and parents of children who live in rural areas, in identifying schools or programs that have the greatest potential for meeting the educational needs of their children;

(3) provide technical assistance to local educational agencies in planning and implementing open enrollment policies and procedures, including advice on effective outreach efforts to parents and on developing distinctive schools and programs;

(4) collect and report data related to open enrollment policies in the schools; and

(5) evaluate open enrollment policies and programs implemented in the State.

(d) APPLICATIONS.—

(1) IN GENERAL.—Any State educational agency that desires to receive a grant under this section shall submit to the Secretary an application in such form, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

(A) contain an assurance that the funds provided under the grant will be used for the purposes described in subsection (c);

(B) describe the need for the grant, including existing barriers to open enrollment and parental selection of schools and programs;

(C) describe the objectives of the project and how those objectives will increase access to excellent, distinctive, and diverse schools and programs and promote opportunities for parents to select such schools and programs, particularly parents of disadvantaged children, parents of minority children, and parents of children who live in rural areas;

(D) contain an assurance that any project assisted with funds under this section will not result in segregation based upon race, religion, color, national origin, sex, or handicap, or impede the progress of desegregation among the schools within the State; and

(E) contain an assurance that the State educational agency will provide assistance to the project, in cash or in kind, in an amount at least equal to the amount of funds awarded under the grant.

(2) APPLICATIONS FOR CONTINUATION OF GRANTS.—A State educational agency that receives assistance under this section for 1 year may not receive such assistance under this section for any later years unless such agency includes in its application for continuation of such assistance, in addition to the information and assurances required by paragraph (1), a description of the methods employed by such agency to fulfill the assurance described in paragraph (1)(D).

(e) PRIORITY.—The Secretary shall give priority for grants under this section to State educational agencies that propose projects that—

(1) have the greatest potential for increasing the educational options of disadvantaged students, minority students, or students who live in rural areas;

(2) will provide mechanism that foster parental involvement and decisionmaking in the selection of a school or program for the child; and

(3) will promote enrollment of students in school districts other than the districts in which they reside.

(f) DURATION OF AWARDS.—Grants under this section may be awarded for a period not to exceed 3 years.

(g) COOPERATION.—Any State educational agency that receives a grant under this section shall, to the extent practicable, cooperate with research activities carried out under section 204.

SEC. 202. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) PURPOSE.—The Secretary is authorized to make grants to local educational agencies for open enrollment demonstration projects that increase the access of parents to excellent, distinctive, and diverse schools or programs that—

(1) have the potential to meet the educational needs of their children; and

(2) promote parental choice in the selection of such schools or programs.

(b) ELIGIBILITY.—Any local educational agency that is eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) may apply for a grant under this section. A consortium of local educational agencies, State educational agencies, or institutions of higher education may apply for a grant under this section if—

(1) the purpose of the consortium is to conduct open enrollment programs; and

(2) the consortium includes at least 1 local education agency eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.).

(c) USES OF FUNDS.—Funds provided under grants under this section may be used to—

(1) develop policies, procedures, and plans to establish or expand an open enrollment system of excellent, distinctive, and diverse schools or programs;

(2) conduct outreach and dissemination activities to inform parents of their choices, rights, and obligations under the open enrollment system;

(3) foster participation of teachers and administrators in the design of excellent, distinctive, and diverse schools or programs;

(4) foster participation and decisionmaking on the part of parents with students in the schools or programs of the open enrollment system; and

(5) evaluate the effectiveness of the open enrollment system.

(d) APPLICATIONS.—

(1) IN GENERAL.—Any local educational agency that desires to receive a grant under this section shall submit to the Secretary an application in such form, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

(A) contain an assurance that funds provided under the grant will be used for the purposes described in subsection (c);

(B) describe the need for such funds, including existing barriers to open enrollment and parental selection of schools and programs;

(C) describe the objectives of the project and how those objectives will increase access to excellent, distinctive, and diverse schools and programs and promote opportunities for parents to select such schools and programs for their children, particularly parents of disadvantaged children, parents of minority children, and parents of children who live in rural areas;

(D) describe plans for outreach and dissemination efforts to parents;

(E) describe the involvement of teachers and administrators in designing excellent, distinctive, and diverse schools and programs;

(F) describe plans for evaluation of the project, including criteria for—

(i) determining the effectiveness of the school or program; and

(ii) deciding whether to continue, modify, or discontinue a program or the participation of a school in the project; and

(G) contain an assurance that any project assisted with funds under this section will not result in segregation based upon race, religion, color, national origin, sex, or handicap, or impede the progress of desegregation among the schools of the applicant.

(2) APPLICATIONS FOR CONTINUATION OF GRANTS.—A local educational agency that receives assistance under this section for 1 year may not receive such assistance under this section for any later year unless such agency includes in its application for continuation of such assistance, in addition to the information and assurances required by paragraph (1), a description of the methods employed by such agency to fulfill the assurance described in paragraph (1)(G).

(3) OPPORTUNITY FOR COMMENT BY STATE EDUCATIONAL AGENCY.—Each local educational agency that submits an application to the Secretary under this subsection shall also provide a copy of such application to the appropriate State educational agency. The State educational agency may review such application and provide comments to the Secretary with respect to such application not later than the expiration of the 30-day period beginning on the date that the application is submitted to the Secretary and to the State educational agency.

(e) PRIORITY.—The Secretary shall give priority for grants under this section to local educational agencies that propose projects that—

(1) have the greatest potential for increasing the educational options of disadvantaged students, minority students, or students who live in rural areas;

(2) provide mechanisms that foster parental involvement and decisionmaking in the selection of a school or program for their child;

(3) provide for increased autonomy for teachers and principals in the design and operation of the school or program; and

(4) maximize the range of educational choices available to families.

(f) DURATION OF AWARDS.—Grants under this section may be awarded for a period not to exceed 3 years.

(g) COOPERATION.—Any local educational agency that receives a grant under this section shall, to the extent practicable, cooperate with—

(1) activities carried out with assistance under section 201 by the State educational agency of the State in which the local educational agency is located; and

(2) research activities carried out under section 204.

SEC. 203. DISSEMINATION OF EVALUATION RESULTS.

Any local educational agency or State educational agency that receives a grant under this title shall provide a copy of results of evaluations of programs assisted under such grants to the Educational Resources Information Center.

SEC. 204. RESEARCH AND DISSEMINATION.

(a) GENERAL AUTHORITY.—The Secretary, through the Office of Educational Research and Improvement, is authorized to conduct research on open enrollment and to disseminate the results of that research. The Office of Educational Research and Improvement may conduct such research and dissemination directly or through grants, contracts, or cooperative agreements with institutions of higher education, State educational agencies, public or private non-profit organizations, or individual researchers.

(b) PROGRAM REQUIREMENTS.—Each recipient of funds under this section for purposes of conducting research shall submit a copy of its final research to the Educational Resources Information Center.

(c) FEDERAL DISSEMINATION.—To the extent possible, the Secretary shall provide information to State and local educational agencies regarding opportunities for dissemination of exemplary programs under this title through the National Diffusion Network established under section 1562 of the Elementary and Secondary Education Act of 1965. The Secretary shall coordinate the identification of exemplary projects with the National Diffusion Network.

SEC. 205. DEFINITIONS.

For purposes of this title:

(1) The term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act.

(2) The term "open enrollment system" means a system adopted by a State educational agency or local educational agency under which parents may select the school or educational program in which their child will be enrolled.

(3) The term "Secretary" means the Secretary of Education.

(4) The term "State educational agency" has the meaning given such term in section 1471(23) of the elementary and Secondary Education Act.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For purposes of carrying out this title, there are authorized to be appropriated $40,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, 1994, and 1995.

(b) AMOUNTS FOR RESEARCH AND DISSEMINATION.—From the amounts appropriated under subsection (a) in any fiscal year, the Secretary may reserve not more than $1,000,000 for purposes of carrying out section 204.

PART C—EQUITY IN EDUCATION

SECTION 301.—In order to participate in any of the activities authorized under Part A or B of this title, a State educational agency, local educational agency, or institution of higher education must be located in a State which is certified as in compliance with the provisions of section 302 (c).

SEC. 302. SECRETARY'S REVIEW OF PUBLIC EDUCATION.

(a) SECRETARIAL REVIEW.—Not later than January 1, 1991, and January 1 of each subsequent year, the Secretary of Education shall review each State's methods of financing its public elementary and secondary schools.

(b) CERTIFICATION.—Not later than January 1, 1991, and January 1 of each subsequent year, the Secretary of Education shall certify all States in which the funding for public education in the State meets the standards for equalized spending under subsection (c).

(c) STANDARDS FOR REVIEW.—

(1) In conducting any review under this title, the Secretary shall use the expenditure disparity and wealth neutrality standards utilized in carrying out Public Law 81-874, as amended.

(2)(A) Except as provided in subparagraph (B), the Secretary shall follow the regulations concerning such standards as in effect on March 22, 1977.

(B) For the purposes of the Secretary's review under this section—

(i) the expenditure disparity within any State may not exceed 5 percent, and

(ii) the wealth neutrality shall include not less than 95 percent of the revenues within the State.

H.R. 5170

By Mrs. ROUKEMA:

—At the end of the bill, add the following new titles:

TITLE III—AIRCRAFT NOISE REDUCTION

SEC. 301. FINDINGS.

Congress finds that—

(1) the Federal Aviation Administration implemented the Expanded East Coast Plan in air routes along the east coast of the United States in 1987;

(2) the Expanded East Coast Plan has resulted in widespread noise pollution in New Jersey;

(3) the Port Authority of New York and New Jersey has substantiated thousands of citizen compliants in a comprehensive report relating to aircraft noise;

(4) the General Accounting Office has critized the Federal Aviation Administration

for not foreseeing the environmental impact associated with implementation of the Expanded East Coast Plan;

(5) the General Accounting Office has advised the Federal Aviation Administration to utilize more efficiently special use air space;

(6) the Federal Aviation Administration has failed to offer relief from noise resulting from the operation of airports to the citizens of New Jersey;

(7) the Federal Aviation Administration plans to implement air route changes in the Los Angeles and Chicago areas similar to those implemented along the East Coast; and

(8) the Federal Aviation Administration and the States and local airport operators have failed to develop a national policy on aircraft noise abatement in the United States.

SEC. 302. COMPREHENSIVE AIRCRAFT NOISE REDUCTION PLAN.

(a) DEVELOPMENT AND IMPLEMENTATION.—Not later than 30 days after the date of the enactment of this Act, the Administrator shall develop, in cooperation with the Governor and the Legislature of the State of New Jersey, a comprehensive plan for reducing noise resulting from the operation of airports in the States of New Jersey and New York, shall transmit to Congress and the Governor and the Legislature of the State of New Jersey a copy of such plan, and shall commence implementation of such plan.

(b) REPORTS ON IMPLEMENTATION.—The Administrator—

(1) at least every 60 days after development of the noise reduction plan under subsection (a), shall, in cooperation with the Port Authority of New York and New Jersey, submit to the Governor and the Legislature of the State of New Jersey on the execution of such plan and progress made in reducing noise levels under such plan; and

(2) shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate biennial reports on reductions in noise levels under such plan.

(c) USE OF SPECIAL AIR SPACE.—Not later than 60 days after the date of enactment of this Act, the Administrator shall enter into an agreement with the Secretary of Defense for the purposes of increasing the use by air carriers of special-use air space over the Atlantic Ocean which is not being used as scheduled by military aircraft.

SEC. 303. ENVIRONMENTAL IMPACT STATEMENTS WITH RESPECT TO CERTAIN AIR ROUTE CHANGES.

In any case in which the Administrator proposed to change an air route at or below an altitude of 19,000 feet, including proposed air route changes in the Los Angeles and Chicago areas for the purpose of mitigating aircraft delays and congestion, the Administrator shall issue an environmental impact statement in accordance with the provisions of the National Environmental Policy Act of 1969.

SEC. 304. PUBLIC HEARINGS WITH RESPECT TO CERTAIN AIR ROUTE CHANGES.

In any case in which the Administrator proposes comprehensive air route changes, the Administrator shall hold at least 2 public hearings in the States or geographic areas affected by such proposed changes and shall hold at least 1 public hearing in the States or geographic areas affected by such changes in each of the 2 years following implementation of such changes.

SEC. 305. NATIONAL POLICY ON AIRCRAFT NOISE REDUCTION.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall establish in the Department of Transportation advisory committees with broad representation of States, local airport operators, and air carriers for the purpose of developing a national policy on reducing noise resulting from the operation of airports. Such advisory committee shall review existing Federal, State, and local programs for aircraft noise abatement. Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the recommendations of such advisory committees concerning such policy together with the recommendations of the Administrator concerning such policy.

SEC. 306. RECOMMENDATIONS CONCERNING PHASING OUT STAGE II AIRCRAFT.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of the Treasury, shall submit to Congress legislative recommendations concerning the phaseout of the commercial fleet of Stage II aircraft, including recommendations concerning a date after which such aircraft may not be used. Such recommendations must include financial incentives for the purpose of expediting the retrofitting and the retirement of such Stage II aircraft.

SEC. 307. DEFINITIONS.

For purposes of this title—

(1) the term "Administrator" means the Administrator of the Federal Aviation Administration;

(2) the term "aircraft" has the meaning such term has under section 101 of the Federal Aviation Act of 1958; and

(3) the term "air carrier" has the meaning such term has under such section.

Conform the table of contents of the bill accordingly.

SENATE—*Tuesday, July 10, 1990*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Senate will be led in prayer by the Chaplain, the Reverend Richard C. Halverson.

Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The Lord shall preserve thy going out and thy coming in from this time forth, and even for evermore.—Psalm 121:8.

Gracious Father in Heaven, we thank Thee for Thy faithfulness to all who serve in this place and their families during this last recess—for safety in travel, for family time together, for strength for the work required, for time with constituents and exposure to the people, for rest, recreation, and renewal. Thank Thee, Father, for Thy loving care, provision, and guidance. Grant that the Senators and their staffs will be enabled in these next 4 weeks to accomplish everything necessary and desirable. Deliver them from trivial and futile activity and guide them in the way of truth and justice.

In Jesus' name who is truth incarnate. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 10 o'clock this morning, the Senate will begin consideration of S. 2104, the civil rights bill.

The Senate will recess today from 12:30 p.m. until 2:15 p.m. for the respective party conferences.

Mr. President, for the information of my colleagues, it is my hope that we will be able to complete action on the civil rights bill this week.

We will also complete action on the crime bill on tomorrow, Wednesday, pursuant to the previous order with respect to that measure.

It is my hope that we will also be able to take up and complete action on the textiles legislation under a time agreement.

We will also attempt to consider the Americans with Disabilities Act conference report during this week, and then I hope that we can begin work on the farm bill this week. The latter is an important measure affecting many American families and the constituents of many of our colleagues. It is my hope that we can get to it and complete action on it as soon as possible.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Michigan is recognized for not to exceed 5 minutes.

Mr. LEVIN. I thank the Chair.

NIKOLA TESLA

Mr. LEVIN. Mr. President, I rise today to commemorate the birthday of a great inventor and a proud American citizen. At the stroke of midnight on July 10, 1856, Nikola Tesla was born, amid an immense electrical storm. This storm now seems a bit prophetic, considering the electrical revolution which Tesla's inventions have caused. Nikola Tesla's contributions to our society are as significant and expansive as that of any inventor. Despite this fact, however, he has been neglected by historians.

It would be difficult to go through a day without benefiting from one of Mr. Tesla's inventions. Of his 111 patents, probably the most important is his polyphase alternating current generator, which serves as the basis of our present electrical system. When he sold the patents for this generator to the Westinghouse Electric Co. in 1888, a bitter struggle between Mr. Tesla and Thomas Edison ensued. Mr. Edison argued that there were grave dangers in an alternating current system and, instead, championed a direct current approach to generating electricity. Mr. Edison's warnings proved inaccurate, and as we all know, the alternating current system continues to provide electricity safely throughout the world today. In 1893, three historic events marked the triumph of Mr. Tesla, and ushered in the electric age. The first was the awarding of the contract to build the first electrical generators by the Niagara Falls Commission to the Westinghouse Electric Co. This led to a contract between Westinghouse and General Electric to build distribution lines to Buffalo, NY, thus paving the way for the transmission of electric current throughout America.

Also in 1893, Westinghouse Electric Co. won the illumination contract for the Chicago World's Fair. The fair showcased Mr. Tesla's system of alternating current as well as tube lighting, another one of his inventions. In a dramatic ceremony, President Grover Cleveland turned on a lavish lighting spectacle which introduced millions of Americans to electric light.

Finally, in that same year, Mr. Tesla gave two lectures in which he described the Tesla Coil which he had invented and patented 2 years earlier. This coil is still widely used today as the vital component of radios, television sets, and other electronic devices.

Despite these and many other important achievements, Nikola Tesla has not been granted his proper place in history. In the Smithsonian Institution, for example, Mr. Edison's inventions are justifiably well represented. However, although the museum has included Mr. Tesla's alternating current generators in their exhibit, no mention is made of Mr. Tesla. In fact, the generator is included as part of the Edison exhibit.

There are a number of reasons why Mr. Tesla has not been accorded his proper place in history. First of all, he was a free spirit, a maverick of sorts. Once he invented the basic technology for an invention, he would sell the patents rather than mire himself in the tedious details of transforming the invention into a commercially viable product. In addition, Tesla was an independent inventor. He functioned outside of the influences of large cor-

porations and, consequently, he was not given the financial backing afforded others. Thus, Nikola Tesla remains as mysterious and underappreciated today as he had been when he was alive, that is, except perhaps for a special third grade class in Dexter, MI.

The great contributions of this inventor would have been overlooked by myself as well had it not been for John Wagner, a remarkable teacher from Dexter, MI, and his enthusiastic third grade class at the Bates Elementary School. They have sought to raise our awareness of this inventor with dogged determination. This class has taken exception to the inadequate coverage of Mr. Tesla by the Smithsonian Institution, and has aggressively lobbied the museum to correct it. Mr. Wagner and his students have already enlisted the support of tens of thousands of people throughout the country in an effort to correct the treatment of Mr. Tesla by our museums and history books. In addition, the class raised enough money to commission a bust of Nikola Tesla, with the intention of placing it in the Smithsonian. While the Smithsonian has yet to accept the bust, the students have succeeded in raising this country's consciousness about the true genius of this inventor and have secured a promise by the Smithsonian to run a temporary exhibit on Mr. Tesla's accomplishments in 1933. I commend them for their efforts.

Mr. President, as this third grade class has helped me realize, Nikola Tesla was an extraordinary man who deserves to be given his proper place in history. His monumental accomplishments have been overlooked and underappreciated for too long. On this, the 134th anniversary of his birth, I am proud to bring to the attention of my collegues the remarkable life and work of Nikola Tesla. We are in his debt for the work he did to improve the quality of our lives.

I thank the Chair. I yield the floor. I note the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

THE 30TH YEAR OF SERVICE OF SENATOR QUENTIN BURDICK

Mr. CHAFEE. Mr. President, for 30 years the people of North Dakota have been served effectively and diligently in this body by my colleague and friend, QUENTIN BURDICK.

As a member of the Committee on Environment and Public Works since coming to the Senate, I have worked closely with the distinguished Senator who now chairs our committee.

Over the years we have worked side-by-side on important environmental and public works issues such as the Clean Water Act and the Federal Aid Highway Program.

The senior Senator from North Dakota has always treated his colleagues with courtesy and fairness. And these two qualities have been the hallmark of his chairmanship of the committee since he assumed that position in January 1987.

While he brings a Western State's perspective to his work, he has balanced this interest with the more important consideration of crafting legislation that will protect the environment and improve our transportation system in all 50 States.

Service to country has been a tradition in the Burdick family. Senator BURDICK's father served for some 20 years in the House of Representatives. When his father retired in 1958, QUENTIN BURDICK won election to his seat and 2 years later moved on to become Senator. Only 35 of the 1,792 distinguished Americans who have served as Members of the Senate have served for a longer period of time.

I join with my colleagues in holding Senator BURDICK in high regard and in congratulating him on his 30 years of distinguished service in the Senate.

IN TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. ROBB. Mr. President, I rise to address an issue which does not divide us, either in this Chamber or across this Nation. All Americans admire competence; all Americans respect dedication, and I believe that all Americans will join me in honoring our colleague, Senator QUENTIN BURDICK.

It is no mean feat to stay in any job for 30 years. To survive and to succeed in the U.S. Senate for such a prodigious career is a tribute to Senator BURDICK's single mindedness, patience, wisdom, and above all his focus on his constitutents.

His dedication and perseverance are an example to every Member, and are truly worthy of emulation. I join with my colleagues, the people of Virginia, and indeed all Americans in offering congratulations and thanks for his devoted service to Senate, State, and Nation.

BURNS' TELECOMMUNICATIONS LEGISLATION

Mr. DOLE. Mr. President, I am pleased to be an original cosponsor of the legislation introduced just before the recess by my friend Senator BURNS. I am tempted to call the bill "visionary"—but that is not quite right, because the facts are plain to see for those who want to look. I would call it "futuristic," except in this instance the future is now.

I think the word for this legislation is "provocative." It is provocative in the best sense, in that it is intended to provoke action; to move this body off dead center in developing communication technology, enhancing our competitiveness, and opening up new pathways of information, education, and service for all Americans, in particular rural Americans.

The future is not in excluding competitive technologies. It is in using all the available tools to provide the services that communities need and consumers want.

The future is Bob Boaldin, of Elkhart, KS, whose family-run independent telephone company has already installed fiber optic cable and is using it to provide top of the line telephone, video and information services to his rural community—and educational interactive links to and between schools in the area. This bill is about catching up with the Boaldins of Kansas.

Some may find it provocative in other ways. Let us take a look at what this bill is not. It is not "free the bells," or so-called MFJ legislation; it applies only to independent telephone companies, permitting them to provide video services under limited conditions and with restrictions on content ownership.

It is not an anticable industry bill. We have some cable operators in Kansas who provide outstanding service, and have made a huge difference to their communities, bringing news, information and entertainment to places, and with a diversity, never before available. Frankly, Mr. President, I want more of these benefits. That is why I am for this bill. Cable can provide these things, Mr. President, because 6 years ago Congress freed it from its regulatory constraints so it could compete. That has enabled cable to attract investment, to grow, and to diversify. All of us have benefitted.

It only seems reasonable that other ways of providing communications service get the same chance to compete. The Senate Commerce Committee and now a subcommittee over in the other body each are reporting out legislation to restructure and in some ways reregulate the cable television industry. These efforts were prompted, in turn, by widely publicized complaints from consumers about cable rates and service.

It just seems to me, Mr. President, that competition is the best answer. Regulation of the cable industry stunted its growth; competition provoked, if you will, growth and diversification. So that is the approach I favor.

And that is why I hope that my colleagues will give thorough and serious consideration to this "provocative" bill. Thank you, Mr. President.

SENATOR QUENTIN BURDICK

Mr. AKAKA. Mr. President, it is indeed a privilege for me to rise today to honor the great Senator from North Dakota, QUENTIN BURDICK, on the occasion of his 30th anniversary of service in the U.S. Senate to the people of his State and our country.

While my association with Senator BURDICK as a colleague in this august body is recent, I have worked with him for many years as a fellow conferee—he as the leader of the conferees from the Senate, I as a member of the House delegation, on the Appropriations Subcommittee on Agriculture. I got to know him in this capacity as a very effective voice for his constituents, and therefore, am not surprised that the voters in his State have returned him to the Senate for three decades, 30 years of outstanding and distinguished service which his constituents have recognized.

Let me also take this opportunity to say to my esteemed colleague, the senior Senator from North Dakota, that I enjoyed his company at a dinner that we shared with the astronauts of the STS 51-C *Discovery* flight on the eve of their launch on a successful space mission on January 24, 1985. He was a guest of astronaut James F. Buchli who hails from his State, and I was a guest of astronaut Ellison Onizuka of Hawaii. I am happy that our paths have crossed again in the Senate.

I am proud to be a friend and colleague, of Senator BURDICK, and I look forward to working with him for many years.

THE 1990 JULY QUARTERLY REPORTS

Mr. MITCHELL. Mr. President, the mailing and filing date of the July Quarterly Report required by the Federal Election Campaign Act, as amended, is Sunday, July 15, 1990. All principal campaign committees supporting Senate candidates in the 1990 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116. Senators may wish to advise their campaign committee personnel of this requirement.

The Public Records Office will be open from 12 noon until 4 p.m. on Sunday, July 15, to receive filings. In general, reports will be available 24 hours after receipt. For further information, please do not hesitate to contact the Office of Public Records on (202) 224-0322.

TERRY ANDERSON, FRANK REED, AND BRIAN KEENAN

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,942d day that Terry Anderson has been held in captivity in Beirut.

In addition, I would like to remark that recent Air Force and Justice Department tests have indicated that those who held former hostage Frank Reed poisoned him regularly with arsenic. We can only hope that those holding the other hostages do not engage in similar practices, practices which make the already inhumane act of hostage-taking even more so.

On a more encouraging note, it is now widely reported that another Western hostage might soon be released. The hostage is believed to be Brian Keenan of Ireland.

Mr. President, I ask unanimous consent that an AP wire story discussing recent developments with the hostages be reprinted at this point in the RECORD.

There being no objection, the story was ordered to be printed in the RECORD, as follows:

FORMER HOSTAGE SAYS CAPTORS POISONED HIM WITH ARSENIC

BOSTON.—Frank Reed's captors deliberately gave him arsenic, the former hostage said he was told by Air Force officials. Reed also said that hostage Brian Keenan's sister had told him in a telephone conversation from Belfast, Northern Ireland, that negotiations toward the Irish educator's release were "50 percent finished."

"I think it's the most wonderful news I've heard since I've been home," Reed said Monday of Keenan's possible release. "Brian and I were mates in the holes, the hideouts. Brian on several occasions tried to intervene to try to stop the beatings that were going on."

A Shiite source in Beirut, Lebanon, said Iran was pushing hard for the release of a hostage in appreciation for aid it received after the devastating June 21 earthquake there.

Based on hair and nail samples, Air Force and Justice Department officials believe Reed was given arsenic over a long period of time and one large dose shortly before he was released, Reed told Boston television station WHDH.

The news made Reed wonder if Keenan may also have been given arsenic.

"Brian was exhibiting the same symptoms that I had of arsenic poisoning, so let us hope that it hasn't been too severe. Brian and I got in a little trouble over there together and maybe they were giving it to him for the same reasons," he said.

Reed, released April 30 after 44 months of captivity in Lebanon, speculated that the captors' goal may have been to subdue the hostages or to make them appear sickly in order to speed negotiations.

A spokesman at the Malcolm Grow Medical Center on Andrews Air Force Base in Maryland said Reed was released from the hospital on Friday. Neither the Justice Department nor the Air Force would comment late Monday.

The hospital reported last month that tests on Reed had found arsenic, but gave no indication of deliberate poisoning.

Hostages held in the Middle East include six Americans, four Britons, two West Germans, two Swiss, an Irishman, and an Italian. The longest held is Terry Anderson, chief Middle East correspondent for the Associated Press. He was kidnapped March 16, 1985.

Keenan was taken hostage April 11, 1986.

DEATH OF MERRILL HUNTER—A GREAT JOURNALIST

Mr. PRESSLER. Mr. President, this morning I shall use a few minutes of the U.S. Senate's time to say that a dear friend of mine, Merrill Hunter, has died. Merrill was publisher of the Madison Daily Leader in Madison, SD. His lovely wife, Beverly, his family and the entire community and State of South Dakota are shocked at his sudden departure from our midst last Saturday night.

I have known Merrill Hunter all of my life. Having grown up in Humboldt, SD, a town near Madison, my family went to Madison as its trade center. We subscribed to the Madison Daily Leader. I did not get to know Merrill Hunter on a personal basis until 1974, but I would say that since then he has been one of my best friends on the face of this Earth. Every time there was a tough problem in my life, I would give Merrill a call. I have been to his church with him; I have been on trips with him; and I have worked with him.

Merrill was a fair-minded journalist. He was a first-class human being and I shall miss him so much.

Indeed, I had the pleasure of spending an afternoon on the golf course with Merrill Hunter and his son, Jon, just recently on May 28. That evening, he and his wife, Beverly, hosted a wonderful reception for me with several of the leading citizens of Madison. Somehow I will always think that God Almighty gave me that afternoon with Merrill Hunter as a chance to say goodbye. In my busy life, it is seldom that I get to pause and take time off. Merrill didn't play golf that day, but he walked with us along the golf course as Jon and I played. We talked the afternoon away. He was a dear friend of mine and a great servant of our State. We shall all miss him very much.

ON TAKING CARE THAT THE LAWS BE FAITHFULLY EXECUTED

Mr. MOYNIHAN. Mr. President, I rise today to state an elemental truth. Namely, that it is the foremost responsibility of the President and the executive branch to "take care that the laws be faithfully executed * * *." That is the mandate of article II, section 3 of the U.S. Constitution. The founders chose their words carefully. It was not enough that the President simply exe-

cute the laws or even carefully execute the laws. No. The Founding Fathers wisely recorded that our system requires fidelity to the spirit of the laws. Not clever execution or technical compliance, but faithful execution of the laws.

Mr. President, we have read in the last few days of a flagrant example of the Department of State disregarding the spirit of the law in the case of the repeal of the ideological exclusion provisions of the McCarran-Walter Act. In 1952 President Harry Truman vetoed the act, stating:

Seldom has a bill exhibited the distrust evidenced here for citizens and aliens alike—at a time when we need unity at home, and the confidence of our friends abroad.

Thirty-eight years later the Congress finally sustained his veto by voting to make it absolutely illegal to exclude from the United States any person on the basis of past, current, or expected beliefs, statements or associations which would be protected by the Constitution of the United States.

Thirteen years prior to this vote the Congress had adopted a waiver provision, generally known as the McGovern amendment. That provision, sadly, was necessary to bring the United States into compliance with its obligations under the Helsinki accords. The McGovern amendment required the Secretary of State to recommend that a waiver be granted to any alien who could be excluded under the McCarran-Walter Act because of proscribed ideological affiliations. It was a step in the right direction.

Earlier this year, however, the Congress went beyond the McGovern waiver process. It made permanent section 901 of the immigration laws enacted in 1987 which states:

Notwithstanding any other provision of law, no alien may be denied a visa or excluded from admission into the United States, subject to restrictions or conditions on entry into the United States, or subject to deportation because of any past, current, or expected beliefs, statements, or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

It is obvious that, unlike the McGovern amendment, this is not a waiver provision. It is a substantive prohibition on taking ideology into account in making visa decisions. The McGovern amendment provided for a 30-day review, a recommendation by the Secretary of State and the approval of the Attorney General. Section 901 is—and obviously was meant to be—completely different. Since the temporary adoption of section 901 3 years ago, and most especially now that it has become a permanent prohibition on ideological exclusions, there is no excuse for inquiring into an alien's ideological beliefs or granting waivers.

Mr. President, it is deeply disturbing to me that the Department of State to date refuses to faithfully execute this law. Its purpose was to end 38 years of embarrassment for the United States. Namely the embarrassment of appearing to be a weak and fearful people, addled of mind, easily misled, afraid of ideas. For 38 years our newspapers reported that distinguished authors, scientists and politicians—including even the head of state of a NATO ally—had been barred from entering the United States. Nobel laureates Gabriel Garcia Marquez and Pablo Neruda, authors Graham Greene, Doris Lessing, and Carlos Fuentes, and naturalist Farley Mowat, to name but a few. Earlier this year we celebrated the end of this McCarthy-era relic.

And now we have been embarrassed yet again. In yesterday's Washington Post we learned that the immigration authorities held up a visa for a Canadian labor leader because he was on the lookout list for subversives. Why? Because in his youth, he had a passing—and decidedly nonideological—association with a subversive youth organization: he wrote a sports column for the newspaper of the National Federation of Labor Youth League, a junior wing of the Communist Party, and played left field on their baseball team.

More. I have received from the Lawyer's Committee for Human Rights a redacted copy of the alien lookout list. Those who are inclined to think that the names on the list were placed there long ago and that the State Department and the Immigration and Naturalization Service are no longer acting as thought police would do well to read the introduction to the list, written by Arthur Helton of the Lawyers Committee. He notes that of the 353,324 people on the list whose opinions are deemed to be unacceptably dangerous, an astounding 238,140 names have been added since 1980! Over two-thirds of the total list. The State Department has added 4,390 persons to the list in the first 3 months of 1990. Despite the clear congressional intention to end these absurd practices once and for all, the administration takes the insupportable position that it has the right to continue to ask aliens about their ideological beliefs, to maintain the lookout list and to delay visas pending the granting of a waiver. The administration agrees that the waiver is now mandatory, but still insists on its right to make suspect aliens obtain the mandatory waiver.

This has not passed without notice. Earlier this year I joined the distinguished chairman of the House Subcommittee on Civil and Constitutional Rights, Representative DON EDWARDS, in asking the General Accounting Office to examine the question of whether the administration is complying with the law. Anthony Lewis has written on this subject for today's New York Times. Representative BARNEY FRANK has asked the Congressional Research Service to analyze this issue. It concluded:

In sum, the categorical language of Section 901, its relation to other provisions regulating immigration, and its legislative history all appear to oppose the position that "mandatory waivers" are necessary.

A New York Times editorial stated that the now-useless waiver system "undermines the spirit of the new law * * *." I believe that this understates the case. I believe that maintaining the lookout list and insisting on waivers—albeit mandatory waivers—is flagrantly inconsistent with the clear congressional intent. I made this point the day that section 901 became permanent law:

Section 901, as amended, is not a waiver provision, but a permanent substantive limitation on the Executive's authority to exclude aliens. Therefore, there is no justification for asking intrusive questions of prospective foreign visitors regarding statements and beliefs which would be protected under the Constitution. It is plainly the intent of Congress that persons no longer be required to go through a burdensome waiver process. Section 901—now permanent—renders a waiver process superfluous. Additionally, the so-called lookout list of excludable aliens maintained by the State Department should be purged of the names of persons previously considered ineligible because of political beliefs or associations which would be protected by the U.S. Constitution.

I urge the administration to faithfully execute this law: stop asking aliens about their ideological beliefs, purge the lookout list and end the inane practice of insisting upon waivers which are, in the event, automatically granted.

Mr. President, I ask unanimous consent to have printed in the RECORD the Washington Post article on this subject dated July 9, 1990, the New York Times editorial from today's paper along with a column by Anthony Lewis entitled "After the Cold War" which also appeared in today's New York Times, and the analysis of the lookout list written by Arthur Helton of the Lawyers Committee for Human Rights.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 9, 1990]

VISAS AND U.S. EXCLUSIONS: THE QUESTION OF IDEOLOGY

(By Michael J. Ybarra)

Like many children in Canada in the years after World War II, James Hunter wanted to play baseball.

Because his parents were communists, they signed him up with the National Federation of Labor Youth League, the youth wing of the Communist Party. But Hunter said he was never more active in the group than "playing in left field" or writing a sports column for the club's newspaper.

Over the years, Hunter became active in the non-communist trade union movement, eventually rising to become president of the International Transport Workers Federa-

tion, with 4 million members around the world. He traveled widely, making dozens of trips—"more times than I can remember"—to the United States.

Last February, a few months after shaking hands with President Bush at a Washington meeting, Hunter, 58, was stopped at the U.S. immigration desk in Toronto on his way to catch a plane to a labor gathering in Florida. His name appeared on the Immigration and Naturalization Service (INS) computer that lists hundreds of thousands of people whom the U.S. government has tagged as unsavory because they have been linked to communism or doctrines that can be considered anarchistic or totalitarian.

INS officials said they do not know why Hunter was stopped this time after so many uneventful crossings, except that Canadians do not require visas and are not often screened that carefully.

But because he had once belonged to the "subversive" youth organization, an INS agent told Hunter, he would have to ask the U.S. government for special permission to enter the country. Under a recent change in visa law, a waiver from the U.S. ideological exclusion list is granted as a matter of course once a request is made.

Hunter refused on principle.

"The country of the free and the brave wouldn't let someone into their country who played ball on a baseball team 35 years ago with some communists," Hunter said. "Bizarre is the best way to describe it."

Un-American is the way many civil libertarians describe the "Lookout List," a Cold War vestige that they say serves only to make the United States look fearful and petty in an era in which democracy seems to be spreading across the globe like wildfire.

"The ideological litmus test is counter to everything that this country is supposed to stand for," said David Cole, a lawyer with the Center for Constitutional Rights in New York.

The list, formally the NAILS (National Automated Immigration Lookout System) book, has been a source of controversy for years, resulting in the barring from U.S. entry of world-famous authors and politicians such as Graham Greene, Carlos Fuentes and Farley Mowatt.

The INS oversees the list, although the bulk of the names come from the State Department, which maintains a separate lookout book.

Besides ideological affiliation, the 33 specific reasons for being put on the list include posing a threat to national security or being a convicted criminal.

Under a recent change in law, no one can legally be denied a U.S. visa because of ideology. But all applicants still must answer the question of whether they are, or have ever been, a member of a communist or communist-affiliated organization.

The seeming contradiction is a source of dispute between the revision's author, Sen. Daniel Patrick Moynihan (D-N.Y.), and the State Department over whether the amendment fundamentally overhauls the McCarran-Walter Act, the 1952 law that allows the United States to bar foreigners because of what they believe or may have once believed.

Moynihan's intent was to rid the visa process of any ideological disclosure, but the State Department maintains that it still has the authority to inquire about any applicant's political beliefs as long as he or she ultimately is let in.

"The [McCarran-Walter] law really hasn't changed," said Philip Covington, the State Department's spokesman for consular affairs. "We are entrusted with implementing that law and that is our job. Until it changes in ways that are more substantial . . . we are not able to be more generous [in granting visas]."

INS spokesman Duke Austin said, "The statute still exists, but we are required by Congress to grant a waiver."

Rep. Barney Frank (D-Mass.), who has introduced a bill that would further blunt the ideological teeth of McCarran-Walter, charged that the Bush administration's stance on visas is a cheap way to head off right-wing criticism that it has gone soft on communism.

"I think the law is pretty clear," he said of the recent changes. "It makes no sense [to issue waivers]. I think it's fear of the right wing."

Moynihan recently asked the General Accounting Office to examine the State Department's compliance with the law, which also requires the government to purge the lookout list of all names listed for ideological reasons.

That hasn't happened, according to the Lawyers Committee for Human Rights, which recently received a censored version of the 370-page list after suing the government under the Freedom of Information Act.

Calling it "a dangerous legacy of a discredited era," committee lawyer Arthur C. Helton said the book contains at least 345,000 individuals, the vast majority of whom were listed by the State Department for ideological reasons. A person can ask to be removed from the book if he or she was forced into membership, or can show five years of active opposition to communism or other proscribed doctrines, according to the statute.

Names can come from any source, such as a foreign government or U.S. embassy or agency, although U.S. officials said the information is checked; the person listed is not notified.

Helton said two-thirds of the listings, which date to 1904, were added in the 1980s, with more than 4,000 individuals put into the book in the first three months of this year—after several congressional efforts to make the visa process more open and during a period of easing international tension.

"The Cold War is alive and well in the State Department," he said.

The State Department will not discuss details of the list, even the number of names. "We don't know," spokesman Covington said, adding that some individuals were barred for more than one reason and appear on the list multiple times.

Passed over the veto of President Harry S. Truman in 1952, the McCarran-Walter Act was changed in 1977 to permit banned persons to appeal, in compliance with the Helsinki Accords adopted as international human rights law that year.

In 1987, Moynihan's amendment stripped the law of its ideological content, but because the change was part of the 1988 State Department authorization bill, additional legislation was required to keep it from expiring.

When the provision was made permanent in February, conservatives led by Sen. Alan K. Simpson (R-Wyo.) watered it down so that its extension of constitutional rights applies only to visitors—not permanent residents or those applying for permanent status. The theory behind the change was that while almost everyone should be allowed to visit the United States, not everyone should be allowed to live here.

Enter Fouad Rafeedie, a Jordanian national who has lived in the United States since 1975. INS officials detained Rafeedie, a permanent U.S. resident, upon his return to the United States from a trip to Syria in 1986 and accused him of being a member of the Popular Front for the Liberation of Palestine (PFLP), which he denies. The INS decided to deport Rafeedie.

(Seven Palestinian and a Kenyan living in Los Angeles also are fighting deportation for allegedly belonging to the PFLP, one of the most militant factions of the Palestine Liberation Organization.)

Rafeedie, who lives in Cleveland, is still wrangling with the INS in federal court here. The agency is seeking permission to adjudge Rafeedie's deportation hearing itself, without having to disclose its evidence against him; Rafeedie is asking for the expulsion proceedings to be dropped.

"You and I as citizens have the right to challenge the information, but does an alien?" said INS spokesman Austin. "That is the question."

The government's answer is no.

Rafeedie's lawyer, Michael Maggio, maintains that such a presumption of guilt is unconstitutional.

"When you consider the noise we make, justifiably, about the control of movement in the Soviet Union, it's an outrage the laws we have," he said. "We don't let people stay in this country for what they think. It's totalitarian."

Critics also charge that a double standard of free expression exists for tourists and permanent residents.

"A foreigner who visits this country can advocate communism, or destruction of property, anything a citizen of this country can advocate, but a permanent resident, a person who has lived here most of their life, cannot," said attorney Cole. "That's a very serious flaw in this law."

Another flaw, according to immigration lawyers, is that the waivers can take several weeks to be approved, causing some people to miss conferences or speaking engagements.

One group that seems to run into this problem frequently is the Sandinista National Liberation Front (FSLN by its initials in Spanish), the party of the former government of Nicaragua.

"Sandinistas as a general rule have an enormous difficulty in getting a visa," said Alejandro Bendana, a former Sandinista official who did graduate work at Harvard. Bendana said he was once denied a visa because he was told he violated a previous one by speaking at an academic forum. "More often than not, they won't deny, they just won't issue. You wait until you're blue in the face."

The State Department has special power to control visa applications from Nicaragua under a 1988 presidential directive that lets the administration bar any government official or FSLN party member from the country. Since the Sandinistas were voted out of office and turned over power to a U.S.-backed government 10 weeks ago, the policy has come under review and a source said it is expected to be dropped soon.

Nevertheless, the U.S. Embassy in Nicaragua, citing staffing shortages, is refusing to process visa applications for non-diplomatic cases, leaving in the lurch several Sandinistas with American speaking engagements, as well as anyone else seeking a tourist visa.

Former President Jimmy Carter recently appealed personally to the State Department to grant visas to some Sandinistas who

were invited to speak at a forum at the Carter Center in Atlanta, according to Robert Pastor, a member of the Carter National Security Council staff and currently head of the center's Latin American program.

Even then, one ex-official's visa did not permit him to visit his daughter in Miami, which he had asked to do; another former official was denied a request to go to Washington and New York.

Covington, the State Department spokesman, said the United States grants visas only for specific reasons and that travel restrictions on them are consistent with those imposed by other nations and justified on national security grounds.

But critics said the technical aspects of the law are overshadowed by its philosophical implications.

"I don't know what people are afraid of," said Maggio. "It really displays a kind of fear of ideas."

[From the New York Times, July 10, 1990]

STILL A COLD WAR FOR ALIENS

For 38 years, the McCarran-Walter Immigration Act has allowed the U.S. to bar foreign visitors whose ideas the Government finds offensive. The number of visitors kept out each year varies, but the Government maintains a list of more than 350,000 people to be excluded. At a time when world tensions are easing, that's an astounding victory of narrow-mindedness over good sense.

Passed in 1952, the McCarran-Walter Act reflects the hysteria of the McCarthy era. One of the most troublesome of the law's 33 exclusionary provisions allows the Government to bar visitors or migrants who would advocate "economic, international and governmental doctrines of world Communism" and other subversive activities.

These foreigners deemed inadmissible are put on a "lookout" list, formally known as the National Automated Immigration Lookout System, or Nails, and kept by the State Department and Immigration and Naturalization Service.

Last month the Lawyers Committee for Human Rights, a civil liberties group, recieved an edited copy of the list under the Freedom of Information Act. Although names and occupations were omitted, the list contained 353,324 entries, of which 238,140 had been added since 1980. Duplication accounts for some inflation in the total, but the Lawyers Committee estimates that at least 300,000 individuals have been denied visas, the vast majority because of their ideological beliefs.

An overhaul of McCarran-Walter is still pending in Congress. But earlier this year, President Bush signed into law a sensible prohibition on excluding visitors solely because of "past, current or expected beliefs, statements or associations" that the Constitution protects for American citizens. In practice, however, visitors seeking visas must first declare whether they have, or have ever had, Communist affiliations. Only then may they obtain a waiver for admission.

That undermines the spirit of the new law. If the State Department and the I.N.S. were faithful to that spirit, they would eliminate such background questions. And for those seeking to stay for longer periods, the Government ought to purge the "lookout" list on a regular basis. Until the Government thus acknowledges a changing world, McCarran-Walter's fearful ghosts will reign triumphant.

[From the New York Times, July 10, 1990]

AFTER THE COLD WAR

(By Anthony Lewis)

"The walls that once confined people and ideas are collapsing." With those words the leaders of the Western alliance celebrated the end of the cold war. They pledged their efforts to "overcome the legacy of decades of suspicion."

NATO's London declaration responded to the new realities in Europe in terms more forthright and more eloquent than the usual official prose. It challenged the countries of NATO and the Warsaw Pact to adapt and act as people who are no longer adversaries.

Can the United States be as forthright in facing the end of the cold war in its own attitudes? The question is a profound one. In numberless ways American law and policy are built on fear of Communism. As Communist ideology disintegrates, we too are challenged to "overcome the legacy of decades of suspicion.

An example is the idological test imposed on foreigners who wish to visit the United States. Since 1952 American law has barred aliens who are Communists, anarchists or supporters of radical doctrine. Eminent authors and others have been excluded on suspicion of being in that category, to this country's repeated embarrassment.

The State Department and Immigration and Naturalization Service keep a list of suspected characters who may try to enter. It is called the National Automated Immigration Lookout system, or Nails. The astonishing dimensions of Nails were uncovered last month in a Freedom of Information Act suit by the Lawyers Committee for Human Rights.

Since 1980, 238,140 listings have been put into the system, most of them in the category of ideological exclusions. There are some duplications, but it seems that more than 200,000 people were designated as ideologically unfit to enter the U.S. in the last 10 years.

In the first three months of this year alone, the State Department added 4,390 new entries reflecting denial of visas on ideological grounds. Even as the perceived Communist threat in the world faded, the ideological guardians were evidently intensifying their efforts.

In February Congress passed and President Bush signed a law providing that no one may be denied a visitor's visa because of beliefs or associations that would be protected here by the Constitution. But suspect aliens are still being excluded, then required to seek a waiver. A first step in recognizing the end of the cold war should be to stop that humiliating process and simply take no account of visitors' ideas.

Americans also face restrictions on their travel abroad. Executive orders forbid most travel to Cuba, Vietnam, North Korea, Cambodia and Iran. Warning travelers about their safety is fair enough. But it is long past time to stop limiting Americans' right to travel for ideological reasons.

The cold war has badly compromised the American constitutional premise that government is accountable to the people. Vast areas of government activity are now cloaked, for asserted reasons of national security, in a secrecy that prevents effective discussion of policy.

The classification system is a scandal that weary generations of sensible officials have decried, imposing unnecessry secrecy on millions of documents. Worse yet, there has been increasing pressure since the start of the Reagan Administration for officials to sign lifetime secrecy agreements that forever hobble their ability to blow the whistle on waste and bad policy.

Even the courts have not been immune from the obsession with secrecy, increasingly in recent years judges have allowed the Government to impose restrictions on hearings, often denying citizens a real opportunity to challenge official policy.

Then there is government surveilance. Under guidelines that are themselves secret, the F.B.I. investigates Americans who it suspects have links to agents of a foreign power. That has led to gross abuse in harassment, notably in the case of people protesting U.S. policy in El Salvador.

All those areas cry out for a reexamination of cold war premises. President Bush would do well to ask for advice from a special committee of his Administration or a commission. The kind of hard look that is needed is not likely to come from administrators who are used to the existing system and to the protection that secrecy gives them.

American ideals of freedom and openness had a good deal to do with inspiring the revolution in Eastern Europe. They are in the minds of the true democrats in the Soviet Union. And we should be renewing our commitment to them as the cold war ends.

THE ALIEN BLACKLIST: A DANGEROUS LEGACY OF THE MCCARTHY ERA

(A Compilation with Analysis issued by the Lawyers Committee for Human Rights, June 1990)

PREFATORY NOTE

The attached is a redacted version of the "lookout" list used by United States immigration and consular authorities to determine the admissibility of aliens under the political exclusion provisions of the 1952 McCarran-Walter Act.[1] The list was obtained pursuant to a Freedom of Information Act (FOIA) request made initially on October 23, 1986, by the Lawyers committee for Human Rights. specifically, the FOIA request was made by counsel for Patricia Lara, a Colombian journalist who in October of 1986 was detained upon arrival at Kennedy airport. Ms. Lara, a graduate of the School of Journalism at Columbia University, had flown to New York to attend an awards dinner for "distinguished contributions to the advancement of Inter-American understanding and freedom of information." [2] She contends that she was barred from entering the United States as a result of writing articles critical of the Reagan Administration's policies in Central America. Ms. Lara was detained for one week and then sent back to Colombia; her visa, which she had used to travel to the United States in the past, was revoked by the State Department.

The Immigration and Naturalization Service (INS), to which the Lawyers Committee's FOIA request was made, declined to disclose the lookout list in timely fashion, and ultimately judicial enforcement of the request was sought. By opinion and order dated September 15, 1989, a federal district court judge in New York ordered the disclosure of the list, explaining:

"The public has a great interest in knowing who has been listed in the NAILS [National Automated Immigration Lookout System] Lookout Book on the basis of the

[1] Footnotes at end of article.

"ideological exclusion provisions," 8 U.S.C. § 1182(a) (27)-(29). These grounds for exclusion and the exclusion process itself affect citizens' constitutional rights, including the rights of freedom of speech and association. Disclosure would protect citizens' rights to analyze and challenge the exclusion of individuals or the Government's reasons for excluding individuals. Moreover, individuals listed in the NAILS system are not simply being investigated; they are the subjects of a final INS decision concerning their admissibility to the United States." *Lawyers Committee for Human Rights v. INS,* 721 F. Supp. 553, 571 (S.D.N.Y. 1989).

The court found that the "privacy interests" of the "listed individuals" dictated that names not be revealed. But the Court ordered the INS to identify listed individuals by "occupation and country." 721 F. Supp. at 571. The INS then requested that the court delete the requirement to disclose the occupations of those listed, and on May 23, 1990, the Court issued a further consent order requiring the INS to disclose the list without designating occupations, with permission given to the Lawyers Committee to seek information concerning occupations at a later date. On June 4, 1990, the INS compiled this redated list which was then delivered to the Lawyers Committee.

This document reflects the National Automated Immigration Lookout System (NAILS), which is used by U.S. immigration officials to determine whether aliens are inadmissible on any of 33 statutory grounds.[3] U.S. Consular officials in the Department of State use the information in the system to adjudicate visa applications by aliens abroad. The list compiled here is the portion that relates to the political exclusion provision of the 1952 McCarran-Walter Act. Specifically, these provisions permit government authorities to deny visas, entry or immigration status to aliens who are considered to jeopardize the public interest[4] or national security,[5] or who proposes to engage in activities in the nature of advocacy or preachment of certain proscribed doctrines.[6] The INS has proposed to replace the NAILS system, and an interagency dialogue on the issue is continue in among the INS, State Department and U.S. Customs Service.[7]

The scope and magnitude of the lookout list is astounding. This readacted version of the list is a 370-page document with 353,324 entries.[8] Of that total, 345,273 entries were made by the State Department, and 6,838 entries were made by the INS, including 1,653 concerning Canadians and 2,230 concerning Mexicans. The entries have been made with respect to nationals from 146 different countries, territories, islands and other jurisdictions, including Estonia, Hong Kong, Latvia, Lithuania, Namibia, and Palestine.[9] The country with the largest number of individual listings is China with 106,777. Other countries, however, have substantial listings, as is reflected in the following selection:

Australia	609
Austria	1,166
Bulgaria	3,351
Canada	2,755
China	106,777
Cuba	4,922
Czechoslovakia	22,736
Denmark	1,284
Dominican Republic	1,980
Egypt	234
El Salvador	351
Finland	1,408
France	2,815
Greece	2,032
Haiti	191
Hungary	28,450
Iran	426
Ireland	246
Israel	226
Italy	9,544
Japan	4,393
Mexico	5,402
Netherlands	759
New Zealand	159
Nicaragua	378
Palestine	490
Philippines	166
Poland	24,608
Puerto Rico	5
Romania	19,641
South Africa	229
Spain	420
Sweden	813
Switzerland	155
Syria	163
Turkey	348
United States	327
U.S.S.R.	33,064
West Germany	14,430
Vietnam	537
Yugoslavia	31,734

In terms of the number of individuals reflected in the listings, precise figures have not been given by INS. Our attempts at estimation are hindered by the fact that the NAILS system is never purged of names, despite internal INS guidelines which purport to mandate that "lookout" listings expire no later than ten years after posting.[10] Thus, the earliest entry on the list concerns an individual from Poland who was listed on January 1, 1904. Still, the 341,000 listings made by the State Department under Section (a)(28) should correspond to a minimum number of individuals denied visas to enter the United States. Taking into account independent and duplicate listings under the other statutory provisions, we estimate conservatively that at least 345,000 individuals are listed in the NAILS system.

The current high level of listing activity and visa denial is also astonishing. Since 1980, 238,140 listings have been made, i.e. over ⅔ of the total in the system. In the first three months of 1990, 4,399 listings have been made, most (4,390) by the State Department under Section (a)(28) of the Act which reflects visa denials on ideological grounds.[11]

The three political exclusion provisions of the McCarran-Walter Act, Section (a)(28) in particular, have been a continuing source of controversy, resulting in substantial litigation [12] and numerous legislative proposals [13] over the last decade. Decisions have narrowed the Executive's discretion in applying the exclusion provisions.[14] As the appended compilation reflects, however, the restriction of agency discretion has not kept listings and denials from burgeoning over the last few years.

In February of 1990, Congress enacted legislation prohibiting U.S. authorities from deporting, excluding or denying visas to nonimmigrant aliens because of their past or current political beliefs, statements or associations, which, if engaged in by a U.S. citizen in this country, would be protected by the U.S. Constitution.[15] This legislation effectively eliminates a principal ideological exclusion provision of the McCarran-Walter Act (Section (a)(28)) as applied to nonimmigrants.[16]

Given recent statutory and decisional developments, and in view of the ongoing review of the NAILS system, now is the time for significant reforms relating to the list. Specifically, the Executive's inter-agency process should purge the list of ancient and unnecessary listings, and halt new listings for alien visitors under Section (a)(28) of the McCarran-Walter Act. Additionally, nonimmigrants listed under Section (a)(28) after January 1, 1988, should have their names removed since Congress has eliminated this exclusion ground and there would appear to be no reasonable basis for the State Department or INS to compile a list of *formerly* inadmissible aliens. If the Executive is unable or unwilling to undertake such reforms, then Congress should enact legislation requiring such changes.

This issue is not a hypothetical one. A case in point is that of Choichiro Yatani, a Japanese scholar, who requested in March of 1990 that his name be removed from the lookout system. Mr. Yatani's request was denied by the State Department. In July of 1986, upon his returning to the United States from an international academic conference on world peace and conflict resolution in Amsterdam, Mr. Yatani was refused entry under Section (a)(28) and arrested and detained in an immigration jail in New York for 44 days. During this period, he was separated from his wife and two young U.S. citizen children. He was ultimately released and given a waiver of inadmissibility, including prospective applications for admission into the United States. Yet, since his name remains on the list, Mr. Yatani fears that he could again be rejected for entry and detained should he travel abroad and return. He has therefore declined several invitations to attend academic meetings abroad despite the assurance of a waiver.

In this period of diminishing world tensions, these McCarthy era provisions barring foreigners from visiting the United States for political reasons are increasingly anachronistic. Notables such as writers Gabriel Garcia Marquez and Graham Greene, actor Yves Montand, naturalist Farley Mowat and playwright Dario Fo have been denied entry. As the NAILS list makes clear, many others far less notable are permanently listed and barred or at risk of abuse upon arrival in the United States.

Fundamental political changes should serve as an inspiration for substantial changes in the political exclusion provisions of the McCarran-Walter Act. Perhaps even more importantly, changes in our laws require good faith efforts by the administrative authorities to implement the new provisions. This lookout list is a dangerous legacy of a discredited era. It should be substantially reformed in order to ensure that innocent aliens and American citizens are not victimized in the future.

ARTHUR C. HELTON, ESQ.,
Lawyers Committee for Human Rights.

FOOTNOTES

[1] Immigration and Nationality Act, ch. 477, 66 Stat. 163 (1952).

[2] N.Y. Times, Sept. 20, 1989, at A22.

[3] See 8 U.S.C. §§ 1182(a) (1)-(33).

[4] 8 U.S.C. § 1182(a)(27). The text of this statutory provision is attached as an Appendix hereto.

[5] 8 U.S.C. § 1182(a)(29). The text of this statutory provision is attached as an Appendix hereto.

[6] 8 U.S.C. § 1182(a)(28). The text of this statutory provision is attached as an Appendix hereto.

[7] See GAO, Computer Systems: Actions on OMB Recommendations for a Joint Lookout System (1989).

[8] There are fifteen categories reflected on this version of the NAILS list: a27; a28; a29; a77; a78; a79; s27; s28; s29; u27; u28; u29; u77; u78; u79. According to the office of the U.S. Attorney for the Southern District of New York, all individuals who have applied and been refused a visa will have the

numbers "27", "28", or "29", and those numbers refer to the subsections of 8 U.S.C. § 1182 under which they were denied a visa. The "a" refers to INS and the "s" refers to the State Department. The "u" refers to those individuals considered "armed and dangerous." The higher numbers "77", "78", and "79" refer to individuals who have not applied for a visa but who fall within one of the exclusion provisions (either subsection 27, 28, or 29, with the last number identifying the subsection).

[9] Entries are also reflected for individuals from Puerto Rico and the United States, although the rationale for these listings is unclear since U.S. citizens are not subject to these statutory exclusion provisions.

[10] INS Operations Instructions § 235.8 (e) (2) (b).

[11] *See* note 6, *supra.*

[12] *See, e.g., Allende V. Schultz,* 845 F.2d 1111 (1st Cir. 1988), *Abourezk v. Reagan,* 785 F.2d 1043 (D.C. Cir. 1986), *aff'd by an equally divided Court,* 108 S.Ct. 252 (1987); *Harvard Law School Forum v. Shultz,* 633 F. Supp 525 (D. Mass. 1986).

[13] *See* Helton, *Reconciling the Power to Bar or Expel Aliens on Political Grounds with Fairness and the Freedoms of Speech and Association: An Analysis of Recent Legislative Proposals,* 11 Fordham International Law Journal 467 (1988).

[14] See cases cited note 12, *supra.*

[15] Section 128 of the State Department Authorization Act of 1990, signed into law on February 16, 1990, permanently enacts legislation first adopted for the year 1988 only as Section 901 of the State Department Authorization Bill, Dec. 22, 1987, P.L. 100-204, 101 Stat. 1331, and later amended and extended for two years by Act of Oct. 1, 1988, P.L. 100-461, 102 Stat. 2268.

[16] It is by its terms inapplicable to those seeking an immigrant visa, adjustment of status, or entry as an immigrant. *Id.* Sec. 901 (d) as amended.

APPENDIX

8 U.S.C. § 1182(a)(27) provides a bar for [a]liens who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States . . . .

8 U.S.C. § 1182(a)(28) proscribes on political grounds [a]liens who are, or at any time have been, members of any of the following classes:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States, (ii) any other totalitarian party of the United States, (iii) the Communist Political Association, (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state, (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party, or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided,* That nothing in this paragraph, or in any other provision of this chapter, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affilated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 786 of Title 50, unless such aliens establish that they did not have knowledge or reasons to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, publish, or display, or who knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subparagraph (G) of this paragraph;

(I) Any alien who is within any of the classes described in subparagraphs (B) to (H) of this paragraph because of membership in or affiliation with a party or organization or a section, subsidiary, branch, affiliate, or subdivision thereof, may, if not otherwise ineligible, be issued a visa if such alien establishes to the satisfaction of the consular officer when applying for a visa and the consular officer finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes, or (ii)(a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for a visa, actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. Any such alien to whom a visa has been issued under the provisions of this subparagraph may, if not otherwise inadmissible, be admitted into the United States if he shall establish to the satisfaction of the Attorney General when applying for admission to the United States and the Attorney General finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and when necessary for such purposes, or (ii)(a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for admission actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. The Attorney General shall promptly make a detailed report to the Congress in the case of each alien who is or shall be admitted into the United States under (ii) of this subparagraph. . . .

8 U.S.C. § 1182(a)(29) applies to [a]liens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe probably would, after entry, (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security, (B) engage in any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States, by force, violence, or other unconsititutional means, or (C) join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 786 of Title 50 . . . .

SENATOR QUENTIN BURDICK

Mr. BINGAMAN. Mr. President, it gives me the greatest pleasure to offer our dear colleague, QUENTIN BURDICK, some words of appreciation for having served the Senate and our country so well. For those of us whose years of service number in but the single digits, his record of 30 years of answering rollcalls and enduring quorum calls is certainly something to think about and surely to admire.

He has served the people of North Dakota so well that they have voted for him in five elections, putting him in a select group of Senators which has more than a score and a half of years to their credit in this institution. We see in QUENTIN the same things they do—goodness, honesty, steadfast-

ness, and stamina. Through 30 years of living he and the people of North Dakota have endured together. He is their champion and they know it. There is no ambiguity about the man. He is straightforward and uncompromising.

QUENTIN has been a great friend to me since my first days here. He took a real interest in what I was doing and how I was getting along. I am grateful for his friendliness, for his unfailing helpfulness, and good advice. I think of him as a friend and am honored to know that he considers me the same.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

PERMISSION TO USE CAPITOL ROTUNDA

Mr. KENNEDY. Mr. President, on behalf of the majority leader I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 344 to permit the use of the Capitol rotunda on July 10, 1990, just received from the House of Representatives.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 344) permitting the use of the rotunda of the Capitol to allow Members of Congress to greet and receive His All Holiness Patriarch Dimitrios.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 344) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIVIL RIGHTS ACT OF 1990

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate now proceed to S. 2104, the civil rights restoration bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the bill.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—The purposes of this Act are—

(1) to respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) to strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produce one or more employment decisions.

"(o) The term 'required by business necessity' means essential to effective job performance.

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices are required by business necessity, except that—

"(i) if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact; and

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE MOTIVATING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though such practice was also motivated by other factors.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United

States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons consistent with the constitutional requirements of due process of law.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government; or

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k))—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. If compensatory or punitive damages are sought with respect to a claim arising under this title, any party may demand a trial by jury.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties and their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsection:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) paragraphs (2) through (4) of section 7(a) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2) through (4), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose

challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2) through (4), or 12.

Mr. KENNEDY. Mr. President, in many countries round the world, the past year has been a time of historic progress. Eastern Europe opened its doors to democracy. South Africa opened its prisons to set Nelson Mandela free. Democracy and freedom are advancing in many lands, and all of us take pride that America's ideals are being honored in so many other lands.

In our own country, however, the past year has witnessed a series of setbacks for those ideals in the area of civil rights. The ongoing struggle for justice and opportunity has been significantly undermined by a series of unfortunate decisions by the Supreme Court.

The Court's rulings marked an abrupt and troubling departure from its historic vigilance in protecting civil rights. These decisions have left significant gaps in the laws that prohibit racism and other types of bias in our society. They have left large numbers of citizens without adequate protection from discrimination in the workplace.

Fortunately, none of these rulings was grounded in the Constitution. All of them involved the interpretation of statutes that Congress has passed over many years in our continuing effort to guarantee the full civil rights of all Americans. The Civil Rights Act of 1990 is intended to counteract these rulings and restore and strengthen the basic laws prohibiting discrimination in the workplace. I am pleased to be sponsoring this legislation along with Senator JEFFORDS, Senator METZENBAUM, Senator DANFORTH and 44 other Senators from both sides of the aisle.

This spring, the Committee on Labor and Human Resources held 4 days of hearings on the bill. Those hearings demonstrated the serious setbacks to civil rights that the Supreme Court's rulings have caused. We heard testimony from employers and employees, from the Attorney General and former Cabinet officials, and from numerous experts about the impact of these decisions and the need to strengthen the laws banning discrimination on the job.

We heard testimony from Brenda Patterson, whose claim of racial harassment was held not to violate Federal law. No matter how extreme the harassment, the Court ruled that the law does not protect her.

That decision left Brenda Patterson and millions of other workers out in the cold. It drastically narrowed the interpretation of a century old civil rights law, leaving employees unprotected from racial harassment or from being fired or denied promotion because of racial prejudice.

At a single stroke, the Supreme Court nullified the only Federal antidiscrimination law applicable to the 11 million workers in the 3.7 million firms with fewer than 15 employees. Already, the Patterson decision has caused the dismissal of more than 200 claims of race discrimination in the last year. It must be overruled by this Congress.

Another case which has caused substantial damage to our antidiscrimination laws is Wards Cove versus Atonio, in which the Court overruled a unanimous decision by Chief Justice Burger in 1971 in the landmark case of Griggs versus Duke Power. In hundreds of antidiscrimination cases in the past two decades, the Griggs decision has been the cornerstone of efforts to guarantee equal opportunity for minorities and women in the workforce. Now, after two decades of success, this landmark decision has been nullified, and Congress should restore it.

The Griggs rule applied in so-called disparate impact cases—where job practices adopted without discriminatory intent nevertheless have the discriminatory effect of excluding qualified women and minorities. In case after case, the Griggs rule was used to strike down these subtle and not-so-subtle practices that kept minorities and women from participating fully and fairly in our economy.

In Wards Cove, the Supreme Court unfairly shifted a key burden of proof from employers to employees, in such cases. The new standard set by the Wards Cove decision makes it far more difficult and expensive for victims of discrimination to challenge the barriers they face. We heard substantial testimony about the need to overturn this decision. That testimony came from former Cabinet officials, State attorneys general, mayors, and private employers. Testimony on behalf of both private and public employers overwhelmingly showed that the effect of the Griggs rule was to improve the hiring practices of businesses and make them more productive.

The Civil Rights Act of 1990 overturns the Wards Cove decision and restores the standards of Griggs.

A third case addressed by the bill is the Supreme Court's decision in Martin versus Wilks. In that ruling, the Court held that consent decrees settling job discrimination cases may be reopened in future lawsuits, even by people who sat on their hands while the court considered the decree. Public officials and legal experts testified about the harmful impact of subsequent challenges to settled employment decrees. In the months since that decision, new suits challenging long-settled decrees have been filed in more than a dozen cities, from Boston to Birmingham to San Francisco. These new suits have a devastating impact on employers and communities who thought they had long ago turned their backs on a discriminatory past.

In his testimony before the Labor Committee, Richard Arrington, the mayor of Birmingham, described the impact of the Wilks case in his own city. In the 1960's and 1970's, race discrimination was a serious problem in Birmingham city offices. Finally, in 1974, the first in a series of lawsuits was filed alleging discrimination. Seven years later, the city finally settled the case; after hearing the objections of the white firefighters, the court overruled those objections and approved the settlements.

With the decision in Martin versus Wilks, however, that settlement—or any other—has been opened to repeated challenges. Birmingham has already spent over $1 million in legal fees defending its settlement agreement; it has already endured 16 years of court cases. Now with the Wilks decision, no end to this litigation is in sight.

Employers and workers deserve finality in such cases. The Civil Rights Act of 1990 sets up procedures to ensure that interested persons can challenge proposed decrees before they are adopted, while limiting endless litigation and ensuring that fairly settled cases stay settled. These procedures recognize the right of every individual to due process of law, and the need of businesses and communities to bring an end to employment discrimination litigation.

In a fourth objectionable decision, Price Waterhouse versus Hopkins, the Supreme Court opened a hole in the fabric of our civil rights laws by saying that an employment decision motivated in part by prejudice does not violate title VII, as long as the employer would have made the same decision for nondiscriminatory reasons. As one of our legal experts testified, the decision sent a message to employers that "a little discrimination is OK."

The Civil Rights Act repairs that hole by affirming that the law is violated whenever discrimination contributes to an employment decision. The bill also places limitations on the type of remedy allowed where the decision would have been made anyway for legitimate reasons—most importantly, however, it tells employers and em-

ployees that in this Nation, a little discrimination is not OK.

In a fifth decision, Lorance versus AT&T Technologies, the Court held that employees harmed by discriminatory seniority plans must bring suit when the plans are actually adopted. As a result, employees who learn later—sometimes years later—that their rights are affected by the plan are foreclosed from challenging the plan.

The Civil Rights Act overrules this decision and permits employees to bring suit when they are actually harmed by a discriminatory action.

Sixth, the Civil Rights Act repairs a serious gap in Federal law caused by the lack of effectiveness remedies for women and certain other minorities in job discrimination cases. Patricia Swanson described for our committee the devastating sexual harassment which she endured. Even though the court believed her testimony, there was no remedy which it could award under Federal law. In fact, as she testified, she is even being asked to pay the court costs of the employer who harassed her.

Patricia Swanson is not alone. There is no adequate remedy for victims of intentional sex discrimination. Employers who engage in such reprehensible discrimination can walk out of court scot-free—and even send a bill for court costs to their victims. Those who suffer from religious discrimination are under a similar disadvantage. The remedies available under current law are often completely inadequate to vindicate their rights. The act closes these serious loopholes by granting victims of intentional sex and religious discrimination the right to recover compensatory damages, and, in particularly flagrant cases, punitive damages as well. This is the same remedy already available under section 1981 of the Civil Rights Act of 1866 to victims of intentional racial discrimination.

Sexism and religious bigotry are no less offensive than racism. Women and religious minorities are not second-class citizens; they do not deserve second-class remedies.

I think, Mr. President, that is one of the very important elements of this legislation, and, that is, to ensure we are going to restore the 1981 provisions; that we are also going to, in terms of intentional discrimination, intentional, willful harassment, that we recognize that certainly there are two paths of discrimination that have developed in our society—one directed toward minorities in our society and the other toward women. But the types of discrimination and stereotypes, whether in terms of race or religion or whether it is with regard to sex or disability, they are routed in different paths and in different traditions in our society. But, certainly, if we are serious about attacking those types of stereotype activities by employers against women, against minorities, against religious bigotry, against those that have a disability, that there ought to be some similarities, some parallelism in the remedies which are available. That does not exist today. That does not exist today with the discrimination against women in the job place in our society.

We realize that is an important and fundamental element in our equal justice under law, I believe, and is therefore warranted and justified in those circumstances.

Beyond that, Mr. President, as we see the job market by the year 2010, only 15 percent of the new entries are going to be white males. The rest are going to be women and minorities. If we are going to be a society that is going to have workplaces that are free from the types of invidious, willful, and intentional discrimination, certainly we ought to assure there are going to be adequate remedies. That is what this legislation does in those particular areas.

Finally, the act contains a number of other provisions to fill additional gaps in our antidiscrimination laws. It extends the time period for filing title VII charges to make it comparable to the time period under section 1981. It overrules four Supreme Court decisions on attorney's fees that have significantly limited the ability of victims of discrimination to obtain legal representation. And it codifies well-established rules of construction, reaffirming that civil rights laws must be interpreted generously, consistent with the intent of such laws.

Passage of this bill is an essential part of our commitment to civil rights. We have seen the damage caused by these Supreme Court decisions, and we must repair it. We cannot leave millions of workers vulnerable to discrimination on the job.

All of us are mindful, Mr. President, that the judiciary in our society has played an invaluable, essential role in our march toward a more equal society.

In the period of the 1950's, the fifth circuit and then the Supreme Court in the Brown decision really set in motion the kind of effort in our society to, really, strike down these principles which fortunately were inscribed in our Constitution more than 200 years ago, and which this country engaged in a bloody civil war about over 100 years ago.

The march toward equality has been a long, continuous one, but it is one which has been embraced by the American people. I think any fair review of the last 8 to 10 years, in a wide range of different issues related to civil rights, whether the Bob Jones decision, the Grove City decisions, the sanctions in South Africa, the ability of this institution to override Presidential vetoes in Grove City, as well as in regards to South Africa—in those areas as well as in others, the American people do not want to retreat, do not want to fight old battles. That is why so many of us, Republican and Democrat alike, were troubled and distressed by the series of decisions by the Court in recent years which really, for the first time in some 30 years, started to cut back in critical areas in equal justice in the workplace.

It is our intention with this legislation to address those particular holdings and, when we do, to ensure there will be a willingness, particularly in the areas of discrimination against women and on the basis of religious discrimination, to ensure there will be adequate remedies.

Much has been said and written about the discussions we have had with the Bush administration regarding this legislation. From the time these Supreme Court decisions were announced last summer, I have sought to work with the Bush administration to fashion a strong bill acceptable to all.

At first, the administration said that the decisions had made only technical adjustments in the law; and it took a wait-and-see attitude about their impact. Later when the Civil Rights Act of 1990 was introduced last February, the administration conceded that legislation was needed to overrule two of the decisions. But instead of seeking to resolve our differences on the remaining issues, the administration sent a 16-page veto threat letter that was full of distortions and inaccuracies.

The administration's opposition did not begin to change until the bill had gained 48 cosponsors, and until America's civil rights leadership personally told President Bush of the pressing need for this important legislation. Only then did the administration begin to meet with the bill's supporters.

In the past 2 months, there have been numerous meetings with administration representatives. In session after session, we have attempted to meet the administration's concerns.

We agreed to delay Senate consideration until now, in order to permit the talks to proceed. When we did so, the administration pulled back from the tentative agreement we had reached on one key issue; and it indicated that we had not reached agreement on any issue in the talks. I met with top administration officials to revive the discussions, and we sought to continue them during the recess.

In these circumstances, and at this late date in the legislative calendar, we must move forward. But to demonstrate our good faith, and our resolve to pass a strong bipartisan bill to end job discrimination, we intend to offer

a bipartisan substitute that represents our best effort to respond to the administration's objections to the committee bill.

Among the significant modifications to be made by the substitute are the following:

First, in disparate impact cases, the substitute modifies the defense of business necessity available to employers when particular employment practices are challenged as discriminatory. The substitute contains the previously announced Danforth-Kennedy amendment to change the definition of business necessity from "essential" to effective job performance to "bears a substantial and demonstrable relationship" to effective job performance. I want to take this opportunity to commend Senator DANFORTH for the time and energy he has devoted to this bill.

Second, the substitute also responds to concerns raised about disparate impact suits when groups of employment practices are challenged as a whole. Under the substitute, when a court finds after discovery that the plaintiff can identify the specific practices which contribute to the disparate impact, the plaintiff cannot continue to challenge the group of practices as a whole, but must prove at the trial which practices lead to the disparate impact.

These changes should put to rest the spurious charge that this bill requires quotas. Restoring the prior law in the Griggs case will not force employers to adopt quotas. Eighteen years of experience under Griggs proves that quotas are not the issue.

I cannot emphasize that too strongly, Mr. President. Many of us, in debate on different pieces of legislation, new legislation, debate here what the meanings of various words are, what they are meant to suggest or connotate. Here we have, and uniquely so, 18 years of experience under the Griggs decision. And we have yet to have a case that could be possibly made, under the holdings of Griggs for 18 years, that there were any quotas whatsoever; none.

I think there have been efforts to attempt to misinterpret what that holding has meant. And we want to incorporate in this legislation the Griggs holding. That is our position. We believe we do so with the language which we have included. We are not questioning the good faith of others who believe that that can be achieved by having other kind of language. That is something that has been subject to review and discussion. It will, I am sure, be, until we finally pass the legislation.

That is what we intend to go back to, the Griggs decision. The Griggs rule did not lead to quotas in the past, and there is not a shred of evidence that it will lead to quotas in the future. It is a mockery of civil rights and the fundamental principle of equal justice under law for opponents of this legislation to raise the false hue and cry of quotas.

Third, in response to concerns on the Price Waterhouse issue that the committee bill would punish discriminatory thoughts, even where those thoughts did not lead to discriminatory actions, the substitute clarifies the provision to make clear that a plaintiff must prove that discrimination was a contributing factor in an employment decision.

Those changes, and words, I believe, really respond to the concerns about how we are going to be able to judge whether there is thought or motivation. The "contributing factor" is a definable phrase and a precise one. We believe that that addresses many of the concerns of those who were bothered by Price Waterhouse.

Fourth, the substitute makes a number of changes in the Martin versus Wilks provision to ensure that the constitutional rights of persons who seek to challenge consent decrees are fully protected.

We have every desire to ensure that there is adequate notification, Mr. President. But we have followed the holdings of the Supreme Court in terms of adequate notification. We have, and we believe we responded to that fully and completely.

Fifth, the substitute extends coverage of title VII of the Civil Rights Act of 1964 to congressional employees, while providing that the mechanism for enforcing the statute against the House and the Senate should be determined by those bodies. The chairman of the Senate Rules Committee, Senator FORD, has been working with other Senators to develop a satisfactory mechanism for handling discrimination claims involving Senate employees; and I hope that such a mechanism can be offered and agreed to by the Senate on this important legislation.

Mr. President, it is our intention that this legislation apply to this institution as well as to the industries across this Nation, the small and large companies across our country. We have invited our colleagues and the chairman of the Rules Committee and other members of the Rules Committee, in a bipartisan way, under the recommendation of the joint leadership that we address this particular issue in that particular way. It is primarily an institutional issue, but it is certainly our desire to have this legislation applicable to this institution.

We have incorporated it in this substitute because this was one of the four or five areas that the administration indicated that it wanted those of us who are supporting the legislation to be forthcoming. So we have, again, responded to the administration's suggestion of the application of this legislation. We welcome the opportunity to do so.

I hope that such a mechanism that I have referred to can be offered and agreed to by the Senate on this important legislation.

Mr. President, I ask unanimous consent that a complete summary of the changes made to S. 2104 by the substitute be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Yesterday, Mr. President, this summary was sent to each of the Senate offices. The Civil Rights Act of 1990 is supported by a broad coalition of organizations representing millions of Americans. Among the many groups which have endorsed the bill are: NAACP, American Jewish Committee, Antidefamation League, AFL-CIO, the Mexican-American Legal Defense and Education Fund, La Razo, the U.S. Catholic Conference, the American Association of University Women, the National Women's Law Center, and the Urban League.

I ask unanimous consent that a list of the organizations supporting the bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. KENNEDY. Mr. President, the Supreme Court ruling of 1989 sent a disturbing message that the right to be free of discrimination, the right of equal opportunity is a lesser right than Congress intended when we enacted the major civil rights statutes in the past. Now it is up to Congress to restore the broad principles in the law that prejudice and bigotry are wrong and that our civil rights laws must be strong enough to protect employees from discrimination in the workplace. It is essential for this Congress to send a clear message to the country that retreat on civil rights is unacceptable. The Civil Rights Act of 1990 reaffirms our commitments to ending discrimination wherever it exists, and I urge the Senate to support it.

EXHIBIT 1

DESCRIPTION OF THE KENNEDY-JEFFORDS SUBSTITUTE

The amendment in the nature of a substitute to be offered to S. 2104 by Senators Kennedy and Jeffords differs from the bill as reported by the Committee on Labor and Human Resources in the following respects:

WARDS COVE PROVISIONS (SECS. 3 AND 4)

1. The substitute changes the definition of "business necessity" in the Committee bill in two ways. First, the Committee bill required that employment practices that result in disparate impact be *"essential"* to effective job performance; pursuant to the agreement previously reached with Senator Danforth and others, the substitute changes the term to "bears a *substantial and demonstrable relationship*" to effective job per-

formance. And second, in response to concerns raised by some, the substitute expands the definition of "business necessity" to permit employers to justify employment practices that are not related to employee selection by demonstrating that such practices bear a substantial and demonstrable relationship to a compelling objective of the respondent.

2. Some argued that the Committee bill encouraged quotas by permitting complaining parties to maintain actions challenging groups of employment practices long after it was apparent from discovery which specific practice or practices contributed to the disparate impact. To allay this concern, the substitute provides that when a complaining party makes a claim challenging a group of employment practices that have a disparate impact, and the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact, the complaining party is required to demonstrate which specific practice or practices contributed to the disparate impact, and the respondent is required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact. Thus, where it is clear after discovery that a complaining party can identify the specific practice or practices that contributed to the disparate impact, without undue burden or expense, from records or other information of the respondent, the complaining party cannot at trial maintain an across-the-board challenge to the entire group of employment practices.

3. The substitute modifies the definition of "group of employment practices" to make it clear that the term refers to a combination of employment practices that produce one or more decisions with respect to employment, or to the other activities covered by Title VII: employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

PRICE WATERHOUSE PROVISION (SEC. 5)

4. Some argued that the provision in the Committee bill responding to the Price Waterhouse decision punished discriminatory thoughts, even where those thoughts did not contribute to discriminatory actions. To remove any doubt on the matter, the substitute clarifies the provision so that an unlawful employment practice is established whenever a complaining party demonstrates that race, color, religion, sex or national origin is a *contributing factor* for an employment practice, even though other factors also contributed to the practice. Thus, to prevail in a mixed-motive case, a complaining party would be required to show that discrimination contributed to the employment decision, even though other, nondiscriminatory factors may also have contributed.

5. The substitute also provides that in a mixed-motive case, damages may be awarded only for injury that is attributable to the unlawful employment practice. Thus, where an employee is fired for both a discriminatory reason and a nondiscriminatory reason, and the nondiscriminatory reason would have been sufficient to cause the dismissal, the employee may not recover damages for the loss of the job itself, but only for any injury that may have resulted from the discrimination.

MARTIN V. WILKS PROVISION (SEC. 6)

6. The substitute provides that the only employment practices as to which the rule against separate legal challenges applies are employment practices that implement and are "*within the scope of*" a litigated or consent judgment or order. Only practices that are contemplated in or authorized by such a judgment or order would be covered by the preclusion rule.

7. The substitute makes clear that subsection (m)(1)(A) applies only to bar separate claims brought by a person who had *actual* notice from any source sufficient to apprise the person both that a proposed decree might affect his or her interests, and that an opportunity was available to present objections to the decree.

8. The substitute provides that in determining under subsection (m)(1)(B) whether a person is barred from making a separate claim challenging a decree because another person who challenged the decree adequately represented the interests of the person, the court may bar the claim only where doing so is consistent with the constitutional requirements of due process of law.

9. The substitute clarifies one of the exceptions to the preclusion provision by providing that the preclusion rule does not apply to limit the rights of parties in proceedings in which they have successfully intervened pursuant to rule 24 of the Federal Rules of Civil Procedure.

ATTORNEY'S FEES (SEC. 9)

10. The substitute modifies the provisions (sec. 9(4)) barring the settlement of a Title VII claim where there is a coerced waiver of all or substantially all attorney's fees to make it clear that either the parties or their counsel may execute an attestation that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

INTEREST AGAINST THE FEDERAL GOVERNMENT (SEC. 10)

11. The substitute modifies the provision permitting the award of interest in Title VII cases against the Federal Government so that prejudgment interest may not be awarded on compenatory damages. This change is appropriate because compensatory damage awards are calculated to compensate the victim at the time the verdict is rendered for the harm attributable to the unlawful discrimination.

RULES OF CONSTRUCTION (SEC. 11)

12. The substitute adds a new subsection (c) to the rules of construction to make it clear that in construing other civil rights laws, the courts shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights or remedies available under civil rights laws not expressly amended by the Act. This provision is intended to ensure that the changes made by the Civil Rights Act should not be used as a basis for narrowing civil rights laws not addressed in the Act.

PATTERSON PROVISION (SEC. 12)

13. The substitute adds a new subsection (c) to section 1981 to codify that portion of the *Patterson* decision that reaffirms the Supreme Court's 1976 decision in *Runyon v. McCrary* that section 1981 applies to ban discrimination in private contracts. The language is taken directly from President Bush's proposed legislation on the *Patterson* decision.

TRANSITION RULES (SEC. 15)

14. The substitute corrects an error in the Committee bill by making it clear that subsections 7(a)(3) and 7(a)(4) apply to all proceedings pending on or commenced after the date of enactment of the Act.

CONGRESSIONAL COVERAGE (SEC. 16)

15. The substitute adds a new section 16 of the bill to provide that Title VII applies to the Congress of the United States, and that the means for enforcing Title VII against each House of the Congress shall be determined by such House of the Congress. It is expected that language regarding the proper enforcement mechanism may be offered as an amendment on the floor.

EXHIBIT 2

A REPRESENTATIVE SAMPLING OF NATIONAL ORGANIZATIONS SUPPORTING THE CIVIL RIGHTS ACT OF 1990

Leadership Conference on Civil Rights.
American Civil Liberties Union.
American Federation of Labor—Congress of Industrial Organizations.
American Federation of State, County & Municipal Employees, AFL–CIO.
International Union of United Automobile Workers.
League of Women Voters.
Mexican American Legal Defense and Education Fund.
National Association for the Advancement of Colored People.
NAACP Legal Defense and Educational Fund, Inc.
National Council of Churches.
National Council of La Raza.
National Council of Negro Women.
National Education Association.
National Organization for Women.
National Urban League.
National Women's Political Caucus.
People for the American Way.
Southern Christian Leadership Conference.
Union of American Hebrew Congregations.
United Steelworkers of America.
Women's Legal Defense Fund.
American Bar Association.
National Association of Counties.
National Bar Association.
National Black Caucus of State Legislators.
National Black Republican Civil Rights Task Force.
National Conference of Black Mayors, Inc.
U.S. Conference of Mayors.
Actors Equity.
African Methodist Episcopal Church.
African Methodist Episcopal Zion Church.
Alpha Kappa Alpha Sorority, Inc.
Alpha Phi Alpha Fraternity, Inc.
Amalgamated Clothing & Textile Workers of America.
American Association for Affirmative Action.
American Association of University Women.
American Baptist Churches, USA—National Ministries.
American Ethical Union.
American Federation of Government Employees.
American Jewish Committee.
American Jewish Congress.
American Postal Workers Union, AFL–CIO.
American Society for Public Administration.
American Veterans Committee.

Americans for Democratic Action.
American Nurses Association.
Anti-Defamation League of B'nai B'rith.
A. Philip Randolph Institute.
Association for the Education and Rehabilitation of the Blind and Visually Impared.
Association of Junior Leagues International.
Associated Actors and Artistes of America, AFL-CIO.
Association for Women in Science.
Building & Construction Trades Department, AFL-CIO.
Center for Community Change.
Children's Defense Fund.
Church of the Brethren—World Ministries Commission.
Church Women United.
Citizenship Education Fund.
Coalition of Labor Union Women.
Common Cause.
Communications Workers of America.
Delta Sigma Theta Sorority.
Disabilty Rights Education & Defense Fund.
Division of Homeland Ministries—Christian Church (Disciples of Christ).
Epilepsy Foundation of American.
Episcopal Church—Public Affairs Office.
The Evangelical Lutheran Church in American.
Federally Employed Women.
Federation of Organizations for Professional Women.
Food & Allied Service Trades, AFL-CIO.
Friends Committee on National Legislation.
Frontiers International, Inc.
Frontlash.
Hadassah, Women's Zionist Organization of America.
Hotel and Restaurant Employees and Bartenders International Union.
Improved Benevolent & Protective Order of Elks of the World.
Industrial Union Department, AFL-CIO.
International Association of Machinists and Aerospace Workers.
International Association of Official Human Rights Agencies.
International Ladies' Garment Workers' Union of America.
International Molders & Allied Workers Union.
International Union of Electrical, Radio & Machine Workers.
International Union of Operating Engineers.
Iota Phi Lambda Sorority, Inc.
Human Rights Campaign Fund.
Japanese American Citizens League.
Jewish Labor Committee.
Jewish War Veterans.
Kappa Alpha Psi Fraternity.
Labor Council for Latin American Advancement.
Labor Zionist Alliance.
Lawyers' Committee for Civil Rights Under Law.
Mennonite Central Committee.
Mental Health Law Project United Cerebal Palsy Association, Inc. Na'Amat USA.
National Alliance of Postal & Federal Employees.
National Alliance of Postal & Federal Employees—National Women's Auxiliary.
National Association for Equal Opportunity in Higher Education.
National Association of Americans of Asian Indian Descent.
National Association of Colored Women's Clubs, Inc.
National Association of Commissions for Women.
National Association of Community Health Centers.
National Association of Human Rights Workers.
National Association of Market Developers.
National Association of Negro Business & Professional Women's Clubs, Inc.
National Association of Social Workers.
National Association of University Woman.
National Association of Women Federal Contractors.
National Business League
National Community Action Agency Executive Directors Association.
National Community Action Foundation.
National Conference of Christians and Jews, Inc.
National Congress for Community Economic Development.
National Congress for Puerto Rican Rights.
National Congress of American Indians.
National Council of Jewish Women.
National Council of Negro Women.
National Federation of Business and Professional Women's Clubs.
National Federation of Temple Sisterhoods.
National Federation of Temple Youth.
National Gay & Lesbian Task Force.
National Hispanic Housing Coalition.
National Image.
National Institute for Employment Equity.
National Jewish Community Relations Advisory Council.
National Jewish Welfare Board.
National Legal Aid & Defender Association.
National Low Income Housing Coalition.
National Neighbors.
National Newspaper Publishers Association.
National Parent Teacher Association.
National Post Office Mail Handlers, Watchmen, Messengers & Group Leaders.
National Puerto Rican Coalition.
National Rainbow Coalition.
National Sorority of Phi Delta Kappa, Inc..
National Urban Coalition.
National Women's Law Center.
9 to 5, National Association of Working Women.
Oil, Chemical & Atomic Workers International Union.
Older Women's League.
Omega Psi Phi Fraternity, Inc.
Opportunities Industrialization Center—Government Relations (OIC's of America).
Organization of Chinese Americans, Inc.
Phi Beta Sigma Fraternity, Inc.
Potomac Institute.
Presbyterian Church (USA), Washington Office.
Project Equality, Inc.
Project on Education/Now Legal Defense and Education Fund.
Wholesale & Department Store Union, AFL-CIO.
Service Employees International Union.
Sigma Gamma Rho Sorority, Inc.
Spina Bifida Association of America.
Synagogue Council of America.
Transport Workers Union of America.
Unitarian Universalist Association.
United Association of Journeymen & Apprentices of the Plumbing & Pipe Fitting Industry of the U.S. & Canada, AFL-CIO.
United Church of Christ—Commission for Racial Justice Now.
United Church of Christ—Office for Church in Society.
United Farm Workers of America, AFL-CIO.
United Food and Commercial Workers International Union.
United Hebrew Trades.
United Methodist Church—Board of Church and Society.
United Methodist Church—Board of Global Ministries Women's Division.
United Mine Workers of America.
United Rubber, Cork, Linoleum & Plastic Workers of America.
United States Catholic Conference.
United Synagogue of America.
U.S. Student Association.
Voter Education Project, Inc.
Women in Communication.
Women's American ORT.
Women's International League for Peace and Freedom.
Women's Workforce—Wider Opportunities for Women.
Workmen's Circle.
Young Women's Christian Association of the USA, National Board.
Zeta Phi Beta Sorority, Inc.

AMENDMENT NO. 2110

(Purpose: To provide for a substitute amendment)

Mr. KENNEDY. Mr. President, pursuant to the authority granted to me by a majority of the members of the Committee on Labor and Human Resources, I now withdraw the committee substitute. On behalf of myself and Senator JEFFORDS, I send to the desk an amendment in the nature of a substitute.

The PRESIDING OFFICER. The substitute is withdrawn. The clerk will report.

The Assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] for himself and Mr. JEFFORDS, proposes an amendment numbered 2110.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—It is the purpose of this Act to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o) The term 'required by business necessity' means—

"(1) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), bears a substantial and demonstrable relationship to effective job performance; or

"(2) in the case of employment practices not involving selection, bears a substantial and demonstrable relationship to a compelling objective of the respondent.

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices are required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order consistent with the constitutional requirements of due process of law; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons consistent with the constitutional requirements of due process of law.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government; or

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act

(42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k))—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. If compensatory or punitive damages are sought with respect to a claim arising under this title, any party may demand a trial by jury.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties, except that prejudgment interest may not be awarded on compensatory damages.".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, national origin, sex, religion, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. CONGRESSIONAL COVERAGE.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 200e et seq.) is amended by adding at the end thereof the following new section:

"SEC. 719. CONGRESSIONAL COVERAGE.

"Notwithstanding any other provision of this title, the provisions of this title shall apply to the Congress of the United States, and the means for enforcing this title as such applies to each House of Congress shall be as determined by such House of Congress.".

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, may I ask a couple of parliamentary inquiries? What is the pending matter before the Senate?

The PRESIDING OFFICER. The pending matter is the substitute just offered.

Mr. HATCH. What is the status of S. 2104 as it passed the committee?

The PRESIDING OFFICER. If the Chair understands the Senator's request, the reported substitute was withdrawn by the chairman of the committee with the authorization of a majority of the members of that committee and a new substitute has been offered, and that is now the pending business.

Mr. HATCH. As I understand it, this is the first day that the new substitute has been filed with the Senate. Is that correct?

The PRESIDING OFFICER. The amendment has just been presented to the body. The Chair is not aware of any previous filings of a substitute.

Mr. HATCH. What is the status of the committee report on S. 2104 as it was reported out of the committee?

The PRESIDING OFFICER. The committee report is still available.

Mr. HATCH. But not to the matter at hand; is that right?

The PRESIDING OFFICER. The Chair does not have the committee report before it. At this point, I cannot determine whether it addresses the committee amendment specifically.

Mr. HATCH. Am I correct that the Chair really, until this moment, has no knowledge of what is in the substitute that has just been filed this morning?

The PRESIDING OFFICER. The Senator is correct; the substitute was just filed and reported.

Mr. HATCH. So the original bill, the underlying bill, was filed when?

The PRESIDING OFFICER. The bill was originally reported on June 8.

Mr. HATCH. But it was filed with the Senate when?

The PRESIDING OFFICER. The Chair is not aware of any information other than the fact that it was filed on June 8.

Mr. HATCH. As I understand it, the bill was filed sometime in February of this year. We did hold hearings on that particular bill. There was a so-called Danforth substitute, and then we reported that bill out on June 8. Would that be a fair summary?

The PRESIDING OFFICER. The bill was introduced on February 7, I am informed, and was reported on June 8.

Mr. HATCH. The first we have ever seen the substitute is this morning.

The PRESIDING OFFICER. The Senator is again correct.

Mr. HATCH. Other than the distinguished Senator from Massachusetts said that yesterday they sent a summary and the substitute to every Senator.

The PRESIDING OFFICER. The Senator is correct, to the knowledge of the Chair.

Mr. HATCH. Let me just say I did not receive that substitute, as ranking member on this committee, until about 6 o'clock last evening. Here we are on what I consider to be one of the most important pieces of legislation before the U.S. Senate this year. We are faced with a substitute that we just saw at 6 o'clock last night that, I have to tell the Senate, makes some significant changes to the overall import of this particular bill.

Mr. President, after getting a copy of this brand new language late last evening—frankly, I did not see it until even after the 6 o'clock time—I have only had a chance to give it a cursory review, but, not unexpectedly, it still fails, as that cursory review shows, it still fails to resolve the serious fundamental problems with this bill.

In fact, in some regards, if I am reading the substitute correctly in this limited time that we have had it, this new substitute is actually worse than the original bill as amended by the so-called Danforth-Kennedy language.

First, the substitute fails once again to resolve the quota issue. I suspect that the distinguished Senator from Massachusetts and those who support this bill think that all they have to say is it is resolved; that there is no quota problem here. They have said it from the beginning, and yet, by their own admission, they have worked, they claimed, on a regular basis with the White House to try to resolve the quota issue. The fact is it is still a very significant issue, in fact, even worse with this substitute.

The proponents have had three chances now to codify the Supreme Court decision in Griggs versus Duke Power. I was intrigued by the comments of the distinguished Senator from Massachusetts that they have done that here. Each time they have absolutely refused to use the actual language of the Griggs versus Duke decision, and this substitute is no exception. They have created each of these three times a brand new set of standards using brand new language which they believe mirrors the spirit of the Griggs decision. Unfortunately, by refusing to use the actual language of Griggs, they overturned the decision that they believe they are saving.

So when the distinguished Senator from Massachusetts says for 18 years we have not had any problems with quotas and, of course, that would be disputed by a raft of intellectuals all over this country, people who have studied this, who have worried about quotas, who have worried about the unfairness of quotas, at the same time he is overruling the 18 years with the language that he has put in here.

One key component of an employer's defense against a charge of disparate impact legislation is the standard of business necessity. In the famous Griggs decision, which the distinguished Senator from Massachusetts says he is following here, or mirroring, or trying to follow, yet never uses the language that is very clear in Griggs, the Court defined "business necessity" as "manifest relationship to the employment in question."

Why did they not use that language? If they want Griggs, what is wrong with "manifest relationship to the employment in question"?

In the latest version of S. 2104, the third time now, that we just received at 6 o'clock last evening, in one of the most important employment legal changes in history if this bill is passed in its current form, a major modification of Griggs versus Duke Power, a major change in the law, a major overruling of the 18 years that Senator KENNEDY said we had no problems with quotas—asks a lot of people who have suffered from the quota problem. They will say that is not true. But in this major change, again, this version we just received at 6 o'clock last night, this substitute that was just filed this morning, which I am sure no Senator has really had an adequate time to look at, and even if they had another 2 or 3 months would not have adequate time to look at, business necessity is defined as, "one, in the case of employment practices involving selection"—you will not find this in Griggs, by the way—"bears a substantial and demonstrable relationship to effective job performance or, two, in the case of employment practices not involving selection, bears a substantial and demonstrable relationship to a compelling objective of the respondent."

That has no relationship to Griggs. Nobody could say that is a mirroring of Griggs. Nobody could say they have used Griggs language. Nobody can say they are not overruling 18 years, the very 18 years that the distinguished Senator from Massachusetts says have worked so well in the interests of employees and employers in this country, which in and of itself can be disputed.

This brand new terminology simply cannot be found in the Griggs versus Duke Power decision, the very decision they claim they want to incorporate into this bill.

So again, because they have the words "civil rights" on this bill, they think they can just ignore the whole raft of employment decision law that has served this country so well, important decisions which they claim they adopt and just substitute their own language, which is much more onerous language than Griggs, or the Griggs decision.

Mr. President, this is not some game we are playing. We are not supposed to legislate by title. Just because we have the words "civil rights" on a bill does not mean we should not be concerned by the complete overturn and upheaval it will cause in employment law.

This is not some simple area of the law. This is an area that makes or breaks the United States of America. Under the guise of civil rights, they are going to change the very Griggs decision they claim they are trying to maintain. There is no way they are maintaining it. They are making it more onerous and burdensome on the employer.

This brand new terminology cannot be found in Griggs. It cannot be found in the subsequent Supreme Court deci-

sions which are based on Griggs. Instead, many experts in this area have written to the committee noting that this new standard is much more onerous and burdensome than the Griggs standard, which in and of itself is not an easy standard but one that I uphold, one that the distinguished Senator from Massachusetts claims he upholds. Then why does he not use the language. It is there. It is clear. It is not difficult to figure out.

"Manifest relationship to the employment in question" is not language that should be ignored. They ignore it, though. Why? Because they want an advantage under the guise of civil rights that basically will force the employers to go to proportional hiring. That is interpreted as quotas. That is exactly what is going to happen. There is no way you can avoid it.

One can only wonder why the proponents persist in refusing to utilize the actual language in the Griggs decision, the actual language which the Court has relied upon for the past 19 years and which the distinguished Senator from Massachusetts says we should rely on because he said it has worked so well.

The fact is it has not worked nearly as well as he thinks to prevent quotas, but I support the Griggs language, too.

You have to wonder why are they persisting in trying to change that language and then saying it mirrors Griggs. Why not use the Griggs language so that it not only mirrors Griggs, it makes the sense that Griggs does.

Second, the proponents claim that they have cured another element of the quota problem, namely the issue of causation as it once was formulated under the bill. Once again, I have to tell my fellow colleagues they have not. Under this latest version, when a plaintiff, after discovery or otherwise, still cannot identify the practice which causes the statistical imbalance or disparity, the plaintiff simply can assert that all of the employer's practices caused the disparity. Consequently, this makes the simple statistical disparity illegal under title VII, reversing 25 years of civil rights policy specifically stated in the Civil Rights Act of 1964.

Twenty-five years are going to be reversed by this provision. I am going to go into this further this afternoon, but it should be noted at this time that the disparate impact standard was designed to attack simple practices, not simple numerical disparity. Moreover, this new substitute continues to hold employers guilty until they can prove themselves innocent. This new substitute still shifts the burden of persuasion to the employer upon a mere showing of a disparity in a job, a statistical disparity in a job. In sum, S. 2104, even as far as I can ascertain, having only received it last night at 6 o'clock—actually later for me—and having it filed only this morning, stands title VII of the Civil Rights Act of 1964 on its head, replacing the promise of equal opportunity with the command for equal rights. I do not care who you are in America. You have to be concerned about that.

Let me maybe explain it a little bit differently. What is a disparate impact case and what is the law both before and after the Ward's Cove decision, which the distinguished Senator from Massachusetts says he wants to overturn.

First of all, let us say we have a jurisdiction that has 20 percent blacks and 10 percent Hispanics. Let us say that we have an employer in that jurisdiction who for one reason or another, good reasons, has hired only 10 percent blacks and only 1 percent Hispanics. That is a statistical disparity. Even if the reason it has worked out this way is totally legitimate, totally honest, totally worthwhile, that is a statistical disparity.

Let us say that some person, fomented by some of the civil rights organizations, decides to bring a disparate impact suit. They allege that the business has only hired 11 percent out of a 30-percent minority mix in that particular area. That establishes a disparate impact suit. Under current law and the law both before and after Wards Cove, they then have to allege that this specific employment practice, or these specific employment practices have caused the statistical disparity unfairly.

They are causing the discrimination. At that point having shown the statistical disparity, and having alleged specific employment practices causing the problem, the burden of production under the law of evidence shifts to the defendant employer. All the employer has to do is show that the particular business practice that the employer was following has a manifest relationship to the employment in question. That is all the employer has to do. That is what he has to produce; a reason why he has not discriminated. At that point, the burden of persuasion then shifts back to the plaintiff. The plaintiff then has to prove that those practices were in fact discriminatory. That is the way it should be done. The burden should be on the plaintiff. The burden should be on the plaintiff employee.

(Mr. SIMON assumed the chair.)

Mr. HATCH. If this bill passes even with this current law, this current language in it that they claim they have tried to make identical to Griggs or mirror Griggs—if this bill passes—then in that case they show the statistical disparity. That is the disparate impact part. They only hired 11 percent out of 30 percent. Then they allege if they cannot point out the specific practice—and they will never do that, and I do not imagine they will ever do that—that all of the employer practice—employment practices are causing this disparity and doing so wrongfully, and in a discriminatory manner. The whole burden of persuasion then shifts under this bill to the employer.

You do not have to have many brains to realize you do not have to prove anything as a plaintiff. The employer then has to prove that each and every one of his or her business practices is not discriminatory. So the employer winds up having to prove its own innocence, or his or her own innocence, by a mere showing of a statistical disparity. That is what their bill does.

I can tell you at this particular point that these employment cases cost a lot of money to defend. So the average employer knowing all they have to do is show this statistical disparity, allege all of the practices cause the problem and that shifts the burden of persuasion to the employer, that employer does not take long to say this is going to cost me a lot of money to show everyone our employment practices are legitimate and justified.

They do not have to show that under current law. They have to show that every one of those business practices are part of the business which is defined in this bill in the case of employment practices as involving selection which bears a substantial and demonstrable relationship to effective job performance, or too in the case of employment practices as not involving selection which bears a substantial and demonstrable relationship to the compelling objective of the defendant.

It does not take many brains to realize that is a much tougher standard than Griggs. It is almost an impossible standard for the employer to meet.

What does the employer do? He says, I cannot afford to defend these suits. They are going to win anyway because I cannot meet those standards—nobody can—and, even if I can, it is going to cost me a fortune to do it. I have to hire by statistics. I am going to have to hire 20 percent blacks, or pretty darned close to it. I have to hire 10 percent Hispanics.

So some people in our society think that is a good thing—to hire by quotas, and to be forced to hire by quotas because of the long-term problems in civil rights through the years. But to most people in this society, they know that this means you are placed in groups above individuals. They know that you are providing for equal results rather than equal opportunity.

This is important stuff. This is not some modest change in the law. This is a major dramatic change in the law. There are those in the media who have said that the Wards Cove case

changed the burden of persuasion from the employer to the employee. That is pure bunk. It has always been on the part of the employee to prove its case, or the plaintiff in other words to prove his or her case, or their cases. It has always been. That is American jurisprudence. It has always been the law. I guess not enough of these cases have gone on so they want to stack the law totally against the employer and have the employer have to prove his or her innocence.

That is not only ridiculous. That is costly and that will lead to quotas. That will lead to proportional hiring just to try to avoid the problems that the unfairness of this bill gives to the plaintiffs.

Let me tell you, there is no way around that. This standard comes nowhere near being equivalent to or equal to or like the Griggs standard.

Mr. President, this is not some inconsequential little bill. I hope that the majority leader does not walk out here and file a cloture petition today or tomorrow because I intend to proceed with dispatch.

I intend to try to correct this bill. I intend to file amendments to this bill, and hope that we can resolve these problems in this bill because I myself would like to see a civil rights bill. I would like to vote for it in the end rather than against it because I think that is what my record clearly shows in the U.S. Senate. On the other hand, I am not about to vote for something that makes such dramatic and unfair changes in civil rights law.

Let me go to a third point. The new substitute contains a few cosmetic changes to section 6, which do nothing to cure its problems. The substitute continues to deprive some Americans to an equal right to a day in court. It still bars an innocent person from challenging a consent decree entered in a case to which he or she is not a party and which operates to deny he or she or him or her, I guess, their equal protection of the law and of the U.S. Constitution.

Again, under the substitute where the Federal Government sues on behalf of members of a particular group, a member of that group is still free to challenge a consent decree entered in that case in order to obtain greater relief, but at the same time a person not belonging to that group who under the same decree is later barred from being hired or promoted due to his or her race, sex, or national origin is still denied a day in court to have that claim heard. What kind of justice is that?

I think the testimony before the committee was pretty relevant on that. A white firefighter who had been a fire chief, as I recall, in his own community but who wanted to upgrade himself joined the Birmingham Fire Department in Alabama. I suppose he made a few more dollars in his paycheck. This person went to 2 years of college for advanced firefighting. He took a number of firefighting advancement courses in addition to the college.

He then takes a supervisory exam to see if he qualifies for one of the six positions opened. He came in sixth on that exam. He thought surely I am going to be able to gain a promotion here and by merit because not only have I gone to all of these specific training situations, but I also came in sixth on the exam. If anybody ought to be chosen to be a supervisor, I ought to be it. No. He was not because under that decree which was entered into years before, to which he was not a party, he was passed over by a black person who was 85th on the exam and had none of this advanced experience that this firefighter had.

He said I was for the consent decree because I felt there were periods of discrimination against blacks. There was past discrimination against blacks, and I was one who wanted to do what is right for them and make it right. But he said I never realized for a minute it was going to be used to discriminate against me.

Well, that is just one illustration of how this language takes away the rights of people because the Supreme Court said in Martin versus Wilks, they did not say we agree with you, you should be placed in this position of supervision over this black person. They said, no, but you ought to at least have your right to a day in court to determine whether or not you have been discriminated against regardless of the color of your skin. In fact, when according to the testimony of this white firefighter he said when he asked them why did not he get the promotion, they came to him and said, well, because you are white.

He said, "They discriminated against me because of the color of my skin." I do not want anybody discriminating because somebody is white or black or Hispanic or Asian. I do not like discrimination, whether it is in forward or reverse gear. I think it is wrong. He thought it was wrong, and the Supreme Court thought it was.

I think most people would have to say what is wrong with that decision of Martin versus Wilks, they are not saying he has to win. He still has to prove his case, and he may not be able to prove it. Why should he be foreclosed by a consent decree to which he was not a party and which discriminates against him. Take away that right and you have taken away a fundamental privilege and right of equal protection under the Constitution.

Yet, this bill does it, just like that. It acts like it should never exist, while at the same time protecting those who are part of the consent decree, protecting their right, if they are discriminated against, to attack the consent decree. Those who are part of it can, but those who were not the part of it, who were never given a real opportunity to be part of it, cannot.

Well, I think you have to look at that. They have played with the language, but they have not solved that problem, and it is not fair. I happen to believe that most people of any color of skin would say that is not fair; that is not right to have a right to have your day in court taken away; it is not right under the Constitution. It would be a violation of the equal protection clause of the Constitution.

Let me go on. Fourth, with regard to section 5 of the bill, which would reverse a decision written by Justice Brennan, who is not known for conservative decisions, Justice Brennan, one of the most liberal members of the Court made this decision—the new substitute actually makes it easier to sue an employer for the discriminatory thoughts of a supervisor even though the employer acted properly—that the very thoughts of a supervisor may be wrong to subject that employer to damages in court.

Talk about a litigation bonanza for lawyers. That is going to be alleged in every case, and even though the person denies the thoughts, it is going to be a question for the jury. That is what this bill does.

I will give you an analogy. When they changed the law in medical malpractice cases from having to prove that the defendant doctor did not follow the reasonable medical practices of that particular community to a law that says that defendant doctor, if he did not give or get the informed consent of the patient, which means the defendant doctor had to explain everything to the patient about the immediate procedure before it even occurs, which might involve going 2 years to medical school. When they changed it to the doctrine of informed consent, every plaintiff in every immediate malpractice case claimed that the doctor did not inform him or her of the consequences and possibilities of that operation. They have had a case that has gone to the jury every time since.

Today, as much as 35 cents of every dollar spent in America on health care is spent for what is called defensive medicine. The fear of doctors that they are going to be sued defending themselves by overdoing everything they do and charging the patients, and the insurance companies, and you and me, through Medicare and Medicaid for every nickel of that defensive medicine, all of which is not essential to good medical practice but essential if you want to prevent future immediate malpractice lawsuits. This is the same thing.

If you can sue any employer because you allege that one of their supervisors had a discriminatory thought, even though the employer acted totally properly in the employment decision in question, and you can sue for damages, you have opened up the world for lawyers. If you think medical malpractice has cost us—and we have one of the most inflated medical cost situations in the world—then wait until you see what employment practice is going to cost us. It is the most ridiculous section I have seen yet. Yet, that is the way this bill goes.

It does not take any brains to say, look, that is not civil rights. Those are lawyer's rights to make all the money in the world by bringing any case they want and alleging anything they want to at any time in order to make a case.

Talk about a litigation bonanza for lawyers. This bill just plain makes the practice of law the No. 1 choice for wealth in America.

I have to say, as a lawyer, I think it is wrong to do that. I think it is wrong. That is just one little provision in this bill, which has all kinds of provisions that cause a litigation set of bonanzas for lawyers. I think a lot of people out there in the country are sick of the litigious society that we are undergoing. And with just cause. We have made it so it is almost impossible for businesses to practice now.

Just this year, we have increased the minimum wage; we are about to pass a clean air bill that places onerous burdens upon businesses. We are going to pass an Americans With Disabilities Act. I agree with that, but it is going to be very, very expensive for business. I think it is right in that case, because it is time that persons with disabilities have civil rights, too. Let us not forget the fact that it is going to be very, very expensive. If the average taxpayer thinks it is just the employer that pays for that, guess again. You and I and every other consumer in America pay for it in the escalated costs of goods and services and other things in our society.

Let me go on to a fifth point. Unlike any version of the bill discussed by the committee, this new substitute filed this morning, given to Senators at 6 o'clock last night—there was not a Senator on Capitol Hill except for myself at 6 o'clock last night. There may have been three or four, but I left about 6:15, and I will bet there were not many on Capitol Hill last night at 6 o'clock. So all of them have not had a chance to look at it, and I have not had a great chance, but I can tell you what some of these things are I am telling you this morning.

This morning when we filed a brand new bill, all under the guise of trying to cooperate with the White House and the administration—look, I know what administration has done. They have made a legitimate, hard effort to get this matter resolved. They said, "We will give you the Griggs language." They submitted that Griggs language. It said exactly what Griggs says. They were willing to write the report, to have colloquies on the floor to make it clear that there is no question that it is Griggs. Nobody could deny it was, because it was the Griggs language.

Here we have new language that has not one word of Griggs in it saying that we mean Griggs. But the Supreme Court is going to take the position they do not mean Griggs. Take Justice Scalia, who does not believe that the legislative record really means all that much, he is going to look at language, and that is probably the way it should be done by the Supreme Court. That language is not Griggs. It is more onerous and burdensome than Griggs, and Griggs is not easy.

I support Griggs; the administration does. The distinguished Senator from Massachusetts claims he supports Griggs, but this language is not Griggs. It is much tougher than Griggs, much more onerous and burdensome to the employer and expensive to society. The administration submitted exact Griggs language, and I know they did so as late as yesterday. I know that the distinguished Senator from Massachusetts received communications from Mr. Sununu at the White House yesterday. I know that Mr. Sununu had to offer to do Griggs and to do Griggs language and to make it very clear that this was Griggs.

At least that is what Mr. Sununu told me he was going to do as of late yesterday afternoon, and I believe that he did. I was told that he did.

Let me just say this: My fifth point, unlike any version of the bill discussed by the committee, this new substitute would place the Senate under title VII. In orther words, we are going to be responsible under this bill; this is what you call congressional coverage. And by the way, this is an idea I gladly support. I think it is time for the U.S. Senate to face up to the fact that if we are imposing these types of burdens on everybody else, maybe we ought to have them on ourselves.

I have to say we are in a different position because we are politicians. We need to have people around us on our staffs, loyally dedicated and willing to work longer hours than the 8 hours a day required by the minimum wage or the wage and hour standard law.

But the reason I am for it is that we never give a second thought to how tough this is going to be. We never give a second thought to it. We just impose it on everybody else in society, and I am for one glad they put that in here. However, it is unclear whether there is going to be a right of private action under the language in this particular substitute.

It is very ambiguous. They kind of leave it up to the Senate to determine whether or not the Senate is going to have the same burden as the employers out there in America who are subject to rights of private action in the courts.

I do not blame any Senator for not wanting a right of private action. They sure do not want it in the Americans With Disabilities Act, and I understand that because it means decent, honest Senators are going to be sued for political purposes. That is a little bit different from what employers have to go through. But really, in a sense, maybe not, because sometimes these employers are sued for political purposes too.

I might say then, fifth, unlike any other version of the bill discussed by the committee, this new substitute filed this morning would place the Senate under title VII. Like I say, that is an idea that I gladly support.

On the other hand, having just gone through the pain of trying to resolve congressional coverage under the Americans With Disabilities Act, as I mentioned here, I am convinced that the best way to deal with this issue is not to sneak congressional coverage in at the last minute. Nonetheless, I hope my colleagues will have a renewed interest in this legislation, since they will now be subject to the same standards of discrimination that we are going to impose by this bill on the private sector.

Every Senator better know that, because it is now in this bill. I for one am not going to take it out.

Finally, this new substitute does nothing, absolutely nothing, to change the fact that the most obvious benefactors of S. 2104 are trial lawyers. As I have said before, this new substitute is a litigation bonanza for lawyers. And there is no question about it.

Mr. President, I regret that I have had but little time to review this new substitute, this brandnew version of S. 2104. I objected to this procedure in committee, but on the Labor Committee the most votes I can garner on any given issue are really probably 5, and on a 16-person committee that is not very many. So most votes are 11 to 5.

So, when the Parliamentarian says that a majority voted to give the chairman the right to just substitute whatever he wanted, whenever he wanted, whatever time he wanted it, there was not really a whole lot we could do about that. But it is a very, very bad practice.

That is why I say if cloture is filed—and I do not intend to delay this bill as of now; I intend to proceed. And I intend to proceed as soon as we can fully understand and fathom the bill and rewrite our amendments to it, and

I intend to proceed with dispatch on amendments, trying to correct these problems in the bill.

Look, nobody would be happier than I if we could correct this bill and if we can all vote for it. And that is what civil rights bills ought to be; they ought to be good enough that everybody in the Senate votes for them, or at least a vast, vast majority. There ought to be no fewer than 93 Senators voting for this bill, or for any civil rights bill, or it is a lousy job. All of us want to; everybody here wants to; no one wants to vote against a civil rights bill. But I am quick to tell you that there are a lot of problems with this bill.

I have had very little time to review this brandnew version of S. 2104. Sure, we know a little about it, and we worked on it a long time and fought these matters time after time. So it is not that we are naive about it. But no matter how good you may be or how much experience you have, when new bills with new language come up, new legal standards nobody has ever seen before, it is pretty hard to put it all down and get it all understood in just a matter of 12 hours. Actually, it was less for me; I have to say less hours for me.

I assume that we will have some time to study this bill and to prepare our amendments to it, and I believe we will be able to find even more areas of concern for our colleagues in this bill. I have just mentioned the highlights. There are others.

It is a little hard to expect we will move rapidly on a bill when the proponents themselves have tossed away the bill reported from the committee and waited until the last minute to spring a brandnew bill on S. 2104 as a substitute. I have to say the issues involved in S. 2104 are far too important for us to engage in a legislative shell game.

Even the distinguished Senator from Massachusetts, whom I respect, and he knows it, said that he thinks this is like Griggs with regard to the Wards Cove case. The fact of the matter is if he thinks that, it means he does not know. I am here to tell him it is not like Griggs. It is not like Griggs. It does not even look close to Griggs. It is totally new language, and the Supreme Court is going to interpret it as totally new language, which I think any reasonable person would have to conclude.

And if that is so, then there is every reason to understand why I am so concerned.

I fought hard for civil rights on this floor, just like many others. I do not take a second seat to anybody with regard to my desire to have people treated equally and fairly. I acknowledge there can be legitimate concerns and differences on some of these issues, but I do not think there can be legitimate differences on this language that is being used to overturn Wards Cove, or the language being used to overturn Martin versus Wilks, a right to a day in court case, or any number of other areas that I have been chatting about.

I have to say that with respect to the Patterson versus McLean case, which the distinguished Senator from Massachusetts said has to be overruled, there is no disagreement. I agree with that. I have from the beginning. The White House, as far as I know, has from the beginning. At least we have encouraged them to, and I do not think there is any question about it. We agree that section 1981, which bans racial discrimination in the making and enforcing of contracts, should also cover the terms and conditions of employment. I agree with that. There has never been any question. We are going to overturn Patterson versus McLean, and we should.

With regard to the Lorance case, which is the second case mentioned by the distinguished Senator from Massachusetts, as I recall, there is also no disagreement. I agree that the women in that case should have the right to challenge the seniority clause of the collective bargaining agreement. I have no problem with that. The administration has no problem with that.

So nobody should act like those cases are not going to be overturned. That is something we can all agree on. The claim that since quotas do not arise in Griggs, whatever its merit, it is totally irrelevant. And why? Because this, including the new substitute, as I have said, is a drastic rewrite of Griggs, not a certification of Griggs.

Every Senator here better understand that. As tough as employment law is to understand, and it is very difficult, the lawyers who practice it are experts in that particular field, and it is a narrow field, but complex and difficult to understand. Most of them are just beside themselves over the Danforth-Kennedy language, let alone the original language. And I think they will be even more beside themselves with this additional language that the distinguished Senator from Massachusetts says is—and I believe him—an honest, good-faith attempt to try to meet the White House concerns.

Unfortunately, it not only does not meet their concerns, but it is worse than what the bill, as filed this morning before the substitute, really was.

So, this is a tough area and, I have to say, these are tough issues. It takes a lot of guts to stand up and vote against the civil rights bill. But let me tell my colleagues something. This is not just a civil rights bill; this is a bill that takes away rights. It is a bill that is unfair. It is a complex bill that does not resolve problems like it should. It is not going to bring people together. It does push, indirectly, for quotas and proportional hiring, and employers may have no choice other than to do that. And there are many, many aspects of this bill that have to be considered, and we hope to do that through the amendment process.

I want to say up front here I do not know if there are going to be a lot of amendments by others on this bill. There will be a number by me, and I am willing to take a time agreement on every one of them. I want to know if I am going to get up-or-down votes. I want to know if I am going to be amended in the second degree. There are some votes I want up or down and I want not to be amended. If I am treated in a reasonable manner with regard to these matters and we have a reasonable debate, I am willing to see that this bill proceeds with expedition.

On the other hand, I think it would be a travesty—having this complex a bill refiled today in a new substitute that none of us had seen—for anybody to treat any amendments like somebody is trying to filibuster or delay the bill. I do not intend to delay it.

I am not saying that if I do not feel we are treated fairly, we would not use every procedural device that we could, but I do not intend to. Given some time to be able to reformulate our amendments, I intend to bring those amendments, with expedition, to the floor. I will agree to time agreements with the distinguished Senator from Massachusetts or the majority leader, whichever. And we will have votes up and down or whatever they are and we will move ahead.

I am hopeful my colleagues on both sides of the floor will listen to these arguments. Because if the distinguished Senator from Massachusetts wants Griggs, I will give it to him. Then he is going to have a lot of support from me on that part of the bill. If he will listen to me on Martin versus Wilks, or to others who speak cogently on this issue, we may be able to resolve a lot of these problems. And there are other areas I think need to be resolved. The distinguished Senator from Massachusetts knows I will try to work with him. He knows I am willing to stand up on these issues. He has seen it in the past, and he will see it in the future. But he also knows I am willing to stand up and fight them, even though there is a lot of political downside to fighting these types of things. Because I know what is right, and I am going to try to do what is right.

I urge my distinguished colleague and friend from Massachusetts to listen to these amendments and see what he can do to help on these matters and see if he can compromise and see if we can resolve this so everybody can vote for this bill. I guarantee, if we can resolve some of these things I am talking about, this bill will pass over-

whelmingly. I can guarantee it will pass overwhelmingly with a lot of people feeling good about it. I guarantee, even though it will be difficult even then for the business community, it will be fair. And it will end a lot of the discrimination that currently does exist in some of these areas, which all of us want to do.

I hope we can do that and I hope my colleagues will listen to the amendments and see what he can do. I hope my other colleagues will, if my distinguished friend from Massachusetts will not.

I intend to offer the first amendment this afternoon. We will have some more remarks to say about this but I will start with the first amendment this afternoon and we will proceed from there and I hope we can proceed in a diligent and decent fashion and, as I said, I will agree to time agreements.

Mr. President, I have said all I intend to say this morning before our policy meetings in both the Democrat and Republican sides of this body. I will have more to say this afternoon. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I will respond very briefly. I see that some of our colleagues who have been waiting here for a period of time want to address the Senate, so I am only addressing some of the issues which have been raised by the Senator from Utah during the course of the debate this afternoon.

Mr. President, I am somewhat perplexed about the anxiety of the Senator from Utah regarding the procedure which we have followed, because he himself a year ago was a part of the same procedure on the child care bill. He himself has voted in support of the Clean Air Act, which followed an even less conventional procedure, and that was pursued by the majority leader. So this procedure, which we have followed here, was utilized to try to respond to some of the concerns of the administration and to respond to points that have been raised by a number of our colleagues, both on the committee and off the committee.

I hope that my friend and colleague is not diminishing the seriousness with which 11 members of that committee supported this proposal. He made some comment, he can only, I guess, talk about delivering five votes. We would like to believe that the 11 members of our committee who supported this process and this concept—and it was explained to them—would feel that their votes were afforded serious, considered judgment and he did not mean to slight those members of the committee. They can speak for themselves.

Mr. HATCH. Will the Senator yield on that point?

Mr. KENNEDY. I want to say frankly, in terms of process and procedure, that we have not even received the amendments of the Senator from Utah on the underlying bill. I mean, if we are talking about trying to give sufficient notice to members, my colleague has not even given those of us who were in the responsible position of managing the bill the courtesy of having the underlying amendments. So I hope, for the membership, that they will treat these kinds of exchanges in the way that they usually do, and that is to discount them in terms of their seriousness. We have attempted, in the "Dear Colleague" letter, to identify precisely the four or five major areas which had been the sum and substance of this whole legislation.

Finally, with regards to my understanding of "substantial and demonstrable," I just want to mention that the word "demonstrable" is in the Griggs decision and the word "substantial" has been used by the lower courts in interpreting the Griggs decision. And I ask unanimous consent those cases be printed for reference at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

"SUBSTANTIAL" AND "DEMONSTRABLE" IN DEFINITIONS OF BUSINESS NECESSITY

"Demonstrable" (9)

Walls v. Mississippi State Dept. of Welfare, 730 F.2d 306 (5th Cir. 1984):

Citing *Griggs* for job-relatedness standard, "that the education requirement bears 'a *demonstrable* relationship to successful performance of the jobs for which it was used.'" (p. 316)

Jackson V. Seaboard Coast Line Railroad Co., 678 F.2d 992 (11th Cir. 1982):

"Thus, none of the Brotherhood's defenses establish a *demonstrable* relationship between the requirement that helpers serve 8320 hours as 'set-up' carmen before qualifying for the carmen's roster and the successful performance of the job of carman. We therefore find that the Brotherhood has failed to justify the discriminatory promotion system . . . as a business necessity." (p. 1017)

Rowe v. Cleveland Pneumatic Co., 690 F.2d 88 (6th Cir. 1982):

Citing *Albermarle*, "Once the plaintiff has met this burden [prima facie disparate impact], and employer must demonstrate that the employment practice is job-related." (p. 93)

Citing *Robinson v. Lorillard*, "The test is whether there exists an overriding legitimate business purpose such that the practice is necessary to the safe and efficient operation of the business." (p. 93)

Carpenter v. Stephen F. Austin State Univ., 706 F.2d 608 (5th Cir. 1983): Citing *Griggs*, "The University did not present any specific evidence of the job relatedness of the educational requirement—that it bears 'a *demonstrable* relationship to successful performance of the jobs for which it was used." (p. 622)

Grant v. Bethlehem Steel Corp., 635 F.2d 1007 (2d Cir. 1980): "the employer may defend by showing a 'business necessity' for the practice, i.e., that it is not based on race but on a 'genuine business need' and has a 'manifest relationship to the employment in question,' or 'a *demonstrable* relationship to successful performance of the jobs for which [the practice is] used.'" (quoting *Griggs*) (p. 1015)

Caviale v. Wisconsin, 744 F.2d 1289 (7th Cir. 1984): Citing *Griggs*, "The Supreme Court . . . reason[ed] that a challenged selection criterion had to 'bear a *demonstrable* relationship to successful performance of the jobs for which it was used.'" (p. 1294)

Georgia State Conference of Branches of NAACP v. Georgia, 775 F.2d 1403 (11th Cir. 1985): Citing *Griggs*, "The Court held that the two requirements for employment in that case were not 'shown to bear a *demonstable* relationship to successful performance of the jobs for which [they were] used' . . . Under this precedent, the defendants in this case had the burden of proving that their achievement grouping practices bear a manifest *demonstrable* relationship to classroom education." (p. 1418)

Douglas v. Hampton, 512 F.2d 976 (D.C. Cir. 1975): Citing *Griggs*, "Once it is shown that a practice has a racially disproportionate impact, the employer must meet the heavy burden of proving that the practice 'bear[s] a *demonstrable* relationship to successful performance of the jobs for which it was used.'" (p. 981)

League of United Latin American Citizens v. Santa Ana, 410 F. Supp. 873 (C. D. Calif. 1976): Citing *Griggs*, "The Court in *Griggs* . . . found 'on the record' before it that the high school completion requirement did not 'bear a *demonstrable* relationship to successful performance of the jobs for which it was used.'" (p. 900)

"Substantial" (12)

Resident Advisory Board v. Rizzo, 564 F.2d 126 (3rd Cir. 1977): This is a Title VIII case that discusses the Title VII standard of business necessity. Citing *Castro v. Beecher*, 459 F.2d 725, 732 (1st Cir. 1972), "An employment practice producing a discriminatory effect under Title VII might well be justified by the fact that it is '*substantially* related to job performance.'"

Guardians Association of the NYC Police Dept. v. Civil Service Comm. of New York, 630 F.2d 79 (2d Cir. 1980): "But there must be a *substantial* demonstration of job relatedness and representativeness to show a sound basis for making rank-ordering hiring decisions." (p. 104)

Castro v. Beecher, 459 F.2d 725 (1st Cir. 1972): "The public employer must, we think, in order to justify the use of a means of selection shown to have a racially disproportionate impact, demonstrate that the means is in fact *substantially* related to job performance." (p. 732)

Boston Chapter, NAACP v. Beecher, 504 F.2d 1017 (1st Cir. 1974): "The Defendants' major task in [meeting burden under disparate impact] was to show a *substantial* relationship between the test results and job performance." (p. 1021)

Harris v. Marsh, 1987 U.S. Dist. Lexis 12850 (E.D.N.C. 1987):

Citing *Griggs*, "The employer must demonstrate there is compelling need to maintain the practice and that it, in fact, is *substantially* related to job performance." (Star page 2)

"Proving job relatedness requires evidence that the practice is necessary to the safe and efficient operation of the business or

that it *substantially* furthers the employer's legitimate goal of efficient and trustworthy workmanship." (Star page 2).

The opinion also cites *Williams v. Colorado Springs School District No. 11*, 641 F.2d 835, 842 (10th Cir. 1981): " 'The practice must be essential; the purpose compelling.' " (Star page 2).

United States v. United Association of Journeymen, 364 F. Supp. 808 (D. N.J. 1973):

"This statistical disproportion, especially in light of the instances of differential treatment and 'facially neutral' practices which fall more severely on black than on whites, establishes a prima facie case of discrimination, shifting the burden of going forward and the burden of persuasion to the defendant union to demonstrate that the standards for union membership bear a *substantial* relationship to job performance." (p. 828)

The opinion uses the phrase "significant" as well. "The defendants have not demonstrated that these standards bear a significant relationship to successful job performance, and therefore their application constitutes an unlawful employment practice." (citing *Griggs*) (p. 830)

Association against Discrimination in Employment, Inc. v. Bridgeport, 454 F. Supp. 751 (D. Conn. 1978):

"By way of rebuttal, defendants must then demonstrate that their employment requirements are *substantially* related to job performance . . . The disparate impact of the firefighters exam . . . compels the conclusion that the exam should be upheld only upon a persuasive showing that it was substantially related to the performance of firefighters." (pp. 754–55).

Cormier v. *P.P.G. Industries, Inc.*, 519 F. Supp. 211 (W.D. La. 1981): "Plaintiffs allegations of discrimination in testing are without merit both because PPG's use of the test has not resulted in discrimination against blacks and because PPG has shown the tests are job related and are justified by *substantial* legitimate business purposes." (p. 281)

United States v. *St. Louis*, 410 F. Supp. 948 (E.D. Missouri 1976): "The required burden that the employer must meet is *not* one of compelling interest or lack of feasible alternative, but simply that there is a *substantial* relationship between the scores and job performance." ("not" emphasized in original; citations omitted) (p. 958)

Alvarez-Ugarte v. *New York*, 391 F. Supp. 1223 (S.D.N.Y. 1975): ". . . then the burden shifts to the employer to justify those criteria by demonstrating that they are *substantially* related to successful job performance." (p. 1226)

Crockett v. *Green*, 388 F. Supp. 912 (E.D. Wisc. 1975):

"Predictive validation requires *substantial* evidence that there is a correlation between a test or job requirement and an employee's actual performance on the job." (p. 919)

The opinion also raises another standard of business necessity that is even stricter. "A business necessity test of equal protection requires not only validation of requirements and tests but also a demonstration by the employer that there are no available alternatives to the tests or requirements which have a lesser racial impact." (p. 920)

Officers For Justice v. *Civil Service Comm. of San Francisco*, 371 F. Supp. 1328 (N.D. Calif. 1973): Quoting *Castro* v. *Beecher*, " 'the public employer must . . . in order to justify the use of a means of selection shown to have a racially disproportionate impact, demonstrate that the means is in fact *substantially* related to job performance.' " (p. 1336)

Cases which have both "substantial" and "demonstrable" in definition (though not in same phrase) (2)

United States v. *Buffalo*, 457 F. Supp. 612 (W.D.N.Y. 1978):

"The defendants must show a *demonstrable* relationship between the test results and successful performance of the job for which it was used." (citing *Griggs*) (p. 622)

"Other courts have held no *substantial* relationship exists between height requirements and job performance as a police officer or firefighter." (p. 626)

United States v. *Chicago*, 385 F. Supp. 543 (N.D. Ill. 1974):

Quoting *Griggs*, " 'the general intelligence test is [not] shown to bear a *demonstrable* relationship to successful performance of the jobs for which it was used.' " (p. 553)

"From all the evidence including defendants' own studies, the 1973 sergeants' exam has not been shown to have a *demonstrable* relationship to successful performance as a sergeant." (p. 560)

"The concurrent validity study offered by defendants constitutes an attempt . . . to show a *substantial* relationship between the written sergeants' exam alone and later success on the job as sergeant." (p. 559)

Mr. KENNEDY. I will come back to the broader kinds of issues I talked about before. The Senator from Ohio has been here for over an hour and wishes to speak, but before yielding the floor I would be delighted to yield to the Senator from Utah for a question.

Mr. HATCH. Let me say I do not intend to hold up my colleague from Ohio. If I could respond just briefly to the comments——

Mr. KENNEDY. Did the Senator have a question?

Mr. HATCH. I would like to respond to the Senator's comments, if I can.

Mr. KENNEDY. I will come back. That is the situation as I understand it.

I do not intend to use the time of the Senator from Ohio, so I will yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Let me say I will not hold up the distinguished colleague from Ohio, but with regard to the amendments to the underlying bill we knew there would be a substitute. We did not find that substitute on our desk until 6 last night so there was no reason to file amendments to the underlying bill. We knew that was not going to be the bill.

And we now have to redo whatever amendments we have had. We will have one that we will present this afternoon and maybe more than one, if we can get a time agreement on the one.

Also, the word "demonstrable" is in the Griggs case but not in that phrase. So one can hardly select a word out of context and say, "Well, it is in the Griggs decision." I imagine there are a lot of words in there since it is a fairly long decision, but it is not in the phrase that is pertinent here.

Third, with regard to my comments about not receiving this substitute until last night and really not having seen it until later than that, at 6 last night, it still does not diminish my point that this is a complex bill that has to be reviewed by 100 Senators, by 99 other Senators, not just the Senator from Massachusetts.

In that regard, he brought up that I used this procedure with regard to the child care bill. That may be. But every Senator on the committee had that child care bill and knew what was in it. I do not think any Senator, except the distinguished Senator from Massachusetts or maybe a couple of his colleagues, knew anything about this bill or this substitute or what was really in it. I certainly did not, and I am the ranking member of the committee. So my point is well taken.

Does the Senator have a right to do that? I think he does. So I will acknowledge that. I am not trying to necessarily find fault. I am finding fault with the process, though, that rams something this significant, serious, complex, and difficult on to the Senate floor and expects us all to do it in just a day or two on the floor, and I do not think that is reasonable. In making my point, I also make the last point—I will try to get this done with dispatch.

I hope my colleagues will listen to the debate. I hope they review the amendments we do file because they are significant. I hope they will vote for them because if they do, we will have a bill everybody can support. I would like to do that. I want to be part of supporting a civil rights bill. If they do not change these provisions, I cannot support it no matter how politically advantageous it may be to support it. I do not think we should legislate by title. That is the point. I have taken enough time of the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

PRIVILEGE OF THE FLOOR

Mr. METZENBAUM. On behalf of Senator KENNEDY, I ask unanimous consent that the privilege of the floor each day the Civil Rights Act of 1990 is pending and for rollcall votes thereon, be granted to Ms. Meg Meiser, a congressional fellow from the Georgetown Women's Law and Public Policy Fellowship Program, who is a member of Senator KENNEDY's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. At this time, I ask unanimous consent that Senators METZENBAUM, DODD, REID, and MOYNIHAN be listed as cosponsors to the Kennedy-Jeffords substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I have heard a lot of talk this morning about the original bill, a substitute bill, and a lot of mumbo jumbo language. When it is all said and done, it does not answer the question to a great body of Americans who are concerned as to what the U.S. Senate is going to do about revising the civil rights laws of this country.

I am proud to rise as an original cosponsor and strong supporter of the Civil Rights Act of 1990. The sooner we get on about our business and bring this to a conclusion, the better it will be for America and the better message it will be for the peoples of the world.

At the outset, I want to commend Senators KENNEDY and JEFFORDS for their outstanding efforts in bringing this important bill before the Senate. I want to say that I hope before too many hours pass that the distinguished Senator from Utah will also become a cosponsor of the legislation. It is a tribute to the dedication of Senators KENNEDY and JEFFORDS that we have moved forward quickly with this legislation after a series of full and fair hearings in the Labor Committee. It will be a high moment in the U.S. Senate when the Senator from Utah joins with other Members of his own party who are supporting the substitute that is presently before the Senate.

It is no coincidence that this is a bipartisan effort. Protecting the civil rights of women and minorities should not and has not been a partisan issue. Simply put, it is the right and the decent thing to do. You do not have to be a Republican or a Democrat to know that that is the right thing to do. That is why it is absolutely critical that we enact this bill without delay. There has been too much foot-dragging already. President Bush has said that he wants to sign a civil rights bill. Let us give him that opportunity.

We want to adopt a Civil Rights Act of 1990 with resounding bipartisan support. I am not looking for any great kudos for the Democratic Party because we enacted a civil rights bill. I welcome the efforts that have been made by so many on the other side of the aisle to bring about the desired result.

The bill addresses a number of technical and legal issues, such as the allocation of the burden of proof in a disparate impact employment discriminatin action. In the next few days we will doubtless discuss the technical aspects of the bill in some details, but in the course of that debate, we must not lose sight of what is really at stake here.

The bill resets the moral compass of America. Unfortunately, in the last 9 years, we have strayed from our commitment to fair and equal treatment to all Americans, regardless of race, creed, nationality, or gender.

Mr. President, I remember when in 1943 in the Ohio General Assembly, I introduced a bill to prohibit discrimination on the basis of race, color, creed, or national origin. That was some radical kind of legislation. What was the young State representative from Cuyahoga County talking about: Banning discrimination based upon race, creed, color, or national origin? I remember the smear literature that was put out about me at the time because I would come up with such a radical ideal. It took a long time to get that bill enacted in the Ohio General Assembly. From 1943 until 1959, to be specific. But, it finally became the law.

Today we have civil rights laws in this country but, unfortunately, the Supreme Court has turned the clock back. The Reagan-Bush administration led an aggressive assault on civil rights that was unprecedented in this century. The culmination of the assault was the wholesale retreat of the civil rights protection by the Supreme Court in a series of decisions announced 1 year ago.

What has happened to America? What has happened to the Supreme Court? What kind of leadership did we get from the President and the Vice President in trying to move backward on civil rights and indeed doing just that? Make no mistake about it, the Reagan appointees to the Supreme Court lived up to their advanced billing and turned back the clock on civil rights protection.

With the lone exception of Justice O'Connor's support for the victim of sex discrimination in the Price Waterhouse case last spring, the Justices appointed by the Reagan-Bush administration uniformly and consistently voted against protecting the civil rights of women and minorities. We, here in the Congress, are called upon to undo that wrong.

We are at a crossroads in the history of civil rights in this country. We can reject the legsislation and continue the policy of the Reagan-Bush years by turning our backs on women and minorities who seek equal opportunity. That policy has fueled intolerance and bigotry and frustration. That policy has led to a dramatic increase in hate crimes, like the ugly incidents in Bensonnhurst and Howard Beach. That policy has created an audience for the venom of a David Duke or a Lewis Farrakhan.

Unfortunately, Mr. President, we stand here today while the White House is playing Tweedledee-Tweedledum with the language. They want some specific language to take care of this "problem" or that "problem" because some employers are worried about its impact.

Let us ring the bell here on the floor of the U.S. Senate. We welcome the support of the President of the United States. Let us quit playing Tweedledee-Tweedledum with civil rights in this country. Let us stand up for civil rights as they were once in this country before the Reagan-Bush appointees on the Supreme Court turned back the clock. Let us quit twiddling with the language, and let us move forward.

We can stand together to send a message to restore the moral climate of this Nation by enacting this bill. We can announce that America will not retreat on civil rights, that America will reject bigotry and prejudice, and that America still stands for fair treatment and equal opportunity.

After all, is that not the essence of the American dream? Is that not what we are supposed to be all about, giving everybody a fair chance to succeed, removing artificial barriers so a person can go as far as his or her abilities will take them?

That is all Ann Brunet, from Columbus, OH, ever wanted. She wanted to follow in the footsteps of her grandfather and her uncle to become a firefighter. What a wonderful objective for that young lady. But she could not get the chance because of a physical agility test that had nothing to do with the job of firefighting. Thanks to our civil rights laws that prohibit sex discrimination, Ann Brunet fought for and was able to get her fair chance.

Ann Brunet's testimony before the Labor Committee says it so well:

> My job was not given to me, only just the opportunity to pursue the challenge. The Federal judge understood when he ruled in my favor that I was qualified. The judge ruled in my favor because the facts showed if women are given an equal opportunity, they can do the job.

What a wonderul statement by that young lady. Because of Ann Brunet's efforts when other women have become firefighters in Columbus and have done well on the job. All they needed was the chance.

That is what this bill is all about, giving everybody a chance to hold a job, get a job. That is all Robert Lum ever wanted. He is an Asian-American who wanted to become a police officer in New York City. Initially, he was denied the chance because he did not meet the 5-foot 7-inch minimum height requirement. But Robert Lum, the Asian-American, turned to our civil rights laws to remove this artificial barrier. Thanks to those laws, Robert Lum received his chance, and the people of New York hired a model officer. In his 15 years on the force, Robert Lum has been decorated five times and been promoted to the rank of sergeant.

Robert Lum, in his testimony before the Labor Committee, put it all in perspective. Let me quote what he said:

> Through these last 15 years, I believe that I have made some positive contributions to the police department and to society. But more important than my contributions, I am forever grateful to have had the oppor-

tunity to serve. Many others are also grateful to serve. When I entered the police department, there were only 9 other Asian officers. Presently, there are approximately 180 Asian officers. I assure you not all of them are more than 5 foot 7 inches tall. I remind myself every now and then that none of this would have been possible if not for a law known as title 7.

What a beautiful statement, what a great feeling of satisfaction to know that he stood there, fought for his right to hold a job and now 180 others hold their jobs. And throughout this country his rights and their rights have been protected.

As a result of the Supreme Court's rulings of last year, however, it is very doubtful that the Ann Brunets and the Robert Lums of this world will get a fair chance in the future. That is why we must enact this bill, to restore equal opportunity and fair treatment.

I urge my colleagues to remember what is really at issue in this debate. Technical details are important to the lawyers and the lobbyists. I am sure we will discuss that. But never lose sight of the big picture.

This bill is a test of our willingness to recommit ourselves to the goal of equal opportunity for all workers. Remember when the United States was known throughout the world as that nation which stood for equal opportunity for all, when we did not have to worry about our image throughout the world because there was Franklin Delano Roosevelt, there was John F. Kennedy, and they stood for equality of opportunity, for equality for peoples throughout the world. We did not have to worry how many millions or billions of dollars we gave away in order to buy friends throughout the world because wherever they went throughout the world they were hailed and acclaimed because they stood for something in this country.

What do we stand for now? We no longer are that country which stands for equality of opportunity for all. That is what this bill is all about. It is not about some language, some specific language that some employers are worried about if they do not discriminate. They do not have to worry about the language of this bill. If they want to discirminate, or they do discriminate, then they better worry about the technical aspects of this legislation.

If you want a piece of legislation that is fair, this is it. This is right.

You can find all the technical aspects you want, but if you are not going to discrimniate—and that is not your policy and that is not your intention—you do not have to worry about the language because there will not be anybody bringing any actions against you. But if that is what your intentions are, then you have to worry about how the language is crafted.

I urge my colleagues, Republicans and Democrats alike, to join together to send a loud and clear message to the Nation by supporting the Civil Rights Act of 1990. We will feel better for having done it and this Nation will have been greater for our having done it.

Mr. President, I want to add a few words about the changes that I and others have made in the bill as reported.

President Bush has stated that he wants to sign a civil rights bill.

The sponsors of the bill have today offered a substitute amendment that the President should be proud to sign.

The substitute addresses a number of major issues that the administration objected to in the bill as introduced.

First, President Bush was concerned that somehow the Civil Rights Act of 1990 would mandate quotas.

The argument was that employers would adopt quotas rather than try to meet the so-called impossible burden that an otherwise discriminatory hiring practice was essential to effective job performance.

I never believed that the essential test was impossible to meet or that it would lead to quotas.

But that was the perception, so we agreed to eliminate the essential standard and replace it with a requirement that the employment practice bear a "substantial and demonstrable relationship" to effective job performance.

Likewise, the administration expressed concern that if employees could challenge groups of employment practices, this bottom-line approach would lead employers to use quotas.

The substitute clarifies that if a court finds that the plaintiff can identify the specific practice that causes the alleged discrimination from reasonably available information, then the plaintiff cannot maintain an across-the-board challenge to the group of practices.

The substitute should put any legitimate concerns about quotas to rest once and for all.

Second, the administration objected to the possibility that somehow the Civil Rights Act of 1990 could punish mere discriminatory thoughts.

Again, that was never our intent.

The substitute eliminates any doubts about this issue by requiring a complaining party to prove that discriminatory intent was a contributing factor in an employment decision.

The bipartisan substitute also makes a number of changes in the section overturning Martin versus Wilks to ensure that the constitutional rights of persons who seek to challenge consent decrees are fully protected.

Finally, the substitute adds a very important provision: It extends the coverage of title VII, the Civil Rights Act of 1964, to Congress.

The private sector and every other part of the Federal Government must meet the requirements of title VII.

Congress should do no less.

The substitute represents another step forward toward ensuring fair employment in Congress.

Mr. President, I want to commend the outstanding efforts by Senators KENNEDY and JEFFORDS in fashioning this bipartisan substitute.

I share their belief that the substitute fully resolves any concerns previously raised about the committee bill.

I am pleased to join them in cosponsoring this substitute.

I urge my colleagues to support this substitute.

Let us move quickly to present it to President Bush for his signature.

Mr. HATCH. Mr. President, I think we have more than made out a case that this bill has some language with which everybody ought to be concerned, even though we are not really sure technically we have fully understood all the language that has been changed between the underlying bill and the substitute that was filed just this morning.

Senator METZENBAUM spoke of tests for firefighter positions which have nothing to do with the job. Those tests are as illegal today as they were before Ward's Cove. Height requirements are similarly subject to challenge. I think the examples the Senator has given show how well the Griggs decision actually works. Why change it?

Senator KENNEDY made the point we have had 18 years of effective law under Griggs. Then why is he changing it? Why does he say the word "demonstrable" is in the opinion. It has to be a many thousand-word opinion that demonstrable is not in that crucial phraseology that talks about business necessity.

The reason we are comfortable with Griggs is because it works, and unfortunately the substitute will not work. It will create a whole new progeny of cases against employers that should not be against employers. It is going to create a whole new progeny of cases that are going to cost society billions of dollars.

In the name of civil rights we should not do this to ourselves. We should not destroy the workable employment law that we have. We should not, just because some people want to pass a civil rights bill, do whatever they say.

I remember back in 1984 we were willing to overturn the Grove City case. That very minute we could have done it; it would have taken 1 minute, but it took until 1988, 4 years later, as I recall and many, many substantive changes from that original bill to get to a bill that most could support. I supported the bulk of that bill. What I did not like about it was its antagonism toward religious freedom, so I

voted against it. But I did help bring about all those changes that made it acceptable to a vast majority of our Senators, something we could do here if we work together.

But if this bill stays in its present form, I do not believe the White House can support it. And I do not believe our colleagues should support it. How much more can we do to the free enterprise system in America to have it survive? We are adopting the very methodology that has wrecked Eastern Europe, while they are throwing it off. They have been so government-oriented and government-intrusive that they have not been able to even survive and have supermarket shelves filled.

We have been less government-oriented, more free enterprise-oriented, more free market-oriented, less regulatory-oriented—although we have plenty of regulations—and our supermarket shelves are full. I do not want to see us 20 years from now as the new Eastern Europe, while they are in a free market economy. This is exactly the reason they went down. If we make it so impossible for business people to do business, if we stack everything in favor of groups rather than individuals—which is what this bill does—we are going to undermine the very fabric of our society.

Look, it does not take many brains to realize that quotas have never worked. They never will work. They are discriminatory, they are unfair, they fly in the face of hiring the best available person for the job, they fly in the face of education and training. They support group rights, not individual rights. Quotas are results-oriented, not equality-oriented.

This bill will force business people to go to quotas. It will force business people to proportionately hire, just to save their skins, just out of self-preservation. And the more it does that, the less efficiently our businesses are going to operate; the less jobs there are going to be, and where are out minorities then, who will generally have more difficulties in many ways?

Going to quotas is not the answer to this matter. No matter how much they deny it, I do not see how any reasonable person reading that bill and knowing what it says and seeing the burdens and seeing the transfer of the burden of persuasion to the defendant employer, who will have to prove his or her innocence, can say that this bill will not be detrimental to the free enterprise system and to jobs, opportunities, and to our economy. I do not see how anybody can say that. This bill goes to the very fabric of our economy. It is more than a civil rights bill.

The distinguished Senator from Massachusetts says, "We want the Griggs standard." If he does, why do we not use that language? The White House has offered to give him Griggs. I know it. I just got off the phone with the Chief of Staff of the White House, John Sununu. He said, "I have talked to Senator KENNEDY a number of times this morning, and I talked to him last night, and I told him our position: That if you will take the Griggs language that we have submitted"—and he is talking about the first submission of Griggs language—"then we will go with you on it." We will have to work out some other things as well.

That is the pivotal issue. The President said he will not sign a quota bill. Why put the President of the United States in a position where he cannot sign a civil rights bill? Or should I say a bill that claims to be a civil rights bill, when in fact it is denigrative to the rights of many citizens. Certainly, it is not a civil rights bill under that circumstance.

I agree with Patterson versus McLean, along with the White House. I have heard the Senator from Massachusetts and the Senator from Ohio get up and be outraged about those cases. We are willing to overrule those cases. The Supreme Court decided them probably because of our inadequacies up here in the U.S. Congress. We write some of this language that sometimes has to be interpreted the way they do it. There is no dispute there. That is a civil rights change; that is good. Those are good changes.

If the Senators from Massachusetts and Ohio, who are such vigorous proponents of this measure, who say they want the Griggs language, that they are for the Griggs standard, if they want Griggs, by gosh, we will give it to them. But let us use the Griggs language, not some language that has not relationship to Griggs versus Duke Power.

Why are they avoiding it? Because they want quotas, that is why, and because they want to put the pressure on the employer. It is more than that. As I explained the disparate impact case, both before and after Wards Cove, the plaintiff can show the statistical disparity and allege the specific defect. The burden of production shifts to the employer, who then has to show a reasonable business necessity for that business practice. Once he shows that production, then the plaintiff has the burden of persuasion of proving that that business necessity is discriminatory. That is fair.

The burden of persuasion should be on the plaintiff, even though the defendant did have the burden of production of coming forth and saying, no, we have a good reason for that rule. Then the plaintiff has to show it is unreasonable, that that rule really does not apply. That is fair. Yet, this bill would change that to where they show a statistical disparity and say, all of your practices are bad and are causing this discrimination. The burden of persuasion shifts to the employer.

Anybody can show a statistical disparity at virtually any employment situation in America. None of them have perfect statistics, to my knowledge. If some do, the vast majority do not. Anybody can show a statistical disparity. That means the employer has to prove that every one of his practices is not discriminatory. That is unreasonable. He cannot win that case.

Then he has to prove it with this ridiculous standard that is way beyond the Griggs standard of manifest relationship to the job. He has to prove that substantially and demonstrably. He cannot win. You are stacking it totally in favor of the employee, under the guise of civil rights, in an unfair way and changing the whole system of American jurisprudence from those who make the claims having the burden of persuasion, to those who make the claims by showing mere statistics that can be shown in every case, and then having the burden of persuasion on the defendant to show that I am innocent; not just innocent of a specific practice, but every practice that the employer has. That is ridiculous on its face.

I am going to turn to this substitute for a minute. This is the copy of the substitute bill. It says here, "proof of unlawful employment practices and disparity cases." One, an unlawful employment practice based on disparate impact is established under this section when a complaining party "demonstrates"—what does the word "demonstrate" mean? They go so far as to say what that means. Under section 3, the term "demonstrate" means meets the burden of production and persuasion.

That is what it says:

> * * * "demonstrates" means meets the burdens of production and persuasion.

Then it says, "A complaining party demonstrates"—they are meeting the burden of persuasion just by demonstrating a statistical disparity that they can show in every case. In other words, they do not have to prove anything. They just show the disparity.

Look at this:

> A complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity;

What does business necessity mean? They have a definition back here for business necessity, as I understand it, under section 3(o):

> The term "required by business necessity" means—(1) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), bears a substantial and demonstrable relationship to effective job performance;

This is where the Griggs language ought to be.

(2) in the case of employment practices not involving selection, * * *

None of that is in there.

* * * bears a substantial and demonstrable relationship to a compelling objective of the respondent.

That language is not in Griggs. That is new language. That is new language.

And this effective job performance does not solve any problems. That is not in Griggs.

Then Proof of Unlawful Employment Practices in Disparate Impact Case, under section 4(k):

An unlawful employment practice based on disparate impact is established under this section when—

(A) a complaining party demonstrates * * *

What does "demonstrate" mean? Remember what that definition was. That means that once they demonstrate it, they meet their burden of persuasion. In other words, once they have shown a statistical disparity, which they are able to show in every case, they mean regardless of merits, they meet the burden of persuasion and that burden shifts to the defendant.

* * * a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; * * *

In other words, he fails to show that that practice bears a substantial and demonstrable relationship to effective job performance. In case of employment practices involving selection, and also in cases not involving selection except not involving selection means they have an onerous burden, if the practice of selection bears a substantial and demonstrable relationship to a compelling objective of the respondent.

That is tough language. Most employers cannot meet that language and defend themselves.

Then it says:

(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices are required by business necessity.

As defined in this bill.

In other words, all the employee has to do is show a disparate impact which they will be able to do in almost every case, I think in every case.

Statistically, there will also be the statistics, and statistics are not perfecting imbalanced, and they have met the burden of persuasion and then the burden of persuasion shifts to the defendant and with a standard that is far more onerous and burdensome than the Griggs standard which the distinguished Senator from Massachusetts says he wants to have but does not use the language to have.

He uses more onerous and burdensome language that could easily have been adopted from the Griggs decision if he really knew what he is saying.

That is all the White House has said. Let us have the Griggs language in here. Let us do what should be done. And let us not shift the burden of persuasion in this manner to the defendant.

Let us leave it where it should be with the plaintiff and make it clear that Griggs is the language you want, and even though I personally do not believe Wards Cove made a hill of beans of the Griggs decision it was another clarification of Griggs. That would do away with the Wards Cove decision. That is fine with me. Keep the burden of persuasion on the plaintiff, use the Griggs language of manifest relationship to the job, not to effective job performance but to the job, and keep the burden of persuasion of the plaintiff and we can all vote for this bill and we should all vote for it under those circumstances even though that, too, will be difficult for employers, but that is fairer, that has worked. I agree with the distinguished Senator from Massachusetts that that has worked for 18 years although there have been lots of complaints about it.

To go beyond that under the guise that you are trying to abide by it I think flies in the face of all logic. If that were the only problem with this bill that is something. But they want to change title VII so that they can bring compensatory and punitive damages for the first time in potential discrimination cases.

Title VII of the Civil Rights Act of 1964 has always worked because it has been used as a conciliation device to get the employee back to work with back-pay awards. It has worked demonstrably well over all of the lifetime of that Act for 26 years, almost.

Now they want to change it and make litigation the choice of first resort by all parties. It will do away with conciliation. It will do away with bringing the parties together that it has done for all these years. And it will make them litigants and it is again a litigation bonanza for lawyers. No question about it. The only people who are really going to benefit out of it will be lawyers. You would think I as a lawyer would love that, but I do not, because my first obligation is to my constituents who happen to be every citizen of the United States of America as well as my home State of Utah and that is not in their best interest, to continue to build litigation bonanzas for lawyers in this body, which is what we seem to do all the time, but that is what that will do.

There are so many other things that we could talk about that I think I will reserve until this afternoon, but I do have to make these points when the distinguished Senator from Ohio speaks of firefighters and firefighter positions which have nothing to do with the job. These tests are as illegal today as they were before Wards Cove, and like I say height requirements are similarly subject to challenge under current law.

So the examples given by the Senator from Ohio I think go to illustrate how well the Griggs law really does work. But let us have nobody mixed up on it. When the distinguished Senator from Massachusetts says what we are trying to do is get to Griggs, it seems to me the best way to get to Griggs is to adopt Griggs language and adopt Griggs procedures and approach this thing the way it should be approached.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERRY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, what I would like to do is review for the RECORD some of the questions that have been raised, both in terms of the caucuses—I think the report itself addresses these questions in a very able and capable way—but I thought I might review some of the questions that have been raised by Members who are trying to have a better understanding of what is included in this legislation. As soon as there are those present who want to continue the debate and discussion of the current matter, I will be glad to yield them the time to do so.

First of all, I think it is important to understand what the Court did in the Wards Cove case. It is important to understand that for 18 years following Chief Justice Warren Burger's unanimous opinion for the Supreme Court in the landmark case of Griggs versus Duke Power, title VII of the Civil Rights Act of 1964 placed on employers the burden of showing that employment practices which have a disparate impact; that is, that operate to exclude women and minorities disproportionately, are required by business necessity. Last year, in Wards Cove, the Court effectively overruled this Griggs rule and held that no matter what the proof of discriminatory effect an employment practice may have, the employer need not show that the practice in question is required by business necessity. Now, the victims of discrimination must bear the heavy burden of proving that the employer has no legitimate justification for exclusionary practices.

The Court also held in Wards Cove that where a group of employment

practices; that is, a whole selection process, such as interviews, tests, and supervisor evaluation, excluded minorities, the victims could not prevail unless they identified which specific practice within the group had a disparate impact. That is effectively the holding in Wards Cove.

What would the Act do? The Civil Rights Act of 1990 restores the Griggs rule by providing, for example, that once a person proves that an employment practice has a disparate impact, the employer must justify the practice by showing that it is required by business necessity. If the employer is able to demonstrate that it is required by business necessity, that is the end of the situation.

Our bill has three features: First, it restores to the employer the burden of persuasion in justifying the practices that have a disparate impact on minorities and women. Second, it restores the burden of persuasion to what we understood it to be under Griggs—business necessity—words taken right out of the Griggs decision. And, third, it provides that when an employee demonstrates that a group of employment practices—a combination of employment practices that produced one or more employment decisions—resulted in a disparate impact, the employer must show that the individual practices that comprise the group either do not have a disparate impact or are justified by business necessity.

We have worked out in our substitute some changes in that particular provision to try to be more forthcoming in response to the general concern the administration has expressed. Our substitute provides that if, as a result of discovery, a court finds that a complaining party can identify which specific practices result in the disparate impact, then the burden is on the plaintiff to identify those specific practices.

But if as a result of discovery the Court—not the plaintiff but the Court—finds that the employee cannot identify the specific practice, then the burden is on the employer to justify the group of employment practices. That obviously makes sense. The employer is the one that knows the range of the different tests that are developed and it is important that the employer have that particular burden. Otherwise, we could get into a situation where an employer, if he did not have that responsibility—if you did have such an employer who was discriminating, he could destroy any kind of evidence and say, look we do not have any single test, we cannot be forthcoming and that would be the end of it. That would allow the employer to continue to go ahead in the path of discrimination, and that is obviously unsatisfactory.

There is nothing to suggest in the Griggs holding that that was ever possibly foreseen. So we have tried to come to grips with the principal concerns about groups of employment practices in a way which can accommodate those who believe that that could be the subject of significant abuse.

What is a disparate impact? We have had a lot of discussion about what is a disparate impact and I think it is important to understand how it is used in the bill. The term disparate impact retains the same meaning it has been given in the line of cases extending from Griggs to Wards Cove. The impact of the practice on qualified persons in the labor market is of critical importance.

Let me quote from the Supreme Court's opinion in Wards Cove:

> It is such a comparison—between the composition of the qualified persons in the labor market and the persons holding at-issue jobs—that generally forms the proper basis for the initial inquiry in a disparate impact case. Alternatively, in cases where such labor market statistics will be difficult if not impossible to ascertain, we have recognized that certain other statistics—such as measures indicating the composition of "otherwise-qualified applicants" for at-issue jobs—are equally probative for this purpose.

The concept of disparate impact, as it has been developed by the courts, would thus remain unchanged by the legislation.

The key concept is that the practice in question operates to exclude at a significantly higher rate qualified minority or women applicants or potential applicants for a particular position.

I include here in the RECORD the kind of disparity we are really talking about—really very dramatic disparity in the Dothard case. I refer to our report at page 15:

> Experience in litigation since Griggs also illustrates the adverse and unfair effect that certain facially neutral employment requirements have had on women. In Dothard versus Rawlinson, for example, the combined effect of a height and weight requirement excluded approximately 41 percent of all women from employment as prison guards, but only 0.24 percent of all men.

That is the range of disparity we are talking about, Mr. President.

> During the committee's hearings, Ann Brunet, of the Columbus, Ohio, fire department, testified that when she first applied for a firefighter's position, not a single woman applicant could score high enough on the physical tests to be hired. After the tests were challenged, and changed to measure the actual requirements of the position, a number of qualified women were hired.

So it is these kinds of disparities we are talking about, Mr. President.

Now, would any statistical imbalance between the numbers of minorities or women in the work force or in a particular job result in a disparate impact suit? Not at all. Mere imbalances between the numbers of blacks, for example, in the work force in a community and in a particular job would not necessarily prove disparate impact. The key is to look at the pool of people who are qualified for that particular position.

You see, this addresses the arguments which have been made time and again about quotas. We have heard a great deal of distortion and misrepresentation that this is going to require quotas, people are going to say you have x number of blacks or x number of whites or browns, whatever, therefore that number is going to have to be reflected in the amount of people that are hired.

That is just not true. What we are talking about here is about those individuals who are qualified for that particular position. So you might have enormous disparities. You obviously will.

You are going to have certain requirements of individuals, for example, who are going to be hired as academic professors, and that is going to be a lot different than the requirements for janitors. So you can understand that for college professors, Ph.D.'s are going to be required, by universities, because that is going to be job-related, and you may have a smaller pool of qualified candidates from a minority group or from women. You certainly will in terms of the sciences because women for years have been really discriminated against in science education programs in our society.

So we are talking about the qualified applicant or potential applicant pools and the comparison that exists in terms of these qualified pools. The key is to look at the pool of people who are qualified for the particular position. Only if the use of a particular practice excludes significantly more of the minority qualified employees than of the nonminority qualified employees would there be a disparate impact.

Again we are are talking about significantly. We can get into what is intended by "significantly," but one very extreme case—the Dothard case—shows an extraordinary disparity in terms of the percentage. Any reasonable person would find that excluding 41 percent of one group and only two-tenths of 1 percent of a different group meets the requirement of "significantly."

ORDER FOR RECESS COMMENCING AT 12:45 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the recess for the party conferences previously scheduled to commence at 12:30 p.m., now commence at 12:45 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2111 TO AMENDMENT NO. 2110

(Purpose: To apply the rights and remedies of the Civil Rights Act of 1990, the Americans With Disabilities Act, the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1976, and the Rehabilitation Act of 1973 to the Senate)

Mr. FORD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for himself and Mr. STEVENS, proposes an amendment numbered 2111.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending substitute amendment, strike section 16 on congressional coverage and insert the following:

SEC. . RIGHTS AND REMEDIES IN THE SENATE.

(a) COMMITMENT OF THE SENATE.—The Senate reaffirms its commitment to rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

Mr. FORD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2112 TO AMENDMENT NO. 2111

(Purpose: To apply the rights and remedies of the Civil Rights Act of 1990, the Americans With Disabilities Act, the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1976, and the Rehabilitation Act of 1973 to the Senate)

Mr. FORD. Mr. President, I now send an amendment in the second degree to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for himself, Mr. STEVENS, Mr. HEFLIN, and Mr. RUDMAN, proposes an amendment numbered 2112 to amendment No. 2111.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert:

SEC. . RIGHTS AND REMEDIES IN THE SENATE.

(a) COMMITMENT OF THE SENATE.—The Senate reaffirms its commitment to rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(b) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Americans with Disabilities Act (S. 933, 101st Congress), the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(c) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in subsection (b), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(d) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in subsection (b).

(e) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in subsection (b), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in subsection (b). Such remedies shall apply exclusively.

(f) MATTERS OTHER THAN EMPLOYMENT.—

(1) IN GENERAL.—The rights and protections under the Americans with Disabilities Act (S. 933, 101st Congress) shall, subject to paragraph (2), apply with respect to the conduct of the Senate regarding matters other than employment.

(2) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, after approval in accordance with paragraph (3).

(3) For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(g) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in subsections (b) and (f)(1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of subsections (a), (c), (d), (e), (f)(2), and (f)(3) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now stand in recess to accommodate the respective party conferences until 2:15 p.m.

There being no objection, at 12:35 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

CIVIL RIGHTS ACT OF 1990

The Senate continued with the consideration of the bill.

Mr. GRASSLEY. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina [Mr. THURMOND] is recognized.

Mr. THURMOND. Mr. President, I rise today in strong opposition to S. 2104 in its current form.

Following recent Supreme Court decisions in the area of employment discrimination, the proponents of this bill claimed it was necessary to "restore" the basic protections under title VII.

Unfortunately, this legislation goes beyond their stated goals of restoration and would create a system where employers must hire by quotas or face litigation. In adopting title VII in 1964 Congress specifically rejected quota hiring and the idea that preferential treatment should be granted in employment practice based on statistics.

Yet, the Kennedy bill now before us would create a violation based on statistics and encourage plaintiff attorneys to file discrimination suits when-

ever they can show a mere statistical imbalance in the work force. As originally drafted, this bill would have required the employer to prove that the statistical imbalance was "essential to effective job performance." The proponents of this legislation, apparently realizing that this would place an impossible burden on employers, are now proposing a different standard for employers to justify a statistical imbalance.

However, even under the revised edition of S. 2104, the standard of justification for employers goes far beyond the "job-related" criteria established by prior Supreme Court decisions.

If the current section 4 of this bill is adopted, employers across this Nation will face a virtual mandate to hire by quotas to avoid protracted and expensive litigation. It will be a choice between quota-hiring and proving that a group of employment practices "bears a substantial and demonstrable relationship to effective job performance." Forcing employers to hire by quota would make title VII's mandate one of equal numbers, not equal opportunity.

Mr. President, recently I received a letter from Donald Kroes, vice president of Legislative and Public Affairs for the U.S. Chamber of Commerce. He reiterated the unanimous opposition to S. 2104 by their board of directors. Enclosed with his correspondence was a letter from James C. Paras, an attorney with more than 30 years experience in employment law.

Describing section 4 of this bill, Mr. Paras stated:

Section 4 for the first time in the history of American jurisprudence, to my knowledge, imposes on any employer, who does not possess a racially, ethnically and sexually proportional workforce, the significant burden of demonstrating that this lack of proportionality results from factors which are not merely nondiscriminatory but are required by "business necessity." Since there are undoubtedly few if any employers with proportional workforces, under this "guilty until proven innocent" approach, the entire American economy would be in violation of this provision and subject to massive class action litigation upon its enactment.

In the opinion of Mr. Paras, this legislation goes far beyond the proponent's stated goal of restoring protections under title VII. He said that "it is clear * * * the American public is being grossly misled as to the purpose and impact of this legislation." Responding to claims that S. 2104 will restore the basic principles of title VII, Mr. Paras commented, "No one with even a cursory understanding of the history of title VII and similar enactments could make such a claim regarding this legislation in good faith."

Mr. President, I ask unanimous consent that the letter I received from the U.S. Chamber of Commerce and its attached letter prepared by Mr. Paras be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. THURMOND. In addition to the U.S. Chamber of Commerce, there are other prominent groups representing businesses and a sound economy across the Nation who oppose this legislation. They include, Aerospace Industries Association, American Electronics Association, American Furniture Manufacturers Association, American Hotel and Motel Association, American Iron and Steel Institute, American Textile Manufacturers Institute, Motor Vehicle Manufacturers Association, National Association of Manufacturers, National Association of Wholesale Distributors, National Retail Federation, and others.

Mr. President, it is my understanding that representatives from the administration are continuing their discussions with Senator KENNEDY in an effort to reach a compromise on the more onerous sections of this bill. It is my hope that these talks will prove fruitful and that Congress will be given the opportunity to pass a bill which the President can sign.

I thank my distinguished colleague from Utah for yielding me time and also commend him for his vigilance on this legislation.

I yield the floor.

EXHIBIT 1

U.S. CHAMBER OF COMMERCE,
Washington, DC, June 28, 1990.

Hon. STROM THURMOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR THURMOND: On June 13, 1990, the Board of Directors of the U.S. Chamber of Commerce voted unanimously to reaffirm the Chamber's opposition to S. 2104 and H.R. 4000, the so-called Civil Rights Act of 1990. The Board's vote reflects the Chamber's strong concern that this legislation will encourage litigation and force employers to use quotas in hiring.

This bill would change federal discrimination law to allow jury trials, punitive damages and damages for pain and suffering. The addition of such provisions to federal employment law invariably will produce a prolonged epidemic of employment litigation, a high-stakes lottery in which everyone loses, with one notable exception—trial lawyers.

Further, this bill would drastically lower the standard needed to prove discrimination. Racial, ethnic or sexual disproportion in the employer's work force would itself be regarded as discrimination until the employer could prove otherwise. Consequently, to avoid the risk and expense of litigation, many employers would establish a quota system by making employment decisions based on minority status. In short, if employers can be taken to court based on the numbers, they will hire by the numbers.

The attached letter, prepared by James C. Paras, a senior partner with the San Francisco law firm of Morrison and Foerster who has more than 30 years experience in employment law, sets forth in a detailed, yet concise manner the Chamber's major concerns with the CRA. I thought you and your staff might find it useful.

Thank you for your consideration of the Chamber's views.

Sincerely,

DONALD J. KROES.

MORRISON & FOERSTER,
ATTORNEYS AT LAW,
May 18, 1990.

FREDERICK J. KREBS,
Manager, Business/Government Policy Department, U.S. Chamber of Commerce, Washington, DC.

DEAR FRED: You have asked for my views, as an attorney specializing in the area of employment law for over thirty years, with regard to the Congressional effort to amend and expand significantly our federal employment discrimination laws. Although advertised by its supporters as a bill to "restore" Title VII principles by overturning several Supreme Court decisions of the last decade, both the proposed Senate and House bills in fact represent a dramatic and unwise expansion of existing employment discrimination law. If enacted, these statutes would substantially increase the burdens and risk of liability for every employer in this country, including the most exemplary.

This legislation contains many troubling provisions including the adoption of rules that virtually mandate a quota system; provisions that penalize even those employers who successfully prevent impermissible factors from affecting the outcome of employment decisions; amendments that result in a substantial expansion of the time for raising discrimination complaints by employees; provisions that afford compensatory and punitive damages, as well as jury trials, in employment discrimination cases; and provisions that will result in barriers to reasonable settlements in employment discrimination actions. I discuss below three of the most troublesome provisions of this legislation.

SECTION 4 OF THE BILL WILL MANDATE QUOTAS TO ACHIEVE PROPORTIONALITY IN THE WORK PLACE

While there are several extraordinary if not revolutionary provisions in this legislation, none is more astounding and capable of incalculable societal impact than Section 4. I know of no federal or state employment law (or other statute for that matter) that does not require the complainant or plaintiff to demonstrate by meaningful evidence that the alleged violator or defendant has in fact engaged in the conduct prohibited by the statute. Section 4 for the first time in the history of American jurisprudence, to my knowledge, imposes on any employer, who does not possess a racially, ethnically and sexually proportional workforce, the significant burden of demonstrating that this lack of proportionality results from factors which are not merely nondiscriminatory but are "required by business necessity." Since there are undoubtedly few if any employers with proportional workforces, under this "guilty until proven innocent" approach, the entire American economy would be in violation of this provision and subject to massive class action litigation upon its enactment. Apart from its Alice in Wonderland jurisprudential scheme, the fatal flaw of this approach is the assumption that mere lack of proportionality is evidence of discrimination. That premise is both contrary to 25 years of judicial pronouncements in the employment law area,

and in conflict with all recognized expert authority in the field. Unfortunately, nothing in the recent amendments to the House or Senate bills would correct this fatal flaw or warrants a different conclusion with regard to the adverse impact of this legislation on the American work place.

The supporters of the bill contend that this Section is designed merely to overturn the Supreme Court's decision in *Wards Cove Packing Company v. Antonio,* 109 S. St. 2115 (1989). However, this Section would legislatively, overrule not only the *Wards Cove* decision, but a number of other Supreme Court decisions, including the Court's seminal decision in *Griggs v. Duke Power Co.,* 401 U.S. 424 (1971). By shifting the burden to the employer to prove, in the absence of proportionality, that it did not discriminate and that the factors utilized in its employment process were not only reasonable, but "required by business necessity," Section 4 would leave employers with little choice but to adopt quota systems in order to protect themselves from liability.

Section 4 of the bill will virtually mandate quotas by substantially altering the adverse impact analysis developed by the Supreme Court since the early 1970's in several major respects. First, it would relieve plaintiffs of the requirement of challenging specific employment practices. Instead, it would permit a plaintiff to rely exclusively on "bottom line" statistics indicating an overall imbalance in the workforce. In the absence of any further evidence, a plaintiff would prevail based upon such bottom line statistics alone. This conflicts not only with established case law, but also with Section 703(j) of Title VII, which expressly states that employers are not required to maintain numerical balances or grant preferential treatment to eliminate numerical imbalances.

Second, Section 4 of the bill would raise the standard of justification for challenged business practices from the current "job-related" standard to one requiring "objective evidence" that the practices are not only reasonable, but "that the challenged practice or group of practices bears a substantial demonstrable relationship to effective job performance." This elevation of the degree of justification required of defendant employers under the long established "job related" standard squarely conflicts with prior Supreme Court decisions.

In sum, Section 4 places employers in the dilemma of having to choose between quotas and the legal requirement of proving "by objective evidence" that each and every aspect of the employment process is not only reasonably related to bona fide job requirements, but in addition "bears a substantial and demonstrable relationship to effective job performance." There is no legal precedent explaining how an employer can prove that common employment practices, *e.g.,* relying on job recommendations or supervisory evaluations, or the overall employment process itself, satisfy such a standard. Thus, employers without an effective quota system in place would face unpredictable and extremely risky prospects of litigation. The most reasonable alternative for many businesses will be the adoption of quotas. Even this, of course, will not provide absolute protection, since employees harmed by the quotas may also be able to prevail in a reverse discrimination lawsuit. Thus, Section 4 truly represents a "no win" proposition for employers. By fostering proportionality rather than merit in employment decision-making, this legislative proposal portends even graver consequences for an American society which faces an increasingly competitive world.

SECTION 8 PERMITS JURY TRIALS AND RECOVERY OF COMPENSATORY AND PUNITIVE DAMAGES UNDER TITLE VII.

Although the sponsors of this Act claim that Section 8 represents merely a "technical restoration" of the law and an attempt to fill "gaps" in the law, in fact it constitutes a wholesale revision of Title VII's enforcement provisions, by providing for jury trials as well as awards of both compensatory and punitive damages. This ill conceived attempt to dramatically alter the Title VII landscape should be vigorously opposed.

The availability of compensatory and punitive damages will impede settlement of employment discrimination actions by providing employees with an irresistible incentive to litigate. Employees are unlikely to accept reasonable pre-trial settlement offers if they know that there is a possibility that they will be awarded a windfall in the form of punitive damages far in excess of the value of the alleged harm if they go to trial. This is particularly true under Title VII because the system contains no incentives for the employee to accept a reasonable settlement offer—the employee pays neither court costs nor attorneys fees while the EEOC handles his or her charge. Claims are not likely to settle where there is such a significant "upside," and no corresponding "downside," to litigating.

Recent experience in California has shown that the availability of compensatory and punitive damages turns employment litigation into a high stakes lottery in which everyone—employees, employers, and the courts—lose. Once compensatory and punitive damages became available in California, wrongful discharge litigation went out of control. The courts were overwhelmed with cases, and juries seemed to lose touch with reality. Between 1980-1986, employees won over 70% of the cases tried before juries, and the average award was over $645,000.[1] Million dollar verdicts to single plaintiffs were not uncommon, and one verdict in Santa Clara County exceeded $50 million. *Haun* v. *NEC,* No. 475894 (1985.). Punitive damages comprised a big part of these awards. The average punitive damage award was over $520,000. *Rand Study* at p. 25; *see also Stemming the Tide* at p. 406 (the average punitive damages award in 1982-1986 was $494,000). In recognition of the problems these irrational verdicts created, the California Supreme Court recently determined that compensatory and punitive damages should not be recovered in most wrongful discharge cases. *Foley* v. *Interactive Data,* 47 Cal. 3d 654 (1988).

A major problem with punitive damages is the lack of any guidance to juries as to when, and in what amounts, punitive damages should be awarded. As Professor Gould noted, "juries in these cases often impose liability and large damage awards according to their own standards of fairness rather than the legal instructions provided by the judge." *Stemming the Tide* at p. 406. The standards articulated in the Act do little to resolve this concern. Indeed, because the Act adopts a "reckless disregard of the rights of others" standard, and because intentional discrimination necessarily involves a disregard of others' rights, punitive damages would seem to be available in virtually every case involving intentional discrimination.

The proponents of compensatory and punitive damages argue that the availability of these remedies will have a desirable deterrent effect. However, given the skyrocketing costs of employment litigation, no further deterrent is necessary. Experience has shown that average costs of defending a single plaintiff employment discrimination action through trial can be between $100,000 and $150,000, and often it is much more. Of course, the employer must also pay the employee's attorney's fees and costs if the employee prevails. Thus, an employer who discriminates is facing at least $200,000-$300,000 in litigation costs alone. This is more than ample deterrence for any employer.

SECTION 5 OF THE ACT WILL MAKE EMPLOYERS LIABLE FOR DISCRIMINATORY THOUGHTS

Proponents of the "Civil Rights Act of 1990" seek to justify this legislation in part as an attempt to reverse certain decisions of the so-called Reagan Supreme Court and allegedly to return certain employment discrimination law principles to their status prior to these decisions by the "Reagan Court." Thus, Section 5 of the Act nominally is offered to overturn the Supreme Court's decision in *Price Waterhouse v. Hopkins,* 109 S. Ct. 1775 (1989). Interestingly enough, the Court's decision in *Price Waterhouse* was authored by Mr. Justice Brennan and concurred in by Justices Marshall, Blackmun and Stevens, none of whom have ever been characterized as "enemies" of civil rights or proponents of conservative employment law principles. In *Price Waterhouse,* Justice Brennan set forth the standards applicable to "mixed motive" cases, *i.e.,* cases in which legal and illegal factors allegedly entered into an employment decision. In such cases, a plaintiff may establish a prima facie case by showing that an impermissible factor entered into the decision-making process. *Id.* at 1785-86. Thereafter, an employer can avoid liability only by *proving* that the impermissible factor did not alter the ultimate decision. This requires the employer to establish by a preponderance of evidence that nondiscriminatory reasons would have led to the same result in the absence of the prohibited factor. *Id.* at 1786-88.

In response to *Price Waterhouse,* the Act takes the dramatic step of imposing liability based solely on discriminatory thoughts regardless of the consequences those thoughts have on the employee. Under Section 5, a plaintiff may establish a violation of Title VII when it is demonstrated that race, religion, sex, or national origin was "a motivating factor for any employment practice, even though such practice was also motivated by other factors." Thus, a plaintiff can establish a prima facie case by showing that an impermissible factor played a role in the mind of any person involved in the decisional process, no matter how insignificant that role may be.

Moreover, Section 5 would impose liability upon an employer even if the employer can prove that impermissible factors did not cause the employee to lose any employment opportunity. Although Section 5 forecloses a backpay or reinstatement award if the employer can prove that the impermissible factor did not actually affect the ultimate employment decision, the employer would nevertheless be adjudged a discriminator

[1] J. Dertouzos, "The Legal and Economic Consequences of Wrongful Termination," Rand Corporation Study R-3602-ICJ (1988) ("Rand Study"); Gould, "Stemming the Wrongful Discharge Tide: A Case for Arbitration, 13 Emp. Rel. L.J. 404 (1988) ("Stemming the Tide").

and be required to pay the plaintiff's legal fees—no matter how strong its evidence that the adverse decision was based on permissible factors. In addition, the employer may be compelled to pay compensatory or punitive damages if Section 8 of the Act, discussed previously, is enacted, Perversely, Section 5 would penalize even employers who adopt a system that effectively precludes employment decisions from being made for discriminatory reasons, simply because a single participant in the process expresses objectionable thoughts. Thus, Section 5 would effectively transfrom Title VII into a "thought-control" bill.

I understand that the Civil Rights Act of 1990 has garnered considerable support in the Congress. Based on my review of the declarations of its proponents and supporters, it is clear that the American public is being grossly misled as to the purpose and impact of this legislation. While the proponents of this legislation claim that its purpose is to merely restore the status of employment discriminatory law to its position a decade ago, this claim is both false and misleading. No one with even a cursory understanding of the history of Title VII and similar enactments could make such a claim regarding this legislation in good faith. While the expansive and dangerous impact of some of these amendments, such as punitive remedies, is apparent on their face, the impact of other equally pernicious proposals, such as the so-called "Wards Cove" amendments, is far less obvious. In sum, this legislation does not constitute a return to the basic principles of Title VII, but, on the contrary, is founded upon a philosophy inimical, to and inconsistent with, those employment discrimination law concepts. I hope I have been of some assistance in exposing the nature and effect of this ill-conceived legislative effort.

Very truly yours,

JAMES C. PARAS.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2112 TO AMENDMENT NO. 2111

Mr. FORD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is Ford amendment 2112 to the Ford amendment 2111 to the Kennedy substitute amendment 2110.

Mr. FORD. I thank the Chair.

Mr. President, the amendment that I have offered is cosponsored by the ranking member of the Rules Committee, Senator STEVENS; the chairman of the Select Committee on Ethics, Senator HEFLIN; and the vice chairman of the Ethics Committee, Senator RUDMAN.

This bipartisan amendment proves that the Senate intends to provide the same antidiscrimination protection to its own employees that we require of the rest of the Nation.

The issue here is not whether the Senate will abide by these same laws, for our Senate rules already require that. The issue is can we provide a mechanism for effectively enforcing those laws that does not run afoul of the constitutional protections our forefathers created? I believe that this amendment does that.

This is a simple amendment. It provides that the same antidiscrimination protections available to individuals in employment outside the Senate will apply to employment situations within the Senate. Similarly, as provided under the Americans With Disabilities Act, nonemployment antidiscrimination protections against the handicapped will also apply to the Senate.

But this amendment contains an important safeguard: It recognizes the importance of the constitutional doctrine of separation of powers, and it does not threaten to undermine the speech or debate clause of article I of the Constitution.

Some of my colleagues may be surprised to learn that the Senate rules already provide individuals protection against employment discrimination by Members. Rule 42 of the Standing Rules of the Senate prohibits employment discrimination against individuals on the basis of race, color, religion, sex, national origin, age, or state of physical handicap. The rule is enforced through the Select Committee on Ethics, as empowered by Senate Resolution 338, 88th Congress.

Although this prohibition exists, it has become apparent that the Senate wishes to express its opposition to employment discrimination more strongly. And I support those efforts. However, as chairman of the Senate Rules Committee, I believe that there are institutional concerns and constitutional issues that we must consider in applying these laws to the Senate.

First, is the consideration of separation of powers. It should be obvious that an agency of the executive, such as the EEOC or the Secretary of Labor, investigating the employment decisions of a Member violates this principle. The American constitutional law division of CRTS concluded that "authorization of administrative enforcement by an executive agency would raise serious separation of powers problems."

Second, the Senate must be aware of creating potential conflicts with article I, section 6, clause 1 of the Constitution: The so-called speech or debate clause. Here the constitutional conflict is not so clear.

If the Congress applies the provisions of these antidiscrimination laws, as enacted, to the Senate, individuals would be given the right to sue members in Federal court over alleged discriminatory employment decisions. The Supreme Court has never affirmatively ruled that such a suit violates the speech or debate clause of article I. But it should be clear that such suits could lead to the very "questioning in another place" of Member actions that the Constitution attempted to guard against.

The question for the Senate should be: Can we provide meaningful protection against discrimination for employees and potential employees, without completely waiving the protection specifically granted under the speech and debate clause? And without violating separation of powers considerations? This amendment answers "yes" to both of those questions.

This amendment applies the rights and protections of five major civil rights laws to the Senate: The Civil Rights Act of 1990, S. 2104 that we are now considering; the Americans With Disabilities Act; the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1976; and the Rehabilitation Act of 1973. This amendment will prohibit, by statute, employment discrimination and discrimination against the handicapped in accessing Senate facilities.

It provides for the enforcement of those rights by the Ethics Committee, or other entity that the Senate might designate in the future. In enforcing these rights, the Ethics Committee is charged with applying the same remedies that exist for private-sector employees. Further, the amendment provides that the rights and protections provided under the Americans With Disabilities Act for nonemployment matters shall also apply to the Senate. Finally, the Rules Committee is charged with informing employees of their rights and these enforcement procedures.

This amendment provides effective, enforceable protection for Senate employees and other individuals against employment discrimination. And it does so without uprooting constitutional doctrine and strongly held institutional concerns. This is an historic moment for the Senate. I urge my colleagues to act now to provide the same protections for our employees that those in the private sector enjoy.

I ask unanimous consent that a summary of the amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF AMENDMENT TO S. 2104

Purpose: To uniformly apply the rights and remedies of several civil rights laws to the Senate.

Subsection (a): Reaffirms the Senate commitment to Rule XLII of the Standing Rules of the Senate, regarding prohibitions against employment discrimination in the Senate.

Subsection (b): Establishes by statute that the rights and protections against employment discrimination under the following laws apply to the Senate:

Civil Rights Act of 1990 (if enacted).

Americans with Disabilities Act (if enacted).

Civil Rights Act of 1964.

Age Discrimination in Employment Act of 1976.

Rehabilitation Act of 1973.

Subsection (c): Provides that pursuant to S. Res. 338, 88th Congress, the investigation and adjudication of employment discrimination claims would be handled in the Senate by the Select Committee on Ethics, or such other entity as the Senate may establish.

Subsection (d): Provides that the Senate Rules Committee would be responsible for ensuring that employees are informed of their rights.

Subsection (e): Provides that in recommending remedies in employment discrimination cases, the Select Committee on Ethics should, to the extent practicable, apply the same remedies that are available to other individuals under these Acts.

Subsection (f): Provides that the rights and protections under the Americans with Disabilities Act (S. 933, 101st Congress) pertaining to matters other than employment shall apply to the Senate. The remedies and procedures to carry out these provisions shall be established by the Architect of the Capitol, as approved by the Senate Rules Committee.

Subsection (g): Establishes these procedures as the exclusive rights for enforcement and adjudication of claims in the Senate. Recognizes that these provisions are enacted as an exercise of the rulemaking authority of the Senate.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise in support of the amendment of the Senator from Kentucky. I would like to express our appreciation to him and to the members of the Rules Committee for their bipartisan efforts to try to help, in this instance, our committee, to try to ensure that the provisions of the Civil Rights Act of 1990 will apply to the U.S. Senate.

I also commend my colleague from Iowa for his perseverance in ensuring that what legislation we do pass—such as the Disabilities Act, the Age Discrimination Act, the Civil Rights Acts of 1964, the Employment Act of 1967, and the Rehabilitation Act of 1973, all dealing with employment—will require that the Senate and House of Representatives of the United States effectively conform with those particular pieces of legislation.

I think the procedures which have been outlined by the chairman of the Rules Committee do that. Really, for the first time in the history of this country, we will be dealing with this issue in a comprehensive way. I reiterate my appreciation for the raising of this issue by the Senator from Iowa, Senator GRASSLEY. I know our friend Senator HARKIN has spoken on this issue as well in the Rules Committee.

If I could just read into the RECORD the particular provisions of the amendment on page 2.

Application of Senate employment.—The rights and protections provided pursuant to the Civil Rights Act of 1990, the Americans with Disabilities Act, the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

So we are including all of those provisions that relate to employment. I think that is a wise judgment. Then it continues:

Investigation and Adjudication of Claims.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in subsection (b), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

Therefore, I understand this is a commitment to establish those procedures either through the Ethics Committee or through some other entity. I have complete confidence that the Rules Committee will live up to those particular requirements. There is no reason to doubt that they will. We can always have a chance to review that, but I have no doubt they will. Then it goes on:

Rights of employees.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to * * *.

So this is the notification provision, which I think is important. Then, the remedies section points out:

* * * should, to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to * * *.

As I understand it, the spirit of this provision is they will apply current law to the particular issues that are raised during this period of time. So, Mr. President, it seems to me this is a wise way to proceed.

I urge my colleagues to support the Ford amendment on congressional coverage.

Application of our Nation's civil rights laws to Congress is long overdue. We must eliminate the double standard, under which Congress is not prohibited by law from engaging in forms of discrimination which are illegal for private citizens and other governmental bodies.

Currently, Senate rule 42 prohibits discrimination in hiring based on race, religion, sex, national origin, age, or disability. But there are no standards for accountability and no enforcement mechanisms for rule 42.

The Senate should not be above the law. As representatives of all Americans, we have a special responsibility to assure that our policies and practices provide equal access to all our citizens. And we must guarantee these basic civil rights with effective remedies.

The Ford amendment provides an appropriate mechanism for implementing congressional coverage. The language proposed by the distinguished chairman of the Rules Committee sensibly balances the goals of congressional coverage with the legitimate concerns of the Congress as an institution. Most notably, the mechanism proposed by the Senator from Kentucky ensures that the legislative branch will be accountable under the law, but not subject to undue pressure from the two other coequal branches of Government.

Legitimate objections have been expressed with regard to other congressional coverage mechanisms which have been proposed recently. The Ford amendment seems to strike the right balance.

The Senate and the Nation will benefit from the inclusion of the Congress in the coverage of the Civil Rights Act. The problem of a double standard, exempting Congress from the application of the laws it enacts, is a problem as old as our democracy. One of the authors of our Constitution, James Madison, wrote the following in 57th Federalist:

* * * what is to restrain the (Congress) from making legal discriminations in favor of themselves and a particular class of society? I answer: the genius of the whole system; the nature of just and constitutional laws; and, above all, the vigilant and manly spirit which actuates the people of America—a spirit which nourishes freedom, and in return is nourished by it. If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to tolerate anything but liberty.

I urge my colleagues to take this opportunity to demonstrate our commitment to equal access for all and to the rule of law, by supporting the Ford amendment.

It seems to me, as an institutional issue, that we will for the first time have the kind of comprehensive inclusion which this institution should have.

I want to commend again the Senators from Iowa, Senator GRASSLEY and Senator HARKIN. I know we have some differences as to how best to achieve it, but both of them have been very much involved in ensuring these laws would apply to this institution.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask uanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I hope we will have the opportunity to debate the Ford amendment. We are prepared to move ahead on that particular issue. We heard a great deal earlier today about the desire to be moving ahead on different amendments. We are quite prepared to see

movement on that measure. It is an important one. I know there is a difference of opinion, but it is an issue which I know has been discussed in the two caucuses this noontime. We are interested in trying to make some further progress on the legislation.

Mr. FORD. Will the floor leader yield for a question?

Mr. KENNEDY. Yes, I will be glad to.

Mr. FORD. My amendment is at the desk. No one has come forward to oppose it. I would be hopeful that we might be able to move that amendment forward. I know you cannot move consideration of an amendment. That is not a procedure on the Senate floor. But the Chair could very obviously ask for debate. If there is no further debate, then the amendment could be considered and passed.

Mr. KENNEDY. Mr. President, I appreciate the willingness to address this issue in the way that the Senator has expressed. I will withhold further comments at this time and hope that we will have disposition of this Ford amendment.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there further debate?

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Massachusetts suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, here we are again. The Senate is considering another so-called Civil Rights Act. This bill should be called the quota bill instead of the civil rights bill. In any case, as it is becoming a habit around this place, a rather politically clever title is being used to encourage Senators not to read the legislation much less question its contents. It just masquerades as something to advance the cause of civil rights.

In looking over the legislation, and I recognize that there is now a substitute pending, it occurred to me that Senators would be well advised to look at and study it, because there are quite a few surprises inside this legislation which will require Senators to choose between two visions of America.

One vision is of an America stratified by racial and ethnic quotas—an America whose law codifies the system where benefits and advantages are doled out according to group identity rather than on merit and the content of character.

The other vision is one which will instead focus on an agenda to enhance the progress of every citizen by removing obstacles to individual initiative.

I can catalog other dangers which Senators might want to inspect. But first let me recite a little story that Sam Ervin told me one time. Sam used to tell the story frequently before he entered into debate where the opposing side was about to trample on the spirit of the document that Sam spent his entire life defending, our U.S. Constitution.

Sam Ervin was a great Senator. He was a great North Carolinian, and he was a great American. I had the privilege of serving with him for 2 years when I first came to the Senate.

Those few of us who had the privilege of serving with Sam recall that he had a bevy of friends, and he would recite stories about one or another of them to illustrate the point he was making.

One of his friends was a man named Job Hicks. He was a friend of Sam's, as I understand it. Job was tried and convicted of disturbing religious worship some 85 years ago in Burke County, NC, Sam Ervin's home county.

According to Sam, Job Hicks revered the words of the Lord. Job also had a friend by the name of John Watts, who suddenly discovered one day that he had a calling to preach the Gospel at any church that would give him a pulpit.

Now, John Watts was a fine bricklayer but he knew very little about theology—he knew the same amount of theology as a lot of people today know about the Constitution of the United States.

In any case, on one Sunday, Job Hicks had a little too much Burke County corn liquor and after imbibing he walked down to a small country church and he saw John Watts in the pulpit—that is John Watts, the bricklayer.

Mr. Watts was expounding on his profound version of the Bible, which had little relationship to what the Bible really said. So Job Hicks suddenly grabbed Mr. Watts by the collar and threw him out in the street.

At his trial, the presiding judge asked Job Hicks if he had been too drunk to realize what he was doing. And Job responded:

> It is true, your Honor, that I had several drinks. But I would't want your Honor to think that I was so drunk that I could stand by and hear the word of the Lord being mummicked up like that without trying to do something about it.

Which is precisely the way some of us feel about the pending legislation before us. I cannot be silent, while the spirit of the Constitution and our notion of fair play for all are being "mummicked up," to use Job's words, by the U.S. Congress and the crowd in this town who are all too happy to spread a perception that ours is a nation full of bigots who are out to deprive millions of Americans of economic or political liberty. It just is not so. It is all politics. And that is the reason we have this quota bill before us—quota bill, not civil rights bill. It is a quota bill.

It is important for us to realize, first, just how far the so-called civil rights establishment and the authors of legislation like this have traveled from the goals which originally inspired the civil rights movement in the 19th century. The current civil rights leadership now engages in an open battle for social and economic benefits to be conferred on the basis of race, and other invidious classifications rather than campaigning for equal justice under the law for all Americans regardless of race.

On the other hand, the original civil rights movement embodied the old American principle of a fair deal for all. In 1871, the abolitionist Frederick Douglass was the first to respond to cries for a racial and ethnic spoils system. Douglass stated that "equality of numbers has nothing to do with equality of attainment." In a startling rebuke of an advocate of the system we now refer to as quotas or affirmative action Douglass went on to say that:

> The mulattoes, on a solid census basis, ought to have so many offices, the blacks so many, and the whites so many, the Germans so many, the Irish so many, and other classes and nationalities should have offices according to their respective numbers. * * * Upon your statistical principle, the colored people ought, therefore, not only to hold one-eighth of all offices in the country, but they should own one-eighth of all the property, and pay one-eighth of all the taxes of the country. Equal in numbers, they should, of course, be equal in everything else. They should constitute one-eighth of the poets, statesmen, scholars, authors, and philosphers of the country.

In 1963, even Martin Luther King echoed the sentiments of Douglass and others by rejecting the notion of preferential treatment. He stated clearly that the only civil right is the right to live in a nation where persons are judged by the quality of their character, not the color of their skin. On that point he was absolutely right.

Mr. President, the Civil Rights Act of 1964—which the current legislation would irreparably alter—did not purport to establish racial classifications. It outlawed discrimination on all fronts. In matters of employment, title VII of the act declared that no employer shall be permitted to "fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual * * * because of such individual's race, color, religion, sex, or national origin."

The plain meaning of the Constitution is more emphatic than any legislation Congress has ever passed on the issue of civil rights. Even the late Justice William O. Douglas—hardly a

pillar of conservative legal thought—argued that the Constitution prohibited any legislatively mandated racial or ethnic quota system. After the 1964 Civil Rights Act passed, Justice Douglas observed:

> The Equal Protection Clause commands the elimination of racial barriers, not their creation in order to satisfy our theory as to how society ought to be organized. * * * So far as race is concerned, any state-sponsored preverence to one race over another * * * is in my view "indivious" and violative of the Equal Protection Clause.

The distinguished professor of constitutional law at Yale University, Alexander Bickel, agreed with Justice Douglas by adding:

> The lesson of the great decisions of the Supreme Court and the lesson of contemporary history have been the same for at least a generation: discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society. * * * Having found support in the Constitution for equality, [proponents of racial preferences] now claim support for inequality under the same Constitution.

It is impossible to discuss this subject without bringing up the late Hubert Humphrey. I came to Washington in January 1973 as a Senator, not knowing Hubert Humphrey. And I imagined that Hubert and I would not get along. How wrong I was.

How many times I stood here and debated Senator Humphrey, who was managing a bill on that side and I was managing it on this. We disagreed but we never failed to walk up that aisle with our arms around each other as friends.

I think it is interesting to examine the words of Hubert Humphrey. There was no more ardent advocate of true civil rights than Hubert Humphrey.

He expressed himself on countless occasions as being opposed to quotas and preferential treatment. I recall the contentious debate on one piece of legislation when Senator Humphrey had this to say:

> [O]ur standard of judgment in the last analysis is not some group's power * * * but an equal opportunity for persons. Do you want a society that is nothing but an endless power struggle among organized groups? Do you want a society where there is no place for the independent individual? I don't.

And then he proceeded further:

> * * * if there is any language [in the Civil Rights Act of 1964] which provides that any employer will have to hire on the basis of percentages or quotas related to color, race, religion, or national origin, I will start eating the pages one after another because it is not in there.

Mr. President, we are now being asked to break faith with Frederick Douglass and Hubert Humphrey and support S. 2104, the so-called Civil Rights Act of 1990. This bill will not, as it advocates claim, merely overturn a few Supreme Court decisions from the 1989 term. It will destroy the principle that defendants are innocent until proven guilty, thereby leading this country deeper and deeper into the quicksand of racial and ethnic quotas.

In 1989, the Supreme Court acted to make enforcement of the 1964 Civil Rights Act compatible with the wishes of those like Hubert Humphrey who said that quotas are an affront to the American way of life. In the case of Wards Cove versus Antonio, the court declared that no longer will a mere statistical imbalance in the racial makeup of a work force create a presumption that an employer has practiced discrimination.

However, the authors of the legislation before us claim that disproportionate racial representation is in and of itself proof of discrimination. Under this bill an employer who dares hire people in such a way as to produce an employee pool that is not a racial reflection of his community risks being sued. The employer also knows that if he cannot link his hiring policy to job performance—such as the requirement of a high school diploma before hiring a salesman or a cook—he is out of luck. This puts an employer in a real dilemma. The natural propensity of that employer will be to simply spare the risk of litigation and impose a racial or ethnic quota system on his business.

But there is more danger even if the luckless employer installs his own quota system. Every time he hires a person according to race, he discriminates against someone according to race. So if he hires by race to meet the dictates of S. 2104, he can be liable for refusing to hire those indivduals—qualified to hold the job—whom he refused to hire solely because their group's racial quota had already been filled.

In addition, this legislation does not require that a plaintiff identify what discriminatory practices he or she is complaining about. It places on the employer the burden of proving that every part of his hiring system is not discriminatory. In effect, the employer is presumed guilty.

The only sure thing about this bill is that if it is enacted, lawsuits will proliferate; simply by claiming discrimination, plaintiffs may enter what George Will calls a "potentially lucrative lottery." The bill will promote divisive jury trials rather than promote mediation, and it will hand juries the power to impose punitive damages and damages for pain and suffering. Thus we have a device for intimidating employers into adopting preemptive quotas.

What is afoot here? Besides creating a lawyer's bonanza, this bill simply sends America in the wrong direction. As I asked earlier: Do we want a Nation where privilege and employment are handed out on the basis of group identity rather than on individual merit? There already exists a model for this type of stratified and proportionalized society, it is called Lebanon.

We have had 25 years of social engineering masquerading in the guise of progress. In the meantime, millions and millions of Americans are more isolated from the economic mainstream than ever before. The race conscious policies of the last quarter century have done a great deal to benefit the most advantaged in minority groups, but the vast majority have been left further and further behind.

Mr. President, Robert Woodson, the president of the National Center for Neighborhood Enterprise—an organization promoting urban black progress through the free market—calls the Civil Rights Act of 1990 a fraud. Mr. Woodson told President Bush at a conference in May of this year, that by focusing on so-called white racism as the major problem facing black Americans, this legislation siphons off attention from the true crisis affecting the poor and disadvantaged.

Mr. Woodson explained that S. 2104 doesn't do a thing for the one-third of black Americans who are really in trouble. It is only the one-third of blacks who are highly professional or unionized who will benefit from this legislation. As Robert Woodson added, "the elimination of the last racist thought from the last mind would do nothing to change the plight of the inner cities one whit."

When asked to lay out an equal opportunity program to fall in line with the spirit of the original civil rights movement, Woodson declared:

> We'd have economic empowerment for the poor, exemption of poor people from laws and regulations that discourage employment and enterprise formation, a streamlining of social service delivery systems, an amendment to the 1964 Civil Rights Act to enhance penalties for intentional discrimination and the expansion of the Dependent Care Tax Credit—for starters. But no progress is possible until we acknowledge that racism is no longer the central problem for blacks.

I think he is right on target. The pending legislation creates a system of racial preference that does little for the average person and a very great deal for the hatemongers. Most people find quotas, preferences, and the assumptions of cultural inferiority hidden in this bill to be offensive despite the civil rights establishment's adherence to them.

I am going to wind up now, Mr. President, but before I do, bear in mind that Thomas Jefferson boasted that the United States of America was the world's first meritocracy, the first society in history without castes or preferential treatment for anyone who has not succeeded by his own sweat and perseverance.

I wonder what Tom Jefferson would say if he could walk into this Senate

Chamber today and walk up to that desk and take a look at this bill. I think he would say it is about time that the Senate focus on the real problems facing America rather than trying to dig up the bones of a battle long since won and a battle that has little relevance to the plight of everyday Americans.

Mr. President, I yield the floor. I suggest the absence of a quorum.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. HELMS. Yes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I hope we can get on with the business at hand, which is the Ford amendment. But I do want to respond very briefly to the points that have been raised with regard to the fact that lawful court remedies, affirmative action, and the conciliation agreements are not affected. On line 15, section 13 says:

> Nothing in the amendments made by this bill shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

We spell that out very clearly and very completely. In the report it points out, at page 58:

> Section 13 of the legislation is intended to make it clear that nothing in the amendments made by the Act affects court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law. Thus, the lawfulness of such court-ordered remedies, affirmative action, or conciliation agreements is to be determined under the law without reference to the amendments made by the Act.

We do not alter or change any formulation in those areas. I know this has been an issue, and that those who have been opposed to the legislation keep raising it, but we have tried to address it in as complete a way as possible in the legislation as well as in the report.

I believe the other points that have been raised by the Senator from North Carolina have been addressed in other parts of the debate and discussion. I believe the record will reflect that.

I saw the Senator from Iowa on the floor just a few moments ago. Again, we have been here now for close to 2 hours. We want to accommodate our colleagues, but we do expect on an issue of this importance we are going to be able to move ahead with debate. I am going to request a quorum call at this time, but this will be the last time that I am going to do it to protect people's rights.

This will be the second time that we have done it. The Senator from Kentucky has been on the floor for the last 2 hours, and I do think we are entitled to at least the presence of our colleague.

So I will suggest the absence of a quorum, and indicate to those who are interested in this particular issue that this will be the last time. Otherwise, we will move ahead and let the Senate dispose of the amendment.

The yeas and nays have been ordered. That is sufficient notice on a matter of this importance, so I suggest the absence of a quorum. I urge my colleague from Iowa to come and debate this issue. Otherwise, we are going to dispose of it.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I want to take the floor to talk a little bit about the amendment now pending before the Senate regarding congressional coverage under the civil rights bill.

Much of what I am about to say covers the civil rights bill, but, at the outset, I would like to say that it extends also to the provisions of the Americans With Disabilities Act, which previously passed this body last September and has been through conference but which is pending now at the desk. So much of what I have to say about the civil rights bill and its coverage in Congress I think by extension pertains also to the Americans With Disabilities Act.

Certainly, ensuring the civil rights of our citizens is one of the most important functions that we in Congress perform. Our civil rights laws send a clear message that discrimination on the basis of race, color, national origin, religion, gender, age, and disability will not be tolerated. Our civil rights laws establish standards of discrimination, remedies once violations have occurred, and procedures for resolving complaints, including administrative procedures and private rights of action to go to court.

Initially, Congress made the civil rights laws applicable to the private sector and then extended coverage to State and local governments. Later Congress extended coverage to the executive branch of the Federal Government.

As the chief sponsor of the Americans With Disabilities Act, the newest civil rights law, I have stated on numerous occasions that the ADA is fair and is balanced legislation. I believe that the standards are fair, the remedies are reasonable, and procedures for resolving complaints are appropriate. Other sponsors of civil rights legislation have made comparable statements. I believe the same can be said of the civil rights bill before us today.

Mr. President, I believe it is about time that the Senate lived by the same standards, remedies, and procedures it establishes for Federal agencies, for State and local governments, and for the private sector. The issue of covering Congress and providing for a private right of action is not new. Bills pertaining to this have been around here for at least 12 years. Our distinguished colleague from Vermont introduced a bill 12 years ago that would have accomplished the same objective—that is, of ensuring that Congress is covered by the same civil rights and employment statutes that Congress is passing for the private sector. I understand that the Senator from Vermont has reintroduced the same bill every Congress.

I have heard a lot of apprehension around here of extending this to cover Congress. I believe the fear of doing something new and establishing new ground in different ways always raises worst-case scenarios. But I think most have to agree that if our laws are fair and just, as we say they are, if the civil rights bill before us is fair and just, if the Americans With Disabilities Act is fair and just, then these concerns about covering Congress should not materialize. Some of our Members believe that providing a private right of action against Members of Congress is unconstitutional. I disagree with that. The senior constitutional law expert in the American Law Division of the Library of Congress has written an opinion stating that a strong argument can be made that a private right of action is constitutional, and in light of a very recent Supreme Court decision called the Forrester decision, the Court held that there is no absolute immunity of judges from allegations of employment discrimination because such decisions are administrative in nature and not judicial in nature. Thus, judicial immunity does not extend to employment decisions.

A recent decision just last year by the D.C. Circuit Court of Appeals, relying on the Forrester decision of 1988, held that the D.C. speech and debate clause, which is virtually identical to the speech and debate clause in the Constitution, does not provide absolute immunity to a member of the legislative branch for acts of employment discrimination. In other words, there is no speech and debate clause immunity for employment discrimination.

The Court effectively overturned the reasoning in an old case called the Browning case, which held that employees in policymaking positions have no rights, but those performing ministerial duties did. The Court, in rejecting the reasoning of the Browning case, stated that Forrester's functional approach also forecloses the somewhat curious logic that the greater the em-

ployee's importance to the legislative process, the greater should be the State legislator's freedom to violate that employee's constitutional rights. Yet, Mr. President, in the most recent Court case that we have before us, the Winter case, the Forrester case from the Supreme Court basically held that there was no constitutional right to immunity if in fact that right or if the case arose out of an employment decision, not out of a judicial decision.

Well, as we all know, courts only reach the law that is before them. They only address the issues before them, not extraneous issues.

A case that came a year later, a case in the D.C. Circuit Court of Appeals, was called Gross versus Winter. Winter was a council member of the council of the District of Columbia. In that case the court, relying upon Forrester, held that based on the weight of this authority, we find Forrester, not Browning, controlling the present case.

Basically, what we have is a series of cases starting with Browning in about 1986, Forrester, Supreme Court decision in 1988, D.C. Circuit Court of Appeals in 1989, that I believe draws a clear and distinct line that the speech and debate clause that covers the Congress of the United States does not cover decisions made by legislatures, that is Senators and Congressmen, in employment matters, and that in employment matters, that can be covered by an individual's constitutional rights against discrimination.

So, therefore, I reject the argument that somehow what we are doing is unconstitutional. I believe it is not only fully constitutional that individuals have a private right of action above and beyond whatever administrative procedures we have, but I also believe that in the near future, courts, regardless of what we do here, will find that there is that constitutonal right.

I might also point out that Laurence Tribe, the constitutional expert from Harvard Law School, shares the conclusion reached by the American Law Division of the Library of Congress. A copy of the Library of Congress' analysis is available for any Member or Senator who would like one. If a staff person would like a copy, we have plenty in room 113 of the Hart Senate Office Building, if individuals would like to take a look at that analysis.

In summation, a private right of action is constitutional. Therefore, we should not hide behind some theoretical and wholly baseless constitutional provision to protect ourselves from our unwillingness to address the important policy questions of whether we should be subject to the same provisions applicable to others. Coverage of Congress is a step that we should take at this time, because I believe this step will enhance our credibility. No longer could we be accused of living by one set of standards and insisting that others live by a different set of standards.

What would be the reaction if Congress passed a law that permitted a panel of employers to develop the standards of discrimination and then to develop the remedies for redressing the wrongs, and then permitted a group of employers to pass judgmnet on the merits of the cases brought by employees? Congress would never stand for such a situation.

Would such a system instill confidence and fairness in the system? I think not. Yet, that is exactly what we are being asked to do here today.

Let me repeat that for emphasis. What would be the reaction if Congress passed a law, we passed the civil rights bill, and then we say, OK, a panel of employers can develop the standards of discrimination, a panel of employers can develop the remedies for redressing the wrongs, and then we will permit a group of employers to pass judgment on the merits of the cases brought by employees, with no right to go to court? Well, I think people would say we do not have much confidence in that kind of a situation. But that is exactly what we are being asked to do here.

Why should a State or local elected official be subject to our civil rights laws, but we are not? I find that a curious anomaly. State elected officials will be subject to this civil rights bill, local elected officials, but we are not. Again, I find that an extremely curious anomaly.

Why should local mom-and-pop stores be subject to adverse publicity about lawsuits, but we are not? I have heard a lot of talk about that, that somehow if an action is brought against a Senator, that that would be adverse publicity going into an election cycle. Well, the competition is pretty fierce out there in the marketplace, especially for a lot of small businesses. They are faced with pretty stiff competition. If an employee brings an antidiscrimination suit there, that could take business away from that employer and put them in a great competitive disadvantage, whether or not there was any merit to the case. That could bring very adverse competitive disadvantages to that small business.

Yet, we say we do not want to be subject to the same thing. Again, I find that a very curious anomaly. The more I look into this and the more I examine the merits, the more I am convinced that in this area, at least in this one area, Congress should be covered, and the Congress should take the lead in setting the example.

Businesses, mayors, Governors, the general public, are demanding that Congress be subject to the same laws and procedures that it establishes for others, at least in the area of civil rights and employment.

I am not standing here saying that every law that Congress passes, Congress ought to be subject to. Obviously, there are some, constitutionally, we cannot be subject to. The speech and debate law, for example, certainly covers what we say here on the floor of the Senate. And the Constitution says that we shall not be made to answer in any other place for what we say in the official carrying out of our function and in the Senate. Obviously, we cannot pass laws that would somehow disrupt that.

But in the area of civil rights and employment, I believe, as the American Law Division has stated from the Library of Congress, as leading constitutional authorities have said, that this is one area that is constitutional and Congress could be covered. So I agree that we should be subject to these same laws in the area of at least in the case before us, civil rights and employment.

I think it is about time Congress led by example and not by exemption. If I might, I will steal a little bit here from my colleague from Iowa. I know he is going to speak on this himself. I want to congratulate him for taking the lead on this last September, when the Americans With Disabilities Act was before us, in bringing to the attention of this body that Congress was not covered. It was my intention that the ADA was indeed to cover Congress.

There was one part of the provision that was unconstitutional. That was the coverage by EEOC. I understand that constitutional problem of not having the executive branch dictate to Congress what our operations will be. That was dropped out.

But in terms of a private right of action for an individual to go to court, that was left in, because the opinion that we got from the American Law Division of the Library of Congress was that it was not constitutional, and other constitutional experts also said it was unconstitutional. I wanted to commend my colleague from Iowa for leading the way on this. He is absolutely right.

I said I was going to steal something from him and I was going to read a portion from Madison Federalist 57—and I hope my colleagues also reiterates later on so all Members understand what Madison said, and I think it is applicable here.

Madison said:

> This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together.
>
> That is to have a law that is applicable to both those who govern and those who are governed.
>
> It creates between them a communion of interests and sympathy of sentiments * * *

without which every government degenerates into tyranny.

If it be asked, what is to restrain the Congress from making legal discriminations in favor of themselves, I answer the genius of the whole system * * * the spirit which activates the people of America, a spirit which nourishes freedom and is in return nourished by it.

If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature as well as the people, the people will be prepared to tolerate anything but liberty.

I thank my colleague for getting that out of the Federalist Papers because it just speaks directly to what we are doing here today.

I have no problems with the amendment offered by the Senator from Kentucky insofar as it goes. I believe the Senate should have the right and the power under the Constitution to set up administrative procedures that deal with employment discrimination, civil rights based on race, skin color or national origin, age or disability.

But to end it there and to draw the curtain down there, I believe again is to separate us from the rest of the people of this country. It separates us from State legislatures, local governing bodies, local elected officials. It separates us from the business community; it separates us from everyone else.

I do not think it too onerous for the Senate to set up a procedure such as the Senator from Kentucky has done. As I said I have no problem with that. But there should be at the end of that a right for an individual who believes that he or she has not been dealt with fairly by this institution to take that case to the courts and to seek adjudication there. That is why I believe very strongly in this private right of action.

I know there are arguments on all sides of this saying that we cannot do it for this reason or that reason. However valid those arguments may be—and I am not subscribing to the validity of all those arguments, some may have validity, I think others may have less validity—how valid they may have been in the past, I believe times change, conditions change, and I believe that the times have changed and the conditions have changed enough in our society that we here in the Senate should adopt the coverage for ourselves just as we are asking all other segments of American society.

I do not fear a case being taken against me on discrimination. I do not discriminate in my own employment. But if an employee of mine ever felt aggrieved and then went through the administrative process and still felt that that did not quite satisfy that individual, in terms of seeking a redress of his or her grievance, then that individual ought to have the right to go to court, just as if he or she were working for a State legislature, or for a local governing body or for local business. And that is why I feel very strongly that we should not exempt ourselves.

As I said, I have no problems with the amendment before us so far as it goes. But there needs to be an additional step taken and that is to provide a private right of action for persons to take it one step further if they feel that they have not gotten the proper redress here.

Again, in closing, I will just say that I think the people of this country would find it very serious if we told employers, OK, you can go ahead and set up the standards, you can set up the remedies and you can sit in judgment on cases that are brought to you, and that would be the end of it. People of this country would not stand for that. I would not stand for it because individuals ought to have the right to go to that courthouse door and have that courthouse door opened to them. I believe that courthouse door ought to be open for that individual who works for private industry, State or local government, or the Congress of the United States.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I would like to speak for a short while on the underlying bill rather than the amendment, and I ask unanimous consent to be added as a cosponsor of the Kennedy-Jeffords amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, over the years, in this entire area of civil rights for individuals, the American public has looked to the courts for leadership. The U.S. Supreme Court in 1954 and succeeding years led and Congress has come along. We passed the Civil Rights Act in the early sixties. But fundamentally it has been the courts that have provided the basic protection for our people. And now we have a very different situation where it is clear the courts are not going to provide that basic protection. It is going to have to be the Congress that provides that basic protection.

What we need is to give people hope. For the last 10 years, candidly, we have been adrift in our national administration. I do not think it was intentionally but it was simply insensitive to the needs, aspirations, and the hopes of those who are less fortunate. We have to turn that around. It is very interesting now as you dig below the surface of the whole situation.

One of the things that you have to give people is hope, give them an opportunity, give them a job, give them a decent education.

When the witness appeared before the Labor and Human Resources Committee from the National Institute of Drug Abuse, about 8 weeks ago, he discussed who is using drugs by ethnic group and by age group: He said the group that is the biggest user of drugs is the unemployed. I asked him, do you mean when we work on the problems of unemployment we work on the problems of drugs in our country? He said no question about it. What we are talking about when we talk about civil rights legislation is giving people an opportunity for employment, for hope.

And I do not want to see us going back on a fundamentally good trend in this Nation, a trend in a positive direction.

Legislation before us would reverse five of the negative Supreme Court decisions, issued last year. The one key decision that is not included in this bill is the Croson decision, the decision involving Richmond, VA. That decision is on minority business set asides. That issue is before the Governmental Affairs Committee. I happen to be the chief sponsor of legislation to overturn that decision, and I hope that that committee chaired very competently by our colleague, Senator JOHN GLENN, will report favorably so we can reverse also the Richmond decision by the Supreme Court.

Of the five decisions that this bill looks at, the Wards Cove decision, involving the salmon cannery in Alaska, is the most basic. What the Wards Cove decision did was to reverse key aspects of the decision made in Griggs versus Duke Power.

For those who say this bill is going to result in quotas, we have had the Griggs decision for 18 years. We have not had any quotas. But we have had opportunity for people. There is no question if we leave the law stand as it is, we are going to deny opportunity to a great many people.

We have already had a series of discussions and court decisions on that. The most powerful witness on this question before the committee was the former Secretary of Transportation, William Coleman, who served as the Secretary of Transportation for President Ford. I ask unanimous consent his full testimony before the committee be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMON. I would like to read a few excerpts from that testimony. Former Secretary Coleman says:

There is something far more fundamental and far-reaching that is at stake in these hearings and at this juncture in the development of the law than mere technicalities and procedural issues.

In February of 1989 no one in this room, or indeed in the White House, could have imagined that the Supreme Court could turn so dramatically away from the national consensus in favor of vigorous enforcement of Federal equal opportunity laws. The court has forcefully reminded us all of how even the most clearly written of statutes can be drained of practical effectiveness by a crabbed, capricious interpretation.

Secretary Coleman goes on to say:

• • • to change the ominous direction in which the construction of Federal civil rights laws appears now to be headed.

That is what this legislation is all about.

At another point in his testimony, he says this:

By the time of the 1983 decision in Bob Jones University v. United States, Chief Justice Burger could speak with confidence of the consensus, encompassing all three branches of the Federal Government, that racial discrimination—public or private—was contrary to fundamental public policy. That consensus was shared by the vast majority of the American people who took justifiable pride in the progress the Nation had made towards racial justice.

And then, in the late spring of 1989, suddenly and inexplicably, the Supreme Court of the United States, which had initiated and contributed so much of this remarkable national consensus, turned in another direction.

Secretary Coleman goes on in his testimony:

The change was so dramatic and palpable that the court itself found it necessary to insist, somewhat lamely, that "neither our words nor our decisions should be interpreted as signaling 1 inch of retreat from Congress' policy to forbid discrimination in the private as well as the public sphere." Justices Marshall, Blackmun, Brennan, and Stevens regarded the decision as not a retreat, but a complete rout.

Justice Blackmun commented in his dissent in the Wards Cove case, and I am quoting now from Justice Blackmun:

One wonders whether the majority still believes that race discrimination—or more accurately, race discrimination against nonwhites—is a problem in our society, or even remember that it ever was.

Secretary Coleman goes on:

Justice Stevens, in his Wards Cove dissent, expressed bafflement as to the reason for that decision. "Why the Court undertakes these unwise changes in elementary and eminently fair rules is a mystery to me."

Quoting Justice Stevens.

Secretary Coleman goes on:

This bundle of retrogressive decisions is no favor to employers. In the case, for example, of disparate impact litigation under title VII, 18 years of decisions after Griggs have refined, fleshed out, and clarified the law. Employers had a reasonably clear idea of what the law required and could, with some degree of confidence, bring their practices into conformity with it. After Wards Cove, however, the law seems in a state of complete turmoil.

Wards Cove has so damaged Griggs that civil rights lawyers are reluctant to bring any more disparate impact cases.

The whole corpus of Federal equal employment law is in critical condition.

Civil rights laws, of course, are not the only important social legislation in the country. But for some inexplicable reason, they are the only laws facing wholesale judicial evisceration.

Secretary Coleman's statement is powerful, and I hope some who read the CONGRESSIONAL RECORD or hear these words will take a good, hard look at that.

A couple of other points have been raised by the Senator from Utah in commenting on this. One is the case of recovering damages. Under the 1866 law, one may recover compensatory or punitive damages only for international racial discrimination. Under title VII, one may not recovers compensatory or punitive damages—not for racial discrimination, not for discrimination on the basic of sex or religion or national background.

This bill would amend title VII so that the remedies of the 1866 law apply to all these areas. I think it should be consistent. To say to someone you have been discriminated against because of race and so have remedies, but then to say to another that because of your religion or gender or disability or national origin that you do not have the same remedies is obviously a glaring inconsistency in the law. My hope is we can move quickly and rectify that. I hope we can be consistent on that.

Finally, I want to discuss question of the bill's language defining business necessity. The phrase "business necessity" in the Griggs decision is a strong, powerful phrase. We ought to make sure that whatever compromise is worked on—and I know that Senator KENNEDY and Senator DANFORTH and others are working on a compromise—ought not to dilute the powerful phrase "business necessity."

If someone unintentionally discriminates, there ought to be a powerful reason for that result. It should not be matter of simple business convenience.

We have the chance, Mr. President, now to cast one of those votes that really does mean something. It means hope or despair for a great many people in our Nation. It means giving people opportunity or not giving people opportunity. The great division in our society is not between black and white, not between Hispanic and Anglo, not even between rich and poor. It is between people who have hope and people who do not have hope. What we have here is a chance to give people a little more spark of hope. We ought to be doing that. We have done far too little of that in the last 10 years. Let us reverse that; let us reverse those court decisions; let us give the people hope.

My urging to my colleagues is that we pass this legislation, and not pass it with a simple 51 votes; or, if we have to go to cloture, with just 60 votes for cloture. We ought to do it resoundingly, so we say not only to our people, but to the world, the United States of America stands for opportunity for all. Let us not compromise on that message.

EXHIBIT 1

TESTIMONY OF WILLIAM T. COLEMAN, JR., BEFORE THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES FEBRUARY 23, 1990

My name is William T. Coleman, Jr.[1] I appear in support of S. 2104, which would correct the major problems created by the Supreme Court's 1989 civil rights employment decisions. It would restore the law to where it was until late spring of 1989. It would also strengthen the enforcement provisions of the existing federal guarantees of equal employment opportunity.

This legislation raises a variety of technical issues which the Committee will consider over the course of the next two weeks of hearings. I will address some of those questions later in my testimony, and subsequent witnesses, I am sure, will delve even deeper into the relevant details. There will be ample discussion, probably more than you really want at times, regarding the intricacies of the Federal Rules of Civil Procedure, the various subsections of Title VII of the 1964 Civil Rights Act, and the somewhat arcane legislative history of the Civil Rights Act of 1866.

But first I would like to put the proposed legislation in context of the welfare and the state of the Union, at least as I see it and, I am confident, as most freedom loving Americans see it who can be shocked at what happened at Tiananmen Square in China and can rejoice in the freedom which is developing in Eastern Europe.

There is something far more fundamental and far reaching that is at stake in these hearings, and at this juncture in the development of the law than mere technicalities and procedural issues. This year, Mr. Chairman, will be a watershed in the history of civil rights laws—whether for good, or for ill, the Congress and the President will decide its future course. In February of 1989 no one in this room, or indeed in the White House, could have imagined that the Supreme Court could turn so dramatically away from the national consensus in favor of vigorous enforcement of federal equal opportunity laws. The Court has forcefully reminded us all of how even the most clearly written of statutes can be drained of practical effectiveness by a crabbed, capricious interpretation. We need not debate how far the Court has gone down that road to agree that it has chosen that direction for the law.

If the decisions at issue involved the interpretation of the Constitution, both the terms of the Constitution itself, and simply prudence, would suggest deference to the Court's judgment. But the issue today is the interpretation, and resuscitation, of federal statutes, matters well within the powers and responsibilities of the Congress. I urge the Committee to correct the problems created by these decisions, and by so doing to change the ominous direction in which the construction of federal civil rights laws appears now to be headed.

I do not ask that you do so out of sympathy or compassion or guilt over past wrongs. I ask it because black Americans, after more than three centuries of contributions to this nation, are entitled to no less. Since 1607 black Americans, a majority of whose ancestors came to these beautiful and spacious shores as slaves, and many of whom fought for the United States for freedom and dignity in all the nation's wars since 1774,[2] have

Footnotes at end of article.

been trying to free themselves from the enduring effects of slavery and from over 347 years of federally and state imposed and sanctioned racial discrimination and segregation. The goal has been to achieve for themselves and their children the dream of being fully integrated into the economic, social, political, employment, business and governmental life of this great nation. As stated above, the ancestors of the majority of black America came to these shores as slaves, under the most inhumane and cruel of conditions. But blacks labored as hard as any men or women to build this great nation out of the wilderness they found—they cleared the forests, they tended the land, they constructed the houses. The land of opportunity to which millions of whites flocked in the Nineteenth and Twentieth Centuries had to a very significant degree been built by blacks who, despite have been in this country for generations, still could not benefit from the opportunities they had provided to others.

Black Americans today seek in our own country precisely what brings thousands of new immigrants to our shores every year—to achieve the dream of being fully integrated into the economic, social, political, employment, business and governmental life of this great nation. From the beginning, even when slaves were forbidden to learn to read, or to seek jobs of their own choosing, blacks understood that a good education and a decent job were the keys to full participation in our democratic society. Blacks recognized from the beginning and recognize even more today that education and employment remain the essential tools by which black Americans can avoid, for themselves and for the nation, crime, inadequate housing, insufficient medical care, poor government in the community, high rates of illegitmacy and illiteracy and all the other evils still shamefully visited upon blacks in our country in greater proportion than upon whites.

For generations—347 years—the task seemed virtually insurmountable for at least three reasons. First, state and federal statutes in many instances required, sanctioned or approved race discrimination or segregation.[3] Second, the great steps taken by Congress after the Civil War were subsequently nullified by the Supreme Court, which misconstrued the Thirteenth, Fourteenth and Fifteenth Amendments and the Nineteenth Century civil rights laws.[4] Third, the practices of the federal and state governments created racial animus and bred among whites, including their children, a widespread feeling of hostility towards blacks. This adversely affected the attitudes that whites would otherwise have towards blacks, causing them in many instances not to realize that blacks have the same yearnings, feelings, ambitions and standards of conduct and achievement and yearnings therefor as those of their white contemporaries.[5]

In the middle of this century—less than 36 years ago—*Brown* v. *Board of Education* was the watershed that began a drastic change both in the law and in the attitude of government officials and private citizens alike. Thus for 36 years this nation has been trying to wipe out a sickness and infection in our society which existed for over three centuries years. Since 1954, although slowly and haltingly, the nation has moved ever closer to a society in which blacks are treated as free and equal. Congress contributed greatly to the pace and direction of that change through a series of bold legislative initiatives.[6] For years, as the nation worked through the intractable realities of racial discrimination, a synergistic relationship existed between the Supreme Court and the Congress, each building on the contributions and innovations of the other. By the time of the 1983 decision in *Bob Jones University* v. *United States*,[7] Chief Justice Burger could speak with confidence of the consensus, encompassing all three branches of the federal government, that racial discrimination—public or private—was contrary to fundamental public policy. That consensus was shared by the vast majority of the American people, who took justificable pride in the progress the nation had made towards racial justice.

And then in the late spring of 1989, suddenly and inexplicably, the Supreme Court of the United States, which had initiated and contributed so much of this remarkable national consensus, turned in another direction. In a few weeks the Supreme Court handed down a series of decisions that threatened the vitality and enforceability of federal equal employment laws. No one can seriously contend that the statutes at issue were framed in such a manner as to compel these decisions. On the contrary, in virtually every instance the federal circuit courts, or even the Supreme Court itself, has construed the laws in the opposite way. The pattern of these decisions, including *Patterson* v. *McLean Credit Union*,[8] suggests that the Court had abandoned the well-established principle that remedial civil rights statutes ought to be broadly construed. It became all too clear how earily the substance of federal civil rights laws could be strangled in technicalities.

The change was so dramatic and palpable that the Court itself found it necessary to insist, somewhat lamely, that "[n]either our works nor our decisons should be interpreted as signalling one inch of retreat from Congress' policy to forbid discrimination in the private, as well as the public, sphere."[9] Justices Marshall, Blackmun, Brennan and Stevens regarded the decisions as not a retreat, but a complete rout. Justice Blackmun commented in his dissent in *Wards Cove Packing Co.* v. *Atonio*:

"One wonders whether the majority still believes that race discrimination—or, more accurately, race discrimination against nonwhites—is a problem in our society, or even remembers that it ever was."[10]

As a matter of statutory construction the results in some of these decisions are, to put the matter delicately, far fetched, and in some instances, actually absurd. For example, in Patterson can it seriously be imagined that in 1866 Congress intended to forbid a private employer from refusing to hire or promote a black because of race, but felt at the same time there would be nothing wrong if the employer hired a black woman and then visited her with harassment which certainly would make the contract a nullity or at least make her life a living hell? But that is the result of the Court's ruling in Patterson. Similarly, are we truly to believe, although the Court in *Lorance* v. *AT&T Technologies*[11] so held, that when Congress enacted Title VII, it intended to require an employee to challenge invidiously motivated rules years before the rules were ever applied, and years before the employee even worked in the department covered by the rules. I cannot conceive of how Congress, except as some sort of cruel joke, would have chosen to enact such self-nullifying measures.

The Justice Department has endorsed overruling Patterson and Lorance, and I welcome that decision; but I would urge the Committee still to keep these two decisions in mind in attempting to assess the general Court attitude which gave rise to the other, still controverted decisions.

Justice Stevens, in his Wards Cove dissent, expressed bafflement as to the reason for that decision. "Why the Court undertakes these unwise changes in elementary and eminently fair rules is a mystery to me."[12] This bundle of retrogressive decisions is no favor to employers. In the case, for example, of disparate impact litigation under Title VII, 18 years of decisions after Griggs had refined, fleshed out and clarified the law. Employers had a reasonable clear idea of what the law required and could with some degree of confidence bring their practices into conformity with it. After Wards Cove, however, the law seems in a state of complete turmoil. A decade of additional litigation may clear all this up, but for now employers, who must balance their assessment of legal requirements against any number of competing considerations, can only have the vaguest idea of what the law requires. Change, uncertainty, and instability in the law may be intriguing, and financially rewarding, for lawyers, but it is often quite bad for our clients. To judges the arguments in 5-4 decisions like Wards Cove may be fascinating ideological struggles; a new appointment, or a few second thoughts by a swing justice, may yield yet another chapter. But for individuals and firms which must conform their conduct to these decisions, such uncertainty can be quite unwelcome.

From the point of view of civil rights, of course, these retrogressive decisions are unwelcome indeed. But more is wrong here than the technical merits of these decisions. It is wrong that 120 years after the adoption of the Fourteenth Amendment, and 25 years after the enactment of the 1964 Civil Rights Act, black Americans are being forced to fight all over again battles that were fought and won by past generations. Patterson has virtually eviscerated the 1866 Civil Rights Act. Wards Cove has so damaged Griggs that civil rights lawyers are reluctant to bring any more disparate impact cases. Lorance has been construed by one lower court judge as virtually legalizing systematic intentional discrimination.[13] The whole corpus of federal equal employment law is in critical condition.

Civil rights laws, of course, are not the only important social legislation in the country. But for some inexplicable reason, they are the only laws facing wholesale judicial evisceration. Other social problems, once addressed by legislation, stay solved. The Supreme Court has not indicated any inclination, for example, radically to shrink through reinterpretation of the nation's laws forbidding child labor. The still intractable racial problems that the nation will face in the years ahead can never be solved if we have to devote our time and energies just to preserving the progress already made and the legislation already on the books. The national consensus regarding racial discrimination was won only after decades of suffering and at enormous cost. The nation has made a fundamental, if long overdue, decision to condemn racial discrimination, in all its forms and manifestations, and to insist that it be eradicated through all the means known to the law. That decision should not be subject to reconsideration, even in the highest court in the land.

As we discuss each case and the statutory language we seek to have adopted to change

the result of the decision, one should note the following with respect to these decisions:

(1) Each deals with the interpretation of a federal statute or the Federal Rules of Civil Procedure, not the Constitution;

(2) Each was decided by a closely divided Court;

(3) In each case, as members of the Court and commentators agree, the Court cut back on principles long established by its own prior decisions, or the Court rejected the law as developed by all of the circuit courts;[14]

(4) In each case there was no change in the language of the statute between the original decision and the 1989 Court decisions that wrought the drastic changes; and

(5) In each case the decision made it much harder, and in some cases impossible, for minorities or women to obtain the statutory rights that they would otherwise have been entitled to under the statute.

I will now discuss the statutory language suggested to overturn the results in the *Wards Cove* and *Price Waterhouse* v. *Hopkins*.[15]

I—WARDS COVE

I would like to focus my remarks in particular on the provisions of the proposed legislation that would overrule certain aspects of the June 1989 decision in *Wards Cove Packing Co.* v. *Atonio*. Wards Cove is concerned with the application of, and threatens the vitality of, one of the most important Title VII cases, *Griggs* v. *Duke Power Co.*[16] Indeed, Griggs in the field of employment is comparable to Brown in the field of education. That unanimous 1971 decision, written by then Chief Justice Warren Burger, contained two distinct and interrelated holdings. Griggs concluded, first, that Title VII forbids the use of non job-related tests, job requirements, and other selection criteria, if they have a significant adverse impact on minorities or women. Where such disparate impact exists, it is irrelevant whether or not an employer acted with a discriminatory motive. "Good intent or absence of discriminatory intent does not redeem employment procedures or testing mechanisms that operate as 'built-in headwinds' for minority groups and are unrelated to measuring job capability." [17] The only defense would be that the practice was required by business necessity.

In addition Griggs and its progeny established a specific order and method of proof in a disparate impact case, specifically assigning the burden of proof on specific issues among the two adversary parties to the litigation. First, the plaintiff must establish a prima facie case by demonstrating that the disputed requirement or requirements had a significant adverse impact on minorities or women. *Albemarle Paper Co.* v. *Moody*.[18] Second, where a prima facie case has been so established, the burden of proof shifts to the employer to prove that the requirement is job related.[19] Third, if the employer succeeds in doing so, the plaintiff can still prevail if he or she can show that some alternative requirement would be equally efficacious from the employer's perspective without entailing the objectionable adverse impact.[20] This order and allocation of proof was, and is, essential to the holding of Griggs, and to its implementation in the years that followed.

Griggs and its progeny have been of enormous importance in removing, as Congress intended, "artificial, arbitrary and unnecessary barriers" [21] that had previously prevented minorities and women from entering many jobs. The tests at issue in *Griggs*, for example, excluded 94% of all blacks.[22] In *Albemarle* over half of all blacks were denied promotions due to the disputed tests, compared to only 10% of white employees.[23] In *Dothard* v. *Rawlinson*[24] the combined height and weight requirements excluded approximately 41% of all women, but only 0.24% of all men.[25] Given the potent capacity of such tests and requirements to exclude minorities and women from jobs and promotions, the continued vitality of *Griggs* is of enormous practical importance.

Prima Facie Case: I would like to begin with an aspect of *Griggs*, and of the holding in Wards Cove, which the proposed legislation does not affect in any manner—the quantum of proof necessary to establish adverse impact. I touch on this because I understand that considerable concern was expressed about this question at another hearing earlier this week.

The specific concern, or more accurately the specific misunderstanding, that was expressed, was that a plaintiff could ordinarily establish a prime facie case of disparate impact merely by showing that an employer had a smaller proportion of minority employees than existed in the population as a whole. That was not the law as set forth in Title VII of the 1964 Act, it is not the law established by the *Griggs* decision, it was not the law before *Wards Cove*,[26] it is not the law after *Wards Cove*, and it would not be the law if this legislation is adopted.

Wards Cove makes clear, as have the lower courts for many years, that proof of a *prima facie* case requires two additional types of evidence. First, the plaintiff must ordinarily show what impact the requirement actually had on individuals who applied for the position at issue or took the disputed test.[27] Plaintiffs may look to some other broader pool only if the application process itself is tainted by discrimination, or if there is no application process at all. Second, the plaintiff must show what impact the disputed requirement had on *qualified* actual or potential applicants.[28] Of course in any disparate impact case the plaintiff, by definition, is challenging the legitimacy of one or more qualifications insisted upon by an employer, but where there are qualification requirements of undisputed legitimacy, a plaintiff must ordinarily take them into account in establishing a *prima facie* case.

Wards Cove clearly indicates that satisfying these requirements will often be difficult. Practical experience demonstrates that plaintiffs frequently have considerable difficulty establishing a prima facie case. There are in fact several hundred disparate impact cases which civil rights plaintiffs lost because they were unable to meet the stringent requirements needed to establish a prima facie case.

The Burden of Proof: Sections 3 and 4 of the bill seek to restore the rule that the burden of proof on the issue of justification in disparate impact cases is on the defendant employer. For 18 years prior to Wards Cove the burden of proof regarding job-relatedness clearly rested on the defendant employer. In Griggs in 1971 the Supreme Court held unanimously that "Congress has placed on the employer the *burden of showing* that any given requirement must have a manifest relationship to the employment in question." [29]

In Albemarle, decided in 1975, the Court emphasized that an employer must "meet the burden of proving that its tests are 'job related.'" [30] In *Dothard* v. *Rawlinson*, decided in 1977, the Court insisted that an "employer prov[e] that the challenged requirements are job related." [31] In 1982, the Court in *Connecticut* v. *Teal* held that an "employer must . . . demonstrate that any 'given requirement [has] a manifest relationship to the employment in question.'" [32]

The lower court decisions applying Griggs emphasized again and again that this burden was on the employer, not the plaintiff. That point was made in virtually every way it could be stated in the English language. These decisions insisted that the employer bore the "burden of proof," that the employer bore the "burden of persuasion," or that the employer was obligated to "prove," "demonstrate," "establish" or "show" that a disputed requirement was job related. There are a large number of lower court decisions reiterating these well established requirements and finding that a plaintiff failed to establish a prima facie because of these requirements.

As recently as November 1987 the Department of Justice openly agreed that the employer bore the burden of proof. In its amicus brief in *Watson* v. *Fort Worth Bank*,[33] the Department insisted:

"[I]n Griggs . . . the Court said 'Congress has placed on the employer the burden of showing that any given requirement . . . ha[s] a manifest relationship to the employment in question.'[34]

"[A]n employer must show that the device challenged is 'demonstrably a reasonable measure of job performance.'[35]

"[A]n employer ordinarily must . . . demonstrate . . . that the selection process has a sufficient connection with effective job performance or efficient business operation."[36]

The Department also argued that an employer's burden ought to be greater in a disparate impact case than in a disparate treatment case:

"[T]he principle difference between disparate treatment and disparate impact analysis is the showing that a defendant must make in order to rebut a prima facie case of discrimination. In a disparate treatment case based on statistical evidence, the defendant must produce evidence of the 'legitimate, non discriminatory reasons it had for the actions it took and in that way refute the inference than an improper discriminatory motive was at work. . . . By contrast, in a disparate impact case, the defendant must make the more rigorous initial showing that the selection device producing the statistical disparity has a 'manifest relationship' to successful job performance or to the safe and efficient operation of its business."[37]

The lower courts and commentators[38] have recognized that Wards Cove overturned 18 years of precedent when it placed on the plaintiff the burden of proof regarding job relatedness. In *Hill* v. *Seaboard Coast Line Railroad Co.*,[39] the Eleventh Circuit commented that "[t]he Supreme Court's decision in Wards Cove made clear that the employer merely has the burden of production . . . and overruled the existing law in this circuit on this issue." In *Allen* v. *Seidman*[40] Judge Posner observed:

"Wards Cove . . . modified the ground rules that most lower courts had followed in disparate-impact cases. Before Wards Cove it was generally believed that if the plaintiff in a Title VII case showed . . . that a criterion . . . was disproportionately excluding members of a group protected by the statute, . . . the burden shifted to the employer to persuade the judge . . . that the crite-

rion . . . was necessary to the effective operation of the employer's business. . . . Wards Cove returns the burden of persuasion to the employee, while leaving the burden of production on the employer."

The legislation now before this Committee—Sections 3 and 4—would merely restore the law to where it stood prior to the 1989 decision in Wards Cove, placing on the employer, as did Griggs, Albemarle, Dothard and Teal, the burden of proof regarding job relatedness. That allocation of the burden of proof was entirely workable over the last 18 years, and it is eminently fair. When job relatedness is at issue, the employer is in possession of all the relevent evidence, and because all the key workers and supervisors are in its employ, a defendant company is in a position to conduct a validity study; it would be virtually impossible for a plaintiff to obtain the degree of cooperation from defendants knowledgeable employees necessary to conduct an "invalidity study". Wards Cove, as a practical matter, requires civil rights plaintiffs to "prove a negative"—to demonstrate that among the enormous number of conceivable business interests, not one is connected in the requisite manner to the disputed job requirement. That is a burden that few plaintiffs could ever meet.

The majority opinion in Wards Cove misuses the precedent in cases like *McDonnell Douglas Corp.* v. *Green*,[41] and *Texas Dept. of Community Affairs* v. *Burdine*[42]—the disparate treatment cases—to justify shifting the burden of proof on the justification issue to the plaintiff. In the disparate treatment cases plaintiff alleges that the discrimination is intentional. Once he puts in evidence sufficient to establish a prima facie case—sufficient to overcome a motion to dismiss at the end of the plaintiff's case—the defendant then offers reasons why what looks like intentional discrimination is not. Because this proof goes to the same factual issue raised by plaintiff's initial prima facie case—the motive of the employer in taking the disputed action—the plaintiff continues to bear the burden of proof. In the disparate impact cases, however, there is no issue of intent, and the issue of business necessity arises only if the plaintiff has carried its burden of proof and persuasion as to disparate impact, which as was demonstrated above represents a vigorous standard of proof. In this situation, therefore, the defense is in the posture of trying to show the court that, even though disparate impact has been proven, there is nonetheless a business necessity that justifies such business practices.[43]

Accordingly, allocating the burden of proof with respect to business necessity in the disparate impact cases to defendant employers, as Justice Stevens observed in his dissenting opinion in Wards Cove,[44] is consistent with the normal rule placing that burden on the party asserting a justification defense. Congress has on occasion expressly provided by statute that the burden of establishing such a justification must be borne by the defendant. The Robinson Patman Act, for example, provides . . .

"Upon proof being made . . . that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the [Federal Trade] Commission is authorized to issue an order terminating the discrimination." [45]

The Supreme Court has adopted a similar burden-shifting rule under the Clayton Act.[46] The Equal Pay Act permits an employer, under certain specified circumstances, to utilize salary scales that discriminate, but once there is a "showing that the employer pays workers of one sex more than workers of the opposite sex for equal work, the burden shifts to the employer to show that the differential is justified under one of the Act's four exceptions." [47]

When a state or locality subject to section 5 of the Voting Rights Act seeks approval of a change in its election laws, whether from the Attorney General or from the federal courts, that state or locality bears the burden of proving that the change has neither a discriminatory purpose nor a discriminatory effect.[48] State statutes in a wide variety of circumstances shift the burden of proof to defendants concerning particular issues.[49]

Standard of Job Relatedness: The bill in Section 3 seeks to restore the requirement that the defendant shows business necessity for a rule which has a disparate impact on minorities or women. Judge Posner observed in *Allen* v. *Seidman* that Wards Cove "dilutes the 'necessity' in the 'business necessity' defense." [50] Indeed "necessity," once central to the concept of job-relatedness, seems unfortunately to have disappeared completely from the minds of those who joined the majority opinion in Wards Cove. In Griggs the Court held that Title VII requires "the removal of . . . unnecessary barriers to employment when the barriers operate invidiously to discriminate." [51] "The touchstone is business necessity." [52] In *Dothard* v. *Rawlinson* the Court reiterated that Title VII mandated removal of such "unnecessary barriers," [53] and held unlawful the requirements there at issue because they were not "essential to effective job performance." [54] *Connecticut* v. *Teal* again emphasized the statutory directive for the elimination of "unnecessary barrier" to the employment of minorities or women.[55] As recently as *Watson* v. *Ft. Worth Bank* the Court treated as synonymous "the 'business necessity' or 'job relatedness' defense." [56]

But with the advent of Wards Cove the requirement of such necessity was abruptly and categorically rejected:

"[T]here is no requirement that the challenged practice be 'essential' or 'indispensable' to the employer's business for it to pass muster." [57]

The legislation before the Committee would overturn Wards Cove also in this regard, restoring "business necessity" as the affirmative defense to proof of disparate impact, and defining that phrase to mean "essential to effective job performance." "Necessity" was the touchstone of this defense in Griggs, Dothard, Teal and Watson; the phrase "essential to effective job performance" is taken verbatim from the decision in Dothard. Both that phrase, and the requirement of business necessity, have been widely used by the lower courts to articulate the standard of job relatedness in a disparate impact case. Despite the wide currency of these standards, employers succeeded in large numbers of cases in meeting that requirement and sustaining the legality of tests and job requirements with a proven adverse impact.

The proposed statutory standard—"essential to effective job performance"—is deliberately, and undeniably more stringent than the new standard announced in Wards Cove: "whether a challenged practice serves, in a significant way, the legitimate employment goals of the employers." [58] In its brief in Wards Cove the Justice Department noted that "essential to good job performance", an alternative formulation in Dothard, was one among several varying phrases used by the Supreme Court, and correctly observed that "those varying formulations suggest either higher or lower thresholds of justification." [59] But in that brief, at least, the Department did not assert that the Dothard standard was unmeetable or unworkable. All of these formulations, I would suggest, are more evocative than specific; none could be mechanically applied to yield an absolutely predictable result. It is fair to assert that the Dothard standard sets a higher threshold of justification and that the Wards Cove language establishes a significantly less demanding requirement. But it would be considerable exaggeration to assert that the Dothard standard, which for years had substantial currency in the lower courts, could never be met, just as it might be an overstatement, or at least premature, to claim that under the Wards Cove standard every disputed job requirement is certain to be upheld.

The question raised by Wards Cove and this legislation is not a choice between always, or never, upholding a contested selection criterion as job related. The issue, rather, is whether, in Judge Posner's apt phrase, there is reason to "dilute" the standard of job relatedness that has prevailed for half a generation. I submit that the change in the law worked by Wards Cove, an alteration that to an unquantifiable but palpable degree will facilitate the use of job requirements that close the doors of opportunity to minorities and women, is a change that takes the law in the absolutely wrong direction, and a change which Congress should undo.

Multi-Factor Selection Practices: Section 4 of the proposed legislation permits a plaintiff to challenge not only a specific employment practice but "a group of employment practices". This provision has provoked undue concern and misapprehension and needs not so much a spirited defense as a more detailed exploration of the types of actual cases to which the proposal is relevant.

It is not uncommon for employers to use several different criteria in making a selection decision—a combination of tests, for example, or separate height and weight requirements. In the majority of litigated cases, however, the employer has records from which all parties can determine how much of an adverse impact, if any, each job requirement may have had. In these cases it is of little if any importance which party has the burden of adducing evidence regarding the distinct impact of each requirement. Both parties will have access to the information, and either or both will put it in evidence. In reported cases of this variety it is often unclear, because in part it is unimportant, just which party introduced what evidence.

Where an employer utilizes a number of different job requirements, there may at the very outset of the litigation be some uncertainty regarding which of them is seriously being challenged. A prudent plaintiff's counsel framing a complaint prior to any discovery will ordinarily err on the side of challenging any requirement that might possible have injured his or her clients. But once counsel for the parties obtain the relevant data and other evidence, it will soon become clear to all just which requirements are and are not being challenged. Simple prudence and a desire to avoid wasting resources, not to mention Rule 11 of the Fed-

eral Rules of Civil Procedure,[60] quickly lead plaintiff's counsel to disavow any challenge to a job requirement that clearly has no adverse impact, or which obviously is job related. From a purely academic perspective one could imagine a lawsuit which challenged everything an employer had ever done, but in the real world the practical dynamics of the litigation process prevent cases from being pursued or tried in this manner. In the rare case where this might be a problem, pretrial conferences can quickly clear the air and clarify the issues.[61]

The real problem to which this aspect of the legislation is addressed arises when three circumstances are all present: (1) the employer uses a combination of requirements to make a hiring or promotion decision; (2) that combination, taken together, has a net adverse impact on minorities or women; and (3) the employer does not have records from which it is possible to ascertain which requirement or requirements are responsible for that adverse impact. Wards Cove, and the proposed legislation, offer drastically different rules for resolving a case of this sort, and it is with regard to this problem that the legislation is important.

Under Wards Cove, where these three factors are present, the disparate impact claim must be dismissed. It is not sufficient that a plaintiff can show that the employer is making employment decisions in a manner which causes a substantial adverse impact; the plaintiff under Wards Cove is required, on pain of dismissal, to demonstrate which of the various specific job requirements caused that adverse impact, and to what degree. The plaintiff must "sho[w] that each challenged practice has a significantly disparate impact on employment opportunities for whites and nonwhites." [62] If what Wards Cove requires of a plaintiff is literally impossible, that is simply too bad.

In this regard, too, Wards Cove should be overturned. Where an employer's practices have a proven adverse impact, the employer under Griggs faces a duty to justify that impact. Wards Cove permits an employer to evade that duty simply by failing to keep records revealing which of several combined practices did and did not have an adverse impact. Such a rule creates a perverse incentive for employers to avoid keeping such records, and encourages them to use multiple requirements whose individual impact cannot readily be distinguished. The proposed legislation encourages employers to maintain just such records.

The rule of law contained in the bill was expressly endorsed by the Department of Justice in its brief in Wards Cove:

"Of course, a decision rule for selection may be complex: it may, for example, involve consideration of multiple factors. And certainly if the factors combine to produce a single ultimate selection decision and it is not possible to challenge each one, the decision may be challenged (and defended) as a whole." [63]

This aspect of the government's brief is consistent with the relevant EEOC guidelines, which expressly permit challenges to a "combination of measures." [64]

Permitting a plaintiff under such circumstances to challenge a combination of job requirements will not lead inexorably to quotas, or entail any other dire consequences. Prior to Wards Cove five circuits adhered to the rule of law that would be enacted by the proposed legislation.[65] There is no indication that that rule caused by unfairness to litigants or social ills in the states within those circuits.

II—PRICE WATERHOUSE

The decision in Price Waterhouse contains two distinct holdings, only one of which would be affected by this legislation. The Court decided, first, that proof of the existence of a discriminatory motive will not always entitle a plaintiff to back pay or a court-ordered job or promotion. An employer can avoid liability for those forms of relief if it can prove that it also had a separate, independent legitimate motive for taking the disputed action. Thus where a plaintiff proves that he was fired because of his race, but the employer demonstrates that the employee would also have been fired for incompetence, even if he had been white, the dismissed employee is not entitled to get back his or her job, or to an award of back pay. In the Court's view, the invidious motive, although demonstrably present, is not the "cause" of the dismissal in such a case. The proposed legislation will not affect this aspect of Price Waterhouse.

In addition, Price Waterhouse held that where an employer's actions are prompted by an invidious discriminatory motive, as well as by another legitimate purpose, the employer does not violate the Title VII prohibition against intentional discrimination.[66] This second holding, although seemingly quite similar to the first, has separate practical conseqences. The legislation before the Committee—Section 5 of the bill—by clarifying the definition of what violates Title VII, would overturn this aspect of Price Waterhouse.

This second aspect of Price Waterhouse means that if a court in an individual Title VII case finds that the defendant has clearly engaged in international discrimination, the Court is powerless to end that abuse if the particular plaintiff who brought the case would have suffered the disputed employment action for some legitimate, alternative reason. And this aspect of the Price Waterhouse ruling represents a substantial departure from prior case law, which clearly recognized that proven discrimination in direct violation of the statute would result, at a minimum, in liability finding and entitlement to injunctive and declaratory relief and attorneys' fees.[67] Section 5 of the bill, by defining discrimination as unlawful per se, empowers a federal court in such a situation to enjoin the proven discrimination without waiting for another plaintiff to bring an entirely new lawsuit. In many injunction suits the plaintiff is entitled to an injunction against a certain course of conduct even if it is not entitled to damages. In certified class actions, moreover, the class representative can obtain such injunctive relief even if it becomes clear, after trial, that that particular plaintiff was not the victim of discrimination. CF. *Franks* v. *Bowman Transportation Co.* 424 U.S. 747 (1976). Conferring this remedial power on the federal courts is more consistent with the basic purpose of Title VII, as described in Price Waterhouse, to render race and sex "irrelevant to employment decisions", and "to condemn even those decisions based on a mixture of legitimate and illegitimate considerations." [68]

This aspect of the bill will also allow the court, or a jury, to award monetary relief other than back pay, where that would otherwise be appropriate. Even where the existence of a dual motive means that an employer's discriminatory action did not cause a loss of wages, making back pay inappropriate, that action may cause other harms which would be redressable under the new language of the bill authorizing compensatory damages. The dismissal of a black employee, for example, might be accompanied by offensive racial slurs; even where the dismissal would have occurred anyway for some other reason, the racial slurs, and the humiliation which they cause, are solely the result of the discriminatory motive, and should thus be redressable. Similarly, punitive damages may in some instances be warranted by egregious misconduct even where an award of back pay would be inappropriate.

The rule of law which the proposed legislation would write into Title VII is the very interpretation of the statute advocated by the Department of Justice in its brief in Price Waterhouse:

"[I]t is proper to place the burden on the defendant to prove that a given employment decision would have been the same in a discrimination-free environment. . . . If the defendant makes such a showing, the plaintiff is made whole by an award of attorney's fees and an injunction against future discrimination. In effect, the defendant is ordered to cease discriminatory activity, which enhances the plaintiff's employment opportunities in the future. But the defendant need not hire, reinstate, promote or provide back pay to the plaintiff * * *." [69]

Under Section 5 the existence of a legitimate alternative purpose in a mixed motive case remains relevant, but it results, not in a finding that the employee never violated the law, but only in a limitation on the available remedy. In no event will an employer be subject to a monetary award merely because it entertained evil, discriminatory thoughts, without ever having acted on those motives.

CONCLUSION

No doubt others will comment on the provisions in the bill which seek to overrule or modify the decisions in Patterson, Lorance, Wilks, Zipes, and Jeff D. In my view the legislation proposed by S. 2104 is eminently fair, consistent with the public interest and is required to keep the Nation on the journey started in 1954, and in 1964, to wit, the eradication of racial and sexual segregation and of discrimination against minorities and women and all effects thereof in this Country as soon as possible.

FOOTNOTES

[1] Senior Partner, O'Melveny & Myers, Chairman of the Board of the NAACP Legal Defense and Educational Fund, Inc., Secretary of Transportation in the Ford Administration.

[2] For example, 5,000 blacks fought for America's independence in the Revolutionary War, nearly a century before blacks themselves were freed from slavery. Over 400,000 blacks served in various units during the Civil War and more than 2.3 million blacks have fought for the U.S. in the four major wars of this century. In the Vietnam war blacks were a disproportionate percentage of the soldiers who fought and of those that were killed or wounded. Moreover, this distinguished military service over the past 215 years has been rendered in the face of tremendous hardship, discrimination and segregation within the armed services. See "*Black Americans In Defense of Our Country*," United States Department of Defense (1985).

[3] Even by the middle of the 20th century many states still had segregation statutes affecting such things as travel, hospitals, recreation facilities, washrooms on the job, public schools, miscegenation, jails and adoptions. Violations of these statutes were in some cases punishable by fines and imprisonment. See Greenberg, "*Race Relations and American Law*," Columbia University Press 1959 (Appendix A).

[4] See, e.g., "*Civil Rights Cases*," 109 U.S. 3 (1883); *United States* v. *Reese*, 92 U.S. 214 (1876); *Plessy* v. *Ferguson*, 163 U.S. 537 (1896).

[5] For another distinctive, discrete minority, Shakespeare's Shylock described the issue as follows: "He hath disgraced me, and hindered me half a million; laughed at my losses, mocked at my gains, scorned my nation, thwarted my bargains, cooled my friends, heated mine enemies, and what's his reason?—I am a Jew. Hath not a Jew eyes? Hath not a Jew hands, organs, dimensions, senses, affections, passions; fed with the same food, hurt with the same weapons, subject to the same diseases, healed by the same means, warmed and cooled by the same winter and summer as a Christian is? If you prick us do we not bleed? If you tickle us do we not laugh? If you poison us do we not die?" Shylock's alternative was "revenge". Shakespeare, *"Merchant of Venice,"* Act 3, Scene 1, lines 50 to 61. The black American, however, has sought relief through the Congress and the Courts confident that since his cause is just, justice and fairness will be done.

[6] See, e.g., the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Civil Rights Act of 1968, the Civil Rights Attorney's Fee Awards Act of 1976, the Voting Rights Act Amendments of 1982 and the Fair Housing Amendments Act of 1988.

[7] 461 U.S. 574, 598 (1983).

[8] 109 S. Ct. 2363 (June 5, 1989).

[9] *Patterson*, 109 S. Ct. at 2379.

[10] 109 S. Ct. 2115, 2136 (June 5, 1989).

[11] 109 S. Ct. 2261, June 5, 1989).

[12] 109 S. Ct. at 2136.

[13] *Davis* v. *Boeing*, 1989 West Law 127509 (E.D. Pa. 1989).

[14] See, e.g., Wards Cove, 109 S. Ct. at 2130, n.14 (Stevens, J., dissenting); *Martin* v. *Wilks*, 109 S.Ct. at 2374 and n.3.

[15] 109 S.Ct. 1775 (May 1, 1989).

[16] 401 U.S. 424 (1971). Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a), provides:

"(a) It shall be unlawful employment practice for an employer—

"(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

"(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin."

[18] 422 U.S. 405, 425 (1975).

[19] Griggs, 401 U.S. at 437.

[20] Albemarle, 422 U.S. at 426.

[21] Griggs, 401 U.S. at 431.

[22] Id. 430 n.6.

[23] Brief for Respondents, No. 74-389, p. 20 and n. 25a.

[24] 433 U.S. 321 (1977).

[25] Id. at 329-30 and n. 12.

[26] There is one very narrow exception to this rule: if the job in question is one which virtually everyone in the general population is qualified to perform, and there is no application process, then a significant disparity between the minority representation in the workplace as compared to the general population could in certain cases be the basis of a prima facie case. See Wards Cove, 109 S. Ct. at 2121 n. 6; *Teamsters* v. *United States*, 431 U.S. 324, 340 n.20 (1977); *Dothard* v. *Rawlinson*, 433 U.S. 321, 329-330 (1977).

[27] Wards Cove, 109 S.Ct. at 2123.

[28] Id., at 2122 and n.7.

[29] 401 U.S. at 432 (emphasis added); see also id. at 431.

[30] 422 U.S. at 425 (emphasis added).

[31] 433 U.S. at 329 (emphasis added).

[32] 457 U.S. 440, 446 (1982) (citing Griggs, 401 U.S. at 432) (emphasis added).

[33] 108 S.Ct. 2777 (1988). This brief was signed, inter alia, by the Honorable Charles Fried, Donald Ayer, and the Honorable William Bradford Reynolds (hereinafter, "Brief").

[34] Brief, at 8.

[35] Id. at 18 (emphasis added).

[36] Id. (emphasis added).

[37] Id. at 17 (emphasis added).

[38] See, note, the Supreme Court 1988 Term, 103 Harv. L. Rev., 40, 350-361 (1989).

[39] 1989 U.S. App. LEXIS (5335, p. 23 n. 12, 11th Cir., Oct. 10, 1989).

[40] Slip opinion, pp. 1-2 (No. 88-1811, 7th Cir., July 27, 1989).

[41] 411 U.S. 792 (1973).

[42] 450 U.S. 248 (1981).

[43] The majority in Wards Cove got misled by Justice O'Connor's opinion in *Watson* v. *Fort Worth Bank*, 108 S.Ct. 2777 (1988). In that case it was held that subjective or discretionary employment practices challenged as violating title VII could be attacked under the disparate impact approach. But because she was dealing with a subjective practice she thought that that was the same as intentional discrimination and therefore she wrongly applied the rules developed in *McDonald Douglas Corp.* v. *Green* rather than the rules developed in *Griggs*.

[44] 109 S.Ct. at 2131 and n. 17.

[45] 15 U.S.C. § 13(b).

[46] *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 363 (1963): "[A] merger which produces a firm controlling on undue percentage share of the relevant market, and results in a significant increase in the concentration of firms in that market, is so inherently likely to lessen competition substantially that it must be enjoined in the absence of evidence clearly showing that the merger is not likely to have such anticompetitive affects."

[47] *Corning Glass Works* v. *Brennan*, 427 U.S. 188, 196 (1974).

[48] *Georgia* v. *United States*, 411 U.S. 526, 538 n. 9 (1973); *Pleasant Grove* v. *United States*, 479 U.S. 462, 479 (1987).

[49] See e.g., "Shifting the Burden of Proof in State Environmental Protection Acts: A Blessing to Environmental Plaintiffs," 8 Envtl. L. 851 (1978); Lungren, "Deep Horizons—Legislative Shifting of the Burden of Proof in Implied Covenant Cases," 24 Washburn L. J. 30 (1984).

[50] Slip opinion, p. 2.

[51] 401 U.S. at 431.

[52] Id.

[53] 433 U.S. at 328.

[54] 433 U.S. at 331.

[55] 457 U.S. at 447.

[56] 108 S.Ct. at 2789.

[57] 109 S.Ct. at 2125

[58] 109 S.Ct. at 2125.

[59] Brief for the United States, No. 87-1387, p. 23.

[60] Rule 11 requires that pleadings, motions and other court papers be signed by a party's attorney or by the party itself if unrepresented, and provides that such signature "constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation. . . If a pleading, motion or other paper is filed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee."

[61] See Rule 16(c)(1), F.R.C.P.

[62] 109 S.Ct. at 2125.

[63] Brief for the United States, No. 87-1387, p. 22, quoted in *Wards Cove*, 109 S.Ct. at 2132 n. 19 (Stevens, J., dissenting).

[64] 29 C.F.R. § 1607.16(Q).

[65] See *Green* v. *USX Corp.*, 848 F.2d 1511, 1520-25 (3d Cir. 188). *Griffin* v. *Carlin*, 755 F.2d 1516, 1523 (11th Cir. 1985); *Segar* v. *Smith*, 738 F.2d 1249, 1270-71, 1288 n. 34 (D.C. Cir. 1948); *Atonio* v. *Wards Cove*, 810 F.2d 1477, 1482 (9th Cir. 1987), rev'd 104 L.Ed. 2d 733 (1989); *Coe* v. *Yellow Freight System*, 646 F.2d 444, 451 (10th Cir. 1981); see also *Greenspan* v. *Automobile Club of Mich.*, 495 F.Supp. 1021, 1037 (E.D. Mich. 1981).

[66] The plurality opinion observes that the existence of that second motive precludes a finding that there was any "violation of the statute." 109 S.Ct. at 1787 n. 10. Justice White, in concurring opinion, remarked "I agree with the plurality that if the employer carries this burden [of proving the existence of a second motive], there has been no violaltion of Title VII." 109 S.Ct. at 1796 n. 1.

[67] See. e.g., *Bibbs* v. *Block*, 728 F.2d 1318 (8th Cir. 1985); *King* v. *Trans World Airlines, Inc.*, 738 F.2d 255 (8th Cir. 1984); *Ostroff* v. *Employment Exchange, Inc.*, 683 F.2d 302 (9th Cir. 1982); *Nanty* v. *Barrows Co.*, 660 F.2d 327 (9th Cir. 1981); *Roberts* v. *Fry*, 29 FEP cases 1445, 1451-52 (D.D.C. 1980).

[68] 109 S.Ct. at 1785.

[69] Brief of the United States, No. 87-1167, p. 23; see also id. at 7 ("Title VII . . . allows a defendant to limit the plaintiff's remedy by showing . . . that it would have reached the same employment decision even in the absence of the illegal discrimination").

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise to speak in opposition to the amendment before us sponsored by the Senator from Kentucky. Before I address what is wrong with his amendment, I would like to state what I think is the situation now.

Before I do that, though, I want to say that my colleague from Iowa, Senator HARKIN, speaking in opposition to Senator FORD'S amendment, did a very good job. I appreciate his hard work at this point, but more important, Senator HARKIN deserves thanks for sticking tough in the conference on another matter, the Americans With Disabilities Act.

In that conference, there was consideration of the Grassely amendment already referred to. Senator HARKIN and other Senators had made a commitment a couple of months ago before they went into that conference to come out of conference with the application of that new act, or act to be, to the Senate and other instrumentalities of the Congress.

That amendment did survive conference. It is a very good amendment. It is a much better amendment than Senator FORD'S amendment. That is technically before the U.S. Senate in the sense that the conference report on the ADA is before the U.S. Senate.

I assume what happened, and this is my statement of what I think the situation is now, is that for 3 weeks after the Americans With Disabilities Act, that is, civil rights for disabled people, after that compromise was worked out, the compromise on the Grassley amendment that Senator HARKIN fought so successfully for became very controversial when it got out here on the floor of this body. There was not much said publicly about its being very controversial, but it has become very controversial, and that has held up the Americans With Disabilities Act being considered by this body and being signed by the President.

There were suggestions in the last 3 weeks that when the ADA bill came up on the floor of the Senate again, that there be a question of constitutionality raised about the compromise in the Grassley amendment that came out of the conference committee. Since questions on constitutionality are put to the body—in other words, all 100 Senators rule instead of the Presiding Officer to rule—we would have had debate and a vote on that issue of the constitutionality of the Grassley amendment. My guess is that

somebody decided that they did not have the votes, or at least they did not want to vote on the question of constitutionality on the ADA because we could have discussed that. I was prepared to discuss that 2 or 3 weeks ago and vote on it. I know Senator HARKIN felt very strongly about bringing it up. As far as I know, the White House would like to have the bill presented to them for signature.

So I have to assume that somehow the Civil Rights Act of 1990, which is now the underlying piece of legislation before us, has been brought up and this subject now of Senator FORD's amendment is before us because, if Senator FORD's amendment is adopted and if all other efforts to improve Senator Ford's amendment are defeated, then this body has basically avoided what probably would have been a very tough vote on the constitutionality of the Grassley amendment.

So Senator FORD offers his amendment to this bill, which, as Senator HARKIN said, is a very good start, but it does not give the employees of the U.S. Senate the same rights that every other citizen in the United States has. In other words, employees of the Senate are second-class citizens because they do not have a right to court that any other person outside employment of the Senate would have access to if they found their civil rights violated. I believe that is the situation.

I need to commend the Senator from Kentucky, and anybody who is helping him, for this slick maneuver. Even though I disagree with the amendment, I have to say that this procedure is really strategically a smart move on the part of the people who were opposed to the Grassley amendment.

I know the Chair has been a Member of the Senate—this is the Chair's first term—for 3½ years, and I am sure he recognizes that as well, and I am sure my colleagues recognize that better than I do because those of us supporting the Grassley amendment were prepared to fight that battle on the Americans With Disabilities Act and on the question of constitutionality. I think we could have won that.

All of a sudden, the Americans With Disabilities Act is not before us, but another civil rights act is before us. I had already announced that I was going to include a Grassley-type amendment applying to the Civil Rights Act of 1990, the Kennedy-Jeffords bill, which is before us, to the U.S. Senate the same way I applied it to the Americans With Disabilities Act. I thought the Americans With Disabilities Act would be out of the way and that issue would be decided by the U.S. Senate positively, positively in the sense that Senate employees would not be second-class citizens, and then we could easily get it included in the Civil Rights Act of 1990.

Also, there are still another 14 or 15 major pieces of legislation out there that Congress has exempted itself from that somewhere along the line we will apply it to. If we make this point enough, I presume there will be some committee in the U.S. Senate that will decide on its own that they ought to take a look at all these pieces of legislation that Congress has exempted itself from and come up with an omnibus piece of legislation filling those gaps and making sure that no employee of the U.S. Senate is a second-class citizen. In other words, by second-class citizen, I mean not having access to the courts just like every other citizen in the United States.

But we are not going to be able to do that. We all hear the term and we are all proud of it, I believe, and I even think people outside the Senate who utter the term that the Senate "is the most exclusive club in the world" are somewhat proud to say they are Members of that, or that the Senate is that within the U.S. Government. I do not see that very often used disparagingly. I think it is used to set up a uniqueness of the Senate as a deliberative body, representing the States, compromised the great Constitutional Convention of 1787, something that is the heritage of the United States.

But being the most exclusive club in the world does not put us in a position of exempting us from the laws that we apply to the rest of the United States. We are going to pass the Americans With Disabilities Act. We will probably pass the Civil Rights Act of 1990. It is going to apply to all the businesses around the country, and the various people who are discriminated against, if they do not get satisfaction, they have their day in court, access to court, the judiciary branch of our Government, being that impartial arbiter of what constitutional rights people have. But this exclusive club could be setting itself up for another exemption that that law ought to apply to everybody else but not to us 100 Senators. That is not what was meant by being the most exclusive club; that somehow there are special privileges that we have that other people do not have in employment.

There might be some in our constitutional function that are legitimate but not in employment. We do not have the right to discriminate against people we hire or fire. We do not have that right.

Yes, we have the right, as Senator HARKIN said, to say on the floor of the Senate anything we want to say and be protected from suit on that, because that is part of the tradition that we learn from the Parliament of Britain, so that the kings could not arrest the people's representatives for what they said. That was a long tradition before we adopted it. But in every other respect, we should not discriminate, have any privileges than other citizens so we are a very exclusive club.

But I think the issue is whether or not the Senate ought to be included, just like the rest of the United States, in the application of this law. The private conversations that go on around this body, in and out of these halls, in our offices, over the phone, people trying to impress upon their colleagues do you want to be sued for discriminating against somebody, or almost the insinuation that there would be suits other than for legitimate purposes of discrimination, suggest that somehow this is something we should not be faced with; we ought to be immune from it; that there is enough of this talk going on around here behind the scenes and the fact we do not debate the bill and the constitutionality of the issue as people threaten, that something has been worked out.

It is somewhat hypothetical on my part to say this, but I just have to assume that on this other rollcall they would not have had the votes and how are we going to tackle this because we cannot let the Grassley amendment apply to us and we be sued like anybody else under the same piece of legislation; we have to figure out some otherway of doing this.

So the Civil Rights Act of 1990 is brought up, and then the amendment of the Senator from Kentucky is added to it, which is a good step but it still deprives Senate employees their constitutional access to the courts.

Probably, Mr. President, this is a good example of not only the exclusivity of the Senate but also the inner circle within the Senate, of people in positions of power going to see some way that we can maneuver the Senate around to avoid a hard vote, and maybe adopting something that looks like it is applicable to the Senate, and the employees of the Senate are given the same constitutional rights as everybody else in the United States when in fact they really are not.

There are an awful lot of smart people in the Senate who know the rules and can figure out how to do it, and I think this is an example of not only the exclusiveness of the Senate but also of how things can be done to bring us around to a point of believing we have done something but have done nothing but avoid the hard vote and still keep the Senate as a privileged group in the sense of our employment, that our employees do not have access to the courts.

So I think the situation, Mr. President, and everybody is going to have to deal with that in their own conscience, whether or not they appreciate the strategy. But strategy is only a part of it. You have the substance of the amendment with which we have to deal. And then also we have to deal

with whether or not you really ought to use this amendment on the Civil Rights Act of 1990 to get around a bill that already ought to be on the President's desk for his signature, so that Americans with disabilities cannot be discriminated against any more. So that is where we are.

Mr. HELMS. Mr. President, will the Senator yield for just one comment?

Mr. GRASSLEY. I will yield if I do not lose control of the floor.

Mr. HELMS. With that stipulation, Mr. President.

The PRESIDING OFFICER. Is the Senator yielding or a question?

Mr. GRASSLEY. Yes.

Mr. HELMS. Mr. President, as my friend from Iowa [Mr. GRASSLEY] has pointed out time and time again, Senators should no longer exempt themselves from legislation imposed upon the small businesses of America.

The Ford-Stevens-Heflin amendment purports to apply to the Senate a laundry list of onerous legislation which this body has seen fit to impose on the American people. The list includes, the Americans With Disabilities Act, the Civil Rights Act of 1990, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

However, the amendment provides that the Senate, rather than the courts, would enforce the provisions of these acts. This will be difficult to explain to the many small businessmen who will be dragged into Federal court under the various provisions of the law. I'm confident that the small businessman would support these laws too if they could be sure that they would be the ones to enforce them on themselves.

I've have listened carefully to all of the separation of powers arguments and legal pronouncements made in defense of the proposition that the Senate should, by right, exempt itself from laws it passes. I am not persuaded.

Mr. President, this issue boils down to the fact many Senators are afraid that the courts of this Nation may force them to live by the same standards which they impose on the citizens of this Nation. My friend from Iowa has done a great service by raising this matter. It is about time that we start abiding by the spirit of the laws which we are so quick to impose upon the American people.

Again, I thank the Senator from Iowa.

Mr. FORD. Mr. President, will the Senator yield to me for a comment also because I just cannot let this statement go by because we do now have a resolution of the 88th Congress——

The PRESIDING OFFICER. Does the Senator yield?

Mr. FORD. Does the Senator yield without losing his right to the floor?

Mr. HELMS. Who has the floor?

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Iowa has the floor.

Mr. GRASSLEY. Before I consider any other yielding, I would like to comment on what the Senator from North Carolina has said. I very much appreciate his long-time support of this approach.

I hope, when it comes time to vote on this amendment, the Senator will help us make it very clear to our colleagues what is occurring, and so that we can possibly reject this approach for an approach that has already been agreed upon by Senators on the conference committee, which includes Senators HARKIN, KENNEDY, METZENBAUM, SIMON, HATCH, DURENBERGER, and JEFFORDS. These Senators already signed a compromise that we were about ready to take up within the last 2 or 3 weeks, could have taken up and had the ADA on the President's desk.

I assume that the Senator made his point because at home in North Carolina he finds it very difficult to explain to his constituents, in fact, when they say how come Congress exempts itself from certain basic pieces of legislation that apply to them, right?

Mr. HELMS. If the Senator will yield, I do not have any difficulty whatsoever. I just say, "I agree with you," and I do.

Mr. GRASSLEY. But does the Senator not find it a little embarrassing as a Senator when special privileges are given?

Mr. FORD. Mr. President, will the Senator yield?

Mr. HELMS. I do. I do, because I greatly respect the tradition and the meaning of the Senate. I thank the Senator.

Mr. FORD. Will the Senator yield for me to make a point? Is the Senator familiar with rule XLII?

Mr. GRASSLEY. I will yield——

Mr. FORD. Without losing his right to the floor. Is the Senator familiar with rule XLII?

Mr. GRASSLEY. Yes.

Mr. FORD. What is the procedure under rule XLII?

Mr. GRASSLEY. The Senator has codified rule XLII.

Mr. FORD. That's right.

Mr. GRASSLEY. I have rule XLII in front of me.

Mr. FORD. Does the Senator have a right to vote on compensation under this amendment for an employee that was discriminated against?

The answer is "Yes." I thank the Chair.

Mr. GRASSLEY. Yes. Mr. President, I appreciate what the Senator from Kentucky is saying.

But he listened to everything I said and he knows exactly what I said. He knows what my position is. That position is that, as my colleague from Iowa, Senator HARKIN said, that the Senator's amendment is a good first step but it still deprives employees of the U.S. Senate the same rights of another employee in the United States who is discriminated against, and that is access to the courts.

Mr. FORD. Mr. President, will the Senator yield on that point? The Senator's right is the remedy.

Mr. GRASSLEY. Mr. President, I will yield to the Senator. I will just make one short statement.

I would say that his approach would be very legitimate and very consistent with rule XLII applied to all the employees in the United States of America, not just to the Senate employees. Does the Senator want me to yield?

Mr. FORD. No. Go ahead. The Senator does not know the point of rule XLII yet.

Mr. GRASSLEY. Mr. President, I, with some reluctance, spoke so frankly to this point. But even continuing to be very frank, this amendment is really an illusion. We have heard a lot about equality during the debate, a lot about second-class citizens during the debate on both ADA as well as the Civil Rights Act of 1990. We have heard an awful lot in this debate about equal protection under the law. It is just this simple, Mr. President, that the amendment of the Senator from Kentucky is a retreat from these principles of equality and equal treatment under the law.

Mr. President, the proponents of this amendment claim that it will apply the rights and remedies of the civil rights laws, including the Americans with Disabilities Act, to Congress. This amendment is not what it says it is. It is a very clever bit of false advertising. It is false advertising because it says to all who work on the Hill, or around Capitol Hill and also those who might be employed years into the future on Capitol Hill, that they are not equal, not equal in the eyes of the law.

This amendment says that it is OK to discriminate against them, that somehow those of us in the U.S. Senate as employers, and that the Senate alone is a safe harbor, have a safe harbor insulated from having to live under the same laws that apply to the rest of the country.

It says to these employees, and also prospective employees, that you alone will be deprived of the right to vindicate your civil rights in the courts.

Mr. President, the amendment offered by the Senator from Kentucky is nothing more than codification, just plain and simple, of the existing practice under rule XLII.

Let me say I believe last September as I believe today that rule XLII is inadequate or I would not have offered as I did last September my amendment to cover the employees of the U.S. Senate under the Americans With

Disabilities Act. I am sure that not only the cosponsors of that amendment but a majority of the Senate at that time agreed with me.

Mr. President, there is a way to solve this problem, and that is the right way. But the amendment that is before us now is the wrong way. The right way has already been accomplished by the Senate conferees on the ADA. The Senator from Massachusetts was a member of that conference and he has already announced that he is supporting Senator FORD.

So I think that he knows the right way to do it. I was surprised when I heard that he was going to endorse this remedy that is before us.

The conferees on the Americans With Disabilities Act met, as I said, about 6 weeks ago now, and I think that we can be proud of what our Senate colleagues on this conference did in arriving at a compromise that should have already been before us under consideration of the Americans With Disabilities Act.

I commend these conferees for taking the first steps toward righting a 50-year wrong, and that wrong is exempting Congress from its own laws. But make no mistake, the amendment by the Senator from Kentucky would gut all of the work that has been done by the conference committee on the Americans With Disabilities Act as that act would be applied by that compromise to the U.S. Senate.

Mr. President, I also think that I ought to congratulate also my colleague from Utah who was very much a part of that compromise as well, Senator HATCH, because he and probably Senator HARKIN were most in the forefront of fighting for the inclusion of the employees of the U.S. Senate under the protection of the ADA in that conference committee.

So I give special praise to them for making the premise of nondiscrimination more than a false hope for thousands of Capitol Hill employees and prospective employees.

The amendment by the Senator from Kentucky, however, makes equal rights an illusion on Capitol Hill. It will ensure that Congress will never live under the same law that applies to the rest of America. That same law, I want to emphasize, is with the full right of access to the courts.

Ten years ago, the U.S. Civil Rights Commission issued a report recommending that Congress enact provisions in title VII of the Civil Rights Act of 1964 to cover employees in the legislative branch. The Commission noted in this report:

> The importance of public policy in favor of equal opportunity is not diminished by applying the principle to employment practices in the National Legislature. Such action will promote public respect for Congress by demonstrating its willingness to live under the laws it applies to the rest of the Nation.

I am frank to say that a decade is past now since that report was issued, and the over 20,000 congressional employees and countless thousands more prospective employees are still largely without enforceable right to equality under the law.

I am reminded of a very main point that the Senator, my colleague from Iowa, made during his speech a few minutes ago where he said we are applying all this legislation to State officials and local officials. And my comment on that is I do not know whether enough people understand that. But if there is a legitimacy for U.S. Senators to be exempted because of our special role as legislators, is not that same principle applicable to employees of peoples who are State legislators as well and also other elected officials within State government, local government? Or somehow is the U.S. Senate as a legislative body different than any other legislative body in the United States?

With the landmark legislation that has been worked out in conference on the American With Disabilities Act, I believe that we are heading into a new era. But the amendment that we have before us that is trying to circumvent that compromise worked out in conference is a shameful retreat from that principle and from our landmark action.

Mr. President, I have taken the floor many times to explain my amendment, and I do not think there is any need to repeat my reasoning today, except to say that having Congress occasionally taste its own legislative medicine is very essential; it is an absolutely essential condition for a healthy representative democracy.

Since the time I offered and the Senate accepted the Grassley amendment to the ADA last September, a number of constitutional strawmen have emerged to scare us away from doing the right thing. Each one of these strawmen, I think, can and has been blown away. And if I have a chance—during this debate I think we will have that chance—I intend to do that.

Mr. President, I have also heard disturbing talk—and I think what faces us today is an example of this disturbing talk—about a fix of the Grassley amendment by allowing Congress itself to investigate and enforce its own compliance with the ADA. That is what we have before us right now with Senator FORD'S amendment. That means no private cause of action for victims of discrimination, just internal self-policing by Congress itself. In other words, Mr. President, it is this simple: The congressional mouse will be placed in charge of the civil rights cheese.

To this idea, I have said, and I say again, "No way." It is an appeal to the worst of plantation mentality on Capital Hill. It says that when it comes to this little enclave called the U.S. Senate, there are really two sets of laws.

I think I have made clear that I do not believe in self-policing. Self-policing by the Senate or anybody else is a foreign concept when it comes to enforcing discrimination laws on Main Street America. We ought to have a little less self-policing on Capitol Hill. That would set a very good example.

No private employer can set up his own courtroom to judge his compliance with the law. So why should we in the Congress of the United States have the right to set up our own little private investigation unit, our own private investigation prosecutor, judge, and jury, if we have suits brought against us?

But that is what is happening. That is what would happen if Senator FORD'S amendment were adopted. I guess that is the condition it is in, even without Senator FORD'S amendment, because he does nothing more than codify rule XLII, which has always been applicable to the Senate. But that rule XLII does not give any of these employees of the U.S. Senate access to the courts, like your citizens in West Virginia, Mr. President, have access to the courts, if they feel they are not getting a fair shake.

Are we going to let members of the chamber of commerce, for example, self-police their conduct, or officials of General Motors? The answer to that, of course, is "No." We are going to have the Justice Department prosecute, and we are going to have impartial judges enforce the law and the penalties.

I realize that a few of my colleages are advocating, and have been advocating for a long time, this wholly internal Senate process for enforcement of the civil rights of congressional employees. They have cited to me time after time after time that we have this rule XLII, and some of them even suggested that we can improve rule XLII; we can codify it and put some other procedures in there.

But the very same people saying that are not willing to give Senate employees the same right and access to the courts that every other citizen of the United States has, so that employees of the U.S. Senate then continue to be second-class citizens.

People who think we ought to take this approach claim that it is unfair to charge that by cutting off the right to go to court that the Senate has insulated itself from any civil rights standard. Now, explain that back on Main Street in some little community in West Virginia. I do not believe you can do it. I cannot explain it in Iowa. Justice cannot be served merely through an internal Senate process, especially when this process is created and

staffed by members of their agents and acts as the sole and final arbiter of suits with no opportunity for appeal to the independent judiciary.

I am certainly not suggesting that the Senate Ethics Committee has failed to enforce its governing rules concerning employment discrimination. Mr. President, that is not the issue. I am not questioning the integrity of my colleagues on that committee or on any other committee of this Senate.

Mr. President, that is not the issue. Equal justice under the law is the issue, equal justice under the law for the employees of the Senate, just like employees of the State of West Virginia.

The function of our independent judiciary is to enforce constitutional and statutory rights in a fair and impartial forum. That impartial judiciary rules every day of the week in cases involving executive branch conduct. So it is simply wrong for anybody to suggest that it violates separation of powers for the judiciary to occasionally judge the conduct of a coequal branch of Government, in this case the legislative branch.

In fact, in 1972, Congress amended title VII of the Civil Rights Act to explicitly apply to the executive branch. Why did we not simply allow this branch to install its own judicial system? Because you would have a hard time explaining that, I am sure. There were not charges then that the courts could not enforce claims against the executive branch. The courts have been doing that since 1972.

Indeed, I suggest, Mr. President, that the real offenders of the separation of power are those who create for the Congress its own in-house mini judiciary, quite apart from the independent judiciary that is one of the hallmarks of our form of government.

I do not want you to take CHUCK GRASSLEY'S word for what I have just said. I want to have you recall the warnings of James Madison in Federalist Paper No. 47.

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the vary definition of tyranny

He goes on to say:

> * * * where the whole power of one department is exercised by the same hands which possess the whole power of another department, the fundamental principles of a free constitution are subverted.

So the burden is on our opponents to refute our Framers, when the Framers created the three branches of Government with separate and distinct powers. Let the proponents of this question before us prove that Congress needs to be able to create an in-house judiciary to hear suits against itself.

Let them prove not just that it is constitutional. Let them also prove that it is the right thing to do, the right thing to do. Because I think the only right thing for us to do, Mr. President, is see that the employees of the U.S. Senate have exactly the same access to the judiciary as your citizens in West Virginia.

Now, Mr. President, I do not mean to suggest that rule 42 might not have a very noble goal and I even suggest that its incorporation in statute is one step toward making it more noble, but that is not enough. It does not provide in rule 42 whether it is under the rule or in the future under statute for the full remedial relief found in the civil rights statutes, rights that can be ultimately vindicated only in an independent—more important than independent, an impartial judiciary. The separation of powers doctrine is no impediment to the congressional coverage under either the Civil Rights Act of 1990 or the Americans With Disabilities Act.

Separation of powers concerns come in two forms: First, concern over the executive branch unduly interfering with the legislative branch, and second, that the speech and debate clause immunizes Members of Congress from being called to account for their official acts.

We can easily dispose of these concerns by simply precluding executive and administrative enforcement of ADA as it applies to Congress while substituting for victims a private cause of action in Federal district court.

That is exactly what the conferees on the Americans With Disabilities Act have done.

This is the way that we should do it on the Civil Rights Act of 1990. We have the language and there is no question about being fully constitutional.

Further, it is important to point out that the speech and debate clause embodied in our Constitution does not immunize the hiring practices of Members of Congress and I think that whether they understand it or not, Mr. President, that is the argument that my colleagues are making, that somehow the constitutional protection that I have to say what I want to say in the legislative process on the floor of this Senate ought to protect me against charges of discrimination if I do not want to hire you or you or you for some reason.

That is the case now.

The speech and debate clause does not extend to the personnel practices within the Congress. Moreover, it in no way prevents Members from making reasonable accommodations for the disabled or anybody else that we want to protect by the various Civil Rights Acts. So let us be very clear about this. The Constitution does not prevent congressional coverage under either the Americans With Disabilities Act or the Civil Rights Act of 1990 or the Civil Rights Act of 1964.

In fact, only Congress, only Congress, only the 100 of us who are Members of this body voting and making decisions, only we ourselves are preventing congressional coverage and compliance with the ADA.

Mr. President, I would like to address this last issue in detail. The speech and debate clause has had its roots in English law. The clause was the culmination of a long struggle for parliamentary supremacy between the monarchies of England and the Members of Parliament during the time of the Tudor and Stewart monarchies of the 17th and 18th centuries.

An important word there that I used is parliamentary supremacy, the word "supremacy." During this period of time when parliamentarians were seeking certain protections from the crown, it was because the crown imprisoned Members of Parliament without a hearing and at the mercy of royal judges without appeal. The speech and debate clause springs from a fear of sedition libel action instituted by the crown to punish speeches made in Parliament that the crown did not like.

Thus it was designed to preserve parliamentary supremacy and independence. The clause became a part of the U.S. Constitution, of course, at our Constitutional Convention.

Our speech and debate clause differs from the English version that ours is founded on the notion of legislative independence, not supremacy. Independence of the legislature without altering the balance of the separation of powers between the coequal branches of Government, that is very much the bedrock of the speech and debate clause. It ensures that legislators are free to represent the interests of their constitutents without fear, so that they will not be later called to task in the courts for that representation.

What we say here on the floor of the Senate, not whether we did not hire somebody because of the color of their skin or region or national origin or their sex.

The Supreme Court has described the clause,

> A legislative privilege protecting against possible prosecution by an unfriendly executive and conviction by a hostile judiciary. This privilege is essential to ensuring the independence of the legislature.

In Federalist Paper 48 James Madison explains:

> The powers belonging to one of the departments ought not be directly or completely administered by either of the other departments. It is equally evident that neither of them ought to possess directly or indirectly an overruling influence over the others in the administration of their respective powers.

Thus, as long as a Member's activities are within the scope of the clause which extends to the sphere of legitimate legislative activity they are protected. Members are immune not only from the consequences of litigation results but also from the burden of defending themselves.

I want to quote from a Supreme Court case, Gravel versus the United States, 1972:

> The heart of the clause of speech and debate in neither House and in matters that are an integral part of the deliberative and communicative process by which Members participate in committee and in House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House.

Did I hear my colleagues use that speech and debate clause as a legitimate argument for not giving employees of the U.S. Senate the same access to the independent judiciary or the courts of the United States as the people of West Virginia have?

In determinin whether the cause immunes a particular activity, it must be determined whether a legitimate legislative activity is being implicated. The clause's protections are not limited to words spoken in debate alone. Committee reports and resolutions and the act of voting are equally covered. Specifically the Supreme Court has interpreted the reach of the speech and debate clause broadly to extend to those things "generally said or done in a session of the House by one of its Members in relationship to the business before it or things done by him as a representative in the exercise of the function of this office" the Kilburn case. The Court has also defined what is not considered to be integral to the legislative process and therefore not protected by the clause. Such duties include a wide range of legitimate actions performed for constituents, the making of appointments with governmental agencies, presenting newsletters to constituents, news releases, speeches delivered outside of Congress.

Those things are not covered and that is in the Brewster case, in 1971.

Thomas Jefferson explained it this way:

> The privilege is retained to things done in the House in a parliamentary course for the Member is not to have a privilege to exceed the bounds and limits of his place and duty.

People are suggesting that our hiring practices are covered by this speech-and-debate clause.

For our present purposes, we must determine whether personnel and hiring practices, including those that are alleged to discriminate, are considered to be a component of the legitimate legislative activities and thus protected by the speech-and-debate clause; or, to put it another way, is the failure to make the civil rights laws to Congress integral to the legislative process and therefore shielded by the speech-and-debate clause? Now to me it ought to be very obvious that there is a clear answer to that, and the answer is clearly no.

Opponents of my position must answer yes to this question if they claim that the speech-and-debate clause prevents us from complying with the Civil Rights Act. Otherwise, if discriminatory hiring practices are not an integral part of a legislative process, as I believe is the case, then there is no excuse, there is absolutely no defense, to precluding Congress from full coverage.

There simply is no legitimate constitutional obstacle. There might be a lot of wishes that we have. You know, I wish that I could do this and that, and not have the law apply to me. There can be some maybe political fears that you have because we have high visibility and we have political opposition that maybe we could be sued, and I wish for an environment that I would not be sued in. There are all sorts of hypotheticals that can be raised. But you get down to a very basic proposition of whether or not, Mr. President, the employees in the U.S. Senate ought to have access to the courts on the same basis as your constituents in the State of West Virginia.

Separation of powers is indeed the bedrock concept embodied in our Constitution that establishes independence among the branches, while at the same time instituting a system of checks and balances. However, this cherished constitutional principle does not go so far as to make Members of Congress immune from constitutional mandates or from statutory obligations that we place on every other employer in America. Or conversely, it does not give us the right to deny employees of the U.S. Senate who might be discriminated against access to the courts, like the citizens of West Virginia have access to those courts.

There may be legitimate separation of powers concerns regarding executive branch employment of the civil rights laws against Congress, but to repeat, that concern can be easily addressed, and it has been very rightly addressed and in a compromising manner by the conferees under Senator HARKIN's leadership in the Americans With Disabilities Act conference. We can alleviate this legitimate separation-of-powers concern by simply substituting a legislative administrative remedy for that that was in the original Grassley amendment, because I would have had EEOC applying the enforcement.

So we eliminate that. That takes care of separation of powers. You do not have somebody in the executive branch up here enforcing law upon us. But the law is going to be adequately enforced, the same way most laws are enforced if they are not enforced rightly, and that is by access to the courts.

This route allows alleged victims to eventually vindicate their claims in a court of law without executive branch interference in the legislative brach. But understand this: as far as the speech-and-debate clause is concerned, not hiring someone because he is disabled, or for that matter not hiring someone because he is black, not promoting someone because she is female, or firing someone because he or she is Hispanic, is not in my mind something generally done in a session of the House by one of its Members in relationship to the business before it or things said or done by him as a representative in the exercise of the functions of that office.

Mr. President, I want to yield to the Senate majority leader, if I do not lose my right to the floor. Before I yield, Mr. President, I want to remind the Senate majority leader that about a year and a half ago I did yield to the Senate majority leader, and at the conclusion of his remarks I was not given back the floor. And so I would like to have my rights protected, as I believe they are protected.

The PRESIDING OFFICER. The chair will protect the Senator's rights.

Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleague for his courtesty and I thank the Chair.

I have no intention of preventing the Senator from retaining his right to the floor. I have been receiving a number of calls from Senators wanting to know about the schedule for this evening. I ask only if we can reach an understanding and get an agreement here as to when the vote would occur.

We have been on this amendment now since approximately 2:15. I wanted to give the Senator from Iowa and every other Senator full opportunity to say everything that they want. I would like to suggest for my colleagues' consideration that we agree to vote at 7:15. That would give another hour and a half for those Senators who wish to debate the subject. I know there are some here who have yet to be heard and want to be heard. I wonder whether that would be agreeable to the Senator from Iowa, the Senator from New Hampshire, and the distinguished managers?

Mr. GRASSLEY. Mr. President, the Senate majority leader makes a very legitimate inquiry. First of all, I cannot respond absolutely, but I do not believe that is enough time. On the one hand, I have had several Senators who have told me that they would want to come over and speak after I was done speaking. I do not know what their schedules are or what the

case might be. Let me say to the Senate leader that it is not my point to not bring this thing to a vote when everybody is heard. So I do see light at the end of the tunnel.

Mr. HATCH. Will the Senator yield?

Mr. GRASSLEY. I want to make clear that there have been people that told me that they wanted to speak, and we have had people ask when I was going to speak, et cetera, that I do not feel very confident in saying yes to that without precluding some people on this side of the aisle who have asked to speak.

Mr. HATCH. Will the Senator yield?

I do not see any reason why we could not make it by 7:15 because that gives us almost an hour and a half. I am sure the distinguished Senator will have enough time to make his comments and allow others to come over. I know the distinguished Senator from New Hampshire has a word to say. I do not need to say anything.

Mr. RUDMAN. If the Senator will yield further, I would just ask one question. How long does the Senator from Iowa intend to speak? That would give us some idea, because I know how long the others wish to speak. Could the Senator from Iowa enlighten us as to how long he intends to continue?

Mr. GRASSLEY. I wanted to speak about 25 or 30 more minutes.

Mr. KENNEDY. Reserving the right to object, Mr. President, and I will not object, I just want to remind the Senate that we waited over here for 2½ hours of quorum calls in order to accommodate the Senator from Iowa and his amendment. So I do hope that the very reasonable request of the majority leader will be agreed to, since we waited here. The chairman of the Rules Committee, myself, and others waited over 2 hours to try and accommodate the Senator from Iowa. I think that the request of the majority leader does not appear to be an unreasonable one. We have many other different matters to deal with in this legislation. But I will not object.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I want to make it clear it is not my intention to foreclose any Senator from speaking for as long as he or she wishes on this subject. That is not my intention in making this request. My intention is to attempt to accommodate the schedule of the numerous Senators who have contacted me and asked me, understandably, when this vote might occur so they could plan their schedule accordingly.

May I suggest to the Senator from Iowa that we consider 7:30 or 7:45, if that would be all right? What I am trying to get at is a time certain to accommodate Senators who may want to come and go without foreclosing anybody or cutting anybody off or not giving everybody the opportunity to have a full debate.

Mr. GRASSLEY. I think 7:45 would be very good on this one condition—oh, wait. I see other people shaking their heads.

Mr. MITCHELL. If I might ask the Senator to state the condition and then we will get the response.

Mr. GRASSLEY. What I would like to do is then quit speaking at this point.

Mr. Leader, if I could have 15 minutes before the vote for response to other responses that can be made, then I would say that 7:45 is acceptable.

The PRESIDING OFFICER. Does the leader make that request?

Mr. MITCHELL. Not at this moment because I want to give the distinguished Republican leader the opportunity to react to the suggestion. He has not been party to this and it is my practice always to consult with him before making such a determination.

Might I inquire of the Senator from Iowa, is his condition that he be given the last 15 minutes? Or any additional 15 minutes during the time between now and 7:45? Because the Senator will have 25 to 30 minutes now, as he has requested.

Mr. HATCH. Will the majority leader yield?

I would suggest to my distinguished colleague from Iowa, if we start now, we would have 1 hour and 23 minutes in which to debate this if we finished at 7:15. I suggest that that is enough time for those who want to speak to come over, if the distinguished Senator wants to take the 25 minutes. So I suggest 7:15 is a very good time, and we can get everybody over here if we have to. We can send notice out right now. If they want to speak, they have a lot of time to come, because there are not a lot of other speakers to my knowledge on this particular aspect of this debate.

I suggest the distinguished Senator from Iowa accept the 7:15 timeframe and we give him the last 15 minutes before the vote. So the Senator from Iowa has from 7 to 7:15.

Mr. MITCHELL. I ask the Senator from Iowa whether that would be agreeable? What I suggest is that the vote occur at 7:15; that the time between now and then be equally divided, with the understanding that the Senator from Iowa would have the last 15 minutes. That would come out of the time of the opponents of the amendment.

Mr. GRASSLEY. There is one thing I want to see I get out of this. I am not going to make the same mistake I did a year and a half ago. I yielded to the Senator to have the floor for procedural reasons and when he was done, I did not get the floor back.

Mr. MITCHELL. I regret I do not recall the incident to which the Senator referred because I do this several times a day, every day. If I caused any inconvenience to the Senator a year and a half ago, I apologize for that and I certainly do not have any intention——

The PRESIDING OFFICER. The Senator from Iowa should understand that under the previous order, his retention of the floor is mandated. He has no concern.

Mr. GRASSLEY. The only thing is, Mr. President, if his unanimous consent was agreed to, my time would be limited based upon the agreement of the time being equally divided.

Mr. MITCHELL. Mr. President, I have not propounded any unanimous-consent request yet.

Mr. GRASSLEY. I will speak no more than 15 minutes after the leader gives up the floor, then I will give up the floor, and then I want 15 minutes before we vote, after other people have spoken.

Mr. HATCH. Mr. Majority Leader, if I can interject, why do we not give the distinguished Senator—it is 5 to 6—until 10 after 6 and then he will have from 7 to 7:15. The rest of the time will be taken around. I think we can agree to that and those who want to speak will come from that time, from 6:15 to 7:00.

Mr. MITCHELL. It is equally divided——

Mr. RUDMAN. If the leader will yield, I do not think the leader quite wants to do that. The Senator from Iowa can talk from now to 6:15, from 7 to 7:15. The balance of the time cannot be equally divided. That would be grossly unfair.

Mr. HATCH. The people who want to speak can speak. We will give that time up. But I suggest that is the way to solve it—give the distinguished Senator from Iowa to 6:15.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, in order to accommodate many conflicting interests here, I am, in a moment, going to propound a unanimous-consent request that the vote on the pending amendment occur at 7:30; that the intervening 90 minutes be equally divided between the proponents and opponents of the amendment; that the 45 minutes of the opponents of the amendment be given, 30 minutes to the Senator from Iowa, 15 minutes to be at the outset of the 90-minute period, 15 minutes at the conclusion of it, and the remaining 15 minutes to be subject to the control of the Senator from Utah; that the 45 minutes of the proponents be under the control of the Senator from Massachusetts.

That seems to me to be the fairest thing. It accommodates everyone's concern and provides an equal balance of the time.

Mr. President, as we speak, I am receiving more requests for time. I am going to go back to the original 7:45, and divide that time equally.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that the vote on or in relation to the pending amendment occur at 7:45 p.m.; that there be no other amendments or motions in order; that the time between now and 7:45 p.m. be equally divided between the proponents and opponents of the amendment; that the Senator from Iowa be recognized to address the Senate for 15 minutes immediately following approval or unanimous consent to the proposed agreement; and on the final 15 minutes, from 7:30 to 7:45, that the Senator from Iowa control the remainder of the time of the opponents to the amendment; that the time of the proponents of the amendment be under the control of the Senator from Massachusetts.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Reserving the right to object, I do not have any argument about the time. I just want to know whether or not the part of the motion that no motions can be made, does that preclude a motion to table?

Mr. MITCHELL. No. No. I specifically stated that the vote be on or in relation to the amendment so as to preserve the Senator's right to offer a motion to table. It was motions to recommit that my request was intended to cover when I said no amendments or motions be in order.

The PRESIDING OFFICER. Is there objection?

Without objection, the unanimous-consent request is agreed to.

Mr. MITCHELL. Mr. President, I thank my colleagues. Senators should be aware then that a vote on or in relation to the pending amendment, either up or down on the amendment, or on a tabling motion by the Senator from Iowa, will occur at 7:45 p.m.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Iowa retains his right to the floor.

Mr. GRASSLEY. Mr. President, since the speech-and-debate clause has been thrown into this debate prominently, and legitimately so, the charge is made by those who support the amendment of the Senator from Kentucky that the speech-and-debate clause protects the personnel practices of Members of Congress.

I want to remind my colleagues again of the Gravel case in 1973, where the Supreme Court tells us that if the Members' actions are not shielded by the speech-and-debate clause, "Legislators ought generally to be bound by the law as ordinary persons." That is what we are talking about here: Whether or not in most aspects of our work, this law will apply to us like ordinary citizens, as it applies to the ordinary citizens of the State of Wisconsin, Mr. President.

The clause protects only congressional activities that are integral to the legislative process. The court has defined the scope of the clause broadly, but has never extended it to cover hiring practices. I hope that my colleagues understand that the Supreme Court has never defined the scope of the speech-and-debate clause, even though they have generally defined it very broadly. It has never been extended to cover the hiring practices of the individual Senators.

In fact, in Davis versus Passman, the Supreme Court ruled that the fifth amendment protects congressional employees from discrimination. That case specifically said employees of Congress are protected from discrimination. This case stands for the proposition that congressional employees have a fifth amendment due process right to private causes of action for employment discrimination against Members of Congress.

My colleagues heard the charge that the separation of powers was being violated. First, the conference report to the Americans With Disabilities Act precludes executive control over legislative entities and, thus avoids separation of powers problems.

Rather, the conferees created an administrative remedy within the legislature, with a right to a private cause of action in Federal district court. There is no executive branch intrusion on the Congress.

Separation of powers arguments can only be made through the speech-and-debate clause, and the clause does not apply in this case. A separation of powers argument could be that the other branches cannot intrude into congressional activities by proscribing discrimination in employment in Congress. The argument would have to claim that only Congress can regulate Congress, not the executive or judicial branches. However, I do not believe that the clause protects hiring practices and, therefore, Congress has no shield to hide behind.

And remember, in 1972, Congress amended title VII to apply to the executive branch. No one has claimed a separation of powers violation when we did that, or since.

Historically, Congress has treated its employees different from the arrangements of other Government employees. That is another justification for the amendment of the Senator from Kentucky. They argue that staffs and Members have been considered intimately part of the policymaking and political process; that they are not subject to being selected, compensated, or tenured as others who serve the Government. These arguments show thare is an imperative need for loyalty, confidentiality, and political compatibility, not just to a political party, institution, or administration, but to us as individual Senators. The speech-and-debate clause is invoked in this regard. But private employers also have a crucial interest in hiring employees who are loyal to the business, loyal to the employer. Loyalty and confidentiality are not qualities unique to just Congress; they are integral in private employement as well. Private employers must have the right to hire people they deem to be loyal and trustworthy, free from Government intrusion, as long as these decisions do not violate the mandates of the Constitution, of the civil rights statute.

Legislative branch employees are no different from workers in the private sector. Both have a constitutional and statutory right to be free from discrimination. My amendment, that is part of the Americans With Disabilities Act, and is being undercut by the amendment of the Senator from Kentucky, would take from congressional employees a statutory right. Private-sector employers are no different from Members of Congress in that both have the right, the need, to hire the most qualified, loyal, and trustworthy employees.

Consider the small business owner who must entrust the store key to his employees, the same way we trust our employees with the keys to our office. The owner of that store understandably wants to hire an individual he or she deems most reliable, honest, and able. Does the employer have an interest in hiring, for example, a trustworthy and loyal employee? Is this interest illegal? No, and, of course, it should never be illegal, Mr. President. Distinctions based on merit, qualification, or political ideology are lawful distinctions. It is the unlawful distinction based on disability, race, religion, gender, and national origin that are proscribed by the laws of the United States and should be proscribed for Congress and Members of the Senate as well.

There is no doubt that Congress' intent was clear when it enacted the civil rights laws to exempt itself from coverage. There is no quarrel with that interpretation. The quarrel is with the fact that every other American must abide by the law or face the penalties while Congress has conveniently excluded itself from the full force of the law. The time is now for Congress to live by the laws that it applies and subjects the rest of America to.

If civil rights bills are alleged to be crucial in the fight against discrimination, why is Congress not joining in that fight other than in the capacity of saying it is good for everyone else, but it is not good for us?

A lot of my colleagues argue that the fair employment practices proposal that is currently operating in the House is the right way to go in order to provide protection to congressional employees or, as is being argued with the amendment of the Senator from Kentucky, that rule XLII should exclusively enforce civil rights regulations, not the courts. That is true if you also allow the fox to guard the chicken house. We do not think that is good business. It is a matter of simple justice. To suggest otherwise is to question the very foundation of our governmental system: Three distinct branches with different constitutional mandates.

People who do not like the approach of giving congressional employees access to the courts say that it is unclear how this amendment would work against Senators. I say to them it will work the same way against Senators as it works against any private business person. Or it gives the same protection to Senate employees as it gives, Mr. President, to the constituents of the Presiding Officer, the citizens of Wisconsin. This provision works just as it does on private-sector employees, except that our conferees have carefully removed an enforcement authority by the executive branch, and that was to respond to separation of powers concerns that people did not want the EEOC enforcing on the Congress.

Therefore, if we understand how a private right of action will work against the private sector under the civil rights laws, we now know how it would work against the U.S. Senate and individual Senators. If somebody in the U.S. Senate does not understand how these pieces of legislation are going to work in the private sector, then maybe people should have been asking a lot of questions 10 months ago, not today.

There is also the charge that it is unfair to treat the Senate tougher than the House as we proceed on the Civil Rights Act or the Americans With Disabilities Act. The charge is made that the Senate might be a little tougher on itself than the House is on itself. I am disappointed that the House is not fully covered by the law and that its employees will be without real remedy, but when it comes to nondiscrimination I do not think we ought to simply play follow the leader. Rather, we ought to set the highest possible standard. Frankly, I think the House will have to follow us because it is simply the right thing to do.

There is also the argument made that my amendment to the ADA does not cover the President's hiring practices and thus unfairly exempts them. I would gladly support any Senator's suggestion on this point, but that suggestion should have been made 10 months ago when we were discussing it at the proper time. Where were those suggestions then? What does it have to do with what is before us today or what would have been before us if we had taken the ADA conference report up when we should have?

There is also the point made by my colleagues that somehow we in the Senate are different. We are elected by the public and therefore different from private-sector employment.

Mr. President, whether you represent Wisconsin, as you do, or Iowa, as I do, you bet we are different, and it is only Congress that can pass a law which binds the public and only Congress can coerce the private sector. But when it comes to civil rights and nondiscrimination, I think we ought to be held to just as high a standard and face the same remedies as does the general public. Indeed, maybe we ought to be held to even a higher standard than the public because we alone take an oath to uphold the laws and the Constitution. No one else in the private sector takes such an oath.

There is a feeling around here that the Ethics Committee already provides an effective exclusive remedy. I have no quarrel with the Ethics Committee creating an administrative remedy as long as it provides meaningful redress. I would suggest to my Senate colleague from New Hampshire that he and his committee can continue to do whatever they wish, but if an aggrieved party gets turned away in that entirely in-house body and if that person turned away is a victim of discrimination, he or she ought to have the right to have his or her day in court. I think my colleagues are saying that for a very narrow class of employees they cannot have their fundamental right to a day in court, so, Mr. President, what kind of a civil rights bill is this?

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, how much time do the proponents have?

The PRESIDING OFFICER. The proponents have 52 minutes and 30 seconds.

Mr. FORD. I thank the Chair. I yield myself 5 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator for 5 minutes.

Mr. FORD. Mr. President, I appreciate the distinguished Senator from Iowa giving me all the credit for this amendment, but I find comfort in what I believe are some of the most knowledgeable Members of this body who joined me in cosponsorship—the distinguished chairman of the Ethics Committee, the Senator from Alabama [Mr. HEFLIN]; the vice chairman of the Ethics Committee, the distinguished Senator from New Hampshire [Mr. RUDMAN]; and the ranking member of the Rules Committee, the distinguished Senator from Alaska [Mr. STEVENS]. So I have comfort in those who have associated themselves with me.

I have heard the distinguished Senator from Iowa say we should respect the law. I hope that what I am trying to do today is encourage some respect for protecting this institution and the provisions applied to it under the Constitution.

The Senator from Iowa has misrepresented my amendment—misrepresented my amendment. The right is the remedy. I am not a lawyer. My dad told me a little knowledge of the law is dangerous; find you a good lawyer and stick with him. I believe I have. The point is that the right is the remedy.

Mr. President, we shall apply the same remedies—understand this now—we shall apply the same remedies under my amendment. It is only the process that is different. The process is different because we are treated differently under the Constitution of these United States.

We talk about all employees on Capitol Hill. There are some House Members on Capitol Hill who will be treated differently. The executive who will be treated differently, unless you want to amend the amendment so the executive can be sued, or you want to amend it so the House Members can be sued. No, we stand out alone—only allowing damage to the U.S. Senate under the Constitution.

I resent the implication, Mr. President, that my concern about protecting the integrity of this institution somehow is delaying protection for the handicapped under ADA. The fact is that I raised these same concerns last September, and the Senator from Iowa remembers that. I raised them on this floor from this spot last September. But in order to be accommodating, to allow the passage of the ADA at that time, I allowed the Grassley amendment to move forward. I was not a conferee on the ADA legislation, Mr. President, although I firmly believe that this amendment was outside the jurisdiction of that conference. The reason I say that is that no member of the Rules Committee or the Governmental Affairs Committee was on that conference in order to make a judgment to represent the jurisdiction of the Senate committee system on this issue. I believe we should have been included at least for that provision.

The Grassley amendment, in my opinion, was a problem last fall. The conference agreement on ADA did not address my concerns. It was not my decision to move this measure before the ADA conference report, but I am pleased that the Senate has the opportunity now to apply, across the board for the first time in our history, Mr. President, the protection of all—and I

underscore all—of these civil rights laws as provided in the so-called Ford amendment.

So what are we doing? The Civil Rights Act of 1990, if enacted, the Americans With Disabilities Act, if enacted, the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, all of these are being included in my amendment.

Mr. President, the Senator from Iowa under my provision will have the right to vote up or down on discrimination cases. If he is so bent on having this done, he has the right then to vote himself. So if one of my employees, or one other Senator's employee has been discriminated against, the Ethics Committee brings a resolution to the Senate floor. He has the right to vote, and he has the right to say I want it to apply the same remedy to the U.S. Senate under those circumstances that would be applied in private practice.

Back pay, compensation, all of these things, I say to the Senator from Iowa, are allowed by this amendment. And he will have the right to vote. He will be the jury. He will have the right to go back to Iowa and say I made a decision. It is the district judge who is cloaked in longevity. But it is the Senator who will vote, go back to the State, and be voted on the next time. So there is more responsibility in my opinion under my provision than if we shed this cloak, and take these claims into the district courts.

I hope my colleagues will understand that I am sincere as I have ever been in hoping that this institution will protect itself and protect the Constitution.

The Senator from North Carolina [Mr. HELMS] referred to Senator Sam Ervin in his speech earlier this afternoon. He said he was a great defender, and I agree, and I think we all agree that he was the great defender of the Constitution. Tonight that is all I am trying to do, not only defend the Constitution but defend this institution.

I yield the floor.

I yield to the Senator from New Hampshire as much time as he may desire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I thank the distinguished chairman of the Rules Committee, and I thank the Chair.

Mr. President, I think the distinguished Senator from Kentucky in the last 30 seconds of his very excellent statement summed up as best as anyone can what those of us who support the Ford amendment and oppose the Grassley amendment believe. That is that the Constitution says that which it means, and that this is an institution which, with all due respect to my friend from Iowa, is different from the family farm, the local machine shop, and the local grocery store. It is different for a whole variety of reasons, but the principal reason it is different is the separation of powers. I note my friend quoted Madison; I hope he will read more of Madison on separation of powers. This is not simply a speech-and-debate-clause argument. This is a separation of powers argument. The question comes down to this: Shall a ruling of the U.S. Senate be overturned by a district court judge for whatever reason, one who can be as fallable as any Member of this body? That is what this issue is about.

No one argues with the Senator from Iowa that employees of the U.S. Congress ought to have the same rights and privileges and protections as any other citizen under the Americans With Disabilities Act, the new Civil Rights Act, which I expect we will pass, and all other similar legislation. As a matter of fact, the current state of the law seems to indicate that those employees of the U.S. Congress who are not involved in the legislative process probably do have that right—food service employees, telephone operators, a variety of people. Those who do not are those who are on the personal staffs, the committee staffs—it has been extended to court reporters—those who are involved in the legislative process.

There was a reason for that. I am not going to spend a lot of time going into it. But the reason of course was quite simple. That was to keep this Congress immune from the harassment of the judiciary and the executive.

The Senator from Iowa makes the point that we should subject ourselves to the same kind of discipline as the American citizen who has to live under the laws that we pass. And we agree on that. What we disagree about is how it is to be enforced. Before I get into that, if the Senator from Iowa will allow me, I would like to pose a question to the Senator from Iowa. And the question is very simple.

Has the Senator from Iowa, as is his right, as it is the right of any Member of the U.S. Senate, gone to the Senate Ethics Committee to review the discrimination cases that have been brought and are pending before that committee? Will the Senator be willing to respond to my inquiry?

The Senator may not wish to respond, but did he hear the question? It is a simple question. It is not delivered in any ill-tempered way. I just want to know if the Senator from Iowa has reviewed those cases, because if he has, that is one thing. And I will proceed in a different fashion. If he has not, that is something else.

Mr. GRASSLEY. No; I have not.

Mr. RUDMAN. I appreciate that. I want to just tell my friend that I think it would be very instructive for him and for many other Members of the Senate to go down to the Senate Ethics Committee, which is your absolute right, not your staff, but you yourself and review the files. For instance, let me mention something that is now not known except to the chairman, Senator HEFLIN, to the other members of the committee and myself, the current status of what is going on there. I will not give you names, or particulars, but I will maybe cast some light on it.

There have been five cases brought under rule XLII in the last 6 years. Two of those complaints were dismissed by the committee. In my view, as a lawyer and as a former Attorney General, they both should have been and the full committee felt that way after a very thorough investigation. The files are replete with affidavits and depositions. I believe both plaintiffs were represented by counsel.

Here is what is significant; that those employees in my view of the present state of the law, which is admittedly unclear, were employees outside of the legislative process probably not covered by speech and debate. And, accordingly, a cause of action existed if they wished to bring it under the Federal law. They were represented by counsel. Neither chose to go to the district court.

My view is that they chose not to go to the district court because it was apparent to their counsel that the Ethics Committee had rendered a proper decision.

One case was resolved through mediation which courts are particularly unsuited to do. One complaint was withdrawn, and we now have one case pending which is in the full stages of investigation by our staffs.

I want to say to my friend from Iowa, and I want to say it in good humor. He is my friend. We came to the Senate together. I want to say this not in a personal way. I want to quote two statements the Senator from Iowa said on this floor this afternoon which frankly I found disturbing. The first statement is this: "The amendment"—meaning the amendment of the Senator from Kentucky, of which I am a cosponsor—"is not what it says it is. It is a clever bit of false advertising."

I think that is a serious charge because the four sponsors of this amendment, the Senator from Kentucky, the Senator from Alabama, the Senator from Alaska, the Senator from New Hampshire, I do not think are known on this floor for introducing frivolous legislation.

But that was not the worst statement. The worst statement says "It"—meaning the Ford amendment; I am quoting the Senator from Iowa—"is OK to discriminate. The Senate is a safe harbor."

Finally, the Senator from Iowa said that by agreeing to the Ford amendment, one is putting the fox in charge of the chicken coop. In fact, the Senator from Iowa said that twice.

Let me say to my friend from Iowa, as I hope earnestly that he never has the misfortune of some of our colleagues recently to appear before the Senate Ethics Committee, because I assure my friend from Iowa that the Senate Ethics Committee cannot be compared to a fox guarding a chicken coop. As a matter of fact, the members of that committee, none of whom are volunteers, are asked by our leadership, Senator MITCHELL on the Democratic side, and Senator DOLE on the Republican side, to serve on that committee. It has three Democrats and three Republicans and has a chairman and a vice chairman. It is the only committee in the U.S. Senate in which the chairman and the vice chairman must agree on personal decisions and must agree on administrative resolution of matters.

It is a committee that I chaired for 2 years and now serve with pleasure as vice chairman under Senator HEFLIN. I believe it is, frankly, outrageous to leave the impression on the floor of the U.S. Senate that this committee of the Senator's colleagues would knowingly and willfully and scurrilously cover up a bona fide case brought before us of discrimination based on race, color, creed, religion, national origin, or handicap. As a matter of fact, I daresay, being the political body that we are, that we would probably be tougher on colleagues who engaged in that kind of event than would a U.S. district court.

But now let us move on. Let us assume——

Mr. GRASSLEY. Will the Senator yield?

Mr. RUDMAN. I am happy to.

Mr. GRASSLEY. I am glad the Senator listened to some of the points I was making and he quoted me accurately. But remember that the point was that the system that is applied to employees of the Senate and the system that is applied to employers of the Senate—meaning individual Senators—is different than that system applied to the rest of the country. That was my point. I hope the Senator heard that.

Mr. RUDMAN. I heard that. But I also heard the other two quotes, which the Senator said were accurate. I point out to my friend from Iowa, as I did at the outset, that there is not a constitutional separation of powers existing in the Des Moines Chamber of Commerce. There is not a speech and debate clause involved with employers in Concord, NH. This institution, if one read Madison, was set up as a very independent institution, and all dealings of a legislative nature were protected for the same reason that the Congress cannot pass a law constitutionally which exerts influence over the President's employees.

In the atmosphere in which we operate, it is absolutely essential that, as to our legislative employees, we have an absolute right without outside review by anyone of what we do. However, if that review takes place on the basis of a discrimination complaint, for example, that I fired my legislative director because he was a particular national origin that I took a particular dislike to, that is a different matter, and that the Senator can deal with. We do not need Federal judges to deal with that.

Further, I will tell my friend of a unique position he will place the U.S. Senate in under his amendment.

Let us take a hypothetical case. Employee A brings a complaint against the Presiding Officer that she was discriminated against because of gender. The committee hears testimony under oath and finds that, in fact, the complaint is accurate. The committee then recommends on the floor of the Senate a sanction. The Senate votes 99 to zero, with the Senator involved abstaining, to uphold the recommendation of the committee. What remedy then exists for the Senator? Does he go to district court and appeal? Hardly. It is impractical. It will not work.

Let us take the other side of the case. Same complaint. The committee finds no cause for action, comes to the floor and says so, or dismisses it at the committee level. Under the Grassley amendment, they go to the district court. Now the district court overrules the Ethics Committee or the full U.S. Senate, putting us in the lovely position—despite having acted in absolute good faith, and I can assure my friend we act in good faith to our constituents—of being involved in a whitewash. That is the position this institution gets in. That is precisely the reason that the separation of powers doctrine is so important.

I believe that the Senator's dedication to this issue of the rights of handicapped, of people who are discriminated against because of race and other reasons, is admirable; but I believe this amendment has taken a path that could severely damage this institution and the Senators within it.

Finally, before going over a bit of the law involved here, let me just make a statement, which is probably not known generally to Members of the Senate, including the Senator from Iowa, not serving on the Ethics Committee. Curiously, every September and October the Ethics Committee has a large rise in complaints against Senators, against Republican Senators from various State Democratic organizations—that is not surprising—and against Democratic Senators from various State Republican organizations or functionaries.

I can say without fear of rebuttal that the majority of these complaints to the Ethics Committee are brought for one reason and one reason alone: to validate a press release which goes to the statewide press in which Senator X is accused of an ethical violation by Mr. or Miss Y. The Ethics Committee, of course, must respond, and now the next headline is that the matter is under investigation; already the person is being investigated.

I know that my friend from Iowa comes from a State of basic values, and I hope generally good conduct, and maybe they do not do things like that in Iowa. But let me say that this amendment of the Senator from Iowa is an open invitation to lawsuits frivolously brought for very, very political reasons. And that in itself is reason enough to put confidence in the institutional body, the Senate Ethics Committee, which makes these decisions.

Let me say to my friend that we are not looking for more work. We have a rather substantial workload right now. But the fact is that if the workload gets heavier, the Rules Committee can recommend to the leadership the setting up of a separate body, as they have in the House of Representatives, to hear handicapped and civil rights cases.

Finally, on that point, let me point out that the Speaker of the House and the Republican leader of the House instructed their conferees that they were not even to discuss this matter, that the House of Representatives would not allow itself to be put in a position of violating separation of powers and speech and debate, opening up the opportunity of frivolous lawsuits. They would not even allow it to be discussed.

I think they were right. I think they had incredible foresight to tell their conferees that was the way it was going to be. I have told both of our leaders I wish they had done the same.

The Senator is on his feet. If he wishes me to yield for a question, I am happy to.

Mr. GRASSLEY. Mr. President, the Senator was making a point that a lot of these complaints presented to him could be frivolous.

Mr. RUDMAN. They are.

Mr. GRASSLEY. I agree with the Senator. That can happen, but I think the point to be made is that average business persons out there are faced with a lot of frivolous complaints as well, and at that point they have to hire a lot of lawyers to protect themselves from the law. And frivolous lawsuits do not just apply to suits against Members of Congress.

Mr. RUDMAN. Let me respond to my friend. He is absolutely right. I did practice law. I was attorney general of my State. There are a lot of frivolous lawsuits brought.

Let me point out there is a difference between a frivolous lawsuit against an individual running a factory and a frivolous lawsuit brought in U.S. district court in Iowa against a U.S. Senator. We are political animals and run for election. And I must say that with the rather low level that campaigning has fallen to in this country over the last 10 years, this is only putting in the hands of those irresponsible people another loaded gun.

What better headline than filing a lawsuit? You can do it pro se on your own behalf without even hiring a lawyer; go file a lawsuit in the district court claiming all sorts of discrimination; plant someone on somebody's staff who later claims sexual harassment. It has been done to private employers. It will be done again. The difference is it does not put private employers out of business.

It would have adverse effects on Members of this body, which is precisely why the House of Representatives would not hear anything of it.

Finally, let me conclude by simply going over the current status of the law, which is kind of interesting.

The case as to how broad a scope will apply to the speech and debate clause, the Senator from Iowa is quite correct; it has not been decided. I hope it is in the not-too-distant future. It is rather interesting to look at what the cases do say before. I want to quote a few of them so the record is complete.

In Browning versus the Clerk of the United States House of Representatives, that was in the D.C. circuit in 1986, the circuit court held that Members of Congress had absolute immunity under the speech-and-debate clause in relation to the employment decisions if the position had duties related in some way to the legislative process. Thus a decision to fire a reporter of debates, such as the gentleman in front of me, who we will not fire, was held to be nonreviewable.

In Forrester versus White, the court held that the appropriate test in employment cases where judicial immunity had been raised was the nature of the judge's act, not the duties of the employee. In the Surpeme Court, they said this:

> Running through our cases with fair consistency is a functional approach to immunity questions other than those that have been decided by expressed constitutional or statutory enactment.

In other words, speech-and-debate clause questions are different.

Finally, the junior Senator from Iowa was on the floor about 4 hours ago, and I am sure it was inadvertent, I am positive it was inadvertent, but he totally misstated the American law division's conclusions about the proposed amendment in the issue we are talking about.

What he read was a paragraph that said—and I am reading from page CRS-11 at the bottom of the page—he read:

> Second, if it is concluded that the speech and debate clause applies to the employment decisions of Members, an argument exists that Congress may expressly waive the protection and subject Members to suit.

Of course, what he did not refer to was very important. If it is concluded that the speech and debate clause applies to the employment decision, how much in the previous paragraph the institute said first application of the employment title of the 88th Congress could raise problems under the clause? So it was kind of a typical on the one hand this, on the other hand that, kind of opinion. The opinion really does not say very much.

The state of the law, it seems to me, would argue very strongly that to those employees who are in any way involved in the legislative process, there is not any question but that they are covered.

Let me simply conclude and say to my friend from Iowa that I would hope, irrespective of how this turns out, that some of us feel very, very deeply about this. I am not here because I do not think that the Senate should be subject to the same rules as our constituents. I do.

But I do believe this institution and the Constitution both need protection, and maybe if I give the Senator from Iowa a better view of how we operate—I would invite him sometime during the next month or two, if he has the time, to go to the Senate Ethics Committee and to review those cases, review the thoroughness with which they have been investigated, the basis on which they have been decided—then I think he might come away with a better feeling about the remedy that exists for employees of the Senate.

Finally, let me commend the Senator for bringing this issue to the attention of the Senate. It is a very important issue. The employees here, legislative or otherwise, deserve protection. The only disagreement is the method of that protection. And I think the Senator from Kentucky put it very well when he pointed out that the right is the remedy, and he is precisely correct on that point.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I have no one on my side wishing to speak. If there is no one on the opposing side who wishes to speak, I suggest the absence of a quorum and ask unanimous consent that it be equally divided.

The PRESIDING OFFICER. Is there objection?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask that the Senator withhold that request.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. FORD. Yes.

Mr. GRASSLEY. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. GRASSLEY. Mr. President, we have heard a very forceful case made that rule XLII was doing a very good job. I wish that this had closely followed the point that I made, because I was not in any way questioning what the Senate Ethics Committee does, or how thoroughly they do their work. This is not the issue.

I think what point needs to be made here is that if rule XLII is good, which is the approach suggested by the amendment of the Senator from Kentucky, then why don't we repeal all the existing civil rights laws that apply to the rest of America and substitute just these simple words? It would only be striking out the first sentence where it says:

> No Member, officer, or employee of the Senate shall with respect to the employment of the Senate or any office thereof—

And then it goes on—

> fail to or refuse to hire an individual, discharge an individual, or otherwise discriminate against an individual with respect to promotion, compensation, or terms, or conditions, or privileges of employment on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical condition.

That we would just simply say if this is the yardstick that ought to be used for the U.S. Senate and it is such a good approach, then just strike out that first sentence and then just say:

> No employer in the United States shall fail or refuse to hire an individual, discharge an individual, or otherwise discriminate against an individual with respect to promotion, compensation, or terms of conditions, or privileges of employment, on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.

Do I argue with the goal sought by rule XLII? No. I do argue with its applicability to just Senators as employers, and protection for Senate employees without the follow-through right of access to the courts for those very same employees.

I must say here, and it may be inviting the ire of my colleagues who have already spoken, if this amendment passes, Mr. President, make no mistake about it, unless we cure the fatal defect in the Ford amendment by granting to the employees of the U.S. Senate the same right to court that your citizens of Wisconsin have, what we have done here in this amendment is meaningless.

The Rules Committee and the Ethics Committee are already obliged to do what is in this amendment. So this amendment adds nothing new for

these employees in terms of civil rights protection. This amendment, Mr. President, takes away a right for Senate employees that the Senate conferees on the Americans With Disabilities Act have already created for Senate employees, the same right that every private sector employee has: The right to go to court for redress of grievances.

I find it worse than ironic that under the guise of civil rights—and we are debating the Civil Rights Act of 1990—the Senate is going to take away an earned right just created by the conferees on the Americans With Disabilities Act. Unless and until this body understands what it is like to be on the receiving end of lawsuits, we will never understand the scope of what we do here, we will never understand the complaints of Main Street America, we will continue to be isolated and remote from the kinds of problems faced on Main Street every day of the week every year of the existence of a business.

Mr. President, we have heard from institutional defenders of this special little enclave that is called the U.S. Senate; or I suppose the enclave is more than just the U.S. Senate, it is all of Capitol Hill.

I would like now to take some time, Mr. President, to tell you what some real people are thinking and saying about our "do as we say, not as we do" attitude.

Mr. President, dozens of editorials from New York to Iowa, from Texas to the Rockies, have thought it was right to give Senate employees a private right of action. I would like to give you a little taste of what real people on Main Street think about us and perhaps why as an institution we might be held in low esteem.

I first quote from the New York Post, November 14, 1989; just two short paragraphs:

Congress has a long history of exempting itself from laws it imposes on the American people—especially when compliance with legislation is expected to prove unduly burdensome.

Indeed, the folks on Capitol Hill have absolved themselves of the obligation to observe much of the sweeping civil rights and labor legislation passed during the past 30 or so years.

From the Iowa Leader on October 11, 1989:

Whatever the eventual fate of the amendment—

Referring to the Grassley amendment of last September—

the fight is the right one. While there be some narrow circumstances in which the peculiar demands placed upon a national lawmaking body justify some special consideration, it is difficult to believe that there is any good reason for the wholesale exemptions from the law with which Congress blesses itself.

Indeed, a good rule of thumb would be that any bill containing a clause exempting Congress is a bill that should not be passed into law.

From the Waterloo, IA, Courier, December 4, 1989:

Members of Congress have justified their exemption from what otherwise are the laws of the land by saying the legislative branch has to be immune from intergovernmental disputes.

That reasoning isn't acceptable. Laws concerning things like human rights, working conditions, health and welfare should apply in the congressional world just as they do for private industry and local governments in New York, California or Iowa.

Congress might give more consideration to how its laws affect the public and private sector if the legislation automatically applied to Capitol Hill.

From the Cedar Rapids, IA, Gazette:

As approved by the House, the ADA tells disabled congressional employees to take their civil rights complaints to the Fair Employment Practices Office. That office was created by a House resolution. It is staffed by employees appointed by the House. It is overseen by members of the House. Once the office pronounces judgment on a case, there is no avenue of appeal. * * *

The average Iowa small business owner can't appoint its own judge and jury—the Congress shouldn't be allowed to either.

The Lubbock, TX, Avalanche-Journal, November 9, 1989, one short paragraph:

If Congress exempts itself from the legislation, President Bush should veto it. If the Act is sound policy, let Congress also face the tough choices that implementation will require.

From the Rocky Mountain News, October 29, 1989:

We can't help but wonder: Why the panic? Congressmen don't pay for their office budgets, any more than they pay for the other costs they pile on taxpayers during the average working day.

But perhaps we shouldn't question this glimmer of fiscal responsibility. Perhaps we can build on it. If we could only make our representatives think of other people's workplaces—in fact of the whole economy—as one big congressional office. * * *

The Greenville, SC, News:

High-minded reformers in Congress are noted for passing laws to correct the behavior they see in others. But when it comes to applying those laws to the Congress, the reformers are reactionaries.

April 14, Cedar Rapids Gazette:

There can be no compelling reason for Congress to exempt itself from anti-discriminatory provisions of the pending Americans with Disabilities Act. No excuse whatever, though guardians of the congressional myth say they fear "constitutional problems"—meaning complications permitting undue interference from the executive branch.

Rubbish.

I could also give my colleagues some "inside the beltway" words. Here is what Roll Call had to say right after we passed the Grassley amendment.

The provisions of the ADA should apply to Congress, as should the provisions of all other future laws to protect the labor rights and civil right of Americans. And it wouldn't be a bad idea to go back and amend the past ones as well.

Also from yesterday's Roll Call, an editorial titled: "Yes to the Americans With Disabilities Act." This editorial says:

When the Senate returns this week, it will be facing a difficult decision on the conference report on the Americans with Disabilities Act. Many Senators object to a provision that grants disabled Senate employees the right to sue their bosses if they believe they have been the object of discrimination. Whether such a provision is right or wrong, it is the same one under which private employers would have to operate if the ADA becomes law. We should expect no less from Senators themselves.

The ADA provision is especially important because it would probably lead to the establishment of a Senate office to oversee the complaints of disabled staffers. That office would almost certainly expand its authority, opening the door at last to a Senate institution similar to the Office of Fair Employment Practices, which the House set up nearly two years ago. So, while the ADA's broader aims are significant, much more is at stake here. The Senate should accept the conference report and give its own workers the protections it mandates for the rest of America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent the time be equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mr. FORD. How much time does the Senator from Kentucky and the Senator from Iowa have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 10 minutes; the Senator from Iowa has 15.

Mr. FORD. I thank the Chair.

I yield myself as much of the 10 minutes as I might use.

Mr. President, I do not want to be painted as one opposed to small business. That was my life before I came to the Senate. I was a small businessman struggling to get along. It was a family business. I do not need to be lectured about how damaging this might be on small business.

This lecture this afternoon by the Senator from Iowa has not been about employees. This lecture has not been about their rights. This lecture has been against the separation of powers. It has been against the Constitution. It has been against what I feel is right as it relates to those protections.

Mr. President, for the first time we are extending the protection to the employees of the Senate by statute. We are not denying an employee the remedies under the law. We are just suggesting the process, because of the separation of powers, be different.

I say to my friend from Iowa, he does not have a monopoly on his desire to help small business, but some people feel strongly about this institution. Some people feel strongly about the Constitution. Some remarks have been made about this body—I forget them exactly, but they would not improve the image of the Senate.

The Senator reminds me of what I was taught in college. I said I am not a lawyer but a couple of courses did get along the edges of it. It was said about a lawyer, if the facts were on his side, he would argue the facts. If the law was on his side, he would argue the law. But if neither were on his side, he would get emotional.

So we hear no argument today from our colleague from Iowa as it relates to the facts. We hear no argument as it relates to the Constitution. We just hear the emotion—that we ought to impose on the Senate. The same provisions applied to the private sector. I never hear of the rights of the employees. We will hear it now in the next 15 minutes because I brought it up.

But the right is the remedy, and we have the remedy. We are applying, Mr. President, by statute that the rights and protections against employment discrimination of the following laws apply to the Senate: The Civil Rights Act of 1990, if it passes; the Americans With Disabilities Act, if enacted; the Civil Rights Act of 1964, as amended; Age Discrimination and Employment Act of 1967; the Rehabilitation Act of 1973. All of these will be put into law, and the amendment instructs the Ethics Committee to apply the law to each case.

Now, who will be the jury?

I told the Senator from Iowa earlier, he will be the jury. I will be the jury. With the exclusion of 1 who might be charged, 99 others will be the jury. So he is saying to us he does not want to vote on that. He wants to wash his hands of these discrimination claims and send them outside to the courts. Well, if we have a problem, we ought to take care of it, and we have the remedy to take care of it.

I thought the distinguished Senator from New Hampshire [Mr. RUDMAN] was eloquent in his defense of what Madison said.

We have the right to change the procedure. You could change rule XLII any time you wanted. Come to the Senate and change rule XLII. But under this amendment, you would have to change the law, to change the right. You can not change the rule then. You must change the law.

And so by passing this amendment—and I hope my colleagues will—we will for the first time be giving the employees of the Senate something they have never had. I hope we will be more compassionate about our employees than we are about trying to damn the Senate as an institution.

Separation of powers is very clear, and I thought Senator RUDMAN made the position very clear. The cases that we now have before the Ethics Committee have been ruled on. Mr. President, let us not do something to ourselves that dilutes the influence and the prestige of this institution. The Executive cannot be sued. The House cannot be sued, but the Senate can. Why should the Senate be treated differently?

I think it is right for the Members to decide. I hope that when the tabling motion is made—and I suspect that is what it is going to be—I would like to have it up and down. But I would hope that when the tabling motion is made, my colleagues will feel and be compelled to support the Constitution and separation of powers and to listen to the Senator from New Hampshire as he laid out our constitutional responsibilities.

So, Mr. President, I suspect my time is about up because under the unanimous-consent agreement, the Senator from Iowa has the last 15 minutes. Then we will go to a vote based upon the motion he might make. I yield the floor.

The PRESIDING OFFICER. The Senator is correct. His time has expired. The Senator from Iowa is recognized and has the control of 14 minutes 57 seconds.

PRIVILEGE OF THE FLOOR

Mr. GRASSLEY. Thank you, Mr. President.

Before I make my closing remarks, I have an administrative detail to take care of for the Republican leadership.

Mr. President, I ask unanimous consent that the privileges of the floor be granted to Pat Rich, of Senator KASTEN's staff, during the pendency of S. 2104, the Civil Rights Act of 1990, and S. 933, the Americans With Disabilities Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, some of my colleagues have already heard the closing remarks of the Senator from Kentucky. The Senator from Kentucky says that the right is a remedy. But I think it is very legitimate to ask, and I hope all of my colleagues will ask at what point will the remedy include the right to go to court? Will the Ethics Committee change its rules to allow a private right of action?

In other words, Mr. President, as committed as the Ethics Committee is to what Senator FORD is not proposing, the basic question is for our employees. And the Senator from Kentucky evidently missed whether or not I was concerned about the rights of the employees. But many times this afternoon I said this, and I will say it again. Mr. President, the question is basic to this vote: Will the Senate employees have the right to their day in court, the same as the constitutents of the State of Nevada have the right to go to court? The answer is, if the Senator's amendment is adopted, they will not have that right. They ought to have that right.

The Senator from Kentucky said that the Senate will have the chance, under rule XLII now codified, to vote on what remedies will lie against somebody who has been discriminated against. He made the point that the Senator from Iowa, this Senator, would have a right to vote on how some mistake, injustice, would be overcome.

So let me ask: Will not it be nice if every citizen of the United States had that same right? Does General Motors or any other business on Main Street, Iowa, or Main Street, Nevada, have the right to vote or to be the jury on whether they have discriminated? The obvious answer to that is "No." Yet, the Senator from Kentucky says we are different. We are different.

So you bet we are different. We can vote on whether we are covered by the law that we passed for all others. Do we have a right to set ourselves up to be that privileged?

When I offered my amendment last September to the Americans With Disabilities Act, and when it was adopted by the Senate, I had two goals, and they were preserved by the conference committee. Both when I offered it on the floor as well as in the compromise was worked out, my purpose has been twofold.

First, the Congress live by the laws that it imposes upon the American people. It seems to me to be a perfectly legitimate purpose of the amendment, a perfectly legitimate part of the legislative process, for me and my 99 colleagues to consider whether or not laws that we passed ought to apply to Congress the same as they apply to the American people.

The second reason, Mr. President, was for the protection of the civil rights of the more than 20,000 congressional employees. These civil rights must be protected.

Those were the two reasons that I offered my amendment last September. It is for these very same two reasons that I oppose the Ford amendment. First of all, it does not apply the law to the Senate as the civil rights laws, apply to every other employer in the United States. Second, it does not protect the employees of the U.S. Senate in the same way that employees of other employers throughout the

United States are protected. Specifically, it does not give Senate employees the same right to an independent judiciary that employees throughout the United States have.

Never in this debate have I charged that the Senate Ethics Committee has failed to enforce its governing rules concerning employment discrimination. That, Mr. President, never has been the issue with me. It is not the issue now, and that is not the issue that people ought to be voting upon when we vote on this in just a few mintues.

Also, I am not questioning the integrity of my colleagues who serve on that committee, a thankless function that they serve in the U.S. Senate. I would never do that intentionally. But again that is not the issue. That is not the issue. Justice is the issue. It is the function of the judiciary, as we all know, to enforce constitutional and statutory rights in a fair and impartial manner.

That is all that is involved in any private right of action, whether that private right of action is sought in the courts by an employee of the U.S. Senate or an employee of the John Deere Tractor Works in Waterloo, IA. It is just the simple access to the courts to see that you get a fair shake under the civil rights laws of the United States of America.

Is that anything extraordinary? Does that sound extraordinary? Of course that does not sound extraordinary because that is what happens every day of the week when the courts review policy decisions of the executive branch of Government, when somebody files suit against the executive.

To suggest that Congress can create its own in-house minijudiciary is, I think, to question the very foundation upon which our Government stands. For anybody who thinks that we have a minijudiciary operating within the U.S. Senate, then they ought to ask themselves if that is not a real separation of powers concern for each Member of this Senate.

I want to repeat at this point the words I already stated, that James Madison stated in Federalist Paper No. 47. I quote:

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether if one, a few, or many, and whether * * * self-appointed or elective may justly be pronounced the very definition of tyranny.

Madison continues:

> * * * Where the whole power of one department is exercised by the same hands which possess the whole power of another department, the fundamental principles of a free constitution are subverted.

But with this process, without access to the courts for the Senate employees, we exactly have the Senate assuming the powers of judge, jury, and prosecutor.

When you see every other citizen of the United States in their employment having resort to the independent judiciary to see that their rights are preserved, then you can legitimately wonder whether they see it as equal protection of the law when they do not have the same right in the Congress. So I think that my colleagues who vote for Senator FORD's amendment, who vote for that process as a sole remedy, will have to justify Congress' creation of an entirely in-house judiciary to hear suits against itself.

Mr. JOHNSTON. Will the Senator yield?

Mr. GRASSLEY. Private employers cannot set up a private courtroom to try discrimination cases against themselves.

My final question then for my colleagues to consider as we vote in the next 3 minutes is, why should Congress be the sole judge and jury in suits against itself?

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The gentleman has 3 minutes, 25 seconds.

Mr. GRASSLEY. Mr. President, I move that the pending amendment be tabled and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

I inform the Senator from Iowa that because of a previous order entered in which we have a time certain fixed for the vote, that time being the hour of 7:45, the motion at this point would be out of order.

Mr. JOHNSTON. Will the Senator yield for a question, Mr. President?

Mr. GRASSLEY. Yes. We have 3 minutes left. At that point, will it be in order before we vote to move to table?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. Parliamentary inquiry, Mr. President. If the Senator were to yield back his time, could he not then move to table the amendment?

The PRESIDING OFFICER. He would have to ask unanimous consent to move the time forward, because we have a previous order for 7:45.

Mr. JOHNSTON. Mr. President, my question to the Senator from Iowa is this: In resorting to the district court, the district court, as I understand it, could order specific performance, that is, could order the hiring of an employee who might otherwise have been discriminated against; am I correct?

Mr. GRASSLEY. The answer to the Senator's question is, whatever action the court would take under the Civil Rights Act against a private employer they could take against the Senate as an employer.

Also, do not forget the courts can do the same against the executive branch as well, under the 1972 amendments Congress enacted to the Civil Rights Act of 1964.

Mr. JOHNSTON. Well, could the Senator not end up having a situation where he would have a court order someone employed as its confidential political adviser, who was neither sympathetic with his politics or perhaps not even of the same party?

Mr. GRASSLEY. Let me suggest to the Senator that the proposition that he puts forth is a very legitimate proposition, and the answer to it is that that could happen today in the executive branch of Government.

Mr. JOHNSTON. That makes it good?

Mr. GRASSLEY. Well——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY. I move to table the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to table. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Arizona [Mr. DECONCINI], the Senator from Georgia [Mr. FOWLER], the Senator from Nebraska [Mr. KERREY], the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

Mr. DOLE. I announce that the Senator from Wyoming [Mr. SIMPSON], the Senator from Alaska [Mr. STEVENS], and the Senator from Wyoming [Mr. WALLOP], are necessarily absent.

I further announce that if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 18, nays 74, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—18

Akaka	Helms	Pressler
Boschwitz	Humphrey	Sasser
Cohen	Jeffords	Simon
Durenberger	Kasten	Specter
Grassley	McCain	Symms
Harkin	Nickles	Wilson

NAYS—74

Adams	D'Amato	Hollings
Armstrong	Danforth	Inouye
Baucus	Daschle	Johnston
Bentsen	Dixon	Kassebaum
Bingaman	Dodd	Kennedy
Bond	Dole	Kerry
Boren	Domenici	Kohl
Bradley	Exon	Lautenberg
Breaux	Ford	Leahy
Bryan	Garn	Levin
Bumpers	Glenn	Lieberman
Burdick	Gore	Lott
Burns	Gorton	Lugar
Byrd	Graham	Mack
Chafee	Gramm	McClure
Coats	Hatch	McConnell
Cochran	Hatfield	Metzenbaum
Conrad	Heflin	Mikulski
Cranston	Heinz	Mitchell

Moynihan	Riegle	Sarbanes
Murkowski	Robb	Shelby
Nunn	Rockefeller	Thurmond
Packwood	Roth	Warner
Pell	Rudman	Wirth
Reid	Sanford	

NOT VOTING—8

Biden	Kerrey	Stevens
DeConcini	Pryor	Wallop
Fowler	Simpson	

So the motion to lay on the table was rejected.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment by the Senator from Kentucky.

The amendment (No. 2112) was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I have no reason to call for a rollcall vote. Since I asked for a rollcall on the amendment in the first degree, now that this passed, unless somebody wants to vote, I ask unanimous consent the yeas and nays be vitiated on the pending amendment.

The PRESIDING OFFICER. The Senator has requested the yeas and nays be vitiated, as previously ordered, on the first-degree amendment. Is there objection?

The Chair hearing none, the motion to vitiate is agreed to.

Mr. FORD. I thank the Chair.

The PRESIDING OFFICER. The question now is on agreeing to the first-degree amendment of the Senator from Kentucky.

The amendment (No. 2111), as amended, was agreed to.

Mr. FORD. I move to reconsider the vote.

The PRESIDING OFFICER. the motion to lay that on the table is agreed to.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, if I may have the attention of Senators?

I have discussed the matter with the distinguished Senator from Iowa who will now offer his amendment which has been the subject matter of the debate throughout the entire day and the votes which have just occurred.

I understand that there is to be a second-degree amendment offered by the junior Senator from Iowa. They have agreed—since this matter has been so thoroughly discussed—that this can be disposed of in 20 minutes equally divided if that is agreeable to the managers.

Mr. HATCH. It is agreeable to this manager.

Mr. MITCHELL. Then we can have concluded that matter this evening and there will be no further rollcall votes this evening after those votes. We still have to dispose of the amendment of the Senator from Iowa, which is the subject matter that we have been discussing all day. I believe all parties agree there is no need for much further debate on this.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Accordingly, Mr. President, if I could have the attention of the managers and the distinguished Senator from Iowa, I ask unanimous consent that the senior Senator from Iowa be recognized to offer an amendment, and that immediately thereafter, the junior Senator from Iowa be recognized to offer a second-degree amendment; that there be 20 minutes on both amendments, equally divided in the usual form; that no motions to recommit be in order; and that the vote on the amendment of the junior Senator from Iowa occur immediately after the 20 minutes have elapsed—the vote on or in relation to that amendment, so that there can be a tabling motion if the opponents of the amendment choose to do so.

Let me make clear so there is no misunderstanding, I am suggesting a total of 20 minutes with respect to this issue; and that immediately upon disposition of the second-degree amendment, that the amendment of the senior Senator from Iowa be disposed of.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

The Chair hearing none, the request as stated by the majority leader is agreed to.

The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. MITCHELL. Mr. President, if I could simply state, there will be a vote on or in relation to the second-degree amendment of the junior Senator from Iowa occurring in approximately 20 minutes. Senators should be aware of that.

As soon as this matter is disposed of, either with one or two votes depending upon the outcome of the first vote, there will be no further votes this evening. We are going to extend the vote—we have one or two Senators who are off the Hill—to accommodate them and have them make the vote.

The PRESIDING OFFICER (Mr. EXON). The Senator from Iowa.

Mr. FORD. Mr. President, I do not think we have the unanimous-consent agreement.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. If the Senator would yield for clarification, one Senator has raised a question. I wish to make clear, in my unanimous-consent request, the vote on or in relation related to both amendments, and that the opponents of the amendment have the right, as the Senator from Iowa himself just had, to move to table either amendment, if they so choose.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Did I understand there will be only one vote, either on the motion to table or——

Mr. MITCHELL. I believe it depends on the outcome of the vote.

Mr. HATCH. If the motion to table is not granted, there may be two votes; is what the leader is saying?

Mr. MITCHELL. There may be. It will depend on the outcome of the vote.

Mr. HATCH. But there will only be a vote on the second-degree amendment? Is that what the leader is saying?

Mr. MITCHELL. I believe that depends on the outcome of the vote, and I would not want to say that now. I believe Senators should wait to see what happens on the this vote.

Mr. FORD. Reserving the right to object, and I will not object, am I correct there can be a motion to table the underlying amendment?

Mr. MITCHELL. Yes.

Mr. FORD. I thank the leader.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

If not, it is so ordered.

The Senator from Iowa.

AMENDMENT NO. 2114 TO AMENDMENT NO. 2110

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 2114 to amendment No. 2110.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, strike all from line 12 through end of section 16 and insert the following:

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of or one day after enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. RIGHTS AND REMEDIES IN THE SENATE.

(a) COMMITMENT OF THE SENATE.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(b) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Americans with Disabilities Act (S. 933, 101st Congress), the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(c) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in subsection (b), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(d) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in subsection (b).

(e) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in subsection (b), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in subsection (b).

(f) MATTERS OTHER THAN EMPLOYMENT.—

(1) IN GENERAL.—The rights and protections under the Americans with Disabilities Act (S. 933, 101st Congress) shall subject to paragraph (2), apply with respect to the conduct of the Senate regarding matters other than employment.

(2) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect the rights and protections provided pursuant to paragraph (1)

(3) For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration. The provisions of subsections (a), (c), (d), (e), (f)(2), and (f)(3) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

SEC. 17. APPLICATION TO CONGRESS.

Notwithstanding any other provision of law, the rights, protections, and remedies made available under the Civil Rights Act of 1964 with regards to employment shall extend to the employees and prospective employees of members of the Senate. Such employees or prospective employees who are aggrieved by a violation of such Act shall have a private cause of action against the individual or entity that has engaged in the violation of such employees rights under such Act in the appropriate district court of the United States.

(b) AMERICANS WITH DISABILITIES ACT.—Notwithstanding any other provision of law, the rights, protections, and remedies made available under the Americans with Disabilities Act with regard to employment and public accommodation shall extend to the employees, and prospective employees, of members of the Senate. Such employees, or prospective employees, who are aggrieved by a violation of such Act shall have a private cause of action against the individual or entity that has engaged in the violation of such employees rights under such Act in the appropriate district court of the United States.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I yield to the junior Senator from Iowa.

The PRESIDING OFFICER. The junior Senator from Iowa is recognized.

AMENDMENT NO. 2115 TO AMENDMENT NO. 2114

Mr. HARKIN. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. GRASSLEY, and Mr. MCCAIN, proposes an amendment numbered 2115 to amendment No. 2114.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, strike all from line 12 through end of section 16 and insert the following:

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of or one day after enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. RIGHTS AND REMEDIES IS THE SENATE.

(a) COMMITMENT OF THE SENATE.—The Senate reaffirms its commitment to Rule XIII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(b) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Americans with Disabilities Act (S. 933, 101st Congress), the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(c) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in subsection (b), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(d) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in subsection (b).

(e) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in subsection (b), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Act referred to in subsection (b).

(f) MATTERS OTHER THAN EMPLOYMENT.—Americans with Disabilities Act (S. 933, 101st Congress) shall subject to paragraph (2), apply with respect to the conduct of the Senate regarding matters other than employment.

(2) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1).

(3) For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration. The provisions of subsections (a), (c), (d), (e), (f)(2), and (f)(3) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

SEC. 17. APPLICATION TO THE SENATE.

Notwithstanding any other provision of law, employees of a Senator or other supervisor of a unit of the Senate who are the aggrieved by a violation of the Civil Rights Act of 1964, as amended shall have a private cause of action against the Senator or other supervisor of a unit of the Senate that has engaged in the violation of such employee's rights under such Act in the appropriate district court of the United States.

(b) AMERICANS WITH DISABILITIES ACT.—Notwithstanding any other provision of law, the employees and prospective employees of a Senator or other supervisor of a unit of the Senate and other individuals with disabilities who are aggrieved by a violation of the Americans With Disabilities Act of 1990 (S. 933, 101st Congress) shall have a private cause of action against a Senator or other supervisor of a unit of the Senate that has engaged in the violation of such employees or individual's rights under such Act in the appropriate district court of the United States.

The PRESIDING OFFICER. The senior Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I am going to yield some time to the Senator from Utah but before I do that, I want to say that this amend-

ment preserves the provisions of the Ford amendment that was just adopted, while providing at the same time what is so very important in this whole process of equal justice—it is going to preserve the ultimate right to private cause of action in the Federal courts.

It seems to me it is very important we give the employees of the U.S. Senate the same right to protection in the courts that every other citizen of the United States has under the civil rights laws.

I yield the remainder of my time to the Senator from Utah, assuming he uses it.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Utah.

Mr. HATCH. I thank my colleague. Mr. President, I intend to be brief.

I admit, there are many complex questions that arise in an analysis of how the rights and remedies available to private citizens under the Nation's civil rights laws can be applied to the Congress, and specifically to the Senate.

But, the underlying, moral question posed cannot be more clear; that question is whether the Congress should pass laws that will be imposed on the right of the Nation which we, in Congress, would not want imposed upon us.

I challenge any Member of this body to defend a statement that the Senate is above the law. We are not—we should not be.

I voted "no" on the preceding vote because I believe that the Ford amendment is a good amendment. It lays the underlying structure, pursuant to which these claims can be brought, within the Senate. But what the distinguished Senators from Iowa, in their amendments, are trying to do, is lay the groundwork so if an employee of the Senate or any Senator is dissatisfied with that underlying structure's decision, then that employee of the Senate can take an appeal and has a private right of action to the courts of this land.

I understand what my colleagues feel about this. If we are not above the law and if we accept that, then we have to inquire as to whether there are other concerns which may be so compeling as to justify treatment in the Senate different from that available to other Americans.

In other words, are there very important reasons why Senate employees should not be vested with rights on a par with those of others.

Those who oppose the amendment offered by the Senator from Iowa state that there is such a justification. That justification is based on constitutional separation of powers and the speech or debate clause of the Constitution.

That sound like adequate justification, that is until the validity of these constitutional arguments are scrutinized.

In fact, when one reviews this area of the law, one finds little guidance, but what guidance exists seems to indicate that there is no compelling reason for different treatment for Senate employees. Let me review the facts.

The U.S. Supreme Court addressed one aspect of this issue in 1979, in the case of *Davis* v. *Passman*, found at 442 U.S. 228. In that case, a Member discharged an aide because he preferred a male for the job. It was as simple as that. He discriminated against the female.

The fired employee challenged this action as discriminatory. The Court held that the fired employee did indeed have a cause of action under the due process clause of the fifth amendment to sue the Member of Congress for monetary damages; the Member could be sued for wrongful discharge under section 1983.

The Court also held that the speech and debate clause is the sole source of congressional immunity from suit. Thus, since employment decisions do not impact on the speech and debate immunity—and, by the way, no court has ever ruled that they do—there simply is no basis for a separation of powers argument.

And, that being the case, there simply is no justification for treatment of Senate employees in a fashion different than any other American citizen covered under the civil rights laws.

But Mr. President, even if the Congress were immune from suit, there remains a key issue which must be addressed. The point is this: Congress, if it so desires, can waive its immunity.

Under article 1, section 8, clause 18, it is clear that Congress has the power to pass any bill necessary and proper to carry out its legislative functions.

Moreover, Congress ofen subjects Members to criminal liability; therefore, it certainly can subject them to civil liability under discrimination laws. And, there is certainly no right or immunity under the Constitution which cannot be waived by those possessing it if they choose to do so.

Lastly, the separation of powers principle has never been interpreted to prevent the Congress from willingly giving up any power or immunity that it may possess.

So clearly, when the facts are examined, there simply is no compelling reason at all for subjecting congressional employees to lesser status and rights than that of others under our civil rights laws.

Would my colleagues support permitting the major corporations in America to set up their own rules for handling complaints against senior management for discriminatory actions? The answer is obviously "No." Then why should we support having the Senate limit the recourse available to employees to those rules promulgated by itself?

How much time do I have left?

The PRESIDING OFFICER. The Senator from Iowa, who yielded to the Senator from Utah, has 4 minutes remaining.

Mr. HATCH. I want to make sure I save time for the junior Senator from Iowa.

The PRESIDING OFFICER. The Chair uses this opportunity to indicate the Senate is not in order. Senators will cease audible conversations. It is very difficult to hear the speaker.

Mr. HATCH. I will save some time.

Mr. GRASSLEY. Mr. President, since the Senator from Utah has already consumed half my time, I had previously promised my colleague from Iowa half the time. Could he now proceed?

Mr. HATCH. I will be happy to give the rest of the time to the Senator from Iowa.

Mr. GRASSLEY. Before my colleague starts, I ask unanimous consent to add Senators ARMSTRONG, MCCAIN, and HELMS as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Parliamentary inquiry. What is the time situation?

The PRESIDING OFFICER. The opponents of the amendment still have 10 minutes remaining. The Senator from Iowa has just yielded the remainder of his time to the junior Senator from Iowa. He has 4 minutes remaining.

Mr. HATCH. Will the junior Senator allow me 1 more minute?

Mr. HARKIN. I yield 1 minute.

Mr. HATCH. Mr. President, the Senate should treat its employees no different than the employees we impose these rules and regulations on.

There is no reason why we should deny Senate employees the same treatment as is available to everyone else. There is no valid constitutional argument; there is no moral justification. The status quo is not adequate—the Grassley amendment is nothing more than an equitable, fair way to treat Senate employees.

I believe, frankly, we should support this amendment, and I believe if we are going to impose these rules on others, we ought to impose them on ourselves.

With that, I yield back the remainder of my time to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa has 3 minutes remaining.

Mr. HARKIN. Mr. President, first, I want to congratulate my friend and colleague from Iowa, Senator GRASSLEY, first for his tenacity and for his

courageousness in bringing this issue to the forefront.

Last year, I must admit, I was a newcomer to this issue when my colleague raised it on the Americans With Disabilities Act. After digging into it over the last several months, after getting opinions from the American Law Division of the Library of Congress, checking with Harvard Law School and other imminent constitutional lawyers, it became very clear to me that the Constitution does not prohibit us from giving the employees of the Senate and the Congress the same rights that individuals in the private sector have. I think that is clear from the case law that has happened in the last 3 years: the Browning case; the Forrester case; and last year, the Winter case.

So I want to congratulate my colleague from Iowa. He is right on this issue, dead right on this issue. It is time that we in the Senate treat our employees just like those in the private sector or in State government or local government.

I must say that the Ford amendment which was just adopted by the Senate is a major step in the right direction. For the first time, we are applying the standards and remedies available to individuals in the private sector or in State and local governments to the U.S. Senate.

I believe that is a major step in the right direction, and I congratulate Senator FORD for that amendment. But it still stops short of fully bringing employees under the Civil Rights Act or the Americans With Disabilities Act.

Again, we can set up the administrative procedures here. If a person who feels aggrieved wants to, then they can take their case to U.S. district court. That is the way it is done in the private sector. That is the way it ought to be done here.

I have heard all kinds of rumors floating around here: someone will file a charge; it will be political; it will be before a campaign.

I point out that the same thing can happen to a Senator right now under the amendment that has just been offered by Senator FORD. An employee can file a charge against you, go to the Ethics Committee right before a campaign. The only thing that is different now in the amendments offered by Senator GRASSLEY and myself is it just says that they enjoy the additional step of going to district court if they do not feel that they received a proper shake in this body.

Again, I will say it as I said it earlier this afternoon, what if we said to employers under the civil rights bill: You set up the standards; you set up the remedies; and then you judge the cases yourself. No one would stand for that. We have set up the remedies; we have set up the procedures; now we should then apply the law to our individuals here as applied in the private sector and give them the right to go to District Court.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Kentucky.

Mr. FORD. As I understand it, I have 10 minutes unless we yield back some of our time?

The PRESIDING OFFICER. That is correct.

Mr. FORD. Mr. President, the issue is not new here. We have debated the issue of congressional coverage for the last 6 hours. So the issue should be well known. The vote was 70-some-odd to 18. The debate was on the very issue of providing enforcement exclusively through our Senate procedures. The Senate has the ability, has the responsibility under this bill, as amended by the so-called Ford amendment, to apply the same remedies, and I underscore same remedies, to the Senate that a Federal Court would apply.

Let us give the Senate procedures a chance. We are being condemned before we ever enter into this procedure. As the distinguished Senator from New Hampshire [Mr. RUDMAN] stated, the Ethics Committee is already handling discrimination cases, handling them very well.

All we are doing now is providing a statutory provision that the Senate employees are covered fully against discrimination, and at the same time, Mr. President, protecting the institution as provided by the Constitution. We keep straying away from that. But it is a separation of powers issue and we should protect this institution as provided by the Constitution.

I urge my colleagues to table this amendment when the motion is made.

I yield to the distinguished Senator from New Hampshire, [Mr. RUDMAN] whatever time I have left.

Mr. RUDMAN. I thank my friend from Kentucky.

Mr. President, a parliamentary inquiry. How much time remains?

The PRESIDING OFFICER. The Senator has 7 minutes, 55 seconds.

Mr. RUDMAN. And on the other side?

The PRESIDING OFFICER. There is no time remaining.

Mr. RUDMAN. I thank the Chair.

Mr. President, we have discussed this issue ad nauseam today. It seems to me that 6 hours on this issue is probably more than adequate. Let me repeat some things that were stated earlier today.

First, with all due respect to the glib words pouring off the tongues of my colleagues, one need only read the Constitution, the Madison papers, and the writings of Thomas Jefferson to understand this is not any other place. Some might like it to be some other place and they might want to amend the Constitution, but this is the Senate; it is not subject to the same rules and laws of a manufacturing plant in New Hamsphire or a farm in Iowa. I know politically that may not be very popular to say, but I must say there are times that one must stand up for this institution. The separation of powers doctrine is fairly obvious, and the courts have bent over backward to not, to use their words, muck around in the affairs of the Congress.

What do we have? We have a fascinating proposal. I wonder if the Senators have read their own amendment. It says in the underlying amendment, with similar language in the second-degree amendment, "Such parties aggrieved by a violation of such acts shall have a private cause of action against the individual or entity that is engaged in the violation." That means 100 Members of the Senate become personally liable for decisions that they make in the hiring of their personal legislative staffs. There is probably no argument whatsoever that the food service workers, many of the other mechanical workers, people in the print shop, should have all the remedies that every other citizen has. What we are talking about are the very personal staffs in the unique situation in which we find ourselves as Members of the Senate.

The question is whether the following is something you all want to happen, because here it is. Under the amendments submitted by these gentlemen, my colleagues from Iowa, a complaint is filed against a Senator. It is referred to the Ethics Committee. The Ethics Committee recommends action. It comes to the floor. The Senate votes 100 to nothing, or let us say 99 to nothing to reject the recommendation from the Ethics Committee. We now have the unique situation of a Federal district judge appointed for life sitting on the bench in the District of Columbia who can overrule the entire Senate and impose damages.

With all due respect, no matter how attractive it is politically to be able to go home and say we are treated just like everybody else, I am not embarrassed to stand here tonight and say we are not exactly like everybody else. That is not what Madison aspired to. That is not what Jefferson aspired to. That is not what the cases say in the speech and debate clause. It is certainly not the cases in the separation of powers doctrine. And it is not how other Federal elected officials, including the President of the United States, are handled.

What are we doing to ourselves tonight?

At the risk of impinging on the rules, we are engaging in political demagoguery. I do not like some of the laws that we impose on our constituents, and I vote against them. I try to change them. But it seems to me it is a

pretty poor way to prove your political worth to ask this body to vote to subject itself to the whims of a U.S. district judge who under this amendment would have the power to overrule the considered judgment of 100 Members of this body.

This body has demonstrated over the years it is capable of not only dealing with this type of complaint, but capable of dealing with Senators who are our colleagues and our friends, as difficult as that is. The history of this body is replete with courage on the part of this body in voting punishment when it was deserved. Who is to say that the Senate would not do the same thing in the case of race discrimination or age discrimination or discrimination against handicapped by any Member of this body? I dare say that this body would move with alacrity to discipline any Member and use all of the same remedies in the Ford amendment that we just passed that are contained in the underlying laws of this country.

Let me say to my colleagues, it is great fun politically to go home and tell everybody how you are going to make us like a corner store. But this is not the corner store; it is the Senate. I am proud to serve in it. I believe the Constitution means what it says. I do not think we ought to abuse it.

If the manager yields back the time, I would like to make a motion.

Mr. FORD. Mr. President, I yield back the remainder of my time.

Mr. RUDMAN. Mr. President, I move to table the underlying amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent to technically change the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. RUDMAN. I would like to know what the change is.

Mr. HARKIN. Basically, if I might have the time to explain, it adds the words, "in a manner consistent with the provisions of section 717(c) and 717(d) of the Civil Rights Act of 1964."

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment, as modified, is as follows:

employees of a Senator or other supervisor of a unit of the Senate who are aggrieved by a violation of the Civil Rights Act of 1964 as amended shall have a private cause of action against the Senator or other supervisor of a unit of the Senate that has engaged in the violation of such employees rights under such Act in the appropriate district court of the United States in a manner consistent with the provisions of section 717(c) and section 717(d) of the Civil Rights Act of 1964.

(b) AMERICANS WITH DISABILITIES ACT.—Notwithstanding any other provision of law, the employees and prospective employees of a Senator or other supervisor of a unit of the Senate and other individuals with disabilities, who are aggrieved by a violation of the Americans With Disabilities Act of 1990 (S. 933, 101st Congress) shall have a private cause of action against a Senator or other supervisor of a unit of the Senate that has engaged in the violation of such employees or individuals rights under such Act in the appropriate district court of the United States in a manner consistent with the provisions of section 717(c) and section 717(d) of the Civil Rights Act of 1964.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment offered by the Senator from Iowa. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Arizona [Mr. DECONCINI], the Senator from Georgia [Mr. FOWLER], the Senator from Nebraska [Mr. KERREY], the Senator from Arkansas [Mr. PRYOR], and the Senator from North Carolina [Mr. SANFORD] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. PACKWOOD], the Senator from Wyoming [Mr. SIMPSON], the Senator from Alaska [Mr. STEVENS], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP], would vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 26, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—63

Adams	Domenici	Lott
Baucus	Exon	Lugar
Bentsen	Ford	McClure
Bond	Garn	McConnell
Boren	Glenn	Mikulski
Bradley	Gore	Mitchell
Breaux	Gorton	Moynihan
Bryan	Graham	Murkowski
Bumpers	Gramm	Nunn
Burdick	Hatfield	Pell
Burns	Heflin	Reid
Byrd	Heinz	Riegle
Chafee	Hollings	Robb
Cochran	Inouye	Rockefeller
Conrad	Johnston	Roth
Cranston	Kassebaum	Rudman
D'Amato	Kennedy	Sarbanes
Danforth	Kerry	Sasser
Daschle	Kohl	Shelby
Dixon	Lautenberg	Warner
Dodd	Lieberman	Wirth

NAYS—26

Akaka	Hatch	Metzenbaum
Armstrong	Helms	Nickles
Boschwitz	Humphrey	Pressler
Coats	Jeffords	Simon
Cohen	Kasten	Specter
Dole	Leahy	Symms
Durenberger	Levin	Thurmond
Grassley	Mack	Wilson
Harkin	McCain	

NOT VOTING—11

Biden	Kerrey	Simpson
Bingaman	Packwood	Stevens
DeConcini	Pryor	Wallop
Fowler	Sanford	

So the motion to lay on the table the amendment (No. 2114) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPLANATION OF ABSENCE

Mr. MITCHELL. Mr. President, Senator BIDEN has asked that I explain for the record why he was not able to be present for the votes today on amendments to the civil rights legislation. Earlier in the day, he participated as a pall bearer in the funeral service for a close friend in Wilmington. Unfortunately, mechanical problems with the train prevented him from making it to Washington in time for the votes.

Ms. MIKULSKI. I rise with my colleagues today to support the Civil Rights Act of 1990.

We all would like to work in an environment that treats all persons fairly and with the dignity they deserve. Many employers in America place great value on and respect their employees. However, not all workplaces achieve this goal.

Opponents have raised many objectionable issues as a smokescreen to kill this legislation. They argue that employers will have to hire by using quotas. This complaint is totally wrong and as you know, has nothing to do with the original Wards Cover decision upon which it is based.

Some critics say that we only need part of this bill, that more extensive coverage under civil rights law is going too far. Well, I believe that we can never go too far to ensure equality under the law.

I believe all victims of intentional discrimination should have the right to the same remedies. It is not fair that victims of intentional, harmful discrimination based on sex, religion, or national origin do not have available the same legal remedies that victims of racial discrimination have under the present law. Women and persons of foreign national origin are entitled to the same protections and I

will oppose any efforts to eliminate this coverage.

Any type of intentional discrimination is unacceptable and changing the law to remove inequities will not in any way damage the judicial system in America it will only make it stronger.

The Civil Rights Act of 1990 should not be necessary, but it is. Last year's Supreme Court decisions so narrowly interpreted previous civil rights and fair employment law that over 100 legitimate civil rights cases and complaints have been dismissed or thrown out of court. This result flies in the face of judicial and antidiscrimination efforts that have been so effective in this country for the past 25 years.

I stand today to state my position. This legislation should become law. If the President disagrees, then let us send him back a message loud and clear: The Congress stands against discrimination and for civil rights and opportunity for all Americans.

Mr. McCAIN. Mr. President, I strongly support expanding coverage of our Nation's nondiscrimination laws to Congress and am pleased to support the amendment offered by my colleague, the senior Senator from Iowa. Everyone should be allowed their day in court—be they a congressional employee not. I believe that Senator GRASSLEY's amendment will allow exactly that and that further it will end this body's soiled reputation as the "last plantation."

I believe that it is very fitting that while we are debating this bill, that we no longer neglect those who work as congressional employees. I have consistently supported ending discrimination where ever and when ever it may occur, and there is no reason that Congress should be exempt. Our country proudly stands on the world stage as the torch bearer of freedom and equality. We must continue to lead this valiant crusade, and we must continue to express our abhorrence for prejudice and bigotry.

Mr. President, I must therefore ask, how can this body seek to exempt itself from the many nondiscrimination laws that we have passed to govern the rest of the Nation? If the concept of equality is truly to be revered, then how can the U.S. Senate allow itself to remain our country's "last plantation," the last bastion of legal discrimination?

I do not believe that our Founding Fathers intended for this esteemed body to be above the law. Mr. President, for over 2 years, I have called on the Senate to end its support of this double standard, to no avail. This double standard is no more defensible than apartheid, yet we continue to ignore this situation and maintain one set of rules of privilege for ourselves, while establishing a far more restrictive set of rules for the remaining majority of society.

In the 100th Congress, I introduced legislation that would have required the Senate's compliance with its own legislation. The Senate did not adopt the measure. At that time, Senator JOHN GLENN offered to include my bill in comprehensive legislation that would affect both houses of Congress. Together, we introduced S. 1165, the fair employment practices bill. The bill grants to all congressional employees the protection of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1976, the Fair Labor Standards Act of 1938, the Occupational Safety and Health Act of 1970, and the Rehabilitation Act of 1973. We intend that the Fair Employment Practices Act include the provisions of the ADA when it becomes law.

Critics of applying such standards to Congress have argued that the Constitution clearly mandates a separation of powers, and therefore Congress must be made exempt from nondiscrimination bills in order to avoid a constitutional dilemma. These critics maintain that it is the duty of the executive branch to enforce the laws of the land and including Congress under the nondiscrimination laws would give the executive control over Congress.

The Glenn-McCain fair employment practices bill would have solved any Constitution problem by creating a Congressional Employees Relations Office to deal with any alleged violations. Although the amendment we are considering now takes a slightly different approach, it seeks the same goals of the Glenn-McCain bill and I applaud its author for taking action on this subject.

The civil rights legislation the U.S. Senate has passed shares a common purpose: To advance the quality of American life through the equal protection under the law of the rights of all Americans. Our experience with these measures, specifically, and the lessons of our democratic experiment, generally, have taught us that in the protection of our civil rights, there is no substitute for the force of law.

As an original cosponsor of the Americans With Disabilities Act, I am especially concerned that the Senate's original intent that it be covered be honored. Last year we believed that disabled individuals who are discriminated against should be able to take their claim to an independent judiciary branch. I still believe this to be true and continue to strongly support a private right of action.

We will not engender much public respect if we persist in legally committing them to standards for a just society, from which we, in Congress, are continually excused. I would remind this body that a government separated by practice and experience from the people it serves, will not long enjoy the favor of those who permit it to govern. We are constituted as a "government of the people," not above the people. And the people will not tolerate forever our preservation of the "last plantation" in America.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENVIRONMENTALISTS VERSUS DEVELOPERS: THE BATTLE OVER DEVELOPMENT

Mr. MOYNIHAN. Mr. President, I would like to bring to the attention of my colleagues a recent article by Tammerlin Drummond of the Los Angeles Times. Ms. Drummond writes with great clarity on a difficult issue, one most worthy of our consideration.

Ms. Drummond's thoughtful piece provides huge insight into a most important environmental question. She evenly describes the controversy surrounding the development of the foothills and canyons of Southern California. Ms. Drummond's analysis articulates the conflict often found between concern for our environment and our need for housing, roads, and bridges. I commend Ms. Drummond for her thorough, comprehensive report—we will no doubt be hearing more on this subject.

Mr. President, I ask unanimous consent that the article by Tammerlin Drummond in the Los Angeles Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BATTLE CRY ECHOES IN CANYONS

(By Tammerlin Drummond)

At a rustic hideaway just a few miles from the bustle of Laguna Beach, Loraine Hollingsworth raises chickens, peacocks and horses, occasionally riding her bicycle into town to deliver fresh eggs to friends. For the 54-year-old painter, home is a remodeled carport tucked away in Laguna Canyon, surrounded by a canvas of towering oak trees and steep, rugged slopes.

She calls it Shangri-La.

It has been 40 years since her father, a carpenter, bought a lot nearby, cutting through the thick brush by hand to build a small house for the two of them. She has lived in the canyon ever since, adding on a small, one-story dwelling for her own daughter and granddaughter.

"It's so peaceful here I didn't even realize what was happening around me until about 1985 when I saw mountains being laid out and houses being marched across our hillsides," Hollingsworth said.

What she saw frightened her. How much longer before her own rural retreat would be invaded by strip shopping malls and thousands of new residents cramped into look-alike homes? She began writing angry letters to newspapers, city officials, con-

gressmen—anyone who would listen: Stop development in Laguna Canyon.

Hollingsworth is not alone. The debate over Laguna Canyon's future is just one among dozens of similar mini-explosions occurring throughout Southern California as development spills out of the flatlands and nibbles away at the foothills and canyons, the last holdouts to urbanization.

From the brush-covered, desert slopes near the San Bernardino Mountains to the hillsides of southern Orange County, alarmed canyon-dwellers and environmentalist are rising up against developers who have targeted their neighborhoods for luxury apartments, houses, condominiums and golf resorts. From multimillion-dollar estates in Malibu to sacred Indian burial grounds in Palm Springs, to the north shores of Lake Miramar in San Diego County, they are waging one last offensive in the canyons to defend what remains of their natural heritage.

Armed with fistfuls of environmental impact reports, their complaints sound the same: There is already too much traffic. The canyons, located in "environmentally sensitive" areas, are prone to flooding. More homes would displace rare species of birds, bobcat, deer, and other animals. But above all the canyons are the last large parcels of undeveloped land and should, for that reason alone, be preserved.

They are separate little worlds that give you peace and tranquillity," said Laura Lake, an adjunct professor of environmental policy at UCLA. "If you lose them, you lose them forever."

Issues long the subject of academic debate—when individual property rights end and the public's right to protect the environment begins, for example, or what role government should play in controlling growth—have taken on a new urgency.

Several developments proposed more than a decade ago are nearing the end of a time-consuming permit process. After numerous costly delays, often because of strong environmental opposition, several of the most controversial projects are close to breaking ground, creating a sense of panic in anti-growth camps. Furthermore, a resurrected Earth Day movement that hailed the '90s as the decade of the environment has focused public attention on vanishing natural resources.

"As I've always said, until your shorts are on fire, you never bother to pay attention to what's going on," said Gordon Murley, president of the Federation of Hillside and Canyon Assns. in Los Angeles.

Like hundreds of Rip Van Winkles suddenly awakened from a 20-year slumber to find progress nibbling at their feet, alarmed canyon-dwellers are clinging desperately to a rural lifestyle reminiscent of an earlier time.

For many, the canyons are symbolic remnants of the rich natural history that originally attracted settlers to Southern California. While the prospect of tackling air pollution or other large-scale environmental issues seems overwhelming, the canyons are tangible, the enemy somewhat identifiable. One need look no further than the bulldozers steadily grading, "savaging" the landscape.

But developers argue that most canyon-dwellers are affluent professionals and artists, suffering from a bad case of not-in-my-back-yard syndrome. Landowners have the right, they say, to develop their land as they see fit.

"After all," remarked an Orange County planning official, "this isn't Russia."

According to growth proponents, sparsely populated canyon areas are the next logical direction for expansion to meet the demands of a rapidly growing population.

"There will be 5 million to 7 million new residents in Southern California by the year 2010," said Brian Kennedy, vice president of the Claremont Institute, a political research center in Montclair. "Now, do we ship them out of the state forcibly, make their lives so miserable they don't want to live here, or tell them they can't have any more children?"

It is difficult to determine how many confrontations have occurred between developers and canyon-dwellers in all of Southern California. But in the last year alone, there have been at least a dozen such skirmishes.

For example:

Last June 10 protesters in the San Fernando Valley chained themselves to bulldozers for five hours, forcing a developer in Caballero Canyon to stop construction temporarily on a road extension into the Santa Monica Mountains. The road project was part of a 178-home luxury subdivision that already had received government approval. However, environmentalists feared that a new, improved road would speed up development elsewhere in the mountains.

In November, 8,500 demonstrators marched in Orange County to show their opposition to an Irvine Co. proposal to build a 3,200-home development in Laguna Canyon. The marchers came from across Southern California—and some from as far away as Texas—forming a human chain more than half a mile long. After the protest, the company temporarily put aside its decade-old proposal, allowing the county time to explore the possibility of buying the Canyon.

In April, comedian Bob Hope came under strong attack from canyon preservationists for his plans to option most of his 7,400 acres of undeveloped land in the Santa Susana Mountains to developers intent on building high-priced homes and golf courses, including a 340-acre resort in Malibu. Hope, reportedly stung by criticism that he was selfish and greedy, has agreed to a land swap in which he would transfer 5,700-acres of his mountain property in Los Angeles and Ventura counties to a state parks agency for below-market value, in exchange for some less-sensitive federal land.

In May, environmentalists in Studio City asked the city of Los Angeles to declare plants and wildlife in Fryman Canyon a "historic monument" in a last-ditch effort to block a 26-home development. The tactics by an environmental coalition whose supporters include actors Warren Beatty and Jack Nicholson has sparked a raging philosophical debate between developers and preservationists over the very meaning of culture.

Residents of Trabuco Canyon in Orange County are fighting a growth plan that would allow thousands of new homes to be built where 200 now exist. They are vehemently opposed to a proposal to widen a two-lane country road leading into the canyon, complaining that it would be a first step toward denser development.

"I think people are beginning to understand that when there are no canyons left and only health clubs and Las Vegas to go for recreation, something will be missing from their lives," said Jean Rosenfeld, a UCLA Fulbright scholar studying people's relationship to the land.

Subconsciously, she says, people form attachments to the land around them.

"Every human being from the cave people on have established sacred places where they can go, whether for meditation or a retreat," she said.

When these are disturbed, "people have a sense of utter despair and invasion," Rosenfeld said.

That sense of desperation has filtered into Trabuco Canyon, a rural hamlet of 400 residents at the edge of the Cleveland National Forest.

"It's going to be like Custer's last stand," said Ray Chandos, a 40-year-old college professor who moved to Trabuco eight years ago. "If they [developers] can get all the land graded before the environmental stuff hits the fan, they'll get it all."

Part of what is at stake in Trabuco is a picturesque stretch of roadway that has been called one of the most beautiful rural scenes in Orange County. Here, a two-lane country highway winds through the rugged terrain—covered in sections by a natural canopy of oak branches that creates a breathtaking tunnel effect. County plans to widen the road probably would mean uprooting many of the oaks. In response, the canyon women's club has started an adopta-tree program. For $5, they will attach a white banner to an oak with the donor's name on it. The proceeds go to a preservation fund.

Usually, those who would preserve the canyons are forced to resort to other methods. They march. They chain themselves to bulldozers. They hire lawyers to find flaws in environmental impact reports, forcing delays in construction.

Some environmental groups have even tried their hand at drafting legislation. In 1988, San Diego County voters chose from two measures that would have protected canyons and other sensitive areas. The so-called "sensitive lands initiative," written by San Diegans for Managed Growth, would have made any slope steeper than 25% and taller than 25 feet off-limits to builders.

Also on the ballot was the "quality of life initiative," a tougher development-restricting proposal written by Citizens for Limited Growth. Both measures were defeated, however, by a $2-million building industry campaign. More recently, slow-growth initiatives penned by some of the same groups have made no mention of protection for environmentally sensitive lands.

However, the most unusual tactic yet involves attempts by environmentalists in Fryman Canyon to obtain a city historic designation for the plants and wildlife there. Their argument is that the site has been used by the public for generations and is a "gateway" to the Santa Monica Mountains.

It is a case being watched closely by both camps, raising the fundamental question of whether culture is, by definition, man-made. The outcome could set an important precedent, creating a new weapon for environmentalists to use in their war against developers.

Developers decry the stall tactics, claiming that delays in construction schedules merely drive up their cost of doing business, raising prices of new homes by as much as 20% each year. According to statistics provided by TRW Real Estate Information Services in Anaheim, a new home in Los Angeles County costs an average of $238,102, compared with $256,043 in Orange County, $146,000 in San Bernardino County, $148,073 in Riverside County and $201,184 in San Diego County.

"The canyon situation is a philosophical question of, 'Do people have the right to stop that kind of construction?' which is the subject of much heated debate here in Southern California," said Kennedy, the Claremont Institute vice president. "It's important to have people living in homes and it's important to protect the environment, and we have to balance those two concerns."

Planned residential communities such as Rancho Santa Margarita, while offensive to some canyon residents, provide housing within the reach of two-income professionals and others who might otherwise be shut out of an inflated market.

"The canyon areas are beautiful and it's important that they be [treated] with care and sensitivity," said Santa Margarita Co. spokeswoman Diane Gaynor. "But many [homes] are priced at $500,000 and up. That's wonderful for a certain number of people, but where are all our teachers going to live?"

Developers assert that people living in canyons must look past parochial interests and participate in environmental partnerships with builders to ensure that those areas that are truly the most sensitive are preserved.

"Candidly, I think [they] are going to get a lot more mileage working along with the building industry in their local jurisdictions, because by 2010, there will be another 400,000 people in Orange County alone and they've got to live somewhere, said Mike Lennon, director of community affairs for the Building Industry Assn. of Southern California. "We just can't afford to dig in our heels and say, 'This is what I want and no one else can be here,' or 'We're going to build on every square inch of the land.'"

In some areas, environmentalists are putting their money where their mouths are. In Riverside and San Bernardino counties, efforts are under way to form regional park and open-space districts that would oversee the purchase of parkland. Money would be raised through a special benefit assessment of $30 to $35 per household, which would require the approval of a majority of voters.

"I think what has led to it in our two counties is the rapid urbanization and realization by our residents that something needs to be done," said Steve Messerli, director of San Bernardino county's regional parks department.

Some observers go so far as to suggest that these open-space districts are the wave of the future.

"I think that a lot of people are looking at what's going on in riverside and San Bernardino and saying, 'We may do this too,'" said Bill Havert, a land consultant who has advised both counties on their plans.

Yet the staggering cost will make it hard to persuade voters that outright purchase is worthwhile. In Laguna Canyon, for example, the Irvine Co. is asking a "ballpark" figure of $100 million for 2,150 acres, the proposed site of the controversial 3,200-home planned community. Company officials have put development plans on hold to allow the county time to study the possibility of a bond issue to finance purchase of the land for a state park.

However, in fiscally conservative Orange County, where residents have proved to be among the least willing in the state to tax themselves, few hold out much hope that voters will support such a bond issue. A recent poll by J. Moore Methods showed that only 51% of respondents would vote for a proposed $200-million bond issue to buy open space, including acreage in Laguna Canyon, Two-thirds of voters must approve such measures.

Irvine Co. officials are neutral.

"Is it realistic?" asked Irvine Co. Vice President Larry Thomas. "That's the real test of public will: Is the property so important that people will pay for it?"

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following bills and joint resolutions:

On May 10, 1990:

S. 1485. An Act to grant the consent of Congress to the Quad Cities Interstate Metropolitan Authority Compact entered into between the States of Illinois and Iowa.

S.J. Res. 224. Joint resolution to designate the month of May 1990, as "National Trauma Awareness Month."

S.J. Res. 241. Joint resolution to designate the week of May 6, 1990 through May 13, 1990, as "Jewish Heritage Week."

On May 17, 1990:

S. 1853. An act to award a congressional gold medal to Laurance Spelman Rockefeller.

On May 22, 1990:

S. 993. An act to implement the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction, by prohibiting certain conduct relating to biological weapons, and for other purposes.

On May 23, 1990:

S.J. Res. 275. Joint resolution designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet."

On May 24, 1990:

S. 1846. An act to make miscellaneous amendments to Indian laws, and for other purposes.

S. 2300. An act to provide financial assistance to the Simon Wiesenthal Center in Los Angeles, California, for the education programs of the Museum of Tolerance.

On June 6, 1990:

S.J. Res. 231. Joint resolution to designate the week of June 10, 1990 through June 16, 1990, as "State-Supported Homes for Veterans Week."

S.J. Res. 267. Joint resolution to authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month."

On June 18, 1990:

S.J. Res. 251. Joint resolution to designating "Baltic Freedom Day."

On June 25, 1990:

S. 2700. An act to authorize the Secretary of Veterans Affairs to proceed with a proposed administrative reorganization of the regional field offices of the Veterans Health Services and Research Administration of the Department of Veterans Affairs, notwithstanding the notice-and-wait provisions in section 210(b) of title 38, United States Code.

On June 27, 1990:

S. 286. An act to establish Petroglyph National Monument and Pecos National Historical Park in the State of New Mexico, and for other purposes.

On June 28, 1990:

S.J. Res. 245. Joint resolution to designating July 3, 1990, as "Idaho Centennial Day."

S.J. Res. 264. Joint resolution to commemorate the 50th anniversary of the National Sheriffs' Association.

On June 29, 1990:

S.J. Res. 246. Joint resolution calling upon the United Nations to repeal General Assembly Resolution 3379.

On July 6, 1990:

S. 1999. An act to amend the Higher Education Amendments of 1986 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education, and for other purposes.

S.J. Res. 271. Joint resolution to designate July 10, 1990 as "Wyoming Centennial Day."

S.J. Res. 315. Joint resolution for the designation of July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day."

S.J. Res. 320. Joint resolution designating July 2, 1990, as "National Literacy Day."

On July 8, 1990: S. 2124. An act to authorize appropriations for the National Space Council, and for other purposes.

S.J. Res. 278. Joint resolution designating July 19, 1990, as "Flight Attendant Safety Professionals' Day."

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on June 29, 1990, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 5149. An act to amend the Child Nutrition Act of 1966 to provide that the Secretary of Agriculture may not consider, in allocating amounts to a State agency under the special supplemental food program for women, infants, and children for the fiscal year 1991, any amount returned by such agency for reallocation during the fiscal year 1990 and to allow amounts allocated to a State for such program for the fiscal year 1991 to be expended for expenses incurred in the fiscal year 1990; and

H.J. Res. 599. Joint resolution to designate July 1, 1990, as "National Ducks and Wetlands Day."

Under the authority of the order of the Senate of January 3, 1989, the enrolled bill and joint resolution were signed on June 29, 1990, during the ad-

journment of the Senate, by the President pro tempore [Mr. BYRD].

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on July 3, 1990, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 1028. An act to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial;

H.R. 2514. An act amending subchapter III of chapter 84 of title 5, United States Code;

H.R. 4252. An act to authorize the Secretary of the Air Force to purchase property at Pease Air Force Base, New Hampshire; and

H.R. 4525. An act to amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics.

Under the authority of the order of the Senate of January 3, 1989, the enrolled bills were signed on July 5, 1990, during the adjournment of the Senate, by the President pro tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

At 10:10 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5114. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes; and

H.R. 5158. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 344. Concurrent resolution permitting the use of the rotunda of the Capitol to allow Members of Congress to greet and receive His All Holiness Patriarch Dimitrios.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5114. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes; to the Committee on Appropriations.

H.R. 5158. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The Committee on Commerce, Science, and Transportation was discharged from the further consideration of the following bill, which was placed on the calendar:

S. 1245. A bill to amend the Federal Meat Inspection Act to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on June 29, 1990, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 2124. An act to authorize appropriations for the National Space Council, and for other purposes;

S.J. Res. 271. Joint resolution to designate July 10, 1990 as "Wyoming Centennial Day"; and

S.J. Res. 278. Joint resolution designating July 19, 1990, as "Flight Attendant Safety Professionals Day."

REPORTS ON COMMITTEES RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of June 29, 1990, the following reports of committees were submitted on June 29, 1990, the following reports of committees were submitted on June 29, 1990:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1981: A bill to permit the Bell Telephone Co. to conduct research on, design, and manufacture telecommunications equipment and for other purposes (Rept. No. 101-355).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Report to accompany the bill (S. 400) to regulate interstate commerce by providing for a uniform (product liability law, and for other purposes (Rept. No. 101-356).

By Mr. PELL, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 2757: A bill to amend the Foreign Assistance Act of 1961 to authorize the provision of medical supplies and other humanitarian assistance to the Lithuanian people to alleviate suffering during the current emergency.

Under the authority of the order of the Senate of June 26, 1990, the following reports of committees were submitted on July 6, 1990:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 2830: An original bill to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes (Rept. No. 101-357).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BOREN from the Select Committee on Intelligence, without amendment:

S. 2834: An original bill to authorize appropriations for fiscal year 1991 for the intelligence activities of the U.S. Government, the Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 101-358).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 2570: A bill to provide for the designation of certain public lands as wilderness in the State of Arizona (Rept. No. 101-359).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1676: A bill to strengthen the teaching profession, and for other purposes (Rept. No. 101-360).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself and Mrs. KASSEBAUM):

S. 2831. A bill to amend the Age Discrimination in Employment Act of 1967 to extend the protections of such act to employee benefits in a manner that permits and encourages employee benefit arrangements that are beneficial to employees generally, including older workers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BAUCUS:

S. 2832. A bill to designate certain lands on the Kootenai and Lolo National Forests in Montana as wilderness, to release other lands on those forests for multiple use management, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 2833. A bill to maintain grade, size, and quality standards for Maui onions; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BOREN, from the Select Committee on Intelligence:

S. 2834. An original bill to authorize appropriations for fiscal year 1991 for the intelligence activities of the U.S. Government, the Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on Armed Services, for the 30-day period provided in section 3(b) of Senate Resolution 400, 94th Congress, except that if such committee fails to report such bill within the 30-day limit, such com-

mittee shall be automatically discharged from further consideration of such bill in accordance with that section.

By Mr. LAUTENBERG:

S. 2835. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require the President and Congress to set, on an annual basis, the ratio of defense vesus nondefense spending reductions required under sequestration; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget and Governmental Affairs, with instructions that if one committee reports, the other committee have 30 days of continuous session to report or be discharged.

By Mr. THURMOND:

S.J. Res. 344. A joint resolution to designate the week of November 18 through 24, 1990, as "National Wild Turkey Week" and November 22, 1990, as "National Wild Turkey Day"; to the Committee on the Judiciary.

By Mr. D'AMATO:

S.J. Res. 345. A joint resolution designating August 20 through 26, 1990, as "National Headache and Jaw Disorders Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself and Mrs. KASSEBAUM):

S. 2831. A bill to amend the Age Discrimination in Employment Act of 1967 to extend the protections of such act to employee benefits in a manner that permits and encourages employee benefit arrangements that are beneficial to employees generally, including older workers, and for other purposes; to the Committee on Labor and Human Resources.

EMPLOYEE BENEFITS EQUITY ACT

Mr. HATCH. Mr. President, last summer, in *Public Employees Retirement System of Ohio* v. *Betts*, 109 S.Ct. 2854 (1989), the Supreme Court held that the Age Discrimination in Employment Act of 1967 [ADEA] has limited application to age discrimination in employee benefits. In response, I am today introducing the Employee Benefits Equity Act of 1990 that will ensure that older workers are protected against arbitrary age discrimination in employee benefits. This legislation makes the ADEA applicable to employer benefit arrangements and thus overrules the Betts decision. I am pleased that Senator KASSEBAUM is joining me in sponsoring this important measure.

Prior to the Betts decision, the courts and administrative agencies charged with enforcing the ADEA had adopted inconsistent and conflicting positions concerning the application of the ADEA to employee benefits. These inconsistencies and conflicts led to litigation and uncertainty over the lawfulness of numerous long-standing features of employee benefits arrangements designed to meet, in a cost-effective manner, the needs of employees at various stages of their lives. They include, first, arrangements that integrate or coordinate benefits available under one program—such as severance, supplemental unemployment, or disability benefits—with benefits available from other programs—such as pension benefits; second, arrangements that integrate or coordinate benefits available from an employer—such as pension benefits—with benefits available from government sources, such as social security and workers' compensation benefits; and third, arrangements that provide enhancements to voluntary early retirement.

The measure we are introducing today amends the ADEA to ensure that, first, older workers are protected against arbitrary age discrimination in employee benefits; second, that bona fide employee benefit arrangements are not discouraged or disrupted; and third, the effect of the ADEA on employee benefits is clarified and consistent future application ensured.

This bill is offered as an alternative to S. 1511, the Older Workers Benefit Protection Act of 1990. A revised version of S. 1511 was reported out of the Senate Labor and Human Resources Committee on February 28, 1990 [See Report 101-263]. While that bill also attempts to overrule the Betts decision, it does so in a way that will disrupt many existing bona fide employee arrangements—such as voluntary early retirement incentives and integrated benefits programs—that are beneficial to employees generally, including older workers. It would also subject many States to large revenue losses that may force them to raise taxes or reduce benefits. Finally, its retroactive application is both unfair and constitutionally suspect. The administration, the business community, State and local governments, teachers' retirement systems, and other organizations have voiced concern about the impact of S. 1511 on various aspects of employee benefits administration.

One important example of how our bill differs from S. 1511 is in its treatment of early retirement programs. While the original version of S. 1511 would have effectively banned early retirement incentive programs, sponsors claim that the revised version will preserve them as long as employers can justify them by proving that they "further the purposes of the act." Why this vague and difficult standard should apply or how an employer can be expected to meet this burden is unclear. What is clear is that, at a minimum, this standard will lead to interminable litigation and conflicting results by the courts. This result is virtually guaranteed by further unprecendented restrictions on early retirement programs outlined on page 27 of the Committee Report No. 101-263.

The prospect of protracted and costly litigation may, or course, simply make it impractical for employers to continue using early retirement programs as a means of avoiding involuntary layoffs. The net effect will be that many employers will simply implement involuntary reductions-in-force and forgo offering early retirement incentive programs.

In contrast, the bill we are introducing today preserves voluntary retirement incentive programs in a manner consistent with pre-Betts law and which ensures that employees who voluntarily choose to take advantage of such programs, rather than attorneys, will benefit from them.

Another significant difference between this bill and S. 1511 is their treatment of the widely used practices of benefit coordination or integration. The bill which I introduced today generally permits the continuation of this practice; S. 1511 generally outlaws it.

In order to most fairly distribute benefit dollars, many employers, including the Federal Government, through collectively bargained arrangements with unions or otherwise, have adopted integrated benefit packages. Indeed, as the Supreme Court unanimously found in *Alessi* v. *Raybestos-Manhattan, Inc.*, 451 U.S. 504 (1981), ERISA permits the integration of pension and other benefits precisely because it will result in a more rational allocation of total benefits and, in the long-run, in higher levels of pension benefits for older workers (see 451 U.S. at 514). One notable example of a long-standing and widely used packaging method is the coordination of pension and severance benefits by offering severance pay only to nonpension eligible workers or offsetting the value of pension benefits against severance pay.

As noted, many of these integrated benefit arrangements are the result of collective bargaining between employers and unions and viewed by both parties as a rational approach to allocating limited resources. For example, in its initial comments on the original version of S. 1511, the United Auto Workers [UAW] observed the following:

> The UAW has negotiated integrated benefit plans with many companies. We believe that this type of approach represents the best method of assuring the continuation of income and health care throughout the lifetime of workers and their families. If these integrated benefit programs are made unlawful, this will simply permit a small group of workers to "double dip" at the expense of all workers and retirees.

Similarly, the United Steelworkers of America has characterized benefit integration as one of several arrangements that "involve the targeting of benefits to the distinct problem of particular subgroups of the work force. If Congress makes it impossible for bar-

gainers to solve discrete problems, some of them will simply go unresolved and collective bargaining will be correspondingly impaired."

After strenuously arguing against any integration of pension and retirement benefits, the revised version of S. 1511 now, in fact, permits a limited offset for retiree health benefits and some retirement benefits and is supported by these unions. I am concerned, however, that the very limited nature of the offset does not adequately resolve this problem. The rationale for the distinctions drawn in the revised version of S. 1511 between what types of integration are lawful or unlawful remains entirely unclear and has no apparent relationship whatsoever to age discrimination or the purpose of the ADEA.

Other significant differences between S. 1511 and the bill we have introduced today include their respective treatment of disability programs, State and local government benefit plans, and retroactivity. With respect to all of these issues, we believe our proposal represents a fair and rational approach, an approach that overturns the Betts decision by outlawing arbitrary age discrimination in employee benefits without jeopardizing the retirement and benefit security of all employees, including older workers.

I urge my colleagues to consider it carefully and join us as cosponsors of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Benefits Equity Act of 1990".

SEC. 2. FINDINGS.

Congress finds that—

(1) in *Public Employees Retirement System of Ohio* v. *Betts*, 109 S. Ct. 2854 (1989), the Supreme Court held that the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) has limited application to age discrimination in employee benefits;

(2) prior to the *Betts* decision, the courts and administrative agencies charged with enforcement of such Act had adopted inconsistent and conflicting positions concerning the application of such Act to employee benefits;

(3) these inconsistencies and conflicts led to litigation and uncertainty over the lawfulness of numerous long-standing features of employee benefits arrangements that are designed to meet, in a cost effective manner, the needs of employees at various stages of their lives, including—

(A) arrangements that integrate or coordinate benefits available under one program (such as serverance, supplemental unemployment, or disability benefits) with benefits available from other programs (such as pension benefits);

(B) arrangements that integrate or coordinate benefits available from an employer (such as pension benefits) with benefits available from government sources (such as benefits available under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq.) or workers' compensation);

(C) arrangements that provide enhancements to voluntary early retirement benefits; and

(D) arrangements that calculate benefit levels with reference to age by using present value concepts and generally accepted actuarial practices; and

(4) for these reasons, it is necessary to amend such Act to ensure that—

(A) older workers are protected against arbitrary age discrimination in employee benefits;

(B) bona fide employee benefits arrangements are not discouraged or disrupted; and

(C) the effect of such Act on employee benefits is clarified, and consistent application in the future ensured.

SEC. 3. LAWFUL EMPLOYMENT PRACTICES.

Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; or"; and

(C) by adding at the end of the following new paragraph:

"(4) to discriminate against any individual with respect to the employee benefits of the individual, because of the age of the individual, *Provided*, That for income replacement benefits or other welfare benefits, an employer shall not be considered to have discriminated against an individual within each of these two categories of benefits if—

"(A) the amount or cost of the benefits available to the individual for the year is no less than the amount or cost of the benefit or benefits available for the year to similarly situated younger individuals;

"(B) the present value of the benefits available to the individual is no less than the present value of the benefits available to similarly situated younger individuals; or

"(C) the individual has the option of receiving the same benefits as similarly situated younger individuals,

Provided further, That, an employer shall not be considered to have discriminated against an individual with respect to employee benefits by offering supplemental or subsidized early retirement benefits to subgroups of employees through either an ongoing plan or a temporary arrangement, but, in the case of such a plan or arrangement that offers a supplemental benefit (other than an early retirement subsidy or a social security supplement), only if the supplemental benefit serves a legitimate business purpose or provides, or has provided in the past, a supplemental benefit to each older employee that is at least equal in amount to the supplemental benefit that such plan or arrangement offers to a similarly situated younger employee."; and

(2) in subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by striking paragraph (2) and inserting the following new paragraphs:

"(2) to observe the terms of a bona fide seniority system, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by section 12(a) because of the age of the individual;

"(3) to make an age-based variance in employee benefits that has a legitimate business purpose, through arrangements such as—

"(A) an employee benefit arrangement that was permissible under section 1625.10 of title 29, Code of Federal Regulations (as in effect on June 22, 1989);

"(B) an arrangement under which long-term disability benefits are reduced by—

"(i) any pension benefits for which an employee is eligible and that are not reduced on account of the age of the employee; or

"(ii) any pension benefits that an employee actually receives;

"(C) an arrangement under which long-term disability benefits are reduced by any pension benefits that the employee is eligible to receive and under which long-term disability benefits are payable for life (or, if earlier, until the termination of the disability); or

"(D) supplemental unemployment benefits that cease not later than when an individual becomes eligible to receive a pension that is not reduced on account of the age of an employee,

except that no such age-based variance in employee benefits shall excuse the failure to hire any individual, or require or permit the involuntary retirement of any individual specified by section 12(a), because of the age of the individual; or".

SEC. 4. DEFINITIONS.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end the following new subsections:

"(l) The term 'cost of the employee benefit or benefits' means the cost attributable to the benefit or benefits as determined in accordance with professionally recognized actuarial principles.

"(m) The term 'employee benefit' or 'employee benefits' includes the total remuneration provided pursuant to—

"(1) one or more pension, severance, supplemental unemployment benefit, disability, or health insurance plans or programs, or other employee benefit plan or plans (as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3));

"(2) special layoff, disability, or plant closure arrangements, such as severance payments and early retirement enhancements; or

"(3) one or more government-sponsored benefit programs, such as programs established under the Social Security Act (42 U.S.C. 301 et seq.), workers' compensation, or State or local government retirement programs.

"(n) The term 'government' means the government of the United States or a State or political subdivision thereof, or any agency or instrumentality thereof.

"(o) The term 'income replacement benefits' means employee benefits that take the place of wages, such as pension, disability, severance, supplemental unemployment, or social security benefits, social security supplements, and workers compensation.

"(p) The term 'other welfare benefits' means benefits provided pursuant to a welfare plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) and similar government-sponsored benefits, other than income replacement benefits.

"(q) The term 'present value' means the current equivalent value of any stream of current or future payments or receipts, discounted on the basis of assumptions consistent with generally accepted practice in the actuarial profession.

"(r) The term 'similarly situated individuals' means individuals similar in all other relevant aspects of the employment relationship.".

SEC. 5. RULES AND REGULATIONS.

Notwithstanding section 9 of the Age Discrimination Act of 1967 (29 U.S.C. 628), the Equal Employment Opportunity Commission may issue such rules and regulations as it may consider necessary or appropriate for carrying out this Act, and the amendments made by this Act, only after consultation with the Secretary of the Treasury and the Secretary of Labor.

SEC. 6. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act shall apply only to conduct occurring more than 180 days after the date of enactment of this Act.

(b) COLLECTIVE BARGAINING AGREEMENTS.—

(1) IN GENERAL.—In the case of employee benefits that are provided pursuant to one or more collective bargaining agreements, this Act and the amendments made by this Act shall not apply to conduct occurring before the earlier of—

(A) the date of expiration of the last to expire of the collective bargaining agreements pursuant to which the benefits are provided and that are in effect on the date of enactment of this Act; or

(B) the date that is 24 months after the date of enactment of this Act.

(2) BENEFITS PROVIDED TO MEMBERS AND NONMEMBERS.—For the purposes of this subsection, employee benefits provided pursuant to a plan that covers both employees who are members of a collective bargaining unit and employees who are not members of a collective bargaining unit shall be considered to be maintained pursuant to a collective bargaining agreement if at least 25 percent of the plan participants are members of one or more collective bargaining units to which an applicable collective bargaining agreement applies.

(c) STATE EMPLOYEE BENEFIT ARRANGEMENTS.—

(1) IN GENERAL.—In case of employee benefit arrangements in effect under State law on the date of enactment of this Act, except as provided in paragraph (2), this Act and the amendments made by this Act shall apply beginning on the earlier of—

(A) the adjournment sine die of the second subsequent session of the appropriate State legislature; or

(B) the date that is 2 years after the date of enactment of this Act.

(2) DISABILITY BENEFITS.—In the case of any change required by this Act or an amendment made by this Act in a State or local government plan that provides disability or disability benefits, the change shall apply only to an individual hired after the change becomes effective.

(d) CONTINUED BENEFIT PAYMENTS.—Notwithstanding any provision of this section, on and after the effective date of this Act and the amendments made by this Act (as determined in accordance with subsections (a), (b), and (c)), this Act and the amendments made by this Act shall not apply to a series of benefit payments that began prior to the effective date and that continue after the effective date pursuant to an arrangement that was in effect on the effective date.

By Mr. BAUCUS:

S. 2832. A bill to designate certain lands on the Kootenai and Lolo National Forests in Montana as wilderness, to release other lands on those forests for multiple use management, and for other purposes; to the Committee on Energy and Natural Resources.

KOOTENAI AND LOLO NATIONAL FOREST MANAGEMENT ACT

Mr. BAUCUS. Mr. President, I rise today to introduce legislation that can help resolve a significant part of Montana's decade-long wilderness debate.

The past year has been a time of startling events. Just a year ago, who would have thought that pieces of the Berlin Wall would be sold as souvenirs and that all Germans would exchange a common currency? Who would have thought that George Bush would be calling for new taxes? Who would have thought that the grandson of freed slaves would govern the capital of the Confederacy? Who would have thought that New York Yankees pitcher Andy Hawkins could pitch a "no hitter," and still lose the game in a shutout? And, closer to my home, who would have thought that sawmill workers, environmentalists, and the largest timber and mining companies in the heart of Montana's timber country would settle their differences and come to agreement on the question of wilderness?

For over 10 years, the wilderness issue has been the cold war of Montana politics. It has pit Montanan against Montanan in a no win struggle.

Yet, recently—and thankfully—even this cold war has begun to thaw.

In a move unprecedented in the history of this contentious issue, many of the workers, conservationists, and businesses dependent upon the Kootenai and the Lolo National Forests worked together toward a mutual agreement on wilderness and release designations for Montana's two largest timber producing forests.

Throughout Montana, the products of these commendable efforts are known as the "Kootenai and Lolo Accords."

On June 25, I held two informal Montana hearings to learn more about these accords. My distinguished colleague, Senator BURNS, joined me for both of these hearings. Together, we heard over 8 hours of testimony on both the substance of the accords and the process that produced them.

The bill I am introducing today is based on those accords, although it is modified in several places to reflect the testimony we received.

Mr. President, I believe this legislation represents a big win for the land and the people of northwest Montana. It means good jobs and a sound environment.

There is no question that by releasing lands to multiple-use management, the Kootenai and Lolo accords would provide badly needed jobs for northwest Montana. On both forests, approximately 98 percent of the timber of the Forest Service has classified as suitable for harvest would be released. Release means that development actions cannot be challenged by those wanting to see an area remain roadless.

According to Forest Service Chief Dale Robertson's testimony before the Senate Agriculture and Energy Committees last year, this would provide a tremendous boost to the Forest Service timber program in Montana. The added certainty of legislation designating wilderness and release would make it far more easy for the Forest Service to manage its nonwilderness lands for timber, minerals, and motorized recreation.

It all spells jobs, good jobs of Montanans working in the resource based industries that are the backbone of our economy.

At the same time, most Montanans agree that our wild lands—places like the Bob Marshall, the Cabinets, and the Lee Metcalf—help make Montana a special place. The wilderness designations in the Kootenai and Lolo accords would help preserve our way of life by protecting areas of sensitive scenic, recreational, watershed, and wildlife value.

Several months ago, Senator BURNS and I introduced our own bills that would have provided a partial solution to the roadless lands question on all of Montana's 10 national forests. While my bill would not have completely settled the roadless lands debate, it took a big step by releasing 3.2 million acres to multiple-use management—including 1 million acres of timber the Forest Service has identified as suitable for harvest.

I would like to have seen my bill—or another reasonable statewide compromise—enacted.

Senator BURNS and I worked hard to negotiate a compromise statewide bill that would reflect a Montana consensus. If the past has taught us anything, it is that successful wilderness legislation must represent a consensus among Montanans.

Despite these good faith negotiations toward a statewide bill, significant differences remain. Today it is clear we have run out of time to reach a consensus among Montanans and their congressional delegation on a 1990 statewide bill.

So, while a statewide bill would be ideal, a two-forest bill releasing lands on our two largest timber producing forests is far better than no bill at all.

That is why today I am introducing the "Kootenai and Lolo National Forest Management Act of 1990."

Based upon the Kootenai and Lolo accords, this legislation would place approximately 53,000 acres of suitable timber in wilderness. At the same time, over 300,000 acres of suitable timber would be released to nonwilderness multiple use. This means that for every 1 acre of suitable timber placed in wilderness, approximately 6 acres of suitable timber would be available to help keep Montanans working.

Also of great significance, my bill contains updated release language. For the first time we have arrived at release language clearly recognizing that the wilderness allocations in the current round of forest plans, not the outdated RARE II study, are exempt from judicial review. This change assures that the Forest Service will be able to manage released lands under the forest plans without fear of legal challenge from those wanting to see an area remain as de facto wilderness.

This updated language is the product of months of negotiation between environmental organizations and the forest products industry. I pushed hard for this new language and I commend everyone involved in working out this compromise. In addition, I want to note a special thanks to Mr. Jim Cubie, chief counsel to the Agriculture Committee and Mr. Tom Williams, of the Energy Committee's professional staff for their patience and fine work in facilitating this needed modification in the "standard" released language.

Mr. President, not everyone in Montana will embrace this legislation. But, unfortunately, there is no possible roadless lands bill that will ever attract unanimous support. We cannot continue to hold Montana jobs hostage while we search for the mythical "perfect solution."

In my years of dealing with this issue, these accords represent the highest degree of consensus we have ever achieved. The major criticism has dealt not with the substance of the resolution for these two forests, but rather with the fact that the proposal does not resolve the issue statewide.

But we should do what we can today. And if we do, I firmly believe we will not only solve the issue on the Kootenai and the Lolo, but we will also create momentum for future action on Montana's other forests.

In closing, Mr. President, time is short. I call on Senator BURNS to join me in building on this Montana consensus. Working together, we can assure a better future for the land and the people of northwest Montana.

By Mr. LAUTENBERG:

S. 2835. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require the President and Congress to set, on an annual basis, the ratio of defense versus nondefense spending reductions required under sequestration; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

NATIONAL PRIORITIES REVIEW ACT

● Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the National Priorities Review Act, to establish a mechanism under which Congress annually sets the ratio of defense versus nondefense cuts required under a sequestration order.

Mr. President, the Gramm-Rudman-Hollings law requires across-the-board cuts when OMB projects a deficit in excess of the annual deficit target. Originally, these across-the-board cuts were considered a "Sword of Damocles"—potentially so deep and painful that both sides, Democrats and Republicans, would be forced to the bargaining table to avoid them.

Recently, however, the sequester mechanism has been transformed from a Sword of Damocles into an accepted means of achieving deficit reduction. In the fiscal year 1990 reconciliation bill, Congress and the President agreed to cuts equivalent to a 130-day sequester. And earlier this year, before the administration's fiscal year 1991 deficit projection increased to enormous proportions, many in Washington talked openly of accepting a full sequester as a means of reducing the deficit.

Given the draconian cuts that would be required to meet the existing GRH target for fiscal year 1991, a full sequester this October now seems unlikely. Yet it does seem quite possible that budget negotiators will again rely on a partial sequester, and full sequesters remain a real possibility in the future.

Under GRH, sequestration cuts are set initially by taking the total amount of spending reductions needed to reach the GRH target, and dividing that total equally between defense and nondefense programs. Yet there is no good reason why sequestration cuts should be mindlessly divided each year using the same formula. As conditions around the world fluctuate, and domestic needs change, the ratio of defense to nondefense cuts should also change.

Mr. President, the National Priorities Review Act does not establish a set sequestration ratio. The bill simply creates a mechanism under which Congress annually sets that ratio in light of existing circumstances.

Under this mechanism, the House and Senate Budget Committees would report a joint resolution that would contain a proposed defense/nondefense ratio as its only provision. This joint resolution would be considered under tightly restricted, expedited procedures, with a 10 hour limit on debate. The only amendments in order would be those that propose a change in the sequestration ratio, and debate on all amendments would be limited to 1 hour.

Under the bill, if a joint resolution establishing the ratio is not enacted into law by October 15, the prior year's sequestration ratio would take effect automatically.

Mr. President, I want to emphasize that sequestration is not a desirable means of deficit reduction. But so long as it is used, resulting cuts should be made on the basis of broad national priorities determined by the Congress.

Mr. President, I urge my colleagues to support this legislation, and ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Priorities Review Act".

SEC. 2. ANNUAL DETERMINATION OF DEFENSE AND NONDEFENSE SEQUESTRATION RATIO.

(a) NEW RATIO.—Section 251(a)(3)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(B) The aggregate outlay reductions required by this paragraph shall be divided as provided in subsection (e) between—

"(i) accounts within the major functional category 050 (in this part referred to as outlays under 'defense programs'), in accordance with the rules prescribed in subsection (d), and

"(ii) other accounts of the Federal Government (in this part referred to as 'nondefense programs').".

(b) DETERMINATION OF NEW RATIOS.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) redesignating subsection (e) as subsection (f); and

(2) inserting after subsection (d) the following:

"(e) DETERMINATION OF DEFENSE-NONDEFENSE RATIOS.—

"(1) IN GENERAL.—Not later than September 1 of each year, the Committee on the Budget of the Senate and the Committee on the Budget of the House of Representatives shall report a joint resolution to their respective houses which shall contain as its only provision a formula for the division of aggregate outlay reductions required by subsection (a)(3)(B) for the fiscal year beginning October 1.

"(2) PROCEDURES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B), (C) and (D), in the Senate and the House the provisions of section 305 of the Congressional Budget Act of 1974, except for subsection (a) (3) and (4), for the consideration of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration of a joint resolution reported under paragraph (1) and conference reports thereon.

"(B) LIMIT ON DEBATE.—Debate in the Senate on any joint resolution reported pursuant to paragraph (1), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to 10 hours. Debate on any amendment, motion, or appeal on any such joint resolution shall be limited to one hour.

"(C) LIMITATION ON AMENDMENTS.—It shall not be in order in the Senate or House of Representatives to consider any amendment to a joint resolution reported pursuant to paragraph (1) unless such amendment is limited to changing the formula for the division of appropriate outlays reductions required by subsection (a)(3)(B).

"(D) BILLS AND RESOLUTIONS RECEIVED FROM THE OTHER HOUSE.—Any bill or resolution received in one House from the other House, which is a companion to a joint resolution of the receiving House for the purposes of this subsection, shall be considered in the receiving House pursuant to the provisions of this subsection.

"(3) ENACTMENT BY OCTOBER 15.—A joint resolution introduced pursuant to paragraph (1) shall be enacted into law on or before October 15 of each calendar year and the allocation of outlay reductions provided in such joint resolution shall be used for calculating outlay reductions in any final sequester order issued pursuant to section 252(b) during such calendar year.

"(4) FAILURE TO ENACT AN ANNUAL ALLOCATION.—If in any calendar year the Congress fails to enact a joint resolution as required by this subsection or otherwise provide an allocation of reductions required by this subsection—

"(A) with respect to fiscal year 1991 and any consecutive calendar year thereafter, the allocation of outlay reductions for such year shall be one-half defense programs and one-half non-defense programs, and

"(B) with respect to any year following a year in which a joint resolution is enacted or an allocation of reductions required by this subsection is otherwise enacted, the allocation of outlay reductions provided in the most recent joint resolution enacted pursuant to this subsection or other legislation otherwise enacted shall be used for calculating outlay reductions in any final sequester order issued during such year.".

(c) WAIVER IN THE SENATE.—Section 271 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (b) by inserting after "Congressional Budget Act of 1974" the following: "and section 251(e)(2)(B) and 251(e)(2)(C) of this Act"; and

(2) in subsection (c) by inserting after "Congressional Budget Act of 1974" the following: "and sections 251(e)(2)(B) and 251(e)(2)(C) of this Act.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years 1991, 1992 and 1993.●

By Mr. THURMOND:

S.J. Res. 344. Joint resolution to designate the week of November 18 through 24, 1990, as "National Wild Turkey Week" and November 22, 1990, as "National Wild Turkey Day"; to the Committee on the Judiciary.

NATIONAL WILD TURKEY WEEK AND NATIONAL WILD TURKEY DAY

Mr. THURMOND. Mr. President, I am pleased to introduce today a joint resolution which would designate November 18 through November 24, 1990, as National Wild Turkey Week and November 22, 1990, as National Wild Turkey Day.

For the record, there are two kinds of turkeys: the ones you find in supermarkets—domestic turkeys, and the ones you don't—wild turkeys—the latter are the ones to which I refer. About the only thing they have in common is an ancestry that has nothing to do with the country of Turkey, because both started out in America. The wild turkey occupies more square miles of habitat than any other game bird on the North American Continent. It is found in Canada, the United States and Mexico. Today, there are over 4 million wild turkeys in this country.

The largest of North American gamebirds, the eastern wild turkey is a four-foot-tall gallinaceous bird with long legs and tail, a four- to five-foot wingspan and a weight of up to 22 pounds. Its plumage is brilliant metallic bronze with gold, green, and red reflections. The head and upper neck are naked and colored red to blue to purple. Gobblers, and some hens, grow "beards" up to 12 inches long, hanging from the middle of their breasts. Males have spurs.

Turkeys are at home in forests and woodlands clearings, mostly in hilly and mountainous regions where food is plentiful. The turkey forages on the ground, and its staples are seeds, tree nuts—particularly acorns—and fruits, including wild grapes. They also relish grasshoppers and other insects, frogs, salamanders, toads, lizards, snakes, and snails.

Half of all turkey poults die in the first 3 months. Those that survive their first year have only a 70 percent chance of having a second year. Turkeys 9 years or older are rare, though they have been known to live up to 14 years.

Turkeys are not good fliers, and unless pressured, they will run from danger rather than fly. They can walk 3 mph and run 14 mph.

Thirty years ago, only 20 States had turkey hunting seasons, but in 1991, 49 States will likely have spring gobbler seasons. In fact, only Alaska has no wild turkeys. In addition, spring turkey hunting contributes almost $600 million annually to the Nation's economy, not counting hunting license and permit fees.

Nearly all of the wild turkey's reestablishment is attributed to a very successful swapping program between those States whose wild turkey populations are healthy and those whose populations had been depleted or extirpated. Biologists found success ratios of trapping wild birds and relocating them to be considerably better than those of prior attempts to release farm-raised birds.

The National Wild Turkey Federation [NWTF] was founded in March 1973, in Fredericksburg, VA, and moved its national headquarters to my hometown, Edgefield, SC, the same year. The NWTF is the Nation's only nonprofit organization dedicated to the conversion and management of the American wild turkey. It is a membership, education-oriented organization which today serves as the "voice" of the wild turkey—a voice that has been heard at the local, State, national, and international level.

Federation membership and support now stands at about 57,000. Recent dynamic growth can be attributed to a strong chapter system consisting of over 343 State and local chapters from Maine to Hawaii. The NWTF boasts members in Alaska—the only State without a turkey population, Mexico, Canada, Norway, and Australia.

I think it is appropriate that we recognize the wild turkey as we approach Thanksgiving and remember when the Indians brought turkeys to the Pilgrims' first Thanksgiving. It gives me great pleasure not only to recognize the wild turkey for its unique place in our Nation's history, but also to recognize the NWTF and to call on all Americans to do the same.

I urge my colleagues to support this joint resolution and ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RESOLUTION 344

Whereas wild turkeys were plentiful and were hunted and used for food at the time the pilgrims first came to America;

Whereas since the first official Thanksgiving Day in 1863 the turkey has been a favorite Thanksgiving table fare;

Whereas wild turkeys are native to 39 States;

Whereas by 1942 wild turkeys existed in only 21 States, due to habitat destruction and market hunting;

Whereas scientific management and restoration have dramatically increased the range of wild turkey populations within the United States;

Whereas every State but Alaska now has a wild turkey population;

Whereas the scientific management and restoration of wild turkey populations bring recreational opportunities to almost 10,000,000 people annually and contribute $500,000,000 annually to the economy of the nation; and

Whereas the return of the wild turkey to the entire nation has been one of the greatest conservation marvels of this century; Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of November 18 through 24, 1990, is designated as "National Wild Turkey Week";

(2) November 22, 1990, is designated as "National Wild Turkey Day,"; and

(3) the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week and day with appropriate activities and programs.

By Mr. D'AMATO:

S.J. Res. 345. Joint resolution designating August 20 through 26, 1990, as "National Headache and Jaw Joint Disorders Week"; to the Committee on the Judiciary.

NATIONAL HEADACHE AND JAW JOINT DISORDERS WEEK

● Mr. D'AMATO. Mr. President, I rise today to introduce a joint resolution to designate August 20–26, 1990, as "National Headache and Jaw Joint Disorders Week".

Tens of millions of individuals in the United States experience frequent debilitating headaches each year. These headaches often result in absence from work and a reduction in the quality of life. Nearly 50,000,000 individuals in the United States suffer from temporomandibular joint—TMJ or jaw joint—disorders and disease, which, along with dysfunction of the muscles of the head and neck, are a major source of head pain.

The American Academcy of Head, Neck, Facial Pain and TMJ Orthopedics, a leading nonprofit scientific and educational organization, encourages research and promotes principles to alleviate pain in a safe and painless manner. Fellows of the academy have made it possible for thousands of individuals who suffer headaches and TMJ disorders to return to employment and improve the quality of their lives.

The American Academy of Head, Neck, Facial Pain and TMJ Orthopedics will hold its 6th national symposium on August 24–26, 1990. The symposium will be attended by specialists in head and facial pain from throughout the United States and the world.

I hope my colleagues will join me in cosponsoring this important resolution to recognize and combat the increasing incidence of headache pain.●

ADDITIONAL COSPONSORS

S. 160

At the request of Mr. THURMOND, the names of the Senator from Oklahoma [Mr. BOREN], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 160, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict.

S. 307

At the request of Mr. DODD, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 307, a bill to provide for the standardization of advertised yields on savings accounts and investments, to require the uniform disclosure of the key costs of such accounts and investments, and for other purposes.

S. 416

At the request of Mr. DECONCINI, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost-of-living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 435

At the request of Mr. REID, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules determining contributions in aid of construction.

S. 1273

At the request of Mr. BOREN, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1273, a bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets.

S. 1349

At the request of Mr. PRYOR, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1349, a bill to amend the Internal Revenue Code of 1986 to exclude small transactions and to make certain clarifications relating to broker reporting requirements.

S. 1860

At the request of Mr. BOREN, the names of the Senator from Illinois [Mr. SIMON], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Hawaii [Mr. AKAKA], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1860, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 1878

At the request of Mr. GRAHAM, the names of the Senator from Montana [Mr. BURNS], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 1878, a bill to amend title XIX of the Social Security Act to allow for State matching payments through voluntary contributions and State taxes.

S. 1890

At the request of Mr. THURMOND, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 1970

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

S. 1974

At the request of Mr. HARKIN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1974, a bill to require new televisions to have built in decoder circuitry.

S. 1981

At the request of Mr. HOLLINGS, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1981, a bill to permit the Bell Telephone Companies to conduct research on, design and manufacture telecommunications equipment and for other purposes.

S. 2025

At the request of Mr. HEINZ, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2025, a bill to amend the Internal Revenue Code of 1986 to make permanent certain expiring tax provisions.

S. 2041

At the request of Mr. SYMMS, the names of the Senator from Vermont [Mr. JEFFORDS and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2041, a bill to amend title XVIII of the Social Security Act to provide uniform national conversion factors for services of certified registered nurse anesthetists.

S. 2044

At the request of Mr. BIDEN, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2056

At the request of Mr. HARKIN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2056, a bill to amend title XIX of the Public Health Service Act to provide grants to States and implement State health objectives plans, and for other purposes.

S. 2114

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2114, a bill to promote excellence in American mathematics, science, and engineering education; enhance the scientific and technical literacy of the American public; stimulate the professional development of scientists and engineers; provide for education, train-

ing, and retraining of the Nation's technologists; increase the participation of women and minorities in careers in mathematics, science, and engineering; and for other purposes.

S. 2158

At the request of Mr. PRYOR, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2158, a bill to direct the Secretary of Health and Human Services to promulgate regulations to require that an individual telephoning the Social Security Administration has the option of accessing a Social Security Administration representative in a field office in the geographical area of such individual, and for other purposes.

S. 2215

At the request of Mr. HARKIN, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2215, a bill to amend the Public Health Service Act to provide for the development and operation of center to conduct research with respect to contraception and centers to conduct research with respect to infertility, and for other purposes.

S. 2229

At the request of Mr. DODD, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2229, a bill to reauthorize the Head Start Act for fiscal years 1991 through 1994, and for other purposes.

S. 2283

At the request of Ms. MIKULSKI, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Arkansas [Mr. BUMPERS], the Senator from Vermont [Mr. LEAHY], the Senator from Alaska [Mr. STEVENS], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Wisconsin [Mr. KOHL], the Senator from Massachusetts [Mr. KERRY], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 2283, a bill to amend the Public Health Service Act to establish a program of grants for the prevention and control of breast and cervical cancer, and for other purposes.

S. 2284

At the request of Mr. KASTEN, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2284, a bill to amend the Federal Food, Drug, and Cosmetic Act to define the term light or reduced fat butter, and for other purposes.

S. 2319

At the request of Mr. GARN, the names of the Senator from Kansas [Mr. DOLE], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2413

At the request of Mr. KERRY, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Alabama [Mr. HEFLIN], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2413, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoner or taken captive by a hostile foreign government or its agents or a hostile force before April 15, 1962, and for other purposes.

S. 2415

At the request of Mr. DOMENICI, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 2415, a bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Act of 1978.

S. 2559

At the request of Mr. KOHL, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2559, a bill to provide for a comprehensive approach to drug abuse prevention and treatment, and for other purposes.

S. 2569

At the request of Mr. LEVIN, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 2569, a bill to amend the Trade Act of 1974 to strengthen and expand the authority of the United States Trade Representative to identify trade liberalization priorities, and for other purposes.

S. 2591

At the request of Mr. BAUCUS, the names of the Senator from Montana [Mr. BURNS], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 2591, a bill to amend title XVIII of the Social Security Act to provide relief from certain regulations relating to physicians' services.

S. 2608

At the request of Mr. GLENN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2608, a bill to amend the Inspector General Act of 1978 to clarify the authority of inspectors general to conduct audits and investigations.

S. 2614

At the request of Mr. GRASSELEY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2639

At the request of Mr. DECONCINI, the names of the Senator from Indiana [Mr. COATS], the Senator from Nevada [Mr. REID], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2639, a bill to enhance the ability of law enforcement officers to combat violent crime in America by providing criminal and civil enforcement of standards established by the National Institute of Justice for body armor.

S. 2640

At the request of Mr. DASCHLE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2640, a bill to amend title XVIII of the Social Security Act to prevent fraud and abuse and encourage competition in the sale of medicare supplemental insurance.

S. 2663

At the request of Mr. MCCAIN, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2663, a bill to provide increased and special benefits to individuals involuntarily separated from the Armed Forces, and for other purposes.

S. 2677

At the request of Mr. LAUTENBERG, the names of the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 2677, a bill to extend for 2 years the operation of sections 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.

S. 2699

At the request of Mr. ROTH, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosposor of S. 2699, a bill to amend title 31 of the United States Code to restrict the use of appropriations amounts available for definite periods.

S. 2712

At the request of Mr. GRAHAM, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Washington [Mr. ADAMS], the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2712, a bill to establish a Financial Services Crime Division in the Department of Justice.

At the request of Mr. WIRTH, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2712, supra.

S. 2753

At the request of Mr. HARKIN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2753, a bill to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act.

S. 2754

At the request of Mr. BIDEN, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Hawaii [Mr. AKAKA], the Senator from Maryland [Ms. MIKULSKI], the Senator from Rhode Island [Mr. PELL], and the Senator from Iowa [Mr. HARKIN] were added as cosponsores of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

S. 2757

At the request of Mr. PELL, the names of the Senator from Colorado [Mr. ARMSTRONG], the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Florida [Mr. MACK], were added as cosponsors of S. 2757, a bill to amend the Foreign Assistance Act of 1961 to authorize the provision of medical supplies and other humanitarian assistance to the Lithuanian people to alleviate suffering during the current emergency.

S. 2785

At the request of Mr. D'AMATO, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2785, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide a lump sum payment to public safety officers who become totally and permanently disabled as a result of a catastrophic injury sustained in the line of duty.

S. 2787

At the request of Mr. D'AMATO, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 2787, a bill entitled the "Iraq International Law Compliance Act of 1990."

S. 2793

At the request of Mr. AKAKA, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Arkansas [Mr. BUMPERS], the Senator from West Virginia [Mr. BYRD], the Senator from Arizona [Mr. DECONCINI], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 2793, a bill to amend the United States Institute of Peace Act to honor the memory of the late Spark M. Matsunaga, United States Senator from the State of Hawaii, and for other purposes.

S. 2801

At the request of Mr. DOLE, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 2801, a bill to direct the Secretary of Health and Human Services to phase in the update to the area wage index used to determine the amount of payment made to a hospital under part A of the Medicare Program for the operating costs of inpatient hospital services for inpatient discharges occurring during fiscal year 1991, and for other purposes.

S. 2813

At the request of Mr. GRAHAM, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 2813, a bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

S. 2819

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2819, a bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes.

S. 2829

At the request of Mr. GRAHAM, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2829, a bill to require the President of the United States to make reports to the Congress on the status of the savings and loan crisis, and for other purposes.

SENATE JOINT RESOLUTION 277

At the request of Mr. LUGAR, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 277, a joint resolution designating October 6, 1990, as "German-American Day."

SENATE JOINT RESOLUTION 279

At the request of Mr. SPECTER, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 279, a joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. CONRAD], and the Senator from Montana [Mr. BURNS] were added as cosponsors of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990 as "National Give the Kids a Fighting Chance Week."

SENATE JOINT RESOLUTION 287

At the request of Mr. HATFIELD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Joint Resolution 287, a joint resolution requesting the President of the United States to negotiate agreements to achieve early prohibition of nuclear explosions.

SENATE JOINT RESOLUTION 298

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 298, a joint resolution to provide for the erection of a memorial in the Arlington National Cemetery to honor U.S. combat glider pilots of World War II.

SENATE JOINT RESOLUTION 329

At the request of Mr. DECONCINI, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-33," and to commemorate the Ukranian famine of 1932-33 and the policies of Russification to suppress Ukranian identity.

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. HATFIELD, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of the Congress with respect to achieving common security in the world by reducing reliance on the military and redirecting resources toward overcoming hunger and poverty and meeting basic human needs.

SENATE CONCURRENT RESOLUTION 111

At the request of Mr. HARKIN, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Concurrent Resolution 111, a concurrent resolution to express the sense of the Congress with respect to contraception and infertility.

SENATE CONCURRENT RESOLUTION 125

At the request of Mr. COHEN, the names of the Senator from Utah [Mr. GARN], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Concurrent Resolution 125, a concurrent resolution expressing the sense of Congress regarding adequate funding for long-term health care services provided through the medicare and medicaid programs.

SENATE CONCURRENT RESOLUTION 134

At the request of Mr. HEINZ, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Iowa [Mr. HARKIN], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Concurrent resolution 134, a concurrent resolution expressing the sense of Congress concerning a 1991 White House Conference on Aging.

SENATE RESOLUTION 277

At the request of Mr. WALLOP, the names of the Senator from Colorado [Mr. ARMSTRONG], the Senator from North Dakota [Mr. CONRAD], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Resolution 277, a resolution to express the sense of the Senate

strongly opposing any future use of the milk production termination program as a method of controlling the production of milk and milk products.

SENATE RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Washington [Mr. GORTON], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Resolution 296, a resolution to express the sense of the Senate the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

AMENDMENTS SUBMITTED

CIVIL RIGHTS ACT OF 1990

KENNEDY (AND OTHERS) AMENDMENT NO. 2110

Mr. KENNEDY (for himself, Mr. JEFFORDS, Mr. METZENBAUM, Mr. DODD, Mr. REID, Mr. MOYNIHAN, and Mr. LEVIN) proposed an amendment to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, as follows:

Strike out all after the enacting clause, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—It is the purpose of this Act to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o) The term 'required by business necessity' means—

"(1) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), bears a substantial and demonstrable relationship to effective job performance; or

"(2) in the case of employment practices not involving selection, bears a substantial and demonstrable relationship to a compelling objective of the respondent.

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices are required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order consistent with the constitutional requirements of due process of law; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons consistent with the constitutional requirements of due process of law.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government; or

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k))—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. If compensatory or punitive damages are sought with respect to a claim arising under this title, any party may demand a trial by jury.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties, except that prejudgment interest may not be awarded on compensatory damages.".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, national origin, sex, religion, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. CONGRESSIONAL COVERAGE.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 200e et seq.) is amended by adding at the end thereof the following new section:

"SEC. 719. CONGRESSIONAL COVERAGE.

"Notwithstanding any other provision of this title, the provisions of this title shall apply to the Congress of the United States, and the means for enforcing this title as such applies to each House of Congress shall be as determined by such House of Congress.".

FORD (AND STEVENS) AMENDMENT NO. 2111

Mr. FORD (for himself and Mr. STEVENS) proposed an amendment to amendment No. 2110, (in the nature of substitute) proposed by Mr. KENNEDY (and others) to the bill S. 2104, supra, as follows:

In the pending substitute amendment, strike section 16 on congressional coverage and insert the following:

SEC. . RIGHTS AND REMEDIES IN THE SENATE.

(a) COMMITMENT OF THE SENATE.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, of terms, conditions, or privileges or employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

FORD (AND OTHERS) AMENDMENT NO. 2112

Mr. FORD (for himself, Mr. STEVENS, Mr. HEFLIN, and Mr. RUDMAN) proposed an amendment to amendment No. 2111 proposed by Mr. FORD (and Mr. STEVENS) to the bill S. 2104, supra, as follows:

In lieu of the matter proposed to be inserted, insert

SEC. . RIGHTS AND REMEDIES IN THE SENATE.

(a) COMMITMENT OF THE SENATE.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(b) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Americans with Disabilities Act (S. 933, 101st Congress), the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(c) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in subsection (b), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(d) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in subsection (b).

(e) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in subsection (b), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in subsection (b). Such remedies shall apply exclusively.

(f) MATTERS OTHER THAN EMPLOYMENT.—

(1) IN GENERAL.—The rights and protections under the Americans with Disabilities Act (S. 933, 101st Congress) shall, subject to paragraph (2), apply with respect to the conduct of the Senate regarding matters other than employment.

(2) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, after approval in accordance with paragraph (3).

(3) For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(g) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in subsections (b) and (f)(1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of subsections (a), (c), (d), (e), (f)(2), and (f)(3) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

KASTEN AMENDMENT NO. 2113

(Ordered to lie on the table.)

Mr. KASTEN submitted an amendment intended to be proposed by him to the bill S. 2104, supra, as follows:

At the appropriate place in the legislation, add the following:

"Section 1101(b) of the Foreign Service Act of 1980 (22 U.S.C. 4131) is amended by striking out subsection (4)."

GRASSLEY (AND OTHERS) AMENDMENT NO. 2114

Mr. GRASSLEY (for himself, Mr. ARMSTRONG, Mr. MCCAIN, Mr. HELMS, and Mr. HATCH) proposed an amendment to amendment No. 2110 (in the nature of a substitute) proposed by Mr. KENNEDY (and others) to the bill S. 2104, supra, as follows:

On page 18, strike all from line 12 through end of section 16 and insert the following:

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of or one day after the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. RIGHTS AND REMEDIES IN THE SENATE.

(a) COMMITMENT OF THE SENATE.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(b) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Americans with Disabilities Act (S. 933, 101st Congress), the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(c) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in subsection (b), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(d) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed

of their rights under the Acts referred to in subsection (b).

(e) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid calm under the Acts referred to in subsection (b), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in subsection (b).

(f) MATTERS OTHER THAN EMPLOYMENT.—

(1) IN GENERAL.—The rights and protections under the Americans with Disabilities Act (S. 933, 101st Congress) shall subject to paragraph (2), apply with respect to the conduct of the Senate regarding matters other than employment.

(2) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect the rights and protections provided pursuant to paragraph (1)

(3) For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration. The provisions of subsections (a), (c), (d), (e), (f)(2), and (f)(3) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

SEC. 17. APPLICATION TO CONGRESS.

Notwithstanding any other provision of law, the rights, protections, and remedies made available under the Civil Rights Act of 1964 with regards to employment shall extend to the employees and prospective employees of members of the Senate. Such employees or prospective employees who are aggrieved by a violation of such Act shall have a private cause of action against the individual or entity that has engaged in the violation of such employees rights under such Act in the appropriate district court of the United States.

(b) AMERICANS WITH DISABILITIES ACT.—Notwithstanding any other provision of law, the rights, protections, and remedies made available under the Americans with Disabilities Act with regard to employment and public accommodation shall extend to the employees, and prospective employees, of members of the Senate. Such employees, or prospective employees, who are aggrieved by a violation of such Act shall have a private cause of action against the individual or entity that has engaged in the violation of such employees rights under such Act in the appropriate district court of the United States.

HARKIN (AND OTHERS) AMENDMENT NO. 2115

Mr. HARKIN (for himself, Mr. GRASSLEY, and Mr. MCCAIN) proposed an amendment, which was subsequently modified, to amendment No. 2114 proposed by Mr. Grassley to the bill S. 2104, supra, as follows:

On page 18, strike all from line 12 through end of section 16 and insert the following:

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of or one day after enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. RIGHTS AND REMEDIES IS THE SENATE.

(a) COMMITMENT OF THE SENATE.—The Senate reaffirms its commitment to Rule XIII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(b) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Americans with Disabilities Act (S. 933, 101st Congress), the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(c) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in subsection (b), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(d) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in subsection (b).

(e) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in subsection (b), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Act referred to in subsection (b).

(f) MATTERS OTHER THAN EMPLOYMENT.—Americans with Disabilities Act (S. 933, 101st Congress) shall subject to paragraph (2), apply with respect to the conduct of the Senate regarding matters other than employment.

(2) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1).

(3) For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration. The provisions of subsections (a), (c), (d), (e), (f)(2), and (f)(3) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

SEC. 17. APPLICATION TO THE SENATE.

Notwithstanding any other provision of law, employees of a Senator or other supervisor of a unit of the Senate who are the aggrieved by a violation of the Civil Rights Act of 1964, as amended shall have a private cause of action against the Senator or other supervisor of a unit of the Senate that has engaged in the violation of such employee's rights under such Act in the appropriate district court of the United States in a manner consistant with the provisions of Section 717(c) and 717(d) of the Civil Rights Act of 1964.

(b) AMERICANS WITH DISABILITIES ACT.—Notwithstanding any other provision of law, the employees and prospective employees of a Senator or other supervisor of a unit of the Senate and other individuals with disabilities who are aggrieved by a violation of the Americans With Disabilities Act of 1990 (S. 933, 101st Congress) shall have a private cause of action against a Senator or other supervisor of a unit of the Senate that has engaged in the violation of such employees or individual's rights under such Act in the appropriate district court of the United States in a manner consistant with the provisions of Section 717(c) and 717(d) of the Civil Rights Act of 1964.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding an oversight hearing on Thursday, July 12, 1990, beginning at 9:30 a.m., in 485 Russell Senate Office Building on Indian irrigation projects.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a joint hearing with the House Interior Committee on Tuesday, July 17, 1990, beginning at 2 p.m., in 1324 Longworth House Office Building on H.R. 5063, the Fort McDowell Indian Water Settlement.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce that the field hearings previously scheduled in Honolulu, HI, before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources for Friday, July 13, on the reforestation of rare or declining varieties of native trees in Hawaii, and Saturday, July 14, on establishing a unit of the National Park System along the Ka Iwi Shoreline on the island of Ohahu, have been canceled.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the Senate and the public that a hearing scheduled before the Subcommittee on Energy Research and Development has been rescheduled.

The purpose of the hearing is to receive testimony on the Department of Energy's human genome project.

The hearing, originally scheduled to take place at 2 p.m., will take place at 9:30 a.m. on Wednesday, July 11, 1990, in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to provide written testimony for the printed hearing record should send it to the Subcommittee on Energy Research and Development, U.S. Senate, Washington, DC. 20510, Attention: Ben Cooper.

For further information, please contact Ben Cooper at (202) 224-7569.

SPECIAL COMMITTEE ON AGING

Mr. PRYOR. Mr. President, I would like to announce for the public that the Senate Special Committee on Aging has scheduled a hearing entitled "Disabled Yet Denied: Bureaucratic Injustice." The hearing will examine the disability determination process for Social Security disability insurance and supplemental security income.

The hearing will take place on Tuesday, July 17, 1990, beginning at 9:30 a.m. in room 628 of the Dirksen Senate Office Building in Washington, DC.

For further information, please contact Portia Mittelman, staff director at (202) 224-5364.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON READINESS, SUSTAINABILITY, AND SUPPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Readiness, Sustainability and Support Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 10, 1990, at 4:30 p.m. in executive session for markup of readiness and sustainability and support programs, to include military construction programs, of the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Committee on Commerce, Science and Transportation be authorized to meet during the session of the Senate on July 10, 1990, at 11 a.m. on recent problems with the Hubble space telescope and the space shuttle.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PRESONNEL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Manpower and Personnel Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 10, 1990, at 10:30 a.m. in executive session for markup of manpower and personnel programs of the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Defense Industry and Technology Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 10, 1990, at 9 a.m. in executive session for markup of defense industry and technology programs of the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Conventional Forces and Alliance Defense Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 10, 1990, at 2:15 p.m. in executive session for markup of conventional forces and alliance defense programs of the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PARTNERSHIP FOR EDUCATION

● Mr. GRAHAM. Mr. President, today I rise to commend a special school initiative in the Miami community.

One of the catch phrases we hear today is "public-private partnership." Sometimes that concept might seem vague, with little meaning in the real world.

But Mr. President, there is a project in Miami that exemplifies the finest attributes of a public-private partnership. If people need a definition of this phrase, they should visit the Little Havana Institute in Miami.

This institute, serving students from 6th grade to 10th grade, is the product of a partnership between the Cuban American National Council and the Dade County public schools.

A second school begins operation this summer in nearby Hialeah. These schools reach out to "at-risk" students, to keep these students in school so they'll have a chance in life. Mr. President, that's another phrase we hear today: "at risk." And, like other buzzwords, we're not always sure what it means. But the dedicated people who started The Little Havana Institute know what it means for a young person to be at risk.

On July 8, the friends and sponsors of this outstanding project will celebrate the opposite of "at risk," as the new school in Hialeah holds its first open house.

The opposite of "at risk" is feeling at home.

The opposite of "at risk" is nurturing a sense of confidence about the future.

The opposite of "at risk" is self respect.

Mr. President, the students who attend these schools, the Little Havana Institute and Hialeah Palm Centre Institute, come from many places. They are diverse, but share a common quest: To convert the American dream into reality.

The Cuban American National Council and the Dade County school system are partners in the progress of the Miami community, and today we salute them with pride.●

TRIBUTE TO SKIP NEWELL

● Mr. WILSON. Mr. President, I rise today to commend the exemplary community service performed by Skip Newell, one of California's and this Nation's true heroes.

Skip's long history of service began in 1974 when he joined the Laytonville Volunteer Fire Department in Mendocino County, CA. Soon after joining, Skip developed a medical rescue team which was soon answering over 200 calls per year. He has made over 600 difficult medical rescues, delivered babies in the most difficult conditions, and initiated lifesaving CPR over 30 times in the field. Skip has also served countless hours as a Red Cross first aid and CPR instructor, teaching hundreds of local residents the skills of life extension and safety.

In 1983, Skip expanded his commitment to Mendocino County by joining the sheriff's department after completing, on his own time and at his own expense, the training required by the California Commission on Peace Officer Standards and Training. Three years later, he had achieved deputy sheriff level I—the highest status possible—and has volunteered over 1,000 hours to the department. During his time as a volunteer deputy, Skip has been called to murders, assaults, and all kinds of threats of violence, and has consistently risked his life to protect his fellow deputies and citizens and to establish law and order in Mendocino County.

Despite his valiant commitment and personal sacrifice, Skip Newell's greatest contribution to the citizens of Mendocino County has been his ability to inspire a dream in the community around him. It was his vision of an adequate health-care system which inspired the city to raise thousands of dollars for its first ambulance, complete with emergency medical technicians II's, on-board drugs, IV set-ups, and heart monitor. And it was his

vision, leadership, and fundraising efforts which led to the founding of the Long Valley Health Center 15 years ago. The establishment of this center brought a doctor to an area where no doctor had practiced since 1920. The health center sees some 650 patients a month, and since its inception in 1977, has delivered over 100,000 medical visits.

I am proud to salute the tremendous contributions which Skip Newell has made to Mendocino County. I pray that his efforts will serve as a shining example to us all.●

NEW JERSEY SYMPHONY IN IRELAND

● Mr. LAUTENBERG. Mr. President, on July 13 through the 29th, the New Jersey Symphony Orchestra and Ireland's National Symphony Orchestra along with acclaimed Irish and European soloists such as James Galway, John O'Connor, Barry Douglas, to mention a few, will put on a very special presentation. They will present a premier performance in summer residence on the grounds of the elegant Adare Manor, a 845-acre estate in Ireland.

The Adare Festival marks the first time ever an American orchestra will establish an international music festival in Europe. I am proud that the New Jersey Symphony Orchestra has taken the lead in this significant cultural exchange. This cultural link between New Jersey and Ireland is especially fitting, given the robust Irish-American community in New Jersey.

I salute the New Jersey Symphony Orchestra and its music director, Hugh Wolff, and Ireland's National Symphony Orchestra and all those who help in putting together this much celebrated event, and I wish them a successful festival that is repeated in the years to come.●

THE HISTORY OF FORT KNOX AND ARMOR

● Mr. McCONNELL. Mr. President, 50 years ago today a War Department directive established the foundations of Fort Knox's Armor School and Armor Center. Although that installation has a distinguished history dating to 1918, these missions lent Fort Knox the title "Home of Armor."

In order that my colleagues may better appreciate Fort Knox and its contributions to our Nation's defense, I ask that the Department of the Army's "History of Fort Knox and Armor" be printed in the CONGRESSIONAL RECORD. I think it is also fitting to extend congratulations and kudos to Maj. Gen. Thomas Foley, commanding general, on the 50th anniversary of armor.

The article follows:

THE HISTORY OF FORT KNOX AND ARMOR

Fort Knox—the Home of Armor—has served as a U.S. Army military reservation since 1918. During this time it has played an integral part in the training of active duty and reserve members of the Army.

The history of Fort Knox involves not only the reservation, but also the surrounding area. As early as 1862 the 6th Michigan Infantry constructed fortifications and bridges north of the present reservation boundaries. During the Civil War, Union and Confederate forces were active in the area. Both General William T. Sherman and General Don Carlos Buell and their troops occupied the hills near the Ohio River, and in 1862 General John H. Morgan, leading the 2d Kentucky Cavalry, raided the area and captured federal troops.

In 1903 large scale Army maneuvers took place near Stithton, Kentucky, which was located in and around what is now the traffic circle on post. At that time Congress was considering the area as a site for a military installation, but it was not until the United States became involved in World War I that 10,000 acres were leased in January 1918. Before that the U.S. Army had a small field artillery corps and no training areas. During WW I four artillery training centers were established, including one at Stithton. The new artillery cantonment was named Camp Henry Knox (shortened to Camp Knox) in honor of Maj. Gen. Henry Knox, the Revolutionary War Chief of Artillery.

On 25 June 1918 $1.6 million was allocated to purchase 40,000 acres. In July construction began on the camp facilities. However, the signing of the Armistice and reduction of the Army during 1921-22 curtailed construction activities. The camp was then as a permanent installation, and from 1922 to 1932 it was used primarily as a training center for the Fifth Corps area, Reserve officers, Citizens Military Training Camps (CMTC) and National Guardsmen. In 1925 it was designated as Camp Henry Knox National Forest, but this status ended in 1928, when two infantry companies were assigned to the camp.

Fort Knox has been most closely identified with Armor and the Armored Force. The United States established a Tank Corps in 1918 to accompany the American Expeditionary Forces to Europe and used tanks as the spearhead element in the engagements in which they participated. However, their inherent force and capabilities were diluted because the vehicles were employed in long, thin, scattered lines. In 1920 the Tank Corps were abolished as a separate branch, and all armored vehicles were assigned to the Infantry.

After WW I the British continued to employ mechanized forces. That was the impetus for the U.S. Army to mechanize and develop its Armored concept. In 1929 the War Department decided to organize a mechanized force, and funds were appropriated to implement mechanization. Lt. Col. Adna R. Chaffee was directed to develop the armored concept and to conduct the initial maneuvers. The Armored Force was organized as an experimental force, with the idea of it becoming an integral part of the Army. The War Department centralized the mechanization into the two combat arms they thought could best exploit Armor's capabilities—Infantry and Cavalry—and gave Cavalry the specific mission of developing a mechanized force. Both branches used the tank as an additional weapon, but Cavalry substituted the machine for the horse and used it in what had been Cavalry's traditional mission: reconnaissance, pursuit, envelopment and exploitation.

The first commander of the Armored Force was Col. Daniel Van Voorhis. Fort Eustis, Virginia, was selected as the site for the experimental force. However, as Col. Van Voorhis and Gen. Chaffee discovered, the area lacked the necessary maneuver terrain. They both felt the size and varied terrain of Camp Knox was more suitable for organizing and training the "Mechanized Cavalry Brigade." In November 1931 the first elements of the Armored Force began moving into Camp Knox. It was here that the new vehicles and concepts were tested.

The Third Army held mechanized maneuvers in Georgia and Louisiana in 1940 in what has become known as the "Louisiana Maneuvers." That was the first real test and evaluation of the mechanized force. However, the commanders used only traditional Cavalry and Infantry tactics—they did not take advantage of the special capabilities of the armored vehicles. Following these maneuvers, Gen. Chaffee, Col. George S. Patton Jr., and others met. They decided that the Army had to start a unified development of armored units, separate from Cavalry and Infantry. The German blitzkrieg of Poland and France led to new thoughts on the uses of Armor and provided additional impetus for the formation of armored units.

Congress designated Fort Knox as a permanent garrison on 1 January 1932. Later the Treasury Department selected a portion of Fort Knox as the site for the gold depository, and in 1936 the U.S. Bullion Depository was completed. The first gold shipments arrived between January and June 1937. The building and adjacent grounds are now under the control of the Director of the Mint.

In July 1940 the Armored Force was created with the Headquarters, I Armored Corps; 1st Armored Division; Armored Force Board, and a comparatively small Armored Force School centered at Fort Knox. The School and Armored Force Replacement Training Center were officially authorized on 1 October 1940, and their functions were initially combined. On 25 October 1940 they were redesignated as separate units. The School trained men in both military fundamentals and specialized areas such as Armor tactics, communications and gunnery. It expanded rapidly as World War II and the need for Armor grew. The School opened with a cadre of 155 officers and 1,458 enlisted men; by May 1943 there were more than 700 officers and 3,500 enlisted men. The School itself used more than 500 buildings. In addition, to increase the number of graduate classes started weekly rather than quarterly. At its peak the School operated on two daily shifts to accommodate the requirements for qualified Armor personnel. During this time, construction activities rapidly expanded the post. In 1940 there were 864 buildings; by 1943 there were 3,820—a rate of 160 buildings a month. By 1943 the total acreage had increased to 106,861 acres.

Since then, Fort Knox has remained the site for the Armor Center.

The mission of the Armor Center is to train officers and enlisted soldiers for mounted combat, to develop weapons and tactics for their use and to establish doctrine for the Armor force.

The Armor Center is a subordinate command of the Training and Doctrine Command (TRADOC). It is the largest of all TRADOC installations in population, operating budget and mission.

One of the most important functions of the Armor Center is training the individual soldier. Initial entry soldiers in training at Fort Knox today are young and usually arrive in poor condition. Most come from urban areas and are away from home for the first time. The majority of them are single and unskilled. At the Armor Center they begin the conversion from civilian to soldier. They develop discipline, esprit and certain combat skills. They are prepared physically and mentally for assignment to units throughout the world.

The 1st Training Brigade is one of two brigades that conduct initial entry training. The 1st Brigade is the Army's only Armor/Cavalry training unit. It trains all armor and cavalry crewmen for the Armor force worldwide. It also trains about 500 Marines under a joint defense agreement.

Armor crew training emphasizes hands-on work. Crewmen now get five times more driving than they did before January 1977. Gunners and loaders get nearly three times more practice in their jobs. New techniques such as sub-calibre and laser firing enhance hands-on training. Turret trainers and driver simulators supplement actual tank use to reduce costs.

The 4th Training Brigade offers basic training to individuals who volunteer for other specialties. They take advanced individual training elsewhere. The 4th Brigade, with the II ROTC Region, also conducts the Army's only ROTC Basic Camp, which prepares about 2,000 college students each summer for ultimate commissioning.

The Armor Center is also responsible for other institutionalized training for both active and reserve soldiers. That training includes officer, noncommissioned officer and enlisted programs. The Armor Officer Advanced Course prepares officers for company command.

Enlisted courses include master gunner, turret mechanic and tracked vehicle mechanic. In the Armor Officer Basic Course a hands-on approach develops the officer's skill as an Armor or Cavalry crewman. The officer performs all crew duties, including maintenance, driving and firing. Only when these skills are fully developed does he take part in tactical exercises. Crew training and tactical experience round out the lieutenants ability to train his platoon and lead it in combat.

Today Fort Knox is a post of 109,064 acres (171.4 square miles) with a day-time population of more than 40,000 military and civilians. The installation serves more than 110,000 persons, including active Army personnel and retirees and their family members and Reserve personnel. It is considered to be the sixth largest community in the Commonwealth of Kentucky.

THE SYMBOL OF ARMOR

The familiar tri-colored, triangular patch with superimposed symbols has a special significance for the students of heraldry, the historian and the proponents of the combined arms doctrine.

When the Tank Corps was established, Col. Samuel D. Rockenbach directed that a coat of arms be created for this new force on the battlefield. It followed old armorial methods and had a shield (silver). The dragon had been the charge on the coat of arms for the 1st Cavalry and represented the beginning of mounted combat—the Cavalry—while the triangle, a heraldic design element known as a pile (the head of a spear), represented the use of tanks as a spearhead element in the battlefield. The colors of the coat of arms—blue for Infantry, red for Artillery and yellow for Cavalry—represent the union of three separate combat arms whose integrity has been preserved, but who are linked to the traditions of the mounted soldier. This original coat of arms of the Tank Corps is now at the Patton Museum of Cavalry and Armor at Fort Knox.

The 7th Cavalry Brigade (Mechanized) contributed the figures representing Armor's capabilities. This brigade, formed out of the 1st Cavalry, 13th Cavalry and 68th Field Artillery, was organized in 1933 for training in mechanized warfare at Fort Knox. The brigade patch used three figures to represent the new fighting concept being developed. It consisted of a superimposed tank track, gun and lightning bolt on a yellow oval background. The three figures convey the fighting characteristics of Armor. The tank track reflects mobility and Armor protection; the gun, its firepower; and the lightning bolt, its shock effect. These three characteristics—mobility, firepower and shock effect constitute the striking power and Armor and are the basis for its success on the battlefield.

After the formation of the Armored Force in 1940, the triangle of the Tank Corps and the figures of the 7th Cavalry Brigade (Mechanized) patch were combined, giving the Armored Force a patch of historic significance that linked its origin with the present. The function of the shield that once bore the Tank Corps charge was now taken over by the charge itself. The triangle became the field for the figures that characterized the Armored Force.

This patch was officially designated in November 1940 by the War Department to represent the stages of development not only of Armor, but also of the use of combined arms.●

NEW JERSEY 20TH ANNUAL IRISH FESTIVAL

● Mr. LAUTENBERG. Mr. President, on June 24 the 20th annual New Jersey Irish Festival was held at the Garden State Arts Center. This year's festival boasted many traditional Irish festivities and an impressive turnout of celebrants and participants.

The Reverend Monsignor P. Kevin Flanagan, pastor of St. Peter the Apostle assisted by more than 20 priests celebrated a Holy Sacrifice of the Mass. The choir of the Church of the Presentation of Upper Saddle River offered the music on this occasion.

Two world champion dance groups which had won titles in Galway, Ireland, participated. Step dancing was performed by the Verlin School of Irish Dance to the music of the Sean O'Neill duo from Ireland. Also on hand for this festive day was the Paddy Noonman Variety Show with comedian Paddy McGinty. Twenty bagpipe bands competed and a Celtic Cross band participated.

Irish youth sponsored by the Northern Ireland Children's Program participated with Irish-American organizations in games of Gaelic football.

There were over 40 cultural exhibits, including sheep shearing and many food vendors offering Irish wares.

This successful event boosted the Irish pride that abounds in the Garden State. Mr. President, I am pleased to recognize this successful festival, rich in cultural pride. May there be many more New Jersey Irish Festivals in the years to come.●

LAWANA SCOVILLE

● Mr. McCONNELL. Mr. President, I rise today to congratulate Lawana Scoville for being selected to hold the Selby Chair for Academic Enrichment in Sarasota, FL. She was chosen after a nationwide search to fill the position established by the Selby Foundation of Sarasota. According to Robert Perkins, executive director of the Selby Foundation, the Selby Chair was created to provide an added edge of excellence in the classroom and to make available a highly specialized resource person who can help teachers entice children to understand and love science.

Lawana Scoville truly deserves this prestigious position. She received her B.S., summa cum laude from Cumberland College and has an M.A. from Union College. She has been teaching in the Laurel County school system for 12 years and currently serves as chair of the science department for North Laurel Junior High. Mrs. Scoville was the recipient of the 1987 State Presidential Award for Excellence in Science Teaching, the 1988 Presidential Award for Excellence in Science Teaching, the 1989 World Book Science Teacher of the Year, the 1989 Pride of the Cumberlands Award and was named the 1989 Kentucky Academy of Science Outstanding High School Teacher. Mrs. Scoville has also had an article published in the World Book Encyclopedia and in the Senior Scholastic.

Mrs. Scoville has stated that the Selby Chair is a program that "is very flexible and the main emphasis will be to get students, teachers, and community excited about science." She plans to provide hands-on experience and make science fun for the children. Lawana Scoville is a dedicated science teacher who is striving to improve science education in our country. I congratulate her for being selected to hold the Selby Chair for Academic Enrichment in Sarasota, FL.

I hope that all of my colleagues will take note of Lawana Scoville's outstanding achievements, and I would like to insert into the RECORD several newspaper articles from the Laurel County Weekly, Times Tribune, and the Laurel News-Leader.

The articles follow:

[From the Laurel County Weekly]

SCOVILLE CHOSEN FACULTY CHAIR

(By S. Dwane House)

A local science teacher has been chosen for a "Chair for Academic Enrichment" in

elementary science for the Sarasota Public Schools of Florida.

Lawana Scoville, East Bernstadt, was chosen after a nationwide search to fill the position recently established by the William G. Selby and Marie Selby Foundation of Sarasota. Scoville will be the first person to hold the chair.

Robert Perkins, Executive Director of the Selby Foundation, says that the chair was established out of a desire to help give an added edge of excellence for the school system and to make available a highly specialized resource person for teachers and children.

The educational enrichment program will focus on different academic disciplines throughout the years, but will first tackle science, since it is proven to have impact in the earlier years of students.

Scoville will fill the position for the academic year of 1990-91.

Scoville currently serves as chair of the science department for North Laurel Junior High and has been with the Laurel County School System about 12 years. She received her B.S., Summa Cum Laude from Cumberland College and an M.A. from Union College. Scoville was the recipient of the 1987 State Presidential Award for Excellence in Science Teaching, the 1988 Presidential Award for Excellence in Science Teaching, the 1989 World Book Science Teacher of the Year, the 1989 Pride of the Cumberlands Award and was named the 1989 Kentucky Academy of Science Outstanding High School Teacher. An avid supporter of science fairs, Scoville has had ten students compete in the International Science and Engineering Fair.

She has also had an article published for the World Book Encyclopedia and Senior Scholastic.

Scoville, originally from Harlan, says it will be "hard leaving Laurel County, even for a year; everyone here has been so supportive."

Scoville's husband, John Scoville, a shop teacher at North Laurel says the board is going to give them a leave of absence and they plan to return next year.

"We are very excited about pursuing the educational opportunity to improve science in this country," Scoville says, "Emphasis must be placed on the elementary schools."

During the year that she will hold the first Selby Chair for Academic Achievement, Scoville will do demonstration science teaching in the elementary schools of Sarasota County, hold in-school workshops for science oriented persons and organizations capable of supporting the science curriculum in elementary schools.

[From the Times Tribune, Apr. 10, 1989]

LAUREL COUNTY TEACHER WINS NATIONAL SCIENCE AWARD

(By Susan Davis)

A Laurel County teacher has been named World Book Science Teacher of the Year.

Lawana M. Scoville was presented the award Saturday by Dr. Leon Lederman, the 1988 Nobel laureate in physics.

Scoville and her husband, John, traveled to Seattle, Wash. last week and the announcement was made during a breakfast banquet sponsored by World Book at the National Science Teachers Association Annual Conference.

She was among the three finalists in the nation. Scoville was also presented $1,000 for her outstanding science teaching techniques.

A science teacher at Laurel County for nearly 14 years, Scoville founded the school's annual science fair in 1982 and serves as director. Her students have been finalists seven times at the International Science Fairs.

She is also past winner of regional, state and national awards. In 1988, she was awarded the Presidential Award for Excellence in Mathematics and Science Teaching in Washington, D.C.

For the past four years, she has been a recipient of the Kentucky Academy of Science Education Award.

Scoville was also awarded the 1982 Alternate Kentucky Education Television Award.

She was also chosen as one of the Seventeen Magazine's Outstanding Teenagers in America.

Scoville graduated with honors from Cumberland College in biology and chemistry and earned a Master's degree in education from Union College.

"My challenge is to help my students give their very best performance. By using laboratory investigations and individual research projects, they learn an essential lesson. They learn to think," said Scoville.

She is the daughter of Ray and Lou Miracle of Loyal. She and her husband reside in East Bernstadt with their two children.

[From the Times Tribune]

LAUREL COUNTY TEACHER WINS PRESIDENTIAL AWARD

(By Susan Davis)

A Laurel County teacher has been recognized nationally for her efforts for educational excellence.

Lawana Scoville is a recipient of the 1988 Presidential Award for Excellence in Science and Mathematics Teaching and will represent Kentucky during honor ceremonies in Washington, D.C. this month.

In a letter from the science advisor to President Ronald Reagan, notifying Scoville of the honor, "your peers and others are recognizing your achievements as an outstanding teacher. With this award, the nation expresses gratitude to you and to other devoted and diligent teachers for the education of its children."

Scoville is an "excellent teacher—a real scholar," said Laurel County Superintendent Joe McKnight. "She's a fine example of what teachers in Laurel County and the Fifth Congressional District are striving for."

The award is a "big boost to all of us who are working so hard to improve the educational standing of the Fifth District," said Congressman Harold Rogers in a letter to Scoville congratulating her on the Presidential Award. "Your receipt of this award demonstrates once again that we have quality teachers in our schools who are helping our students become more competitive with other states."

With the award, Scoville will also receive $5,000 to use for school projects. She said she plans to use the money for additional computer equipment at North Laurel Junior High School where she teaches.

Scoville said her challenge as a teacher is to ensure her students perform their "very best."

The goals she sets for her students are based on her past challenges as a teenager. Scoville has established the basic theme of problem solving throughout both advanced and disadvantaged classes.

Through this, "they learn a lesson essential throughout life—they learn to think," she said.

Scoville, now a wife and mother of two, participated as a teenager in the International Science Fair for three years, winning a fourth place award.

She was chosen as one of the Seventeen Magazine's Outstanding Teenagers in America.

Scoville graduated with honors at Cumberland College, earning degrees in biology and chemistry, and earned a Master's Degree in education from Union College.

She has taught biology, physical science and advanced science at a number of schools.

Since teaching at Laurel County Junior High School, Scoville has implemented an advanced course called Science Research, is director of Laurel County Science Fair and is instrumental in obtaining businesses and individuals for the promotion of research projects for students.

She is a three-time recipient of the Kentucky Academy of Science Education Award and recipient of the state award for Presidential Awards for Excellence in Science and Mathematics and the Alternate Kentucky Educational Television Award.

Seven years ago, Scoville began the Laurel County Science Fair, Students' projects compete for cash prizes and scholarships at local, regional and international levels.

Seven of her students have been finalists at International Science Fairs and have won more than $25,000 in college scholarships.

One of the students won a research grant to work at the University of Kentucky and was one of 13 semi-finalists in the 1988 Kentucky Junior Science and Humanities Symposium.

Some of her students she works with do not have the money to attend college, said Scoville.

More important than the awards is the educational value and quality of the projects exhibited by the students. "Several students have almost dropped out of high school, but stayed when they became involved in science fairs and experienced success from their efforts," she said.

Although many obstacles may face southeastern Kentucky teachers and students today, "there are many of us working hard to give our young people all the opportunities needed to produce within themselves the confidence, knowledge and reasoning abilities to meet their own challenges," she said.

The daughter of Ray and Lou Miracle of Loyall, Scoville and her husband, John W. Scoville, also a Laurel County teacher, have two children, Johnny, 8, and Elizabeth, 2, and reside in East Bernstadt.

Scoville will travel to Washington, D.C., the week of Oct. 24, during Excellence in Teaching Week, and will meet with government officials, scientists and mathematicians as well as other award winners.

[From the Laurel News-Leader, June 6, 1990]

SCOVILLE TAKING SCIENCE EXPERTISE TO SARASOTA

(By Karen House-Combs)

Lawanna Scoville will be working her magic with science in another school district this fall.

Scoville, who has won national awards for her expertise as a science teacher, has been selected to hold the Selby Chair for Academic Enrichment in Sarasota, Florida.

She will be the first person to hold the position and working in the area of Elementary Science for the Sarasota Public Schools.

She and her husband, teacher John Scoville, will be taking a one-year leave of absence from the Laurel County School District.

Lawanna Scoville serves as chair of the Science Department for North Laurel Junior High School.

During her tenure with the local school district, Scoville served as director of the Laurel County Science Fair and has had 10 students compete in the International Science and Engineering Fair.

Robert Perkins, Executive Director of the William G. Selby and Marie Selby Foundation said Scoville was chosen after a nationwide search.

Perkins said the chair was established out of a desire to help give an added edge of excellence for the school system and to make available a highly specialized person for teachers and children.

Scoville said the program "is very flexible and the main emphasis will be to get students, teachers and the community excited about science."

She plans to provide as many hands-on experiences as possible to generate excitement about science and to make science fun.

The program is an effort to encourage students to pursue science as a career.

Studies are projecting a 600,000 shortage of scientists by the turn of the century, according to Scoville, who added that society desperately needs scientists.

"We're trying to show students science is a way of thinking, not just a set of facts," she said. "Society will also have problems in the future that will have to be dealt with by science-literate people."

"It's very important that we do this in this country."

The Selby Chair is designed to give teachers a resource person who can help them entice children to understand and love science. Studies have also shown that the elementary level is a crucial time for students to retain or lose interest in science.

Instead of sending the school system's teachers to outside workshops, Scoville will be coming to their classrooms.

She explained that the Sarasota system already has a science director for elementary programs, and her job will be to supplement the elementary efforts even further.

Scoville was nominated for the position by Cumberland College President Dr. James Taylor.

Perkins had sent a letter seeking nominations for the chair to colleges and universities around the country, and Taylor nominated Scoville.

She received a letter from Perkins and decided to fill out the application forms.

Because the school district had undertaken a nationwide search, Scoville didn't think she had much of a chance.

She later received notification that she was a finalist and she and John flew to Sarasota for an interview.

"Even then," Scoville said, "I just considered it a nice trip to Sarasota. One of the other finalists was a former National Science Teacher Association president."

But she also had several national science teaching awards going in her favor.

In 1987 she received the State Presidential Award for Excellence in Science Teacher, the 1988 Presidential Award for Excellence in Science Teaching and was the 1989 World Book Science Teacher of the Year.

But the classroom teacher from East Bernstadt was chosen because of her unique perspective.

"They felt like I could relate to the teachers in the classroom because I was still in the classroom," she added. So instead of one classroom at North Laurel, she will be travelling to several dozen in Florida. In addition to the Shelby program, Sarasota is also one of the few elementary school districts in the country that has a JASON center.

JASON is the robot that explored the Titanic shipwreck, and JASON centers have a satellite hookup to the robot and the ship that's launching it.

JASON explores shipwrecks and bodies of water, and students are able to control the robot through the satellite link.

"Imagine a nine-year-old getting to control a robot underwater 400-500 miles away," Scoville said, "and tell me he's not going to be a scientist."

But the new opportunity will also be tinged with sadness.

"We're very excited about the opportunity to pursue this educational challenge," she said, "but it's kind of bad to have to say goodbye, even for just a year."●

TAIWAN ELECTIONS

● Mr. DASCHLE. Mr. President, on May 20, the Republic of China on Taiwan elected Lee Teng-hui to a 6-year term as President. I wish to congratulate President Lee on his impressive election victory and hope that he will continue efforts toward full democratization in Taiwan.

I also wish to congratulate Dr. Fredrick F. Chien on his appointment as Minister of Foreign Affairs. Dr. Chien has long served his government in many positions in the Ministry of Foreign Affairs, including Chief of Mission at the Coordination Council for North American Affairs Office in Washington. His experience in the United States will serve him well in strengthening the ties between our two countries.

Mr. President, I ask to have printed in the RECORD for my colleagues' information, the address of Lee Teng-hui on the occasion of his inauguration as the eighth President of the Republic of China on Taiwan.

The address follows:

MY DEAR COUNTRYMEN AND DISTINGUISHED GUESTS: The eighth session of the National Assembly elected me, Lee Teng-hui, to the eighth presidential term of the Republic of China. Today I, together with Vice President Li Yuan-zu, will take my oath of office in accordance with the stipulations of our Constitution. The entire people have charged me with a solemn office. With such a heavy responsibility on my shoulders, I will naturally do my utmost to adhere to the terms of the presidential oath, devoting my full efforts to protecting the country and enhancing the welfare of the people.

A look at the current world situation reveals that we now find ourselves in a great era of rapid change. The pursuit of political democracy, economic liberalization, and world peace by all of humanity is now a raging, irresistible tide that will inevitably destroy the shackles of systems that refuse to change with the times and the stockades of closed, totalitarian ideologies. Accordingly, the international situation has progressed from antagonism to conciliation. We, the Chinese people, naturally cannot exclude ourselves from this massive tide. Rising up to take advantage of this opportunity and lay a comprehensive and lasting foundation for the future of the Chinese people is the common responsibility of the 1.2 billion Chinese at home and abroad. It is also the duty of the people on our bastion of national revival, civilian and military alike, to lead the way with great wisdom, determination, and solidarity, based on our many years of experience and achievements in implementing political democracy and an economy that benefits the people. Accepting the people's high expectations and trust in these extraordinary times, I feel the weight of my responsibility is multiplied many times over. I earnestly hope that all compatriots continue to offer your support and encouragement, so that over the coming six years of this presidential term, I can execute my duties to the fullest and fulfill the mission history has given us.

The Constitution of the Republic of China was drafted in accordance with the bequeathed teaching of our founding father, Dr. Sun Yat-sen. Its goal is to clearly delineate the distribution of power, and incorporate the strengths of China and the West to establish a sound democratic system. However, the process of drafting the Constitution involved many twists and turns and compromises. At the time it was first put into effect, the nation was embroiled in war and chaos. In view of these special circumstances, the Temporary Provisions Effective During the Period of Mobilization for the Suppression of the Communist Rebellion were enacted. For the past forty-some years, under the leadership of the late presidents Chiang Kai-shek and Chiang Ching-kuo, this painstakingly executed design has made an undeniable contribution to maintaining stability on our bastion of national revival, and creating the miracle of the "Taiwan experience." Nevertheless, with the changing domestic and international situation and the increasingly ardent desire of the people for democratic rule of law, the political environment of our bastion of national revival is not the same as in the past. Everybody now recognizes that normal development of a system of constitutional democracy is the only path to thoroughly implementing political democracy. Thus it is my hope that a termination of the Period of Mobilization for the Suppression of the Communist Rebellion can be declared, in accordance with the law, in the shortest possible period of time. Furthermore, based on the many years of experience we have accumulated in implementing our constitution and on the needs arising from the current national environment, forward-looking and necessary revisions will be made to portions of the Constitution concerning such matters as the parliamentary organs of the central government, the system of local government, and government organization to provide the Chinese people with a legal code that is in accord with the trends of our times, and to establish a great model of political democracy for all times. This difficult task cannot be achieved in a single leap. The government will, in full sincerity and a spirit of selflessness, solicit the suggestions of people of all walks of life and cautiously and actively work at this task, so that, with the participation and encouragement of the people, it can be completed within a period of two years.

Equally important as innovation in our system of constitutional government is the institutionalization of party politics. Fair competition among political parties and entrusting decisions to the will of the people

are the best ways to ensure thorough implementation of constitutional democracy. I have stressed on many occasions that we must invest our full efforts in building up our system and in cultivating a sound concept of the rule of law, so that all political activities can be carried out within the framework of the system, and operate according to the standards of the law. However, I also wish to emphasize that any responsible political proposition must have identification with the Republic of China as its premise, and the welfare of all the people as its basis. The government will accelerate renovation of the judicial system to solidify our foundation for the rule of law, make the civil service system sounder to raise administrative efficiency, and ensure clean elections so that outstanding members of society can achieve their goal of serving the people through a process of fair elections. If we proceed gradually, one step at a time, our system of party politics will naturally become sounder over time, our foundation of democracy will naturally become firmer, and the time when the country is well-governed and enjoys lasting stability will naturally be in sight.

We know that there is a mutually complementary and mutually reinforcing relationship between a prosperous economy and the development of political democracy. Because the Taiwan-Penghu-Kinmen-Matsu area has over the past forty years implemented a free economic system oriented toward enhancing the people's livelihood, it has a brilliant record of both rapid growth and equitable distribution of wealth. This fruit of the efforts of all the people has long been known throughout the world, and it has served to create a successful theory and model for all the developing countries of the world. Looking to the future, the government will, in addition to adhering to its set policies of liberalization and internationalization so as to maintain the continued growth of the economy and trade, design a comprehensive plan for the use and development of our land, accelerate state-of-the-art scientific and technological research and transfer, advance the upgrading of industry, improve the production structure of agriculture and fishery, open up markets for foreign trade, and strengthen international cooperation, so that through a concerted effort, our economic development can in the six years to come expand its scope and horizons in its march toward a new level of achievement.

We believe that ensuring the people's well-being is the most important task of all development, and the fruits of all development should be enjoyed by all the people. In the process of economic development, the government should actively invest more in social welfare, and should, based on the particular circumstances of our country, learn from the experiences of more advanced countries and design a concrete program for the welfare of all the people, so that our citizens can live and work in safety and harmony, and the aged, weak, and handicapped can receive the care they need. At the same time, the government should also thoroughly implement ecological protection and prevention of public hazards, while improving traffic, public safety, and living environment conditions. In this way the people will not only have access to plentiful resources for their everyday life, but will also enjoy a rich and meaningful spiritual life, thus thoroughly realizing the ideals of prosperity and equitable distribution of wealth as prescribed in our Principle of the People's Well-Being.

We understand that culture and education are our nation's roots, and are the foundation of further national development. Any material or institutional development is destined to remain at a superficial level unless it is able to enrich our culture and raise our academic level. Through regional integration and cultural exchange, the overall development of the international community is gradually moving toward becoming an indivisible whole. This age of unprecedented vigorous development in our bastion of national revival is also the ideal time for making an objective review of our culture, and to choose and retain the best portions of it, and incorporate the strengths of other cultures where appropriate. We must begin with elementary school education, cultivating sound growth according to a plan, so as to set the minds and spirits of our people on the right track, mold their temperaments, and develop in them the life attitudes of placing a high value on ethics, being public-spirited and trustworthy, maintaining honor and discipline, and respecting the law. This will be turn promote the development of the Chinese cultural characteristic of being able to accommodate many diverse influences, thus making a valuable contribution to the well-being of mankind and world peace.

Fellow Countrymen, Distinguished Guests: Although development in the Republic of China over the past forty years has been restricted to the Taiwan-Penghu-Kinmen-Matsu area, all plans have been conceived with the future of all of China in mind. Taiwan and the mainland are indivisible parts of China's territory, and all Chinese are compatriots of the same flesh and blood. At this time when all of humanity longs for peace and is pursuing conciliation, all Chinese should work together to seek peaceful and democratic means to achieve our common goal of national reunification. In this time when the Communist countries of the world, including the Soviet Union, are declaring their renouncement of one-party dictatorship and the communist economic system, the Chinese Communists truly have no reason, and no strength, to continue to resist this trend over the long term. We sincerely hope that the Chinese Communists will become cognizant of the trends of the times, face up to the future, quicken their pace, and boldly march toward the goals of political democratization, economic liberalization, and social pluralization.

I would like at this point to earnestly declare that, if the Chinese Communist authorities can recognize the overall world trend and the common hope of all Chinese, implement political democracy and a free economic system, renounce the use of military force in the Taiwan Straits and not interfere with our development of foreign relations on the basis of a one-China policy, we would be willing, on a basis of equality, to establish channels of communication, and completely open up academic, cultural, economic, trade, scientific, and technological exchange, to lay a foundation of mutual respect, peace, and prosperity. We hope then, when objective conditions are ripe, we will be able to discuss the matter of our national reunification, based on the common will of the Chinese people on both sides of the Taiwan Straits.

Reunification, prosperity, and strength for China are the common hopes of all Chinese people. But in addition to the unshirkable responsibility borne by the people on both sides of the Taiwan Straits, overseas Chinese the world over always loyal and patriotic, also play an important role. The government must expend its greatest efforts to assist overseas Chinese in their economic enterprises and in cultural and educational work. We have particular concern for our compatriots in Hongkong and Macao, and hope that the Chinese Communist authorities will fully respect their rights to political and economic freedom. The government of the Republic of China will not pull out its organizations now based in that area, so as to help maintain the prosperity and stability of the Hongkong-Macao area and the well-being of all Chinese people.

At the same time, I wish to reiterate that the Republic of China is an independent and sovereign nation. We express our utmost admiration to the friendly countries who have maintained formal diplomatic relations with us over the years, and we value these relations highly. We also hope to be able to strengthen and upgrade mutual cooperation with countries who would like to treat us with friendship on a foundation of substantive relations. As a member of the international community, the Republic of China has, on a basis of equality and reciprocity, long adhered to international standards, participated in international organizations, and worked to carry out its international responsibilities. We will work even more actively and pragmatically to expand our freedom of action in international activities, promote international cooperation, and contribute our efforts toward greater prosperity and peace for the world community. It is our hope that we can continue to expand bilateral exchanges with the United States on the current basic, so as to enhance our traditional friendship and mutual interests. We hope that Japan will make even more constructive contributions to the future of both Japan and the Republic of China with a view to the long term. And we hope that through close cooperation with neighboring countries in the Asian-Pacific region we can together advance economic development in the region, to usher in the early arrival of the Age of the Pacific.

Fellow Countrymen, Distinguished Guests: Over two thousand years ago, Chinese culture gave birth to the ideal of a great world commonwealth of peace and prosperity. The political, economic, and social systems and goals that it entails are in full accord with those implemented and sought by modern free and democratic nations. A goal of these many years of untiring effort of the government of the Republic of China is also to achieve a renaissance and enhanced development of Chinese culture. We sincerely hope that during this generation, we can establish a political model of democratic rule of law, to lay the foundation for a prosperous and equitable economic system and to create a peaceful, happy, trusting, and harmonious society. We want Chinese the world over to be able to raise their heads and be proud, and live with meaning and dignity. We wish to solemnly declare to all Chinese as well as to the whole world that beginning now we are prepared with incomparable confidence to open a great and brilliant new era for the entire Chinese people.

Thank you.●

TRIBUTE TO RICH CASTRO

● Mr. WIRTH. Mr. President, I would like to take this opportunity to acknowledge the public service of a man in my State, who is not only a well-

known Hispanic community activist, he is also recognized as one of Colorado's most thoughtful and compassionate political leaders.

Mr. Rich Castro has served as a State legislator, school board member and currently works as the director of Community Relations and Human Rights for the city and county of Denver. He and his wife Virginia have been active in Denver's neighborhoods and schools for many years. He is a rare political figure: A man who has a reputation for firm convictions—but also a man whose temperament and style of leadership make him respected and well-liked even by those who disagree with his politics.

I have been involved in public life for many years in Colorado, and I can honestly report that I have never heard an unkind word directed at Rich Castro. He is a man with great heart—and I can think of no better tribute than to recall the words of the late Willy Velasquez, of the Southwest Voter Education Project, who said, "Politics rewards those who participate and punishes those who don't." Rich Castro has lived these words, and has dedicated his public life to the goal of getting more young Americans involved in community service.

I have great admiration for Rich, and without objection would like to have printed in the RECORD, a copy of an article by the noted Denver Post columnist, Tomas Romero.

The article follows:

[From the Denver Post, June 20, 1990]

RICHARD CASTRO BATTLES DEMAGOGUES

(By Tomas Romero)

Are these the signs of our Lines? More than three dozen separate incidents of anti-Semitic vandalism have occurred in our city in recent months. Targeting the Jewish community, perpetrators, besides setting buildings ablaze, have painted swastikas and other Nazi symbols on the properties.

The Denver City Council has issued a resolution condemning the activities; religious groups and leaders have followed suit. Among the outspoken critics of these reprehensible acts is Richard Castro, executive director of the Agency for Human Rights and Community Relations. Castro exploded with a strong statement deploring the conduct of the unknown cowards.

Opposition to racial and ethnic intimidation and bigotry is more than a job description for Castro; it is a way of life. In a time when many Federico Peña administration efforts are finally receiving credit, so also should the major's most unacknowledged asset. He's among the best of Denver.

For Castro to speak out is not surprising; what would surprise would be for him not to be there. A lot of people depend on Rich Castro to be the tip of the sword and to stand for principles that best exemplify the decent values of most Americans.

I have no doubt that the minuscule-minded punks who play night vermin, spray painting graffiti and wreaking violence on the innocent, are themselves a tiny part of our society. Most of us are better than that—even those who voice no outrage or disgust. It takes time to do that—to write a letter, attend a meeting, suggest solutions or offer a hand to a neighbor. A lot of us care, but avoid drawing attention to ourselves.

Yet, some of us will immerse ourselves in a tub of orange Jell-O to win a Super Bowl ticket. Radio talk show hosts will push a peanut with their nose down the 16th Street Mall, and a prize-hungry contestant will perform prat falls and parade around like a fool for a few extra bucks.

But anti-racism or bias protest has become unhip. College campus violence has risen dramatically, and the trend is frightening for anyone who still sees America as the best hope for the world.

I am proud of my friend—of his courage, his consistency, his unrelenting drive and commitment. There are true believers and then there are true believers. Richard Castro is the good kind of true believer. Those who know him know that a hurt to another is an affront to him. It requires a special brand of person to become a civil rights activist. Middle of the road will get you elected to the school board. "No comment at this time . . ." is safe haven for a side-stepping politico.

To those who are like the lion in the Wizard of Oz, wanting to be brave but not knowing how, I recommend watching Richard Castro and others like him in Denver and throughout Colorado. Silence is not golden, it is not a protector, Castro points out. It is *de facto* permission to continue, we know that. It emboldens those who need to be confronted.

Zero tolerance on bigotry. There is no other recourse.

Thomas Romero, a Colorado native, is active in educational and political affairs.●

MIMBRES INDIANS RECORDED SUPERNOVA IN 1054 A.D.

● Mr. DOMENICI. Mr. President, a recent archeological discovery involving Mimbres artifacts from southwestern New Mexico have highlighted the importance of protecting our Nation's archeological resources.

The Mimbres people were part of the Mogollan culture that was one of the three great civilizations that developed in the American Southwest thousands of years before the arrival of the first Europeans.

The Mimbres people lived between 200 and 1150 A.D., and at the peak of their culture they built pueblos that were among the largest in the Southwest and a sophisticated system of stream-diversion irrigation. They are most noted, however, for their extraordinary black-on-white pottery using geometric and representational designs.

Many Mimbres archeological sites are found throughout southwestern New Mexico. It is estimated that 90 percent of these sites have been looted.

Researchers have discovered that the Mimbres Indians recorded a supernova by painting it on a piece of pottery that dates to the year 1054. This artifact has stirred great interest among archeologists, astronomers, and anthropologists. The reason this particular find is so monumental is that it was used to confirm data on the supernova that was recorded by astronomers in Japan and China in the same year.

The importance of this discovery is highlighted by the attention that it received in both the New York Times and the Washington Post.

Mr. President, as this recent development demonstrates, we need to ensure that future research of this nature can occur by protecting the many sites that contain archeological artifacts. Recognizing this fact, I have worked very hard to protect archeological treasures from looters who have helped themselves to many artifacts that could have been useful to science. This looting has not only deprived the public of these artifacts, but also prevented researchers from analyzing the artifacts and obtaining important information from them.

Mr. President, throughout my years in the Congress I have sought to provide adequate protection to our Nation's archeological resources by extending Federal protection to archeological sites. For instance, I sponsored the legislation that protected the remains of the Chacoan Anasazi Indian culture by creating the Chaco Culture National Historical Park and Archeological Protection Site System. Currently, the Petroglyph National Monument Establishment Act, which I authored to protect important Indian rock drawings in New Mexico, has passed in both the House and Senate and is awaiting the Presidents signature. I am a cosponsor of legislation pending before the Senate, S. 2429 to protect the resources of the Mimbres people be establishing a Mimbres Culture National Monument.

In addition, I have sought to toughen the laws protecting our Nation's archeological resources. I wrote the Archeological Resource Protection Act of 1979 and the 1988 amendments that strengthened ARPA. These laws provide stiff penalties for the theft or destruction of archeological artifacts on Federal land.

However, even though these are examples of legislation addressing the need to protect archeological resources, there is still much to be done. Even as we speak, our Nation's archeological heritage continues to be bought and sold as quaint curios. This state of affairs simply cannot continue.

As the recent Mimbres discovery proves, there is much to be gained from the protection and proper management of these resources. We are not just safeguarding pretty pottery, but rather are guarding what could be valuable scientific data. These treasures may have great impact on the future of our Nation and our world. As trustee of these pieces of human history, the Federal Government has an obligation to assure that these resources are not destroyed or stolen by those who have no respect for the past or

the future. I hope that the Senate will continue to support efforts to preserve and protect archeological resources.

Mr. President, I ask that the articles from the New York Times and the Washington Post that I referred to be printed in the RECORD at this point.

The articles follow:

[From the Washington Post, June 18, 1990]

ARCHEOLOGY: SUPERNOVA IN AN INDIAN BOWL

A 900-year-old bowl made by the Mimbres Indians of southwestern New Mexico was said last week to provide the first unambiguous evidence that a massive star explosion, or supernova, witnessed 900 years ago by astronomers in China and Japan was also seen in the New World.

Painting on the bowl depicts a sunburst, believed to represent the explosion that created the giant glowing cloud of gas and dust known as the Crab Nebula, in the constellation Taurus, still a powerful source of X-ray emissions.

Old Chinese and Japanese records have enabled astronomers to determine exactly when the supernova happened. Archeologists had previously found etchings on rock walls in the Southwest depicting a bright star next to a crescent moon—the image that would have been seen—but their age could not be specified.

"The bowl provides us with the best supported historic record from the Western Hemisphere of the supernova . . . and it also goes far in telling us about the sophistication of a group of southwestern Indians," said R. Robert Robbins, an astronomy professor at the University of Texas at Austin.

Painting on the Mimbres bowl, made between 1000 and 1150 A.D. and found in southwestern New Mexico in the mid-1930s, depicts a 23-pointed sunburst—representing, scientists believe, the 23 days the explosion was visible. The star is positioned near a "moon" in the form of a black-painted rabbit curled into a crescent shape. Robbins noted many Southwest Indian cultures use the rabbit to symbolize the moon. Computer analysis indicates the depiction coincides with the positions of the supernova and crescent moon early on July 5, 1054, the date the explosion burst into view.—KATHY SAWYER.

[From the New York Times, June 16, 1990]

STAR EXPLOSION OF 1054 IS SEEN IN INDIAN BOWL

(By John Noble Wilford)

ALBUQUERQUE, NM, June 15.—When the prehistoric Mimbres Indians of New Mexico looked at the moon, they saw in its surface shading not the "man in the moon" but a "rabbit in the moon." For them, as for other early Meso-American people, the rabbit came to symbolize the moon in their religion and art.

On the morning of July 5, 1054, the Mimbres Indians arose to find a bright new object shining in the Eastern sky, close to the crescent moon. The object remained visible in daylight for many days. One observer recorded the strange apparition with a black and white painting of a rabbit curled into a crescent shape with a small sunburst at the tip of one foot.

And so the Indians of the Southwestern United States left what archeologists and astronomers call the most unambiguous evidence ever found that people in the Western Hemisphere observed with awe and some sophistication the exploding star, or supernova, that created the Crab nebula. The ethereal light of the spreading nebula, now visible by telescope in the constellation Taurus, is the best-known remnant of a recorded supernova.

SIGHTING IN CHINA

Dr. R. Robert Robbins, an astronomer at the University of Texas at Austin, said a Mimbres bowl decorated with the painting is "the most certain record of the supernova that has ever been discovered outside China and Japan." Of even more importance, he said, it provides new insights about the level of astronomical accomplishment of North American Indians, who have been overshadowed by the more advanced Aztec and Maya civilizations to the south.

Astrologers to the Emperor of China left documents of the sudden appearance of a bright object in the sky on July 5, 1054, and how it was visible in daylight for 23 days. Astronomers early this century determined that the descriptions fit the crab nebula.

The first indication that American Indians may have made a pictographic record of the phenomenon emerged in the last decade or so. Rock art dated at about the 11th century was found in several states that appears to depict a stellar object associated with a crescent moon.

Dr. John C. Brandt, an astronomer at the University of Colorado, said the Mimbres artifact "greatly strengthened" his earlier interpretation of the rock art as depictions of the Crab nebula supernova.

"It is more and more likely," he said, "that Native Americans recognized the event as something unique and significant and left us a record."

Analysis of the Mimbres ceramic bowl was made by Dr. Robbins and a graduate student, Russell B. Westmoreland, an archeologist. It was found nearly 60 years ago by University of Minnesota archeologists at Indian ruins near Silver City in southwestern New Mexico.

The Mimbres flourished from the 9th century until the early 12th century. Radiocarbon dating and other analysis showed the bowl was apparently produced at about the time of the Crab supernova, scientists said.

Of the 800 ceramic pieces found in the ruins, Dr. Robbins said, more than 200 were "narrative" bowls on which drawings illustrated stories about hunting, fishing and the "rabbit in the moon."

SOPHISTICATED ASTRONOMERS

The supposed supernova depiction was on a bowl customarily placed on a dead person just before burial.

"These people may have been the most sophisticated astronomers in the Southwest," Dr. Robbins said.

He and Mr. Westmoreland noted that 23 rays extended from the stellar object at one of the rabbit's feet. Since the number 23 seems to have had no significance in the culture, they speculated that it stands for the 23 days the supernova was visible in daylight.●

ALLEN COLLEGE, WATERLOO, IA

● Mr. GRASSLEY. Mr. President, I rise today to acclaim the opening of the new Allen College in Waterloo, IA, which offers educational opportunities in the health care field for all Iowans.

This new educational force by Allen Health Systems, in northeast Iowa is a unique joint venture with the University of Northern Iowa in Cedar Falls and Wartburg College in Waverly.

The bridge between these institutions will maximize learning opportunities by combining the strengths of clinical learning with the traditional college environment and activities.

The Allen College has been incorporated in direct response to public demand, and has the potential of being one of the best specialty-purpose institutions of learning in the State of Iowa, if not the Nation.

Programs offered by Allen include: 3-year diploma in nursing, radiologic technology education, clinical pastoral education, continuing education, staff development, medical education, and the newest offering, a bachelor of science in nursing degree program. All of these are in addition to multiple clinical affiliations with other health professional programs. The newest program will enroll its first students this fall.

Graduates of any of the programs offered by the new Allen College will be prepared to provide comprehensive care to clients in hospitals and other health care settings throughout the Nation.

The Allen College is an exciting educational venture committed to the future, and for this, I congratulate the administration, faculty, and students now enrolled and those who will come after.●

THE NEED TO PRESERVE NATIONAL SECURITY AS WELL AS SECURE A PEACE DIVIDEND: THE VIEWS OF GEN. COLIN POWELL, THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF

● Mr. McCAIN. Mr. President, during the last few months, we have seen more and more people seek ways to obtain a peace dividend by cutting defense spending, and fewer and fewer people seek to ensure that we have the military capability to ensure we have a peace. We have seen many Members of this body focus on finding ways to cut our budget deficit, sometimes in ways that would cut our defense budget to a level that could seriously endanger our security.

We need more than budget cuts, we need security. We need more than a plan for the fiscal year 1991 budget, we need an effective long-term strategy for national defense. This country will be around long after the details of this year's budget debate are forgotten. It must plan for the future as well as for the present.

This is the reason that I would like to call the attention of my colleagues to a recent speech by Gen. Colin Powell, the Chairman of the Joint Chiefs of Staff. I think we all share a common respect for General Powell, and for his outstanding achievements as a military officer. This speech will reinforce that respect, as well as help

provide the kind of strategic perspective we badly need, and I request that it be reprinted in the RECORD.

Let me also call the attention of my colleagues to one particular phrase in General Powell's speech:

Secretary Cheney and I do not have the luxury of planning against intent, or planning against a particular future. We must plan against existing capability, not existing intent. We must ensure against all futures.

May I suggest that important as cuts in the defense budget may be, we do not have the luxury of budgeting against intent, or budgeting for a particular future. We can make important reductions in defense spending, we can adapt our strategy to the very real changes taking place in the U.S.S.R. and Eastern Europe, but we cannot afford to avoid the continuing realities of Soviet power or ignore the fact that the rest of the world is still filled with potential threats and problems to our allies and strategic interests.

If we cannot project power, we cannot project peace. If we cannot deter, we cannot secure meaningful arms control agreements. If we cannot protect our friends, we cannot protect ourselves. These are enduring realities that General Powell remind us of, and which we must not ignore as we move on to debate the defense budget.

The speech follows:

ADDRESS BY JOINT CHIEFS OF STAFF CHAIRMAN GEN. COLIN POWELL, JUNE 22, 1990

General COLIN POWELL (Chairman, Joint Chiefs of Staff): Thank you very much. Thank you very much.

Thank you very much, Greg, for that very kind introduction. I'm always nervous at a National Press Club introduction because you always dredge up something I couldn't have possibly expected you would have dredged up, and you did it again today.

But it's good to be back at the National Press Club. The last time I was here was November of 1988, presenting my final major speech as National Security Adviser to President Ronald Reagan.

For those of you who may have been there at that time, you may recall that I took that opportunity to summarize the world situation as I saw it as the president's term was coming to an end. I recounted many of the positive trends that we saw in the world at that time. I observed that we had come a long way from the self doubt that had gripped our nation a decade earlier.

I suggested then that the world changes we were witnessing were rather fundamental. Because by 1988 the Soviet Union had abandoned its diplomacy of nyet in foreign affairs. Glasnost had become a catchword for openness within the Soviet Union. Perestroika had come out of the starting blocks, although less a policy at that time than a call to action to get the Soviet Union moving again.

We had had two superpower summits in six months. In arms control we were just set to begin implementing the new and historic INF treaty.

Yet at that time, November, 1988, the Warsaw Pact was still very much intact. Soviet forces had no plans to leave Eastern Europe. A year earlier President Reagan had called on President Gorbachev to back up his new political thinking with action. He called on him to come to Berlin to tear down the wall. But in November of 1988 that wall still stood.

And now, today, distant dreams are fast becoming a reality: a Europe whole and free; the Warsaw Pact disintegrating; Germany reunified.

And in the Soviet Union itself, President Gorbachev remains very much in charge, more powerful, but through his own policies sewing the seeds of his own weakness, planting the seeds of reform, reaping the harvest of hopefully peaceful revolution.

Now, INF treaty implementation is well behind us. In fact, just this past Monday, I attended the opening of a Smithsonian Exhibit of the U.S. Pershing II missile and the Soviet SS-20 missile standing side by side as museum pieces. In fact, as I stood looking at those two missiles and I reflected back at what we went through in 1986 and 1987 to get those treaties completed, it all came rushing in again.

And my wife was standing with me and I was able to finally, concretely, tell her what we were doing in those days. And she looked up and she asked me what the three things on top of the SS-20 were. And I said those were where the warheads went. And then as she looked a little longer, she asked the red-blooded American question: Why was theirs bigger than ours?

I gave five interviews in five minutes: One to Tass, to Isvestia, one to Pravda, one to the Moscow equivalent of Eyewitness News, and one to the Washington Times. That reporter was looking a little distressed, but nevertheless, asked for an interview on the subject of the INF treaty.

That exhibit of those two missiles, a fitting end to our resolve in NATO and our success at the negotiating table in Geneva.

So the differences between 1988 and 1990 are striking in Europe, but they're no less striking outside of Europe. In the Pershing Gulf the ceasefire that we had a lot to do with is holding. By our steadfastness there, we have strengthened our relationships with the many friends that we have in that region.

In Southern Africa we ended 1988 with an agreement, an historic agreement, that paved the way for Cuban troop withdrawals and promised independence for Namibia. Now the Cubans are well on their way to leaving. Namibia celebrated its independence this March. President Niama (phonetic) is here this week. Nelson Mandela is free. And taking our country by storm.

Slowly but inexorably the walls of apartheid in South Africa will prove as porous as the wall that tumbled down in Berlin.

At the end of 1988 Latin America left me with two particular disappointments: Panama, and Nicaragua. Today, those disappointments are gone, one by the force of arms to defend the ballot box, the other, by the ballot box to make the force of arms unnecessary.

Both countries are breathing new life into the word "democracy", and throughout our own hemisphere, only Castro's Cuba remains as before, a dictatorship in the false name of its own people.

And yet even there, even in Castro's Cuba, the waves of change are starting to lap over the seawall of oppression. The Pacific now remains relatively calm. The Middle East, Southwest Asia, and Africa are unfortunately still turbulent.

And in the nine months since I returned to Washington as chairman of the Joint Chief of Staff, the changes that have affected the business I'm now in have been simply incredible. In the last nine months I've lost a lot of old army buddies that I have served with for many years and have counted on for many years.

I've lost the Fulda Gap on the border between East and West Germany where I began my career as a second lieutenant during the height of the Cold War 32 years ago; where I returned in 1986 to command the United States Fifth Corps against the very best the Soviets had to put on the other side of the Fulda Gap.

Now the standoff at the Fulda Gap, gone. Within a short period of time the gap will be no more than a tourist stop in a unified Germany.

Another buddy, the Berlin Wall, is gone, symbol of oppression, with barbed wire dividing nations and separating families. And we learn once again that walls and barbed wire cannot block out ideas or imprison.

Another friend, the Warsaw Pact, is gone, an organization that makes headlines today only when some of its members advocate German membership in NATO or reaffirm its intention of going out of business.

The Brezhnev doctrine is gone, replaced by what Soviet spokesman Gennadi Gerasimov called, the Sinatra doctrine; each country going its own way.

One change has a particular poignancy to all of us today. Today, this morning, the gatehouse at Checkpoint Charlie in Berlin was removed. Does everybody remember Checkpoint Charlie? Remember the pictures of U.S. and Soviet tanks less than a few feet away with their mussles pointed at one another? It went away this morning. In 1990 Checkpoint Charlie had become a traffic hazard, and its new home is a museum. (Applause)

The changes we have seen are not only real; I believe that for the most part they are enduring. When Lenin set the course for what became the Bolshevik revolution, he asked rhetorically, what is to be done? Today in the Soviet Union the answer is loud and clear: be servant to the will of the people.

For years to come President Gorbachev and his successors will be grappling with ways to respond to that answer, from the people, to provide liberty and equality, to provide the ballot box and the breadbox.

The Soviet leaders will also be trying to deal with political, ethnic, economic and bureaucratic problems of incredible difficulty. So communism is dying as an ideology, as a political system, as a model for nations and people to emulate.

And communism's demise is happening in ways so unimaginable just a few months ago that it continues to dazzle us and knock our gyroscope off center. And you ask yourself, what can possibly match the revolutionary changes of the past 18 months. And the answer to that question is probably, the yet unknown revolutionary changes of the next 18 months.

And so far the changes we have seen have served our interest. They represent the success of the steadfast commitment of the American people to their allies and to their friends.

They represent the victory of values that we hold dear. They represent 40 years of American policy, 40 years of American purpose, 40 years of American power.

We can be proud of the role that we have played in bringing about the transformation that we see taking place before our eyes. And yet, while I too take pride in this transformation, I have been reminded again and

again since becoming chairman that this is still a dangerous world, and that you better be able to respond if someone challenges your interest.

I saw this happen in Panama. I saw this happen as we kept our presence in the Persian Gulf. We keep a presence off Liberia now, should it be necessary to assist American citizens in Liberia.

I saw it on a December evening a few months ago when we had to use a modest amount of military force in the Philippines to help a friend.

I saw it when we had forces ready to go to El Salvador when some Americans were in danger there during a crisis period.

I see it at the DMZ in Korea, where Americans still serve our interest.

I see it with our continued presence in Europe, and I see it with our involvement, increasing involvement, in the war on drugs.

So in my nine months as chairman, I have been privileged to witness some of the most exciting and hopeful changes imaginable; and I have also been asked in a world of continuing danger to send young men and young women in harm's way to serve their nation.

The question I now wrestle with as chairman is how to help the secretary of defense and the president shape our armed forces of the future in a way that is responsive to this welcome change; responsive to this new world; and yet, armed forces that will be adequate to deal with the dangers inherent in such an uncertain and tumultuous environment.

People clamor for new strategies, new vision, new thinking. My challenge is to filter out transient impressions and filter out the novelty of the new, and to seek out what is enduring, to determine what we can plan on with some certainty.

The fact of the matter is that communism's demise does not obliterate enduring realities in the world today—enduring realities that support enduring defense needs.

The first enduring reality is Soviet military power. President Gorbachev did not launch the revolutionary program he has set his course on to preside over the decline or disintegration of the Soviet Union, nor should we expect him to. He is as sincere in reforming his country as he is in ensuring that the Soviet Union continues to play a dominant superpower role in global affairs into the next century.

And so while we applaud his changes, while we are hopeful for a continuing reduction in the threat, we must plan for a changing world, not a changed world.

Secretary Cheney and I do not have the luxury of planning against intent, or planning against a particular future. We must plan against existing capability, not existing intent. We must ensure against all futures.

Once again, my friend Gennadi Gerasimov, who you all know, spoke earlier this spring to a group of American college students, and I was watching it on C/SPAN. He outlined a litany of Soviet failures. It was incredible to watch the Soviet spokesman describe to an American audience all that was wrong in the Soviet Union.

He said it was all in service to an ideology that was not working. He condemned his own ideology. But he ended his talk, before taking questions, by saying, but we haven't done everything wrong. There are some things we have done very, very well. And I leaned forward in my chair to see what Gennadi was going to take credit for. And what did he say? What did he top off his list with? We are a nuclear power. We are a military superpower.

That strategic nuclear power that Gerasimov highlighted is of No. 1 concern to us; it must be. For the Soviet Union, now and in the future, is the only country that has the capacity to destroy the United States in 30 minutes, now and in the future. Soviet nuclear power is their undisputed claim to superpower status. They won't give it up; don't expect them too. That's an enduring reality that I can never forget.

And in return we must ensure that our strategic nuclear forces, all three legs of our triad, are never second best. This is our single most enduring defense need. That is why you will find this administration and the chiefs continuing to fight for the B-2 bomber, modernized land- and sea-based systems, and to fight for the promise of SDI as essential components of that enduring defense need. At the same time we also have to press ahead with strategic arms negotiations to try to cap and reduce total numbers of nuclear weapons and to shift U.S. and Soviet nuclear arsenals to less destabilizing, less threatening systems. The emerging START treaty moves in that direction. It is clearly in our national interest, and I and the Joint Chiefs of Staff fully support it, and we fully support Secretary Baker's recent efforts to get that treaty down.

As we focus on Soviet strategic power, we cannot afford to ignore Soviet conventional forces and Soviet conventional power. We all tend to focus on the dramatic, on unilateral Soviet reductions, on pictures of Soviet tanks going home on trains. But in my office, late at night, when I review the bidding, I see another image, an image of Soviet conventional forces that, yes, are smaller, but they're modernized, they're intact, they still represent the major military power on the Eurasian land mass, a conventional armed force worthy of a superpower, albeit constrained by the new and enduring realities in Eastern Europe, and hopefully constrained by a future conventional forces in Europe reduction treaty. This enduring reality of Soviet conventional power relates to another enduring reality, and that is that we will continue in the future to have vital interests across the Atlantic—in Europe, in the Mediterranean, in the Middle East, and in the Persian Gulf. Across the Atlantic we must continue to participate in the evolution of a dynamic, prosperous, and free Europe through our continued presence and leadership in NATO, through the CSCE process, and as a partner with the European Community.

Across the Atlantic, in the Middle East and the Persian Gulf, we must be seen as engaged, leading, showing resolve, and demonstrating support for our friends and for our allies. The resulting enduring defense need is for us to remain forward-deployed militarily and engaged in all these regions across the Atlantic. This is essential because of our interests, essential because our friends want us there, essential because we want no adversary to be tempted by our absence, essential because of the reality of Soviet conventional power, and also essential because of the reality of other forces in the region. The armies in the Middle East, for example, total 2½ million soldiers, 22,000 tanks, and 43,000 armored fighting vehicles. In Iraq alone there are more tanks than Rommel had in his Afrika Korps. More than that, Iraq has more tanks that Rommel, Montgomery, and Eisenhower combined had during the North African campaign.

So even as we reduce, we must maintain the ability to deter and to defend. In addition to our forward-deployed forces across the Atlantic, we must maintain the ability here in the Continental United States to reinforce rapidly our forward deployments should it ever become necessary. This means heavy active forces, trained and equipped to deal with the modern heavy conventional capability that will still be possessed by the Soviet Union and other similarly equipped nations. It also means that we must invest in strategic air and sea lift to get us to the point of crisis should it be necessary to go there. It means maritime forces, Navy and Marine forces, to control the seas and to project power ashore. It means the continuing need for theater nuclear forces for deterrence and defense. It means the very best reserve forces we can have to provide staying power and critical skills, reserve forces that can be shaped as warning time assumptions change.

And so the forces we need to deal with enduring realities across the Atlantic are heavy land forces, strategic lift, air and maritime forces. These forces, yesterday, today, and in the future, will form a vital part of our national security insurance premium for the foreseeable future.

A third enduring reality lies to the West, in the Pacific, home to a third of humanity, home to an economic dynamism that seems unbounded, yet a home where we have fought two long bloody wars over the last 40 years. Today the nations of the Pacific and East Asia look to us for leadership, for counsel, for security. The Pacific is primarily a maritime theater which will evolve as our relationships evolve with Japan, Korea, the Philippines, China, the Soviet Union and others. We have been well-served over the last 40 years by our modest force presence in the Pacific. These forces, at even more reduced levels, coupled with a modest reinforcement capability from the United States, will continue to underpin the secure and prosperous environment and to protect our interests throughout the Pacific region.

And so our reduced Pacific presence represents another enduring defense need that will remain constant over time.

There's a fourth enduring reality. It's the reality of the unknown, of the uncertain. We live in a world in which peace and security, progress and hope, must live side by side with danger and turmoil, with tyranny and war, and for the contingency that no one ever predicted, for the contingency no one ever planned for, we have an enduring defense need to maintain ready, contingency and special operating forces, the kind we used in Panama, the kind standing guard off Liberia now. We must always be ready for the crisis that no one expected, for ones that involve our interests, our honor, our reputation, and the lives of American citizens, the ones that require the best-trained most ready GIs we have in our services, contingency forces which are light, mobile, ready to go on a moment's notice to stop a crisis before it begins or to resolve one quickly.

So I see our enduring defense needs rather clearly: modern strategic nuclear forces that continue to deter and defend any nuclear attack against this nation or our allies, an Atlantic force forward-deployed and here in the United States to protect our interests across the Atlantic, a Pacific force, modest in size, good return on our investment, to make sure that we do not disengage from the Pacific. And, finally, a contingency force for the unknown.

So we must not confuse a decline in defense spending or all of the changes we see

in the world with a decline in the nation's enduring defense needs to deal with the enduring realities we continue to face. We will debate the question of how much is enough, but the need for these forces, it seems to me, is without question. The need is constant, the need is enduring. the question, of course, is how much is needed, how large do each of these forces have to be to serve the purpose you describe.

Secretary Cheney presented to Congress earlier this week an illustrative way to achieve a 25-percent force structure reduction with a 10-percent budget reduction. He did this to demonstrate that we are willing to examine any reasonable proposal. He and I both believe, however, that the president's program for fiscal year 1991 and the plans we have sketched out to the Congress for the future reflect a realistic prudent response to the changing world, and the need to reduce our defense spending. On this glidepath that the president has set out we will reach a base force over time which I believe it is not prudent to go below if we wish to match enduring defense needs with enduring realities.

So this is what Secretary Cheney and I are fighting for. And there is no shortage of experts to say we can cut more, we can move more things here, we can move more things there—what's wrong with you guys, you can't see the future, you don't understand the situation. Both the devil theories and wishful thinking abound all over this town. And we will sort all of that out in the months ahead. But I want to make a point about the immediate future. The next six months for the Defense Department, for the armed forces of the United States, are critical. The Congress soon will make a judgment about the fiscal year '91 president's budget. Remember one thing as you cover, follow, or participate in this debate: the force we now have is the finest force this nation has ever had in peacetime, ever. It is an all-volunteer force. All those GIs are under contract, all are ready to do whatever is required to serve their nation. These are the people who will continue to protect American and her interests around the world.

We know we will get smaller—that is inevitable, that is the correct thing to do. We know that we must re-examine every program and every organization in the department to validate its relevance to our changing world and to changing requirements. But as we get smaller, we also need to get better. If we do it too fast, we won't get better, we'll get hollow. If we significantly cut the president's budget in '91, you will force us to start breaking faith with those GIs; you will force us to start breaking the back of our armed forces. If we suddenly cash in our insurance policy to buy a so-called peace dividend, you will get neither.

So we are looking ahead with our eyes open, we're cutting programs, we want to close bases, we've frozen construction and hiring, we're cutting units, we're cutting troops. Believe it or not, we're even starting to cut generals. What we need is not more insight on how to trim at the margin, what we really need is some breathing space; we need time to make the plans work and we need a gradual approach that will not break the armed forces, in a way that when next we need them we don't want to have to turn and say to the American people: wait, please, your armed forces are hollow and unready for action. That we must not let happen.

When I talked with you in November of 1988, I told you that I believed America and the Western world had every reason to be proud of what they had achieved and proud of the promise that the future held. I believe that is still true today.

Ladies and gentlemen, our work is not done. We remain the superpower leader of the West now and into the future. We remain the ultimate guarantor of peace and prosperity in the world. And we remain the beacon of hope and inspiration for all. Thank you all very much.●

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of Calendar Order Nos. 654, 655, 656, 659, 660, 661, and 664; that the committee amendment, where applicable, be agreed to; that the bills and joint resolutions be deemed read a third time and passed; that the resolutions be agreed to; that the motion to reconsider the passage of these bills and resolutions be laid upon the table; and that the title amendment, where appropriate, be agreed to.

I further ask unanimous consent that any statements relating to these calendar items appear at the appropriate place in the RECORD and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIBRARY OF CONGRESS SENIOR EXECUTIVE SERVICE ACT

The bill (S. 2472) to establish a Senior Executive Service in the Library of Congress, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Library of Congress Senior Executive Service Act of 1990".

SEC. 2. ESTABLISHMENT OF LIBRARY OF CONGRESS SENIOR EXECUTIVE SERVICE.

(a) The Librarian of Congress may establish and promulgate regulations for a Library of Congress Senior Executive Service that shall provide that—

(1) such Service shall be administered in a manner consistent with the provisions of section 3131 of title 5, United States Code;

(2) positions established in such Service are consistent with section 3132(a)(2) of such title;

(3) rates of basic pay—

(A) shall not be more than the maximum rate or less than the minimum rate for the Senior Executive Service under section 5382 of such title; and

(B) shall be adjusted at the same time and to the same extent as rates in the Senior Executive Service under section 5382 of such title are adjusted;

(4) a performance appraisal system shall be established and administered consistent with subchapter II of chapter 43 of such title;

(5) officers and employees in the Library of Congress Senior Executive Service may be awarded ranks by the Librarian of Congress consistent with section 4507 of such title;

(6) performance awards may be paid to officers and employees of the Library of Congress Senior Executive Service by the Librarian of Congress consistent with section 5384 of such title; and

(7) such officers and employees may be removed from such Service by the Librarian of Congress.

(b) Except as provided in subsection (a), the Librarian of Congress may apply any section of title 5, United States Code, that applies to an applicant for or officer or employees in the Senior Executive Service under such title to the Library of Congress Senior Executive Service.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 2108(3) of title 5, United States Code, is amended by striking out "or the General Accounting Office;" and inserting in lieu thereof "the General Accounting Office, or the Library of Congress Senior Executive Service;".

(b) Section 5342(a)(1) of title 5, United States Code, is amended—

(1) in subparagraph (J) by striking out "or";

(2) in subparagrpah (K) by adding "or" at the end thereof; and

(3) by adding at the end thereof the following:

"(L) the Library of Congress;".

SEC. 4. AUTHORIZATION.

There are authorized to be appropriated, for fiscal year 1991 and for each fiscal year thereafter, such sums as may be necessary to carry out the provisions of this Act.

SMITHSONIAN INSTITUTION SENIOR EXECUTIVE SERVICE ACT

The Senate proceeded to consider the bill (S. 2539) to authorize the establishment of a Senior Executive Service of the Smithsonian Institution, and for the other purposes, which had been reported from the Committee on Rules and Administration, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SEC. 101. SHORT TITLE.

This Act may be cited as the "Smithsonian Institution Senior Service Act of 1990."

SEC. 102. ESTABLISHMENT OF THE SMITHSONIAN INSTITUTION SENIOR SERVICE; RULES.

(a) The Secertary of the Smithsonian Institution, with the approval of the Board of Regents, may establish a Smithsonian Institution Senior Service.

(b) With the approval of the Board of Regents, the Secretary may make appointments to the Smithsonian Institution Senior Service and promulgate rules for such service.

(c) The rules shall be as consistent as practicable with the provisions of title 5, United States Code, relating to the Senior Executive Service; shall permit the inclusion of any position in the Institution which is classifiable at GS-16, 17, or 18 of the General Schedule, Level IV and V of the Execu-

tive Schedule, or an equivalent civil service position; and shall provide rates of pay and pay adjustments consistent with sections 5382 and 5383 of title 5, United States Code.

SEC. 103. AWARDS OF RANKS TO MEMBERS OF THE SMITHSONIAN INSTITUTION SENIOR SERVICE.

At its discretion, the Board of Regents may award ranks to members of the Smithsonian Institution Senior Service consistent with section 4507 of title 5, United States Code.

SEC. 104. RATES OF PAY: SAVINGS.

The rate of basic pay payable to an employee who, on the day before the date on which the Smithsonian Senior Service is implemented, is serving in a position to be covered by the service may not be reduced (solely by reason of the coverage) as long as such employee serves in that position without a break in service.

TITLE II

SEC. 201. ESTABLISHMNET OF THE NATIONAL GALLERY OF ART SENIOR SERVICE; RULES.

(a) The Director of the National Gallery of Art, with the approval of the Board of Trustees, may establish a National Gallery of Art Senior Service.

(b) With the approval of the Board of Trustees, the Director may make appointments to the National Gallery of Art Senior Serivce and promulgate rules for such service.

(c) The rules shall be as consistent as practicable with the provisions of title 5, United States Code, relating to the Senior Executive Service; shall permit the inclusion of any position in the National Gallery of Art which is classifiable at GS-16, 17, or 18 of the General Schedule, Level IV and V of the Executive Schedule, or an equivalent civil service position; and shall provide rates of pay and pay adjustments consistent with sections 5382 and 5383 of title 5, United States Code.

SEC. 202 AWARDS OF RANKS TO MEMBERS OF THE NATIONAL GALLERY OF ART SENIOR SERVICE.

At its discretion, the Board of Trustees may award ranks to members of the National Gallery of Art Senior Service consistent with section 4507 of title 5, United States Code.

SEC. 203. RATES OF PAY; SAVINGS.

The rate of basic pay payable to an employee who, on the day before the date on which the National Gallery of Art Senior Service is implemented, is serving in a position to be covered by the service may not be reduced (solely by reason of the coverage) as long as such employee serves in that position without a break in service.

TITLE III

SEC 301. ESTABLISHMENT OF THE WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS SENIOR SERVICE; RULES.

(a) The Director of the Woodrow Wilson International Center for Scholars, with the approval of the Board of Trustees, may establish a Woodrow Wilson International Center for Scholars Senior Service.

(b) With the approval of the Board of Trustees, the Director may make appointments to the Woodrow Wilson International Center for Scholars Senior Service and promulgate rules for such service.

(c) The rules shall be as consistent as practicable with the provisions of title 5, United States Code, relating to the Senior Executive Service; shall permit the inclusion of any position in the Center which is classifiable at GS-16, 17, or 18 of the General Schedule or in Level IV and V of the Executive Schedule, or an equivalent civil service position; and shall provide rates of pay and pay adjustments consistent with sections 5382 and 5383 of title 56, United States Code.

SEC. 302. AWARDS OF RANKS TO MEMBERS OF THE WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS SENIOR SERVICE.

At its discretion, the Board of Trustees may award ranks to members of the Woodrow Wilson International Center for Scholars Senior Service consistent with section 4507 of title 5, United States Code.

SEC. 303. RATES OF PAY; SAVINGS.

The rate of basic pay payable to an employee who, on the day before the date on which the Woodrow Wilson International Center for Scholars Senior Service is implemented, is serving in a position to be covered by the service may not be reduced (solely by reason of the coverage) as long as such employee serves in that position without a break in service.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time and passed.

The title was amended so as to read: "A bill to authorize the establishment of a Smithsonian Institution Senior Service and for other purposes."

ADDITIONAL SPACE FOR THE NATIONAL MUSEUM OF NATURAL HISTORY

The bill (S. 2540) to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL SPACE IN NATIONAL MUSEUM OF NATURAL HISTORY.

The Board of Regents of the Smithsonian Institution is authorized to plan, design, construct, and equip approximately 80,000 square feet of space in the East Court of the National Museum of Natural History building.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Smithsonian Institution for fiscal year 1991 not to exeed $30,000,000 to carry out this Act.

REAPPOINTMENT OF ANNE L. ARMSTRONG AS A CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 302) providing for the reappointment of Anne L. Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S.J. RES. 302

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Anne L. Armstrong of Texas on October 18, 1990, be filled by the reappointment of the present incumbent for a term of six years, effective on the day after the current term expires.

APPOINTMENT OF IRA MICHAEL HEYMAN AS A CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 318) providing for the appointment of Ira Michael Heyman of California as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S.J. RES. 318

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of A. Leon Higginbotham, Jr., of Pennsylvania on October 18, 1990, be filled by the appointment of Ira Michael Heyman of California. The appointment is for a term of six years and shall take effect on the date following the expiration of the current term.

PURCHASE OF CALENDARS

The resolution (S. Res. 304) relating to the purchase of calendars, was considered, and agreed to; as follows:

S. RES. 304

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $72,800 for the purchase of one hundred and four thousand 1991 "We the People" historical calendars. The calendars shall be distributed as prescribed by the committee.

PRINTING OF CERTAIN COMMITTEE PROCEEDINGS

The concurrent resolution (H. Con. Res. 272) authorizing the printing of the transcript of proceedings of the Committee on Post Office and Civil Service of the House of Representatives incident to presentation of a portrait of the Honorable WILLIAM D. FORD, was considered and agreed to.

The preamble was agreed to.

SENSE OF THE CONGRESS ON THE 25TH ANNIVERSARY OF THE FOSTER GRANDPARENT PROGRAM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of Senate Concurrent Resolution 136, expressing the sense of the Congress with respect to commemorating the 25th anniversary of the Foster Grandparent Program, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 136) expressing the sense of the Congress with respect to the 25th anniversary of the Foster Grandparent Program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DODD. Mr. President, today I want to recognize the outstanding contribution made by volunteers who participate in the Foster Grandparent Program. I have authored a concurrent resolution to recognize the 25th anniversary of the Foster Grandparent Program. I am pleased to have as cosponsors Senator COATS, the ranking minority member of the Subcommittee on Children, Family, Drugs and Alcoholism, Senator HATCH, the ranking minority member of the Committee on Labor and Human Resources, and Senator KENNEDY, chairman of our full committee. They all have a deep commitment to programs that encourage volunteerism and that help address the problems of our citizens who are most in need.

The Foster Grandparent Program is a rapidly expanding program that provides a valuable service both to children and to older Americans. In my home State of Connecticut, the program reaches every county. The volunteers work one-on-one with children afflicted with mental illness or with physical or learning disabilities. They also help to provide a loving, nurturing environment to children who are homeless or have been abused or abandoned. Today, the number of children born addicted to drugs or with AIDS is increasing. The foster grandparents give these children the care they need as they struggle against their afflictions and provide counseling and aid to the mothers.

The advantages of this program are not one-sided. The volunteers themselves gain a sense of worth, as they know they are making a necessary contribution to the community. I am certain that the experiences of Connecticut volunteers are representative. For example, they report their sense of accomplishment in enrolling two disadvantaged students in a community college or in seeing an abused 4-year-old learn to distinguish between colors. The children show their appreciation by sending letters and keeping in touch with their foster grandparents. The examples are limitless.

As the Foster Grandparent Program commemorates its 25th anniversary, many of the volunteers can look back on more than 20 years of their own association with the program. A 92-year-old grandparent, celebrating 21 years with the program, has been with one mentally retarded boy for 11 years. Referring to him as "her boy," she has helped him to develop and mature into a confident, caring individual.

The intent of this resolution is to show congressional recognition for those who have made the Foster Grandparent Program a success over the last 25 years—the volunteers, past and present, the local sponsoring projects, the community members with whom the projects and volunteers work, and those at the ACTION Agency who have facilitated the volunteer work. I hope that by recognizing two and a half decades of very important work, we will inspire even more of our citizens to come forward over the next 25 years.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 136) was agreed to.

The preamble was agreed to.

The concurrent resolution (S. Con. Res. 136), with its preamble, reads as follows:

S. CON. RES. 136

Whereas 1990 marks the 25th anniversary of the Foster Grandparent Program;

Whereas the Foster Grandparent Program is one of the most successful volunteer programs ever launched in the United States

Whereas the program has provided immeasurable opportunities for thousands of low-income older persons to volunteer their time for the benefit of children who have special needs;

Whereas thousands of children with special needs, including those who are mentally or physically disabled, emotionally disturbed, learning disabled, or who suffer from abuse and neglect or drug or alcohol dependencies, have benefited from the time and attention of older persons who choose to serve as foster grandparents;

Whereas in fiscal year 1990, 27,000 older persons will volunteer their time for the benefit of these children;

Whereas foster grandparents provide person-to-person assistance every day to more than 70,000 children with special needs;

Whereas foster grandparents serve four hours a day, five days a week in all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands;

Whereas volunteer services of foster grandparents are provided every day to children in hundreds of volunteer stations, including schools, hospitals, juvenile detention centers, Head Start programs, shelters for neglected children, and drug rehabilitation centers; and

Whereas Federal funds to support the Foster Grandparent Program are significantly augmented through contributions of State and local governments and the private sector: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—(1) the Congress recognizes the enormous contributions made by older persons who have volunteered as foster grandparents to benefit children who are faced with special challenges;

(2) the Congress commends the thousands of volunteers who have served and continue to serve the children in our society with special needs;

(3) on the 25th anniversary of the Foster Grandparent Program, the Congress reaffirms its strong support for the Foster Grandparent Program.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FURTHER REFERRAL OF NOMINATION OF STEPHEN ANTHONY TRODDEN TO BE INSPECTOR GENERAL, DEPARTMENT OF VETERANS AFFAIRS

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the nomination of Stephen Anthony Trodden to be inspector general, Department of Veterans Affairs, reported favorably earlier today by the Committee on Veterans Affairs, be further referred to the Committee on Governmental Affairs for not to exceed 20 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, JULY 11, 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Wednesday, July 11; that following the time for the two leaders, there be a period for morning business, not to extend beyond 9:30 a.m., with Senators permitted to speak therein for up to 5 minutes each; and that at 9:30 a.m., the Senate resume consideration of S. 1970, the crime bill; that upon resumption of the bill, under the previous agreement, Senators WIRTH and HEINZ be recognized to offer the S&L amendment; that the amendment be under a 30-minute time limitation, equally divided in the usual form; that upon completion of debate on this amendment there then be 30 minutes of debate on the bill, equally divided and controlled between Senators BIDEN and THURMOND; that the Senate then

proceed to vote, without any intervening action or debate, on the amendment and final passage of S. 1970 at 12:30 p.m., tomorrow, with the votes to occur back to back.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business and if no other Senator is seeking recognition, I now ask unanimous consent the Senate stand in recess under the previous order until 9 a.m. on Wednesday, July 11.

There being no objection, the Senate, at 9:12 p.m., recessed until Wednesday, July 11, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 10, 1990:

THE JUDICIARY

JOSEPH M. MCLAUGHLIN, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT VICE LAWRENCE W. PIERCE, RETIRED.

DEPARTMENT OF JUSTICE

JOE D. WHITLEY, OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS VICE ROBERT L. BARR, JR., RESIGNED.

ANTHONY L. BENNETT, OF MINNESOTA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MINNESOTA FOR THE TERM OF FOUR YEARS VICE ROBERT L. PAVLAK, TERM EXPIRED.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

JOYCE ELAINE TUCKER, OF ILLINOIS, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 1991, VICE CLARENCE THOMAS, RESIGNED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be permanent major general

BRIG. GEN. ROLAND LAJOIE, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. WILLIAM A. STOFFT, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. WILLIAM W. CROUCH, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. EDISON E. SCHOLES, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. SIDNEY SHACHNOW, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. ARTHUR E. WILLIAMS, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. THEODORE G. STROUP, JR., xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JAMES A. MUSSELMAN, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JAMES B. TAYLOR, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. PETER T. BERRY, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. WALTER J. BRYDE, JR., xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JAMES T. SCOTT, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. DENNIS V. CRUMLEY, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JERRY R. RUTHERFORD, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JAY M. GARNER, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. EUGENE L. DANIEL, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. ALFRED J. MALLETTE, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JOSEPH RAFFIANI, JR., xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. THOMAS W. ROBINSON, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JOHN H. TILELLI, JR., xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. PAUL J. VANDERPLOOG, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JOHN P. OTJEN, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. HENRY H. SHELTON, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. MARVIN L. COVAULT, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. WILLIAM M. BOICE, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. STEVEN L. ARNOLD, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. DENNIS P. MALCOR, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JOHN R. LANDRY, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. ROBERT S. FRIX, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. WILLIAM M. MATZ, JR., xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. DENNIS L. BENCHOFF, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. JOHN F. STEWART, JR., xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. RICHARD S. SIEGFRIED, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. WILLIAM W. HARTZOG, xxx-xx-xxxx, U.S. ARMY.
BRIG. GEN. DAVID J. BARATTO, xxx-xx-xxxx, U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING CADET, U.S. MILITARY ACADEMY, FOR APPOINTMENT AS A SECOND LIEUTENANT IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 541 AND 531, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

DAVID B COX, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

ARMY

To be lieutenant colonel

WILLIAM H. JOCKHECK, xxx-xx-xxxx
JAMES A. MILOBOWSKI, xxx-xx-xxxx
RONALD S. PETRICKA, xxx-xx-xxxx

IN THE NAVY

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

MARQUERITE R. BOYD
LEKEEN BROWN
FRANK K. CERNEY
HEEDONG CHOI
MICHAEL B. FROST
CHARLES D. GRIFFIN III
DAVID M. HALPERIN
DAVID A. HEATHORN
ROBERT F. LINDLEY III
LISA R. LOWTHER
MICHAEL C. MONSOUR
DANIEL J. NOLL
MATTHEW R. PETTINGER
JOHN D. READY
DENNIS W. REINHARDT
VINCENT W. SEGARS
DAVID C. SIMS
SCOTT SMITH
MICHAEL J. STIGLITZ
LYLE D. STUFFLE
JOSEPH H. SYMEONIDES
LORAN D. THOMAS
KATHERINE A. VAN SAVAGE
STEVEN G. WELDON
JEAN A. WENIGER
ERICH J. WESSELS
OTTO WILLIS
WILLIAM A. YOUNG

THE FOLLOWING NAMED NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

CARL A. BURKINS
ROBERT M. GLASS
EUGENE HESTER
JAMES R. ISSACS
TIMOTHY C. JOHNSON
BRIAN R. KLEVEN
GAYLE L. ROMEO
ELLEN D. SABOE

IN THE NAVY

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATE TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

JAMES E. TAYLOR

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE REAPPOINTED PERMANENT ENSIGN IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

SCOTT J. DEPTA
SHAWN D. GRUNZKE
SEAN P. KELLEY
JOHN A. ROMINES

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

K. P. ADAMSON
ANTHONY J. ALLEMAN
TRACY M. CARR
R. H. DWIGHT
KENDALL GENNICK
S. E. JOHNSON
JOSEPH Y. KAN
NORMAN A. LEFF
JEFFREY S. MANNING
M. P. MORAN
P. G. SCANLAN

THE FOLLOWING NAMED EX-U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

FRANKLIN S. NELSON

THE FOLLOWING NAMED MEDICAL COLLEGE GRADUATES TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

ALVIN M. ALEXANDER
AMIR H. ANSARI
RICHARD J. CAVELL
LELAND J. MORRISON

IN THE AIR

THE FOLLOWING NAMED OFFICERS FOR PROMOTION TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE, UNDER THE PROVISIONS OF SECTION 307, TITLE 32, UNITED STATES CODE, AND SECTIONS 8363 AND 593, TITLE 10, UNITED STATES CODE:

LINE OF THE AIR FORCE

To be colonel

JACOB C. ARMSTRONG, JR., xxx-xx-xxxx
JAMES H. BASSHAM, xxx-xx-xxxx
DAVID A. BEASLEY, xxx-xx-xxxx
RUSSELL T. BIRMINGHAM, JR., xxx-xx-xxxx
CAROL D. BOONE, xxx-xx-xxxx
VERNE P. BURQUE, xxx-xx-xxxx
HERMAN L. CAVINESS, xxx-xx-xxxx
DALLAS D. CHURCH, xxx-xx-xxxx
WILLIAM D. CLINTON, xxx-xx-xxxx
GEOFFREY L. COLLINS, xxx-xx-xxxx
DOUGLAS J. COSSENTINE, xxx-xx-xxxx
ALAN L. COWLES, xxx-xx-xxxx
ALLEN R. DEHNERT, xxx-xx-xxxx
JOHN M. DELANG, xxx-xx-xxxx
ROBERT S. DUTKO, SR., xxx-xx-xxxx
MARVIN W. DYER, xxx-xx-xxxx
IRVIN R. ELLINGTON, JR., xxx-xx-xxxx
JOSEPH A. FEATHER, xxx-xx-xxxx
HARRY W. FEUCHT, JR., xxx-xx-xxxx
TOMMY R. GILBERT, xxx-xx-xxxx
TIMOTHY J. GRIFFITH, xxx-xx-xxxx
ROBERT R. HARDY, xxx-xx-xxxx
GORDON J. HILL, xxx-xx-xxxx
JOHN S. HOFFMAN, xxx-xx-xxxx
ROBERT L. HOMER, xxx-xx-xxxx
DAVID D. HULL, xxx-xx-xxxx
RONALD A. HUNTER, xxx-xx-xxxx
STANLEY J. JAWORSKI, JR., xxx-xx-xxxx
JERRE L. KAUFFMAN, xxx-xx-xxxx
PAUL D. KNOX, xxx-xx-xxxx
CLIFTON W. LESLIE, JR., xxx-xx-xxxx
CARL A. LORENZEN, xxx-xx-xxxx
BRUCE W. MACLANE, xxx-xx-xxxx
MARVIN S. MAYES, xxx-xx-xxxx
TERRY A. MAYNARD, xxx-xx-xxxx
CHARLES E. MCCLANAHAN, xxx-xx-xxxx
WYLIE E. NOLEN, xxx-xx-xxxx
LARRY A. OLSEN, xxx-xx-xxxx
WILLIAM D. PETERS, JR., xxx-xx-xxxx
DONALD E. PFOHL, xxx-xx-xxxx
LLOYD L. PREVETT, JR., xxx-xx-xxxx
KURT K. RECH, xxx-xx-xxxx
RICHARD J. SEIDT, xxx-xx-xxxx
THOMAS M. SHELLSHEAR, JR., xxx-xx-xxxx
DAVID M. SHOWERS, xxx-xx-xxxx
JOHN P. SILLIMAN, JR., xxx-xx-xxxx
ALLAN R. SMITH, xxx-xx-xxxx
DALE K. SNIDER, JR., xxx-xx-xxxx
MICHAEL D. SOULE, xxx-xx-xxxx
THOMAS E. STEPHENS, xxx-xx-xxxx
CHARLES A. TAKOS, xxx-xx-xxxx
GUY S. TALLENT, xxx-xx-xxxx
MICHAEL H. TICE, xxx-xx-xxxx
HARRY A. TROSCLAIR, xxx-xx-xxxx
LARRY R. WARREN, xxx-xx-xxxx
KENNETH P. WICKS, xxx-xx-xxxx

JUDGE ADVOCATE

JAMES A. PEDEN, JR., xxx-xx-xxxx
VINENT J. POPPITI, xxx-xx-xxxx
ROBERT C. PROBST, xxx-xx-xxxx
RONALD E. WURTZ, xxx-xx-xxxx

MEDICAL CORPS

WILLIAM R. A. BOBEN, JR., xxx-xx-xxxx
DAVID H. COPE, xxx-xx-xxxx
SAMUEL JACOBSON, xxx-xx-xxxx
ROBERT M. LAMBERT, xxx-xx-xxxx
LAURANCE A. MARSHBURN, xxx-xx-xxxx
ARTHUR N. MERRELL, xxx-xx-xxxx
DEEPAK MIDHA, xxx-xx-xxxx
HUGH S. MOSELEY, xxx-xx-xxxx
PERCIVAL G. PASCUA, xxx-xx-xxxx

CHAPLAIN CORPS

HAROLD G. GEISS, xxx-xx-xxxx
GERALD H. MADDOX, xxx-xx-xxxx
JOHN M. WENDEL, xxx-xx-xxxx

NURSE CORPS

BARBARA A. MCGRATH, xxx-xx-xxxx

IN THE AIR FORCE

THE FOLLOWING UNITED STATES AIR FORCE RESERVE OFFICER TRAINING CORPS GRADUATES, FOR APPOINTMENT IN THE REGULAR AIR FORCE IN THE GRADE OF SECOND LIEUTENANT UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

SEAN J. ALLBURN, xxx-xx-xxxx
ROBERT G. ARMFIELD, xxx-xx-xxxx
KENNETH W. BAILEY, xxx-xx-xxxx
PRESTON H. BALMAIN, xxx-xx-xxxx

JEFFREY J. BARROWS, xxx-xx-xxxx
KENNETH J. BEEBE, xxx-xx-xxxx
MARK C. BELANGER, xxx-xx-xxxx
PAUL J. BERNASCONI, xxx-xx-xxxx
CORNELIUS I. BETZ, II, xxx-xx-xxxx
JAY R. BICKLEY, xxx-xx-xxxx
JAMES K. G. BIXBY, xxx-xx-xxxx
ANNETTE B. M. BLACKHAWKE, xxx-xx-xxxx
FRED R. BLASS, xxx-xx-xxxx
ROBERT E. R. BOGLE, xxx-xx-xxxx
JEFFREY P. BOMKAMP, xxx-xx-xxxx
TAMMY L. BOSPFLUG, xxx-xx-xxxx
GREGG C. BOTTEMILLER, xxx-xx-xxxx
KARLA M. BOWDEN, xxx-xx-xxxx
BRIAN L. BRADEN, xxx-xx-xxxx
RUSSELL P. BRANZELL, xxx-xx-xxxx
CHRISTOPHER L. BROOKS, xxx-xx-xxxx
ROGER L. BROWN, xxx-xx-xxxx
CHRISTOPHER L. BUCK, xxx-xx-xxxx
LAURA A. BURKE, xxx-xx-xxxx
CRAIG D. BUTTON, xxx-xx-xxxx
ANNA E. CALKINS, xxx-xx-xxxx
JODI L. CALLAHAN, xxx-xx-xxxx
ROCHELLE L. CAMERON, xxx-xx-xxxx
MICHAEL CARAVETTA, xxx-xx-xxxx
ANDREW C. CARAWAY, xxx-xx-xxxx
ROBERT P. CARPENTER, xxx-xx-xxxx
CHRISTOPHER L. CARTER, xxx-xx-xxxx
SCOTT C. CARTER, xxx-xx-xxxx
RICHARD D. CARY, JR, xxx-xx-xxxx
STEPHEN G. CHAFE, xxx-xx-...
MARTIN A. CHAPIN, xxx-xx-xxxx
CAROLYN A. CHOATE, xxx-xx-xxxx
STANLEY R. I. CHRZANOWSKI, II, xxx-xx-xxxx
GREGORY H. CHURCH, xxx-xx-xxxx
MICHAEL B. CLARK, xxx-xx-xxxx
JOHN D. CLINE, xxx-xx-xxxx
RICHARD A. COE, xxx-xx-xxxx
JERRY A. COLE, xxx-xx-xxxx
PETER D. COLLINS, xxx-xx-xxxx
GEORGE A. COMITOS, xxx-xx-xxxx
SEAN R. CONARD, xxx-xx-xxxx
LAURIE A. CONRAD, xxx-xx-xxxx
DAVID M. COPE, xxx-xx-xxxx
TODD M. COPELAND, xxx-xx-xxxx
BARRY R. CORNISH, xxx-xx-xxxx
ANTONIO I. CORTES, xxx-xx-xxxx
RODNEY F. COSGROVE, xxx-xx-xxxx
CHARISSA J. COSKY, xxx-xx-xxxx
STACEY J. COTTON, xxx-xx-xxxx
ANDREW J. CRAIG, xxx-xx-xxxx
MARK K. CUMBEE, xxx-xx-xxxx
NORMAN W. CZUBAJ, xxx-xx-xxxx
DANIEL A. DANT, xxx-xx-xxxx
JEFFREY A. DAVIS, xxx-xx-xxxx
DEBORAH L. DECHANT, xxx-xx-xxxx
ANN M. DOMBROSKI, xxx-xx-xxxx
GARY J. DORMAN, xxx-xx-xxxx
GLEN R. DOWNING, xxx-xx-xxxx
STEVEN M. DOYLE, xxx-xx-xxxx
PATRICK L. DUFRAINE, xxx-xx-xxxx
DAVID A. DURKIN, xxx-xx-xxxx
WILLIAM J. EBERHARDT, xxx-xx-xxxx
SANDRA K. EDENS, xxx-xx-xxxx
ROBERT H. EDMONDSON, xxx-xx-xxxx
ELISABETH S. EHLERS, xxx-xx-xxxx
TODD C. ELLISON, xxx-xx-xxxx
DONALD B. ENGLE, xxx-xx-xxxx
VALERIE R. ERNST, xxx-xx-xxxx
PATRICIA E. ERVIN, xxx-xx-xxxx
FRANK A. FALVO, xxx-xx-xxxx
KEVIN R. FESLER, xxx-xx-xxxx
ERIC T. FICK, xxx-xx-xxxx
JOHN R. FORESMAN, xxx-xx-xxxx
JAMES R. FORSYTHE, xxx-xx-xxxx
REED FOSTER, xxx-xx-xxxx
THEODORE J. FOSTER, xxx-xx-xxxx
JULIE E. FREEMAN, xxx-xx-xxxx
JOHN A. FREY, xxx-xx-xxxx
CHRISTOPHER P. FROESCHNER, xxx-xx-xxxx
ANN MARIE GEIGER, xxx-xx-xxxx
WILLIAM U. GILLESPIE, IV, xxx-xx-xxxx
DAVID J. GILLIHAN, xxx-xx-xxxx
WILLIAM L. GOULD, xxx-xx-xxxx
GUY J. GRAENING, xxx-xx-xxxx
CHRISTINE GRAMLICH, xxx-xx-xxxx
BENJAMIN M. GREENFIELD, JR, xxx-xx-xxxx
PAUL E. GRIFFITH, xxx-xx-xxxx
BRYAN K. HADERLIE, xxx-xx-xxxx
WILLIAM B. HAMANT, xxx-xx-xxxx
JOHN HAMUKA, xxx-xx-xxxx
JULIE A. HARMON, xxx-xx-xxxx
DOUGLAS G. HARPER, xxx-xx-xxxx
DELVIN D. HAWKINS, xxx-xx-xxxx
THOMAS E. HAZLEBECK, xxx-xx-xxxx
MARY G. HERRICK, xxx-xx-xxxx
RICHARD H. HEWITT, xxx-xx-xxxx
ANGELA L. HICKS, xxx-xx-xxxx
MICHAEL D. HIGLEY, xxx-xx-xxxx
JENNIFER I. HILBERT, xxx-xx-xxxx
VICKY J. HOLMES, xxx-xx-xxxx
DOUGLAS J. HOPPER, xxx-xx-xxxx
JOHN M. HOUDEK, xxx-xx-xxxx
CHARLES M. HOWARD, xxx-xx-xxxx
EDWARD H. I. HOYLE, II, xxx-xx-xxxx
WALTER A. JASKOWIAK, xxx-xx-xxxx
DOUGLAS W. JENKINS, xxx-xx-xxxx
KAREN M. JENSEN, xxx-xx-xxxx
WILLIAM P. JENSEN, xxx-xx-xxxx
SHANE W. JOHNSON, xxx-xx-xxxx
TIMOTHY W. JORANSEN, xxx-xx-xxxx
MICHAEL J. D. KAYSER, xxx-xx-xxxx
MICHELE R. KEIPER, xxx-xx-xxxx
JONATHAN L. KELLY, xxx-xx-xxxx
THOMAS A. KELLY, xxx-xx-xxxx
MICHELLE M. KEMENY, xxx-xx-xxxx
FRED G. W. I. KENNEDY, II, xxx-xx-xxxx
GREGORY S. KEYSOR, xxx-xx-xxxx
CHAD R. KIEKHAEFER, xxx-xx-xxxx
BRIAN K. KISSINGER, xxx-xx-xxxx
BRYAN C. KITCHENKA, xxx-xx-xxxx
PAIGE T. KLEVE, xxx-xx-xxxx
TIMOTHY S. KLOPFER, xxx-xx-xxxx
CHARLES W. KNOFCZYNSKI, xxx-xx-xxxx
KATHRYN L. KOLBE, xxx-xx-xxxx
IOANNIS KOSKINAS, xxx-xx-xxxx
BRIAN W. KRAUSS, xxx-xx-xxxx
KYLE J. KREMER, xxx-xx-xxxx
DEBORAH A. KUDLINSKI, xxx-xx-xxxx
TRACI L. KUEKER, xxx-xx-xxxx
MICHELLE R. LAGRONE, xxx-xx-xxxx
MATTHEW B. LANGIE, xxx-xx-xxxx
LAREE M. LARSON, xxx-xx-xxxx
GEORGE B. LAVEZZI, JR, xxx-xx-xxxx
MARY C. LECHNER, xxx-xx-xxxx
ROLAND B. LEE, xxx-xx-xxxx
DANTE S. LEGASPI, xxx-xx-xxxx
DENISE M. LEMIRE, xxx-xx-xxxx
NORMAN J. LEONARD, xxx-xx-xxxx
JOHN R. LEWIS, xxx-xx-xxxx
MICHAEL J. LOGAR, xxx-xx-xxxx
NANCY M. LOUDEN, xxx-xx-xxxx
JAMES T. LYONS, xxx-xx-xxxx
GUYAN MANDICH, xxx-xx-xxxx
MICHELLE L. MANSFIELD, xxx-xx-xxxx
TERESA J. MANSFIELD, xxx-xx-xxxx
DANIEL C. MARCALUS, xxx-xx-xxxx
DEBRA S. MASCHING, xxx-xx-xxxx
KURT A. MATTHEWS, xxx-xx-xxxx
KIMBERLY C. MAWSON, xxx-xx-xxxx
JOHN T. MAYFIELD, xxx-xx-xxxx
WAYNE A. MCCASKILL, xxx-xx-xxxx
DANIEL P. MCCUTCHON, xxx-xx-xxxx
LISA A. MCGINTY, xxx-xx-xxxx
THOMAS P. MCGRATH, xxx-xx-xxxx
ELLEN M. MCLAUGHLIN, xxx-xx-xxxx
GREGORY W. MCLEAN, xxx-xx-xxxx
RANDY D. METEVIER, xxx-xx-xxxx
LEIGH E. METHOD, xxx-xx-xxxx
GREGORY S. MILES, xxx-xx-xxxx
MARK D. MILLER, xxx-xx-xxxx
THEODORE A. MILONE, xxx-xx-xxxx
TRENT P. MITCHELL, xxx-xx-xxxx
DOUGLAS B. MORRIS, xxx-xx-xxxx
JOHN C. MOSS, xxx-xx-xxxx
MARY E. MUNHALL, xxx-xx-xxxx
COLLEEN S. MURRAY, xxx-xx-xxxx
MICHAEL O. MURRAY, xxx-xx-xxxx
RICK B. NANNEMAN, xxx-xx-xxxx
RICHARD D. NEAL, JR, xxx-xx-xxxx
TRISTA A. NIEMANN, xxx-xx-xxxx
DAVID M. NIX, xxx-xx-xxxx
DENVER H. NOLIN, xxx-xx-xxxx
RYAN T. OKAHARA, xxx-xx-xxxx
JAMES M. PERRYMAN, xxx-xx-xxxx
JAMES W. PHILLIPS, xxx-xx-xxxx
PETER W. PHILLIPS, xxx-xx-xxxx
TIMOTHY J. PIERSON, xxx-xx-xxxx
JOSEPH A. POKOSKI, xxx-xx-xxxx
BRIAN A. POOL, xxx-xx-xxxx
WAYNE B. POOLE, xxx-xx-xxxx
THOMAS S. POPLAWSKI, xxx-xx-xxxx
DAVID R. PORTER, xxx-xx-xxxx
JACQUELINE E. Q. PRINCE, xxx-xx-xxxx
MICHAEL E. PYBURN, xxx-xx-xxxx
DANNY J. QUITNO, xxx-xx-xxxx
MARK J. RAMSEY, xxx-xx-xxxx
KEVIN J. RAYBINE, xxx-xx-xxxx
DAMON R. REYNOLDS, xxx-xx-xxxx
LARRY G. RIDDICK, JR, xxx-xx-xxxx
STEPHEN P. RITTER, xxx-xx-xxxx
WILLIAM P. ROBERTS, xxx-xx-xxxx
CHRISTOPHER W. ROBINSON, xxx-xx-xxxx
LENDRICK D. ROBINSON, xxx-xx-xxxx
WILLIAM K. ROGERS, xxx-xx-xxxx
MARIA L. B. ROMERO, xxx-xx-xxxx
BRENT E. ROSS, xxx-xx-xxxx
STEVEN K. ROTH, xxx-xx-xxxx
TAMMIE L. RUTHERFORD, xxx-xx-xxxx
GERALD E. I. RYAN, II, xxx-xx-xxxx
SCOTT G. SAUNDERS, xxx-xx-xxxx
JOHN D. SAVOIE, xxx-xx-xxxx
TROY R. SCHMIDT, xxx-xx-xxxx
TODD J. SCHOLLARS, xxx-xx-xxxx
ADI A. SEREGI, xxx-xx-xxxx
PAUL E. SHOMPER, xxx-xx-xxxx
KARA M. SHUMWAY, xxx-xx-xxxx
PAUL M. SKALA, xxx-xx-xxxx
GAIL M. SLAMA, xxx-xx-xxxx
GUSTAVUS B. SMITH, xxx-xx-xxxx
MAUREEN J. SMITH, xxx-xx-xxxx
RAYMOND H. SMITH, JR, xxx-xx-xxxx
ANNE MARIE SNYDER, xxx-xx-xxxx
ATHENA P. SNYDER, xxx-xx-xxxx
STANLEY G. SOLLIE, xxx-xx-xxxx
BERTRAND D. SPARROW, JR, xxx-xx-xxxx
SCOTT J. STEVENS, xxx-xx-xxxx
BRADLEY A. STONE, xxx-xx-xxxx
MIKE S. STOWERS, xxx-xx-xxxx
MICHAEL S. STRUNK, xxx-xx-xxxx
SHAUN R. STUGER, xxx-xx-xxxx
STEPHANY S. SUMMERS, xxx-xx-xxxx
ERIK D. SUTCLIFFE, xxx-xx-xxxx
THOMAS J. SVOBODA, xxx-xx-xxxx
JAY G. M. TAFFET, xxx-xx-xxxx
PATRICK A. TESTERMAN, xxx-xx-xxxx
RICHARD G. THUMA, xxx-xx-xxxx
KIRK F. TOOMEY, xxx-xx-xxxx
TRI B. TRINH MINH, xxx-xx-xxxx
BRENDA L. TRISCIANI, xxx-xx-xxxx
JOHN M. TRUMPFHELLER, xxx-xx-xxxx
LORI L. TURNER, xxx-xx-xxxx
TEREZ VALENTYIK, xxx-xx-xxxx
TODD M. B. VICIAN, xxx-xx-xxxx
KATHRYN E. VIKSNE, xxx-xx-xxxx
MARIE O. WACH, xxx-xx-xxxx
JOHN R. WATTS, xxx-xx-xxxx
ANDREW H. WEAVER, xxx-xx-xxxx
JONATHAN D. WEBB, xxx-xx-xxxx
GREGORY J. WEBSTER, xxx-xx-xxxx
JOHN L. WEDOW, xxx-xx-xxxx
TANYA M. WENZEL, xxx-xx-xxxx
TODD M. WHISENANT, xxx-xx-xxxx
DANIEL J. WIGGINS, xxx-xx-xxxx
JAMES B. WILKIE, xxx-xx-xxxx
TODD K. WOODRICK, xxx-xx-xxxx
WILLIAM G. WRIGHT, xxx-xx-xxxx
BRIAN A. YATES, xxx-xx-xxxx
STACY L. YIKE, xxx-xx-xxxx
RONALD L. YOUNG, xxx-xx-xxxx
PETER M. ZAPF, xxx-xx-xxxx
GREGG ZIMMERMAN, xxx-xx-xxxx

IN THE NAVY

THE FOLLOWING NAMED COMMANDERS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF CAPTAIN IN THE STAFF CORPS, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICERS

To be captain

HARVEY C. AARON
ANTHONY JOYNSON ADOLPH
MARCIAL MORALES ALDANA
HAROLD JOSEPH ALFERT
HARRY HAMPTON BALLARD
JULIA ANN DLHOPO BLOCK
STEPHEN EDWAR CAMPBELL
CLARITA RUBIC CARAMBAS
FRANK PATRICK CARDELLO
EDWARD LEROY CATTAU, JR
COLIN C. D. CLARENDON
LLOYD J. CLEAVER
JAMES JOSEPH CURRAN
JON NEAL DALTON
DOUGLAS E. DENNETT
ERLINDA RAMOS DEVERA
GEORGE CHITZE FAN
JOEL MAURICE FEDER
MICHAEL DANIEL GELLMAN
ROBERT W. HAERR
BENJAMIN A. HART
RANDALL C. HASTEDT
JANALEIGH HOFFMAN
INPOW DAVID HONG
RICHARD LEE HUNLEY
DAVID BING HURST
MARLENE COLEMAN HUSS
JAMES ROBERT IRWIN
BOOKER T. KEYES, JR
BELEN BORBON LACUNA
DONALD FRANK LATHEN
FREDERICK GEOR LIPPERT
JON T. MADER
ROLANDO MALIBIRAN
JEWELL ETHEL MALICK
DAVID ANTHONY MASSA
FREDRICK NELSON MEYER
WILLIAM DAVID MILLER
ROBERT JAMES MOLLERUS
JOHN RALPH MUSSER, JR
DAVID G. NELSON
ROBERT ALLAN PICK
WILLIAM EDWARDS POWERS
FARUK BEHRA PRESSWALLA
STEVEN RICHARD RETTKE
DENNIS ALFRED RHYNE
LAWRENCE HERB ROBINSON
RYAN S. SEARLE
PIERRE EDUARD SLIGHTAM
WILLIAM CURTIS SOLOMON
CHARLES B. THOMASON
THOMAS ALLEN TOMLIN
RUSSELL JOSEPH TONKIN
EDWARD BRUCE WEISER
THOMAS V. WHALEN, JR
MARY CATHERINE ZAHLLER

DENTAL CORPS OFFICERS

To be captain

JOHN H. BAILEY
ROBERT THAY BROCKHOUSE
REGINALD L. CRANFORD
LINCOLN AKETOMO FURUYA
ROBERT EDWARD GALLIANI
JOHN J. GURSON
MAURICE BERNARD J. HILL
GERALD NEIL KERR
RAYMOND J. LEE
FREDERICK BOWL MORLOCK
JOHN JOSEPH PASCIUCCO
DOUGLAS SULLIVAN RAWLS
PETER U. WOLFF
WILLIAM M. YUE

MEDICAL SERVICE CORPS OFFICERS

To be captain

SHARON VEDA GIESEY
DON THOMAS LONGACRE
ROBERT HENRY MEISEL
WILLIAM HERBE REYNOLDS
DONALD FRED SAMUELSON
DOROTHY ROJIA SCHWARTZ
PHILIP D. SOLBJOR

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be captain

JAMES REYNOLDS COOPER
ROBERT ALTON GAMMAGE
GLENN ROGER KESSEL
HAROLD M. LANCASTER
MICHAEL V. H. MATTSON
DAVID MCAULEY
DAVID WAYNE PAULSON
CHARLES ALEXAND PORTER
WILLIAM EDWARD PRIES
MARK FRANCIS SULLIVAN

NURSE CORPS OFFICERS

To be captain

KAREN ELAINE DENNIS
MARY O. MAJORS
ELIZABETH ANN MOTTET
DEBORAH MCLOGAN NELSON
DIANE I. PETTIT
MARIE ANNETTE SCHAFER
SANDRA FISE SUTHERLAND
PATRICIA HYLAN TACKITT

SUPPLY CORPS OFFICERS

To be captain

MERTON GREGORY ANUNSON
WILLIAM JOHN BAKER
RICHARD G. BEPLAT
DALTON L. BIGBEE
ROGER LYON BOMAN
PAUL ROBERT BOONE
RONALD RAY BOTTGER
FREDERICK BROCKMEIER, IV
JOHN J. BUDWAY
HOWARD WESLEY DAWSON, JR
GERALD LLOYD FINCH
GEORGE OLIVER FOWLER, III
JOHN CLIFTON GROOM
JOHN GRAHAM HAFFNER, JR
JOHN L. HAVERTY
RODERICK JAMES HAYSLETT
EARL WINSLOW JOHNSON, JR
ROBERT JOSEPH JOYCE
CHRISTOPHER BRANDT KELSEN
JAMES HAROLD MAIN
JOHN JAMES MCALLISTER, JR
RONALD CHARLES MCVICAR
ROBERT N. MCWHORTER
STEVEN ROBERT MORGAN
ALONZO ROBERT OVERSON
DAVID CRITCHFIELD PECK
BRENTON LEE RAMSEY
DANNY DICK RAMSEY
FRED J. SCHUBER, III
RICHARD EUGENE SOLLI
ALLAN JOHN STAMBERG
FITZHUGH DUDLEY STAPLES, JR
ALLEN GRIFFITH TAYLOR, JR
JOEL BARRY TEPPER
JOHN MICHAEL WEIGLE
THOMAS MORGAN WHITE
CHARLES JOHNATHAN WOODS
RONALD M. YONEMOTO

CHAPLAIN CORPS OFFICERS

To be captain

DONALD AMBROSE AMIDON
BRUCE HIRSCHL CHARNOV
CHESLEY BRAXTON GEAN, JR
DAVID S. GOLDSTEIN
ALAN FREDERICK HEARL
ROBERT LOUIS HUBBARD, JR
JOHN RAPHAEL KRALJIC
RICHARD ARNE KROGEN
JONATHAN MILLER LISTON
WILFORD CLINTON MANLEY, JR
FRANKLIN MARION MCCRAVEN
ROBERT SAMUEL MCGINNIS, JR
MICHAEL EVERT RAMMING
JERALD JESSEN SHAFT
ROBERT DAVID TYRRELL
DEAN DANIEL WOLBRINK

CIVIL ENGINEER CORPS OFFICERS

To be captain

KEITH THOMAS KALLBERG
RICHARD MELTON NORMAN
STEPHEN ALLISON SPANN
RONALD LEE THAEMERT
JOHN FREDRIC VOGT
JAMES MARVIN WALLEY, JR
DONALD FRANCIS WATTS
SAMUEL ALEXANDER YELLIN

IN THE NAVY

THE FOLLOWING NAMED LIEUTENANT COMMANDERS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF COMMANDER IN THE STAFF CORPS, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICERS

To be commander

ROBERT ENRIQUE AGUIRRE
GEORGE ROBERT BAEHR
LAWRENCE CURTIS BANDY
RALPH MICHAEL BARD
JONATHAN W. BELL
ANN ELISE BIDWELL
NICHOLAS G. BIRCHER
DAVID N. BLAKEY
LAURENCE HENRY BOGGELN
MARY BELVA BRIAN
MARK ALAN BRONSTEIN
BRUCE KIMBALL BROOKBY
CHARLES KEVIN BROWN
JOHN G. BROWN
MICHAEL JONES BROWN, JR
CHARLES THO BROWNRIDGE
EDWARD STEPHE CAMPBELL
GERTRUDEPATRI CANTWELL
ANGELO ANTHONY CAPRIO
JOHN ANTHONY CARAS
CLARENCE ROY J. CARLSON
GORDON M. CASTLEBERRY
ROBERT RICHARD CELLI
JOHN NORRIS CHILDS
PAUL D. CLIFFORD
HUBERT VINCENT COLLINS
WILLIAM A. COMBS
SUSAN ANDREA CONNOLLY
PHILIPPE SYLVESTR COTE
JAMES J. CRAWFORD
WILLIAM VANCE CUTHRELL
ROBERT L. DANNENHOFFER
THOMAS I. DASHIELL, JR
NINA SARAH DAVIS
JEFFERY L. DEAL
THOMAS WADE DEBECK
ROBERT THATCHER DILLEY
JOHN FINGLAS DONALDSON
ROLANDO PADUA DULAY
PATRICIA A. DUPREY
WILLARDA VIRGI EDWARDS
MARTIN R. EICHELBERGER
DAVID WELLS FERGUSON
THOMAS MIC FITZPATRICK
SHARON ANNE L. FLETCHER
MARCIA WAYN FUNDERBURK
JESUS RENE GARCIA
KENNETH PAUL GEIL
STEVEN NMN GITELIS
LESLEY KEITH GLENN
THOMAS ANDREW GODON
MICHAEL IRA GREENBERG
STEPHAN GREENBERG
JON RICHARD GRIGG
RALPH DOUGLAS HADE
DAVID T. HAGERTY
MARTIN PAUL HARPEN
BLAINE LAWRENCE HART
HOWARD ERNES HIGHTOWER
STEPHEN HERBERT HIRSCH
DENISE OPHELIA HOLMES
DAVID DEAN HOOD
FREDERICK MICHA HOWDEN
RUDOLPH JEFFRIES, JR
BHARAT JORMALB JHAVERI
BENJAMIN WILBU JOHNSON
CLARENCE E. JOHNSON
BRENDA PAYE JONES
MICHAEL JOSEPH JORDAN
DANIEL JAMES KARY
STEVEN MARC KIEL
MICHAEL OM KIRKPATRICK
JEFFREY S. KNEISL
RUSSELL ANTHO KURIHARA
JAMES VINCENT LACEY
GALE FOSTER LARSON
WILLIAM HENRY LAWRENCE
WILBUR D. LIVINGSTON
THOM E. LOBE
GORDON LEE LOVE
JOSHUA MACON
CHARLYNN CARO MANIATIS
STEVENS CLOYD MARSHALL
JOSE HE MARTINEZMENDEZ
KENNETH GEORGE MCGRATH
JEFFERSON CHA MCKENNEY
PATRIC RAYMON MCPOLAND
RICHARD THOMAS MEEHAN
LEE S. MEGOIS
KEVIN LEE METROS
ROGER JAMES MILLER, JR
WILLIAM STOLL MILLER
CHESTER D. MILTENBERGER
JAMES CHESTER MOHLE
CLAIBORNE L. MOSELEY, II
TERRY WADE MYRICK
RONALD JOHN NASIF
PHILIP JOS OPPENHEIMER
LEONARD ALDIN J. PARKER
FRANCIS B. PEASE, JR
GARY DEAN PENNER
NEIL THOMAS J. PETERSON
CAROL ANN PHILLIPS
DONALD EDWARD PICHLER
HARRY GUNTER RAE
ROBERT WALLACE REHMET
DANIEL SCHA REIFSNYDER
ANSELMO ROLDAN
ALAN ISAAC RUBINSTEIN
GARY SAJKO
GUILLERMO JOSE SALAZAR
KATHLEEN Y. SAWADA
DONALD ROGER SCHAFER
WALTER ALEXA SCHROEDER
ANN SCHUMACHER
THOMAS JOSEPH SCHVEHLA
DOUGLAS ROMNEY SHEARER
ERIC SKOLNICK
GEORGE ERI SKYE, II
HERBERT JUNIOR SMITH
EVA M. SMORZANIUK
STEPHEN PATRICK SNOW
LARRY SPORKIN
FRANK CRAWFORD STEWART
MARK LINDSEY STEWART
CHARLES R. TATUM
JOHN EDWAR TERWILLEGER
PAUL ANDERSON THOMBS
JEFFREY NELSO THOMPSON
STEPHEN ALLEN UGELOW
CURTIS WILLIAM VICKERS
FRANK JOSEP VILLAMARIA
STEVEN DONACI VILLEGAS
DALE EMIL WADATZ
JAMES E. WALENTYNOWICZ
ROMAN THOM WANDALOWSKI
EDDIE B. WARREN
RICHARD CLINTON WARREN
LINDELL KEN WEAVER
CLARE DAVID WEIDMAN
JOSEPH MICHAE WENTZELL
JONATHAN MAR WHITFIELD
PETER WOLFF
DAVID SPENCER YOUNG
THERESA ANN ZUMWALT

DENTAL CORPS OFFICERS

To be commander

RAUL ALCOBA
PAUL O. AUSTIN, JR
GEORGE M. BALACH
MEDICK MICHAE CAPIRANO
CHARLES ROCKWOO FULTON
DON ALAN HATFIELD
RICHARD LEE HENRY
GARY S. JACOBS
ARTHUR R. JENKINS
FRANK A. JOHNSTON
CURRAN NANCY E. KIESEL
SUSAN L. LAING
RICHARD B. LESTAGE
JOHN PAUL LUCKAM
JACKIE DALE NANNY
RADAMEE ORLANDIALVAREZ
RICHARD EARL PELTZ
JOHN P. SAHRMANN
GENE JAMES SBALCHIERO
THOMAS C. SCHMIDT
RANDALL S. SIBER
DAVID FORD SPOONER

MEDICAL SERVICE CORPS OFFICERS

To be commander

DENNIS W. AHR
DAPHNE GAIL ALBRIGHT
LARRY ANDREW BENTLE
NANCY LYNN BOSSHARD
MARTIN BOYTEK, JR
KEN RAYMOND BROST
THOMAS ARTHUR COLP
STEVEN CURL
BRIAN L. DANIELS
BARBARA LYNN FIELDMAN
MICHAEL EUGENE FINCH
HENRY N. FISHMAN
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FLOYD L. GRIFFITH, JR
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GARY LEE HUBBARD
DEBRA AN HUEYWALKER
GRETCHEN DIAN LAMBERTH
JAMES RUSSELL LOVERING
RICHARD CHARLE MARTINO
HARRY BURTON MURPHY
HARRIET I. OBRIEN
WENDY NEINER PELHAN
JOHN THOMAS PIERCE
JAY GARY POLLACK
JERRY LYNN PRICE
RANDOLPH ALLAN REDPATH
FREDERICK JOHN REEG, JR
CONRAD ROBINSON
DAVID A. ROSENBLUM
JOSELYN CAVITTE SENTER
LEE EDWIN SIMON
CAROL LAURINDA SMITH
THOMAS ALLEN STOECKEL
STUART MCGEHEE TAYLOR
JOHN BYRON WALKER, II
JAMES LEE WATTERS
JAMES LYNN WINSTANLEY
GREGORY LYNN WINTERS
THOMAS ANTHO ZIMMERMAN

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be commander

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ROBERT TIERNON AULGUR
ROBERT HAYDE BICKERTON
WILLIAM L. BLACK, III
STEVEN E. BRAUN
PHILLIPS BRO CARPENTER
CLARENCE WILLIA COUNTS
EDWARD R. DYSON
ALFRED JESSE FRENCH, II
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LOUISE R. KENDLE
WALTER F. KOWALICK
FRANK ANTHONY MANFREDI
JERRY DARNELL MASSIE
JAMES F. MCCARTHY, III
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CHARLES PHILIP NICHOLS
JOHN M. OSCADAL
DAVID WILSON PACE
DAVID T. PATTERSON
BENJAMIN JOSEPH PIAZZA
SCOTT H. SCHLEY
JAMES R. SEASTROM
KENT NORTON STONE
CRAIG STEPHEN STRONG
BENJAMIN WILLEY
JAMES ELLIS WILLIAMSON

NURSE CORPS OFFICERS

To be commander

JOANN GRACE AHLEMEYER
JANICE GARRITY ALLEN
KATHERINE SULLIV AUTEN
CAROLINE ARNOLD BARNES
MARGARET JEAN BUTLER
ANNE M. CHONKA
REBECCA AN COX
CYNTHIA KAIRES DUGGAR
JOHN ANTHONY FAFINSKI
KAREN ANN FLAHERTY
PHILLIP ROY FORREST
DEBORAH LEE HANKS
KARLA GAY HANLEY
KATHY ANNE HEITER
FRITZANNA WIL JACOBSON
WILLIAM KALEOL JOHNSON
CLAIRE LYLE KEANE
CYNTHIA LINDSAY KELLEY
JANE E. KRIEGER
DIANE DENIS MARKIEWICZ
SHERRY LOUISE MARONI
PATRICIA A. MARSHALL
ANN CHRISTIN MCDERMOTT
THOMAS PATRIC MCGREGOR
MARY ANN MAUR MERRIGAN
STEVEN CARL MEYER
JEFFERY DONALD NAGGATZ
JOHN HOLLMAN NEAL
WILLIAM CARL NOBLE
DIANE POWE
ANNE THERESA POWERS
CHRISTINA F. RICKENBACK
CAROL ANN RODRIGUEZ
CYNTHIA MARIE RUNNER
LUCY NEWMARK SAMMONS
LYNDA YVONNE SCOTT
SHARON ANN SHOWS
SUSAN ELAINE SHUMAKER
CARLEEN LUCIA SMEDLEY
HELEN LOUISE SMITH
JANICE CHIYOMI STINSON

SUPPLY CORPS OFFICERS

To be commander

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JOHN CHRISTOPHER BONIFAS
MARK STARK BOYLL
WILEY LEE BRADFORD, III
ANTHONY JACOB BRECKNER
FRANCIS RICHARDSON CLARK, II
CHRISTOPHER BOURLAND DALY
STEVEN MICHAEL DREW
CHARLES RICHARD EDWARDS
DOUGLAS EDWARD ETTUS
DAVID JOSEPH FALVEY
GLORIA KAY GENRICH
ROBERT JOHN GOLDBERG
JOHN LAWRENCE GRASSI
JOHN TAI HEE HAHM
ELMER SCOTT HARMON
PAUL MICHAEL HAYES, JR
GORDON RICHARD HILL
FRANCIS THOMAS IWUC
MARK JOHN KANUCK
WALTER STEVEN KOWAL, JR
ENIOTH ELLIOTT LETLOW, JR
KWOK YING LOUIE
STEPHEN CHARLES LOZIER
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HARRY FRANKLIN MCDAVID
WILLIAM JAMES MCGARRETT
PHILLIP HURBERT MCGAVIN
PETER MICHAEL MCGIVERN, III
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JAMES GERARD MORAN
RICHARD ALAN MORRISSET
PATRICK MICHAEL ODAY
LARRY DON ODNEAL
PETER JOHN POTOCHNEY
WILLIAM DUBOSE QUINN
DAVID MICHAEL SMITH
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NANCY ELLEN TJEPKEMA
HENRY BALAM TOMLIN, III
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WILLIAM HALFORD WARREN, III
GREGORY JOHN WHITE
MICHAEL GERARD WILLIAMS
MICHAEL GENE WILLOUGHBY
RICHARD BENDING WILSON

SUPPLY CORPS OFFICERS (TAR)

To be commander

ROGER DALE ADMIRAL
EDWARD JAMES HORRES
RICHARD KENT ROITMAN
JOSEPH S. THORNBURY
BRUCE DUANE WOOLNOUGH

CHAPLAIN CORPS OFFICERS

To be commander

JOSEPH EUGENE ALMARAZ
RICHARD LEE BAURS
WILLIAM JAMES BOYER
RONNIE CAROL BROOKS
ARTHUR JOHN CAMPBELL
DONALD EUGENE HAMILTON
FRED WILEY HUNTER
MARK EDWIN JOLIVETTE
THOMAS CARL KEHAYES
JOSEPH REID KERR, III
LAWRENCE GREGG MCCONNELL
JOHN RAYMOND MCKEE, JR
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CRAIG WESLEY RENCH
STEVEN NORDEEN RONNINGEN
WILLIAM C. TUMBLESON
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CIVIL ENGINEER CORPS OFFICERS

To be commander

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DOUGLAS KEVIN AULT
BERNARD CRAIG BAILEY
LAWRENCE ANTHONY CURTIS
KENNETH G. FORTNER
RICHARD DALE KINARD
CARL EDWARD MILLER, JR
GARY ROBERT MINCK
JOHN FRANCIS NESBITT
ROBERT FREDERICK REHKOPF
ALEXANDER ALBERT ROBERTSON
ANTHONY LEE WATKINS
PAUL CHESTER WOLF

EXTENSIONS OF REMARKS

A SALUTE TO 50 YEARS OF NATIONAL NEWSPAPERS ASSOCIATION

HON. LOUIS STOKES
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. STOKES. Mr. Speaker, I am pleased to take this occasion to salute the National Newspaper Association [NNPA], which is celebrating its 50th anniversary. This distinguished body of black publishers has been the conscience and catered to the vastly different needs of the black community. The black press has helped to promote self-esteem by recognizing black achievement, and serving as a channel for education, and overall self-improvement. In addition, the organization has served as adviser to the executive branch of government, and worked with other black organizations to address many of the problems faced by black Americans.

Like many black organizations, one of the primary goals of the black press is community outreach. A current project undertaken by NNPA is the eradication of illiteracy through its Assault on Literacy Program. This is an appropriate task for this historic organization and the effort is proving very successful. At this time, I am pleased to share with my colleagues a recent article from the National Black Monitor which highlights the history and achievements of the NNPA. It is certainly worthwhile reading.

Mr. Speaker, I am proud to salute the National Newspaper Association. I am certain that the black press will continue and build upon its legacy, and will become an increasingly stronger and more viable force not only in the black community, but throughout the world.

[From the National Black Monitor, June 1990]

50 YEARS OF NNPA AND ITS FUTURE SERVICE ROLE

"The Black Press believes that America can best lead the world away from racial and national antagonisms when it accords to every person, regardless of race, color, or creed, full human and legal rights. Hating no person, fearing no person, the Black Press strives to help every person in the firm belief that all are hurt as long as anyone is held back".—Credo of the Black Press

The "Black Press" in America was born at a time, over 160 years ago, when the "White press" was taking a major leadership and extremely hostile role in the encouragement of all types of persecution of African Americans. Necessity decreed that Black Americans have a press of their own to state their case for long overdue justice and equity.

Over the years, as the vocal and often militant Black press grew in stature and exerted influence against clear and outrageous acts of injustice, many rights of African Americans were recognized and honored. Many Black publishers, editors and others took the view that, as we gained our civil rights, Black Americans would become "integrated" into every aspect of American life with few, if any, problems. Moreover, some Black publishers stated openly that their newspapers then would become more like a "general" press. The "Black press" that has leaned in this direction is seen, by some, to be hovering over a precipice that could mean death.

Other Black publishers with a slightly different, but acutely important focus, have begun choosing not to be identified with the term "Black press." Instead, they have chosen to be identified as a Black-owned and "Black-oriented" press. These publishers have recognized that for any medium to be judged worthwhile by its major supporters, must be oriented to the needs, viewpoints and aspirations of the majority constituency it serves. Thus, these Black publishers are not disturbed by the fact that White-oriented media do not and cannot cater easily to the vastly different needs of the Black community. These publishers view this as the threshold of a vast new opportunity.

THE BEGINNING

From its beginnings, the Black press has had its greatest influence when it has sought primarily to play a complementary role to the daily press and to other media which were then (and now) not oriented to the needs of African Americans. This was recognized clearly by John B. Russwurm and the Rev. Samuel E. Cornish, founders of *Freedom's Journal*, the first Black newspaper in America. The goal of *Freedom's Journal* was to interpret, and give positive and reality focusing meaning to Black life.

The founders of *Freedom's Journal* recognized that, as they phrased it, "too long have others spoken" for the Black community in America. Russwurm and Cornish began their work, in limited quarters and with even more limited financial resources, at 5 Varick Street in New York City long before the advent of electronic communications. There were no telephone, telegraph, fax machine, or satellite systems by which the sight and sound of current events could be gathered promptly and then prepared immediately for the printer's page. Hence the news was always dated. But these pioneers brought to their work far more significant resources than "instant news." They brought well trained minds which could impart the element of meaning (so sorely needed) to past and current events in Black American life.

THE BIRTH OF NNPA

Since that time hundreds of Black-oriented newspapers have appeared on the scene; some disappeared almost as quickly as they came; others have survived through much pain and conflict. Due to the difficulties encountered in the business of publishing a Black-oriented newspaper, publishers began efforts to organize and cooperate. During the 1880s, 1890s and up to the period just before World War I, Black publishers sought to strengthen their association as an extension of the convention movement through which White America had been led to open its ear occasionaly to Black complaints.

Then came the bitter circulation competition among all American newspapers. White publishers went so far as to burn each other's newsstands. The major Black publishers burned no stands, but they ceased communicating among themselves and even banned each other's names from the pages of their newspapers.

It was clearly time for a renewed attempt at association for the Black-oriented press. A "Young Turk" named John H. Segstacke came forward to take the reins in hand as founder and first president of a new association. In the June 20, 1987 issue of The Michigan Chronicle, he tells about the founding of the National Newspaper Association (NNPA):

"At that time . . . I was taking over the operation of the Chicago Defender from my uncle, Robert S. Abbott, who had built the newspaper into one of the leading publications of its type in the country.

"When I broached the idea of forming a unified organization of Black publications, my uncle (from his sick bed) thought little of the idea. He told me that his peers in the newspaper world, Robert L. Vann of the Pittsburgh Courier, Carl Murphy of the Afro American and C.A. Franklin of the Kansas City Call weren't speaking to each other and wouldn't join in an organization designed to serve for the betterment of all.

". . . I wasn't deterred by the admonitions from my uncle. I sent out a message to all the publishers and was warmed by the response. I received from folks like W.O. Walker of the Cleveland Call and Post, Connie Dejois of the Louisiana Weekly, Tommy Young and his brother of the Norfolk Journal and Guide and a few others.

"When the organizational meeting was held in Chicago in February 1941, most of the young publishers showed up, but my uncle was right—Murphy, Vann and Franklin weren't there nor did they send representatives."

[During this meeting, Sengstacke received word informing him that his uncle, the founder of the Chicago Defender, had died.]

"I turned the meeting over to Bill Walker and that is how the organization started. . . . I am sorry that my uncle did not live so that I could have shown him that my idea could become a reality."

The first real signs of cooperation came when Walter White of the NAACP reported that pressure was being brought on President Roosevelt and the Justice Department to indict some Black newspaper editors for subversion. He also warned of plans to deny their access to newsprint. Although President Roosevelt discouraged both moves, White realized that steps had to be taken to strengthen the Black press. He blamed this adverse criticism on certain weaknesses of Black newspapers. All of them suffered from the twin woes of lack of staff and carelessness which led them to print unverified copy and to use sensational headlines that gave the news a distorted emphasis.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In 1943, the NAACP called a meeting of the publishers of two dozen prominent Black newspapers. The Washington office of the NAACP was made available for checking copy. At this meeting the publishers agreed to help each other.

Sengstacke continues the story.

"The NNPA also called a summit meeting of all the major Black leaders including Walter White and Lester Granger of the National Urban League. This was one of the first meetings of this kind ever to be held. At this meeting we discussed ways in which the Black press could work together with these organizations in attacking the many problems faced by Black Americans.

". . . Those of us in leadership positions became aware of the danger of divisiveness. I still feel that to be a major flaw among Blacks today. We are too easily turned against each other by outside influences. I feel today [June 1987], for instance, that we are not together on a number of issues. I am particularly concerned about the failure of Black America in speaking in a unified voice on South Africa. The Black Press must take a leadership role in attempting to affect what it thinks has been referred to as functional unity. We must stop fighting each other and jointly attack the problems that are still with us."

NNPA made its first major impact on national governmental policy in 1944 when a committee of its publishers called on President Roosevelt and urged him to end segregation in the armed forces. The 92nd Division had just been accused of "melting away" in the Italian campaign and the whole matter of segregation in the armed forces was being called into question.

When Harry S. Truman became President, he had the U.S. Army send a delegation of Black publishers—Frank L. Stanley, William O. Walker and Dowdal Davis—overseas to observe the treatment of Black troops in the Army of Occupation in Europe. Two years later President Truman appointed a commission to study segregation in the military. John Sengstacke was included as a member. This commission presented the President with guidelines for ending segregation in the armed forces. He accepted them.

In March 1977, NNPA established a Black Press Archives and Gallery of Newspaper Publishers in cooperation with Howard University, where the repository is located in the Moorland-Spingam Research Center. It is expected that in future years the NNPA-Howard University Black Press Archives will become the major national repository.

In the 1987 Michigan Chronicle article Sengstacke said: "I don't feel that the NNPA has yet fully recognized how powerful it is or can be. Once we get on the same track we will be heard much more impressively."

NNPA'S FUTURE SERVICE ROLE

One way that NNPA might begin to realize its full potential might be by joining a movement that is gaining momentum in the Black community. In 1980, a group of Black publishers, some of whom are members of NNPA and professionals from a wide variety of fields and community leaders, were asked how an ideal Black weekly newspaper might serve Black development-related needs. The wording of this assignment was crucial in that it built in the assumption that Black newspapers were not designed to imitate, in any essential way, the White press.

A model Black weekly newspaper, first of all, might be assumed to have a Black community focus. This is thoroughly in line with the work of John Russwurm and Samuel Cornish and many other early Black newspaper publishers. Although Monroe Trotter, who served as the editor of the Boston Guardian in the early 1900s, was known nationwide as a kind of radical, he was in fact a consummate and impassioned community builder. He and his sister, Maude Trotter Steward (who succeeded Trotter as the publisher of the Guardian) gave their support to—or helped to initiate—practically every community-building venture in the Boston and Cambridge, Massachusetts communities for over 60 years.

Such has been the basic and continuing spirit of almost every Black newspaper publisher in our nation's history. No one group of men and women has given more, and has risked more, for Black community progress than have our nation's heroic and far too greatly unsung Black newspaper publishers.

A second feature strongly recommended for these model Black weekly newspapers was that they should have a thoroughly positive focus. There should be little or no primary emphasis upon crime, drugs, sex, or sensationalism of any kind. Black people have been traumatized far too much by tragedy. African Americans must be aided by their own weekly press in responding in the most positive and effective ways to meet urgent Black community-building needs. What readers see in the headlines is what becomes fixed as foremost upon their minds.

A third recommendation for the making of model Black newspapers was that they concentrate on the most thoughtful and studied analysis of Black community affairs. This would recapture much of the spirit and intent of Russwurm and Cornish in their pioneering paper, Freedom's Journal. Thus, top-flight Black experts were suggested as writers of weekly columns to supplement the writings of reporters.

What are some of the other features which a Black weekly newspaper which is success-focused might have? Since nearly one-half of the emerging African American population is functionally illiterate (i.e., adults reading at or below a fourth-grade level), the group felt that each paper should be written so as to motivate those who are largely nonreaders to want to read. The format would have to be appealing and the focus would have to make fresh sense to those to whom the newspapers in the past offered little or no appeal.

NEW STATE OF READINESS

The scope of this project was broadened when the publishers and Black organization leaders joined in an all out "assault on illiteracy." The project took its goal as its name: The Assault On Illiteracy Program (AOIP). At a planning meeting in Winston-Salem, North Carolina, Dr. Earl Gray, then national co-chair of AOIP (and now president of its parent body, Community Motivators, Inc.), declared, "No longer can our Black leadership groups like the Masons, Elks and similar broad-based groups sit idly by and let a few people lead our masses down the primrose path of so-called integration. We must look inward not only for our divinely-inspired values, but also must look inward among our long-overlooked masses so we can build together as God wants all of his precious children to do."

Grand Exalted Ruler of the Improved Benevolent Protective Order of Elks of the World Donald Wilson added, "The togetherness and mutual support concept of AOIP is by far the most productive thing that could have happened to us at this time. By working through and with the other organizations in AOIP, our group is rededicating itself not only to greatly expanding Elkdom, but also to building all of our communities as never before by taking leadership responsibility for garnering priority support for and involvement by our Black businesses and professionals committed to AOIP and 'Buy Freedom' concepts."

The "AOIP concept" is focused on a community-building thrust to eradicate the unique root causes of illiteracy—and all of its resultant ills—within Black America, and an overall plan of action embodied in eleven communality-building goals to be achieved by the year 2000. The Year 2000 Goals were officially launched on May 12, 1986 with the blessing and support of the United States Department of Education.

Now the Assault On Illiteracy Program (AOIP) is in a *New State of Readiness* where we can begin to look beyond just the "illiteracy predicament" in a *direct fashion*—our teachers and teaching organizations will be handling that. The rest of us need to help them *indirectly* by concentrating more on owning our businesses, building our organizations, churches and other institutions.

It was the "functional illiteracy" predicament—wherein it has been ascertained that Black Americans account for more than 30 percent of that entire afflicted group of Americans—which served as a catalyst for encouraging more than 90 national Black leadership groups to coalesce on this *two-fold mission.*

One of AOIP's missions is to work in ways wherein the ego strength and motivation, or "can do" attitude is sufficiently high so that any classroom teacher or tutor from any program can be far more successful with Black and other "inner-city" learners.

The other is an ongoing and essential "umbrella-type" mission in which every organization and every individual within AOIP should be engaged. It is to help upgrade and/or change the environments of—and value characteristics within—these inner city and often-disadvantaged communities so they can become the mutually-supportive, secure, productive and hope-filled entities . . . wherein every inhabitant will be motivated to want to learn and become a responsible and productive part of the community.

It is now realized that the agreed-upon goals and mission that must be addressed to overcome the "root causes" of that awesome tragedy (and all other long ago imposed and still unredressed "ills" surrounding a lack of self esteem), extend far, far beyond the "functional illiteracy" predicament. In short, the leadership groups now focused so heavily on illiteracy remediation now must prepare for a "New State of Readiness" to encompass addressing those many other ills as well.

The AOIP groups now are structuring themselves to more efficiently and easily meet these new challenges to be of maximum support to the concerned community-building Black Press, other "affirmative acting" Black businesses and institutions and the demonstratedly-concerned members of Corporate America.

"The Black Press has promoted self-esteem, given recognition to Blacks for achievements, serves as a channel to education, a stimulant to thrift, punctuality, and general self-improvement."—Sherman Briscoe, NNPA Executive Director-Emeritus

"The Black Press is a poor press, often on the brink of economic disaster. Yet, despite many difficulties, we intend to become an

increasingly stronger, more unified and more viable force, so that [29] million people will be served by their own fearless advocate."—Dr. Carlton B. Goodlett, Publisher-Editor, Sun Reporter Chain, former president NNPA

"Finding and returning the stolen dignity and self-respect of Black Americans is the major mission of the Black Press."—Sherman Briscoe, NNPA Executive Director-Emeritus

"Exposing America's backside to the community and the world has been an important cathartic function of the Black Press throughout the years."—Sherman Briscoe

"The Black Press has literally been, and intents to remain, a torch lighting the road to freedom, waging a continuing struggle against both overt and covert racism—a struggle in which the majority press has played a very negligible and uncommendable role."—Dr. Carlton B. Goodlett, Publisher-Editor, Sun Reporter Chain, former President NNPA

NORMAN J. EDWARDS: A NAME SYNONYMOUS WITH PUBLIC SERVICE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. SOLOMON. Mr. Speaker, in the town of Granville, NY, the name of Norman J. Edwards has become synonymous with public service.

If you add his military record to his local contributions, his public service spans nearly a half-century. He is retiring as town supervisor, and never was it more appropriate to say that an era is ending.

Norman Edwards earned two Presidential Unit Citations during 2 years of service in the Pacific Theater of World War II.

A licensed public accountant, Mr. Edwards was accounting supervisor for the Washington County Department of Social Services and municipal auditor for the New York State Department of Audit and Control. He also put that training to good use as a State veterans counselor for Washington County, business management consultant for the district superintendent of schools, and business administrator for the Granville Central School District for 14 years.

From 1955 to 1977, Mr. Edwards was Granville town justice. In 1978, he was elected town councilman. In 1980, he was elected town supervisor, a position he held for the next 10 years.

He still found time to serve as Washington County budget officer from 1982 to 1987, and on the finance, public safety, social services, and public officers committees of the Washington County Board of Supervisors.

In addition, he was a director for Washington County on the Board of the Capital District Off-Track Betting Corp. since that organization was founded. He also served for 4 years as a member of the executive committee for the Washington-Warren Counties Industrial Development Agency.

Like so many individuals with busy public and professional schedules, Mr. Edwards has still managed to be active in his community. Those activities have included membership in the American Legion, Veterans of Foreign Wars, and Granville Hook and Ladder Fire Company. He presently is director and treasurer of the Lake St. Catherine Country Club and treasurer of the Poultney Area Saint David's Welsh Society.

Also typical is the fact that Mr. Edwards has been a devoted husband and father. He is married to the former Kay Talbot, a retired teacher. Their two grown children, Shawn Edwards and Mrs. Melanie McCarthy, are both employed in the field of education.

Mr. Speaker, he was recently awarded the Washington County Bar Association's Liberty Bell Award in recognition of his long service. I ask you and other members to join me today in addition a congressional salute to my good friend Norman J. Edwards, one of the finest public servants I have ever known.

BILL BENNETT TALKS ABOUT THE ANDEAN STRATEGY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. BROOMFIELD. Mr. Speaker, I want to share with my colleagues a comprehensive statement made by William J. Bennett, Director, Office of National Drug Control Policy, concerning the President's Andean strategy. Let me commend Bill Bennett for his professional and enthusiastic approach to the formidable challenges of fighting the war on drugs. His initial efforts have been impressive and I wish him well in his important mission of ridding this country of illicit substances.

As my colleagues know, Congress required the administration to prepare a comprehensive strategy for figthing the drug war both in the United States and overseas. The President's two-phased strategy is sound, well conceived and merits our support.

One phase of the international component of the plan is the Andean strategy. The military aspect of the war on drugs in the Andes has been closely coordinated with the governments of the Andean nations. The military element of America's antinarcotics strategy involves the use of a small number of U.S. military trainers who will assist the Andean governments in antinarcotics efforts. Our trainers will help the Andean nations to more effectively fight drug production and processing at the source. The U.S. trainers will be prohibited from accompanying host nation military and police units on antinarcotics operations.

The use of U.S. trainers in the coca-producing nations of South America is not a militarization of the drug war and is not the beginning of another Vietnam in the Andes. The appropriation of funds for the training and the limited equipment involved in this effort does not deny the critical role that economic assistance plays in the war on illicit substances in the Andes. Alternative development efforts, crop substitution programs, and trade are critical and will be expanded in future years.

The American public wants our government to get tough on drugs. The limited use of U.S. military trainers, in my opinion, is clearly acceptable to the majority of Americans and to most Members of Congress. I commend the following statement entitled "Fighting Drugs At The Source: Our Andean Strategy" to my colleagues in the Congress.

FIGHTING DRUGS AT THE SOURCE: OUR ANDEAN STRATEGY

(Remarks by William J. Bennett, Director, Office of National Drug Control Policy)

Nine months ago, President Bush released the administration's National Drug Control Strategy, a document that I believe lays the groundwork for the most comprehensive drug policy the Federal Government has ever embarked on. It would be difficult to summarize the strategy in just a few sentences. After all, it involves some 40 Federal agencies, State and local officials, the private sector—everything from local school groups to the Department of Defense.

But if there is a single theme to our strategy—something that distinguishes our approach to fighting drugs—it has been our emphasis on stopping drugs both on the streets and at the source: the two ends of the drug chain. Especially when it comes to the distribution of cocaine, these are the areas that are most vulnerable—the places where our efforts can have the greatest impact.

Over the last several months, I've been crossing the country to talk about our strategy and see for myself what is going on in the street of our cities and communities. But today I want to devote my discussion to the other end of the chain, fighting drugs at the source. Our international drug strategy may be only one part of the larger national plan, but it is a crucial part. Of course, trying to stem the production of cocaine in the source countries entails a lot of uncertainty, and some degree of risk. But if we can succeed at the source—and by "success" I mean disrupting the flow of drugs to the United States and dismantling the cartels—then our anti-drug efforts here at home will have a much better chance of prevailing. And we will have a much better chance of saving more lives, more rapidly.

But there is another reason why I'd like to focus on international drug strategy today. In recent weeks, our proposals for combatting drugs in the Andean region of South America have received a great deal of attention. I'm tempted to say "undue attention," but I recognize that everything the United States does abroad attracts and merits attention. So, in fact, it is no surprise that our Andean strategy should be the focus of public and congressional scrutiny.

What I object to, however, is the sensational and in some cases down-right hysterical tone that has accompanied a number of press stories and commentaries about what we want to accomplish in Latin America. Some recent reports of our plans for military assistance and training have been greeted by cries of: "another Vietnam"; "U.S. intervention"; and all the usual stale anti-military rhetoric.

Of course, this isn't the first time that columnists and editorial writers have cried wolf about an American presence abroad. But I think in this case, some of the more hyperbolic criticism has been particularly reckless. Contrary to our critics' assertions, we are working closely with our Latin American allies against a common enemy. That is a real accomplishment. If these efforts are caricatured as another Vietnam, an American invasion or involvement in a foreign war, then we risk crippling a series of

strengthened relationships that our President and the Presidents of the Andean region have recently forged. What's more, we risk alienating and frightening the citizens of the Andean countries. That's not fair. They are seeking our friendship and help. And we want to work with them.

So my task today is to set the record straight on what we are trying to achieve in Latin America, and make the broader case for why having an impact on drugs there is critical to our work here.

First, let me briefly address this whole question of supply versus demand strategies. No serious drug reduction strategy can afford to ignore what goes on in the Andean region. We need supply reduction activities at the source. That, after all, is where the cocaine comes from. And while I am a firm advocate of focusing on reducing the demand for drugs, we need to remember that supply is always a key determinant of demand. It's this simple: if cocaine is cheap, abundant, and easy to find, more people will use it. That is not just my hypothesis. That is the view I have heard expressed over and over again by teachers and treatment specialists. If drugs are readily available, demand reduction efforts face nearly insurmountable obstacles.

That was a clear message that President Bush sent when he went to Cartagena to meet with the Presidents of Colombia, Bolivia, and Peru. We must reduce the demand for drugs, but we cannot afford to ignore the supply.

That's why our national strategy includes a plan to help Colombia, Bolivia, and Peru in their war against drugs. The Presidents of these nations are leaders of democratic countries. They are allies of the United States. They despise drugs every bit as much as we do. And they are asking for our help to fight a common enemy: cocaine. We have begun a partnership with them. The moment they tell us they don't want our help, we will step aside and let them fight this battle on their own. But today we are sending a clear message of cooperation, and together we are going to take on the problem of drugs.

So how can we help them? Our Strategy provides a two-pronged attack against the crime and terror that the cocaine barons have brought to the three Andean nations. First, we are providing the law enforcement and military assistance they need to fight—and, where possible, capture—the narcoterrorists on their own. That means giving these countries training and equipment to protect their judges, radios, binoculars, vehicles and equipment for law enforcement, and military training and technical assistance necessary to provide the security needed for enforcement pressure to be applied in key coca-growing and processing regions.

Second, beginning next fiscal year, we are prepared to provide an unprecedented level of economic assistance and trade so these countries can fortify their economies and allow farmers to turn from coca to other crops and other legitimate economic activity.

Economic assistance and trade is an integral part of our plan. Our Andean supply-side strategy cannot succeed without it. But let me be perfectly candid about this: no plan for crop substitution and economic development, no matter how generous, can survive when the farmer-peasants themselves live under the gun of domestic terror. No economic assistance can be expected to overcome the cocaine industry unless it is supported by enforcement efforts.

Sadly, the situation in Peru illustrates the problem in the starkest terms. As you may know, Peru's Upper Huallaga Valley is the region where approximately 60 percent of the world's illegal coca is grown. But it is also the home of the Sendero Luminoso—the Shining Path—a guerrilla organization that has been brutally intimidating the country's peasants and farmers, and actively participating in the drug trade. Peruvian authorities know that they cannot fight cocaine at the source without at the same time providing a measure of security from Shining Path terror. So we are offering anti-drug assistance for their police and military. We are seeking to provide them with helicopters, boats, uniforms, rifles, boots, first aid kits, and expert training—the basic things that will help Peruvians fight the drug traffickers and bring a new level of security to their citizens. We began cooperative efforts against drugs with President Garcia and we stand ready and willing to continue and expand this work with President-elect Fujimori. We hope to complete a formal agreement to begin this support as soon as possible. Our assistance will help the new government in Peru deploy its personnel more broadly and effectively against trafficking and the terrorists that support the drug trade.

This is not an American invasion. It is not an escalating military intervention. It is a serious attempt to allow some of the crucial institutions of a free country—its government, its courts, its police—to function. Our goal is to help Peru take on the very forces that aid and abet the cocaine trade and threaten the nation's security. We don't want to do it for them—we've made that clear. Our policy is that there will be no U.S. military personnel involved in operations.

Of course, U.S. assistance will also help law enforcement and police activities. But military assistance in all three of the Andean nations is necessary to achieve a level of security that law enforcement personnel alone cannot provide. And in some instances, military assistance is necessary just to allow law enforcement to function. It also allows us to tap Andean military resources without duplicating these costly functions within police agencies. Most importantly, the Andean nations have made it clear that they want to undertake this fight. That's why our law enforcement and military assistance is so crucial. Without it, economic assistance and the development of alternative sources of income cannot have a significant effect.

I suspect that the very mention of military assistance is the cause for so much anxious hand-wringing among certain members of the press and Congress. They object to giving uniforms and military equipment to the Andean governments; they don't see that the cocaine business is a very dirty and often deadly one. It doesn't give way to U.N. resolutions, international good will, or economic aid all by itself. Cocaine trafficking needs to be fought by strengthening the forces of justice, law, and order. Some critics of our drug policy seem not to want to face this hard truth. But if we want to be serious about stopping cocaine at the source, we are going to have to face it.

The truth is this: When we send military trainers or DEA agents or State Department personnel to the Andean region, we expose them to certain risks. But we need them there to give the governments a fighting chance and encourage them to take tough action of their own. Americans are there to administer U.S. programs, which include monitoring anti-drug efforts and providing material and expertise to combat the corruption and violence that are a regrettable part of the drug fight both here and abroad.

Yet let's be prepared for what's ahead. The traffickers view violence, threats, and murder as tools of their dirty trade. This is a dangerous enemy and we cannot expect to fight this battle unscathed. We have already lost Americans in fighting this battle in foreign countries. If we are not prepared to face these risks in the future then we should not undertake to assist our allies.

The Upper Huallaga Valley, Medellin, Colombia, the jungles of Bolivia—these are all very violent and dangerous places. But let's not forget that drugs have made American neighborhoods very dangerous places. What's going on in the Andes is not unlike what we see in our most drug-afflicted communities—only down there it's on a broader, more vicious, and deadlier scale.

So there are risks in fighting drugs. But the risk we take if we try to ignore the problem at the source is even greater. President Barco of Colombia recognized that, and his determined fight against the cartel has placed a heavy toll on Colombians. Yet he and his successor, President-elect Cesar Gaviria, also recognize that the alternative is worse—a country plagued by drugs and drug trafficking will not survive in the long run. Drug trafficking is incompatible with a stable system of law, justice, and a freely elected government.

Barco's resolve has been a source of inspiration to the other Andean leaders. We want to support his courageous stand and encourage the other leaders to follow his example. To do that takes commitment on our part. And we are committed: This year we are giving approximately $230 million dollars in assistance to the Andean countries; next year we have proposed sending almost $430 million, and we plan to send even more the following year. To the citizens of the Andean countries, these are sums that will strengthen their economy, their justice system, and their ability to take on the drug traffickers. Next year, and in the following year, about half the aid we propose to offer will be economic assistance. Meanwhile, we continue to seek an expansion of trade in legal products between our nations.

Will it work? I think we are already seeing signs of how putting pressure on the drug traffickers where they live can make a difference. In just the past few months we have seen a significant drop in the number of trafficking airplanes leaving Colombia for Peru and Bolivia, a number of traffickers have been extradited, a record number of processing labs have been seized, and José Rodriquez Gacha, one of the cartel's most vicious leaders, died in a gun fight with Colombian police. And for the past 5 months, the price of coca leaf in Bolivia has been well below the estimated cost of production. As a result, an unprecedented number of peasants in Bolivia are voluntarily getting out of cultivation. And here at home, we have the first reports that the price of cocaine on the street is rising, its purity falling—a reliable sign of a shrinking local supply of drugs.

This is proof that the laws of supply and demand operate in the coca fields of South America just as they do here. (In Cartagena, President Barco remarked that the only laws the cartel obeys are the laws of supply and demand.) Those laws operate at every stage of the drug trafficking business; in the

fields, at the processing labs, on the shipment routes, and in the ports. So if we can disrupt this huge market for drugs—dislocate the mechanisms of supply and demand at each point from the demand for coca leaf to the demand for cocaine paste right through the processing system—we can do great damage to the deadly efficiency of the cocaine industry.

So far, we have taken just first steps. We are now at a critical point. The next few years will reveal whether the forces of drugs or democracy will triumph in Latin America. Last August, President Barco threw down the gauntlet for democracy. Now it's our turn to stand by him and the other Andean leaders.

These past ten months have placed a previously unseen amount of attention on the cocaine problem at the source. That's all right with us. We have put the traffickers on the defensive. We are helping to strengthen the justice systems of Colombia, Peru, and Bolivia. Fifteen Colombian traffickers have been extradited to the United States. President Bush flew to Cartagena and demonstrated his personal commitment to this issue. And now there is increasing evidence that cocaine production is down. All this would have been considered impossible only a year ago. Back then it was widely believed that the cartel was impenetrable, that nothing could be done to stop the production and export of cocaine.

Our Andean Strategy is committed to showing that something can be done. With the commitment and resolve of our Andean allies, something will be done. Without their action, little will be done. We will monitor progress, evaluate the programs, and make sure that the money we spend here is actually having an impact in the war on drugs.

But this will not be an easy process. There will be setbacks and difficulties. We will have to demonstrate our national will to sustain these programs in the face of problems and risks. We will have to sustain the national commitment to aid our Andean allies in fighting their fight. We will also need the confidence and the honesty to admit that if circumstances make effective American aid impossible, we will stop such aid.

The efforts we and our Andean allies make against the traffickers will not, all by themselves, win the drug war. Nor can we expect to eliminate all coca production in the near future. But the enormity of the challenge shouldn't deter us. All else being equal, the fight against drugs here at home is made easier whenever less, not more, coca is grown and processed in South America. That's why we can't afford to ignore the international dimension of what has become our most urgent domestic problem.

I remind you once again: the President's Strategy calls for more drug treatment, more education, and a bigger domestic criminal justice system. We are doing more of all that at an unprecedented level. We plan, for example, to spend three times more on domestic drug treatment than we will on Andean assistance in the next fiscal year. That's because our domestic programs will help reduce the demand for drugs. But these efforts need to be buttressed by a concerted effort to choke off the supply. In other words, our national strategy demands an Andean strategy. The two are designed to go hand-in-hand.

Over the last nine months, a broad consensus has developed around our National Drug Control Strategy. The American people want to see more drug education in their schools, more and better drug treatment, a stronger criminal justice system—and polls indicate that they overwhelmingly approve of the President's efforts to respond to these needs. Now we need to build a consensus around our anti-drug efforts abroad. This turns out to be a more difficult task. There is, in some quarters, an unrelenting cynicism about any American initiatives in foreign countries. Far less cynical, and far more powerful, is the quite natural American reluctance to get involved with a crisis many thousands of miles away.

What we need to understand is that, appearances notwithstanding, for cocaine the line from the coca fields of Peru to our school yards and neighborhoods is in fact a very short and direct one. If we want to help keep drugs out of America, then we need to support those countries that are working on the front line against drugs. The people of Peru, Bolivia, and Colombia, like so many Americans, know what it is to suffer from the tyranny of the drug trade. Now we have an historic opportunity to turn the tide against the cocaine cartel by supporting the legitimate forces of law and justice in South America. By working with them, we can break the back of the traffickers and dramatically decrease the production and processing of the drugs before they are shipped and smuggled across our border.

If we can work the Andean side of this problem, then I am convinced that we will soon reap the benefits here on this side—in American streets, neighborhoods, schools, and communities.

HONORING BUTLER'S LEADERSHIP ACADEMY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. MAZZOLI. Mr. Speaker, I salute the efforts underway in the Jefferson County, KY, Public Schools, under the leadership of Superintendent Donald Ingwerson, to provide outstanding educational opportunity to all Jefferson County students.

The Jefferson County Public Schools have made great strides forward over the past several years, and are nationally recognized for excellence. I am proud of the teachers, parents and administrators who have worked so hard to improve the public education system in Louisville and Jefferson County.

My attention was recently called to one example of the kind of innovative programs being launched throughout the Jefferson County Public Schools: The Butler Leadership Academy [BLA] which is operated from Butler Traditional/Technical High School. BLA develops leadership qualities in Butler's top students by arranging for them to participate in special programs with local business and government leaders.

Mr. Speaker, I commend to the attention of my colleagues the following article describing Butler's Leadership Academy. I applaud the leadership of Butler Traditional/Technical High School—and especially Victoria Koohns-Friedman—for initiating this important program which is today shaping the leadership of Louisville and Jefferson County for tomorrow.

JEFFERSON COUNTY, LOUISVILLE, KY;

Butler Traditional/Technical High School, under the direction of Principal Kenneth W. Frick, has implemented an innovative program for its students. This program takes an unique approach to leadership training as an integral part of a traditional education. This is no one or two day seminar, but an ongoing program that follows its participants to graduation.

The Butler Leadership Academy (BLA) was established in 1989 to develop leadership potential in outstanding Butler students. Criteria for acceptance into the BLA is based on applicants' academic and conduct grades, as well as, leadership potential. Academy members were selected by a screening committee headed by Ms. Pat Lucas, Head Librarian and Lead-Coordinator for the BLA.

Charter members of the Academy are: Ninth graders-Gretchen Antonini, Saretha Bacon, Linda Daugherty, Tara Hayden, Natalie Husband, Robin Johnson, Dawn Jones, Robin Morrison, Arbra Strong, and Mike Wright; Tenth graders Scott Bohanon, Brandon Finnell, Tori Friedman, Candy Givens, Donna Goebring, Adrienne Johnson, Karianne Morrison, Kristin Peck, Michelle Stites, and Victor Tellis; Eleventh graders Allen Bonnell, Jason Crisp, Tiffany Jones, Diane Miles, Johnny Nash, Pam Neff, Amy Nix, Susan Schroeder, and Bethany Strange.

The Butler Leadership Academy is sponsored by a sub-committee of the School Climate Improvement Committee (SCIC). Members of the sub-committee are; Jim Ballard, Mossie Lee Gilbert, Jean Hatfield, Victoria Koohns-Friedman, Pat Lucas, and Susan Mackin.

The Academy members participated in many special programs this school year, culminating in a Leadership Seminar sponsored by Bellarmine College and held on its campus here in Louisville. Each Academy student invited a local business or government leader for a mentoring session and then attended seminars held by community business leaders.

The Leadership Academy will accept qualified applicants from the incoming ninth grade for school year 1990-91 and each year hence. A variety of events are already being formulated by the enthusiastic educators and sponsors of this exceptional leadership program.

THE 1991 FOREIGN OPERATIONS BILL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. ANDERSON. Mr. Speaker, I voted to support the fiscal year 1991 foreign aid appropriation, but only with reluctance. While this bill encompasses a wide range of funding that I have consistently supported during my long tenure in this body, its size and priorities are such that I have trouble lending my support in good faith to the entirety of the bill.

I would remind my colleagues that the cold war is, for all practical purposes, over. A panoramaic view of the world today reveals a much changed scene from the view one would have seen a bare 18 months ago. No longer need the two superpowers be locked

into an ever-growing arms race. We stand poised to see both strategic and conventional arms agreements. The globe can no longer be seen as a superpower political chessboard, and no longer can those two protagonists afford to woo, or to prop up, those that are wavering from the ideological vision of either side. Even now, the Soviet Union and the United States are cooperating in an unprecedented manner, working to solve the persistent problems of war and poverty in the Third World. Eastern Europe is free, the Berlin Wall has come down. The forces of free men and free economics have won.

The start of this new decade represents a unique opportunity to reduce the level of expenditures we commit to the world, especially in the area of military assistance and security-related economic support funds. The American taxpayers are tired of Congress sending their hard-earned dollars abroad, especially when that money ends up in the hands of corrupt, abusive dictators who are repugnant to American ideals and values. The letters from my constituents are angry and resentful when they tell me of the hungry, homeless man in the street or the dilapidated school their children must attend. They tell me that these are the problems to which I must turn my attention: to drugs, to gangs, to housing, to jobs. The amazing events of this year and last dictate to us that we listen. We can afford to listen and we cannot afford not to act upon their concerns. When I next focus in on the details of our financial problems, of budget deficits and savings and loan crises, of tax increase statements and budget cuts, and of highways and bridges in disrepair, I know then that I must respond.

Our foreign aid program grew out of the tremendous success of the Marshall Plan in restoring economic vitality and political stability to a Western Europe beset by disease, hunger, and anarchy. But for the help of America, a war-ravaged Europe would not have been able to fight back to its feet with the speed and success history shows us. The looming threat of Soviet communism to those staggering democracies pressed this Nation into sending billions of dollars to Europe. The Marshall Plan was an implicit statement of recognition that, if peace and prosperity were to endure, then this great Nation had to play an activist, even interventionist, role abroad. That philosophy, formed 45 years ago, has underpinned both our international economic policy and our security role since World War II. Since then, we have repeated that gesture of charity hundreds of times to countries in every part of the globe, while providing the nuclear umbrella and conventional force backing to ensure that free countries remained as such. I have often supported the appropriation of those funds, most recently for Eastern Europe and Central America. But friends, communism no longer looms over our heads as it once did, threatening to wrap the peoples of this world in the chains of oppression. We must reexamine the level and priority of American foreign aid. I certainly do not advocate a total cutoff of aid, military or economic. The hungry of the world still cry out for help and our friends and allies must not be left in the breach. The world is still a dangerous place. Our strong support for certain allies and friends should not diminish.

Yet I maintain that this country has lost sight of what was the original intent of the Marshall Plan; that is to provide needed economic aid to our friends in a time of desperate need. In 1950, only 12 percent of our foreign aid was military aid. The Korean war changed that. In 1960, our foreign aid was 41 percent military assistance. That percentage does not take into account the hundreds of billions of dollars we have spent as the world's shield of democracy. Yet today we debate a bill of which more than 50 percent is military assistance. Less than 33 percent of the money goes to economic assistance and poverty programs. While some countries are threatened by outside threats, most are not. The Soviet Union is now commiting itself to a defense program of "reasonable sufficiency" and withdrawing its support for its allies in the Third World. Meanwhile, this country is owed a staggering $64.8 billion by foreign nations. Shall we saddle the American taxpayer with the costs of that figure in addition to the debts the Federal Government has already forced upon him? I think we should take another look at the future of American foreign aid.

The Foreign Operations Aid package of 1991 does not reflect the realities of the present day. Our domestic budget picture is a financial mess, yet we still contemplate sending $15.8 billion abroad, and much of that money is to fight a cold war that no longer exists. I support this bill, both for the positive benefits derived from its nonmilitary, poverty assistance and provisions like the one that cuts military aid to El Salvador. However, when we next put together a foreign assistance package, it must better reflect political realities or it will not have my support.

THE UNITED STATES SHOULD AVOID INVOLVEMENT IN PERU'S CIVIL WAR

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. KOSTMAYER. Mr. Speaker, a civil war has been raging in Peru for the past 10 years between successive Peruvian governments and the Sendero Luminoso guerrillas. Both sides have engaged and continue to engage in widespread acts of violence, torture, and murder. It is significant that Peru has the highest number of annual disappearances reported to the United Nations in 1989 and attributed to government forces, nearly 400.

In an article for the New York Times entitled "U.S. Joins Peru's Dirty War," author Juan E. Mendez, executive director of the human rights group Americas Watch, discusses the United States decision to involve itself in this civil war on behalf of the Peruvian Government. Mr. Mendez concludes that past U.S. involvement in indigenous civil wars should teach us to avoid such involvement, particularly where both sides have blood on their hands. He argues that United States involvement will not restrain the Peruvian military and will turn the conflict, in part, into a United States war. Moreover, it will implicate the United States in gross violations of international human rights.

This article makes several very important points, and I commend it to my colleagues.

[From the New York Times, May 7, 1990]

UNITED STATES JOINS PERU'S DIRTY WAR

(By Juan E. Mendez)

WASHINGTON.—Under the guise of drug interdiction in Peru, the U.S. is rushing headlong into one of the dirtiest wars being fought anywhere in the world today. If past experience in Vietnam and El Salvador is any guide, the U.S. presence will exercise virtually no restraint on the murder, torture and other human rights abuses that are now routine in Peru. Instead, the U.S. will become a party to the crimes.

Administration officials candidly acknowledge that the left-wing Sendero Luminoso guerrillas are well entrenched in the Upper Huallaga region—where most of the coca consumed in the U.S. is produced. Moreover, the most recent disclosures by the Administration make it clear that the Peruvian armed forces are to be assisted with materiel, weaponry and training specifically to fight Sendero.

The plan includes a permanent base for U.S. Green Berets in the contested jungle area, fighter planes, helicopters and boats and the training of virtually every Peruvian soldier to combat Sendero. This would turn the struggle against Sendero into a U.S., as well as Peruvian, war.

The war against Sendero is already 10 years old, yet this strange Maoist-Andean revolutionary organization continues to grow. Sendero is now attacking the Peruvian state in virtually every region of the country. It recruits easily among the young and the poor, its appeals undoubtedly enhanced by the collapse of the Peruvian economy and the steep deterioration of living standards.

Peruvians across the political spectrum know that Sendero threatens democracy and society. Yet hardly anyone in Peru—and certainly not the presidential candidates in the runoff election scheduled for early June—has proposed a way to deal with the insurgency. That, it seems, is left to the Peruvian Army.

Regrettably, the army is just as brutal as Sendero. For the third year, Peru heads the list of "disappearances" reported to the United Nations. In 1989 there were nearly 400 new cases, double the 1988 figure. In addition, the Peruvian Army occasionally reacts to ambushes and attacks by invading a community and killing dozens of young and old males; sometimes in full view of relatives.

The armed forces further complicate matters by encouraging villagers to form self-defense militias known as "rondas compesinas." If a village forms a ronda, Sendero punishes it for collaborating with the army; if it refuses, the army considers the community "red hot," meaning that it supports Sendero. In several massacres in recent weeks, Sendero units have murdered "ronderos" and ronderos have killed suspected "senderistas."

In the cities, the police arrest students and shantytown dwellers and charge them with terrorist crimes. The detainees are routinely and brutally tortured, while the court cases against them either languish or have to be dismissed for lack of evidence.

Human rights abuses by Peruvian authorities are almost too numerous to catalogue.

In the process of putting down a June 1986 mutiny by Sendero inmates in three large jails in the Lima-Callao area, the armed forces killed almost 300 prisoners—most after they had surrendered. A lengthy investigation in the military courts has just ended in a whitewash.

In addition, right-wing death squads that have been linked to the governing party or to the army have targeted journalists, lawyers and human rights monitors; the headquarters of three prestigious human rights organizations were bombed in Lima in the last few weeks.

U.S. laws governing foreign aid are explicit in prohibiting assistance to forces that engage in a consistent pattern of gross violations of human rights. If the Bush Administration has considered this ban at all, it has not explained Peru's exemption. Congress should insist on an explanation.

If Peruvians need help in fighting Sendero, the authorities in charge of the fight should show that they have changed their ways. Promises won't do. A commitment to fighting a "clean war" must first be demonstrated in practice.

Once such a strategy is in place, the Peruvian authorities may succeed in reducing the appeal of Sendero, and American involvement may not be necessary.

CENSORSHIP ON THE RISE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. EDWARDS of California. Mr. Speaker, Congress has blocked by substantial votes the constitutional amendment that would permit states to censor symbolic political speech relating to the flag. But the far right continues its assault on freedom of expression in the cultural arts.

Just recently, under extreme pressure by those who impose their personal standards on American artists, composers and playwrights, the chairman of the National Endowment for the Arts was prevailed upon to deny four grants recommended by the peer panel. The chairman, John E. Frohmayer, cited "political realities" as the reason for his vetoes.

Mr. Speaker, it is clear that as the far right sees anticommunism slipping away from them as a political issue, they are turning to other excuses for attacking our freedoms.

Philip Harper's essay, "Censorship's Tide is on the Rise" (San Jose Mercury News, June 21, 1990) perceptively points out that "Once we've gone over the edge, it will be hard as hell to get back." I commend the article to the attention of my colleagues.

The article follows:

CENSORSHIP'S TIDE IS ON THE RISE

Politics isn't the only thing that makes for strange bedfellows.

Take censorship, for example. Its dingy sheets are broad enough to cover both feral-eyed Florida crackers and fuzzy-headed Stanford liberals.

The crackers want to prevent a band of rap-spouting blacks, known collectively as 2 Live Crew, from offending prissy white kids with song lyrics that glorify oversized genitalia and the various uses to which they can be put. Obscenity! shout the crackers.

The liberals, meanwhile, are trying to keep prissy white kids from offending blacks and other people of color by addressing them with "fighting words"—presumably nigger, gook, spic and all the other endearing terms that make up the lexicon of intolerance. Racism! cry the liberals.

As much as each group would hate to admit it, and as much as their crusades differ in specifics, they are guided by the same underlying principle: If something offends, make it illegal.

In Florida this is being done by invoking "community standards," which, under a particularly bad Supreme Court decision of a few years ago, can be used to abridge First Amendment rights. At Stanford—which is not bound by the Constitution, but which, as a world-class university, should know better—all that was required was for something called the Student Conduct Legislative Council to approve the new anti-harassment policy.

If such nonsense were confined to a bunch of retrograde Confederates and a handful of Left Coast bleeding hearts, there might not be much to worry about. But it's not.

More than a few allegedly rational leaders in Washington—the president among them—are pushing a constitutional amendment to make flag-burning a crime. The fact that their zeal is politically motivated makes it no less disturbing.

And then there's the case of San Francisco photographer Jock Sturges, an artist of international standing, who awoke one recent morning to find himself in the middle of a legal nightmare Kafka would have had a hard time dreaming up. His crime: Taking pictures of a man and his 9-year-old daughter frolicking—in a purely father-daughter way—in the nude. Never mind that Sturges' subjects were nudists, or that he had the parents' consent to photograph the child. The FBI is working overtime to build a child pronography case against him.

I don't know how many isolated incidents it takes to make a trend, but we're getting dangerously close where censorship is concerned. Once we've gone over the edge, it will be hard as hell to get back.

KPSA RADIO'S 40TH BIRTHDAY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. RICHARDSON. Mr. Speaker, one of southern New Mexico's most respected radio stations recently celebrated its 40th birthday. Alamogordo's KPSA–AM/FM is proudly beginning its fifth decade of service to Otero County, NM.

KPSA first went on the air June 28, 1950 as KALG radio. Louise Neale and Norman Lassetter founded the station back in 1950 and shortly thereafter sold it to Wayne Phelps. Mr. Phelps, who still lives in Alamogordo, owned and managed the station from 1950 to 1977. It was in 1977 that the station was sold to its present owners, Mr. and Mrs. Robert Flotte. The call letters were changed from KALG to KPSA.

KPSA is well known for its outstanding community and public service. It provides news, information and lots of music to thousands of dedicated listeners throughout Otero County. The station is a favorite of many stationed at Holloman Air Force Base and White Sands Missile Range.

For 40 years, KPSA has been serving New Mexico and her people with honor and distinction. I urge my colleagues to join me in wishing KPSA a happy 40th birthday and congratulating them for exceptional public service.

THE EMPOWERMENT OF HISPANIC WOMEN: MOVING FORWARD TO THE YEAR 2000

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, since 1988 The National Hispana Leadership Institute has been preparing Hispanic women throughout the United States who have demonstrated leadership at the local level for positions of national impact. Understanding that Hispanics will become the largest minority in the United States by the year 2000 and at the same time recognizing the growing drop-out rate, poverty and lack of opportunity among Hispanics, the institute has moved to meet the urgent need to empower Hispanic women.

So far 70 Hispanic women have participated in the leadership program representing different regions of the country professions, ages and ethnic subgroups. The women participated in a comprehensive 4 week training program coordinated with Harvard's JFK School of Government and the Center for Creative Leadership. The institute's mission is to support and develop creative leadership and effective management in the Hispanic community in order to increase the quality and number of Hispanic leaders in America.

Mr. Speaker, I would like to thank the National Hispana Leadership Institute, its founder, Maria Elena Torano Pantin, president Juana Brodas, and the board of directors which include Hon. Ramona Martinez, chair, Denver, CO; Gloria Rodrequez, vice chair, Washington, DC; Jerry Bathke, Los Angeles, CA; Hon. Maria Antonietta Berriozobal, San Antonio, TX; Hon. Grace Montanez Davis, Los Angeles, CA; Jane Delgado, Ph.D., Washington DC; Gloria De Necochea, Los Angeles, CA; Nancy Leon Salinas, CA; Richard McGrath, San Francisco, CA; Hon. Bill Richardson, Sante Fe, NM; Carlos Soto, Golden, CO; Hector Velazquez, New York, NY; Arturo Villar, Coral Gables, FL; Raul Yzaguirre, Washington, DC.

The timeliness of this initiative will allow Hispana leaders to meet the challenge of preparing for their crucial role in this country. Together we can look toward the year 2000 with confidence and hope that there will be a cadre of Hispana leaders ready to take action.

HOPE FOR HOUSING IN AMERICA

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. McEWEN. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues a letter I recently received from Ms. Brenda Gibbons, executive director of the Clinton Metropolitan Housing Authority, in Clinton County, OH. Ms. Gibbons wrote to me to express her strong support for the HOPE legislation that will come before us later in the week.

In light of the fact that the HOPE initiative is the most dramatic, far-reaching, incentive-oriented approach to fighting poverty in the last 25 years, I commend Ms. Gibbons' letter, and her perspective, to your attention.

CLINTON METROPOLITAN
HOUSING AUTHORITY,
Wilmington, OH, June 28, 1990.

Hon. Congressman BOB MCEWEN,
Congress of the United States, House of Representatives, Rayburn House Building, Washington, DC.

DEAR CONGRESSMAN MCEWEN: Thank you so much for sending me a copy of the H.O.P.E. legislation. I have now had the opportunity to review it and it is an understatement to call this proposed initiative a monumental change for the better in providing housing.

If this Legislation passes, it will go far beyond just providing housing. Communities will make far better use of the resources they receive, as Agencies will be working together to deliver services. The ultimate goal being, not only savings for the local communities, but of greater importance, a system that will look at the needs of the whole family and/or individual and then gear the services accordingly.

As I expressed to you in my April 14th letter, in the past our job was to "house" people, even though we knew there were sometimes other problems. The provisions of this Legislation, including "Operation Bootstrap" will give us the tools to go beyond just "housing people" and make a genuine difference in the lives of those we are here to serve.

As to the conversion of public housing units to homeownership resident management or cooperatives, I am of the opinion the 30 unit Clinton Glen Community here, would be a remarkable pilot for the immediate area. (This is, of course only my opinion, with the ultimate decision resting with the Board of Commissioners, the Governing Body of this Authority). The staff and I are all excited about this initiative and we sincerely hope it becomes a reality.

I extend my apologies to you for not making myself aware of the fact that you were a cosponsor of this Legislation prior to writing the letter in April. Your entire District should be very happy to know that you are a part of this, and I thank you personally, as well as in my capacity of Director for your support of H.O.P.E.

Respectfully,

BRENDA GIBBONS,
Executive Director.

MEGAN NORMAN REFLECTS AMERICA'S LOVE FOR ITS FLAG

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. SOLOMON. Mr. Speaker, I know I'm not the only Member of this House to get letters expressing outrage over congressional rejection of a constitutional amendment to ban flag desecration.

Since the overwhelming majority of Americans favor such an amendment, according to the last polls on the subject, most of the letter writers demanded to know who Congress thinks it is representing.

Indeed, Congress was tragically indifferent to the heartfelt desire of most Americans to protect the flag. Across the country there have been countless outpourings of support for our most precious national symbol. I'd like to tell you about one of them.

Elementary schoolchildren, veterans, and other residents gathered recently outside Washington Academy in Salem, NY to pay their tribute to our flag. The reporter covering the event for the local newspaper was moved, as was everyone at the scene, by what she called the soft tenor of a child who recited the words: "When people burn the flag, it makes me very sad."

That voice belonged to Megan Norman. She was reciting, from her heart, her thoughts entitled "What the Flag Means to Me."

The newpaper article was brought to my attention by her farther, Rich Norman, who told me, "I'm quite proud of her."

Mr. Speaker, so am I. Sometimes it takes the open innocence of a small child to make us see things in a fresh light. That is why I take great pleasure in entering Megan Norman's little essay in today's CONGRESSIONAL RECORD. And I ask you to join me in commending her.

WHAT THE FLAG MEANS TO ME
(By Megan Norman)

To me the flag means freedom and justice for all. When people ask me what hope is I say "Hope is what people had in 1776 while the war was on against the British."

When people burn the flag it makes me very sad. When you see the flag you should salute the flag. The flag is such a wonderful thing that even the colors mean something. Red stands for courage, white stands for a clean and honest way of living, blue stands for truth and loyalty, and the stars mean power and might.

A CONGRESSIONAL SALUTE TO MAJOR RANDALL R. BARB

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding public servant and leader in Downey, CA. On Tuesday, July 3, 1990, Mayor Randall Barb will be honored upon his retirement from the city council at a mayoral transition ceremony. This occasion gives me the opportunity to express my deep appreciation for his many years of service to Downey, and the rest of the South Bay area.

A lifelong resident of Downey, Mayor Barb attended both Cerritos College and Long Beach State where he received his business management degree. Upon completion of college, he spent 2 years serving in the Army in Vietnam. While he is most well known for this public service career, he is currently employed as the president of an animal feed distribution company in Fontana. Also, prior to his elected service, he served on several committees of the Downey Unified School District.

Mayor Barb's elected service began in 1982, when he was elected to the Downey City Council. Two years later, in 1984, he was first elected mayor, and, subsequently, re-elected to the city council in 1986. In 1989, he was again elected to serve as mayor and will soon be ending his tenure. During his elected service he has served on numerous committees providing substantial benefits to the city. Among the committees he served on were the Juvenile Diversion Program, community drug abuse committee, freeway representative, Hospital Review Board, League of California Cities, Southern California Association of Governments, and the Independent Cities Association. In addition, he has also served on the city/school recreation committee, Civil Defense & Disaster Council, Los Angeles County Sanitation Districts, Second Century Foundation, Southeast Area Animal Control Authority, and the Los Angeles County Transportation Committee. As you can tell, Mr. Speaker, Mayor Barb is an extremely committed leader.

During my years in Congress, I have been very fortunate to serve, and work with, Mayor Barb on numerous projects. I can attest to his hard work and his many accomplishments for the city of Downey. While he may be stepping down as mayor, I have no doubt that he will continue his service to the community. In honor of this occasion, my wife, Lee, would like to join me in extending our heartfelt thanks for his years of service. We wish him much continued success in all future endeavors in the years to come.

CALL TO CONSCIENCE VIGIL FOR SOVIET JEWRY: THE CASE OF SIMEON ALTBERG

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. KOSTMAYER. Mr. Speaker, the Soviet Union under Michael Gorbachev has undergone enormous change. Unfortunately, the historic anti-Semitism within Soviet society remains and had become increasingly blatant. While fear of physical violation and persecution intensify, many Soviet Jews are still arbitrarily denied the right to emigrate by Soviet authorities.

The case of Simeon Altberg is one example. Mr. Altberg once worked for a ship building company, but quit his job in 1988 and moved to Vilnius to escape anti-Semitism. His family applied for permission to emigrate in 1989, and in September 1989, his wife and

son were given permission to leave the U.S.S.R. Permission was denied Simeon on the grounds that he had access to state secrets. In contrast, Altberg's superviser at the time, a Ukrainian national, was given permission to leave the country, despite the fact that he had as much or more contact with the supposed secret information.

Mr. Speaker, the Soviet Union is holding Simeon Altberg prisoner. He is now separated from his family, and there is evidence that his wife's letters do not reach him. I call on the Soviet Government to immediately allow him to emigrate. We must let Simeon Altberg and the Soviet Government know that he has not been forgotten.

BENNETT OFF BASE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. EDWARDS of California. Mr. Speaker, Drug Czar Bill Bennett's and President George Bush's single-track solution to America's drug problem is "lock them up." It hasn't worked and won't work because it ignores the problems of our society that create the demand for drugs.

It was outrageous for Bennett to say in California recently that our State is "soft on drugs." A little homework would have told Bennett that our prisons are bulging with prisoners, with drug violators increasing tenfold in this decade.

Mr. Speaker, the editorial "Quick to Blame," San José Mercury News, June 20, 1990, decisively takes Mr. Bennett to task on his statements in California. As the perceptive editorial points out, "Bennett's remedy has swamped the State. A new approach is needed."

The editorial follows:

QUICK TO BLAME—LOCKING UP MORE DRUG USERS HASN'T CURED CALIFORNIA'S ADDICTION

Maybe it's the devil who makes Bill Bennett have these periodic fits, when he hoists himself up on the nearest soapbox and fills the air with misinformation. If Satan can bring a nation to its knees with drugs, as Bennett suggested the other day before an audience of Baptists, then compelling a bureaucrat to look foolish must be a walk in the park for him.

But whatever Bennett's motivation, his demagoguery isn't doing much to further the anti-drug cause.

A case in point was his performance Monday in Sacramento, where he faulted California and the people who run it for being soft on drugs.

More prisons, Bennett urged, and tougher judges, Re-criminalize marijuana, even in small amounts, and lock up drug-using "yuppies."

If all this sounds familiar, it is. Bennett's remarks were just one more variation on the central theme he has pushed since becoming U.S. "drug czar": Make the punishment severe enough, and people will stop using drugs.

He's wrong, of course, but he won't discover that until he turns down his own volume and begins to look and listen. California would be a good place to begin.

In 1980, the state's prison population was about 25,000. Today 84,000 inmates live in prisons designed for 48,000. By 1995, the prison population is expected to be 145,000.

What has caused the glut? In large part, and despite what Bennett said Monday, it's because California has gotten tougher about drugs.

As a percentage of total arrests in the state, those for felony drug violations increased sharply during the 1980s. Meanwhile, over the same period, the number of people in state prison for drug violations increased tenfold.

Santa Clara County has had a similar experience, with drug cases occupying 48 percent of the Superior Court docket in 1987, compared with 26 percent four years earlier. Drug arrests rose commensurately.

If judges appear to go easy on drug dealers—especially those arrested for the first time—it's generally because there aren't enough available cells. And there won't be unless other felons are turned free.

Bennett's remedy has swamped the state. A new approach is needed.

INTRODUCTION OF LEGISLATION DESIGNATING AUGUST 13 THROUGH AUGUST 19, 1990 AS "HOME HEALTH AIDE WEEK"

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. RICHARDSON. Mr. Speaker, I am pleased to introduce legislation today designating August 13 through August 19, 1990 as "Home Health Aide Week" to recognize the vital role home health aides play in the provision of health care and other services to homebound individuals.

As the costs of health care, and specifically institutionalization, skyrocket, we are increasingly turning to newer, more innovative and efficient models of health care. This is increasingly important as our population ages. Studies show that more and more families are forced to care for an aging or infirm family member at home.

For many, the answer is home care which provides affordable, and comprehensive health care and social services in the home setting. At one-third to one-half the cost of hospital or nursing home care, home care provides skilled medical care, hospice care, and support services by a team of health care and other professionals. Depending on individual patient needs, home care professionals either render care directly, or assist and instruct families in the provision of care and other personal services.

Home health aides play an important role in assuring quality health care to homebound individuals. As vital members of the home health care team, home health aides render personal care and assist patients with daily living activities including bathing, dressing, and feeding. Home health aides also help provide patients with a clean and safe environment by performing light housekeeping and laundry duties.

Finally, and most importantly, by maintaining close and regular contact with patients, home health aides perform the critical role of observing, monitoring and reporting changes in health status to other providers on the health care team.

For these and other reasons, I am introducing legislation designating the week of August 13, 1990 as "Home Health Aide Week" to recognize the important contributions of home health aides in the provision of quality health care and to encourage others to choose this vocation. I urge my colleagues' support of this important measure.

A TRIBUTE TO ACT-SO AND AFRO-AMERICAN YOUTHS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize an inspiring project undertaken in the interest of African-American youths by an organization called ACT-SO [Afro-Academic, Cultural, Technological, and Scientific Olympics] which was founded by the NAACP in 1978 and is now successfully in its 13th year.

ACT-SO conducts an annual academic competition for Black youngsters in grades 9th through 12th. Its primary objective is the promotion of excellence and the recognition of achievements among youngsters of African-American decent.

The activities conducted by ACT-SO start with local competition which solicit the assistance of school superintendents and district liaisons to identify potential competitors, disseminate information to students and parents through school-based liaison persons, and identify and recruit professionals. These professionals serve as judges and coordinators in their respective areas as they evaluate and select finalists for the national competition.

After this has been done, funds are raised through a display designed to present awards to finalists and to showcase winners' projects and talents. The funds raised by the showcase are used to assist the finalists with travel expenses to the NAACP national competition.

Unfortunately, ACT-SO is in need of greater community participation. Community professionals are needed to volunteer, in promoting project ACT-SO. The Dade County community as a whole needs to promote in the ACT-SO finalists, who serve as an investment in the future.

I would like to wish much success to the 1990 ACT-SO competitors on the "Olympics of the Mind" which was held at the new Booker T. Washington Middle School 1200 NW., 6th Ave., Miami, FL, on Saturday, March 10, 1990. May they carry out their dreams. Special congratulations to the Dade County coordinators of ACT-SO: Doris Hart (chairperson), Patricia Due (co-chairperson), and Hyacinth Johnson (co-coordinator) who have worked so diligently with the local NAACP division in order to carry out the program.

A SALUTE TO 21ST CONGRESSIONAL DISTRICT "ARTISTIC DISCOVERY" CHAMPIONS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. STOKES. Mr. Speaker, beginning this June and continuing through May 1991, the corridors of the U.S. Capitol will be adorned with beautiful artwork from around the Nation. This special exhibit represents the culmination of "An Artistic Discovery 1990," the ninth annual art competition for high school students administered by the Congressional Arts Caucus. "An Artistic Discovery" provides us a unique opportunity to recognize and pay tribute to the artistic talents of America's gifted young artists. Competitions are conducted in Members' congressional districts and the winning artwork from each district is delivered to our Nation's Capitol for inclusion in the special exhibition.

I am pleased to report "An Artistic Discovery 1990" includes winning artwork from my congressional district. I want to take this opportunity to congratulate Kurtis Latimore of Cleveland, winner of the 21st District art competition. His entry entitled, "House", is a beautiful watercolor.

Mr. Speaker, "An Artistic Discovery" has proven very successful in my congressional district. This year's competition attracted 144 entries from 12 high schools. In addition, the community was actively involved and very supportive of the program.

Mr. Speaker, it is an honor and I am proud to salute the 1990 "Artistic Discovery" competitors from the 21st District of Ohio.

1990 ART DISCOVERY COMPETITION PARTICIPANTS

BEDFORD HIGH SCHOOL

Allan Beasley, Dan Chadwill, Mark A. Hicks, Jennifer King, Eric J. King I., Richard J. Obert, Tony Riley, Adam Scheff, James E. Smith, Alicia Taylor, Art Instructors: Mr. Rabatin, Mr. Wallace.

BELLEFAIRE

Daniel Burton, Bruce Hill, Melanie LeRoy, Adam McCall, Liesse Potter, Josh Schaffer, Chris Webster, Art Instructor: Karen Baldrey.

CLEVELAND HEIGHTS

Lochen Wilder Brown, Sherrie Cass, Alzbeta Damakos, Laeh Le Vert, Andrew Peet, Rebecca Silverman, Matt Smith, Mandy Taft, Kenneth White, Art Instructor: Mary Braun.

COLLINWOOD

David Brabson, Michael Canady, Robert J. Green, Tim Nathan, Jason Suminguit, Christopher H. Young, Art Instructor: Jerry Dunnigan.

EAST HIGH

Bernard Calloway, Leonard Craddock, Donnell Davis, Alex Ford, Joy Heathfield, Tracy Parks, Art Instructors: Mrs. Testa, Ms. Watkins.

JOHN ADAMS

Latonya Butler, Shereda Lynn Finch, James Hastings, Demetris Hopkins, George Lee, Isrrael Rosa, Tonya Renee Sorrell, Ronard Williams, Kevin Wright, Art Instructors: Dale Lintala, Harry Petaway.

JOHN HAY

Nicole Bridget, Contessa Crawford, Larmark Crosby, Shirlyn Davis, Denise Forthner, Richard Hart, Amy Hufstetler, Michael Hurt, Anita Della Jones, Brian Karn, Sean Karn, Nicole Petty, Sabrina Satterwhite, Terrence White, Art Instructor: Kathy Yates.

LINCOLN WEST

Robert Ward, Patricia Fowler, Ronald Ivy, Ben Johnson, Chris Maragh, Art Instructor: Joseph Martin.

ST. JOSEPH HIGH SCHOOL

Michael Charnoky, Chris Davis, Robert Jukic, Russell Jurecki, Mike Ryan, Adam Studi, Art Instructor: Phil Hoffman.

SHAKER HEIGHTS HIGH SCHOOL

Voronkoff Balthazar, Brice Caldes, Dan DeOreo, Qandle Qadir, Art Instructors: Malcolm Brown, James Hoffman.

SOUTH HIGH

Karen Bland, Morland Boyd, Henry Gregory, Tyrone Harvey, Travis Horne, Kurtis Latimore, Arrecke Minor, Ardie Neal, Randy Pritchett, Carlos Sanchez, Daniel Smith, Juanita Smith, Delicia Terry, Antonio Thomas, Jermain Thompson, Lefear Williams, Art Instructor: Roman Rakowsky.

WARRENSVILLE HEIGHTS HIGH SCHOOL

Travis Smith, Art Instructor: James Evans.

CUBA: THE LAST DOMINO TO FALL

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. BROOMFIELD. Mr. Speaker, a democratic, not a Communist, revolution is sweeping the planet, and governments that refuse to accept reforms are often being rejected by their own people. Fidel Castro may be the last of the hard-line Marxist-Leninist revolutionaries who is still ignoring the winds of change and the demands of the Cuban people for freedom and a better life.

From his perch on the island of Cuba, Castro sees the world as an increasingly hostile place. Many of his former friends are gone, including Noriega of Panama, Ortega of Nicaragua, and a variety of Communist leaders from Eastern Europe. Even President Gorbachev is slowly distancing himself from Castro. Many of these nations have given that country special trade arrangements that kept Castro and company afloat. There has, however, been a political and economic sea change in the world, and Castro has become the odd man out. Given this turn of events, is there any wonder that some members of Miami's Cuban community are considering selling their homes in anticipation of the fact that Cuba will be the next domino to fall?

As Castro's traditional supporters fade from the world scene, the Cuban leader is experiencing growing problems at home. The already austere life of the average Cuban in that poor country will become even more difficult. The standard of living of the Cuban people will be affected by the changes in Cuba's trade pattern with the U.S.S.R. and Eastern European states. Many former East bloc countries now charge higher prices for the goods they ship to Cuba and also demand payment in hard currency for their products.

Normally prompt Soviet shipments of flour and grain to Cuba have arrived late and triggered a price rise in bread and other food products. The Soviet people will soon see that their government can no longer afford to subsidize Cuba's problem-plagued economy. In early June, the Soviet Economic Relations Minister acknowledged that Cuba's weak economy is "making it difficult to elaborate" a mechanism to ensure a transition to a new system of trade "within the framework of mutually beneficial cooperation." All indicators point to increasingly difficult economic times for Cuba. The Cuban people now realize that Castro's failed economic policies must be abandoned along with Castro's iron-fisted hold on that island.

I commend the following American Legion Magazine article about Castro and his many problems to my colleagues in the Congress.

[From American Legion Magazine, June 1990]

CAREER CHANGE FOR CASTRO?

(By Dr. Timothy Ashby)

Cuban dictator Fidel Castro's beard must be growing grayer by the hour as he watches the crumbling of the Soviet empire and the electoral demise of the Sandinistas in Nicaragua. Although the 63-year-old "Maximum Leader" of Cuba hopes his repressive regime is immune from the tidal wave of freedom which is transforming Eastern Europe, his worst fears may soon be realized. When Moscow—Berlin, Bucharest or Prague—sneezes, Cuba inevitably catches the perestroika flu.

In an ironic twist of history, Castro's decision 30 years ago to isolate Cuba from the United States and align his regime with the Soviet Union probably will backfire. In spite of outward appearances of "social solidarity," the Kremlin's leadership has never had a good relationship with Castro. In the late 1960s, for example, Castro antagonized the Soviets to such an extent that they seriously considered removing him. Instead, the decision was made to "tame" the Cuban dictator by applying economic and political pressure. Since then, Castro has operated as a semi-independent actor within certain limits defined by Moscow. This arrangement worked reasonably well when Soviet and Cuban interests converged, but when Mikhail Gorbachev came to power, Moscow and Havana moved onto divergent paths.

Castro was wary of Gorbachev's reform program from its inception, but during the past year, Castro has grown recklessly insulting about glasnost and perestroika, calling them "complete garbage" and describing Gorbachev and his supporters as "disgusting." In retaliation, the Soviet media, with the blessings of the Kremlin, have begun criticizing Castro's behavior as well as the $5 billion in aid the Soviet Union sends Cuba each year. Last December, for example, an adviser to the Soviet Communist Party's Central Committee complained in a Moscow News article that, "We buy Cuban sugar for a price four times the world average."

More recently, Moscow News said the availability of Soviet military aid had "stimulated Cuban adventurism in foreign policy." In an indirect reference to Castro, the same article stated that many Third World recipients of foreign aid are "charac-

terized by authoritarian and dictatorial methods of government, by personality cults, by cruel suppression of opposition and by corruption."

Gorbachev evidently has lost patience with Castro and has begun reducing economic aid to his corrupt dictatorship. In December 1989, a newsletter published by The Economist in London reported that Moscow is now only shipping enough petroleum to Cuba to supply the island's domestic needs. In prior years, the Cubans re-exported Soviet oil to earn the money needed to pay for imports as well as to handle their $6.5 billion debt to Western creditors. The Economist reported that Cuba's revenue from Soviet crude oil re-exports fell from $621 million in 1985, the year Gorbachev came to power, to nothing in 1989. The Kremlin also is reportedly pressing Cuba to repay more than $10 billion in debts.

Because Soviet cereal and flour shipments did not arrive as scheduled in November, December and January, the Castro regime tightened bread rationing and increased the price of eggs. East German and Polish ships also were officially "delayed," and Cuba's citrus exports were reduced. As a result, the Cubans were forced to spend their scarce, hard-currency resources to obtain products they normally acquired via barter. In an attempt to accustom his people to greater economic hardship, Castro warned his people that they can no longer count on Soviet aid to arrive "like clockwork."

About 87 percent of Cuba's trade is with the members of COMECON, the Soviet-bloc trade organization. The Soviet Union alone supplies 71 percent of Cuba's imports and takes 86 percent of its exports. Cuban officials therefore viewed the results of COMECON's January 1990 meeting as catastrophic, because the organization decided to gradually abolish its traditional barter arrangements and move toward a free market system based on Western currency values by the end of 1991.

Last August, Castro took the extraordinary step of banning two Soviet publications, the weekly Moscow News and monthly Sputnik, because they promoted democracy and the American way of life. The Soviet periodicals infuriated Castro to such an extent that he attacked them again in a speech last Dec. 7, alleging that they were asking "the USSR to join in the Yankee blockade against Cuba." Ironically, the U.S. government's Radio Marti is now broadcasting to Cuba excerpts from the banned Soviet publications.

As 1990 began, relations between Cuba and its traditional Soviet-bloc allies soured further. In early January, the Cuban government expelled Michal Cermak, a correspondent from Czechoslovakia's state radio, for the crime of reporting in a "completely distorted and almost provocative manner." The reported had evaluated Cuba's economic crisis and compared the situation to that experienced by Czechoslovakia and Romania. Cermak had concluded that "Cuba is experiencing the calm before the strom." In retaliation, the Czech government announced that Cermak would be transferred to Buenos Aires, and the Czech Latin American media headquarters would be based there, instead of Havana.

Cuba has yet to see the type of mass demonstrations that brought Eastern Europe's communist governments to their knees. Castro's secret police continue to brutally suppress any dissent.

Disaffection is growing in all sectors of Cuban society, however, especially among the youth. Vandalism, robberies and work absenteeism is reported to be on the rise in Havana. A record number of Cubans are again risking their lives to escape to Florida in small boats and crude rafts. Castro, fearful of the "subversive" effect of Eastern European universities, is reducing the number of Cuban students sent to school in the Soviet bloc.

According to Armando Valladares, a former Cuban political prisoner who now leads the U.S. delegation to the United Nations Human Rights Commission. Last February, Valladares predicted that the Castro government could not "resist the current tide of history and that military men would lead the island toward democracy."

Since the July 1989, show trial and execution of the popular Cuban Gen. Arnaldo Ochoa Sanchez and other Cuban officers on trumped-up drug charges, Castro has questioned the loyalty of his military.

The Soviet-trained Ochoa was a much-decorated veteran of combat in Africa, one of Cuba's rare, true heroes whose men adulated him. Ochoa was a crony of Lt. Gen. Gennadiy Borisov, chief of the Soviet Defense Ministry's External Relations Directorate, which is responsible for military aid to Cuba, and Castro may have feared a Moscow-inspired coup.

Castro's brother, Cuban Defense Minister Raul Castro, may also have liquidated Ochoa to remove him as a rival for leadership after the older Castro's death. Fidel reportedly is suffering from lung cancer. Last October, all the generals in the armed forces were ordered to sign letters of allegiance to Raul Castro, as if there was some doubt about their loyalty. This January, the Castro brothers temporarily halted Cuban troop withdrawals from Angola. Although they asserted that this was done to express displeasure with the pace of the peace process, an alternate explanation is fear that the 50,000 combat veterans would provide the force for a coup attempt.

The Soviets have continued to supply Cuba with a variety of modern weaponry, including tanks, naval vessels and aircraft such as the MiG-29 fighter-bomber. This supply line has raised questions about Gorbachev's sincerity in seeking better relations with the United States. The truth is that much of this material has been "in the pipeline" for several years because of bilateral assistance agreements between Cuba and the Soviet Union. As noted earlier, the Soviet military has a close relationship with the professional armed forces of Cuba; many senior officers on both sides attended Soviet military academies together. The Kremlin also continues to maintain about 7,500 of its military personnel in Cuba.

A possible scenario for the end of the Castro regime would begin with strikes and food riots as Cuban industry grinds to a halt because of a lack of oil and spare parts, while food supplies dwindle and people are reduced to the starvation level. Internal security forces would begin a bloody crackdown, thousands would be shot or imprisoned while the world watches in outrage. Finally, in a situation reminiscent of Romania, the Cuban armed forces would intervene and depose the Castro brothers after overwhelming the secret police.

A military junta would take power to maintain order during the slow transition of a multi-party democracy and a free market, economic system. If this happens, the United States must withhold recognition of the provisional government until all Soviet military forces have been withdrawn and Cuba has conclusively halted support for armed revolution everywhere in the world.

Once the shackles of Castro's outdated Marxist-Leninist doctrine are removed, Cuba can be expected to become one of the most prosperous nations in Latin America because of its proximity to the United States, its farm lands, industries and tourist attractions. It appears only a matter of time now before the Cuban people awaken from their 30-year nightmare.

REMEMBERING A FORMER MEMBER AND MAYOR OF LOUISVILLE: THE HONORABLE CHARLES P. FARNSLEY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. MAZZOLI. Mr. Speaker, I rise today to recall to the House our former colleague, Representative Charles P. Farnsley, my predecessor by two Members in Kentucky's Third District seat, who passed away on June 19.

Charlie began his public service in the Kentucky State Legislature during the 1930's. Between 1948 and 1953, he served as one of Louisville's most distinguished and innovative mayors.

Charlie initiated "Beef Sessions," a forum at which anyone could come to city hall and complain—or compliment—city services. Charlie deservedly was recognized as a progressive mayor, who made sure the streets were paved, saw it to that abandoned lots were turned into vest-pocket parks, and placed the city on sound fiscal ground. He also created what is now known as the Greater Louisville Fund for the Arts, a project today that undergirds all the visual and performing arts in Louisville and Jefferson County.

In 1964, Charlie Farnsley was elected to the 89th Congress for what would be his only term. After retiring to private life, Charlie remained productive and active. He possessed a passionate appetite for reading, especially the writings of Thomas Jefferson.

The death of my predecessor and friend, Charlie Farnsley, is a loss to Louisville, Jefferson County, the Commonwealth of Kentucky, and the Nation. I extend my condolences to his family which includes daughters, Sally Farnsley Bird and Ann Farnsley, and his sons, Alexander, Burrel, and Douglas.

Mr. Speaker, I commend to the attention of my colleagues the following article and editorial, both of which appeared in the Louisville Courier-Journal following Mr. Farnsley's death, illustrating the facets of this man and the dimensions of his departure from our midst.

[From the Louisville Courier-Journal, June 20, 1990]

CHARLES FARNSLEY, COLORFUL AND INNOVATIVE EX-MAJOR WHO LEFT MARK ON CITY, DIES

(By Bob Johnson and Leslie Scanlon)

Former Louisville Mayor Charles P. Farnsley, a popular Democrat known for his energetic and innovative administration, died yesterday at Brownsboro Hills Nursing Home. He was 83.

Farnsley served as mayor from 1948 to 1953, as Louisville's congressman from 1965 to 1967 and as a state legislator for four years in the 1930s. The enduring effects of his policies and a lifetime of civic activities can be seen in the city's finances, streets, parks and services and in such institutions as the University of Louisville, the Louisville Free Public Library, the Louisville Orchestra and the Louisville Fund for the Arts.

"Charlie was really one of the great planners and builders of the city," Frank Burke Sr., a lawyer who served as Louisville's mayor from 1969 to 1973, recalled yesterday. "It's been a period of time since Charlie was in office, but those who remember and understand what he did will understand what a tremendous loss it is to the community."

Perhaps Farnsley's most admired innovation was the "beef session." Every Monday night Farnsley held court in the aldermanic chamber of City Hall, inviting any citizen with a problem or complaint to present it directly to him. Quite often the mayor gave instant satisfaction by directing his aides to take immediate remedial action.

Lawyer Wilson Wyatt, who preceded Farnsley as mayor from 1941 to 1945, yesterday remembered him as "an original thinker . . . He was devoted to the arts. He loved Louisville. And he was just all in all a very intriguing character. . . . The net result was excellent government for Louisville and national recognition of the city."

Wyatt said Farnsley was deemed "a unique and colorful mayor" in a 1949 Collier's magazine feature and was also the subject of favorable editorials in the former New York Herald-Tribune.

Charles Rowland Peaslee Farnsley was born in a South Third Street mansion on March 28, 1907. His father, Burrel H. Farnsley was an attorney later elected a circuit judge in the 1930s. His mother was Anna May Peaslee, whose father headed the Peaslee-Gaulbert Co.

His great-great-grandfather, James Farnsley, was a Revolutionary War veteran who traded a land grant in Pennsylvania for a flatboat load of flour that he brought down river and sold at the Falls of the Ohio in 1782. With the proceeds, he bought a farm and settled in the Shively area of Jefferson County.

Charles Farnsley attended Richmond School, Male High and the University of Louisville, where he organized his college fraternity into a political machine that dominated campus activities. He was admitted to the bar in 1930 and took up politics with a flair that soon won him statewide recognition.

He ran for Congress in 1932, the year a legislative mishap in redistricting forced a statewide race for all U.S. House seats. He finished 10th in a field of 27 Democrats, but only the top nine made the November ballot. One who barely edged him for nomination was the late John Y. Brown Sr., whose son, John Y. Brown Jr., later became governor of Kentucky.

In 1934, Farnsley ran for Congress again. Without Democratic organization support, he was badly beaten. He publicly apologized to the voters for taking up their time. In 1935 and 1937, now backed by Michael Brennan, the Democratic organization boss, Farnsley won terms in the state House of Representatives. In 1940, he challenged U.S. Sen. A.B. "Happy" Chandler in the Democratic primary. He lost badly, receiving just 12 percent of the primary vote, but said someone had to offer an alternative to Chandler's isolationism.

He was rejected for military service in World War II for medical reasons, but returned to college for public administration and philosophy courses. He was attending the University of Kentucky in 1948 when Mayor E. Leland Taylor died in office, and the Board of Aldermen, which was to choose a successor, elected Farnsley as a compromise candidate when neither Louisville investment banker Tom Graham nor Eli Brown III could win a majority of the aldermen's votes.

When Courier-Journal publisher Mark Ethridge heard that Farnsley would be mayor, he reportedly groaned and said, "Now every day will be like Derby Day." It was a prophetic comment.

Farnsley, fresh from public administration courses at the university of Chicago, Columbia and Kentucky, attacked the city's problems with vigor and imagination. He began paving streets, turning empty lots into parks, installing street lights, raising city salaries, improving police and firefighters' pensions, installing wading pools, converting old schools to community centers and replacing old, stinking garbage trucks with new ones.

He was the first Louisville mayor to use occupational taxes to fund local government projects. "Charlie was one of the early people in this country to become convinced that municipal governments could no longer rely on . . . taxes on real estate, and that the revenues to support local government had to be in some way tied to the local economy," Burke said.

Since money was short, he sometimes made half-measures do. He started "half-soling" streets by paving only the driving lanes. He bolstered police patrols in crime areas by hiring 25 women to relieve police on traffic duty at school crossings.

Farnsley also set up small playgrounds across Louisville. His administration "put up basketball goals even on private property where the owners gave permission," Burke said.

To put the city on a sound fiscal basis, he annexed suburbs to boost the city's tax base and got public approval for bond issues for sewers, streets, schools and parks.

Traffic movement and parking were Farnsley's most vexing problems. He created the "poor man's expressway" by straightening out jogs and linking traffic arteries. He also tried the city's first "pin-ball" lights, the directional arrows on major arteries like Bardstown Road, to switch lane directions during morning and evening rush hours.

He won his single term in Congress in 1964, defeating Republican U.S. Rep. M.G. "Gene" Snyder in Lyndon B. Johnson's Democratic landslide. It was Snyder's only loss in his political career. Farnsley, who said his desire to have access to the Library of Congress was a major reason for running, retired after one term.

Farnsley admired Jefferson, the philosophers of the French Enlightenment and Chinese philosopher-statesman Confucius and their conviction that the people's welfare must be government's sole purpose. Although he fostered a southern planter image in his early years, Farnsley was sensitive to racial injustices in Louisville.

An arts lover, he was a founder of what has become the Louisville Fund for the Arts and was responsible for the Louisville Orchestra's program of commissioning and premiering original works of nationally renown artists.

Farnsley, also a history buff, went through a "Confederate period" in the 1930s when his normal dress was a broad planter hat, a swallow-tail coat, a brocaded vest and a black string tie. He published books under the Lost Cause Press label and bottled whimsically-named brands of whiskey like "Rebel Yell." He tried to name another brand "Damyankee," but it was rejected by the copyright office as in bad taste. He submitted a new brand name, "Bad Taste."

He abandoned Confederate garb in later years, save the string tie, which became his trademark. But he frequently carried a carpetbag when he traveled to northern cities.

His wife, the former Nancy Carter, died in 1988. He is survived by two daughters, Sally Bird of Arlington, Va., and Ann Farnsley of Vevay, Ind.; three sons, Alexander Farnsley of La Jella, Calif., and Burrel and Douglas Farnsley, both of Louisville; a sister, Eleanora Hagan of Louisville; and six grandchildren.

The funeral will be at 11 a.m. tomorrow at Calvary Episcopal Church, 821 S. Fourth St., with burial in Cave Hill Cemetery. Visitation will be at Pearson's, 149 Breckinridge Lane, from 4 to 8 p.m. today. The family requests that expressions of sympathy take the form of contributions to the Alzheimer's Disease and Related Disorders Association, the Mary Shreve Long Fund at Calvary Episcopal Church or another charity.

One of a Kind

Charles Farnsley was one of a kind. He loved Louisville the way a father loves a child. And he gave it remarkably visionary and some said eccentric leadership—as a state representative, U.S. congressman, but most of all as one of its finest mayors.

Mr. Farnsley, who died yesterday at 83, encouraged the city to think more of itself than it had, and in doing so, he fostered accomplishments the likes of which Louisville had rarely seen.

Indeed, in the late 1940s, his administration at City Hall was cited as perhaps the most progressive in America, and Collier's magazine called him "Confucius in Louisville." His personal hero was Thomas Jefferson. Both models taught him a simple lesson: Government should serve the people.

And he felt that meant all the people. During his time at City Hall, the Louisville Free Public Library and the University of Louisville were integrated. He also opened up City Hall, with a weekly series of "beef sessions" at which anybody could come and complain about a street light or a pothole.

TV came to Louisville while he was mayor, so he bought sets for the public libraries since few had them at home. "People might as well look in a library as in a bar. It makes business for the bar; why can't it make business for the library?" he asked. And he was right; book circulation skyrocketed. He pumped money into the libraries and helped create two public radio stations, WFPL and WFPK, more popular now than ever.

He launched massive street repaving projects and helped save the Louisville Orchestra by creating what has evolved into the Greater Louisville Fund for the Arts.

Louisville's strongest suit today may be that it is a fine place to live. Few have done more than Charles Farnsley to make it that way.

CLASS OF 1940 MORGAN PARK ACADEMY OF CHICAGO

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. RUSSO. Mr. Speaker, a most special occasion will be observed next month when the class of 1940 of the Morgan Park Academy in Chicago holds its 50th reunion. This festive event, in Barrington, IL, July 20, 21, and 22, will also include the classes of 1937, 1938, 1939, 1941, 1942, and 1943 from academy and the Loring School for Girls.

A proud institution of learning, the academy has provided quality education for over 100 years for the young people in the greater Beverly-Morgan Park area on the southwest side of Chicago.

For the classes at this reunion, the memories will be of uniforms and close order drills, of rifles and inspections and parades, for these were the years the academy was the Morgan Park Military Academy, with ROTC training for boys from the Chicago area and across the United States. The watchwords were: Duty, Honor, Country. Many of the members of these classes went on to serve in the military, and some remained until retirement.

In 1873, when Mr. S.S. Norton founded the "Mt Vernon Military and Classical Academy," with 10 students enrolled, he probably had little idea of how his school would evolve and grow through the next century. Today I would like to share this history with you.

The school was the Mount Vernon Military Academy for 1 year and then became the Morgan Park Military Academy until 1892. It was at this point that a world famous educator and president of the University of Chicago, Dr. William Rainey Harper, developed the academy as a nonmilitary preparatory school for young men and women planning to enter the university. Following Dr. Harper's death, the university divested itself of the academy as a preparatory institution.

During the period 1907–14, Col. Harry D. Abells, who had been associated with the academy since 1898, took charge of the school and again it became a military school and Dr. Haydn E. Jones joined the faculty.

In 1914, the State of Illinois granted a charter for a board of trustees to conduct the Academy as a not-for-profit educational institution, and prominent civic leaders formed the first such board. the ROTC Program was added 5 years later. In 1919 the school had reverted to an all-boys school.

In 1958, the military program was discontinued and the academy again became a coeducational college preparatory day school, the Morgan Park Academy. Serious efforts ensued to reestablish the academy as a community day school offering a strong college preparatory program. In the years that have followed, the wisdom of the board's decision has been demonstrated.

In June 1968, the academy board of trustees appointed Mr. David A. Jones, who had been a member of the faculty since 1957, as headmaster, and Mr. Jones continues to serve in this pivotal capacity for the academy.

We don't often hear today the words, "Duty, Honor and Country." That's unfortunate. There are many who have preceded us whose courage and discipline and dedication to these principles ensured our own security today. We would do well to remember their achievements and values and the institutions that educated them.

Proud of its history, the academy today does not remain static. As is its tradition, the academy community is ready to face the challenges of contemporary education, and they have, after a year of work and study, a long range plan which charts the academy's course for the rest of this decade and into the new century.

I know my colleagues join with me in commending the academy and in extending best wishes to the class of 1940 on the occasion of its 50th reunion and to all the other classes that will be present for the happy occasion.

TRIBUTE TO LEANNE M. GRESKOVICH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Leanne M. Greskovich of my 17th Congressional District of Ohio on the occasion of her third place finish in a nationwide high school speech contest conducted by a Friends of Free China. The contest involved the preparation of a 6 to 8 minute speech on the topic "Faces of China," with an emphasis on the people of Taiwan. For finishing third, Leanne received a $500 scholarship to the college or university of her choice. In order to share with my colleagues the outstanding essay which my constituent prepared, I am inserting the text of her speech in the RECORD.

CHINA: WHAT CHANCE FREEDOM?

Change is stirring in the East. The past year has been the stage for many occurrences that have changed the face of China that we once knew. As I recollect the series of events that took place in China, one clear visage comes to mind (Newsweek 17). That face belongs to the one man who dared to face down a line of 18 battle tanks. What would cause a man to do a thing such as this? Was he sending a message to the world that the government in China was so intolerable that he could no longer be a part of it? Perhaps, but to me his fearful message had much more meaning than that. The meaning behind this one man's protest in my eyes was this: He knew that his presence was of no consequence to the line of tanks, just as no one man could put an end to the tyranny of his government. But yet he stood alone, brave, defenseless and defiant, facing certain death. A stern and determined look appeared on his face and he showed no sign of fear. He knew that one man would indeed fall, but if everyone would just stand together there would be no way to stop them. His life was dedicated to the cause that he believed in so strongly. And in the seconds before he imagined the shell being fired from his expected executioner's gun, he understood himself completely and was prepared to make the supreme sacrifice.

I can only imagine what thoughts this lone patriot had in his mind. He probably recalled in the last minutes of his stand many occurrences of the past and he probably tried to imagine the events of the future.

He probably thought about whether the world would understand this. How, in barely a month, could a nation of seemingly increasing prosperity and stability surge into a motion unprecedented in 40 years of Communistic rule? For change was indeed stirring though, and so many things had happened behind the closed doors of his country. The government had begun to divide internally. Some favored the traditional, Communist principles, while other realized that in today's world some adjustments had to be made. Those who had voiced their opinions in the past had paid the price for it and this was sill continuing. The early dismissal of Li Peng was a particularly sharp thorn in the side of those favoring modernization because this was a public symbol of the hardliners' triumph. Deng's health was not good, and everyone wondered how long he would keep his hold on the military. Also who would take his place? Would it be Yang? Would it be Zhao, who had been stripped of all authority but still had much power because of his stand against the previous leadership? One other possibility existed. It could be Qiao Shi, he had an equal interest in maintaining order and modernizing China's legal system (Manegold 26).

His thoughts probably also turned to his sister nation of Taiwan. How would they react to what was happening? Would they understand and remember how they too had to fight for their independence? Taiwan had long influenced the mainland. The mainland's people saw the rewards of the democracy that existed so near to them. Taiwan has a very successful economic system and a very respected place in the big picture of world affairs. What made the difference between the two countries besides the form of government.

It is common knowledge that the mainland is rich with natural resources. It has mineral resources as well as the population to properly develop them. The country of China is a vast one with nearly three million seven hundred thousand square miles (Helgren 629). On the other hand Taiwan is a fairly small island off the coast and it's economy is booming! How can this be! There are many reasons for the difference between the two countries, but the major one is that the people of Taiwan have more of a reason to put their best foot forward than the people of China do. Although the mainlanders want their nation to be a successful one, they do not get to reap the pleasures of their success. This has proved to be of little encouragement to the employees (Hwang CCNAA). After years of the latter practice the workers have decided that they, too, want to create a competitive work environment again. This can only be done by giving the employees a reason to strive for a better product and a more valuable reward. In doing this not only will the workers be happier with their monetary accomplishments, but also the country will become engaged in the new competitive world market with a better product to offer.

Because of the influence of Taiwan and other democratic governments, China has been able to see the rewards of a government different than their own. Television also has been largely responsible for the modernization of the public and their awareness of world events. Those in China no longer want to watch democracy in action—they want their own piece of it.

Another aspect of the situation must also be considered. What effect would the government of the Peoples Republic of China have on Hong Kong? The possession of Hong Kong would be transferred from the United Kingdom to China in 1997 (Information 279). The Communist hardliners could have quite an effect on their new territory or Hong Kong may teach the mainland a thing or two!

Hong Kong has enjoyed democracy for 92 years (279). It would not easily give up its older ideas for those of the new Communistic government; however, the citizens of the People's Republic of China are anxious for change, and look to Hong Kong for help in their quest for democracy. It is possible that the closer the citizens get to "freedom" the more they will thirst for it. When the need overcomes the price, they will be likely to make sacrifices more freely. This will have a great effect on the China we know today and the territory it will soon possess, called Hong Kong.

Gains, losses, motivations, and emotions as well as remembrances of the past and thoughts of the future, all, I am sure, were considered by the man. He contributed a small part to a large melting pot of sacrifices, one I am sure he and his countrymen will not soon forget.

What was the net effect of this challenge by the people? What did the demonstrations produce? I think that the results of the events in China are major ones. They have awakened the world to the injustices of this country's government. They have also proven to the people within China that they can make a difference. I also believe this is the beginning of a chain of events that eventually will bring satisfaction to everyone involved. How long this process will take is totally up to the persistence of the brave and unwavering people of China, like that one man in Tiananmen Square.

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STILLWATER, NY, NAMES OSCAR BRUNDIGE IT'S "CITIZEN OF THE YEAR"

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. SOLOMON. Mr. Speaker, one of the privileges I value most as a Member is to bring to the attention of this House one of the many quiet American heroes, as I like to call them, in my district.

They are men and women who, without fanfare, do so much for their neighbors. They are the backbone of every community in this country.

One such individual is Oscar Brundige of Stillwater, NY. He is a veteran, which makes him a special person to me. But even after his military service he has made himself a special person to his family, to his church, and to the many people he has transported to local hospitals or helped as a Meals on Wheels volunteer.

On June 2, the town of Stillwater named Mr. Brundige "Citizen of the Year" during its Town Family Day festivities. It was a most fitting selection. But it was said best in the town's proclamation, which I include in today's CONGRESSIONAL RECORD:

OSCAR BRUNDIGE

This "citizen of the year" is seldom home because he is out helping people as a red cross volunteer, meals on wheels, taking people to hosptials for treatments, and to the doctors for appointments. He is called upon to donate his rare blood type for emergencies. Oscar and his wife Peggy, a trained nurse, are good neighbors, known for their gardening. They have 3 children, William, Susan and Thomas and 3 grandsons and a new great granddaughter. Oscar is a life member of Post 490, American Legion, Stillwater. He was a sargent in World War II as well as a paratropper in both 17th and 82nd Airborn. He served in Normandy, Central Germany and Battle of the Bulge. The purple heart and bronze star have been awarded to Oscar. Today he is retired from the West Virginia Pulp and Paper company. He is a member of the Stillwater United Church and is an all around handyman for church and community. It is our great pleasure to bestow upon Oscar, a well deserved presentation of "Citizen of the Year."

Mr. Speaker, I ask you and other Members to join me in saluting a quiet American hero from the 24th Congressional District of New York, Oscar Brundige of Stillwater.

INADEQUATE LEGAL REPRESENTATION FOR POOR AND MINORITY DEFENDANTS MAKES THE DEATH SENTENCE A LOTTERY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. EDWARDS of California. Mr. Speaker, I would like to bring to the attention of my colleagues an article by Stephen B. Bright, director of the Southern Prisoners' Defense Committee. Mr. Bright describes the shocking quality of legal representation provided to defendants charged with capital offenses. These impoverished defendants, most of them black, are matched up with incompetent attorneys and have no ability to obtain justice. Whatever one's views on the deterrent value or morality of the death penalty, it should be unconscionable to all of us that the ultimate punishment—death—can be meted out in such an arbitrary manner. Mr. Bright's article, which appeared in the Washington Post on July 3, 1990, follows:

[From the Washington Post, July 3, 1990]

DEATH SENTENCE LOTTERY

(By Stephen B. Bright)

The system of imposing the death sentence in this country is not working. It completely fails to select for the ultimate punishment those offenders who have committed the most heinous crimes.

A member of the Georgia Board of Pardons and Paroles has said that if you take 100 cases punished by death and 100 punished by life and shuffle them, it is impossible to put them back in the right categories based upon information about the crime and the offender.

One reason is the quality of justice that poor people receive in capital cases.

A black man was sentenced to death in Georgia in a trial that started with jury selection at 9 a.m., and ended 17 hours later at 2 a.m. with a death sentence. In between, the jury was deadlocked as to guilt, but the defense lawyer agreed to replace the one holdout juror with an alternate. Three minutes later a guilty verdict was returned. In Mississippi, a man was sentenced to death at a trial where he was represented by a third-year law student.

Capital cases have been assigned to defense lawyers on a low-bid system in one Georgia circuit. The only qualification to submit a bid was membership in the Georgia bar. The lowest bidder got the case.

In four different capital trials in Georgia, the defense lawyer at some point in the proceedings referred to his client as a "nigger." The death sentence was imposed in all four.

A defense lawyer who has handled a number of capital cases in Georgia testified recently that the only criminal law decisions from any courts with which he is familiar are "*Miranda* and *Dred Scott*." (The latter, decided in 1857, was not a criminal case.)

Last year in Alabama, a capital trial had to be delayed for a day in mid-trial because the defense lawyer was drunk. He was held in contempt of court and sent to jail to dry out. The next morning he and his client were both produced from the jail, the trial resumed, and the death penalty was imposed a few days later.

One-fourth of those now on death row in Kentucky were represented at their trials by lawyers who have since been disbarred, suspended or imprisoned.

Much of the support for the death penalty is bolstered by the belief that the legal process for imposing a death sentence is elaborate. Reading the Supreme Court's decisions upholding capital punishment in 1976, one would think that a number of procedural protections ensure that death is imposed only for the most aggravated crimes committed by the most depraved killers. The reality of capital punishment is quite different.

Inadequate legal representation is pervasive in the death-belt states of the South for several reasons, but the primary one is money. Alabama limits compensation for out-of-court preparation in capital cases too $20 per hour, up to a limit of $1,000. Mississippi and Arkansas limit the total compensation of defense counsel in a capital case to $1,000.

Perversely, the mistakes these lawyers make are insulated from appellate review. The courts hold that such defense lawyers "waive" the rights of their clients when they fail to recognize and object to violations of the Constitution. Thus, the poorer the level of representation that the defendant receives, the less scrutiny the case will receive on appeal.

Consider the case of two codefendants, Smith and Machetti, who were both sentenced to death by unconstitutionally composed juries in separate trials. Machetti's lawyers challenged the jury composition;

Smith's lawyers did not. A new trial was ordered for Machetti at which a life sentence was imposed. The federal courts refused to hear Smith's case, because his lawyer had not raised the issue at trial, Smith was executed.

Nonetheless, a number of proposals have been introduced in Congress to cut back further on review of death sentences by federal courts. Proposals have also been introduced to improve the quality of legal representation, but they do not address the need for adequate compensation to attract qualified lawyers and the need for specialists to handle capital cases.

Throughout history, the death penalty has been inflicted upon the poor and members of racial minorities. Nothing has changed with the new statutes approved in 1976. Too frequently the death penalty is punishment not for committing the worst crime but for being assigned the worst lawyer.

TRIBUTE TO ED L. ROMERO AND LEO MARQUEZ

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. RICHARDSON. Mr. Speaker, I would like to recognize Ed L. Romero, president of advanced Sciences, Inc. [ASI], a minority owned and operated high technology business and Leo Marquez, a former lieutenant general, USAF, who serves as the company's corporate vice president. I wish to honor them for their efforts in encouraging government contractors to subcontract with minority businesses.

Mr. Marquez recently wrote a letter in response to an article published in Hispanic magazine. Mr. Marquez offers thoughtful suggestions as to how to enforce legislation requiring the Department of Defense to meet a 5-percent contracting goal for small and disadvantaged businesses.

His suggestions address a critical issue, that of greater minority contracting with the Department of Defense. I commend this letter to my colleagues' attention and insert it into the RECORD.

ASI,
June 8, 1990.

LIZA LEFCOVICH GROSS,
Managing Editor, Hispanic Magazine, Washington, DC.

DEAR MS. GROSS: The article by Roberto L. Moreno in the June 1990 issue on minority contracting by the federal government was right on the mark. Having spent over a year working with the Air Force and the AIA and participating in three separate meetings with Air Force, AIA and minority business leaders, I can only agree with the conclusion reached by the author. I must, however, commend the Air Force for the earnest effort, which was led by Brigadier General Kenneth Meyer. From the beginning, however, I strongly advised the Air Force that the effort amounted only to jawboning and use of "Bully Pulpit" techniques which would successfully be disregarded by the industry. Instead, I recommended that the requirements of the legislation appear in what I refer to as "operative documents" in that those are the only documents which are truly binding on the contractor. These are the Request for Proposal (RFP), the Statement of Work (SOW), and the Source Selection Criteria which would force large contractors to seek out SDB's as Team members or Subs in order to compete successfully for any work. That should be followed by compulsory clauses in the contract itself to insure that they not be discarded after contract award. My recommendations have not been accepted, but I am convinced that until appropriate language appears in the right documents, congressional efforts will continue to fall short of full fruition. The large contractor's almost complete focus on hardware suppliers and custodial services must be changed to accommodate the capabilities of high quality engineering and sophisticated information sciences firms which exist alongside the many fine manufacturers. I would advise our congressional friends to require all government agencies to provide firm compliance plans and a demonstrated commitment to fulfill them to include direction from agency heads that this requirement be addressed as I recommend. Nothing else will suffice, not even the law of the land, as the past three years have so graphically demonstrated.

Sincerely,

LEO MARQUEZ,
Lieutenant General USAF (Ret.), Corporate Vice President/ASI.

AT LEAST SAY THANKS TO YOUR TEACHER

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. SAWYER. Mr. Speaker, because the national debate about how to reform and upgrade our system of education so often focuses on issues wholly unrelated to what actually happens in schools, I am submitting the following article for our colleagues' attention. This column, in my view, could center the entire debate exactly where it can be the most fruitful—on teachers.

AT LEAST SAY THANKS TO YOUR TEACHER
(By Kevin Frato)

Thank your teachers. Thank your coaches and counselors—thank anyone who helped get you through school.

Teachers need support, and support doesn't come often from the community. But students and parents can lift the quality of education simply by thanking teachers. Education is society's most powerful tool, and educators, like all humans, work better when noticeably appreciated.

Symbolically, teachers depend on their present work to support them in the future. They are shipbuilders who sail their own boats. Teachers ply the most versatile raw material: young minds.

In kindergarten the teacher taught my class 26 curious letters and sounds that she later blended to create words. My third-grade teacher demonstrated how to draft coherent paragraphs. In sixth grade, my teacher read novels to us. In ninth grade journalism, the adviser taught us how to extract information from assistant principals who declined to comment.

These people deserve thanks for caring enough to work beyond the textbooks to touch reality through their teaching.

A former track coach told me he had received four letters of appreciation in 25 years of educating. I had written him in gratitude for his coaching style—his attitude that the growth of individuals is more important than team victory. In 2½ decades, only four students thought to thank him. When he shook my hand and told me this after the graduation ceremony, it meant more than the ceremony itself.

Teachers who affected me did not have to work as hard as they did. I wrote to educators who had become friends. Some people teach because of the hours; most teach because they care about children. After 13 years in school, I could see qualities of excellent teachers, and the most important trait is concern. Teachers who truly care about students always affect learners positively.

Other important characteristics usually result from caring: encouragement, personal knowledge, creativity and understanding of students as a group. A visible sign of a dynamic classroom is one in which students don't look at their watches and where the bell always rings before it's expected. I thanked several teachers who maintained such an atmosphere. They worked beyond the job description.

If society values any professionals, its educators should capture fervent support. Nothing is so wasted as an uneducated child. Since our system of funding schools often leaves teachers feeling like unwelcomed beggars in their own communities, personal appreciation for their work should be even greater.

The value of a greater teacher cannot be measured in dollars. Teachers who carry out their missions of education stamp a mark of truth on every student. Greatness breeds greatness—students do their best work under their best teachers.

Tell teachers you appreciate them. They will be even more willing to continue their outstanding work.

Thank your teachers. After all, a student without a teacher is like a thought without a pencil—lost.

MAKE FOREIGN AID COUNT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, a question which I hear as much as any other at town meetings is "Are we justified in spending $15.2 billion in foreign aid when our domestic needs are ever more pressing?" Why invest in Central America when we should be investing in central North Dakota?

When President Bush sent his foreign aid spending proposals for fiscal year 1991 to Congress, I said I could not support them because they would continue past policies and increase military—by 3.9 percent—and related security aid—by 4.6 percent—while cutting bilateral development aid which helps poorer countries. The administration's proposals just did not respond to the new reality that the cold war is over; that aid based upon fear of global Communist subversion is no longer warranted.

Let's examine some of the potential purposes of foreign aid and gauge whether this bill as recommended by the Committee on Appropriations would do more to advance our

interests than would the administration's proposals. First off, this bill includes a 2-percent, across-the-board cut, which I supported and which reduces the administration's foreign aid request. In a time of tight budgets, we must hold the line on all spending.

HUMANITARIAN ASSISTANCE

Next, this bill would add $45 million to the administration's request for refugee assistance. Earlier this year I heard testimony that our State Department's refugee assistance budget on a per-capita basis, had declined from $20 per refugee in 1985 to about $12 per refugee in 1989. I support the increased help for these people who have a very thin margin for survival because I believe extending this humanitarian aid reflects one of our countries highest values—helping those most in desperate need.

CHILD SURVIVAL

Almost two-thirds of the 14 million children who die each year are killed by preventable diseases. Think of the grief and loss of all those innocent lives. This bill increases funding for the child survival fund by about 30 percent and for UNICEF by 33 percent—the administration requested a reduction for UNICEF. This appropriation bill has its priority right on aid to children and is consistent with legislation I helped pass last year which called on the President to expand programs in Central America to help the most vulnerable—poor women and their children.

AID TO TRULY POOR COUNTRIES

I am on record as saying that it is disgraceful that the United States provides only 19 percent of its economic aid to the world's poorest countries: A rate which places us next to the bottom among the world's industrialized donors.

Under the administration's request, economic aid to low-income countries would have been about $0.84 per capita, for middle-income countries about $4.25 per capita, and for high-income countries $258.

In 18 of the world's countries, at least 1 child in 5 will die before its fifth birthday. All but one of those countries are in Africa.

This bill takes an important step toward rectifying this imbalance by increasing aid to sub-Sahara Africa from $550 million to $800 million.

It further embraces an amendment which I proposed to the Rules Committee. The amendment earmarks an additional $5 million for the International Funds for Agricultural Development. IFAD is the singular global agency whose sole mission is to knock out hunger by increasing food producing capability. Incidentally, I would point out that nations benefiting from our food aid and technical assistance have often become our best customers of U.S. farm exports. So we help ourselves by helping others.

OUR PROBLEMS HERE ARE RELATED TO WHAT HAPPENS ABROAD

Let me reiterate what I just said. I believe providing development aid to people in poor countries is the humane thing to do. It is also in our long term interest. Third World countries are an important market for our exports. In 1981, before the world wide recession, nearly 40 percent of U.S. exports went to the Third World. The subsequent decline in our exports to the Third World means that we have 2 million fewer Americans working than would otherwise have been the case. The reality is that poorer countries will not be able to afford to buy our products unless they are growing economically.

It is also a fact that much of our foreign aid is tied to U.S. procurement—94 percent of our food aid and 77 percent of our economic support funds to cite two examples. Thus, what we call foreign aid often provides an immediate boost to the U.S. economy.

POVERTY/POPULATION GROWTH AND THE ENVIRONMENT

In recent years we have been discovering another important stake we have in the poorer countries: that poverty, population growth and the environment are closely related. Poor farmers, pressed by a growing population on limited land, are stripping fields of trees to grow more crops and get wood for fuel. Desertification, soil erosion, and destruction of forests is accelerating at an alarming rate. These problems contribute not only to poverty and regional conflicts, but also the global environmental problems.

I support the Committee on Appropriations when it says "environmental issues must be a top priority of the United States foreign assistance program."

I also support the increase in funding for voluntary population programs—none of which could be used to fund abortions—from the $193 million requested by the administration to $250 million. Unless we tackle the population explosion in the Third World, we will keep fighting it on our own doorstep. I refer to the vexing and growing problem of illegal aliens, which confounds border patrols and drug enforcement officers as well.

I would observe that in a related account, this bill also supports international narcotics interdiction. Another investment worth making that benefits folks in our own Nation.

AID TO NEW DEMOCRACIES

The 1990's will require us to redefine what we mean by national security. The critical element will not be the power of our nuclear arsenal. I am convinced that our major task will be building a new world order to replace the old order based on the East-West division that existed from the end of World War II.

The new order must be anchored in a continuing United States relationship with a new Europe which will incorporate the emerging democracies of Eastern Europe. The success of the Eastern European experiment would not only offer major new markets for our exports but will greatly increase our national security. We need to reduce our military expenditures in Europe and reinvest a portion of them to help the nascent private sector reforms in Eastern Europe.

This bill takes a small step in that direction by its modest reduction in aid to base rights countries and its increase in Eastern European aid from $300 million to $488 million.

The larger step we must take is cutting the foreign aid we provide each year in the form of a $150 billion contribution to the defense of our wealthy NATO allies.

In summary, this bill moves our aid program a small, but significant, step in the right direction. It does this by reducing the overall level of our foreign aid and by shifting resources to the right kind of aid. It reduces requested military aid from $5.1 billion to $4.7 billion. It channels these savings into development aid—which provides most of our support to poorer countries.

The shift in priorities does not go far enough: but it puts us on the road toward an aid program which would actually focus on helping those in need. it points the administration in the direction that Congress and the American people want it to travel in the dramatically changing world: striving to save more children from preventable deaths and stopping the scourge of recurring famines and chronic malnutrition.

There is no reason why, with the end of the cold war, we cannot fashion such a foreign aid program, and do it without increasing the foreign aid budget. The time is long overdue for our country to shape a foreign aid program of which it can be proud. Foreign aid can be a worthy investment if we make it count. That is why I rise in support of this bill.

HONORING JOHN P. THOMPSON AND JERE W. THOMPSON OF THE SOUTHLAND CORP.

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. TORRES. Mr. Speaker, today I rise to recognize two outstanding individuals, John and Jere Thompson, chairman of the board and president/chief executive officer of the Southland Corp., respectively. On July 19, 1990, the Thompson brothers will be honored by the Muscular Dystrophy Association at MDA's annual "Gift of Hope Dinner."

Under the leadership of the Thompson brothers, the Southland Corp., with its 7-Eleven Stores, has raised $66 million over the past 15 years for the MDA.

Mr. John P. Thompson was born on November 2, 1925, while Mr. Jere W. Thompson was born on January 18, 1932; both natives of Dallas, TX. The two brothers are alumni of Highland Park High School and of the University of Texas at Austin where they obtained degrees in business administration.

In 1948, John was elected to Southland's board of directors and began working for the company's Oak Farms Dairies. Shortly after that, he was transferred to Austin, TX. In 1951 he returned to Dallas and was named assistant to the president of Southland. He became president and CEO in March 1961, chairman and CEO in April 1969, and chairman in 1986.

Jere joined Southland in 1954 in the Texas 7-Eleven stores operations and moved to Florida in 1959 to direct the 7-Eleven stores growth in that market. He returned to Dallas in 1962 as vice president of store operations. Jere was elected to the board of directors in 1961. President of the Southland Corp. since December 1973, Jere was elevated to president and CEO in May 1986.

Both John and Jere Thompson remain actively involved with the University of Texas, and a number of other organizations, foundations and boards. For the past 15 years, the Thompson brothers have been instrumental in

raising funds for the Muscular Dystrophy Association. Their leadership is evident in all of their involvements including, but not limited to the MDA.

Mr. Speaker, at this time I ask that my colleagues please join me in saluting Mr. John P. Thompson and Mr. Jere W. Thompson for their invaluable contributions and dedication to the Muscular Dystropy Association. Their efforts have made a tremendous impact in the lives of so many muscular dystrophy patients.

FAMILY INCOME SUCCESS STORY: AN UPDATE

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. WALKER. Mr. Speaker, last year, I requested that the Republican Study Committee of which I am a vice chairman, undertake a study to point out misconceptions stemming from a Ways and Means Committee report on programs within its jurisdiction. This report, in which CBO participated, was designed to justify the policy of never-ending tax increases on the American people. That RSC study showed how manipulation of the data can lead to misconceptions that result in a distorted picture of the truth, and demonstrated that some liberals are still rewritting our country's economic history. The study is entitled "Family Income Success Story: What a Difference Repubicans Make!". This study demonstrates that the middle-American family income rose 12 percent during the Reagan-Bush expansion, while the income of the lowest 20 percent expanded even faster.

An update of that study was undertaken recently in response to one by a group called Citizens for Tax Justice—a liberal group advocating tax increases. The CTJ study was misleading in a manner of ways, including disregarding the rampant inflation engendered by former President Carter's economic policies of malaise, and ignoring the fact that Federal revenues soared under the lower tax rates put in place during the Reagan years. The sad truth is that in 1980, family income for all groups fell more sharply than any year during the post-war period: The RSC update is entitled "Family Income Success Story: An Update."

Mr. Speaker, the subject of the study is an important one. If more people understood how damaging tax increases are to the health of our economy, they would not so strongly advocate a "tax America first" policy. Instead, they would concentrate on tax rated reduction and spending reductions as the way to economic health. According to a study released by Senator WILLIAM ROTH, Congress will spend $1.58 for every dollar of new taxes, thus raising the deficit. The tax addicts do not understand that we cannot tax ourselves into prosperity.

I am inserting the entire "Family Income Success Story: An Update" in the CONGRESSIONAL RECORD, and I urge my colleagues to give serious consideration to its thoughtful premises and conclusions.

[Republican Study Committee]

FAMILY INCOME SUCCESS STORY: AN UPDATE

(A Study Requested by Robert S. Walker, M.C.)

This short paper updates the findings of our study of June 30, 1989, entitled *Family Income Success Story: What a Difference Republicans Make.!* It discusses the continued economic gains of our nation and points out how all income groups have gained. The paper points out problems with a study published recently by "Citizens for Tax Justice," a group which favor tax increases over spending cuts to solve the deficit problem.

INTRODUCTION

Last March, the Democrat-controlled Ways and Means Committee published a report on programs within its jurisdiction. Many reporters used this data to imply that under Reagan, the poor got poorer, Reagan economic miracle nothwithstanding. They failed to point out that the data in the Ways and Means report included economic data from two of the worst Carter years together with the Reagan years. This technique is referred to as "blaming Carter on Reagan."

Our study of June 30, 1989, entitled *Family Income Success Story: What a Difference Republicans Make!* pointed out the fallacy of this type of thinking and provided figures for the true Reagan years to compare with the figures from the Carter/Reagan years used in the Ways and Means report. Figures for the true Reagan years showed that the poor did not get poorer during the Reagan years; instead, *all income groups gained.* Yet CBO continues to use an absurd mismeasurement of income to justify its contention that the family income of the lowest fifth declined in the 1980s. The CBO/Ways and Means report does not actually measure the level of income in their tables on income growth, but presents income in percentage terms.

Recently the organization "Citizens for Tax Justice" published a study called "Inequality and the Federal Budget Deficit." Figures from that study were based on the same deceptive base that was used in the Ways and Means report: Data from the two worst Carter years were included with the data from the Reagan years.

In fact, not only did this study repeat the use of the deceptive data base, but it compounded its errors by also discounting the rampant inflation resulting from Carter's economic policies of malaise. And it ignored the fact that federal revenue soared under the lower tax rates put in place during the Reagan years.

Once again, liberal Democrats are rewriting history in an apparent attempt to deny the fact that the Democrats' brand of economic policies spell disaster for American families. It is ironic that while the socialist governments of Eastern Europe have finally faced up to the truth about such economic policies, the American liberals are still working hard at dissembling.

JUST WHAT ARE THE "FACTS" THAT "CITIZENS FOR TAX JUSTICE" CLAIMS?

That the 1981 tax bill lowered federal revenues.

That the '81 tax cuts shifted the tax burden from the rich to the lower and middle class taxpayers.

That the poor got poorer during the 1980s, but they paid a higher portion of the tax burden.

That insufficient revenues are the heart of our deficit dilemma.

And that Congress should increase taxes to reduce the budget deficit.

Incredible! Despite a plethora of data to the contrary, showing how all income groups have gained in the past decade; showing that spending, not taxing, is at the heart of the deficit problem; and showing that tax increases do not reduce the deficit, the American liberals are still working hard to make us believe we need more taxes to keep Congress from spending.

THE BASE YEAR IS CRUCIAL

While economic data are important and can be used to paint a picture, the selection of a time frame is critical to the analysis. In fact, the outcome of any study is often largely determined by the selection of the base years.

For example, in a discussion of family income, the 1989 Ways and Means Committee study of adjusted family income used 1979 as its base year. The percent change in the lowest quintile of family income between 1979 and 1987 was *minus* 9.8. Yet the percent change in family income for that quintile between the years 1982 through 1987 was +7.8 percent. This is an almost 18 percentage point difference between the two figures.

As these data indicate, these two different data bases showing percent change in adjusted family income tell two entirely different stories. 1982 through 1987 are years in which former President Ronald Reagan's economic policies were in effect. There was an increase of 7.8% in adjusted family income during those years for families in the lowest income quintile.

However, the data base selected for use in the Ways and Means study included two of the worst Carter years. The years 1979 and 1980 were included even though Ronald Reagan was not yet President. Of course the economic picture is bleaker when these years are used as a part of the data base. In fact, during the 1979–1980 period there was a decline of almost ten percent in the adjusted family income of those in the lowest quintile.

These numbers can only hint at the misery for the families in this income quintile during the Carter years, and it is no wonder that the liberals who supported those economic policies espoused during the Carter years would attempt to mask the full effect by using a misleading data base. Sorry to say, Citizens for Tax Justice used the same misleading date base in presenting data for their 1990 study.

For the record, let us look at the difference in percent change between the 1979–1980 period (the two worst Carter years lumped together with Reagan years) and the 1982–1987 period (Reagan years only, starting with the passage of this first major tax bills.) In the "means cash family income in 1987 dollars" for the lowest income quintile alone we see a difference of a full ten percentage points between the two analysis:

	Percentage change	
	1979–87	1982–87
A. Mean cash family income in 1987 dollars:		
Lowest income quintile	−6.1	+4.1
Second	−2.2	+4.9
Middle	+.9	+6.9
Fourth	+4.0	+9.5
Fifth	11.1	11.1
Average	+5.6	+9.2
B. Adjusted family income, weighted by families:		
Lowest	−7.1	+5.3
Second	.0	+7.7

	Percentage change	
	1979–87	1982–87
Middle	+5.0	10.0
Fourth	+8.5	11.1
Fifth	14.6	11.6
Average	+9.0	10.6
C. Adjusted family income, weighted by persons:		
Lowest	−9.8	+7.8
Second	−.5	10.1
Middle	5.2	12.1
Fourth	+9.3	12.9
Fifth	15.6	13.6
Average	+9.3	12.8

Not only do the "Citizens" use the same misleading data base to make their point, incorporating the two worst Carter years with the Reagan years, they discount the raging inflation of the Carter years. And their data assumes the economy would have grown at the same healthy rate with the 1981 tax cut as it would have had the tax cut not been passed. It is obvious they tilted their figures to make a political point. As David Broder of the Washington Post has pointed out, both the Citizens for Tax Justice and the Ways and Means Report use misleading data to make their point. (America's Deflected Tax Anger, 4/15/90) Given the sorry economic mess brought to us by the policies of "malaise," we can almost understand why!

It is easy to see how this disinformation can present a picture that is far from the truth. Now let us discover what we already know, that the economic picture is much rosier than the liberals let on, thanks to Reaganomics!

Foney Fact #1: The 1981 Kemp-Roth tax cuts reduced revenue and resulted in the large federal deficit that we have today. What is the Truth?

The truth is that an increase in federal revenues occurred after the 1981 Kemp-Roth tax cuts. While the 1981 tax bill cut personal income tax rates, the result of this cut was to reduce barriers to production and encourage the taxpayers to put his resources into productive business. A reduction in tax avoidance and tax shelter activities also occurred after the 1981 Kemp-Roth tax cuts were in place.

The fact is that the U.S. Treasury now collects more revenue than ever before. Revenues from individual income tax is double that of just ten years ago. Since 1980 federal revenue will have risen $556 billion. The trouble is, spending by Congress then increased even more—by at least $606 billion.

It is easy for some to lose sight of the fact that the President cannot spend a dime of tax revenue without appropriations by Congress. Only the Congress can authorize spending. And they spend more than they take in. Clear and simple, uncontrolled federal spending is the cause of the deficit. Certainly the 1981 tax cuts, and an increase in federal revenue, are not.

Foney Fact #2. The poor have gotten poorer during the last ten years, but they have paid a higher portion of the tax burden. What is the Truth?

As was shown in our report of March, 1989, all income groups have gained during the 1980s. In fact, the income of the bottom fifth increased a hefty 13% during 1982–1988, the years of the Reagan economic expansion.

What is not mentioned by "Citizens for Tax Justice" is that all of the increase in the tax burden borne by the lower income families is due to increases in payroll taxes and excise taxes—not the federal income tax! Due to 1977 legislation which increased the payroll tax rates for social security, the overall payroll taxes increased for the poorest families from 5.4% in 1980, to 6.9% in 1985, and 7.6% in 1990. In the last decade, the total effective tax rate for the bottom fifth of families went from 8.4% to 9.7%. This increase is completely due to the 2.2% increase in the effective payroll tax rate over this period; deepening the negative income tax rate helped limit the damage.

It is the hefty increase in payroll taxes that should be the focus of these studies. Not only do they hurt the low-income wage earner the most, but they serve to stifle job creation—the lifeline to economic gains for the poor.

Foney Fact #3. Citizens for Tax Justice say that the 1981 tax cuts shifted the tax burden from the rich to the poor and the middle class. What is the Truth?

Proponents of the 1981 tax cuts argued that lowering prohibitively high marginal tax rates would increase the realization of taxable income through expanded work effort, higher realization of capital gains, and a shift of funds from tax shelters and discretionary tax avoidance activities. As a result, the share of the income tax burden shouldered by the top one percent of taxpayers jumped from 18 percent in 1981 to 25 percent in 1987, according to IRS data. The CBO/W&M report shows similar results for the top 5%, with their income tax burden share rising from 36% in 1988 to 44% in 1990.

When confronted with the fact that tax payments and the tax burden share of the upper income taxpayers have increased, liberals like to reframe the issue. "Of course the rich pay more taxes," they say. "Their incomes rose faster than everyone else's." But that is precisely what they disputed ten years ago when they ridiculed the "Laffer curve." Supporters of the 1981 tax cut predicted that the taxable income of the rich would expand so that they would pay more in taxes.

And that's exactly what happened, despite the doubts of the liberals. Data show that over the past ten years, share of total income taxes paid by the rich climbed over 8 percentage points. The largest percent reduction in income tax rates was for the lower and middle fifths of families.

What of the contention that the federal tax burden for the poor has increased due to the tax cuts of 1981? Even CBO and Ways and Means data show that the individual income tax rate for the bottom fifth of families is actually negative for the years 1977, 1980, 1985 (and for 1990, based on projections). In those years the poorest families paid no federal income tax. In addition to not paying any federal income tax, these families received money from the U.S. Treasury under the provisions of the Earned Income Tax Credit (EITC) law.

The chart on the following page illustrates how the personal income tax burden has shifted away from the lower and middle income groups and has moved instead toward the higher income groups during the period 1981 through 1986.

Total income taxes paid by the top income group rose during that period from 17.6% to 25%, while the share of personal income tax paid by the middle income group fell from 57.5% in 1981 to 51.6% in 1986, and the share paid by the lower income taxpayers fell from 7.5% to 6.6%. Actually, the income tax savings resulting from the 1981 Kemp-Roth tax cut has resulted in about $1,500 in savings for the average family (Source: Internal Revenue Service)

The liberal discussion of progressivity of taxation misses the distinction between theoretical and actual progressivity in the distribution of the tax burden. A tax of 100% on high incomes is certainly progressive. The actual result of such a high rate is that no tax is paid, and the entire burden of taxation is shifted onto middle and lower income taxpayers.

In light of this, steeply progressive tax rates can be seen as a totem of an ideology that considers accumulation of capital as morally wrong. Indulgence of such symbols could be costly: not only would the economy suffer, but over twenty billion of additional personal taxes would have to be paid by the bottom 99% of taxpayers, if it were not for the changes in tax burden which occurred under the 1981 Kemp-Roth tax law.

Foney Fact #4. The federal deficit does not come from too much federal spending—it comes from not enough tax revenue. And we need therefore to increase taxes in order to lower the deficit. What is the Truth?

Congressional spending is limited only by the level of tax revenues and the maximum politically acceptable deficit. History shows us that whenever Congress raises taxes, it will spend every dime of the new revenue and then some. A 1987 report issued by Senator Roth entitled "Federal Tax Increases and the Budget Deficit, 1947–1986: Some Empirical Evidence" showed that for every dollar of tax increase during the postwar period, the Congress has spent $1.58. In other words, let's not delude ourselves that increasing revenues from raising taxes will help reduce the deficit. Congress has shown that it will just spend that much more and then some. The report concludes "The evidence clearly does not support tax increases as a deficit reduction measure."

The bottom line is that liberals still think that higher taxes will solve the problem of the Congressional propensity for spending more than there is to spend. The real issue is Congress' lack of self-discipline in finding ways to restrain its spending to an amount that is within its means. If the amount of federal spending increases were capped at half that of revenue, the deficit would be eliminated over the next five years!

WILL THOSE LIBERALS EVER LEARN?

In reality, the call for still higher taxes masks a more fundamental policy disagreement over the size of federal government and its command over private resources. It marks the basic difference between a market economy and the types of economies found for so many decades in Eastern Europe and the Soviet Union.

We have seen what misery these policies were able to wreak under Carter's short reign. And we have seen the dehumanizing effects of these policies in Eastern Europe. Policies of socialism and redistribution of wealth do not feed people.

After four short years, the misery brought by Carter's policies of malaise was so devastating that the voters resoundingly repudiated them in the Reagan landslides of 1980 and 1984. These policies are now collapsing all over Europe. While those who live under these policies reject them with alacrity at their first opportunity, it is ironic that liberals in the U.S. still seem to be addicted to big government, higher taxes, and more government spending!

Let us hope that the U.S. liberals may soon become as enlightened in policy matters as the Central Committee of the Russian communist party.

ABOUT CITIZENS FOR TAX JUSTICE

Over the years, the group "Citizens for Tax Justice" has shown little understanding for the importance of entrepreneurship, market incentives, and business enterprise to the health of our economy. Its position advocating a rise in corporate taxes bears this out. Further, other reports by this group are suspect as well.

A 1986 report by Citizens for Tax Justice (CTJ) charged that the tax act of '81 failed to spur investment for jobs. Yet in the period from the 1981 tax act up until the 1986 tax reform bill, 8.5 million new jobs were created, and non-residential business investment was significantly higher than in the decade before or since.

In testimony before the House Ways and Means Committee in March of 1981, CTJ's McIntyre asserted that the "main result of the Kemp-Roth plan would be to shift a significant portion of the individual tax burden away from the top 5% of taxpayers and onto the bottom 60%." He also testified that this tax cut "provides 85% of its real tax reductions to the top five percent of taxpayers." Nothing could be further from the truth: the amount and percentage of tax paid by the top 5% dramatically increased, while the federal income tax burden on the incomes of the poor significantly decreased.

McIntyre also drew hasty and inaccurate conclusions about the social security payroll tax, claiming that it undermined progressivity. But the CJS study ignores the highly progressive structure of social security benefits as well as the presence of non-cash transfer payments such as Medicare, Medicaid, food stamps, public housing, and employer-provided nonwage compensation such as health and life insurance. These noncash government and private sector transfers are highly progressive, and disregarding them leads to an understatement of the income of poor families and an overstatement of their effective tax rates, thereby biasing the results.

McIntyre's predictions for the Reagan tax cut were factually wrong in 1981, and his conclusions are still factually wrong in 1990! At least CTJ has been consistent in its advocacy of liberal tax increase policies. Fortunately the American people are not easily mislead, as proven by the elections of the 1980s.

UNEMPLOYMENT INSURANCE

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. MADIGAN. Mr. Speaker, I want to share with my colleagues this house joint resolution which was recently passed by the Illinois General Assembly.

Whereas, The federal government collects taxes from Illinois employers to pay for the administration of the Illinois employment security system; and

Whereas, According to the Illinois State Chamber of Commerce, instead of returning adequate portions of these taxes back to Illinois, Congress has kept these dedicated funds on the books to camouflage the federal deficit; and

Whereas, This year, Congress is considering a measure to increase these taxes; and

Whereas, Because the federal government is not returning this money to Illinois, Governor Thompson has proposed a new State Unemployment Insurance surtax amounting to $9 per employee; and

Whereas, If the federal government released the full amount of taxes paid by employers through the Federal Unemployment Tax Act (FUTA), we would not need to increase the tax on employers; and

Whereas, Federal reports show that the Unemployment Insurance accounts have more than enough money to meet their statutory obligations, therefore, be it

Resolved, by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, the Senate concurring herein, That we urge the U.S. Congress to release the excess amount of federal taxes collected for the unemployment insurance system and to support any move to return to the states, particularly to Illinois, an increased portion of FUTA taxes collected for the purpose of administration of State employment security systems; and be if further

Resolved, That suitable copies of this preamble and resolution be presented to the President of the U.S. Senate and the Speaker of the U.S. House of Representatives and to each member of the Illinois Congressional Delegation.

TRIBUTE TO BERNARD V. O'HARE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to my friend, Bernard V. O'Hare who passed away June 8.

Bernie served his country during World War II as a combat infantryman in the Army. Bernie was captured during the Battle of the Bulge in 1944 and was awarded the Purple Heart. Bernie was immortalized in Kurt Vonnegut's book "Slaughterhouse Five" as a "hot-shot lawyer in a small town in Pennsylvania." Vonnegut was imprisoned along with Bernie by the Germans through May of 1945.

In our region of the country. Bernie was known as one of the top trial lawyers. He was a fierce competitor in the courtroom and a fighter for justice. Bernie put his heart and soul into defending his clients and was an admired, feared, and respected adversary in the courtroom. He was a master at his craft.

And then, there was Bernie's attitude. He was a prime purveyor of positive thinking. Nothing was impossible in Bernie's mind. Having survived the Dresden bombing and the fire storms in a basement, Bernie lived every day to the fullest believing that the gift of life itself was to be cherished, relished. And that's the way he lived—in his personal relations, in the courtroom, and on the deck of his sailboat. Bernie O'Hare combined the spirit of an adventurer with everyday life and work. His vitality was legendary. Even when stricken with cancer, he never lost his energy, his sense of humor, his perspective on life.

Bernie O'Hare enriched my life; made me more appreciative of life's simple but important values. For me and so many others his legacy continues in our minds and in our hearts.

To his lovely wife, Mary, and to their family, I offer my heartfelt sympathies and condolences.

Mr. Speaker, I am submitting for the RECORD an article which appeared in the Allentown Morning Call which enumerates Bernie's many accomplishments and contributions to the comunity.

BERNARD O'HARE, FORMER NORTHAMPTON COUNTY DA

Bernard V. O'Hare Jr., 67, of 1431 Easton Road, Hellertown, a former Northampton County district attorney, died Friday night at his home. He was the husband of Mary (Hoffman) O'Hare. They were married 39 years as of last Aug. 19.

O'Hare defeated E. Jerome Brose in November 1963 to succeed Andrew L. Herster as Northampton County's district attorney. O'Hare previously served eight years as an assistant district attorney.

A native of Shenandoah, Schuylkill County, he was a son of the late Bernard and Nellie (Murphy) O'Hare Sr.

For the past 18 years, O'Hare was a partner in the O'Hare and Heitczman law firm, 18 E. Market St., Bethlehem. Before working with George A. Heitczman, O'Hare practiced law with the late Peter Rybak.

O'Hare was a member of the Pennsylvania bar and was admitted to practice before the Supreme Court, the Northampton County Court and the Lehigh County Court.

A 1948 Dickinson Law School graduate, he practiced law two years with his father in Shenandoah. Later, he served as solicitor for the former Bethlehem Township School District and Board of Commissioners and for the Lower Saucon Township Board of Supervisors.

O'Hare also attended St. Francis College, Loretto, Cambria County; and Alabama Polytechnic Institute.

A U.S. Army veteran of World War II, O'Hare was captured by the Germans as an infantryman during the Battle of the Bulge in 1944. He was awarded the Purple Heart. Along with author Kurt Vonnegut, with whom he trained, he was in imprisoned mostly in Dresden through May 1945, when the city was fire-bombed and liberated by the Russians.

The two men kept in touch after the war, and Vonnegut visited O'Hare to discuss their experiences at Dresden for the best-selling book "Slaughterhouse Five."

In the book, Vonnegut refers to O'Hare as "a hot-shot lawyer in a small town in Pennsylvania."

When asked to provide one word for O'Hare, Northampton County Judge James C. Hogan, a friend of more than 30 years, said "courage."

"Bernie is where a thousand points of light are generated from," Hogan said. "He has been sick for several years, but you'd never know by asking him. Bernie is a guy who would never complain in any sense."

His law partner, George Heitczman, said O'Hare was one of the best-loved members of the Pennsylvania bar.

An avid sailor, O'Hare sailed from the Chesapeake Bay to Bermuda four times.

He was a member of the Lehigh Valley Chamber Orchestra's board of directors.

He was a member of St. Theresa's Catholic Church, Hellertown.

In addition to his wife, he is survived by sons Bernard V. III of Bushkill Township and Michael of Allentown; daughters, Mary, wife of F. Michael Coughlin of Bethlehem; Ellen, wife of Richard Litsch of Bethlehem;

and Theresa, wife a Thomas Wenck of Allentown; sisters, Mrs. Catherine McDonald of Morrisville, Mrs. Mary Kubelius of Shenandoah; Mrs. Ellen Greany of Mamaroneck, N.Y.; and Mrs. Ann Coghlan of Syracuse, N.Y.; and 10 grandchildren.

LANGUAGE BARRIER IN CANADA

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. EMERSON. Mr. Speaker, we are witnessing turmoil amongst our neighbors to the north. The Canadian bilingual system has proven to be anything but unifying. Language barriers separate one Canadian citizen from another. The country is divided by a single issue—language.

Are we destined to become another Quebec? A close look at our system of bilingual education indicates that we may very possibly be headed down a similar path. I'd like to share with my colleagues Joan Beck's recent column which appeared in the Chicago Tribune last month. Beck comments on Rosalie Pedalino Porter's new book, Forked Tongue: The Politics of Bilingual Education. Her comments are astute, and in my opinion, required reading before Congress considers the upcoming reauthorization of the Bilingual Education Act.

[From the Chicago Tribune, June 14, 1990]

BILINGUAL EDUCATION IS NOT THE BEST WAY TO HELP YOUNGSTERS

(By Joan Beck)

It began with the image of a little child, newly arrived in a strange country, sitting lost and confused in a classroom unable to understand the English swirling around him, already destined for an academic path that leads to failure and dropping out.

The benign impulse, surely, is to talk to the youngster in the language he does understand, to use it to teach him the academic subjects he should be learning along with enough English to help him, eventually, make an easy transition to a mainstream, grade-level classroom.

Back that inclination with civil rights consciousness and a spate of laws and court decisions guaranteeing every child schooling in his native language. Allow a bilingual bureaucracy to grow entrenched. Add the politics of race and ethnicity. Answer every criticism with accusations of bigotry and racism.

The results have turned out to be the angry, sad story reported by Rosalie Pedalino Porter in the new book "Forked Tongue," subtitled "The Politics of Bilingual Education."

Bilingual education isn't working, Porter insists.

It's not succeeding in easing children into mainstream classrooms and mainstream America in reasonable time, she says.

However kindly and sensible it sounds in theory, bilingual education has ossified into practices that foster and prolong ethnic segregation and isolation. It robs children of their best chance to become full participants in American life. And it contributes to the fragmenting of this nation into competing ethnic splinters, increasingly conscious and defensive of our differences instead of our unity.

Porter was once that isolated little immigrant 6-year-old adrift in an all-English classroom with no help. But her bewilderment in what was traditional "immersion" in English eventually faded. She became adept at English, went to college, mothered a family and then got caught up in the hopes and challenges of civil rights efforts and bilingual education.

She plunged with eagerness and dedication into bilingual education, earning the necessary college credits, teaching, working with families, serving on commissions, becoming the director of bilingual and English-as-a-second-language programs in the Newton, Mass., public schools.

Porter's criticism of what bilingual education has become is devastating—and will be perilous to ignore. She says, for example:

Many children who don't need bilingual programs are assigned to them anyway—in part to keep special funding coming in and provide jobs for minority teachers. Even though their home language may not be English, many youngsters already know considerable English, through older siblings, playmates, TV and other sources. Their primary need is intensive English. Teaching them in another language simply holds them back.

Many bilingual teachers aren't fluent in English and cannot help children learn it well.

The emphasis of many bilingual programs on maintaining children's native culture also wastes irreplaceable time that could be spent helping them move into mainstream life, as schools have historically done. What most immigrant families want, Porter says, is for schools to teach their youngsters how to function successfully in the English-speaking business and social world.

The insistence that children must be taught subject matter up to grade level in their native language increases their isolation and segregation in school. It is often impractical and pointlessly difficult. Occasionally it is impossible.

Bilingual education in this country is now provided in 145 languages. Some of them do not use a Roman alphabet, increasing the difficulty of shifting from them to English. A few—Hmong and Inuit, for example—don't even have a written symbol system.

Porter doesn't advocate a return to the old sink-or-swim immersion method by which millions of immigrant children learned English effectively enough to become editors, writers, teachers, and other mainstream American successes.

But immersion can be modified in kindly, integrating, effective ways that minimize its difficulties and initial confusion.

Developing such techniques and using them effectively requires a better understanding of the brain's neurologic potential to acquire language. (The brain, for example, has special abilities to encode and use languages in the preschool and early primary school years. The longer the transition to English is postponed, the more difficult it is likely to be.)

It will also require the political will to insist that English be used as a necessary way to unite us all into one nation.

Porter is not alone in her criticisms of doctrinaire bilingual education. Concern is widespread. And it is amplified by every projection of how big a percentage language-minority people will be in the work force and in the nation in the next century.

There are more effective programs, some of which Porter describes. Good, objective research will lead to others. What's important, first, is to change the regulations, political constraints and mindsets that now make it difficult to help children well.

MEMORIAL DAY 1990

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. BENNETT. Mr. Speaker, on Memorial Day, I had the pleasure in my congressional district to hear Capt. Kevin DeLaney, Commanding Officer of Naval Air Station, Jacksonville, give a truly inspiration and informative speech on what Memorial Day means. I include portions of that excellent speech at this point in the RECORD.

SPEECH BY CAPT. KEVIN DELANEY

We are here today to pay homage to our fallen comrades in arms and those who have served previously in our Armed Forces in the defense of liberty and who have made the supreme sacrifice.

Winston Churchill perhaps expressed our sentiments best when, after the Battle of Britain, he said, "Never, in the field of human conflict was so much owed by so many to so few."

When we consider the sacrifices made by our soldiers, sailors, marines and airmen, we look far beyond our national borders and see nations of free peoples throughout the world who owe their ultimate freedoms to those Americans who died so very far from home.

Today, nations throughout Europe, which have existed over the past 45 years under Communist dictatorships, have secured their liberties and are young, struggling, democracies.

Nicaragua has recently seen the Sandinista regime defeated in a popular election, and it appears that a peaceful exchange of government power has occurred.

Lithuania, Estonia and Latvia are all craving the freedom and democracy which some Americans take too much for granted.

But as we marvel and rejoice over the spread of democratic governments throughout the world, we should never forget the words of Thomas Jefferson: "Eternal vigilance is the price of liberty."

There are those today who would emasculate our Armed Forces with massive reductions in personnel and equipment in an effort to balance our national budget. None of us question that some reductions in defense spending are possible in the wake of the Eastern bloc alliance's weakening, coupled with the economic and other internal problems presently being experienced by the Soviet Union; but, reductions must be made prudently if we wish to remain on watch to assure the liberty of our Nation and the liberties of free men throughout the world are not threatened.

Much has appeared in the media concerning Soviet reductions in forces. Jane's Fighting Ships, the accepted expert on naval forces, in its edition released last week, reported that the Soviet Union is building new warships at their highest rate in 20 years.

Jane's also said the Soviet Union will be retiring 17 nuclear submarines, 80 diesel powered submarines, three cruisers and 25 frigates. But it explains that these retirements will occur under a program designed

to rid the Soviet Navy of technology from the 1940's and 1950's.

Despite Soviet rhetoric, the fact is they launched a record 10 new submarine hulls in calendar year 1989. They are trading quantity for quality. This is not a nation in military decline and the Russian bear is still a grizzly . . . not a teddy.

While we must listen hopefully to these Soviet proposals, and we may welcome the significant changes taking place under Mr. Gorbachev, we must not permit ourselves to be lulled into complacency concerning the Soviet threat. The fact is glasnost and perestroika are policies aimed at arresting a deteriorating Soviet economy. Unilateral Soviet arms reduction initiatives are, in reality, their means of scrapping block obsolescense. Alone they really say little about Soviet intentions toward America.

If Soviet policies succeed, their military potential may be even greater than it is today. Bear in mind that since 1985, this historical land power has tested nine new classes of submarines, has built four new classes of surface ships, three new types of naval aircraft and they are now building the first of three 65,000 ton aircraft carriers to join the four Kiev class carriers which are already fully operational in their fleets.

The Soviet threat to the United States and to our allies may have diminished, but it has not vanished.

They have added to their fleet one small aircraft carrier, have a second one under construction, and are also building a newer class carrier that is nuclear powered and comparable in size to our Forrestal class aircraft carriers.

The primary role of the aircraft carrier is power projection and protection of the sea lanes of communication that are so essential to island nations. Yet the Soviet Union is not an island nation. Its borders span 12 time zones from the Pacific to Europe and from the frigid cold of the Siberian Peninsula to the blistering heat of the deserts bordering Iran and Afghanistan. The Soviet Union is a land mass nation which has most of its allies and trading partners contiguous to her borders.

In contrast, our allies and trading partners are dispersed throughout the continents of the world; and, freedom of the seas is essential to our survival as a nation. We cannot depend on land transportation for commerce and communication.

As a result, we have continuous naval forces on watch—maintaining that constant vigil so important to maintaining liberty throughout the world. I can assure you that our Navy is at sea today protecting our freedom and it is as capable as any naval force that we have deployed in either peacetime or during war.

This is not only because of the investment we have made in ships and aircraft during the past 10 years. It is primarily because of the quality of the young men and women who are serving you today.

I recently read a disturbing article by a Washington Post writer who proclaimed that "Service to Our Country," as viewed by President Kennedy, has been "lost" by this younger generation.

Well, ladies and gentlemaen, nothing, absolutely nothing, could be farther from the truth; and we only have to look upon the magnificent group of young men and women in our Armed Forces today to prove this point.

We must give thanks to these dedicated young men and women—it is they who are meeting the call to public service and I am supremely confident that they will meet and exceed all of our country's expectations. They have the vision, the capacity, and yes, the true patriotism to reach new heights of accomplishments for our great Nation.

There is a peace dividend—it's the peace we are already enjoying because of the significant sacrifices which military men and women make daily to give America a strong and committed national defense.

It is clear the Soviet system is broken and it is still questionable that they have either the tools or the time to fix it. A wounded grizzly may well be the very worst kind.

I would ask you today to join me in a moment of silence, not only in memory of our fellow Americans who have died in combat against an enemy, but also for those who have died while training for combat or who died while representing this great Nation. Let us also remember today the fine young American men and women who today stand watch in defense of freedom throughout the world as members of our Armed Forces.

AIDING U.S. EXPORTERS

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. BARNARD. Mr. Speaker, I want to commend to my colleagues an article entitled "A Helping Hand for U.S. Exports," which appeared in the July 9, 1990, Wall Street Journal. The article reports on the renewed vigor of U.S. Government policy to encourage exports, and discusses our new willingness, albeit reluctant, to help exporters with tied-aid credits. I agree that tied-aid—a combination of Government export financing and foreign aid—should be used only when necessary to maintain a level playing field for our exporters. However, unless and until our foreign competitors agree to eliminate tied-aid, we must continue to supply it to companies who must compete in the international market.

The article follows:

[From the Wall Street Journal, July 9, 1990]

A HELPING HAND FOR U.S. EXPORTS

(By Peter Truell)

WASHINGTON.—In a recent telex to all U.S. ambassadors, Deputy Secretary of State Lawrence Eagleburger urged the embassies to become more involved in promoting U.S. exports. Times have changed, he wrote, and "its no exaggeration to say that our economic health and our ability to trade competitively on the world market may be the single, most important component of our national security as we move into the next century."

Welcome to the new age. As traditional cold-war diplomacy subsides, "commercial diplomacy" appears to be on the rise.

Commerce Secretary Robert Mosbacher, for one, has been eagerly intervening with foreign governments to try to advance the cause of U.S. business. The secretary's staff hands out summaries maintaining that Mr. Mosbacher's personal interventions with Japanese Minister for International Trade and Industry Kabun Muto and other Japanese officials have helped win business for General Datacom Industries, Motora Inc., Chrysler Corp., Allied Signal and Toys "R" Us. The summary also contends Mr. Mosbacher successfully went to bat against the French for Guardian Industries.

"We've got examples of all—the president, vice president, the secretary of state—making calls to help the U.S. be competitive," says Mr. Mosbacher, acknowledging that this is a change in approach from the Reagan years. "The private sector has got to do the majority, but we in government can be helpful in a lot of ways." The administration has also set up a new trade promotion coordinating committee, an interagency group to help U.S. business abroad.

Even more significant is the administration's new willingness, albeit reluctant, to help exporters with "tied-aid" credits—a combination of government export financing and foreign aid. In an unprecedented move, the Export-Import Bank and the Agency for International Development recently joined to set up a $500 million pool of tied-aid funds for projects in Thailand, Indonesia, Pakistan and the Philippines. The money will be used to provide cut-rate financing for transportation, power, telecommunications and construction-equipment projects in those countries, provided U.S. contractors and equipment are used. These are already "spoiled markets," explains Ex-Im Bank President John Macomber referring to other countries' liberal use of tied-aid credits in Southeast Asia.

To be sure, the U.S. is a laggard in the tied-aid game. Japan and France in particular have provided their exporters with generous assistance. From 1984 to 1987, those two countries offered $14.5 billion in tied-aid credits—accounting for 41% of all such aid from Western nations. The U.S., on the other hand, accounted for just over $1 billion.

Some recent studies suggest U.S. businesses have paid dearly for that imbalance in tied aid. An Ex-Im Bank report to Congress on tied-aid credits estimated that the U.S. loses $400 million to $800 million annually in sales because other countries are more aggressive in using such credits. And Ernest Preeg of the Center for Strategic and International Studies, a Washington think tank, puts the lost sales even higher, at $2.4 billion to $4.8 billion a year.

"In recent years, official export finance is a dimension of overall U.S. trade competitiveness that has received low-to-zero priority," Mr. Preeg complains. American economic aid has rather concentrated on "direct help to the poorest people and balance of payments support to strategically important governments rather than on projects that utilize U.S. exports."

Officially, the Bush administration's position is to curb such export-related aid, arguing it distorts the free flow of global trade. In May, the administration initiated a new round of negotiations at the Paris-based Organization for Economic Cooperation and Development aimed at reducing tied aid. And Treasury Secretary Nicholas Brady told reporters last week that tied aid is "something that the summiteers could easily spend some time on" at this week's economic summit in Houston, Texas. U.S. officials hope the continuing OECD talks will result in recommendations for reducing government trade aid by next summer, in time for next year's summit meeting of the seven leading industrial nations.

"There's no way the tied-aid credit issue is going to be solved at the trade level," said Mr. Macomber in a recent interview. "It's got to be at the cabinet or heads of government level."

In the meantime, as the recent Southeast Asian deal illustrates, the U.S. itself is getting more aggressive about tied-aid credits. "We've given up trying to set the pace purely by example," says James Sharpe, the Ex-Im Bank's executive vice president and U.S. negotiator at the OECD discussions.

In recent years, the Ex-Im Bank has maintained a "war chest"—$110 million in fiscal year 1990—designated for countering the tied-aid credit practices of other governments. And many in Congress would like the administration to adopt a much larger tied-aid program, on a European or Japanese scale. Democratic Senators David Boren of Oklahoma and Lloyd Bentsen of Texas have even proposed legislation—the Aid for Trade Act of 1990—that would tie American foreign assistance to exports. Dubbing the administration's current program "reactive, piecemeal and generally ineffective," the senators said "it's time to adjust to what our economic competitors are doing."

As the push for commercial diplomacy increases, such calls for tied aid are certain to grow louder. "Trade aid is just like dope," says Mr. Sharpe. "You get on it and you can't get off."

CIVIL RIGHTS: NOT JUST FOR BLACKS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. HOYER. Mr. Speaker, today the Washington Post ran an insightful commentary about legislation we will soon be considering, the Civil Rights Act of 1990. Ms. Dorothy I. Height, president and chief executive officer of the National Council of Negro Women, Inc., eloquently and logically explained why she supports this legislation wholeheartedly.

She points out that our current system provides unequal protection from discrimination based on different classes. A black woman who suffered severe sexual discrimination could not recover damages because the discrimination was based on sex and not race. This is not the equal protection under the laws that America can and should extend to persons who suffer any kind of discrimination.

Our Founding Fathers said in the Declaration of Independence that "All Men Are Created Equal," and it's been a continuing, 214-year battle to ensure that that is the case, not only for men of all races and origins, but women too.

I would like to place the text of Ms. Height's column in today's CONGRESSIONAL RECORD, and hope that it will be widely read as an eloquent statement for support of this important legislation.

[From the Washington Post, July 10, 1990]

CIVIL RIGHTS: NOT JUST FOR BLACKS

(By Dorothy I. Height)

In battle after battle for civil rights in America, fairness has been our nation's guiding principle. It must continue to be our moral compass in our struggle to pass new civil rights legislation protecting against workplace discrimination. That's why I strongly disagree with The Post ["The Civil Rights Bill," editorial, June 25] and others who would leave in place a system of civil rights laws under which some but not all people in this country can secure remedies for wrongs they have suffered.

Race discrimination does have a "special history," which makes it an urgent matter of concern, but that history provides no reason for Congress to refuse an effective remedy for all victims of intentional workplace discrimination. I believe it's high time to wipe away these inequities, and that's why I support the Civil Rights Act of 1990—every word of it.

The act extends to victims of intentional, harmful discrimination based on sex, religion or national origin the same tough legal remedy now available only in cases of race bias: the right to sue an employer for monetary damages. It isn't a new idea. It's an old idea applied more fairly. As such, it is an essential provision of civil rights legislation designed to take us into the 1990s with laws against workplace bias that are strong enough to accomplish their important job.

The current two-tier system for bias cases doesn't make moral or legal sense. Witness the story of Helen Brooms, a black woman victimized by severe sexual discrimination that left her with lasting emotional and physical scars. Because the discrimination she suffered stemmed from her gender, not her race, she could not recover damages. She could, as she says, "get justice as a black person but not as a woman."

Changing the law to remove this inequity would not loose an avalanche of claims upon the courts. We've seen no such deluge of damages claims from racism victims: a recent review of such cases during the 1980s shows them to be infrequent, and the awards reasonable. An entire decade passed with only three plaintiffs winning awards in excess of $200,000—a track record that hardly justifies panic about extending this protection to new groups. Of those who sue for damages, the ones with solid cases will win; other will not.

It is painfully ironic that as of today a man who sues a store because he tripped over a floor display has a better shot at winning decent redress than a woman battered daily by on-the-job discrimination or denied a promotion because of sexual stereotyping. To continue to lock women out is to deny the particularly harmful role discrimination plays in our society. This is not just another civil offense: this is a tear in our social fabric, a violation of our nation's ideals.

I object to the implicit attempt by some critics of this legislation to imply a hierarchy among different forms of discrimination. We don't battle this evil effectively by getting ourselves bogged down in discussions over which form it takes is worse. Such a debate can only further divide us as a people. It splits me, a black woman, in half. I am equally outraged against bigotry, whether directed at me as a woman or as a black American. I demand that my government provide me equally strong protections aginst both forms of bias.

With votes on the substance of this bill fast approaching, it's time to focus the debate on the real issues. And the question our elected officials must decide in the matter of damages is this: Who will bear the cost of international, damaging discrimination based on factors other than race? Under the current system, the victims pay—financially, as well as with their health and well-being. under the Civil Rights Act, discriminatory employers will pay. I vote for the latter and trust that the president and Congress will too.

TRIBUTE TO ELEANOR PEARSON

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. ATKINS. Mr. Speaker, I rise today in remembrance of Mrs. Eleanor Pearson of Wayland, MA. Eleanor was a remarkable woman, whose love and devotion to the human spirit should act as a guide to us all. Often Eleanor was heard describing her life as three careers, each playing a different, yet vital role.

Her first career was that of raising a family, which she believed was a full-time occupation and should always take priority. Her second career was her involvement in various churches as an organist and choir director. The third was her later working life at Brandeis University National Women's Committee. Throughout Eleanor's life ran three themes that never wavered. She shared a love of nature, reflected in the open windows of her house, looking out on the vistas of Mount Monadnock and Mount Wachusett. She held a devotion to music, in particular the works of Johann Sebastian Bach. The third theme was her dedication to activism for peace. At times, her personal acts in the pursuit of peace irritated some, while to others she was a beacon of never-ending hope.

Eleanor always believed in the power of hope, and she shared that hope with others at the various peace gatherings with which she was involved. To Eleanor, joy was found in the oneness felt by those pursuing peace. Eleanor had the courage to face the injustice she saw with constant and intense care. We can all learn from her vision of a world free from the threat of destruction, and take heart that slowly her vision is becoming reality. It is in realizing that the fight is not over, rather only just begun, that we can best remember Eleanor Pearson, and the care and love she exemplified.

Mr. Speaker, I submit to you a copy of the eulogy delivered by our former colleague, Rev. Robert F. Drinan. His words remind us that Eleanor's life was a constant symbol of what we all want for our world and an example of the strength and devotion needed to achieve those goals.

EULOGY AT A MEMORIAL SERVICE FOR ELEANOR M. PEARSON

(By Robert F. Drinan, S.J.)

One of the brightest and fondest memories I have of Eleanor Pearson centers on her work on my campaign in 1978. There was in that year a one issue Democrat running against us in a September primary. Since there was no Republican opponent in November, few took the Democratic primary challenge very seriously.

But Eleanor worked daily and diligently as a totally unpaid volunteer in the role of the associate treasurer of the campaign.

Someone in the campaign must have been sensed Eleanor's selflessness and asked her to perform a thankless task which few, if any, wanted. For the entire summer, Eleanor solicited and tabulated the money in exact compliance with the then newly issued federal guidelines.

I hope that I thanked her adequately. But I feel sure that I did not—partially because

Eleanor always dismissed acknowledgement of her work intimating that there were many more important things to think about.

Shortly after Wayland was added to my congressional district in 1972, I met Hal and Eleanor Pearson. They were there on every occasion during the next 8 years. They spoke out on the great moral issues involved in Watergate, the war in Vietnam, nuclear arms control and all other agonies of the 1970's. But, they also worked on the lowliest tasks.

Eleanor's letters to me always reflected the righteous anger which she felt at the excesses of militarism and anti-Communism. She continued to write to me during the 1980's—revealing her outrage at the doubling of the defense budget in 8 years, and the abandonment of the poor and the powerless.

Eleanor revealed her frustration at the remilitarization of the country in the 1980's, when in 1985, she participated in a group occupation of the Federal Building in Boston in order to dramatize her opposition to the White House's policies in Nicaragua.

Eleanor knew that sometimes her voice and that of millions of other apostles of peace were heard and followed. In the last months of her life, she felt the exhilaration which all of us experience at the marvelous fading away of the co-existence of terror of the Cold War. But she also sensed, as all of us do, that we have miles to go before we sleep.

Eleanor combined militancy in action with a certain mysticism in her attitudes. She was angry at the unjust and absurd policies of her nation. She yearned passionately for peace in the world. But, her activism was always kind, respectful, deferential, and gentle. She never gave up hope on the political order. But she worked ceaselessly and tirelessly to change the minds and hearts of those in and out of power.

Eleanor's courage was constant because her caring was so intense. She had a plan and a vision for this world which was opposed to the threats of nuclear annihilation which was at the heart of the foreign policy of her country. But she treated those who carried out that policy with kindness, gentleness, and sweetness.

What an extraordinary combination of saintliness and prophecy! Eleanor wanted and worked ardently for a transformation of the world. But she represented in herself the essence of modesty, self-effacement, and I use the word again, gentleness.

Eleanor was passionately devoted to nature, to music, and to peace. Her family and all those whom she loved and who loved her will always seek to advance her work in these three wonderful pursuits. But I suggest that the best way in which we can continue and expand the work of Eleanor Pearson is to devote ourselves as never before to the work of world peace.

Eleanor's beautiful spirit has been taken from us at a moment when the peace movement seems to be pausing for a new breath. We can hardly believe that in our lifetime all our aspirations for peace seem now to be attainable.

But, I am sure that Eleanor would tell us that the work for global peace may look a bit different now, but that it is still urgently and desperately needed.

Indeed, I am certain that Eleanor would tell us that at the present moment, we have a better chance of bringing about peace than at any time during all of the decades in which she labored so zealously for peace.

Eleanor would urge us to work for the alleviation of world hunger. There are still at least 800 million people in the global village who are chronically malnourished and alas their number is not decreasing. 40,000 children die every day from preventable diseases. There are, moreover, 360 million children of school age with no school to go to.

All of this is happening while the United States still spends almost 100 billion dollars each year to support the U.S. Navy which is no longer required for the defense of any foreign country.

Over 1 billion human beings will be added to the globe's population in the 1990's. There are no plans or programs for food, or housing, or education for these new companions of ours on our earthly pilgrimage. And this is in a world where 160 billion dollars are being spent this year on NATO, although the possibility of an attack by the Warsaw Pact nations is practically zero.

Eleanor would be as insistent now that we work for disarmament and peace as she was during her lifetime. Indeed, her message to us would be that the opportunities denied to us in the 1970's and the 1980's may well become available to us in the 1990's.

Consequently, the mission and the mandate which cry out to us as we remember this lovely woman is that our efforts for peace and disarmament must be intensified. The accidentals of the struggle have been modified. But, the new and noble road opening up for the United States and the United Nations must be highlighted in our souls and in the peace movement.

Deep in the labyrinthian recesses of our soul, we harbor the dream—or the delusion—that we can rest a bit, enjoy a peace dividend and slacken off in our work to demilitarize our nation. Eleanor Pearson would not tolerate such an attitude. Gently but firmly, she would insist that America must return to what it was before it accumulated 30,000 nuclear weapons and began to threaten extinction to the entire universe. The aberration of the Cold War must end. America must reexamine its role as a nation that believes in the rule of law and the supremacy of love.

If there is any one lesson that comes to us at this imperishable event here today, it is the thundering message that the struggle for peace must go on. America lost its way in our lifetime. Eleanor Pearson fought courageously and continuously to bring America back to its true self. In the last few months of her life, she and all of us rejoiced—in awe and amazement—that our voices after all apparently have been heard.

But the present moment could change radically and abruptly. There are powerful forces in this country that are addicted to violence, and the threats of violence.

Consequently, the peace movement—the movement for new priorities—the movement to demilitarize America—whatever we call the moral forces for which Eleanor worked—must be alert, active, articulate and, yes, aggressive. We are silent at our peril. If we are silent, as Elie Wiesel always reminds us, we help the executioner.

Perhaps in the Providence of God, each of us here today will receive some of the grace, wisdom, and courage that prompted all of us to admire and love Eleanor Pearson. Her memory will be in benediction in this community, in the peace movement and in the lives of all of us.

The finest way to radiate that admiration and love is to deepen our determination, at this moment and forever, that world peace will be our passion as it was for Eleanor Pearson.

I know that I and all of us here have only a very small understanding of the loss that has come to Hal Pearson and to his children, Anne, Margaret, Henry junior, and Mowry. In the sorrow of our tears, we extend to them our compassion, our condolences, and our gratitude for the soul and loving career of Eleanor Pearson.

As the world changes so radically everyday, it is perhaps not fanciful to hope that the 21st century will be the best of all the centuries. Humanity seems to be accepting certain ideas about human rights, the rule of law, and the dignity of every human being.

Eleanor will have admirers and friends in that new century. Indeed, she will always be gathering new friends because her ideals and her spirituality are so compelling.

In his last book "You Can't Go Home Again," Thomas Wolfe spoke of the experience of finding and losing in words that seem appropriate at this moment. As Eleanor and all of us enter a new chapter in our lives, let us reflect on these insightful words of Thomas Wolfe.

"To lose the earth you know, for greater knowing.

"To lose the life you have, for greater life,

"To leave the friends you love, for greater loving,

"To find a land more kind than home, more large than earth."

The Commonwealth of Massachusetts was precious to Eleanor from the moment she entered Wellesley College in 1931. It is therefore fitting that we close our goodbye to her with some moving words from the first Governor of Massachusetts—John Winthrop.

These words were spoken in 1630 and still express the mystique of Massachusetts. They sum up the credo and the convictions of Eleanor Pearson.

Let us close with these beautiful sentiments:

"We must love one another with a pure heart fervently. We must delight in each other, make each others' condition our own, rejoice together, mourn together and suffer together. * * * We must be knit together as one."

COMMENTS ON ARMENIAN ISSUE

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. BURTON of Indiana. Mr. Speaker, the following article correctly emphasizes that the U.S. Congress must be extremely cautious to politicize the events that took place in Turkey 75 years ago. I regret the suffering and tragedy experienced by the Armenians. However, it is a great mistake, as Mr. Boyner points out, to stoke the fires of ancient grievances. I urge all of my colleagues to read this article and to be reminded how influential our actions can be.

[From Turkish Times, June 15, 1990]

COMMENTS ON ARMENIAN ISSUE

(By Cem Boyner)

The United States is Turkey's leading trading partner and oldest, most trusted ally. Close relationships between allies can at times become strained. This happens if

your business partners are politicians, because of short term political gains, attempt to distort your history and thereby, insult you.

To pass judgment on controversial historical events must be left to historians. Only they can determine how many General Custers there are among the Turks, Armenians and Americans. The detailed study of history is not my specialization; it is neither politicians'; but only that of historians. This point is especially crucial when the honor of a nation and the blackening of its history is at stake. Critical conclusions should only be reached by objective historians.

Frankly, if you ask me, I do not pay much attention to a resolution passed by the US Congress about Armenian allegations, because Congress has no right to pass judgment on the history of another nation. However, the Turkish nation is very sensitive about this issue, for they value their national honor above all else. Turks do not take offense when enemies speak unjustly about them, but are gravely insulted when friends do.

American politicians do not have the right to belittle America's image and prestige in the eyes of the Turkish nation for their short-term political gains. My nation considers the U.S. a close and trusted ally. And the continuation of this opinion is to the benefit of both countries.

If politicians begin passing judgment on another nation's history, no one can be certain where this will end. When we look at America's justification, summarized in the motto "all politics is local politics," it is clear this may become uncontrollable.

However, if the U.S. Congress under the Administration endorses unsubstantiated Armenian allegations, history will not reveal that this decision resulted from domestic pressure, ethnic politics, and short-term political gains. History will not say that American politicians acted on purely domestic considerations. History will only say that Congress, representing the American people, accused the Turkish nation of the crime of genocide. There will be no clarification that short-term political manuevering and concessions led to this resolution.

It cannot be wise for anybody to attempt to create a current issue out of controversial event which happened in 1915. The world is full of real problems and we do not need artificially devised accusations, designed to establish a moral base for adventurism. It is time for everyone to turn away from this harmful behavior which serves no one. We must not forget that when we begin pointing an accusing finger at others, three fingers of our own are pointing back at us.

THE RAINBOW LOBBY AS A FOREIGN AGENT

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. DYMALLY. Mr. Speaker, the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) requires that any individual or organization which represents in any way a foreign person or organization—regardless of whether or not this representation is paid—must register these activities with the U.S. Department of Justice. The Rainbow Lobby has not so registered the activities it has undertaken on behalf of the Polisario of Western Sahara.

Over the last few months, the Rainbow Lobby—not to be confused with Reverend Jackson's Rainbow Coalition—has undertaken political activity for the Polisario before the Congress. The Polisario organization is a self-proclaimed representative of the people of the Western Sahara, and has observer status at the United Nations. The Polisario has serious concerns to address with the U.S. Government, and a right to do that. The Rainbow Lobby assisted in arranging meetings with the Subcommittee on Africa, Committee on Foreign Affairs, and Members of Congress, and participated in meetings with the Polisario representatives. But it has not registered with the U.S. Government for that activity.

The act reads, in part:

* * * it is hereby declared to be the policy and purpose of this Act to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in propaganda activities and other activities for or on behalf of foreign governments, foreign political parties, and other foreign principals so that the government and the people of the United States may be informed of the identity of such persons and may appraise their statements and actions in light of their associations and activities.

The act identifies the following persons as "foreign":

(b) The term "foreign principal" includes—(1) a government of a foreign country and a foreign political party * * *.

It further defines a foreign political party as follows:

(f) The term "foreign political party" includes any organization or any other combination of individuals in a country other than the United States, or any unit or branch thereof, having for an aim or purpose, or which is engaged in any activity devoted in whole or in part to, the establishment, administration, control, or acquisition of administration or control, of a government of a foreign country or a subdivision thereof, of the furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof * * *.

Certainly the Polisario meets that criteria.

The Act further identifies political activities under the Act as follows:

(1) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or through any other person—

(i) engages with the United States in political activities for or in the interests of such foreign principal * * *.

(iv) within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States;

This definition includes the setting up of meetings with Members of Congress to present a foreign entity's—the Polisario's—political views. And yet the Rainbow Lobby has never registered for this activity.

There is an important distinction here: There is no concern about the fact that meetings occurred, or that the Polisario was able to advance its political agenda, but rather about the fact that a lobbying group has failed to register its political activities pursuant to U.S. law. The Polisario has every right to promote its political agenda inside the United States, and Members of Congress interested in the Western Sahara and northwest Africa have a right and indeed a duty to meet with the Polisario if they believe it will promote their understanding of the issues. But any person or organization that promotes the Polisario's agenda must register this activity.

Much criticism has been directed in recent years toward the lobbying industry, especially such foreign policy lobbyists who have taken exorbitant sums for activities which seem to produce minimal results and have often, to put it mildly, skirted the laws. Much time has been devoted to the debate over whether new laws are needed to protect U.S. interests. The discussion has focused on how to expand current restrictions: no one has suggested easing such restrictions. And if one asks Department of Justice officials what their primary problem is, it is the failure of groups to register and fully disclose their activities. The General Accounting Office has identified this as a serious problem in several reports, most notably in its report entitled, "Foreign Representation: Former High-Level Federal Officials Representing Foreign Interests" (GAO/NSIAD-86-175BR).

Although the news about activities of high-level officials has brought attention to the issue, reports have generally ignored the activities of smaller groups who are promoting a political agenda. Groups representing foreign organizations should not be able to hide these interests by presenting themselves as a domestic lobbying group. Thus, if the Rainbow Lobby intends to work on behalf of foreign interests, it cannot under the law pretend that it is purely a domestic grassroots lobbying group. The law asserts that the U.S. Government, Members of Congress, and indeed the Americans who are funding the Rainbow Lobby have a right to know that this organization is representing foreign interests.

It is for the above reason that the Rainbow Lobby should be required to register as a foreign agent.

Please note: the Rainbow Lobby is in no way affiliated with Reverend Jackson's Rainbow Coalition.

WELCOME TO DIMITRIOS I, THE ECUMENICAL PATRIARCH OF CONSTANTINOPLE

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. FEIGHAN. Mr. Speaker, it is with great pleasure that I welcome His Holiness Dimitrios, the Ecumenical Patriarch of Constantinople, to the United States.

Patriarch Dimitrios, spiritual leader of more than 250 million Eastern Orthodox Christians, is regarded historically as first among equals

among the patriarchs of Russian, Ukrainian, Carpotho-Russian, Romanian, Albanian, Antiochan, Bulgarian, and Serbian Orthodox believers. These Eastern European churches constitute the second largest Christian body in the world.

The Patriarch's visit is extremely timely. The rapid changes in Eastern Europe have left a void, leaving this ancient church as one of the few lasting institutions. In Eastern Europe and the Soviet Union, the churches are free after years of Communist persecution. The Orthodox Church will benefit greatly from these eased tensions and will undoubtedly be called upon to play a role in shaping these post-Communist societies.

The Patriarch arrived in Washington from Constantinople [Istanbul], the spiritual center of the Orthodox Church, on Monday, July 2, for a monthlong tour. This marks the first visit of an Ecumenical Patriarch to the Western Hemisphere. During his stay, he will hold religious services with several Orthodox leaders, will preside over a convention of the Greek Orthodox clergy and laity congress in Washington and will meet with other Christian leaders, Jewish leaders, and public officials. He will meet with President Bush on July 12.

Dimitrios I will get a closer look at the enormous Orthodox community in the United States. He will visit at least eight American cities, traveling coast to coast. Speaking this past week at St. Sophia Greek Orthodox Cathedral in Washington, DC, Dimitrios paid tribute to the American contribution to the cause of human rights around the world. "Thanks to the creation and progress of the American commonwealth, human rights have been, and continue to be, safeguarded wherever and for whatever reasons they are threatened." This first ever visit by the Patriarch will undoubtedly strengthen the ties of the church and demonstrate the vibrant, committed character of the Orthodox community in the United States.

Patriarch Dimitrios' unprecedented visit brings to us the message of Orthodoxy, and ushers in a new era for the Eastern Orthodox Church. It is, indeed, a great honor to welcome His Holiness Dimitrios I.

CELEBRATING THE 134TH ANNIVERSARY OF THE BIRTH OF INVENTOR NIKOLA TESLA

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. HOCHBRUECKNER. Mr. Speaker, I am honored and privileged to address my colleagues on the occasion of the 134th anniversary of the birth of Dr. Nikola Tesla, scientist and inventor.

Born in Croatia, which was then part of Austria Hungary and is now Yugoslavia, in 1856 Dr. Tesla emigrated to the United States in 1884 where he became a naturalized citizen. A pioneer in the field of high-tension electricity, he designed and set up our country's alternating current system of electricity. A prolific inventor, he made many discoveries of great value in the field of electricity and radio transmission.

The U.S. Supreme Court in 1943 decided that Dr. Tesla had invented modern radio technology and ruled that the patents of Guglielmo Marconi were invalid. Unfortunately for Dr. Tesla, the recognition came 5 months after his death in New York City where he had lived alone and destitute.

Despite his magnificent achievements, history has almost succeeded in eliminating his contributions. Members of the Tesla Memorial Society, however, want to correct the record. They hope to begin with a memorial at the site of the Tesla Tower, which was erected in Shoreham in my congressional district in 1901. The huge radio station with a 187-foot high tower was intended to be the first world communication system. The structure was torn down in 1917 but Tesla's ideas remained and continued to revolutionize communications technology.

Today, Mr. Speaker, on the anniversary of Dr. Telsa's birth, I am speaking before my colleagues to both correct history and publicly acknowledge the debt this country owes to Dr. Nikola Tesla, who so generously shared his genius, not only with his contemporaries but those who came after as well.

INTRODUCTION OF NATO INFRASTRUCTURE REFORM BILL

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mrs. SCHROEDER. Mr. Speaker, today I am introducing legislation which would substantially reform the NATO Infrastructure Program to reflect the changing world.

For the last 40 years, the NATO Infrastructure Program has funded airfields, POL sites, naval bases, communications, navigational aids, training facilities, war headquarters, and radar warning stations throughout Europe. Under the rules of this program, which is the only commonly funded program in NATO, the facilities constructed must be essential to the wartime mission of NATO, must be jointly used by two or more NATO countries, and must be operational. In other words, bases for United States troops in Germany never qualified for NATO infrastructure funding. The United States pay 27.82 percent of the infrastructure fund. Over the past decade, Congress has appropriated $2.6 billion for the U.S. contribution to the NATO infrastructure fund.

The threat of a conventional land war in Europe against the Warsaw Pact has now disappeared, as the Defense Policy Panel of the House Armed Services Committee so convincingly stated in its report, "The Fading Threat: Soviet Conventional Military Power in Decline," released on July 9. So, NATO infrastructure funding for bunkers and radars and war headquarters is now an anachronism. That leaves NATO with a choice. It can let the infrastructure fund disappear, having outlived its usefulness, or it can reshape the fund to respond to new challenges.

My bill would adopt the latter course. The NATO infrastructure fund is one of the best examples of defense burdensharing that exists. I believe that we should use this structure of cost sharing for two important functions in the future: CFE treaty verification and implementation and environmental cleanup.

NATO and the Warsaw Pact are in the late stages of negotiating a treaty on conventional forces in Europe, known as CFE. Once this treaty is completed, there are a number of tasks which will be required and which the NATO infrastructure fund should underwrite. One is the job of verifying compliance with the treaty, including inspections and technical means of verification. Another is the process of cascading modern treaty-limited equipment from one NATO nation to another which has older equipment. In this way, NATO forces will end up being modernized even as the framework for treatywide limitations on equipment are put in place.

Another new challenge is cleaning up military bases which have been used for NATO functions. The United States will be quitting operations at a number of bases in Europe over the next couple of years. The United States operated those bases as part of its commitment to NATO. It makes eminently good sense to have NATO foot the bill for cleaning these bases.

In sum, my bill says that, after September 30, NATO infrastructure money can only be used for these purposes. I believe this is a good proposal which helps the transition of NATO begun with the London summit of last week. I urge the support of my colleagues.

SALUTE TO COL. LAWRENCE O. COX

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. INHOFE. Mr. Speaker, I would like to take this opportunity to pay tribute today to Col. Lawrence O. Cox. He is retiring from the U.S. Air Force as director of contracting and manufacturing at the Oklahoma City Air Logistics Center.

After 26 years of active duty service, Larry has exemplified the type of leader that we have all respected. An officer with honesty and integrity above reproach, he has provided the caliber of leadership so necessary to maintain peace through strength. Among his many achievements, perhaps the most noteworthy is the highly productive and motivated work force in the directorate of contracting. He worked the people issues very hard and his impact reached up and down the hallways to each work station. Colonel Cox was a man dedicated to his service, and dedicated to those who worked with him. His retirement will be a sad loss to everyone around him.

Col. Lawrence Cox has also demonstrated that he is one of those great Americans who strives everyday to make the world a safe and better place for democracy. He gives his time and effort to help build strong community relations, to buy clothing and food for the needy, and to enhance as much as possible the growth of the State and local economies. He is truly a class act—seldom equaled—worthy of the highest praise and admiration.

Larry, congratulations on a career well done and best wishes to you and your family in the days to come.

RU-486 EQUALS DANGER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. DORNAN of California. Mr. Speaker, this past March the prestigious New England Journal of Medicine joined with the pro-abortion groups in this great country of ours in promoting a revolutionary cure for motherhood—the French abortion pill, RU-486. The dominant media culture lauded this action and gave the New England Journal of Medicine quite a bit of coverage. While many news magazines reported that the journal mentioned potential side effects, these were down played. It seems the dominant media culture was more interested in promoting its use than in good objective reporting.

In 1988, U.S. journalists and pro-abortion activists were dismayed when the French firm Roussel Uclaf decided not to market the drug because of significant public opposition. However, the French Health Minister Claude Evin, citing progress, intervened and ordered the company to reverse its decision. During the past 2 years, more than 30,000 women have subjected themselves to this procedure. Now the French are exporting the drug to Britain and Scandinavia. The pro-abortion activists laud this decision as a step closer to seeing the pill introduced worldwide.

In 1989, a number of articles appeared reporting that the pro-abortion groups in the United States want RU-486 and have launched a major campaign to get it. They have demanded that the U.S. Food and Drug Administration recant its ban on the drug. Some pro-abortionists have gone so far as to arrogantly proclaim that, if the U.S. Government does not change its position, the pill will just be imported illegally. But RU-486 is not available in the United States for a very good reason—the health and welfare of the American woman.

In truth, what was intended to be an easy way to fix an unwanted pregnancy has turned out to be a lengthy procedure that is fraught with complications. In addition to the side effects listed by the New England Journal of Medicine, RU-486 has more than a dozen contraindications that proscribe its use.

For example, it must be administered under direct medical supervision, and the procedure, which lasts several days, is painful and bloody. If the woman is the wrong age, height, weight or if she is anemic, she is automatically eliminated as a candidate. It has been reported that RU-486 is safe but this is true only insofar as no one has of yet died from it. It has been linked to birth defects and any woman who takes it unsuccessfully must have a surgical abortion posthaste or risk delivering a malformed child.

Beyond all of these specifics, however, what is most disturbing about an abortion pill is precisely that it is potentially so easy. That someone could simply take a pill to do away with life that has been created is indicative of an antilife ethos, which can only portend ill for the future.

Mr. Speaker, precisely at the time the French Government is contemplating exporting RU-486, members of the French medical community are urging caution. After clinical analysis of more than 30,000 cases, serious side effects are becoming known—including an apparently greater risk of breast cancer. I would like to call attention to an article that appeared in the French magazine Le Quotidien. This article describes, in very precise medical terms, the many problems, risks and unanswered questions surrounding RU-486. I urge all of my colleagues to reflect long and hard on this issue of life and death.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC.

[Source: Le Quotidien, No. 4518, April 30, 1990]

RU 486: ROUSSEL ADDRESSES A LETTER TO THE GYNECOLOGISTS OF THE SURGICAL VOLUNTARY PREGNANCY TERMINATION (VPT) CENTERS

In a letter written in consultation with the Directorate for Pharmacy and Drug Affairs and addressed to all the gynecologists in charge of the voluntary pregnancy termination (VPT) centers, Roussel Laboratories drew the attention of gynecologists to two undesirable serious effects of the Mifegyne 200 mg (RU 486) procedure linked to the prostaglandin analogue.

Remember that (see Le Quotidien, No. 4512, April 20, 1990) an International Inquiry Committee, chaired by Professor de Vernejoul (Necker), recently expressed the risks which, according to it, the chemical VPT involves, requiring the mixing of Mifeprisone (RU 486) with prostaglandins, leading to "serious secondary effects on the supposed chemical alternative to abortion" and requested that the marketing license (ML)—granted for this procedure in December 1988—be immediately withdrawn.

This procedure is blamed for causing metrorrhagia which may last for more than a week in 90% of cases, sometimes requiring medical examination of the uterus or even a blood transfusion. The procedure is blamed for being the cause of some coronaritis cases and a coma lasting 36 hours. . . . Following the meeting between the ML Commission and Pharmacological Monitoring Commission, an ML revision was decided for only the modalities of prostaglandin use, while a letter addressed to the physicians at the VPT centers was written by Roussel Laboratories.

So far 33,000 women have used RU 486.

According to the text of the letter, 33,000 women have used the Mifegyne procedure of 200 mg + prostaglandin analogue in order to terminate pregnancy. The frequency of adverse effects (pelvic pain, asthenia, nausea, vomiting, cephaleas or general discomfort) is 9.5%. Such discomfort has been observed in about 0.8% cases for a few hours after the prostaglandin had been administered; in one of every two cases it was linked to hypertension which sometimes required curative measures. Two serious adverse effects have been noticed; one case of myocardial infarction and one case of fibrillation, which occurred in a woman with a cardiac stenosis. These incidents, apparently linked to cardiac spasms, occurred within two hours after prostaglandin analogues had been administered. However, the patients recovered.

The direction for use have been specified.

The letter specifies the directions for use of the procedure:

The procedure should not be used when cardiovascular risk factors (nicotinism, hyperlipidemia, diabetes, HA) exist. The age of the patients, especially after 35, should be taken into consideration.

It is imperative to respect the contraindications of prostaglandins used in the procedure: the cardiovascular, asthma and spasmodic bronchitis antecedents.

The patients must be in a prone position and blood pressure must be measured every half hour during and after the administration of prostaglandin analogues, all this under medical supervision in the center where the treatment was initiated, which must have at its disposal the appropriate monitoring and cardiopulmonary resuscitation equipment in the immediate vicinity.

The treatment usually used for cardiac spasms (nitric derivatives, calcium blockers) must be available for injections.

An electrocardiogram must be done in case of chest pain or when fibrillation or high blood pressure are suspected.

Patients must abstain from smoking and alcoholic drinks two days preceding the administration of prostaglandin analogues and on the day of administration.

The International Inquiry Commission on its part emphasizes that according to it, "it is a serious matter to grant formal license to preserve the essential: the use of RU 486 despite the very serious complications."

Dr. Y.M. KERION.

INTERNATIONAL INQUIRY COMMISSION ON RU 4867

The marketing license (ML) issued on December 28, 1988 by the Minister of Solidarity, Health and Social Protection, Mr. Ervin, for the Roussel-Uclaf RU 486 molecule called mifepristone, with the addition of prostaglandins with the aim of using a pharmaceutical alternative to voluntary surgical pregnancy termination (VPT), calls for numerous objections on our part.

(1) Was the Commission established to give advice prior to issuing the ML by the Minister concerning all this which, taking into account the effects claimed by the producing laboratory, was not of a pharmaceutical nature?

Would it not have been desirable—from the standpoint of ethics and safety—to enlarge this commission?

In fact, due to the lack, potentially frightening, of similar references for this compound—it would have been prudent to take into account the opinion of gynecologists and obstetricians as well as of those of INSERN and at the CNRS National Committee.

Moreover, the recommendations of the National Ethics Committee and those of the International Helsinki Accord have not been respected.

Finally, the research done in France on non-therapeutic abortion has not been conducted in accordance with the 1975 Veil Law: some abortions have been carried out outside the orthogenic centers provided for this purpose.

(2) At the scientific and medical level it was demonstrated initially and widely confirmed that this molecule is a very strong antiglucocorticoid. It was shown only later than the antiprogesterone activity was brought to the fore.

It is nevertheless regrettable that the Roussel-Uclaf decisionmakers have not

opted for the development of a molecule whose antiglucocorticoid activity would have been minimal in comparison with the antiprogesterone activity.

Although so far no accident has been reported (probably due to the fact that RU 486 stipulates strongly and for a long time the production of ACTH and of cortisol through the rupture of homeostasis of the corticotrophic axis) an accident will always be possible in a woman suffering from latent suprarenal dysfunction and could be observed from an important sample of patients receiving RU 486.

It is a question here unfortunately of a classical occurrence of clinical toxicology, where relatively minor incidents have been revealed by the average series (from 1,000 to 10,000 observations), whereas serious accidents appear in the more important series (between 20,000 and 50,000 observations).

Moreover, it seems that it will be necessary to administer a very big quantity of RU 8 (1,000 times the quantity of RU 486 normally utilized for steroids), that the effect is not proportional to the quantity adminstered and that the product has a long plasmatic halflife.

(3) Contrary to the claim according to which this product was selected through the knowledge of its efficiency, it is evident that RU 486 efficiency leading to the elimination of the fetus is far from being elucidated.

Briefly, the molecule only functions in the presence of a sufficient progesterone concentration and, in addition, as in the case of corticotrophic axis, the RU 486 disturbs the functioning of the gonadotrophic axis in animals and men.

A publication released by the Bygdeman laboratory (Contraception, 29, 1984, pp. 399-409) concluded by saying that the efficiency of the RU 486 use called for improvement in the substitution of the fetus aspiration procedure due to the very high frequency of failures.

The results obtained since then on a large scale have shown that the percentage of failures has been in the vicinity of 40 percent.

For this reason the same laboratory had conducted research on the embryolytic effects of prostaglandins and proposed research using first RU 486 and only then prostaglandins.

The treatment achieved a higher than 90 percent rate of success with quite evidently a counterpart of known secondary effects of prostaglandins:

Important digestive troubles, diarrhea, nausea and vomiting;

Severe uterine pain as painful as during delivery;

Risks of cardiovascular and respiratory complications.

In addition, the secondary effects of the simultaneous use of RU 486 and of prostaglandins are not yet known.

(4) The major secondary effects observed so far are uterine meterorrheas which may last longer than a week (from 1 to 35 days) and which occur in more than 90 percent of the cases of RU 486 use.

In a good number of cases, an emergency "uterine examination" was necessary to stop the bleeding and in some cases a blood transfusion was necessary with all the risks that it implies.

In very numerous instances, independently of the success or failure of abortion, a drop in the hemoglobin level (from 1 to 6 g/dl), associated with the drop in hematocrit by 30 percent on the average, has been observed and led to a methylergometrin, iron and vitamin treatment.

Has this decrease in hematological constants induced the occurrence of several cases of cornoaritis observed recently immediately after the administration of prostaglandins requiring an appropriate cardiological follow-up? This cardiological follow-up called for recently, was, however, strongly demanded in Vidal, where it was said that for the Nalador (sulprostone), one of the synthetic derivatives of Prostaglandin E2 administered with RU 486, is necessary:

To administer under constant medical supervision at a service specializing in gynecology and obstetrics, equipped with cadiopulmonary and monitoring devices, making it possible to initiate treatment without delay in case of accident.

To frequently control respiratory and circulatory functions.

Failure to comply with these obligatory guidelines could lead to a coma lasting over 38 hours, recently observed during a medical VPT.

(5) The experts seem to agree at present in recognizing that the association of the prostaglandins with RU 486 changes the process. On the other hand, pre-treatment with RU 486 makes it possible to decrease the abortifacient properties of the prostaglandins. It is, thus, wrong to say that the abortifacient effect is caused by RU 486, because administered alone it is only 60% effective. Moreover, this last figure varies more or less 20% for unexplained reasons from one experimental center to another. They speak about the "apprenticeship effect" of the tester.

(6) Where is, thus, in these conditions, "the authentic medicinal alternative to the surgical VPT?"

In practice the VPT, by using RU 486 together with prostaglandin, proceeds in the following way:

Consultation for taking pills

Hospitalization for 12 hours the next day for a prostaglandin injection

Expulsion [of the fetus] in 80% of the cases the same day or the following night

Failure in 5% of women who will resort to surgery

In about 5 to 10% the bleeding persists, requiring medical or surgical treatment

An imperative need to carry out an ultrasound examination a few days after the abortion and

HCG measuring in order to be absolutely certain that no fetus trace is left.

Moreover, in any case a surgical VPT must be performed if RU 486 together with prostaglandins has not induced abortion.

In fact, there are no data at present about fetal toxicity of RU 486 in the human species. The obligatory recommendation derives from A. Jost's research (C.R. Acad. Sc., Paris, ser. III, 303, 1986, pp. 281-284) in which severe fetal teratologies have been observed after RU 486 administration to a pregnant rabbit having reached her term.

Moreover, it has been known for a long time that prostaglandins are teratogenic in animals (*Teratological Testing* 2, 1979, 161-177) as well as in man (*J. Pediatr.* 102, 103, pp. 620-621).

(7) What should the stance be of a physician who orders this kind of treatment if the pregnant woman having taken RU 486 does not take prostaglandins without which RU 486 is not sufficiently effective? What should be done about those "out of sight" between both treatments?

(8) RU 486 use is also foreseen as a pharmaceutical for the treatment of breast cancer, neuro-psychiatric illnesses and in case of stress or of difficult parturition. But on what experimental bases?

In fact in the case of breast cancer, recent studies published in one of the international scientific reviews have even indicated the contrary, that is, RU 486 is a strong stimulant to the growth of cells (cell T 47D) in breast cancer. (*Endocrinology.* 14, 1989, pp. 2642-2644).

It must also be kept in mind that many of these pathologies require a long term treatment which is incompatible with the antiglucocortoid activity of the product and strangely enough with the inhibiting properties of the immune system. (*J. Clin. Endocrinology and Metabolism.* 69, 1989, pp. 1195-1199).

(9) At the level of the Social Security budget it is astonishing that the new treatment is justified as a new "treatment" and as a desirable alternative to VPT through aspiration insofar as it requires a more stringent monitoring:

Increase in the number of obligatory visits,

More complicated monitoring means (recently the electrocardiogram was added to the already a very long and expensive list).

Will the price (1,407.65 francs) indicated in the *Official Gazette* be sufficient for covering the costs of supplementary checkups required by this procedure and obligatorily prescribed?

Moreover, on the economic level, no "investment returns" can be expected because the market with an assumed risk in no way can be included in the admissible criteria by any pharmaceutical industry professional.

(10) Is it really reasonable and worthy of French medicine which has been and still is very brilliant in a big number of areas, to impose a painful technology and one very difficult to handle in France and to export it to the Third World countries which do not have our advanced medical technology required to monitor these abortions?

PARENTS AS TEACHERS LEGISLATION INTRODUCED

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. GEPHARDT. Mr. Speaker, recently I joined with my colleagues, Representatives WHEAT and CALLAHAN, in introducing H.R. 5226, Parents as Teachers: the Family Involvement in Education Act of 1990.

The legislation provides Federal start-up funds to States that want to start a Parents as Teachers program similar to the program successfully developed in Missouri. The Missouri program, working through the school districts, provides practical information to parents with children from birth to age 3 on all aspects of child development, through visits to the home by trained parent educators and group meetings at parent resource centers at local schools. The program also provides periodic screening of the child's hearing, sight, and intellectual development, with referrals and follow-up where necessary.

The Parents as Teachers program is based on three fundamental principles that deserve national recognition: first, that children begin learning at birth and do their most important developing before they enter school; second, that parents are therefore their childen's first

teachers; and third, that parents want to be good parents. By giving parents information, guidance, and support during their children's first years, Parents as Teachers empowers parents to foster the abilities and attitudes that will stand their youngsters in good stead when they enter school. The winners are our children, our families, our schools, and ultimately, our society.

Mr. Speaker, our Nation is facing a crisis. Our illiteracy rates and basic skills levels should cause us real concern about our future work force. In 1988 the Council on Economic Development estimated that one-third of the students in public schools faced a major risk of educational failure, and predicted that by the year 2000 many of these children will be young adults with no productive role to play in our economy. Our student's unacceptably high dropout rates and unacceptably low test scores should show us that this prediction remains all to realistic.

American parents are struggling to hold their families together and get their youngsters started on the road to a productive life, often in the face of economic and societal forces beyond this immediate control. My colleagues and I offer our Parents as Teachers legislation in the belief that it will give parents a potent tool to help them nurture their children and get them off to the best possible start.

The Missouri Parents as Teachers program has demonstrated real success. In an independent evaluation, children participating in the program scored significanty higher on all measures of intelligence, achievement, verbal ability, hearing comprehension, and language skills. Participating children were more frequently reported by their parents as have a sense of self, positive relationships with adults, and coping capabilities. The number of children in the program who entered first needing remedial or special education was less than half that of nonparticipating youngsters in Missouri.

And there is evidence that these successes endure. In a follow-up study, participating children were significantly ahead of their nonparticipating peers in academic performance at the end of first grade. And, just as importantly, the follow-up study reported that participating parents continued to play a more active role in their children's learning and formal schooling than nonparticipating parents.

Parents as Teachers can foster children who are self-confident, curious, and ready to take advantage of all their school offers them; parents who feel more in control, who have formed a partnership with their children and their schools; teachers who work with students who are able to learn at their full potential and go home to knowledgeable, supportive parents. The benefits to all of us are too obvious to need enumeration, but I want to quote Missouri's Commissioner of Education, Mr. Robert E. Bartman, who said, "I don't think it is an exaggeration to think of PAT as Missouri's early dropout prevention program."

Mr. Speaker, neither our legislation, nor the similar legislation introduced recently by Senator BOND and a bipartisan group of his colleagues, creates another new Federal program. Our legislation simply encourages States, through the provisions of start-up funds, to create their own programs in their own school districts, with the assistance of a Parents as Teachers National Center.

This is the kind of investment in our people and our future that the Federal Government should make. I urge my colleagues to join with me and Representatives WHEAT and CALLAHAN in supporting H.R. 5226, Parents as Teachers; the Family Involvement in Education Act of 1990.

TRIBUTE TO PETER J. DeCARLI

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. GEJDENSON. Mr. Speaker, I would like to pay tribute to Mr. Peter J. DeCarli of Deep River, CT, who at the age of 73, is closing his lace factory.

Mr. DeCarli devoted his lifetime of hard work to this lace factory which is one of the last of its kind existing in the Nation. After years of good business, however, it must be closed.

The problem for Mr. DeCarli's business is mostly that people like Mr. DeCarli are unique in their dedication to pursue skilled craftsmanship, and that too few children to the lace work force have decided to follow in their parents' footsteps. With no new apprentices enlisted to learn the highly specialized job of making cloth lace, and with the changes in both the market and in the way lace is made, Mr. DeCarli realized that he must surrender his vocation.

Another factor is the closing was the change in the market of making lace. New machines have been introduced to the lace market which take 2 to 3 months to master while Mr. DeCarli's machines, each containing 4,600 constantly rocking bobbins, take over 2 years to master. Although his attempts to remain competitive were significant, the new, simpler lace industry attracted more young lace apprentices.

I would like to pay tribute to Mr. Peter J. DeCarli for a life of devotion to a unique industry. The contributions he made to the lace industry can never be duplicated in the future by the new businesses. I wish him the best of luck in the future.

SALUTE TO A GREAT LEADER OF A GREAT INSTITUTION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. OWENS of New York. Mr. Speaker, Pratt Institute is a major practical force in the educational, civic, and governmental life of Brooklyn and New York City. Indeed, students now attend Pratt Institute from all over the Nation and the world to benefit from courses ranging from urban planning and architecture to the fine arts.

Today I rise to honor Richardson Pratt, Jr., who retires this month from his post as the president of Pratt Institute in Brooklyn, NY, and to congratulate him for 18 years of service as its president, as well as for his years of service as a member of the institute's board of trustees. He became a member of the board in 1962, and was named treasurer of the board in 1971. He was selected as the president of the institute in 1973, having been its acting president from June 1972.

Richardson Pratt, Jr., is the great-grandson of Charles Pratt, who founded the Pratt Institute in 1887. Throughout its 103-year history, Pratt Institute has remained true to its founder's goal, who wrote, "I wish to found a school that shall help all classes of workers, artists, artisans, apprentices, and homemakers and I wish its courses conducted in such a way as to give every student practical skill along some definite line of work, and at the same time reveal to him possibilities for further development and study." Richardson Pratt, Jr., has done a great deal to realize his great-grandfather's dreams for the Pratt Institute. His playing an active role in civic affairs has broadened the Institute's involvement with the local community. His support of the Pratt Institute Center for Community and Environmental Development [PICCED], and the establishment of the Summer Youth Skills Discovery and Development Program have deepened the school's Brooklyn roots.

Richardson Pratt, Jr., was educated at Williams College. He graduated in 1946 with a degree in economics. Prior to enrolling in college, he fought in World War II. An ensign in the U.S. Navy, he served as a gunnery officer on the U.S.S. *Instill,* a mine sweeper.

After the war, and following his graduation from Williams College, he enrolled in Harvard's Graduate School of Business. He earned a master's degree from the Harvard Graduate School of Business in 1948. That year he joined the then Standard Oil Co.—now Exxon—where he held various positions in marketing, planning, and economics until 1971.

Richardson Pratt, Jr., holds numerous other public and civic offices. He is a trustee of the Brooklyn Chamber of Commerce and is on the governing boards of both the Brooklyn Museum and the Brooklyn Botanic Garden. He serves on the board of directors of both the Brooklyn Union Gas Co. and the Dime Savings Bank of New York, F.S.B. He served as a trustee of the Commission on Independent Colleges and Universities [CICU]. He is currently a trustee of the Federation of Protestant Welfare Agencies, the Near East Foundation, and the Greenwood Cemetery. He serves as the mayor of the Village of Lloyd Harbor, NY. In addition, he received honorary doctor of laws degrees from Williams College in 1978 and from St. Joseph's College in 1984.

Mr. Speaker, I applaud Richardson Pratt, Jr.'s, lifelong commitment to education and his efforts to make Pratt Institute the kind of community education entity which his great-grandfather envisioned. I wish Richardson Pratt, Jr., success in all future endeavors. Although he is retired from Pratt Institute, his involvement with other community-based organizations ensures that he will continue to make valuable contributions toward the development of Brooklyn.

THE INDEPENDENT TRUCKERS AND DRIVERS ASSOCIATION LOSES TWO LONG-TIME MEMBERS

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mrs. BENTLEY. Mr. Speaker, for quite a while the Independent Truckers and Drivers Association has been dedicated to protecting the interests of independent truckers and drivers. However, the ITDA recently suffered perhaps one of its greatest losses with the passing of long time members Theodore (Ted) E. Brooks, Sr. and Lucy Campbell.

The passing of Theodore Brooks and Lucy Campbell has been a profound loss. Lucy Cambell died on April 17 following surgery. Lucy was a long-time member of ITDA and wife of ITDA Vice President William Campbell. Theodore Brooks, one of the founders and former president of the Independent Truckers and Drivers Association died on April 26 after a brief illness.

For the last several years Ted served as chairman of the board and had been an independent trucker since 1964. In 1973 Ted helped found the organization which was originally known as the Maryland Independent Truckers and Drivers Association which today includes members in various States. First elected as vice president, Ted became president approximately 2 years later.

A strong advocate of safety, Ted quickly gained respect and notoriety in the field as he testified before committees of Congress, State legislatures and other government agencies. An opponent of truck deregulation, Ted was concerned that safety would be greatly compromised and that truckers would be harmed by ratecutting. In the summer of 1979 Ted served on the White House task force on the problems of independent truckers and has continued to work for improved safety and economic conditions for the trucking industry. In addition to his involvement with the ITDA, Ted was a member of the motor carrier advisory committee to the Governor's Task Force on Truck Safety and Uniformity and one of two owner-operators on the American Trucking Associations' committee on operating practices.

Although Lucy never served the ITDA as an officer, her commitment to ITDA was reflected in her hard work. Through her help with fund raisers, fielding telephone calls, and attending meetings, the ITDA greatly benefited from the devotion of Lucy Campbell.

Indeed, the Independent Truckers and Drivers Association was fortunate to have the hard work and dedication of such individuals as Lucy and Ted. Regrettably, we tend to associate people with their material wealth and neglect the most important things such as wealth of spirit and wealth of character. However, that shall never be the case with Ted and Lucy. We can be assured that they forever will be remembered for their personal wealth and for what they gave of themselves to their coworkers, the ITDA, and their fellow man. As John Galsworthy once said, "The value of a sentiment is the amount of sacrifice you are prepared to make for it." No one can dispute the sincerity and personal sacrifice which were so common to Ted and Lucy.

Mr. Speaker, it is with great respect and admiration that I remember Theodore (Ted) E. Brooks, Sr. and Lucy Campbell. They shall forever be fondly remembered.

THE OCCASION OF THE OPENING OF THE CENTER

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. BILIRAKIS. Mr. Speaker, on July 1 in Clearwater, FL, the largest city in my congressional district, the doors of opportunity opened for a wide range of people—for the young and the old, the specially gifted and the specially challenged.

The Center, a unique and versatile education and recreation complex, is a $15-million facility dedicated to the development of human potential—a place where individuals learn to be the best each can be—whatever their level of achievement.

The complex includes an indoor, olympic-size swimming pool as well as a 25-yard instructional pool; a 15,000-square-foot, three-court gymnasium; fitness room; cafeteria, and outdoor playing and baseball fields.

The first group to make use of the facility will be the Upper Pinellas Association of Retarded Citizens [UPARC], which will be able to expand its client list to 300 eventually because of the new 150,000-square foot center, more than 65,000 square feet of which will be devoted to the workshops, classrooms and administrative offices of UPARC.

Outside, a 10,000-square-foot playground built by more than 3,000 volunteers is already enjoyed by hundreds of children each week. The center is designed and built to be accessible to everyone in the community.

In fact, the Center was a true community effort from its very beginning, being built on land purchased by the city of Clearwater and leased to the Center for $1 a year.

While $3 million came from State funds, the cities of Clearwater and nearby Safety Harbor contributed $2.875 million. However, the real story is the nearly $10 million that came from individuals, corporations, private and family foundations and community organizations.

In addition, hundreds of volunteers operate the Center along with a small staff of seven full-time and seven part-time personnel.

Furthermore, I would be remiss in not mentioning the special contribution of vision, creativity and energy by the Center foundation's chairman of the bill of trustees, Fred Fisher, also a major financial contributor.

Throughout the Center's 5 years of planning, funding and construction, he worked tirelessly to make the facility a reality. Fred Fisher and the other volunteers, staff and contributors at the Center have—and continue to—set standards of personal and local involvement that others in our Nation can emulate.

Their leadership and example benefit the entire community and they represent a true sense of caring for their fellow human beings.

Mr. Speaker, as these individuals pursue their own lives of excellence, they raise the standards for many others across the United States. Their example of local initiative and public-private partnerships is a glowing one, and I fervently hope that their example will serve as an inspiration to others to meet their own challenges and make of any crisis an equally wonderful opportunity.

WORLDWIDE DAY OF PRAYER FOR FREEDOM AND DEMOCRACY IN CUBA

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. FASCELL. Mr. Speaker, I rise to call the attention of our colleagues to an important project planned for July 15 which is being set aside as a Worldwide Day of Prayer for Freedom and Democracy in Cuba. This event is being organized by a concerned group of Cuban-American lay persons of different faiths who are united by two beliefs: The belief that Cuban people deserve to enjoy freedom and democracy and the belief in the power of prayer to produce change.

These are indeed powerful beliefs. The unbelievable changes we have seen in the world over the past several months bear witness to the tremendous power of belief. It was not physical force alone or even the threat of physical force that has transformed the political landscape of the world. It was the mass of ordinary citizens united in the common belief that they had the right to enjoy freedom.

I am convinced that the Cuban people share this belief and that the manifestation of that belief is inevitable and will ultimately prove irresistible. The Worldwide Day of Prayer for Freedom and Democracy in Cuba will highlight the continuing repression of the Cuban people and will demonstrate our solidarity with the people of Cuba who are the victims of that repression.

In closing, let me commend Col. Esteban M. Beruvides and other members of the organizing commission for their efforts in putting together this worthwhile event.

A TRIBUTE TO COL. JOSEPH SCHLATTER UPON HIS REASSIGNMENT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. LAGOMARSINO. Mr. Speaker, as chairman of the House POW/MIA task force, I want to take this opportunity to pay special tribute to Col. Joe Schlatter, the Chief of the POW/MIA Office at the Defense Intelligence Agency. While I am sure that Colonel Schlatter is looking forward to his new assignment in Japan, I must say in all honesty that I am very sorry to see him go. He has done an outstanding job providing responsible, informed leadership on a very complex and emotional

issue. He is a very valuable asset who will be hard to replace.

I have been closely involved in the POW/MIA issue since coming to Congress in 1974, and am a founding member of the House POW/MIA task force which was formed in 1977. I've witnessed much—from the indifference toward the POW/MIA issue in the late 1970's, to the attention this issue has received in the past 9 years as one of our highest national priorities. I strongly believe that there is no coincidence that DIA's most effective, efficient, and thorough work on the fullest possible accounting of Americans missing in Southeast Asia has occurred since March 1986, when Colonel Schlatter took the helm as Branch Chief and later as Chief of the POW/MIA Office.

I have been most impressed with two qualities Joe Schlatter has brought to the POW/MIA Office. First, as an individual, he has been very helpful and cooperative to the task force and, in particular, to me and my office. His knowledge of the POW/MIA issue and its myriad complexities, coupled with his willingness to carefully explain the DIA's actions and educate Congress about the realities of the POW/MIA situation, have resulted in a very close, successful working relationship. All too often we hear about the problems or conflicts between executive branch agencies and Congress. Today, thanks in large part to the positive attitude and professional conduct of Col. Joe Schlatter and his team, I am highlighting one of the real success stories of executive-legislative branch cooperation. Joe Schlatter is, again in large part, responsible for building this trust and mutual respect.

Second, as a team leader, I believe that Colonel Schlatter has been a driving force behind the high spirit, dedication, and professional commitment of the men and women of the POW/MIA office. One leads by example, and I am confident that the POW/MIA office will continue its excellent work by following the example Colonel Schlatter has set. Colonel Schlatter's frequent expert testimony and dedicated work clearly underscore that the real answers to our POW/MIA questions lie not in Washington—where he has made sure that everything that can be done is being done—but in Hanoi.

I know that many members of the task force, including me, many families, and many concerned Americans hate to see Colonel Schlatter move on. It's tough to lose a good person doing a great job—especially a job that can be as trying and difficult as his. However, it's encouraging to know that Joe is not really leaving, he's just moving on in the DIA to continue to serve our country in some other special capacity. Based on his record in the POW/MIA office, I am confident he will do an outstanding job in his new assignment. As a Navy veteran, my only regret is that Joe is an Army colonel, because now I can no longer truthfully say that the Navy has the best personnel—the Army has some too, like Joe Schlatter.

I ask my colleagues to join me in taking this time to wish Joe and his family very best wishes for the future and thank him for a tough job very well done.

TRIBUTE TO ROBERT E. BATES, SR.

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. FAUNTROY. Mr. Speaker, it is my distinct honor to rise today and recognize an outstanding individual, Robert E. Bates, Sr. This esteemed gentleman has brought about immeasurable positive changes for many residents throughout the city, particularly in Ward 6.

Robert Bates, affectionately known as "Bob Bates," is the founding father of the struggle for equality and fair housing in the District of Columbia. For many years he has worked tirelessly for the residents of Ward 6 to attain affordable quality housing. As a result of his diligence in the area of affordable housing, the Azeeze-Bates apartment complex was constructed in his honor. Today, the tenants of this 93-unit complex enjoy attractive housing that is either market rate or below market rate.

Throughout the years, Mr. Bates has held employment with the Washington Monument, the U.S. Department of Interior. He dedicated 23 years of his life to the Main Post Office where he served as a postal clerk, and in December 31, 1965, he retired as a postal supervisor. Upon retiring from the Post Office, he pursued a career in real estate. He prepared himself for this transition by attending the University of Maryland. He later obtained a real estate brokers license. He gained employment with Samuels Realty, S.A. Douglas Realty, and DEAR Realty where he retired at age 80.

Mr. Bates' community involvement includes his election as the first H Street PAC chairman. As chairman, he worked towards rebuilding the H Street corridor that was virtually destroyed during the riots that followed the assassination of the late Dr. Martin Luther King, Jr.

Further, Mr. Bates served several terms as the president of the Kingman Park Civic Association; as such, he worked diligently during elections as a Democratic poll watcher. In 1980, he was a Democratic candidate for the Democratic National Committee for Sen. Edward M. Kennedy.

For more than 50 years, Mr. Bates has served as senior deacon at Shiloh Baptist Church. He is a senior member of Berean Circle which was founded in 1940, and is also a senior member of Pilgrim Circle.

In 1953 he was appointed by Mayor Marion Barry to serve as the lay member of the DC Pharmaceutical Board for two terms. He is currently a member of the D.C. Stadium Armory Board.

For 56 years Mr. Bates has been married to the former Alice M. Martin. He is the father of 6 children, 12 grandchildren, and 3 great grandchildren

Mr. Speaker, it is indeed my pleasure to bring to the attention of my colleagues the many outstanding accomplishments of Mr. Robert E. Bates, Sr. As his Representative, I am honored.

REMARKS OF YOUNG ACTORS AT CONGRESSIONAL HIGH SCHOOL ART EXHIBITION OPENING

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. CARR. Mr. Speaker, on June 28, we celebrated the official opening of the ninth annual Congressional High School art exhibition. This year, 250 Members of this body participated by holding local high school art competitions in their districts. The winning works are now displayed in the Cannon corridor leading to the Capitol where they will be seen for 1 year and appreciated by thousands of visitors, Members, and staff.

This bipartisan effort truly shows Congress' support of the arts and education in this Nation. One has only to glance at the works to realize the tremendous talent of our young people.

Mr. President, we were fortunate to not only have nearly 120 of the winning students present at the opening ceremonies, but also the participation of two young successful film stars. These talented young actors—Martha Plimpton and Christian Slater—spoke eloquently and effectively to these students.

I would like to take this opportunity to share their remarks with my colleagues.

REMARKS OF MARTHA PLIMPTON AT THE OPENING OF "AN ARTISTIC DISCOVERY"

First of all, thanks to the Members of Congress who encouraged your participation and to all of you for your work. I'd like to thank you for giving me the opportunity to speak to you all today. It is truly a thrill and an honor for me.

Originally, when I was asked to take part in this with you I was more than a bit nervous. Upon telling a friend that I'd be coming here, he hadn't realized I was an art critic and political analyst. Obviously neither had I and still I am unsure of what I can contribute. I know frightfully little about government and the legislative process and even less about art. But after 3 fun-filled and action-packed days in Washington, having met some fascinating people and having been all to see some incredible things, I find I've learned a great deal.

I needn't tell you about the vital importance of protection of freedom of expression. As artists and Americans we know all too well the effects of repression. And I needn't try and explain the creative process. It is apparent from the work we've seen here that you are no strangers to it. There is no doubt that this work is truly individual and inspired. It is merely for me to say that I am inspired by it and encouraged that perhaps our generation is not as entirely lost as we've been led to believe.

I am proud to be a part of this generation, proud and honored to be among you today and proud to be an American. Congratulations.

REMARKS CHRISTIAN SLATER AT THE OPENING OF "AN ARTISTIC DISCOVERY"

It is an honor for me to be here today and to view your works. If a picture is worth a thousand words, then you all have a lot more to say today than I do.

Last year, I appeared in a film called *Heathers*, which dealt with the challenge of keeping your independence in a society that often times tries to conform it. One of the messages of *Heathers* is that conformity is the easy way out, and that it takes strength to be yourself. All of you here today have that strength, and this exhibition is your reward.

As an actor, it is important to bring your own originality to every role. It is the same with a painting, drawing, or any other work of art. Only by being yourself do you make creation unique and special.

I encourage you all to continue to express yourself through your minds, as powerfully as you have in this exhibition and wish you all-the best of luck. Congratulations. Thank you.

INTRODUCTION OF THE OMNIBUS BIOTECHNOLOGY ACT OF 1990

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. ROE. Mr. Speaker, I believe that biotechnology holds great promise for this Nation. It is one of the premier technologies necessary for the creation of the new wealth this country will need for growth and prosperity in the coming century.

The Committee on Science, Space, and Technology has followed and nurtured biotechnology's development since the early 1970's when concerns about the safety of laboratory research were raised and addressed within the scientific community itself. In the 1980's, the biotechnology industry's progress depended on obtaining investor confidence as researchers began developing specific products for use in the environment. In this decade, the success of biotechnology will rely on obtaining the public's confidence that these new products of biotechnology can be used in the environment safely and beneficially.

With that in mind, I introduce today the Omnibus Biotechnology Act of 1990 for the House's consideration. This legislation would establish a uniform Federal system for the review and authorization of releases into the environment of genetically engineered organisms and would promote research into and collection of data regarding the effects of such releases.

Although there is, and has been, a wide consensus in the business and environmental communities that Federal regulations are necessary to review the use of biotechnology products in the environment, the administration, despite repeated promises, has failed to publish environmental regulations for the past 10 years. This delay in establishing a clear regulatory system is creating a crisis in the biotechnology industry and in the public attitude about Federal regulation of this technology.

The industry fears that regulatory uncertainty is slowing new product development and discouraging investment in agricultural and environmental biotechnology research. Meanwhile, the public is turning to State governments to regulate biotechnology as evidenced by new laws in North Carolina, Wisconsin, Minnesota, and Hawaii and proposed laws in many other States.

The purpose of the bill is to provide the Environmental Protection Agency and the Department of Agriculture clear legal authority and well-defined systems to review the environmental effects of genetically engineered organisms before granting permits for their research or commercial use. It achieves this purpose as follows:

First. The bill amends the Toxic Substances Control Act [TSCA] to require a permit for the release of genetically engineered organisms for research or commercial purposes. It establishes the general data required to obtain a permit and allows the agency to give general permits exempting certain organisms from agency review.

Second. The bill creates a new statute under which USDA will review the safety of agricultural biotechnology organisms using the same permit requirements created for EPA under TSCA. To ensure uniformity of review from agency to agency, the bill requires USDA to consider the same environmental concerns that EPA considers under TSCA.

Third. The bill provides the public and the States greater notice and more information than they presently receive about proposed releases of biotechnology organisms. A State may negotiate with the appropriate Federal agency the conditions of an environmental release in that State.

Fourth. In return for giving the States a greater role in reviewing proposals for environmental releases, the bill preempts the State from regulating biotechnology experiments reviewed by the Federal Government. State could still regulate, but not prohibit, commercial biotechnology products approved for use by the Federal Government.

Fifth. The bill creates a government-industry commission to determine how to use Government and private resources to do more research into assessing the risks of biotechnology so that the regulatory system can be improved and updated.

Sixth. The bill creates an interagency group at OSTP to review Goverment policy and scientific problems affecting the biotechnology industry.

Seventh. The bill's provisions expire after 7 years unless Congress reauthorizes them. This is designed to force a reevalution of the need for regulations after more experience and data has been obtained with environmental biotechnology.

This bill is the result of months of consultation with biotechnology companies, trade associations, environmental groups State biotechnology centers, and scientific societies, as well as with officials from EPA and USDA. There is general support for breaking the regulatory stalemate that has developed within the administration—a stalemate that threatens continued investment in biotechnology and ignores the public's concerns and the public's right to be involved in the regulatory debate.

I do not mean to imply that it is easy to develop regulations appropriate for biotechnology or that this bill has all the answers. Hearings before the Science Committee over the past 5 years have provided us with a wealth of suggestions for a proper regulatory system for biotechnology. The bill I introduce today represents the best of the ideas presented to the Science Committee. It is not in any respect, however, intended to be the last word on biotechnology legislation. Instead, it is designed to serve as a focal point for examining and addressing these most important issues. I welcome further contributions from all quarters on how this bill can be improved.

To encourage these contributions, the Science Committee will be organizing a task force to solicit and discuss responses and suggestions related to this bill. Although this is a difficult area, the support this bill has already received from the business and environmental communities makes me confident that a workable regulatory system can be defined and implemented without the deleterious delay experienced over the last decade.

I believe that biotechnology regulations are necessary for the biotechnology industry to plan how to take its products from the laboratory to the marketplace and for the public to have confidence in those products. Unnecessary delay is no longer a philosophical matter, but one that is harming the economics and public image of biotechnology.

This bill proposs to establish a uniform regulatory system for biotechnology intended to address the public's concerns and promote the successful development of this very important industry. I commend it to the attention of my colleagues and look forward to their thoughts and advice.

HONORING ST. CASIMIR PARISH

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. VISCLOSKY. Mr. Speaker, it is my privilege and honor to inform my colleagues in the House of Representatives of an historic event in northwest Indiana. On July 13, St. Casimir Parish of Hammond, IN, will celebrate its 100th anniversary.

St. Casimir Parish had its beginning in 1887, when the first Polish Society in the region was formed. From this body, a group of 50 families established a committee to build their own parish and school, as Hammond had none. With a pledge of $100 each of the families made possible what has grown to be a 4,000-member parish.

St. Casimir Parish was erected in 1890 on Cameron Avenue, and today encompasses one city block, known as "The St. Casimir Square." The church, at the suggestion of the first pastor, Rev. Casimir Kobylinski, was named after Casimir the Great, King of Poland and Grand Duke of Lithuania.

In the past 100 years, since its formal founding, St. Casimir Parish has had a tremendous impact on the development, growth, and vitality of northwest Indiana. Its school has educated thousands of students, and welcomed their alumni back into the parish as husband and wife, mother and father, doctor, lawyer, and teacher. Created and nurtured by families, St. Casimir parishioners have not only shown their loyalty to their church, but also strong loyalty to their country. St. Casimir

parishioners have come to the defense of America in World War I, World War II, Korea, and Vietnam.

Much of what St. Casimir Parish has been, and is today, is due to its pastors. Each of the 10 pastors who have led their church have left their mark, and it is because of their dedication and vision that we are able to celebrate the 100th anniversary of St. Casimir Parish.

I am sure all my colleagues join me in congratulating St. Casimir Parish on this milestone occasion. A very happy 100th anniversary to the parish, and best wishes for another successful century.

IN SUPPORT OF THE PROTECTION OF OUR NATIONAL SYMBOL

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. LIPINSKI. Mr. Speaker, I rise today in support of the amendment, House Joint Resolution 350, and in support of the protection of our national symbol.

The American flag was created as the symbol of the United States of America. It has been proudly carried and defended by our Armed Forces and represents liberty, justice, and freedom of expression for millions of people around the world.

Every year on June 14, we celebrate the anniversary of the adoption of the Stars and Stripes as the symbol of the Americal people. It embodies the values and ideals that we as a nation cherish. Our national anthem is named after that symbol.

I have recently received correspondence from the president and board of trustees of the town of Cicero, who have adopted a resolution in support of the amendment to protect the flag:

Whereas, on June 14th Americans celebrate the anniversary of the adoption of the Stars and Stripes as our Nation's flag; and

Whereas, the American Flag is our country's greatest and most honored symbol, and has been proudly carried and heroically defended by our Armed Forces for more than two centuries; and

Whereas, our National Anthem is entitled "The Star Spangled Banner";

Now, therefore, be it resolved by the President and Board of Trustees of the town of Cicero that we strongly support the passage of an amendment to the Constitution designed to protect the Flag of the United States against acts of desecration.

The flag is the No. 1 symbol of the United States of America. It is the symbol of the American people and the American people want its symbol protected. I want our symbol protected.

By passing this amendment to protect the symbol of the American way of life, we will be reaffirming our support for the freedoms embodied in our Constitution and Bill of Rights.

NEW JERSEY PRIDE HONOR ROLL: WILLIAM J. RYAN

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. GALLO. Mr. Speaker, we talk a lot in Congress about citizen involvement in the governmental process and about encouraging all Americans to lead active and productive lives.

But sometimes we need to look beyond our Chamber and meeting rooms to our communities, where real people are making significant contributions to our common goal—a better tomorrow for our people.

One organization in particular has mobilized our senior citizens to use their expertise—developed over a lifetime—for the good of their communities and their Nation.

One person in particular deserves our recognition today, because he typifies this mobilizing grassroots force for good government and volunteer community action.

William J. Ryan has been an active member and officer in the National Association of Retired Federal Employees [NARFE] since 1976, serving as the current president of the New Jersey Federated Chapters of NARFE and as president of the Lakeland Chapter 424 of Dover since 1977.

William Ryan has served in virtually every NARFE office over the course of the last 14 years, including legislative officer of the State federation (1978–83); member and chairman of the National Legislative Committee (1978–82); first vice president, State federation (1980). He also served an earlier term as State federation president (1981–83).

During that time, William Ryan has been an effective advocate for the interests of retired Federal employees and an active supporter of programs to encourage all senior citizens to take an active role in the legislative process.

He has contacted me on numerous occasions to offer advice and to add his insights to legislative proposals.

In 1987, William Ryan participated in a NARFE Program designed to encourage its members to provide voluntary assistance to Members of Congress and spent several weeks in my Washington office.

William Ryan has also been active in county and State programs for the aging, serving as a member of the Morris County Advisory Board for the Department of Aging (1979–89), chairman of the Randolph Advisory Committee (1979), member of the Morris County Housing Authority (1982 to the present), member of the State Commission on Aging (1980), representative to the President's White House Conference (1981) and to the New Jersey Governor's Conference on Aging (1981).

Mr. Speaker, I ask my colleagues to join with me in commending William J. Ryan for his continuing service to the Nation, as an active duty member of our Armed Forces during World War II, as a civilian employee of the Army at the Picatinny Arsenal until his retirement in 1976 and, most particularly, as a shining example of the good works that can be accomplished when individual citizens become involved in making government work for people.

TV PROGRAM DEVOTED TO COVERAGE OF CONGRESS WINS EMMY AWARD

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. COBLE. Mr. Speaker, the Washington chapter of the National Academy of Television Arts and Sciences recently held its 32d annual Emmy Awards here in the Nation's Capital. The 1990 Emmy Awards held a special interest for this body, Mr. Speaker, because one of the winners was a program devoted to the coverage of Congress.

The program is called "Watch on Washington" and is produced by Hamilton Productions. This all-on-location series translates American federalism into television programming, showing everyday citizens at the Nation's grassroots wrestling with public issues and their elected Representatives here in Washington striving to resolve them.

I have come to know the producers of this series. The Academy awarded Emmys to both John Hamilton, who's a former editorial board member of the New York Times, and Jay Hamilton, who studied journalism at the University of North Carolina before joining CBS in New York. They are a father-son team and Hamilton Productions is a family firm. I have appeared on "Watch on Washington," as have many of my colleagues. The show is superbly done, eminently fair, thoroughly honest, absolutely objective, and extremely informative. In bringing government home to television viewers, it performs a valuable public service.

As far as I know, "Watch on Washington" is the first television series covering the Congress and its work to receive the coveted Emmy Award. On behalf of the people of the Sixth District of North Carolina, I want to offer my congratulations to Hamilton Productions.

SIDNEY LANIER BRIDGE IN BRUNSWICK, GA

HON. LINDSAY THOMAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1990

Mr. THOMAS of Georgia. Mr. Speaker, today I have introduced a bill to declare the Sidney Lanier Bridge in Brunswick, GA, an obstruction to navigation. My reason for this is to enhance the safety of the channel in adapting to the increasing shipping traffic, and to accommodate the increasing size of modern steamships.

This project would be a classic example of State-Federal cooperation in that the State of Georgia is committed to a financial partnership in the project. The Georgia General Assembly has already provided $3 million in State funds to begin design work, pending approval of Federal interest.

In addition to increasing the safety of the channel, the additional clearance of a new bridge would allow expansion of the Port of Brunswick. The Georgia Department of Transportation estimates that the increased shipping would generate each year some $35 million in sales and revenue, $1.2 million in taxes, and hundreds of new jobs. Further, delays would be reduced for shippers who must wait on tides and ballasting to traverse the channel.

My bill would declare the Lanier Bridge as meeting the criteria for the bridge replacement under the Truman-Hobbs program.

The Coast Guard's preliminary survey of the bridge in 1989 for eligibility under Truman-Hobbs provided an informal opinion that the bridge was not an obstruction to navigation. It is my view that this was more of an attempt to restrict the Truman-Hobbs program than to make a detailed judgment on the bridge.

As evidence, I would simply note the tragic history of collisions with the bridge. Since 1972, 10 lives have been lost due to ships colliding with the structure. The most recent accident in 1987 took the life of a construction worker, left the bridge impassable to vehicle traffic for several months, and caused literally millions of dollars in economic impact.

It was only chance that prevented a bridge collapse that could have killed many more people and closed one of the major deep water sea ports on the east coast.

With the growing port traffic and the dramatically larger size of ships calling at the Port of Brunswick, I have no doubt there will be more accidents in the future.

Any bar pilot can describe the difficult task of negotiating the approach under the bridge. In this process, he must contend with strong currents, a narrow span between bridge supports, and a sharp turn midway through passage under the bridge to avoid grounding. On a windy day, the passage is nearly impossible.

Mr. Speaker, this is a measure which makes sound economic sense and will protect human lives. I urge its adoption.

HOUSE OF REPRESENTATIVES—*Wednesday, July 11, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May our words, O God, be used for instruction and for celebration, for healing, for peace and for reconciliation and never be used as weapons to hurt or to hinder. May our hearts be full of the love that You have given to us, and may that love and respect find expression in what we say and in what we do. May the words of our mouths and the meditations of our hearts be ever acceptable in Your sight, O Lord, our strength and our redeemer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Oklahoma [Mr. MCCURDY] please come forward and lead the House in the Pledge of Allegiance?

Mr. MCCURDY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following titles:

H. Con. Res. 272. Concurrent resolution authorizing printing of the transcript of proceedings of the Committee on Post Office and Civil Service of the House of Representatives incident to presentation of a portrait of the Honorable William D. Ford.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 566. An act to authorize a new Housing Opportunities Partnerships Program to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes.

NEED FOR BUDGET NEGOTIATORS TO REACH AGREEMENT ON MORE EQUITABLE TAX CODE

(Mr. MCCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCCURDY. Mr. Speaker, I have a message today for budget negotiators who are considering tax increases to reduce the deficit.

The message is short: Do right by middle-income America.

Hard working middle-class Americans have suffered enough. When it comes to taxes, the average two-parent family is worse off today than it was 10 years ago.

We need an agreement that includes steps toward a Tax Code that is truly progressive, truly equitable for average Americans. Middle-income America does not deserve any tax increases, especially in the area of payroll taxes. What average families deserve is a cut in those taxes.

Here are a few facts from a recently released report on the Progressive Policy Institute's Tax Fairness Index. I ask budget negotiators to plug these numbers into their deficit reduction equation.

Fact: The tax burden on middle-income American families has risen 66 percent after inflation during the last 10 years. Enough already. Any budget agreement should not increase the tax burden of middle-income families.

Fact: A family with a median income of $34,000 now pays taxes at nearly the same effective rate as a family with an income of more than $200,000. Our Tax Code is unfair. It is regressive. Any budget agreement must include steps toward tax fairness.

Fact: While average two-parent families saw their tax burden rise between 1980 and 1988, the richest 5 percent of American families saw their tax burden fall sharply.

The Social Security tax rate, increased seven times during the 1980's, fell hardest on middle-income families, whose income was rising at a rate five times less than the rich.

The shift of the tax burden from the deep pockets of the wealthy to the shoulders of average wage earners is clear. Ronald Reagan spent the 1980's cutting taxes for the rich. We can't let George Bush begin the 1990's by raising taxes on the poor and middle class.

Any budget agreement must take steps toward restoring tax equity.

THE SANTA BARBARA FIRE—EXPRESSION OF GRATITUDE FOR THE RESPONSE OF THOUSANDS OF PEOPLE

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, disasters seem to bring out the best and worst in people. In the case of the Santa Barbara fire, the worst was brought about by an arsonist. The best was brought about by the thousands of people who responded with their hands, their hearts, and their pocketbooks to aid the survivors of the fire.

Mr. Speaker, the outpouring of sympathy and aid was a true sign that the spirit of the community has not been dampened by tragedy.

I would also like to express my appreciation to local, State, and Federal fire, police, and disaster organizations, including FEMA, and President Bush for responding with Federal assistance in record time.

THIS SUMMIT TAKES THE PINOCHLE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, another summit. We have more summits than Mount Vesuvius. But this summit takes the pinochle. Believe me.

Mr. Speaker, Japan wants aid for China. Europe wants aid for Russia. And President Bush, he wants to use the American farmers as a bargaining chip.

Think about it. China massacres students seeking democracy, and they are going to get aid. The Soviet Union, they go from the big bad Communist bear to Winnie the Pooh, and they are going to get aid. And the American farmers, they are going to get more programs.

My colleagues, who is kidding who? America does not need another trade agreement. America needs to enforce the trade agreements that have been broken every day by the big six.

Summit? Hell, this is another dog and pony show, and, with summits like these, the only American farmers left will be those people growing marijuana in our national parks.

SUPPORT THE V-22

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. "If you build it, we will buy it. If you don't build it, we will, and sell it back to you."

Mr. Speaker, this was the quote from the Administrator of International Trade for Japan, Matsunaga, after visiting the Bell Textron plant in Texas and seeing what has been called the biggest breakthrough in aviation since the jet engine, the V-22 Osprey. It is still the No. 1 priority of the Marines of this country and our special operations forces.

Mr. Speaker, today you and our colleagues will be receiving a scale model of this new breakthrough in aircraft for this country and for the world, but there is only one problem with this model, Mr. Speaker. If you look closely on the side, it was made in South Korea.

Mr. Speaker, we really do not care, however, if the South Koreans, the Japanese or even the Europeans build the model. We want to build the real thing. The Marines deserve it. Our special forces deserves it. And America deserves it.

Support the V-22.

THROW ALL THE RASCALS OUT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the savings and loan collapse and Government bailout constitute the greatest financial scandal in the history of the modern world.

A giant bacchanalian party was thrown by S&L moguls, Wall Street speculators and their hangers on—billions were stolen or frittered away and now the bill has come due—who will pay? Under current law millions of wage earning, honest, taxpaying American families will toil for years to pay their share of the cost of others profligacy.

What about those responsible—the crooks and swindlers who stole and squandered tens of billions of dollars: Well they're still living in their mansions, cruising their yachts and taking luxury vacations—in fact some of them are now on the Federal payroll as managers of insolvent institutions under RTC control.

There are some who would make this a partisan issue—after all this obscene fraud took place—under the nose of administration regulators—during the Reagan-Bush watch and has continued to balloon during the Bush Presidency. In fact, the President's son is involved in the bankruptcy of one S&L up to his keister.

But this issue is too important to be partisan—it presents a grave and growing crisis for the fabric of our democracy, more serious than the burning of flags.

The President must act—prosecute the crooks, put them in jail, confiscate the mansions and yachts—get back the money and assets. If the President does not want to act, Congress must force this issue—if we do not, the American people will rise up in wrath and throw all the rascals out.

THE BALANCED BUDGET AMENDMENT MAKES CONSTITUTIONAL SENSE

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, as everyone knows, 6 days from now we will be voting on the balanced budget amendment to the Constitution, and one of the arguments that I am beginning to hear from those who favor unlimited spending and unlimited taxing power in this body is that we should not, quote, clutter up the Constitution with mundane financial matters like receipts, revenue, taxes, and debts. Words of that sort have no role in our Constitution they say.

Mr. Speaker, they ought to read article I. That is the Constitution's provision regulating this body so far. Section 7 says that all bills for raising revenue will originate here in the House. Section 8, clause 1, that Congress will have the power to lay and collect taxes, duties, imposts to pay debts. Clause II, to borrow money on the credit of the United States. Clause V, to coin money and regulate the value thereof. Clause V, as well in section 9, that no tax or duties will be laid on articles exported from any State. And then finally clause VII, a regular statement of accounts and receipts will be published.

Mr. Speaker, these are the kinds of things that already are in our Constitution. What our Constitution needs though is some control over the taxing and spending that goes on on this floor, and the one thing we need is to say with all these clauses in the Constitution, "Make sure that what you spend equals what you have."

Mr. Speaker, that is as simple as it is, and, if anyone says that is tinkering with taxing and spending powers, they are darn right. With 3 trillion dollars' worth of national debt we better do something to fix our Constitution because we are not going to fix it here on the floor of the House.

□ 1210

OUR APPROACH TO MASS TRANSIT IS STUCK IN TRAFFIC

(Mr. FOGLIETTA asked and was given permisison to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, I rise today to discuss a serious problem in the way we set our priorities for transportation funding. While commuters spend hours stuck in traffic, while our cities sit under clouds of killer smog, we neglect the transit mode that could alleviate that congestion—mass transit.

Cars are responsible for one-third to one-half of the pollutants that produce smog. Only by removing more cars from the road will we clean up the air and reduce traffic. We will never overcome this problem without encouraging more people to use mass transit—and providing pragmatic Federal funding for upkeep and operation.

Unfortunately, the administration does not seem to agree with me. The President's national transporation policy would reduce operating assistance for urban transit. This proposed reduction in operating subsidies is occurring at the same time that the urban mass transit account has a $2 billion surplus. This account is supposed to provide money for capital expenses. Thus, transit authorities would be stuck with minimal Federal funding for operating expenses and capital expenses. In a world: nothing for mass transit.

It is clear that our approach to mass transit is stuck in traffic. Mr. Speaker, it is time that we begin the journey out of this traffic jam and that we use public transportation as the vehicle.

THE BALANCED BUDGET AMENDMENT

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, James Madison in his later years expressed one regret about the U.S. Constitution in which he participated in drafting. He said it should have included a limitation on public borrowing.

For the first time since 1982, we have a chance with the balanced budget amendment to the Constitution to fulfill the wishes of James Madison, and it is high time that we do so.

Congress has shown that it will waive any law intended to reign in our out-of-control budget process, whether it be the Congressional Budget Act or Gramm-Rudman.

It is high time that we harness the wild beast that is out-of-control budget process and pass the balanced

budget amendment to the Constitution of the United States when we vote next week.

PRESIDENT SHOULD SEND CONGRESS A BALANCED BUDGET

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, I am getting a little tired of these no-fault Presidencies. For 10 years we have had budgets sent to this Congress by President Reagan and President Bush. Not once, not once did they send a budget that was in balance. In fact, in every single instance they sent budgets that were seriously out of balance, asking for giant deficits, and then somehow they act as if Millard Fillmore were in charge.

Yes, Congress appropriates, but the President by law sends a budget, Congress appropriates and the President signs or vetoes.

A few minutes ago I came from a hearing where this administration's Treasury Department is asking for an increase in the national debt ceiling to $4 trillion. Now, the President stood at this microphone awhile back and said the budget is going to be balanced by 1993. They are over in the hearing room this morning saying that we want to borrow nearly $900 billion more through 1993. Something is out of whack.

The fact is this Congress has spent less money in the last 9 years than the President has requested, so stop giving us this nonsense about no-fault Presidencies. This is a joint responsibility, yes, but I am tired of Presidents who act as if they were never elected.

If you want a balanced budget, send one to the floor of the Congress and propose a balanced budget, and then if we do not have the opportunity or the courage or the will to support it, then blame us. But do not send big deficits to Congress and keep blaming somebody else. That is not leadership. That is irresponsible.

THE MICKEY LELAND ADOLESCENT PREGNANCY PREVENTION AND PARENTHOOD ACT

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, the United States leads all Western countries in teenage pregnancy rates, teen abortions and teen childbearing rates. More shocking, in my State of Connecticut, the pregnancy rate for girls 10 to 14 years old doubled in the past decade. This year, 1 in 10 teenage girls will become pregnant.

Despite these alarming statistics, Federal commitment to teen pregnancy prevention and health care has dramatically declined in the last decade. Funding for the only Federal program dedicated to teen pregnancy has dropped 30 percent since 1987.

In averting our eyes to this national tragedy, we are leaving teens and their babies exposed to serious and multiple risks—higher infant death, higher incidence of low birth weight and seriously disabled babies, and higher percentage of pregnancy and childbirth complications. Further, teen parents are more likely to drop out of school, be unemployed, and depend on welfare. In 1985, over half of the $15.7 billion aid to families with dependent children budget was spent on payments to families in which the woman had given birth as a teenager.

Tomorrow we will introduce legislation to take an active and interventionist approach to teen pregnancy and parenting. Our bill involves families and communities in helping teen girls and boys to make responsible decisions about sexuality and their futures. For those teens who become pregnant and decide to carry their pregnancies to term, our bill provides prenatal and well-baby care, which are so important to ensuring that their babies are given a fighting chance for a healthy life. And for teen parents, our bill provides services to help them finish their education, get job training, and thus break the cycle of poverty and lead productive lives.

As our late colleague Mickey Leland said:

> We are asking our youth to take responsibility for their actions and we must, in turn, take responsibility as legislators and enact programs that meet the pressing needs of our teenagers.

Let us say "yes" to teens and give them the tools to take charge of their lives.

COMMON CAUSE HAS LOST ITS WAY

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, 20 years ago, as a college student, I joined Common Cause because I believed in the reform they were trying to bring to America. During the years it occurred to me that Common Cause has lost its way. Last week it became painfully clear.

An advertisement appeared in newspapers around America claiming that Congress was responsible for the S&L debacle because it was taking millions of dollars in special interest contributions. It did not say that I had taken contributions from S&L interests. It did not say that I had voted wrong on S&L issues. It could not, because that would be untrue, but the implication was there. The innuendo was made.

What they did not say is that this Member had taken less in contributions as a percent of total contributions than most Members in the State, among the lowest in the Nation.

It did not say that "Public Citizen" has pointed out that I have a nearly perfect record on S&L votes in the public interest.

Mr. Speaker, Common Cause has lost its way. The ad is dishonest. It is untruthful. Mr. Wertheimer has lied to the American people and to my constituents. It is wrong.

I have challenged them to present a list of their contributors and their supporters, because I want to write to them and say they should be placing the blame where it is, not saying that environmental organizations, labor unions, students, senior citizen organizations, who represent these PAC contributions are somehow part of the problem.

Mr. Wertheimer, "You are part of the problem."

TEXTILE MACHINERY MODERNIZATION ACT OF 1989

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, there is nothing like improving on an already good idea. A while ago, I and others introduced H.R. 1461 to foster increased research and development in the U.S. textile machinery industry. The basic idea is to use 5 percent of the tariffs collected on imported machinery and allow industry to use it to increase research.

We have a plan for how this money should be dispersed, and the industry trade association has accepted it. The plan requires that the R&D be initiated and paid for before a company gets any Federal reimbursement. Thus a project—or the first year of a multiyear project—will be completed before the Government is asked to make an investment. This assures that money will not be wasted.

Also, the fund would be distributed on a matching basis. The Government would put up a maximum of 60 percent, matched by 40 percent company expenditure.

Under this disbursement plan, the risk—as it should be—lies with business. What research they pursue will be dictated by the marketplace. Our Federal role is one of modest financial support, supplying a little extra capital to increase R&D. Let us enact H.R. 1461.

39-059 O-91-7 (Pt. 12)

□ 1220

LOUISIANA IS PART OF AMERICA

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, the Washington Post recently asserted that Louisiana was not actually a part of the United States of America. Why? Because our legislature recently passed one of the strongest prolife bills in America, one of America's strongest State statutes on obscenity and lyrics, and a statute reducing the $25 penalty for punching out a flag burner.

One can argue about the appropriateness of the particulars of those legislations. But we do in Louisiana perhaps feel more passionately about things than some do in America, just as we season our food, our music, and our politics with more spice than most.

May I remind the Post that many Americans feel, as we do in Louisiana, that human life, particularly the most vulnerable, the unborn, deserves our protection, that many Americans agree with us that obscenity can corrupt the national standards, and somebody somewhere ought to sympathize with those of us who feel frustrated, as we do, with the Supreme Court decision that allows people of desecrate so sacred a symbol as our U.S. flag.

Does that make us un-American? I think not. Not part of America? Quite the contrary. We even have a Governor who was educated in Boston, MA. Now, come to think of it, that might be part of our problem.

READ MY BUMPER, NO NEW TAXES

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, while in my district over the Independence Day break, I was presented with a new bumper sticker that I am sure will sweep the Nation. As you can see, it reads, "Read my bumper, no new taxes."

This sticker reflects the sentiments of almost all of our constituents. Let us stop accelerating toward new taxes before we cause an accident we cannot repair.

Let us shift gears—we can make more than a dent in the deficit if we put the brakes on spending and control Government waste. That is the least we can do before our economy runs out of gas.

I leave a word of caution to all my colleagues, look both ways before crossing the street, especially when you see one of these stickers on the front bumper. If we raise taxes, congressional hit and runs will surely be on the rise.

So, Mr. Speaker, before we steer this country down the wrong road, take heed to this driving force. Read their bumpers before they make us hit the pavement.

RHETORIC WILL NOT CHANGE FACTS OF S&L SCANDAL

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, my colleagues on the other side of the isle can say what they will, but no amount of rhetoric will change two essential facts:

The first is that the biggest ripoff in the history of the country occurred on their watch. The Constitution charges the executive branch with responsibility for enforcing the law and clearly their party, growing fat and happy after controlling the White House for 17 of the last 21 years, dropped the ball.

The second is that the ripoffs which are now being uncovered in the savings and loan scandals are the direct result of a policy they succeeded in putting in place which is a fundamental part of their basic, bedrock philosophy.

For years they told Americans government was bad; that we did not really need government; that the only legitimate role for government to play in the modern day marketplace was to get out of the way.

Well, they got government out of the way. Did they ever. And the crooks who plundered the savings and loans and the savings of millions of working families who put their trust in them could hardly load the getaway cars fast enough.

Willie Sutton once said he robbed banks because "that's where the money was." Willie was wrong. The real money was not in banks, but in savings and loans.

And it was not necessary to put on a mask and rob one. All you had to do was own one, or serve on the board of directors of one, at a time when the philosophy which ruled the executive branch really did not take seriously its responsibility to enforce the law.

WATCH THE VOTES ON JULY 17

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, next Tuesday Members of this House will have an opportunity to vote up or down on a balanced-budget amendment to the Constitution. It is a very plain and simple vote. You either press the green button and say yes or you press the red button and say no.

But from now until then and throughout the course of the day of July 17, we will hear some amazing rhetoric. It will be that, "My goodness, we cannot tie the hands of legislators. We have to have budget control. We have to have budget responsibilities. We cannot use a constitutional amendment to control the spending habits of a runaway House that has no longer the political will to be fiscally responsible. How dare we do that?"

I would hope that the taxpayers who read the CONGRESSIONAL RECORD or who listen to C-Span or who generally follow the proceedings of the House listen to this: an aye vote is for a balanced-budget amendment to the Constitution; a no vote is against a balanced-budget amendment to the Constitution.

The rhetoric notwithstanding, we are either for controlling spending or we are against controlling spending or, more importantly, we are against the taxpayers of this country having the right to control the spending of their legislators who no longer have the political will to do it.

Plain and simple: red and green. Watch the votes on July 17.

REGIONAL DIMENSION OF SAVINGS AND LOAN BAILOUT

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extent his remarks.)

Mr. PEASE. Mr. Speaker, a recent study by Cleveland State Prof. Edward Hill on the savings and loan bailout has raised more than a few eyebrows in this institution's midwest and northeastern delegations.

Professor Hill, who has been studying the savings and loan situation for the past 2 years, estimates that a tremendous amount of wealth will be transferred from 37 States and the District of Columbia to the 13 States where the savings and loan failures are concentrated, most notably Texas.

Among the losers is my home State of Ohio. When all is said and done, Ohio will lose an average of $670 per person. And that figure may be low, since Professor Hill optimistically assumes a net bailout cost of $203 billion. By contrast, Texas will win big, gaining an average of $4,775 per person.

Critics have quibbled with Professor Hill's numbers, but that misses the point. The bottom line is that States in the Midwest and Northeast, whose savings and loan institutions were run more responsibly, are being asked to pay for the negligence and irresponsibility of State regulators and bankers in the Southwest, and that is not fair.

There is an equity issue here that is dying to be addressed. Before Congress gives another nickle to the Resolution Trust Corporation, we should design a formula that places the burden of financing the bailout where it ought to be: in the States that caused it.

□ 1230

TRUE FACTS REGARDING HORRENDOUS DEBT SITUATION

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, I have just come from a meeting of the Committee on Ways and Means. The administration witness gave their estimates as to the needed increase in the Federal debt. It was very instructive. They asked for or suggested an increase for 1991 to $3.5 trillion; 1992, $3.8 trillion; 1993, over $4 trillion.

Compare that with 1980 when the Federal debt was $900 billion. That is a fourfold increase during this 13-year period.

Also instructive is the percentage of GNP represented by the Federal debt. It would have increased from 34 percent in 1980 to over 61.5 percent in 1993. If you look at the figures in between you see that there has been a steady increase.

This is not a problem, a crisis that occurred overnight. It has been growing through the years. The savings and loan crisis indeed is a national disgrace. It is a spark that has set off a conflagration in a forest of debt.

A few years ago when the President came here, he did not really tell the American people the facts. These are the facts. This is the legacy we now inherit from this administration and the previous administration as we try to grab ahold of this horrendous debt situation.

PRESIDENT TO BE COMPLIMENTED REGARDING STAND ON AID TO SOVIETS

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, in the wake of the historical development that took place at the 28th Soviet Party Congress and the NATO summit and this week the economic summit, I would like to congratulate President Bush for hanging tough on a very important item.

Some of our Western allies have come out in strong support of actually providing direct foreign assistance to the Soviet Union. We are all very enthused about the dramatic changes which are taking place in the Soviet Union. We are encouraged by them. But for us to provide economic assistance at a time when we all know foreign assistance in this country is not very popular, especially to the Soviet Union, is what I believe to be a real serious mistake.

Let me say when we have observed the fact that over $17 billion a year has gone from the Soviet Union to prop up its puppets throughout the world who have been opposing the kind of freedom and democratic reforms which we have been witnessing in many countries, is something that needs to be changed before we bring about any kind of consideration of assistance. We also need to have very serious economic reform in the Soviet Union, as the President has said in Houston at the economic summit. Those two very important things need to be accomplished before we consider any kind of foreign assistance to the Soviet Union.

COURSE OF ACTION NEEDED TO RESOLVE THRIFT CRISIS

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, yesterday the Resolution Trust Corporation [RTC] realized it had a serious case of thrift indigestion, and once again changed its savings and loan rescue policy. The RTC has finally realized that if an S&L is to have any salvage value, it had better not be under its control.

The Reagan and Bush administrations have reversed their S&L policy several times since 1988.

First, we had the taxpayer giveaway known as the "southwest deals," in which Danny Wall handed over blank checks from the Treasury to financiers.

This was followed after the passage of FIRREA with the "pac-man" approach of gobbling up failed thrift after thrift, to yesterday's revised policy of no gobbling. One more change of policy was the RTC's original no-dumping policy for assets to today's "sell assets at any price we can."

While the administration has bounced from policy to policy, the cost of the S&L bailout has jumped higher and higher.

It's been a year since FIRREA passed. It's high time this administration provided some leadership and settled on a course of action to resolve the thrift crisis once and for all. Otherwise, we will never see the end of this debacle.

DEMOCRATS SHOULD THROW STONES WHERE RESPONSIBILITY LIES—THEIR OWN PARTY

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, several Members from the Democratic side of the aisle have tried to paint the savings and loan crisis as a Republican problem and they have tried to lay this completely at the doorstep of the Reagan and Bush administrations.

The fact of the matter is there are two Members of the other body that are in leadership positions that are under investigation right now, and I have not heard one Member from that side of the aisle ask those people to step down from their leadership positions. They will not talk about that.

They will not call the Justice Department and ask about an investigation and possible indictment of Mr. St Germain, who used to be the head of the Committee on Banking, Finance and Urban Affairs, or Mr. Coelho, who used to be the Democratic whip of this body, or Mr. Jim Wright, the S&L Speaker of this body.

My question to them is, if you are going to throw stones, why do you not throw them at the people where the responsibility lies, the people in your own party? That is where the responsibility rests. That is where the debacle started.

SENATORIAL PRIVILEGES SHOULD NOT BE GIVEN TO SHADOW SENATORS

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, the City Council of the District of Columbia recently adopted a resolution to provide for two shadow Senators. Jesse Jackson has now announced his interest in being one of those.

Well, the newspaper of Congress this week had something to say about that. Let me read just several sentences.

You can't fault Jackson for thinking big. He wants the shadow Senators to have the same privileges as real Senators. For example, he'd like to have access to the floor.

He would like to have office space. He would like to have the shadow people have the same or better advantages than are accorded other lobbyists.

Whether statehood is a just cause or not, these D.C. shadow Senators are no more or less than lobbyists for the city. He has no more right to appear on the floor than the shadow Senator from Exxon Oil Co.

Mr. Speaker, I suggest that if in fact you can be a shadow Senator today,

you can be Santa Claus next week, or you can be Robin Hood the week after, or whatever. But when we give office space and staff and access to people who self-appoint themselves in positions of responsibilities, we have very badly compromised the privileges and opportunities of elected office in this, the Nation's Capitol.

AMERICAN TECHNOLOGY PREEMINENCE ACT

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 422 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 422

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4329) to enhance the position of United States industry through application of the results of Federal research and development, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of section 401(b)(1) of the Congressional Budget Act, as amended (Public Law 93-344, as amended by Public Law 99-177) are hereby waived. After general debate, which shall be confined to the bill and the amendment made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 5072 as an original bill for the purpose of amendment under the five-minute rule, by titles instead of by sections and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. WILLIAMS). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield the customary 30 minutes for the purposes of debate only to the gentleman from California [Mr. PASHAYAN] and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 422 is the rule providing for the consideration of H.R. 4329, the American Technology Preeminence Act.

This is an open rule providing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology.

The rule makes in order the text of H.R. 5072 in lieu of the amendments now printed in the bill as original text for the purpose of amendment. The substitute is to be considered by titles, with each title considered as having been read.

Further, the rule waives section 401(b)(1) of the Congressional Budget Act, prohibiting consideration of new entitlement authority which becomes effective prior to October 1 of the year in which it is reported, against consideration of the bill. While, as originally written, the bill would have been subject to a point of order under this section of the Budget Act, the substitute, made in order by this rule, has been written to eliminate the offending authority.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, we ignore our industrial infrastructure at our peril. Without concerted government and industry action, U.S. manufacturing and American living standards could fall to second-rate status. Last year, our merchandise trade deficit was $108 billion, 95 percent of which was attributable to the manufacturing sector. Particularly after a decade of neglect, efforts to revitalize our domestic manufacturing sector to reverse this trend are imperative.

The American Technology Preeminence Act, the bill for which the committee has recommended this rule, is a step in the right direction. H.R. 4329 authorizes programs in the National Institute of Standards and Technology and reauthorizes support for the regional centers for the transfer of manufacturing technology and assistance to State technology programs.

The bill also provides funding for the Advanced Technology Program. ATP was created in 1988 by the Omnibus Trade and Competitiveness Act to promote industrial competitiveness by encouraging public-private consortia, and by encouraging the development and utilization of advanced manufacturing technology. In addition, H.R. 4329 will strengthen the technology administration of the Department of Commerce to provide for more effective government participation in the solution of the problems facing American manufacturers.

These are constructive efforts to redevelop our industrial base. If the United States is to regain its manufacturing preeminence and reduce its continuing trade deficits, it is imperative that American industry regain its technological edge. This cannot, nor should not, be done by the Federal Government alone. By the same token, we at the Federal level cannot shirk our responsibilities, and a coordinated technology policy is required. H.R. 4339 addresses these urgent needs in a responsible and progressive manner.

Mr. Speaker, this is an open rule which will allow full and fair debate on the provisions of this important bill. I ask my colleagues to support the rule so that we may proceed with consideration of the merits of this legislation.

□ 1240

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 422 is an open rule under which the House shall consider legislation to promote more rapid development and procurement of high technology, in order to maintain America's capacity to compete in the international marketplace.

The bill made in order by this rule, H.R. 4329, is a 3-year authorization of appropriations for the operations of the National Institute of Standards and Technology.

Mr. Speaker, the authorization levels contained in the bill are: $145.3 million in fiscal 1990; $184.4 million in fiscal 1991; and $210 million in fiscal 1992.

The bill also would authorize $50 million in funding for the Advanced Technology Program in fiscal 1990, rising to $100 million in fiscal 1991, and to $250 million in 1992.

Mr. Speaker, the rule provides a waiver of the Budget Act for the consideration of the bill. Section 401(b)(1) of the Budget Act prohibits consideration of new entitlement authority that become effective prior to October 1 of the year in which it is reported.

Section 401 of the bill would elevate the Director of the Office of Science and Technology from Executive pay level 2 to level 1, about a $10,000 increase in pay, an entitlement that would have been effective upon enactment.

The joint leadership of the Committee on Science, Space, and Technology have introduced a substitute text for H.R. 4329, which is made in order under the rule as original text for the purpose of amendment.

The new text, H.R. 5072, would correct the Budget Act with regard to increase compensation for the Director of the Office of Science and Technology.

Mr. Speaker, the thrust of this legislation is to improve the way in which the Federal Government can assist the private sector to gain access for its new technologies in world marketplace.

The bill also would authorize the initial funding and programs for the Advanced Technology Program, which was established by the Commerce Department as required by the Trade Act of 1988.

Mr. Speaker, I support this open rule and the legislation it makes in order.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in opposition to the rule, not because of the bill that is to come, because it is an open rule that will allow us an opportunity to amend whatever problems exist within that legislation. But I am concerned about voting on a rule that contains a budget waiver.

I congratulate the committee for having raised this issue, and the Committee on Science, Space, and Technology is going to come back with a different bill than was previously brought to the Rules Committee that does correct the problem that the Budget Act waiver goes to. In my opinion, however, the Rules Committee ought to require even greater performance from the individual authorizing committees involved. In this particular case, it seems to me that the committee should have been forced to bring the bill to the floor with the correction in it so we could have avoided this budget waiver altogether.

Mr. Speaker, I have consistently said that we ought not be violating the Budget Act using the rules process to do it. In this case, the committee has chosen to bring a rule to the floor that once again contains a Budget Act waiver to have us act upon in this rule. I find that disappointing and so, therefore, I will oppose the rule with that Budget Act waiver in it.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I thank the gentlewoman for yielding time to me.

I rise in strong support of the rule. It is an open rule and it gives all Members an opportunity to add any amendments or suggested ideas they may have.

I think the committee has been very attentive to the budget issue, and I see nothing in the bill that we would be presenting, or this rule, that is going to have any adverse effect upon the budget or be contrary to the budget.

Having said that, I would have no further use for the time. I want to compliment the gentlewoman from New York [Ms. SLAUGHTER] and the gentleman from California [Mr. PASHAYAN] and the Rules Committee for the very fine reception we received from them recently when we were before them. We think the rule is very adequate. We think it does the job that needs to be done, and we appreciate the efforts and the good work of the Rule Committee.

Mr. PASHAYAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. WILLIAMS). Pursuant to House Resolution 422 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4329.

□ 1250

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4329) to enhance the position of U.S. industry through application of the results of Federal research and development, and for other purposes, with Mr. MCDERMOTT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 30 minutes, the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support today of H.R. 4329, the American Technology Preeminence Act of 1990. This bill contains some of the most important steps toward the continuation of enhancing the competitiveness of American industry that the Congress can take this year. H.R. 4329 was developed over the past year and represents the hard work of a large number of individuals.

I want to congratulate Mr. VALENTINE of North Carolina, the chairman of the Subcommittee on Science, Research, and Technology, for his leadership in bringing this legislation to the floor. I also want to acknowledge the efforts of our colleagues on the other side of the aisle, our ranking Republican members, Mr. WALKER of Pennsylvania, at the full committee level, and Mr. BOEHLERT of New York, at the subcommittee level, for their efforts in drafting this legislation.

We owe Mr. WALGREN, the immediate past chairman of the Subcommittee on Science, Research, and Technology, a debt of gratitude for chairing 21 days of hearings on the topics covered by this bill and for bringing it through subcommittee markup. I also want to thank Mr. FOLEY, Mr. GEPHARDT and the Democratic high technology working group for their months of support, for their helpful suggestions, for their advocacy of these programs before the Budget Committee and for their decision to include H.R. 4329 in the high technology package announced last week.

H.R. 4329, while important in its own right, builds on the innovative legislation of the recent past. For a number of years, the Committee on Science, Space, and Technology has been promoting joint research and technology transfer through antitrust and patent reform, Federal laboratory policy, and enhancement of the technology mission of the Department of Commerce. A major portion of the Omnibus Trade and Competitiveness Act of 1988 was devoted to transforming the national bureau of standards of the Department of Commerce into a civilian advocate for high technology. This bill funds and refines these efforts.

The bill also is closely related to H.R. 4611, the National Cooperative Research and Production Amendments of 1990 which Mr. BROOKS brought to the floor of the House on June 5. H.R. 4611 is pivotal legislation which finally recognizes that for purposes of antitrust we are functioning in a global economy where American firms often must work together and even jointly manufacture products. This bill is a giant step forward into the 21st century. It will help U.S. industry survive and prosper in the new economic world brought about by the economic revolution resulting from the European economic unity, the successes of the Pacific Rim, and the entry of Eastern Europe into the world economy.

However, the steps of the past have not matched the national efforts of Japan and Europe. A report this spring by the Department of Commerce identified 12 emerging technologies that will have a combined U.S. market potential of about $350 billion in the year 2000. This is the new wealth that will separate the prosperous nations of the 21st century from the Third World and the formerly great.

The Department of Commerce quite bluntly concluded that we are in trouble in almost all of these 12 technologies. While the Japanese and Europeans are making great strides toward carving out market shares, we are becoming less competitive in these 12 technologies with each passing year. We cannot afford to wait 1 minute longer to act.

The committee is convinced that a comprehensive national technology policy, with primary responsibility in

the private sector for commercial development, is urgently needed. We must ensure an economic environment which can support the costly process of bringing promising new technologies to the marketplace. The solutions to American competitiveness extend far beyond appropriate funding levels for Government research and development.

Just 2 months ago, the Council on Competitiveness warned that:

> There can no longer be any doubt that the United States faces a real and unrelenting technological threat—a threat that spans both commercial and military concerns.

Mr. Chairman, the economic environment in which American businesses operate has changed drastically in the last two decades, and Government recognition of that transformation is imperative.

Dr. Ian Ross, Chairman of the National Advisory Committee on Semiconductors recently testified before the committee that our business environment imposes fundamental disadvantages on American manufacturers, as compared to foreign producers who enjoy advantages in ready access to low-cost capital for long-term investment, and who operate in an environment hospitable to joint ventures that is not general practice here.

Mr. Chairman, the American Technology Preeminence Act of 1990 will make a significant contribution toward solving these problems and toward building the economic framework for American industry to re-take the lead in successfully developing and marketing new technologies.

Let me give you the list of new possibilities and enhancements contained in this important legislation:

First, it provides a 3-year $400 million authorization for the Advanced Technology Program created by the Omnibus Trade and Competitiveness Act of 1988, which is enough to get underway a strong and meaningful civilian cooperative research program.

Second, it will permit companies in key industries to pool their efforts to solve their common technology problems and will provide a minority share of funding to competitively selected joint ventures.

Third, it sets up a bipartisan National Commission on Reducing Capital Costs for Emerging Technology. This will bring together some of our Nation's best minds to grapple with the problem that U.S. industry must pay more for its capital than its foreign competition does.

Fourth, it creates a commission within the President's Office of Science and Technology Policy to examine ways to advance U.S.-based high technology through changes in Government procurement requirements and activities. If only a fraction of the billions we spend annually on Federal procurement can be used for purchases of new innovative American high technology products and services, our economy could benefit immensely.

Fifth, it establishes a high resolution information systems board to bring together industry and Government leaders to foster and monitor the development of a U.S. high resolution information systems industry. In the first quarter of the next century, this family of technology may be the most important worldwide. It will take a concerted American effort to gain our fair share of this market.

Sixth, it mandates the development of a national high performance computer technology plan, which will set out needed actions in hardware, software, and network development. Highways for information are becoming as important as highways for hard goods, and if our technology-based economy is to remain competitive, then we must be able to transfer data at world class rates of speed.

Seventh, it requires the Office of Science and Technology Policy to track major international science and technology proposals whether the United States is an active participant or not.

Eighth, it provides needed additional resources to the National Insitute of Standards and Technology [NIST], our Nation's premier measurement laboratory. These additional resources will permit NIST to begin programs that will make precise measurement possible in a variety of high technology areas and increase the chances of U.S. industry to be major players in these markets of the future.

Ninth, it paves the way for a more active U.S. role in international standards by asking the International Institute for Applied Systems Analysis [IIASA] to develop a methodology or approach that can be used in the establishment of International Product Standards and by authorizing a pilot program for assistance to developing nations as they put together domestic standards codes. Standards are key to quality products and can be used as trade weapons. An unfriendly standard for a while banned U.S. refrigerators from being exported to Saudi Arabia because their electrical cords were 2 yards long rather than 2 meters long, a difference of just 9 percent or about 7 inches. We must be vigilant in assuring that arbitrary standards are not used as artificial trade barriers against U.S. products.

Tenth, these standards efforts, of course, are not meant to displace the current voluntary standards system in the United States. Consensus standards are a strength of our free market and a democratic way of making sure that all interested parties have a say in the development of the standards which affect their livelihoods. Therefore, those charged with carrying out standards initiatives under this act should take advantage of this wealth of knowledge and should draw on existing expertise whenever appropriate.

Eleventh, H.R. 4329 increases the stature and rank of the Director of the Office of Science and Technology Policy and establishes stable funding for the Federal Laboratory Consortium for Technology Transfer.

Mr. Chairman, last month the Department of Commerce identified 12 emerging technologies that will create markets for an estimated $1 trillion by the year 2000, just 10 years from now. The race is on to see who can capture a share of this new wealth. We know our international competitors are not just sitting back to see what happens. They are taking steps now to ensure their industries gain some share of the new markets. It is up to us to make sure companies operating in the United States have an equal chance to compete.

Mr. Chairman, the scientific and technological programs authorized in this bill are essential to this country's economic progress. I urge my colleagues to support this important legislation.

Mr. Chairman, the charts to which I referred are as follows:

U.S. REPORT CARD: STATUS 1989

	Versus Japan	Versus Europe
Behind:		
	Advanced Materials	Digital Imaging Technology.
	Advanced Semiconductor Devices	
	Digital Imaging Technology	
	High-Density Data Storage	
	Optoelectronics	
Even:	Superconductors	Flexible Computer-Integrated Manufacturing
		Superconductors.
Ahead:		
	Artificial Intelligence	Advanced Materials.
	Biotechnology	Advanced Semiconductor Devices.
	Flexible Computer-Integrated Manufacturing.	Artificial Intelligence.
	High-Performance Computing	High-Density Data Storage.
	Medical Devices and Diagnostics	High-Performance Computing.
	Sensor Technology	Medical Devices and Diagnostics.
		Optoelectronics.
		Sensor Technology.

U.S. REPORT CARD: TRENDS

	Versus Japan	Versus Europe
Losing badly:		
	Advanced Materials	Digital Imaging Technology.
	Biotechnology	Flexible Computer-Integrated Manufacturing.
	Digital Imaging Technology	
	Superconductors	
Losing:		
	Advanced Semiconductor Devices	Medical Devices and Diagnostics.
	High-Density Data Storage	
	High-Performance Computing	
	Medical Devices and Diagnostics	
	Optoelectronics	
	Sensor Technology	
Holding:		
	Artificial Intelligence	Advanced Materials.
	Flexible Computer-Integrated Manufacturing.	Advanced Semiconductor Devices.
		High-Density Data Storage.
		Optoelectronics.
		Sensor Technology.
		Superconductors.
Gaining:		
		Artificial Intelligence.
		Biotechnology.
		High-Performance Computing.

Mr. Chairman, I reserve the balance of my time.

Mr. WALKER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I join Chairman ROE in supporting the need for a comprehensive emerging technology commercialization bill.

At full committee hearings held last year on "Creating the New Wealth," it was emphasized that technological development is much more than just an issue of Federal funding. There was a virtually united plea by witnesses for antitrust reform and for tax changes to level the international playing field.

With today's bill, the Science Committee, as the House's competitiveness advocate, will recommend to the Congress what needs to be done across the board, not just for one industry or technology and not just for yesterday or today, but for tomorrow. H.R. 4329, coauthored by the chairman and myself, has drawn upon vast contributions from many Members on both sides of the aisle, especially Representatives SHERRY BOEHLERT, DON RITTER, TOM CAMPBELL and JACK BUECHNER from the Republican side. It is, therefore, neither a Democrat nor Republican proposal, but a consensus Science Committee initiative, that we bring to you today.

□ 1300

Nevertheless, we Republicans on the committee are flattered the Democratic leadership is endorsing our work by adopting it as their own.

The existing core program that is authorized in this bill is aggressive but responsible. The National Institute of Standards and Technology is increased almost 30 percent in 1991 to meet President Bush's request to make up for the new initiatives in areas such as superconductivity, fiber optics and advanced materials that were denied funding last year. The Institute of Standards and Technology would then be increased another 15 percent in 1992, the pace that would be required for doubling the agency in 5 years. These levels are consistent with our committee's consensus views and the estimates that we sent to the Committee on the Budget earlier in the year.

The newly authorized advanced technology program is a worthwhile effort to reduce the marginal cost of capital for developing new technologies by leveraging the majority funding of industry-led joint ventures. It is a disciplined approach in that it is competitively awarded, seeks proposals requesting a low percentage of Federal funds, requires paybacks from profits, and does not discriminate based upon ownership against companies that are committed to the U.S. market.

But there is one big problem with this bill: Although the $100 million level for this program in 1991 is consistent with the Committee on Science, Space, and Technology, bipartisan views and estimates sent to the Committee on the Budget just a few months ago, the $250 million 1992 level is veto bait, pure and simple. I have a letter from the Commerce Department, from the Acting Secretary of Commerce, saying flatly that this bill was not acceptable with that level of money in it. In fact, the House's own budget resolution only designates $47 million for this program. This bill suggests increasing that level by over 500 percent in 1992. That is very questionable in light of the crisis in the budget situation that the country finds itself with. I will therefore seek to substitute the administration's suggested language of such sums for this Member on the floor's so the President can sign this bill. What the administration has said is rather than do a $250 million level which subjects it to a veto, put a statement in there for the outyears of such sums, meaning that it might be higher than $250 million, although that is unlikey, but at least it will give Members some flexibility in dealing with the budget issues in the months ahead, and to put a $250 million figure in this bill that subjects it then to a veto, I think does a disservice to everything that we have tried to do on a bipartisan basis, to get this policy bill enacted into law.

Therefore, as I mentioned earlier. H.R. 4329 is a comprehensive approach, addressing the structural barriers and burdens that so bady hurt our international competitivness. One way it does this is by creating a Presidential commission to make legislative recommendations to Congress within 1 year to encourage voter private capital investment and technological development. Congressional representation on this Commission is to be offered as an amendment to the bill later on. As far as I am concerned, congressional representation makes sense, and that is acceptable, as long as the appointees from both the executive and the legislative branches are equal. However, if the Commission is stacked in favor of congressional domination, that will be fundamentally unacceptable, and it seems to me will create constitutional problems as well as problems with the President at a time when we say somehow the Congress should dominate the Commission that we are asking the administration to help in appointing. That is simply unacceptable to the administration and ought to be unacceptable to everyone in the House who looks at this. It is being done, in order as I understand it, to balance the partisan makeup of the Commission. Well, the Constitution does not recognize partisan makeup. What it says is that we are coequal branches of government, and I think the Commission ought to be structured in a way that assures that that equal status exists, or again we could end up with a bill that would be abandoned or at least have major initiative in the bill could be abandoned in court challenges that follow.

In my opinion, to create such a commission that would be stacked in favor of Congress would be another unnecessary partisan nail that could be put in what could become the coffin of the bill.

H.R. 4329 as reported by the Committee on Science, Space, and Technology has also included a title to amend the National Cooperative Research Act to permit joint production arrangements among nonaffiliated firms. This is becoming essential for the successful innovation and commercialization of new technologies due to their staggeringly high front-end capital costs and associated risk. Since the Committee on Science, Space, and Technology's original initiative, the House passed antitrust language based upon H.R. 4329, and as I understand the Committee on the Judiciary agreed to the Committee on Science, Space, and Technology's full participation in discussions on this issue with the Senate. In light of this agreement, dropping the antitrust reform title from this is acceptable to this Member.

Overall, the bill is a good one with the exception that I have noted. The rule allows Members to address that problem and hopefully avoid a veto. I hope we will do so.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from New Jersey [Mr. ROE] has 22 minutes remaining, and the gentleman from Pennsylvania [Mr. WALKER] has 22 minutes remaining.

Mr. ROE. Mr. Chairman, I yield 4 minutes to the chairman of our Subcommittee on Science, Research and Technology, the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I would like to express my appreciation to the chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. ROE], and also to the gentleman from Pennsylvania [Mr. WALKER] and others who have worked so long and diligently to bring this matter here to this place today for our consideration.

There is now widespread agreement that American prosperity cannot be separated from technology preeminence, and that Government policies play a crucial role—either positive or negative—in delineating the economic environment in which new technologies are developed and marketed.

While this Nation still leads the world in science, we have learned that the fruits of our scientific preeminence do not automatically translate into the new products and new indus-

trial processes that keep us a modern, prosperous Nation. The long process of technological development links the discoveries of science to the marketplace, and we have found to our dismay that other countries have become more adept than we are at reaping the benefits of our research.

We are fortunate in this country to have the National Institute of Standards and Technology, a Federal laboratory whose mission is to ease industry's movement into more advanced technology. The National Institute of Standards and Technology scientists and engineers work closely with industry to develop increasingly sophisticated techniques to monitor the quality and accuracy of new materials and manufacturing processes. Advanced ceramics and advanced semiconductors are just two examples of multibillion dollar markets made possible by advances in precision measurement and quality control.

State-of-the-art quality control has become the hallmark of world class manufacturing. The highly successful Malcolm Baldrige Quality Award, administered by the National Institute of Standards and Technology, has been instrumental in fostering a new awareness among American manufacturers that old management styles cannot produce new products. Manufacturers are finding that the Baldrige Award application process itself is a highly effective tool to evaluate their company's ability to compete in a global market.

Title II of this act authorizes funding for the new Advanced Technology Program which will assist industry-led efforts to make sure that a fair share of advanced technology products are made in America. There is a great deal of successful precedent behind the Advanced Technology Program. The Defense Advanced Research Projects agency [DARPA] has successfully fostered the development of new technologies since 1958. Advanced telecommunications and aeronautics have long benefited from a successful government-industry partnership. As our Nation enters an era where world power will be based more on economic strength than on military might, we must continue to build on the success of the postwar years.

The Advanced Technology Program will not pick marketplace winners and losers. We know from past experience that the Government can be a poor judge of market forces. The Advanced Technology Program will seek partnerships with industry, especially industry-led consortia, to fund a minority share of projects involving promising technologies which have not reached the commercial stage. By drawing on the unique scientific and engineering expertise of the National Institute of Standards and Technology, the Advanced Technology Program will identify industry proposals with special technological promise and support them with matching funds through the early stages of development.

H.R. 4329 also addresses some of the structural barriers which our industries face in developing new technology-based products to market. Among these, none is more intractable than this Nation's relatively high cost of capital. A recently published study in the Federal Reserve Quarterly Review, for example, noted that, in both Japan and West Germany, the actual cost of capital for research and development or for capital improvement is very similar—and, it is two to three times lower than in the United States Our bill creates a bipartisan national commission to find ways to reduce these costs.

Mr. Chairman H.R. 4329 provides the Department of Commerce with enhanced capabilities to assist American industry in its efforts to regain preeminence, and I urge my colleagues to support it.

□ 1310

Mr. WALKER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, the condition of the American economy today reminds me of the old joke about the parents who wanted to have two children so that, if one of them turned out to be a genius, the other one could support him. Our research labs are chock full of geniuses, but we seem to have forgotten about the second child—and too little money is flowing in from our ingenuity.

The purpose of H.R. 4329 is to give birth to that second child—to help ensure that the American research enterprise produces not just great ideas but also great prosperity. That's the idea behind the Advanced Technology Program.

Self-described conservatives may argue that the second child already exists in the form of American industry. Why, they ask, is Government largesse needed to transform science into marketable products?

But this view ignores the long history of Government assistance to corporate research. That involvement dates back at least to the formation of the National Bureau of Standards, now the National Institute of Standards and Technology [NIST], in 1901. The Bureau was formed with the specific intent of aiding corporate research, and the core programs of NIST, which are at the heart of this bill, continue to serve that purpose.

More to the point, the Defense Department has, of course, been a major source of research funds for American industry, supporting even such avowedly civilian undertakings as Sematech. Indeed, thanks to Defense Department funding, the U.S. Government funds 35 percent of industrial research compared to the approximately 2 percent of Japanese industrial research funded by the Japanese Government.

So the question really is not whether we need U.S. Government involvement but whether that involvement needs to be targeted a little differently. There was a time when we could rely on civilian spinoffs from our defense research, but numerous experts have concluded—and the statistics bear them out—that those days are over. If we want to assist civilian research, we need to do so directly. The gap between defense and civilian specifications and markets is just too great to expect much automatic spillover.

Even the "iron triangle" of Sununu, Darman, and Boskin has come to recognize that Federal assistance to "generic, precompetitive" corporate research is needed to shore up the American economy. Admittedly, the definition of those terms remains a little fuzzy. For now, we're probably best using Justice Stewart's famous formulation about pornography, "I can't tell you what it is, but I know it when I see it."

What's not fuzzy is that the United States is facing an enormous—perhaps unprecedented—economic challenge. We would be foolish not to at least try this additional approach—the Advanced Technology Program—grounded as it is in the successful policies of both our and other governments.

This bill also furthers several other technology initiatives, including the Hollings Centers and the Boehlert-Rockefeller Extension Program. These programs help smaller manufacturers make use of existing technology. The hurdle faced by these companies is not creating the technology of the 21st century, but using the technology of the 20th.

These programs, too, are based on ample Government precedents, particularly Cooperative Extension and the State Technical Services Program the Commerce Department ran in the late 1960's. These earlier programs had noteworthy successes as have similar programs abroad. I commend to the attention of my colleagues the OTA study, "Making Things Better," which argues cogently for such efforts.

Together, the NIST core programs, the Advanced Technology Program and the extension programs amount to a powerful second child to help the Nation prosper from its research expertise.

But I think it would be dishonest to present this bill as the cure-all for our economic ills. We have numerous underlying problems, only some of which are addressed by the studies required

by this measure. These include the lack of vertical integration in many of our industries and the ever shorter range focus of Wall Street. A hundred years ago or so, William Jennings Bryan accused the Nation's elite of crucifying his constituency on a cross of gold. Ours may be laid out on a cross of paper.

But those are problems for another day. Today, we can make at least a start at meeting our economic challenge by targeting the Government's resources in a way that reflects the current state of the world. I urge support for this significant legislation, and, in doing so, I want to compliment the gentleman from the Commonwealth of Pennsylvania [Mr. WALKER], the vice chairman of the full committee, and, of course, the gentleman from New Jersey [Mr. ROE], the chairman of our full committee and my neighbor.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. NOWAK], a member of our committee.

Mr. NOWAK. Mr. Chairman, I rise in support of H.R. 4329, which would reauthorize through fiscal year 1992 the National Institute of Standards and Technology and authorize funds for the Advanced Technology Program and other technology programs within the Department of Commerce.

One of the most significant portions of this legislation is the authorization of funds for the Advanced Technology Program. This program, which has never been funded, can become an essential tool in the development of new high technology industries which will be enormously important to both our economy and national security.

America is now facing extremely stiff industrial competition from abroad, not only in such traditional fields as automobiles and steel but also in the next generation of technologies such as high definition television [HDTV] and superconductivity.

For example, Japan and Europe have already invested millions of dollars in the development of HDTV.

It is to the point now where some have already conceded to others the HDTV market, which may be worth $10 billion a year, 15 years after introduction into the marketplace.

Mr. Chairman, H.R. 4329 seeks to remedy the current imbalance between foreign and domestic development of this and other new generation technologies.

By promoting industrial consortia in such fields as HDTV, superconductivity and advanced manufacturing research ventures which are critical to entire industries, but too expensive for a single company to engage in, can now be undertaken.

This bill is a significant step in making these research efforts a reality, and I strongly urge passage of the bill.

Mr. WALKER. Mr. Chairman, I have no requests for time at the present time, and I reserve the balance of my time.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Tennessee [Mrs. LLOYD], chairman of our Subcommittee on Energy Research and Development.

Mrs. LLOYD. Mr. Chairman, I rise in support of the American Technology Preeminence Act. Today more than ever we see the mounting evidence of the failure of our industry to effectively compete both in world markets and at home. Our balance of trade deficit stands as a stark reminder of the magnitude of these problems as foreign goods displace American products and workers and as manufacturing jobs move abroad.

This trend is evident for sophisticated products, such as electronic components and computers as well as for basic commodities such as steel and metal casting products. For both the sophisticated products and the more basic products, technology is the key to successful competition. Even in simple manufacturing operations new technology can significantly reduce cost and improve quality and reproducibility. Such technological advances when applied in a timely fashion spell the difference between business success and failure. While once the undisputed leaders in technology, significant segments of American industry finds itself out of step with a rapidly changing technological marketplace.

The advanced technology program is, in my view, the key provision in this legislation; it is designed to assist American companies to meet the challenge of foreign technology initiatives, many of which receive support from their governments. The Advanced Technology Program will encourage joint ventures. This is the key for a successful program for it requires that the American business community be willing to put its money on the line in joint technology development ventures. This requirement provides the market test so critical for any government involvement in technology development.

Mr. Chairman, I believe H.R. 4329, the American Technology Preeminence Act, is an important step in helping American industry to regain its technological leadership. I urge the Members of the House to support the revitalization of American industry by voting for this bill.

□ 1320

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Colorado [Mr. SKAGGS], a member of our committee.

Mr. SKAGGS. Mr. Chairman, I want to thank the distinguished gentleman from New Jersey for yielding me this time and for his work, and I thank the gentleman from North Carolina [Mr. VALENTINE] for his work on this legislation.

Mr. Chairman, I would like to express my strong support for H.R. 4329, the American Technology Preeminence Act, and for the commitment to our Nation's future economic and scientific stature that this bill reflects.

The United States has always taken enormous pride in the role as leader in scientific research and the development of new technology. We have been home to many of the ideas that have transformed virtually all types of industry, and we have demonstrated over and over again the ability to get high-quality products out into international markets at competitive prices.

In recent years, however, our leadership role has been challenged. It is no longer the case that American businesses and American industry can call the shots in international markets. Many industries in which the United States once led have been taken over by other countries, and we risk being shut out of some emerging high-technology markets.

Obviously, we want to renew our leadership status and stay competitive in an increasingly tough international marketplace. That will require hard work and creativity and a supportive attitude from Government. We need an economic environment here at home that encourages innovation—an environment in which new technologies can be developed and marketed.

That is why the American Technology Preeminance Act is so important.

This bill reflects a strong commitment to funding research—one of the most important investments our Nation can make. One that we have to make if we want to remain the world's leading scientific and economic power. And the bill goes beyond just funding. It addresses the need to establish national policies that promote and encourage innovation and competitiveness.

I am particularly pleased to see in this bill a significant increase in funding for the National Institute of Standards and Technology. For almost 100 years, NIST—formerly the National Bureau of Standards—has provided measurement methods, standards data, and other services for industry, government, and the scientific community. NIST's activities, including direct access to its facilities and technology, are crucial in enabling American firms to deliver precision, high-quality products.

The increase in funding provided in H.R. 4329—a 27-percent increase for the next fiscal year and 15-percent increase for the following year—will

ensure NIST can continue its role in strengthening American industries.

The bill also provides funding for the Advanced Technology Program—a program established by the 1988 Omnibus Trade Bill but never funded. Through this program, companies will be able to improve cooperative efforts to exploit emerging technologies.

The American Technology Preeminance Act brings a budget and a commitment to the table that should make a substantial difference to our laboratories and research facilities as they work to meet the needs of emerging high technology industries. I urge my colleagues to support this bill.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. BROWN], a member of our committee.

Mr. BROWN of California. Mr. Chairman, I rise today in strong support of H.R. 4329, the American Technology Preeminence Act of 1990. I would like to commend the leadership of our committee chairman, Mr. ROE of New Jersey, as well as the efforts of our subcommittee chairman, Mr. VALENTINE of North Carolina, and our subcommittee's immediate past chairman, Mr. WALGREN of Pennsylvania.

As a nation, we excel at producing good ideas. Our scientific research is second to none. However, if we are to remain competitive in the rapidly changing global marketplace, good ideas are not enough.

The Department of Commerce recently identified 12 emerging technologies that will have a combined potential U.S. market of $356 billion by the year 2000. However, the Department's analysis showed that the United States may well end up behind Japan in each of these technologies.

The message contained in the report is clear: If we do not increase our research and development on these emerging technologies and bring new products to market before competitors, others will reap the economic benefits they promise.

In the civilian sector of our economy, most technological advances are product-driven. The Japanese are masters of the arduous process of incrementally refining a product or industrial process through rigorous quality control and focussed R&D on the key products which drive technology innovation.

One such key product is high definition television [HDTV]. The Office of Technology Assessment recently found that HDTV is driving the state-of-the-art in a number of technologies that will be important to future generations of computer and communications equipment. We often forget that consumer electronics have been the principal driver in many important technologies, such as display and data storage technologies, as well as new optical devices and automated manufacturing systems. We are a nation of inventors, but we must continue to manufacture the products which will spark our inventors to build the better systems and the better machines of tomorrow.

The Advanced Technology Program [ATP] funding levels recommended in H.R. 4329 reflect the committee's recognition of the vital importance this program has for the future of American science and technology, as well as for our whole economy. The committee has been mindful of the tremendous pressures on the Federal budget, and based on extensive hearings, has proposed the minimum levels at which an effective program can go forward. To be effective, the ATP must support a broad range of technologies, but it cannot do so without sufficient resources.

Events in Eastern Europe during the past year have dramatically changed our world. New foreign and domestic policies must be hammered out to reflect the changes that have occurred. There is much talk of a peace dividend, and indeed, the House budget resolution reallocates $30 billion from defense to domestic programs. I applaud the lowering of world tensions which allows us to talk of a defense build-down, but I am concerned that, as defense programs are cut, R&D supported by DARPA that helps the civilian economy will be jeopardized—at the very time when Government support for these technologies is vital for our economic future.

It is high time that we recognize the crucial impact of technology on our commercial industries and our economic well-being. The Federal Government must provide an economic environment conducive to innovation and the rapid improvement of industrial products and processes. This environment must include efforts like ATP to create and maintain a civilian technology base second to none in the world. Just as our military security depends on our superiority in defense technologies, so does our economic welfare depend on a preeminent technology base for commercial industry.

Industrial technology developed by individual private firms often benefits whole industries and the entire economy, not just one firm. As such, the Federal Government has a responsibility to help fund generic, precompetitive R&D on technologies with high potential benefits to our economy. Without the leverage of Federal support for industry joint ventures, much of this essential R&D will not be carried out in this country. The industries of tomorrow that will be spawned by this work would then move overseas.

We can be sure that our Japanese and European competitors are not standing still as we debate these issues. They are moving ahead with well-planned strategies and well-funded programs to capture the lead.

Throughout our deliberations, it has been the sense of the committee that the ATP should not be funded at the expense of the traditional programs at the National Institute of Standards and Technology [NIST]. The committee received a great deal of testimony to substantiate our belief that NIST's core programs serve a vital industry need, and any cutback from the administration's request would hurt the broad range of American industries which NIST serves.

I urge you to support full funding for both the core NIST programs and the Advanced Technology Program, and to vote against any attempts to diminish these important initiatives. I believe that the provisions of this bill are vital to our Nation's future economic welfare, and I urge you to join me in voting for H.R. 4329.

Mr. Chairman, of course, as I said before, I want to pay tribute to the leadership of our distinguished chairman of the committee, the gentleman from New Jersey [Mr. ROE], but also to pay particular tribute to the minority members of the Science, Space, and Technology Committee, including the ranking member, the gentleman from Pennsylvania [Mr. WALKER], and the gentleman from New York [Mr. BOEHLERT].

This is not a partisan bill. This is a bill which has been worked on cooperatively by the Members on both sides and it is another step forward in a process which has been going on for several years. During that process, there has been achieved a degree of unanimity within the committee on the substance of what we are trying to do, namely, to enhance our ability to compete in high technology within global markets.

I suspect that the first major step that was taken to restore our competitiveness in high technology was in the Trade bill of 1988, which President Reagan signed in the closing months of his tenure. That bill established the Advanced Technology Program and changed the name of the Bureau of Standard to the National Institute of Standards and Technology, and gave it major responsibility for advanced technology programs.

What this bill does is to take us another step forward in that chain of event by authorizing the enhancement of this program, authorizing the necessary funds to carry it out on a realistic basis and allow us to move forward again in the area of advanced technology.

As the gentleman from New York [Mr. BOEHLERT] indicated, this is not a cure-all for the problems that face this country in terms of global competition. There are many other deficiencies which this bill does not seek to address, including, as we are all aware, deficiencies in science and engineering education in this country, deficiencies in the funding of our research infrastructure within universities, which has been going downhill for a number of years, and some other problems of that sort. Hopefully these will be addressed in other legislation. But a major area has been and continues to be our inability to focus our national resources on the development of advanced technology. A number of Presidential Commissions have commented on this, have made recommendations which are in effect incorporated in this legislation. I am pleased to see that these recommendations are going to go forward.

Despite the fact that there will be some minor amendments, these are in the nature of perfecting amendments, including the amendment which will be offered by the gentleman from

Pennsylvania [Mr. WALKER]. I do not happen to agree with the substance of what the gentleman is proposing, but I think it is offered in a constructive effort to ensure Presidential approval.

Mr. Chairman, this is a vitally important bill which all Members should support.

Mr. WALKER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Rhode Island [Ms. SCHNEIDER].

Ms. SCHNEIDER. Mr. Chairman, I rise in support of the American Technology Preeminence Act, H.R. 4329, a bill that would promote technological advancement through governmental support to the private industries of the United States.

During the past decade, the U.S. trade deficit has grown from $36 billion in 1980 to $109 billion last year, an alarming trend. The rising trade deficit should be a concern for all Americans. For example, in Rhode Island, about 12 percent of the employment force is export-related, altogether a total of 12,000 jobs.

Hearings held by the Committee on Science, Space, and Technology revealed how Government policies were crucial to providing a favorable environment for investment, increased productivity, and innovation. At a time when American industry faces competitive challenges in many areas, it is imperative that we act now and revitalize the economic climate in which new technologies are developed and marketed.

This legislation includes 3-year authorizations for the National Institute of Standards in the Department of Commerce, the White House's Office of Science and Technology Policy, and the extension of technology development activities that were part of the Omnibus Trade and Competitiveness Act of 1988. I am proud to say that one of these activities from the Trade Act was a provision I helped to write to establish a clearinghouse on State and local initiatives to promote competitiveness.

One issue that has been brought to my attention repeatedly as co-chair of the Congressional Competitiveness Caucus is the adverse effect that high interest rates and other costs of capital can have on investment and innovation in the United States. The bill addresses this problem by establishing a National Commission on reducing the costs of capital. The Commission would assess the effects of the relatively high cost of capital in this country and make recommendations on ways to increase investments in innovative manufacturing methods.

The administration has stated objections to this bill in part due to the level of funding in the out-years. The gentleman from Pennsylvania [Mr. WALKER] will be offering an amendment to address the concerns of the administration by leaving open for now the level of funding for the Advanced Technology Program after fiscal year 1991. I will be supporting this amendment because of a desire to work with the administration on this issue. However, I want to make it clear that we need more support from the administration for these programs in the future, not less. It will take U.S. leadership in the White House to restore American economic leadership abroad.

The need to reestablish American technological preeminence is clear. This bill will further growth through the development and implementation of new technologies by private enterprise. I ask my colleagues to support the American Technology Preeminence Act.

□ 1330

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, last year I made a little statement on American competitiveness as far as new jobs created.

There was a handbook that was put out by the Department of Labor that listed some great new jobs that occurred in America. Some of them that were listed by the DOL was the coconut jelly roller, a corncob-pipe assembler, gizzard-skin remover, brassiere-cup molder cutter, and a panty-hose crotch closer.

Japan had such positions listed under their new jobs as laser arc welders, robotic electricians, computer engineers, diversified plumbers, structural-steel specialists, and engineers and energy program analysts.

After all the calls came in after this little statement, the Department of Labor said that that is not totally a true statement that TRAFICANT had made. Let me tell the Members what was not true. It was not a panty-hose crotch closer. It was a panty-hose crotch closer machine operator. I also found out that there is a panty-hose crotch closer machine operator inspector.

I am asking on the House floor today: Is there such a thing as a panty-hose crotch closer machine operator supervisor? These are really big jobs and, ladies and gentlemen, we have lost our edge and our competitiveness.

This is a good bill, and I think we should make a direct commitment.

I want to commend both the ranking Republican on the committee and our chairman, the gentleman from New Jersey [Mr. ROE], for his efforts. The gentleman from Pennsylvania [Mr. WALKER] and the gentleman from New Jersey [Mr. ROE] have done a fine job, and I hope that my buy-American amendment would be accepted.

I am trying to make sure that if there are any panty-hose crotch closers who are going to go out and buy consumer goods that the benefits of our research and development money and our competitive edge would give a chance for Americans to make a living.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. WOLPE], a member of our committee.

Mr. WALKER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I thank the gentlemen for yielding me this time.

Mr. Chairman, I rise as a cosponsor of the legislation before us today and in strong support of the American Technology Preeminence Act.

I want to commend the chairman, the gentleman from New Jersey [Mr. ROE], the gentleman from Pennsylvania [Mr. WALKER], and the gentleman from New York [Mr. BOEHLERT] and the staff of the Science Committee for all of the hard work and long hours that have gone into producing this impotant initiative.

Mr. Chairman, this past year, we have witnessed startling changes around the world that present enormous opportunities for a growing world economy.

It is, indeed, a rare occasion that we can at one time assist emerging Third World democracies, enhance American competitiveness and expand economic growth. But that is exactly what the bill before us would accomplish.

It is incumbent, therefore, upon Congress to seize the moment to act expeditiously and to forge a partnership with industry to create such opportunities. I believe we have developed a comprehensive competitiveness package which accomplishes the dual purposes of strengthening our traditional research programs and, at the same time, creating the advanced technology program to speed commercialization of emerging civilian technologies.

I am particularly pleased that this bill includes a provision that I offered on behalf of myself, the gentleman from California [Mr. DYMALLY], the gentlewoman from Rhode Island [Ms. SCHNEIDER], and the gentleman from California [Mr. BROWN], to create a pilot program to assist other countries in development of international product standards.

From the standpoint of American economic interests, American participation in international standard-setting is simple common sense. This is a low-cost, high-impact method of export promotion for American industry.

The proposal to spend no more than $250,000 annually to match private spending is exactly the kind of com-

petitive good export promotion bargain that we should be supporting.

Much is at stake. For example, in the case of Saudi Arabia, most likely the first country to be targeted in this program, we are talking about American exports worth $5.7 billion in 1988 alone.

Other major export countries of Europe and Asia are investing heavily in export promotion through their participation in international standard setting. These countries have been increasing their share of the Saudi market while the American share has been declining. This provision is a low-cost but high-yield countermeasure. It would be extremely shortsighted, particularly at a time of such huge trade deficits and when U.S. economic growth depends so heavily on increasing exports, to permit the hundreds of millions of dollars in potential American exports to go down the drain simply because the United States failed to seize the opportunity to be involved in the development of international product standards.

Mr. Chairman, I strongly urge my colleagues to support the American Technology Preeminence Act.

Mr. WALKER. Mr. Chairman, I yield 4 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, it is a pleasure for me to speak and rise on behalf of H.R. 4329, the American Technology Preeminence Act, and I certainly must compliment the leaders in our committee for bringing this act forward and for all the work that went on to make it come into reality, the chairman, the gentleman from New Jersey [Mr. ROE], and our ranking member, our vice-chairman, the gentleman from Pennsylvania [Mr. WALKER].

Mr. Chairman, the National Institute of Standards and Technology, known as NIST, located in my district in Maryland has as its first function "to assist industry in the development of technology." In order to meet this mandate, NIST has in place new mechanisms which will help it to better fulfill these responsibilities. These include: regional manufacturing technology centers, advanced technology programs, State technology extension services, and inventions evaluation programs.

Another of NIST's functions include maintaining its traditional function as a lead national laboratory for providing standards and measurements. This second function of NIST, as a national laboratory, is essential to the success of its first function, to assist industry in the development of technology.

NIST's laboratory programs address the development of the generic and enabling technologies needed for such critical industries as factory automation and robotics, bioprocess engineering, semi- and superconductors, optical communications, advance materials, advanced computing, medical diagnostics, and industries related to public safety.

These laboratory programs at NIST are specifically aimed at three broad goals; namely, to support U.S. industry to improve public health and safety, and to support the scientific and engineering research community through fundamental research. The laboratory work will be better directed toward key industrial problems by the contacts which are developed through the extramural programs. The technology transferred to industry by the external programs will be ensured of a sound, scientific foundation through NIST's excellence in laboratory research and development for which the Institute is recognized world-wide.

In Congress, we have forged the union of these two important NIST functions to help increase the competitiveness of U.S. industry. If they are to be successful, they must be nurtured and grow together as one program, dedicated to transferring sound state-of-the-art technology from NIST's strong base of scientific expertise out to our Nation's industry. I ask my colleagues to support NIST, both its laboratory programs and its new extramural programs. Both are needed; indeed, both are essential parts of our efforts to increase U.S. competitiveness.

Mr. Chairman, I stand in support of H.R. 4329. It is, indeed, the American Technology Preeminence Act.

□ 1340

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHEUER], chairman of the Subcommittee on Natural Resources, Agriculture Research and Environment.

Mr. SCHEUER. Mr. Chairman, I rise in strong support of the American Technology Preeminence Act, a bill designed to harness the forces of Government for promoting the competitiveness of American industry and technology.

It is often said that America is one of the few countries without an industrial policy. This is usually lamented by Democrats, and boasted by Republicans.

But it is not really true.

We do have an industrial policy; it just doesn't go by that name. We have tax policy. We have capital market policies and regulations. We have fiscal policy. We have antitrust policy. We have international trade agreements.

All of these policies, taken together, have a profound influence on American innovation, commercialization, and competitiveness.

Nearly all of these policies operate as a constraint on industry, intended to achieve policy goals other than those of efficiency and competitiveness, such as fairness and equity, consumer protection and international harmony.

These policies may have sufficed when the rest of the world lay in ruins after World War II, and American technology and industry strode the world like a colossus.

But the world has changed. Our defeated enemies in World War II now are our economic rivals. A reunified Germany will be the economic centerpiece of a united Europe in 1992. And the economic accomplishments of Japan and its Pacific rim neighbors—and the subsequent displacement of American industry and workers—need no elaboration.

It is time for Government to play an affirmative part in promoting American competitiveness.

Under the leadership of Chairman ROE, and the ranking Republican, the gentleman from Pennsylvania [Mr. WALKER] the Committee on Science, Space, and Technology has brought to the floor an important piece of legislation that will do exactly that.

It recognizes that the Government, through such agencies as the National Institute of Standards and Technology, has a critical role to play in developing and encouraging innovation in leading edge high technologies, such as computer chips, high-definition TV, advanced communications, and composite materials.

The bill draws upon the existing framework in the Government to forge a new force for high technology competitiveness.

It elevates the President's Science Adviser to Cabinet-level status, equal in importance to the President's Economic Adviser.

And it reinvigorates the Department of Commerce to be more active in promoting technology development.

Mr. Chairman, this bill will not make American goods more competitive overnight.

Many of our other policies—and those of our foreign trading partners—must also be addressed if we are to be truly serious about restoring American industrial preeminence.

But we can and must retain the high-technology innovative edge that we have over other countries. This bill finally brings the Government out to play on the same team.

I support the bill and urge my colleagues to do the same.

Mr. ROE. Mr. Chairman, would the gentleman from Pennsylvania [Mr. WALKER] yield 2 additional minutes to the gentleman from New Jersey?

Mr. WALKER. Mr. Chairman, I am happy to yield 2 minutes to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. MCMILLEN],

a member of the Committee on Science, Space, and Technology.

Mr. McMILLEN of Maryland. Mr. Chairman, I rise in support of H.R. 4329, authorizing for 3 years NIST, an authorization number in line with the request of the President.

Let me focus for a minute upon a hearing that we had yesterday about the importance of NIST in the Committee on Science, Space, and Technology. We learned that budget restraints and constraints have kept NIST, along with other agencies, from fully complying with the terms of the Computer Security Act of 1987. This is the Federal law that seeks to protect Federal computers from the ravages of hackers.

The testimony pointed to the fact that the Federal Government has a long way to go to make its computer systems impenetrable.

As the lead agency, NIST plays a very important role in trying to safeguard our national computer base.

The bottom line here is if we are going to protect our Federal Reserve System, if we are going to protect our Social Security System, and our national security apparatus in this country, and prevent computer compromises in those systems, then we need funding for this agency. Funding is the biggest impediment to really complying with the Computer Security Act.

Another point I would like to make is that the funding of the Advanced Technology Program is nothing more essential to our trade situation than expediting the commercialization of promising technology. The chairman has talked many times about science being the vehicle for creating new wealth in this country. I think it is very, very important. By supporting this program we can bring innovation to the global marketplace.

Mr. Chairman, I urge the adoption of H.R. 4329, and I salute the authors and the leadership of the committee.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise today in strong support of the American Technology Preeminence Act of 1990. I congratulate my colleague, Chairman ROE, on his hard work in putting this bill together.

The American Technology Preeminence Act supports American industrial competition throughout the world. The act makes it clear that in the 1990's there are certain strategic technologies that are vital to the economic success of every American industry. These technologies include advanced electronics, advanced manufacturing, superconducting, advanced ceramics, semiconductors, and x-ray lithography for semiconductors.

Many foreign nations have targeted these strategic technologies as important to their economic futures. They have formulated policies including funding joint R&D projects and creating infrastructure to coordinate industry activities.

The funding levels included in the act for the National Institute of Standards and Technology and for the Institute's Advanced Technology Program are modest in comparison to government investing in strategic technologies by our competitors. And yet, the funding levels are vital because they will serve to reassure private industry that the Federal Government recognizes and supports these growth industries.

The American Technology Preeminence Act includes many basic initiatives of a comprehensive technology policy that will help American firms compete.

By amending the Advanced Technology Program to support joint ventures to solve strategic technology manufacturing problems the act will implement a "civilian DARPA" that will be vital to the competitiveness of the strategic technology industries.

By establishing the National Research and Education Network to link government, industry, and higher education through supercomputers and data bases the act will promote the dissemination of technological information to our strategic industries.

The act also will urge a permanent, enhanced research and development tax credit to reduce capital costs, and will provide a mechanism to identify technologies critical to U.S. interests—as well as those technologies that have been targeted by our competitors.

Ultimately, America's competitiveness and economic strength will depend on the ability of our Government to create the conditions that will ensure the leadership position of the United States.

Mr. Chairman, this legislation outlines the kinds of measures that are necessary to help American businesses do what they do best—compete and win.

I urge my collegues to strongly support the passage of this legislation.

Mr. MARKEY. Mr. Chairman, I rise in support of H.R. 4329, the American Technology Preeminence Act.

Mr. Chairman, America's cold war victory has ended 50 years of superpower rivalry for military superiority. But our Nation now faces a new and perhaps more difficult struggle for economic leadership in an increasingly competitive global marketplace.

Last week, the Council on Competitiveness reported that last year, for the first time since World War II, Japan invested more than the United States in new factories and equipment.

In May, the Commerce Department released a report that warned "* * * if current trends continue, before the year 2000, the United States will lag behind Japan in most emerging technologies and will trail the EC in several of them."

Our ability to meet the new challenge of global economic competition is threatened by the lack of patient, low-cost capital for American high technology companies.

The cost of capital in the United States is up to three times more expensive than it is in Japan, where Japanese companies often borrow at interest rates of 5 percent or less. Right now, in my district along Route 128 in Massachusetts—one of the Nation's premier high technology breeding grounds—the credit crunch has severely hindered the ability of high technology companies to expand into new technologies.

Small companies and start-ups face not only high rates but a lack of available capital at any rate. Between 1987—the year of the stock market crash—and 1989, available venture capital funds fell 50 percent. In Massachusetts, eight banks recently turned down a fast-growing high technology company's application for a $400,000 loan.

Increasingly, American entrepreneurs have turned to foreign investors for capital infusions. Last year, for example, Apple Computer founder, Steve Jobs, sold a significant stake in his new company, Next, to a Japanese copy machine maker. Earlier this year, Genentech, a pioneering biotechnology firm, sold 60 percent of its shares to a Swiss pharmaceutical giant.

H.R. 4329 will not, in and of itself, solve America's cost of capital problem. But it will provide an immediate infusion of badly needed capital for ventures developing critical new technologies.

The $50 million authorized in the bill for this year for a broad range of emerging technologies is a modest sum when compared to the quarter of a billion the Japanese Government is spending this year on HDTV alone and the $400 million the European Community is spending this year on HDTB. All tolled, Japan's public and private sectors are investing more than a billion per year on HDTV while the United States is spending a mere $70 million.

Mr. Chairman, just a few short years ago, we stood in this Chamber and measured world power by throw weights and megatonnage. Today, we measure superpowers by market share and trade balances. Passage of the American Technology Preeminence Act is a critical first step in America's effort to compete in the new race for global leadership.

Mr. DICKS. Mr. Chairman, almost as quickly as the Berlin Wall began to crumble, many in the United States began developing plans on how to best utilize the expected peace dividend. Having had time however, to absorb the euphoric events of the past year and the exciting implications of these changes, we must now recognize that no peace dividend will ensue without a real and honest assessment of America's most basic needs.

One of America's most pressing challenges in this decade will be an improvement in U.S. competitiveness and the strengthening of our economic power. H.R. 4329 recognizes that America's technology base is fundamental to our continued economic growth and influence in an increasingly interdependent world. It is not enough to speak only of slashing the Federal budget without giving equal time and

thought to how remaining funds can be most effectively utilized.

The Advanced Technology Program funded by this legislation will promote the commercialization of new technologies by providing seed money to research consortia. The objective of the program is not to dictate spending in particular areas or to provide a competitive advantage to one firm over another, but to provide small companies with the opportunity to pursue research in areas which will have important, wide-ranging commercial applications in the future. The Advanced Technology Program recognizes the preeminent role that the development and marketing of high technologies will play in the United States and the world economy.

The United States has long recognized the importance of Government investments in basic research and development. In the context of national security we have given ample support to our national laboratories and agencies such as the Defense Advanced Research Projects Agency within the Department of Defense. The scope of national security has broadened considerably and is today, inextricably tied to American economic strength and influence.

Within this broader context of national security, Government support for basic research and development is necessary in order to ensure America's role as a vital player in world technological developments. As the act states, joint ventures are a particularly effective means of promoting cooperation and of pooling resources to create new technologies which will benefit the entire Nation.

One example of the wide ranging applications of technologies funded through this program is the development of virtual reality technology, which would allow the more than 17 million physically disabled people in the United States to make productive contributions to their communities. This program, being developed by the Human Interface Technology Laboratory at the University of Washington, is working on virtual reality technologies which would allow the handicapped to control computers with eye movements or by voice. Architects could tour buildings before they are actually built; surgeons could walk through their patients' bodies, viewing organs from different angles. Already, corporations from the Digital Equipment Corp. to the Boeing Co. have expressed serious interest in the potential commercialization of virtual reality technologies. The challenge now is to make this technology more accessible and less expensive. This legislation recognizes the wide ranging, beneficial impact cooperation between industry and government may have.

The retention of U.S. influence in a rapidly changing world will depend not only on our ability to project our military power abroad, but even more importantly, upon our ability to export our economic strength and manufacturing expertise. The United States must refrain from slipping into its comfortable habit of making short-term decisions at the expense of its long-term interests. Research supported by an advanced technology program today, will provide the United States with the seeds of growth and influence tomorrow.

Mr. STARK. Mr. Chairman, I stand in strong support of the American Technology Preeminence Act. We must regain our stature as a nation of enterprising genius designing the most advanced components and products. This is surely the blueprint for economic success in the international arena.

Public and private efforts together are needed to provide the proper environment for developing superior technology, which sadly, we now all too often import from our foreign competitors.

The Federal Government has much to offer in these efforts to boost our international competitiveness. Many Federal facilities do exist offering brilliant minds and the most technologically advanced laboratories. For years these laboratories have striven to surpass the weaponry and military capabilities of our adversaries. With the end of the cold war this mission has been accomplished and our Federal scientific establishment is now ready to take on new frontiers.

We must direct these laboratories toward the challenge of regaining our economic and technological preeminence. The Lawrence Livermore National Laboratory, with its expertise and high-technology laboratories, is an excellent example of a Federal facility that could help rebuild our standing in the scientific and technological fields addressed by the American Technology Preeminence Act.

I do hope facilities like Lawrence Livermore National Laboratory will be included in the projects this legislation will help develop.

Mr. KANJORSKI. Mr. Chairman, I rise today in strong support of H.R. 4329, the American Technology Preeminence Act.

H.R. 4329 came to my attention in my capacity of chairman of the Post Office and Civil Service Committee Subcommittee on Human Resources. Section 401 of this bill promotes the Director of the Office of Science and Technology Policy [OSTP] to the same pay level as cabinet officers. This provision comes under the jurisdiction of my subcommittee.

While reviewing the legislation, I was struck by how well H.R. 4329 begins to address issues that were raised in a report prepared by the Task Force on Emerging Technologies of the Subcommittee on Economic Stabilization of the House Committee on Banking, Finance, and Urban Affairs, which I had the honor of chairing in the previous Congress.

Due to persistent national economic factors there is currently a shortage of private funds available to support industrial growth. The existence of both a large national deficit and an immense foreign debt has caused fiscal restraint, especially in the area of research and development [R&D]. Consequently, the United States has fallen behind its major competitors in the pursuit for innovation.

Prudent investment in the research, development, and commercialization of new products has the potential to ultimately balance both the Federal budget and our imports and exports. It will allow us to ensure that short-term financial constraints do not foreclose long-term opportunities.

As identified by the task force report National Science and Technology Policy, U.S. industry must increase its share of the R&D burden. Futhermore, the Federal Government should provide incentives to support such investment by the private sector.

Section 201 of H.R. 4329 authorizes funds and provides guidance for the Advanced Technology Programs [APT], which fosters private investment in conjunction with Federal R&D. The goal of the ATP, which was initially mandated in 1988, is to assist U.S. businesses in creating and applying the generic technology and research results necessary to commercialize significant new scientific discoveries and technologies quickly and to refine manufacturing techniques. The ATP promotes American consortiums in areas such as superconductivity, HDTV, and advanced manufacturing.

The ATP is only one facet of H.R. 4329. There are other provisions that further promote American investment in and application of advanced R&D in myriad fields. By passing this legislation, Congress will be taking action on what many of us have been saying for years: we must begin to promote R&D, and the dissemination and commercialization of its fruits, if we are to remain a world leader.

H.R. 4329 makes a sound investment in our future—not just the future of American technology, but also in the prospects for our country's economy and competitiveness. Thus I urge my colleagues to support H.R. 4329.

Mr. FRENZEL. Mr. Chairman, in addition to my problem with the funding levels in this bill, I strongly oppose the section of the bill which restricts participation in the Advanced Technology Program [ATP] to U.S. majority-owned companies unless the home country of the company provides similar access to the United States.

The administration has also opposed this section of the bill. It is both inconsistent with some of our bilateral investment agreements and would harm our efforts to obtain similar access for U.S. companies abroad, particularly now at the Uruguay round's investment negotiations. If this language cannot be amended at some point during the remainder of the legislative process, I would hope that the President will veto this bill.

In addition, while I can understand the focus behind the Bentley amendment, I still have some concerns about it. It has been greatly improved in the past 2 weeks from its initial version, but I still do not believe we should be in the business of restricting the sale of any patents which result from research conducted under the ATP to other than United States or Canadian-owned companies. Permitting licensing is an improvement, but even this stripped-down language will cause problems with our allies.

Mr. GEPHARDT. Mr. Chairman, a couple of weeks ago the House leadership announced its agenda for action on U.S. high-technology competitiveness. It is an agenda that the Democratic leadership and our committee chairs believe is necessary to improve our high-technology competitiveness and to strengthen our economy.

We announced this agenda because high technology will be the foundation of a growing economy that will provide jobs and new opportunities for American families.

Today, I rise to commend Chairman ROE and his committee for their work on this major legislative accomplishment on our agenda. H.R. 4329, the American Technology Preemi-

nence Act will provide the necessary foundation for U.S. commercial technology development.

This legislation proposes several aggressive programs to promote high technology, including the National Institute of Standards and Technology [NIST] and the Advanced Technology Program [ATP], a high resolution information systems development expanding science and math teacher training and education programs through the National Science Foundation [NSF], and standards. All of these programs are valuable to our nation's success in maintaining and strengthening its commercial technological edge.

Mr. Chairman, as we continue to move forward on establishing a viable technology policy for America through H.R. 4329 and other initiatives on our agenda for action. I'd like to recommend a dose of reality to my colleagues—this special issue of Business Week on "Innovation: The Global Race."

This magazine describes America and the rest of the world as "in the midst of an epic struggle, whose weapons are invention, innovation, and ingenuity."

Many of us in Congress recognize the value of invention, innovation and ingenuity to the jobs and the industries in our states. And, we realize that building on America's past technological accomplishments in these areas and on future high-technology efforts, will require a strong commitment by government, industry, and academia to education of our workers, commercial technology development, aggressive export promotion and much more.

Our view of the obvious importance of these items to our high-technology industrial base is not shared by the administration. The President has threatened to veto H.R. 4329 because of objections to some of the bill's strongest provisions. Again, he has drawn the ideological battle lines and rejected common sense in dealing with the challenges facing America's technological and industrial capabilities.

Without the burden of being blinded by rigid ideology, our trading partners have been able to lay out economic strategies to ensure long-term economic growth and security. This administration doesn't seem to recognize that their ideological myopia is costing us jobs.

As John Kenneth Galbraith said, "The imperatives of technology and organization, not the images of ideology, are what determine the shape of economic society." H.R. 4329, and its technological imperatives, not the President's strict adherence to outdated ideology, will contribute to shaping America's economic society for the future.

Mr. BUECHNER. Mr. Chairman, today, we address legislation which will prove critical for our industrial competitiveness for years to come. H.R. 4329, the American Technology Preeminence Act seeks to expedite the Development of American Industrial Technology by supporting a combination of Federal and Industrial Research and Development Initiatives. Of particular note is the advanced technology program, which will provide incentives to industries developing new technologies, and will encourage joint ventures among firms with the foresight to prepare for the competitive markets of the nineties. Those of us on the Science, Space, and Technology Committee are acutely aware of the growing competition American industry faces, and I applaud this bill as an excellent first step.

However, we will be remiss if we allow our efforts on behalf of our industrial community to end with this step. Through discussions with representatives of the Aerospace Industries Association, which represents major employers in my district, it has come to my attention that there is much more we can do. Like many other industries, the aerosapce industry is subject to erratic Federal procurement policies, restrictive trade policies, overlapping Federal jurisdictions, prohibitive amounts of red tape, and a multitude of other governmental obstacles. In fact, it could be argued that we are becoming our own worst enemy in the world market.

Accordingly, I am drafting legislation that would seek to facilitate the maintain American supremacy in this area. This initiative will include provisions which minimize barriers to exports resulting from outdated security policies. It would also streamline the Inter-Departmental Bureaucracy involved with obtaining export licenses, such that the Defense, State, and Commerce Departments do not have overlapping jurisdiction in the process. This provision would accelerate the licensing process so that valuable time is not lost as American firms compete for foreign business. Additionally, the bill would liberalize offset agreements whereby international trade is encouraged.

Mr. Chairman, I would like to reiterate my support for the Technology Preeminence Act of 1990 as a vital first step in ensuring our technological competitiveness, and I urge my colleagues to support my proposal and similar initiatives which will continue the process which we have begun today.

Mr. WALKER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. 'Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of the bill, H.R. 5072, is considered as an original bill for the purpose of amendment and each title is considered as having been read.

The Clerk will designate section 1.

Mr. ROE. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The text of the amendment in the nature of a substitute is as follows:

H.R. 5072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Technology Preeminence Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Authorizations for program activities.
Sec. 104. Pilot program.
Sec. 105. Under Secretary for Technology.
Sec. 106. Japanese technical literature.
Sec. 107. National Technical Information Service.
Sec. 108. Clearinghouse for State and local initiatives on productivity, technology, and innovation.
Sec. 109. Salary adjustments.
Sec. 110. Construction of facilities.
Sec. 111. Technology transfer programs.
Sec. 112. Office of Technology Services.
Sec. 113. Unauthorized appropriations.

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

Sec. 201. Emerging technology research and development.

TITLE III—AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

Sec. 301. Federal laboratory consortium.
Sec. 302. Cooperative research and development agreements.
Sec. 303. Definition of Federal agency.
Sec. 304. Quality improvement.

TITLE IV—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Sec. 401. Director.
Sec. 402. Major science and technology proposals.
Sec. 403. National high performance computer technology program.
Sec. 404. Presidential Commission on Reducing Capital Costs for Emerging Technology.
Sec. 405. Research, development, technology utilization, and Government procurement policy.

TITLE V—INFORMATION COLLECTION AND DISSEMINATION

Sec. 501. Information collection and dissemination.
Sec. 502. Electronic format.

TITLE VI—HIGH RESOLUTION INFORMATION SYSTEMS

Sec. 601. Findings.
Sec. 602. Definitions.
Sec. 603. High Resolution Information Systems Board.

TITLE VII—REPORTS

Sec. 701. Biennial National Critical Technologies Report amendments.
Sec. 702. Report on advanced manufacturing and quality.
Sec. 703. Report on a strategy to stimulate competitive research.
Sec. 704. Standards methodology.
Sec. 705. Intergovernmental coordination.

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

SEC. 101. SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1990".

SEC. 102. STATEMENT OF POLICY.

The Congress finds that in order to help United States industries speed the development of new products and processes in order to maintain the economic competitiveness of the Nation, a strengthening of the programs and activities of the Department of Commerce's Technology Administration and

the National Institutes of Standards and Technology is necessary.

SEC. 103. AUTHORIZATIONS FOR PROGRAM ACTIVITIES.

(a) FISCAL YEAR 1990.—

(1) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary") for fiscal year 1990, to carry out activities performed by the National Institute of Standards and Technology the sums set forth in the following line items:

(A) Measurement Research and Standards, $41,666,000.

(B) Materials Science and Engineering, $23,157,000.

(C) Engineering Measurements and Standards, $39,300,000.

(D) Computer Science and Technology, $9,440,000.

(E) Research Support Activities, $17,859,000.

(F) Cold Neutron Source Facility, $6,500,000 (for a total authorization of $26,000,000).

(G) Technology Services, $7,379,000.

(2) LIMITATIONS.—

(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the total amount authorized under subparagraph (C) of paragraph (1)—

(i) $4,000,000 are authorized only for the Center for Building Technology; and

(ii) $5,589,000 are authorized only for the Center for Fire Research,

and the two Centers shall not be merged.

(C) Of the total amount authorized under subparagraph (E) of paragraph (1), $7,000,000 are authorized only for the technical competence fund.

(D) Of the amount authorized under subparagraph (G) of paragraph (1), $150,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities.

(3) TRANSFERS.—(A) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(B) The Secretary may propose transfers to or from any line item listed in paragraph (1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made—

(i) unless a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(ii) 30 calendar days have passed following the transmission of such written explanation.

(4) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-680), this Act contains the complete authorizations of appropriations for the National Institute of Standards and Technology for fiscal year 1990.

(b) FISCAL YEAR 1991.—

(1) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce for fiscal year 1991, to carry out activities performed by the National Institute of Standards and Technology the sums set forth in the following line items:

(A) Measurement Research and Standards, $50,769,000.

(B) Materials Science and Engineering, $27,295,000.

(C) Engineering Measurements and Standards, $54,947,000.

(D) Computer Science and Technology, $13,419,000.

(E) Research Support Activities, $23,047,000.

(F) Cold Neutron Source Facility, $6,545,000 (for a total authorization of $32,545,000).

(G) Technology Services, $7,636,000.

(2) LIMITATIONS.—

(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the total amount authorized for the National Institute of Standards and Technology under subparagraph (C) of paragraph (1) and the Earthquake Hazards Reduction Act of 1977—

(i) $4,000,000 are authorized only for the Center for Building Technology; and

(ii) $6,000,000 are authorized only for the Center for Fire Research,

and the two Centers shall not be merged.

(C) Of the total amount authorized under subparagraph (E) of paragraph (1), $7,223,000 are authorized only for the technical competence fund.

(D) Of the amount authorized under subparagraph (G) of paragraph (1), $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities.

(3) TRANSFERS.—(A) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(B) The Secretary may propose transfers to or from any line item listed in paragraph (1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made—

(i) unless a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(ii) 30 calendar days have passed following the transmission of such written explanation.

(4) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-680), this Act contains the complete authorizations of appropriations for the National Institute of Standards and Technology for fiscal year 1991.

(c) FISCAL YEAR 1992.—

(1) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce for fiscal year 1992, to carry out activities performed by the National Institute of Standards and Technology the sums set forth in the following line items:

(A) Measurement Research and Standards, $57,100,000.

(B) Materials Science and Engineering, including the Cold Neutron Source Facility, $36,200,000.

(C) Engineering Measurements and Standards, $61,100,000.

(D) Computer Science and Technology, $16,400,000.

(E) Research Support Activities, $30,000,000.

(F) Technology Services, $8,200,000.

(2) LIMITATIONS.—

(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the total amount authorized for the National Institute of Standards and Technology under subparagraph (C) of paragraph (1) and the Earthquake Hazards Reduction Act of 1977—

(i) $4,000,000 are authorized only for the Center for Building Technology; and

(ii) $6,000,000 are authorized only for the Center for Fire Research,

and the two Centers shall not be merged.

(C) Of the total amount authorized under subparagraph (E) of paragraph (1), $8,000,000 are authorized only for the technical competence fund.

(D) Of the amount authorized under subparagraph (F) of paragraph (1), $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities.

(3) TRANSFERS.—(A) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(B) The Secretary may propose transfers to or from any line item listed in paragraph (1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made—

(i) unless a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(ii) 30 calendar days have passed following the transmission of such written explanation.

(4) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-680), this Act contains the complete authorizations of appropriations for the National Institute of Standards and Technology for fiscal year 1992.

SEC. 104. PILOT PROGRAM.

Of the amounts authorized under section 103 (a)(1), (b)(1), or (c)(1) and section 201(f), up to $250,000 in each of the fiscal years 1990, 1991, and 1992 may be used to pay the Federal share of the cost of establishing and carrying out a pilot program, under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note), to assist in the development of comprehensive industrial standards for a country or countries that have requested such assistance from the United States and will require the continuous presence of United States personnel for a period of 2 or more years to provide such assistance. Such funds shall be made available for such purpose only to the extent that matching funds are received by the National Institute of Standards and Technology from sources outside the Federal Government.

SEC. 105. UNDER SECRETARY FOR TECHNOLOGY.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for the activities of the Office of the Under Secretary of Commerce for Technology—

(1) $3,470,000 for fiscal year 1990;

(2) $4,000,000 for fiscal year 1991; and

(3) $5,000,000 for fiscal year 1992.

SEC. 106. JAPANESE TECHNICAL LITERATURE.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary to carry out the Japanese Technical Literature Act of 1986 (Public Law 99-382)—

(1) $1,000,000 for fiscal year 1990;

(2) $1,000,000 for fiscal year 1991; and

(3) $1,500,000 for fiscal year 1992.

SEC. 107. NATIONAL TECHNICAL INFORMATION SERVICE.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for modernization plans of the National Technical Information Service described in section 212(f)(3)(D) of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989—

(1) $500,000 for fiscal year 1991; and

(2) $1,500,000 for fiscal year 1992.

(b) OPERATING COSTS.—Operating costs of the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered through the collection of fees.

(c) REPORT AND CERTIFICATION TO CONGRESS.—No funds appropriated pursuant to subsection (a)(2) shall be obligated before the Secretary of Commerce submits a report to the Congress which—

(1) describes the Department of Commerce's response to the Inspector General's Report No. ATD-024-0-001;

(2) includes a revised detailed modernization plan for the National Technical Information Service;

(3) contains a business plan which includes a profit and loss analysis for each product, service, and market component; and

(4) certifies that the National Technical Information Service has—

(A) employed a chief financial officer who is a certified public accountant with experience in the dissemination of scientific and technical information; and

(B) begun taking reasonable steps toward strengthening its accounting system in response to the Inspector General's report described in paragraph (1).

SEC. 108. CLEARINGHOUSE FOR STATE AND LOCAL INITIATIVES ON PRODUCTIVITY, TECHNOLOGY, AND INNOVATION.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for the activities of the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation—

(1) $1,000,000 for fiscal year 1991; and

(2) $1,000,000 for fiscal year 1992.

SEC. 109. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for fiscal years 1990, 1991, and 1992 such sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 110. CONSTRUCTION OF FACILITIES.

Section 14 of the Act of March 3, 1901 (15 U.S.C. 278d), is amended by striking "herein:" and all that follows, and inserting in lieu thereof "herein.".

SEC. 111. TECHNOLOGY TRANSFER PROGRAMS.

(a) Section 25(d) of the Act of March 3, 1901 (15 U.S.C. 278k(d)), is amended by striking "and 1990" and inserting in lieu thereof "through 1992".

(b) Section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 is amended—

(1) in paragraph (4)—

(A) by striking "and"; and

(B) by inserting ", and 1992" after "1991"; and

(2) by striking paragraph (5).

SEC. 112. OFFICE OF TECHNOLOGY SERVICES.

Section 26 of the Act of March 3, 1901 (15 U.S.C. 278l), is amended by adding at the end the following new subsection:

"(c) There is established within the Institute an Office of Technology Services, which shall supervise the Centers program, the Institute's assistance to State technology programs, and such other activities or programs as the Secretary or Director may specify.".

SEC. 113. UNAUTHORIZED APPROPRIATIONS.

No funds appropriated for fiscal year 1991 or 1992 for activities of the National Institute of Standards and Technology shall be expended unless such activities have been specifically authorized by law.

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

SEC. 201. EMERGING TECHNOLOGY RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This title may be cited as the "Emerging Technology Research and Development Act of 1990".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) technological innovation and its profitable inclusion in commercial products are critical components of the United States ability to raise the living standards of Americans and to compete in world markets;

(B) maintaining viable United States-based high technology industries is vital to both the national security and the economic well-being of the United States;

(C) foreign companies have become more successful in new product development and product improvement using a variety of emerging technologies and have made the world market for high technology products increasingly competitive;

(D) since the mid-1960s, a large percentage of United States Government assistance in technology development has been funded through the Defense Department;

(E) it is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology;

(F) joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no one company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation;

(G) materials research is transforming our physical world through breakthrough advances in ceramics, polymers, and composites, and other advances such as high temperature superconductivity may permit materials technologies to revolutionize such diverse industries as transportation, computing, and electrical transmission;

(H) United States overall leadership has diminished in the design, development, and manufacture of consumer electronic products and processes;

(I) high resolution information systems have the potential to revolutionize image transmission and by the 21st century to become the most significant consumer electronics product and have diverse applications, in areas such as semiconductors, flat screen displays, manufacturing, telecommunications, microprocessing, and software;

(J) it is vital that industry within the United States attains a leadership role and capability in development, design, and manufacture in fields such as advanced materials and high resolution information systems and related technologies; and

(K) the Advanced Technology Program, established under section 28 of the Act of March 3, 1901, is the appropriate vehicle for the United States Government to provide limited assistance to joint development within the United States of new high technology capabilities in fields such as advanced materials and high resolution information systems, and can help encourage United States industry to work together on problems of mutual concern.

(2) PURPOSES.—The purposes of this section are—

(A) to generally promote and assist in the development of advanced technologies and the generic application of such technologies to civilian products, processes, and services;

(B) to improve the competitive position of United States industry by supporting research and development by businesses and academic institutions into emerging technologies including high resolution information systems and advanced materials which have substantial potential to advance the economic well-being and national security of the United States;

(C) to support projects that range from idea exploration to prototype development and address long-term, high-risk areas of technological research, development, and application that are not otherwise being adequately developed by the private sector, but are likely to yield important benefits to the Nation; and

(D) to reduce the marginal cost of capital by leveraging the funding of United States based, industry-led joint ventures for emerging technologies through the Advanced Technology Program at the Department of Commerce.

(c) EMERGING TECHNOLOGY PROGRAM.—Section 28 of the Act of March 3, 1901, is amended—

(1) by inserting at the end of subsection (a) the following new sentence: "The Secre-

tary, acting through the Director, may provide assistance as necessary under this section to identify and solve generic technology and manufacturing problems in emerging technology fields including high resolution information systems and advanced materials research and development so as to speed commercialization of products and services based on these technologies, and to establish procedures for technology sharing and technology transfer among members of a joint venture while protecting against transfer of intellectual properties, trade secrets, or proprietary data overseas.";

(2) in subsection (b)(1)(B), by inserting "through grants, cooperative agreements, or contracts" after "such joint ventures";

(3) in subsection (b)(2), by inserting "provide grants to and" before "enter into contracts";

(4) by adding at the end of subsection (d)(1) the following new sentence: "In selecting among proposals of relatively equal merit, preference shall be given to proposals requiring the lowest percentage of Federal funds.";

(5) in subsection (d)(3), by striking "cooperative agreement" both places it appears and inserting in lieu thereof "award";

(6) by amending subsection (d)(7) to read as follows:

"(7) The Secretary, acting through the Director, shall negotiate an agreement with each recipient of assistance under this section. In the case of a recipient which is a joint venture, such agreement shall delineate the activities and responsibilities of each participant of the joint venture as required by this section. Each agreement with any recipient under this section shall specify a period of time during which the Federal Government shall receive payments from any profits of the recipient, with respect to any technology developed by the recipient and arising from assistance provided under this section, in proportion to the percentage of the Federal share of the total investment cost of the recipient. Each agreement shall also provide the recipient with the option of paying to the Secretary, in lieu of payments required pursuant to the previous sentence, an amount determined by the Secretary to be equal to the full Federal investment in the recipient plus a reasonable return on such investment calculated as of the time such option is exercised. Funds received by the Secretary pursuant to an agreement described in this paragraph shall, to the extent provided in appropriations Acts, be available for carrying out this section. In the case of an agreement with a recipient receiving an award in an amount greater than $500,000, each such agreement shall be delivered to the appropriate committees of Congress within 180 days after the selection of the recipient.";

(7) by adding at the end the following new subsection:

"(f) Each joint venture receiving assistance under this section shall submit an annual report and operating plan to the Secretary, the appropriate committees of Congress, and the Comptroller General of the United States which—

"(1) describes, and modifies or proposes modifications to, as appropriate, the short- and long-term goals of the joint venture, and the allocation of resources to accomplish those goals;

"(2) describes the financial reporting and auditing procedures to be implemented by the members of the joint venture;

"(3) summarizes the technology accomplishments and applications of research results within the preceding year toward the short- and long-term goals described under paragraph (1);

"(4) summarizes the technology transfer agreements among members of the joint venture; and

"(5) summarizes the results of any audit of the joint venture conducted during the preceding year.";

(8) by adding at the end of subsection (d) the following new paragraphs:

"(10) A company shall be considered a United States business under this section and shall be eligible to participate in any joint venture receiving financial assistance from the Secretary only if—

"(A) the Secretary finds that the company's participation in the Program would be in the interests of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including the domestic manufacture of major components and subassemblies); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology, to procure parts and materials from competitive suppliers, and to support a United States and Canadian supplier infrastructure; and

"(B) either—

"(i) the company is a United States-owned company; or

"(ii) the company has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords local investment opportunities for United States-owned companies that are comparable to investment opportunities for foreign-owned companies in the United States; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

"(11) Grants, contracts, and cooperative agreements under this section shall be designed to support projects which are high risk and which have the potential for eventual substantial widespread commercial application. In order to receive a grant, contract, or cooperative agreement under this section, a research and development entity shall demonstrate to the Secretary significant and substantial experience in research and technology development and management in the project area in which the grant, contract, or cooperative agreement is being sought.";

(9) by amending subsection (e) to read as follows:

"(e) The Secretary may, 30 days after notice to the Congress, suspend a company or joint venture from continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to honor the agreement described in subsection (d)(7) or to satisfy any of the criteria set forth in subsection (d)(10), and that it is in the national interest of the United States to do so."; and

(10) by inserting after subsection (f) the following new subsections:

"(g)(1) When reviewing private sector requests for Department of Commerce assistance to proposed joint ventures, and when monitoring the progress of assisted joint ventures, the Secretary shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary is authorized to work with the Secretary of Defense and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

"(2) As appropriate, the Secretary shall coordinate Program policies and activities with the economic, trade, and security policies of the Department of Commerce so as to promote the economic competitiveness of United States industries and shall, when so instructed by the President, coordinate these policies with the science, technology, economic, trade, and security policies of other Federal departments and agencies.

"(h) In order to analyze the need for and value of joint ventures in specific technical fields, to evaluate any joint ventures requesting the Secretary's assistance, or to monitor the progress of any joint venture which receives Federal funds pursuant to the authorizations contained in this section, the Secretary, the Under Secretary of Commerce for Technology, and the Director may organize and seek advice from such industry advisory committees as they consider useful and appropriate.

"(i) Up to 10 percent of the funds appropriated for carrying out this section may be used for standards development activities by the Institute in support of the purposes of this section.

"(j) As used in this section—

"(1) the term 'high resolution information systems' means equipment and techniques required to create, transmit, receive, display, process, record, store, recover, and play back high resolution images and accompanying sound material;

"(2) the term 'advanced materials' means a field of research including study of composites, ceramics, metals, polymers, superconducting materials, and materials production processing technologies, including coated systems, that provide the potential for significant advantages over existing materials;

"(3) the term 'joint venture' means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

"(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

"(B) the development or testing of basic engineering techniques;

"(C) the extension of investigative findings or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

"(D) the collection, exchange, and analysis of research information;

"(E) the production of any product, process, or service; or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture;

"(4) the term 'United States-owned company' means a company that has majority ownership or control by individuals who are citizens of the United States; and

"(5) the term 'foreign-owned company' means a company other than a United States-owned company.".

(d) COMPREHENSIVE REPORT.—The Secretary of Commerce shall, not later than 4 years after the date of enactment of this Act, submit to each House of the Congress and the President a comprehensive report on the results of the emerging technology program established under section 28 of the Act of March 3, 1901, including an evaluation of the general applicability of any high resolution information systems or advanced materials research and development program results to other advanced technologies.

(e) FEDERAL REGISTER NOTICE.—The Secretary of Commerce shall, within 120 days after the date of appropriation of funds pursuant to subsection (f) of this section, publish notice in the Federal Register stating that the Department of Commerce is prepared to accept applications for assistance under section 28 of the Act of March 3, 1901, as amended by this section. Such notice shall include a description of eligibility requirements for assistance under such section 28, and maximum assistance levels expected to be available for such assistance.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for carrying out section 28 of the Act of March 3, 1901, $50,000,000 for fiscal year 1990, $100,000,000 for fiscal year 1991, and $250,000,000 for fiscal year 1992.

TITLE III—AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. FEDERAL LABORATORY CONSORTIUM.

Section 11(e)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)) is amended—

(1) in subparagraph (A), by striking "a fiscal year referred to in subparagraph (B)(ii)" and inserting in lieu thereof "any fiscal year"; and

(2) by amending subparagraph (B) to read as follows:

"(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000.".

SEC. 302. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) Section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) is amended by inserting "intellectual property," after "equipment," both places it appears.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall report to the Congress on the advisability of authorizing a new form of cooperative research and development agreement which would permit Federal contributions of funds.

SEC. 303. DEFINITION OF FEDERAL AGENCY.

Section 4(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(8)) is amended by inserting ", as well as any agency of the legislative branch of the Federal Government" after "of such title".

SEC. 304. QUALITY IMPROVEMENT.

Section 17(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711(f)) is amended by adding at the end the following: "The Director is authorized to use appropriated funds to carry out his responsibilities under this Act.".

TITLE IV—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SEC. 401. DIRECTOR.

(a) EXECUTIVE SCHEDULE LEVEL I.—Section 5312 of title 5, United States Code, is amended by inserting at the end the following:

"Director of the Office of Science and Technology Policy.".

(b) EXECUTIVE SCHEDULE LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking the following:

"Director of the Office of Science and Technology.".

(c) AVAILABILITY OF FUNDS.—Increased compensation to which the Director of the Office of Science and Technology Policy is entitled as a result of the amendments made by this section shall be subject to the availability of appropriations.

(d) EFFECTIVE DATE.—This section shall take effect on October 1, 1990.

SEC. 402. MAJOR SCIENCE AND TECHNOLOGY PROPOSALS.

The Director of the Office of Science and Technology Policy shall monitor and report annually to the Congress, on all major science and technology proposals involving more than one country and having a total estimated cost greater than $1,000,000,000.

SEC. 403. NATIONAL HIGH PERFORMANCE COMPUTER TECHNOLOGY PROGRAM.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VII—NATIONAL HIGH PERFORMANCE COMPUTER TECHNOLOGY PROGRAM

"SEC. 701. SHORT TITLE.

"This title may be cited as the 'National High Performance Computer Technology Program Act of 1990'.

"SEC. 702. FINDINGS.

"Congress finds and declares the following:

"(1) In order to strengthen America's computer industry and to assist the entire manufacturing sector, the Federal Government must provide leadership in the development and application of high performance computer technology. In particular, the Federal Government should support the development of a high capacity, national research and education network; facilitate the development of software for research, education, and industrial applications; continue to fund basic research; and provide for the training of computer scientists and computational scientists.

"(2) Several Federal agencies have ongoing high performance computer technology programs. Improved interagency coordination, cooperation, and planning could enhance the effectiveness of these programs.

"(3) A report, 'The Federal High Performance Computing Program,' by the Office of Science and Technology Policy, dated September 8, 1989, outlining a research and development strategy for high performance computing, provides a framework for a multiagency computer technology program.

"SEC. 703. NATIONAL HIGH PERFORMANCE COMPUTER TECHNOLOGY PLAN.

"(a)(1) The President, through the Federal Coordinating Council for Science, Engineering, and Technology (hereafter in this title referred to as the 'Council'), shall develop a National High Performance Computer Technology Plan (hereafter in this title referred to as the 'Plan') in accordance with this title and consistent with the framework established in the report referred to in section 702(3). The Plan shall contain recommendations for a five-year national effort, to be submitted to Congress within one year after the date of enactment of this title.

"(2) The Plan shall—

"(A) establish the goals and priorities for a Federal high performance computer technology program for the fiscal year in which the Plan is submitted and the succeeding four fiscal years;

"(B) describe the levels of Federal funding and specific activities of each Federal agency and department required to implement the Plan, including educational activities, research activities, hardware development, software development, and acquisition and operating expenses for computers and computer networks; and

"(C) consider and use, as appropriate, the views of the advisory board described in subsection (b)(4), as well as reports and studies conducted by Federal agencies and departments, the National Research Council, or other entities.

"(3) The Plan shall address, where appropriate, the relevant programs and activities of the following Federal agencies and departments:

"(A) The National Science Foundation.

"(B) The Department of Commerce, particularly the National Institute of Standards and Technology and the National Oceanic and Atmospheric Administration.

"(C) The National Aeronautics and Space Administration.

"(D) The Department of Defense, particularly the Defense Advanced Research Projects Agency, the Office of Naval Research, and, as appropriate, the National Security Agency.

"(E) The Department of Energy.

"(F) The Department of Health and Human Services, particularly the National Institutes of Health.

"(G) Such other executive branch agencies and departments as the President or the Chairman of the Council considers appropriate.

"(4)(A) The Plan shall include the establishment of a national multi-gigabit-per-second research and education computer network by 1996, to be known as the National Research and Education Network.

"(B) The National Research and Education Network established under this paragraph shall—

"(i) link government, industry, and the higher education community;

"(ii) provide computer users with access to supercomputers, computer data bases, and other research facilities;

"(iii) be developed in close cooperation with the computer and telecommunications industries;

"(iv) be designed and developed with the advice of potential users in government, industry, and the higher education community;

"(v) be established in a manner which fosters and maintains competition in high speed data networking within the telecommunications industry;

"(vi) have accounting mechanisms which allow users or groups of users to be charged for their usage of the network, where appropriate; and

"(vii) be phased out when commercial networks can meet the networking needs of American researchers.

"(C) The Plan shall define the organization arrangement to be used for managing the operation of the National Research and Education Network.

"(5) The Plan shall facilitate collaboration among agencies and departments with respect to—

"(A) ensuring interoperability among computer networks run by the agencies and departments;

"(B) increasing software productivity, capability, and reliability;

"(C) promoting interoperability of software;

"(D) distributing software among the agencies and departments; and

"(E) distributing federally funded, unclassified software to industry and universities.

"(b) The Council shall—

"(1) develop the Plan;

"(2) coordinate the high performance computing research and development activities of Federal agencies and departments; and

"(3) establish an advisory board, which shall include representatives from universities and industry who are involved in research and development activities in high performance computing.

The function of the advisory board shall be to provide the Council with an independent assessment of the balance among components of the Plan and the effectiveness of the Plan in maintaining American leadership in computing and networking.

"(c) Each Federal agency and department involved in high performance computing shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report identifying each element of its high performance computing activities.

"SEC. 704. REPORT.

"The Chairman of the Council shall prepare and submit to the President and Congress, not later than March 1 of the year following the year in which this section is enacted, a report on the activities conducted pursuant to this title during the preceding fiscal year, including—

"(1) a summary of the achievements of Federal high performance computing research and development efforts during that preceding fiscal year;

"(2) a copy or summary of the Plan; and

"(3) any recommendations regarding additional action or legislation which may be required to assist in achieving the purposes of this title.".

SEC. 404. PRESIDENTIAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

(a) FINDINGS.—The Congress finds that—

(1) the United States is a world leader in creating technology that is vital to our future economic growth;

(2) United States industry's ability to commercialize innovations in advanced technology is diminishing relative to other countries, and many innovations first made in the United States are marketed by foreign companies;

(3) satisfactory rates of savings and of investment in new plant and equipment are not now occurring;

(4) relatively high interest rates make it difficult for corporate managers to plan long-term strategies and still satisfy the desires of investors; and

(5) the Internal Revenue Code of 1986 should be reviewed to identify ways to reduce capital costs and accelerate the development and utilization of emerging technologies.

(b) AMENDMENT.—The National Science and Technology Policy, Organization, and Priorities Act of 1976, as amended by section 403 of this Act, is further amended by adding at the end the following:

"TITLE VIII—PRESIDENTIAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

"SEC. 801. PRESIDENTIAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

"(a) ESTABLISHMENT AND PURPOSE.—There is established a Presidential Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the 'Commission'), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investment in quality, product and process improvements, and new product development and marketing.

"(b) ISSUES.—The function of the Commission shall be to address the following issues:

"(1) What statutory changes are needed to provide incentives for rapid commercialization of technical innovations vital to improving United States industrial competitiveness and capitalizing on our world leading research efforts?

"(2) To what extent, relative to other nations, does the cost of capital in the United States inhibit domestic long-term planning for and the development and commercialization of new technology?

"(3) What statutory changes related to investment capital formation are needed to stimulate investment in advanced technology development?

"(4) What statutory changes, if any, should be made to reduce the foreign acquisition of strategic United States-based companies?

"(5) What legislative changes are needed to aid companies exporting United States-made products, to advance the United States economy, and to eliminate our Nation's trade deficit?

"(6) How can Federal policy stimulate quality improvements and product enhancements necessary to advance United States competitiveness?

"(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 13 members, 7 of whom shall constitute a quorum.

"(2) The Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Council of Economic Advisors shall serve as members of the Commission.

"(3)(A) The President, acting through the Director of the Office of Science and Technology Policy, shall appoint as members of the Commission three members, from among individuals not employed by the Federal Government, who are eminent in advanced technology.

"(B) The President, acting through the Secretary of the Treasury, shall appoint as members of the Commission three members, a majority of whom shall be appointed from among individuals not employed by the Federal Government, who have special expertise in matters relevant to the Commission.

"(C) The President, acting through the Secretary of Commerce, shall appoint as members of the Commission two members, from among individuals not employed by the Federal Government, representing manufacturing and services industries and international economic development.

"(4) The Director of the Office of Science and Technology Policy shall be chairman of the Commission.

"(5) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this section.

"(6) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

"(7) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(d) REPORTS.—The Commission shall, within one year after the date of enactment of this section, submit to the President and the Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

"(e) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Procurement and Technology.

"(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (d).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991 and 1992.".

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that the research and experimentation tax credit be permanently extended and raised to 25 percent, and the research and development costs allocation rules for deduction of expenses from foreign income be revised so as to not discourage the performance of research and development activities in the United States and not penalize companies exporting United States made products or providing services through United States citizens stationed abroad.

SEC. 405. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the United States is a world leader in inventing technology that is vital to our future economic growth, but the mass market for inventions made in the United States is often lost to overseas companies;

(2) corporate managers are not able to plan long-term strategies and still satisfy the desires of investors;

(3) the United States ability to commercialize innovations in emerging technology is diminishing relative to other countries, because United States industry is less likely than overseas competitors to market the highest quality and most advanced version of existing technologies;

(4) the Federal Government is the largest purchaser in the world of many products incorporating advanced technology;

(5) Federal Government procurement based on product specifications rewards certainty rather than innovation and is not able to take advantage of the latest technical advances; and

(6) an updated Federal Government procurement system based on performance specifications holds the promise of allowing United States companies to improve products and be more competitive in world commercial markets.

(b) AMENDMENT.—The National Science and Technology Policy, Organization, and

Priorities Act of 1976, as amended by sections 403 and 404 of this Act, is further amended by adding at the end the following:

"TITLE IX—RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY

"SEC. 901. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

"(a) ESTABLISHMENT AND PURPOSE.—The Director of the Office of Science and Technology Policy shall establish within that office a Commission on Procurement and Technology (hereafter in this section referred to as the 'Commission'), for the purpose of developing recommendations for changes to Federal Government procurement laws, procedures, and policies with respect to the development of advanced technologies.

"(b) ISSUES.—The function of the Commission shall be to address the following issues:

"(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and in initial market penetration for new technologies?

"(2) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

"(3) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal Government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

"(4) How can the Federal Government ensure that its suppliers adopt the principles embodied in the Malcolm Balridge National Quality Award?

"(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commercial basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

"(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the National Institute of Standards and Technology in such an effort?

"(7) Should Federal Government procurement be linked to the Advanced Technology Program and to technology transfer activities so that specification development can incorporate the latest technical advances available?

"(8) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

"(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 14 members, 7 of whom shall constitute a quorum.

"(2) The Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, as such term is defined in section 5311(b)(2) of title 5, United States Code, shall serve as members of the Commission.

"(3) The Director of the Office of Science and Technology Policy shall appoint as members of the Commission—

"(A) four members, from among individuals not employed by the Federal Government, who are eminent in advanced technology businesses representing manufacturing and services industries;

"(B) three members, from among individuals not employed by the Federal Government, who are eminent in the fields of technology and international economic development; and

"(C) three members eminent in the field of Federal Government procurement.

"(4) The Director of the Office of Science and Technology Policy shall be chairman of the Commission.

"(5) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this section.

"(6) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

"(7) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(d) REPORTS.—(1) The Commission shall, within one year after the date of enactment of this section, submit to the President and the Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

"(2) The Commission shall, within two years after the date of enactment of this section, submit to the President and the Congress a final report containing final recommendations with respect to the issues addressed under subsection (b). Such final report shall be a blueprint for Federal Government procurement reform, and shall include specific legislative and administrative changes needed to enable Federal Government procurement activities to take full advantage of emerging technologies.

"(e) CONSULTATION.—The Commission shall consult, as appropriate, with the Presidential Commission on Reducing Capital Costs for Emerging Technology.

"(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991, 1992, and 1993.".

TITLE V—INFORMATION COLLECTION AND DISSEMINATION

SEC. 501. INFORMATION COLLECTION AND DISSEMINATION.

Within 270 days after the date of enactment of this Act, the Secretary of Commerce shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the feasibility of establishing and operating a Federal Online Information Product Catalog (FEDLINE) at the National Technical Information Service which would serve as a comprehensive inventory and authoritative register of information products and services disseminated by the Federal Government and assist agencies and the public in locating Federal Government information. Information protected from public disclosure shall not be included. In studying the concept, the Secretary, acting through the Director of the National Technical Information Service, shall consult with officials from appropriate Government agencies, including the Office of Management and Budget, the National Archives, the Government Printing Office, and the National Institute of Standards and Technology, and with representatives of the public, for their views on optimal composition and format of FEDLINE. Such report shall contain cost estimates and possible funding sources for the establishment and operation of FEDLINE and shall list any changes in law and regulation that would be required if FEDLINE were to be implemented.

SEC. 502. ELECTRONIC FORMAT.

Section 212(e)(5) of the National Technical Information Act of 1988 is amended by inserting ", including producing and disseminating information products in electronic format" after "engineering information".

TITLE VI—HIGH RESOLUTION INFORMATION SYSTEMS

SEC. 601. FINDINGS.

The Congress finds that—

(1) in order for United States-incorporated companies to compete successfully in high resolution information systems markets, the traditional relationship between Government and industry must be adjusted to accommodate modern global economic competition;

(2) joint ventures will be a cornerstone of a comprehensive strategy to build a strong United States base in high resolution information systems; and

(3) an organization is required to ensure that such strategy is integrated into a comprehensive effort to establish a high resolution information systems industry in the United States.

SEC. 602. DEFINITIONS.

As used in this title—

(1) the term "high resolution information systems" includes high definition television and related advanced electronics products and components; and

(2) the term "joint venture" has the meaning given such term in section 28(j)(3) of the Act of March 3, 1901.

SEC. 603. HIGH RESOLUTION INFORMATION SYSTEMS BOARD.

(a) ESTABLISHMENT AND PURPOSE.—The Director of the Office of Science and Technology Policy shall establish within that office a High Resolution Information Systems Board (hereafter in this section referred to as the "Board") to foster and monitor the development of United States based high resolution information systems industries.

(b) FUNCTIONS.—The Board shall—

(1) provide guidance for the cooperation of Government and industry as necessary to establish United States based high resolution information systems industries;

(2) provide advice on the coordination of Federal defense and civilian activities to maximize and assist with the transfer of technologies into commercial products;

(3) develop a high resolution information systems plan to guide the activities of relevant executive branch Federal agencies;

(4) establish guidelines to ensure that industry participation in any joint Government/industry high resolution information systems initiatives strengthens the capability in the United States to manufacture

high resolution information systems equipment and materials;

(5) monitor high resolution information systems industries and promptly alert appropriate Federal agencies of any unfair pricing of foreign high resolution information systems goods;

(6) make recommendations to Federal agencies and the Congress to ensure that the procurement by the United States of advanced electronics products as a general rule aids the development in the United States of advanced electronics capabilities; and

(7) establish a mechanism to coordinate Federal Government procurement of high resolution information systems technology in order to (A) secure lower unit costs by mass purchase offers, and (B) provide high resolution information systems manufacturers an initial market to induce investment in research and development.

(c) MEMBERSHIP AND PROCEDURES.—(1) The Secretary of Commerce, the Director of the Defense Advanced Research Projects Agency, and the Administrator of the National Aeronautics and Space Administration, or their designees, shall serve as members of the Board.

(2) The Director of the Office of Science and Technology Policy shall, within 90 days after the date of enactment of this Act, appoint, from among individuals with knowledge of the advanced electronics industry, as members of the Board—

(A) nine members from the private manufacturing sector, with at least one representative each from the semiconductor, production equipment, computer display, computer, consumer electronics, and telecommunications industries;

(B) seven members from the private nonmanufacturing sector, including—

(i) four from the transmission delivery systems sector, one each from the terrestrial broadcasters, cable, fiber, and satellite industries; and

(ii) one each from the software industry, the entertainment industry, and the investment community;

(C) one member representing labor; and

(D) one member representing academia.

At least one member appointed under this paragraph shall be from small business.

(3) The Director of the Office of Science and Technology Policy or his designee shall be chairman of the Board.

(4) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(5) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(6) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(7) The Board shall submit to the President and the Congress a report of its activities once every year after its establishment.

TITLE VII—REPORTS

SEC. 701. BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT AMENDMENTS.

Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended—

(1) in subsection (a), by inserting ", but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from these technologies" after "may not exceed 30";

(2) in subsection (b), by striking "national security and" and inserting in lieu thereof "national security or";

(3) by redsignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) Each such report shall include—

"(1) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

"(2) a list of the technologies and markets targeted by major trading partners for development or capture.".

SEC. 702. REPORT ON ADVANCED MANUFACTURING AND QUALITY.

Within one year after the date of enactment of this Act, the Secretary of Commerce shall submit to Congress a report on the feasibility and advisability of establishing, in affiliation with the National Institute of Standards and Technology, a Quality Institute and a privately-funded foundation to support that Quality Institute. As part of such report, the Secretary of Commerce shall consider the feasibility and advisability of such Institute—

(1) conducting workshops and company tours to share with managers, engineers, and production employees in the United States advanced techniques for improving manufacturing and service organization, quality, and productivity, including team-oriented organizational approaches to managing production and service technology and corporate research and development;

(2) helping develop and disseminate model curricula in quality which might be used by educational institutions to provide training to students and manufacturing and service company employees; and

(3) carrying out such other purposes as the Secretary of Commerce may recommend.

SEC. 703. REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH.

(a) IN GENERAL.—No later than February 1, 1990, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly discuss the feasibility and advisability of using the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in other Federal departments and agencies which fund research and development.

(b) ANALYSIS AND DISCUSSION.—The report shall include an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new Federal programs to stimulate competitive research.

SEC. 704. STANDARDS METHODOLOGY.

(a) DEVELOPMENT.—The Director of the National Science Foundation shall enter into a contract with the International Institute for Applied Systems Analysis for the development of a methodology or approach that can be used in the establishment of international product standards.

(b) REPORT.—The Director of the National Science Foundation shall report to the Congress and the President on the results of the contract entered into under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized for fiscal year 1991 under the National Science Foundation Authorization Act of 1988 (Public Law 100-570), $500,000 are authorized to be used to carry out this section.

SEC. 705. INTERGOVERNMENTAL COORDINATION.

The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, submit to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a plan for coordination of Commerce Department efforts with other Federal agencies for activities related to high resolution information systems including research and development activities.

AMENDMENTS OFFERED BY MR. ROE

Mr. ROE. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. ROE: Page 39, line 25, insert "and" after "are not now occurring;".

Page 40, line 3, strike "; and" and insert in lieu thereof a period.

Page 40, lines 4 through 7, strike paragraph (5).

Page 44, lines 3 through 11, strike subsection (c).

Mr. ROE. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. WALKER. Mr. Chairman, reserving the right to object—I do not think I will object, but I want to make certain—is the amendment striking the language that, as I understand it, the Committee on Ways and Means objects to?

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, the gentleman from Pennsylvania [Mr. WALKER] is correct. This is the amendment that would strike the language that would be out of our jurisdiction and under the jurisdiction of the Committee on Ways and Means.

Mr. WALKER. Mr. Chairman, reclaiming my time, I regard this as something more than a technical amendment, but I will not object to the amendments being considered en bloc, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

□ 1350

Mr. ROE. Mr. Chairman, these amendments are technical, in my opin-

ion, in nature and were requested by the Ways and Means Committee after a review of the provision in our bill that expresses congressional findings which substantiate the need for a Presidential commission on reducing capital costs for emerging technology, which is also established by section 404.

One finding relating to the review of the Internal Revenue Code of 1986 is deleted and punctuation is conformed accordingly.

Second, a paragraph expressing a sense of the Congress relating to the permanent extension of the research and experimentation tax credit is deleted. Clearly this is, in our judgment, the prerogative of the Ways and Means Committee, Mr. Chairman, and we do not intend to provide guidelines in this bill prior to their actions.

Mr. WALKER. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I rise in opposition to this amendment. I understand why the chairman is doing this at the request of the Ways and Means Committee, but I must say at the outset, the Ways and Means Committee never contacted this Member as the Republican leader of the committee indicating that they wanted this change.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, I am not sure whether they contacted the gentleman from Pennsylvania, but I know that my staff was in in deep discussions with members of the gentleman's staff on this very same issue for a long period of time.

Mr. WALKER. I understand that. But my objection comes from the fact that we are amending our bill at the request of another committee, and I think doing damage to something that some of us feel fairly strongly about.

One of the things that we heard over and over again from the witnesses that appeared at our hearings was that we needed to have a permanent research and development tax credit. They made it quite clear that they thought that was something that was in the best interest of this country.

We understood the sensitivities of the Ways and Means Committee, that we could not include that in our legislation. On the other hand, what we did think was that we could put in a sense-of-the-Congress statement that this was the right thing to do. After all, our hearings produced a very clear record that this is something that is good for the entire country.

The Congress itself, this House, has gone on record on several occasions saying precisely that. In fact, the Ways and Means Committee is on record as saying precisely that. I think it contributes to the legislation for us to say very clearly in the bill that a permanent extension of the R&D tax credit is a good thing. If we strike this language from the bill, we are striking out the language which references that provision, so that Members ought to know that if they vote for this amendment they are voting in favor of striking a previously held congressional position in favor of a permanent extension of the research and development tax credit. I think that would be a very wrong signal to send. I think it flies in the face of our hearings. I think it flies in the face of what Congress has said in the past, and I think it flies in the face of what even the Ways and Means Committee said in the past.

So I would urge Members on this amendment to vote against it, and to say in this legislation where we are attempting to move forward an advanced technology program that we do believe that a permanent extension of the R&D tax credit is in the best interests of the country, is in the best interests of advanced technology, and would, in fact, improve the situation for our companies and our industry to compete worldwide.

I see no reason why we have to strike this particular provision. It does not interfere with the jurisdiction of the Ways and Means Committee at all.

Mr. ROE. If the gentleman will yield, it does interfere with the jurisdiction of the Ways and Means Committee or we would not be removing it. It is the assumption of the gentleman that we are removing it for some other reason?

Mr. WALKER. I can understand the gentleman's point, but all we are stating is a sense of Congress. We are not forcing them to do anything. We are simply saying it is the sense of the House, as we already said in the past, it is the sense of the House. We are not saying anything new from what we have said before. We are saying nothing new from what the committee did.

If there is a problem with regard to language in there about raising it to 25 percent, if that is what the real objection is, that is a policy change that would be recommended as a sense of Congress, and I am willing to strike that language. In fact, I have a substitute that would strike that language. If the chairman is willing to go along with just striking out the 25 percent as a substitute here, that is fine. But when we strike all of the language, we are really striking out a previously held congressional position that we ought to have a permanent extension of the research and development credit, and I think that that is a bad approach.

I would urge the Members not to vote for this amendment and to not vote in favor of doing away with a permanent extension of the research and development tax credit.

Mr. ROE. Mr. Chairman, I have no further comments to make. This is a jurisdictional matter and the committee has decided on this direction.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey [Mr. ROE].

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 6, noes 4.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Members will record their presence by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 215]

Ackerman	Cooper	Gordon
Alexander	Costello	Goss
Anderson	Coughlin	Gradison
Andrews	Courter	Grandy
Annunzio	Cox	Grant
Anthony	Coyne	Green
Applegate	Craig	Guarini
Archer	Crane	Gunderson
Armey	Dannemeyer	Hall (OH)
Aspin	Darden	Hamilton
Atkins	Davis	Hammerschmidt
AuCoin	de la Garza	Hancock
Baker	DeFazio	Hansen
Ballenger	DeLay	Harris
Barnard	Dellums	Hastert
Bartlett	Derrick	Hatcher
Barton	DeWine	Hawkins
Bateman	Dickinson	Hayes (IL)
Bates	Dicks	Hayes (LA)
Beilenson	Dingell	Hefley
Bennett	Dixon	Hefner
Bentley	Donnelly	Henry
Bereuter	Dorgan (ND)	Herger
Berman	Dornan (CA)	Hertel
Bevill	Douglas	Hiler
Bilbray	Downey	Hoagland
Bilirakis	Dreier	Hochbrueckner
Billey	Duncan	Holloway
Boehlert	Durbin	Hopkins
Boggs	Dwyer	Horton
Bonior	Dymally	Houghton
Borski	Dyson	Hoyer
Bosco	Early	Hubbard
Boucher	Eckart	Huckaby
Boxer	Edwards (CA)	Hughes
Brennan	Edwards (OK)	Hunter
Brooks	Emerson	Hutto
Broomfield	Engel	Hyde
Browder	English	Inhofe
Brown (CA)	Erdreich	Ireland
Brown (CO)	Espy	Jacobs
Bruce	Evans	James
Bryant	Fascell	Jenkins
Buechner	Fawell	Johnson (CT)
Bunning	Fazio	Johnson (SD)
Burton	Feighan	Johnston
Bustamante	Fields	Jones (GA)
Byron	Fish	Jones (NC)
Campbell (CA)	Flake	Jontz
Campbell (CO)	Flippo	Kanjorski
Cardin	Foglietta	Kaptur
Carper	Ford (MI)	Kasich
Carr	Frenzel	Kastenmeier
Chandler	Gallegly	Kennedy
Chapman	Gallo	Kennelly
Clarke	Gaydos	Kildee
Clay	Gejdenson	Kleczka
Clement	Gekas	Kolbe
Clinger	Gephardt	Kolter
Coble	Geren	Kostmayer
Coleman (MO)	Gibbons	Kyl
Coleman (TX)	Gillmor	LaFalce
Collins	Gilman	Lagomarsino
Combest	Gingrich	Lancaster
Condit	Glickman	Lantos
Conte	Gonzalez	Laughlin
Conyers	Goodling	Leach (IA)

Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

□ 1418

The CHAIRMAN. Four hundred seventeen Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1420

PARLIAMENTARY INQUIRIES

Mr. ROE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ROE. Mr. Chairman, the parliamentary inquiry I would like to make is this: Is it the Chair's understanding that the next vote will be cast on the committee's amendments that are technical in nature? Is that what the next vote will appear on? As I understand it, this was worked out with the Ways and Means Committee, and the committee's position is aye on this vote.

The CHAIRMAN. The Chair cannot characterize the amendments that are offered in Committee of the Whole by the gentleman.

Mr. ROE. I thank the distinguished Chair.

Mr. WALKER. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Chairman, is it further understood that the nature of the amendment is to strike language regarding the R&D tax credit in the bill?

The CHAIRMAN. As previously stated, the Chair will not characterize the amendments.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania [Mr. WALKER] for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 264, noes 160, not voting 8, as follows:

[Roll No. 216]

AYES—264

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clement
Collins
Condit
Conte
Conyers
Cooper
Costello
Courter
Coyne
Crane
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gaydos
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Gradison
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McEwen
McGrath
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
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Rowland (GA)
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Slattery
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Stallings
Stark
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Studds
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Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
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Volkmer
Walgren
Washington
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NOES—160

Armey
Baker
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Bartlett
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Bateman
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Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
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Coleman (MO)
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Combest
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Craig
Dannemeyer
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DeWine
Dickinson
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Edwards (OK)
Emerson
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Gillmor
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Goodling
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James
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Lagomarsino
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Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Madigan
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Martin (IL)
Martin (NY)
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McCrery
McDade
McHugh
McMillan (NC)
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Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (CT)
Morrison (WA)
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Obey
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Packard
Pashayan
Paxon
Petri
Porter
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Quillen
Ravenel
Regula
Rhodes
Ridge
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland (CT)
Saiki
Saxton
Schaefer
Schiff
Schneider
Schroeder
Schuette
Sensenbrenner
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stearns
Stump
Tauke
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—8

Chapman	Gray	Lukens, Donald
Crockett	Hall (TX)	Nelson
Ford (TN)	Leath (TX)	

□ 1437

Mr. HAMMERSCHMIDT changed his vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. ROE

Mr. ROE. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. ROE: Page 2, in the table of contents, in the item relating to section 404, strike "Presidential" and insert in lieu thereof "National".

Page 39, line 14, strike "PRESIDENTIAL" and insert in lieu thereof "NATIONAL".

Page 40, line 12, through page 44, line 2, amend the quoted title VIII to read as follows:

"TITLE VIII—NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

"SEC. 801. NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

"(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the 'Commission'), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investment in quality, product and process improvements, and new product development and marketing.

"(b) ISSUES.—The function of the Commission shall be to address the following issues:

"(1) What statutory changes are needed to provide incentives for rapid commercialization of technical innovations vital to improving United States industrial competitiveness and capitalizing on our world leading research efforts?

"(2) To what extent, relative to other nations, does the cost of capital in the United States inhibit domestic long-term planning for and the development and commercialization of new technology?

"(3) What statutory changes related to investment capital formation are needed to stimulate investment in advanced technology development?

"(4) What statutory changes, if any, should be made to reduce the foreign acquisition of strategic United States-based companies?

"(5) What legislative changes are needed to aid companies exporting United States-made products, to advance the United States economy, and to eliminate our Nation's trade deficit?

"(6) How can Federal policy stimulate quality improvements and product enhancements necessary to advance United States competitiveness?

"(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 20 members, 11 of whom shall constitute a quorum.

"(2) The Vice President, the Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Council of Economic Advisers shall serve as members of the Commission.

"(3)(A) The President pro tempore of the Senate—

"(i) on the recommendation of the majority leader of the Senate, shall appoint as members of the Commission five individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development; and

"(ii) on the recommendation of the minority leader of the Senate, shall appoint as members of the Commission two individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development.

"(B) The Speaker of the House of Representatives—

"(i) on the recommendation of the majority leader of the House of Representatives, shall appoint as members of the Commission five individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development; and

"(ii) on the recommendation of the minority leader of the House of Representatives, shall appoint as members of the Commission two individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development.

"(C) Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner by which the original appointment was made.

"(4) The Vice President shall be chairman of the Commission.

"(5) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this section.

"(6) Recommendations of the Commission shall require the approval of two-thirds of the members of the Commission.

"(7) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

"(8) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(d) REPORTS.—The Commission shall, within one year after the date of enactment of this section, submit to the President and the Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

"(e) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Procurement and Technology.

"(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (d).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991 and 1992.".

Page 50, line 11, strike "Presidential" and insert in lieu thereof "National".

Mr. ROE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ROE. Mr. Chairman, I offer this revised language for section 404, which is the National Commission on Reducing Capital Costs for Emergency Technology, as an attempt to address the concern, both by the honorable gentleman from Pennsylvania [Mr. WALKER], the ranking member of the Committee on Science, Space, and Technology, and also of our distinguished Speaker, the gentleman from Washington [Mr. FOLEY].

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the distinguished gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, did the gentleman from New Jersey [Mr. ROE] mention that he was offering the amendment on my behalf?

Mr. ROE. Oh, no, no, no, no.

□ 1440

Mr. WALKER. Mr. Speaker, then what did the gentleman say?

Mr. ROE. I am speaking of the concern, of our mutual concern; if the gentleman would like me to drop in his name, I would be glad to.

Mr. WALKER. No, no. I was just trying to understand.

Mr. ROE. I would never, never in a hundred years say that I would offer an amendment on behalf of the gentleman from Pennsylvania.

Mr. WALKER. I just wanted to say that I oppose the amendment.

Mr. ROE. Mr. Chairman, there may be no more important obstacle to American ideas becoming American high-technology products that the pernicious effect of the high costs of money for American companies. Even before this year's tightening of capital, American companies were paying 50- to 150-percent premiums over their Japanese and German competitors for the capital they need to do research and development, to build a new factory, or to buy new production equipment. We've heard a great deal said about how the Japanese think in terms of years when perfecting products while Americans think fiscal quarter to quarter. The reason becomes obvious when one learns that research and development capital, if available in the United States costs over 20 percent compared to 8.7 percent in Japan or 14.8 percent in Germany.

Such differences are not accidental. They are the result of carefully thought-out national policy. We must examine the situation and then enact appropriate fiscal policies if the United States is to remain a technologically sophisticated nation.

Bringing down the cost of capital in the United States for emerging technologies will require creative thinking and bipartisan good will. The problem is important enough to require the efforts of the best economic minds in

the country—Republican and Democrat—to formulate bipartisan recommendations and then a bipartisan commitment to implement the recommendations.

Therefore, I am proposing an amendment to revise the Capital Cost Commission membership to include 20 members and be comprised of an equal number of appointees by both Democrats and Republicans, working under the leadership of the Vice President of the United States. This expanded membership to 20 members with an equal number appointed by Democrats and Republicans—six high ranking administration officials, Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Council of Economic Advisers, plus four technical experts appointed by congressional Republicans and 10 by congressional Democrats.

Make the Vice President of the United States the chair of the Commission.

Require a majority present for a quorum and two-thirds of the membership voting for a recommendation.

The amendment makes the Commission a bipartisan approach to solving high technology industry's most preplexing problem—getting investment capital at a reasonable cost. The two-thirds requirement for a recommendation assures that all recommendations will be bipartisan.

There are many examples of commissions that have involved appointees both from the executive branch and administrative branch. These include the National Commission on Social Security, the U.S. Commission on Improving the Effectiveness of the United Nations, the National Clean Water Study Commission, the Federal Council on the Aging, the Competitiveness Policy Council, and the National Transportation Policy Study Commission.

I urge my colleagues to accept this bipartisan approach to a most important problem.

Mr. WALKER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as I pointed out in my opening remarks, when this bill emerged from the committee, it emerged in a bipartisan nature. It was jointly written by Members of the majority and the minority. I thought we had done pretty good work. I had some differences with sections that we will address later, but I thought that it was for the most part a good bipartisan product that we could be proud of and would address a very serious concern for the country.

It included as a part of that bipartisan work a Capital Cost Commission. The idea was that you were going to have 13 Members of this Commission appointed by the President to take a look at the problem that the chairman just outlined. We do have a problem with capital costs.

Now, the fact is there are already some people working on that. I have a letter here from the Department of the Treasury that just came up to me today that indicates something that I did not know and I do not think we have heard in our hearings, and that is that the administration has already completed an interagency study on the cost of capital facing U.S. businesses which is expected to be reviewed by the Cabinet in the next few weeks.

So part of this work has already been done and that is something that I was unaware of and I think the committee was unaware of; but be that as it may, we thought it was something that needed to be addressed and we came up with a commission.

Somehow, after it left our committee, and I think it was about the time this whole thing got in the hands of the Democratic leadership, we began to have complaints about the Commission that was endorsed by both sides of the aisle when the committee completed its work, and all of a sudden we began to have machinations that we had to change the makeup of the Commission and it somehow had to be a commission that included congressional and Presidential representation.

I personally do not have a problem with that. That is fine. Let us have both parties represented.

The gentleman from New Jersey has just told the House of a number of commissions that have been formed in that vein. What the gentleman did not mention, though, is that those commissions when they have been formed of that type have been balanced between the legislative and executive branches because that is the way in which the Constitution sets up these commissions.

Well, in this particular instance, we do not have a balanced Commission.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, I know the distinguished gentleman from Pennsylvania because of his integrity and his ability would not want to say something that was not accurate. Unless I misunderstood the gentleman, I think the gentleman said there was no other commission the gentleman was aware of that was made up in the nature of which we are suggesting of different legislative branches.

Mr. WALKER. It is my understanding that the commissions we have had in the past have had an equal balance of administration and congressional appointees, some of them have sometimes come from outside and been appointed by the executive branch from the outside, but for the most part they have been balanced.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from New Jersey.

Mr. ROE. Well, I am certainly saying, Mr. Chairman, that there is a whole plethora of different commissions that are not balanced in that nature at all. For example, the President appointed five of the nine on the National Commission on Social Security. The Senate had final say on the President's nominees for advice and consent in the process. They were not balanced.

The litany goes on:

National Commission on Children (Public Law 100-203):
President—12.
House—12 (Speaker).
Senate—12 (President Pro Tempore).
Bipartisan Commission on Comprehensive Health Care (Public Law 100-360):
President—3.
House—6 (Speaker).
Senate—6 (President Pro Tempore).
National Commission on AIDS (Public Law 100-607):
President—5.
House—5 (Bipartisan leadership).
Senate—5 (Bipartisan leadership).
Commission on Education of the Deaf (Public Law 99-371):
President—3.
House—4 (Bipartisan leadership).
Senate—4 (Bipartisan leadership).
Comptroller General—1.
National Economic Commission (Public Law 100-203):
President—4.
House—5 (Split 3-2).
Senate—5 (Split 3-2).

Mr. Chairman, I know where the gentleman is coming from, but I think it is important to point these things out.

Mr. WALKER. In some cases, though, what we had was outside people who were appointed by both sides, and we ended up with relative balance between congressional participants and administration participants.

Mr. ROE. But it is not balanced that way.

Mr. WALKER. But in this case——

Mr. ROE. Well, Mr. Chairman, I think the gentleman is not correct.

Mr. WALKER. Well, I would simply say to the gentleman, in this case what they were doing, all the outside participants are appointed by the Congress and all the congressional participants are appointed by the Congress.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, I will ask unanimous consent that I would be able to place in the RECORD the list of those commissions that are appointed on the basis of which we have been talking about that are not necessarily balanced in the way the gentleman is talking about. There are a whole lot of

them. I think the Members ought to know about them.

Mr. WALKER. Well, Mr. Chairman, the gentleman can certainly do that on his own time.

I want to make my point, and that is that the gentleman is not correct, I think, in terms of the constitutional obligation here.

I have a letter from the Department of the Treasury that is certainly familiar with all those things, too. The Department of the Treasury says very definitely in here:

Finally, we urge the Congress to consider the potential constitutional questions that this amendment raises. The Commission to be established by the proposed amendment would not clearly be a part of the Legislative, Judicial or Executive Branch of the government. Such a hybrid Commission, even though merely advisory, would be inconsistent with the tripartite system of government established by the Constitution.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. WALKER. Mr. Chairman, this is a commission that has at least some problems with regard to that balance.

The point is that the gentleman from New Jersey made very clear what the intent is here. The intent of this Commission is not to work in the sense of blending executive and legislative concerns. The intent here is to balance the thing partisanly. The attempt is to come up with 10 Repubicans and 10 Democrats, supposedly.

Mr. ROE. Mr. Chairman, if the gentleman will yield, that is not the intent of the amendment at all.

Mr. WALKER. Well, if the gentleman will allow me to reclaim my time, the gentleman said that in his remarks.

Mr. ROE. I did not say that in my remarks at all.

Mr. WALKER. The gentleman said there would be 10 Democrats and 10 Republicans.

Mr. ROE. Yes, but if the gentleman had read the rest of the amendment, the gentleman would read that those people would be recommending other private citizens to be appointed.

□ 1450

Mr. WALKER. The gentleman made very clear that is what the whole intent of this is. You know, I do not think we need to kid people. It has been a part of the discussion behind the scenes; what we wanted to do is come up with a commission that had partisan balance to it, and I cannot imagine anybody would disagree with that. That has been the whole basis of the discussions behind the scenes that it had to be partisanly balanced by the time it finished.

I am suggesting that we ought not be attempting to attain partisan balance here, that what we ought to be doing is trying to find a way to make this Commission work and to make it work in terms of the executive branch and the legislative branch having equal input to make certain that both branches of government find ways of accommodating the need to address the capital costs question to this country.

I am a little bit chagrined, to tell you the truth, that we have come up with a commission that has as its first priority partisan balance rather than effectiveness, and I am just saying that I am going to oppose something which was designed in that manner.

If we look at the congressional appointees on this as the Commission is now structured, we find out of the 14 people to be appointed, 10 come from the majority and 4 come from the minority. That does not even reflect a partisan balance in the House; there is a 10-to-4 ratio in terms of congressional representation here.

What the gentleman is saying is, well, all the people from the administration will be Republicans and so, therefore, we have to have this supermajority coming out of Congress. Is that fair? I thought we were a coequal branch of government. I thought we ought to operate independently here; we ought to at least be given our just due on that.

This is stacked even more than the Committee on Rules is stacked in this particular instance.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, the gentleman knows that is incorrect; the gentleman knows that statement is incorrect.

If he looked at the balance of the 20 Members, we have from the administration, the Secretary, OSTP, Commerce, Treasury, OMB, CEA, and the Vice President as a voting member.

Mr. WALKER. Reclaiming my time, I made that point.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. WALKER. Mr. Chairman, if the gentleman will allow me to reclaim my time, I made that point; I said he was counting all six people from the administration as being Republicans, and then what he is saying is that in terms of this coequal branch of government that we ought to stack it inordinately in favor of the Democrats here.

Mr. ROE. If the gentleman will yield further, how are we stacking it? How are we stacking it? Are not the members of the Cabinet and the Vice President, and I do not care whether they are Republicans, are they Republicans, or are they not? What has that got to do with it?

Mr. WALKER. Why then in this bill when it comes to this coequal branch of government that I serve in under the Constitution as a coequal branch, why is it that there is a 10-to-4 ratio that disadvantages the Republicans? Why did the gentleman come up with 10 to 4? Why should it not be balanced the way the House of Representatives is balanced and the way the Senate is balanced?

Mr. ROE. There are as many Republicans as there are Democrats. It is totally balanced.

Mr. WALKER. No; no. In terms of the congressional representation, 14 people here, and the gentleman has balanced it 10 to 4 in favor of Democrats. We are a coequal branch of government. We ought to be given the opportunity to have our just due there, and we ought to consider the administration people separately.

Mr. ROE. The gentleman is not part of the administration then?

Mr. WALKER. No. I am not a part of the administration.

Mr. ROE. I just asked. I do not know.

Mr. WALKER. I say to the gentleman that is where we have a real disagreement, and where this Commission makes no sense at all. I was elected by the people of the 16th Congressional District of Pennsylvania to come here and serve in the U.S. Congress as a coequal branch of government. I am not here as an administration representative. I do not do the administration's bidding. I did not do the administration's bidding on this bill. I do not think that is the proper role of this Commission or of the U.S. Congress.

I think when these commissions are put together that we ought to have the ability as a Congress to be treated with respect on our side of the aisle. This Commission does not treat us with respect on our side of the aisle as a coequal branch of government. It says that somehow congressional Republicans are simply an extension of the administration. I think that that is a lie. I think that it makes no sense whatsoever in terms of policy and so, therefore, this Commission makes no sense in terms of policy.

I want a policy that speaks to capital costs problems, and I want a commission that is broadly based and does fit within the context of the constitutional system.

This Commission does not do that. I am disappointed by it. I think we would have done better to stick with what we originally did. We would have had a far more effective commission, one that would have addressed the concerns that we wanted addressed, and I simply say to the gentleman

that I think this Commission ought to be opposed.

Mr. ROE. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from New Jersey [Mr. ROE] is recognized for 5 minutes.

There was no objection.

Mr. ROE. Mr. Chairman, I have the highest regard for the distinguished gentleman, our ranking member, from Pennsylvania, but let me point out something to the gentleman.

Is it not amazing that we have been working on this bill from last October, and this bill has been waiting for the Committee on Rules now for 3 weeks, 2 weeks before I got in there. We have negotiated back and forth on amendments time and time again, and all of a sudden I get delivered to the desk up here, and talk about the branches of Government, I get delivered a letter up at my desk, which is the same letter, I believe, which the distinguished gentleman from Pennsylvania has, and they tell us how bad we are, such a hybrid commission, even though merely advisory, would be inconsistent with the tripart Federal system of Government, established by the Constitution. "We commend you for addressing your crucial issues," and so forth, and, "You may be strongly opposing this particular amendment because it may be unconstitutional."

For God's sakes, cannot the Congress of the United States pass a piece of legislation that provides a commission which has an advisory capacity to select 20 people in the country the best we know how, Democrat or Republican alike? Make them all Republicans. Republicans are not going to steal the White House any more than the Democrats are.

The point in issue is the way this structure is set up with the 20 appointments.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROE. If the gentleman will let me finish, of course, I will yield to him. Of course, I will yield. I interrupted the gentleman two times, and he can interrupt me five, but I want to finish what I am trying to say to make it clear.

The way it is set up here, the Members of the Congress both in the Senate and the House would not be members of the commission. They would recommend some expert in the particular field in the country, whether they are Democrat or Republican or whatever they are, that are trained in a way that can help out economically for the commission to decide.

Let me finish, please, and then I will give the gentleman all the time he needs.

So, therefore, we are not coming back and saying we are picking Democrats or Republicans. That is not the issue. We are trying to establish a bipartisan process where we can select people in the country, where the legislative branch has its input and has its particular chance to appoint the people they recommend. To find out what? To get some knowledge. This is not a partisan nit-picking issue. It is a method to be able to get people together in the country to be able to think about what we should do to create the capital.

I am not going to go to Wall Street or to New Jersey or anyplace else or Pennsylvania and say, "Are you a Democrat? Therefore, we will appoint you to the committee." That is not what this is all about in the first place. It is a chance to marshal the knowledge of the country. It is a fair, bipartisan way of doing it.

Mr. Chairman, I will now yield to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I do not understand why we could not stick with the commission we had originally, the Presidentially appointed commission of experts.

Under this we tell the President who he has to appoint.

Mr. ROE. Reclaiming my time, I was not even going to bring it up, but the gentleman brought it up. So let me respond. The way it was in the original bill it was all administration people. There is no representation from the Congress at all. If we are going to create a bipartisan national direction to try to establish economic policies for the country, it is about time Congress and the White House stopped their nit-picking and arguing and thought about the people of the country. That is what we ought to be doing around here.

Mr. WALKER. If the gentleman will yield further, I am glad we have all the applause. After the applause, I think the gentleman can do that.

The point is that the President is told who he shall appoint to the commission, and only Congress gets a chance to select all these experts the gentleman is talking about under his proposal.

If we are going to do what the gentleman is requesting, then his position makes no sense either. He is telling the administration they have to appoint certain people, but he is saying that only Congress is going to be given the ability to appoint these experts that he is talking about.

Why can we not have then a commission which is equally picked by both the administration and the Congress that consists of no politicians but consists only of experts? But that is not the gentleman's commission. If the gentleman really wants to address the needs of the American people, why did we not do it that way? But that is not what we did. We, in fact, told the President.

□ 1500

Mr. ROE. Mr. Chairman, if I may reclaim my time, the gentleman established his amendment as he thought it ought to be done. I happen to think that it is fair.

Mr. WALKER. Mr. Chairman, I do not have an amendment.

Mr. ROE. Mr. Chairman, I happen to think it is balanced. I think we are trying to unite the abilities of the administration together with Members of Congress to help to solve a critical problem of the country. In fact, this bill is probably one of the most important bills that will come before the House this year.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, why would the gentleman, if is an important bill, even risk a veto doing something like this?

Mr. ROE. Mr. Chairman, let me reclaim my time. Every time we go to the bathroom around here somebody says, "Check on the White House. They are going to veto."

Well, veto the damn thing. I have got news for you: The administration is not going to veto this bill. Let me tell you why they are not going to veto this bill under any circumstances.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ROE] has expired.

(By unanimous consent, Mr. ROE was allowed to proceed for 3 additional minutes.)

Mr. ROE. Mr. Chairman, let me tell you why they are not going to veto this.

If I may refer to my charts, I want to show the American people something. I hope they are looking on their television sets, because this is a Commerce publication from the administration, not from the committee.

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WALKER. Mr. Chairman, the gentleman from New Jersey [Mr. ROE] is not supposed to refer to the television.

The CHAIRMAN. The gentleman from Pennsylvania is correct. The gentleman from New Jersey [Mr. ROE] should address the Chair only.

Mr. ROE. Mr. Chairman, I was trying to be courteous. I forgot the rules.

U.S. report card status, 1989, Mr. Chairman, coming from the Department of Commerce. This talks about the expertise and the capability and what is happening in the economic development program of the country and where research is going. I hope all

Members look at this when they vote on this amendment.

We are behind in advanced materials, advanced semiconductors, digital imaging technology, high density data, and optical electronics. We are behind in digital imaging versus Japan and versus Europe.

We are even where superconductors and flexible computers are involved, and we are ahead in these areas as of 1989.

But walk with me a minute. Here is what is happening. This U.S. report card is from the Commerce Department, not from the committee. This is from the administration, the Commerce Department.

We are looking badly in advanced materials, biotechnology, digital imaging technology, and superconductors versus Europe. We are losing in flexible computers, high density data, optical electronics, medical devices. We are holding our own here again only in one place.

I would hope when Members look at the next step, again from the report from the Commerce Department, this is a $356 billion potential for the country. And we are nit-picking at this point, probably costing thousands, if not tens of thousands of dollars on this argument, as to what kind of a commission we have, when that is what the country is faced with.

We are only ahead in 10 percent of the technology in the world. I cannot for the life of me understand why Members on both sides do not say to themselves the future of jobs in America, resources, the wealth of America, is at stake.

Margaret Thatcher made a speech in closing out her meetings down in Houston and she made this point.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ROE] has again expired.

(By unanimous consent, Mr. ROE was allowed to proceed for 3 additional minutes.)

Mr. ROE. Mr. Chairman, Margaret Thatcher in her speech made this comment. She said she hopes we can get along in the Western World and can look to Eastern Europe and look to Japan and look to what is happening there, and hopes we can come back and say to ourselves that we are not pitting Western Europe, Asia, and the United States against each other. Because if the United States does not play with a full deck and use all our resources, we are going to come out second and third best.

Mr. Chairman, I would hope that as we talk about gaining the use of the best minds of this country, that Members would support this particular resolution and amendment that the Chair has placed before them, because I think it is fair and it is equitable. We are looking for the best minds, and I cannot think of any fairer way of doing it than making it bipartisan.

Mr. Chairman, this is not a partisan issue. This is a bipartisan issue. This is an American issue. These are jobs, these are schools, these are resources. This is water and sewer. This is a clean America. That is where the wealth is going to come from. That is what the opportunity is.

Mr. Chairman, we should be doing the very best we know how and do it as quickly as possible to get this achieved for the benefit of this country.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with much of what the gentleman from New Jersey [Mr. ROE] just said. I think that everybody in this country wants to move ahead technologically and see the kinds of advancement we see we are falling behind in some areas in with our foreign adversaries in the technological and trade areas. So we are all concerned about that.

I think what we are talking about right now, at least the gentleman from Pennsylvania [Mr. WALKER] has been talking about, is a disparity in the makeup of the committee.

Mr. Chairman, I would like to ask the gentleman from Pennsylvania [Mr. WALKER] a question about the committee.

As I understand it, there are going to be 14 members picked by the Congress and only 6 members picked by the administration.

Mr. WALKER. Mr. Chairman, if the gentleman will yield?

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, that is correct.

Mr. BURTON of Indiana. Mr. Chairman, I would ask the gentleman from Pennsylvania [Mr. WALKER], in coequal branches of government, should there not be some kind of balance in the makeup of this committee?

Mr. WALKER. Mr. Chairman, if the gentleman will yield further, I would say to the gentleman from Indiana [Mr. BURTON] that that is my contention. What we ought to have is a balanced commission. If we want to go to congressional appointments and so on, I think there is a way of doing that. But the gentleman from New Jersey [Mr. ROE] described in his opening remarks an attempt to balance the commission partisanly. Now the gentleman says in his remarks he is willing to have all Republicans and so on, it is not really partisan. But that is not what the gentleman said in his original remarks.

The fact is in all of the negotiations, the effort was to make certain it was partisanly balanced. I think when we are dealing with something like this, we ought to be dealing on the technology issues and ought not care about the politics of it. We ought to find a way to deal with the issue from the standpoint of what is best for the country.

That is what I am talking about. We had a commission. I am defending the position of the committee. I am a little stunned that the chairman is out here saying that the work of the committee was bad work and was all for naught and that we produced a bad bill out of the committee with regard to the commission.

Mr. ROE. Mr. Chairman, if the gentleman would yield, the chairman never said that.

Mr. BURTON of Indiana. Mr. Chairman, I have the time.

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] has the time.

Mr. BURTON of Indiana. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, the position of the committee when we reported this bill was that this should be a Presidential committee. It was not until it got into the hands of the Democratic leadership that all of a sudden, without any consultation with me, they came back and said that we ought to do this. And I said well, we ought to have a balanced commission then. We have been unable to get anybody to agree to the idea of balancing this commission based upon how government really works. I am disappointed in that.

Mr. Chairman, I think what we ought to do then is stick with the committee's work. The committee thought we produced a good bill. We thought it was doing all the things the chairman just described, trying to deal with the technology of the country. We thought what we were doing was producing a bill that all Members could support and we would not have to come on the floor and nitpick.

It was not until after the bill left the committee that we came up with this idea that somehow the commission had to be changed.

Mr. Chairman, I am not attempting to change anything in this regard that the committee did. All I am attempting to do is stick with the committee product. The chairman is the one who is on the floor attempting to change the committee's position. I find that disappointing.

Mr. BURTON of Indiana. Mr. Chairman, reclaiming my time, if I might ask one more question. The gentleman from Pennsylvania [Mr. WALKER] wants to stick with the committee position, but as an alternative, as a compromise, he would go along with a balance between the executive branch and the legislative branch.

Mr. WALKER. Sure.

Mr. BURTON of Indiana. The gentleman just does not like this proposal?

Mr. WALKER. Precisely.

Mr. BURTON of Indiana. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey [Mr. ROE].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 249, noes 174, not voting 9, as follows:

[Roll No. 217]

AYES—249

Ackerman	Erdreich	Luken, Thomas
Alexander	Espy	Manton
Anderson	Evans	Markey
Andrews	Fascell	Martinez
Annunzio	Fazio	Matsui
Anthony	Feighan	Mazzoli
Applegate	Flake	McCloskey
Aspin	Flippo	McCurdy
Atkins	Foglietta	McDermott
AuCoin	Ford (MI)	McHugh
Barnard	Frank	McMillen (MD)
Bates	Frost	McNulty
Beilenson	Gaydos	Mfume
Bennett	Gejdenson	Miller (CA)
Berman	Gephardt	Mineta
Bevill	Geren	Moakley
Bilbray	Gibbons	Mollohan
Boggs	Glickman	Montgomery
Bonior	Gonzalez	Moody
Borski	Gordon	Morrison (CT)
Bosco	Gray	Mrazek
Boucher	Guarini	Murphy
Boxer	Hall (OH)	Murtha
Brennan	Hamilton	Nagle
Brooks	Harris	Natcher
Browder	Hatcher	Neal (MA)
Brown (CA)	Hayes (IL)	Nowak
Bruce	Hayes (LA)	Oakar
Bryant	Hefner	Oberstar
Bustamante	Hertel	Obey
Byron	Hoagland	Olin
Campbell (CO)	Hochbrueckner	Ortiz
Cardin	Hoyer	Owens (NY)
Carper	Hubbard	Owens (UT)
Carr	Huckaby	Pallone
Chapman	Hughes	Panetta
Clarke	Hutto	Parker
Clay	Jacobs	Patterson
Clement	Jenkins	Payne (NJ)
Coleman (TX)	Johnson (SD)	Payne (VA)
Collins	Johnston	Pease
Condit	Jones (GA)	Pelosi
Conyers	Jones (NC)	Penny
Cooper	Jontz	Perkins
Costello	Kanjorski	Pickett
Coyne	Kaptur	Pickle
Darden	Kastenmeier	Poshard
de la Garza	Kennedy	Price
DeFazio	Kennelly	Rahall
Dellums	Kildee	Rangel
Derrick	Kleczka	Ray
Dicks	Kolter	Richardson
Dingell	Kostmayer	Roe
Dixon	LaFalce	Rose
Donnelly	Lancaster	Rostenkowski
Dorgan (ND)	Lantos	Rowland (GA)
Downey	Laughlin	Roybal
Durbin	Lehman (CA)	Russo
Dwyer	Lehman (FL)	Sabo
Dymally	Levin (MI)	Sangmeister
Dyson	Levine (CA)	Sarpalius
Early	Lewis (GA)	Savage
Eckart	Lipinski	Sawyer
Edwards (CA)	Lloyd	Scheuer
Engel	Long	Schroeder
English	Lowey (NY)	Schumer
Serrano	Studds	Visclosky
Sharp	Swift	Volkmer
Sikorski	Synar	Walgren
Sisisky	Tallon	Washington
Skaggs	Tanner	Watkins
Skelton	Tauzin	Waxman
Slattery	Taylor	Weiss
Slaughter (NY)	Thomas (GA)	Wheat
Smith (FL)	Torres	Whitten
Smith (IA)	Torricelli	Williams
Solarz	Towns	Wilson
Spratt	Traficant	Wise
Staggers	Traxler	Wolpe
Stallings	Udall	Wyden
Stark	Unsoeld	Yates
Stenholm	Valentine	Yatron
Stokes	Vento	Young (AK)

NOES—174

Archer	Hancock	Ravenel
Armey	Hansen	Regula
Baker	Hastert	Rhodes
Ballenger	Hefley	Ridge
Bartlett	Henry	Rinaldo
Barton	Herger	Ritter
Bateman	Hiler	Roberts
Bentley	Holloway	Robinson
Bereuter	Hopkins	Rogers
Bilirakis	Horton	Rohrabacher
Bliley	Houghton	Ros-Lehtinen
Boehlert	Hunter	Roth
Broomfield	Hyde	Roukema
Brown (CO)	Inhofe	Rowland (CT)
Buechner	Ireland	Saiki
Bunning	James	Saxton
Burton	Johnson (CT)	Schaefer
Callahan	Kasich	Schiff
Campbell (CA)	Kolbe	Schneider
Chandler	Kyl	Schuette
Clinger	Lagomarsino	Schulze
Coble	Leach (IA)	Sensenbrenner
Coleman (MO)	Lent	Shaw
Combest	Lewis (CA)	Shays
Conte	Lewis (FL)	Shumway
Coughlin	Lightfoot	Shuster
Courter	Livingston	Skeen
Cox	Lowery (CA)	Slaughter (VA)
Craig	Machtley	Smith (NE)
Crane	Madigan	Smith (NJ)
Dannemeyer	Marlenee	Smith (TX)
Davis	Martin (IL)	Smith (VT)
DeLay	Martin (NY)	Smith, Denny (OR)
DeWine	McCandless	
Dickinson	McCollum	Smith, Robert (NH)
Dornan (CA)	McCrery	
Douglas	McDade	Smith, Robert (OR)
Dreier	McEwen	
Duncan	McGrath	Snowe
Edwards (OK)	McMillan (NC)	Solomon
Emerson	Meyers	Spence
Fawell	Michel	Stangeland
Fields	Miller (OH)	Stearns
Fish	Miller (WA)	Stump
Frenzel	Molinari	Sundquist
Gallegly	Moorhead	Tauke
Gallo	Morella	Thomas (CA)
Gekas	Morrison (WA)	Thomas (WY)
Gillmor	Myers	Upton
Gilman	Nielson	Vander Jagt
Gingrich	Oxley	Vucanovich
Goodling	Packard	Walker
Goss	Parris	Walsh
Gradison	Pashayan	Weber
Grandy	Paxon	Weldon
Grant	Petri	Whittaker
Green	Porter	Wolf
Gunderson	Pursell	Wylie
Hammerschmidt	Quillen	Young (FL)

NOT VOTING—9

Crockett	Hawkins	Mavroules
Ford (TN)	Leath (TX)	Neal (NC)
Hall (TX)	Lukens, Donald	Nelson

□ 1530

The Clerk announced the following pair:

On this vote:

Mr. Nelson of Florida for, with Mr. Donald E. "Buz" Lukens against.

Mr. STANGELAND changed his vote from "aye" to "no."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 17, after line 5, insert the following new sections:

SEC. 114. RESTRICTIONS ON CONTRACT AWARDS.

No person or enterprise domiciled or operating under the laws of a foreign government may be awarded a contract or subcontract made with funds authorized under this Act if that government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)).

SEC. 115. PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

If the Secretary determines that any person intentionally affixes a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the Secretary shall declare that person ineligible to receive any contract or subcontract from the Department of Commerce for a period of not less than three years and not more than five years.

SEC. 116. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY SECRETARY.—The Secretary is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(2) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(3) the Secretary, in consultation with the United States Trade Representative, determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made for which—

(1) amounts are authorized by this Act to be made available; and

(2) solicitations for bids are issued after the date of enactment of this Act.

(d) REPORT TO CONGRESS.—The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this section—

(1) entered into with foreign firms pursuant to a determination made under subsection (b); and

(2) awarded to domestic firms pursuant to subsection (a),

in fiscal years 1991 and 1992.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, these are my Buy American amendments that provide for an advantage to an American firm when competing as a foreign firm for a contract authorized under this legislative act. In addition to that, it gives an opportunity for a 6-percent weighted average if the item is made in America, and at least 50 percent of its parts and contents are domestically produced. It provides for a report to the Congress that would yearly give the Congress the number of contracts awarded to both domestic and/or foreign firms pursuant to the act.

In addition to that, this particular amendment requires the Commerce Department to declare any person who makes fraudulent use of a "made in America" label be ineligible to receive Federal contracts under this particular act. Finally, under existing trade laws, if the President cites a nation for practicing a significant and persistent pattern of practice of discrimination against U.S. products or services, it is Government procurement, those companies domiciled in that country would be ineligible to bid on such contracts.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, these are amendments that we have reviewed before on different legislative programs coming through our committee, and as far as this Member is concerned, this side of the aisle has no objection to the gentleman's amendments. We urge support of his amendment.

Mr. TRAFICANT. Mr. Chairman, I urge support from the Members on these particular Buy American amendments.

Mr. WALKER. Mr. Chairman, I rise in opposition to the amendment.

I have to wonder whether or not we are not doing everything we possibly can to get this bill vetoed. The chairman just told the gentleman from Ohio that these are bills the committee has regularly accepted, or amendments we have regularly accepted. In fact, there is one of the provisions we did not accept at all, and basically rejected in the committee just a few weeks ago. That is the one on restriction of contract awards.

The gentleman's language was faulty in the committee. It is faulty here. It is an absolutely disastrous piece of legislation because what it says in the first part of the language is "that no personal enterprise domiciled or operating under the laws of a government," and then it goes on. What that means in the case of, for instance, the country of India, if General Motors sells cars in India, it will not be able to participate for contracts under the whole ATP Program. Now, that just does not make any sense. If we have IBM operating in India, they would not be able to participate under our Advanced Technologies Program. If we had other high-technology firms in this country who are operating even a small retail outlet in India, they will not be able to operate, or not be able to receive contracts under this program.

That makes absolutely no sense. We are facing massive trade deficits, and now we are saying to companies, there are certain countries that countries ought not operate in, period, despite our trade deficit, because you will be ineligible to participate under our Advanced Technology Program.

This language, we pointed out in committee just a matter of a few weeks ago, was very faulty language. It was wrong at that time. I cannot understand why it came back. It is just the absolutely worst kind of legislation, if we are talking about expanding global economy.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. TRAFICANT. This has nothing to do with General Motors or IBM. That is quite a distortion.

If we are to take significantly, and I will go a little further, literally, the gentleman's argument, then we would be saying that IBM and General Motors who bid on the contract from their California plant not from their India plant.

This amendment, let me say it again, this amendment states if President Bush cites a nation for in their procurement process discriminating against American products and goods under existing trade law, in which in this case is only one country, India, then those companies domiciled in India cannot bid on these contracts.

Further classification, the gentleman said that it was defeated at the committee level. It was defeated at the committee level, but was approved at the House level on the legislation the gentleman has just questioned.

Mr. WALKER. Mr. Chairman, the gentleman may have that as the intent. It is too bad his intent was not drafted into the language because the draft of the language does not say that. It does not just say "domiciled." It says "or operating under the laws of a foreign government."

We assume that most companies that operate overseas operate under the laws of that nation.

Now, the gentleman may have that as his intent. He did not draft it that way. I pointed out to him in the committee it was not drafted that way. If it was accepted on the floor here, we accepted a very bad provision, at that point, too, and I am simply saying that this is a very, very poor draftsmanship in terms of the language. It does not do what the gentleman intends for it to do. It is much broader than that, and it will do great damage to this bill and great damage to the ability to run the program, should we adopt this language.

I am very disappointed, once again, that the committee has modified our stand coming out of the committee, in such a way, because I do not think that we looked very carefully at this language. This language is bad language and ought to be defeated.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 25, noes 17.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 30, line 18, strike "$250,000,000" and insert in lieu thereof "such sums as may be necessary".

□ 1540

Mr. WALKER. Mr. Chairman, we have had a couple of interesting disagreements here today, and I do not suppose they will affect the outcome of the production of America, whichever way they went. This one will. This is the one the administration feels strongly about. We will either change the bill in this regard or the bill is in real danger. I would submit that what we are asking to be done here is very minor, but yet it is important.

Under the provisions of the ATP program as it now exists, it was funded for the first time this year at a level of $10 million. The President has been seeking to continue the program at that $10 million level in 1991. The House-passed budget resolution would increase the President's request and the current funding by almost 500 percent to $47 million. This bill that we

have before us would increase that $15 million level another 500 percent in 1992 to one-quarter of a billion dollars—new money that we are not currently spending and that we probably do not have.

Now, the chairman of the committee, the gentleman from New Jersey [Mr. ROE] and I have agreed that the $100 million level represented in this bill for the 1991 year is in fact what we ought to have. We will leave it up to the Committee on Appropriations to decide the actual funding levels, but we have agreed to $100 million for this particular program.

The problem is that the quarter of a billion dollars, the $250 million level, will put tremendous pressure for cuts in critical existing technological research areas such as superconductivity, fiber optics, and advanced materials at the National Institute for Standards and Technology. We will be trading off core research for essentially a new program that in some cases could be handouts. I suggest that that is not the direction that we ought to go.

The administration is willing to accept in this authorization language that would make it, instead of $250 million in 1992, "such sums as may be necessary." My amendment does that, and no more. My amendment simply says that in 1992 we ought to have language in there in terms of the authorization for "such sums." Then if we had the money, it could mean more than $250 million. Most likely, it would mean less. But this is something the administration feels is doable and is reasonable within the context of the bill, and it does not bind us to the $250 million figure.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the gentleman knows the administration has requested $198 million for a combination of core programs, plus the other programs for 1990.

Mr. WALKER. Right.

Mr. SMITH of Iowa. And I think there is agreement pretty generally in the Congress that we need to add substantially at least to the noncore program including advanced technology.

Mr. WALKER. Sure. And we are saying in this bill that the noncore programs for just ATP ought to go up to $100 million.

Mr. SMITH of Iowa. Whatever we can do in the way of money, that is what we really need to do in this Government on research.

Mr. WALKER. Yes.

Mr. SMITH of Iowa. We do not have as much research in military anymore to spin off, and we should do some more here. But how does "such sums as may be necessary" give any guidance? It seems to me like that is totally open-ended. When we compare that to the $250 million, what difference does it make?

Mr. WALKER. We have $100 million in the bill this year. The reason for the "such sums" language is to assure that we are not bound to the $250 million level. We agree that it needs to go up, but we do not want to bind us to that particular level.

Mr. SMITH of Iowa. But "such sums" could mean $500 million.

Mr. WALKER. Obviously it could mean that, but I think the gentleman, as chairman of the subcommittee that would handle this, knows full well that we are not going to find $250 million, most likely, and certainly we are not going to find more than that.

Mr. SMITH of Iowa. It is going to be very difficult to find $100 million.

Mr. WALKER. Yes, it will be difficult to find $100 million.

Mr. SMITH of Iowa. But I do not quite see how saying, "such sums as may be necessary" changes anything.

Mr. WALKER. Well, it changes it only in the sense that we are not sending a bill to the President that indicates he should sign a bill for 500 percent above the spending level that was included in the House budget for the upcoming year. The administration thinks that that is a very difficult thing for them to sign onto. "Such sums" at least leaves it open that we are going to fund it at a level that is more reasonable for the ability of the budget to sustain. That is the only real difference here, and I do not think it does any damage to the program at all. As a matter of fact, in many cases it strengthens the program because it assures that we will get the funding levels that are doable within the budget context, and we will not be beating ourselves around the head with the particular sum of money.

So I do not think that this is not anything which is very difficult, but it would be a shame to see this program go down and the authorization for this program and the policy changes in this program go down over this matter. Yet that is where we may be, and literally we could have the thing fail simply because of the figure in there of $250 million when we could have accepted the language, "such sums."

The CHAIRMAN pro tempore (Mr. HARRIS). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, I have a letter from the Deputy Secretary of Commerce who is the acting Secretary at the present time, indicating that the administration does support the "such sums" amendment. The ranking member of the Budget Committee, the gentleman from Minnesota [Mr. FRENZEL], has indicated to me that he supports this amendment. A number of Members on the Democratic side of the aisle who have been concerned about budget matters, including the gentleman from Minnesota [Mr. PENNY] and the gentleman from Texas [Mr. STENHOLM] and others who have pursued this matter, are in support of the amendment. The ranking member of the Subcommittee on Science, Research and Technology, the subcommittee that handles this matter, the gentleman from New York [Mr. BOEHLERT], and the ranking member of the subcommittee of the Committee on Appropriations that handles these matters, the gentleman from Kentucky [Mr. ROGERS], have also indicated they are in favor of this amendment. So there is broad-based support, and I think that broad-based support comes from the idea that we need to have language that means this new policy is signed rather than creating a needless confrontation.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

Mr. Chairman, I have the highest regard for the gentleman from Pennsylvania [Mr. WALKER], and in my remarks during general debate I indicated my own gratitude to him for the support which he has given for the thrust of this legislation and for his support over a period of years in the committee for constructive efforts to solve many of the problems that face this country in the high-technology area.

I tend to feel in this particular situation that he is exaggerating the significance of the language which he is proposing. We all recognize that any figures that we include in this authorization bill are merely hints to the Committee on Appropriations and to the administration as to the direction that we would like to see followed with regard to this important subject of restoring our competitiveness in advanced technology. I tend to agree with the statement made by the distinguished gentleman from Iowa [Mr. SMITH], the chairman of the subcommittee of the Committee on Appropriations that deals with this subject, that the overall significance is not important. In that sense, the language that the gentleman is proposing, "such sums as may be necessary," is really an open-ended authorization which could lead to even higher appropriations than are proposed in the existing language of the bill.

□ 1550

Mr. Chairman, I do not know what the administration's position is going to be when we actually get to fiscal year 1992. I have been very much encouraged by the administration's willingness to adequately fund many of

the more significant research and development programs of this country, including their commitment to double the National Science Foundation budget in a 5-year period and to recommend similar increases in the space program over the next 5 years. I am inclined to feel, and this may be wishful thinking, that they are going to come to the same conclusion with regard to the importance of the advanced technology initiatives which we have in this legislation, and they may even come to the conclusion that $250 million is not enough and that we should be investing more.

Mr. Chairman, there is no question in my mind that the need is greater than the $250 million, and I have spoken to that effect in committee and on the floor on numerous occasions.

I appreciate the fact that the gentleman from Pennsylvania [Mr. WALKER] serves as a very effective point man for the current position of the administration, and I think fundamentally that that is the flaw in his position. He is not sufficiently looking into the future as to the changes that the administration may be making over the next year or two, and I need only to cite the statesmanlike position of the President when he announced just a couple of weeks ago that we are going to need tax revenue increases. That was a cataclysmic change in policy, and I think that when this administration recognizes the true extent of our advanced technology deficiences in world competition, that the administration is going to make a similar change in position.

Mr. Chairman, there is nothing in this bill that forces such a change. It really provides only a moderate start-up path for doing what I think we are all going to recognize is inevitable in the very near future.

Mr. Chairman, when the gentleman from Pennsylvania [Mr. WALKER] takes a position, he makes it a very high priority and very effectively supports it, and I admire him for that. I happen to disagree with him in this particular situation, and I hope that the Members of the House will recognize that the prudent course is to do what the committee is recommending, provide for a moderate ramping up of authorization for this program and hope that we will have the money to fund it through the appropriation process as the time comes.

Mr. BOEHLERT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of Mr. WALKER's amendment.

Quite frankly, I see this amendment as a political expedient that does no damage to the bill. In changing the fiscal year 1992 authorization to "such sums," we remove an irritant for the administration, while leaving no doubt that Congress strongly supports the Advanced Technology Program and expects it to grow.

The ATP is something of an experiment, and it is not unreasonable to require the authorizers to come back and take another look at the funding levels in its third year of operation. I don't think that we're sending any message that the hard look will be anything more than an assessment of how much more we want the program to grow.

The program is budgeted at $10 million in this fiscal year, and the same amount was requested for next. Yet H.R. 4329 increases the fiscal year 1991 authorization to $100 million. That shouldn't leave any doubts about our intentions regardless of whether we set a specific number for year three.

So I say, let's take an issue off the table by leaving open the precise amount available for fiscal year 1992. Doing so will do no damage to the ATP and will make it easier to get a bill.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me first commend the chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. ROE], and the ranking Republican, the gentleman from Pennsylvania [Mr. WALKER], for getting this authorization to the floor.

Speaking as the ranking member of the Subcommittee on Commerce, Justice, State, and Judiciary, let me say we need this bill and the guidance that it will provide to us. When the House passed the Commerce, Justice, State bill, appropriations bill before the July recess, we took no action on NIST, as the chairman knows, because we did not have the authorization, and we respected the committee, and we want this authorization to pass. NIST is the one agency in the government, a civilian DARPA, if my colleagues will, that can help the United States get back on to the world stage of competition and product development, and, heaven knows, we need it.

So, Mr. Chairman, I am pleased that this important authorization has been brought to the floor, and we hope that we can pass it expeditiously today and get on with it.

I support this particular amendment, however, Mr. Chairman, because it lends a dose of reality to this bill and the advanced technology program. My problem is not with the ATP program, heaven knows, which I support wholeheartedly as a part of a balanced NIST budget. The issue is whether the dollars in the bill are a proper target for the program.

Mr. Chairman, for this year the Committee on Appropriations in the Congress provided $10 million for this program out of $162 million NIST total budget. With export promotion, economic development programs, the war on drugs, law enforcement all in our subcommittee's portfolio, we were busting at the seams, Mr. Chairman, last year, and yet we found just enough room to launch the ATP Program. This bill would turn a $10 million program in this year into a $250 million program in 1992. That is a 2,500-percent increase.

In fact, if my colleagues examine the bill, they will find that the authorization for the ATP grant in 1992 is greater than the total NIST budget, of which it is supposed to be a part. ATP grants are $250 million, and the other, all of the other, NIST programs are only $250 million.

Mr. Chairman, on the committee I serve on, subcommittee, I do not have that kind of idea that we can get that kind of money, and I doubt that the budget summit is going to come along with it. Seriously. We are working in the dark now on next year's appropriation, much less planning for what could be a very, very tough money year in 1992.

So, Mr. Chairman, I think the gentleman from Pennsylvania [Mr. WALKER] takes the most reasonable approach. He takes a pie-in-the-sky target and gives us a flexible approach. It endorses the ATP Program, which I think we all want to do, or most of us, but it makes sure that the NIST authorization is a balanced one in the outyears.

So, I think this is a truly commonsense amendment. It will save, I think, a good deal of friction about the bill downtown, and it will not harm, certainly not harm, the ATP Program.

Mr. Chairman, I urge our colleagues to support the amendment of the gentleman from Pennsylvania [Mr. WALKER].

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as we decide today on the funding for the Advanced Technology Program, I would like to share with my colleagues just how this program came into being, what its importance is, and why it is so vital.

The bill comes to us at an auspicious time, during the emergency of democracy and freer markets in Eastern Europe and the beginnings of some more open markets in the Pacific Rim nations. These events hold a lot of promise for eventually improving our trade position in advanced technology products.

However, Mr. Chairman, much closer to home in our own markets, in our own back yards, we still face concerted efforts by our competitors, by Japan the "new Japan," the European Economic Community, to continuously

increase their share of the rich American marketplace.

□ 1600

I would like to share with my colleagues a recent Commerce Department report on competitiveness in the electronics sector. "The basic message," said an official of the International Trade Administration, "is that we're losing market participation in a wide variety of product areas in those industries."

Our ad hoc approach toward industry, that report states, is "in contrast to that of foreign governments" and that places us at competitive disadvantage.

In another report, the Commerce Department identified areas where we are ahead now, such as artificial intelligence, high-performance computing, and biotechnology. The Japanese were gaining on us in all three areas. There is not one single area in this report of critical technologies for the future where we were gaining on the Japanese and, indeed, there were many areas where we had fallen seriously behind.

So if we do not act in a comprehensive way, we are eventually going to yield our leadership position in many critical technologies in the way we have done with autos, TV's VCR's, compact discs, semiconductors, machine tools, HDTV, and you know the list, it goes on and on.

Our competitors have long-term projects which target the high value-added industries where we still maintain leads, indeed, they target those industries in our own home markets.

This is the background to the advanced technology program, so it is time to make some attempt to overcome that part of this competitiveness problem which relates to the expenditure of Federal R&D and technology-oriented funds. While industry obviously has to take the lead, there has got to be some coordination with Washington; there has got to be some cooperation with Washington and our overall Federal R&D economy, a $70 billion endeavor that too often is disconnected from industry and the marketplace.

This new global economic ball game demands team play in ways that are fairly new to us. We need a policy that can recognize the difference between potato chips and semiconductor chips, between digital video and dish towels.

We need to recognize that some technologies and industries may well be critical to our overall economic well-being, our world leadership, our standard of living, and our jobs.

Limited investments in technology by the Federal Government could create high leverage in the private sector if they are made in partnership with American industry. Indeed, the leverage could be even greater if the efforts are led to some larger extent by industry itself.

I might add that those within the administration, and without, who shun this type of investment totally have had crucial influence on policymaking thus far.

Several weeks ago, the Defense Advance Research Project Agency shifted its position in cutting edge technologies toward a focus primarily on military applications and away from what we call dual use applications.

DARPA also recently awarded some contracts in the important field of high temperature superconductivity for basic research oriented toward military applications, not dual use activity oriented toward the marketplace as well as the military, and that is a disappointment. That is another reason why, my colleagues, the Advanced Technology Program [ATP] at the National Institute of Standards and Technology is so important at this time.

Now that DARPA has apparently decided to focus on military technologies, now that Craig Fields has been retired from the Federal Government, it is even more critical to boost the efforts of the Advanced Technology Program. That program will support collaborative activities which show promise for civilian industry, in much the same way that military technologies evolved with DARPA's backing.

Recently Democrats in Congress announced an action agenda for technology competitiveness, with fostering industry-government cooperation through the Advanced Technology Program [ATP] as the cornerstone of that policy.

I want to applaud my Democratic colleagues for calling attention to this problem facing the United States in high technology industry and trade, but I would like to point out that the Advanced Technology Program is a highly bipartisan idea, perhaps we might even say of Republican birth.

Back in 1987, I introduced the first bill, H.R. 2068, along with strong bipartisan support on the Science, Space, and Technology Committee, to reorganize what was then the National Bureau of Standards into a National Bureau of Standards and Industrial Competitiveness to provide a base for major collaborative activities involving U.S. industry.

We envisioned an agency better equipped to spur interindustry collaboration and foster cross-industry activity to overcome technological hurdles in the precompetitive stages of products and processes.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. RITTER was allowed to proceed for 3 additional minutes.)

Mr. RITTER. Mr. Chairman, that bill was the precursor to the reorganization of the National Bureau of Standards into the National Institute of Standards and Technology [NIST], and the new Advanced Technology Program [ATP].

Once again, the ideas that evolved into H.R. 4329 represent a strong bipartisan effort. My colleagues, the gentleman from California [Mr. BROWN] and the gentleman from California [Mr. MINETA] and I authored the amendment to this bill in subcommittee that boosted funding to the levels we have on the floor today for the Advanced Technology Program.

I would say that a half-hearted effort by the ATP would be worse than no effort at all. We need to make enough of an effort to encourage American industry to regain its edge, to show them we are committed, too; that we will work with them. But I will also point out that the amendment of the gentleman from Pennsylvania [Mr. WALKER] and the comments by the gentleman from New York [Mr. BOEHLERT] and the comments of the gentleman from Kentucky [Mr. ROGERS] on the appropriations process are I think quite relevant. We are authorizing to go from a $10 million program this year to a $100 million program next year to a $250 million program the year after, and those of us who are familiar with the contract and grant activities of the Federal Government and Federal agencies have to be a little cautious when it comes to such rapid expansion. So the amendment of the gentleman from Pennsylvania does have relevance there.

I would like to point out to my colleagues one last thing. This bill is no substitute whatsoever for generic initiatives for American competitiveness, such as a permanent R&D tax credit, antitrust reform, litigation reduction, encouragement of lower cost more patient capital, investment tax credit for productive equipment and facilities, a relentless focus on quality and competitiveness impact analysis of major legislation and regulation. These are hallmarks of the Republican competitiveness package.

A comprehensive effort is needed, pulling tax, trade, education, regulatory, quality as well as ATP type research and development policies.

There is so much more that can be done on a variety of fronts before we can truly say that we here have taken the right steps to make made in America once again preeminent in the world; but I must also say, H.R. 4329 is a solid, achievable step forward and it needs the kind of adequate funding to make it a reality, as opposed to just a dream.

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will grant for purposes of discussion that the gentleman from Pennsylvania [Mr. RITTER] might be right. This high technology initiative might have had a Republican birth, but if the amendment of the gentleman from Pennsylvania [Mr. WALKER] is accepted, it almost certainly will have a Republican death.

This day comes too late. This can be the beginning of something serious in America. Perhaps it is a decade too late.

The American response to technological change, to the challenge to our standard of living, to America's strength in the world, and finally the beginning today, here with this bill; but Mr. Chairman, there is something worse than to do today nothing at all. That something worse would be to say to the American people that we are beginning. America is coming back with technological strength, and then in substance to have achieved nothing, to convince them we are serious, but to do nothing.

□ 1610

That is what the Walker amendment is about: Commission language, take a stand, and then take the chance that there will be no funding at all. To say that finally HDTV, a decade late, maglev technology, superconductivity, a host of technologies, "We will promise it to you, but it will not get funded." Do the Members want to take a chance that the administration will not provide the $250 million, the $100 million?

Do the Members believe that discretion should remain with this administration? The administration, the gentleman from Pennsylvania [Mr. RITTER], which did not retire Craig Fields, they did not retire him, they fired him, and they fired him because he believed that for the security of this country and for our economic future we needed to finally take a stand on this same technology that the gentleman from New Jersey [Mr. ROE] envisions today. They fired him. Give them the discretion to fund this initiative? Not on your life.

I would take that chance if we could afford it, if we could believe that, in fact, the administration would come forward and join with us in this effort. I do not believe we can.

I believe that the Walker amendment means we will not lose simply another year, not another 12 months of this fiscal year, but in fact because we will convince our colleagues and the administration and the American people that we began something but, in substance, did nothing at all. We will lose another entire decade.

Mr. Chairman, the Walker amendment must be defeated. But something far more than that must happen. We must finally become serious enough in this institution that we understand what is taking place in America.

We are not simply losing our lead in several assorted technologies. Our standard of living is at issue.

I know there are Members in this body who do not want a government policy to deal with these technologies. They prefer to believe that this should be done in private initiative alone. My friends, there already is a government policy to deal with these technologies. It is well funded. It is serious. It is making headway. The problem is it is not our Government, and nobody is waiting for America anymore.

Someone is going to dominate a $500 billion HDTV industry. Someone is going to capture a multibillion-dollar electronics industry. Someone is going to harness the power of superconductivity. It just is not going to be us.

Take this stand. These are the kinds of votes that are required.

The gentleman from New Jersey [Mr. ROE] and the Science Committee have led the way. If anything, it is woefully inadequate to the size of what is required.

Is there a chance that we are gearing up spending too fast to deal with the consequences ahead? There is that chance. There is another chance, that we are doing too little far too late. Make no mistake about it, my friends, this bill is not about preserving American leadership. It is about a come-from-behind effort to try to catch up in the years ahead.

We cannot afford the lost time that the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] potentially leads to.

Support the chairman. Support the committee, defeat the Walker amendment. Make, at long last, America take a stand.

The CHAIRMAN pro tempore (Mr. HARRIS). The time of the gentleman from New Jersey [Mr. TORRICELLI] has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. TORRICELLI was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. TORRICELLI. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I guess I am a little bit confused. It seems to me that under my amendment that the gentleman said puts us behind, that we would still go from $10 million of spending this year to $100 million of spending next year. Is that not right under my amendment?

Mr. TORRICELLI. The gentleman is correct.

Mr. WALKER. That is correct. All that I am doing is saying that instead of going to the next step of $250 million, that we would spend such sums as necessary; in other words, we would authorize such sums, which means that the Committee on Appropriations could come up with any amount they wanted at that point.

I am a little confused now. How does my amendment then put us behind by a decade when I am increasing from $10 million to $100 million, to such sums as the Committee on Appropriations may deem necessary?

Mr. TORRICELLI. Reclaiming my time, perhaps I could make it clear for the gentleman, because it is my belief that unless the authorizing committee meets its responsibility to plan where it is this will go, given administration opposition which I believe will come for philosophical reasons because they believe they do not share our commitment as evidenced by the fact they have joined none of these fights in the past, as evidenced by the firing of Craig Fields, I believe the administration will be working with the Members on the Committee on Appropriations, I believe they will be working to convince Members in this body that this effort not expand, indeed, that it end, indeed, that not only is the $100 million level not exceeded but that it is not maintained.

Mr. WALKER. If the gentleman will yield further, he is now talking about the administration and not my amendment. My amendment is an attempt to make certain that the very policy that the gentleman wants to see enacted that would force the administration in a particular way is not subjected to a veto. It now seems to me that one of the things that we ought to do here is try to come up with something that moves us forward and does not raise unnecessary irritants, as the gentleman from New York said, but there is nothing in my amendment that does what the gentleman said.

Mr. TORRICELLI. Reclaiming my time, the gentleman may come to this as the best of intentions, and perhaps, and I believe he very well may, believe that by his amendment he can get that.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey [Mr. TORRICELLI] has again expired.

(By unanimous consent, Mr. TORRICELLI was allowed to proceed for 1 additional minute.)

Mr. TORRICELLI. That may be the gentleman's intention, but it is my belief that if that is how we proceed the net result will be that this program is not established and never exceeds those numbers.

The gentleman from Pennsylvania [Mr. WALKER] may want to have the White House potentially intimidate us with the prospect of a veto and that there be no program at all. If that is what this President would like to do,

to say to the American people that we are not only behind in these basic technologies but we have decided not to join the fight, let the President make that statement. I say we have no part of it.

If the President would like to veto the work of this committee, he is free to do so. I say we have a program that is up to what is required, every dollar that is needed, that we waste no more time, and let the President make his decision. We will make ours.

Our decision is to proceed.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise at this point in opposition to this amendment to change the funding level for the Advanced Technology Program from the proposed level of $250 million for fiscal year 1992.

Ultimately, America's business competitiveness and economic strength is going to be determined by a few key strategic industries that will be crucial to the economic success of every American industry.

What the Government must do at the Federal level is create an environment that fosters and supports the competitive efforts of our businesses and workers.

In the face of the multibillion-dollar research and development ventures being conducted by our competitors overseas, the $250 million commitment for fiscal year 1992 for the Advanced Technology Program represents a relatively small amount of money. The funds are needed, however, to demonstrate a steadily increasing Government commitment to the AIP Program.

A strategy for America's future must allow business to engage in long-range, productive investments. The steadily increasing commitment to the ATP Program represented by H.R. 4329 will do just that.

Mr. Chairman, I strongly oppose this amendment.

□ 1620

Mr. ROE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if Members will indulge us for a few minutes longer, this has been a spirited debate. I think Members are going to find there are a couple more amendments, and then we should be done.

I would like to share something with Members today. I know we are tired and weary and want to get on with it, but I believe one day I am either going to be determined right or wrong.

Mr. Chairman, I think this is one of the most important votes Members are gong to be casting in the House of Representatives today, because this is a different vote. This vote is a vote for the people of America.

"Oh, that is too dramatic. What did he say that for?"

Yes; it is. Just look at that chart. I know all Members cannot see it, but I wish they could. There is a potential of $356 billion worth of business. Think about your towns and your States and your districts right now. Look into people's eyes and chat a minute. What are Members hearing? Hey, they are cutting back in Boeing, they are cutting back here, they are cutting back there. Thousands and thousands of jobs. Tens of thousands of jobs in industry after industry after industry.

What are they saying to us? Let the marketplace do its thing.

Mr. Chairman, there are three things that are happening. If one were to say to me what is the most important things that have happened in my life that I could remember, other than my personal life, I would name two things. I would say the end of World War II, when the world came back together again to reconstruct itself, and the most important happening other than that in the 20th century is right now, an economic revolution is facing the world. God, can we not see that an economic revolution is taking place?

In the work that is being done in Dallas now a statement was made, and let me share it with Members.

In a recent telex to the U.S. Ambassadors, Deputy Secretary of State Eagleburger urged embassies to become more involved in promoting U.S. exports and technology. "Times have changed," he wrote, "and it is no exaggeration to say that our economic health and our ability to trade competitively on the world market may be the single most important component of our national security as we move into the next decade and into the next century."

Mr. Chairman, the battle will not be fought with nuclear weapons in the next century, nor in the next 10 years, which we are establishing the policy for now. The battle in the next 10 years and the next century is going to be fought on the control of the economy of the world. A global economy, that is what it is.

We are not competing State to State any more. We are not debating whether high technology comes from New Jersey, as the gentleman from Pennsylvania [Mr. RITTER] says, or it goes to Pennsylvania, or Michigan, or any other State in this particular body. We are determining whether the United States is going to be a leader in the world, in the economy and the industrial ability of the human race, is what it amounts to, the wealth of tomorrow that is going to be needed in Members' respective districts.

As we are debating what should be on the budget level and the tax levels in this country, and make no mistake, I am hearing it in New Jersey and I am sure Members hear it in California and Michigan and Tennessee and Pennsylvania, as well as everywhere else, what are we going to be hearing? The new wealth of the world is going to be created out of science and technology. That is what this all says. And we are falling behind in every direction.

There is a point that was made that my father taught me. If I might share it, he said to me, "Remember one thing in your life—that the operation was a success, but the patient died."

Should we be reacting to this situation that is happening economically throughout the world? Should we be saying to ourselves do we compete in the multi-hundreds of billions of dollars of market in the Asiatic area? Do we write it off? Does Japan take it over?

We have to say it, because that is what we are about. Do we give up Europe now? In 1992, the first common market ever before in the history of the world taking place in Europe, do we give that up?

You know what the Germans said to me when we visited there recently? "Don't have any kind of Marshall plan or whatever. We will take care of the middle Eastern European countries," and so on and so forth.

Mr. Chairman, I have enormous personal regard for the gentleman from Pennsylvania [Mr. WALKER]. It may not have appeared that way today because we vigorously have been competing in things we have believed in.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ROE] has expired.

(By unanimous consent, Mr. ROE was allowed to proceed for 3 additional minutes.)

Mr. ROE. Mr. Chairman, I say to Members here, this is not a debate between the gentleman from Pennsylvania [Mr. WALKER] and myself and other good folks, and the gentleman from California [Mr. MINETA] and the gentleman from New Jersey [Mr. TORRICELLI] and other Members that have spoken. That is not the battle. The battle we are talking about now is does American take a quantum step forward?

Our military is closing down in many areas. We are reducing many programs.

Mr. Chairman, let me predict today, before the last cock crows 2 or 3 years from today, we are going to be back on this floor battling for public works programs and jobs for the American people. We will be giving away the jobs for the American people, unless we make the investment and understand the order of magnitude of this confrontation we are faced with today.

Mr. Chairman, I would hope Members would vote down this amendment, because it says nothing. "Such sums as

may be appropriated." Who decides that? We argued only a week ago on the floor and fought with the Appropriations Committee and said, "Hey, guys, you don't make all the decisions around here. We are authorizing committees. We should have something to say."

Well, for God's sake, say it. If Members believe it ought to be $250 million to be able to get this going, then let us do it. But let us do it now, and not come back 3 years from today and say, "Too bad we didn't try; too bad we didn't work on it; too bad we didn't do it. It was too late and we lost the rest of the marketplace."

Mr. BROWN of California. Mr. Chairman, would the gentleman yield?

Mr. ROE. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I would like to just reinforce the point the gentleman from New Jersey [Mr. ROE] is making. We are engaged in a constructive debate here over whether to authorize $250 million 2 years from now.

The practical fact is that Japan devotes close to 3 percent of its GNP to investment in research and development. That is civilian research and development. We invest about 1.5 percent of our GNP in civilian research and development, the most important lack being investment in advanced technology development.

Mr. Chairman, we are quibbling over a trivial amount of $250 million in light of that 1.5 percent of GNP between ourselves and the Japanese.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

There was no objection.

Mr. WALKER. Mr. Chairman, I agree with a lot of what the gentleman from New Jersey [Mr. ROE] just said about world competitiveness, global economies, and so on. I agree with all of that. But I think it is time for a little bit of a reality check here, too;

The $250 million in this account is more money than the entire National Institute of Standards and Technology spends on all of its programs right now.

Mr. Chairman, right down the hall here we have a budget summit meeting. They think they are beginning to do a few things to try to help us be globally competitive, too. They think it is rather important that we do something about getting down deficits and a few little minor things of that type.

Mr. Chairman, $250 million may be trivial in the minds of some people. It is not trivial in my mind. It is not trivial in the minds of many people trying their best to find $10 million here and $10 million there in order to bring down budget deficits.

Mr. Chairman, that is what I am attempting to do here. This is hardly parsimonious in this amendment. We are talking about going from $10 million this year to $100 million next year. I do not think the Committee on Appropriations in their wildest dreams think they can find $100 million next year, but maybe then can. And we are authorizing them to do it.

Then the committee says, "Well, let's go from there to $250 million." The problem is that no one knows anywhere where that money is going to came from. What we said is in order to avoid a confrontation, and maybe get this policy into place, we ought to say "Such sums," and at least add a note of fiscal discipline into the process.

Mr. Chairman, I do not see that that is going to do great harm to the program. It certainly is not going to change the global competitiveness of the United States.

□ 1630

It is going to assure that we get a policy in place that has a real chance of changing our policies with regard to civilian research. And if we can do that, then I think we ought to avoid the President's veto.

The gentleman from New Jersey [Mr. TORRICELLI] said, "Well, if the President wants to do that, let him do that." My concern is that in the course of what we have done today we have tried our best to force the President into that position, and maybe that is the politics behind this. If that is the politics that we are practicing out here, to drive the President into vetoing a bill that we then use this fall, then believe me, I do not want any part of it.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Sure, I am glad to yield to the gentleman from New Jersey.

Mr. ROE. If the gentleman would be so kind, let me say something to him. I just do not happen to agree with that at all.

Mr. WALKER. I am just referring to what the gentleman from New Jersey [Mr. TORRICELLI] said.

Mr. ROE. As far as this person is concerned here, and I think the gentleman knows this, we have labored in a bipartisan way, vigorously on this bill.

Mr. WALKER. Yes.

Mr. ROE. Obviously the response people give to each other is not just because we are debating something here, but it is deeply felt and deeply understood, and I think that is coming through. So I would hope that the gentleman, as far as the chairman of this committee is concerned, understands there are no alternative motives in my mind whatsoever. I hope that both the Democrats and the Republicans can rush with it in arm and with the President say, "Hey, look, we did something for our country for a change."

Mr. WALKER. I have not said anything about the gentleman's motives. I do have to tell the gentleman that it is with somewhat suspicion by this gentleman when the Democratic leadership went out and held a press conference and put this into political context, and when the gentleman from New Jersey says if the President wants to veto the bill then let us go ahead and let him veto the bill, I do not want the President to veto the bill, and I think that it would be worthwhile to get the policy in place. If this minor irritant is one of the things that we can correct in order to assure that we get this policy signed, then I think we ought to be for it, and we ought to go ahead and get the policy in place. That is all I am saying, and it seems to me it makes a worthwhile addition to the bill to assure that we get a bill that can be signed downtown and move forward.

That would do the most to help improve American competitiveness. I think we ought to do it.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding. I just want to point out that as strong a sponsor of the Advanced Technology Program that this gentleman from Pennsylvania is, that this is one very small slice of the overall pie needed to make the United States of America more competitive. It is important. It should not be discounted.

But in the absence of appropriate tax, regulatory, education, and trade policies; the R&D tax credit, the capital gains reform, the promotion of manufacturing, the focus on quality; in the absence of these more generic and basic driving forces necessary for American's industry to be more competitive, this bill will do not much.

The CHAIRMAN pro tempore (Mr. HARRIS). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(On request of Mr. RITTER and by unanimous consent Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. RITTER. This bill will do not much. It is a piece of the action. It is important. But so much more must be done to improve the overall climate for U.S. competitiveness.

I also heard on the other side of the aisle a little bit of overstatement, that somehow by going to an Advanced

Technology Program [ATP] we are going to solve the ills of the United States in global high technology competition. That is simply not going to happen and we would be misleading ourselves and the American people to overstate the impact of this bill. I just wanted to put it all in some perspective.

Mr. ROE. Mr. Chairman, will the gentleman yield just one-half a minute?

Mr. WALKER. I am glad to yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, is it not too bad when we get so enthused and so involved that we come back and we say, "over here," and "over there"? I just would like to remind the gentleman that there was some very, very strong support on this side of the aisle for the very areas about which he spoke. I do not think we are talking about your side of the aisle or this side of the aisle. What do we do together to make it better?

Mr. RITTER. I thank the gentleman for his comment. I just wanted to make sure that we will not walk away from this vote thinking that the debate over competitiveness has ended, the problem is solved, and by an additional several millions of Federal R&D contract money with industry somehow will win over several trillion dollars' worth of world economy that the gentleman had in mind and on his charts when discussing jobs and economic activity.

Mr. WALKER. I thank the gentleman.

I would just make one final point. We have often thought in this Congress that we can spend our way somehow to prosperity, and that is not I think very true. What we can do is develop policies that make sense.

This bill has a lot of policies that make sense. It would be a shame to lose those policies over an argument between whether it should be $250 million or "such sums." Such sums is a fiscal discipline approach and I would urge its adoption.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 272, not voting 10, as follows:

[Roll No. 218]

AYES—150

Archer	Barton	Boehlert
Armey	Bateman	Broomfield
Baker	Bereuter	Brown (CO)
Ballenger	Bilirakis	Buechner
Bartlett	Bliley	Bunning
Burton	Hyde	Robinson
Callahan	Inhofe	Rogers
Campbell (CA)	Ireland	Rohrabacher
Chandler	Johnson (CT)	Ros-Lehtinen
Coble	Kasich	Roth
Coleman (MO)	Kolbe	Roukema
Combest	Kyl	Rowland (CT)
Condit	Lagomarsino	Saiki
Coughlin	Leach (IA)	Saxton
Courter	Lent	Schaefer
Cox	Lightfoot	Schiff
Craig	Livingston	Schneider
Crane	Lowery (CA)	Schuette
Davis	Machtley	Schulze
DeLay	Madigan	Sensenbrenner
DeWine	Marlenee	Shaw
Dornan (CA)	Martin (IL)	Shays
Douglas	Martin (NY)	Shumway
Dreier	McCandless	Shuster
Duncan	McCrery	Skeen
Fawell	McDade	Slaughter (VA)
Fields	McEwen	Smith (NE)
Fish	McGrath	Smith (TX)
Frenzel	Meyers	Smith (VT)
Gallegly	Michel	Smith, Denny (OR)
Gallo	Miller (OH)	Smith, Robert (NH)
Gekas	Miller (WA)	Smith, Robert (OR)
Geren	Molinari	Snowe
Gilman	Moorhead	Solomon
Gingrich	Morella	Spence
Goodling	Morrison (WA)	Stenholm
Goss	Myers	Stump
Gradison	Nielson	Sundquist
Grandy	Oxley	Tauke
Green	Packard	Thomas (WY)
Gunderson	Parker	Upton
Hancock	Parris	Vander Jagt
Hansen	Paxon	Vucanovich
Hastert	Penny	Walker
Hefley	Petri	Walsh
Herger	Porter	Weber
Hiler	Quillen	Weldon
Holloway	Regula	Wylie
Hopkins	Rhodes	
Houghton	Ridge	
Hunter	Roberts	

NOES—272

Ackerman	Dannemeyer	Hall (OH)
Alexander	Darden	Hamilton
Anderson	de la Garza	Hammerschmidt
Andrews	DeFazio	Harris
Annunzio	Dellums	Hatcher
Anthony	Derrick	Hawkins
Applegate	Dickinson	Hayes (IL)
Aspin	Dicks	Hayes (LA)
AuCoin	Dingell	Hefner
Barnard	Dixon	Henry
Bates	Donnelly	Hertel
Beilenson	Dorgan (ND)	Hoagland
Bennett	Downey	Hochbrueckner
Bentley	Durbin	Horton
Berman	Dwyer	Hoyer
Bevill	Dymally	Hubbard
Bilbray	Dyson	Huckaby
Boggs	Early	Hughes
Bonior	Eckart	Hutto
Borski	Edwards (CA)	Jacobs
Bosco	Edwards (OK)	James
Boucher	Emerson	Jenkins
Boxer	Engel	Johnson (SD)
Brennan	English	Johnston
Brooks	Erdreich	Jones (GA)
Browder	Espy	Jones (NC)
Brown (CA)	Evans	Jontz
Bruce	Fascell	Kanjorski
Bryant	Fazio	Kaptur
Bustamante	Feighan	Kastenmeier
Byron	Flake	Kennedy
Campbell (CO)	Flippo	Kennelly
Cardin	Foglietta	Kildee
Carper	Ford (MI)	Kleczka
Carr	Frank	Kolter
Chapman	Frost	Kostmayer
Clarke	Gaydos	LaFalce
Clay	Gejdenson	Lancaster
Clement	Gephardt	Lantos
Clinger	Gibbons	Laughlin
Coleman (TX)	Gillmor	Leath (TX)
Collins	Glickman	Lehman (CA)
Conte	Gonzalez	Lehman (FL)
Conyers	Gordon	Levin (MI)
Cooper	Grant	Levine (CA)
Costello	Gray	Lewis (CA)
Coyne	Guarini	Lewis (FL)
Lewis (GA)	Pashayan	Solarz
Lipinski	Patterson	Spratt
Lloyd	Payne (NJ)	Staggers
Long	Payne (VA)	Stallings
Lowey (NY)	Pease	Stangeland
Luken, Thomas	Pelosi	Stark
Manton	Perkins	Stearns
Markey	Pickett	Stokes
Martinez	Pickle	Studds
Matsui	Poshard	Swift
Mavroules	Price	Synar
Mazzoli	Pursell	Tallon
McCloskey	Rahall	Tanner
McColium	Rangel	Tauzin
McCurdy	Ravenel	Taylor
McDermott	Ray	Thomas (CA)
McHugh	Richardson	Thomas (GA)
McMillan (NC)	Rinaldo	Torres
McMillen (MD)	Ritter	Torricelli
McNulty	Roe	Towns
Mfume	Rose	Traficant
Miller (CA)	Rostenkowski	Udall
Mineta	Rowland (GA)	Unsoeld
Moakley	Roybal	Valentine
Mollohan	Russo	Vento
Montgomery	Sabo	Visclosky
Moody	Sangmeister	Volkmer
Morrison (CT)	Sarpalius	Walgren
Mrazek	Savage	Watkins
Murphy	Sawyer	Waxman
Murtha	Scheuer	Weiss
Nagle	Schroeder	Wheat
Natcher	Schumer	Whittaker
Neal (MA)	Serrano	Whitten
Neal (NC)	Sharp	Williams
Nowak	Sikorski	Wilson
Oakar	Sisisky	Wise
Oberstar	Skaggs	Wolf
Olin	Skelton	Wolpe
Ortiz	Slattery	Wyden
Owens (NY)	Slaughter (NY)	Yates
Owens (UT)	Smith (FL)	Yatron
Pallone	Smith (IA)	Young (FL)
Panetta	Smith (NJ)	

NOT VOTING—10

Atkins	Lukens, Donald	Washington
Crockett	Nelson	Young (AK)
Ford (TN)	Obey	
Hall (TX)	Traxler	

□ 1659

Messrs. DEFAZIO, MILLER of California, ESPY, DINGELL, and RAY changed their vote from "aye" to "no."

Mr. THOMAS of Wyoming, Mrs. ROUKEMA, Mrs. SAIKI, and Messrs. STENHOLM, PENNY, GEREN of Texas, and CONDIT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1700

AMENDMENT OFFERED BY MRS. BENTLEY

Mrs. BENTLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BENTLEY:

Page 26, line 7, insert after "is being sought." the following:

"(12)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States or in Canada. The United States may reserve a nonexclusive, nontransferable, irrevocable paid up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in

the United States or Canada, until the expiration of a first patent obtained in connection with such intellectual property.

"(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

"(C) Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.

Mrs. BENTLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. HARRIS). Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. BENTLEY. Mr. Chairman, I first want to commend the Committee on Science, Space, and Technology for its fine work on the ATP Program. The legislation addresses a serious problem, and I want to congratulate the chairman of the committee, the gentleman from New Jersey [Mr. ROE], and the ranking minority member, the gentleman from Pennsylvania [Mr. WALKER], for their leadership in this matter.

Mr. Chairman, this legislation addresses a serious problem. Since the United States must remain competitive, the $250 million allocated by the ATP will stimulate advanced technologies and thus stimulate our Nation's competitive posture.

However, this investment is the starting gate rather than the finish line. No matter how much technology we generate, our competitive position will not be enhanced unless we infuse this technology into our economy.

A few weeks ago, some disturbing statistics were released. For the first time since World War II, a foreign nation invested more money in capital improvements inside than did the United States. Although the $560 billion invested by Japan was "only" $30 billion more than the United States investment, the statistics demonstrates Japan's commitment to production and manufacturing—the linchpin of competitive success.

The statistics concerning capital improvement investments are even more alarming when you consider that Japan has half the population of the United States and, therefore, on a per capita basis, the Japanese have invested twice as much money in capital improvements within its own borders than the United States has.

The Bentley/Hunter amendment, in its way, recognizes this discrepancy. This country must make an ongoing commitment to technology research and product development.

The National Institute of Standards and Technology [NIST] has submitted proposed regulations requiring that "title to technologies funded by the ATP should vest in one of the participants in the government funded research and development projects."

Neither the proposed regulations nor H.R. 5072 clearly states whether foreign participants could receive title to Government funded advanced technologies. The Bentley/Hunter amendment would clarify this situation by simply stating that "title to any technology derived from government funds must remain in an American or Canadian firm."

What is title? Title is ownership. So how does this amendment benefit American companies? We all have heard the advertising slogan, "Membership has its privileges." Well, "ownership has its privileges" and certain rights.

Title to these technologies will become an asset to a United States or Canadian company because the title holder will be able to negotiate cross-licensing agreements and will receive royalties from the technologies.

By conferring title to U.S. companies, Americans will benefit from the royalties, which are taxable income, and the control that goes hand in hand with the privileges of ownership.

I must stress that conferring title will not, in any way, preclude any licensing arrangement between these companies and foreign firms. Business should continue as usual.

If American taxpayers are funding research and development projects that allow foreign participation, then ownership of the technology should remain in American hands.

This amendment gives the privilege of ownership to companies incorporated in the United States or Canada.

Mr. Chairman, I just want to say that I really wanted to make this amendment a lot stronger, but I was told by the chairman of the committee and others that it would not have a chance if I did, so I deferred to the chairman, and that is the amendment I have offered.

Mr. ROE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have worked very vigorously with the gentlewoman from Maryland [Mrs. BENTLEY] in helping to come to a consensus of her very important amendment. I think that the substance of the amendment is laudable. I think what is important to us is that her amendment will ensure that title to inventions, other than the program, will stay in America. That, I think, is an extraordinary improvement to this legislation, since they owe their existence, as the gentlewoman pointed out, very basically to the funding through taxpayers' money in the United States going into this research.

The amendment further assures that the Government has the legal right to use these inventions, as I understand it, and there are no statutory restrictions on the licensing of the inventions, thereby permitting total widespread use.

Mr. Chairman, we by all means support the amendment. I think it is an excellent amendment, and we very strongly support the gentlewoman's effort. We have absolutely no objection to it on this side of the aisle.

Mrs. BENTLEY. Mr. Chairman, if the gentleman will yield, let me thank the gentleman for those comments.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think that at a time when we are moving toward a global economy the last thing we need to do is discourage people from investing in America. The problem with this amendment is that while it does allow licensing beyond our borders, it is an impediment in the way of those who wish to invest in America and then participate as a part of that investment in high-technology research. I think that would be a mistake. I think it would be one more issue to assure that this program has no chance of being signed by the administration.

So, therefore, Mr. Chairman, I oppose the amendment.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. FRENZEL. Mr. Chairman, I understand the focus of the Bentley amendment. I think I know what the gentlewoman is trying to do. I congratulate the gentlewoman on having softened it because of some earlier complaints, and I think she has done a good job of trying to put it in acceptable form.

Unfortunately, for me and, I think, probably for the administration, it is not yet acceptable. The idea of preventing sales between a willing buyer and a willing seller involving patents of which we have no understanding at this point seems to me to be a rather unnecessary restraint of trade.

□ 1710

Mr. Chairman, the ability to license will be helpful, but, on the other hand, may give rise to more trade problems. As many Members know, we have complaints not about so-called gray market imports from licensees who can produce the same product outside the United States which is produced inside.

Mr. Chairman, I would simply recapitulate by saying that I do not think this is the best use of America's resources to say what we will never sell and what we will only rent out, and I think it is eventually going to be, or is already, conceived by our trading partners as restraint of trade and is going

to give us some difficulties in the future.

As I look at this bill and see the restraints of foreign-owned companies in participating in our program, in looking at the Buy America language of the gentleman from Ohio [Mr. TRAFICANT], in looking at the language of the gentlewoman from Maryland [Mrs. BENTLEY], which I believe the House is going to accept, and then the defeat on top of that of the amendment of the gentleman from Pennsylvania [Mr. WALKER], it seems quite clear that the House has no intention of enacting a bill, but simply wants to pass a dream.

Mr. Chairman, I intend to vote against the amendment of the gentlewoman from Maryland [Mrs. BENTLEY] and against the bill.

The CHAIRMAN pro tempore (Mr. HARRIS). The question is on the amendment offered by the gentlewoman from Maryland [Mrs. BENTLEY].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. HORTON

Mr. HORTON. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. HORTON: Page 2, amend the items in the table of contents relating to the sections of title IV to read as follows:

Sec. 401. Major science and technology proposals.
Sec. 402. National high performance computer technology program.
Sec. 403. Presidential Commission on Reducing Capital Cost for Emerging Technology.
Sec. 404. Research, development, technology utilization, and Government procurement policy.

Page 32, lines 9 through 26, strike section 401.

Page 33, line 1, strike "SEC. 402." and insert in lieu thereof "SEC. 401.".

Page 33, line 7, strike "SEC. 403." and insert in lieu thereof "SEC. 402.".

Page 39, line 14, strike "SEC. 404." and insert in lieu thereof "SEC. 403.".

Page 40, line 10, strike "section 403" and insert in lieu thereof "section 402".

Page 44, line 12, strike "SEC. 405." and insert in lieu thereof "SEC. 404.".

Page 45, line 17, strike "sections 403 and 404" and insert in lieu thereof "sections 402 and 403".

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HORTON. Mr. Chairman, my amendment strikes the language in this bill that would elevate the director of the Office of Science and Technology Policy to executive 1 level from his current executive level 2 position.

Mr. Chairman, at the outset I want to indicate that I feel strongly about this amendment. I also want to indicate my high regard and esteem for the chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. ROE]. The chairman and myself are very close personal friends. I have the highest regard for his integrity and his abilities. He is a fine leader of this very important committee, which is one of the most important, especially as it relates to our space program. He has done an excellent job in his leadership of this committee. He and I jointly work as a dean of our delegations. He is the dean of the New Jersey delegation. I am the dean of the New York delegation. I have the highest regard and respect for him, especially with regard to this legislation and the work that he does on the committee.

I would say also that the elevation of the director of the Office of Science and Technology Policy to executive level 1 is something that would normally come under the jurisdiction of the Committee on Government Operations because the Executive Office of the President is under the jurisdiction of the Committee on Government Operations, and this does affect the Executive Office of the President. Also, the elevation from level 2 to level 1 would normally come under the auspices or the jurisdiction of the Committee on Post Office and Civil Service on which I serve. Mr. Chairman, serving as one of the ranking members on that committee, and then as the ranking member on the Committee on Government Operations, I must move to strike this language, but hopefully, if this amendment does pass, and I would like the gentleman from New Jersey [Mr. ROE] to accept this amendment, but, if he does not, I would hope that we could later have the appropriate types of hearings to determine whether or not this office ought to be elevated.

However, Mr. Chairman, I agree that the director's position is important, and I believe, too, that it deserves the greatest visibility within this or any administration. Our Nation is falling behind in science and technology education, as well as research and development and manufacturing. President Bush, too, recognizes the importance of his science adviser, as is evident by the appointment of Dr. Allan Bromley and the inclusion of this needed nuclear physicist in White House Cabinet meetings. There have been many persons who have served in this office, but none is more highly qualified than Dr. Allan Bromley, and I certainly do not want this amendment to affect in any way the high regard and respect for Dr. Bromley that is held throughout this House and throughout this Nation. He is probably one of the best that has ever served in this office, however, more importantly, it was President Bush who elevated the position by designating Dr. Bromley as Assistant to the President for Science and Technology from his position as the director of the Office of Science and Technology Policy.

I do not believe, however, that raising Dr. Bromley to the position of executive 1 level improves either his already strong position with the President or his ability to work with other departments and agencies in formulating policy on science and technology related issues. Instead the elevation to executive level 1 creates inconsistencies within the White House staff and the Government salary structure.

For example, if this legislation is enacted, the President's science adviser would be paid more than his chief of staff. Simply stated, that just does not make sense. The elevation of any Government official to Cabinet level salary status deserves careful consideration.

Today, Mr. Chairman, and I point this out very emphatically, today there are only three Government officials other than Cabinet officers who are at the executive 1 level. These are the Director of OMB, the U.S. Trade Representative, and the Director of the Office of National Drug Control Policy, or the drug czar.

Mr. Chairman, I remember when that legislation, the drug legislation, went through our committee. The chairman of the committee, the gentleman from Texas [Mr. BROOKS], and I worked very carefully on this subject, and we were careful to have hearings and to examine very carefully whether or not that ought to be elevated to the Cabinet level position or executive 1.

Those are only three: The Director of OMB, the U.S. Trade Representative, and the drug czar.

Mr. Chairman, the executive 2 level status is adequate. Dr. Bromley is in good company. He shares the same level as the Administrator of NASA, the EPA Administrator, and the White House Chief of Staff, to name just a few.

It has been argued that Dr. Bromley sits in meetings with Cabinet officers but does not enjoy the same status of these officials. The fact is that a number of executive 2 level officials participate in Cabinet meetings, including EPA Administrator Reilly, the White House Chief of Staff, John Sununu, and legal counsel, C. Boyden Gray. I have heard John Sununu described in many ways, but no one has ever accused him of having the status to be effective in his position. I believe the same is true of Dr. Bromley.

My point is that one's effectiveness in his or her position is not completely dependent on the job classification. Dr. Bromley is doing an outstanding job. He has the President's ear. We

need not impose inconsistencies on the Government, and specifically White House salary and position structure, in the name of improving science and technology.

Mr. Chairman, I urge my colleagues to support this amendment.

□ 1720

Mr. ROE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are almost done.

There is nobody in this House, including the Members from New Jersey, who have a higher regard for the distinguished gentleman from New York [Mr. HORTON].

I know this is a bit of a flap at the White House, and I am sorry for that. Somebody had mentioned in their passionate speech today that Craig Field had left the Government and had gone elsewhere, and so forth. It seems to me that we had strong debate in the House as to whether or not Members of Congress were being paid adequately, not only for their time, but for their knowledge and so forth. It seems to me that if science, space, and technology are as important as we say it is important in this debate today, then we ought to be saying does the person in the White House who is the chief advisor to the President of the United States in every respect where science and technology is involved, who handles an overall decisionmaking pattern, if you like, of $100 billion a year, plus or minus, in the research of the Nation, who is called upon to advise the Cabinet of the United States and members of the Cabinet as to science and technology issues; very fierce issues have been arising here in the last 6 months or a year in the space program, international science cooperation and so forth, I asked my staff, and I do not have that information available, as to what the difference in the level was in dollars between his present level up to level 1.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ROE. Yes, of course, I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, as I understand, the executive level 2 salary is $96,600, and the executive level 1 is $107,300. That is the Cabinet level salaries at the present time.

Mr. ROE. So it is a difference of relatively a few thousand dollars.

Well, I am not going to argue with the gentleman from New York [Mr. HORTON], I think too much of him; but I would hope that we vote this down.

It seems to me the people of this country looked at us and they said, are we worth it? We have had that in some of our primaries, as I look across the aisle here, and we said to the people of the United States that we felt that Members of Congress were really important people, leaders and executives in the Nation, and ought to be able to stay here, all citizens ought to be, at a level of salary they could really support; so we are talking about a few thousand dollars difference here, but there is another principle involved. I think fundamentally the principle is, does the person who is appointed by the President and confirmed by the Senate, who is going to represent science and technology in the Nation, to advise the President of the United States both domestically and internationally, should for some reason he be lesser paid than the person who heads up the U.S. Trade Representative or the drug czar? That is the issue, to be paid considerably less in either case than Members of Congress.

I think we ought to search our conscience on this. I would really respectfully suggest to vote down this amendment and let this matter resolve itself.

Mr. WALKER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I hope the Members will think a little bit about what they are doing here. The question is not whether we have respect for the people, whether they ought to be paid the amount that indicates that respect. The question here is one of properly managing an administration.

Now, what we are suggesting in this bill is that this particular adviser to the President should be paid more than the President's chief adviser, his chief of staff. Does that make any sense at all to do that?

We are suggesting here that this adviser ought to be paid more than the National Security Adviser to the President, Mr. Scowcroft. Does that make any sense?

We are suggesting that this adviser ought to be paid more than the head of the Council of Economic Advisers. Does that make any sense?

We are suggesting that it is more important than the EPA Administrator. Does that make any sense?

We are suggesting that it is more important than the NASA Administrator. Does that make any sense?

I really think that we ought to consider just the fact that the power within the White House does not depend upon the salary level. It depends on how the President regards this person in terms of advice.

Obviously, John Sununu is not held down in terms of advising the President and having power and clout within the administration by the fact that he is in executive 2 salary.

Why would we think the Science Advisor would have anymore problems being respected within the administration? He will not. In fact, the administration raised the Science Advisor to this level to put him on a par with the rest of these folks; the same thing with the National Security Advisor. This is one of the most influential advisers in the Government. Certainly the Science Advisor should be on the same level, but to now suggest that we ought to move him above that level, I just think makes somewhat of a difficult situation.

Let me also point out that a little while earlier today we were very sensitive to the fact that one committee of the Congress did not like some of the language that was in our bill, so we struck out a provision relating to the research and development tax credit at the insistence of one of the committees.

Now we are also dealing with an area that another committee of the Congress has concerns about, namely, the Post Office and Civil Service Committee, that we have waded into their jurisdictional area where they properly should hold hearings, and yet here we are not sensitive to what they should be doing.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, there are two issues. One, of course, is the pay, and I want to indicate at this point that I have no problem with the pay increase for Dr. Bromley or any of the other top executives. I have voted consistently for pay increases, not only for Members of Congress, but I have been in the forefront of trying to raise salaries in the executive section. I think we have a hard enough time trying to keep people like Dr. Bromley and others in the Executive Branch. They make a tremendous contribution, so I have no problem with that.

I would point out, however, that pay is a subject that is under the jurisdiction of the Post Office and Civil Service Committee. We have not had this subject before us. We are in the process right now of having hearings and we will have hearings next week on a pay bill for Federal employees. That is under the Post Office and Civil Service Committee.

The other is the structure of the Executive Office of the President. Now, that is under the jurisdiction of the Government Operations Committee. I think that has to be very carefully considered when we talk in terms of elevating someone else to a Cabinet level position, and that is what we are talking about doing here, elevating this office, this assistant to the President to a Cabinet level position. I think we ought to do more study on that and have hearings and look at the subject with regard to others before we disorganize the structure of the Executive Office of the President.

Mr. WALKER. We are really in the jurisdiction of two committees.

Mr. HORTON. Post Office and Civil Service, and Government Operations.

Mr. WALKER. And neither of those committees at this point have had any hearings or have reflected at all on what it is we are about to do.

Mr. HORTON. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. WALKER. I think the gentleman makes a good point with regard to the Executive Office of the President, that we are likely to end up causing some dislocations there, without having given proper thought to it.

In all honesty, this was not discussed at all in a major sense within our committee. It was something that was added to the bill. It was almost added as a matter of fact. We did not have long testimony or anything indicating that this would be of great value to the ATP Program, so this is something that we are doing almost as a throwaway and it is obvious that it is something that should be done with a good deal more thought, so I would certainly support the gentleman's amendment.

The CHAIRMAN pro tempore (Mr. HARRIS). The question is on the amendments offered by the gentleman from New York [Mr. HORTON].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 195, not voting 10, as follows:

[Roll No. 219]

AYES—227

Archer	DeWine	Horton
Armey	Dickinson	Houghton
Baker	Dixon	Hubbard
Ballenger	Dorgan (ND)	Huckaby
Bartlett	Dornan (CA)	Hunter
Barton	Douglas	Hyde
Bateman	Dreier	Inhofe
Bennett	Duncan	Ireland
Bereuter	Early	Jacobs
Bilirakis	Emerson	James
Bliley	English	Johnson (CT)
Boehlert	Espy	Jontz
Broomfield	Fawell	Kanjorski
Brown (CO)	Fields	Kasich
Bryant	Fish	Kennelly
Buechner	Flake	Kolbe
Bunning	Frenzel	Kostmayer
Burton	Gallegly	Kyl
Bustamante	Gallo	Lagomarsino
Byron	Gekas	Leach (IA)
Callahan	Geren	Lent
Campbell (CA)	Gillmor	Levin (MI)
Cardin	Gilman	Lewis (CA)
Carr	Gingrich	Lewis (FL)
Chandler	Goodling	Lightfoot
Clay	Goss	Livingston
Clinger	Gradison	Long
Coble	Grandy	Lowery (CA)
Coleman (MO)	Grant	Machtley
Combest	Green	Madigan
Condit	Gunderson	Marlenee
Conte	Hammerschmidt	Martin (IL)
Conyers	Hancock	Martin (NY)
Coughlin	Hansen	Martinez
Courter	Hastert	McCandless
Cox	Hefley	McCollum
Craig	Henry	McCrery
Crane	Herger	McDade
Dannemeyer	Hiler	McEwen
Davis	Holloway	McGrath
DeLay	Hopkins	McMillan (NC)
Meyers	Richardson	Smith, Denny (OR)
Mfume	Ridge	Smith, Robert (NH)
Michel	Rinaldo	Smith, Robert (OR)
Miller (OH)	Roberts	Snowe
Miller (WA)	Robinson	Solomon
Molinari	Rogers	Spence
Montgomery	Rohrabacher	Stangeland
Moorhead	Ros-Lehtinen	Stearns
Morella	Rose	Stenholm
Morrison (WA)	Roth	Stump
Murphy	Roukema	Sundquist
Myers	Rowland (CT)	Tauke
Nielson	Saiki	Tauzin
Oakar	Sangmeister	Thomas (CA)
Obey	Sarpalius	Thomas (WY)
Olin	Savage	Towns
Owens (UT)	Saxton	Traxler
Oxley	Schaefer	Upton
Packard	Schiff	Vander Jagt
Parker	Schneider	Vucanovich
Parris	Schuette	Walker
Pashayan	Schulze	Walsh
Patterson	Sensenbrenner	Watkins
Paxon	Shaw	Weber
Payne (VA)	Shays	Weiss
Pease	Shumway	Weldon
Pelosi	Shuster	Whittaker
Petri	Sisisky	Wolf
Porter	Skeen	Wylie
Pursell	Slattery	Yatron
Quillen	Slaughter (NY)	Young (AK)
Rangel	Slaughter (VA)	Young (FL)
Ravenel	Smith (NE)	
Ray	Smith (NJ)	
Regula	Smith (TX)	
Rhodes	Smith (VT)	

NOES—195

Alexander	Feighan	McCloskey
Anderson	Flippo	McCurdy
Andrews	Foglietta	McDermott
Annunzio	Ford (MI)	McHugh
Anthony	Frank	McMillen (MD)
Applegate	Frost	McNulty
Aspin	Gaydos	Miller (CA)
Atkins	Gejdenson	Mineta
AuCoin	Gephardt	Moakley
Barnard	Gibbons	Mollohan
Bates	Glickman	Moody
Beilenson	Gonzalez	Mrazek
Bentley	Gordon	Murtha
Berman	Gray	Nagle
Bevill	Guarini	Natcher
Bilbray	Hall (OH)	Neal (MA)
Boggs	Hamilton	Neal (NC)
Bonior	Harris	Nowak
Borski	Hatcher	Oberstar
Bosco	Hawkins	Ortiz
Boucher	Hayes (IL)	Owens (NY)
Boxer	Hayes (LA)	Pallone
Brennan	Hefner	Panetta
Brooks	Hertel	Payne (NJ)
Browder	Hoagland	Penny
Brown (CA)	Hochbrueckner	Perkins
Bruce	Hoyer	Pickett
Campbell (CO)	Hughes	Pickle
Carper	Hutto	Poshard
Chapman	Johnson (SD)	Price
Clarke	Johnston	Rahall
Clement	Jones (GA)	Ritter
Coleman (TX)	Jones (NC)	Roe
Collins	Kaptur	Rostenkowski
Cooper	Kastenmeier	Rowland (GA)
Costello	Kennedy	Roybal
Coyne	Kildee	Russo
Darden	Kleczka	Sabo
de la Garza	Kolter	Sawyer
DeFazio	LaFalce	Scheuer
Dellums	Lancaster	Schroeder
Derrick	Lantos	Schumer
Dicks	Laughlin	Serrano
Dingell	Leath (TX)	Sharp
Donnelly	Lehman (CA)	Sikorski
Downey	Lehman (FL)	Skaggs
Durbin	Levine (CA)	Skelton
Dwyer	Lewis (GA)	Smith (FL)
Dymally	Lipinski	Smith (IA)
Dyson	Lloyd	Solarz
Eckart	Lowey (NY)	Spratt
Edwards (CA)	Luken, Thomas	Staggers
Engel	Manton	Stallings
Erdreich	Markey	Stark
Evans	Matsui	Stokes
Fascell	Mavroules	Studds
Fazio	Mazzoli	Swift
Synar	Udall	Wheat
Tallon	Unsoeld	Whitten
Tanner	Valentine	Williams
Taylor	Vento	Wilson
Thomas (GA)	Visclosky	Wise
Torres	Volkmer	Wolpe
Torricelli	Walgren	Wyden
Traficant	Waxman	Yates

NOT VOTING—10

Ackerman	Hall (TX)	Nelson
Crockett	Jenkins	Washington
Edwards (OK)	Lukens, Donald	
Ford (TN)	Morrison (CT)	

□ 1750

Messrs. KLECZKA, SYNAR, and FASCELL, and Mrs. BENTLEY changed their vote from "aye" to "no."

Messrs. BALLENGER, BILIRAKIS, PARKER, YOUNG of Florida, PURSELL, FLAKE, CLAY, RICHARDSON, BUSTAMANTE, and BRYANT, and Mrs. KENNELLY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. HARRIS). Are there other amendments to the bill?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. HARRIS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4329) to enhance the position of U.S. industry through application of the results of Federal research and development, and for other purposes, pursuant to House Resolution 422, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WALKER. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WALKER moves to recommit the bill to the Committee on Science, Space, and Technology with instructions to report the bill back to the House forthwith with the following amendment:

Page 30, line 18, strike "$250,000,000" and insert in lieu thereof "$150,000,000".

Mr. WALKER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Speaker, this motion to recommit is simply an effort to see whether or not we can effect some fiscal discipline in this bill.

In 1991, under this bill we will spend $100 million; in 1992, under this bill we will spend $250 million. My amendment would simply say that instead of $250 million we ought to make the authorization $150 million, and allow only a 50-percent increase in 1 year. I think that is a fairly substantial amount to increase, but it would be fiscally responsible as compared to the bill now before us.

I would urge the Members to vote for this amendment that will limit the increase between 1991 and 1992 to 50 percent.

With that, I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I rise in opposition to the motion. I do not want to take the Members' time, but we have been through this drill once before, and the Members of this House voted overwhelmingly to vote this amendment down before. It has been changed somewhat, but we would be opposed to this amendment because what it is going to do is gut the latter part of this bill.

So I would recommend to all our Members to vote no on the recommittal and yes on final passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of final passage.

The vote was taken by electronic device, and there were—yeas 165, nays 257, not voting 10, as follows:

[Roll No. 220]

YEAS—165

Archer	Hansen	Petri
Armey	Hastert	Porter
Baker	Hefley	Pursell
Ballenger	Herger	Quillen
Bartlett	Hiler	Regula
Barton	Holloway	Rhodes
Bateman	Hopkins	Roberts
Bennett	Houghton	Robinson
Bilirakis	Hunter	Rogers
Bliley	Hutto	Rohrabacher
Boehlert	Hyde	Ros-Lehtinen
Broomfield	Inhofe	Roth
Brown (CO)	Ireland	Roukema
Buechner	Jacobs	Rowland (CT)
Bunning	James	Saiki
Burton	Johnson (CT)	Saxton
Callahan	Johnson (SD)	Schaefer
Campbell (CA)	Kasich	Schneider
Chandler	Kolbe	Schuette
Clinger	Kyl	Schulze
Coble	Lagomarsino	Sensenbrenner
Coleman (MO)	Leach (IA)	Shaw
Combest	Lent	Shays
Conte	Lewis (CA)	Shumway
Coughlin	Lewis (FL)	Shuster
Courter	Lightfoot	Skeen
Cox	Livingston	Slaughter (VA)
Craig	Lowery (CA)	Smith (NE)
Crane	Machtley	Smith (TX)
Dannemeyer	Madigan	Smith (VT)
Davis	Marlenee	Smith, Denny (OR)
DeLay	Martin (IL)	
DeWine	Martin (NY)	Smith, Robert (NH)
Dickinson	McCandless	
Dornan (CA)	McCollum	Smith, Robert (OR)
Dreier	McCrery	
Duncan	McDade	Snowe
Emerson	McEwen	Solomon
Fawell	McGrath	Spence
Fields	McMillan (NC)	Stearns
Fish	Meyers	Stump
Frenzel	Michel	Sundquist
Gallegly	Miller (OH)	Tauke
Gallo	Miller (WA)	Thomas (CA)
Gekas	Molinari	Thomas (WY)
Gillmor	Moorhead	Upton
Gingrich	Morrison (WA)	Vander Jagt
Goodling	Myers	Vucanovich
Goss	Neal (NC)	Walker
Gradison	Nielson	Walsh
Grandy	Olin	Weber
Grant	Oxley	Weldon
Green	Packard	Whittaker
Gunderson	Parker	Wylie
Hammerschmidt	Pashayan	Young (AK)
Hancock	Paxon	Young (FL)

NAYS—257

Alexander	Bryant	Downey
Anderson	Bustamante	Durbin
Andrews	Byron	Dwyer
Annunzio	Campbell (CO)	Dymally
Anthony	Cardin	Dyson
Applegate	Carper	Early
Aspin	Carr	Eckart
Atkins	Chapman	Edwards (CA)
AuCoin	Clarke	Engel
Barnard	Clay	English
Bates	Clement	Erdreich
Beilenson	Coleman (TX)	Espy
Bentley	Collins	Evans
Bereuter	Condit	Fascell
Berman	Conyers	Fazio
Bevill	Cooper	Feighan
Bilbray	Costello	Flake
Boggs	Coyne	Flippo
Bonior	Darden	Foglietta
Borski	de la Garza	Ford (MI)
Bosco	DeFazio	Frank
Boucher	Dellums	Frost
Boxer	Derrick	Gaydos
Brennan	Dicks	Gejdenson
Brooks	Dingell	Gephardt
Browder	Dixon	Geren
Brown (CA)	Donnelly	Gibbons
Bruce	Dorgan (ND)	Gilman
Glickman	McDermott	Scheuer
Gonzalez	McHugh	Schiff
Gordon	McMillen (MD)	Schroeder
Gray	McNulty	Schumer
Guarini	Mfume	Serrano
Hall (OH)	Miller (CA)	Sharp
Hamilton	Mineta	Sikorski
Harris	Moakley	Sisisky
Hatcher	Mollohan	Skaggs
Hawkins	Montgomery	Skelton
Hayes (IL)	Moody	Slattery
Hayes (LA)	Morella	Slaughter (NY)
Hefner	Mrazek	Smith (FL)
Henry	Murphy	Smith (IA)
Hertel	Murtha	Smith (NJ)
Hoagland	Nagle	Solarz
Hochbrueckner	Natcher	Spratt
Horton	Neal (MA)	Staggers
Hoyer	Nowak	Stallings
Hubbard	Oakar	Stangeland
Huckaby	Oberstar	Stark
Hughes	Obey	Stenholm
Johnston	Ortiz	Stokes
Jones (GA)	Owens (NY)	Studds
Jones (NC)	Owens (UT)	Swift
Jontz	Pallone	Synar
Kanjorski	Panetta	Tallon
Kaptur	Parris	Tanner
Kastenmeier	Patterson	Tauzin
Kennedy	Payne (NJ)	Taylor
Kennelly	Payne (VA)	Thomas (GA)
Kildee	Pease	Torres
Kleczka	Pelosi	Torricelli
Kolter	Penny	Towns
Kostmayer	Perkins	Traficant
LaFalce	Pickett	Traxler
Lancaster	Pickle	Udall
Lantos	Poshard	Unsoeld
Laughlin	Price	Valentine
Leath (TX)	Rahall	Vento
Lehman (CA)	Rangel	Visclosky
Lehman (FL)	Ravenel	Volkmer
Levin (MI)	Ray	Walgren
Levine (CA)	Richardson	Washington
Lewis (GA)	Ridge	Watkins
Lipinski	Rinaldo	Waxman
Lloyd	Ritter	Weiss
Long	Roe	Wheat
Lowey (NY)	Rose	Whitten
Luken, Thomas	Rostenkowski	Williams
Manton	Rowland (GA)	Wilson
Markey	Roybal	Wise
Martinez	Russo	Wolf
Matsui	Sabo	Wolpe
Mavroules	Sangmeister	Wyden
Mazzoli	Sarpalius	Yates
McCloskey	Savage	Yatron
McCurdy	Sawyer	

NOT VOTING—10

Ackerman	Ford (TN)	Morrison (CT)
Crockett	Hall (TX)	Nelson
Douglas	Jenkins	
Edwards (OK)	Lukens, Donald	

□ 1814

The Clerk announced the following pair:

On this vote:

Mr. Douglas for, with Mr. Morrison of Connecticut against.

Mr. MILLER of California and Mr. GILMAN changed their vote from "yea" to "nay."

Mr. SHAYS and Mr. NIELSON of Utah changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This vote is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 327, nays 93, not voting 12, as follows:

[Roll No. 221]

YEAS—327

Alexander	Engel	Long
Anderson	English	Lowery (CA)
Andrews	Erdreich	Lowey (NY)
Annunzio	Espy	Luken, Thomas
Anthony	Evans	Machtley
Applegate	Fascell	Manton
Aspin	Fawell	Markey
Atkins	Fazio	Martin (IL)
AuCoin	Feighan	Martin (NY)
Baker	Flake	Martinez
Barnard	Flippo	Matsui
Bateman	Foglietta	Mavroules
Bates	Ford (MI)	Mazzoli
Beilenson	Frank	McCloskey
Bennett	Frost	McCollum
Bentley	Gallo	McCurdy
Bereuter	Gaydos	McDade
Berman	Gejdenson	McDermott
Bevill	Gephardt	McHugh
Bilbray	Geren	McMillen (MD)
Bilirakis	Gibbons	McNulty
Boehlert	Gilman	Meyers
Boggs	Glickman	Mfume
Bonior	Gonzalez	Miller (CA)
Borski	Goodling	Miller (WA)
Bosco	Gordon	Mineta
Boucher	Grant	Moakley
Boxer	Gray	Molinari
Brennan	Green	Mollohan
Brooks	Guarini	Montgomery
Broomfield	Hall (OH)	Moody
Browder	Hamilton	Morella
Brown (CA)	Hammerschmidt	Morrison (WA)
Bruce	Harris	Mrazek
Bryant	Hatcher	Murphy
Buechner	Hawkins	Murtha
Bustamante	Hayes (IL)	Myers
Byron	Hayes (LA)	Nagle
Callahan	Hefner	Natcher
Campbell (CA)	Henry	Neal (MA)
Campbell (CO)	Hertel	Nowak
Cardin	Hoagland	Oakar
Carper	Hochbrueckner	Oberstar
Carr	Hopkins	Obey
Chandler	Horton	Ortiz
Chapman	Hoyer	Owens (NY)
Clarke	Hubbard	Owens (UT)
Clay	Huckaby	Pallone
Clement	Hughes	Panetta
Clinger	Hutto	Parker
Coleman (MO)	Hyde	Parris
Coleman (TX)	Johnson (CT)	Pashayan
Collins	Johnson (SD)	Patterson
Condit	Johnston	Payne (NJ)
Conte	Jones (GA)	Payne (VA)
Conyers	Jones (NC)	Pease
Cooper	Jontz	Pelosi
Costello	Kanjorski	Penny
Coughlin	Kaptur	Perkins
Courter	Kastenmeier	Pickett
Coyne	Kennedy	Pickle
Darden	Kennelly	Poshard
Davis	Kildee	Price
de la Garza	Kleczka	Pursell
DeFazio	Kolter	Rahall
Dellums	Kostmayer	Rangel
DeWine	LaFalce	Ravenel
Dickinson	Lancaster	Ray
Dicks	Lantos	Richardson
Dingell	Laughlin	Ridge
Dixon	Leach (IA)	Rinaldo
Donnelly	Leath (TX)	Ritter
Dorgan (ND)	Lehman (CA)	Robinson
Downey	Lehman (FL)	Roe
Durbin	Levin (MI)	Rogers
Dwyer	Levine (CA)	Ros-Lehtinen
Dymally	Lewis (CA)	Rose
Dyson	Lewis (FL)	Rostenkowski
Early	Lewis (GA)	Roukema
Eckart	Lipinski	Rowland (CT)
Edwards (CA)	Livingston	Rowland (GA)
Emerson	Lloyd	Roybal
Russo	Smith (TX)	Unsoeld
Sabo	Smith (VT)	Valentine
Saiki	Smith, Robert (OR)	Vander Jagt
Sangmeister	Snowe	Vento
Sarpalius	Solarz	Visclosky
Savage	Sawyer	Volkmer
Spence	Walgren	
Saxton	Staggers	Walsh
Scheuer	Stallings	Washington
Schiff	Stangeland	Watkins
Schneider	Stark	Waxman
Schroeder	Stenholm	Weiss
Schuette	Stokes	Weldon
Schulze	Studds	Wheat
Schumer	Swift	Whittaker
Serrano	Synar	Whitten
Sharp	Tallon	Williams
Shays	Tanner	Wilson
Sikorski	Tauke	Wise
Sisisky	Tauzin	Wolf
Skaggs	Taylor	Wolpe
Skelton	Thomas (GA)	Wyden
Slattery	Torres	Yates
Slaughter (NY)	Torricelli	Yatron
Smith (FL)	Towns	Young (AK)
Smith (IA)	Traficant	Young (FL)
Smith (NE)	Traxler	
Smith (NJ)	Udall	

NAYS—93

Archer	Hastert	Paxon
Armey	Hefley	Petri
Ballenger	Herger	Porter
Bartlett	Hiler	Quillen
Barton	Holloway	Regula
Bliley	Houghton	Rhodes
Brown (CO)	Hunter	Roberts
Bunning	Inhofe	Rohrabacher
Burton	Ireland	Roth
Coble	Jacobs	Schaefer
Combest	James	Sensenbrenner
Cox	Kasich	Shaw
Craig	Kolbe	Shumway
Crane	Kyl	Shuster
Dannemeyer	Lagomarsino	Skeen
DeLay	Lent	Slaughter (VA)
Dornan (CA)	Lightfoot	Smith, Denny (OR)
Douglas	Madigan	
Dreier	Marlenee	Smith, Robert (NH)
Duncan	McCandless	Solomon
Fields	McCrery	Stearns
Frenzel	McEwen	Stump
Gallegly	McGrath	Sundquist
Gekas	McMillan (NC)	Thomas (CA)
Gillmor	Michel	Thomas (WY)
Gingrich	Miller (OH)	Upton
Goss	Moorhead	Vucanovich
Gradison	Neal (NC)	Walker
Grandy	Nielson	Weber
Gunderson	Olin	Wylie
Hancock	Oxley	
Hansen	Packard	

NOT VOTING—12

Ackerman	Fish	Lukens, Donald
Crockett	Ford (TN)	Morrison (CT)
Derrick	Hall (TX)	Nelson
Edwards (OK)	Jenkins	Spratt

□ 1820

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology be discharged from further consideration of the Senate bill (S. 1191) to authorize appropriations for the Department of Commerce's Technology Administration, to speed the development and application of economically strategic technologies, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Technology Administration Authorization Act of 1989".

STATEMENT OF POLICY

SEC. 2. Congress finds that in order to help United States industries to speed the development of new products and processes and in order to maintain the economic competitiveness of the Nation, targeted increases are required in the programs and activities of the Department of Commerce's Technology Administration (hereafter in this Act referred to as the "Administration") and its National Institute of Standards and Technology (hereafter in this Act referred to as the "Institute").

TECHNOLOGY ADMINISTRATION

SEC. 3. There is authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary"), to carry out executive and analytical activities performed by the Administration, $4,675,000 for fiscal year 1990, which shall be available for the following line items:

(1) Executive Direction, $1,013,000.

(2) Technology Policy and Commercial Affairs, $2,662,000.

(3) Japanese Technical Literature, $1,000,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SEC. 4. (a) FINDING.—Congress finds that the Institute can assist United States industry in three ways to speed the commercialization of new products and processes: through the Institute's internal research and services programs, which provide industry with precise measurement and quality assurance techniques and with new generic manufacturing and process technologies; through its technology extension activities, which disseminate technical information and advanced manufacturing techniques to a wide range of companies; and through its Advanced Technology Program, which can promote and assist industry's own efforts to develop new generic technologies.

(b) INTERNAL RESEARCH AND SERVICES.—There is authorized to be appropriated to the Secretary, to carry out the internal science and technology research and services activities of the Institute, $196,360,000 for fiscal year 1990, which shall be available for the following line items:

(1) Measurement Research and Standards, $50,185,000, of which $3,200,000 shall be available for chemical measurements and quality assurance and $2,500,000 for research on the atomic-level performance of electrical and optical systems.

(2) Materials Science and Engineering, $27,084,000, of which $3,600,000 shall be available to develop improved processing procedures for highperformance composites, and $2,000,000 for steel technology.

(3) Engineering Measurements and Standards, $69,428,000, of which $7,500,000 shall be available to develop measurement and quality assurance techniques for applications in advanced imaging electronics, including advanced television, $7,800,000 for

research in superconductivity, $7,500,000 for lightwave and optoelectronic technology, $2,500,000 for a new initiative in advanced semiconductors, $2,500,000 for a new initiative in automation research, $3,650,000 for the development of measurement and quality assurance techniques for bioprocess engineering, and $9,912,000 for fire and building research.

(4) Computer Science and Technology, $15,088,000, of which $7,500,000 shall be available for computer security activities pursuant to the Computer Security Act of 1987 (Public Law 100-235; 100 Stat. 1724).

(5) Research Support Activities, $34,575,000, of which $6,000,000 shall be available for improvements in computer support and $6,500,000 shall be available for the Cold Neutron Research Facility.

(c) INDUSTRIAL TECHNOLOGY EXTENSION ACTIVITIES.—In addition to the sums already authorized by statute to be appropriated for fiscal year 1990 for Regional Centers for the Transfer of Manufacturing Technology and for assistance to State technology extension services, there is authorized to be appropriated to the Secretary to carry out the industrial technology extension activities to the Institute for fiscal year 1990, $4,000,000, of which $2,000,000 shall be available for the Technology Evaluation Program and $2,000,000 shall be available for the Institute's management of its industrial technology extension activities.

(d) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (b), so long as—

(A) the net funds transferred to or from any line item do not exceed 10 per centum of the amount authorized for that line item in such subsection; and

(B) the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item exceeding 10 per centum of the amount authorized for the line item in subsection (b), but such proposed transfer may not be made—

(A) unless a full explanation of any such proposed transfer and the reasons therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate; and

(B) until the expiration of the thirty-day period following the transmission of such written explanation.

(e) INTERNATIONAL STANDARDS PILOT PROGRAM.—(1) In addition to sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for each of the fiscal years 1990, 1991, and 1992, up to $250,000 for use in paying the Federal share of the cost of establishing and carrying out a pilot program, under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note), to assist in the development of comprehensive industrial standards for a country or countries that have requested such assistance from the United States and will require the continuous presence of United States personnel for a period of two or more years to provide such assistance.

(2) Of the moneys appropriated pursuant to the authorization under paragraph (1) for any such fiscal year, the aggregate amounts made available for such fiscal year from such moneys for purposes of establishing and carrying out the pilot program under paragraph (1) shall not exceed the aggregate amounts made available for such purposes for such fiscal year from non-Federal sources.

(f) OFFICE OF INDUSTRIAL TECHNOLOGY SERVICES.—Section 26 of the Act of March 3, 1901 (15 U.S.C. 278l), is amended by adding at the end the following new subsection:

"(c) There is established within the Institute an Office of Industrial Technology Services, which shall supervise the Centers program, the Institute's assistance to State technology programs, and such other activities or programs as the Secretary, Under Secretary, or Director may specify.".

ADVANCED TECHNOLOGY PROGRAM

SEC. 5. (a) FINDINGS AND STATEMENT OF POLICY.—Congress finds and declares the following:

(1) It is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology. Further, both joint research and development ventures (hereafter in this section referred to as "joint ventures") and selected research assistance to small firms are established and effective ways to create economically-valuable new technology. Joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no one company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation.

(2) In accordance wtih existing national policy, both the technology developed by any joint venture supported by the Department of Commerce as well as the resulting products should be made available, on a license and royalty basis and subject to the terms and conditions listed in this section, to nonparticipants.

(b) AUTHORIZATIONS FOR ASSISTANCE TO INDUSTRY-LED RESEARCH PROJECTS.—In addition to sums otherwise authorized by this Act, there is authorized to be appropriated to the Secretary, pursuant to section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), as amended by section 7 of this Act, and subject to the terms specified in subsections (c) and (d) of this section, $100,000,000 for fiscal year 1990, which shall be available for the following line items:

(1) Assistance to industry-led joint ventures to create and test generic enabling technologies, $75,000,000, which shall be available to support joint ventures in—

(A) advanced imaging electronics, including advanced television;

(B) advanced manufacturing;

(C) applications of high-temperature superconducting materials;

(D) advanced ceramic and composite materials; and

(E) semiconductor production equipment, for the development of x-ray lithography as a method of producing semiconductor chips.

(2) Assistance to industry-led joint ventures in other areas of technology which the Secretary and Director believe are of great economic importance to the United States, $13,000,000.

(3) Assistance to United States small businesses which have held Small Business Innovation Research Program Phase II awards from other Federal agencies and which the Institute judges to have promising technologies in economically important technical fields, $10,000,000.

(4) Program management, analyses, and workshops, $2,000,000.

(c) GENERAL TERMS AND CONDITIONS FOR AID TO JOINT VENTURES.—(1) Subsequent to any appropriation made pursuant to the authorizations in subsection (b) (1) or (2) of this section, the Secretary shall invite requests for financial assistance from existing or proposed joint ventures in the designated technical areas. If requests are made, the Secretary, after an appropriate review of the technical and economic merits of each request, shall judge which individual requests or combination thereof, if any, merit assistance and shall decide what type and level of assistance each such meritorious proposal shall receive, except that in addition to the terms and conditions set forth in section 28 of the Act of March 3, 1901, as amended by section 7 of this Act, the Secretary shall make no award of any funds appropriated pursuant to an authorization contained in subsection (b)(1) of this section unless and until—

(A) the joint venture is led by at least two North American companies;

(B) the joint venture demonstrates that it has raised, or has firm commitments for, private funds which exceed the level of Federal funds that the joint venture has requested from the Secretary;

(C) the joint venture has developed and submitted to the Secretary a business plan which, in the judgment of the Secretary, adequately—

(i) states a clear and focused research and development agenda, including the prototype products and production processes to be created and how that agenda complements a related research project or projects already being funded by Federal departments or agencies;

(ii) provides assurance that the joint venture will have a sound management team;

(iii) demonstrates that a party to the joint venture, acting on the joint venture's behalf, has filed a written notification with the Attorney General and the Federal Trade Commission, as required under section 6 of the National Cooperative Research Act of 1984 (15 U.S.C. 4305);

(iv) provides, as appropriate, for participation in the joint venture by small businesses owned by United States citizens;

(v) considers metrology needs, and as appropriate, draws upon the technology, expertise, and facilities in the Institute's laboratories;

(vi) sets forth provisions regarding the disposition of intellectual property resulting from the joint venture, including the rapid transfer of that intellectual property to members of the joint venture; the licensing, as appropriate, of the intellectual property to other North American companies and to foreign companies; and, as appropriate, requirements for royalties which will return funds to the investors in the joint venture, including the United States Government; and

(vii) sets forth reporting and auditing procedures; and

(D) the Secretary, after an appropriate review of the business plan, judges that the proposed research and development agenda and the proposed management team have high technical merit.

(2) The Secretary may not make an award to a joint venture for the performance of research and development, or for the construction of any research or other facility, unless the award is made using competitive or other merit-based procedures.

(d) PARTICIPATION BY FOREIGN COMPANIES.—(1) In addition to the terms and conditions set forth in section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), as amended by section 7 of this Act, and in subsection (c) of this section, the terms and conditions set forth in paragraph (2) of this subsection also shall apply to any joint venture which receives any financial assistance from the Secretary pursuant to the authorizations provided in subsection (b) (1) or (2).

(2)(A) No joint venture which contains a foreign company or a subsidiary thereof shall be eligible to receive financial assistance from the Secretary, and no foreign company shall participate in any joint venture which has received financial assistance from the Secretary, unless—

(i) the foreign company is prepared to make material contributions to the joint venture and the Secretary, after such consultations with the North American companies belonging to the joint venture or proposed joint venture as the Secretary considers appropriate, certifies that the foreign company's contributions and its participation in the joint venture would be in the interests of the United States;

(ii) the foreign company has already made and agrees to make a substantial commitment to the United States market, as evidenced by investments in the United States in long-term research, development, and manufacturing (including the domestic manufacture of major components and subassemblies); significant contributions to employment in the United States; and agreement with respect to any technology arising from the joint venture to manufacture within the United States products resulting from that technology, to procure parts and materials from competitive North American suppliers, and to support a North American supplier infrastructure;

(iii) the foreign company's home market affords reciprocal treatment to United States companies comparable to that afforded the foreign company in the United States, as evidenced by affording comparable opportunities for United States companies to participate in any joint ventures similar to those authorized under this Act; encouraging local investment opportunities for United States companies that are comparable to investment opportunities for foreign companies in the United States; and affording adequate and effective protection for the intellectual property rights of United States companies; and

(iv) the parent and affiliate organizations of the foreign company have not been identified on two or more occasions within the previous five years as a foreign manufacturer, producer, or exporter within the meaning of section 771(9)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(9)(A)) in proceedings that have resulted in or involved a final dumping or countervailing duty determination.

(B) In the event the Secretary certifies a foreign company under subparagraph (A)(i) of this paragraph and certifies that the foreign company meets the requirements set forth under subparagraph (A) (ii) through (iv) of this paragraph, the Secretary shall waive the prohibition on the foreign company's participation and allow the foreign company to participate in the joint venture, subject to such terms and conditions as the Secretary may specify.

(C) The Secretary shall monitor the participation of any foreign company allowed into a joint venture assisted by the Secretary, shall periodically report to Congress on the participation of such foreign company and any other foreign companies participating in federally assisted joint ventures, and shall suspend the foreign company and its employees from continued participation in the joint venture if the Secretary determines that the foreign company or its home market has failed to satisfy any of the criteria set forth in subparagraph (A) (i) through (iv) of this paragraph or any of the terms and conditions the Secretary may set under subparagraph (B) of this paragraph.

(3) The Secretary shall prescribe such rules and collect such information as may be necessary to monitor and enforce any requirements set forth in paragraph (2) of this subsection.

(e) COORDINATION.—(1) When reviewing private sector requests for Department of Commerce assistance to proposed joint ventures, and when monitoring the progress of assisted joint ventures, the Secretary shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary is authorized to work with the Secretary of Defense and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

(2) As appropriate, the Secretary shall coordinate Advanced Technology Program policies and activities with the economic, trade, and security policies of the Department of Commerce so as to promote the economic competitiveness of United States industries and shall, when so instructed by the President, coordinate these policies with the science, technology, economic, trade, and security policies of other Federal departments and agencies.

(f) ADVICE AND REVIEW.—In order to analyze the need for and value of joint ventures in specific technical fields, to evaluate any joint ventures for which North American companies request the Secretary's assistance, or to monitor the progress of any joint venture which receives Federal funds or loan guarantees pursuant to the authorizations contained in this section, the Secretary, the Under Secretary of Commerce for Technology, and the Director of the Institute may—

(1) organize and seek advice from such industry advisory committees as they consider useful and appropriate;

(2) organize an Advanced Electronics Advisory Board for the purpose of bringing industry and government leaders together to explore options for research and development in advanced electronics, including advanced television; and

(3) commission studies or reviews by the National Research Council.

(g) DEFINITIONS.—As used in this section, the term—

(1) "foreign company" means a company or other business entity in which majority ownership or control is held by individuals who are not citizens of the United States or Canada.

(2) "North American company" means a company or other business entity in which majority ownership or control is held by individuals who are citizens of the United States, or citizens of Canada, or a combination of United States and Canadian citizens, except that such term includes a company owned or controlled by Canadian citizens only if, in the judgment of the Secretary, the company is not acting, with respect to the joint venture concerned, as an agent or intermediary for a third-country company or foreign government.

REPORT ON HIGH DEFINITION TELEVISION

SEC. 6. (a) IN GENERAL.—On or before the expiration of the ninety-day period following the date of enactment of this Act, the Secretary shall submit to the President and Congress a report concerning the establishment, as a domestically based industry within the United States, of a high definition television enterprise or enterprises, together with ancillary products and services.

(b) ISSUES TO BE ADDRESSED.—The report required under subsection (a) shall identify the requirements for establishing in the United States a viable industry for the production of high definition television, the components of such television, and production and transmission equipment relating to programming for such television, and the development and manufacture of derivative and hybrid products relating to the computer and telecommunications industries.

(c) SCOPE; RECOMMENDATIONS.—The report required under subsection (a) shall—

(1) be comprehensive, including not only issues such as the encouragement of technologies, but issues pertaining to licensing, regulations, international standards, international trade, and specialized financing problems; and

(2) separately specify the recommendations of the Secretary for the role of the Federal Government in the development of such enterprise, including missions for individual elements of the executive branch, timelines and methods for attaining full coordination, requirements for legislative action necessary to the development of such enterprise, and anticipated funding needs.

(d) DEFINITION.—As used in this section, the term "enterprise" means—

(1) an entity—

(A) formed in the United States;

(B) operating its productive facilities in the United States; and

(C) owned in its entirety by citizens of the United States; or

(2) a foreign owned entity if—

(A) such entity establishes and operates research facilities in the United States for the purpose of developing and producing high definition television in the United States;

(B) all personnel of such entity engaged in such research in connection with high definition television in the United States are citizens of the United States;

(C) the research product of such entity is available for licensing without bias to any public and private entity or agency within the United States, and on an equal footing with any foreign entity or agency;

(D) such entity establishes and operates production facilities in the United States for the purpose of manufacturing finished components, components and subcomponents relating to high definition television, and ancillary equipment and spinoff products relating to high definition television; and

(E) all personnel of such entity engaged in the establishment and operation of such production facility are citizens of the United States.

AMENDMENT TO ADVANCED TECHNOLOGY PROGRAM PROVISIONS

SEC. 7. Section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting immediately after subsection (d) the following new subsection:

"(e)(1) The Secretary may, for the purpose of managing the Program, employ at the Institute such technical and professional personnel and fix their compensation without regard to the provisions of title 5, United States Code, as the Secretary may deem necessary for the discharge of responsibilities under this section.

"(2) The Secretary may, under the authority provided by paragraph (1) of this subsection, appoint for a limited term or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from industrial, academic, research, or State institutions to work for the Program.

"(3) The Secretary may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Secretary may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Secretary may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5, United States Code, to such an individual, in lieu of and when less than transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Program. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Secretary.".

SALARY ADJUSTMENTS

SEC. 8. In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal year 1990 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

AVAILABILITY OF APPROPRIATIONS

SEC. 9. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

ANNUAL INDUSTRIAL TECHNOLOGY REPORT

SEC. 10. Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended by adding at the end the following new subsection:

"(f) ANNUAL INDUSTRIAL TECHNOLOGY REPORT.—(1) By February 15 of each year following the date of enactment of this subsection, the Secretary, through the Under Secretary, shall submit to Congress a report on the state of United States industrial technology. Each such report shall include, but not be limited to—

"(A) a list of what the Secretary and Department of Commerce technical experts consider to be the most economically important technologies and the estimated current and future size of domestic and international markets for products derived from these technologies;

"(B) a list of the technologies and markets targeted by major trading partners for development or capture;

"(C) an assessment of the current state of United States product technology, process technology, and manufacturing capability in the fields of technology and the markets identified under subparagraph (A), as compared with the current levels of such technologies and manufacturing capability achieved, or future levels likely to be achieved, by major trading partners;

"(D) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners;

"(E) an analysis of private and public investments in the United States in research and development, including Federal research and development investments, by department and agency, in the specific fields of technology and the markets identified under subparagraph (A); a summary of Federal policies, including research policies, to promote United States industrial competitiveness in those fields of technology and markets; and an analysis of what additional private and Federal actions are needed to close gaps between the civilian technology base of the United States and the technology bases of major trading partners, including what steps are necessary to ensure that the Institute can provide North American companies with the support technologies needed to remain competitive in those fields of technology and markets;

"(F) an evaluation of flows of industrial technology between the United States and major trading partners, including flows of technology through licenses and patent-sharing or cross-licensing, corporate investments and acquisitions, investments in universities and government laboratories, technical literature, and personnel exchanges, and a summary and analysis of annual foreign investments in, and acquisitions of, high-technology firms or organizations within the United States; and

"(G) a statement concerning any policies, regulatory obstacles, or other institutional problems which, in the judgment of the Secretary, adversely affect the creation and use of industrial technology in the United States or limit the contribution that Federal research and development makes to United States leadership in industrial technology.

"(2) The Secretary may, to the extent permitted by other Acts, collect such information as may be necessary to prepare the annual report required by this subsection.

"(3) The Directors of the Office of Science and Technology Policy, the Office of Management and Budget, and the National Science Foundation, as well as the heads of other Federal departments and agencies, shall provide such information and assistance in the preparation of the annual report as the Secretary may request.".

REPORT ON STRATEGY FOR REDUCING THE COST OF CAPITAL

SEC. 11. (a) IN GENERAL.—Not later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall submit to Congress a report detailing options and a strategy for equalizing the real cost of capital, including interest rates, paid by manufacturing and electronics companies in the United States with the real cost of capital in Japan.

(b) TOPICS REQUIRED FOR REPORT.—The report shall include, but not necessarily be limited to, a discussion of the following topics:

(1) Such costs of capital paid by corporate borrowers in the United States and Japan during the ten-year period ending on the date of enactment of this Act, including such costs of capital under loan programs backed by the Government of Japan;

(2) the payback periods typically associated with such costs of capital and the effect of these costs and payback periods on the ability and willingness of companies in the two countries to make long-term investments in new research and development, products, and manufacturing plants;

(3) the consequences for the economic competitiveness and trade balance of the United States if United States companies are unable to invest substantially in new areas such as advanced television and related products, superconductivity, and advanced semiconductor production facilities;

(4) the expected levels of such costs of capital in the United States under various levels of United States budget deficits, trade deficits, and savings rates;

(5) the benefits and limitations of tax credits and other tax-based measures to reduce such costs of capital for United States companies, including their benefits and limitations in situations where initial investment costs of a company are high and the company initially generates little or no profit for which taxes are assessed;

(6) an analysis of the effect of other options for reducing such costs of capital for United States companies, including low-cost loans and loan guarantees, and the feasibility of using these options to reduce the costs of capital for United States companies to levels that are near or at effective Japanese levels; and

(7) a proposed strategy for reducing such costs of capital for United States companies to levels that are near or at effective Japanese levels.

(c) ASSISTANCE; CONSULTATION.—Other Federal departments and agencies shall provide the Secretary with such information and assistance as the Secretary considers necessary to prepare the report required by this section. The Secretary is encouraged to consult with private sector officials and experts during the preparation of the report.

REPORT ON CREATION AND COMMERCIALIZATION OF COLLEGE AND UNIVERSITY RESEARCH

SEC. 12. Not later than six months after the date of enactment of this Act, the Secretary, with the participation of the Director of the National Science Foundation, shall submit to Congress a program plan, including any necessary proposed regulations, to establish and implement collaborative programs between the two agencies to—

(1) stimulate the transfer of federally supported research to the private sector through steps to encourage and assist United States small businesses to develop and commercialize basic technologies created at colleges and universities; and

(2) assist academic researchers at a wide range of colleges and universities, including smaller institutions and institutions which do not traditionally receive large amounts of Federal research funds, to pursue high-quality research of economic potential and to transfer that research to the private sector.

REPORTS ON MANUFACTURING

SEC. 13. Not later than one hundred and twenty days after the date of enactment of

this Act, the Secretary shall submit to Congress the following two reports:

(1) A report on the feasibility and advisability of establishing, in affiliation with the Institute, a Quality Institute and a privately funded foundation to support that Quality Institute, the purpose of which would be—

(A) to conduct workshops and company tours to share with managers, engineers, and production employees in the United States advanced techniques for improving manufacturing organization, quality, and productivity, including team-oriented organizational approaches to managing production technology and corporate research and development; and

(B) to help develop and disseminate model curricula in advanced manufacturing which might be used by technical colleges and other educational institutions to provide training to students and manufacturing company employees.

(2) A report analyzing the advantages and disadvantages of small manufacturing firms in the United States participating in new multi-company manufacturing centers, either on a local or regional scale, and what steps, if any, in the judgment of the Secretary, the Federal Government can and should take to encourage the development of such new organizations for manufacturing.

REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH

SEC. 14. (a) IN GENERAL.—No later than February 1, 1990, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly discuss the feasibility and advisability of using the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in other Federal departments and agencies which fund research and development.

(b) ANALYSIS AND DISCUSSION.—The report shall include, but not necessarily be limited to, an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new programs to stimulate competitive research in the National Aeronautics and Space Administration; the Departments of Defense, Energy, Agriculture, Health and Human Services, and the Interior; and the Environmental Protection Agency.

MOTION OFFERED BY MR. ROE

Mr. ROE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROE moves to strike all after the enacting clause of the Senate bill, S. 1191, and to insert in lieu thereof the text of the bill, H.R. 4329, as passed by the House, as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Technology Preeminence Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY
Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Authorizations for program activities.
Sec. 104. Pilot program.
Sec. 105. Under Secretary for Technology.
Sec. 106. Japanese technical literature.
Sec. 107. National Technical Information Service.
Sec. 108. Clearinghouse for State and local initiatives on productivity, technology, and innovation.
Sec. 109. Salary adjustments.
Sec. 110. Construction of facilities.
Sec. 111. Technology transfer programs.
Sec. 112. Office of Technology Services.
Sec. 113. Unauthorized appropriations.
Sec. 114. Restrictions on contract awards.
Sec. 115. Prohibition against fraudulent use of "Made in America" labels.
Sec. 116. Buy-American Requirement.
TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS
Sec. 201. Emerging technology research and development.
TITLE III—AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980
Sec. 301. Federal laboratory consortium.
Sec. 302. Cooperative research and development agreements.
Sec. 303. Definition of Federal agency.
Sec. 304. Quality improvement.
TITLE IV—OFFICE OF SCIENCE AND TECHNOLOGY POLICY
Sec. 401. Major science and technology proposals.
Sec. 402. National high performance computer technology program.
Sec. 403. National Commission on Reducing Capital Costs for Emerging Technology.
Sec. 404. Research, development, technology utilization, and Government procurement policy.
TITLE V—INFORMATION COLLECTION AND DISSEMINATION
Sec. 501. Information collection and dissemination.
Sec. 502. Electronic format.
TITLE VI—HIGH RESOLUTION INFORMATION SYSTEMS
Sec. 601. Findings.
Sec. 602. Definitions.
Sec. 603. High Resolution Information Systems Board.
TITLE VII—REPORTS
Sec. 701. Biennial National Critical Technologies Report amendments.
Sec. 702. Report on advanced manufacturing and quality.
Sec. 703. Report on a strategy to stimulate competitive research.
Sec. 704. Standards methodology.
Sec. 705. Intergovernmental coordination.

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

SEC. 101. SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1990".

SEC. 102. STATEMENT OF POLICY.

The Congress finds that in order to help United States industries speed the development of new products and processes in order to maintain the economic competitiveness of the Nation, a strengthening of the programs and activities of the Department of Commerce's Technology Administration and the National Institutes of Standards and Technology is necessary.

SEC. 103. AUTHORIZATIONS FOR PROGRAM ACTIVITIES.

(a) FISCAL YEAR 1990.—

(1) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary") for fiscal year 1990, to carry out activities performed by the National Institute of Standards and Technology the sums set forth in the following line items:

(A) Measurement Research and Standards, $41,666,000.

(B) Materials Science and Engineering, $23,157,000.

(C) Engineering Measurements and Standards, $39,300,000.

(D) Computer Science and Technology, $9,440,000.

(E) Research Support Activities, $17,859,000.

(F) Cold Neutron Source Facility, $6,500,000 (for a total authorization of $26,000,000).

(G) Technology Services, $7,379,000.

(2) LIMITATIONS.—

(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the total amount authorized under subparagraph (C) of paragraph (1)—

(i) $4,000,000 are authorized only for the Center for Building Technology; and

(ii) $5,589,000 are authorized only for the Center for Fire Research,

and the two Centers shall not be merged.

(C) Of the total amount authorized under subparagraph (E) of paragraph (1), $7,000,000 are authorized only for the technical competence fund.

(D) Of the amount authorized under subparagraph (G) of paragraph (1), $150,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities.

(3) TRANSFERS.—(A) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(B) The Secretary may propose transfers to or from any line item listed in paragraph (1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made—

(i) unless a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(ii) 30 calendar days have passed following the transmission of such written explanation.

(4) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-

680), this Act contains the complete authorizations of appropriations for the National Institute of Standards and Technology for fiscal year 1990.

(b) FISCAL YEAR 1991.—

(1) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce for fiscal year 1991, to carry out activities performed by the National Institute of Standards and Technology the sums set forth in the following line items:

(A) Measurement Research and Standards, $50,769,000.

(B) Materials Science and Engineering, $27,295,000.

(C) Engineering Measurements and Standards, $54,947,000.

(D) Computer Science and Technology, $13,419,000.

(E) Research Support Activities, $23,047,000.

(F) Cold Neutron Source Facility, $6,545,000 (for a total authorization of $32,545,000).

(G) Technology Services, $7,636,000.

(2) LIMITATIONS.—

(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the total amount authorized for the National Institute of Standards and Technology under subparagraph (C) of paragraph (1) and the Earthquake Hazards Reduction Act of 1977—

(i) $4,000,000 are authorized only for the Center for Building Technology; and

(ii) $6,000,000 are authorized only for the Center for Fire Research,

and the two Centers shall not be merged.

(C) Of the total amount authorized under subparagraph (E) of paragraph (1), $7,223,000 are authorized only for the technical competence fund.

(D) Of the amount authorized under subparagraph (G) of paragraph (1), $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities.

(3) TRANSFERS.—(A) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(B) The Secretary may propose transfers to or from any line item listed in paragraph (1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made—

(i) unless a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(ii) 30 calendar days have passed following the transmission of such written explanation.

(4) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-680), this Act contains the complete authorizations of appropriations for the National Institute of Standards and Technology for fiscal year 1991.

(c) FISCAL YEAR 1992.—

(1) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce for fiscal year 1992, to carry out activities performed by the National Institute of Standards and Technology the sums set forth in the following line items:

(A) Measurement Research and Standards, $57,100,000.

(B) Materials Science and Engineering, including the Cold Neutron Source Facility, $36,200,000.

(C) Engineering Measurements and Standards, $61,100,000.

(D) Computer Science and Technology, $16,400,000.

(E) Research Support Activities, $30,000,000.

(F) Technology Services, $8,200,000.

(2) LIMITATIONS.—

(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the total amount authorized for the National Institute of Standards and Technology under subparagraph (C) of paragraph (1) and the Earthquake Hazards Reduction Act of 1977—

(i) $4,000,000 are authorized only for the Center for Building Technology; and

(ii) $6,000,000 are authorized only for the Center for Fire Research,

and the two Centers shall not be merged.

(C) Of the total amount authorized under subparagraph (E) of paragraph (1), $8,000,000 are authorized only for the technical competence fund.

(D) Of the amount authorized under subparagraph (F) of paragraph (1), $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities.

(3) TRANSFERS.—(A) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(B) The Secretary may propose transfers to or from any line item listed in paragraph (1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made—

(i) unless a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(ii) 30 calendar days have passed following the transmission of such written explanation.

(4) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-680), this Act contains the complete authorizations of appropriations for the National Institute of Standards and Technology for fiscal year 1992.

SEC. 104. PILOT PROGRAM.

Of the amounts authorized under section 103 (a)(1), (b)(1), or (c)(1) and section 201(f), up to $250,000 in each of the fiscal years 1990, 1991, and 1992 may be used to pay the Federal share of the cost of establishing and carrying out a pilot program, under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note), to assist in the development of comprehensive industrial standards for a country or countries that have requested such assistance from the United States and will require the continuous presence of United States personnel for a period of 2 or more years to provide such assistance. Such funds shall be made available for such purpose only to the extent that matching funds are received by the National Institute of Standards and Technology from sources outside the Federal Government.

SEC. 105. UNDER SECRETARY FOR TECHNOLOGY.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for the activities of the Office of the Under Secretary of Commerce for Technology—

(1) $3,470,000 for fiscal year 1990;

(2) $4,000,000 for fiscal year 1991; and

(3) $5,000,000 for fiscal year 1992.

SEC. 106. JAPANESE TECHNICAL LITERATURE.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary to carry out the Japanese Technical Literature Act of 1986 (Public Law 99-382)—

(1) $1,000,000 for fiscal year 1990;

(2) $1,000,000 for fiscal year 1991; and

(3) $1,500,000 for fiscal year 1992.

SEC. 107. NATIONAL TECHNICAL INFORMATION SERVICE.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for modernization plans of the National Technical Information Service described in section 212(f)(3)(D) of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989—

(1) $500,000 for fiscal year 1991; and

(2) $1,500,000 for fiscal year 1992.

(b) OPERATING COSTS.—Operating costs of the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered through the collection of fees.

(c) REPORT AND CERTIFICATION TO CONGRESS.—No funds appropriated pursuant to subsection (a)(2) shall be obligated before the Secretary of Commerce submits a report to the Congress which—

(1) describes the Department of Commerce's response to the Inspector General's Report No. ATD-024-0-001;

(2) includes a revised detailed modernization plan for the National Technical Information Service;

(3) contains a business plan which includes a profit and loss analysis for each product, service, and market component; and

(4) certifies that the National Technical Information Service has—

(A) employed a chief financial officer who is a certified public accountant with experience in the dissemination of scientific and technical information; and

(B) begun taking reasonable steps toward strengthening its accounting system in re-

sponse to the Inspector General's report described in paragraph (1).

SEC. 108. CLEARINGHOUSE FOR STATE AND LOCAL INITIATIVES ON PRODUCTIVITY, TECHNOLOGY, AND INNOVATION.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for the activities of the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation—

(1) $1,000,000 for fiscal year 1991; and

(2) $1,000,000 for fiscal year 1992.

SEC. 109. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for fiscal years 1990, 1991, and 1992 such sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 110. CONSTRUCTION OF FACILITIES.

Section 14 of the Act of March 3, 1901 (15 U.S.C. 278d), is amended by striking "herein:" and all that follows, and inserting in lieu thereof "herein.".

SEC. 111. TECHNOLOGY TRANSFER PROGRAMS.

(a) Section 25(d) of the Act of March 3, 1901 (15 U.S.C. 278k(d)), is amended by striking "and 1990" and inserting in lieu thereof "through 1992".

(b) Section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 is amended—

(1) in paragraph (4)—

(A) by striking "and"; and

(B) by inserting ", and 1992" after "1991"; and

(2) by striking paragraph (5).

SEC. 112. OFFICE OF TECHNOLOGY SERVICES.

Section 26 of the Act of March 3, 1901 (15 U.S.C. 2781), is amended by adding at the end the following new subsection:

"(c) There is established within the Institute an Office of Technology Services, which shall supervise the Centers program, the Institute's assistance to State technology programs, and such other activities or programs as the Secretary or Director may specify.".

SEC. 113. UNAUTHORIZED APPROPRIATIONS.

No funds appropriated for fiscal year 1991 or 1992 for activities of the National Institute of Standards and Technology shall be expended unless such activities have been specifically authorized by law.

SEC. 114. RESTRICTIONS ON CONTRACT AWARDS.

No person or enterprise domiciled or operating under the laws of a foreign government may be awarded a contract or subcontract made with funds authorized under this Act if that government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreement Act of 1979 (19 U.S.C. 2515(g)(1)(A)).

SEC. 115. PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS

If the Secretary determines that any person intentionally affixes a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the Secretary shall declare that person ineligible to receive any contract or subcontract from the Department of Commerce for a period of not less than three years and not more than five years.

SEC. 116. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY SECRETARY.—The Secretary is authorized to award to a domestic firm a contract for the purchase of goods, that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(2) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(3) the Secretary, in consultation with the United States Trade Representative, determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made for which—

(1) amounts are authorized by this Act to be made available; and

(2) solicitations for bids are issued after the date of enactment of this Act.

(d) REPORT TO CONGRESS.—The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this section—

(1) entered into with foreign firms pursuant to a determination made under subsection (b); and

(2) awarded to domestic firms pursuant to subsection (a),

in fiscal years 1991 and 1992.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

SEC. 201. EMERGING TECHNOLOGY RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This title may be cited as the "Emerging Technology Research and Development Act of 1990".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) technological innovation and its profitable inclusion in commercial products are critical components of the United States ability to raise the living standards of Americans and to compete in world markets;

(B) maintaining viable United States-based high technology industries is vital to both the national security and the economic well-being of the United States;

(C) foreign companies have become more successful in new product development and product improvement using a variety of emerging technologies and have made the world market for high technology products increasingly competitive;

(D) since the mid-1960s, a large percentage of United States Government assistance in technology development has been funded through the Defense Department;

(E) it is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology;

(F) joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no one company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation;

(G) materials research is transforming our physical world through breakthrough advances in ceramics, polymers, and composites, and other advances such as high temperature superconductivity may permit materials technologies to revolutionize such diverse industries as transportation, computing, and electrical transmission;

(H) United States overall leadership has diminished in the design, development, and manufacture of consumer electronic products and processes;

(I) high resolution information systems have the potential to revolutionize image transmission and by the 21st century to become the most significant consumer electronics product and have diverse applications, in areas such as semiconductors, flat screen displays, manufacturing, telecommunications, microprocessing, and software;

(J) it is vital that industry within the United States attains a leadership role and capability in development, design, and manufacture in fields such as advanced materials and high resolution information systems and related technologies; and

(K) the Advanced Technology Program, established under section 28 of the Act of March 3, 1901, is the appropriate vehicle for the United States Government to provide limited assistance to joint development within the United States of new high technology capabilities in fields such as advanced materials and high resolution information systems, and can help encourage United States industry to work together on problems of mutual concern.

(2) PURPOSES.—The purposes of this section are—

(A) to generally promote and assist in the development of advanced technologies and the generic application of such technologies to civilian products, processes, and services;

(B) to improve the competitive position of United States industry by supporting research and development by businesses and academic institutions into emerging technologies including high resolution information systems and advanced materials which have substantial potential to advance the economic well-being and national security of the United States;

(C) to support projects that range from idea exploration to prototype development and address long-term, high-risk areas of technological research, development, and application that are not otherwise being adequately developed by the private sector, but are likely to yield important benefits to the Nation; and

(D) to reduce the marginal cost of capital by leveraging the funding of United States based, industry-led joint ventures for emerging technologies through the Advanced Technology Program at the Department of Commerce.

(c) EMERGING TECHNOLOGY PROGRAM.—Section 28 of the Act of March 3, 1901, is amended—

(1) by inserting at the end of subsection (a) the following new sentence: "The Secretary, acting through the Director, may provide assistance as necessary under this section to identify and solve generic technology and manufacturing problems in emerging technology fields including high resolution information systems and advanced materials research and development so as to speed commercialization of products and services based on these technologies, and to establish procedures for technology sharing and technology transfer among members of a joint venture while protecting against transfer of intellectual properties, trade secrets, or proprietary data overseas.";

(2) in subsection (b)(1)(B), by inserting "through grants, cooperative agreements, or contracts" after "such joint ventures";

(3) in subsection (b)(2), by inserting "provide grants to and" before "enter into contracts";

(4) by adding at the end of subsection (d)(1) the following new sentence: "In selecting among proposals of relatively equal merit, preference shall be given to proposals requiring the lowest percentage of Federal funds.";

(5) in subsection (d)(3), by striking "cooperative agreement" both places it appears and inserting in lieu thereof "award";

(6) by amending subsection (d)(7) to read as follows:

"(7) The Secretary, acting through the Director, shall negotiate an agreement with each recipient of assistance under this section. In the case of a recipient which is a joint venture, such agreement shall delineate the activities and responsibilities of each participant of the joint venture as required by this section. Each agreement with any recipient under this section shall specify a period of time during which the Federal Government shall receive payments from any profits of the recipient, with respect to any technology developed by the recipient and arising from assistance provided under this section, in proportion to the percentage of the Federal share of the total investment cost of the recipient. Each agreement shall also provide the recipient with the option of paying to the Secretary, in lieu of payments required pursuant to the previous sentence, an amount determined by the Secretary to be equal to the full Federal investment in the recipient plus a reasonable return on such investment calculated as of the time such option is exercised. Funds received by the Secretary pursuant to an agreement described in this paragraph shall, to the extent provided in appropriations Acts, be available for carrying out this section. In the case of an agreement with a recipient receiving an award in an amount greater than $500,000, each such agreement shall be delivered to the appropriate committees of Congress within 180 days after the selection of the recipient.";

(7) by adding at the end the following new subsection:

"(f) Each joint venture receiving assistance under this section shall submit an annual report and operating plan to the Secretary, the appropriate committees of Congress, and the Comptroller General of the United States which—

"(1) describes, and modifies or proposes modifications to, as appropriate, the short- and long-term goals of the joint venture, and the allocation of resources to accomplish those goals;

"(2) describes the financial reporting and auditing procedures to be implemented by the members of the joint venture;

"(3) summarizes the technology accomplishments and applications of research results within the preceding year toward the short- and long-term goals described under paragraph (1);

"(4) summarizes the technology transfer agreements among members of the joint venture; and

"(5) summarizes the results of any audit of the joint venture conducted during the preceding year.";

(8) by adding at the end of subsection (d) the following new paragraphs:

"(10) A company shall be considered a United States business under this section and shall be eligible to participate in any joint venture receiving financial assistance from the Secretary only if—

"(A) the Secretary finds that the company's participation in the Program would be in the interests of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including the domestic manufacture of major components and subassemblies); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology, to procure parts and materials from competitive suppliers, and to support a United States and Canadian supplier infrastructure; and

"(B) either—

"(i) the company is a United States-owned company; or

"(ii) the company has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords local investment opportunities for United States-owned companies that are comparable to investment opportunities for foreign-owned companies in the United States; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

"(11) Grants, contracts, and cooperative agreements under this section shall be designed to support projects which are high risk and which have the potential for eventual substantial widespread commercial application. In order to receive a grant, contract, or cooperative agreement under this section, a research and development entity shall demonstrate to the Secretary significant and substantial experience in research and technology development and management in the project area in which the grant, contract, or cooperative agreement is being sought.

"(12)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States or in Canada. The United States may reserve a nonexclusive, nontransferable, irrevocable paid up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States or Canada, until the expiration of a first patent obtained in connection with such intellectual property.

"(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

"(C) Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.

(9) by amending subsection (e) to read as follows:

"(e) The Secretary may, 30 days after notice to the Congress, suspend a company or joint venture from continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to honor the agreement described in subsection (d)(7) or to satisfy any of the criteria set forth in subsection (d)(10), and that it is in the national interest of the United States to do so."; and

(10) by inserting after subsection (f) the following new subsections:

"(g)(1) When reviewing private sector requests for Department of Commerce assistance to proposed joint ventures, and when monitoring the progress of assisted joint ventures, the Secretary shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary is authorized to work with the Secretary of Defense and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

"(2) As appropriate, the Secretary shall coordinate Program policies and activities with the economic, trade, and security policies of the Department of Commerce so as to promote the economic competitiveness of United States industries and shall, when so instructed by the President, coordinate these policies with the science, technology, economic, trade, and security policies of other Federal departments and agencies.

"(h) In order to analyze the need for and value of joint ventures in specific technical fields, to evaluate any joint ventures requesting the Secretary's assistance, or to monitor the progress of any joint venture which receives Federal funds pursuant to the authorizations contained in this section, the Secretary, the Under Secretary of Commerce for Technology, and the Director may organize and seek advice from such industry advisory committees as they consider useful and appropriate.

"(i) Up to 10 percent of the funds appropriated for carrying out this section may be used for standards development activities by the Institute in support of the purposes of this section.

"(j) As used in this section—

"(1) the term 'high resolution information systems' means equipment and techniques required to create, transmit, receive, display, process, record, store, recover, and play back high resolution images and accompanying sound material;

"(2) the term 'advanced materials' means a field of research including study of composites, ceramics, metals, polymers, superconducting materials, and materials production processing technologies, including coated systems, that provide the potential for significant advantages over existing materials;

"(3) the term 'joint venture' means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

"(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

"(B) the development or testing of basic engineering techniques;

"(C) the extension of investigative findings or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

"(D) the collection, exchange, and analysis of research information;

"(E) the production of any product, process, or service; or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture;

"(4) the term 'United States-owned company' means a company that has majority ownership or control by individuals who are citizens of the United States; and

"(5) the term 'foreign-owned company' means a company other than a United States-owned company.".

(d) COMPREHENSIVE REPORT.—The Secretary of Commerce shall, not later than 4 years after the date of enactment of this Act, submit to each House of the Congress and the President a comprehensive report on the results of the emerging technology program established under section 28 of the Act of March 3, 1901, including an evaluation of the general applicability of any high resolution information systems or advanced materials research and development program results to other advanced technologies.

(e) FEDERAL REGISTER NOTICE.—The Secretary of Commerce shall, within 120 days after the date of appropriation of funds pursuant to subsection (f) of this section, publish notice in the Federal Register stating that the Department of Commerce is prepared to accept applications for assistance under section 28 of the Act of March 3, 1901, as amended by this section. Such notice shall include a description of eligibility requirements for assistance under such section 28, and maximum assistance levels expected to be available for such assistance.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for carrying out section 28 of the Act of March 3, 1901, $50,000,000 for fiscal year 1990, $100,000,000 for fiscal year 1991, and $250,000,000 for fiscal year 1992.

TITLE III—AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. FEDERAL LABORATORY CONSORTIUM.

Section 11(e)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)) is amended—

(1) in subparagraph (A), by striking "a fiscal year referred to in subparagraph (B)(ii)" and inserting in lieu thereof "any fiscal year"; and

(2) by amending subparagraph (B) to read as follows:

"(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000.".

SEC. 302. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) Section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) is amended by inserting "intellectual property," after "equipment," both places it appears.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall report to the Congress on the advisability of authorizing a new form of cooperative research and development agreement which would permit Federal contributions of funds.

SEC. 303. DEFINITION OF FEDERAL AGENCY.

Section 4(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(8)) is amended by inserting ", as well as any agency of the legislative branch of the Federal Government" after "of such title".

SEC. 304. QUALITY IMPROVEMENT.

Section 17(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711(f)) is amended by adding at the end the following: "The Director is authorized to use appropriated funds to carry out his responsibilities under this Act.".

TITLE IV—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SEC. 401. MAJOR SCIENCE AND TECHNOLOGY PROPOSALS.

The Director of the Office of Science and Technology Policy shall monitor and report annually to the Congress, on all major science and technology proposals involving more than one country and having a total estimated cost greater than $1,000,000,000.

SEC. 402. NATIONAL HIGH PERFORMANCE COMPUTER TECHNOLOGY PROGRAM.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VII—NATIONAL HIGH PERFORMANCE COMPUTER TECHNOLOGY PROGRAM

"SEC. 701. SHORT TITLE.

"This title may be cited as the 'National High Performance Computer Technology Program Act of 1990'.

"SEC. 702. FINDINGS.

"Congress finds and declares the following:

"(1) In order to strengthen America's computer industry and to assist the entire manufacturing sector, the Federal Government must provide leadership in the development and application of high performance computer technology. In particular, the Federal Government should support the development of a high capacity, national research and education network; facilitate the development of software for research, education, and industrial applications; continue to fund basic research; and provide for the training of computer scientists and computational scientists.

"(2) Several Federal agencies have ongoing high performance computer technology programs. Improved interagency coordination, cooperation, and planning could enhance the effectiveness of these programs.

"(3) A report, 'The Federal High Performance Computing Program,' by the Office of Science and Technology Policy, dated September 8, 1989, outlining a research and development strategy for high performance computing, provides a framework for a multiagency computer technology program.

"SEC. 703. NATIONAL HIGH PERFORMANCE COMPUTER TECHNOLOGY PLAN.

"(a)(1) The President, through the Federal Coordinating Council for Science, Engineering, and Technology (hereafter in this title referred to as the 'Council'), shall develop a National High Performance Computer Technology Plan (hereafter in this title referred to as the 'Plan') in accordance with this title and consistent with the framework established in the report referred to in section 702(3). The Plan shall contain recommendations for a five-year national effort, to be submitted to Congress within one year after the date of enactment of this title.

"(2) The Plan shall—

"(A) establish the goals and priorities for a Federal high performance computer technology program for the fiscal year in which the Plan is submitted and the succeeding four fiscal years;

"(B) describe the levels of Federal funding and specific activities of each Federal agency and department required to implement the Plan, including educational activities, research activities, hardware development, software development, and acquisition and operating expenses for computers and computer networks; and

"(C) consider and use, as appropriate, the views of the advisory board described in subsection (b)(4), as well as reports and studies conducted by Federal agencies and departments, the National Research Council, or other entities.

"(3) The Plan shall address, where appropriate, the relevant programs and activities of the following Federal agencies and departments:

"(A) The National Science Foundation.

"(B) The Department of Commerce, particularly the National Institute of Standards and Technology and the National Oceanic and Atmospheric Administration.

"(C) The National Aeronautics and Space Administration.

"(D) The Department of Defense, particularly the Defense Advanced Research Projects Agency, the Office of Naval Research, and, as appropriate, the National Security Agency.

"(E) The Department of Energy.

"(F) The Department of Health and Human Services, particularly the National Institutes of Health.

"(G) Such other executive branch agencies and departments as the President or the Chairman of the Council considers appropriate.

"(4)(A) The Plan shall include the establishment of a national multi-gigabit-per-second research and education computer network by 1996, to be known as the National Research and Education Network.

"(B) The National Research and Education Network established under this paragraph shall—

"(i) link government, industry, and the higher education community;

"(ii) provide computer users with access to supercomputers, computer data bases, and other research facilities;

"(iii) be developed in close cooperation with the computer and telecommunications industries;

"(iv) be designed and developed with the advice of potential users in government, industry, and the higher education community;

"(v) be established in a manner which fosters and maintains competition in high speed data networking within the telecommunications industry;

"(vi) have accounting mechanisms which allow users or groups of users to be charged for their usage of the network, where appropriate; and

"(vii) be phased out when commercial networks can meet the networking needs of American researchers.

"(C) The Plan shall define the organization arrangement to be used for managing the operation of the National Research and Education Network.

"(5) The Plan shall facilitate collaboration among agencies and departments with respect to—

"(A) ensuring interoperability among computer networks run by the agencies and departments;

"(B) increasing software productivity, capability, and reliability;

"(C) promoting interoperability of software;

"(D) distributing software among the agencies and departments; and

"(E) distributing federally funded, unclassified software to industry and universities.

"(b) The Council shall—

"(1) develop the Plan;

"(2) coordinate the high performance computing research and development activities of Federal agencies and departments; and

"(3) establish an advisory board, which shall include representatives from universities and industry who are involved in research and development activities in high performance computing.

The function of the advisory board shall be to provide the Council with an independent assessment of the balance among components of the Plan and the effectiveness of the Plan in maintaining American leadership in computing and networking.

"(c) Each Federal agency and department involved in high performance computing shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report identifying each element of its high performance computing activities.

"SEC. 704. REPORT.

"The Chairman of the Council shall prepare and submit to the President and Congress, not later than March 1 of the year following the year in which this section is enacted, a report on the activities conducted pursuant to this title during the preceding fiscal year, including—

"(1) a summary of the achievements of Federal high performance computing research and development efforts during that preceding fiscal year;

"(2) a copy or summary of the Plan; and

"(3) any recommendations regarding additional action or legislation which may be required to assist in achieving the purposes of this title.".

SEC. 403. NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

(a) FINDINGS.—The Congress finds that—

(1) the United States is a world leader in creating technology that is vital to our future economic growth;

(2) United States industry's ability to commercialize innovations in advanced technology is diminishing relative to other countries, and many innovations first made in the United States are marketed by foreign companies;

(3) satisfactory rates of savings and of investment in new plant and equipment are not now occurring; and

(4) relatively high interest rates make it difficult for corporate managers to plan long-term strategies and still satisfy the desires of investors.

(b) AMENDMENT.—The National Science and Technology Policy, Organization, and Priorities Act of 1976, as amended by section 402 of this Act, is further amended by adding at the end the following:

"TITLE VIII—NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

"SEC. 801. NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

"(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the 'Commission'), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investment in quality, product and process improvements, and new product development and marketing.

"(b) ISSUES.—The function of the Commission shall be to address the following issues:

"(1) What statutory changes are needed to provide incentives for rapid commercialization of technical innovations vital to improving United States industrial competitiveness and capitalizing on our world leading research efforts?

"(2) To what extent, relative to other nations, does the cost of capital in the United States inhibit domestic long-term planning for and the development and commercialization of new technology?

"(3) What statutory changes related to investment capital formation are needed to stimulate investment in advanced technology development?

"(4) What statutory changes, if any, should be made to reduce the foreign acquisition of strategic United States-based companies?

"(5) What legislative changes are needed to aid companies exporting United States-made products, to advance the United States economy, and to eliminate our Nation's trade deficit?

"(6) How can Federal policy stimulate quality improvements and product enhancements necessary to advance United States competitiveness?

"(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 20 members, 11 of whom shall constitute a quorum.

"(2) The Vice President, the Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Council of Economic Advisers shall serve as members of the Commission.

"(3)(A) The President pro tempore of the Senate—

"(i) on the recommendation of the majority leader of the Senate, shall appoint as members of the Commission five individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development; and

"(ii) on the recommendation of the minority leader of the Senate, shall appoint as members of the Commission two individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development.

"(B) The Speaker of the House of Representatives—

"(i) on the recommendation of the majority leader of the House of Representatives, shall appoint as members of the Commission five individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development; and

"(ii) on the recommendation of the minority leader of the House of Representatives, shall appoint as members of the Commission two individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development.

"(C) Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner by which the original appointment was made.

"(4) The Vice President shall be chairman of the Commission.

"(5) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this section.

"(6) Recommendations of the Commission shall require the approval of two-thirds of the members of the Commission.

"(7) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

"(8) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(d) REPORTS.—The Commission shall, within one year after the date of enactment of this section, submit to the President and the Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

"(e) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Procurement and Technology.

"(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (d).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991 and 1992.".

SEC. 404. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the United States is a world leader in inventing technology that is vital to our future economic growth, but the mass market for inventions made in the United States is often lost to overseas companies;

(2) corporate managers are not able to plan long-term strategies and still satisfy the desires of investors;

(3) the United States ability to commercialize innovations in emerging technology is diminishing relative to other countries, because United States industry is less likely than overseas competitors to market the highest quality and most advanced version of existing technologies;

(4) the Federal Government is the largest purchaser in the world of many products incorporating advanced technology;

(5) Federal Government procurement based on product specifications rewards certainty rather than innovation and is not able to take advantage of the latest technical advances; and

(6) an updated Federal Government procurement system based on performance specifications holds the promise of allowing United States companies to improve prod-

ucts and be more competitive in world commercial markets.

(b) AMENDMENT.—The National Science and Technology Policy, Organization, and Priorities Act of 1976, as amended by sections 402 and 403 of this Act, is further amended by adding at the end the following:

"TITLE IX—RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY

"SEC. 901. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

"(a) ESTABLISHMENT AND PURPOSE.—The Director of the Office of Science and Technology Policy shall establish within that office a Commission on Procurement and Technology (hereafter in this section referred to as the 'Commission'), for the purpose of developing recommendations for changes to Federal Government procurement laws, procedures, and policies with respect to the development of advanced technologies.

"(b) ISSUES.—The function of the Commission shall be to address the following issues:

"(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and in initial market penetration for new technologies?

"(2) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

"(3) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal Government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

"(4) How can the Federal Government ensure that its suppliers adopt the principles embodied in the Malcolm Balridge National Quality Award?

"(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commercial basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

"(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the National Institute of Standards and Technology in such an effort?

"(7) Should Federal Government procurement be linked to the Advanced Technology Program and to technology transfer activities so that specification development can incorporate the latest technical advances available?

"(8) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

"(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 14 members, 7 of whom shall constitute a quorum.

"(2) The Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, as such term is defined in section 5311(b)(2) of title 5, United States Code, shall serve as members of the Commission.

"(3) The Director of the Office of Science and Technology Policy shall appoint as members of the Commission—

"(A) four members, from among individuals not employed by the Federal Government, who are eminent in advanced technology businesses representing manufacturing and services industries;

"(B) three members, from among individuals not employed by the Federal Government, who are eminent in the fields of technology and international economic development; and

"(C) three members eminent in the field of Federal Government procurement.

"(4) The Director of the Office of Science and Technology Policy shall be chairman of the Commission.

"(5) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this section.

"(6) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

"(7) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(d) REPORTS.—(1) The Commission shall, within one year after the date of enactment of this section, submit to the President and the Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

"(2) The Commission shall, within two years after the date of enactment of this section, submit to the President and the Congress a final report containing final recommendations with respect to the issues addressed under subsection (b). Such final report shall be a blueprint for Federal Government procurement reform, and shall include specific legislative and administrative changes needed to enable Federal Government procurement activities to take full advantage of emerging technologies.

"(e) CONSULTATION.—The Commission shall consult, as appropriate, with the National Commission on Reducing Capital Costs for Emerging Technology.

"(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991, 1992, and 1993.".

TITLE V—INFORMATION COLLECTION AND DISSEMINATION

SEC. 501. INFORMATION COLLECTION AND DISSEMINATION.

Within 270 days after the date of enactment of this Act, the Secretary of Commerce shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the feasibility of establishing and operating a Federal Online Information Product Catalog (FEDLINE) at the National Technical Information Service which would serve as a comprehensive inventory and authoritative register of information products and services disseminated by the Federal Government and assist agencies and the public in locating Federal Government information. Information protected from public disclosure shall not be included. In studying the concept, the Secretary, acting through the Director of the National Technical Information Service, shall consult with officials from appropriate Government agencies, including the Office of Management and Budget, the National Archives, the Government Printing Office, and the National Institute of Standards and Technology, and with representatives of the public, for their views on optimal composition and format of FEDLINE. Such report shall contain cost estimates and possible funding sources for the establishment and operation of FEDLINE and shall list any changes in law and regulation that would be required if FEDLINE were to be implemented.

SEC. 502. ELECTRONIC FORMAT.

Section 212(e)(5) of the National Technical Information Act of 1988 is amended by inserting ", including producing and disseminating information products in electronic format" after "engineering information".

TITLE VI—HIGH RESOLUTION INFORMATION SYSTEMS

SEC. 601. FINDINGS.

The Congress finds that—

(1) in order for United States-incorporated companies to compete successfully in high resolution information systems markets, the traditional relationship between Government and industry must be adjusted to accommodate modern global economic competition;

(2) joint ventures will be a cornerstone of a comprehensive strategy to build a strong United States base in high resolution information systems; and

(3) an organization is required to ensure that such strategy is integrated into a comprehensive effort to establish a high resolution information systems industry in the United States.

SEC. 602. DEFINITIONS.

As used in this title—

(1) the term "high resolution information systems" includes high definition television and related advanced electronics products and components; and

(2) the term "joint venture" has the meaning given such term in section 28(j)(3) of the Act of March 3, 1901.

SEC. 603. HIGH RESOLUTION INFORMATION SYSTEMS BOARD.

(a) ESTABLISHMENT AND PURPOSE.—The Director of the Office of Science and Technology Policy shall establish within that office a High Resolution Information Systems Board (hereafter in this section referred to as the "Board") to foster and monitor the development of United States based high resolution information systems industries.

(b) FUNCTIONS.—The Board shall—

(1) provide guidance for the cooperation of Government and industry as necessary to establish United States based high resolution information systems industries;

(2) provide advice on the coordination of Federal defense and civilian activities to maximize and assist with the transfer of technologies into commercial products;

(3) develop a high resolution information systems plan to guide the activities of relevant executive branch Federal agencies;

(4) establish guidelines to ensure that industry participation in any joint Government/industry high resolution information

systems initiatives strengthens the capability in the United States to manufacture high resolution information systems equipment and materials;

(5) monitor high resolution information systems industries and promptly alert appropriate Federal agencies of any unfair pricing of foreign high resolution information systems goods;

(6) make recommendations to Federal agencies and the Congress to ensure that the procurement by the United States of advanced electronics products as a general rule aids the development in the United States of advanced electronics capabilities; and

(7) establish a mechanism to coordinate Federal Government procurement of high resolution information systems technology in order to (A) secure lower unit costs by mass purchase offers, and (B) provide high resolution information systems manufacturers an initial market to induce investment in research and development.

(c) MEMBERSHIP AND PROCEDURES.—(1) The Secretary of Commerce, the Director of the Defense Advanced Research Projects Agency, and the Administrator of the National Aeronautics and Space Administration, or their designees, shall serve as members of the Board.

(2) The Director of the Office of Science and Technology Policy shall, within 90 days after the date of enactment of this Act, appoint, from among individuals with knowledge of the advanced electronics industry, as members of the Board—

(A) nine members from the private manufacturing sector, with at least one representative each from the semiconductor, production equipment, computer display, computer, consumer electronics, and telecommunications industries;

(B) seven members from the private nonmanufacturing sector, including—

(i) four from the transmission delivery systems sector, one each from the terrestrial broadcasters, cable, fiber, and satellite industries; and

(ii) one each from the software industry, the entertainment industry, and the investment community;

(C) one member representing labor; and

(D) one member representing academia.

At least one member appointed under this paragraph shall be from small business.

(3) The Director of the Office of Science and Technology Policy or his designee shall be chairman of the Board.

(4) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(5) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(6) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(7) The Board shall submit to the President and the Congress a report of its activities once every year after its establishment.

TITLE VII—REPORTS

SEC. 701. BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT AMENDMENTS.

Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended—

(1) in subsection (a), by inserting ", but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from these technologies" after "may not exceed 30";

(2) in subsection (b), by striking "national security and" and inserting in lieu thereof "national security or";

(3) by redsignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) Each such report shall include—

"(1) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

"(2) a list of the technologies and markets targeted by major trading partners for development or capture.".

SEC. 702. REPORT ON ADVANCED MANUFACTURING AND QUALITY.

Within one year after the date of enactment of this Act, the Secretary of Commerce shall submit to Congress a report on the feasibility and advisability of establishing, in affiliation with the National Institute of Standards and Technology, a Quality Institute and a privately-funded foundation to support that Quality Institute. As part of such report, the Secretary of Commerce shall consider the feasibility and advisability of such Institute—

(1) conducting workshops and company tours to share with managers, engineers, and production employees in the United States advanced techniques for improving manufacturing and service organization, quality, and productivity, including team-oriented organizational approaches to managing production and service technology and corporate research and development;

(2) helping develop and disseminate model curricula in quality which might be used by educational institutions to provide training to students and manufacturing and service company employees; and

(3) carrying out such other purposes as the Secretary of Commerce may recommend.

SEC. 703. REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH.

(a) IN GENERAL.—No later than February 1, 1990, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly discuss the feasibility and advisability of using the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in other Federal departments and agencies which fund research and development.

(b) ANALYSIS AND DISCUSSION.—The report shall include an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new Federal programs to stimulate competitive research.

SEC. 704. STANDARDS METHODOLOGY.

(a) DEVELOPMENT.—The Director of the National Science Foundation shall enter into a contract with the International Institute for Applied Systems Analysis for the development of a methodology or approach that can be used in the establishment of international product standards.

(b) REPORT.—The Director of the National Science Foundation shall report to the Congress and the President on the results of the contract entered into under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized for fiscal year 1991 under the National Science Foundation Authorization Act of 1988 (Public Law 100-570), $500,000 are authorized to be used to carry out this section.

SEC. 705. INTERGOVERNMENTAL COORDINATION.

The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, submit to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a plan for coordination of Commerce Department efforts with other Federal agencies for activities related to high resolution information systems including research and development activities.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to enhance the position of United States industry through application of the results of Federal research and development, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4329) was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to revise and extend their remarks, and to include extraneous matter, on the Senate bill, S. 1191, as amended by the text of H.R. 4329.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 216 and No. 221 and "nay" on rollcall No. 218, No. 219 and No. 220.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 219, the Horton amendment to the American Technology Preeminence Act, and rollcall No. 221, final passage of the American Technology Preeminence Act. Had I been here, I would have cast the following votes: "no," and "aye."

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5229, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-587) on the resolution (H. Res. 429) waiving certain points of order during consideration of the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5115, EQUITY AND EXCELLENCE IN EDUCATION ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-588) on the resolution (H. Res. 430) providing for the consideration of the bill (H.R. 5115) to improve education in the United States, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON PROPOSED AMENDMENT TO THE CONSTITUTION REGARDING A BALANCED BUDGET

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, the Rules Committee may meet as early as this Friday, July 13, 1990, on the matter of a proposed amendment to the Constitution regarding a balanced budget. In order to provide for an orderly process in the consideration of this matter, the Rules Committee is requesting that Members submit 55 copies of their amendments to a proposed constitutional amendment, together with a brief explanation of the amendment, to the committee office at H-312, the Capitol, by 6 p.m., Thursday, July 12, 1990.

REPORT ON H.R. 5241, TREASURY, POST OFFICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1991

Mr. ROYBAL, from the Committee on Appropriations, submitted a privileged report (Rept. No. 101-589) on the bill (H.R. 5241) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the Union Calendar and ordered to the printed.

Mr. SKEEN reserved all points of order on the bill.

THE CONTINUING STRUGGLE OF THE LITHUANIAN PEOPLE

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute.)

Mrs. MARTIN of Illinois. Mr. Speaker, in a year crowded with events and developments of truly historic proportion, the struggle of the Lithuanian people to regain their independence and their right to national self-determination has nonetheless taken on a special significance.

While freedom has swept over Eastern Europe like a great wave, Lithuania's struggle, unfortunately, is one that continues. While the East European States have celebrated their return to the fold of democratic, free market nations, Lithuania has suffered under the weight of an economic embargo that put 50,000 men and women out of work, cleared the nation's shelves of food, and, perhaps most cruelly of all, created a shortage of medical supplies that halted the delivery of even the most rudimentary health care services to the Lithuanian people.

On July 2, Soviet President Gorbachev announced that the embargo would be lifted and that the Soviet leadership would retreat from its intransigent position and sit down with Lithuania's chosen leaders to explore avenues to independence.

Though the Soviet decision to lift the embargo has come as welcome news, it has not meant an end to Lithuanian suffering. The economic damage that the embargo of oil and gas caused will be slow to heal. Of greatest concern, however, are the immediate questions of life and death associated with the critical shortages of medical supplies that continue to exist in Lithuania.

There have been very disturbing reports suggesting that efforts to redress the effects of the embargo on Lithuania's health care system have been slow, and that the price in human suffering has been high. This need not be so. International organizations such as the Red Cross, for example, have attempted to step into the breach and provide needed emergency medical supplies. The Soviets, regrettably, have restricted these efforts.

At a time when Western leaders are negotiating economic and technical assistance for the Soviet Union, this situation is especially intolerable. With a loud and a unified voice we must demand that the Soviets redress this situation immediately. It is unconscionable, Mr. Speaker, that the leaders of the free world should be considering economic band-aids for the Soviets while sutures and scalpels are being withheld from Lithuania.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4831

Mr. TOWNS. Mr. Speaker, I ask unanimous consent that my name be removed from cosponsorship of the bill, H.R. 4831, the American Jobs Stability Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1830

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore (Mr. MURTHA) laid before the House the following communication from the chairman of the Committee on Public Works and Transportation which was read and without objection, referred to the Committee on Appropriations and ordered to be printed:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, HOUSE OF REPRESENTATIVES,
Washington, DC, July 2, 1990.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, the House Committee on Public Works and Transportation approved the following resolutions on June 28, 1990:

Construction Resolutions:

U.S. Geological Survey, Laboratory-Office Building, Menlo Park, California.

Federal Building—U.S. Courthouse (amendment), Monterey, California.

John E. Moss Federal Building—U.S. Courthouse, Sacramento, California.

U.S. Courthouse, Shreveport, Louisiana.

U.S. Courthouse, Prince George's County, Maryland.

Internal Revenue Service, Prince George's County, Maryland.

U.S. Courthouse, Boston, Massachusetts.

U.S. Courthouse or Annex, Minneapolis, Minnesota.

U.S. Courthouse Annex (amendment), Camden, New Jersey.

U.S. Courthouse, White Plains, New York.

U.S. Courthouse, Annex, Portland, Oregon.

Social Security Administration, (amendment), Wilkes-Barre Area, Pennsylvania.

U.S. Courthouse, Knoxville, Tennessee.

U.S. Courthouse Annex, Charlotte Amalie, St. Thomas, Virgin Islands.

U.S. Courthouse, Alexandria, Virginia.

Department of Defense, Naval Systems Commands, Northern Virginia.

Southeast Federal Center, Washington, D.C.

Repair and alteration resolutions:

Federal Building—U.S. Courthouse, San Diego, California.

Appraisers Building, San Francisco, California.

U.S. Custom House, San Francisco, California.
Building 56, Denver Federal Center, Lakewood, Colorado.
Hubert H. Humphrey Building, Washington, D.C.
Veterans Administration Building, Washington, D.C.
Elevators—Various Buildings, Washington, D.C.
Richard B. Russell Federal Building and U.S. Courthouse, Atlanta, Georgia.
Everett M. Dirksen Federal Building, Chicago, Illinois.
Federal Building, (amended prospectus), 536 S. Clark Street, Chicago, Illinois.
Federal Building and U.S. Courthouse, Indianapolis, Indiana.
Warren E. Burger Federal Building and U.S. Courthouse, St. Paul, Minnesota.
Peter W. Rodino, Jr. Federal Building, Newark, New Jersey.
Jacob K. Javits Federal Building, New York, New York.
Kenneth B. Keating Federal Building and Courthouse, Rochester, New York.
Post Office and U.S. Courthouse, Oklahoma City, Oklahoma.
U.S. Custom House, Philadelphia, Pennsylvania.
U.S. Post Office and Courthouse, Pittsburgh, Pennsylvania.
Estes Kefauver Federal Building and Courthouse Annex, Nashville, Tennessee.
Federal Building (Terminal Annex), Dallas, Texas.
Pentagon Federal Office Building, Arlington, Virginia.
Federal Building, Portsmouth, Virginia.
Federal Building, Seattle, Washington.
Federal Building and U.S. Post Office, Spokane, Washington.
Design Resolution:
Design 19 projects in Fiscal Year 1991.
Southern border stations resolution:
Calexico, California and Ysleta, Texas.
Alterations to leased space resolutions:
1900 Half Street, S.W., Washington, D.C.
J.W. Powell Building, Reston, Virginia.
Lease resolutions:
Department of Labor, San Francisco, California.
Pershing Point Plaza, Atlanta, Georgia.
Center Building One, Hyattsville, Maryland.
Corps of Engineers, Vicksburg, Mississippi.
IRS Service Center, Brookhaven, New York.
U.S. Customs Service, New York, New York.
Multiple Agencies, Philadelphia, Pennsylvania.
Department of State, Northern Virginia.
Patent and Trademark Office, Crystal City, Virginia.
Skyline VI, Falls Church, Virginia.
Internal Revenue Service, Fresno, California.
Judiciary Plaza, Washington, D.C.
State Department, One McPherson Square, Washington, D.C.
Department of Veterans Affairs, One McPherson Square, Washington, D.C.
Patrick Henry Building, 601 D Street, N.W., Washington, D.C.
Transpoint Building, Washington, D.C.
601 Pennsylvania Avenue, Washington, D.C.
Internal Revenue Service, Philadelphia, Pennsylvania.
Internal Revenue Service, Martinsburg, West Virginia.
11(b) resolutions:
Laredo, Texas.
Riverside and San Bernardino Counties, California.

The original and one copy of the authorizing resolution is enclosed.

Sincerely,

GLENN M. ANDERSON,
Chairman.

There was no objection.

SUPPORT FREEDOM OF THE PRESS IN ROMANIA

(Mr. ATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, Benjamin Franklin and Thomas Jefferson both argued that a free, unencumbered press was the truest test of a democracy. Apparently, that piece of political wisdom has not yet found its way to the Government of Romania's new President, Ion Iliescu. Today in Romania the Government requires all newspapers to be printed on Government presses, and distributed by the Government's own agents—just as in the dark days of Nicolae Ceausescu.

The leading opposition newspaper, Romania Libera, is directly challenging President Iliescu by seeking to acquire its own printing press from the West and using it to publish its daily editions in Bucharest. Petre Bacanu, the paper's publisher, was in Washington last week seeking help from Americans in his efforts to obtain just such a printing press.

Mr. Speaker, Americans can do no better service to the cause of freedom than to help Mr. Bacanu create the possibility of a truly free press in Romania. Franklin and Jefferson may never have been to the corner of the world now known as Romania, but their test of true freedom has never been more relevant than in this struggling nation today.

Mr. Speaker, I will insert a Washington Post article on this subject.

[From the Washington Post, June 25, 1990]

PRESS FREEDOM IN ROMANIA

The United States shunned the inauguration of post-Ceausescu Romania's first elected president the other day. This jarring note was struck for the necessary purpose of conveying American repugnance at President Ion Iliescu's use of the miners to break up an anti-government demonstration. Mr. Iliescu, a former Communist who has found it difficult to break with Communist ways, conceded that excesses had taken place in the "public order restoration process" but, unconvincingly, "unequivocally disassociated" himself from these excesses and had the effrontery to say he would not hesitate to call up the miners again.

The company of 24 Western nations that have banded together to ease the democratic transformation of Eastern Europe has suspended major aid and cooperation with Romania until the situation there looks up. Perhaps this will help concentrate the attention of President Iliescu and others in the National Salvation Front and of the elements in the army and police that have yet to commit themselves to new ways. There is a striking contrast between the openness expected of a democracy and the secrecy in which large public decisions in Romania are still being made. There is a further, appalling contrast between the respect expected for dissent and the violent crushing of opposition, outside the law, that has been seen in the streets of Bucharest.

One feature of public life in Romania that cries to be clarified is the state of the press and particularly Romania Libera, the single independent opposition newspaper. Its editor, Petra Bacanu, had been condemned to death by the old regime for trying to start an unauthorized paper. Under the new regime, the paper is being published but on a government press. This had made it easy for the government to interrupt publication and distribution; the miners, while they were in town, shut the paper down.

To be truly independent, Romania Libera needs its own press. That means the Romanian government must grant it the right to own one. It also means that Americans should respond to editor Bacanu, who has been in Washington seeking the means to acquire one. It is one thing to call for Romania to make the political space for press freedom. It is another to help provide the resources to make press freedom real.

GUIDING LAWRENCE LIVERMORE LABORATORY TOWARD NEW FRONTIERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, I am introducing today the National Research Facility Act of 1990.

The purpose of the bill is to use the expertise of the Lawrence Livermore National Laboratory's [LLNL] outstanding staff and facilities to help meet the Nation's pressing civilian research needs.

This legislation establishes a commission of experts able to examine the Laboratory and determine what specific resources it offers. The commission will also review areas of research that would most benefit the Nation in regaining its economic preeminence. The next and most crucial responsibility it will have is matching up these national priorities with the Laboratory's strongest resources to create a new mission for Lawrence Livermore Laboratory.

Selecting a new mission for one of the Nation's weapons laboratories will of course require consideration of the work done at all Federal weapons laboratories. The work of the commission is to be completed by January 1, 1992, at which time it will submit a report to the President and to the Congress.

The LLNL and the Nation's other weapons labs have worked through the years of the cold war to ensure—successfully—the safety and security of our nuclear deterrent. But with the lessening of world tensions, the exposure of fundamental problems in the Soviet economy, and our own budget problems, it is clear that there will be changes in the weapons labs. This discussion of new directions for LLNL has already begun within the Laboratory itself, as well as by the Department of Energy. Secretary Watkins himself stated that, "* * * with

changes in the defense picture * * * some defense labs can migrate into other areas."

One celebrates the beating of swords into plowshares as an opportunity to improve the quality of life for humankind. In my lifetime, we have never had the opportunity we have today to break through the tensions among nations and move into an era of peace. To paraphrase Churchill, this is the chance for the world to move into the broad sunlift uplands of peace.

At the same time, our Nation has invested billions in pulling together the scientists, engineers, and laboratories that have made our national weapons labs a true scientific treasure. I would not want to see these teams of experts disbanded and these outstanding facilities mothballed if there were another national mission for them.

I believe there is.

In our sacrifice to protect the world against Communist aggression, we have neglected huge areas of civilian, peacetime needs. We have concentrated the best minds of our Nation on weapons research, while our Japanese and European competitors have concentrated on civilian research needs and the application of technologies to manufacturing processes.

The result is that we won the cold war for the democracies—and are losing the economic race to our allies. Japan and Germany are outresearching and outproducing us, and the result is a lower than necessary standard of living, stagnation in wages and opportunities, and neglected infrastructures.

Let us use the collapse of the Soviet bloc creatively, and convert the Lawrence Livermore National Laboratory from being largely a weapons lab to being a center for research on domestic, civilian needs.

There are clearly huge research needs that the private sector is unable to manage by itself—which need the resources and management teamwork of a public, national laboratory. It is interesting that the Atomic Energy Commission Act, which is the legal authority for national laboratories, stressed that one of the goals of the labs would be "* * * the preservation and enhancement of a viable environment by developing more efficient methods to meet the Nation's energy needs."

LLNL, which is funded by the Department of Energy and operated through a contract with the University of California is an ideal center for major research projects, such as:

First, fusion energy research. This energy research is at a critical point in its development for civilian and defense uses. This program is an opportunity for a relatively clean and safe energy resource. The necessity of this project requires a steady source of funding over the next 20 years, at least.

Second, material research: This area is now transforming our physical world through breakthrough advances in ceramics, polymers, and composites. By refusing to invest now, we not only fall further behind technologically, but will find it all the more difficult to maintain any credibility as a Superpower.

At the LLNL new materials have already been developed. Cermet, for example, is material that is part metal and part ceramic. It's as strong as steel but lighter than aluminum. The commercial potential for this product, as you can imagine, is unbelievable.

Third, environmental research: we face increasing environmental crises such as the greenhouse effect, acid rain, and a depleting ozone layer, along with nuclear wastes which no one seems able to dispose.

Fourth, biomedical research: LLNL, for instance, developed an antibody, now being used commercially, to track the growth rate of cancer cells at a rate that is 10 times faster than any previous antibody. Evidence of technology transfer successes already abound at LLNL and could be expanded through programs of this sort. Systemix, a California based firm, will be using biomedical instrumentation developed by the lab in research to combat AIDS and leukemia. The Labs instrumentation is five to ten times faster than previous commerically developed instrumentation.

Fifth, supercomputer research: LLNL has already made historic break-throughs. The "parallel supercomputers" project at LLNL will technologically advance science and industry alike. These parallel supercomputers running together will achieve super speeds.

LLNL has also created the Energy Sciences Network, a high speed link between the Lab, other labs, and universities in the United States, as well as research facilities in Japan, West Germany, and Switzerland.

Other supercomputer technology at Lawrence Livermore was used to analyze and repair the State of California's quake damaged freeways and will have a direct bearing on the design of the new support that will be added to double-deck freeways in San Francisco.

Our goal in the 1990's must be to restore our Nation's economic leadership. Lawrence Livermore National Laboratory, a national facility, already possesses many of the resources necessary to meet this national objective.

SOVIET BLOCKADE OF MEDICAL SUPPLIES TO LITHUANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LANTOS] is recognized for 5 minutes.

Mr. LANTOS. Mr. Speaker, it has been exactly 4 months now since the brave people of the Republic of Lithuania announced their free and democratic decision to be independent of the Soviet Union. In this time we have witnessed the aggressive actions of the Soviet Government as it attempts to retain its grip on this small nation of people who have no desire to be under Soviet control.

On April 9, the Soviet Presidential Council declared that "political, economic and other measures" would be used against Lithuania for its "anticonstitutional" behavior. The political and economic measures taken by the Soviet Union are well known. The Soviet blockade has severely restricted energy, fuel, and food supplies. Such actions have damaged Lithuanian industry, reduced employment and increased the rate of inflation to 20–24 percent. But an even more severe but less publicized attack by the Soviet Union has been its restriction of desperately needed medical supplies to Lithuania.

The Soviet blockade has diminished Lithuania's most elemental medical supplies with harmful results. Since the blockade began, Lithuania has received 5 percent of needed syringes, one seventh of the number of scalpels that it needs, 10 percent of its needed x ray film and sutures, and an incredibly low amount of insulin required by diabetics in Lithuania for their very survival. The list of scarce medical supplies continues—antibiotics and all forms of intravenous solutions are in critically short supply. The harmful effects of the blockade threaten dialysis treatments, neonatal care, and emergency ambulatory service as hospitals are forced to restrict operations. According to the Lithuanian Information Center, the blockade has also affected drinking water and the food processing industry which cannot apply proper sanitation due to energy shortages and lack of purifying agents. In fact, a considerable rise in the incidence of intestinal diseases is expected and these conditions may also have a negative effect on the implementation of health measures normally used in the prevention of epidemics.

Attempts to aid the people of Lithuania with needed medical supplies have already been made by the public and private sources from countries such as Poland, Denmark, and Czechoslovakia. Although several shipments of aid have reached Lithuania, all such attempts have been met with resistance by Soviet forces which have prevented outside aid from entering the country.

Mr. Speaker, it is frigthfully clear that the actions of the Soviet Union are a direct and inexcusable violation of the most fundamental human rights. The Soviet blockade of medical supplies has endangered the health, safety and even the lives of the people of Lithuania in their attempt to be free. The lives of the innocent people of Lithuania are much too important to allow this injustice to continue.

The people of Lithuania also require our support for their brave struggle toward freedom and independence. The unanimous declaration

to reestablish independence made by the Lithuanian Parliament on March 11 should remind all Americans of another unanimous Declaration of Independence made over two centuries ago. We should stand with the people of Lithuania and do all in our power to lessen their suffering.

Mr. Speaker, the struggle for independence is sweeping across Eastern Europe. The Soviet Union's restrictive blockade of Lithuania is a painful but senseless effort to prevent yet another group of people from achieving their inalienable rights. Lithuania's fight for independence began officially 4 months ago, but its search for freedom began when it was absorbed into the Soviet Union during World War II.

We as Americans have a duty to uphold the ideals fought for by our forefathers by supporting the people of Lithuania in their current struggle. The most effective means of support that we can offer at this time is to fulfill our moral obligation to the Lithuanian people by encouraging the Soviets to repeal the blockade and allow for the transport of desperately needed medical supplies. The present situation calls for such action, and our democracy and humanity demand it.

HEALTH WASTE AND ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the health care system in the United States, especially for the elderly, is critically ill. Waste, fraud, and mismanagement in the $100 billion Medicare Program are major symptoms of the illness. The reason can be found in the Reagan and Bush administrations for the lack of oversight of the program by their regulators.

Testimony at a recent congressional hearing indicated that the Medicare Program will overpay up to $1.5 billion next year because insufficient funds are being provided to audit doctor and hospital bills and monitor service patterns.

Vernon R. Loucks, Jr., chairman and chief executive officer of Illinois-based Baxter International which makes and markets health care products and services, said in a recent article in the Chicago Tribune that projections made by his company show a dangerous gap between growth in demand for health care and resources likely to be available to meet it.

Mr. Loucks said demand is likely to grow 65 percent by the year 2000 and 160 percent because of increased population growth and aging, some expanded access and new technologies. He said the crunch between demand and resources is already painful, not just for the health care system but for those it is supposed to serve: 422 U.S. hospitals have closed in the last 5 years, 80 of them last year; 13 have closed in Chicago.

Mr. Loucks said the economy and effectiveness of the health care system can be improved in numerous ways. As an example, he said cutting one-third of diagnostic tests that are probably unnecessary would save as much as $10 billion.

For those reasons, I heartily support Chairman PETE STARK of the House Ways and Means Subcommittee on Health who has held hearings on fiscal year 1991 budget issues relating to waste and abuse in the Medicare Program.

Medicare is the fourth largest category of Federal spending after defense, Social Security and interest payments on the national debt. During the current fiscal year ending September 30, Medicare is expected to provide health coverage for over 33 million aged and disabled persons at a cost of $109 billion. Of this amount, $1.9 billion, or 1.7 percent, represents administrative costs. However, funding cutbacks have caused a deterioration in Medicare's ability to ensure the accuracy of program payments.

In my 26 years in Congress, I have supported all legislation to improve benefits and programs to protect the rights of senior citizens. They include the Older Americans Act of 1965, the Age Discrimination in Employment Act of 1967, the Medicare-Medicaid Anti-Fraud and Abuse Act of 1977, and the Health Insurance for the Aged Act, which created the Medicare Program in 1965.

Mr. Speaker, we must increase health services for the elderly, not costs.

THE POLITICAL CRISIS IN ALBANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, I rise today to bring to the attention of the House several articles from this past weekend's newspapers regarding the present political crisis in Albania, where thousands of asylum seekers are still holed up in foreign embassies in that nation's capital of Tirana.

In the Saturday, July 7 issue of the New York Times, the Times picked up a story from the Reuters news service titled, "Albanians Reportedly Stream Into Embassies in the Capital."

The article begins, and I quote, "About 3,000 Albanians crowded into Western embassies in the Albanian capital today, and the Austrian news agency reported that 10,000 jammed the streets, some of them fleeing police beatings in Europe's last Stalinist state."

On Sunday the New York Times carried another story on this worsening crisis. This article reports that, and again I quote, "About 5,000 Albanians have poured into the embassies in Tirana over the last week in a bid to escape Europe's last outpost of Stalinism."

I would like to draw attention to how the Albanian Government is handling this crisis. On one hand they are offering passports to anyone who would leave the embassies to go claim one.

Actions speak louder than words. This article in the New York Times quotes a West German Foreign Ministry spokesman as saying that Tirana's hard-line Communist rulers were still refusing to permit a plane carrying food and medical supplies to land. And another report a day or two later said that a plane loaded with food and medical supplies and en route to Tirana was refused permission to land.

The article also quotes western diplomats as saying that police opened fire on Albanian citizens as they first began to flee into the embassies Monday a week ago.

One final article I would like to bring to the attention of the House appeared also on Sunday, July 8, in the Washington Post. The author of the article, Mary Battiata, of the Post's foreign service bureau, reported that, and again I am quoting from the article, "Other Albanians, some believed to be members of the feared secret police, the Sigurimi, stood near the embassy fences today trying to persuade refugees to leave embassy grounds."

The article also goes on to say that, "The Albanian crisis followed street protests over the government's failure to make good on promises made in May that all citizens would be granted the right to passports and foreign travel."

I would ask my colleagues, "What conclusion can we draw from this collection of articles about the crisis in Albania?" I think the most significant point is that Albania is indeed the last Stalinist outpost in Europe.

The Albanian Government has failed to carry through on even the

smallest promises it made toward increased human rights standards, and when the Albanian people dared criticize the government, through peaceful means, they were chased with bullets into foreign embassies.

As if that were not bad enough, the Government of Albania has refused Western nations permission to fly in food and medical supplies to care for the people holed up in these embassies.

While none of what I have just shared with my colleagues is news, I would ask my colleagues to keep it in mind as I bring some additional facts to the situation.

In February of this year, in an ad dated exactly 5 months ago yesterday, February 9, 1990, in the New York Times, the Albanian-American Community and the American Friends of Albania paid to have printed a public service message, and I use that term very loosely.

What did this public service message consist of you may ask: It was the text of an address by Ramiz Alia, President of the People's Socialist Republic of Albania, the leader of Europe's last Stalinist state.

What did Mr. Alia have to say that was so gripping that the Albanian-American Community wanted it printed in the New York Times?

Let me read directly from this ad and share it with my colleagues in the House and perhaps in the other body. I am quoting now directly from the text of this ad:

"The Albanian people have never bothered anyone. Neither have they ever allowed anyone else to dictate to them. Our people have chosen their own way of development and preservation of their national identity * * *"

This ad gets better Mr. Speaker. Another paragraph states, "The social order we have built recognizes no exploration (SIC)—probably meant exploitation)—of man by man. In our country there are no rich people to live at the expense of the workers and peasants * * *. Everyone lives by his own labor."

□ 1840

Now, Mr. Speaker, for the grand finale of this gem of Communist propaganda.

> The people of Albania are masters of their own destiny, determined to march forward on the socialist road, to preserve their freedom and independence. For 45 years Albanians have been attacked, insulted, criticized and pressured to abandon the road of our revolution, freedom, independence and social justice. Let the enemies of Albania bark as much as they can—the Albanian caravan will always continue to march forward. The anti-Albanian campaign which is being blown up by reactionary forces and some Western journalistic circles will end up like a soap bubble, because it is based on lies and falsehoods.

Mr. Speaker, if this ad had been taken out by the Communist rulers of Albania in an attempt to garner favorable world opinion, it could be looked on as ludicrous and pathetic.

However, this ad proclaiming the joys of life in Albania was bought and paid for as a public service message by the Albanian-American Community and the American Friends of Albania.

I would point out to my colleagues that these are the same groups who are agitating in this country for the United States to denounce Yugoslavia and its Serbian Republic for keeping control of territory that constitutionally belongs to that nation and Republic in response to illegal attempts at secession.

These are the same groups which have put our former colleague, Mr. Joe DioGuardi, on the payroll to advocate their truth about the crisis in Kosovo.

I might add that this same advertisement lays out the Albanian Government's position on the Kosovo crisis. Wouldn't you know, it's not one word, not one iota, different than the one the same groups, led by Mr. DioGuardi, have brought to Capitol Hill.

I would ask my colleagues to take note of this advertisement publishing the remarks of Ramiz Alia paid for by the Albanian-American Community. If you believe its assessment of the great freedoms and independence that can be found in the Socialist Republic of Albania, I won't waste one ounce of breath trying to convince you how offbase the Albanian position on Kosovo is.

But if you also question the assessment of Ramiz Alia about the Albanian political climate, you should also be asking yourselves some other questions.

First, if the assessment of the Albanian situation is so far off the mark as to be ludicrous, what does this say as far as the credibility of the assessment of the Kosovo crisis, which appears in the very same advertisement?

Second, do those who had this ad printed as a public service message, namely the Albanian-American Community and the American Friends of Albania, really buy Ramiz Alia's assessment of the situation in Albania.

They certainly buy Mr. Alia's assessment of the Kosovo crisis, because they have not stopped pushing it up here on Capitol Hill, and I might add they have been successful in selling their cause to more that one of our Members.

If the Albanian-American groups who saw fit to print this ad, which I urge each of my colleagues to read, and I will be happy to provide any Member who wishes a copy, are the same ones who are lobbying for the cause of the ethnic Albanians of Kosovo, and who have hired Mr. DioGuardi as their lobbyist, I think their entire case has a very serious credibility problem.

I think this very sad episode that is underway right now in Albania should highlight the background of that entire region of the world, and cast the Kosovo crisis in a more realistic light than the partisans of the ethnic Albanian cause have done so far.

UNDERPAYMENT OF INCOME TAXES BY U.S. FOREIGN-OWNED SUBSIDIARIES

The SPEAKER pro tempore (Mr. NEAL of North Carolina). Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 60 minutes.

GENERAL LEAVE

Mr. PICKLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PICKLE. Mr. Speaker, for the past 9 months the Subcommittee on Oversight of the Committee on Ways and Means has been investigating whether U.S. subsidiaries of foreign-owned companies are underpaying Federal income taxes in the United States. As part of the investigation, the subcommittee reviewed corporate income tax returns, studied IRS case histories, and spoke with Internal Revenue Service examiners, attorneys, and economists. The subcommittee focused primarily on companies engaged in the automobile, the motorcycle, and the electronic equipment industries.

Yesterday the subcommittee held a hearing to release the results of this investigation. I am offering some of those facts presented yesterday and may be joined by members of my subcommittee.

We are taking this special order to point out to the American people and to Members of this body the very serious problem we have in respect to the underpaying of Federal income tax by foreign-owned subsidiaries.

U.S. companies controlled by foreign parents supplied billions of dollars in products annually that are ultimately purchased by American consumers. The Internal Revenue reports that over a 5-year period of time total receipts of United States subsidiaries of Japanese companies exceeded $644 billion, and receipts of subsidiaries of the United Kingdom companies exceeded $400 billion.

The Commissioner of the IRS yesterday testified that total receipts of foreign-controlled companies from a 1979 to 1987 period of time increased by 183 percent; that is, from $242 million to $685 million, while at the same

time receipts of all other U.S. corporations grew only by 52 percent. In other words, U.S.-owned corporation receipts increased 52 percent. In this same period of time, the income and receipts of foreign corporations increased by 183 percent, which tells a story in itself.

The Internal Revenue Service Commissioner noticed that this growth manifests the increasing importance of this area of the tax law.

Now, the subcommittee staff reviewed portions of over 200 returns filed over the last decade for 36 companies. We went back 10 years to look at some of the tax returns.

□ 1850

These 36 companies encompassed by this review accounted for more than $35 billion in sales during 1986, according to the Internal Revenue Service. A significant number of these companies improperly reduced their U.S. taxes through transfer pricing schemes and other methods. It is a common practice for foreign subsidiaries to send over products from their countries to their subsidiaries here and put too high a price on the goods so that they avoid U.S. taxes.

The Internal Revenue Service can prevent the improper shifting of income within multinational corporations by using section 482 of the Internal Revenue Code. Under section 482 of the Internal Revenue Code, the IRS has the authority to change some of these figures. At least, this provision 482 authorizes the Internal Revenue Service to allocate income, deductions, or credits among related corporations when such allocation is necessary to prevent tax evasion or to clearly reflect the income of each of the related companies.

Regrettably, the Internal Revenue Service has fallen short in effectively using its authority in this area, and the results have been a loss of Federal revenue. How much loss has been lost because of this approach? It was difficult yesterday to nail down a figure. Different estimates have been discussed. We have tried our best to get a statement from the Internal Revenue Service, and tomorrow we will hear Assistant Secretary of the Treasury Mr. Gideon, and try to get a better figure. It was estimated in that hearing yesterday that this loss would be somewhere between $13 billion and as much as $50 billion, all other factors being considered. We have attempted to make the best estimate we could, and it well may be that the U.S. Government is losing somewhere in the neighborhood of $30 billion to $35 billion in revenue by virtue of these price transfer schemes and the making of excessive deductions, interest, freight, and other charges.

Mr. Speaker, if that is anywhere near correct, obviously this is a very serious problem for our Internal Revenue Service and for our Federal Government. One of our Members, the cochairman on the Republican side, stated yesterday that before we increase the taxes of any American citizen we ought to first be certain that foreign corporations are at least paying their fair share.

I simply say again to the Members that while we do not want to issue a figure that would alarm or could not be substantiated, it would appear to us that the loss of revenue is enormous and that this is a game and a scheme that is being practiced by these corporations. Mr. Speaker, it well may be a problem area with many U.S.-owned corporations, too.

Some companies investigated have been operating in the United States for years and have never paid Uncle Sam one thin dime in corporate income taxes despite billions of dollars in U.S. sales of cars, motorcycles, stereos, televisions, VCR's, and other products to the American consumer. Many of the companies that initially paid the taxes subsequently incurred substantial losses that not only allowed them to reduce their current year's taxes but also enabled them to recoup the prior years of tax payments. Year after year these companies, and we are talking about foreign-owned subsidiaries, would show that they were making no profits or were taking a big tax loss. Others would, for several years show a profit. The following year they showed that they had a great loss, and they claimed a carryback for the three prior years, which meant that they did not pay any taxes and really got rebates from the U.S. Government.

In those instances where that is happening, that is abominable and atrocious and ought not be allowed.

Many corporations are setting the transfer prices of goods and services purchased by the U.S. subsidiaries at too high a price. This is how they do it, by charging unrealistic or non-arm's-length prices for goods and services, that are dictated by the foreign parent to the U.S. corporations. As a result, a multinational can transfer taxable profits from one country to another. Artificially high transfer prices of goods and services purchased from a foreign parent reduces the subsidiary's profits and, thus, the taxes paid to the U.S. Government.

Consistently whether it is in the automobile industry or whether it is in the motorcycle or electronics industries, the VCR and others, many of the products sent from a foreign nation are sent to a U.S. subsidiary, and they will set a high price. Nearly always they are a much higher price than the same product that they sent into an uncontrolled subsidiary.

As a consequence, with such a high price, that money paid by that subsidiary goes back to Japan or to Germany or to England or to Korea, and consequently the profits, as such, go to a foreign nation and are not given to the United States, whereas, on the other hand, if a lower price is set, the profit naturally is going to be larger and consequently that American corporation is going to be paying a higher tax. It is a practice, or it is a game, that has been taking place, and it must be addressed. We must do something quick.

Mrs. BENTLEY. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I am happy to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, I am very, very interested in what the gentleman has been talking about, because these are some of the suspicions that some of us have been having as we have been exporting our jobs overseas, and then we have been encouraging so-called investment in this country because it is supposed to be very good, and I remember the first time I saw a news article on this that something like this was happening.

I want to commend the gentleman and his committee for getting into this, because I think it is extremely vital.

Was the gentleman saying millions of dollars or billions of dollars are being bypassed from our Treasury by these foreign corporations?

Mr. PICKLE. Clearly billions—the question is how many billions. I would agree with the gentlewoman that that is happening. One Member commented to our group that if we did not do something about it and the trend did not stop, then foreign corporations coming over here will be taking our jobs, they will be running our factories, and American industry is going to be at a very definite disadvantage because their competitors are not paying taxes.

Somewhere this practice has to be stopped. So I agree with the gentlewoman that it affects jobs as well as money to the Treasury.

Mrs. BENTLEY. The irony is that not only are they doing it this way, getting away from paying off the IRS funds, but in many of these cases these foreign companies have been given tremendous tax breaks to come in and build in this country, so they are really getting it in every way, and there is no way that an American company can compete.

Mr. PICKLE. They have not only been getting tax breaks, but they will come in and they will claim certain deductions and/or show no profit, and then if they are taken to task, and the Internal Revenue Service examines them, they may ultimately pay tax and interest, but for the next 2 or 3 years they will deduct that interest and zero out any tax due.

We found yesterday in our hearing that there has been no penalty ever paid to the Internal Revenue Service by any of these corporations on their income tax underpayments.

It may be that IRS assessed a penalty, but we tried to look back as far as the eye can see, and we have no record of where these penalties have been finally imposed and paid. It is a practice that has not been addressed, and that is the truth of the matter. We have to do something about it.

Mrs. BENTLEY. Mr. Speaker, I want to commend you and your committee for getting into this, and I just think it is something the American taxpayers are very concerned about, and the more they learn about it, the more concerned they are going to be.

When we get into losing millions and billions of dollars by people who are ripping off the system, then something has to be done, and again I commend the gentleman.

Mr. PICKLE. I thank the gentlewoman. I remind her that tomorrow we hold another day's hearing on this subject in the Ways and Means room and invite any Members to come by.

Mrs. BENTLEY. I thank the gentleman.

Mr. PICKLE. Many foreign multinational corporations are setting the transfer price of goods purchased by their subsidiaries at too high a level, as I stated, and in addition, many foreign-controlled subsidiaries are claiming excessive insurance, interest, freight costs, and expenses for promotional activities which are not correctly reflected in the transfer price.

□ 1900

This appears to be a common practice, Mr. Speaker, allowing many of the companies reviewed to reduce their U.S. taxes to little or to nothing.

Let me now describe one actual case that the subcommittee investigated which illustrates the transfer pricing issue. Members may provide additional examples, either this evening or by insertion.

There is a foreign-owned company which has been operating in the United States for decades, selling goods worth hundreds of millions of dollars each year. The subcommittee looked at this corporation's Federal income tax returns for the past 10 years and found, although the company sold more than $3.5 billion of goods in the United States and had gross profits of almost $600 million, it paid only $500 in Federal income tax to the United States Treasury.

I have a feeling that the one year where it showed a $500 tax, that the second or third year after that they claimed a loss carryback.

Mr. Speaker, how could a company owned by a profitable foreign multinational, which has been successful in marketing its products in this country, continue, year after year, to report losses in the United States and still stay in business? It does defy the imagination, does it not?

The subcommittee also learned of cases where foreign-owned corporations improperly shifted income from the United States through schemes set up to avoid Customs import duties. Some companies have been caught by Customs illegally reducing their duty payments through fraudulent shipping and insurance charges, through kickbacks, and by manipulation of prices for products traded between subsidiaries operating in the United States and other countries.

The practice of setting up transactions ship in products to be undervalued at Customs is growing at an enormous rate. Yesterday they estimated it might be as much as 200 or more companies that are actually illegally practicing these undervaluations through Customs imports.

I was bothered yesterday to hear testimony that often Federal agencies of our own do not even share information of mutual benefit. There certainly is a common interest in good and efficiently managed government. These agencies need to work together.

Mr. Speaker, I was appalled to realize that in many instances Customs, who relies and can see firsthand the excessive charges being made in freight or in interest for the undervaluation of imports, do not report that information to the Internal Revenue Service. If the Internal Revenue Service establishes that this scheme or pricing game is going on. They do not notify the Customs Office.

Quite often the Department of Commerce is left in the dark about what is happening. They are not talking to each other. Valuable information that should be shared by each of our Federal agencies simply is just not being accounted for.

Mr. Speaker, it would seen to me if that practice is as bad as it appears to be, that we ought to do something about that.

Mr. Speaker, at this point I want to emphasize there there are foreign-owned companies operating in the United States which do comply with United States tax laws and which do pay substantial Federal corporate income taxes. I do not want the impression to be left at this special order that most of the corporations are paying very little taxes. But of the 36 companies we reviewed, going back over a period of 10 years time, approximately one-half of them did not pay any substantial Federal income tax, or paid no income tax, or had substantial loss carryovers. At least half of them.

But in making that statement, we do want to say there are some foreign-owned corporations, both on the Atlantic and the Pacific side, who do pay taxes and who do comply with our tax laws. I think we ought to recognize that.

I do not give the names of some of those companies, just as I do not give the names tonight of those people who are not paying income tax, because tax information is not permitted and is not allowed under our laws.

But the subcommittee found that several of the foreign-owned companies investigated did in fact pay a significant level of U.S. taxes year after year, and that the Internal Revenue Service had examined their transfer pricing structure and found no problem. So we must be straightforward in saying some of the companies are correctly practicing this, but many of them do not.

Finally, I do not believe that the Internal Revenue Service is equipped or able to effectively protect this country's tax system against section 482 transfer pricing abuse. The misallocation of profits among foreign multinationals and their subsidiaries will continue to present monumental problems, unless the Internal Revenue Service has an effective international enforcement program.

Mr. Speaker, we asked the Internal Revenue Commissioner yesterday whether section 482 is strong enough, sufficient in itself, to allow the Internal Revenue Service to carry out its orders as authorized, to prevent this misallocation of income and expenses or transfer pricing schemes overall.

His reply was yes, it could be handled, if the Internal Revenue Service and the Congress and the administration makes a concerted agreement and effort to carry it out.

Well, now that was not much of an answer, although that was correct. But it does point out the fact that we have not agreed among ourselves what to do and how to go about making these corrections. That commitment must be made.

Yesterday we heard from the Internal Revenue Service field agents, about a dozen of them, who were called in from all across the United States and gave us example after example after example of how these multinational corporations were doctoring their transfer prices, and how they would end up year after year paying very little tax, if no tax.

In many instances they would not cooperate with the Internal Revenue Service if they were being asked to furnish the information. In some instances they actually made it difficult. In one instance they actually said that the IRS inspectors and examiners would have to operate out of a guardhouse. This was on a hot summer day. In other instances they said well, put them over into this room, and then you go break the air-conditioning. Or if they said they would furnish the

records, in one case they brought in about 30 different boxes, huge cardboard boxes, and just dumped them in a room and said here are your records. In many instances when the records are furnished, they are furnished in a foreign language.

That is hard for our agents to figure out what is being said. That sounds like a horror story, does it not, but that is actually taking place. Of course, that cannot be permitted.

We heard yesterday from these 12 agents, and I might say, Mr. Speaker, they were some of the brightest and ablest men and women in the U.S. Internal Revenue Service. They gave us these examples of how this practice has been taking place. So for the record we know it is a fact, and we can show specifically how this practice is taking place.

Now the question is, what will the Internal Revenue Service do about it and what will the Congress say to the Internal Revenue Service that is our clear indication or instruction that we want something done about it? And that remains to be seen.

But these agents did point out what was happening, and they did not paint a pretty picture of what they called life in the trenches.

Among other things, the Internal Revenue Service has a few economists on staff to assist them with complicated tax issues. We are having a hard time competing against the money of the big corporations. To settle a tax case in many instances we will need a nationally recognized economist.

The Internal Revenue Service in many instances has about 40 economists throughout the United States. Any one of the large corporations who have clients with international companies, these multinationals, they will have 40 economists of their own that they can hire and they can use. For every expert tax witness we have got, they have got dozens, highly paid, and it really is not a fair fight in many respects.

What happens is that IRS will have an examination, and the case will go on year after year after year, and there are delays and delays, and the U.S. Government does not get the information. Then the statute of limitation runs. And they will say, "so sorry," and consequently then our chances for effective tax collection is gone. So we are short-handed.

□ 1910

We asked the question yesterday of the IRS Commissioner: "Mr. Commissioner, are you or your IRS agents outgunned?" And the answer was yes. They have increased their enforcement field on an international basis. They have more than doubled or tripled it over a period of 10 years' time, but they are woefully short in having the manpower to compete in this area where there is such an enormous amount of funds that are being siphoned off or at least not being paid to the Treasury.

It seems that the games played by some corporations include hiring all of the experts so that the Internal Revenue Service cannot hire them. At first blush when one hears that they think that cannot be possible because they cannot hire up all of the experts, and thank goodness they cannot, because we have many fine, dedicated IRS agents who refuse to leave even though they could go out into private industry and get jobs at much higher rates. They refuse to do it because they think it is important to the Government, and because they like their jobs, and they are respected and work hard at it, and we must pay a compliment to those types of Internal Revenue Service people who are so dedicated. But in many instances they simply cannot resist, and they leave the Service and go out and work for these corporations, and we have lost another good public servant and the Treasury then loses a lot of money.

But there is a great deal of just delay, delay, delay, and then after that the companies involved refuse to extend the statute of limitations. The complexity of the issues, the attrition of experienced personnel, the lack of resource and the failure of these corporations to cooperate all have delayed the Internal Revenue Service's examination on these returns.

Clearly all of this begs the question of whether the IRS is outgunned, and just throws up their hands accordingly.

In the final analysis, information from these companies needs to be made more timely and readily available to the Federal Government. Recent congressional efforts to strengthen the ability of the Internal Revenue Service to obtain critical information from these foreign-owned entities will undoubtedly help.

Section 482 and the section last year which we added to the Code, Section 6038, gives the Internal Revenue Service more authority than ever before to go out and ask for the information. We will be looking in the Committee on Ways and Means at ways to strengthen section 6038.

There are many things we are looking at as a committee that we can specifically put into place to improve our picture. The Internal Revenue Service, the U.S. Customs Service, the Department of Commerce, and other Federal agencies need to better coordinate their efforts to enforce U.S. law. The facts presented at this hearing yesterday have focused attention on these problems. The subcommittee intends to continue their hearings on Thursday, and we look forward to additional ideas for improvements in this effort.

I would summarize my statement at this point by saying that many of our multinational corporations, and I am not just talking about the Japanese, I am talking about Korea and other Pacific Rim countries; I am talking about the United Kingdom, Germany, France, and other European countries who have been engaged over a period of years of sending their goods to the United States. We are the big bread basket of the world as far as market sales are concerned. Everybody wants to sell their goods to us. They not only are selling their goods now, they are coming over and they are establishing their own U.S. corporations, and competing here, and that is part of the international trade. We cannot complain about that in some respects. But in many respects if they do that and are not paying their taxes to the U.S. Government, that is unacceptable and we have to do something about it.

How much is being lost? Again, we will try to get a figure that we can have some general agreement on. That figure may come out tomorrow. But it is somewhere in the neighborhood we think of at least $30 billion. Can you imagine what that will do for our budget if we could just collect those funds from those corporations, and then if it was broader including some of the American corporations we can see what would also happen.

I think the fact we have to admit is we have not made a national commitment to do something about this transfer pricing scheme. We have not really given it full manpower to the Internal Revenue Service to do something about these companies. The IRS is doing the best they can under the circumstances. Many of the cases they have under examination now have been on file for 5 or even 10 years, up to the time of the statute of limitations is running out, but the cases just go on and on. So they are active in the field, but they are really underpowered, and I guess it comes down to this point, Mr. Speaker: Any corporations and any individuals ought to pay their fair share of taxes. We asked the Commissioner yesterday what is a fair share of taxes, and that is an answer that is very difficult to define, and I accept that. But everybody in America I believe is willing to pay voluntarily their share of taxes if they think the other person or the other corporation, American or domestic, international or whatever is doing the same thing.

What we can agree on is that if we have difficulty defining what is a fair share of taxes, we can agree that if they say they are paying no taxes or they are eliminating taxes year after year with net operating loss carrybacks, that is not a fair share of taxes.

So Mr. Speaker, I ask the Members of the House to be mindful of these

hearings. They will resume again tomorrow. It is likely that we will receive statements for the record from other corporations at a later date if they wish to submit testimony, because every person has a right or every corporation has a right to either present such information to our committee or to the Congress that they wish.

I specifically do not mention names, but I conclude by saying that this transfer pricing scheme is being practices almost without abandon throughout the world, and we in the United States are paying for it. Something should be done about it, and I call the attention of the Members to it, and ask for their suggestions and their advice.

Mr. Speaker, before I yield back the balance of my time let me point out how interesting it was to discover this afternoon that a subcommittee of the House made an amendment to an appropriation bill that goes directly to this very subject. It was not sought by the committee except in very general terms earlier, and some of us felt it might be that the time had elapsed, but an amendment was put onto the Treasury, Postal Service, and General Government appropriation bill this afternoon. It was offered by our colleague, the gentleman from Virginia, Mr. WOLF, and supported by MARCY KAPTUR of Ohio.

The amendment simply says: "* * * and of which not less than $10 million above fiscal year 1990 levels shall be available for the purpose of enforcement activities relating to United States subsidiaries of foreign-owned corporations that are in noncompliance with United States tax law." And they put language in the report to show why this is important.

Here is a committee on its own, because they recognize the seriousness of the problem, who actually made a motion and carried it today to put $10 million in, specifically earmarked for the work of foreign-controlled subsidiaries. I find that very interesting, that just voluntarily this committee would take some action. I am hoping that the Treasury Department will support this and that the Internal Revenue Service will support it, and they can double or triple or even make a larger amount of money available so that they can properly carry out the law, because it is obvious that the Congress is going to request that this is done.

Mr. Speaker, I yield back the balance of my time.

Mr. FLIPPO. Mr. Speaker, yesterday the Oversight Subcommittee of the Committee on Ways and Means held the first of two hearings on the level of tax payments by foreign-owned U.S. companies. At that hearing, subcommittee staff presented the results of a 9-month investigation which focused on tax payments over the past 10 years by 36 foreign-owned U.S. distributors of automobiles, motorcycles, and electronics equipment.

These corporations sold millions of high-priced consumer products like automobiles, trucks, motorcycles, televisions, stereos, VCR's, and fax machines. But more than half of the companies paid little or no Federal income tax. The problem was not that these companies were poorly managed; in fact, they had billions of dollars in sales. The problem is that the foreign parent corporation inflated the prices of their goods sold to the U.S. subsidiary so that little, if any, profits were earned in the United States. In other words, these multinational corporations took their profits abroad, and there was nothing to tax in this country.

How have they been able to avoid U.S. taxes? For the most part, it is through improper transfer pricing. And, it appears to be a deliberate scheme of tax avoidance. It is intolerable. It is outrageous.

Our staff reviewed 106 income tax returns for 18 electronic distributors. On these returns, the companies reported $116 billion in gross receipts. They paid only $654 million in U.S. taxes. This in only one-half of 1 percent. Moreover, only 9 of the 18 companies reported positive taxable income. For 1987 alone, 14 of the 18 electronics companies reported $20 billion in gross receipts, but paid only $38 million in taxes. This is less than two-tenths of 1 percent. Eight of these companies reported almost $14 billion in gross receipts and paid no Federal income tax whatever. Had these companies paid a mere 1 percent of gross receipts in taxes the Federal Treasury would have collected $140 million.

Even when the companies do pay U.S. tax, it appears that they are subsequently able to recoup their taxes by later generating a loss, and the loss carryback would wipe out the taxes they paid in previous years. The subcommittee looked at the tax returns of one electronics firm that over 7 years had reported gross receipts of almost $4 billion. For those years, the company reported only $15 million in U.S. tax liabilities. Moreover, the company was even able to wipe out these taxes by the use of net operating loss carrybacks. So over 10 years, this company ultimately paid no Federal income tax.

The staff also reviewed 116 returns for 18 automobile and motorcycle companies. All but two of these companies paid some Federal taxes, but with the use of net operating loss carrybacks, only 12 of the companies actually paid money. For 1987, 10 automobile and motorcycle companies reported $38 billion in gross receipts and paid $366 million in Federal income taxes. This is slightly less than 1 percent, but when net operating loss carrybacks are factored in, the amount they actually paid is much less than 1 percent.

Mr. Speaker, this is unacceptable. America has opened its doors to foreign companies. And they earn billions of dolllars here. But those billions of dollars haven't translated into a proportionate amount of taxes paid to the United States. Mr. Speaker, one of the conditions of doing business in this country is being subject to U.S. laws, and those laws include the Internal Revenue Code.

Mr. McGRATH. Mr. Speaker, during the Ways and Means Oversight Subcommittee staff investigation into the level of taxes paid by U.S. subsidiaries of foreign corporations, I'm afraid we found that the Internal Revenue Service is being bowled over in its efforts to assure that these companies pay their fair share of U.S. taxes.

The IRS employees we interviewed were both dedicated and competent, but IRS staffing levels just aren't sufficient to cope with the increased activity in the United States of foreign corporations. From 1980 to 1990, the number of international examiners increased from 200 to almost 500, but the number of foreign-owned corporate income tax returns filed increased from 25,000 to 45,000 during the first 7 years of that decade.

The successful development, resolution and litigation of tax cases involving transfer pricing issues requires a complex and thorough economic analysis of the transactions. The IRS has only 40 economists worldwide. A single major accounting firm usually has at least that many on its staff. Most IRS economists do not have Ph.D.'s, have not published extensively in their field, and have not had much, if any, experience testifying in court. Courts often see them as biased in favor of the IRS.

Economists hired by the U.S. subsidiaries involved in transfer pricing cases usually have litigation experience, are widely published, and are frequently considered to be leaders in their fields. They are paid up to $450 an hour, while IRS economists get about $20 an hour. The IRS has difficulty retaining experienced economists; nevertheless, it recently downgraded its economists' salaries.

As one IRS agent put it, "The agency is out-gunned." In one case, it took 8 months for an IRS examination team to get an economist assigned to help it. And once he was assigned, his budget didn't allow for any travel. The IRS has to go through a time-consuming procurement process to hire outside experts, but corporations can hire them instantly. The companies might even hire an expert just to keep the IRS away. In one case, we were told that an American university discouraged its professor from working with the IRS for fear of losing corporate contributions.

While the IRS has to cut corners, the U.S. subsidiaries lavish big bucks on their attorneys and accountants. International tax audits mean millions in fees to the accounting and law firms representing foreign-owned subsidiaries. These firms are constantly filling their ranks with former IRS international attorneys and examiners, who are attractive to the companies because of their experience with international issues, and who are attracted by the companies' salaries, which are, in comparison to their IRS salaries, astronomical.

The companies talk to each other to keep apprised of IRS audit techniques and issues raised. According to the IRS, if one company begins to take advantage of a tax issue, the entire industry begins to do likewise. The corporate community has developed what IRS agents term "combat strategies." The subcommittee obtained a document revealing that corporations are instructed to avoid retaining nonprivileged documents that do not support, or that might contradict, tax positions taken, or that could serve as a road map for audit if obtained by the IRS. The document goes on to recommend to companies when they should refuse an IRS request to extend the statute of limitations and how they should re-

spond—or refuse to respond—to IRS requests for information.

Our subcommittee staff found that it usually takes 10 years to complete an automobile audit, and from 4 to 6 years for an audit in a motorcycle or electronics equipment case. IRS agents reported that the difficulties encountered in obtaining information from the taxpayers makes for a long, drawn-out process. In many instances, the attorneys representing these companies prolong the resolution of these tax disputes by spoon feeding the IRS information. Delay results in fewer audits and ineffective enforcement. The IRS has had to close examinations because it could not get crucial information. In one case the company refused to provide foreign-based information claiming, "We aren't required to keep such records by law in our home country." In another case, the company took a different approach, providing the IRS with 40 boxes of documentation with no index, burying the critical data in a mountain of useless paper.

The IRS does not effectively coordinate the handling of international tax issues. Each case involving the transfer pricing issue is handled separately. International examiners do not share data about industries with transfer pricing problems or communicate with each other regarding the development of common issues. Many of the transfer pricing schemes are similar in nature, but IRS personnel across the country must re-invent the wheel each time an examination is conducted.

In summary, the IRS' international enforcement program suffers from the lack of resources and coordination. The Commissioner reported today that the IRS' budget is a critical first step to maintaining and enhancing the health of our tax system. It will permit expansion of our enforcement efforts in a variety of areas, including transfer pricing by foreign-controlled corporations. The Commissioner has also suggested that Congress authorize the retention of outside experts on a sole source basis. Finally, he has endorsed changes in the law that would make it easier for the IRS to get information about foreign-controlled corporations. As these hearings continue tomorrow, I look forward to more suggestions as to how we can better assure that foreign-controlled corporations pay their fair share of U.S. taxes.

Mr. SCHULZE. Mr. Speaker, as you have heard, the Oversight Subcommittee of the Committee on Ways and Means is holding hearings on the issue of the level of U.S. tax payments made by U.S. incorporated companies that distribute foreign-made products to U.S. wholesalers and retailers. As you have also heard, these companies haven't been forking a lot over to Uncle Sam in the form of tax payments.

How have they been able to avoid U.S. taxes? For the most part, it is through the improper transfer pricing policies. Typically, what happens is this. A U.S. corporation is organized to sell foreign-made goods in the United States. The U.S. corporation purchases goods from its parent, which the U.S. corporation then sells in the United States. But the foreign parent corporation controls the U.S. corporation, so the price paid by the sub to the parent isn't subject to negotiation. And the price is often a lot higher than prices set during arms-length negotiations that do not involve related corporations. A higher cost of goods sold translates into lower profits, which means less taxes.

In one case, for example, a foreign parent had sold televisions to an unrelated corporation for $150. Its subsidiary, however, was charged $250 for the same set. In another case, an automobile manufacturer shipped trucks to its U.S. subsidiary; it shipped identical trucks to an unrelated U.S. distributor. The unrelated distributor paid less for the trucks than did the U.S. subsidiary. And in yet another instance, one foreign automobile manufacturer sold cars to its U.S. distributor at prices averaging $800 more than identical cars sold to its Canadian distributor.

In addition, the price paid by many U.S. subsidiaries often does not reflect the cost of rebates. Rebates are generally utilized by automobile manufacturers to help dealers sell new cars. U.S. subsidiaries may also have to bear expenses for advertising and warranties, with no corresponding price concession from the foreign parent. In one case, the advertising expenses exceeded 50 percent of the company's gross profit, whereas, others in the industry spent between 3 and 5 percent of gross profits for advertising. In an arm's length transaction, a distributor would negotiate an adjustment in the cost of the goods to reflect these additional expenses. The distributor would not bear the burden of extra costs where such a burden places him at a competitive disadvantage.

Mr. Speaker, the Internal Revenue Code requires that these U.S. corporations pay their parents an arm's length price for the goods they purchase. But these companies haven't been paying an arm's length price. When these distributors are able to circumvent the arm's length transfer pricing rules, they can reduce the profits they pay to the United States. And that means less taxes paid to this country, despite billions in dollars of sales made here.

Mr. CHANDLER. Mr. Speaker, during the course of the Oversight Subcommittee's investigation, it became clear that transactions between a foreign parents and foreign controlled U.S. subsidiaries also involve issues relating to the payment of important duties as well as Federal taxes. One case evidenced how the overstatement of freight and insurance costs on imported products was used to avoid both tax and duty.

Let me share an example costs which can affect both the duty and tax liability incurred. Freight charges and insurance costs of an importer are nondutiable charges. Therefore, an overstatement of these nondutiable charges fraudulently decreases the dutiable value of imported products and, therefore, the amount of duty paid to U.S. Customs. Since freight and insurance charges are also deductible business expenses, and increase in these costs decreases the amount of taxes paid.

Customs testified that its Operaton RAP [Rebate and Adjustment Program] that freight and insurance is being charged on paper only to the importing subsidiaries, and then the international freight and insurance companies are paying kickbacks to the firms in the form of cash or money orders. The foreign controlled U.S. subsidiary, upon import, files an invoice with the U.S. Customs Service which shows higher charges for certain shipping-related charges, and, needless-to-say, does not reflect the kickback, decreasing the duty owed.

One Customs investigation involved a freight company and a U.S. distributor which were all subsidiaries of the foreign Japanese automobile manufacturer. This company did agree to pay Customs over $6 million in additional duties and penalties, and, since then, $3 million in additional duties and penalties have been collected.

The Deputy Commissioner of U.S. Customs testified that while Customs continues to audit companies which operate on an unrelated basis, an expanded dimension to related party audits has come about because of the increase of foreign firms with subsidiaries in the United States. Custom's increased activity in this area is necessary in order to ensure all importers that these corporations are not getting the competitive edge by violating our trade laws.

GENERAL LEAVE

Mr. LEWIS of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and exend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1920

THE EMBARGO OF LITHUANIA BY THE SOVIET UNION

The SPEAKER pro tempore (Mr. NEAL of North Carolina). Under a previous order of the House, the gentleman from Florida [Mr. LEWIS] is recognized for 60 minutes.

Mr. LEWIS of Florida. Mr. Speaker, while we all are aware of the recent embargo of Lithuania by the Soviet Union, I find it unfortunate that many Americans, and indeed many of my colleagues do not know the extent and human consequences of this same blockade.

In addition, many of us are under the impression that this embargo has been lifted. However, according to the Lithuanian foreign minister just today, the blockade has only been lifted where it was harming the entire Soviet economy.

For example, Lithuania is being permitted supplies that will help their agriculture community, because the Soviet economy as a whole needs these agricultural supplies.

Mr. Gorbachev has also stated that they have signed a protocol with Lithuania and have appointed a negotiating team. Neither of these is true.

We are all familiar with the stoppage of oil and other supplies that can be sold for hard currency abroad. The apparent emphasis on these products

has led this blockade to be rather benignly called an economic blockade.

Unfortunately, this so-called economic blockade has also included another, much less humane, aspect. That is the virtual elimination of imports of medical supplies to Lithuania.

As we all know, due to the failure of their Communist system, the Soviet Union has not been able to give its own people anything approaching adequate medical care.

Therefore, when these supplies were cut off from Lithuania, there was no backup supply. When the incoming supply stopped, the medical supplies dried up. It is just that simple.

As a diabetic myself, I have a special place in my heart for those who have this disease. For this reason, I was horrified to learn that, of the almost 600,000 vials of insulin needed by Lithuanians each year, only 200 have been received, only 200 when 600,000 are needed.

A blockade of this type is clearly not meant to be an economic tool. It is meant as a method of bringing the Lithuanian people to their knees, people to their knees starting with the most infirm.

What a crying shame.

And also they want to bring to their knees those who are infirm, the elderly, and the children.

Mr. Speaker, while the Soviets claim that they are only blockading medical supplies that can be sold for capital, this is simply not true as evidenced by the items that are being embargoed.

The embargoed items include: syringes, less than a quarter million of the 100 million needed have been delivered. Scalpels, less than 15 percent of the scalpels needed have been released.

In addition, only 10 percent of the allotted supplies of sutures and x ray film have been supplied.

Mr. Speaker, I hardly think that syringes, scalpels, x ray film, sutures, and insulin could be exported and sold by Lithuanians so that they could keep up their struggle against the Soviet tyranny.

Even in times of war, the United States, and even many of our enemies, do not deny their prisoners medical care. This includes caring for soldiers who had killed the comrades of those who were now treating them.

Even hostile soldiers get care in wartime. But, if you are an old, infirm woman in Lithuania, you are probably being denied basic medical care because the supplies are being withheld. This is unacceptable and immoral.

Mr. Gorbachev, if you are truly going to convince the civilized world that you are a great leader, you must end the use of these types of ruthless embargoes.

In addition, not only will you resume a constant flow of adequate medical supplies to Lithuania, you will bring in enough supplies to make up for the supplies that your embargo has denied these brave people.

This is not a matter of politics. It is truly a matter of life and, yes, even death. The affect this is having on people in Lithuania is real, Mr. Gorbachev.

A very sad and touching example of this effect is shown in a letter to a Lithuanian Catholic religious aide from the mother of an 11-year-old boy. The letter, Mr. Gorbachev, reads:

> My son is eleven years old and has suffered from diabetes for a year. Already, we are not receiving the prescription medication he needs, and will not receive it in the future. This is a question of his life or death.

Mr. Gorbachev, I call on you to lift this blockade completely, restock the supply levels currently depleted because of your embargo, and never again use this ruthless and immoral tool on an innocent people.

Finally, I would like to thank the Lithuanian-American community in my district, especially Mr. John Strasdas and other members within my district, for bringing this matter to my attention, and the Lithuanian community nationwide for refusing to let us forget the Lithuanian's sad circumstance.

As I mentioned in my opening comments, the Lithuanian Ambassador has brought forth that this supply, this blockade of supplies has not terminated as indicated. We are talking about medicine, we are talking about energy and fuel, the staples of life that the Lithuanians need. We are talking about a 25- to 30-percent cutback in production of electricity. We are talking about no gasoline or diesel fuel being delivered or reserves on hand that will last even until today. Natural gas needed is 18 million cubic meters per day. They do not have that much gas today.

Unemployment is suffering in Lithuania, suffering because enterprises must close. Production losses since the beginning of the blockade amount to approximately 335.2 million rubles' worth of goods. Profit losses due to shortage of energy, fuel, and other material resources amount to approximately 81.3 million rubles.

Mr. Gorbachev, how do you expect these people to exist if you take away their life's blood, their businesses, their medicines, their food, their natural resources?

What really strikes me as funny, Mr. Gorbachev, we have heard so often over the past few weeks that you talk about a constitution and that it will take 3 to 5 years for you, Mr. Gorbachev, and your congress to allow Lithuania to have its freedom. Did you, Mr. Gorbachev, think about that, did you, Mr. Gorbachev, you and your friends talk about that? For just a short time ago it only took you 9 hours to overrun Lithuania. I do not think you talked about that, Mr. Gorbachev.

I am very much concerned about these people. I am very much concerned that the humane aspects of medical supplies not being brought forth. This country and other countries throughout the world stepped forward at Chernobyl. They came forth with medical personnel, medical equipment, without any equivocation, Mr. Gorbachev. And now today you spread words upon us and have us believe we have to wait for a constitutional change before you can allow Lithuania to have its independence.

Shame on you, Mr. Gorbachev. I think if you want to be a respectful leader in this world, then you should step forward and give Lithuania its independence and you, Mr. Gorbachev, have the power to do that and elevate yourself to a world leader who will gain the respect of the entire world.

Mr. Speaker, I yield to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend my colleague from Florida, Mr. LEWIS, for his efforts in organizing this special order detailing the dire need for medical supplies that the struggling Republic of Lithuania is currently experiencing.

On May 3, the Lithuanian Minister of Health and the Medical Association of Lithuania issued an urgent call for medical assistance to the Republic. In their statement, they declared that their entire health system is in total jeopardy and experiencing a deep and serious crisis. In their plea for help they stated, "We are in great need of all types of medications, supplies and medical equipment. Please, extend your hands and hearts toward Lithuania."

Although medical supplies have always been in short supply, the economic blockade instigated by the Soviet Union slashed even the most basic medical supplies, such as surgical gloves and antibiotics.

The State Department, the American Diabetes Association, the International Diabetes Federation, and the American College of Physicians have all expressed concern over the shortage of medications in Lithuania.

As an example of the critical need for aid, of 287,000 vials of short-acting and 300,000 vials of intermediate-acting insulin required annually, less than 2 percent have been delivered since the blockade.

The list of medical supplies that are in crucial demand is extensive. Some of the most essential include insulin, syringes, antibiotics, sutures, and sterilizing solutions. Although humanitarian and medical aid is being received

from several Soviet republics, including the Ukraine, Georgia, and Russia, the supplies are still insufficient to meet the medical needs of this suppressed nation.

The problem is so grave that patients are having to bring their own medication to hospitals when they check in. This is not an example of glasnost, but an example of premeditated murder.

Mr. Gorbachev is the champion of glasnost. This is a changing world and Mr. Gorbachev, you have expressed your desire to be openminded. The need for medical supplies in Lithuania is critical and you are turning your head the other way. Please look. Please listen. Help is needed now.

□ 1930

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentlewoman from Florida for her kind words. I am sure those people that are still behind that partial Iron Curtain and the blockade of the Soviet Union in Lithuania appreciate her kind words as well.

I have three statements from Members that I would like to enter into the RECORD regarding Lithuania, and I do appreciate the time afforded me to speak for the problems of Lithuania. I also want to go back and say again to Mr. Gorbachev, if he wants to show the people of this world that he truly means to, and it is true that he means glasnost and perestroika, then set Lithuania free and set them free now.

Mrs. BENTLEY. Mr. Speaker, I rise this afternoon to express my deep concern over reports that continue to be received from Lithuania regarding the Soviet imposed blockade of that country. The cordon that was thrown around that defenseless nation state which boasts no military, no waves of armored personnel carries and who's very crime was the desire for independence, has barely been loosened—contrary to some press reports currently circulating. In a nutshell, negotiations between the Soviets and the Lithuanians regarding independence, and the 100 day moratorium, are scheduled to begin after—and I repeat after—a special protocol has been signed. There is every reason to believe that the Soviets will not sign this protocol because to do so would be to recognize Lithuania as a sovereign nation.

The restriction of fuel and medicinal products has imposed a great hardship on the Lithuanian people—hardship that has been the rule rather than the exception for 50 years and running. The full extent of the damage not only to the Lithuanian economy proper but to individual citizens that are denied critical medicines, will provide the grist for yet another dark chapter in the chronology of orchestrated Soviet abuses. It is my hope that the Soviet Union will abstain from playing work games and end this campaign of intimidation once and for all.

Mrs. MARTIN of Illinois. Mr. Speaker, in a year crowded with events and developments of truly historic proportion, the struggle of the Lithuanian people to regain their independence and their right to national self-determination has nonetheless taken on a special significance.

While freedom has swept over Eastern Europe like a great wave, Lithuania's struggle, unfortunately, is one that continues. While the East European States have celebrated their return to the fold of democratic, free market nations, Lithuania has suffered under the weight of an economic embargo that put 50,000 men and women out of work, cleared the Nation's shelves of food, and, perhaps most cruelly of all, created a shortage of medical supplies that halted the delivery of even the most rudimentary health care services to the Lithuanian people.

On July 2, Soviet President Gorbachev announced that the embargo would be lifted and that the Soviet leadership would retreat from its intransigent position and sit down with Lithuania's chosen leaders to explore avenues to independence.

Though the Soviet decision to lift the embargo has come as welcome news, it has not meant an end to Lithuanian suffering. The economic damage that the embargo of oil and gas caused will be slow to heal. Of greatest concern, however, are the immediate questions of life and death associated with the critical shortages of medical supplies that continue to exist in Lithuania.

There have been very disturbing reports suggesting that efforts to redress the effects of the embargo on Lithuania's health care system have been slow, and that the price in human suffering has been high. This need not be so. International organizations such as the Red Cross, for example, have attempted to step into the breach and provide needed emergency medical supplies. The Soviets, regrettably, have restricted these efforts.

At a time when Western leaders are negotiating economic and technical assistance for the Soviet Union, this situation is especially intolerable. With a loud and a unified voice we must demand that the Soviets redress this situation immediately. It's unconscionable, Mr. Speaker, that the leaders of the free world should be considering economic Band-Aids for the Soviets while sutures and scalpels are being withheld from Lithuania.

Mr. ATKINS. Mr. Speaker, scarcely a week ago we Americans proudly celebrated the 214th anniversary of our Declaration of Independence from the British Empire. With that fateful declaration, we as a people assumed the rewards and responsibilities linked with self-government.

Similarly, on March 11, 1990, Lithuania declared herself independent of the Soviet Union. The leaders of this Baltic republic are under no delusions that independence and self-determination will come easily, nor do they expect that once achieved, that self-government will not render its share of trying obligations. The Soviet Union is currently strangling the Lithuanians with an economic blockade in an effort to deny them a realization of their national aspirations, and this is only the first of many difficult moments for the Lithuanians in their quest for self-determination.

Mr. Speaker, as Americans we must admire the bravery and courage of the Lithuanians for their revolution. There is little that is as rewarding as the freedom associated with independence. However, accomplishing this independence, and the maintenance of such a condition, demands the greatest of stamina and fortitude from any nation.

And so, Mr. Speaker, as we reflect on our own independence, we must also rise to support the Lithuanians in the cause they are pursuing. For we, who have struggled for and achieved the previous state of independence, can appreciate the honor of the Lithuanian crusade.

Mr. ANNUNZIO. Mr. Speaker, I am glad to have this opportunity to join with my colleagues in the House of Representatives in expressing my concern about the lack of medical supplies in Lithuania, and in urging the Soviet Union to lift its blockade on these supplies.

Although the Soviet Union has stated that this blockade has been lifted, there is no tangible proof this has yet occurred. Instead, what is clear is that there is a critical shortage of medical supplies, and most international groups which have attempted to provide medical supplies have been unsuccessful in their efforts to enter Lithuania.

Because of this blockade, the most basic health care needs in Lithuania are not being met, and this situation cannot be tolerated. We must continue to let the Soviet Union know that their continuing harassment and attempted coercion of the people in the Republic of Lithuania is unacceptable, and will not succeed. The will of the people of Lithuania has never been crushed by these tactics in the past, and the Soviet Union cannot fight the tide of freedom now.

Mr. Speaker, I urge the Soviet Union to take immediate steps to see that adequate medical supplies are allowed to enter Lithuania, and I call on President Bush to pressure the Soviets to stop these intolerable actions toward the Lithuanian people, and recognize, the independence of the Republic of Lithuania.

Mr. RUSSO. Mr. Speaker, while we in the United States as well as Lithuania are pleased by the Soviet Union's stated intention to lift its economic blockade over Lithuania, we have seen little practical evidence that they have taken any concrete steps to do so. The amount of oil and gas that the Soviet Union has allowed into Lithuania has been minimal and the attempts of several international groups to provide Lithuania with medical supplies have been all but denied.

It is well known that the state of medical care within the Soviet Union leaves much to be desired and their blockade of the most basic medical supplies exacerbates an already inadequate system. During the blockage Lithuania received only one-seventh of their allocated number of scalpels, 10 percent of their x-ray film, 0.5 percent of their syringes and roughly a third of their insulin. With necessary items in short supply, even the most routine medical procedures became impossible as resources had to be restricted to the most serious of cases. The severe restrictions on gas and oil served to compound the problem through reduction in ambulance service, and travel restrictions on medical personnel serving housebound and rural area patients.

Medical supplies are likely to be even more necessary as the side effects of the embargo

take shape. The lack of fuel to heat houses as well as the drinking water and food processing industries' inability to use sanitation technology are likely to produce a rise in the overall disease rate. Many of the steps that would normally be taken to prevent an epidemic are not viable without proper medical supplies and energy technology.

In addition to suffering from the lack of liberty and self-rule over the last 50 years, the Lithuanian people must now confront the results of the Soviet Union's economic warfare. The Lithuanian people have paid a spiritual and ideological price for the illegal annexation, this physicial deprivation of the very basic element of life must be stopped. Through their moratorium, the Lithuanian people have demonstrated their willingness to compromise. It is now time for the Soviet Union to keep their end of the bargain and open the doors of commerce to Lithuania. Lithuania has suffered long enough.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JAMES) to revise and extend their remarks and include extraneous material:)

Mr. DREIER of California, for 60 minutes each day, on July 12, 17, 24, 25, 26, 31, and August 1 and 2.

Mr. DELAY, for 60 minutes each day, on July 11, 12, 17, 18, 19, 24, 25, 26, 31, and August 1 and 2.

(The following Members (at the request of Mr. HOCHBRUECKNER) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. LANTOS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. JAMES) and to include extraneous matter:)

Mrs. MORELLA.
Mr. PURSELL.
Mr. MICHEL.
Mr. GUNDERSON.
Mr. VANDER JAGT.
Mr. SOLOMON.
Mr. RINALDO in two instances.
Mr. GILMAN.
Mr. HENRY.
Mr. CLINGER.
Mr. GINGRICH in two instances.
Ms. ROS-LEHTINEN.

(The following Members (at the request of Mr. HOCHBRUECKNER) and to include extraneous matter:)

Mr. FOGLIETTA in two instances.
Mr. KILDEE.
Mr. SOLARZ.
Mr. LAFALCE.
Mr. HAMILTON.
Mr. TALLON.
Mr. BONIOR.
Mr. ROE.
Mr. RANGEL.
Mr. WAXMAN.
Mr. MAZZOLI.
Mr. NELSON of Florida.
Mr. JACOBS.
Mr. PALLONE.
Mr. HOYER in two instances.
Mr. MARKEY.
Mr. TORRES.
Mr. HERTEL.
Mr. LANTOS.
Mr. FEIGHAN.
Mr. HOCHBRUECKNER.
Mr. MANTON.
Mr. EDWARDS of California.
Mr. ENGEL.
Mr. RICHARDSON.

ADJOURNMENT

Mr. LEWIS of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 34 minutes p.m.) under its previous order, the House adjourned until tomorrow, Thursday, July 12, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3526. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of July 1, 1990, pursuant to U.S.C. 685(e) (H. Doc. No. 101-213); to the Committee on Appropriations and ordered to be printed.

3527. A letter from the Board of Governors, Federal Reserve System, transmitting a report entitled, "Deposits of Nonproprietary Automated Teller Machines," pursuant to Public Law 100-86, section 603(e)(4) (101 Stat. 641); to the Committee on Banking, Finance and Urban Affairs.

3528. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 8-223, "District of Columbia Real Property Tax Reclassification Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3529. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-224, "Uniform Classification and Commercial Driver's License Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3530. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-225, "Food Delivery Insurance Requirements Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3531. A letter from the Chairman, of the District of Columbia, transmitting a copy of D.C. Act 8-227, "Office of Zoning Independence Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3532. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of the antiterrorism training courses to be offered to the Government of Czechoslovakia in the areas of air transport security and antiterrorist police operations and organization, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foreign Affairs.

3533. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of the antiterrorism training courses to be offered to the Government of Hungary in the areas of air transport security and antiterrorist police operations and organization, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foreign Affairs.

3534. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of the antiterrorism training courses to be offered to the Government of Poland in the areas of air transport security and antiterrorist police operations and organization, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foreign Affairs.

3535. A letter from the Fourth District Farm Credit Institutions, transmitting the Farm Credit Institutions in the Fourth District amended retirement plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3536. A letter from the Vice President—Human Resources, Western Farm Credit Bank, transmitting the 11th Farm Credit District employee's retirement plan 1989 annual pension report, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3537. A letter from the Secretary of the Interior, transmitting certification that adequate soil survey and land classification studies have been accomplished on the Tohono O' Odham Nation, Papago Water Supply Project—Central Arizona Project [CAP], Arizona (Land Classification), pursuant to the Southern Arizona Water Rights Settlement Act of 1988; to the Committee on Interior and Insular Affairs.

3538. A letter from the Acting Chairman, U.S. International Trade Commission, transmitting a copy of a report entitled "Investigation With Respect to the Operation of the Harmonized System Subtitle of the Omnibus Trade and Competitiveness Act of 1988"; to the Committee on Ways and Means.

3539. A letter from the Deputy Under Secretary for Policy, Planning and Analysis, Department of Energy, transmitting notification that the "Carbon Dioxide Emissions Study" will not be finished for transmittal until December 1990; jointly, to the Committees on Energy and Commerce and Appropriations.

3540. A letter from the Acting Chairman, U.S. Nuclear Regulatory Commission, transmitting notification that the Commission has agreed to a phaseout of the Atomic Safety and Licensing Appeal Panel; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

3541. A letter from the Administrator, Federal Aviation Administration, transmitting the progress report on developing and certifying the Traffic Alert and Collision Avoidance System [TCAS] Airborne Equipment, TCAS II covering the months January through April 1990, pursuant to Public Law 100-223, section 204(b) (101 Stat. 1518); jointly, to the Committees on Public Works

and Transportation and Science, Space, and Technology.

3542. A letter from the Acting Director, Office of Energy Research, Department of Energy, transmitting notification that the Interagency Coordinating Group is completing its annual report and that it will be submitted in the near future; jointly, to the Committees on Science, Space, and Technology and Interior and Insular Affairs.

3543. A letter from the Deputy Under Secretary for Policy, Planning and Analysis, Department of Energy, transmitting notification that the four studies of climate policy issues conducted by the National Academy of Sciences will not be finished until September 1, 1990; jointly, to the Committees on Science, Space, and Technology and Appropriations.

3544. A letter from the Railroad Retirement Board, transmitting the 1990 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly, to the Committees on Ways and Means and Energy and Commerce.

3545. A letter from the Secretary of Energy, transmitting a copy of a report entitled, "ENCOAL Mild Coal Gasification Project"; jointly, to the Committees on Appropriations; Energy and Commerce; and Science, Space, and Technology.

3546. A letter from the Chairman, U.S. Nuclear Waste Technical Review Board, transmitting a draft of proposed legislation to amend the Nuclear Waste Policy Act of 1982, as amended, to enable the Nuclear Waste Technical Review Board to pay staff salaries that are competitive with other agencies of the Federal Government and to enable the Board to attract and hire the quality of employee necessary for the Board to carry out its statutory mission; jointly, to the Committees on Post Office and Civil Service, Interior and Insular Affairs, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries.

H.R. 3338. A bill to direct the Secretary of the Interior to convey all interest of the United States in a fish hatchery to the State of South Carolina; with amendments (Rept. No. 101-586). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALL of Ohio: Committee on Rules. H. Res. 429. A resolution waiving certain points of order during consideration of the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes. (Rept. 101-587). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. H. Res. 430. A resolution providing for the consideration of H.R. 5115, a bill to improve education in the United States. (Rept. 101-588). Referred to the House Calendar.

Mr. ROYBAL: Committee on Appropriations. H.R. 5241. A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes. (Rept. 101-589). Referred to the Committee of the Whole House on the State of the Union.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 5153. A bill to authorize the participation of the United States in the ninth replenishment of the International Development Association, to authorize the participation of the United States in the European Bank for Reconstruction and Development, to exempt the International Finance Corporation from Securities Exchange Commission reporting requirements, and for other purposes; with an amendment (Rept. 101-590). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ:

H.R. 5239. A bill to establish the Congressional Advisory Commission on Amateur Boxing and to amend title 18, United States Code, to prohibit the participation in and promotion of professional boxing; jointly, in the Committees on the Judiciary, Energy and Commerce, and Education and Labor.

By Mr. STOKES (for himself, Mr. HAWKINS, Mrs. BOGGS, Mr. LEWIS of California, Mr. DYMALLY, and Mr. MFUME):

H.R. 5240. A bill to establish Summer Science Academics for talented students, particularly economically disadvantaged, minority participants, and for other purposes; jointly, to the Committees on Science, Space, and Technology and Education and Labor.

By Mr. ROYBAL:

H.R. 5241. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes.

By Mr. BEILENSON:

H.R. 5242. A bill to amend the Harmonized Tariff Schedule of the United States to correct the classification of certain house slippers; to the Committee on Ways and Means.

By Mrs. BENTLEY:

H.R. 5243. A bill to exempt certain historic liberty and victory ships from inspection requirements under title 46, United States Code; to the Committee on Merchant Marine and Fisheries.

By Mr. DYSON:

H.R. 5244. A bill to amend title 28, United States Code, to make amounts from the Department of Justice Assets Forfeiture Fund available to rural law enforcement agencies for use in their efforts to combat drug-related crime and to maintain law enforcement drug abuse prevention programs; to the Committee on the Judiciary.

By Mr. HOCHBRUECKNER (for himself, Mr. MRAZEK, Mr. DOWNEY, Mrs. LOWEY of New York, Mr. FISH, Mr. SAXTON, Mr. SMITH of New Jersey, Mr. LENT, Mr. GEJDENSON, Mr. DWYER of New Jersey, Mr. MCHUGH, Mr. MCGRATH, Mr. HORTON, Mr. BOSCO, Mrs. BENTLEY, Mr. GILMAN, Mr. MCNULTY, and Mr. MORRISON of Connecticut):

H.R. 5245. A bill to amend the Public Health Service Act to establish a program of providing for research, treatment, and public education with respect to Lyme disease; to the Committee on Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself, Mr. TOWNS, Mr. SCHEUER, Mrs. COLLINS, Mr. MOODY, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. HAYES of Illinois, Mrs. MORELLA, Mr. HORTON, Mr. RANGEL, Mr. SABO, Mr. FAUNTROY, Mr. WASHINGTON, Mr. LEVINE of California, Mr. DYMALLY, Mr. MFUME, Mr. EVANS, Mr. ACKERMAN, Mr. CROCKETT, Mr. WEISS, Mrs. LOWEY of New York, Mr. BOEHLERT, Mr. PURSELL, Mr. SHAYS, Mr. PORTER, and Mr. LEACH of Iowa):

H.R. 5246. A bill to amend the Public Health Service Act to reauthorize adolescent family life demonstration projects, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KANJORSKI (for himself, Mr. ANNUNZIO, Ms. OAKAR, Mr. FRANK, Mrs. PATTERSON, and Mr. MFUME):

H.R. 5247. A bill to authorize civil actions for certain violations involving depository institutions; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEVINE of California (for himself, Mr. PICKLE, Mr. BROOKS, Mr. GEPHARDT, Mr. RITTER, Mr. MINETA, Mr. CAMPBELL of California, Mr. SCHEUER, Mr. FROST, Mr. CHAPMAN, and Mr. BRYANT):

H.R. 5248. A bill to promote and enhance science and mathematics literacy by providing scholarships to individuals who agree to teach mathematics and science in elementary and secondary schools; to the Committee on Science, Space, and Technology.

By Mr. MILLER of Ohio (for himself, Mrs. COLLINS, Mr. DE LUGO, Mr. PETRI, Mr. TOWNS, and Mr. LANCASTER):

H.R. 5249. A bill to provide that certain limitations on the payment of unemployment compensation to former members of the Armed Forces shall not apply to individuals involuntarily discharged or released from the Armed Forces; to the Committee on Ways and Means.

By Mr. MOLLOHAN:

H.R. 5250. A bill to amend the National School Lunch Act to extend eligibility for the child care food program to children receiving day care services pursuant to a State's job opportunities and basic skills training program; to the Committee on Education and Labor.

By Mr. RICHARDSON (for himself and Mr. RHODES):

H.R. 5251. A bill to establish the Indian Finance Corporation; to the Committees on Interior and Insular Affairs.

By Mr. SOLARZ. (for himself and Mr. MILLER of Washington):

H.R. 5252. A bill imposing additional conditions on the extension of most-favored-nation treatment to the products of the People's Republic of China; jointly, to the Committee on Ways and Means and Foreign Affairs.

By Mr. STARK:

H.R. 5253. A bill to establish a commission to study the research needs of the United States that can be performed by the Lawrence Livermore National Laboratory and its conversion to a national research facility;

jointly, to the Committees on Science, Space, and Technology and Armed Services.

By Mr. STUDDS:

H.R. 5254. A bill to authorize appropriations to carry out the Fish and Wildlife Conservation Act of 1980 for fiscal years 1991 and 1992; to the Committee on Merchant Marine and Fisheries.

By Mr. STUDDS (for himself, Mr. JONES of North Carolina, Mr. DAVIS, and Mr. YOUNG of Alaska);

H.R. 5255. A bill to amend the National Fish and Wildlife Foundation Establishment Act to authorize appropriations for the National Fish and Wildlife Foundation for fiscal years 1991, 1992, and 1993, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. GONZALEZ:

H.J. Res. 619. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the dealth penalty; to the Committee on the Judiciary.

By Mr. HOYER (for himself, Mr. PORTER, Mr. FASCELL, Mr. MARKEY, Mr. FEIGHAN, Mr. RICHARDSON, Mr. WOLF, Mr. RITTER, Mr. SMITH of New Jersey, Mr. BLILEY, Mr. SCHUETTE, Mr. FUSTER, Mr. HORTON, Mr. COYNE, Mr. VALENTINE, Mr. KOLTER, Mr. GILMAN, Mrs. BOXER, Mr. PALLONE, Mr. MCNULTY, Mr. LENT, Mr. CONTE, Mr. ASPIN, Mr. FROST, Mr. LEHMAN of Florida, Mr. MOODY, Mr. MILLER of Washington, Ms. PELOSI, Mr. DIXON, Mr. NEAL of North Carolina, Mr. MADIGAN, Mrs. COLLINS, Mrs. MORELLA, Mr. MRAZEK, Mr. BUSTAMANTE, Mr. ACKERMAN, Mr. KILDEE, Mr. MCDERMOTT, Mr. DWYER of New Jersey, Mr. BROOMFIELD, Mr. GALLEGLY, Mr. FAZIO, Mr. LEVIN of Michigan, Mr. SCHEUER, Mr. HUGHES, Mr. ECKART, Mr. FOGLIETTA, and Mr. MCEWEN);

H.J. Res 620. Joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day"; jointly, to the Committees on Post Office and Civil Service and Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

464. By the SPEAKER: A memorial of the Senate of the State of Missouri, relative to support of H.R. 4480; to the Committee on Banking, Finance and Urban Affairs. July 11, 1990.

465. Also, memorial of the House of Delegates of West Virginia, relative to additional funding for the special supplemental food program for women, infants, and children; to the Committee on Education and Labor.

466. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to urging the Congress to repeal the employer sanctions provisions of the Immigration Reform and Control Act of 1986; to the Committee on the Judiciary.

467. Also, memorial of the Senate of the State of Michigan, relative to asparagus; to the Committee on Ways and Means.

468. Also, memorial of the Senate of the State of Mississippi, relative to the classification and use of wetlands; jointly to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

469. Also, memorial of the Senate of the State of Mississippi, relative to the classification and use of wetlands; jointly to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 201: Mr. SCHIFF, Mr. HENRY, and Mr. RAVENEL.

H.R. 214: Mrs. UNSOELD.

H.R. 220: Mr. GORDON, Mr. SERRANO, Mr. QUILLEN, Mr. FISH, Mr. DWYER of New Jersey, Ms. PELOSI, and Ms. MOLINARI.

H.R. 446: Mr. HUNTER, Mr. LIGHTFOOT, and Mr. BALLENGER.

H.R. 844: Mr. COSTELLO.

H.R. 1092: Mr. CAMPBELL of California.

H.R. 1399: Mrs. SCHROEDER.

H.R. 1400: Mr. WHITTEN, Mr. GRAY, Mr. FEIGHAN, Mr. MCDERMOTT, Mr. AUCOIN, Ms. SNOWE, Mr. VISCLOSKY, Mr. BRENNAN, and Mr. TORRICELLI.

H.R. 2188: Mr. SANGMEISTER, Mr. FROST, Mr. TRAFICANT, Mr. GREEN of New York, Mr. FISH, Mr. PEASE, Mr. ENGLISH, Mr. JOHNSON of South Dakota, Mr. BONIOR, Mr. VALENTINE, Mr. SMITH of Vermont, Mr. OBERSTAR, Ms. KAPTUR, Mrs. BOXER, and Mr. HOCHBRUECKNER.

H.R. 2380: Mr. MOORHEAD, Mr. RUSSO, Mr. BILBRAY, and Mr. KOLTER.

H.R. 2870: Mr. BOSCO.

H.R. 3004: Mr. GAYDOS and Mr. SCHUETTE.

H.R. 3200: Mr. HAYES of Illinois, Mrs. MORELLA, Mr. HOCHBRUECKNER, Mr. FASCELL, and Mr. MACHTLEY.

H.R. 3251: Mr. AUCOIN, Mr. OWENS of New York, Mr. PARRIS, Mr. MAZZOLI, Mr. WOLF, Mr. HUGHES, and Mr. SERRANO.

H.R. 3252: Mrs. UNSOELD, Mr. SLATTERY, Mr. WALSH, Mr. APPLEGATE, Mr. CROCKETT, Mr. MCDERMOTT, and Mr. WHITTEN.

H.R. 3270: Mr. ROWLAND of Connecticut, Mr. MCEWEN, Mr. CARPER, Mr. HILER, Mr. YATRON, Mr. NEAL of Massachusetts, Mr. LEWIS of Georgia, Mr. FRANK, Mrs. BYRON, Mr. MATSUI, Mr. ARMEY, Mr. HOCHBRUECKNER, Mr. MAVROULES, Mr. SHUMWAY, Mr. TANNER, Mr. MCMILLEN of Maryland, Mrs. JOHNSON of Connecticut, Mrs. BENTLEY, and Mr. FAWELL.

H.R. 3297: Mr. OBERSTAR.

H.R. 3380: Mr. CLARKE.

H.R. 3420: Ms. SCHNEIDER and Mr. MRAZEK.

H.R. 3621: Mr. SOLOMON.

H.R. 3681: Mr. INHOFE.

H.R. 3684: Mr. BARNARD, Mr. BORSKI, Mr. MRAZEK, Mr. AUCOIN, Ms. SCHNEIDER, Mr. DOWNEY, and Mr. STAGGERS.

H.R. 3686: Mr. DELAY.

H.R. 3690: Mr. VALENTINE, Mr. AUCOIN, Mr. EMERSON, Mr. CAMPBELL of Colorado, and Mr. BRUCE.

H.R. 3852: Mr. WEISS.

H.R. 3864: Mr. MARTINEZ, Mr. TRAXLER, and Mr. DWYER of New Jersey.

H.R. 3880: Mr. PEASE.

H.R. 3914: Mr. DERRICK.

H.R. 4025: Mr. SERRANO.

H.R. 4026: Mr. MORRISON of Connecticut.

H.R. 4042: Mr. DWYER of New Jersey, Mr. STUDDS, and Mr. BATES.

H.R. 4125: Mr. OWENS of New York, Mr. SMITH of Iowa, Mr. VALENTINE, Mr. WAXMAN, Mr. MORRISON of Connecticut, Mr. ROE, Mr. TANNER, and Mr. SANGMEISTER.

H.R. 4153: Mr. MAVROULES, Mr. OWENS of New York, and Mr. WALSH.

H.R. 4248: Mr. HASTERT, Mr. INHOFE, Mr. MILLER of Washington, Mr. STUMP, and Mr. WOLF.

H.R. 4250: Mr. MAZZOLI and Mr. NIELSON of Utah.

H.R. 4298: Mr. WILSON.

H.R. 4300: Mr. ENGEL.

H.R. 4419: Mr. GEJDENSON and Mr. TOWNS.

H.R. 4433: Mr. THOMAS A. LUKEN, Mr. LAFALCE, Mr. NOWAK, Ms. MOLINARI, Ms. PELOSI, Mr. DEFAZIO, Mrs. COLLINS, Mr. RAVENEL, Mr. MACHTLEY, Mr. MARKEY, Mr. WOLPE, and Mr. TOWNS.

H.R. 4495: Mr. MILLER of Washington, Mr. COX, Mr. PRICE, Mr. HUCKABY, Mr. KOLTER, Mr. ESPY, Mr. BAKER, Mr. BILIRAKIS, Mr. GEKAS, Mr. TAYLOR, Mr. HEFNER, Mrs. BOXER, and Mrs. UNSOELD.

H.R. 4498: Mr. LEWIS of Georgia, Mr. WAXMAN, Mr. NEAL of Massachusetts, and Mr. SCHUMER.

H.R. 4512: Mr. IRELAND.

H.R. 4552: Mr. LEWIS of Georgia, Mr. TOWNS, and Mr. FORD of Tennessee.

H.R. 4555: Mr. TOWNS, Mr. FEIGHAN, Mr. VALENTINE, Mr. FRANK, Mrs. COLLINS, Mr. GEJDENSON, Mr. SCHEUER, and Mr. HORTON.

H.R. 4565: Mr. BLAZ, Mr. GILMAN, Mr. SOLOMON, and Mr. NAGLE.

H.R. 4574: Mr. OWENS of New York.

H.R. 4590: Mr. OWENS of New York and Mr. GAYDOS.

H.R. 4621: Mr. KASTENMEIER and Mr. MACHTLEY.

H.R. 4700: Mr. MARTINEZ.

H.R. 4729: Mr. EMERSON.

H.R. 4755: Mr. RITTER and Mr. BLAZ.

H.R. 4784: Mr. ROTH.

H.R. 4816: Mr. EMERSON and Mr. CHAPMAN.

H.R. 4851: Mr. ARCHER and Mrs. JOHNSON of Connecticut.

H.R. 4915: Mr. WALGREN and Mr. MOORHEAD.

H.R. 4981: Mr. ARMEY.

H.R. 5029: Mr. JONTZ.

H.R. 5050: Mr. BOEHLERT, Mrs. UNSOELD, Mr. BARTLETT, Mr. EMERSON, Mr. WALKER, Mr. HANCOCK, Mr. LAGOMARSINO, Mr. DWYER of New Jersey, Mr. JOHNSON of South Dakota, Mr. BATES, Mr. MORRISON of Connecticut, Mr. MCEWEN, Mr. PORTER, Mr. COBLE, and Mr. CHANDLER.

H.R. 5053: Mr. ASPIN, Mr. BOSCO, Mr. BUNNING, Mr. CAMPBELL of Colorado, Mrs. COLLINS, Mr. CRAIG, Mr. DEWINE, Mr. DURBIN, Mr. FASCELL, Mr. GEJDENSON, Mr. GUARINI, Mr. HANCOCK, Mr. HAYES of Louisiana, Mr. KENNEDY, Mr. LANCASTER, Mr. LEWIS of California, Mrs. LLOYD, Mrs. MARTIN of Illinois, Ms. MOLINARI, Mr. MURPHY, Mr. NAGLE, Mr. NELSON of Florida, Mr. PARKER, Mr. PENNY, Mr. QUILLEN, Mr. BATES, Mr. BRUCE, Mr. BURTON of Indiana, Mr. CLINGER, Mr. CONTE, Mr. DEFAZIO, Mr. DICKINSON, Mr. DWYER of New Jersey, Mr. GALLO, Mr. GRANT, Mr. HALL of Ohio, Mr. HARRIS, Mr. JONES of North Carolina, Mr. KOLTER, Mr. LEVIN of Michigan, Mr. LEWIS of Florida, Mr. DONALD E. LUKENS, Mr. MAVROULES, Mr. MORRISON of Connecticut, Mr. MURTHA, Mr. NEAL of Massachusetts, Mr. OLIN, Mr. PAYNE of Virginia, Mr. PERKINS, Mr. RHODES, Mr. RITTER, Mr. ROE, Mr. SABO, Mr. SAXTON, Mrs. SCHROEDER, Mr. SISISKY, Mr. SLATTERY, Mr. SMITH of New Hampshire, Mr. SPENCE, Mr. STUMP, Mr. TANNER, Mr. TOWNS, Mrs. VUCANOVICH, Mr. WALSH, Mr. WHITTEN, Mr. WYDEN, Mr. YOUNG of Alaska, Mr. MILLER of Washington, Mr. MADIGAN, Mr. COBLE, Mr. LEHMAN of Florida, Mr. LIGHTFOOT, Mr. MCCOLLUM, Mr. MCCRERY, Mrs. BOXER, Mr. ROBERTS, Mr. ROSE, Mr. SAVAGE, Mr. SCHEUER, Mr. SCHUETTE, Mr. SKEEN, Mr. SMITH of New Jersey, Mr. ROBERT F. SMITH, Mr. STALLINGS, Mr. TALLON, Mr. TAUZIN, Mrs. UNSOELD, Mr. WALGREN, Mr. WEBER, Mr. WOLPE, Mr. YATRON, Mr. HOUGHTON, Mr. ROBINSON, Mr. TRAFICANT, Mr. HERTEL, and Mr. SLAUGHTER of Virginia.

H.R. 5080: Mr. TORRICELLI.

H.R. 5083: Mr. McMILLEN of Maryland, Mr. JOHNSTON of Florida, Mr. MRAZEK, Mr. BOSCO, and Mr. KILDEE.

H.R. 5101: Mr. JOHNSON of South Dakota and Mr. ASPIN.

H.R. 5121: Mrs. BOXER and Mr. THOMAS of Wyoming.

H.R. 5138: Mr. MRAZEK.

H.R. 5154: Mr. BATEMAN, Mr. RAVENEL, Mr. PICKETT, Mr. SISISKY, and Mr. TAYLOR.

H.R. 5155: Mr. BRUCE AND Mr. VOLKMER.

H.R. 5163: Mr. BEILENSON, Ms. PELOSI, Ms. SCHNEIDER, Mr. FRANK, Mr. NEAL of Massachusetts, and Mr. SCHEUER.

H.R. 5166: Mr. THOMAS A. LUKEN, Mr. THOMAS of Georgia, Mr. DE LUGO, and Mrs. COLLINS.

H.R. 5180: Mr. NIELSON of Utah, Mr. MCGRATH, Mr. DEFAZIO, Mr. CRAIG, and Mr. LEWIS of Florida.

H.R. 5185: Mr. GONZALEZ, Mr. RICHARDSON, and Mr. COLEMAN of Texas.

H.R. 5217: Mr. FAUNTROY, Mr. PARRIS, Mr. HORTON, Mrs. COLLINS, and Mr. GORDON.

H.J. Res. 439: Mr. BLAZ.

H.J. Res. 469: Mr. CONYERS, Mr. COURTER, Mr. GONZALEZ, Mr. GREEN of New York, Mr. HAMMERSCHMIDT, Mr. LEACH of Iowa, Mr. MRAZEK, Mr. PACKARD, Mr. ROBERTS, and Mr. YOUNG of Florida.

H.J. Res. 509: Mr. GRANT, Mr. HANCOCK, Mr. HENRY, Mr. HYDE, Mr. IRELAND, Mr. PASHAYAN, Mr. PURSELL, Mr. RINALDO, and Mr. RITTER.

H.J. 519: Mr. KLECZKA, Mr. DORNAN of California, Mr. MOAKLEY, Mr. PARRIS, and Mr. TORRES.

H.J. Res. 523: Mr. SABO, Mr. SLATTERY, Mr. RANGEL, Mr. FISH, Mr. WEISS, Mr. FORD of Michigan, Mr. ARCHER, Mr. LEVINE of California, and Mr. DELAY.

H.J. Res. 524: Mr. ROGERS, Mr. RICHARDSON, Mr. EMERSON, Mr. WHITTEN, and Mr. HAMMERSCHMIDT.

H.J. Res. 535: Mr. COURTER, Mr. WILSON, Mr. GALLO, Mr. BROOMFIELD, Mr. GRANT, Mrs. COLLINS, Mr. DORNAN of California, Mr. FRENZEL, Mr. HANSEN, Mr. MOAKLEY, Ms. PELOSI, Mr. ALEXANDER, Mr. TRAFICANT, Mr. SCHAEFER, Mr. VANDER JAGT, Mr. SHAYS, Mr. SOLOMON, Mr. WHITTAKER, Mr. TORRES, Mr. SHUMWAY, Mr. DYMALLY, Mr. GRAY, Mr. BOUCHER, and Mr. SHARP.

H.J. Res. 552: Mr. POSHARD, Mr. BROWDER, Ms. KAPTUR, Mr. MCDERMOTT, Mr. WAXMAN, Mr. FAZIO, and Mr. SOLOMON.

H.J. Res. 554: Mr. HUBBARD, Ms. SLAUGHTER of New York, Mr. DWYER of New Jersey, Mr. BATES, Mr. DONNELLY, Mr. DORNAN of California, Mr. MOODY, Mr. LEHMAN of Florida, Mr. COOPER, Mr. AUCOIN, Mr. BUECHNER, Mr. YOUNG of Alaska, Mr. ANNUNZIO, Mr. HUTTO, Mr. BENNETT, Mr. BILBRAY, Mr. SAXTON, Mr. MCCRERY, Mr. CALLAHAN, Mr. HANSEN, Mr. POSHARD, Mr. ROWLAND of Connecticut, Mr. DYMALLY, Mr. TANNER, Mr. WALSH, Mr. WELDON, and Mr. PARRIS.

H.J. Res. 561: Mr. LANCASTER, Mr. SAVAGE, Mr. HUGHES, Mr. HATCHER, Mr. GEJDENSON, and Mr. FISH.

H.J. Res. 565: Mr. DORGAN of North Dakota, Mr. SLATTERY, Mr. NATCHER, Mr. SOLOMON, Mr. RAVENEL, Mr. BRENNAN, and Mr. GUNDERSON.

H.J. Res. 578: Mr. BUSTAMANTE.

H.J. Res. 591: Mr. BILBRAY, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. CARR, Mr. CRAIG, Mr. DEWINE, Mr. ENGEL, Mr. EVANS, Mr. FAWELL, Mr. FRANK, Mr. GREEN, Mr. HAWKINS, Mr. HEFNER, Mr. IRELAND, Mr. JAMES, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. KASTENMEIER, Mrs. LOWEY of New York, Mr. THOMAS A. LUKEN, Mr. DONALD E. LUKENS, Mr. MCCLOSKEY, Mr. DAVIS, Ms. LONG, Mr. MAVROULES, Mr. MILLER of Ohio, Mr. MORRISON of Connecticut, Mr. NEAL of North Carolina, Mr. ORTIZ, Mr. PAXON, Mr. RINALDO, Mr. ROYBAL, Mr. SABO, Mrs. SAIKI, Mr. SAWYER, Mr. SCHAEFER, Mr. SCHIFF, Mr. SCHUMER, Mr. SKELTON, Mr. SLATTERY, Mr. STOKES, Mr. STUDDS, Mr. TAUZIN, Mr. UDALL, Mrs. UNSOELD, Mr. WASHINGTON, Mr. WEBER, Mr. WISE, Mr. WILSON, Mr. WOLPE, Mr. YOUNG of Florida, Mr. YATRON, Mr. ATKINS, Mrs. BOGGS, Mr. WAXMAN, Mr. BROOKS, Mr. SMITH of New Jersey, Mr. MOODY, Mr. LEVINE of California, Mr. DORNAN of California, Mr. GINGRICH, Mr. ROTH, Mr. HUBBARD, Mr. CLINGER, Mr. GONZALEZ, Mr. WALGREN, Mrs. PATTERSON, Mr. DYSON, Mr. WELDON, Mr. SISISKY, and Mr. NEAL of Massachusetts.

H.J. Res. 595: Mr. PALLONE, Mr. GALLEGLY, Mr. WEBER, Mr. ERDREICH, Mr. THOMAS of Wyoming, Mr. MOORHEAD, Mr. BAKER, Mr. LAGOMARSINO, Mr. JONTZ, Mr. NEAL of North Carolina, Mr. DE LA GARZA, Mr. PARRIS, Mr. BLAZ, Mr. ARCHER, Mrs. BENTLEY, Mr. LANCASTER, Mr. FAZIO, and Mr. THOMAS A. LUKEN.

H.J. Res. 598: Mr. BRUCE and Mr. COSTELLO.

H.J. Res. 602: Mr. SCHUMER, Mr. FROST, Mr. THOMAS of Wyoming, Mr. GEREN of Texas, Mr. JONTZ, Mr. BUECHNER, Mr. ASPIN, Mr. FISH, Mr. GUNDERSON, and Mr. STAGGERS.

H.J. Res. 612: Mr. BALLENGER, Mr. STAGGERS, Mr. DEFAZIO, Mr. HORTON, and Mr. HUGHES.

H.J. Res. 616: Mr. SLATTERY, Mr. CONTE, Mr. HORTON, Mr. BOUCHER, Mr. KANJORSKI, Mr. STOKES, Mr. STANGELAND, Mr. TRAXLER, Mr. RICHARDSON, Mr. OWENS of New York, Ms. PELOSI, and Mr. HILER.

H. Con. Res. 265: Mr. FISH.

H. Con. Res. 276: Mr. GEREN of Texas, Mr. HOUGHTON, Mr. DAVIS, Mr. HOPKINS, Mr. LIPINSKI, Mr. LEVINE of California, Mr. NAGLE, Mr. MCCLOSKEY, Mr. NATCHER, Mr. PURSELL, Mr. TRAFICANT, Mr. GREEN of New York, Mr. WILSON, Mr. MFUME, Mr. DE LA GARZA, Mr. GALLO, Mr. MILLER of Washington, Mr. OBEY, Mr. JONES of Georgia, Mr. MACHTLEY, Mrs. KENNELLY, Mr. OWENS of New York, Mr. HOYER, Mr. TAUZIN, Mr. CARDIN, Mr. WOLF, Mr. HAWKINS, Mr. STALLINGS, Mr. SMITH of Texas, Mr. HERTEL, Mr. NOWAK, Ms. PELOSI, Mr. SANGMEISTER, Mr. STEARNS, Mr. SMITH of Iowa, Mr. BARNARD, Mr. VANDER JAGT, Mr. SCHUMER, and Mr. ANTHONY.

H. Con. Res. 291: Mr. BORSKI and Mr. KOSTMAYER.

H. Con. Res. 313: Mr. BOSCO and Mr. LEVINE of California.

H. Con. Res. 329: Mr. MCDERMOTT.

H. Con. Res. 330: Mr. HOLLOWAY, Mr. LAGOMARSINO, and Mr. CONTE.

H. Con. Res. 346: Mr. CONTE, Mr. CRAIG, Mr. DANNEMEYER, Mr. FAWELL, Mr. GALLEGLY, Mr. HENRY, Mr. KOSTMAYER, Mr. LENT, Mr. LOWERY of California, Mr. MCNULTY, Mr. PALLONE, Mr. PARRIS, Mr. STALLINGS, Mr. ROWLAND of Georgia, Mr. MADIGAN, Mr. HORTON, Mr. MILLER of Washington, Mr. DORNAN of California, Mrs. KENNELLY, and Mr. MARTINEZ.

H. Res. 380: Mr. MARKEY, Mr. WEISS, Mrs. COLLINS, and Mr. CONTE.

H. Res. 383: Mr. BATEMAN, Mr. BUNNING, Mr. DEWINE, Mr. JAMES, Mr. PACKARD, Mr. ROBERTS, and Mr. SMITH of Texas.

H. Res. 402: Mr. EMERSON, Mr. PALLONE, Mr. RICHARDSON, Mr. MCCOLLUM, Mrs. BOGGS, Mrs. MORELLA, Mr. WILLIAMS, and Mr. DWYER of New Jersey.

H. Res. 418: Mr. FALEOMAVAEGA, Mr. RUSSO, and Mr. SCHEUER.

H. Res. 419: Mr. HUGHES, Mr. ERDREICH, Mr. BATEMAN, Mr. COLEMAN of Missouri, Mr. COUGHLIN, Mr. DEWINE, Mr. GOODLING, Mr. GRANT, Mr. HENRY, Mrs. JOHNSON of Connecticut, Mr. KOLBE, Mr. MADIGAN, Mr. MICHEL, Mr. PETRI, Mr. QUILLEN, Mr. ROBERTS, Mrs. SAIKI, Mr. SCHIFF, Mr. SCHUETTE, Mr. SHAYS, Mr. SHUSTER, Mr. YOUNG of Florida, Mr. ANDERSON, Mr. ANDREWS, Mr. ANNUNZIO, Mrs. BOGGS, Mr. BOSCO, Mr. CLAY, Mr. CONDIT, Mr. DERRICK, Mr. DICKS, Mr. DURBIN, Mr. FAZIO, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. HUCKABY, Mr. JONTZ, Mr. KANJORSKI, Mr. KILDEE, Mr. LANTOS, Mr. LEWIS of Georgia, Mr. NEAL of North Carolina, Ms. OAKAR, Mr. OWENS of Utah, Mr. PARKER, Mr. RANGEL, Mr. ROSE, Mr. ROWLAND of Georgia, Mr. ROYBAL, Mr. RUSSO, Mr. SCHUMER, Mr. SIKORSKI Mr. STENHOLM Mr. TALLON, Mr. TAUZIN, Mr. TRAFICANT, Mr. VOLKMER, Mr. WILLIAMS, Mr. WYDEN, Mr. YATRON, Mr. CLEMENT, and Mr. SERRANO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4831: Mr. TOWNS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

200. By the SPEAKER: Petition of the Western Rural Telephone Association, relative to support of H.R. 3581; to the Committee on Agriculture.

201. Also, petition of the Western Rural Telephone Association, relative to the opposition of any reduction in REA/RTB telephone loan program lending levels from the existing levels; to the Committee on Agriculture.

202. Also, petition of the city council, city and county of Honolulu, HI, relative to the transportation of chemical weapons presently stored in Europe to Johnston Atoll (Kalama Island) for incineration; to the Committee on Armed Services.

203. Also, petition of the Western Rural Telephone Association, relative to the support of the proposed CATV legislation; to the Committee on Energy and Commerce.

204. Also, petition of the 30th Infantry Division Association, relative to the burning of the American flag, to the Committee on the Judiciary.

205. Also, petition of the legislature of Rockland County, NY, relative to urging the U.S. Postal Service to adopt a local postal rate; to the Committee on Post Office and Civil Service.

206. Also, petition of the 30th Infantry Division Association, relative to Social Security cuts; to the Committee on Ways and Means.

207. Also, petition of the Western Rural Telephone Association, relative to the repeal of section 2036(C) of S. 849 and H.R. 60; to the Committee on Ways and Means.

208. Also, petition of the city of Toledo, OH, relative to the removal of HIV from the U.S. Government's list of dangerous contagious diseases; jointly to the Committees on the Judiciary and Energy and Commerce.

209. Also, petition of the U.S. Conference of Mayors, relative to the Gramm-Rudman-Hollings Balanced Budget Act; jointly to the

Committee on Ways and Means, Government Operations, Banking, Finance and Urban Affairs, Public Works and Transportation, Energy and Commerce, and Education and Labor.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5170

By Mr. TORRICELLI:

—After the heading for title I of the bill, insert the following new section:

SEC. 101. CONSTRUCTION OF FIREFIGHTING TRAINING FACILITIES.

Section 503(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any acquisition of land for, or work involved to construct, a burn area training structure on or off the airport for the purpose of providing live fire drill training for aircraft rescue and firefighting personnel required to receive such training by a regulation of the Department of Transportation, including basic equipment and minimum structures to support such training in accordance with standards of the Federal Aviation Administration.".

Redesignate subsequent sections of title I of the bill accordingly.

H.J. RES. 268

By Mr. DOUGLAS:

—In section 7, on page 4 at line 6, strike "1993" and add in lieu thereof "1994".

SENATE—*Wednesday, July 11, 1990*

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Senate will be led in prayer by the Senate Chaplain, Dr. Richard C. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*The Lord is my shepherd; * * * Yea, though I walk through the valley of the shadow of death, I will fear no evil * * *.*—Psalm 23:1, 4.

Eternal God who created us to live forever, we thank Thee for the assurance Thou hast given the life everlasting. We pray for Barbara Videnieks and her family in the loss of her father, Emory N. Mick, that they will be comforted and encouraged in this assurance.

"Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge him, and he shall direct thy paths."—Proverbs 3:5, 6.

We pray today for the leadership of the Senate as they pilot this ship of state through the rough waters of difficult legislation, under the pressure of impending elections and the relentless ticking of the clock. Grant to Your servants wisdom, discernment, strength, and the unequivocal favor of those they lead. Gracious God, work Your will here through these stressful days.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein for up to 5 minutes each. At 9:30 this morning, the Senate will resume consideration of S. 1970, the crime bill, with the last remaining amendment, the bipartisan savings and loan amendment, to be debated for 30 minutes. Following the debate on that amendment, there will then be 30 minutes of debate only on the bill, the time to be controlled between the two managers, Senators BIDEN and THURMOND. The rollcall votes on the amendment and final passage of the crime bill will be stacked to occur beginning at 12:30 p.m. today. Those will be back-to-back votes.

The Senate will return to consideration of S. 2104, the civil rights bill, at 10:30 a.m. today, with the possibility of amendments being offered and rollcall votes occurring between the hours of 10:30 a.m. and 12:30 p.m. on that bill. This bill will then be resumed, following final disposition of the crime bill, around 1 p.m. today.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. There will not be a period for the transaction of morning business until 9:30 a.m. for Senators to speak for not to exceed 5 minutes each.

The Senator from Colorado [Mr. WIRTH] is recognized for not to exceed 5 minutes.

THE UNITED STATES REFUSES TO ACT

Mr. WIRTH. Mr. President, the news coming out of Houston, TX, where the President and other leaders of the major industrialized nations are meeting has been extraordinary. The events of the past 24 months seem more apparent than ever.

The economic order is changing and we see that with major discussions and disagreements about trade.

The Soviet Empire is in shambles and the collapse of the Berlin Wall has created divisions among the Western Democracies about how to proceed into a new era of East-West relations.

And the environment has emerged from the pages of obscure scientific journals to the negotiating table at the G-7 meeting.

Unhappily, on the environmental front, the United States stands isolated, alone and embarrassed, out in the cold on the issue of global warming. The West German Chancellor has been pressing his colleagues to accept international controls on carbon dioxide and other gases that scientists are now certain will warm the globe. It is not if global warming will happen, but how much how fast. In May, the internationally recognized body, known as the Intergovernmental Panel on Climate Change, issued a report on the science of global warming. Although a vocal minority of naysayers have raised doubts in the minds of some here in the United States, the IPCC found that we have a major problem on our hands.

Unfortunately, as it has done repeatedly over the past 18 months, the Bush administration has been an obstacle rather than a leader toward common efforts to protect the global environment. It has become fashionable in the press to paint this as one of John Sununu's favorite sports—battling scientists and environmentalists, and even his own colleagues like Bill Reilly. I am not aware, however, that anyone elected Mr. Sununu to represent us at the G-7 summit. Instead, the responsibility has been given to President Bush himself. Mr. Kohl came to the table ready to discuss global warming. Mrs Thatcher has been briefed and has committed Great Britain to a program of carbon dioxide control. Mr. Mitterand has been briefed and France is readying to undertake controls. Even Japan, which had aped the United States position, has stepped out and announced its support for international action to prevent global warming.

It is time for the President to come forward and address the global warming issue. It is no longer possible for us to overlook the good-cop, bad-cop routine that is taking place among Mr. Sununu and the President. President Bush is the environmental President, but Mr. Sununu is calling the shots on environmental issues. That is the impression one gets when reading the press accounts. This, Mr. President, is unacceptable.

Global warming is not the passing fancy of radical environmentalists. It is a fundamental question about the kind of social, economic, and environ-

mental structure we leave to our children.

For the past several years, evidence has been mounting about the seriousness of the global warming threat. I have personally listened as scores of the Nation's best scientists have laid out the scientific evidence with great cogency. We live in a greenhouse. Without the gases that surround this planet, we would be about 60 degrees colder. Human activities are spewing more and more of those gases into the atmosphere. Accumulations are rising sharply. If we continue on this path, the Earth will warm—probably very significantly. I have heard it over and over again.

And what is the response of our Government. At the White House, they do not believe it. At the EPA, they believe it but can't say anything. The President's science adviser knows the score but is afraid to play ball. So instead of engaging the issue, the age-old solution prevails—delay. And that is what we have done.

In the face of this urgent situation—where the health of our most important environmental systems are at stake—we sit on our hands. The President and White House prefer to take the course of denial. It is not a problem, or it is not our problem. I am reminded of the line in one of the songs by Dire Straits: "Denial is not just a river in Egypt." We know better.

In addressing these issues, we tend to grapple with value judgments about whether we can afford to take the necessary steps. Balancing the need for growth with the luxury of environmental protection has become the watchword of editorial pages. Should we wait for all of the answers in the face of strong evidence that what we are doing is anti-intellectual. Intuitively, we know that the environment is not benign. Indeed, human beings now have the collective capacity to fundamentally alter the natural world—one of the most startling discoveries in human history. Throughout our history, we have been able to influence thoughts, to conquer the world of intelligence. Now we are masters of the natural world, with the capability to alter the unwritten history that will be the life of our planet.

Coming to grips with this new-found power requires an examination of our moral obligations to this planet, to our children and their children. Shall we wait till we are unable to feed an overcrowded and resource depleted world? Shall we wait until our mighty rivers run like the poisoned streams of Eastern Europe? Shall we wait until the ground water supplies of the West are drawn down to irreplaceable levels? Shall we wait until the ozone layer is sufficiently depleted such that the incidence of skin cancer increases dramatically? Shall we wait till the great forests of the world, together with the unwritten history and unknown genius of the planet's biologic diversity are decimated? Shall we wait until the very climate upon which we have planned society has taken a sudden turn for the worse?

We could entrust the future to the historical genius of our species—presupposing that generations to come will be able to harness their creativity and adapt to the change.

To all of these points, of course, there is a higher call, a moral imperative that we cannot avoid. If future generations are unable to outsmart ecological decline, what will they do? If uncontrovertible evidence does not materialize until the problem is beyond containment, can we possibly adapt? Is it not possible, indeed, probable, that the costs of inaction are greater than the costs of action.

The time has come to raise this issue to the level of morality. The global environmental crisis is at the forefront of the great moral issues of our time. It is an issue of trangenerational justice—leaving our children a future that is more just, more secure, more prosperous than our present. It is an issue of spirituality—humanity living in companionship with the entirety of God's creation.

The decade of the 1990's will be a watershed in the fight to protect the planet. We find ourselves in much the same position as the civil rights movement faced at the beginning of the 1960's. The silent majority of Americans were on the side of justice and equal opportunity for all our citizens. Unfortunately, the loud voices of the few throttled the silent majority and vexed the battle for national justice. During the civil rights movement, it took the collective courage of all individuals of color to fight the calculated assault of fanatic racists.

Today, on the environmental issue, Mr. Sununu has taken up the vitriolic rhetoric of the naysayers. Mr. Sununu says that "some of the faceless bureacrats over at EPA want to stop this Nation from using coal and driving automobiles." In today's paper, Mr. Sununu says that "there seems to be some propensity to deal with the issue without putting all the data on the table." We have to ask ourselves, what data, what proposals is the President putting forward. I have heard none.

In today's Los Angeles Times, it is reported that a deal is in the works under which Chancellor Kohl will drop his calls for controls on greenhouse gases in exchange for U.S. acceptance of an agreement on protecting the world's tropical rain forests. Protecting forests in the tropics is something we should be doing anyway. What kind of an agreement is that?

In the face of mounting racial tensions during the early 1960's, President Kennedy spontaneously decided to make a major address to the Nation. In response to the enormous challenge of civil rights, in an attempt to calm the division and hostility in our Nation, the President took on the issue of civil rights. On the environment, nothing less is required of President Bush. It is time for our Government to assemble a comprehensive plan to reduce greenhouse gas emissions.

In conclusion, let me highlight the difference between the administration and this institution. In the face of the changing realities of our world, the administration seems at a loss—abdicating the historical role of our Nation as international leaders. Here in the Senate, the chairman of the Armed Services Committee, the Senator from Georgia, has launched an ambitious and foward looking proposal to redefine the national security mission of the Department of Defense. That is the kind of leadership we need, Mr. President. That is the kind of leadership the American people expect.

In summary, Mr. President, in the last couple of weeks there have been two very noteworthy meetings in which the United States has been engaged internationally. NATO met in Europe last week and recast the goals of the alliance, an alliance which has served us very well over the last 45 years.

It became very clear in these discussions of the membership of the NATO alliance that the cold war is over and that new challenges are being met. New challenges to our national security are out there, and those are challenges not of the Soviet Union, not of the Warsaw Pact, Mr. President. Those are challenges of economics and maybe most important, challenges of the environment.

This week, the G-7 group has been meeting in Texas to examine the role and cooperative efforts of the seven major industrialized nations in the world. There, Mr. President, the G-7 group discussed international trade, discussed cooperation in the world in which the United States is no longer the preeminent power but rather one of many, and discussed a whole new set of challenges, especially, once again, Mr. President, the environment.

In both of these major international forums, the United States and its major allies in the West worked together in an understanding of the redefinition of national security. Our national security, Mr. President, as outlined in those two meetings, is no longer defined by the superpower relationship between the United States and the Soviet Union, no longer defined by confrontation between NATO and the Warsaw Pact, but now a world of economic challenges, and a world of environmental challenges.

The challenges that we face are first, most important, national securi-

ty challenge is not our relationship to the Soviet Union but our relationship with the globe, man's relationship with the environment.

And where is the United States in facing this great challenge? It is instructive for us, I believe, Mr. President, to look back at where the United States has been at other times of international crisis and the need for international leadership. The last great time we faced a watershed like this today, the time following World War II, the United States was proudly out in front. We led in the establishment of NATO and were successful beyond our wildest dreams. We led in the establishment of the Marshall Plan and were successful beyond our wildest dreams. These were times of very proud leadership for the United States.

The President at that time took positions that were not necessarily popular, but they were the right thing to do. For example, right after the Second World War, at a time when the United States was war weary and eager for all kinds of consumer guides, this Nation undertook a course to invest, in today's dollars, $375 billion to rebuild Europe; a courageous and right position, not a position determined by polls, not a position determined by political popularity, but a position determined by doing the right thing.

That is in stark contrast to what is going on today and what we saw this week in Texas. On the crucial issue of global warming, Chancellor Kohl has been out leading the alliance and leading the G-7 group. The Germans are saying what they want to do is a dramatic reduction in carbon monoxide emissions by the year 2000. President Mitterrand has been doing precisely the same thing and has begun to lead the French Government to a determination and a reduction of carbon monoxide emissions. Margaret Thatcher, not known as a knee-jerk liberal, gave a great speech at the United Nations last year and has been out front leading Great Britain. And even the Japanese are moving along, out of step with the United States, in step with everybody else. But the United States refuses to act.

The White House Chief of Staff says, "There seems to be some propensity to deal with the issue without putting all the data on the table."

What is the data? The data could not be clearer. The White House is in receipt of a letter from almost every Nobel Prize winner in the United States saying, "Mr. President, act." The White House is in receipt of a letter from a majority of the members of the National Academy saying, "Mr. President, act." The evidence is overwhelming. But the White House says the data is not in. Who has briefed the President of the United States? Probably no one.

Mr. President, I ask unanimous consent to continue for 2 additional minutes.

The PRESIDENT pro tempore. Without objection, the Senator is recognized for 2 additional minutes.

Mr. WIRTH. Thank you, Mr. President. I appreciate the forbearance of the distinguished Senator from Connecticut.

And where are others in this administration? If the White House Chief of Staff who works for the President says the data is not in, there are others who understand the data is in. In his first speech as Secretary of State, the distinguished current Secretary of State, Mr. Baker, made a very clear set of statements on the importance of moving on global warming. The distinguished head of the Environmental Protection Agency, Mr. Reilly, has made it very clear that we have to take steps, but he was not even taken to Texas. The President's distinguished science adviser has testified in front of the Budget Committee, in front of the Energy Committee, and many places, about the importance of this issue.

Where are these voices, Mr. President? Are they terrorized or are they muffled?

The United States said last year when the G-7 met that we were going to move very aggressively and move in line with the findings of the international panel on climate change. But the international panel on climate change came through with findings that apparently were contradictory to what the White House wanted them to say, so they ignored them.

We said last year we were going to move aggressively; this year are doing nothing.

There is a line in a Dire Straits song, Mr. President, that says "denial is more than a river in Egypt." We are denying, Mr. President, the basic facts that are out there, and it is for us becoming embarrassing as a nation. We should understand the contrast between how we operated 45 years ago. We operated at a time of very proud leadership. The world 45 years ago was at a time of very significant watershed. The United States moved over that watershed, moved into the vacuum, assumed the leadership and the results were successful beyond our wildest dreams.

We today are at another one of those times, Mr. President, and unhappily the leadership is not there. I think we all must ask the President of the United States to lead. We expect that of him. That is what he was elected to do.

The PRESIDENT pro tempore. The Senator from Connecticut [Mr. LIEBERMAN] is recognized for not to exceed 5 minutes.

RAISE THE FHA LOAN LIMIT

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I am pleased to be an original cosponsor of the legislation which is being introduced this week by our distinguished colleague from Hawaii, Senator DANIEL AKAKA. This legislation would raise the FHA loan limit to a maximum amount of $149,960. For many moderate income Americans, the only way to purchase a home is with an FHA mortgage. Yet, in my State of Connecticut, moderate income Americans, working families, are unable to use FHA financing to purchase homes because there are so few homes available for $124,875, which is the current FHA ceiling.

In 1989 the median housing prices in Hartford, New Haven, and Fairfield counties ranged from $165,500 to $182,000, among the highest in the Nation. Many young, two-earner, first-time homebuyers in Connecticut are unable to purchase homes because they cannot qualify for a private mortgage. Only with access to FHA mortgages will they be able to purchase a home.

On June 6 Secretary Kemp testified before the Senate Banking Committee that "the FHA is intended to serve a social purpose of helping low- and moderate-income families become homeowners." I agree. However, the FHA is intended to help low- and moderate-income families in every State become homeowners, not just those who reside in States where housing prices are low. If the FHA is to fulfill its goals in Connecticut and in other States where housing prices are high, we simply have to raise the ceiling on FHA loans. If the Congress does not raise the cap on FHA mortgages, many worthy, financially responsible moderate-income Americans will not be able to buy homes.

I share the concern for the financial status of the FHA expressed by my colleagues and the administration during the recent debate on the National Affordable Housing Act. The FHA program will not help anyone buy a home if we cannot keep it financially sound. I am strongly supportive of reforms to ensure that the FHA program remains financially sound. However, it is evident from the numerous studies of the FHA which have been conducted in the past several years that raising the mortgage limit does not affect the financial stability of a properly administered FHA program.

Mr. President, it has long been part of the American dream to own a home but becoming a home owner is not just the fulfillment of a dream; it is an investment in the future, and an important factor in ensuring a family's economic well-being.

The "State of the Nation's Housing 1989," which is a report released by Harvard University's Joint Center for Housing Studies, illustrates very clearly the importance of home ownership in the ability of individuals to accumulate wealth. The report states that "for each age and race group, differences in owner and renter wealth are many times greater than differences in income."

Rising housing costs have prevented many households from improving their economic situation by purchasing a home. So the FHA is a critical program for these American families because it can provide them the opportunity to purchase a home but also to take a significant step toward securing their family's financial future.

Mr. President, today many Americans are being forced to leave their communities and, in some cases, their States, in order to purchase a home. I think we have to preserve the family's opportunity to purchase a home in the community where it works and where it wants to live, close to friends and family.

Raising the FHA limit will provide some additional assistance to those who need this program in order to be able to purchase a home. So I hope my colleagues will support raising the FHA mortgage limit as is included in the legislation introduced by the junior Senator from Hawaii, which would enable working families throughout this country in both high- and low-cost areas access to the American dream of buying and owning a home.

I thank the Chair. I yield the floor. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order that the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized for not to exceed 5 minutes.

Mr. WIRTH. I thank the Chair.

S&L AMENDMENT TO THE CRIME BILL

Mr. WIRTH. Mr. President, later this morning at 9:30, in about 5 minutes, I will be joining Senators HEINZ, GRAHAM, DOLE, BIDEN, DIXON, RIEGLE, RUDMAN, DOMENICI, PELL, and others in offering a comprehensive amendment on the S&L crisis, an amendment to the crime bill.

A number of Senators have sponsored legislation to address S&L crime, making various suggestions to help investigators and prosecutors in their effort to bring those who loot our S&L's to justice. I am pleased that we were able to work out this comprehensive bipartisan package known as the Wirth-Heinz amendment incorporating many, if not most, of these proposals.

The Wirth-Heinz amendment includes a number of important provisions to attack fraud and other criminal activity in the S&L industry including stiffer penalties for S&L violators, a financial institution fraud unit, an increase in resources to combat S&L crime, an increase in recovery of losses, guarding against fraud related to the Resolution Trust Corporation, public disclosures and private action provisions, and a variety of other measures.

Mr. President, this all started about 6 weeks ago, maybe 2 months ago, when we had on the floor the emergency supplemental for Panama. At that time, as I was leafing through the justification for significant funds for Panama, I noted that we were being asked by the administration to spend $30 million to promote tourism in Panama.

It seemed to me that this was maybe not the best expenditure of public money and that maybe we ought to transfer that $30 million—incidentally, Mr. President, we only spent $14 million to promote tourism in all of the United States. If we were going to spend $30 million to promote tourism in Panama, then we ought to spend significant funds to enforce the law to remedy this S&L crisis. I offered an amendment to switch those funds over. On a procedural matter, we were beaten by a very small majority—not on the substance of it but on procedure. But we certainly got everybody's attention in thinking about the need for significantly greater resources and to take seriously the S&L crisis.

Over the last 6 weeks, we have seen a crescendo of bills, of proposals, and so on, come in, and some of that has received a partisan tinge to it, some of it has received a political tinge.

The President called in 95 U.S. attorneys from around the country for a major photo opportunity down at the Justice Department, and there were a variety of accusations and counter accusations. I think what we have done is put all of this into a bipartisan or nonpartisan package, Mr. President, understanding the absolute imperative of addressing the S&L issue on both sides, addressing it in a calm and comprehensive way.

As this amendment is accepted today, we will be giving the President of the United States the resources he should have requested from us to do the job. He will have these resources. They will be made available to him. I look forward to hearing of the successful resolution of so many of these issues.

Mr. President, I know the distinguished Republican leader is here and we are going to be moving to the crime bill. I will have more to say on this issue when we get to that bill. We have a brief period of time, 15 minutes on each side, under the previous agreement reached 10 days ago, but again I am very pleased that such a large number of people on both sides of the aisle are joining in cosponsoring this important package to the crime bill.

Mr. President, I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. By unanimous consent, the Republican leader's time was reserved. Does he wish to claim that time now?

Mr. DOLE. I wish to claim that time now.

The PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. I thank the distinguished President pro tempore.

S&L AMENDMENTS

Mr. DOLE. I agree with the Senator from Colorado that this is a bipartisan effort on S&L amendments. I do not detect any bipartisanship in the rhetoric but I think the amendment is bipartisan. Perhaps one day the rhetoric can be bipartisan. But in any event, they are good amendments, and they will be adopted. They are the result of a lot of work by Members on each side of the aisle who want to get to the bottom of the S&L mess, notwithstanding the political impulses that many have.

NO DIRECT AID TO THE SOVIET UNION

Mr. DOLE. Mr. President, President Bush is providing outstanding leadership at the Houston economic summit, across the board.

I want to take particular note of the very sensible stand he has taken on the issue of aid to the Soviet Union.

The President has it just right. We ought to help the Soviet Union go down the path to free market-based economics. That means technical and advisory assistance.

It also makes sense for us to work aggressively to get our fair share of the export market in the Soviet Union. Until the Houston summit, or the GATT talks, or some other mechanism allows us to get a handle on export subsidies, particularly in the agricultural area, that means we are going to be—and in our own self-interest, should be—in the business of using mechanisms like the export enhancement program in the Soviet Union. If some care to call that aid, so be it—although it is really aid to America, not the Soviet Union.

But it makes no sense for us to provide direct aid—whether in the form

of grants or credits, to the Soviet state. It makes no sense because of our own daunting economic problems—our $3 trillion debt, much of it underwritten by foreign capital; our 12 digit budget deficit; our already stretched-to-the-breaking-point foreign aid budget.

And it makes no sense in terms of current Soviet policies, policies that include massive spending on a military machine, shipping billions of dollars overseas to prop up irresponsible and repressive clients, and still relying heavily on the bankrupt economic practices of the past 70 years.

Mr. President, if Mr. Gorbachev really needs a quick infusion of cash, perhaps he can get a rebate on the $4 billion he will ship to Castro this year; the $1 billion still flowing into Angola—life suport for the Communist MPLA regime, that until now has not even allowed desperately needed food aid to reach hungry people; the hundreds of millions of dollars that are sustaining the puppet regime in Afghanistan, and keeping that deadly war going.

In the longer run, if Mr. Gorbachev needs to stretch his budget, perhaps he ought to declare his own peace dividend—and make some real cuts in his defense budget, instead of the puny 4-percent cut the Soviets made this year.

Mr. President, it is in our interest that Mr. Gorbachev succeed in keeping the Soviet Union on a path toward political liberalization and economic sensibility.

But it is not in our interest to underwrite those still large areas of Soviet policy which are inimical to our interests, which are destabilizing in important areas of the world, and which make no economic sense.

I have no doubt that the American taxpayers, in overwhelming numbers, will understand all that, and will support President Bush's leadership on this issue. I am confident, too, that the vast majority in Congress will reject the appeals of a few, that we start signing over blank checks to the Kremlin.

Mr. President, I want to make one final observation.

It is obviously the right of our allies to spend their own money in any way they see fit. But if they start providing billions in aid to Mr. Gorbachev, the American taxpayer is going to question even more critically why it is that we are being asked to spend billions of our own, to support a major American military presence in Europe—the very military force, by the way, that has kept the peace for nearly a half century, and allowed those same allies to achieve the prosperity which permits their new-found largesse.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point two articles pertaining to this subject: one from the Wall Street Journal, and one from the New York Daily News.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

$15 BILLION FOR WHAT?

What would Mikhail Gorbachev's Soviet Union do with $15 billion? This is the amount of aid that West Germany and France would like their partners at the Houston economic summit to send to the Soviets. While opponents of aid are arguing, correctly, that the Soviet bureaucracy would surely waste the money, there is another dimension to this question. What reason is there to believe that most of this $15 billion would spend any time at all in the Soviet Union? Hard currency is fungible. It can go anywhere, buy anything.

According to figures cited in May by National Security Adviser Brent Scowcroft, Soviet transfers to some of its most prominent client states add up to something over $15 billion. The Rand Corp. breaks down the Soviet aid disbursements this way:

Cuba: $5 billion; Afghanistan: $3 billion; Vietnam: $2.5 billion; Syria: $1.5 billion; North Korea: $1 billion; Libya: $1 billion; Angola: $1 billion. The total is $15 billion.

To their credit, President Bush and Secretary of State Baker have pressed the Soviet leadership relentlessly on the question of its continuing aid to the Cubans. And Messrs. Gorbachev and Shevardnadze have been equally persistent in rebuffing these entreaties. This is no small matter.

Despite various reports that the Soviets are unhappy with Castro, there is little concrete evidence that the Soviet Union is prepared to step down from its relations with Cuba or, for that matter, with Afghanistan, Vietnam, Syria and Libya. In no sense is the behavior of these countries consonant with the reformist image that Mr. Gorbachev asks the West to accept as genuine.

Indeed at the risk of being sniffed at by our more credulous colleagues for "old thinking," it should be plain that the Soviet Union's relations with these states remains rooted in the Cold War. How come? Why is it that Mr. Shevardnadze simply cuts off Secretary Baker or Western reporters when asked about Cuba or his apparently bankrupt treasury's ability to keep sending aid to these other dictatorships?

The Soviet Union, of course, has a concrete military presence in both Cuba and Vietnam. And while the Red Army, on balance, may be out of Afghanistan, the Soviets continue to rely on that country's compliant communist government for natural gas. The Syrian relationship is predicated almost wholly on continuing purchases from the Soviet arms industry. Whatever the state of play in the external Soviet empire, there is absolutely no reason why a "helpful" West should now start transferring hard-currency aid or credits to a Moscow that can't and won't promise not to pass along the money to these pariah nations.

Fidel Castro to this day continues to throw into his dungeons opponents who dare to speak out for democratic reforms. Some of Mr. Gorbachev's former clients in Eastern Europe already have begun to wind down their long relationship with Fidel. Most recently, Czechoslovakia's Vaclav Havel sent Castro a stiff letter denouncing his continuing human-rights violations. Two days ago, seven Cuban dissidents sought asylum at the Czech Embassy in Havana; there is no expectation that Castro will give them exit visas.

The West Germans have been pressing the hardest in Houston for aid to the Soviets, and no doubt have an interest in linking aid to their unification drive and desire to rid East Germany of Soviet troops. But they have to understand we also have a special interest in the presence of an unreformed Stalinist state in our own back yard.

Most likely, the Houston summit will address the Soviet aid question in its communique later today. We hope that it shows some understanding that at this point in time, putting cash in the Kremlin's hands is not yet a policy that is either economically or morally defensible.

[From the Daily News]

DON'T THROW MONEY AT MOSCOW

As the leaders of seven top Western nations meet in Houston this week to discuss economic matters. Item No. 1 on the agenda is the question of whether to provide direct nation-to-nation financial aid to the Soviet Union. Soviet leaders desperately want it. West Germany and France are ready to provide it. But the U.S., Great Britain and Japan have wisely blocked any attempt on the part of the Big Seven to extend coordinated economic aid.

Such aid would be a costly mistake. Unless the Soviet Union embarks on precisely the kind of drastic free-market economic reforms that are beginning to take hold in countries like Poland, the Soviet Union will remain an economic basket case—no matter how much foreign aid is poured into its coffers. Why offer money to a country that doesn't recognize property rights? Or, as president Bush points out, continues to prop up Fidel Castro to the tune of millions of dollars each year?

Yes, profound changes are taking place in the Soviet Union. But there is still no clear indication that Gorbachev & Co. are willing to turn their country into a full free-market democracy. And outspoken Soviet reformers are fully aware of that fact. Anatoly Sobchak, chairman of the Leningrad City Council, has gone so far as to warn Western nations against propping up the faltering Gorbachev regime with direct aid: "There should under no circumstances be any large projects. No money should be given into the hands of the bureaucrats, and no money should be invested into any kind of middleman organization."

Western skills, Western technology, Western economic advice—all these things should be provided in abundance. Such "aid" will help the Soviets help themselves. But direct nation-to-nation economic aid, including the extension of credit, must be linked to:

Significant Soviet economic reform—including the establishment of genuine property rights.

Drastic Soviet military cuts—including withdrawal of Soviet conventional forces from Eastern Europe and termination of Soviet support for dictatorships in other countries.

Without these key conditions, aid to the Soviets will only serve to shore up the status quo—which means hardship and misery for the Soviet people.

ODD MEN OUT

Mr. DOLE. Mr. President, the democratic revolution that has swept over

much of the Communist world has so far been thwarted in Romania, Albania, and Yugoslavia—increasingly the three odd men out of Eastern Europe.

It is time to turn a bright spotlight of international attention on these increasingly anachronistic and oppressive regimes. It is time that their people, too, enjoy the right to freedom and self-determination.

In Romania, the promise of democratic elections proved illusory. The so-called National Salvation Front stage-managed a sham electoral process whose real purpose was not to measure the wishes of the people, but to paint a thin veneer of respectability on a regime made up largely of Ceaucescu retreads.

In Albania, long the backwater of Europe, demonstrations demanding democracy and free markets were forcibly repressed, and thousands of young men and women sought refuge in a dozen free world embassies. Though a few have begun to trickle out to Czechoslovakia, under a regime offer of safe passage, most still remain holed up—choosing the self-imposed confinement of embassy courtyards over the omnipresent tyranny of their own government.

In Yugoslavia, a confederation of disparate republics and ethnic groups, a Communist federal government continues to drag its feet in resistance to real change. Meanwhile, the government of the Republic of Serbia has turned a deaf ear to the demands of millions of ethnic Albanians, seeking some real say in their own affairs; has wiped out what little autonomy the Albanians have enjoyed; and has cracked down hard on the movement for Albanian self-determination—murdering, maiming, and imprisoning many.

Mr. President, I ask unanimous consent to include in the RECORD an article from the July 6 New York Times, describing some elements of the Serbian Government's crackdown.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SERBIA SUSPENDS GOVERNMENT OF ALBANIAN REGION

(By Chuck Sudetic)

BELGRADE, YUGOSLAVIA, July 5.—The Parliament of the Yugoslav republic of Serbia today suspended the Assembly and the Executive Council of the Kosovo region, which has a 90 percent ethnic Albanian population and has been the scene of ethnic disorders.

The Parliament also dismissed the editors of Kosovo's main Albanian-language newspapers and the managers of its radio and television stations.

The action extinguishes what remained of the Kosovo region's autonomy and it is certain to exacerbate already bitter relations between the region's ethnic Albanian majority and Serbian minority.

"The Albanian people are nervous but remaining calm," said Ibrahim Rugova, a leader of the ethnic Albanian opposition. "It is very dangerous now," he said by telephone from Kosovo.

Policemen seized the radio and television stations in Pristina, the regional capital, at 3 A.M., Belgrade television reported.

STATIONS GO OFF THE AIR

Mr. Rugova said Albanian-language radio and television broadcasts have gone off the air, and that the police were guarding the newspaper building and the radio and broadcast stations.

"The police even took over the headquarters of the Kosovo Writers Association at 4 o'clock this afternoon," Mr. Rugova said, referring to a building that the Albanian opposition used for meetings and news conferences. "There is no more Albanian authority in Kosovo now."

"Everything the Serbs say about democracy is now obviously exposed as demagoguery," he said. "They take care of themselves and repress us."

Mr. Rugova added that the ethnic Abanian opposition would continue even if outlawed.

The Serbia Parliament's action followed a vote last Monday by ethnic Albanian members of the Kosovo Legislature to declare the region a constituent territorial unit within the Yugoslav federation, with all the rights and powers of the country's six republics, said Aleksander Prija, the Serbian Secretary for Foreign Relations.

The ethnic Albanians' vote brought condemnation throughout Serbia. It was seen as evidence that the ethnic Albanians would eventually want to sever Kosovo, a center of ancient Serbia, from Yugoslavia and merge it with neighboring Albania.

Yugoslavia's republics have a vaguely defined right to secede from the federation, and newly elected non-Communist governments in the republics of Slovenia and Crotia are threatening to exercise that right.

Kosovo, which had de facto republican status under Yugoslavia's 1974 Constitution, lost most of its autonomy in March 1989 when the Serbian Government pushed through constitutional amendments. More than 50 ethnic Albanians have died in the last 18 months in clashes with the police.

"It is unthinkable that Kosovo's Assembly could declare a state within the Yugoslav federation," Mr. Prija said. "There is no room for a second Albanian state either in Serbia or in Yugoslavia. The sooner the Albanians shed their illusions that there could be the possibility of having a second state in Serbia, the better it will be for everybody."

SERBS ASSUME ALL POWERS

Serbia's Parliament and Executive Council have assumed all legislative and administrative powers in Kosovo. The Serbian police took control of law enforcement there three months ago.

Ethnic Albanian members of the Kosovo Assembly are reportedly traveling to Belgrade to consult with Yugoslav federal authorities.

Kosovo's legislature will not be reconvened until after the Serbian Parliament adopts a new republican constitution and free multiparty elections are held, Mr. Prija said.

Under the Constitution, the Kosovo Assembly appoints the region's Executive Committee and the managers of press and broadcasting organizations. Mr. Prija said that last year's amendments gave the Serbian Parliament the right to carry out the suspensions.

The move by Kosovo to declare equal status within Yugoslavia came in the wake of a hastily called referendum throughout Serbia last weekend, in which 90 percent of the voters opted to delay free, multiparty elections in the republic until after the Communist-controlled Parliament adopts a new constitution.

The ethnic Albanians boycotted and obstructed the referendum.

SIX-DAY NOTICE OF REFERENDUM

Faced with angry anti-Communist demonstrations in the streets of Belgrade twice in the last few months, calling for free multiparty elections, Serbia's hard-line leader, Slobodan Milosevic, announced the referendum only six days before it was held.

He originally characterized the referendum as a chance for Serbia's voters to indicate clearly whether they wanted free, multiparty elections before a new constitution.

It is expected that the referendum would result in a limited role for the Communists in setting up a constitutional framework, as had been the case elsewhere in Eastern Europe, or to have the elections come after leaving the constitutional work to the present party dominated legislature.

However, as drafted, the proposition linked endorsement of the present Parliament to the acceptance of a broad statement of national and territorial unity.

"This was a horse race with only one horse," said Vuk Draskovic, leader of the anti-Communist, nationalist Serbian National Renewal. "The opposition wasn't given the opportunity to campaign against it."

"There is no question that a new constitution is necessary but what is in question is who should draft and adopt it," said Kosta Cavoski, president of the opposition Democratic Party Executive Committee, who said he expected free elections to be delayed for a year or more.

"Must we allow the existing illegitimate, one-party, Communist Parliament to draft the constitution or do we want a legitimately elected constituent assembly?"

Mr. DOLE. Mr. President, while we celebrate freedom's great victories, and do everything we can to help the emerging democracies, we must not for a moment forget the millions still living under repressive Communist regimes in these three nations.

We should support the emerging democracies, but in my view we should not be in the business of providing aid to governments which are denying basic human rights to their own people.

We should not be assisting regimes which refuse to hold free and fair elections; which deny to their own people the right to self-determination.

We should not be providing aid to prop up socialist, statist economies—which subsidize failed and bankrupt economic policies and programs.

The democratic revolution in Eastern Europe has come a long way, but there is still a long way to go.

As we go forward, we must always make sure, and make clear, that the United States is on the right side, the side of the people, the side of political freedom and free enterprise.

Mr. President, I thank the Chair.

I reserve the remainder of my leader time.

THE FARM BILL

Mr. LEAHY. Mr. President, within the next day or two we are going to begin Senate floor debate on the 1990 farm bill, a 5-year farm bill. That bill is the result of some very hard work and, I must say, some tough bipartisan decisions.

During the hearing phase of the farm bill, the Senate Agriculture Committee traveled to 13 States to meet first hand with those most affected by the laws that we here in the Congress pass. In Washington, we set a rigorous schedule for ourselves. We had 33 hearings in an 8-week period. We had countless meetings among Senators and staff, weekends, evenings, sometimes all night long. We had 20 markups.

In the end, we passed a good bill. It was supported by the committee on a 15-to-4 vote. The bill had bipartisan broad support ranging from the senior Senator from Indiana [Mr. LUGAR] and the minority leader, to the Senator from Nebraska, and a whole lot of others.

The bill encompasses a host of complex issues, ranging from target prices to planting flexibility, from food safety to consumer protection, from forest management to wetlands conservation, and from foreign food aid to trade. When we begin floor consideration, I will discuss these and other farm bill issues in more detail.

The committee drafted a bill that makes fiscal sense. And between now and the conclusion of the budget summit, Senator LUGAR and I will work to assure that this bill meets our budget responsibilities.

I urge each and every Member to read the bill and the committee report.

I also urge all Members not to politicize the floor debate on the farm bill. With the November election fast approaching, some may be tempted to try to gain political advantage during the floor debate. I must say, Mr. President—and I base this on 16 years of experience and several of these 5-year farm bills—that is not going to serve anyone's purpose.

If the farm bill becomes a political football, the farmers and the consumers of this country are going to be the losers. It is not good for our farmers. It is not good for the country. It is a time to stand together.

We will have a farm bill on the floor as soon as the other matters are taken care of that are pending, a farm bill that we can support no matter what part of the country we come from. It makes good sense, good farm policy, and it is bipartisan.

I set two goals on this farm bill. Aside from the usual policy ones, I said, overriding all, it had to fit within the budget, it had to have a rational budget in it, and it had to have bipartisan support. This bill does both. I hope that the Senate will support it in that way because we still have a long way to go in conference.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. The time for morning business has expired. Morning business is closed.

OMNIBUS CRIME BILL

The PRESIDENT pro tempore. Under the order, the Senate will resume consideration of S. 1970 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDENT pro tempore. Under the previous order, the Senator from Colorado [Mr. WIRTH] is recognized to offer an amendment on behalf of himself and the Senator from Pennsylvania [Mr. HEINZ] on which there shall be 30 minutes of debate to be equally divided.

AMENDMENT NO. 2116

(Purpose: To provide for additional resources for the Department of Justice and others to facilitate the investigation and prosecution of criminal, civil, and administrative claims against officers, directors, and others in connection with depository institutions, to establish a Financial Institutions Fraud Unit in the Department of Justice, to provide for taxpayer recovery, and for other purposes)

Mr. WIRTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] for himself, Mr. HEINZ, Mr. BIDEN, Mr. DOLE, Mr. RIEGLE, Mr. GARN, Mr. GRAHAM, Mr. DIXON, Mrs. KASSEBAUM, Mr. BRYAN, Mr. ROTH, Mr. SIMON, Mr. BOND, Mr. PRYOR, Mr. D'AMATO, Mr. KERRY, Mr. SARBANES, Mr. DODD, Mr. GRASSLEY, Mr. SASSER, Mr. CHAFEE, Mr. SANFORD, Mr. BURNS, Mr. LEVIN, Mr. COHEN, Mr. KENNEDY, Mr. BOSCHWITZ, Mr. METZENBAUM, Mr. KOHL, Mr. GORE, Mr. CRANSTON, Mr. LIEBERMAN, Mr. LEAHY, Mr. EXON, Mr. LAUTENBERG, Mr. ADAMS, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. PRESSLER, Mr. HARKIN, Mr. DURENBERGER, Mr. KASTEN, Mr. MCCONNELL, Mr. HATFIELD, Mr. HELMS, and Mr. HOLLINGS, proposes an amendment numbered 2116.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. WIRTH. Mr. President, I ask unanimous consent that the 30 minutes that are made available to the author of the amendment be equally managed by the Senator from Colorado and the Senator from Pennsylvania [Mr. HEINZ].

The PRESIDENT pro tempore. Is there objection to the request?

Hearing no objection, it is so ordered.

Mr. WIRTH. Mr. President, I yield 3 minutes to the distinguished chairman of the Banking Committee, Senator RIEGLE.

Mr. RIEGLE. Mr. President, I thank the Senator from Colorado.

I rise as a cosponsor and strong supporter of the Wirth amendment because it represents a good bipartisan effort in dealing with a tough problem. The amendment incorporates the Biden-Cohen-Riegle bill dealing with criminal, civil and administrative actions combating fraud and insider abuse at financial institutions. It also incorporates the bankruptcy provisions from the Dole-Heinz bill. Fraud and insider abuse has been a significant problem in the failure of the deposit insurance fund for savings and loans. When the GAO studied a sample of large failed thrifts, 100 percent of those thrifts evidenced fraud or insider abuse.

The chairman of the Senate Judiciary Committee, Senator BIDEN, along with this Senator and my colleagues on the Banking Committee Senators TIM WIRTH, BOB GRAHAM, ALAN DIXON, JOHN KERRY, and RICHARD BRYAN, have worked together to create a comprehensive and tough legislative package on financial institution crime.

This amendment deals with every aspect of the Federal Government's response to fraud and insider abuse. It reforms the response of the criminal justice system by providing for stiffer sentences and more money for the investigation of cases, for the prosecution of cases, and for the judicial administration of cases. It increases the civil forfeiture powers of the Government and gives the RTC the ability to bring RICO claims on behalf of the Government. It eliminates the bankruptcy loophole for those who have agreed to put private capital into financial institutions and for those who have committed fraud and insider abuse at financial institutions. It opens up administrative enforcement proceedings to provide for public oversight of enforcement actions and requires the RTC to report to Congress on a semiannual basis on the combined efforts of all the relevant Federal agencies.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 took the important first steps in combating fraud and abuse at financial institutions. It extended the statute of limitations from 5 to 10 years to provide more time for investigations and prosecutions. It significantly increased the enforcement powers of the

Federal banking regulators. And, it provided more money for the investigation and prosecution of financial institutions fraud.

In FIRREA, the administration sought a $50 million authorization for investigation and prosecution of criminal and civil cases involving financial institutions fraud. Congress felt more resources were needed and increased the authorization to $75 million on an annual basis, plus $10 million to give the Federal judiciary additional resources to avoid a backlog of thrift fraud trials.

Money and resources are not the only answer, but here they are desperately needed.

There are 530 failed financial institutions with ongoing FBI investigations. The Associate Director of the FBI has testified before a House committee that the Bureau need hundreds of more FBI agents and accounting technicians and the Justice Department could use over a hundred U.S. attorneys. These positions are in addition to those positions created with the funds from FIRREA.

I think the most credible statement of need is from those who are on the front lines. The special agent in charge of the FBI's Denver office, which has pending investigations into 30 failed financial institutions, has stated he does not have nearly enough people to keep up with the cases. The Denver U.S. attorney states that he has a big backlog of thrift fraud cases. A U.S. attorney in Oklahoma has admitted that the thrift fraud cases were, until recently, stagnating because of lack of resources.

The administration is still putting its savings and loan strike force together. As of March 1990, the Department of Justice had hired 68 of the 118 new U.S. attorney positions. Attorney General Thornburgh has made this matter his top priority. I commend the administration for addressing this issue in a straight forward and open manner.

The President took the initiative on the savings and loan matter when he introduced the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 on February 22, 1989, and we worked very closely with the administration on a bipartisan basis to get it enacted.

The substance of this amendment is the best of any of the bills on this issue. This legislative package authorizes $203 million: $162 million for the Department of Justice to investigate and prosecute cases; $16 million for the IRS; and $25 million for the judiciary to process the additional cases that will be filed. No other proposal incorporates the Wirth, Graham, Dixon amendment requiring the Government to coordinate its actions by creating a Financial Institutions Fraud Unit within the Department of Justice. There is no other proposal for creating a Fraud and Enforcement Review Division at the RTC. There are no other bills that require the bank regulators to make their enforcement hearings and orders a matter of public record.

This bill contains an important provision regarding the disclosure of regulatory orders and proceedings. Generally, it reverses the traditional notion that regulatory proceedings and enforcement orders and settlements should not be disclosed to the public. The bill requires disclosure of enforcement orders or settlements, in whatever form the agency may use, including agreements, between the regulator and an institution or institution-affiliated party, for which a violation may be enforced by the appropriate agency with either a court order or administrative action. The regulators are required to publish all such enforcement orders and agreements within 30 days, unless publication would be contrary to the public interest.

The standard for withholding matters from publication requires the regulators to make a particularized finding about that specific party and the enforcement action taken. The regulators may not withhold information in reliance upon a general finding as to all institutions. For example, it would not be appropriate for the regulators to withhold disclosure of an enforcement action simply because the depository institution was open and the regulators had a general belief that any disclosure of negative information would create a severe liquidity problem at any open depository institution. In any event, such a finding generally would not be warranted because financial institutions that have publicly traded securities are currently disclosing the existence of bank and thrift regulatory orders pursuant to their obligation under Federal securities law to disclose material events. The standard in this bill requires a case-by-case approach, with the presumption now being the information should be disclosed unless there is a compelling reason not to disclose it. This applies to orders and agreements currently in effect, as well as new orders and agreements as they are issued.

I think an even-handed analysis will show that this is the most comprehensive and thoughtful bill on this topic. I am proud to have worked with Senator BIDEN, Senator WIRTH, and the other members of the Senate Banking Committee on this amendment.

It is very important that we go forward with the strong enforcement effort this bipartisan bill creates and I recommend it strongly to my colleagues.

I thank the Chair.

The PRESIDENT pro tempore. Who yields time?

Mr. HEINZ. Mr. President, I yield myself 5 minutes.

The PRESIDENT pro tempore. The Senator is recognized for 5 minutes.

Mr. HEINZ. Mr. President, I am pleased to sponsor, together with Senator WIRTH and other Senators, this comprehensive and bipartisan amendment to the crime bill. It is an amendment designed to recover funds for the American taxpayer and to punish those who have treated federally insured savings and loans like a personal piggy bank.

It is entirely fitting that these measures be a part of the crime bill, since the savings and loan crisis is far and away the largest theft and heist in American history. The American Treasury is going to be looted to the tune of hundreds of billions of dollars. It is a simple fact that the American taxpayer has had his wallet picked clean.

This bipartisan amendment is called the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990. That is a good title, because it combines many of the provisions in the Heinz-Dole-Garn amendment, endorsed by the President, with the provisions of the Graham-Wirth-Biden bill, an amendment to the crime bill.

Working with the distinguished minority leader, Senator DOLE, and the ranking member of the Banking Committee, Senator GARN, Senator WIRTH, Senator GRAHAM, Senator BIDEN, Senator RIEGLE, Senator SIMON, and other colleagues, as well as representatives from Justice, Treasury, the RTC, and other Federal banking agencies, we put together, we believe, legislation which provides the tools and resources needed to investigate and to prosecute rapidly and effectively savings and loan fraud and to enhance our efforts to get the money back.

Mr. President, I have to say at the same time that this is, as Yogi Berra might have said, déjà vu all over again, because just about a year ago, I stood in this Chamber to inform my colleagues that FIRREA, the S&L legislation which was passed, had only done half of the job. Today we are doing the other half. But a year ago I indicated that while the S&L bill had protected the American depositor, it had not protected the American taxpayer. I said that at the time because, in part, the House of Representatives insisted on stripping from the Senate bill a series of measures that I wrote and sponsored, and which our colleagues in the Senate agreed to put into the Senate bill, that were designed to maximize the recovery of funds from those who looted federally insured S&L's and to ensure that those crooks were put in jail.

Among those provisions, which are in this amendment and which I trust the House this time will accept and not remove from the bill, were giving

the RTC a priority on behalf of the American taxpayers to recover funds from those responsible for losses at insolvent S&L's; second, to take away the shield of bankruptcy protection from the officers, directors; or others who breached their fiduciary duties to federally insured institutions; and third, a provision to direct the courts to speed up the cases brought by the Government to recover funds on behalf of the American taxpayer; and also to provide prosecutors with the most potent legal weapon in our Federal arsenal against crime, RICO, to go after those who defrauded federally insured S&L's with the maximum effort.

I am pleased that those provisions are part of this amendment, Mr. President.

I must say that when the Resolution Trust Corporation reports that "more than 60 percent of insolvent S&L's were victimized by serious criminal activity"—and I quote them—when the Attorney General concludes there was an "epidemic of fraud"—and I quote him—in the savings and loan industry, it is high time that Congress declares savings and loan crooks public enemy No. 1. That is what this amendment does. With the cost of the savings and loan bailout in the hundreds of billions of dollars, with it being the largest financial crime, the largest financial scandal in history, it is time that Congress makes the recovery of funds for the American taxpayer job No. 1.

Last year, in FIRREA, we bailed out the S&L's to protect depositors.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. HEINZ. Mr. President, I yield myself 1 additional minute.

The PRESIDENT pro tempore. The Senator is recognized for 1 additional minute.

Mr. HEINZ. Mr. President, last year Congress bailed out the savings and loans to protect depositors. Today we seriously begin the job in earnest of rescuing the taxpayers, as well.

Mr. President, I ask unanimous consent that a summary of the provisions of the Comprehensive Bank and Thrift Prosecution and Taxpayer Recovery Act of 1990 be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE COMPREHENSIVE BANK AND THRIFT FRAUD PROSECUTION AND TAXPAYER RECOVERY ACT OF 1990

SUBTITLE A—BANK FRAUD AND EMBEZZLEMENT PENALTIES

Section 11: Increased Penalties for Bank Fraud.—Increases the maximum penalties for bank fraud and embezzlement criminal offenses from 20 years to 30 years.

Section 12: Life Imprisonment for S&L Kingpins.—Creates a new criminal provision to subject S&L kingpins to a mandatory minimum sentence of 10 years and up to life imprisonment with fines of up to $10 million for an individual and $20 million for others. S&L kingpins are those who, acting in concert with three or more other persons, engage in a continuing series of bank fraud violations and who derive more than $5 million in profits from their crimes over a 2-year period.

Section 13: Expands Government Prosecutions Under RICO to All Bank Fraud.—Provides the Attorney General with the authority to bring criminal and civil actions under RICO for all bank fraud violations. The eight additional bank fraud predicate offenses are not available for private civil actions.

Section 14: Mandatory Minimum Sentences for Major Bank Fraud.—Imposes mandatory minimum sentences in cases of major fraud (involving more than $1 million) against a federally insured depository institution.

SUBTITLE B—BROADENING INVESTIGATIVE AUTHORITY IN BANK FRAUD CASES

Section 51: Authorizes Wiretaps in Bank Fraud Investigations.—Adds bank fraud offenses to the list of crimes for which wiretaps may be authorized by a court.

SUBTITLE C—RESTRUCTURING THE FEDERAL ATTACK ON BANK CRIMES

Section 111: Justice Department Financial Crime Unit Established.—Directs the establishment of a Financial Institutions Crime Unit within the Office of the Deputy Attorney General headed by a Special Counsel for the Unit. The Special Counsel and the Unit are responsible, and report directly, to the Deputy Attorney General.

Section 112: Special Counsel Responsible for Combating Bank and Thrift Fraud.—The Special Counsel must be appointed by the President and confirmed by the Senate. His duties include: (1) supervision and coordination of investigations and prosecutions of fraud involving the financial services industry, (2) ensuring that the statutory tools designed to recover funds from those who committed crimes involving financial institutions are used to the fullest extent, and (3) ensuring that the resources, available to investigate and prosecute financial institution fraud and related criminal activity are adequate.

Section 113: Financial Crime Unit Personnel.—The Attorney General is responsible for assigning the personnel needed to maintain or increase the level of enforcement activity involving financial institution fraud and related criminal activity.

Section 114: Fraud Task Forces and Senior Interagency Group Established.—The Attorney General is responsible for creating financial institution fraud task forces to provide appropriate resources to recover funds from those who have engaged in financial institution fraud and related criminal activity. The task forces may be supervised by the Special Counsel.

The Attorney General is responsible for creating a Senior Interagency Group comprised of senior officials from the Justice Department, Treasury Department, FBI, RTC and the federal banking agencies to identify, direct coordinate and enhance investigative and prosecutorial efforts relating to the most significant cases.

Section 115: Semiannual Reports on Investigations and Prosecutions.—The Financial Institutions Fraud Unit is responsible for collecting and compiling data of investigations and prosecutions. The Unit must report to the Senate and House Banking and Judiciary Committees semiannually on this data and the coordination of efforts by the agencies represented on the Senior Interagency Group.

Section 116: Monthly Statistical Reports on Financial Crime Enforcement.—Monthly crime statistics will must include information on cases involving federally insured depository institutions.

SUBTITLE D—EXPANDING FEDERAL FORFEITURE AND MONEY LAUNDERING LAWS

Section 151: Expanding Civil Forefeiture.—Expands the ability to obtain civil forfeiture in cases involving mail or wire fraud affecting a federally insured depository institution. The Attorney General is authorized to seize forfeited property relating to bank fraud.

Section 152: Expanding Restitution to Victims of Bank Fraud.—Restitution provisions are expanded to authorize the restoring of forfeited property to the victims of bank fraud. In addition, courts are authorized to order restitution to victims of bank fraud even if the conviction did not involve those specific victims or property.

Section 153: Expands Money Laundering Offenses to Include Bank Fraud.—Expands the prohibition on the laundering of money to include proceeds resulting from bank fraud and mail fraud.

Section 154: No Bankruptcy Protection for Breaches of Fiduciary Duty.—Bankruptcy court protection would be denied to officers, directors and other "institution-affiliated parties" (e.g., shareholders, employees and agents) for debts arising from a breach of their fiduciary duties to federally insured institutions.

Section 155: No Bankruptcy Protection for Bank Fraud.—A bankruptcy court is prohibited from discharging debts of those who committed fraud while an officer, director or other fiduciary of a federally insured institution. No protection in bankruptcy court would be available for damages, penalties, fines, forfeitures, restitution, or similar claims ordered by a court or by a bank regulatory agency. Bankruptcy court protection would also be denied those who breach commitments to maintain the capital levels of federally insured institutions.

Section 156: Disclosure of Enforcement Actions.—Enforcement actions by federal bank regulatory agencies, including hearings and settlement agreements, would be open to the public unless the agency determines that open proceedings or other disclosures would not be in the public interest.

SUBTITLE E—INCREASED RESOURCES FOR INVESTIGATIONS AND PROSECUTIONS

Section 201: Congressional Findings Concerning Bank Fraud.—Currently there are over 7,000 FBI investigations of bank fraud and embezzlement, some 3,000 of which involve potential losses of more than $1 million. The Attorney General has indicated that at least 25 to 30 percent of thrift failures can be attributed to criminal activity. The RTC has estimated that 60 percent of the savings and loans seized have been victimized by serious criminal activity.

Section 202: $203.5 Million Authorized to Combat S&L Fraud.—Appropriations of $162.5 million are authorized for the Justice Department and FBI each year through fiscal year 1993 to hire the prosecutors and investigators needed to combat fraud in the savings and loan industry. In addition, appropriations of $16 million are authorized for fiscal year 1991 to hire 160 IRS agents to assist in investigation of savings and loan fraud. Finally, an additional $25 million is authorized to be appropriated to the courts to handle the increased caseload relating to

savings and loan fraud and other criminal prosecutions.

SUBTITLE F—COMBATING FRAUD IN THE SALE OF ASSETS

Section 251: Concealment of Assets a Crime.—Concealment of assets subject to a claim by the federal banking agencies or the RTC are subject to fines of up to $1 million and up to 5 years imprisonment.

Section 252: Proceeds from Fraud Involving Asset Sales Subject to Forfeiture.—Expands federal forfeiture law to permit seizure and forfeiture of the proceeds of fraud against the U.S. government involving the sale of assets by the RTC and FDIC.

Section 253: Civil RICO Actions by the RTC and FDIC.—The RTC and FDIC are expressly authorized to bring civil actions against financial institution racketeers under the Racketeer Influenced and Corrupt Organizations Act.

Section 254: RTC and FDIC Subpoena Authority.—Clarifies the subpoena authority of the RTC and FDIC to assist the agency in uncovering assets and recovering funds.

Section 255: Recovery of Fraudulently Conveyed Assets.—Creates a uniform federal statute that permits the RTC and the FDIC to recover assets fraudulently conveyed during the five years prior to the failure of financial institution when assets were transferred to hinder, delay or defraud the insured depository institution.

Section 256: Prejudgment Attachment and the Freezing of Assets.—The RTC and FDIC are authorized to have a court appointed trustee take the assets of those who may be liable in connection with an insolvent institution to prevent the dissipation or transfer of those assets. Federal banking agencies, the RTC and the Justice Department are authorized to obtain an ex parte court order to freeze assets in connection with certain actions in order to prevent the dissipation, transfer or disposal of assets.

Section 257: Injunctions Involving Schemes to Defraud Financial Institutions.—When schemes to defraud financial institutions are uncovered, the RTC, FDIC and NCUA, are authorized to obtain court ordered injunctions to prevent losses or damages in other cases, arising from the potential dissipation of assets or other activities that may hinder the executions of judgments for money damages.

Section 258: RTC Enforcement Division.—The RTC is directed to establish a Fraud and Enforcement Review Division to assist other agencies in coordinating and pursuing criminal, civil and administrative enforcement actions against those responsible for losses at insolvent savings and loans.

Section 259: RTC and FDIC Priority of Claims.—This provision gives the FDIC's and RTC's claims against those responsible for losses at insured institutions a statutory priority over competing suits by shareholders and other parties. Several courts previously recognized this priority while others did not. This provision would expressly grant the FDIC and the RTC a priority as to private claims which are filed after enactment. The provision is neutral with respect to the FDIC's and RTC's entitlement under current law to a priority with respect to pending claims.

Section 260: Fast Tract Litigation to Recover Funds.—Courts are directed to give expedited review to cases brought by the FDIC/RTC to recover funds from those who caused losses at insured institutions.

SUBTITLE G—INCREASED AUTHORITY FOR FEDERAL MAGISTRATES

Section 301: Expanded Authority to Expedite Bank Fraud Cases.—Expands the authority of federal magistrates to accept the guilty pleas of defendants charged with defrauding a federally insured institution.

SUBTITLE H—INTERAGENCY COORDINATION

Section 351: Interagency Coordination.—Permits federal agencies, including the IRS, OTS, Secret Service and others to loan personnel who can assist in S&L fraud investigations to the Justice Department without requiring reimbursement. Attorneys detailed from other agencies can serve as special assistant U.S. Attorneys under the direction of the Attorney General.

Section 352: International Banking Agency Cooperation.—Authorizes the Federal banking regulatory agencies and the RTC to provide assistance to, and receive assistance from, foreign bank regulators in investigations of bank regulatory violations.

Section 353: Technical Amendment.—Corrects a statutory miscite in a provision of Federal Deposit Insurance Act relating to regulatory enforcement authority over foreign banks.

SUBTITLE I—FINANCIAL ANTIFRAUD ENFORCEMENT ACT

Sections 401-469 Rewards and Private Litigation in Bank Fraud Cases.—Persons who provide information to the Attorney General relating to bank fraud or the location of assets subject to a claim by the Government relating to bank fraud are authorized to receive rewards up to 20% to 30% of the first $1 million recovered, 10% to 20% of the next $4 million recovered and 5% to 10% of the next $5 million recovered, as determined by the Attorney General.

When appropriate, the Attorney General may retain an attorney chosen by the informant, on a fixed or contingent fee basis, to pursue claims relating to bank fraud. Courts are authorized to award private counsel retained by the Attorney General reasonable attorneys fees.

SUBTITLE J—TECHNICAL AMENDMENTS

Section 501.—Deletes obsolete terms in bank fraud statutes and makes other technical changes.

Section 502.—Corrects a statutory miscite in a provision of Right to Financial Privacy Act.

Mr. HEINZ. Mr. President, I want in conclusion, to thank and congratulate the many people who have worked on this amendment. I have particularly worked with Senator WIRTH, Senator GRAHAM, and Senator BIDEN, who were here on the floor, and I do believe this represents a very strong bipartisan effort, even if from time to time the rhetoric may sound a little partisan.

Mr. WIRTH. Mr. President, I yield 3 minutes to the Senator from Illinois.

Mr. DIXON. Mr. President, this debate began when my friend from Colorado, who is managing here this morning, offered an amendment that I was honored to join him in, which attempted to take $30 million from the appropriated amount for promotion of tourism in Panama to give it to the Department of Justice to hire additional prosecutors and investgators.

The battle went on when my friend from Florida, Senator GRAHAM, joined by my friend from Colorado, Senator WIRTH, in this amendment, and this Senator originally offered a strike force amendment to the crime bill.

The idea has grown a lot, Mr. President. It has incorporated the ideas of my friend, Senator BIDEN, the distinguished chairman of the Judiciary Committee; my dear friend, the distinquished Senator from Illinois, Senator SIMON; Senator KASSEBAUM; the Republican leader, Senator DOLE; Senator HEINZ, who is managing on the other side; Senator RIEGLE, Senator HOLLINGS, and others.

As I said upon original introduction of the strike force amendment, two tools are needed to prosecute these criminals: an efficient structure and sufficient resources.

Mr. President, this bill does both. It gives us the structrre, and it authorizes $162.5 million in appropriated money to do the job. This amendment improves the structure and provides for greater accountability. It will establish a special unit with local strike forces within the Department of Justice to prosecute financial crimes. Having strike forces would facilitate the kind of specialized training and skills needed to investigate these complex cases. Dedicating these resources will also prevent prosecutors from neglecting these time-consuming cases in favor of easier ones.

A new special counsel for financial institutions fraud will be accountable for spearheading prosecution of these fraud cases.

The strike forces, the RTC, the U.S. attorneys around the country, would all be required to report twice a year to the Congress on their progress. This will let Congress know whether these cases are being addressed and whether adequate resources have been allocated.

Mr. President, this amendment provides for using private parties as well, with inside knowledge to help recover money stolen in effect from the Federal Deposit Insurance Fund, an idea taken from a bill introduced by my distinguished colleague, Senator SIMON, S. 2763, which I had the honor of cosponsoring.

So, Mr. President, this is a good amendment, and it should be adopted.

I yield the floor.

Mr. HEINZ. Mr. President, how much time does the Senator from Illinois wish?

Mr. SIMON. If I could have 3 minutes.

Mr. HEINZ. I yield to the Senator from Illinois 3 minutes.

The PRESIDENT pro tempore. The Senator from Illinois [Mr. SIMON] is recognized for 3 minutes.

Mr. SIMON. I thank my colleague from Pennsylvania. It is an illustration of the bipartisan nature of what we worked out.

First, I conmmend those who worked on the structural change. I was pleased to cosponsor that. I tell you candidly that Senator WIRTH, my colleague from Illinois, Senator DIXON, Senator GRAHAM, and others played a much more significant role in setting that up than I did. But I think it is a step forward.

There are three provisions in this compromise on the savings and loan situation that I have had the opportunity to get into this thing.

One is a provision that authorizes the Attorney General to seize assets in the case of S&L fraud. The need for that I think is so obvious I do not need to expand.

Second, it gives the RTC and the FDIC the chance to freeze the assets of those involved in fraud.

Then, finally, a provision that was a matter of some controversy on the floor before we adjourned for the recess, and here let me give credit to my colleague, Senator ROTH of Delaware, who worked with this, and also let me credit the Deputy Attorney General Designate, William Barr, for his good work on this.

And as I am passing out commendations, I see the chairman of the Judiciary Committee down here, Senator BIDEN, who has been helpful on all of this, and I appreciate it.

But this final provision is how do we encourage citizens who have knowledge of fraud or hidden assets to disclose that information? We have worked out a procedure where the Attorney General and the Justice Department continue to control, but where there is undisclosed information and that is reported, an individual citizen in the case of a criminal conviction can get a reward of $10,000 to $250,000. This is at the discretion of the Attorney General, and where assets are recovered through civil penalties, a reward of between 20 and 30 percent of the first million dollars received in those recovered assets.

It is a substantial incentive to people who have knowledge of what is going on to disclose that. The same is true, somewhat different provisions, but where someone is convicted or where civil penalties have been assessed and there are hidden assets, people who are aware of those hidden assets are given an incentive to come forward. I think it is a good provision that should help to strengthen law enforcement in this area where we have to recover every penny that we possibly can that has been fraudulently taken from savings and loans.

Mr. President, at subtitle I, the Wirth-Heinz amendment contains my and Senator ROTH's and Senator DIXON's provision on bounty hunters. The Department of Justice was helpful in crafting this package with us to add the tools of private resources to tackle S&L fraud.

Our provision works this way. An individual goes to the Justice Department or local U.S. attorney with information on savings and loan fraud. The information can not be something the Government already knows or is otherwise publicly available.

If the information is specific enough to state a prima facie case of fraud or other banking violations, then the individual files a declaration with Department of Justice or local U.S. attorney. The Attorney General has up to 3 years to review the declaration and file suit or refer it to a private attorney selected in consultation with the declarant if the information is meritorious. If it is not meritorious, the Attorney General must so inform the declarant within 3 years. If the Attorney General takes no action within 3 years, he must inform the declarant who then can require the Government to pursue the case or refer it to private counsel.

The declarant is entitled to an award of between $10,000 and $250,000 if a criminal conviction is obtained or between 20 to 30 percent of the first million dollars in civil penalties and a lesser percentage of greater amounts.

If the information is not as specific, then the person is considered an informant or tipster and can collect up to $50,000 in the Attorney General's discretion if the information leads to a conviction or civil judgment.

The same structure is established where the declarant has information about the assets of an institution or individual already convicted of bank and related fraud. This provision helps the Justice Department collect on awards already won in court. Since time lost means assets dissipated, the Attorney General must respond or act within 1 year, not 3.

Three years from now when the number of complaints should lessen, the Attorney General will be required to review declarations and act within 1 year of the filing of a declaration, rather than 3 years.

The Attorney General is required to report to Congress every 6 months as to the number of declarations, their status, awards made and their amount. A declarant can sue in court to require the Attorney General to respond in some way to a declaration.

Mr. President, the Wirth-Heinz amendment also contains my provision to authorize the Attorney General to seize through the civil forfeiture process assets which are derived from various savings and loan fraud crimes. Civil forfeiture is the process by which the Government can, with a warrant, seize assets directly, before a conviction. Once the property has been seized, the individual can bring a lawsuit to get it back. Currently, the Attorney General has this authority in other situations such as drug and money laundering cases where there is often immediate danger of loss through defendants hiding their cash in a hurry. Assets derived from savings and loan fraud are already subject to civil forfeiture by the Secretary of Treasury, but due to an apparent oversight the Attorney General is not named as a party authorized to bring the action. The amendment fixes that problem.

Finally, Mr. President, another provision in the Wirth-Heinz amendment added at my request makes it easier for the three savings and loan regulatory agencies—Federal Deposit Insurance Corporation, Resolution Trust Corporation, and National Credit Union Administration—to freeze the assets of defendants in savings and loan cases. This provision lowers the Government's burden of proof for court orders to freeze assets.

My colleagues have been very cooperative in addressing my concerns about the need for tougher, quicker, and surer prosecution of savings and loan fraud. The United States has just experienced the greatest financial theft in our history—carried out by thousands of people—and the wheels of justice grind with agonizing slowness. Today, we are voting to approve strong law enforcement. I hope the House acts soon on the savings and loan provisions contained in the Wirth-Heinz amendment. The American people want it and justice demands it.

The PRESIDENT pro tempore. The time allotted to the Senator from Illinois has expired.

Mr. WIRTH. Mr. President, I yield 2 minutes to the distinguished Senator from Vermont.

The PRESIDENT pro tempore. The Senator from Vermont [Mr. LEAHY] is recognized for 2 minutes.

Mr. LEAHY. Mr. President, I am proud to be an original cosponsor of the amendment offered by Senator WIRTH, Senator BIDEN and others. I am pleased that a bipartisan consensus was reached on the amendment that is now before us. I believe it is the most sensible and comprehensive approach to cracking down on the orgy of fraud and lawbreaking that occurred during the savings and loan crisis.

We want to make sure that the Justice Department and the FBI have the tools necessary to bring these crooks to justice. We want to make sure to avoid a replay of what is quickly becoming a national nightmare.

I represent a State known for its frugality and common sense. Certainly I hear, from Vermonters, as my colleagues hear from their constituents when they go home, about their concerns on what happened to cause the S&L fiasco and what will happen to fix it. How did so much money get

stolen? How did so much money get lost to the taxpayers?

We are very careful in the State of Vermont about how we spend our money, very careful how we invest it. Our banks are run very carefully and very honestly. I am proud to say that no savings and loan fraud happened in our State. I doubt it ever could. Vermonters, just like the residents of the great State of West Virginia, represented by the Presiding Officer, are going to pay their bills.

We Vermonters have to pay part of this savings and loan bill. The people represented by every Senator here are going to have to pay part of this bill. So we need some answers about what happened, and if criminal conduct has occurred, it should be prosecuted.

I spent 8 years as a prosecutor in Vermont. I quickly learned that prosecuting criminals is not the way it is portrayed in the movies. Symbolic acts and finger pointing does not get you anywhere. The tough part is getting solid evidence and making a case so a jury will convict.

Successful prosecutions deter crimes. This amendment will help make sure the men and women who are working to bring these cases forward will have the tools to do the job and get those convictions. Those who broke the law will pay the price. This amendment will also help to ensure that a crisis like this will never, ever, happen again.

We have heard a lot about how and why the S&L disaster occurred—about impersonal forces like the collapse of the real estate market in one State or another, about the folly of deregulating an industry that needed more regulation, about allowing S&L executives to invest federally insured money in very risky investments.

But what has become shockingly clear in recent months is the degree to which outright fraud contributed to this crisis.

According to the Attorney General, 25 to 30 percent of all S&L failures can be attributed to criminal activity by the institution's officers and directors. According to Bill Seidman, Chairman of the FDIC and undoubtedly the most respected government official currently dealing with this crisis, some 60 percent of the institutions seized by the Resolution Trust Corporation have been the victims of "serious criminal activity."

The magnitude of this manmade disaster has far outstripped the ability of our prosecutors and investigators to keep up.

The FBI has over 7,000 pending cases of bank and thrift crime—cases in which the Bureau has reviewed the allegations and decided to go forward. Of these, over 3,000 involve losses greater than $100,000. The Bureau is also investigating 530 failed banks and thrifts. And it has over 21,000 unaddressed referrals in its files—matters on which it has not yet decided to go forward or to dismiss.

This is intolerable. It is one thing to tell the American people that they are being saddled with a Paul Bunyan sized bailout bill through no fault of their own. It is quite another to tell them to be patient—to be indulgent—toward the shady dealers and sharp operators who have taken us all to the cleaners.

Mr. President, the American people will not stand for it and they shouldn't.

The least that this Congress and this administration can do is to make darn sure that the resources needed to crack down on S&L swindlers are in place and are operating effectively.

For whatever reason, the Bush administration refused to face up to the dimension of the S&L enforcement problem until quite recently. For example, although last year's bailout bill—FIRREA—authorized an additional $75 million a year to investigate and prosecute financial institution crimes, the administration requested only $50 million for the current fiscal year.

This made no sense. In March 1989, the FBI concluded it would need 425 new agents plus substantial numbers of accounting support staff to investigate thrift fraud and embezzlement. The administration's $50 million has provided less than half of these needs. The truth is that the $75 million provided by FIRREA wasn't enough, and the administration wouldn't even take that.

What the administration did not seem to appreciate is that a slow, deliberate pace is just not good enough when every man, woman and child in this country is being asked to pay over $1,000 to fix this mess. These cases may be complex and they may be intricate, but the only appropriate pace for our prosecution effort is a full-court press.

I am pleased, however, that at least at this point, the administration appears to be recognizing the need for a redoubled effort. Last month, I spoke with Acting Deputy Attorney General Barr at his confirmation hearing, and he expressed a positive attitude that I hope will be a sign of Justice Department cooperation in the weeks and months ahead.

The amendment before us is a tough, comprehensive, approach to the problem of S&L enforcement.

It includes a number of key provisions that will bolster our effort to punish S&L fraud.

First, and probably most important, it provides funding for additional, badly needed resources including 642 additional assistant U.S. attorneys and technical support staff, 370 new FBI agents and support staff, and $16 million for additional IRS investigators for S&L related fraud cases.

You cannot fight a battle without troops in the field and the only way we can speed up the pace of prosecution is to bring in reinforcements.

Second, this legislation will create a new Financial Institutions Fraud Unit in the Justice Department. The special counsel in charge of this unit will have the benefit of being able to focus exclusively on financial crime without having his attention diverted to other pressing criminal matters like drugs.

In addition, this amendment directs the Attorney General to establish 10 interagency strike forces in key areas of the country drawing not just on Federal prosecutors and FBI but on investigators from the IRS, Secret Service, and bank regulatory agencies.

Third, the bill will expand the reach of our civil forfeiture laws to cover mail and wire fraud to the extent such fraud affected banks or thrifts.

Fourth, this bill will toughen the penalties against all those who may be tempted to try to make a fast buck in connection with the massive sell-off of properties held by the RTC. With the RTC having to sell off tens of thousands of properties worth tens of billions of dollars, we have to take tough steps to prevent a whole new round of fraud.

In this regard let me say that I have been particularly troubled by reports that the same S&L con artists and the same fast and loose developers who played roulette with borrowed money may now be getting ready to cash in on the sale of properties held by the Resolution Trust Corporation.

Regulators reportedly expect that property speculators who have already defaulted on their loans will line up to buy the same property back from the RTC at bargain-basement prices.

And S&L executives who have already driven their institutions into the ground are expected to line up, too. No doubt they figure they'll have an inside track on the bidding thanks to the inside information they have about properties that were held by their own S&L's.

Of course, when it comes to sheer, unadulterated gall, Charles Keating, the original S&L kingpin, has no equal. Keating ran the Lincoln Savings and Loan into the ground at a cost of a billion dollars to the taxpayers, and now he proposes that the assets of Lincoln be sold back to him.

The American people would be justifiably outraged if we allowed the same wheeler-dealers who fleeced us once to launch a new get-rich-quick scheme through the purchase of RTC assets. So I intend to offer shortly a bill to prevent buybacks of this kind.

Any executive of a failed S&L who played a significant role in squandering the assets of his institution would

be barred from buying those assets back from the RTC. And anyone who defaulted on a loan from a failed S&L would similarly be barred from turning around and buying that S&L's assets back.

The least the American people can expect in cleaning up the S&L mess is swift and sure justice. This Congress and this administration have an obligation to see that it is provided.

Mr. President, these are tough provisions. I have never believed that measures like civil forfeiture should be undertaken lightly. But these are not ordinary times.

I thank the Chair.

The PRESIDENT pro tempore. Who yields time?

Mr. WIRTH. Mr. President, I yield 3 minutes to the distinguished Senator from Florida.

The PRESIDENT pro tempore. The Senator from Florida [Mr. GRAHAM], is recognized for 3 minutes.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I commend all those who worked over the past several days in bringing this important amendment to the attention of the Senate. I urge its adoption by our colleagues.

I have been particularly involved in the provision that relates to the establishment of a new Office of Special Counsel within the Department of Justice, and then a series of units or task forces which will bring greater institutional capacity to deal with those people who have broken the law, who have engaged in fraudulent activities, and who are now benefiting by the proceeds of those criminal and fraudulent activities.

Mr. President, we have had some experience in the past with how to deal with unusual investigations and prosecutions. One of those which I believe was very successful was the establishment of a series of task forces under a designated officer within the Department of Justice to deal with organized crime.

The essential genius of that structure was that the persons who had that single responsibility were responsible and accountable. Also, Mr. President, you had the ability of individuals to gain wisdom and understanding and insight as to how to prosecute these especially difficult cases.

Finally, Mr. President, you were not asking a U.S. attorney who already had an overburdened workload of the types of activities that are their day-to-day responsibility to now suddenly take on a new, highly sophisticated area of investigation and prosecution. I believe that model which served this Nation effectively in dealing with organized crime is the model that can serve us well now in dealing with the issues of savings and loan criminal and fraudulent activity.

It is that essential idea which is now incorporated in this amendment, and I hope will soon be part of the crime bill and will soon be in use to give to our Department of Justice greater capacity to deal with illegal activity and to give the American people greater confidence that there is somebody who is concerned, accountable, and capable of taking serious actions against those individuals who have caused the greatest single financial crisis debacle in the history of this Nation.

Thank you, Mr. President.

The PRESIDENT pro tempore. Who yields time?

Mr. WIRTH. Mr. President, I yield 2 minutes to the Senator from Delaware.

Mr. BIDEN. I know the Senator is pressed for time. May I take 1 minute?

Mr. WIRTH. I yield 1 minute to the distinguished Senator.

The PRESIDENT pro tempore. The Senator from Delaware [Mr. BIDEN] is recognized for 1 minute.

Mr. BIDEN. Mr. President, I save the plaudits for those who worked hard on this. Many have.

Let me make two points. I think there are several very important parts of the bill, not the least of which is the forfeiture provision that now extends to bank fraud cases and allows us to go after assets, homes, yachts, just like we do with drug dealers.

Second, we put a provision in this bill that we drafted, and it is called the kingpin provision. We provide for up to life imprisonment. You know, if we took all the bank robberies at the rate that they have occurred over the recent several decades and added them up, it would take 4,000 years before the bank robbers of this country could steal as much as the S&L fraud kingpins have stolen from the American public. It would take 4,000 years.

If we are going to put somebody in jail for robbing a bank, we should throw the key away for some of the people who have bilked the savings and loans.

Mr. President, as we know the S&L crisis is the biggest financial scandal in this Nation's history. It is hard to grasp just how much this scandal will cost taxpayers.

But think of it this way: What we will spend on cleaning up the S&L's is equivalent to what bank robberies will cost us over the next 4,000 years.

Much of the S&L crisis can be directly attributed to fraud and insider abuse. William Seidman, head of the Federal Deposit Insurance Corporation, estimates that 60 percent of the S&L failures can be linked to fraud and criminal wrongdoing.

Unfortunately, the S&L violators that we have nabbed are spending little time behind bars. According to a recent study, in 1989 the average S&L offender received a sentence of just 1.9 years in prison, in comparison, the average bank robber was sentenced to a prison term of 9.4 years.

The white-collar criminals who are responsible for this massive rip off must be brought to justice.

And that's exactly what this amendment does.

The amendment is based on the comprehensive S&L fraud enforcement bill that I introduced last month, S. 2786.

Most importantly, this amendment includes many of the provisions I am proud to have authored:

Creating an S&L kingpin statute, which provides up to life imprisonment for the most egregious cases of S&L fraud and embezzlement.

Requiring the U.S. Sentencing Commission to impose stiff, mandatory minimum penalties for major S&L violators;

Expanding civil and criminal forfeiture laws to allow prosecutors to seize and recover the ill-gotten assets from important bank and thrift fraud crimes.

Finally, the amendment adds $203 million to fight S&L fraud—$103 million above the administration's request—boosting our forces with 375 new FBI agents, 600 new prosecutors, 100 more IRS investigators and additional money for U.S. courts to track down and punish S&L violators.

This amendment takes a major step in bringing these S&L criminals to justice. Under this amendment, major S&L offenders will spend time behind bars. Their assets will be seized. And every possible dollar will be recovered for depositors and taxpayers.

The S&L debacle can't be undone. But we can punish the white collar rip off artists who have perpetrated this fraud, thereby deterring such crimes in the future.

The PRESIDENT pro tempore. Who yields time?

The Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. I yield 2 minutes to the distinguished Senator from Nevada.

The PRESIDENT pro tempore. How much time is the Senator yielding?

Mr. THURMOND. Two minutes to the distinguished Senator from Nevada.

The PRESIDENT pro tempore. The Senator from Nevada, [Mr. BRYAN] is recognized for 2 minutes.

Mr. BRYAN. Thank you very much, Mr. President. I thank my distinguished colleague for yielding time to me.

I preface my comments this morning by congratulating Senator WIRTH, Senator HEINZ, and others for their leadership in processing this amendment. A number of us who have served on the Banking Committee have been particularly distressed to see the evidence that has been developed over

the last few months indicating there are a large number of people who have been involved in criminal misconduct.

As a consequence of their criminal misconduct, billions of dollars have been lost as a result of the savings and loan collapse in a number of States.

What is even more distressing is that those that have been involved in this misconduct in all too many cases have not been aggressively and effectively prosecuted. So I am particularly pleased to see that this amendment does a couple of things among several that I think gets right to the heart of it, and that is, it concentrates the attack on the S&L fraud cases by creating a new financial institutions fraud unit. I think that gives it the kind of priority we need.

I am particularly pleased as well, Mr. President, to see that the resources which the field agents, the FBI, the Justice Department, and the assistant U.S. attorneys have requested and which heretofore had only been approved by approximately 50 percent of the request, that we are finally providing the resources. My colleagues and good friend from the State of Florida, Senator GRAHAM, who joins us on the floor this morning, has taken a leadership role in this, and I am pleased to support amendments which he has been working on and legislation which he has introduced.

So, Mr. President, I compliment those who have worked on this amendment. I think it provides the kind of attention and priority and the resources to get the job done, and the American public has a right to expect that those who are guilty of the most egregious kind of criminal misconduct ought to be prosecuted vigorously and effectively.

I thank the Chair.

(Mr. KOHL assumed the Chair.)

Mr. WIRTH. Mr. President, I yield myself whatever time is remaining on our side.

Mr. President, I, first of all, thank the distinguished chairman of the Judiciary Committee, Senator BIDEN, and his very able staff for a variety of provisions from Judiciary which are in this amendment.

I also thank the Senate Banking Committee, Senator RIEGLE and staff. I also thank the majority. Senator HEINZ and I spent an awful lot of time trying to pull this all together. Senator GARN took part in a great number of the bargaining sessions, and Senator DOLE was certainly of great help.

Senator PRYOR and Senator BOB KERREY, as well as the other people who have spoken today, have pulled together what I think is a very important amendment.

Mr. President, I am pleased to join Senators HEINZ, GRAHAM, DOLE, BIDEN, DIXON, RIEGLE, and a number of other colleagues in offering this amendment to the crime bill. Fraud and other criminal activity involved in the S&L industry in recent years should not be ignored as we consider crime legislation. A number of Senators had offered legislation to address S&L crime, making various suggestions to help investigators and prosecutors in their efforts to bring those who looted our S&L's to justice. I am pleased that we were able to work out this comprehensive bipartisan package that incorporates many of these proposals.

The S&L debacle is the largest financial crisis in our Nation's history. While it will be years before we know the final tally, the cost of resolving the industry's problems, according to some estimates, may reach $500 billion or more. No matter what the final figure, it represents a vast sum that we will be unable to devote to other critical needs such as education, our crumbling infrastructure, biomedical research and environmental protection. There is no question, Mr. President, that fraud and other crimes played a significant role in the S&L crisis.

In recent months the need to pursue fraud and other crimes that contributed to the S&L crisis has drawn a great deal of attention in Congress and by the administration and the public. By now, we are all familiar with the story.

FRAUD AND THE S&L CRISIS

An October 1988 report of the House Government Operations Committee found that insider misconduct caused or contributed to more than three-fourths of all thrift failures.

Last June, the General Accounting Office [GAO] issued a report that examined 26 thrift failures and compared them to a sample of 26 solvent S&L's. The GAO found activities at each insolvent institution that appeared to be fraud and insider abuse. Investigations or legal action had been initiated against 25 of these 26 thrifts or against persons associated with the S&L's.

Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by the institution's officers and management.

Officials at the Resolution Trust Corporation [RTC] indicate that an estimated 60 percent of the institutions it has seized "have been victimized by serious criminal activity."

LARGE AND GROWING INVESTIGATION AND PROSECUTION CASELOADS

The Federal Bureau of Investigation has received more than 20,000 referrals involving fraud and other criminal activity in the financial services industry that the Bureau has been unable to address. More than 1,000 of these cases involve losses of more than $100,000.

As of February 1990, the Bureau also had more than 7,000 pending bank and S&L fraud and embezzlement cases, some 3,000 of which were major. And more than 900 of the pending cases and 234 of the unaddressed referrals involve losses greater than $1 million.

Mr. Timothy Ryan, the new Director of the Office of Thrift Superivision, recently indicated that the Department of Justice had received between 20,000 and 25,000 criminal referrals in recent years.

Mr. President, the need for additional resources to attack fraud and other crime in the S&L industry is well known.

FUNDING FOR INVESTIGATION AND PROSECUTION OF S&L CRIME

Last year the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] authorized $75 million annually for 3 years to investigate and prosecute financial institution crimes. However, the administration requested only $50 million for the current fiscal year. These funds were used to expand staff in FBI and U.S. attorneys' offices throughout the country.

The $50 million in funding is inadequate. The additional personnel do not meet the staffing needs identified in a 1989 FBI survey. In this survey, FBI and U.S. attorneys' offices requested 224 more FBI agents, 113 more assistant U.S. attorney positions, and 142 more support staff positions than the agencies received.

The administration's budget proposal for fiscal year 1991 is also inadequate. The budget would only permit the FBI to add 42 agents and 26 support staff, well short of the bureau's staffing needs.

Additional resources are needed as soon as possible because the passage of time makes investigation more difficult.

In recent testimony before the House Government Operations Committee's Commerce, Consumer and Monetary Affairs Subcommittee, administration officials indicated there is a need for additional resources to pursue financial institution crimes.

On March 14, 1990, Mr. Oliver B. Revell, Associate Deputy Director of the FBI, discussed the difference between the March 1989 request and the eventual allocation of resources to pursue financial institution fraud and embezzlement. Mr. Revell said that these additional personnel were still needed and that "we wouldn't have asked for them if we didn't need them."

On March 15, 1990, Assistant Attorney General Edward S.G. Dennis, Jr. testified before the same House subcommittee. Mr. Dennis's statement noted that seven FBI field offices requested additional special agents but were not allocated any new agents. Ten other field divisions were de-

scribed by Mr. Dennis as receiving "substantially fewer positions than requested."

The story was similar when Mr. Dennis turned to the U.S. attorneys offices: 11 districts requested additional assistant U.S. attorneys but did not receive any while 8 districts received substantially fewer positions than they requested.

Mr. Dennis said that "A significant reason why these shortages exist is that there is insufficient funding under FIRREA to fill all the requested positions." That may be the case. However, FIRREA authorized $25 million more than the $50 million the administration requested for this purpose.

Timothy Ryan, the Director of the Office of Thrift Supervision also recently called upon Congress to provide more resources to investigate and prosecute financial institution crimes.

Mr. President, the Wirth-Heinz amendment is a comprehensive package based on legislation a number of us introduced as S. 2786 in late June.

It is the product of discussions and negotiations involving Senators on both sides of the aisle. It is a sound proposal that we all can and should support. I am particularly pleased by the authorization of new resources to investigate and prosecute financial services crimes and the creation of a Financial Services Fraud Unit within the Department of Justice and an enforcement unit within the RTC.

The fraud unit at the Department of Justice would coordinate and focus efforts to investigate and prosecute fraud and other criminal activities in the financial services industry and determine how to deploy resources most effectively. The amendment also authorizes the Attorney General to establish financial services crime strike forces to pursue criminal activity within the industry. These steps would raise the visibility of this effort, sending a clear message to the American public and those involved in the financial services industry that we will not tolerate the criminal activity that contributed to the S&L industry's losses.

The legislation also authorize a significant increase in resources devoted to the investigation and prosecution of the criminals who were active in the industry. The Wirth-Heinz amendment authorizes $162.5 million for each of the next 3 years. The increased authorization would bring additional FBI agents, assistant U.S. attorneys, IRS agents, support personnel and financial experts on board to aid in S&L crime enforcement. Importantly, additional funds would also be provided to the judicial branch to help the courts handle the increased caseload.

For several months now, I have sought an increase in resources for this purpose. I am pleased that these provisions are a part of the amendment and that Senator HOLLINGS intends to seek increased funding during the appropriations process. Such a step is perhaps the most effective thing we can do at this time to increase efforts to pursue S&L crime. If we give the FBI and the U.S. attorneys more resources, the Department of Justice will be able to make more progress against the backlog of cases.

There are a number of other provisions in the package that also deserve our attention and support. For example, the amendment includes tough new sentencing requirements that would raise the maximum penalty for bank fraud and embezzlement to 30 years—an increase of 10 years, add an S&L kingpin provision that provides life imprisonment for those who acted in concert with at least three others and who received more than $5 million from their crimes, and impose mandatory minimum sentences in major bank fraud and embezzlement cases.

Other important provisions would change Federal asset seizure, forfeiture, and bankruptcy laws to increase recoveries from those who looted the S&L's and the deposit insurance fund.

This is the most comprehensive package to tackle S&L crime that we have seen introduced in the Senate. It is long past the time for speeches and photo opportunities, Mr. President. We need to act. The Wirth-Heinz amendment sends a message to the FBI agents, U.S. attorneys and support personnel working on the frontlines against financial institution crime that help is on the way. I encourage my colleagues to support this amendment.

I would like to highlight just two points here Mr. President, in the final seconds remaining. One, that we are, in this amendment, concentrating the attack on S&L fraud cases through this new financial institutions fraud unit in the Justice Department, bringing together the resources necessary to target them where they must be targeted. Second, that we increase the resources available to the President and to the Attorney General. We are authorizing $162 million, the amount defined by the distinguished chairman of the Appropriations subcommittee, Senator HOLLINGS, for each of the next 3 years. This will allow the necessary resources that we have heard from friends in the Justice Department were necessary: 224 FBI agents were requested by the FBI, 146 support staff; and in the U.S. attorneys offices to add 205 additional attorneys, 205 support staff, and 50 auditors. The Tax, Civil, and Criminal Divisions of the Department of Justice will be able to add 104 attorneys and support staff. These are the resources necessary, Mr. President, to do the job.

I hope that now we find the Attorney General orchestrating them, as we have asked him to do in this bipartisan amendment.

Again I thank all Senators for this very broad bipartisan package.

Mr. President, I ask unanimous consent that a summary of the amendment and a savings and loan fact sheet be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY—S&L CRIME AMENDMENT

INCREASES BANK FRAUD AND EMBEZZLEMENT PENALTIES

Increases the maximum penalty for bank fraud and embezzlement from 20 years to 30 years.

Creates a new "S&L kingpin" statute that provides up to life imprisonment for the highest-level of S&L violators who act in concert with three or more other violators and who derive more than $5 million from their crimes.

Authorizes the Attorney General to bring civil and criminal suits under the Racketeer Influenced and Corrupt Organizations (RICO) law for additional bank fraud and embezzlement-related crimes not currently under RICO.

Imposes stiff mandatory minimum sentences in major bank fraud and embezzlement cases to ensure that S&L violators serve time behind bars.

FINANCIAL INSTITUTIONS FRAUD UNIT

Concentrates the attack on S&L fraud cases by creating a new Financial Institutions Fraud Unit in the Department of Justice, headed by a special counsel.

Authorizes new Financial Institutions Fraud Strike Forces in those cities hardest hit by the S&L scandal, composed of special teams of FBI agents, IRS criminal investigators, bank examiners and federal prosecutors.

EXPANDING FEDERAL ASSET SEIZURE, FORFEITURE, AND MONEY LAUNDERING LAWS IN S&L-RELATED CASES

Allows U.S. prosecutors to use civil seizure and forfeiture laws to recover the proceeds of mail and wire fraud involving financial institutions.

Authorizes the Attorney General to seize property used in or derived from bank fraud and embezzlement crimes; current law restricts such seizure authority to the Secretary of the Treasury.

Makes the laundering of proceeds derived from important bank fraud and embezzlement offenses a crime under the federal money laundering statute.

Authorizes the Attorney General to restore forfeited property directly to victims, including those involved in S&L fraud cases, rather than requiring victims to file a time-consuming action in civil court.

Prohibits the discharge of certain S&L-related debts as a result of bankruptcy proceedings.

Generally allows for public disclosure of regulatory enforcement actions, administrative orders and supervisory agreements.

INCREASING INVESTIGATORS AND PROSECUTORS FOR BANK FRAUD AND EMBEZZLEMENT CASES

Authorizes $162.5 million for each of the next three years to dramatically expand the number of federal agents and prosecutors devoted to bank fraud and embezzlement cases.

The new funds would allow the FBI to add 244 agents and 146 support staff, and

U.S. Attorneys' offices to add 205 additional attorneys, 205 support staff, and 50 auditors. The tax, civil, and criminal divisions of the Department of Justice would be able to add a total of 104 attorneys and 78 support staff. These personnel would be in addition to those added as a result of the $50 million appropriated for the current fiscal year.

Authorizes $16 million for Fiscal Year 1991 for the Internal Revenue Service to increase the number of investigators in S&L related cases.

PREVENTING AND PROSECUTING FRAUD IN THE SALE OF ASSETS BY THE RTC

Expands federal forfeiture laws to authorize U.S. prosecutors to seize the proceeds of fraud against the U.S. government involving the sale of assets by the Resolution Trust Corporation.

Authorizes the RTC and the FDIC to bring civil RICO charges on their own behalf for violations in and against the banking and savings and loan industries.

Gives the RTC subpoena authority and clarifies the existing subpoena authority of the FDIC to investigate sales of assets by the RTC.

Permits the RTC and FDIC to place under the control of a court-appointed trustee the assets of individuals who may be held culpable in the failure of an insured depository institution.

Establishes a uniform federal statute that permits the RTC and the FDIC to unwind fraudulent conveyances made in anticipation of liability for fraud involving the thrift and banking industries dating back over a five-year period.

Creates an Enforcement Division within the RTC.

INCREASING JUDICIAL RESOURCES TO ENSURE PROMPT PROSECUTION OF BANK FRAUD AND EMBEZZLEMENT CASES

Provides $25 million in additional funding for the Judicial Branch for those districts where the S&L-related case load is the heaviest.

Expands the authority of federal magistrates in bank fraud and embezzlement cases to expedite these cases in federal courts.

PRIVATE ACTIONS AGAINST BANK FRAUD AND EMBEZZLEMENT

The bill encourages individuals to report Savings and Loan fraud to the Department of Justice by providing rewards to individuals whose information leads to conviction or liability. Should the Justice Department not act within a certain time on the information provided by the informer, the individual may hire a private attorney to proceed with the action. The bill also provides whistleblower protection.

SAVINGS AND LOAN FACTSHEET

The Savings and Loan (S&L) debacle is the largest financial crisis in our nation's history. According to the Treasury Department, the cost of resolving the crisis today could be as much as $132 billion. The General Accounting Office (GAO) calculates that the overall cost could reach $500 billion over a 30-year period.

FRAUD AND THE S&L CRISIS

Fraud and other criminal activity contributed significantly to the Savings and Loan industry's losses and will cost taxpayers billions of dollars.

An October 1988 report of the House Government Operations Committee found that insider misconduct caused or contributed to more than three-fourths of all thrift failures.

Last June, the General Accounting Office (GAO) issued a report that examined 26 thrift failures and compared them to a sample of 26 solvent S&Ls. The GAO found activities at each insolvent institution that appeared to be fraud and insider abuse. Investigations or legal action had been initiated against 25 of these 26 thrifts or against persons associated with the S&Ls.

Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the Savings and Loan industry and indicated that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by the institution's officers and management.

Officials at the Resolution Trust Corporation (RTC) indicate that an estimated 60 percent of the institutions it has seized "have been victimized by serious criminal activity".

LARGE AND GROWING INVESTIGATION AND PROSECUTION CASELOADS

The Federal Bureau of Investigation has received more than 20,000 referrals involving fraud and other criminal activity in the financial services industry that the Bureau has been unable to examine. More than one thousand of these cases are major involving losses of more than $100,000.

As of February 1990, the Bureau also had more than 7,000 pending bank and S&L fraud and embezzlement cases, some 3,000 of which were major. And more than 900 of the pending cases and 234 of the unaddressed referrals involve losses greater than $1 million.

Mr. Timothy Ryan, the new Director of the Office of Thrift Supervision, recently indicated that the Department of Justice had received between 20,000 and 25,000 criminal referrals in recent years.

Regulators will examine and close more insolvent institutions and the Department of Justice will receive thousands more referrals of possible criminal activity related to Savings and Loan failures, increasing the workload for federal investigators and prosecutors.

FUNDING FOR INVESTIGATION AND PROSECUTION OF S&L CRIME

Last year the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) authorized $75 million annually for three years to investigate and prosecute financial institution crimes. However, the Administration requested only $50 million for the current fiscal year. These funds were used to expand staff in FBI and U.S. Attorneys' offices throughout the country.

The $50 million in funding is inadequate. The additional personnel do not meet the staffing needs identified in a 1989 FBI survey. In this survey, FBI and U.S. Attorneys' offices requested 224 more FBI agents, 113 more assistant U.S. Attorney positions, and 142 more support staff positions than the agencies received.

The Administration's budget proposal for FY 1991 is also inadequate. The budget would only permit the FBI to add 42 agents and 26 support staff, well short of the bureau's staffing needs.

Additional resources are needed as soon as possible because the passage of time makes investigation more difficult.

In recent testimony before the House Government Operations Committee's Commerce, Consumer and Monetary Affairs Subcommittee, Administration officials indicated there is a need for additional resources to pursue financial institution crimes.

On March 14, 1990, Mr. Oliver B. Revell, Associate Deputy Director of the FBI, discussed the difference between the March 1989 request and the eventual allocation of resources to pursue financial institution fraud and embezzlement. Mr. Revell said that these additional personnel were still needed and that "we wouldn't have asked for them if we didn't need them."

On March 15, 1990, Assistant Attorney General Edward S.G. Dennis, Jr. testified before the same House Subcommittee. Mr. Dennis' statement noted that seven FBI field offices requested additional Special Agents but were not allocated any new agents. Ten other field divisions were described by Mr. Dennis as receiving "substantially fewer positions than requested."

The story was similar when Mr. Dennis turned to the U.S. Attorneys Offices: 11 Districts requested additional Assistant U.S. Attorneys but did not receive any while eight Districts received substantially fewer positions than they requested.

Mr. Dennis said that "A significant reason why these shortages exist is that there is insufficient funding under FIRREA to fill all the requested positions." That may be the case. However, FIRREA authorized $25 million more than the $50 million the Administration requested for this purpose.

Timothy Ryan, the Director of the Office of Thrift Supervision also recently called upon Congress to provide more resources to investigate and prosecute financial institution crimes.

Mr. ROTH. Mr. President, the mask and gun no longer fit the stereotypical image of a bank robber in today's world of high-technology finance. More likely, today's bank robber is an insider who leaves no smoking gun but a bewildering trail of paperwork. For these reasons, law enforcement agencies have a particularly difficult time investigating fraudulent transactions and apprehending the wrongdoers. Perhaps even more damaging, as it has become evident in the wake of the savings and loan crisis, is that the American taxpayer has become the ultimate victim of the modern bank robbery.

To address the problem of fraud against financial institutions, the distinguished junior Senator from Illinois and I introduced a proposal 2 weeks ago with two fundamental purposes: First, to augment the resources of the Department of Justice by engaging the private sector in vindicating the justified outrage by the American people over the savings and loan scandal; and second, to encourage the production of human clues that can give form and substance to the burdensome mass of paper trails left behind fraudulent activities.

During the course of several meetings with the Department of Justice and the various banking regulatory agencies to discuss the original proposal, we did not lose sight of those two important goals. It is our belief that the two goals are achieved in pending the Simon-Roth-Dixon amendment. This legislation will, therefore, appreciably assist the administration's effort to make wrongdoers pay, to the

maximum extent possible, for cleaning up the savings and loan mess. Moreover, we believe that the legislation balances, on the one hand, the legitimate concerns by the Department of Justice in coordinating the hundreds of internally generated criminal actions as well as the thousands of referrals from the various banking regulatory agencies with, on the other, the urgent need to proceed efficiently and effectively in recovering money from wrongdoers.

Given the magnitude and the complexity of the fraud among the failed savings and loan, one is instinctively attracted to the suggestions that a massive increase in manpower resources would be necessary to combat the fraud issue as well as to recover the assets of the failed institutions. But no department, much less the Department of Justice, can exponentially increase its staff overnight. While we can, and should, augment the resources of the Department, it would be inadvisable to suggest that the Department beef up its personnel in so great an amount for so short a time.

My original legislation proposed qui tam litigation as a method of asset recovery modeled after the False Claims Act. The purpose of such a legal device was to engage the private sector as an additional resource dedicated to the recovery of stolen assets and to openly solicit individuals to come forward with solid evidence of fraud against financial institutions. During the course of our discussions with the Department of Justice and the bank regulatory agencies, it became apparent that private causes of action in the name of the United States as applied to the current savings and loan crisis, might be more of an administrative burden than a financial benefit. A sudden deluge of hundreds, perhaps thousands, of qui tam bank fraud actions which the Department of Justice must review under the original proposal might have conflicted with and interfered with ongoing fraud cases being pursued by the Department of Justice.

That is not to suggest that the analytical structure of the qui tam model has been abandoned altogether in the legislation that is before us. Rather, it is our belief that the modified proposal achieves the substantive goals of qui tam if not its procedure and form. We have modified this tool to adapt it to the particular circumstances before us.

The Simon-Roth-Dixon amendment provides a substantial monetary award as an incentive for individuals to come forward with specific information about the fraudulent conduct of particular individuals in connection with a failed depository institution through a reward procedure as well as a recovery of the proceeds after judgment. Such information must, when combined with other elements, constitute a prima facie case of criminal violation of specific title 18 statutes and bank regulatory statutes. Alternatively, the Attorney General may still choose to reward an individual for providing information unknown to the Government that has relevance to a possible prosecution under specific sections of title 18.

The award authorized can be a substantial percentage of the recovered assets—up to $1.6 million—in the first instance or a fixed statutory amount not to exceed $250,000 in the second. The basis for these awards to informants may be either a criminal or civil proceeding. This is an improvement over the qui tam model which depends only on civil recoveries.

If the Department of Justice fails to act after a certain period of time on the information supplied, the declarant can notify the Department and force the Department either to take immediate action on the information or, in the alternative, to contract out the case to private counsel to act on the information. The statute of limitations will also be extended by 5 years to ensure that the Department of Justice is afforded an adequate amount of time to fully develop its cases without any prejudice to informants who may have to wait while the Department and banking regulatory agencies process similar cases. This extension of the statute of limitations was part of my original legislation, and I am pleased that it is incorporated into the pending amendment.

The reward incentive also applies to specific identification of assets that have been hidden or diverted to prevent recovery by the United States after a judgment has been rendered.

The Simon-Roth-Dixon amendment also grants to the Attorney General plenary authority to contract for private counsel to pursue civil cases that arise from information about fraud against insured institutions. This authority provides the Attorney General with the option of resorting to the legal resources of the private sector to meet the backlog of uninvestigated cases. Counsels employed under this provision can be paid on a contingent fee basis from the proceeds of recoveries. The contingent fee basis gives the Attorney General the option to expand his resources at no up-front cost to the taxpayer. Moreover, in order to maximize the recovery to the United States, the amendment authorizes the courts to award attorney fees to the United States in such cases.

The act will also strengthen the statutory protections afforded whistleblowers by allowing for double damages in the event the whistleblower is fired or otherwise discriminated against because of his cooperation with authorities. This provision was part of my original proposal, and I am pleased that it also has been included in the amendment before us.

Mr. President, when an institution fails, its corpus is little more than a great heap of paper. Making sense of all this paper is a difficult and time consuming task if there is no guide. A witness who can make the trip through this paper more efficient is extremely beneficial. The authority by the Attorney General to offer meaningful rewards to those who can identify evidence of fraud or the assets to make good on collections upon judgments against wrongdoers is, therefore, critical. The amendment grants this authority to the Attorney General because it is clear that there is a backlog of several thousand uninvestigated allegations of fraud and corruption in failed institutions. Such an authority coupled with the discretion to contract out civil cases will, I believe, address both the urgency and necessity created by the continuing dissipation of the assets of the failed thrifts.

Bank robberies have plagued financial institutions ever since the opening of the first depository institution and it is unlikely that this or any other legislation will put a stop to such crimes. To some degree, the pending amendment is in response to the urgency imposed on law enforcement agencies and banking regulatory agencies by the alarming increase in bank-related fraud. We hope, however, that the amendment will put into place a more permanent set of legal tools for the Department of Justice to deter financial misconduct and to recover losses from those who defraud depository institutions.

I believe that this amendment merits adoption by the Senate. It is an improvement upon earlier efforts that I and others have authored. It is the product of the combined efforts of the amendment's sponsors and the Department of Justice. It is rare for a group of negotiators with different interests and demands to walk away feeling that each one has been enriched in the process. I am pleased that the Department of Justice supports this amendment. Particular plaudits should go to Bill Barr, the acting Deputy Attorney General, and Tom Boyd, Director of the Office of Policy Development, without whom this improved amendment would not have been possible. I ask unanimous consent that a copy of a more complete explanation of the Simon-Roth-Dixon amendment be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATION OF SIMON-ROTH-DIXON AMENDMENT

EXPLANATION OF TITLE I

Title I of the Simon/Roth/Dixon Amendment creates a mechanism for private citizens to file declarations of violations of federal criminal law relating to insured deposi-

tory institutions, violations giving rise to an action for civil penalties under FIRREA, or facts giving rise to a civil right of action on behalf of the government arising from fraud. These declarations are filed under oath and contain specific factual allegations constituting a prima facie case of violation of federal law by depository institutions or their agents.

The purpose of permitting such declarations is to encourage private citizens to help the Department of Justice and the federal banking agencies put together civil and criminal cases against individuals and institutions involved in the savings and loan scandal. The Amendment creates incentives for citizens to come forward with declarations by offering such declarants substantial rights. First, declarants are entitled to a lump sum payment where the information they provide is relied upon, in whole or in part, in securing a criminal conviction. These awards can range from a $10,000 minimum to $250,000. Second, declarants are entitled to a substantial percentage of any civil or criminal penalty or restitution payment received by the United States attributable to judgments based on their declarations. Awards can reach $1,600,000 under this provision. Finally, where the Attorney General determines that outside counsel could best conduct litigation based on a declaration, the declarant may choose his own counsel and pursue the action as an independent contractor subject to general oversight by the Department of Justice. The use of private counsel in such actions provides the Department with substantial additional resources without interfering with ongoing investigations or the broader enforcement efforts of the Department and the banking agencies.

Title I also grants declarants substantial procedural rights. They have a right to notice of the status of their declarations, notice of any judgment or order affecting their rights to an award, and a written statement of reasons for the determination of both the eligibility for and size of any award. In addition, every six months, the Attorney General will issue a report on the processing of declarations under this title. Through this system, the Government is made accountable for the use or nonuse of the information provided by private citizens pursuant to the declaration program.

Finally, title I of the Amendment establishes the Financial Institution Information Award Fund as a special fund in the treasury. Modeled in large part on the Asset Forfeiture Fund in the drug area, the Fund will receive monies from criminal fines levied in criminal action for Savings and Loan fraud. The Fund will then be used to pay declarants under title I and informants under title III of the Simon/Roth/Dixon Amendment. Thus, the wrongdoers will help pay the costs of bringing their co-conspirators to justice.

EXPLANATION OF TITLE II

Title II, which is closely modeled on Title I, concerns matters that the United States has already brought to judgment. This Title permits private citizens to file declarations that identify specific assets which might be recovered by the United States in satisfaction of a final judgment in any civil or criminal action involving the sorts of violations as to which declarations can be filed under Title I. Title II is designed to encourage individuals to come forward with information that will help the United States recover on outstanding judgments, unpaid criminal fines, and orders of restitution. The financial incentives and the substantive and procedural rights that declarants enjoy under Title II are substantially the same as those in Title I.

Title II effectively combines the resources of the Government and the private sector to ensure that civil penalties, criminal fines, and orders of restitution are satisfied to the fullest possible extent.

EXPLANATION OF TITLE III

Title III substantially improves reward incentives for individuals who provide tips or leads concerning violations of federal criminal law relating to insured depository institutions. This title is designed to encourage those who have information that does not rise to the level of a complete cause of action eligible for filing as a declaration under Title I to come forward.

Under present law, informants are only eligible for rewards as a percentage of any recovery of assets by the United States. This results in reduced incentives to come forward with information, particularly in the most egregious cases where the assets of the depository institution have been depleted.

Title III rectifies this problem by providing for rewards up to $50,000 where information leads to criminal convictions, even where the United States does not recover any assets. These rewards come out of the special fund established for this purpose by title I of the Amendment. As noted earlier, the Fund will receive a portion of all criminal fines collected in financial institution fraud cases.

For cases in which information does lead to a recovery of assets, Title III drops the requirement under the Federal Deposit Insurance Act that the recovery exceed $50,000 before an informant may share in the recovery.

EXPLANATION OF TITLE IV

Title IV of the Simon/Dixon/Roth Amendment authorizes the Attorney General to enter into contractual arrangements with outside counsel for the collection of civil judgments, fines and monetary penalties arising from violations of federal criminal law relating to insured depository institutions. The heads of federal banking agencies are authorized to refer these same matters to such outside counsel subject to the approval of the Attorney General.

Title IV is modeled on the private counsel provisions of Public Law 99-578, the so-called Debt Collection Amendments of 1986. See 31 U.S.C. § 3718(b). Those amendments were designed to enlist the skills of the private debt collection bar for use in pursuing liquidated claims. In many cases, the United States Attorneys offices did not have the resources to pursue collection actions, particularly with regard to smaller claims, such as student loan defaults, in a cost-effective manner.

Title IV is meant to address a similar problem arising from the savings and loan crisis. First, it would allow the Attorney General to engage highly skilled counsel for large, complex civil proceedings. Second, a large number of potential claims in this area are in the range of $25,000 or less. Title IV would allow the Attorney General to select private counsel and authorize them to pursue these claims in the name of the United States. By utilizing the skills and economic incentives of private counsel in this area, the maximum amount of fraudulently converted assets can be recovered from individuals who manipulated the savings and loan system for personal gain. In addition, the use of private counsel will assure that civil and criminal fines are executed to the maximum extent possible.

Private counsel retained under title IV may work on a contingency fee arrangement, and this Title also authorizes a court, in an action in which the United States was represented by such private counsel, to award the United States a reasonable attorney's fee.

Mr. HEFLIN. Mr. President, I strongly support this major floor amendment to S. 1970, the omnibus crime bill. This amendment, whose title is the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act, is badly needed to help prosecutors across the country in their efforts to bring to justice those who have defrauded savings and loan institutions.

In this morning's Washington Post is a news article entitled, "S&L Fugitive Living the Life of Riley in Europe." This article details allegations against J. Billman, a former executive of the collapsed Community Savings & Loan Association of Bethesda, MD. Allegedly, Mr. Billman fleeced his institution of some $22 million and escaped to Europe where he is living the high life at the expense of the American taxpayers.

This important amendment to the crime bill will make it easier to apprehend and prosecute those accused of defrauding savings and loan institutions, and easier to seize embezzled savings and loan assets. Furthermore, this amendment increases the maximum penalty for bank fraud and embezzlement from 20 years to 30 years, adds these crimes as predicate offenses under the racketeering influenced and corrupt organizations law, and imposes stiff mandatory sentences to make sure S&L violators will serve time behind bars.

This amendment creates a new financial institutions crime division in the Department of Justice, and directs the Attorney General to establish strike forces to go after those criminals in cities hardest hit by this scandal. Also, the amendment expands Federal assets seizure, forfeiture and money laundering laws by allowing the Attorney General, in addition to the Secretary of the Treasury, to seize property derived from fraud and embezzlement.

Victims of fraud under this amendment will be able to recover their assets easier, and a loophole is closed which would no longer allow defrauders to escape repaying their victims by filing for bankruptcy protection.

I am convinced that by providing more funds to hire more agents and prosecutors over the next 3 years—$162.5 million—the American public will reap a return on this investment. This amendment contains a feature that authorizes private citizens to bring civil actions in the name of the U.S. Government against violators of

institutional fraud and embezzlement, and the private citizen may receive a reward from 15 percent up to 25 percent of any recovery so obtained. This provision should prove to be very beneficial in helping to police savings and loan fraud.

Overall, this comprehensive, bipartisan amendment is a big step in the right direction to deal with the effort of the U.S. Government to bring to justice those who have defrauded our Nation's savings and loan institutions, and to send a signal to those in the future who may be tempted to do likewise, that the full weight of the U.S. Government will be brought to bear on those criminals. I strongly support this amendment to the crime bill and urge its speedy adoption.

Mr. SANFORD. Mr. President, this morning I rise to lend my strong support to the Wirth-Graham amendment to the omnibus crime bill. As I have said in the past, such measures are necessary to limit the costs of the savings and loan crisis on the taxpayer, and to ensure that such a debacle can never repeat itself.

As the full size and scope of the savings and loan disaster has unfolded, the first question in every American taxpayer's mind, including my own, has been, "How could this have happened?" Recently, the Attorney General told us: Fraud or other criminal activity has been a direct cause of failure in at least 25 or 30 percent of all thrift failures; up to 60 percent of all the institutions seized by the Resolution Trust Corporation "have been victimized by some serious criminal activity." We know where at least part of the blame lies. Now we must take action to punish these crooks.

The American people have made it very clear that if they are being asked to foot the bill for the S&L crisis, at the very minimum the Government owes them swift and tough action to put those responsible in jail and to recover every cent possible from these wrongdoers. Unfortunately, the administration has been slow to act on this mandate from the people, and it is time now for the Congress to give the administration more tools, tougher penalties, a better organized operation and clearer marching orders to go after all S&L criminals.

Mr. President, the Wirth-Graham amendment would do just that. First, the amendment would give the administration the tools it need find the criminals. The new Financial Institutions Fraud Strike Forces in heavily hit cities will use special teams of FBI agents, IRS investigators, and bank examiners to seek out shady S&L owners and expose their crimes. A Financial Institutions Fraud Unit in the Department of Justice would oversee and coordinate efforts to extend a savings and loan dragnet throughout the United States. Rewards and whistle blower protection would encourage private citizens to help uncover criminal activity. All of this would be backed up with new authorizations to fund an all-out attack on S&L crime. We must not let let these expensive crimes go unnoticed simply because the perpetrator wears a tie or has relationships with higher-ups in the Administraton. This amendment would help expose S&L fraud.

Equally important, the amendment makes certain that once these crooks are discovered, they pay for their wheeling and dealing. The maximum prison term for bank fraud would be raised to 30 years, fitting the punishment for the serious nature of the crimes of these S&L high fliers. The amendment would also impose stiff mandatory minimum sentences so that no crook will be immune to serving hard time in jail. New funding to get fraud cases through the judicial process promptly, making quick recovery of taxpayer losses possible, is also a vital part of the amendment.

Mr. President, these savings and loan criminals have cost the American taxpayer billions of dollars. The citizens of the United States deserve an honest effort from the administration to actively go after these crooks. The Wirth-Graham amendment makes this possible. Without the serious measures set out in this amendment, the omnibus crime bill fails to address some of the most serious crimes against this Nation—those which will cost us more money than any other scandal in the history of the United States.

I am proud to be a supporter of this amendment and urge my colleagues to support it. Thank you, Mr. President.

Mr. GRASSLEY. Mr. President, as an original cosponsor of the Comprehensive Bank and Thrift Fraud Prosecution and Taxpayer Recovery Act of 1990, I rise to strongly urge my colleagues to support its passage as part of the omnibus crime package, S. 1970.

The resolution of the savings and loan debacle will require hard decisions and even tougher actions.

Congress must ensure that sufficient financial resources are provided to honor its full faith and credit pledge to depositors.

Even more important, Congress must cooperate with the administration to ensure that the Nation's financial institutions are properly regulated and supervised in order to provide their depositors with the guarantee that their hard-earned savings are wisely invested.

While this amendment does not address this issue directly, it does get to the heart of the issue which most gripes my constituents. That is that thrift directors and officers—the culprits who misused depositors' trust and who abused Federal guarantees—are prosecuted swiftly and to the fullest extent of the law.

This amendment will provide the Department of Justice with the needed enforcement tools to do just that.

To appreciate where we are today, we have to recall last year's S&L bailout bill. I opposed that bailout bill when it was passed by a division of the Senate in the early morning hours of August 4, 1989.

I speculated then about whether the plan to put the S&L bailout on budget, was a part of some insidious notion to swell the budget deficit in order to pressure the President to support tax increases.

Well, there is no way of knowing if I will be proven right beyond a reasonable doubt. However, here we are, less than a year later. And sure enough, the bailout's costs have indeed become the rhetorical trampoline for people jumping up-and-down for more taxes.

I opposed what I considered to be the petty political barbs of a jealous Congress; a Congress that had been unable, unwilling—or both—to deal with the problems facing the thrift industry on its own; a Congress unwilling to provide the needed resources to get to the root cause of the S&L mess in order to provide real and true protection to the American taxpayer.

I opposed a bill that both failed to address the underlying cause of the S&L mess, while it provided political cover to some of those most involved in the problem.

I opposed what began as a $12 billion problem in September, 1988; grew to a $155-$250 billion problem by the time of the passage of the S&L bailout bill; and has now mushroomed to at least a $500 billion problem, with no prospect for a resolution of the problem until we are into the next century.

I stand by my statements of last August.

However, I cannot leave the impression that we can spend our way out of the S&L crisis, any better than we can win the drug war using the same strategy.

While the siren call of more spending is alluring, greater resources, standing alone, are no silver bullet.

Let's be candid: Not even an army of Dick Tracys will catch every S&L crook. These cases are exceedingly complex, time consuming, and most difficult to prove—as intricate and delicate as any case the Government might bring.

Whatever its shortcomings, this bill is the first meaningful tool what we can use to meet our duty to protect the American taxpayer.

I particularly commend the following meritorious provisions of this bipartisan compromise to my colleagues: increased resources for the Federal law enforcement agencies with which they can attack financial institution fraud; restructuring of the Federal

Justice Department investigative and prosecutorial authority effort to streamline financial institution fraud cases; increased bank fraud and embezzlement penalties; expanded Federal forfeiture and money laundering laws and authority; changes in bankruptcy laws to remove safe havens for dishonest debtors; and a program to reward private citizens who provide information to the Justice Department relating to bank fraud or to the location of stolen thrift assets.

The S&L debacle is not only the largest financial scandal in our country's history, it is also the largest criminal scandal in our history.

It is no secret that fraud and other criminal conduct—along with depressed economic conditions in some areas of the country—have been major factors contributing to the massive financial mess facing the Nation's thrifts and consequently, the Nation's taxpayers and thrift depositors.

This bipartisan compromise provides the means to investigate prosecute, and bring to justice the white-collar criminals who have—not only played fast and loose with the Nation's financial institution laws and regulations—but who decided that they could dip into the Public Treasury as if it were their own private checking accounts.

This bipartisan response will allow us to pursue S&L fraud with dispatch, for we cannot afford to delay any longer.

The American people want and deserve our attention.

The American people want and deserve our action.

The time for finger-pointing is over.

I urge my colleagues to vote in favor of the compromise Bank and Thrift Fraud Prosecution and Taxpayer Recovery Act of 1990.

Mr. COHEN. Mr. President, I am very pleased to be an original cosponsor of the Wirth-Heinz S&L enforcement amendment being offered today. The time for forceful action in the savings and loan scandal has certainly come and I am happy to see the Senate taking steps today to address the serious problems that now confront us. Each day the cost of this debacle continues to grow to even more staggering levels. The most recent estimates indicate that we will be asking every man, woman, and child in this Nation to contribute at least $2,000 to fund this bailout. The American people are justifiably outraged that they are being asked to pay for a scandal that they had no part in creating, while those individuals who do bear responsibility are not being vigorously pursued and prosecuted.

There exists compelling and persuasive evidence that fraudulent activities have been rampant in the savings and loan industry. We know that the FBI has received over 20,000 referrals of fraudulent financial activity and that there are more than one thousand inactive major fraud and embezzlement cases which have not been pursued because the FBI has lacked adequate resources.

Attorney General Thornburgh has recently referred to an "epidemic of fraud" within the savings and loan industry. The Chairman of the Resolution Trust Corporation, Bill Seidman, has stated that fraud has been discovered in 60 percent of the thrifts that have been seized by the Government. Revelations about the extent of the scandal and cost of the cleanup continue to emerge on a daily basis. We owe it to the American people to take decisive action now to demonstrate that the Government is committed to vigorously prosecuting every case of S&L fraud.

I am especially pleased that the amendment being offered today is truly a bipartisan effort. Recently, there has been much debate over which political party bears the brunt of the blame for this scandal. Certainly, there is sufficient blame to go around. I am happy that instead of continuing this partisan debate and continuing to waste valuable time, members of this body from both parties have worked together to forge a comprehensive enforcement package. The public wants action now and they deserve nothing less than an all out effort by their government to investigate, prosecute, and sanction those who broke laws, and recover as many funds as possible for the American taxpayers.

I believe the provisions of this amendment, which incorporates many of the provisions of the S&L bill I introduced with Senator BIDEN, encompasses the kind of comprehensive and forceful measures that will be required to effectively go after and prosecute those individuals responsible for acts of financial wrongdoing. First of all, this proposal will greatly strengthen the penalties imposed for bank fraud and embezzlement crimes. For example, it will create a new S&L kingpin statute that provides up to life imprisonment for the highest level of S&L violators, and will impose stiff mandatory minimum sentences to ensure that S&L violators serve prison time. Another very important part of this proposal addressed the problem of inadequate resources that has seriously hampered the efforts of the FBI and the Justice Department. The number of investigators and prosecutors will be significantly increased and will ensure that these agencies are equipped with the level of assistance that this massive enforcement effort will require. This amendment also contains a very important provision that will expand the ability of the Federal Government in S&L cases to seize assets and recapture funds illegally obtained. This provision is important in guaranteeing that some portion of the bailout costs will be recovered directly from those parties that have acted to defraud the Government, thereby reducing the share that taxpayers will have to bear.

Again, I commend my fellow colleagues for putting aside their partisan political differences and working together to put forward the kind of comprehensive, tough S&L fraud package that the American people deserve.

Mr. DOMENICI. Mr. President, I am pleased to cosponsor the comprehensive bank and thrift fraud prosecution and taxpayer recovery amendment.

This amendment focuses on the crimes committed against taxpayers by S&L owners and managers.

It is a comprehensive amendment that will give our law enforcement community, the RTC, and our bank regulators enhanced powers and resources to do their job.

It would authorize $203.5 million for the Justice Department, the courts, IRS, and the FBI to combat S&L fraud.

The commitment the Congress made when it insured the deposits was to the families with their passbooks. The FSLIC insurance was a solomn promise: No matter what happens, your savings are safe because the Federal Government is insuring that your money will be there when you want it. Passbook savings accounts represented people's dreams and security. We are living up to that guarantee and it is expensive.

Today we need to redouble another commitment. And that is that S&L fraud will be prosecuted to the highest degree possible under the law. Today we need to strengthen our investigative and prosecutorial resources.

The amendment would allow the use of court approved wiretaps in investigating bank fraud. It would authorize Federal regulatory agencies to ask the courts to freeze the corporate and personal assets of defendants in civil cases involving financial institution fraud—so that they would not leave the taxpayers high and dry. And we want to prevent rip-off artists from using bankruptcy as a strategy to avoid paying damages.

The amendment would establish within the Department of Justice, a new unit to direct and sharpen the Department's actions even further, while helping to coordinate actions with other agencies.

Sorting out the S&L crisis is complicated. It involves investigating these institutions and their management practices to see whether laws were broken. In some cases, it was just bad judgment. In some cases it was fraud.

It takes a great deal of investigative work to sift through piles and piles of documents. It takes a keen mind to

follow the audit trail and discover what went wrong in each S&L. It takes a lot of legal talent to distinguish the incompetent from the fraudulent, the unlucky from the unlawful.

This amendment provides the legal tools and authorizes the manpower necessary to put a stop to the crime in the S&L executive suite.

In the column after column of numbers of a ledger can be found the tragedy of an embezzled pension, the heartache of stolen savings, the disappointment of a misappropriated college fund or home downpayment.

Fortunately, the insurance funds are making these Americans whole. At the same time it is appropriate to get a pound of flesh from those who committed fraud, abused the public trust and fiduciary duties they were given.

I hope this amendment will pass unanimously.

Mr. SHELBY. Mr. President, I am pleased to rise in support of the legislation compiled and introduced by my colleague from Delaware, as well as a number of my colleagues on the Senate Banking Committee.

The Congress worked hard last year to resolve the thrift crisis. In this body, the banking committee took the President's proposal, fine tuned it and passed a bill that the Senate could support. We worked hard, under a sense of urgency, because we knew that the crisis was continually growing and that the hemorrhaging had to be stemmed as soon as possible. Finally, there was a president willing to confront the crisis and Congress lost no time in cooperating with the administration. The President signed that bill, FIRREA, into law on August 9, 1989.

The estimates change daily but the savings and loan crisis will cost American taxpayers somewhere between $200 billion and half a trillion dollars. It is indisputably the most expensive financial crisis in this Nation's history.

And while this estimate also varies, we know that fraud contributed to the failure of somewhere between 25 to 60 percent of the insolvent financial institutions. Mr. President, even 25 percent of $200 billion is real money.

But Mr. President, taxpayers are confused. They are accustomed to Congress spending huge amounts of their money for things that Congress deems important. But they are accustomed to getting something, some tangible result, for their money! And to the taxpayers, the savings and loan crisis seems a little fishy. Most Americans find it hard to believe any industry can just lose somewhat in excess of $200 billion; they do not need statistics to tell them that there was a significant amount of fraud out there. They know it is the largest bank heist in history. They know a crime has been committed, but, if that is the case, where are the criminals?

We say we are fighting a war on drugs. In 1990, we will spend approximately $9.5 billion on the war on drugs. That is "real money" but the public sees on the nightly news the huge caches of drugs and weapons confiscated from the drug lords. They see drug dealers go to jail and drug users lose their jobs, and go to treatment centers. They see their money going toward something.

We say we are fighting a war to win back the environment. Over the next decade, we will spend approximately $20 billion to clean up the environment. The public sees the clean up efforts, they see us ban the use of certain chemicals, certain production techniques, all in an effort to clean up the skies, the lakes, the rivers. Once again, they see their money going to something.

And when we passed FIRREA in August of last year, we told them that we were fighting a war on financial institutions fraud. We promised that we would get the criminals—make them pay back the money they had stolen, and serve time behind bars. But as of yet, the public has not seen anything. They hear they are on the hook for $200 billion or more, but they do not see what they have bought for that price. We tell them that we stiffened the sentences and penalties in FIRREA. But what good does it do if we do not impose them on anyone?

Hundreds of insured institutions failed because white collar criminals used them as personal piggy banks—insiders borrowed against collateral of dubious worth, against a signature, through dummy corporations. These criminals left a paper trail but one so complex, so labyrinthine that it requires a dedicated, large, sophisticated, highly trained work force.

In white collar crime there is no smoking gun; prosecution requires attorneys and investigators, accountants and financiers, professionals that know the business. We do not have time for a work force undergoing on-the-job training. In February of last year, the National Law Journal published an article that discussed a confidential internal audit of the FBI which questioned the ability of FBI agents to investigate sophisticated financial crimes. That was February of last year. I am not picking on the FBI but I would like to know what they have done since then to improve the caliber of their work force.

However, to date the biggest disappointment is the Justice Department's efforts, or lack thereof. In 1987, the Justice Department established a task force against financial institution fraud, based in Dallas. To date, this task force has obtained 52 convictions, 40 of which relate to savings and loan institutions. I commend the members of this task force on their work, I know each conviction represents literally thousands of man hours and I do not want to minimize their efforts. But Mr. President, Texas accounts for about 60 percent of the S&L problem—60 percent of, to use the low figure, $200 billion. We know that there were a lot more than 40 people that caused that size of a problem.

A few short weeks ago, the Justice Department announced that it was going to get tough on S&L crime. Just a few weeks ago. Congress gave them the money last year. It was the administration that sent the S&L bailout bill to Congress in the first place; the Justice Department knew the magnitude of the crisis and knew the enormous demands on its resources that would be forthcoming. And yet, just recently, does the Justice Department announce that it is going to get serious.

Mr. President, I am a cosponsor of this legislation because it does not permit the Justice Department to ignore its responsibilities any longer. It puts in place an Assistant Attorney General specifically charged with prosecuting financial institution fraud. It sets up regional financial services crime strike forces to centralize teams of experienced, capable, investigators, examiners, attorneys, and FBI and Secret Service agents. It permits the private sector to dedicate its expertise in the prosecution of this fraud by allowing them to bring suits against those suspected of ripping off savings and loans. It creates a new, strong deterrent to white collar crime by authorizing life imprisonment for "S&L kingpins."

I will not go through the provisions of this bill because they have been discussed previously. I will close by saying that I support my colleague from Delaware and the other cosponsors of this legislation and commend them for their efforts. It is time that the nightly news showed footage of savings and loan executives going off to jail, of extravagances bought with looted funds being sold to the highest bidder, and restitution made to the taxpayer.

Mr. LEVIN. Mr. President, I am an original cosponsor of this comprehensive amendment. It authorizes $162.5 million for each of the next 3 years to expand the number of Federal agents and prosecutors devoted to bank fraud and embezzlement. Specifically, it will allow the FBI to add 224 agents and 146 support staff, and allow the U.S. attorneys' offices to add 205 additional attorneys, 50 auditors, and 205 support staff dedicated to bringing the S&L crooks and embezzlers to justice, and recover whatever assets they can. It increases the number of attorneys and support staff that the tax, civil, and criminal divisions of the Justice Department will be able to hire. Additionally, it increases funds for the IRS to increase the number of investiga-

tors dedicated to S&L cases. It creates within the Justice Department a new Financial Institutions Fraud Unit, and authorizes special strike forces to operate in those cities hardest hit by S&L fraud.

But, Mr. President, more than being pleased that we are taking this important and necessary step, I am angry that it is necessary and that it took so long. While I am pleased that this legislation will increase the maximum penalty for bank fraud, and impose mandatory minimum sentences, I am angry that the crooks and thieves were able to loot the national treasury. It is appropriate that this legislation increases the resources available for investigators, prosecutors, and the judiciary to guarantee that the crooks not escape justice. But I am angry that the American taxpayers are stuck with the tab, and will have to pay unprecedented amounts of money to resolve the national nightmare of the savings and loan debacle.

I am particularly angry that Michigan taxpayers, and taxpayers from the entire midwest and northeast, will have to pay for the rampant crimes and fraud that occurred disproportionately in other regions.

This amendment to the omnibus crime bill pulls together some approaches and bills that have been proposed over the past several weeks to bring the S&L crooks to justice. This amendment is a national, bipartisan expression of outrage. While some of the specific provisions contained in this legislation may have to be rethought based on future experiences, it is on balance an appropriate and effective approach.

Mr. President, our long, national nightmare of the S&L calamity is far from over. It is a calamity of unprecedented dimension. It is a nightmare of greed, criminality, and myopia run amuck. This amendment is one step on the long, painful road that we will have to travel.

Mr. ADAMS. Mr. President, I rise to seek unanimous consent that I be added as a cosponsor to the Wirth-Heinz amendment, No. 2116, to the crime bill, S. 1970.

Mr. President, this amendment represents a proposal I have supported for a long time. It seeks to provide necessary punishment and legal actions against those who have subverted our financial and economic institutions.

Specifically, it provides for enhanced bank fraud penalties, as well as providing for a restructuring of the Federal attack on fraud and theft in the bank and savings and loan industries. It also allows our law enforcement agencies to use civil seizures to recover the proceeds of certain fraud and adds bank fraud and embezzlement offenses to the predicates under the Federal money laundering and wiretap statutes.

Mr. President, I am enraged to learn that there are those who have profited from the misery of others. These criminals who have purposefully subverted our financial systems must be brought to justice. They have hurt not only the depositors, but the general taxpayer who now must pay for the results of these criminal deeds.

Thank you, Mr. President.

Mr. THURMOND. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 2 minutes remaining.

Mr. THURMOND. Mr. President, I rise in support of the pending amendment. This amendment provides needed assistance to the Department of Justice for its efforts to prosecute those criminally responsible for the savings and loan crisis. This amendment represents the bipartisan efforts of several members who have, by working together, demonstrated their commitment to address this problem.

Mr. President, this amendment provides the needed funding to hire additional investigators and prosecutors to bring those criminally responsible for this crisis to justice. In addition, it enhances penalties for S&L fraud and amends current law to enhance the Federal Government's forfeiture and money laundering effforts.

Mr. President, I commend Senator HEINZ, Senator DOLE, Senator WIRTH, and Senator BIDEN for their efforts on this amendment. It represents the Senate's commitment to address the S&L crisis. Rather than point fingers regarding who is at fault for the current S&L crisis, this amendment provides President Bush with the needed funding and tools to bring those individuals who are criminally responsible for this crisis to justice.

For these reasons, I am very pleased to support this amendment.

The PRESIDING OFFICER. Does the Senator from South Carolina yield back the remaining 1½ minutes?

Mr. THURMOND. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time is yielded back. Under the previous order, there will now be 30 minutes of debate on the bill to be equally divided and controlled by the Senator from Delaware [Mr. BIDEN], and the Senator from South Carolina [Mr. THURMOND].

Mr. BIDEN. Mr. President, parliamentary inquiry. Has the S&L amendment, the Wirth amendment, been accepted?

The PRESIDING OFFICER. Under the previous order, the vote on the Wirth amendment will occur at 12:30 p.m.

Mr. BIDEN. I thank the Chair.

The PRESIDING OFFICER. Who yields time? If no Senator yields time, time will be deducted equally.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, as I understand, each side has 15 minutes now on the bill.

The PRESIDING OFFICER. That is correct.

Mr. THURMOND. It may be necessary to come back in a few minutes to consider a further modification of the particular amendment we have been considering, but will will go ahead now on the bill.

Mr. President, shortly, the Senate will vote on final passage of the pending crime bill, S. 1970. I rise to strongly urge my colleagues to vote for final passage so that we can send a tough crime bill to the House for their consideration. This tough, effective crime bill will take needed steps to curb the crime related crisis we face in this country.

When the Senate began consideration of S. 1970 on May 21, the bill contained several provisions which made it unacceptable. These provisions originally included in S. 1970 were the Racial Justice Act, a weak habeas corpus reform proposal, a proposal to create a new division within the Department of Justice, and an exlusionary rule proposal which weakens current law. The Kennedy Racial Justice Act would eliminate the death penalty in every State while these other proposals would expand the rights of criminal defendants. In response to S. 1970, I proposed to offer a substitute which is identical to S. 1971, a comprehensive crime bill I introduced. My substitute would have had the effect of eliminating, or substituting tougher alternatives to, the controversial provisions contained in S. 1970. Rather than vote on the Thurmond substitute, the Senate chose to proceed in a manner which addressed each controversial provision, one at a time.

Mr. President, as a result of negotiation, debate, and amendment, the Senate has greatly improved S. 1970. It has improved it so much that it closely resembles the Thurmond substitute. It is a much tougher bill than it was when consideration began. For example, title I, the death penalty proposal, has been vastly improved upon. The Racial Justice Act, which would have eliminated the death penalty in every State, has been stricken. In addition, troublesome mitigating factors for the imposition of the death penalty have been removed. In short, the

death penalty provision contained in S. 1970 is substantially similar to the proposal contained in the Thurmond substitute.

With respect to habeas corpus reform, title II of the original S. 1970 would have greatly expanded death row inmates' rights rather than properly remedying the abuse and delay which is so prevalent in our current system. The Senate voted to replace this proposal with a tougher habeas corpus proposal which I, along with Senators SPECTER, HATCH, and SIMPSON, offered. It eliminates the loopholes and delay present in our current system and requires that Federal courts dispense with habeas corpus petitions in death penalty cases within roughly 1 year.

Mr. President, the original bill also contained unacceptable provisions which created a new division within the Department of Justice and which would have weakened the good faith exception to the exclusionary rule. These controversial provisions have been removed from the bill.

Early in the debate on this bill, there were over 200 amendments filed. The Senate, working in a bipartisan manner, succeeded in drastically reducing the number of these amendments so that it would not lose the chance to pass a tough proposal to address violent crime. In fact, this bill is a tougher bill now that several important amendments have been added.

S. 1970 is, now, a much tougher crime package than the bill originally before the Senate. It contains a comprehensive death penalty proposal which will reinstate the death penalty at the Federal level. In addition, it contains a tough habeas corpus reform proposal. These are proposals which the American people truly demand and it is time for the Senate to pass them. This crime package will eliminate the delay in imposition of the death penalty and reestablish a comprehensive death penalty in the Federal system. Violent offenders must know that the commission of heinous crimes will lead to swift, harsh punishment.

The scourge of the crime epidemic is stangling the life of our Nation. The American people demand action. We should take advantage of the opportunity before us and pass this important legislation.

Mr. President, the reasons for voting for this bill are clear. A vote in favor of this bill is a vote for the following: ending excess death penalty litigation; enhanced money laundering enforcement; mandatory restitution for victims of crime; strengthening our efforts against child abuse; additional funding for more Federal law enforcement officers; tougher penalties for drunk driving; more stringent prisoner work requirements; added funds for State and local law enforcement; drug testing for Federal prisoners; "boot camps" for drug offenders; uniform Federal debt collection procedures; desperately needed investigators and prosecutors for the savings and loan crisis; and harsh penalties for those who commit crimes with guns.

A vote in favor of this bill is a vote for law enforcement and for the law-abiding citizens of America.

For all of these reasons, I urge my colleagues to vote in favor of this tough crime package.

In closing, Mr. President, I again wish to commend the able majority leader and the able Republican leader for the fine cooperation they have given during the consideration of this legislation.

Mr. President, we owe a great debt of gratitude to the able chairman of the Judiciary Committee, Senator BIDEN. He has worked with me on this bill very faithfully and it has been a very tough bill to work out. There were so many controversial provisions. He accepted many of the amendments that I offered and we have worked together cooperatively. I wish to praise him openly and publicly for the outstanding job he has done in connection with this crime bill. In addition, I would like to thank Senator SIMPSON and Senator HATCH for their efforts.

Mr. President, I express my appreciation to the staffs of both sides, Senator BIDEN's staff and my staff—I have stated their names previously—for the fine work they have done on this bill. We appreciate the consideration given by all concerned and it shows the importance of working in a bipartisan manner on a great piece of legislation. This will go down in history in my opinion as one of the greatest pieces of legislation this Congress has passed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I thank my colleague from South Carolina for his generous remarks. I see my friend from Colorado on his feet. I understand he has an unanimous-consent request.

Mr. WIRTH. I thank the distinguished chairman of the committee. Mr. President, I ask unanimous consent that prior to the vote on the S&L amendment at 12:30, I be recognized to offer a bipartisan modification of the Wirth-Heinz amendment. That will be the modification crafted by Senator GRAHAM and the Justice Department relating to the strike force. It will not require a vote. It will just be by unanimous consent, a modification of the Wirth-Heinz amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask for the yeas and nays on the S&L amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent the time the Senator from Colorado consumed in his request not be taken out of the 15 minutes allotted to the Senator from Delaware.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. I thank my colleague, Senator THURMOND. He and I have worked on so many crime bills and so many pieces of drug legislation over the years. I must say I do not want to ruin his reputation but there is no one with whom I would rather work. There is no one more committed. In my 18 years here in the Senate, I found no one more committed to actually getting something done, to actually solving problems. Notwithstanding our differences of views on many issues, we have never let those differences of views get in the way of putting together what I think most of our colleagues have agreed over the years have been substantial pieces of legislation, relative to crime and drugs and, I might add, other matters.

So I thank him for his comments, although he is a very tough bargainer, and although sometimes I am not sure what I have ended up agreeing to until I go home and read it afterward, because he will start off and say things, like, "Now, this is going to help you, Joe," and I found out what just helped me is the Thurmond amendment.

But, all kidding aside, he has been a pleasure to work with.

Mr. President, the Senate stands on the verge of passing, notwithstanding the other tough bills we have passed, the toughest, most comprehensive crime bill in our history. Before I offer my thanks to some of the other people who have made the achievement possible, I want to say a few words about this landmark legislation.

About 6 months ago, Mr. President, the President of the United States of America went to Kansas City, MO. My switchboard lighted up with press calls after he spoke there, because the President criticized the Biden crime bill—and I think he referred to it, if not by name in a way so it was clear what he was referring to—he referred to S. 1970 as a "Trojan horse" and a "sheep in wolf's clothing."

The press was very interested in my response to the President characterizing my crime legislation as a "Trojan horse" and a "sheep in wolf's clothing." At the time the only thing I did was express regret over the President's remarks and what they represented, because, for 8 years, as I have said, Senator THURMOND and I and Republicans and Democrats in this body worked very hard with the Reagan administration to produce several important pieces of legislation relating to

crime and drugs. We always did so on a bipartisan basis.

Whatever the faults of the Reagan administration, from my perspective, I credit them with an honest desire to work for bipartisan measures to fight crime and drugs. But then came along the campaign of 1988 and crime was a hot-button political issue.

Fair enough; campaigns are campaigns. We all know the rules, or we all know there are not many rules. But what has disappointed me about the Bush administration has been their approach to the crime issue, and that it is not significantly different than the campaign of 1988.

What happened to the crime issue in 1990 after the crime issue of 1988 ended should have been fundamentally different. But it was not. It seems that someone had forgotten to tell the President's speech writers that the election was over. It seems that the President's outstretched hand of cooperation did not reach all the way up to the Hill, at least to me as chairman of the committee, on the crime issue.

Last May, the President issued a political attack when he sent his crime bill to us, and he reiterated that political attack in January in his Kansas City speech, and most recently the President did it again here in Washington in May the day before the Senate took up the crime bill which I drafted and sponsored. In the last attack, the President called this crime bill a weak imitation of his crime package.

Today, Mr. President, Senator THURMOND and I, and others, are about to finish work on that so-called weak imitation, the so-called Trojan horse, the so-called sheep in wolf's clothing. Let us compare a little bit the crime bill we are about to vote on and the one the President sent up to us, the difference between the Biden-Thurmond crime bill and the President's crime bill.

I do this for a specific reason, for the explicit purpose of hopefully making it clear to the President—as they say where I come from, we can play it flat or we can play it round. We can play it politically or we can play it substantively. On the crime issue, he will be beaten either way.

It is much, much, much more important for the country and much, much, much easier for the Senate if we put aside the partisanship on the issue of crime and drugs. Willie Horton is back in jail, figuratively speaking. The 1988 campaign is over. At least wait until the eve of 1992, because we have much more important work to do on the drug bill.

We are about to have a comprehensive drug strategy once again debated, and I formally issue an invitation to the administration to please sit down with me and others who are interested before we bring it up, and let us agree to do away with all the partisan rhetoric and come up with a bipartisan bill just as we are doing now. Every time I speak to the Attorney General and mention that, every time I speak to the drug director and mention that, they tell me you cannot in this atmosphere have bipartisan legislation.

We are having it here again. This is not just the Biden crime bill, this is the Biden-Thurmond crime bill. This is not a Democratic crime bill; it is a Democratic-Republican crime bill. Every single year I have been in charge of this issue for the Democrats, we have produced not a Democratic crime bill or a Republican crime bill, but a bipartisan crime bill.

We seem to have no trouble up here getting together. We seem to have no difficulty here on the Hill, Republicans and Democrats, getting together and deciding that we are going to have a bipartisan bill. Why can it not be done downtown as well? It would save us a lot of time and effort and benefit the American public significantly.

I was going to go through these charts. I am not sure I should do it now. But a quick look at the charts shows there are some changes that have been made, as the Senator from South Carolina has pointed out. He has made the death penalty provision, the Biden death penalty provision, tougher. I did not want him to make them tougher the way he wanted them. I wanted to have the racial justice provision in. He changed some of that. He changed some of the legislation on habeas corpus. He did that. This is not all exactly what I introduced before. That is what the legislative process is about. But compared to what the President sent up to us, it is a lot.

The President sent up a bill that had no S&L savings and loan enforcement provisions in it, and we just debated and outlined what that bipartisan approach is to that issue now. The President sent us a bill that had no provisions for rural law enforcement. The Biden-Thurmond bill has significant provisions.

The President sent us a bill, so-called tough bill, that had no provisions for child abuse in it. We have very tough provisions.

The President sent us a bill that had no provision for a police corps in it. We have a police corps in it.

The President sent us a bill that had no provision for boot camps in it. We have a boot camp provision. The President sent us a bill that had no provision for money laundering. We toughen the money laundering.

The President sent us a bill that had no provision in it for new drug dangers. We have a provision in it. The President sent us a bill that had nothing in it for crime victims' rights.

The Biden crime bill was, is now, and always has been tougher, but it is no longer the Biden crime bill. It is the Biden-Thurmond crime bill, because Senator THURMOND came along and made significant differences and changes, as did Democrats and Republicans on this floor.

So my message, not to my colleagues, to downtown, is, we have much more work to do; we have a whole drug strategy. Admittedly, Biden introduced a drug strategy, and the President has a drug strategy, but that does not mean never the twain shall meet. We will settle it up here, and hopefully, though, the President will join in, or his designees will join in, much before we have to essentially disregard what they had to say and do it up here.

So, Mr. President, the President's crime bill is not the crime bill we are passing. This crime bill was not necessarily good, bad, or indifferent, but it is not the one we are passing, not even close to the one we are passing.

So Democrats and Republicans, and anyone who will give an objective look at the comparison of those if you wanted to go into these silly phrases like sheep in wolf's clothing, for example, and Trojan horses—I do not know where he gets those speech writers—but if he wants to do that, just take a look at where the Trojan horse is. Just take a look at where the wolf is and where the sheep is, and maybe we can stop having to shear the sheep from downtown and get to business, because I do not want to go through this again. I do not want to go through wasting 4 months of political rhetoric, listening to 4 months of political rhetoric.

Let me make it clear now. The Biden crime bill that was introduced in 1972, which the President referred to, was changed, not in substance, but was changed in some parts by Democrats as well as Republicans. It is a better bill in some people's minds. It is a weaker and stronger bill in some people's minds, but it is that bill.

I predict this is going to be voted probably 99 to 1 or 100 to nothing. And I do not know anybody who is going to look at this bill and not say that this bipartisan bill, this bill that comes off of 1970—1970 was when the Biden bill was introduced. That is all we have worked off of, 1970, and every time the President's provisions, the big ones, were put in, they were defeated, not just by Democrats, but by Republicans as well.

So, Mr. President, the administration can either abandon the political charges against the toughest bill that has been passed in my 18 years, and arguably the toughest crime bill we have passed in the last four or five decades, he can either abandon the political rhetoric or he can try to muster the votes to defeat that sheep. He can try to muster the political votes to try to defeat that Trojan horse we are

about to vote on. He can muster the political votes to try to defeat that weak imitation of a crime bill, and when it gets down to him, he can veto it if he thinks it is so weak.

I do not think he believes it is weak. I do not think anybody here believes it is weak. Nobody who reads it is going to think it is weak. I promise again what I promised earlier: No more political references by me to the President's legislation on drugs, which we are about to take up and, in my view, even more important issue, if we can just downsize the rhetoric. We all have the same objective. We are about to accomplish that objective.

I have very high hopes the House of Representatives is going to move essentially in the same direction with some of their additions and changes. They will make it better in some ways. I am not suggesting this cannot be improved upon, but I am suggesting that it is one tough crime bill.

The only legitimate argument in my view against this crime bill is not that it is not tough enough, that it maybe is too long on tough and not long enough on insight. That is a potentially legitimate criticism but not because it is not tough. I hope we will end this.

Let me close by thanking many of the people that really deserve to be thanked, as Senator THURMOND has already done. Of the countless staff people who have literally spent thousands of hours compiling this bill on Senator THURMOND's staff, special credit has to go to Terry Wooten and Thad Strom and especially to a fellow to whom I think I have spoken more than he ever wants to speak to me. Mr. Cooney has been having to deal with me more than he ever wanted to, I suspect, but he is a pleasure to deal with; and Jim Whittinghill of Senator DOLE's staff also deserves a lot of credit.

On my staff, I want to thank the people who have worked on this bill: Ron Klain, who I already mentioned; Diane Huffman, who runs the operation from moment to moment over there; Scott Green, who has handled the crime issue for me for years; Ann Howard and Anne Rung. They all deserve credit.

I want to particularly single out two people who made an enormous contribution: Victoria Nourse, who did such brilliant work on the death penalty, habeas corpus, and the criminal law portions of this bill; and John Bentivoglio, who has been instrumental in developing the law enforcement provisions of the savings and loan package.

I have many other people to thank, but I guess the person I thank the most is Senator STROM THURMOND. As I said—and I will close with how I opened—it is a pleasure to work with him. He is tough. Sometimes from each of our perspectives we probably think of one another as bullheaded. I occasionally think of him as bullheaded. I am sure I am wrong. He occasionally thinks of me as bullheaded. He is probably right. But the end result is he is honorable, a gentleman to work with. You never have to go back and check whether the i's are dotted and the t's are crossed, the commas are there. If he gives his word, his word is his word. That is all you have to take. Nothing else. That extends totally to his staff. It is a rare pleasure to be able to work with men and women of that caliber and character. As I said, he is a man unlike many with whom I disagree and agree. He is a man who looks forward to getting things accomplished. He is not a naysayer. He gets things accomplished. I thank him again. I thank all my colleagues for their cooperation.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, in view of the number of Senators who wish to address this subject, I ask unanimous consent that the time for debate on this measure be extended for 20 additional minutes, until 11 a.m., with the additional time to be equally divided between the managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, before yielding to my colleague, I extend my congratulations to Senators BIDEN and THURMOND for their outstanding effort with respect to this legislation.

As all of us who have been involved in the process know, it has been long, difficult, and time consuming. It has taken a great deal of perseverance by several Senators, most notably the distinguished present and former chairmen of the Judiciary Committee, Senators BIDEN and THURMOND. I congratulate them on what I think is a responsible legislative result, the Biden-Thurmond bill, that will, I believe, on balance help move our effort forward in the important area of combating crime in our society.

I must make it clear that there are some provisions in this bill with which I disagree and which I regard as unwise public policy. However, as is commonly the case in the Senate, we vote on a major package which contains some things we support, some things we do not support.

On balance, I believe it is a positive contribution to the effort agains criminal activity in our society and will support it and vote for it, notwithstanding my disagreement with some of its specific provisions.

None of that should be taken to detract from the efforts of my colleagues to whom I have previously referred, and I congratulate and commend them for their effort. I thank the chairman and the ranking member for their courtesy in this regard.

Mr. THURMOND. Mr. President, I yield 3 minutes to the distinguished Senator from Pennsylvania.

Mr. SPECTER. I thank the Senator. The Senator from Utah has a time bind and I will yield to him at this time.

Mr. THURMOND. Mr. President, I yield 3 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I would feel remiss if I did not compliment my colleagues on the Judiciary Committee for the work they have done on this bill. I have to say Senator BIDEN and Senator THURMOND have worked hand and glove on this bill. This is a major improvement in our criminal laws.

I also want to praise my distinguished colleague and friend from Pennsylvania, because when we sat down and tried to resolve the habeas corpus reform bill, it did not appear as though we were ever going to do anything that would really be in the nature of reform. It was largely due to the efforts of the gentlemen on this floor, Senator BIDEN, Senator THURMOND, and very much to the credit of Senator SPECTER, as well as Senator SIMPSON, that we all sat down and worked out this habeas corpus reform, which really has the potential of reforming the habeas corpus laws in a way to do our society a great deal of good in the future. I think these gentlemen certainly deserve a lot of credit for that.

Although I am disappointed in the DeConcini amendment—and I am not happy with that—the balance of this bill really makes up for that amendment. The balance of this bill is a tremendous effort on the part of everybody concerned and one of the most significant bills with regard to our criminal laws that we have come up with in all the time I have been on the Judiciary Committee these last 14 years.

So I just want to praise my colleagues and, in particular, I would like to speak for my good friend from South Carolina, Senator THURMOND. I do not know anybody who has had more zealousness or desire to do what is right about the criminal laws of this country than this great senior Senator from South Carolina. He has been an inspiration for me the whole time I have been on the Judiciary Committee. Nobody works harder, nobody does more, nobody does a better job for his constituents and for the people of America than this great Senator from South Carolina, who happens to be one of the all-time great Senators. I would feel remiss if I did not stand up at this time and praise him and let people know just how much his colleagues hold him in high esteem. I

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want to thank Senator THURMOND for the leadership he has provided, and, again, Senator BIDEN, Senator SPECTER, Senator SIMPSON, and others who have really done a good job on this bill.

I yield back whatever time I may have.

Mr. THURMOND. Mr. President, I express my deep appreciation to the able Senator from Utah for those kind remarks. I have already expressed my deep appreciation for the contribution he made on this bill. We appreciate the work he did.

Mr. President, I now yield to the able Senator from Pennsylvania, who has also done a great job. In fact, it was mainly his thoughts on the habeas corpus that we adopted. Now we shorten this period to 1 year. The Senator from Pennsylvania played a big part. It was his suggestion. I want to praise him for the great work he has done.

Mr. SPECTER. Mr. President, I thank the distinguished ranking member. Although in the Judiciary Committee we have a very distinguished chairman in Senator BIDEN, who is the real "Mr. Chairman," we frequently call the distinguished ranking member from South Carolina "Mr. Chairman" because he was chairman for so long.

Mr. BIDEN. If the Senator will yield, Mr. President, I also call him "Mr. Chairman." I understand full well.

Mr. SPECTER. It is not easy, Mr. President, being on a committee like Judiciary with two chairmen, but we are so far accomplishing a fair amount.

I associate myself with the remarks by the distinguished Senator from Utah about the remarkable service of Senator THURMOND who has been in this body for many years and continues to perform in an extraordinary way.

I similarly congratulate the distinguished chairman, Senator BIDEN, for the outstanding work which he had done. I know there has been very considerable motivation coming from President Bush. The distinguished Senator from Delaware, the chairman, has used many metaphors quoting from what the President has said about Senator BIDEN's bill.

Willie Horton is still a figure to be reckoned with in America and on the Senate floor.

Without unduly commenting on the comments of Senator BIDEN as to what President Bush has said, at least it was a substantial motivating factor, and what has resulted is really an outstanding piece of legislation.

We passed a very important bill in 1984, the omnibus crime control bill. I believe that the legislation which has been proposed today is of equal stature, perhaps even greater stature.

I agree with what the majority leader has said, that there are parts of this bill that this Senator disagrees with. But when you take a look at what has been accomplished with the police corps, a novel approach to provide both pre-service education and training, and a program to provide veteran police in America in-service educational assistance, and take a look at the provisions on child abuse, on money laundering, and also at what we have done with the savings and loan legislation crafted by my distinguished colleague, Senator HEINZ, and the distinguished Senator from Colorado, Senator WIRTH, and Senator BIDEN, adding prosecutors, adding investigators, adding IRS and FBI agents—there is no doubt about the seriousness of the S&L crisis and the justifiable outrage of the American people. The kind of legislation embodied in this bill will go a long way toward putting the culprits in jail and bringing to justice those who have abused the system.

In conclusion, I believe that the dath penalty provisions in this legislation are very important because since 1972, except for the Uniform Code of Military Justice, and the drug kingpin provisions in 1988, there has been no death penalty.

Perhaps even more important than a Federal death penalty is making meaningful the State death penalty where criminal justice is enforced by and large.

In order for a penalty to be effective it must be swift and certain, and the death penalty in the United States today is neither. Some cases take up to 18 years. The average is more than 8 years. The habeas corpus provisions—that is the fancy Latin word for Federal appeals—have tied the death penalty in knots, and rendered it ineffective.

This bill will eliminate the duplication of two State proceedings going to State supreme courts, will streamline Federal habeas corpus, will fundamentally help rights of the accused by providing adequate counsel, and will do justice all around, justice to the accused with adequate counsel and justice to the public by reinstating an effective death penalty which is a very important deterrent against violent crime.

Again, I congratulate Chairman BIDEN. I congratulate the ranking member, Senator THURMOND, I thank them for this time, and yield the floor.

ORDER OF PROCEDURE

Mr. BIDEN. Mr. President, I ask unanimous consent that I yield to the Senator from Colorado for a unanimous-consent request, and that the time not be taken out.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION TO AMENDMENT NO. 2116

Mr. WIRTH. Mr. President, I thank the distinguished chairman of the Judiciary Committee.

Mr. President, in accordance with the consent granted earlier to modify the Wirth-Heinz amendment, I now send to the desk the modification drafted by Senator GRAHAM, Senator HEINZ and myself, and ask that the amendment be so modified.

The PRESIDING OFFICER. The amendment is so modified.

Mr. WIRTH. I thank the distinguished chairman of the Judiciary Committee for his help.

The modification to Amendment No. 2116 is as follows:

Page 9, line 25, after the word "available" insert: "in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial services industry and".

Page 8, after line 13, add as new paragraph:

"(c) SUNSET PROVISION.—The provisions of this section III shall expire no later than five years after the date of enactment, provided, however, that the Attorney General may reassign the Special Counsel of the Financial Institutions Fraud Unit to the supervision of the Assistant Attorney General for the Criminal Division no earlier than October 1, 1992.".

Mr. BIDEN. Mr. President, I yield 5 minutes to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KERRY. Thank you very much.

Mr. President, I would like to begin by paying tribute to the distinguished chairman of the Judiciary Committee. We undertake many legislative efforts around here, and we after confront contentious issues in this body. I cannot remember one piece of legislation that had more volatile issues in one fell swoop than the crime bill when it was first introduced.

I think the chairman of the Judiciary Committee, Senator BIDEN, has done really one of the most remarkable jobs that I have seen in 5½ years of pulling together a coalition, helping to defuse some of the volatility of the issues, and of bringing us to the point where we are able now to vote on what I consider to be a landmark piece of legislation, an important piece of legislation. I want to note, however, as the majority leader did in his statement, that I continue to oppose some of the provisions of this bill, most notably those relating to the death penalty.

Mr. President, life in America has changed in the last 20 years, dramatically, and it has changed for the worse with respect to the issue of violence and crime in our streets. There is not a family that has not somehow been affected by these changes. There is not one of us who does not go back to a community in our States to hear citizens ask why is it like this, why do we

have to live like this? Here we are in the freest land on the face of this planet, and yet we also live in one of the most violent nations in the world.

As a result of crime, we have seen our lives change in many ways. For example, we think about the risks of simply going out to dinner at night, where we let daughters or members of our family walk, or whether or not we even allow them to go out alone; more locks on our doors; higher insurance; extraordinary choices about everyday lifestyle; homes that you can no longer leave unlocked, and the whole nature of life in the United States had changed.

What is shocking is that years ago, 20, 30 years ago, there were more police officers on the streets of America per violent crime than there are today, notwithstanding the fact that we continue to declare war on crime.

So, Mr. President, we are not going to change it overnight. We have to be realistic about the projects for success. It took us 20 years to watch the deterioration, to see the drug problem become as large as it is, and it is not going to be solved in one night. But I believe that, as legislative efforts go, this crime bill takes some important steps, some incipient steps, to help us to make real some of the rhetoric that we have been hearing.

Most significant, I think, is the assault weapons ban in which the Senate has finally said no to the NRA, a first, and which finally stands up for police officers who are on the line. As those police officers said, in the words of Sgt. William Patterson of the National Organization of Police, "police organizations are united on this issue, a life and death issue for police officers." We have taken a step there. I think that is important.

I am delighted that in this bill, thanks to the support chairman, we have been able to double the amount of money that is going to go to local police departments and to the States in an effort to try to assist them to fight this war. I am pleased that my amendment to increase assistance from $400 million to $900 million was accepted by the chairman and by the Senate because I think it is vital that we do that.

In 1975 when I was an assistant district attorney we were receiving $875 million a year in assistance to fight crime. Today, with the fifth declaration of war on drugs, the States and local communities are receiving only $450 million in 1990 dollars.

That does not make sense. So finally, with this bill, we are raising that amount to above that 1975 level and we are saying to the police on the front lines that they are not going to desert them for the resources and the strategy.

In addition, I want to pay tribute to the police corps that is in this bill. That is innovative and important. It will help us, I hope, to draw a crosssection of Americans to the job of policing our communities, and assist us in taking some of those people in the police departments today in furthering their educational opportunities. That is important in our ability to be able to communicate what it takes to fight crime, and to bring people into the process.

So, Mr. President, finally I would like to say I think the Wirth-Heinz provisions on the savings and loans are also an important part of crime fighting. Americans are sick to their stomachs when they read and hear about the extraordinary abuses of members of the banking and business community with respect to savings and loans. Our Government has a fundamental responsibility to prosecute those people and to try to regain whatever profits are available and whatever losses to the public may have occurred. The Savings and Loan amendment here strengthens the penalties, increases the enforcement ability, and creates a special unit within the Justice Department to do so.

So I believe this legislation is important. I am delighted the Senate is going to pass it. I congratulate both Senator THURMOND and Senator BIDEN for their leadership in helping to bring us to this important point.

Mr. BIDEN. Mr. President, what time is remaining?

The PRESIDING OFFICER. The Senator from Delaware has 6 minutes, 13 seconds.

Mr. BIDEN. I yield 3 minutes to Senator ADAMS.

Mr. ADAMS. Mr. President, I want to pay my compliments to Senator BIDEN and Senator THURMOND for creating and carrying through this bill; it has been a most difficult bill. But as a former U.S. attorney, I know that this kind of bill is necessary at this point in America. As chairman of the D.C. Subcommittee on Appropriations, I can simply say that this Capital City needs help.

I rise today for a particular problem, and the chairman has been very good in working to help me. It touches also on the provisions Senator KERRY just mentioned.

Mr. President, we have the end of the drug pipeline in the Pacific Northwest in a small city known as Yakima, WA. When I talked to the police chiefs, not only of our major cities, such as Seattle, Tacoma, and Spokane, but cities as far away as New Jersey, New York, and elsewhere, they are coming to buy in this small city. Its law enforcement is overwhelmed.

I have asked the head of the DEA to add additional agents. We were promised two DEA agents months ago. They still are not there. The local criminal calendar is overwhelmed. The judges are overwhelmed. They are not even able at this point to prosecute fully through transactions of one kilo of cocaine. They are doing it at three kilos of cocaine.

I thank the chairman, the ranking member and the others who have worked with me on this amendment. Particularly, we need that $900 million for rural law enforcement. These are small cities; 46,000 people out in a rural area are being used by the drug lords now to bring in cocaine and crack and black tar heroin up the pipeline from Colombia to Tijuana, up the coast and into our rural area and disperse it throughout the State.

I am disappointed in the fact that I have asked Mr. Bennett, who visited that city, and Attorney General Thornburgh, who visited that city, to come back in with a Federal task force and help. But this bill is a step forward. It incorporates the provisions, which I requested from the chairman, that we add additional money into rural law enforcement.

The $900 million mentioned by Senator KERRY, I pray that part of that, at least $1 million of it, will go into Yakima for straight law enforcement on the streets to prevent the killing and the rapid movement of crack and cocaine to our State. I feel the same way about the provisions which have been placed in this bill for an additional $300 million in drug emergency programs for rural areas. Please help our State; please help Yakima.

I appreciate very much the fact that this bill is going to pass, and I compliment, once again, the chairman and the ranking member.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I thank my colleague for his kind comments. I want to acknowledge that Senators PRYOR, BAUCUS, and HARKIN have been very, very insistent on the rural law enforcement provisions. I cannot assure my colleague that Yakima will get $1 million, but I can assure my colleague that if this is adopted, the State of Washington will get a good deal more for rural law enforcement than it gets now, and all other States will, as well.

AMENDMENT NO. 2117

(Purpose: A technical amendment to delete miscellaneous duplicative sections and correct cross-references)

Mr. BIDEN. Mr. President, I ask unanimous consent that technical amendments which I now send to the desk on behalf of myself and Senator THURMOND be in order, nothwithstanding the unanimous-consent agreement, that it be considered read and that it be adopted without further debate or discussion.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself and Mr. THURMOND, proposes an amendment numbered 2117.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT INTENDED TO PREVENT DRUNK AND DRUGGED DRIVERS FROM ESCAPING PAYMENT TO THEIR VICTIMS

Mr. DANFORTH. Mr. President, a drunk or drugged driving crash in which an innocent victim is injured or killed is a tragedy. It is a double tragedy if drivers can avoid paying a civil judgment to victims by seeking protection under the bankruptcy laws. I introduced the Drunk Driving Victims' Protection Act, S. 1931, to help ensure rightful financial compensation to the victims of impaired drivers. Mr. President, I am pleased that Senators BIDEN and THURMOND have included the language of S. 1931 in the managers' amendment to S. 1970.

In the past decade, efforts to deter drunk driving have begun to pay off. According to the National Highway Traffic Safety Administration [NHTSA], in 1982, 25,165 Americans were killed in alcohol related accidents. By 1988, the toll had decreased more than 7 percent to 23,352 alcohol related fatalities. Drunk driving, however, is still responsible for nearly 50 percent of all highway fatalities. If this national average were applied to Missouri, over 550 deaths could be attributed to alcohol related accidents in my home State in 1988 alone.

Our progress has come about in part because of national initiatives, such as incentive grant programs that encourage States to enact tougher drunk driving laws and the national minimum drinking age law.

Congress has also worked to guarantee that those persons who are injured by drunk drivers will receive an appropriate level of financial compensation. In 1984, legislation was enacted to prevent drunk drivers from escaping payment of civil judgments to their victims by filing for bankruptcy under chapter 7 of the Bankruptcy Code. Before 1984, chapter 7 afforded an opportunity for scandalous abuse. Under this statute, drunk drivers who killed or injured innocent people could escape civil damage judgments by declaring bankruptcy.

Last November, it came to my attention that drunk drivers can still discharge civil judgments through a chapter 13 bankruptcy filing. Instead of the liquidation of personal assets which occurs under chapter 7, chapter 13 allows the debtor to restructure his debt payments over a 3- to 5-year period. By filing for personal bankruptcy under chapter 13, drunk drivers are still allowed to discharge judgments awarded against them, and thereby escape full payment to their victims.

One such case is that of Dorothy Mercer, of Michigan. In 1982, Dorothy was hit by a drunk driver traveling over 100 miles per hour with twice the legal limit of alcohol in his blood. She filed a civil suit against the driver to compensate her for her injuries, including permanent brain damage and a compression of the spine which caused a loss of 3 inches in height. To protect himself from the lawsuit, the drunk driver filed for bankruptcy under chapter 13 in November 1984. Because any financial judgment against the driver could be fully discharged by the bankruptcy court at a future date, Dorothy was forced to settle for a fraction of her original claim for damages.

In response to this problem I introduced the Drunk Driving Victims Protection Act, S. 1931. This bill was reported unanimously by the Senate Judiciary Committee on June 14. As reported, S. 1931 would close this chapter 13 loophole and make two additional improvements to the current law. First, it would make it clear that a drugged driver may not seek bankruptcy protection in either chapter 7 or chapter 13 from debts owed as a result of his impaired driving. Drugged driving is a growing problem. These drivers should not be able to escape liability for the death and injury they cause. Second, S. 1931 would resolve "the race to the courthouse issue" that has arisen from a narrow reading of the current statute. The statute says that a bankruptcy court cannot discharge a "judgment or consent decree entered in a court of record" against the impaired driver. Some courts have read this to require that a victim must reduce his claim to judgment before the impaired driver can run into court and file bankruptcy. This narrow reading of the statute defeats its purpose. Victims should have sufficient time to make their case in court. S. 1931 halts this race to the courthouse by amending 11 U.S.C. 362(b), to add impaired driving debts to the list of debts that are not automatically stayed by the filing of a bankruptcy petition. This would keep a bankruptcy judge from staying the victim's claim until after the victim had an opportunity to reduce it to judgment.

In sum, Mr. President, I am pleased that Senators BIDEN and THURMOND have included the language of S. 1931 in their managers' amendment. This legislation builds on the effort we began in 1984 to protect the rights of drunk and drugged driving victims to compensation for their injuries. The message to impaired drivers is that they will be held financially accountable for their acts. The message to victims and their families is that Congress protects their rights.

Mr. President, I urge all my colleagues to join in supporting this important legislation to protect the victims of impaired driving.

Mr. BIDEN. How much time does the Senator from Delaware have?

The PRESIDING OFFICER. Two minutes.

Mr. BIDEN. I ask my colleague from South Carolina, is there anyone wishing to speak on his side before we close?

Mr. THURMOND. Mr. President, the Republican leader wanted to speak for a few minutes, and we have sent for him.

Mr. President, I suggest the absence of a quorum, and request that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from South Carolina [Mr. THURMOND] has 4 minutes and 52 seconds remaining. The Senator from Delaware [Mr. BIDEN] has 1 minute and 35 seconds remaining. Who yields time?

Mr. BIDEN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I yield the remainder of my time to the distinguished Republican leader.

The PRESIDING OFFICER. The Senator from Kansas is yielded 4 minutes and 52 seconds and the Senator from Kansas still has time under his leader time.

Mr. DOLE. I thank the Chair and I thank my colleague from South Carolina. I hope I have not delayed my colleagues in getting to final passage but we have been in my office discussing campaign finance reform and how we could deal with that rather controversial issue.

First, I wanted to say a word about the S&L amendment.

Mr. President, I want to commend my distinguished colleagues, Senators HEINZ, GARN, WIRTH, and GRAHAM, for their hard work in negotiating the final version of this amendment.

I also want to thank Attorney General Dick Thornburgh and Secretary

of the Treasury Nick Brady for their willingness to come to the bargaining table and iron out the differences separating the administration and some of my colleagues here in the Senate.

A LITTLE HISTORY

Mr. President, prior to the Fourth of July recess, the Senate had two S&L proposals on the table: We had an amendment drafted by Senate Republicans and endorsed by President Bush. And we had a Democratic amendment sponsored by the chairman of the Judiciary Committee and by some of the Democratic members of the Banking Committee.

No doubt about it, both amendments had many good provisions. Both amendments had the same primary goal—to recoup some of the horrifying financial losses involved in the savings and loan disaster and to put the S&L crooks in the only place they belong—behind bars.

But the Republican and Democratic amendments also had some differences.

Fortunately, we were able to iron out the significant differences. It did not make much sense, at least to this Senator, to continue the partisan efforts here in Congress. Once both sides agreed that bipartisanship was a better approach, we were able to agree on a single amendment. We combined the best ideas of Democrats and the best ideas of Republicans.

As I have said, we have had administration input from the Attorney General's office and from the Treasury's office. So it seems to me that we are making progress.

I think one of the major reasons for the collapse of S&L's can be summed up in one word, and that word is "greed." I read about someone this morning who is hiding out in Europe. He made 22 million bucks. He ripped off the American people. He is now a fugitive from justice. He is one of the dishonest thrift executives. Their greed and the greed of dishonest attorneys and accountants, and the greed of other dishonest thrift insiders, in my view, was one of the primary causes of the collapse.

This isn't just my view. It's the view of many outside experts. And it happens to be the view of the Attorney General, who recently testified that 25 to 30 percent of all thrift failures can be attributed to fraud or insider abuse.

Unfortunately, we cannot change history, we cannot correct the abuses, we cannot go back in time and change the hearts and minds of those high fliers who gambled with the savings of their depositors and with the tax dollars of the American people.

But we can take some important steps to help bring the S&L crooks to justice, and that is precisely what is being done in this bipartisan amendment.

The bipartisan amendment adopts a provision of the Taxpayer Recovery Act, which was introduced earlier by my colleague, Senator KASSEBAUM and myself, which makes criminal restitution orders issued against those who have defrauded financial institutions nondischargeable in bankruptcy.

It directs the courts to give expedited review to cases brought by the FDIC and the RTC.

It gives the FDIC and the RTC stronger enforcement tools, including subpoena authority and the authority to bring civil actions under RICO.

It substantially increases the penalties for bank fraud and embezzlement.

It authorizes $162.5 million for fiscal years 1991, 1992, and 1993 to hire more Justice Department prosecutors and investigators.

And the bipartisan amendment restructures the Federal attack on thrift fraud—along the lines suggested by Senator GRAHAM—by establishing a financial institutions crime unit within the office of the Deputy Attorney General.

These are all important provisions, and I am proud to endorse them.

MORE THAN ENOUGH BLAME

Mr. President, we all know that there's more than enough blame to spread around on the S&L front.

So I hope that this amendment could be the beginning of the end for the partisan rancor here in Congress.

This amendment may disturb those slick political operatives who think that the S&L disaster makes for good politics.

But this amendment is good news for the American people, who do not want to trivialize an American financial tragedy with ill-conceived efforts to achieve short-term political gain.

These are all important provisions and for that reason I am very pleased that the amendment will be agreed to, I hope by unanimous vote.

Finally Mr. President I with to comment about the bill itself after the adoption of the S&L amendment.

Mr. President, I am pleased we have reached this point with the crime bill. Although Republicans did vote on two occasions against invoking cloture on the bill, we did so in order to protect our rights to offer amendments which improved this legislation and strengthened this Nation's ability to rid our streets and neighborhoods from thugs who prey upon the weak and innocent.

Probably the most important provision of this bill is the reform of habeas corpus appeals. For too long convicted felons have been allowed an almost endless number of appeals, seeking to overturn convictions on technicalities using every possible new legal theory. Crime is deterred only when there is a swift and certain punishment, and habeas corpus petitions have fouled that principle. While leaving the opportunity for those wrongly convicted to have justice prevail and their convictions overturned, it severely restricts the frivolous appeals now clogging our Nation's courts.

As well, the most heinous of crimes will be deterred for the first time since the Supreme Court's Furman versus Georgia decision in 1974, since this bill will finally reimpose the death penalty for those crimes. I want to thank my distinguished colleague from South Carolina, Senator THURMOND, for his untiring efforts to secure passage of the death penalty provision. He has been the leader in the Senate for reimposing the Federal death penalty, and his years-long efforts are chiefly responsible for the death penalty being included.

Mr. President, I have already stated my pleasure that we have included the comprehensive savings and loan enforcement and prosecution amendment which includes several provisions which I originally introduced. The American taxpayers are being asked to pay tens of billions of dollars to insured depositors, it seems little for them to ask that those responsible for this travesty should also pay, by serving time in jail, by losing all ill gotten gains, and by the knowledge that justice for them will also be swift and certain.

I am disappointed that the DeConcini amendment was not deleted from the bill. I firmly believe we are witnessing a new phenomenon in both urban and rural areas, in that young people—children really—are now armed to the teeth and dangerous. And, I agree with those who supported the amendment that this problem must be addressed—and soon. But, the proposed solution, merely to ban a few assorted firearms which are improperly referred to as assault weapons, will do nothing to correct the problem. Quite frankly, no one wants to be shot with a firearm. And, it doesn't matter if that firearm is an AK-47 rifle or a 38-caliber revolver. All guns have the potential to kill, so we must do all we can to keep every gun from those who would use them in criminal activities.

Mr. President, I would also like to congratulate a number of my colleagues who were successful in improving the crime bill and protecting our citizens. I joined with Senators LOTT and HELMS to make sure those sentenced to Federal prisons will be required to perform some type of work, so they are not allowed to bide their time by watching television, playing sports, or planning new crimes to be committed upon their release.

Senator D'AMATO expanded the crimes for which the death penalty could be imposed to include major drug trafficking. This amendment will deter those who seek financial gain by poisoning our Nation with illicit narcotics.

Senator GORTON strengthened the current precursor chemical program which allows Federal agents to track and control chemicals used to produce narcotics, both domestically and abroad.

Senator GRAMM added new mandatory minimum sentences for the illegal use of firearms, certainly a step in the right direction to keep guns from those who would use them against their fellow men, women, and children during crimes.

Senator MCCONNELL has been urging the Senate to address the growing problem of child kidnaping, and was able to add his amendment to this bill.

Senator SPECTER'S amendment will offer higher education to those who intend to enter the field of law enforcement, ensuring a trained and qualified corps of crime fighters.

Senators NICKLES and GRASSLEY added an amendment to increase victims rights. For too long, we have paid too much concern to those who commit crimes, not those who are being preyed upon.

Senator BOSCHWITZ added new mandatory minimum sentences for those who engage in child pornography, a particularly horrible crime.

Finally, while I disagreed with the amendment and although the amendment was ultimately not agreed to, I would like to compliment my colleague from Oregon, Senator HATFIELD. He was steadfastly opposed to the death penalty during his tenure in the Senate, and did an outstanding job of representing his position. As a man of conscience, he deserves special credit.

I thank the managers, the distinguished Senator from Delaware and the distinguished Senator from South Carolina. I think this is a far-reaching effort. Again, for the most part, it took a lot of time, and it took a lot of give and take by a lot of people on both sides. We had up to 300 amendments. They all disappeared except about 20 or 25. There was a lot of good will on each side. I think most everyone decided it was time to have a strong, tough, crime bill.

Probably one of the most important provisions in the bill is the reform of habeas corpus appeal. As many of us have said on the floor before and as the distinguished Senator from South Carolina has emphasized, for too long convicted felons have been allowed an almost endless number of appeals seeking to overturn convictions on technicalities using every possible new legal theory.

I think we have been able to tighten that up. In fact, we have tightened it up in the bill. It seems to me that was a big, big step in the right direction.

I want to thank my colleague from South Carolina, Senator THURMOND, for his untiring efforts to secure passage of this measure, working with the Senator from Delaware, and also passage of the death penalty provision. He has been a leader in the Senate for a long time.

So, again I think we have done good work. We decided we could get together.

I am somewhat disappointed about the DeConcini amendment. But it seems to me it was not deleted from the bill. I think we are witnessing a new phenomenon in both urban and rural areas, in that young people—children, really—are now armed to the teeth and dangerous. I agree with those who supported the amendment that this problem must be addressed—and soon. But the proposed solution, merely to ban a few assorted firearms which are improperly referred to as assault weapons, in my view will do very little if anything to correct the problem.

But I guess in the long run I am perfectly willing to accept the DeConcini amendment as part of this package and I intend to support the bill and vote for the bill.

Again, I know some of my colleagues, maybe because of that one amendment, will not support the bill, but I urge them to take a look at the entire package. This is one provision. I urge my colleagues on the House side to move very quickly on this bill so we can get it down to the President and get it signed.

Mr. BIDEN. Mr. President, I would like to also thank the minority leader who, as all leaders must around here, when we get into legislation with as many amendments as this has, has to bring people into a room and bring some order to the chaos.

He has done that always, and it has been a pleasure working with him. As I said earlier, I hope we can get swift action on this legislation in the House. I am confident that this legislation is something that, given the opportunity, the vast majority of the Members of the House will support, and that the President will also sign.

We have another major hurdle to look at down the road, and that is the drug bill, which is different than this. Hopefully we can have as much success as we had last year on that issue and as we are having on this issue.

I thank everyone for their cooperation. I must say to the Presiding Officer, I am delighted that this issue is coming to a close in the Senate, at least for this year. But it has been a worthwhile undertaking.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I have previously thanked the distinguished majority leader and the distinguished Republican leader for their fine cooperation and assistance in the passage of this legislation. I wish to again thank the distinguished Republican leader for his excellent remarks he has just made on this bill, and express my appreciation for all the cooperation given us.

SUPPORT FOR STRONG ANTICRIME BILL

Mr. COATS. Mr. President, I am pleased to support the strong bipartisan anticrime legislation which the Senate has just completed. I am convinced that S. 1970, as amended, despite certain flaws, will provide the kinds of reforms and resources that will strengthen the ability of law enforcement to win the war on crime and drugs.

To begin with, the omnibus crime bill will strengthen and enlarge the Federal death penalty. Henceforth, capital punishment will be available for some 30 Federal crimes, primarily involving murder, espionage and treason—all including the deliberate taking or attempted taking of innocent life. Procedural safeguards are included to ensure that this ultimate sanction will not be abused, such as a separate sentencing trial and jury consideration of aggravating and mitigating factors. The execution of mentally retarded defendants and defendants under the age of 18 at the time of the crime is prohibited. In addition, the Senate expanded the reach of capital punishment by authorizing the death sentence for drug kingpins, or defendants convicted of running continuing criminal enterprises under section 848(b) of title 21 of the United States Code.

The Senate wisely deleted the so-called racial justice language which would have barred the death penalty if it furthered a "racially discriminatory pattern." This provision would have created an irrebuttable presumption of discrimination based on a failure to achieve specific numerical proportions in the imposition of the death penalty—the effect of which would have been to invalidate the use of capital punishment at both the State and Federal levels and nullify Indiana's death penalty statute. At the same time, S. 1970 authorizes grants for the States to study the role of race in their criminal justice systems, including a determination of whether bias exists in the imposition of the death penalty.

Second, the Senate approved important procedural reforms which should improve the process by which criminal defendants are brought to justice. Henceforth, defendants sentenced to death in State courts will be limited to one Federal habeas corpus petition in most cases if the State where they were tried provides them with court-appointed counsel in both trial and posttrial proceedings. The new law will require defendants to file habeas corpus petitions within 60 days after their State appeals are exhausted. I regret that the proposal was dropped to extend the good faith exception to the exclusionary rule to cases in which

there is no valid search warrant because that would have allowed the introduction of certain evidence important to criminal prosecutions. However, these welcome habeas corpus reforms will promote speedy justice and finality of convictions.

Third, the bill imposes mandatory minimum prison sentences for violent and drug-related crimes and for the use of firearms in various crimes. Putting teeth into penalties on criminals for weapons violations, in my view, will do more to stop violent crime than restrictions on weapons.

I am pleased that the major thrust of my own bill, S. 1548, the Juveniles in Drug Crime Prevention Act of 1990, was also incorporated into S. 1970, as amended. As a result, longer minimum prison terms—10 years without release—will be mandatory for persons convicted of selling illegal drugs to minors or of using minors in drug trafficking operations, and life imprisonment without release will be mandatory for a second offense.

Fourth, the Senate adopted a child victims bill of rights, I am very pleased to note. S. 1970, as amended, establishes a new felony offense for drug-related child abuse, with a 25-year mandatory sentence for a person convicted of habitual child abuse, and authorizes a $20 million grant progam to establish a child abuse investigation and prosecution program. The Senate also authorized $15 million in grants in fiscal year 1991 to public and nonprofit organizations to treat juvenile offenders who have themselves been victims of child abuse and neglect.

The bill also stiffens mandatory minimum penalties for serious crimes against children, including sexual exploitation, and makes the possession or viewing of child pornography a criminal offense.

Fifth, the bill mandates a minimum 30-year prison term for persons convicted of child kidnapping, except in the case of parental or family abduction. The bill also provides a minimum sentence of life imprisonment if the kidnaped child is permanently injured, sexually abused, or used in child pornography.

Sixth, the bill allows the use of victim impact statements during the sentencing phase of Federal death penalty trials. Federal courts will also be required to order restitution for the full amount of a victim's loss, and restitution debts arising from criminal sanctions will not be dischargeable should the defendant file for bankruptcy under chapter 13.

Seventh, the bill establishes stiff penalties for the production, manufacture, sale, or distribution of ice, a very pure, smokeable, and highly dangerous form of methamphetamine which has become increasing popular on the street and may well become the crack of the 1990's. The bill also adds the chemicals used to produce this drug to the DEA's list of regulated precursor chemicals.

Eighth, the bill mandates work requirements for Federal prisoners and increases the availability of prison space by allowing the use of tent shelters at former military bases and other prison facilities on a temporary basis. The bill also encourages private industry to play a larger role in operating prisons and providing jobs for prisoners through expansion of the Private Sector/Prison Industry Enhancement Certification Program [PIE].

Ninth, the bill establishes a federally supported Police Corps by authorizing $400 million in fiscal year 1991 for the States to provide college scholarships to persons who agree to work for State and local police departments for 4 years after graduation and $30 million in subsidies to the States to provide scholarships to inservice law enforcement officers who seek to further their education.

Tenth, S. 1970 will significantly strengthen Federal law enforcement by adding 1,000 FBI agents, 1,000 DEA agents, 500 border patrol officers, and 480 Federal prosecutors to the Justice Department. The bill also authorizes $300 million in emergency funding for areas hardest hit by the trafficking in illegal drugs and increases resources and manpower to fight crime and drugs in rural areas. Increased funding for the Drug Enforcement Agency is designed to ensure swift prosecution of offenders, establish a mandatory detention policy, require drug testing for all defendants released on probation, parole, or supervised release, and provide for the closing of shooting galleries and crack houses used by drug addicts and criminals.

The bill will also enable State and local law enforcement agencies to step up their anticrime efforts by authorizing the doubling of Federal aid through the Bureau of Justice Assistance to those agencies from $450 million in fiscal year 1990 to $900 million in fiscal year 1991.

Finally, and perhaps most importantly to this Senator, was the adoption by the Senate of the Coats-Levin boot camps amendment. This amendment would authorize $20 million in fiscal year 1991 in Justice Department grants to the States to set up and operate boot camp prisons for nonviolent offenders, including juvenile drug offenders.

The idea behind boot camps is that it is better for the criminal justice system, for society, and certainly for youthful and first-time offenders to offer nonviolent offenders a second chance to straighten themselves out, rather than to assign them to a prison cell and consign them to a life of crime. Boot camps will provide offenders with little or no criminal history a meaningful alternative sanction to imprisonment which will enable them to gain necessary values and life skills, discipline, a sense of self-worth, an understanding of the work ethic, and a realization of what they have done wrong, so that at the end of their reduced sentences, they will become contributing, upstanding members of society, better able to take care of themselves and support their families. Whether the boot camp experience will ultimately reduce recidivism or not—I believe it will, and many corrections officials, judges, criminal behavioral, and family specialists and legislators agree with me, but early data and studies are inconclusive—there is little doubt that shock incarceration is preferable to prison for young, nonviolent offenders and boot camps can reduce prison overcrowding at a much lower cost than prison housing.

I discussed in detail the boot camp proposal in a colloquy with Senator LEVIN on June 28 during consideration of the bipartisan managers amendment which contained the Coats-Levin language. Let me summarize the amendment now. To receive funding the States will be required to offer to eligible offenders an intermediate or alternative sanction program that combines punishment with rehabilitation.

In addition to a military-style regimen of strict discipline, hard labor, physical training, drill and ceremonial exercise, the State shock incarceration program must include substance abuse testing and treatment, counseling, and literacy education. All offenders who successfully complete boot camp will then be paroled to home detention, community confinement, or intensive supervision for a time, during which they continue to receive support programs to ease their transition into society, including drug testing and treatment, counseling, and literacy education. If ordered by the sentencing judge, the parolee must also provide restitution and participate in community service projects. To the fullest extent possible, offenders will also receive vocational education and job training throughout boot camp and supervised release.

What I have proposed is not just a convenient way for offenders to avoid sanctions or get off lightly or get out of jail early. Boot camp prisons are prisons, not country clubs. Serving time in a boot camp means, for every volunteer and selected participant, surviving a highly regimented, intensive program of tough physical training, hard labor, and drill, combined with mandatory drug treatment, testing, counseling, and life skills education—a structured program that entails 16- to 18-hour days and normally lasts 90 days to 6 months.

Fourteen States already have operational programs, and 8 other States

are in the process of setting up boot camps. My own State of Indiana this year enacted boot camp legislation but lacks the funds to start the project. Many other States are ready to undertake shock incarceration projects, in separate low-security facilities adjoining or apart from regular prisons or in abandoned military bases, but the money is not available. My amendment would make available the funding necessary to permit the States—especially States like Indiana which are under court order to relieve prison overcrowding—to continue this bold and worthwhile experiment.

The President recommended boot camps in his national drug strategy, and national drug czar William Bennett and the Justice Department have endorsed the concept of my amendment. My proposal has been warmly endorsed by Chuck Colson, head of the Justice Fellowship Advocates. I regret that Mr. Colson's letter was inadvertently omitted from my earlier statement, so I request unanimous consent that the full text of that letter be printed in the RECORD at this point. I also ask unanimous consent that the text of the Fort Wayne News-Sentinel editorial and the syndicated column by Cal Thomas, both of which were mistakenly left out of my June 28 statement, be printed in their entirety at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUSTICE FELLOWSHIP ADVOCATES,
Washington, DC, May 10, 1990.

Hon. DAN COATS,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR DAN: In the current atmosphere of "get-tough" rhetoric and disastrous results, our nation desperately needs leaders who will address the prison overcrowding crisis in a responsible, no-nonsense manner. Every day we put off action, the situation only worsens.

I salute you for rising to the challenge by introducing S. 2216, the "Innovative Boot Camp Prison Act of 1990." The inclusion of S. 2216 could dramatically improve this year's crime package.

I support boot camp prisons because they offer a compelling combination of self-discipline and life skills in a setting which involves close supervision without the degradation of prison.

There are several features of your bill that I find especially encouraging. One is that you have clearly targeted Federal aid to programs that serve as an alternative to imprisonment. We have to reserve prison space primarily for violent criminals.

In addition, you have built in a strong component of treatment, education and job training during the program and afterwards, when offenders re-enter the community. Not only that, your funding formula requires a partnership of the Federal and state governments with private groups in providing these services. This affirmation of the role of the private sector is excellent.

Finally, by including restitution and community service, you ensure that offenders will be held accountable to those they have harmed. Making things right—what I call "restorative justice"—is ultimately what criminal justice should be all about.

Dan, S. 2216 is a refreshing and positive approach to the crisis that faces our country. May God continue to bless your efforts.

Yours in His Service,

CHARLES W. COLSON.

[From the Fort Wayne News-Sentinel, Oct. 13, 1989]

TWO PROMISING WEAPONS IN THE WAR AGAINST DRUGS

There were two encouraging signs this week that the War on Drugs may turn out to be more than empty political rhetoric.

First, the U.S. Senate passed Sen. Dan Coats' "boot camps" amendment, which would provide federal funds to help states establish military-style incarceration programs for some first-time, non-violent offenders, including drug offenders.

Closer to home, State Rep. Mitch Harper promised to introduce legislation next session that would allow Indiana authorities to seize the out-of-state assets of drug dealers.

Both ideas would be valuable weapons in the fight to keep drugs off our streets and out of our schools.

Our prisons are already overcrowded and too often reinforce criminal behavior instead of rehabilitating it. Shock incarceration programs, known as boot camps, offer a sensible alternative. For up to 180 days, offenders are subjected to a strict military-style existence designed to reinforce their self-worth, and they receive, where necessary, drug treatment, job training and other counseling. Offenders go to prison if they violate camp rules and serve the rest of their sentence on probation if they successfully complete the program. Twelve states already have boot camps, and they report that offenders sent to the camps are less likely to commit a second offense than those sent to prison. Indiana is studying such a system, and the Legislature, it is hoped, will give the idea a serious look next year.

State senators and representatives should also seriously consider Harper's plan. People sell drugs because there's a lot of money to be made. Taking away their cars and other ill-gotten assets is the least society can do to these parasites. And selling the seized goods could help pay for the police and drug education programs needed to win the war. Although Indiana officials already have the power to seize an offender's assets within the state, Coats' drug subcommittee hearing in Fort Wayne this week made it clear that many of the people peddling drugs here have moved in from other states, where their tainted belongings are currently out of reach.

To be sure, neither plan is a sure bet. Coats' amendment must still win approval in the U.S. House of Representatives, and Harper must still introduce a bill and convince the Legislature to pass it.

But if we're serious about fighting drugs, it will require innovative tactics like these—and more.

[From the Washington Times, May 14, 1990]

UNLOCKING THE PRISON DOORS

(By Cal Thomas)

LANSING, MI.—Michigan Gov. James Blanchard says his state will not build any more prisons after 1992, when the current $900 million, 27-prison construction project is scheduled to be completed.

It is not that Mr. Blanchard is growing "soft on crime." The state simply can no longer afford the cost. Instead, Mr. Blanchard told a conference of the newly created Office of Community Corrections, he will be counting on local communities to place non-violent, non-dangerous petty criminals in alternative programs.

"We can't afford to send a five-time shoplifter to Jackson Prison," said Mr. Blanchard, who said he believes that keeping non-violent criminals in local punishment programs will be the trend for the 1990s.

According to growth projections by the Michigan Department of Corrections, the already overcrowded state prison system (more than 22,000 are now locked up) is expected to top 50,000 by Jan. 1, 1993.

Nearly 53 percent of Michigan inmates are in prison for non-assaultive offensives. Nationally, 34 percent of all state prison inmates have never been convicted of violent crimes, according to Justice Department statistics. It costs $20,000 a year to keep someone in prison and, like everything else, the costs continue to rise.

In Michigan, and in most other states, funds that could be used to improve education and for other vital programs go instead for court-ordered reductions in prison population and construction of new prisons.

Politicians who fear being tarred with the "soft on crime" label if they recommend anything but a "lock 'em up and throw away the key" approach, ought to begin to argue prison reform as one means of tax reform, as well as inmate reform.

The national recidivism rate remains above 80 percent. The prison system does little but train and harden criminals to commit more crimes. But alternative sentences for those criminals who are not violent have proved remarkably successful where they have been tried.

In Georgia, only 16 percent of all participants in the state's Intensive Supervision Probation (ISP) program are rearrested within 18 months of completing the program. Seven percent of those are for technical violations and only 9 percent for new crimes.

In New Jersey, only 8 percent of ISP graduates are rearrested for new crimes. In Illinois, the rate of rearrests for new crimes is only 5 percent.

The ISP program saves Georgia $10,000 per offender per year compared to imprisonment. In New Jersey, the annual savings per offender amount to $11,000 and in Illinois, $13,000.

When restitution is included as part of the punishment, the results are even more startling, particularly when one considers that the state can make money instead of spend it on the offender and have a better chance of rehabilitating him.

The nonprofit Justice Fellowship found that restitution centers in Georgia brought in $4.3 million in room-and-board costs, fines, court fees, taxes and compensation to victims when offenders were made to pay for their crimes with something other than time in prison.

Virginia reported saving $11,600 per year per offender by diverting the non-violent offender from prison into punishment programs under its Community Corrections Act.

Tennessee saved $12,000 per offender under a similar program.

According to the Justice Fellowship, Mr. Blanchard may be the first governor in the country to establish alternative sentencing

as a statewide policy. He should not be the last.

If I steal your car and wreck it beyond repair, it might make you feel good to know that I am sitting in a jail cell, but your insurance rates will go up and your taxes, too, to pay for my time in prison.

Wouldn't it make more sense if I was forced to work to pay you back, thus keeping your insurance rate at no more than the current level and not further burdening the taxpayers? Restitution also provides an important link between the criminal and the victim which is, itself, rehabilitative.

The way to place alternative sentencing proposals on the fast track is for some conservative politicians to get behind them. Alternative sentences for the non-violent is a way of getting tough on crime by reducing crime. It is also a way of holding the lines on taxes, another conservative goal. With alternative sentences, everybody wins. It's the ideal issue.

Now that Mr. Blanchard has led the way, all that is needed are some followers who will turn the issue into a priority.

Mr. COATS. The boot camps amendment had strong bipartisan support, with 30 Republican and 15 Democratic cosponsors. I am pleased that the Senate leadership included the Coats-Levin language in the managers' amendment No. 2104, which was adopted unanimously on June 28. I wish to thank the crime bill managers, Senators BIDEN and THURMOND, for including the Coats-Levin amendment in their package.

Mr. President, I note that S. 1970 also would prohibit the manufacture, sale, and possession of nine specific types of semiautomatic assault weapons for 3 years, with a followup study on the impact of such a ban on violent and drug trafficking crime. I voted several times to delete this provision, but such efforts narrowly failed, so the matter is now up to the House to resolve. I believe that a ban will lead to a strong black market in assault weapons which will only benefit drug dealers and other dangerous criminals. I hope that the inclusion of this controversial provision will not endanger the entire bill. This is the only opportunity we will have in this Congress to address adequately the issue of violent and drug-related crime that is plaguing our cities and towns and threatens the peace and moral fabric of our society.

Much as I disapprove of this weapon, it is clearly outweighed by many other important and workable provisions, including the boot camps program, which merit my support. Mr. President, I am convinced that this comprehensive anticrime bill, despite its imperfections, will strengthen America's law enforcement forces and criminal justice system. That is why I shall vote for S. 1970, as amended. I hope that the House will act quickly as well, so that the 101st Congress will be remembered as the Congress that provided the tools and resources needed for our Nation to win the war against crime and drugs.

Mr. HELMS. Mr. President, as a cosponsor of amendment No. 2089 to S. 1970, the omnibus crime bill. I believe it would be helpful to engage in a colloquy with my distinguished colleague and cosponsor of the amendment, Senator LOTT, to clarify a few points regarding the expansion of the Prison Industry Enhancement or PIE Program.

Mr. LOTT. I am happy to enter into a colloquy with my colleague, Senator HELMS, for the purpose of clarifying section 1, mandatory work requirement for all prisoners, section 2, expansion of the Private Sector/Prison Industry Enhancement Certification Program, and section 3, employment of prisoners.

Mr. HELMS. First, is section 1 of the amendment intended to state the policy of the Federal Government to keep Federal prisoners constructively occupied during their incarceration, and not to change current law as it relates to the Federal Prison Industries Inc. "FPI" or UNICOR?

Mr. LOTT. That is correct. The amendment does not change FPI/UNICOR. It creates a new work alternative for Federal inmates, with distinct differences from FPI/UNICOR, incorporating private sector businesses, in addition, the amendment mandates inmate work. Currently the practice for the Federal Government to keep inmates busy working. In this amendment, if the prisoner is not assigned to a job, it better be for a good reason like security or health considerations. Partial exemptions will be granted for educational training and drug rehabilitations, but the prisoners will work. This provision does not affect FPI. However, it does allow Federal prisoners to participate in public work and prison construction projects. It is important to note that this amendment does not create a right for the inmates to work or draw unemployment if they are not placed in a job.

Mr. HELMS. I thank the Senator for that clarification. Next, section 2 of the amendment, as I understand it, expands the current Prison Industry Enhancement Program [PIE] on the State level from 20 certified programs to 50 and creates a new Federal PIE program, under the direction of the Director of the Federal Bureau of Prisons which would be distinct from FPI/UNICOR. The new Federal PIE Programs would be able to sell goods and services to Federal, State, and local governmental entities and to the public after meeting a number of requirements designed to protect nonconvict labor and private sector business. The purpose is to put as many prisoners to work as possible. Is my understanding correct that goods and services or the Federal PIE Program would have no statutory preference in procurements by Federal, State or local governmental entities or when sold to the public, but rather, would have to compete in these markets as to price, quality and timely deliverability?

Mr. LOTT. The Senator is correct. On the non-Federal level, expansion of the PIE Program will allow the existing program to expand to accommodate current and future applicants waiting to enter these non-Federal programs. The Federal program is modeled after the successful programs conducted on the non-Federal level, and is designed to provide additional opportunities to keep Federal prisoners busy in labor-intensive jobs. The private sector businesses participating in the Federal PIE Program would not have a statutory preference for Government contracts.

Mr. HELMS. The next clarification concerns the term labor-intensive. While I believe that these PIE and FPI programs should be limited to jobs that are labor-intensive, I am concerned about the impact on industries which are fighting to protect their U.S. Government and commercial markets from further losses to foreign competitors. In my own State of North Carolina, I see furniture, shoe, and apparel industries losing business everyday to overseas markets. Although these industries are labor intensive, I would not want to do anything that would increase the burden on these industries. Does the Senator share these concerns?

Mr. LOTT. Of course. Prison work programs should be labor intensive and, as the Senator from North Carolina knows, my own State is suffering from some of the same damage to important Mississippi industries due to foreign competition, particularly in the furniture and apparel markets. Pursuant to section 1761(c) of title 18, the Federal PIE must meet a number of requirements including negotiations with labor representatives and businesses that may be affected by a PIE initiative. This law also requires that employment of inmate labor through the PIE Program will not result in the displacement of employed workers or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality; or impair existing contracts for services.

Mr. HELMS. I thank the Senator and share his concerns. Perhaps could clear up some questions that this amendment has raised regarding FPI/UNICOR. Since the legislation requires the Federal PIE Programs to be labor-intensive, I am concerned that the PIE program could be used improperly as a way to produce ready to assemble products, such as furniture kits, for sale to the Federal Government through FPI/UNICOR using FPI's preference. Such a practice is not a labor-intensive utilization of

prison inmates employed by FPI/UNICOR.

Mr. LOTT. It is not the intent of this amendment to alter FPI/UNICOR. Nor is it the intent to permit goods produced under the PIE programs to be sold to FPI for resale to Federal departments and agencies using the FPI preference. Additionally, the amendment is not intended to allow FPI/UNICOR to subcontract with Government contractors to do the manual labor necessary to manufacture products which FPI/UNICOR inmates merely assemble for resale to Federal customers. If FPI/UNICOR purchases products from the private sector businesses participating in PIE, they must be purchased in the same competitive nature as purchases from other private sector businesses.

Mr. HELMS. I think it would be beneficial to summarize the major differences between FPI/UNICOR and the new Federal PIE Program.

Mr. LOTT. I believe that is an excellent suggestion. We are creating a new and distinct Federal program with a number of differences. While both involve Federal inmate employees, there are three primary differences between the FPI/UNICOR and PIE. First, as I mentioned UNICOR has a preference with the Government. The private sector businesses employing inimates through the PIE program will not. PIE products must be sold in the same competitive nature as other private sector products. Second, the private sector PIE participant must pay its prison workers minimum wage or prevailing wage. Therefore, the private sector participants will not have an unfair wage advantage over other businesses. In addition, deductions totaling not more than 80 percent are taken from the inmates wages for a variety of purposes which were outlined in my floor statement. Last, before a PIE program can be certified, it must meet the requirements I mentioned earlier which include consultations with labor and business representatives. These requirements are to insure that nonconvict workers are not displaced by the inmates workers and businesses are not forced to compete with private sector PIE participants who have a preference or an unfair wage advantage.

Mr. HELMS. I thank the Senator for his clarifications.

Mr. CHAFEE. Mr. President, I would like to make a few comments about the vote on S. 1970.

As my colleagues well know, I have consistently opposed the death penalty. I have spoken repeatedly on this floor against it. I have worked with my colleague Senator HATFIELD in offering amendments that substitute the sentencing option of mandatory life imprisonment for that of the death penalty.

During consideration of the Hatfield-Chafee amendment to S. 1970, I pointed out that it seems we have applied the death penalty to everything except school truancy. I do not think this is wise. The death penalty is irreversible, it does not deter, and it frequently turns criminal trials into Roman circuses.

But time and again, a majority of the Senate has indicated by rollcall votes that they do not agree with my view.

This bill contains another provisions that I feel strongly about: limitations on assault weapons. For the first time the Senate has voted to limit the availability of nine kinds of assault weapons. On three separate occasions, this body voted to retain the assault weapons provisions of S. 1970. That is unprecedented. Yes, we have voted to ban undetectable plastic weapons, and yes, we have approved bans on new machine guns, but never have we approved limitations on military-style assault weapons. This bill is a major step forward in that respect.

The law enforcement community wants this ban, and they worked overtime to ensure that it would remain in the bill. The Fraternal Order of Police, the National Association of Police Organizations, the International Brotherhood of Police Officers, the Federal Law Enforcement Officers Association, the International Association of Chiefs of Police, the Major Cities Chief Administrators, the National Organization of Black Law Enforcement Executives, the National Sheriffs' Association, the Police Executive Research Forum, the Police Foundation, and the Police Management Association—all view such a ban as a crime control tool. Right now, they are waging war against criminals who are stocked with firepower worthy of Rambo. They need our help and we should give it.

I therefore will be supporting the overall omnibus crime bill. I do not like the death penalty. But the Senate has spoken repeatedly, and it is clear I can do nothing—at least for now—to change its mind. But the assault weapons provision is worth saving.

For that reason I will support this bill.

Mr. GRASSLEY. Mr. President, I rise to support the passage of S. 1970, the omnibus crime package.

It is the result of many hours of debate by the Senate over the better part of the last few weeks.

As a compromise bill, it is by no means perfect.

The resolution of some of the issues in this bill leave no Member of the Senate, including this Senator, totally happy.

I am not alone when I express the sentiments that the bill—despite what some of its titles may proclaim—does not provide real reform in some areas of Federal criminal procedures.

In other areas—such as victim's rights and financial institution fraud prosecution and asset recovery—the bill has laid a good foundation to eventually accomplish truly needed reforms in the operation of Federal criminal law.

Despite my reservations, I would like to explain why I have decided to cast my vote in favor of this compromise.

First, the Congress and the President have made a commitment to the American people to pass meaningful crime control legislation.

The American people have demanded action. They have the right to be free from being victims of violent criminal activity.

The American people are rightly exasperated with the seeming inability of their National Government to address their number one concern—the safety of the streets and neighborhoods in which they are trying to raise their families.

This sentiment is true whether one speaks about America's urban centers or its heartland communities.

Mr. President, it is high time for us to act.

Among its many guarantees, the Constitution guarantees that Americans will enjoy the freedoms of domestic tranquility and the protection afforded the general welfare.

As elected officials, we take an oath to uphold the Constitution, the supreme law of the land. Consequently, the welfare of the people must always be our supreme law.

I believe that some of the provisions of S. 1970 establish a foundation that will help us to fulfill our constitutional obligation to protect the citizens of this great Nation—to guard their freedoms and to ensure domestic tranquility—by protecting them from those who have no regard for the rule of law at all.

As importantly—I believe that this bill can help to ensure domestic tranquility through its support of law enforcement presonnel at every level of government.

Law enforcement officers are on the front lines of the fight against crime; they lay their lives on the line every day against the thugs who trample upon the peace and tranquility of a law-abiding society.

Mr. President, no reform proposal, as sweeping as this bill is intended to be, is ever perfect.

And let me repeat, S. 1970 is not perfect.

Our debates on this compromise bill have really been about how our society is to maintan both its freedom and its civility.

We cherish our freedoms, both as individuals, and as a Nation.

For over 200 years—from its upstart and revolutionary beginnings, through its containment and victory over international totalitarianism—this country has been the world's bulwark: Insuring domestic tranquility; promoting the general welfare; and securing the blessings of liberty.

The omnibus crime bill package certainly does not achieve what I orginally hoped we could achieve.

Whether it is better than no legislation at all may be the subject of debate by some.

However, I believe its pasage may enable us—by enhancing the statutory enforcement tools of law enforcement personnel, prosecutors, and judges—to fulfill our obligation to better protect the American people from violent crime.

I know many of my constituents are sick and tired of waiting for us to act. They want and deserve meaningful action from us.

I ask my colleagues to support the compromise crime control package.

Mr. COCHRAN. Mr. President, I commend the distinguished Senator from Indiana [Mr. COATS] for offering his boot camp amendment as a provision in the comprehensive crime package. It was previously introduced this year as the Innovative Boot Camp Prison Act of 1990, and I was pleased to cosponsor it.

This provision of the bill authorizes the Justice Department, through the Bureau of Justice Assistance, to provide grants to the States to establish camp prisons for young felons who have committed nonviolent crimes for which the sentence is at least 1 year in prison.

We have reached a point with our Nation's criminal justice system when we are faced with a challenge much greater than merely coping with youth criminal activity by imprisonment. Too many young people these days are imprisoned only to be released a short time later to resume a life of crime. We must now look past punishment and focus on rehabilitation for those who have experimented with crime.

We have been mass producing hardened criminals for too long. The system takes a young, first-time offender and sentences him to a year or two in a State penitentiary. The chances are greater that he will be released as a more hardened criminal rather than a person who respects the law and his fellow citizens. Spending 2 years locked up with more violent and experienced criminals cannot be a healthy influence on anyone, especially the young and easily persuadable. What possible constructive lessons has this young offender learned? What alternatives to crime has he been taught that will enable him to rejoin society as a law-abiding citizen?

We must break the pattern of recurring convictions among young felons by developing an alliance between the criminal justice system and rehabilitation. We must devise programs for young offenders that punish them for their offenses but also provide guidance and direction. They must learn about the opportunities that are available to them after they have served their sentences. Rather than merely locking them in a cell for a year or two, they should be trained in vocational skills that will enable them to lead productive lives when they return to society.

I wholeheartedly support the prison boot camp provision. For years, my home State of Mississippi has had at our Parchman State Penitentiary a regimented inmate discipline program, where youthful first offenders may voluntarily enroll in a boot camp program emphasizing vigorous physical training, military style discipline, and drill and ceremonial exercises. The program also includes vocational training, adult basic education, alcohol and drug rehabilitation, and psychological group counseling. Those who successfully complete the program are released for a trial period to supervised community service, during which those with drug abuse histories receive continued drug testing and counseling.

Directors of similar programs across the Nation who have studied former inmate participants have found their recidivism rate to be considerably lower than the rate for the general prison population. Supporters of these programs feel they provide offenders with the motivation to redirect their lives toward the work ethic and a sense of individual responsibility.

Rehabilitation and treatment by discipline and reward demonstrate to young inmates the relationship between behavior and consequences. They learn that they are accountable for their actions. Those unwilling to go by the rules of the program may face a longer term of regimented incarceration or a return to regular prison to resume their original sentence.

The positive results of these prison boot camp programs are worthy of testing in the States. These programs punish young offenders for crimes they have committed and simultaneously educate them in community values, develop in them a sense of responsibility, and make them aware of the employment opportunities available to them. Most importantly, they help these youth to develop the self-respect, ambition, and motivation to begin new and productive lives.

Having this provision in the bill makes it a better piece of legislation. I again congratulate my friend from Indiana, Mr. COATS.

Mr. DOMENICI. Mr. President, the crime bill that is now before the Senate is the strongest anticrime bill in many, many years. It deserves the support of all Senators.

The crime bill would reestablish the Federal death penalty to assure that those who commit heinous murders and other very serious crimes are subject to the ultimate penalty.

It would also assure that death row inmates do not delay the imposition of their lawfully authorized sentences by filing endless frivolous appeals after they have had their case fully reviewed by the courts.

It increases the minimum sentence for criminals who use firearms during a crime of violence or drug trafficking crimes, who steal firearms, who smuggle firearms into the country with intent to engage in drug offenses or crimes of violence, who sell drugs to minors, or who use minors in drug trafficking activities. In some cases, the penalties for repeat offenders would be mandatory life in prison.

The crime bill also increases the penalties for crimes committed against children, including child pornography.

It will provide increased funding for State and local law enforcement agencies, who are in the front lines of the war against drugs.

Mr. President, I am pleased the Senate included two of my amendments in the bill. The first would assure that Indian tribes are given the same rights as States to determine whether the death penalty should apply to first-degree murders within their jurisdiction. This amendment, which I offered with Senator INOUYE, would apply to murders that are committed in Indian country and involve an Indian defendant or victim.

The second amendment would regulate private jail facilities used by the U.S. Marshals Service to assure that, if private jails to house Federal prisoners, that they are needed and that they are constructed with adequate safeguards to protect the public.

This crime bill does what crime bills should do. It punishes the criminals who commit crimes. It is tough. It is strong. It is the right thing to do.

These tough measures are long overdue. For too many years, we have acted leniently during an onslaught of drugs and crime. I believe these measures can be another important step in our efforts to win the war against drugs.

Mr. President, although I will vote in favor of the crime bill, I do not favor all the provisions of this bill. I am disappointed that the bill includes a provision authored by Senator DECONCINI that would ban certain types of semiautomatic firearms.

I certainly understand the concern that many Americans have over the violent crimes being committed by drug dealers, youth gangs, and other criminals. However, I do not think that restricting the constitutional

rights of law-abiding gun owners is the way to solve the problem. Furthermore, I do not believe that the DeConcini provision would keep these guns out of the hands of criminals.

Instead of enacting new laws to ban firearms, we must strengthen and enforce the laws that are already on the books to punish criminals who use a firearm—semiautomatic or any other type—to commit crimes.

I hope that, before this bill reaches the President desk, the DeConcini provision is dropped from the bill.

Mr. D'AMATO. Mr. President, I rise in strong support of S. 1970, the comprehensive anticrime bill we are about to vote on, and which I predict we will pass overwhelmingly.

Among this bill's many provisions are a major expansion of the Federal death penalty for 30 crimes, including espionage and treason; historic habeas corpus reform that will cut down on the delaying tactics used by violent criminals to clog our court system and escape justice; the Comprehensive Bank and Thrift Fraud Prosecution and Taxpayer Recovery Act of 1990; and an expansion of Federal, State, and local law enforcement programs.

This bill contains two amendments which I proposed, and which I believe are very significant. First, it provides for the death penalty for major drug dealers, those drug kingpins who distribute huge quantities of drugs, over 66 pounds of heroin or 330 pounds of cocaine. It also applies to those who take in $10 million from drug trafficking in any 12-month period.

The Senate agreed to this amendment by vote of 66 to 32 on June 28. Mr. President, I ask unanimous consent that a section-by-section analysis of my death penalty amendment be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. D'AMATO. Mr. President, the second category of offenders eligible for capital punishment consists of the drug kingpins who attempt to obstruct the investigation or prosecution of their activities by attempting to kill persons involved in the criminal justice process, or knowingly directing, advising, authorizing, or assisting another to attempt to kill such a person.

The defendant would have to be a continuing criminal enterprise principal organizer, administrator, or leader, but would not necessarily have to traffic in the huge quantities that a super kingpin traffics in.

This amendment is a response to the flagrant and growing problem of extreme violence against witnesses in drug cases, as well as the increasing threat and reality of violence directed against criminal justice professionals.

The third category of death-eligible drug offenders fills a gap in existing law.

The Anti-Drug Abuse Act of 1988 enacted provisions authorizing capital punishment for certain drug-related killings, but did not cover killings resulting from aggravated recklessness, such as killings of innocent bystanders during a shoot-out among traffickers, or the death of users resulting from the knowing distribution of bad drugs.

This amendment fills this gap by authorizing the death penalty where the defendant, intending to cause death or acting with reckless disregard for human life, engages in a Federal drug felony, and a person dies in the course of the offense or from the use of drugs involved in the offense.

Some opponents of the death penalty will say that only crimes involving a killing can be punished by the death penalty, but no Supreme Court decision made so far is definitive on this issue.

In the key case of Coker versus Georgia, decided in 1977, the Supreme Court determined that the proper standard for the death penalty is whether capital punishment is excessive in relation to the crime committed.

Whether one thinks the death penalty is excessive depends on how destructive you think drug trafficking is. I think the evidence is overwhelming that drug trafficking is such a destructive crime that the death penalty is what the major drug dealers deserve.

My second amendment is the Safety Officers' Compensation Act, based on legislation which Congressman MANTON has introduced in the House of Representatives as H.R. 2870, and which I have introduced in the Senate as S. 2785.

This legislation amends the Omnibus Crime Control and Safe Streets Act to provide a one-time Federal payment of $100,000 adjusted for inflation to public safety officers who are permanently and catastrophically injured in the line of duty. Such payments are now made only to the families of officers killed in the line of duty.

This bill has been introduced in honor of Steven McDonald, the brave New York City Police officer who was paralyzed from the neck down as a result of gunshot wounds inflicted by three men he stopped for questioning in New York's Central Park on July 12, 1986.

I want to thank Senator BIDEN and Senator THURMOND, the chairman and ranking member of the Senate Judiciary Committee, for including this provision. This legislation has received the support of the Fraternal Order of Police, the International Association of Firefighters, the International Brotherhood of Police Officers, the International Association of Fire Chiefs, the National Association of Police Organizations, the International Association of Chiefs of Police, the National Sheriffs Association, the State of New York, the State of California, the State of Alabama, the State of Indiana, the State of Alaska, the New Mexico Department of Public Safety, the Washington State Patrol, the State of Maryland, the Commonwealth of Virginia, the State of Arizona, the State of Idaho, the State of Maine, the State of South Dakota, the State of Missouri Department of Public Safety, the State of Wyoming, the Commonwealth of Pennsylvania State Police, the State of North Dakota, and the Commonwealth of Puerto Rico.

The Public Safety Officers' Compensation Act will help relieve some of the burden being borne by the family, friends, and community of severely injured or disabled officers, and it recognizes the unique and costly sacrifice of these extraordinary men and women with meaningful help.

The reason for enacting this legislation is as clear and compelling—we simply have a moral duty to acknowledge with more than kind words the bravery of our public safety officers who in service to their communities become the tragic victims of brutal violence and life threatening catastrophe.

Finally, I want to express my strong support for the Comprehensive Bank and Thrift Fraud Prosecution and Taxpayer Recovery Act of 1990, the amendment being added to the anticrime bill.

The amendment is a carefully crafted bipartisan compromise addressing the concerns of many Senators and the Banking and Judiciary Committees to deal with an issue of tremendous national concern. It is a comprehensive attempt to get serious and get tough with those that commit bank fraud, embazzlement, savings and loan fraud, and other crimes. I would like to thank Senators WIRTH and HEINZ, and Senators BIDEN and THURMOND, for their tireless efforts to create this legislative package. Among this amendment's provisions are the following:

First, increases the maximum penalities for bank fraud and embezzlement from 20 to 30 years;

Second, creates a criminal provision that subjects so-called savings and loan kingpins to a mandatory minimum sentence of 10 years and up to life imprisonment with fines of up to $10 million for an individual and $20 million for others;

Third, authorizes wiretaps in bank fraud investigations;

Fourth, expands restitution provision to authorize the restoring of forfeited property to bank fraud victims;

Fifth, authorizes the Attorney General to seize forefeited property relating to bank fraud;

Sixth, expands money laundering offenses to include proceeds resulting from bank and mail fraud;

Seventh, increases resources for investigations and prosecutions;

Eighth, expands the authority of Federal magistrates; and

Ninth, provides for exhanced interagency coordination.

Mr. President, we cannot expect the American people to have faith in financial institutions, on which they rely, if we do not protect the integrity of the entire system. At the very least, they should have the assurance that the looters of savings and loans and banks will be detected, indicted, convicted, jailed, and, denied any profit from their crimes and their abuse of trust.

Mr. President, this is important constructive legislation, and the right thing to do is to pass the bill. I urge my colleagues to give this legislation their full support.

EXHIBIT 1

DEATH PENALTY FOR DRUG KINGPINS AMENDMENT—SECTION-BY-SECTION ANALYSIS

This amendment authorizes capital punishment for major drug dealers and provides the standards and procedures for imposing and carrying out the death penalty, which are required by the Constitution.

In 1988, as part of the Anti-Drug Abuse Act, we authorized capital punishment for certain drug-related killings.

This proposal goes a step further. It provides for the death penalty for major drug dealers, even without proof of a specific killing.

The constitutionality of this proposal has been fully analyzed by the Administration. *See* Statements of Assistant Attorney General William P. Barr and Assistant Attorney General Edward S.G. Dennis, Jr., before the Sucommittee on Crime Legislation (March 14, 1990); and Statement of Assistant Attorney General Edward S.G. Dennis, Jr., before the Senate Judiciary Committee concerning the Death Penalty (October 2, 1989).

The procedural provisions of this amendment are largely the same as the death penalty procedures proposed in title II of the President's violent crime bill (S. 1225 and H.R. 2709). It also incorporates new provisions concerning appointment of counsel and collateral review, which are modeled on the recommendations of the Ad Hoc Committee of the Judicial Conference on Federal Habeas Corpus in Capital Cases (the "Powell Committee"), to ensure that the effectiveness of the federal death penalty is not undermined by dilatory and repetitive litigation.

The section-by-section analysis below describes and explains the various provisions of this amendment.

Death Penalty authorizations and procedures.

This amendment adds a new chapter 228 to title 18 of the United States Code, consisting of sections 3591 through 3599, and makes necessary technical amendments. These sections provide that the punishment for certain drug crimes may, in specified circumstances, extend to the death penalty and set forth procedures for imposing and carrying out the death penalty.

The amendment sets forth the offenses for which the death penalty may be imposed if, after consideration of the mitigating and aggravating factors applicable to the case in a post-verdict hearing (described in subsequent sections), it is determined that the imposition of death is justified. The specific categories are as follows:

Section 3591(a). The first category of drug offenders who would be potentially eligible for capital punishment—described in proposed 18 U.S.C. 3591(a)—are offenders who are currently subject to a mandatory term of life imprisonment under 21 U.S.C. 848(b). This is the highest category of major traffickers recognized under federal law.

Under the general provisions of 21 U.S.C. 848, a person is guilty of engaging in a Continuing Criminal Enterprise (CCE) if he commits a federal drug felony as part of a continuing series of federal drug violations which are undertaken in concert with at least five other persons, where the defendant is an organizer, supervisor, or manager in relation to such persons and derives substantial income or resources from the enterprise.

To be subject to mandatory life imprisonment under section 848(b), a CCE violator must, in addition, be a principal organizer, leader, or administrator of such an enterprise, and must either commit a violation involving enormous quantities of drugs—e.g., 30 kilograms of heroin or 150 kilograms of cocaine—or be a principal organizer, leader, or administrator of a CCE that has gross receipts of at least $10 million in a twelve-month period.

Thus, in essence, the offenders potentially subject to capital punishment under proposed section 3591(a) consist of principal organizers, administrators, and leaders of drug enterprises including at least five subordinates where transactions involving enormous quantities of drugs are involved (e.g., 30 kilograms of heroin, 150 kilograms of cocaine) or the enterprise has annual revenues of at least $10 million.

The inclusion of the very largest traffickers in the class of persons potentially eligible for the death penalty, as proposed in section 3591(a), is a response to the human and social devastation that is threatened and actually caused by their activities. In the past, Congress has prescribed the death penalty for treason, *see* 18 U.S.C. 2381, nuclear and other forms of espionage, *see* 10 U.S.C. 906a, and aircraft piracy, *see* Act of September 5, 1961, 75 Stat. 466 (1961). The proposal reflects a recognition that the current scourge of drug abuse and of drug-related crime and violence represents a comparable threat to the security and well-being of the public, and that the use of the ultimate sanction should be available in this context.

Section 3591(b). The second category of offenders who would be potentially eligible for capital punishment—described in proposed 18 U.S.C. 3591(b)—consists of a somewhat more broadly defined class of drug kingpins who attempt to obstruct the investigation or prosecution of their activities by attempting to kill persons involved in the criminal justice process, or knowingly directing, advising, authorizing, or assisting another to attempt to kill such a person. To fall within the death-eligible class, the defendant would have to be a CCE principal organizer, administrator, or leader as defined in 21 U.S.C. 848, but would not necessarily have to satisfy the specific criteria for mandatory life imprisonment under section 848(b). Including a more broadly defined class of major traffickers who also engage in actual attempted murders to obstruct justice is justified by the flagrant and growing problem of extreme violence against witnesses in drug cases, as well as the increasing threat and reality of violence directed against criminal justice professionals.

The extension of the death penalty to attempted murders, in this limited context, even where death does not actually result, would send a strong message concerning the system's resolve to deal forcefully and effectively with this problem.

The applicability of proposed section 3591(d), as noted above, would be conditioned on an attempted murder by a drug kingpin to obstruct justice, committed against any public officer—such as a police officer, judge, or prosecutor—juror, or witness, or a member of the family or household of such a person. Family members (i.e., parents, spouses, children and siblings) and members of the households of such persons are included because of their exposure to victimization as targets of efforts at intimidation or reprisal by drug offenders.

Section 3591(c). The third category of potentially death-eligible drug offenders—described in proposed 18 U.S.C. 3591(c)—fills a gap in existing law. The Anti-Drug Abuse Act of 1988 enacted provisions authorizing capital punishment for certain international drug-related killings, *see* 21 U.S.C. 848(e), but did not cover killings resulting from aggravated recklessness, such as killings of innocent bystanders during a shoot-out among traffickers, or the death of users resulting from the knowing distribution of bad drugs.

Proposed section 3591(c) would fill this gap by authorizing the death penalty where the defendant, intending to cause death or acting with reckless disregard for human life, engages in a federal drug felony (not necessarily a continuing criminal enterprise offense), and a person dies in the course of the offense or from the use of drugs involved in the offense.

The specific standard of reckless disregard for human life in proposed section 3591(c) refers to the very high level of culpability—i.e., knowingly creating a grave risk of death to another—that the Supreme Court approved as adequate to support the imposition of capital punishment in *Tison* v. *Arizona*, 481 U.S. 137 (1987). *Tison* involved defendants who did not personally kill the victims or intend to cause their death, but who created a situation that resulted in death by freeing two highly dangerous inmates from prison, arming them, and assisting them in waylaying and handling the victims, who were actually killed by the inmates. The Court states that "the reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment. . . ." *Id.* at 157–58.

The death penalty provisions of President Bush's violent crime bill (S. 1225 and H.R. 2709) include the general principle that killings resulting from aggravated recklessness, pursuant to the *Tison* standard, may be punished by death. Proposed section 3591(c) in this bill would extend the application of this principle to drug-related killings. Moreover, in relation to deaths resulting from drug use, current law (21 U.S.C. 841) generally authorizes or requires life imprisonment where serious bodily injury results

from the use of drugs distributed by an offender. This proposal would extend this approach, authorizing the possibility of a death sentence (rather than life imprisonment) where the harm resulting from the use of drugs distributed by the offender is death (rather than serious injury).

SECTION 3592 (FACTORS TO BE CONSIDERED IN DETERMINING WHETHER A SENTENCE OF DEATH IS JUSTIFIED)

This section sets forth the statutory mitigating and aggravating factors to be considered by the jury or judge in determining whether a sentence of death is justified upon conviction of a crime described in proposed section 3591. The section also allows, consistent with Supreme Court decisions, for the consideration of any other aggravating or mitigating factor, not listed in the section, which might affect such a determination. See *Skipper* v. *South Carolina*, 476 U.S. 1 (1986); *Lockett* v. *Ohio*, 438 U.S. 586 (1978); *Barclay* v. *Florida*, 463 U.S. 939 (1983); *Zant* v. *Stephens*, 462 U.S. (1983).

Subsection (a) sets forth three mitigating factors which must be considered. They are (1) that the defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired, although not so impaired as to constitute a defense to the charge; (2) that the defendant was under unusual and substantial duress although not such as to constitute a defense; and (3) that the defendant was an accomplice whose participation in the offense was relatively minor, even though he may still be charged as a principal. Subsection (a) further states that the jury or judge shall also consider any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may offer in mitigation. While the Supreme Court has held that no limitation may be placed on the defendant's introducing evidence of mitigating factors, some linkage must be established between the evidence offered in mitigation and the defendent's persona or the offense. For example, the catch-all provision in subsection (a) is not intended to allow such irrelevant evidence as that on the night of the murder in New York City, unusually heavy rain had fallen in Los Angeles.

Subsection (b) sets forth aggravating factors to be considered. These factors are tailored to the conditions of drug trafficking and identify features of a defendant's conduct or background that provide particularly strong evidence of dangerousness, incorrigibility, or indifference to human life. The jury would have to find at least one of these additional factors to impose a death sentence:

Paragraphs (1)–(4) of subsection (b) set out general criminal record aggravating factors. These are prior convictions of a homicide punishable by life imprisonment, and prior conviction of at least two violent or drug felonies.

The factor in paragraph (5) of subsection (b) is prior conviction of a drug offense punishable by five or more years of imprisonment. This is nearly the same as one of the aggravating factors in the Anti-Drug Abuse Act death penalty provisions (21 U.S.C. 848(n)(10)).

The factor in paragraph (6) of subsection (b) is using or knowingly directing, advising, authorizing, or assisting another to use a firearm to threaten, intimidate, assault, or injure a person in committing the drug offense, or in furtherance of a continuing criminal enterprise (as defined in 21 U.S.C. 848) of which the offense was a part. Mere possession of a firearm in connection with drug activities would not be covered; the defendant would actually have to engage in our sanction the hostile use of a firearm against a person.

The factors in paragraphs (7)–(9) of subsection (b) involve a violation in committing the drug offense, or in furtherance of a continuing criminal enterprise, of the provisions that define aggravated offenses where trafficking is carried out in a manner that exploits or jeopardizes young people. This includes distribution to persons under twenty-one (21 U.S.C. 845), distribution near schools (21 U.S.C. 845a), and using minors in trafficking (21 U.S.C. 845b). The 1988 Anti-Drug Abuse Act death penalty provisions similarly have an aggravating factor (21 U.S.C. 848(n)(11)) for distribution to persons under twenty-one in violation of 21 U.S.C. 845. These factors would apply where the defendant directly committed such an offense, or would be liable as an accomplice in such an offense under the normal standards of 18 U.S.C. 2 (by aiding, abetting, counseling, commanding, inducing, procuring, or willfully causing the commission of the offenses).

Factor (10) of subsection (b) covers cases where the offense involves importing, manufacturing, or distributing drugs that are mixed with a potentially lethal adulterant, and the defendant is aware of the presence of the adulterant. This is designed to reach situations in which the manufacturer or distributor cuts drugs with another toxic substance, such as household detergent.

SECTION 3593 (SPECIAL HEARING TO DETERMINE WHETHER A SENTENCE OF DEATH IS JUSTIFIED)

This section sets out the procedure for a special hearing to determine whether a sentence of death is justified. At the conclusion of the hearing the jury (except in those unusual cases where the sentencing hearing is before the judge alone) will return a binding recommendation as to whether the sentence of death is justified. If the jury returns a recommendation of the death penalty as opposed to some lesser punishment, the court must impose a sentence of death.

Subsection 3593(a) provides that if the attorney for the government believes that the circumstances of one of the offenses for which the death penalty is authorized under section 3591 justify the imposition of the death penalty, he or she must file with the court and serve on the defendant a notice of the conclusion and set forth the aggravating factors (including any not statutorily enumerated) the government proposes to show at the hearing. The notice must be filed and served on the defendant a reasonable time before trial or the accepting of a guilty plea or at such time thereafter as the court may permit upon a showing of good cause. The provision is intended to give adequate notice to the defendant so he can prepare for the post-conviction sentencing hearing and to ensure an appropriate *voir dire* that comports with applicable Supreme Court cases.

Subsection 3593(b) provides that if the attorney for the government has filed the notice required by subsection (a) and if the defendant is found guilty, a sentencing hearing shall be conducted by the judge who presided at trial or accepted the guilty plea or by another judge if the first one is unavailable. No presentence report is to be prepared in such a case inasmuch as the issue at the hearing is the existence of aggravating or mitigating factors and the justifiability of imposing a death sentence, and the issue is to be determined on the basis of the information presented at the hearing. The hearing is to be conducted before the jury that determined on the basis of the information at the hearing. The hearing is to be conducted before the jury that determined the defendant's guilt, except that a jury may be impaneled for the purpose of the sentencing hearing in a case in which the defendant was convicted on a trail to the court or on a plea of guilty, in a case in which the original jury was discharged for good cause, or in a case where reconsideration of the sentence is necessary. This subsection also provides that the defendant may move that the sentencing hearing be conducted before the court alone but that the attorney for the government must concur. In the absence of this concurrance by the government, the sentencing hearing is before a jury.

Subsection 3593(c) deals with proof of the aggravating and mitigating factors. Any information relevant to the sentence may be presented. Information concerning any mitigating factor or factors, both those listed in section 3592 and those not so listed, may be introduced. Evidence of at least one aggravating factor listed in section 3592 must be introduced. As explained, the government must give the defendant notice of which aggravating factors it will seek to establish. If evidence of a statutory aggravating factor is introduced, the government may also introduce evidence of any other aggravating factor, again providing the government has given notice as to the nature of such a nonstatutory factor.

The information may include trial transcripts and exhibits or relevant parts thereof. Other evidence relevant to any mitigating of previously identified aggravating factor may be presented regardless of its admissability under the rules of evidence, except that the court may exclude information if its probative value is outweighed by the danger of its creating unfair prejudice, confusing the issues, or misleading the jury. The burden of establishing an aggravating factor is on the government and the standard of proof for such a factor is beyond a reasonable doubt. The defendant has the burden of establishing any mitigating factor but this burden is satisfied if the defendant proves such a factor by a preponderance of the evidence.

Subsection 3593(d) deals with the return of special findings required in the sentencing hearing. It provides that the jury, or if there is no jury, the court, must consider all the information received at the sentencing hearing. The jury, or if there is no jury, the court, must return a special finding identifying each aggravating factor (both statutory and nonstatutory) which it has found. Once again, it can only find the existence of an aggravating factor for which notice was provided. The finding with respect to an aggravating factor must be unanimous. If no aggravating factor is found, the death penalty cannot be imposed and the court must impose some other sentence authorized by statute.

With respect to mitigating factors, subsection 3593(d) reflects the holding of the Supreme Court in *Mills* v. *Maryland*, 486 U.S. 367 (1988), that individual jurors may not be precluded from considering mitigating evidence regardless of the number of jurors who agree on a particular factor. Consequently, subsection (d) provides that a finding with respect to a mitigating factor may be made by one or more members of the jury.

As used throughout section 3593, the term "mitigating factor" is meant to include all mitigating evidence which the sentencer must consider with such cases as *Eddings* v. *Oklahoma*, 455 U.S. 104 (1982). Nevertheless, the jury may only consider evidence presented at trial or at the sentencing hearing. It may not speculate on the existence of some factor completely unsupported by any evidence. See *California* v. *Brown*, 479 U.S. 538 (1987). Any member of the jury who is persuaded by a preponderance of the evidence—the standard set out in subsection (c)—that a particular mitigating factor exists may consider such a factor established. That juror (even if he or she is the only one who believes the evidence and has concluded that such a factor has been established) may then weigh that evidence against any aggravating factors which have been found unanimously beyond a reasonable doubt—again, the requirement of subsection (c)—in deciding, under subsection (e), whether to return a binding recommendation for a sentence of death.

Subsection 3593(e) provides that if one or more of the statutorily required aggravating factors is found to exist (a constitutional requirement under *Zant* v. *Stephens* and *Barclay* v. *Florida, supra*) the jury, or the court if there is no jury, must then consider whether the aggravating factor or factors which it has found outweight the mitigating factor or factors. It is the intent of this subsection that jurors be instructed that they are to weigh and balance the aggravating factor or factors found against any mitigating evidence. As discussed above, findings of aggravating factors would require a formal determination of the whole jury, but the individual members of the jury would make their own determinations concerning the existence of mitigating factors.

If each juror found no mitigating factors or found that any mitigating factors were outweighed by the aggravating factor or factors, then the jury would be required to make a binding recommendation to impose the death penalty. This reflects the judgment that the death penalty is presumptively the appropriate penalty for the crimes described in section 3591 under the aggravated circumstances described in section 3592, and that the death penalty should be imposed in such cases unless the aggravating factors are balanced or outweighed by mitigating circumstances. The Supreme Court upheld rules requiring that the death penalty be imposed under these conditions in *Blystone* v. *Pennsylvania*, No. 88-6613 (Feb. 28, 1990), and *Boyde* v. *California*, No. 88-6613 (March 5, 1990). This approach promotes equal justice and avoids the potential for arbitrariness that would exist under an approach that gave the jury or court less guidance in imposing the death penalty.

Subsection (e) also requires an instruction to the jury that it is not to be influenced in its decision whether to recommend the death penalty by sympathy, sentiment, passion, prejudice, or any other arbitrary factor, and should make such a recommendation as the information warrants. This is substantially the same as the instruction upheld by the Supreme Court in *Saffle* v. *Parks*, No. 88-1264 (March 5, 1990). *See also California* v. *Brown*, 479 U.S. 538 (1987) (approving similar instruction). The requirements of such an instruction serves to promote equal justice by emphasizing that capital sentencing decisions are not to be influenced by legally inadmissable considerations or personal whim or caprice. Rather, what is called for is a reasoned factural and moral assessment by the jury based on the evidence presented at the trial and sentencing hearing and its conclusions concerning the existence and relative weight of pertinent aggravating and mitigating factors.

Subsection 3593(f) is designed as a special precaution against discrimination by the jury against the defendant on the basis of the defendant's or the victim's race, color, national origin, religious beliefs, or gender. It provides that in a sentencing hearing in which the death penalty is sought, the jury shall be specifically instructed that it must not consider these factors and that the jury is not to make its binding recommendation for a sentence of death unless it would recommend such a sentence no matter what the race, color, national origin, religious beliefs, or sex of the defendent or any victim may be. Moreover, the jury must return to the court a certificate signed by each juror stating that consideration of these factors was not involved in his or her individual decision, and that he or she would have made the same binding recommendation as to the sentence no matter what these particular characteristics of the defendant or victim might be.

SECTION 3594 (IMPOSITION OF A SENTENCE OF DEATH)

This section provides that if the jury recommends a sentence of death, the court must sentence the defendant to death. If the court, rather than the jury, is the fact finder at the sentencing hearing, section 3594 requires the court to follow its own recommendation and impose the death penalty. If, however, the jury, or if there is no jury, the court, does not recommend the sentence of death, the court shall impose any sentence other than death authorized by law.

This section also provides that notwithstanding any other provision of law, life imprisonment without the possibility of release or temporary furlough is an authorized sentence for a conviction of an offense punishable by death if the maximum term of imprisonment for such an offense is life.

SECTION 3595 (REVIEW OF A SENTENCE OF DEATH)

This section sets out the rules applicable to appeals from the imposition of the death sentence. *Subsection (a)* provides that a sentence of death shall be subject to review by the court of appeals upon an appeal of the sentence by the defendant. Notice of appeal of the sentence must be filed within the time specified for filing an appeal of the judgment of conviction and the court may consolidate the appeal of the sentence and the appeal of the conviction. The review of a case in which the death sentence has been imposed must be given priority over all other cases.

Subsection 3595(b) provides that the court of appeals must consider the entire record including the evidence submitted at trial, the information submitted during the sentencing hearing, the procedures employed at the sentencing hearing, and the special findings returned at the sentencing hearing as to the existence of the aggravating factors.

Subsection 3595(c) states that the court of appeals must affirm the sentence if it finds that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, and the evidence and information support the special findings of the existence of an aggravating factor or factors. See *Zant* v. *Stephens, supra* (death sentence valid even if an aggravating factor is invalidated or found inapplicable on appeal, provided at least one valid statutory aggravating factor remains). Proportionality review with other death cases is not part of the review process. *Pulley* v. *Harris*, 465 U.S. 37 (1984). In all other cases, the court of appeals must remand the case for reconsideration under section 3593 or for imposition of another authorized sentence, as appropriate. The court of appeals must state in writing the reasons for its disposition of an appeal of a sentence of death.

SECTION 3596 (IMPLEMENTATION OF A SENTENCE OF DEATH)

This section is concerned with the implementation of a sentence of death. *Subsection 3596(a)* provides that a person sentenced to death shall be committed to the custody of the Attorney General pending completion of the appeal and review process. When the sentence is to be implemented, custody of the person would be given to a United States Marshall who would then supervise the implementation of the penalty in accordance with the law of the State in which the sentence is imposed. If that State has no death penalty, the court would designate another State which does have such a penalty and the execution would be carried out in the manner prescribed in that State. This subsection generally reinstates a portion of the provisions of former section 3566 of title 18 which was repealed as of November 1, 1987, by P.L. 98-473.

Subsection 3596(b) states that a sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed, or upon a woman who is pregnant. The latter limitation is to spare the unborn. Following the conclusion of the pregnancy, the sentence of death would be implemented. The former limitation is intended to implement the constitutional bar on execution of a person who is mentally incompetent but who was sane at the time of the offense and who was competent to stand trial. See *Ford* v. *Wainwright*, concurring opinion of Justice Powell, 477 U.S. at 425 and footnote 5: "The only question raised is not *whether* but *when* his executiion may take place. [Emphasis in original.] [I]f petitioner is cured of his disease, the State is free to execute him."

SECTION 3597 (USE OF STATE FACILITIES)

This section reinstitutes other parts of former section 3566 not contained in subsection 3596(a) by authorizing the United States Marshall charged with implementing the sentence of death to use State facilities and to pay the costs thereof.

Mr. DURENBERGER. Mr. President, unfortunately, I must vote today against the S. 1970, the omnibus crime bill. I do so, even though there are pieces within the bill that take an important step toward making America safe from criminals. Yet, because of my life-long and firmly held opposition to the death penalty, I cannot support this bill.

I firmly believe the only way to control crime is to make the criminals responsible for their actions in every circumstance. Thus, criminals must know they will be apprehended and sentenced to long terms in prison. Without such knowledge and stiff penalties, criminals are undeterred. The 1990

omnibus crime bill will do this, however, it goes a step further; a step I cannot support: the death penalty.

My record and views on the death penalty are crystal clear and unchangeable: I oppose it in any form and in any circumstance. Human life is sacred. A responsible society does everything in its power to protect and enhance human life, not destroy it. I have spent my 11 years in the Senate working against such measures, never voting for them or in any way making this reprehensible punishment more likely. To me, the death penalty is not only bad policy but morally wrong.

Mr. President, this bill not only makes the death penalty applicable to more crimes, it seems to encourage its use. Thus, despite its laudable crime control measures, the fact that it will expand the use of the death penalty forces me to cast my vote against its final passage.

Mr. SASSER. Mr. President, I am pleased at the action of the Senate today in passing this crime bill.

The bill will provide important new resources to our law-enforcement agencies in their battle against crime.

I am pleased that the bill contains an amendment that I and Senator SPECTOR offered to establish a national police corps program.

Our legislation would establish a program similar to the Reserve Officers Training Corps. In return for scholarship assistance, a student would agree to serve 4 years in a State or local police force.

The amendment also contains a component suggested by the Senator from Florida, Senator GRAHAM, which establishes a scholarship program for serving police officers. I believe that this proposal strengthens the amendment. It allows serving police officers to improve their education—often a key for promotion and advancement.

Mr. President, our Nation's cities are currently experiencing a crime wave the likes of which this country has not seen in years. Day after day on the news and in the newspapers we see the savage and mindless violence that is spawned largely by the drug trade. We see people killed in their homes by stray bullets from the gunfights going on literally outside their windows. We see children caught in the crossfire as drug dealers fight it out for control of street corners and neighborhoods.

These vicious criminals are destroying our communities, they are destroying our families, and they are destroying our youth. The huge profits to be made in the drug trade are simply warping the values for many people. Parents, and community and religious leaders are finding it impossible to steer our youth away from the glitter of the huge amounts of easy money available from the drug trade.

Our amendment would provide our police increased manpower for foot patrols, for strike forces, and for working with community groups who wish to work with the police to break up criminal activity.

One of the greatest deterrents to crime is simply police presence—on the streets and in our neighborhoods. It increases the risk factor for criminals. We need to increase the risk for the criminal so that if he commits a crime a patrolman will apprehend him, or a strike force will be operating on that block, or that the citizens will promptly inform the police.

There is another benefit from our legislation that should not go unmentioned. Too few of our citizens understand the pressures and the dangers that our police officers face. When the graduates of the Police Corps Program complete their service they may go on to other careers. However, they will know what it is to be a police officer. They will be able to share that knowledge with their neighbors. I firmly believe that this will increase respect and support for the brave men and women who put their lives on the line every day for all of us.

Another important provision of the bill will establish a program on rural drug enforcement. First of all, it will create the new position of Rural Drug Policy Coordinator within the office of National Drug Control Policy. This official will be responsible for examining the special needs of rural areas in drug interdiction and for recommending policy options for the enhancement of drug interdiction in rural areas.

Second, it will provide a minimum of $100,000 to States such as Tennessee for rural drug enforcement. Third, it will provide increased training for law-enforcement officers from rural jurisdictions.

Those of us who represent large rural areas have been saying for some time that insufficient attention has been paid to the problems of rural drug enforcement. As drug enforcement has increased along the gulf coast in recent years, drug smugglers have moved inland.

For instance, my own State of Tennessee is easily within range of the aircraft commonly used by drug smugglers flying from South America. It contains many small, rural airports and airstrips that are particularly vulnerable to use by drug smugglers. Law enforcement officials in my State have identified many such airports which need additional surveillance.

However, State and local law-enforcement agencies simply do not have the manpower to monitor these airports and airstrips on anything approaching a regular basis.

In addition, the crime bill also strengthens our forfeiture and money laundering laws. This will allow law-enforcement agencies to confiscate drug dealers assets.

Overall, Mr. President, this is valuable legislation and I urge our colleagues in the House to act on it quickly.

Mr. LIEBERMAN. Mr. President, I have received a number of inquiries recently about whether the provisions of section 3 of the Anti-Drug, Assault Weapons Limitation Act of 1989, which is now contained in S. 1970, include the Colt Sporter. According to Colt, although the Sporter has a similar appearance to the AR-15 and CAR-15—both of which are named in section 3—it is not the same weapon. Colt says that unlike the AR-15 and CAR-15, the Sporter has no bayonet mount, has a five-shot magazine—rather than a 20-shot magazine—that is permanently blocked and riveted to hold the bullets in a manner that cannot be converted without destroying the gun, and contains a new anti-conversion block that prevents conversion of the rifle to fully automatic use. The manufacturer informs me that it is extremely difficult for anyone other than a skilled machinist using a full machine shop to remove the anticonversion protections in the Sporter. Based upon these representations, I wanted to ask the principal sponsor of these provisions, my friend and colleague fom Arizona, Senator DECONCINI, whether it is his understanding that the Sporter is one of the weapons covered by section 3 of the Anti-Drug, Assault Weapons Limitation Act of 1989?

Mr. DECONCINI. I do not believe that the Sporter, as you described it, is an AR-15 or a CAR-15 as enumerated in S. 1970. The DeConcini amendment focuses on the 14 specifically enumerated weapons listed in S. 1970. From your description of the Colt Sporter, it appears that this weapon is distinguishable enough from the AR-15 and the CAR-15, and is thus not one of the weapons listed in my amendment.

In the past, I have requested the support of the gun manufacturers of America to join us in this drug war and to discontinue supplying drug traffickers with their weapons of choice. I commended Colt for voluntarily ending the production of the AR-15 last year.

Thus, when I became aware that Colt was manufacturing the Sporter, I sent a letter to Colt inquiring about this new weapon. I was concerned that Colt was attempting to circumvent the legislation by producing the AR-15 under a new name. This action would have been irresponsible and a violation of the spirit of the bill. The AR-15 and CAR-15 were included in the listed weapons of my bill because of the frequency in which they appeared in BATF tracing statistics and because they were identified by law-enforcement representatives as being firearms commonly encountered in drug raids.

However, Colt has assured me that the Sporter is indeed not the AR-15 under a new name.

The DeConcini amendment also authorizes and directs the Attorney General to investigate and study the effect of the provisions of the bill and any impact therefrom on violent and drug trafficking crimes. It is my intention to request the Attorney General also to study attempts to circumvent this bill by attaching pseudonyms to the weapons listed in this bill.

I want to thank the Senator from Connecticut for bringing this matter to my attention. I am submitting my letter of April 30, 1990, to Colt Manufacturing Co. for the RECORD to further evince my intent in this legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE OF THE JUDICIARY,
Washington, DC, April 30, 1990.

MR. RICHARD F. GAMBLE,
Colt Manufacturing Co.,
P.O. Box 1868, Hartford, CT.

DEAR MR. GAMBLE: Last year Colt Firearms took a courageous step by voluntarily ending production of the AR-15 semiatuomatic assault weapon. That action was a domestic response to President Bush's ban on the importation of foreign manufactured assault weapons. Colt sent a clear message to the American public that it was joining law enforcement in the war against drugs and would no longer provide drug traffickers their "weapon of choice."

However, The Washington Post recently reported that your company has begun producing a "new, modified version" of the AR-15. According to the article, this new version of the AR-15, which you have decided to call the "Sporter", only differs from the AR-15 in that it lacks a bayonet mount and a flash suppressor. Thus, the new AR-15, under a deceptive pseudonym, still possesses a military configuration, a pistol grip, night sights and the ability to accept a detachable magazine; all features that President Bush took into consideration in banning the future importation of foreign made semiautomatic assault weapons.

According to 1988 tracing statistics by the Bureau of Alcohol, Tobacco and Firearms on semiautomatic assault weapons used in crimes, the AR-15 was used in more crimes than any other rifle. This was the principal reason why I included this weapon in my Anti-Drug Assault Weapons Limitation Act of 1989. My bill, which was passed by the Senate Judiciary Committee last July, would ban the future manufacture of the AR-15. If you doubt that your gun jeopardizes the safety of this country's law enforcement officers, contact Daryl F. Gates, Chief of the Los Angeles Police Department, who had one of his officers killed by a gang member firing 30 rounds at his squad car with an AR-15.

When you announced in March 1989 that Colt would halt the civilian sale of the AR-15, the leader of our war against drugs, National Drug Control Policy Director William J. Bennett, called your step "an act of civic responsibility." Correspondingly, any attempt to produce the AR-15 under an assumed name would be irresponsible and detrimental to this country's battle against the drug scourge.

I hope that your explanation for your company's decision will show that Colt is not attempting to undermine this country's efforts to fight the drug war. I look forward to hearing from you on whether the published report of your company's decision is accurate.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

Mr. CONRAD. Mr. President, I rise today in support of the omnibus crime bill. This legislation contains important provisions which will improve the ability of this Nation to control and combat crime.

This bill is a comprehensive proposal. It contains provisions to increase assistance to State and local law enforcement agencies; enhance Federal law enforcement resources; improve Department of Justice [DOJ] organization; tighten laws prohibiting money laundering by international drug lords; and bar the manufacture and sale of nine semiautomatic weapons which have been identified as the weapons of choice of the drug kingpins in this country.

The bill also contains a major expansion of the Federal death penalty and alters the ability of prisoners to file habeas corpus petitions. I was concerned about these last two provisions. I supported efforts to strike the death penalty because of my concern about the risk of executing an innocent person. I also supported the Biden-backed habeas corpus reform proposal because, while I agreed that the ability of prisoners to clog the courts with frivolous habeas petitions must be limited, I felt that the Biden proposal was a more reasonable reform of the system. However, despite these concerns, I believe this bill will pave the way for a substantial improvement in drug and crime control in this country, and thus I will vote for the bill.

I am especially pleased about the amendment adopted today regarding the prosecution of the S&L crooks. I have been deeply disturbed by the inaction of the Bush administration on this matter. The administration had refused to throw the book at those who stole from taxpayers by making risky and sometimes fraudulent investments with the backing of federally insured deposits in thrift institutions.

I supported an amendment on the supplemental appropriatons bill for fiscal year 1990 to put more resources into the prosecution of financial industry crimes. I also joined as an original cosponsor of the legislation to create a strike force within the Department of Justice to go after those who committed fraud in the thrift industry.

Today, we adopted a comprehensive amendment which will raise the maximum penalty for bank fraud and embezzlement from 20 to 30 years; impose mandatory minimum sentences in major fraud and embezzlement cases; create an S&L "kingpin" statute that provides up to life imprisonment for S&L operators who conspired with others to derive a large amount of money from their crimes; allow the Attorney General to bring civil and criminal suits under the Racketeer Influenced and Corrupt Organizations [RICO] Act; and create an S&L strike force within the DOJ.

The amendment will also expand Federal asset seizure, forfeiture and money laundering laws in S&L-related cases so the Government can stop these criminals in their tracks.

Finally, the amendment increases authorization for judicial resources to insure prompt prosecution of financial industry crimes.

Mr. President, there are a number of other provisions in this bill that I support, but I want to dwell on one in particular. The increase in authorization of local law enforcement grants to a level of $900 million is extremely important. These funds go to the front lines of this Nation's "war on drugs": State and local government, I am very supportive of this program. It has allowed those in law enforcement in my own State of North Dakota to conduct the sort of operations which are necessary to combating drug trade and other violent crimes.

Mr. President, I am also very supportive of the Biden amendment which was adopted on June 28. The amendment authorizes funding for 1,000 FBI agents, 1,000 DEA agents, 500 border patrol officers and 480 Federal prosecutors. The amendment also contains an important rural drug initiative which will assure that adequate funds flow to rural States for combating drugs. The amendment contains a number of other provisions which will increase the ability of Federal law enforcement officials to target their efforts on the most pernicious and violent of crimes committed in the country.

I urge my colleagues to support this important bill.

Mr. LEAHY. Mr. President, our criminal justice system is stretched too thin. We are under seige from the drug trafficking scourge to white collar crimes that include the savings and loan fiasco, environmental crimes and violations in our stock and commodities exchanges. The Senate crime bill takes aim at drug-related crimes and the S&L frauds with more police, stiffer penalties, and more effective drug prevention programs.

This bill gives Federal courts, U.S. attorneys, marshals, defense attorneys, the FBI, the DEA, and other Federal crime fighting agencies more manpower to respond to the rising tide of serious crime that engulfs our Nation.

The bill gives a boost to rural law enforcement in States like my own Vermont. We don't have the same level of illegal drug trafficking and crime that haunts our cities, but we are still undermanned to fight this war in sparsely populated regions. As law enforcement battles urban crime, drug dealers look to rural areas for processing drugs and developing new markets. This legislation creates a rural drug policy coordinator in the Office of National Drug Control Policy. It earmarks funds, equipment, and additional manpower to rural States. Law enforcement in States like mine will finally get the help needed to detect illegal drugs—in the growing, processing and dealing stages.

But law enforcement is only part of the solution to the drug crisis. This legislation contains important provisions to prevent drug abuse by children and young people. The bill has grant programs for community based drug prevention proposals, to bring communities together to fight drugs, plus grant programs specifically targeted toward juvenile gang prevention. I am particularly pleased with these features of the bill.

Mr. President, another important provision in this bill is Senator DECONCINI's limited ban on nine specific assault weapons, like the AK47.

Senator DECONCINI's proposal would ban the future sale and importation of only nine specific, listed weapons, and would add an automatic 10-year prison term to any sentence for violent and drug-related crimes involving assault weapons. The ban would be imposed for 3 years, while the Justice Department completes a study of the ban's impact on violent and drug-related crime.

It is time for Congress to stand up for law enforcement organizations who have expressed support for Senator DECONCINI's proposal.

One of the most important provisions in the bill is the amendment—which I cosponsored—on savings and loan fraud. The dimensions of the S&L debacle have grown day by day. And its clear that fraud, and not just poor business judgment, is a major cause of this crisis.

This amendment provides the agents that the FBI and the Justice Department have called essential for any effective assault on the S&L crooks. It stiffens penalties for S&L-related fraud, insuring that these white collar criminals will never have another chance to bilk the American public as they have in the past.

I support the bill despite my aversion to an expansion of the Federal death penalty. I oppose the death penalty on moral grounds, and I believe it is wrong as a matter of public policy. I have argued and voted against the death penalty at every stage of this bill's movement through the Senate.

Capital punishment drains the resources of the criminal justice system. It is often more costly to execute people than imprison them for life. The death sentence leaves no room for error by judge or jury.

Furthermore, a recent General Accounting Office study covering the past 18 years showed that capital punishment is imposed in a racially discriminatory manner. Crimes involving a white victim result in the death penalty more than crimes against blacks. In some States, a black defendant is more likely to get the death sentence than a white defendant convicted for the same crime. This is intolerable.

I regret that the Racial Justice Act, which was originally part of this bill, was eliminated by the Senate. I voted to keep it as a protection against racially biased decisions. If the defendant established a pattern of racial bias in a death sentence, the prosecution would be forced to prove the sentence warranted by other factors. The Senate's removal of the Racial Justice Act, insures that discrimination will continue to be a pervasive factor in capital punishment.

Mr. President, I am also troubled by the drastic habeas corpus reform measure included in this bill. A habeas petition is a prisoner's right to a Federal court review on the constitutionality of a conviction. It is the primary means by which the Federal courts ensure that State courts are applying constitutional protections in State cases. Some 3 percent of all Federal habeas petitions filed by State prisoners are successful, but in capital crimes, the figure gets as high as 40 percent and more. This illustrates that habeas review is an important constitutional check in the most complex criminal cases, and a right that should be insured.

As a former prosecutor, I know we need reform of habeas corpus rules. Repetitious, frivolous claims can drag on for years. I supported the Biden-Graham compromise to provide counsel and strict limits on habeas petitions in an effort to cut down on successive petitions. The Thurmond-Specter provision now in the bill would effectively eliminate state habeas proceedings by creating an unworkably short statute of limitations for filing Federal petitions. This results in Federal review of habeas claims that State courts lack an opportunity to consider and correct on collateral review.

Mr. President, having stated my concerns about the death penalty and habeas reform provisions, I will vote for this bill because I am convinced that overall it will make a valuable contribution to fighting crime and drug trafficking. The resources for law enforcement and prevention programs, the assault weapons ban, and the many other important crime fighting proposals in this bill will help to turn the tide against the white collar criminals and the drug lords that are corrupting our playgrounds, our streets, and our homes.

Mr. HARKIN. Mr. President, I rise today to commend Senators BIDEN and THURMOND and their staffs for the long hours that they have spent in crafting this crime bill. I'm especially pleased at the inclusion of three key provisions of which I am a strong supporter: providing for penalties for individuals involved in the S&L scandal, the creation of a program to offer benefit payments to public safety officers, and greater assistance to our rural law enforcement officials in fighting the war on drugs.

I am pleased that the Wirth-Heinz amendment has been included in this measure. The amendment includes numerous provisions which will greatly increase the ability to genuinely punish and recover funds from those who engaged in criminal activities involving savings and loans. They have cost the taxpayers huge sums and should be placed in jail for long sentences. The Wirth amendment which I am proud to have cosponsored provides up to life sentences.

The amendment provides for a special office in the Justice Department to focus on these criminals, more FBI and other agents so we can develop the cases against wrongdoers, and the prosecutors to see that the cases can be properly pursued in court. It also increases the ability of law enforcement officials to acquire information about illegal activities.

I'm also happy to see included a provision that will give this Nation's police officers and firefighters some compensation for their hard work and selflessness. This provision would provide for a benefit payment to public safety officers who are totally and permanently disabled as a result of an injury sustained in the line of duty. Our policy officers put themselves on the line every day to protect our lives, our property, and our communities. It is long overdue that we give something back in return.

One case that has been brought to national attention recently is that of the heroic work of Steven McDonald. Mr. McDonald was a police officer in New York City who became severely paralyzed as a result of a shooting in the line of duty. His wife, Patti Ann, was pregnant at the time with their first child. Today, 4 years after the tragedy, despite his confinement to a wheelchair and the trauma that he has gone through, Steven McDonald continues his courageous work through speaking engagements at schools, warning children about the dangers of drugs.

In the 100th Congress, we reaffirmed our commitment to public safety officers by increasing the death

benefits from $50,000 to $100,000, and providing for future increases to keep pace with inflation. I am happy to see that we are now providing a modest benefit for police and firefighters who are catastrophically injured in the line of duty.

Finally, I am glad to see included in the crime bill the law enforcement amendment that I offered along with Senators BIDEN, SIMON, BAUCUS and PRYOR. This amendment would add 1,000 FBI agents, 100 DEA agents, 500 border patrol officers, and 480 Federal prosecutors to our Nation's arsenal in the war on drugs. Equally important, for rural America, the law enforcement amendment includes the "Rural Drug Initiative" which will dramatically improve the law enforcement capabilities of smaller, rural States like Iowa.

The rural drug initiative targets an additional $20 million for law enforcement assistance for rural areas. It calls for the creation of a rural drug policy coordinator—a rural drug czar—within the Office of National Drug Control Policy. And it would assign not fewer than 10 DEA agents for 18 targeted rural States, including my home State of Iowa. I will work to ensure that one of these DEA agents is assigned to Sioux City, IA.

The number of people admitted for cocaine addiction treatment in Iowa doubled in 1987, doubled again in 1988, and continues to escalate. And the number of drug related deaths in Iowa increased by 17 percent in 1988 over the 1987 level. Drug abuse and the crime that goes along with it is no longer a problem present only in New York and Los Angeles. Inclusion of the rural drug initiative will bring to our rural communities the attention that the current drug crisis deserves.

Also included in the Kerry provision is an increase in the Federal block grant for States and local enforcement agencies to $900 million in fiscal year 1991. This provision more than doubles Federal antidrug aid for Iowa's sheriffs and police from $4.8 million this year to $10.36 million.

Mr. BAUCUS. Mr. President, one of the greatest problems facing our Nation today is the drug crisis. And, as I have said before, this problem is pervasive throughout the country, including my home State of Montana.

I have told you before about the crack house in Helena.

I have told you about members of the drug gang, the Crips, being arrested in Billings.

I have told you about the increase in cocaine arrests and the increase in the number of methamphetamine labs shut down in my home State.

I've told the Senate and the drug czar, the U.S. Attorney General, and the DEA.

But I still don't have what I want—more money and resources for rural areas.

Montana is the fourth largest State in the Union. The distance from Washington, DC, to Maine is less than the distance between Ekalaka, MT, and Eureka, MT.

Despite the size of my State, only three DEA agents are assigned there.

Because of inadequate Federal funding, local law enforcement agents are forced to make up for the lack of a larger Federal presence. And it's very difficult for them to do so, given budget constraints at the State and local levels.

The work facing the Tri-Agency Task Force is a good example of the burdens local law enforcement agencies must bear.

The Tri-Agency Task Force is the drug enforcement agency responsible for Hill and Blaine Counties in northern Montana. Task force officers have a jurisdictional area of over 6,800 square miles.

The task force has two full-time officers and the use of two part-time officers from nearby jurisdictions.

That's four people to cover almost 7,000 square miles.

Let me assure you that the reason they don't have more officers is not because they don't have a drug problem.

The Tri-Agency Task Force has seized cocaine, methamphetamine, prescription narcotics, LSD, and marijuana. All of this from an area with a total population of about 25,000 people.

I have met with Officer Mark Stolen, who's one of the driving forces behind the task force. He's an excellent law enforcement officer. He and his fellow agents are dedicated. They work hard and their investigations are successful.

But they're getting tired of hearing that there's no money to hire more officers.

They find it hard to believe that the war on drugs is such a high national priority when they have to struggle to get adequate funding from the Federal Government.

Their situation is not unique. Many other counties across Montana are going through the same thing.

Kalispell Chief of Police Addison Clark has been working hard to get more Federal resources and he has shown me why they're needed.

Flathead County has only four detectives to work drug enforcement on a full-time basis.

And these four detectives have been very busy.

Since January 1986, the officers in Flathead County have been responsible for the following: Over 100 felony convictions; over $100,000 in fines and forfeitures; and over $250,000 in confiscated drugs, including marijuana, cocaine, LSD, methamphetamine, psychedelic mushrooms, heroin, and prescription drugs.

There have been reports that over one million dollars' worth of drugs go through Flathead County in any given month.

It's obvious that there is a great need for additional Federal resources in Flathead County and the rest of Montana.

Chief Clark, Officer Stolen, and the men and women they work with need our help.

The Federal Government must do more to help rural States.

Today the Senate passed the omnibus crime bill, which contains provisions based on legislation I introduced last year. Those provisions direct the Attorney General to assign more agents to rural States and to increase funding for them.

In addition, the bill contains another measure I authored which directs the U.S. Attorney General to study the feasibility of implementing a 21-day waiting period before the purchase of chemicals which could be used to manufacture methamphetamine.

Methamphetamine producers prefer to set up their labs in secluded areas. Its production has increased dramatically in Montana during the past few years. I hope this legislation will help the Attorney General develop a policy to assist law enforcement efforts in those areas.

The enactment of these provisions is extremely important for rural States. I hope the House moves quickly on similar legislation and that this bill goes to conference soon.

When this bill gets to conference I hope the conferees realize the importance of adequately funding the rural war on drugs and retain the provisions I support.

But I also hope the conferees do one more thing.

I would like them to strip the gun control provisions out of this bill.

I firmly believe that restrictions on gun ownership will not stop drug-related crime. Criminals will always be able to find guns. But law-abiding citizens will obey the law and be denied the right to purchase firearms. That's wrong.

I realize these provisions were proposed out of frustration over the rise in violent crime. I am also very angry about the rising crime rate but firmly believe gun control isn't the answer.

I am asking my colleagues who also oppose gun control to join with me in an effort to persuade the conferees to drop the gun control provisions in the crime bill.

We must protect the rights of law abiding citizens to purchase firearms.

Mr. GRAHAM. Mr. President, I rise to express my support for passage of S. 1970, the omnibus crime bill. This

bill represents a tough, bipartisan response to the needs of law enforcement and the judiciary in fighting the war on crime and drugs.

As with most of my colleagues, there are portions of this comprehensive package which I support and portions which I oppose.

I support the provisions authorizing the death penalty for a number of new crimes and setting forth procedures for implementing capital sentences.

This bill includes my provisions mandating tougher treatment of illegal aliens convicted of heinous crimes—murder, drug trafficking, and weapons trafficking.

I support the provisions authorizing $900 million to the Bureau of Justice Assistance for State and local law enforcement assistance and am pleased the Senate included my proposal to authorize $30 million for educational assistance to local and State law enforcement officers.

I support the provisions requiring stricter prison work rules, increasing the number of FBI and Drug Enforcement Agency agents, requiring drug testing for all defendants released on probation or parole and enhancing protections afforded to child victims of crime.

I am very concerned, however, about the provisions the Senate adopted regarding habeas corpus reform. This is a matter which I have been actively involved with both in the State government and since my first day in the U.S. Senate.

In the 1988 Anti-Drug Abuse Act, the Senate set up procedures for reviewing and acting on the recommendations offered by Chief Justice Lewis Powell's Committee on Habeas Corpus Reform.

After thoroughly reviewing Justice Powell's report, comments from numerous legal experts and the various legislative proposals, Senator DECONCINI and I offered amendment No. 1686 to S. 1970.

Our amendment was guided by the general consensus that the States should have responsibility to provide competent counsel to individuals facing capital sentences and that defendants should, within reasonable time limits and scope of review, be afforded a fair review of their claims.

Senator THURMOND, Senator BIDEN, Senator SPECTER, Senator DECONCINI, and I started off independently on how to reform habeas corpus laws and, I am pleased to report, came to agreement on some of the basic issues that the Senate accepted.

Where we once had significantly varying opinions with regard to the mechanism for appointing competent counsel at the trial level, our final proposals were identical.

Where we once had significantly varying opinions on how to handle the issue of procedural default, our final proposals were identical.

Where we once had varying opinions on the issues of retroactivity, our final proposals both provide for retroactive application of U.S. Supreme Court decisions.

In fact, the language Senator DECONCINI and I offered is more conservative in that it allows retroactivity only in cases where the Court determines such an allowance would not conflict with the interests of finality.

Mr. President, agreement on these issues was no easy feat and I appreciate the work of my colleagues on both sides of the aisle in this effort.

Where Senators BIDEN, DECONCINI, and I disagree with Senators THURMOND and SPECTER are on aspects of their amendment which were never considered by the Senate Judiciary Committee, never considered by Justice Powell's Committee on Habeas Corpus Reform, and as far as I am aware, never proposed by anyone in the Senate until the day of the debate, May 23, 1990.

The Thurmond amendment would require that Federal habeas corpus claims be filed within 60 days from the disposition of U.S. Supreme Court action on direct review. What this means, Mr. President, is that regardless of the progress of the State habeas corpus proceedings, prisoners are required to file their claims in Federal court.

It is unclear how the Federal court could proceed without the benefit of facts which are historically discovered in the State court. By bypassing the State system, the Federal courts will be burdened with resolving what are essentially State court issues.

A Federal judge knowledgable of habeas corpus issues correctly pointed out that the Thurmond amendment effectively eliminates the historical process of exhausting State claims before hearing habeas claims in Federal court. The bill violates principles of sovereignty and federalism.

Mr. President, section 2268 of the Thurmond amendment also places a 110-day time limit on the consideration of habeas claims in the Federal District Court and a 90-day time limit on claims heard in the Appeals Court and the U.S. Supreme Court.

University of Georgia law professor and reporter for the Powell Committee Al Pearson raised the question that I share: How will this provision be enforced? Under the rules of criminal law, cases not handled by the courts in a timely fashion are dismissed. Is the same to be true in capital cases? Will a convicted murderer be freed if a Federal judge is unable to hear the case in the time allowed?

In debating this measure these questions were asked, but never satisfactorily answered. We must close this gigantic loophole, a loophole which would effectively end the death penalty in this country if judges are unable to meet these arbitrary time limits.

I know that the proponents of this amendment share my support for capital punishment laws. I expect that Senator THURMOND and Senator SPECTER, strong supporters of State sovereignty, will realize that requiring Federal habeas proceedings to preceed State habeas proceedings will make a mockery of the traditional relationship between the Federal and State governments.

I am ready to work with my colleagues to develop legislation that meets the public demand for habeas corpus reform in a meaningful and effective manner.

Mr. DECONCINI. Mr. President, I also rise to express my support for final passage of S. 1970, the omnibus crime package of 1990. I applaud my distinguished colleague, Chairman BIDEN, for his fine work on this important legislation. We should commend him, as well as the ranking member of the Judiciary Committee, Senator THURMOND, for their leadership on this bill.

S. 1970 contains a number of provisions designed to reduce both violent crime and illegal drug use. The bill contains provisions that I sponsored, including the Antidrug Assault Weapons Limitation Act, authorization of additional border partrol officers, a prohibitation on advertisements promoting the distribution or transfer of controlled substances, and greater distribution of forfeited assets from U.S. Customs to State and local law enforcement.

I fully support the death penalty provisions of S. 1970. I also support habeas corpus reform. This is an issue that I have been focused on for some time. I am convinced that we must find a solution to the backlog in our Federal courts casued by the repeated collateral view of death penalty convictions. In previous Congresses, I have introduced habeas corpus reform legislation, and this Congress I cosponsored Senator THURMOND's bill, S. 88.

More recently, I worked with Senator GRAHAM in introducing a substitute for the habeas corpus reform provision originally contained in S. 1970. The Senator from Florida has become a leader in the Senate on this issue and his suggestions for reform deserve due consideration. Indeed, as he has just noted, our substitute for habeas corpus reform had few differences from the Thurmond-Specter substitute, which the Senate incorporated into S. 1970.

The areas where these two provisions part, however, should be revisited. As Senator GRAHAM has discussed, the 110-day time limit placed on the consideration of habeas corpus claims in the Thurmond-Specter proposal

could prove to be problematic. I agree wholeheartedly with the intent behind this provision, but I fail to see how it can be enforced. More troublesome is that defendants may consider the court's failure to abide by the time limit prejudicial and may encourage the filing of additional petitions based on time limit violations.

The Thurmond-Specter proposal also delays State post-trial review by permitting prisoners to proceed directly from State court to Federal court. Because this proposal was introduced on the floor, we did not have the benefit of hearings to determine how exactly this novel method would effect federal courts. Will we have a situation where prisoners will be able to raise anything under the Sun and a Federal judge has 50 days to decide the petition? Senator GRAHAM has raised other concerns about the differences between the two bills, differences that indeed need further examination. As Senator GRAHAM has, I would like to hear the views of Federal judges and State prosecutors on whether the bypass of State postconviction relief will in the end alleviate the backlog of habeas petitions in Federal court.

I commend Senator THURMOND and Senator SPECTER for their hard work on drafting a habeas corpus proposal. I believe that the majority of Thurmond-Specter substitute will greatly aid in reducing the overflow of frivolous collateral actions that clog our Federal courts. However, I agree with Senator GRAHAM's assertion that certain provisions of the Thurmond-Specter substitute could possibly frustrate our goal. I hope that we have an opportunity to revisit these provisions in conference.

Mr. THURMOND. Mr. President, If there is no objection I think we are ready for a vote on final passage.

The PRESIDING OFFICER. Under the previous order, the vote will take place at 12:30 on the amendment, to be followed immediately by the vote on final passage with no intervening debate or amendment.

Mr. BIDEN. Mr. President, have the yeas and nays been asked for on that final vote?

The PRESIDING OFFICER. The yeas and nays have not been asked for on the final passage.

Mr. BIDEN. Mr. President, I ask for the yeas and nays

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, parliamentary inquiry, prior to final passage of the crime bill, is there a vote ordered on the savings and loan amendment?

The PRESIDING OFFICER. There is, and it is a rollcall vote.

Mr. BIDEN. There has been a rollcall vote requested?

The PRESIDING OFFICER. The Senator is correct. The yeas and nays have been ordered.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent there be a period of morning business to extend beyond 11:45 a.m., with Senators permitted to speak therein as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

V-22 COST AND OPERATIONAL EFFECTIVENESS ANALYSIS STUDY RELEASE

Mr. SPECTER. Mr. President, the V-22 Osprey is a very important plane which is now under consideration by the Congress as to its retention in the budget for fiscal year 1991.

There has been an exhaustive report recently completed by the Institute for Defense Analyses which shows conclusively that the V-22 Osprey is cost effective and is a plane which should be included in preference to all other alternatives available for very important functions in the Department of Defense.

Mr. President, at the conclusion of my remarks I will ask unanimous consent to include an extract which I have made on an unclassified version of a cost and operational effectiveness analysis prepared by the Institute for Defense Analysis for the Department of Defense. But for present purposes I will quote two extracts from the report which establish the preference for the V-22. At page 13, in volume 1, the following appears:

"* * * the V-22's speed, range and survivability advantages could enable even the 356 aircraft fleet to more effective—sometimes signficantly more and other times only slightly more—that all of the proposed helicopter alternatives in each of the four Marine missions examined * * *.

Then, Mr. President, at volume 1, page 22, the following occurs:

The V-22 is more cost effective than helicopter alternatives for the Navy combat search and resuce, Air Force special operations, and DOD or other Government agency drug interdiction missions.

Mr. President, notwithstanding the conclusive nature of the report from the Institute for Defense Analyses, the Secretary of the Defense has insisted on standing by what I think was a predetermined conclusion not to support the further funding of the V-22.

Mr. President, I ask unanimous consent that at the conclusion of my remarks there be printed in full in the RECORD: First, the summary which I have prepared dated July 1, 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Second, that there be printed the letter from the Secretary of Defense to me dated June 29, 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. That there be printed a rebuttal to what the Secretary of Defense has had to say.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. SPECTER. And, finally, an article which appears in the Philadelphia Inquirer, dated July 4, 1990, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. SPECTER. I thank the Chair.

Mr. President, I thank the Secretary of Defense for making available to me the report of the Institute for Defense Analyses on June 29, which was the first date that it was released.

After this report was released and this Senator quoted from the report of the Institute for Defense Analyses, a reply was issued by the Department of Defense in the name of the Secretary by a spokesman, Mr. Pete Williams, who says: "The Secretary has concluded that the decision that he made last year remains valid."

It is my view, Mr. President, that the conclusion of the Secretary of Defense was a predetermined conclusion unwilling to be moved by the plain facts and the conclusive analysis by the Institute for Defense Analyses.

The DOD spokesman, Mr. Williams, said that "Cheney disagreed with the assumptions on which the report was based."

Mr. President, the Department of Defense had ample opportunities to establish the scope of that report and had ample opportunity to provide different assumptions.

When the Armed Services Committee is now marking up the Department of Defense authorization bill, Mr. President, it is my view that the report of the Institute for Defense Analyses is so persuasive, so compelling, so overwhelming that it ought to be adopted and the V-22 Osprey included in the fiscal year 1991 authorization by the Armed Services Committee.

Mr. President, I have requested that hearings be held on the subject by the defense appropriations subcommittee because I believe that the Department of Defense officials who continue their opposition in the face of this conclusive report ought to explain in detail why, under these circumstances, they continue to insist that the V-22 Osprey is not the plane which most effectively meets their needs.

EXHIBIT 1

V-22 COST AND OPERATIONAL EFFECTIVENESS ANALYSIS STUDY RELEASE

On Friday, June 29, 1990, the Department of Defense released a draft report entitled "Assessment of Alternatives for the V-22 Assault Aircraft Program." This study was first requested by Congress July 1, 1989 (exactly a year ago today) in order to effectively evaluate the mission, aircraft survivability, cost, and deployment schedules for the V-22 and alternative aircraft. The report was recently submitted to DOD by the Institute for Defense Analyses (IDA). All quotations and findings referenced in this statement are from the unclassified portion of the study. The studay's summary states unequivocally that for the $24 billion that would be needed to purchase alternative helicopters, *"the V-22's speed, range, and survivability advantages could enable even the 356 aircraft fleet (the number of V-22's that could be purchased for $24 billion) to be more effective—sometimes significantly more and other times only slightly more—than all of the proposed helicopter alternatives in each of the four Marine missions examined."* (page 11, Vol. 1, italics)

This statement dramatically demonstrates that the Department of Defense's sole justification for terminating the V-22 program, that it was too expensive, is unfounded. I mention this because Secretary Cheney himself has stated to me and many of my colleagues on numerous occasions that he likes the V-22, but decided to cancel it only because he thought we couldn't afford it.

Now, with the results of the study that Secretary Cheney himself commissioned, we see that, in fact, the V-22 is more affordable than his own proposed alternative. Based on these findings, I submit that the V-22 Osprey should be reinstated with procurement funding appropriated for Fiscal Year 1991.

The IDA study was requested in both the conference reports to the FY 1990 Defense Authorization and Appropriation's Act. The Defense Authorization report language stated "The Conferees note that the future of the V-22 will be considered on the basis of the information that will be provided as a consequence of the studies and certifications." The Defense Appropriations report language classified this request by stating that "The Conferees believe that this study should be used as a basis for a decision to begin production of the V-22 in Fiscal Year 1991."

Given the overwhelming Congressional interest in this report and its significance based on the FY90 report language, this study should help lay to rest the debate as to the cost-effectiveness of the V-22.

As we face the complex task of scaling down our defense spending, we must be careful not to cancel programs that not only represent a dramatic advancement in capability, such as the V-22, but provide a flexibility in mission that could fulfill requirements for all of the services. As the V-22 study demonstrates, not only could the Marine Corps medium lift and opposed combat assault missions be performed by the V-22 more effectively than alternative helicopter mixes, but it could also perform missions more cost-effectively for the Air Force and the Navy. For example, the study finds that "the V-22 is more cost effective than helicopter alternatives for Navy combat search and rescue, Air Force special operations, and DOD or other Government Agency drug interdiction missions." This capability is particularly promising for special forces operations such as hostage rescue or combat raid missions. The study concludes that "a rescue raiding party equipped with V-22's could be launched from farther out to sea or sent against targets deeper inland than would be the case with Marine forces equipped with any of the alternatives." Also, the time needed to reach the target from the same initial position offshore is more than 5.5 times greater for the best alternative helicopter.

Although Army missions were not addressed in this study, it should be noted that the V-22 was originally designed as an Army program and is capable of fulfilling many Army missions as well. Clearly, the tiltroter technology utilized in the V-22 represents a revolutionary advancement in aviation technology which will afford us superior capabilities well into the next century.

During a series of hearings this Fall before the Senate and House Appropriations and Authorization Committees, it was made abundantly clear that the V-22, more than almost any other new aircraft program, represents a technological advancement that the services require given anticipated future combat scenarios. The Commandant of the Marine Corps, General Al Gray, for example, stated in testimony before the Senate Appropriations Subcommittee on Defense, that the V-22 "opened up the entire area for us to be able to maneuver and to operate with far greater effectiveness." This statement is typical of the testimony we heard from a variety of witnesses representing the different services. I should also mention that apart from the military, there has also been extraordinary commercial interest in the V-22, probably to help relieve congestion in the airports operating in the Northeast corridor. These advantages, which could potentially outweigh even those of the military, were, of course, not even considered in the IDA study.

BASIS FOR STUDY RESULTS

The Marine Corps in determining an alternative to the V-22 Osprey for their medium-lift aircraft requirements identified a aircraft fleet comprised of a mix of CH-60/CH-53 helicopters. The cost to purchase and operate this helicopter fleet for a period of 20 years was estimated at $24 billion.

In order to accurately compare the cost and operational effectiveness of the alternative helicopter mix with the V-22, the Institute for Defense Analysis calculated the number of V-22s that could be procured and operated for 20 years for the same $24 billion, then compared the operational effectiveness of this quantity of V-22's with the alternative aircraft.

The $24 billion would procure and operate for twenty years either 356 V-22 Ospreys or 240 CH-60(S) and 283 CH-53+.

STUDY RESULTS

Vol. 1, Page 13: ". . . the V-22's speed, range and survivability advantages could enable even the 356 aircraft fleet to more effective—sometimes significantly more and other times only slightly more—than all of the proposed helicopter alternatives in each of the four Marine missions examined . . ."

Vol. 1, Page 13: ". . . the 356 V-22's yield substantial improvement over the Marines' current capabilities for all missions."

Vol. 1, Page 14: "When engaged in the amphibious assault, the substantially higher speed of the V-22 would enable a smaller sized fleet of these aircraft to deliver troops and equipment ashore at approximately the same rate as helicopters fleets containing from 10 to 35 percent more aircraft."

Vol. 1, Page 15: "The V-22's higher speed also contributes, along with the survivability features included in its design, to its being one of the most survivable of the alternatives considered . . ."

Vol. 1, Page 15: While the CH-60(S) attains a comparable loss rate to the V-22, the large CH-53E helicopter is "1.7 to 3.5 times more likely to be downed by enemy air defense than the V-22."

Vol. 1, Page 15: "The substantial survivability differences among the alternatives were not taken into account in previous Marine Corps and Office of the Secretary of Defense assessments of the V-22."

Vol. 1, Page 18: "When supporting Marine combat forces engaged in sustained operations, a fleet of V-22 assault aircraft could fly more sorties over a 30-day period than could fleets of any of the other alternatives [same total fleet cost of $24 billion]."

Vol. 1, Page 18: ". . . the V-22's higher speed would enable it to fly a given distance in a much shorter length of time than any of the helicopter alternatives."

Vol. 1, Page 19: "The V-22's higher speed and lower effective failure rate also pay off in the hostage rescue or combat raid mission. When carrying out this mission, a rescue force or raiding party equipped with V-22's could be launched from farther out to sea or sent against target sites deeper inland than would be the case with Marine forces equipped with any of the other alternatives."

Vol. 1, Page 20: "The V-22 tilt-rotor is the only one of the alternative assault aircraft that has sufficient range and speed to self deploy efficiently to an overseas combat theater."

Vol. 1, Page 22: "The V-22 is more cost effective than helicopter alternatives for the Navy combat search and rescue, Air Force special operations, and DOD or other Government Agency drug interdiction missions."

Vol. 1, Page 22: "In general, the higher speed of the V-22 would enable a fleet of those aircraft to reach a larger number of downed aircrews in a fixed time interval than could an equal cost of any of the helicopter alternatives."

Vol. 1, Page 23: "The significantly higher speed of the V-22 would enable it to fly farther in the limited time available and thus to complete a larger number of the planned special operations missions than could either helicopter alternative."

Vol. 1, Page 23: "For the [the drug interdiction] mission, the higher speed and longer range of the tilt-rotor would enable a single V-22 to cover a substantially larger area than could be covered by the two helicopters funded for the same total cost. In addition, because the V-22's 275 knot dash speed would be faster than the speeds of the small aircraft most frequently employed by drug couriers, the V-22 would be able to intercept these aircraft while airborne. The much slower helicopter could not do so."

Vol. 1, Page 25: ". . . the near-term cost for all of the alternative fleets examined in the assessment would exceed the amount that has been allocated by the Department for the replacements identified in the FY 1990 President's Budget."

The Institute for Defense Analysis study establishes conclusively that the V-22 is the most cost-effective aircraft.

With these study results now available, it is unfortunate that Secretary of Defense

Cheney continues in his position that "while the V-22 promises to provide excellent capabilities, the investment cost to procure it remains too high." He bases this decision on the assessment that 356 V-22's would cost about $3.7 billion more than the Secretary of the Navy has recommended for Marine Corps medium lift aviation during the planning years FY 1991-1997.

Unfortunately, this representation ignores the principal finding of the study: that for the cost "DOD has budgeted for Marine Corps medium lift aviation" that could be performed by an alternative to the V-22, "the V-22's speed, range, and survivability advantages could enable [it] to be more effective—sometimes significantly more-than all of the proposed helicopter alternatives." Moreover, Secretary Cheney's statement ignores the cost data contained in the study. On page 23 (Vol. 1) of the report it is stated that "the near-term costs for all the alternative fleets examined in the assessment would exceed the amount that has been allocated by the Department for the replacements identified in the FY 1991 President's budget." More specifically, the Department of Defense has allocated no funds over the FY 91-97 period to purchase aircraft for the Air Force's long-range special operations mission or the Marine Corps heavy lift mission. These costs, which could range from $1.8 to $3.2 billion for the alternative, would have to be taken into account. Moreover, the study estimated that about $1.1 billion of the difference in cost between the alternatives to the V-22 examined in the study and the V-22 is due to a $7 million per aircraft increase in the anticipated costs for the CH53E. I caution everyone to keep these facts in mind as they consider the Department of Defense rationale for not reinstating the V-22.

EXHIBIT 2

THE SECRETARY OF DEFENSE,
Washington, DC, June 29, 1990.

Hon. ARLEN SPECTER,
Subcommittee on Defense, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR ARLEN: The Institute for Defense Analyses (IDA) has just submitted to the Department of Defense its draft *Assessment of Alternatives for the V-22 Assault Aircraft Program.* Because of the extraordinary Congressional interest, I am informing you of this matter.

I have reviewed the draft report and my assessment is that the decision made last year remains valid. (While the V-22 promises to provide an excellent capability, the investment cost to procure it remains too high) In the current era of declining budgets, we must give up certain capabilities. Marine Corps medium lift requirements can be met in substantial part by alternative means that are much less costly.

The study made a number of assumptions that are critical to its V-22 conclusions. One was that the aircraft could be operated at speeds approaching 200 knots when carrying cargo externally, without adverse effect on the cargo. A second was that sorties per aircraft could be substantially higher than posited in amphibious assault requirements studies. And a third was that a much smaller V-22 program, procured on a much slower schedule, would be acceptable.

Even so, the report's scaled down V-22 program is still more expensive than reasonable quantities of alternative aircraft in the near term. Moreover, during the planning years on which we are focusing currently, Fiscal Years 1991-97, the smallest V-22 program contained in the report would cost about $3.7 billion more than the Secretary of the Navy has recommended for Marine Corps medium lift aviation. You can see this problem most clearly in FY 1991, where the V-22 program in the report requires $698 million while the Administration's budget request only includes $51 million for Marine Corps medium lift aircraft. As a reminder of the expense of this aircraft, the unit cost of the V-22 expressed in constant FY 1988 dollars is estimated in the report to be $38 million; if research and development costs are included, the unit cost would be $45 million.

Procuring the V-22 would force painful tradeoffs. One example is the amphibious warfare mission. To pay for even the slowest V-22 profile examined by IDA—one that if continued would stretch V-22 procurement until 2009—would require us to give up virtually all the amphibious shipping we have planned to build over the next several years.

I appreciate your support as we make tough decisions in this time of tight fiscal constraints and a changing world environment.

Best regards,

DICK CHENEY.

EXHIBIT 3

REBUTTAL

Study clearly supports Marine Corps assertions that V-22 is most cost effective alternative.

Study says that other alternatives fall short of Marine Corps requirements.

SBCDEF memo fails to address V-22 as a Joint Service aircraft.

Study says alternatives also fall short of all Joint Service Operational Requirements.

Study shows that V-22 is the most cost effective alternative for Special Ops, Strike Rescue, drug enforcement.

FACTS

1. True. The V-22 can carry some external loads at approximately 200 knots. However, the only external load carried by the V-22 in the study at these speeds in the assault is the HMMWV.

1988 Bell-Boeing wind tunnel tests indicate that the HMMWV is stable when carried externally up to speeds in the 225 knot range.

Effects on the HMMWV are unknown without flight testing but are expected to be minimal or nonexistent.

A slower speed of 130 knots for externals was used as an excursion in the study (but still allowing the V-22 to fly at 250 knots while carrying troops or returning empty) and the resulting drop in effectiveness is negligible.

2. The COEA uses the same sorties per aircraft as the most current amphibious assault requirements study, the DON Integrated Amphibious Operations and USMC Air Support Requirements Study (DON Lift II).

This study assigns the V-22 three sorties in a 90 minute period, which it can easily accomplish.

An outdated 1983 study, DON Lift I, arbitrarily assigns only two sorties to the V-22 because it was designed to size the amphibious shipbuilding mix and did so without regard to threat, unit integrity, and scheme of maneuver.

3. The procurement of the V-22 on a much slower schedule than was originally planned is acceptable.

The smaller force (356 aircraft vice 502) was only an "equal cost" alternative based on the Office of Secretary of Defense CH-60/N-83 force Life Cycle cost estimated by IDA at $34 billion.

The COEA states, "the V-22's speed, range, and survivability advantages could enable even the 356 aircaft fleet to be more effective—sometimes significantly more and other times only slightly more than all of the proposed helicopter alternatives in each of the four Marine missions."

4. Page 23 of the Executive Overview states, ". . . if a lower production rate were to be used and the V-22 procurement stretched over a longer period of time, the near-term costs for the program would be comparable to these for any of the other alternatives."

5. This statement compares the V-22 program cost in FY 91-97 ($7.7 billion) which includes Marine Corps, Navy, and Air Froce V-22 procurement and Marine Corps CH-53E procurement with an Office of Secretary of Defense alternative ($5.2 billion) containing only Marine Corps and Navy aircraft.

6. The letter compares a slower V-22 cost with the SECNAV recommended POM 92-97 MLR program. The appropriate comparison would be to the H-60/CH-53E alternative contained in the Administration's budget request and the COEA. The actual difference is $0.7 billion, vice the $3.7 billion claimed in the letter.

7. This again compares V-22 R&D and procurement with R&D only for MLR. The figure of $698 billion is not in the report—it is derived from the report using some unknown Office of the Secretary of Defense method.

8. These figures are based on a procurement of 356 aircraft vice the Marine Corps requirement for 502, which inflates the dollar amount by approximately $3 million per aircraft.

9. Since over 85% of the R&D costs ($2.4 billion) are already sunk, it is not appropriate to include these costs. This methodology used to compute the cost has been applied only to the V-22 and not to other programs such as the B-2, Light Helicopter Experimental, and C-17.

EXHIBIT 4

[From the Philadelphia Inquirer, July 4, 1990]

PENTAGON CHIEF UNSWAYED BY STUDY BACKING OSPREY

Secretary of Defense Dick Cheney stands by his opposition to the purchase of V-22 Osprey tilt-rotor aircraft for the Marine Corps, despite a new study indicating it would be a good investment a Pentagon spokesman said yesterday.

The Osprey would be built in part by Boeing Helicopters in Ridley, Delaware County. U.S. Sen. Arlen Specter (R., Pa.) and Rep. Curt Weldon (R., Pa.) whose district covers most of Delaware County, have lobbied hard to save the project.

"The secretary has concluded that the decision that he made last year remains valid," Cheney spokesman Pete Williams told reporters. "That is, that the V-22 is an excellent aircraft, but is simply too expensive to buy."

Specter, in an interview last night, blasted Cheney's apparent refusal to budge on the V-22. "He's categorically wrong," the senator said. "I've called for hearings before our defense appropriations subcommittee, and he's going to find his position totally indefensible in the face of the clear-cut conclusions of the Institute for Defense Analysis."

The institute, a Pentagon-sponsored research group, said in a report to Congress on Friday that the Osprey could perform better on military missions and do so at less cost than helicopter alternatives favored by Cheney.

Williams said Cheney disagreed with assumptions on which the report was based.

The Osprey would be built jointly by Boeing and Bell Helicopter/Textron of Fort Worth, Texas.

It is designed to rise and hover like a helicopter and then fly like an airplane. It would be used largely for military-transport missions.

The institute said costs could be reduced by slowing the rate of production of the Ospreys.

However, even at the reduced rate, Williams said, the Ospreys would cost about $3.7 billion more from fiscal 1991 through 1997 than Secretary of the Navy H. Lawrence Garrett III recommended be spent to meet the Marines' medium airlift requirements.

The report also assumed that the Marine Corps could get by with fewer of the Ospreys than originally proposed by flying more sorties at higher speeds.

Williams said it was not known whether the aircraft could safely carry equipment slung under it at the proposed speed of 200 knots.

MITCH SNYDER—A TRUE AMERICAN HERO

Mr. LEVIN. Mr. President, yesterday we laid to rest a true American hero, Mitch Snyder, who helped focus national attention on the national shame of the homeless.

Mitch Snyder was a person who could make others recognize a problem which they would rather ignore, a person with the spirit to make sacrifices of himself to further his cause. His legacy will live on in the hearts of those who knew him, and those who did not. It will also live in the Community for Creative Non-Violence [CCNV], the organization to which Mitch Snyder devoted his remarkable energy.

Mr. President, in 1981 I stood in this Chamber and praised the efforts of the CCNV, and other groups leading the fight against homelessness. Now, almost a decade later, more Americans are beginning to join in the struggle to provide homes for all members of our society.

The struggle faced by homeless persons could not have been more aptly described than by the words of the CCNV family nearly 10 years ago, which were included in my 1981 remarks before the Senate. They are as follows:

Life on the streets is incapacitating and humiliating. It is both physically and mentally trying. Imagine sleeping on a steam grate, waking in the cold, walking miles to a bathroom or a free meal. All the while you are ignored, shunned, or insulted by passers-by. Your physical appearance deteriorates. You worry about snow and rain and rats, about bottles thrown from passing cars, about police raiding the abandoned house where you find shelter. In welfare offices and hospitals, people make demands for papers, numbers, forms, and addresses. You sit for hours on benches and curbs. Your shoes didn't fit and you had no socks—now your leg is infected and swollen. Conventional medical care is a foreign concept in this environment. It is remote and depersonalized, with no understanding of causes and effects.

Mr. President, Mitch Snyder helped the rest of us recognize the problem of homelessness, and his crusade prompted others to join the fight. His selfless work helped galvanize an often indifferent society into one that has shown in communities large and small across this Nation that it cares.

I first met Mitch Snyder in 1980. Just as his unwavering concern and his limitless energy moved me then, his work has touched countless others who were fortunate enough to know him. It is the measure of his life's work that others beyond this small group have been touched and perhaps permanently changed by Mitch Snyder. We mourn his passing and we celebrate his successes.

PATIENT SELF-DETERMINATION

Mr. DANFORTH. Mr. President, several weeks ago, the U.S. Supreme Court decided a very well publicized case relating to Nancy Cruzan. It is a very tragic personal situation. It involves a young woman who 7 years ago was involved in an automobile accident and for the past 7 years has been in a persistent vegetative state. She is unable to communicate in any way. She is being kept alive by artificial means.

The family has sought to have the artificial feeding terminated. The State has taken the position that in order to terminate the feeding, a clear and convincing case has to be made of the desire of the patient. While Nancy Cruzan had expressed her will orally prior to the accident that if she were ever in this kind of vegetative state she would like the treatment to be terminated, the court held that the evidence before it was not sufficient to constitute clear and convincing evidence, and that, therefore, the State could not be compelled to remove the artificial nutrition and hydration system.

The case of Nancy Cruzan is unfortunately not unique. There are numerous other cases. Many of us know situations personally involving people who are comatose, vegetative, and who are kept alive artificially for very long periods of time. For example, Dan Delio told his wife that he did not even want to be kept alive in a vegetative state for a day. But at age 33, he had cardiac arrest and has lapsed into a human vegetable.

His wife had to go to court, through a very long court struggle, to have the feeding tubes removed. She has stated the intense personal agony of having to go through the situation of pleading in the court for the death of her husband. There are other cases as well.

The Supreme Court in the Cruzan case indicated that if there had been a clear statement, if Nancy Cruzan had executed a so-called "advance directive"—"living will" or durable power of attorney—then that would have resolved the issue. Indeed, the Supreme Court indicated that perhaps there is a constitutional right of a patient to indicate that he or she does not want any more medical attention; to say "Turn off the machine." Presumably, if a person is conscious, that decision can be made for themselves.

According to the Supreme Court, if somebody is no longer able to communicate, but they have an advance directive stating that under certain circumstances they do not want certain kinds of care, such directive must be recognized. Advance directives allow people who can no longer communicate to exercise a constitutional right to tell the doctors, "I do not want anymore of this."

The fact is, however, that while public opinion polls have indicated that 95 percent of the population of the United States wants to provide some advance directive for the amount of health care to be received, only 9 percent of the people of this country have actually executed living wills. And a lesser percentage than that have appointed powers of attorney to be used to make decisions for the person if the person is no longer able to decide for himself or herself.

Most of the people in this country now die in institutions. Something like 75 or 80 percent of people die in institutions. Yet, only 4 percent of hospitals ask patients at admission whether they have an advance directive. So the fact that a person executes a living will or appoints a durable power of attorney does not necessarily mean that the person will be asked, nor will anybody know about it.

In order to address this situation, some time ago, well before the Supreme Court's decision on the Cruzan case, Senator MOYNIHAN and I introduced S. 1766, really a very straightforward mechanism providing that when people are admitted to the hospitals and nursing homes they are told about the possibility of living wills and durable power of attorney and asked if they have one. That really is the gist of the bill that has been introduced.

That bill of course has taken on much greater importance since the Supreme Court's decision in the Cruzan case.

I am pleased to tell the Senate that Senator ROCKEFELLER has agreed to hold a hearing on this bill on July 20 in his Subcommittee on Medicare and

Long-Term Care of the Senate Finance Committee.

So we hope to bring this issue before the Senate at, I hope, an early date. My hope is that after the hearing we can have a markup. I really do not think it is a terribly controversial measure. But I think that in the sweep of legislative business that is coming before us, it is very easy for this to be lost in the shuffle.

A lot of human suffering is involved in this issue. I rise today to call the Senate's attention to S. 1766. Cosponsorship is invited for this legislation. My hope is that we can enact it into law, and therefore further the opportunities people have to think about their own views.

Nothing is mandated for people by this. It will simply further the opportunities that people have to exercise their own judgment, and to state their own intention for the amount of medical care they want, or that they desire.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

CIVIL RIGHTS ACT OF 1990

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I have just a few comments to make. We have been sitting here all morning, prepared to go forward on the Civil Rights Act of 1990, knowing that there cannot be any votes until 12:30. But I have been prepared since yesterday morning to start off with amendments. In fact, I have an amendment ready to go now and am prepared to explain to the U.S. Senate and have a vote on it with a time agreement. I do not see any reason to sit around when we are prepared to go forward, and want to finish this bill.

The only way, it seems to me, that we have a possibility of doing that is to proceed with amendments. I do not want to see delays, nor do I intend to initiate delaying tactics. The amendments are substantive, worthwhile; they are amendments I think everybody in the Senate will understand and I want to support because they will improve this bill. Indeed, my amendments are designed to resolve some of the conflicts on this bill. The amendments will make this a better bill, more conducive to true civil rights accomplishments.

So, I do not know why we are wasting this time. Frankly, we ought to proceed now. If we are not going to proceed before 12:30, then I would like to proceed as soon as those votes are over. I will lay down an amendment, and I am willing to go to an hour or 2-hour time agreement, depending upon who wants to speak on the amendment. I am willing to go to an amendment after that and another after that.

I do not have a lot of amendments at this particular time, but I think if we can get through these amendments, we can resolve many matters surrounding this bill that need to be resolved. If my amendments are voted down, I can live with that. If they are voted up, they will help in the passage of the bill. They will certainly help toward getting my support for the bill, support which I would like to give to any civil rights bill.

To just sit here when both the distinguished Senator from Massachusetts and myself have been here this morning, I think is unproductive. I am not finding fault with anybody, because I am aware of the negotiations that are going on. But that is no reason not to proceed. We have staff who can work on the negotiations while we are proceeding with the intricate and delicate matters surrounding this bill.

So I just need to make this point, because I have been ready since yesterday morning to start offering amendments. I have told my dear friend and colleague, the distinguished majority leader, that I want to offer amendments and that I would not like to have cloture filed until after we have offered a number of these amendments and see what the Senate is going to do about them. If it appears to me or to the majority leader that sometime in the future there is someone trying to delay the Senate on this matter, then I would not find any fault at all with the filing of a cloture motion. But if we do not utilize today and tomorrow in trying to amend, then I wonder if there is an attempt to bar me from having the right to bring important, decent, honorable, substantive, worthwhile, hopefully conciliatory, amendments to this bill.

I have no desire to disrupt the prompt passage of a civil rights bill. I have only the desire to amend this bill and try to correct it. It may be that the Senate, in its wisdom and by a majority vote, will decide not to go along with me on some of these amendments if they do, so be it. But, I think after full discussion, many will come to believe that they are good amendments, and I think some of them perhaps will pass by a majority lead. At least I have high hopes that they will.

To make a long story short, I want to make it clear that I am ready to proceed. I would like to proceed, and I am ready to proceed right to an amendment now. If we cannot proceed right now, then I hope we will proceed immediately following these votes, and then I will file an amendment, and we will go from there. I know the distinguished Senator from Massachusetts should have no objection to this type of approach, because he wants to move ahead with this bill as much as I.

Mr. KENNEDY. Mr. President, I appreciate the desire of the Senator from Utah to move forward. As he is very much aware, we will have two votes starting at 12:30. It is 5 after 12. This quorum call started about 30 minutes ago; and since then we have been attempting to reach a time agreement with our Republican colleagues on the conference report on the Americans with Disabilities Act. It was the hope of the leadership, one which I shared, that we were going to be able to reach that time agreement on that particular bill. Then we can have all the votes in seriatim, and we can start off considering the civil rights bill at the conclusion of those votes.

We have been unable to get that kind of clearance at the present time. I am more than glad to either try to get that clearance with the Senator from North Carolina, or we can begin to have the debate and discussion on the amendments of the Senator from Utah.

So I want to indicate that if he wants to offer an amendment, I will be glad to start in on the substance of any particular amendment at this time.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GRASSLEY AMENDMENT TO THE CIVIL RIGHTS BILL

Mr. SPECTER. Mr. President, I supported the position taken by the distinguished Senator from Iowa, Senator GRASSLEY, yesterday when he sought to include the Senate and Senators as parties responsible under a private right of action under the civil rights bill, because it is my view that the speech or debate clause of the U.S. Constitution provides no justifiable exception for Senators, and that as a matter of basic fairness Senators should be in the same position on defending such matters as other citizens.

The argument was made that it is important to include Senators in the same status as other citizens so that it would be fully recognized by Members of the U.S. Senate the kinds of responsibilities and burdens which are being imposed on other Americans. I believe that that proposition is sound in terms of fundamental fairness, so that there should not be any unique status that

Senators would avoid responsibilities and obligations which are imposed on other Americans citizens.

The fact that we must run for elective office and may be subjected to embarrassing lawsuits does not in my judgment put us in a different category from other Americans. No matter what group you talk to, you will find that their view of their own situation is a difficult one, and that when we legislate and impose obligation on citizens in a variety of bills, they will say, as I have heard them repeatedly in open housetown meetings across my State, Pennsylvania, that they ought not to be subjected to such burdens.

While we as Senators may see the situation from our own perspective, from the perspective of others they, too, would like to be relieved from the burden. So I think it is inappropriate for us to fashion special rights for ourselves and special exclusions for ourselves.

Mr. President, the Supreme Court of the United States in the case of Forrester versus White held that a judge does not have absolute immunity from damages on his decision to demote and dismiss a court employee. In that case, the Supreme Court of the United States applied what is called a functional approach under which the nature and functions entrusted to particular officials must be examined in order to evaluate the effect that exposure to particular forms of liability would likely have on the appropriate exercise of those functions.

The Supreme Court in that case made a specific reference to the speech or debate clause when it pointed out, at page 218 of 484 United States Report, that one species of such legal protection is beyond challenge, the legislative immunity created by the speech or debate clause, referring to the constitutional provision. But even there by analogy, where the function does not relate to speech or debate, there would be not be coverage or immunity as provided by the Constitution.

In a somewhat analogous case in the Court of Appeals for the District of Columbia, Gross versus Winter, the circuit court held that a council member did not enjoy absolute legislative immunity for liability in a variety of situations where allegations of tortious conduct was made, which would be similar to the issue which Senator GRASSLEY was pressing that Senators should have the same kind of obligations under the Civil Rights Act.

So, in sum, Mr. President, it seems to this Senator that when you talk about the speech and debate clause that is very important, that we should have immunity to say on this floor what we please without having any liability attached to us individually, and the speech and debate clause would extend to hearings and in a variety of other contexts which I shall not go into now because of the limit of time.

But when you talk about our relationships, Senators' relationships with employees in variety of contexts, as those encompassed for example under the Civil Rights Act, functionally it does not relate to speech and debate and it ought not to be extended. Once that kind of immunity is eliminated then, Mr. President, it seems to this Senator that we should have no greater rights and no greater exemptions than other Americans. That it would in fact be good for Senators to understand the full scope of what we are enacting here as it imposes burdens and I think rightfully so on Americans generally, but we ought to be included as well.

In conclusion, Mr. President, because I know time draws near for the ordered vote, I commend my distinguished colleague Senator GRASSLEY. I have had the opportunity to sit next to him on the Judiciary Committee for the better part of 10 years now. He enjoys the advantage of not being a lawyer. That gives him I think some special insights which those of us in the legal profession sometimes do not not enjoy.

He has demonstrated the knack of reaching the jugular too often on this floor, Mr. President. I think we are overly concerned. When Senator GRASSLEY articulated these views yesterday, I think he was on target and that is why I supported his position.

OMNIBUS CRIME BILL

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The hour of 12:30 having arrived, under the previous order the Senate will now proceed to vote back to back, without any intervening action or debate, on the Wirth amendment No. 2116 to the bill S. 1970, and on final passage of the bill itself.

VOTE ON AMENDMENT NO. 2116, AS MODIFIED

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from Colorado [Mr. WIRTH] as modified.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 99, nays 1, as follows:

[Rollcall Vote No. 146 Leg.]

YEAS—99

Adams	Bumpers	Daschle
Akaka	Burdick	DeConcini
Baucus	Burns	Dixon
Bentsen	Byrd	Dodd
Biden	Chafee	Dole
Bingaman	Coats	Domenici
Bond	Cochran	Durenberger
Boren	Cohen	Exon
Boschwitz	Conrad	Ford
Bradley	Cranston	Fowler
Breaux	D'Amato	Garn
Bryan	Danforth	Glenn
Gore	Kohl	Pryor
Gorton	Lautenberg	Reid
Graham	Leahy	Riegle
Gramm	Levin	Robb
Grassley	Lieberman	Rockefeller
Harkin	Lott	Roth
Hatch	Lugar	Rudman
Hatfield	Mack	Sanford
Heflin	McCain	Sarbanes
Heinz	McClure	Sasser
Helms	McConnell	Shelby
Hollings	Metzenbaum	Simon
Humphrey	Mikulski	Simpson
Inouye	Mitchell	Specter
Jeffords	Moynihan	Stevens
Johnston	Murkowski	Symms
Kassebaum	Nickles	Thurmond
Kasten	Nunn	Wallop
Kennedy	Packwood	Warner
Kerrey	Pell	Wilson
Kerry	Pressler	Wirth

NAYS—1

Armstrong

So the amendment. (No. 2116), as modified, was agreed to.

Mr. HEINZ. Mr. President, I ask unanimous consent that the Senator from Utah [Mr. GARN] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered. The clerk will call the roll.

The result was announced—yeas 94, nays 6, as follows:

[Rollcall Vote No. 147 Leg.]

YEAS—94

Adams	Fowler	McConnell
Akaka	Garn	Mikulski
Baucus	Glenn	Mitchell
Bentsen	Gore	Moynihan
Biden	Gorton	Murkowski
Bingaman	Graham	Nickles
Bond	Gramm	Nunn
Boren	Grassley	Packwood
Boschwitz	Harkin	Pell
Bradley	Hatch	Pressler
Breaux	Heflin	Pryor
Bryan	Heinz	Reid
Bumpers	Helms	Riegle
Burdick	Hollings	Robb
Burns	Humphrey	Rockefeller
Byrd	Inouye	Rudman
Chafee	Jeffords	Sanford
Coats	Johnston	Sarbanes
Cochran	Kassebaum	Sasser
Cohen	Kasten	Shelby
Conrad	Kerrey	Simon
Cranston	Kerry	Simpson
D'Amato	Kohl	Specter
Danforth	Lautenberg	Stevens
Daschle	Leahy	Symms
DeConcini	Levin	Thurmond
Dixon	Lieberman	Wallop
Dodd	Lott	Warner
Dole	Lugar	Wilson
Domenici	Mack	Wirth
Exon	McCain	
Ford	McClure	

NAYS—6

Armstrong	Hatfield	Metzenbaum
Durenberger	Kennedy	Roth

So the bill (S. 1970), as amended, was passed.

S. 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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Sec. 103. Conforming changes in title 18.
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Sec. 201. Special habeas corpus procedures in capital cases.

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SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1990".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her indi-

vidual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"(g) VICTIM IMPACT STATEMENT.—(1) Prior to hearing any case under this section and as a part of the presentence investigation of such case, a victim impact statement shall be prepared which shall—

"(A) identify the victim of the offense;

"(B) identify the physical injury by the victim as a result of the offense;

"(C) identify any request for psychological services initiated by the victim's family as a result of the offense; and

"(D) contain any other information related to the impact of the offense on the victim or the victim's family as the court may require.

"(2) The information required by paragraph (1) may be obtained from the personal guardian of the victim or such family members of the victim as may be necessary.

"(3) The victim impact statement required by this subsection shall be considered by the court or jury in a hearing held under this section.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§ 3598. Application of chapter in Indian Country

"Notwithstanding sections 1152 and 1153, a death sentence of murder in the first degree committed by or against an Indian in Indian country (as that term is defined in section 1151) may be imposed under this chapter only if there was in effect at the time of the offense an election, by the governing body of the Indian tribe having jurisdiction over the place where the offense was committed, to have this chapter apply in such cases.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.
"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment

for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—HABEAS CORPUS REFORM

SEC. 201. SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

(a) IN GENERAL.—Part IV of title 28, United States Code, is amended by inserting immediately following chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2261. Defendants subject to capital punishment and prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2263. Filing of habeas corpus petition; time requirements; tolling rules.
"2264. Evidentiary hearings; scope of Federal review; district court adjudication.
"2265. Certificate of probable cause inapplicable.
"2266. Counsel in capital cases; trial and post-conviction standards.
"2267. Law controlling in Federal habeas corpus proceedings; retroactivity.
"2268. Habeas corpus time requirements.

"§ 2261. Defendants subject to capital punishment and prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply—

"(1) to—

"(A) cases in which the defendant is tried for a capital offense; or

"(B) cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence; and

"(2) only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2266 of this title.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State defendants tried for a capital offense and all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the defendant or prisoner upon a finding that the defendant or prisoner—

"(A) is indigent and has accepted the offer; or

"(B) is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing, if necessary, that the defendant or prisoner has rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant or prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent—

"(1) a State defendant being tried for a capital offense; or

"(2) prisoner under capital sentence during direct appeals in the State courts,

shall have previously represented the defendant or prisoner at trial or on direct appeal in the case for which the appointment is made unless the defendant or prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under this chapter. This subsection shall not preclude the appointment of different counsel at any phase of Federal post-conviction proceedings.

"§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order pursuant to section 2261(c) of this title for a prisoner under capital sentence, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to this chapter. The application must recite that the State has invoked the procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under this chapter within the time required in section 2263 of this title; or

"(2) upon completion of district court and court of appeals review under this chapter, the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title, in the presence of counsel and after having been advised of the consequences of making the waiver.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new fundamental right that is retroactively applicable; or

"(C) is due to the fact the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(3) the filing of any successive petition for a writ of habeas corpus is authorized by the appropriate court of appeals in accordance with section 2264(c) and the facts underlying the claim would be sufficient, if proved, to undermine the court's confidence in the jury's determination of guilt on the

offense or offenses for which the death penalty was imposed or newly discovered facts which are not based upon or include opinion evidence, expert or otherwise, which would be sufficient to undermine the court's confidence in the validity of the death sentence.

"§ 2263. Filing of habeas corpus petition; time requirements; tolling rules

"(a) Any petition filed under this chapter for habeas corpus relief must be filed in the appropriate district court not later than 60 days after the filing in the appropriate State court of record of an order issued in compliance with section 2261(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes; and

"(2) during an additional period not to exceed 60 days, if counsel for the State prisoner—

"(A) moves for an extension of time in Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 60-day period established by this section. A court that finds that good cause has been shown shall explain in writing the basis for such a finding.

"(b) A notice of appeal from a judgment of the district court in a claim under this chapter shall be filed within 20 days of the entry of judgment.

"(c) A petition for a writ of certiorari to the Supreme Court of the United States in a claim under this chapter shall be filed within 20 days of the issuance of the mandate by the court of appeals.

"§ 2264. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court—

"(1) shall determine the sufficiency of the evidentiary record for habeas corpus review; and

"(2) may conduct an evidentiary hearing when the court, in its discretion, determines that such hearing is necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it within the time limits established in section 2268 of this title.

"(c)(1) Except as provided in paragraph (2), a district court may not consider a successive claim under this chapter.

"(2) A district court may only consider a successive claim under this chapter if the petitioner seeks leave to file a successive petition in the appropriate court of appeals.

"(3) In a case in which the appropriate court of appeals grants leave to file a successive petition, the time limits established by this chapter shall be applicable to all further proceedings under the successive petition.

"§ 2265. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter.

"§ 2266. Counsel in capital cases; trial and post-conviction standards

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter shall—

"(1) provide for counsel to indigents charged with offenses for which capital punishment is sought, to indigents who have been sentenced to death and who seek appellate or collateral review in State court, and to indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court; collateral review in State court, and to indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court; and

"(2) provide for the entry of an order of a court of record appointing one or more counsel to represent the prisoner except upon a judicial determination (after a hearing, if necessary) that (A) the prisoner is not indigent; or (B) the prisoner knowingly and intelligently waives the appointment of counsel.

"(b)(1) Except as provided below, at least one attorney appointed pursuant to this chapter before trial, if applicable, and at least one attorney appointed pursuant to this chapter after trial, if applicable, shall have been certified by a statewide certification authority. The States may elect to create one or more certification authorities (but not more than three such certification authorities) to perform the responsibilities set forth below. The certification authority for counsel at any stage of a capital case shall be—

"(i) a special committee, constituted by the State court of last resort or by State law, relying on staff attorneys of a defender organization, members of the private bar, or both; or

"(ii) a capital litigation resource center, relying on staff attorneys, members of the private bar, or both; or

"(iii) a statewide defender organization, relying on staff attorneys, members of the private bar, or both.

The certification authority shall—

"(iv) certify attorneys qualified to represent persons charged with capital offenses or sentenced to death; and

"(v) draft and annually publish procedures and standards by which attorneys are certified and rosters of certified attorneys; and

"(vi) periodically review the roster of certified attorneys, monitor the performance of all attorneys certified, and withdraw certification from any attorney who fails to meet high performance standards in a case to which the attorney is appointed; or fails otherwise to demonstrate continuing competence to represent prisoners in capital litigation.

"(2) In a State that has a publicly-funded public defender system that is not organized on a statewide basis, the requirements of section 2261(b) shall have been deemed to have been satisfied if at least one attorney appointed pursuant to this chapter before trial shall be employed by a State funded public defender organization, if the highest court of the State finds on an annual basis that the standards and procedures established and maintained by such organization (which have been filed by such organization and reviewed by such court on an annual basis) ensure that the attorneys working for such organization demonstrate continuing competence to represent indigents in capital litigation.

"(c) If a State has not elected to establish one or more statewide certification authorities to certify counsel eligible to be appointed before trial to represent indigents, in the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have not less than 3 years' experience in the trial of felony prosecutions in that court.

"(d) If a State has not elected to establish one or more statewide certification authorities to certify counsel eligible to be appointed after trial to represent indigents, in the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State's courts in felony cases.

"(e) Notwithstanding this subsection, a court, for good cause, may appoint another attorney whose background, knowledge or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(f) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (g). Upon finding that timely procurement of such services could not practically await prior authorization, the court may authorize the provision of any payment of services nunc pro tunc.

"(g) The court shall fix the compensation to be paid to an attorney appointed under this subsection (other than State employees) and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.

"§ 2267. Law controlling in Federal habeas corpus proceedings; retroactivity

"In cases subject to this chapter, all claims shall be governed by the law as it was when the petitioner's sentence became final. A court considering a claim under this chapter shall consider intervening decisions by the Supreme Court of the United States which establish fundamental constitutional rights.

"§ 2268. Habeas corpus time requirements

"(a) A Federal district court shall determine any petition for a writ of habeas corpus brought under this chapter within 110 days of filing

"(b) The court of appeals shall hear and determine any appeal of the granting, denial, or partial denial of a petition for a writ of habeas corpus brought under this chapter within 90 days after the notice of appeal is filed.

"(c) The Supreme Court shall act on any petition for a writ of certiorari in a case

brought under this chapter within 90 days after the petition is filed.

"(d) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters for part IV of title 28, United States Code, is amended by inserting after the item for chapter 153 the following:

"154. Special habeas corpus procedures in capital cases ..... 2261".

(c) AMENDMENT TO SECTION 2254 OF TITLE 28.—Section 2254(c) of title 28, United States Code, is amended by—

(1) striking "An applicant" and inserting "(1) Except as provided in paragraph (2), an applicant"; and

(2) adding at the end thereof the following:

"(2) An applicant in a capital case shall be deemed to have exhausted the remedies available in the courts of the State when he has exhausted any right to direct appeal in the State.".

TITLE III—USE OF FIREARMS IN CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES

SEC. 301. INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) possesses a firearm that is a machinegun, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of such a crime, the person who discharged the firearm shall be sentenced to death or life imprisonment without release. A person shall be subjected to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) This subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

SEC. 302. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 nor more than 10 years, and may be fined under this title.

"(j) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3)),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 303. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 304. LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 405 of the Controlled Substances Act (21 U.S.C. 845) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 405B of the Controlled Substances Act (21 U.S.C. 845b) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

SEC. 305. LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking "If any person commits a violation of this subparagraph or of section 405, 405A, or 405B after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a manda-

tory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term" and inserting "If any person commits a violation of this subparagraph or of section 405, 405A, or 405B or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, and the term".

TITLE IV—ASSAULT WEAPONS

SEC. 401. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1990".

SEC. 402. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 403. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 404. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 405. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 406. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined not more than $1,000 (in accordance with section 3571(e) of this title), imprisoned for not more than 6 months, or both.".

SEC. 407. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 408. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 409. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

TITLE V—INTERNATIONAL MONEY LAUNDERING

SEC. 501. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and every 2 years for 4 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to in paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

SEC. 502. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number

on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member);

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology; and

(C) Representatives from each of the following:

(i) the Bureau of Engraving and Printing,

(ii) the Federal Reserve Board, and

(iii) the United States Secret Service.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 503. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 504. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 505. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 506. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 507. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005-07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 508. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following: ", or for a refusal to do business with any person before or after disclosure of a possible violation of law or regulation to a government authority".

SEC. 509. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 510. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

TITLE VI—VICTIMS OF CHILD ABUSE ACT OF 1990

SEC. 601. SHORT TITLE.

This title may be cited as the "Victims of Child Abuse Act of 1990".

CHAPTER 1—DRUG-RELATED CHILD ABUSE; HABITUAL CHILD ABUSE OFFENSE

SEC. 655. ABUSE OF CHILDREN IN CONNECTION WITH VIOLATIONS OF THE DRUG LAWS.

(a) IN GENERAL.—Chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 116. Abuse of children in connection with drug offenses

"(a) Whoever, in a circumstance described in subsection (b), commits a crime of violence (as defined in subsection (c)) in violation of the laws of the State in which the act takes place, or of the United States, in which the victim is a person under the age of 18, shall be guilty of a class B felony.

"(b) There is Federal jurisdiction for an offense described in subsection (a) if the offense was committed in furtherance of, during and in relation to, or as part of an attempt to conceal or avoid apprehension for, a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

"(c) This section only applies to:

"(1) persons who are at least 18 years old and who are at least 4 years older than the victim;

"(2) a crime of violence defined as a felony six offense, a felony offense against a person that has as an element the attempted use or threatened use of physical force.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"116. Abuse of children in connection with drug offenses.".

(c) DIRECTION TO THE ATTORNEY GENERAL.—Not later than 90 days after the date of enactment of this chapter, the Attorney General shall amend the United States Attorneys' Manual to reflect the intent of Congress that Federal prosecution occur only in egregious cases of drug-related abuse and neglect.

(d) DIRECTION TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant convicted of an offense under section 116 of title 18, United States Code, who has previously been convicted on 2 separate occasions

in the court of any State or the District of Columbia, or of the United States, of any crime of violence (as defined in said section 16) in which the victim was a person under the age of 18, shall receive the maximum punishment authorized by law.

CHAPTER 2—IMPROVING INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES

SEC. 661. FINDINGS.

The Congress finds that—

(1) over 2,000,000 children are abused or neglected each year, drug abuse accounting for one-third of the cases;

(2) the investigation and prosecution of child abuse cases is extremely complex, involving numerous agencies and dozens of personnel;

(3) in such cases, too often the system does not pay sufficient attention to the needs and welfare of the child victim, aggravating the trauma that the child victim has already experienced;

(4) multidisciplinary child abuse investigation and prosecution programs have been developed that increase the reporting of child abuse cases, reduce the trauma to the child victim, and increase the successful prosecution of child abuse offenders; and

(5) such programs have proven effective, and with targeted Federal assistance, could be duplicated in many jurisdictions throughout the country.

SEC. 662. AUTHORITY OF THE ADMINISTRATOR TO MAKE GRANTS.

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention (referred to as the "Administrator"), in consultation with officials of the Department of Health and Human Services, shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) GRANT CRITERIA.—(1) The Administrator shall establish the criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program—

(A) include a written agreement between local law enforcement, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services;

(B) identify an appropriate site for referring, interviewing, treating, and counseling child victims of sexual and serious physical abuse and neglect (referred to as the "counseling center");

(C) refer all sexual and serious physical abuse and neglect cases to the counseling center not later than 24 hours after notification of an incident of abuse;

(D) conduct all initial interviews jointly by personnel from law enforcement, health, and social service agencies;

(E) require, to the extent practicable, the same agency representative who conducts an initial interview to conduct all subsequent interviews;

(F) require, to the extent practicable, that all interviews and meetings with a child victim occur at the counseling center;

(G) coordinate each step of the investigation process to minimize the number of interviews that a child victim must attend;

(H) designate a director for the multidisciplinary program;

(I) assign a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child's family, throughout each step of judicial proceedings; and

(J) meet such other criteria as the Administrator shall establish by regulation.

(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Administrator shall ensure that grants are distributed to both large and small States and to rural, suburban, and urban jurisdictions.

SEC. 663. GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et. seq.) to national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases in State or Federal courts, for the purpose of improving the quality of criminal prosecution of such cases.

(b) GRANTEE ORGANIZATIONS.—An organization to which a grant is made pursuant to subsection (a) shall be one that has, or is affiliated with one that has, broad membership among attorneys who prosecute criminal cases in State courts and has demonstrated experience in providing training and technical assistance for prosecutors.

SEC. 664. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

(1) $20,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992 and 1993.

(b) USE OF FUNDS.—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under section 1662.

CHAPTER 3—COURT-APPOINTED SPECIAL ADVOCATE PROGRAM

SEC. 665. FINDINGS.

The Congress finds that—

(1) the National Court-Appointed Special Advocate provides training and technical assistance to a network of 13,000 volunteers in 377 programs operating in 47 States; and

(2) in 1988, these volunteers represented 40,000 children, representing approximately 15 percent of the estimated 270,000 cases of child abuse and neglect in juvenile and family courts.

SEC. 666. PURPOSE.

The purpose of this chapter is to ensure that by January 1, 1995, a court-appointed special advocate shall be available to every victim of child abuse or neglect in the United States that needs such an advocate.

SEC. 667. STRENGTHENING OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to expand the court-appointed special advocate program.

(b) GRANT CRITERIA.—(1) The Administrator shall establish criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a court-appointed special advocate program provide screening, training, and supervision of court-appointed special advocates in accordance with standards developed by the National Court-Appointed Special Advocate Association, including the requirements that—

(A) a court-appointed special advocate association program have a mission and purpose in keeping with the mission and purpose of the National Court-Appointed Special Advocate Association and that it abide by the National Court-Appointed Special Advocate Association Code of Ethics;

(B) a court-appointed special advocate association program operate with access to legal counsel;

(C) the management and operation of a court- appointed special advocate program assure adequate supervision of court-appointed special advocate volunteers;

(D) a court-appointed special advocate program keep written records on the operation of the program in general and on each applicant, volunteer, and case;

(E) a court-appointed special advocate program have written management and personnel policies and procedures, screening requirements, and training curriculum;

(F) a court-appointed special advocate program not accept volunteers who have been convicted of, have charges pending for, or have in the past been charged with, a felony or misdemeanor involving a sex offense, violent act, child abuse or neglect, or related acts that would pose risks to children or to the court-appointed special advocate program's credibility;

(G) a court-appointed special advocate program have an established procedure to allow the immediate reporting to a court or appropriate agency of a situation in which a court-appointed special advocate volunteer has reason to believe that a child is in imminent danger;

(H) a court-appointed special advocate volunteer be an individual who has been screened and trained by a recognized court-appointed special advocate program and appointed by the court to advocate for children who come into the court system primarily as a result of abuse or neglect; and

(I) a court-appointed special advocate volunteer serve the function of reviewing records, facilitating prompt, thorough review of cases, and interviewing appropriate parties in order to make recommendations on what would be in the best interests of the child.

(3) In awarding grants under this section, the Administrator shall ensure that grants are distributed to localities that have no existing court-appointed special advocate program and to programs in need of expansion.

SEC. 668. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this chapter—

(1) $5,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992 and 1993.

CHAPTER 4—CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS

SEC. 671. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a large number of juvenile and family courts are inundated with increasing numbers of cases due to increased reports of abuse and neglect, increasing drug-related maltreatment, and insufficient court resources;

(2) the amendments made to the Social Security Act by the Adoption Assistance and Child Welfare Act of 1980 make substantial demands on the courts handling abuse and neglect cases, but provide no assistance to the courts to meet those demands;

(3) the Adoption and Child Welfare Act of 1980 requires courts to—

(A) determine whether the agency made reasonable efforts to prevent foster care placement;

(B) approve voluntary nonjudicial placement; and

(C) provide procedural safeguards for parents when their parent-child relationship is affected;

(4) social welfare agencies press the courts to meet such requirements, yet scarce resources often dictate that courts comply pro forma without undertaking the meaningful judicial inquiry contemplated by Congress in the Adoption and Child Welfare Act of 1980;

(5) compliance with the Adoption and Child Welfare Act of 1980 and overall improvements in the judicial response to abuse and neglect cases can best come about through action by top level court administrators and judges with administrative functions who understand the unique aspects of decisions required in child abuse and neglect cases; and

(6) the Adoption and Child Welfare Act of 1980 provides financial incentives to train welfare agency staff to meet the requirements, but provides no resources to train judges.

(b) PURPOSE.—The purpose of this chapter is to provide expanded technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, to improve the judicial system's handling of child abuse and neglect cases with specific emphasis on the role of the courts in addressing reasonable efforts that can safely avoid unnecessary and unnecessarily prolonged foster care placement.

SEC. 672. GRANTS FOR JUVENILE AND FAMILY COURT PERSONNEL.

In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) for the purpose of providing—

(1) technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts; and

(2) administrative reform in juvenile and family courts.

SEC. 673. SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) GRANTS TO DEVELOP MODEL PROGRAMS.—(1) The Administrator shall make grants to national organizations to develop 1 or more model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases.

(2) An organization to which a grant is made pursuant to paragraph (1) shall be one that has broad membership among juvenile and family court judges and has demonstrated experience in providing training and technical assistance for judges, attorneys, child welfare personnel, and lay child advocates.

(b) GRANTS TO JUVENILE AND FAMILY COURTS.—(1) In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants to State courts or judicial administrators for programs that provide, contract for, or implement—

(A) training and technical assistance to judicial personnel and attorneys in juvenile and family courts; and

(B) administrative reform in juvenile and family courts.

(2) The criteria established for the making of grants pursuant to paragraph (1) shall give priority to programs that improve—

(A) procedures for determining whether child service agencies have made reasonable efforts to prevent placement of children in foster care;

(B) procedures for determining whether child service agencies have, after placement of children in foster care, made reasonable efforts to reunite the family; and

(C) procedures for coordinating information and services among health professionals, social workers, law enforcement professionals, prosecutors, defense attorneys, and juvenile and family court personnel, consistent with chapter 2.

SEC. 674. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

(1) $10,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992, 1993, and 1994.

(b) USE OF FUNDS.—Of the amounts appropriated in subsection (a), not less than 80 percent shall be used for grants under section 673(b).

CHAPTER 5—FEDERAL VICTIMS' PROTECTIONS AND RIGHTS

SEC. 675. CHILD VICTIMS' RIGHTS.

(a) CRIMINAL PROCEDURE.—The Federal Rules of Criminal Procedure are amended by inserting after rule 52 the following new rule:

"Rule 52.1. Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS.—For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.—

"(1) Child's Live Testimony by 2-way Closed Circuit Television.—

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for the government, the child's attorney, or a guardian ad litem appointed under subdivision (h) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorney for the government and the attorney for the defendant not including an attorney pro se for a party shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (h);

"(ii) persons necessary to operate the closed-circuit television equipment;

"(iii) a judicial officer, appointed by the court; and

"(iv) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, in view of the child, and the voice of the judge.

"(2) VIDEOTAPED DEPOSITION OF CHILD.—(A) In a proceeding involving an alleged offense

against a child or involving a child witness, the attorney for the government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are—

"(I) the attorney for the government;

"(II) the attorney for the defendant;

"(III) the child's attorney or guardian ad litem appointed under subdivision (h);

"(IV) persons necessary to operate the videotape equipment;

"(V) subject to clause (iv), the defendant; and

"(VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, in view of the child, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal including Supreme Court review. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.—

"(1) EFFECT OF FEDERAL RULES OF EVIDENCE.—Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) PRESUMPTION.—A child is presumed to be competent.

"(3) REQUIREMENT OF WRITTEN MOTION.—A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) REQUIREMENT OF COMPELLING REASONS.—A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) PERSONS PERMITTED TO BE PRESENT.—The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorney for the government;

"(C) the attorney for the defendant;

"(D) a court reporter; and

"(E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) NOT BEFORE JURY.—A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) DIRECT EXAMINATION OF CHILD.—Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the Government and the attorney for the defendant including a party acting as an attorney pro se. The court may permit an attorney but not a party acting as an attorney pro se to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) APPROPRIATE QUESTIONS.—The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) PSYCHOLOGICAL AND PSYCHIATRIC EXAMINATIONS.—Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.—

"(1) CONFIDENTIALITY OF INFORMATION.—(A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of the Government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) FILING UNDER SEAL.—All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) PROTECTIVE ORDERS.—(A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) DISCLOSURE OF INFORMATION.—This subdivision does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the government's specific compelling interest.

"(f) VICTIM IMPACT STATEMENT.—In preparing the presentence report pursuant to rule 32(c), the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the child victim and any other children who

may have been affected. A guardian ad litem appointed under subdivision (h) shall make every effort to obtain and report information that accurately expresses the child's and the family's views concerning the child's victimization. A guardian ad litem shall use forms that permit the child to express the child's views concerning the personal consequences of the child's victimization, at a level and in a form of communication commensurate with the child's age and ability.

"(g) USE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.—

"(1) IN GENERAL.—A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the government shall consult with the multidisciplinary child abuse team as appropriate.

"(2) ROLE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.—The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including—

"(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

"(B) telephone consultation services in emergencies and in other situations;

"(C) medical evaluations related to abuse or neglect;

"(D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;

"(E) expert medical, psychological, and related professional testimony;

"(F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and

"(G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

"(h) GUARDIAN AD LITEM.—

"(1) IN GENERAL.—The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) DUTIES OF GUARDIAN AD LITEM.—A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. (The extent of access to Grand Jury materials is limited to the access routinely provided to victims and their representative.) A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) IMMUNITIES.—A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties described in subpart (2).

"(i) ADULT ATTENDANT.—A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.

"(j) SPEEDY TRIAL.—In a proceeding in which a child is called to give testimony, on motion by the attorney for the government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.

"(k) EXTENSION OF PERIOD OF LIMITATIONS.—The limitation of time within which a prosecution must be commenced for a sex crime involving a child victim, regardless whether the crime involved force or resulted in serious physical injury or death is 5 years after the child reaches age 18. If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the civil action shall be stayed until the end of all phases of the criminal action and any mention of the civil action during the criminal proceeding is prohibited. As used in this subdivision, a criminal action is pending until its final adjudication in the trial court.".

(b) CIVIL PROCEDURE.—The Federal Rules of Civil Procedure are amended by inserting after rule 43 the following new rule:

"Rule 43.1. Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS.—For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (g) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.

"(1) CHILD'S LIVE TESTIMONY BY 2-WAY CLOSED CIRCUIT TELEVISION.—

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the child's attorney or a guardian ad litem appointed under subdivision (f) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the parties, jury, judge, and public, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorneys for the parties not including an attorney pro se for

the defendant shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (f);

"(ii) persons necessary to operate the closed-circuit television equipment; and

"(iii) a judicial officer, appointed by the court; and

"(iv) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the parties, jury, judge, and public. The parties shall be provided with the means of private, contemporaneous communication with their attorneys during the testimony. The closed circuit television transmission shall relay the child's testimony into the courtroom and the judge's voice into the room in which the child is testifying.

"(2) VIDEOTAPED DEPOSITION OF CHILD.—(A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for a party, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (f) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the parties, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are—

"(I) the attorneys for the parties;

"(II) the child's attorney or guardian ad litem appointed under subdivision (f);

"(III) persons necessary to operate the videotape equipment;

"(IV) subject to clause (iv), the parties; and

"(V) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of one of the parties, the court may order that the party, including a party represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that a party be excluded from the deposition room, the court shall order that the party be provided with a means of private, contemporaneous communication with the party's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal including Supreme Court Review. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.—

"(1) EFFECT OF FEDERAL RULES OF EVIDENCE.—Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) PRESUMPTION.—A child is presumed to be competent.

"(3) REQUIREMENT OF WRITTEN MOTION.—A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) REQUIREMENT OF COMPELLING REASONS.—A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) PERSONS PERMITTED TO BE PRESENT.—The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorneys for the parties;

"(C) a court reporter; and

"(D) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) NOT BEFORE JURY.—A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) DIRECT EXAMINATION OF CHILD.—Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorneys for the parties including a defendant acting as an attorney pro se. The court may permit an attorney but not a defendant acting as an attorney pro se to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) APPROPRIATE QUESTIONS.—The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) PSYCHOLOGICAL AND PSYCHIATRIC EXAMINATIONS.—Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.—

"(1) CONFIDENTIALITY OF INFORMATION.—(A) A person acting in a capacity described in subparagraph (B) in connection with a civil proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of any government agency that may become connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the parties and employees of the parties, including the attorneys for the parties and persons hired by the parties or an attorney for a party to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) FILING UNDER SEAL.—All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) PROTECTIVE ORDERS.—(A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) DISCLOSURE OF INFORMATION.—This subdivision does not prohibit disclosure of the name of or other information concerning a child to a party, an attorney for a party, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons,

including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate.

"(f) GUARDIAN AD LITEM.—

"(1) IN GENERAL.—The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) DUTIES OF GUARDIAN AD LITEM.—A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. (The extent of access to grand jury materials is limited to the access routinely provided to victims and their representative.) The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) IMMUNITIES.—A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties described in subpart (2).

"(g) ADULT ATTENDANT.—A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.".

(c) EVIDENCE.—The Federal Rules of Evidence are amended by inserting after rule 803 the following new rule:

"Rule 803.1. Child Victims' and Child Witnesses' Testimony

"(a) HEARSAY EXCEPTION FOR OUT-OF-COURT STATEMENTS.—

"(1) IN GENERAL.—An out-of-court statement made by a child of less than 13 years of age concerning conduct related to alleged completed or attempted crimes of sexual abuse, physical abuse, or exploitation of the child or concerning a crime against another person witnessed by the child that is not otherwise admissible in a judicial proceeding is not excluded by the hearsay rule if—

"(A) the child testifies at the proceeding, or testifies by means of videotaped deposition or closed-circuit television, and at the time of the taking of the testimony is subject to cross-examination concerning the out-of-court statement;

"(B) the court finds that the child's out-of-court statement possesses particularized guarantees of trustworthiness; and

"(C) the court finds that the child is unable to testify effectively for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court or by means of videotaped deposition or closed-circuit television.

"(iv) The child suffers a mental or other infirmity.

"(v) A privilege precludes taking the child's testimony in open court or by means of videotaped deposition or closed-circuit television.

"(vi) The child has died or is absent from the jurisdiction.

"(2) GUARANTEES OF TRUSTWORTHINESS.—In determining whether a statement possesses particularized guarantees of trustworthiness under paragraph (1)(B), the court may consider—

"(i) the child's knowledge of the event;

"(ii) the age and maturity of the child;

"(iii) the degree of certainty that the statement was in fact made by the child;

"(iv) any apparent motive the child may have had to falsify or distort the event, including bias, corruption, or coercion;

"(v) the timing of the child's statement;

"(vi) whether more than one person heard the statement;

"(vii) whether the child was suffering pain or distress when making the statement;

"(viii) the nature and duration of any alleged abuse;

"(ix) whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's experience;

"(x) whether the statement has internal consistency or coherence and uses terminology appropriate to the child's age;

"(xi) whether the statement is spontaneous or directly responsive to questions; and

"(xii) whether the statement is suggestive due to improperly leading questions.

"(3) NOTICE.—The proponent of the admission of an out-of-court statement shall notify the adverse party of the proponent's intention to offer the statement and of the content of the statement sufficiently in advance of the proceeding to provide the adverse party with a fair opportunity to prepare a response to the statement before the proceeding at which it is to be offered.

"(4) FINDINGS.—The court shall support with findings on the record any rulings pertaining to the child's inability and the trustworthiness of an out-of-court statement.

"(b) TESTIMONIAL AIDS.—The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.".

(d) VIOLATION OF RULE REGARDING DISCLOSURE.—

(1) PUNISHMENT AS CONTEMPT.—Chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 403. Protection of the privacy of child victims and child witnesses

"A knowing or intentional violation of rule 43.1(d)(1) of the Federal Rules of Civil Procedure or rule 52.1(d)(1) of the Federal Rules of Criminal Procedure shall constitute a criminal contempt classified as a Class A misdemeanor.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 21, United States Code, is amended by adding at the end thereof the following new item:

"403. Protection of the privacy of child victims and child witnesses.".

SEC. 676. CHILD ABUSE REPORTING.

(a) IN GENERAL.—A person who, while engaged in a professional capacity or activity described in subsection (b) on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d).

(b) COVERED PROFESSIONALS.—Persons engaged in the following professions and activities are subject to the requirements of subsection (a):

(1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, and alcohol or drug treatment personnel.

(2) Religious healers, persons rendering spiritual treatment through prayer, and persons licensed to practice the healing arts.

(3) Psychologists, psychiatrists, and mental health professionals.

(4) Social workers, licensed or unlicensed marriage, family, and individual counselors.

(5) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.

(6) Child care workers and administrators.

(7) Law enforcement personnel, judges, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.

(8) Foster parents.

(9) Commercial film and photo processors.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

(2) the term "exploitation" means child pornography or child prostitution;

(3) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(4) the term "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse; and

(5) the term "sexual contact" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person.

(d) AGENCY DESIGNATED TO RECEIVE REPORT AND ACTION TO BE TAKEN.—For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a). By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(e) REPORTING FORM.—In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(f) IMMUNITY FOR REPORTING AND ASSOCIATED ACTIONS.—All persons who, acting in good faith, make a report by subsection (a), or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses.

(g) CRIMINAL PENALTY FOR FAILURE TO REPORT.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2258. Failure to report child abuse

"A person who, while engaged in a professional capacity or activity described in subsection (b) of section 502 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor.".

(2) The chapter analysis for chapter 110, United States Code, is amended—

(A) by amending the catchline to read as follows:

"CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN";

and

(B) by adding at the end thereof the following new item:

"2258. Failure to report child abuse.".

(3) The item relating to chapter 110 in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"110. Sexual exploitation and other abuse of children ..... 2251".

(h) CIVIL LIABILITY FOR FAILURE TO REPORT.—(1) A person who fails to make a report when required under subsection (a) shall be liable to a child who, after the time at which the person learns the facts that give rise to the requirement to report, suffers an incident of child abuse.

(2) In an action brought under paragraph (1), the plaintiff shall have the burden of showing that—

(A) the defendant learned of facts that did give or reasonably should have given the defendant reason to suspect that the child on whose behalf suit is brought had suffered an incident of child abuse; and

(B) after the time that the defendant learned of such facts—

(i) the defendant failed to make a timely report as required by subsection (a); and

(ii) the child suffered an incident of child abuse.

(3) In an action brought under paragraph (1), the plaintiff may recover damages for physical, mental, and emotional injury caused by incidents of child abuse that occur after the time that the defendant learned of the facts described in subparagraph (A), without regard to whether any other person learned of such facts and failed to make a report.

(4) A plaintiff who makes the showing described in paragraph (2) shall be entitled to recover unless the defendant shows that—

(A) the defendant made a report to the agency as soon as it was possible to do so;

(B) the agency to which the report was required to be made acquired knowledge of the facts of which the defendant had learned, or of the incident of child abuse whose occurrence was suggested by those facts, at a time prior to the occurrence of the incident of child abuse for which recovery is sought sufficient to have allowed the agency to take action that might have prevented the incident; or

(C) the agency could not have prevented the incident of child abuse for which recovery is sought.

(i) PRIVILEGES ABROGATED.—For the purposes of this section, and in any investigations or judicial actions resulting from a report of abuse or neglect, the privileged nature of any communications between physician and patient, psychotherapist and patient, psychologist and client, social worker and client, any other health care provider and patient, and husband and wife are abrogated.

(j) TRAINING OF PROSPECTIVE REPORTERS.—All individuals in the occupations listed in subsection (b)(1) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

CHAPTER 6—CHILD CARE WORKER EMPLOYEE BACKGROUND CHECKS

SEC. 681. REQUIREMENT FOR BACKGROUND CHECKS.

(a) IN GENERAL.—(1) Each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly-hired employees undergo a criminal history background check. All existing staff shall receive such checks not later than 6 months after the date of enactment of this chapter, and no additional staff shall be hired without a check having been completed.

(2) For the purposes of this section, the term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

(b) CRIMINAL HISTORY CHECK.—(1) A background check required by subsection (a) shall be—

(A) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information;

(B) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application; and

(C) initiated through the personnel programs of the applicable Federal agencies.

(2) The results of the background check shall be communicated to the employing agency.

(c) APPLICABLE CRIMINAL HISTORIES.—Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be ground for denying employment or for dismissal of an employee in any of the positions listed in subsection (a)(2). In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

(d) EMPLOYMENT APPLICATIONS.—(1) Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in any of the positions listed in subsection (a)(1), shall contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application shall state that it is being signed under penalty of perjury, with the applicable Federal punishment for perjury stated on the application.

(2) A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

(e) ENCOURAGEMENT OF VOLUNTARY CRIMINAL HISTORY CHECKS FOR OTHERS WHO MAY HAVE CONTACT WITH CHILDREN.—Federal agencies and facilities are encouraged to

submit identifying information for criminal history checks on volunteers working in any of the positions listed in subsection (a) and on adult household members in places where child care or foster care services are being provided in a home.

TITLE VII—CHILD PROTECTION RESTORATION AND PENALTIES ENHANCEMENT ACT OF 1990

SEC. 701. SHORT TITLE.

This title may be cited as the "Child Protection Restoration and Penalties Enhancement Act of 1990".

Subtitle A—Restoration of Recordkeeping Requirement

SEC. 711. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, be used as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this section or for a violation of any applicable provision of law with respect to the furnishing of false information.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(f) It shall be unlawful—

"(1) for any person to whom subsection (a) applies to fail to create or maintain the records as required by subsections (a) and (c) or by any regulation promulgated under this section;

"(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make an appropriate entry in, any record required by subsection (b) of this section or any regulation promulgated under this section;

"(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; and

"(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produce in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, which—

"(A) contains one or more visual depictions made after the effective date of this subsection of actual sexually explicit conduct; and

"(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

"(g) The Attorney General shall issue appropriate regulations to carry out this section.

"(h) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (D) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in section 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish any book, magazine, periodical, film, video tape or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

"(i) Whoever violates this section shall be imprisoned for not more than 2 years, and fined in accordance with the provisions of this title, or both. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 5 years but not less than 2 years, and fined in accordance with the provisions of this title, or both.".

SEC. 712. EFFECTIVE DATE.

Subsections (d), (f), (g), (h), and (i) of section 2257 of title 18, United States Code, as added by this title shall take effect 90 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by subsections (d), (f), (g), (h), and (i) of section 2257 within 60 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 and of any regulation issued pursuant thereto shall take effect 90 days after the date of the enactment of this Act.

Subtitle B—Sexual Abuse Penalties

SEC. 721. AGGRAVATED SEXUAL ABUSE OF CHILDREN.

Section 2241(c) of title 18, United States Code, is amended by—

(1) striking "any term of years" and inserting "not less than 30 years";

(2) inserting "(1)" before "Whoever"; and

(3) adding at the end thereof the following:

"(2) Whoever—

"(A) engages in any conduct which violates the provisions of paragraph (1) after a prior conviction under such paragraph has become final; or

"(B) violates the provisions of paragraph (1)—

"(i) by using force against the other person; or

"(ii) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping,

shall be sentenced to mandatory life imprisonment without release.".

SEC. 722. SEXUAL ABUSE OF A MINOR.

Section 2243(a) of title 18, United States Code, is amended by striking "five years" and inserting "15 years".

SEC. 723. ABUSIVE SEXUAL CONDUCT.

Section 2244(a) of title 18, United States Code, is amended by—

(1) redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively; and

(2) inserting after paragraph (1) the following:

"(2) section 2241(c) of this title had the sexual contact been a sexual act shall be fined under this title, imprisoned not more than 30 years, or both;".

SEC. 724. SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended to read as follows:

"(d) Any individual who violates this section shall be fined not more than $250,000, shall be imprisoned for not less than 30 years and not more than life, or both. If such individual has a prior conviction under this section, such individual shall be sentenced to life imprisonment without release and fined not more than $500,000.".

SEC. 725. SELLING OR BUYING OF CHILDREN.

Section 2251A of title 18, United States Code, is amended—

(1) in subsection (a) after paragraph (2) by striking "20 years" and inserting "30 years"; and

(2) in subsection (b) after paragraph (2) by striking "20 years" and inserting "30 years".

SEC. 726. CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING SEXUAL EXPLOITATION OF MINORS.

Section 2252(b) of title 18, United States Code, is amended to read as follows:

"(b) Any individual who violates this section shall be fined not more than $250,000, shall be imprisoned for not less than 30 years and not more than life, or both. If such individual has a prior conviction under this section, such individual shall be sentenced to life imprisonment without release and fined not more than $500,000.".

SEC. 727. TRANSPORTING VISUAL DEPICTIONS.

That section 2252(a) of title 18, United States Code, is amended—

(1) by striking "or" after the end of paragraph (1);

(2) by inserting "or" after the ";" at the end of paragraph (2); and

(3) by adding at the end of paragraph (2) the following new paragraph:

"(3) knowingly possesses or views any visual depiction that has been transported or shipped in interstate or foreign commerce, or has reason to know that such visual depiction will be transported or shipped in interstate or foreign commerce, by any means including by computer or mail, if—

"(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(B) such visual depiction of such conduct;".

Subtitle C—Treatment for Juvenile Offenders Who Have Been the Victims of Child Abuse and Neglect

SEC. 731. TREATMENT FOR JUVENILE OFFENDERS WHO HAVE BEEN THE VICTIMS OF CHILD ABUSE AND NEGLECT.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to public and private nonprofit

organizations with experience in treating the victims of child abuse and neglect to provide treatment for juvenile offenders who have been the victims of child abuse and neglect.

(b) FUNDING.—There are authorized to be appropriated—

(1) $15,000,000 for fiscal year 1991; and

(2) such sums as are necessary for fiscal years 1992 and 1993,

to carry out this section.

TITLE VIII—ICE ENFORCEMENT AND PREVENTION ACT

SECTION 801. SHORT TITLE.

This title may be cited as the "Ice Enforcement and Prevention Act of 1990".

SEC. 802. STRENGTHENING FEDERAL PENALTIES.

(a) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline.

(b) Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 2.5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline.

(c) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended—

(1) in subparagraph (F) by striking "or" at the end thereof;

(2) in subparagraph (G) by adding "or" at the end thereof; and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline;".

(d) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended—

(1) in subparagraph (F) by striking "or" at the end thereof;

(2) in subparagraph (G) by adding "or" at the end thereof; and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) 2.5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline;".

SEC. 803. EDUCATION AND PREVENTION.

(a) Not later than six months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse shall jointly develop model, community-based curricula for disseminating comprehensive information on methamphetamine, crystal methamphetamine, and chemically related stimulants.

(b) Not later than 12 months after the date of enactment of this section, the Department of Education shall establish not less than four statewide or regional methamphetamine prevention demonstration programs, including one such project in California, Hawaii, Oregon and such other State that is experiencing serious methamphetamine abuse problems as determined by the Secretary of Education.

(c) There is authorized to be appropriated $4,000,000 in fiscal years 1991 and 1992 to establish and operate the model demonstration programs required under subsection (b) of this section.

(d) Not later than 18 months after the date of enactment of this section, if the Department of Education and the National Institute on Drug Abuse, in consultation with the Secretaries of Education from the States listed under subsection (b), conclude that the model curricula developed under subsection (a) demonstrate practical educational merit, the Department of Education shall distribute such model curricula to every primary and secondary school in the country.

SEC. 804. RESEARCH AND TREATMENT.

(a) The Director of the National Institute on Drug Abuse, through the Medications Development Program, shall prioritize the development of a drug to treat addictions to:

(1) amphetamine,

(2) methamphetamine,

(3) crystal methamphetamine, and

(4) chemically related stimulants.

(b) The Director of Health and Human Services shall investigate or cause to be investigated the syndrome that results from methamphetamine addiction at birth.

(c) The Director shall, on the basis of the findings from subsection (6), develop a protocol for treating, physically and mentally, newborns afflicted with methamphetamine addiction.

SEC. 805. PRECURSOR CHEMICALS.

(a) EXPANDED LIST OF PRECURSOR CHEMICALS.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by striking subparagraphs (A) through (L) and inserting the following:

"(A) Anthranilic acid.
"(B) Benzyl cyanide.
"(C) Chloroephedrine.
"(D) Chloropseudoephedrine.
"(E) D-lysergic acid.
"(F) Ephedrine.
"(G) Ergonovine maleate.
"(H) Ergotamine tartrate.
"(I) Ethylamine.
"(J) Hydriodic acid.
"(K) Isosafrole.
"(L) Methylamine.
"(M) N-acetylanthranilic acid.
"(N) N-ethylephedrine.
"(O) N-ethylpseudoephedrine.
"(P) N-methylephedrine.
"(Q) N-methylpseudoephedrine.
"(R) Norpseudoephedrine.
"(S) Phenylacetic acid.
"(T) Phenylpropanolamine.
"(U) Phenyl-2-propanone.
"(V) Piperidine.
"(W) Piperonal.
"(X) Propionic anhydride.
"(Y) Pseudoephedrine.
"(Z) Safrole.
"(AA) Thionylchloride.
"(BB) Any salt, optical isomer, or salt of an optical isomer of the foregoing chemicals.".

(b) CONFORMING REPEAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended—

(1) by striking subparagraph (E); and

(2) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G).

(c) ELIMINATION OF THRESHOLD REQUIREMENT FOR PRECURSOR CHEMICALS.—Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) is amended—

(1) by inserting "any amount of a listed precursor chemical, or" before "a threshold amount, including a cumulative threshold amount for"; and

(2) by striking "listed chemical" the first place such term appears and inserting "listed essential chemical".

(d) RECORDS OF REGULATED TRANSACTIONS.—Section 310(a)(1) of the Controlled Substances Act (21 U.S.C. 830(a)(1)) is amended—

(1) by inserting "any quantity of a listed precursor chemical," after "involving"; and

(2) by striking "a listed chemical" and inserting "a listed essential chemical".

(e) PROVISION TO STATES OF INFORMATION RELATING TO REGULATED TRANSACTIONS.—Section 310(c)(3) of the Controlled Substances Act (21 U.S.C. 830(c)(3)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) cooperate with the authorities of each State by providing information relating to regulated transactions in listed precursor chemicals and anticipated regulated transactions (including impending interstate deliveries) in such chemicals that might be useful in the enforcement of State laws relating to precursor chemicals, controlled substances, and other illegal drugs.".

(f) LICENSING.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end thereof the following new subsection:

"(d)(1) It shall be unlawful for a person to—

"(A) engage in a regulated transaction involving a listed precursor chemical; or

"(B) manufacture, distribute, import, or export a listed precursor chemical,

without a license required under this subsection.

"(2)(A) The Attorney General shall by rule establish a licensing program for regulated persons and regulated transactions involving listed precursor chemicals under which licenses will be required in circumstances in which the Attorney General determines that requiring licensing will contribute to the achievement of the purposes of this section and to criminal drug law enforcement in general. The Attorney General shall not require a regulated person who maintains a record of all regulated transactions or reports all regulated transactions in accordance with this section to be licensed under this subsection.

"(B) The licensing program described in subparagraph (A) shall require a license application to be made in such form as the Attorney General shall prescribe and may provide for the denial, revocation, or suspension of a license for cause, after opportunity for a hearing on the record.

"(3) Whoever violates paragraph (1) shall be fined under title 18, United States Code, or imprisoned not more than 4 years, or both.

"(4) The Attorney General shall by inspection or otherwise provide for the audit and control of listed precursor chemical inventories of persons possessing a license under this subsection.".

(g) APPLICATION OF SECTION.—Section 310 of the Controlled Substances Act (21 U.S.C. 830), as amended by subsection (f), is

amended by adding at the end thereof the following new subsection:

"(e) This section does not apply to a transaction or other activity involving a listed chemical contained in a drug that is lawfully marketed or distributed under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

(h) MANAGEMENT OF LISTED CHEMICALS.—(1) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921-6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabitation under Federal, State, and local standards.

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.

"(3)(A) A violation of paragraph (1) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for a violation of paragraph (1) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (1).".

(2) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

TITLE IX—MANDATORY WORK FOR PRISONERS

SEC. 901. MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include—

(A) State and local public works projects and infrastructure repair;

(B) construction and maintenance of prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) PRISONERS SHALL WORK.—A Federal prisoner may be excused from the requirement to work only as necessitated by—

(1) security considerations;

(2) disciplinary action;

(3) medical certification of nearly total disability such as would make it impracticable for prison officials to arrange useful work for the prisoner to perform; or

(4) a need for the prisoner to work less than a full work schedule in order to participate in literacy training, drug rehabilitation, or similar programs in addition to the work program.

(c) USE OF FUNDS.—Except as provided by other law, any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments, restitution, fines, or other legal liabilities of prisoners. Notwithstanding any other law, such funds shall be available without appropriation.

SEC. 902. EXPANSION OF THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM.

Section 1761(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(2) by striking the matter preceding paragraph (2), as redesignated by paragraph (1) of this section, and inserting the following:

"(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who—

"(1) are participating in—

"(A) a Federal labor intensive prison work program operated by the Director of the Bureau of Prisons; or

"(B) one of not more than 50 non-Federal prison work pilot projects designated by the Director of the Bureau of Justice Assistance; and"; and

(3) in paragraph (2), as redesignated by paragraph (1) of this section, by amending subparagraph (B) to read as follows:

"(B) reasonable charges for room and board, as determined by regulations issued by the Director of the Bureau of Prisons, in the case of a Federal prisoner, or the chief State correctional officer, in the case of a State prisoner.".

SEC. 903. EMPLOYMENT OF PRISONERS.

(a) IN GENERAL.—The Director of the Bureau of Prisons shall institute a prison work program through contracts with private businesses for the use of inmate skills that may be of commercial use to such businesses.

(b) SECURITY REQUIREMENT.—In the case of contracts described in subsection (a) in which the provision of inmate skills would require prisoners to leave the prison—

(1) prisoners shall be permitted to travel directly to a work site and to remain at the work site during the work day and shall be returned directly to prison at the end of each work day; and

(2) only prisoners with no history of violent criminal activity and who are able to meet strict security standards to insure that they pose no threat to the public, shall be eligible to participate.

SEC. 904. PRISON EXPANSION AND TENT CAMP ACT.

(a) SHORT TITLE.—This section may be cited as the "Prison Expansion and Tent Camp Act".

(b) TEMPORARY PRISON FACILITIES AND EXPANDED CAPACITY.—

(1) FINDINGS.—The Congress finds that—

(A) the increasing problem of prison overcrowding has reached a point of crisis;

(B) prisoners continue to be released from jail before they have served the full term of their sentences; and

(C) in order to protect society, the Nation must expand the capacity of the Federal and State prison systems through the use of innovative and cost-efficient means, such as old military bases, surplus Federal property, and tent camps.

(2) PRIORITY FOR DISPOSAL OF CLOSED MILITARY INSTALLATIONS.—

(A) PURPOSE OF PARAGRAPH.—The purpose of this paragraph is to clarify that the order of priority for acquiring property and facilities under the Base Closure and Realignment Act for use as prison facilities is first to the Attorney General and second to the States, the District of Columbia, and the territories of the United States.

(B) AMENDMENT OF BASE CLOSURE ACT.—Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) is amended to read as follows:

"(3)(A) Notwithstanding any other provision of this title or any other law, before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned under this title the Secretary shall—

"(i) notify the Attorney General and the Governor of each State, the Mayor of the District of Columbia, and the Governor of each of the territories and possessions of the United States of the availability of such real property or facility; and

"(ii) transfer such real property or facility, or portion thereof, in accordance with the procedure set forth in subparagraphs (B), (C) and (D).

"(B) Subject to subparagraph (C), the Secretary shall transfer real property or a facility, or portion thereof, referred to in subparagraph (A) in accordance with the following priorities:

"(i) To the Department of Justice, if the Attorney General certifies to the Secretary that the property or facility, or portion thereof, will be used as a Federal prison or other Federal correctional institution.

"(ii) To a State, the District of Columbia, or a territory or possession of the United States, if the Governor of the State, the Mayor of the District of Columbia, or the Governor of the territory or possession of the United States certifies to the Secretary that the property or facility, or portion thereof, will be used as a prison or other correctional institution.

"(iii) To any other transferee pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(C) The Secretary shall transfer any real property or facility or any portion thereof referred to in this section in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(D) Before making a decision concerning a transfer of real property or a facility pursuant to this title, the Secretary of Defense shall—

"(i) consult with the Governor of the State and the heads of the local government of the jurisdiction in which the property or facility is located; and

"(ii) consider any plan by the local government concerned for the use of the property or facility.".

(3) SURPLUS FEDERAL PROPERTY.—

(A) Not later than 180 days after the date of enactment of this Act, the Administrator of the General Services Administration, in consultation with the Attorney General, shall identify and make a list of not less than 20 parcels of surplus Federal property, which the Attorney General has certified are not needed for Federal correctional facilities but which may be suitable for State or local correctional facilities.

(B) AVAILABILITY TO STATES.—Notwithstanding any other law, any property that is determined to be suitable for use as a State or local correctional facility under subparagraph (1) shall be made available to a State, the District of Columbia, or a local government, for such use, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(4) COST-EFFICIENT PRISONS: TENT CAMPS.—

(A) AUTHORIZATION.—The Attorney General may use tent housing, on a temporary basis, for Federal prisoners at the military facilities acquired under the Base Closure and Realignment Act and at any other Federal prison facility. The length of the use of such housing shall be at the discretion of the Attorney General.

(B) STATE USE.—The States are authorized and encouraged to consider using temporary tent housing to house prisoners instead of releasing them before they have completed their full sentences.

(C) APPROPRIATE REMEDIES FOR OVERCROWDING.—

(i) Subchapter C of chapter 229 of part 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3626. Appropriate remedies with respect to prison overcrowding and the use of tent housing

"(a) A Federal court shall not hold the use of temporary tent housing unconstitutional under the eighth amendment except to the extent that an individual plaintiff inmate proves that such housing causes the infliction of cruel and unusual punishment of that particular inmate.".

(ii) The table of sections for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3626. Appropriate remedies with respect to prison overcrowding and the use of tent housing.".

(c) COST SAVING MEASURES.—

(1) IN GENERAL.—The Director of the Federal Bureau of Prisons (referred to as the "Director") shall seek to cut the cost of prison construction by reducing expenditures for color television, pool tables, cable television, air conditioning, and other amenities.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director shall submit to Congress a description and summary of the results of the cost saving efforts made pursuant to paragraph (1).

SEC. 905. FUNDS FOR STATE "BOOT CAMP" SHOCK INCARCERATION PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated under this section $20,000,000 in a special discretionary fund for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995, for use by the Director of the Bureau of Justice Assistance (referred to as the "Director") to make grants under this section. The Director is authorized to make grants to States to establish, operate, and support shock incarceration programs, also known as special alternative incarceration or boot camp prisons, as an intermediate sanction or as an alternative to conventional prisons.

(b) DEFINITIONS.—For purposes of this section the term "shock incarceration program" means—

(1) a correctional program in which adult offenders who have been convicted of offenses for which the sentence authorized by State law is 1 year or longer in prison are required to participate in a highly regimented program that provides strict discipline, physical training, hard labor, and drill; and

(2) a program that does not include offenders who are—

(A) convicted of offenses for which probation or parole is not available, if State law provides for probation or parole for certain offenses;

(B) convicted of an offense for which a sentence of life imprisonment or capital punishment is authorized by State law; and

(C) convicted of homicide, sexual assault, or assault with a dangerous weapon.

The State officials responsible for selection or confinement decisions for prisoners in a shock incarceration program may exclude offenders other than offenders described in paragraph (2) who are deemed by such officials to be dangerous or violent offenders.

(c) PROGRAM.—In carrying out a project pursuant to this section, a State shall provide that—

(1) all offenders who are confined to shock incarceration programs shall be offered substance abuse treatment, counseling, and literacy education during confinement, as required, and shall be subject to periodic testing for illegal drug use;

(2) all offenders who successfully complete shock incarceration shall—

(A) serve a form of community confinement or be placed under home detention or intensive supervision upon release;

(B) be subject to periodic testing for illegal drug use;

(C) continue to receive substance abuse treatment, counseling, and literacy education, as required; and

(D) provide restitution and participation in community service programs, as required; and

(3) to the fullest extent possible, all offenders who are confined to shock incarceration programs shall be offered vocational education and job training both during confinement and during community confinement, home detention, or supervised release.

(d) APPLICATION BY STATE.—To request a grant under subsection (a) of this section, the chief executive of a State corrections department shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

(1) a certification that Federal funds made available under this section will not be used to supplant State or local funds that would, in the absence of Federal funds, be made available to carry out such project;

(2) a statement as to whether the State will make use of contributions by private entities, in cash or in kind;

(3) a description of the method the State will use to carry out the evaluation required by paragraph (4); and

(4) an assurance that after each fiscal year in which funds from a grant made under this section are expended, the State shall submit to the Director an evaluation of the impact and the effectiveness of the project for which such grant is made.

(e) SELECTION CRITERIA.—For purposes of determining whether to make a grant under this section, the Director shall—

(1) consider the overall quality of an applicant's shock incarceration program, including the existence of substance abuse treatment, drug testing, counseling literacy education, vocational education, and job training programs during incarceration or after release; and

(2) give priority to States that clearly demonstrate that the capacity of their correctional facilities is inadequate to accommodate the number of individuals who are convicted of offenses punishable by a term of imprisonment exceeding 1 year.

(f) GRANTS LIMITS.—Notwithstanding subsection (e), the Director shall not approve a grant under this section to any State—

(1) in an amount that exceeds 10 percent of the aggregate amount appropriated for such fiscal year to carry out this section; or

(2) for substance abuse treatment, drug testing, counseling, literacy education, vocational education, or job training independent of a shock incarceration program.

(g) ADDITIONAL FUNDING.—Notwithstanding the amount of any funds appropriated under this section, the Director may grant discretionary funding for shock incarceration projects under his general discretionary funding authority.

TITLE X—OFFENSES INVOLVING CHILDREN

SEC. 1001. SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.

Section 1201 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

"(1) TO WHOM APPLICABLE.—If—

"(A) the victim of an offense under this section has not attained the age of eighteen years; and

"(B) the offender—

"(i) has attained such age; and

"(ii) is not—

"(I) a parent;

"(II) a grandparent;

"(III) a brother;

"(IV) a sister;

"(V) an aunt;

"(VI) an uncle; or

"(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall be subject to paragraph (2) of this subsection.

"(2) MINIMUM SENTENCES.—The sentence shall be imprisonment for life if the offender engages in any conduct described in paragraph (3) of this subsection, and imprisonment for not less than 30 years in any other

case. If the offender engages in any conduct described in paragraph (3) of this subsection after a prior conviction under such paragraph has become final, such offender shall be sentenced to mandatory life imprisonment without release.

"(3) AGGRAVATING CONDUCT.—The conduct referred to in paragraph (2) of this subsection is—

"(A) selling the victim of such offense;

"(B) sexually abusing such victim;

"(C) using such victim for pornography;

"(D) intentionally denying such victim food or medical care to a life-threatening extent;

"(E) intentionally harming such victim physically to a life-threatening extent; or

"(F) causing such victim to be subjected to conduct by another which is conduct described in any of subparagraphs (A) through (E) of this paragraph.".

TITLE XI—PROTECTION OF CRIME VICTIMS

SEC. 1101. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1990".

SEC. 1102. VICTIMS' RIGHTS.

(a) BEST EFFORTS TO ACCORD RIGHTS.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

SEC. 1103. SERVICES TO VICTIMS.

(a) DESIGNATION OF RESPONSIBLE OFFICIALS.—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) IDENTIFICATION OF VICTIMS.—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) DESCRIPTION OF SERVICES.—(1) A responsible official shall—

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the witness is either required to attend or, under section 1102(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the scheduling of a parole hearing for the offender;

(B) the escape, work release, furlough, or any other form of release from custody of the offender; and

(C) the death of the offender, if the offender dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes.

(8) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) DEFINITIONS.—For the purposes of this section—

(1) the term "responsible official" means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;

(ii) a legal guardian;

(iii) a parent;

(iv) a child;

(v) a sibling;

(vi) another family member; or

(vii) another person designated by the court.

SEC. 1104. AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment,

partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. 1105. AMENDMENT OF BANKRUPTCY CODE.

(a) AMENDMENT OF CHAPTER 5.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) to the extent that such debt arises from a proceeding brought by a governmental unit to recover a civil or criminal restitution, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit.".

(b) AMENDMENT OF CHAPTER 13.—Section 1322(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for the full payment, in deferred cash payments, of all claims that are nondischargeable under section 523(a)(11).".

TITLE XII—RACIAL AND ETHNIC BIAS STUDY GRANTS

SEC. 1201. RACIAL AND ETHNIC BIAS STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems and in particular that portion of their criminal justice systems relating to the imposition of the sentence of death in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established by State law or by the court of last resort or by order of the chief executive officer of the State a plan for analyzing the role of race in that State's criminal justice system, including the imposition of the sentence of death. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General with priority being given to those States whose State law provide for the imposition of death for certain crimes. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out the provisions of this section.

TITLE XIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 1301. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 1302. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 1303. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 1304. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 1316; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 1326.

Subtitle A—Police Corps Program

SEC. 1311. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 1313;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 1316.

SEC. 1312. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 1314, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 1314; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 1314.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 1313. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 1315(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 1315, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 1315, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 1314. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 1316 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 1315. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of educa-

tion and training program established in section 1314 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 1312, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 1312(d)(1)(C) shall not apply.

SEC. 1316. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 1313;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 1317. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $400,000,000 for fiscal year 1991 and such sums as are necessary to carry out the subtitle for fiscal years 1992, 1993, 1994, and 1995.

Subtitle B—Law Enforcement Scholarship Program

SEC. 1321. DEFINITIONS.

As used in this subtitle—

(1) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies and related expenses;

(2) the term "institution of higher education" has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(3) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(4) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 1322. ALLOTMENT.

From amounts appropriated under the authority of section 1329, the Director shall allocate—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State; and

(2) 20 percent of such funds to States on the basis of the State's shortage of law enforcement personnel and the need for assistance under this subtitle.

SEC. 1323. PROGRAM ESTABLISHED.

(a) IN GENERAL.—From amounts available pursuant to section 1322 each State shall pay the Federal share of the cost of awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education.

(b) FEDERAL SHARE.—(1) The Federal share of the cost of scholarships under this subtitle shall not exceed 60 percent.

(2) The non-Federal share of the cost of scholarships under this subtitle shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall be responsible for the administration of the program conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, promulgate regulations to implement this subtitle.

(d) SPECIAL RULE.—Each State receiving an allotment under section 1323 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(e) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 1324. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 1325. ELIGIBILITY.

An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for 2 years immediately preceding the date for which assistance is sought.

SEC. 1326. STATE PLAN REQUIREMENTS.

A State law enforcement scholarship plan shall—

(1) contain assurances that the State shall make scholarship payments to institutions of higher education on behalf of individuals receiving financial assistance under this subtitle;

(2) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel;

(3) contain assurances that the State shall promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in high schools and community colleges; and

(4) contain assurances that the State shall not expend for administrative expenses more than 8 percent of Federal funds received under section 23.

SEC. 1327. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual desiring a scholarship under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which financial assistance is sought.

(b) PRIORITY.—In awarding scholarships under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State; and

(2) pursuing an undergraduate degree.

SEC. 1328. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual receiving a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual shall work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's aca-

demic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay all of the scholarship assistance awarded under this title in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of the agreement under paragraph (1) are not complied with except where the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—(1) Each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which financial assistance is received under this subtitle.

(2) For purposes of satisfying the requirement specified in paragraph (1) each individual awarded a scholarship under this Act shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 1329. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $30,000,000 for fiscal year 1991 and such sums as are necessary to carry out the subtitle for fiscal years 1992, 1993, 1994, and 1995.

Subtitle C—Reports

SEC. 1331. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

TITLE XIV—DRUG KINGPIN DEATH PENALTY ACT OF 1990

SEC. 1401. SHORT TITLE.

This title may be cited as the "Drug Kingpin Death Penalty Act of 1990".

SEC. 1402. DEATH PENALTY AUTHORIZATIONS AND PROCEDURES.

Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY

"Sec.
"3591. Sentence to death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral Attack on Judgment Imposing Sentence of Death.

"SEC. 3591. SENTENCE OF DEATH.

"A defendant who has been found guilty of—

"(a) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(b) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person; or

"(c) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engaged in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: *Provided*, That no person may be sentenced to death who was less than eighteen years of age at the time of the offense: *Provided further*, That if a defendant described in section 3591 (b) or (c) is not sentenced to death, said defendant shall be sentenced to life in prison.

"SEC. 3592. FACTORS TO BE CONSIDERED IN DETERMINING WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge. The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTIONS OF VIOLENT OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS CONVICTIONS OF DRUG OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(4) PREVIOUS CONVICTIONS OF VIOLENT AND DRUG OFFENSES.—The defendant has previously been convicted of a Federal or State offense, punishable by a term of imprisonment of more than one year, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person, and has previously been convicted of a Federal or State offense, committed on a different occasion and punishable by a term of imprisonment of more than one year, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(5) SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substance Act (12 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(6) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(7) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405 of the Controlled Substances Act (21 U.S.C. 845) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405A of the Controlled Substances Act (21 U.S.C. 845a) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(9) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405B of the Controlled Substances Act (21 U.S.C. 845b) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(10) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factors exist.

"SEC. 3593. SPECIAL HEARING TO DETERMINE WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the Government to amend the notice upon showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If an aggravating factor required to be considered under section 3592(b) is found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factor or factors. The jury, or if there is no jury, the court, shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or of any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter that the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"SEC. 3594. IMPOSITION OF A SENTENCE OF DEATH.

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release or furlough.

"SEC. 3595. REVIEW OF A SENTENCE OF DEATH.

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record of the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"SEC. 3596. IMPLEMENTATION OF SENTENCE OF DEATH.

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"SEC. 3597. USE OF STATE FACILITIES.

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"SEC. 3598. APPOINTMENT OF COUNSEL.

"(a) FEDERAL CAPITAL CASES.—

"(1) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this subsection shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred.

"(2) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this subsection shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(3) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the district court that imposed the sentence. Within 10 days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this subsection for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order: (A) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (B) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (C) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this paragraph shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(4) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this subsection, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(5) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this subsection, the provisions of section 3006A of this title shall apply to appointments under this subsection.

"(6) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(b) STATE CAPITAL CASES.—The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a state court or other state proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a state capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3006A of this title.

"SEC. 3599. COLLATERAL ATTACK ON JUDGMENT IMPOSING SENTENCE OF DEATH.

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In any case in which a sentence of death has been imposed for an offense against the United States and the judgment has become final as described in section 3598(a)(3) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(a)(3) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings; and

"(2) the failure to raise the claim is (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.".

(b) In the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty ..... 3591".

TITLE XV—LAW ENFORCEMENT AGENCIES

Subtitle A—Maintaining Funding for State and Local Law Enforcement Agencies

SEC. 1501. MAINTAINING FUNDING FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162), is amended by striking "1990" and inserting in lieu thereof "1991".

(b) IMPROVING THE EFFECTIVENESS OF COURT PROCESS.—Paragraph (10) of section 501 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(10) improving the operational effectiveness of the court process, by expanding prosecutorial, defender and judicial resources, and implementing court delay reduction programs;".

Subtitle B—National Crime Information Center Project 2000

SEC. 1511. SHORT TITLE.

This section may be cited as the "National Law Enforcement Cooperation Act of 1990".

SEC. 1512. FINDINGS.

The Congress finds that—

(1) cooperation among Federal, State and local law enforcement agencies is critical to an effective national response to the problems of violent crime and drug trafficking in the United States;

(2) the National Crime Information Center, which links more than 16,000 Federal, State and local law enforcement agencies, is the single most important avenue of cooperation among law enforcement agencies;

(3) major improvements to the National Crime Information Center are needed because the current system is more than twenty years old; carries much greater volumes of enforcement information; and at this time is unable to incorporate technological advances that would significantly improve its performance; and

(4) the Federal Bureau of Investigation, working with State and local law enforcement agencies and private organizations, has developed a promising plan, "NCIC 2000", to make the necessary upgrades to the National Crime Information Center that should meet the needs of United States law enforcement agencies into the next century.

SEC. 1513. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated the following sums to implement the "NCIC 2000" project:

(1) $17,000,000 for fiscal year 1991;

(2) $25,000,000 for fiscal year 1992;

(3) $22,000,000 for fiscal year 1993;

(4) $9,000,000 for fiscal year 1994; and

(5) such sums as may be necessary for fiscal year 1995.

SEC. 1514. REPORT.

By February 1 of each fiscal year for which funds for NCIC 2000 are requested, the Director of the Federal Bureau of Investigation shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives that details the progress that has been made in implementing NCIC 2000 and a complete justification for the funds requested in the following fiscal year for NCIC 2000.

TITLE XVI—FEDERAL LAW ENFORCEMENT AND JUDICIAL ASSISTANCE

SEC. 1601. ADDITIONAL AUTHORIZATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1991, the following sums (which shall be in addition to any other appropriations)—

(1) For the Federal Bureau of Investigation, $98,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(2) For the Drug Enforcement Administration, $100,500,000 which shall include—

(A) not to exceed $10,000,000 for enforcing provisions of Federal law regarding precursor and essential chemicals;

(B) not to exceed $37,500,000 for assigning not fewer than 250 agents and necessary support personnel to rural areas where State and local law enforcement agencies have identified the distribution of "crack" cocaine and/or the manufacture and distribution of methamphetamine to be a serious law enforcement problem that exceeds the resources of local law enforcement, and involves trafficking across State or national boundaries; and

(C) not to exceed $15,000,000 to expand DEA State and local task forces, including payment of State and local overtime equipment and personnel costs;

(3) For the United States courts, $9,000,000 for additional probation officers, judges, magistrates and other personnel including not to exceed $2,000,000 for training, document production, and other expenses related to the implementation of the Federal sentencing guidelines;

(4) For the United States attorneys, $24,000,000 for additional prosecutors and staff to implement a program of prosecuting in Federal court drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(5) For defender services, $8,000,000 for the defense of persons prosecuted in Federal court for drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(6) For the United States marshals, $9,000,000; and

(7) For the Immigration and Naturalization Service United States Border Patrol, $45,000,000 to be allocated as follows:

(A) $15,000,000 for the hiring, training, and equipping of no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $25,000,000 for INS criminal investigations and the expeditious deportation of criminal aliens from detention; and

(C) $5,000,000 for the procurement of low-level light television systems, portable and permanent sensor systems, and 4-wheel drive law enforcement vehicles for the United States Border Patrol.

TITLE XVII—RURAL DRUG ENFORCEMENT

SEC. 1701. SHORT TITLE.

This title may be cited as the "Rural Drug Enforcement Act".

SEC. 1702. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this title referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs, and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 1703. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding a new section 509 as follows:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 per centum shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 per centum shall be allocated to the remaining States for use in non-metropolitan areas within those States, as follows:

"(A) $100,000 to each nonrural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of subsections (b) and (c), the term 'rural State' means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest county has fewer than one hundred and fifty thousand people.".

(b) SEPARATE GRANT REQUEST.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by—

(1) at the end of paragraph (10) strike the "." and insert in lieu thereof "; and";

(2) inserting a new paragraph (11) as follows:

"(11) A separate and detailed request for a grant under section 509 of this subpart, including how the funds provided by a grant under section 506 shall be coordinated with funds provided by a grant under section 509.".

SEC. 1704. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) GENERAL STATE ASSISTANCE.—In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall assign not less than ten Drug Enforcement Administration special agents to each of the several States.

(b) RURAL STATES.—In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than ten Drug Enforcement Administration special agents, as of the date of enactment of this Act, the Attorney General shall assign not less than four additional Drug Enforcement Administration special agents to each rural State as defined in section 1703 of this title.

SEC. 1705. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—By not later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION.—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this title.

TITLE XVIII—MANDATORY DETENTION

SEC. 1801. SHORT TITLE.

This title may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

SEC. 1802. MANDATORY DETENTION.

(a) PENDING SENTENCE.—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.".

(b) PENDING APPEAL.—Subsection (b) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer";

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.".

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 18, United States Code, is amended by adding at the end the following: "Upon an appeal of the Government, a person who has been detained by the judicial officer pursuant to section 3143 (a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143 (a)(1) or (b)(1), may be ordered released, under appropriate conditions, by a court of appeals or a judge thereof, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.".

SEC. 1803. TECHNICAL AMENDMENTS.

(a) CORRECTION OF MISSPELLED WORD.—Subsection (a)(1) of section 3143 of title 18, United States Code, is amended by striking "waiting" and inserting "awaiting".

(b) CORRECTION OF REFERENCE TO REPEALED PROVISION.—Subsections (e) and (f) of section 3142 of title 18, United States Code, are each amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

TITLE XIX—FORFEITURE

SEC. 1901. USES OF JUSTICE FORFEITURE FUND.

(a) PURCHASE OF FIREARMS.—Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I);

(3) by inserting a new subparagraph (H) as follows:

"(H) for any fiscal year, not to exceed $10,000,000 for the purchase of firearms, ammunition, protective body armor, and other personal safety equipment for investigative and enforcement personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service who devote a substantial amount of their time to drug law enforcement activities; and";

(4) in subparagraph (A)(ii) by—

(A) inserting a comma after "forfeitable assets";

(B) inserting "or listed chemicals (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))" after "storage, protection, and destruction of controlled substances".

(5) in subparagraph (B) by inserting before the semicolon ", or the money laundering offenses set forth in sections 1956 and 1957 of title 18 and sections 5313(a) and 5324 of title 31"; and

(6) in subparagraph (C) by inserting before the semicolon "or the money laundering provisions in sections 981 and 982 of title 18".

(b) DEFINITIONS AND PROCEDURES.—Subsection 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraphs:

"(11) For the purposes of this subsection, the term 'firearm' means any rifle, handheld pistol or revolver, or other weapon that is authorized by the Attorney General, or his designee, to be carried by personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service.

"(12) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his or her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

(c) CONFORMING AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended by striking "and (G)" and inserting "(G) and (H)".

SEC. 1902. INCREASING EFFECTIVENESS OF ADMINISTRATIVE FORFEITURES.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—Subsection (a) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)) is amended—

(1) in paragraph (1) by striking "$100,000" and inserting "$500,000";

(2) by striking "or" at the end of paragraph (2); and

(3) by inserting "or" after the semicolon at the end of paragraph (3); and

(4) by adding after paragraph (3) the following:

"(4) such seized merchandise is monetary instruments;".

(b) CONFORMING AMENDMENT.—The section heading for section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 607. SEIZURE; VALUE $500,000 OR LESS, PROHIBITED ARTICLES, TRANSPORTING CONVEYANCES.".

SEC. 1903. FORFEITURE OF INSTRUMENTALITIES OF A FOREIGN DRUG OFFENSE.

Section 981(a)(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "proceeds obtained directly or indirectly from" the words "or which represents the instrumentalities of"; and

(2) by adding at the end thereof the following: "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 1904. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE THROUGH BANKRUPTCY.

(a) TITLE 18.—Section 1963(a) of title 18, United States Code, is amended by inserting after "shall forfeit to the United States irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this chapter".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)) is amended by inserting after "shall forfeit to the United States, irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution of such violation".

SEC. 1905. NONABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

(a) TITLE 18.—Section 1963 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at

the end thereof the following new subsection:

"Nonabatement of Forfeiture Order

"(q) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

SEC. 1906. FORFEITURE OF PERSONAL PROPERTY USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end thereof the following new paragraph:

"(10) Any weapon, computer, or electronic communications device used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

SEC. 1907. FORFEITURE OF PROCEEDS TRACEABLE TO CONVEYANCES USED TO FACILITATE DRUG VIOLATIONS.

Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) by inserting "and any proceeds traceable to such conveyances" after "property described in paragraph (1) or (2),";

(2) in subparagraph (A), by inserting ", and no proceeds traceable to such conveyance," before "shall be forfeited"; and

(3) in subparagraphs (B) and (C), by inserting "and no proceeds traceable to such conveyance" before "shall be forfeited".

SEC. 1908. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY AND ADMINISTRATIVE USE.

(a) CLARIFICATION OF AUTHORITY.—Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting ", by public sale or any other commercially feasible means," after "sell".

(b) ADMINISTRATIVE EXPENSES.—Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 percent of the total proceeds to cover the costs of administrative expenses.".

SEC. 1909. CLARIFICATION OF CIVIL FORFEITURE SEIZURE WARRANT AUTHORITY.

Section 981(b)(2) of title 18, United States Code, is amended by striking "has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure" and inserting "has obtained a warrant for such seizure in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure".

SEC. 1910. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a) (2) or (3) which cannot be separated safely from such raw materials or products" after "this title" wherever it appears.

SEC. 1911. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 1912. FORFEITABILITY OF REAL PROPERTY UNDER GAMBLING STATUTE.

(a) IN GENERAL.—Section 1955 of title 18, United States Code, is amended:

(1) in subsection (d), by striking ", including money," and inserting "of any kind, real or personal, tangible or intangible,"; and

(2) by inserting at the end the following:

"(f) Any person convicted of a violation of this subsection shall forfeit to the United States, irrespective of any provision of State law, or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this subsection—

"(1) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation; and

"(2) any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

The provisions of 511 of the Controlled Substances Act (21 U.S.C. 853) shall apply to property subject to forfeiture under this subsection, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this subsection.".

(b) TECHNICAL AMENDMENT.—Section 1955(a) of title 18 is amended by striking out "shall be fined not more than $20,000 or" and inserting "shall be fined under this title,".

SEC. 1913. CUSTOMS FORFEITURE FUND.

Section 613A, subsection (a)(3)(F), of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows: "payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

TITLE XX—PUBLIC CORRUPTION

SEC. 2001. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1990".

SEC. 2002. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than ten years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than ten years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the twelve-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than ten years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political sub-

division of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to five years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, three times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official', and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 2003. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 2004. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 2005. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

TITLE XXI—CIVIL ENFORCEMENT

SEC. 2101. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 2102. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking. The amendments made by this section shall take effect one day after enactment.

TITLE XXII—JUVENILE JUSTICE

SEC. 2201. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNNUMBERED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating unnumbered paragraphs (1) through (11) as subsections (a) through (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, as so designated by this section is amended—

(1) by striking "A juvenile" and inserting "(1) Except as provided in paragraphs (2) and (3), a juvenile";

(2) by striking ", except that," and designating the following matter up to the semicolon as paragraph (2);

(3) by striking "however" after the semicolon and designating the remaining matter as paragraph (3); and

(4) by inserting in paragraph (2) "or section 924 (b), (g), or (h) of this title," after "959),".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, as so designated by this section, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavorial problems"; and

(5) by adding at the end the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

(e) WAIVING CONFIDENTIALITY IN CERTAIN JUVENILE PROCEEDINGS.—Section 5038 of title 18, United States Code, is amended by adding at the end the following:

"(g) In addition to any other provision of this section regarding disclosure of records if the law of the State in which a Federal juvenile delinquency proceeding takes place would permit or require the disclosure of records and information relating to a juvenile delinquency proceeding in certain circumstances, such disclosure shall be permitted under this section whenever the same circumstances exist.".

(f) CONFORMING AMENDMENT ADDING CERTAIN CONTROLLED SUBSTANCES OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.—Sections 5038 (d) and (f) of title 18, United States Code, are amended by striking out "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), or (3)), or section 924 (b), (g) or (h) of this title,".

SEC. 2202. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

SEC. 2203 REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT PERTAINING TO CHILDREN.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(2) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "(as such terms are defined for purposes of the Controlled Substances Act)".

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.

"419. Distribution or manufacturing in or near schools and colleges.

"420. Employment of persons under 18 years of age.

"421. Denial of Federal benefits to drug traffickers and possessors.".

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substances Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.

"519. Production control of controlled substances.".

SEC. 2204. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by section 2203 of this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as redesignated by section 2203 of this Act) is amended—

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 420 of the Controlled Substances Act (as redesignated by section 2203 of this Act) is amended—

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

TITLE XXIII—SHORT-BARRELED SHOTGUNS

SEC. 2301. MINIMUM PENALTY RELATING TO SHORT-BARRELED SHOTGUNS AND OTHER FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended in the first sentence by—

(1) inserting "and if the firearm is a short-barreled rifle, short-barreled shotgun to imprisonment for ten years," after "sentenced to imprisonment for five years,"; and

(2) section 924(c)(1) of title 18 of the United States Code, as amended by this Act, is further amended by inserting "or a destructive device," after "a machinegun,", wherever the term "machine gun" appears in section 924(c)(1).

TITLE XXIV—MISCELLANEOUS CRIMINAL LAW IMPROVEMENTS

SEC. 2401. RECEIVING STOLEN PROPERTY.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof a new section, as follows:

"§ 21. Stolen or counterfeit nature of property for certain crimes defined

"Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. For purposes of this section, the term "official representation" means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 2402. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking out "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 2403. MARITIME DRUG LAW ENFORCEMENT AMENDMENTS.

Sections 3142 (e) and (f) of title 18, United States Code, and sections 994(h) (1) and (2) of title 28, United States Code, are each amended by striking out "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

SEC. 2404. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking out "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting in lieu thereof "shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000,".

SEC. 2405. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.

Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking out "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting in lieu thereof "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 2406. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.

Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking out "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting in lieu thereof "shall be subject to the same penalties as those".

SEC. 2407. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.

(a) LARGE AMOUNTS.—Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

(b) SMALL AMOUNTS.—Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

SEC. 2408. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.

Section 3742(b) of title 18, United States Code, is amended by striking "The Government, with the personal approval of the Attorney General or the Solicitor General, may file a notice of appeal in the district court for review of" and inserting "The Government, with the approval of the Attorney General or the Solicitor General, may appeal".

SEC. 2409. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.

Section 3 of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 2410. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.

Section 3742(g) of title 18, United States Code, is amended by inserting "(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)" after "and this section shall apply".

SEC. 2411. CORRECTION OF MISSPELLED WORDS, TYPOGRAPHICAL ERRORS, AND MISDESIGNATIONS.

(a) Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking out "stimulent" each place that word appears and inserting in lieu thereof "stimulant";

(b) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking out "suspervised" each place that word appears and inserting in lieu thereof "supervised";

(c) Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV)) are amended by striking out "any of the substance" and inserting in lieu thereof "any of the substances";

(d) Section 151 of title 18, United States Code, is amended by striking out "mean" and inserting in lieu thereof "means";

(e) Section 665(c) of title 18, United States Code, is amended by striking out "Any person whoever" and inserting in lieu thereof "Any person who";

(f) Section 794(d)(4) of title 18, United States Code, is amended by striking out "all amount" and inserting in lieu thereof "all amounts";

(g) The second section 798 of title 18, United States Code, entitled "Temporary extension of section 794" is designated as section 800 of such title, and the table of sections for chapter 37 of such title is amended accordingly;

(h) Section 3125(d) of title 18, United States Code, is amended by striking out "A provider for a wire or electronic service," and inserting in lieu thereof "A provider of a wire or electronic service,";

(i) Section 4285 of title 18, United States Code, is amended by striking out "exced" and inserting in lieu thereof "exceed";

(j) Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b), and 845(c)) are amended by

striking out "have become final" and inserting in lieu thereof "has become final";

(k) Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)";

(l) Section 12 of title 18, United States Code, is amended by striking out "every officer and employee of that Service, whether he has taken the oath of office" and inserting in lieu thereof "every officer and employee of that Service, whether or not such officer or employee has taken the oath of office";

(m) Section 1546(a) of title 18, United States Code is amended by striking out "Shall be fined not more than in accordance with this title" and inserting in lieu thereof "Shall be fined in accordance with this title";

(n) Section 3563(b)(3) of title 18, United States Code, is amended by striking out "section 3663 and 3664" and inserting in lieu thereof "sections 3663 and 3664";

(o) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "paraphenalia" and inserting in lieu thereof "paraphernalia";

(p) Section 219(c) of title 18, United States Code, is amended by striking out "branch of Governments" and inserting in lieu thereof "branch of Government";

(q) Section 513(c)(3) of title 18, United States Code, is amended by striking out "15 U.S.C. 1693(c)" and inserting in lieu thereof "15 U.S.C. 1693n(c)";

(r) Section 665 of title 18, United States Code, is amended in the section heading by striking out both colons and inserting in lieu thereof semicolons;

(s) Section 844(d) of title 18, United States Code, is amended by striking out "this subsection,," and inserting in lieu thereof "this subsection,";

(t) Section 1466(b) of title 18, United States Code, is amended—

(1) by striking out "this subsection" and inserting in lieu thereof "this section"; and

(2) by striking out "subsection (b)" and inserting in lieu thereof "this subsection";

(u) Section 1963(a) of title 18, United States Code, is amended by striking out "both.," and inserting in lieu thereof "both,";

(v) Section 2254(e) of title 18, United States Code, is amended by inserting the following subsection heading: "Non-applicability to visual depictions.—";

(w) Section 3583(e) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking out "or" after the semicolon;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; or"; and

(3) by redesignating paragraph "(5)" as paragraph "(4)";

(x) Section 3077(4) of title 18, United States Code, is amended by striking out the semicolon at the end and inserting in lieu thereof a period;

(y) Section 3166(b)(8) of title 18, United States Code, is amended by striking out "extention" and inserting in lieu thereof "extension"; and

(z) Section 4352(c) of title 18, United States Code, is amended by striking out "Each recipient of assistance under this shall" and inserting in lieu thereof "Each recipient of assistance under this title shall".

SEC. 2412. CORRECTION OF ERRONEOUS CROSS-REFERENCE.

Section 2703(d) of title 18, United States Code, is amended by striking out "section 3126(2)(A) of this title" and inserting in lieu thereof "section 3127(2)(A) of this title".

SEC. 2413. CONFORMING AMENDMENT TO THE ELECTRONIC COMMUNICATIONS PRIVACY ACT.

Section 2705(a)(1)(B) of title 18, United States Code, is amended by inserting "or trial" after "grand jury".

SEC. 2414. REDESIGNATION OF PARAGRAPHS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(1) by redesignating the first paragraph (m) which reads "any conspiracy to commit any of the foregoing offenses." as paragraph (o);

(2) by striking out "and" at the end of paragraph (m); and

(3) by striking out the period at the end of paragraph (n) and inserting in lieu thereof "; and".

SEC. 2415. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(a) Section 232 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(b) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(c) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(d) Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(e) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(f) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(g) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(h) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(i) Section 1952(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" after "As used in this section"; and

(2) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(j) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(k) Section 1958(b) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(l) Section 2313 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(m) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(n) Section 5032 of title 18, United States Code, is amended—

(1) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(2) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 2416. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.

(a) Section 45 of title 18, United States Code, is repealed.

(b) The table of sections for chapter 3 of title 18, United States Code, is amended by striking out the items relating to sections 43, 44, and 45.

SEC. 2417. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.

(a) Section 969 of title 18, United States Code, is repealed and the table of sections for chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

(b) Sections 2198 and 3286 of title 18, United States Code, are repealed and the respective tables of sections in chapter 107 and 213 are amended by striking out the items relating to sections 2198 and 3286.

SEC. 2418. DELETION OF REDUNDANT PROVISION AND CORRECTION OF CITATIONS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c), by striking out "the section in chapter 65 relating to destruction of an energy facility,"; and

(2) in paragraph (j), by striking out "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting in lieu thereof "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(o)(2)) or sections 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1472 (i) or (n))".

SEC. 2419. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 TO COVER FRAUDULENT SCHEMES INVOLVING FOREIGN AS WELL AS INTERSTATE TRAVEL.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

SEC. 2420. CLARIFICATION OF ONE-YEAR PERIOD.

Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'in any one-year period' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense.".

SEC. 2421. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.

(a) Section 1730 of title 18, United States Code, is amended by striking out ", if the portrayal does not tend to discredit that service".

(b) Section 1714 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is repealed.

(c) Section 1718 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed.

SEC. 2422. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.

Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking out "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: *And provided further,*".

SEC. 2423. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.

Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking out "If the property is to be disposed of by marshal's sale" and inserting in lieu thereof "if the property is not disposed of by marshal's sale".

SEC. 2424. CORRECTION OF CROSS-REFERENCE.

Section 4247(h) of title 18, United States Code, is amended by striking out "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

SEC. 2425. SEXUAL ABUSE AMENDMENTS RELATING TO MINORS.

(a) INCLUSION OF THIRTEEN- AND FOURTEEN-YEAR-OLDS.—Section 2241(c) of title 18, United States Code, is amended to read as follows:

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has not attained the age of twelve years; or

"(2) has attained the age of twelve years but has not attained the age of fourteen years, and is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned for any term of years not less than thirty or for life, or both.

"(3) Whoever—

"(A) engages in any conduct which violates the provisions of paragraph (1) after a prior conviction under such paragraph has become final; or

"(B) violates the provisions of paragraph (1)—

"(i) by using force against the other person; or

"(ii) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping,

shall be sentenced to mandatory life imprisonment without release.".

(b) CONFORMING AMENDMENT FOR STATE OF MIND PROOF REQUIREMENT.—Section 2241(d) of title 18, United States Code, is amended by striking out "knew" and all that follows and inserting in lieu thereof "knew—

"(1) the age of the other person engaging in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.".

(c) CONFORMING AMENDMENT TO SECTION 2243.—Paragraph (1) of section 2243(a) of title 18, United States Code, is amended by striking out "12" and inserting "14" in lieu thereof.

(d) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT REGARDING PERSONS UNDER SIXTEEN YEARS OF AGE.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking out "or" after the semicolon;

(2) in subparagraph (C) by striking out "; and" and inserting "; or" in lieu thereof; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

(e) CONFORMING AMENDMENT TO DEFINITION OF SEXUAL CONTACT.—Paragraph (3) of section 2245 of title 18, United States Code, is amended by inserting ", but does not include the conduct described in paragraph (2)(D)" after "of any person" the second place it appears.

(f) DESIGNATION OF SECTION.—Section 2245 of title 18, United States Code, is redesignated section 2246.

(g) PENALTIES FOR SUBSEQUENT OFFENSES.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter, except as provided in section 2241(c), after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(h) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking out "2245" and inserting "2246" in lieu thereof; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 2426. CORRECTION OF MISPLACED PHRASE IN 18 U.S.C. 3289.

Section 3289 of title 18, United States Code, is amended by striking out "or, in the event of an appeal, within sixty days of the date the dismissal of the indictment or information becomes final," and inserting that same stricken language after "within six months of the expiration of the statute of limitations,".

SEC. 2427. TECHNICAL AMENDMENTS.

(a) ELIMINATION OF DUPLICATE SECTION NUMBER.—(1) Section 3117 of title 18, United States Code, as enacted by Public Law 100-690, is redesignated as section 3118.

(2) The section analysis for chapter 205 of title 18, United States Code, is amended by striking "3117. Implied consent for certain tests" and inserting "3118. Implied consent for certain tests".

(b) INSERTION OF MISSING WORD.—Section 1716A of title 18, United States Code, is amended by inserting "fined" after "shall be".

(c) CORRECTION OF CROSS-REFERENCE.—Section 1958 of title 18, United States Code, is amended by—

(1) striking "1952B" and inserting "1959";

(2) inserting "or who conspires to do so" before "shall be fined" the first place it appears; and

(3) striking "not more than $10,000", "not more than $20,000", and "not more than $50,000", and inserting in each instance "under this title".

(d) ELIMINATION OF LANGUAGE MISTAKENLY INCLUDED.—Section 3125(a)(2) is amended by—

(1) striking the quotation marks;

(2) inserting a comma after "installation and use"; and

(3) beginning the indentation of the text following such comma at the margin.

(e) CORRECTION OF CROSS-REFERENCE.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)" each place it appears.

(f) ELIMINATION OF DUPLICATIVE PENALTY.—Section 1864 of title 18, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as (c).

SEC. 2428. CLARIFICATION RELATING TO POLLUTING FEDERAL LANDS.

Section 401(b)(6) of the Controlled Substances Act (21 U.S.C. 841(b)(6)) is amended by striking "who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land," and inserting "who knowingly uses a poison, chemical, or other hazardous substance on Federal land with the intent to commit an act in violation of subsection (a),".

SEC. 2429. REVOCATION OF PROBATION FOR POSSESSION OF CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended—

(1) by striking "to not less than one-third of the original sentence" and inserting "to a term of imprisonment that was available under subchapter A at the time of the initial sentencing"; and

(2) by striking "of modifying" and inserting "or modifying".

SEC. 2430. EXCEPTION TO BAR ON PROBATION FOR COOPERATING WITNESSES.

Section 3553(e) of title 18, United States Code, is amended by—

(1) inserting "a" before "minimum sentence", and inserting after "minimum sentence" the following: ", or to impose a term of probation notwithstanding any statutory bar to such sentence,"; and

(2) striking the last sentence and inserting: "Such sentence shall be imposed in accordance with the sentencing guidelines and with the policy statements issued by the Sentencing Commission".

SEC. 2431. PEREMPTORY CHALLENGES.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(b) PEREMPTORY CHALLENGES.—If the offense charged is punishable by death, each side is entitled to 20 peremptory challenges. If the offense charged is punishable by imprisonment for more than one year, each side is entitled to 8 peremptory challenges. If the offense charged is punishable by imprisonment for not more than one year or by fine or both, each side is entitled to 3 peremptory challenges. If there is more than one defendant, the court may allow both sides additional peremptory challenges: *Provided*, That the Government shall not have more challenges than the total allocated to all defendants. The court may permit multiple defendants to exercise peremptory challenges separately or jointly.".

SEC. 2432. AMENDMENT TO WIRETAP STATUTE.

(a) IN GENERAL.—Section 2511(1) of title 18, United States Code, is amended by—

(1) striking "or" at the end of paragraph (c);

(2) inserting "or" after the semicolon at the end of paragraph (d); and

(3) adding the following new paragraph:

"(e) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by this chapter, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, with intent to obstruct, impede, or interfere with a criminal investigation;".

(b) ADMISSION OF EVIDENCE.—Section 2515 of title 18 is amended by adding at the end the following new paragraph:

"This section shall not apply to the admission into evidence of the contents of a wire or oral communication, or evidence derived therefrom, which has been disclosed in violation of section 2511(1)(e).".

SEC. 2433. MANDATORY MINIMUM SENTENCES FOR DRUG OFFENSES INVOLVING MINORS.

DISTRIBUTION OR MANUFACTURING IN OR NEAR SCHOOLS AND COLLEGES.—(1) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) as redesignated by this Act, is amended—

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,";

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(2) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) as redesignated by this Act, is amended—

(A) in paragraph (1)(B) by striking ", or a fine up to three times that" through "or both"; and

(B) by inserting after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a person shall be sentenced under this subsection to a term of imprisonment of not less than three years".

(3) Section 405A(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) as redesignated by this Act, is amended—

(A) in the first sentence by inserting "mandatory minimum" after "any";

(B) in the first sentence by striking "subsection (b) of"; and

(C) by striking the second sentence and inserting "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

SEC. 2434. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Notwithstanding section 503 of this Act, section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State or the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 2435. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Notwithstanding section 510 of this Act, section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 2436. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 2437. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

TITLE XXV—FEDERAL PRISONER DRUG TESTING

SEC. 2501. SHORT TITLE.

This title may be cited as the "Federal Prisoner Drug Testing Act of 1990".

SEC. 2502. CONDITIONS ON PROBATION.

Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant—

"(A) pass a drug test prior to the imposition of such sentence; and

"(B) refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance";

(4) by adding at the end thereof the following: "No action may be taken against a defendant pursuant to a drug test administered in accordance with paragraph (4) unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. 2503. CONDITIONS ON SUPERVISED RELEASE.

Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant pass a drug test prior to the commencement of service of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance with the provisions of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. 2504. CONDITIONS ON PAROLE.

Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance with the provisions of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

TITLE XXVI—DRUG ENFORCEMENT GRANTS

SEC. 2601. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS AND IMPROVING THE EFFECTIVENESS OF COURT PROCESS.

BASE ALLOCATION FOR DRUG ENFORCEMENT GRANT.—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $900,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title.".

TITLE XXVII—CRIMINAL RESTITUTION DEBTS NONDISCHARGEABLE IN BANKRUPTCY

SEC. 2701. CRIMINAL RESTITUTION DEBTS NONDISCHARGEABLE IN BANKRUPTCY.

(a) AUTOMATIC STAY NONAPPLICABLE TO CRIMINAL RESTITUTION DEBT.—Section 362(b) is amended—

(1) in paragraph (12) by striking out "or" at the end thereof;

(2) in paragraph (13) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following new paragraph:

"(14) under subsection (a) of this section, of the payment of any fine or penalty imposed by an order for restitution in any State or Federal criminal judgment, or any related probationary order.".

(b) CRIMINAL RESTITUTION DEBT EXCEPTION TO DISCHARGE.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (9) by striking out "or" at the end thereof;

(2) in paragraph (10) by striking out the period at the end and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following new paragraph:

"(11) for a fine or penalty imposed by an order for restitution in any State or Federal criminal judgment, or any related probationary order.".

(c) PAYMENT OF RESTITUTION IN CHAPTER 13 PLAN.—Section 1322(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for full payment of all claims which are nondischargeable under section 523(a)(11) of this title.".

(d) NONDISCHARGE OF CRIMINAL RESTITUTION DEBT UNDER CHAPTER 13 OF TITLE 11, UNITED STATES CODE.—Section 1328(a) of title 11, United States Code, is amended in paragraph (2) by inserting "or (11)" after "section 523(a)(5)".

TITLE XXVIII—NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990

SEC. 2801. SHORT TITLE.

This title may be cited as the "National Child Search Assistance Act of 1990".

SEC. 2802. REPORTING REQUIREMENT.

(a) IN GENERAL.—Each Federal, State, and local law enforcement agency shall report each case of a missing child under the age of 18 reported to such agency to the National Crime Information Center of the Department of Justice.

(b) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such reports including procedures for carrying out the purpose of this title.

(c) ANNUAL SUMMARY.—The Attorney General shall publish an annual summary of the reports received under this title.

SEC. 2803. STATE REQUIREMENTS.

(a) IN GENERAL.—Each State reporting under the provisions of this title shall—

(1) ensure that no law enforcement agency within the State establishes or maintains any policy which requires the observance of any waiting period before accepting a missing child report;

(2) provide that all necessary and available information, which shall include—

(A) the name, date of birth, sex, race, height, weight, and eye and hair color of the child;

(B) the date reported missing and the last known location of the child; and

(C) the category by which the child was abducted,

is entered into the State law enforcement system and the National Crime Information Center computer networks and forwarded to the Missing Children Information Clearinghouse within the State or other agency designated within the State to receive such reports as established in title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (Public Law 93-415); and

(3) provide that after receiving reports as provided in paragraph (2), the Missing Children Information Clearinghouse or designated agency shall—

(A) verify and update with any additional information the original entry made into the State law enforcement system and National Crime Information Center computer networks;

(B) institute or assist with appropriate search and investigative procedures; and

(C) maintain close liaison with the National Center for Missing and Exploited Children for the exchange of information and technical assistance in the missing children cases.

(b) LIMIT ON GRANTS.—Any State not complying with the provisions of subsection (a) shall be denied any grant, cooperative agreement, or other assistance authorized by the Missing Children's Assistance Act (Public Law 98-473).

TITLE XXIX—FOOD STAMP CRIMINAL PROVISIONS

SEC. 2901. SHORT TITLE.

This title may be cited as the "Food Stamp Trafficking Prevention and Penalty Act of 1990".

SEC. 2902. TAXPAYER IDENTIFYING NUMBERS OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended by adding at the end the following: "Such regulations shall require each applicant retail food store or wholesale food concern, and each approved retail food stores or wholesale food concern, to submit to the Secretary the taxpayer identifying number applicable under the Internal Revenue Code of 1986 to such store or concern.".

SEC. 2903. UNLAWFUL USE OF COUPONS IN LAUNDERING MONETARY INSTRUMENTS.

Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024) is amended by adding at the end the following:

"(h) For purposes of section 1956 of title 18, United States Code, a violation of this section shall be considered to be a specified unlawful activity (as defined in section 1956(c)(7) of such title) if such violation involves a quantity of coupons that has a value of not less than $5,000.".

SEC. 2904. FORFEITURE OF PROPERTY.

(a) CIVIL AND CRIMINAL FORFEITURE.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 23. FORFEITURE OF PROPERTY.

"(a) PROPERTY SUBJECT TO FORFEITURE.—The following shall be subject to forfeiture to the United States and no property right shall exist in them:

"(1) All coupons which have been used, transferred, acquired, altered, possessed, or presented or caused to be presented for payment or redemption in violation of subsection (b) or (c) of section 15.

"(2) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1), except that—

"(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section unless it appears that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of subsection (b) or (c) of section 15;

"(B) no conveyance shall be forfeited under this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State; and

"(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed, or omitted without the knowledge, consent, or willful blindness of the owner.

"(3) All books, records, microfilm, tapes, and data which are used, or intended for use, in violation of subsection (b) or (c) of section 15.

"(4) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for coupons in violation of subsection (b) or (c) of section 15, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of subsection (b) or (c) of section 15, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to

have been committed or omitted without the knowledge or consent of that owner.

"(5) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of subsection (b) or (c) of section 15 punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(6) All coupons which have been involved in violation of subsection (b) or (c) of section 15.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS; ISSUANCE OF WARRANT AUTHORIZING SEIZURE.—Any property subject to civil forfeiture to the United States under subsection (a) may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

"(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

"(2) the property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this Act;

"(3) the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

"(4) the Attorney General has probable cause to believe that the property is subject to civil forfeiture under subsection (a).

In the event of seizure pursuant to paragraph (2), proceedings under subsection (d) shall be instituted promptly. The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under subsection (a) in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this Act, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—The provisions of law relating to—

"(1) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(2) the disposition of such property or the proceeds from the sale thereof;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims;

shall apply to seizure and forfeitures incurred, or alleged to have been incurred, under this Act, insofar as applicable and not inconsistent with the provisions hereof, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this Act by such officers, agents, or other persons as may be authorized to be designated for that purpose by the Attorney General unless such duties arise from seizures and forfeitures effected by any customs officer.

"(e) DISPOSITION OF FORFEITED PROPERTY.—

"(1) METHODS.—Whenever property is civilly or criminally forfeited under this section the Attorney General may—

"(A) retain the property for official use or, in the manner provided with respect to transfers under section 1616a of title 19, United States Code, transfer the property to any Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;

"(B) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

"(C) require that the General Services Administration take custody of the property and dispose of it in accordance with law;

"(D) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in a seizure or forfeiture of the property, if such a transfer—

"(i) has been agreed to by the Secretary of State;

"(ii) is authorized in an international agreement between the United States and the foreign country; and

"(iii) is made to a country which, if applicable, has been certified under section 2291(h) of title 22, United States Code.

"(2) USE OF PROCEEDS FROM SALES.—The proceeds from any sale under paragraph (1)(B) and any monies forfeited under this section shall be used—

"(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding that caused the sale that produced such proceeds;

"(B) second, to reimburse the Department of Agriculture for any costs incurred by the Department to assist the Department of Justice to initiate or complete such proceeding; and

"(C) third, to reimburse the State agency for any costs incurred by the State agency to assist the Department of Justice, or the Department of Agriculture, to initiate or complete such proceeding.

The amount remaining, if any, shall be available to the Secretary to carry out this Act.

"(3) TRANSFER OF PROPERTY.—The Attorney General shall ensure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

"(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local law enforcement agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

"(B) is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.

"(f) FORFEITURE AND DESTRUCTION OF COUPONS.—All coupons that are used, transferred, acquired, altered, possessed, or presented or caused to be presented for payment or redemption in violation of subsection (b) or (c) of section 15 shall be deemed contraband, and seized and summarily forfeited to the United States. Similarly, all coupons which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

"(g) VESTING OF TITLE IN UNITED STATES.—All right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF CIVIL FORFEITURE PROCEEDINGS.—The filing of an indictment or information alleging a violation of section 15 which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

"(j) AGREEMENT BETWEEN ATTORNEY GENERAL AND POSTAL SERVICE FOR PERFORMANCE OF FUNCTIONS.—The functions of the Attorney General under this section shall be carried out by the Postal Service pursuant to such agreement as may be entered into between the Attorney General and the Postal Service.

"(k) EXPEDITED PROCEDURES FOR PROPERTY OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.—

"(1) PETITION FOR EXPEDITED DECISION; DETERMINATION.—(A) A retail food store or wholesale food concern may petition the Attorney General for an expedited decision with respect to property used to carry out its food sale operations if such property is seized under this section and if such store or concern filed the requisite claim and cost bond in the manner provided in section 1608 of title 19, United States Code. The Attorney General shall make a determination on a petition under this subsection expeditiously, including a determination of any rights or defenses available to the petitioner. If the Attorney General does not grant or deny a petition under this subsection within 20 days after the date on which the petition is filed, such property shall be returned to the owner pending further forfeiture proceedings.

"(B) With respect to a petition under this subsection, the Attorney General may—

"(i) deny the petition and retain possession of such property;

"(ii) grant the petition, move to dismiss the forfeiture action, if filed, and promptly release such property to such store or concern; or

"(iii) advise the petitioner that there is not adequate information available to deter-

mine the petition and promptly release such property to such store or concern.

"(C) Release of property under subparagraph (A) or (B)(iii) does not affect any forfeiture action with respect to such property.

"(D) The Attorney General shall prescribe regulations to carry out this subsection.

"(2) WRITTEN NOTICE OF PROCEDURES.—At the time of seizure, the officer making the seizure shall furnish to any person in possession of such property a written notice specifying the procedures under this subsection. At the earliest practicable opportunity after determining ownership of the seized property, the head of the department or agency that seizes such property shall furnish a written notice to such store or concern, and other interested parties (including lienholders), of the legal and factual basis of the seizure.

"(3) COMPLAINT FOR FORFEITURE.—Not later than 60 days after a claim and cost bond have been filed under section 1608 of title 19, United States Code, regarding property seized under this section, the Attorney General shall file a complaint for forfeiture in the appropriate district court, except that the court may extend the period for filing for good cause shown or on agreement of the parties. If the Attorney General does not file a complaint as specified in the preceding sentence, the court shall order the return of such property to such store or concern and the forfeiture may not take place.

"(4) BOND FOR RELEASE OF PROPERTY USED IN FOOD SALE OPERATION.—Any retail food store or wholesale food concern may obtain release of property used to carry out its food sale operations by providing security in the form of a bond to the Attorney General in an amount equal to the value of such property unless the Attorney General determines such property should be retained (A) as contraband, (B) as evidence of a violation of law, or (C) because, by reason of design or other characteristic, such property is particularly suited for use in illegal activities.".

(b) CONFORMING PROVISIONS.—(1) Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024) is amended by striking subsection (g).

(2) Sections 981 and 982 of title 18, United States Code, shall not apply with respect to a violation of section 1956 of such title that, as a result of the amendment made by section 2903 of this Act, is based on a violation of section 15 of the Food Stamp Act of 1977.

SEC. 2905. EFFECTIVE DATES.

(a) REGULATIONS.—The amendment made by section 2902 shall take effect 60 days after the date of the enactment of this Act.

(b) LAUNDERING AND FORFEITURE.—The amendments made by sections 2903 and 2904 shall take effect on the date of the enactment of this Act.

TITLE XXX—PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS

SEC. 3001. PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS.

(a) PAYMENT.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsections (c) and (d) by striking "(b)" each place it appears and inserting "(c)",

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively,

(3) by inserting after subsection (a) the following:

"(b) In accordance with regulations issued pursuant to this part, in any case in which the Bureau determines that a public safety officer has become permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty, the Bureau shall pay, to the extent that appropriations are provided, a benefit of up to $100,000, adjusted in accordance with subsection (g), to such officer: *Provided,* That the total annual benefits paid under this section may not exceed $5,000,000. For the purposes of making these benefit payments, there are authorized to be appropriated for each fiscal year such sums as may be necessary: *Provided further,* That these benefit payments are subject to the availability of appropriations and that each beneficiary's payment shall be reduced by a proportionate share to the extent that sufficient funds are not appropriated.", and

(4) by adding at the end thereof the following:

"(j)(1) No benefit is payable under this part with respect to the death of a public safety officer if a benefit is paid under this part with respect to the disability of such officer.

"(2) No benefit is payable under this part with respect to the disability of a public safety officer if a benefit is payable under this part with respect to the death of such public safety officer.".

(b) LIMITATIONS.—Paragraphs (1), (2), (3), and (4) of section 1202 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) are each amended by inserting "or catastrophic injury" after "death".

(c) DEFINITION.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796c) is amended—

(1) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively, and

(2) by inserting before paragraph (2), as so redesignated, the following:

"(1) 'catastrophic injury' means consequences of an injury that permanently prevent an individual from performing any gainful work;".

SEC. 3002. RESCUE SQUAD AND AMBULANCE PERSONNEL.

Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended in subsection (2) (relating to the definition of firefighter) by—

(a) by adding "." after "ambulance crew"; and

(2) by striking "who was responding to a fire, rescue or police emergency.".

SEC. 3003. EFFECTIVE DATE.

EFFECTIVE DATE.—The amendments made by this title shall take effect upon enactment and shall not apply with respect to injuries occurring before the effective date of such amendments.

TITLE XXXI—LAW ENFORCEMENT FUNDING

SEC. 3101. LAW ENFORCEMENT FUNDING.

(a) Amendment of section 211 of the Department of Justice Appropriations Act. Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act; 1990 (Public Law 101-162), is amended by striking "1990" and inserting in lieu thereof "1991".

TITLE XXXII—MONEY LAUNDERING

SEC. 3201. CRIMINAL FORFEITURE IN CASES INVOLVING CMIR VIOLATIONS.

Section 982(a) of title 18, United States Code, is amended by inserting ", 5316" after "5313(a)".

SEC. 3202. DEFINITION OF "FINANCIAL TRANSACTION".

Section 1956(c)(4) of title 18, United States Code, is amended by—

(1) inserting "A" before "a transaction" the first place it appears and inserting "(B)" before "a transaction" the second place it appears; and

(2) inserting "(i)" before "involving" the first place it appears and inserting "(ii)" before "involving" the second place it appears.

SEC. 3203. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting the following before the period: "unless the defendant, in committing the offense or offenses giving rise to the forfeiture, conducted three or more separate transactions involving a total of $100,000 or more in any twelve month period".

SEC. 3204. ENVIRONMENTAL CRIMES AS MONEY LAUNDERING PREDICATES.

(a) Section 1956(c)(7) of title 18, United States Code, is amended by—

(1) striking "or" before "(D)"; and

(2) inserting "; or" and the following before the period:

"ENVIRONMENTAL CRIMES

"(E) a felony violation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Ocean Dumping Act (33 U.S.C. 1401 et seq.), the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), or the Resources Conservation and Recovery Act (42 U.S.C. 6901 et seq.)".

(b) Section 1956(e) of title 18, United States Code, is amended by adding at the end the following sentence: "Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and such elements of the Environmental Protection Agency as the Administrator of the Evironmental Protection Agency may direct.

TITLE XXXIII—DEBT COLLECTION

SEC. 3301. SHORT TITLE.

This title may be cited as the "Federal Debt Collection Procedures Act of 1990".

Subtitle A—Debt Collection Procedures

SEC. 3311. DEBT COLLECTION.

Title 28 of the United States Code is amended by inserting immediately after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter
"A. Definitions and General Provisions 3001
"B. Prejudgment Remedies 3101
"C. Judgments; Liens 3201
"D. Postjudgment Remedies 3301
"E. Exempt Property 3401
"F. Fraudulent Transfers 3501
"G. Partition 3601
"H. Foreclosure of Security Interests 3701

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"Sec.
"3001. Definitions.
"3002. Rules of construction.
"3003. Nationwide enforcement.
"3004. Priority of claims of the United States.
"3005. Claims of United States not barred by State statute of limitations.
"3006. Right of set-off or recoupment.
"3007. Discovery.

"3008. Affidavit requirements.
"3009. Perishable property.
"3010. Immunity.
"3011. Proceedings before United States magistrates.
"3012. United States marshals' authority to designate keeper.
"3013. Co-owned property.
"3014. Assessment of charges on a claim.
"3015. Funding.
"3016. Investigative authority.
"3017. Subrogation.
"3018. Effective Date.

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"§ 3001. Definitions

"As used in this chapter—

"(a) 'claim' means amounts owing on account of direct loans or loans insured or guaranteed by the United States and all other amounts due the United States from or on account of fees, duties, leases, rents, services, sales of real or personal property, overpayments, fines, assessments, penalties, restitution, damages, interest, taxes, bail bond forfeitures, reimbursements and recovery of costs incurred and other sources of indebtedness. This definition includes amounts due the United States for the benefit of an Indian tribe or individual Indian.

"(b) 'Counsel for the United States' shall include for the purposes of this chapter, a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, an attorney with the United States Department of Justice or other Federal agency having litigation authority and any private attorney authorized by contract to conduct litigation for collection of debts on behalf of the United States.

"(c) 'Court' means any court created by the Congress of the United States exclusive of the United States Tax Court.

"(d) 'Debt' means liability to the United States on a claim.

"(e) 'Debtor' means a person who is liable to the United States on a claim.

"(f) 'Debt collection personnel' means personnel employed by any agency of the Federal government whose primary duties are the collection of the debts owed to the United States.

"(g) 'Disposable earnings' means that part of the earnings remaining after all deductions required by law have been withheld and 'nonexempt disposable earnings' means 25 percent of disposable earnings.

"(h) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(i) 'Garnishee' means a person other than the debtor who has, or is thought to have, possession, custody or control of any property of the debtor, including obligations owed to the debtor whether such obligations are past due or have yet to become due, against whom a garnishment has been issued by the clerk of the court.

"(j) 'Judgment' means a judgment, order or decree entered in favor of the United States in any court whether arising from a civil or criminal proceeding regarding a claim.

"(k) 'Judgment creditor' means the United States in situations in which the United States has judgments in its favor, whenever referred to in this chapter.

"(l) 'Judgment debtor' means a person against whom the United States holds a judgment on a debt.

"(m) 'Person' includes a natural person, including individual Indians, a corporation, a partnership, an unincorporated association, a trust or an estate or other entity, public or private, including local governments and Indian tribes.

"(n) 'Prejudgment remedy' means the remedies of attachment, garnishment, replevin, receivership, sequestration, injunction or a combination of any of the foregoing that are sought prior to judgment.

"(o) 'Property' includes any present or future interest in real, personal (including, but not limited to, earnings, goods and choses in action), or mixed property, whether legal or equitable, tangible or intangible, vested or contingent, and wherever located and however held, whether held as a tenancy in common, joint tenancy, tenancy by the entirety, community property, in partnership, or in trust (including spendthrift and pension trusts), and excludes any property held in trust by the United States for the benefit of any Indian tribe or individual Indian or any Indian lands subject to restrictions against alienation imposed by the United States.

"(p) 'Service' under the provisions of this chapter shall be in accordance with the Federal Rules of Civil Procedure.

"(q) 'State' includes the several states, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Marianas and any of the territories and possessions of the United States.

"(r) 'United States' includes an officer or agency thereof, a Federal corporation, Federal instrumentality, department, commission, board or other Federal entity.

"(s) 'United States marshal' means the United States marshal, his designee or contractor.

"§ 3002. Rules of construction

"In this title—

"(a) 'includes' and 'including' are not limiting;

"(b) 'or' is not exclusive;

"(c) the singular includes the plural;

"(d) the provisions are general and intended as a unified coverage of the subject matter;

"(e) if any provision or amendment made by this chapter or application thereof to any person is held invalid, the provisions of every other part and their application shall not be affected thereby;

"(f) the cases arising under the provisions herein shall not affect cases arising under admiralty jurisdiction;

"(g) the provisions of this chapter do not and should not be construed to curtail or limit any rights the United States has to collect taxes under any other provision of Federal law;

"(h) the provisions of this chapter do not, and should not be construed to, curtail or limit any rights the United States has under any other provision of Federal law to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case; and

"(i) the provisions of this chapter do not, and should not be construed to, curtail or limit the rights the United States has under any other provision of Federal law to appoint receivers.

"§ 3003. Nationwide enforcement

"Notwithstanding any other provision of law, any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State and may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

"§ 3004. Priority of claims of the United States

"The priorities established by the various provisions of this chapter shall be superseded by the provisions of section 3713 of title 31, United States Code, when the debtor or, if deceased, his estate is insolvent as determined under that section and the priority of the United States shall be in accordance therewith.

"§ 3005. Claims of the United States not barred by State statute of limitations

"The United States shall not be barred by the statute of limitations of any State in the enforcement of any of its claims.

"§ 3006. Right of set-off or recoupment

"Except as specifically provided for in this chapter, nothing in this chapter shall be construed to affect the common law or statutory rights to set-off or recoupment.

"§ 3007. Discovery

"(a) The United States may have discovery from any person including the debtor regarding the financial condition of the debtor in any case in which the United States seeks to enforce a claim. Such discovery may be before judgment or after judgment is entered in the case and in the manner in which discovery is provided for in the Federal Rules of Civil Procedure.

"(b) After judgment, the United States may also subpoena the judgment debtor or a third party to appear before the court at a location consistent with the Federal Rules of Civil Procedure with all records, books and other documents and to answer under oath questions regarding the debtor's financial condition and ability to satisfy the judgment.

"(c) The court shall impose appropriate sanctions as provided by the Federal Rules of Civil Procedure or the court's contempt power, including arrest of the offending person or debtor, for failure to comply with these discovery procedures.

"§ 3008. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made upon information and belief, where reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3009. Perishable property

"At any time during any proceedings, other than those under section 3103(a), the court may determine on its own initiative or upon motion of any party, that any seized or detained property, or any portion thereof, is likely to perish, waste, or be destroyed, or otherwise depreciate in value during the pendency of the proceedings. The court shall order the sale of the property or portion thereof and require the proceeds to be deposited with the clerk of the court. For purposes of liability on the part of the United States, the price paid at any such sale shall be conclusively presumed to be the fair market value.

"§ 3010. Immunity

"Counsel for the United States, but excluding any private attorneys authorized by contract to conduct litigation for collection of debts on behalf of the United States, and non-attorney debt collection personnel shall have absolute immunity in their individual and official capacities from any liability arising from errors, omissions or negligence in performance of their official debt collection duties.

"§ 3011. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States. A district court may adopt appropriate rules to carry out any such assignment.

"§ 3012. United States marshals' authority to designate keeper

"Whenever the United States marshal is authorized to seize property pursuant to the provisions of this chapter, the United States marshal shall be authorized to designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3013. Co-owned property

"The remedies available to the United States under this chapter shall be enforced against property which is co-owned by a debtor and others to the extent allowed by the law of the State where the property is located.

"For the purposes of this section, 'property' does not include the rights or interest of an individual other than the debtor in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof. A 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or regulation pursuant to statutory authority.

"§ 3014. Assessment of charges on a claim

"The United States may assess on a claim a charge of 10 percent of the amount of the claim to cover the cost of processing and handling the litigation and judicial enforcement of the claim.

"§ 3015. Funding

"It is hereby authorized that such sums be appropriated as may be necessary to carry out the provisions of this chapter. Appropriations authorized under this section shall remain available for obligations necessary to implement this chapter for 1 year.

"§ 3016. Investigative authority

"When the United States has reason to believe that an activity in violation of legal standards threatens to deprive it of a claim, the appropriate United States Attorney may commence a proceeding against named or unknown parties for the purpose of determining whether a claim for relief should be asserted under applicable law, and all discovery proceedings available under the Federal Rules of Civil Procedures shall be available in such proceeding.

"§ 3017. Subrogation

"When the United States asserts a claim against a debtor for sums alleged to be due the United States, the United States may name as an additional defendant then or by way of amendment of its complaint, any party reasonably believed to owe sums to the debtor arising out of the transaction or occurrence giving rise to the obligation to the United States, including but not limited to obligations on account of requirements to provide goods or services pursuant to a loan or loan guarantee extended pursuant to Federal law. If such party pays or is found liable, any amounts paid to the United States shall be credited to the account of the debtor.

"§ 3018. Effective date

"This Act and the amendments made by this Act shall take effect 180 days after the date of enactment and shall apply to all claims and debts owed to the United States and judgments in favor of the United States.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies with prior notice.
"3102. Prejudgment remedies without prior notice.
"3103. Attachment.
"3104. Garnishment.
"3105. Injunctions.
"3106. Sequestration.
"3107. Replevin.
"3108. Receivership.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"§ 3101. Prejudgment remedies with prior notice

"(a) APPLICATION.—(1) The United States may in conjunction with the complaint or at any time after the filing of a civil action, make application, under oath, to the court to issue any prejudgment remedy allowed by law.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

"(3) Such application shall state that the party against whom any prejudgment remedy is sought shall be afforded an opportunity for a hearing.

"(b) GROUNDS.—Any prejudgment remedy may be issued in favor of the United States by any court of the United States on application before judgment when—

"(1) the application sets forth with particularity, that all statutory requirements for the issuance of such prejudgment remedy sought under this chapter have been complied with by the United States; and

"(2) the court finds that the United States has shown the probable success of its claim.

"(c) NOTICE; FORM OF NOTICE.—Upon the filing of an application, the clerk of the court shall issue a notice directed to any person against whom any prejudgment remedy would operate, substantially in the following form—

"NOTICE

"You are hereby notified that your [property] may be taken away from you by the United States, which says that you owe the United States a debt of $[amount]. The United States wants to take your property so that it can be sure you will pay if the court decides that you owe this money.

"If you do not want to have your property taken away, you may ask for a hearing before this court. You may ask for the hearing anytime within 20 days from the date that this notice was mailed as indicated below. The hearing, if you so demand, will take place within five working days after you notify the court, or as soon thereafter as is practicable. You may ask for the hearing by checking the box at the bottom of this notice and filing it with the court at the following address: [address of court]. You must also send a copy to counsel for the United States at [address], so that the United States knows that you want the hearing.

"At the hearing, the court will decide whether the claim against you is probably valid and whether other legal requirements have been met. In addition, there are certain exemptions under Federal law which you may be entitled to claim with respect to the property.

"If you do not check the box requesting a date for a hearing and take this notice to the court within twenty days, the court will automatically assume you do not want a hearing and you will lose your right to a hearing before the United States may take your property with the court's permission.

"If you have any questions concerning your rights or this procedure, you should consult an attorney.

"DATE OF MAILING: _____

"(d) SERVICE OF NOTICE AND APPLICATION.—(1) A copy of the notice and a copy of the application for issuance of any prejudgment remedy shall be served by counsel for the United States by first class mail on each party against whom any remedy is sought. If such service is not possible, then service may be made under rule 4 of the Federal Rules of Civil Procedure, as appropriate.

"(2) Proof of service by mail may be made by affidavit or certification of mailing and shall set forth the actual date of mailing.

"(e) TIME TO REQUEST HEARING DATE; FORM OF REQUEST.—(1) Each person served with a copy of the notice set forth above and the application for any prejudgment remedy may request a date be set for the hearing on such application by filing with the clerk of the court within 20 days after service of the notice a written request for hearing date. The request for hearing shall be made by using the form provided or in some other writing. A copy of the request for hearing date shall be mailed by the person requesting the hearing to counsel for the United States.

"(2) The clerk of the court shall apprise counsel for the United States and the person requesting the hearing of the date of hearing.

"(f) WAIVER OF HEARING.—(1) If no request for hearing date is filed within the required time, counsel for the United States shall file an affidavit of default setting forth that service was made, that no request for hearing date was filed and that the party against whom any prejudgment remedy is sought has apparently waived any hearing. Counsel for the United States shall also file a proposed form of the written order requested. Upon filing of such affidavit, the clerk shall enter the order of waiver of record and any party so defaulted loses his right to a hearing prior to the issuance of the prejudgment remedy sought.

"(2) Upon entry of the order of waiver, the clerk shall immediately deliver the court file to the judge to whom the matter is assigned.

"(g) JUDICIAL REVIEW APPLICATION; ISSUANCE OF PREJUDGMENT REMEDIES WITH NOTICE.—(1) The court shall, within 5 days after hearing or the entry of the order of waiver, or as soon thereafter as is practical, review and examine all pleadings, evidence, affidavits and documents filed in the action to determine the following:

"(A) that evidence of service has been filed together with the original of the application and copy of notice;

"(B) where an order of waiver has been entered, that the affidavit of default has been filed and the order entered by the clerk;

"(C) that the claim or claims of the United States are based on facts established by the evidence or stated in the affidavit are sufficient to show that such claim or claims are probably valid; and

"(D) that any statutory requirement of this chapter for the issuance of any prejudgment remedy has been shown.

"(2) Upon the court's determination that the requirements of subsection (g)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"§ 3102. Prejudgment remedies without prior notice

"(a) GROUNDS.—Any prejudgment remedy may be issued by any court without prior notice to the person against whom it will operate when the United States has a reasonable cause to believe that—

"(1) the person against whom the prejudgment remedy is sought is about to leave the jurisdiction of the United States with the intent to hinder, delay, or defraud the United States and has refused to secure that debt, or is a fugitive from justice;

"(2) such person has secreted or is about to secrete property;

"(3) such person has or is about to assign, dispose, remove, or secrete property, wholly or in part, or that such person is about to assign or dispose of property with the effect of hindering, delaying, or defrauding creditors;

"(4) the United States is the owner, lessor or otherwise is lawfully entitled to the immediate possession of the property claimed and is seeking a prejudgment remedy in the nature of replevin, receivership or sequestration;

"(5) a prejudgment remedy is required to obtain jurisdiction within the United States;

"(6) a constructive or resulting trust should be impressed on the property in favor of the United States if such person is likely to put the property beyond the reach of the United States;

"(7) the person against whom the prejudgment remedy is sought is converting, is about to convert or has converted his property of whatever kind, or some part thereof, into money, securities, or evidence of debt in a manner prejudicial to creditors;

"(8) the person against whom the prejudgment remedy is sought has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States; or

"(9) the debt is due for property obtained illegally or by fraud.

"(b) APPLICATION; AFFIDAVIT; BOND; ISSUANCE OF WRIT.—(1) Contemporaneously with or at any time after the filing of a civil action, the United States shall file an application supported by an affidavit made upon information and belief, where reliable and reasonably necessary, establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim and the right of the United States to recover what is demanded in the application. The application shall state the amount of the debt owed the United States, including principal, interest, and costs, if any, and one or more of the grounds set forth in section 3102(a) and the specific requirements of the specific remedy sought.

"(2) No bond is required of the United States.

"(3) Upon the court's determination that the requirements of subsection (b)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"(c) NOTICE AND HEARING; WAIVER OF HEARING.—(1) Upon filing of an application as provided in this section, the clerk shall issue notice in substantially the following form to the counsel for the United States for service upon the party against whom any prejudgment remedy is sought in accordance with subsection (3) of this section—

"NOTICE

"You are hereby notified that your [property] is being taken away from you by the United States, who says that you owe it a debt of $[amount]. The United States is taking your property because it says

[Insert one or more of the specific grounds set forth in section 3102(a).]

"In addition, you are hereby notified that there are certain exemptions under Federal law which you may be entitled to claim with respect to your property.

"If you disagree and think you do not owe the United States, or that you have not done what is stated above, then you can ask this court to hear your side of the story and give your property back to you. If you want such a hearing, it will be given to you within five working days if you so demand after you notify the court that you want one. To do so, check the box at the bottom of this notice or prepare your request in writing and mail it or take it to the clerk of the court at the following address: [address]. You must also send a copy to counsel for the United States at [address], so that the United States will know you want a hearing.

"If you do not request a hearing within thirty days from [date of issue] your property may be disposed of without further notice.

"You should consult a lawyer if you have any questions about your rights about this procedure.

"(2) When a prejudgment remedy is issued under this section, the person against whom it is sought may immediately move to quash such order and the court shall on the request of the debtor hear such motion within 5 days from the date the request was filed. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim or claims of the United States and any defenses and claims of exemptions of the party against whom such prejudgment remedy will operate; and

"(B) the existence of any statutory requirement for the issuance of any prejudgment remedy sought, plus the existence of any ground set forth in section 3102(a) of this chapter.

"(3) Counsel for the United States shall, at the time of the seizure, attachment or garnishment, or within 3 days thereafter, exercise reasonable diligence to serve the person against whom a prejudgment remedy is sought with an application, order and prescribed notice of the seizure, impoundment or such other act ordered by the court and of said person's right to an immediate hearing contesting the same.

"(4) If no request for a hearing is filed with the clerk within 30 days after the notice of seizure is issued by the clerk, the United States may dispose of the property as provided for in this subchapter.

"§ 3103. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) All property of the debtor or garnishee, except earnings and property exempt under the provisions of this chapter, may be attached pursuant to a writ of attachment in any action in which a debt or damages are recoverable and may be held as security to satisfy such judgment and costs as the United States may recover.

"(2) The amount to be secured by an attachment shall be determined as follows—

"(A) the amount of the debt owed to the United States by the defendant; and

"(B) the estimated amount of interest and costs likely to be taxed by the court.

"(3) In any action or suit for an amount which is liquidated or ascertainable by calculation, no attachment shall be made for a larger sum than the amount of the debt and such additional amount as is reasonably necessary to provide for interest thereon and costs likely to be taxed in the action.

"(b) AVAILABILITY OF ATTACHMENT.—The United States after complying with the provisions of section 3101 or 3102 may, in the following cases, have the property of the defendant attached as security for satisfaction of any judgment which may be recovered by the United States—

"(1) in an action upon a contract, express or implied, for payment of money which is not fully secured by real or personal property, or, if originally so secured, the value of such security may, without any act of the United States or the person to whom the security was given, be substantially diminished below the amount of the debt;

"(2) when an action is pending for damages in tort and the defendant is about to dispose of or remove his property beyond the jurisdiction of the United States;

"(3) in an action for damages or upon contract, express or implied, against a defendant not residing within the jurisdiction of the United States; or

"(4) in an action to recover fines, penalties, or taxes.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) A writ of attachment shall be issued by the court directing the United States marshal of the district where the property is located to attach so much of the defendant's property as will be sufficient or is available to satisfy the debt of the United States.

"(2) Several writs of attachment may, at the option of the United States, be issued at the same time, or in succession, and sent to different districts until sufficient property is attached to satisfy the debt.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the court title and the docket number and name of the cause of action;

"(C) the name and last known address of the defendant;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to the extent available.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the defendant found within his district, unless otherwise directed by counsel for the United States. The marshal shall not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the defendant. In cases where the writ is issued pursuant to section 3101, the marshal shall not enter into a residence or other building except upon specific order of the court.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the defendant in the same manner that a summons is served in a civil action and make his return thereof. If the United States marshal

is unable to serve the writ upon the defendant, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the defendant in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with his action endorsed thereon or attached thereto and signed by him, to the court from which it was issued within 30 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it, state the location where it was attached, when it was attached and the disposition made of the property. If no property was attached, the return shall so state.

"(3) When personal property has been replevied as authorized by section 3103(j), the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(4) When the property levied on is claimed, replevied or sold after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment creates a lien on the property in favor of the United States.

"(2) The levy of the writ of attachment upon any property of defendant subject thereto is a lien from the date of the levy on the real property and on such personal property as remains in the custody of the attaching United States marshal and on the proceeds of such personal property as is sold.

"(3) The lien in favor of the United States marshal shall be ranked ahead of any other security interests perfected after the time of levy and filing of a copy of the notice of levy pursuant to subsection (d)(3) of this section.

"(4) The lien shall arise from the time of levy and continue until a judgment in the case is obtained or denied, or the action is otherwise dismissed. The death of the defendant whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(5) Upon entry of judgment for the United States, the court shall order the proceeds of the personal property, if any has been sold, to be applied to the satisfaction of the judgment, and also order the sale of any remaining personal property and the sale of any real property levied on to satisfy the judgment.

"(g) ATTACHMENT OF PERISHABLE PROPERTY; SALE; PROCEDURE.—(1) When personal property that has been attached is not replevied, the court may order it to be sold when it appears that the property is in danger of serious and immediate waste or decay, or that keeping it until trial will result in such expense or deterioration in value as substantially will lessen the amount likely to be realized therefrom.

"(2) In ascertaining whether the property is in danger of serious and immediate waste or decay or that keeping of the property until trial will result in such expense or deterioration in value as will substantially lessen the amount likely to be realized therefrom, the court may require or dispense with notice to the parties and may act upon such information provided by affidavit, certificate of the United States marshal or other proof, as appears sufficient to protect the interest of the parties.

"(h) DISPOSITION OF PROCEEDS OF SALE OF PERISHABLE PROPERTY; REPORT OF SALE.—Within 5 days after sale, the proceeds of the sale as provided in subsection 3103(g) after deduction of the United States marshal's expenses therefrom shall be paid by the United States marshal making the sale to the clerk of the court. The proceeds shall be accompanied by a statement in writing and signed by the United States marshal, to be filed in the action, stating the time and place of sale, the name of the purchaser and the amount received with an itemized account of expenses.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed or sold, the court may make such order for its preservation or use as appears to be to the interest of the parties.

"(j) REPLEVIN OF ATTACHED PROPERTY BY DEFENDANT; BOND.—At any time before judgment, if the property has not previously been sold, defendant may replevy the property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the amount of the debt.

"(k) JUDGMENT WHERE PERSONAL PROPERTY REPLEVIED.—When personal property under attachment has been replevied, the judgment which may be entered shall be against defendant and also against the sureties on his replevin bond for the amount of the judgment, interest and costs.

"(l) RESTORATION OF PROPERTY OR EXONERATION OF BOND; LEVY ON EXEMPT PROPERTY.—(1) If the attachment is vacated or if the judgment is for defendant, the court shall order the property or proceeds thereof restored to defendant or exonerate the replevin bond. The court may determine under what circumstances the defendant is entitled to receive the proceeds rather than the attached property.

"(2) When any property claimed to be exempt is levied upon, defendant may, at any time after such levy, apply to the court for vacation of such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to defendant.

"(m) REDUCTION OR DISCHARGE OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the defendant or person whose property has been attached may submit a written motion to the court which issued the writ for a reduction of the amount of the attachment or its discharge. Notice of such motion shall be served upon the United States in accordance with the Federal Rules of Civil Procedure. The defendant may move for reduction or dissolution of attachment as appropriate.

"(2) The court shall order a part of the property to be released, if upon hearing the court finds that the amount of the attachment is excessive or unreasonable or where the attachment is for a sum larger than the liquidated or ascertainable amount of the debt plus an amount necessary to include interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"§ 3104. Garnishment

"(a) All prejudgment garnishments shall meet the requirements of sections 3101 and 3102.

"(b) All prejudgment garnishments as authorized by the court hereunder shall be issued and answered in the same manner and to the same extent as set forth in section 3306 with the following exceptions—

"(1) The writ shall specify the date that the order authorizing prejudgment garnishment was entered.

"(2) The writ shall specify the amount claimed by the United States.

"§ 3105. Injunctions

"Whether or not there are other remedies available to the United States under this chapter, nothing in this chapter shall be construed to preclude or otherwise limit the United States or any other party from obtaining injunctive relief under the Federal Rules of Civil Procedure in actions for debts owed the United States.

"§ 3106. Sequestration

"(a) APPLICATION FOR WRIT OF SEQUESTRATION AND ORDER.—If the United States claims in its complaint the right to title or possession of property or seeks to enforce a lien or security interest in such property, the United States may file an affidavit showing—

"(1) a description of the property sufficient to identify it;

"(2) the approximate value of the property;

"(3) the location of the real property, or in the case of personal property, the last known and likely locations of the property;

"(4) the availability of sequestration.

"(b) AVAILABILITY OF SEQUESTRATION.—The United States after complying with, or in addition to, the provisions of sections 3101 or 3102 may have property sequestered—

"(1) upon a showing that there exists an immediate danger that the debtor or garnishee of such property will ill treat, waste, destroy or convert to his own use the property, which includes, but is not limited to, crops, timber, rents, perishable goods, livestock or the revenues therefrom; or

"(2) upon a showing that title to or possession of such property has been secured by the debtor or other defendant or the party in possession by surreptitious means, trick, scheme, fraud, force, violence, claim of adverse possession or such other claims or any means adverse to the claim in title or possession, or both, of the United States.

"(c) ISSUANCE OF WRIT.—A writ of sequestration shall be issued by the court directing the debtor or other defendant or party in possession to sequester the property and deliver it to the United States.

"(d) Unless inconsistent, the provisions governing section 3103 (g) through (l) shall be applicable to this section.

"(e) These writs shall be served in accordance with the Federal Rules of Civil Procedure.

"§ 3107. Replevin

"(a) APPLICATION FOR WRIT.—If the United States claims in its complaint the right to possession of specific personal property, the United States may, at any time after complying with the provisions of section 3101 or 3102, file an affidavit showing—

"(1) that the United States is the owner of the property claimed, or is lawfully entitled to its immediate possession;

"(2) a description of the property;

"(3) that the property is wrongfully detained by the defendant;

"(4) the approximate value of the property.

"(b) SEIZURE.—If the court determines the United States has met the above requirements, it shall order that the United States marshal take possession of the specified property and deliver it to the United States.

"(c) REDELIVERY OF POSSESSION TO DEFENDANT.—The defendant may obtain redelivery of the property or any part thereof by giving bond as set forth in section 3103(j).

"§ 3108. Receivership

"(a) APPOINTMENT OF A RECEIVER.—The United States may apply for the appointment of a receiver for property in which it has an interest and which is or is to be the subject of an action in court. The application may be filed at any time prior to judgment or during the pendency of an appeal if there is a danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, mismanaged or the United States has otherwise established grounds for such relief under section 3101(a) or 3102(a). However when the security agreement so provides, a receiver shall be appointed without notice or without regard to adequacy of security. An application made by the United States when it is not already a party to the action constitutes an appearance in the action and the United States shall be joined as a party.

"(b) POWERS OF RECEIVER; EMPLOYMENT OF COUNSEL.—The court appointing a receiver may authorize him to take possession of real and personal property and sue for, collect and sell obligations upon such conditions and for such purposes as the court shall direct and to administer, collect, improve, lease, repair or sell such real and personal property, as the court shall direct. A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property. Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers or other professional persons. Upon motion of the receiver or a party, powers granted to a receiver may be expanded or limited. A receiver appointed under the terms of a security agreement shall be entitled to recover the rents and profits of the property covered by the security agreement as additional security and to pay them over to the United States in payment of any amount due arising from a default by the debtor.

"(c) UNITED STATES AS SECURED PARTY.—In the event of any default or defaults in paying the principal, interest, taxes, water, rents, or premiums of insurance required by the security instrument or in the event of a nonfinanced default or defaults, the United States in any action to foreclose the security interest shall be entitled, without notice and without regard to adequacy of any security for the debt, to the appointment of a receiver of the rents and profits of the premises covered by the security interest, and the rents and profits of the premises are assigned to the United States as further security for the payment of the debts.

"(d) DURATION OF RECEIVERSHIP.—In an action to foreclose a security interest, the receivership shall terminate when the purchaser at the foreclosure sale takes lawful possession of the property unless the court directs otherwise. In all other actions, the receivership shall not continue past the entry of judgment unless the court orders it continued under section 3302(b) or unless the court otherwise directs its continuation.

"(e) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds and his accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the United States with a copy thereof.

"(f) REMOVAL.—Upon motion of any party or upon its own initiative, the court which appointed the receiver may remove him at any time with or without cause.

"(g) PRIORITY.—If more than one court appoints a receiver, the receiver first qualifying under law shall be entitled to take possession, control or custody of the property.

"(h) COMMISSIONS OF RECEIVERS.—

(1) GENERALLY.—A receiver is entitled to such commissions not exceeding 5 percent of the sums received and disbursed by him as the court allows unless the court otherwise directs.

"(2) ALLOWANCE WHERE FUNDS DEPLETED.—If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remained unpaid.

"(3) PROCEDURE.—At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by him.

"SUBCHAPTER C—JUDGMENTS; LIENS

"Sec.
"3201. Judgment by confession.
"3202. Judgment lien.
"3203. Sale of property subject to judgment lien.
"3204. Interest on judgments.

"SUBCHAPTER C—JUDGMENTS; LIENS

"§ 3201. Judgment by confession

"(a) GENERAL PROVISION.—On application, a court may enter a judgment by confession in favor of the United States without the filing of a civil action for money due and owing.

"(b) VENUE.—The confession of judgment shall be filed in the district in which one or more of the defendants reside, can be found, are doing business at the time of the application, or in cases proceeding by in rem or quasi in rem jurisdiction where the property sought to be adjudicated is located.

"(c) STATEMENT BY DEFENDANT; CONTENTS.—Before a judgment by confession shall be entered, a sworn statement in writing shall be made and signed by the defendant after default and subsequent notice by the United States and filed with the court along with the application, stating—

"(1) the amount for which judgment may be entered and authorizing the entry of judgment;

"(2) the facts out of which the debt arose and that the amount confessed is justly due; and

"(3) that the person signing the statement understands that a judgment by confession allows the entry of judgment without further proceedings and authorizes enforced collection of the judgment.

"(d) ENTRY OF JUDGMENT.—The confession of judgment may be filed with the clerk of the court. The clerk shall enter a judgment for the amount confessed.

"(e) CONFESSION BY JOINT DEBTORS.—One or more joint debtors may confess a judgment for a joint debt due. Where all the joint debtors do not join in the confession, the judgment shall be entered and enforced against only those who confessed it. A confessed judgment against some of the joint debtors is not a bar to an action against the other joint debtors.

"(f) ENFORCEMENT OF JUDGMENT BY CONFESSION.—Judgments by confession shall be enforced in the same manner as other judgments.

"§ 3202. Judgment lien

"(a) CREATION OF LIEN GENERALLY.—A judgment shall be a lien upon all real property of a judgment debtor upon filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986.

"(b) IN CRIMINAL CASES.—A judgment obtained by the United States in a criminal case shall create a lien as provided in sections 3565 and 3613 of the Internal Revenue Code of 1986.

"(c) IN TAX CASES.—A judgment obtained by the United States in a tax case shall create a lien co-extensive with any lien created prior to judgment under section 6321 of the Internal Revenue Code of 1986; if no lien was so created prior to the judgment, then the procedure in subsection (a) shall be followed.

"(d) AMOUNT OF LIEN.—A lien created hereunder is for the amount necessary to satisfy the judgment, including costs and interest.

"(e) PRIORITY OF LIEN.—A lien created hereunder shall have priority over any other lien or encumbrance which is perfected later in time. However, liens created under sections 3565 and 3613 of the Internal Revenue Code of 1986, regarding criminal judgments or under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall have priority as otherwise provided by law.

"(f) DURATION OF LIEN; RENEWAL.—(1) A lien created hereunder is effective, unless satisfied, for a period of 20 years.

"(2) The lien may be renewed for one additional period of 20 years upon filing a notice of renewal in the same manner as the judgment was filed and shall relate back to the date the judgment was filed. The notice of renewal must be filed before the expiration of the first 20-year period to prevent the expiration of the lien.

"(3) The duration and renewal of a lien created under sections 3565 and 3613 of title 18, United States Code, regarding criminal judgments, or a lien created under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall be as otherwise provided by law.

"(g) RELEASE OF JUDGMENT LIEN.—A judgment lien shal be released upon the filing

of a satisfaction of judgment or release of lien in the same manner as the judgment was filed to obtain the lien.

"(h) EFFECT OF LIEN UPON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—Any person who has a judgment lien against his property for any debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which such person is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency responsible for such grants and loans may promulgate regulations to allow for waiver of this restriction on eligibility for such grants and loans.

"§ 3203. Sale of property subject to judgment lien

"Upon application to the court, the court may order the United States to sell pursuant to the provisions of sections 2001 and 2002 of title 28, United States Code, any real property subject to its judgment lien. This provision shall not preclude the United States from using an execution sale to sell real property subject to a judgment lien.

"§ 3204. Interest on judgments

"(a) Judgments for money, other than criminal or tax judgments, shall bear interest at the greater of—

"(1) the rate in an express contract or negotiable instrument, if the action was brought for the recovery of an amount due on the contract or negotiable instrument; or

"(2) the rate established by statute or regulation applicable to the debt owed;

"(3) the judgment interest rate established in accordance with this section.

"(b) The judgment interest rate, where applicable, shall be calculated from the date of the entry of the judgment, at a rate equal to 150 percent of the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately prior to the date of the judgment. The Director of the Administrative Office of the United States Courts shall distribute notice of that rate and any changes in it to all Federal Courts.

"(c) Interest on judgments shall accrue daily from the date of entry of the judgment at the rate determined herein and shall be compounded annually to the date of payment.

"(d) Interest on tax judgments obtained under the Internal Revenue Code shall be allowed under section 6621 of such Code.

"(e) Interest on criminal judgments shall be allowed as provided in title 18, United States Code.

"(f) Nothing in this section shall preclude the assessment of prejudgment interest that is otherwise allowable by law.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"Sec.
"3301. Enforcement of judgments.
"3302. Orders in aid of execution.
"3303. Restraining notice.
"3304. Execution.
"3305. Installment payment order.
"3306. Garnishment.
"3307. Modification of protective order; supervision of enforcement.
"3308. Power of court to punish for contempt.
"3309. Arrest of judgment debtor.
"3310. Discharge.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"§ 3301. Enforcement of judgments

"(a) A judgment may be enforced by any of the remedies set forth in this subchapter, and the court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to supplement these remedies, subject to the provision of rule 81(b) of the Federal Rules of Civil Procedure.

"(b) The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 of title 28, United States Code, or by execution sale pursuant to section 3304(g) of this subchapter.

"§ 3302. Orders in aid of execution

"Where the judgment debtor has an ownership interest of any kind in property which is not exempt and cannot readily be attached or levied on by ordinary legal process, the United States is entitled to aid from the court by injunction or other appropriate order to reach the property to satisfy the judgment whether the property is located in the same district or other districts.

"(a) ORDER.—The court may order the property, together with all documents or records related to the property, that is in or subject to the possession or control of the judgment debtor or another person, to be turned over to the United States for execution or otherwise applied toward the satisfaction of the judgment. Where the judgment debtor or other person refuses to turn over the property, the court may enforce the order by proceedings for contempt or other appropriate order provided the judgment debtor or other person, as appropriate, is served with a copy of the order or has actual notice of the order.

"(b) RECEIVER.—The court may appoint a receiver of property where appropriate in accordance with section 3108 of this chapter.

"(c) SAME OR INDEPENDENT SUIT.—These proceedings may be brought by the United States in the same suit in which the judgment is rendered or in a new and independent suit.

"(d) COSTS.—Upon request, in a proceeding under this section, the United States shall recover from the judgment debtor 10 percent of the reasonable costs. This provision shall apply to the extent that recovery of costs by the United States is not provided for under other applicable provisions of Federal law.

"§ 3303. Restraining notice

"(a) ISSUANCE; ON WHOM SERVED; FORM; SERVICE.—A restraining notice may be issued by the clerk of the court or counsel for the United States as officer of the court. It may be served upon any person, except the employer of a judgment debtor where the property sought to be restrained consists of earnings due or to become due to the judgment debtor. It shall be served personally in the same manner as a summons. It shall specify all of the parties to the action, the social security number of the judgment debtor, if known, the date the judgment was entered, the court in which it was entered, the amount of the judgment and the amount when due thereon, and the names of all parties against whom the judgment was entered. It shall set forth the requirements of subsection (b) below and shall state that disobedience is punishable as a contempt of court.

"(b) EFFECT OF RESTRAINT; PROHIBITION OF TRANSFER; DURATION.—(1) A judgment debtor who is served with a restraining notice shall not sell, assign, transfer or hypothecate any property, except as may be reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor and if the debtor is engaged in business, as may be reasonably necessary for the payment of expenditures for the continuation, preservation, and operation of such business.

"(2) A person other than the judgment debtor who is served with restraining notice shall not—

"(A) repay any obligation to the judgment debtor;

"(B) return any property to the judgment debtor; or

"(C) sell, assign, transfer or hypothecate any property—

"(i) specifically described in the restraining notice;

"(ii) that the other person knows to be owned by the judgment debtor; or

"(iii) in which the other person could have reason to believe by the exercise of due diligence that the judgment debtor has an ownership interest.

"(3) The restraining notice shall remain in effect for 1 year from the date the notice is served, or until the judgment is satisfied or the restraining notice is vacated by order of the court, whichever occurs first.

"(c) DISCLOSURE.—The person upon whom a restraining notice is served, other than the judgment debtor, shall disclose to the counsel for the United States, in writing under oath within 10 days after receipt of the restraining notice, the type or nature and value of such property of the judgment debtor as may be in his possession or custody. Upon such person receiving or acquiring property of the judgment debtor after receipt of a restraining notice, that person shall disclose to counsel for the United States, in writing under oath within 7 days of receipt of the property, the type or nature and value of such property of the judgment debtor as may be in his possession or custody.

"(d) DISCOVERY.—Any discovery request under the Federal Rules of Civil Procedure which accompanies this restraining notice and which seeks the disclosure of the type, nature and value of property of the judgment debtor must be responded to within 10 days of service of the notice and discovery request or within 10 days after property of the judgment debtor comes into the possession of the person served. Upon request, a reasonable extension may be granted.

"(e) SUBSEQUENT NOTICE.—Leave of court is required to serve more than one restraining notice upon the same person, other than the judgment debtor, with respect to the same judgment.

"(f) NOTICE TO JUDGMENT DEBTOR.—A copy of the restraining notice shall be mailed by first class mail by counsel for the United States to the judgment debtor within 4 days after the time of service of the restraining notice on a person other than the judgment debtor.

"§ 3304. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property which the judgment debtor possesses and in which the judgment debtor has an interest shall be subject to levy pursuant to a writ of execution; co-owned property shall be subject to execution to the same extent as it is under the law of the State in which it is located. The judgment debtor must identify any property claimed

to be exempt under the provisions of subchapter E.

"(b) EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied upon under a writ of execution and shall date from the time of the levy. This lien shall have priority over all subsequent liens and shall be for the amount due on the judgment. If the United States has a judgment lien, the execution lien shall relate back to the judgment lien date.

"(c) FORM OF WRIT OF EXECUTION.—

"(1) GENERAL REQUIREMENTS.—An execution writ shall specify the date that the judgment was entered, the court in which it was entered, the amount of the judgment if for money, the amount of the costs, and the sum actually due when the writ is issued, the amount of interest due, the rate of post-judgment interest, and the name of the party against whom the judgment was entered. The writ shall direct the United States marshal to satisfy the judgment out of all property, real and personal, of the judgment debtor not otherwise exempt pursuant to this chapter. An execution writ shall direct that only the property in which a named judgment debtor, who is not deceased, has an interest be levied upon or sold thereunder, and shall state the last known address of that judgment debtor.

"(2) EXCEPTION.—There shall be no requirement that personal property be levied upon and sold prior to levy and sale of real property of the judgment debtor.

"(3) EXECUTION FOR DELIVERY OF CERTAIN PROPERTY.—An execution issued upon a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(4) EXECUTION FOR POSSESSION OR VALUE OF PERSONAL PROPERTY.—If the judgment is for the recovery of personal property or its value, the writ shall command the marshal, in case a delivery thereof cannot be had, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered, liable to execution.

"(d) ISSUANCE.—(1) The clerk of any court where a judgment is docketed, entered or registered, upon written application of counsel for the United States, shall, and without other or further order of a judge of that court, forthwith issue writs of execution. The writs shall be addressed to "Any United States Marshal," and may be served and executed in any judicial district of the United States, but shall be returnable to the issuing court. The writ shall be signed by the clerk of the court issuing the writ.

"(2) Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(e) RECORDS OF UNITED STATES MARSHAL.—(1) The United States marshal receiving the execution shall endorse thereon the exact hour and day when he received it. If he receives more than one on the same day against the same person, he shall number them as received.

"(2) The United States marshal shall make a memorandum in writing of the date of every levy and specify the property upon which the levy has been made on the process or in an attached schedule. The memorandum or schedule shall also set forth the marshal's costs, expenses and fees.

"(f) LEVY OF EXECUTION.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the debtor found within his district, unless otherwise directed by counsel for the United States.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the debtor.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the debtor in the same manner that a summons is served in a civil action and so make his return thereof. If the United States marshal is unable to serve the writ upon the debtor, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and motion of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the debtor in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(5)(A) Real property subject to a security interest or conveyed in trust as security for any debt or contract may be levied upon and sold on execution against the interest of the judgment debtor, subject to such mortgage, and the terms and conditions thereof.

"(B) Personal property pledged, assigned or security for any debt or contract, may be levied upon and sold on complying with the conditions of the pledge, assignment or security interest.

"(g) EXECUTION SALE PROCEDURES.—

"(1) SALE OF REAL PROPERTY.—

"(A) Real property, or any interest therein, shall be sold for cash at public auction at the courthouse of the county, parish or city in which the greater part of the property is located or upon the premises or some parcel thereof.

"(B) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first of these publications shall appear not less than 25 days immediately preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, sufficient to identify the property, such as a street address the urban property, and the survey identification and location for rural property, but it shall not be necessary for it to contain field notes.

"(C) The United States marshal shall give written notice of public sale by personal delivery, or certified or registered mail, to persons and parties known to him to claim an interest in property under execution, including lienholders, co-owners and tenants, at least 25 days prior to the day of sale, to the last known address of such persons or parties.

"(2) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel must be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(3) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the debtor may divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court, furnish a survey of such prepared by a registered surveyor, and designate the order in which those lots shall be sold. When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(4) SALE OF PERSONAL PROPERTY.—

"(A) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, or at the courthouse of the county, parish or city wherein it is located, or at some other place if, owing to the nature of the property, it is more convenient to exhibit it to purchasers at such place. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale, except shares of stock in corporations, and in cases, when by reason of the type or nature of the property, it is impractical to exhibit it, or where the debtor has merely an interest without the right to the exclusive possession, in which case the interest of the debtor may be sold and transferred without the presence of the property.

"(B) Notice of the time and place of the sales of personal property shall be given by posting notice thereof for 10 days successively immediately prior to the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made, and by mailing a copy by registered or certified mail to the judgment debtor at his last known address, or by personal delivery.

"(5) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time continuing the posting of notice and/or publication of the notice until the date to which the sale is postponed, and appending, at the foot of such notice of each successive postponement the following:

"The above sale is postponed until the _____ day of _____, 19____, at _____ o'clock ____ .M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.

"(6) BIDDING REQUIREMENTS; LIABILITY OF BIDDER; RESALE.—

"(A) The United States marshal may require of any bidder at any sale a cash deposit of as much as 20 percent of the sale price before the bid is received.

"(B) The cash deposit of any successful bidder at an execution sale shall be forfeited to the United States if he fails to comply with the terms of the sale; in addition, he shall be liable to the United States for all losses incurred by the United States at a subsequent sale of the same property. The liability for losses shall be limited to the difference between the amount of the deposit which was forfeited and the amount accepted by the United States as the highest bid by the defaulting bidder at the defaulted

sale plus the costs of the defaulted sale. This liability shall be reduced by the amount the United States realizes from the subsequent sale, if any.

"(7) RESALE OF PROPERTY.—When the terms of the sale are not complied with by the bidder, the United States marshal shall proceed to sell the property again on the same day, if there is sufficient time; but if not, he shall readvertise and sell the property.

"(8) TRANSFER OF TITLE AFTER SALE.—

"(A) When the sale has been made and its terms complied with, the United States marshal shall execute and deliver any and all documents necessary to transfer ownership to the purchaser, without warranty, all the rights, titles, interest, and claims that the judgment debtor had in the property sold to the purchaser.

"(B) If the purchaser dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the estate of the purchaser, and it shall have the same effect as if accomplished during the lifetime of the purchaser.

"(9) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution is considered to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the defendant.

"(10) NO RIGHT OF REDEMPTION.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(11) DISTRIBUTION OF SALE PROCEEDS.—

"(A) The United States marshal shall first deliver to the judgment debtor, or his agent or attorney, such amounts to which he is entitled from the sale of partially exempt property as set forth in subchapter E of this chapter.

"(B) The United States marshal shall retain from the proceeds of a sale of property an amount equal to the reasonable expenses incurred in making the levy and keeping and maintaining the property.

"(C) The United States marshal shall deliver the balance of the money collected on execution to the counsel for the United States at the earliest opportunity.

"(D) If more money is received from the sale of the property than is sufficient to satisfy the executions held by the United States marshal, he shall pay forthwith the surplus to the judgment debtor or his agent or attorney.

"(h) REPLEVY.—(1) Any personal property taken in execution may be returned to the defendant by the United States marshal upon the delivery by the defendant to him of a bond or upon satisfaction of the judgment and any costs incurred in connection with scheduling the sale prior to the execution sale, payable to the United States, with two or more good and sufficient sureties, to be approved by the United States marshal, conditioned upon the delivery of the property to the United States marshal at the time and place named in the bond, to be sold according to law, or for the payment to the United States marshal of a fair value thereof, which shall be stated in the bond.

"(2) Where property has been replevied, as provided above, the judgment debtor may sell or dispose of the property paying the United States marshal the stipulated value thereof.

"(3) In the case of the non-delivery of the property according to the terms of the delivery bond, and non-payment of the value thereof, the United States marshal shall forthwith endorse the bond 'Forfeited' and return it to the clerk of the court from which the execution issued; whereupon, if the judgment remains unsatisfied in whole or in part, the clerk shall issue execution against the principal judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, upon which execution no delivery bond shall be taken, which instruction shall be endorsed by the clerk on the execution.

"(i) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ must be recognized and enforced by the court having jurisdiction over the estate of the deceased. The execution lien may be enforced against the executor, administrator, or personal representative of the estate of the deceased; or if there be none, against the heirs or devisees of the property of the deceased receiving same, but only to the extent of the value of the property coming to them.

"(j) WHEN EXECUTION NOT SATISFIED.—When the property levied upon does not sell for enough to satisfy the execution, the United States marshal shall proceed on the same writ of execution as to other property of the judgment debtor.

"(k) RETURN ON EXECUTION.—(1) The United States marshal shall make a written return on each writ of execution to the court from which the writ was issued and deliver a copy to counsel for the United States who requested the writ. It shall be returnable 90 days from the date of issuance unless counsel for the United States has specified an earlier date. The return shall be filed by the clerk of the court from which the writ was issued.

"(2) The United States marshal shall state concisely what was done in pursuance of the requirements of the writ.

"(3) The return shall be made forthwith if satisfied by the collection of the money, or if ordered by counsel for the United States, which order shall be noted on the return.

"§ 3305. Installment payment order

"Where it is shown that the judgment debtor is receiving or will receive money from any source or is attempting to impede the United States by rendering services without adequate compensation, upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration the reasonable requirements of the judgment debtor, any payments required to be made by the judgment debtor or deducted from the money he would otherwise receive in satisfaction of other judgments, the amount due on the judgment, and the amount being or to be received, or, if the judgment debtor is attempting to impede the United States by rendering services without adequate compensation, the reasonable value of the services rendered.

"Upon motion of the United States, and upon a showing that the debtor's financial circumstances have changed or that assets not previously disclosed by the debtor have been discovered, the court may increase the amount of payments or alter their frequency or require full payment.

"§ 3306. Garnishment

"(a) GENERAL.—A court may issue writs of garnishment, either prejudgment or postjudgment against the property of a debtor which is in the possession, custody or control of a third person in order to satisfy a judgment against the debtor; co-owned property shall be subject to garnishment to the same extent as it is under the law of the States in which it is located. The United States may request and a court shall issue simultaneous separate writs of garnishment to several garnishees. All writs of garnishment issued pursuant to these provisions shall be continuing and shall terminate only as provided herein.

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment, the following:

"(A) any matters required by section 3104 when seeking prejudgment garnishment;

"(B) the debtor's name, social security number, if known, and the debtor's last known address;

"(C) the nature and amount of the debt alleged to be owed and that demand on the debtor for payment of the debt has been made, but the debtor has not paid the amount due. A money judgment must be alleged for postjudgment garnishment; and

"(D) that the garnishee is believed to be indebted to the debtor or have possession of property of the debtor.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) Where property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable instrument is not outstanding, the corporation, or the president or treasurer of the association, shall be the garnishee.

"(B) Where property consists of a right to or interest in a decedent's estate or any other property or fund held or controlled by a personal representative or fiduciary, the personal representative or fiduciary shall be the garnishee.

"(C) Where property consists of an interest in a partnership, any partner other than the debtor, shall be the garnishee on behalf of the partnership.

"(D) Where property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee; except that in the case of a security which is transferable in the manner set forth in State law, the firm or corporation which carries on its books an account in the name of the debtor in which is reflected such security, shall be the garnishee; *Provided, however,* That if such security has been pledged, the pledgee shall be the garnishee.

"(c) ISSUANCE OF WRIT.—

"(1) CLERK'S REVIEW.—The clerk or the court shall review the application for postjudgment writs of garnishment and if it meets the requirements set forth herein, shall issue an appropriate writ. The clerk shall issue prejudgment writs of garnishment as authorized by the court.

"(2) FORM OF WRIT.—

"(A) GENERAL PROVISIONS.—The writ shall state—

"(i) The nature and amount of the debt. If interest is accruing, the rate of accrual thereafter shall be stated. If a judgment is involved, the amount of any costs included in the judgment should be stated.

"(ii) The name and address of the garnishee.

"(iii) The name and address of counsel for the United States.

"(iv) The last known mailing address of the debtor.

"(v) That the garnishee shall answer the writ within 10 days of service of the writ.

"(B) EARNINGS GARNISHMENT.—The United States may apply for garnishment of the nonexempt disposable earnings of a natural person. The writ for the garnishment of earnings shall direct the garnishee to withhold and retain the nonexempt earnings for which the garnishee is indebted to the debtor at the time of receipt of the writ and may thereafter become indebted to the debtor pending further order of the court.

"(C) GARNISHMENT OF OTHER PROPERTY.—As to all non-earnings property of a debtor who is a natural person and all property of other debtors in the possession, custody and control of the garnishee at the time the writ is received by the garnishee and anytime thereafter, the writ shall direct the garnishee to retain possession, custody and control of and not to transfer or return the property pending further order of the court.

"(D) SERVICE OF WRIT.—The United States may serve the garnishee with a copy of the writ by first class mail or by delivery by the United States marshal as provided by rule 4 of the Federal Rules of Civil Procedure. The United States shall, at the same time, serve the debtor with a copy of the writ by first class mail to the debtor's last known address; counsel for the United States shall certify to the court that this service was made. The writ of garnishment shall be accompanied by instruction explaining the requirement that the garnishee submit a written answer to the writ of garnishment and instructions to the debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

"(E) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath whether it is indebted to the debtor or has custody, control or possession of the debtor's property; a description of the indebtedness or property; whether the indebtedness or property is subject to any prior garnishments or levies and a description of any such claim; and whether the indebtedness or property is subject to any exemptions from garnishment. In addition, if the writ of garnishment is against the earnings of the debtor, the garnishee shall state whether the debtor was employed at the time the writ was received, and, if so, how much was owed at the time; and whether the garnishee anticipates owing earnings to the debtor in the future, and, if so, the amount and whether the pay period will be weekly or another specified period. In all cases, the garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States. Any garnishee, including a corporation, may file an answer without the representation of an attorney.

"(F) OBJECTIONS TO ANSWER.—Within 20 days after receipt of the answer, the debtor and the United States may file a written objection to the answer and request a hearing on the objection. The party objecting must state the grounds for the objection and bears the burden of proving them. A copy of the objection and request for hearing shall be served on the garnishee and the other party. The court shall set a hearing within 10 days after the date the request was received by the court, or as soon thereafter as is practicable, and give notice of the date to all parties.

"(G) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer or pay within the time specified, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ or pay by the appearance date. If the garnishee fails to appear or does appear and fails to show good cause why he failed to comply with the garnishment writ, the court shall enter judgment against the garnishee for the full amount of the past debt owed by the debtor. The court shall award reasonable attorney's fees to the United States and against the garnishee if the writ has not been answered within the time specified therein and a petition requiring the garnishee to appear was filed as provided in this section. Failure to answer or pay within the time specified in the writ may also be punished as a contempt of the court.

"(H) DISPOSITION ORDER.—After the garnishee files its answer and if no hearing is required, the court shall promptly enter an order directing the garnishee as to the disposition of the debtor's property. If a hearing is required, the order shall be entered within 5 days of the hearing, or as soon thereafter as is practicable.

"(I) PRIORITIES.—Court orders and garnishments for the support of a person shall have priority over a writ of garnishment issued pursuant to these provisions. As to any other garnishment or levy, a garnishment issued pursuant to these provisions shall have priority over those which are later in time and shall be satisfied in the order in which the writs are served upon the garnishee.

"(J) ACCOUNTING.—The debtor or garnishee may request an accounting on a garnishment within 10 days after the garnishment terminates. The United States shall give a written accounting to the debtor and garnishee of all earnings and property it receives under a writ of garnishment within 20 days after it receives the request of the debtor or garnishee. Within 10 days after the accounting is received, the debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting must state grounds for the objection. The court shall set a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(K) DISCHARGE OF GARNISHEE'S OBLIGATION.—A garnishee shall be discharged as set forth in section 3311 of this subchapter.

"(L) TERMINATION OF GARNISHMENT.—A garnishment proceeding hereunder can be terminated by—

"(i) the court quashing the writ of garnishment;

"(ii) exhaustion of earnings or property in the possession, custody or control of the garnishee, unless the garnishee reinstates or reemploys the debtor within 90 days of dismissal or resignation; or

"(iii) satisfaction of the debtor's obligation to the United States.

"§ 3307. Modification or protective order; supervision of enforcement

"Within the provisions of this chapter, the court may at any time on its own initiative or the motion of any interested person, and upon such notice as it may require, make an order denying, limiting, conditioning, regulating, extending or modifying the use of any enforcement procedure.

"§ 3308. Power of court to punish for contempt

"A court shall have power to punish a civil or criminal contempt committed with respect to an enforcement procedure or order under this chapter.

"§ 3309. Arrest of judgment debtor

"Upon motion of the judgment creditor without notice, where it is shown by affidavit or otherwise that the judgment debtor is about to depart from the jurisdiction of the United States, or keeps himself concealed therein with intent to hinder, delay or defraud the judgment creditor, and that there is reason to believe that the judgment debtor has in his possession or custody nonexempt property in which he has an interest, the court may issue a warrant directed to the United States marshal to arrest the judgment debtor forthwith and bring him before the court. The United States marshal shall serve upon the judgment debtor a copy of the warrant and supporting documents at the time of arrest. When the judgment debtor is brought before the court, the court may order that he give a bond or undertaking in a sum to be fixed by the court, that he will appear before the court for examination and that he will obey the terms of a restraining notice contained in the order.

"§ 3310. Discharge

"A person who pursuant to an execution or order pays or delivers to the United States, a United States marshal or receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt he owes the judgment debtor, is discharged from his obligation to the judgment debtor to the extent of the payment or delivery.

"SUBCHAPTER E—EXEMPT PROPERTY

"Sec.

"3401. Exempt property.

"3402. Limitation on exempt property.

"SUBCHAPTER E—EXEMPT PROPERTY

"§ 3401. Exempt property

"Except as provided under section 3402, the following property of natural persons shall be exempted from the enforcement procedures under the provisions of this chapter as to debts owed the United States—

"(a) the debtor's aggregate interest, not to exceed $7,500 in value in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor;

"(b) the debtor's interest, not to exceed $1,200 in value, in one motor vehicle;

"(c) the debtor's interest, not to exceed $200 in value in any particular item or $4,000 in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(d) the debtor's aggregate interest, not to exceed $500 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(e) the debtor's aggregate interest in any property, not to exceed in value $400 plus up to $3,750 of any unused amount of the exemption provided under subsection (a) of this subsection;

"(f) any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract;

"(g) the debtor's aggregate interest, not to exceed in value $4,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of title 11, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent;

"(h) the debtor's aggregate interest, not to exceed $750 in value in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor;

"(i) professionally prescribed health aids for the debtor or a dependent of the debtor;

"(j) the debtor's right to receive—

"(1) a social security benefit, unemployment compensation, or a local public assistance benefit;

"(2) a veterans' benefit;

"(3) a disability, illness including Medicaid and Medicare, or unemployment benefit, and AFDC benefits;

"(4) alimony, child and spousal support or separate maintenance paid or received, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(5) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

"(A) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

"(B) such payment is on account of age or length of service; and

"(C) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

"(k) the debtor's right to receive, or property that is traceable to—

"(1) an award under a crime victim's reparation law;

"(2) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(3) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(4) a payment, not to exceed $7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

"(5) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

"§ 3402. Limitations on exempt property

"(a) Property upon which a judgment debtor has voluntarily granted a lien, shall not be exempt to the extent of the balance due on the debt secured thereby.

"(b) If, within 90 days prior to judgment or thereafter, the debtor has transferred non-exempt property and as a result acquires, improves or increases in value exempt property, his interest shall not be exempt to the extent of the increased value.

"(c) The United States may require the judgment debtor to file a statement with regard to each claimed exemption; the original shall be filed with the court in which the enforcement proceeding is pending, and a copy served upon counsel for the United States. The statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the judgment debtor's ownership interest.

"(d) The United States, by application to the court where an enforcement proceeding is pending, may request a hearing on the applicability of any exemption claimed by the judgment debtor. The court shall determine whether the judgment debtor is entitled to the exemption claimed and the value of the property with respect to which the exemption is claimed; unless the court finds that it is reasonably evident that the exemption applies, the judgment debtor shall bear the burden of going forward with evidence and of persuasion.

"(e) Assertion of an exemption shall not prevent seizure and sale of the property to which such exemption applies. However, where an exemption has been validly and properly asserted, the sale proceeds for that item of property must be applied first to satisfy the dollar value of the exemption and then to the balance of the judgment. Any excess remaining after payment of judgment shall be paid to the judgment debtor.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"Sec.
"3501. Definitions.
"3502. Insolvency.
"3503. Value.
"3504. Transfer fraudulent as to the United States on present and future claims.
"3505. Transfer fraudulent as to the United States on a present claim.
"3506. When transfer is made or obligation is incurred.
"3507. Remedies of the United States.
"3508. Defenses, liability and protection of transferee.
"3509. Supplementary provision.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"§ 3501. Definitions

"As used in this subchapter—

"(a) 'Affiliate' means—

"(1) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor other than a person who holds the securities—

"(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(B) solely to secure a debt, if the person has not exercised the power to vote;

"(2) a corporation 20 percent or more of whose voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than the person who holds a securities—

"(A) as a fiduciary or agent without sole power to vote the securities;

"(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

"(D) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"(b) 'Asset' means property of a debtor, but does not include—

"(1) property to the extent it is encumbered by a valid lien; or

"(2) property to the extent it is exempt under subchapter E of this chapter.

"(c) 'Insider' includes—

"(1) if the debtor is an individual—

"(A) a relative of the debtor or of a general partner of the debtor;

"(B) a partnership in which the debtor is a general partner;

"(C) a general partner in a partnership described in subsection (c)(1)(B); or

"(D) a corporation of which the debtor is a director, officer, or person in control.

"(2) if the debtor is a corporation—

"(A) a director of the debtor;

"(B) an officer of the debtor;

"(C) a person in control of the debtor;

"(D) a partnership in which the debtor is a general partner;

"(E) a general partner in a partnership described in subsection (c)(2)(D); or

"(F) a relative of a general partner, director, officer, or person in control of the debtor.

"(3) if the debtor is a partnership—

"(A) a general partner in the debtor;

"(B) a relative of a general partner in, a general partner of, or a person in control of the debtor;

"(C) another partnership in which the debtor is a general partner;

"(D) a general partner in a partnership described in subsection (c)(3)(C); or

"(E) a person in control of the debtor.

"(4) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

"(5) a managing agent of the debtor.

"(d) 'Lien' means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceeding, a common law lien, or a statutory lien.

"(e) 'Relative' means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

"(f) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(g) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

"§ 3502. Insolvency

"(a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

"(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

"(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's non-partnership assets over the partner's non-partnership debts.

"(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

"§ 3503. Value

"(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

"(b) For the purposes of sections 3504(a)(2) and 3507, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, non-collusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

"(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3504. Transfer fraudulent as to the United States on present and future claims

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States, whether its claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation—

"(1) with actual intent to hinder, delay, or defraud the United States or any other creditor of the debtor; or

"(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor—

"(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

"(B) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"(b) In determining actual intent under subsection (a)(1), consideration may be given, among other factors, to whether—

"(1) the transfer or obligation was to an insider;

"(2) the debtor retained possession or control of the property transferred after the transfer;

"(3) the transfer or obligation was disclosed or concealed;

"(4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

"(5) the transfer was of substantially all of the debtor's assets;

"(6) the debtor absconded;

"(7) the debtor removed or concealed assets;

"(8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

"(9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

"(10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

"(11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

"§ 3505. Transfer fraudulent as to the United States on a present claim

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States on its claims which arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation.

"(b) A transfer made by a debtor is fraudulent as to the United States on its claim which arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time, and the insider had reasonable cause to believe that the debtor was insolvent.

"§ 3506. When transfer is made or obligation is incurred

"For the purposes of this subchapter—

"(a) a transfer is made—

"(1) with respect to an asset that is real property, other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

"(2) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that the United States on a simple contract cannot acquire a judicial lien otherwise than under this subchapter that is superior to the interest of the transferee.

"(b) If applicable law permits the transfer to be perfected as approved in subsection (a) and the transfer is not so perfected before the commencement of an action for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action.

"(c) If applicable law does not permit the transfer to be perfected as provided in subsection (a), the transfer is made when it becomes effective between the debtor and the transferee.

"(d) A transfer is not made until the debtor has acquired rights in the asset transferred.

"(e) An obligation is incurred—

"(1) if oral, when it becomes effective between the parties; or

"(2) if evidenced by a writing, when the writing was executed by the obligor is delivered to or for the benefit of the obligee.

"§ 3507. Remedies of the United States

"(a) In an action for relief against a transfer or obligation under this subchapter, the United States, subject to the limitations in section 3508, may obtain, subject to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the claim of the United States;

"(2) an attachment or other remedy against the asset transferred or other property of the transferee in accordance with the procedure described by this chapter.

"(b) If the United States has obtained a judgment on a claim against the debtor, if the court so orders, it may levy execution on the asset transferred or its proceeds.

"§ 3508. Defenses, liability and protection of transferee

"(a) A transfer or obligation is not voidable under section 3504(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

"(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by the United States under section 3507(a)(1), it may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy its claim, whichever is less. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

"(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) A transfer is not voidable under section 3504(a)(2) or section 3505 if the transfer results from—

"(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the jurisdiction where the property is located.

"(f) A transfer is not voidable under section 3505(b)—

"(1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the debtor and the insider, or

"(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose, as well as an antecedent debt of the debtor.

"§ 3509. Supplementary provision

"Unless displaced by the provisions of this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, fraud, misrepresentation, duress, coercion, mistake, insol-

vency, or other validating or invalidating cause, supplement its provisions.

"SUBCHAPTER G—PARTITION

"Sec.
"3601. Action by United States for partition.
"3602. Service of process in partition action.
"3603. Trial; commissioners; decree of partition.
"3604. Partition by sale.
"3605. Costs.

"SUBCHAPTER G—PARTITION

"§ 3601. Action by United States for partition

"(a) The United States, as co-owner or claimant of real or personal property, or an interest therein, may compel a partition of the property among the co-owners and tenants.

"(b) The district court shall have original jurisdiction of any civil action brought by the United States for the partition of property. The action for partition shall be filed in the judicial district in which the property, or a part thereof, is located. An action in a State court in which the United States is a defendant and in which the United States seeks partition may be removed to the district court.

"(c) The United States shall file a complaint stating—

"(1) the name and residence, if known, of each co-owner or claimant to such property;

"(2) the share of interest, if known, of each coowner or claimant in such property;

"(3) a description of the property sought to be partitioned; and

"(4) the estimated value of the property for which partition is sought.

"§ 3602. Service of process in partition action

"(a) Personal service of summonses and complaints and other process shall be made in accordance with rules 4 (c) and (d) of the Federal Rules of Civil Procedure upon a defendant who resides within the United States or its territories or insular possessions and whose residence is known.

"(b) Upon the filing of a certificate by counsel for the United States stating that it is believed that a defendant cannot be personally served, because after diligent inquiry within the State in which the complaint is filed his place of residence cannot be ascertained by the United States or, if ascertained, that it is beyond the territorial limits of personal service as provided in rules 4 (c) and (d) of the Federal Rules of Civil Procedure, service of Notice of Summons and Complaint shall be made on that defendant by publication in a newspaper published in the county where the property is located, or if there is no such newspaper, then in a newspaper having a general circulation in the State where the property is located, once a week for 3 successive weeks. Prior to the last publication, a copy of the notice shall also be mailed to a defendant who cannot be personally served as provided in this rule but whose place of residence is then known. Unknown owners may be served by publication in like manner by a notice addressed to 'Unknown Others.' Service by publication is complete upon the date of the last publication. Proof of publication and mailing shall be made by certificate of counsel for the United States, to which shall be attached a printed copy of the published notice with the name and dates of the newspaper marked thereon.

"§ 3603. Trial; commissioner; decree of partition

"(a) All questions of law or equity affecting the title of the property which may arise, and the determination of the share or interest of each of the co-owners or claimants shall be tried by the court without a jury.

"(b) The court shall determine whether the property, or any part thereof, is susceptible of partition. If the court determines that the whole, or any part of the property is susceptible of partition, then the court shall enter a decree directing the partition of the property which is held to be susceptible of partition, describing it and specifying the share or interest to which each party is entitled. The court shall then appoint three or more competent and disinterested persons as commissioners to make the partition in accordance with the court's decree, the majority of the commissioners may act.

"(c) The court may appoint a surveyor to assist the commissioners in making a partition of real estate. The commissioners may cause the real estate to be surveyed and partitioned into several tracts or parcels.

"(d) The court may appoint an appraiser or appraisers to value the property and file an appraisal report with the court and the commissioners, as the court directs.

"(e) The commissioners shall divide the property into as many shares as there are persons entitled thereto, as determined by the court, having due regard in the division of the property to the situation, quantity, and advantage of each share, so that the shares may be equal in value, as nearly as may be, in the proportion to the respective shares or interests of the parties entitled thereto.

"(f) The commissioners shall report in writing to the court; and the report shall be determined by a majority of the commissioners and the contents shall be governed by the provisions of rules 53(e) (1) and (2) of the Federal Rules of Civil Procedure. The report shall also contain the following—

"(1) The several tracts, units, or parcels into which the property was divided (describing each particularly);

"(2) the number of shares and the estimated value of each share;

"(3) the allotment of each share; and

"(4) field notes and maps as to each estate, as may be necessary.

"The findings and reports of the commissioners shall have the effect, and be dealt with by the court in accordance with the practice prescribed in rule 53(e)(2).

"(g) The decree of the court confirming the report of commissioners in a partition of property gives a recipient of an interest in the property a title equivalent to a conveyance of the interest by warranty deed as in the case of real property or by bill of sale as to personal property, from the other parties in the action.

"(h) All conditions, restrictive covenants, and encumbrances against the property that applied to the property prior to the partition shall remain against the property as partitioned unless those restrictions, covenants and encumbrances have been included and are subject to the partition action.

"§ 3604. Partition by sale

"Should the court determine that a fair and equitable division of the property, or any part thereof, cannot be made, the court shall order a sale of that part which is incapable of partition, which sale shall be for cash, or upon such other terms as the court may direct, and shall be made as provided by title 28, United States Code, chapter 127, or through a receiver, as the court so orders. The proceeds of such sale shall be paid into the court and partitioned among the persons and parties entitled thereto according to their respective interests.

"§ 3605. Costs

"Costs shall be taxed against each party to whom a share has been allotted in proportion to the value of such share.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"Sec.
"3701. United States foreclosures governed by Federal law.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"§ 3701. United States foreclosures governed by Federal law

"Unless the documents specifically adopt State law, any action by the United States to foreclose security interests in real property shall be governed by the Federal statutes and applicable regulations, provisions set forth in the transaction documents and by Federal common law where there is no governing statute, applicable regulation or provision, and not by the State law where the real property is located. This shall include, but not be limited to, questions regarding redemption rights and deficiency judgments.

"§ 3702. Deficiency rights on federally guaranteed or insured loans

"Unless the documents specifically adopt State law, the right of the United States to collect a deficiency following the foreclosure of a loan guaranteed or insured by the United States or any agency thereof shall be governed by Federal statutes, applicable regulations, and the provisions set forth in the transaction documents. The rights of the United States under this section shall apply notwithstanding the provisions of any State law and without regard to the method used by the loan holder to foreclose the loan.".

Subtitle B—Amendments to Other Provisions of Law

SEC. 3321. PAYMENT OF TAXES.

Section 505 of title 11, United States Code, is amended by adding at the end thereof the following subsection:

"(d) Payments of taxes under this title to a governmental unit may be applied by the governmental unit in a manner that preserves alternative sources of collection, if any.".

SEC. 3322. DEBTS.

Section 523(a) of title 11, United States Code, is amended as follows:

(a) by deleting the word "or" at the end of section 523(a)(9); and

(b) by deleting "." at the end of section 523(a)(10) and adding "; and" in lieu thereof; and

(c) by adding the following subsections at the end of section 523(a):

"(11) to the extent that such debt arises from a violation by the debtor of a civil or criminal statute, or a regulation, rule, or order issued pursuant thereto, enforceable by an action by a governmental unit to recover restitution, damages, civil penalties, attorney fees, costs, or any other relief, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit of the United States Government; or

"(12) to the extent such debt arises from a criminal appearance bond.".

SEC. 3323. EDUCATION BENEFIT OVERPAYMENT.

Section 523(a) of title 11, United States Code, is amended to read as follows:

(a) subsection (8) is amended to read as follows:

"(8) for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless—".

(b) subsection (8)(A) is amended to read as follows:

"(A) such loan, benefit, scholarship or stipend overpayment or loan first became due 7 years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 3324. CLAIMS.

(a) Section 1129(a)(9)(C) of title 11, United States Code, is amended to read as follows:

"(C) with respect to a claim of a kind specified in section 507(a)(7) of this title, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding 6 years after the date of assessment of such claim or 6 years after confirmation for such claims that have not been assessed, of a value as of the effective date of the plan, equal to the allowed amount of such claim.".

(b) Section 1129 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) For purposes of determining the value of deferred cash payments under a plan with respect to a secured or unsecured tax claim, the appropriate interest rate shall be the statutory rate applicable to unpaid taxes owing to the governmental unit holding the claim.".

SEC. 3325. FORFEITURE AGREEMENT.

Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require.".

SEC. 3326. BAIL BOND.

Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond.".

SEC. 3327. SECTION 3142(g)(4) OF TITLE 18.

Section 3142(g)(4) of title 18, United States Code, is amended by—

(a) striking out "(c)(2)(k)" and inserting in lieu thererof "(c)(1)(B)(xi)"; and

(b) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 3328. COLLECTING AN ASSESSMENT.

(a) Section 3552(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.".

(b) The amendment made by subsection (a) shall take effect as if enacted on the date of the taking effect of section 3552(d) of title 18, United States Code.

SEC. 3329. EXECUTION AGAINST PROPERTY.

Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "by execution against the property of the defendant"; and

(2) in paragraph (1) by striking out "civil cases." and inserting in lieu thereof "accordance with chapter 176 of title 28. The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case."; and

(3) in paragraph (4), by deleting the word "Salaries" and inserting in lieu thereof the following:

"Notwithstanding any contrary provision in chapter 176 of title 28, United States Code, salaries."; and

(4) in paragraph (5), the second sentence should be deleted.

SEC. 3330. SECTION 3579(f)(4) OF TITLE 18.

Section 3579(f)(4) of title 18, United States Code, is amended by—

(a) striking out the "." at the end thereof; and

(b) adding at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 3331. SECTION 3613 OF TITLE 18.

(a) Section 3613 of title 18, United States Code, is amended—

(1) in subsection (d), as added by section 212(a) of the Comprehensive Crime Control Act of 1984, by striking out the second sentence; and

(2) in subsection (e), as added by section 212(a) of the Comprehensive Crime Control Act of 1984 by—

(A) striking out "by execution against the property of the person fined";

(B) striking out "civil cases," and inserting in lieu thereof "accordance with chapter 176 of title 28,"; and

(C) adding at the end thereof "The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case.".

(b) The amendments made by this section shall take effect as if enacted on the date of the taking effect of such section 3613.

SEC. 3332. SECTION 3663(f)(4) OF TITLE 18.

Section 3663(f)(4) of title 18, United States Code, is amended by inserting before the period at the end thereof the following: "only if they are in fear of contact with the defendant".

SEC. 3333. SECTION 524 OF TITLE 28.

Section 524 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d)(1) There shall be established in the United States Treasury a special fund to be known as the Department of Justice Debt Collection Fund (hereinafter in this subsection referred to as 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriation Acts for the purposes set forth herein.

"(2) There shall be deposited in the fund 5 percent of all net amounts realized from the debts collected by the divisions of the Department of Justice and all United States attorney's offices. Deposits to the fund shall begin the day after the date of enactment, from all amounts collected on and after that date.

"(3) The fund may be used for the following purposes of the Department of Justice:

"(A) the training of personnel of the Department of Justice in debt collection;

"(B) services pertinent to debt collection, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations related to locating debtors and their property; and

"(C) expenses of costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs;

"(4) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by the United States.

"(5) For fiscal years 1990, 1991, 1992, and 1993 there are authorized to be appropriated such sums as may be necessary for the purposes described in subsection (3). At the end of each fiscal year, any amount in the fund in excess of the amount appropriated, shall be deposited in the general fund of the Treasury of the United States, except that an amount not to exceed $5,000,000 may be carried forward and be available in the next fiscal year.

"(6) For the purposes of these subsections, amounts from debt collection efforts of the Department of Justice shall include amounts realized from actions brought by or judgments enforced by Department of Justice personnel, including those in all United States attorneys' offices, whether civil or criminal, and whether involving tax or non-tax debts owed to the United States, except as deposit of such amounts into other special funds is required by law.".

SEC. 3334. SECTION 550 OF TITLE 28.

Section 550 of title 28, United States Code, is amended by striking out "assistants and messengers" and inserting in lieu thereof "assistants, messengers, and private process servers.".

SEC. 3335. SECTION 1961(c)(1) OF TITLE 28.

Section 1961(c)(1) of title 28, United States Code, is amended to read as follows:

"(c)(1) The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 3336. SECTION 1962 OF TITLE 28.

Section 1962 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 3337. SECTION 1963 OF TITLE 28.

Section 1963 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "Such a judgment entered in favor of the United States may be registered as specified any time after judgment is entered.".

SEC. 3338. PAYMENT OF FINE WITH BOND MONEY.

(a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following section:

"§ 2044. Payment of fine with bond money

"Upon motion of the United States attorney, the court shall order any money belonging to and deposited by the defendant

with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution or penalty imposed upon the defendants. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing, except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This does not apply to any third party sureties.".

(b) The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2044. Payment of fine with bond money.".

SEC. 3339. SECTION 2410(c) OF TITLE 28.

Section 2410(c) of title 28, United States Code, is amended by adding at the end thereof the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

SEC. 3340. SECTION 2413 OF TITLE 28.

Section 2413 of title 28, United States Code, and the item relating to section 2413 in the table of sections for chapter 161, are repealed.

TITLE XXXIV—DRUNK DRIVING VICTIMS' PROTECTION ACT

SEC. 3401. SHORT TITLE.

This title may be cited as the "Drunk Driving Victims' Protection Act".

SEC. 3402. AMEND SECTION 1328(a), TITLE 11, OF THE UNITED STATES CODE.

Section 1328(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking out "or";

(2) in paragraph (2), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) of the kind specified in section 523(a)(9) of this title.".

SEC. 3403. DEBT JUDGMENT.

Paragraph (9) of section 523(a) of title 11, United States Code, is amended to read as follows:

"(9) to any entity, to the extent that such debt arises from a judgment or consent decree entered in a court of record against the debtor wherein liability was incurred by such debtor as a result of the debtor's operation of a motor vehicle while legally intoxicated or impaired by use of alcohol or drugs under the laws or regulations of any jurisdiction within the United States or its territories wherein such motor vehicle was operated and within which such liability was incurred;".

SEC. 3404. CLAIMS.

Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (12), by striking out "or";

(2) in paragraph (13), by striking out the period at the end and inserting in lieu thereof "; or"; and

(3) by adding the following new paragraph:

"(14) under subsection (a) of this section, of the commencement or continuation of an action on a claim of the type described at section 523(a)(9) of this title.".

SEC. 3405. CIVIL OR CRIMINAL RESTITUTION.

Section 523(a) of title 11, United States Code (as amended by section 3403 of this Act) is further amended—

(1) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following:

"(11) to the extent that such debt arises from a proceeding brought by a governmental unit to recover civil or criminal restitution, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit.".

SEC. 3406. FULL PAYMENT OF CLAIMS.

Section 1322(a) of title 11, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for the full payment, in deferred cash payments, of all claims which would be nondischargeable under section 523(a)(11).".

TITLE XXXV—DRUG-FREE SCHOOL ZONES

SEC. 3501. DEVELOPMENT OF MODEL PROGRAM OF STRATEGIES AND TACTICS.

(a) IN GENERAL.—The Attorney General shall develop a model program of strategies and tactics for establishing and maintaining drug-free school zones.

(b) ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The program required by subsection (a) shall be designed to provide State and local law enforcement agencies with materials, training, and other assistance to establish, enforce, and evaluate the effectiveness of drug-free school zone enforcement efforts.

(c) PROGRAM CRITERIA.—The program required by subsection (a) shall—

(1) define the criminal justice community's role in creating and maintaining drug-free school zones;

(2) develop a framework for law enforcement collaboration with the school system and community resource network;

(3) identify a core law enforcement drug demand reduction program plan;

(4) provide materials and technical assistance for demarcating and establishing drug-free school zones;

(5) create a coordinated publicity plan with the school system and community resource network;

(6) identify and develop model drug-free school zone law enforcement strategies and tactics;

(7) develop a model coordinated strategy for prosecuting violations within the zones;

(8) create a uniform framework for monitoring and evaluating the effectiveness of drug-free school zones to determine which strategies and tactics succeed under various conditions and constraints; and

(9) provide support materials and exemplary program overviews.

(d) PREFERRED APPROACHES.—In establishing the program required by subsection (a), the Attorney General shall prefer approaches to drug-free school zone enforcement that unite the criminal justice community, the education community, and the network of community resources in meaningful collaboration to reduce the availability of and demand for drugs in a drug-free school zone.

(e) REPORT.—At the conclusion of the program required by subsection (a), the Attorney General shall submit a report to Congress describing the strategies and tactics that are found to be successful in establishing, enforcing, and maintaining drug-free school zones.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for fiscal year 1991.

TITLE XXXVI—STEROID TRAFFICKING

SEC. 3601. SHORT TITLE.

This title may be cited as the "Steroid Trafficking Act of 1990".

Subtitle A—Anabolic Steroids

SEC. 3611. STEROIDS LISTED AS CONTROLLED SUBSTANCES.

(a) ADDING STEROIDS TO SCHEDULE II OF THE CONTROLLED SUBSTANCES ACT.—Subdivision (b) of schedule II of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by inserting at the end thereof the following:

"(22) Anabolic steroids.".

(b) DEFINITION.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(41) The term 'anabolic steroids' means—

"(A) any drug that is chemically and pharmacologically related to the male hormone testosterone and that promotes or purports to promote muscle growth, including any amount of the following chemical designations and their salts, esters, and isomers:

"(i) boldenone,
"(ii) chlorotestosterone,
"(iii) clostebol,
"(iv) dehydrochlormethyltestosterone,
"(v) dihydrotestosterone,
"(vi) drostanolone,
"(vii) ethylestrenol,
"(viii) fluoxymesterone,
"(ix) formobulone,
"(x) mesterolone,
"(xi) methandienone,
"(xii) methandranone,
"(xiii) methandriol,
"(xiv) methandrostenolone,
"(xv) methenolone,
"(xvi) methyltestosterone,
"(xvii) mibolerone,
"(xviii) nandrolone,
"(xix) norethandrolone,
"(xx) oxandrolone,
"(xxi) oxymesterone,
"(xxii) oxymetholone,
"(xxiii) stanolone,
"(xxiv) stanozolol,
"(xxv) testolactone,
"(xxvi) testosterone,
"(xxvii) trenbolone, and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in subparagraph (A), or any substance labeled as being or containing any such drug.

As used in schedule II, such term shall not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration, except that if any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed a steroid in schedule II of this Act.".

(c) EFFECT OF SCHEDULING ON PRESCRIPTIONS.—Any prescription for anabolic ster-

oids subject to refill on or after the date of enactment of the amendments made by this section may be refilled without restriction under section 309(a) of the Controlled Substances Act (21 U.S.C. 829(a)).

(d) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 3612. REGULATIONS BY ATTORNEY GENERAL.

(a) ABUSE POTENTIAL.—The Attorney General, upon the recommendation of the Secretary of Health and Human Services, shall, by regulation, exempt any compound, mixture, or preparation containing a substance in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 3611 of this Act) from the application of all or any part of the Controlled Substances Act if, because of its concentration, preparation, mixture or delivery system, it has no significant potential for abuse, and, at a minimum, shall exempt estrogens, progestins, and corticosteroids.

(b) DRUGS FOR TREATMENT OF RARE DISEASES.—If the Attorney General finds that a drug listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 3611 of this Act) is—

(1) approved by the Food and Drug Administration as an accepted treatment for a rare disease or condition, as defined in section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb); and

(2) does not have a significant potential for abuse,

the Attorney General may exempt such drug from any production regulations otherwise issued under the Controlled Substances Act as may be necessary to ensure adequate supplies of such drug for medical purposes.

(c) DATE OF ISSUANCE OF REGULATIONS.—The Attorney General shall issue regulations implementing this section not later than 45 days after the date of enactment of this Act, except that the regulations required under subsection 3612(a) shall be issued not later than 180 days after the date of enactment of this Act.

Subtitle B—Human Growth Hormone

SEC. 3621. AMENDMENT TO THE FOOD, DRUG, AND COSMETIC ACT.

Section 303 of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by inserting a new subsection (e) as follows:

"(e)(1) Except as provided in paragraph (2), whoever knowingly distributes, or possesses with intent to distribute, human growth hormone for any use in humans other than the treatment of a disease or other recognized medical condition pursuant to the order of a physician is guilty of an offense punishable by not more than 5 years in prison, such fines as are authorized by title 18, United States Code, or both.

"(2) Whoever commits any offense set forth in paragraph (1) and such offense involves an individual under 18 years of age is punishable by not more than 10 years imprisonment, such fines as are authorized by title 18, United States Code, or both.

"(3) Any conviction for a violation of paragraphs (1) and (2) of this subsection shall be considered a felony violation of the Controlled Substances Act for the purposes of forfeiture under section 413 of such Act.

"(4) As used in this subsection the term 'human growth hormone' means—

"(A) somatrem, somatropin, and any of their analogs; and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in clause (A)(i), or any substance labeled as being or containing any such drug; and

"(5) The Drug Enforcement Administration is authorized to investigate offenses punishable by this subsection.".

SEC. 3622. CONVICTION OF SECTION 303(e) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 2401 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4181) is repealed.

TITLE XXXVII—MISCELLANEOUS CRIMINAL PROVISIONS

Subtitle A—Other Justice Improvements

SEC. 3701. ALTERNATIVE METHODS OF INCARCERATION.

In section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90-351), as amended by the Anti-Drug Abuse Act of 1988 (Public Law 100-690) (42 U.S.C. 3751(b)), add the following:

"(22) innovative intermediate sanctions programs, in combination with drug testing, including boot camps, house arrest, electronic monitoring, intensive supervision, and community service.".

SEC. 3702. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 3703. ENLARGEMENT OF FORFEITURE AWARD AUTHORITY.

Section 524(c)(1)(C) of title 28, United States Code, is amended by striking out "the payment of awards for information or assistance leading to civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1961 et seq.)" and inserting in lieu thereof "the payment of awards for information or assistance leading to a civil or criminal forfeiture under any law enforced or administered by the Department of Justice.".

SEC. 3704. CONFORMING OF OLDER INNOCENT OWNER PROVISIONS WITH THOSE ENACTED IN THE ANTI-DRUG ABUSE ACT OF 1988.

(1) Sections 511(a) (6) and (7) of the Controlled Substances Act (21 U.S.C. 881(a) (6) and (7)) are each amended by striking "without the knowledge or consent of that owner" and inserting in lieu thereof "without the knowledge, consent, or willful blindness of the owner"; and

(2) Section 981(a)(2) of title 18, United States Code, is amended by striking "without the knowledge of that owner or lienholder" and inserting in lieu thereof "without the knowledge, consent, or willful blindness, of the owner or lienholder".

SEC. 3705. ADDITION OF CONFORMING CRIMINAL FORFEITURE PROVISION FOR CASES INVOLVING CMIR VIOLATIONS.

Section 982(a) of title 18, United States Code, is amended by inserting ", 5316" after "5313(a)".

SEC. 3706. CLARIFYING GRAMMATICAL CHANGES IN DEFINITION OF "FINANCIAL TRANSACTION" FOR THE MONEY LAUNDERING STATUTE.

Section 1956(c)(4) of title 18, United States Code, is amended by inserting "(A)" before "a transaction" the first place it appears, inserting "(i)" before "involving" the first place it appears, inserting "(ii)" before "involving" the second place it appears, and inserting (B) before the phrase "or a transaction".

SEC. 3707. LIMITATION OF EXCEPTION TO MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or offenses giving the rise to the forfeiture, conducted three or more separate transactions involving a total of $100,000 or more in any twelve month period".

SEC. 3708. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a violation of section 401 (d) or (g)(1) of the Controlled Substances Act (21 U.S.C. 841 (d) or (g)(1)) (relating to precursor and essential chemicals)".

SEC. 3709. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958 of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 3710. AMENDMENT TO CLARIFY APPLICATION OF SENTENCING REFORM ACT TO ASSIMILATIVE CRIMES.

Section 3551(a) of title 18, United States Code, is amended by inserting "including sections 13 and 1153 of this title," after "any Federal statute,".

SEC. 3711. TECHNICAL CORRECTION TO INTERNAL REVENUE CODE.

Section 7203 of the Internal Revenue Code of 1986 is amended by replacing the last sentence thereof with the following sentence: "In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting 'felony' for 'misdemeanor' and '5 years' for '1 year'.".

Subtitle B—Miscellaneous and Technical Amendments

SEC. 3721. CONFORMING AMENDMENTS TO SUBSTITUTE A REFERENCE TO THE FDIC FOR THE NOW ABOLISHED FSLIC IN TWO BANKING OFFENSES.

Sections 657 and 1006 of title 18, United States Code, are each amended by striking out "the Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "the Federal Deposit Insurance Corporation".

SEC. 3722. TECHNICAL AMENDMENTS TO MONEY LAUNDERING OFFENSES.

(a) Paragraph (a)(2) and subsection (b) of section 1956 of title 18, United States Code, are amended by striking out "transportation" each place it appears and inserting in lieu thereof "transportation, transmission, or transfer".

(b) Subsection (a)(3) of section 1956 of title 18, United States Code, is amended by striking out "represented by a law enforcement officer" and inserting "represented".

SEC. 3723. CLARIFICATION OF APPLICABILITY OF 18 U.S.C. 1952 TO ALL MAILINGS IN FURTHERANCE OF UNLAWFUL ACTIVITY.

Section 1952(a) of title 18, United States Code, is amended—

(1) by inserting "the mail or" after "uses"; and

(2) by striking out "including the mail,".

SEC. 3724. ADDITION OF DRUG CONSPIRACY AND ATTEMPT OFFENSES COMMITTED BY JUVENILES AS WARRANTING ADULT PROSECUTION.

Section 5032 of title 18, United States Code, is amended—

(1) in first undesignated paragraph by striking out "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3))," and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3), or 963),"; and

(2) in the fourth undesignated paragraph—

(A) by striking out "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844 or 846), or section 1002(a), 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b) (1), (2), or (3), or 963)"; and

(B) by striking out "subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), or (3))", and inserting in lieu thereof "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1) (A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1) (A), (B), or (C), (d), or (e), 844, or 846) or section 1002(a), 1003, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), or (3), or 963)".

SEC. 3725. ARREST OF FUGITIVE ABOUT TO ENTER UNITED STATES.

Section 3184 of title 18, United States Code, is amended by inserting "or, if there is reason to believe the person will shortly enter the United States" after "if the whereabouts within the United States of the person charged are not known".

SEC. 3726. ELIMINATION OF SUPERFLUOUS LANGUAGE IN 18 U.S.C. 510.

Section 510(b) of title 18, United States Code, is amended by striking out "that in fact is stolen or bears a forged or falsely made endorsement or signature".

SEC. 3727. CORRECTION TO REFERENCE TO NONEXISTENT AGENCIES IN 18 U.S.C. 1114.

Section 1114 of title 18, United States Code, is amended—

(1) by striking out "any officer or employee of the Department of Health, Education, and Welfare," and inserting in lieu thereof "any officer or employee of the Department of Education, the Department of Health and Human Services,"; and

(2) by striking out "the Federal Savings and Loan Insurance Corporation,".

SEC. 3728. USE OF A SEARCH WARRANT TO OBTAIN CONTENTS OF A STORED WIRE COMMUNICATION.

Section 2703(a) of title 18, United States Code, is amended by inserting "or wire" after "the contents of an electronic" both places those words appear.

SEC. 3729. AUTHORITY FOR STATE GOVERNMENT PERSONNEL TO ASSIST IN CONDUCTING COURT-AUTHORIZED INTERCEPTIONS.

Section 2518(5) of title 18, United States Code, is amended by inserting "(including personnel of a State or subdivision of a State)" after "Government personnel".

SEC. 3730. TECHNICAL AMENDMENT OF 31 U.S.C. 5325.

(b) Section 5325 of title 31, United States Code, is amended—

(1) by deleting the word "transaction" in subsection (a)(1);

(2) by adding the words ", as defined by the Secretary," after the word "account" in subsection (a)(1); and

(3) by deleting subsection (c).

SEC. 3731. ONDCP TRANSFER AUTHORITY.

Section 1502(d) of title 21, United States Code, enacted by section 1003(d) of the Anti-Drug Act of 1988, is amended by—

(1) deleting the word "and" at the end of subparagraph (6);

(2) deleting the period at the end of subparagraph (7)(B) and inserting in lieu thereof "; and"; and

(3) inserting subparagraphs (8) and (9) as follows:

"(8) transfer funds from the Special Forfeiture Fund referred to in section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509), as well as other funds appropriated by Congress to the Office of National Drug Control Policy for assistance to high intensity drug trafficking areas, to Federal agencies and departments for the purpose of executing the National Drug Control Strategy.

"(9) transfer funds appropriated to the Office of National Drug Control Policy for a specified purpose to appropriate Federal agencies and departments for the same purpose.".

SEC. 3732. STRUCTURING TRANSACTIONS TO EVADE CMIR REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a)" at the beginning before "No person"; and

(2) by inserting at the end the following new subsection:

"(b) No person shall for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file a report required under section 5316;

"(2) file, or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT.—Section 5321 of title 31, United States Code, is amended in subsection (a)(4)(C) by striking "under section 5317(d)".

SEC. 3733. CONFORMING AMENDMENTS CONCERNING MARIHUANA.

(a) Section 401(b)(1)(D), of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) and section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) are each amended by striking out "with respect to less than 50 kilograms of marihuana" and inserting in lieu thereof "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana".

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking out "except in the case of 100 or more marihuana plants" and inserting in lieu thereof "except in the case of 50 or more marihuana plants".

SEC. 3734. STATUTE OF LIMITATIONS FOR CERTAIN GANGSTER WEAPON OFFENSES.

Section 6531 of the Internal Revenue Code of 1986 (26 U.S.C. 6531, relating to periods of limitation of criminal prosecutions) is amended by striking out the phrase "except that the period of limitation shall be 6 years" and inserting in lieu thereof the phrase "except that the period of limitation shall be five years for offenses described in section 5861 (relating to firearms) and the period of limitation shall be 6 years".

SEC. 3735. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18 of the United States Code is amended by inserting the words "or possess" after the words "to receive".

SEC. 3736. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18 of the United States Code is amended by redesignating subsection (c) as subsection (c)(1) and by adding paragraphs (2) and (3), as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

(A) the property has not been used or involved in a violation of law; or

(B) any unlawful involvement or use of the property was without the claimant's knowledge or consent,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

TITLE XXXVIII—DRUG PARAPHERNALIA AMENDMENT

SEC. 3801. DRUG PARAPHERNALIA AMENDMENT.

(a) CIVIL FORFEITURE AND CIVIL ENFORCEMENT.—Section 1822 of the Anti-Drug Abuse Act of 1986 (Public Law 99-570; 21 U.S.C. 857) is amended—

(1) in subsection (c), by inserting "pursuant to section 413 of the Controlled Substances Act (21 U.S.C. 853)" after "subject to seizure and forfeiture";

(2) in subsection (b), by striking "not more than $100,000" and inserting "under title 18, United States Code;" and

(3) by adding the following new subsection:

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

(b) CIVIL FORFEITURE FOR DRUG PARAPHERNALIA.—Section 1822 of the Anti-Drug Abuse Act of 1986 (Public Law 99-570; 21 U.S.C. 857) is amended by inserting the following as a new subsection (h):

"(h) CIVIL FORFEITURE; APPLICABILITY OF THE CUSTOMS LAWS.—Any drug paraphernalia and other property, real or personal, involved in any violation of subsection (a) of this section, and any property traceable to such property, shall be subject to seizure and forfeiture. All provisions of law relating to seizure, summary and judicial forfeiture and condemnation for violation of the Customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims and award of compensation to informers in respect to such forfeitures shall apply to seizures and forfeitures incurred under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof.".

TITLE XXXIX—GENERAL PROVISIONS

SEC. 3901. SUPPORT OF FEDERAL PRISONERS IN NON-FEDERAL INSTITUTIONS.

Section 4013 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(b)(1) The United States Marshals Service may designate districts that need additional support from private detention entities under subsection (a)(3) based on—

"(A) the number of Federal detainees in the district; and

"(B) the availability of Federal, State, and local government detention facilities.

"(2) In order to be eligible for a contract for the housing, care, and security of persons held in custody of the United States Marshals pursuant to Federal law and funding under subsection (a)(3), a private entity shall—

"(A) be located in a district that has been designated as needing additional Federal detention facilities pursuant to paragraph (1);

"(B) meet the standards of the American Correctional Association;

"(C) comply with all applicable State and local laws and regulations;

"(D) have approved fire, security, escape, and riot plans; and

"(E) comply with any other regulations that the Marshals Service deems appropriate.

"(3) The United States Marshals Service shall provide an opportunity for public comment on a contract under subsection (a)(3).".

SEC. 3902. AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Section 405A of the Controlled Substances Act (21 U.S.C. 845a) as redesignated by this Act, is amended—

(1) in subsection (a) by—

(A) striking "playground"; and

(B) inserting "or a public or private playground" after "university,"; and

(2) in subsection (b) by—

(A) striking "playground,"; and

(B) inserting "or a public or private playground," after "university,".

SEC. 3903. GUN-FREE SCHOOL ZONES ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Gun-Free School Zones Act of 1990".

(b) PROHIBITIONS AGAINST POSSESSION OR DISCHARGE OF A FIREARM IN A SCHOOL ZONE.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(q)(1)(A) It shall be unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

"(B) Subparagraph (A) shall not apply to the possession of a firearm—

"(i) on private property not part of school grounds;

"(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

"(iii) which is—

"(I) not loaded; and

"(II) in a locked container, or a locked firearms rack which is on a motor vehicle;

"(iv) by an individual for use in a program approved by a school in the school zone;

"(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

"(vi) by a law enforcement officer acting in his or her official capacity; or

"(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

"(2)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

"(B) Subparagraph (A) shall not apply to the discharge of a firearm—

"(i) on private property not part of school grounds;

"(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

"(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

"(iv) by a law enforcement officer acting in his or her official capacity.

"(3) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun-free school zones as provided in this subsection.".

(2) DEFINITIONS.—Section 921(a) of such title is amended by adding at the end thereof the following new paragraphs:

"(25) The term 'school zone' means—

"(A) in, or on the grounds of, a public, parochial or private school; or

"(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

"(26) The term 'school' means a school which provides elementary or secondary education, as determined under State law.

"(27) The term 'motor vehicle' has the meaning given such term in section 10102 of title 49, United States Code.".

(3) PENALTY.—Section 924(a) of such title is amended by adding at the end thereof the following new paragraph:

"(4) Whoever violates section 922(q) shall be fined not more than $5,000, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor.".

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in after the end of the 60-day period beginning on the date of the enactment of this Act.

(5) GUN-FREE ZONE SIGNS.—Federal, State, and local authorities are encouraged to cause signs to be posted around school zones giving warning of prohibition of the possession of firearms in a school zone.

SEC. 3904. PAYMENTS FOR ASSISTING CUSTOMS SERVICE.

Section 613A, subsection (a)(3)(F), of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows: "payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

SEC. 3905. PROHIBITION OF CERTAIN DRUG ADVERTISEMENTS.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting a new subsection (c) as follows:

"(c)(1) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any direct or indirect advertisement, knowing, or under circumstances where one reasonably should know that the purpose of the advertisement, in whole or in part, is to promote or facilitate the distribution or transfer of a Schedule I controlled substance.

"(2) As used in this section, the term 'indirect advertisement' means an advertisement for a catalogue of Schedule I controlled substances, the name, address, phone number, or similar information relating to a contact for obtaining a Schedule I controlled substance, and any similar advertisement whose purpose is to indirectly promote or facilitate the transfer or distribution of a Schedule I controlled substance.".

SEC. 3906. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1991, to carry out the activities of the Department of Justice, such sums as are necessary for the allocation of $1,000,000 for the establishment, in consultation with national organizations that operate annonymous tip hotlines, and oper-

ation of a national drug and related crime tip hotline program, which shall—

(1) provide a means for persons to make annonymous reports of drug and related crimes to a central location for dissemination to Federal, State, and local law enforcement agencies;

(2) assure complete annonymity of reporting persons and confidentiality of the information that is reported;

(3) provide trained professional interviewers;

(4) provide toll-free access;

(5) provide interviewers fluent in languages other than English, as needed;

(6) maintain close liaison and data-sharing facilities in all jurisdictions; and

(7) submit a report to Congress, not later than 6 months after the date of enactment of this Act and thereafter on March 1 of each year, describing the assistance to law enforcement authorities that the program has provided.

SEC. 3907. JURY INSTRUCTIONS.

(a) The Congress finds that—

(1) The historic province of the jury in a criminal trial is solely to determine the issue of guilt or innocence of a defendant;

(2) The historic province of the court in a criminal case is, upon conviction, to impose sentence as provided by law; and

(3) Any provision to a jury of information relating to what sentence may be imposed subverts the historic role of the jury and undermines our system of justice as provided by the Constitution.

(b)(1) The punishment provided by law for the offense or offenses charged in an indictment or information is a matter exclusively within the province of the court, as provided by law, and no information concerning the length of incarceration which may or must be imposed upon conviction may be made available to the jury at any time.

(2) The provisions of paragraph (1) shall not apply in capital cases.

SEC. 3908. EVICTION FOR ENGAGING IN CRIMINAL ACTIVITY.

(a) Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) is amended by adding the following new subsection:

"(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.".

(b) Section 6(k) of the United States Housing Act of 1937 is amended by striking the last sentence and inserting the following: "An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy for criminal activity, including drug related criminal activity, that adversely affects the health, safety and welfare of the public housing tenants on the premises: *Provided*, That the agency notifies the tenant of the reason for the action to evict or terminate tenancy.

SEC. 3909. CULTIVATING A CONTROLLED SUBSTANCE.

Section 401(b)(5) of the Controlled Substances Act (21 USC 841(b)(5)) is amended by striking "by cultivating a controlled substance".

SEC. 3910. INTERNATIONAL NEGOTIATIONS TO REGULATE PRECURSOR AND ESSENTIAL CHEMICALS.

(a) NEGOTIATIONS.—(1) The Attorney General shall enter into negotiations with the appropriate law enforcement and judicial agencies and any other officials of any foreign country with jurisdiction over companies who manufacture, market, sell or purchase certain precursor and/or essential chemicals used in the production of illicit narcotics. The priority of negotiations should be determined based on an assessment by the Attorney General which countries have jurisdiction over companies that may be knowingly or unknowingly supplying chemicals for the illicit manufacture of controlled substances.

(2) The purposes of the negotiations shall be to (A) establish a list of precursor and essential chemicals contributing to the illicit manufacture of controlled substances, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); (B) reach one or more international agreements on a method for maintaining records of transactions of these listed chemicals; (C) establish a procedure by which such records may be made available to (and kept confidential as necessary by) United States law enforcement authorities for the exclusive purpose of conducting an investigation relative to precursor chemicals, essential chemicals and/or controlled substances contributing to the manufacture of illicit narcotics; (D) encourage chemical source countries to enact national chemical control legislation which would (i) impose specific record keeping and reporting requirements for domestic transactions involving listed chemicals; (ii) establish a system of permits or declarations for imports and exports of listed chemicals; and (iii) authorize government officials to seize or suspend shipments of listed chemicals based on evidence that they may be destined for the illicit manufacture of controlled substances.

(b) REPORTS.—Not later than one year after the date of enactment of this Act, the Attorney General shall submit an interim report to the Judiciary Committee and the Foreign Relations Committee of the Senate on progress in the negotiations. Not later than eighteen months from the date of enactment, the Attorney General shall submit a final report to the aforementioned Senate committees on the result of negotiations identifying countries with which agreements have not been reached and which have jurisdiction over companies believed to be engaged in the manufacture, marketing, sale or purchase of precursor and/or essential chemicals used in illicit manufacture of controlled substances.

(c) PENALTIES.—After consulting with the Attorney General and the Director of National Drug Control Policy, the President shall impose penalties or sanctions including temporarily or permanently prohibiting any corporation, partnership, individual or business association (i) refusing to maintain records for the purpose of monitoring and regulating transactions of listed precursor chemicals, or (ii) refusing to make such records available to United States law enforcement authorities for investigative purposes from engaging in any or all transactions within the commerce of the United States.

(d) DEFINITIONS.—A record under subsection (a) shall be retrievable and include the date of the transaction, the identity of each party to the transaction, including the ultimate consignee, an accounting of the quantity and form of listed chemical(s) and a description of the method of transfer.

(e) APPLICATION.—This title shall not apply to the manufacture, distribution, sale, import or export of any drug which may, under the Federal Food, Drug and Cosmetic Act be lawfully sold over-the-counter without prescription.

SEC. 3911. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Except as otherwise specifically provided in this section, whenever in this section an amendment is expressed to a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(b) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) is amended—

(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(9) one who has been convicted of an aggravated felony, as defined in subsection (a)(43).".

(c) BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking out "or within ten years" and inserting in lieu thereof "or at anytime thereafter".

(d) CUSTODY PENDING DETERMINATION OF EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end thereof the following new subsection:

"(e)(1) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction.

"(2) Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody unless the Attorney General determines that the alien may not be deported because the condition described in section 243(g) exists.

"(3) If the determination described in paragraph (2) has been made, the Attorney General may release such alien only after—

"(A) a procedure for review of each request for relief under this subsection has been established,

"(B) such procedure includes consideration of the severity of the felony committed by the alien, and

"(C) the review concludes that the alien will not pose a danger to the safety of other persons or to property.".

(e) SUSPENSION OF DEPORTATION PROHIBITED.—Section 244 (8 U.S.C. 1254) is amended by adding at the end thereof the following new subsection:

"(g) No alien convicted of an aggravated felony (as defined in section 101(a)(43)) shall be eligible for suspension of deportation under this section.".

(f) EFFECT OF FILING PETITION FOR REVIEW.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting in lieu thereof "; or" and

(2) by adding at the end thereof the following: "unless the alien is convicted of an aggravated felony, in which case, the Service shall not stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;".

(g)(1) CLARIFICATION OF AGGRAVATED FELONY DEFINITION.—Section 101(a)(43) is amended—

(A) by inserting "any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including" after "murder,", and

(B) by adding at the end the following: "such term applies to offenses described in

the previous sentence whether in violation of Federal or State law.".

(2) EFFECTIVE DATE.—The amendments made by subsection (g)(1) shall take effect as if included in the enactment of section 7342 of the Anti-Drug Abuse Act of 1988.

(h) TREATMENT OF JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION.—Section 241(b) is amended by inserting "or who has been convicted of an aggravated felony" after "subsection (a)(11) of this section".

(i) REQUIRING FINGERPRINTING AND PHOTOGRAPHING OF CERTAIN ALIENS.—(1) Section 287 is amended by adding the following new subsection:

"(f)(1) Under regulation of the Attorney General, the Commissioner of the Immigration and Nationality Service shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 242.

"(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.

"(3) The Attorney General, using the authority provided under section 534 of title 28, United States Code, shall acquire, collect, classify, preserve, and exchange records and information pertaining to aliens for whom an arrest warrant has been issued under this title for failure to appear at a proceeding commenced against the alien under section 242 or for failure to appear for deportation ordered under this title.".

(2) Section 264(b) is amended by inserting "(1) pursuant to section 287(f)(2), and (2)" after "only".

SEC. 3912. REPORT ON MANDATORY MINIMUM SENTENCING PROVISIONS.

(a) REPORT.—Not less than six months after the date of enactment of this Act, the United States Sentencing Commission shall transmit to the respective Judiciary Committees of the Senate and House of Representatives a report on mandatory minimum sentencing provisions in Federal law.

(b) COMPONENTS OF REPORT.—The report mandated by subsection (a) shall include:

(1) a compilation of all mandatory minimum sentencing provisions in Federal law;

(2) an assessment of the effect of mandatory minimum sentencing provisions on the goal of eliminating unwarranted sentencing disparity;

(3) a projection of the impact of mandatory minimum sentencing provisions on the Federal prison population;

(4) an assessment of the compatibility of mandatory minimum sentencing provisions and the sentencing guidelines system established by the Sentencing Reform Act of 1984;

(5) a description of the interaction between mandatory minimum sentencing provisions and plea agreements;

(6) a detailed empirical research study of the effect of mandatory minimum penalties in the Federal system;

(7) a discussion of mechanisms other than mandatory minimum sentencing laws by which Congress can express itself with respect to sentencing policy, such as:

(A) specific statutory instructions to the Sentencing Commission;

(B) general statutory instructions to the Sentencing Commission;

(C) increasing or decreasing the maximum sentence authorized for particular crimes;

(D) Sense of Congress resolutions; and

(8) any other information that the Commission would contribute to a thorough assessment of mandatory minimum sentencing provisions.

(c) AMENDMENT OF REPORT.—The Commission may amend or update the report mandated by subsection (a) at any time after its transmittal.

SEC. 3913. WAITING PERIOD FOR THE PURCHASE OF EPHEDRINE.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall study the problems associated with the purchase of ephedrine and report to the Congress and the President whether a 21-day waiting period for any purchase of ephedrine would reduce the manufacture of methamphetamine.

(b) SPECIFICS OF REPORT.—The Attorney General shall include in the report required by this section the following:

(1) a recommended uniform purchase application form to be filled out by persons or companies desiring to purchase ephedrine;

(2) a recommendation whether or not vendors of ephedrine should be required to submit purchase applications to the Government or keep private files;

(3) criteria to ensure the privacy of the ephedrine purchaser if the Government has access to the purchase applications;

(4) an estimate of the cost to the vendors of collecting purchase information;

(5) an estimate of the cost to the Government of any application process;

(6) recommendations on how to implement waivers to the waiting period taking into consideration legitimate purchasers of ephedrine and how to ensure their continued access without a waiting period requirement;

(7) a recommendation whether or not a waiting period would be beneficial in reducing the incidence of the purchase of ephedrine for the manufacture of controlled substances; and

(8) any other criteria necessary to ensure a thorough examination of the situation.

SEC. 3914. RAILROAD POLICE OFFICERS.

A railroad police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of any State shall, in accordance with regulations issued by the Secretary of Transportation, be authorized to enforce the laws of any jurisdiction in which the rail carrier owns property, for the purpose of protecting—

(1) the employees, passengers, or patrons of the rail carrier;

(2) the property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and materials moving via railroad that are vital to the national defense, to the extent of the authority of a police officer properly certified or commissioned under the laws of that jurisdiction.

TITLE XXXX—PROSECUTION OF THRIFT AND BANK FRAUD

SEC. 4001. SHORT TITLE.

This title may be cited as the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990".

Subtitle A—Bank Fraud and Embezzlement Penalties

SEC. 4011. INCREASING BANK FRAUD AND EMBEZZLEMENT PENALTIES.

(a) RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.—Section 215(a) of title 18, United States Code, is amended by striking "20" and inserting "30".

(b) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended by striking "20" and inserting "30".

(c) LENDING, CREDIT AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended by striking "20" and inserting "30".

(d) BANK ENTRIES, REPORTS AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended by striking "20" and inserting "30".

(e) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended by striking "20" and inserting "30".

(f) FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.—Section 1007 of title 18, United States Code, is amended by striking "20" and inserting "30".

(g) FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE APPLICATIONS.—Section 1014 of title 18, United States Code, is amended by striking "two years" and inserting "30 years".

(b) BANK FRAUD.—Section 1344(a) of title 18, United States Code, is amended by striking "five years" and inserting "30 years".

SEC. 4012. FINANCIAL CRIME KINGPIN STATUTE.

(a) CONTINUING FINANCIAL CRIME ENTERPRISES.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 226. Continuing financial crimes enterprise

"(a) Any person who engages in a continuing financial crime enterprise shall be sentenced to a term of imprisonment of not less than 10 years and which may be up to life imprisonment, to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, or $10,000,000 if the defendant is an individual, or $20,000,000 if the defendant is other than an individual.

"(b) For purposes of subsection (a) of this section, a person is engaged in a continuing financial crime enterprise if—

"(1) the person violates section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title; and

"(2) the violation is a part of a continuing series of violations under section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title—

"(A) that are undertaken by the person in concert with 3 or more persons with respect to whom the person occupies a position of organizer, supervisor, or other position of management,

"(B) from which the person has received $5,000,000 in gross receipts during any 24-month period.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"226. Continuing Financial Crime Enterprise.".

SEC. 4013. AMENDMENT OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS STATUTE.

(a) ADDITION OF PREDICATE OFFENSES.—Section 1961(1)(B) of title 18, United States Code, is amended—

(1) by inserting "section 215 (relating to receipt of commissions or gifts for providing loans)," after "section 201 (relating to bribery),";

(2) by inserting "sections 656 and 657 (relating to financial institution embezzlement)," after "473 (relating to counterfeiting),"; and

(3) by inserting "sections 1004, 1005, 1006, 1007, and 1014 (relating to fraud and false statements)," after "section 894 (relating to extortionate credit transactions),".

(b) EXCLUSION FROM CIVIL REMEDIES.—Section 1964(c) of title 18, United States Code, is amended by inserting ", other than a violation involving a violation of section 215, 656, 657, 1004, 1005, 1006, 1007, or 1014," after "of this chapter".

SEC. 4014. INCREASED PENALTIES IN MAJOR BANK CRIME CASES.

(a) INCREASED PENALTIES.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant convicted of violating section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, affecting an insured depository institution, when the offender has derived more than $1,000,000 in gross receipts from the offense, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) 4 levels greater than the level that would have been assigned had the offense not been committed under circumstances set forth above; and

(2) in no event less than level 24.

(b) AMENDMENTS TO SENTENCING GUIDELINES.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

Subtitle B—Broadening Investigative Authority in Bank Crime Cases

SEC. 4051. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in subsection (1)(C)—

(A) by inserting "section 215 (relating to bribery of bank officials)," before "section 224";

(B) by inserting "section 1014 (relating to false statements to financial institutions)," before "sections 1503";

(C) by striking "section 1343 (fraud by wire, radio, or television)," and inserting "section 1343 (fraud by use of facility of interstate commerce), section 1344 (relating to bank fraud),"; and

(D) by striking "the section in chapter 65 relating to destruction of any energy facility,"; and

(2) by redesignating the first paragraph (m), as paragraph (o);

(3) by striking "and" at the end of the second subsection (m);

(4) by striking the period at the end of subsection (n) and inserting "; and"; and

(5) in paragraph (j), striking "any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1742 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(c)(2)) or section 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1742 (i) and (n))".

Subtitle C—Restructuring the Federal Attack on Bank Crimes

SEC. 4111. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel for the Financial Institutions Fraud Unit (referred to as the "Special Counsel").

(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) SUNSET PROVISION.—The provisions of section 4111 shall expire no later than five years after the date of enactment: *Provided, however,* That the Attorney General may reassign the Special Counsel of the Financial Institutions Fraud Unit and the Financial Institutions Fraud Unit to the supervision of the Assistant Attorney General for the Criminal Division no earlier than October 1, 1992.

SEC. 4112. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Special Counsel shall be responsible for—

(1) supervising and coordinating investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry;

(2) ensuring that Federal statutes relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized by law to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensuring that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) COMPENSATION.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

SEC. 4113. ASSIGNMENT OF PERSONNEL.

There shall be assigned to the Financial Institutions Fraud Unit such number of personnel as the Attorney General deems appropriate to maintain or increase the level of enforcement activities in the area of fraud and other criminal activity in and against the financial services industry.

SEC. 4114. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial services industry and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) SUPERVISION.—The Attorney General shall determine how each task force shall be supervised and may provide, if the Attorney General determines appropriate, for the supervision of any task force by the Special Counsel.

(c) SENIOR INTERAGENCY GROUP.—(1) The Attorney General shall establish a senior interagency group to assist in identifying the most significant savings and loan and bank fraud cases and in focusing investigative and prosecutorial resources where they are most needed.

(2) The senior interagency group shall be chaired by the Assistant Attorney General for the Criminal Division and shall include senior officials from—

(A) the Department of Justice;

(B) the Federal Bureau of Investigation;

(C) the Department of the Treasury;

(D) the Office of Thrift Supervision;

(E) the Resolution Trust Corporation;

(F) the Federal Deposit Insurance Corporation;

(G) the Comptroller of the Currency;

(H) the Board of Governors of the Federal Reserve System;

(I) the National Credit Union Administration; and

(J) the Attorney General's Advisory Committee of the United States Attorneys.

(3) This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. 4115. REPORTS.

(a) IN GENERAL.—(1) The Financial Institutions Fraud Unit shall compile and collect data concerning—

(A) the nature and number of financial institutions investigations, prosecutions, and enforcement proceedings in progress;

(B) the nature and number of such matters closed, settled, or litigated to conclusion; and

(C) the results achieved, including fines and penalties levied, prison sentences imposed, and damages recovered, in such matters.

(2) Prior to the conclusion of an investigation or prosecution, data may be compiled in an aggregate statistical form.

(3) The Financial Institutions Fraud Unit shall analyze and report semiannually to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives on the data described in paragraph (1) and its own coordination activities with the agencies named in section 4114(c), and shall provide such data, as appropriate to such committees.

(b) SPECIFICS OF REPORT.—The report required by subsection (a) shall—

(1) be categorized as to various types of financial institutions;

(2) disclose data for each Federal judicial district; and

(3) identify, with respect to the activities of the Financial Institutions Fraud Unit—

(A) the number of institutions in which evidence of significant fraud or insider abuse has been detected;

(B) the Federal administrative enforcement actions brought against offenders;

(3) any settlements or judgments obtained against offenders;

(4) the indictments, guilty pleas, or verdicts obtained against offenders; and

(5) the resources allocated in pursuit of such settlements, indictments, or verdicts.

SEC. 4116. STATISTICS ON FINANCIAL SERVICES CRIME ENFORCEMENT.

Section 522 of title 28, United States Code, is amended by—

(1) inserting "(a)" before "The Attorney General"; and

(2) adding at the end thereof the following new subsection:

"(b) The information provided pursuant to subsection (a)(2) shall include records of the number of pending criminal matters, investigations, cases, and defendants involving financial institutions which shall specify the number of such cases relating to insured depository institutions and shall be made available to the Congress not less than monthly during each year.".

Subtitle D—Expanding Federal Forfeiture and Money Laundering Laws

SEC. 4151. EXPANDING CIVIL FORFEITURE LAWS IN BANK CRIME CASES.

Section 981 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(C), by inserting "or a violation of section 1341 or 1343 of such title affecting an insured depository institution" before the period;

(2) in subsection (b), by inserting "Attorney General or" after "subsection (a)(1)(C) of this section";

(3) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(4) in subsection (e)(4), by striking "(if the affected financial institution is not in receivership or liquidation)".

SEC. 4152. RESTITUTION FOR VICTIMS OF BANK CRIMES.

(a) FORFEITURE PROVISIONS.—Section 981(e) of title 18, United States Code, is amended—

(1) in paragraph (4) by striking "or" at the end thereof;

(2) in paragraph (5) by striking the period at the end thereof and inserting "; or"; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) in the case of property described in subsection (a)(1)(C), restore forfeited property to the victims of an offense described in subsection (a)(1)(C).".

(b) RESTITUTION PROVISIONS.—Section 3663(a) of title 18, United States Code, as amended by section_____, is amended by adding at the end thereof the following new subsection:

"(_____) For the purposes of this section, the term 'victim of such offense' includes any victim of a banking law violation (as defined in section 3322 of this title) irrespective of whether the defendant was convicted of an offense involving that victim or of an offense involving the property of the victim for which restitution is to be ordered.".

SEC. 4153. MONEY LAUNDERING INVOLVING BANK CRIMES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "section 1005 (relating to fraudulent bank entries), section 1006 (relating to fraudulent Federal credit institutions entries), section 1007 (relating to Federal Deposit Insurance transactions), section 1014 (relating to fraudulent loan or credit applications)," after "section 875 (relating to interstate communications)"; and

(2) by inserting "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting an insured depository institution," after "section 1203 (relating to hostage taking)".

SEC. 4154. NONDISCHARGE OF DEBTS IN FEDERAL BANKRUPTCY INVOLVING OBLIGATIONS ARISING FROM A BREACH OF FIDUCIARY DUTY.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end thereof the following new subsection:

"(p) BREACH OF FIDUCIARY DUTIES.—A finding of a Federal court, State court, or appropriate Federal banking agency that an institution-affiliated party of an insured depository institution has breached any fiduciary duty to that institution shall, once such finding has become final, constitute a defalcation while acting in a fiduciary capacity within the meaning of sections 523(a)(4) and 523(a)(13) of title 11, United States Code. The liability arising from such breach shall constitute a debt not dischargeable in a case under title 11 of the United States Code.".

SEC. 4155. DISALLOWING USE OF BANKRUPTCY TO EVADE COMMITMENTS TO MAINTAIN THE CAPITAL OF A FEDERALLY INSURED DEPOSITORY INSTITUTION OR TO EVADE CIVIL OR CRIMINAL LIABILITY.

(a) EXCEPTION TO DISCHARGE UNDER CHAPTER 11.—Section 1141(d) of title 11, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) The confirmation of a plan does not discharge a debtor of its responsibilities on any commitment to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Office of the Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of governors of the Federal Reserve System, or their predecessors or successors.".

(b) EXCEPTION TO DISCHARGE IN GENERAL.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "or" at the end of paragraph (9);

(B) striking the period at the end of paragraph (10) and inserting a semicolon; and

(C) adding at the end thereof the following new paragraphs:

"(11) for any commitment to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors;

"(12) for restitution that the debtor has been ordered to pay by any court of the United States, or of any State, in any criminal proceeding arising from any act that caused loss to any depository institution or insured credit union; or

"(13) for any damages, penalty, fine, forfeiture, restitution, reimbursement, indemnification, or guarantee against loss, provided in any judgment, order, or consent order or decree entered in any court of the United States or of any State, issued by the appropriate Federal financial institutions regulatory agency, or contained in any settlement agreement entered into by the debtor, arising from any act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institution or insured credit union."; and

(2) by adding at the end thereof the following new subsections:

"(e) Any institution-affiliated party of a depository institution or insured credit union shall be considered to be acting in a fiduciary capacity with respect to the purposes of subsection (a) (4) or (13).

"(f) Notwithstanding subsection (a)(2)(B)(iii) of this section, reliance by a creditor shall not be required to establish an exception to discharge under subsection (a)(2) (A) or (B) of this section if the creditor is the appropriate Federal financial institutions regulatory agency that is a successor to a depository institution or insured credit union.

"(g)(1) Notwithstanding any other law, a complaint objecting to the discharge of any debt owed to—

"(A) a depository institution or insured credit union that is closed, is in receivership or conservatorship, or is sold to (or has its assets and liabilities assumed by) another depository institution or insured credit union in a transaction assisted by the appropriate Federal financial institutions regulatory agency; or

"(B) the appropriate Federal financial institutions regulatory agency,

may be filed on or before the date specified in paragraph (2).

"(2) The date for the filing of a complaint referred to in paragraph (1) is the date that is the later of—

"(A) 120 days after the date of the debtor's first meeting of creditors, as provided under section 341 of this title; or

"(B) 120 days after the date of the appointment of a conservator or receiver by the appropriate Federal financial institutions regulatory agency for the depository institution or insured credit union with respect to which the debt arises.

"(3) This subsection shall not extend the period of limitations prescribed by section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)).

"(h) For purposes of this section—

"(1) the term 'depository institution' means a depository institution as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)) or an insured depository institution as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

"(2) the term 'insured credit union' shall have the same meaning as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

"(3) the term 'appropriate Federal financial institutions regulatory agency' has the meaning stated in section 8(e)(7)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(7)(D)), and in addition includes the Resolution Trust Corporation, and includes such an agency or corporation whether it is acting in its capacity as a conservator or receiver or in its corporate capacity; and

"(4) the term 'institution-affiliated party'—

"(A) with respect to a depository institution, has the meaning stated in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)), without regard to whether the depository institution is an insured depository institution; and

"(B) with respect to an insured credit union, has the meaning stated in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)).".

(c) PLANS UNDER CHAPTER 13.—Section 1328(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) of a kind specified in—

"(A) section 523(a)(5) of this title; or

"(B) section 523(a) (2), (4), (6), (7), (12), or (13) of this title, including debts owed to the appropriate Federal financial institutions regulatory agency (as defined in section

8(e)(7)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1813(e)(7)(D))), and in addition includes the Resolution Trust Corporation, and includes such an agency or corporation whether it is acting in its capacity or a conservator or receiver or in its corporate capacity a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7))).".

(d) EXEMPTION OF PROPERTY.—Section 522(c)(1) of title 11, United States Code, is amended to read as follows:

"(1) a debt of a kind specified in—

"(A) section 523(a) (1), (5), (12), or (13) of this title; or

"(B) section 523(a) (2), (4), or (6) of this title owed to an appropriate Federal financial institutions regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1813(e)(7)(D))), and in addition includes the Resolution Trust Corporation, and includes such an agency or corporation whether it is acting in its capacity as a conservator or receiver or in its corporate capacity, or a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7))); or".

(e) REJECTION OF COMMITMENTS AS EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) The debtor may not reject any commitment of the debtor to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors.".

SEC. 4156. DISCLOSURE OF CIVIL ENFORCEMENT ACTIONS.

(a) AMENDMENT OF FEDERAL DEPOSIT INSURANCE ACT.—Section 8(u) of the Federal Deposit Insurance Act (12 U.S.C. 1818(u)) is amended to read as follows:

"(u) PUBLIC DISCLOSURE OF AGENCY ACTION.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public within 30 days of the agency's action—

"(A) any letter, directive, agreement, settlement, memorandum of understanding, business plan, or other written statement issued or accepted in lieu of a final order issued under this section or any other law, unless the appropriate Federal banking agency, in its discretion, determines that publication would be contrary to the public interest;

"(B) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other law; and

"(C) any modification to or termination of any order or agreement made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by a Federal banking agency shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

"(3) REPORTS TO CONGRESS.—A written report shall be made part of a determination not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(4) TRANSCRIPT OF HEARING.—A transcript that includes all testimony and other evidence shall be prepared for all hearings commenced under this section. A transcript of public hearings shall be made available to the public. A transcript of nonpublic hearings shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(5) EFFECTIVE DATE.—The disclosure required by paragraph (1) shall apply with respect to all documents outstanding as of June 26, 1990, or issued after June 26, 1990. The publication required by paragraph (4) shall apply with respect to the transcripts of all hearings conducted after June 26, 1990.

"(6) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the appropriate Federal banking agency makes a determination in writing that the publication of a final order pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the agency may delay the publication of the document for a reasonable time.

"(7) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The appropriate Federal banking agency may file any document or part of a document under seal in any administrative enforcement hearing commenced by the agency if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2). The report and the part of the document withheld shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(8) NOTICES OF CHARGES.—Each Federal banking agency shall keep and maintain a record, for a period of at least 10 years, of all documents described in paragraph (1) and of all notices of charges issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other laws. The records shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.".

(2) Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by striking "Such hearing shall be private, unless the appropriate Federal banking agency, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest.".

(b) AMENDMENT OF FEDERAL CREDIT UNION ACT.—(1) Section 206(s) of the Federal Credit Union Act (12 U.S.C. 1786(s)) is amended to read as follows:

"(s) PUBLIC DISCLOSURE OF AGENCY ACTION.—

"(1) IN GENERAL.—The Board shall publish and make available to the public within 30 days of the agency's action—

"(A) any letter, directive, agreement, settlement, memorandum of understanding, business plan, or other written statement issued or accepted in lieu of a final order issued under this section or any other law, unless the Board, in its discretion, determines that publication would be contrary to the public interest;

"(B) any final order issued with respect to any administrative enforcement proceeding initiated by the Board under this section or any other law; and

"(C) any modification to or termination of any orders or agreements made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by the Board shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

"(3) REPORTS TO CONGRESS.—A written report shall be made part of any determination not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(4) TRANSCRIPTS OF HEARINGS.—A transcript that includes all testimony and other evidence shall be prepared for all hearings commenced under this section. A transcript of public hearings shall be made available to the public. A transcript of nonpublic hearings shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(5) EFFECTIVE DATE.—The disclosure required by paragraph (1) shall apply with respect to all documents outstanding as of June 26, 1990, or issued after June 26, 1990. The publication required by paragraph (4) shall apply with respect to the transcripts of all hearings conducted after June 26, 1990.

"(6) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Board makes a determination in writing that the publication of a document pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the Board may delay the publication of the document or transcript of the hearing for a reasonable time.

"(7) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Board may file any document or part of a document under seal in any administrative enforcement hearing commenced by the Board if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2). The report and the part of the document withheld shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(8) NOTICES OF CHARGES.—Each Federal banking agency shall keep and maintain a record, for a period of at least 10 years, of

all documents described in paragraph (1) and of all notices of charges initiated with respect to any administrative enforcement proceeding initialed by such agency under this section or any other laws. The records shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.".

(2) Section 206(j)(1) of the Federal Credit Union Act (12 U.S.C. 1786(j)(1)) is amended by striking "Such hearing shall be private, unless the Board, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest.".

Subtitle E—Increasing Investigators and Prosecutors for Bank Fraud and Embezzlement Cases

SEC. 4201. FINDINGS.

The Congress finds that—

(1) the Federal Bureau of Investigation has received more than 20,000 referrals and complaints involving fraud in the financial services industry that the Bureau has been unable to address;

(2) as of February 1990, the Bureau has had more than 7,000 pending bank fraud and embezzlement cases, some 3,000 of which were cases involving potential losses of more than $100,000;

(3) more than 900 pending cases and more than 200 unaddressed referrals and complaints involve potential losses greater than $1,000,000;

(4) the Attorney General recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by the institution's officers and management; and

(5) officials of the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions it has seized "have been victimized by serious criminal activity.".

SEC. 4202. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR BANK CRIME CASES.

(a) AMENDMENT OF FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—(1) Section 966(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

"(a) IN GENERAL.—There is authorized to be appropriated to the Attorney General, without fiscal year limitation, $75,000,000 for fiscal year 1990 and $162,500,000 for each of fiscal years 1991 through 1993, for purposes of investigations, prosecutions, and civil proceedings involving financial institutions to which the Act and amendments made by this Act apply.".

(2) Section 967 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (105 Stat. 506) is amended—

(A) by striking "$10,000,000" and inserting "$25,000,000"; and

(B) by striking "1992" and inserting "1993".

(3) The additional funds authorized to be appropriated under the amendment made by this subsection shall be allocated among the Federal judicial districts with the highest financial institutions crime case loads for the purposes of—

(A) providing additional United States magistrates;

(B) renovating court facilities;

(C) providing additional law clerks and clerical support staff; and

(D) providing additional deputy clerks.

(b) ADDITIONAL APPROPRIATIONS FOR THE INTERNAL REVENUE SERVICE.—There is authorized to be appropriated to the Internal Revenue Service, Department of the Treasury, $16,000,000 for fiscal year 1991 for investigation of violations of the Internal Revenue Code of 1986 and related statutes involving insured depository institutions.

Subtitle F—Preventing and Prosecuting Fraud in the Sale of Assets by the Resolution Trust Corporation

SEC. 4251. CONCEALMENT OF ASSETS FROM FEDERAL BANKING AGENCIES ESTABLISHED AS CRIMINAL OFFENSE.

Chapter 47 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 1032. Concealment of assets from Federal banking agencies or the Resolution Trust Corporation

"Whoever knowingly conceals from an appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), or the Resolution Trust Corporation, whether such agency or corporation is acting as an agency, in a corporate capacity, or as a receiver or conservator, any assets or property against which either such Corporation or such agency may have a claim, shall be fined not more than $1,000,000, or imprisoned not more than 5 years, or both."; and

(2) by amending the table of sections for that chapter by adding at the end thereof the following new item:

"1032. Concealment of assets from Federal banking agencies or the Resolution Trust Corporation.".

SEC. 4252. CIVIL AND CRIMINAL FORFEITURE FOR FRAUD IN THE SALE OF ASSETS BY THE RESOLUTION TRUST CORPORATION.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end thereof the following new subparagraphs:

"(D) Any property, real or personal, that represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of a violation of the following sections of this title relating to the sale of assets by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation: section 666(a)(1) (Federal program fraud); 1001 (false statements to the Federal Government); 1031 (major fraud against the United States); 1032 (concealment of assets for Federal banking agencies); 1341 (mail fraud); or 1343 (wire fraud).

"(E) With respect to an offense listed in subparagraph (D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, that is thereby obtained, directly or indirectly.".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(3) The court, in imposing a sentence on a person convicted of an offense under section 666(a)(1), 1001, 1031, 1032, 1341, or 1343 involving the sale of assets by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation shall order that the person forfeit to the United States any property, real or personal, that represents the gross receipts obtained, directly or indirectly, as a result of such violation, or that is traceable to such gross receipts.

"(4) With respect to an offense listed in paragraph (3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, that is obtained, directly or indirectly, by or through such scheme or artifice to defraud.".

SEC. 4253. CIVIL ACTIONS UNDER THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(b) of title 18, United States Code, is amended by adding ", or the chairman of the Federal Deposit Insurance Corporation or the chairman of the Resolution Trust Corporation or their designees in the case of violations affecting insured depository institutions," after "The Attorney General".

SEC. 4254. SUBPOENA AUTHORITY FOR FDIC AND RTC ACTING AS CONSERVATOR OR RECEIVER.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended—

(1) by redesignating subparagraph (I) as subparagraph (J); and

(2) by inserting after subparagraph (H) the following new subparagraph:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Corporation may, as conservator or receiver and for purposes of carrying out any power, authority, or duty with respect to the insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution) exercise any power established under section 8(n), and that subsection shall apply with respect to the exercise of any such power under this subparagraph in the same manner as that subsection applies under that section.

"(ii) AUTHORITY OF BOARD OF DIRECTORS OR ITS DESIGNEE.—A subpoena or subpoena duces tecum may be issued under clause (i) only by or with the written approval of the Board of Directors or its designee (or, in the case of a subpoena or subpoena duces tecum issued by the Resolution Trust Corporation under this subparagraph and section 21A(b)(4), only by or with the written approval of the Board of Directors of that Corporation or its designee).".

SEC. 4255. FRAUDULENT CONVEYANCES AVOIDABLE BY RECEIVERS.

Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end thereof the following new paragraph:

"(17) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, acting in a corporate capacity or as conservator or receiver for an insured depository institution, may avoid any transfer of any interest of any institution-affiliated party, or any person who the Corporation determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years (or, in the case the Corporation is acting as conservator or receiver, was made within 5 years of the date on which the Corporation was appointed conservator or receiver) if such party or person voluntarily or involuntarily

made such transfer or incurred such liability with actual intent to hinder, delay, or defraud the insured depository institution.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Corporation may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or

"(ii) any immediate or mediate good faith transferee of such transferee.".

SEC. 4256. PREJUDGMENT ATTACHMENTS.

(a) AMENDMENT OF FEDERAL DEPOSIT INSURANCE ACT.—(1) Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)), as amended by section 4255, is amended by adding at the end thereof the following new paragraph:

"(18) PREJUDGMENT ATTACHMENT.—Any court of competent jurisdiction may, at the request of the Corporation (in the Corporation's capacity as conservator or receiver for any insured depository institution), place the assets of any person designated by the Corporation under the control of the court and appoint a trustee to hold such assets if the Corporation demonstrates the possibility that—

"(A) such person is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of such person will be dissipated or otherwise placed beyond the jurisdiction of the court or Corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

(2) Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) In any action brought by an appropriate Federal banking agency or the Resolution Trust Corporation in any capacity pursuant to this section, including actions brought in aid of, or to enforce an order in, any other civil or administrative action for money damages, restitution, or injunctive relief brought by such agency or corporation, the court may, upon application of the agency or corporation, issue ex parte a restraining order that—

"(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property; and

"(ii) appoints a temporary receiver to administer the restraining order.

"(B) A permanent or temporary injunction or restraining order shall be granted without bond upon a prima facie showing that money damages, restitution, or injunctive relief, as sought by such agency or corporation, is appropriate.".

(b) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—Section 1345 of title 18, United States Code, is amended by striking the first sentence and inserting the following: "Whenever it shall appear that any person is engaged or is about to engage in any act that constitutes or will constitute a violation of this chapter, or a banking law violation as defined in section 3322(d) of this title, or of section 287 or section 371 (insofar as the violation involves a conspiracy to defraud the United States or any agency thereof), or section 1001 of this title, or is engaged or intends to engage in any alienation or disposition of any property obtained from any such violation, the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin the violation or alienation or disposition of property or assets of equivalent value. In any such case, the Attorney General may petition for a restraining order to prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such funds, assets, or other property and to appoint a temporary receiver to administer the restraining order. In a case involving a banking law violation, as defined in section 3322(d) of this title, the petition may be ex parte. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

SEC. 4257. INJUNCTIVE RELIEF.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section 4154, is amended by adding at the end thereof the following new subsection:

"(q) INJUNCTIVE RELIEF.—(1) In an action brought by the Corporation, in its receivership, conservatorship, or corporate capacity, involving a scheme to defraud affecting a depository institution, injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall be required to be made.

"(2) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in paragraph (1) before a final determination on the merits if the Corporation demonstrates the possibility that—

"(A) the defendant is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of the defendant will be dissipated or otherwise placed beyond the jurisdiction of the court or the agency or corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

(b) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by adding at the end thereof the following new subsection:

"(q) INJUNCTIVE RELIEF.—(1) In an action brought by the Board, in its receivership, conservatorship, or corporate capacity, involving a scheme to defraud affecting a credit union, injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall be required to be made.

"(2) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in paragraph (1) before a final determination on the merits if the Board demonstrates the possibility that—

"(A) the defendant is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of the defendant will be dissipated or otherwise placed beyond the jurisdiction of the court or the agency or corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

(c) RESOLUTION TRUST CORPORATION.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by adding at the end thereof the following new paragraph:

"(15) INJUNCTIVE RELIEF.—(A) In an action brought by the Corporation, in its receivership, conservatorship, or corporate capacity, involving a scheme to defraud affecting a financial institution, injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall be required to be made.

"(B) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in subparagraph (A) before a final determination on the merits if the Corporation demonstrates the possibility that—

"(i) the defendant is—

"(I) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(II) a debtor of the institution; and

"(ii) the assets of the defendant will be dissipated or otherwise placed beyond the jurisdiction of the court or the agency or corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

SEC. 4258. RTC ENFORCEMENT DIVISION.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end thereof the following new subparagraph:

"(G) The Corporation shall maintain a Fraud and Enforcement Review Division to assist and advise the Corporation and other agencies in pursuing criminal cases, civil claims, and administrative enforcement actions against institution-affiliated parties of insured depository institutions under the jurisdiction of the Corporation. The Fraud and Enforcement Review Division shall have such duties as the Corporation establishes, including the compilation and publication of a report to the Committee on Judiciary and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives and the Committee on Ju-

diciary of the Senate and the Committee on Banking, Housing, and Urban Affairs of the Senate, on the coordinated pursuit of claims by Federal agencies, including the Department of Justice, the Comptroller of the Currency, the Securities and Exchange Commission, and the Corporation. The report shall be published before December 31, 1990 and updated semiannually thereafter.".

SEC. 4259. PRIORITY OF CERTAIN CLAIMS.

(a) AMENDMENT OF FEDERAL DEPOSIT INSURANCE ACT.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section 4155, is further amended by adding at the end thereof the following new subsection:

"(a) PRIORITY OF CERTAIN CLAIMS.—In any proceeding related to any claim acquired under section 11 or 13 of this Act against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, any suit, claim, or cause of action brought by the Corporation shall have priority over any other such suit, claim, or cause of action asserted by depositors, creditors, or shareholders of the insured depository institution, except for claims of Federal agencies or the United States, unless the Corporation is notified in writing of the commencement of such other suit, claim, or cause of action. However, the Corporation shall have priority if—

"(1) 180 days after receiving written notice the Corporation files with the court a statement that the Corporation intends to file suit and is diligently pursuing its claims; and

"(2) within a year after receiving written notice files suit. If the Corporation requests an extension of time to file such suit, the court shall extend the period for the Corporation to commence its proceeding unless it finds that the harm to the person pursuing a claim from such extension outweighs the harm to the Government from denying such extension.

In making such determination the court shall consider the diligence with which the Corporation is investigating its claim.

The effect of this provision shall be to afford the Corporation priority to the extent the assets involved would be available to the Corporation.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to suits, claims, or causes of action of depositors, creditors, or shareholders commenced before the date of enactment of this Act.

SEC. 4260. EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.

(a) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section 4259, is amended by adding at the end thereof the following new subsection:

"(s) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

"(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution shall be filed not later than 10 days after the date of entry of the order. The hearing of the appeal shall be conducted not later than 60 days after the date of filing of the notice of appeal. The appeal shall be decided not later than 90 days after the date of the notice of appeal.

"(2) SCHEDULING.—Consistent with section 1657 of title 28, United States Code, a court of the United States shall expedite the consideration of any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution. As far as practicable the court shall give such a case priority on its docket.

"(3) JUDICIAL DISCRETION.—The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.".

Subtitle G—Increased Authority for United States Magistrates

SEC. 4301. AUTHORITY FOR UNITED STATES MAGISTRATES.

Subsection 636(a) of title 28, United States Code, is amended—

(1) in paragraph (3) by striking "and" at the end thereof;

(2) in paragraph (4) by striking the period at the end thereof and inserting "; and"

(3) by adding at the end thereof the following new paragraph:

"(5) the power to accept a guilty plea to a felony upon the consent of the defendant for the following offenses in title 18, United States Code: section 215, 656, 657, 1005, 1006, 1007, 1014 or 1344, or section 1341 or 1343 affecting an insured depository institution.".

Subtitle H—Interagency Coordination

SEC. 4351. INTERAGENCY COORDINATION.

Notwithstanding any other law—

(1) the Attorney General may accept, and Federal departments and agencies, including the United States Secret Service, the Internal Revenue Service, the Resolution Trust Corporation, and the appropriate Federal banking agency, may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government, to assist the Department of Justice, subject to the general supervision of the Attorney General, in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution; and

(2) any attorney of a department or agency whose services are accepted pursuant to paragraph (1) may, subject to the general supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought.

SEC. 4352. FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.

(a) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(v) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States on a temporary or permanent basis for such purposes.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—On request from a foreign banking authority, the appropriate Federal banking agency may provide assistance in accordance with this paragraph if the requesting authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—The appropriate Federal banking agency may, in its discretion, conduct investigations to collect information and evidence pertinent to a request for assistance. Any such investigation shall be conducted consistent with the laws of the United States and the policies and procedures of the appropriate Federal banking agency.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of an appropriate Federal banking agency or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.".

(b) FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section 4112, is amended by adding at the end thereof the following new subsection:

"(t) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 8(v); and

"(2) may each maintain an office on a temporary or permanent basis to coordinate foreign investigations or investigations on behalf of foreign banking authorities.

SEC. 4353. TECHNICAL AMENDMENT.

Section 8(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(4)) is amended by striking "subsections (c), (d), (h), (i), (k), (l), (m), and (n)" and inserting "subsections (c) through (s) and subsection (u)".

Subtitle I—Private Actions Against Persons Committing Bank Fraud Crimes

SEC. 4401. SHORT TITLE.

This subtitle may be cited as the "Financial Institutions Anti-Fraud Enforcement Act of 1990".

CHAPTER 1—DECLARATIONS PROVIDING NEW CLAIMS TO THE UNITED STATES

SEC. 4411. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS.

(a) IN GENERAL.—Any person may file a declaration of—

(1) a violation of, or a conspiracy to violate, section 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code;

(2) a violation giving rise to an action for civil penalties under section 951 of the Financial Institution Reform, Recovery and Enforcement Act; or

(3) facts giving rise to any other civil right of action on the part of the United States for damages or penalties arising from fraud, affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

(b) PLACE OF FILING.—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by the Attorney General for receiving declarations under this section.

(c) EXTENSION OF STATUTES OF LIMITATION.—The statutes of limitations upon all current, unexpired civil causes of action referred to in subsection (a) are extended for 5 years.

SEC. 4412. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section 4411 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts, relating to a particular transaction or transactions, which constitute a prima facie case of a criminal violation of one of the sections of title 18, United States Code, or any civil cause of action, referred to in section 4411(a);

(3) contain at least 1 new factual element necessary to establish a prima facie case that was unknown to the Government at the time of filing; and

(4) set forth all facts supporting the allegation of a criminal violation or civil cause of action known to the declarant, along with the names of material witnesses and the nature and location of documentary evidence known to the declarant.

SEC. 4413. CONFIDENTIALITY OF DECLARATIONS.

(a) PERIOD OF CONFIDENTIALITY.—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 4411 until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 4416(b);

(2) the declarant receives notice of an award pursuant to section 4416(c); or

(c) the declarant is granted a contract to pursue an action under section 4415(b) or 4417.

(b) MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) LOSS OF RIGHTS.—A declarant who discloses, except as provided by this subtitle, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

SEC. 4414. INELIGIBILITY TO FILE VALID DECLARATIONS.

(a) IN GENERAL.—A declaration filed pursuant to section 4411 and in accordance with sections 4412 and 4413 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of any of the sections of title 18, United States Code, referred to in section 4411, or any other fraudulent conduct with respect to which the declaration is made; or

(3) the declaration includes allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or GAO report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) DEFINITION.—For the purposes of subsection (a)(3), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) NOTICE OF INVALIDITY.—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 4412, or that a declaration has been disclosed in violation of section 4413, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 4415 or 4416.

SEC. 4415. RIGHTS OF DECLARANTS: PARTICIPATION IN ACTIONS, AWARDS.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 4411 through 4414 shall have the rights stated in this section.

(b) CIVIL ACTION.—If the Attorney General determines that a cause of action based on the declaration should be referred to private counsel pursuant to chapter 4, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) CRIMINAL CONVICTION.—(1) When an agency or entity of the United States obtains a criminal conviction and the Attorney General determines that the conviction was based in whole or in part on the information contained in a valid declaration filed under section 4411, the declarant shall have the right to receive not less than $10,000 and not more than $250,000, any such award to be paid from the Financial Institution Information Award Fund established under section 4419.

(2) In determining the size of any award under paragraph (1), the Attorney General may, in the Attorney General's discretion, consider any appropriate factor, including—

(A) the seriousness of the offense for which the conviction was obtained;

(B) the extent to which the facts alleged in the declaration contributed to the conviction;

(C) the number of offenders apprehended pursuant to information provided by the declarant;

(D) whether or not the offender was previously under investigation by any law enforcement agency when the declaration was filed;

(E) the extent to which the declarant cooperated in the development of the Government's case and its presentation at trial;

(F) the sentences and fines imposed on the offender and other offenders in related cases;

(G) the extent to which other sources of private information were relied upon; and

(H) the hardship to the declarant and any expenses the declarant incurred in preparing the declaration.

(d) SHARE OF FUNDS AND ASSETS.—(1) When an agency or entity of the United States acquires funds or assets pursuant to the execution of a civil, criminal, or administrative judgment or order and the Attorney General determines that the judgment or order was based in whole or in part on the information contained in a valid declaration filed under section 4411, the declarant shall have the right to share in the recovery as follows:

(A)(i) The declarant shall be entitled to 20 percent to 30 percent of the first $1,000,000 recovered, 10 percent to 20 percent of the next $4,000,000 recovered, and 5 percent to 10 percent of the next $5,000,000 recovered.

(ii) In calculating an award under clause (i), the Attorney General may consider the size of the overall recovery and the usefulness of the information provided by the declarant.

(B) When a declarant has received an award under subsection (c), the Attorney General may subtract the amount of that reward from any recovery under this subsection.

(2)(A) When more than 1 declarant has provided information leading to a recovery under this subsection, the Attorney General shall first calculate the size of the total award under paragraph (1)(A) and then distribute that amount according to the contribution made by each declarant.

(B) In distributing any such award between 2 or more declarants, the Attorney General may, in the Attorney General's discretion, consider any appropriate factor, including those enumerated in section 4415(c)(2).

(e) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under chapter 3 for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under chapter 3 for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under chapter 3.

SEC. 4416. RIGHTS OF DECLARANTS: NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 4411 through 4414 shall have the rights stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a civil or criminal proceeding, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) ENTRY OF JUDGMENT OR ORDER.—(1) When an agency or entity of the United States obtains a civil, criminal, or administrative judgment or order based in whole or in part on a valid declaration filed under section 4411, the Attorney General shall notify the declarant in writing of the entry of the judgment or order.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section 4415 (b) or (c) upon recovery by the agency or entity of the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—If the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 4414 within the time period set forth in subsection (e), the Attorney General shall notify the declarant in writing that—

(1) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(2) the declarant's allegations have not yet been addressed.

(e) TIME FOR NOTICES.—(1) In the case of a valid declaration filed not more than 3 years after the date of enactment of this Act, the Attorney General shall send notification to a declarant pursuant to subsection (d) not later than 3 years after the date of filing of the declaration.

(2)(A) Subject to subparagraph (B), in the case of a valid declaration filed more than 3 years after the date of enactment of this Act, the Attorney General shall send notification not later than 1 year after the date of filing of the declaration.

(B) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(f) CONFIDENTIALITY OF NOTICES.—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 4413.

SEC. 4417. UNREVIEWED DECLARATIONS; REQUEST TO PURSUE ACTION AS PRIVATE CONTRACTOR.

(a) REQUEST FOR CONTRACT.—(1) If, pursuant to section 4416(d)(2), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may request the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's request under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 4416(d)(2), and the Attorney General shall respond to the request not later than 30 days after receipt.

(b) CONTENTS OF RESPONSE.—In response to a request under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to chapter 4; or

(2) proceed with an action.

(c) GRANT OF CONTRACT.—If the Attorney General decides to grant a contract, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

SEC. 4418. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section 4416.

SEC. 4419. FINANCIAL INSTITUTION INFORMATION AWARD FUND.

(a) ESTABLISHMENT.—There is established in the United States Treasury a special fund to be known as the Financial Institution Information Award Fund (referred to as the "Fund") which shall be available to the Attorney General without fiscal year limitation to pay awards to declarants pursuant to section 4415(c) and to pay special rewards pursuant to section 3059A of title 18, United States Code.

(b) DEPOSIT OF NET FINES.—(1) There shall be deposited in the Fund all net fines that are collected from persons convicted of offenses against the United States under sections 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, and 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

(2) For purposes of paragraph (1), the term "net fines" means fines collected less any amounts paid from the fines to eligible declarants under section 4415(d) or section 4425(c).

(3) Section 1402(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. § 10601(b)(1)) is amended—

(A) by striking "and" at the end of subparagraph (A)(ii);

(B) by adding "and" at the end of paragraph (B)(iv); and

(C) by inserting at the end thereof the following new subparagraph:

"(C) fines collected from persons convicted of offenses against the United States under sections 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, and 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States;".

(4) If the amount deposited in the Fund during a particular fiscal year reaches $10,000,000, the excess over that sum shall be deposited in the Crime Victims Fund, notwithstanding section 1402(b)(1)(C) of the Victims of Crime Act of 1984.

(c) INVESTMENT OF FUNDS.—Amounts in the Fund which are not currently needed for the purposes of paying awards to declarants pursuant to section 4415(c) and to pay special rewards pursuant to section 3059A of title 18, United States Code, shall be kept on deposit or invested in obligations of, or guaranteed by, the United States, and all earnings on such investments shall be deposited in the Fund.

SEC. 4420. SOURCES OF PAYMENTS TO DECLARANTS.

Notwithstanding any other law, an award under this chapter or chapter 2 of this subtitle or under section 34 of the Federal Deposit Insurance Act may be paid to a declarant, or to an individual providing information, from the amounts recovered in satisfaction of an order of restitution, a civil judgment, a forfeiture order, or a criminal fine.

SEC. 4421. GOVERNMENT ACCOUNTABILITY: PUBLIC REPORTS ON PROCESSING OF DECLARATIONS.

(a) IN GENERAL.—In addition to the written statements of reasons provided individual declarants under section 4416, on the date that is 6 months after the date of enactment of this Act, and at the end of each 6-month period thereafter during which this chapter is in effect, the Attorney General shall compile a public report on the processing of declarations under this chapter.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall state—

(1) the number of declarations filed within the relevant period;

(2) the number of declarations found invalid under sections 4412, 4413, and 4414;

(3) the number of valid declarations processed and their present status, including whether or not they have been reviewed and if they have been reviewed what determination was reached;

(4) the number and amounts of all awards paid to declarants under this chapter; and

(5) the number of convictions attributable in whole or in part to valid declarations filed under this chapter and the number and dollar amounts of all monetary recoveries, criminal or civil, attributable in whole or in part to valid declarations filed under this chapter.

(c) CONFIDENTIALITY.—Notwithstanding any other law, in compiling the report required by subsection (a), the Attorney General may take all steps necessary to guard against the disclosure of any information that could in any way prejudice a current criminal or civil investigation or proceeding.

SEC. 4422. PROTECTION FOR DECLARANTS.

A declarant under this chapter shall enjoy the protections of section 3059A(e) of title 18, United States Code.

SEC. 4423. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 2—DECLARATIONS PROVIDING THE UNITED STATES WITH NEW INFORMATION CONCERNING THE RECOVERY OF ASSETS

SEC. 4431. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS IDENTIFYING SPECIFIC ASSETS.

(a) IN GENERAL.—After the entry of a final judgment in any civil or criminal action referred to in section 4411, any person may file a declaration identifying specific assets which might be recovered by the United States in satisfaction of that judgment.

(b) PLACE OF FILING.—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by him for receiving declarations under this section.

SEC. 4432. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section 4431 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts indicating the nature, location, and approximate dollar value of the asset or assets and the names of all persons known

to the declarant to have possession, custody, or control of the asset or assets; and

(3) allege under oath or affirmation specific facts that establish a prima facie case showing that the asset is legally subject to attachment, garnishment, sequestration, or other proceeding in satisfaction of the judgment referred to in section 4431.

SEC. 4433. CONFIDENTIALITY OF DECLARATIONS.

(a) PERIOD OF CONFIDENTIALITY.—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 4431 until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 4436(b);

(2) the declarant receives notice of an award pursuant to section 4436(c); or

(3) the declarant is granted a contract to pursue an action under section 4435(b) or 4437.

(b) MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) LOSS OF RIGHTS.—A declarant who discloses, except as provided by this subtitle, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

SEC. 4434. INELIGIBILITY TO FILE VALID DECLARATIONS.

(a) IN GENERAL.—A declaration filed pursuant to section 4431 and in accordance with sections 4432 and 4433 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of any of the sections of title 18, United States Code, referred to in section 4411, or any other fraudulent conduct with respect to which the declaration is made; or

(3) the declaration identifies an asset or assets the nature, location, or possible recovery of which has been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or GAO report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) DEFINITION.—For the purposes of subsection (a)(3), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) NOTICE OF INVALIDITY.—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 4432, or that a declaration has been disclosed in violation of section 4433, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 4435 or 4436.

SEC. 4435. RIGHTS OF DECLARANTS: PARTICIPATION IN ACTIONS, AWARDS.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 4431 through 4434 shall have the rights stated in this section.

(b) CIVIL ACTION.—If the Attorney General determines that a proceeding to recover the asset or assets identified in the declaration should be referred to private counsel pursuant to chapter 4, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) SHARE OF ASSETS.—When an agency or entity of the United States recovers any asset or assets specifically identified in a valid declaration filed under section 4431 and the Attorney General determines that the asset or assets would not have been recovered if the declaration had not been filed, the declarant shall have the right to share in the recovery in the amount of 20 percent to 30 percent of the first $1,000,000 recovered, 10 percent to 20 percent of the next $4,000,000 recovered, and 5 percent to 10 percent of the next $5,000,000 recovered.

(d) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under chapter 3 for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under chapter 3 for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under chapter 3.

SEC. 4436. RIGHTS OF DECLARANTS: NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 4431 through 4434 shall have the rights stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a proceeding to recover the asset or assets, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) ENTRY OF JUDGMENT OR ORDER.—(1) When an agency or entity of the United States obtains a final judgment transferring to the United States title to an asset or assets identified in a valid declaration filed under section 4431, the Attorney General shall notify the declarant in writing of the entry of the judgment or order.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section 4435(c) upon recovery by the agency or entity of the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—(1) Subject to paragraph (2), if the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 4434 within 1 year after the date of filing of the declaration, the Attorney General shall notify the declarant in writing that—

(A) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(B) the declarant's allegations have not yet been addressed.

(2) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(e) CONFIDENTIALITY OF NOTICES.—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 4433.

SEC. 4437. UNREVIEWED DECLARATIONS; REQUEST TO PURSUE ACTION AS PRIVATE CONTRACTOR.

(a) REQUEST FOR CONTRACT.—(1) If, pursuant to section 4436(d)(1)(B), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may request the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's request under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 4436(d)(1)(B), and the Attorney General shall respond to the request not later than 30 days after receipt.

(b) CONTENTS OF RESPONSE.—In response to a request under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to chapter 4; or

(2) proceed with an action.

(c) GRANT OF CONTRACT.—If the Attorney General decides to grant a contract, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

SEC. 4438. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section 4436.

SEC. 4439. PROTECTION FOR DECLARANTS.

A declarant under this chapter shall enjoy the protections of section 3059A(e) of title 18, United States Code.

SEC. 4440. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 3—REWARDS FOR INFORMATION LEADING TO RECOVERIES, CIVIL PENALTIES, OR PROSECUTIONS

SEC. 4451. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

Section 34(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831k(a)) is amended—

(1) in paragraph (1) by striking ", in an amount that exceeds $50,000,"; and

(b) by amending paragraph (2) to read as follows:

"(2) a forfeiture under section 981 or 982 of title 18, United States Code, that arises in connection with a depository institution insured by the Federal Deposit Insurance Corporation.".

SEC. 4452. REWARD FOR INFORMATION LEADING TO POSSIBLE PROSECUTION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3059 the following new section:

"§ 3059A. Special rewards for information relating to certain financial institution offenses

"(a)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make payments to persons who furnish information unknown to the Government relating to a possible prosecution under section 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States, or to a possible prosecution for conspiracy to commit such an offense.

"(2) The amount of a payment under paragraph (1) shall not exceed $50,000 and shall be paid from the Financial Institution Information Award Fund established under section 4419 of the Financial Institutions Anti-Fraud Enforcement Act of 1990.

"(b) A person is not eligible for a payment under subsection (a) if—

"(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of his government employment;

"(2) the furnished information includes allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or GAO report, hearing, audit or investigation, from any other government source, or from the news media unless the person is the original source of the information; or

"(3) the person knowingly participated in the violation of the section with respect to which the payment would be made.

"(c) For the purposes of subsection (b)(2), the term 'original source' means a person who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government prior to the disclosure.

"(d) Neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

"(e)(1) A person who—

"(A) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the person on behalf of the person or others in furtherance of a prosecution under any of the sections referred to in subsection (a) (including provision of information relating to, investigation for, initiation of, testimony for, or assistance in such a prosecution); and

"(B) was not a knowing participant in the unlawful activity that is the subject of such a prosecution,

may, in a civil action, obtain all relief necessary to make the person whole.

"(2) Relief under paragraph (1) shall include reinstatement with the same seniority status that the plaintiff would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.".

(b) TECHNICAL AMENDMENT.—The chapter heading for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3059 the following new item:

"3059A. Special rewards for information relating to certain financial institution offenses.".

CHAPTER 4—USE OF PRIVATE LEGAL RESOURCES

SEC. 4461. AUTHORITY TO ENTER INTO CONTRACTS FOR PRIVATE COUNSEL.

(a) IN GENERAL.—The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, litigation, and execution of judgments in the case of any civil action referred to in section 4411.

(b) TERMS AND CONDITIONS.—Each contract under subsection (a) shall include the provisions described in section 4465 and such other terms and conditions as the Attorney General considers necessary and appropriate to protect the interests of the United States, including a provision specifying the amount of the fee to be paid private counsel under the contract or the method for calculating the fee.

(c) LIMITATION OF FEE.—The amount of the fee payable for legal services furnished under a contract described in subsection (a) shall not exceed the fee that counsel engaged in the private practice of law in the jurisdiction wherein the legal services are furnished typically charge clients for furnishing the same or comparable legal services.

SEC. 4462. REFERRAL BY REGULATORY AGENCIES.

The head of an appropriate Federal banking agency may, subject to the approval of the Attorney General, refer to private counsel retained by the Attorney General pursuant to section 4461 civil actions arising from suspected and actual violations of the sections of title 18, United States Code, or any civil cause of action, referred to in section 4411.

SEC. 4463. CONTRACT DECISIONS NONREVIEWABLE.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on the Attorney General's decision to refuse to enter into a contract for legal services referred to in section 4461.

SEC. 4464. REPRESENTATION.

Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, United States Code, private counsel retained under section 4461 may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel, subject to the requirements specified in section 4465.

SEC. 4465. CONTRACT PROVISIONS.

A contract made with a private counsel under section 4461 shall include—

(1) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is in the best interests of the United States;

(2) a provision requiring private counsel to transmit monthly to the Attorney General a report on the services relating matters handled pursuant to the contract during the preceding month and the progress made during that period; and

(3) a provision requiring that the initiation, settlement, dismissal, or compromise of a claim be approved by a duly appointed officer of the United States.

SEC. 4466. COUNTERCLAIMS.

Any counterclaim filed in any action brought on behalf of the United States by private counsel retained under section 4461 may not be asserted unless the counterclaim has been served directly on the Attorney General or the United States Attorney for the judicial district in which, or embracing the place in which, the action is pending. Such service shall be made in accordance with the rules of procedure of the court in which the action on behalf of the United States is pending.

SEC. 4467. CONTINGENT FEES.

Notwithstanding section 3302(b) of title 31, United States Code, a contract under section 4461 may provide that a fee that private counsel charges to recover indebtedness or civil fines or penalties owed the United States is payable from the amount recovered.

SEC. 4468. AWARDS OF COSTS AND FEES TO PREVAILING PLAINTIFF.

When the United States, through private counsel retained under this chapter, prevails in any civil action, the court, in its discretion, may allow the United States reasonable attorney's fees as part of the costs.

SEC. 4469. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

Subtitle J—Technical Amendments

SEC. 4501. TITLE 18 OF THE UNITED STATES CODE.

(a) IN GENERAL.—Title 18 of the United States Code is amended—

(1) in section 656—

(A) by inserting "or a subsidiary of a member bank, national bank, or insured bank" after "insured bank";

(B) by inserting "bank or savings and loan holding company," before "national bank" the first time it appears in the first sentence; and

(C) by inserting "or company" after "such bank" each time it occurs in the first paragraph;

(2) in section 657—

(A) by striking "Home Owner's Loan Corporation," and inserting in lieu thereof "Office of Thrift Supervision, the Federal Home Loan Bank System, the Resolution Trust Corporation,"; and

(B) by striking "Federal Savings and Loan Insurance Corporation" and inserting "Federal Deposit Insurance Corporation";

(3) in section 1005, by inserting "or company" after "such bank" each time it appears in the first paragraph;

(4) in section 1006—

(A) by striking "Home Owner's Loan Corporation," and inserting Office of Thrift Supervision, the Federal Home Loan Bank System, the Resolution Trust Corporation,"; and

(B) by striking "Federal Savings and Loan Insurance Corporation" and inserting "Federal Deposit Insurance Corporation";

(5) in section 1014, by inserting "Office of Thrift Supervision," after "the Federal

Home Loan Bank System," each time it appears;

(6) in section 1341, by inserting ", credit," after "money";

(7) in section 1343—

(A) by inserting ", credit," after "money";

(B) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writing, signs, signals, picture, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(C) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice";

(8) in section 2314, by inserting "or foreign" after "interstate"; and

(9) in section 3289, by striking "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting such stricken language after "within six calendar months of the expiration of the applicable statute of limitations,".

(b) HEADING.—(1) The heading for section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The table of sections for chapter 63, United States Code, is amended by striking the item relating to section 1343 and inserting the following new item:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 4502. RIGHT TO FINANCIAL PRIVACY ACT.

Section 1101 of the Right to Financial Privacy Act (12 U.S.C. 3401) is amended in subsection (6)(B) by striking "section 3(f)(1)" and inserting "section 4(f)(1)".

Passed the Senate July 11 (legislative day, July 10), 1990.

Mr. THURMOND. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I repeat my congratulations to Senator BIDEN, the chairman of the Judiciary Committee and Senator THURMOND, the former chairman of the Judiciary Committee, for their outstanding effort in bringing this crime bill to final passage.

The overwhelming vote by the Senate is a tribute to the skill and perseverance of both Senator BIDEN and Senator THURMOND. I know this bill means much to them. I voted for it, as I said earlier, notwithstanding my misgivings about some provisions of the bill, because I believe that on balance it represents a constructive step in helping our society to battle the scourge of crime.

Mr. BIDEN. Mr. President, I would like to publicly thank the majority leader for being willing to stick with us on this bill. After cloture failed on a couple of occasions, he had every reason and every right, and quite frankly, the rationale for not going back to this bill was almost overwhelming. But he asked what the prospects were and if I recall, I could not tell him how we were going to get there, but I believed we would. I wanted publicly thank him for allowing us the opportunity to eventually get this done. I appreciate it very much.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business until 2 p.m., with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. MITCHELL. I thank the Chair.

(The remarks of Mr. MITCHELL and Mr. MOYNIHAN pertaining to the introduction of S. 2836 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

QUENTIN BURDICK: A 30-YEAR LEGACY OF ACCOMPLISHMENT FOR NORTH DAKOTA AND AMERICA

Mr. SHELBY. Mr. President, for half of North Dakota's history, a Burdick has represented the State in the U.S. Congress. QUENTIN BURDICK carries on a tradition established by his father, the late Usher L. Burdick. This tradition of service began for QUENTIN in 1958 when he successfully won the seat in the U.S. House of Representatives that his father held from 1934 to 1944 and from 1948 to 1958.

The House of Representatives was not to be QUENTIN's only job while in Washington. In 1958, QUENTIN received the endorsement of both the Democrats and the Non-Partisan League, a coalition he helped to shape. With this support behind him, QUENTIN became the first Democrat North Dakota ever sent to Congress.

After a special election held to fill the vacancy left by the death of Senator William Langer, QUENTIN came from the House to the Senate on June 28, 1960. Since that time, Senator BURDICK has been elected to five successive terms. And since that time, QUENTIN has become a valued member of the Senate, held in high regard by his colleagues on both sides of the aisle.

As chairman of the Senate Environment and Public Works Committee and as chairman of the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, QUENTIN has critical influence over areas important not only to North Dakota, but to the United States as well. But Senator BURDICK's involvement does not end there. As a member of the Senate Aging and Indian Affairs Committees, QUENTIN BURDICK helps also to represent the interests of two groups of Americans that are frequently overlooked. In addition, as a cofounder of the Senate Rural Health Caucus, Senator BURDICK is leading the way to help ensure that America's health care network reaches everyone—regardless of where they live. As a representative of a State that continues to struggle with the problems associated with lack of access to helath care in many areas, I applaud QUENTIN's efforts to not only raise Senate awareness about this problem, but also to substantively address it.

QUENTIN BURDICK has served his State and his country in the U.S. Senate for 30 years now. And through this period his wife, Jocelyn, has been here too, lending her support to the full time nature of a Senate career.

I hope that if I am lucky enough to be in the Senate for 30 years, that I will be able to be as active a participant, as respected a Member and as influential a leader as QUENTIN BURDICK has been—and will continue to be.

HONORING SENATOR QUENTIN BURDICK OF NORTH DAKOTA

Mr. NICKLES. Mr. President, I rise today to express my admiration for the Honorable QUENTIN BURDICK of North Dakota. BURDICK is no stranger to this Chamber as he is now serving his 30th year as a U.S. Senator.

For more than 50 years, North Dakota has been represented in the U.S. Congress by a Burdick. Senator BURDICK's father served in the U.S. House of Representatives from 1934 to 1944 and from 1948 to 1958. Upon his retirement, QUENTIN BURDICK won his father's House seat in 1958 and was then elected to the U.S. Senate in 1960.

During his time in the Senate, QUENTIN has faithfully served his State and Nation by being an active leader on agricultural, environmental, and health related issues.

It has been my privilege to serve wth QUENTIN on the Senate Appropriations Committee for the last 4 years. His extended service to this body is a testimony of his committment as an untiring public servant.

Mr. President, I yield the floor.

SUMMIT AGREEMENT ON AGRICULTURE SUBSIDIES

Mr. DOLE. Mr. President, according to media reports, the seven leaders at the Houston summit have reached a compromise on the last major issue of contention—the question of agricultural subsidies. Compromise is something we understand around here. We know that some compromises are real; some are rhetorical—they amount to an agreement to disagree.

If the press reports are correct, the language of this compromise is as follows: Each nation will make "substantial, progressive reductions [in farm subsidies] measured by an agreed method."

Whenever I see an agreement with a word like substantial—a word subject to a wide range of definitions—I start to wonder. And whenever I see an agreement that says the issue will be resolved by some subsequent agreement—then I really wonder.

Let me be clear: President Bush was dead right on this matter. Our policy is dead right. We want to see all subsidies eliminated; we want our farmers to compete on a level playing field—because we know if we have that kind of field, our farmers will play a winning game. But we also know that, right now, some of our allies, especially in the EEC, keep trying to tilt that playing field further and further in their own favor—through the use of massive subsidies.

So our operating policy is this: We want to end all subsidies—but until we do, we are going to use all legitimate means at our disposal to give our farmers a fair shot at the world's agricultural import markets.

That is the position President Bush took, and stuck with, in Houston. That is the position he urged on the other six leaders. But, obviously, that is not a view some of our allies are yet ready to embrace.

And so we have a rhetorical compromise, that does not give me much hope for any early breakthrough on this issue—either through negotiations within the Western Alliance, or at GATT.

But at least I hope that some of our allies heard clearly President Bush's strong message: the United States has this issue very near the top of our agenda; we are going to keep pushing hard; and until we get some kind of real agreement, we are going to protect the interests of our Nation and our farmers.

I ask unanimous consent that a letter from the Secretary of Health and Human Services to the Speaker of the House be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, May 1, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House of Representatives is preparing to take legislative action on the Americans with Disabilities Act (the Act), I wish to restate my position on the need for anti-discrimination protection for people with AIDS and HIV infection. There is strong evidence that bloodborne infections such as HIV infection are not spread by casual contact, and there is no medical reason for singling out individuals with AIDS or HIV infection for differential treatment under the Act.

While some have proposed that workers who handle food be treated differently under the Act, evidence indicates that bloodborne and sexually-transmitted infections such as HIV are not transmitted during the preparation or serving of food or beverages. Food services workers infected with HIV need not be restricted from work unless they have other infections or illnesses for which any food service worker should be restricted. Since the Act limits coverage for persons who pose a direct threat to others, relaxing the anti-discrimination protection for food service workers is not needed or justified in terms of the protection of the public health.

Further, I would add that any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health. We need to defeat discrimination rather than to submit to it. The Administration is strongly committed to ensuring that all Americans with disabilities, including HIV infection, are protected from discrimination, and believes that the Americans with Disabilities Act should furnish that protection.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.,
Secretary.

TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. BRADLEY. Mr. President, I rise to join my colleagues in paying tribute to a remarkable accomplishment: QUENTIN BURDICK's 30 years of service in the U.S. Senate. Only 35 Senators before him, out of the 1,792 citizens who have served in this institution, have ever served for three full decades. QUENTIN BURDICK's achievement of this milestone is remarkable not only because it has been so rare in American history, but because he has continually worked so hard on behalf of the people of North Dakota, America's farmers, our environment, and the ideals of our Nation.

North Dakota is one of the last places where we can see the American frontier; it is a land of open space and vast ambitions. It has only been a State for 100 years, but it has been represented in Congress by Burdicks for more than half of that time—QUENTIN for the last 30 years and his father, Usher Burdick, who was first elected to the House in 1935.

Mr. President, 30 years ago in QUENTIN BURDICK's third week as a Senator, John F. Kennedy, accepting his party's nomination for President, declared that our Nation stood "on the edge of a new frontier—the frontier of the 1960's, a frontier of unknown opportunities and paths." It is no coincidence that QUENTIN BURDICK came to the Senate at the very moment that this new spirit and ambition took hold in American government, for his vigor and integrity has carried Kennedy's promise for the 1960's forward into the 1970's the 1980's, and will continue well in the 1990's. In his work on behalf of civil rights as a member of the Judiciary Committee earlier in his career, and today as chairman of the Committee on the Environment and Public Works, QUENTIN BURDICK has stood for the promise of America as a land in which people were treated fairly, and in which we look after our precious open spaces, air and water because they are both our heritage and our legacy.

It has been a great pleasure to serve with QUENTIN on the Select Committee on Aging, and I look forward many more years of service from this extraordinary legislator. I congratulate Senator BURDICK on achieving this milestone and thank him for his many years of hard work and the spirit he brings to the U.S. Senate.

POST EDITORIAL ON YUGOSLAVIA

Mr. DOLE. Mr. President, this morning, I made a statement on the continuing Communist repression in Romania, Albania, and Yugoslavia.

At that time, I had not yet seen an editorial in today's Washington Post concerning the situation in Yugoslavia, and entitled "Balkanizing Balkans."

One key point the editorial makes is that the vastly changed strategic situation in Europe, caused by the collapse of the Soviet Empire there, means, and I quote:

> The West no longer has the same strategic reason to promote a strong, united Yugoslavia.

I would stress, as the editorial does, that the United States certainly has no interest, either, in promoting the dissolution of Yugoslavia. But the fact is: The key thrust of our policy ought not to be keeping Yugoslavia together, no matter what the cost in human freedom and human rights—but the freedom and self-determination of the people of Yugoslavia's constituent republics and ethnic groups.

I ask unanimous consent that the text of the Post editorial be included in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BALKANIZING BALKANS

Yugoslavia, the state Woodrow Wilson assembled out of the fragmented Balkans after World War I, may not be "Balkanizing" all the way back into separate nations, but it is certainly coming under ever sharper strain. In the northwestern, formerly Austro-Hungarian republics, local nationalism has taken a democratic form and produced elected non-Communist governments in both Slovenia and Croatia. This is welcome, but it's not that enlightenment is the only current running there. Enough freedom has arrived finally to permit public

airing of the mass score-settling killings committed by Communist resistance Partisans as World War II ended; the victims included large numbrs of the Croatian Ustashi fascist movement. These revived memories of Communist and ethnic terror are bound to weigh heavily on the progress of the new democratic movements.

In the southern and eastern, formerly Turkish-ruled parts of Yugoslavia, nationalism has taken a darker turn, especially in the dominant republic of Serbia. The party chief, Slobodan Milosevic, playing on his region's economic envy and political ambition, has been seeking to leash the awakened ethnic Albanian majority (90 percent) in Serbian-controlled Kosovo. A crackdown has left dozens of Albanians dead, and the region is on fire. Across the border, meanwhile, long-reclusive Albania itself has begun to seethe in the ways that have been transforming the rest of Eastern Europe in the last year.

Yugoslavia's unity and nationalist resolve were useful to the West in the Cold War years to make that country an effective check on Soviet influence in Europe's sensitive Balkan quarter. In turn, the Cold War enabled a Communist Party, ostensibly one rising above Yugoslavia's ethnic rivalries, to stay in power.

Now no East European country is so threatened by the East-West warming. The glue of fear of Moscow is gone, and the West no longer has the same strategic reason to promote a strong, united Yugoslavia. On the contrary, though the West is certainly not looking to see any East European country split along ethnic lines, its messages of democracy, human rights and respect for local nationalism all tend to work against the old Communist style of centralized rule—a rule more or less repressive, it must be recalled, depending on circumstances of the day. For Yugoslavs, a difficult passage is in train.

Mr. DOLE. Mr. President, in concluding, I would also note that several thousand Albanian-Americans have come to Washington today, from throughout the country, to rally at the White House and here on Capitol Hill. Their main purpose is to highlight the serious human rights abuses in Kosova, Yugoslavia, and to express solidarity with the oppressed Albanian community there.

I addressed the rally with a message of greeting and support. I ask consent to include that message, too, in today's RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, July 11, 1990.

To Members of the Albanian-American Community:

I want you to know that I stand with you in your cause: that the Albanian people—those in Kosova and those, too, in Albania itself—enjoy the full exercise of their right of self-determination.

There is much to celebrate in the world today. Communist tyranny has collapsed in much of Eastern and Central Europe. New democracies and free market economies are emerging throughout the region. And yet, in our joy over the triumphs of freedom and free enterprise, we must not for a moment forget that millions remain enslaved by Communist tyranny.

While you gather here, free Americans freely exercising your rights, your brothers and sisters in Kosova are still in chains. The world has seen the brutal suppression of the Serbian Government—the end of Kosova's autonomy; the closing of the assembly and other institutions for expressing the will of the people; the murder, mutilation and imprisonment of thousands.

On this fundamental issue of right and wrong, America cannot stand on the sidelines. On this fundamental question of human rights, America cannot take refuge behind some kind of immoral "neutrality." On the practical questions of American policy, we must use all the avenues available to us, including political and economic pressure, to help the people of Kosova win their freedom and regain control of their own future.

Today, your voices—your message—will be heard all over this capital city. Together, our voices—yours, mine and the chorus of all who believe in freedom—our voices and our message can be heard all over this nation and, yes, all the way to Kosova.

BOB DOLE,
U.S. Senate.

STEPHEN K. ELLIOTT, SR.

Mr. DODD. Mr. President, it is with great sorrow that I rise today to note the passing of Stephen Elliott, a longtime friend and distinguished public servant, who for years served both Connecticut and this Nation with great skill and honor. The loss is a profound one for me. My family's friendship with Stephen Elliott goes back to a time before I was born. He was always there in my father's corner and in my corner—a great supporter, an insightful adviser, someone you could always count on. And clearly he was someone others could count on, as is evident in his numerous achievements.

Mr. Elliott proudly served his country during World War II as a lieutenant in the U.S. Navy. He also was a chief naval aide to four Connecticut Governors, and was nominated as the Democratic candidate for Lieutenant Governor in 1946.

Stephen Elliott's legal career spanned 51 years, and it began when he graduated from the University of Connecticut law school. A senior partner in the law firm of Elliott, Stanek & Izzo, he was also a member of the International Society of Barristers, a member of the American, Connecticut, Hartford, Southington, and Waterbury bar associations, and a judge of probate in Hartford, Waterbury, and his home town of Southington.

As attached as Mr. Elliott was to his work, his devotion to family and community went even further. In addition to cochairing a United Way fund drive, he was a member of the board of directors of Bradley Memorial Hospital in Southington and a former trustee of St. Thomas Church. He was also actively involved in such organizations as the Knights of Columbus, the American Legion, and the Veterans of Foreign Wars.

Mr. President, I offer my sincerest condolences to Stephen Elliott's wife Ruth and her entire family. Stephen Elliott made a wonderful contribution to our State. I feel a great sense of loss and sorrow at his passing.

CIVIL RIGHTS ACT OF 1990

Ms. MIKULSKI. Mr. President, yesterday in the CONGRESSIONAL RECORD I expressed my concerns regarding the Civil Rights Act of 1990. My statement highlights my support for retaining the provision that victims of discrimination based on sex, national origin, or religion have the right to sue for punitive damages.

The following op-ed article from the July 10, 1990, Washington Post, submitted by Dr. Dorothy I. Height, president of the National Council of Negro Women, eloquently echoes this view.

As Dr. Height points out, there is no hierarchy of discrimination. Sex discrimination does not rank less onerous or less damaging than racial discrimination, and under no circumstances should this bill pass without this relief.

Any other outcome will fall short of the goals that we have set to pass fair and effective civil rights legislation.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 10, 1990]

CIVIL RIGHTS: NOT JUST FOR BLACKS

(By Dorothy I. Height)

In battle after battle for civil rights in America, fairness has been our nation's guiding principle. It must continue to be our moral compass in our struggle to pass new civil rights legislation protecting against workplace discrimination. That's why I strongly disagree with The Post ["The Civil Rights Bill," editorial, June 25] and others who would leave in place a system of civil rights laws under which some but not all people in this country can secure remedies for wrongs they have suffered.

Race discrimination does have a "special history," which makes it an urgent matter of concern, but that history provides no reason for Congress to refuse an effective remedy for all victims of intentional workplace discrimination. I believe it's high time to wipe away these inequities, and that's why I support the Civil Rights Act of 1990—every word of it.

The act extends to victims of intentional, harmful discrimination based on sex, religion or national origin the same tough legal remedy now available only in cases of race bias: the right to sue an employer for monetary damages. It isn't a new idea. It's an old idea applied more fairly. As such, it is an essential provision of civil rights legislation designed to take us into the 1990s with laws against workplace bias that are strong enough to accomplish their important job.

The current two-tier system for bias cases doesn't make moral or legal sense. Witness the story of Helen Brooms, a black woman victimized by severe sexual discrimination that left her with lasting emotional and physical scars. Because the discrimination she suffered stemmed from her gender, not her race, she could not recover damages. She could, as she says, "get justice as a black person but not as a woman."

Changing the law to remove this inequity would not loose an avalanche of claims upon the courts. We've seen no such deluge of damages claims from racism victims: a recent review of such cases during the 1980s shows them to be infrequent, and the awards reasonable. An entire decade passed with only three plaintiffs winning awards in excess of $200,000—a track record that hardly justifies panic about extending this protection to new groups. Of those who sue for damages, the ones with solid cases will win; others will not.

It is painfully ironic that as of today a man who sues a store because he tripped over a floor display has a better shot at winning decent redress than a woman battered daily by on-the-job discrimination or denied a promotion because of sexual stereotyping. To continue to lock women out is to deny the particularly harmful role discrimination plays in our society. This is not just another civil offense: this is a tear in our social fabric, a violation of our nation's ideals.

I object to the implicit attempt by some critics of this legislation to imply a heirarchy among different forms of discrimination. We don't battle this evil effectively by getting ourselves bogged down in discussions over which form it takes is worse. Such a debate can only further divide us as a people. It splits me, a black woman, in half. I am equally outraged against bigotry, whether directed at me as a woman or as a black American. I demand that my government provide me equally strong protections against both forms of bias.

With votes on the substance of this bill fast approaching, it's time to focus the debate on the real issues. And the question our elected officials must decide in the matter of damages is this: Who will bear the cost of intentional, damaging discrimination based on factors other than race? Under the current system, the victims pay—financially, as well as with their health and well-being. Under the Civil Rights Act, discriminatory employers will pay. I vote for the latter and trust that the president and Congress will too.

TERRY ANDERSON AND IRANIAN POLITICS

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,943d day that Terry Anderson has been held in captivity in Beirut.

I would also like to bring to the attention of the Senate an article discussing the political climate in Iran which appeared in the Washington Post while we were in recess. The piece, written by Steve Coll, contends that the influence of doctrinaire anti-Western clerics in the Iranian Government is diminishing. One of the implications is that the corresponding consolidation of forces of moderation in Iran might help bring about an end to the hostage ordeal. Recent events—the release of Frank Reed and Bruce Polhill, the Tehran Times' call for the unconditional release of all the hostages, and the current move toward releasing another of the hostages—would seem hopefully to indicate that this might indeed be the case.

We must work to ensure that such progress continues.

Mr. President, I ask unanimous consent that the Washington Post article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 29, 1990]

IRAN'S ENTREMISTS SEEN LOSING POWER IN GOVERNMENT

(By Steve Coll)

TEHRAN, June 28.—One year after the death of Ayatollah Ruhollah Khomenini, some of Iran's most radically anti-American clerics have been shifted to the fringes of power on issues such as release of the U.S. hostages in Lebanon and wider economic contacts between Iran and the West.

The recent debate here over whether Iran should accept earthquake aid from its Western and Arab adversaries is only one aspect of what former interior minister Ali Akbar Mohtashemi called a "psychological war" within Iran for control of the country's Islamic revolution in the wake of Kohomenini's death.

For the moment, the most extreme anti-Western radicals, such as Mohtashemi, appear to be losing that war.

In an interview with The Washington Post and the Japanese daily Yomiuri Shimbun at the offices of his new anti-American magazine, Mohtashemi acknowledged that he was forced to step down from his powerful cabinet post last year. The resignation occurred when President Ali Akbar Hashemi Rafsanjani moved to replace some ideological radicals in the government with a cabinet that shared his commitment to revitalizing Iran's economy with the aid of Western capital.

Mohtashemi also acknowledged that while he was revolutionary Iran's ambassador to Syria during the early 1980s, he helped establish the radical Shiite groups in Lebanon that later attacked the U.S. Marine barracks in Beirut and participated in the kidnapping of U.S. hostages.

Iran helped establish the radical groups and "they were supported by the Islamic Republic of Iran and by me as ambassador of the Islamic Republic of Iran. If you think that is effective in their formation, then let it be so," Mohtashemi said. He denied any personal involvement in the attack on the U.S. Marine barracks or any hostage takings.

Despite the apparent warning of his influence in contemporary Iranian politics, diplomats say Mohtashemi remains a powerful voice to some of the Lebanese Shiites who continue to hold U.S. hostages.

"Imam [Khomeini' was the founder of a revolution," Mohtashemi said. "Following his demise, the enemies, internal and external, have been taking advantage of his absence and thus putting increasing pressures on Iran to give up on its principles and retreat."

Mohtashemi said his political opponents had overstated Iran's economic difficulties "to imply that by breaking the barrier against the return of the United States, economic problems would be solved, but they are making a mistake."

Since stepping down from the post of interior minister, where he controlled Iran's police and revolutionary security committees, or *komitehs*, Mohtashemi has remained a member of Iran's parliament. This month he launched a colorful political magazine that mainly espouses unflinching anti-American views.

But diplomats say Mohtashemi and those who have preached isolationism and appeared to support the holding of U.S. hostages by Lebanese Shiite radicals have become increasingly marginalized. The reason, they say, is that Rafsanjani, regarded as relatively pragmatic and open to the West, has been able to assert himself in parliament and the executive branch.

"Mohtashemi has been the mouth-piece of the radicals. He has a platform," said one diplomat. "But where it's really counted, Rafsanjani has shown that he has the power to do what he wants."

There is no easy way to distinguish between radicals and pragmatists in Iran's parliamentary government. Virtually all of the members share a revolutionary Islamic ideology and express antipathy toward the United States. While leaders considered especially anti-American, such as Mohtashemi, have fallen out of power, other anti-Western radicals have moved into prominent posts, such as the hard-line parliamentary speaker, Mehdi Karrubi.

In recent months Mohtashemi and his radical allies have formed a clearly defined anti-U.S. minority in Iran's government, asserting themselves in key political debates over the future shape of Iran's Islamic revolution and the extent of the country's realtions with the West.

One example, Iranians and diplomats said, was the tangled series of events that surrounded the release this spring of two U.S. hostages who had been held by radical Lebanese Shiites in Beirut.

The move for release appeared to begin in Tehran, where the English-language Tehran Times, which is considered close to Rafsanjani, began to publish editorials saying that U.S. hostages held in Lebanon should be set free without conditions.

Initially, radicals such as Mohtashemi were silent about the issue. But when an ally of Rafsanjani suggested in a Persian-language newspaper article that Iran should hold direct talks with the United States, the anti-Western radicals in Tehran exploded, virtually accusing the writer of treason and warning that any contact with the United States would be disastrous for Iran.

After the hostages were released, with Syrian assistance, and the Bush administration decided against any reciprocal gesture, the radical faction in Iran's parliament again asserted itself. The hostage release, said the radicals, proved that pragmatism toward the United States would do Iran no good.

At one point during the uproar, Mohtashemi's faction introduced a bill in Iran's parliament that would have made it illegal for Iran ever to establish diplomatic ties with the United States. But Rafsanjani's group had the bill dropped in favor of a declaration that Iran's first foreign policy order was to fight against Israel.

During the interview, Mohtashemi reiterated the Iranian government's position that it is not involved with the holding of U.S. hostages in Lebanon. He argued that it would be "a mistake for Iran to interfere in the process of hostage release," because to

do so would only confirm "this propaganda that Iran has influence."

"Iran must not fall into this trap at all," he added. "The problem is basically an internal affair of Lebanon."

Later, however, Mohtashemi acknowledged Iranian influence over the Lebanese Shiites, saying, "Yes, Iran has spiritual influence among all Moslems and if they [Shiite radicals] feel that Iran wishes for something, then they might go along with that."

For most of the years after Iran's 1979 revolution, the political base of anti-Western extremists lay with the often young and radical members of Iran's Islamic revolutionary institutions, such as the Revolutionary Guards and the komitehs.

While they remain powerful forces in Iranian politics and society, there are signs that with the Iraqi war concluded and Rafsanjani firmly in power, those revolutionary institutions may be losing some of their radical edge.

For example, after a vocal fight with radicals in parliament, Rafsanjani's administration has pushed through a merger of komitehs with ordinary police departments. Such a merger would bring the nation's internal security apparatus more under the control of an ordinary bureaucracy.

Mohtashemi said the debate over the future of the komitehs, which have been the guardians of the Iranian revolution's most radical domestic policies, is not one of deep philosopical differences. But he added: "Personally I am opposed to this merger because I think any country needs a committed special force. The merger will make them [komitehs] lose their identify. [Will that be] harmful to the system? I hope not."

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Tennessee is recognized.

THE GLOBAL ENVIRONMENT

Mr. GORE. Mr. President, the declarations that are coming out of the economic summit meeting have been very disappointing to many on the subject of the global environment. Those who remember last year's economic summit remember the ringing endorsement of action by all of the summit leaders in the final statement when they called for a worldwide plan to confront the issue of global climate change and the degradation of the global environment.

Many who have followed this issue and have had growing concerns about the need for action were heartened by the united front presented by the summit leaders a year ago. And many of those same optimists waited to see what this year's meeting would bring by way of a followup, to put flesh on the bones, to add substance to the rhetoric.

But this year, the summit leaders chose not to follow up last year's declarations. Indeed, they chose to retreat from last year's call for action to clean up the global environment. Why? The answer is now in. The United States of America, led by President George Bush, threw a monkey wrench into the process, stood in the path of those who wanted to have action on the global environment.

At last year's summit meeting, President Bush asked his EPA head, his Environmental Protection Administrator, Bill Reilly, to accompany him to the summit, stay by his side, help him make these sweeping proposals and negotiate the statement which was forthcoming last year.

At this year's summit, Mr. Reilly was ordered to stay home, was not allowed to accompany the President to the summit meetings. And when the subject of the environment came up, who was the spokesman for the United States of America? John Sununu, the one person within the administration who has been, by all odds, the most vocal opponent of environmental protection.

President Bush promised over 17 months ago that he would be an environmental President, that he would confront the greenhouse effect with the White House effect. Now we know that President Bush has even less intention of keeping that pledge than he did in keeping his pledge to have no new taxes.

He is less an environmental President than he is a no new taxes President.

Nations and peoples around the world understand clearly that if we are going to successfully confront the challenge to the global environment, leadership from the United States of America will be essential. All Americans understand that, especially in an action of this sort, the United States cannot provide that sort of global leadership unless the President of the United States steps forward to lead the American people in the right direction.

A consortium of 150 environmental groups in the United States cooperated to compile a scorecard of what the various summit nations have done since last year's summit meeting to follow through on the pledges of environmental action last year. The United States was ranked in the poor category. As the accompanying analysis made very clear, and as we in this Chamber know ourselves, the reason is, again, that President Bush has been backtracking on the global environment.

Those of us who have watched this administration drag its feet time and time again, resisting the efforts of other nations to confront these environmental challenges head on in areas like protection of the ozone layer, global climate change, and a host of other environmental challenges, are not entirely surprised by the reports coming out of Houston. But we are disappointed and even more deeply concerned. President Bush is once again allowing the Nation's environmental policy to be established by ideologues in the administration, not by those who have been assigned the responsibility for advising him on environmental policy and science policy. Instead, he has decided to make John Sununu the principal environmental policymaker in this administration.

What about John Sununu's experience and qualifications and viewpoints on this subject? John Sununu has a Ph.D. He believes that he knows a great deal about this subject. News reports have indicated that he is compiling his own global climate model on a personal computer in his office at the White House. U.S. News and World Report provided some details of this in their current issue.

President Bush said a year ago, before we decide how to assess the threat of global warming, let us wait for the international group of scientists charged with making this assessment to come up with their report. That group, the Intergovernmental Panel on Climate Change, established originally under the auspices of the United Nations, issued its report recently. That panel said the problem is real. The time for action is now. What degree of reliability do they place on those conclusions? They said: We are certain of it.

After this international group of distinguished scientists who have devoted their careers to this subject spent several years compiling a definitive report and announced their conclusions, John Sununu announced that he was going to come up with his own study on his personal computer. The clear implication of his statements was that these scientists are not to be trusted. John Sununu's conclusions are more reliable than theirs.

Yogi Berra once said, "What gets us into trouble is not what we don't know, it's what we know for sure that just ain't so."

I think John Sununu's expertise on the subject of the global environment fits Yogi Berra's description of what gets us into trouble so frequently. He has not devoted his lifetime to this subject. He has been a Governor and a White House Chief of Staff. But it is a hobby of his.

I urge the President to rely more on the scientific community, to rely more on his own science adviser, Dr. Allan Bromley, to rely more on his own administrator of the Environmental Protection Agency, William Reilly, and somewhat less on Dr. Sununu and his personal computer and his certain knowledge that he knows more than the world scientific community about this subject.

Other heads of state are listening to the scientific community. Here is what Helmut Kohl, the leader of Germany, had to say at the summit meeting. He said:

We must view the threat of climate change as a global challenge to all mankind.

The world expects the seven summit countries to come up with far reaching, specific proposals.

I will provide later for the RECORD statements by the leaders of other nations, which are very similar in tone and content.

There is only one prominent world leader, among all those at the summit, who wants to stop progress, who wants to stand in the way of the kind of cooperative action so urgently needed to protect the global environment, and that is President George Bush, following the advice of Dr. John Sununu.

Let me elaborate on what this Intergovernmental Panel on Climate change had to say specifically. It says that the effort to stablize the level of most greenhouse gases at current levels in the atmosphere will require reductions of 60 percent or more in current human emissions of greenhouse gases. Furthermore, the scientific assessment of the IPCC says the buildup will lead to temperature increases of 3 to 8 degrees Fahrenheit by the middle of the next century. The science assessment goes on to state that temperature increases in central North America, the American grain belt, are predicted to be higher than the average global increase accompanied by reduced summer precipitation and soil moisture; in other words, more heat and more drought in the heart of America's agricultural sector.

Mr. President, 2 weeks ago in Phoenix, AZ, they were frying eggs on the sidewalk; it was 122 degrees, an alltime record. The 5 hottest years in the history of recorded temperatures have all been in the past decade. Preliminary estimates of the first 6 months of this year indicate that the odds are very high that 1990 will be by all odds the hottest year ever recorded, including the five hottest thus far, which have been in the past decade.

Scientists, the same scientists who tell us global warming is a certainty if our present pattern of activity continues, and that action is needed now, those same scientists say that you cannot take the heat of any given year and say with certainty this is because of global warming. There is too much variation from year to year. But on average the incidence of 100-degree-plus days will increase dramatically. The odds of any given year being a hotter than normal year will increase dramatically.

The odds of a drought in any given year in the middle sections of large continental land masses will increase dramatically. The part of the country from which I come and from which the current occupant of the Chair comes is experiencing another year right now where the moisture level is down dramatically. How many droughts have we had in the last 5 or 6 years? Why are the old timers standing up more and more frequently and saying, for example, "I've lived 70, 80, 90 years. I have never seen weather trends like these"?

Why are the older men and women in our country saying something is amiss with the weather patterns? Why are the most distinguished scientists in the field of global climate research saying exactly the same thing? How long will it take us to wake up and realize that we are facing the most serious problem of the history of our civilization? The answer to that question, Mr. President, depends in part, upon how long we will have to wait for leadership from the President of the United States.

In the absence of that leadership, the evidence will continue to accumulate, and more and more people will see the pattern and demand action, but more and more time will pass before action is taken, and we will have less and less of a chance to succeed in confronting the problem.

Mr. President, as I have said on other occasions, as an example of the dramatic changes underway right now, consider the fact that the air in this Chamber that we are breathing into our lungs at this moment has 600 percent more chlorine atoms in each breath than it did when this Chamber was constructed, than it did 40 years ago, than it did in this space on Earth 3 billion years ago, because in only 40 years' time, our civilization has profoundly changed the nature of the global environment so much that the concentration of chlorine atoms is six times greater than it has been for the entire previous history of the Earth.

Similarly, the concentration of carbon dioxide in the atmosphere everywhere on Earth, from the ground to the top of the sky, at the North Pole, at the South Pole, around the Equator, in Alabama, in Tennessee is higher now than it has been at any time for the last several hundred thousand years. We know from the historical records pulled out of ice cores and geological deposits, which contain an accurate record of past climates, that CO_2 concentrations and temperature levels go up and down in lock step.

The international panel of scientists has reported that the concentrations of carbon dioxide are in the process of doubling worldwide in less than 40 years. What will the implications for temperature be? Again, the international panel of scientists say they are going up. What does that mean? It means a dramatic and catastrophic change in climate patterns.

Does that matter? Of course, it does. Does it require action? Of course, it does. That is why all of the other summit leaders called for action, but action was not forthcoming because the one person, the President of the United States, who is in the position of providing the leadership needed, used his influence and prestige and position to block action. I view it as a tragedy, Mr. President.

Six weeks ago, one of the other summit participants, Margaret Thatcher, made a speech referring to this international scientific assessment. In that speech, Mrs. Thatcher said:

> • • • greenhouse gases are increasing substantially as a result of man's activities; that this will warm the Earth's surface, with serious consequences for us all, and that these consequences are capable of prediction.

She went on to state that if the panel is broadly right, then the world could become "hotter than at any time in the last 100,000 years and just to get our perspectives right, can I remind you that Abraham was around only 5,000 years ago."

Mrs. Thatcher was relying on the international scientific consensus. President Bush, in his timidity and inaction, is relying, instead, on Dr. John Sununu and his hobby, played out on his personal computer.

It is convenient that reliance on Dr. Sununu's hobby carries with it no political risk of proposing actions that might be unpopular in confronting the global environmental challenge. The fact that President Bush, by doing nothing, can hope to keep his popularity levels at record highs may make him more likely to rely on Dr. Sununu's personal computer than the international scientific consensus.

But, Mr. President, it is not leadership. It is not what this country needs. It is not what the world needs.

We are left with an administration which continues to be the world's leader in environmental inaction. The United States, because of President Bush's decision, now stands alone in refusing to cooperate to meet this global challenge. Where the environment is concerned, President Bush is sometimes adept at rhetoric. At last year's summit, he eagerly let the rhetoric on the environment flow from his lips, promising action.

But as is too often the case when it comes to following up the rhetoric with substance, the President has decided that he prefers inaction and timidity.

While Chancellor Kohl appeals for the G–7 nations to urgently work out arrangements to reduce greenhouse gas emissions, President Bush spends his energy on spin control while the truth about his administration's total lack of concern where protecting the global environment is involved becomes clear to the entire world.

Mr. President, I ask unanimous consent to print at the end of my comments articles from the Washington Post and the New York Times, and an editorial from this morning's New York Times and a lengthy dispatch from the Associated Press on this same subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORE. Mr. President, in conclusion, let me address one other aspect of this, briefly. The reason publicly offered by Dr. Sununu for the position he has successfully urged upon the President is his claim that a reduction in greenhouse gas emissions, or even a stabilization of greenhouse gas emissions, would bring world economic activity to a halt.

I am quoting from the Associated Press dispatch out of Houston quoting the other summit participants in saying:

The European Economic Community on Tuesday challenged the Bush administration to prove its contention that taking dramatic steps to halt the warming trend will stall economic growth.

Jan Laurens Brinkhorst, Director of Environmental Matters for the European Economic Community, said the facts do not bear out the theory that curbing carbon dioxide emissions will slow economic growth.

Brinkhorst said the world economy grew by 25 percent between 1973 and 1986 while energy consumption remained flat.

Economists agree, he said, that energy use could be reduced 15 percent to 20 percent in the course of a decade without major economic disruption.

I would hope to see, in a serious way, the Europeans and Americans compare notes and actually see what is true.

Mr. President, I have made a number of speeches in this Chamber on this same subject, and I intend to continue this series of speeches. I conclude by saying that on this occasion, it is especially disappointing that we have this major missed opportunity after so many hopes were raised in last year's economic summit between the G-7 participants, and I urge the President of the United States to not rely on John Sununu as his principal environmental adviser, policymaker, and spokesman on the global environment but to rely instead on the individuals, including William Reilly, at EPA, and his science adviser, Dr. Allan Bromley, who have the experience, who have the training, who have the respect of those in their respective fields, and listen to their advice as the basis for policy on this subject.

I yield the floor.

EXHIBIT 1

[From the Washington Post, July 9, 1990]

ENVIRONMENTAL "REPORT CARD" RATES U.S. POOR ON MAJOR GLOBAL ISSUES

(By David Maraniss)

HOUSTON, July 8.—A report card of the world's seven leading industrialized nations released here today gave the United States a "poor" grade of 41.5 percent in meeting the environmental objectives those nations set at last year's Economic Summit in Paris.

On the eve of this year's summit, the seven countries were graded by a consortium of 150 environmental groups on six key issues ranging from global warming to environmental aid for Eastern Europe. West Germany, which has announced plans to reduce carbon dioxide emissions by 25 percent, ranked at the top of the class, with a "good" rating of 65 percent, and Italy was "poorest" with 39 percent. Japan, the United Kingdom and Canada were also rated "poor," while France received a grade of "fair."

But overall, said Jay Hair, president of the National Wildlife Federation, the group of seven nations "failed" to protect the environment. Their actions over the past year, he said, have not lived up to their rhetoric. "If the G-7 were a soccer team and I a sportscaster, I would say the team had a bad season overall." Hair said on the same day that West Germany won soccer's World Cup. "The game plan looked good but the players showed mimimal defense and almost no offense."

Each country, in addition to an overall grade, was ranked on a scale of 1 to 10 on the six major issues.

The highest score for the United States was a 6 on the issue of protection of biodiversity. Included in that category were efforts to stop the destruction of the world's rain forests, which are disappearing at the rate of 27 million acres a year, and to diminish the effects of acid rain. The United States has taken a vocal role at the World Bank and elsewhere in discouraging rain forest destruction.

But on the other issues, said James Tripp of the Environmental Defense Fund, the U.S. response over the past year has been weaker. On the concern that Tripp and the consortium considered most pressing, global warming, the United States was given a failing grade of 3.

While other countries, especially West Germany, were moving to reduce carbon dioxide emissions over the next 20 years, the Bush administration, Tripp said, "was not a leader but a hinderer" in that effort.

The scorecard gave the United States its lowest grade, a 2, on population, which has not been discussed at the Economic Summit since the strongly antiabortion Reagan administration took the issue off the agenda in the early 1980s.

On the issues of environmental aid to Eastern Europe and control of ocean pollution, the United States was given scores of 5, while it received a 4 for a category that was called the global environmental bargain, which included actions to ease debts in Third World countries to allow them to improve long-term management of their natural resources. It was in that category that Italy received the lowest score of any country in any category, a 1.

The environmental report cards were among myriad reports, meetings and symbolic actions in Houston this weekend as hundreds of environmentalists and social activists arrived to stage events in the shadows of the Economic Summit.

There are two key counter-conventions. The first-ever Envirosummit met to monitor the environmental actions or inactions of the seven industrial leaders.

A session known as The Other Economic Summit (TOES) has been convening in summit host cities since 1984 to present Third World and other alternatives to the actions of the industrialized nations.

The TOES conference, held at a hotel near the Astrodome after the University of Houston declined at the last minute to serve as host, featured a gathering of representatives from seven developing countries, including Cuauhtemoc Cardenas, leader of Mexico's Democratic Revolutionary Party, who nearly won the Mexican presidency in 1988. Cardenas said that the new trade alliances being formed among the industrialized nations will only lead a more exploitation of Third World countries.

His view was shared by Martin Khor Kok Peng of Malaysia, coordinator of the World Rain Forest Movement. The Malaysian said underdeveloped countries would have their sovereignty to set environmental and health standards preempted by provisions of the General Agreement on Tariffs and Trade (GATT) being discussed this year. Where in previous generations Third World countries were colonized through the use of force, he said, they are now being colonized through the use of trade agreements. "Trade is the main weapon today—more than weapons," he said.

Texas Agriculture Commissioner Jim Hightower, a keynote speaker at the TOES conference, said the latest GATT proposals setting up international trade rules on agriculture would prove devastating for American farmers. The GATT agreement could cut wheat prices by 44 percent and rice prices by 59 percent, he said.

Hightower said farmers "don't know what GATT means, but they're going to figure out it means 'Gotcha Again!' "

[From the Washington Post, July 9, 1990]

AFTER RHETORIC OF 1989, ENVIRONMENT LIKELY TO TAKE BACK SEAT AT SUMMIT

(By John Lancaster)

Leaders of the seven industrial democracies embraced the environment with the zeal of the newly converted when they gathered in Paris for last year's economic summit. "This summit marked a watershed," President Bush said at the conclusion last year. "We agreed that decisive action is urgently needed to preserve the earth."

But the economic summit that begins in Houston today promises to accord the environment a lower priority. While issues such as global warming and rain forest from destruction still have a place on the agenda, they are not expected to receive nearly as much attention as free trade and the political upheaval in the Soviet Union.

"I think this time we will see an economic summit that is focused to a far greater degree on economics," said Michael R. Deland, chairman of the president's Council on Environmental Quality (CEQ).

The anticipated focus on the Soviet Union and East Bloc economies is not surprising given the events of the last year. But the shift in emphasis has disappointed many environmentalists, who see it as one more sign that industrial nations—and the United States in particular—have failed to follow through on the bold rhetoric in 1989.

A coalition of environmental groups, meeting in the shadow of the Houston summit, gave the seven nations a mixed to poor review for their efforts during the last year.

"I'm a lot more depressed than when we got into this," said George T. Frampton Jr., president of the Wilderness Society. "Forests are being cut just as fast or faster than they were a year ago * * *. There has been virtually no progress on ocean pollution, and absolutely nothing on population. Overall, you'd have to say that these countries simply aren't treating environmental issues as an important priority—in spite of the Paris communique."

Environmentalists cite as an exception last month's agreement by 92 countries to phase out production of chemicals linked to the destruction of the earth's protective ozone layer. Government ministers also

agreed to establish the world's first global environmental fund to help poorer countries make the transition to more benign varieties of chemicals.

But the industrial nations remain divided on a response to global warming, which scientists expect will be a consequence of the buildup of carbon dioxide and other greenhouse gases in the atmosphere. While Britain, the Netherlands and West Germany have established goals for reducing or stabilizing carbon dioxide emissions, Bush administration officials have avoided timetables in favor of continuing scientific study.

Earlier this year, a panel of experts sponsored by the United Nations concluded that worldwide temperatures will rise 2 degrees within 35 years and about 6 degrees by the end of the next century if nothing is done to reduce carbon dioxide emissions. The report, based on the work of more than 300 climate experts worldwide, was seen as a vindication by environmentalist who have been urging quick action to combat the problem.

Environmentalists contend that by failing to follow the lead of Germany and other nations in setting goals to reduce greenhouse gases, the United States has forfeited its role as an international leader on environmental issues.

That charge was disputed by Deland, who said the nation already is working to reduce pollutants that cause global warming. "I don't think the U.S. has forfeited a leadership role and I think it's continuing to play such a role," Deland said.

But he also suggested that cutting greenhouse gases is easier for some countries than it is for the United States. "It's clearly much easier for West Germany to set such goal," he said. "They can flick a switch and tie into French nuclear power * * *. We are clearly more tied to fossil fuels than many other countries that have alternatives such as nuclear and hydroelectric" power.

Many environmentalists had their expectations raised by last year's summit, in which participants devoted more than a third of their final communique to environmental issues. Pundits dubbed it "the environmental summit" and Bush even showed up with Environmental Protection Agency Administrator William K. Reilly, the first time the head of the EPA appeared at a summit.

A draft copy of the communique for this year's meeting reaffirms the global nature of environmental problem and addresses climate change, tropical forest destruction, marine pollution, wetlands loss and other topics.

According to the draft, worked out by advance teams from the countries involved, participants will agree on the need for an international convention addressing global warming to be held by 1992 under the auspices of the United Nations.

Participants also will consider the adoption of "internationally binding regulations" for the protection of tropical forests, which are being destroyed at a rate twice that of 10 years ago, according to the draft communique.

But the summit participants are expected to stop short of a specific, international commitment to reduce greenhouse gases by the end of the decade. "There aren't going to be any surprise," one administration official said.

[From the New York Times, July 11, 1990]

WHITE HOUSE GASES

Reduce greenhouse gases? The Bush Administration has again made clear, at the economic summit meeting in Houston, that it wants no part of an international timetable to limit emissions of carbon dioxide, which many fear will lead to a catastrophic warming of the earth's climate.

There are valid arguments against rushing into speculative, costly fixes. But Mr. Bush and his chief of staff, John Sununu, aren't making them. They cloak their inaction in gaseous language and dubious science. That's an insult to the allies and a political embarrassment for Mr. Bush.

The computer models that predict global warming are full of uncertainties—good reason to resist a draconian program to reduce emissions. But these same models, and many scientists, suggest that some warming is likely. And that's reason enough to take sensible precautions.

Chancellor Helmut Kohl says that Germany is prepared to reduce its carbon dioxide emissions by 25 percent in 15 years and urges the allies to follow suit. Some economists think that's an affordable goal. Mr. Sununu thinks it's a recipe for national suicide that would force the U.S. to abandon fossil fuels and drive it into a depression.

Mr. Sununu, whose impatience with environmentalists stops just short of contempt, adumbrates has dark vision with half-truths. Most carbon dioxide emissions, he says, come from decaying vegetation. That's true; but what threatens to shatter the global balance isn't nature but a century of man-made emissions from automobiles, electrical utilities and industry.

Except for the U.S. every industrial nation represented at the summit meeting has pledged to stabilize greenhouse gases. Mr. Bush's negative response might be understandable if he would offer an alternative. But he's been so busy saying no that he hasn't even opened for public discussion any number of sensible ideas to reduce carbon dioxide that are worth pursuing on their own merits.

Compared with other countries, for example, the U.S. uses energy recklessly. Improved automobile mileage standards would improve energy efficency. So would an energy tax, which, quite apart from its value as insurance against global warming, would ease the deficit. A sensible plan would also include incentives for using forms of energy that don't produce carbon dioxide, like solar and a new generation of safe nuclear plants. There would also be incentives for third world countries to stop the burning of tropical forests, an act of ecological vandalism that releases huge amounts of carbon dioxide.

Mr. Bush takes pride in his innovative clean air bill and his decision to join an international agreement to abolish ozone-threatening chemicals. Those are fine achievements, but they do not unhook him from a campaign promise he made on Aug. 31, 1988.

"Those who think we are powerless to do anything about the 'greenhouse effect' are forgetting about the 'White House effect,'" he said. "As President, I intend to do something about it." Do what?

[From the New York Times, July 10, 1990]

EUROPEANS ACCUSE THE UNITED STATES OF BALKING ON PLANS TO COMBAT GLOBAL WARMING

(By Roberto Suro)

HOUSTON, July 9.—Senior European officials at the economic summit conference accused the United States today of frustrating their efforts to reach a new accord to combat global warming.

The European officials, including members of the British, French and Italian delegations who asked not to be identified, angrily complained that John H. Sununu, the White House chief of staff, had taken the leading role in organizing American opposition to the global warming initiative.

Asked at a news briefing this morning why the United States was resisting a West German proposal to set a target for reducing gases that cause global warming, Mr. Sununu replied, "The issue is being addressed with a level of haste." He added, "There seems to be some propensity to deal with the issue without putting all the data on the table."

KOHL ASKS "RADICAL MEASURES"

In a letter sent to summit leaders last month, Chancellor Helmut Kohl of West Germany called for "internationally binding regulations with "radical measures to limit" gas emissions that contribute to the greenhouse effect.

Chancellor Kohl said: "We must view the threat of climate changes as a global challenge to all mankind. The world expects the seven summit countries to come up with far-reaching, specific proposals."

Mr. Sununu insisted today that the Bush Administration had endorsed limits on some emissions through the clean Air Act, but he opposed new emission limits, contending that they would require major changes in the American way of life and the nation's industrial structure.

He noted, for instance, that because the United States was much larger than Japan or any of the European nations it had a greater reliance on cars and trucks to transport people and products.

Commenting on Mr. Sununu's position, James T. B. Tripp, general counsel of the Environmental Defense Fund, a Washington-based advocacy group said, "These statements may serve to explain why United States per capita consumption of fossil fuels is so high compared to Western Europe and Japan, but they are not legitimate excuses for United States refusal to limit carbon dioxide emissions and take steps to use energy much more efficiently."

Although President Bush has mustered allies to support his views on the two other major issues being addressed at the summit talks—aid to the Soviet Union and international trade—he now stands alone on the third area of the agenda, the environment.

PLEDGES MADE BY OTHERS

As the summit meeting's official sessions began today, European officials worried that the United States would block their effort to win a commitment to stabilize and then reduce emissions of carbon dioxide and other gases that contribute to the greenhouse effect. Many scientists believe that these gases trap heat from the sun that would otherwise escape back into space. The trapped gases then produce a gradual warming of the earth's atmosphere.

Except for the United States, all the industrial nations represented at the summit meeting have now pledged to stabilize

greenhouse gas emissions, at least by early in the next century.

Even Britain and Japan, which formerly sided with Washington in insisting that more scientific and economic information was needed before taking action, are developing plans to reduce carbon dioxide emissions. West Germany has taken the lead, with a goal of reducing such emissions by 25 percent in the next 15 years.

President Bush's apparent determination to block a global warming initiative at this summit meeting stands in sharp contrast to his embrace of major environmental commitments at last year's economic summit talks in Paris.

In the final communiqué of that meeting, the national leaders declared that "decisive action is urgently needed to understand and protect the earth's ecological balance."

"COMMON EFFORTS" URGED

On the issue of global warming the communiqué stated, "We strongly advocate common efforts to limit emissions of carbon dioxide and other greenhouse gases, which threaten to induce climate change, endangering the environment and ultimately the economy."

Even as the summit delegations began gathering here this weekend, European officials hoped that the Houston talks would build on the rhetoric of the Paris communiqué. But at a meeting Sunday night American officials raised a series of paralyzing objections, a European participant said.

"We had thought we were making progress," the European official said today, "but at last night's meeting it was discouragingly obvious that Sununu was back in the ascendancy, and the United States was yielding nothing."

European officials said that the first sign that President Bush would resist a global warming initiative came when William K. Reilly, the administrator of the Environmental Protection Agency was left behind in Washington. Mr. Reilly was a prominent member of the Bush delegation to the Paris talks.

In Mr. Reilly's absence the role of chief adviser on environmental matters has been assumed by Mr. Sununu, who has publicly disagreed with Mr. Reilly on assessments of environmental dangers. At the news briefing this morning, Mr. Sununu rejected the kind of joint commitment to specific limitations on gas emissions that the West Germans among others are pressing the meeting to adopt.

He said, "There is a concern that this idea of a permanent cap in perpetuity does not understand not only our growth needs, but the growth needs of the developing countries of the world."

He added, "so what we are seeking is a commitment that is broader, a commitment that would allow both the industrialized countries and the developing countries to address the broad issue of greenhouse gases without picking them one by one, setting caps on them individually."

SUMMIT NEARS ENVIRONMENT ACCORD THAT'S VAGUE ON GLOBAL WARMING

(By Rita Beamish)

HOUSTON.—The United States and its trading partners neared agreement on an environmental declaration today that obscured sharp differences over global warming in the interest of summit unity, U.S. and European officials said.

Instead, the seven economic summit leaders signed off on a deal struck Tuesday to implement a plan within a year to save Brazil's tropical rain forests, the officials said.

The West Germans did not press their earlier demands to set firm targets for reducing carbon dioxide emissions that are believed to be a major cause of rising global temperatures, U.S. officials said today.

As a result, the provision on global warming was cast in general terms for inclusion in the final summit communique being released later today. The agreement reportedly pledges an international convention on the issue by 1992, a position previously endorsed by President Bush.

Summit negotiators also debated a U.S. proposal to strengthen the tropical forest plan that is administered by the World Bank and various United Nations groups. Environmentalists have criticized the program as ineffectual.

During talks by the summit partners, representing the United States, Britain, France, West Germany, Italy, Canada and Japan, environmental issues were overshadowed by trade, farm subsidies and other matters, but there was general discussion of the so-called greenhouse effect in which man-made pollutants contribute to the increase in the Earth's temperature.

White House press secretary Marlin Fitzwater said there was "a basic commitment" to address pollution control and forestation, with specific mention of the Brazilian rain forests in today's communique.

West German Finance Minister Theo Waigel said the agreement included an urgent pilot project that would lead to a reversal of the current destruction of rain forests. Officials said the World Bank should oversee the project, but no cost estimates or other details were disclosed.

The decision to postpone action on global warming and hold a study conference conforms with President Bush's contention that more research is needed before taking such dramatic steps to curb greenhouse gases.

When the Economic Summit countries met a year ago in Paris, they agreed to "common efforts to limit emissions of carbon dioxide and other greenhouse gases which threaten to induce climate change." Environmental groups have accused the United States of failing to live up to that commitment.

The European Economic Community on Tuesday challenged the Bush administration to prove its contention that taking dramatic steps to halt the warming trend will stall economic growth.

Jan Laurens Brinkhorst, director of environmental matters for the European Economic Community, said the facts do not bear out the theory that curbing carbon dioxide emissions will slow economic growth.

Carbon dioxide is produced by the combustion of all fossil fuels. Brinkhorst said the world economy grew by 25 percent between 1973 and 1986 while energy consumption remained flat.

Economists agree, he said, that energy use could be reduced 15 percent to 20 percent in the course of a decade without major economic disruption.

"I would hope to see, in a serious way, the Europeans and Americans compare notes and acutally see what is true, (whether) you would have this tremendous difficulty in your economic performance if you would do something more" about carbon dioxide emissions, Brinkhorst said.

Carbon dioxide has been estimated to account for about 55 percent of global warming, but the timing and the degree to which the earth is expected to become hotter are uncertain.

QUENTIN BURDICK

Mr. ADAMS. Mr. President, it gives me a great deal of pleasure today to rise to pay tribute to my colleague and old friend, the senior Senator from North Dakota, QUENTIN BURDICK. Thirty years ago, QUENTIN BURDICK, following his family's tradition of long public service, was elected to the U.S. Senate.

QUENTIN BURDICK's appeal to North Dakotans has remained constant, as a champion of the family farmer and a tireless advocate of ethics and the voice for North Dakotans in Washington, DC.

As chairman of the Environment and Public Works Committee, QUENTIN BURDICK has initiated policies and legislation to control or eradicate acid rain and ground water pollution. He has campaigned for stricter guidelines regulating hazardous waste storage—the people of my State are grateful for this because of the nuclear waste we have there—and for legislation forcing oil companies to pay for oilspill cleanup costs. I hope that bill will soon clear so that this will be very much at the top of America's agenda. In this capacity, QUENTIN BURDICK has been in the forefront of legislation which enhances the quality of life for all Americans.

QUENTIN BURDICK is one of only 36 Senators in the Senate's history to serve 30 years. I congratulate and commend him on this tremendous achievement. QUENTIN BURDICK is a man of great strength and of marvelous character, and I am proud to claim him as a friend.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered.

AMERICANS WITH DISABILITIES ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, for the information of our colleagues, we have been trying for approximately 2 hours now to reach an agreement concerning the disposition of the conference report S. 933, the Americans With Disabilities Act of 1990. Several Senators have been involved in those discussions.

I regret to inform the Senate that they have been unsuccessful in arriving at an agreement governing the disposition of this matter.

This is a very important bill. This is landmark legislation of importance, not only to those members of our society who are disabled, but to all Americans, because it is reflective of our society as a whole, how we are willing and prepared to deal with those in our society who are disabled and yet who are and can be fully productive and constructive citizens.

Many Senators have labored long and hard over this legislation, and we are now at a critical point. I believe very strongly that we should adopt this conference report and proceed, and therefore I regret very much the inability of the interested Senators to reach agreement governing disposition of this conference report.

That being the case, I have no alternative but to move to the conference report without any such agreement, and we will simply attempt, here, to deal with and I hope enact this important legislation.

Therefore, Mr. President, all Senators who have an interest in this legislation, who may or may not wish to offer motions or amendments with respect to it, are advised to be present on the Senate floor immediately because we are going to take up the legislation.

This discussion on possible agreement has been going on for 2 hours without success, and there is no prospect of success, no matter how long the discussions continue. Therefore, we simply have to move to it.

Mr. President, I submit a report of the committee of conference on S. 933 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 26, 1990.)

Mr. MITCHELL. Mr. President, I ask unanimous consent that during consideration of the conference report on S. 933, debate be signed as part of Senate television coverage today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Kentucky.

MOTION TO RECOMMIT S. 933

Mr. FORD. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion of the Senator.

The assistant legislative clerk read as follows:

Mr. FORD, on behalf of himself and Mr. RUDMAN, moves to recommit S. 933, an Act to establish a clear and comprehensive prohibition of discrimination on the basis of disability, to the conference on the disagreeing votes of the two Houses on such bill, with an instruction that the conferees on the part of the Senate strike out the matter contained in section 509 of such Act and insert in lieu thereof the following:

SEC. 509. RIGHTS AND REMEDIES IN THE SENATE.

(a) COMMITMENT OF THE SENATE.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment on the basis of such individual's race, color, religion, sex, national origin, age, or state or physical handicap.".

(b) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(c) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in subsection (b), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(d) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in subsection (b).

(e) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in subsection (b), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in subsection (b). Such remedies shall apply exclusively.

(f) MATTERS OTHER THAN EMPLOYMENT.—

"(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of the Senate regarding matters other than employment.

(2) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, after approval in accordance with paragraph (3).

(3) PROPOSED REMEDIES AND PROCEDURES.—For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(g) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in subsection (b) and (f)(1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of subsection (a), (c), (d), (e), (f)(2), and (f)(3) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

Mr. FORD. Mr. President, this motion would recommit the ADA conference report and instruct Senate conferees to strike the language of section 509, regarding congressional coverage, and insert the text of the Ford-Stevens-Heflin-Rudman amendment No. 2112, adopted yesterday. In light of the overwhelming votes in the Senate yesterday on the issue of congressional coverage under the civil rights laws, it is necessary to take this action and to make clear the position of the Senate with regard to private rights of action.

While I had hoped that this procedure would not be necessary, there remains a concern that action needs to be taken to ensure that the Senate does not send an inconsistent signal to the courts and potential parties regarding separation of powers and speech or debate clause concerns under the Constitution. Although the Senate is now clearly on record in support of an exclusive internal remedy under the civil rights laws, the language of the ADA, if left unchanged, would provide a private right of action through the courts.

Let me be clear that I do not make this motion lightly, nor do I offer it to in any way delay the ADA conference report.

It is my understanding that the leadership supports this motion and that this action will expedite, and I underscore expedite, final action on the ADA conference report so that this important legislation can be submitted to the President for his signature.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this is an issue which was debated and debated fully during the course of last evening. The Senate has expressed its view clearly. As the chairman of the conference, I welcome this procedure for the reasons that have been outlined by the chairman of the Rules Committee. It makes eminently sound sense to avoid any possible confusion

in terms of future challenges that it might take.

As the Senator from Iowa will point out, this legislation was not to go into effect for 2 years. I personally believe the action that was taken last night would stand as the procedures that would be followed. But there has been expressed a concern by others in this body. We welcome the opportunity to return to the conference for that consideration, and we give assurance to the Senate that we would report back forthwith, and we hope perhaps even later in the day, with a conference report that will address this situation.

So I want to express my appreciation to the chairman of the Rules Committee and to Senator RUDMAN, Senator STEVENS, and to the other members of the Rules Committee. This has been a bipartisan recommendation. It makes sense for this institution. I hope it will be acted on favorably by the body.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I told the author of the motion that I am not going to ask for a rollcall vote. I would like to point out to both the author of the motion, as well as my colleagues generally, that for the goals that the Senator from Kentucky seeks, the way that his amendment was worded last night and how his amendment to the Civil Rights Act of 1990 amends the Americans With Disabilities Act and since the Americans With Disabilities Act does not go into effect for 2 years, there is really no necessity for the motion that the Senator makes. But he desires to make that.

Since we debated this issue fully yesterday, I informed him, when asked by Senator HATCH, that I would not ask for a rollcall vote or redebate this issue, but I did ask for a couple of minutes to express again, in summary form and for a short period of time, what I consider the situation to be and where, in the future, I will be coming from on this issue.

I want to underscore, Mr. President, my disappointment at the actions of this Senate on Tuesday night. There is no dispute that over the past 60 years, the U.S. Congress has passed law after law, all imposing onerous compliance and litigation burdens on small businesses and the public at large. But none of these civil rights or labor laws apply to the Congress. Congress has exempted itself every time. So the result, Mr. President, is two sets of laws in America: One for the public on Main Street, another for the Congress on Capitol Hill.

As I made the point last night, I think that this is a scandal and that we should end it. Two hundred years ago, James Madison wrote that it was essential that Congress make no law which would not fully apply to itself as also to the great mass of society. Madison was, of course, one of the chief architects of our form of representative government. He understood that the only way that the rulers and the people could be connected was if the rulers could taste their own legislative medicine. Otherwise, we in Congress would lack the consent of the governed.

We had the chance to end that double standard and the raw hypocrisy of laws that apply only to little people and to the powerless. But faced with my landmark amendment to apply the civil rights laws to Congress, last night we blinked. We rejected my approach in favor of one that allows the Congress to be the sole judge of whether it has violated the civil rights of congressional employees, prospective employees, or visitors to the Capitol. Until we right this wrong and give every citizen access to the courts, true civil rights and equal protection under the law will be but an illusion in America.

We lacked the votes last night, but do not ever confuse might with right. Notwithstanding this temporary setback, I will be back again and again on this issue until we get it right. I yield the floor.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I want to talk about a couple of things. I want to associate myself with the remarks made by my colleague, the senior Senator from Iowa, Senator GRASSLEY. We held the private right of action in the conference on the Americans With Disabilities Act, but obviously the Senate yesterday spoke loudly and very forcefully. The vote was quite overwhelming the other way. I wish the vote had been otherwise because I do believe that Congress ought to be covered in the same way that we cover local government, State government, and private industry with regard to employment and discrimination.

Obviously, the sentiment of the Senate is opposed to that. We had debated this thoroughly. We debated it thoroughly yesterday. I see no reason to debate it thoroughly today. Therefore, we will accept the amendment offered by the Senator from Kentucky and take that back to conference and adopt that in conference.

Beyond that, Mr. President, I want to say how pleased I am that we are now at the point where we can actually see the light at the end of the tunnel on the passage of the Americans With Disabilities Act. It has been a long time aborning, as they say, at least over 2 years since the initial bill had been drafted. We have had Senate hearings and House hearings. It has been through all the committees in the House and Senate, debated on the floor here, in the other body, and through conference. I think every word, every sentence, every paragraph has been thoroughly scrutinized. Some changes have been made to accommodate different interests as it has gone along, but I think what we have now in the Americans With Disabilities Act is a bill that really is the 20th century emancipation proclamation for our disabled Americans.

It gives hope and beyond even giving hope, it gives the assurance that there will be opportunity in the future for disabled Americans, the same opportunity to enjoy all of the facets of life that all Americans enjoy—education, travel, public accommodations, communications, employment or, as one young 14-year-old girl with cerebral palsy said, "All that is fine; I just want to go out and buy a pair of shoes like anybody else."

That is what the ADA does. It provides our disabled Americans the right, the right they should have had many years ago, to enjoy fully all aspects of American life so that they will be judged on the basis of their abilities and not their disabilities, so that they will be able to use those abilities to make our country more productive and to make us a more caring and decent and humane society. It is, as the leader said, a landmark piece of legislation, I think the most important civil rights legislation since 1964, one that is going to change the way we live and the way we associate with one another in all aspects of our livelihood.

So we should get on with the business of moving this legislation forward. There were two sticking points in conference, one regarding the congressional coverage, which now has been taken care of, and the second dealing with the so-called Chapman amendment and dealing with food handlers, and I understand that there will be at least one, if not two, amendment, offered in the Senate this afternoon dealing with that aspect of the conference report. I assume that those amendments will be offered shortly.

Before I yield the floor, I pay a very special thanks and express my admiration to the chairman of our committee and the chairman of the conference, Senator KENNEDY. Senator KENNEDY has shepherded this bill through all of the hearings in our committee, on the floor. He was most kind to allow me, as the author of the bill, to be the floor manager. I thank him for that.

I again publicly thank Senator KENNEDY for carrying this bill forward, for making sure that we acted on it, we deliberated on it, we acted on all the various facets and disagreements that people had on it, bringing people together from the administration and the business community, from the disabled community on both sides, the House and the Senate, to make sure we worked it out and got it to this point. I can honestly say that without his very strong and forceful leadership, we would not have had the Americans With Disabilities Act before us today.

I also thank the ranking minority member of our full committee, Senator HATCH. Like Senator KENNEDY, he, too, has been diligent in making sure that we all worked together to work out the disagreements, various insights that people brought to this bill, to make sure that we made the accommodations to the various interests that would be affected by this bill. Senator HATCH every step of the way has worked very closely with me, Senator KENNEDY, and all of the members of the committee to make sure we would get this bill through. This is truly a bipartisan effort on both sides of the aisle, and Senator HATCH has been in the forefront of leading that bipartisan effort.

I notice my dear friend and colleague from Minnesota here today, who is the ranking member on the Disabilities Subcommittee, Senator DURENBERGER. Again through all of the long sessions, evenings, the long meetings that we have had to work on this bill, Senator DURENBERGER has been a stalwart in making sure that the disabled in this country get this bill through and get it through in a fashion that ensures their rights to, as I said, a full and productive life in our country.

Senator DURENBERGER has been a great supporter of this legislation. I want the record to show that he has with us, in a very bipartisan manner, fought long and hard to make sure the Americans With Disabilities Act gets through and down to the President for his signature, because I know that he cares and cares very deeply about the bill and about the people who will be affected by the bill.

Mr. President, I have nothing further to add. I yield the floor.

Mr. KENNEDY. Mr. President, I will take a moment because we want to expedite consideration of the conference report, return to conference and return in order to get favorable consideration and have this conference report to the President of the United States immediately. I understand he will enthusiastically sign the bill upon arrival.

We reported this legislation out of our Labor and Human Resources Committee, as the floor manager and the principal sponsor of the legislation, Senator HARKIN, will remember, in August of last year. About 1 month later the Americans With Disabilities Act overwhelmingly passed the Senate. So this has been a long and ongoing process.

I too want to commend many of those who have been involved in bringing us to the point we are today.

I thank the Senator from Iowa for his kind works, and I want to point out to the Membership that the Senator from Iowa has been the real spear carrier, the real leader, the real captain of this effort. He has picked up where our former colleague, Senator Weicker, had brought us. Bringing attention and focus to disability issues and to the recommendations that came from various commissions a number of years ago. He has accepted the important responsibility of working for, and with, the handicapped in our society.

This legislation is the culmination of an extraordinary effort on his part, a bipartisan effort in our committee and with the support of the President. We certainly welcome the support of the President.

It really is an extraordinary culmination. It is with a certain sense of irony that we are considering this legislation just at the time we are addressing the Civil Rights Act of 1990. During the period of the late 1950's and in the early 1960's this country made remarkable progress in eliminating many of the attitudinal barriers of discrimination in our society. We did it in the 1957 act, 1964, 1965, 1967, 1968 Civil Rights Act, but we also did it in the beginning with title VII programs. We began to make progress in dealing with discrimination of the disabled at the workplace. We also began to make some important progress in eliminating discrimination against women in our society—the equal pay legislation—all designed to try to eliminate stereotypes that resulted in discrimination, harshness as a result of ignorance.

Mr. President, I think we have made progress. We have important areas where we have to do more. But this legislation is, for 43 million disabled Americans, a most comprehensive, elaborate, and a forthcoming piece of civil rights legislation. It not only deals with physical barriers but it does much to deal with the mental concepts that have captured the minds of too many people in our society. As a result of ignorance, such mindsets have brought about the kind of disability related discrimination that has limited people with disabilities in so many ways and has prevented them from realizing their true potential. People with disabilities have so much to give to our country and to our society.

It is time we do all we can to facilitate opportunity.

So this, as the Senator has pointed out, is a monumental piece of legislation. It is an extraordinary achievement. It is the result of a strong bipartisan effort.

I must say that when this legislation is finally signed into law, the Senator from Iowa will be the one that history will write has been the real spirit behind it. I congratulate him, and look forward to joining with him in completing this process and moving rapidly toward enactment.

I yield the floor.

Mr. DURENBERGER. Mr. President, this is truly a great day for the 43 million Americans with disabilities as we take the final step of ensuring basic civil rights protections for people with disabilities.

As has been said before, it was just over a year ago when our colleagues, Senator HARKIN, Senator KENNEDY, Senator HATCH, Senator BOB DOLE, and I sat down with the administration to develop the bipartisan compromise agreement that is before us today. The strength of that original agreement and the determination of those fighting for the rights of persons with disabilities carried it through what some thought would be an impossible task—that is the rigorous scrutiny of our different House committees.

The reason we are here today is simple—we can no longer tolerate, and we can no longer afford, discrimination on the basis of disability. The time is long overdue that people with disabilities be treated with the dignity and respect they deserve. Eighteen years ago when Congress was debating the Rehabilitation Act, the then senior Senator from Minnesota, Hubert H. Humphrey stated:

> The time has come when we can no longer tolerate the invisibility of the handicapped in America . . . these people have the right to live, to work to the best of their ability—to know the dignity to which every human being is entitled.

As freedom and the fight for human rights swells aboard, it is time to complete the work we began 25 years ago by opening all aspects of life—employment, public accommodations, public services, transportation, and telecommunications for persons with disabilities.

A lot of time has been spent debating what the costs will be under this bill. And, as with any legislation, this is very important. But what sometimes gets overlooked are the many benefits of the bill. This bill is about changing lives in ways that we cannot begin to measure here in the Congress. I began this process by telling a story about a young woman who is a constituent of mine. She has a bachelor of science degree in psychology and home economics and a masters degree in food science and nutrition. On the regis-

tered nutritionalist examination, she ranked in the top 10 in the Nation. But this young woman has cerebral palsy. Job after job she applied for, she was turned down. At a job interview at a metropolitan hospital, she was told why. She was qualified, but her fellow employees would not be comfortable working with a person who is disabled.

This bill will not only change the lives of those like this young women who live with disabilities every day of their lives, but will also change the lives of those of us without disabilities by removing the shades many of us wear and focusing on a persons abilities rather than one's disabilities.

There are also very real and measurable benefits of this bill as well. The economics, Mr. President, are simple. Over the next decade, the United States will be in a fight for our economic survival. We are facing a shortage of educated and trained labor. And we simply cannot afford to waste the talents of people with disabilities. We are also facing a serious budget crisis. And we cannot afford to pay welfare benefits to people who can work and who want to work but are unable to because they are regarded as not being fit enough to work. The ADA will give people with disabilities the level playing field they need to become a full member of society.

Making these simple changes and giving people the opportunity to become self-sufficient we are also decreasing the amount of Federal money being spent to support individuals with disabilities at the same time we are increasing tax revenue.

In the conference agreement before us today, the Senate adopted most of the changes offered by the House—making only minor technical or clarifying changes. The two issues the Senate was not willing to move to the House position on were the addition of the Chapman language that would have allowed employers to move and employee with a contagious disease from a food handling position. And the issue of Senate coverage.

On the issue of the Chapman language, the conferees felt that the addition of this language went against what it was we were trying to accomplish in the bill and would actually do more harm than good. On the issue of Senate coverage, the conferees felt that the Senate should hold the Senate to the same standard under this bill that it is holding the private sector. In doing this it retained an individual's right to a private right of action against the institution.

I understand that there are some who would like to tie up final action on this bill by offering motions to remove these two sections. I hope we will reject these motions and move forward to final passage.

As this legislation comes to a close, I would like to take just a moment, Mr. President to mention a few of the people that have been so important in my education about the needs and problems of persons with disabilities and who I have relied upon on this bill. While there are too many to name them all here, I would just like to thank a few, including:

Mike Erlichman, former director of the Minnesota Council on Disability and currently with the regional transit board who has been tireless in his efforts to advance the rights of persons with disabilities.

Bill Malleris who runs the Southeastern Minnesota Center for Independent Living and who has shown us that the things we are talking about in this bill are possible because he has done them in Rochester.

Dave Schwartzkopf, who was recognized as the President's Committee Disabled American of the Year for his work at IBM and with the State rehabilitation program.

Colleen Weick from the Minnesota Developmental Disabilities Council who has long helped me out on all disability issues. Ralph Neas, who was my former legislative director, and who is currently at the leadership conference on civil rights and who has been instrumental in this legislation. There are others, including Rachel Wobschall, Sue Abderholden, Margo Imdieke, Lea Welch, Elin Ohlsson, Mary O'Hear Anderson, Jay Johnson, Jan Jenkins, and Marge Goldberg and the rest of my disability task force.

I would also be remiss if I did not mention the outstanding work of my distinguished colleague from Iowa. There has not been any Member in this body who has spent as much time as he and his staff have in developing and holding together this bill. He has truly done a textbook job in handling and moving this legislation through Congress. I must also mention the extensive work by the Senator from Massachusetts, the Senator from Utah, and the distinguished minority leader. Also, there is no doubt in my mind that we would not be here today without the deep and firm commitment by President Bush to this legislation.

Again Mr. President, this is a great day in the history of our Nation's continued efforts to lead by example in the expansion of human rights for all people. The President had requested that we finish this bill before we adjourn for the Independence Day recess. We have already missed that deadline once. The time is now, Mr. President, to open our doors and to bring all Americans into the mainstream.

Mr. President, in light of the comments that have already been made I would, as the ranking Republican on the subcommittee, want to say something about several people that is not detailed in this brief statement.

Somebody who used to work for me said to me recently:

> There is almost no question but that Lowell Weicker is going to be the Governor of Connecticut. He is like a 100-pound gorilla and nobody can catch up with him.

I think those of us who came to the Senate while Lowell was sort of back benching there know that every time he stood up he made a substantial impression. It was not so much a matter that he was selective about when he stood up, and it is not just his physical dimension. It was because Lowell Weicker chose to take on the kinds of causes in this place that nobody else would touch. They would usually be presumed to be losing causes. There were only so many folks on this side. There were a lot more on the other side.

He did that all of the time. He made a lot of people mad and angry because we were able to get on about the stuff that the majority of folks care about.

Was George Bush's lips moving or not? Are we not talking about Americans with disabilities today? Or are we talking about raising taxes or the deficit?

Lowell was one of those people who stood up and said, I want to talk to you about somebody who could not be here today.

So I am just very fortunate that when I was appointed to the Labor and Human Resources Committee I could sort of step in the shoes that size, and I am happy about beginning to fill them.

But I was fortunate to stand next to two people who have been doing this long before I—the chairman of the committee, Senator KENNEDY, and the ranking member of the committee, Senator HATCH. But then a very special person who lives right next door to me in the State of Iowa, who again while he is not as tall as Senator Weicker, he is not as wide, he does not have those sort of physical dimensions, but when TOM HARKIN talks about his brother, talks about the folks in his neighborhood, when TOM HARKIN talks about the people that do not have the advantages that he and you and I and others have, he talks about them in the sense that they have advantages we do not have, advantages of their disabilities, whether they were acquired, or they were born with them—the tremendous advantage that people with disabilities have that the rest of us do not have. The current President of the Senate I think understands that.

For those of us who do not consider ourselves blessed by those that do have those disabilities, it is only infrequently that we get to legislation on that particular subject. The Ameri-

cans With Disabilities Act is that kind of a piece of legislation.

I think it is amazing that we are down to two issues today, two very disparate sort of issues. I hope we will be able to resolve them. I certainly hope that my colleagues will reconsider the actions which they took on the amendment when they were here when they were instructing the conferees. It does not represent certainly the will of the majority of the people in the conference.

I hope that they will look carefully at another proposal which is much like it but I think more in tune with the Americans With Disabilities Act that is being presented or will be presented by our colleague from Utah.

Finally, Mr. President, I want to say something about another person who continues to be the champion of people with disabilities, and that is the former majority leader, now the minority leader, the Republican leader of this body.

BOB DOLE continues to surprise everybody by the many seemingly small and certainly not well-publicized ways in which he, not only in his daily personal life but in his life as a political leader in this place, is demonstrating not only the rights of persons with disabilities. And I have had the opportunity in many kind of quiet ways to watch him at work and to see him do it. I see him land in the middle of these impossible conferences and walk up a key time, put people together, and solve problems.

So it will not be a complete testimonial to those in this body who have striven for an awful long time to bring civil rights guarantees to people with disabilities unless we were to credit the senior Senator from Kansas with being the person who today in this body most represents the rights of persons with disabilities.

Having said that, Mr. President, and I compliment my colleague from Iowa once again for his leadership and able assistance in making that leadership possible, I yield the floor.

I suggest the absence of a quorum.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. HARKIN. I ask unanimous consent that Senator HATCH be recognized to offer a perfecting amendment to the pending motion; that there be 80 minutes, equally divided, for debate on the Hatch amendment; that upon the completion of yielding back of the time on the Hatch amendment, the amendment be laid aside and Senator HELMS be recognized to offer a second perfecting amendment to the pending motion; that there be 80 minutes equally divided for debate on the Helms amendment; that upon the completion of yielding back of time on the Helms amendment, the Senate, without any intervening action or debate, proceed to vote in the following order: the Helms amendment; second, the Hatch amendment; third, the Ford motion to recommit as amended, if amended; and that hopefully will be by voice vote; that the agreement be in the usual form; and that no other motions or amendments be in order.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Reserving the right to object, it is my understanding that both sides will be given 80 minutes, and my amendment will be called up first, with 80 minutes equally divided, with no amendments thereto, no motions thereto, and then the Helms amendment will be called up under the same terms and conditions, and then at the end of the expiration—his will have 80 minutes as well—of the time, assuming some will be yielded back, then we vote, first, on Helms and, second, the Hatch amendment; is that correct?

Mr. HARKIN. That is correct, yes.

Mr. HATCH. There will be no motions to table either of these, and there will be up-or-down votes back to back. That way our colleagues will have time to know when these amendments are going to come up.

Mr. FORD. Reserving the right to object, Mr. President, the final vote on the recommittal motion will be up or down or a voice vote, as amended, if amended?

Mr. HATCH. Right. Is that all right?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. I want to inform my colleagues that I do not intend, nor do I think anybody on this floor intends, to take the full 80 minutes on the Hatch amendment. I want to explain it so that everybody will know it, and the Senator from North Carolina may take some time on it, and I suspect we will not take the full 40 minutes of our time on the Helms amendment either.

It should be less than the total of 160 minutes. So I inform our colleagues it is going to take 160 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2118 TO THE FORD MOTION

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2118 to the Ford motion.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the instructions add the following:

The conferees are instructed to include the following language in the conference report on S. 933:

"SEC. . (a) The Secretary of Health and Human Services, not later than 6 months after enactment of this Act, shall—

(1) publish a list of infections and communicable diseases which are transmitted through the handling the food supply;

(2) publish the methods by which such diseases are transmitted; and

(3) widely disseminate such information regarding the list of diseases and their modes of transmissability to the general public.

Such list shall be updated annually.

(b) In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of Health and Human Services under (a) which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

(c) Nothing in this Act shall be construed to preempt, modify, or amend any state, country, or local law, ordinance, or regulationj applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accomodation, pursuant to the list of infectious or communicable diseases and the modes of transmissability published by the Secretary of Health and Human Services.

Mr. HATCH. Mr. President, I am pleased that we now have the opportunity to take action on the conference report on the Americans With Disabilities Act. As a cosponsor of this important legislation, I am proud to have played a part in crafting this legislation. While I do not agree with everything in this bill I think there has been a tremendous effort to try to resolve the problems affecting the communities of persons with disabilities, persons and families and all others who are interested in these issues.

I think there can be no mistake that what is before us is a bill that has been subjected to many long hours of complex negotiations, first in the Senate and then in the House and then finally in conference. As such there has been much give and take which on balance produced a remarkably worthwhile piece of legislation which will provide an estimated 43 million Americans with disabilities, the fundamental rights to equal opportunity which everyone deserves.

Many individuals deserve credit for their efforts but more than anyone I recognize the genuine personal commitment of President Bush on this issue. The President made a genuine commitment from his heart to the citizens of our Nation with disabilities that legislation assuring them equal opportunity would become law. We are

now on the verge of seeing that commitment become reality.

In this bipartisan spirit, I recognize the outstanding leadership of the chairman of the Labor and Human Resources Committee, Senator KENNEDY, the ranking minority member of the Subcommittee on Disability Policy, Senator DURENBERGER, and subcommittee chairman, Senator HARKIN.

These congratulations also go to their respective staffs who have done a terrific job throughout on this bill.

Mr. President, time and time again those individuals with disabilities, with whom I have had the privilege to speak have stressed the fundamental desire to be granted the same opportunity to work and be independent as anyone else. They do not expect anything more. They do not ask for equal results, which is quite a contrast with the civil rights bill of 1990 which is currently before the Senate as well. They do not ask for these equal results. They only expect and deserve equal opportunity, and that is why I think this is a very good bill and that is why I support it.

Mr. President, the issue raised by both Congressman CHAPMAN and Senator HELMS regarding the ability of a restaurant owner to remove someone from a food handling position if they have a communicable or infectious disease has raised many tough issues to resolve for all Members of this body. I would like to briefly raise some of the concerns on the impact of the Americans With Disabilities Act on the public health impact of communicable and infectious disease.

There is no question that we, in Congress, want to protect all citizens from wrongful discrimination. At the same time, there are occasions when there may be a public health threat if we permit certain people with a communicable or infectious disease to expose or transmit the disease to others. The most important question we must pose is how certain diseases are spread and what are the risks of exposure.

In the 19th century, our Nation feared those with leprosy. Isolation was the only known preventive measure. Today, we know that that type of treatment is no longer necessary.

In the 20th century, polio struck with harsh vigor and our fears were only allayed when vaccines were introduced. Today, there are many infectious and communicable diseases that are transmitted in a variety of ways. For example, tuberculosis is transmitted by close contact for protracted periods.

Fear of disease can only be stopped when we all have an understanding of how the disease can be spread and how we can prevent the diseases' transmission. One important protection that our society has created is the development of local ordinances which protect the public from the transmission of diseases by certain workers in specific employment situations. These ordinances have been developed with the help of the Public Health Service at the Department of Health and Human Services to prevent the transmission of certain diseases. For years, these local regulations have provided citizens with protections based on our current understanding of the epidemiological makeup of various illnesses.

I have heard the arguments made by the proponents of this amendment that there may be economic reprisals against those restaurants that employ food handlers with an infectious or contagious disease. And, I have heard the discussion that the Americans With Disabilities Act will unravel and preempt those State laws which provide protections for our citizens against unwarranted exposure to communicable or infectious diseases.

To both of these, I have offered this amendment and my amendment would do three things.

First, it will require that the Secretary of Health and Human Services make available a list of all communicable or infectious diseases within a period of 6 months after the enactment of this bill. In addition to a listing of such diseases, require that the report detail the disease methods of transmission and, in particular, which diseases pose a risk by transmission and, in particular, which diseases pose a risk by transmission through the food supply.

This information should be updated annually because of our knowledge of disease transmission and the etiological aspects in disease transmission may change.

Finally, this listing will have massive distribution so that all Americans will have a greater understanding of how to prevent the transmission of certain diseases and how to treat those with infections and communicable disease.

Second, this amendment states that if an individual has an infectious or communicable disease on the list and is a food handler, that the employee may be reassigned.

Third, this amendment protects appropriate State and local public health ordinances.

Education can reduce fear. Understanding can allay concern. Americans are compassionate and they are a generous people. But, they need the facts. And I believe that we should give them the facts so that they can protect themselves and their families from the transmission of certain diseases. Our public health service has the expertise and the research capacity to provide Americans with this information and it should be broadly distributed. Requiring them to make such information available on communicable or infectious diseases is one way to ensure that there would be no reparations against those who would employ individuals' with infectious or contagious diseases that cannot be transmitted by certain employees conducting certain activities.

The final issue, and one that is more complex, is the legal question that arises over the preemption provisions contained in the Americans With Disabilities Act. The preemption provision is found under section 501(b) and reads:

(b) RELATIONSHIP TO OTHER LAWS.—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

I am concerned that this language may provide for the preemption of State and local ordinances which protect the public health. That is why I am proposing in this amendment that we clarify that nothing in this act shall be construed to preempt, modify, or amend any State, county, or local ordinance applicable to food handlers.

I urge my colleagues to support this amendment. It provides public health protections against diseases that can be transmitted through the food supply and it retains important local and State public health ordinances.

This is an important amendment. Basically, it is geared to do away with fear and prejudice that can be utilized against certain citizens where there is no justification at all for that fear. I do not think there is ever a justification for prejudice, but there is absolutely no justification for the fears that some of our citizens have with regard a misunderstanding of fact.

Second, this amendment places a premium on science. Under the amendment, we send a loud message that we are not just going to rely on blind fear as a basis for decision. Instead, we clarify that we are going to rely on the best available science, and that will be the obligation of the Secretary of Health and Human Services. I think that is an obligation, that he or she, whoever it may be, but certainly Dr. Sullivan will take very seriously and will apply the finest science available to determine what diseases should and what diseases should not be placed on this infectious or communicable disease list.

I think that is very, very important because up to now I have not seen science being used as a major basis for the determination of some of these issues. I think if we would rely more on science and a little less on fears and misperception we would be better off

as a society, as a nation, and there would be less prejudice. And, of even more importance, there would be fewer people hurt in the final analysis and ours would be a far better society.

Clearly, the real purpose of this bill is to provide a remedy for discrimination that has been exhibited against those with disabilities from time immemorial. The real purpose of this bill is to just give them a chance, to warrant their right and their franchise to be equal human beings. The real purpose of this bill is to give them the opportunity to participate like anybody else and to be able to earn their living and to be able to support themselves and to be able above all to be independent.

These are important issues. I think this bill solves them. This amendment includes the Chapman language. It includes the Chapman language. The only difference is that we do require the Secretary of Health and Human Services to come up with this list of infectious and communicable diseases based upon the best available science, not somebody's best available fears or somebody's best available prejudices or somebody's best available discriminatory actions. Science rules.

And, so we have the Chapman language in this amendment and we have added to it the State and local government preemption so that the State and local governments have the right to set their own standards within certain parameters. I think it is the right thing to do, in that sense, as a supporter, a prior supporter of the Chapman amendment, one who worried about whether we should support it or whether we should not, worried about the prejudice that amendment might result in, worried about the cost of that amendment and the cost in human suffering and sacrifice, and voted for it because on balance I considered it a public health amendment.

We have incorporated these public health concerns in here. We will have a list by the Secretary listing the real communicable and infectious diseases which will be prepared and disseminated so that everybody can know the facts. That is the way to do it.

I think this is a good, reasonable approach to resolve this issue and matter, and to do so without prejudice, without fear, without innuendo, without some of the invalid arguments that we have been used to hearing, I might add, at that, while still protecting the public health interests of the people of our Nation. This is unmistakably a public-health oriented amendment. It is not based on fear. It is based on sound science.

I hope our colleagues will consider it and will vote for it, because I think it will do virtually everything that the Helms amendment will do, and be much more fair in the process, or I would not have filed it to begin with.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DURENBERGER. Will the Senator yield me 10 minutes?

Mr. HARKIN. How much time do we have?

The PRESIDING OFFICER. Forty minutes.

Mr. HATCH. I will yield to the Senator.

Mr. HARKIN. I will yield to the Senator.

We will both yield to the Senator.

Mr. DURENBERGER. Mr. President, I thank my colleagues.

Mr. President, if you just walked into this body and watched the Senator from Utah work on one bill, it might be a little confusing to you. If you had been here the first time the ADA was around and the Chapman amendment was on the floor, the Senator from Utah voted against the Chapman amendment.

If you had been in the conference committee with us, Mr. President, you would have seen the Senator from Utah argue very, very strongly for the Chapman amendment language. The Chapman amendment language reflected a majority vote in the Senate. And what the Senator from Utah has said about it here today is important.

But today, he is strongly advocating the Chapman language with some changes. And it is a tribute to the Senator from Utah as the ranking member of the full committee, and I think we have seen him do this before, what is really important here is not just how he feels at this particular time about an issue, but how strongly he feels about the underlying issues in the bill.

The Senator from Utah feels very strongly about the work that went into ADA. He was not one of the original sponsors of the bill. He had differences of opinion with a lot of us on this bill. But the bill would not be here today as the civil rights bill for people with disabilities in America if it were not for the Senator from Utah.

So the Chapman language would not be before this body today in a vastly improved form from the one that went to the conference committee from either the House or the Senate if it were not for the Senator from Utah.

What the Senator has done is to take the so-called Chapman language and improve on it in the ways that he has already pointed out: Very specifically, instructing the Secretary of HHS, using the resources of the Center for Communicable Diseases and all the other resources. If he wants to use the National Academy of Sciences, he can do that. All of the resources that are available to us: The Centers for Disease Control, the American Public Health Association expertise, people from the Association of State and Territorial Health Officials, American Medical Association; all these people are involved with the process of making determinations about what kind of disease, what diseases are communicable and under what circumstances.

So the issue of what diseases are communicable, which present a significant risk in the area of food handling, we take it from the area of fear, we take it from the area of misperceptions, we take it from the area of a lot of the restaurant owners being concerned and upset, and some of them angry about the issues they favored, such as equal access, and we put it in the context here where, according to this amendment, those people now will help us all decide under what circumstances certain diseases may or may not pose a significant risk.

In the other issue, and here again a vast improvement on the Chapman language from either the House or the Senate, is the section which in the amendment of the Senator from Utah is subsection (c):

> Nothing in this act shall be construed to preempt, modify, or amend any State, county, or local law ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others * * *.

Et cetera. This is a very significant amendment. Where do you think a lot of the protection, particularly in the area of food handling, goes on today? It goes on at the local level. It goes on under the authority of State health officials, county health officials, municipal health officials.

> Nothing in this act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health * * *.

I think that section, too, Mr. President, is a very significant improvement on either the House or the Senate language.

I think those of us who opposed the Chapman language on the floor, who opposed the Chapman language in the conference committee, did so for a couple of reasons. One, because we know from those who stake their professional lives on knowing that the facts about contracting AIDS or other bloodborne diseases through the handling or preparation of food or beverages is very simply that AIDS is not communicated through the handling or preparation of food or beverages.

We have all seen the opinions of Dr. Sullivan, Dr. Bill Roper, and a wide variety of other people on this subject. And as all of us have said, the issue is an issue of public health policy. There are provisions in the Americans With Disabilities Act that protect the rights of restaurant owners and other persons to be able not to hire or to fire persons who have demonstrable communicable diseases.

So the ADA itself has built-in protection. But if you care about the issues of public health, you care about the fear that is potentially prevalent in America around the kind of prohibition that was in the original Chapman language.

You care about the fact that, in the presence of fear, a person who does test HIV positive is not going to seek any kind of advice or assistance, is not going to tell anybody about the result of that test, and the problems that the Nation would be faced with would be even greater than they are.

Mr. President, to be absolutely certain about the issue of the communicable nature of AIDS as it relates to food handlers and so forth, I also checked into other blood-borne diseases. Knowing that hepatitis B, for example, which is also a blood-borne disease and is known to be much more durable, a much more contagious disease than AIDS, I checked on the current policy for this disease as well. The Centers for Disease Control do not require, and actually recommend against, restrictions being placed on food service workers with hepatitis B. They do not believe that there is evidence to warrant such a policy. According to their records, there has never been a reported case of contracting hepatitis B through the handling of food. That is a much more long-lasting and a much more contagious, in that sense, communicable disease than is AIDS.

Past experience with other diseases like cancer, polio, and epilepsy has shown us that there is always fear and prejudice in the early stages of an unknown disease and that only education overcomes those fears and misperceptions.

Mr. President, this year we have spent, I believe, $360 million educating people about the facts of AIDS. What is most significant about the Chapman language is what it does to these efforts to educate people about AIDS, efforts to protect the public health and safety of all Americans.

I said earlier that the Chapman language is about public health, and, as a legislator, I had to ask myself what is in the best interests of protecting the public health of all Americans. After a full review of the matter, I would say the current language in the bill that allows an employer to fire or not hire anyone who poses a direct threat to the health and safety of others is a greater protector of the public health than that contained in the original Chapman amendment.

Finally, Mr. President, I would like to say a few things about the position of the Restaurant Association and others who support the original Chapman amendment and who, I hope, if they had time to read the Hatch language, would be supporting the Hatch language as well. Because I do believe they have pointed out a serious gap in our national efforts to educate people about the facts about AIDS. We spend $363 million on AIDS education, but most of that money, nearly 90 percent of it, is targeted to special populations for counseling, testing, partner notification, and so forth. Only 11 percent of the money is used to educate the general public, and even that is spent primarily on an AIDS clearinghouse and an AIDS hotline.

Mr. President, this is where I believe we need to focus our efforts. We need to do a better job of educating the general public about AIDS and the communicable nature—or the noncommunicable nature, where that is the case—of that disease. And we need to help people like America's restaurant owners, especially in our smaller cities, in their efforts to educate people about AIDS. I think this would be, in combination with the Hatch amendment to the ADA, a much more effective way to handle the problem and would not raise the discriminatory issues that the Chapman amendment does.

As one who opposed the original Chapman amendment while the Senator from Utah was favoring it, I suggest to all my colleagues in the Senate that the Senator from Utah has come up with another miracle and he has found a way to bring us all together around a very difficult issue about which there is much fear and an awful lot of misunderstanding. I hope those on both sides of the aisle and on both sides of the original Chapman language will support the amendment of the Senator from Utah because it takes the original intent of Chapman and strengthens it through the listing process, the authority to the Secretary of Health and Human Services, and it also particularly prevents the Federal preemption from being a problem as well.

I strongly urge the adoption of the amendment of the Senator from Utah.

The PRESIDING OFFICER (Mr. CONRAD). Does the Senator from Minnesota yield the floor?

Mr. DURENBERGER. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield whatever time the distinguished Senator from North Carolina needs.

Mr. HELMS. Mr. President, I have a parliamentary inquiry. The unanimous-consent agreement to which I agreed specified 80 minutes equally divided. Was a different unanimous-consent agreement agreed to?

The PRESIDING OFFICER. The unanimous-consent agreement provided for 80 minutes on each amendment, to be divided equally between the two sides in the usual form.

Mr. HELMS. I thank the Chair. So what the Chair is saying is that I have 40 minutes on the Hatch amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. By the same token, Senator HATCH would have 40 minutes on my amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Mr. President, I yield myself such time as I may require.

I believe Senator NICKLES may be on his way to the floor and perhaps Mr. ARMSTRONG, Mr. WALLOP, Mr. COATS, Mr. BURNS, Mr. GRAMM, and others who were cosponsors of the original effort to preserve the Chapman amendment.

I was very interested in listening to my dear friend from Utah, and he is my friend, Senator HATCH, when he identified three things which he said his pending amendment does. But he neglected to mention a fourth thing that his amendment will do. It will gut the Chapman amendment. For the purpose of emphasis let me repeat: It will gut the Chapman amendment, render it totally nugatory, which I will demonstrate a little bit later.

Bear in mind that the Senate went on record, by a vote of 53 to 40, to instruct the Senate conferees to preserve the Chapman language, which was then in the House version of the ADA legislation. The Senate conferees, perhaps not all that surprisingly, paid no attention to the Senate's instructions, and the Chapman amendment was dropped by the conferees.

Let me say Senator HATCH voted to preserve the Chapman amendment, as did the distinguished Senator from Iowa [Mr. HARKIN], and I am grateful to them.

This amendment, let me say again, will gut the Chapman amendment. It is cleverly drawn, but I have a habit of reading the fine print in pieces of legislation around this place. I say again, for Senators who may be listening, or their staffs, if the Hatch amendment is approved, then the Chapman amendment is dead.

What did the Chapman amendment say, the amendment that this Senate approved by a vote of 53 to 40? Let me read it. It says:

> It shall not be a violation of this act for an employer to refuse to assign or continue to assign any employee with an infectious disease or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage.

I do not know how that is discriminatory.

Mr. President, when the time has expired on the Hatch amendment, I am

going to offer an amendment which will preserve the Chapman amendment. My amendment will instruct the conferees, once more, regarding the Americans With Disabilities Act, to adopt and accept an amendment which is vital to the well-being of the American restaurant industry, the American meat packing industry, the American convenience store industry, and the American beverage industry.

But more important, it will address a concern that exists throughout this country. When the Americans With Disabilities Act was debated in the House of Representatives, that body adopted an amendment offered by the distinguished Congressman from Texas, Mr. CHAPMAN. As I have just indicated by reading the Chapman amendment it would allow employers to transfer an employee with AIDS or HIV out of a food-handling position into another job not involving contact with food.

Let me pose a question to the Chair and any Senator who may be interested or anybody who may be watching these Senate proceedings on C-Span. If you knew that the chef of a restaurant which you have been patronizing had AIDS, would you go there? Rightly or wrongly, would you stop going there? I have taken a little poll just this afternoon among people going in and out of the Cloakroon and unanimously they said they would stop. One young man said that his parents stopped patronizing a delicatessen for that very reason. Although they do not know whether AIDS is communicable, because of the hysteria whipped up around here they have been led to believe AIDS is everywhere. They will acknowledge that.

Just suppose a chef in a restaurant who has AIDS or is HIV positive is chopping up a salad and he cuts his finger. Do you want to eat that salad? I would like to poll the people in this Chamber and see whether they would nor not. Restaurants have closed because the patronage dropped to nothing.

Under the provisions of the Chapman amendment, which the pending amendment by Mr. HATCH would destroy, the new position given to this employee with an infectious or communicable disease, specifically AIDS or HIV, must be one for which the individual is qualified and for which the employee would sustain no ecomomic loss.

The owner of the restaurant cannot fire him, but he can transfer him to a job in which he does not handle food. You can call it hysteria all you want to, but you better believe that the vast majority of people who eat in restaurants do not want to have their food prepared or handled by people who have AIDS or who are HIV positive.

Why was the Chapman amendment justified? I think that answer is obvious. In the ADA legislation, as presently drafted, an employer, like an operator of a small restaurant, cannot transfer an employee out of a food-handling position unless that employee poses a significant risk to the health and safety of others.

In the instance of AIDS, there are some who contend that the employee with AIDS or HIV would not pose a significant risk to the health and safety of others because AIDS is supposedly—as far as science knows right now—unable to be transmitted through food. The scientists also do not believe that AIDS is communicable by food, drink, or casual contact. They call that conventional wisdom. The conventional wisdom can't even say why many thousands of American have AIDS. I do not want to go to that convention. I do not want to take the chance. I do not want to put the restaurant operators under that gun, and I certainly do not want to put their customers under that gun.

In other words, Mr. President, just try to explain that reasoning to John Q. Public. It may be wrong or it may be right. Nobody knows, and that is the point. They say as of now we do not think it is. Senator HATCH will come back and say there is no evidence. Maybe not, but I say to him, explain it to John Q. Public. Explain it to the operator of the restaurant. Why not err on the side of the people?

People who operate eating establishments, dining establishments in this country, know their livelihood is dependent largely on public perception. If the public is led to believe that there is a health risk, the business will be destroyed. There is no question about it. This has already happened, and I will allude to that later on.

The reality is that restaurant patrons are alarmed about the spread of AIDS. And well they should be. There has been much publicity and much oratory, political in nature, about the so-called AIDS crisis. It is understandable that the people are concerned about it. I am concerned about it. I think anybody who is honest will say that he or she is concerned about it.

It is remarkable, Mr. President, I think—and get this—that the Health Services Division of the Bureau of Prisons prohibits prisoners who are HIV positive from engaging in any aspect of prison food service operations. They cannot do it. The prison bureau says that the provision is necessary because of the strong perception among the prisoners of HIV carriers handling food.

So what Senator HATCH. is proposing to do here is to let prisoners get along without having HIV positive people preparing food, or people with AIDS, but the American public is not supposed to know and the restaurant operators are not supposed to have the right to transfer out of the kitchen into another job—not handling food—an employee presently working in the kitchen who may cut his finger or otherwise contaminate the food.

The point is that both Houses of Congress—the House of Representatives and the U.S. Senate—have gone on record in support of the Chapman amendment. But the Senate conferees and the House conferees, for that matter, deliberately ignored the will of the House of Representatives and the U.S. Senate when they went into conference. They knew better than the Members of the Senate; they knew better than the Members of the House of Representatives.

As a matter of fact, one conferee was quoted as saying that the vote on this issue was "basically meaningless." That is what he said in conference. When he was leading the conferees from the Senate, the same Senate which by a vote of 53 to 40 had said uphold the Chapman amendment in conference, he said, oh, it does not matter; I do not want this in here; the Chapman amendment is basically meaningless.

I am not going to say that is arrogance. I will let each Senator make his own judgment about that.

In any case, that Senator, I think, would have a hard time explaining to the small convenience store operator that this amendment, the Chapman amendment, is meaningless, or the farmer or the meat packer.

I would like to see him tell the American consumer that this provision, the Chapman amendment is meaningless. Of course it is not meaningless. It is a matter of survival for many, many restaurant operators.

Let me put it in the form of a question again. How many people would be willing to frequent a restaurant whose chef has AIDS or who is HIV positive? You do not need a calculator for that one. They will stay away in droves. I can hear the rumors: do not go down to Joe's cafeteria. The chef has AIDS.

What are the customers going to do? You know what they are going to do. They are going to stay away from Joe's place and go to another restaurant.

You see, Joe, under this bill, and specifically under the Hatch amendment, will not have the right of proprietorship to transfer a food worker in his establishment out of a job handling food into a job in which he does not handle food.

I do not know what point anybody is trying to make but it certainly is not a realistic one, because there is nothing hypothetical about what I am saying, nothing at all.

There is a restaurant in Milwaukee which once was the most popular restaurant in that city, but that restaurant lost almost all of its customers after the restaurant's former owner,

its manager and chef died of AIDS In 1987. People stayed way from the restaurant in droves, and down the restaurant went, bankrupt. Employee health insurance tripled at another restaurant after two of its seven employees were diagnosed as having AIDS-related viruses.

In Eagle, WI, an establishment known as the Inn of the Four Seasons shut its doors last September. That was the end. The owners testified that customers began staying away more than 2 years ago when a false or persistent rumor spread that the owner had AIDS.

So that is why I am convinced that the Chapman amendment strikes a sensitive balance. It is fair. It ought not to have been mutilated and destroyed in conference.

It was passed by the House of Representatives. It was passed by the Senate. All it does is allow employers in the food service industry to respond to current public health concerns by transferring an employee with AIDS, or any other communicable disease for that matter, to an alternative position with no reduction in pay, thereby avoiding any hint of discrimination against carriers of AIDS or those who have other communicable diseases by allowing them to maintain their job and their dignity.

What is wrong with that? I tell you what is wrong with it. The know-it-alls in the Senate want to say to that restaurant, we do not care whether you go out of business or not. We are going to force you to keep that guy in the kitchen.

That is what this bill does. This is what, I am sorry to say, the amendment of my friend from Utah does. If he wants to debate what his amendment says or what it does not say, I will be glad to do that. But he has acknowledged to me in our negotiations on this matter that his amendment does not include AIDS, which makes it a noncommunicable disease in the eyes of HHS. There is no mistake about what will happen if the Hatch amendment is adopted and the Helms amendment is not, because the Helms amendment, which I will offer subsequent to consideration of the Hatch amendment, will reinstate the meaning and the intent of the Chapman amendment from the House of Representatives.

Mr. President, how much more time do I have?

The PRESIDING OFFICER. The Senator has 19 minutes and 10 seconds.

Mr. HELMS. Let us wind up by just identifying who supports the Chapman language, the Chapman intent, the Chapman purpose, which I will reinstate with an amendment that I shall offer after this Hatch amendment has been considered.

The Chapman-Helms proposal has the support of business groups representing over 1 million people in the food service industry. This list includes but is not limited to the following: The National Restaurant Association, the National Federation of Independent Business, the Food Service and Lodging Institute, the National Association of Convenience Stores, the National Turkey Federation, the National Broiler Council, the International Foodservice Distributors Association, the National Licensed Beverage Association, the American Meat Institute, the National Association of Meat Purveyors, the W.R. Grace Co., and on and on.

Mr. President, I ask unanimous consent that two letters from the National Restaurant Association supporting my amendment, a letter from the National Federation of Independent Business, which by the way has declared that this will be one of its key votes in this congressional session, a memorandum from the Bureau of Prisons on its food handling policy, plus an editorial from the Orlando Sentinel supporting the Chapman-Helms amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, July 11, 1990.

Hon. JESSE HELMS,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HELMS: The National Restaurant Association has just learned that a proposal to modify the Chapman foodhandlers amendment may be offered when the motion is made to recommit the Americans with Disabilities Act to conference. I want to put the association on record in the strongest possible opposition to this effort.

What we understand to be the substantive effect of this modification is a simple gutting of the Chapman language. It does absolutely nothing to protect a restaurateur who is faced with the tragic circumstance of a chef, waiter or other foodhandler who has a serious infection or communicable disease such as AIDS. The modified language will not permit the employer to transfer the employee to a non-foodhandling position without exposing him to civil rights litigation. It will ultimately result in business failures and loss of jobs because restaurant employers' hands will be tied in their ability to deal reasonably with workers afflicted with certain communicable diseases.

What is most disturbing, Senator Helms, is that language very similar to that now being offered was proposed several weeks ago to the National Restaurant Association by staff of the Senate Labor and Human Resources Committee who admittedly described it as "smoke and mirrors." They suggested that it might be good enough to convince our industry members that we had actually achieved a compromise that protected their businesses from jeopardy. Needless to say, the offer was rejected because it was meaningless language that didn't change the real effect of the bill.

Please hold the line on the Chapman amendment and convey our strong sentiments to your Senate colleagues. Thank you for all your help.

Sincerely,

MARK GORMAN,
Senior Director, Government Affairs.

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, June 26, 1990.

THE CHAPMAN AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT

"FOOD HANDLING JOBS.—It shall not be a violation of this Act for an employer to refuse to assign or continue to assign any employee with an infectious or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportuntiy for which the employee is qualified and *for which the employee would sustain no economic damage.*"

DEAR SENATOR: Yesterday, the Chapman amendment was stripped during conference committee action on the Americans with Disabilities Act, S. 933. The motion to eliminate the amendment from the bill was made by the Senate conferees less than three weeks after the full Senate voted to instruct them to *accept* the Chapman language.

The ADA conference report is expected to be on the Senate floor for consideration before the end of this week. At that time, Senator Helms plans to introduce a motion to recommit S. 933 to the conference committee with instructions to include the Chapman language.

The National Restaurant Association strongly supports the Chapman amendment, which passed the House by a vote of 199 to 187, as well as Senator Helms' continued efforts to encourage the conferees to respect the will of the Senate majority. *Your support of the Chapman foodhandlers amendment and the Helms motion to recommit is critically important to the foodservice industry.* The National Restaurant Association supports the concept of the ADA bill, and does not seek to derail this landmark legislation. There is no need to delay final passage of ADA any longer than it will take to retype Section 103 of the Act to include the Chapman language and send it back to the Senate floor.

On behalf of the National Restaurant Association, thank you for your consideration of this important issue.

Sincerely,

MARK GORMAN,
Senior Director, Government Affairs.

VOTE TO RECOMMIT THE ADA CONFERENCE REPORT

Dear SENATOR: The over 500,000 members of the National Federation of Independent Business (NFIB) strongly support the motion to recommit the ADA conference report with instructions to retain the *food handling amendment.*

The food handling amendment permits employers to reassign food handlers with communicable diseases to other positions *with no loss of pay or benefits.*

This is *not* a civil rights issue. Instead, it is a *fair* solution for everyone. If provides protection for those with communicable diseases *and* for small business owners facing the loss of their customers, their business, and the jobs of their other employees because of the public's health concerns.

Just three weeks ago, the Senate voted 53-40 to instruct conferees to accept this important amendment. The amendment had passed the House by 199-187. However, the

conferees are choosing to ignore these votes. *Do not make your small businesses pay the price for their actions.*

Vote to recommit the ADA conference report. This vote will be considered a "Key Small Business Vote" for the 101st Congress.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

FEDERAL BUREAU OF PRISONS

Date: November 30, 1989.
Subject: Human Immunodeficiency Virus (Treatment/Prevention).
Cancellation Date: September 30, 1990.

OPERATIONS MEMORANDUM

I. *Purpose:* To affect changes in Operations Memorandum 99-88 (6100), September 28, 1988, Human Immunodeficiency Virus (HIV).

II. *Operations Memoranda Rescinded:* O.M. 99-88 (6100) Human Immunodeficiency Virus.

III. *Directives Referenced:* P.S. 5214.3 Procedures for Handling of HIV Positive Inmates Who Pose a Danger to Others; and P.S. 5050.41 Procedures for the Implementation of Title 18, Section 4205 (g).

Rules cited in this Operations Memorandum are contained in 28 CFR 541.60 through 541.68 and 549.10 through 549.18.

IV. *Background and Definition:* The prevention and treatment of HIV service to restrict the dissemination of the disease and to improve the quality of life for those suffering from it. The devastation of this disease for the individual, physically, socially and economically has produced an urgency in the pharmaceutical and medical communities for effective treatments. The end to this search will be methods of eradicating or placing in remission the disease and the production of a vaccine to prevent its transmission.

The treatment protocols and modalities are constantly changing. The goal of the Bureau of Prisons is to provide information and to guide the health services units in the current procedures and treatments. It is not the intent to direct clinical judgment nor to mandate specific regimens of treatment. The rigidity of such a structure in light of this disease could only hamper the treatment and care effort.

V. *HIV Treatment Monitoring:* It is imperative that close monitoring of HIV positive inmates is maintained, with particular attention to T-4 counts. Clinical evaluation and review for HIV positive inmates shall not be less frequent than once a month.

Pharmaceuticals approved by the FDA for use in the treatment of AIDS and HIV infected inmates will be offered at the parent institution when indicated. If, in the opinion of the medical staff, the patient requires hospitalization, a request for medical transfer shall be submitted through the medical designator in the Central Office. Males shall ordinarily be referred to the United States Medical Center for Federal Prisoners in Springfield, Missouri, and females shall ordinarily be referred to the Federal Correctional Institution in Lexington, Kentucky.

VI. *Transfer of HIV Infected Cases:* If an HIV positive inmate is being transferred, the accompanying BP-MED-71 shall note in the special instructions section: "Blood and Body Fluid Precautions." For HIV positive inmates being transferred to other jurisdictions, e.g. state or county facilities, a letter shall be sent to the Director of that facility, (See Attachment "A") in addition to, but separate from the BP-MED-71.

VII. *Intake Screening:* During routine intake screening, all new commitments shall be interviewed to identify those who may be HIV infected. The questions should address specific symptoms such as thrush, fevers, night sweats, cough, unexplained weight loss, lymphadenopathy, diarrhea, etc. Inmates identified in this manner shall be tested as clinically indicated.

VIII. *Housing:* With the exception of policy outlined in P.S. 5214.3 "Procedures for Handling of HIV Positive Inmates who Pose Danger to Others", there shall be no special housing or quarantining established for HIV positive inmates.

IX. *Work Assigments:* HIV antibody screening shall not be performed as a criterion for work detail assignments. However, known HIV positive inmates shall not be assigned to Food Service or the Hospital. This policy is established to maintain order within the institution. Under normal circumstances, (casual, work place) there is no possibility of viral transmission.

X. *Communal Implements:* Toothbrushes, razors or other personal implements that could become contaminated with blood shall not be used by more than one inmate. Multiple use items such as bandage scissors, barber equipment, etc. shall be washed in warm soap water, agitated in disinfectant for not less than 15 seconds then dried with a clean cloth following each use.

The Centers for Disease Control believe the virus cannot be easily transmitted through communal use of these instruments; however, the Bureau of Prisons has determined that reasonable precautions should be taken.

XI. *Syringe and Needle Precautions:* In accordance with CDC recommendations: "All health care workers should take precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles; and when handling sharp instruments after procedures. To prevent needle stick injuries, needles should not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades, and other sharp items should be placed in puncture-resistant containers for disposal; the puncture-resistant containers should be located as close as practical to the use area. Large bore reusable needles should be placed in a puncture-resistant container for transport to the reprocessing area."

XII. *Infection Control:* The cleaning of contaminated equipment shall be done as outlined in the communal implements section. Each work area and living unit in the institution shall maintain a sufficient quantity of disposable gloves, disposable airways/CPR masks and gauze dressings. The disposable gloves shall be used only when indicated, i.e., to handle surfaces contaminated with blood or body fluid products. Indiscriminate use of disposable gloves is unnecessary and is viewed as contradictory to HIV education.

Blood/body fluid spills shall be cleaned up using germicidal disinfectants. The Health Service Administrator is responsible for resupplying the items, listed in section XII, to the various areas. Linen soiled with blood/body fluids should be placed and transported in leak proof bags. The linen should be washed in hot water with detergent at a temperature no less than 160 degrees Fahrenheit for 25 minutes. If the washing machines cannot reach or sustain 160 degrees then a detergent suitable for low temperature washing shall be used.

XIII. *Counseling:* Inmates or staff receiving the HIV antibody test shall receive pre and post test counseling, regardless of the test results. Pre and post test counseling shall be the responsibility of the institution provider staff. In addition, all inmates that test positive shall be referred to the psychology department for follow-up counseling. Pre and post test counseling should address the limitations of the test, i.e., the inability to detect early infections, false positives, false negatives, the possible need for additional testing as well as the complications and consequences of a negative and positive test result.

Inmates that test positive shall also be counseled about the disease process, how to maintain their health, and how to avoid transmission to others. Pregnant females that test positive shall also be advised of the likelihood that the virus will be transmitted to the fetus.

XIV. Early Parole Consideration: Inmates who are seriously ill as a result of their HIV infection should be reviewed for early parole consideration pursuant to 18 USC section 4205(g) and 3582(c) if they are not currently eligible for parole. These requests must be handled pursuant to the provisions of Programs Statement 5030.41 dated October 15, 1983.

XV. Costs of Therapy: The costs incurred by each institution and facility for pentamidine, AZT and T-4 testing shall be charged to special project code 02-B-350-400-84U-(appropriate sub-object).

The costs connected with the ELISA and Western Blot testing are to be charged to 02-B-350-400-11U-(appropriate sub-object).

XVI. Autologous Blood Banking: As a matter of general consideration the practice of autologous blood banking for an inmate is not feasible due to the constraints of the security required for the escorted trips, the limitations of storage and the costs entailed. The existing supply of blood and blood products available for transfusion have been deemed safe.

XVII. Coordinator of Infectious Diseases: The Health System Administrator at each institution is ultimately responsible for the success of the HIV program. The HSA shall, however, select a member of the medical staff to serve as Coordinator of Infectious Diseases (CID). The CID shall monitor compliance with all policy concerning infectious diseases. It is also the CID's responsibility to monitor HIV testing, treatment and education of inmates and staff.

KENNETH P. MORITSUGU,
M.D., M.P.H.,
Assistant Surgeon General, Health Services Division.

A NECESSARY AIDS PRECAUTION

In the past 10 years, AIDS researchers have learned that this deadly disease cannot be passed on through casual contact. AIDS is a virus that is transmitted directly through the blood. So should restaurants move food-handlers to other jobs if they are infected with AIDS?

Sen. Edward Kennedy says no. He's fighting attempts by House members to allow restaurants to do this. Mr. Kennedy says moving food-handlers to other jobs is discriminatory.

But the issue here isn't discrimination. It's public health. And that's why restaurants

should be allowed to move AIDS infected food handlers to other jobs.

Remember, the risk from AIDS comes when a person infected with the disease has an open wound. The possible threat here, then, is that a cook, waiter or other food-handler with AIDS would cut himself or herself and have that blood contaminate food. Would it be possible for a restaurant patron who has a small cut in the mouth to get infected by unknowingly eating that contaminated food?

Who knows? And therein lies the problem. Indeed, no one really knows how much contaminated blood it takes to pass on the disease.

In any case, AIDS experts have recommended that, in absence of hard facts on quantities, people should proceed cautiously. That's why the U.S. surgeon general and other health experts have suggested that schools let children with AIDS stay in school so long as they don't have open sores or display aggressive behavior, like biting. That's an appropriate response.

Likewise, moving food-handlers who have AIDS to other jobs should be a necessary precaution that in no way suggests hysteria or overreaction.

Another thing to remember is that the AIDS virus shuts down people's immune systems, making them more susceptible to other communicable diseases like hepatitis and tuberculosis.

Unfortunately, Mr. Kennedy has mistaken a legitimate public health issue for one of civil rights.

Mr. HELMS. Mr. President, I reserve the remainder of my time. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I do want to clarify a couple matters. First of all, my amendment includes the Chapman amendment. It does not gut the Chapman amendment.

It does do one thing differently. It requires the Secretary of HHS to list the infectious and communicable diseases based upon the best available science.

Now, that is a significant difference, but I hardly think it guts the Chapman amendment. All it says is let us use science. Let us not use conjecture. Let us not use somebody's feelings, fears, or misperceptions. Let us use science.

I have no doubt that the Secretary of Health and Human Services will take that particular suggestion very seriously, because the public health of our country depends upon him doing the very best job that can be done using the best available science. That is hardly gutting the Chapman amendment. As a matter of fact, I think it strengthens the Chapman amendment.

Now, with regard to AIDS, let us be honest about it. The distinguished Senator from North Carolina wants to exclude AIDS. I think such a decision should be based upon science, as is required in my proposal, because HIV infection will have to be examined along with every other infection. If it is communicable or infectious, then it will be covered, and it will have to be on that list. If it is not, it will not be covered and under those circumstances, should not be on the list. Why, simply because people should not be discriminated against if they are no health hazard? Period.

Now, my point is if it is a health hazard, it will be covered. It will be up to the Secretary to put it on that list. It will be incumbent upon him to put it on that list, and he will.

The difference between the approach of the distinguished Senator from North Carolina and mine is that he would put it on the list whether it is infectious or not, whether it is communicable or not, as he admits, based mainly out of fear rather than fact. I am not willing to do that. I am only willing to put truly infectious and communicable diseases on the list of the distinguished Secretary of Health and Human Services. That is the way it ought to be. That is exactly the way it ought to be.

Mr. President, this does not gut that amendment. It makes it better. It makes it more scientific. It makes it more medically oriented. It does away with prejudice. It does away with people's skeptical approaches. It does away with people's fears and it says let science govern, which is the only way to do it.

It also does another thing. It really puts in this bill language that says that real communicable and infectious diseases are covered in a way that permits a restaurant owner or a food-handling business to remove those persons from handling the food. All I am saying is let us believe in science, let us not believe in the courts.

Let me give you an illustration. If the Helms amendment passes and this one does not, the only way that you could keep HIV out, it seems to me, is to go to the courts. That is 2, 3, 4, 5 years away.

If HIV is infectious and communicable, it will be kept out immediately, within 6 months, by my amendment. My amendment makes medical sense, it makes scientific sense, and makes sense from a civil rights and moral standpoint. It makes sense from a nonprejudicial standpoint.

I have to say that infectious or communicable diseases that are transmitted through the food supply are on the list, period. If that is gutting Chapman, something is wrong here. What it says is let us believe in science, and let us let the best science tell us what is right and what is wrong. Let us not leave it to the courts. They are not equipped to judge science and what should and should not be considered an infectious and communicable disease.

I might add, with all due respect to my esteemed colleague from North Carolina, there is not anybody in this body that I know of who is equipped to say what should or should not be on that list—no one.

So why should we not put it in the hands of those who are equipped to tell us what should be on that list and thus equipped to stop discriminatory conduct against those who should not be on that list?

That is what is involved here. This is a civil rights bill. Look, everybody knows that after this bill is through, we go to the Civil Rights Act of 1990.

The principal proponent happens to be the distinguished Senator from Massachusetts, who is a principal proponent of this bill, along with the distinguished Senator from Iowa. Both of them are principal and distinguished proponents of that bill.

The principal opponent of that bill, outside of the White House, happens to be the Senator from Utah. The fact of the matter is I disagree with some of the aspects of that bill which I think discriminate against people. I stand up on these issues. It is not easy to stand up on civil rights issues. This is a civil rights issue where we ought to have science decide it, not courts that are ill-equipped to decide it, and not Senators who are ill-equipped to decide it.

Let us get the best science we can and live by it. If HIV is infectious, if HIV is contagious, then HIV will be on the Secretary of HHS's list based upon science, not somebody's speculation. If it is not, it should not be on that list and people should not be discriminated against because they may have a virus that some in this society did not cause themselves to come upon themselves.

Do we have to revisit the whole issue of AIDS? Because, if so, I think of Elizabeth Glaser who got it through a blood transfusion. I also think of the beautiful lady that Senator HELMS' office had me meet who was exposed to the HIV virus because a doctor did not tell her that her husband was bisexual, that he had AIDS. Should she be discriminated against? Should Elizabeth Glaser be discriminated against? Should some teenager who got it because his mother got it through a blood transfusion be discriminated against? The answer to that is no, not unless science says it is infectious and communicable.

If the distinguished Senator from North Carolina believes that it is, then maybe science will back him up. If it does, I will be the first to stand up and say it should be on that list. But now, I am not going to do it as a nonscientific expert. I do not think the distinguished Senator from North Carolina should do it as a nonscientific expert, as bright as he may be.

Look, this is an important issue. This is an issue about whether the Americans With Disabilities Act is going to be a bill against discrimination. That

is what it is. This is an important issue.

This list that will be developed will be widely disseminated, and circulated among citizens all over this country so that everyone will have the facts. That is why this amendment makes sense. It adopts Chapman, and the best aspects of Chapman. The only thing that it adds is to let the scientists tell us what are the communicable and infectious diseases, and let us live by science and not conjecture. Let us live by equal rights, not discrimination. Let us live by what is the right thing to do, not the wrong thing to do.

If we go with the distinguished Senator from North Carolina, he would exclude HIV just because of the fear. He would say we should permit such exclusions because people are afraid even if there is no medical basis for that fear. But, I submit, we have to educate our people, and the only way to do that is to do what is right—do what is right.

That is why the Hatch amendment is such an important amendment because we are trying to do what is right. If HIV fits, if HIV is communicable, if it is infectious, and the best science tells us that it is, not nonscience, but real science, then it will be on that list. If it is on the list, that is the way it should be.

I reserve the remainder of my time.

Mr. DOLE. Mr. President, will the Senator yield some time?

Mr. HATCH. I yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I have listened carefully to the Senator from Utah, and I think the Senator from Utah as well as this Senator voted not to table the Helms amendment initially. Like the Senator from Utah, I am trying to find some way out of it now, some way to satisfy the real concern, and the real concern being whether it is infectious and communicable as opposed to what might be based on fear.

Also as one who does not want to hold up the ADA bill after months and months and months wanting it to move forward, I wanted to ask the Senator from Utah a couple of questions because I have some concerns about the Hatch amendment which I would like to support.

If I could have the Senator's attention, the question is I understand that HIV is not infectious and communicable; is that right? AIDS is not infectious or communicable?

Mr. HATCH. I have a letter in my possession from the Secretary of Health and Human Services which I ask unanimous consent to be placed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, May 1, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House of Representatives is preparing to take legislative action on the Americans with Disabilities Act (the Act), I wish to restore my position on the need for anti-discimination protection for people with AIDS and HIV infection. There is strong evidence that bloodborne infections such as HIV infection are not spread by casual contact, and there is no medical reason for singling out individuals with AIDS or HIV infection for differential treatment under the Act.

While some proposed that workers who handled food be treated differently under the Act, evidence indicates that bloodborne and sexually-transmitted infections such as HIV are not transmitted during the preparation or serving of food or beverages. Food services workers infected with HIV need not be restrcited from work unless they have other infections or illnesses for which any food service worker should be restricted. Since the Act limits coverage for parents for persons who pose a direct threat to others, relaxing the anti-discrimination protection for food service workers is not needed or justified in terms of the protection of the public health.

Further, I would add that any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health. We need to defeat discrimination rather than to submit to it. The Administration is strongly committed to ensuring that all Americans with disabilities, including HIV infection, are protected from discrimination, and believes that the Americans with Disabilities Act should furnish that protection.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.,
Secretary.

Mr. HATCH. It indicates that it is not at this point, that science does not believe it is, and I know of no one in science who believes that HIV is infectious or communicable in food handling.

Mr. DOLE. The broader point is, will this be looked at by the Secretary of HHS and by the scientific experts or do we need to do as Senator HELMS proposes in an amendment to modify the Hatch amendment, add the words "including human immunodeficiency virus?" Does that add anything by adding those words? Will you be protected without adding those words? Will there be a review?

Mr. HATCH. That is a good question and I think one that should have been asked.

Under my amendment all infectious and communicable diseases will have to be reviewed, including HIV. They have to be reviewed in light of the requirements of the Chapman amendment with regard to food handling. HIV will be reviewed. The Secretary of HHS have to review it, and, if he finds it infectious and communicable, it will be on the list.

There is an annual review. This is not just something that sporadically occurs. So if any issue arises with regard to that, shows it is infectious and communicable, it will go on the list, and it will be one of the important protections.

Mr. DOLE. I am advised that it may not be infectious but may be communicable. There are certain conditions. I assume the case would be that they would look at whether it might be communicable through the food supply or any other condition; is that correct?

Mr. HATCH. Yes, that is what the amendment intends to do. It does not want to exclude any infectious or communicable disease. We limit it regarding food handling, because that is the issue involved here. If it is not infectious and communicable with regard to food handling, it will not go on the list. If it is, it will. HIV will have to be reviewed by the Secretary like any other infectious or communicable disease.

Mr. DOLE. Point 2 of your amendment, "to publish the message by which such diseases are transmitted," it would seem to me it would be better to have the words "may be" transmitted, because we do not know. If you have to clearly demonstrate and you have to have all the evidence, I think that would be an unfair burden on the Secretary or on anyone else. I do not know what damage it does to substitute the words "may be" for the word "are."

Mr. HATCH. I suggest that they are legal terms of art which do have a significance.

Mr. DOLE. A-r-e could be a legal term of art.

Mr. HATCH. Ours says basically it has to be infectious and communicable. Let us be honest, this is a stringent list.

Mr. DOLE. I know it is going to be stringent. I am trying to find a way to help the Senator from Utah. I cannot see that we would do any violence by taking that one word, "are" in paragraph 1 and deleting that word and putting in the words "may be." I am not sure to what extent one could ever determine absolutely if they are transmitted. But, maybe so. Maybe I do not understand the scientific process.

I think that is a point we ought to consider, I say to the Senator from Utah. Maybe that can be done before we finally vote on this.

I do believe, having said that—and I have not discussed this at all with the Senator from North Carolina—that we need to move on with the bill. I think my credentials are fairly good in dealing with disabilities. My first speech on the Senate floor way back in 1967, as I recall, and in 1974 and other state-

ments every year for several years, on April 14, I spoke about disability, which happened to be the date I became disabled in 1945. So every year on April 14 I made a speech on the Senate floor about some phase of disability and what we might do to address that.

I do not want to hold up this bill as it relates to disabilities that I have thought about all through the years. I never really focused on this particular problem, but it is a problem. Some say it is an economic problem, and some say it is fear, but I think the Senator from Utah is attempting to address it the way it should be addressed; and that is by scientific means and leaving to the Secretary the determination of what is included on the list which should be updated annually. I am not certain that this means one cannot work. I guess if somebody had an infectious and communicable disease that could be transmitted through the food supply, there is nothing here that says you have to eliminate those people. Just say we are going to disseminate the information.

This modification also contains a paragraph I think is very important: "Nothing in this act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation which applies to food handling which is designed to protect the public health from individuals who pose a significant risk to health or safety," and so forth.

So there is that provision that States and others can still have ordinances or State laws at the city, county, and State level which I believe probably would answer some of the concerns raised.

I say to the Senator from Utah that he has made a significant contribution. I think he can make an even greater contribution with one simply change.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Will the Senator from Utah yield about 4 minutes?

Mr. HATCH. I am out of time, but can I borrow some time?

Mr. HELMS. I will be glad to lend the Senator some time momentarily, but before the distinguished minority leader leaves, if I may have his attention; I certainly agree with Senator DOLE in his concern about the language. I do not know whether he has seen my modification or not, but I address precisely the concern he has stated.

There are ambiguities in the Hatch amendment, which I do not understand, but I will be glad to try to work out something to move this thing along. We will have to have the time to do that.

Before I yield time to the Senator from Utah, I hope he will clarify one section of his amendment. I recognize that he had to work on it with pen and ink, not a typewritten version. Sometimes you get in trouble doing that. In section B, Senator, it reads:

> In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food and that is included on the list developed by the Secretary of HHS under section A and which cannot be eliminated by reasonable accommodation.

That is a convoluted sentence. My question is, I guess, to what does the phrase "eliminate by reasonable accommodation" refer; what does the Senator mean by that?

Mr. HATCH. Taking that language right out of the amendment of the distinguished Senator from North Carolina, which reads, "It shall not be a violation of this act for an employer to refuse to assign or continue to assign any employee with an infectious or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation," that would offer an alternative employment. We have used exactly the same language, "which cannot be limited by reasonable accommodation."

Mr. HELMS. The Senator left out one vital thing, I think. I am making a suggestion; I am not trying to rewrite the amendment. I suggest the phrase "which 'risk' cannot be eliminated by reasonable accommodation." Is that what the Senator meant?

Mr. HATCH. I do not think the Chapman amendment says that either. Neither does the Senator's. In using this language we were trying to accommodate the distinguished Senator from North Carolina by using basically the same language as this Chapman amendment. We made "by reasonable accommodation" the same meaning that he does when he uses "reasonable accommodation" in his amendment.

Mr. HELMS. We do have which "risk" cannot be eliminated. That is up to the Senator.

Mr. HATCH. The original Chapman amendment does not have that language.

Mr. HELMS. We are talking about the Senator's amendment and my amendment.

Mr. HATCH. I do not have a copy of the Senator's amendment.

Mr. HELMS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 11 minutes and 20 seconds.

Mr. HELMS. I want to save time for one or two Senators who indicated they want to speak on behalf of my amendment.

Mr. HATCH. I ask unanimous consent that I be given an additional 5 minutes.

Mr. HELMS. I will be glad to yield 5 minutes, and if we can get a Senator who wishes to speak, I will ask unanimous consent.

The PRESIDING OFFICER. The Senator is yielding an additional 5 minutes to the Senator from California.

Mr. HELMS. Yes. That leaves me with 6 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield 4 minutes to the distinguished Senator from California.

Mr. CRANSTON. Mr. President, I thank the Senator from Utah and I appreciate his position on the matter before us.

Mr. President, I strongly oppose the amendment of the Senator from North Carolina [Mr. HELMS].

It is altogether right that the conferees on the Americans With Disabilities Act have dropped the so-called Chapman amendment relating to food handlers with AIDS. This amendment was an attempt to legitimize discrimination against people with AIDS. This amendment does not belong on any bill, and it especially does not belong on the Americans With Disabilities Act. The ADA is about nothing if it is not about freeing people with disabilities from discrimination, and that includes people with AIDS.

Mr. President, Senators should be absolutely clear about what this amendment does, why it is a threat to the rights of people with disabilities, and why it is a threat to the public health.

We are enacting the Americans With Disabilities Act in order to protect people with disabilities from discrimination based on ignorance, prejudice, myth, and fear. As Senator HARKIN has observed, people ought to be judged based upon the relevant medical evidence and the abilities they have. That is what the ADA provides. Yet here we have an amendment that is not only based upon ignorance, prejudice, myth, and fear, but actively promotes these debilitating qualities by giving them legal sanction.

When the Senator from North Carolina [Mr. HELMS] spoke on the food handlers issue he said, and I quote: "If the public is led to perceive"—and I want to underscore the Senator from North Carolina's exact words—"if the public is lead to perceive that there will be a health risk to those coming into the restaurant and eating the food, rightly or wrongly, that business could be destroyed."

Mr. President, that is exactly the point. There is no—I repeat—no medical evidence that AIDS is a foodborne disease. There is not a single public health authority that says it is. Yet we are being asked, in this amendment, to enact a law that will lead millions of Americans to perceive—perceive—just

the opposite. In other words, this amendment perpetuates an outrageous lie. If we are truly concerned about the economic welfare of restaurants, let alone the welfare of people with AIDS, why enact a law that leads the public to perceive that there will be a health risk from AIDS when there is not?

Do we understand the consequences to public health from this amendment? This amendment is not benign. At a time when people need to know the truth about how AIDS is spread, this amendment attempts to codify biases that are medically and ethically wrong.

Do we understand the consequences to human rights from this amendment? The other day the Washington Post ran an article in its health section entitled, "AIDS Discrimination on the Rise." Every Member of Congress should read it. The article reports on a new study on AIDS discrimination published by the American Civil Liberties Union AIDS Project, a survey that covered 260 Government and volunteer agencies across the Nation. The ACLU found 13,000 formal AIDS discrimination complaints filed between 1983 and 1988. In 1987 and 1988 the number of discrimination complaints rose 35 percent faster than the actual number of AIDS cases diagnosed in those years. One-third of the discrimination complaints were filed by people who did not have AIDS. One of the chief reasons cited in these complaints was that the complainant was perceived—perceived—to be infected because they cared for people with AIDS—such as a Texas woman who was fired when her employer found that she volunteered in an AIDS service agency.

Mr. President, this Nation pays a heavy price for its unfounded fears of AIDS. These fears divert our time and our resources away from carrying out the enormous task that lies ahead of us in finding a cure for this disease and in caring with compassion for the growing numbers of Americans who suffer from it.

I have been in the fight against AIDS from the beginning. I sponsored the first appropriations floor amendment that increased AIDS research funds. Over the years I have watched with horror as more than 26,000 citizens of my State have died of this disease. I have watched as the national total of people diagnosed with AIDS has mounted—136,204 as of the end of May—with no cure in sight.

And today my heart sinks as I stand on the floor of the Senate, confronting one more ill-conceived amendment, rather than an action that would do something to save lives.

The Senate should defeat the Helms amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I suggest the absence of a quorum; the time to be charged to neither side.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, as I understand it, I have about 5 minutes remaining; is that correct?

The PRESIDING OFFICER. The Senator has just under 6 minutes remaining.

Mr. HELMS. I probably will not take that long.

I think we ought to have order in the Senate.

The PRESIDING OFFICER. The Senator is correct. If we could have order in the Chamber. Those who wish to converse, if they could retire to the cloakroom so the Senator can be heard.

Mr. HELMS. I think it is quiet enough now. I thank the distinguished Presiding Officer.

I listened with great interest to comments made by the distinguished Senator from Utah, who is my friend, and we work together on scores of things. I was particularly intrigued with the remarks made by the distinguished Senator from California, who addressed his remarks to the Chapman amendment, if I understood what he was saying, and I am not sure I did.

But, nevertheless, we are not talking about the Chapman amendment. We are talking about an amendment drafted by the distinguished Senator from Utah, which I modified to take care of the question raised by the distinguished Republican leader, Mr. DOLE.

I was so pleased to hear Senator DOLE bring up exactly what I had stipulated must be in our modified version of the Hatch amendment. We are not talking about the Chapman amendment. We are talking about perhaps the intent and purpose of the Chapman amendment; that is to say, to give a restaurant operator freedom not to be required to keep somebody in his kitchen who has AIDS or HIV.

So the question is—and I think we ought to ask it of ourselves—are we prepared to tell the American people that a restaurant owner or food processor will not be allowed to remove an individual with an infectious or communicable disease, including AIDS from a position which puts him in the position of handling food which goes to the public? That is the question.

And I say again that the Hatch amendment does not respond to that question. It just moves AIDS and HIV out of it with much rhetoric about we have to educate the public, and all that sort of thing. Well, maybe so. But the public has its own perception, and perception in business is just about everything. If you do not believe it, watch the television advertising. They live and sell and grow—if they grow—on the basis of perceptions.

The amendment that I am about to offer is slightly different from the purpose and intent of the Chapman amendment. The Chapman-Helms language, which originally passed in both the House of Representatives and the Senate, was dropped from the conference report. And that is what precipitated all of this here this afternoon.

The conferees paid no attention to what the Senate said when they voted 53 to 40 to keep the Chapman amendment in the bill. And the leader of the conferees on the Senate side said the Chapman amendment is meaningless. Not so; and he knew it was not so.

With the approval of the National Restaurant Association and the National Federation of Independent Business, I have agreed to adopt most of the suggestions offered by my friend from Utah, Mr. HATCH. They are very similar. They differ only with respect, for example, to what Senator DOLE was talking about just now.

The amendment which I will offer will require the Secretary of HHS to publish a list, as a guideline, of infectious and communicable diseases of public health significance, including AIDS and HIV, which may be transmitted through the food supply. That seems to me to be a fair proposition to the restaurant operators and the food processors and particularly to the people who dine in restaurants and who eat the food prepared by food processors. The Secretary would then widely disseminate the information regarding the list of diseases and their modes of transmissibility to the general public. That is good. This list will be updated annually. I thought about making it more frequent than every year, but I decided against that.

Let me emphasize, Mr. President, that the difference between the two versions, the Hatch version and the Helms version which I am going to offer, is that my amendment errs on the side of the public safety. If we are wrong, we are wrong helping the public.

Scientists may make any contention they wish, that, oh, you cannot transmit AIDS by food. I know the story of a very prominent political figure who, years ago, worked in a restaurant and he said he used to spit in the salads

that he made because he did not like his job all that much. Do we want to take that risk with AIDS? With the AIDS terrorists like ACT UP.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HELMS. I ask unanimous consent, inasmuch as I yielded time, for a couple of more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Are scientists prepared to tell me that somebody with AIDS, or HIV, who is bitter about the fact he is sick, if he purposely contaminates a salad that he is making, will that not transmit the disease? How do they know?

If I am going to make a mistake, I want to make it on the side of the American people who eat in restaurants. I do not think that does anybody any harm. The Hatch amendment would require the restaurant operator to keep that guy in the kitchen. It would not permit the restaurant operator to transfer him to another job, not handling food, at the same pay.

My amendment retains the original Chapman language and addresses most of the concerns of the Senator from Utah.

I yield back the remainder of my time.

Have the yeas and nays been ordered on the Hatch amendment?

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President; I rise in strong support of Senator HATCH'S amendment which reflects a sound compromise on the Chapman food handlers amendment. I have supported the Americans With Disabilities Act because I believe that this legislation is necessary to bring 43 million disabled Americans into the mainstream of American life. In this bill, we have not made expectations for any particular form of disability. We have included the mentally retarded and those with cerebral palsy, even though many people fear and misunderstand those disabilities. We have included the deaf and the blind, even through many people misunderstand those disabilities and the capabilities of these individuals. We have also included people with AIDS and other diseases, even though there is a lot of fear and misunderstanding around many diseases.

We have included all these people because that is what this bill is all about—replacing musunderstanding with understanding. We have not said that you have to employ a person in a job they really cannot do or in a setting where they will pose a danger to the health or safety of other people. What we have said is that these decisions must be made about individuals, not groups, and must be based on facts, not fears. That is why I support the Hatch amendment which is needed to address legitimate concerns about diseases that can be transmitted through food. Senator HATCH'S proposal has the right idea of basing our decisions on the best available scientific knowledge. Annual updates of the list of infections and or communicable diseases by the Secretary of Health and Human Services, and communicating the known modes of transmission of these diseases is critical to protecting citizens of this Nation. General public education and awareness about contagious diseases will be the ultimate protection of the public. If there is any doubt, the bill already states quite clearly that there is no requirement to employ a person who "poses a direct threat to the health and safety of other person." The Hatch language will go far to provide sound public policy and go far to reach a compromise on this issue. I have received a letter from the health commissioner of my State, and health officers of 26 other States, urging us to adopt the conference report without the Chapman amendment. Secretary Sullivan as well as leading health organizations and the Center for Disease Control have warned that the amendment "does a tragic disservice to the public by contributing to the misperception of AIDS as a disease that can be spread by casual contact." I have also heard from small business, as I am sure many of my colleagues have, concerned that public misperceptions could damage their business. The businesses have said to us "We know that you cannot get AIDS by eating in a restaurant, but not everyone knows that, and if we cannot remove these people from their jobs, we will go out of business."

Well, that sounds like a serious situation, and I will tell you that when this argument was put to me I was concerned about it. I did not think it was fair to ask small businesses to bear the burden of public fears and ignorance about AIDS, or about any other disability. But when you really think about this argument, it begins to fall apart.

When we debated this issue in the Senate a few weeks back, one of our colleagues told us about a restaurant that went out of business because of rumors that an employee had AIDS. Rumors. It wasn't true. Discrimination is not the answer when you have this kind of public panic. I do not believe panic means we have to discriminate against productive citizens who are not disabled. Whenever there is romor that someone has a disease. The Chapman amendment would send a false and dangerous message that would undermine the efforts of our public health officials to calm necessary public fears about AIDS transmission.

Many communicable diseases, however are not foodborne. Extensive studies and scientific research prove that HIV, virus that causes AIDS, is not transmitted by food, handshakes, coughing, sneezing or other daily casual contact. The Centers for Disease Control recommend that persons with HIV infection not be restricted in food-handling duties. Public ignorance has never before been considered a valid excuse for discrimination. That is why I support the Hatch amendment which will go far to prevent discrimination and set a sound public health policy.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the Hatch amendment.

The PRESIDING OFFICER (Mr. PRYOR). Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. In that case, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Now, Mr. President, parliamentary inquiry. All time has been used or yielded back on the Hatch amendment, is that correct?

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. HELMS. I ask for the yeas and nays on the Hatch amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2119 TO THE FORD MOTION

Mr. HELMS. Now, Mr. President, I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2119 to the Ford motion.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the instructions insert the following:

The conferees are instructed to include the following language in the conference report on S. 933:

"SEC. . (a) The Secretary of Health and Human Services, not later than 6 months after enactment of this Act, shall

"(1) publish a list of infectious and communicable diseases, including human immunodeficiency virus, that may be transmitted through the food supply;

"(2) publish the methods by which such diseases are known to be transmitted; and

"(3) widely disseminate such information regarding the list of diseases and their modes of transmissibility to the general public. Such list shall be updated annually.

"(b) In any case in which an individual has an infectious or communicable disease that is included on the list developed by the Secretary which may pose a significant risk to the health or safety of others, which risk cannot be eliminated by reasonable accommodation as required under this title, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

"(c) Nothing in this Act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety or others, pursuant to the list developed by the Secretary.".

Mr. HELMS. Mr. President, we have discussed this issue and I see no point in taking up further time of the Senate because the plot thickens, and it is very clear to those who have been following it. So I am perfectly willing to yield back my 40 minutes if the distinguished Senator from Utah is willing to yield his.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that the distinguished Senator from North Carolina and myself be each granted 2 minutes with all of the time yielded back thereafter, and that the yeas and nays to be granted on both amendments.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, I shall not object, I inquire of the Chair, have the yeas and nays on both amendments been obtained?

The PRESIDING OFFICER. The Chair will inform the Senator from North Carolina that the yeas and nays have been ordered on the Hatch amendment.

Mr. HATCH. I ask for the yeas and nays on the Helms amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair. I thank the Senator from Utah.

Mr. HATCH. Mr. President, these 2 minutes are just to explain the modification that would have made that the distinguished Senator from North Carolina permitted. But the modification will be made in conference regardless. So I think Senators should treat this Hatch amendment as though this modification were made.

The modification would require the Secretary of HHS to review all infectious or communicable diseases which may be transmitted through handling of the food supply. Then on the basis of such a review, the Secretary must publish a list of information on communicable diseases which are transmitted through the food supply.

This modification will require the Secretary to evaluate every infectious and contagious disease, including AIDS, hepatitis, tuberculosis, et cetera, and then make a scientific determination whether each or any of these diseases can be transmitted through the handling of food. That list will then be published, that list will be reviewed annually, that list will be upgraded annually. As diseases change and our scientific knowledge of the transmission of diseases improves, I expect the Secretary to use such information in updating this list.

I have to say that the current language I think does all of that but because the distinguished minority leader would like us to correct that current language, we will do that in conference, although we are not able to do it here.

So we should vote on the basis that all communicable and infectious diseases will be covered, and those that can be transmitted in the food supply, those diseases, will be put on the list and disseminated throughout the country.

Mr. HELMS. Mr. President, 2 minutes will be entirely adequate. The issue here is whether the Senate is going to vote to deny restaurant operators and the patrons of those restaurants the right to be sure that all communicable diseases, such as HIV, such as AIDS, are not transmitted. Science does not know yet the full story.

So those Senators who voted for the retention of the Chapman amendment by the vote of 53 to 40 not long ago should vote "yes" on the Helms amendment and "no" on the Hatch amendment, which will absolutely render nugatory the Chapman amendment, if the Hatch amendment is adopted here this afternoon.

I say that with all deference to my friend from Utah, but his goal is to strike that HIV AIDS provision stipulated by the Chapman amendment.

Let me reiterate for the purpose of emphasis that the spirit of my amendment has been approved by the House of Representatives and the Senate. It does not, repeat, does not, discriminate against individuals with any communicable or infectious diseases. It gives them job and financial protection, while permitting employers to address a public perception that will threaten their business and their livelihood.

The problem is the public perception that AIDS, among other communicable and infections diseases, is bringing us to a point of crisis in terms of what may happen to many, many small businesses. The public perception and fear is understandable in light of what we hear about AIDS constantly in this U.S. Senate.

So Senators understand that we are not talking about a few isolated cases, let me talk about a few more restaurants which have found it necessary to go out of business or even fire infected workers—by the way, you could not fire infected workers under the Chapman Helms-amendment.

Wisconsin: The Wreck Room, a popular Milwaukee homosexual bar, nearly failed after a manager and another employee died of AIDS. The owner reported, "We went from being one of the most popular bars in Milwaukee to close to zero. There were times when I wasn't sure we were going to make it."

Alabama: A Hardee's unit outside Montgomery was forced to close after a rumor that its managers had AIDS. The rumor was started by a disgruntled employee who was let go. Within 2 months, sales dropped 60 percent. The Hardee's unit, which formerly had been a very popular restaurant, was closed down only 6 months after the rumor was started.

Texas: A popular Chili's restaurant in Amarillo terminated all its employees and closed for 2 months after the public became aware that a foodhandling employee had AIDS. Two years later that restaurant is still not performing as well as before the incident.

Wisconsin: The Inn of the Four Seasons in Eagle closed in 1989, after persistent rumors the owners had AIDS caused business to drop off by 50 percent.

Indiana: Sales dropped 25 percent at a unit of a national fast food franchise when it became known in a small community that the manager had tested positive for HIV. Sales recovered 4 months later after the manager voluntarily quit her job.

Kentucky: As a result of false AIDS rumors, sales at a prominent restaurant in a small Kentucky county dropped 45 percent from the prior year. It was 9 months before customer sales returned to normal levels, and this only occurred after local health officials made public statements that there were no cases of AIDS in the county.

I think the least we can do is to give an employer a way to avoid losing his

business, because of this perception that this Congress and this Senate helped to create.

I yield back the remainder of my time.

Mr. COATS. Mr. President, I rise in support of the Helms-Wallop-Armstrong motion to recommit S. 933, the Americans With Disabilities Act, to the conference committee with instructions to include the Chapman language of the so-called foodhandlers amendment.

This amendment states that it is not a violation of the act "for an employer to refuse to assign or continue to assign an employee with an infectious or communicable disease of public health significance to a job involving food handling, provided"—and this is an important proviso—"that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage."

The Chapman amendment addresses the sensitive question of employees in the food service industry who have contagious or infectious diseases and who directly handle food that reaches the consuming public.

Under this amendment an employer has the option of moving an employee who suffers from an infectious disease or a communicable disease or public health significance out of a position in which he or she handles food and into another job within the same establishment. The employee must be qualified for the alternative position, of course, but would sustain no economic damage from the change of jobs.

Thus, a restaurant owner could assign an employee with AIDS or the flu or chicken pox to some job other than handling food, without fear of being sued for illegal discrimination under the bill. The owner or manager could reasonably determine that it would pose a health hazard to the patrons of the restaurant or create the appearance of a health hazard to assign a person with a contagious or infectious disease to handle food. At the same time, the owner could not commit an act of discrimination by firing or disciplining the employee merely because he or she suffers from such a diseased condition. Instead, the employee would be guaranteed an assignment to other restaurant duties without loss of pay or benefits—without economic damage.

No restaurant would stay in business for very long if the public had reason to believe that the food it served were being handled by someone with such a disease. It would serve no useful purpose for either consumers or the employees—including employees with disabilities—for a good service establishment to be forced out of business because it could not legally reassign employees with certain infectious or communicable diseases to duties other than handling food.

This amendment is vitally important to restaurant operators in Indiana who have written and called my office urging my continued support for this provision.

Mr. President, I am disappointed that this language was dropped by the conference after it was passed by both Houses of Congress, with bipartisan support, and after the full Senate voted to instruct the conferees to accept the foodhandlers amendment. In my opinion, this amendment only strengthens the provisions of the ADA bill by adding an essential degree of flexibility and sensitivity which is needed to enable small businesses to comply easily and speedily.

I urge my colleagues to vote in favor of this motion.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the letter I have received in opposition to Helms/Chapman amendment be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. I urge the Senate to support the Hatch instruction and I commend the Senator from Utah for standing up to the irresponsible suggestion that the U.S. Senate should act on the basis of fear and prejudice instead of responsible public health considerations.

I come from a State where men feared witches and hanged women.

That was in the 1690's

This is the 1990's, and I hope the Senate is mature enough and civilized enough to reject the appeals to witchcraft we have just heard and do the right thing.

The Hatch instruction will require the Secretary of Health and Human Services, to publish a list of infectious and communicable diseases that are transmitted through the handling of food. If an individual has a contagiuous disease that is listed on the Secretary's list and the threat of transmission through the handling of food cannot be removed by reasonable accommodation then he or she may be reassigned from a food handling position. This instruction makes sense.

It means that food workers are protected from discrimination unless scientific evidence shows that they have a disease which actually poses a threat of transmission through food. This instruction reaffirms what the ADA already provides, and will guarantee that people will not be discriminated against on the basis of fear, prejudice, or irrationality.

Senator DOLE has proposed a modification which makes very good sense—the Dole modification would explicitly require the Secretary to review all infectious and communicable diseases which may be transmitted through the handling of food; and based on that review publish the list of diseases which actually are transmitted through food handling.

The Dole modification is actually implicit in the Hatch instruction—the Secretary will need to review all diseases that may be transmitted to publish a complete list of diseases that are transmitted through food handling.

It now appears however, that Senator HELMS will not allow the Hatch instruction to be modified by the Dole modification.

I urge the Senate to adopt the Hatch instruction. If the Senate does so, when we return to conference, I will urge the House conferees to accept the Hatch instruction as modified by the Dole modification.

I urge the Senate to defeat the Helms instruction. This instruction would require the Secretary to list any disease that might possibly be transmitted through food, rather than those that actually are so transmitted. The Helms instruction would simply allow discrimination on the basis of possibilities and conjecture and not scientific fact. The instruction would run counter to the whole purpose of the ADA.

EXHIBIT 1

The Chapman amendment is opposed by:
President George Bush.
Dr. Louis Sullivan, Secretary of HHS.
Dr. William Roper, Director, Centers for Disease Control.
Office of Personnel Management.
National Commission on AIDS.
American Medical Association.
Consortium of Citizens with Disabilities.
Leadership Conference on Civil Rights.
U.S. Catholic Conference.
American Jewish Committee.
American Baptist Churches.
AFL-CIO.
United Food & Commercial Workers International Union.
American Federation of State, County and Municipal Employees.
Service Employees International Union.
Food & Allied Service Trades.

OTHER HEALTH, SOCIAL SERVICE, RELIGIOUS, AND DISABILITY ORGANIZATIONS

Affiliated Leadership League of and for the Blind.
AIDS Action Council.
AIDS National Interfaith Network.
Alexander Graham Bell Association for the Deaf.
American Academy of Child and Adolescent Psychiatry.
American Academy of Otolaryngology, Head and Neck Surgery.
American Academy of Pediatrics.
American Academy of Physical Medicine and Rehabilitation.
American Association for Counseling and Development.
American Association for Marriage and Family Therapy.
American Association of the Deaf-Blind.
American Association on Mental Retardation.
American Association of University Affiliated Programs.

American Civil Liberties Union.
American Congress of Rehabilitation Medicine.
American Council of the Blind.
American Deafness and Rehabilitation Association.
American Diabetes Association.
American Foundation for AIDS Research.
American Foundation for the Blind.
American Jewish Congress.
American Medical Student Association.
American Nurses Association.
American Occupational Therapy Association.
American Psychiatric Association.
American Psychological Association.
American Public Health Association.
American Society for Deaf Children.
American Speech-Language-Hearing Association.
Association for Retarded Citizens of the United States.
Association for the Education and Rehabilitation of the Blind and Visually Impaired.
Association for the Education of Rehabilitation Facility Personnel.
Association for Retarded Citizens of the United States.
Association of Schools of Public Health.
Association of State and Territorial Health Officials.
Autism Society of America.
Center for Population Options.
Center for Women's Policy Studies.
Child Welfare League of America.
Chronic Fatigue Syndrome Information Institute, Inc.
Church of the Brethren.
Church Women United.
Citizens Commission on AIDS.
Coalition for the Homeless.
Committee for Children.
Conference of Educational Administrators Serving the Deaf.
Council for Exceptional Children.
Convention of American Instructors of the Deaf.
Deafness Research Foundation.
Disabled But Able to Vote.
Disability Focus, Inc.
Disability Rights Education and Defense Fund, Inc.
Epilepsy Foundation of America.
Evangelical Lutheran Church in America.
Federation of Parents and Friends of Lesbians and Gays.
Friends Committee on National Legislation.
Gallaudet University Alumni Association.
Gazette International Networking Institute.
Goodwill Industries of America, Inc.
Human Rights Campaign Fund.
International Association of Parents of the Deaf.
International Polio Network.
International Ventilator User Network.
Jesuit Social Ministries.
Juvenile Diabetes Foundation.
Learning How, Inc.
Legal Action Center.
Mennonite Central Committee.
Mental Health Law Project.
National Alliance for the Mentally Ill.
National Assembly of State Arts Agencies.
National Association of Community Health Centers.
National Association of Developmental Disabilities Councils.
National Association of Private Residential Resources.
National Association of Protection and Advocacy Systems.
National Association of Rehabilitation Facilities.
National Association of Rehabilitation Professionals in the Private Sector.
National Association of Social Workers.
National Association of State Alcohol and Drug Abuse Directors.
National Association of State Mental Retardation Program Directors.
National Association of the Deaf.
National Center for Law and the Deaf.
National Coalition for Cancer Survivorship.
National Council of Churches.
National Council of Jewish Women.
National Council on Independent Living.
National Council on La Raza.
National Council on Rehabilitation Education.
National Down Syndrome Congress.
National Easter Seal Society.
National Federation of the Blind.
National Fraternal Society of the Deaf.
National Gay and Lesbian Task Force.
National Handicapped Sports and Recreation Association.
National Head Injury Foundation.
National Hemophilia Foundation.
National Industries for the Severely Handicapped, Inc.
National Mental Health Association.
National Mental Health Consumers' Association.
National Minority AIDS Council.
National Multiple Sclerosis Society.
National Network of Learning Disabled Adults.
National Network of Runaway and Youth Services.
National Organization for Rare Disorders.
National Organization on Disability.
National Ostomy Association.
National Rehabilitation Association.
National Spinal Cord Injury Association.
Paralyzed Veterans of America.
People First Internationa.
Planned Parenthood Federation of America.
Presbyterian Church, USA.
Self-Help for Hard of Hearing People, Inc.
Sex Information and Education Council of the US.
Spina Bifida Association of America.
Synagogue Council of America.
The Association for Persons with Severe Handicaps.
The Episcopal Church.
The United Methodist Church.
Tourette Syndrome Association.
Union of American Hebrew Congregations.
United Cerebral Palsy Associations, Inc.
United Church of Christ.
World Institute on Disability.

SECRETARY OF HEALTH AND HUMAN SERVICES,
WASHINGTON, DC, MAY 1, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House of Representatives is preparing to take legislative action on the Americans with Disabilities Act (the Act), I wish to restate my position on the need for anti-discrimination protection for people with AIDS and HIV infection. There is strong evidence that bloodborne infections such as HIV infection are not spread by casual contact, and there is no medical reason for singling out individuals with AIDS or HIV infection for differential treatment under the Act.

While some have proposed that workers who handle food be treated differently under the Act, evidence indicates that bloodborne and sexually-transmitted infections such as HIV are not transmitted during the preparation or serving of food or beverages. Food service workers infected with HIV need not be restricted from work unless they have other infections or illnesses for which any food service worker should be restricted. Since the Act limits coverage for persons who pose a direct threat to others, relaxing the anti-discrimination protection for food service workers is not needed or justified in terms of the protection of the public health.

Further, I would add that any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health. We need to defeat discrimination rather than to submit to it. The Administration is strongly committed to ensuring that all Americans with disabilities, including HIV infection, are protected from discrimination, and believes that the Americans with Disabilities Act should furnish that protection.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.,
Secretary.

REMARKS BY PRESIDENT BUSH TO BUSINESS LEADERSHIP, MARCH 29, 1990

Our goal is to turn irrational fear into rational acts. Every American must learn what AIDS is, and what AIDS is not. The HIV virus is not spread by handshakes or hugs. You can't get it from food or drink, coughing, sneezing, or by sharing bathrooms or conversations.

I call on the Congress to get on with the job of passing a law—as embodied in the Americans with Disabilities Act—that prohibits discrimination against those with HIV and AIDS. We're in a fight against a disease—not a fight against people. And we won't tolerate discrimination.

DEPARTMENT OF HEALTH & HUMAN SERVICES,
CENTERS FOR DISEASE CONTROL,
June 15, 1990.

Hon. EDWARD M. KENNEDY,
U.S. States Senate, Washington, DC.

DEAR SENATOR KENNEDY: Thank you for your letter requesting information about the transmission of human immunodeficiency virus (HIV), with particular reference to the occupational setting.

National and international epidemiologic studies backed up by laboratory findings have consistently shown that HIV has three routes of transmission: sexual contact with an infected person, exposure to blood or blood components (in the U.S., primarily through needle sharing among intravenous drug users), and perinatal transmission from an infected woman to her fetus or infant.

No known risk of transmission through other means to co-workers, clients, or consumers exists from HIV-infected workers in offices, schools, factories, or other non-health-care-related work settings. Epidemiologic and laboratory evidence indicates that bloodborne and sexually-transmitted disease agents such as HIV or hepatitis B virus are not transmitted during the growing, harvesting, transportation, storage, preparation, or serving of food or beverages: and no

instances of HIV transmission have been documented in these settings. The scientific data clearly show lack of threat to food safety by HIV infection or HIV-infected persons. Food-service workers known to be infected with HIV need not be restricted from work unless they have evidence of *other* infections or illnesses for which a non HIV-infected food-service worker should also be restricted. The Public Health Service recommends that all food-service workers follow recommended standards and practices of good personal hygiene and food sanitation and avoid injury to the hands when preparing food. Should such an injury occur, workers are advised to discard any food contaminated with blood as a matter of good hygiene practice rather than out of concern for transmission of HIV infection.

I am enclosing a copy of the *Morbidity and Mortality Weekly Report (MMWR)* of November 15, 1985, that gives recommendations for preventing transmission of HIV infection in the workplace. Guidelines for food-service workers are on page 7 of the report. These guidelines remain valid today, with even stronger scientific evidence now than when they were first published 5 years ago.

The previously described transmission routes clearly account for most of the HIV infections in the United States. However, public health officials and health-care providers continue to encounter community concerns about other, perhaps unknown, modes of HIV transmission. In particular, the isolation of HIV from body fluids such as saliva, tears, and urine has led to concern that HIV might be spread through exposure to these fluids. However, there is no evidence that saliva, tears, or urine have transmitted HIV infection. The concentration of virus in these fluids is very low. In studies of households where more than 700 family members lived with and/or cared for persons with HIV infection and AIDS, no instances of casual transmission have been reported, despite the sharing of kitchen and bathroom facilities, meals, and eating and drinking utensils. In these studies, exposures were repeated, prolonged, and involved contact with the body secretions of infected persons, often when HIV infection was unknown to household contacts such as parents, siblings, or children for months or years. If HIV is not transmitted in the household setting, it would be even less likely to occur in other social or workplace settings. Although HIV has been kept viable under certain laboratory conditions, medical authorities agree that the virus is fragile and does not survive well in the environment. The pattern of cases would be much different from what is observed if casual contact resulted in HIV transmission.

Researchers at the Centers for Disease Control (CDC) are currently pursuing a variety of transmission studies. I understand that you have also written to Dr. William Raub regarding studies that National Institutes of Health is conducting on transmission of HIV. A list of CDC studies is attached for your information. Transmission studies in the occupational setting mainly concern health-care workers. The reasons public health scientists pursue such studies is to seek out potential opportunities for prevention. Why do 25% to 35% of babies born to infected women acquire HIV infection while the other children escape infection? Why have an average of 24% of steady heterosexual partners of HIV-infected persons become infected while the others have not? What is the quantitative role of cofactors, such as the presence of other sexually transmitted diseases, or protective factors such as condoms or spermicide, in facilitating or preventing HIV transmissions? These are key transmission questions. By conducting these studies, we are likely to answer these questions. We do not anticipate identifying any major new route of transmission through these or any other studies.

Thank you for the opportunity to provide you with information concerning this issue of concern to the public.

Sincerely yours,

WILLIAM L. ROPER, M.D., M.P.H.,
Director.

[Public Health Service, from the MMWR, Nov. 15, 1985, vol. 34, No. 45]

SUMMARY: RECOMMENDATIONS FOR PREVENTING TRANSMISSION OF INFECTION WITH HUMAN T-LYMPHOTROPIC VIRUS TYPE III/LYMPHADENOPATHY-ASSOCIATED VIRUS IN THE WORKPLACE

The information and recommendations contained in this document have been developed with particular emphasis on health-care workers and others in related occupations in which exposure might occur to blood from persons infected with HTLV-III/LAV, the "AIDS virus." Because of public concern about the purported risk of transmission of HTLV-III/LAV by persons providing personal services and those preparing and serving food and beverages, this document also addresses personal-service and food-service workers. Finally, it addresses "other workers"—persons in settings, such as offices, schools, factories, and construction sites, where there is no known risk of AIDS virus transmission.

Because AIDS is a bloodborne, sexually transmitted disease that is not spread by casual contact, this document does not recommend routine HTLV-III/LAV antibody screening for the groups addressed. Because AIDS is not transmitted through preparation or serving of food and beverages, these recommendations state that food-service workers known to be infected with AIDS should not be restricted from work unless they have another infection or illness for which such restriction would be warranted.

This document contains detailed recommendations for precautions appropriate to prevent transmission of all bloodborne infectious diseases to people exposed—in the course of their duties—to blood from persons who may be infected with HTLV-III/LAV. They emphasize that health-care workers should take all possible precautions to prevent needlestick injury. The recommendations are based on the well-documented modes of HTLV-III/LAV transmission and incorporate a "worst case" scenario, the hepatitis B model of transmission. Because the hepatitis B virus is also bloodborne and is both hardier and more infectious than HTLV-III/LAV, recommendations that would prevent transmission of hepatitis B will also prevent transmission of AIDS.

Formulation of specific recommendations for health-care workers who perform invasive procedures is in progress.

Food-service workers (FSWs). FSWs are defined as individuals whose occupations involve the preparation or serving of food and beverages (e.g., cooks, caterers, servers, waiters, bartenders, airline attendants). All epidemiologic and laboratory evidence indicates that bloodborne and sexually transmitted infections are not transmitted during the preparation or serving of food and beverages, and no instances of HBV or HTLV-III/LAV transmission have been documented in this setting.

All FSWs should follow recommended standards and practices of good personal hygiene and food sanitation (26). All FSWs should exercise care to avoid injury to hands when preparing food. Should such an injury occur, both aesthetic and sanitary considerations would dictate that food contaminated with blood be discarded. FSWs known to be infected with HTLV-III/LAV need not be restricted from work unless they have evidence of other infection or illness or which any FSW should also be restricted.

Routine serologic testing of FSWs for antibody to HTLV-III/LAV is not recommended to prevent disease transmission from FSWs to consumers.

AIDS ADVISORY COMMITTEE OF THE HEALTH RESOURCES AND SERVICES ADMINISTRATION

June 8, 1990.

DEAR CONFEREE: As members of the Health Resources and Services Administration's AIDS Advisory Committee, we would like to express to you our extreme concern and dismay at the possibility that the food-handlers' exemption amendment may be added to the Americans with Disabilities Act.

There is no scientific evidence to support this exemption. Other sections of the ADA provide for the removal of employees from positions if they pose a direct threat to the health and safety of others.

We feel that this amendment violates the basic premises of decisions made on sound public health policy, and will encourage the very prejudices that all of us have been attempting to alleviate. We urge you to vote against this amendment in conference.

Sincerely,

Molly J. Coye, M.D., M.P.H., Co-Chairman, Chairman, Division of Public Health, Johns Hopkins University; Iris L. Davis, M.D., New York Hospital, Center for Special Studies; John E. Arradondo, M.D., Director, Department of Health and Human Services, City of Houston; Eunice Diaz, M.S., M.P.H., Vice Chairman, Los Angeles County AIDs Commission; Gloria F. Donnelly, R.N., Ph.D., Chairman, Department of Nursing, La Salle University; Charles M. Helms, M.D., Ph.D, Associate Dean, College of Medicine, University of Iowa; Anne A. Scitovsky, M.A., Chief, Health Economics Department, Palo Alto Medical Foundation; Anne B. Williams, Ed.D., School of Nursing, University of California, San Francisco; Richard D. Dunne, M.P.A., New York, New York; Veneita Porter, Planned Parenthood, Alameda/San Francisco; Jeffrey Stall, M.D., Sarasota, Florida.

ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICIALS,

McLean, VA, July 6, 1990.

Hon. EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the chief health officers in our states we, the undersigned, applaud you for deleting the Chapman Amendment from the Americans With Disabilities Act during conference. We feel strongly that this amendment, which permits food service industry employers to transfer workers who are infected with the AIDS virus out of jobs that involve food handling, is discriminatory. Such action un-

dermines the fundamental premise of the entire bill.

We concur with the unequivocal statements you have already heard many times from our colleagues in the Department of Health and Human Services and the Centers for Disease Control that the HIV infection cannot be transmitted through food. Inclusion of this amendment does a tragic disservice to the public by contributing to the misperception of AIDS as a disease that can be spread by casual contact. The Public Health Service and public health departments throughout the country have mounted extensive educational efforts to inform the American public about modes of transmission of HIV disease, and to combat inaccurate perceptions of risks posed by HIV positive persons. The appropriate response to public fear is ongoing education, not legitimizing further discrimination in statute. For these reasons, the Chapman amendment is not only unnecessary, but is counterproductive.

We strongly support the Americans with Disabilities Act as it clearly addresses legitimate public health concerns. As currently drafted, Section 103 does not preempt our existing state public health laws with regard to individuals who "pose a direct threat to the health or safety of others." We feel that only with the removal of the Chapman amendment can public health and safety be well served in a truly non-discriminatory fashion.

Again, we strongly urge you to protect the integrity of the Americans with Disabilities Act and the sound public health principles it sets forth by securing its final passage without the Chapman Amendment.

Sincerely,

Robert Bernstein, M.D., Texas State Department of Health; Jan Carney, M.D., Vermont State Department of Health; Suzanne Dandoy, M.D., Utah State Department of Health; Ronald D. Eckoff, M.D., Iowa State Department of Health; Charles Konigsberg, M.D., M.P.H., Kansas State Department of Health; N. Mark Richards, M.D., Pennslyvania State Department of Health; Lloyd F. Novick, M.D., M.P.H., New York State Department of Health; Bernard J. Turnock, M.D., Illinois State Department of Health; Sister Mary Madonna Ashton, Minnesota State Department of Health; Raj Wiener, Michigan State Department of Health; Adele Wilzack, R.N., M.S., Maryland State Department of Health; David Mulligan, Massachusetts State Department of Health; M. Joycelyn Elders, M.D., Arkansas State Department of Health; Theodore E. Williams, J.D., Arizona State Department of Health; John R. Bagby, Ph.D., Missouri State Department of Health; Frederick G. Adams, D.D.S., M.P.H., Connecticut Department of Health Services; Donald E. Pizzini, M.E.S., Montana State Department of Health; William T. Wallace, M.D., New Hampshire State Department of Health; Ronald Fletcher, M.D., Ohio State Department of Health; H. Denman Scott, M.D., M.P.H., Rhode Island State Department of Health; Thomas Vernon, M.D., Colorado State Department of Health; Robert M. Wentz, M.D., North Dakota State Department of Health; Morris Green, M.D., Indiana State Department of Health; Ronald H. Levine, M.D., North Carolina State Department of Health; James W. Alley, M.D., Georgia State Department of Health; Charles Mahan, M.D., Florida State Department of Health; Kristine Gebble, R.N., Washington State Department of Health; Joel Nitzkin, M.D., Louisiana State Department of Health; George Reynolds, M.D., Nevada State Department of Health; C. Hernandez, M.D., M.P.H., Kentucky State Department of Health; Lani Graham, M.D., M.P.H., Maine State Department of Health; Georges C. Benjamin, M.D., District of Columbia Department of Health; Lester N. Wright, M.D., M.P.H., Delaware State Department of Health; Kathrine Kelley, D.P.H., Alaska State Department of Health; Frances J. Dunston, M.D., M.P.H., New Jersey State Department of Health; J.W. Luna, Tennessee State Department of Health; Charles A. Anderson, Ed.D., South Dakota State Department of Health; Taunja Willis Miller, West Virginia State Department of Health; Kenneth W. Kizer, M.D., M.P.H., California State Department of Health; Alton B. Cobb, M.D., M.P.H., Mississippi State Department of Health; R. Larry Meuli, M.D., Wyoming State Division of Health and Medical Services; Michael D. Jarrett, M.H.A, South Carolina Department of Health; John C. Lewin, M.D., Hawaii State Department of Health; C. Earl Fox, M.D., M.P.H., Alabama State Department of Health.

COUNCIL OF STATE AND TERRITORIAL EPIDEMIOLOGISTS,
June 12, 1990.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the Council of State and Territorial Epidemiologists (CSTE) I am writing to express our concern regarding the inclusion of the Chapman amendment in the Americans with Disabilities Act (ADA). The inclusion of the Chapman amendment in the version of the ADA passed by the House based on arguments related to the fear of transmission of the human immunodeficiency virus (HIV) by mechanisms not grounded in scientific fact or sound public health practice is extremely disconcerting.

As I am sure all members of the House and Senate know at this point in time there is no evidence of transmission of HIV through food or beverage or in the workplace via casual contact. This amendment is based on public perception alone and primarily on public ignorance. It is critical to educate the public regarding this important misconception rather than discriminate against those infected with HIV.

As is probably already apparent to the Conferees, there are existing state and local laws or regulations regarding food handlers ill with infectious diseases transmissible through food. These existing laws make any potentially relevant features of the Chapman amendment totally unnecessary. Individuals that prepare food while ill with a communicable disease such as gastrointestinal infection that can be transmitted in food or beverage are working against regulations that already exist in states and municipalities. Such regulations are not applicable for persons with infections such as Hepatitis B and HIV where food is not involved in transmission.

We are concerned that the inclusion of the Chapman amendment will serve to discourage employed individuals who are at high risk of HIV infection from seeking appropriate testing, counseling and the consequent benefits of early intervention because of fear of disclosure of an HIV infection to an employer with attendant loss of a job or profession. Since the Chapman amendment does not add to existing state or local laws or regulations regarding food handlers with an infectious illness transmissible through food, the Chapman amendment only reflects a discriminatory attitude. Worse yet, it tends to endorse and institutionalize such unfounded discrimination.

We urge that the House and Senate pass the ADA without the Chapman amendment. Thank you very much for the opportunity to register our concern regarding this amendment and our overwhelming support for the other general provisions of the ADA.

Sincerely,

DALE L. MORSE, M.D., M.S.,
Director, Bureau of Communicable Disease Control & State Epidemiologist.
President, U.S. Council of State & Territorial Epidemiologists.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME,
Washington, DC, May 24, 1990.

Hon. EDWARD M. KENNEDY,
Hon. ORRIN G. HATCH,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND HATCH: We are writing to underscore our support for the Americans with Disabilities Act and to reiterate our concern about any amendment reducing its scope of coverage for persons with HIV infection. As you may recall, the National Commission on AIDS issued a statement to that effect at the outset of its work in September, 1989, a copy of which is attached.

As Secretary of HHS, Dr. Louis Sullivan has stated, "Any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health." The amendment concerning foodhandlers narrowly adopted by the House only reinforces unwarranted fear and perpetuates the discrimination that the ADA is designed to end. All evidence indicates that bloodborne and sexually transmitted diseases such as HIV are *not* transmitted through food-handling processes. Simply put, this amendment is bad public health policy.

We hope that the conference deliberations can yield a bill that fully protects persons with HIV infection from fear and discrimination, without exception.

Sincerely,

JUNE E. OSBORN, M.D.,
Chairman.
DAVID E. ROGERS, M.D.,
Vice-Chairman.

JUNE 5, 1990.

DEAR SENATORS HATCH AND KENNEDY: Although nothing can bring back Ryan, I would like to express by gratitude to you for the Senate's overwhelming endorsement of the recent C.A.R.E. bill, dedicated to my son. It is my dearest hope that Ryan will be remembered as an ordinary boy who bravely faced a devasting disease—and in doing helped educate America about AIDS.

Ryan's message was simple: it is safe to live, or work, or study with someone with AIDS.

Yet Ryan's message has yet to be fully understood. I am tremendously disturbed by

the amendment to the Americans with Disabilities Act (ADA) which was approved by the House.

People who work with food and have HIV don't pose a threat to anybody. This bad amendment would allow discrimination against these workers simply because people are afraid.

I know a lot about irrational fear and I know how much it can hurt. Ryan had to bravely struggle against exactly this kind of fear in simply to go to school. If discrimination against people who work in restaurants is acceptable, then why not school children?

Both President Reagan and Bush have supported this law to ban to discrimination against people with AIDS. It's what Ryan's struggle was all about.

I implore you to defeat this bad amendment.

Yours truly,

JEANNE WHITE.

U.S. SENATE,
Washington, DC.

DEDICATION

S. 2240 is dedicated by the Senate Labor and Human Resources Committee to the memory of Ryan White who died on April 8, 1990 after a six year battle against AIDS.

Beginning at the age of 13, Ryan valiantly fought not only the human immunodeficiency virus itself but also fears about AIDS that were based on ignorance and senseless discrimination against people with AIDS and HIV disease. With dignity, patience and almost unvarying good cheer, Ryan White introduced to people across America and across the world a face of AIDS that caring human beings could not turn their backs upon. First through his courageous fight to be allowed to go to school with his peers, then through his tireless efforts to educate and explain the realities of his illness, young Ryan White changed our world. By dedicating this legislation to Ryan, the Committee affirms its commitment to provide care, compassion and understanding to people with AIDS everywhere. Ryan would have expected no less.

In memory of Ryan White, and the 70,000 Americans who have lost their lives to AIDS. And with the hope for all people living with AIDS.

AMERICAN PUBLIC
HEALTH ASSOCIATION,
Washington, DC, June 11, 1990.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMAN KENNEDY: The American Public Health Association, with a national and affiliate membership of over 50,000 health professionals, scientists, and community health leaders, opposes the House language which reduces coverage under the Americans With Disabilities Act for individuals with infectious or communicable diseases working in food handling positions. Our opposition to this amendment is based on several reasons:

Since 1917, APHA has brought together infection control experts from around the world to publish the premier reference book on infectious diseases, "Control of Communicable Diseases in Man." With respect to the transmissibility of HIV via food and food handlers, this text and all other scientific authorities indicates that HIV is not a food-borne illness.

The House language is unnecessary since the Senate provision in Section 103(b) already deals with the issue of individuals with contagious disease who pose a threat to public health. This provision is similar to provisions in Section 504 of the Rehabilitation Act, the Civil Rights Restoration Act, and the Fair Housing Amendments. The language has served the public well and new language is not needed.

The House language is vague and undermines the whole purpose of the ADA. The Senate language is more precise and is consistent with public health practice.

All states codify those illness that are restrictable in specific workplaces. For example, Salmonella, Active TB, and Hepatitis A, among others, are food service restrictable diseases. It is quite common to have regulations listing health care setting, school, and day care restrictable diseases. The determinations as to which diseases are restrictable in given settings is based on scientific knowledge of the transmission of those diseases. HIV is not transmitted through casual contact and does not grow in food, therefore it is not a food service restrictable disease. The Senate provisions would allow health authorities to continue to protect worksites against contagious diseases which do pose a direct threat to the health or safety of others.

The intent of the House language is mean spirited and perpetuates the harmful and unscientific notion that fear of disease is a reason to discriminate against individuals. Such a policy will do nothing to promote public health or prevent the spread of infectious diseases such as HIV.

Very truly yours,
WILLIAM H. MCBEATH, MD, MPH,
Executive Director.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 24, 1990.

Re the Americans with Disabilities Act.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: You have requested the American Medical Association's views on the House amended version of the Americans with Disabilities Act (ADA) with regard to the provision involving food handlers. As we understand the provision, its inclusion in the ADA would not improve the legislation and the AMA does not support it.

The ADA employment discrimination provision already allows employers to require that an individual with a currently contagious disease or infection not pose a direct threat to the health or safety of others. The AMA supports this general exception to the prohibition against employment discrimination. When appropriately applied, it will provide protection to the health of co-workers and the public.

In this regard, there is no need for an amendment concerning food handlers. The existing ADA language provides appropriate protection from individuals, including food handlers, with contagious infectious diseases.

Sincerely,

JAMES S. TODD, MD.

SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO, CLC,
Washington, DC, May 31, 1990.

DEAR SENATOR: On behalf of the 925,000 members of the Service Employees International Union, I urge you to vote against the motion to instruct the conferees on the Americans with Disabilities Act to be offered by Senator Helms relating to the Chapman amendment. Many of our members work in the preparation of food and the amendment would adversely affect their civil rights.

The Chapman amendment was added to the Americans with Disability Act by the House of Representatives.

The amendment would allow discrimination in "food-handling" jobs against employees with communicable diseases—even those diseases that can not be transmitted through food.

Victims of many diseases, including AIDs, would be subject to the overly broad exemption set out by the amendment. An employer could force a person out of a job with food-handling duties, even when that person remains qualified for, and wishes to continue in, the food-handling job.

Please vote against discrimination by defeating the motion to instruct the conferees regarding the Chapman amendment.

Yours sincerely,

NED MCCULLOCH,
Senior Legislative Representative.

UNITED FOOD & COMMERCIAL
WORKER INTERNATIONAL UNION,
AFL-CIO & CLC,
Washington, DC, May 17, 1990.

Hon. STENY HOYER,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE HOYER: The United Food and Commercial Workers International Union has 1.3 million members organized in over 700 local unions throughout the United States and Canada. The UFCW and its local unions have collective bargaining agreements with employers throughout the food industry, including retail sales, meat packing, poultry and fish processing, and other food processing. We also have members in the health, leather, fur, shoe manufacturing and other industries.

We strongly urge your opposition to the "food handler" amendment that will be offered by Representative Chapman of Texas to the Americans with Disabilities Act. This amendment would reinforce the very kind of irrational discrimination that the Americans with Disabilities Act is designed to eliminate, and it should be defeated.

The amendment would allow discrimination in "food-handling" jobs against employees with "communicable diseases." It does not specify that those diseases be communicable through food. An employer could force a person out of a job with food-handling duties, even when that person remains qualified for, and wishes to continue in, the food-handling job.

The Chapman amendment purports to provide "alternative employment" to employees and to protect them from "economic damage." Most employers in the industry, however, have a small number of jobs that do not involve food handling. Many employees who work in such positions will not be qualified for alternative work.

Even if no employee suffered economic harm as a result of this discrimination, the Chapman amendment would still send a false and dangerous message that would undermine the efforts of our public health officials to calm unnecessary public fears about AIDS transmission.

As President Bush has said, "Every American must learn what AIDS is—and what AIDS is not . . . you can't get it from food or drink. * * * While the ignorant may discriminate against AIDS, AIDS won't discriminate among the ignorant."

Please vote against discrimination and against AIDS hysteria by defeating the Chapman amendment.

Sincerely,

WILLIE L. BAKER, Jr.,
International Vice President,
Director, Public Affairs Department.

FOOD & ALLIED SERVICE TRADES,
Washington, DC, May 17, 1990.

Hon. STENY HOYER,
Longworth House Office Building, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HOYER: On behalf of the 3.5 million working men and women associated with the Food and Allied Service Trades Department, AFL-CIO, I am writing to urge you and your colleagues to vote against the Chapman Amendment to the Americans with Disabilities Act (ADA).

This amendment has been designed to allow employers to move an employee with a communicable or infectious disease of a public health significance out of a food handling position.

However the amendment is not necessary—food handlers who pose a risk to others are already excluded from the ADA. But the Chapman amendment would expand allowable discrimination to include workers that do not represent a risk to the public.

The amendment would facilitate the discrimination of workers employed in the food business that may have certain diseases although those maladies may not be communicable via food.

The amendment is clearly an attempt to discriminate against workers with certain disabilities. For these reasons we oppose the inclusion of such an amendment in the ADA. We encourage you to vote against the Chapman amendment.

Sincerely,

ROBERT F. HARBRANT,
President.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO,
Washington, DC, May 17, 1990.

Hon. STENY H. HOYER,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN HOYER: The American Federation of State, County and Municipal Employees (AFSCME) urges you to oppose an amendment to H.R. 2273 which may be offered by Representative Chapman which would allow employers to deny jobs with food-handling duties to persons with "communicable diseases."

The Chapman amendment has no legitimate purpose and would only serve to weaken this important legislation. It is not needed to deal with the issue of food-borne diseases as the legislation does not cover persons who "pose a direct threat to the health or safety of other individuals." This standard is sufficient to ensure that a person with a food-borne or airborne disease will not be employed in a food-handling job.

The Chapman amendment would serve to reinforce the very kind of irrational discrimination that this legislation is designed to eliminate, and it should be defeated.

Sincerely,

JERRY B. KLEPNER,
Director of Legislation.

HOTEL EMPLOYEES & RESTAURANT EMPLOYEES INTERNATIONAL UNION,
Washington, DC, June 22, 1990.

DEAR SENATOR: The Hotel Employees and Restaurant Employees International Union, urges you to vote for the final conference report on the Americans with Disabilities Act (S. 933) minus the Chapman amendment which was brought to the attention of the Senate by Senator Jesse Helms.

This International Union is proud to represent approximately 400,000 members in North America. On many of the issues that we have worked during the past 17 years, while fighting for the rights of our members, we also have fought vigorously to protect the livelihood and rights of the 6 million workers employed in the tourism industry. No group has fought harder or accomplished more for the tourism industry than our union. Apparently, some proponents of the Chapman amendment (National Restaurant Association) are couching this insidious amendment in terms of their concern for the welfare of the industry. I wish they were as vigilant when we have been fighting for funding for tourism promotion and trying to convince our government of the importance of the tourism industry.

We are appalled that many groups would push this concept of worker relocation which would create absolute havoc in the work place. Certainly the (ADA) bill itself provides safeguards and makes clear that anyone with a contagious disease who poses a direct threat to the health and safety of others is not covered.

We would like to take this opportunity to commend both Houses of Congress for their diligent efforts in bringing to final passage such an outstanding bill which will benefit millions of disabled Americans. We urge all of you to vote with reason, not fear, for the final passage of the conference report without the Chapman amendment.

Thank you for consideration.

Cordially,

BOB JULIANO,
Legislative Representative.

MAY 16, 1990.

DEAR CONFEREE: We, the undersigned representatives of governing bodies within our respective faith groups, urge you to support and pass the Americans With Disabilities Act [ADA]. We oppose any amendments which will serve to weaken the present bill. We especially urge you to oppose the "food handler" amendment that will be offered by Representative Jim Chapman.

This amendment fosters the same type of irrational discrimination that the ADA is intended to eliminate. There is no medical reason to bar people with the HIV disease from working as food handlers. All research concludes that the virus cannot be spread through food, handshakes, coughing, sneezing or other daily casual contact. Recently, Dr. William Roper, Director of the Centers for Disease Control, wrote a letter which states clearly that people with AIDS do not pose a risk to others by handling food. The proposed amendment would undermine the education efforts of the federal government and our various faith groups, which are trying to educate the public about how AIDS is contracted and how it is not.

The amendment will have a disproportionate impact on poor and racial/ethnic minority workers who rely on employment in the food service sector to care for themselves and their families. Adoption of this amendment will increase dependency upon federal income support payments and significantly decrease the opportunity for individuals to live independent lives.

The proposed amendment is also directly contrary to the stated position of President Bush. Our President has publicly stated, on more than one occasion, that all people with AIDS should be covered by ADA. Exceptions due to public ignorance are not countenanced by President Bush.

ADA already contains specific language that any worker who poses a direct threat (now defined as significant risk) to others is excluded from coverage in the employment section of the bill. We, as people of faith, cannot endorse this amendment which reinforces precisely the type of irrational discrimination ADA is designed to eliminate. It responds to public misperception and fear by legitimizing that fear through explicit accommodation in the law.

Thank you for considering our views.

Sincerely,

Rev. Ken South, Washington Representative, AIDS National Interfaith Network; Carol B. Franklin, American Baptist Churches, USA; Judith Golub, Legislative Director, American Jewish Committee; Mark J. Pelavin, Washington Representative, American Jewish Congress; Melva B. Jimerson, Acting Director, Church of the Bretheren, Washington Office; Sally Timmel, Director, Washington Office, Church Women United; Dr. Kay Dowhower, Director, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America; Joe Volk, Executive Secretary, Friends Committee on National Legislation; Joseph R. Hacala, S.J., Jesuit Social Ministries, National Office; Delton Franz, Director, Mennonite Central Committee, Washington Office; Mary Anderson Cooper, Acting Director, Washington Office, National Council of Churches; Joan Bronk, National President, National Council of Jewish Women; Rev. Elenora Giddings Ivory, Director, Washington Office, Presbyterian Church (USA); Jane Hull Harvey, Director, Department of Human Welfare, General Board of Church & Society, The United Methodist Church; Joyce V. Hamlin, Women's Division, General Board of Global Ministries, The United Methodist Church; Rev. Jay Linter, Director, Office for Church in Society, United Church of Christ; Father Robert J. Brooks, Washington Office of the Episcopal Church.

DEPARTMENT OF SOCIAL DEVELOPMENT AND WORLD PEACE, OFFICE OF DOMESTIC SOCIAL DEVELOPMENT,
Washington, DC, June 5, 1990.

Hon. EDWARD KENNEDY,
Chair, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The U.S. Catholic Conference, the public policy arm of the nation's Roman Catholic bishops, urges you to oppose Senate approval of the Chapman amendment adopted by the House of Representatives to the Americans with Disabilities Act (ADA). As you know the bishops' conference strongly supported the ADA bill when it was considered by the Senate because of the urgent need to help disabled people, including those suffering from HIV infection, to participate fully in our society.

The Chapman amendment should be resisted by the Senate for two reasons: first, it is unnecessary; and second, such an amendment would set a pernicious precedent that

could undermine the principles embodied in the civil rights protections of this nation.

The Chapman amendment is unnecessary because the ADA bill already includes provisions to cover situations in which employees with communicable diseases could pose a health threat to others. Clearly, the ADA would not require restaurants to employ food handlers whose contagious illnesses could be transmitted through preparing or serving food.

The amendment is also dangerous because it would codify the idea that employers may discriminate against disabled people solely on the basis of the ignorance and prejudice of others. Proponents of this amendment have argued that, while there is no evidence that HIV infection can be transmitted through food handling, that food establishments must be free to cater to the fears and misunderstanding of some of their customers. Federal law, especially precedent setting civil rights laws should be based on higher principles and higher goals for our people.

Sincerely,

SHARON M. DALY.

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, June 27, 1990.

DEAR SENATOR: We understand that the Senate soon will be voting on the conference report to the Americans with Disabilities Act. We urge the Senate to accept the conference report and reject any attempt to recommit the bill to conference with instructions to reconsider the Chapman Amendment. This amendment would allow employers to transfer employees with contagious diseases out of food-handling jobs.

The American Bar Association continues to oppose this discriminatory and unnecessary amendment. The conference report to the Americans with Disabilities Act already provides that its antidiscriminatory protections would not apply to workers whose contagious diseases pose a direct threat to the health or safety of others. The Chapman Amendment does not differentiate between employees with contagious diseases that can be spread through casual contact with food products and other employees with contagious diseases, like HIV infection, which medical science has determined cannot be spread by casual contact. It, therefore, does nothing more than perpetuate discrimination against disabled individuals and undermine the very purpose of the Americans with Disabilities Act.

This vital legislation finally will provide a national mandate to end discrimination on the basis of disability. We urge you to act promptly and accept the conference report.

Sincerely,

ROBERT D. EVANS.

NATIONAL COUNCIL OF SENIOR CITIZENS,
Washington, D.C., June 26, 1990.

Hon. Edward M. Kennedy,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: The National Council of Senior Citizens is in strong support of the Americans with Disabilities Act (ADA). This legislation contains needed protections which millions of Americans, many of them elderly, have waited too long for.

It is our hope that the Senate will act quickly when this legislation returns from Conference Committee and reject any unnecessary and frivolous amendments. In particular, we join with the labor, church, disability and civil rights organizations who have opposed Senate approval of the Chapman Amendment which allows discrimination against HIV+ persons and others in the food service industry.

This amendment has no legitimate purpose and will only serve to weaken the ADA bill. It is not needed to deal with food-borne diseases, and would simply serve to reinforce the very kind of irrational discrimination the Americans with Disability Act is designed to eliminate.

Sincerely,

ERIC SHULMAN,
Director, Legislative Liaison and Research.

WASHINGTON, DC,
June 28, 1990.

U.S. SENATE,
Washington, D.C.

DEAR SENATOR: The American Association of Retired Persons (AARP) urges you to support and vote for the Americans with Disabilities Act (ADA), as reported by the Conference Committee, and to oppose any efforts to delay *immediate* passage of this important bill.

Speedy passage of this crucial civil rights legislation is needed to improve the quality of life and expand the opportunities for the millions of persons who have some form of disabling condition. More than 50 percent of people over age 65 are included in this group.

The bill reported by the Conference Committee establishes a workable and fair framework for insuring that all citizens with disabilities, regardless of age, fully participate in the mainstream of society.

AARP supports the Conference agreement and urges you to vote for the Conference bill.

Sincerely,

HORACE B. DEETS.

CONSORTIUM FOR
CITIZENS WITH DISABILITIES,
June 6, 1990.

DEAR SENATOR: The Consortium for Citizens with Disabilities (CCD) urges you to oppose a motion to instruct on the "foodhandlers amendment" to the Americans with Disabilities Act (ADA). Contrary to the claims of the National Restaurant Association, the foodhandlers amendment wholly contradicts the spirit of the ADA by undermining the protections of the bill and perpetuating needless discrimination.

The foodhandlers amendment is based on irrational fears and misperceptions about people with AIDS and HIV disease. People with disabilities are all too familiar with such prejudicial attitudes because they have been similarly shunned by the same kinds of stereotypes.

For instance, people with mental retardation have often been institutionalized based on numerous misperceptions, including the unfounded fear that this condition is contagious. In the same vein, people with polio, in other generations, were subjected to panic-induced discrimination even though this viral disease has a limited contagion period of two weeks. Because massive misperceptions about the disease persisted, individuals with the disease were isolated and segregated. Even decades after the epidemic, children with polio were separated from other children in schools and adults were denied employment.

Although it's hard to believe today, the fear of epilepsy was once so great that people with this disease were believed to be possessed by the devil and were shut out of schools and the workforce. Even cancer was once thought to be contagious and resulted in discrimination.

The foodhandling amendment reinforces misperceptions about diseases that do not pose a risk to the public. It will send a message to the public that AIDS can be transmitted through food, even though this is not true. This is irresponsible. It undercuts all the public education efforts that have been spear-headed by the government over the last five years to teach people the facts about the disease.

If Members of the Senate have concerns about diseases that do pose a direct threat to the health and safety of the public, they should rest assured that this has already been addressed by the legislation. The Senate-passed version of the ADA (S. 933) already explicitly states that any individual with a contagious disease would not receive protections under the Act if they pose a direct threat to the health and safety of other that cannot be removed by reasonable accommodation. The Senate voted to incorporate this language in the Civil Rights Restoration Act and Fair Housing Amendments Act to allay fears about the contagiousness of the disease.

Proponents of the foodhandlers amendment contend that it is needed because of perceptions that HIV disease can be transmitted through the handling of food, even though they themselves admit that these perceptions are false. The ADA is intended to prohibit employment discrimination based on irrational fears and stereotypical perceptions.

We strongly disagree with the National Restaurant Association's assertion that this amendment is "fully in the spirit" of the Americans with Disabilities Act. Persons with disabilities and their friends and families believe that the spirit of the ADA is to end discrimination based on ignorance and prejudice; not to foster it.

For people with disabilities, including those with HIV disease and AIDS, the ADA offers promise that they will no longer be shunned and isolated because of the ignorance of others. We strongly urge you, on behalf of millions of citizens with disabilities, to oppose any motion to instruct on the foodhandlers amendment. Thank you.

Sincerely,

Affiliated Leadership League of and for the Blind, Alexander Graham Bell Association for the Deaf, American Academy of Child and Adolescent Psychiatry, American Academy of Otolaryngology Head and Neck Surgery, American Academy of Physical Medicine and Rehabilitation, American Association for Counseling and Development, American Association of the Deaf-Blind, American Association on Mental Retardation, American Association of University Affiliated Programs, American Congress of Rehabilitation Medicine, American Council of the Blind, American Deafness and Rehabilitation Association, American Diabetes Association, and American Foundation for the Blind.

American Occupational Therapy Association.

American Psychiatric Association.

American Psychological Association.

American Society for Deaf Children.

American Speech-Language-Hearing Association.

Association for the Education and Rehabilitation of the Blind and Visually Impaired.

Association for the Education of Rehabilitation Facility Personnel.
Association for Retarded Citizens of the United States.
Autism Society of America.
Child Welfare League of America.
Chronic Fatigue Syndrome Information Institute, Inc.
Conference of Educational Administrators Serving the Deaf.
Council for Exceptional Children.
Convention of American Instructors of the Deaf.
Deafness Research Foundation.
Disabled But Able to Vote.
Disability Focus, Inc.
Disability Rights Education and Defense Fund, Inc.
Epilepsy Foundation of America.
Gallaudet University Alumni Association.
Gazette International Networking Institute.
Goodwill Industries of America, Inc.
International Association of Parents of the Deaf.
International Polio Network.
International Ventilator User Network.
Juvenile Diabetes Foundation.
Learning, How, Inc.
Mental Health Law Project.
National Alliance for the Mentally Ill.
National Association of the Deaf.
National Association of Developmental Disabilities Councils.
National Association of Private Residential Resources.
National Association of Protection and Advocacy Systems.
National Association of Rehabilitation Facilities.
National Association of Rehabilitation Professionals in the Private Sector.
National Association of State Mental Retardation Program Directors.
National Center for Law and the Deaf.
National Coalition for Cancer Survivorship.
National Council on Independent Living.
National Council on Rehabilitation Education.
National Down Syndrome Congress.
National Easter Seal Society.
National Federation of the Blind.
National Fraternal Society of the Deaf.
National Handicapped Sports and Recreation Association.
National Head Injury Foundation.
National Industries for the Severely Handicapped, Inc.
National Mental Health Association.
National Mental Health Consumers' Association.
National Multiple Sclerosis Society.
National Network of Learning Disabled Adults.
National Organization for Rare Disorders.
National Organization on Disability.
National Ostomy Association.
National Rehabilitation Association.
National Spinal Cord Injury Association.
Paralyzed Veterans of America.
People First International.
Self-Help for Hard of Hearing People, Inc.
Spina Bifida Association of America.
The Association for Persons with Severe Handicaps.
Tourette Syndrome Association.
United Cerebral Palsy Associations, Inc.
World Institute on Disability.

NEW ENGLAND CORPORATE CONSORTIUM FOR AIDS EDUCATION.

On behalf of the New England Consortium for Aids Education I am writing to express our strong opposition to the Chapman Food Handler Amendment to the Americans with Disabilities Act currently under consideration and debate.

In a time of increased recognition of the need to educate the public about the realities of AIDS and HIV, legislation that fosters misinformation, condones ignorance and encourages discriminatory behavior in any sector of American life is dangerous and counterproductive. It is also contrary to the fundamental principles of the American legislative process and judicial responsibility.

As such, the New England AIDS Consortium, which represents 15 major employers including: Digital Equipment Corporation; Polaroid Corporation; DAKA, International; Textron; The Stubbins Associates; and nearly one million employees throughout the Northeast, urges your immediate attention and support to delete consideration of the Chapman Amendment from the Americans with Disabilities Act. Further, we entreat your support and endorsement of any action that would move substantively toward altering public misperceptions about AIDS through increased educational efforts rather than reinforcing and codifying ignorance and fear.

PAUL A. ROSS, Ed.D.,
Chair, New England Corporate Consortium for AIDS Education.

NATIONAL ORGANIZATIONS RESPONDING TO AIDS,
Washington, DC, June 11, 1990.

DEAR CONFEREE: The undersigned members of the National Organizations Responding to AIDS (NORA) coalition strongly urge you to drop the "food handler" amendment that was passed by the House of Representatives on H.R. 2273, the Americans with Disabilities Act (ADA).

This amendment was designed to allow food establishments to force a person with AIDS out of a certain job in the establishment and into another, even when the person remains qualified to do the first job and wishes to remain in that position.

The provision reinforces precisely the type of irrational discrimination that the ADA is designed to eliminate. It responds to public misperception and fear by legitimizing that fear through an explicit accommodation in the law. We strongly believe that the narrow margin by which the amendment succeeded is evidence that the "Chapman amendment" does not enjoy broad support.

The inclusion of the food handlers provision is also seriously counter-productive to the efforts of the federal government, and the efforts of the undersigned groups, to educate the general public that AIDS is *not* spread through casual contact—including food preparation. This provision sends precisely the *opposite* message to the American public. Attached are letters from Dr. Louis Sullivan, Secretary of Health and Human Services and Dr. William Roper, formerly with the Domestic Policy Council in the Control (CDC), which sets forth clearly that people with AIDS do not pose a risk in food handling. The letter from Dr. Sullivan states the Bush administration's opposition to the amendment. The provision in question would undermine the millions of dollars that CDC is spending to get out this responsible message.

We urge you to remove the "Chapman amendment" in conference. It represents bad civil rights policy and bad public health policy.

Sincerely,
AIDS Action Council.
AIDS National Interfaith Network.
American Academy of Pediatrics.
American Association for Counseling and Development.
American Association for Marriage and Family Therapy.
American Association of University Affiliated Programs.
American Civil Liberties Union.
American Federation of State, County, and Municipal Employees.
American Foundation for AIDS Research.
American Jewish Committee.
American Medical Student Association.
American Nurses' Association.
American Psychological Association.
American Public Health Association.
Association for Retarded Citizens of the United States.
Association of Schools of Public Health.
Association of State and Territorial Health Officials.
Center for Population Options.
Center for Women's Policy Studies.
Child Welfare League of America.
Chronic Fatigue Syndrome Information Institute Inc.
Citizens Commission on AIDS.
City of New York.
Coalition for the Homeless.
Committee for Children.
Federation of Parents and Friends of Lesbians and Gays.
Human Rights Campaign Fund.
Legal Action Center.
National Assembly of State Arts Agencies.
National Association of State Alcohol and Drug Abuse Directors.
National Association of Community Health Centers Inc.
National Association of Protection and Advocacy Systems.
National Association of Social Workers.
National Council of Jewish Women.
National Council on La Raza.
National Gay and Lesbian Task Force.
National Hemophilia Foundation.
National Mental Health Association.
National Minority AIDS Council.
National Network of Runaway and Youth Services.
Planned Parenthood Federation of America.
Sex Information and Education Council of the U.S.
Synagogue Council of America.
Union of American Hebrew Congregations.

TRANSMISSIBILITY

Let us lay to rest right now—once and for all—the mistaken notion that the experts have been repeatedly changing their minds about the essential facts about AIDS. Such an allegation is not supported by facts. In 1981, we started with no knowledge about a brand new disease; and month-by-month, year-by-year, painstaking medical research has given us better, more concrete knowledge about the illness.

Because of time constrains and the desire to hear from our witnesses I will not review with you—right now—all the official statements, warnings or guidelines about AIDS transmission published by the U.S. Public Health Service and the Centers for Disease Control—starting in June 1981 right through today. Instead, I will submit them for the record as ample documentation of the fact that HIV is not casually transmitted.

You will not find any screeching U-turns or overnight about-faces.

What you will see is the careful evolution of scientific understanding and the systematic building of consensus among researchers and virtually all public health experts.

No one has been lied to. There are no big uncertainties being covered up.

However, in science, there are no ironclad guarantees—about AIDS or about anything. What science relies upon is evidence. The overwhelming weight of evidence about AIDS and the human immunodeficiency virus tells us that the illness is not casually transmitted.

Those who ask for proof that AIDS can never be transmitted in other ways have an unrealistic expectation of biomedical research. In science, it is not possible to prove a negative.

As one AIDS epidemiologist has noted: under the right circumstances, water can be made to run up hill—but it doesn't happen very easily. Let us deal with the known facts about AIDS.

I quote from the New England Journal of Medicine of October 1987 in its exhaustive review on Transmission of HIV:

"The accumulated data strongly support the conclusion that transmission of HIV occurs only through blood, sexual activity, and perinatal events * * * An unrealistic requirement for absolute certainty about the lack of transmission by other routes persists, despite the knowledge that it is not scientifically possible to prove that an event cannot occur.

"Although we are confronted by a public health problem of potentially catastrophic dimensions, it is essential to appreciate that unwarranted fears of HIV transmission have compounded the suffering of young men, women, and children infected with HIV and have blunted an appropriate societal response aimed at reduction of transmission."

The Surgeon General's report states that, "AIDS is an infectious disease. It is contagious, but it cannot be spread in the same manner as a common cold or measles or chicken pox. It is contagious in the same way sexually transmitted diseases, such as syphilis and gonorrhea, are contagious. AIDS can also be spread through the sharing of intravenous drug needles and syringes used for injecting illicit drugs.

[T]here is great misunderstanding resulting in unfounded fear that AIDS can be spread by casual, non-sexual contact. The first cases of AIDS were reported in this country in 1981.

We would know by now if AIDS were passed by casual, non-sexual contact.

Everyday living does not present any risk of infection. You cannot get AIDS from casual social contact."

In a study on the transmission of HIV published in the New England Journal of Medicine, the author states that of the more than 30,000 cases of AIDS in the United States reported to the Centers for Disease Control in February 1987, none have occurred in family members of patients with AIDS, unless the members have other recognized risk-related behavior.

More direct and precise risk information can be derived from a number of studies in which nearly 500 family members of patients with AIDS were evaluated for evidence of infection. * * * These studies failed to demonstrate a single HIV infection among household members who did not have additional exposure to HIV infection through blood, sexual activity, or perinatal transmission.

A second study evaluated 86 family members of 24 children with AIDS. No transmission of HIV was demonstrated after close interactions, which in this study included occasional biting of siblings by the index children.

According to the Institute of Medicine, studies show no evidence that the infection is transmitted by so-called casual contact—that is, contact that can be even quite close between persons in the course of daily activities.

[Public Health Service, from the MMWR, November 15, 1985, Vol. 34, No. 45]

SUMMARY: RECOMMENDATIONS FOR PREVENTING TRANSMISSION OF INFECTION WITH HUMAN T-LYMPHOTROPIC VIRUS TYPE III/LYMPHADENOPATHY-ASSOCIATED VIRUS IN THE WORKPLACE

The information and recommendations contained in this document have been developed with particular emphasis on health-care workers and others in related occupations in which exposure might occur to blood from persons infected with HTLV-III/LAV, the "AIDS virus." Because of public concern about the purported risk of transmission of HTLV-III/LAV by persons providing personal services and those preparing and serving food and beverages, this document also addresses personal-service and food-service workers. Finally, it addresses "other workers"—persons in settings, such as offices, schools, factories, and construction sites, where there is no known risk of AIDS virus transmission.

Because AIDS is a bloodborne, sexually transmitted disease that is not spread by casual contact, this document does not recommend routine HTLV-III/LAV antibody screening for the groups addressed. Because AIDS is not transmitted through preparation or serving of food and beverages, these recommendations state that food-service workers known to be infected with AIDS should not be restricted from work unless they have another infection or illness for which such restriction would be warranted.

This document contains detailed recommendations for precautions appropriate to prevent transmission of all bloodborne infectious diseases to people exposed—in the course of their duties—to blood from persons who may be infected with HTLV-III/LAV. They emphasize that health-care workers should take all possible precautions to prevent needlestick injury. The recommendations are based on the well-documented modes of HTLV-III/LAV transmission and incorporate a "worst case" scenario, the hepatitis B model of transmission. Because the hepatitis B virus is also bloodborne and is both hardier and more infectious than HTLV-III/LAV, recommendations that would prevent transmission of hepatitis B will also prevent transmission of AIDS.

Formulation of specific recommendations for health-care workers who perform invasive procedures is in progress.

RECOMMENDATIONS FOR PREVENTING TRANSMISSION OF INFECTION WITH HUMAN T-LYMPHOTROPIC VIRUS TYPE III/LYMPHADENOPATHY-ASSOCIATED VIRUS IN THE WORKPLACE

Persons at increased risk of acquiring infection with human T-lymphotropic virus type III/lymphadenopathy-associated virus (HTLV-III/LAV), the virus that causes acquired immunodeficiency syndrome (AIDS), include homosexual and bisexual men, intravenous (IV) drug abusers, persons transfused with contaminated blood or blood products, heterosexual contacts of persons with HTLV-III/LAV infection, and children born to infected mothers. HTLV-III/LAV is transmitted through sexual contact, parenteral exposure to infected blood or blood components, and perinatal transmission from mother to neonate. HTLV-III/LAV has been isolated from blood, semen, saliva, tears, breast milk, and urine and is likely to be isolated from some other body fluids, secretions, and excretions, but epidemiologic evidence has implicated only blood and semen in transmission. Studies of nonsexual household contacts of AIDs patients indicate that casual contact with saliva and tears does not result in transmission of infection. Spread of infection to household contacts of infected persons has not been detected when the household contacts have not been sex partners or have not been infants of infected mothers. The kind of nonsexual person-to-person contact that generally occurs among workers and clients or consumers in the workplace does not pose a risk for transmission of HTLV-III/LAV.

As in the development of any such recommendations, the paramount consideration is the protection of the public's health. The following rcommendations have been developed for all workers, particularly workers in occupations in which exposure might occur to blood from individuals infected with HTLV-III/LAV. These recommendations reinforce and supplement the specific recommendations that were published earlier for clinical and laboratory staffs [1] and for dental-care personnel and persons performing necropsies and morticians' services.[2] Because of public concern about the purported risk of transmission of HTLV-III/LAV by persons providing personal services and by food and beverages, these recommendations contain information and recommendations for personal-service and food-service workers. Finally, these recommendations address workplaces in general where there is no known risk of transmission of HTLV-III/LAV (e.g., offices, schools, factories, construction sites). Formulation of specific recommendations for health-care workers (HCWs) who perform invasive procedures (e.g., sugeons, dentists) is in progress. Separate recommendations are also being developed to prevent HTLV-III/LAV transmission in prisons, other correctional facilities, and institutions housing individuals who may exhibit uncontrollable behavior (e.g., custodial institutions) and in the perinatal setting. In addition, separate recommendations have already been developed for children in schools and day-care centers.[3]

HTLV-III/LAV-infected individuals include those with AIDS,[4] those diagnosed by their physician(s) as having other illnesses due to infection with HTLV-III/LAV, and those who have virologic or serologic evidence of infection with HTLV-III/LAV but who are not ill.

These recommendations are based on the well-documented modes of HTLV-III/LAV transmission identified in epidemiologic studies and on comparison with the hepatitis B experience. Other recommendations are based on the hepatitis B model of transmission.

Comparison with the hepatitis B virus experience

The epidemiology of HTLV-III/LAV infection is similar to that of hepatitis B virus (HBV) infection, and much that has been learned over the last 15 years related to the risk of acquiring hepatitis B in the workplace can be applied to understanding the

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Footnotes at end of article.

risk of HTLV-III/LAV transmission in the health-care and other occupational settings. Both viruses are transmitted through sexual contact, parenteral exposure to contaminated blood or blood products, and perinatal transmission from infected mothers to their offspring. Thus, some of the same major groups at high risk for HBV infection (e.g., homosexual men, IV drug abusers, persons with hemophilia, infants born to infected mothers) are also the groups at highest risk for HTLV-III/LAV infection. Neither HBV nor HTLV-III/LAV has been shown to be transmitted by casual contact in the workplace, contaminated food or water, or airborne or fecal-oral routes.[5]

HBV infection is an occupational risk for HCWs, but this risk is related to degree of contact with blood or contaminated needles. HCWs who do not have contact with blood or needles contaminated with blood are not at risk for acquiring HBV infection in the workplace.[6 8]

In the health-care setting, HBV transmission has not been documented between hospitalized patients, except in hemodialysis units, where blood contamination of the environment has been extensive or where HBV-positive blood from one patient has been transferred to another patient through contamination of instruments. Evidence of HBV transmission from HCWs to patients has been rare and limited to situations in which the HCWs exhibited high concentrations of virus in their blood (at least 100,000,000 infectious virus particles per ml of serum), and the HCWs sustained a puncture wound while performing traumatic procedures on patients or had exudative or weeping lesions that allowed virus to contaminate instruments or open wounds of patients.[9 11]

Current evidence indicates that, despite epidemiologic similarities of HBV and HTLV-III/LAV infection, the risk for HBV transmission in health-care settings far exceeds that for HTLV-III/LAV transmission. The risk of acquiring HBV infection following a needlestick from an HBV carrier ranges from 6% to 30%,[12,13] far in excess of the risk of HTLV-III/LAV infection following a needlestick involving a source patient infected with HTLV-III/LAV, which is less than 1%. In addition, all HCWs who have been shown to transmit HBV infection in health-care settings have belonged to the subset of chronic HBV carriers who, when tested, have exhibited evidence of exceptionally high concentrations of virus (at least 100,000,000 infectious virus particles per ml) in their blood. Chronic carriers who have substantially lower concentrations of virus in their blood have not been implicated in transmission in the health-care setting[9,11,14]. The HBV model thus represents a "worst case" condition in regard to transmission in health-care and other related settings. Therefore, recommendations for the control of HBV infection should, if followed, also effectively prevent spread of HTLV-III/LAV. Whether addditional measures are indicated for those HCWs who perform invasive procedures will be addressed in the recommendations currently being developed.

Routine screening of all patients or HCWs for evidence of HBV infection has never been recommended. Control of HBV transmission in the health-care setting has emphasized the implementation of recommendations for the appropriate handling of blood, other body fluids, and items soiled with blood or other body fluids.

Transmission from patients to health-care workers

HCWs include, but are not limited to, nurses, physicians, dentists and other dental workers, optometrists, podiatrists, chiropractors, laboratory and blood bank technologists and technicians, phlebotomists, dialysis personnel, paramedics, emergency medical technicians, medical examiners, morticians, housekeepers, laundry workers, and others whose work involves contact with patients, their blood or other body fluids, or corpses.

Recommendations for HCWs emphasize precautions appropriate for preventing transmission of bloodborne infectious diseases, including HTLV-III/LAV and HBV infections. Thus, these precautions should be enforced routinely, as should other standard infection-control precautions, regardless of whether HCWs or patients are known to be infected with HTLV-III/LAV or HBV. In addition to being informed of these precautions, all HCWs, including students and housestaff, should be educated regarding the epidemiology, modes of transmission, and prevention of HTLV-III/LAV infection.

Risk of HCWs acquiring HTLV-III/LAC in the workplace.—Using the HBV model, the highest risk for transmission of HTLV-III/LAV in the workplace would involve parenteral exposure to a needle or other sharp instrument contaminated with blood of an infected patient. The risk to HCWs of acquiring HTLV-III/LAV infection in the workplace has been evaluated in several studies. In five separate studies, a total of 1,498 HCWs have been tested for antibody to HTLV-III/LAV. In these studies, 666 (44.5%) of the HCWs had direct parenteral (needlestick or cut) or mucous membrane exposure to patients with AIDS or HTLV-III/LAV infection. Most of these exposures were to blood rather than to other body fluids. None of the HCWs whose initial serologic tests were negative developed subsequent evidence of HTLV-III/LAV infection following their exposures. Twenty-six HCWs in these five studies were seropositive when first tested; all but three of these persons belonged to groups recognized to be at increased risk for AIDS[15]. Since one was tested anonymously, epidemiologic information was available on only two of those three seropositive HCWs. Although these two HCWs were reported as probable occupationally related HTLV-III/LAV infection[15 16], neither had a preexposure nor an early postexposure serum sample available to help determine the onset of infection. One case reported from England describes a nurse who seroconverted following an accidental parenteral exposure to a needle contaminated with blood from an AIDS patient[17].

In spite of the extremely low risk of transmission of HTLV-III/LAV infection, even when needlestick injuries occur, more emphasis must be given to precautions targeted to prevent needlestick injuries in HCWs caring for any patient, since such injuries continue to occur even during the care of patients who are known to be infected with HTLV-III/LAV.

Precautions to prevent acquisition of HTLV-III/LAV infection by HCWs in the workplace.—These precautions represent prudent practices that apply to preventing transmission of HTLV-III/LAV and other bloodborne infections and should be used routinely.[18]

1. Sharp items (needles, scalpel blades, and other sharp instruments) should be considered as potentially infective and be handled with extraordinary care to prevent accidental injuries.

2. Disposable syringes and needles, scalpel blades, and other sharp items should be placed into puncture-resistant containers located as close as practical to the area in which they were used. To prevent needlestick injuries, needles should not be recapped, purposefully bent, broken, removed from disposable syringes, or otherwise manipulated by hand.

3. When the possibility of exposure to blood or other body fluids exists, routinely recommended precautions should be followed. The anticipated exposure may require gloves alone, as in handling items soiled with blood or equipment contaminated with blood or other body fluids, or may also require gowns, masks, and eye-coverings when performing procedures involving more extensive contact with blood or potentially infective body fluids, as in some dental or endoscopic procedures or postmortem examinations. Hands should be washed thoroughly and immediately if they accidentally become contaminated with blood.

4. To minimize the need for emergency mouth-to-mouth resuscitation, mouth pieces, resuscitation bags, or other ventilation devices should be strategically located and available for use in areas where the need for resuscitation is predictable.

5. Pregnant HCWs are not known to be a greater risk of contracting HTLV-III/LAV infections than HCWs who are not pregnant; however, if a HCW develops HTLV-III/LAV infection during pregnancy, the infant is at increased risk of infection resulting from perinatal transmission. Because of this risk, pregnant HCWs should be especially familiar with precautions for the preventing HTLV-III/LAV transmissions.[19]

Precautions for HCWs during home care of persons infected with HTLV-III/LAV.—Persons infected with HTLV-III/LAV can be safely cared for in home environments. Studies of family members of patients infected with HTLV-III/LAV have found no evidence of HTLV-III/LAV transmission to adults who were not sexual contacts of the infected patients or to children who were not a risk for perinatal transmission.[3] HCWs providing home care face the same risk of transmission of infection as HCWs in hospitals and other health-care settings, especially if there are needlesticks or other parenteral or mucous membrane exposures to blood or other body fluids.

When providing health-care service in the home to persons infected with HTLV-III/LAV, measures similar to those used in hospitals are appropriate. As in the hospital, needles should not be recapped, purposefully bent, broken, removed from disposable syringes, or otherwise manipulated by hand. Needles and other sharp items should be placed into puncture-resistant containers and disposed of in accordance with local regulations for solid waste. Blood and other body fluids can be flushed down the toilet. Other items for disposal that are contaminated with blood or other body fluids that cannot be flushed down the toilet should be wrapped securely in a plastic bag that is impervious and sturdy (not easily penetrated). It should be placed in a second bag before being discarded in a manner consistent with local regulations for solid waste disposal. Spills of blood or other body fluids should be cleaned with soap and water or a household detergent. As in the hospital, individuals cleaning up such spills should wear disposable gloves. A disinfectant solution or a

freshly prepared solution of sodium hypochlorite (household bleach, see below) should be used to wipe the area after cleaning.

Precautions for providers of prehospital emergency health care.—Providers of prehospital emergency health care include the following: paramedics, emergency medical technicians, law enforcement personnel, firefighters, lifeguards, and others whose job might require them to provide first-response medical care. The risk of transmission of infection, including HTLV-III/LAV infection, from infected persons to providers of prehospital emergency health care should be no higher than that for HCWs providing emergency care in the hospital if appropriate precautions are taken to prevent exposure to blood or other body fluids.

Providers of prehospital emergency health care should follow the precautions outlined above for other HCWs. No transmission of HBV infection during mouth-to-mouth resuscitation has been documented. However, because of the theoretical risk of salivary transmission of HTLV-III/LAV during mouth-to-mouth resuscitation, special attention should be given to the use of disposable airway equipment or resuscitation bags and the wearing of gloves when in contact with blood or other body fluids. Resuscitation equipment and devices known or suspected to be contaminated with blood or other body fluids should be used once and disposed of or be thoroughly cleaned and disinfected after each use.

Management of parenteral and mucous membrane exposures of HCWs.—If a HCW has a parenteral (e.g., needlestick or cut) or mucous membrane (e.g., splash to the eye or mouth) exposure to blood or other body fluids, the source patient should be assessed clinically and epidemiologically to determine the likelihood of HTLV-III/LAV infection. If the assessment suggests that infection may exist, the patient should be informed of the incident and requested to consent to serologic testing for evidence of HTLV-III/LAV infection. If the source patient has AIDS or other evidence of HTLV-III/LAV infection, declines testing, or has a positive test, the HCW should be evaluated clinically and serologically for evidence of HTLV-III/LAV infection as soon as possible after the exposure, and, if seronegative, retested after 6 weeks and on a periodic basis thereafter (e.g., 3, 6, and 12 months following exposure) to determine if transmission has occurred. During this follow-up period, especially the first 6-12 weeks, when most infected persons are expected to seroconvert, exposed HCWs should receive counseling about the risk of infection and follow U.S. Public Health Service (PHS) recommendations for preventing transmission of AIDS.[20, 21] If the source patient is seronegative and has no other evidence of HTLV-III/LAV infection, no further follow-up of the HCW is necessary. If the source patient cannot be identified, decisions regarding appropriate follow-up should be individualized based on the type of exposure and the likelihood that the source patient was infected.

Serologic testing of patients.—Routine serologic testing of all patients for antibody to HTLV-III/LAV is not recommended to prevent transmission of HTLV-III/LAV infection in the workplace. Results of such testing are unlikely to further reduce the risk of transmission, which, even with documented needlesticks, is already extremely low. Furthermore, the risk of needlestick and other parenteral exposures could be reduced by emphasizing and more consistently implementing routinely recommended infection—control precautions (e.g., not recapping needles). Moreover, results of routine serologic testing would not be available for emergency cases and patients with short lengths of stay, and additional tests to determine whether a positive test was a true or false positive would be required in populations with a low prevalence of infection. However, this recommendation is based only on considerations of occupational risks and should not be construed as a recommendation against other uses of the serologic test, such as for diagnosis or to facilitate medical management of patients. Since the experience with infected patients varies substantially among hospitals (75% of all AIDS cases have been reported by only 280 of the more than 6,000 acute-care hospitals in the United States), some hospitals in certain geographic areas may deem it appropriate it initiate serologic testing of patients.

Transmission from health-care workers to patients

Risk of transmission of HTLV-III/LAV infection from HCWs to patients.—Although there is no evidence that HCWs infected with HTLV-III/LAV have transmitted infection to patients, a risk of transmission of HTLV-III/LAV infection from HCWs to patients would exist in situations where there is both (1) a high degree of trauma to the patient that would provide a portal of entry for the virus (e.g., during invasive procedures) and (2) access of blood or serous fluid from the infected HCW to the open tissue of a patient, as could occur if the HCW sustains a needlestick or scalpel injury during an invasive procedure. HCWs known to be infected with HTLV-III/LAV who do not perform invasive procedures need not be restricted from work unless they have evidence of other infection or illness for which any HCW should be restricted. Whether additional restrictions are indicated for HCWs who perform invasive procedures is currently being considered.

Precautions to prevent transmission of HTLV-III/LAV infection from HCWs to patients.—These precautions apply to all HCWs, regardless of whether they perform invasive procedures: (1) All HCWs should wear gloves for direct contact with mucous membranes or nonintact skin of all patients and (2) HCWs who have exudative lesions or weeping dermatitis should refrain from all direct patient care and from handling patient-care equipment until the condition resolves.

Management of parenteral and mucous membrane exposures of patients. If a patient has a parenteral or mucous membrane exposure to blood or other body fluids of a HCW, the patient should be informed of the incident and the same procedure outlined above for exposures of HCWs to patients should be followed for both the source HCW and the potentially exposed patient. Management of this type of exposure will be addressed in more detail in the recommendations for HCWs who perform invasive procedures.

Serologic testing of HCWs. Routine serologic testing of HCWs who do not perform invasive procedures (including providers of home and prehospital emergency care) is not recommended to prevent transmission of HTLV-III/LAV infection. The risk of transmission is extremely low and can be further minimized when routinely recommended infection-control precautions are followed. However, serologic testing should be available to HCWs who may wish to know their HTLV-III/LAV infection status. Whether indications exist for serologic testing of HCWs who perform invasive procedures is currently being considered.

Risk of occupational acquisition of other infectious diseases by HCWs infected with HTLV-III-LAV. HCWs who are known to be infected with HTLV-III/LAV and who have defective immune systems are at increased risk of acquiring or experiencing serious complications of other infectious diseases. Of particular concern is the risk of severe infection following exposure to patients with infectious diseases that are easily transmitted if appropriate precautions are not taken (e.g., tuberculosis). HCWs infected with HTLV-III/LAV should be counseled about the potential risk associated with taking care of patients with transmissible infections and should continue to follow existing recommendations for infection control to minimize their risk of exposure to other infectious agents [18, 19]. The HCWs' personal physician(s), in conjunction with their institutions' personnel health services or medical directors, should determine on an individual basis whether the infected HCWs can adequately and safely perform patient-care duties and suggest changes in work assignments, if indicated. In making this determination, recommendations of the Immunization Practices Advisory Committee and institutional policies concerning requirements for vaccinating HCWs with live-virus vaccines should also be considered.

Sterilization, disinfection, housekeeping, and waste disposal to prevent transmission of HTLV-III/LAV

Sterilization and disinfection procedures currently recommended for use [22, 23] in health-care and dental facilities are adequate to sterilize or disinfect instruments, devices, or other items contaminated with the blood or other body fluids from individuals infected with HTLV-III/LAV. Instruments or other nondisposable items that enter normally sterile tissue or the vascular system or through which blood flows should be sterilized before reuse. Surgical instruments used on all patients should be decontaminated after use rather than just rinsed with water. Decontamination can be accomplished by machine or by hand cleaning by trained personnal wearing appropriate protective attire [24] and using appropriate chemical germicides. Instruments or other nondisposable items that touch intact mucous membranes should receive high-level disinfection.

Several liquid chemical germicides commonly used in laboratories and health-care facilities have been shown to kill HTLV-III/LAV at concentrations much lower than are used in practice [25]. When decontaminating instruments or medical devices, chemical germicides that are registered with and approved by the U.S. Environmental Protection Agency (EPA) as "sterilants" can be used either for sterilization or for high-level disinfection depending on contact time; germicides that are approved for use as "hospital disinfectants" and are mycobactericidal when used at appropriate dilutions can also be used for high-level disinfection of devices and instruments. Germicides that are mycobactericidal are preferred because mycobacteria represent one of the most resistant groups of microorganisms; therefore, germicides that are effective against mycobacteria are also effective against other bacterial and viral pathogens. When chemical germicides are used, instruments or devices to be sterilized or disinfected should be thoroughly cleaned before exposure to the germicide,

and the manufacturer's instructions for use of the germicide should be followed.

Laundry and dishwashing cycles commonly used in hospitals are adequate to decontaminate linens, dishes, glassware, and utensils. When cleaning environmental surfaces, housekeeping procedures commonly used in hospitals are adequate; surfaces exposed to blood and body fluids should be cleaned with a detergent followed by decontamination using an EPA-approved hospital disinfectant that is mycobactericidal. Individuals cleaning up such spills should wear disposable gloves. Information on specific label claims of commercial germicides can be obtained by writing to the Disinfectants Branch, Office of Pesticides, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

In addition to hospital disinfectants, a freshly prepared solution of sodium hypochlorite (household bleach) is an inexpensive and very effective germicide [25]. Concentrations ranging from 5,000 ppm (a 1:10 dilution of household bleach) to 500 ppm (a 1:100 dilution) sodium hypochlorite are effective, depending on the amount of organic material (e.g., blood, mucous, etc.) present on the surface to be cleaned and disinfected.

Sharp items should be considered as potentially infective and should be handled and disposed of with extraordinary care to prevent accidental injuries. Other potentially infective waste should be contained and transported in clearly identified impervious plastic bags. If the outside of the bag is contaminated with blood or other body fluids, a second outer bag should be used. Recommended practices for disposal of infective waste [23] are adequate for disposal of waste contaminated by HTLV-III/LAV. Blood and other body fluids may be carefully poured down a drain connected to a sanitary sewer.

Considerations relevant to other workers

Personal-service workers (PSWs).—PSWs are defined as individuals whose occupations involve close personal contact with clients (e.g., hairdressers, barbers, estheticians, cosmetologists, manicurists, pedicurists, massage therapists). PSWs whose services (tattooing, ear piercing, acupuncture, etc.) require needles or other instruments that penetrate the skin should follow precautions indicated for HCWs. Although there is no evidence of transmission of HTLV-III/LAV from clients to PSWs, from PSWs to clients, or between clients of PSWs, a risk of transmission would exist from PSWs to clients and vice versa in situations where there is both (1) trauma to one of the individuals that would provide a portal of entry for the virus and (2) access of blood or serous fluid from one infected person to the open tissue of the other, as could occur if either sustained a cut. A risk of transmission from client to client exists when instruments contaminated with blood are not sterilized or disinfected between clients. However, HBV transmission has been documented only rarely in acupuncture, ear piercing, and tatto establishments and never in other personal-service settings, indicating that any risk for HTLV-III/LAV transmission in personal-service settings must be extremely low.

All PSWs should be educated about transmission of bloodborne infections, including HTLV-III/LAV and HBV. Such education should emphasize principles of good hygiene, antisepsis, and disinfection. This education can be accomplished by national or state professional organizations, with assistance from state and local health departments, using lectures at meetings or self-instructional materials. Licensure requirements should include evidence of such education. Instruments that are intended to penetrate the skin (e.g., tattooing and acupuncture needles, ear piercing devices) should be used once and disposed of or be thoroughly cleaned and sterilized after each use using procedures recommended for use in health-care institutions. Instruments not intended to penetrate the skin but which may become contaminated with blood (e.g., razors), should be used for only one client and be disposed of or thoroughly cleaned and disinfected after use using procedures recommended for use in health-care institutions. Any PSW with exudative lesions or weeping dermatitis, regardless of HTLV-III/LAV infection status, should refrain from direct contact with clients until the condition resolves. PSWs known to be infected with HTLV-III/LAV need not be restricted from work unless they have evidence of other infections or illnesses for which any PSW should also be restricted.

Routine serologic testing of PSWs for antibody to HTLV-III/LAV is not recommended to prevent transmission from PSWs to clients.

Food-service workers (FSWs).—FSWs are defined as individuals whose occupations involve the preparation or serving of food or beverages (e.g., cooks, caterers, servers, waiters, bartenders, airline attendants). All epidemiologic and laboratory evidence indicates that bloodborne and sexually transmitted infections are not transmitted during the preparation or serving of food or beverages, and no instances of HBV or HTLV-III/LAV transmission have been documented in this setting.

All FSWs should follow recommended standards and practices of good personal hygiene and food sanitation.[26] All FSWs should exercise care to avoid injury to hands when preparing food. Should such an injury occur, both aesthetic and sanitary considerations would dictate that food contaminated with blood be discarded. FSWs known to be infected with HTLV-III/LAV need not be restricted from work unless they have evidence of other infection or illness for which any FSW should also be restricted.

Routine serologic testing of FSWs for antibody to HTLV-III/LAV is not recommended to prevent disease transmission from FSWs to consumers.

Other workers sharing the same work environment.—No known risk of transmission to co-workers, clients, or consumers exists from HTLV-III/LAV-infected workers in other settings (e.g., offices, schools, factories, construction sites). This infection is spread by sexual contact with infected persons, injection of contaminated blood or blood products, and by perinatal transmission. Workers known to be infected with HTLV-III/LAV should not be restricted from work solely based on this finding. Moreover, they should not be restricted from using telephones, office equipment, toilets, showers, eating facilities, and water fountains. Equipment contaminated with blood or other body fluids of any worker, regardless of HTLV-III/LAV infection status, should be cleaned with soap and water or a detergent. A disinfectant solution or a fresh solution of sodium hypochlorite (household bleach, see above) should be used to wipe the area after cleaning.

Other issues in the workplace

The information and recommendations contained in this document do not address all the potential issues that may have to be considered when making specific employment decisions for persons with HTLV-III/LAV infection. The diagnosis of HTLV-III/LAV infection may evoke unwarranted fear and suspicion in some co-workers. Other issues that may be considered include the need for confidentiality, applicable federal, state, or local laws governing occupational safety and health, civil rights of employees, workers' compensation laws, provisions of collective bargaining agreements, confidentiality of medical records, informed consent, employee and patient privacy rights, and employee right-to-know statutes.

Development of these recommendations

The information and recommendations contained in these recommendations were developed and compiled by CDC and other PHS agencies in consultation with individuals representing various organizations. The following organizations were represented: Association of State and Territorial Health Officials, Conference of State and Territorial Epidemiologists, Association of State and Territorial Public Health Laboratory Directors, National Association of County Health Officials, American Hospital Association, United States Conference of Local Health Officers, Association for Practitioners in Infection Control, Society of Hospital Epidemiologists of America, American Dental Association, American Medical Association, American Nurses' Association, American Association of Medical Colleges, American Association of Dental Schools, National Institutes of Health, Food and Drug Administration, Food Research Institute, National Restaurant Association, National Hairdressers and Cosmetologists Association, National Gay Task Force, National Funeral Directors and Morticians Association, American Association of Physicians for Human Rights, and National Association of Emergency Medical Technicians. The consultants also included a labor union representative, an attorney, a corporate medical director, and a pathologist. However, these recommendations may not reflect the views of individual consultants or the organizations they represented.

FOOTNOTES

[1] CDC. Acquired immune deficiency syndrome (AIDS): precautions for clinical and laboratory staffs. MMWR 1982;31:577-80.

[2] CDC. Acquired immunodeficiency syndrome (AIDS): precautions for health-care workers and allied professionals. MMWR 1983;32:450-1.

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[5] CDC. ACIP recommendations for protection against viral hepatitis. MMWR 1985;34:313-24, 329-335.

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[17] Anonymous. Needlestick transmission of HTLV-III from a patient infected in Africa. Lancet 1984;ii:1376-7.

[18] Garner JS, Simmons BP. Guideline for isolation precautions in hospitals, Infect Control 1983;4: 245-325.

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[20] CDC. Prevention of acquired immune deficiency syndrome (AIDS): report of inter-agency recommendations. MMWR 1983;32:101-3.

[21] CDC. Provisional Public Health Service interagency recommendations for screening donated blood and plasma for antibody to the virus causing acquired immunodeficiency syndrome. MMWR 1985;34:1-5.

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[25] Martin LS, McDougal JS, Loskoski SL. Disinfection and inactivation of the human T-lymphotropic virus type III/lymphadenopathy-associated virus. J Invest Dis 1985; 152:400-3.

[26] Food Service Sanitation Manual 1976. DHEW publication no. (FDA) 78-2081. First printing June 1978.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina [Mr. HELMS] to the instructions to the motion to recommit. The yeas and the nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 61, as follows:

[Rollcall Vote No. 148 Leg.]

YEAS—39

Armstrong	Fowler	Murkowski
Baucus	Garn	Nickles
Bond	Gramm	Pressler
Boschwitz	Grassley	Pryor
Bumpers	Heflin	Roth
Burns	Helms	Rudman
Byrd	Humphrey	Sasser
Coats	Johnston	Shelby
Cochran	Kasten	Simpson
Conrad	Lott	Stevens
D'Amato	Mack	Symms
Exon	McClure	Thurmond
Ford	McConnell	Wallop

NAYS—61

Adams	Breaux	Daschle
Akaka	Bryan	DeConcini
Bentsen	Burdick	Dixon
Biden	Chafee	Dodd
Bingaman	Cohen	Dole
Boren	Cranston	Domenici
Bradley	Danforth	Durenberger
Glenn	Kerry	Pell
Gore	Kohl	Reid
Gorton	Lautenberg	Riegle
Graham	Leahy	Robb
Harkin	Levin	Rockefeller
Hatch	Lieberman	Sanford
Hatfield	Lugar	Sarbanes
Heinz	McCain	Simon
Hollings	Metzenbaum	Specter
Inouye	Mikulski	Warner
Jeffords	Mitchell	Wilson
Kassebaum	Moynihan	Wirth
Kennedy	Nunn	
Kerrey	Packwood	

So the amendment (No. 2119) was rejected.

VOTE ON AMENDMENT NO. 2118 TO FORD MOTION

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any Senators in the Chamber who desire to change their votes?

The result was announced, yeas 99, nays 1, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—99

Adams	Ford	McClure
Akaka	Fowler	McConnell
Armstrong	Garn	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Harkin	Packwood
Bradley	Hatch	Pell
Breaux	Hatfield	Pressler
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	McCain	Wirth

NAYS—1

Helms

So the amendment (No. 2118) was agreed to.

The PRESIDING OFFICER. The question now occurs on the motion by the Senator from Kentucky [Mr. FORD] to recommit the conference report on S. 933, with instructions, as amended.

The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, before the Senate acts finally on this measure, I believe the distinguished Republican leader wishes to engage in a colloquy with the Senator from Utah, the manager of the bill, and I want to permit an opportunity for that to occur.

For the information of Senators, it is our intention to act on the motion to recommit by voice vote. Unless some Senator requests a rollcall vote, and I know of no such request, that will then be the last rollcall vote this evening. So that unless someone now requests a rollcall vote on passage of the motion to recommit, and I know of no such request on either side, there will be no further rollcall votes and we will proceed to act on it by voice vote momentarily following the colloquy of the distinguished Republican leader and the Senator from Utah.

Mr. DOLE. I thank the majority leader. I wanted to address a question to the Senator from Utah.

Mr. President, earlier today we had an exchange on the Senate floor. We were trying to reach some accommodation that would satisfy some of the concerns raised by the Senator from North Carolina, Mr. HELMS, and some of the concerns that many other Senators have on both sides of the aisle with reference to infectious and communicable diseases and how they may be transmitted, whether they can be done through food handling.

The Senator from Utah was prepared to modify his amendment which would have addressed parts of that and that was not possible, and then he stated in a brief statement before the vote on the Helms amendment that it would be his intention to pursue that modification in the conference. I think that is the subsequent agreement on both sides of the aisle.

I guess I would ask the Senator from Utah to reassure me on that point, plus the fact as we made the record I think fairly clear earlier before, when the Senator says, as he does in the amendment, review all infectious and contagious diseases which may be transmitted through handling of the food supply, that would include HIV and all other diseases, infectious and communicable diseases; is that correct?

Mr. HATCH. That is correct. In other words, we will add the language in conference—and all parties are in agreement on this—"(1) Review all infectious and contagious diseases which may be transmitted through handling of the food supply." We will move the numbers down in the succeeding paragraphs to (2), (3), and (4), and that language will include all—I think the current language includes all but this language will be even more clear that all infectious and contagious diseases which may be transmitted through handling of the food supply will be included in the review each year.

Mr. DOLE. Notwithstanding the letter from the Secretary of HHS which the Senator placed in the RECORD earlier today?

Mr. HATCH. That is right. Each year the Secretary of Health and

Human Services is going to update that list and make sure that they are correct in the updating, and it will be done by science, not by conjecture or by fear. That is what we are trying to do. I think that is what will be done.

I thank the distinguished Senator from Kansas for making it clear that this is what it needs to be.

Mr. DOLE. I would also point out that the words "may be" are important because nobody is certain what may or may not be.

Mr. HATCH. That is correct.

Mr. DOLE. That is the purpose of that change in the language in that one paragraph. Instead of the word "are" now we have the words "may be transmitted."

Mr. HATCH. That is correct.

Mr. DOLE. To me that was a step in the right direction. It did not satisfy all Senators, but it would seem to me that it does move in the right direction.

I thank the distinguished Senator from Utah and Senators on both sides of the aisle for addressing this concern. I think now we are going to have the ADA bill passed in fairly short order, and many people deserve a great deal of credit for it. Many are still on the floor, the Senator from Utah, Mr. HATCH, Senator MCCAIN, Senator DURENBERGER, Senator KENNEDY, and a number of others on the other side of the aisle. It is a truly bipartisan bill. It is historic legislation. I would hope now we have it behind us and we can be adopting a conference report sometime tomorrow.

I thank the majority leader.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the motion to recommit by the Senator from Kentucky, with instructions, as amended.

The motion was agreed to.

Mr. FORD. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

Mr. ARMSTRONG. Mr. President, if the leader would withhold that, it is my desire to address the Senate, unless the leader plans to turn to other business.

Mr. MITCHELL. I have no objection.

MORNING BUSINESS

Mr. MITCHELL. I ask unanimous consent there be a period for morning business in which Senators may address the Senate.

The PRESIDING OFFICER. Without objection, there will now be a period for the transaction of morning business. The Chair recognizes the Senator from Colorado [Mr. ARMSTRONG].

THE WIRTH-HEINZ AMENDMENT

Mr. ARMSTRONG. Mr. President, it is not unusual to watch the Senate fly off the handle, but every now and again somehow we manage to go completely off the rails, and that is exactly what we did earlier today in adopting the Wirth-Heinz amendment to the crime bill.

Usually, when we really point ourselves into a corner around here and do something which we have cause later to regret, it is because somebody has been taking a sampling of public opinion. They have their finger in the air to determine which way the wind is blowing, or they have sent a pollster out to determine what people are thinking about, and they come rushing back here and offer some kind of an amendment which in the heat of the moment sounds pretty good, and it is often adopted, sometimes by unanimous or nearly unanimous vote.

That is exactly what happened this afternoon when we adopted the Wirth-Heinz amendment. I believe we are going to have a great cause to regret that. I regret it already. This amendment was nothing more or less than a knee-jerk response to an outrage that is spreading across the country about the savings and loan crisis.

But, Mr. President, what I regret in addition to the substance of the amendment is that it came before us as a substitute for addressing the underlying problem. Instead of addressing our own mistakes, the mistakes of Congress, which created this horrible mess we are in, the Senate instead has tried to shift the blame to a handful of savings and loan executives who have committed various frauds against thrifts, against the shareholders, and now against the Federal banking agencies and the taxpayers.

Maybe this kind of tactic will succeed, at least in the short run. Maybe this amendment and other similar activities that are underway will provide the smokescreen by which people in positions of political leadership can shift the culpability for this savings and loan mess from Congress, where the blame rightly belongs, to the unscrupulous executives in the savings and loan industry.

Let me hasten to add I am not one of those who thinks that all or a majority or most people in the savings and loan business are crooks. My observation is that they are mostly decent people and, frankly, a lot of them are in trouble precisely because they followed the mandates and guidelines and recommendations of Federal regulators.

No doubt there are some crooks. They certainly should be called to account. The prosecution should be vigorous. But this amendment in attempting to divert attention away from the underlying problem is a mistake, and it is just a bad piece of legislation on its face.

I would like to tell you why. The amendment, first of all, reestablishes for the banking industry the infamous RICO provision. There was not much discussion of that, but, Mr. President, RICO, the Racketeer Influence and Corrupt Organizations, provisions, which are extended to the savings and loan industry by this amendment, which we have unwisely adopted today, are so notorious and have been so widely abused and so regularly and persuasively and thoughtfully criticized by civil libertarians that I just did not want to let the sun set without at least putting in the RECORD some sense of how wrong we are to adopt this legislation.

I am confident what we have done today is not going to stand. I do not know whether it will remain in this form as the bill works its way through final passage and to the President's desk, but sooner or later we are going to amend RICO or possibly repeal it, but certainly it is the target of reform not only by Senators on the Republican side of the aisle but I am glad to report by Democratic Senators as well.

Mr. President, following the vote, I had occasion to review the report of the Judiciary Committee, Calendar No. 517, and I commend it to my colleagues. It is the discussion of the RICO Act as it now exists and explains in some detail exactly why RICO needs to be repealed, or at least heavily amended. I am not going to quote from it at length but the report discusses the background, the intentions of Congress when RICO was enacted in 1970.

Then it goes on to say—I want to quote:

> Many Federal judges across the judicial and political spectrum have acknowledged the misuse of RICO and the need for reform of the statute. From Justices of the Supreme Court to Federal trial judges, members of the judiciary have expressed dismay at the loose wording of the statute, at its overbreadth, and at its lack of clarity and specificity. These weaknesses have given rise to civil RICO claims ranging far afield from Congress' original purpose in enacting RICO.

That is the statute that we have made applicable to the savings and loan industry by the hasty action taken this afternoon by an overwhelming vote. It is just like pouring gasoline on the fire.

Listen to what some of the Federal judges who have had those RICO cases before them are saying about it.

Justice White wrote in its private civil investigation:

RICO is evolving into something quite different from the original conception of its enactors.

Justice Powell said:

It defies rational belief, particularly in light of the legislative history, that Congress intended this far reaching result.

Judge Kane wrote in a decision in my own State:

RICO is a recurring nightmare for federal courts across the country. Like the Flying Dutchman, the statute refuses to be put to rest. Beating against the wind, it has jettisoned an effusion of opinions which bobble in its wake.

Judge Wood, Cummings, and Hoffman wrote.

Congress * * * may well have created a runaway treble damage bonanza for the already excessively litigious.

In another case, Judge Bauer, Coffey, Campbell:

We can only hope that this decision appears to Congress as the distress flag that it is, and that Congress will act to limit, as only it is empowered to, the statute's application to cases such as the one before us now.

In another case, Judge Kennedy pointed out that:

A company eager to weaken an offending competitor obeys no constraints when it strikes with the sword of the Racketeer Influenced and Corrupt Organizations Act * * *.

That is the provision that we have made applicable to the savings and loan industry by our action this afternoon.

In another case, Judges Higginbotham, Politz, Jolly wrote:

An imaginative plaintiff could take virtually any illegal occurrence and point to acts preparatory to the occurrence usually the use of the telephone or mails, as meeting the requirement of pattern.

Let me just interject for those who are not well-informed about RICO, that is the essence of it. If you can show a pattern of activity or claim to show a pattern of activity, you can claim it is not an ordinary crime but it is a racketeer of crime with extraordinary penalties, civil damages that are treble ordinary damages and so on.

Another judge wrote with respect to the two types of action which may be presently brought in Federal courts, "I think a strong case may be made for at least modification if not repeal."

That is the view. In fact, let me quote a little more of the view of Chief Justice Rehnquist who was speaking at Brookings in April of last year. He continued:

Virtually everyone who has addressed the question agrees that civil RICO is now being used in ways that Congress never intended when it enacted the statute in 1970.

Most of the civil cases filed under the statute have nothing to do with organized crime. They are the garden variety of civil fraud cases of the type traditionally litigated in State courts.

This general point of view, this abhorrence of RICO, the sense it abuses the rights of everybody involved, that it violates a traditional sense of civil liberties in our country, that it clogs the courts, that it provides a hammer as one judge called it, to force defendants to do those things that they will not otherwise do, it is coercive, and that it is almost tantamount to police State tactics is very widely held. That is the provision which we have added just in a slapdash manner in response to an emotional concern about the savings and loan industry. That is what we have added to this crime bill this afternoon.

Mr. President, I think it is a great mistake. I do not think it will stand because in the long run one way or another we are going to repeal or reform RICO, and perhaps those who are working on this legislation will modify or in some way correct this oversight even before this bill reaches the President's desk.

I am concerned to some extent about another provision of the Wirth-Heinz amendment, and that is the severity of the mandatory sentences which are prescribed. They are so far out of kilter with other sentencing guidelines. The suggestion that somebody ought to serve 10 years to live for the kind of crimes that are in here simply do not square up with the other sorts of penalties that are routinely imposed by courts.

I am not suggesting we ought to be lenient. On the contrary, I am well aware—and I think my colleagues are as well—that judges and juries have shown over and over again that they simply will not convict in cases where they think the mandatory sentence is too severe.

So the probable result is that this provision will backfire, and that people who ought to be brought to trial and convicted either will not be brought to trial, or will be found not guilty, or the case will be dismissed, or the jury will not convict, or something will happen. A far more flexible system in my opinion would be more effective.

Mr. President, one other aspect of this is particularly troubling. It is the sense—and you get it around here every now and then—that we are trying to divert attention from the real issue. I am not saying that criminal activity in the thrift industry is not a real issue. I am saying it is a secondary issue. Let us go after the crooks. That is fine.

In fact, contrary to what a lot of people have been led to believe, the law enforcement activity in the thrift business has been pretty extensive and pretty aggressive.

On June 25, 1990, the administration announced a beefed up Justice Department initiative to crack down on fraud and other criminal activity in the thrift industry. This proposal would mobilize what we termed as rapid response teams of Federal agents creating a special coordinator position and an interagency working group. The Attorney General estimated that there was criminal activity involving 25 or 30 percent of insolvent savings and loans.

There are almost 7,100 pending FBI investigations involving bank fraud and embezzlement, over 3,000 of which involve amounts over $100,000. There are 530 insolvent institutions under investigation, including 234 thrifts and 276 banks.

These are very complicated cases. I am told that they involve in some cases thousands and even in many cases millions of documents. Congress has appropriated $110 million in 1990 for the criminal prosecution of banks and thrift fraud. Deliberations are occurring in Congress to increase the funding even further at this time.

This year there have been 368 new positions allocated in the Justice Department to financial institution fraud, including 202 FBI agents and 120 prosecuting attorneys.

Mr. President, whether that is enough or not enough, it is a widespread, serious, aggressive effort. If somebody has the idea that we are not going after the crooks in the thrift business, I just do not think they are really acquainted with the facts. But to then take the next step and rationally enact the kind of an amendment that we did today in my opinion is not only unwise, but it fosters the kind of cynicism that is all too prevalent when you go home and talk to people.

I find that many people who are not Senators and who are just people at home, just voters, businessmen and women, homemakers, farmers, and ranchers think we have kind of lost touch with reality, that we pick up the morning paper and we see that something is in issue. We run down here, and without thinking it through, without really paying too much serious attention to what we are doing, we just adopt amendments, laws, and honest to Pete, it is hard to explain that is not true sometimes.

I have mentioned before sort of the pattern seems to evolve. Somebody gets excited about drugs which is a terribly serious problem in our society. There for a while every piece of legislation that went through had to have a rider of some kind expressing some Senator's concern about the drug issue. Then the next one was homelessness. Every bill that went through had to have something about homelessness.

It is interesting these fads do not tend to last very long but about as long as they last is on the front page of the morning's paper. That is not to say the problems last a few days, weeks, or months. They are with us forever. But the interest around here seems to be major just for about the

attention span of the nightly news on the television or the headlines on the morning paper. The result is sometimes, not always, but all too frequently I regret to note, the kind of legislation we pass today, ill-advised, emotional, the kind of legislation that probably is going to make the situation worse, rather than better, and which many people suspect, indeed which I often suspect, is intended more than anything else to kind of divert attention from the real problem.

Mr. President, what is the real problem? The main problem, in my view, is not criminal activity; it is a regulatory and legal structure established by the Congress of the United States, supervised, managed, overseen by the Congress of the United States, which has resulted in a massive failure within the thrift industry and which, frankly, threatens many segments of the commercial banking industry, as well.

As the campaign season gathers momentum, you are hearing more and more bickering among the candidates. Many Members of the Congress are trying to blame this on the President and the administration. The President, though I regret to say it, seems determined to contest with Congress who can be most vigorous in dealing with the crooks, and nobody, it seems to me, is paying the attention that we ought to pay to the underlying problem.

That is not something that came up this week or this year. It goes back 50 years and covers a lot of issues, a lot of legislation. It encompasses many rivalries, both partisan and other kinds, turf battles between regulatory agencies.

Mr. President, for the benefit of anyone who is interested, I am going to submit for the record and ask that we print in the RECORD following my remarks an outline, sort of a chronology of the problem, outlining, not to argue, but to set forth for the record the dates and times and places that legislation and regulatory actions were undertaken, what some people said at different times, and what the result was.

I think a thoughtful person who goes through this will have the same sense that I do, that to come running to the floor and adopt an amendment dealing with criminal wrongdoing, while ignoring or sort of shouldering aside the underlying questions, which still remain, by the way, is not very responsible.

The bottom line is this, Mr. President: We really have not solved the problem. In fact, as the record shows, I think, quite clearly to the unbiased observer, the blame lies mostly in the Congress, not entirely, but mostly. The issues, when raised, were presented to the Congress, which then delayed for a long time in responding to them, and responded in part by clamping down on those in the regulatory agencies who sought to do something about them. In fact many Members of Congress bragged about the fact that they were not going to let the thrift regulators close or clamp down on thrift institutions in their States.

I think we have a heavy burden of responsibility right here in the Congress and in the Senate, because we created this regulatory environment. The thrift industry and the crooks in the thrift business, if there are some, and I guess there are, should not be exonerated, but they did not write the laws and hire the regulators and write the regulations or conduct the examinations and audits. By gosh, that was Congress and the people who were appointed by Congress who did all of that. We are the people who are responsible, and it just sticks in my craw to have the kind of amendment adopted today, which is not going to do anything really to solve the problem and is likely to make the situation worse and then ignore the underlying problem.

Mr. President, I ask unanimous consent that I may have printed in the RECORD following my remarks a summary prepared by the staff of the Republican Policy Committee outlining the origin, background, chronology of the legislative history and regulatory history of the thrift crisis.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ARMSTRONG. One final thought, Mr. President, occurs to me. It is kind of a raw thought. I have not developed it with any care, and perhaps I will think better of it. But I am reminded that last night in this body we had a lengthy debate about whether or not some provisions of the employment law ought to apply to Senators; in other words, whether or not Senators ought to be subject to the same kind of appeals from those who sought employment with a Senator that those in the private sector are.

In other words, if you are out there running a business or a law office or some other kind of a private sector enterprise and a person thinks he or she has been discriminated against, they can take you to court. That was the proposal before the Senate last night, that perhaps the Senators ought to be subject to that same standard of accountability, that if there is an aggrieved party in the Senate, they ought to be able to have the same remedy with respect to injustices in the Senate.

I cannot help but wonder whether or not this RICO statute ought to apply to Senators and Members of the House of Representatives. If what we are concerned about is a pattern of operations, a pattern of behavior, which has created this horrible thrift crisis, I cannot help speculating what would happen if we really had that kind of statute that applied to Members of Congress, and if there were a vigorous investigation of it, I wonder if those who are eager to offer and crow about legislation that tramples the rights that, traditionally, people in this country have had—and that is what RICO does—I wonder how they would come out of an investigation like that, and whether or not we would discover, as I suspect, and I guess as many of us actually know in truth, there are a lot of people in the Congress whose hands are not very clean.

I am not just talking about legislative mistakes. We have all made those, and I expect in the area of thrift legislation, probably every Member of the Congress in both Houses bears some responsibility for the mistakes that have been made. But I am talking about a lot more than that. It is kind of a sobering thought, is it not, if legislation of this character and type were to be applied to the Members of the Senate. Maybe that is a good idea.

Mr. President, in the meantime, I hope my colleagues will think better of this RICO provision. Someone might imagine that because this passed 99 to 1, that any effort to moderate it, or amend it, or repeal it, is destined to failure; yet, if you have been here a while, as I have, you can recall a lot of times when things are passed 100 to 0 or 99 to 1, which very quickly are recognized as improvident and wrongheaded and subsequently are fixed up, changed or repealed. I hope that is what exactly will happen to the amendment which we have adopted today.

I yield the floor.

EXHIBIT 1

DEALING WITH THE S&L BAILOUT

Continuing problems with the thrift industry have heightened media interest and increased resentment among taxpayers in recent weeks. As the campaign season gathers momentum, criticism on Congressional and Administration action undoubtedly will heat up. The S&L issue is not new, simple, or straightforward. Rather, it spans over 50 years of political rivalry, preferential regulatory treatment, legislative controversy, supervisory problems, and economic change.

I. ORIGIN OF THE PROBLEM

The original S&L charter restricted these institutions to making long-term mortgage loans and accepting short-term deposits.

Whenever interest rates rose, S&L's found themselves paying out more to depositors than they were receiving from their loan portfolio.

Congress tried to fix the problem by regulation. It imposed limits on the amount of interest that could be paid on deposits.

These limits proved ineffective. When interest rates rose depositors pulled their money out of S&L's and invested in other instruments paying market rates.

In 1962 President Kennedy established a special committee to look into this problem. It recommended permitting federal savings

institutions to engage in a broad range of new powers.

These recommendations were endorsed by President Johnson in 1966 and again in 1967 in his Economic Reports to the Congress. In 1967 the House Banking Committee issued its own report calling for more flexible powers for thrift institutions.

In 1972, a Presidential Commission (Hunt Commission) stated that without additional investment powers, thrift institutions would not be able to survive. In 1975 the House Banking Committee conducted its own study, known as the "FINE" study, that made similar recommendations.

II. DEREGULATORY LEGISLATION—1980 AND 1982

In the late 1970s, as interest rose to record levels, the savings and loan industry collapsed. President Carter formed a special Task Force to study the problem. It recommended deregulation. President Carter submitted these recommendations to Congress in 1979, and in 1980 it passed "The Depository Institutions Deregulation Act."

The 1980 law: (i) provided for the phase-out of interest rate limits on deposits, (ii) permitted federal savings associations to engage in a range of new bank-like powers, (iii) increased the amount of direct investments that federal saving associations could make, and (iv) raised deposit insurance levels from $40,000 to $100,000.

As interest rates continued to climb in the early 1980s, savings associations continued to lose money. Some estimate that by 1982 up to two-thirds of the industry were insolvent and almost all thrifts were losing money.

In response to this crisis, the Administration submitted a legislative proposal, that was enacted into law in 1982 as the Garn-St Germain Act. This legislation: (i) gave the regulators new emergency powers to deal with insolvent institutions (for example, by allowing them to arrange emergency interstate acquisitions); (ii) gave the agencies new powers to provide other assistance to troubled banks and thrifts; and (iii) authorized federally chartered institutions to engage in several additional bank-like powers, such as the authority to make a limited amount of commercial loans.

III. STATE POWERS

The Garn-St Germain Act did not authorize new powers for State-chartered institutions. However, under a number of State laws, these institutions were given much broader powers, including the authority to make direct equity investments in speculative ventures, from wind mill farms to hamburger franchises.

Three states that led the way were California, Texas and Florida. All of these States passed laws deregulating their thrift institutions before the Garn-St Germain Act was passed by Congress.

In both 1988 and 1989, over three-fourths of FSLIC losses were caused by state-chartered thrifts.

The worst states were Texas and California. In 1988 and 1989 approximately two-thirds of FSLIC losses were caused by insolvent state-chartered institutions in just those two states.

As early as 1984 the Bank Board attempted to curb abuses by State-chartered savings associations. It was opposed by many in Congress, and in particular by the House. In 1985 a resolution calling on the Bank Board to delay its regulation on state-chartered institutions was co-sponsored by over half of the House of Representatives.

In 1987, amendments in the House Banking Committee to buttress the Bank Board's authority to regulate State-chartered institutions were defeated by overwhelming margins.

IV. BANK BOARD REQUESTS FOR FINANCIAL ASSISTANCE

As early as 1985 the Bank Board requested additional funding to shore up the FSLIC fund. In October, 1985, the GAO estimated the problem at $15-20 billion.

On Feb. 27, 1986, the Administration's Economic Policy Council approved a $15 billion FSLIC recapitalization plan. Beginning in March, 1986, Congressional hearings were held on the funding request and S&L problem.

In May, 1986, legislative proposals incorporating the Administration's plan were introduced in the House and Senate.

In October, 1986, the Senate passed the full $15 billion recapitalization plan. The House refused to accept a refunding plan without an omnibus Housing package and check-hold measure, thus effectively killing the measure.

In 1987 the Senate Banking Committee reported out a re-funding plan that provided only $7.5 billion, and the House Banking Committee reported out a bill providing for only $5 billion.

The primary reason for the reduced funding was to prevent the Bank Board from closing down insolvent thrifts, especially in Texas. The idea was to keep the Bank Board on a "short leash." The House Banking Committee report states that funding the full $15 billion "would give the Bank Board a mandate to impose stringent regulations . . . and close troubled thrifts." The report notes that the $5 billion authorized "is a form of forebearance."

The Administration objected strenuously and threatened a veto unless funding was increased. On June 1, 1987, the Administration issued a policy statement urging full $15 billion funding. On June 22, 1987, Secretary of Treasury Baker wrote to the conferees urging responsible funding. On July 1, the Conferees agreed to a $8.5 billion recapitalization. The Administration continued to object. On July 29 the Conferees agreed to a $10.8 billion plan.

On August 10, 1987, a $10.8 billion FSLIC recapitalization plan was signed into law. The plan provided only two-thirds of the amount the Administration requested a year and half earlier.

V. FOREBEARANCE PROVISIONS

The 1987 legislation contained forebearance provisions designed to protect insolvent undercapitalized savings associations from regulatory action by the Bank Board.

The 1987 law authorized savings and loans to use certain "phony" accounting techniques to artificially bolster their capital, and specifically authorized the use of "goodwill" in meeting capital requirements.

The legislation required the Bank Board to allow certain tangibly insolvent institutions to remain open if their financial condition resulted from loans in "economically depressed regions."

The Act required FSLIC to issue guidelines to provide more "flexibility" on part of examiners. It also mandated that the Bank Board establish a review procedure so that an association could challenge decisions made by examiners that losses should be booked or loans written down.

The Act also provided that in certain cases, forebearance agreements made by the Bank Board with particular institutions were automatically extended for an additional five years.

These forebearance provisions served no purpose but to protect savings and loan associations from regulatory supervision.

VII. SIZE AND NATURE OF THE PROBLEM TODAY

The FIRREA legislation included total funding of $113 billion (in Net Present Value terms) including $40 billion for completing past FSLIC deals; $50 billion to resolve the 500 institutions estimated to represent the RTC caseload; and $23 billion for post-RTC failures in the 1990s.

The Administration has now increased its estimates of losses attributable to the RTC and post-RTC caseload from $73 billion to a range of $89-132 billion, increasing the overall estimated cost by $16-59 billion. These estimates are roughly in line with the GAO (although CBO has just reestimated the $73 billion figure to $185 billion).

Because of a large increase in estimated 1990 and 1991 RTC costs, the Administration and CBO agree that new spending authority will be needed later this year, although it is possible this could be delayed until early next year.

Finally, these loss estimates do not include "working capital." These are funds borrowed from the Federal Financing Bank to purchase S&L assets that, although a temporary use of funds, count as budget outlays just like a payment for permanent losses. These costs are offset by receipts from subsequent asset sales. OMB estimates gross 1991 working capital needs at $45-59 billion, or $15-18 billion net of receipts.

The loss estimates have increased because losses in individual thrifts have proven larger than expected and more thrifts are failing and failing sooner. Treasury attributes this deterioration to:

a general decline in regional real estate markets in which S&L assets are heavily concentrated;

interest rates higher than first projected, increasing operating costs of thrifts and weakening real estate markets;

reduced interest by the depository institutions that would be primary purchasers of thrifts and thrift assets in taking on additional real estate assets;

the decline in the market for "high yield" or "junk" bonds which has left the RTC with large losses on the $4 billion portfolio it has taken over from failed institutions; and

restrictions placed on the thrift charter and operations that have greatly decreased the franchise value of thrifts relative to banks.

Working capital is an important issue in the Budget Summit because of its potential to temporarily increase near-term expenditures and artificially reduce future deficits when net asset sales occur. It has long been the practice to exclude asset sales from the deficit calculation and the Administration and the Budget Committee have proposed excluding both RTC asset purchases and sales from the calculation.

Total Cash Outlays

Total bailout cost estimates of $300-500 billion have been developed by GAO and others and routinely quoted in the press. These figures are produced by adding up nominal expenditures over 30 years including all government borrowing costs over the period. The higher figures are achieved by counting gross expenditures without netting out liquidation proceeds.

Adding the government's cost of borrowing over 30 years adds $100 billion or more

to the total. These costs are never included in budget estimates for any other program, and are akin to valuing a $100,000 house based on total interest cost of buying it over 30 years.

Cost to the Taxpayer

All non-government sources of funding for the S&L rescue have been exhausted. FIRREA claimed all reasonably available insurance premium income and net earnings of the Federal Home Loan Banks.

Therefore, the increased costs of the bailout that have been identified by the Administration, including higher RTC losses and working capital, will have to be provided by the government and ultimately borne by the taxpayer.

VIII. WHERE DID THE S&L MONEY GO?

Some funds were misappropriated by thrift officers and directors.

The overwhelming amount of losses are in the form of bad loans and investments. The money was spent on construction projects, office buildings, land, and other investments that lost much of their value. This money can not be reclaimed through fraud prosecutions.

IX. WHAT IS THE FIRREA MONEY USED FOR?

The money raised by FIRREA will be used to protect depositors, not thrift owners.

If an insolvent thrift is sold to a bank, thrift or other investor that assumes responsibility to pay depositors, the Government must pay an amount approximating the difference between the value of the asset sold and the amount of the depositor liabilities transferred. FIRREA funds used this way is usually more cost effective than simply closing the institution and paying off depositiors.

X. THE 1988 DEALS

In 1988, FSLIC attempted to stop the continuing losses at certain institutions by selling them to new parties.

These transactions also helped reduce the bidding up of interest rates on deposits caused by the funding needs of these insolvent savings associations.

Because FSLIC did not have sufficient funds to pay these parties all at once to take over insolvent institutions, they entered into agreements with the acquiring companies promising to make certain payments over a period of time.

In the Southwest, 79 insolvent institutions were merged into 15 institutions and sold to new investors, curbing losses and assisting the stabilization of the Southwest financial industry.

In the heat of the political battle over FIRREA, these acquisitions, along with 81 other acquisitions (the so-called "88 Deals") came under heavy criticism, under the theory that the Government promised to pay too much.

Now, many outside experts think that overall the deals were fair to all parties. In some, the Government made out better, in others, the private acquirors made out better. This is what should be expected when negotiating a number of transactions with the private sector.

William Ferguson, a noted expert in the area, is quoted in the N.Y. Times as saying "Not many of these deals look like windfalls." Another analysis states "Despite widespread criticism, a review of the deals indicates that the government is better off for having done them."

The 15 Southwest acquisitions, two are providing rich returns for the acquiring companies, 8 have reasonable returns, 3 have returns of less than 3%, and 2 are losing money.

The PRESIDING OFFICER. Who seeks recognition?

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii [Mr. AKAKA].

INCLUDING "ICE" IN THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

Mr. AKAKA. Mr. President, I rise to thank my colleagues for supporting changes in the criminal code which would add crystal meth, or ice as it is known throughout Hawaii, to the list of illicit drugs that are governed by the Controlled Substance Import and Export Act. The changes I have proposed would require stiff, mandatory jail sentence for anyone who transports this menacing drug across U.S. borders.

During debate on the crime bill last month, the Senate adopted an amendment I sponsored to impose mandatory penalties for the manufacture, sale, and distribution of crystal meth. My amendment used the same penalty scheme—a minimum of 10 years in jail for serious offenders—that is now in place for crack cocaine.

Earlier today, I proposed we go one step further. My amendment compels mandatory minimum sentences for drug traffickers who bring ice across our borders. The purpose of this action is to strike at the heart of the illicit crystal meth trade.

As I have said, the amendment adopted today would add crystal meth to the list of drugs that are regulated by the Controled Substances Import and Export Act. The Import and Export Act is the centerpiece of this Nation's efforts to stop these drugs from entering the country. Because of the global nature of the drug trade, the Import and Export Act is an indispensable law enforcement tool. Since it was first enacted in 1970, every successful case against drug traffickers has been prosecuted under the Controlled Substances Import and Export Act.

Unlike the mainland, where production of crystal meth is widespread, Asia has long been the source of ice in Hawaii. Stopping this menace from crossing our border is the first defense for fighting Hawaii's war on drugs.

My amendment goes after the drug kingpins as well as small couriers. The message we are sending should be heard loud and clear: We intend to keep ice off the streets by preventing it from crossing our borders. If you ship large quantities of ice across our borders, you could face up to life behind bars. Smuggle smaller quantities and you'll serve between 5 and 40 years.

When it comes to stemming the flow of ice through our borders and preventing its sale or distribution to Hawaii's youth, we must leave no stone unturned. What we need is a "total clampdown on ice, beginning at our country's borders. That is what my amendment would accomplish. Not only for Hawaii but for our country as well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1990

Mr. HUMPHREY. Mr. President, an opinion just issued by the Supreme Court puts increased focus on the dangers raised by S. 2104.

On the last day of its term, the Court issued an extremely disturbing decision in the case of Metro Broadcasting versus FCC. In a 5-4 ruling, the Court upheld the use of racial preferment in the awarding of broadcast licenses even where such preference is not designed to remedy past discrimination, but is merely for the purpose of furthering "important government objectives."

In other words, the Court held that the Federal Government now has a free hand to adopt and implement policies of racial and ethinic preference.

This ruling moves this country ever closer to a quota society, were jobs, contracts, and other Government benefits and services will be increasingly allocated on the basis of race, ethnicity, and gender. As stressed by the four dissenting Justices:

The dangers of such classifications are clear.

They endorse race-based reasoning and the conception.

Of a nation divided into racial blocs, thus contributing to an escalation of racial hostility and conflict.

The Supreme Court's decision in the FCC case is relevant to the consideration of S. 2104 because both the decision and this legislation move the Nation closer to a society where quotas and preferences become an accepted way of life.

S. 2104 will compel employers to adopt the policy of proportional representation as the only means of avoiding liability for unintentional numerical discrimination. No matter how loudly the bill's proponents may protest to the contrary, the bill's effect is to coerce quotas.

This Senator, for one, is not prepared to join in the rush to embrace a quota society. Americans of all races strive for a society where jobs are awarded on the basis of individual merit, rather than group entitlement. Since this bill clearly undercuts that great principle, I cannot support it.

S. 2104 hides its flaws and inequities behind the seductive label of civil rights legislation. That label alone—rather than any demonstrated need for its wholesale revision of title VII—accounts for much of the unquestioning support this bill has received.

But S. 2104 cannot accurately be called a civil rights act. True civil rights legislation seeks to abolish employment decisions based on race or gender so that jobs and promotions will be allocated on the basis of merit, ability, and hard work.

S. 2104 does just the opposite. The goal of this bill is not equal opportunity in a workplace based on merit standards, but equality of results in a work force shaped by the ideology of proportional representation.

S. 2104 is designed to facilitate no-fault liability in employment discrimination cases. Under the standards of section 4 of the bill, thousands of conscientious employers will be liable for nothing more than failure to achieve fine-tuned proportional representation by race, gender, and national origin in every sector of their work force.

Proponents of the bill contend that it is necessary to correct the Supreme Court's 1989 decision in the Wards Cove case. But that decision merely ratified a reasonable interpretation of title VII which had been followed by the courts for many years.

In so-called disparate impact cases, an employer can be held liable for certain employment practices even in the complete absence of any discriminatory intent. In such cases, the plaintiff must identify a specific employment practice—such as an aptitude test—and show that this practice has a disparate impact on the employment of minorities or females. If this is done, the employer must produce evidence that the challenged practice serves legitimate employment goals. If the employer meets that test, the plaintiff has the ultimate burden of proving that the employer's explanation is invalid or unreasonable.

This is a perfectly reasonable framework for cases based solely on an employer's failure to achieve proportional representation without discriminatory intent. And that is all that the Supreme Court held in the Ward's Cove case.

But S. 2104 seeks to radically reform the title VII framework in order to make proportional representation that decisive standard for liability. Under this bill, a plaintiff can establish a violation merely by producing numbers demonstating racial or gender imbalance in the employer's work force. The plaintiff does not even have to identify any specific practice which allegedly causes a numerical imbalance—much less prove that the employer intended any discrimination.

The bill then proceeds to abolish the traditional legal principle that a defendant is innocent until proven guilty. Instead, it requires the defendant to prove his innocence by demonstrating that each and every practice used in the entire employment process bears "a substantial and demonstrable relationship to effective job performance." In practice, this standard requires employers to validate every employment standard and practice in his plant with costly studies. Moreover, it prohibits employers from enforcing job standards which are designed to assure high standards of performance, as opposed to minimal standards of performance.

In many fields of employment—such as medicine, aviation, or law enforcement—employers should be free to maintain standards designed to maintain a level of performance which exceeds mere effectiveness. In other words, they should be able to apply standards designed to obtain superior job performance. But under S. 2104, if such rigorous standards fail to produce proportional representation by race, gender, or ethnicity, the employer will be liable for a violation of the civil rights laws.

I urge my colleagues to think carefully about this point. Under S. 2104, an employer who insists on standards of excellence for the most sensitive jobs in our society can be held liable for millions of dollars in damages and labeled a violator of the civil rights laws. The message of this legislation is clear: Proportional representation is more important than high standards of quality, job performance, and even safety in filling the most crucial jobs and professions in our society.

As a result, United States companies will be severely hindered in their efforts to compete with Japanese and European companies in the highly competitive international trade environment. We cannot be competitive in world markets without a high-quality work force.

In sum, section 4 of this bill subtly enforces racial quotas by abolishing all viable defenses against claims based on the failure to achieve proportional representation by race, national origin, and gender. But the bill's radical excesses go well beyond that.

For example, section 6 of the bill strips the courts of jurisdiction to hear certain cases challenging unconstitutional racial quotas embodied in consent decrees. Thus, the bill not only encourages quotas, but it seeks to bar the victims of quotas from even challenging them in court.

This aspect of the bill is especially ironic. The bill's proponents are often the first to raise the slogan of "court-stripping", even against bills that do not actually reduce the court's ability to hear any class of cases.

But section 6 of S. 2104 constitutes court-stripping in the most meaningful sense of the word. It is specially designed to prevent the courts from hearing constitutional claims which the Supreme Court has specifically held are entitled to a hearing.

In Martin versus Wilks, the Supreme Court held that nonminority workers are entitled to a hearing when they challenge a consent decree entered in a suit in which they were not parties. The nonminority workers in that case had raised serious claims that racial quotas embodied in the consent decree violated their constitutional rights. The court's ruling was based on the fundamental principle that everyone is entitled to his day in court.

This bill would overrule Martin versus Wilks. It would prevent the courts from hearing claims that a consent decree violates the constitutional rights of persons who had no fair opportunity to oppose its adoption.

I will say that again, Mr. President, because it is really astonishing that the Senate would abide such a provision. This bill would overrule Martin versus Wilks. It would prevent the courts from hearing claims—prevent them even from hearing claims. This consent decree violates the constitutional rights of persons who had no fair opportunity to oppose its adoption.

The door is slammed, rudely, abruptly, in the face of those who sincerely feel their constitutional rights have been violated.

I will read from the minority report, of S. 2104:

> If this bill is enacted, it would be the first time in the last 25 years or more, insofar as we have been able to determine, that the Congress has narrowed access to the courts for persons alleging equal protection claims.

To put it bluntly, section 6 of the bill is designed to prevent disfavored categories of persons from vindicating their civil rights. The inclusion of such a measure in what passes for a civil rights bill is a sad commentary on just how far we have strayed from the true principles of equal protection under the law.

There are many other provisions of the bill which have nothing to do with the advancement of true civil rights, but let me briefly note just a few of them.

The bill seeks to convert title VII from a positive vehicle for reconciling civil rights claims to an engine of costly and divisive litigation. Title VII was deliberately designed to encourage the resolution of discrimination claims through conciliation procedures super-

vised by the Federal EEOC and State fair employment agencies. Its remedies were consciously limited to injunctive relief and back pay in order to facilitate make whole relief without litigation.

For the first time, this bill would authorize jury trials and punitive damages in title VII cases. With the prospect of huge punitive damage awards dangling before them, avaricious trial lawyers will turn title VII into the same kind of liability lottery which has made a shambles of tort and product liability law. Bitterly contested jury trials will supplant sober conciliation conferences. Both employers and employees will suffer, but the lawyers will prosper.

Other provisions of the bill have nothing to do with the Supreme Court decisions which have become the pretext for a wholesale revision of title VII. For example, this bill inexplicably quadruples the statute of limitations applicable to title VII claims. The original sponsors of title VII established a 180-day limitations period for the filing of discrimination claims. The purpose was clear and sound: To encourage the prompt presentation and resolution of such claims, instead of letting them fester for years. But S. 2104 will allow plaintiffs to sit on their claims for 2 full years before raising them.

The bill's radical expansion of the title VII statute of limitations has no justification whatsoever, other than to make it easier for plaintiffs' attorneys to resurrect stale claims. Existing law fully protects the rights of claimants by applying liberal tolling rules which enable courts to suspend the statute of limitations where justice dictates. The bill's extended limitations period completely undermines title VII's efficient scheme for prompt resolution of disputes.

Finally, I would comment briefly on the last-minute changes in the bill which were added by its proponents literally on the eve of floor consideration.

Most Members have had no opportunity to analyze these last-minute changes. In a bill as complex as this one, such tactics make it all but impossible for the Senate to comprehend the impact of the legislation. On that basis, Members should be extremely skeptical of any assurances given regarding the alleged effect of these sudden changes in the bill's language.

But in the limited time allowed for review of these changes, it is apparent that they are largely cosmetic. They do not lessen the worst aspects of the bill in any significant way. For example, one change purports to modify the bill's radical provision eliminating the requirement for a plaintiff to identify the specific employment practice which allegedly causes a discriminatory effect. In fact, this provision does not remove this problem. It merely provides that the plaintiff may be required to identify the specific discriminatory practice in some cases if the defendant can persuade the court that the company records reveal the discriminatory practice, in short, the new provision effectively requires the defendant to do the plaintiff's work for him.

In brief, the last-minute changes in this bill do not eliminate its extremely harmful effects. No one should be fooled into believing that these changes alter the basic fact: S. 2104 is an engine of employment quotas.

Mr. President, all decent Americans support firm and fair civil rights laws which guarantee equal employment opportunities. But S. 2104 does not advance the cause of equal opportunity. It is a misguided effort to mandate proportional representation and prohibit high standards of employment in the American workplace. For these reasons and many others, the Senate should reject this legislation.

DENYING MFN FOR CHINA

Mr. HUMPHREY. Mr. President, today Senator MITCHELL introduced a bill to deny the People's Republic of China most-favored-nation trade status. I support Senator MITCHELL in that effort.

The United States should not be in the business of subsidizing the Beijing regime through trade advantages. How can we as a nation offer such advantages to a government that sends troops to fire on unarmed civilians, to mow them down with tanks, to grind them up under the treads of tanks, a government which issues orders to city hospitals not to treat civilian wounded? How can we as a nation offer trade perks to a government that detains close to 30,000 of its citizens because those citizens want political reform? How can we as a nation offer trade perks to a government that, according to Amnesty International, permits its police to strip three seminary students naked in January, to beat those students, and then to force them to lie naked on icy concrete and be burned with cigarettes? The answer is simple. We cannot; we should not; and we must not.

The Chinese dissident, Fang Li Zhi, was right when he said 5 days ago that the United States has a double standard on human rights for China and human rights for other nations. We were willing to revoke MFN for Poland in 1982 and for Romania in 1988. We should be willing to take action now, Maintaining a nation's principles always carries a price, but if we are to be a nation of principle, we must be willing to pay that price.

President Bush has responded to Dr. Fang's statement by saying that Dr. Fang "is wrong," that "he's got a little time warp here, because we spoke out at the NATO meeting." The President then referred to last year's group of seven meeting where "We took the lead in expressing our joint indignation in terms of the abuses of human rights at Tiananmen Square." Expressing indignation is pretty worthless if we do not back up our indignation with action. And we have not. We have opted for rhetoric over results.

At this year's group of seven meeting the United States did not even express much indignation. We agreed that it was OK to go ahead with new loans to China. We are not even asking that the hardline Beijing government agree to political reform in return.

By our actions, the United States is sending a message to the hardline government in Beijing that crime against humanity pays, that it can detain its citizens, that it can kill its citizens, that it can torture them and still get good credit from the United States. We are also sending a message to forces working for change in China. We are telling the people striving for democracy and pluralism that the United States is not willing to make sacrifices to maintain its principles or to further their goal of democracy.

Mr. President, surely this is the wrong message to be sending, surely we can do more than continue everyday trade with the Beijing regime. No business interest, no financial investment is more important than basic human rights.

In denying MFN for China, we are not acting to isolate the Chinese people; rather, we are withdrawing support for the Chinese Government. When, for example, Poland's former Communist regime cracked down on the Solidarity trade movement and jailed its leaders, including Lech Walesa, President Reagan canceled Poland's MFN advantages. Now, as China's present Communist regime continues its crackdown against students and civilians, continues to keep its fails full, continues to hound and harass Chinese living abroad, President Bush is not withdrawing MFN advantages; he is arguing for their continuance and arguing for further loan advantage to China.

It is important to note that since President Reagan stood up to the Communists in Warsaw some years ago, Poland has held free elections and is struggling to achieve free market reforms and, in large measure, succeeding, succeeding incredibly, given the short period of time in which they have had to implement such reforms.

What is happening in China? China, by contrast, is clamping down on private entrepreneurs and has returned large portions of its foreign trade, banking, credit and pricing systems, as well as major industries to tight gov-

ernment control. No one even mentions the possibility of Chinese elections. Today, Poland has free speech. China does not. In 1982, the United States took action. We acted on principle. In 1990, we have not.

I support Senator MITCHELL in his effort to require withdrawal of MFN advantages for China. The Chinese leadership's actions do not justify continuation of such privileges. Why should we extend all the benefits of free trade to the Beijing regime when they refuse to extend even the most basic freedoms to their own people? The answer is that we should not.

We should have acted on principle a year ago. It is not too late, however, for the Congress to act where the President will not. And we should do that forthwith.

Mr. President, I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED ARTS GROUP

Mr. PELL. Mr. President, the Senate Labor and Human Resources Subcommittee on Education, Arts and Humanities, of which I serve as chairman, has undertaken an extensive review of the arts and humanities in our country in consideration of the pending reauthorization of the National Foundation on the Arts and Humanities Act of 1965 as amended. In testimony before the subcommittee, we have heard a wide spectrum of opinion on reauthorizing the three Federal agencies that fall under this act, the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.

In May of this year, Representative PAT WILLIAMS, chairman of the House Postsecondary Education Subcommittee, which has also been studying this matter, called together a diverse group of representatives of the national arts community to determine if there was a consensus on the reathorization of the NEA, and, if so, to present that consensus to Chairman WILLIAMS and to the Congress. This was a significant challenge for an ad-hoc group that represented writers, painters, musicians, and other individual artists, state and local arts agencies, performing and exhibiting arts institutions, and other arts organizations. The group also had the benefit of views of two artists and two unaffiliated private citizens.

The group, which called itself the "United Arts Group," deliberated for almost 50 hours, over 4 days. The result of those meetings was a four page statement titled, "Artistic Freedom: Our American Heritage." The statement received the unanimous endorsement of all participants.

As the full Senate will be addressing the future of the National Endowment for the Arts this summer, I thought it would be constructive to call the attention of my colleagues to the United Arts Group's specific recommendations for this important reauthorization. These recommendations have provided members of the Subcommittee on Education, Arts and Humanities and the Committee on Labor and Human Resources with a useful basis from which to prepare their own proposals.

The United Arts Group proposes that the NEA be reauthorized for a period of 5-years; that existing accountability standards of the Endowment be codified and that new ones be added to enhance that accountability; that the critical importance of continued support for the individual artist be affirmed; that the current State funding formula be maintained; and that the NEA's involvement in the area of education in and access to the arts be expanded.

On the question of art versus obscenity, an issue that has powerfully charged the current debate on the NEA, the group states unequivocally that the NEA cannot fund obscenity because obscenity is without artistic merit. The NEA can only judge artistic excellence and it cannot and should not judge obscenity. The group correctly asserts that such judgment is the business of the courts. Hence, the group recommends that legislation not restrict the content of art that is funded by the NEA.

Some may say that the group has simply endorsed the status quo. It is clear that it did not. They have provided many thoughtful and useful recommendations in its statement. It is true that the group did not recommend significant restructuring or radical changes in the NEA grant-making process, but this is a process that has served the American pubic well for a quarter century. The group has essentially said that a radical change would simply be, in the words of former Supreme Court Justice Felix Frankfurter, "another case of burning up the house to roast the pig."

This document, conceived after many hours of deliberations over the future direction of this agency, by individuals representing organizations deeply committed to the arts in America, stands as a strong testament to the importance of the NEA to our society. As this body pursues legislation to reauthorize the NEA, NEH, and IMS, I urge my colleagues to consider this very important statement. I ask unanimous consent that the full statement, "Artistic Freedom: Our American Heritage" and the list of organizations and individuals that prepared this statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ARTISTIC FREEDOM: OUR AMERICAN HERITAGE

We live in changing times. In the context of worldwide concerns for preservation of cultural heritage, diversity and freedom, America stands as a model in part based on its policy on the arts.

Members of the arts community know that the American people, and the people of the world, respect the freedom afforded our artists. The arts community appreciates the wisdom of the American people in funding their many art forms. Artists embrace their role as responsible citizens by expanding the accepted limits of creative expression and ideas. We are a nation rich in diverse culture and heritage, regions, and religions, which are reflected and passed on from generation to generation through the arts. Artists are a central source of inspiration.

All art and the work of arts organizations flow from the creativity of the individual artist—in solitude, in collaboration, in community. Therefore, we strongly urge the Congress to continue support of this irreplaceable resource.

We commend Congress for its continued support of the National Endowment for the Arts and we commend the President for reaffirming the role of the Endowment in 1990. We emphatically and unanimously support his proposed five-year reauthorization of the Endowment with no content restrictions.

We also commend the Endowment for its outstanding record of achievement over the past twenty-five years in making the arts available through building audiences and in helping to maintain the highest possible artistic standards in the creation and presentation of the arts throughout America.

Like other great nations, we publicly sponsor our arts. We do not sponsor one official art, just as we are not a nation of one public opinion. Recent controversies about freedom of artistic expression have disrupted both the arts community and the Congress. These controversies have consumed precious time and resources and have created an atmosphere of distrust and misinformation. These controversies have tested our shared commitment to open and free debates.

However, a profound chilling effect now afflicts the arts and the exchanges between artists, arts organizations, audiences and their congressional representatives. This must stop.

We members of the arts community wish to reaffirm the guiding principles which the Congress found and declared in the National Foundation on the Arts and Humanities Act of 1965.

That the encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the federal government;

That a high civilization must not limit its efforts to science and technology alone but must give full value and support to the other great branches of scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future;

That democracy demands wisdom and vision in its citizens and that it must therefore foster and support a form of education, and access to the arts and the humanities, designed to make people of all backgrounds and wherever located masters of their technology and not its unthinking servant;

That it is necessary and appropriate for the federal government to complement, assist, and add to programs for the advancement of the humanities and the arts by local, state, regional, and private agencies and their organizations;

That the practice of art and the study of the humanities requires constant dedication and devotion and that, while no government can call a great artist or scholar into existence, it is necessary and appropriate for the federal government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent;

That museums are vital to the preservation of our cultural heritage and should be supported in their role as curator in our national consciousness;

That the world leadership which has come to the United States cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and spirit;

That Americans should receive in school, background and preparation in the arts and humanities to enable them to recognize and appreciate the aesthetic dimensions of our lives, the diversity of excellence that comprises our cultural heritage, and artistic and scholarly expression; and

That, in order to implement these findings, it is desirable to establish a National Foundation on the Arts and Humanities.

Recent events have seemed to polarize members of the arts community, the Congress and the general public regarding the issues of freedom of expression and accountability in the expenditure of public funds. In the heat of this debate we have all to some degree lost sight of the fundamental consensus that underlies a free and civilized society: that freedom of expression is among our most important and cherished rights and that accountability in the expenditure of public funds is essential to the democratic process.

In this spirit we call upon the arts community, the Members of Congress and all concerned Americans to work together to uphold these principles in a spirit of good faith and shared purposes so that we may honor both the right of free expression and public accountability.

To reach these goals we recommend that Congress:

Expand the declaration of purpose to affirm that it is vital to a democracy to honor its heritage and support new ideas and therefore to provide assistance to its artists and the organizations that support their work. Such support of creativity is primary to the mission of the Endowment.

Reauthorize the National Endowment for the Arts for another five years.

Maintain the existing state funding formula.

Direct the Endowment to undertake and provide adequate funding for a study of roles and responsibilities of the members of the public funding partnership (federal, state and local) and to report on these findings with timely recommendations.

Preserve the time honored protection our Constitution affords of speech. There should be no legislation that in any way restricts the content of art that is funded by the Endowment. The Endowment can and should only determine artistic excellence. In our system of government only the courts can and should determine Constitutional issues of obscenity. Obscenity is without artistic merit and is unprotected by the First Amendment of the Constitution, and we do not support it.

Activate the Federal Council on the Arts and the Humanities as specified in the authorizing legislation to encourage an ongoing dialogue in support of the arts and humanities among federal agencies and departments.

Extend the life of the Independent Commission for a period of no more than three years: expand its membership to insure cultural diversity and representation of artists; direct the Commission to undertake the work required by Congress in the fiscal year 1990 Interior appropriations bill and also to examine issues of accountability of the Endowment to the Congress and the American people.

Authorize a new title to expand the efforts of the National Endowment for the Arts in the area of education in the arts, and to increase accessibility to the arts among all Americans, including diverse cultures, and urban and rural populations. These efforts will be carried out by artists and organizations that support artists work. These initiatives should be integrated with one another and should be incorporated with existing programs of the National Endowment for the Arts. We recommend a new and separate authorization of $40 million for these initiatives. In lieu of appropriation for this title, funding ratios for programs currently established in the Endowment should be maintained. Any appropriations to this new title should be in excess of $175 million for the already authorized purposes of the Endowment. The appropriations of such new dollars shall be divided equally between this new title and already existing programs within the Endowment.

Mandate the citizen peer panel review system in order to assure that the most knowledgeable decisions will be made about the expenditures of public funds and that the panels procedures are accountable and fair. In selecting these panels the Chairman of the NEA shall appoint individuals from a wide geographic area, from diverse cultures, to include artists, nonartists, and lay people, all of whom shall have the ability to assure that artistic excellence is achieved: policy panels should be open to the public; site visits should be undertaken to provide information to assist panelists; written records of panel deliberations and recommendations should be maintained; panel membership should be rotating with most appointments limited to three consecutive years; the inspector general of the NEA should review all grants for compliance with accounting and financial criteria.

Establish that National Council on the Arts policy meeting will be open to the public.

Encourage the Chairman of the NEA to establish a Committee of national organizations that would advise the NEA on matters of general policy and especially matters pertaining to outreach and educational activities of the agency.

An important partner in the development of a nation's art is the public. Art is a form of communication which embraces both the artist and the audience—the viewer, the listener, the communicator—all those who experience what is being communicated. Essential to the work of the artist and the well-being of the arts is an informed audience. Clearly, the work of the NEA would be improved if a greater effort were to be made to involve representatives of those who benefit from what the arts and the artist contribute to our society. The leaders of youth, business, labor, diverse communities, senior citizens, special constituencies and similar national membership organizations whose experience and dedication to enriching the quality of life for millions of Americans merit their consideration as participants in the work of the NEA.

Encourage recognition for and continuity of authenticity and excellence in our multicultural artistic heritage.

Recognize the importance of ensuring that the NEA continues to make grants that are free of political pressure.

We are unanimous and united in our support of this document.

Dana Broussard, artist.

Billy Taylor, composer and pianist.

Val Beck-Sena, clinical psychologist, Cincinnati, OH.

Faith Evans, United Church of Christ, Washington, D.C.

AFL-CIO Department of Professional Employees.

American Council for the Arts.

American Council for the Traditional Arts.

American Arts Alliance.

American Association of Museums.

Association of American Cultures.

Coalition of Arts Educators.

Coalition of Writers' Organizations.

Creative Coalition.

Independent Committee on Arts Policy.

National Artists Equity Association.

National Assembly of Local Arts Agencies.

National Assembly of State Arts Agencies.

National Association of Artists' Organizations.

National Campaign for Freedom of Expression.

National Alliance of Media Arts Centers.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agree to the amendment of the Senate to the bill (H.R. 2844) to improve the ability of the Secretary of the Interior to properly manage certain resources of the National Park System.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 988. An act entitled the "Camp W.G. Williams Land Exchange Act of 1989";

H.R. 3888. An act to allow a certain parcel of land in Rockingham County, Virginia, to be used for a child care center; and

H.R. 5064. An act to amend the Drug-Free Schools and Communities Act of 1986 to provide for a program of grants to local educational agencies for drug abuse resistance education programs.

At 7:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 666) to enroll 20 individuals under the Alaska Native Claims Settlement Act; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4053. An act to amend the Surface Mining Control and Reclamation Act of 1977 to provide for the remining of certain abandoned coal mine lands;

H.R. 4089. An act to amend title 38, United States Code, with respect to educational and vocational counseling for veterans, and for other purposes;

H.R. 4111. An act to amend the Mining Mineral Resources Research Institute Act of 1984, and for other purposes; and

H.R. 4834. An act to provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3888. An act to allow a parcel of land in Rockingham County, Virginia, to be used for a child care center; to the Committee on Energy and Natural Resources.

H.R. 4053. An act to amend the Surface Mining Control and Reclamation Act of 1977 to provide for the remining of certain abandoned coal mine lands; to the Committee on Energy and Natural Resources.

H.R. 4089. An act to amend title 38, United States Code, with respect to educational and vocational counseling for veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4111. An act to amend the Mining and Mineral Resources Research Institute Act of 1984, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4834. An act to provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts; to the Committee on Energy and Natural Resources.

H.R. 5064. An act to amend the Drug-Free Schools and Communities Act of 1986 to provide for a program of grants to local educational agencies for drug abuse resistance education programs; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 988. An act entitled the "Camp W.G. Williams Land Exchange Act of 1989."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 324: A bill to establish a national energy policy to reduce global warming, and for other purposes (Rept. No. 101-361).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2843: A bill to establish the Kino Missions National Monument in the State of Arizona (Rept. No. 101-362.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MITCHELL (for himself, Mr. MOYNIHAN, Mr. KENNEDY, Mr. CRANSTON, Mr. FORD, Mr. INOUYE, Mr. DECONCINI, Mr. SARBANES, Mr. SIMON, Mr. LIEBERMAN, Mr. KOHL, Mr. KERRY, Mr. DIXON, Mr. HELMS, Mr. D'AMATO, Mr. METZENBAUM, Mr. WIRTH, Mr. GARN, Mr. LEVIN, and Mr. GORE):

S. 2836. A bill to deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2837. A bill to facilitate the construction of United States courthouses, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 2838. A bill to provide for the development of model programs of successful partnership among the national defense laboratories, small businesses, and State and local governments, in order to implement the small business preference provisions of the Stevenson-Wydler Technology Innovation Act of 1980; to the Committee on Armed Services.

By Mr. LIEBERMAN:

S. 2839. A bill to amend the Public Health Service Act to establish a program of providing for research, treatment, and public education with respect to Lyme disease; to the Committee on Labor and Human Resources.

By Mr. GLENN (for himself, Mr. ROTH, Mr. HARKIN, Mr. KOHL, and Mr. AKAKA):

S. 2840. A bill to improve the management of the Federal Government by establishing a Deputy Director for Management in the Office of Management and Budget; by establishing a Chief Financial Officer of the United States who shall be in the Office of Management and Budget; by requiring the development of systems that provide complete, accurate and timely financial information; by increasing financial discipline and accountability by requiring independently audited agency financial statements; and for other purposes; to the Committee on Governmental Affairs.

By Mr. McCLURE (by request):

S. 2841 A bill to authorize the appropriation of $2.5 million to complete the renovation of the Guam Memorial Hospital; to the Committee on Energy and Natural Resources.

By Mr. METZENBAUM:

S. 2842. A bill to amend the Immigration and Nationality Act to augment funds available for refugee expenses with funds paid by the refugees themselves; to the Committee on the Judiciary.

By Mr. BOSCHWITZ (for himself and Mr. MURKOWSKI):

S.J. Res. 346. A joint resolution to designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself, Mr. MOYNIHAN, Mr. KENNEDY, Mr. CRANSTON, Mr. FORD, Mr. INOUYE, Mr. DECONCINI, Mr. SARBANES, Mr. SIMON, Mr. LIEBERMAN, Mr. KOHL, Mr. KERRY, Mr. DIXON, Mr. HELMS, Mr. D'AMATO, Mr. METZENBAUM, Mr. WIRTH, Mr. LEVIN, and Mr. GORE):

S. 2836. A bill to deny the People's Republic of China nondiscriminatory most-favored-nation trade treatment; to the Committee on Finance.

SUPPORT FOR DEMOCRACY AND HUMAN RIGHTS IN CHINA ACT

Mr. MITCHELL. Mr. President, today I am introducing a bill to condition the President's renewal of nondiscriminatory most-favored-nation trade status to the People's Republic of China on reciprocal actions by the Chinese Government to end the repression and violations of basic human rights in which it has broadly engaged.

The purpose of this legislation is to give tangible expression to the verbal American support for democracy which so many of us have expressed over the past 13 months.

The bill would take effect within 90 days of enactment. Its denial of nondiscriminatory trade relations could also be lifted at any time that the President can certify that the repression in China has ceased.

It is evident that President Bush's current policy of hoping for human rights improvements in China has failed.

The long overdue arrival of Fang Li Zhi in Britain from his refuge in the American Embassy in Beijing was permitted only after Professor Fang was forced to admit that his political views violate the Chinese Constitution. This concession was demanded, even though Professor Fang's only crime was to seek peaceful political change in his nation.

Professor Fang himself has made the point that his release is not proof of a changed human rights policy. He said, and I quote him:

* * * After all, this record is by no means just a question of Fang Li Zhi. There still remain a large number of students held in custody or in prison. Some have already

been sentenced. These cases still need to be solved.

But for the past year, Chinese Government officials have made it clear in both their actions and their words that their human rights policies will be guided by cosmetic changes designed to win negotiating points or improved economic ties with the West.

The Chinese leaders have not released the political prisoners jailed in the wake of the Tiananmen Square massacre last year; they have not altered the requirement for political indoctrination and military service for study abroad; they have not ceased the military and police repression in Tibet and against pro-democracy protests in China; they have not granted the right to free emigration; they have not stopped the use of torture, personal degradation, detention and forced labor in their crackdown against their people.

By no standard does the Chinese Government's treatment of its people reflect even a minimum of the respect for basic human rights which should guide American policy.

Internationally, China has not become a better world citizen, either.

The Government of China has refused to honor its own commitments to become a responsible party in the effort to control the proliferation of biological, chemical or nuclear weapons technologies. The Government of China continues to surreptitiously arm and equip the forces of the genocidal Khmer Rouge in Cambodia; the Khmer Rouge are the principal barrier to achieving peace in Southeast Asia.

Yet, despite the clear evidence of these actions, internal and external, President Bush's response has been to continue his policy of waiting and hoping for improvements.

Waiting and hoping has not changed the policies of the Chinese Government. Indeed, waiting and hoping has given the Chinese Government and other governments around the world the contrary impression, the wrong impression, that the United States will have no meaningful response, even in the face of the most outrageous brutality.

Yet, despite that year-long record of Chinese intransigence and brutality, President Bush notified the Congress on May 24 that he was renewing most favored nation status for the People's Republic of China for another year.

Under such circumstances, it is evident that the Government of China has no incentive to improve its human rights record or to keep its commitments as a citizen of the international community of nations.

The President's renewal of most favored nation trading status for China is wrong. It is wrong because it rewards the Chinese Government for a year of political arrests and executions, a year of intensive public security controls, a year of continued arms sales to the Mideast, a year of restrictions on foreign journalists in China and harassment of Chinese students residing in the United States.

The President's repeated claims that this lenient policy toward China would produce a relaxation of repression and an improvement in the human rights situation have been disproven. No relaxation has occurred. No human rights violations have been redressed. No internal security controls have been lifted. The hope for freedom in China is as remote today as it was a year ago.

By renewing most favored nation status for China, the President has signalled to the Chinese leadership and to the watching world that the United States views its brutal actions with complacency. That is the wrong signal to send China and throughout the world. That is profoundly inconsistent with American ideals and American interests.

It is renewed proof of a failed policy.

Indeed, it is more than a failed policy. It is precisely the policy the Chinese Government has been hoping for.

Professor Fang made that clear in his appearance on "Meet the Press," when he described the actions of his Government in these words:

* * * on the one hand they want economic openness and foreign investment and exchange, but on the other they do everything they possibly can to resist the worldwide trend toward democracy and freedom.

In all of human history there is no tyrant who has not wanted an economically wealthy nation at his feet. The Chinese Government of today is no different in that respect.

But what we have all learned in the past year is that economic wealth is not indefinitely compatible with human repression. Nations whose people fear for their freedom and lives are nations whose people do not and cannot produce the wealth that free men and women produce.

The observation Professor Fang made is profoundly correct. He said,

Their hardline policy is very clear and they don't want to change it, but we can already see that it is internally contradictory.

Nations whose political leaders fear loss of their own power before every other potential calamity are nations headed for economic disintegration. Only the artificial support of outsiders can sustain such systems.

But American interests are served by a peaceful and free countries throughout the world. Fearful and tyrannical oppressive Communist governments pose a threat to peace and freedom. There is no long-term American interest in sustaining such regimes.

The United States must make a distinction between the Chinese people and the Chinese Communist tyrants who govern those people. The President continues to confuse the two. We should align ourselves with the Chinese people, not with the Chinese Communist tyrants who repress the Chinese people.

As Fang Lizhi told us, when he was finally free to speak as a free man,

My view * * * is that China is now in a period of change and the distinctive feature of the change is that China is joining the larger trends of the world as a whole.

* * * the whole world is getting smaller, and mutual influences are getting progressively stronger. So * * * these changes we see in Eastern Europe and the Soviet Union are sure to turn up in China as well.

* * * The principle that should be observed in China's involvement in the world should be one of following the progressive trends in the world.

But that is not the principle that has guided President Bush's policy toward China.

Instead, since shortly after the Tiananmen Square massacre when special emissaries were sent secretly to Beijing, after the American people were told there would be no high level contacts, all the way through the shameful visit of high officials last December who publicly stood in Beijing and toasted the very Chinese Communist tyrants who had ordered the murder of hundreds of their own people, to the current renewal of most-favored-nations trade status, the President's policy has been one of giving in to the Chinese.

But that policy has failed. It has failed to produce an improvement in human rights. It has failed to promote stability and freedom in China. Most important, it has failed to serve American interest, and American policy ought to be based on one primary consideration, the interest of the American people.

I believe it is a policy that must change. For that reason, I am offering a bill today which will give the Congress an opportunity to reassert the strong support of all Americans for the forces of democracy and freedom in China by giving those forces our practical support as well as our verbal encouragement.

As in all other areas of public policy, policies begin with words, but they cannot end with words. They require actions to match the words, and that is what this legislation is intended to do, to put the American Government on record in action in a way that matches the words of the American people and leaders in America with respect to freedom in China.

Mr. President, I ask unanimous consent that the test of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2836

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Support For Democracy and Human Rights in China Act of 1990".

SEC. 2. FINDINGS; POLICY.

(a) FINDINGS.—The Congress finds as follows:

(1) The Chinese people have provided a dramatic demonstration of their desire for democratic freedoms. Thousands of courageous Chinese students and workers, men and women, demonstrated on June 3, 1989, that they were willing to die, or face imprisonment or exile, in pursuit of democratic self-determination ahd human rights.

(2) The Government of the People's Republic of China continues to commit violations of internationally recognized human rights, including—

(A) torture or other cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges and trials and use of forced labor;

(C) abduction and clandestine detention of individuals; and

(D) other flagrant denials of basic human rights.

(3) The Government of the People's Republic of China had denied Chinese citizens who support the pro-democracy movement and others the right of free unimpeded emigration.

(4) The Government of the People's Republic of China has restricted the number of students permitted to study abroad and has required college students to attend military indoctrination courses and work five years after graduation before being eligible to apply to study outside China.

(5) The Government of the People's Republic of China continues to violate the fundamental human rights of the people of Tibet and uses the People's Liberation Army and police forces to intimidate and repress Tibetan and Chinese citizens peacefully demonstrating for democratic change and religious freedom.

(6) The Government of the People's Republic of China has not demonstrated its willingness and intention to participate as a full and responsible party in efforts to control the spread of dangerous military technology and weapons, including biological, chemical, and nuclear weapons and technologies.

(7) The Government of the People's Republic of China continues clandestinely to supply arms and equipment to the genocidal Khmer Rouge forces fighting in Cambodia.

(8) The President of the United States has suspended all government-to-government sales and commercial exports of weapons to China, and issued an Executive order to treat sympathetically requests by Chinese students in the United States to extend their stay.

(b) POLICY.—(1) The additional existing sanctions being applied against China in the areas of technology exports and international monetary loans should be continued and strictly enforced.

(2) It should be the policy of the United States to consult with members of the United States business community operating or investing in the People's Republic of China in order to discuss the establishment of guidelines for corporate activity in China.

SEC. 3. PROVISIONS OF DENIAL OF MOST-FAVORED-NATION STATUS.

Notwithstanding any other provision of law—

(1) the President shall terminate or withdraw any portion of any trade agreement or treaty that relates to the provision of nondiscriminatory (most-favored-nation) trade treatment by the United States to the People's Republic of China.

(2) the People's Republic of China shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States and the products of the People's Republic shall be subject to the rates of duty set forth in column number 2 of the Harmonized Tariff Schedule of the United States; and

(3) the People's Republic of China may not be provided nondiscriminatory (most-favored-nation) trade treatment under any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.).

SEC. 4. EFFECTIVE DATE.

The provisions of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 90 days after the date of enactment of this Act.

SEC. 5. TERMINATION DATE.

(a) IN GENERAL.—This Act shall terminate at such time as the President determines and certifies to the Congress that all of the conditions set forth in subsection (b) have been met.

(b) CERTIFICATION.—The conditions referred to in subsection (a) are that—

(1) the Government of the People's Republic of China has ceased committing violations of internationally recognized standards of human rights, including—

(A) the release of all political prisoners arrested and incarcerated since June 4, 1989,

(B) the granting of press freedom, including ending interference with Voice of America broadcasts and ceasing the harassment and restrictions imposed on Chinese and foreign journalists, and

(C) the cessation of surveillance and harassment of Chinese students and other individuals living outside of China,

(2) the Government of the People's Republic of China has ceased its persecution of the members of the pro-democracy movement in China;

(3) the Government of the People's Republic of China has permitted the unrestricted emigration of its citizens, including permitting freedom to study abroad; and

(4) the Government of the People's Republic of China has ceased religious persecution in China and Tibet and has released from detention and house arrest leaders and members of religious groups.

Mr. MOYNIHAN. Mr. President, I rise to support the majority leader in this serious and fateful legislation, as I would judge it. I would like to be listed as a cosponsor. If I could ask the majority leader if I may be added as a cosponsor of the bill.

Mr. MITCHELL. Mr. President, I am pleased that the distinguished Senator from New York is the first cosponsor of this legislation. There are already, I believe, 13 Senators cosponsoring the legislation and I am very pleased to have the support of the distinguished Senator from New York, and he is the first cosponsor.

Mr. METZENBAUM. Will the Senator be good enough to add the Senator from Ohio as well?

Mr. MITCHELL. I ask unanimous consent that the Senator from Ohio be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleague.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, the timeliness, indeed the urgency of the majority leader's measure is to be seen in the reports from the economic summit meeting now at Houston. Yesterday they took up the issue of economic relations with former adversaries such as the Soviet Union, and specifically with China.

We learn in the New York Times this morning that in a late session the Japanese insisted that there should be increased economic relations with and assistance to the Chinese as a reward for what is called liberalization in the last year, liberalization which appears to consist of letting one astrophysicist and his wife out of the American Embassy into exile in London.

The Times reports that the French, among others, opposed this measure. Very conspicuously there was no mention of the United States. That would not have been difficult to have managed in an American setting and in the American press. Indeed the communique that was finally issued is a very mild statement that begins, "However, we acknowledge some of the recent developments in China." And the acknowledgment is as in a mode of gratitude. It appears to me, as the majority leader has described, there are very few grounds for gratitude.

I call attention to one aspect of the bill as introduced which is that it particularly calls attention to the Chinese behavior in Tibet. That behavior, Mr. President, approaches genocide. The Tibetan people who are now in exile in India for the main part are being overwhelmed by Chinese being moved into their region. And it is within serious estimates of responsible people that if matters proceed as they do a distinctive Tibetan civilization will have vanished in 20 years' time. Indeed and as a deliberate policy of another government, a policy of closing down the monastaries, confiscating what was vast wealth.

We sometimes forget Tibet was the home of the Mongols before they became Buddhists and that they were seen far and wide in Eurasia. If that was a wealthy country in terms of its treasures, all now confiscated by the Chinese, all now removed. An enormous number of Chinese settlers, officials, and soldiers have commenced to displace a culture that has been there for millenia.

We say in this measure that the Government of the People's Republic of China continues to violate the fundamental human rights of Tibet and uses the People's Liberation Army and police forces to intimidate and repress Tibetan and Chinese citizens peacefully demonstrating for democratic change and religious freedom. The later aspect, religious freedom, is fundamentally at issue here.

The Chinese have simply set out to extirpate, to destroy, the Buddhist society that they conquested some 30 years ago—invaded and conquered. The Dalai Lama is in exile, of course. We hope we will see him in Washington this fall. This Senator hopes that he will be able to speak to a joint meeting of the Congress—in keeping with those extraordinary sessions we have had with former political prisoners this year; Mr. Walesa, Mr. Havel, Mr. Mandela. The Dalai Lama would be in appropriate company with those three.

On a related point, Mr. President, in the last 5 years and most especially in the last 2, we have seen extraordinary changes in the Soviet Union in directions which we have asserted from the early 1970's that if followed would mean that we would provide most-favored-nation treatment to the Soviet Union. The tariff schedules now in effect are those of the Smoot-Hawley Tariff of 1930, the highest tariff schedule in our history.

The Soviet Union is allowing free emigration for Soviet Jews. It has free elections. It has what increasingly, may be described as a free press, certainly a press filled with dissent. It has the aspects, not all, but so many more aspects of an open society that the country is unrecognizable from that which we saw when the Jackson-Vanik provisions were passed in 1974.

Our daily press is filled with the most recent election, the most recent article, the most recent debate. The Communist Party just held its 28th Congress. On television. With KGB generals being denounced who are, in fact, in political opposition with the General Secretary. Argument and debate was openly heard. And that is what we asked of the Soviet Union. They do not have most-favored-nation treatment. The Chinese butchers do.

Now, where are our standards here, Mr. President? I will give you a sense of the power of this relationship, this concession.

China was granted most-favored-nation treatment in 1980. Their imports thereupon increased from $600 million to $12 billion last year, a factor of 20. The Soviet Union still has no MFN and their imports went down from $873 million to only $703 million in that same period of a decade. The United States has a $6.2 billion trade deficit with China and a $3.6 billion trade surplus with the U.S.S.R.

Now we have openly and for more than 15 years, for almost two decades, made the most-favored-nation treatment conditional on political rights and the conduct with respect to human rights in the Soviet Union. I am not saying the Soviet Union has responded to our conditions, but certainly the Soviet Union has commenced to meet them. We deny that treatment to the Soviets while conferring it on an unreconstructed, unrepentant and, evidently, unchangeable totalitarian regime in Beijing.

Mr. President, this is a double standard. And it is a double standard in favor of totalitarianism that surely cannot have been our purpose. I hope the Senate will shortly and directly address the majority leader's legislation.

I thank the Chair and I yield the floor.

Mr. KENNEDY. I am pleased to join the distinguished majority leader in introducing a bill to deny most-favored-nation trade status to China. I opposed President Bush's ill-advised renewal of MFN to China and urge my colleagues to act quickly to right that wrong by passing this legislation.

We have no business providing preferential treatment to a government that suppresses the most basic human rights of its citizens. Since the brutal massacre of peaceful demonstrators last year in Tiananmen Square, the Chinese leadership continues to hold hundreds of political prisoners, to intimidate those who seek peaceful political change and to harass Chinese students in this country. The Government defiantly maintains it acted correctly when it massacred hundreds—perhaps thousands—of innocent students and to this day refuses to allow peaceful calls for democratic change.

The Government still refuses to confirm the number or names of those it has arrested during the Tiananmen Square crackdown and some estimate that thousands are still held. Reports persist of summary and secret executions and torture by security forces and prison officials. There are also reports that nearly 50 Catholic leaders, including 13 bishops have been imprisoned.

All friends of freedom and of China welcome the long-overdue release of Fang Lizhi and his wife Li Shuxian from their refuge in the American Embassy in Beijing. Throughout their months in hiding, these two courageous individuals never wavered in their tireless support of democracy and freedom. Yet the release of two individuals does not mean substantial progress in a country where ruthless persecution persists. Until far greater progress is made, there continues to be no justification for the Bush administration's decision for granting most-favored-nation trade status to the brutal and repressive Chinese regime.

For more than a year, the Chinese Government has thumbed its nose at every overture made by President Bush. His secret missions, high level toasts, veto of congressional action against the Government and his many efforts to coax the Government into change—all were rebuffed. President Bush's policy is a failure and it is time that Congress set it straight.

The bill we are introducing today puts an end to the policy of kowtowing to the Chinese Government and sets forth clear, unequivocal standards it must meet if it is to continue to receive preferential trade status from the United States. These conditions include the release of political prisoners, an end to persecution of those who seek peaceful change, the guarantee of freedom of the press, an end to harassment of Chinese students in this country, guarantee of the right to emigrate and an end to religious persecution in China and Tibet.

Surely, these fundamental standards of human and civil rights are not too much to expect from the Government of China—or any country with which we do business. These conditions will provide strong support to the forces of freedom and democracy in China and provide a strong incentive for the Chinese Government to guarantee its citizens' basic rights.

I am pleased to join in introducing this important legislation and urge my colleagues to lend it their full support. Those who fought for freedom in Tiananmen Square deserve no less.

By Mr. BINGAMAN:

S. 2838. A bill to provide for the development of model programs of successful partnership amount the national defense laboratories, small businesses, and State and local governments, in order to implement the small business preference provisions of the Stevenson-Wydler Technology Innovation Act of 1980; to the Committee on Armed Services.

SMALL BUSINESS—NATIONAL DEFENSE LABORATORY TECHNOLOGY PARTNERSHIP ACT

● Mr. BINGAMAN. Mr. President, 4 years ago, the Stevenson-Wydler Technology Innovation Act was amended to establish a preference for small business in the transfer of federally funded technology from our National Government-operated laboratories to the private sector.

Implementing this preference has turned out to be a difficult task, for a number of reasons. They include the laboratories' hesitation to allocate scarce technology transfer resources to small business when faced with what appear to be more certain, bigger-payoff technology transfer opportunities with larger companies. They also include the reality that the degree of sophistication, technological capacity, management capability, and

financial stability ranges widely among small businesses. Whatever the reason, the relatively few, isolated examples of obviously successful small business-laboratory partnerships seem surprising in view of the substantial preference for such partnerships as etched in statute.

Yet several of the relatively few examples of successful partnerships have a common element. In several instances, the laboratories formed partnerships with small businesses with the significant help of State and local government technology or economic development agencies, such as small business incubation centers, local colleages, and local economic development agencies. These agencies were in effect intermediaries which helped form and cement these partnerships.

The positive role played by such intermediaries in these instances is, on reflection, not surprising. The laboratories, with limited technology transfer resources, can use the asssistance of such intermediaries to locate small businesses with technology needs, and small businesses can use their assistance in understanding what the laboratories might offer. The interaction of laboratories, intermediaries, and small businesses can form a network through which successful technology partnerships between small business and our national defense laboratories can be established.

This insight is particularly timely now. Many of the national defense laboratories operated by the Departments of Defense and Energy are Government-owned, but contractor-operated. Only in 1989, pursuant to provisions included in the National Defense Authorization Act passed last year, were these laboratories given the same technology transfer authority previously given to Government-operated laboratories, including the mandate to give small businesses preference in technology transfer agreements. These contractor-operated national defense laboratories need to catch up with Government-operated labs, and those national defense laboratories which are Government-operated need to improve their implementation of the small business preference provisions dramatically. Finding and implementing models of forming successful partnerships specifically between our national defense laboratories and small businesses, through state and local Government-sponsored intermediaries, is now an urgent necessity.

That is why I rise today to introduce "The Small Business-National Defense Laboratory Partnership Act of 1990." The bill has three major components. The first would require the Secretary of Defense and the Secretary of Energy to cooperate with the Secretary of Commerce in developing model programs and relationships among small businesses, State and local government-sponsored intermediaries, and national defense laboratories, in order to further enhance the prospects for commercializing federally funded research. It is expected that the Secretary of Commerce would use the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation to accomplish this.

Established by section 5122 of the Trade and Competitiveness Act of 1988 (15 U.S.C. 3407a), the Clearinghouse is authorized to provide assistance to State and local governments with respect to those initiatives; to study ways in which Federal agencies, including Federal laboratories, can assist State and local governments to enhance the competitiveness of American businesses; to advise State and local governments as to which programs are most effective in enhancing the competitiveness of American businesses; and to make periodic recommendations to Federal agencies concerning modifications in Federal programs which would improve Federal assistance to State and local technology and business assistance programs.

It is expected that the model programs developed with Clearinghouse assistance will include partnerships whereby the national defense laboratories, as a result of or directly related to their work with partnership intermediaries, might provide small businesses with: (a) names, locations, and telephone numbers of people, including laboratory employees, knowledgeable in technologies which may be needed by or productively useful for such small businesses, and in the case of laboratory employees, arrange for meetings with such employees; (b) access to nonclassified work in progress or completed at the laboratory; (c) use of laboratory facilities and equipment including software, hardware, processing technologies, and instruments; (d) licenses to patents and other intellectual property rights; and (e) adaptive engineering or manufacturing extension services. The laboratories might also enter into cooperative research and development agreements and engage in personnel exchanges with small businesses. They might well conduct workshops, conferences, and similar meetings in cooperation with partnership intermediaries to disseminate information about the technology-related assistance available at the laboratory.

Second, the bill authorizes the national defense laboratories to enter into and to fund contracts with State and local government-sponsored intermediaries. This makes clear that the laboratories may spend their funds on arrangements with such intermediaries where the laboratories believe their technology transfer capability will be enhanced by those arrangements.

Third, the bill would require the Secretary of Commerce to include in his or her triennial reports to Congress on State and local initiatives to enhance competitiveness (15 U.S.C. 3704a(d)), a description and evaluation of such programs and relationships developed pursuant to these sections. Coupled with the mandate to disseminate information about models developed by Clearinghouse efforts, this new section of the triennial report will be instrumental in ensuring widespread laboratory adoption of model laboratory-small business partnerships appropriate to their circumstances.

The national defense laboratories are anxious to play a bigger role in making American industry more competitive in the world marketplace. Small businesses, anxious to become larger businesses and more successful international competitors, are impatient with the slow progress in implementing the Stevenson-Wydler Act. And State and local governments, increasingly convinced that growing their own small businesses into bigger businesses is the key to a healthier economic base, are anxious to help.

It is my hope that the Small Business-National Defense Laboratory Partnership Act of 1990 will play a significant role in nudging all three parties along in productive cooperation toward these very consistent, mutually reinforcing goals.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business—National Defense Laboratory Technology Partnership Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) section 12(c)(4)(A) of the Stevenson-Wydler Act of 1980 (15 U.S.C. 3710a(c)(4)(A)) provides that the national laboratories, including the national defense laboratories, shall prefer small business and consortia that include small businesses in all their technology transfer activities;

(2) section 6 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704a) establishes a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation with several purposes, including authority to—

(a) provide assistance to State and local governments with respect to such initiatives;

(b) study ways in which Federal agencies, including Federal laboratories, can assist State and local governments to enhance the competitiveness of American businesses;

(c) advise State and local governments as to which programs are most effective in enhancing the competitiveness of American businesses; and

(d) make periodic recommendations to Federal agencies concerning modifications

in Federal programs to improve Federal assistance to State and local technology and business assistance programs.

(3) some of the most successful partnerships among small businesses and the national defense laboratories have been organized with the assistance of, and have involved participation by, nonprofit, State-or-local-government-sponsored intermediaries such as small business development centers, State and local technology development centers, and community colleges;

(4) the national defense laboratories, with limited technology transfer resources, can use the assistance of such intermediaries to locate small businesses with technology needs with which the laboratories can be helpful; small businesses can use their assistance in understanding what the laboratories might offer; the interaction of laboratories, intermediaries, and small business can form a network through which successful technology partnerships between small business and the national laboratories can be established; and

(5) the need for models of successful technology partnerships among small businesses, such intermediaries, and the national defense laboratories is urgent.

(b) PURPOSE.—The purpose of this Act to enhance the economic competitiveness of the United States by facilitating the cooperation of the national defense laboratories with the small businesses of this Nation, by—

(1) requiring the Secretary of Defense and the Secretary of Energy to cooperate with the Secretary of Commerce in developing model programs and relationships among small businesses, State-and-local government-sponsored intermediaries, and national defense laboratories that are likely to enhance the commercialization of federally funded research; and

(2) requiring that the triennial reports of the Secretary of Commerce to Congress on State and local initiatives to enhance competitiveness include a description and evaluation of the programs and relationships developed pursuant to this Act.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "laboratory" or "national defense laboratory" means any laboratory or any federally funded research and development center that is owned and funded by the Federal Government (whether operated by the Federal Government or operated by a contractor) through the Department of Defense, or through the Department of Energy (so long as the primary function of such laboratory is to support the atomic energy defense activities of the Department of Energy); and

(2) the term "partnership intermediary" means any nonprofit entity that is owned by, chartered by, funded by, or operated on behalf of or directly by a State or local government, and that assists, counsels, advises, evaluates, or otherwise works with small businesses that need or would have demonstrably productive use for technology-related assistance from a laboratory, including—

(A) a small business incubation center, small business assistance center, small business commercialization center, small business development center, or similar entity;

(B) an office, school, center, or program operated by or on behalf of a university, college, community college, or vocational school, and

(C) any other economic development or technology agency, office, or program operated by or on behalf of a State or local government.

SEC. 4. DEVELOPMENT OF MODEL PROGRAMS.

(a) IN GENERAL.—(1) The Secretary of Defense and the Secretary of Energy shall cooperate with the Secretary of Commerce in developing programs each of which shall involve the national defense laboratories, small businesses, and partnership intermediaries.

(2) The programs described in paragraph (1) may include participation by universities and companies engaged in domestically based research and development, and shall be designed to serve as models for—

(A) the commercialization of federally funded research;

(B) the development of appropriate partnerships between Federal, State, and local government agencies in promoting economic growth in connection with technology commercialization;

(C) the promotion of advanced manufacturing techniques for products having commercial and defense-related markets; and

(D) other appropriate purposes.

(b) ACTIVITIES.—The model programs developed pursuant to subsection (a) may include partnerships whereby the national defense laboratories, as a result of or directly related to their work with partnership intermediaries, do any one or more of the following:

(1) Provide small business with names, locations, and telephone numbers of people, including laboratory employees, knowledgeable in technologies that may be needed by or productively useful for small businesses, and in the case of laboratory employees, arrange for meetings with employees.

(2) Provide small businesses with access to nonclassified work in progress or completed at the laboratory.

(3) Provide small businesses with use of laboratory facilities and equipment including software, hardware, processing technologies, and instruments.

(4) Provide small businesses with licenses to patents and other intellectual property rights that the laboratory is permitted by law to grant.

(5) Provide small businesses with adaptive engineering or manufacturing extension services.

(6) Enter into cooperative research and development agreeements, as permitted by law, with small businesses.

(7) Engage in personnel exchanges with small businesses.

(8) Conduct workshops, conferences, and similar meetings in cooperation with partnership intermediaries to disseminate information about the technology-related assistance available at the laboratory and about the laboratory's current and proposed activities pursuant to this section.

(c) CONTRACTS WITH INTERMEDIARIES.—To the extent permitted by law, regulations, and contractural provisions to which the laboratory is a party, a laboratory may—

(1) enter into contracts or memoranda of understanding whereby partnershp intermediaries perform work for the laboratory designed to enhance the prospects of successful partnerships between the laboratory and small business; and

(2) use monies made available for technology transfer pursuant to section 11(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(b)) to fund such contracts and memoranda of understanding.

(d) REIMBURSEMENT OF EXPENSES.—The Secretary of Defense or the Secretary of Energy, or both, shall, upon the request of the Secretary of Commerce, provide to the Secretary of Commerce not to exceed $50,000 in any fiscal year for the reasonable expenses incurred by the Department of Commerce in the development of the programs pursuant to this Act.

SEC. 5. PARTNERSHIP PROGRESS REPORTS.

(a) IN GENERAL.—The Secretary of Commerce shall include, in each triennial report on State and local initiatives to enhance competitiveness required by section 6(d) at the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704a(d)) made after the date of enactment of this Act, a section on the programs developed pursuant to this Act.

(b) CONTENTS.—The section of the treinnial report required by subsection (a) shall—

(1) review and summarize the nature and terms of the model programs developed pursuant to this Act;

(2) described the economic and technical significance of those programs, especially as they affect the prospects for growth for small businesses;

(3) identify any legal, policy, or other barriers to effective cooperation among the national defense laboratories, partnership intermediaries, and small businesses encountered in the development and operation of those programs;

(4) make recommendations for the benefit of Federal, State, or local agencies concerning whether—

(A) the model programs should be adopted more widely, should be modified, or should be rejected for future implementation; and

(B) any other statutory, regulatory, or policy changes should be made to further facilitate implementation of the small business preference provisions of the Stevenson-Wydler Technology Innovation Act of 1980.●

By Mr. LIEBERMAN:

S. 2839. A bill to amend the Public Health Service Act to establish a program of providing for research, treatment, and public education with respect to Lyme disease; to the Committee on Labor and Human Resources.

LYME DISEASE RESEARCH AND EDUCATION ACT

● Mr. LIEBERMAN. Mr. President, summer has arrived and with it nationwide concern about Lyme disease. Lyme disease was discovered in Lyme, CT, in 1976 and can now be found in 43 States, 7,042 new cases were reported in 1989 alone. A total of over 21,000 cases have been reported since the disease was discovered. Every year the number of new cases increases and concerns about the lasting impact of the disease grows.

Since there is, at this time, no vaccine against Lyme disease, public education is the critical component of our efforts to protect people from this disease. The legislation I introduce today establishes a grant program at the Centers for Disease Control to assist in research, treatment, and public education on Lyme disease. The Federal Government has been heavily involved in research on Lyme disease. It has conducted research of vital importance to our understanding of this disease. I believe, however, that we must

also focus our attention on the need for a national Lyme Disease Education Program. This program would ensure that we are able to prevent as many cases of Lyme disease as possible by teaching people what causes the disease and how to avoid the ticks which carry it.

Public education is not only important for the prevention of Lyme disease, it is also a critical aspect of efforts to ensure that those people who are exposed to Lyme disease are able to recognize the disease and receive early treatment. Many of those who have Lyme disease do not recall being bitten by a tick and many do not experience the classic early symptoms which are often used to diagnose the disease. The American public needs complete information on how to protect themselves from ticks, how to check for ticks, what symptoms to look for at the various stages of Lyme disease, and the appropriate treatments for Lyme disease.

The legislation I am introducing today, and which is being introduced by Representative HOCHBRUECKNER in the House of Representatives, is designed to ensure that at least 25 percent of the funds available for Lyme disease will be used for public education efforts. The Lyme Disease Research and Education Act authorizes $5.6 million in funds for CDC, a substantial increase over the $2 million which CDC received in fiscal year 1990 for its Lyme disease work. The increase in authorization ensures that CDC will be able to continue its quality work on research and treatment as well as ensuring that there will be funding available for more extensive public education programs. Almost everyone in the United States is now affected by Lyme disease. I look forward to working with my colleagues to ensure that CDC has sufficient funds to attack Lyme disease through research, treatment and education.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2839

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lyme Disease Research and Education Act of 1990".

SEC. 2. ESTABLISHMENT OF PROGRAM FOR RESEARCH, TREATMENT, AND PUBLIC EDUCATION WITH RESPECT TO LYME DISEASE.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by adding at the end the following new section:

"RESEARCH, TREATMENT, AND PUBLIC EDUCATION WITH RESPECT TO LYME DISEASE

"SEC. 320A. (a) The Secretary, acting through the Director of the Centers for Disease Control—

"(1) may conduct research, and provide treatment and public education, with respect to Lyme disease; and

"(2) shall make grants to public or nonprofit private entities to assist such entities in carrying out programs of research, treatment, and public education with respect to such disease.

"(b) In making grants under subsection (a) regarding public education, the Secretary shall give preference to any qualified applicant for such a grant whose primary focus is providing Lyme disease education nationwide.

"(c) The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(d)(1) For the purpose of carrying out subsection (a), there is authorized to be appropriated $5,600,000 for each of the fiscal years 1991 through 1993.

"(2)(A) Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 50 percent for grants under subsection (a).

"(B) Of the amounts made available under subparagraph (A) for a fiscal year, the Secretary shall make available not less than 75 percent for grants under subsection (a) to qualified applicants for the grants that will provide services under the grants in geographic areas for which not less than 250 cases of Lyme disease have been reported to the public health office of the State involved, or to the Director of the Centers for Disease Control, for the fiscal year preceding the fiscal year for which the applicants are applying to receive such grants.

"(C) Of the amounts made available under subparagraph (A) for a fiscal year, the Secretary shall make available not less than 25 percent for grants under subsection (a) regarding public education.".●

By Mr. GLENN (for himself, Mr. ROTH, Mr. HARKIN, Mr. KOHL, and Mr. AKAKA):

S. 2840. A bill to improve the management of the Federal Government by establishing a Deputy Director for Management in the Office of Management and Budget; by establishing a Chief Financial Office of the United States who shall be in the Office of Management and Budget; by requiring the development of systems that provide complete, accurate, and timely financial information; by increasing financial discipline and accountability by requiring independently audited agency financial statements; and for other purposes; to the Committee on Governmental Affairs.

FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT

● Mr. GLENN. Mr. President, today I will introduce the Federal Financial Management Improvement Act of 1990. Senators ROTH, HARKIN, KOHL, and AKAKA join me as cosponsors.

Last November, Comptroller General Charles Bowsher testified before my Committee on Governmental Affairs that $150 billion were "at risk" in the Federal Government's programs due to inadequate financial management systems and controls. This is an unacceptable situation. The committee has been working with the Comptroller and administration officials to design legislation to correct the problems.

The thrust of this legislation is to establish the organizational structure, powers, and master plan needed to reform the financial management of Government programs. Its centerpiece is the establishment in law of a Chief Financial Officer for the executive branch of the U.S. Government.

The bill reflects the continuing efforts of the Governmental Affairs Committee over the past several years to improve the Government's financial management and strengthen the management "M" in the Office of Management and Budget [OMB]. This is the third Congress Senator ROTH, the ranking member of the committee, and I have sponsored comprehensive legislation to restructure and change the Government's financial management practices.

Mr. President, since President Bush took office, the momentous events in East Europe have dominated our attention and provided much good news. The recent summit with President Gorbachev is yet another positive example. But the past year and a half has also left us with a pervasive domestic message which is not as cheerful. There is the evergrowing feeling the Federal Government must act to put its own financial house in order.

Last September seven inspectors general appeared before the Governmental Affairs Committee and flashed an alarming number of fresh early warning signals for each of their agencies. Director Darman of OMB followed them in October and provided the committee his assessment of management problems within the agencies. He was quite direct. His view was that there are several HUD's looming in the executive branch that had not been uncovered. He released high risk lists jointly developed by OMB and the agencies which encompassed 106 high risk areas. Forty-one of these areas involve directly the inadequate development or use of financial management controls.

In November, Comptroller General Bowsher gave his assessment of high risk areas. He was equally diect. He too believes there are several HUD's yet to be uncovered. He announced GAO's own high risk list of 14 targeted areas and concluded:

Unless something more is done to correct the material deficiencies in management information and accounting systems, and ma-

terial weaknesses in internal controls, major losses of federal funds and the collateral fraud and abuse incidents will continue.

Underpinning both the Comptroller's and Director's assessments is the the clear conclusion that as a government we do not have the basic financial management systems in place to know what is going on, and that internal controls which are in place are not working. The high risk lists amount to best guesses at where the next HUD-type problem might occur. The single most pevalent theme running through the lists is the material weaknesses of financial controls.

The bill I am introducing today amounts to a long-term strategy for reducing the risk and outright waste in many of our Government programs due to nonexistent, antiquated, and ineffective financial management controls. It is intended to establish both an accountable structure of financial officers within the executive branch and a management discipline within the individual agencies which will complement and reinforce the work of the inspectors general, and the work of agency heads to report and correct management weakness for which they are accountable under the Federal Managers' Financial Integrity Act.

In recent weeks both the Comptroller General and the Director of OMB have been very vocal in supporting the need for this kind of legislation. The need is growing, not diminishing. Comptroller Bowsher has informed the Congress his estimate for the savings and loan cleanup is now half a trillion dollars. He is systematically pointing to other credit, insurance, and loan programs which reveal that the President and Congress do not know—do not have good numbers—on what the Government's liabilities are. He has presented an audit of the Air Force which reveal similar problems on the asset side of the ledger, and is working on the other military services.

On his part, Director Darman is now publicly citing the figure of $6 trillion in "hidden liabilities" evolving from credit, loan, and subsidy programs. As he put it in a recent speech at Harvard:

* * * Credit subsidies are not properly accounted for. Risk-sharing is minimized. Exposure to loans, guarantees, potental insurance claims, and implicit obligations is largely unattended to. And the next round of avoidable S&L surprises is simply left to show when it will.

After 16 months on the job, and in the midst of the budget summit, Director Darman has this to say about the state of the Government's financial management.

The Federal accounting system must be reformed to improve financial control and to encourage greater attention to the future. The current system is essentially a primitive cash budgeting system—without satisfactory controls or audits; without accruals; without balance sheets; without a clear picture of assets, liabilities, returns on investment, or risks. It is arguably worse than the old city of New York's when New York went bankrupt. We have started to fix it. But basically, it is still the type of system one might associate with a 20-person restaurant, not a superpower.

Mr. President, the private sector has long recognized the need for chief financial officers to speak knowledgably to the head of an organization, the need for corporations to discipline themselves and inform their publics with financial statements and audits. The State and local community has also long acknowledged the utility of these financial controls. I want to acknowledge the work the American Institute of Certified Public Accountants; the Financial Executives Institute; the National Association of State Auditors, Comptrollers and Treasurers; the Association of Government Accountants and others have done to bring greater attention to the need to reform the Federal Government's financial management practices. It is time for the Federal Government to act and catch up with common practices in the private and State and local sectors.

Mr. President, I want to invite my colleagues to join me in sponsoring this legislation. I intend to hold hearings on this bill this summer. Last January, Senator ROTH and I asked Secretary Brady, Director Darman, and Comptroller General Bowsher, the three principle financial officers of the Government, to be prepared to testify on this legislation and we anticipate their participation in the hearings.

My concern is that there has not been much of "a start to fix it," as Mr. Darman states it. The Committee on Governmental Affairs has repeatedly concluded what is most critical is that we get started with a high level commitment from both the Executive and Congress. Putting the structure and governmentwide architecture in place will take sustained leadership. It amazes me, for example, that despite concerted attention to the issue of standard accounting systems since I became chairman of the committee 4 years ago, there are still some 304 different accounting systems in the Government—none of whom can talk to each other. And this is just an example of the state of the art.

Let me conclude by stating again, the idea that billions of dollars may be bleeding from the Treasury—and we do not know where we may be bleeding—is unacceptable. My view is it will take legislation passed by the Congress and signed by the President to bring about the needed changes. What follows is a summary of the bill I am introducing today. And I ask, Mr. President, that the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2840

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

TITLE I—TITLE AND STATEMENTS OF FINDINGS AND PURPOSE

SEC. 101. This Act may be cited as the "Federal Financial Management Improvement Act of 1990."

SEC. 102. The Congress finds that—

(a) financial management systems of the federal government are obsolete and inefficient, and provide information that is incomplete, inconsistent, unreliable, and untimely.

(b) current financial reporting practices of the Federal government do not accurately disclose the financial condition of federal agencies, including the costs of operations and investments, and do not provide timely information required for efficient program mangament and control;

(c) management functions of the Office of Management and Budget have not received sufficient priority and need to be enhanced to provide leadership in policy execution, program oversight, and the development and implementation of modern financial management systems and a federal financial management leadership structure;

(d) inadequacies of the federal financial management structure have contributed to widespread mismanagement, fraud, waste and abuse of federal resources; and

(e) independently audited agency financial statements, consistently prepared in accordance with accounting and reporting standards that reflect the unique circumstances of the federal government, will provide the discipline needed to foster effective financial management systems and improve accountability in federal financial management.

SEC. 103. It is the purpose of this act to—

(a) strengthen the management function of the Office of Management and Budget to provide leadership in program oversight and in the development and implementation of federal financial management improvements and strengthened internal controls;

(b) provide the Executive Branch and the Congress with complete, consistent, reliable, and timely financial information about the operations and condition of federal agencies which is essential for—

(1) effective oversight of government programs;

(2) effective and efficient management and control of government programs; and

(3) public understanding of the financial performance of the federal government;

(c) require the establishment and maintenance of an effective financial management structure, including—

(1) a comprehensive strategy and detailed multi-year systems modernization plan for rebuilding the financial management structure;

(2) centralized and agency leadership with adequate authority to assure appropriate and consistent agency implementation of the plan;

(3) the development and maintenance of efficient, effective, and consistent financial management systems;

(4) recruitment, selection, training, development and retention of skilled financial management personnel; and

(5) financial statement and independent audits to promote discipline and accountability.

TITLE II—ENHANCEMENT OF FEDERAL MANAGEMENT AND CHIEF FINANCIAL OFFICERS

SEC. 201. Section 502 of title 31, United States Code, is amended by redesignating subsections (c), (d), and (e) as subsections (e), (f), and (g), and adding after subsection (b) the following new subsections:

"(c) The Office has a Deputy Director for Management appointed by the President, by and with the advice and consent of the Senate. Under the general supervision of the Director, the Deputy Director for Management shall—

"(1) coordinate and supervise the Office of Management and Budget's general management functions; and

"(2) carry out all functions of the Director, and all functions delegated by the President to the Director, which relate to—

"(A) providing overall leadership in—

"(i) the development and implementation of Federal management policies; and

"(ii) the coordination of programs to improve the quality and performance of managerial personnel in the areas listed in subparagraph (B) of this paragraph;

"(B) providing central policy direction and leadership in—

"(i) general management and managerial systems;

"(ii) grants and contracts management;

"(iii) information and statistical policy;

"(iv) regulatory affairs;

"(v) property management; and

"(vi) other related management functions, including organizational planning and analysis and human resources management;

"(C) informing the Congress and the public concerning the state of Federal management and initiatives for more effective management;

"(D) facilitating actions by the Congress and the executive branch to improve the efficiency and effectiveness of Government operations and to remove impediments to effective administration;

"(E) providing leadership in management innovation through experimentation, demonstration programs, and the adoption of modern management concepts and technologies;

"(F) maintaining continuous oversight of the organizational strutures and managerial systems and processes of the Government, and recommending changes in such structures, systems and processes;

"(G) promulgating goals to, and assisting in the development and implementation of plans to, involve the productivity of Government personnel;

"(H) working with State and local governments to strengthen the Federal system and provide assistance to such governments with respect to intergovernmental progams and cooperative arrangements; and

"(I) carrying out such other duties and powers prescribed by the Director as are consistent with the general management functions of Deputy Director.

"(d)(1) There shall be in the Office a Chief Financial Officer of the United States. The Chief Financial Officer—

"(A) shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability and practical experience in accounting, budget execution, financial and management analysis, and financial systems development;

"(B) shall serve a term of six years and may continue to serve in office after expiration of a term of service until reappointed or a successor is appointed under subparagraph (A) of this paragraph; and

"(C) may be removed by the President who shall communicate the reasons for the removal to both Houses of Congress.

"(2) Under the general supervision of the Director, the Chief Financial Officer shall—

"(A) be the principal advisor to the President on Federal financial management systems and operations;

"(B) establish policies and prescribe requirments for the establishment and operation of the Government's financial management systems;

"(C) provide leadership, direction and guidance to agencies on fianncial management matters;

"(D) develop qualification standards that agencies shall use in appointing agency chief financial officers;

"(E) provide leadership in and assist agencies with the recruitment, development, evaluation and training of government financial management professionals;

"(F) with the assistance of the Office of Federal Financial Management, Department of the Treasury, coordinate and monitor the financial management activities and operations of the Government to ensure that—

"(i) agencies comply with the policies and requirements established by the Chief Financial Officer under subparagraph (B) of this subsection, and with applicable accounting principles, standards, and requirements, and internal control standards;

"(ii) agencies have established and are effectively and efficiently operating adequate financial management systems and internal controls to manage the agency and ensure full accountability;

"(iii) such systems and controls are adequate to meet the needs of agency managers for effective program implementation and accurate financial information;

"(G) work with the Secretary of Treasury in carrying out the reporting requirements contained in section 3513 of this title; and

"(H) review agency budget requests for financial managmeent systems and operations, and advise the President and the Congress on the resources required to develop and effectively operate and maintain the Government's financial management systems and to correct major deficiencies in such systems."

SEC. 202. Section 502(e) of title 31, United States Code, as amended, is further amended by inserting after the first sentence thereof the following: "In addition to the 3 Assistant Directors authorized by the preceding sentence, the Office shall have an Assistant Director for Financial Management who is appointed by the Director to a career reserved position in the Senior Executive Service. The Assistant Director for Financial Management shall report to the Chief Financial Officer and shall carry out the duties and powers prescribed by the Chief Financial Officer."

SEC. 203. Subchapter I of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"310. OFFICE OF FEDERAL FINANCIAL MANAGEMENT.

"(a) There is in the Department of the Treasury an Office of Federal Financial Management that shall be under the supervision of the Fiscal Assistant Secretary.

"(b) Under the policy direction of the Chief Financial Officer, Office of Management and Budget, the Office of Federal Financial Management shall be responsible for—

"(1) providing technical assistance to agencies on financial management matters;

"(2) monitoring and reviewing, on a continuing basis, the condition of agency financial management systems to determine that—

"(A) agencies are complying with (i) requirements, policies, and procedures established by the Chief Financial Officer under section 502 of this title, (ii) applicable accounting principles, standards, and requirements, and (iii) applicable internal control standards;

"(B) adequate financial management systems and internal accounting and administrative controls have been established in agencies and are operating effectively and efficiently; and

"(C) such systems and controls are adequate to meet the needs of agency managers for effective program implementations and accurate financial information.

"(3) reporting the results of agency reviews to the head of the agency reviewed, its chief financial officer, and the Chief Financial Officer, Office of Management and Budget, including any recommended improvements; and

"(4) performing such other financial management functions a sthe Chief Financial Officer may request."

SEC. 204. Subtitle I of title 31, United States Code in amended by adding at the end thereof the following new chapter:

"CHAPTER 9—AGENCY CHIEF FINANCIAL OFFICERS

"Sec. 901. Agency Chief Financial Officers
"Sec. 902. Functions.
"Sec. 903. Transfer of Functions and Personnel
"Sec. 904. Agency Audit Committees

"§ 901. Agency Chief Financial Officers

"(a) Each agency shall have a chief financial officer, who shall have a career reserved position in the Senior Executive Service and report directly to the agency head on financial management matters.

"(b) Consistent with qualification standards developed by, and in consultation with, the Chief Financial Officer, Office of Management and Budget, the head of each agency shall appoint as chief financial officer an individual with demonstrated ability and experience in accounting, budget execution, financial and management analysis, and systems development, and not less than 6 years practical experience in financial management.

"(c) For purposes of this chapter, "agency" means:

"(1) The Department of Agriculture.
"(2) The Department of Commerce.
"(3) The Department of Defense.
"(4) The Department of Education.
"(5) The Department of Energy.
"(6) The Department of Health and Human Services.
"(7) The Department of Housing and Urban development.
"(8) The Department of the Interior.
"(9) The Department of Justice.
"(10) The Department of Labor.
"(11) The Department of State.
"(12) The Department of the Transportation.
"(13) The Department of the Treasury.
"(14) The Department of Veterans Affairs.

"(15) The Department of the Army.
"(16) The Department of the Navy.
"(17) The Department of the Air Force.
"(18) The Defense Logistics Agency.
"(19) The Environmental Protection Agency.
"(20) The General Services Administration.
"(21) The National Aeronautics and Space Administration.
"(22) The Small Business Administration.

"§ 902. Functions

"An agency chief financial officer shall—
"(1) conduct, supervise, coordinate and integrate all financial management activities and operations of the agency, including preparing the annual financial statements required by section 3513 of this title, arranging for the audits required by section 3521(e) of this title, and assisting the agency head prepare the annual management report required by section 3521(i) of this title;
"(2) advise the agency head on financial management;
"(3) develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls, which—
"(A) complies with applicable accounting principles, standards, and requirements, and internal control standards;
"(B) complies with policies and requirements prescribed by the Chief Financial Officer, Office of Management and Budget;
"(C) complies with the requirements of law applicable to such systems; and
"(D) provides for—
"(i) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of agency management;
"(ii) the development and reporting of cost information;
"(iii) the integration of accounting and budgeting information; and
"(iv) the systematic measurement of performance;
"(4) direct and manage agency financial management activities and operations, including—
"(A) the preparation and annual revision of an agency plan to implement the five-year financial management plan developed by the Chief Financial Officer, Office of Management and Budget under section 3512(a) of this title and to comply with the requirements contained in sections 3513(b) and 3521(e) of this title;
"(B) the development of agency financial management budgets;
"(C) the recruitment, selection, and training of personnel to carry out agency financial management functions;
"(D) the approval and management of agency financial management system design or enhancement projects;
"(E) the implementation of asset management systems, including systems for cash management, credit management, debt collection, and property and inventory management and control; and
"(5) prepare and transmit an annual report to the agency head, the Chief Financial Officer, Office of Management and Budget, and the Officer of Federal Financial Management, which shall include—
"(A) a description and analysis of the status of agency financial management; and
"(B) copies of the most recently completed agency financial statements required under section 3513 of this title, and the audit report on such statements required under section 3521 of this title.

"§ 903. Transfer of Functions and Personnel

"In accordance with guidance prescribed by the Chief Financial Officer, Office of Management and Budget, the head of each agency shall transfer to the agency chief financial officer such functions, powers, duties, personnel, property, and records which relate to the functions described in section 902 and which, if transferred, are consistent with, and could further the purposes of, this chapter.

SEC. 205. Section 1105(a) of title 31, United States Code, is amended by adding a new paragraph (28) to read as follows:
"(28) a separate appropriation account for appropriations for each agency chief financial officer established under section 901 of title 31, United States Code."

SEC. 206. Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following: "Deputy Director for Management, Office of Management and Budget" and "Chief Financial Officer, Office of Management and Budget."

SEC. 207. (a) The table of contents of subchapter I, chapter 3, title 31, United States Code, is amended by adding at the end thereof the following "310. Office of Federal Financial Management."

(b) The table of chapters of subtitle I, title 31, United States Code, is amended by adding at the end thereof the following: "9. Agency Chief Financial Officers."

TITLE III—INTEGRATED FINANCIAL MANAGEMENT SYSTEMS, FINANCIAL REPORTING AND AUDITS

PART A—INTEGRATED FINANCIAL MANAGEMENT SYSTEMS

SEC 301. (a) Section 3512 of title 31, United States Code, is amended by striking out the title thereof, redesignating subsections (a) through (f) as subsections (b) through (g), and by inserting a new title and a new subsection (a) to read as follows:

"§ 3512. Executive agency accounting and other financial management systems

"(a)(1) The Chief Financial Officer, Office of Management and Budget, shall develop and maintain a Government-wide financial management plan describing the activities the Chief Financial Officer, the Office of Federal Financial Management and the agency chief financial officers will conduct over the next five fiscal years to improve the financial management of the Federal Government.
"(2) The five-year plan shall—
"(A) describe the existing financial management structure of the Federal Government and the changes needed to establish an integrated financial management system;
"(B) contain requirements, consistent with applicable accounting principles, standards, and requirements, to govern the type and form of the information generated by financial management systems;
"(C) provide a strategy for developing and integrating individual agency accounting, financial information, and other financial management systems to ensure adequacy and consistency of financial statement information;
"(D) identify and eliminate duplicative and unnecessary systems by encouraging agencies to share systems which have sufficient capacity to perform the functions needed;
"(E) identify projects to bring existing systems into compliance with the applicable standards and requirements;
"(F) contain milestones for equipment acquisitions and other actions necessary to implement the five-year plan consistent with the requirements of this section;
"(G) identify financial management personnel needs and actions to ensure those needs are met; and
"(H) estimate the costs of fulfilling the five-year plan.
"(3) Within one year after enactment of this Act, the Chief Financial Officer shall transmit the five-year plan to the President and the Congress. By December 31 of each year thereafter, the Chief Financial Officer shall transmit a revised plan to cover the succeeding five fiscal years and a report of the accomplishments of the executive branch in implementing the plan during the preceding fiscal year."

(b) Section 3512(c) of title 31, United States Code, as amended, is further amended by inserting after "prescribes" the following: "and the five-year plan developed by the Chief Financial Officer under subsection (a) of this section".

(c) The table of contents of subchapter II of chapter 35, title 31, United States Code, is amended by striking "3512. Executive agency accounting systems" and inserting therefor "3512. Executive agency accounting and financial management systems."

SEC. 302. The Comptroller General shall study the major accounting and financial reporting issues confronting the Federal Government including, but not limited to, the accounting and reporting of capital (including human capital) and expenses. The Comptroller General shall give due consideration to the unique needs and circumstances of the Federal Government, to the need for consistent accounting and reporting practices and procedures within the government, and to the integration of accounting, budgeting, and financial management systems. The Comptroller General shall report the results of his study to the President and the Congress within one year after passage of this act. No accounting principles or standards shall be prescribed as a result of the study required by this section until sixty days of continuous session after receipt by the Congress.

PART B—FINANCIAL REPORTING AND AUDITS

SEC. 303. Section 3513 of title 31, United States Code, is amended by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d) respectively, and by inserting a new subsection (a) to read as follows:
"(a)(1) By December 31 of each year, each executive agency shall prepare financial statements that include the accounts of all of its offices, bureaus, and activities for the preceding fiscal year. The statements shall reflect the overall financial position (including assets and liabilities), results of operations, the cash flows or changes in financial position, and a reconciliation to agency budget reports. The Chief Financial Officer, Office of Management and Budget, shall prescribe the form and content of the financial statements, consistent with applicable accounting principles, standards, and requirements. No later than 180 days after the Comptroller General issues the study required by section 302 of this Act, the Chief Financial Officer shall transmit to the Congress requirements governing the form and content of financial statements which shall not be effective until sixty days of continuous session after receipt by the Congress. An executive agency that has not had an audit of its financial statements completed or planned before the enactment of this Act

shall not be required to comply with the first sentence of this paragraph until after the form and content of the financial statements prescribed by the Chief Financial Officer becomes effective.

"(2) The executive agencies subject to the requirements of this subsection are:

"(1) The Department of Agriculture.

"(2) The Department of Commerce.

"(3) The Department of Defense.

"(4) The Department of Education.

"(5) The Department of Energy.

"(6) The Department of Health and Human Services.

"(7) The Department of Housing and Urban Development.

"(8) The Department of the Interior.

"(9) The Department of Justice.

"(10) The Department of Labor.

"(11) The Department of State.

"(12) The Department of Transportation.

"(13) The Department of the Treasury.

"(14) The Department of Veterans Affairs.

"(15) The Department of the Army.

"(16) The Department of the Navy.

"(17) The Department of the Air Force.

"(18) The Defense Logistics Agency.

"(19) The Environmental Protection Agency.

"(20) The General Services Administration.

"(21) The National Aeronautics and Space Administration.

"(22) The Small Business Administration."

SEC. 304. (a) Section 3521 of title 31, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) The financial statements prepared under section 3513(a) of this title for the most recently completed fiscal year shall be audited annually. The financial statement audit shall be performed by an independent external auditor or an Inspector General subject to the Inspector General Act of 1978, as amended, in accordance with generally accepted Government auditing standards.

"(f) The Comptroller General may audit an agency's financial statements when deemed appropriate by the Comptroller General or upon the request of a committee of Congress. An audit performed by the Comptroller General under this subsection shall be in lieu of the audit otherwise required by subsection (e) of this section.

"(g) The Comptroller General may review an audit conducted by an independent external auditor or an Inspector General. The Comptroller General shall report to the Congress, the Chief Financial Officer, Office of Management and Budget, and the head of the executive agency, the results of any review conducted under this subsection, and shall include in his report any recommendations the Comptroller General considers appropriate.

"(h) For each financial statement audit conducted under this section, a report which contains an opinion on the financial statements, a report on internal controls, and a report on compliance with laws and regulations, shall be transmitted to the head of the executive agency by March 31 following the end of the fiscal year for which such audit was conducted.

"(i) The head of each executive agency shall transmit by April 30 of each year an annual report to the President, the Congress, and the Chief Financial Officer. The report shall include—

"(A) the annual financial statements prepared under section 3513(a) of this title;

"(B) the audit report transmitted to the head of the executive agency under subsection (h) of this section;

"(C) a summary of the reports on systems of internal accounting and administrative controls and accounting systems transmitted to the President and the Congress under section 3512(d) of this title;

"(D) a report summarizing corrective actions taken with respect to material weaknesses identified in the reports prepared under section 3512(d) of this title; and to

"(E) other information the head of the executive agency considers appropriate to fully inform the Congress concerning the financial management of the agency."

(b)(1) Within one year after enactment of this Act, the Chief Financial Officer, Office of Management and Budget shall prepare a plan to assure that for the third full fiscal year completed after the enactment of this act, an annual audit of agency financial statements is conducted in accordance with this section for each agency listed in section 3512(a)(2).

(2) The plan shall identify no less than six of the agencies listed in section 3512(a)(2) that will have audits conducted of their financial statements for the first full fiscal year completed after enactment of this Act, and no less than thirteen of the agencies listed in section 3512(a)(2) that will have an audit conducted of their financial statements for the second full fiscal year completed after enactment of this Act. In determining for which fiscal year an agency listed in section 3512(a)(2) will be required to have its first audit of its financial statements under this section, the Chief Financial Officer shall give priority to those agencies which have had an audit of its financial statements and, for those agencies that have not had such an audit, the Chief Financial Officer shall give priority to agencies which contract for large amounts of goods and services, are responsible for trust funds, and conduct business-type operations.

(3) The Chief Financial Officer shall submit the plan required by this subsection to the Congress. The Chief Financial Officer shall annually report to the Congress on any substantive changes to the plan submitted, and on the Federal Government's progress in implementing the plan, improving financial management related to the preparation and audit of financial statements, and addressing the major accounting and financial reporting issues studied by the Comptroller General under section 302 of this Act. The plan and any substantive changes thereto shall not be effective until sixty days of continuous session after receipt by the Congress.

SEC. 305. Section 9105 of title 31, United States Code, is amended to read as follows:

"§ 9105. Audits

"(a)(1) The financial statements of Government corporations shall be presented in accordance with generally accepted accounting principles and shall be audited annually. The Government corporation shall provide for an independent external auditor or an Inspector General subject to the Inspector General Act of 1978, as amended, to audit and report on the financial statements of the corporation in accordance with generally accepted Government auditing standards.

"(2) The Comptroller General may review any financial statement audit of a Government corporation's financial statements conducted under paragraph (1) of this subsection. The Comptroller General shall report to the Congress and the Government corporation the results of any such review and shall include in such report any recommendations he considers appropriate.

"(b)(1) The Comptroller General may audit the financial statements of any Government corporation for any year in the manner provided in paragraph (1) of subsection (a). Any such audit shall be in lieu of the audit otherwise performed under paragraph (1) of subsection (a).

"(2) A Government corporation shall reimburse the Comptroller General for the full cost of any audit conducted under this subsection, as determined by the Comptroller General. All reimbursements received by the Comptroller General shall be retained without fiscal year limitation and are available to cover the expenses of audits and reviews authorized by this section.

"(c) All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by a Government corporation and its auditor that the Comptroller General deems necessary to the performance of any audit or review under this section shall be made available to the Comptroller General.

"(d) Activities the Comptroller General conducts under this section are in lieu of any audit of the financial transactions of a Government corporation the Comptroller General is required to make under any other law."

SEC. 306. Section 9106 of title 31, United States Code, is amended to read as follows:

"§ 9106. Management reports

"(a)(1) A Government corporation shall submit an annual management report to the Congress not later than 180 days after the end of the Government corporation's fiscal year.

"(2) The management report shall include—

"(A) a statement of financial position;

"(B) a statement of operations;

"(C) a statement of cash flows;

"(D) a reconciliation to budget reports, if applicable;

"(E) a statement on internal accounting and administrative controls and accounting systems by the head of the management of the Corporation consistent with the requirements for agency statements on internal controls and accounting systems contained in section 3512(d) of this title;

"(F) the report resulting from an audit of the financial statements of the corporation conducted under section 9105 of this title; and

"(G) any other comments and information necessary to inform Congress about the operations and financial condition of the corporation.

"(b) A Government corporation shall provide the President, the Chief Financial Officer, and the Comptroller General a copy of the management report when it is submitted to Congress."

SEC. 307. The Comptroller General shall review provisions relating to federal financial management contained in bills and resolutions reported by the committees of the Senate and the House of Representatives. If the Comptroller General determines that a bill or resolution contains a provision that is inconsistent with this Act, the Comptroller General shall, at the earliest practicable date, notify in writing—

(1) the committee that reported such bill or resolution; and

(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or

resolution reported by a committee of the Senate); or

(B) the Committee on Government Operations of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

SEC. 308. The amendments made by sections 303 and 304 of this Act shall expire September 30, 1996.

SUMMARY OF THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT OF 1990

Creates a Deputy Director of Management within the Office of Management and Budget (OMB). The Deputy is to be appointed by the President with the advice and consent of the Senate. Under the supervision of the Director, the Deputy is to coordinate the management functions of the Office of Management and Budget.

Creates a Chief Financial Officer (CFO) of the United States within the Office of Management and Budget. The CFO is to be appointed by the President with the advice and consent of the Senate. The CFO is to be appointed without regard to political affiliation, solely on the basis of integrity and demonstrated ability, and with practical experience in accounting, budget execution, financial and management analysis, and financial systems development. The CFO is to serve a six-year term and may be reappointed. Under the general supervision of the Director, the Chief Financial Offices shall be the principal advisor to the President on Federal financial management systems and operations.

Establishes an Assistant Director for Financial Management within OMB who is to be appointed by the Director to a career reserved position in the Senior Executive Service. The Assistant Director shall carry out duties prescribed by the CFO.

Establishes an Office of Federal Financial Management within the Department of Treasury that shall be under the supervision of a Fiscal Assistant Secretary.

Declares the Office of Federal Financial Management shall (1) provide technical assistance to agencies on financial management matters, (2) monitor agency financial management systems, and (3) report the results of agency reviews to agency heads, agency CFO's, and the CFO.

Requires each agency head appoint a Chief Financial Officer for their agency who shall have a career reserved position in the Senior Executive Service and report directly to the agency head on financial management matters. Agency CFO's shall have demonstrated ability and at least six years of practical experience in financial management.

Creates a separate appropriation account for each agency chief financial officer.

Requires the CFO develop and maintain a government-wide financial management plan describing the activities the CFO, the Office of Federal Financial Management, and the agency CFO's will conduct over a five-year period to reform financial management practives within the executive branch.

Mandates the five year plan be developed within one year of the bill's enactment and transmitted to the President and Congress. By December 31 of each year thereafter, the CFO shall submit an update of the five-year plan together with a report upon the preceding year's accomplishments.

Requires the Comptroller General of the General Accounting Office study major accounting and financial reporting issues, including the accounting of capital and human capital expenses. Due consideration is to be given the unique needs and circumstances of the federal government. Results shall be reported to the Congress within one year after enactment. No new accounting principles or standards prescribed by the Comptroller shall be effective until Congress has had sixty days of continuous session of the Congress to review them.

Places in law a schedule by which Executive departments and agencies shall be required to prepare annual financial statements. The CFO shall prescribe the form and content of agency financial statements. Requirements shall not be effective until Congress has had sixty days of continuous session of the Congress to review them.

Places in law a schedule by which annual audits of agency financial statements will be required. Audits are to be performed by Inspectors General, the Comptroller General, or an independent external auditor.

Requires the financial statements of Government corporations be presented in accordance with generally accepted accounting principles and audited annually. Government corporations are to submit annual management reports to Congress.

Provides the requirements for annual financial statements and annual audits "sunset" on September 30, 1996.●

● Mr. ROTH. Mr. President, I rise today to point out once again a fundamental problem in the structure and operation of the Federal Government, and to join with Senator GLENN in introducing the Federal Financial Management Improvement Act in an effort to correct this problem.

Financial management systems throughout the Federal Government supply the President, Congress, and the American people information that is unreliable, inconsistent, untimely, and incomplete. A fact that has been highlighted most recently by the situation at HUD. It's like the proverbial bull wreaking havoc in a china shop, you cannot plan on selling any crystal because you can't be sure of what you even have in the store. Currently there are nearly 400 different accounting systems in the Government, and few comply with the accounting standards prescribed by the Comptroller General. These current practices do not show the actual costs of running the Federal Government. They are not comparable one to another, so that agencies cannot be judged side by side. There is no way that we in the Senate can fully determine the programmatic impacts of the legislative decisions we make on the basis of information reported. To make matters worse, often the information is reported in such an untimely manner, that the decisions must be and are regularly made with dated, inaccurate information.

I feel that it is high time that the Federal Government had a position, a chief financial officer, that could be held accountable for these shortcomings. Someone who would be responsible for supplying the executive branch and the Congress with reliable, consistent, timely and complete financial information.

I have a long history of concern and work in this area. In the 99th Congress, as the chairman of the Governmental Affairs Committee, I introduced S. 2230, the Federal Management Reorganization and Cost Control Act of 1986, which called for just such a position to be created with the Office of Management and Budget. This bill was well received in the committee and in the financial management community, but never got the chance for a floor vote in the Congress. In the 100th Congress, Senator GLENN and I took a slightly different tact and introduced legislation calling for a chief financial officer to be an Undersecretary in the Treasury Department. This bill, although never receiving a vote in Congress, spurred the administration to designate an OMB official as CFO. It was not enough, but a start.

The bill Senator GLENN and I am introducing today, takes into consideration the problems raised by various parties throughout discussions of this issue. The bill creates a Deputy Director for Management at OMB to focus more attention on the management of the Federal Government. The position of Chief Financial Officer of the United States would be created within the management side of OMB. This being a politically appointed position, an Assistant Director for Financial Management as a career reserved position appointed by the Director of the Office of Management and Budget would afford needed tenure to the CFO office.

The Federal Government's lack of effective financial management and accountability is being pointed out again and again in reports by agency heads, the GAO and the IG's. At committee hearings in 1987, on the management of funds transfers between the Federal and State governments, a witness, a State comptroller asked me why don't we, the Federal Government, practice what we preach. Why is the Federal Government not requiring of itself what it requires of State government, the citizenry, and all other entities that do business with the Federal Government in the United States? The Congress and the executive branch must be supplied with reliable, consistent, timely and complete financial information. Financial systems should be able to provide information to tells what the cost of Government is. I believe that a Chief Financial Officer's Office would acquire the building and have the authority for maintaining of an effective financial structure including development and implementation of a financial plan; maintenance of quality, skilled personnel to carry out the plan, and; establishment of systems to bring about the necessary accountability.

There is in my view a need for agency CFO's similar in scope to that established by the legislation creating the Department of Veterans Affairs, created for HUD by last year's reform package, and proposed for the Department of the Environment. A senior position at sufficient level within an agency to be responsible for the development, direction, and maintenance of the financial management system within the Department, and compliance with the President's CFO's plan. Annually audited financial statements would be prepared attesting to the level of compliance of financial and accounting systems and estimates as to the time before full compliance is achieved.

With the emphasis on the current fiscal situation facing the country at a peak, the time is ripe for the creation of a CFO position, the reforming of our accounting and financial management system and heightened attention payed to the management of the Federal Government. These changes are essential to the repairing of the country's financial woes as much as the work being done in the budget summit. What good is a financial plan when agencies and programs are poorly managed, mismanaged and laden with fraud and abuse? How can we write the fiscal plan for the future if agencies don't have the systems in place to judge performance or even give us the needed data to prepare the plan?

We must continue to do all we can to bring financial management systems up to par and to provide for better reporting of the Government's financial situation—to encourage a responsible, accountable government. Congress has avoided this task long enough, let's rebuild public confidence in the Federal Government with the establishment of the mechanisms needed to ensure an effective, responsive, and accountable Government. It's time to take the country's financial bull by the horns and clean up the Government's china shop.●

By Mr. McCLURE (by request):

S. 2841. A bill to authorize the appropriation of $2.5 million to complete the renovation of the Guam Memorial Hospital; to the Committee on Energy and Natural Resources.

FUNDS FOR COMPLETION OF GUAM MEMORIAL HOSPITAL RENOVATION

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to authorize the appropriation of $2.5 million to complete the renovation of the Guam Memorial Hospital.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Assistant Secretary of the Interior for Territorial and International Affairs be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2841

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled, That there is authorized to be appropriated $2,500,000 to complete the renovation of the Guam Memorial Hospital.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, June 5, 1990.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is draft legislation "To authorize the appropriation of $2.5 million to complete the renovation of the Guam Memorial Hospital."

We recommend that this draft legislation be introduced, referred to the appropriate committee and enacted.

In 1983, the Joint Commission on Accreditation of Health Care Organizations [JCAHCO] revoked accreditation of the Guam Memorial Hospital due to numerous building and life safety code violations, and several patient care and administrative policy deficiencies. Using previously appropriated Federal and local funds, Guam has begun renovation to correct physical plant and life safety code deficiencies and to procure temporary administrative offices. It also recently awarded a contract for major renovation and facility expansion construction. However, additional funding is needed to complete remaining renovation necessary to meet anticipated future needs. Until this renovation is completed, the hospital cannot apply for nor obtain facility accreditation. JCAHCO survey practices require full occupancy of the facility prior to survey, and do not provide for consideration of planned improvements or construction.

If appropriated, the $2.5 million, which is contained in the President's 1991 budget, will allow construction and renovation of additional hospital facilities needed to consolidate services, and rectify the cited deficiencies that led to loss of accreditation. This will include remodeling and expanding the intensive care unit, emergency room and surgical suites. It will enable the Guam Memorial Hospital to provide integrated acute care services in a safe physical plant where quality care and services are provided in accordance with national standards. Together with local appropriations, the $2.5 million will complete the hospital renovation. Guam is paying for two-thirds of the project.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the program of the President.

Sincerely,

STELLA GUERRA,
Assistant Secretary.●

By Mr. METZENBAUM:

S. 2842. A bill to amend the Immigration and Nationality Act to augment funds available for refugee expenses with funds paid by the refugees themselves; to the Committee on the Judiciary.

REFUGEE REPAYMENT ACT

● Mr. METZENBAUM. Mr. President, today I am introducing legislation which will address some fundamental shortcomings in current U.S. refugee policy. This bill, the Refugee Repayment Act will help the United States accept a greater number of refugees, while making our refugee absorption system more equitable for the taxpayers of the United States.

This bill will require refugees to share certain costs of their absorption into American society which are currently paid by the Federal Government.

U.S. policy recognizes that refugees enter this country under much different circumstances than regular immigrants.

Refugees usually come to this country bereft of resources and often in mortal danger.

We provide a range of services and benefits to refugees, which regular immigrants do not receive, to help them cope with their special circumstances.

Refugees already repay the Federal Government for costs of their transportation to the United States, an average of $600 per refugee, according to the State Department. The initial cost of transportation is borne by the intergovernmental organization for migration or I.O.M., a Geneva-based group set up in the wake of World War II. I.O.M. is funded by contributions from member countries.

The repayments are used by the State Department to offset the annual U.S. contribution to the I.O.M. The Department arranges for the actual collection of repayments through VOLAGS—the many voluntary agencies who dedicate themselves to the resettlement and welfare of refugees in the United States.

Mr. President, I do not wish to establish a new debt collection bureaucracy. In fact, I do not wish to incur any expanded administrative costs at all. Indeed, this bill authorizes and anticipates no additional costs to the Federal Government to implement an expanded repayment program. My bill requires that the amount of money collected under the existing I.O.M. repayment system be increased, without increasing the size of the collection system itself.

Under my legislation, refugees will be required to repay the U.S. Government one-half of the average Federal expenditure per refugee.

During the 1989 Annual Consultation on Refugee Admissions, the administration estimated this cost to be $7,000. This number is the average of expenses for all refugees from all areas of the world, according to the administration. Some refugees cost us more than $7,000 to resettle. Some cost us less.

This bill assumes that refugees as a group should be responsible for bearing some increased debt burden. This is the reason for using an across-the-board average.

This bill also seeks to improve the rate of collections from refugees. The collection record for the I.O.M. transportation moneys has been very low.

The single most important problem with these collections is tracking individual refugees and refugee families once they have arrived in the United States. This bill would improve tracking of refugees by giving the Volags better access to information.

Mr. President, this legislation is equitable and fair. At the same time that an increased debt is imposed, the State Department is required to exercise maximum forbearance in collecting this debt. The elderly and infirm will be exempt from the new payments. Refugees who have trouble getting on their feet will be given extra time to make their payments. And no refugee will be subject to deportation as a result of nonpayment of this debt.

Mr. President, Americans have always recognized the special role the United States plays in the lives of oppressed people around the world. Our foreign policy attempts to promote democracy, stability, human rights, freedom of religion, and freedom of movement. While we do not always achieve these objectives, they remain worthy, they remain relevant, and this Senator believes that the American people are still committed to achieving them.

One way in which the United States has sought to implement a just foreign policy is through our acceptance of refugees. Public Law 96-212, the Refugee Act of 1980 defined a refugee as "a person who has left his country of nationality, and, * * * who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, * * * Public Law 96-212 title II, Sec. 201(a). Since enactment of the Displaced Persons Act of 1948, the United States has formally recognized the humanitarian urgency and the ethical imperative of admitting victims of persecution."

Mr. President, my legislation reaffirms this definition, and reaffirms the United States' commitment to people fleeing oppression anywhere in the world.

Even as we reaffirm our commitment, we cannot ignore the fact that it is being sorely tested. The changes in the Soviet Union and Eastern Europe, along with the ongoing turmoil in Southeast Asia have produced a veritable tidal wave of people who meet our definition of the term "refugee." The task of absorbing refugees into American society was easy when an occasional artist would defect from the East bloc, or when a trickle of Soviet Jews would be let free. But this task is not as easy as it used to be.

New Americans have always provided vitality and talent to our society, be they refugees or so-called regular immigrants. And they will continue to do so.

Mr. President, the promise of freedom which we have made repeatedly over so many years is being challenged. Our refugee programs must change in order to meet this new challenge. I believe that the Refugee Repayment Act represents a major step toward this objective.●

By Mr. BOSCHWITZ (for himself, and Mr. MURKOWSKI):

S.J. Res. 346. Joint resolution to designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America."

NATIONAL RED RIBBON WEEK FOR A DRUG FREE AMERICA

● Mr. BOSCHWITZ. Mr. President, I rise today with my colleague, Senator MURKOWSKI, to introduce a joint resolution declaring October 20 through October 28, 1990, as "National Red Ribbon Week for A Drug-Free America."

Drug and alcohol abuse has reached epidemic proportions and many Americans are deeply concerned. And they have a right to be. The facts are frightening.

Twenty-three million Americans age 12 and over currently use illicit drugs.

A nationwide Weekly Reader survey revealed that of the 68,000 fourth-graders polled, 34 percent reported peer pressure to try wine coolers, 41 percent to smoke, and 24 percent to use crack and cocaine.

The 15- to 24-year-old age group is dying at a faster rate than any other age group because of accidents, homicides, and suicides, much of which is related to drug and alcohol abuse.

This joint resolution is identical to Senate Joint Resolution 213, which was signed into law by the President during Red Ribbon Week last year.

Together with the honorary Chairpersons President and Mrs. Bush, the National Federation of Parents for Drug-Free Youth, Congressional Families for Drug-Free Youth, and others, "National Red Ribbon Week for a Drug-Free America" is a comprehensive public awareness and prevention education program involving thousands of parent and community groups from across the country. This year's theme is "Line Up to Sign Up for a Drug-free Decade," and is being lead by a distinguished national advisory committee, including Bill Cosby, Tom Landry, Joan Lunden, T. Boone Pickens, and Peter Ueberroth.

The National Federation of Parents for Drug-Free Youth has organizations in every State promoting healthy drug-free lives, and I believe it's important that the U.S. Senate show our support for what this organization is doing for our country. I also believe it is important for Senators, as representatives and leaders, to set a drug-free example. While I admit this legislation cannot do it alone, it is a reminder to Americans, especially young Americans, to make a conscious decision to be drug-free.

You're probably wondering, where does the red ribbon fit into all this about drugs and alcohol? It's simple. Every American is encouraged to wear or display red ribbons during National Red Ribbon Week for a Drug-Free America to present a visible commitment to a healthy, drug-free life style, and to develop an attitude of intolerance to the use of drugs.

Of course, during National Red Ribbon Week for a Drug-Free America, we'll be sending around red ribbons for Senators and their staffs to proudly wear, and I encourage you to do so.

Mr. President, my joint resolution is the Senate companion to House Joint Resolution 595, which is certain to pass the House. I urge my colleagues, today, to join me in designating October 20 through 28 as "National Red Ribbon Week for a Drug-Free America."●

ADDITIONAL COSPONSORS

S. 1140

At the request of Mr. MITCHELL, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1140, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 1216

At the request of Mr. SIMON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1425

At the request of Mr. METZENBAUM, the names of the Senator from Nevada [Mr. REID] and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 1425, a bill entitled the "Nutrition Labeling and Education Act of 1989."

S. 1675

At the request of Mr. KENNEDY, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1675, a bill to provide financial assistance for teacher recruitment and training, and for other purposes.

S. 1826

At the request of Mr. GRAHAM, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1826, a bill to amend the National Housing Act to expand the demonstration program of insurance of home equity conversion mortgages for elderly homeowners.

S. 1834

At the request of Mr. LIEBERMAN, the names of the Senator from Washington [Mr. ADAMS], the Senator from Georgia [Mr. NUNN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1834, a bill to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society.

S. 1839

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1839, a bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration, and for other purposes.

S. 1970

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

S. 2013

At the request of Mr. BRYAN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2013, a bill to require that the surplus in the highway trust fund be expended for the Federal-Aid Highway System.

S. 2229

At the request of Mr. DODD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2229, a bill to reauthorize the Head Start Act for fiscal years 1991 through 1994, and for other purposes.

S. 2319

At the request of Mr. GARN, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2346

At the request of Mr. REID, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2346, a bill to prohibit certain practices in the raising of calves, and for other purposes.

S. 2411

At the request of Mr. BURNS, his name was withdrawn as a cosponsor of S. 2411, a bill to provide for orderly imports of textiles, apparel, and footwear.

S. 2415

At the request of Mr. DOMENICI, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2415, a bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Act of 1978.

S. 2513

At the request of Mr. BOSCHWITZ, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 2513, a bill to require Congress to purchase recycled paper and paper products to the greatest extent practicable.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2619

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2619, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the medicare program.

S. 2720

At the request of Mr. SASSER, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2720, a bill to encourage employee ownership of, and participation in, companies in the United States.

S. 2735

At the request of Mrs. KASSEBAUM, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Vermont [Mr. JEFFORDS], and the Senator from California [Mr. WILSON] were added as cosponsors of S. 2735, a bill to enhance the ability of the Federal Government to successfully prosecute financial crimes and gain increased recoveries at failed financial institutions.

S. 2736

At the request of Mr. SIMON, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 2736, a bill to amend the Follow Through Act, and for other purposes.

S. 2751

At the request of Mr. DECONCINI, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2751, a bill to reform certain Indian programs, and for other purposes.

S. 2786

At the request of Mr. BIDEN, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 2786, a bill to mount a national crackdown on fraud and embezzlement in the thrift and banking industries.

S. 2789

At the request of Mr. GORE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2789, a bill to authorize appropriations for the Earthquake Hazards Reduction Act of 1977, and for other purposes.

S. 2819

At the request of Mr. MOYHIHAN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2819, a bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes.

S. 2820

At the request of Mr. DODD, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2820, a bill to amend the Public Health Service Act to establish and expand grant programs for evaluation and treatment of parents who are substance abusers and children of substance abusers, and for other purposes.

SENATE JOINT RESOLUTION 276

At the request of Mr. LEIBERMAN, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 276, a joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 277

At the request of Mr. LUGAR, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 277, a joint resolution designating October 6, 1990, as "German-American Day."

SENATE JOINT RESOLUTION 288

At the request of Mr. KASTEN, the names of the Senator from Montana

[Mr. BURNS], the Senator from Arizona [Mr. DECONCINI], the Senator from Virginia [Mr. WARNER], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Delaware [Mr. BIDEN], the Senator from Indiana [Mr. COATS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Alabama [Mr. SHELBY], the Senator from Georgia [Mr. NUNN], the Senator from Minnestoa [Mr. DURENBERGER], the Senator from Illinois [Mr. SIMON], the Senator from Idaho [Mr. SYMMS], the Senator from Virginia [Mr. ROBB], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Ohio [Mr. GLENN], the Senator from Wyoming [Mr. SIMPSON], the Senator from New Jersey [Mr. BRADLEY], the Senator from South Carolina [Mr. THURMOND], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Mississippi [Mr. LOTT], the Senator from Tennessee [Mr. SASSER], the Senator from Missouri [Mr. BOND], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. GRASSLEY], the Senator from Wisconsin [Mr. KOHL], the Senator from Florida [Mr. MACK], the Senator from Florida [Mr. GRAHAM], the Senator from New York [Mr. D'AMATO], the Senator from Georgia [Mr. FOWLER], the Senator from California [Mr. WILSON], the Senator from Illinois [Mr. DIXON], the Senator from Utah [Mr. GARN], the Senator from Alabama [Mr. HEFLIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Nevada [Mr. REID], the Senator from Michigan [Mr. LEVIN], the Senator from Rhode Island [Mr. PELL], the Senator from Idaho [Mr. MCCLURE], the Senator from Nevada [Mr. BRYAN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Nebraska [Mr. EXON], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Connecticut [Mr. DODD], the Senator from Louisiana [Mr. JOHNSTON], the Senator from South Dakota [Mr. DASCHLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Ohio [Mr. METZENBAUM], the Senator from Hawaii [Mr. AKAKA], the Senator from South Dakota [Mr. PRESSLER], the Senator from Rhode Island [Mr. CHAFEE], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from North Dakota [Mr. BURDICK], were added as cosponsors of Senate Joint Resolution 288, a joint resolution designating January 6, 1991, through January 12, 1991, as "National Law Enforcement Training Week."

SENATE JOINT RESOLUTION 306

At the request of Mr. SIMON, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Delaware [Mr. ROTH], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Joint Resolution 306, a joint resolution to designate the period commencing October 21, 1990, and ending October 27, 1990, as "National Humanities Week."

SENATE JOINT RESOLUTION 337

At the request of Mr. SIMON, the names of the Senator from Utah [Mr. GARN], the Senator from Alabama [Mr. SHELBY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Missouri [Mr. BOND], the Senator from Missouri [Mr. DANFORTH], the Senator from North Dakota [Mr. BURDICK], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Joint Resolution 337, a joint resolution designating Labor Day weekend, September 1 through 3, 1990, as "National Drive for Life Weekend."

SENATE JOINT RESOLUTION 341

At the request of Mr. WILSON, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Idaho [Mr. MCCLURE], the Senator from New York [Mr. MOYNIHAN], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 341, a joint resolution to designate the week of July 22 through July 28, 1990, as "National Invent America! Week."

SENATE CONCURRENT RESOLUTION 125

At the request of Mr. COHEN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 125, a concurrent resolution expressing the sense of Congress regarding adequate funding for long-term health care services provided through the Medicare and Medicaid Programs.

SENATE CONCURRENT RESOLUTION 134

At the request of Mr. HEINZ, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Concurrent Resolution 134, a concurrent resolution expressing the sense of Congress concerning a 1991 White House Conference on Aging.

AMENDMENT NO. 2094

At the request of Mr. NICKLES, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of amendment No. 2094 proposed to S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

AMENDMENTS SUBMITTED

OMNIBUS CRIME BILL

WIRTH (AND OTHERS) AMENDMENT NO. 2116

Mr. WIRTH (for himself, Mr. HEINZ, Mr. BIDEN, Mr. DOLE, Mr. RIEGLE, Mr. GARN, Mr. GRAHAM, Mr. DIXON, Mrs. KASSEBAUM, Mr. BRYAN, Mr. ROTH, Mr. SIMON, Mr. BOND, Mr. PRYOR, Mr. D'AMATO, Mr. KERRY, Mr. SARBANES, Mr. DODD, Mr. GRASSLEY, Mr. SASSER, Mr. CHAFEE, Mr. SANFORD, Mr. BURNS, Mr. LEVIN, Mr. COHEN, Mr. KENNEDY, Mr. BOSCHWITZ, Mr. METZENBAUM, Mr. KOHL, Mr. GORE, Mr. CRANSTON, Mr. LIEBERMAN, Mr. LEAHY, Mr. EXON, Mr. LAUTENBERG, Mr. ADAMS, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. PRESSLER, Mr. HARKIN, Mr. DURENBERGER, Mr. KASTEN, Mr. MCCONNELL, Mr. HATFIELD, Mr. HELMS, Mr. RUDMAN, Mr. DOMENICI, Mr. PELL, Mr. NICKLES, Mr. HOLLINGS, and Mr. CONRAD) proposed an amendment, which was subsequently modified, to the bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE ____—PROSECUTION OF THRIFT AND BANK FRAUD

SEC. ____01. SHORT TITLE.

This title may be cited as the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990".

Subtitle A—Bank Fraud and Embezzlement Penalties

SEC. ____11. INCREASING BANK FRAUD AND EMBEZZLEMENT PENALTIES.

(a) RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.—Section 215(a) of title 18, United States Code, is amended by striking "20" and inserting "30".

(b) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended by striking "20" and inserting "30".

(c) LENDING, CREDIT AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended by striking "20" and inserting "30".

(d) BANK ENTRIES, REPORTS AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended by striking "20" and inserting "30".

(e) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended by striking "20" and inserting "30".

(f) FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.—Section 1007 of title 18, United States Code, is amended by striking "20" and inserting "30".

(g) FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE APPLICATIONS.—Section 1014 of title 18, United States Code, is amended by striking "two years" and inserting "30 years".

(b) BANK FRAUD.—Section 1344(a) of title 18, United States Code, is amended by striking "five years" and inserting "30 years".

SEC. ____12. FINANCIAL CRIME KINGPIN STATUTE.

(a) CONTINUING FINANCIAL CRIME ENTERPRISES.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 226. Continuing financial crimes enterprise

"(a) Any person who engages in a continuing financial crime enterprise shall be sentenced to a term of imprisonment of not less than 10 years and which may be up to life imprisonment, to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, or $10,000,000 if the defendant is an individual, or $20,000,000 if the defendant is other than an individual.

"(b) For purposes of subsection (a) of this section, a person is engaged in a continuing financial crime enterprise if—

"(1) the person violates section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title; and

"(2) the violation is a part of a continuing series of violations under section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title—

"(A) that are undertaken by the person in concert with 3 or more persons with respect to whom the person occupies a position of organizer, supervisor, or other position of management,

"(B) from which the person has received $5,000,000 in gross receipts during any 24-month period.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"226. Continuing Financial Crime Enterprise.".

SEC. ____13. AMENDMENT OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS STATUTE.

(a) ADDITION OF PREDICATE OFFENSES.—Section 1961(1)(B) of title 18, United States Code, is amended—

(1) by inserting "section 215 (relating to receipt of commissions or gifts for providing loans)," after "section 201 (relating to bribery),";

(2) by inserting "sections 656 and 657 (relating to financial institution embezzlement)," after "473 (relating to counterfeiting),"; and

(3) by inserting "sections 1004, 1005, 1006, 1007, and 1014 (relating to fraud and false statements)," after "section 894 (relating to extortionate credit transactions),".

(b) EXCLUSION FROM CIVIL REMEDIES.—Section 1964(c) of title 18, United States Code, is amended by inserting ", other than a violation involving a violation of section 215, 656, 657, 1004, 1005, 1006, 1007, or 1014," after "of this chapter".

SEC. ____14. INCREASED PENALTIES IN MAJOR BANK CRIME CASES.

(a) INCREASED PENALTIES.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant convicted of violating section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, affecting an insured depository institution, when the offender has derived more than $1,000,000 in gross receipts from the offense, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) 4 levels greater than the level that would have been assigned had the offense not been committed under circumstances set forth above; and

(2) in no event less than level 24.

(b) AMENDMENTS TO SENTENCING GUIDELINES.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

Subtitle B—Broadening Investigative Authority in Bank Crime Cases

SEC. ____51. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in subsection (1)(C)—

(A) by inserting "section 215 (relating to bribery of bank officials)," before "section 224";

(B) by inserting "section 1014 (relating to false statements to financial institutions)," before "sections 1503";

(C) by striking "section 1343 (fraud by wire, radio, or television)," and inserting "section 1343 (fraud by use of facility of interstate commerce), section 1344 (relating to bank fraud),"; and

(D) by striking "the section in chapter 65 relating to destruction of any energy facility,"; and

(2) by redesignating the first paragraph (m), as paragraph (o);

(3) by striking "and" at the end of the second subsection (m);

(4) by striking the period at the end of subsection (n) and inserting "; and"; and

(5) in paragraph (j), striking "any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1742 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(c)(2)) or section 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1742 (i) and (n))".

Subtitle C—Restructuring the Federal Attack on Bank Crimes

SEC. ____111. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel for the Financial Institutions Fraud Unit (referred to as the "Special Counsel").

(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) SUNSET PROVISION.—The provisions of section III shall expire no later than five years after the date of enactment, provided, however, that the Attorney General may reassign the Special Counsel of the Financial Institutions Fraud Unit and the Financial Institutions Fraud Unit to the supervision of the Assistant Attorney General for the Criminal Division no earlier than October 1, 1992.

SEC. ____112. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Special Counsel shall be responsible for—

(1) supervising and coordinating investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry;

(2) ensuring that Federal statutes relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized by law to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensuring that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) COMPENSATION.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

SEC. ____113. ASSIGNMENT OF PERSONNEL.

There shall be assigned to the Financial Institutions Fraud Unit such number of personnel as the Attorney General deems appropriate to maintain or increase the level of enforcement activities in the area of fraud and other criminal activity in and against the financial services industry.

SEC. ____114. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial services industry and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) SUPERVISION.—The Attorney General shall determine how each task force shall be supervised and may provide, if the Attorney General determines appropriate, for the supervision of any task force by the Special Counsel.

(c) SENIOR INTERAGENCY GROUP.—(1) The Attorney General shall establish a senior interagency group to assist in identifying the most significant savings and loan and bank fraud cases and in focusing investigative and prosecutorial resources where they are most needed.

(2) The senior interagency group shall be chaired by the Assistant Attorney General for the Criminal Division and shall include senior officials from—

(A) the Department of Justice;

(B) the Federal Bureau of Investigation;

(C) the Department of the Treasury;

(D) the Office of Thrift Supervision;

(E) the Resolution Trust Corporation;

(F) the Federal Deposit Insurance Corporation;

(G) the Comptroller of the Currency;

(H) the Board of Governors of the Federal Reserve System;

(I) the National Credit Union Administration; and

(J) the Attorney General's Advisory Committee of the United States Attorneys.

(3) This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. ____115. REPORTS.

(a) IN GENERAL.—(1) The Financial Institutions Fraud Unit shall compile and collect data concerning—

(A) the nature and number of financial institutions investigations, prosecutions, and enforcement proceedings in progress;

(B) the nature and number of such matters closed, settled, or litigated to conclusion; and

(C) the results achieved, including fines and penalties levied, prison sentences imposed, and damages recovered, in such matters.

(2) Prior to the conclusion of an investigation or prosecution, data may be compiled in an aggregate statistical form.

(3) The Financial Institutions Fraud Unit shall analyze and report semiannually to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives on the data described in paragraph (1) and its own coordination activities with the agencies named in section 114(c), and shall provide such data, as appropriate to such committees.

(b) SPECIFICS OF REPORT.—The report required by subsection (a) shall—

(1) be categorized as to various types of financial institutions;

(2) disclose data for each Federal judicial district; and

(3) identify, with respect to the activities of the Financial Institutions Fraud Unit—

(A) the number of institutions in which evidence of significant fraud or insider abuse has been detected;

(B) the Federal administrative enforcement actions brought against offenders;

(3) any settlements or judgments obtained against offenders;

(4) the indictments, guilty pleas, or verdicts obtained against offenders; and

(5) the resources allocated in pursuit of such settlements, indictments, or verdicts.

SEC. ____116. STATISTICS ON FINANCIAL SERVICES CRIME ENFORCEMENT.

Section 522 of title 28, United States Code, is amended by—

(1) inserting "(a)" before "The Attorney General"; and

(2) adding at the end thereof the following new subsection:

"(b) The information provided pursuant to subsection (a)(2) shall include records of the number of pending criminal matters, investigations, cases, and defendants involving financial institutions which shall specify the number of such cases relating to insured depository institutions and shall be made available to the Congress not less than monthly during each year.".

Subtitle D—Expanding Federal Forfeiture and Money Laundering Laws

SEC. ____151. EXPANDING CIVIL FORFEITURE LAWS IN BANK CRIME CASES.

Section 981 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(C), by inserting "or a violation of section 1341 or 1343 of such title affecting an insured depository institution" before the period;

(2) in subsection (b), by inserting "Attorney General or" after "subsection (a)(1)(C) of this section";

(3) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(4) in subsection (e)(4), by striking "(if the affected financial institution is not in receivership or liquidation)".

SEC. ____152. RESTITUTION FOR VICTIMS OF BANK CRIMES.

(a) FORFEITURE PROVISIONS.—Section 981(e) of title 18, United States Code, is amended—

(1) in paragraph (4) by striking "or" at the end thereof;

(2) in paragraph (5) by striking the period at the end thereof and inserting "; or"; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) in the case of property described in subsection (a)(1)(C), restore forfeited property to the victims of an offense described in subsection (a)(1)(C).".

(b) RESTITUTION PROVISIONS.—Section 3663(a) of title 18, United States Code, as amended by section____, is amended by adding at the end thereof the following new subsection:

"(____) For the purposes of this section, the term 'victim of such offense' includes any victim of a banking law violation (as defined in section 3322 of this title) irrespective of whether the defendant was convicted of an offense involving that victim or of an offense involving the property of the victim for which restitution is to be ordered.".

SEC. ____153. MONEY LAUNDERING INVOLVING BANK CRIMES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "section 1005 (relating to fraudulent bank entries), section 1006 (relating to fraudulent Federal credit institutions entries), section 1007 (relating to Federal Deposit Insurance transactions), section 1014 (relating to fraudulent loan or credit applications)," after "section 875 (relating to interstate communications)"; and

(2) by inserting "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting an insured depository institution," after "section 1203 (relating to hostage taking)".

SEC. ____154. NONDISCHARGE OF DEBTS IN FEDERAL BANKRUPTCY INVOLVING OBLIGATIONS ARISING FROM A BREACH OF FIDUCIARY DUTY.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end thereof the following new subsection:

"(p) BREACH OF FIDUCIARY DUTIES.—A finding of a Federal court, State court, or appropriate Federal banking agency that an institution-affiliated party of an insured depository institution has breached any fiduciary duty to that institution shall, once such finding has become final, constitute a defalcation while acting in a fiduciary capacity within the meaning of sections 523(a)(4) and 523(a)(13) of title 11, United States Code. The liability arising from such breach shall constitute a debt not dischargeable in a case under title 11 of the United States Code.".

SEC. ____155. DISALLOWING USE OF BANKRUPTCY TO EVADE COMMITMENTS TO MAINTAIN THE CAPITAL OF A FEDERALLY INSURED DEPOSITORY INSTITUTION OR TO EVADE CIVIL OR CRIMINAL LIABILITY.

(a) EXCEPTION TO DISCHARGE UNDER CHAPTER 11.—Section 1141(d) of title 11, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) The confirmation of a plan does not discharge a debtor of its responsibilities on any commitment to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Office of the Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of governors of the Federal Reserve System, or their predecessors or successors.".

(b) EXCEPTION TO DISCHARGE IN GENERAL.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "or" at the end of paragraph (9);

(B) striking the period at the end of paragraph (10) and inserting a semicolon; and

(C) adding at the end thereof the following new paragraphs:

"(11) for any commitment to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors;

"(12) for restitution that the debtor has been ordered to pay by any court of the United States, or of any State, in any criminal proceeding arising from any act that caused loss to any depository institution or insured credit union; or

"(13) for any damages, penalty, fine, forfeiture, restitution, reimbursement, indemnification, or guarantee against loss, provided in any judgment, order, or consent order or decree entered in any court of the United States or of any State, issued by the appropriate Federal financial institutions regulatory agency, or contained in any settlement agreement entered into by the debtor, arising from any act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institution or insured credit union."; and

(2) by adding at the end thereof the following new subsections:

"(e) Any institution-affiliated party of a depository institution or insured credit union shall be considered to be acting in a fiduciary capacity with respect to the purposes of subsection (a) (4) or (13).

"(f) Notwithstanding subsection (a)(2)(B)(iii) of this section, reliance by a creditor shall not be required to establish an exception to discharge under subsection (a)(2) (A) or (B) of this section if the creditor is the appropriate Federal financial institutions regulatory agency that is a successor to a depository institution or insured credit union.

"(g)(1) Notwithstanding any other law, a complaint objecting to the discharge of any debt owed to—

"(A) a depository institution or insured credit union that is closed, is in receivership or conservatorship, or is sold to (or has its assets and liabilities assumed by) another depository institution or insured credit union in a transaction assisted by the appropriate Federal financial institutions regulatory agency; or

"(B) the appropriate Federal financial institutions regulatory agency,

may be filed on or before the date specified in paragraph (2).

"(2) The date for the filing of a complaint referred to in paragraph (1) is the date that is the later of—

"(A) 120 days after the date of the debtor's first meeting of creditors, as provided under section 341 of this title; or

"(B) 120 days after the date of the appointment of a conservator or receiver by the appropriate Federal financial institutions regulatory agency for the depository institution or insured credit union with respect to which the debt arises.

"(3) This subsection shall not extend the period of limitations prescribed by section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)).

"(h) For purposes of this section—

"(1) the term 'depository institution' means a depository institution as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)) or an insured depository institution as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

"(2) the term 'insured credit union' shall have the same meaning as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

"(3) the term 'appropriate Federal financial institutions regulatory agency' has the meaning stated in section 8(e)(7)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(7)(D)), and in addition includes the Resolution Trust Corporation, and includes such an agency or corporation whether it is acting is its capacity as a conservator or receiver or in its corporate capacity; and

"(4) the term 'institution-affiliated party'—

"(A) with respect to a depository institution, has the meaning stated in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)), without regard to whether the depository institution is an insured depository institution; and

"(B) with respect to an insured credit union, has the meaning stated in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)).".

(c) PLANS UNDER CHAPTER 13.—Section 1328(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) of a kind specified in—

"(A) section 523(a)(5) of this title; or

"(B) section 523(a) (2), (4), (6), (7), (12), or (13) of this title, including debts owed to the appropriate Federal financial institutions regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1813(e)(7)(D)), and in addition includes the Resolution Trust Corporation, and includes such an agency or corporation whether it is acting is its capacity or a conservator or receiver or in its corporate capacity a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7))).".

(d) EXEMPTION OF PROPERTY.—Section 522(c)(1) of title 11, United States Code, is amended to read as follows:

"(1) a debt of a kind specified in—

"(A) section 523(a) (1), (5), (12), or (13) of this title; or

"(B) section 523(a) (2), (4), or (6) of this title owed to an appropriate Federal financial institutions regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1813(e)(7)(D)), and in addition includes the Resolution Trust Corporation, and includes such an agency or corporation whether it is acting is its capacity as a conservator or receiver or in its corporate capacity, or a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7))); or".

(e) REJECTION OF COMMITMENTS AS EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) The debtor may not reject any commitment of the debtor to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors.".

SEC. ____156. DISCLOSURE OF CIVIL ENFORCEMENT ACTIONS.

(a) AMENDMENT OF FEDERAL DEPOSIT INSURANCE ACT.—Section 8(u) of the Federal Deposit Insurance Act (12 U.S.C. 1818(u)) is amended to read as follows:

"(u) PUBLIC DISCLOSURE OF AGENCY ACTION.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public within 30 days of the agency's action—

"(A) any letter, directive, agreement, settlement, memorandum of understanding, business plan, or other written statement issued or accepted in lieu of a final order issued under this section or any other law, unless the Board, in its discretion, determines that publication would be contrary to the public interest;

"(B) any final order issued with respect to any administrative enforcement proceeding initiated by the Board under this section or any other law; and

"(C) any modification to or termination of any orders or agreement made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by a Federal banking agency shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

"(3) REPORTS TO CONGRESS.—A written report shall be made part of any determination not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(4) TRANSCRIPTS OF HEARINGS.—A transcript that includes all testimony and other evidence shall be prepared for all hearings commenced under this section. A transcript of public hearings shall be made available to the public. A transcript of nonpublic hearings shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(5) EFFECTIVE DATE.—The disclosure required by paragraph (1) shall apply with respect to all documents outstanding as of June 26, 1990, or issued after June 26, 1990. The publication required by paragraph (4) shall apply with respect to the transcripts of all hearings conducted after June 26, 1990.

"(6) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the appropriate Federal banking agency makes a determination in writing that the publication of a document pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the agency may delay the publication of the document or transcript of the hearing for a reasonable time.

"(7) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The appropriate Federal banking agency may file any document or part of a document under seal in any administrative enforcement hearing commenced by the agency if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2). The report and the part of the document withheld shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(8) NOTICES OF CHARGES.—Each Federal banking agency shall keep and maintain a record, for a period of at least 10 years, of all documents described in paragraph (1) and at all notices of charges initiated with respect to any administrative enforcement proceeding initiated by such agency under this section or any other laws. The records shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.".

(2) Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by striking "Such hearing shall be private, unless the appropriate Federal banking agency, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest.".

(b) AMENDMENT OF FEDERAL CREDIT UNION ACT.—(1) Section 206(s) of the Federal Credit Union Act (12 U.S.C. 1786(s)) is amended to read as follows:

"(s) PUBLIC DISCLOSURE OF AGENCY ACTION.—

"(1) IN GENERAL.—The Board shall publish and make available to the public within 30 days of the agency's action—

"(A) any letter, directive, agreement, settlement, memorandum of understanding, business plan, or other written statement issued or accepted in lieu of a final order issued under this section or any other law, unless the Board, in its discretion, determines that publication would be contrary to the public interest;

"(B) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other law; and

"(C) any modification to or termination of any order or agreement made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by the Board shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

"(3) REPORTS TO CONGRESS.—A written report shall be made part of a determina-

tion not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(4) TRANSCRIPT OF HEARING.—A transcript that includes all testimony and other evidence shall be prepared for all hearings commenced under this section. A transcript of public hearings shall be made available to the public. A transcript of nonpublic hearings shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(5) EFFECTIVE DATE.—The disclosure required by paragraph (1) shall apply with respect to all documents outstanding as of June 26, 1990, or issued after June 26, 1990. The publication required by paragraph (4) shall apply with respect to the transcripts of all hearings conducted after June 26, 1990.

"(6) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Board makes a determination in writing that the publication of a document pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the Board may delay the publication of the document or transcript of the hearing for a reasonable time.

"(7) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Board may file any document or part of a document under seal in any administrative enforcement hearing commenced by the Board if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2). The report and the part of the document withheld shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(8) NOTICES OF CHARGES.—Each Federal banking agency shall keep and maintain a record, for a period of at least 10 years, of all documents described in paragraph (1) and of all notices of charges initiated with respect to any administrative enforcement proceeding initiated by such agency under this section or any other laws. The records shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.".

(2) Section 206(j)(1) of the Federal Credit Union Act (12 U.S.C. 1786(j)(1)) is amended by striking "Such hearing shall be private, unless the Board, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest.".

Subtitle E—Increasing Investigators and Prosecutors for Bank Fraud and Embezzlement Cases

SEC. ____201. FINDINGS.

The Congress finds that—

(1) the Federal Bureau of Investigation has received more than 20,000 referrals and complaints involving fraud in the financial services industry that the Bureau has been unable to address;

(2) as of February 1990, the Bureau has had more than 7,000 pending bank fraud and embezzlement cases, some 3,000 of which were cases involving potential losses of more than $100,000;

(3) more than 900 pending cases and more than 200 unaddressed referrals and complaints involve potential losses greater than $1,000,000;

(4) the Attorney General recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by the institution's officers and management; and

(5) officials of the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions it has seized "have been victimized by serious criminal activity."

SEC. ____202. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR BANK CRIME CASES.

(a) AMENDMENT OF FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—(1) Section 966(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

"(a) IN GENERAL.—There is authorized to be appropriated to the Attorney General, without fiscal year limitation, $75,000,000 for fiscal year 1990 and $162,500,000 for each of fiscal years 1991 through 1993, for purposes of investigations, prosecutions, and civil proceedings involving financial institutions to which the Act and amendments made by this Act apply.".

(2) Section 967 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (105 Stat. 506) is amended—

(A) by striking "$10,000,000" and inserting "$25,000,000"; and

(B) by striking "1992" and inserting "1993".

(3) The additional funds authorized to be appropriated under the amendment made by this subsection shall be allocated among the Federal judicial districts with the highest financial institutions crime case loads for the purposes of—

(A) providing additional United States magistrates;

(B) renovating court facilities;

(C) providing additional law clerks and clerical support staff; and

(D) providing additional deputy clerks.

(b) ADDITIONAL APPROPRIATIONS FOR THE INTERNAL REVENUE SERVICE.—There is authorized to be appropriated to the Internal Revenue Service, Department of the Treasury, $16,000,000 for fiscal year 1991 for investigation of violations of the Internal Revenue Code of 1986 and related statutes involving insured depository institutions.

Subtitle F—Preventing and Prosecuting Fraud in the Sale of Assets by the Resolution Trust Corporation

SEC. ____251. CONCEALMENT OF ASSETS FROM FEDERAL BANKING AGENCIES ESTABLISHED AS CRIMINAL OFFENSE.

Chapter 47 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 1032. Concealment of assets from Federal banking agencies or the Resolution Trust Corporation

"Whoever knowingly conceals from an appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), or the Resolution Trust Corporation, whether such agency or corporation is acting as an agency, in a corporate capacity, or as a receiver or conservator, any assets or property against which either such Corporation or such agency may have a claim, shall be fined not more than $1,000,000, or imprisoned not more than 5 years, or both."; and

(2) by amending the table of sections for that chapter by adding at the end thereof the following new item:

"1032. Concealment of assets from Federal banking agencies or the Resolution Trust Corporation.".

SEC. ____252. CIVIL AND CRIMINAL FORFEITURE FOR FRAUD IN THE SALE OF ASSETS BY THE RESOLUTION TRUST CORPORATION.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end thereof the following new subparagraphs:

"(D) Any property, real or personal, that represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of a violation of the following sections of this title relating to the sale of assets by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation: section 666(a)(1) (Federal program fraud); 1001 (false statements to the Federal Government); 1031 (major fraud against the United States); 1032 (concealment of assets for Federal banking agencies); 1341 (mail fraud); or 1343 (wire fraud).".

"(E) With respect to an offense listed in subparagraph (D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, that is thereby obtained, directly or indirectly.

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(3) The court, in imposing a sentence on a person convicted of an offense under section 666(a)(1), 1001, 1031, 1032, 1341, or 1343 involving the sale of assets by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation shall order that the person forfeit to the United States any property, real or personal, that represents the gross receipts obtained, directly or indirectly, as a result of such violation, or that is traceable to such gross receipts.

"(4) With respect to an offense listed in paragraph (3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, that is obtained, directly or indirectly, by or through such scheme or artifice to defraud.".

SEC. ____253. CIVIL ACTIONS UNDER THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(b) of title 18, United States Code, is amended by adding ", or the chairman of the Federal Deposit Insurance Corporation or the chairman of the Resolution Trust Corporation or their designees in the case of violations affecting insured depository institutions," after "The Attorney General".

SEC. ____254. SUBPOENA AUTHORITY FOR FDIC AND RTC ACTING AS CONSERVATOR OR RECEIVER.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended—

(1) by redesignating subparagraph (I) as subparagraph (J); and

(2) by inserting after subparagraph (H) the following new subparagraph:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Corporation may, as conservator or receiver and for purposes of carrying out any power, authority, or duty with respect to the insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution) exercise any power established under section 8(n), and that subsection shall apply with respect to the exercise of any such power under this subparagraph in the same manner as that subsection applies under that section.

"(ii) AUTHORITY OF BOARD OF DIRECTORS OR ITS DESIGNEE.—A subpoena or subpoena duces tecum may be issued under clause (i) only by or with the written approval of the Board of Directors or its designee (or, in the case of a subpoena or subpoena duces tecum issued by the Resolution Trust Corporation under this subparagraph and section 21A(b)(4), only by or with the written approval of the Board of Directors of that Corporation or its designee).".

SEC. ____255. FRAUDULENT CONVEYANCES AVOIDABLE BY RECEIVERS.

Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end thereof the following new paragraph:

"(17) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, acting in a corporate capacity or as conservator or receiver for an insured depository institution, may avoid any transfer of any interest of any institution-affiliated party, or any person who the Corporation determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years (or, in the case the Corporation is acting as conservator or receiver, was made within 5 years of the date on which the Corporation was appointed conservator or receiver) if such party or person voluntarily or involuntarily made such transfer or incurred such liability with actual intent to hinder, delay, or defraud the insured depository institution.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Corporation may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or

"(ii) any immediate or mediate good faith transferee of such transferee.".

SEC. ____256. PREJUDGMENT ATTACHMENTS.

(a) AMENDMENT OF FEDERAL DEPOSIT INSURANCE ACT.—(1) Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)), as amended by section ____255, is amended by adding at the end thereof the following new paragraph:

"(18) PREJUDGMENT ATTACHMENT.—Any court of competent jurisdiction may, at the request of the Corporation (in the Corporation's capacity as conservator or receiver for any insured depository institution), place the assets of any person designated by the Corporation under the control of the court and appoint a trustee to hold such assets if the Corporation demonstrates the possibility that—

"(A) such person is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of such person will be dissipated or otherwise placed beyond the jurisdiction of the court or Corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

(2) Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) In any action brought by an appropriate Federal banking agency or the Resolution Trust Corporation in any capacity pursuant to paragraph (1), or in any other civil action for money damages or injunctive relief brought by such agency or corporation, the court may, upon application of the agency or corporation, issue ex parte a restraining order that—

"(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property;

"(ii) appoints a temporary receiver to administer the restraining order.

"(B) A permanent or temporary injunction or restraining order shall be granted without bond upon a prima facie showing that money damages or injunctive relief, as sought by such agency or corporation, is appropriate.".

(b) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—Section 1345 of title 18, United States Code, is amended by striking the first sentence and inserting the following: "Whenever it shall appear that any person is engaged or is about to engage in any act that constitutes or will constitute a violation of this chapter, or a banking law violation as defined in section 3322(d) of this title, or of section 287 or section 371 (insofar as the violation involves a conspiracy to defraud the United States or any agency thereof), or section 1001 of this title, or is engaged or intends to engage in any alienation or disposition of any property obtained from any such violation, the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin the violation or alienation or disposition of property or assets of equivalent value. In any such case, the Attorney General may petition for a restraining order to prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such funds, assets, or other property and to appoint a temporary receiver to administer the restraining order. In a case involving a banking law violation, as defined in section 3322(d) of this title, the petition may be ex parte. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

SEC. ____257. INJUNCTIVE RELIEF.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section ____154, is amended by adding at the end thereof the following new subsection:

"(q) INJUNCTIVE RELIEF.—(1) In an action brought by the Corporation, in its receivership, conservatorship, or corporate capacity, involving a scheme to defraud affecting a depository institution, injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall be required to be made.

"(2) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in paragraph (1) before a final determination on the merits if the Corporation demonstrates the possibility that—

"(A) the defendant is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of the defendant will be dissipated or otherwise placed beyond the jurisdiction of the court or the agency or corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

(b) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by adding at the end thereof the following new subsection:

"(q) INJUNCTIVE RELIEF.—(1) In an action brought by the Board, in its receivership, conservatorship, or corporate capacity, involving a scheme to defraud affecting a credit union, injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall be required to be made.

"(2) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in paragraph (1) before a final determination on the merits if the Board demonstrates the possibility that—

"(A) the defendant is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of the defendant will be dissipated or otherwise placed beyond the jurisdiction of the court or the agency or corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

(c) RESOLUTION TRUST CORPORATION.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by

adding at the end thereof the following new paragraph:

"(15) INJUNCTIVE RELIEF.—(A) In an action brought by the Corporation, in its receivership, conservatorship, or corporate capacity, involving a scheme to defraud affecting a financial institution, injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall be required to be made.

"(B) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in subparagraph (A) before a final determination on the merits if the Corporation demonstrates the possibility that—

"(i) the defendant is—

"(I) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(II) a debtor of the institution; and

"(ii) the assets of the defendant will be dissipated or otherwise placed beyond the jurisdiction of the court or the agency or corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

SEC. ____258. RTC ENFORCEMENT DIVISION.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end thereof the following new subparagraph:

"(G) The Corporation shall maintain a Fraud and Enforcement Review Division to assist and advise the Corporation and other agencies in pursuing criminal cases, civil claims, and administrative enforcement actions against institution-affiliated parties of insured depository institutions under the jurisdiction of the Corporation. The Fraud and Enforcement Review Division shall have such duties as the Corporation establishes, including the compilation and publication of a report to the Committee on Judiciary and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives and the Committee on Judiciary of the Senate and the Committee on Banking, Housing, and Urban Affairs of the Senate, on the coordinated pursuit of claims by Federal agencies, including the Department of Justice, the Comptroller of the Currency, the Securities and Exchange Commission, and the Corporation. The report shall be published before December 31, 1990 and updated semiannually thereafter.".

SEC. ____259. PRIORITY OF CERTAIN CLAIMS.

(a) AMENDMENT OF FEDERAL DEPOSIT INSURANCE ACT.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section ____155, is further amended by adding at the end thereof the following new subsection:

"(a) PRIORITY OF CERTAIN CLAIMS.—In any proceeding related to any claim acquired under section 11 or 13 of this Act against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, any suit, claim, or cause of action brought by the Corporation shall have priority over any other such suit, claim, or cause of action asserted by depositors, creditors, or shareholders of the insured depository institution, except for claims of Federal agencies or the United States, unless the Corporation is notified in writing of the commencement of such other suit, claim, or cause of action. However, the Corporation shall have priority if—

"(1) 180 days after receiving written notice the Corporation files with the court a statement that the Corporation intends to file suit and is diligently pursuing its claims; and

"(2) within a year after receiving written notice files suit. If the Corporation requests an extension of time to file such suit, the court shall extend the period for the Corporation to commence its proceeding unless it finds that the harm to the person pursuing a claim from such extension outweighs the harm to the Government from denying such extension.

In making such determination the court shall consider the diligence with which the Corporation is investigating its claim.

The effect of this provision shall be to afford the Corporation priority to the extent the assets involved would be available to the Corporation.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to suits, claims, or causes of action of depositors, creditors, or shareholders commenced before the date of enactment of this Act.

SEC. ____260. EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.

(a) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section ____259, is amended by adding at the end thereof the following new subsection:

"(s) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

"(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution shall be filed not later than 10 days after the date of entry of the order. The hearing of the appeal shall be conducted not later than 60 days after the date of filing of the notice of appeal. The appeal shall be decided not later than 90 days after the date of the notice of appeal.

"(2) SCHEDULING.—Consistent with section 1657 of title 28, United States Code, a court of the United States shall expedite the consideration of any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution. As far as practicable the court shall give such a case priority on its docket.

"(3) JUDICIAL DISCRETION.—The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.".

Subtitle G—Increased Authority for United States Magistrates

SEC. ____301. AUTHORITY FOR UNITED STATES MAGISTRATES.

Subsection 636(a) of title 28, United States Code, is amended—

(1) in paragraph (3) by striking "and" at the end thereof;

(2) in paragraph (4) by striking the period at the end thereof and inserting "; and"

(3) by adding at the end thereof the following new paragraph:

"(5) the power to accept a guilty plea to a felony upon the consent of the defendant for the following offenses in title 18, United States Code: sections 215, 656, 657, 1005, 1006, 1007, 1014 or 1344, or section 1341 or 1343 affecting an insured depository institution.".

Subtitle H—Interagency Coordination

SEC. ____351. INTERAGENCY COORDINATION.

Notwithstanding any other law—

(1) the Attorney General may accept, and Federal departments and agencies, including the United States Secret Service, the Internal Revenue Service, the Resolution Trust Corporation, and the appropriate Federal banking agency, may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government, to assist the Department of Justice, subject to the general supervision of the Attorney General, in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution; and

(2) any attorney of a department or agency whose services are accepted pursuant to paragraph (1) may, subject to the general supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought.

SEC. ____352. FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.

(a) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(v) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States on a temporary or permanent basis for such purposes.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—On request from a foreign banking authority, the appropriate Federal banking agency may provide assistance in accordance with this paragraph if the requesting authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—The appropriate Federal banking agency may, in its discretion, conduct investigations to collect information and evidence pertinent to a request for assistance. Any such investigation shall be conducted consistent with the laws of the United

States and the policies and procedures of the appropriate Federal banking agency.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of an appropriate Federal banking agency or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.".

(b) FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section ____112, is amended by adding at the end thereof the following new subsection:

"(t) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 8(v); and

"(2) may each maintain an office on a temporary or permanent basis to coordinate foreign investigations or investigations on behalf of foreign banking authorities.

SEC. ____353. TECHNICAL AMENDMENT.

Section 8(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(4)) is amended by striking "subsections (c), (d), (h), (i), (k), (l), (m), and (n)" and inserting "subsections (c) through (s) and subsection (u)".

Subtitle I—Private Actions Against Persons Committing Bank Fraud Embezzlement Crimes

SEC. ____401. SHORT TITLE.

This subtitle may be cited as the "Financial Anti-Fraud Enforcement Act of 1990".

CHAPTER 1—DECLARATIONS PROVIDING NEW CLAIMS TO THE UNITED STATES

SEC. ____411. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS.

(a) IN GENERAL.—Any person may file a declaration of—

(1) a violation of, or a conspiracy to violate, section 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code;

(2) a violation giving rise to an action for civil penalties under section 951 of the Financial Institution Reform, Recovery and Enforcement Act; or

(3) facts giving rise to any other civil right of action on the part of the United States for damages or penalties arising from fraud, affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

(b) PLACE OF FILING.—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by the Attorney General for receiving declarations under this section.

(c) EXTENSION OF STATUTES OF LIMITATION.—The statutes of limitation upon all current, unexpired civil causes of action referred to in subsection (a) are extended for 5 years.

SEC. ____412. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section ____412 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts, relating to a particular transaction or transactions, which constitute a prima facie case of a criminal violation of one of the sections of title 18, United States Code, or any civil cause of action, referred to in section ____411(a);

(3) contain at least 1 factual element necessary to establish a prima facie case that was unknown to the Government at the time of filing; and

(4) set forth all facts supporting the allegation of a criminal violation or civil cause of action known to the declarant, along with the names of material witnesses and the nature and location of documentary evidence known to the declarant.

SEC. ____413. CONFIDENTIALITY OF DECLARATIONS.

(a) PERIOD OF CONFIDENTIALITY.—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section ____411 until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section ____416(b);

(2) the declarant receives notice of an award pursuant to section ____416(c); or

(c) the declarant is granted a contract to pursue an action under section ____415(b) or ____417.

(b) MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) LOSS OF RIGHTS.—A declarant who discloses, except as provided by this subtitle, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

SEC. ____414. INELIGIBILITY TO FILE VALID DECLARATIONS.

(a) IN GENERAL.—A declaration filed pursuant to section ____411 and in accordance with sections ____412 and ____413 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of any of the sections of title 18, United States Code, referred to in section ____401, or any other fraudulent conduct with respect to which the declaration is made; or

(3) the declaration includes allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or GAO report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) DEFINITION.—For the purposes of subsection (a)(3), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) NOTICE OF INVALIDITY.—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section ____412, or that a declaration has been disclosed in violation of section ____413, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section ____415 or ____416.

SEC. ____415. RIGHTS OF DECLARANTS: PARTICIPATION IN ACTIONS, AWARDS.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections ____411 through ____414 shall have the rights stated in this section.

(b) CIVIL ACTION.—If the Attorney General determines that a cause of action based on the declaration should be referred to private counsel pursuant to chapter 4, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) CRIMINAL CONVICTION.—(1) When an agency or entity of the United States obtains a criminal conviction and the Attorney General determines that the conviction was based in whole or in part on the information contained in a valid declaration filed under section ____411, the declarant shall have the right to receive not less than $10,000 and not more than $250,000, any such award to be paid from the Financial Institution Information Award Fund established under section ____419.

(2) In determining the size of any award under paragraph (1), the Attorney General may, in the Attorney General's discretion, consider any appropriate factor, including—

(A) the seriousness of the offense for which the conviction was obtained;

(B) the extent to which the facts alleged in the declaration contributed to the conviction;

(C) the number of offenders apprehended pursuant to information provided by the declarant;

(D) whether or not the offender was previously under investigation by any law enforcement agency when the declaration was filed;

(E) the extent to which the declarant cooperated in the development of the Government's case and its presentation at trial;

(F) the sentences and fines imposed on the offender and other offenders in related cases;

(G) the extent to which other sources of private information were relied upon; and

(H) the hardship to the declarant and any expenses the declarant incurred in preparing the declaration.

(d) SHARE OF FUNDS AND ASSETS.—(1) When an agency or entity of the United States acquires funds or assets pursuant to the execution of a civil, criminal, or administrative judgment or order and the Attorney General determines that the judgment or order was based in whole or in part on the information contained in a valid declaration filed under _____411, the declarant shall have the right to share in the recovery as follows:

(A)(i) The declarant shall be entitled to 20 percent to 30 percent of the first $1,000,000 recovered, 10 percent to 20 percent of the next $4,000,000 recovered, and 5 percent to 10 percent of the next $5,000,000 recovered.

(ii) In calculating an award under clause (i), the Attorney General may consider the size of the overall recovery and the usefulness of the information provided by the declarant.

(B) When a declarant has received an award under subsection (c), the Attorney General may subtract the amount of that reward from any recovery under this subsection.

(2)(A) When more than 1 declarant has provided information leading to a recovery under this subsection, the Attorney General shall first calculate the size of the total award under paragraph (1)(A) and then distribute that amount according to the contribution made by each declarant.

(B) In distributing any such award between 2 or more declarants, the Attorney General may, in the Attorney General's discretion, consider any appropriate factor, including those enumerated in section 415(c)(2).

(e) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under chapter 3 for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under chapter 3 for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under chapter 3.

SEC. _____416. RIGHTS OF DECLARANTS: NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections _____411 through _____414 shall have the rights to stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a civil or criminal proceeding, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) ENTRY OF JUDGMENT OR ORDER.—(1) When an agency or entity of the United States obtains a civil, criminal, or administrative judgment or order based in whole or in part on a valid declaration filed under section _____411, the Attorney General shall notify the declarant in writing of the entry of the judgment or order.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section _____415(b) or (c) upon recovery by the agency or entity of the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—If the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section _____414 within the time period set forth in subsection (e), the Attorney General shall notify the declarant in writing that—

(1) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(2) the declarant's allegations have not yet been addressed.

(e) TIME FOR NOTICES.—(1) In the case of a valid declaration filed not more than 3 years after the date of enactment of this Act, the Attorney General shall send notification to a declarant pursuant to subsection (d) not later than 3 years after the date of filing of the declaration.

(2)(A) Subject to subparagraph (B), in the case of a valid declaration filed more than 3 years after the date of enactment of this Act, the Attorney General shall send notification not later than 1 year after the date of filing of the declaration.

(B) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(f) CONFIDENTIALITY OF NOTICES.—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section _____413.

SEC. _____417. UNREVIEWED DECLARATIONS; PETITION TO PURSUE ACTION AS PRIVATE CONTRACTOR.

(a) REQUEST FOR CONTRACT.—(1) If, pursuant to section _____416(d)(2), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may request the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's request under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section _____416(d)(2), and the Attorney General shall respond to the request not later than 30 days after receipt.

(b) CONTENTS OF RESPONSE.—In response to a request under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to chapter 4; or

(2) proceed with an action.

(c) GRANT OF CONTRACT.—If the Attorney General decides to grant a contract, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

SEC. _____418. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section _____416.

SEC. _____419. FINANCIAL INSTITUTION INFORMATION AWARD FUND.

(a) ESTABLISHMENT.—There is established in the United States Treasury a special fund to be known as the Financial Institution Information Award Fund (referred to as the "Fund") which shall be available to the Attorney General without fiscal year limitation to pay awards to declarants pursuant to section _____415(c) and to pay special rewards pursuant to section 3059A of title 18, United States Code.

(b) DEPOSIT OF NET FINES.—(1) There shall be deposited in the Fund all net fines that are collected from persons convicted of offenses against the United States under sections 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, and 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

(2) For purposes of paragraph (1), the term "net fines" means fines collected less any amounts paid from the fines to eligible declarants under section _____415(d) or section _____425(_).

(3) Section 1402(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. § 10601(b)(1)) is amended—

(A) by striking "and" at the end of subparagraph (A)(ii);

(B) by adding "and" at the end of paragraph (B)(iv); and

(C) by inserting at the end thereof the following new subparagraph:

"(C) fines collected from persons convicted of offenses against the United States under sections 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, and 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States;".

(4) If the amount deposited in the Fund during a particular fiscal year reaches $10,000,000, the excess over that sum shall be deposited in the Crime Victims Fund, notwithstanding section 1402(b)(1)(C) of the Victims of Crime Act of 1984.

(c) INVESTMENT OF FUNDS.—Amounts in the Fund which are not currently needed for the purposes of paying awards to declarants pursuant to section 415(c) and to pay special award pursuant to section 3059A of title 18, United States Code, shall be kept on deposit or invested in obligations of, or guaranteed by, the United States, and all earnings on such investments shall be deposited in the Fund.

SEC. _____420. SOURCES OF PAYMENTS TO DECLARANTS.

Notwithstanding any other law, an award under this chapter or chapter 2 of this subtitle or under section 34 of the Federal Deposit Insurance Act may be paid to a declarant, or to an individual providing information, from the amounts recovered in satisfaction of an order of restitution, a civil judgment, a forfeiture order, or a criminal fine.

SEC. _____421. GOVERNMENT ACCOUNTABILITY: PUBLIC REPORTS ON PROCESSING OF DECLARATIONS.

(a) IN GENERAL.—In addition to the written statements of reasons provided individual declarants under section _____416, on the date that is 6 months after the date of enactment of this Act, and at the end of each 6-month period thereafter during which this chapter is in effect, the Attorney General shall compile a public report on the processing of declarations under this chapter.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall state—

(1) the number of declarations filed within the relevant period;

(2) the number of declarations found invalid under sections _____412, _____413, and _____414;

(3) the number of valid declarations processed and their present status, including whether or not they have been reviewed and if they have been reviewed what determination was reached;

(4) the number and amounts of all rewards paid to declarants under this chapter; and

(5) the number of convictions attributable in whole or in part to valid declarations filed under this chapter and the number and dollar amounts of all monetary recoveries, criminal or civil, attributable in whole or in part to valid declarations filed under this chapter.

(c) CONFIDENTIALITY.—Notwithstanding any other law, in compiling the report required by subsection (a), the Attorney General may take all steps necessary to guard against the disclosure of any information that could in any way prejudice a current criminal or civil investigation or proceeding.

SEC. ____422. PROTECTION FOR DECLARANTS.

A declarant under this chapter shall enjoy the protections of section 3059A(d) of title 18, United States Code.

SEC. ____423. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 2—DECLARATIONS PROVIDING THE UNITED STATES WITH NEW INFORMATION CONCERNING THE RECOVERY OF ASSETS

SEC. ____431. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS IDENTIFYING SPECIFIC ASSETS.

(a) IN GENERAL.—After the entry of a final judgment in any civil or criminal action referred to in section ____411, any person may file a declaration identifying specific assets which might be recovered by the United States in satisfaction of that judgment.

(b) PLACE OF FILING.—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by him for receiving declarations under this section.

SEC. ____432. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section ____431 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts indicating the nature, location, and approximate dollar value of the asset or assets and the names of all persons known to the declarant to have possession, custody, or control of the asset or assets; and

(3) allege under oath or affirmation specific facts that establish a prima facie case showing that the asset is legally subject to attachment, garnishment, sequestration, or other proceeding in satisfaction of the judgment referred to in section ____431.

SEC. ____433. CONFIDENTIALITY OF DECLARATIONS.

(a) PERIOD OF CONFIDENTIALITY.—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section ____431 until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section ____436(b);

(2) the declarant receives notice of an award pursuant to section ____436(c); or

(c) the declarant is granted a contract to pursue an action under section ____435(b) or ____437.

(b) MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) LOSS OF RIGHTS.—A declarant who discloses, except as provided by this subtitle, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

SEC. ____434. INELIGIBILITY TO FILE VALID DECLARATIONS.

(a) IN GENERAL.—A declaration filed pursuant to section ____431 and in accordance with sections ____432 and ____433 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of any of the sections of title 18, United States Code, referred to in section ____411, or any other fraudulent conduct with respect to which the declaration is made; or

(3) the declaration identifies an asset or assets the nature location, or possible recovery of which has been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or GAO report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) DEFINITION.—For the purposes of subsection (a)(3), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) NOTICE OF INVALIDITY.—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section ____432, or that a declaration has been disclosed in violation of section ____433, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section ____435 or ____436.

SEC. ____435. RIGHTS OF DECLARANTS: PARTICIPATION IN ACTIONS, AWARDS.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections ____431 through ____434 shall have the rights stated in this section.

(b) CIVIL ACTION.—If the Attorney General determines that a proceeding to recover the asset or assets identified in the declaration should be referred to private counsel pursuant to chapter 4, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) SHARE OF ASSETS.—(1) When an agency or entity of the United States recovers any asset or assets specifically identified in a valid declaration filed under section ____431 and the Attorney General determines that the asset or assets would not have been recovered if declaration had not been filed, the declarant shall have the right to share in the recovery in the amount of 20 percent to 30 percent of the first $1,000,000 recovered, 10 percent to 20 percent of the next $4,000,000 recovered, and 5 percent to 10 percent of the next $5,000,000 recovered.

(d) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under chapter 3 for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under chapter 3 for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under chapter 3.

SEC. ____436. RIGHTS OF DECLARANTS: NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections ____431 through ____434 shall have the rights to stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a proceeding to recover the asset or assets, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) ENTRY OF JUDGMENT OR ORDER.—(1) When an agency or entity of the United States obtains a final judgment transferring to the United States title to an asset or assets identified in a valid declaration filed under section ____431, the Attorney General shall notify the declarant in writing of the entry of the judgment or order.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section ____435(b) or (c) upon recovery by the agency or entity of the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—(1) Subject to paragraph (2), if the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section ____434 within 1 year after the date of filing of the declaration, the Attorney General shall notify the declarant in writing that—

(A) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(B) the declarant's allegations have not yet been addressed.

(2) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an addi-

tional 90-day period, the Attorney General shall so notify the declarant in writing.

(e) CONFIDENTIALITY OF NOTICES.—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section ____433.

SEC. ____437. UNREVIEWED DECLARATIONS; PETITION TO PURSUE ACTION AS PRIVATE CONTRACTOR.

(a) REQUEST FOR CONTRACT.—(1) If, pursuant to section ____436(d)(2), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may request the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's request under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section ____436(d)(2), and the Attorney General shall respond to the request not later than 30 days after receipt.

(b) CONTENTS OF RESPONSE.—In response to a request under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to chapter 4; or

(2) proceed with an action.

(c) GRANT OF CONTRACT.—If the Attorney General decides to grant a contract, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

SEC. ____438. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section ____436.

SEC. ____439. PROTECTION FOR DECLARANTS.

A declarant under this chapter shall enjoy the protections of section 3059A(d) of title 18, United States Code.

SEC. ____440. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 3—REWARDS FOR INFORMATION LEADING TO RECOVERIES, CIVIL PENALTIES, OR PROSECUTIONS

SEC. ____451. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

Section 34(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831k(a)) is amended—

(1) in paragraph (1) by striking ", in an amount that exceeds $50,000,"; and

(b) by amending paragraph (2) to read as follows:

"(2) a forfeiture under section 981 or 982 of title 18, United States Code, that arises in connection with a depository institution insured by the Federal Deposit Insurance Corporation.".

SEC. ____452. REWARD FOR INFORMATION LEADING TO POSSIBLE PROSECUTION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3059 the following new section:

"§ 3059A. Special rewards for information relating to certain financial institution offenses

"(a)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make payments to persons who furnish information unknown to the Government relating to a possible prosecution under section 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States, or to a possible prosecution for conspiracy to commit such an offense.

"(2) The amount of a payment under paragraph (1) shall not exceed $50,000 and shall be paid from the Financial Institution Information Award Fund established under section ____419 of the Financial Anti-Fraud Enforcement Act of 1990.

"(b) A person is not eligible for a payment under this subsection (a) if—

"(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of his government employment;

"(2) the furnished information includes allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or GAO report, hearing, audit or investigation, from any other government source, or from the news media unless the person is the original source of the information; or

"(3) the person knowingly participated in the violation of the section with respect to which the payment would be made.

"(c) For the purposes of this subsection (b)(2), the term 'original source' means a person who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government prior to the disclosure.

"(d) Neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

"(e)(1) A person who—

"(A) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the person on behalf of the person or others in furtherance of a prosecution under any of the sections referred to in subsection (a) (including provision of information relating to, investigation for, initiation of, testimony for, or assistance in such a prosecution); and

"(B) was not a knowing participant in the unlawful activity that is the subject of such a prosecution,

may, in a civil action, obtain all relief necessary to make the person whole.

"(2) Relief under paragraph (1) shall include reinstatement with the same seniority status that the plaintiff would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.".

(b) TECHNICAL AMENDMENT.—The chapter heading for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3059 the following new item:

"3059A. Special rewards for information relating to certain financial institution offenses.".

CHAPTER 4—USE OF PRIVATE LEGAL RESOURCES

SEC. ____461. AUTHORITY TO ENTER INTO CONTRACTS FOR PRIVATE COUNSEL.

(a) IN GENERAL.—The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, litigation, and execution of judgments in the case of any civil action referred to in section ____411.

(b) TERMS AND CONDITIONS.—Each contract under subsection (a) shall include the provisions described in section ____465 and such other terms and conditions as the Attorney General considers necessary and appropriate to protect the interests of the United States, including a provision specifying the amount of the fee to be paid private counsel under the contract or the method for calculating the fee.

(c) LIMITATION OF FEE.—The amount of the fee payable for legal services furnished under a contract described in subsection (a) shall not exceed the fee that counsel engaged in the private practice of law in the jurisdiction wherein the legal services are furnished typically charge clients for furnishing the same or comparable legal services.

SEC. ____462. REFERRAL BY REGULATORY AGENCIES.

The head of an appropriate Federal banking agency may, subject to the approval of the Attorney General, refer to private counsel retained by the Attorney General pursuant to section ____461 civil actions arising from suspected and actual violations of the sections of title 18, United States Code, or any civil cause of action, referred to in section ____411.

SEC. ____463. CONTRACT DECISIONS NONREVIEWABLE.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on the Attorney General's decision to refuse to enter into a contract for legal services referred to in section ____461.

SEC. ____464. REPRESENTATION.

Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, United States Code, private counsel retained under section ____461 may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel, subject to the requirements specified in section ____465.

SEC. ____465. CONTRACT PROVISIONS.

A contract made with a private counsel under section ____461 shall include—

(1) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is in the best interests of the United States;

(2) a provision requiring private counsel to transmit monthly to the Attorney General a report on the services relating matters handled pursuant to the contract during the preceding month and the progress made during that period; and

(3) a provision requiring that the initiation, settlement, dismissal, or compromise of a claim be approved by a duly appointed officer of the United States.

SEC. ____466. COUNTERCLAIMS.

Any counterclaim filed in any action brought on behalf of the United States by

private counsel retained under section ____461 may not be asserted unless the counterclaim has been served directly on the Attorney General or the United States Attorney for the judicial district in which, or embracing the place in which, the action is pending. Such service shall be made in accordance with the rules of procedure of the court in which the action on behalf of the United States is pending.

SEC. ____467. CONTINGENT FEES.

Notwithstanding section 3302(b) of title 31, United States Code, a contract under section ____461 may provide that a fee that private counsel charges to recover indebtedness or civil fines or penalties owed the United States is payable from the amount recovered.

SEC. ____468. AWARDS OF COSTS AND FEES TO PREVAILING PLAINTIFF.

When the United States, through private counsel retained under this chapter, prevails in any civil action, the court, in its discretion, may allow the United States reasonable attorney's fees as part of the costs.

SEC. ____469. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General; judgment, are necessary and appropriate to the effective administration of this chapter.

Subtitle J—Technical Amendments

SEC. ____501. TITLE 18 OF THE UNITED STATES CODE.

(a) IN GENERAL.—Title 18 of the United States Code is amended—

(1) in section 656—

(A) by inserting "or a subsidiary of a member bank, national bank, or insured bank" after "insured bank";

(B) by inserting "bank or savings and loan holding company," before "national bank" the first time it appears in the first sentence; and

(C) by inserting "or company" after "such bank" each time it occurs in the first paragraph;

(2) in section 657—

(A) by striking "Home Owner's Loan Corporation," and inserting in lieu thereof "Office of Thrift Supervision, the Federal Home Loan Bank System, the Resolution Trust Corporation,"; and

(B) by striking "Federal Savings and Loan Insurance Corporation" and inserting "Federal Deposit Insurance Corporation";

(3) in section 1005, by inserting "or company" after "such bank" each time it appears in the first paragraph;

(4) in section 1006—

(A) by striking "Home Owner's Loan Corporation," and inserting Office of Thrift Supervision, the Federal Home Loan Bank System, the Resolution Trust Corporation,"; and

(B) by striking "Federal Savings and Loan Insurance Corporation" and inserting "Federal Deposit Insurance Corporation";

(5) in section 1014, by inserting "Office of Thrift Supervision," after the Federal Home Loan Bank System," each time it appears;

(6) in section 1341, by inserting ", credit," after "money";

(7) in section 1343—

(A) by inserting ", credit," after "money";

(B) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writing, signs, signals, picture, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(C) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice";

(8) in section 2314, by inserting "or foreign" after "interstate"; and

(9) in section 3289, by striking "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting such stricken language after "within six calendar months of the expiration of the applicable statute of limitations,".

(b) HEADING.—(1) The heading for section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The table of sections for chapter 63, United States Code, is amended by striking the item relating to section 1343 and inserting the following new item:

"1343. Fraud by use of facility of interstate commerce.".

SEC. ____502. RIGHT TO FINANCIAL PRIVACY ACT.

Section 1101 of the Right to Financial Privacy Act (12 U.S.C. 3401) is amended in subsection (6)(B) by striking "section 3(f)(1)" and inserting "section 4(f)(1)".

BIDEN (AND THURMOND) AMENDMENT NO. 2117

Mr. BIDEN (for himself and Mr. THURMOND) proposed an amendment to the bill S. 1970, supra, as follows:

Add at the end of the bill, the following:

SEC. 10000. DELETING REPEATED SECTIONS.

Amendment No. 2104 (Biden/Managers) to S. 1970 is amended by

(1) striking section 1701 through section 1738 of "TITLE XVII—MISCELLANEOUS CRIMINAL LAW IMPROVEMENTS."

(2) striking the titles designated as follows: "TITLE I—MANDATORY DETENTION," TITLE II—INCREASED PENALTIES," and TITLE III—FEDERAL PRISONER DRUG TESTING."

SEC. 10001. FIXING TYPOGRAPHICAL ERROR IN STATUTE REFERENCE.

Amendment No. 2099 (Biden) is amended in section 701 by—

(1) replacing the term "1986" with "1968" in the first sentence.

SEC. 10002. ELIMINATING INEFFECTIVE LANGUAGE ON REDESIGNATION.

Amendment No. 2104 (Biden/Managers) to S. 1970 is amended by—

Striking from the unnumbered section entitled "WAITING PERIOD FOR THE PURCHASE OF EPHEDRINE" the last sentence that reads: "On page 51, strike everything from line 23 until page 55, line 5.".

SEC. 10003. CHANGING ERRONEOUS REFERENCE.

Amendment No. 2085 (DeConcini) to S. 1970 is amended as follows—

In subsection (b) of section 9, striking the term "29" and replacing it with the term "30".

SEC. 10004. TECHNICAL AMENDMENT TO REMOVE SURPLUS LANGUAGE.

(1) Amendment No. 2086 (Reid) to S. 1970 is amended as follows—

In the preamble to the amendment, striking the words, "None of the provisions of this Act shall take effect unless the following is enacted:"

(2) Amendment number 2104 (Biden/Managers) to S. 1970 is amended—

by striking everything from the words "Title—VICTIMS OF CHILD ABUSE ACT OF 1992" through the words, "Chapter 7 of title 18, United States * * *"

SEC. 10005. DELETING OBSOLETE REFERENCE.

Amendment No. 2084 (Gramm) to S. 1970 is amended in section 401—

(1) by striking out "eligible for parole, nor shall such person be".

SEC. 10006. STRIKING PENALTIES ENACTED TWICE.

Amendment No. 2085 (DeConcini) to S. 1970 is amended—

(1) in section 6, by striking the language beginning with "(j) Whoever steals any firearm" until the end of the section; and

(2) by striking section 8.

SEC. 10007. FIREARMS TECHNICAL AMENDMENT.

Amendment No. 2085 (DeConcini) to S. 1970 is amended—

(1) in section 2 by striking out "The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon."; and

(2) in section 6 by striking out, in the amendment adding subsection (i), "fined under this title" and inserting "fined not more than $1000 (in accordance with section 3571(e) of this title)".

SEC. 10008. DELETING DUPLICATIVE MONEY LAUNDERING AMENDMENT.

At page 61 of S. 1970, strike lines 3 through 10.

SEC. 10009. GAMBLING FORFEITURE TECHNICAL AMENDMENT.

Amendment No. 2099 (Biden) to S. 1970 is amended in section 1112—

(1) by striking "is amended to read as follows" and inserting "is amended—"; and

(2) by striking "this section" and inserting "this subsection" each time it appears.

SEC. 10010. DRUG TESTING TECHNICAL AMENDMENT.

Amendment No. 2099 (Biden) to S. 1970 is amended, in the unnumbered title entitled "FEDERAL PRISONER DRUG TESTING" (Simon)—

(1) in the section entitled "CONDITIONS ON PROBATION" by inserting in subparagraph (3) "and" after "such sentence;" inserting a period after the second reference to "controlled substance," and by striking in subparagraph (4) the term "Court" and inserting "Courts";

(2) in the section entitled "CONDITIONS ON SUPERVISED RELEASE" by striking "prior to the imposition of such sentence" and inserting "prior to the commencement of service of such sentence" and by inserting "with" after "in accordance"; and

(3) in the section entitled "CONDITIONS ON PAROLE" by striking "prior to the imposition of such sentence" and inserting "prior to release", by inserting "with" after "in accordance", by striking "provision" and inserting "provisions", and by striking "Court" and inserting "Courts".

SEC. 10011. SEXUAL ABUSE PENALTIES TECHNICAL AMENDMENT.

Amendment no. 2099 (Biden) to S. 1970 is amended, in section 1726—

(1) by striking "imprisoned for any term of years or life" and inserting "imprisoned for any term of years not less than thirty or for life"; and

(2) by adding at the end of subsection (a) the following:

"(3) Whoever—

"(A) engages in any conduct which violates the provisions of paragraph (1) after a prior conviction under such paragraph has become final; or

"(B) violates the provisions of paragraph (1)—

"(i) by using force against the other person; or

"(ii) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping,

shall be sentenced to mandatory life imprisonment without release."

(3) by adding in subsection (g) after the term "this chapter", the first time it appears, the following: ", except as provided in section 2241(c),".

SEC. 10012. "ICE" TECHNICAL AMENDMENT

Amendment No. 1683 (Akaka) to S. 1970 is amended—

(1) by inserting "at least" before "80 percent pure" both places that phrase appears;

(2) by striking "5 grams" and replacing it with "2.5 grams"; and

(3) by adding the following at the end of section 2:

"(c) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended—

(1) in subparagraph (F) by striking "or" at the end thereof:

(2) in subparagraph (G) by adding "or" at the end thereof; and

(3) by adding after subparagraph (G) the following new subparagraph:

(H) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline;"

"(d) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended—

(1) in subparagraph (F) by striking "or" at the end thereof;

(2) in subparagraph (G) by adding "or" at the end thereof; and

(3) by adding after subparagraph (G) the following new subparagraph:

"2.5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline;".

SEC. 10013. REPLACING MISPLACED AMENDMENT

Amendment No. 2104 (Biden/Managers) is amended by adding at the end, the following—

Section 2000. A railroad police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of any State shall, in accordance with regulations issued by the Secretary of Transportation, be authorized to enforce the laws of any jurisdiction in which the rail carrier owns property, for the purpose of protecting—

(1) the employees, passengers, or patrons of the rail carrier;

(2) the property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and materials moving via railroad that are vital to the national defense, to the extent of the authority of a police officer properly certified or commissioned under the laws of that jurisdiction.

SEC. 10014. REPLACING MISSING LINE IN STATUTE.

Amendment No. 2104 (Biden/Managers) is amended in the unnumbered section entitled "AMENDMENT TO THE CONTROLLED SUBSTANCES ACT" (Levin) by—

(1) inserting after "(21 U.S.C. 845a)" the words, "as redesignated by this Act";

(2) striking the period after the term "playground" in subsection (1)(A) and subsection (2)(A); and

(3) inserting at the end of the section after the term "and", the following: "(B) inserting "or a public or private playground," after "university," ".

SEC. 10015. STRIKING ERRONEOUS CHANGE IN TABLE

Amendment No. 2099 (Biden) is amended by striking section 1715.

SEC. 10016. CHILD ABUSE TECHNICAL AMENDMENT.

Amendment No. 2086 (Reid) to S. 1970 is amended—

In section 1555(a), by striking "16. Abuse" and inserting "116. Abuse";

In section 1555(d), by striking "(as defined in subsection (c))" and inserting "(as defined in said section 16)";

In section 1575(b)(1)(D), by striking "not including an attorney pro se for the defendant" and inserting "not including an attorney pro se for a party";

In section 1575(c)(7), by striking "an attorney pro se for the defendant" and inserting "a party acting as an attorney pro se" and by striking "but not a defendant acting as an attorney" and inserting "but not a party acting as an attorney pro se";

In section 1575(b)(1)(B), by striking "in the presence of the defendant, jury, judge, and public," and inserting "in the presence of the defendant", and in (b)(1)(B)(iii), by striking "testifying in open court" and inserting "testifying";

In section 1575(c)(2), by inserting "and" at the end of subparagraph "(xi), and by striking "; and" at the end of subparagraph (xii) and inserting a period, and by striking subparagraph (xiii);

In section 1575(d)(1), by striking "a violation of rule" and inserting "A knowing or intentional violation of rule".

SEC. 10017. DELETING SUPERSEDED DRUG PENALTIES.

Amendment No. 2099 (Biden) to S. 1970 is amended in section 1734 (Levin) by—

(1) striking subsection (a), entitled "DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE";

(2) striking subsection (c), entitled "EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE"; and

(3) in subsection (b), entitled "DISTRIBUTION OR MANUFACTURING IN OR NEAR SCHOOLS AND COLLEGES,"—

(a) striking after "21 U.S.C." the term "405a(a)" and replacing it with "845a(a)), as redesignated by this Act";

(b) inserting after "21 U.S.C. 845a(b))," and "21 U.S.C. 845a(c))," the following: "as redesignated by this Act,";

SEC. 10018. CONFORMING AMENDMENT.

Amendment No. 2099 (Biden) to S. 1970 is amended in section 1615 (Simon) by—

(1) inserting after "(2)" the words, "section 924(c)(1) of title 18 of the United States Code, as amended by this act, is further amended by"; and

(2) striking the period after "machine gun," and inserting "wherever the term "machine gun" appears in section 924(c)(1).".

The National Child Search Assistance Act of 1990 in the Biden (McConnell) amendment No. 2104 is amended in—

(1) section 03(a)(2)(A) by inserting "race," after "sex,"; and

(2) section 03(a)(3) by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

The Gun-Free School Zones Act of 1990 in the Biden (Kohl) amendment No. 2104 is amended to read as follows:

SEC. . GUN-FREE SCHOOL ZONES ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Gun-Free School Zones Act of 1990".

(b) PROHIBITIONS AGAINST POSSESSION OR DISCHARGE OF A FIREARM IN A SCHOOL ZONE.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(q)(1)(A) It shall be unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

"(B) Subparagraph (A) shall not apply to the possession of a firearm—

"(i) on private property not part of school grounds;

"(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

"(iii) which is—

"(I) not loaded; and

"(II) in a locked container, or a locked firearms rack which is on a motor vehicle;

"(iv) by an individual for use in a program approved by a school in the school zone;

"(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

"(vi) by a law enforcement officer acting in his or her official capacity; or

"(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

"(2)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

"(B) Subparagraph (A) shall not apply to the discharge of a firearm—

"(i) on private property not part of school grounds;

"(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

"(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

"(iv) by a law enforcement officer acting in his or her official capacity.

"(3) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gunfree school zones as provided in this subsection.".

(2) DEFINITIONS.—Section 921(a) of such title is amended by adding at the end thereof the following new paragraphs:

"(25) The term 'school zone' means—

"(A) in, or on the grounds of, a public, parochial or private school; or

"(B) within a distance of 1,000 feet from the grounds of a public, parochial. or private school.

"(26) The term 'school' means a school which provides elementary or secondary education, as determined under State law.

"(27) The term 'motor vehicle' has the meaning given such term in section 10102 of title 49, United States Code.".

(3) PENALTY.—Section 924(a) of such title is amended by adding at the end thereof the following new paragraph:

"(4) Whoever violates section 922(q) shall be fined not more than $5,000, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor.".

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in after the end of the 60-day period beginning on the date of the enactment of this Act.

(5) GUN-FREE ZONE SIGNS.—Federal, State, and local authorities are encouraged to cause signs to be posted around school zones giving warning of prohibition of the possession of firearms in a school zone.

Prior to "Section 1956", insert "(a)".

Strike "section 16", and insert in lieu thereof "(D)".

Strike subsection (a)(2), and insert in lieu thereof the following:

"(2) inserting "; or" and the following before the period:

"ENVIRONMENTAL CRIMES

"(E) a felony violation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Ocean Dumping Act (33 U.S.C. 1401 et seq.), the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), or the Resources Conservation and Recovery Act (42 U.S.C. 6901 et seq.)"

Add the following new subsection:

"(b) Section 1956(e) of title 18, United States Code, is amended by adding at the end the following sentence: "Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and such elements of the Environmental Protection Agency as the Administrator of the Environmental Protection Agency may direct."

In subsection (b)(1), strike "sentences" and insert in lieu thereof "sentencing provisions".

In subsection (b)(2), after "unwarranted", insert "sentencing".

SEC. 10020. CLARIFICATION OF THE TERM "COMPENSATION JUDGMENTS" IN WORK REQUIREMENTS FOR PRISONERS AMENDMENT.

Amendment number 2089 (Lott) to S. 1970 is amended by—

Inserting in the unnumbered subsection entitled "Use of Funds" immediately after the words "compensation judgments", the following; ", restitution, fines, or other legal liabilities of prisoners".

SEC. 10019. ELIMINATING INEFFECTIVE LANGUAGE ON "DRUNK DRIVING VICTIMS' PROTECTION ACT".

Amendment number 2104 (Biden/Thurmond/Managers) to S. 1970 is amended by—

Striking the sentence immediately prior to the unnumbered section entitled "Drunk Driving Victims' Protection Act" that reads: "Strike out all after the enacting clause and insert in lieu thereof the following:".

Substitute the following for section 1(b):

"(b) In accordance with regulations issued pursuant to this part, in any case in which the Bureau determines that a public safety officer has become permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty, the Bureau shall pay, to the extent that appropriations are provided, a benefit of up to $100,000, adjusted in accordance with subsection (g), to such officer, provided that the total annual benefits paid under this section may not exceed $5 million. For the purposes of making these benefit payments, there are authorized to be appropriated for each fiscal year such sums as may be necessary. Provided further, that these benefit payments are subject to the availability of appropriations and that each beneficiary's payment shall be reduced by a proportionate share to the extent that sufficient funds are not appropriated.", and

Substitute the following for sections 3 (a) and (b):

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect upon enactment and shall not apply with respect to injuries occurring before the effective date of such amendments.

Strike all of title V and insert the following:

TITLE V—INTERNATIONAL MONEY LAUNDERING

SEC. 501. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereinafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member);

(B) at lest one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology; and

(C) Representatives from each of the following:

(i) the Bureau of Engraving and Printing,

(ii) the Federal Reserve Board, and

(iii) the U.S. Secret Service.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force of otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress the summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 502. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1) by striking the last sentence.

SEC. 503. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 504. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 505. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 506. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005–07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 507. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following: ", or for a refusal to do business with any person before or after disclosure of a possible violation of law or regulation to a government authority.

SEC. 508. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 509. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

AMERICANS WITH DISABILITIES ACT

HATCH AMENDMENT NO. 2118

Mr. HATCH proposed an amendment to the language of the motion of Mr. FORD to recommit with instructions the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, as follows:

At the end of the instructions add the following:

The conferees are instructed to include the following language in the conference report on S. 933:

"SEC. . (a) The Secretary of Health and Human Services, not later than 6 months after enactment of this Act, shall—

"(1) publish a list of infectious and communicable diseases which are transmitted through handling the food supply;

"(2) publish the methods by which such diseases are transmitted; and

"(3) widely disemminate such information regarding the list of diseases and their modes of transmissibility to the general public.

Such list shall be updated annually.

"(b) In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of Health and Human Services under (a) and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

"(c) Nothing in this Act shall be construed to preempt, modify, or amend any state, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the Secretary of Health and Human Services.".

HELMS AMENDMENT NO. 2119

Mr. HELMS proposed an amendment to the language of the motion of Mr. FORD to recommit with instructions the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 933, supra, as follows:

At the end of the instructions insert the following:

The conferees are instructed to include the following language in the conference report on S. 933:

"SEC. . (a) The Secretary of Health and Human Services, not later than 6 months after enactment of this Act, shall

"(1) publish a list of infectious and communicable diseases, including human immunodeficiency virus, that may be transmitted through the food supply;

"(2) publish the methods by which such diseases are known to be transmitted; and

"(3) widely disseminate such information regarding the list of diseases and their modes of transmissability to the general public. Such list shall be updated annually.

"(b) In any case in which an individual has an infectious or communicable disease that is included on the list developed by the Secretary which may pose a significant risk to the health or safety of others, which risk cannot be eliminated by reasonable accommodation as required under this title, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

"(c) Nothing in this Act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, pursuant to the list developed by the Secretary.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources. The purpose of the hearing is to receive testimony on the following three bills:

H.R. 3694. A bill to authorize reimbursement by the Secretary of the Interior of certain expenditures at the Minidoka Project, Idaho and Wyoming:

S. 1118. (Armstrong and Wirth) A bill to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District; and

S. 1932. (Domenici and Bingaman) A bill to provide further relief to the Vermejo Conservancy District from its repayment obligation.

The hearing will take place on July 24, 1990, at 2 p.m. in room SD–366 of the Senate Dirksen Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the subcommittee, SD–364, Washington, DC 20510.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224–2366.

Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to receive testimony on S. 2659, the Reclamation Reform Act Amendments of 1990, and title XVI of H.R. 2567, the Reclamation Project Authorization and Adjustment Act of 1990.

The hearing will take place on July 31, 1990, at 2 p.m., in room SD–366 of the Dirksen Senate Office Building, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the subcommittee, SD–364, Washington, DC 20510.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224–2366.

Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to receive testimony on S. 2807, the Grand Canyon Protection Act.

The hearing will take place on July 24, 1990, at 9 a.m., in room SD-366 of the Senate Dirksen Office Building, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the subcommittee, SD-364, Washington, DC 20510.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224-2366.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on Health Care Fraud/Medicare Secondary Payer Program.

These hearings will take place on Wednesday, July 11, 1990, and Thursday, July 12, 1990, at 10 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Daniel Rinzel of the subcommittee's minority staff at 224-9157.

JOINT COMMITTEE ON PRINTING

Mr. FORD. Mr. President, I wish to announce that the Joint Committee on Printing will meet on Thursday, July 19, 1990, in SR-301, to hold hearings. At 9:30 a.m., the committee will receive testimony on the General Accounting Office's investigation of the management of the Government Printing Office.

Senators, Representatives, and other interested individuals and organizations who wish to testify or submit a statement are requested to contact John Chambers, staff director of the joint committee, on 224-6707.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, July 11, 1990, at 2 p.m. in executive session for markup of the National Defense Authorization Act for fiscal year 1991 and other pending legislation referred to the Senate Armed Services Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROJECTION FORCES AND REGIONAL DEFENSE SUBCOMMITTEE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Projection Forces and Regional Defense Subcommittee of the Committee on Armed Services be authorized to meet on Wednesday, July 11, 1990, at 9 a.m. in executive session for markup of projection forces and regional defense programs of the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

STRATEGIC FORCES AND NUCLEAR DETERRENCE SUBCOMMITTEE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Strategic Forces and Nuclear Deterrence Subcommittee of the Committee on Armed Services be authorized to meet on Wednesday, July 11, 1990, at 10:30 a.m. in executive session for markup of strategic forces and nuclear deterrence programs of the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Government Affairs, be authorized to meet during the session of the Senate on Wednesday, July 11, 1990, to hold a hearing on Health Care Fraud/Medicare Secondary Payer Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, July 11, beginning at 10 a.m., to consider S. 2729, legislation to amend the Coastal Barrier Resources Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., Wednesday, July 11, 1990, for a hearing to receive testimony on the Department of Energy's Human Genome Project.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, July 11, 1990, at 10 a.m. and at 2 p.m. to conduct hearings on the administration's proposal, Capital Markets Competition, Stability, and Fairness Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on July 11, 1990, at 2 p.m., to hold a hearing on the nomination of Robert C. Bonner to be Administrator of Drug Enforcement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on July 11, 1990, at 9:30 a.m., to hold a joint hearing with the House Subcommittee on Court, Intellectual Property and the Administration of Justice, of the House Judiciary Committee, on S. 2370, a bill to amend section 107 of title 17, United States Code, relating to fair use, to clarify that such section applies to both unpublished copyrighted works.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A TIME TO CELEBRATE AND REFLECT

● Mr. SIMON. Mr. President, this week in Washington the Greek-American community is celebrating the 30th biennial Clergy-Laity Congress.

This week the Clergy-Laity Congress is celebrating two significant events. First, this occasion marks the first visit to the United States of His All-Holiness Dimitrios I, the Ecumenical Patriarch of the Greek Orthodox Church. Second, this is the 30th anniversary of the elevation of His Eminence Archbishop Iakovos to the leadership of the Greek Orthodox Archdiocese of North and South America.

This is an important congress for Greek-Americans. And it is a time to reflect on some of the more difficult problems facing Greeks everywhere, particularly on Cyprus.

Cyprus remains one of the continuing tragedies of our time—a tragedy of conflict and separation of families and friends, a tragedy particularly painful today when many other tragedies and conflicts are being settled around the world.

That tragedy is the Turkish occupation of northern Cyprus.

It is a tragedy because a green line still separates Greek and Turkish Cypriots from one another. It is a tragedy because many Cypriots have needlessly died.

It is a tragedy because many Greek Cypriots remain missing in the northern part of Cyprus. It is a tragedy because misunderstanding and distrust have festered for too many years.

And it is above all a tragedy because we know it is a conflict that can be resolved.

The time has come for Congress to stand up and send a strong and unmistakably clear message to our friends in Ankara. I have done this through legislation I introduced on June 28, S. 2808, that would cut United States military and foreign assistance to Turkey by 20 percent a year over a 5-year period unless Turkey completely removes its troops and colonists from Cyprus.

My aim in doing this is not to set back our relations with Turkey. My aim is to tell a friend that continuing the occupation of Cyprus in violation of international law carries a heavy pricetag.

Cyprus can be settled: It only takes the political courage to say "no" to conflict and "yes" to peace—that is my message to Turkey, that is the message many of my colleagues share, and that is the message I want the United States to send to Turkey.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in response to section 308(B) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $3.3 billion in budget authority, and over the budget resolution by $4.2 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(A) of the Budget Act is $114.8 billion, $14.8 billion above the maximum deficit amount for 1990 of $100.0 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 10, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1990 and is current through June 28, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 25, 1990, the Congress has cleared for the President's signature the Amtrak Reauthorization and Improvement Act, H.R. 5075, changing the current level estimates of budget authority and revenues.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer.)

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 101ST CONG. 2D SESS., AS OF JUNE 28, 1990

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 106	Current level +/− resolution
FISCAL YEAR 1990			
Budget authority	1,326.1	1,329.4	−3.3
Outlays	1,169.4	1,165.2	4.2
Revenues	1,060.3	1,065.5	−5.2
Debt subject to limit	3,092.3	3,122.7	−30.4
Direct loan obligations	19.1	19.3	−.2
Guaranteed loan commitments	115.1	107.3	7.8
Deficit	114.8	[2] 100.0	[3]14.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 106. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] Maximum deficit amount [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[3] Current level plus or minus MDA.

THE CURRENT LEVEL REPORT 101ST CONG., 2D SESS. SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS JUNE 28, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,068,600
Permanent appropriations and trust funds	954,969	791,109	
Other legislation	635,362	638,737	566
Offsetting receipts	−233,985	−233,985	
Total enacted in previous sessions	1,356,347	1,195,862	1,069,166
II. Enacted this session:			
Dire Emergency Supplemental Appropriations (Public Law 101-303)	2,293	666	
An act making technical amendments to Title 5, U.S. Code Public Law 101-303)		−1	
Total enacted this session	2,293	665	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses:			
Amtrak Reauthorization and Improvement Act (H.R. 5075)	−10		−10
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	−8	1	
Payment of judicial officers' retirement fund	−4	−4	
Judicial survivors' annuities fund	−3	−3	
Fees and expenses of witnesses	−5		
Justice assistance	−4		
Fisherman's guaranty fund	1	1	
Administration of territories	−1		
Firefighting adjustments	−1,057	−192	
Federal unemployment benefits (FUBA)	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	−24		
Black Lung disability trust fund	52	31	
Vaccine improvement program trust fund	7	7	
Federal payments to railroad retirement	1	1	
Retirement pay and medical benefits	−4		
Supplemental security income program	263	263	
Special benefits, disabled coal miners	21		
Grants to States for Medicaid	−907		
Payments to health care trust funds	(325)	(325)	
Family support payments to States	84	84	
Payments to States for AFDC work programs	15	15	
Payments to States for foster care	−83		
Health professions student loan insurance fund	−25	−7	
Guaranteed student loans	−175		
College housing and academic facilities loans	−3	−3	
Rehabilitation services	−79		
Payments to widows and heirs	(1)	(1)	
Reimbursement to the rural electrification fund	111	111	
Dairy indemnity program	(1)	(1)	
Conservation reserve program	720		
Special milk program	−2		
Food stamp program	−2,000		
Child nutrition programs	−74		
Federal crop insurance corporation fund	(1)		
Agriculture credit insurance fund	342		
Rural housing insurance fund	(1)		
Rural communication development fund	(1)		
Payments to the farm credit system financial assistance corporation	−2		
Coast Guard retired pay	−17		
Payment to civil service retirement	(84)	(84)	
Government payments for annuitants	−3	−2	
Readjustment benefits	−62		
Compensation	258	208	
Pensions	−62		
Burial benefits	−4		
Loan guaranty revolving fund	−7		
Disaster relief	−1,100	−883	
Total entitlement authority	−3,834	−371	
VI. Adjustment for Economic and Technical Assumptions	−28,685	−26,763	−8,900
Total current level as of June 28, 1990	1,326,110	1,169,393	1,060,256
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		4,193	
Under budget resolution	3,290		5,244

[1] Less than $500 thousand.●

Notes.—Numbers may not add due to rounding. Amounts shown in parentheses are interfund transactions that do not add to totals.

TRIBUTE TO OFFICER LARRY TALVY

● Mr. DECONCINI. Mr. President, I rise today to bring to the attention of my colleagues the life saving efforts of Officer Larry Talvy, formerly of the Sedona Police Department. The June 1989 edition of The Bulletin, the magazine of the Federal Bureau of Investigation, recognized this police officer, and I want to take a moment to do so as well.

On August 29, 1989, Officer Talvy was flagged down by a 9-year-old boy who told him that his father had fallen, hit his head and was not breathing. When Officer Talvy arrived on the scene, he found a 70-year-old man who had a head injury sustained from a fall and had suffered from a heart attack. The man was not breathing and had no pulse. Officer Talvy notified Sedona Fire Dispatch of the situation and immediately initiated CPR and continued CPR until the arrival of Sedona fire personnel. Officer Talvy was successful in his efforts, and the man was again breathing on his own when the rescue personnel arrived on the scene. Because Officer Talvy handled this critical situation calmly and professionally, he was responsible for saving the man's life.

Mr. President, often in the hectic business of the Senate we do not take time out to recognize the heroic efforts of those individuals working outside the beltway. I commend the heroic efforts of Officer Talvy, and feel privileged to have him as a member of Arizona's police force.●

WORLDWIDE DAY OF PRAYER FOR FREEDOM AND DEMOCRACY IN CUBA

● Mr. MACK. Mr. President, I would like to bring to the attention of my colleagues in the Senate that on July 15, there will be a Worldwide Day of Prayer for Freedom and Democracy in Cuba.

Our Nation just celebrated its 214th birthday and will soon be observing the upcoming 199th anniversary of the ratification of the Bill of Rights. As we commemorate this wondrous occasion, we must be ever mindful of those who still struggle for freedom, justice and human dignity.

Only 90 miles from our shores lies an island ruled by a ruthless dictator. That island is Cuba and the dictator is Fidel Castro. From the time he stole the Cuban people's revolution up until now, thousands have risked everything, including their lives, in hopes of seeking the freedoms we enjoy in this country—freedoms such as political self-determination, speech, press, peaceful assembly and religion. These are the most basic democratic rights, but Castro still denies them to his own people.

On countless Sundays, millions of people in this country exercise their right to worship and thank God for the blessings they have. I would urge my colleagues to ask their constituents to keep Sunday, July 15 in their prayers as many in the international community will pray for freedom and democracy in Cuba.

Now, more than ever, as the winds of freedom are sweeping through Europe and elsewhere, the Cuban people need to know that they are not forgotten. They need to know that people from around the world are with them as they try to rid themselves of Castro and the cancer of communism.

Cuban-Americans in this country want their homeland to be free. They want their relatives and friends still left in Cuba to be able to enjoy the same freedoms we have in this country.

This July 15 will be a day dedicated to the Cuban people as they struggle for freedom. It will also be a day of hope and peace. But most of all, a day for those who have freedom to remember and pray for those who want and hope for freedom.●

"A LITTLE S&L BUDGET HONESTY, PLEASE"

● Mr. SIMON. Mr. President, Herbert Stein, who many of us have come to have great respect for over the years, recently had an op-ed piece in the Wall Street Journal that calls on us to be honest and candid on the whole savings and loan budgetary situation.

As he so frequently has done over the years, Herb Stein is once again giving us sound advice.

I urge my colleagues to read his statement.

I ask that it be placed in the RECORD at this point.

The statement follows:

[From the Wall Street Journal, June 25, 1990]

A LITTLE S&L BUDGET HONESTY, PLEASE

(By Herbert Stein)

The valiant budget summitteers seem to have agreed on one thing. The costs of the Savings and Loan bailout do not have to be included in total budget expenditures, at least not for the purpose of determining how much expenditures have to be cut or taxes increased to meet the Gramm-Rudman deficit target.

For a change, this politically convenient decision has the support of distinguished economists. Thus, more than a year ago (March 1, 1989) Martin Feldstein, former chairman of the Council of Economic Advisers, said on this page:

LIABILITIES EXIST

"The proposed thrift-rescue plan is fundamentally different from other debt-financed spending because the outlays are essentially only a formal recognition of government liabilities that already exist. The $50 billion of new government outlays will therefore not cause spending on goods and services to rise and will not reduce the pool of funds available to finance private investment in plant and equipment or housing."

Since that was written, of course, we have discovered that we are talking about much more than $50 billion. And just the other day (June 19) Robert Eisner, former president of the American Economic Association, repeated the Feldstein argument on this page, saying:

"Current government borowing to finance the purchase of S&L assets only makes explicit an element of deficit or debt that was implicit earlier in the commitment of backing to S&L liabilities—the deposits or money of S&L creditors. . . . [T]he S&L bailout has nothing to do with the current budget deficit."

The argument is ingenious, but I do not find it convincing. The liabilities that already exist and are now being formally recognized were incurred earlier, mainly in the 1980s when the S&Ls had losses that the Federal government had committed itself to make good to the depositors. These liabilities were not included in government expenditures when they were incurred. Now it is proposed to exclude them when they are recognized. This is a plan to keep the government's books on a cash basis when obligations are incurred and on an accrual basis when the obligations are paid off. That would really be Wonderland.

Following that principle, we could exclude from the current budget all expenditure for Social Security benefits because the obligation to pay those benefits was incurred long ago and today's payments are only a formal recognition of liabilities that already exist.

There are two reasons—one economic and one political—for setting a limit to the government's deficit. The economic reason is to protect the growth of the nation's capital stock by limiting the extent to which the government's deficit absorbs private saving and crowds out private investment. The political reason is to limit government spending to the amount the government and the public are willing to pay for explicitly. Both reasons argue for including the S&L losses in expenditures today.

The nation's capital stock is now smaller than it would have been if there had been no deposit insurance. One may take the clearest example. Suppose that between 1981 and 1988 the owner-operators of the S&Ls stole $100 billion from depositors—which is, of course, not entirely true. Then the owners spent $100 billion on Mercedes and champagne. But the depositors who lost the money did not cut their purchases of Chevrolets and beer by the same amount, because the government had committed itself to make their losses good. There was more consumption and less investment than there would have been in the absence of the government commitment. It is as if the government had borrowed the $100 billion from the depositors and given it to the owner-operators.

Or, suppose that the $100 billion had been lost because it had been invested in projects that were no good—houses that no one wanted to live in, for example. One hundred billion dollars of the nations saving had been crowded out of productive investment. Because the government insured their deposits, however, the depositors did not feel any loss and did not feel any need to increase their saving to restore their assets.

In any case, because of the government's commitment, there was more consumption than there would have been without it and

less investment during the period when the loses were being incurred. Some will say that is water over the dam or, as economists put it, bygones are forever bygones. Perhaps these losses should have been counted as government expenditures when the government's liability was incurred, but there is no point to counting them as expenditures now, they will say.

But the consequences of these losses are not bygones. We are left with a smaller stock of productive capital than we would have had if the government had not insured the deposits. That is a present fact that is relevant to present budget decisions. Unless we are satisfied with the loss of the capital stock, we should take steps to compensate for it now. One way to do that would be to include the outlays in expenditures now and cover them by additional revenues or reduced expenditures for other purposes.

BAD MISTAKES

The political argument for paying the costs of the S&L bailout is, in my opinion, even stronger than the economic one. Someone in the government, or many more than one, made bad mistakes about the S&Ls. They allowed the government's liability, through the insurance of deposits, to get far out of line with the government's willingness or ability to limit its risks by regulating the S&Ls. Some will say that the insurance was too big. Others will say that the regulation was too weak. I do not want to enter that argument now. But surely the insurance was too big for the regulation or the regulation was too weak for the insurance. And someone is responsible for allowing that to happen.

If the costs of the S&L bailout are included in the budget that the public has to pay for explicitly, either in higher taxes or in reduced expenditures for other purposes, there will be a demand to find out how that happened and who was responsible. That will be unpleasant for some people, but it will induce more prudence in the future. On the other hand, if the S&L thing is swept under the rug as far as today's public is concerned, politicians will be reassured that there is no limit to the liabilities they can safely incur in the taxpayers' name.●

STEEL SUBSIDY OF THE DAY NO. 6: VENEZUELA

● Mr. HEINZ. Today, Mr. President, I present to the Senate yet another example of the unfair use of steel subsidies by foreign governments and how that practice damages the U.S. Steel industry.

Today's subsidy comes from Venezuela. This country is representative of a third group of nations who subsidize their domestic steel industry, thus hindering the Bush administration's efforts to negotiate an international agreement. In this series I have spoken of countries like Brazil and Italy who are violating their bilateral consensus agreements [BCA] with the United States by using steel subsidies. I have also spoken of nations like Turkey who are wildcards in the sense that they have refused to enter into either a BCA or a voluntary restraint agreement [VRA] with America and hence have no discipline placed upon their steel production and trade in the international market.

Today, I speak of a third group, led by Venezuela, who have signed only a VRA with our country and are therefore in a unique situation with regard to steel subsidies.

Unlike BCA's, VRA's do not mandate that the signatory restrict the use of subsidies in steel production. However, this does not negate the responsibility of these countries to compete in a fair manner in the international steel market. On the contrary, nations who have only a VRA with the United States should still feel compelled not to subsidize their steelmakers, for it is this practice, among others, which causes the need for VRA's in the first place. Unfortunately, this fact is not apparent to many in this group, including Venezuela.

In March of this year, the Venezuelan Government determined that domestic steel exporting companies will continue receiving export-incentive payments of 18 percent of product value. A recent World Bank report declared that SIDOR, Venezuela's dominant state-owned integrated mill, is "technically bankrupt." Yet, according to the company's president, SIDOR's serious debt problems will be resolved as soon as an agreement with the Government is signed in which the State will wholly or partially assume the company debt. Furthermore, SIDOR was scheduled to receive a 1989 equity infusion of $1.8 million from the State's development corporation, CVG. The company was also authorized to float Government-guaranteed bonds worth $13.8 million in 1989.

Mr. President, situations like this one cannot be allowed to continue. The fact that three different types of relationships exist with our trading partners in steel should be reason enough for a new, all-encompassing worldwide agreement like President Bush has proposed. But the widespread abuse of these relationships by our partners, including in the area of subsidies, gives us more than enough reason to be convinced that the administration's negotiations must succeed. The Office of the U.S. Trade Representative must be fair but tough in its efforts. An international agreement on steel production and trade will not come easy, but a successful conclusion to this initiative is not optional. I hope all Senators will do what they can to help the President reach this important goal.●

PRINTING OF BOOKLETS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be printed for the use of the Senate Commission on Art 50,000 copies of the booklet entitled "The Senate Chamber, 1810–1859" and 50,000 copies of the booklet entitled "The Supreme Court Chamber, 1810–1860".

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT

Mr. DOLE. Mr. President, on behalf of Senator GARN, I ask unanimous consent that S. 2827 making technical changes to the Federal Deposit Insurance Act, be star printed to reflect the following cha ıges which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL CONFEREES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Chair be authorized to appoint additional conferees on the part of the Finance Committee on H.R. 1465, the oilspill liability legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair appointed Mr. BENTSEN, Mr. BAUCUS, and Mr. PACKWOOD as additional conferees.

UNANIMOUS-CONSENT AGREEMENT—H.R. 4328

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader may at any time, notwithstanding the provisions of rule XXII, proceed to the consideration of Calendar No. 644, H.R. 4328, the textile footware and apparel bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m. tomorrow, and that there be a period for morning business for 1 hour, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10:30 A.M.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate stand in recess under the previous order until 10:30 a.m. tomorrow.

There being no objection, the Senate, at 7:44 p.m., recessed until Thursday, July 12, 1990, at 10:30 a.m.

EXTENSIONS OF REMARKS

TRIBUTE TO ED KELLAHER

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. MICHEL. Mr. Speaker, as all Members know, the House could not operate without the dedication and the skills of men and women whose names are not known to the public. Symbolic of this kind of selfless public service was the late Ed Kellaher, one of the early recipients of the John W. McCormack Award for Excellence for House Employees.

Clerk of the House Donn Anderson delivered a eulogy in Ed's honor and I want to insert it into the RECORD at this time as a tribute to a fine public servant who served the House for 29 years:

TRIBUTE TO ED KELLAHER

I deeply mourn the death of Ed Kallaher in the realization that I will not likely have such a friend again. But in my grief, I rejoice in the lasting happiness of Ed's friendship, his love, his sensitivity and his unfailing kindness. Ed leaves a legacy which extends beyond his special relationship with each of us—as husband, father, grandfather, brother, friend. His legacy is tangibly measured in the works with which he has been associated.

Ed's exceptionally long service to the House of Representatives, 29 years, spanned six speakers, from Sam Rayburn to Tom Foley, and five clerks, from Ralph Roberts to myself. It was a period of remarkable change and expansion and Ed was very much a part of it.

When Ed started in 1961 as assistant property custodian, there were 26 employees in a few cramped rooms in the Cannon Building basement. The total operating budget for furnishings, repair services and salaries was $254,000.

Today the office of property supply and repair has 151 employees, nearly one-third of the clerk's workforce, with a total operating budget of over $5 million. During the same period, the Rayburn Building and the east front extension to the Capitol were completed and two major office building annexes were acquired.

Ed has the resourcefulness and foresight to meet the technical, material, and personnel needs of the greatest growth period in the history of the House. The new methods and efficiency, which Ed brought to property, have made the office the great and essential service organization which it is today.

Ed's work to him was a stewardship. A prudent manager of resources and a tough negotiator, he insisted that the House get the best value for the taxpayers' money. Most of all, Ed loved the shops and the craftsmen, taking a very personal pride in their splendid work. How often he said so.

Ed became involved with the Wright Patman House Credit Union during the era of a single counter and green eye shades. Over the years he held a variety of credit union offices, and worked energetically for its growth and prosperity, because he recognized the great good it could render to the House community. Today, the Wright Patman Credit Union is one of the largest, fastest growing and best managed in the entire Federal Credit Union system, and the results of Ed's dedication are to be found everywhere.

Ed was a great Democrat. In times gone by, no boiler room operation was complete without him. He worked generously and with a zeal for the improvement of the National Democratic Club. He appreciated the need for a place for Democrats to come together socially.

Ed was a constant delight to his friends and co-workers. He took his work seriously, but never himself. His unfailing wit, good humor and story-telling ability were the products of his New York-Irish heritage, as were his self-assurance and determination. Ed was comfortable with everyone, because he was always comfortable with himself. Ed was the genuine article, a "what you see is what you get" kind of guy. Ed had no hidden agenda.

His objectives were clear: The happiness and security of his family, doing his work faithfully and to the best of his ability, promoting the integrity and respect of the House of Representatives, and involving himself in things which improve the lives of others.

In witness to the affection and respect of his co-workers, Ed became one of the early recipients of the John W. McCormack award of excellence for house employees. With every passing year, he continued to validate the appropriateness of the award. Ed takes with him the only property a man can carry out of this world—his good name and reputation, and for those he will receive a kindly judgment.

Ed best represented the old-time sense of loyalty, commitment and institutional memory which has declined steadily in the House service over the years, and yet again declines measurably with Ed's passing. Ed was a rock of constancy, purpose and reliability in a place where tradition has been assigned diminishing importance.

Each of us knew Ed in a special way. He was the friend and mentor of my youth, and in later years, my confidant.

During the past 4 years, Ed was my trusted and highly valued senior department head, but always first my friend. He never hesitated to argue or disagree when he thought I was wrong, but if my judgment was not his, Ed would say "Okay" and carry it out with typical loyalty. My sense of loss is both deep and wide.

I extend the most heartfelt sympathy to Ed's beloved wife, of many years, Eleanore, his children Ken, Don, Susan and Mary and his eleven grandchildren. You blessed his life and graced his home with love, support and joy. You were the sacred repository of his hope and happiness. You gave him all the contentment he could have ever wished for.

I will miss you, Eddie. I will recall the happy times we spent together and think of those which might have been. I will miss your thoughtful expressions for all occasions and for nothing in particular. I will even miss your stories, although I had heard most of them before because of the delight you took in tellimg them.

Farewell, beloved friends of years. Go in peace with our love and gratitude for all that you have meant to us. We will always remember you, and each time that we do, we will smile.

CONGRESSIONAL ADVISORY COMMISSION ON AMATEUR BOXING AND FEDERAL PROFESSIONAL BOXING PROHIBITION ACT OF 1990

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. GONZALEZ. Mr. Speaker, I am reintroducing a bill today that I first introduced in 1984 to ban professional boxing and to establish a Congressional Advisory Commission on Amateur Boxing. Incident after tragic incident occurs, bringing pain and sorrow to families of men who are injured or killed in this violent so-called sport, and it is time for Congress to do something about it. After all, boxing is not really a sport—it is an industry that capitalizes on the prurient display of brutality and human degradation. There is no sport involved when the goal and determining factor in all too many fights is the rendering of the opponent physically defenseless.

For many years, I have watched as young men, mostly black or Hispanic, mostly poor, uneducated and without trade or employment, have been recruited, trained, and encouraged to fight their way out of poverty into the world of boxing. Boxing is their salvation, they are told—it is their road out of the ghetto. Boxing supposedly gives them a reason to stay out of trouble, to have a purpose in life, a future respect. I have watched all this—and listened—and I am impelled now to act.

My bill bans only professional boxing in order to remove the illusory incentives of a professional boxing career. For amateur boxing, my bill would establish a Congressional Advisory Commission. This Commission would study amateur boxing and its present regulations, determine the sufficiency of the current safeguards, and make recommendations for future action to be taken to protect the health and potential of America's young boxers. I recognize that amateur boxing provides some limited opportunities for young men, but prolonged participation in boxing clearly has proven harmful effects on the health of fighters. With some safeguards, amateur boxing can be a positive experience—but only if the boxing is carried on with strict safety regulations and for only a short period of time.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

But professional boxing is another matter. What kind of opportunities are provided these young men through professional boxing? The opportunities I see all involve violence, personal injury, and massive exploitation. The very goal of a boxer in the ring is to render his opponent unconscious—to fight until only one fighter remains standing. Boxing is a simplistic display of one man's physical prowess prevailing over his opponent's.

But even the victor must share an element of physical defeat, for by the very act of knocking his opponent senseless, he too endures physical abuse. One fighter may prevail over the other, but neither prevails over the limitations of the human body.

Repeated blows to the fighter's head are the most direct means to victory for a boxer—professional boxers are paid to hit and be hit. But just as a boxer is paid, he also pays dearly in return for the sometimes silent but ever present injuries his brain suffers. The American Medical Association has studied the prolonged effects of boxing on a fighter's brain, and has reached the same conclusion as I have—that professional boxing should be banned. Every professional boxer suffers some degree of brain damage—every one. Some of the damage is minimal; some is readily evident; some does not manifest itself for years, all the while keeping its dreadful consequences hidden form the knowledge of the boxer. We all know the familiar stereotype of the has-been Palooka, the shambling wrecks of fighters who took one, or a thousand, too many punches.

If boxing provides such wonderful opportunities, as I am told, then they aren't young men from all walks of life recruited for the sport? Why are education opportunities, mainstream employment, and long-term beneficial opportunities saved for some of America's youth while boxing and other violent sports seek participants from America's poorer corners? I find it appalling to think that at the expense of a real future—a future of health, of learning, of meaningful work—young men devote their early years to training to become fighters at the expense of their education and time to learn a trade of profession.

Young men are exploited by the boxing profession—the promise of fame and riches is flashed in their eyes so they are blinded to the realities of a fighter's life—a life where few are famous, few are wealthy, but all risk their health. We all know that for every Leonard or Ali there are 1,000 Kims, 10,000 punched-out wrecks. We look in fear at young boxers, wondering how soon it will be until the effects of their boxing careers render their quick minds and sparkling eyes as muddled and dull as Mohammed Ali's. How long can we continue to encourage young men to become boxers, when we know beyond a doubt that the medical experts are right—that the probability is that these young men whom we admire so much in the ring will some day become as inarticulate and incoherent as the great Ali? For a youngster from a poor neighborhood who has few material possessions, his health may be all he has. Boxing will likely take his health and almost certainly give him nothing in return. How much better it would be to allow him to keep his health and develop his mind and his abilities. How much better it would be to develop his mind than to render it useless through fighting.

Once professional boxing is made illegal, amateur fighters will have no incentive to pursue boxing in lieu of their education and training. There will be no illusions of making a living from boxing. Since there will be no monetary rewards from boxing, a boxer's career will be relatively short, and the damage to his health, particularly with the use of safety equipment and stringent safety regulations, will be minimal.

I think we owe all of America's youth equal opportunities for a solid education and useful, financially satisfying employment. It is our responsibility. Each young man has the right to his health, and we owe each young man an education and future—a road out of poverty that does not dead end in boxing, but a mainstream of education and training that leads to a healthy and secure future.

TRIBUTE TO MEMBERS OF NAVY PATROL BOMBING SQUADRON NINETEEN

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. SANGMEISTER. Mr. Speaker, it is with great pride that I rise today to honor the members of Navy Patrol Bombing Squadron Nineteen of World War II. This group will be holding their fourth reunion this fall and it is important that we as a nation never forget the service and sacrifice our veterans have made.

Squadron Nineteen served in the Pacific Theater during World War II. They patroled the waters from the Marshall Islands to the final assault on Saipan and Iwo Jima. Their contribution to our Nation's fight for freedom cannot be understated. Over the years the members of this squadron have gone their separate ways, however, their service and sacrifice together forged a bond that time and distance cannot break. They confronted danger and endured terrible hardships, and together they rose to a challenge. Many of their members gave their lives so that others might live in freedom. The sacrifices these veterans made in defending their country were great and they deserve our continued recognition and thanks.

The United States has remained free and has stood as a symbol of freedom and democracy throughout the world and this is due in no small part to the contribution of Americans such as the members of Patrol Squadron Nineteen. Recent events around the world have shown that people want to be free and that the fight for freedom is never ending.

Mr. Speaker, please join me in honoring all the members of this squadron for their accomplishments in defense of liberty in the Pacific Theater and their unending service to their country.

CONGRATULATIONS FOR CAPT. DANIEL C. RAINEY'S EFFORTS ON BEHALF OF PHILADELPHIA'S WASHINGTON SQUARE MEMORIAL PARK

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute the excellent work by Daniel C. Rainey and his crew on the U.S.S. *Kitty Hawk* on behalf of Washington Square Memorial Park in Philadelphia.

The U.S.S. *Kitty Hawk* has been in the Philadelphia Naval Shipyard since 1988 while undergoing her service life extension program [SLEP] modernization. In addition to leading this extraordinary complex modernization, Captain Rainey and his crew have devoted their off-duty time and attention to maintaining and improving the state of affairs at Philadelphia's Washington Square.

It started when the executive officer of the *Kitty Hawk* and his family toured Independence Hall and witnessed the adjacent historic, but neglected, Washington Square Memorial Park. Since that time, the officers and crew of the *Kitty Hawk* have contributed countless off-duty hours on behalf of the square.

They have instituted a daily flag-raising ceremony. They have an Annual Constitution Day ceremony at which foreign members become naturalized citizens. In addition, they have volunteered their time and energies to assisting in park clean-up and maintenance, as well as using the base for community-based park activities, such as house tours, park fairs, and social functions.

Captain Rainey and his officers and crew on the *Kitty Hawk* are held in the highest regard by the families and businesses of Washington Square.

Captain Rainey, congratulations on your contributions to Washington Square. Your tireless efforts are greatly appreciated by all of Philadelphia. We salute you.

TRIBUTE TO DAVID JAMES

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. TANNER. Mr. Speaker, I rise today to recognize my good friend David James, the president and chief executive officer of the E.W. James and Sons supermarket chain, for his recent selection as Grocer of the Year by the Tennessee Grocers Association.

It is always a special honor to be chosen by your peers for such a distinction. In David James' case, it was long overdue. Throughout his career, he has been committed to providing the people who shop in his 16-store chain good service and excellent quality at the lowest prices possible. But his interests go beyond just the dollars and cents of business.

He has organized programs to help his employees attain personal and professional

achievement. He has established a program that allows company associates to purchase an equity position in the company. He has devoted time to his community by serving two terms on the city council and is an active member of the Obion County Chamber of Commerce.

David James is a sterling example of a businessman who brings a positive attitude to the challenges he faces and who gladly accepts the responsibilities we all have to our communities, co-workers, and others with whom we associate.

I congratulate David for this honor. I include a recent newspaper article from the Union City Daily Messenger be printed in the record so that all of our colleagues may learn about David James achievement.

[From the Union Daily Messenger, June 20, 1990]

UC GROCER'S DOMAIN BRANCHING OUT ACROSS STATE

(By Kevin Bowen)

He is an avid sportsman, a devoted family man and is active in his community, but most notably David James is a successful businessman.

The 47-year-old chairman, president and now sole owner of the E.W. James & Sons Inc. supermarket chain in West Tennessee wears many hats.

Strolling through his Nailling Drive store, the anchor store of his 16-store chain, he welcomes customers with a warm smile and a friendly handshake. He expects the same from his 530 associates, who respect him as much as a friend as their employer.

Many customers recall his father, the late E.W. James, who started the chain of stores more than 50 years ago. He died Nov. 16, 1989.

"Dad worked really hard. He worked lots of hours. He worked on weekends," James said. "I can remember coming home for dinner at night and always being interrupted with phone calls and things like that. I remember being upset that he couldn't sit down and enjoy being with us."

The second generation grocer has learned many lessons in business and in life from his father and has applied them to his own management style.

It must be working. The supermarket chain is experiencing tremendous growth and its owner was only recently elected Grocer of the Year by the Tennessee Grocers Association.

Being honored by your peers is quite an accomplishment, according to James, but more important is that his associates know the award is as much theirs as it is his.

An impressive plaque noting this accomplishment hangs on the wall of his cluttered office on the second floor of the Nailling Drive store, along with other plaques and various photographs of his family. Behind his desk is a wall-to-ceiling bookshelf that is laden with business charts, marketing manuals and various trinkets representative of his diverse lifestyle.

James' day starts every morning with a three-mile sunrise jog through Graham Park, after which he clocks in about 7:30 a.m. for a workday that regularly stretches into evening.

It was in 1934 that E.W. James bought his first grocery store in Hickman. He bought that store from his brother-in-law and shortly thereafter bought a second store in Hickman, called the Cash-N-Carry.

Success came quickly and soon he was adding other stores around West Tennessee to make up the supermarket chain.

It was in the mid-'50s that the elder James opened a store in Union City. A new 20,400-square-foot store was built in Union City in 1967 and later expanded to 30,400-square-feet.

In the past three years, each of the stores in the chain has been completely remodeled. Colorful neon lights dress up the stores along with other changes that make shopping easier, according to James.

In the near future, a new store will be built in Dresden, and the Ripley store will trade places with the Fred's store there.

The grocery business was handed down from E.W. James to three of his four children, David, Billy Joe and Ms. Nancy Halterman. David has since bought out his brother and sister and is now the chief operating officer, president and principal owner of the company.

A second sister, Mrs. Wanda Naylor, lives in Hickman, Ky.

Since taking over the business about a year ago, James has made some major changes in the company, including the introduction of program which gives his associates part ownership in the company. Over a 20-year period, the associates will own 30 percent of the company.

A graduate of Fulton County High School, James attended Murray State University and graduated in 1966 with a degree in business administration with emphasis on accounting. After graduation and in the height of the Vietnam War, he was drafted into the Army and went through basic training at Fort Campbell, Ky.

He attended officer candidate school and advanced individual training school before being trained as a forward observer in artillery. James never saw active duty overseas but still values his military duty.

During that duty, following officer training school, he married Miss Tommye Faye Kilpatrick on Aug. 5, 1967. They have two children, Lee Ann, 19, a senior at the University of Tennessee at Knoxville and who is employed at Disneyworld in Florida this summer, and David II, 17, a student at Union City High School.

James serves on the board of directors with his wife, who serves as secretary, director of marketing Larry Mink and meat supervisor Wayne Cagle.

James is a firm believer in building and maintaining a positive attitude and setting goals. He works at instilling those qualities in his associates, and the employee ownership program is just one way he gives them an incentive to excel in the workplace.

"I've always wondered where I got my positive attitude. I've always tried to have a good, positive attitude and of course I kind of preach it a little bit to people around us with the tapes we have available and my attitude positive and a handshake and I try to show some enthusiasm about everything I do," he said. "And I've always wondered, well, where do I get that enthusiasm . . . In all the years growing up I can never remember Dad having a negative attitude about anything. I never heard him say, 'I can't do this' or 'I can't do that.' I don't believe I ever heard him say the word, 'can't.' "

James said his father practiced, not preached, a positive attitude.

James takes one day out of his week to tour each of the stores in the chain, visiting with his managers, associates and customers.

"We just go out and see that our stores are in good shape and are up to the standards that we like to maintain," James said. "We just go out and do an inspection and have a lot of fun visiting with our customers and our associates."

James takes great pride in a program he has set up that requires associates and managers to listen to motivational tapes every six months and attend educational classes. He is interested in his associates' personal growth as much as their job performance.

Associates and managers go through an evaluation every six months.

James is also acutely concerned about maintaining a drug-free workplace and screens all job applicants before they're hired.

"When we do these evaluations, we set goals for each job," James said, comparing job performance with bowling, where a bowler works toward a goal and is instantly gratified when he achieves that goal.

James has given back to his community some of what it has given him, having served on the Union City Council for two terms and a current member of the Obion County Chamber of Commerce.

He was instrumental in attracting developers Steve Horrell and John Horrell to Union City, who then developed County Marketplace.

While on the city council, James was involved in the construction, and the later sale, of the city's spec building to VF-Factory Outlet as well as several other projects that helped the city grow and prosper.

BASEBALL BELONGS IN BUFFALO

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. LAFALCE. Mr. Speaker, in approximately 14 months the National League expansion committee will be deciding the location of two new baseball franchises. There is, understandably, much speculation as to which two cities will be selected. A number of possible candidates have been mentioned, including Washington, DC, Tampa-St. Petersburg, and Denver. Those are all good second picks. But I have no doubt which city should be chosen as a first pick. Buffalo, where the baseball movie, "The Natural," was filmed, is the natural choice for the expansion of major league baseball.

I recently wrote the following column, which appeared in the Lockport Union-Sun Journal, to spell out all the reasons why Buffalo should be the first and natural choice for an expansion of major league baseball.

[From the Lockport (NY), Union-Sun Journal, July 9, 1990]

BASEBALL IN BUFFALO—IT'S A NATURAL CHOICE

(By Rep. John LaFalce)

Sorry Washington. Sorry Tampa. Sorry Denver. Baseball belongs in Buffalo. Period. No "ifs." No "ands." No "buts." If, as recently announced, the National League is to add two new teams by 1993, the Natural choice is Buffalo.

As one who has represented Western New York in Washington for 15 years, I know full well that some Washingtonians would like to see major league baseball return to

the nation's capital. Sorry. The simple truth is that the Baltimore-Washington area is not big enough to support two teams. History has demonstrated that.

And no one can blame the old Washington Senators. Washington is about as supportive of baseball as the President is of broccoli.

Washington is simply not a baseball town. A football town, definitely. But baseball, no.

Come the summertime, people in Washington would much rather enjoy indoor air conditioning (and who can blame them) and watch reruns of the Iran-Contra hearings. Besides, Washington has enough red ink to its name, it doesn't need another failing baseball franchise.

That brings us to Tampa-St. Petersburg and some similar problems. In an effort to improve their chances of landing a major league franchise, and coping with their summer weather, officials in St. Petersburg recently opened a domed stadium with artificial grass. Now, in my humble estimation, there's something Unnatural about that.

Baseball was always intended to be played out-of-doors and on the kind of grass that grows under your feet. In April, when the umpire yells, "Play Ball!" the smell of spring should be in the air. In a domed stadium you might as well be in Antarctica.

The original domed stadiums were engineering wonders and items of curiosity, but for the average baseball fan, the sense of wonder is long gone and the only thing that's curious about a domed stadium anymore is why people continue to build them. They may be good for beating the heat, as in Tampa, but they don't do much for the game of baseball.

Denver, to its credit, does not have a domed stadium to offer up to a major league franchise. That's good, but Denver does not have a major league park at all! It would have to build one. And that, we're told, would require a public referendum and higher taxes. Given the minuscule interest Denver has shown in its minor league baseball team, approval would be highly conjectural.

Denver is simply not a baseball town. Last year, Denver's minor league team drew only 336,000 fans. There may be more mountains populating Denver than baseball fans.

And that leads me back to Buffalo, the site of the great baseball film, "The Natural." Buffalo is the Natural!" Buffalo is ready now and we're proving it where it counts—on the field. Buffalo's new Pilot Field is major league in every way. Indeed, it may be the best baseball park ever built; it is destined to become as famous as Fenway Park or Ebbets Field.

The Buffalo Bisons, although a minor league team, are already drawing major league crowds. Last year, the Bisons drew an attendance of over 1.1 million. That's three times more than Denver's minor league team and more than such major league teams as the Chicago White Sox and the Atlanta Braves. Small wonder, for Buffalo fan loyalty is legendary, and we also draw from Rochester and the more than seven million tourists who visit Niagara Falls every spring and summer.

And aside from the joys of baseball, visiting Pilot Field is a joy in itself. People flock there to savor its gourment ice cream, barbecued pork, Polish kielbasa, beef on weck, pizza and chicken wings, and well as the traditional hot dogs, popcorn, peanuts and Cracker Jacks. We're also entertained by groups like the Beach Boys, Willie Nelson, Chicago and Gloria Esteban—all for the price of a baseball game.

Washington, Tampa and Denver, eat your hearts out, stand aside and wait your turn. The first and Natural choice is and must be Buffalo. We've earned it.

"THE DYNAMIC DUO," HARRY AND MAXINE ORR

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues in the U.S. House of Representatives a recent article in the A.C. Sparkler, the newspaper of U.A.W. Local 651 at the A.C.-Rochester plant in Flint, MI. This article, written by Evelyn Comerford, beautifully and clearly demonstrates that the real strength of America is rooted in the goodness of her people. She writes so eloquently of Harry and Maxine Orr, two of my constituents who have given so much of themselves in support of the March of Dimes that their fellow U.A.W. members have termed them the "Dynamic Duo."

[From the A.C. Sparkler]

1990 WALKAMERICA MARCH OF DIMES UAW AWARDS

(By Evelyn Comerford)

While Local 651 didn't come out as the top award winners, we can still be proud of our contribution to this most worthwhile project, after all, we did turn in $1,376.88 and we also are the Home Base for that "Dynamic Duo", Harry and Maxine Orr!

It's regretable that they couldn't be there to receive the recognition given to them that evening, June 1, at the Regional offices. Maxine's sister had been taken to McLaren Hospital in critical condition due to a near massive heart attack. So, while it was a beautiful surprise tribute planned for Maxine, it also conveyed the heartfelt prayers and well wishes for her and her sister. Rose very very graciously accepted the beautiful plaque that was to be presented to Maxine in appreciation for her generous and outstanding service to the March of Dimes program and the certificate that went with it along with one naming them "the Dynamic Duo". Our hats are off to you two wonderful people—you are a credit to our local and we are so proud of you! You accept every challenge placed before you by any humane cause and every job you do—you do well! Congratulations, folks!

The local also received a plaque and certificate for participation and raising over $1,000.00 which also was accepted by Rose; (what would we do without her?)

There were other awards given to other locals similar to ours, but there was one given that really made quite an impression on me. A very tall trophy with a silver plated walking shoe mounted on top; all down the front are little nameplates, with room for many more, bearing the names of the locals that have had it thus far. This trophy is given to the local that gives the most money per capita—to explain: our local gave $1,376.88. as I previously stated—we have 7,959 members. The local that won "custody" of that trophy was Local 1811 with 513 members giving $562.75—$1.10 per member! Our local's donation figures to 17¢ a member! Come on! We can do better than that! You would love that trophy.

It is the donation of Stan Marshall and Ruben Burks—that's what it's called—what an honor it would be to win it! And what a good feeling we would receive in knowing where the money we raised was spent! If you don't know—find out—what a learning experience you would receive!

It was my first encounter with these dedicated people—believe me, it won't be my last—as long as I'm able! They are, beyond doubt, one of the friendliest groups I have been privileged to be with—I felt very welcome and very much at ease! Not only that—Temple Dining Room catered the meal—need I say more?

How about joining the March of Dimes Walkathon?

Talk to Maxine and Harry about it!

POLAND AND A UNITED GERMANY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. SOLARZ. Mr. Speaker, last month, I had the honor of moderating a panel discussion at Georgetown University on "Poland and a United Germany." The discussion was sponsored by the Polish Institute of Arts and Sciences, and among the featured speakers was Jan Nowak, National Director of the Polish American Congress. Mr. Nowak, who during World War II traveled between Warsaw and London as an emissary of the Polish Underground Movement, is one of the keenest observers of developments affecting contemporary Poland and has over the years provided Members of Congress with essential information and advice on events in that country. During the panel discussion at Georgetown, Mr. Nowak's presentation provided an invaluable perspective on the legitimate concerns of the Polish people regarding the Polish-German border question. I have enclosed a copy of Mr. Nowak's address, which I recommend my colleagues examine carefully.

POLAND AND A UNITED GERMANY

(By Jan Nowak)

On April 23 the Polish Minister of Foreign Affairs, Krzysztof Skubiszewski, made the following statement before the Polish Parliament:

"Polish-German reconciliation is vitally important to both our nations and to Europe. It is important above all for moral reasons. The grave crimes and sufferings of World War II belong to the past, particularly from the perspective of young people. They should be remembered only as a warning but not as a source of enmity or even hatred. We now need peace of mind and peace of hearts . . . Today on the threshold of German reunification we want to close the chapter of the past, once and forever."

Skubiszewski said that there is only one roadblock on the way to new relations between Germany and Poland, a psychological barrier of fear that one day-five, ten or 20 years from now—a reunited Germany may use its might to take away one-third of Polish lands which once belonged to Germany. Fear of Germany can be removed only by a treaty which would make present borders permanent, inviolable and final.

When I visited Poland last summer after 45 years of absence, I was astonished by the changed attitude toward the Germans. The turning point came 25 years ago when the Polish Bishops sent a letter of reconciliation to their German brothers, ending with the words: "We forgive and ask forgiveness." The dialogue between the Polish and German Catholics and Protestants paved the way to recognition without any reservations of the Polish borders by Bonn in the treaty of 1970. The treaty helped greatly to allay traditional enmity. Soviet and Communist propaganda has been feeding hate and fear of the Germans so obtrusively and incessantly that it lost its credibility. Then anti-Communist and anti-Soviet feelings became so strong that little room was left for hostile sentiments against anybody else, including the Germans.

Most of the people I met believed that Poland should follow the example of France in seeking friendship and cooperation with their neighbor. Mitterand and Kohl put a final seal on the French-German reconciliation by meeting at the battlefield of Verdun. Poles decided to do something similar.

West Germany's highly respected President Weiszaecker was invited to Poland to join in commemoration of the 50th anniversary of the outbreak of World War II in Gdansk, where the first shots were fired. I was there and I saw what a shock it was when the visit was suddenly cancelled by Bonn. The Poles did not even receive the courtesy of an official explanation—just a statement by Theo Weigel, leader of the Bavarian CSU and Minister of Finance, that such a visit from the German president at this place and on this day would be an act of penitance. What was meant as a symbolic act of reconciliation turned into a German refusal to admit guilt for the invasion of Poland and all that followed.

Only a few weeks earlier, Theo Weigel told expellees from former German territories that Germany still exists within the pre-war borders and that territorial questions remain open in a "legal, political and historical sense."

The border question, which seemed to be closed, was indeed reopened by Chancellor Kohl's statement that treaties with both German states recognizing inviolability of the present Oder-Neisse frontier will not be binding on a reunited Germany. "Only the Parliament of a reunited Germany," said Kohl, "will have a right to decide the border question." This would mean that the frontier would have to be negotiated, established and recognized again after reunification, with the whole process starting from scratch.

The legalistic postion taken by the German Chancellor does not, however, have any legal basis whatsoever. According to international law, the future German state will be a successor to all international commitments of both German states except the ones that are in conflict with each other. The treaty with Bonn does not contain any clause stating that the treaty would expire at the time of reunification. Chancellor Kohl has not challenged other international settlements and treaties concluded between the Federal Republic and Belgium, Holland and France, nor did Kohl ever mention a treaty with the Soviet Union. The fact that only the validity of a settlement between the Federal Republic and Poland was challenged makes it a political and not a legal issue.

It is true that at the time when the treaty with Poland was ratified in 1972, the Bundestag passed the resolution that the treaty was concluded only in the name of the Federal German Republic and not the whole of Germany. But it was a unilateral act, which was never negotiated with Poland and never officially communicated to the Polish Government. The Bundestag resolution was therefore deprived of any international legal standing.

Chancellor Kohl further complicated the problem by introducing three new conditions which have nothing to do with the territorial issue: 1) Poland should formally apologize for harm inflicted by Poles on Germans in the last few months of the war and immediately after the war; 2) Poland should renounce any claims for war indemnities both from the state and from private citizens; and 3) Poland should guarantee the rights of German minorities in Poland.

There was no need to raise any of these issues. Postwar resettlement of Germans was decided by the Allied powers in Potsdam and was carried out under supervision of the Allied Council. Polish Bishops asked German forgiveness at their own initiative. Minister Skubiszewski expressed regret for human suffering resulting from the transfer of the German population. Any request, however, that such an apology should be included in a treaty, would be insulting to victims of the greatest crimes committed in the history of mankind. The problem of indemnities was settled to German satisfaction last November. German minority rights denied by the Communist Polish regime were fully restored to Germans still remaining in Poland by Mazowiecki's government. No complaints have been raised since.

Poland will never accept any international commitments which would infringe upon its sovereignty. It must be remembered that alleged discriminations against Sudeten Germans in Czechoslovakia and German minorities in Poland served Hitler as an excuse for aggression.

I do not want to appear as anti-Kohl. I have the highest regard for the German Chancellor as a statesman who is trying to serve his country's best interests. But I am not the only one who deplores his many gestures and pronouncements which unnecessarily reopen old wounds and bring back old memories. Here are a few examples.

1) Kohl made his visit to Poland subject to several conditions. One of them was that he would address German minorities in Silesia in the city of St. Ann Mountain. This was the battlefield of a bloody struggle between Germans and Poles over Silesia in 1921. The Poles were defeated. Hitler built a monument there with Nazi emblems to commemorate re-incorporation of Upper Silesia into the German Reich in 1939. The monument was destroyed after the war. The symbolism of a German Chancellor addressing his compatriots from this very place was much worse than Bittburg. And yet the Chancellor rejected Polish objections until he was told that if he insisted, the visit would be cancelled.

2) When the Chancellor spoke to Germans in Silesia in a non-controversial location, he was confronted with a banner and a slogan that read: "Helmut, you are our Chancellor, too." Kohl did not disassociate himself from this welcome, but Peter Schneider of the New York Times Magazine found later that the banner was brought from Munich to Poland by a group of expellees ("Is Anyone German There?", Peter Schneider, New York Times Magazine, April 15, 1990).

3) An alarm was sounded by Kohl's statement that the future Germany will be a fatherland to all Germans. Senator Claiborne Pell, Chairman of the Senate Foreign Relations Committee, rightly pointed out that Nazis used this same motto to justify Anschluss and to turn German citizens of neighboring states into Germany's fifth column.

4) Last August the German Press Agency—DPA—reported that the Parliamentary Secretary of State in the Ministry of German Affairs, Ottfried Henning from Kohl's CDU, proposed to the Soviet Minister of Foreign Trade the formation of a German duty-free zone in former East Prussia which now belongs to the Soviet Union. Germany offered to invest heavily in the area provided that the Soviets transfer there Germans settled two centuries ago on the Volga River. The idea of resettlement was not accepted by the Soviets. It was perceived in the Soviet Union and in Poland as the intended first step towards restoration of East Prussia.

5) The greatest concern was raised by Chancellor Kohl's private statement in Strasbourg, quoted by Margaret Thatcher in her interview with "Der Spiegel"; "I heard Helmut saying, 'I will not guarantee, I will not accept the present border."

This, I understand, was said privately as an expression of Kohl's personal feelings. It has been argued that when he speaks in public he is guided solely by his election considerations, since he cannot afford to lose the votes of nationalist elements that are raising the banner of territorial revisionism. The very fact, however, that the leader of the major party and the head of the government is willing to adopt this program as a price for election victory must be considered as dangerous for the future.

You may say that this is all past history since the Federal Government has issued a statement which will be passed as a resolution by both German parliaments and which recognizes that the Polish people have a right to live within secure borders and that the Germans will not put this right in doubt now or in the future through territorial claims.

But have Kohl and his supporters reversed themselves? This very question was put to the Chancellor by Horst Egon Rehnert, leader of the League of German Expellees. According to the New York Times of March 1, Rehnert emerged reassured from the meeting with Kohl and told the press that "the Chancellor did not move." "The resolution," Rehnert said, "will be a political Band-Aid to humor the Poles and those who insist that something has to be declared—no matter what." "In principle," he continued, "all this will be a repetition of the Bundestag resolution of last November."

The Polish government welcomes the proposed resolution but maintains the position that present treaties with both German states—which are binding in international law—cannot be replaced with unilateral resolutions or statements, which may be changed at will be any future government or parliament.

Poles do not reject Kohl's desire that the border treaty should be ratified by the parliament of a reunited Germany, provided only that this new treaty should simply consolidate two existing treaties into one instrument of international law and that technical negotiations to this effect should lead to the draft treaty being initiated before the reunification of Germany. They reject the idea that the frontiers should be considered an open issue and that negotiations should start from zero.

Let me add that the formula—"Poland has a right to live in secure borders"—is meaningless as long as Germany declines to say that they have the present borders in mind. And the pledge that Germans will not raise in the future any territorial claims remains ambiguous as long as the German courts and German political bodies claim that Germany exists within its pre-war borders. Do the Germans renounce territorial claims beyond the present borders or beyond the pre-war frontier of 1939? This question has to be answered.

The draft of a new treaty was sent by Warsaw to Bon towards the end of April. Negotiations are in progress. We hope and pray that they will be concluded by July, when Poland will participate in the Four-Plus-Two meeting. The reopening of international debate over territorial issues is not in anybody's interest.

A treaty between Poland and a reunited Germany will be an important step for psychological reasons. It will remove ambiguity and close any openings for extreme German nationalists on both sides of the Elbe River who would like to push Germany back to its old path. But the treaty will not solve everything. Many solemn treaties were violated in my lifetime. The settlement between governments should pave the way to friendship between people. It will take a long time. Negative stereotypes formed over centuries are not easily erased.

People of goodwill on both sides of Oder-Neisse River will have to join hands in a common effort to promote better mutual understanding, knowledge of each other, human contacts and an exchange of people.

I spent almost a quarter of a century in the lovely German city of Munich. I discovered that we have there not only implacable enemies but also dedicated friends who want a better future no less than we do. Germany is a great nation. Germany was made great not only by the extraordinary skill of its people, but above all by its magnificient spiritual heritage.

The United States made possible the postwar recovery of West Germany and Western Europe. The prestige and influence of America in the eastern part of the continent was never greater because the U.S. helped to regain freedom and democracy without asking anything in return. A reunited Germany has an historical chance to play the same role with Poland and all of East Central Europe. Germany, which would no longer be an enemy but a friend, not a threat but a source of hope, not the great state which wants to dominate, but to cooperate, would become a center of gravity of tremendous, attractive power—not only to Poland, but to other countries. Germany seeking territorial expansion would become a threat to the balance of power and to the integration of Europe. Germany, respecting the territoral integrity and independence of its neighbors, would become a pillar of Europe, and reunited in peace and liberty.

Poland is now at the crossroads between east and west. For Poland, the only road to a reunited Europe leads through a reunited and friendly Germany.

CONSTITUTIONAL AMENDMENT TO ABOLISH THE DEATH PENALTY

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. GONZALEZ. Mr. Speaker, violent crimes have unfortunately become a constant in our society. Every day people are robbed, raped, and murdered. We are surrounded by crime and yet feel helpless in our attempt to deter, to control, and to punish.

The sight of any brutal homicide excites a passion within us that demands retributive justice. We feel a righteous anger that stirs the depths of our being—we feel outraged at the heinous crime committed against the civilized society that we so strongly seek to maintain. Indeed, many of these brutal homicides, such as the rape and mutilation of a child, take us beyond the realms of reason. We have difficulty comprehending that which cannot be understood. How could anyone; why would anyone seek to destroy and desecrate not only the fabric of our society but also the fundamental respect accorded to the life of another? How could anyone despoil the dignity of life?

These questions unfortunately have no answers. We could search for eternity, seeking to explain the unexplainable, and we woud fail. Mr. Speaker, we who dedicate our lives to creating a better safer Nation will never comprehend the rationale of violent crime. But this incomprehension of the motivational force behind such an action does not relegate us to inaction. We can and must act. The atrocity of the crime must not cloud our judgment, and we must not let our righteous anger undermine the wisdom of our rationality. We can not allow ourselves to punish an incomprehensible action with a retaliation that is equally irrational. Violent crimes, indeed any crime, must be punished. But why must this punishment be capital?

I am here today to reintroduce a resolution proposing a constitutional amendment to prohibit capital punishment within the United States. I believe that the death penalty is an act of vengeance veiled as an instrument of justice. And revenge is not an acceptable motive for society to pursue. Not only do I believe that there are independently sufficient moral objections to the principle of capital punishment to warrant its abolition, but I also know that the death penalty is meted out to the poor, to a disproportionate number of minorities, and does not either deter crime or advance justice.

I agree, as we all do, with the United Nations Universal Declaration of Human Rights which states that "No one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment." The death penalty is torture. The psychological trauma of awaiting death, then having it incessantly postponed has caused mental illness in many death row criminals. Numerous examples exist emphasizing the cruelty of the execution. Witness Jimmy Lee Gray, who was executed in 1983 in the Mississippi gas chamber. During his execution he was reported to have repeatedly struck his head on a pole behind him in addition to experiencing convulsions for 8 minutes. The modernizaton to lethal injection serves only as an attempt to conceal the reality of cruel punishment. Witness the execution by lethal injection of James Autry in 1984. He took 10 minutes to die, and during much of that period he was conscious and complaining of pain.

Despite the obvious mental and physical trauma resulting from the imposition and execution of the death penalty, proponents insist that it fulfills some social need. This simply is not true. Studies fail to establish that the death penalty either has a unique value as a deterrent or is a more effective deterrent than life imprisonment. Of course, from a logical standpoint it would seem rationally sound to assume that the greater the penalty for a crime, the greater will be the consideration of the ramifications by persons of their actions. The problem is we are not always dealing with rational actions. Those who commit violent crimes do not always rationalize the consequences because many of these serious crimes are committed in moments of passion, rage, and fear, at times where irrationality reigns supreme.

Rather than act as a deterrent, some studies suggest that the death penalty may even have a brutalizing effect on the society. For example, Florida and Georgia, two of the States with the most executions since 1979, had an incease in homicides following the resumption of capital punishment. In 1984 in Georgia, the year after executions resumed, the homicide rate increased by 20 percent in a year when the national rate decreased by 5 percent.

Yes, execution undoubtedly prevents the criminal from repeating the crime, but this also fails to provide sufficient justification for the death penalty. The success enjoyed by abolitionist nations in protecting society by incarcerating dangerous criminals suggests that we can do likewise. My personal experience with a wrongful near execution shows that prosecutors and courts are capable of enough misconduct or error to lead to an unjust execution. The death penalty because of its finality can not be remedied or undone.

The empty echo of the death penalty asks for simple retribution. Proponents advocate that some crimes simply deserve death. This argument is ludicrous. If a murderer deserves death, I ask you why then do we not burn the arsonist or rape the rapist? Our justice system does not provide for such punishments because society comprehends that it must be founded on principles different from those it condemns. How can we condemn killing while condoning execution?

In practice, capital punishment has become a kind of grotesque lottery. It is more likely to be carried out in some States than others—in recent years more than half of the Nation's executions have occurred in two States—Texas and Florida. It is far more likely to be imposed against blacks than whites—the U.S. Supreme Court has assumed the validity of evidence that in Georgia those who murder whites were 11 times more likely to receive the death sentence than those who kill blacks, and that blacks who kill whites were almost 3

times as likely to be executed as whites who kill whites. It is most likely to be imposed upon the poor and uneducated—60 percent of death row inmates never finished high school. And even among those who have been sentenced to die, executions appear randomly imposed—in the decade since executions resumed in this country, well under 5 percent of the more than 2,500 death row inmates have in fact been put to death.

The imposition of the death sentence in such an uneven way is a powerful argument against it. The punishment is so random, so disproportionately applied in a few States, that it represents occasional retribution, not swift or sure justice. My fellow Members of Congress, I implore you to correct this national disgrace. Nearly all other Western democracies have abolished the death penalty without any ill effects; let us not be left behind. As we begin a new decade, let us release ourselves from the limitations of a barbaric tradition that serves only to undermine the very human rights which we seek to uphold.

TRIBUTE TO LAWRENCE J. SHINER

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. SANGMEISTER. Mr. Speaker, it is with great pride that I rise today to honor a constituent of the Fourth Congressional District, Mr. Lawrence J. Shiner, for his heroism.

Mr. Shiner recently was rewarded the Carnegie Medal by the Carnegie Hero Fund Commission.

On October 24, 1989 Mr. Shiner rescued Sherry L. Wilda from burning. Mrs. Wilda was the driver of a minibus that overturned onto its driver's side in a highway accident. Witnessing the accident, Mr. Shiner immediately ran to the bus. He climbed atop the bus and struggled to open its passenger door as the rear of the bus, where its fuel tank was located, caught fire. Propping the door open with his shoulder, he reached down for Mrs. Wilda, whom he then seized and pulled away from the bus as flames grew. After pushing Mrs. Wilda to the highway he jumped from the bus and carried her to safety. Within seconds the bus was engulfed in flames. Mrs. Wilda required hospital treatment for first- and second-degree burns. She recovered from her wounds, but owes her life to Mr. Shiner.

In this day and age it is rare to find individuals willing to reach out and help others. Lawrence Shiner is an outstanding example of courage and consideration. His actions deserve our recognition and thanks.

It is my pleasure to honor this outstanding individual for his courage and act of heroism and ask that you join me in extending our congratulations to him.

CONGRATULATIONS TO EDWARD J. LOWRY FOR HIS WORK WITH VETERANS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. FOGLIETTA. Mr. Speaker, I rise today to congratulate Edward J. Lowry for receiving the Veterans of Foreign Wars [VFW] Distinguished Service Award. Presented annually by the Department of Pennsylvania VFW, this is the State organization's highest honor.

Mr. Lowry has been executive director of the Philadelphia Veterans Multi-Service Center since 1981. During his tenure, the center has placed more than 4,000 veterans in career jobs.

The center has given help to veterans in a wide range of causes, including career guidance, job development and placement, disability compensation, posttraumatic stress disorder, drug and alcohol rehabilitation, and housing and emergency assistance.

Mr. Lowry has brought the center other great honors. For example, in November, 1989, the center was awarded a grant from the Agent Orange Class Assistance Program to help the children and families of Vietnam vets who may be suffering the effects of exposure to the agent orange defoliant.

Recently, the center started the first of a series of computer applications training programs for veterans. Each 12-week course teaches basic and advanced elements of computer applications, along with career guidance and counseling, and job placement upon completion of the program.

Mr. Lowry, congratulations on your prestigious honor. I am sure that I am joined in my applause by all the thousands of veterans who have received your helping hand.

AMBASSADOR MAX KAMPELMAN'S RETURN TO CSCE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. HOYER. Mr. Speaker, the Vienna follow-up meeting to the Conference on Security and Cooperation in Europe [CSCE] mandated a number of subsidiary activities leading to the fourth main followup meeting, to be held in Helsinki in 1992. One set of those meetings is the Conference on the Human Dimension of the CSCE, combining discussion of human rights, human contacts and other humanitarian issues into three 4-week meetings. The first of the CDH meetings took place in Paris in 1989. The second of those three meetings was held in Copenhagen from June 5 to 29, 1990. At the end of the meeting, the United States and the other 34 States participating in the CSCE Conference on the Human Dimension in Copenhagen adopted a far-reaching political document setting forth ambitious new goals in the areas of free elections, rule of law, and minority rights. It is a document that expresses the conviction that as part of an expanding CSCE process the role of governments in ensuring the rights of individuals is to be strengthened institutionally and procedurally.

Mr. Speaker, many people contributed to the successful outcome of the Copenhagen Conference on the Human Dimension, including several Helsinki Commission staff members. But one individual deserves much of the credit, for it was his masterful leadership, clear vision, and steady direction that guided the process throughout. I speak of Ambassador Max Kampleman, who was head of the United States delegation to the Copenhagen Meeting. Ambassador Kampelman served in a similar capacity during the Madrid CSCE followup meeting. It is a fitting commentary that a leader of Ambassador Kampelman's stature was recalled by the U.S. Government to meet the challenges facing CSCE today. He did so with eloquence and with strength of conviction.

Mr. Speaker, I respectfully request that Ambassador Max Kampelman's final plenary address on June 29 at the Copenhagen meeting be included as part of the CONGRESSIONAL RECORD. It is an eloquent statement of vision and hope but also one of warning. We must never become complacent for freedom can never be taken for granted. I urge my colleagues to read these remarks.

PLENARY REMARKS BY THE HONORABLE MAX M. KAMPELMAN

Mr. Chairman, our meeting comes to an end this morning. It has a been highly successful meeting. The Conference on Security and Cooperation in Europe [CSCE] has taken an extraordinary step forward in strengthening the human dimension portion of its responsibilities. The Copenhagen Concluding Document will be regarded by our successors as a major contribution to an historic process which is moving the peoples of our countries toward a period of increased security, stability, human dignity, and peace.

In this connection, Mr. Chairman, I express the most profound appreciation of my delegation to Ambassador Turk of Austria, who with his very conscientious and able associates from Finland, Hungary and Switzerland, labored intensely and constructively to produce for us a consensus behind a splendid document.

The Helsinki Final Act has again demonstrated its enduring qualities. What we have produced here, in the one month of our work together, represents, I believe, the most significant advance in the Helsinki process since the agreement itself came into being on August 1, 1975. We have now clothed our values in a political structure and framework—that of democracy and the rules of law.

The atmosphere of freedom which permeates Danish society, its gracious capital, and its heroic people, has contributed immensely to our work here. I wish to express my appreciation, and that of my Government not only to the Executive Secretary and his capable staff, but to the people and Government of Denmark whose spirit of freedom helped us to produce an extraordinary document of freedom.

The democratic revolution we are dramatically experiencing in Europe has been a triumph of the human spirit. It is a vindication of the values that have animated this process. The forces of freedom, embodied in

courageous men and women whose common bond is the aspiration for human dignity, have been energized in a remarkable and heartening way. They have changed the course of the 20th century. We have here properly reflected that change and pointed the direction for further change.

Yet, as the Irish poet Yeats said in another context, "All is changed; but not, alas, changed utterly." Freedom can never be taken for granted. Structures of freedom and political cultures supportive of democratic pluralism are the indispensable foundations for the democratic future of Europe. Strengthening those structures, and promoting political cultures which cherish pluralism as a precious human and national asset, are now and in the future essential components of the CSCE process.

What we have done here is to link the human dimension of CSCE to the process of democracy-building. That is why we have emphasized the rule of law: for it is only under the rule of law and a constitutional regime of liberties that human dignity can be preserved and democratic consolidation take place.

That is why we have emphasized the importance of free elections, the role of independent political parties, and the importance of international observers in the electoral process. An orderly, free, open, and regular process of testing the people's will is essential if governments are to have legitimate and effective authority to pursue the common good.

That is why we have emphasized constitutional and legal protection for the rights of minorities. Only when those safeguards are in place can the politics of persuasion replace the politics of coercion, fear, and intolerance.

Mr. Chairman, we have met in Copenhagen in the first year of the last decade of the 20th century—a century which Charles Dickens, had he lived among us, might well have described as "the best of times" and "the worst of times."

Ours has been a century of immense, unprecedented, and breathtaking scientific and technological progress. When I was a boy—which was, I add, not quite so long ago!—there were no vitamin tablets, no penicillin, no antibiotics, no trans-continental telephones, no fax machines, no Xerox, no frozen foods, no plastics, no man-made fibers, no television, no microchips, and no transistors. Today, you and I live in a world in which science and technology have dramatically altered our lives.

Education, formerly a privilege of a small elite, has now through computerization made the wisdom of the past and the intellectual explorations of the present readily available to the leaders of the future. Economic interaction has built bridges of cooperative enterprise across ancient national, racial, and ethnic boundaries. More than one trillion dollars a day is transferred daily from one part of our globe to another. Communications are virtually instantaneous across the planet. Indeed, while we have been meeting here in Copenhagen, more than two billion people around the world have been participating together, through television, in the same event—the World Cup. No state can, any longer, maintain a monopoly on information or keep its people from access to news. A whisper or a whimper in one remote corner of this planet can be heard in all parts of the world.

Yet, these great advances in the human condition have been paralleled in this century by what often seem to be intractable political conflicts. Hundreds of millions of lives have been lost: tens of millions in war, and an even greater number through political violence and repression.

It is as if the world of politics remained in the dark ages while our scientific, technological and communications worlds moved ahead to the tomorrows of modern civilization.

A secure peace, within and among nations, can only be built on the foundation of the institutions of freedom which protect and develop the inherent dignity and inviolable worth of every human being. It is peace with liberty that we seek. And it is that peace which the Helsinki process has striven to attain.

The Helsinki process has entered a new phase. Democracy-building, we know, is a never-ending task. All of us are constantly testing, as our former president Abraham Lincoln said in his famous Gettysburg Address, whether nations "conceived in liberty and dedicated to the proposition that all men are created equal" can "long endure." As we in the United States reflect on our own efforts to strengthen and deepen our democracy, and as we think about the remarkable process of democratic consolidation that we see in the new democracies of central and eastern Europe, we know that there is important work still left before us.

Our fourth President, James Madison, one of the most learned framers of the American Constitution, taught that freedom was not secured simply by the "parchment barriers" of constitutional and legal texts. These had to be given life by democratic institutions and by the virtues and habits of a people. Tolerance of others; respect for the rule of law; the willingness to compromise and to renounce violence as a means to redress grievances; the capacity to cherish and celebrate the cultural, ethnic, and religious heritage of others as precious stones in the human mosaic—these "virtues" are essential components of a political culture which can sustain and develop the institutions of democratic governance.

Civic virtue is nourished, in considerable part, by the free association of citizens in voluntary organizations: religious institutions; trade unions; business associations; political parties; non-governmental human rights organizations; agencies that care, as a matter of conscience, for the weak, poor, the illiterate, the sick, the elderly, and the dying. The great religious traditions of Europe are an essential part of that democratic process. When people believe it to be the will of God that they not murder or maim or violate each other over what constitutes the will of God, a tremendous step toward building a culture of true freedom has been taken. A society with a robust sector of private, voluntary organizations is a society in which tensile strength of democratic culture is less likely to go slack in times of difficulty. Our concluding document reflects this reality.

Mr. Chairman, we are living in a time when no society can isolate itself or its people from ideas and information; or from the changes which the scientific revolution has brought into all our lives; or from the ebbs and flows of commerce; or from the effects of modern technology. Canada cannot protect itself from acid rain without the collaboration of the United States. The Mediterranean is polluted by at least 18 different countries. Science, technology, and commerce are increasingly turning national boundaries into patterns of lace through which can flow ideas, money, people, crime, terrorism, ballistic missiles—none of which recognize national boundaries. National boundaries can be used to keep out vaccines, but they cannot keep out germs, or broadcasts, or ideas.

This suggests, among many other things, the need to reappraise traditional understandings of sovereignty. That process is already well-underway. Nations are, by agreement, curtailing their sovereign power over many domestic and security affairs for the sake of a larger good. Under the Universal Declaration of Human Rights and the Helsinki Final Act, States have freely agreed to treat their own citizens in a humane and responsible manner. States have recognized the right of other States to evaluate that internal behavior. On-site inspectors have been given the right to inspect military facilities and observe maneuvers as confidence-building measures and as a means to verify arms control and arms reduction agreements. In this conference, we have extended that principle and agreed to the confidence-building measure of observing elections.

No country can be secure in isolation. We cannot achieve unilateral security by withdrawing from the world, or seeking national impregnability. Peace, freedom, and security require that we learn to accept, in each of our countries, a mutual responsibility for the security and dignity of peoples in other countries. We cannot escape from one another. We are bound together in an equation that makes the security of each of us dependent on the security of the others.

Mr. Chairman, we have come to understand, perhaps even more clearly than was understood by our predecessors at Helsinki in 1975, that the security dimension of CSCE and the human dimension of CSCE are mutually reinforcing. They are, in fact, two aspects of our common quest for peace-with-freedom-and-security.

This past year, we suffered a profound loss in the death of one of the true heroes of our century, Dr. Andrei Sakharov of the Soviet Union. In the 1975 Nobel Peace Prize speech which he was not permitted to deliver in person, Andrei Sakharov said this: "I am convinced that international trust, mutual understanding, disarmament, and international security are inconceivable without an open society with freedom of information, freedom of conscience, the right to publish, and the right to travel and choose the country in which one wishes to live."

We have, since 1975, made great strides toward realizing the kind of Europe that Andrei Sakharov envisioned. Copenhagen has added a major dimension to that forward movement, perhaps the most fundamental since 1975. There is more work to do, greater effort to make. We look ahead to our Moscow meeting in September 1991 as a waystation toward fulfilling our future responsibilities.

Change is never easy; it can be frightening. But the political, economic, and scientific changes we are witnessing today hold out the prospect of a world catching up with the demand for decency, fairness, tolerance, and freedom that now energizes tens of millions of human beings around the world. Historic forces for democratic change are at work, and we can be proud that our Copenhagen deliberations have played an important role in their evolution.

When we are growing up, Mr. Chairman, we are taught not to be afraid of the dark. In this moment of history, so pregnant with hope and the promise of a free and decent

tomorrow, I respectfully suggest that we must not be afraid of the light—and of where the light can take us.

JOFI JOSEPH WINS CITIZEN BEE COMPETITION

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. VANDER JAGT. Mr. Speaker, I rise today to offer my wholehearted congratulations to one of my outstanding young constituents, Jofi Joseph of Muskegon, MI. Jofi, a graduate of Muskegon Catholic High School, is the winner of the fifth National Citizen Bee competition conducted by the Close Up Foundation. Members may already know the Citizen Bee challenges high school students on their knowledge of American history, government, geography, economics, and current events. What you may not know is that this educational competition was originally developed by Dr. Robert J. Clarke and the Citizen Bee Association of Grand Rapids, MI.

It was no easy feat for Jofi to become the National Citizen Bee winner. Approximately 50,000 students from 40 States, Guam, American Samoa, and Department of Defense Dependent Schools participated in school, regional, and State competitions throughout the year. Ninety-nine other students joined Jofi in Washington for the national finals answering questions that would baffle most Members of Congress. Mr. Speaker, I want to offer congratulations to each of these finalists for the countless hours of study and preparation which this rigorous competition demands, and I ask that a list of all the finalists be entered in the RECORD at the end of my statement.

At a time when our Nation's attention has been directed to the lack of civic knowledge among young people, it was refreshing to meet with this young man and learn more about one organization's work to reverse this trend. The Citizen Bee is yet another successful program of the Close Up Foundation. It is unique in that it combines the talents and determination of the student participants with the encouragement and dedication of their teachers, parents, and community sponsors that spent long hours preparing for the competitions.

Mr. Speaker, I would like to also express my gratitude to all of the local, State, and national sponsors who helped to provide this learning opportunity for our young people. Specifically I would like to thank the national sponsors—the Milken Family Foundation, the Burger King Corp., Kraft General Foods, and KPMG Peat Marwick; and the Michigan sponsors—the Michigan Department of Education, Michigan State Board of Education, Consumers Power Co., the Detroit News, Gerald R. Ford Museum, Guardian Industries Corp., and Meijer, Inc.

Again, please join me in expressing enthusiastic congratulations to Jofi Joseph of Muskegon. He and his family should be very proud of his outstanding accomplishment. I know my colleagues in the House will join me in wishing him and the other Citizen Bee finalists continued success in their studies and throughout their lives.

The following is a list of the Citizen Bee State winners and an article that appeared in the Muskegon Chronicle regarding this competition and Jofi's outstanding accomplishment.

CITIZEN BEE STATE WINNERS

Alabama: Tracy Lynn, Albertville; Stephen Thompson, Prattville; David F. Cook, Florence.

Alaska: Thomas Wilson, Soldotna; Kurt Niebuhr, North Pole.

Arizona: Frank Pasquale III, Phoenix; Edward Kim, Glendale.

Arkansas: Debasish Bhattacharyya, Pine Bluff; Ajay Patel, Fort Smith; Shane Smith, Beebe.

California: Everett Wai Kitt Chun, San Gabriel; Ivo Labar, San Pedro; Aarti Verma, Walnut.

Colorado: Sean Stallings, Colorado Springs; Craig Holton, Delta.

Delaware: R. Vaughan Williams, Wilmington; Vipul Tandon, Hockessin.

Department of Defense Dependents Schools: Krysta Davis, West Germany.

District of Columbia: Kadeshia Matthews, Washington.

Florida: Steve Heckler, Ft. Myers; Anthony Gancarski, Jacksonville; Christopher Hand, Jacksonville.

Guam: Shane Mize, Agat.

Hawaii: Simon Wong, Honolulu; Michael Immings, Aiea.

Iowa: Molly Holz, Ames; Benn Kuecker, Eagle Grove; Chad Morgan, Harlan.

Kansas: Matthew Strong, Towanda; Kenneth Hofer, St. Paul.

Kentucky: Randall Fine, Lexington; Michiele Langley, Lebanon.

Maine: Michelle Guillemette, Sanford; Heather Searles, Gray.

Maryland: John Davidson, Bethesda; Narayanan Kannappan, Greenbelt.

Massachusetts: Johnny Su, Northboro; Madeline Silverman, Revere.

Michigan: Jofi Joseph, Muskegon; Jason Carr, Hastings; Justin Bauer, Utica.

Minnesota: Jacinta Goering, Montevideo; Mark Schmitz, Southland; Tim Rummel, Fridley.

Mississippi: Amie Chapman, Horn Lake; Russell Nord, Jackson.

Missouri: David Grebe, St. Charles; Eve-Lynn Nelson, Springfield.

Nebraska: Lance E. Schupbach, Crete; Beth Kirschbaum, Omaha.

Nevada: Matthew Jones, Reno; Jonathan Conley, Sparks.

New Hampshire: Travis Blais, Manchester; Christopher Arnold, Nashua.

New Mexico: Anna Richardson, Clovis; Matthew R. Chrisman, Lake Arthur.

New York: John Van DeWeert, Dryden; Samuel Thompson, Albany; Jeffrey Haring, Champlain.

North Carolina: Jamie Smarr, Gastonia; Robert Brady, Jr., Burlington; Robert Waters, Brevard.

North Dakota: Carlton Larson, Dickinson; David Isaak, Bismarck.

Ohio: Ken Robinson, The Plains; Timothy Wyse, Genoa; Julie Cutlip, Jeromesville; Paul Rinkes, Martins Ferry; Matthew Eayre, Wyoming; Benjamin Wright, Lima.

Oklahoma: James Marshall, III, Enid; Theodore Waller, Preston; Jennifer Carr, Fort Gibson; Nathan Hobbs, Norman.

Oregon: Katherine Stock, Sweet Home; Syra Johnson, Portland.

Pennsylvania: Faisal Chaudhry, Stroudsburg; Christopher Kramer, Schuylkill Haven.

Rhode Island: William T. Johnson III, Warwick; Alan Presel, Cranston.

South Dakota: Dan Stanton, Rapid City; Beth English, Sioux Falls.

Tennessee: Gayle Livingston, Ooltewah; Michael Everton, Memphis.

Texas: Gautam Dutta, Irving; Steve Bartels, Houston; Barry Boyett, Houston; Won B. Lee, Pflugerville.

Utah: Matt Goff, Clinton; Amanda McPeck, Ogden.

Vermont: Mike Beller, Charlotte; Maxwell X. Schnurer, Bennington.

Virginia: Derek Baxter, Fairfax; Timothy Jarrett, Newport News.

Washington: Mel Wheaton, Spokane; Eric Daume, Brush Prairie.

Wisconsin: Dan Henning, Oshkosh; Kori Krueger, Antigo.

Wyoming: Erik Babel, Saratoga; Dixie Dick, Wheatland.

[From The Muskegon (MI) Chronicle, June 19, 1990]

MUSKEGON YOUTH WINS NATIONAL CITIZEN BEE

(By Mike Magner)

WASHINGTON.—The third time in the national Citizen Bee was a charm for Jofi Joseph of Muskegon.

Joseph, 17, who graduated from Muskegon Catholic Central High School this spring, capped a three-year career in the Close Up Foundation's social studies competition Monday by winning the national title and a $7,000 scholarship.

He compiled 143 out of a possible 150 points by correctly answering written and oral questions about American history, government, geography, economics, current events and culture. The second-place finisher, Derek Baxter of Fairfax, VA., finished with 136 points.

"It's a great feeling of relief," Joseph said after the two-day event in the Smithsonian Museum of Natural History. "I won't have to do this anymore."

Joseph won local, regional and state contests to get to Washington for the third time. He finished third in the national competition after his freshman year in 1987, he was ineligible to compete as a sophomore, and he finished fifth last year.

Errors on only two questions kept Joseph from a perfect score in Monday's competition against 15 finalists who had survived Sundays written exam when he listed one of the president's military powers as being able to commission officers. The judges decided his answer was incorrect, and Joseph's appeal was denied.

Then Joseph lost six points in the oral contest by incorrectly answering this question: "If you travel in a straight line from Cheyenne, Wyoming, to Chicago, Illinois, what two states and what river at the Illinois border do you cross?

Joseph said Colorado, Iowa and the Mississippi River. The correct answer was Nebraska, Iowa and the Mississippi River.

"Obviously, geography is not my favorite subject," he told the audience as he accepted his first-place award. He said he will use his scholarship next year at Georgetown University in international relations studies.

Joseph said his previous losses were useful this time around: "The experience is so important because you know what type of questions they'll ask."

He said he was especially strengthened by his experience last year, when he was 11

points ahead going into the oral competition, then blew the first question, worth 14 points.

"I would never have lived with myself if I had lost it in the last round," he said.

The final question to Joseph, which was good for 12 points, was to define letters of marque and reprisal and say what branch of government the Constitution empowered to grant them.

The Constitution empowered Congress to grant such letters, authorizing private ships to attack enemy vessels in wartime.

"I'm really proud of him," said Joseph's father, John Joseph, who rehabilitates houses in Muskegon. "There's always a luck factor involved, but he worked very hard."

"He's really a self-made scholar," said Pat O'Toole, assistant principal of Muskegon Catholic. Joseph asked that the school join the Citizen Bee when he registered as a freshman, O'Toole recalled.

"It really was his own initiative and his own goal," she said. "He certainly has raised the level of awareness of social studies at the school, both in teachers and students."

Joseph became the first Michigan winner of the Citizen Bee since it went national in 1985. The first bee was held in Kent County in 1981 under the sponsorship of the Grand Rapids Press. The concept was originated by Robert Clarke, a political science professor at Grand Valley State University.

INTRODUCTION OF THE INDIAN FINANCE CORPORATION ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. RICHARDSON. Mr. Speaker, today I am proud to introduce legislation creating the Indian Finance Corporation. The 100th Congress passed similar legislation and sent it to the White House where, unfortunately, it was rocket vetoed. I remain committed, however, to establishing this institution, one which will allow American Indian communities to break a cycle of poverty and economic stagnation.

American Indians currently suffer one of the Nation's highest unemployment rates. The unemployment rate of the largest reservation, the Navajo, is 37 percent—seven times higher than the national average. Other reservations across the country have unemployment rates exceeding 50 percent. The millions of dollars spent by the Federal Government over the past 20 years have not broken this cycle of unemployment and poverty.

Progress in overcoming the conditions of extreme poverty and its attendant social problems on reservations can only be met if we create institutions that will foster sustained economic growth over the longterm. Such institutions must enable Indian peoples to do for themselves rather than have the Government do for them. In this very important sense, the Indian Finance Corporation will foster the self-sufficiency and independence which tribes so desire.

The Indian Finance Corporation will spur economic development by furnishing the necessary capital, financial services, and technical assistance to Indian owned business enterprises and will stimulate the development of the private sector of tribal economies. I believe it will usher in a new era of growth for Indian enterprises and economies.

Mr. Speaker, I look forward to working with all interested parties to see that the Indian Finance Corporation becomes a reality. I truly believe this is critical legislation not only for those of us who represent Indian country, but for all Members who would like to see the American Indian community share in our Nation's prosperity.

RATIONAL APPROACH TO AIDS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. GINGRICH. Mr. Speaker, I would like to share with my colleagues a recent column by Peter Kent which appeared in the Atlanta Journal. His cogent explanation of a rational approach to AIDS is worthy of every Member's consideration.

[From the Atlanta Journal July 2, 1990]

WE DIE, THEY DO NOTHING—NOTHING IS MORE UNTRUE

(By Peter Kent)

"Shame, shame. We die, they do nothing."

Protesting the federal government's response to the AIDS epidemic, the angry chants of militant AIDS activists drowned out U.S. Health and Human Services Secretary Louis Sullivan's speech to the sixth International Conference on AIDS convened in San Francisco two weeks ago.

"Shame, shame. We die, they do nothing."

Had AIDS activists listend to Dr. Sullivan, they would have heard that the Bush administration opposes Sen. Jesse Helm's legislation to prohibit AIDS-infected people from handling food.

"Shame, shame. We die, they do nothing."

Federal funding for AIDS research and treatment this year will exceed $1.5 billion. Washington now spends more on AIDS than any other disease. Relative to its public health impact, AIDS is funded disproportionately well. In 10 years AIDS has killed 83,000 people in the United States. Heart disease kills 83,000 Americans every six weeks; cancer claims that many every nine weeks.

"Shame, shame. We die, they do nothing."

Current congressional measures call for spending between $2.9 billion and $4 billion more during the next five years for AIDS. Most of the money will be allocated for expanding Medicaid to people infected with AIDS who now do not qualify for benefits. The increases will cost an additional $600 million annually. Medicaid payments for AIDS are projected to reach $670 million this year alone.

"Shame, shame, We die, they do nothing."

While neither a cure nor a vaccine has been discovered for AIDS, scientists have not only come to understand the disease but also have developed a drug for its treatment within a remarkably short research time span. At the insistence of AIDS activists, the Federal Drug Administration waived its lengthy drug-testing process and initiated a fast-track testing procedure, speeding up the availability of any new AIDS drugs.

"Shame, shame. We die, they do nothing."

AIDS, for the most part is preventable. Infection typically requires persistent involvement in risky personal behaviors—engaging in unsafe sexual activities and sharing drug syringes. For a behavior-induced disease, society has shown considerable compassion, providing funding for AIDS exclusively and resisting misguided attempts at AIDS discrimination. America's response to AIDS is not unblemished, but it hardly merits the hostility, resentment—and, yes, ingratitude—expressed by AIDS activists.

"Shame, shame. We die, they do nothing."

Nothing is more untrue.

THE 134TH ANNIVERSARY OF THE BIRTH OF NIKOLA TESLA

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. RINALDO. Mr. Speaker, this week the Serbian American community celebrates the 134th anniversary of the birth of Nikola Tesla, a distinguished scientist and inventor.

Nikola Tesla, son of a Serbian Orthodox clergyman, was born on July 10, 1856, at Smiljan in the Lika region of what is now Yugoslavia. He emigrated to the United States at the age of 28 and 5 years later became an American citizen. He died in New York City on January 7, 1943.

Tesla's inventions radically altered the world in which we live. He invented the alternating-current motor that made universal transmission and distribution practicable. He invented modern radio technology, the bladeless turbine, and fluorescent lighting. Tesla introduced us to the fundamentals of robotry, computers, and missile science and helped pave the way for such space-age technologies as satellites, microwaves, and lasar beam weapons and nuclear fusion.

Tesla had a spectacular career in research and invention. By the turn of the century his accomplishments had made the name of Tesla as world famous as that of Edison.

Tesla's outstanding contributions to our way of life deserve special recognition as well as our gratitude, and on the anniversary of his birth, it is appropriate that Congress honor this great American.

ARMY CORPS REPORT TO CONGRESS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. PORTER. Mr. Speaker, section 47(b) of the Water Resources Development Act of 1988 required the U.S. Army Corps of Engineers to report to Congress on a proposed landfill project in Illinois.

I consider construction of the proposed project to be one of my highest priorities in Congress, and I submit for your consideration the executive summary of the Army Corps report to Congress.

The information follows:

REPORT TO CONGRESS ON THE IMPACT OF A PROPOSED MUNICIPAL LANDFILL (BALEFILL) ON THE NEWARK VALLEY AQUIFER

REPORT PURPOSE

This report was prepared in accordance with the requirements of Section 47(b) of the Water Resources Development Act of 1988 (WRDA), which states that: 1) the Secretary of the Army must provide a report to Congress on the impact of a sanitary landfill proposed to be built in Bartlett, Illinois on the Newark Valley Aquifer; 2) the Secretary of the Army shall consult with the Administrator of the Environmental Protection Agency with respect to the impact of such landfill on the Newark Valley Aquifer; and 3) the Secretary of the Army shall consider the impact of such landfill on the ability of water from the Newark Valley Aquifer to dilute naturally occurring radium in ground water to meet the USEPA mandated standard for drinking water supply.

SYNOPSIS AND CONCLUSIONS

As required by the 1988 WRDA (See Annex B—Congressional Requirements), the U.S. Army Corps of Engineers has:

1. Considered "the imapct of such landfill on the Newark Valley Aquifer."

It has been concluded that as long as the landfill is constructed, operated, and maintained as designed, and the additional recommendations of this report are implemented, then there is virtually no risk to the Newark Valley Aquifer from the landfill (Balefill) project.

2. Consulted with the United States Environmental Protection Agency (USEPA) "with respect to the impact of such landfill on the Newark Valley Aquifer."

Attachment 8 to this report summarizes the formal consultation meetings between the Corps and USEPA. Attachment 9 to this report contains copies of the correspondence indicating the consultation ended in general agreement about the conclusions and recommendations of this report.

3. Considered "the impact of such landfill * * * on the ability of water from such Aquifer to dilute for purposes of drinking water supply naturally occurring radium in groundwater."

The Corps, concluded that as long as the landfill is constructed, operated, and maintained as designed, and the additional recommendations of this report are implemented, the ability of water from the Newark Valley Aquifer to dilute radium enriched groundwater for purposes of drinking water supply will not be impacted by this project.

GENERAL OVERVIEW

The sanitary landfill (known locally as the Balefill) is designed to be a multi-lined, inward gradient facility with full leachate and active gas collection systems. The Balefill would consist of six waste disposal cells which would provide solid waste disposal space for approximately 800,000 residents of northwest Cook County, Illinois for 15 to 20 years. The Balefill would be located approximately 3,000 feet east of the Newark Valley Aquifer, a major source of drinking water for the region. (See ANNEX A—Project Overview).

FINDINGS AND RECOMMENDATIONS

The Chicago District, U.S. Army Corps of Engineers conducted a technical review of information provided by the project's design engineers, the U.S. Environmental Protection Agency, and other sources. Based on this review, the Chicago District has made the following conclusions and recommendations. (Expanded discussions can be found in ANNEX C—Technical Review and ANNEX D—Conclusions and Recommendations).

1. Findings.

a. The permeability of the recompacted till liner can meet or exceed the requirements of the Illinois Environmental Protection Agency (IEPA).

b. The liner system design meets or exceeds IEPA standards.

c. The applicant's plan to locate weaknesses in the in situ till by conducting one boring per acre exceeds IEPA standards.

d. The applicant has satisfactorily addressed all of the potential failure problems with the leachate collection system, except ensuring long term performance.

e. The applicant's leachate monitoring plan is in compliance with the IEPA development permit.

f. Water from the Newark Valley Aquifer can be used to dilute radium enriched groundwater for the purposes of drinking water supply.

g. There is virtually no risk to the Newark Valley Aquifer from the landfill (Balefill) project, as long as the landfill is constructed, operated, and maintained as designed.

2. Recommendations.

a. The Balefill must be properly maintained over an extended period of time (at least forty years after closure) to ensure the continued safety of the site.

b. Because of the great dependence on engineered systems to prevent groundwater contamination, and independent Quality Assurance Program should be implemented in conjunction with the applicant's Quality Control Plan during the project construction phase.

c. The Chicago District recommends that one of the following measures of protection be added to the proposed liner system:

(1). The applicant should excavate and recompact the in situ till to a depth of ten feet below the project site; or

(2). The applicant should increase the number of exploratory borings and conduct mini-pump tests (to verify the permeability of the in situ till). If sand seams are discovered in the till, the applicant must excavate and recompact the till to a depth of ten feet; or

(3). The applicant should supplement the proposed borings with mini-pump tests and a series of closely spaced inspection trenches. These inspection trenches and any identified sand layers would be filled with recompacted clay; or

(4). The applicant could supplement alternative two or three with geophysical testing or other methods such as cone penetration. The applicant would conduct borings at locations identified by the testing methods as potential sand seams and if any sand seams are discovered, the applicant must excavate and recompact the till to a depth of ten feet.

d. Although the possibility of the simultaneous failure of all engineered systems is not a realistic occurrence, the Chicago District recommends that failure scenarios and action plans to remediate these possible scenarios be developed so that they are ready for implementation if necessary.

JESS J. FRANCO, JR. P.E.,

LTC, Corps of Engineers,
District Engineer

A CONGRESSIONAL SALUTE TO RALPH G. CHADWICK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to Ralph Chadwick on the completion of his term as president of the Wilmington, CA Chamber of Commerce. During his tenure, Ralph displayed an exemplary record of civic leadership. He served the Wilmington Chamber of Commerce as a member of the board of directors from 1982 until assuming the presidency, and earned the universal admiration of his fellow members for his distinctive leadership.

Ralph and his wife Gloria have owned and operated Chadwick Enterprises since 1980. Prior to opening up the present family business, Ralph served 33 years in education. He first served as an elementary and junior high school teacher, then as a teacher and department chairman of mathematics at Lynwood High School, and finally as professor of technical mathematics and associate dean of technology at Cerritos College.

In his younger years, Ralph spent his weekends serving his country at sea. A retired commander of the U.S. Naval Reserve with 33 years of service, he was also an instructor at the Naval College Prep School. He also served a stint as the commanding officer of the Reserve Surface Division at Terminal Island.

Never tiring of assuming extra community duties, Ralph still somehow finds the time after work and the chamber to be staff commodore of both the Southern California Cruiser Association and the Pacific Coast Yachting Association. He also pursues his marine interests as flotilla commander of the U.S. Coast Guard Auxiliary.

Ralph has given us all a true example of a life of service. My wife, Lee, joins me in extending this congressional salute to him in honor of his years of contribution to the community.

"HELSINKI HUMAN RIGHTS DAY" LEGISLATION

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. HOYER. Mr. Speaker, today I, as cochairman of the Helsinki Commission, along with my 8 House colleagues on the Commission, and more than 30 Members of this body are introducing legislation which would designate August 1, 1990, as "Helsinki Human Rights Day." This legislation is identical to legislation which unanimously passed the Senate on June 29, 1990.

Since the signing of the Helsinki Final Act in 1975, much has been accomplished to secure and protect the human rights of citizens in the 35 signatory countries. Although there have been periods of tension and intransigence

during the last 15 years, great progress has been made in acknowledging the value of the individual and in preserving the rights thereof.

Indeed, Mr. Speaker, events in just the past few months highlight both the advances in this area and the failures that have yet to be avoided. The allowed emigration of tens of thousands of individuals from the Soviet Union stands as an example of major headway in restoring the rights of the individual. On the other hand, the violent suppression of anti-Government protesters in Romania and the continued detention of Romanian Students League leader Marian Munteanu and over 100 others stands as a reminder of the Government's blatant and regrettable disregard of the rights of Romanian citizens.

These events depict the present mix of significant, valuable progress and yet continuing failures to guarantee human rights within the 35 signatory states. In order to acknowledge the accomplishments, but also to press on toward greater improvement in this area, I urge my colleagues to join me in cosponsoring and supporting this legislation that designates August 1, 1990 and "Helsinki Human Rights Day."

THE RESPONSIBILITIES OF BEING A CITIZEN OF THE UNITED STATES

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. PICKLE. Mr. Speaker, we return to Washington today having spent the past 10 days in our districts, and among out activities I'm sure we all celebrated the 214th anniversary of the Declaration of Independence on July 4.

For most Americans, the Fourth of July is one of the most meaningful celebrations of what it means to be a citizen of the United States. But some Americans, those born in foreign countries who become citizens by their own choice through naturalization, also make their own personal declaration of independence. I'm sure most of my colleagues have spoken to newly naturalized citizens and have been deeply moved on such occasions, as I have.

I recently received a copy of remarks delivered at one such naturalization ceremony. The speaker on this occasion was Jordan W. Cowman, the senior law clerk to U.S. District Judge Joe J. Fisher of the Eastern District of Texas in Beaumont. Mr. Cowman is from Austin in my district and is a graduate of the University of Texas and the University of Texas School of Law.

Mr. Speaker, I commend Mr. Cowman's comments to my colleagues. I think they will agree that these remarks illuminate the responsibilities which come to each of us along with the rights of freedom and liberty.

REMARKS OF JORDAN W. COWMAN

My fellow Countrymen:

It is my great pleasure to address you on this important day in your life. You have just become citizens of the greatest nation in the world—The United States of America. This is an accomplishment that has no equal. It is the fulfillment of a dream. You have made the choice to come to America, and we welcome you with open arms.

Now that you are citizens of this nation, you have a status that is respected and coveted throughout the world. As Americans, we enjoy political freedom and rights that are unprecedented in human history. In 1776, our Founding Fathers, in the Declaration of Independence, made clear that our Nation is based on the premise that all people are created equal, and have unalienable rights to life, liberty, and the pursuit of happiness. Toward this end, our Founding Fathers set out to form a government dedicated to these propositions. Listen to the words of the Preamble to the Constitution:

"We the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

Our Constitution, the Law of the Land, guarantees that we are equal before the law. The first ten Amendments to our Constitution are known as the Bill of Rights. The Bill of Rights defines and guarantees a wide range of our precious rights and freedoms. For example, we have the freedom of religion, a free press, and the right to free speech. Our property cannot be taken from us without due process of law. We are protected from unreasonable searches and seizures. But the right that is the most cherished, the one above all others, is the right to pass judgment on our leaders. We must exercise this right with courage and wisdom. If our leaders do not carry out the will of the people, our will, we will vote them out of office. This is our right and our duty as Americans.

As you can see, citizenship brings with it tremendous benefits. But with those tremendous benefits come tremendous responsibilities. You have just taken an oath of allegiance to this country. But this is only the beginning.

From the inception of this Nation, Americans have had a profound sense of duty, honor, and country. We value our freedom above all else. Patrick Henry, a great American Patriot, said in his Call to Arms: "I know not what course others may take; but as for me, give me liberty or give me death." This is the spirit that lives within every American, and we each are charged with upholding the principles for which our Nation stands.

* * * * *

The greatest threat to our country is not that of foreign nations, but rather complacency in our citizens. Those of us who were fortunate enough to be born here often taken citizenship for granted. That is the reason you are in a unique situation. You each have a story, a great story, of what it took to get to America and why you chose to come here. You have that pioneer spirit which has always been the force behind America's success. Every American has that spirit within them. It needs only to be rekindled and set ablaze. I charge you now to go forward and continue the ideals of freedom, equality, liberty, and justice. For without a healthy respect and jealousy of these unique rights that are bestowed upon us as our birthright, or by choice, we will be the slaves to our government rather than the masters of our government.

Democracy works. Freedom works. America works. Our country continues working because of strong people like yourselves who have gone through much personal sacrifice to be here today. You are the lifeblood of America. You remind us that we derive our strength from the diversity of our population. We are a melting pot, a nation of immigrants. You are the newest citizens. You are the bold, adventurous ones who followed your dreams and turned those dreams into reality. Study American History, and become good, law-abiding citizens.

As new citizens, you are entitled to share in the blessing of liberty and freedom that is sacred to us all. This is a significant occassion for all Americans. It is time for us to devote ourselves to the achievement of the aspirations of the Patriots who founded this great Nation. American citizenship is a precious privilege indeed. Exercise your rights and privileges and enjoy the benefits of American life. But do not forget that these rights and privileges have corresponding duties and obligations. You must love this Country. You must vote. You must serve on juries when called upon to do so. You must be willing to defend this Country and die for this Country.

EDWARD ORTIZ

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. RICHARDSON. Mr. Speaker, New Mexico suffered a tragic loss this week with the death of Edward Ortiz, superintendent of the Santa Fe Public Schools for the past 7 years. Mr. Ortiz died Tuesday of complications during surgery at 53.

Mr. Ortiz was a native of Santa Fe and attended local schools. He began his education career as a junior high English teacher in 1959 and served as principal of that school for 5 years. He was administrative assistant to a former superintendent of schools in Santa Fe and in 1971 became assistant superintendent for personnel.

But Edward Ortiz was far more important to Santa Fe's education community than even his impressive résumé would suggest. He served as a bridge between many different cultural and other special interest groups and provided leadership in ushering in educational reforms.

Said Santa Fe school board member Michael Gross, "He was the heart and soul of Santa Fe education."

Mr. Speaker, these are perilous times for education in our country and educators with vision are too few. I ask my colleagues to join me in saluting one who accomplished much in the field he loved.

SOUND BUDGET ADVICE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. GINGRICH. Mr. Speaker, I would like to call my colleagues' attention to a column which appeared in the Atlanta Journal. Bob Akerman has very sound advice for the Presi-

dent and the Congress to consider during the budget process. His position on controlling spending and enforcing the budget is exactly right.

[From the Atlanta Journal, July 9, 1990]

GEORGE BUSH RUNS THE RISK OF BEING "HOOVERIZED"

(By Robert Akerman)

I'm one of those who doesn't believe that a tax increase is the answer to the budget deficit problem, and if it ever was, it certainly isn't now. When the experts say there has been an alarming increase in projected deficits because federal revenue isn't growing as fast as predicted, that means we are either in a recession or heading for one.

And what school of economics advocates raising taxes in the face of a recession? It certainly isn't the supply-side school, nor is it the Keynesians. In fact, the last president who sought a tax increase to balance the budget in a time of declining revenue was—well, Herbert Hoover. It didn't work for him.

But George Bush now lists "tax revenue increases" as a necessity for solving a budget crisis, and the Democratic politicans and Washington pundits have been quick to trumpet that this means he has abandoned his "no new taxes" pledge.

At first, I doubted it. Democratic politicians have reasons for wanting us to think that George Bush is breaking his promise, so when the word comes out of Washington that he is doing it, it doesn't necessarily mean that he is.

I still say that before a final judgment is made, we must see what deal, if any, emerges from the budget summit. But the president's press conference explanation of his "tax revenue increases" statement certainly didn't help to dispel the impression that he has been maneuvered away from his campaign promise.

He himself said that he is "thinking anew," and implied that it would be right for him to break a promise if conditions had changed. But he hasn't yet given us a clear explanation of what has changed and what his new thoughts may be. Thinking like Herbert Hoover did is hardly "thinking anew."

If the problem is to avoid damaging spending cuts that will be imposed by the Gramm-Rudman meat-ax, the answer is what it always has been: for the president and the Congress to agree on less damaging cuts in time to avoid the Gramm-Rudman meat-ax. And surely the emerging "peace dividend" should make that easier this year than it was the last time around.

If, in the end, we emerge with a tax increase as the primary deficit reduction measure and no reforms in the budget process to prevent another one next year, then it indeed will be time for conservatives to go into opposition. And, despite what some politicians say now, the president will find that it does matter to a lot of people that he broke his promise—not to mention that he won't be very popular anyway when the recession deepens and he realizes that he has been "Hooverized."

JERRY KAMEN, MAN OF THE YEAR

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. RINALDO. Mr. Speaker, I am pleased to offer my congratulations to Jerry Kamen of Mountainside, NJ, a resident of the Seventh Congressional District. He has been honored by Springfield Lodge 2093, B'nai B'rith as "Man of the Year."

Jerry Kamen's leadership and generous support of the lodge and its membership have earned him the respect and affection of his friends and the community he has served so well and unselfishly. He has been an active member of the executive board of Lodge 2093, and has been involved in membership drives, fundraising, and programming.

The Springfield Lodge is one of the most active in New Jersey, and has promoted many worthwhile causes that have helped to build the reputation of B'nai B'rith as an organization striving for racial and ethnic justice and harmony. Jerry Kamen has been at the forefront of this effort at his lodge.

He also has been active in the community. He is a past president of the Mountainside Lions Club and has been a booster of local community arts. He is active in the Cranford Dramatic Club, the Westfield Community Players, and has appeared in various musical and dramatic productions. In short, he has used his talents in a variety of ways to enrich and benefit others.

I join with the members of Springfield Lodge of B'nai B'rith in paying tribute to an outstanding citizen of Mountainside, Jerry Kamen.

AIDS PROTESTERS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. PORTER. Mr. Speaker, recently protesters shouted down Secretary of Health and Human Services Dr. Louis Sullivan during his speech to the AIDS Conference in San Francisco.

With thousands of people dying each year from AIDS, and many more suffering from this horrible disease, I can understand the protesters' frustration. In the past, these disruptive activities helped to focus Federal attention on AIDS and move forward our research and treatment efforts.

But, Mr. Speaker, these disruptive activities are no longer productive. They only obscure the truly important issues.

Recent Federal initiatives to combat AIDS are unprecedented in our Nation's history. We have responded more dramatically and forthrightly to AIDS than to any other public health problem.

Since 1984, Federal spending for AIDS has increased from $61 million to several billion dollars. In fiscal year 1991, six Departments of Government will spend $3.5 billion on AIDS. The Public Health Service alone will spend $1.7 billion—as much as it spends for cancer.

Mr. Speaker, AIDS activists should work responsibly with the Federal Government, rather than shouting down the very officials who are most dedicated to helping them.

A CONGRESSIONAL SALUTE TO JAN HALL UPON HER MANY YEARS OF SERVICE TO THE LONG BEACH COMMUNITY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding community leader and public servant who has spent the last 12 years serving the Long Beach community. Councilwoman Jan Hall will be honored on Thursday, July 12, in honor of her many community contributions. This occasion gives me the opportunity to express my sincere appreciation and gratitude for all her efforts.

Since first being elected Long Beach's third city council district representative in 1978, Jan Hall has been instrumental in bringing critical funding and newly developed programs to her area and constituency. Her early accomplishments during her first term as city council member led to her reelection both in 1982 and 1986. As one of nine council members, she was responsible for drafting and directing a $1 billion annual budget, as well as formulating the policies and duties of 5,800 employees. During her tenure on the city council, she served in many capacities. Among them included chairwoman of the city council personnel and civil service committee, elected chairwoman, city housing authority, chairwoman, transportation and infrastructure committee, and chairwoman, city council tidelands and public utilities committee. It is quite evident from her involvement that she held her job with the city council in the highest regard.

While her city council achievements are indeed long and distinguished, they are by no means all-inclusive. She has been involved with a seemingly endless list of community and civic organizations. Among some of the organizations she has been involved with are the Junior League of Long Beach, the National Association of Business Owners, Goodwill Industries, Comprehensive Child Development, Clean City Committee, Citizens Transportation Committee, and the Long Beach Housing Task Force. She has also contributed substantially to the success of the Southern California Rapid Transit District [SCRTD]. During the last decade, she has served this organization in numerous leadership roles, peaking with her presidency of the board of directors for SCRTD from 1986 to 1988.

The sheer magnitude of her involvement in the community is a testimonial to her enduring commitment to the Long Beach community and its citizenry. Not surprising, she was inducted into the Long Beach College Hall of Fame, and is an Honorary Life Member of the PTA. In addition, she was named Executive of the Year in the field of travel and transportation by the Executive magazine, and named

Most Powerful Woman In Long Beach by the Long Beach Press Telegram.

As one who has shared in the pleasure of working with Jan Hall over the years, I can attest to her significant contributions to Long Beach. Our fine city of Long Beach has many programs and services today that are the result of Jan Hall's efforts. On this occasion, and in her honor, my wife Lee joins me in extending our heartfelt thanks and congratulations. We wish Jan all the best in the years to come.

COMMITMENT, CONTRIBUTION, AND COMMUNITY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mrs. MORELLA. Mr. Speaker, we have recently celebrated Asian-Pacific American Heritage Month. Each year, we pass congressional resolutions authorizing the celebration and recognition of many cultures which comprise the mosaic of our country. Indeed, we have a rich, proud heritage in our country, melding into one great Nation.

One aspect of our country which makes it so unique is that we retain our diversity—our ethnic heritage—and we celebrate this diversity with people of other ancestries.

Mr. Speaker, I would like to submit the following remarks which were made by Commissioner Joy Cherian, of the Equal Employment Opportunity Commission, a resident of the Eighth District of Maryland, who has encapsulated the pride, commitment, and responsibility which is felt by Asian-Pacific Americans.

[From Asian Week, May 16, 1990]

COMMITMENT, CONTRIBUTION, AND COMMUNITY

(By Dr. Joy Cherian)

Respected Attorney General Dick Thornburgh and my colleagues in government service:

It is indeed a great honor for me to be here with distinguished members of our government—I mean all of you at the U.S. Department of Justice—all of you who make the American government a living symbol of democracy in the truest meaning of that word.

A democratic form of government enriches the society through the commitment and contribution of its own people, people who exhibit commitment to the general welfare of the people through their individual and collective achievements of excellence in the workplace.

Today, by celebrating Asian-Pacific American Heritage Month, the Department of Justice is recognizing one of our greatest communities—the Asian-Pacific American community—for its members' commitment and contribution to the well-being of our great nation of immigrants.

Many people, when they hear the term "Asian-Pacific American," think of a community of newcomers to the American scene. But that impression is not accurate. If you think about it, you may recall that many of the workers who helped to build the great transcontinental railroad across America were of Chinese descent. And it is common knowledge that people of Asian-Pacific heritage in centuries past came to America as marine merchants and as indentured servants.

Historians report that people of Asian-Pacific heritage inhabited the shores of this continent as early as 1610, when records show the ship San Buenaveniura brought Japanese sailors. In 1763, immigrants of Filipino heritage founded Manila Village in Louisiana. In 1775, Chinese sailors who had landed in Baltimore stayed in America for good. And documents dated 1780 tell us that a man from Madras, India resided in Salem, Massachusetts at that time; several indentured servants or slaves from India were known to be living in Maryland and Pennsylvania around that same time. Asian-Pacific Americans were here, involved in the building of the new American republic from the very beginning of the era.

As an Asian-Pacific American I can take pride in the contribution of Asian-Pacific commerce to the discovery of America. You may recall from your history lessions from elementary school days that Christopher Columbus' objective was to establish a new sea route for trade with an Asian country, India. In his rush to defeat the Portuguese explorer Vasco da Gama, Columbus landed on the shores of this continent in 1492 and, little realizing that he had made one of history's most glorious errors, called the people here "Indians." But all of us have become beneficiaries of that innocent error of Christopher Columbus.

Four years later, in 1496, Vasca da Gama reached India. I don't need to elaborate on a history lesson you all know; I mean only to illustrate how a country in Asia inspired European navigators and ultimately played a part in the discovery of this great land of our dreams.

Some of you may or may not be so familiar with the fact that an Asian-Indian man, Mahatma Gandhi, developed a model of thought and action that was picked up by Dr. Martin Luther King, Jr., and adapted to the circumstances in the United States to become one of the greatest civil rights movements in all of history and which led to the passage of the Civil Rights Act of 1964, which is enforced in part by the Equal Employment Opportunity Commission and also in part by the Department of Justice. We know that among Mahatma Gandhi's philosophical antecendents were Americans such as Henry David Thoreau and Ralph Waldo Emerson.

It is important to realize how important Asian-Pacific influences have been in the formation of American history. But how much more important it is to consider the thousands upon thousands of Americans of Chinese, Japanese, Filipino, Indian, Korean, Vietnamese, Guamanian, Cambodian, Laotian, Pakistani, Sri Lankan, and other Asian-Pacific ancestral groups who are making American life richer and better every day. Please join me in saluting all my fellow Americans of Asian-Pacific origin for their deep commitment and precious contribution to this land of equal opportunity.

When I speak of equal opportunity, I have to be honest with you about what I believe: that mutual respect and recognition among members of the various communities—communities such as European American, African American, Hispanic American, Asian American, Native American and other similar groups—in this nation can preserve our inherited or acquired rights of equal opportunity and American justice which all of us are enjoying today. To this purpose I want to point out that our people will not receive equal opportunity and American justice through laws and regulations alone but most importantly through the labors of government officers—whether political appointees or career employees—who are fully committed to the elimination of discrimination under our legal system. This is the role that all of us in the U.S. government have undertaken. I believe that my position at the EEOC is not a mere job; it is a mission, a mission to protect and preserve the equal employment rights of the 250 million people of this land of hope and pride.

Allow me to end my remarks today with a quote from President George Bush which succinctly describes my own sentiments. On January 28, 1990, President Bush said, and I quote:

"Let us recommit ourselves to work for justice and the unity of our people."

Thank you for giving me the opportunity to speak with you.

SUPPORT THE JOHNSON-TOWNS BILL

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. SCHEUER. Mr. Speaker, the United States has the highest rate of teenage pregnancy, teenage abortion, and teenage childbearing of all Western countries. These teenage parents and their babies face higher instances of infant death, low-birth weight, serious child disability, and a higher incidence of pregnancy and childbirth complications. While the pregnancy rate of unwed young mothers continues to rise, funding for Federal Government programs targeted at educating young adults and reducing incidents of teen pregnancy has dropped from $15.7 million in 1987 to $9.9 million in 1989—measured in 1990 dollars—a decrease of over 30 percent.

The United States is a world superpower with a Third World population program. This is once again an example of our country, our Government, falling short in its most basic obligation to its citizens. For the United States to lead all Western countries in teen pregnancy is ludicrous. For us to be 20th in infant mortality is even more ludicrous. It is a crime against our youth and must not be allowed to continue.

My distingusihed colleagues, NANCY JOHNSON and ED TOWNS, have recognized the inherent folly in allowing this situation to continue. They have introduced the Adolescent Pregnancy Prevention and Parenthood Act of 1990 to expand and restore pregnancy-related services to teenagers. I support the Johnson-Towns bill and urge my colleagues to join me in supporting it as well.

ENOUGH QUESTIONS TO FILL UP THE CANAL

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. JACOBS. Mr. Speaker, Abraham Lincoln said, "Let the people know the facts and the

country will be saved." Our colleague, CHARLIE RANGEL, is seeming very Lincolnesque lately.

[From the New York Daily News, July 11, 1990]

ENOUGH QUESTIONS TO FILL UP THE CANAL

(By Earl Caldwell)

Go back to the American invasion of Grenada, for that's where it started. It marked the first time American troops went off to fight a war in which news reporters were denied what they always had—the right of being there.

But Grenada was just a test case. To know exactly what it means when reporters are kept out, look to Panama.

It was seven months ago that U.S. troops invaded Panama. From the start, there was no intention of letting any reporters anywhere close enough to see what was taking place. The thing that reporters know best is that nothing matches being there. When you are there, you can see, and then you know. Reporters also know that when they are kept out, it is for a specific reason.

The military, a wing of the American government, conducted the invasion of Panama. The same military also provided the news coverage through the first days of the operation. So only the military knew for sure what really took place.

The official story characterized the invasion as being a gem. It was even portrayed as being among the most successful military operations in history. But after seven months, the official story has begun to fall apart. And that hasn't happened by accident. Once the door was opened and reporters were able to get into Panama, they began to dig around and ask questions, and bit by bit another picture of what took place last December has begun to emerge.

The official story reported some 500 Panamanian deaths—civilian and military—in the invasion. Now persistent reports say that as many as 2,000 or more civilian lives were lost. The official story said that 20 pounds of cocaine were found in Gen. Manuel Noriega's bunker. It has come out that it wasn't cocaine but instead tamale flour. The official story said the Stealth bomber, a controversial piece of military hardware, performed admirably in combat. It has come out that the Stealth bomber missed targets by as much as 160 yards.

The official story was that Americans suffered 347 casualties. News reports contend that as many as 60 of those soldiers were victims of supposedly "friendly" fire. Further, those reports says that as many as nine of the 23 Americans soldiers killed were victims of American fire.

All of it raises the question: What really happened in Panama?

From the start, there had been questions. So much so that an independent commission headed by former Attorney General Ramsey Clark was organized to investigate. For a while, it was just that commission asking questions. But no more. Now, U.S. Rep. Charles Rangel (D-Harlem) has joined in asking exactly what it is the military is covering up.

"I'm running into an information void on this Panama issue," Rangel said. "The Pentagon has not responded in full to a single one of my requests for information. It is becoming clear to me that the military does not wish to deal openly with this issue." He adds, "And it is sad to say that, with a few exceptions, the press has done little or nothing to fill that void."

Rangel's criticism of the media is aimed primarily at television. Rangel has demanded military tapes of the action. For the most part, he has been refused. But he believes that television too, ought to be demanding those tapes. He says that is not happening.

Rangel has a ton of questions. He wants to know about reports of atrocities. He wants to know why the operation itself was so large. He wants to know more about what it was that compelled the invasion in the first place. He also wants to know if bombings in Panama were directed at poorer sections. In short, Rangel questions whether there was a coverup.

Rangel does not say it outright, but his questions indicate the need for a congressional inquiry. Panama reflects the new reality and the questions now are a reflection of what happens when reporters get shut out. It also explains the reason reporters fight so hard to protect what they always had, the right of being there even when those assignments were dangerous ones in war zones.

A CONGRESSIONAL SALUTE TO CHARLES STEVENSON IN HONOR OF HIS DISTINGUISHED SERVICE TO THE CITY OF WILMINGTON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding citizen and a person I hold in the highest regard, Charles Stevenson. His years of dedication and commitment to the betterment of his community have made him a giant among his peers. I consider it an honor to tell you a little about Charles Stevenson.

Following the close of World War II, Charles Stevenson and his family moved to the city of Wilmington. Although he enjoyed the surroundings of that wonderful city, his work as a chemical engineer and process startup specialist kept him traveling quite extensively, including various assignments at Cape Canaveral and the Philippines.

After retiring from his profession, Charles Stevenson became the consummate volunteer and public servant. His successes were many and his leadership always counted on. As a member of the Banning Manor Senior Citizens Club, he produced membership rosters, printed newsletters, and videotaped several meetings for distribution to local cable companies.

When it was discovered that toxic waste sites existed in Wilmington, Charles Stevenson went to work with other volunteers to urge further environmental study of the land before commercial development was approved. Mr. Stevenson is always keeping a keen eye out for any cause of disruption to the local environment.

As evidence of his competency and diligence in community affairs, he was asked to serve as treasurer for Councilwoman Joan Flores' Wilmington Community Advisory Council and as secretary of the Wilmington San Pedro Employment and Economic Incentive Area Community Advisory Council. He further served as a member of the mayor's harbor area mobility action committee which studied and implemented plans to improve the flow of traffic in the harbor area.

Perhaps Charles Stevenson is best known for his involvement with the Wilmington Chamber of Commerce. He has been a delegate to community meetings, served on the parade committee, and assisted the new public library in obtaining funds from the harbor area for a nautical section.

Charles Stevenson's greatest satisfaction however, comes from his volunteer efforts to maintain the Drum Barracks Civil War Museum. He has helped with the publication of newsletters, videotaping, display of artifacts, and other support activities. In addition to the Drum Barracks Civil War Museum, he is equally involved in the effort to save and restore the Camp Drum Powder Magazine, and he is treasurer of the Drum Barracks Trust Association.

Mr. Speaker, Charles Stevenson is a person who channels his efforts to those groups that truly reflect total community betterment as opposed to those groups which serve special interest groups. I take great pride in recognizing Mr. Stevenson for all his vast achievements and activities in the community. He has done a great deal to make living and working in southern California a little better. I salute Charles Stevenson and wish him and his family all the best for the future.

A TRIBUTE TO THE FLORIDA ALLIANCE FOR THE MENTALLY ILL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it gives me great pleasure to pay tribute today to the Florida Alliance for the Mentally Ill and the outstanding work they have done, and continue to do, advocating for our mentally ill loved ones.

The Florida AMI is to be commended for its recent gathering in Tallahassee of its Education and Advocacy Meeting. The members were all left energized and inspired. At the meeting, this dedicated group continued to push for equity for the mentally ill and achieving the goal of continuity of adequate care and services for them.

I would like to wish much success for the National Alliance for the Mentally Ill, of which the Florida AMI is an affiliate, in their upcoming convention, this July 19–22, in Chicago. There will also be a conference on minority outreach groups, this August, in Tuskegee that has my best of wishes.

Special praise is due for Florida AMI president Joyce H. Friedman for the excellent work she has done promoting this noble cause. I am also pleased to give recognition to the fine accomplishments of First Vice President Allen F. Hodges, Second Vice President Maxene Kleier, Treasurer Janette Griffin, and Secretary Lee E. Good.

I would like to congratulate Jo Swan for being named Florida's family education specialist and wish her success in setting up

workshops and family support groups. Joanie Halberg and Steve Watts, cochairmen of the Florida Client Council deserve commendation for their laudable efforts in improving funding for case management and obtaining direct services for the dually diagnosed and unfortunate homeless.

Mr. Speaker, the Florida AMI deserves the gratitude of us all, in their selfless dedication to the mentally ill and other disadvantaged groups. For too long, the mentally ill have been wrongfully stigmatized and discriminated against by society and government. The Florida AMI is changing that. By combating the myths about mental illness, informing the public, and never giving up in advocating for our mentally ill loved ones, they have kept the spotlight on that part of our population that should never be overlooked.

IN HONOR OF NIKOLA TESLA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. ENGEL. Mr. Speaker, I rise to honor the birth 134 years ago today of a distinguished scientist and inventor, Nikola Tesla.

Mr. Tesla was born in 1856 in Serbia, which is now Yugoslavia, and emigrated to the United States at the age of 28. Mr. Tesla was a scientist ahead of his time because he believed that alternate electric current could provide light and power systems. Most scientists of his time rejected this idea.

Mr. Tesla remained firm in his convictions and worked with George Westinghouse to market this system. Today's electricity, of course, is provided through alternate current. Mr. Tesla's other inventions include transformers, induction coils, condensers, and incandescent lamps.

The work of Mr. Tesla has had a great impact on all our lives and I am proud to be honoring this great man today.

PHOENIX ACADEMY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. RANGEL. Mr. Speaker, I wish to take this opportunity to inform my fellow colleagues about the Phoenix Academy High School-Drug Rehabilitation Center. Founded by the talented and dedicated president of Phoenix House, Dr. Mitchell Rosenthal, the Phoenix Academy is an excellent example of progressive and positive advances in the treatment of narcotics abuse.

The academy combines 18 to 24 months of rehabilitation treatment with high school and, if required, special education classes. This year, Phoenix Academy will graduate 57 students, who have both completed their education and their treatment.

Dr. Rosenthal has demonstrated that there are constructive ways in which we can help our drug addicted youths. His academy combines traditional treatment with education in an attempt to address the underlying unhappiness which originally caused the individual to abuse narcotics.

Mr. Speaker, I would like to once again commend Dr. Rosenthal's efforts on behalf of treating narcotics abuse, and I have submitted into the RECORD an article from the Daily News magazine—June 24, 1990—which describes more thoroughly the Phoenix Academy.

This article briefly mentions Dr. Rosenthal's fear that the United States lacks a coordinated public policy which will permit innovative effective drug treatment programs to expand and flourish. I hope that as the Congress in the future considers drug abuse packages, we will find some manner in which to encourage pioneering drug treatment efforts such as Dr. Rosenthal's Phoenix Academy.

[From the Daily News magazine, June 24, 1990]

Yesterday was Phoenix Academy's annual Graduation Day.

Seated atop 140 arces of green, rolling hillside, this sprawling, suburban Westchester County campus has the smart, clubby look of a fancy private prep school.

But this is no boarding academy for the sons and daughters of pampered privilege. Phoenix Academy is a residential high-school and drug-treatment facility operated by the Phoenix House Foundation. And the 57 members of the school's eighth graduating class—like all the rest of the 200 residents, aged 14 to 20, undergoing a recommended period of 18 to 24 months of treatment here—are recovering drug abusers.

While many of the academy's adolescent residents are white, middle-class youngsters from suburbs throughout the metropolitan area, most are poor black or Hispanic inner-city youths. All have had considerable trouble in dealing with family, prior schools and even with the law—often repeated and serious trouble; one-third were remanded into the academy's custody to avoid incarceration. And everyone—black or white, poor or middle-class, inner city-bred or suburbs-reared—have had deep, long-lasting relationships with drugs. According to school officials, some 70% of the student body had developed a strong affinity for that particularly addictive form of crystalline cocaine called crack before joining the student body; another 13% had abused marijuana and the remainder had become dependent on a cornucopia of drugs—from pills to cocaine to heroin, a phenomenon clinicians call "polyaddiction."

"These are the sickest kids" among all the millions of America's young who have been stricken by the plague of drug addiction, says Phoenix House president Dr. Mitchell Rosenthal. His agency is the nation's No. 1 private, nonprofit drug-treatment operation, with 1,400 clients, including some 300 adolescents, enrolled in treatment programs in New York and California.

Here in New York, besides the academy program with 250 beds that account for half the total number of residential spaces allotted to addicted adolescents in the state, Phoenix House runs an outpatient high school and an after-school drug-prevention program. But, Rosenthal notes, while such programs "can be beneficial for some youngsters, they're not for these kids. They've been out of control too long. Residential placement is the treatment of last resort."

The expectant faces of a representative sampling of the newest Phoenix Academy graduates are bright as the big day approaches. They are turned to the future. But behind their expressions of hope are the memories of despair that brought them to this place of last resort:

Jaquel Paige, a pretty 20-year-old, was a dropout of Manhattan's Julia Richman High, a girl enfeebled by drugs and able to read only at a sixth-grade reading level, before she entered the academy two years ago. Today, she bitterly recalls "feeling stupid because I couldn't read."

Another 20-year-old, Terence O'Connor, was a drugged-out teen, a denizen of all-night parking lots and upstate jail cells until his older brother, a Poughkeepsie cop, arrested him and worked a deal with the courts to have Terry sent here almost a year ago. Now outwardly confident and assertive, he recalls his unsuccessful attempts to check himself into other treatment programs. "Unless you have money or insurance," he says, "nobody wants to know you."

Queens' John Margies, 19, had quit school in the 10th grade and was working intermittently as an unskilled laborer until, stoned on drugs and booze, he simply stepped off the top of a 24-foot ladder to land at the academy about a year-and-a-half ago. These days, he "plays the tapes of those bad days in my head" to help him focus more clearly on his future.

Each has come a long way. But perhaps none has had any further to come to be able to mount yesterday's graduation stage than 20-year-old Charlene Jackson of Brooklyn.

These days, Charlene is a robust young woman with earnest brown eyes and an easy smile. It was not always that way, however, and her voice is soft and shy, her tone matter-of-fact, as she tells of the years of drug use that brought her to the academy.

"Back home, back where I grew up in Brownsville, I was smokin' crack, snortin' heroin," she acknowledges. "I'm a dope fiend."

Born of a father she's never met and a drug-addict mother who gave her up at birth, Charlene Jackson spent her early years shuttling among foster-care homes. At age 7, she moved in with her godmother and came to regard the woman and her husband as her "parents"; the couple's six natural children became her older "brothers" and "sisters."

But having a family does not necessarily mean a happy homelife. "My mother and father, they never had no time for me, "Charlene recalls. "They was always workin'." And school, too, can prove a hollow experience. In junior high, Charlene could neither read nor do math.

"They put me in a special-ed class," she remembers, "but the kids like to make fun of you if you're in special ed. So I would just kinda react off that. I always was getting suspended for fighting." Finally, in the middle of the ninth grade, at age 16, Charlene quit going to school.

But as the luster of home and education faded for the teenager, the lure of drugs brightened. "I got started drinkin' beer and smokin' reefer when I was 12," Charlene says. "I used to hang around with an older crowd. They was usin' drugs, so one day I just picked up a pipe and smoked some crack. Then I just started getting' high all the time."

Still, Charlene might have escaped her early flirtation with the crack pipe. Others have. Instead, she says, she was raped by one of her brothers. "That same night," she recalls, "I went out and got real drunk and

high. I came back and tried to hurt him. I used a knife on him."

Unaware of the reason behind the attack, Charlene's godmother called the police. The girl spent months in the city lockup at Rikers Island, where she claims to have continued her drug use. Back in Brooklyn, she was quickly re-arrested, when a stolen car in which she was riding was stopped by police, and sent to an upstate women's facility for another brief term.

There, Charlene received her first dose of drug counseling. The advice didn't take. "I went back to Brooklyn," she says, "and I started seein' the same people again and started gettin' high again." Haunted by the memory of the rape, "that was the only way I could feel good about myself."

In prison, however, Charlene also had discovered she was pregnant. Her son, William Tyrrell Jackson, now 3, was born in Kings County Hospital shortly after her return home. Recognizing her inability to care for the boy, the young mother gave her infant to the city Bureau of Child Welfare for foster care—as her own mother had done with her years before. "I knew a lot of people there," Charlene says. "So I gave him over to one of the case workers I knew."

The BCW case worker, now the guardian of the boy, tried to talk his mother into seeking help in overcoming her growing addiction. But Charlene, though she visited the child often, was not yet ready for help.

Meanwhile, Charlene's godmother had no more patience to spare for the girl, who took up life on the streets. "I was out there by myself," the young woman recalls. "Just me feelin' lonely. The only friend I had out there was the pipe."

That friendship was demanding, and costly. "I used to sell drugs and sell my body to get high," she says. "I robbed people, robbed their houses. One time, we robbed a truck and got $1,000. We spent it all in a day."

Day and night, Charlene returned to the corner dealers who supplied her neighborhood to purchase fistfuls of $10 vials of crack. "I'd buy 20 and I'd smoke 'em all in maybe two, three hours," she says. "Then, I'd go back again. I can't count how much I spent over the time I was gettin' high. I used to smoke all day, every day. Maybe once a week I got to go to sleep."

Heroin, either snorted or mixed with crack-cocaine in a pipe—called "space-basing" on the street—became Charlene's sleeping pill. "When you come down off crack," she explains, "you get depressed, or you want more. When you come down off space-base, the dope is the last thing that comes down and you get sleepy. I got hooked on that, too."

There were the other, more sudden dangers on the street as well. "I seen one of my girlfriends shot by a dealer," Charlene says. "We went to her house and she was lying on the bed. She was dead."

Charlene, too, had her brushes with death. Often, with nothing else to exchange for the crack she craved, she would offer her body to dealers in return for vials of the drug. "We used to go around the neighborhood, y'know, and just get into cars," she says. On one occasion, "I met this crazy guy and he put a gun to my head in the back seat of a car and made me do things I didn't want to."

Fear now bore down on a young mind and body already overburdened by nonstop drug use, by lack of food and sleep. "I just got tired of goin' around hungry," the young woman says. Sickly, weighing 90 pounds—only slightly more than half her current weight—after a year on her own, Charlene Jackson finally was ready to accept a way out of her predicament. "It was my godmother who told me about Phoenix House," says Charlene. "She's active in the community and she'd heard about the program. So one day, I couldn't take it no more and I just came in."

About 3,000 youngsters have "just come in" since the academy's opening in 1981, says Phoenix House chief Rosenthal. But, he notes, the agency wasn't originally founded to care for them.

The academy program is an evolution of the "therapeutic-community" that, with methadone maintenance, has in recent years become one of the mainstays of treatment "modalities" nationwide, explains Rosenthal. However, he adds, the original community idea was aimed at the adult heroin-abusing population of the late-1960s.

In the mid-1970s and early '80s, "we began to see many other drugs being abused, and the age of onset took a sharp drop. More adolescents, more youngsters from middle-class homes began coming in," Rosenthal says. "The academy model was developed to focus on the educational and family needs of these kids. Youngsters deeply involved in drugs have deficits in these areas, and it's very important to address them as well as the problems of abuse."

Treatment at the academy blends family counseling and group-encounter therapy, intended to modify the behavior that led to the adolescent's addiction, with classroom work and vocational planning to prepare the youngster for a return to the outside world. "We provide them with everything they'll need to lead normal, productive lives later on," says Glenn Nichols, managing director of the academy. "Therapy, education and discipline."

A 60-day orientation period prepares newcomers for this unfamiliar regime, an introduction that very often scares away those youngsters not serious about rehabilitating themselves. On average, officials estimate, 40% of new arrivals drop out during the initial stages of the program. And the dropouts continue: Another 30% depart without completing treatment. Of the seven out of 10 who quit, however, one will return to try again.

The new residents are assigned to groups, which meet for two-hour sessions three nights, and given work assignments around the facility, Nichols says. "They also go to class full-time, and there are study sessions for those who need them."

Such treatment does not come cheap—roughly $47 a day per adolescent. Funding for the 18-person teaching staff—New York City certified high-school teachers—and a three-member administrative and support staff is provided by the city Board of Education. Various federal and state substance-abuse and social agencies, with Phoenix House's private and corporate grants, support all other academy operations and its 31-member clinical staff.

But Rosenthal does not see money as the chief problem facing the drug-treatment community. "The real problem," he stresses, "is the lack of a coordinated public policy that will allow us to expand our programs, to build new facilities. We have fewer than 5,000 beds in the state, and only 500 for adolescents." At the federal and state level, he says, "there is nothing on the horizon."

Though high school now is behind them, none of the new graduates are packing to leave the academy. Terence O'Connor and John Margies are hoping to go on to college but have not completed primary treatment. Jaquel Paige and Charlene Jackson, the most senior of the quartet, both are in the final phase of treatment; Charlene is preparing to depart later this summer.

During her 26 months at the academy, she has undergone more than 600 hours of group therapy and hours more in counseling. She has remained drug- and alcohol-free. In addition, she has earned a state Individual Education Plan diploma—one issued to special-education students who successfully complete an individualized curriculum. "A lot of our students are severely learning disabled," explains Nathalie McFarlane, the academy's principal. "Whether it's a result of their drug use or something else, we don't know. But our goal for these individuals is to take them as far as they can go, to turn their interests into work skills. The IEP diploma opens doors for them."

Her education complete, Charlene is concentrating on the first job of her life, working in a nearby McDonald's. Newly promoted to crew chief, a position that pays $7 an hour, she already has saved almost $1,000—roughly half the amount she and her Phoenix Academy counselors figure she'll need for a deposit on an apartment and other expenses when she leaves the institution.

"We call this final phase of the treatment process 'reentry,'" notes Nichols. "It's a slow process," he explains. "The resident is gradually reacclimated to the outside world. There are trips to restaurants and shows, that kind of thing. The youngster 'works out'—takes on full-time employment in the local community—but returns to the institution at night. That way, he can work through problems that crop up in everyday life and still have a supportive environment."

How well Charlene and her fellows will fare beyond the academy's walls is anybody's guess. According to a distillation from records by agency officials 33 of 100 residents who entered the program between 18 and 20 months ago will achieve total success—"No drugs, no criminal activity and steadily employed between three and five years after completion," explains spokesman Chris Policano—and another 48 will successfully meet one or more of these criteria. "We consider that for the remaining 19, treatment was a failure," Policano adds.

And an overview of the past 15 years of research into the outcome of drug treatment backs up the Phoenix House 5-to-1 success estimate. Entitled "Treatment Works" and published last March by the National Association of State Alcohol and Drug Abuse Directors, the report stresses that fewer than one out of every five patients who undergo treatment returns to regular use of drugs, except marijuana, within three to five years while instances of criminal behavior fall drastically—to between a third and a half of pretreatment levels—during that same period.

Charlene, meanwhile, is confident she has conquered addiction. "I feel my chances are good," she says. "If I use the tools I learned here and use them the right way, I'll make it. There's no reason I shouldn't."

CELEBRATING THE 134TH ANNIVERSARY OF THE BIRTH OF SCIENTIST-INVENTOR NIKOLA TESLA

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. ROE. Mr. Speaker, it is with distinct pleasure that as chairman of the Science, Space, and Technology Committee I rise today to pay tribute to an extraordinary scientist, inventor, and patriot. Nikola Tesla, son of a Serbian Orthodox clergyman, emigrated to the United States at the age of 28 and proceeded to revolutionize electromagnetic technology and pave the way for many of our modern machines and techniques such as robotics, computers, satellites, and microwaves.

Born on July 10, 1856 in the Smiljan, Lika region of what is now Yugoslavia, he came to this country and in 1889 he became an American citizen. This, as he often told friends, he valued more than any of the scientific honors to come to him. Honorary degrees he tossed into drawers, but his certificate of naturalization was always kept in his safe. He died in New York City on January 7, 1943, but yesterday, July 10, marked the 134th anniversary of his birth, so I take this opportunity to remember a lifetime of accomplishments and scientific advancements which have led us to many of the programs I now oversee on the Science, Space, and Technology Committee.

Nikola Tesla was one of the most extraordinary of scientists, almost supernaturally gifted, erratic, and flamboyant, he was and remains a hero and mentor to many of the 20th century's most famous scientists. At this point I will submit for the RECORD a copy of a brief biography from the Encyclopedia Americana which outlines Mr. Tesla's awesome accomplishments:

Tesla, Nikola (1856-1943), Yugoslav-American inventor, who pioneered in radio and invented the alternating-current motor and system that made the universal transmission and distribution of electricity practicable. He was born in Smiljan, Croatia, on July 10, 1856. His father was a clergyman of the Serbian Orthodox Church and his mother an expert needleworker and an inventor of home implements. Tesla received a technical training at the polytechnic school in Graz and the University of Prague. In 1881 he began work for the newly founded telephone company in Budapest, and in late 1882 he joined the Continental Edison Company in Paris.

Unable to interest European engineers in a new alternating-current motor he had conceived, Tesla went to the United States in 1884. For nearly a year he redesigned dynamos for Thomas Edison in New York City. Establishing his own laboratory in 1887, he began a spectacular career of research and invention. He became a U.S. citizen in 1891. By the turn of the century his accomplishments had made the name of Tesla as world famous as that of Edison.

Electric Power Transmission: Telsa's first and probably greatest achievement was his discovery of the rotating magnetic field (a magnetic whirlwind produced in a motor winding by the interaction of two or more alternating currents) and his brilliant adaptation of it to his induction motor and polyphase system for the generation, transmission, and distribution of electric power (see electric motors—Alternating-Current Motors). The combination of this motor and his system (patented 1888-1896) provided the first practical means for generating large quantities of electricity of a single kind in one place and transmitting it economically over long distances for use at another place. It made possible the original large-scale harnessing of Niagara Falls (1895-1903) and furnished the key that soon changed the era of local electric lighting in large cities to one of electric light and power wherever needed.

Today practically all the electricity used in the world is generated and transmitted by means of the 3-phase form of the Tesla polyphase system and is turned back into mechanical power by updated models of 3-phase and split-phase motors originally covered by his patents.

Tesla Cell: Hoping to develop a light more efficient than the incandescent lamp, Tesla began researches with alternating currents of high frequency and high potential in 1889. At first he produced these currents with high-frequency alternators of his own design. Desiring still higher voltages, he invented the "Tesla coil" (1891), an air-core transformer that had its primary and secondary tuned to resonance. For operation on these high voltages, he created many gas-filled, phosphor-coated, tubular lights without filaments—prototypes of modern neon and fluorescent lights. While investigating currents from his coil, Tesla also made pioneer contributions to the then unborn fields of high-frequency induction heating, diathermy, and radio. One of his discoveries was that alternating current at tremendous high voltage could be harmless if the frequency were high enough.

Tesla's lectures in America and Europe (1891-1893) aroused widespread interest in currents of high frequency and potential. They became known as "Tesla currents," and by 1900 probably every university laboratory in the world had acquired a Tesla coil to demonstrate them.

Radio and Wireless Power: Tesla predicted wireless communication (1893) and devised basic circuits and apparatus that were later adapted by himself and others for actual wireless transmission. At Colorado Springs (1899-1900) he built the largest Tesla coil ever constructed—a 12-million-volt machine that gave sparks up to 135 feet long—in an attempt, partially successful, to send electric power without wires. As early as 1900, Tesla proposed a "world wireless" plant that would send not only ordinary messages but many other services. These included facsimiles of pictures and a program of time, weather, and other reports that was later introduced as "broadcasting." In 1898, anticipating radio-guided missiles and aircraft, Tesla developed torpedoes and ships guided by radio, and in 1917 he accurately forecast radar.

Honors: Among many honors, Tesla received degrees from Columbia and Yale Universities, the Elliott Cresson Medal of the Franklin Institute, and the Edison Medal of the American Institute of Electrical Engineers. In 1956, as part of international commemorations of the centennial of his birth, the term "tesla" (T) was adopted as the unit of magnetic flux density in the mksa system (See MAGNET AND MAGNETISM). He died in New York City on Jan. 7, 1943.—KENNETH M. SWEZEY, *Author of "Nikola Tesla," in "Science."*

Mr. Speaker, I am sure my colleagues here in the House join me in honoring this man who contributed so much knowledge to our Nation and to the world. Nikola Tesla's 700 inventions radically altered and continue to influence the world in which we live. It is only fitting that we honor him here in the U.S. Congress on this the 134th anniversary of his birth.

THE GREAT FRENCH FRY WAR II

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. HENRY. Mr. Speaker, the Berlin Wall has been torn down. McDonald's is selling hamburgers in Moscow. Even Albania has begun to open its doors to emigration. But, alas, American potatoes are still frozen out of the Canadian market.

That's right, Mr. Speaker. Our good friends to the north are erecting walls here in the West while walls in the Eastern bloc countries continue to fall. Maybe it has something to do with the Meech Lake accords, Mr. Speaker. After all, the problem is with "french fries." Perhaps if we called them "english fries," there wouldn't be a problem.

Mr. Speaker, this is no laughing matter. The United States Trade Representative believes that the manner in which the Canadian Government is treating processed agricultural products, such as french fries, is a clear violation of the Free Trade Agreement and GATT. The Canadian Government may view this issue as small potatoes, but to those American farmers and food processors who look for equity and fairness from the Canadian Government and good faith compliance on their treaty obligations with the United States, it is a serious matter.

TRIBUTE TO MS. HELEN WAUGH

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a dedicated individual, Ms. Helen Waugh, former treasurer of Casco Township, MI. Ms. Waugh has retired as treasurer after 31 years of dedicated service.

What began as a part-time endeavor, turned into a 31-year career. Ms. Waugh claims that when she began her career in 1959, the job wasn't much of a challenge. As times changed the challenge grew, as she became responsible for a budget of over $2 million. In fact, Ms. Waugh remained on the job a couple of months longer than expected to make sure an audit didn't leave any loose ends. That audit received an A plus from the auditor.

Now, after 31 years of never losing an election, a feat few can match, Ms. Waugh looks forward to totally different things. She will travel to California and Washington to visit her children and grandchildren, spend more time

with longtime friends in her seniors group and play cards and enjoy potluck lunches.

I commend Ms. Waugh on her 31 years of dedicated public service. She will long be remembered as a true friend of our community.

A TRIBUTE TO THE MEMORY OF DR. SALVATORE FAVAZZA

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. HERTEL. Mr. Speaker, I rise today to pay tribute to the memory of Dr. Salvatore Favazza on the first anniversary of his passing. Dr. Favazza was a consular official with the Italian Foreign Ministry posted in Detroit, MI.

Dr. Favazza was a native of Italy, where he was born on December 19, 1933 in the city of Terrasini. Dr. Favazza received his education at the Giovanni Meli Institute at the University of Palermo where he was awarded the bachelor's degree in law.

After completing his military service Dr. Favazza returned to his native Sicily to begin a distinguished career in journalism. During these years Dr. Favazza was both a journalist and publicist with an array of regional and national newspapers, as well as with Italian radio and television.

From journalism Dr. Favazza entered the field of international affairs as an assistant to the vice-consul of Liberia in Palermo, Italy. In 1966, he became a member of the Italian Foreign Ministry and was assigned to the Italian consulate in St. Gallen, Switzerland. In 1977, at his request, he was assigned by the foreign ministry to the consulate in Detroit, MI. With this assignment Dr. Favazza was elevated to the rank of chancellor in the Italian Foreign Service.

Upon arriving in Detroit, Dr. Favazza was made the director of the consulate's administrative section. The area that received Dr. Favazza's greatest dedication and affection was immigration and Italian immigrants in the United States. Dr. Favazza established himself as a liaison with over 200 Italian-American organizations in the Detroit consulate's jurisdiction, which encompasses the States of Michigan, Ohio, and Indiana.

In this capacity Dr. Favazza was able to coordinate activities that allowed these Italian-American organizations, and other interested individuals, to develop ties with Italy that enabled them to cultivate their heritage. Through these activities various cultural exchanges occurred to include the presentation of Italian theater, choral, and cultural groups.

It was through the inspiration and initiative of Dr. Favazza that a monument was dedicated to the faith and labor of these immigrants in both Terrasini, Italy and in her sister city of Warren, MI. An example of Dr. Favazza's accomplishments was the founding of the International Committee of Sicilian Associations in 1985. This association has been a key in furthering the efforts of Italians from Sicily in continuing to keep ties with their land of origin.

Because of these efforts Dr. Favazza was fondly known as the friend of the immigrants. Through both his efforts as a consular official and his work with Americans of Italian descent Dr. Favazza has immeasurably furthered the relationship between the great nations of the United States of America and Italy.

The great passion and spirit of devotion that Dr. Favazza displayed has been sorely missed. In an effort to show a modicum of thanks the Italian-American Cultural Society of Warren, MI along with the International Committee of Sicilian Associations and the Terrasini Club will unveil a memorial bust of Dr. Favazza at the Italian Cultural and Community Center on July 14, 1990.

LYME DISEASE RESEARCH AND EDUCATION ACT OF 1990

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. HOCHBRUECKNER. Mr. Speaker, as the Member of Congress representing the area with the most reported cases of Lyme disease in the country, I rise today to introduce the Lyme Disease Research and Education Act of 1990. Senator JOSEPH LIEBERMAN of Connecticut is introducing identical legislation in the Senate. I appreicate this opportunity to provide my colleagues with some background on Lyme disease, and why I believe that this legislation is worthy of their attention and full support.

First identified in Lyme, CT, in 1975, Lyme disease has become the most common tick-borne disease and one of the fastest spreading infectious diseases in the United States. If treated early, the disease can be cured by antibiotic therapy. However, early diagnosis is often very difficult because of the disease's resemblance to the flu, arthritis, and ringworm. Without early treatment, Lyme disease can cause severe arthritis, heart disease, or neurologic complications. Later effects, often occurring months or years after the initial onset of the disease, include destructive arthritis and chronic neurologic disease.

Many people never even know that they have been bitten by this tick because it is so small. The tick which spreads this disease is the size of a comma in newsprint. The parasite can attach itself, feed, detach itself to go and lay its eggs all without the host's knowledge. Moreover, a person might not develop the telltale rash at the site of the tick bite, leaving the person clueless as to the cause of his or her ailment. Without the characteristic rash, doctors may have difficulty diagnosing Lyme disease. Standard blood tests often do not reveal the presence of the spirochete.

Although originally thought to be exclusively a regional problem of the coastal Northeast, Lyme disease is spreading rapidly to all areas of the country. In fact, since 1982, more than 21,000 cases of Lyme disease have been reported to the Centers for Disease Control [CDC] from 45 States. In 1989 alone, 7,400 new cases were reported to the CDC. However, because diagnosis is difficult and public awareness about the disease is limited, it is estimated that thousands of cases have gone undiagnosed, unreported, and—worse yet—untreated.

New York State, which has been hardest hit by Lyme disease, reported approximately 40 percent of the Nation's Lyme disease cases to the CDC. My congressional district encompasses about two-thirds of Suffolk County, Long Island which by Federal and State statistics is the most endemic area of Lyme disease in the country. Suffolk County alone reported over 1,000 cases or about 20 percent of the Nation's total. The Lyme-carrying tick lives in grasses along the shore, in fields, and at the edge of woodlands. Many people on eastern Long Island have expressed concern about going to the beach, taking a walk in the woods, or sitting in their own backyards for fear of getting this debilitating disease. In some areas of my district, it is believed that most of the ticks carry the spirochete that causes the bacterial infection. Therefore, being bitten by a tick means almost certainty of getting Lyme disease. Dragging for ticks and blood testing of residents will occur this fall to determine the infestation and the actual incidence of Lyme disease on eastern Long Island. Similar research will be conducted in Westchester County.

Last year, Congress appropriated a total of $7.6 million for fiscal year 1990, $5 million to the National Institutes of Health, and $2.6 million to the Centers for Disease Control. Although the CDC received $2.6 million in Lyme disease funds, only $500,000 was available nationwide in contracts and grants. The rest will be used by the CDC internally. Despite the research on Lyme disease already done, there are still many unanswered questions. Additional Federal funds are needed for a specific blood test to isolate and accurately identify the Lyme disease spirochete and a vaccine to prevent people living in endemic areas from contracting this disease. Effective new treatments are needed to stop the reoccurrence of Lyme disease within patients and to find a cure for advanced Lyme disease. We also need to find ways to break the life cycle of the tick. Surveillance, statistical reporting, and improved control methods are needed to limit the spread of Lyme disease and halt the suffering it brings.

I have introduced the Lyme Disease Research and Education Act to ensure that there will be greater funding available next year and that hyperendemic areas, many of which have developed an expertise in this type of research, will be able to participate and contribute to the Federal efforts to combat this problem. This legislation would provide an increase of $3 million for fiscal year 1991 for Lyme disease efforts of the CDC, bringing the CDC's total allotment for Lyme disease up to $5.6 million. My bill would specify that half of the CDC's Lyme disease funds go to competitive grants with preference given to those areas with more than 250 reported cases of Lyme disease. In addition, it would require that a quarter of the extramural grants be made available for education to government agencies or not-for-profit institutions whose primary purpose is to promote Lyme disease education nationwide.

Senator LIEBERMAN and I have also introduced legislation to designate the week of July 22 through 29 as "Lyme Disease Awareness Week." As early treatment of Lyme dis-

ease is the key to warding off its worst effects, and as there is currently no vaccine for Lyme disease, the best defense we have against it is prevention. Prevention depends upon public awareness. This is why I hope that my colleagues will join me in bring this disease to the attention of the American public and support funding for research on Lyme disease.

H.R. 5240, THE SUMMER SCIENCE ACADEMY ACT OF 1990

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. STOKES. Mr. Speaker, today I rise to introduce the Summer Science Academy Act of 1990, H.R. 5240. This measure represents one of many measures needed to address the severe underrepresentation of minorities and women in the science, math, and engineering fields.

The challenges facing our country in the next century are complex and pernicious. The foundation of our economy has shifted from nuts and bolts manufacturing to high-technology. This trend, in part, has been accelerated by a strong, competitive global economy and has brought intense pressures on American productivity. Consider, for example, that the United States has become the world's largest debtor nation, incurring substantial trade deficits and growing increasingly dependent on foreign capital to finance domestic programs.

Following World War II, American businesses dominated world markets. Today, only one-third of the world's top businesses are American. Six years ago, the two largest banks in the world were American. Today, not a single U.S. bank ranks in the top five.

As our Nation attempts to address this changing economic climate, we see that the face of our Nation is changing. A larger share of our Nation is minority, and the numbers are growing. In a 1987 report titled, "Workforce 2000," the Department of Labor estimates that nonwhites will make up almost one-third of the new entrants into the labor force between now and the year 2000, twice their current share of the work force. The Department notes that: "Although this large share of a more slowly growing work force might be expected to improve the opportunities for these workers, the concentration of blacks in declining central cities and slowing growing occupations makes this sanguine outlook doubtful." By the last quarter of the 21st century, as a result of immigration and differing birth rates, Mr. Speaker, it is estimated that minorities, in fact, will be the majority.

While much of the pool of talent for new scientists and engineers is comprised of minority persons, this is the very group which has not had an opportunity to prepare for the scientific and technological demands facing our Nation.

Currently, blacks comprise only 2 percent of all employed scientists and engineers, even though they are 12 percent of the general population. They earn 5 percent of the baccalaureates and 1 percent of the Ph.D's in science and engineering. In 1988 only 47 blacks Americans earned Ph.D's; only 15 earned Ph.D's in engineering. Similarly, Hispanics, our Nation's fastest growing minority group, comparise 9 percent of the population, but account for only 2 percent of all employed scientists and engineers. They hold 3 percent of all bachelor's degrees and 2 percent of all Ph.D's in science and engineering.

Our future national economic growth is dependent on our being able to correct the shortage of labor resulting from the large pool of innercity youth who are not acquiring the basic skills of reading, writing and mathematics. The issue is no longer just a matter of equity, it is a matter of economic necessity as well.

In a report released in December 1989, "Changing America: the New Face of Science and Engineering," it is noted that:

It is time for action * * * many * * * studies have detailed the looming crisis in the science and engineering work force. America faces a shortfall of scientists and engineers by the year 2000. We can meet these shortfalls only by utilizing all our talent, especially those traditionally underrepresented in science and engineering—women, minorities and people with disabilities. Without this kind of world-class science and technical excellence. America's competitive prospects dim.

The legislation I am introducing today addresses this looming crisis. It will contribute significantly to the recruitment of minorities and women in the high-technology, and engineering fields.

Specifically, the bill directs the National Science Foundation to provide grants for the establishment of at least 20 summer science academies for the training of talented economically disadvantaged, minority students in the areas of math, science, engineering design and communications. Each academy will provide 8 weeks of intensive instruction to 50 students in each of the grades 7 through 12. The students will return to the academy each summer until completion of their 12th grade academy term. The cost to run the summer science academies is a modest $2 million in fiscal year 1991. Over a 5-year period, total costs will be about $26 million.

Mr. Speaker, I am confident that this measure will contribute greatly to exposing hundreds of disadvantaged children to educational concepts and experiences to which they otherwise might not be exposed. By taking these steps, we will strengthen the foundation upon which the future of our Nation rests. Equity and economic necessity are now part of the same equation. By opening the doors of opportunity for these youth, we prevent the doors of a socioeconomic crisis from slamming in our face.

In closing, Mr. Speaker, I also would like to acknowledge and commend Dr. Shirley McBay, dean of student affairs at the Massachusetts Institute of Technology, Shirley Malcolm, of the American Association for the Advancement of Science [AAAS], and the Carnegie Foundation for their efforts in addressing this issue. The idea for the summer academies was first published in the "Quality Education for Minorities" report. These individuals, with the assistance of the Carnegie Foundation, helped turn this seed of an idea into legislation. I look forward to working with them, and my colleague from Ohio, Senator JOHN GLENN, in getting this measure enacted into law. Senator GLENN has introduced a similar bill in the Senate.

I urge my colleagues to support this legislation.

TRIBUTE TO THE NATIONAL ASSOCIATION OF HEALTH UNIT COORDINATORS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. GILMAN. Mr. Speaker, permit me to take this opportunity today to commend and congratulate Ms. Dorothy Barnum, President of the Mid-Hudson Chapter of the National Association of Health Unit Coordinators of my congressional district, for her effort to commemorate the 50th anniversary of the National Association of Health Unit Coordinators, the 10th anniversary of the National Association of Health Unit Coordinators, and the first anniversary of the Mid-Hudson Chapter.

Since World War II, health unit coordinators have made great strides in their field and have expanded their responsibilities, and are recognized today as a vital component of daily hospital operations. The National Association of Health Unit Coordinators offers a number of educational and certification programs which afford their members the opportunity to climb the career ladder. Through these programs health unit coordinators share their skills and expertise, while advancing their knowledge of the new technology in the health care field. Mr. Speaker, the National Association of Health Unit Coordinators are to be commended for their pursuit of excellence and their dedication to professionalism in health care occupations.

Accordingly, I ask my colleagues in the House of Representatives to join with me today in congratulating the members of the National Association of Health Unit Coordinators as they celebrate their founding on August 23, 1990.

PENNSYLVANIA STUDENTS SELECTED FOR TRIP TO GERMANY

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. CLINGER. Mr. Speaker, I rise today to congratulate five students from my 23d Congressional District in Pennsylvania on their selection for the Congress-Bundestag Youth Exchange Program [CBYX]. Jila Bakker, Karen Kearney, Jamie Peck, Penny Buterbaugh, and Bridgette Crawford will be traveling to Germany this fall to participate in the CBYX Program, spending an academic year in Germany on a full scholarship sponsored by this body.

The Congress-Bundestag Youth Exchange Program gives students the opportunity to

spend 9 months in Germany to either study in an academic setting, to prepare for university, or work in a profesional setting to receive practical training. CBYX has been in existence since 1983, and has enabled more than 2,200 Americans to study in Germany.

While CBYX has certainly been a great success since its inception, now more than ever in a ideal time for students to be studing in Germany. The historic changes occurring with the unification of the two Germanys will certainly make their experiences a life long memory. As the Berlin Wall continues to fall away, and the spread of democracy metamorphoses the Iron Curtain into an open door, these students will witness first hand not only the rebuilding of Germany, but also monumental changes in Eastern Europe.

Exchange programs such as CBYX are critical if we are to build an understanding between countries of our evengrowing, interdependent world. We are facing a world in which parity among nations is becoming the rule, and the notion of superpowers determining world events is becoming less of a reality. We need, and should continue to support, exchange programs in order to build the understanding which is vital for international cooperation.

Again Mr. Speaker, I congratulate these students on their selection for the program, and wish them a safe journey and an informative experience.

THE 50TH ANNIVERSARY OF PREMIER INDUSTRIAL CORP.

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. FEIGHAN. Mr. Speaker, I rise today to congratulate Premier Industrial Corp. on the 50th anniversary of its founding. It gives me great pride to know that this Cleveland business has been so successful in the past and that it is well prepared for the future.

Premier was founded by Jack, Joseph, and Morton Mandel on August 1, 1940. Begun as an automotive parts distributor, Premier has expanded and grown over the years and has reached the status of an international publicly held company.

That Premier has been so successful is due to its commitment to three core values. First, Premier is known for the great amount of respect it shows to the individual; the people at Premier treat others as they would want to be treated themselves. Premier is also renowned for its superior customer service. Finally, Premier's pursuit of excellence has made it successful in the past and will enable it to compete and succeed in the future.

In addition, the management and staff of Premier have a strong sense of corporate and social responsibility. Combined with the core values, this philosophy reflects the ethical commitment that underlies all of their actions.

I would also like to congratulate Premier's owners, the Mandel family. The Mandels have demonstrated civic leadership and a vision that has made Premier part of the backbone of the Cleveland economy. Their civic commitment has manifested itself in the establishment of the Mandel School of Applied Social Sciences at Case Western University.

So congratulations Premier Industrial Corp. You certainly should be proud of your past and you are well prepared for your future.

ROBERT NOYCE NATIONAL MATH AND SCIENCE TEACHERS CORPS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. LEVINE of California. Mr. Speaker, today I am pleased to introduce the Robert Noyce National Math and Science Teachers Corps Act of 1990.

I believe this legislation will be a critical step towards making America more competitive in the 21st century. Our Nation's greatest resource is our children's minds. We must take immediate and urgent action to ensure them the best education possible.

If we are going to enhance our economic producitivity and guarantee the technological literacy of our workforce, we must provide our students with adequate levels of technical abilities during their elementary and secondary schooling.

Sadly, the overall performance of U.S. schools and students in math and science has been declining sharply over the last decade. The statistics are startling:

—Students in the United States consistently score below their counterparts in other developed nations on comparative math and science tests;

—The average amount of time allotted to science instruction in U.S. elementary schools is 15 minutes per day:

—In 1986, nearly one-third of American high school students were being taught science and mathematics by teachers not qualified to teach such courses.

My bill is designed to address this serious crisis by increasing the number of math and science teachers in our Nation's disadvantaged schools.

In exchange for a full year scholarship, the student will agree to teach math or science at a chapter 1 elementary or secondary school for 2 years.

The bill will serve the dual purpose of encouraging more students to study math and science, while increasing the number of teachers in our disadvantaged schools.

The legislation is named in honor of Robert Noyce, the coinventor of the integrated circuit and the founder of Sematech, who died recently. In addition to being the Thomas Edison of the 20th century, Bob was passionate about the education of underprivileged children.

It is my hope that this legislation will inspire and guide the next generation of Bob Noyce's, who will lead America into the information revolution of the coming century.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Robert Noyce National Math and Science Teachers Corps Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) in order to enhance our Nation's economic productivity, and increase employment opportunities for Americans, the Nation must ensure that students are provided with at least minimal levels of technical literacy during their elementary and secondary schooling;

(2) well-prepared teachers are needed to provide United States students the science and mathematics education they need;

(3) in 1986, nearly one-third of American high school students were being taught science and mathematics courses by teachers not qualified to teach such courses;

(4) teacher salaries are such that students who display talent in technological disciplines do not pursue careers in teaching;

(5) a declining number of students are choosing science and mathematics as fields of study at both the undergraduate and graduate levels, indicating that the number of graduates qualified to teach in such fields of study is also declining;

(6) minorities and women comprise a growing proportion of the American workforce and such individuals are needed to address shortages of science and mathematics teachers; and

(7) the Federal Government has both the responsibility and the means to provide support to teachers to enable teachers to improve their qualifications to teach science and mathematics, and to encourage more persons to teach science and mathematics in elementary and secondary schools.

SEC. 3. SCHOLARSHIP PROGRAM AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized to annually award scholarships to individuals to assist such individuals in obtaining a teaching degree.

(b) AMOUNT OF SCHOLARSHIPS.—Each scholarship awarded under this Act in any fiscal year may not exceed the lesser of—

(1) the cost of tuition, board, and fees for such fiscal year; or

(2) $9,000.

(c) NUMBER OF SCHOLARSHIPS.—(1) The Secretary shall award not more than 5,000 scholarships under this Act in each fiscal year.

(2) The Secretary shall award not more than 4 scholarships under this Act to any 1 individual for undergraduate study.

(3) The Secretary shall award not more than 2 scholarships under this Act to any 1 individual for graduate study.

(d) USE AT ANY INSTITUTION PERMITTED.—Each individual awarded a scholarship under this Act shall use such scholarship to attend any institution of higher education.

SEC. 4. ELIGIBILITY.

(a) IN GENERAL.—A student shall be eligible to receive a scholarship under this Act if such individual is a citizen of the United States or a permanent resident alien.

(c) CONTINUED ELIGIBILITY.—Each individual awarded a scholarship under this Act shall continue to receive scholarship payments under this Act only during such time as the Secretary finds that such student is—

(1) enrolled as a full-time student in an institution of higher education;

(2) pursuing a course of study approved by the Secretary; and

(3) maintaining satisfactory progress as determined by the institution of higher education which the individual is attending.

SEC. 5. APPLICATION.

(a) IN GENERAL.—Each individual desiring a scholarship under this Act shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall—

(1) describe the course of study the student will pursue;

(2) describe the cost of attendance for which a scholarship is sought; and

(3) contain such other assurances as the Secretary determines are necessary to ensure compliance with the provisions of this Act.

SEC. 6. AGREEMENT.

(a) IN GENERAL.—Each individual awarded a scholarship under this Act shall enter into an agreement with the Secretary.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will, within 2 years of completing such individual's course of study, teach science or mathematics, in an elementary or secondary school that is eligible for assistance under section 1006 of the Elementary and Secondary Education Act of 1965, for a period of not less than 2 years for each fiscal year such individual received a scholarship under this Act;

(2) provide assurances that the individual will repay to the Secretary all or a portion of the scholarship awarded by the Secretary under this Act in the event that the conditions of paragraph (1) are not complied with; and

(3) set forth procedures under which an individual who teaches for less than the 2-year period required under paragraph (1) will repay the scholarship awarded under this Act to the Secretary according to a schedule established by the Secretary.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $10,000,000 for fiscal year 1991 and each succeeding fiscal year thereafter to carry out the provisions of this Act.

SEC. 8. DEFINITIONS.

For the purposes of this Act—

(1) the term "Director" means The Director of the National Science Foundation;

(2) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965; and

(3) the term "Secretary" means the Secretary of Education.

IN RECOGNITION OF CHRIS HOLDER'S ELECTION TO PRESIDENT OF KEY CLUB INTERNATIONAL

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. PARKER. Mr. Speaker, I rise today to celebrate the accomplishments of Natchez, MS, Chris Holder. A Trinity Episcopal Day School Key Club member, Chris is the first Natchez student to be elected to the honorable position of the international president of Key Club International.

The largest high school youth service organization in America, the Kiwanis Club supports youth and their ambitions through opportunities in clubs such as the Key Club. Chris' impact as president of this organization is an example of success followed by commitment and hard work. Recognized at the international convention in Washington, DC, hosted by 2,300 members from 26 countries, Chris' example will always be a source of pride for the people of Natchez, MS.

At age 16, Chris continues Natchez, MS, tradition of excellence in youth leadership. Serving as the president of Key Club International, Chris not only makes an impact on the organization's sponsor, the Kiwanis Club, but provides an example of strong ambition and success to youth at home and throughout the United States.

WORLD POPULATION DAY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. KOSTMAYER. Mr. Speaker, today, July 11, 1990 is World Population Day. This day commemorates the day when the Earth's population reached the 5 billion mark, on July 11, 1987. We must act on the grave threat posed by the population explosion by stabilizing world population before it more than doubles.

The time has come for humankind to recognize that the Earth's resources will not expand at our command and to confront the problem of uncontrolled population growth. Uncontrolled population growth is an underlying component of many of the major environmental problems inundating the globe, including water shortages, global warming, toxic waste, soil erosion, desertification and forest destruction.

This year, even with the significant gains that have been made in decreasing fertility rates around the world, total population growth is reaching or even exceeding the highest growth rates projected by the United Nations Population Fund. World population at current rates will double in the next 40 years. Africa alone is burdened with 1 million more people to feed every 3 weeks, yet we can not even feed, clothe, and house the 5.3 billion people that inhabit the Earth today.

First, we must realize that in many places on the Earth we have already reached the environmental carrying capacity that our natural resources can sustain. Next, we must recognize that in many areas, population growth in excess of economic growth is halting or even reversing development gains, creating poverty and destroying human lives as well as the environment. Even in areas where population may be below environmental carrying capacity, environmental restoration efforts are slowed as a growing population destroys habitat for agriculture and urbanization.

Our challenge is to solve the population growth problem in the 1990's while the demographic window of opportunity still allows us to prevent world population from more than doubling and before our climate and world environment are beyond repair. We now have a priceless opportunity to make population considerations a positive element in community development and evolve a truly sustainable society. Such an endeavor will begin to actively restore to the Earth its ecological health and productivity. By achieving world population stabilization, we will take the most constructive step humanity can take in the closing decade of this century—and at the same time prepare for the future of this planet in the next century and the centuries beyond.

THE CHANGING TELEVISION INDUSTRY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 11, 1990, into the CONGRESSIONAL RECORD.

THE CHANGING TELEVISION INDUSTRY

Fifthy years ago, when Franklin D. Roosevelt became the first president to appear on television, few could predict the revolution TV would bring to American lives. With explosions in cable TV and video cassette recorders in the 1980s, that revolution—fueled by new technology—continues today. As the U.S. enters a new era in television, fostering competition in the television industry may demand a new role for the federal government.

Americans spend a large part of their lives in front of a television set. Indeed, television has elbowed aside all other ways of spending the days, apart from work. Watching TV ranks high among things Americans say they look forward to each day, and the number who cite television as their primary news source is high and rising.

For many Americans, television still means broadcast TV: over-the-air programs supplied by the commercial networks of CBS, NBC, and ABC. Yet today the networks are losing viewers. Ten years ago, the networks attracted 91% of the prime time television audience; today, that share is down to 67% and expected to erode further. Total time spent watching television is also falling, with one cause being the boom in video cassette recorders. While barely 1% of the U.S. households owned a VCR in 1980, 65% now have at least one.

CABLE TELEVISION GROWTH

But the greatest competition to the networks is cable television. Unlike the networks which depend on advertising revenue, cable companies draw revenues from monthly subscriber fees, pay-per-view programs, and advertising. More than half the homes in the U.S subscribe to cable, with its audience size approaching that of the networks and independent stations. Offering on average more than 30 channels, cable has increased the number and diversity of programs, divided audiences into smaller groups, and diffused television's impact. Cable has also helped spur the growth of independent stations, with their numbers doubling during the 1980s. The growth of independents has increased competition for advertising and demand for programming.

Tremendous growth of cable also brings troubling changes to the television industry. Almost all homes in cable areas have no choice of cable companies, and the cost of lowest price basic service has increased by 43% in the three years since the cable industry was deregulated. As cable company own-

ership becomes concentrated in fewer hands and cable companies own more sources of programming, cable's critics contend that some cable operators give favorable treatment to networks and programming in which they have a financial interest. Also, competition between free TV and cable has increased for national football, baseball, and basketball league contracts, while some local commercial and public stations have been dropped from cable systems. In their defense, cable companies stress that rates were held artifically low under regulation, that quality and diversity of programming for viewers has exploded in recent years, and that cable ownership of programming has resulted in higher quality programs.

REGULATING THE INDUSTRY

I do not want to see a television system that stifles competition, hinders innovation, or harm consumers. There is a widespread feeling in the Congress that there is a cable problem of some sort but no consensus precisely what it is and what ought to be done about it. Some want to re-regulate rates, limit the number of subscribers a cable company can serve, and restrict ties between cable operators and programmers. Others want to inject more competition into the industry, which could be especially important for rural Indiana areas without cable. Potential competitors include direct broadcast by satellite, which would use new technology to deliver over 100 channels to napkin-sized home antennas; wireless cable, which transmits over microwaves; and telephone companies, which are currently prohibited from owning cable systems. Lack of financing and programming hamper some of these alternatives, however. Also, to transmit video, phone companies would face considerable costs to upgrade to new fiber optic cable. Many also argue that letting phone companies into cable would create a new unregulated monopoly. Closer scrutiny of the cable industry is occurring, and efforts are underway in the Congress to set some limits on cable growth.

Other difficult television issues also face the Congress. These include whether local stations should retain exclusive rights to broadcast syndicated programs; whether cable systems should be required to carry local commercial and public stations and at what cost; and whether to drop rules which ban networks from owning rights to most programs and prevent them from selling hits to independent stations. This basket of issues will have a crucial effect on the financial health of the industry and the range of programs consumers can receive.

FUTURE TECHNOLOGIES

The Congress may also grapple with the development of new high-definition television technology (HDTV). Mixing digital computer technology with television images, HDTV technology promises home TV pictures as clear as movies with the sound of compact disc players. HDTV will also likely mark the transition to future computer technologies that would offer high quality video and allow users to interact with the information displayed. In the future, television might become obsolete, replaced by systems which merge voice, data, and video. Current applications of HDTV include industrial, medical, and military systems. Still, HDTV is in its infancy, with the U.S. lagging behind Japanese and European manufacturers.

As a mass medium, television is a powerful social glue—helping to shape who we are, what we think, how we learn. As the old three-channel TV gives way to 100-channel systems, I wonder if television will become less of a shared experience. Since broadcasters are the only ones required to serve local audiences with news and community affairs and public stations are the major source of educational programs, more is at stake than rates and market share. As new technology drives the world of communications, keeping the television industry both competitive and responsive to the public good are critical goals for the Congress.

TRIBUTE TO ED KELLAHER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. MANTON. Mr. Speaker, the House and our country lost a true public servant with the recent passing of Edward T. Kellaher, the longtime Chief of Property Supply and Repair for the House of Representatives. Ed Kellaher served the institution with honor and distinction for 29 years, and we will all miss him.

Mr. Speaker, Ed was more than an outstanding public servant, he was also a special friend. As a fellow Irishman from Queens, NY, which I have the privilege to represent, Ed took the time to guide me through the process of setting-up my congressional office when I was first elected to the House. I am sure my colleagues will recall from their first days here that such insider assistance is invaluable. Ed's guidance and friendship meant so much to me, and I truly mourn his passing.

Mr. Speaker, our distinguished Clerk of the House, Donn Anderson, gave a very moving eulogy at Ed's services which I wish to share with my colleagues. I know I speak for all of us when I express my deep sadness at Ed's passing and that our heartfelt sympathy goes out to his loving family.

Mr. Speaker, I am submitting the text of Donn's tribute to Ed for the RECORD.

TRIBUTE TO ED KELLAHER

I deeply mourn the death of Ed Kellaher in the realization that I will not likely have such a friend again. But in my grief, I rejoice in the lasting happiness of Ed's friendship, his love, his sensitivity and his unfailing kindness. Ed leaves a legacy which extends beyond his special relationship with each of us—as husband, father, grandfather, brother, friend. His legacy is tangibly measured in the works with which he has been associated.

Ed's exceptionally long service to the House of Representatives, 29 years, spanned six Speakers, from Sam Rayburn to Tom Foley, and five clerks, from Ralph Roberts to myself. It was a period of remarkable change and expansion and Ed was very much a part of it.

When Ed started in 1961 as assistant property custodian, there were 26 employees in a few cramped rooms in the Cannon Building basement. The total operating budget for furnishings, repair services and salaries was $254,000.

Today the office of property supply and repair has 151 employees, nearly one-third of the clerk's workforce, with a total operating budget of over $5 million. During the same period, the Rayburn Building and the east front extension to the Capitol were completed and two major office building annexes were acquired.

Ed had the resourcefulness and foresight to meet the technical, material, and personnel needs of the greatest growth period in the history of the House. The new methods and efficiency, which Ed brought to property, have made the office the great and essential service organization which it is today.

Ed's work to him was a stewardship. A prudent manager of resources and a tough negotiator, he insisted that the House get the best value for the taxpayers' money. Most of all, Ed loved the shops and the craftsmen, taking a very personal pride in their splendid work. How often he said so.

Ed became involved with the Wright Patman House Credit Union during the era of a single counter and green eye shades. Over the years he held a variety of credit union offices, and worked energetically for its growth and prosperity, because he recognized the great good it could render to the House community. Today, the Wright Patman Credit Union is one of the largest, fastest growing and best managed in the entire Federal credit union system, and the results of Ed's dedication are to be found everywhere.

Ed was a great democrat. In times gone by, no boiler room operation was complete without him. He worked generously and with a zeal for the improvement of the National Democratic Club. He appreciated the need for a place for Democrats to come together socially.

Ed was a constant delight to his friends and coworkers. He took his work seriously, but never himself. His unfailing wit, good humor and story-telling ability were the products of his New York-Irish heritage, as were his self-assurance and determination. Ed was comfortable with everyone, because he was always comfortable with himself. Ed was the genuine article, a "what you see is what you get" kind of guy. Ed had no hidden agenda.

His objectives were clear: the happiness and security of his family, doing his work faithfully and to the best of his ability, promoting the integrity and respect of the House of Representatives, and involving himself in things which improve the lives of others.

In witness to the affection and respect of his coworkers, Ed became one of the early recipients of the John W. McCormack Award of excellence for House employees. With every passign year, he continued to validate the appropriateness of the award. Ed takes with him the only property a man can carry out of this world—his good name and reputation, and for those he will receive a kindly judgment.

Ed best represented the old-time sense of loyalty, commitment and institutional memory which has declined steadily in the House service over the years, and yet again declines measurably with Ed's passing. Ed was a rock of constancy, purpose and reliability in a place where tradition has been assigned diminishing importance.

Each of us knew Ed in a special way. He was the friend and mentor of my youth, and in later years, my confidant.

During the past 4 years, Ed was my trusted and highly valued senior department head, but always first my friend. He never hesitated to argue or disagree when he thought I was wrong, but if my judgment was not his, Ed would say "okay" and carry it out with typical loyalty. My sense of loss is both deep and wide.

I extend the most heartfelt sympathy to Ed's beloved wife, of many years, Eleanore, his children Ken, Don, Susan and Mary and his eleven grandchildren. You blessed his life and graced his home with love, support and joy. You were the sacred repository of his hope and happiness. You gave him all the contentment he could have ever wished for.

I will miss you, Eddie. I will recall the happy times we spent together and think of those which might have been. I will miss your thoughtful expressions for all occasions and for nothing in particular. I will even miss your stories, although I had heard most of them before because of the delight you took in telling them.

Farewell, beloved friend of years. Go in peace with our love and gratitude for all that you have meant to us. We will always remember you, and each time that we do, we will smile.

HONORING MR. RICHARD A. HOVELSRUD, LIBRARIAN, WHITTIER UNION HIGH SCHOOL DISTRICT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. TORRES. Mr. Speaker, today I rise to recognize an outstanding man, Mr. Richard A. Hovelsrud, librarian at California High School in the Whittier Union High School District. On August 1, 1990, Mr. Hovelsrud will retire.

Richard is married to the former Shirley Ann Arnold and together they have two children, David Paul and Lisa Tricia.

Mr. Hovelsrud graduated from South High School of the Minneapolis Public Schools in 1948. He obtained a bachelor of science in business education and a master of arts in business and distributive education from the University of Minnesota in 1952 and 1958 respectively. He furthered his education at the University of Southern California by earning a master of science in library science in 1960.

Mr. Hovelsrud has an extensive history with the Whittier Union High School District, most of his life has been dedicated to the librarian and teaching professions; to the field of education by any and all standards.

Mr. Hovelsrud began his work in education at his alma mater as a teacher of business education and work experience coordinator. At Whittier Union High School District, he has taken on the role of teacher and librarian in many of the schools within the district.

In addition, Richard has served tenures as both a district administrator and college librarian. He has managed to maintain active participation in numerous professional and civic organizations.

For his invaluable contributions to the community and to his profession, Mr. Richard A. Hovelsrud will be missed, as he retires. The community will not be at a total loss however, as Mr. Hovelsrud has promised to stay on top of his professional and community activities.

Mr. Speaker, at this time I would like to ask that my colleagues please join me in saluting my good friend, Mr. Richard A. Hovelsrud for his unselfish efforts, all in the best interest of the students and citizens in the community of Whittier, CA.

THE 25TH MAN OF THE YEAR

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. WAXMAN. Mr. Speaker, on October 28, 1990, Gateways Hospital Men's Club will honor Manny Feigenbaum as the 25th Man of the Year. Manny was unanimously endorsed in recognition of his many years of commitment to serving the mental health community.

Born in St. Louis, 1901, Mannie Feigenbaum was a natural born salesman. Earning money to help the family and save for the future, he left for Chicago in 1925, where he met Edna Gamson, who, only a month later, became Mrs. Edna Feigenbaum. Soon after, the pair left for Los Angeles, operated a prosperous grocery store, and later Manny became one of the leading auctioneers in Los Angeles. Manny Feigenbaum's success is something he believes in sharing with the less fortunate, always helping those who are truly in need.

Some of the organizations who have benefitted from Manny's generosity are City of Hope, Hollywood Temple Beth El, United Way, Red Cross, B'nai B'rith, American Cancer Society, Foundation for the Junior Blind, Jewish Home for the Aging, Braille Institute, Vista del Mar, American Heart Association, and the United Negro Fund, to name but a few.

A devoted husband of 65 years, he is a pround father, grandfather, and great-grandfather to 3 daughters, 8 grandchildren, and 7 great-grandchildren. Always, his family is "my greatest joy, and the most meaningful achievement of my life."

On behalf of Gateways Hospital, Manny Feigenbaum has spent 25 years helping the mentally ill achieve a normal way of life. Individuals families, and the homeless, who must face the tragedy of mental illness, may turn to Gateways Hospital Mental Health Center.

I ask the Members to join me in congratulating Manny Feigenbaun on this special occasion and to thank him for devoting his time, generosity, and concern to the community. We wish him many more years of success and felicity in all his endeavors.

SENIORS' ACCESS TO HEALTH CARE VERSUS MEDICARE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. PALLONE. Mr. Speaker, during the relatively short time I have served as U.S. Representative for the Third Congressional District of New Jersey, Medicare has been the greatest single continuing problem that plagues my senior citizens, hospitals, and physicians. The results of rapidly changing regulations and poor administration in the implementation of those regulations by the carrier and the Health Care Financing Administration are creating havoc in my communities. Certainly the State of New Jersey cannot be the only State experiencing this chaos.

The New Jersey delegation has met with officials of the Health Care Financing Administration and Blue Cross Blue Shield of Pennsylvania and we are constantly assured that things are improving. At the same time, we continue to receive letters from seniors and their doctors pointing out examples of the steady deterioration of the Medicare Program. Example after example flow into my offices—illustrations of confusion, threats to physicians, changes, mistakes, lack of policy, lack of clarity, and the demoralization of patients and physicians alike. The Medicare Program's policies and regulations toward the elderly and physicians are rapidly approaching a complicated and exclusionary level wherein we are beginning to see dire health consequences of sharply limited treatment or untreated illnesses among the Medicare eligible, on top of what we continue to see as detrimental effects on the health of individuals resulting from our seniors being discharged too early from the hospital.

The fact is, in the current environment created by HCFA and the Medicare carriers, physicians have little more knowledge than the patients as to what will be a covered service and how often that service will be covered. I know—as I have made many inquiries for clarification, many of which are still unresolved. After the fact, when it comes to justifying medical necessity, patients are led to distrust the medical judgments of their physicians—those very individuals upon whose judgment they should rely. The apparent result of many of these so-called cost-saving measures—has been the destruction of the confidence of our Nation's elderly in their doctors and their hospitals. Is it really the intent of Congress and the Health Care Financing Administration to imply that most physicians are crooks who will drag elderly and sick Medicare patients into their offices for unnecessary treatments in order to bill Medicare? And then, to proceed on that implication—by authorizing the setting in place of a vast and costly network of big-brother-is-watching review mechanisms that have added millions to the Medicare budget for personnel and related costs for all the existant levels of reviewing—and all the while proclaiming that costs to the program are down.

As many medical services and treatments are evaporating in the maze of changing coverage guidelines, does anyone other than the physician actually consider the patient in these cost-saving measures? Medicare policy has come dangerously close to defining medical care for our country's senior citizens and appears to be attempting to control physicians' judgment about the treatment of patients who are caught in the cross-fire, confused and as terrified of enormous unreimbursed medical bills as they are of illness.

Let me say that there appears to be a shared consensus among physicians, who treat large numbers of seniors—either because of specialty or because of location—that there will be a sharp curtailing in their accepting Medicare patients because of the loss of revenue—not to mention the sheer aggra-

vation, additional clerical costs for Medicare processing and actual loss of time to the physician in aspects unrelated to actual patient care. Very simply, the Federal Government is making it too costly and too cumbersome for doctors in private practice to treat seniors. As a new Member of Congress, I am frightened for my senior constituents, whose access to health care is being systematically eroded.

I am kept well apprised of Medicare problems in my district, through the Medical Society of New Jersey, the Ocean and Monmouth County Medical Societies, and many individual Medicare patients and physicians. Submitted for the RECORD is recent thoughtful correspondence of Michael A. Patmas of Toms River, NJ—whose concern for patients and the integrity of the practice of medicine is well known, and who, among other things has special credentials in geriatrics.

FEBRUARY 20, 1990.

FRANK PALLONE, Jr.,
1174 Fisher Blvd.,
Toms River, NJ.

DEAR SIR: I recently read in the AMA News that the Inspector General is planning to launch a study to investigate whether or not Medicare's reimbursement policies are discouraging internists from attending to patients in nursing homes.

You can tell the Inspector General that he can save the taxpayer quite a bit of money. He doesn't need to do a study to determine this. A few well-placed phone calls while having his morning coffee will tell him all he needs to know. I suggest he call a few internists in different parts of the country and in 15 minutes over the phone, he can be thoroughly convinced that Medicare's reimbursement policies are not only discouraging internists from taking care of patients in nursing homes, they are also discouraging internists from practicing geriatrics in general. One doesn't need a federal investigation to realize the obvious.

As you probably know, I was university-trained in a program with a strong geriatric emphasis, and I am Board eligible for certification as a specialist in geriatric medicine. It is indeed quite a sad commentary that not only have I decided not to take the specialty certifying exam in geriatrics, but I have moved my practice as geographically far away from senior citizens as possible in my area. As you should know, my MAACs for Medicare patients are so appalling low, that the Medicare patient represents a significant financial drain on my practice. Were I to advertise myself as a specialist in geriatrics, my practice would be overwhelmed with Medicare patients and I would quickly be in financial difficulty.

Why should I see a Medicare patient for $25.50 when I can see a non-Medicare patient and charge my usual fee of $40.00? Five years ago, I received $35.00 for a regular office visit from all my patients. Today, my Medicare fee for a regular office visit is $25.00 (reduced 30% by law over the last five years) while the fees for non-Medicare patients have gone up to $40.00 for an office visit. With a $15.00 differential between Medicare and non-Medicare patients, why should I see the lower-paying patient. This disparity is even greater for the new patients wherein I am paid $140.00 for a comprehensive history and physical on a non-Medicare patient. My MAAC for complete history and physical on a Medicare patient is approximately $70.00. One doesn't need an MBA to realize that Medicare patients represent a revenue source slightly better than Medicaid patients. A successful practice must diversify its patient base to include as many non-Medicare patients as possible.

For these reasons, most internists avoid seeing patients in nursing homes and are presently and very subtly trying to decrease their "burden" of Medicare patients. I guess this is the information the Inspector General would be trying to find out with his congressional investigation.

Very truly yours,

MICHAEL A. PATMAS,
M.S., M.D., F.A.C.P.

JUNE 26, 1990
(After investigation by
the Inspector General).

Representative FRANK PALLONE, JR.
Cannon House Office Building
Washington, DC.

DEAR MR. PALLONE: I thought I would send you a copy of a letter I received from Dr. F, which I think you might find very interesting. As you can see, Dr. F is choosing to no longer perform consultations at several area nursing homes. This is indeed unfortunate since Dr. F is an absolutely first-rate psychiatrist, specially trained in geriatric psychiatry. There are only a very few psychiatrists in this area. We indeed have a shortage in that speciality and now the best in the community no longer will do consultations in these nursing homes.

This situation is not unique. In Ocean County, *none* of the elite physicians, that is, the most highly trained, certified, and qualified physicians, attend any patients in nursing homes. This is because the reimbursement rates from Medicare are so appallingly low that nursing home visits simply do not pay. Secondly, paperwork and other hassles from Medicare also contribute to the desire to avoid these settings.

Recently the Inspector General has stated that Medicare regulations have not resulted in any problems with access to care. I would suggest the Inspector General spend some time in Ocean County, identify himself as a Medicare patient, and see how long it takes him to get a visit with any Board-certified specialist, if he can get one at all. All across the county, indeed, in the State of New Jersey and throughout the country, physicians are disgusted. As you well know, almost 65% of doctors in a recent nationwide survey are disillusioned with the practice of medicine and would quit tomorrow if they could. In fact, many of them are already planning alternate careers. In Ocean County, approximately a half dozen quality physicians in the prime of their career have quit in the past two years. Every other physician I know of merit is actively scaling back their Medicare practices. Dr. F's letter is just another example.

The situation for physicians is beyond bad. We are now of the feeling that it is hopeless and that the only option for most of us is to get out of this profession. Medicare does not distinguish among physicians based upon qualifications and credentials.

I would suggest that they should, and see exactly who it is that's attending our elderly patients in nursing homes. Physicians have been a convenient scapegoat for the last several years and physician-bashing a favorite political activity. We have warned that sooner or later we will not be able to take much more and will simply begin to leave the profession. Access to care and certainly the quality of individuals practicing medicine is certain to deteriorate. In fact, this is already occurring. As you well know, quality of medical school applicants is declining rapidly. Medical school competition is almost nonexistent. Virtually anyone can now go to medical school. It won't take long before access and quality must certainly suffer. Thus far, however, there is not a shred of evidence that any elected officials care one iota about physicians' feelings and our perspective on the problems. We are not asked for our input and our opinions really do not seem to matter. The only option left for most physicians is simply to do as Dr. F has done. Much to our regret and to the detriment of the patients. Sooner or later, the politicians better wake up to the desperate state of despair that physicians feel to resort to this drastic type of maneuver.

Sincerely yours,

MICHAEL A. PATMAS, M.D., F.A.C.P.

MARCH 5, 1990.

DEAR SIR: This letter is intended to convey my feelings regarding the Inspector General's reported proposals for the regulation of physician office labs (POL's). As his regulations are proposed, they would constitute a prohibitive hardship for the physician. Even very simple POL's would be required to have a pathologist or Ph.D. scientist on-site to supervise laboratory activity. This is clearly not feasible for a small, solo medical practice.

Further, the $2,000 annual registration fee would wipe out any profit that these small labs produce. The regulations would, for me, necessitate dismantling my POL and terminating my medical technician. It would result in grave inconvenience to my patients, some of whom are elderly and who have difficulty traveling seven miles away to the hospital to have their blood work done. The purpose of the POL is primarily to provide convenience to patients who desire to have the blood work done at the time of their office visit. It is also invaluable medically because I am able to determine if there are critical laboratory test abnormalities while the patient is still in the office. The delay inherent in having to send a patient to the lab to find out that their potassium is dangerously low or high is obvious. I can have the same information in five minutes in my office.

All of the Inspector General's concerns about POL quality can be easily addressed without the need for excessive regulation. Participation in a specialty society-sponsored laboratory quality control program such as the American Society of Internal Medicine's POL monitoring program would address all of the Inspector General's concerns. There really is no need to adopt such severe restrictions as the Inspector General has suggested. The ASIM program provides for reproducibility of results and maintains an excellent quality control program.

I would suggest that you look into the Inspector General's report and consider simplifying it to require that POL's participate in an ongoing quality control program such as that provided by the American Society of Internal Medicine.

Sincerely,

MICHAEL A. PATMAS,
M.S., M.D., F.A.C.P.

Addendum: Oh, and by the way, I really resent the IG's suggestion that a doctoral scientist would have to be present to supervise laboratory function. I have a master's degree in physiology and biochemistry, and spent two years doing laboratory research immeasurably more complex than that which goes on in my office. If I can properly

isolate brain mitochondria and test oxydative phosphorylation, I certainly think I can supervise a medical technologist in drawing a blood specimen and placing a drop of serum on a slide which is then inserted into a machine and gives you the result.

BOOM IN ELECTRONIC SURVEILLANCE GADGETS POSES THREAT TO PERSONAL PRIVACY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. EDWARDS of California. Mr. Speaker, I would like to bring to the attention of my colleagues a disturbing new threat to our constituents' privacy. In an article in New York Newsday entitled "Spies Like Us," reporter Carl S. Kaplan described the recent proliferation of personal surveillance gadgets. These sophisticated audio and video devices are becoming increasingly available to consumers, and their popularity is soaring. Yet, as our society indulges in its fascination with spying, our fundamental civil liberties are threatened. By intruding into the privacy of our conversations and acts, even in our own homes, these devices leave us all vulnerable. This article affirms the importance of the bill H.R. 2551, introduced by my colleague from California, Mr. DELLUMS, which would require two-party consent to electronic monitoring in all non-law-enforcement cases. The Newsday article, printed on June 10, 1990, follows:

SPIES LIKE US

Electronic surveillance has become a family affair—and a big business by Carl S. Kaplan.

High above busy 34th Street, in an 80th floor suite in the Empire State Building that reeks of calm, Ed Sklar is giving a Cook's tour of some of the most popular spy gadgets he sells to paranoid and security-minded consumers.

There's a black-leather attache case with hidden microphone and hide-away tape recorder—perfect for covertly taping conversations and promises that might otherwise be lost.

For women on the go: a recording purse that resembles a sleek, designer bag. At $600, it can be used for documenting sexual harassment on the job or to help prove spouse abuse. "We originally built this at the request of a client who was referred to us by a divorce attorney," says Sklar, the president of Spy Tech. Pulling other gadgets off the shelves, the snoop maestro explains the uses of wiretap detectors, telephone-recording equipment, and something called the "Electronic Stethoscope," an under-$300, amplified hearing device that can detect faint sounds—and voices—behind walls.

"Let's go to covert video surveillance," the designer and vendor says cheerfully, pointing to a cuddly teddy bear. This $1,200 stuffed animal contains a tiny video camera that peeks through the belly button—good for monitoring the baby sitter.

Once upon a time, espionage devices such as the all-seeing bear were the stuff of James Bond fantasies and, perhaps, a government or industrial spook's arsenal. Not any more. Selling for consumer use is the new trend in surveillance gear, creating by one estimate a $100-million industry—and a host of concerns about privacy.

"Maybe the Nineties are going to be the spy decade," said Steve Brown, a buyer for The Sharper Image, whose catalog is expanding its spy gadgetry. "We're doing it because it's fun, different and [will] cause excitement in the stores."

Privacy advocates are excited, too, but for a different reason. They claim that although some surveillance equipment is against federal law, legal loopholes, lax enforcement and a new social acceptability for spying allow the proliferation of equipment to go unchecked. "When people talk about Big Brother, they mean the government. But Big Brother is not the government—it's each of us," said Rudolph Brewington, a privacy advocate who says he was bugged—electronically—by his spouse after she filed for divorce. "The James Bond syndrome . . . people think of [spy gadgets] as romantic, wonderful. But they are despicable," he said.

Professionals such as Sklar, taking advantage of lower prices for the sophisticated wares and popular interest in electronics, say they are marketing to upscale retail stores, glossy catalog companies and directly to shoppers and small-business owners.

For example, The Sharper Image, which also has a Manhattan store, will list three spy gadgets in its August catalog: the Electronic Stethoscope, a phone-tap defeater, and a wireless transmitter/receiver kit, for listening to sounds at a distance.

A particularly intrusive gadget is among those in Sklar's office: a seemingly conventional television set.

"This TV watches you," he says. "It has a built-in video camera behind the speaker."

It works like this: If you think your spouse is cheating, bring the $1,500 set home as a gift, put it in the bedroom, then go away on business. Upon return, check the videotapes.

Demand for sophisticated audio and video surveillance devices is fueled by many factors, including yuppie toy lust, the desire to gain an advantage and high divorce rates—which promote spousal suspicion, according to experts.

Spy gadgets are "epidemic" among warring or litigating couples, said Maureen Gawler, a Maryland-based private investigator. "I see over and over, men and women using different types of bugging devices, including video surveillance . . . just to find things out, for legal blackmail. They want to know what their spouses are doing," she said.

Raoul Lionel Felder, a New York divorce attorney for Robin Givens and Nancy Capasso, said he shuns "slimy" information from amateur spouse spies. But Felder acknowledged that evidence gathered by illegal eavesdropping might be used by some lawyers. "It's never so crude as using illegal surveillance as the evidence," he said. "They work backward. A husband taps a phone and finds out his wife is committing adultery. He takes the tape and destroys it, then [hires someone] to watch the 'Hotbed Hotel' " and gather legal evidence.

"The psychodynamics of it are, you gotta find out, punish, get the edge," Felder continued. "Many people get tap happy, start tape recording their lawyer. Whenever I see a woman with a large pocketbook, I assume she's taping me."

There are other users, though. Sklar—who founded his firm in Miami four years ago with corporate accounts, and who targeted New York and consumer clients last year—said many of his clients are prudent professionals who wish to record oral agreements. He also caters to "people with problems."

"In today's society, with many parents working, the problem of abuse by baby sitters, nannies, is hitting the headlines," Sklar said. "That's generated a lot of interest" in video bugs.

By way of example, Sklar mentioned a notorious "video slapping" case. In 1989, a Chattanooga, Tenn. couple, fearful that their baby sitter was abusing their 6-month-old baby, secretly videotaped her slapping the child. The sitter pleaded guilty to misdemeanor to child-abuse charges, and a judge sentenced her to a year in jail after watching the tape.

The wave of surveillance gadgets also has created a market of response products. Suzanne Harper, vice president of Digitech Telecommunications Inc., a New York-based distributor of security wares to mail-order houses and retailers, said one of her most popular items is "Phone Guard," a $300 phone-tap detector and defeater. Her company also sells various other "bugging" detectors and telephone-voice scramblers—though experts said some "countermeasure" devices give consumers a false sense of security.

"Some of this stuff has no purpose but to feed a particular void in society that can be [filled] for $200. It's paranoia," said Michael Goodrich, owner of Spectra Research Group, a Manhattan-based supplier of security equipment.

One impact of the trend is the creation of spy victims who—through accident or ingenuity—discover they have been bugged.

Brewington, 43, a Washington, D.C.-based government worker, said he fell into the spy trap in Pittsburgh in 1987. "I was going through a very bitter divorce," he said. "One evening, under the pretext of reconciliation, my wife invited me into her bed . . . I was laying there holding her and she started hollering as if I was raping her. My antennae went up.

"Two weeks later, I discovered a voice-activated tape recorder in a closet upstairs," he said. "It had about 45 minutes of secretly recorded conversations of the two of us." Brewington sued, claiming his wife illegally recorded his conversations without his consent, in violation of Pennsylvania law. The case is pending.

The legality of selling and using some surveillance equipment is a "gray area," according to attorney Robert Ellis Smith, publisher of Privacy Journal in Washington, D.C.

For one thing, while federal law makes it a felony to sell, manufacture, advertise or possess an electronic device that's "primarily useful" for the surreptitious interception of wire or oral communications, there can be different interpretations as to what is "primarily useful," Smith said. Many devices, such as the Electronic Stethoscope, can have benign uses, such as checking for water leaks.

Sellers of spy gadgets tend to protect themselves by citing legal uses for their devices, even though "it's pretty clear [some] devices could be used to overhear two strangers," Smith said.

Indeed, ads often deliver mixed messages. Life Force Technologies, a Colorado-based mail-order company that sells more than 30 security devices, promotes its Electronic Stethoscope by saying: "Monitor the baby breathing in the nursery . . . and even diagnose engine sounds." But the accompanying

photo depicts a debonair man in tuxedo pressing the gadget against a white plaster wall. There's also a disclaimer: "It is a Federal Offense to intercept oral communciations, and these devices are not sold for that purpose."

Whisper 2000, an under-$20 amplified hearing headset sold directly via cable TV and newspapers, "has dozens of practical uses," according to one ad. "Take a walk outdoors and you'll hear birds sing like you've never heard them before." Nevertheless, the Washington Post stopped accepting the ads, said a Post lawyer, "because we had some concern . . . about it being a surveillance device."

Besides regulating the sale of devices, federal law also restricts wiretapping and eavesdropping acts. But a loophole exists: "It's legal to bug people when you are a party to the conversation," Smith said. That doctrine, called "one-party consent," enables a person equipped with a briefcase recorder to secretly tape a conversation he's included in. Fourteen states, including Pennsylvania, California and Maryland, have adopted the more restrictive "two-party consent" rule, which requires that all members of a conversation give prior consent. In New York, one-party consent holds sway.

Covert video surveillance, meanwhile, is not covered by federal wiretapping statutes, Smith said. But general principles apply: A bugger can't criminally trespass to place a camera, or put a camera in an area where a victim has a reasonable expectation of privacy, such as a bathroom.

To help curb amateur spying, Rep. Ronald V. Dellums (D-Calif.) last year introduced a bill that would amend the federal Omnibus Crime Control and Safe Street Act by requiring two-party consent in non-law-enforcement cases. The bill also would require manufacturers to equip voice-activated tape recorders with beep tones to help prevent misuse.

Yet even some lobbyists supporting the measure give it little chance of quick passage, because public concern has not caught up with technology. "Until we have more people who have been victimized and write to Congress, we're not going to get this legislation moving," said Janlori Goldman, a privacy attorney with the American Civil Liberties Union.

Some security experts opposed to the Dellums bill say that adequate laws exist to protect privacy. They say the problem is low-priority enforcement.

A spokesman for the FBI countered: "We pursue [illegal surveillance] rather vigorously when it comes to our attention." But Douglas Tillett, a spokesman for the U.S. Justice Department, acknowledged that evidence to prompt an investigation can be hard to get. "As a practical matter, if your neighbor wants to put a device on the wall and listen to you, there's almost no way the government can know that is happening," Tillett said.

The problem of victims not knowing they are victims has caused at least one privacy advocate to adopt a fatalistic attitude toward amateur spying. "I think it is dreadful, but I also think it is hopeless to try and stop it," said Herman Schwartz of American University's Washington College of Law in Washington, DC. "I'm afraid that given the pervasiveness of electronics stuff in society, it's just not feasible to enforce the law."

There's always the chance, however, that peer pressure can force changes. Private eye Gawler tells the following story about one of her surburban neighbors: A mother, concerned about her children's possible drug use, secretly planted a video camera in her house. When the camera recorded one of his children's playmates smoking marijuana, the bugger passed the evidence to the drug user's mother—who grew angry at the invasion of her child's privacy.

"The whole thing exploded in the neighborhood . . . all the parents were mad" at the bugger, Gawler said. "Now no kids go to that woman's house. Her kids lost all their friends."

YOUNG SPIES LIKE US: GROUP CALLS TYCO TOY EAVESDROPPING DEVICE

(By Carl S. Kaplan)

Spy devices aren't only for adults. Tyco Industries Inc. in March started shipping its "Real Working Long Range Microphone," a $16 boom mike with earphones marketed "for ages 5 to adult." The toy, part of the company's "Spy-Tech" line, can pick up sounds "up to 50 feet away!" says the product's packaging.

B. James Alley, senior vice president of marketing at Tyco, reckons he will sell 180,000 units this year. "All little kids like to play spy," he said.

But one child's plaything can be another's weapon. In April, Action for Children's Television, the Boston-based advocacy group, filed a complaint with the Federal Trade Commission, charging that Tyco's toy is an illegal eavesdropping device.

For its part, Tyco scoffs at the complaint. It claims the toy's design renders it ineffective as a secret listening device. "It doesn't work through walls, doors or around corners . . . [and] it's got a red, six-inch microphone, just to make sure everyone can see it," Alley said. The FTC declined to say whether it was conducting an investigation.

HAPPY 90TH BIRTHDAY, AVERILL PARK-SAND LAKE VOLUNTEER FIRE COMPANY NO. 1

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. SOLOMON. Mr. Speaker, this year will mark the 90th birthday of the Averill Park-Sand Lake Volunteer Fire Company No. 1

Like many Members of this House, I was for many years a volunteer fireman in my hometown of Queensbury. I have good reason to appreciate how important these volunteer fire companies are in rural districts like the 24th New York. In these areas, they are the sole source of fire protection. And they do a great job, saving billions of dollars in property and countless lives every year.

Being a volunteer fireman is time-demanding. It can be dangerous. Organizing a fire company and keeping it together as a functioning unit require dedication and civic pride. Those are two qualities that exist in abundance in the Averill Park-Sand Lake Volunteer Fire Company No. 1.

I can only guess at the number of lives and homes that have been saved in the last 90 years because of these brave and dedicated vounteer firefighters.

Mr. Speaker, on the weekend of August 11 and 12 there will be a celebration marking the 90th anniversary of the company. Please join me in saluting Chief Steven Robelotto and company President Robert E. Blaauw, and in wishing the fire company a happy 90th birthday.

BALLARD HIGH SCHOOL: ACADEMIC EXCELLENCE NATIONAL CHAMPS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. MAZZOLI. Mr. Speaker, I rise to honor a special school in Jefferson County, KY, Ballard High School, which won the National Tournament of Academic Excellence competition at Orlando, FL.

The team was ably coached by Elaine Coley, a teacher at Ballard, and the team consisted of Andrew Colville, Mark Roseberry, Ram Nagarajan, Dan Frockt, and Terran Lane.

Ballard has left its mark on the 3-year-old Academic Excellence competition. Ballard was semifinalist 2 years, and this year, brought the first place trophy home to Jefferson County.

Mr. Speaker, as a native of Louisville and Jefferson County it is my privilege to represent nearly all of my community here in the House. While Ballard High School itself is not located in my congressional district, many of its students do reside in the Third District.

Therefore, I am taking this opportunity to salute the Academic Excellence team of Ballard High School, faculty and administrators at Ballard which made this great triumph possible.

SALUTE TO THE 25TH ANNIVERSARY OF WLEN

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. PURSELL. Mr. Speaker, I rise to acknowledge the 25th year of broadcast service to Lenawee County, MI, by radio station WLEN.

Located in Adrian, MI, WLEN continues a tradition of service to the listeners of Lenawee County. From "First To Know News" to "Partyline" to the morning show with Bob Butler, WLEN fills its airwaves with the news and information of importance to the residents of Lenawee County—as well as focusing on the lighter, entertaining side of life.

WLEN plays an important role in the community. The station's dedication to providing forums for opinion, local classified, lost and found, farm news, high school sports, and remote live broadcasts, continues to make it a favorite among the area's listeners. The station also provides an important conduit for the many civic organizations, which includes being host to radio auctions and other special events. It is this outstanding service that contributes so greatly to the close-knit sense of community enjoyed by the residents of Lenawee County.

Mr. Speaker, as WLEN commemorates its 25th anniversary, I would like to mention the names of some of the people who make the station such a success: News Director, Mike Clement; program director, Dale Gaertner; morning man, Bob Butler; afternoon/operations manager, Doug Spade; station manager, Julie Koehn; marketing manager, Steve Barkway; marketing consultants, Betty Wilson-Payne and Sherry Betz; evening DJ, Scott White; and overnight DJ, Jim McKee.

Mr. Speaker, I ask my colleagues to join me in congratulating WLEN on 25 years of outstanding service.

EXCELLENCE IN INTERVENTION AWARD FOR LA CROSSE LUTHERAN HOSPITAL'S TEEN HEALTH PROGRAM

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. GUNDERSON. Mr. Speaker, I want to inform this body that Lutheran Hospital's Teen Health Services [THS] Program, in La Crosse, WI, has received the American Medical Associations' 1990 AMA National Congress on Adolescent Health Services Award—for the category of "Coordination of Adolescent Health Services Within a Rural Area." This honor reflects not only on the Lutheran Hospital, but also on the efforts of Wisconsin's Division of Health and Division of Rural Health whose staffs contributed guidance and manpower in initiating the THS Program. Each of these three organizations played an important role in making this award-winning program work.

Teen Health Services is a comprehensive program providing mental health and counseling services, and physical health services to rural adolescents and their families. The program provides outreach services to pregnant/parenting and other high-risk adolescents in a community setting; that is, schools, homes, and civic organizations. At the present time THS is working with 40 school districts, in 11 counties, which span 3 States.

The program was initiated in an attempt to replicate the Milwaukee Teen Pregnancy Service. However, the needs of rural adolescents require innovations due to limited transportation, lower incomes, and restricted resources. To compensate for these conditions, all services are provided from a single site within the community's youth environment.

The services provided by this award-winning program can be divided into three categories. First, THS provides counseling. Adolescents are screened and assessed, then crisis and short-term counseling care is provided. In cases when THS does not provide the counseling service which meets the youth's needs, the counselor will provide a qualified referral whereby help can be obtained.

Second, THS provides adolescent pregnancy and parenting services. The classes which are offered range from prenatal care, to training to care for a child which has reached the age of a year or more.

Finally, THS provides preventive education. Programs are held in the schools, through youth groups and by civic organizations on a wide variety of adolescent health issues.

From its inception the program has expanded and specialty programs have been added. Programs are now offered which include adolescence suicide prevention, intervention and consultation; weight management classes; school-age parent programs; and an adolescent pregnancy prevention task force. Each of these programs and services entail a high degree of cooperation and coordination with area schools, hospitals, and community agencies which undertakes their day-to-day operations. Coordination of available resources—assessment counseling, referrals and intervention—are provided to bring optimal care to adolescents.

Since 1984, over 11,000 people have participated in the prevention education program. Additionally, health services have been provided to some 700 high risk adolescents and 250 pregnant teens. The multidisciplinary staff provides intervention and prevention services to rural youth and serves as the coordinators of local resource concerns. In 1989, 60 percent of the referrals went to existing community resources.

Coordination with the schools and joint program development are two keys to the success of THS. Evidence of the program's impact is seen in the yearly increases in referrals to the THS program, positive satisfaction ratings received from clients, higher rates of high school graduation in THS schools and additional prenatal visits kept by THS adolescents. Efforts are currently being made to expand the services—including an adolescent health clinic and a mobile health unit.

In conclusion, THS has become a model program for all areas of the country because it shows that resources are available for adolescent health care in rural areas if resources are properly distributed. Unlike other programs of its type, THS is successful because it fits health care to the needs of rural adolescents, rather than the adolescent to the needs of rural health care. It is creative efforts like those of the Teen Health Services which we need to meet the demands of rural adolescent health care.

Mr. Speaker, I applaud the fine work of Teen Health Services of La Crosse, WI, and I congratulate them on receiving the AMA's 1990 Adolescent Health Award.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 12, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 13

9:00 a.m.
Armed Services
Closed business meeting, to mark up S. 2171, authorizing fund for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, and to consider other pending calendar business.
SR-222

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nominations of Timothy J. McBride, of Michigan, to be an Assistant Secretary of Commerce, and C. M. Schauerte, of Texas, to be Federal Insurance Administrator, Federal Emergency Management Agency.
SD-538

Conferees
On S. 1630, to amend the Clean Air Act to provide for the attainment and maintenance of health protective national ambient air standards.
345 Cannon Building

10:00 a.m.
Governmental Affairs
To hold hearings on S. 2675, to require the Census Bureau to count overseas military personnel and their dependents as residents of their home states, the nomination of Barbara E. Bryant, of Michigan, to be Director of the Census Bureau, Department of Commerce, and to review the progress of the 1990 census and to examine problems including low response rate, slowness of the door-to-door work, and difficulty counting the homeless.
SD-342

11:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2748, to provide deterrents for the counterfeiting of Federal Reserve notes and to increase efforts to combat casual and professional counterfeiting.
SD-538

1:30 p.m.
Armed Services
Closed business meeting, to mark up S. 2171, authorizing funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, and to consider other pending calendar business.
SR-222

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on S. 2742, to revise the Trade Act of 1974 to provide for review by the Trade Representative of compliance by foreign countries with trade agreements.
SD-215

JULY 16

1:00 p.m.
Judiciary
To hold hearings on the nominations of Paul V. Niemeyer, of Maryland, to be United States Circuit Judge for the Fourth Circuit, Randall R. Rader, of Virginia, to be United States Circuit Judge for the Federal Circuit, John H. McBryde, to be United States District Judge for the Northern District of Texas, and Fred I. Parker, to be United States District Judge for the District of Vermont.
SD-226

JULY 17

9:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to examine negotiated rates between shippers and motor carriers.
SR-253

9:30 a.m.
Select on Indian Affairs
To hold joint hearings with the House Committee on Interior and Insular Affairs on provisions of H.R. 5063, to provide for the settlement of the water rights claims of the Fort McDowell Indian Community in Arizona.
1324 Longworth Building

10:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on S. 2046, to establish the National Infrastructure Council to establish, coordinate, and implement Federal infrastructure policy.
SD-406

Foreign Relations
To hold hearings on threshold test ban and peaceful nuclear explosions treaties with Russia, and verification protocols for each treaty.
SD-419

Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To hold hearings on proposed legislation to revise antitrust laws relating to joint ventures, including S. 1006 and S. 2692, to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.
SD-226

JULY 18

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to examine issues relating to the interstate transport of solid waste.
SD-406

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on visitor facilitation of U.S. points of entry.
SR-253

Judiciary
To hold hearings on the nominations of Jimmy Gurule, of Utah, to be an Assistant Attorney General, and Steven D. Dillingham, of South Carolina, to be Director of the Bureau of Justice Statistics, Department of Justice.
SD-226

JULY 19

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to examine the Federal Trade Commission's (FTC) international antitrust jurisdiction over foreign companies.
SR-253

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on S. 2426, to authorize the President to designate a private nonprofit organization, the National Tree Trust Foundation, to promote tree planting and to establish rural and community tree planting and forest improvement programs.
SR-332

JULY 20

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition and Investigations Subcommittee
To hold hearings to examine concentration in the meat packing industry.
SR-332

JULY 23

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 2770, to establish the Indian Finance Corporation, an independent, Federally chartered financial institution in which Indian tribes would be directly involved in its administration in an effort to close the gap between the established sources of private capital and Indian country.
SR-485

JULY 24

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2800, to permit telephone companies to engage in video programming.
SR-253

10:00 a.m.
Judiciary
To hold hearings to examine methods for combatting fraud in the savings and loan industry.
SD-226

JULY 25

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to review the methods of transporting hazardous materials and on proposed legislation authorizing funds for the Hazardous Materials Transportation Act.
SR-253

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on S. 2044, to require that tuna products containing tuna caught by methods lethal to dolphins be labeled to inform consumers of that fact.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings to examine the findings and recommendations contained in two recent reports concerning the management and operation of the National Park Service's concessions program.
SD-366

JULY 26

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the current operations and future mission of the Department of Energy's national laboratories, focusing on ongoing programs at the laboratories and potential new and enhanced programs, and math and science initiatives that could utilize the expertise of the national laboratories.
SD-366

AUGUST 2

9:30 a.m.
Select on Indian Affairs
To hold joint hearings with the House Committee on Interior and Insular Affairs on provisions of H.R. 4117, to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona.
1324 Longworth Building

SENATE—*Thursday, July 12, 1990*

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *If any man offend not in word, the same is a perfect man, and able also to bridle the whole body.* * * * *Behold, how great a matter a little fire kindleth! And the tongue is a fire* * * *. James 3:2, 5, 6.

God of truth who spoke the universe into existence, whose Word illuminates, heals, and makes wise. In this place where words are the "stock in trade," make us sensitive to their power. Thank Thee for the words which unite us: the Declaration of Independence, the Constitution, and the Bill of Rights. Remind us that words can inform or deceive, illuminate or conceal, edify or demean, build or destroy. Give Thy servants grace to control their tongues that the words spoken in this Chamber, which can never be recovered once uttered, will be constructive rather than destructive and will enlighten, not confuse.

In the name of Jesus who is the Word incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 12, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

The ACTING PRESIDENT pro tempore. Without objection, the Journal of proceedings shall be deemed approved to date.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. The time for the two leaders is reserved for their use later today.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senate will now proceed to morning business, under the previous order, for 1 hour.

In my capacity as a Senator from Nebraska, I suggest the absence of a quorum, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

THE RIGHT TO KNOW

Mr. LIEBERMAN. Madam President, from time to time a newspaper story reaches out from the page and hits you right in the gut. That is what happened to me when I picked up the New York Times on Monday. Listen to this lead paragraph from a story on page B1:

> Prosecutors in Manhattan have agreed to a reduced sentence for a defendant in a rape case in exchange for the man's promise to take an AIDS test and provide the results to his victim.

The woman in this case, a 17-year-old student, thus became a victim twice: once from the assault committed against her, and once from the way the law conspired to ease the penalty for her attacker.

She had to agree to a lighter sentence for this guilty rapist just to be able to get what the law should have given her in the first place, and that is information about whether he has AIDS or not.

Madam President, most of my constituents can tell you just as easily as I can—there is something wrong here. There is something wrong with a system which allows this kind of parody of justice to occur. Women who are raped have a right to know if their attacker is infected with a potentially lethal, sexually transmitted disease. It is as simple as that. Women who are raped have enough agony to endure from the act of rape itself and its devastating emotional consequences. They should not have their agony compounded by the fear that their attacker may have given them a disease that can kill them.

The fear is not irrational. Rapes are, unfortunately, an all too common occurance in America today. In fact, every 6 minutes, a woman is raped in this country. The incidence of rape has risen nearly four times the rate of all crimes. The transmission of the AIDS virus or other sexually transmitted diseases is by no means automatic; the odds that a woman who is raped on one occasion has gotten the AIDS virus from her attacker are not high. But one act can be sufficient for infection to occur. And the mere fact that the risk is present makes it essential that women have the right to know if their attacker carries the AIDS virus.

State laws generally govern the crime of rape. According to the New York Times, at least eight States have enacted laws that allow for mandatory AIDS testing in certain cases. But there is also a Federal crime of rape, for assaults that occur on Federal properties. That is why in response to this story, I intend to introduce legislation that would make it possible for women and other victims of sexual assaults to learn whether their attackers carry the AIDS virus. I know some are concerned about the privacy of the accused, but I want to state clearly: A rapist's right to privacy must not be allowed to violate a woman's right to life and liberty. Making a woman endure months or years of doubt about whether she might be infected with the AIDS virus is a cruel and unusual punishment to which she should not be subjected.

Some may argue that mandating a blood test on an accused rapist is an unreasonable search, prohibited by the Constitution. I cannot agree. It is a search, but it is by no means unreasonable. We test the blood of suspects to see if it matches blood found at a crime scene. We test the hair of people suspected of using drugs. We test the urine of suspected drunk drivers. All these tests can be used to build a case against that suspect. All that a blood test for AIDS does is provide a rape victim with the knowledge she deserves as a result of the crime committed against her. If, in fact, her attacker has the AIDS virus, the victim can more carefully monitor her own health, and can obtain life-extending medication if she develops the virus in her own body.

Madam President, a man who pled guilty to rape in New York City will be in prison for a much shorter period of time simply because New York law fails to protect his victim's rights. I urge my colleagues to join me in changing Federal law, so that we can set an example for New York and other States across the Nation, and send a message to women and other victims of sexual assault: your rights deserve more attention and protection than the rights of the men who attack you.

I thank the Chair, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER pertaining to the introduction of S. 2843 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. I thank the Chair.

(The remarks of Mr. MITCHELL pertaining to the introduction of S. 2844 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER pertaining to the introduction of S. 2844 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll, please.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. LEVIN. Madam President, in behalf of the majority leader I ask unanimous consent that the time for morning business be extended for a period of up to 30 minutes under the same conditions as previously ordered.

The PRESIDING OFFICER. Without objecton, it is so ordered.

Mr. LEVIN. Now having made that request, I ask unanimous consent that I be allowed to proceed in morning business for 10 minutes.

The PRESIDING OFFICER. The Senator from Michigan may proceed, without objection.

DOD AND NDI'S

Mr. LEVIN. Madam President, I have been working for several years now to get the Department of Defense to save money on research and development by purchasing off-the-shelf products that meet its needs. Sometimes I get the feeling that nobody over there is listening.

In 1986 we enacted a provision in the DOD authorization bill requiring the Department to purchase nondevelopmental items, or NDI's, whenever possible. The Pentagon failed to implement that provision. So I tried again. Last fall we enacted a new provision requiring the Department to address specific impediments to the acquisition of NDI's.

In November 1989, just weeks after the second provision was signed into law, I read in the newspaper that the Air Force had decided to purchase 173 fax machines for $421,000 each.

These fax machines I read had been especially designed for the military so that they would operate from minus 25 to 125 degrees Fahrenheit, and produce an image so accurate that you could count the hairs on a squirrel. Since commercially available fax machines can be purchased for under $1,000, I directed my subcommittee staff to look into the Air Force purchase and determine if it was justified. Based on the staff findings, I have concluded that the fax purchase was not as bad as it seemed at first blush. It was far, far worse.

The Air Force fax machines were designed in the early 1980's, and were already outdated at the time the Air Force gave its final production goahead last April. The 173 machines will cost the Pentagon $94 million, or more than a half-million each, including development cost, warranty costs, and spare part costs. Readily available, off-the-shelf equipment, could have been ordered to meet the Air Force's needs at a fraction of this cost.

How could all of this have happened? I am convinced that it is because the Pentagon is biased in exactly the wrong direction toward products that are designed and built exclusively for use by the military. All too often it seems when the Pentagon decisionmakers get together to decide what they need, they develop goldplated requirements first, and only then look to see what is already available.

If the Pentagon purchasers were really serious about saving money, they would look first to see what is available and what works and develop additional requirements only when there is a strong military justification.

The Air Force fax machines are a textbook example of how the system should not work. These fax machines, known as Tactical Digital Facsimiles or TDF's, were first conceived when a research and development contract was awarded in 1978 to develop a product meeting the needs of all three services.

The specification, developed in 1982, called for a fax machine that transmits ultrahigh-resolution images and is Tempest certified to protect against the interception of messages. The Pentagon also required that the machines be ruggedized to survive in battlefield conditions, that they be able to operate from minus 25 to plus 125 degrees Farenheit, up to 15,000 feet in altitude, subject to a pitch and roll of 40 degrees, and after being immersed in 3 feet of water. The Pentagon imposed additional requirements for dynamic and ballistic shock, vibration, acoustic noise, sand and dust, salt fog, fungus, rain, and nuclear survivability.

Last November, I asked DOD for documentation of the decision to impose these requirements; my staff has repeated this request on numerous occasions. Despite these repeated requests, the Pentagon has not come up with a single document justifying its decision. Pentagon officials are happy to tell us what the requirements are, but cannot provide any written rationale for the decision to impose them.

After the development of the specification in 1982, the Army and the Navy withdrew from the project in favor of less expensive systems. Unfortunately, the Air Force went ahead with the procurement and awarded a contract for the production of 173 TDF's in September 1984. Because of contractor delays due to design and production problems, a final production decision was not made until April 1989—7 years after the specification was originally developed.

By that time, commercial fax technology had evolved so much that the original TDF specification—which may have been at the cutting edge of technology in the early 1980's—was outdated even before the machines were built. Highly advanced image transmission equipment, which seems to meet the Air Force's needs, is now available on an off-the-shelf basis. This equipment can produce images with image resolution that is as good as the Air Force machines, can be ruggedized at minimal cost, and is Tempest certified.

Moreover, readily available, off-the-shelf equipment has many capabilities that the TDF's cannot match.

For example, one company offers a commercial line of ICON image communications equipment that meets the

same resolution and Tempest requirements as the TDF's. This state-of-the-art equipment, based on commercially available components, can transmit color pictures as well as black and white. It also has video display terminals which can be used to focus, zoom, rotate, annotate, enhance, and highlight the incoming image. The TDF's, probably because they were designed in the early eighties, have none of these capabilities.

The Navy is planning to purchase an image processing system, assembled from off-the-shelf components, which has capabilities similar to the one I just mentioned, with an even higher resolution than the TDF's. These advanced image processors are expected to cost about $50,000 each. The Army has already purchased a simpler off-the-shelf machine, which has a slightly lower resolution than the TDF's, but is Tempest approved and was ruggedized to meet military standards with no DOD funding. The Army fax machines cost about $16,000 each.

The Air Force personnel interviewed by my subcommittee staff acknowledged that some of the TDF requirements—such as water-immersion and pitch and roll—were originally developed for the Navy and are not really applicable to the Air Force. They agreed that other widely available equipment has higher capabilities and that Air Force personnel would probably rather have that equipment than the TDF's. And they acknowledged that this order, more capable equipment is less expensive than the TDF's.

Unfortunately, when the Air Force made its final production decision in April 1989, it does not appear to have considered these alternatives. The specification was already written, the design money was already spent, production difficulties had finally been overcome, and the Air Force went ahead with the purchase.

How much is this decision going to cost us?

The Air Force has claimed that the TDF machines were purchased under a firm fixed price contract for $76,000 each. However, this figure does not include additional costs for development, warranty, and 20 years worth of spare parts.

It turns out that the spare parts alone are more expensive than the TDF machines. Why are we buying so many spare parts? This is just one more consequence of buying speciality designed and built equipment: Because the 173 machines built for the Air Force are likely to be the only ones ever built, the Air Force felt that it had to outfit the machines for their entire expected life. Even so, it is hardly cost effective to buy 20 years worth of spare parts for a system that was outdated on the day it was delivered.

In all, we have spent $23.5 million to develop the TDF's, $33.2 million for the basic TDF contract, and an additional $37.9 million for spart parts. When you add it all up, that comes to $94.6 million—or about $547,000 per machine. Now for the frosting on this cake. It turns out that the Air Force needs an additional piece of equipment—known as the IPIX—to enable to the TDF's to communicate with other military systems. The IPIX machines are not cheap, either—they are going to cost us an additional $21 million—for a total expenditure of almost $116 million.

Madam President, it may be too late now to stop this procurement. The Air Force has already spent every penny on its $33 million basic contract and almost $30 million on its $37 million spare parts contract. The Air Force estimates that it could save a little over $4 million by canceling the contract now. I have asked the Deputy Secretary of Defense to look for this possibility.

We can save far more money in the future if the Pentagon will learn from its mistakes. The TDF's are extraordinarily expensive and were outdated by the time the production decision was made. Even if the decision to go ahead and buy the system had made sense, the decision to purchase 20 years worth of spare parts at a cost greater than that of the basic system certainly did not. This incredible waste could have been prevented if the Air Force had evaluated available equipment and purchased a modified off-the-shelf item instead.

There is a culture, here, that has to be changed before we can make real progress. DOD progress must learn to look first to readily available, off-the-shelf items, and to develop their own detailed requirements only if no items are available to meet their needs. Top Pentagon officials must question detailed new requirements and to demand justification for those that appear to be gold-plated.

Six years ago, Senator COHEN and I authored the Competition in Contracting Act, which helped to change the Government procurement culture in that area. We have now enacted legislation to start us down the same path in the area of off-the-shelf purchasing. The time has come for the Pentagon to change its stripes in the area as well.

In 1986, I authored a provision requiring DOD to purchase nondevelopmental items [NDI's] whenever possible. This provision was never effectively implemented. Last year, the Subcommittee on Oversight of Government Management, which I chair, held oversight hearings on this provision, and we passed new legislation, requiring the training of acquisition personnel in the purchase of NDI's, those modified off-the-shelf items.

This year, the subcommittee is considering a new proposal which would require all agencies to conduct market research to determine whether existing products can meet their needs. This is a commonsense step that the Pentagon has failed to implement on its own, so a legislative mandate is necessary. It is my hope that with these changes, we can get the Pentagon procurement monster to change its ways, and save some money for the taxpayers.

SENATOR QUENTIN BURDICK'S 30 YEARS

Mr. COHEN. Madam President, most football fans have heard of Hall of Fame running back Bronko Nagurski. But what few know is that the blocking back for Nagurski while he played at the University of Minnesota was our colleague, Senator BURDICK.

While he was clearing a path for Nagurski, QUENTIN BURDICK did not grab headlines, but he did gain the satisfaction of knowing he had made an invaluable contribution to the team's success.

Now, 58 years after his football heyday, Senator BURDICK is following the same game plan—he is making his mark on this country, not by seeking publicity, but with quiet teamwork and attention to his duties.

Robert Woodruff, former chairman of the board of Coca-Cola, once said that: "there is no limit to what a man can do or where he can go if he doesn't mind who gets the credit."

QUENTIN BURDICK embodies that sentiment. Through his years as a team player, without fluff or fanfare, he has ensured that the concerns of North Dakota and rural America are fully addressed.

Representing a rural State myself, I can appreciate his success in fighting for the programs that are essential to the Nation's rural residents and farmers. For example, as the cofounder and cochairman of the Rural Health Caucus, of which I also am proudly a member, he has worked to ensure that our rural health care system is preserved.

As evidence of the breadth of his experience, he has served on nine Senate committees and currently chairs the Environment and Public Works Committee and the Appropriations Subcommittee on Agriculture.

Senator BURDICK's many legislative accomplishments are overshadowed only by his sustained ability to earn the trust of his constituents for more than five consecutive terms. The people of North Dakota have repeatedly judged QUENTIN BURDICK and found him worthy of their continued support.

As Senator BURDICK enters his 31st year in the Senate, I congratulate him

on his years of service to North Dakota and the Nation and look forward to working with him in the years to come.

A TRIBUTE TO MILDRED DORN

Mr. THURMOND. Madam President, I rise today to mourn the passing of a great South Carolina lady, Mrs. Mildred Johnson Dorn. Mrs. Dorn, known to her many friends and admirers as "Millie," was a woman of character, intellect, ability, and we shall all miss her very much.

Millie Dorn was renowned for her wit and her unswerving loyalty to her friends and family. Her abilities as a cook were legendary and everyone who met her was warmed by her friendliness and hospitality.

Mrs. Dorn was born in 1925 in Coats, NC, one of 10 children. After her graduation from the University of North Carolina, she came to Washington, DC, to cover the Senate for U.S. News & World Report magazine.

It was during that time that she met her husband, William Jennings Bryan Dorn, who represented South Carolina's Third Congressional District. In the years that followed, Mrs. Dorn was not only a fine wife and mother, but an indispensable political adviser. She played an active role in numerous congressional races and two gubernatorial campaigns, offering support, advice, and encouragement to her husband and others.

While establishing her reputation as a fine politician and mother, Mrs. Dorn also distinguished herself as a gracious hostess and an active supporter of educational causes. When Congressman Dorn became chairman of the South Carolina Democratic Party in 1980, Mrs. Dorn once again provided invaluable help.

Madam President, Millie Dorn was a woman of integrity, compassion, and dedication. She carried out her responsibilities as mother, wife, hostess, campaign adviser, and friend with a grace and style which few could match. Her loss is felt deeply throughout our State of South Carolina.

Nancy and I would like to join her many friends and admirers in extending our deepest sympathy to her husband; her three daughters, Mrs. Brianna Lawrence, Mrs. Olivia Kennedy, and Mrs. Debbie Pracht; and her two sons, William Jennings Bryan Dorn, Jr., and the Reverend Johnson Griffith Dorn.

I ask unanimous consent that articles from the State, the Greenville News, and the Greenwood Index-Journal be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the State, July 9, 1990]

A POLITICAL SOULMATE

Millie Dorn usually stood outside the spotlight, but she knew where it was focused and which angles would best portray her husband and political soulmate.

She took a young William Jennings Bryan Dorn into her arms and heart when he arrived in Washington in 1947 for the first of 13 terms as a congressman from South Carolina. She was a reporter for U.S. News covering the Congress with skill and considerable resourcefulness. Women reporters weren't so numerous, and she often told this story: "I'd call and identify myself as Millie Johnson from the office of General Nuisance. Ears of appointment secretaries were attuned to World War II and its privileges. They would hear only 'general' and I'd get straight through to my party."

Mildred Johnson married Byran Dorn and shared her insights on how Washington worked. Together they became a formidable team. She gave up reporting, but his political career became hers in the truest sense of partnership—a partnership which ended with her death of cancer this week.

She was his adviser and confidante. "Let me talk to Millie first," was Bryan Dorn's instinctive response to advice on strategy.

They were successful in 12 additional races for the U.S. House of Representatives, unsuccessful in two bids for statewide office (for the U.S. Senate in 1948 and for governor in 1974).

Most people knew Millie Dorn as the consummate political wife, but her interests were much broader. She was the mother of five children. And the family home, Barratt House near Greenwood, was a reflection of her graciousness and of her affection for the people of South Carolina.

[From the Greenville (SC) News, July 4, 1990]

"MILLIE" DORN DIES AT 65

(By Christopher Schwarz)

GREENWOOD.—Mildred "Millie" Dorn, the wife of former U.S. Rep. W.J. Bryan Dorn, has died at Self Memorial Hospital in Greenwood after a long illness. She was 65.

Mrs. Dorn was admitted to the hospital on Monday afternoon and died at about 9:15 p.m. Monday night, hospital spokesman Dan Branyon said.

Mrs. Dorn, in addition to being married to one of South Carolina's most prominent politicians, served as an informal political adviser to the Democratic Party during the late 1970s and early 1980s, particularly during Dorn's tenure as chairman of the state party.

Friends and family gathered at the Dorn home on Tuesday to remember Mrs. Dorn as a good wife, a fiercely loyal friend and a wonderful cook.

"She could cook for 300 just as well as she could cook for three," said Nancy Thomason, a friend of Mrs. Dorn's for 25 years. "She could cook anything; the barbecues were legendary, but then so were the ham-and-grits breakfasts."

U.S. Sen. Strom Thurmond, R-S.C., said Tuesday that Mrs. Dorn's death was a personal loss.

"She was a lady of ability, character, compassion and dedication," Thurmond said in a prepared statement. "She encouraged and inspired her husband and stood by his side, offering advice and support, throughout their marriage. She was not only a loving wife but a devoted mother and grandmother."

Mrs. Dorn was born in 1925 in Coats, N.C., one of 10 children. She attended Campbell College in North Carolina and graduated from the University of North Carolina at Chapel Hill.

After graduation, Mrs. Dorn went to Washington to cover the U.S. Senate for U.S. News & World Report magazine.

There, she met her husband, who represented South Carolina's 3rd Congressional District from 1947 to 1974, when he retired to seek the 1974 Democratic nomination for governor.

Charles D. "Pug" Ravenel won the nomination for governor that year, but his nomination was stripped by the South Carolina Supreme Court, which ruled that Ravenel did not meet the state's residency requirements.

Dorn was named the party's nominee following an emergency convention of the party. He lost the general election to Republican James B. Edwards.

He ran again in 1978, with Mrs. Dorn serving as a key adviser and active participant in the campaign. She was a major link between her husband and the press during the campaign.

Dorn was eliminated in the first primary and threw his support to Dick Riley of Greenville, who won the runoff and the general election. Riley pushed Dorn to the chairmanship of the party, which he held from 1980 to 1984, and Mrs. Dorn played an active role in the day-to-day affairs of the party headquarters.

"They say that behind every good man is a good woman," Mrs. Thomason said, "and it sure applies here.

"She was a woman of incredible energy and had a wonderful sense of humor."

Mrs. Dorn was a member of the Benson Sunday School Class at First Baptist Church in Greenwood, a member of the Unit 1 Garden Club, and she served on the Board of Visitors at Presbyterian College in Clinton.

Surviving in addition to her husband are three daughters, Mrs. Bruce (Brianna) Lawrence of Charleston, Mrs. James (Olivia) Kennedy of Greensboro, N.C., and Debbie Dorn Pracht of Anderson; two sons, William Jennings Bryan Dorn Jr. of New York, N.Y., and the Rev. Johnson Griffith Dorn of Gastonia, N.C.; five sisters, Mrs. William (Alice) Beckett of Fort Washington, Md., Mrs. Warren (Joan) Rainbolt of Rockville, Md., Mrs. Wayne (Sue) Richey of Nunnelly, Tenn., Mrs. Mtlt (Joyce) Farmer of Spring Hope, N.C., and Mrs. H.L. (Gayle) Sorrell of Coats, N.C.; two brothers, Jonah C. Johnson Jr. and Stacey Johnson, both of Coats, N.C.; and four grandchildren.

Visitation will be from 7 to 9 p.m. Wednesday at Blyth Funeral Home in Greenwood.

Services will be held at 11 a.m. Thursday at First Baptist Church of Greenwood, 722 Grace St., with burial at Bethel United Methodist Church Cemetery in the Callison community in Greenwood County.

The family will be at the home.

The family requests that flowers be omitted. Memorials may be made to the Millie Dorn Political Science Scholarship Fund, c/o Lander College, Greenwood 29649.

[From the Greenwood (SC) Index-Journal, July 3, 1990]

EDUCATION'S FRIEND MILLIE DORN DIES

Mildred "Millie" Johnson Dorn, wife of former U.S. Congressman W.J. Bryan Dorn, died late Monday night at Self Memorial Hospital, a family member said.

Mrs. Dorn, 65, was taken to the hospital early Monday after what brother-in-law Watson Dorn said was an apparent recurrence in her battle with cancer. Watson Dorn said he was notified about 10:15 p.m. that Mrs. Dorn had died.

Mrs. Dorn was a close political adviser, a prominent congressional wife and was active in civic affairs in Greenwood.

"She was a great person, she really kept up with civic affairs," said State Rep. Marion Carnell of Ware Shoals.

According to Carnell, Mrs. Dorn was very active in education, especially in South Carolina.

"She was very interested in young people and education. She was always contacting members of the delegation in support of educational centers such as Lander College," he said.

"Her interest in Lander was very strong," said Lander College President Larry Jackson. "If we needed help with any sort of receptions, she was always there to help."

According to Jackson, memorial donations will go to the college and put into a political science scholarship fund she and her husband started.

"It's a real loss to this town," he said.

Sen. John Drummond said this morning, "The death of Millie Dorn is a great loss to Greenwood County and all of South Carolina. Millie was the perfect model for a politician's wife.

"Over 26 years in Congress and as a wife of a congressman who served 26 years, she was always at his side giving advice.

"As long-term politician myself, I know what an understanding wife means to a politican."

Funeral services are being handled by Blyth Funeral Home.

THE RETIREMENT OF GEN. ALLEN K. ONO

Mr. INOUYE. Madam President, I rise today to salute a truly professional soldier, Lt. Gen. Allen K. Ono, on the occasion of his retirement from the U.S. Army after a long and distinguished career.

General Ono entered the Army as a second lieutenant of infantry in 1955 after graduating from the University of Hawaii. His first assignment was as an infantry platoon leader and, later, as company executive officer in Korea. Since then, General Ono has served in positions of increasing responsibility within the United States and overseas, including service in Vietnam.

While serving as deputy chief of staff for personnel, administration and logistics at the Army Training and Doctrine Command, he worked diligently to improve programs for soldiers and their families. One of his many other accomplishments while at TRADOC was the steady improvement in readiness posture of Army Reserve training divisions.

General Ono also served as the commander of the Army Recruiting Command, where his leadership was directly responsible for the success of Regular Army and Army Reserve recruiting efforts. He was a hands-on leader who visited his recruiters in the field in order to teach and to hear the concerns expressed by the recruiters. He assured that the highest standards of integrity were maintained, and his dedication resulted in the recruiting of the highest quality of American young people into the Army.

General Ono's last assignment has been as deputy chief of staff for personnel, where he has been responsible for plans, policies and programs for the management of all military and civilian personnel of the active and reserve components of the Army.

Continuing his interest in recruiting of high-quality soldiers, General Ono assured that the highest priority was given to the Army's recruiting and marketing efforts. He continually pressed for the resources and tools essential to the successful recruiting of a quality Army, including obtaining congressional approval to test the noncombat arms Army College fund plus recruiting option.

In addition to his interest in recruiting, General Ono also recognized that, to maintain a quality Army, it is necessary to retain the best and the brightest. As a result of his initiatives, the Army established new records in 1988 and 1989 for the retention of quality soldiers.

In his efforts to enhance the quality of life for members of the Army, General Ono has not forgotten the families of those who serve. Among many other programs which bear the indelible mark of the "Ono touch," are the Army Sponsorship Program and the Army Child Development Program. The Army's leadership in the Child Development Program, under General Ono's guidance was recognized, and in 1989, hallmark legislation was enacted that virtually parallels the programs established within the Army.

General Ono has served the Army with distinction. His genuine concern for people and his approach to personnel management have enabled the Army to be "All It Can Be." He can be justly proud of the contributions he has made to the overall improvement of the Army—an Army that will, no doubt, miss his superlative and dedicated service.

I would like to take one moment to express my personal pride in General Ono's accomplishments. He is a native of my own State of Hawaii and was the first man from Hawaii to attain three-star rank in the Armed Forces. He has had an extraordinary career, rich in attainments, and the people of Hawaii are proud to have him as a compatriot. The Army's loss is surely Hawaii's gain as he returns to Honolulu.

As General Ono goes forward to new challenges, he will take with him the well-earned respect of his subordinates, peers, and superiors alike. On behalf of the Subcommittee on Defense of the Senate Appropriations Committee, I would like to wish him and his lovely wife, Evelyn, much happiness in their retirement to our beautiful State of Hawaii. To them both, I say, "Aloha and mahalo nui loa."

COMMENDING QUENTIN BURDICK ON HIS 30 YEARS IN THE SENATE

Mr. DURENBERGER. Madam President, I want to join with all of our colleagues in commending Senator QUENTIN BURDICK on the recent anniversary of his 30th year in the U.S. Senate. Thirty years in public service in the U.S. Senate is a tremendous achievement which reflects the deep love and respect which North Dakotans have for Senator BURDICK.

He is my chairman. Those of us who serve with him on the Environment and Public Works Committee are grateful for the qualities which he brings to his chairmanship of that committee: bipartisan good will, a steady hand on difficult issues, and a solid commitment to move forward the work of this institution.

Senator BURDICK has served on the Environment and Public Works Committee since 1973. He first chaired the Disaster Relief Subcommittee which, during his tenure as chairman, completely rewrote the disaster relief laws of the United States. He later chaired the Rural and Economic Development Subcommittee for many years which had oversight for the important Economic Development Administration and the Appalachian Regional Development Commission. In that role and subsequently as the chairman of the Agricultural Appropriations Subcommittee he has been as important voice for rural America here in the Senate.

As a member of the committee, Senator BURDICK has been a longstanding champion of the Federal Highway Program. His presence has been felt on every highway bill that has been enacted over the past 20 years. During his service in the U.S. Senate, the Federal Government has committed nearly $200 billion to highway construction and maintenance, guided by the programs and policies which he carefully shaped.

In the few years that I have been a member of the committee, I have had the pleasure of coauthoring several bills with Senator BURDICK. We have worked most closely on ground water protection legislation and on a bill to set Federal standards for municipal waste combustion. Those are issues about which I am deeply concerned and I have very much appreciated the partnership which the Senator has so graciously facilitated, so that I might perform some service as a legislator on those subjects.

We are neighbors, as well, sharing the Red River of the North as a border. So I am well aware of the

esteem and affection which the Upper Midwest has for Senator BURDICK. His name is magic in our part of the Nation. He's remembered by some in my State as a stalwart on a great University of Minnesota football team. Among all of our folks on the Great Plains he is known as a stalwart for common sense and the common man.

In our part of the country in the 1930's, 1940's, and 1950's, there was a movement of progressives and farmers which was called the Non-Partisan League. In Minnesota, the progressives and the Democrats were forged into a great political party by Hubert Humphrey. Our Minnesota DFL has given this Nation some of its best leaders and statesmen in the last half of the 20th century.

Senator BURDICK led that same kind of coalition in his victory as a candidate for the U.S. House in 1958. In earlier years, the NPL had teamed up with the Republican Party to dominate North Dakota state politics. In 1956, QUENTIN BURDICK and others took it out of the Republican camp and forged the coalition with the Democratic Party which gave North Dakota a real two-party system.

Those of us from the Upper Midwest have always believed that there is something special about our politics and government, something special about the sense of responsibility which our citizens feel for their government. Much of that legacy was first nurtured by the Non-Partisan League, in North Dakota, Minnesota, and Wisconsin. We recognize special qualities in the leaders, like Senator Humphrey and Senator BURDICK, who have carried that legacy into the political life of our Nation.

As I looked over Senator BURDICK's biography and reflected on his years here in the Senate, I noted the very special 10 days he lived in mid-1960. He was first elected to the Senate on June 28, 1960. He married his wonderful wife, Jocelyn, on July 7 of that same year. I know I speak for all of my colleagues when I wish them both all of the best on their 30th anniversary of those very special days.

REGARDING THE "IT'S OUR WORLD, TOO" YOUTH PETITION

Mr. MITCHELL. Madam President, I would like to share with my colleagues a petition from the group "It's Our World, Too."

The petition was conceived by Paul Gravelle of Winterport, ME, in 1982 to make known children's fears about nuclear weapons. To date, the "It's Our World, Too" youth petition has attained over 21,000 signatures from across the United States and from 11 other countries.

These children declare: We kids think there are too many nuclear weapons in the world. The arms race is a costly, unjustified and dangerous road to the future. Therefore, we believe the U.S.S.R. the United States and other nations should stop building nuclear weapons now.

The thousands of signatures affirming this declaration clearly demonstrate the growing concern young people have about the prevention of nuclear war. Their understanding of the importance of this issue offers hope for a more peaceful and secure world.

The prevention of nuclear war is one of the most important challenges that we face as a nation. Progress in arms control negotiations, therefore, must be one of our most important priorities. Successful arms control agreements can reduce the risk of war and improve our own security.

A PICTURE IS WORTH A THOUSAND WORDS

Mr. MOYNIHAN. Madam President, I rise to speak of an event of some consequence which occurred on the editorial page of the Washington Post this morning. It was recently revealed by Sam Roberts of the New York Times that in the early 1920's a magazine publisher, Fred R. Barnard, coined the phrase in his Printer's Ink that "One picture is worth a thousand words." He attributed it to Confucius in the thought that it might receive more attention in that context. Indeed, it did.

So it might be said of many of the abstract issues that we debate here on the Senate floor. So it might, in some small measure, describe the debt which this Nation owes to Herblock for his cartoons that have been on the editorial page of the Post for two political generations.

In this case, we are dealing with the issue of treatment for drug abuse. In the Ant-Drug Abuse Act of 1988 which created the Office of National Drug Control Policy, with Director of Drug Control Policy the position now held by Dr. Bennett, and we created two other positions; deputies to the director, one for demand reduction and one for supply reduction.

Demand came first. Reflecting in our legislation a basic proposition that the issue of drug abuse had to be divided between the smuggling into this country or production in this country of illegal drugs of various kinds—supply—and the use of them, beginning use and the continuing use—demand. We recognized that we had a public health emergency, endemic with respect to some drugs, but epidemic with respect to a particular drug, crack cocaine or freebase cocaine.

This drug, Mr. President, was first reported in the Bahamas in 1983, as the result of research done at the Sandilands Rehabilitation Hospital in Nassau; whereas other drugs have been the products of laboratories and bearded German professors, this was more the result of folk science. But it was produced, nevertheless and it was the most powerful euphoriant medicine has ever encountered and it immediately had devastating effects in the idyllic world of the Bahamas. In 1986 physicians there, in contact with the Yale Medical School, had published the lead article in the British journal, the Lancet, which was entitled "Epidemic Free-Base Cocaine Abuse—Case Study From the Bahamas."

The Lancet is the most prestigious medical journal in the world. Yet somehow it did not get any hearing. Dr. David F. Allen, who was one of the authors, said we have an epidemic that will hit the United States. Just as a hurricane crossing the Bahamas would hit Florida, so would this. And indeed, the first arrests had been made by the New York City Police Department in January 1986. I recall Detective Charles Bennett about that time telling me people were standing on street corners in Manhattan cracking their wrists. Although no one at first knew the meaning of this signal—a motion like the cracking of a whip—it was later determined to be a symbol for crack cocaine.

Senator BYRD, the then majority leader, established a task force that was cochaired by Senator NUNN and myself. I tried to work with the demand side; he the supply side. We simply divided our labor. We wrote that there will be treatment on request into the 1988 statute. And yet the drug czar, so-called, has issued a paper which says there will be no treatment on request. He issued 2 weeks ago a white paper disparaging, almost insultingly disparaging, of the idea there is a health need that must be responded to. As if 13 year olds, 14 year olds are clearly responsible for the way they behave, when indeed we know they are only partially responsible and, more importantly that it is their environment which affects many of their actions. We, as parents know that. But society does not know it.

At minimum, the Office of National Drug Control Policy does not know it and does not seemingly care to.

The statute provides otherwise. Indeed, Dr. Bennett's actions are a form of contempt of Congress. And if the deputy director for demand reduction does not believe treatment should be provided, he should resign. He is accepting public moneys in a circumstance in which he will not abide by the statute that creates his office.

I can make this case in many ways. We can refer people to the medical journals, to the CONGRESSIONAL RECORD and so forth. But there is nothing like a Herblock cartoon, Madam President, nothing like a

Herblock cartoon. Let me describe it. Here we have Dr. Bennett, with a paper hat and some admiral epaulets and a microphone in his holster, a speaker at his side and a big old 1820 cannon. He is on the cellular phone and he has his admiral's eyeglass out and he is looking across the street toward a building with a bunch of people standing in front trying to get in what is called a drug treatment center, and the caption above is Dr. Bennett speaking, "We Have the Enemy in Our Sights, Chief."

What can you say. To paraphrase, "Blow up the drug treatment center, we will show them." We have had more than one debate on this floor, Madam President, in which the principal proposal for dealing with the problem of cocaine has been aptly described as "fry the kingpins."

Frying kingpins. I have never seen a kingpin fried, but there is a certain logic to it. Get yourself enough kingpins and electric chairs and fry them. But not until today have we thought that one of the solutions for dealing with the problem of drug abuse was to blow up the people who have that affliction.

Obviously, Herblock was using the satirist's technique of exaggeration. And yet there is, in print, and very expensively printed, a white paper—so-called, official document entitled "Understanding Drug Treatment" that is, as one research scientist at the Rockefeller University said to me this morning, just sickening in its disparagement of medical treatment for drug addiction.

Madam President, 2 weeks ago we held a hearing on crack babies in the Finance Committee. Dr. Sullivan came. At one point he very dramatically lifted up a 2- or 3-inch computer printout, of a $698,000 hospital bill for a crack baby in Broward County General Hospital in Fort Lauderdale, FL—$698,000.

Medicaid will pay $698,000 for the treatment of that child. It will not reimburse the long-term drug treatment of the mother before the child is born. They do not believe in treatment. They disparage it. They do not insist that Medicaid encourage it. They act as if there is something morally wrong with the children involved.

Are they any the less ill? Any the less plagued by chemical dependency? Ought we not be seeking some pharmacological response as we have done in the case of heroin addiction through methadone maintenance?

That is not a completely satisfactory arrangement. It is not as simple as the cure for polio, but it is a response. Scientists like Vincent Dole and Marie Nyswander did what they could. But now that we have brought this issue to a level of national prominence, we are saying "do not do anything."

Madam President, I find this hard to believe, yet it is true. We may have just begun to make people realize that the unbelievable is true, thanks, once again, to Herblock.

TERRY ANDERSON

Mr. MOYNIHAN. Madam President, I rise to inform my colleagues that today marks the 1,944th day that Terry Anderson has been held in captivity in Beirut.

SENATOR QUENTIN BURDICK

Mr. HEINZ. Madam President, I rise to pay tribute to and congratulate North Dakota's senior Senator, QUENTIN BURDICK, as we mark 30 years of his distinguished service to his constituents and our great Nation.

North Dakota is a State where it is more important to know your constituents on a first-name basis than it is to have your face broadcast on TV. QUENTIN knows his constituents and that is why he has earned the trust of the citizens of his State.

Few Senators have worked as tirelessly for the interests of rural America as Senator BURDICK. Whether it is critical infrastructure improvements, agricultural exports, or adequate health services, QUENTIN has effectively served the interests of North Dakotans.

Listing 30 years of legislative accomplishments would fill a book. While QUENTIN prefers to work quietly behind the scenes, it is important to highlight his achievements so that all Americans will know just how much Senator BURDICK's work has benefited their lives. As chairman of the Environment and Public Works Committee Senator BURDICK worked out a major compromise on the 1990 Clean Air Act. In 1987, Chairman BURDICK worked tirelessly on the enactment of the highway bill, the last reauthorization of Federal highway programs before next year's marking of the completion of the Interstate Highway System—a system first envisioned in the 1950's under President Eisenhower. Under QUENTIN's chairmanship, the Congress has been on the right track in fulfilling its responsibility of passing water resources development legislation every 2 years.

The ability to devote oneself for 30 years at any job is indeed a remarkable trait. But to do it with the steadfast commitment and effectiveness Senator BURDICK has is truly a testament to this honorable man.

I congratulate Senator BURDICK and consider it an honor to have the opportunity to serve the citizens of the United States with him.

A SALUTE TO QUENTIN BURDICK

Mr. COATS. Madam President, I rise today to say a few words honoring the distinguished senior Senator from North Dakota, QUENTIN BURDICK. As a very junior Member serving his second year in the U.S. Senate, I am pleased to salute our very senior colleague who is currently completing his first 30 years in this Chamber.

I am happy to note that the eminent Senator from North Dakota, and I share one significant experience; we both served in this House of Representatives—he from 1958 to 1960 and I from 1980 to 1988.

There the resemblance ends. Senator BURDICK subsequently was elected to fill the seat vacated by the death of Republican Senator Langer in a special election in June 1960. I was appointed in December 1988 to fill the unexpired term of Senator DAN QUAYLE, who also moved on to a higher calling.

Senator BURDICK has been serving the citizens of North Dakota as their senior Senator ever since. In fact, he has been returned to the Senate by successive victories in 1964, 1970, 1976, 1982, and 1988, winning by some 20 percentage points in 1988. I hope I shall be half as fortunate.

Today Senator BURDICK is chairman of the Environment and Public Works Committee and chairman of the Subcommittee on Agriculture, Rural Development and Related Agencies on the powerful Appropriations Committee. He also serves on the Appropriations Subcommittees on Energy and Water Development; Interior and Related Agencies; and Labor, HHS, Education and Related Agencies as well as the Select Committee on Indian Affairs and the Special Committee on Aging. These important positions provide him tremendous influence over legislation and programs affecting his State.

Such are the prerogatives and privileges that flow from seniority and being in the leadership of the majority party. Much as I respect the distinguished Senator, I hope he will find himself on the minority side of the aisle and in less powerful positions once the 1990 election returns are in!

I stand in respect of my eminent colleagues who have served so long and so ably and have accomplished so much. Senator BURDICK does not put on the Washington airs of one who wields his influence, however. The Almanac of American Politics refers to his "rumpled clothes" and "aw shucks manner." To this Hoosier Senator from small-town America, these are the healthy signs of a man who has not forgotten his roots and knows his humble place in the good Lord's scheme of things.

THE CIVIL RIGHTS ACT OF 1990

Mr. DODD. Madam President, I rise in strong support of the Civil Rights Act of 1990. It will remedy the damage done by the Supreme Court last year and restore the heart and soul of our historic antidiscrimination laws.

Victims of workplace discrimination have long enjoyed protection under title VII of the Civil Rights Act of 1964 and section 1981 of the Civil Rights Act of 1866. Unfortunately, last year, in the words of the Honorable William T. Coleman, Jr., the Supreme Court "overturned many well-established and well-accepted precedents in the area of racial and sexual discrimination in employment."

One of the rulings, Paterson versus McLean Credit Union, severely tightened the interpretation of section 1981 of the Civil Rights Act of 1866. As a consequence of the ruling, 11 million Americans are left unprotected from on-the-job discrimination.

Another ruling, Wards Cove Packing Co. versus Antonio overturned an 18 year precedent set by the Griggs Versus Duke Power Co. decision regarding who must prove that a business practice that produces a discriminatory result does not have a discriminatory intent. By shifting the burden of proof from the employer, who knows the basis for his decision, to the employee, who has no such knowledge, the Supreme Court has made it immeasurably more difficult for victims of discrimination to win.

For over 35 years, the Court's strict interpretation of the civil rights laws sent a strong message to Americans that discrimination in the workplace is reprehensible and illegal. Last year's rulings came as a shock to those of us in the Congess who have long heralded the Court's commitment to fighting discrimination. The decisions are symbolic of a dramatic shift in ideology of the Supreme Court since the appointment of the Reagan nominees.

Now that the Court has retreated from this commitment, it is our duty as Members of the U.S. Congress to overturn the Supreme Court decisions and ensure that American workers can rely on our antidiscrimination laws. We must reinforce for all Americans that discrimination of any kind is unacceptable. Perpetrators of intentional discrimination should know that we consider their actions to be intolerable and punishable under the law.

Madam President, the demographics of our work force are changing. The majority of new entrants into the job market are women and minorities. We owe it to them to reinforce and strengthen our commitment to equal employment opportunities.

The events of the last year in Eastern Europe are another reason why we must take action to restore and broaden our antidiscrimination laws. The recent Supreme Court rulings suggest to these countries that we are reneging on our commitment to safeguard individuals from racial, sexual, and religious bigotry. We must show the Eastern European nations pursuing democratic reforms that equal employment opportunity is a personal freedom we intend to uphold.

S. 2104 provides for such protection.

After months of hearings and negotiations we have under consideration a fair and balanced civil rights bill that enjoys bipartisan support. Senators KENNEDY, JEFFORDS, METZENBAUM, and DANFORTH, and their staffs deserve great credit for the time and effort they have devoted to crafting this important measure. The Civil Rights Act of 1990 will restore and strengthen the antidiscrimination laws that have protected workers for decades. The measure will also, for the first time, ensure victims of sex or religious discrimination the same remedies provided to minorities under section 1981.

Opponents of this bill have argued that restoration of the Griggs standard of proof will result in hiring quotas. Yet, there is no evidence in the 18-year history of Griggs to suggest it will have such an effect. In fact, the available data disproves this fear. Unless an employer is guilty of intentional discrimination, he or she has no reason to be concerned about the company's hiring practices.

Despite an early effort on the part of the administration to meet with Members of Congress and civil rights advocates, I am disappointed that President Bush has hesitated to resolve the few issues that remain contentious. The Senate agreed to postpone a cloture vote scheduled for June 26 with the understanding that further negotiations would take place. Yet, 2 weeks passed without such talks. This is one issue that should not be divided on partisan lines—the President and the Congress have an obligation to protect all Americans from intentional workplace discrimination even if the Supreme Court will not.

For this reason, I urge my colleagues to support S. 2104. I urge the President to put partisan politics aside and work with us to develop a compromise package that will strengthen our civil rights laws for hardworking Americans of all colors, genders, and religions.

RECOGNIZING LIV ULLMANN

Mr. DOLE. Madam President, recently I had the privilege of addressing the Sixth Annual Women in Development Awards Luncheon honoring Liv Ullmann and hosted by the Overseas Education Fund International.

The acceptance speech, delivered by this internationally acclaimed actress and advocate for women and children was very moving. It demonstrated her deep commitment and concern for children throughout the world.

Her words reflect encouragement, opportunities, and caring. She is an inspiration to us and our efforts to protect the rights of children.

The thoughtful, personal insight offered by Ms. Ullmann should be shared and I am taking this opportunity to submit her remarks for the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

ACCEPTANCE SPEECH BY LIV ULLMANN, OEF INTERNATIONAL AWARDS LUNCHEON, JUNE 14, 1990

OEF INTERNATIONAL AWARD

Thank you OEF. Thank you Senator Dole. Thank you IRC and Leo Cherne. Thank you Women's Commission. Thank you for the opportunity you have given me to enact upon the best of my womanhood.

I'm not so well-trimmed—I'm not so young. I'm not so beautiful. But I take pride in my womanhood because it includes the talent of embracing. My overarms might not be the thinnest, but I salute their ability to be soft enough to lean on.

I have traveled for years—meeting women of other countries. And I feel such pride in being a woman.

The opportunity to come to events like this and talk about women—for them—with them.

Thank you all here today of OEF—who do so much to "empower women to help themselves".

I always tell stories. I don't want to today—because I want to use this opportunity of being honored by women on behalf of women to talk about women. I trust in women—believe in what we can accomplish. I trust that in important ways women will reinterpret the world and learn to really question dominant stereotypes. Dominant values that often represent old patriarchal values of dominance and concurring. Values belonging to a mechanical and technological world—where everything can be taken to pieces and put back together again with new pieces. Instead of world where all is considered part of and unique for the whole.

I trust that a world where more female values are given priorities like nurturing—holding—embracing—would be a better world for all.

I trust that we—women—will dare to emphasize our uniqueness, cherish our uniqueness and learn never to undervalue ourselves.

I trust in our power to trace the time when we were of a pure heart—when as children we painted strange trees and spoke with flowers. When we touched without fear.

Because I believe that the details of our lives will be forgotten by most, but the emotion—the spirit will linger with those who shared it—and be part of them forever.

Let us dare to use our own language—which in politics especially, would be a new kind of language, descriptive of real feelings.

Let us dare to make solutions based on compassion only, even if such an initiative may sound naive at our next Board Meeting—our next Congressional or Senate Hearing.

The Native American—the Indian man and woman never made an important deci-

sion without including the consequences of this decision for the Seventh Generation.

Today decisions or program evaluations or promises are too often made, so that they will look good until the next Board Meeting or the next election.

Slogans instead of Visions.

Media attention to the qualities of broccoli instead of the quality of life.

I trust us women to finally say "Enough". Change the language.

There are more important priorities.

There are Opportunities waiting for us all.

Voices we must listen to.

Lips we must really read.

People—human beings out there in the world who will not vote for us today or applaud us today or honour us today:

The little ones. The weak. The deprived.

The message—on their behalf—that we must deliver again and again.

The priority we must give the needs of children.

We will finally be described—defined—by how we reacted to their needs. The finished portrait of ourselves—that we can not change—however beautifully ornamented the frame:

The finished portrait of ourselves will encompass the care and the vision enacted on behalf of them.

Today we know how to reach the stars—how to land on the moon and encircle the earth. But we know so little about how to reach each other. Touch each other.

Though through the destinies of others—that will be known to us—through the media—destinies we can not turn off by changing the channel on our TV or wipe away as a tear and go on with our lives—through the destinies of other women and children and men and families—we will recognize ourselves—and learn that we are not witnesses only to their fates.

We are participants.

More and more we will learn to trust that to give way to one's feelings is a great ease to one's heart.

The strongest woman and man is the one who knows how to love.

The people on either side of you now—take a good look at them.

Because when you later make a choice in life, they are included as well; whether your choice is one of indifference or one of love.

There are no choices made by individuals that do not also include others.

So many stories I could have told—I'm surrounded by invisible mothers—little children—surrounded by women who need us if they are to go on with their lives. They are not numbers. They are not faceless. In fact that are you and me, and we will all be counted together.

The Convention on the Right of the Child is still not signed by the USA. There are people in this room with the power—not only to sign a recommendation, but to advocate the importance of such a paper, such a document, to serve as the protector of the child's right.

Another document?

To be put in a drawer and gather dust?

If so—we have to ask: who made it just another document?

What more important roles can we have in other, less privileged, women's future than to fight in words and actions—peacefully, gently, for their right to make choices in life. For their children not to be abused or forgotten. Fight. So that any man or woman who violates the Human Right of a child shall be accountable by law and to all of us. Stir our outcry of disgust the way we do cry today for the victims of torture or the victims of AIDs or the victims of—oh, I could go on and on.

Where is our outcry of horror over the fact that every single day 40,000 children die by preventable diseases that their mothers or their communities are not helped to prevent.

Every day the silent deaths of 40,000 children. Every other second while I am standing here:

Now and now and now. . .

May I, as a professional woman, say;

Give room to your feelings—risk being hurt—and learn about love.

There are two lives to each of us—the life of our actions and the life of our minds and hearts.

We can allow these lives to exist together:

Because we live in deeds and not in years: we live in our thoughts, we live in our feelings—not in figures and possessions. Time is counted by our heartbeats.

And he or she lives the most who feels the noblest and acts the best.

TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. SARBANES. Madam President, I want to join today in saluting our very distinguished colleague, Senator QUENTIN BURDICK of North Dakota, on the celebration of 30 years of outstanding service in this body to his State and the Nation.

The first member of the Democratic Party from his State ever elected to the House of Representatives, QUENTIN won a special election for the Senate in 1960 and has been reelected five times.

Beyond his political skills, however, QUENTIN BURDICK brings a deep understanding of the problems facing our Nation and the skill and ability to fashion and enact legislative solutions. As chairman of the Senate Committee on the Environment and Public Works and the Agriculture Appropriations Subcommittee, Senator BURDICK has placed a high priority on the development of our Nation's infrastructure on which so much of our economic strength is based, and the protection of our fragile environment.

Madam President, especially important to my State of Maryland, as well as our neighors along the Atlantic coast, is the key role Senator BURDICK continues to play in the cleanup of the Chesapeake Bay. His leadership in providing the resources needed for this major undertaking has been key to the progress we are starting to make in restoring health to our Nation's largest and most productive estuary.

Madam President, the people of Maryland as well as the people of North Dakota, and indeed all Americans, owe a large debt to Senator QUENTIN BURDICK for his 30 years of service and leadership in this body and I am pleased to join in saluting him on this notable anniversary.

BURLINGTON COURT CLERK TO RETIRE

Mr. LEAHY. Madam President, On various occasions during the 16 years I have been in the Senate I have spoken about my days as a prosecutor and how much I have enjoyed being the State's attorney in Chittenden County. In that capacity I dealt daily with the Vermont District Court, formerly the municipal court, in matters ranging from arraignments of minor misdemeanors to, eventually, trials of first degree murders.

Virtually every time I was involved with the court it was through an initial contract with the court clerk, Ann L. Greene.

Ann Greene was more than just the court clerk. In many ways she was the soul of the court and I am not sure either the court, the State's attorney's office or any other aspect of the criminal justice system would have operated without her. Ann Greene was a font of knowledge and experience for all new attorneys and a constant resource to older and more experienced attorneys. She, and her mentor, Judge Edward Costello, gave far more to the State of Vermont and its citizens than they ever received back. In my estimation she is one of the true heroes of Vermont.

This year my good friend and longtime colleague, Ann Greene, will retire. Marcelle and I wish her and her husband, Gerry, and their wonderful children and grandchildren, all the very best. Their friendship has meant a great deal to us over the years.

Madam President, I also ask unanimous consent that an article from the Burlington Free Press, which speaks of her retirement, appear in the CONGRESSIONAL RECORD at this point so that other Senators may know of Ann and her family.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Burlington (VT) Free Press, July 11, 1990]

34-YEAR COURT CLERK TO RETIRE

(By Michael Allen)

When Ann L. Greene became court clerk a generation ago, she planned to keep the job for a couple of years to supplement her growing family's income.

In two weeks, Greene, 59, will officially draw the curtain on her 34½-year—unintended—career in the Vermont judiciary.

"I didn't set out to establish a career," Greene said. "I didn't set out to 'do my own thing.' That's not the picture that people should get of me."

"It's something that you saw growing and developing and changing. I mean there's been more changes in the court system since I've been with the court than any changes in my life."

Newly appointed to the bench in 1955, Judge Edward J. Costello, now retired, hired a 25-year-old mother of two as his secretary, court reporter and court clerk. They worked together the next 28 years.

"She was a very hard worker," Costello said of Greene. "She came to work just about the time that the evolution of the court system began."

Since 1955, the court has gone from consisting of Costello and Greene in a one-room municipal court on South Winooski Avenue, across from a fire station, to three and sometimes four judges, and a court clerk staff of 11—with Greene in charge—housed in a two-story building on Pearl Street.

Now part of the Vermont District Court system, the Burlington courthouse is the busiest in the state, with 6,000 adult arraignments in 1989, plus delinquency, civil, juvenile, and child-abuse cases—and traffic tickets.

The District Court clerk's office, which processes all those cases, is the state's most understaffed and consequently most overworked, said William Sorrell, Chittenden County state's attorney, who runs Vermont's largest prosecuting office.

"The pressure and demand, given the current level of staffing and the level of work, calls for tremendous energy on one hand and resiliency on the other," Sorrell said. "The varying demands by people, personalities, situations and nature of the job would drive a normal person into looking for other jobs."

Sorrell said he cannot understand how anyone could have handled the position and grown in it the way Greene has.

"It's got to be a feeling of self-satisfaction from climbing a mountain every day and, hopefully, getting to the top day after day because there is another mountain to climb the next day," Sorrell said.

After a July 20 retirement party at Ramada Inn, Greene says she will rest for about a month then go on a trip with her husband, Gerald.

Lisa Vasques, acting court clerk until a replacement is named for Greene, said she admires all the changes Greene experienced and implemented in the office.

"Through all the changes she's been a constant," Vasques said. "She was always there for me, for everybody. She really cares about this place. I'm going to miss her."

Thomas Lehner, state courts system administrator, said the search for a permanent replacement for Greene should begin soon and that one will be named by the end of August.

Anne Dingler, District Court clerk in Rutland County, the state's second busiest court, said she would not be in her job today had it not been for Greene.

"I started out in Burlington about 10 years ago as assistant court clerk," Dingler said. "When she hired me, I asked her to teach me everything, and she was just wonderful."

Chris Brock, who worked as an assistant clerk with Greene for 13 years before she became the District Court clerk in Franklin County four years ago, said she gained a measure of dedication by working all those years with Greene.

"When I first visited the court (in 1970), I was in high school," Brock said. "It was at that time, after a tour of the building with Ann Greene, that I decided I wanted to work there. Her enthusiasm and zest—you could tell that she loved what she was doing."

Greene was co-valedictorian when she graduated from Winooski High School in 1949. She married her high school sweetheart and graduated from the University of Vermont—where she met Costello—in 1953. She would go on to raise five children and seven grandchildren.

Greene said she did not achieve her career at the expense of her family.

"Maybe you get up a little bit earlier in the morning and do two or three hours of work at home so the laundry is done, the packing of the lunches," Greene said. "It wasn't just attending games. It was letting my children know that just because I was working to supplement the income, they were not going to be deprived."

HUMAN RIGHTS ABUSES AND ANTIDEMOCRATIC ACTIVITIES BY THE GOVERNMENT OF KENYA

Mr. KENNEDY. Madam President, during the past year a peaceful democratic revolution has swept Eastern Europe. Repressive regimes in Chile and Nicaragua have yielded power to democratic rule through free and fair elections. Citizens around the world are employing new-found freedoms of expression and political rights.

Yet as much of the world moves toward greater liberty, the government of Kenya, once a model of political stability in Africa, is pursuing a shocking crackdown on peaceful advocates of human rights and democratic reforms. During the past few weeks, government security forces under the control of President Daniel arap Moi have arrested, detained, assaulted, and killed Kenyan citizens whose only crime is the peaceful expression of their views.

Kenya is the largest recipient of U.S. aid in sub-Saharan Africa, and we cannot stand silent while these abhorrent actions take place. I urge the administration to act immediately to suspend all military and nondevelopmental economic assistance for the Government of Kenya until this crackdown is ended. We must stop the flow on U.S. taxpayers' dollars to a government which denies it's citizens their most basic rights.

The Kenyan people have had a strong tradition of democracy since gaining independence from Great Britain in 1963. Their adoption of a parliamentary-style government and a constitution that recognizes the basic rights of all citizens has enabled the country to remain politically stable for nearly three decades. This stability, however, is now threatened by the government's rejection of the constitutional rights of its citizens.

In January 1990, the Government mounted a campaign against Kenyans who had criticized President Moi, the nation's single-party system, or the failure to honor free expression. President Moi has adamantly opposed a pluralistic democracy in Kenya. Recently, he criticized individuals advocating a multiparty democracy and peaceful political change, and called them "subversives" and "traitors."

During the past few weeks, the repression has intensified. Security forces have arrested, detained, and assaulted numerous Kenyan citizens. In recent days, hundreds of people have been injured and at least 10 persons have been killed as government security forces have fired into crowds and used clubs and tear gas against demonstrators peacefully protesting the government crackdown.

Among those arrested are Kenneth Matiba and Charles Rubia, former cabinet ministers and leading advocates of multiparty democracy. Matiba's home was broken into by a band of armed men who severely beat his wife and daughter. Rubia was arrested after leaving the home of the U.S. Ambassador, where he had been invited for the Fourth of July celebration.

The assault on freedom of expression has also been directed at the press. Security forces have arrested Gitobu Imanyara, the editor of the Nairobi Law Monthly, which irritated the authorities by accusing resident Moi of undermining the constitution. Imanyara has been harassed by the government since the magazine began publication in 1987; he has previously been imprisoned for several years. The police have refused to acknowledge his most recent arrest.

Other persons arrested include Raila Odinga, a civil servant and the son of a former Kenyan Vice President, and two respected human rights lawyers, Mohamed Ibrahim and John Khaminwa.

The targeting of human rights lawyers compelled Gibson Kamau Kuria to seek refuge in the U.S. Embassy. A number of his clients had been intimidated and arrested, and his law office was under constant surveillance by the police. Kuria received the Robert F. Kennedy Human Rights Award in 1988 for his tireless defense of the rights of his fellow citizens. The Kenyan Government allowed Kuria to leave the country last night, but his exile from his homeland is a sad commentary on the deteriorating situation in his homeland.0

The arrest of persons peacefully expressing their political views is a violation of the Constitution of Kenya and also of the International Covenant on Civil and Political Rights, to which Kenya is a signatory. It violates the basic foundations of any democratic system and threatens peace and stability throughout Kenya.

There should be no doubt that America stands with those who support democracy and the fundamental rights of freedom of speech, freedom of the press, and freedom of association.

Kenya is currently scheduled to receive $46 million in United States aid this year, $11 million of which is military assistance. The administration has requested $42 million in aid for Kenya for 1991, $16 million of which is

in military assistance and economic support funds.

I urge the administration to suspend all military and nondevelopmental economic assistance for the Government of Kenya. Our aid should be resumed only after the Kenyan Government meets these essential conditions:

First, the rights of free speech, free press, and free association are restored;

Second, all persons arrested and detained for the peaceful expression of their political beliefs are released; and

Third, the Government ends the harassment, detention, and arrest of its political opponents.

The struggle for freedom in Kenya is no less important than those in Latin America, Eastern Europe, and China. In time, it too, will succeed. The Kenyan government may try to silence the voices of opposition, but it cannot destroy the desire for democracy and human rights. The United States stands tallest when we stand with those at the forefront of this struggle in other nations. And that is where we must stand with respect to Kenya.

Mr. MITCHELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. MITCHELL. Madam President, for the information of Senators, we have been attempting since yesterday to obtain consent to an agreement under which we could bring up the textile bill and hopefully complete action on it today. We had hoped to have that completed by approximately this time, but we have not been able to get final agreement. We expect to have some decision in that regard by about 1 p.m.

Accordingly, Madam President, I think it would be appropriate for the Senate to recess until that time to give all of the participants the opportunity to meet privately to determine whether or not it will be possible, as I hope very much that it will be, to bring that matter before the Senate for consideration today.

Therefore, I ask unanimous consent that the Senate now stand in recess until the hour of 1 p.m. today.

There being no objection, the Senate, at 11:59 a.m., recessed until 1:01 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. HARKIN].

RECESS UNTIL 1:30 P.M.

Mr. MITCHELL. Mr. President, for the information of Senators, discussions are continuing with respect to the civil rights bill. I am advised that there have been almost continuous negotiations since very early this morning up to the present time. I expect to receive a report on the status of those negotiations shortly. It is my hope and intention that the Senate will be able to return to consideration of the civil rights bill later today.

In the interim, there have also been discussions with respect to the textile bill, which I had hoped to bring to the floor for consideration prior to now. Those discussions are continuing. It is my intention at 1:30 to propound to the Senate a unanimous-consent agreement request to go to that bill with a time limitation. Any Senator who has an interest in that measure, therefore, should be present on the floor at 1:30, at which time it is my intention to propound the request.

I make these statements following a discussion, through staff, with the distinguished Republican leader. He is aware of these matters. I will be consulting with him further prior to the time when I propound the request.

Therefore, Mr. President, I think it most appropriate that the Senate recess until 1:30, at which time I will propound a request to go to the textile bill under a time limitation.

I therefore ask unanimous consent that the Senate now stand in recess until the hour of 1:30 p.m. today.

There being no objection, the Senate, at 1:03 p.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. HARKIN].

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to H.R. 4328, the textile bill; that no call for the regular order except one made by the majority leader serve to displace the bill; and that if a call for the regular order is made by the majority leader, the bill be placed back on the calendar.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4328) to authorize appropriations for fiscal years 1991 and 1992 for the customs and trade agencies, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Textile, Apparel, and Footwear Trade Act of 1990".

SEC. 2. POLICY.

The policy of this Act is to—

(1) relate the growth of textile and clothing imports to the growth of the domestic market in order to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and clothing manufacturers, and loss of job opportunities for United States textile and clothing workers; and

(2) maintain a viable United States nonrubber footwear industry by preventing further damage to United States nonrubber footwear manufacturers and loss of job opportunities for United States nonrubber footwear workers.

SEC. 3. FINDINGS AND DETERMINATIONS.

(a) FINDINGS.—The Congress finds that—

(1) with respect to textiles and textile products—

(A) the current level of imports of textiles and textile products from all sources, more than one hundred and sixty-five countries, reached nearly twelve billion one hundred million square meter equivalents in 1989, an increase of 13 percent over 1988 imports; this level of imports is three times the level of imports in 1980, a rate of increase that was not foreseen when the United States granted trade concessions benefiting foreign suppliers of textiles and textile products, and represents over one million four hundred thousand job opportunities lost to United States textile, apparel, and fiber workers;

(B) imported textiles and textile products contain five million bales of cotton which is equivalent to 40 percent of annual cotton production in the United States; eight out of every ten bales of cotton contained in imported textiles and clothing are foreign grown cotton; sustained massive increases in imports of cotton textile and clothing products are causing a declining market share for domestic cotton producers, depressed prices, and an average annual market revenue loss of over $1,000,000,000; another result is that a market development program voluntarily funded by United States cotton producers actually benefits foreign powers; finally, as imports of textiles and clothing increase, domestic cotton acreage is shifted to produce other agricultural products which are already in oversupply thereby adding to the problems of United States agriculture;

(C) imports of textiles and textile products made of wool have nearly doubled since 1980, creating major disruptions among domestic wool products producers of United States produced raw wool; because import penetration in the domestic wool textile and clothing market is nearly 70 percent, it is critical that action be taken to halt further erosion of the domestic industry's market share;

(D) imports of textiles and textile products made of manmade fiber and competing fibers, other than cotton or wool, have more

than doubled since 1980 resulting in substantial reductions in domestic manmade fiber production capacity and job losses;

(E) the textile and clothing trade deficit of the United States exceeded $26,000,000,000 in 1989, an increase of 8 percent over 1988, and accounted for 21 percent of the Nation's overall merchandise trade deficit;

(F) import growth of clothing and clothing fabrics has averaged 10 percent annually since 1973; over the same period, the domestic market for clothing and clothing fabrics has grown only 1 percent annually; the result is that import penetration in the domestic clothing and clothing fabric market has more than doubled in the last ten years, reaching a level of 58 percent in 1989;

(G) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products competitive with those imported have been seriously damaged, many of them have been forced out of business, have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to the Federal and local governments;

(H) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring new measures;

(I) unless the import growth rate of textiles and textile products is slowed to the long-term rate of growth of the United States market, plant closings and job losses will continue to accelerate, leaving the United States with reduced competition benefiting domestic consumers and leaving the Nation in a less competitive international position;

(J) a strong, viable, and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States; and

(K) actions taken by the United States under the Arrangement Regarding International Trade in Textiles of December 20, 1973, as extended (commonly referred to as the "Multi Fiber Arrangement" or "MFA") have failed to avoid disruptive effects in the textiles and textile products markets in the United States; and

(2) with respect to nonrubber footwear—

(A) nonrubber footwear imports in 1988 reached a level of eight hundred and sixty million pairs; this volume of imports is two and one-fourth times that of 1981, the year that import relief for the nonrubber footwear industry terminated, and is 2.1 percent above 1985 levels, the year in which the International Trade Commission issued its third finding that the domestic nonrubber footwear industry has been seriously injured by increased imports;

(B) since 1981, import growth of nonrubber footwear has averaged more than 11 percent per year, gaining market share at the expense of the domestic industry; in 1981, import penetration of the domestic nonrubber footwear market was 51 percent; by 1989, import penetration reached 80 percent;

(C) as a direct result of imports, domestic nonrubber footwear production has declined, reaching two hundred and twenty-six million pairs in 1989, a production level matched only during the Great Depression in the 1930's;

(D) domestic nonrubber footwear employment has declined significantly since 1981 and is down 45 percent from 1981 levels and 19.3 percent from 1985 levels; and

(E) domestic nonrubber footwear production facilities are closing at an alarming rate, with over four hundred and eight factory closings since 1981, of which twenty-one closings occurred in 1989 alone.

(b) DETERMINATIONS.—Congress determines that, for the foregoing reasons—

(1) textiles and textile products are being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to producers of textiles and textile products in the United States, and

(2) nonrubber footwear is being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to producers of nonrubber footwear in the United States,

within the meaning of article XIX of the General Agreement on Tariffs and Trade.

SEC. 4. LIMITS ON IMPORTS.

(a) CALENDAR YEAR 1990.—Notwithstanding any other provision of law—

(1) the aggregate quantity of textiles and textile products, from all countries, classified under a category that is entered during calendar year 1990 shall not exceed an amount equal to 101 percent of the aggregate quantity of such products classified under such category, from all countries, that entered during calendar year 1989, and

(2) the aggregate quantity of nonrubber footwear, from all countries, classified under a nonrubber footwear category that is entered during calendar year 1990, and during each calendar year thereafter, shall not exceed an amount equal to—

(A) the aggregate quantity of nonrubber footwear classified under such category, from all countries, that entered during calendar year 1989, and

(B) in the case of high-priced nonrubber footwear, notwithstanding subparagraph (A), the aggregate quantity of high-priced nonrubber footwear classified under such category, from all countries, that entered during calendar year 1989.

(b) GROWTH ADJUSTMENT.—For calendar years after 1990, the aggregate quantity of textiles and textile products, from all countries, classified under each category that may be entered during each such calendar year shall be increased by an amount equal to 1 percent of the aggregate quantity that could be entered under such category during the preceding calendar year. If the aggregate quantity that could be entered under a category for a calendar year after 1990 is reduced under section 10(b), then in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 10(b) in previous calendar years.

(c) EXCEPTIONS.—

(1) The limitations in this Act on the aggregate quantity of articles of textiles and textile products that may be entered during any calendar year do not apply to articles of that kind that are the product of any insular possession of the United States if the articles are—

(A) exempt from duty under general headnote 3(a)(iv) of the Harmonized Tariff Schedule of the United States; and

(B) manufactured or produced in such possession by individuals who are either—

(i) United States citizens;

(ii) United States nationals; or

(iii) permanent residents of such possession in accordance with its laws.

(2) Notwithstanding any other provision of law, the aggregate quantity of sweaters that are—

(A) made of cotton, wool, or manmade fibers; and

(B) assembled in Guam from otherwise completed knit-to-shape component parts;

and that may be entered—

(i) during calendar year 1990, may not exceed one hundred sixty-eight thousand one hundred and sixty-two dozen; and

(ii) during any calendar year after 1990, may not exceed the aggregate quantity that is authorized to be entered under this paragraph during the preceding calendar year, increased by 1 percent.

(3) The limitations in this Act on the aggregate quantity of textiles and textile products that may be entered during any calendar year do not apply to articles that are the products of Canada or Israel. In the case of Canada, such articles are textiles and textile products produced in Canada in accordance with the rules of origin in the United States-Canada Free-Trade Agreement. In the case of Israel, such articles are textiles produced in Israel and textile products assembled in Israel from fabric or yarn produced in the United States or Israel.

(4) The amount of textiles and textile products classified under each category entered during calendar year 1990, and during each calendar year thereafter, from beneficiary countries under the Caribbean Basin Initiative shall equal the quantity of such products of such countries classified under such category that entered in 1989 and any increases that the President shall negotiate or allocate within the limits of section 4(a)(1).

(d) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations as may be necessary or appropriate for the efficient and fair administration of the provisions of this Act, including regulations governing entry, or withdrawal from warehouse, for consumption of the products covered by this Act. Such regulations shall provide for reasonable spacing of imports over the calendar year.

(e) ALLOCATIONS FOR CERTAIN COUNTRIES.—Regulations may be prescribed under subsection (d) only if such regulations ensure that—

(1) an amount of the limitation imposed by this section on the aggregate quantity of textiles and textile products classified under each category entered during calendar year 1991 and during each succeeding calendar year (hereafter in this subsection referred to as the "applicable year") is allocated to such products of each country to which the total quantity of United States agricultural products exported on commercial terms during the calendar year preceding the applicable year exceeds the total quantity of United States agricultural products exported on commercial terms to such country during the calendar year before the calendar year preceding the applicable year; and

(2) the amount of textiles and textile products classified under each category entered during the applicable year that is allocated to each country under paragraph (1) exceeds the quantity of such products of such country classified under such category that entered during the calendar year preceding the applicable year.

SEC. 5. TARIFF COMPENSATION.

(a) COMPENSATION.—

(1) The President may (A) enter into trade agreements with foreign countries or instrumentalities to grant new concessions as

compensation, to the extent required under international trade agreements of the United States, for the import limits imposed under section 4 of this Act to maintain the general level of reciprocal and mutually advantageous concessions under such agreements; and (B) proclaim such modification or continuance of any existing duty on textiles and textile products and on nonrubber footwear as the President determines to be required or appropriate to carry out such agreements.

(2) No proclamation shall be made under paragraph (1) decreasing any rate of duty to a rate of duty which is less than 90 percent of the existing rate of duty.

(3) Before entering into any trade agreement under this subsection with any foreign country or instrumentality, the President shall consider whether such country or instrumentality has violated trade concessions of benefit to the United States and such violation has not been adequately offset by the action of the United States or by such country or instrumentality.

(b) STAGING REQUIREMENTS.—The aggregate reduction in the rate of duty on any article which is in effect on any date pursuant to subsection (a) shall not exceed the aggregate reduction which would have been in effect on such date if a reduction of one-fifth of the total reduction under subsection (a) had taken effect on the effective date of the first reduction proclaimed to carry out such trade agreement, and at one-year intervals after such effective date.

(c) PROHIBITION.—Except as provided in subsection (a) and notwithstanding any other provision of law, the President may not enter into trade negotiations with any foreign country or instrumentality with respect to duties on textiles and textile products and on nonrubber footwear and may not decrease, or propose a decrease, in any such duty by any means, including an implementing bill under section 151 of the Trade Act of 1974 (19 U.S.C. 2191) or a proclamation.

SEC. 6. ANNUAL REPORT.

Not later than March 15, 1991, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this Act during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 4. All departments and agencies shall cooperate in preparation of this report, as requested by the President.

SEC. 7. REVIEW.

The Secretary of Commerce shall commence, ten years after the date of enactment of this Act, a review of the operation of this Act. The Secretary shall consult representatives of workers and companies in the textile and textile products and nonrubber footwear industries, the United States Trade Representative, the Secretary of Labor, and other appropriate Government officials. Within six months after the commencement of the study, the Secretary shall submit to the Congress the findings of the Secretary.

SEC. 8. AUCTION OF IMPORT LICENSES.

(a) IMPORT LICENSES.—Notwithstanding any other provision of law, the Secretary of the Treasury shall establish and implement a pilot program for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products.

(b) IDENTIFICATION OF CATEGORIES SUBJECT TO LICENSES.—The categories of textiles, and the categories of textile products, to which the import licensing program under this section applies shall be selected by the Secretary of the Treasury, in consultation with the Secretary of Commerce. Such selection shall be made so that—

(1) the number of categories of textiles so selected shall, in the aggregate, account for the volume of imports equal to no less than 20 percent of the value of textiles entered; and

(2) the total number of categories of textile products so selected shall, in the aggregate, account for the volume of imports equal to no less than 20 percent of the value of textile products entered.

(c) AUCTIONING OF IMPORT LICENSES.—

(1) Each import license to be issued and sold pursuant to this section shall be sold by the Secretary of the Treasury at a public auction held no earlier than fifteen days after the date on which notice of such auction is published in the Federal Register.

(2) By no later than the date that is sixty days after the date of enactment of this Act, the Secretary of the Treasury shall prescribe regulations under which auctions shall be conducted under paragraph (1). Such regulations shall provide for—

(A) the auctioning of quotas, on a historical basis, among retailers, importers, and manufacturers of textiles and apparel;

(B) the transfer of auctioned import licenses among importers; and

(C) a means of ensuring that no person obtains undue market power in the markets of the United States through the use of auctioned import licenses.

(3) The Secretary of the Treasury is authorized to prescribe, on an expedited basis, such regulations supplementing the regulations prescribed under paragraph (2) as are necessary to address factors involved in conducting the sale by auction of import licenses for any article that are unique to such article.

(d) DEPOSIT OF REVENUES.—Any revenues from the sale of import licenses under this section shall be paid into the general fund of the Treasury of the United States.

(e) DURATION.—The import licensing program under this section shall begin on January 1, 1991, and end at the close of December 31, 1991.

(f) REPORT.—Not later than March 31, 1992, the Secretary of the Treasury, in consultation with the Secretary of Commerce, shall report to the Congress on the administration of the import licensing program under this section and the advantages and disadvantages of auctioning import licenses demonstrated by the program.

SEC. 9. DEFINITIONS.

For purposes of this Act—

(1) The term "textiles and textile products" includes, but is not limited to, all articles covered by a category.

(2) The term "nonrubber footwear" means nonrubber footwear articles classified under items 6401.92.30, 6401.99.80, 6402.11.00, 6402.19.10, 6402.30.30, 6402.91.40, 6402.99.05, 6402.99.10, 6402.99.15, 6404.11.20, 6404.19.15, 6404.19.25, 6404.19.30, 6404.20.20, 6404.20.40, 6403, 6405, 6406.10.05, 6406.10.10, 6406.10.20, and 6406.10.45 of the Harmonized Tariff Schedule of the United States (as in effect on January 1, 1990) and includes, but is not limited to, all articles covered by a footwear category.

(3) The term "category" means each of the following:

(A) each category identified by a three-digit number in the Department of Commerce publication entitled "Correlation: Textile and Apparel Categories with Harmonized Tariff Schedule of the United States", dated 1990, and in any amendments to such publication correcting clerical errors or omissions;

(B) each subdivision of a category described in subparagraph (A) with respect to which the United States has (i) an agreement with any country on the date of enactment of this Act limiting exports of textiles and textile products to the United States that includes a specific limit on such subdivision, or (ii) taken unilateral action to limit producers from any country entered under such subdivision;

(C) a category consisting of the manmade fiber products not covered by a category described in subparagraph (A) and classified under chapters 54, 55, and 56 of the Harmonized Tariff Schedule of the United States; and

(D) a category consisting of the products not covered by a category described in subparagraph (A) and classified under items 6215.10.00.408 and 6117.20.00.405 of the Harmonized Tariff Schedule of the United States.

The Secretary of Commerce shall determine, after consultation with the United States Trade Representative and the United States International Trade Commission, whether comparable subdivisions described in subparagraph (B) are consistently defined; if the Secretary determines that such subdivisions are not consistently defined, then the Secretary shall prescribe by regulation an appropriate definition of the category covering such comparable subdivisions.

(4) The term "nonrubber footwear category" means each of the following:

(A) men's leather;
(B) men's vinyl/plastic;
(C) men's other;
(D) women's leather;
(E) women's vinyl/plastic;
(F) women's other;
(G) juvenile leather;
(H) juvenile vinyl/plastic;
(I) juvenile other;
(J) athletic leather;
(K) athletic vinyl/plastic;
(L) leather work footwear;
(M) vinyl/plastic work footwear;
(N) miscellaneous leather footwear;
(O) miscellaneous vinyl/plastic;
(P) miscellaneous other;
(Q) leather slippers;
(R) vinyl/plastic slippers; and
(S) other slippers.

(5) The term "high priced nonrubber footwear" means nonrubber footwear with a customs value of $2.50, or more, per pair.

(6) The term "country" means a foreign country, a foreign territory, an insular possession of the United States, or any territory, possession, colony, trusteeship, political entity, or foreign trade zone, whether affiliated with the United States or not, that is outside the customs territory of the United States.

(7) The term "duty" includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

(8) The term "existing" means the nonpreferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) set forth in the General subcolumn of rate of duty column 1 in chapters 1 through 96 of the Harmonized Tariff Schedule of the United States existing on the day before the date of enactment of this Act.

(9) The term "entered" means entered, or withdrawn from warehouse, for consump-

tion in the customs territory of the United States.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this Act shall apply to textiles and textile products and nonrubber footwear entered, or withdrawn from warehouse, for consumption on and after the date of enactment of this Act.

(b) CALENDAR YEARS 1990 AND 1991.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products and of nonrubber footwear that may be entered under section 4(a) under each category and each nonrubber footwear category during the period beginning on the date of enactment of this Act and ending on December 31, 1990. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products or of nonrubber footwear entered under a category or nonrubber footwear category after December 31, 1989, and before the date of enactment of this Act exceeds the quantity permitted entry for such products under such category during calendar year 1990 under section 4(a), then the limit that would otherwise apply under section 4(b), in the case of textiles or textile products, or under section 4(a), in the case of nonrubber footwear, for such category for calendar year 1991 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 4(b), or section 4(a), as appropriate, for such category for calendar year 1991, then the limit for such category for calendar years after 1991 shall be reduced until such excess is accounted for.

Mr. BENTSEN. Mr. President, the Senate now is considering the Textile, Apparel, and Footwear Act of 1990. This bill has substantial support in the Congress. It is a bill that has some 54 cosponsors and similar legislation has been introduced in the House where it has some 243 cosponsors.

Because of the widespread support for this bill, and at the request of the senior Senator from South Carolina who has shown such a great deal of leadership on this issue, I scheduled an early hearing and an early markup of this legislation in the Finance Committee. The committee reported the bill without recommendation in order to provide the opportunity for the full Senate to debate and consider this piece of legislation.

Mr. President, I support this bill. It is important to the country in general and to my home State of Texas in particular. Texas is the sixth largest textile and apparel producing State in America. Today more than 126,000 workers in Texas depend on textile and apparel production for their jobs. Those textile and apparel workers in Texas today are the lucky ones. They still have their jobs. Thousands and thousands of them have not been so fortunate. Since 1981, 40,000 of my fellow Texans have lost their jobs in the Textile and apparel industries.

Let me tell you who that textile worker is, who he is likely to be, in Texas. Often it is a woman, sometimes the wife of a farmer.

She is trying to make a little extra money to hold her family together. It is a difficult time on the family farms. She drives into town, puts in a full day in the mill or the garment factory, and then returns to a second full day at home. Often that worker is poor, and black or brown, with a limited education—the people that find it toughest to compete for jobs, particularly with the international competition that we have.

The problem of the textile trade is symptomatic of the problems of U.S. trade policy under the Reagan-Bush administration during the 1980's. For years, trade was an afterthought for the administration. Until Congress made trade an issue by passing comprehensive trade legislation, trade policy was the last of the priorities, if you could find it on a list at all.

If you had a Chief Executive that made a trip to an economic summit meeting, rarely would they take the Trade Ambassador along. Yet, if you saw the chief executive of any other major country, they would have their economics minister with them, or they would have their trade minister with them.

Let us look at the situation in textile and apparel trade. Since 1974, the United States has been a signatory to the Multifiber Arrangement, the international agreement that governs international trade in textiles and apparel. The MFA allows countries to control textile and apparel imports by taking actions that otherwise would be inconsistent with the General Agreement on Tariffs and Trade. Both importing and exporting countries have agreed to this system of rules because they recognize the special nature of the textile and apparel industries.

The basic purpose of the MFA is to allow textile and apparel trade to expand, but in a manner that allows domestic industries and importing countries to adjust gradually to international competition.

Have the objectives of the MFA been realized for the United States? Up until 1980, most would have answered that question "yes." While the U.S. market for textiles and apparel has been growing over the long term by approximately 1 percent annually, imports of textiles and apparel grew on the average by approximately 3 percent annually between 1974 and 1980. Since 1980, however, U.S. imports of textiles and apparel have tripled.

What has been the impact on U.S. industry? What has been the impact on jobs in this country? Let us look at the facts: 400,000 jobs lost to American textile and apparel workers, 1,500 textile and apparel plants closed, despite an $18 billion modernization effort by the industry.

When I was back in Texas last week, I was driving along the Texas-Mexican border going by some of the centers, apparel plants, and factories that had been there before. I noticed the shuttered windows, the grass growing in the parking lots, and understood that those jobs too had been lost.

Imports are taking a greater and a greater share of the domestic market. They are now estimated to account for as much as 60 percent of the U.S. apparel and fabric market.

Let me be clear.

I do not believe that this bill does anything that this administration did not already have the power to do if it wanted to exercise it. Under the MFA, the administration could have negotiated bilateral agreements that would have moderated the import growth. That is what our trading partners, such as the European Community, have done.

Let me quote a 1987 study by the Office of Technology Assessment. Available evidence suggests that the European Economic Community's adoption of a more restrictive set of rules than the MFA as of 1983, coupled with Japan's continuing restrictions, has had the effect of channeling and diverting developing nation textile exports. They come into the U.S. market. That is what the net result has been.

Recently when I was in Europe with some of my colleagues on this committee, I talked to ministers of trade and executive heads of those countries and asked them what they were doing about some of these problems. They talked about domestic content requirements for automobiles, for example.

Talking to Mrs. Thatcher, I said, "Mrs. Thatcher, what are you going to do about the Nissan plant up in the lake country of England? Are you going to have domestic content?" She said "Absolutely, 60 percent domestic content."

Then I went down to visit with the Prime Minister of France. I said "Are you going to take those cars from the lake country, from the Nissan plants in the north of England?" He said "Absolutely not." I said "Why not?" "Because," he said, "they only have 60 percent domestic content," referring to the components. Only 60 percent of them come from Europe. He said, "We demand 80 domestic content." He said, "We are not going to let happen to our manufacturing base what has happened to the manufacturing base of the United States."

I went to Italy and talked to the people at Fiat, and other manufacturers about the fact that they had a 2-percent quota for Japanese cars that went back to the 1950's. I said, "What are you going to do with EC-1992? Are you going to do away with that quota restriction." They said, "That's right." I said, "How soon will you do it?" They said, "We will have a transition

period," with big smiles on their faces. Once again, "We are not going to let happen to our manufacturing base what you have allowed happen to the U.S. manufacturing base."

Well, there is some tough bargaining that has to be done with our trading partners. They have done it by keeping those imports out of their markets, and have had the textiles and fabrics sent to ours instead.

Mr. President, I do not like the idea of legislating import restrictions. I believe that a comprehensive trade policy administered fairly by the executive branch is the better way. But when the executive branch shirks that responsibility, Congress must step in and assume the power to regulate foreign trade, as assigned to the Congress by the Founding Fathers. I believe the administration's handling of textile trade policy requires the Congress to do just that.

I urge my colleagues to join with me in supporting this bill.

Mr. President, I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I believe this bill is a turkey. This is an awful bill. This is a bill we ought to be embarrassed discussing today of all days. The meeting just finishes in Houston—the summit down there in Houston. It is not are we going to send money to Russia or not; it is what are we going to do about agricultural quotas and tariffs around the world.

President Bush placed his reputation on the line, and said we are not leaving this meeting until we get an agreement from the rest of the world that they are going to start moving down on their agricultural subsidies so that we can have free trade, or at least freer trade in agricultural products around the world.

We stand there and say we are willing to go to toe-to-toe with Argentina in beef, toe-to-toe with Canada in wheat, toe-to-toe with Australian corn.

But most of all, we want to, on a free market basis, go toe-to-toe with Japan on rice, and toe-to-toe with Europe, who have not only a greater, in terms of total amount of money, total of agricultural subsidies by far than we do, but they also subsidize more crops than we do. I cannot tell yet from the communique whether or not President Bush was successful. The communique sort of says we are apparently going to do something, but as I read the whole story, I could not quite figure out what it is they are going to do.

At least we are trying to say to the rest of the world, let us do what we can do best, and we will compete head-to-head, toe-to-toe, anything you want to call it.

Now we come on the Senate floor today and say "Aha." What we mean on textiles is that we want protection, we want protection against shirts made in India, pants made in Britain, textiles made wherever, and not only do we want protection, we are going to violate the General Agreement on Tariffs and Trade to do it.

The MFA was not a violation, because all of the countries finally coerced the rest of the countries in the Multifiber Agreements 16 years ago. The Multifiber Agreements are an exception to the effort to widen trade in the General Agreement on Tariffs and Trade. So it is really technically within the GATT, because other GATT countries said: Fine, go ahead; enter into these agreements, all of you. All of us will be limiting textiles from each other and apparel from each other, to the detriment of the consumer.

The studies we had on the bill in 1988—we have not seen the studies completed on this bill yet, but I doubt if they are much different. The bill in 1988, which is not really a smidgen different than this, would have cost consumers in this country between $25 and $27 billion a year.

You do not notice it much. Just 50 cents a shirt here, $1, $1.50 a pair of shoes here, $2 a pair of shoes there. But add that up by 250 million consumers in this country, and for the average household with a couple of kids, buying all kinds of tennis shoes and shirts and shorts during the year, that is a lot of money.

To what end? To save an industry, allegedly, that is more profitable on average—talking about the textile industry—than the average of other U.S. industries; to save industries in the States of North and South Carolina, when both States have lower rates of unemployment than the national average, lower rates of unemployment than my State or the State of the Chair. They want protection. And then the figures are cited about employment. Again, textiles used to have 2.5, now 1.7. We used that as a mark of progress.

The Chair is from an agricultural State, and we are not old enough to remember, but in 1900 we had roughly 50 million farmers in this country. Now we have about 2 million, and we regard that as a mark of progress, turning out infinitely more food than 50 million farmers were a century ago.

We say that is good. Not only is that good, but those farmers are so efficient, that whether they are in Iowa or Oregon, they can outcompete any other nation in the world, no matter how low the wages are.

I can look at my own timber industry; we are beset with a lot of problems. But in 1988, we turned out about as much lumber as we did in 1978, 1978 being a banner year. We did it with about 70 percent of the number of employees we had 10 years earlier. We regard it as a mark of progress. The mills have become more efficient.

That is what happened to the textile mills in terms of productivity of textile mills, year by year. By productive, we simply mean how much more productive you are, how many more goods can you turn out with the same number of workers than you did last year. Textile mills increased in their productivity infinitely more than the average of U.S. manufacturing in the last 10 years.

So, by every measure in terms of the increased growth of textiles in this country over the last 2 years, the biggest proportion of the growth has come from domestic mills. We are saying, no, that is not enough. Not only are these mills profitable, not only are they productive, not only now have we moved from seventh to fourth in terms of being the biggest supplier of textiles to Europe.

And I do not know how many Members caught the story in the paper, but we have a surplus with Europe, a shift from $28 million negative to a surplus, and textiles and apparels moved up on the list.

So I do not know how we can stand here on the Senate floor today and say to Japan: Get rid of your rice quotas; say to Europe, to France, especially, and Germany, get rid of your wheat supports and protection; get rid of your export subsidies, with Europe exporting wheat all over the world at a loss to keep the farmers in business; get rid of all those, do not worry about your domestic politics; do what is good for your country, consumers, and the world, and turn around here on the very same day and say: But not us, in textiles.

Let me read a letter, if I might.

The irony of this is almost more than I can stand. We are trying to wrap up the Uruguay round of trade negotiations by this December. This is the big 100-nation multilateral negotiation to try to get guarantees for protection of patents and copyrights and get lower tariff barriers on all kinds of imports to different countries. We are right in the middle of this and trying to finish up this 4-year negotiation, when we are talking about adopting this bill.

This is from the Charge d'Affaires from the Delegation of the Commission of the European Communities, the Common Market countries, to me today:

> I am writing to you with regard to the Textiles, Apparel and Footwear Trade Bill (S2411) which I understand will be considered by the full Senate in the next few days. I thought it appropriate to let you have the view of the European Community on this legislation.
>
> The main feature of the Bill is a global limitation of textile and apparel imports into the United States to their present level plus a one percent annual increase, with the

possibility of quotas being switched between suppliers.

The Community vigorously opposes such provisions. At a time when the U.S., the EC and other training partners are in the throes of a major effort in the Uruguay Round of Multilateral Trade Negotiations aimed at determining the conditions under which this sector can be brought back into the framework of the General Agreement on Tariffs and Trade, the passage of such legislation would be tantamount to eliminating all prospects of progress in this area. The sending of such a signal to the U.S. trading partners will jeopardize negotiations not just in textiles but in all other areas covered in the Round.

Notwithstanding the above, the Bill would also violate the existing GATT rights of the U.S.' trading partners and usher in a period of disorder and protectionism at a time when the focus should be on negotiating orderly transition arrangements from the existing Multi Fibre Arrangement to new multilateral rules.

I should leave you in no doubt that the Community would be obliged to adjust its textile trade policy in order to prevent diversions into our markets and to retaliate against U.S. exports should our own textile exports be affected. This would obviously have consequences for American jobs at a time when U.S. textile and apparel imports to the European Community are increasing rapidly in volume terms. For your information, these increased by 49 percent in volume terms between 1986 and 1988, and reached $995 million in value terms. This trend continued in 1989. By contrast, EC exports to the U.S. have fallen by 15 percent over the same period. The U.S. is now the Community's fourth largest supplier of textiles and clothing, up from seventh place in 1984.

In the light of the above, I would reiterate again the serious consequences that passage of a textile trade bill will have on the U.S.' multilateral and bilateral trade relations.

Mr. President, we have to put in place at some stage in this country the philosophy that we will do what we can do best in this world and we will do it so well that we will prosper. There is no question that we can do agriculture well. There is no question that we can do manufacturing well.

It has been a tough decade for us because up until about the midsixties or early seventies we did not have to worry too much about international competition. After World War II, there were almost nothing but wrecked economies around the world or economies that were so primitive, if not wrecked, they were not competition. All during the fifties and sixties we could sell almost anything we made to anybody because there were no other products to buy. We could be fat, dumb, and happy and sell sloppily products and succeed.

Then from about the midsixties onward, it really began to change. It was not until the eighties that our trade balance turned against us. We began to be challenged by Japanese cameras, German cars, Japanese cars, textile apparel imports from different countries around the world, and some of our manufacturers that were not able and adept went out of business. Some learned to compete, and they learned to compete very well, and they have learned to compete so well that they are now regaining shares of the world market that they lost in the late seventies and during the eighties. I have no doubt that our trade balance will finally turn to a surplus given another, no more than, I would say, 3 or 4 years.

But you know the argument as to whether or not we have a trade surplus is not what is at the bottom of this bill. If we had a $50 billion a year trade surplus, this bill would still be before us today, from an industry that wants protection, from an industry that has been the longest protected industry in the history of the United States. We started passing textile protection bills in the early 1800's. And when you read the scant congressional reports, even in those days it was always temporary, it was always get us by the next day, get us by the next decade, and give us a chance to adopt and adapt and that is all the help we need.

Now, almost 200 years later it is the same cry again. If you want to take one particular example, and that is the example of apparel, you can look at what one particular country has done, and that is Japan. Twenty-five years ago Japan was in the top five in the export of both textiles and apparel, textiles being the cloth and apparel being the cloak. Japan today is still among the top exporters of textiles, but they are not in the top 20 in the export of apparel, because what they learned a good many years ago was, try as they might, they had a very difficult time automating sewing a man's suit or automating a great amount of apparel; in manufacture there was a lot of hand work to it. Japan said, we will let that business go to Brazil or Indonesia, India, Pakistan, or Thailand, and we will do what we can do well, which is textiles. We can automate that. Productivity can improve upon it. Productivity can keep us competitive.

And, indeed, that is what our textile industry has done, and it does not need the protection of this bill to be competitive.

So I hope, Mr. President, that when the vote comes on this bill—and I am not naive, I know there are the votes to pass it—but I hope it will be two or three votes less than the number of votes that passed it the last time we voted on it. I hope that if we ever have to vote on it again, there will be another two or three votes less than what it might be this time because one day we are going to regain our confidence, one day we are going to realize again that we can compete in the world and we will compete in the things that we are best at doing.

I want to say again to any Senator in this body who is from an agricultural State, if God blessed this country with anything, it was fertile land. There is no country in the world that can farm as well as we can. There is no country in the world that farms as productively as we do. And yet in every single country in the world, because the agriculture community is by and large conservative and a backbone of most governments, we are faced with agriculture protection, quotas, tariffs, against the thing we can do better than anybody else in the world. And if we want to get these other countries to drop their barriers to wheat, corn, soybeans, then we are going to have to say we will drop our barriers to shirts and cloth.

Mr. President, if we drop those barriers, we will still compete in those areas, but, most important, in the areas that we can do better than any other, we will not just compete, it will not even be a foot race, we will win that race by a mile.

So I hope at this time when we are coming down to a crucial conclusion of these negotiations with the rest of the world on tariffs, that we do not send them the message today or tonight or tomorrow that the U.S. Senate stands for free trade but for the things we do not want to trade free. As for the rest of you beggers out there in the world, get rid of your tariffs and quotas. Do not dare act like we do and say we will get rid of them but for, and then put up barriers to our products.

I hope that is not what this Senate says. I am afraid it is what this Senate is going to say.

The President will veto this bill, and I hope we will sustain the veto by as large a margin as we sustained it before. But, most importantly, I hope, instead of 59 or 60 or 61 votes for this bill, there may be only 54 or 55 or 56 votes for this bill this year and that a few Senators, and especially those from agriculture States, will realize that they are putting their farmers' necks in a noose by voting for this bill.

I thank the Chair.

The PRESIDING OFFICER (Mr. ADAMS). Does the Senator yield the floor?

Mr. PACKWOOD. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PACKWOOD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2121

(Purpose: To exempt athletic footwear from the footwear quota)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for himself, and Mr. HATFIELD, proposes an amendment numbered 2121.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . EXEMPTION OF ATHLETIC FOOTWEAR FROM QUOTA.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, any provision of this Act which imposes a limitation on the quantity of footwear that may be entered shall not apply with respect to athletic footwear.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "athletic footwear" means—

(A) nonrubber footwear of special construction for specific sports, including baseball, softball, football, soccer, golf, track and field, skating, wrestling, boxing, weightlifting, gymnastics, cycling, bobsledding, parachuting, skiing, volleyball, or curling, and

(B) nonrubber footwear not dedicated to a specific sport that is designed and construed for—

(i) playing tennis, basketball, racquetball, volleyball, handball, squash, or any other court game, or

(ii) physical conditioning activities including, but not limited to, running, jogging, training, or aerobics,

whether or not used for such purposes.

(2) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

Mr. PACKWOOD. Mr. President, this is a simple amendment. It exempts nonrubber athletic—I emphasize athletic—footwear from the bill's quota system for footwear. At the moment in the United States we have no quotas on imported shoes—leather shoes, nonleather shoes; rubber shoes, nonrubber shoes—we do not have quotas on imports of shoes. This bill puts in quotas for nonrubber shoes.

My amendment would exempt from that athletic shoes: the Nikes, the Reeboks, the L.A. Gears, the AVIA's.

The reason for that is twofold and one I admit very frankly and proudly is parochial. Both Nike and AVIA are headquartered in the State of Oregon. Nike has about 4,000 employees in the United States alone.

Second, between 90 and 95 percent of all of the athletic nonrubber footwear is imported into the United States now. So when we are talking about saving jobs, there are next to no jobs in the United States involving the manufacture of athletic, nonrubber footwear.

There are, approximately 80,000 employees in the entire footwear industry in the United States. I doubt if the nonrubber athletic segment of it has as many employees in the United States as Nike alone, let alone all of the other L.A. Gears, AVIA's, Reeboks and the others, let alone all the jobs on the docks and in marine insurance involving imports.

So this exempts an import that is causing next to no harm to employment in the United States anyway and is providing good paying jobs in the United States. Most of the footwear in the United States, athletic footwear that is imported, is higher value, higher cost footwear. These are what you see the kids wearing, and these are $30, $40, $50 shoes. They are not what we would call cheap footwear. They are not sneakers.

Anybody who has been to the store and bought their children anything now that they wear on their feet realize these are not the old $1.98, $2.98 shoes. There are shoes like that available. Ironically, some of them are made in the United States. They are made almost totally by machine and they sell for $2.98, $3.98, $4.98 at some of the discount stores. But those are not, by and large, the shoes that are imported, the athletic shoes that are imported into the United States.

So I hope this amendment is agreed to, because, one, there are next to no jobs involved, two, the companies that import these shoes have more jobs by far than whatever jobs are involved in manufacturing the equivalent product in the United States, and three, we are going to drive the price up substantially. AVIA estimates that if the quotas in this bill are imposed, their best selling model which is a 420 W model that now sells for $46.95 will increase in price by 35 percent to $63.40.

How does that serve the consumers of the United States if it raises their prices, protects next to no jobs, and will drive down employment in some of the high technology companies?

I emphasize this in the strongest fashion. When I go to the headquarters of either Nike or AVIA in Oregon and see their layouts, see what they are doing in terms of design, see the caliber of the young people they have working for them and the incomes these young people make, they are the kinds of jobs we want in the United States.

The lower paid grunt work, if we want to call it that, is contracted out overseas and the high paying jobs that are involved in this very specialized industry are in the United States. That is what we ought to be trying to achieve, Mr. President. Therefore, I hope that the Senate would adopt this amendment that I have offered that will, I emphasize again, exempt athletic, nonrubber footwear. I do not think there ought to be a footwear quota in this bill at all and we have no footwear quotas in the United States now. This bill puts them in on nonrubber, and while I think it all ought to be out I will limit it to nonrubber athletic footwear and hope the Senate will adopt the amendment.

Mr. MOYNIHAN. Mr. President, I am not aware of any objection to the amendment on this side of the aisle.

The PRESIDING OFFICER. Is there further debate?

Mr. MOYNIHAN. I was misinformed. I gather there is an objection.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SANFORD. I object very vigorously and intend to speak at great length.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. Mr. President, may I make a comment or two about the amendment? First of all, it may very well be that there are not many domestically-made shoes left in competition with Nike because certainly, in the manufacturing cost from abroad and their doubtlessly good techniques of distribution, they have done very well. But it is not true that no U.S. jobs are at stake.

People in Lumberton, NC, the people in Jasper, GA, the people in Wilkes-Barre, PA, would probably not agree that their jobs are not important, that their jobs do not matter. They probably would not agree that their competition from imports is the kind of competition that does no severe damage to footwear manufactured in the United States.

It occurred to me as I listened to my distinguished colleague that if, indeed, imports have the market tied up, as he indicated, that we really do not need to worry about the tariffs. Anybody who can afford a pair of $60 shoes might as well pay the Government a little something in the way of tariff since, obviously, the price does not have anything to do with the market, and the competitive position of the few remaining domestic manufacturers would not be aided too much by holding imports at the current high levels of over 90 percent import penetration.

One of the things that bothers me about modern society, I might point out to my distinguished colleague from New York, who is a great commentator on the social mores, is that young people have to have these $80 shoes and $90 shoes. They do not seem to care much about the price. If one student has them in the class, somebody else in the class goes home and says I have to have a pair of these Nike shoes that have been imported. So I do not really think that we are doing those companies any damage by

leaving on a fair tariff or by restricting imports to their current large levels.

On the other hand, I think to do away with tariffs on this kind of athletic shoe or to permit unfattened growth in imports would literally put Converse out of business, which is one of the last great companies, American companies manufacturing these kinds of shoes. I cannot break out the number of leather versus the rubber shoes, but they manufacture competitive shoes both, leather and canvas and rubber in a plant employing 1,350 in Lumberton, NC. It is a competitive shoe with the best shoes made in the country. Some of their shoes sell at prices equal to Nike's shoes. They have been a very good company in North Carolina and it is a very important company in Robeson County where, by chance, we have a large Indian population; a very large proportion of the employees of Converse are Indian.

So we have battled this out on the floor before in a different context, nevertheless the same issue, of foreign shoes versus domestic shoes. I think the domestic shoe companies have a right to survive, and I think the tariffs have not worked unfairly; obviously has not worked unfairly.

Mr. PACKWOOD. If the Senator will yield, you understand my amendment does not get rid of the tariffs, but this bill now imposes a quota in addition to the tariffs. The tariff is the same. It stays on.

Mr. SANFORD. But the quota is not less than the actual present imports. The bill places a quota equal to the current import level in the market.

Mr. PACKWOOD. Again, if my good friend will yield, you recall the problem we had when we put—we did not put on—when we asked the Japanese to restrain themselves on sending cars to this country. What they then did was send their higher-priced cars. This is why the prices are going to go up. If you can send cheap shoes and expensive shoes and suddenly you can only send a certain number of shoes, you send the ones you can make the biggest profit on. Those are the higher-priced shoes. That is why the prices are going to go up. We do not change the tariff.

Mr. SANFORD. The Senator is correct. But we do change the competitive balance if we change the quota arrangement.

Mr. PACKWOOD. What the Senator says is this. Let us say Nike is bringing in 100,000 pairs of shoes a year. Under normal market conditions next year, they bring in 105,000. But under the quotas of the bill, they can only bring in 100,000 next year. They think to themselves: Which 4,000 shall we not bring in? The ones they do not bring in are the ones they make the least profit on, and those are the lowest-priced shoes. So you drive out of the market a certain segment of the lower-priced shoes.

Mr. SANFORD. Do you not think that a good marketer would bring in the kind of shoes for which there is a demand?

Mr. PACKWOOD. Yes. And they would figure there is a demand for all 105,000. Now you are going to prevent them from filling that demand. So which ones do they cut out? They do not cut out the Cadillacs of the shoes. They cut out the Yugos of the shoes. That is why the prices are going to go up for the consumers who buy these shoes.

Mr. SANFORD. This goes to the heart of the textile and footwear bill. It goes to the heart of that bill in that we are trying to keep the increase in the foreign share roughly in line with the total increase of the American markets. This bill has concluded on the information that has been available that a constant increase of 1 percent for foreign imports of textiles and apparel and zero growth for footwear is a fair proportion of the national market.

That is the basis of the legislation. So it does, indeed, upset the competitive balance not to have generally that same basic quota apply to shoes as well as apparel and textiles.

I do not want to prolong this argument. We have had it off and on for a great deal of the time I have been here. But the footwear provisions in this bill do basically seek to prevent to the extent that we can, the absolute extinction of the American shoe manufacturing business. I suggest to my colleagues that it is not to our advantage to extinguish to shoe manufacturing business in the United States, and they are holding on by a slender thread now. Weakening this provision would probably be just enough weight to break that thread.

Did the Senator have in mind that he would like to have an early vote on this? I am sure the Senator would like to have had it accepted.

Mr. PACKWOOD. I was not going to try to do that, and I would not have done it even if I had been the only one on the floor, because that is not fair. I would be perfectly happy to vote when the Senator from North Carolina wanted to vote. I want to assure the majority leader that I am not trying to delay this bill, and I do not have much more to say on this provision. I will be ready to vote on the amendment after those who oppose it and those who support it have spoken. Let the natural course of time take place.

Mr. SANFORD. I yield the floor.

Mr. COHEN. Mr. President, I rise in opposition to the pending amendment, but, first, I would like to take a few moments to make some general comments on the legislation itself.

Mr. President, I rise today to support the Textile, Apparel, and Footwear Act of 1990—legislation which I was proud to join in introducing several months ago. The purpose of this act is to protect the U.S. textile and footwear industries from further decimation and job losses caused by unfair foreign competition. The bill seeks to achieve this goal through the imposition of global quotas on textile and footwear imports. As a cochairman of the Senate Footwear Caucus, I am sure that this legislation will provide necessary and important relief for the beleaguered U.S. footwear and textile industries.

The evidence is clear, the U.S. textile and footwear industries are under siege by foreign competitors. Since 1980, the U.S. trade deficit for the textile and apparel industries surged from $4.6 to $26.5 billion—a nearly sixfold increase. Likewise, by 1989, import penetration of the domestic nonrubber footwear market reached an incredible 80 percent. These industries are not suffering because they lack skilled workers, modern technology, or the business savvy to compete internationally. Plants are closing and men and women are losing their jobs because the United States has for too long tolerated textile and footwear imports from countries who do not reciprocate our open market policies or who seek to gain an unfair advantage through excessively low wages.

All things being equal, U.S. companies can compete against any others in the world. But things are not equal. The U.S. footwear and textile industries are at a distinct competitive disadvantage with respect to their foreign competitors. The Pacific Rim countries who dump billions of dollars worth of footwear and textile goods every year into the United States market are the very ones who routinely close their doors to United States companies hoping to make a sale overseas. I constantly hear horror stories from sophisticated, forward-thinking companies which are unable to penetrate foreign markets, not through poor planning or inadequate market research, but as a result of artificial barriers deliberately erected by protective governments. For instance, while the Maine shoe industry was being decimated by cheap imports, a small, innovative manufacturer of slipper socks in Lewiston, ME, was holding a sizable order from a major Japanese department store. Yet, neither the manufacturer, nor I, nor the Japanese buyer could convince the Japanese Government to grant an import license for the items. Needless to say, it is time for the United States to stand up for its industries and demand a level playing field.

The devastating effects caused by the avalanche of footwear and textile imports have been especially acute in Maine. Since 1980, over 7,000 Maine

shoe workers have lost their jobs and over 30 plants have been forced to shut their doors.

Just last month, Etonic Inc. in Auburn, ME, laid off 100 workers. Given the soft economy of the Northeast, where are these workers to go? I recall a former Republican President's response to this question. He would say to these displaced workers, "vote with their feet, get out of town, follow the stream of commerce out of State. Go to New York. Go to Oregon." Well, I don't feel that way. We need jobs in Auburn, ME.

Likewise, the dramatic increase in textile and apparel imports has caused intolerable market disruption, numerous plant closings, and thousands of job losses since 1980—all this despite significant capital improvements to the plants. Currently, there are about 15,000 Maine people directly employed by the footwear and textile industries whose jobs will be jeopardized if reasonable limits on imports are not imposed.

The domestic textile and footwear industries cannot be blamed for losing market share to foreign competitors which are subsidized by their governments and which pay their workers only a fraction of the prevailing U.S. wages. During my tenure in Congress, I have had innumerable conversations with shoe and textile workers in Maine, and it's clear to me that the only thing that these men and women want is the opportunity to make shoes, sweaters, coats and blankets free from unfair foreign competition. They ask for nothing more—they deserve nothing less.

This legislation is an important step in protecting U.S. industries from further damage from the onslaught of unfair foreign competition. It is not intended to undermine the spirit of free trade, but rather to demand the practice of reciprocal trade. The United States must demand that its trade policies be reciprocated by our trading partners. The United States cannot afford to open its doors wide in the name of free trade while our foreign competitors slam the door in our face whenever it suits their economic interests.

I recall going to the Far East with Senator DOLE several years ago. He made a very impassioned speech to our American Chamber of Commerce in Japan and to some Japanese officials. He forewarned them: either they start opening up their doors to our products or they would face a backlash. I recall at that same meeting pointing out to my Japanese counterparts that they had a 100-percent tariff, as I recall, on blueberries. They do not grow blueberries in Japan, but they had a very high tariff. When I raised the issue, I was told, "Well, this is a matter of cultural protection. It is part of our heritage."

It struck me as odd that on the one hand they were pointing the finger at the United States, saying our trade barriers represent a rising tide of protectionism, but theirs are mere safeguards of their cultural heritage.

Mr. President, I do not think we can have that double standard. I think we have an obligation to our constituents to say we will provide some small measure of protection. Do you have to extinguish the entire industry and allow our entire shoe industry to simply go offshore. It is a good business decision on the company owners' parts. They can move offshore, produce very cheaply, come back, inflate the price, and make a great deal of money. But we, as public trustees, cannot allow this to happen. We must protect American jobs.

Mr. President, we must commit ourselves to the development and implementation of rational controls over our economic borders which will provide our domestic industries a fair opportunity to compete. This legislation is an important step in assuring our textile and footwear industries a brighter future, and I urge my colleagues to join me in supporting this legislation.

Now, let me speak to the pending amendment itself which would exempt nonrubber athletic shoes from the quotas set by this legislation.

This amendment would essentially gut the footwear provisions of this legislation because nonrubber athletic footwear accounts for such a large percentage of shoe imports. Contrary to the suggestions of the amendment's sponsor, there are U.S. companies who produce these shoes. Granted, they are a dwindling number. Nonetheless, they need to be protected. Accordingly, I urge my colleagues to oppose this amendment and support the legislation as introduced.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I was unaware, prior to a few moments ago, that the amendment was to be offered and therefore will, following preparation, have a more detailed statement shortly. At this time, I merely wish to point out that this is a subject which we have previously discussed in the Senate, which we have previously voted on. The Senate has expressed itself in strong terms in opposition, if not to this precise amendment, to the principle which underlies this amendment.

The reason for its is a simple one. As my distinguished colleague from Maine has just pointed out, 80 percent of all footwear now sold in the United States is manufactured outside of the United States. That means that only 20 percent, or 1 in 5 pair, of shoes sold in this country are made in this country. That is a complete reversal of the position over the past quarter century.

Not too many years ago footwear manufacturing was a major industry in this country, employing 30,000 people in our State of Maine alone, and in many other States, including New York, North Carolina, Pennsylvania, Arkansas, Tennessee, and several others. It has now declined in the face of imports largely from countries whose employees are paid wages which would be unacceptable, indeed illegal, in the United States.

And within the category known as rubber footwear, to which this amendment is more precisely targeted, foreign-produced such footwear now account for over 90 percent of sales in this country. That means that fewer than 1 in 10 such pair of shoes sold in the United States is manufactured in the United States. Therefore, I believe that, with all due respect, this amendment could be characterized as the "complete elimination of the production of athletic footwear in the United States" amendment.

Apparently unsatisifed with 90 percent of the market, we are now asked to act on the measure which would ensure that it would be 100 percent of the market, and the thousands of Americans now employed in the production of this type of footwear, far fewer than the hundreds of thousands who used to be so employed, will lose their jobs.

I believe that the underlying measure is a reasonable and responsible one. The Senator says, at least superficially, why not have at least 1 percent growth? The answer is, of course, the percentages and the term "growth" are not stated in a vacuum but are stated in the context of what occurs in the world today. And what occurs in the world today is that 90 percent of the production is outside the United States.

What we have done effectively over the past quarter century is to sacrifice the jobs of hundreds of thousands of Americans, not because they cannot compete on fair and equitable terms, not because they are lazy, not because they are not productive, but, rather, they are placed in the circumstance where they simply cannot compete, where their competitors are being paid $1 or less an hour and receiving none of even the minimal benefits that are available to American workers.

Mr. PACKWOOD. Will my good friend yield? Will that argument apply to any industry? Agriculture? Farm labor in Taiwan or Mexico gets next to nothing. Yet our farmers can compete. That argument could apply to the auto industry, steel, cement, any industry. Why not in that case put up barriers to everything?

Mr. MITCHELL. The obvious answer is while it could in the abstract

apply to every industry, in practical effect it does not. There are some types of industries, some types of production that are more capital-intensive than others, some that require a different or harder degree of skill than others, and some which can only effectively be produced in certain areas. That is certainly the case with some agricultural products.

Mr. COHEN. If my friend will yield, in addition, there are some enterprises which are in fact subsidized by the U.S. taxpayers, the Government, including those who live in Western States who have their farmers receiving subsidies that other areas do not receive, water subsidies, cheaper water rates, subsidized crops, and others, in order to make a more level playing field. So you have industries, indeed the shoe industry and textile industry, which do not have that.

Mr. MITCHELL. I share my colleague's view. I will shortly yield the floor. But I simply want to say that everyone in the Senate should be aware that the principle embodied by this amendment has been before the Senate previously. The Senate has overwhelmingly voted to reject that principle on the simple and sensible grounds that we have an industry which is now relatively small but still involves several thousand American workers, and there is simply no valid or justifiable reason for sacrificing the jobs of these several thousand American workers.

The argument will be made that it is relatively small, that there are only several thousand. Of course, for the individual who loses his or her job, or the family so affected, the magnitude nationwide is not relevant. We have to consider that, of course. But I submit to you that it is not a de minimis situation. It involves several thousand American workers. It will have a profoundly adverse impact in the State which Senator COHEN and I represent.

Although we now have only a third of the number of workers in the footwear industry that we once had in our State, it is still a sizable number. It is something which obviously we must be concerned about, as the Senator from Oregon is concerned about an industry in his State. Everyone here is aware that the headquarters of the largest importer of athletic footwear is in his State, and he has a perfect right and is expected to appropriately here advocate the interests of the industry that is situated in his State. That is essentially what is involved here. The rest of us who are adversely effected have obviously the same appropriate interests in seeing to it that the interests of our industries in our States are adequately represented here.

I simply say that there just is not any valid reason to do this, in my judgment. I shall have a more detailed statement which includes some figures which I do not have readily at hand because I was unaware of the amendment until just a few moments ago.

I thank my colleagues from Maine and Oregon.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I hope that some of the Senators will stay on hand for just one moment. I know the Senator from Maine has to go to the Armed Services Committee, of course.

May I speak as someone who was present at the creation in this regard? In 1962, President Kennedy sent what became the Kennedy round, the Trade Expansion Act of 1962, to the Congress. There has been a shift in the patterns of support for freer trade which had traditionally been found in the South, which exported raw materials and imported manufactured goods, regionally and internationally. The South then began to produce textiles, and became interested in protection.

President Kennedy's only hope of getting that bill through in 1962 was to get a quota system on textile imports. George Ball negotiated a 6-month agreement. Then a team led by Michael Blumenthal, later Secretary of the Treasury, Assistant Secretary of Commerce Price, and myself as assistant Secretary of Labor, went back and forth to Geneva for a year and finally negotiated the long-term Cotton Textile Agreement.

Nobody on the floor is going to hear me, and so that is just as well. I am afraid to say some things that are not supposed to be said in public.

We put that agreement together to protect the wages of the American worker from foreign competition, the workers of the textile unions. But sir, average weekly earnings in private manufacturing and employment in this country today are lower than they were in 1959.

We have not done one thing for those people. From 1949 to 1959, average weekly earnings rose by one-third. They have declined in the last 30 years. That is a secret, and nobody should be allowed to know it; nobody does seem to know it. The secret is locked up in the annual reports of the Bureau of Labor Statistics. Russians never look there for anything, and no one else knows they are printed. Average hourly earnings in manufacturing are a penny less today than they were in constant dollars in 1967. A generation has come and gone, and there is not a penny increase in average weekly wages.

So who have we been protecting? Who is getting all the advantage? Average weekly earnings are lower today than they were in 1959. The working people in this country have received nothing out of this legislation, as far as I can tell, and I, sir, was the person who first signed the agreement in Geneva bringing it about.

What is the matter with us, on this side of the aisle? Not that my friend from Oregon does not care about these things—he does. But let's think about the people who get paid by the hour. I think we stopped thinking about them 30 years ago. Hourly rates and pay are a penny less today than they were nearly a quarter century ago.

Average weekly earnings, family income, median family income in this country, have just now barely got back to the level of 1973. It went down. There was a generation where nothing happened. Not in the history of the European settlement across America have there been any such numbers. We are in the happy circumstance, it seems, of not knowing anybody to whom that has happened. But, if you are one of those people, the one thing you will know about the political parties in this country is that they do not know about you. I mean, we come down here and talk about protecting wages that have been going down for a generation. Profits have gone up. Wages have not.

I remember that during negotiations when we were meeting in Geneva in 1962, the biggest single problem was Japan. Japan is not in the textile business any more. They got rid of it. I remember the British representing Hong Kong, and Hong Kong was just about to take over from Japan. Hong Kong got out. We are going to have a hard time dealing with this proposition, when wages in those countries exceed wages in this country. And in Japan they do. If you look at that curve, it is not going to be very long for other countries, as well.

We say that the low wage earner way of life needs to be protected. The simple life of people who do not have enough income, is that a cultural treasure?

Mr. PACKWOOD. Will the Senator yield for a comment?

Mr. MOYNIHAN. Certainly.

Mr. PACKWOOD. This bill applies to European countries, too. Several of them have wages higher than we do now. We cannot use the argument these are low-paid servants sending us cheap tax dollars.

Mr. MOYNIHAN. I think we are now ranked seventh in hourly earnings in manufacturing. Hourly earnings in manufacturing in Italy are higher then they are in New York, or in the United States. But these are facts, and what has that to do with trade policy?

Mr. PACKWOOD. Mr. President, I ask unanimous consent to set aside my amendment for the moment so that the Senator from New York and I

might offer an amendment relating to Canada and Israel.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

AMENDMENT NO. 2122

Mr. MOYNIHAN. For myself and the distinguished ranking member of the Committee on Finance, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for himself and Mr. PACKWOOD, proposes an amendment numbered 2122.

On page 28, strike lines 1 through 11 and insert the following:

(3) The limitations in this Act on the aggregate quantity of textiles, textile products, and nonrubber footwear that may be entered during any calendar year do not apply to articles that are the products of Canada or Israel.

Mr. MOYNIHAN. Mr. President, basically, this should be seen as a technical amendment. We have free trade agreements with Israel in the first instance and now more recently Canada. They are very important agreements for the United States. We are pleased with them on both sides. I can say, representing a State which borders one of the most dynamic economic regions in Canada, we have been so pleased with the schedule of tariffs to be gradually phased out, that we are getting applications to phase them out faster, to get rid of them sooner than the 10-year period under the agreement. The North American economy is going well. We would not want to infringe on that great achievement with Canada, nor with the State of Israel. In either case we are not dealing with the kind of large market invasions that we have seen from other regions.

I believe this is also the judgment of my distinguished friend, the former chairman of the committee, who was chairman at the time that the Israel Free Trade Agreement was completed, and when we began the Canadian Free Trade Agreement, an epic event, indeed the most important trade event of the postwar world for the United States.

Mr. PACKWOOD. I was chairman for the Israeli trade agreement and laid the groundwork for the Canadian. The importance is that I am not sure we would have done Canada, had we not started with a smaller country and worked out some of the glitches.

I am proud to join as a cosponsor of this amendment. It makes no sense to enter into free trade agreements and say, aha, we do not mean that, despite the fact we told you last year that we will move toward a free trade zone with you. So I am happy to join in supporting the Senator.

Mr. MOYNIHAN. I might make the point in that the last Canadian general election was a referendum on this free trade agreement. It was emphatically fought on that issue.

It was a good issue, clear issue, and the free trade agreement prevailed. Let us not now start fiddling with the returns from it.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there further debate?

The Chair recognizes the Senator from South Carolina [Mr. HOLLINGS].

Mr. HOLLINGS. Mr. President, I apologize for not being on the floor earlier. I just completed a speech at the National Press Club.

With respect to the particular amendment, there is no question this is the intent. You can read the entire bill. Our intent is to honor our free trade agreements with Israel and Canada. I understand there is a legal opinion otherwise down in the State Department that makes absolutely sure. This is well taken as a clarifying amendment. It is technical. I gladly join in adopting the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. MOYNIHAN. May I say how characteristically generous the Senator from South Carolina is in this matter. We very much appreciate it.

The PRESIDING OFFICER. Hearing no further debate, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 2122) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2121

Mr. HOLLINGS. Mr. President, with respect to the shoe amendment offered by our distinguished colleague from Oregon, we have discussed this issue before. Essentially the same amendment has been tabled each time both in the House and in the Senate and properly so because it would effectively gut what little remaining production capacity we have with respect to shoes in America.

Athletic footwear consists of several market segments—leather uppers, fabric uppers—tennis and basketball shoes—or a mixture of leather/vinyl/fabric—joggers. For many consumers these products are interchangeable.

For the purposes of imports, athletic shoes fall into several different categories and classifications and have different duties applied. But on nonrubber athletic footwear, the range of duties is from 5 to 15 percent, with the bulk in the 8- to 10-percent range. Duties on rubber athletic shoes range from a low of 20 percent to a high of 67 percent.

I think the main point to be made here is, for the past 5 years, import penetration of shoes is to the tune of 200 million pairs a year; it is at 92 percent of market share. So the argument is about whether we should allow the remaining 8 percent to be taken over. I can guarantee you it is not really a good 8 percent. The reason for that is—and I will read the names of those who make athletic shoes in America—every one of these so-called U.S. firms is an importer as well as a domestic producer. They use cheap, offshore production of shoe components and do some assembly here on a reduced tariff basis.

The types of shoes we are talking about sell for $45, $50, $65 a pair here. If you go to Seoul, Korea, they will sell you the same pair of shoes for $12 each.

We have the New Balance Athletic Shoe Co. in Maine and Massachusetts; Converse in Lumberton, NC, and Puerto Rico; Etonic in Maine and Massachusetts; Pickens Footwear in Jasper, GA; Suave Shoe Co. in Miami Lakes, FL; Joy Footwear Corp. in Hialeah, FL; Gator Industries in Hialeah, FL; Carter Footwear in Wilkes-Barre, PA.

It is very interesting to see some of those now developing down there in Florida where we get our migrant workers, a matter that our distinguished Senator from New York has focused attention on. He knows how we exploit them—the migrant workers. We do not take care of them.

The amendment of the Senator from Oregon actually pertains to about 4 percent of the market really and he does not want us to preserve even 4 percent. He thinks 96 percent for the importers, including prominent constituents in Oregon, is not enough. If you want to talk about greed, this is it. This amendment would say let us get rid of the athletic footwear industry in the United States of America. I have seen that happen in other industries.

I will never forget going up to Elgin, IL, some 30 years ago. Bleny, SC, was bringing in the Elgin watch factory and even changed the name of Bleny, SC, to Elgin, SC. We still call it Elgin. This fine company came down and produced watches and had a 35-percent increase in productivity and they were as happy as they could be. But Korea started moving in to seize a market share, along with the Swiss and West Germans. Before long now we will not have watchmaking capability in the United States of America.

So when I sit there as chairman of the Space Program, inquiring about the timing devices I find out that we have to depend upon imports for our timing devices. That is a very, very precarious dependence.

I do not think it is healthy. I do not think it is appropriate. We have Timex. They assemble parts. They do repair work. But we do not have any

real watchmaking left. Elgin went abroad. They said South Carolinians produced well. The employees did well. But Elgin left. So the issue in this global competition is not whether we will save x number of jobs. The issue is whether we are going to have programmed extinction of our industry through the ignorance of the U.S. Congress.

There is this silly-billy crowd running around hollering free trade, free trade, free trade; saying let us not start a trade war. That is nonsense. I have to listen to the lecture of my distinguished colleague from Oregon about a little train, I think I can, I think we can, we ought to do better, we ought to try harder. Nonsense.

The most competitive trader or producer in the world is the Yankee Trader, the U.S. manufacturer. We all know it. We ought to be proud of it.

Ask the distinguished chairman, the Senator from New York, who was Assistant Secretary of the Department of Labor. We have the most outstanding, productive industrial worker in the world here in the United States. Japan is No. 9. That is up to date as of this morning.

So we do not bash Japan. They are richer than we are. Japan has worked with their government, their MITI, their subsidies, their protection, their protrust compared to our antitrust. They know what they are doing. Meanwhile, we are talking of yesteryear, citing David Ricardo and Adam Smith on comparative advantage. What hooey. Today you can produce anything anywhere and the comparative advantage, Dr. Ricardo, is government. That is you and me and how we set the rules. It is up to us to decide whether we will preserve our productive capacity.

I just left a conference. Our distinguished colleague over in the House side, Mr. OBERSTAR, has an amendment that says that lighter, ships be American produced. Why does he do it? So that we will have some kind of shipping construction industry left in this country.

Less than 3 percent of our trade in America, less than 3 percent, is carried in American bottoms. Yet they say we have preserved national security. National security. They do not know what they are talking about. Ninety-seven percent of materiel that went to the Vietnam war went in American bottoms. Now we are delivering United States mail in Polish vessels. We do not have the capacity.

All these Congressmen encumber shipping by saying you have to have so many hours, this safety device, safe workplace, do so many hours of watch, and all rules and regulations and then dock.

So if we are going to get into this global competition, we are not talking of x jobs or y jobs, we are talking of our industrial backbone; maintaining our status as a world power.

Now to get to our distinguished friend from Oregon's argument—yes, I want to look out for the consumer. And the only way I can do that is by maintaining our domestic production capacity.

I found out otherwise in textiles. Soon as imports took over all the ginghams, prices jumped 20 percent. Soon as they took over all the velveteens, the next day they closed plant in Clopton, AL, bam, up went the price 20 percent.

Fair is fair. Whoever heard anybody in business being fair? They are in it for whatever profit the market will allow. Talking about consumers and the price of shoes, the footwear industry was involved in three hearings in the early 1980's involving dumping. Each time, the International Trade Commission found that foreign exporters were dumping in the United States, and each time the administration refused to enforce the dumping order.

Bear in mind that we are the public trustees here. It is our duty to maintain some market share and productive capacity here in the United States. Get rid of this 8 percent. I analyze it as 4 percent because the domestic manufacturers are really domestic importers by half at least. This remaining 4 percent is some constraint on runaway prices.

Well I can tell you that with this particular amendment the United States will be out of business on athletic shoes. I think it takes spunk to put up an amendment of this kind and try to talk intelligently about it. It's an outrage. I just do not understand why we in the national Government cannot begin to sober up. As Lincoln said, we must think anew, act anew, disenthrall ourselves.

We must disenthrall from the big lie that there is a free lunch, the idea that we can just cut taxes and we'll grow out of our deficits. We will increase revenues by cutting taxes. I wish I know that trick during my 4 years as Governor when I had to raise taxes. I caught the devil for doing so. I lost in 1962. Oh, yes. I have been elected five times, but I got beat in 1962 as a result of raising taxes. So I thought twice before I recommended a value added tax, this broad consumption tax. Because I know we have to pay the bills. We have to get out of this fiscal mess.

It is a disgrace to sit around and play the game of "read my lips." We have a deficit of $365 billion. I corrected Newsweek on this score. They said the real deficit, adding in borrowing from Social Security, was $305 billion; Newsweek included the trust fund surplus for Social Security. But they left out the airport and airways trust fund. They left out the highway trust fund. They left out the Federal finance bank surplus. They left out the Medicare and Medicaid surplus.

So including all the trust funds, we are running a true deficit of $365 billion. Yet we dare to say it is "morning in America" and we have got "more will than wallet" and "let us all get along." So I say we have to disenthrall from the free lunch lie, the free trade-lie, and the lie that Government is the enemy.

Instead of a true, assertive trade policy, we have diversions and dithering. Take for example, the recent Structural Impediments Initiative agreement with Japan. It is not initiative. It is a sham. The administration hailed it in headlines. They say they worked until 4 o'clock in the morning.

And what we finally agreed to was that by the year 2000 we would improve education in America if you, Japan by the year 2000, will consume more. This is an embarrassment.

What kind of nonsense is this? This is a substitute for substance. We are not doing anything. We ought not to be beleaguering and beseeching nations to consume more. We ought to be telling ourselves to consume less.

We do not need a Japanese agreement in order to improve United States education. I never heard of such a thing 40 years ago when I put up the 3-percent sales tax to catch up with the State of Connecticut. Because you were literate and we were illiterate and I am still playing catch-up ball with Connecticut.

South Carolina's sales tax is now up to 5 percent rather than 3 percent, and we are using all the liquor and tobacco tax money, too.

So, "Read our lips; we are against taxes." That is embarrassment to me.

Mr. President, when it comes to this footware amendment, I hope one of our colleagues will move to table it. I am prepared to. Why? Yes, Senator, I want to protect the consumers of America. They have one last chance.

This is like the old program I used to hear from Don McNeil in the Breakfast Club: Last call for breakfast." Well, this is last call for athletic shoes.

If we go with this amendment, we can forget about the U.S. footware industry, and brother, we can forget about moderate prices. The little bit of moderation and control that we have now, with dozens of firms here—the only reason they are able to give any kind of competition is because they are importing, also. Our industry is almost all gone. This amendment would finish the job.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from New York is recognized.

Mr. MOYNIHAN. I believe the Senator from Maine wishes to speak?

The PRESIDING OFFICER. The Chair recognizes the Senate majority leader, Mr. MITCHELL.

Mr. MITCHELL. Mr. President, for the information of all Senators, I believe after discussing it with the Senator from Oregon, the author of the amendment, and others, that a vote on this is likely to occur within the next 10 or 15 minutes.

Mr. PACKWOOD. I just wanted to check with the Senator from South Carolina, on the shoe amendment, does my colleague wish to speak or not?

Mr. THURMOND. I was going to make an opening statement on the main bill first.

Mr. PACKWOOD. Why do we not vote on this first. I have nobody else who is going to speak on this side that I know of.

Mr. MITCHELL. Then, Mr. President, for the information of Senators so they can be prepared, I expect to speak for a few minutes. Then I anticipate that my distinguished colleague from Maine will be returning to the floor to make just a brief comment and move to table the amendment.

Mr. THURMOND. That is fine.

Mr. MITCHELL. Mr. President, as I said earlier the issue before us today is virtually identical to the issue which was discussed in this Senate in September 1988, a little less than 2 years ago. I would like to restate some of the arguments that I made at that time.

The amendment of the Senator from Oregon would effectively delete the footwear provisions from this legislation. Although he says this amendment is intended to exempt only athletic footwear, it would have the effect of exempting all footwear imports from the bill.

By removing athletic footwear from the import limits included in the legislation, the limit for all other footwear is in effect increased by the volume of athletic footwear imported.

That is, under his amendment we would not count perhaps 200 million pair of athletic footwear imported into this country as part of the limit on footwear imports. Last year we imported 860 million pair of footwear. That means imports of all other shoes can increase by possibly another 200 million pair, or by as much as 25 percent over current levels.

The argument does not require repeating that this amendment would permit the continued destruction of the domestic footwear manufacturing industry in the United States.

And for what purposes? The Senator from Oregon is evidently motivated by the concerns of two Oregon companies which import 100 percent of their athletic shoes sold in this country. One of those companies formerly had a plant in Maine employing approximately 1,000 people until a few years ago. It has since closed the plant and moved those jobs overseas.

The Senator from Oregon is concerned that if we freeze footwear imports at the enormous volume imported this year that it will restrict supply at a cost of jobs for the two Oregon companies. That is not accurate.

First of all, there are at least 200 million pair of what may be called athletic footwear being imported annually into this country.

The Senator from Oregon's concern that jobs will be lost is also misplaced. All of the jobs that exist in the two Oregon companies he is worried about relate to distribution of imports, including jobs at the docks, in corporate headquarters, at distibution centers, and in retail stores.

Since this legislation would not reduce the level of imports, it cannot result in a cost of jobs.

Instead, the opposite is true. A 1988 study conducted by ICF, Inc., a noted international consulting firm in Washington, estimates that this legislation will create 152,000 jobs in the United States over the 2 years following enactment. These jobs will put money into the hands of factory workers and turn them into consumers which will have a positive influence on the economy.

One of the more apparent problems with this amendment is that it attempts to create a definition of a type of footwear—that is, athletic footwear—that cannot be defined. The amendment would be unenforceable because the Customs Service cannot determine for what purpose a particular footwear article. Yet that would be required under the definition of "athletic footwear" in the amendment.

The difficulty of drawing a legal definition is reflected in the nature of the market where 80 percent of so-called athletic shoes are in fact never used for sports. Instead they are used for casual wear.

Of course, that means shoes which could fall under the category athletic footwear compete directly against all casual footwear. So there is no market distinction which would justify the exclusion of athletic footwear under this legislation.

There is no substantive basis for the exclusion of athletic footwear as proposed in this amendment. It is simply an accident of geography that two of the largest importers are based in the State of the Senator offering the amendment.

Imports now claim more than 80 percent of the domestic footwear market. There is no major American industry which has been under greater assault from imports than the footwear manufacturing industry. Since 1981 imports have skyrocketed from 365 million pairs to almost 860 million pairs of imports annually. The share of the domestic market claimed by imports over that period has risen from 50 to 82 percent today.

In the meantime, the domestic industry has shrunk by about 40 percent as hundreds of plants shut their doors sending more than 60,000 workers to the unemployment lines.

This kind of rapid retenchment of a major industry in the face of aggressive export promotion in other nations is exactly the kind of situation that merits a period of relief under international trade rules. Under the GATT escape clause, when an industry has been injured due to a surge in imports, it is permissible for a nation to establish temporary import controls to enable the industry to get back on its feet.

That temporary relief from imports is a fundamental principle of international trade rules which Congress and American industry have relied upon in adopting trade liberalization agreements. Certainly, our trading partners have taken full advantage of the escape clause.

In this country, however, we have unilaterally forfeited our international rights. We have refused to defend the interests of our industries and its workers against the tidal wave growth of footwear imports.

In the most recent case in 1985, the International Trade Commission unanimously ruled that the domestic footwear manufacturing industry was severely injured as a result of rapidly increasing imports and was due some relief.

At that time, in 1985, imports had grown rapidly to claim 75 percent of the domestic market—up from 50 percent in 1981. Hundreds of plants were closing, throwing throusands of workers out of their jobs onto the streets. The industry was in a turmoil as other importing nations closed their borders to footwear imports at the same time the exporting nations were increasing production capacity.

In spite of the clear case of injury to the American footwear industry, President Reagan rejected the unanimous recommendation for relief from the International Trade Commission.

That was the last of the four cases for relief filed by the industry over a 13-year period when the volume of imports more than tripled and the share of the domestic market doubled, from 41 to 82 percent.

The footwear industry played by the rules. It sought relief as provided under international law and was clearly recognized as injured. But this administration refused its last gasps for help from increasing imports.

The footwear provisions in this legislation have been made necessary by the refusal of this Government to exercise our rights to prevent the demise of the domestic footwear industry. Nevertheless, these provisions are in

fact quite modest and represent far less restraint than recommended by the ITC.

This legislation should, in fact, have little impact on imports. It would permit imports to continue at their current extraordinarily high levels. In this legislation, we, in effect, cede more than 82 percent of the domestic market to imports, preserving the existing volume of sales. We simply say that imports will not grow beyond the level of imports this year.

In fact, if this legislation had been enacted last year, it would not have had any impact on footwear imports this year because the volume of imports—not the market share but the actual volume—actually declined last year as a result of falling demand.

By freezing the market at a certain volume of imports, we provide some assurance to the domestic industry that it will not continue to be decimated by imports. We provide a level of assurance that will enable it to go ahead and make the investment necessary to reclaim a portion of former production levels.

The limits in this bill are really quite modest. Remember in 1982, imports claimed 51 percent of the domestic market. By 1985, that share had risen to 75 percent. The International Trade Commission recommended bringing the import share back down to 62 percent. That would be approximately 710 million pairs in the current market.

I would like again to make the point that the amendment of the Senator from Oregon, although purporting to affect only a portion of the footwear covered under the bill, would if adopted in fact effectively delete all of the footwear provisions from this bill.

Although the Senator says his amendment is intended to exempt only athletic footwear, in doing so it would have the practical effect of virtually exempting all footwear restrictions. That is because the bill contains an overall limit, that being the level of imports last year. By creating a new category and exempting that category from the limits, it would permit other types of imports to flow in up to the unchanged aggregate level. And so the limit for all other footwear would therefore effectively be increased by the volume of athletic footwear exempted by virtue of this amendment.

So we have a situation where you have perhaps as much as 200 million pair of athletic footwear imported into this country. Last year the level of imports overall was 860 million pair.

So if we exempt athletic footwear, and we cannot be precise about the numbers because this is a new definition for which there are not precise figures, we would be permitting possibly another 200 million pair of other types of footwear to come in, 25 percent over the current level. That effectively destroys any footwear provisions in the bill.

The argument does not require repeating that this amendment would permit the continued destruction of the domestic footwear manufacturing industry in the United States. Indeed, it would wipe it out completely with respect to so-called athletic footwear. And for what purpose?

The Senator from Oregon is obviously motivated by the concerns of two companies from Oregon which import 100 percent of their athletic shoes sold in this country. One of those companies, unfortunately, used to have a plant in Maine until they closed it a few years ago and moved those jobs overseas. Those were the last remaining jobs in the United States being under that company's manufacture. Now they have gone overseas.

The Senator from Oregon has suggested if we freeze footwear imports at the volume this year, that it will restrict supply at a cost in jobs in Oregon with respect to other companies. But I do not agree with that assertion because there are already 200 million pair of what may be called athletic footwear being imported annually into this country. None of those jobs would be affected because none of those would be reduced. Nothing is being rolled back. It is simply being held at the current level.

This legislation overall, sponsored by the distinguished Senator from South Carolina, will create jobs. In 1988, a study conducted by ICF, Inc., an international consulting firm located in Washington, estimated that the legislation if enacted would create 152,000 jobs in the United States over the 2 years following its enactment.

One of the real problems with the proposed amendment is that it attempts to create a definition of a type of footwear that really cannot be defined. The phrase in the amendment is "athletic footwear," and yet the amendment could not be enforced because the Customs Service cannot determine for what purpose a particular footwear article is to be used. Yet that is exactly what they would be required to do under this amendment—something which they cannot do.

The difficulty of drawing a legal definition is reflected in the nature of a market where 80 percent of all so-called athletic shoes are in fact never used for athletic purposes. They are used for what is described in the industry as casual wear. So you simply cannot engage in creating a definition where the shoes are used for cross-purposes.

What do we call a so-called athletic shoe that is used for someone who is working? Is it then an athletic shoe or is it a work shoe? What do we call sandals that are used for walking on the beach? Is that an athletic shoe? There is simply no way to engage in this type of specific categorization.

The result will be, I suggest, an inability to effectively enforce this and a serious problem with respect to the domestic industry.

Mr. President, in the interests of time I am not going to go on. I simply say what I said in 1988—at which time the amendment was defeated by a large margin, which I hope is repeated today—that this amendment would effectively destroy what remains of a domestic industry. There is in my judgment no valid rationale or purpose for it, and I urge the amendment be tabled.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Until the Senator from Maine, Senator COHEN, gets here to move to table the amendment, I wonder if I might read from an article from Footwear News and then place it in the RECORD. This is Footwear News, September 18, 1989, last year.

A tight labor market and price boosts to offset rising costs continued to be the major news among producers of children's footwear in central Pennsylvania.

Most companies were searching everywhere for additional plant workers, preferably with experience, but they were proving to be an endangered species.

As a reluctant alternative, the hardest-hit firms were turning more and more to overtime to make up the slack.

I ask unanimous consent the remainder of the article be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LACK OF LABOR STILL PLAGUING PENNSYLVANIA KIDS'S PRODUCERS

(By Wesley Stilwell)

LEBANON, PA.—A tight labor market and price boosts to offset rising costs continued to be the major news among producers of children's footwear in central Pennsylvania.

Most companies were searching everywhere for additional plant workers, preferably with experience, but they were proving to be an endangered species.

As a reluctant alternative, the hardest-hit firms were turning more and more to overtime to make up the slack. Most companies encountered problems because many of the regular employees were declining to work the extra hours.

Although the closing of the Addias factory at the end of this year will release a lot of employes, the planned shutdown will not ease the tight labor market because the plant, in Kutztown, is miles from the companies that need help.

Aside from the need for help, the picture was mostly rosy for the producers. All were optimistic for the fall season, several had backlogs, and a few were running substantially ahead of the same time last year.

"Not for many years has business been as strong as it is now," asserted Ross C. Spicher, executive vice president, Willits Shoe Co. Halifax. With his factory completely on overtime, Spicher described busi-

ness as "fantastic," running "23-plus percent" ahead of a year ago.

He said all production departments were working 45 hours a week, and customer service and shipping were putting in 52 hours. He said production levels were up because of increased demand. He cited a heavy backlog of orders for both September and October.

Ura S. Gingerich, president of the Badorf Shoe Co., Lititz, reported that business was running ahead of the same period of 1988 by 15-20 percent and that he is "very positive about the rest of the year."

He said Badorf "still needs more workers—preferably trained," but he was not very hopeful of getting them. Badorf, he added, "is concentrating on footwear for infants and children." With costs still going up, he said the company plans to hold current prices until March 1, 1990, but added that prices will be open after that date.

A 10 percent gain in volume over a year ago was listed by John F. Mentzer, president of Ephrata Shoe Co., Ephrata, and he said he expects this pace to continue through the fall season. Mentzer further noted that the company's new lines of boat and camp shoes are doing well.

Citing rising costs as a reason, H. Clair Zimmerman, president of Kepper-Scott Shoe Co., Owigsburg, said that spot price increases, effective Sept. 15, have been scheduled by the company.

Mr. PACKWOOD. The article mentions three different manufacturers in Pennsylvania, all of whom are unable to get the labor they need to produce the shoes. So when the argument is made we are driving people out of the factories and the factories are closing their doors, here are three in Pennsylvania that are crying for workers and would be happy to have them.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine [Mr. COHEN].

Mr. COHEN. Mr. President, at this time, I move to table the amendment offered by the Senator from Oregon, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 2121. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 68, nays 32, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—68

Akaka	Daschle	Humphrey
Bentsen	DeConcini	Inouye
Biden	Dixon	Jeffords
Bingaman	Dodd	Johnston
Bond	Domenici	Kasten
Boren	Exon	Kennedy
Breaux	Ford	Kerry
Bryan	Fowler	Kohl
Bumpers	Glenn	Lautenberg
Burdick	Gore	Leahy
Byrd	Graham	Levin
Cochran	Harkin	Lieberman
Cohen	Hatch	Lott
Conrad	Heflin	McClure
Cranston	Heinz	McConnell
D'Amato	Helms	Metzenbaum
Danforth	Hollings	Mikulski
Mitchell	Riegle	Simon
Moynihan	Rockefeller	Specter
Nunn	Rudman	Thurmond
Pell	Sanford	Warner
Pryor	Sarbanes	Wirth
Reid	Shelby	

NAYS—32

Adams	Gorton	Packwood
Armstrong	Gramm	Pressler
Baucus	Grassley	Robb
Boschwitz	Hatfield	Roth
Bradley	Kassebaum	Sasser
Burns	Kerrey	Simpson
Chafee	Lugar	Stevens
Coats	Mack	Symms
Dole	McCain	Wallop
Durenberger	Murkowski	Wilson
Garn	Nickles	

So the motion to lay on the table amendment No. 2121 was agreed to.

Mr. MITCHELL. I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senate will come to order.

The Chair recognizes the senior Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, I yield to Senator HOLLINGS if he cares to proceed first.

Mr. HOLLINGS. I yield to my distinguished senior Senator.

Mr. THURMOND. Mr. President, I rise today in strong support of H.R. 4328, the Textile, Apparel, and Footwear Trade Act of 1990.

The PRESIDING OFFICER. The Senate will be in order.

If the Senator will withhold, Senators will please clear the aisle and come to order.

The senior Senator from South Carolina has the floor.

Mr. THURMOND. Mr. President, I notice the U.S. Senate Republican policy committee has released an outline of this bill, and I ask unanimous consent it be placed in the RECORD at this point. It has certain highlights, "Textile bill would * * *" and then the background, and ending with the words "American jobs are at stake" leaving off the rest of that résumé.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HIGHLIGHTS

The bill would establish quotas on U.S. imports of textiles, textile products, and non-rubber footwear, beginning in 1990, from all countries, except for certain textiles and textile products from Canada and Israel.

Similar bills have been passed by Congress, in 1985 and 1988, but were vetoed by President Reagan. Both vetoes were sustained. This new bill is different from the 1988 bill in two ways:

Products of Canada and Israel are exempted from the bill because of free-trade agreements between those nations and the U.S.; and

Caribbean Basin Initiative countries are guaranteed their 1989 market share.

THE TEXTILE BILL WOULD

Impose global quotas on textiles and apparel with 1 percent growth annually; therefore, not rollbacks in trade are mandated.

Freeze "non-rubber footwear" imports at the 1989 levels.

Direct the Secretary of Commerce to set regulations to implement the quotas, including rules to require reasonable spacing of imports during each year.

Allow the President to negotiate reductions in textile and apparel tariffs 5 to 10 percent over five years to compensate other countries adversely affected.

Require the Secretary of Treasury to implement a one-year pilot program (20% of imports, based on value) for the issuance and sale to U.S. companies at public auction of import licenses on all categories of textiles and apparel.

Give increases in quotas to countries who increase their purchases of U.S. agricultural products.

Require the Secretary of Commerce to review the Act after 10 years and report the findings to Congress.

BACKGROUND

For the past 15 months, textile industry leaders have been meeting with the Administration to try to reach agreement on some proposal to stem the flood of imports. During this time, imports went up 12.7 percent and the textile and apparel trade deficit reached $26.5 billion, up from $4.6 billion in 1980. The textile industry is suffering. Profits are down 70 percent, new orders are down 9 percent, shipments are down 4.5 percent and inventories are up 7 percent. Likewise, the U.S. shoe industry is suffering. By 1989, import penetration of the domestic non-rubber footwear market reached 80 percent.

The purpose of this bill is to protect the U.S. textile and footwear industries from further decimation and job losses caused by unfair foreign competition. Proponents state that the bill is vital for the U.S. textile, apparel and shoe industries. This new textile policy is needed for U.S. industries to compete fairly with subsidized industries throughout the world. American jobs are at stake.

Mr. THURMOND. Mr. President, Senator HOLLINGS and I have worked on this matter for a number of years. We worked on it because it has been a matter of survival for the textile industry.

President Reagan vetoed two textile bills. I do not think he really understood the serious economic situation of the textile industry.

I want to bring out some facts today which I think will be of interest to the Senate.

This legislation will significantly strengthen as well as promote enforcement of our textile, apparel, and footwear laws and agreements.

Many of my Senate colleagues have expressed support of this legislation with 55 having cosponsored this most important legislation. This legislation is not a partisan issue, it is not a regional issue. This is an issue about people and their continued employment.

The textile and apparel industry are vital to the economy and national security of this country. One out of seven people in the State of South Carolina—I want to repeat that, one out of every seven people in South Carolina—work in the textile and related industries.

In the first 6 months of 1990, several companies have announced personnel reductions and as a result approximately 2,300 South Carolinians will lose their jobs. According to the U.S. Department of Labor, my State, South Carolina lost 2,600 jobs during 1989. Mr. President, for the first half of 1990, South Carolina has lost almost as many jobs as all of last year.

In Cowpens, SC, a small town with a population of 2,023—incidentally, it was in Cowpens where a battle during the Revolutionary War was fought which was the turning point in the war. It was recently announced that 400 jobs will be lost in a textile plant.

This is roughly 20 percent of the residents in this town. While all of these workers might not live in Cowpens, this is still a significant blow to this rural economy. Nationally, the textile and apparel industries have lost 71,000 jobs since June 1989. Since 1973, these industries have lost 700,000 jobs. This decline cannot continue.

Several years ago, a study by the Department of Defense stated that the textile industry is significant to the defense and national security of this country. The study further stated that this industry is second only to the steel industry in importance to the defense of our Nation.

That is a very significant point. Textiles are second only to steel in the matters of national security and defense in this country.

We cannot allow ourselves to become dependent upon foreign countries for the basic defense requirements of our Armed Forces. While most people think of uniforms as textile industry products used by the military, many other needed products originate from this industry. Some of the other textile products the military uses are tents, canvas, ammunition powder bags, and parachutes, and various other items. It does not make good sense to transfer production of these items to foreign countries and then rely on them in times of international crisis to provide us with these essential items.

Mr. President, the growth in textile and apparel imports during the last several years has not come about due to a lack of effort on the part of the domestic industry. In fact, the American textile and apparel industry is one of the most modern and productive in the world. Over the last 9 years, manufacturers have invested over $18 billion to modernize operations and increase productivity. Last year alone the textile industry reinvested nearly 80 percent of their retained earnings for these efforts. This is second only to the computer industry.

Management and labor have worked hard to modernize, compete, and survive. Nevertheless, imports have continued to grow. Textile and apparel imports now account for 59 percent of the U.S. market share. In 1989, 12.1 billion square meters of textiles and apparel were imported into the United States. This is a 13-percent increase from 1988 levels. Textile imports accounted for 21 percent of the merchandise trade deficit in 1989 and were valued at $26.5 billion. This is 5½ times more than the $4.7 billion value of the textile trade deficit in 1980.

The textile industry has continued to suffer from increased imports because the American industry is not competing with foreign countries on an equal basis. If they did, then the U.S. textile and apparel industry could compete with that of any other nation. However, the domestic textile industry cannot be expected to compete, nor should it have to, with foreign industries that are heavily subsidized by their governments, and pay exceedingly low wages.

Developing countries have provided low interest, subsidized loans for capital formation and expansion within their textile and apparel sectors. Favorable tax treatment, as well as other incentives for exporting textile and apparel products, has been created by foreign countries. They have fostered and protected their own industries and markets through currency manipulation and trade restrictions.

Another factor with which American companies cannot compete is the relative wage rate. According to the Bureau of Labor statistics, China pays its textile workers $0.27 per hour compared to $9.31 for United States workers. Some other examples are Taiwan, $2.62; South Korea, $2.05; and Hong Kong, $2.49. While these wage rates are much lower than ours, the cost of textile and apparel products from these countries does not reflect this wage discrepancy.

This measure is designed to relate the growth of imports to the growth of the domestic market so that the U.S. textile and apparel industry can continue to be viable. Imports will be limited to a growth rate of one percent per year. Historically, consumption of these products in the United States has grown at a rate of approximately one percent. For nonrubber footwear, imports will be limited to the amount that entered the United States in 1989.

Also included in this bill are exemptions for Canada and Israel because of our current trade agreements with these countries. Imports from the Caribbean Basin will not be reduced, they will be maintained at the current levels.

Some have argued in the past that they are concerned about retaliation to our agriculture products. This measure will grant quota increases for those countries importing more agricultural products from the United States.

Another provision of this bill directs the Secretary of Commerce to set regulations to implement the quotas, including rules to require reasonable spacing of imports during each year. The President is also allowed to negotiate reductions in United States textile and apparel tariffs, up to 10 percent, as compensation for those countries adversely affected. If a reduction does occur, it will be staged equally over 5 years.

This legislation is needed now worse than any time in history. One of the biggest arguments against this bill in the past has been the profitability of the textile industry. According to Department of Commerce figures, for the first quarter of 1989, the textile industry had profits of $340 million on sales of $13.67 billion. During the first quarter of 1990, the textile industry had a loss of $47 million on sales of $13.35 billion. This is a $387 million drop from the same quarter of last year. Mr. President, let me say again—a $387 million decrease.

From the second quarter of 1989 to the first quarter of 1990, quarterly profits have been $487 million, $431 million, $158 million, and negative $47 million, respectively. These profit decreases have been mostly attributable to a massive surge in imports over the last 18 months.

I strongly urge my colleagues give this measure their most careful consideration and to join in working toward passage of this most important legislation.

Mr. President, here is a clipping from the biggest newspaper in South Carolina which appeared only yesterday. The heading is "Textile Closing On Rise. Jobs Lost for 1990 Reach Three Times the Level of 1989." I want to read a few excerpts from this:

Textile plants are dropping like flies these days, including three in South Carolina in the past 10 days.

So far in 1990 there have been 3,258 textile and apparel jobs lost in 17 plant closings in the State—three times the number of those jobs lost in all of 1989, and more than in 1988 and 1987, according to the State Development Board. The plants' owners blame a variety of factors.

The main one they blame, Mr. President, I might say, is imports.

"It's an industry that's living on the edge," said George Wino, an economist for the American Textile Manufacturers Association. "When the edge is violated by economic events, Humpty Dumpty falls off the fence."

Imports, which climbed 13 percent in 1989, are up an additional 4.6 percent this year.

"If we did not have the surge in imports last year, we would not have the plant closings," Wino said.

Since the end of June, three major textile plant closings have been announced in South Carolina, taking with them 750 jobs.

That was last week, 1 week.

They include: Clearwater Finishing in Aiken—

That happens to be my home country—

which shut down a 360-employee plant July 5, when it ran out of funds to pay its bills.

Swiss-owned Schoeller, Inc. which said it will close a 240-employee yarn plant in Sumter. The company blames imports, low overseas labor costs and changing fashion trends.

The 101-year old Anderson Cotton Mill, which employs 155 people. A company official attributes the closing to continue losses and pressure from imports.

Mr. President, Spartanburg County, in the upper part of our State, has not been immune to the trend. The town of Cowpens, which I mentioned a few minutes ago, lost 400 textile jobs when Health-Tex, Inc. closed its doors last month.

In addition, there has been a loss of 1,400 other textile jobs in the county during the past year, according to the SC Employment Security Commission.

In the first quarter of 1990, domestic textile companies lost a total of $47 million according to the U.S. Commerce Department. It was the first time since 1975 that the industry lost money.

Mr. President, it is just a simple matter of economics. How can we compete with foreign countries that subsidize their own industries and pay such low wages? As I said, these low wages are as low as 27 cents an hour in one country, on up to $2 or $3. At the same time American workers are being paid almost $10 an hour. How can we compete? Do we want this textile industry or not? We think it is important.

Suppose we have a war and the textile industry has been put out of business—and that will happen, unless something is done—where would we get uniforms? Where would we get all the other things that the textile industry produces?

I think it would be very dangerous from a national defense standpoint to depend on foreign countries. We do not know who we would be at war with, if we have a war. It is foolish, I think, not to protect our own industry. Then we will have lost all the jobs here in this country; 350,000 jobs were lost here in the last 3 years.

Mr. President, we have to take steps to save this industry, if it is worth saving. We think it is worth saving. It is second in importance to steel in the matter of national defense. Only steel is more important in national defense than textiles. Is it worth saving? Why, of course it is. If we are going to save it, we have to do something and quit putting it off. We have to take action here.

What does this bill do? This bill is a fair bill, and it only provides us the opportunity to play on a level field. We are not playing on a level field now. Our domestic growth in textiles in this country is about 1 percent a year. The foreign countries that have sent textiles in here have come in at from 3-to-5-percent a year. Why should we allow a 3 to 5 percent greater growth of foreign countries who are sending textiles here when our own consumption is only growing 1 percent?

All we want is a level playing field. We are not asking for special favoritism. We do not want favoritism. The textile industry can take care of itself, if we have a level playing field. If you do not have a level playing field, it cannot compete. That is the reason they have lost, as I stated, $47 billion in the first quarter of this year.

Mr. President, I ask my colleagues to think over this matter. Do not make up your minds too quickly. I understand the President may veto this bill. We must not act from that standpoint. Let us do what we think is right. The President has to do what he thinks is right. It would be a mistake to veto this bill. We need to save this industry; we need to save these jobs, nearly 2 million jobs in this country in textiles and apparel.

We are going to throw the 2 million jobs aside, just forget them. That is what we are going to do if we do not take some steps here to put the industry in this country on a level playing field with the goods that come in from foreign countries. That is all we are asking. We think it is fair.

We hope the Senate will pass this bill by a big majority and then the President will have to do what he thinks is right. We think this bill ought to pass. We think it is important to our economy. We think it is important from the standpoint of national defense. We think it is important from the standpoint of keeping jobs in this country.

And I want to say further, there is no industry in this Nation that employs as large a percentage of women as this industry. There is no industry in this country that employs as large a percentage of minorities, blacks and others, in this country as the textile industry. We are working to keep the minorities and women employed. Here is a chance to help. If we want to help women and help minorities, pass this textile legislation.

We think from any standpoint you look at it, this bill ought to pass. It is a fair bill.

It has been a pleasure to work with Senator HOLLINGS on this bill. He has worked hard on this bill. We worked together on it not only for our State but for every State in this Nation. Every State in this Nation has considerable apparel, even though they may not have textile manufacturing plants. There is not a State in this Nation that does not have apparel. Every State is affected here.

I sometimes do not understand while talking to some of my colleagues why they do not and have not looked and found how their States are affected, because they are affected. This is a national problem and we must take steps to preserve this industry which is important to jobs and the economy of our Nation.

The PRESIDING OFFICER (Mr. ROBB). Who seeks recognition?

The Chair recognizes the Senator from North Carolina.

Mr. SANFORD. Mr. President, the textile, apparel, and footwear bill is once again presented to the Congress. This time I hope that we can pass it and I hope we can pass it with enough votes to override a veto, if a veto is to come. I hope a veto will not come because the textile and apparel workers of North Carolina have waited far too long already for a sound textile trade policy.

This legislation is directed at strengthening and promoting the enforcement of our textile and apparel trade laws and agreements. Already the textile and apparel trade deficits account for over a quarter of this country's entire trade deficit. It is high time that we pass a bill to curtail the increase in this flow of imports and express our commitment to one of this country's most valuable industries.

The textile and apparel industry was among the first to develop in the United States. The industry grew rapidly, fueled by highly productive workers, by constant modernization, and by good business practices. Today the American textile and apparel industry is one of the most modern and productive in the world.

Over the last 9 years, manufacturers have invested over $18 billion in modernization. This is not an industry that gets Federal help. It does not, for example, have research projects funded by the Federal Government. Most of the textile research is done either by the manufacturers themselves or by the States of South Carolina, Georgia, Alabama, and North Carolina. Through these efforts and steps taken by our textile and apparel companies, the industry has become one of the most modernized industries of any in the country. Eighty percent of the retained earnings have consistently been reinvested in new plants and equipment at an annual rate of almost $2 billion. As a result, according to the Commerce Department, the average productivity level of the textile industry increased 4.6 percent per year from 1976 to 1986, compared to about half of that for industries generally.

Such productivity figures indicate, among other things, that this industry has not fallen behind because it is not efficient and productive. It has fallen behind because the present trade laws are not enforced and because we have been far too lax in permitting imports of textiles and apparel from countries who do not provide equal access to our exports.

In looking at plants in North Carolina, and I have had an opportunity during the last few years to go through a great many of them, I have been impressed by their high level of efficiency. I have noted, also, the booming economy in the neighborhoods, where these plants are located. Annually, the industry's contribution to the U.S. gross national product has exceeded $50 billion. This places the textile and apparel industry ahead of other such basic manufacturing industries as primary metals, automobiles, paper, and chemicals, and only slightly behind aerospace. So certainly it is an essential segment of this country's economy. But its strength is being drained away.

Presently the industry employs 1.8 million Americans, serving as this country's largest manufacturing employer of women and minorities, with an annual payroll of $25 billion. This industry alone accounts for more employees than our steel and automobile industries combined.

In North Carolina, textile and apparel and footwear firms serve as my State's largest employer, with nearly 350,000 workers. Due to the current trend of increasing imports, the textile, apparel, and footwear industry has suffered many hardships. As a result, there have been frequent plant closings and numerous job losses.

The people who depend on the textile and apparel industry for their livelihood are experiencing harsh economic consequences and many daily doubts as to whether their job will be there tomorrow and next week. I do not think many people realize the seriousness of the problems these industries are facing, but I hope Members of Congress are beginning to comprehend it and to understand how serious it is.

In March 1990, textile and apparel employment was off 66,000 people from the level of just 1 year earlier, the lowest in the 50 years that industry figures have been maintained. Since 1985, the industry has lost over 350,000 jobs and over 700,000 since 1973. It certainly is time that we begin to confront the seriousness of this draining away of a great source of economic strength in America.

As a Representative of this country's largest textile State, I have certainly witnessed the detrimental effects of imports on this industry. This year is no exception. Just a couple weeks ago, for example, a plant closed in Robbins, NC, which is not a big town; a town very dependent on its textile industry. And in that little town, 235 jobs are gone, with not much chance for people to get a job anywhere else in that community, and moving and resettling somewhere else is almost beyond their available resources.

In 1989 we experienced six major plant closings, causing over 1,000 jobs to be lost.

The people who lose their jobs suffer many economic hardships. Many have to turn to their accumulated savings for survival, while others must rely on unemployment compensation. Often times, in seeking future employment, many lack the skills required outside of the textile industry to obtain other jobs. Inevitably, it is the older textile workers who are approaching retirement age that will suffer the most. We must not allow this trend to continue.

The textile and apparel industry is a vital segment of our economy but it is just as important to our national security. The Pentagon has ranked the textile industry second only to steel production in importance to national defense. The military relies on the industry for a number of products other than uniforms and footwear. Included in this list of products are tents, canvas, blankets and parachutes. The helmet used by the American soldier is made of fabric and resins. Currently, the Defense Department has some 10,000 items in its inventory which are made entirely or partially from textiles. Overall, there are 300 different combat essential items utilizing textile products.

During World War II, I served in the U.S. military and we were dependent on our domestic textile and apparel industry for these supplies. Fortunately, at that time, our industries weren't burdened with the heavy flow of imports that they are faced with today, and we were able to rely on our domestic industries. We must enact legislation that will enable us to uphold a viable domestic textile and apparel industry that we can confidently depend upon in times of international crisis.

Mr. President, during the past decade, an influx of imports has battered the American textile and apparel industry. Record levels of imports are flooding our domestic market. During the 1980's, our domestic market grew on an average of 1 percent a year, while imports grew on an average of 12 percent a year. Our industry has therefore been losing 11 percent market share annually this decade. In the final quarter of 1989, textile industry profits were $30 million—the lowest level since the first quarter in 1975. These profits were also down by 92 percent from the same quarter of 1988. This means the industry has suffered a $347 million decline. If this same rate of import growth continues annually, our domestic textile and apparel industry will be virtually eliminated by the year 2000. We have a constitutional responsibility to regulate commerce with foreign nations, but with our current ineffective policies, we are avoiding our responsibilities. Enactment of the Textile, Apparel and Footwear Act of 1990 will help stem the unrestricted flow of imports and offer our domestic market the fair trade policies it deserves.

The textile and apparel industries in the United States have worked hard to compete with foreign countries. Nevertheless, imports have continued to grow. In comparing our economy with that of the European Community, the seriousness of the situation is put into perspective. The European Community entered this decade with a textile and apparel trade deficit of $5 billion, while the United States deficit was $4.7. Over the decade, the European Community managed to lower its deficit to only $1 billion, while ours increased to $26.5 billion.

The explanation for these alarming figures is simple. For nearly 20 years, international trade has been carried out under the framework of the Multifiber Arrangement. Laws and agreements regarding foreign trade were established and were to be enacted. While the European Community has effectively enacted these policies, the United States has failed to do so. As a result, there has been subsequent loss of market share and jobs, despite the MFA's objective of nondisruptive import growth. We now have an outrageous textile and apparel trade deficit that is slowly destroying our domestic market. It is crucial that we place some kind of restrictions on these incoming products.

It is not just our domestic situation that has created an unfair trade system, however. Unfairly subsidized or dumped products seem to be the norm, not the exception. In China, for example, the Bureau of Labor reports that the textile and apparel workers are paid $0.27 per hour. Taiwan pays its workers $2.62 per hour, Hong Kong pays $2.49 per hour, and South Korea pays $2.05 per hour. In the United States the average pay for a textile worker is $9.31 per hour. That $9.31 figure is below the average figure for overall manufacturing wages in the United States.

These foreign competitors also operate with much greater assistance from their governments than is provided to U.S. firms. Huge imports of inexpensive goods from China, for example, often reflect the impossibility of establishing a fair market price when all goods are made using government provided facilities, power, labor and raw materials. The Government of Taiwan recently announced a plan to invest $100 million to assist its textile and apparel industry with the express goal of

boosting its imports to $20 billion by the end of the 1990's.

Our domestic industries have the capability to compete internationally, but for too long our Government has been tolerating trade with countries who do not reciprocate our open market policies. We cannot lower our standards in order to compete with our foreign competitors; rather, we must enact this legislation to create a fair trade environment for our textile and apparel industries. It is crucial for their survival.

This bill has also received overwhelming support from the American people. A survey was conducted 2 years ago in eight nontextile States, including Colorado, Florida, Iowa, Utah, and others, to get some indication of how the American population feels about our domestic industries. Of those surveyed, 67 percent indicated support for the bill, while only 25 percent expressed any opposition to the bill. The American people are aware of our need to enact effective legislation, and they are ready to stand behind these industries in support of them.

In the same survey, the results indicated that more people would support the bill than oppose it, even if it meant higher prices for some textile and apparel products. In seven of the eight States surveyed, supporters outnumbered opponents, and in Iowa and Montana, the opponents were outnumbered by 50 percent. Furthermore, the results indicate that the public wants this legislation. In all eight States, the survey revealed that over 60 percent of the population thinks that our current trade laws regarding imports of foreign goods are not strict enough. As a result then, when people were asked how they felt about a bill restricting the growth of textile imports, there was overwhelming support for it, with more than twice as many people definitely favoring the bill as those opposing it in Colorado, Oklahoma, and Utah.

We simply have got to face the fact that for all our pushing for free trade and espousing a free trade philosophy and our continued efforts to seek free trade policies in our various trade negotiations, we have not been able to achieve that goal. In the interim, while we try to reach that goal, crucial industries such as our textile, apparel and footwear industries are being salvaged. It is time for us to wake up. We can no longer expect American textile and apparel workers to take it on the chin as the European Community retains high tariffs on U.S. exports of textiles and apparel, as governments throughout Asia subsidize their domestic textile and apparel industry on the one hand, and block exports on the other.

For the past decade, Congress has been aware of the detrimental effects of the flow of imports, what it has done to our domestic market, especially during the Reagan administration when the flood of imports was virtually unleashed. Congress overwhelmingly passed on two different occasions textile bills aimed at stemming the flood of imports in order to maintain a fair trade system.

Both times, however, President Reagan vetoed the bills in spite of the fact that we were within one or two votes of enough to override a veto. These actions defying the will of the overwhelming majority of the Senate have jeopardized the security of this very vital domestic industry. I think it is fair to say that the Reagan administration's record was one of broken promises to the American textile industry.

This legislation being debated today is designed to promote the growth of world trade. It provides equal opportunities for all participating countries that have been taking part in selling into the markets in the United States. The bill is similar to the one considered by the Senate in 1988. It certainly provides that as we have growth in demand for textiles and apparel in the United States suppliers from other parts of the world can participate in that growth at a guaranteed rate of 1-percent growth per year, which is about in keeping with the growth in demand that the domestic industry is generally enjoying.

This bill will not stop or cut back on apparel imports and textile imports.

It will continue to permit imports from all parts of the world. What it does is to bring some small degree of order to the chaos by limiting import growth. This is more than generous. Imports already claim more than half of the market, and we will be providing our trading partners with continued and growing access from that already huge base.

The bill is fair. The bill is generous. And I would suggest, from the point of view of our economy and the working people of America, this bill is essential. I strongly urge my colleagues to join me in support of the Textile, Apparel, and Footwear Act of 1990.

Mr. HOLLINGS. Mr. President, I rise today in an effort to protect an endangered species. What I wish to protect is not the snail darter or the spotted owl. Instead, I rise to preserve a vital domestic industry whose very existence is being threatened by a tidal wave of imports which have come crashing down upon our shores.

Mr. President, I am here once again in an effort to save the textile and apparel industry and the jobs of close to 2 million of the most productive workers in the world whose livelihood depends upon the continued existence of this crucial manufacturing industry.

It was 30 years ago when Eisenhower was President, Tom Dewey had been transformed from a Presidential candidate to an attorney representing the Japanese that I, a young Governor, came to Washington to personally plead the textile industry's case before the U.S. Tariff Commission. The Eisenhower administration expressed its sympathy but the Tariff Commission refused to find any injury. At that point the gradual erosion of the industry began.

In 1960, however, I was able to extract a pledge from candidate John F. Kennedy that he would negotiate fair treatment for the textile and apparel industry. As President, John Kennedy made good on his pledge. With the concurrence of Labor Secretary Goldberg, Commerce Secretary Hodges, Secretary of State Rusk, Treasury Secretary Dillon, and Defense Secretary McNamara, a formal determination was made under the Civil Defense Mobilization Act that textiles ranked second only to steel in their importance to our national security. President Kennedy followed up on this finding by negotiating a seven-point accord governing trade in cotton textiles.

In 1968, as a freshman Senator, I, along with Senator Cotton of New Hampshire, sponsored a textile bill that passed the Senate, only to die in the House. Ten years later, we were able to pass a textile bill by substantial majorities in both the House and the Senate. Although the bill was vetoed by President Carter, our efforts were not in vain. In 1979, the Carter administration issued a white paper on textiles, which led to more vigorous enforcement of our existing trade agreements and a momentary stabilization of imports.

However, with the change of administrations brought an end to the relief the textile industry enjoyed as a result of stricter enforcement of our agreements. Ronald Reagan and his band of free marketers from the Hoover Institute rode in from the West brandishing copies of Adam Smith's "The Wealth of Nations" as if it was the Bible itself. When it came to the military defense of this Nation, the Reagan crowd spared no expense—Caspar Weinberger bought everything but a television station. But when it came to protecting America's industrial base by enforcing our trade laws and agreements the Reagan administration pursued a free trade policy that can only be characterized as unilateral disarmament.

The administration chose not to vigorously enforce the laws and agreements that we had worked on so tirelessly. Instead, they cheered the rise of the dollar as a sign of confidence in the American economy and they put their faith in the magic of the marketplace. Thanks to the overvalued dollar, the marketplace worked its magic by performing one of the great-

est vanishing acts in history—the disappearance of American manufacturing jobs.

Nowhere was this more apparent than in textiles, apparel, and footwear. Forty years ago, when I first became involved in this debate, textiles and apparel employed 2.5 million people. Today, it is 1.8 million and falling. During the eighties, close to 1,000 textile and apparel companies were closed and 300,000 employees lost their jobs.

The devastation of the nonrubber footwear industry due to the onslaught of imports is even more compelling. Since 1981, import growth has averaged 20 percent annually. By the first quarter of this year, imports had captured 83 percent of the U.S. market. This invasion of foreign footwear resulted in the closing of 308 factories and the layoffs of thousands of employees.

Twice during the Reagan administration we sought relief for these industries that were under siege from imports by companies whose employees earn 30 cents a day and three bowls of rice. Twice the Reagan administration responded to bills that overwhelmingly passed both Houses by vetoing them.

Instead, the Reagan administration assured us that the devaluation of the dollar that occurred after the Plaza Agreement would resuscitate a manufacturing base that was now in critical condition. Instead of the cooperation and protection given by the governments of our competitors, our Government gave the textile, apparel, and footwear industry stern lectures on how they must restructure, trim the fat and get competitive.

The U.S. textile industry rose to the challenge. During the 1980's it became the most advanced in the world. Over the course of the past decade, the industry invested almost $18 billion in plant modernization. It responded to the competitive challenge by streamlining and consolidating operations.

Despite the massive restructuring of the industry, by 1989 the U.S. textile trade deficit ballooned to a record $26.5 billion, comprising 21 percent of the U.S. merchandise trade deficit. By the first quarter of 1989, we set a record for imports, 3.13 billion square meters, with textiles and apparel now comprising 26 percent of our trade deficit. Compounding the problem was the fact that the Customs Service Department estimated that $5.5 billion of unreported and illegal textile and apparel imports streamed across our borders every year.

In January 1989, a new administration assumed power boasting of its professionalism and its particular expertise in the realm of international relations. In kinder and gentler fashion it expressed a willingness to sit down and negotiate with the leaders of the textile and apparel industry. Over the course of the next year and a half it became apparent that the administration was willing to negotiate forever, but not willing to take action to save the industry. Instead, the administration is willing to use the textile and apparel industry as a sacrificial lamb in their effort to conclude a comprehensive trade agreement in the Uruguay round of the GATT negotiations. While the industry negotiated, imports shot up 12.7 percent. As imports surged, profits plummetted to their lowest level in 15 years. The small gains that the industry was enjoying as a result of massive restructuring were wiped out. If you don't take my word for it, how about Shearson Lehman, Goldman Sachs, or Merrill Lynch?

The Shearson Lehman Hutton April 1990 newsletter on the textile industry—

> Clearly, domestic producers are losing market share to foreign suppliers. * * * Apparel maker's search for low cost production and third world countries subsidies for its textile and apparel sectors continues to plague U.S. textile executives. * * *

Merrill Lynch's newsletter of December 1989—

> The one trend that seems to be accelerating however is growth in imports of apparel garments * * * imports of textiles and apparel combined were ahead 13 percent in units and just under 12 percent in dollars.

Goldman Sach's newsletter of April 1989—

> Frankly, the magnitude of the first quarters' textile deterioration was surprising. Also the early 1990 import surge was greater than expected.

There you have it, not from me—those are the market professionals speaking.

Mr. President, to preserve this vital sector of our manufacturing base, the bill that we debate here today will:

First, tie the growth of textile and clothing imports to the growth of the domestic U.S. market, thereby preventing the further decimation of domestic producers and American jobs;

To accomplish these goals, the bill provides that:

First, imports of textiles and apparel in each category would be permitted to increase by 1 percent annually—roughly equal to the growth rate of the domestic market; and

Second, imports of nonrubber footwear would be restricted to 1989 levels.

The administration would be responsible for prescribing regulations to implement the import limits.

Textiles and apparel made in Canada and Israel are exempt from the bill. And, the countries of the Caribbean Basin are guaranteed their 1989 market share—which was 11 percent of apparel imports.

The bill rewards those countries who increase their purchases of U.S. farm products by guaranteeing them an increase in their prior year's quota. This is the so-called Daschle amendment offered by my friend from South Dakota in order to protect agricultural exports from the threat of retaliation.

In addition, a 10-year review of the Act is mandated and a pilot program which would auction quotas for 20 percent of textiles and apparel in 1991 is established.

What Mrs. Hills and the Bush administration fail to realize is that: First, the textile industry is one of the most productive industries in the Nation; and second, the finding of the Kennedy administration 2½ decades ago, of the strategic importance of the textile industry is no less valid today. For those who worship at the altar of free trade, the word that resonates from the halls of the Heritage Foundation and through the halls of the USTR is productivity. They claim that the so-called sunset manufacturing industries are not as productive as their foreign competitors, therefore, they do not deserve any protection. Nothing could be further from the truth. The MIT Commission on Industrial Productivity found, and I quote:

> In fact, textile and apparel firms have been among the U.S. leaders in productivity gains during the past 15 years. Between 1975 and 1985 textile mill productivity increased an average of 5.6 percent per year, more than any other manufacturing industry.

Mr. President, it is obvious to me that a superpower cannot dress its soldiers in uniforms made in Korea and Gucci loafers. But the importance of the textile industry to our national defense is much broader than that. It encompasses everything from medical supplies to parachutes to the fiber webbing that goes into the skins of Trident submarines and Stealth bombers.

This past year we have witnessed dramatic changes in the world. As the Soviet threat recedes, it is increasingly clear that national security can no longer be viewed in purely military terms. We now must recognize that national security and economic security are intimately related.

Some insist our economic security is increasingly dependent on taking the lead in sophisticated technology. Mr. President, without a strong textile industry as an integral part of a strong manufacturing base, you cannot develop sophisticated technology.

No one understands this linkage between basic manufacturing and high technology industries better than Adm. Bobby Inman, a man who has been in the forefront of both national security policy and our high technology policy. Writing in the spring edition of Foreign Affairs, Admiral Inman describes the importance of this linkage as he chronicled the demise of the American electronics industry.

> Many economists dismissed the demise of the U.S. computer electronics industry as the inevitable result of the law of compara-

tive advantage. According to their analyses, consumer electronics was destined to go the same route as the shoe and apparel industry—American industry simply could not compete with such low wage countries as Japan and Korea which enjoyed an inherent advantage in low-tech, mass produced commodity products. Those who held that view counseled U.S. industries to quit the consumer electronics markets and move into sophisticated technologies in which those factors were not as important a determinant of market success. What this perspective failed to take into account was the linkage between low-tech and leading-edge electronics. The manufacturing expertise and technical competence that underpin them are closely related.

Inman understands that there is more to comparative advantage than the abstract theory that David Ricardo outlined 200 years ago. By targeting and subsidizing industry, the governments of our competitors have played a major role in creating their comparative advantage. Now, of course, we have had to act to protect the industry that we supposedly had a comparative advantage in, the ultimate high technology industry, the semiconductor industry—from dumping by their Japanese competitors. So much for the idea that high technology would be the savior of the American economy. So much for David Ricardo and comparative advantage.

Mr. President, it we are to preserve the textile and apparel industry from extinction we must act now. The Economist Intelligence unit predicted in May 1988 that if imports continue to enjoy the high growth rate of the 1980's, the United States would have 80 percent import penetration in textiles and apparel by the year 1995. If the current trend continues, textile executives will conclude that they can no longer afford to invest in more modern plants and equipment and at the turn of the century the U.S. textile industry will go the way of the dinosaurs—an extinct species.

Though the hour of decision rapidly approaches it is not too late to stem the tide and save this industry. What is required is the courage to break with the outdated policies of the past. We must concede that our competitors do not share our enthusiasm for laissez-faire, free trade policies. It is time that we reccgnize what George C. Lodge of the Harvard Business School has already recognized. That is:

> Less and less do Americans practice what they preach—indeed, it would be disastrous if they did. Their corporations and their government—even under Ronald Reagan and George Bush—are departing however hesitantly, from the laissez-faire ideology they cherish because there is no choice.

Mr. President, as the primacy of the geopolitical struggle with the Soviet Union is supplanted by a new geoeconomic struggle, we must come to grips with the idea that Government action is required if our economy is going to remain competitive.

We must acknowledge the truths that Henry Clay uttered over 150 years ago. They are as important now as they were in 1832.

> There are few governments which do not regard the establishment of domestic manufacturers as the chief object of public policy. When gentlemen have succeeded in their design of an immediate or gradual destruction of the American system, what is their substitute? Free Trade! The call for free trade is as unavailing as the cry of a spoiled child in its nurse's arms for the moon or the stars that glitter in the firmament of Heaven. It never has existed, it never will exist!

Mr. President, let me thank my colleagues, my distinguished senior Senator for his leadership, and both Senators from North Carolina. They have been working on this down through the years.

We are here at this particular point on this debate with a feeling of nostalgia that cannot really be afforded. We start immediately with what we already know is threatened, the loss of jobs, but now the real threat is the loss of the industry itself.

We can look at the experience of the past 10 years. I will never forget 9 years ago we had a deficit in textile balance of trade of $4.5 billion. And it was growing, just like the deficit is growing now.

I remember when we had a $4.5 billion deficit and we worried about it. Now we are spending $365 billion more than we are taking in and nobody seems to care much. We have meetings about it, we talk about the budget process, we get all contorted and distorted, and hopefully we might get something agreed to by August, but don't hold your breath. And then hopefully we will get agreement before we leave to get ourselves reelected. Then we will come back after the election in lame-duck session and use the sequester of October, November, and December. Getting toward Christmas—we look so silly by that time.

Yes, we will put FSLIC, the savings and loan, off budget. We have been trying to sweep it under the rug. There have been various attempts to do this so the public will not be aware of it. And the only way we can save ourselves is to put S&L spending off budget. And, of course, having raised taxes for Social Security, they have proposals now to cut and tax Social Security benefits. We will do that, plus find $15 billion over in the Defense Department, and then we'll go home for Christmas.

Now, to return to the $4.5 billion trade deficit on textiles. I remember the debates over the last 10 years. From $4.5 billion, then by the 1985 debate it had grown to $17.5 billion. When we got up to the 1988 debate, we pegged it at $21.5 billion. Each time they told us textiles were the most protected industry in the entire country. Nonsense. With so-called protection like that, we will soon be extinct.

Now, what is the textile trade deficit in 1989? It's $26.5 billion and growing. Over 20 percent of our deficit in trade in the United States of America is accounted for by this one industry. And we do not seem to care. We know there was an average in growth in imports of 12 percent per year during the past 10 years. The domestic consumption grew at 1 percent. So there was a net loss of 11 percent per year. And now 60 percent of the apparel in this Chamber is imported and, if that trend persists during the nineties, by the year 2000, 92 percent will be represented by imports.

So the industry now is at the crossroads. I said a moment ago in the debate, it was like the old "Breakfast Club" with Don McNeil, this is the last call for breakfast. We passed this bill five times under five Presidents. It has been vetoed three times, and each time they pat us on the back and tell us we are doing good, you have to work harder. You know, like Norman Vincent Peale, we have to get the power of positive thinking in America's industrial leadership. Get industry off the golf course, say these arrogant Senators who never had made a nickel themselves in private business. Now they are going to tell America's Yankee trader, the best production executives in the world, how to produce.

Let us see what the record shows.

It was just delightful a moment ago to read once again the comment made by the MIT Commission on Industrial Productivity, because this took account of the years 1975 to 1985:

> In fact, textile and apparel firms have been among the U.S. leaders in productivity gains during the past 15 years. Between 1975 and 1985, textile mill productivity increased an average of 5.6 percent per year, more than any other manufacturing industry.

Well, when that came out in 1985, there was a political rhubarb. They did not like that in the debate. So they went to the Office of Technology Assessment, and they said, you study it. And the OTA crowd, in a special report entitled "The U.S. Textile and Apparel Industry, a Revolution in Progress, Special Report"—the date of this has to be the end of last year, as I remember it, bringing it right up to 1989. But we will include the study in the RECORD because it is right up to date. I quote from it on page 19:

> Productivity growth in the textile mill industry is the highest of all industries in U.S. manufacturing.

And then they state further:

> U.S. textile industry productivity also surpasses productivity per employee among textile industries of the major industrialized nations of the world, according to a 1985 European economic community study.

Mr. President, I am trying to introduce you to an industry that has been

constantly referred to on the floor of the Congress as rundown, semiskilled, low-skilled, uncompetitive, get them off the golf course, making too much money, most protected and everything else.

I have just quoted MIT, I have just quoted the Office of Technology Assessment. Now I quote the European Economic Community. Let me read that. This is what the Europeans now say:

Some Western industries, especially the United States, have achieved considerable gains in productivity thanks to the modernization and automation of their production. The U.S. textile industry recorded the highest productivity per employee amongst the major industrialized manufacturing countries, thereby enabling it to achieve the lowest unit production cost amongst the same industrialized countries. The labor cost per unit produced in the United States is, therefore, closer to that of Portugal, than that of major European manufacturers, and closer to the unit cost in Pakistan, than to the unit cost in Belgium or Germany. As a result, U.S. producers have been able to achieve price levels approaching those of some low-cost Asiatic or Mediterranean countries.

Now, they invested $18 billion in the last 9 years to do it. They have invested $18 billion, and their increase in productivity, not 1975 to 1985, but this is 1980 to 1990, in 10 years has been 4.5 percent increase annually compared to the national average of 2.7 percent.

Now, let me tell my colleagues about the market itself and why we are on this floor. U.S. textiles are going out of business. It has been stated already in the RECORD and I will emphasize it here. I can almost say it from memory. We have gone from a $340 million profit the first quarter of 1989 to minus $47 million in 1990, for the first quarter, meaning a $387 million swing in losses. That is what we have come down to.

As a result, we have textile shipments in the first 5 months of 1990 off 7 percent, minus 7 percent; textile new orders for the first 5 months, minus 7 percent, a drop of $25.2 billion. Mill employment, minus 2 percent through the end of the month of June. Textile capacity utilization, minus 3 percent; textile profits I just cited, minus $47 million; apparel shipments, 1989, minus 9 percent; apparel employment, minus 4 percent; mill fiber consumption, minus 3 percent; textile polyester fibers shipped for the 5 months, again minus 16 percent. But textile and apparel imports are up 5 percent. That is the only plus.

Mr. President, I ask unanimous consent to have this document printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD as follows:

U.S. TEXTILE, APPAREL AND FIBER INDUSTRY BUSINESS INDICATORS

	Months	Year to date		Percent change 1990–89
		1989	1990	
Textile shipments (1989 dollars)	5	[1] $27.0	[1] $25.2	−7
Textile new orders (1989 dollars)	5	[1] $27.2	[1] $25.2	−7
Mill employment	6	[2] 728	[2] 711	−2
Textile capacity utilization	5	[3] 87.0	[3] 84.5	−3
Textile profits	3	[4] $340	[4] ($47)	[5]
Apparel shipments (1989 dollars)	5	[1] $26.5	[1] $24.1	−9
Apparel employment	6	[2] 1,096	[2] 1,056	−4
Mill fiber consumption	5	[6] 5.62	[6] 5.47	−3
Textile polyster fiber shipped	5	[6] 1.41	[6] 1.18	−16
Textile and apparel imports (SME)	5	[1] 3.84	[1] 4.01	+5

[1] Billion.
[2] Thousands.
[3] Percent.
[4] Million.
[5] Loss.
[6] Billion pounds.

Mr. HELMS. Will the Senator yield?

Mr. HOLLINGS. I will be delighted to yield so the people will know the textile industry is not a bunch of vagabond cry babies, low-income, low-skilled scab labor and all those other canards. Yes, sir. So the people will know.

Mr. HELMS. My colleague and I were speaking about the textile import situation regarding Communist China.

I was at the White House this morning for a small meeting with the President. There was no classification on it. He was reporting on the summit down at Houston, which was all very interesting.

I then said: "Mr. President, what did you do about GATT with respect to textiles?"

Well, he looked at Brent Scowcroft and said well, we talked about it in a general way.

The point is, here we have the Uruguay round that they talk so much about. We are trying to get global quotas. If we every get that, Senator, we will be on our way and we will be moving toward that level playing field. Let me show my colleague some figures here. Just Red China.

Can the Senator see these figures?

Mr. HOLLINGS. Yes.

Mr. HELMS. "U.S. textile imports from Communist China in billions of dollars."

How much does the Senator think we imported from Red China last year?

Mr. HOLLINGS. Three billion dollars.

Mr. HELMS. Three billion dollars.

And does the Senator know who produced those textiles for Red China? Slave labor.

I have a bunch of pictures over here. They are not big enough for the Senators to see. But I hear all the sanctimonious talk in this Chamber that we have to stop this business with Red China. But then the same Senators say, well, I cannot do anything about that—I cannot help on the textile bill.

The point is, we are being beaten to death by countries which use forced labor, slave labor—I believe my colleague said typical wages were something like 29 cents an hour in two or three countries.

On the other hand, we have in this country all sorts of requirements on our businesses that increase, the cost of production. The Senator is exactly right when he pointed out that, despite all of the cost inherent in U.S. production of textiles, we are still doing a great job in terms of productivity. But soon we are not going to be able to compete, and our textile manufacturers will continue to go out of business, as the Senator has said repeatedly, if we do not get that level playing field.

I have another chart, and I am just using Communist China as one example. Recall, China is the place where the massacre at Tiananmen Square occurred.

Here is the United States-Communist China trade balance in billions of dollars. Look at that. A deficit of $6.2 billion, for the U.S. economy—$6.2 billion. In 1985, it was $0.369 billion.

I think Carla Hills, our U.S. Trade Representative, is a charming lady. She is undoubtedly as bright as she can be. But I don't understand her thinking on this issue. I want her to go to that Uruguay round, I want her to go to Geneva and stand up for an industry that needs some support now. That is all the Senator is asking.

Do not leave us hanging out to dry, because we are sure as heck going to dry if we do not get a level playing field.

I thank the Senator. I will have my own comments later, but I was intrigued by his remarks.

Mr. HOLLINGS. I thank the Senator from North Carolina for his contribution and very astute observation with respect to the People's Republic of China and Ambassador Hills.

My colleague will find there is classified data regarding illegal shipments. They do not want us to know about the transshipments from that so-called slave-labor production in Communist China——

Mr. HELMS. The Senator is correct.

Mr. HOLLINGS. Through Taiwan, through Panama, through Israel, through Lebanon, through other countries.

Mr. HELMS. The Senator is right.

Mr. HOLLINGS. Wait until we can get the facts to surface, because we have prepared other documents and we have talked to the Customs Service. We will get it exposed here before we get through this debate.

What I had in mind, when we get to China and debate it on the floor—and I have cosponsors—I want to transfer the textile quota for the People's Republic of China to the Caribbean Basin Initiative. Why am I interested in developing China for when I cannot even develop my own hemisphere?

Mr. HELMS. If the Senator will yield, in the first place, there is evidence indicating that a large portion of the textiles imported into the United States from Red China are illegal under United States law because it is made with forced labor. We cannot do it, but they do it. This is the kind of thing that drives me up the wall, and I know it drives the Senator from South Carolina the same place.

Mr. HOLLINGS. They will not enforce the law against the nonmarket countries.

I ought to say concerning our distinguished Ambassador Carla Hills, that I was just asked at the Press Club, did we need a negotiator and what about Ambassador Hills?

I can tell you she is highly astute, intelligent, and clever. What I mean to say is as a good lawyer, she can describe a defeat as a victory. That is what is going to happen with respect to GATT. There is no chance in the world of trying to turn Europe around at this particular moment, going into the European Community of 1992 and doing away with all the small farms in Europe, as insisted upon in Houston this past week. They are not going to allow that.

They said, oh, we had a victory because we agreed to study it in increments. That is not what President Mitterrand of France said. They will not yield on agriculture in Europe. As a result, they will not yield on intellectual properties and computers in South America. As a result, they will have just an eyewash—the only thing they will yield on is textiles down in the Uruguay round.

I can tell you, we are about to lose our shirt. You may as well know it here in July before November and December comes around when we are supposed to conclude the agreement. By December, you and I are going out of business if we cannot save us here and now.

Ambassador Hills will come up here and say what a great job they did—just like they described that nonsensical Structural Impediments Initiative Agreement. Have you ever heard such nonsense, I say to the distinguished Senator from Arkansas. They say, "we met until the wee hours of the morning and finally reached an agreement. We agreed we would improve our education in the United States by the year 2000 if they will increase consumption in Japan by the year 2000." What kind of nonsense is that?

We ought not be going to Japan and asking them to increase consumption. We ought to be going to the United States and saying decrease consumption. Do we not know what is wrong? We ought not to be saying to Japan what we are going to do on education. The Governors down in Charlottesville met on education and said to the alleged education President, let us put the money to it. Instead they keep cutting us.

I testified before the Finance Committee for 3 years for a VAT tax. That summit they have over there, if they ever agree to the fact we are spending $365 billion more than we are taking in, they will need taxes, user fees, freezes, spending cuts, all of the above. And they will be lucky to get it. There is one precondition, and that is a majority of the Republicans in this body have to agree to it and a majority of the Republicans in the U.S. House of Representatives are going to agree to it.

To get that done, the President has to get off the dime and get on national TV and tell the American people the need. We are not going to vote for taxes just because we like taxes or because we want to start the gravy train.

I am trying to get the Government back in the black. I am trying to get this country moving and in competition with EC 92 and the Pacific Rim. EC 92 is not moving toward free trade, they are moving to gird for the trade battle. We better wake up.

The import growth for iron and steel, 1981 to 1988, was minus 8.8 percent. Nonferrous metals saw an increase of imports of 47.8 percent. Paper and paperboard, a 136-percent increase during that period.

These are the latest figures.

Tires and tubes 86.3 percent. Going right on down the list, transport equipment, a 149.1 percent increase; textiles and apparel, a 163.1 percent increase. We are the highest.

Mr. President, I ask unanimous consent to print this list of industry imports in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

IMPORTS

[C.I.F. dollars in millions]

Industry	1981	1988	Percent change
Iron and steel	12,148.0	11,083.5	—8.8
Machinery	39,386.7	120,241.9	205.3
Nonferrous metals	7,077.9	10,457.9	47.8
Paper, Paperboard mfg.	3,668.1	8,656.3	136.0
Textiles and apparel	11,258.4	29,624.6	163.1
Tires and tubes for tires	1,413.5	2,633.8	86.3
Transport equipment	32,798.8	81.696.1	149.1

Mr. HOLLINGS. Mr. President, textiles has the highest rate of import penetration of all the major industries in the United States yet they are telling us on the floor of the Congress it is the most protected. I say get rid of this blooming protection. I cannot stand any more of it. We are going out of business.

Some Senators have been listening to the retailers. Oh, boy, the retailers. What a greedy crowd. The Market Research Corp. of America has found that the price paid by the consumer for imported apparel now actually exceeds the price of domestic apparel by over 65 percent in retail purchases. You would think if they got the cheap imported goods, they would reduce the retail price. No sirree. They are the ones who are running up the price on the consumers.

We know what happens when they take over ginghams, when they take over velveteens, when they take over certain parts of the trade: they will immediately jack up the price. They are trying to put us out of business. They are trying to do away with competition.

I ask unanimous consent to print this Market Research Corporation of America list of average 1989 apparel prices.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

PRICE PAID BY CONSUMER FOR IMPORTED APPAREL NOW EXCEEDS PRICE OF DOMESTIC APPAREL IN OVER 65 PERCENT OF RETAIL PURCHASES

	Average 1989 apparel prices		Import per domestic price ratio C
	Domestic A	Import B	
Women's:			
Sweaters	16.27	19.99	1.23
Slacks	13.33	15.41	1.16
Blouses/shirts	10.99	12.39	1.13
Shorts	8.82	9.96	1.13
Dresses	30.52	29.47	0.97
Hosiery	1.46	1.69	1.16
Nightwear	10.51	13.11	1.25
Skirts	17.63	20.92	1.19
Underwear	3.65	4.89	1.34
Jeans	18.72	18.38	0.98
Suits/blazers	46.07	44.04	0.96
Coats	60.16	43.24	0.72
Other	9.55	11.87	1.24
Men's:			
Sweaters	18.69	19.93	1.07
Underwear	2.08	2.71	1.30
Shorts	7.75	10.09	1.30
Nightwear	8.26	10.02	1.21
Knit sport shirts	7.02	11.01	1.57
Hosiery	1.32	1.98	1.50
Workwear	17.24	17.97	1.04
Slacks	18.00	17.62	0.98
Woven sport shirts	12.63	11.76	0.93
Jeans	16.84	15.84	0.94
Dress shirts	14.55	12.85	0.88
Coats	47.04	41.04	0.87
Suits/sportcoats	107.87	92.51	0.86
Other	9.26	10.99	1.19

Source: MRCA (Market Research Corporation of America).

Mr. HOLLINGS. That is the Market Research Corp. of America, an independent group.

Now what does Sherson Lehman Hutton say in the April 1990 newsletter?

Clearly, domestic producers are losing market share to foreign suppliers . . . Apparel makers' search for low cost production and third world countries' subsidies for its textile and apparel sectors continues to plague U.S. textiles executives * * *.

Merrill Lynch's newsletter of December 1989:

The one train that seems to be accelerating however is growth in imports of apparel garments * * * imports of textiles and apparel combined were ahead 13 percent in units and just under 12 percent in dollars.

Goldman Sachs's newsletter of April 1989:

Frankly, the magnitude of the first quarter's growth in textile imports was surprising. The early 1990 import surge was greater than expected.

I can go right on down the list.

What does that say to maintain this high degree of textile-competitiveness and investment? We cannot afford that $18 billion textile investment any more. We cannot go to the market with those kinds of reports. What you have afoot here, on the floor of the U.S. Senate, is the programmed extinction of this industry. That is what they have. They are going to get rid of the textile industry by telling us that they are doing so good. The truth of the matter is that we each year hear that.

I will never forget when we first started out way back. Imports had reached 15 percent and we were worried.

I was testifying before the old International Tariff Commission, 30 years ago. By the way, do you know who sat by my side? Morton Darman, head of the American Wool Growers, and the father of the distinguished Director of Management and Budget. I hope Morton did not read the statement by the OMB Director that the President is going to veto this bill. Morton will be twisting in his grave. He was worried 30 years ago.

Do you know who represented the Japanese? Tom Dewey. They bamboozle us at every turn around this city. We establish free trade zones. They distort free trade zones to protect exports. You are supposed to bring parts into the zone, put the parts together, and export back out. Not so. They are using those parts for automobiles over in Tennessee and Kentucky, and elsewhere. They use free trade zones for low tariff imports to get around the law.

Take the Commerce Department. How do they interpret what we call the exporters' sales price offset? They give the foreign articles a 20-percent advantage by including and trying to determine on a dumping case what we call the domestic price, the price in downtown Tokyo. They will include in that the advertising, the sales, and the profits and the salaries.

They will include all that, giving them a 20-percent advantage. You can go right on down the list. Everywhere we turn, they take advantage of us.

The latest outrage is that the Attorney General has put out an opinion that this bill is unconstitutional.

We have had Presidents veto this textile bill, with three Attorneys General, but they never found it unconstitutional. And I ask unanimous consent to include this ridiculous letter dated June 1 in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 21, 1990.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance,
U.S. Senate,
Washington, DC.

DEAR CHAIRMAN BENTSEN: I am writing to express the views of the Department of Justice with respect to S. 2411, a bill "[t]o provide for orderly imports of textiles, apparel, and footwear." The bill imposes import limitations on textiles, textile products, and nonrubber footwear. This bill presents constitutional difficulties and is strongly opposed by the Administration as was stated in Ambassador Hills' letter of June 20, 1990 to the Committee.

Certain provisions of S. 2411 impinge upon the President's foreign affairs powers. The President has the authority under the Constitution to determine the form and manner in which the United States will maintain relations with foreign nations. *See Haig* v. *Agee*, 453 U.S. 280, 291 (1981); *United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304, 319-20 (1936). This includes the authority to negotiate agreements with foreign powers for objectives that the President deems desirable. As the Court explained in *Curtiss-Wright*,

The President alone has the power to speak or listen as a representative of the nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it. As Marshall said in his great argument of March 7, 1800, in the House of Representatives, "The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations."

299 U.S. at 319 (emphasis and citation omitted).

Section 4(c)(4) of the bill indicates that the President may negotiate increases in the amount of textiles and textile products imported "from beneficiary countries under the Caribbean Basin Initiative," but only within certain statutorily prescribed limits. While Congress may impose outright restrictions upon the quantities of goods imported into the United States, it may not prevent the President from negotiating with foreign countries for objectives that he deems to be in the national interest.

Section 5(a)(1) authorizes the President to "enter into trade agreements with foreign countries or instrumentalities to grant new concessions as compensation, to the extent required under international trade agreements of the United States, for the import limits imposed [by the bill] to maintain the general level of reciprocal and mutually advantageous concessions under such agreements." Section 5(a)(3) directs the "[b]efore entering into any [such] trade agreement . . . the President shall consider whether such country of instrumentality has violated trade concessions of benefit to the United States and [whether] such violation has not been adequately offset by the action of the United States or by such country or instrumentality."

Congress may not require the President to consider factors such as these in the context of negotiations with foreign countries. Section 5(c) provides, *inter alia*, that "[e]xcept as provided in subsection (a) and notwithstanding any other provision of law, the President may not enter into trade negotiations with any foreign country or instrumentality with respect to duties on textiles and textile products and on nonrubber footwear." This is an outright restriction on the President's authority to negotiate with foreign powers.

Finally, one provision of S. 2411 impermissibly interferes with the President's authority to recommend to Congress legislation that he considers appropriate. In addition to restricting the President's negotiating authrity as discussed above, section 5(c) prohibits the President from proposing decreases in duties on textiles, textile products, and nonrubber footwear "by any means, including an implementing bill under section 151 of the Trade Act of 1974 (19 U.S.C. 2191)." Article II, section 3 of the Constitution provides that the President "shall from time to time . . . recommend to [Congress'] Consideration such Measures as he shall judge necessary and expedient." The restriction in section 5(c) on the President's ability to propose decreases in certain duties impinges upon his constitutional responsibility to recommend to Congress those measures that he determines to be "necessary and expedient."

The Office of Management and Budget has advised that it has no objection to the submission of this report to the Congress and that enactment of S. 2411 would not be in accord with the President's program.

Sincerely,

BRUCE C. NAVARRO,
Acting Assistant
Attorney General.

They claim it is unconstitutional. Under article I, section 8 of the U.S. Constitution, it did not say that the Congress "may," it said Congress "shall" regulate foreign commerce.

The only authority that the executive branch has in trade is what we delegate to it. This is a misreading. They said we took away the Presidents authority. Read the letter. And if somebody comes here later with it, I will show them where it is wrong. It is an embarrassment.

Who is this? Ambassador Hills. Ambassador Hills wanted this letter. It says the Office of Management and Budget advised that this letter was fine. So this is the administration position that the bill is unconstitutional.

Worse, the Trade Representatives, they leave office and join firms that represent our foreign competition. Eberly, Strauss, Brock, all of them are out working for firms representing the other side. Do you know what importers have? They have a $200 million warchest right this minute to sell GATT to Congress. You will find out what is going on. Free trade. Free trade. They have a $200 million kitty and they are already trying to sell GATT. Free trade, free trade.

The majority of the imports into this country are not from Germany, Japan or Korea; they are from the United States itself, from United States multinationals exporting back to the United States. The multinationals account for over 41 percent of imports to the United States. And the

only way that works is they are allowed to dump. So you have one grand conspiracy. The multinationals, to make it work, holler "free trade, free trade," and the banks that finance the multinationals, join the chorus, Chase and Citicorp, because they want their money back. They make most of their profits outside the United States.

They come in and holler "free trade, free trade" and then they trumpet it with the think tanks and the Trilateral Commission and all of those other groups spewing out the editorials.

Of course the retailers, they are getting higher profits. They chant free trade. The newspapers, 80 percent of their profits are from the retailers so they chant free trade. They all raise the specter of Smoot-Hawley, saying we are going to start a trade war. They do not tell you that Smoot-Hawley passed in 1930, 8 months after the crash in 1929. They do not tell you that Smoot-Hawley was responsible for the reciprocal trade agreements made in 1934, which spurred a boom in imports. They do not tell you that Smoot-Hawley only represented 1.5 percent of U.S. trade.

It is a bum rap. But who is going to look it up? Who is going to find out the truth about this so-called free trade singsong they have going? Nobody. Because everybody is making a fortune off of it. And we are the suckers here. We are telling U.S. industry to get off the golf course. They say, "United States, you have forgotten how to produce."

Nonsense. We are No. 1. We have the most productive industrial workers in the world. Look at this week's U.S. News and World Report.

But, more particularly, Japan is only No. 9. We keep selling ourselves down the river and do not understand that this is economic survival. This is not just jobs. Jobs are important, but we are really into the economic trade war. Our national security is at stake. We have moved from the cold war to the trade war now, and Government is the primary comparative advantage.

Yes, our Government has to get down the cost of capital. We need a broad based VAT, value-added tax, consumption tax, to get down the cost of capital so our American industry can compete.

Everybody is worried about Japanese investment in the United States. I think you have 90 Japanese plants in Tennessee alone. I do not blame you. Why are the Japanese buying CBS Records for $2 billion, yes, after we devalued the dollar by a half? In effect, they bought it for, instead of $2 billion, $1 billion. If the distinguished Senator from Arkansas purchased it, it would cost him $2 billion. And then do you know how they financed it? According to the Sony annual report, they financed the deal with 1.4 percent bonds unsecured. How do you like that kind of financing?

And we are running around here with laws adding on parental leave, plant closing notice, clean air, safe machinery, safe working place, and so on. Free market? When you enact a minimum wage, and I am for it, you have invaded the free market; you have said that anybody, regardless of skill or ability, is worth $3.45. Likewise, you have invaded the free market with Social Security, unemployment compensation.

Let me tell you where they do not pay. I visited in Pusan, Korea, a wonderful textile operation, employing thousands of young ladies. They were in rows of three. They had Bill Blass garments here and over here they had Liz Claiborne garments and over there they had another maker. It was all made in the same shop. They paid $1.30 an hour. They work 10 hours a day and 6 days a week but they only work between the ages of 18 and 22. They are there to get their dowry so they can go back to the village and get married.

Stoneswear in Greenville would be a comparable garment plant. I used to go in that particular plant and they had 3,300 women there. They are now down to 1,700. They have a machine to put a cuff on the shifts. They have another machine to put on a strip of buttons, another machine to put in the pockets, another machine to put on the collar.

Highly productive. But their average age is 52 years, not 18 and 20 with no health costs, no retirement costs, no pension costs, none of these unemployment costs.

I can do better. I had a friend come in from Thailand the other day. I have been to his plant in Thailand. He brought me a Nike jacket. It is a nice one, too. He has 40,000 employees in that plant. I did not say four. I want the RECORD to show 40,000. It is all modern machinery. This is the competition that you face. They are getting all the refugees coming out of Vietnam, Laos, Cambodia, and Thailand.

So they get $3 a day and four bowls of rice. I am not talking about slave labor, child labor, or anything. They are decent; they are clean; they are in smocks. I am proud of that image. That executive graduated from the Citadel, a wonderful college that teaches you to compete.

Well, that is what we are competing against. Let us keep up the standard of living. And standard of living is not just wages. It is all of these things that go into what you and I believe in, and require—clean air, safe workplace, unemployment insurance, you name it.

We are trying to get more money for health care. The distinguished Senator from Arkansas is a leader on health care issues. I hope in the conference we have this weekend we can decide on a plan to help the 34 million, 35 million Americans who have no health care coverage. For a modern, industrialized nation, we have to do better.

It is going to cost money. If you want to stand tall as a world power, you have to be able to produce glass, rubber, steel, textiles, rolling stock. You cannot deliver your wheat on an optic fiber. They keep telling us to be a service economy. But we have to have manufacturing. We have to produce. We have to have a diversified economy.

When I mention textiles, it is important now to our economic security, not just to our military security. I do not think the Red Army is coming. I think the East Europeans and Japanese traders are going to come. That is the real threat and challenge. I think the People's Republic of China with 1.3 billion people is going to clean our clock, because they are highly talented, highly productive.

We must demand a reciprocal trade policy. Market forces do operate. But government is the key. Now, the governments in East Europe are offering foreign businesses a tax holiday. The Senator from Arkansas would be better on that. He is working on the IRS. Maybe he can get us a tax holiday in America. That is what the East Europeans are doing to bring over the American industries to invest.

So we have to sober up and look at just exactly why this bill is up. It is not for a few textile jobs. It is certainly not for textile managers. I hate to say it to the other side of the aisle, but the textile executives are all Republican. I have not been able to sell Mondale and Dukakis to them in the last few years. They have all gone Republican. It it tough. It is getting tougher every day.

What is at stake is whether we have the programmed extinction of our textile industry through a failure to pass this bill overwhelmingly so we can get it down and approved by the President.

What we have now is not a level playing field. I have given up hope of a level playing field.

This bill guarantees the majority of our market to imports. It guarantees 60 percent. It guarantees 60 percent to the foreign manufacturer. It guarantees any growth in domestic consumption to the foreign manufacturer. More accurately, this is a desperation bill. This is not a smart trade bill. We have gotten past wisdom and common sense. This is just a cry of desperation that, for lord's sake, save the remnant of this industry because people are going to stop investing in it. They will lose all the jobs if this trend continues. By the year 2000 it will be gone. Then when the next war comes, we will have to go to battle in Japanese

uniforms and Gucci shoes. That is what they have in store for us. Wonderful, is not it?

Congress is so smart. All our great business leaders are up here. I wonder how many of them made a living in business?

Mr. HELMS. Will the Senator yield?

Mr. HOLLINGS. I am delighted to yield.

Mr. HELMS. I had a call the other day from a nice man in North Carolina who operates, manages one of the chain department stores. They called these fellows.

"You get off that textile." He said, "It will hurt." I said, "Whom will it hurt?" He said, "It will hurt ourselves, because we import a lot of this stuff."

I said, "You have such textiles right there in your city." He said, "Well, I know that, but it would still hurt us." He said, "It would hurt our sales." I said, "Suppose that textile mill flat goes out of business, which it probably will if we do not do something. Who is going to buy your stuff, wherever you get it?" He said, "I do not know about that."

Mr. HOLLINGS. I have spent 24 years trying to wake people up. I stood here with Norris Cotton from New Hampshire 24 years ago and we passed a bill. Our opponents put up the same smokescreen about unconstitutionality. I do not know how to get Senators' attention about what is going on.

I think the fall of the Berlin Wall is the best thing that ever happened because we really are beginning to understand that instead of the Russians coming, the Japanese are coming, that we have to build up our industrial backbone. We need, sure, a mini-Marshall Plan for East Europe. More importantly, we need a maxi-Marshall Plan for our United States. We can pay for it.

You take all the taxes, Senator: State, local, Federal, and everything else. We are at a 31-percent level in the United States of America. And Japan, they are 37 percent. In West Germany, they are 45 percent.

But the truth of the matter is that we are not paying for our profligacy directly; we are paying for it the other way. We are not even given the comfort now of saying it is the children and the grandchildren who will pick up the bill. We actually are foreclosing on today's investment. If you are in business, you cannot borrow to invest. The Reagan administration first said, "We will devalue the dollar instead of paying the bill." So they devalued the dollar. That has not worked.

So now they have come around and said, "For heaven's sake, tell the banks to cut back on the loans." That is not working, either. We still are going up, up, and away; interest costs on the national debt are up $27 billion this fiscal year. Interest will be up over $30 billion more next year. We will start a new spending program October 1 here in 4 months.

We will start a new spending program of $30 billion for nothing, for our profligacy, our extravagance, our stupidity. We act like we are getting by politically past election day. But not in the global market. No, siree. We have already put our business, banks, and everything else behind the eight ball.

I can go on, and I can tell you the Democrats had to force our distinguished President to say the word "tax." The only trouble is he does not understand the true realism, and he has to get out again to see it, out in the hinterland. Everybody thinks it is a political game between Democrats and Republicans and between Congress and the White House, and that is all that is going on, and we will have a little sin tax and maybe 10 cents here, and that would raise $10 billion. We will cut spending $10 billion and get $5 billion from the sin excise tax, and we still will not have caught up with just the increase in interest costs. We are in a spiral downward. We have to realize it. It is very, very serious, and we cannot play around.

I have been on the floor here at 1 o'clock in the morning arguing for a $1 billion job program for women and minorities, and we voted it. We were spending the public tax moneys to just create jobs. Now we have the jobs, and all we have to do, in reality, is say enforce this law. We can get it enforced if we globalize it. What is wrong with globalization? Nothing. That is exactly what the administration has on the table in Geneva right this minute. So, as they say, we table the proposal in Geneva. They cannot object to it. We say, let us hold the jobs. We lost 66,000 jobs last year, and this year we have closed down three dozen plants. I have read you the statistics. I have plenty more.

If we are ready to vote for final passage, I am prepared to have the roll called. I do not see any amendments, and I do not see any opposition. Maybe that will make them come out and start so we can all go home at a decent hour. I am not trying to filibuster, but I am trying to change the mood and atmosphere created.

Our Trade Representative, Carla Hills, I say to the distinguished chairman of the Finance Committee, had three people outside of the door at 9 o'clock the night before last buttonholing every Senator to oppose this bill. Yet, we have on the table in Geneva the same globalization. Why do they not get on over to Geneva and get on down to Houston and leave us alone? We will set the trade policy.

I studied my humility under Mendel Rivers. They do not need three people up there working on Senators and buttonholing them on what we reported out of the Finance Committee, what we have passed by 60-vote majorities here in the U.S. Senate 5 times over the past 20 years. There is nothing new about this. They ought to be carrying out our policy, and they know what it is. We are not trying to give Carla Hills some bargaining chip to wheel and deal with because textiles will not do the trick any more. It is not going to move agriculture in Europe; it is not going to move intellectual property and computers in South America. But when Carla Hills comes back from Geneva, she will describe GATT as a wonderful victory, the Uruguay round has been a wonderful success, like that silly structural impediments agreement with Japan. I saw all kinds of headlines. It was absolutely embarrassing. I wish somebody would question me on it, and we can debate it.

I yield the floor.

Mr. BENTSEN addressed the Chair.

Mr. HELMS. If the Senator will withhold, I have a few remarks.

Earlier, Mr. President, Senator HOLLINGS and I were talking about just one example, textile imports of the United States from Communist China. The chart behind me shows the increase in textile imports from Communist China since 1985. This is just one country we are talking about. In 1986 we imported 2.05 billion dollars' worth of textiles; $2.38 billion in 1987; $2.25 billion in 1988. Now look at 1989: We imported more than $3 billion in textile and apparel products from Communist China. I ask unanimous consent that the data from this chart, and the chart showing our trade deficit with China, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, this is a country that Senators who are opposed to this textile bill have condemned, properly, because of the Tiananmen Square tragedy, and yet they are obvious to the fact that it is against U.S. law, it is against the law, to import goods from this country if they have been made with forced labor.

The Senator from South Carolina was talking about how our domestic manufacturer don't have a level playing field. He is exactly right.

As for the U.S. Trade Representative, the distinguished and charming Ambassador Hills, we have been up and down the road trying to get a commitment that our negotiations will stand fast in Geneva for the global quota they have proposed. Frankly, the feedback that I am getting on that is not good. So at the risk of being repetitious to what has previously been said, let me get to the heart of the matter and I will not take long to do it.

Several of my distinguished colleagues have explained the compelling statistics of job losses, reduced profits, and so forth coming out of the domestic textile-apparel industry. The Senator from South Carolina is exactly right. All of that is important and demonstrates the overall problem, the demise of the textile industry. I am not kidding about this. If this Congress does not act, we will be confronting the destruction of one of the great industries of this country.

If you compare what any industry in the United States, and particularly the textile industry, has to do in terms of overhead and cost of production, with our competitors, you find that our competitors have a tremendous advantage. Yet we are willing to give them 60 percent of our market off the top with this bill. All industries in this country face strict wage and hour restrictions, clean water and clean air regulations, complex tax laws, and a host of other governmental mandates that push up the cost of production. Yet, through their efficiency and upgrading and modernizing constantly, the U.S. textile industry has maintained an ability to produce. We cannot match the cheap slave labor of Communist China; nobody can. But my hat is off to the American textile industry.

Let me give you an example of what I am talking about, Mr. President. My State, North Carolina, is a textile State, a leading textile State, and just for one example, North Carolina leads the Nation in the production of bath towels. It produces about $1.1 billion in annual sales to the domestic industry. Here comes Thailand. Thailand began exporting towels to the United States, and what did the administration do? They did nothing until the imports reached 14.5 million units, which is 3 percent of domestic production, 3 percent to one country, a brand new supplier who was not even in the picture previously. Only then did they begin to do a little something about limiting the imports of towels from Thailand. The United States-Thailand Textile Trade Agreement expired at the end of 1988. During 1989, the first year in which Thailand did not have a textile agreement with the United States, what do you think happened?

Imports into the United States from Thailand soared into the stratosphere, up to 37 percent. Under a global quota as proposed by the administration in the Uruguay round, this would have never happened. But there went Thailand with a 37-percent increase in 1 year.

I have a videotape in my office that I sometimes show to the doubting Thomases. This was made a few years ago by a British journalism team who visited textile plants in Thailand, it shows young girls—and I am talking about 12 and 13 years old—who work 12 to 15 hours a day, 7 days a week. They do not go to school. Many spend the night on the floor of the textile plants there. You compare that with the wages paid here in the United States in the textile industry and all of the other attendant costs of production.

In China, as I have mentioned previously, the conditions in textile plants are even worse. Since they seized power back in 1949, the Chinese Communists established a system of slave labor camps modeled on the old Soviet gulag concept. According to a study by the Senate Judiciary Committee, 25 million people had died in those camps by 1971. And surely many more have perished.

I have often related on this floor my relationship with Alexandr Solzhenitsyn, the Nobel Prize winning author who was locked up in a concentration camp because he dared to speak out for freedom. Alexandr Solzhenitsyn wrote the Gulag Archipelago and many other books, and I became a fan of his. Finally when he came to this country, he visited in my home.

But in any case, the prisoners in these camps are forced to work for practically nothing to produce the hard currency that Communist China needs for development.

The prisoners make textiles, they make garments, they grow grapes for wine, they mine salt, they mine coal, they produce steel, they produce glassware. You name it, they do it with slave labor. How do you compete? Leaving out the human rights aspects of it, how do you compete with a country like that?

It was also clear that our Government was aware of this situation in China, but was doing nothing about it. Nevertheless, under the current textile trading system, China has become the No. 1 supplier of textile goods to the United States. FRITZ HOLLINGS had it exactly right about the transshipment and all the other devices used by this country. That is the reason we imported the $3 billion in textile goods in 1989.

During the past 4 or 5 years both our trade deficit with China and our textile imports from China have increased significantly, as I have shown by these two charts. This means that jobs in our country are being sacrificed so that we can buy this slave-labor-produced assortment of goods from Red China.

I say with the utmost respect for friends who oppose this bill, that I cannot understand how they can talk about free trade when it really is totally unfair trade, unfair trade that up to now has been allowed by our Government, if not encouraged.

How can they even pretend that our domestic industry merits criticism for failing to compete. Oh, we compete. We can outproduce them. But we cannot outsell them as long as there is that price differential, thanks to the use of slave labor in Communist China and other countries.

I was a little bit surprised—and I will close with this—the other day when I read a statement by Mr. Akio Morita, who is the chairman of the Sony Corp. Let me read you what he said. He said:

> I am not a believer in the idea of a "post-industrial" society. For me the very essence of business, in fact the very foundation of a nation's economy, is manufacturing. Why? Because manufacturing creates. It takes resources and materials and by applying knowledge to them creates products.

That is what Senator HOLLINGS and others have been talking about here today. We are talking about standing idle, doing nothing while a great industry goes down the tube.

We talk about free trade. It reminds me of Lewis Carroll's "Through the Looking Glass." You remember what Humpty Dumpty said. He said, "when I use a word it means precisely what I intend it to mean, nothing more, nothing less." So when you hear all of our negotiators and all of our eloquent free traders talk about so-called free trade, maybe they are like Humpty Dumpty. They are using words that mean what they intend to mean, nothing more, nothing less.

But, the bottom line is that we have to decide, and we better decide right now, which way we are going. Are we going to kiss a major industry goodbye, and say sorry about that, stand aside and let this flood of foreign imports continue to come into this country?

Are we going to do that? Or are we going to maintain the capability to outproduce our competitors in terms of quantity and quality? Are we going to protect the jobs? Or are we going to sit back and say I do not care?

This Senator is one who does care. I wish there were Senators here on this floor who would be willing to debate the aspects of this. I agree with Senator HOLLINGS. I do not know where they are. I want to hear them come over here and talk about free trade. Then I want to have them explain why they are opposed to a bill, if they are so much in favor of free trade, that favors our competitors 60-40.

EXHIBIT 1

U.S. textile imports from Communist China

[In billions of dollars]

1986	2.05
1987	2.38
1988	2.25
1989	3.08

Source: International Trade Commission.

United States-Communist China trade balance

[In billions of dollars]

1985	−.369
1986	−2.1
1987	−3.4
1989	−6.2

Source: Department of Commerce.

Mr. HELMS. Mr. President, that is the question. I hope we can go ahead and vote on this bill tonight. If nobody has an amendment and nobody has anything further to say—have the yeas and nays been ordered on this bill?

The PRESIDING OFFICER (Mr. KOHL). They have not been ordered.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina [Mr. HOLLINGS.]

Mr. HOLLINGS. Mr. President, I really appreciate the Senator from North Carolina emphasizing the situation in the People's Republic of China.

As one addendum I went to a meeting some few years ago and had our good and outstanding Secretary of Commerce—and I am sure he was announcing the administration policy, but the announcement was that we will not enforce the subsidy law against nonmarket economies, nonmarket countries.

I know our distinguished Chair of our Finance Committee is vitally interested in Mexico, Central America, this hemisphere. And I get sort of boiled up with the big debates in Houston, TX, about how much money we are going to send Russia, or how much technology we are going to send Russia. I guess the best thing to do is to tell my Mexican friends to get themselves an atom bomb. They have one in China, so we pay attention. They have one in Russia, so we pay attention. But down in Mexico they do not have one, so we do not pay any attention to them. And they say when you bring in products from Mexico under the subsidy law we offset the amount of subsidized Pemex natural gas in the production of this particular product. We can offset that. But we cannot do it for Communist China.

I never heard of such a thing. And they are talking about they have a trade policy in this country and do we not have a good negotiator? We do not have a good trade policy set. We are supposed to set a policy, it is our duty. We have forgone it for years and it is time we wake up. Because here we do not even enforce the subsidy law which is easily determined.

I can go right across the border in Thailand and find out what the wages and everything else like that, in an equal situation, and determine the domestic costs and subsidies in the People's Republic of China. So it can easily be done.

Now I think that since we have more or less a good retailer friend, who is required to listen—I say that respectfully—I just sent down to the Polo Shop, Ralph Lauren, made in the U.S.A., a beautiful, 100 percent cotton, nice baby blue, with a baby pink horse with a polo player. They are coming on down. That is one thing they have. The price of that one is $45, made in the U.S.A.

Now this one is a Ralph Lauren, Polo by Ralph Lauren, 100 percent cotton. This is made in Singapore; $45. They are not cutting prices. I want everybody to know when we all leave here and go into retail business how to do it. We ought to learn something while we are up here serving in the Senate. That is $45. They have not lowered the price.

The argument that I have made constantly on the floor of the Senate here is that prices, if they pass this bill, will go up. They are already up. Here is a Polo by Ralph Lauren, 100 percent fine cotton, exclusive of trim, that is made in Hong Kong, $55.

This one is made in the United States—same thing, fine cotton, 100 percent, same size, $55. And this one is made in Hong Kong, $55. So I think I will try to get a printout so they will understand exactly how these prices equate. It is not just in shirts. It goes in everything.

Here we have a size 10, lady's dress shirt, made in Hong Kong, $36. This is is the very same Lord and Taylor, size 10, lady's dress shirt, single-needle tailoring and everything else of that kind, $26.99—$26.99 for the U.S.A. product; for Hong Kong, 36 bucks.

I will have those at the desk for the inspection by my colleagues. I want them to understand that we are living in the real world here and we are tired of hearing about these rumors that the industry puts out in their page ads of how we are wrecking the economy if this bill passes and consumer prices will go up and we will all lose our jobs. The truth of the matter is they have taken advantage of us right now. There is no competition. And as these different articles move out of the domestic production and imports takeover, prices go right through the ceiling.

I have cited ginghams, velvateen. I have been in corduroy, several others that have produced and companies that have gone out of business, even in the blue jeans.

I had Mr. Morris from Blue Bell in North Carolina. He worked with me diligently during the fifties and sixties and in the early seventies. When I started again on the bill he called me and said, "I am sorry I cannot be there for your textile bill and I cannot support it. I have had to move offshore."

He is gone. Others right this minute as we debate are looking at that. If they pass this and can get a policy out of this Government that saves the industry—guarantees a majority of the business to offshore production, to imports, not to domestic production, guarantees all the growth in this industry and the growth in domestic consumption to imports not the domestic market. We are just trying to hold on. And it cannot be held on. These are good enough business people to know and understand that they have to protect their investments, they have to protect their stockholders and they are on the move.

You can produce anything anywhere—electric subassemblies in downtown Singapore; A Fiat automobile factory in Algeria, another one in the Ivory Coast, semiconducters in Brazil; high technology in Mexico.

The only thing is as we talk about China, we are willing to send technology to Russia, but we will not send it right below us, here, where everyone is trying to escape up here; they cannot make a good enough living, where the immigration is 5,000 a week. So we come in to beat the immigration policies for weeks on end.

Let me yield to the distinguished leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I note the presence of the managers of the bill. I have been asked by a number of Senators what the schedule is going to be this afternoon and this evening.

It has been over 2 hours since we voted on the last amendment. I was told that there were amendments to be offered by Republican Senators and we have been trying to see if we could get someone who has an amendment and wants to offer an amendment to come forward and offer the amendment.

Mr. BENTSEN. I would say to the majority leader we have no amendments pending on this side.

Mr. PACKWOOD. I apologize. I have been in that budget summit with the Republicans.

I am told two of our Members do have amendments but they do not have them ready. One of them is in the Armed Services Committee and has been there all day long and will be through the night. In fact, both of them are on the Armed Services Committee. That is the problem. I do not know of any other amendments on this side. I do not know what to tell you, but I just got back on the floor. If you will give me about 10 or 15 minutes, I will see what I can find out. But we obviously do not have a lot of amendments.

Mr. MITCHELL. Is the Senator suggesting that there will be no amendments offered until the Armed Services Committee markup ends?

Mr. PACKWOOD. I will try to find out right now. I cannot tell you right now.

Mr. MITCHELL. A number of Senators are inquiring about what we are

doing and when we are going to do it. Obviously, we do not want to inconvenience any Senator who may have an amendment but at the same time we have the entire Senate waiting for them to come forward with their amendments.

Mr. PACKWOOD. Let me ask, what would be the pleasure of the majority leader? I know he would like to vote on this tonight and finish it. If these two cannot get over here, and we do it tomorrow, what do you want to do?

Mr. MITCHELL. I am afraid to ask what would a happen if we got to tomorrow morning and the Senators said it was not convenient for them to do it then.

Mr. PACKWOOD. Give me about 10 minutes to make some inquiries.

Mr. MITCHELL. If the Senator could do that, if we could at the very least get an agreement identifying and limiting the amendment, limiting the time and specifying it so that we are not left hanging indefinitely because a Senator says "I want to offer an amendment but it is not convenient for me to come and offer my amendment."

I would appreciate it very much if the distinguished manager could help in that regard.

Mr. PACKWOOD. I will help in this sense: I am prepared to enter into an agreement from my standpoint. I would have to put it on the hotline. I do not know if I would get objection limiting the time and trying to identify the amendments.

I might say if staff is listening in and they have an amendment, they should call in now and say "This is Senator Jones office and he will have an amendment." But I will be prepared to enter into some kind of agreement to make sure we get this done.

Mr. MITCHELL. I am very grateful to the Senator for that and I encourage that effort by all concerned.

Mr. PACKWOOD. I thank the majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, I will not speak for very long. Earlier in the debate this afternoon my friend from South Carolina, Senator HOLLINGS, referred to a letter from the Justice Department. It was addressed to the chairman of the Finance Committee, Senator BENTSEN of Texas, on June 21, 1990, making certain allegations about the constitutionality of this bill.

The reason I take the floor is not particularly because I support the bill, which I do, but because I think both the textile and the footwear provisions are important. I think the statistics set forth by the Senator from South Carolina and the Senator from North Carolina are quite on target. However, I would take the floor even if I were opposed to this bill because of a letter from the U.S. Department of Justice, which does not represent the kind of standards, and, quite frankly, legal conduct, that is worthy of that great department.

Senator HOLLINGS and I have had long dealings with the U.S. Department of Justice. On our Appropriations Subcommittee on Commerce, Justice, State and Judiciary which I have chaired and which he now chairs, we are responsible for funding that Department. In that capacity we deal with both the career people and the political people in the Department. I recognize that this would not be the first time the U.S. Department of Justice was used in what I would say is a political manner, in terms of rendering legal opinions. However, I do think there are certain lines that ought to be drawn and I would like to draw some of those lines here this afternoon.

By this statement, I do not criticize the young man who signed this letter, who is an acting Assistant Attorney General, and at the time, was acting in the position—and may still be—of the Office of Legislative Affairs.

It is my understanding, that this letter came out of the Office of Legal Counsel of the Department of Justice and thus had to be signed off by, I would assume, the Assistant Attorney General in charge of that department.

As one who was a State attorney general and asked to render opinions, I have to say that there are places in the law where people can reach different conclusions. However, I happen to believe that this particular opinion letter is a gross distortion of the law and the Constitution and, I am sorry to say, a misrepresentation of one of the cases cited.

That is a serious charge and I intend now to prove it. I do hope that Attorney General Thornburgh, a man of absolute integrity, for whom I have high regard would acknowledge this statement and realize that there is a point where his Department cannot be used for political purposes.

This letter is addressed to Chairman BENTSEN. It starts out and says the following: After an introductory paragraph, which indicates that it is in respect to S. 2411:

> Certain provisions of S. 2411 impinge upon the President's foreign affairs powers. The President has the authority under the Constitution to determine the form and manner in which the United States will maintain relations with foreign nations.

That, of course, is true.

See Haig versus Agee. That is true.

And then the letter cites United States versus Curtiss-Wright Export Corp., 1936, a famous case. And they go on to say:

> This includes the authority to negotiate agreements with foreign powers for objectives that the President deems desirable. As the Court explained in Curtiss-Wright * * * .

Of course they do not tell you this was not part of the opinion. This was dictum. Anybody who has gone to first year law school understands the difference between dictum and opinion. Dictum should be identified as such, even by the Department of Justice, or particularly by the Department of Justice. This is the quotation.

> * * * the President alone has the power to speak or listen as a representative of the nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates.

That is true.

> Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it. As Marshall said in his great argument of March 7, 1800, in the House of Representatives, "the President is the sole organ of the nation in its external relation, and its sole representative with foreign nations.

That statement, standing by itself, would seem to state the obvious to a first-year constitutional law student. What the writer of this opinion fails to inform the Senate of is the following: First that this was dictum contained within the opinion; but second, and more importantly, the case of Curtiss-Wright versus United States was brought against the President of the United States for actions he took as authorized by the Congress of the United States in trade legislation.

Obviously, by leaving that out, the department really puts its credibility into question. It gets worse from there.

The letter goes on to say:

> Section 4(c)(4) of the bill indicates that the President may negotiate increases in the amount of textiles and textile products imported "from beneficiary countries under the Caribbean Basin Initiative," but only within certain statutorily prescribed limits. While Congress may impose outright restrictions upon the quantities of goods imported into the United States, it may not prevent the President from negotiating with foreign countries for objectives that he deems to be in the national interest.

That is a misstatement of section 4(c)(4) and a total lack of attention to the Constitution of the United States. I would like to see the Justice Department write and tell us that the Congress of the United States cannot pass legislation signed by the President or over his veto and enacted into law, that cannot absolutely advise him of the parameters of his negotiations as they relate to trade issues.

Why is that? That is because article I, section 8 of U.S. Constitution, says the following:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the Credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; * * *

Nowhere in the authorities of the President of the United States in the U.S. Constitution is there reference to trade. The assertion in this letter would be as sensible as if the Office of Legal Counsel of the U.S. Department of Justice were to send a letter to the Appropriations Committee and tell us that the President, because he is the Commander in Chief, and acting in the national interest, is now going to appropriate money to spend because the Congress has not appropriated enough. It would be as absurd.

This statement in the letter of the Department of Justice totally ignores the underlying constitutional facts.

The letter goes on:

Section 5(a)(1) authorizes the President to "enter into trade agreements with foreign countries or instrumentalities to grant new concessions as compensation, to the extent required under international trade agreements of the United States, for the import limits imposed [by the bill] to maintain the general level of reciprocal and mutually advantageous concessions under such agreements." Section 5(a)(3) directs that "[b]efore entering into any [such] trade agreement . . . the President shall consider whether such country of instrumentality has violated trade concessions of benefit to the United States and [whether] such violation has not been adequately offset by the action of the United States or by such country or instrumentality."

Here is the opinion:

Congress may not require the President to consider factors such as these in the context of negotiations with foreign countries. Section 5(c) provides, *inter alia*, that "[e]xcept as provided in subsection (a) and notwithstanding any other provision of law, the President may not enter into trade negotiations with any foreign country or instrumentality with respect to duties on textiles and textile products and on nonrubber footwear." This is an outright restriction on the President's authority to negotiate with foreign powers.

That, Mr. President, is one of the most absurd legal statements I have ever seen come out of the Justice Department. And, I must say, I have seen some rather absurd statements. If you were to take this on its face, it means the President, in spite or in definance of the Constitution, may negotiate trade agreements.

What they are really saying here is that we cannot preclude the President from negotiating with anybody on anything, but what we can do is prevent him from concluding those negotiations. If the Congress of the United States under its constitutionally derived power says the President may not negotiate on these issues, and that becomes the law of the land, there is no constitutional question of Presidential authority.

This Republic was founded on the principal that it is the Congress that sets the trade law of this country, and the President who negotiates it.

Finally, this is probably the most outrageous reference in this letter. It is not only outrageous, it is deceptive, misleading, and frankly, not worthy of the U.S. Department of Justice. I would guess that the writer assumed that we, the Congress, either (A) did not have the United States Code or, (B) could not read it, or (C) if we did read it, could not understand it. I want to read to you what they said.

I make this point not just because of this bill, but in general, this is a practice the Attorney General ought to take notice of and stop forthwith. This is what they wrote:

Finally, one provision of S. 2411 impermissibly interferes with the President's authority to recommend to Congress legislation that he considers appropriate. In addition to restricting the President's negotiating authority as discussed above, section 5(c) prohibits the President from proposing decreases in duties on textiles, textile products, and nonrubber footwear "by any means, including an implementing bill under section 151 of the Trade Act of 1974 * * *

They did not tell you what section 151 was. I was not sure myself what it was because on first reading, it appeared to make sense. We cannot prevent the President from sending up any kind of legislation he wishes to send up. Under the Constitution, he has that specific right. But that is not what this bill does.

I read section 151, 19 U.S.C. 2191. 19 U.S.C. 2191, happens to be an expedited procedure section set by the Congress. In this section the Congress says to the President that if you submit under this section, we will waive all of our normal rules, all of our waiting periods, all of our procedure and give you expedited procedure. What the Congress can give, the Congress can take away.

All this bill does is to say that this provision of expedited procedure is not available to the President under this bill. The Justice Department misinterpreted this provision by stating that the bill is therefore unconstitutional because we are impinging on the President's power under article 2, section 3, to recommend to Congress those measures he determines necessary and expedient.

That, Mr. President, is about as disingenuous as you can get.

Let me conclude by saying that for those Members who normally pay attention to opinions of the U.S. Department of Justice, this opinion is worth less than the paper it is printed on. It is disingenuous! It is deceptive! It is misleading! It misstates the law; and, if I were in a coffee shop in New Hampshire, I would use a more descriptive phrase to describe what this piece of paper amounts to.

The print in the book that I now hold in my hand is worth more than the paper it is printed on. It is the U.S. Constitution.

I will end where I began. It says in this article I, section 8, that the Congress has the power "to regulate commerce with foreign nations", et cetera. Congress has always had that power and it will probably always have that power. For the Department of Justice to attempt to influence the outcome of this legislation by sending up a letter such as this is unworthy of that great department.

I yield the floor.

Mr. HELMS. Before the Senator yields, will he yield to me?

Mr. RUDMAN. I will be happy to.

Mr. HELMS. The Senator is exactly right. Senator HOLLINGS alluded to the very same thing dating back to Henry Clay. And talk about the President's powers, let me talk about the Senate's powers. They can come to any agreement they want to with that thing called the Uruguay Round, but it will go nowhere if it does not go through the U.S. Senate.

Mr. RUDMAN. The Senator is precisely correct.

Mr. HELMS. I serve notice if mayhem is conducted on this bill, that there will be no Uruguay Round as long as I can stand on my feet on this Senate floor. I thank the Senator.

Mr. RUDMAN. I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). Who seeks recognition?

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from New Hampshire. I know he has really answered my misgivings in a more erudite fashion. He prepared various arguments. I have one of them I am bound to cite from John J. Park of North Carolina. Let me cite it. When I came to the practice of law, he was the dean and chief judge of the circuit court. From *United States* v. *Guy W. Capps*, 204 Fed 2d 655, I will read one line: "Imports from a foreign country are foreign commerce subject to regulation, so far as this country is concerned, by Congress alone."

That has been formative in customs law and regular trade law cited over the past 25 years and, of course, affirmed by our Supreme Court. But the distinguished Senator from New Hampshire has really done us all a favor to go to the trouble to research this matter and bring it into perspective with respect to our position. I have never seen a bill pass unanimously, certainly not a textile bill, but I have learned from debate with my distinguished colleague, the Senator from Oregon, who is the manager on the other side. He is quite a trade

lawyer, and I have learned from him and from others. But when they get down to having the Attorney General file an unconstitutionality opinion on legislation of this kind, that, too, is embarrassing. And then, of course, as to the Trade Representative's office, I never knew we had that much money in the budget. I thought we had austerity in all these budgets, and we were negotiating with foreigners and not negotiating with the U.S. Senators at 9 o'clock at night with teams out by the elevator tackling you where you cannot even come to and from the floor or go home at night, grabbing you by the collar and buttonholing you outside.

So I think we found some economies in that particular kind of budget, but I think it highly improper that we are going to find out the executive department is going to start coming down here and buttonholing all of us. It will be total chaos, and we know that.

But the Senator has handled it in, frankly, a more dignified and erudite fashion than this Senator perhaps. He has done all of us a favor. I hope the Attorney General will take notice.

I yield the floor.

Mr. DANFORTH. Mr. President, I rise today in opposition to H.R. 4328, the Textile, Apparel, and Footwear Trade Act of 1990. This bill is an ill-conceived attempt to protect some at the expense of many and deserves to be defeated once and for all.

The important issue here is not whether we should protect the American textile industry. Indeed, few can deny that the industry has been severely challenged in recent years by low-priced imports. The real issue is whether the protection should be provided through a negotiated system of import restraints and effective enforcement of our trade laws, or through unilateral congressional imposition of quotas that violate our trade agreements and threaten the livelihood of Americans whose jobs depend on exports.

The textile and apparel industry is and will continue to be one of the most heavily protected industries in the United States. In addition to tariffs which are five times higher on average than those for other manufacturing sectors, the textile and apparel industry has long enjoyed an extensive web of negotiated protection. The industry has enjoyed increasingly restrictive quota protection for more than 25 years. In 1986, the Multifiber Arrangement [MFA] was renewed for 5 years and extended to products not covered by previous agreements. This international agreement is complemented by 38 bilateral agreements with our supplier nations. In the case of our largest suppliers, these accords include strict ceilings on the average annual growth in imports. Overall, about 75 percent of our textile and apparel imports are controlled by quotas.

I have always supported the MFA and have, at the request of the industry, written to the administration on numerous occasions to encourage both a firm negotiating stance during renegotiation of our bilateral agreements and strict enforcement of laws against unfairly subsidized textile and apparel imports.

Still, the industry believes it needs more protection. So be it. But a quota bill such as this is not the right way to secure that protection. While this latest version of the textile bill is somewhat changed from the previous version considered by Congress in 1988, it remains fundamentally flawed in several ways. Its adoption could have devastating consequences on a number of fronts.

The bill would lay waste to our negotiated commitments. It would violate the MFA by unilaterally imposing global restrictions on all products, and would force the abrogation of our bilateral agreements. In addition, it would violate the GATT escape clause by effectively granting permanent protection to a vast array of products.

Enactment of the textile bill would also damage our credibility in the Uruguay Round of Multilateral Trade Negotiations currently underway in Geneva, and it would seriously undercut our efforts to secure a more fair and open trading system for American exports.

H.R. 4328 does provide for some compensation to our trading partners in exchange for the establishment of the quotas. But this provision would barely offset a fraction of the bill's impact on our trading partners, many of whom have stated clearly that they would retaliate if the bill were enacted. Retaliation would likely be directed at competitive American exports such as farm commodities, chemicals, aircraft and other machinery. This would have a devastating impact on my State, where one out of nine manufacturing jobs and one-third of total farm income depend on exports.

In an attempt to respond to concerns about possible retaliation against U.S. agricultural exports, proponents of the bill included a provision that would require the Department of Commerce to give preferential textile quota shares to countries that increase their purchases of American farm products. This measure is billed as an incentive—in the form of an expanded textile quota—to buy more American agricultural commodities. But I do not believe that this proposal would achieve what it is supposedly designed to do. Instead, it is more likely to result in retaliation from those countries that will necessarily face quota cutbacks in order to offset increased quota shares awarded to others. Even those countries that might gain from enhanced quota levels would still likely receive shares below the levels entitled to them under existing agreements.

The textile bill is also a revenue loser. To offset this fact, the legislation includes a provision to establish a pilot quota auctioning program during the 1991 calendar year. The President already has the authority under current law to establish a quote auction program if he deems it appropriate. Mandating this type of arrangement, even on a trial basis, would be unwise for several reasons. Its execution would be bureaucratic nightmare, and it could result in predatory practices, excessive market concentration, and chaotic shifts in supply.

Finally, the textile bill would carry a hefty price tag for American consumers. In 1988, the President's Council of Economic Advisers estimated that textile legislation very similar to the present bill would raise consumer costs between $25 and $37 billion over a 5-year period. The burden of these increased costs would be especially heavy on low- and middle-income consumers.

I am especially sorry to see that the domestic footwear industry decided to hitch its wagon to this ill-fated legislation. No one knows better than I do that the dramatic increase of footwear imports in recent years has had a devastating impact on domestic production and employment in this important sector. I have watched footwear-related employment in my State decline precipitously—dropping 25 percent between 1980 and 1986 alone—while imports have grown to capture more than 80 percent of domestic market share.

I have long been at the forefront of efforts to help the footwear industry regain its ability to compete with foreign suppliers. In 1984, the domestic shoe industry sought relief under section 201 of the Trade Act of 1974. When their request was turned down by the International Trade Commission [ITC], I succeeded in changing the law—by liberalizing the rules under which injury from imports is determined—to give the industry another chance. The case was refiled at the beginning of 1985, and the ITC subsequently issued a unanimous finding in favor of the industry and recommended that the President grant the industry import quotas for 5 years. I testified before the ITC on behalf of the shoe industry twice. Unfortunately, in the summer of 1985, the President rejected the ITC's recommendation. This decision had devastating implications: It told our domestic industries that playing by the rules wasn't worth it anymore. The shoe industry followed the basic legal remedies available through our trade laws, doggedly

pursued a very compelling case—and still came up short. This decision essentially gutted section 201, thereby destroying the only effective mechanism Congress had for deflecting protectionist pressure from politically powerful sectors.

As a result of this misguided decision, revitalizing section 201 became a top priority in our efforts on the 1988 Trade Act. I believe that in this regard, we have succeeded handsomely. The 1988 Trade Act emphasizes positive adjustment to changed competitive circumstances and increases the likelihood that the President will provide temporary relief to those industries and workers truly in need. Under the statute, domestic industries seeking relief from imports are required to show serious injury and demonstrate that they would become competitive if relief were granted. If the ITC agrees with the industry's case, the President will be required to take all appropriate and feasible action—in the form of trade or adjustment measures—that would facilitate this adjustment, unless he determines that the costs would outweight the economic and social benefits of relief. The compromise on section 201 carefully balances a stronger certainty of relief with greater Presidential discretion to determine the form of relief.

The textile bill is protectionism at its worst. It runs directly counter to the concept of reciprocity which we overwhelmingly endorsed in the 1988 Trade Act. That legislation emphasizes enforcement of our trade agreements. But the textile bill would have us violate those agreements. Thanks to the 1988 Trade Act, we have a revitalized section 201 process and stronger antidumping and countervailing laws on the books. But the textile bill ignores the existence of these important laws. The textile bill ignores the existence of these important laws. The textile bill would impose excessive costs on many—in the form of lost exports, lost jobs in export sectors, exorbitant consumer costs and lost opportunities to create a more open international trading system—for the sake of protecting a few.

Congress has an important role to play in strengthening U.S. trade policy, and I believe we exercised that right responsibly when we finally adopted the 1988 Trade Act. Adoption of an ill-conceived, protectionist textile bill would completely undermine our efforts to create a coherent, aggressive trade policy based on reciprocity.

Mr. SHELBY. Mr. President, I rise today in support of H.R. 4328, the Textile, Apparel, and Footwear Trade Act of 1990. I supported a similar bill in September 1988 that passed the Senate. Data then and now indicate that the continuing flow of textile and apparel imports into the United States from cheaper-labor foreign competitors will result in plant closings and layoffs. The American Textile Manufacturers Institute [ATMI] estimates that 46 textile and apparel factories have closed or experienced significant layoffs attributed in part to competition from imports.

The textile bill would establish quotas for textiles and related products, based on the level of imports in each category for the previous year. The bill would allow each quota to grow by 1 percent a year.

Data prepared by the U.S. Department of Commerce indicate that there is real cause for concern. For example, statistics released in late June indicate that:

The U.S. textile industry lost $47 million during the first quarter of this year;

The textile and apparel trade deficit grew by 7 percent in April to $1.57 billion—this was 7 percent greater than the April 1989 deficit of $1.47 billion;

Textile and apparel imports were up 11.1 percent for the month of April to $2.2 billion; and

Imports of textile and apparel were up 11.2 percent for the year to date to $9.8 billion.

The Textile, Apparel, and Footwear Trade Act would contribute to a substantial reduction in the U.S. trade imbalance and provide a safe harbor for important industries to make further strides in their efforts to compete more effectively. Equally important, this bill will protect American jobs whose loss would have a devastating impact on the economies of many States including my own State of Alabama.

In Alabama, the textile and apparel industry is the largest employer in the State; 38,900 Alabamians work in the textile industry; 56,700 Alabamians work in the apparel industry; and 5,229 Alabamians work in the cotton industry.

When we add all of these components of the textile industry together, we find that there are over 100,000 Alabamians employed in the textile industry—a $1.4 billion industry in my State.

The textile and apparel industry is the only area of manufacturing that is represented in every county of my State. Everything from synthetic fiber and yarn to dresses and suits is manufactured in the textile and apparel plants in Alabama.

Unfortunately, because of the vast quantities of imports of textiles and apparels, the textile industry in Alabama and throughout the country is at risk.

Between 1980 and 1986, Albama lost 17,023 jobs due to plant closings and layoffs. Last year, Alabama gained 2,000 jobs in textiles, but lost 900 in apparel.

Since 1980, 400,000 textile and apparel jobs have been lost throughout the country.

And, 750,000 job opportunities have been lost.

I believe in free trade like most Americans. But I also believe that American industries should have a level playing field on which to compete.

Many textile companies have invested millions of dollars to modernize their factories only to discover that they are still unable to compete with companies in countries where workers are not paid a decent wage. And, in some instances, are paid as little as 16 cents per hour. Also, these countries have few laws, if any, governing workplace safety, child labor, or clean water and air.

I am encouraged that our companies are working to modernize and improve themselves despite the threat of injury due to low wage and subsidized imports. We, in the Congress, must take effective steps to prevent our companies from being placed in a no-win situation—we cannot allow our textile industry to be overwhelmed by import competition.

The textile and apparel contribute so much to the economic vitality of many communities across the Nation. For instance:

Two million Americans are employed by the textile and apparel industries with an annual payroll of $25 billion;

Textile industries are among the largest employers of women and minorities in the United States;

Textile industries have a greater work force than the steel and auto industries combined; and

Textile industries contribute $46 billion to the U.S. gross national product.

Every 100 jobs in the textile industry, create 67 other jobs; 45 in wholesale and retail trade businesses, 7 in transportation, 3 in financial services, 3 in construction, 3 in repair, 3 in public administration, and 3 in miscellaneous services.

Passage of the textile bill has great significance. Without this legislation, industries vital to the economic health of many American communities will face serious economic harm because the rules of competition are not the same for all players.

We have an opportunity with H.R. 4328 to do something about these rules and to save American jobs. I urge that we move quickly to enact the textile bill.

I yield back the balance of my time.

Mr. SIMON. Mr. President, I strongly support the bill before us, the Textile, Apparel, and Footwear Trade Act of 1990. This bill has been carefully crafted by the Senate Finance Committee to protect the interest of American workers and American manufac-

turing while giving the President flexibility in applying quotas.

Over the past 10 years, the U.S. textile and apparel industry has made strides to modernize and become more efficient. In my home State of Illinois, the results of these efforts to modernize meant the closing of a number of small apparel and show factories and the loss of several thousand jobs during the late 1970's and early 1980's. These efforts and sacrifices were made because those involved honestly believed if they made a good faith effort, their government would make similar efforts to maintain a healthy and productive textile industry. But that has not happened.

Those efforts by workers and management have been neutralized by an increasing volume of imports. We are one of the few countries to allow imports to flood our market at the expense of important struggling domestic industries, and I think that in the cases of textiles, footwear, and apparel, we ought to step in on the side of those remaining communities and families that depend on these industries. I might also add that these industries employ a disproportionate number of women and minorities, and it is these groups, lower on the economic ladder, that traditionally take the first hit when we have this type of industrial decline.

Mr. President, we can not turn our back on American manufacturing if we expect to maintain a rising standard of living for all Americans. An $11 an hour manufacturing job cannot be easily replaced in the service sector economy. And if we keep in mind that 1 in every 11 manufacturing jobs in this country is in the fiber, textile, and apparel industries, 2.1 million jobs, the importance of this legislation is clear. I urge my colleagues to come down on the side of millions of workers whose livelihoods are potentially at stake, and support this bill.

Mr. HEFLIN. Mr. President, many times I have come to the floor in support of textile legislation. Twice since I came to the Senate in 1979 have the Senate and the House of Representatives passed textile legislation, only to have those bills vetoed. But we come to the floor this year with more support and more need for this legislation than ever before. I implore my colleagues to pass this legislation by an overwhelming margin and I urge the President to sign this bill into law before this session of Congress adjourns.

Already this year, approximately 45 textile and apparel plants have been shut down due to the flood of imported textile and apparel goods into the United States. Five of these plants have been in the State of Alabama. When the Vanity Fair Corp. closed its doors in Guntersville, AL, 450 people were left without work. Four hundred and fifty people, Mr. President, may not sound like a lot of people to some but in Guntersville, AL, that is more than 16 percent of the population.

Elsewhere in Alabama the figures are equally as bad or worse. In Andalusia, AL, 34 percent of the city's population lost their jobs when the Cluett Peabody apparel mill closed earlier this year. That company was also forced to close their mill in Montgomery, AL, leaving 70 people unemployed. And in Guin, AL, and Hamilton, AL, apparel mill closings this year have already resulted in a loss of jobs for 24 percent and 16 percent of the population, respectively.

And yet we wonder why so many people leave the cities and towns that are the backbone of this country, why they move to urban centers, why our rural communities are eroding. It is very clear to me why our small towns are disintegrating—because imports continue to rise and factories continue to go offshore where workers are paid only a fraction of what American workers make. In 1988, for example, a textile worker in the United States made approximately $9.31 an hour while his or her Korean counterpart was paid only $2.05 an hour. That same worker made $2.49 in Hong Kong, $2.62 in Thailand and, if you can believe it, only 27 cents in China. Is there any doubt why our rural communities are eroding, why our manufacturing base is weakening, why our trade deficit is rising?

Mr. President, there is simply no way that we can expect our manufacturers to compete with this type of situation. We must come to the rescue of this industry—to the rescue of the 2.1 million Americans who earn their livings, feed their families and send their children to school by working in fiber, textile and apparel mills across our country. These individuals account for 1 out of every 11 people working in our Nation's manufacturing sector—more than in the paper, petroleum refining, primary metals or automobile industries.

This bill will protect their jobs by establishing global quotas for each category of textiles and textile products, based on imports from the previous year. It will allow for a reasonable growth in imports, a growth of 1 percent per year, an amount consistent with historic growth in the domestic market. Furthermore, the bill will control these imports fairly. It will not interfere with the free trade agreements we have negotiated with Canada and Israel nor will it reduce the imports which we have agreed to accept from the Caribbean Basin. Additionally, the bill authorizes the President to negotiate reductions in U.S. tariffs on textile, apparel and footwear imports as compensation for those countries adversely affected by the import quotas. In short, the bill will prevent the further dramatic erosion of our market without violating any of our international agreements.

Mr. President, at a time when we are asking our industries to make our country a better place to live, and work, by providing higher wages and more benefits to their workers, by spending millions more on environmental controls, and by upgrading safety at their facilities, we should not send their jobs to countries where the only advantage they have over us is that they pay their workers low wages, have virtually no environmental controls, and that their working conditions are so unsafe that they would be considered unlawful in our country.

If we are to be responsible lawmakers, we must pass this bill by a veto-proof margin, and urge the President to sign it into law this year.

Thank you, Mr. President.

Mr. PACKWOOD. Mr. President, in a moment I am going to offer an amendment, and I am going to suggest a 10-minute time, 5 minutes on a side. I will read the amendment:

The provisions of this Act shall not apply if the President determines they violate U.S. international obligations.

AMENDMENT NO. 2123

(Purpose: To provide the President discretion if he determines the bill violates U.S. international obligations)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment numbered 2123.

At the appropriate place, insert the following new section:

SEC. . PRESIDENTIAL DISCRETION.

The provisions of this Act shall not apply if the President determines they violate U.S. international obligations.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that there be a time limit of 10 minutes, 5 minutes to a side.

Mr. HOLLINGS. Mr. President, I want to join in that agreement. I talked with the distinguished Senator from Oregon. I will move, after the 5 minutes to the side, to table. If not tabled, I am looking at an extensive brief.

This issue was drawn by our colleague from Texas, Senator GRAMM, that it violated GATT. No. 1, looking at the wording of this particular amendment I note that the President determines. That could be a political determination. I hope we would not go along with that. I hope it would be tabled. But I can sure make an argument under GATT and provisions of article 19 of GATT, which I could not make in 5 minutes, and I would expect to make if I did not succeed on the

motion to table. I have that misgiving. I do not want to mislead. I will make that agreement if the distinguished manager of the bill wants to.

Mr. PRYOR. Mr. President, reserving the right to object, I would like to make one inquiry about the unanimous-consent request. I am wondering if the Senator from Oregon would add to that request that no second-degree amendments would be in order.

Mr. PACKWOOD. I so amend the request.

Mr. HOLLINGS. Does the request state this is just a motion, 5 minutes to a side prior to the motion to table?

Mr. PACKWOOD. I will amend the request to include the motion to table at the end of 10 minutes and no second-degree amendments.

Mr. PRYOR. There will be no second-degree amendments.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Oregon?

Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, under current law the United States is saying no to the General Agreement on Tariffs and Trade, the Multifiber Arrangement which we call MFA and over 38 bilateral agreements restraining textiles and apparel imports into the United States.

However, the President has no authority to avoid the effect of statutes that violate those international treaties, and we do it frequently. We pass the statute and say the heck with the treaty.

The Senate bill itself that we are now considering would impose quotas on textiles, apparels, and footwear without regard to U.S. international obligations. Therefore, my amendment provides that the provisions of this bill would not apply if the President determines that they violate U.S. international obligations.

D. HOW THE BILL VIOLATES GATT

1. GATT Article XIX (sometimes called the "Escape Clause") provides the basis on which countries may restrict imports that are *not* unfairly traded. Article XIX stipulates that:

a. there be a supportable finding that a product is being imported in such increased quantities as to cause or threaten serious injury to domestic producers;

b. the injury finding must be with respect to imports of "like or directly competitive" product; and

c. the relief may not exceed, in degree or duration, the amount necessary to remedy the injury.

2. The bill violates each of Article XIX's stipulations:

a. Although the bill includes a conclusory statement that Congress finds the requisite injury to the domestic industry, there has been no investigation and factual findings of the type normally done by the International Trade Commission under Section 201—the proper statutory route for obtaining relief against fairly traded imports.

b. The bill's conclusory findings of injury is with respect to practically all textile, apparel, and footwear products at once. GATT (and Section 201) require an injury finding with respect to individual, directly competitive products. Many products that would be subject to quota under the bill (such as some man-made fibers) have import penetration of less than 5%; and injury finding for such products is not justifiable.

c. The bill has no mechanism for adjusting the amount of relief to correspond to the injury. Moreover, unlike Section 201, the bill sets no termination point for relief; unless there is intervening congressional action, the quotas will persist indefinitely, regardless of the condition of the industry.

3. Article XIX grants a country whose imports are restricted the right to insist on full compensation or to retaliate in equal measure. The bill gives the President compensation authority that is entirely inadequate.

a. The bill would permit the President to compensate affected countries through a maximum reduction in tariffs of only 10 percent (i.e., a 50% tariff could be reduced only to 45%), phased in over 5 years.

b. since the bill's compensation authority is inadequate, retaliation is almost a certainty. A few countries (such as the European Community) have already announced that they will retaliate.

E. VIOLATION OF THE MFA AND BILATERAL AGREEMENTS

1. The Multifiber Arrangement (MFA) provides the framework under which worldwide trade in textiles and apparel is restricted. There are over 50 signatories to the MFA, which was re-negotiated for the fourth time in 1986.

2. The MFA is essentially a derogation from the normal GATT rules about import restraints that reflect a balancing of interest among textile importing and exporting nations. (Exporting nations would say that the balance strongly favors the importing nations.) The trade-off: Importing nations get the right to restrain imports of textiles *without* the Article XIX requirements of proving serious injury and paying compensation. Exporting nations get the right to participate in negotiations concerning the level of restraints, on a product-specific basis.

3. Specifically, the MFA requires that:

a. quotas be imposed only on the basis of an item- and country-specific finding of market disruption; and

b. unilateral import restraints may be imposed only if bilateral agreement has been attempted and has proved impossible.

4. Under the auspices of the MFA, the U.S. has negotiated 38 bilateral textile restraint agreements with textile exporting nations. Each sets specific limits on specific products. The quotas mandated by the textile bill would violate most if not all of the restraint levels set in the bilateral agreements.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. HOLLINGS].

Mr. HOLLINGS. Mr. President, with respect to article 19 of GATT, it provides that as a result of unforeseen developments and the effect of the obligations incurred by a contracting party under this agreement, including tariff concessions or any product that is being imported into the territorial like of the contracting party in such increased quantities and under such conditions to cause a threat and serious injury, the domestic producers in that territorial like or directly competitive products, the contract parties shall be free with respect to such products, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or withdraw or modify the concesssion.

With that opinion, Mr. President, and bolstered also by Prof. John Jackson, United States expert on GATT in his book, "World Trade and the Law of GATT" and the practice there, it is absolutely clear. We checked it at every particular point with the Congressional Research Service and all other opinions. There was not any use to start.

The Senator from Texas raised the point, and it has been made crystal clear. I hate to see an amendment that says the other lawyer for the other side makes the decision. In a sense, what we are saying, if the President sees that—and I see the President's people going to the extreme of finding unconstitutional the U.S. Congress acting under article 1, section 8, to regulate foreign commerce—if they can go to that extreme, then heavens above, they will go to any other extreme.

On that basis, just for the point of making a motion to table, I yield back the remainder of my time.

Mr. PACKWOOD. I am prepared to yield back the remainder of the time on this side.

Mr. HOLLINGS. I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina to lay on the table the amendment of the Senator from Oregon. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. MCCLURE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—69

Adams	Burdick	Dodd
Akaka	Byrd	Dole
Baucus	Cochran	Domenici
Bentsen	Cohen	Exon
Biden	Conrad	Ford
Boren	D'Amato	Fowler
Breaux	Daschle	Garn
Bryan	DeConcini	Glenn
Bumpers	Dixon	Gore

Harkin	Lautenberg	Riegle
Hatch	Leahy	Robb
Heflin	Levin	Rockefeller
Heinz	Lieberman	Roth
Helms	Lott	Rudman
Hollings	McConnell	Sanford
Humphrey	Metzenbaum	Sarbanes
Inouye	Mikulski	Sasser
Jeffords	Mitchell	Shelby
Johnston	Moynihan	Simon
Kasten	Nunn	Specter
Kennedy	Pell	Stevens
Kerry	Pryor	Thurmond
Kohl	Reid	Warner

NAYS—30

Armstrong	Durenberger	McCain
Bingaman	Gorton	Murkowski
Bond	Graham	Nickles
Boschwitz	Gramm	Packwood
Bradley	Grassley	Pressler
Burns	Hatfield	Simpson
Chafee	Kassebaum	Symms
Coats	Kerrey	Wallop
Cranston	Lugar	Wilson
Danforth	Mack	Wirth

NOT VOTING—1

McClure

So, the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oregon [Mr. PACKWOOD] is recognized.

Mr. PACKWOOD. Mr. President, I have a list of amendments. I will talk to the majority leader later.

The PRESIDING OFFICER. If the Senator will suspend; the Senate is not in order. Senators will carry their conversations to the outer chamber.

The Senator from Oregon [Mr. PACKWOOD] is recognized and entitled to the floor.

Mr. PACKWOOD. Mr. President, much as I would like to accommodate the majority leader, I cannot get an agreement on time limits on all the amendments, but I can get agreement, I think, on a list I have. Here is the list I have.

Amendment by Senator GRAMM on the impact of the bill on low- and middle-class Americans;

GRAMM on agriculture;

GRAMM on consumer impact;

GRAMM on Mexico;

GRAMM on promoting free enterprise;

Senator WILSON on the cost on consumers of imposing textile quotas;

Senator WILSON, effective date re textile quotas;

Senator GORTON, sense-of-the-Senate substitute, and that is the substitute for the entire bill, and on that he would like 1½ hours equally divided; and he has one on aircraft. My guess would be if we started on his 1½ hours. Whether all these others will be offered or not I do not know. I cannot get time agreements on them.

Mr. MITCHELL. I thank my distinguished colleague.

Let me say to Members of the Senate that there will be no further rollcall votes this evening. We will go to the conference report on the Americans With Disabilities Act at or about 9 a.m. tomorrow with 30 minutes of debate on this and a vote on this at 9:30 a.m.

Then we will proceed to the Gorton amendment under an agreement which we hope to obtain shortly with respect to his amendment. So if any Senator has an interest in the agreement with respect to the pending textile bill, they should remain and we will attempt to get an agreement.

I simply say to Senators that it is my intention to complete action on this bill tomorrow. I know that is inconvenient for Senators. But we had several hours today when amendments were not offered, and of course not offering amendments on Thursday means they have to be offered on Friday. So I hope that Senators will cooperate, particularly to accommodate those Senators who have travel plans, so that we can get started and proceed promptly tomorrow and complete action on this bill as soon as possible tomorrow.

So what we will do is we will now proceed to prepare and attempt to obtain an agreement that deals with this bill, and begin on this bill immediately following the vote on the Americans with Disabilities Act, and that should occur at about 9:30 a.m.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. BYRD. Mr. President, there has been a resolution reported out of the Budget Committee today that would allow the Appropriations Committee to go forward with its allocations to subcommittees and the markup of those bills. I hope that we can take up that resolution yet tonight and adopt it.

Tomorrow is Friday. I would like to begin making the allocations to the subcommittees. We have been held up here for weeks because the House leadership has not appointed conferees, and they still have not appointed conferees. The Senate sent a budget resolution to conference several weeks ago and the leader and I and others have implored the House leadership to please appoint conferees so we could get our budget resolution back here and get our appropriations bills moving.

Now the Budget Committee today, by a single vote, voted out a resolution. I hope that we will attempt to get that resolution up tonight and act on it so that we can begin to make allocations to subcommittees. I will not go into the reasons why we cannot make our allocations at this point. I could, if necessary, but I think I have done that before.

I wonder if the majority leader could indicate whether or not we will try to make an effort to get that bill up yet tonight. I have not talked to the majority leader. I am addressing him with this question without having spoken to him in advance about it. But I have just been told that it is cleared on this side, and that there were one or two Senators on that side who will not object to taking it up, but that they want to offer some amendments to it, which is all right with me. They certainly have a right to do that.

But I would like to see us get that done tonight. If we do not, we are going to be here next week getting it done, and that closes us down with our appropriations bill.

Mr. MITCHELL. Mr. President I thank my distinguished colleague. Until he spoke, I was unaware that the resolution had not been cleared. I had been operating under the assumption that it was expected to be cleared and that we would act on it this evening without the necessity of a lengthy debate and rollcall votes.

Since I just now was apprised of that information as a result of these comments, I would like the opportunity to discuss that with the Senator and with the distinguished Republican leader.

Mr. BYRD. I thank the majority leader. I apologize for the fact that he did not know about this. I just, on the spur of the moment, learned that there was going to be a problem on the other side, and I would like to get to that problem and deal with it tonight if we can.

I thank the majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING BUDGET ALLOCATIONS FOR FISCAL YEAR 1991 TO THE SENATE COMMITTEE ON APPROPRIATIONS

Mr. BYRD. Mr. President, this resolution provides that for purposes of section 302(a) of the Congressional Budget Act, the allocation to the Committee on Appropriations shall be $680.5 billion in budget authority and $690.6 billion in outlays.

The purpose of this resolution is to facilitate the processing of the 13 regular fiscal year 1991 appropriations bills. The amounts allocated to the Appropriations Committee under this resolution shall be in force until a concurrent resolution on the budget for fiscal year 1991 is agreed to by the Senate and House of Representatives.

The amounts provided in this resolution are below the levels contemplated in the House budget resolution, but above the amounts recommended in the Senate-passed budget resolution.

The House of Representatives is moving quickly to pass the appropriation bills. So far, 4 of the 13 bills have been passed and are pending in the Senate. The House Appropriations Committee hopes to have 12 of 13 appropriation bills passed and pending in the Senate within a month.

Because of the peculiarities of the Budget Act, the House can take action on appropriation bills even without final agreement on a Budget Resolution. The Senate may not do so. On June 14, in the interest of moving the appropriation bills, the Senate passed a stripped-down budget resolution. For various reasons, the House has shown great reluctance to go to conference with the Senate on this matter. Meanwhile, the budget summit is continuing to meet, but it is not likely that an agreement will be forthcoming prior to the August break.

Senator HATFIELD and I have discussed this situation with the chairman and ranking minority member of the Senate Budget Committee and with the Senate leadership, and we are in agreement that it is very important that the Senate Appropriations Committee not wait any longer to begin processing the 13 annual appropriation bills. Consequently, the pending resolution, if agreed to, will allow the Appropriations Committee and the Senate to commence consideration of the appropriation bills.

It will allow the Senate Appropriations Committee to decide upon its 302(b) allocations to the 13 subcommittees. Once this process is completed, the committee can begin consideration of as many of the 13 annual appropriation bills as possible before the August break. These appropriation bills will be subject to the 60 vote Budget Act points of order once the 302(b) allocations have been filed with the Senate. The purpose would be to get the bills through the Senate and into conference with the House. If, at that time, the budget summit had concluded its work and arrived at an amount higher than the amount provided in the resolution, then the funding levels for the various appropriation bills can be adjusted in conference. If, on the other hand, the work of the budget summit results in amounts which are more restrictive than the amounts provided in this resolution, then any one of the appropriation bills in conference could be amended to incorporate a provision which could lower the amounts available in all 13 of the annual appropriation bills.

In summary, the resolution under consideration is designed to facilitate the processing of the 13 annual appropriation bills so as to avoid a massive continuing resolution. The resolution preserves the prerogatives of the Budget Committee in that it remains in effect only until the regular concurrent resolution on the budget for fiscal year 1991 is agreed to by the Senate, at which time the provisions of that resolution shall prevail. Further, the resolution protects the interests of those engaged in the budget summit deliberations, since the amounts in the appropriation bills can be adjusted either upward or downward in conference.

Mr. President, I urge the Senate to agree to this resolution. I believe it is critical that we begin the processing of the 13 annual appropriation bills. The House has already passed 4 of the bills and hopes to pass 12 of the 13 bills by August. I strongly believe that these bills should be taken up by the Senate as quickly as possible. This resolution will enable the Appropriations Committee to bring appropriation bills to the Senate and will subject those bills to Budget Act points of order.

Mr. President, this request has been cleared all around: The majority leader, minority leader, the two Senators on the other side of the aisle who had some problems with the resolution, with Senators on this side of the aisle, with the chairman of the Appropriations Committee, with the ranking member thereof, the chairman and the ranking members of the Budget Committee.

I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 308, just reported by the Budget Committee, and that it be considered, agreed to, and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Is there objection? The Chair hearing none, the unanimous-consent request propounded by the Senator from West Virginia is agreed to.

The resolution (S. Res. 308) was read, considered, and agreed to, as follows:

S. RES. 308

Resolved, That (a) for purposes of section 302(a) of the Congressional Budget Act of 1974 the estimated allocation of the appropriate levels of budget totals for the Senate Committee on Appropriations shall be—

(1) $690,606,000,000 in total budget outlays; and

(2) $680,512,000,000 in total new budget authority,

until a concurrent resolution on the budget for fiscal year 1991 is agreed to by the Senate and House of Representatives pursuant to section 301 of Congressional Budget Act of 1974.

(b) Notwithstanding the provision of subsection (a) and if the Bipartisan Executive-Congressional Economic Summit reaches an agreement on appropriate levels of budget totals different from those contained in subsection (a) and the Congress adopts such levels, the levels agreed to by the Bipartisan Executive-Congressional Economic Summit shall supersede the levels contained in subsection (a).

Mr. BYRD. Mr. President, I thank Mr. DOMENICI and Mr. HATFIELD, Mr. SASSER, Mr. NICKLES, Mr. ARMSTRONG, my own leader and the Republican leader, and all members of the Appropriations and Budget Committees.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. WIRTH. Will the Senator withhold?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized.

MODIFICATION OF AMENDMENT NO. 2116

Mr. WIRTH. Mr. President, I ask unanimous consent that the pending business be set aside so that Senator HEINZ and I may offer a unanimous-consent request on an amendment to the crime bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

Mr. WIRTH. Mr. President, I ask unanimous consent that amendment No. 2116, agreed to by the Senate yesterday, be modified by the language that I now send to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, reserving the right to object, and I shall not object, I want to indicate that the language that the Senator from Colorado has asked unanimous consent to insert represents language that we all intended to include in the original S&L package but inadvertently, through a clerical error, was omitted.

I have discussed this language with the chairman—the ranking member on the Banking Committee, Senator GARN; Senator THURMOND, the ranking member on the Judiciary Committee. It is language that Mr. Ryan, of the OTS, has asked for. We all agreed originally to incorporate it in the S&L amendment to the crime bill, and, as I say, it was inadvertently excluded. So I urge our colleagues to agree to this unanimous-consent request.

The PRESIDING OFFICER (Mr. GRAHAM). Is there further objection?

Without objection, it is so ordered.

The modification to the amendment (No. 2116) is as follows:

MODIFICATION TO WIRTH-HEINZ S&L CRIME AMENDMENT NO. 2116

On page 41, strike lines 1-17 and insert the following:

"(4)(A) In any action brought by an appropriate Federal banking agency or the Resolution Trust Corporation in any capacity pursuant to this section, including actions brought in aid of, or to enforce an order in, any other civil or administrative action for money damages, restitution, or injunctive relief brought by such agency or corporation, the court may, upon applica-

tion of the agency or corporation, issue ex parte a restraining order that—

"(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property; and

"(ii) appoints a temporary receiver to administer the restraining order.

"(B) A permanent or temporary injunction or restraining order shall be granted without bond upon a prima facie showing that money damages, restitution, or injunctive relief, as sought by such agency or corporation, is appropriate."

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of Senate Joint Resolution 347 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. I thank the Chair.

(The remarks of Mr. McCAIN pertaining to the introduction of S. 2850 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 8:40 a.m. tomorrow, the Senate consider the conference report on S. 933, the Americans With Disabilities Act under the following time limitation: 40 minutes of debate to be equally divided between Senators HARKIN and HATCH, or their designees, and at 9:30 a.m. tomorrow, the Senate proceed to vote on the conference report.

Mr. President, I incorrectly stated the beginning time as 8:40. I modify my request to state that it would begin at 8:50 a.m. and that the vote on the conference report would occur at 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following amendments be the only amendments in order to the pending textile bill, other than the committee substitute and the title amendment. They are: An amendment by Senator GRAMM of Texas regarding the impact of the bill on low- and middle-income Americans; an amendment by Senator GRAMM of Texas regarding agriculture; an amendment by Senator GRAMM of Texas as regarding consumer impact; an amendment by Senator GRAMM of Texas regarding Mexico; an amendment by Senator GRAMM of Texas regarding promoting free enterprise; an amendment by Senator WILSON regarding the cost on consumers of imposing textile quotas; an amendment by Senator WILSON regarding delay in the effective date regarding textile quotas; an amendment by Senator GORTON regarding a sense of the Senate substitute; and an amendment by Senator GORTON regarding aircraft.

I further ask unanimous consent that these amendments be subject to second-degree amendments that are relevant to the first-degree amendment and that no motions to recommit be in order.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Are we just listing these as the only amendments to be brought up?

Mr. MITCHELL. That is correct.

Mr. HOLLINGS. No time agreements? And no objection to a motion to table? I am looking at them and guessing, and I want to be candid with my colleagues, I will be moving to table some of these amendments.

Mr. MITCHELL. It is my intention in propounding this agreement that it not prohibit motions to table. The only prohibition is on motions to recommit.

Mr. HOLLINGS. Very good.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I might further state to my colleague that we are advised that all of these amendments are relevant to the bill. I do not know the subject matter beyond the very limited and general descriptions that I have read from the list that was handed to me. I am under the impression that each of these amendments is relevant to the bill.

Mr. HOLLINGS. Very good, because I have had some farmer friends, on the agriculture one, who have just gotten through a conference with respect to supports, what have you, down in Houston. Representations were made. The farm bill is about to be considered on the floor, and they did not want to amend the farm bill in the textile bill.

I see the distinguished Senator from Kansas. He is more interested than any in that not occurring. I do not know what the agriculture provision is. But let us leave it at that. There is not objection to it because no time is agreed to. We have to move from there.

Mr. MITCHELL. Mr. President, I am advised that Senator GORTON has agreed to offer his amendment on a sense-of-the-Senate substitute under a time limitation, and to do that when the Senate first resumes consideration of the textile bill tomorrow.

Therefore, I ask unanimous consent that when the Senate returns to consideration of the textile bill tomorrow morning that Senator GORTON be recognized to offer his amendment regarding a sense-of-the-Senate substitute with a time limitation of 1½ hours of debate equally divided and in the usual form.

Mr. HOLLINGS. Is that 45 minutes to a side?

Mr. MITCHELL. That is 45 minutes to a side, and that there be the same time limitation for any second-degree amendment that may be offered thereto.

Mr. HOLLINGS. And a motion to table would be in order.

Mr. MITCHELL. Yes. It is my understanding—and I will inquire of the Parliamentarian—that by remaining silent on the motions to table in the request, such motions would be permissible?

The PRESIDING OFFICER. The majority leader is correct.

Is there any objection? Without objection, it is so ordered.

MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that there be a period of morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DISTINGUISHED SENATOR QUENTIN BURDICK

Mr. DOMENICI. Mr. President, the year 1990 begins a new decade. It also is the decade that will usher us into the 21st century. But, Mr. President, this also happens to be the year marking the 30th anniversary of the service of the distinguished senior Senator from North Dakota in this great body.

QUENTIN N. BURDICK entered the House of Representatives in 1958 and 2 years later traveled across the Hill to the Senate.

Since 1960 he has served faithfully the people of North Dakota and the citizens of this Nation. He follows a family tradition of national service—his father served as North Dakota's Lieutenant Governor and then represented the State of North Dakota in Congress for 20 years.

Senator BURDICK's determined, low-key style has served him well—moving him up to the chairmanship of the Environment and Public Works Committee in 1987.

Until that year I, too, served on that committee. While I did not serve under his chairmanship, I enjoyed working closely with Senator BURDICK during my years on the committee, and know of his great expertise on both environmental and public works matters.

Major environmental legislation has passed this body under his leadership—most recently a comprehensive rewrite of the Clean Air Act. And under his active participation and later his chairmanship, the committee developed important and effective legislation rebuilding America's infrastructure.

Mr. President, I rise to express my great regard for the good Senator from North Dakota and to congratulate him on this important milestone.

TRIBUTE TO QUENTIN BURDICK

Mr. JEFFORDS. Mr. President, I wish to take a few moments of the Senate's time to congratulate Senator QUENTIN BURDICK on his 30th anniversary as a Member of the U.S. Senate.

Although, I'm a relative newcomer to this body, I have had the pleasure of observing Senator BURDICK's work from the vantage point of the House of Representatives, where I represented Vermont for seven terms. I've long admired Senator BURDICK's dedication to farmers and rural America—an interest I share.

As a longtime member of the House Agriculture Committee, it is always with great interest that I followed the work of Senator BURDICK's panel, the Senate Agriculture Appropriations Subcommittee. While the interests of Vermont's dairy farmers are not always the same as those of North Dakota's wheat farmers, Senator BURDICK has always been fair in considering farm policies from a national perspective. In this regard, Senator BURDICK exemplifies the strength of our Nation, the ability of diverse interests to work together for a common goal.

In particular, Senator BURDICK has been a tireless supporter of groundwater protection efforts. He has been very successful in increasing research funds for ground water protection and in providing much more effective coordination between Federal agencies. Earlier this year, the Senate Environment Committee approved Senator BURDICK's Ground Water Research and Education Act, a bill designed to expand and strengthen the national groundwater research program and clarify the responsibilities of each Federal agency.

For the past 18 months, I've had the pleasure of serving under Chairman BURDICK as a member of the Committee on Environment and Public Work. We've had a busy session under the chairman's leadership, seeing Senate passage of such major initiatives as oil spill protection and clean air legislation.

Environment issues are much the rage these days. It seems that every day the press reports another pending problem, constituents write constantly on pressing needs, and business and industry groups consult incessantly on the dangers of two much or to little intervention. Through all these controversies, Senator BURDICK has used his steady and insightful wisdom in guiding the Senate toward the proper course of action.

Senator BURDICK is one of the nicest, kindest and good-humored men to have ever served in this body. While these aren't the requisite qualities for service in the U.S. Senate, they sure make it less difficult for colleagues and constituents alike.

As for the qualities that do measure the value of the U.S. lawmaker, Senator BURDICK's long and distinguished record speaks admirably for his dedication and determination in carrying out his constitutional duties for the betterment of his country. For those of us who have had the pleasure of serving with him, Senator BURDICK's leadership has been instrumental in helping us do the same.

I commend Senator BURDICK for his work during 30 years of Senate service.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 30, 1989, the Secretary of the Senate, on June 29, 1990, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 271. Joint resolution to designate July 10, 1990, as "Wyoming Centennial Day".

Under the authority of the order of the Senate of January 3, 1989, the enrolled joint resolution was signed on June 29, 1990, by the President pro tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

At 2:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4087. An act to amend title 38, United States Code, with respect to employment and training programs for veterans;

H.R. 5124. An act to expand and improve drug abuse education, prevention, and counseling services, to provide for positive alternative activities to drug abuse, to provide for certain activities to ensure student safety, and for other purposes; and

H.R. 5140. An act to amend the Elementary and Secondary Education Act of 1965 to improve secondary school programs for basic skills improvement and dropout prevention and reentry, and for other purposes.

At 7:44 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 136. Concurrent resolution expressing the sense of the Congress with respect to the 25th anniversary of the Foster Grandparent Program.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4087. An act to amend title 38, United States Code, with respect to employment and training programs for veterans; to the Committee on Veterans' Affairs.

H.R. 5124. An act to expand and improve drug abuse education, prevention, and counseling services, to provide for positive alternative activities to drug abuse, to provide for certain activities to ensure student safety, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 5140. An act to amend the Elementary and Secondary Education Act of 1965 to improve secondary school programs for basic skills improvement and dropout prevention and reentry, and for other purposes; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 2362. A bill to enhance the survivability and recovery of the Insular Areas from severe storms (Rept. No. 101-363).

S.J. Res. 154. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920 (Rept. No. 101-364).

By Mr. SASSER, from the Committee on the Budget, without amendment:

S. Res. 308. An original resolution to provide budget allocations for fiscal year 1991 to the Senate Committee on Appropriations under section 302(a) of the Congressional Budget Act of 1974.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Joseph G. Schiff, of Kentucky, to be an Assistant Secretary of Housing and Urban Development;

Andrew C. Hove, of Nebraska, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term expiring February 28, 1993; and

Andrew C. Hove, of Nebraska, to be Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

A. Raymond Randolph, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit;

Federico A. Moreno, of Florida, to be United States District Judge for the Southern District of Florida;

William Pelham Barr, of Virginia, to be Deputy Attorney General;

Michael L. Johnson, of Idaho, to be United States Marshal for the District of Idaho for the term of four years; and

John W. Raley, Jr., of Oklahoma, to be United States Attorney for the Eastern District of Oklahoma for the term of four years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER:

S. 2843. A bill to amend title XIX of the Social Security Act to clarify that States may use a more liberal methodology in determining income and resource eligibility under Medicaid for certain medically needy individuals; to the Committee on Finance.

By Mr. MITCHELL (for himself, Mr. ROCKEFELLER, Mr. DURENBERGER, Mr. HARKIN, Mr. DASCHLE, Mr. BURDICK, Mr. COCHRAN, and Mr. PRYOR):

S. 2844. A bill to amend the Public Health Service Act to provide for the establishment, with State loan repayment programs, of demonstration programs to recruit and train physicians and other health care personnel to provide medical services in rural communities, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. D'AMATO:

S. 2845. A bill to direct the Secretary of State to cooperate with the World Federation of Therapeutic Communities in training leadership candidates in drug treatment and prevention techniques; to the Committee on Foreign Relations.

By Mr. JOHNSTON:

S. 2846. A bill to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. CRANSTON, Mr. LIEBERMAN, and Mr. KERRY):

S. 2847. A bill to increase FHA mortgage limits; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SYMMS:

S. 2848. A bill to authorize the Secretary of Agriculture to renegotiate contracts to allow for control of grasshoppers and other pests on conservation reserve program land; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAUCUS (for himself, Mr. BURDICK, Mr. SIMON, and Mr. DIXON):

S. 2849. A bill to increase the exports of United States processed, value-added agricultural products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. BURNS, Mr. CONRAD, and Mr. DASCHLE):

S. 2850. A bill to authorize demonstration projects in connection with providing health services to Indians; to the Select Committee on Indian Affairs.

By Mr. McCAIN (for himself, Mr. FORD, Mr. DANFORTH, Mr. HOLLINGS, Mr. EXON, Mrs. KASSEBAUM, and Mr. KASTEN):

S. 2851. A bill to alter the Federal rules applicable to commercial air carriers at high density traffic airports; to the Committee on Commerce, Science, and Transportation.

By Mr. BURNS (for himself, Mr. GORTON, Mr. BOSCHWITZ, Mr. KASTEN, Mr. FORD, Mr. WIRTH, Mr. HEFLIN, Mr. SHELBY, Mr. LOTT, Mr. NICKLES, Mr. SYMMS, Mr. BREAUX, Mr. COCHRAN, Mr. DANFORTH, Mr. D'AMATO, Mr. RIEGLE, Mr. SARBANES, Mr. CHAFEE, Mr. RUDMAN, Mr. DOLE, Mr. DIXON, Mr. INOUYE, Mr. PRYOR, Mr. BUMPERS, and Mr. ROBB):

S.J. Res. 347. Joint resolution designating April 7 through 13, 1991, as "National County Government Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SASSER, from the Committee on the Budget:

S. Res. 308. An original resolution to provide budget allocations for fiscal year 1991 to the Senate Committee on Appropriations under section 302(a) of the Congressional Budget Act of 1974; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER:

S. 2843. A bill to amend title XIX of the Social Security Act to clarify that Sates may use a more liberal methodology in determining income and resource eligibility under Medicaid for certain medically needy individuals; to the Committee on Finance.

MEDICAID MEDICALLY NEEDY ELIGIBILITY CLARIFICATION ACT

Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would affirm the intent of Congress concerning States' ability to define income eligibility criteria for medically needy Medicaid recipients.

A substantial number of disabled, blind, and aged Medicaid beneficiaries are capable of working at least part time. Many would like to apply their skills, take on challenges, and contribute to the economy just like other Americans. Yet many of these individuals incur major medical expenses and could not benefit from their employment without Medicaid assistance. The barrier these individuals face is that by working for even modest wages, their income may make them ineligible for Medicaid, or require a very substantial spend down to be eligible. This is clearly a catch 22: these medically needy individuals want to work, but the system penalizes them for doing so.

Recognizing this problem, Congress and the President in 1988 passed certain Medicaid provisions with the Medicare Catastrophic Act that allowed States to develop more liberal income testing formulas for medically needy persons. Such formulas with more liberal income disregards use larger deductions from gross income for such expenses as medical and personal care attendant expenses, taxes, and Social Security payments.

Despite this legislative action, however, in 1989 the Health Care Financing Administration informed the States that they would not be allowed to fully use the more liberal income disregards. To inhibit States from implementing plans for more liberal income disregards, HCFA has created a new formula linked to another part of the Social Security Act. I am struck by the contrary nature of the HCFA regulation, and feel it is important to clarify the original intent of Congress.

Mr. President, this bill will simply clarify what Congress intended in 1988, and that is to allow States to use, at their discretion, more liberal income disregards for medically needy people. I have taken due care in drafting this bill to accomplish this purpose without incurring any new expenses to the Medicaid system. I believe the legislation I propose is in the best interest of both the individual Medicaid recipients and the Medicaid program as a whole, and for this reason, I urge my colleagues to cosponsor this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Medically Needy Eligibility Clarification Act of 1990".

SEC. 2. CLARIFICATION OF INCOME METHODOLOGY USED IN DETERMINING ELIGIBILITY OF CERTAIN MEDICALLY NEEDY INDIVIDUALS FOR MEDICAID BENEFITS.

(a) IN GENERAL.—Section 1903(f) of the Social Security Act (42 U.S.C. 1396b(f)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) With respect to the methodology to be used in determining income and resource eligibility for individuals under section 1902(a)(10)(C)(i)(III), the applicable income limitation described in paragraph (1)(B) shall be compared to the adjusted income of such individuals only after the State income methodology has been applied, including methodology allowed under section 1902(r)(2).".

(b) CONFORMING AMENDMENT.—Section 1903(f)(1)(A) of such Act (42 U.S.C. 1396(f)(1)(A)) is amended by striking "(4)" and inserting "(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to income determinations made beginning on or after January 1, 1991.

By Mr. MITCHELL (for himself, Mr. ROCKEFELLER, Mr. DURENBERGER, Mr. HARKIN, Mr. DASCHLE, Mr. BURDICK, Mr. COCHRAN, and Mr. PRYOR.):

S. 2844. A bill to amend the Public Health Service Act to provide for the establishment, within State loan repayment programs, of demonstration programs to recruit and train physicians and other health care personnel to provide medical services in rural communities, and for other purposes; to the Committee on Labor and Human Resources.

RURAL HEALTH CARE PROVIDER RECRUITMENT AND EDUCATION ACT

Mr. MITCHELL. Mr. President, I rise today to introduce legislation intended to provide an innovative model for the recruitment and retention of primary health care providers in rural America.

I am pleased that the distinguished Senator from Minnesota will join me in this effort. He has for many years been a national leader in health policy. I had the pleasure to serve as ranking member of the Subcommittee on Health while the Senator from Minnesota was chairman and knows firsthand of his interest, expertise, and hard work in this area. I am grateful that he is joining in this effort. I look forward to working with him on this as we have on many other health-related matters.

This bill will amend the State loan repayment program of the National Health Service Corps to allow local communities to make a commitment to help to finance the training of primary care physicians and other health care providers.

The Rural Health Care Provider Recruitment and Education Act of 1990 amends the Public Health Service Act to provide for the establishment of a 3-year demonstration program which will help to educate physicians and midlevel practitioners, including nurse midwives, nurse practitioners and physician assistants, to enable them to practice in those rural areas from which they are recruited.

The underlying concept for this legislation is based on the experience of Dr. Roger Pelli, formerly a physician assistant—now a primary care physician from Aroostock County, ME—who received his osteopathic medical education at the University of New England College of Osteopathic Medicine in Biddeford, ME. Six towns in northern Maine voted to levy a tax of about $5 on each taxpayer for 4 years to help finance Dr. Pelli's medical education in exchange for a commitment that he serve the towns for 8 years or repay the funds.

Dr. Pelli's experience was the subject of an ABC News' "American Agenda" piece last year.

Since Dr. Pelli's successful experience, the Office of Planning, Research and Development in the State of Maine has had numerous inquiries from students interested in making similar agreements with local communities. Unfortunately, there are more students interested in such arrangements than there are communities willing or able to make commitments. I hope that the legislation I am introducing today will enable more localities to enter into agreements with students who want to provide health care in their own communities.

This bill provides a Federal matching grant of at least 25 percent but not more than 50 percent to local communities that make a commitment to fund the training of medical—allopathic and osteopathic—primary care physicians and midlevel practitioners. Eligibility will be limited to students who are residents of the areas to be served and who are sponsored by local communities.

One of the most serious gaps in providing access to quality, health care in rural America is the difficulty in recruiting and retaining primary care physicians and midlevel practitioners in sparsely populated areas.

The National Health Service Corps White Paper, published earlier this year, made several recommendations for the improvement of the corps in that area. First, the white paper recommends that the corps should select individuals whose backgrounds and educational experience increase the likelihood of service in underserved areas including individuals from rural areas.

The White Paper also recommended increasing the number of midlevel practitioners to complement primary care physicians. The increased utilization of midlevel practioners—physician assistants, nurse practitioners, and nurse midwives—has been shown to have a positive effect in the quality of care provided, the scope of practice, the levels of retention in rural areas, as well as improved cost effectiveness.

The Rural Health Care Provider Recruitment and Education Act of 1990 will allow funding from local communities to be matched with Federal moneys through the State loan repayment program of the National Health Service Corps. States will have the option of contributing to the local-Federal match to enhance the funding available to students. Within the guidelines of this demonstration program, the mix of local, State and Federal funding will be flexible to allow communities and States to develop proposals which are best suited to individual agreements between towns and potential students.

The demonstration will be authorized at $10 million in the first year, $15 million in the second year, and $20 million in the third year.

In order to be eligible, students would first have to meet the criteria established for NHSC loans and scholarships. Students participating in this demonstration program would have available to them the same support services offered to others participating in the National Health Service Corps. It is important that students maintan regular contact with mentors during the period of their education.

I believe that this demonstration program will provide an opportunity for both local communities and enthusiastic students to come together in an effort to provide quality health care services in rural areas of our country. We have seen such an experiment succeed in rural Maine and I am confident that Dr. Pelli's experience can serve as a model for other communities in desperate need of a doctor and for students unable to finance their own medical education.

I am pleased to have the support of a number of my colleagues who share my concern about the recruitment and retention of physicians in rural America including Senators ROCKEFELLER, DURENBURGER, HARKIN, DASCHLE, BURDICK, and COCHRAN.

I also want to express my appreciation to the Office of Rural Health and the National Health Service Corps for their suggestions and input during the development of this legislation.

I invite all of my colleagues to join me in supporting this legislation.

If I might just add this word. What this bill tries to do is very simple. Throughout rural America, there are many areas that do not have the services of physicians or other health care providers, and yet in those small towns there are young men and women who

have the talent and the initiative but not the resources to get the medical education necessary to serve their communities. Rather than try to construct an elaborate national program which would take a young man or woman from Minnesota and ask him or her to go to northern Maine and then take a young man or woman from Maine to go to northern Minnesota, what we are trying to do is to encourage young people who grow up in rural areas, who want to stay in rural areas, who have the talent and ability to serve as physicians or other practitioners in those areas, the resources to do so. This meets several needs at once, and it can be done in what I hope will be an efficient manner.

I look forward again to working with the distinguished Senator from Minnesota in pursuing this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2844

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Health Care Provider Recruitment and Education Act of 1990".

SEC. 2. ESTABLISHMENT OF RURAL HEALTH CARE PROVIDER RECRUITMENT AND EDUCATION PROGRAM.

Title III of the Public Health Service Act is amended—

(1) by redesignating section 338I (42 U.S.C. 254q-2) as section 338J; and

(2) by inserting after section 338H (42 U.S.C. 254q-1) the following new section:

"SEC. 338I. RURAL HEALTH CARE PROVIDER RECRUITMENT AND EDUCATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a demonstration program to be known as the Rural Health Care Provider Recruitment and Education Program (hereinafter referred to in this section as the 'Program') to assist rural communities in recruiting and educating eligible students to serve as health care providers in such areas. The Secretary shall administer the Program through the existing grant program established under section 338H.

"(b) GRANTS.—The Secretary shall make grants under this section to States that meet the eligibility requirements for receiving grants under subsection (c) to share the costs incurred by local communities within such State in providing funds to eligible students.

"(c) ELIGIBILITY.—

"(1) STATE APPLICATION.—

"(A) IN GENERAL.—To be eligible to participate in the Program established under this section, a State shall prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require, including—

"(i) the proposal of the State for providing assistance to local communities from amounts received under this section;

"(ii) the estimated expenses that the State expects to incur in providing technical and other assistance to local communities under this section based on the applications that the State receives under paragraph (2);

"(iii) an assurance that the State, in providing assistance from amounts received under this section to local communities submitting applications under paragraph (2) who desire to assist eligible students who are—

"(I) recommended by local sponsoring organizations within the rural community to be served; and

"(II) residents of the rural community to be served; and

"(v) any other information determined appropriate by the Secretary.

"(B) CONSOLIDATION OF APPLICATIONS.—The application required under this paragraph may be submitted as part of the State application submitted under section 338B.

"(2) LOCAL APPLICATION.—

"(A) IN GENERAL.—A local community that desires to receive assistance from a State through a grant awarded under this section shall prepare and submit, to the State office that is responsible for the administration of the State loan repayment program established under section 338H within that State, an application at such time, in such form, and containing such information as the State shall require, including—

"(i) the identity and place of residence of the eligible student for which the local community is providing assistance under this subsection;

"(ii) the nature and estimated length of the education or training to be provided to such student with assistance provided under this subsection;

"(iii) the estimated costs of the education and training referred to in clause (ii), the amount of such costs that will be paid by the applicant, and the amount that the applicant desires to receive from the State under the Program;

"(iv) assurances that such student will comply with the requirements of paragraph (6);

"(v) an assurance that the applicant will contribute local funds derived from non-Federal sources in an amount equal to not less than 50 percent nor more than 75 percent of the cost to be paid by the applicant, as described in clause (iii); and

"(vi) any other information determined appropriate by the Secretary.

"(B) CONSOLIDATION OF APPLICATIONS.—The application required under this paragraph may be submitted as part of a local application submitted by the community under section 338H.

"(3) ELIGIBLE STUDENTS.—To be eligible to receive assistance under this section a student identified in the application submitted under paragraph (2)(A)(i) shall—

"(A) be recommended by a local community and enrolled, or accepted for enrollment, as a full-time student—

"(i) in an accredited educational institution, approved by the Secretary, in a program leading to a degree in medicine or osteopathic medicine;

"(ii) in an approved program leading to eligibility for licensure as a nurse midwife, nurse practitioner, or a physician assistant; or

"(iii) in an approved graduate program leading to eligibility for certification (or the State equivalent) as a nurse midwife, nurse practitioner, or a physician assistant;

"(B) prepare and submit to the local community an application (that shall be submitted to the State as part of the application of the local community under paragraph (2)(A)) to participate in the program established under this subsection; and

"(C) sign and submit to the local community and the State, at the time of the submission of the application, a written contract to serve for not less than 2 nor more than 4 years, after licensure or certification, in the rural community, but in no event shall such applicant serve for a period of years that is less than the number of years in which the applicant was provided with assistance under this section.

"(d) USE OF FUNDS.—Amounts provided to a State under a grant awarded under subsection (b) shall be used to reimburse a local community for not less than 25 percent nor more than 50 percent of the costs associated with providing assistance to an eligible student to enable such student gain the undergraduate medical or clinical education necessary to become a primary care physician, a nurse practitioner, a nurse midwife, or a physician assistant.

"(e) SERVICE BY STUDENT.—A student that receives assistance under this section shall serve as a primary care medical or osteopathic physician (including a family practitioner, an obstetrition/gynecologist, or a practitioner of internal medicine) a nurse midwife, a nurse practitioner, a clinical nurse specialist, or a physician assistant in the rural community represented by the local community that provided assistance to the student under this section. Such period may be in excess of 4 years if the local community and the student agree.

"(f) FAILURE TO COMPLY.—The provisions of section 338E regarding the breach of a service contract shall apply to eligible students that enter into contracts to receive assistance under this section.

"(g) COORDINATION.—The State shall coordinate and be responsible for the recovery of any payments due from delinquent students under this section on behalf of localities and the Federal Government.

"(h) EVALUATION.—The Secretary, acting through the Health Resources and Services Administration, shall evaluate the impact of the program established under this section on the recruitment and retention of primary care physicians and mid-level practitioners and prepare and submit, to the appropriate Committees of Congress, a report containing the results of such evaluation.

"(i) DEFINITIONS.—As used in this section:

"(1) LOCAL COMMUNITY.—The term 'local community' means a local political subdivision of a State, a local nonprofit hospital, a group of local political subdivisions of the State, or any combination thereof, that is located in or serves a rural community.

"(2) RURAL COMMUNITY.—The term 'rural community' means a community that is located in a Federally designated rural health manpower shortage area by the Secretary, or by a State government, that meets the requirements of section 332.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1991, $15,000,000 for fiscal year 1992, and $20,000,000 for fiscal year 1993.".

Mr. DURENBERGER. Mr. President, I rise today in support of my colleague's important and timely bill, the Rural Health Care Provider Recruitment and Education Act of 1990. It has no acronym but it has a tremendous author.

During the perod of time in 1985–86 when he was ranking member on the

Health Subcommittee, Senator MITCHELL, while he was acquiring his skills and his sensitivity to rural health care, was also managing an effort to get me out of the job of being subcommittee chair and putting the Democrats into the majority. I felt it was unfortunate that he was successful at that. But then he chose to take the chairmanship of that subcommittee, and in 2 years particularly as we watched him work on the catastrophic bill and the rural health care bill, his contributions to health care policy have been enormous. For those of us who care about health in general, access to medical services, and the difficulties of guaranteeing that access in rural America, we could not have a better champion than GEORGE MITCHELL.

He did talk about the inconsistency of moving people from Maine to Minnesota, Minnesota to Maine, New Mexico to New Hampshire, but that is sort of implicit in the current policy in the National Health Service Corps Act, which provides Federal resources to medical residents and to students to become physicians, nurse practitioners, nurse midwives and physician assistants. We all strongly support and have just finished reauthorizing, at least in our committee, that bill.

But in a place like Madelia, MN, several years ago the people recognized two things: that they needed a doctor and that they had a young person in the community who wanted to be a doctor. They passed the hat and raised the money to help that young person from their community complete medical school. They did it without any conditions other than his promise that he would come back to the community. They also did it without any Federal support or any of that sort of thing.

Madelia is one of those bootstrap communities that insisted on doing things itself. Not all communities can do that and yet all communities have those same two elements. They have young people who would not mind coming back to town because that is where they were raised, that is where their values are, and they have a need that must be satisfied.

We are all acutely aware that the maldistribution of physicians in this country adversely impacts the provision of health care. There are communities in a State like mine, Aitkin, Jackson, Sandstone, and Sauk Rapids that have written and said how do we get help to get rural physicians? At the same time, we are struck by the fact that studies at the Office of Technology Assessment indicate many primary care services can be rendered equally well by physicians and by appropriately trained mid-level health practitioners like the nurse practitioners, midwives and physician assistants.

The National Health Service Corps and its recently initiated loan repayment scholarship program has made a difference in the provision of physicians and mid-level health practitioners at least to some degree. There is still an estimated 4,000 positions equivalent need in designated health manpower shortage areas in America.

So, Madam President, my State of Minnesota, like several others, has many rural regions that qualify as manpower shortage areas. My legislature is looking for ways which the State can become partners with rural communities in recruiting medical students.

I talked to you already about Madelia, MN, where they have gone out and done it on their own. The Rural Health Care Provider Recruitment and Education Act of 1990 will extend these initiatives by my State, other States, my communities, and other communities in the Nation to a national level by combining Federal funds with local community scholarship funds. We stand an excellent chance of responding to the health care needs of our rural populations in a fiscally responsible manner. I wholeheartedly support this approach to the solution, and I urge my colleagues to cosponsor Senator MITCHELL's legislation.

Mr. DASCHLE. Mr. President, I rise today to offer my support for the Rural Health Care Provider Recruitment and Education Act of 1990, a bill introduced today by our distinguished majority leader. This bill will make it possible for local communities to establish contracts with students in medicine and related health occupations. The communities would agree to fund the education of these students; in return, the students would agree to practice for 2 to 4 years in the community which funded their education. This bill provides for matching Federal funds to support these contracts, not to exceed 50 percent of the total grant amount.

I commend Senator MITCHELL for his leadership in recognizing the serious health manpower problem in rural America, and for his creativity in developing an approach to the problem that allows individual States and communities maximal flexibility in identifying their community health needs and responding to those needs.

The health care needs of rural America have been well documented, and there is little question that the health care crisis in this country is hitting rural America first and hardest. Twenty percent of the population is elderly in rural areas as opposed to 12 percent in urban areas; 16 percent of the population is poor as opposed to 12 percent in urban areas; a much smaller proportion of the population has health insurance in rural America, and the incidence of chronic disease is markedly higher in all rural areas. Finally, there are three times as many physicians per capita working in urban areas than are found in rural counties with populations of less than 10,000.

A significant part of this problem is related to the extreme difficulty we have in getting physicians and other health care providers to settle in rural America. The National Health Service Corps is one approach to this problem, and, in fact, in the mideighties the Corps was tremendously successful in providing doctors for rural America. However, President Reagan and the Director of the Office of Management and Budget made the decision—a terrible decision and one that time has shown to be totally wrong—that the increasing numbers of physicians and market forces would be adequate to drive large numbers of physicians into rural areas to meet the medical needs of these small communities. However, this simply hasn't happened, and the total field strength of the National Health Service Corps has fallen off from 3,200 providers to 1986 to less than 700 providers today. In South Dakota, we have 16 Indian Health Service physicians assigned through the National Health Service Corps, and only six non-IHS Corps physicians. Seven of the IHS physicians and five of the non-IHS physicians will leave South Dakota by the end of 1991 when their obligated service is completed. There is currently no one in the pipeline to replace these doctors.

Mr. President, I will be doing everything in my power to revitalize and reauthorize the National Health Service Corps, and I am a cosponsor of Senator KENNEDY's bill to reauthorize the Corps. However, despite my strong commitment to this program, it is very clear to me that reauthorizing the National Health Service Corps will not be adequate to solve a problem of this magnitude, and that the Corps alone will never be adequate to meet the health personnel needs of rural America. We must find additional and creative solutions to these problems, and I believe the majority leader's bill offers a novel and workable approach to providing physicians and other health care workers who will commit to the areas they serve and remain in these areas upon completion of their obligated service.

Mr. President, there are currently 15 counties in South Dakota that do not have a single primary care physician, and 23 others that have 3 doctors or less. However, many of these counties have intelligent young men and women who would be eager to pursue a career in the health sciences if only funding were available to them, and the majority of these students would be eager to return to their home communities to practice. Numerous studies have demonstrated that it is students like these, students with family and friends that tie them to the community, who are most likely to establish

practices in those rural areas in which they were raised.

Bureaucrats in Washington are all too quick to tell communities and States what must be done to solve their problems. Senator MITCHELL's bill offers us a chance to listen for a change, and to support the efforts of these communities when they chose to draw on their own resources to solve their own problems.

I am delighted to cosponsor this important piece of legislation, and I am convinced that it offers a way for communities to take a more active role in solving their own medical human resource problems.

By Mr. D'AMATO:

S. 2845. A bill to direct the Secretary of State to cooperate with the World Federation of Therapeutic Communities in training leadership candidates in drug treatment and prevention techniques; to the Committee on Foreign Relations.

WORLD FEDERATION OF THERAPEUTIC COMMUNITIES LEADERSHIP ACT

● Mr. D'AMATO. Mr. President, I rise today to introduce the World Federation of Therapeutic Communities Leadership Act. This legislation directs the Secretary of State to cooperate with the World Federation of Therapeutic Communities in training leadership candidates in drug treatment and prevention techniques.

The World Federation of Therapeutic Communities is a consortium of concerned, skilled, and dedicated drug treatment and prevention leaders from 54 nations on 6 continents. Msgr. William O'Brien is the president of the organization. Its board of directors consist of representatives from Italy, Australia, Argentina, and the United States.

The primary goal of a therapeutic community is to foster drug-free lives. The community provides a highly structured environment for the drug addict. It employs community imposed sanctions and penalties as well as earned privileges as part of the recovery and growth process.

The Therapeutic Community realizes that the problem of a drug addict is not solely physiological and that treatment should not only be pharmacological in nature. The Therapeutic Community believes that an addict must be confronted with his condition and challenged to grow into maturity and responsibility. It espouses the work ethic as it helps community residents regain a productive life.

The World Federation of Therapeutic Communities seeks to field training teams and programs with a goal of assisting treatment colleagues in establishing and enhancing Therapeutic Communities. It believes that many nations would like to cooperate with the United States in drug demand reduction activities and that these nations need assistance in the training of rehabilitation and prevention professionals.

My legislation provides that:

First, the Secretary of State, acting through the Assistant Secretary of State for International Narcotics Matters, shall provide scholarships to eligible candidates for instruction in drug treatment and prevention leadership techniques at the annual training conferences of the World Federation of Therapeutic Communities; and

Second, the Secretary of State, acting through the Assistant Secretary of State for International Narcotics Matters, shall undertake, in cooperation with the World Federation of Therapeutic Communities, to provide training to eligible candidates in drug treatment and prevention projects in participating countries. The World Federation would be responsible for providing accommodations for the trainees at its treatment centers.

Mr. President, the World Federation of Therapeutic Communities brings together international, regional, and national associations in the field of substance abuse treatment and prevention. This organization fosters a mutual understanding and partnership among its members and, thus, builds a bridge of international commitment to a problem that crosses many boundaries. In closing, I would like to call my colleagues' attention to the following remarks concerning Therapeutic Communities contained in the drug czar's recent white paper, "Understanding Drug Treatment."

Therapeutic Communities (TC's) are designed to get patients to face the fact that they are addicted to drugs, and then to foster change in their personalities so they can live without drugs.

TC's are staffed by both former addicts and professionals who impose personal and community responsibility by means of a rigid hierarchy among staff and patients. Each member of the TC is given a job and expected to carry his own weight. The house rules must be strictly observed. The TC staff rewards good behavior with privileges and promotions to positions of more responsibility, and punishes bad behavior through "learning experiences"—the suspension of privileges or the assignment of some menial chore.

Overall, TC's have a good record of success, with as many as 4 out of 5 patients who complete the program drug-free several years out of treatment. Research indicates that those who spend more than 3 months in a TC—even without completing the program—reduce drug use and criminal behavior.

I urge my colleagues to support this important legislation.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2845

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of State, acting through the Assistant Secretary of State for International Narcotics Matters, shall provide, out of funds made available to the Department of State under the "Administration of Foreign Affairs" account, scholarships to eligible candidates for instruction in drug treatment and prevention leadership techniques at the annual training conferences of the world Federation of Therapeutic Communities.

(b) The Secretary of State, acting through the Assistant Secretary of State for International Narcotics Matters, shall undertake, in cooperation with the World Federation of Therapeutic Communities, to provide training to eligible candidates in drug treatment and prevention techniques and to hold model drug treatment and prevention projects in participating countries. In the conduct of any such training, the World Federation of Therapeutic Communities shall be responsible for providing accommodations for the trainees at its treatment centers.

(c) For purposes of this Act—

(1) the term "eligible candidates" means needy candidates from major illicit drug producing or drug-transit countries; and

(2) the terms "major illicit drug producing country" and "major drug-transit country" have the same meanings as are given to such terms by paragraphs (2) and (5), respectively, of section 481(i) of the Foreign Assistance Act of 1961.●

By Mr. JOHNSTON:

S. 2846. A bill to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States; to the Committee on Energy and Natural Resources.

PRESERVATION OF JAZZ PARK

● Mr. JOHNSTON. Mr. President, I am very pleased to introduce today legislation to direct the Secretary of the Interior to conduct a feasibility study on establishing a new unit of the National Park System in New Orleans to preserve, interpret, and commemorate jazz, the only uniquely American form of music and possibly the only art form to originate wholly in this country.

Today, America's musicians remain the undisputed and most important leaders in jazz. People from around the world come to this country to hear jazz, and our many talented musicians travel to virtually every corner of the globe to perform for others. Given our dominant role in this field, a focal point for preserving the great traditions from which jazz evolved, interpreting jazz and commemorating jazz is long overdue.

Jazz music was first played in this country in the late 1800's and evolved as a blend of African and Western European classical music, primarily French and Spanish. Religious music, particularly gospel music, and other folk music were also contributors to the emergence of jazz. All these ele-

ments fused in New Orleans which is the recognized birthplace of traditional jazz music in this country.

It was in New Orleans, in Milneburg and in the historic area known as Storyville where reknowned professors of music such as Ferdinand Joseph LeMenthe, better known as "Jelly Roll Morton," who cultivated the stride-style keyboard; Louis "Big Eye" Nelson who founded the Ninth Ward Band and later joined the historic Imperial Orchestra; and Louis Daniel "Satchmo" Armstrong, who for many outside New Orleans remains the most well-known New Orleans artist, all performed. In Storyville and in Milneburg the first organized jazz music emerged.

If was also in New Orleans where the African beat was blended with developing syncopated rhythms particularly in the area known as Congo Square, and the rich tradition of black American music was developed in great bands led by such talented musicians as Buddy Bolden. And it was again in New Orleans during the first 20 years of this century that the traditional brass bands played and developed into the famous ragtime bands which played a combination of blues and ragtime.

This music was part of the establishment of the culture of traditional jazz in New Orleans, which migrated and evolved from there north to Memphis, St. Louis, Chicago, and to New York City. It is important to acknowledge that New Orleans is not only the fountainhead from which all traditional jazz has developed, but also that no other city in the United States has conscientiously preserved the culture of traditional jazz to the degree and in the manner that New Orleans has. The city has dedicated a park to Louis Armstrong who is a native son and one of the great jazz musicians of all time; it has a number of important archival and historical collections in various places throughout the city including the Armistad Research Center at Tulane University and the Louisiana State Museum's collection located at the Mint; New Orleans has innovative outreach programs to educate potential future musicians and future audiences throughout the public school system; and at least two innovative new schools are in the process of being established—one for advanced studies at the University of New Orleans and one to reach younger children which has been proposed by the New Orleans Jazz and Heritage Foundation. All of these efforts indicate the local support for preserving and nurturing the unique cultural heritage of New Orleans and the key role which jazz has played.

All of the necessary ingredients are in New Orleans to develop a great cultural center for the preservation of jazz and, with the proper funding, there is no doubt that this concept would be a success. Today there are still local musicians preserving the traditional music, but we must act now before the opportunity is lost to see that this music, from which the American contribution to the musical arts has evolved, is preserved. This is important not only to New Orleanians, but also to all Americans. Americans are eager to learn more about our traditional music, as we in New Orleans have seen each year as Americans flock from every corner of the United States to attend the annual Jazz and Heritage Foundation Festival held each spring. Indeed, the appeal of jazz and the desire to come to the cradle of jazz is international. Visitors come from all over the globe—from as far away as Japan and Germany and Australia—to attend our annual festival and hear New Orleans music first hand.

To assure that traditional jazz will be preserved for future generations of musicians and audiences, we need to create a permanent home for the preservation and interpretation of jazz. Given the rich and deep history of its foundation, where else but in New Orleans?

This year we celebrated the 90th birthday of one of New Orleans' most beloved and respected musicians, Louis Armstrong. I hope we will be able to celebrate Satchmo's 100th birthday in new permanent quarters and that this legislation will be a catalyst for developing a consensus on which we can begin.●

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. CRANSTON, and Mr. LIEBERMAN):

S. 2847. A bill to increase FHA mortgage limits; to the Committee on Banking, Housing, and Urban Affairs.

INCREASE IN FHA MORTGAGE LIMITS

Mr. AKAKA. Mr. President, I rise today to introduce legislation to raise the Federal Housing Administration's [FHA] maximum loan limit. This legislation is cosponsored by Senator INOUYE, Senator CRANSTON, Senator LIEBERMAN, and Senator KERRY.

Only two weeks ago, the Senate overwhelmingly passed the National Affordable Housing Act which authorizes $58 billion in programs over 3 years. As I said during the debate and I will repeat now, the bill does not go far enough. Let us make the "American dream" a reality for the people of our Nation. Let us make housing more affordable, and homeownership more obtainable.

We are all aware from our debate on S. 566 that one of the principal components of Federal housing policy over the past two decades has been mortgages insured by the FHA. Throughout the years, the low downpayment and low interest rate policy of the FHA mortgage loans have assisted millions of low-, moderate-, and middle-income Americans in purchasing a home. The National Affordable Housing Act extends the current mortgage ceiling of $124,785 for single-family homes for 2 more years. However, it falls far short of addressing a problem facing areas such as Hawaii where the median sales price of homes already exceeds the FHA eligibility limit.

In addition, median house prices have risen faster than median incomes. As a result, more and more potential homebuyers are finding it increasingly difficult to meet the cash requirements necessary to qualify for FHA loans. Further, the Senate adopted reform measures to preserve the actuarial soundness of the FHA program during its debate of S. 566. The risk-based premium adopted increases the annual FHA insurance cost. Likewise, the requirement that two-thirds of closing costs be nonfinanceable and due at time of settlement, actually, compounds the problem plaguing the housing market today. Ironically, these actions pose additional burdens and unnecessary restraints on many prospective homebuyers.

Mr. President, in States such as Hawaii, Alaska, California, New York, New Jersey, Connecticut, Massachusetts, New Hampshire, Rhode Island and in many individual metropolitan areas, the median price of a home is substantially higher than the FHA limit of $124,785. While FHA assistance is still available to homebuyers purchasing houses within the ceiling limit, there is a growing disparity between market realities and the established ceiling on eligibility. This in turn distorts the geographical distribution of the FHA loan portfolio. Hence, young and first-time homebuyers are forced to accumulate substantial downpayments or forego FHA assistance. With housing prices continuing to rise in many areas across the Nation, it is only a matter of time before more States and cities will join the list of those with median housing prices at or above the current FHA ceiling.

The time has come, Mr. President, to increase the FHA mortgage ceiling so that the citizens of Hawaii and other high cost areas can enjoy the benefits of homeownership that they need and deserve. There is no reason why families in Hawaii should not be able to enjoy the American dream just like families throughout the mainland. My bill takes an important step forward by helping that dream become a reality.

My bill would permanently increase the FHA ceiling to 80 percent of the Fannie Mae/Freddie Mac maximum loan amount, or $149,960. Many residents in high cost areas would, once again, have access to FHA loans. The availability of FHA loans to these

areas would benefit the FHA program and the consumer.

Opponents will argue otherwise. Many will say that higher default rates will result in further destabilizing the already fragile MMI Fund. However, I suggest the opposite is true. FHA loans would gain a broader geographical base and more stable revenues. The Congressional Budget Office estimates that my bill would create an additional $216 million in revenues in 1991, $195 million in 1992, and $163 million in 1993. In addition, consumers would receive greater equity through affordable housing.

Given the uniqueness of the housing market in Hawaii, my proposal also extends provisions of current law under which the HUD Secretary has created special limits for unusually high cost areas.

I do not dispute that the actuarial soundness of the FHA program must be preserved. However, an equitable balance must be sought. This legislation would contribute greatly to the FHA portfolio.

In May, the Hawaii Association of Realtors reported that the median home price was $342,000. In June, the reported index on the island of Oahu reached the staggering price of $472,000. The sad reality is that escalating housing prices have placed home ownership well beyond the grasp of middle-class families in Hawaii. We must enact legislation to once again bring owning a home within their reach. Under my bill, the FHA mortgage ceiling for Hawaii would, for the first time, exceed $200,000. Married couples, young families starting out in life, and those who have worked hard to save money for a downpayment deserve nothing less.

President Bush announced yesterday that he would veto the housing bill because it goes too far. In Hawaii, we know that nothing could be further from the truth. We know the housing bill doesn't go far enough. That is why my legislation to raise the FHA mortgage ceiling must be adopted.

Mr. INOUYE. Mr. President, during consideration of S. 566, the National Affordable Housing Act, I supported an amendment offered by my colleague, Senator DANIEL AKAKA, to raise the current FHA mortgage loan ceiling from $124,875 to $149,960. The amendment was subsequently withdrawn in an effort to ensure passage of S. 566. At that time, negotiations were underway with the administration to reach a compromise on the bill.

Today, I again join my colleague in support of his bill to raise the FHA mortgage ceiling for high-cost areas. In today's housing market, as housing prices continue to rise, many potential home buyers are finding it increasingly difficult to accumulate the cash necessary to meet the conventional loan requirements. For many States, the FHA program provides home ownership opportunities to those individuals who are unable to purchase a home without FHA assistance. However, the FHA Program is not readily accessible to potential home buyers residing in high-cost areas. In Hawaii, where the median sales price of a single-family home is nearing $300,000, the availability of FHA loans are extremely limited. Hawaii's home prices simply exceed the maximum FHA mortgage limit of $185,000 for our State. A higher limit, in my view, would help eliminate the large gaps which exist between the median home prices and the FHA loan limit.

Opponents will argue that there is greater risk of default and foreclosure when the ceiling amount is increased. Although Hawaii is considered one of the highest priced areas for single-family homes, we have the lowest default and foreclosure rates in the Nation. Our default rate is less than 1 percent of the national average of 2.2 percent, and one-tenth of 1 percent as compared to the 0.734 percent of the national rate in foreclosure.

In a time where the actuarial soundness of the FHA's Mortgage Insurance Fund remains in jeopardy, Hawaii has contributed a positive share into the fund due to our minimal default and foreclosure rates. Yet, accessibility to the FHA Program is limited because of the current mortgage limit ceiling.

I believe raising the limit will help strengthen the FHA portfolio, and provide better accessibility of the program to high-cost areas.

By Mr. SYMMS:

S. 2848. A bill to authorize the Secretary of Agriculture to renegotiate contracts to allow for control of grasshoppers and other pests on conservation reserve program land; to the Committee on Agriculture, Nutrition, and Forestry.

CONTROL OF GRASSHOPPERS ON CONSERVATION RESERVE PROGRAM LAND

Mr. SYMMS. Mr. President, today I am introducing a bill to address a critical problem we are facing right now in the State of Idaho—the uncontrolled infestation of crickets and grasshoppers that is being generated off farm land that has been enrolled in the Federal "conservation reserve program."

I don't know how many of my colleagues have seen the damage that a grasshopper infestation can do, but it can be devastating. The hoppers can get so thick that they devour entire farm fields, literally covering the roads and ditches, to the point of becoming a traffic hazard. Several years ago Senator MCCLURE and I worked to obtain in the law a provision to require the Federal Government to control these pests as they arise on Federal forest and BLM lands. But now a new problem has come up—the farm land that the Federal Government leases as part of its "conservation reserve" has been prime breeding ground and forage for these pests. And the Federal lease agreement makes no provision for who or how to control them.

Fortunately, the Senate Agriculture Committee has incorporated in its reported bill language which requires any new "conservation reserve" lease agreement to specify that the farmer who owns the ground must control the pests arising on it. But that doesn't address the millions of acres already leased for CRP.

The bill I am introducing today requires the Secretary of Agriculture to go back and renegotiate those leases in areas where pest problems are likely. As soon as the Secretary determines where those areas are, he offers CRP-enrolled farmers a choice: They can either begin to assume responsibility for controlling the grasshoppers and other pests on their CRP land, or they can accept a small penalty and terminate their contracts. If they choose to stay in the program, they are given the chance to submit a higher bid in the next CRP bid solicitation. If their bid is accepted, their contract is amended to allow for the higher rental payment. But, if their bid is not accepted, they either have to abide by their existing contract—controlling the grasshoppers on their land—or leave the program.

This procedure assigns the task of controlling pests to the right entity, the farmer who owns the land. But it is also fair, giving farmers who originally bid assuming they wouldn't have to pay for pest controls a chance to either leave the program, or to rebid with everyone else.

I hope my colleagues will see this proposal as the sensible and necessary provision that it is, and I encourage any of them who may be facing similar uncontrolled insect infestations to join me as a cosponsor of the measure.

By Mr. BAUCUS (for himself, Mr. BURDICK, Mr. SIMON, and Mr. DIXON):

S. 2849. A bill to increase the exports of U.S. processed, value-added agricultural products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

VALUE-ADDED AGRICULTURAL TRADE ACT

● Mr. BAUCUS. Mr. President, I rise today to introduce the Value-Added Agricultural Trade Act of 1990.

This important legislation has the goal of increasing exports of value-added agricultural products. A few statistics graphically illustrate the problem we now face. Although the United States is the world's largest agricultural exporter by volume, its share of global agricultural trade in 1987 by value was only 13 percent: The average value of U.S. agricultural exports

per ton was only $223, compared to a world average of $429 and the European Community's $637.

The United States would reap tremendous benefits if it could complete more of the processing involved in converting the raw agricultural products into finished products before export. The USDA's Economic Research Service estimates that if the United States could double its share of the world market for value-added agricultural products it would result in $50 billion increase in U.S. GNP, create a million new jobs, and increase Federal tax revenues by $10 billion.

The legislation I am proposing takes seven important steps to increase the value-added agricultural exports:

First, states the policy of the United States to increase value-added agricultural exports;

Second, directs the Secretary of Agriculture to take steps toward that end and report to Congress on progress;

Third, requires the administration to report on the tax revenue increases stemming from increased value-added agricultural exports;

Fourth, supports U.S. objectives in the GATT negotiations to eliminate agricultural trade barriers;

Fifth, provides assistance to U.S. agricultural exporters facing other nations' unfair trade practices;

Sixth, increase requirements that food aid be given in the form of processed agricultural exports; and

Seventh, ensure that processed forest product exports have full access to agricultural export programs.

I plan to attempt to add this legislation to the 1990 farm bill during floor debate on the bill.

I urge all my colleagues to support this legislation.●

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. BURNS, Mr. CONRAD, and Mr. DASCHLE):

S. 2850. A bill to authorize demonstration projects in connection with providing health services to Indians; to the Select Committee on Indian Affairs.

INNOVATIVE INDIAN HEALTH FACILITIES AND DELIVERY SYSTEM DEMONSTRATION PROJECT ACT

Mr. McCAIN. Mr. President, I rise today with my colleagues, Senators INOUYE, BURNS, and CONRAD, to introduce the Innovative Indian Health Facility and Delivery System Demonstration Project Act. This legislation will empower Indian tribes and Indian communities with the opportunity to demonstrate, by providing some flexibility in the current system, whether Indian health programs can be structured more effectively.

This legislation is the product of over 1 year's worth of work. In putting this proposal together, I have sought and received much input from various tribes from across the country as well as both the current and former Director of the Indian Health Service. This process included a hearing in the Select Committee on Indian Affairs.

Over the past couple of years, I have been watching with interest and concern as recommendations have come forward to close or dramatically alter existing Indian health care facilities in favor of consolidating services or replacing an existing facility with one offering a scaled down level of services. It has prompted me to take a hard look at what's going on with regard to Indian health care facilities and programs.

Many in the native American community feel that the steps being taken may lead to a further deterioration in access to care. The end result being a decline in health status rather than an improvement. I have to say that in many of these cases I agree. On further exploration of this issue, I have found a wealth of ideas among those in the native American community with regard to how resources might be used differently so that, rather than decreasing access to care, it would be enhanced.

I do not believe the fact that tribes have innovative ideas is anything new. I found the same innovation present with regard to mental health—which led the Senate Select Committee on Indian Affairs, and the Senate, to adopt legislation which I proposed last year to fund a number of mental health demonstration projects that will give tribes the keys for change in that area.

This type of empowerment, giving the keys of change to the very population to be served, is in my view very consistent with the whole concept of self-determination. While it may seem to some like a very radical approach, I am convinced that it is the only way to go. Indian and native communities know best how to meet the challenges confronting them. And, I believe that it is just as appropriate in the area of health facilities and health programs as it is with respect to mental health.

Several weeks ago, I chaired a hearing in the Senate Select Committee on Indian Affairs on this subject. There was great interest—in fact, three times as many tribes wanted to testify as could be accommodated. It was clear, throughout the hearing, that there is an abundance of innovative ideas out there.

I have come to the conclusion that it would be a good idea to set up, on a small scale, a pilot program that would provide flexibility to allow tribes to demonstrate some of their ideas about how their health care needs might be met more effectively and/or appropriately. The legislation I am introducing today would do just that. It will establish a program that would empower native Americans with the opportunity to demonstrate, by providing some flexibility in the current system, whether Indian health programs can be structured more effectively.

This involves the creation of an alternative priority system that would permit the construction of some facilities with the combination of IHS and non-IHS funds. It will also permit the merging of programs that have traditionally been kept separate—such as meals-on-wheels and kitchen services of a hospiital—or involve the construction of facilities that fall between a full-blown inpatient hospital and an outpatient clinic.

Unquestionably, one of the major issues is how to make sure that when commitments are made to construct facilities, funds for staffing will be appropriated and allocated. This bill requires the staffing needs to be taken into account in the consideration of the proposals.

For some, such a program might prompt fear about the future of the Federal Government's role in health care for native Americans. It should not!

This demonstration priority system would not in any way threaten the status of those tribes who are in the existing priority system. Nor should any movement in the direction of permitting the construction of facilities with moneys that are wholly, or partially, non-IHS be construed to mean that we are going to eliminate or decrease the level of Federal commitment to facilities construction. In point of fact, I believe if there is to be any change in Federal appropriations for health facilities construction it surely ought to be an increase. After all, there is more need than we can currently meet. IHS currently estimates its new facilities backlog at $500 million. It has also identified a backlog of over $90 million in necessary repairs to existing facilities. Therein lies the fundamental point.

Not only will this demonstration project make services available in areas where they are not currently available, it will permit us to learn what, if any, changes ought to be made in the way in which the Indian Health Service currently approaches health programs and facilities construction.

I believe this project holds much promise, because we are putting the keys for change into the hands of those who ought to have them—the very people who are affected either positively or negatively by whatever health care service delivery system exists.

I hope that my colleagues will join me in cosponsoring and moving this important piece of legislation.

Mr. President, finally, health conditions on Indian reservations across America are deplorable. America's first citizens dwell in conditions which sometimes defy description.

Fetal alcohol syndrome is 10 times the national average; tuberculosis, 50 times the national average; syphillis, 8 times the national average.

Mr. President, native Americans—and I note the presence of my friend from Hawaii who will readily agree with me—and native Hawaiians need our help in the form of increased and better availability of health services.

Frankly, some of the signs that we are seeing of unrest to the north of our Nation could possibly—and I emphasize "possibly"—translate itself to our Nation unless we address the endemic and deplorable conditions that exist on reservations throughout the country, and that includes Hawaii and Alaska.

Mr. President, this small bill will not cure the problem, but I think it and a series of small steps will go a long way toward addressing the issue.

I ask unanimous consent that the full text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Innovative Indian Health Facilities and Delivery System Demonstration Project Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there is a unique relationship between the Federal Government and Indian tribes, and declares that this Act is not intended to alter that relationship;

(2) every Indian tribe, regardless of its size, should have the ability to provide an adequate level of health services to its people;

(3) the existing Indian Health Service facilities construction priority system and resource allocation methodologies are not to be affected by this Act;

(4) the present system fails to reach certain Indian groups, such as small tribes and tribes whose hospitals are included on the closure list; and

(5) there exists in this Nation in connection with the Indian health system a construction backlog which will require at least $500,000,000 to remedy, and a repair backlog which will require at least $90,000,000 to remedy.

SEC. 3. PURPOSE.

It is the purpose of this Act to provide demonstration projects to determine the most effective and cost-efficient means of providing health and some social services to Indians.

SEC. 4. DEMONSTRATION PROJECTS.

(a) PROJECTS TO BE ESTABLISHED.—The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall, within the 60-month period following the date of the enactment of this Act, establish not more than 35 or less than 25 demonstration projects to determine the most effective and cost-efficient means of providing health services to Indians. In carrying out the preceding sentence, the Secretary shall establish, among others, a demonstration project addressed to each of the following hospitals:

(1) Cass Lake;
(2) Clinton;
(3) Harlem;
(4) Mescalero;
(5) Owyhee;
(6) Parker;
(7) Schurz;
(8) Winnebago; and
(9) Ft. Yuma.

(b) CONTRACTS; GRANTS.—The Secretary is authorized to enter into contracts with, or make grants to, any Indian tribe for the purpose of carrying out a demonstration project under this Act.

(c) CONSTRUCTION; RENOVATION.—Demonstration projects under this Act may include the construction and renovation of hospitals, health centers, health stations, and other facilities for the health needs of Indians.

(d) WAIVER AUTHORITY.—For the purposes of this Act, and grants pursuant thereto, the Secretary is authorized to—

(1) waive current leasing prohibitions;

(2) permit carryover funding for service dollars;

(3) permit interagency combined funding; and

(4) permit non-Indian Health Service funds and property to be donated for project purposes, with reversion authority for the property.

(e) GEOGRAPHICAL DISTRIBUTION.—In establishing demonstration projects under this Act, the Secretary shall act so as to provide for a broad geographical distribution of such projects among the Indian population.

(f) PRIORITY.—For those demonstration projects involving the construction or renovation of facilities with other than 100 percent Federal funding, the Secretary shall act so as to assure a priority to those applicants whose proposal involves no Indian Health Service Federal funding.

(2) Notwithstanding the provisions of paragraph (1), not less than one-third of the demonstration projects established pursuant to this Act shall involve those Indian tribes intending to use both Federal and non-Federal funding in carrying out such project.

SEC. 5. APPLICATIONS.

(a) PROCEDURES.—No Indian tribe shall be considered for a demonstration project under this Act except pursuant to an application. Such application shall require such information and be in such form as the Secretary shall prescribe.

(b) ASSESSMENT.—(1) Each application for a demonstration project shall be accompanied by an assessment of the status of current services and facilities in connection with Indian health in accordance with paragraph (2).

(2) Each assessment required by paragraph (1) shall—

(A) be in such form as the Secretary shall prescribe;

(B) define the community or area to be served by the project, including whether Indian or both Indian and non-Indian;

(C) specify the need or needs for such a demonstration project;

(D) include a complete analysis of existing facilities, such as space, structural deficiencies, and engineering;

(E) include a description of health services currently accessible to the population to be served, and how those services would continue to be utilized;

(F) include a statement as to the staffing which would provide services in connection with such project; and

(G) include a description of funding sources which are available for current services.

(c) PROPOSAL.—(1) In addition to an assessment as required by subsection (b), each application shall be accompanied by a proposal in accordance with paragraph (2).

(2) The proposal shall—

(A) be in such form as the Secretary shall prescribe;

(B) be submitted, not only to the Secretary, but to the appropriate office serving the area covered by such project;

(C) include a description of the nature of the facility to be constructed or renovated, or the program to be carried out in connection with the demonstration project covered by the proposal;

(D) include the data and information on which the proposal is based;

(E) indicate the services to be provided by the demonstration project;

(F) include an explanation as to what makes the demonstration project unique;

(G) include a statement as to the costs of the project, including the operation and maintenance budget, and the funding sources (including verification) for such project;

(H) a schedule for completion of any construction or renovation involved in any demonstration project;

(I) include a statement as to staffing requirements necessary to carry out such project; and

(J) include a statement of standards from the various Indian populations and Indian-related service-delivery systems in the area which would be affected by such demonstration project.

(d) AREA OFFICE.—Each area office receiving a proposal pursuant to subsection (c) shall consider such proposal and submit its comments and recommendations with respect thereto to the Secretary.

SEC. 6. PRIORITY PROPOSALS.

(a) CONSULTATION.—The Secretary, after consultation with interested Indian tribes, shall establish a priority system for considering, acting on, and selecting applications submitted pursuant to this Act, and criteria to be followed in connection with the approval of such applications. A copy of such system and criteria shall be published in the Federal Register.

(b) CONGRESSIONAL REVIEW.—Prior to publication of such system and criteria referred to in subsection (a) in the Federal Register, the Secretary shall submit a copy thereof to the appropriate committees of the Congress. Such publication in the Federal Register shall not take place prior to the expiration of the 45-day period following the date on which such system and criteria were submitted to the appropriate committees of Congress.

(c) REVIEW PANEL.—(1) The Secretary shall establish a panel or panels to review, evaluate and rank applications, together with assessments and proposals. It shall be the function of such panel to advise and make recommendations to the Secretary.

(2) Any panel established pursuant to paragraph (1) shall include tribal representatives, Indian Health Service personnel, and experts in rural health and Indian health facility construction and program implementation.

(d) Consideration of Proposals.—In considering applications, including assessment and

proposals, the Secretary and review panels shall consider, among other things, the following:

(1) will the demonstration project provide innovative health services to the Indians;

(2) the benefit or benefits of what is being demonstrated by the project;

(3) the extent to which benefits to Indians will be enhanced as a result of the demonstration project; and

(4) the ability of the Department of Health and Human Services to support functions of the Department that are related to the demonstration project.

SEC. 7. TECHNICAL ASSISTANCE; OFFICE OF RURAL DEMONSTRATION.

(a) ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable interested applicants to comply with the provisions of this Act.

(b) OFFICE OF RURAL DEMONSTRATION.—The Secretary shall establish, within the Indian Health Service, an Office of Rural Demonstration within its Office of Health Programs to oversee demonstration projects under this Act, and to coordinate technical assistance in connection therewith.

SEC. 8. COORDINATION OF ACTIVITIES.

The Secretary shall, from time to time, consult with other interested heads of Federal departments, agencies, and instrumentalities in carrying out the provisions of this Act.

SEC. 9. AUTHORIZATIONS.

(a) GRANTS.—For the purpose of making grants to carry out the provisions of this Act, there are authorized to be appropriated such sums as may be necessary.

(b) For the purposes of entering into contracts and otherwise carrying out the provisions of this Act, there are authorized to be appropriated such sums as may be necessary.

By Mr. McCAIN (for himself, Mr. FORD, Mr. DANFORTH, Mr. HOLLINGS, Mr. EXON, Mrs. KASSEBAUM, and Mr. KASTEN):

S. 2851. A bill to alter the Federal rules applicable to commercial air carriers at high density traffic airports; to the Committee on Commerce, Science, and Transportation.

AIRLINE COMPETITION EQUITY ACT

Mr. McCAIN. Mr. President, I believe the airline industry is beset by numerous competitive problems. Incredibly, perhaps the most ergegious of these problems was created and is being perpetuated by the Federal Government. The Government has restricted entry at four key airports, and this is destroying competition and raising fares for travelers throughout the country. I am talking about takeoff and landing slots created by the Federal Government at New York LaGuardia, Washington National, New York Kennedy, and Chicago O'Hare.

Today I am introducing the airline competition equity act, legislation designed to eliminate this problem. Joining me as cosponsors are the chairman of the Aviation Subcommittee, Senator FORD; the Commerce Committee ranking minority member, Senator DANFORTH; and the distinguished chairman of the Commerce Committee, Senator HOLLINGS; as well as Senators EXON, KASSEBAUM, and KASTEN.

This legislation has a threefold approach: repeal the buy-sell rule, create new slots for new entrants, and force the Transportation Department to review the need for any slot controls.

I would like to explain to the Senate the major elements of this bill.

First, the legislation would repeal the buy-sell rule. The GAO found that sales between unrelated carriers have fallen from 100 per quarter in 1986, to 28 per quarter in 1987, to 12 per quarter in 1988. Airlines have solidified their holds on these markets and can now operate them greatly insulated from the effects of competition.

Now new entrant airlines must be willing to pay more than $1 million to obtain a slot if they can find one. The buy-sell rule currently allows airlines to sell or lease slots to other airlines for profit. They were conditionally given to the airlines by the Government for free and now, as I mentioned, they sell at very high fees. FAA retains authority to recall slots at any time according to law.

At time of deregulation in 1979 there were a myriad of airlines. Now those names have all receded into the past: Peoples Express, Braniff, et cetera. Now we hear of the existing airlines, TWA, Eastern, Continental, Pan Am, all in jeopardy. We could be reduced, within a year or two, to maybe only four major airlines in America.

Mr. President, that is not what we had in mind with the deregulated airline industry. There is existing today two airlines who entered the business since deregulation, as of all of those airlines that we know of, some 20-some airlines. We have to create a competitive airline, deregulated environment for airlines, not for the benefit of airlines, but for the benefit of passengers who are paying higher and higher fares to go to the same places, which was clearly not the intent of the law when we deregulated the industry. It is time we in Congress acted on it.

Mr. President, I ask unanimous consent that the text of this bill be printed in its entirety immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Airline Competition Equity Act of 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) the provisions of subpart S of part 93 of title 14, Code of Federal Regulations (known as the "buy-sell rule"), which allow a public right to be used as a private asset, not only restrict competition at the four airports whose use is controlled through slots but also can impede competition in air transportation throughout the northeastern and midwestern United States;

(2) passengers pay higher fares at slot-controlled airports than at other airports;

(3) publicly granted rights should not be sold for purely private gain;

(4) increasing the number of slots at high density traffic airports will make it easier for carriers not already engaged in regular operations at those airports to achieve regular operations; and

(5) improvements in the air traffic control system since the initiation of slot controls, including new technology and new methods of regulating air traffic, necessitate a complete review of the practice of using slots to control access to high density traffic airports.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Administrator" means the Administrator of the Federal Aviation Administration.

(2) "Air carrier" has the meaning given that term is section 101(3) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(3)).

(3) "High density traffic airport" means the Kennedy International Airport, New York, New York; LaGuardia National Airport, New York, New York; O'Hare International Airport, Chicago, Illinois; or Washington National Airport, Washington, D.C.

(4) "New entrant carrier" means an air carrier, including a commuter operator, that holds fewer than 12 slots at the relevant airport.

(5) "Secretary" means the Secretary of Transportation.

(6) "Slot" means the operational authority to conduct one landing or takeoff operation, under instrument flight rules, each day during a specific period at a high density traffic airport.

PURCHASE, SALE, LEASE, AND OTHER TRANSFER OF SLOTS

SEC. 4. (a) Notwithstanding the provisions of subpart S of part 93 of title 14, Code of Federal Regulations, no slot at any airport may be purchased, sold, leased, or otherwise transferred on or after July 12, 1990, except that one slot may be exchanged for another slot if there is no other consideration associated with the exchange.

(b) No rule, regulation, or order (other than an emergency order) may be issued by the Secretary or the Administrator relating to restrictions on aircraft operations at any high density traffic airport unless such rule, regulation, or order is consistent with the provisions of this Act.

SLOT ALLOCATIONS FOR NEW ENTRANT CARRIERS

SEC. 5.(a) Not later than 60 days after the date of enactment of this Act, the Administrator shall by rule establish a pool of slots for new entrant carriers at each high density traffic airport.

(b) The rule referred to in subsection (a) shall include, but not be limited to, provisions to accomplish the following:

(1) The new entrant slots in the pool shall be in addition to slots at each such airport which are in existence on the date of enactment of this Act, and the number of such new entrant slots shall not increase the overall number of slots at such airport by more than 5 percent in excess of the number of such existing slots.

(2) New entrant slots shall be allocated in such a way that, to the maximum extent practicable, all new entrant carriers have an

equal number of slots overall at such airport, including both new entrant slots and existing slots. No new entrant carrier shall receive a new entrant slot under this section which gives that carrier more than 12 slots overall at such airport.

(3) Each new entrant slot shall be public property and its use shall represent a nonpermanent operating privilege within the exclusive control and jurisdiction of the Secretary and the Administrator. Any such privilege may be withdrawn, recalled, or reallocated by the Secretary for reasons of aviation safety, airspace efficiency, the enhancement of competition in air transportation, or any other matter in the public interest and in accordance with the public convenience and necessity.

(4) If the holder of a new entrant slot fails to initiate use of the slot within 60 days after receiving the slot or thereafter fails to use the slot in accordance with rules for use of existing slots, the new entrant slot shall be withdrawn and, if appropriate, be reallocated to another new entrant carrier.

(c)(1) Section 6005(c)(5)(C) of the Metropolitan Washington Airports Act of 1986 (49 App. U.S.C. 2454(c)(5)(C)) is amended by inserting ", except as provided in the Airline Competition Equity Act of 1990," immediately after "of this Act".

(2) Section 6009(e)(1) of the Metropolitan Washington Airports Act of 1986 (49 App. U.S.C. 2458(e)(1)) is amended by inserting ", except as provided in the Airline Equity Competition Act of 1990," immediately after "this title".

HIGH DENSITY TRAFFIC AIRPORT RULES

SEC. 6.(a) The provisions of subpart K of part 93, of title 14, Code of Federal Regulations, and of the rule referred to in section 5(a) of this Act shall cease to have force and effect on and after the date that is 18 months following the date of enactment of this Act.

(b) If after such provisions cease to be effective the Secretary or the Administrator decides to issue a new rule, regulation, or order providing for the allocation of slots at any airport, such rule, regulation, or order shall not be issued until the Administrator certifies in a report to Congress that—

(1) such a rule, regulation, or order is required in the interest of aviation safety; and

(2) there is no alternative means for achieving comparable safety which has a less adverse effect upon competition in air transportation at such airport.

(c) Any such rule, regulation, or order issued in accordance with subsection (b) shall be airport-specific unless the Administrator certifies that the aviation safety sought cannot be achieved without making the rule, regulation, or order applicable to more than one airport.

Mr. KASTEN. Mr. President, I am pleased to be an original cosponsor of the Airline Competition Equity Act of 1990 which we are introducing today. The bill is a necessary step toward bringing the benefits of increased competition to the four slot-controlled airports, and fairness to those potential competitors who have been unable to gain the access necessary to compete at Washington National, New York's La Guardia and Kennedy Airports, and Chicago's O'Hare.

After adoption of the high density rule, the buy-sell rule was adopted to allow market forces to regulate the transfer slots. However, for many reasons this system has not operated as envisioned. Until recently, the only significant transfer of slots has occurred upon the purchase and sale of entire companies, not as individual slot requirements have changed. In fact, with only a 65 percent use or lose rule in effect, we have seen carriers baby-sitting slots, holding onto them at minimal usage rates, rather than having those slots go to competitors who could serve the public with increased service. Now, reports indicate that the going price of a slot is about $1.5 million each. This kind of money for what remains public property is not fair, or procompetitive.

Concerns over this situation led to the adoption of a provision in the conference report for the fiscal year 1989 appropriations for the Department of Transportation which required the DOT to commence a rulemaking to free up slots for new entrants and limited incumbents at the four airports. That was passed September 22, 1988.

The rulemaking was to commence within 90 days, with the issuance of a final rule within 270 days after that. Despite repeated pressure on DOT, we are now 21 months out and we are frankly sick and tired of waiting while the situation just gets more pressing.

As I stated at a hearing in April, faced with DOT's inaction, the time has come for us to legislate the framework of a solution. Thus, this bill would make available up to 5 percent more slots at the controlled airports, repeal immediately the buy-sell rule which has certain carriers reaping huge gains off of what are public assets, and repeal, 18 months after passage, the high density rule affecting the four airports.

If such an approach is the only solution to circumstances at an airport after that, then after congressional notification, such a rule could be adopted on an airport-by-airport basis. With the flow control methods now in place, I believe we can deal with the access and operations requirements in ways that do not hinder the competition that serves the public best.

I look forward to quick committee action on this bill, and hope that we will soon be speaking on this floor on the occasion of its final passage by the Senate.

Mr. EXON. Mr. President, I am pleased to join my colleagues today as an original cosponsor of legislation designed to bring needed reforms to the rules governing airline landing slots at our Nation's slot-controlled airports.

Reforms in the present rules are long overdue. Unfortunately, the necessary reforms have not been accomplished by the Federal Aviation Administration despite frequent calls from Members of Congress, including myself, to do so. Accordingly, it is necessary for Congress to take action.

My colleagues have already made many excellent points about the need for this type of legislation and I will not repeat them. I simply wish to emphasize that even though there are currently only four slot-controlled airports in the United States, the problems relating to the present rules are truly national in scope. The effect of the present rules has been to lock in place what amounts to Government sanctioned monopoly situations. That stifles airline competition to the detriment of the flying public, to the detriment of new entrant carriers, and to the detriment of communities served by those carriers.

For example, Omaha, NE, has had recurring difficulties in getting and keeping nonstop flights to East Coast slot-controlled airports. Nonstop flights to our Nation's Capital and to New York City financial centers are very important for Nebraska businesses and long term economic development. There have not been problems at the Nebraska end of the route nor in getting an airline willing to provide such service. The problem has been in simply getting fair access to the East Coast slot-controlled airports due to present landing slot rules.

Mr. President, I thank my colleagues for their hard work and cooperative efforts to address present slot rule problems and look forward to working to ensure the needed legislation is approved.

Mr. HOLLINGS. Mr. President, I am pleased to cosponsor the Airline Competition Equity Act of 1990, and hope that it will correct at least one of the complaints I have had with existing policies associated with airline deregulation.

First, this bill will repeal a rule which permits airlines to buy and sell operating rights at Washington National, LaGuardia, Kennedy, and O'Hare airports. In 1985, the Secretary of Transportation promulgated a regulation which gave away operating slots at these so-called high density airports to the carriers who held those slots, and told the carriers that hereafter they could buy and sell those slots as they desired. I, and many of my colleagues, objected to relinquishing public property rights to carriers who then could, and did, profit by the sale of those rights. The Commerce Committee reported legislation in 1986 to repeal this rule, and the Senate approved this legislation by a vote of 82 to 14; however, this legislation was not agreed to by the House, and the rule has stayed in effect.

The result of this unsound free market policy was that not only did the air carriers profit by the rights, but also they blocked new entry either by refusing to sell slots to new carriers, or by making the price prohibitive. This bill requires the Administrator of

the Federal Aviation Administration [FAA] to create a pool of slots for new entrants so that they can have access to these airports, and we can have some competition in these markets.

The bill also requires the FAA to rejustify the whole concept of operating slots by abolishing completely the high-density rule 18 months after enactment of this bill. If the Administrator determines that there is a safety reason for limiting slots at these airports—or any airports—the Administrator has the authority to do so, but must so certify in a report to Congress. Otherwise, these restrictions which impede competition and limit capacity are to be eliminated.

I look forward to working with my colleagues on this bill.

Mr. FORD. Mr. President, I am pleased to join my colleague and ranking member on the Aviation Subcommittee, Senator MCCAIN, in introducing the Airline Competition Equity Act of 1990. Senator MCCAIN and I have had a number of hearings over the past 2 years on competition in the airline industry. This legislation will help to resolve some of the problems we have identified.

The FAA designated four airports—LaGuardia, Washington National, Kennedy and O'Hare—in 1969 as high density, and established slot controls, or controls on instrument operations at these airports. At the time the FAA viewed this as necessary due to constraints in the air traffic control system. The air traffic controllers strike in 1981 and the resulting shortage of controllers compounded the problem and the high density rule was continued. By the mid-1980's, the system for reallocation of unused slots, or for withdrawing slots for use by new entrants, had become so contentious and unwieldy that the Secretary of Transportation attempted to solve the problem through the "buy-sell rule," which turned slots over to the carriers who currently held them, and thereafter allowed the carriers to buy and sell the slots. The problem with this is that the big carriers get more slots, and the little ones or new carriers are left out. Since the high density rule limits the number of operations, there is no way to increase capacity to accommodate new entrants. The lack of competition results in higher fares for passengers and, in many cases, less service. Furthermore, the Government gave these rights to the carriers; the Government got nothing in return; and the carriers in some cases sold the slots for big money.

I have never thought the buy-sell rule was right. The vast majority of the Senate agreed when we voted to repeal it in 1986; however, the House did not agree and the rule still stands. This legislation would abolish the buy-sell rule; would direct the Administrator to provide extra capacity at these four airports to be used only for new entrants; and would eliminate the high density-rule itself in 18 months after enactment of the legislation. After that, if the FAA wants to impose slot controls on any airport, the Administrator must certify to Congress that such a rule is necessary for aviation safety.

I commend my colleague for his hard work on this issue. I believe this legislation is needed and should be passed; if so, it will be the first important step in addressing the capacity and competition concerns which we have raised in the Aviation Subcommittee.

Mr. DANFORTH. Mr. President, under the so-called buy-sell rule, take-off and landing rights created by the Federal Government at four airports—New York LaGuardia, Washington National, New York Kennedy, and Chicago O'Hare—are being traded, leased and sold for private gain.

These take-off and landing rights, known as slots, were created in 1969 to ensure smooth traffic flow. However, in 1985, the Department of Transportation decided to allow the airlines to treat these public rights as if they were private property. They immediately acquired tremendous market value. An incumbent airline now can sell its slots for more than $1 million apiece.

Mr. President, the by-sell rule has been a public policy disaster. The only thing it has achieved is private profiteering at the public's expense. The time has come to repudiate this misguided policy.

Today, Senator MCCAIN and I, along with Senators FORD, HOLLINGS, EXON, KASSEBAUM, and KASTEN, are introducing legislation which would repeal the rule that allows airlines to buy, sell, or lease airport slots.

Mr. President, there are three things wrong with the buy-sell rule. First, it bestows a Federal benefit that can be used for private gain without regard to the public interest. Second, it restricts the access to major airports that upstart airlines need if they are to compete with established carriers. Finally, it never has been justified as necessary to the safety of the traveling public. It is simply economic policy gone awry.

When the buy-sell rule was first promulgated by the DOT in 1985, Senator KASSEBAUM led a drive in the Senate to repeal it. Although her measure failed in the House, the Senate passed it by the overwhelming vote of 82-12. Her bill was appropriate then. This bill is essential now. Repeal of the buy-sell rule is long overdue.

By Mr. BURNS (for himself, Mr. GORTON, Mr. BOSCHWITZ, Mr. KASTEN, Mr. DANFORTH, Mr. FORD, Mr. WIRTH, Mr. HEFLIN, Mr. SHELBY, Mr. LOTT, Mr. NICKLES, Mr. SYMMS, Mr. BREAUX, Mr. COCHRAN, Mr. D'AMATO, Mr. RIEGLE, Mr. SARBANES, Mr. CHAFEE, Mr. RUDMAN, Mr. DOLE, Mr. DIXON, Mr. INOUYE, Mr. PRYOR, Mr. BUMPERS, and Mr. ROBB):

S.J. Res. 347. Joint resolution designating April 7 through 13, 1991, as "National County Government Week."

NATIONAL COUNTY GOVERNMENT WEEK

Mr. BURNS. Mr. President, I stand today to introduce a joint resolution that represents a form of government that I was closely related to for a period of time prior to my coming to the Senate body.

As a former county commissioner of Yellowstone County, MA, I come today to introduce the National County Government Week joint resolution that would designate April 7 through 13, 1991, as a special week that all county governments within the United States would honor and promote the benefits of county government.

This week would be an opportunity for those involved in county government to educate their local citizens about the work and services they offer. The purpose of the resolution is to focus attention on the oldest form of local government in the United States. Unfortunately, county government is not as well known in many parts of our Nation as are cities and States. Designating April 7 through 13, as National County Government Week will help in making counties more understandable and visible to its citizens.

Those of you who came from county government realize the value of grassroots level government. I have very strong feelings about the importance of county government and the increasing role it is playing in solving problems at the local and areawide levels. The joint resolution cites the services currently provided by counties and the resulting growth during the last two decades. It provides not only funding for roads, it provides long-term services for the poor, the homeless, immigrants, refugees, and the disadvantaged.

In addition this form of government proudly employs nearly 2 million people to the tune of $1 trillion a year in salaries. They are responsible for 1,000 health care facilities and over 2,000 health departments. Also, they have assumed increasing responsibility for justice, welfare, transportation, housing, and community development programs.

They have also been assigned a greater role in solving areawide problems dealing with air pollution, water pollution, solid waste disposal, airports, transit systems, regional parks, and other areas of public interest.

I can tell you from experience that they do not have an easy job. But that job could and would be more understood if the general public had an opportunity to understand the goings on behind the scenes of these county official seals.

Therefore, I ask for the support of my colleagues today in this significant joint resolution.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 347

Whereas county government is the oldest form of local government in the United States;

Whereas 98 percent of the Nation's population reside in counties;

Whereas county government employed over 1,900,000 people and spent almost $103,000,000,000 last year to provide a wide range of services for the benefit of the people of the United States;

Whereas county governments are often the last available resource for providing emergency and long-term services for the poor, the homeless, immigrants, refugees, the disadvantaged, and other segments of society;

Whereas county governments own and operate 1,000 health care facilities and over 2,000 health departments;

Whereas almost 1,200 counties are now managed by appointed administrators or elected executives;

Whereas over the last 30 years county governments have assumed increasing responsibility for the administration and financing of health, welfare, justice, transportation, housing, and community development programs; and

Whereas county governments have also been assigned a greater role in solving area wide problems dealing with air pollution, water pollution, solid waste disposal, airports, transit systems, regional parks, and other issues: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 7 through 13, 1991, is designated as "National County Government Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. CRANSTON, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 15, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 814

At the request of Mr. DOMENICI, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 814, a bill to provide for the minting and circulation of one dollar coins, and for other purposes.

S. 1676

At the request of Mr. PELL, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 1676, a bill to strengthen the teaching profession, and for other purposes.

S. 1878

At the request of Mr. GRAHAM, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1878, a bill to amend title XIX of the Social Security Act to allow for State matching payments through voluntary contributions and State taxes.

S. 2100

At the request of Mr. CRANSTON, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 2100, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to amend title 38, United States Code, to improve veterans' compensation, healthcare, insurance, and housing programs, and to provide for transitional group residences for veterans recovering for substance-abuse disabilities; and for other purposes.

S. 2112

At the request of Mr. METZENBAUM, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2112, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes.

S. 2222

At the request of Mr. BRADLEY, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2222, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 2415

At the request of Mr. DOMENICI, the names of the Senator from Utah [Mr. GARN], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2415, a bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Act of 1978.

S. 2434

At the request of Mr. D'AMATO, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2434, a bill to permit the implementation of the Department of Transportation anti-drug program rule for recipients of Federal mass transit assistance.

S. 2489

At the request of Mr. LEAHY, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 2489, a bill to improve the nutritional health of needy Americans, to provide emergency food assistance, to authorize several vital nutrition programs, and for other purposes.

S. 2500

At the request of Mr. CHAFEE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2500, a bill to amend title 23, United States Code, to control billboard advertising adjacent to Interstate Federal-aid primary highways, and for other purposes.

S. 2568

At the request of Mr. COHEN, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2568, a bill to establish the Counter-Narcotics Technology Assessment Center within the Office of National Drug Control Policy, and for other purposes.

S. 2602

At the request of Mr. METZENBAUM, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2602, a bill to amend the Public Health Service Act to provide assistance for biomedical and health services research, treatment programs and for other purposes relating to Alzheimer's disease and related disorders.

S. 2616

At the request of Mr. DASCHLE, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 2616, a bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropractic services authorized to be performed under State law, and for other purposes.

S. 2641

At the request of Mr. RIEGLE, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2641, a bill to amend title XVIII of the Social Security Act to provide for simplification in the purchase of Medicare supplemental insurance.

S. 2653

At the request of Mr. BURNS, the names of the Senator from Missouri [Mr. BOND], the Senator from North Carolina [Mr. HELMS], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 2653, a bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles

are controlled and operated by a farmer.

S. 2677

At the request of Mr. LAUTENBERG, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2677, a bill to extend for 2 years the operation of sections 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.

S. 2709

At the request of Mr. BOSCHWITZ, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2709, a bill to amend the Internal Revenue Code of 1986 to provide that certain expenses of travel, meals, and lodging of members of the National Guard or reserve units of the Armed Forces will be allowable as deductions in computing adjusted gross income.

S. 2754

At the request of Mr. BIDEN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

S. 2796

At the request of Mr. COHEN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2796, a bill to amend Title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their title IV student loans while completing a resident training program accredited by the Accreditation Council for Graduate Medical Education or the Accrediting Committee on the American Osteopathic Association.

S. 2801

At the request of Mr. DOLE the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2801, a bill to direct the Secretary of Health and Human Services to phase in the update to the area wage index used to determine the amount of payment made to a hospital under Part A of the Medicare program for the operating costs of inpatient hospital services for inpatient discharges occurring during fiscal year 1991, and for other purposes.

S. 2805

At the request of Mr. MCCLURE, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 2805, a bill to amend the Federal Power Act.

S. 2813

At the request of Mr. GRAHAM, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Arizona [Mr. MCCAIN], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2813, a bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

S. 2819

At the request of Mr. MOYNIHAN the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2819, a bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes.

S. 2836

At the request of Mr. HUMPHERY, his name was added as a cosponsor of S. 2836, a bill to deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment.

SENATE JOINT RESOLUTION 273

At the request of Mr. BREAUX, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Joint Resolution 273, a joint resolution to designate the week of October 7–13, 1990 as "National Health Care Food Service Week."

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from South Carolina [Mr. THURMOND], the Senator from North Carolina [Mr. SANFORD], the Senator from Alaska [Mr. STEVENS], the Senator from Idaho [Mr. MCCLURE], the Senator from Rhode Island [Mr. PELL], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990 as "National Give the Kids a Fighting Chance Week."

SENATE JOINT RESOLUTION 293

At the request of Mr. RIEGLE, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 293, a joint resolution to designate November 6, 1990, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 316

At the request of Mr. HATFIELD, the names of the Senator from California [Mr. CRANSTON], the Senator from South Dakota [Mr. DASCHLE], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. GORE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KERRY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Rhode Island [Mr. PELL], the Senator from Michigan [Mr. RIEGLE], the Senator from Virginia [Mr. ROBB], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], the Senator from South Carolina [Mr. THURMOND], the Senator from California [Mr. WILSON], the Senator from Delaware [Mr. BIDEN], the Senator from Louisiana [Mr. BREAUX], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Washington [Mr. GORTON], the Senator from Iowa [Mr. GRASSLEY], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Tennessee [Mr. SASSER], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 316, a joint resolution to designate the second Sunday in October of 1990 as "National Children's Day."

SENATE JOINT RESOLUTION 345

At the request of Mr. D'AMATO, the names of the Senator from Indiana [Mr. COATS], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Jersey [Mr. BRADLEY], the Senator from Arizona [Mr. DECONCINI], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 345, a joint resolution designating August 20 through 26, 1990, as "National Headache and Jaw Disorders Week."

SENATE CONCURRENT RESOLUTION 134

At the request of Mr. HEINZ, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Concurrent Resolution 134, a concurrent resolution expressing the sense of Congress concerning a 1991 White House Conference on Aging.

SENATE RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Pennsylvania [Mr. HEINZ], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of Senate Resolution 296, a resolution to express the sense of the Senate the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 308—ORIGINAL RESOLUTION REPORTED PROVIDING BUDGET ALLOCATIONS TO THE COMMITTEE ON APPROPRIATIONS

Mr. SASSER, from the Committee on the Budget, reported the following original resolution; which was considered and agreed to:

S. RES. 308

Resolved, That (a) for purposes of section 302(a) of the Congressional Budget Act of 1974 the estimated allocation of the appro-

priate levels of budget totals for the Senate Committee on Appropriations shall be—

(1) $690,606,000,000 in total budget outlays; and

(2) $680,512,000,000 in total new budget authority,

until a concurrent resolution on the budget for fiscal year 1991 is agreed to by the Senate and House of Representatives pursuant to section 301 of Congressional Budget Act of 1974.

(b) Notwithstanding the provisions of subsection (a) and if the Bipartisan Executive-Congressional Economic Summit reaches an agreement on appropriate levels of budget totals different from those contained in subsection (a) and the Congress adopts such levels, the levels agreed to by the Bipartisan Executive-Congressional Economic Summit shall supersede the levels contained in subsection (a).

AMENDMENTS SUBMITTED

CIVIL RIGHTS ACT OF 1990

HATCH AMENDMENT NO. 2120

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, as follows:

On page 10, line 15, insert before the period the following: ", or that such judgment or order violates a person's right to equal protection under the law under the United States Constitution".

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT

PACKWOOD (AND HATFIELD) AMENDMENT NO. 2121

Mr. PACKWOOD (for himself and Mr. HATFIELD) proposed an amendment to the bill (H.R. 4328) to authorize appropriations for fiscal years 1991 and 1992 for the customs and trade agencies, and for other purposes, as follows:

At the appropriate place, insert the following new section:

SEC. . EXEMPTION OF ATHLETIC FOOTWEAR FROM QUOTA.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, any provision of this Act which imposes a limitation on the quantity of footwear that may be entered shall not apply with respect to athletic footwear.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "athletic footwear" means—

(A) nonrubber footwear of special construction for specific sports, including baseball, softball, football, soccer, golf, track and field, skating, wrestling, boxing, weightlifting, gymnastics, volleyball, or curling, and

(B) nonrubber footwear not dedicated to a specific sport that is designed and constructed for—

(i) playing tennis, basketball, racquetball, volleyball, handball, squash, or any other court game, or

(ii) physical conditioning activities including, but not limited to, running, jogging, training, or aerobics, whether or not used for such purposes.

(2) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

MOYNIHAN (AND PACKWOOD) AMENDMENT NO. 2122

Mr. MOYNIHAN (for himself and Mr. PACKWOOD) proposed an amendment to the bill H.R. 4328, supra, as follows:

On page 28, strike lines 1 through 11 and insert the following:

(3) The limitations in this Act on the aggregate quantity of textiles, textile products and nonrubber footwear that may be entered during any calendar year do not apply to articles that are the products of Canada or Israel.

PACKWOOD AMENDMENT NO. 2123

Mr. PACKWOOD proposed an amendment to the bill H.R. 4328, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . PRESIDENTIAL DISCRETION.

The provisions of this Act shall not apply if the President determines they violate U.S. international obligations.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on S. 2426, the National Tree Trust Act of 1990, on July 19, at 10 a.m. in SR-332. Senator KERREY will preside. For further information, please contact Tom Tuchmann of the committee staff at 224-2035.

SUBCOMMITTEE ON NUTRITION AND INVESTIGATIONS

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Nutrition and Investigations of the Senate Committee on Agriculture, Nutrition, and Forestry will hold a hearing on July 20 at 10 a.m. in SR-328A. The purpose of the hearing is to investigate concentration in the meat packing industry. Senator HARKIN will preside. For further information, please contact Mark Halverson in Senator HARKIN's office.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Thursday, July 19, 1990, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony from Presidential nominees Calvin A. Kent to be Administrator of the Energy Information Administration; Paul L. Ziemer to be Assistant Secretary of Energy for Environment, Safety and Health; and David H. Leroy to be Nuclear Waste Negotiator.

For further information, please contact Rebecca Murphy at (202) 224-7562.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 12, 1990, at 1 p.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on July 12, 1990, beginning at 9:30 a.m., in 485 Russell Senate Office Building, on Indian irrigation projects.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to continue the June 28 markup on July 12, 1990, at 9:30 a.m., in order to consider additional amendments to the committee print of S. 2100 and to the committee's resolution approving medical construction projects.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affiars, be authorized to meet during the session of the Senate on Thursday, July 12, 1990, to hold a hearing on Health Care Fraud/Medicare Secondary Payer Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, July 12, 1990, at 10 a.m. to conduct hearings on deposit insurance reform and modernizing the regulation of financial services; and to vote

on the nominations of Andrew Hove to be a member of the Federal Deposit Insurance Corporation and Joseph Schiff to be an Assistant Secretary of HUD.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURE RESEARCH AND GENERAL LEGISLATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, July 12, 1990, at 2 p.m. to hear testimony on the United States-Canada Open Border Agreement with respect to meat and poultry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, July 12, 1990, at 2 p.m. to conduct hearings on the administration's proposal, the Capital Markets Competition, Stability, and Fairness Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on July 12, 1990, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, July 12, 1990, at 9:30 a.m. in executive session for markup of the National Defense Authorization Act for fiscal year 1991 and other pending legislation referred to the Senate Armed Services Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, July 12, 1990, at 1:30 p.m. in executive session for markup of the National Defense Authorization Act for fiscal year 1991 and other pending legislation referred to the Senate Armed Services Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 12, at 3 p.m. to hold a hearing on legal issues relating to the future status of Germany.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 12, at 2 p.m. to hold a hearing on Ambassadorial nominations:

Hugh K. Hill, Peoples Republic of Bulgaria.

Roy M. Huffington, Republic of Austria.

Philip S. Kaplan, rank of Ambassador, Deputy U.S. Representative to the CFE.

Thomas W. Simons, Jr., Ambassador, Republic of Poland.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CHINA SHOULD NOT GET MFN STATUS

● Mr. DECONCINI. Mr. President, I am proud to be an original cosponsor of the important legislation, introduced by our distinguished majority leader, to ensure that China will not receive most-favored-nation trade status until it meets certain strict conditions. I am saddened by the President's decision to extend the annual Jackson-Vanik waiver to the People's Republic of China. Most-favored-nation trade status is the most important economic privilege our Nation bestows on countries with nonmarket economies. It is a privilege which should only be granted when a country meets certain strict conditions. The Jackson-Vanik amendment was intended to send a strong message that U.S. preferential trade status will be based on respect for human rights in general and, in particular, the right to emigrate freely. In the wake of the Tiananmen Square massacre and the intervening year of repression, I feel the Chinese Government clearly has not earned this privilege.

By extending most-favored-nation status, our Government is showing complacency and tolerance for the atrocities still being committed by the Chinese Government. For a year, the horrible images of the Tiananmen Square massacre have stayed in my mind. We are reminded daily that repression in China continues. We see that China's policies go beyond its national boundaries and affect lives outside its borders. There are students at Arizona's universities who are unable to return to China because they fear that reprisals may be taken against them. There are relatives of victims killed or held prisoner in China residing in many of our States.

Now the President announces that China is a changed nation. He states that it is well on its way to democratic reforms. In my eyes, the release of Fang Lizhi and his wife does not compensate for the horror the pro-democracy demonstrators underwent only a year ago. The Chinese conditioned his release on his promise to refrain from engagement in future anti-Chinese activities. Thousands of Chinese continue to suffer repression under the Chinese Government, and the implementation of increasingly restrictive emigration policies for Chinese students who wish to study abroad is yet another step backward. The President may be convinced of Chinese reforms, but I am not. Until I see the end of political repression in China and respect for human rights and freedom of expression, I will continue to support sanctions against the People's Republic of China and oppose granting most-favored-nation status.

Since last June, I have worked actively on such legislation as Senate Resolution 142, condemning the attack on the prodemocracy protestors and S. 1278, the bill I introduced last summer denying most-favored-nation trade status to China. I have cosigned letters to Premier Li Peng, Secretary Baker, Ambassador Han Xu, and President Bush urging respect for human rights and expressing opposition to the excessive actions of the Chinese authorities. I also initiated a letter, cosigned by 20 of my colleagues in the Senate, urging the Nobel Committee to nominate the peaceful, prodemocracy demonstrators in China to be recipients of the 1990 Nobel Prize for Peace. I will continue to work to ensure justice for the citizens of China who suffer daily at the hands of their Government.

The cosmetic reforms which have inspired President Bush to ask for continuation of the most-favored-nation trade status have not convinced me at all. I do not believe they have convinced the American people that democracy can emerge in China under the present conditions. And I am certain that they have not convinced the citizens of China. I urge my colleagues to see past the cosmetic public relations campaign which the Chinese Government has waged to sway world opinion, and say no to the continuation of most-favored-nation trade status to the People's Republic of China. I thank the Chair.●

ARMY'S ROTC CAMP CHALLENGE

● Mr. MCCONNELL. Mr. President, while the Senate was in recess last

week a member of my staff traveled to Fort Knox to witness firsthand the Department of the Army's ROTC Camp Challenge. He returned with nothing but praise for the cadets and Army personnel involved with this program.

For those of my colleagues not familiar with Camp Challenge, it is a 6-week basic camp for ROTC students from across our Nation. Although advanced training is provided at other installations, Fort Knox is the only basic camp for these college and university students. For 6 weeks they are exposed to the Army and are taught the basic skills of soldiering. Most importantly, they receive the necessary training to become effective and charismatic leaders.

My staff member was impressed with the dedication and commitment to excellence held not only by the military cadre, but also by the cadets. The desire to shape new leaders was equaled only by the eagerness to improve oneself. Through careful training and guidance, Camp Challenge produces our leaders of tomorrow.

Mr. President, I think my colleagues will benefit from two articles that appeared in Fort Knox's Leader. The first article, written by Brig. Gen. Charles Hansell, commander of Camp Challenge, addresses the parents of Camp Challenge participants and notes: "when they [ROTC cadets] return home * * * they will speak with more confidence, accept more responsibilities, be more physically fit * * *." The second article provides insight into one of the physical challenges the students face during their 6 weeks of training.

I hope that my colleagues will keep in mind all the young men and women from their States who are working hard in Kentucky to become capable leaders.

The articles follow:

[From the Fort Knox Leader, Summer, 1990]

CADETS MEETING CAMP'S CHALLENGE, SAYS GENERAL

(By Brig. Gen. Charles R. Hansell, Commander)

This issue of our newspaper is just for you and provides me an opportunity to communicate directly with you regarding the Army Reserve Officers' Training Corps and Camp Challenge.

I couldn't begin without expressing my sincere appreciation for your support and encouragement. Your sons and daughters have arrived at Fort Knox with remarkable enthusiasm and clearly identifiable motivation to excel. You must surely have contributed to that, and you need to know that I appreciate your support very much.

This camp is designed primarily to introduce the characteristics and values of Army officership to these outstanding young men and women and also allows them to compete for scholarships. It is certainly my hope that every student who demonstrates "the right stuff" for leadership as a commissioned officer in our proud Army will choose to continue toward that goal by enrolling in the advanced ROTC program at the completion of Camp Challenge.

"Challenge" is a key word and an appropriate name for our camp. Throughout their six-week stay, these students will be challenged physically and mentally. They will do things they have never thought of before. For example, they will rappel down a 36-foot tower and negotiate an infiltration course by crawling under barbed wire with machine guns safely firing six feet above them. Of course, by the time they write you about these events, the tower will grow to 200 feet and the machine guns were firing inches above them. Don't be too concerned, because now you have the facts. Safety and the welfare of these young men and women are my top priority.

I can assure that they will eat well, sleep soundly and be quite proud of their accomplishments. They are being closely observed every minute by my officers and senior noncommissioned officers.

I am confident that you will notice changes when they return home. They will walk a little taller, speak with more confidence, accept more responsibilities, be more physically fit, and quite likely, talk your ear off. They will be very proud members of this all-important team we call the Army.

I am very proud of these students, just as I know you are. I wish you could see them. In fact, please consider this my personal invitation to join me for the graduation ceremony in just a few short weeks. In the meantime, if I can assist in any way, please contact me. You are a very important part of what we're trying to accomplish. My staff and I stand ready to help.

I have found the Army to be an exciting life, and I take advantage of every opportunity to share my experiences. Be it in the active force, the Army Reserves, or a state National Guard, the Army has a place for these great young men and women. Officership is an exciting challenge, and I'm thrilled to report to you that your sons and daughters are meeting that challenge.

"COMMITTED TO EXCELLENCE!"

[From the Fort Knox Leader, Summer, 1990]

STREAM CROSSING BUILDS TEAM SPIRIT FOR E 1/46 CADETS

(By Karl Miller)

All was quiet.

The sun peered through the trees creating halos of light on the rippling stream. Besides an occasional bird chirp or groundhog rustling through the brush, it was very peaceful.

But wait a second. What's that noise? It sounds like an army marching through the woods.

It is. It's Echo 1/46 preparing for Stream Crossing.

Stream Crossing is a training exercise using three methods of crossing a small body of water, the one-rope bridge, two-rope bridge and three-rope bridge.

But to Camp Challenge cadets it is much more.

"Not only do they get a chance to learn something no other place teaches, but this is a fun, and most importantly, motivational exercise for the cadets," said Capt. Jim Rogers, E Company commander.

The cadets are broken up into three groups, one for each bridge, and shown the proper method for crossing. This takes only a few minutes and the cadets get right to it.

The three-rope bridge is already set up, so once the cadets learn the proper technique, there's nothing left but to cross.

"This was the easiest of the three bridges," said Cadet Christine Cortes from the Catholic University in Guayama, Puerto Rico.

The two-rope bridge also already spans the stream, but the cadets are taught how to tie a Swiss-seat, which they wear and hook to the bridge in case they fall.

Cadet Michael Berry of Georgia Military College was the first across, and although he made it without falling, he ended up all wet.

After each cadet made it across, he or she got in the water, rolled around, and cheered their fellow cadets across. This was part of the motivational instruction, as well as a chance for the cadets to cool off and have some fun.

The one-rope bridge was the most challenging. This time cadets were given the rope, and after tying it with the proper knots on one side, a cadet was chosen to carry it through the stream to the other side.

This cadet, with the help of an instructor, tied the other end, while those on the other side pulled the rope tight.

Once the bridge was up, cadets hooked on their Swiss-seats, jumped on the rope, and crawled across.

"This really shows these young men and women what they can accomplish," said Rogers.

After each group had met and conquered the three bridges, they broke into their platoons and gathered at the one-rope bridge for the highlight of the afternoon, the race.

The object of the race was to set up the bridge and cross the stream first. The winner would not only receive a victory banner to display on their guidon, but the losing platoons would do push-ups in the stream in their honor.

Motivation was again the purpose of this competition, according to 2nd Lt. Joseph Forster, officer-in-charge of the 19th Engineer Battalion assigned to stream crossing.

The Warloads, 4th platoon, looked as if victory was theirs, but when their rope was too loose and had to be retired, 2nd platoon took the advantage.

The Wolverines won the race and the banner.

Sgt. 1st Class Joe Cyr, 4th platoon TAC officer, although a bit disappointed that his platoon lost, said this showed how well E Company was progressing.

"Seasoned soldiers don't come together as quickly as these cadets do. They're doing great for only having been here a few days," he said.

Rogers called the four platoons to formation in the stream and told them, "No one was a loser here today. E Company does it all together."

And with that, the company and its cadre did 10 push-ups.

"This was really cool," said Cadet Chris Guizio from Kemper Military College.

Quiet then returned to the little stream as a soaked E Company loaded on buses for the trip to their barracks.

IRAQI KURDISH REFUGEES IN TURKEY FACE CONTINUED HARDSHIP

● Mr. DECONCINI. Mr. President, I wish to voice my growing dismay at actions taken by the Government of

Turkey with regard to 30,000 Iraqi Kurdish refugees living in southeast Turkey. These unfortunate people have already suffered enormously at the hands of Iraqi's ruler Saddam Husayn, who gassed them, murdered them, and deported those who survived far from their destroyed homes and villages. Because these outrages received little attention by the media, few outside the Kurdish community realize what is occurring in this relatively inaccessible region. Unfortunately, this abhorrent behavior, an affront to all humanity, continues because the United States and other Western nations refuse, or are unable to pressure the despotic Iraqi regime.

After thousands of Kurds were massacred by Iraqi troops, tens of thousands of survivors fled and sought refuge in Turkey. Here, however, they encountered an entirely new set of problems. The Government of Turkey refused to recognize them as refugees, referring to them as "temporary visitors." As such, they were made ineligible for certain forms of humanitarian assistance. Three years later, these temporary visitors still reside in camps in southeastern Turkey, and the Turkish Government persists in its attempts to make their stay temporary and difficult. Last August, Senator LAUTENBERG and I visited one of the three camps which was supposedly in the best condition. Thirty to forty people shared three-room apartments, sanitation conditions were appalling, refugees could not work. Furthermore, the Government does not allow the formal teaching of Kurdish to refugee children, and the boredom and uncertainty of the future fosters a pervading atmosphere of oppression, frustration, and tension.

Recently, the Government of Turkey canceled a long-sought agreement with the United Nations High Commissioner for Refugees [UNHCR] which would have permanently sheltered thousands of the most needy. Governments around the world had pledged money for the settlement project at the behest of the UNHCR and the Turkish Government. This Congress recommended the expenditure of $5 million, and our State Department played a significant and commendable role in securing the cooperation of other nations in this endeavor. While domestic politics figured prominently in the last minute cancellation of the much-needed settlement, anti-Kurdish bias and continued unwillingness to deal constructively with this group of refugees is reflected in the actions of the Turkish Government. In addition to canceling the project without official explanation, the Turkish Government has also refused to allow remaining donations to be used to upgrade conditions in existing camps. To make matters worse, since the beginning of this year, the Turkish Government has restricted access to the camps by United States diplomats and UNHCR officials.

Turkish officials are now suggesting that the Iraqi Kurds take advantage of Saddam Husayn's offer of amnesty and return to Iraq. The refugees now claim that supplies to the camps are being withheld by Turkish officials in an attempt to coerce them into returning to Iraq. Human rights groups familiar with the situation have also voiced concerns over possible forced repatriations of the refugees. Mr. President, the fear is very real that if these individuals return to Iraq, they will share the fate of their brothers and sisters who have been murdered, or deported far from their homes.

Mr. President, I returned from Turkey last August a strong supporter of our mutually beneficial relationship with that nation and I value our long friendship. Over the centuries Turkey, not unlike the United States, has provided a safe haven for millions of refugees. In fact, 1992 will mark the 500th anniversary of the establishment of a Jewish community in Turkey, which had fled the destruction of the Spanish Inquisition. The Government of Turkey faces important domestic political and security considerations in any matters pertaining to Kurds living in southeastern Turkey. However, the Government's actions with regard to the Iraqi Kurdish refugees have demonstrated an insensitivity that only exacerbates existing tensions in the region. I urge the Government of Turkey to reconsider its policy vis-a-vis this refugee group, and do all that it can to welcome these refugees and allow them to enjoy the freedom and opportunity Turkey offers.●

THE CHILDREN'S TELEVISION ACT OF 1990

● Mr. BURNS. Mr. President, I would like to join my distinguished colleagues in supporting passage of this substitute to S. 1992, the Children's Television Act of 1990.

This substitute is a vast improvement over the original bill that was reported by the committee last November. I opposed that bill, and was prepared to urge the administration to veto it if necessary. It simply went too far in too many areas, and destroyed the compromise that had been in place since the 100th Congress, among Members, the broadcast industry, and public interest groups.

As a result, it took a lot of hard work by a lot of people to get us here today. But first, however, it took Senator INOUYE's willingness to listen to the concerns that I had, and a lot of other people had, about the original version of S. 1992. I commend him for being open-minded in this process, and for agreeing to postpone further action on the bill in an effort to see if a new compromise could be reached. He and I agree that while children are our Nation's most precious resource, and that part of a television station's public interest obligations includes serving the child audience, legislation to further those goals is more easily achieved through consensus, not confrontation.

What emerged from these ultimately successful efforts for a compromise is a good bill. It protects children from overcommercialization in their television and cable programs, while acknowledging that advertising is what makes these programs possible.

For the first time, broadcasters' public interest obligations will be spelled out in statute, but unnecessary and unconstitutional programming standards included in earlier bills are avoided.

As they compete in an increasingly complex video marketplace, television stations will have the flexibility they need to serve the child audience in their local communities. Stations will be able to take into account what other children's programming is available in their community in determining their own programming mix.

The bill establishes that each station will have to provide some programming specifically designed for children to serve their educational and informational needs, yet it recognizes that children also are served by family and overall programming aired by a station. Therefore, the FCC also must take that programming into account.

Stations also will be able to help fulfill their obligations to children if they voluntarily engage in nonbroadcast efforts that enhance the educational and informational value of their programming. Similarly, stations that voluntarily support children's educational and informational programming that airs in their markets also will receive credit for that support at the FCC.

To sum up, Mr. President, a bill that had committee members on board, together with the National Association of Broadcasters and Action for Children's Television, is worthy of passage. I urge all of my colleagues to join me in voting for this compromise.●

COMMENDING INDIANA TEEN INSTITUTE

● Mr. COATS. Mr. President, as you well know, the drug abuse problem in this country is a growing concern. Drug use in our neighborhoods and schools is a major contributant to crime, delinquency, family disintegration, health problems, poor school and work performance, and other social and personal ills. As a member of the National Commission on Drug-Free Schools, and ranking Republican on the Senate Subcommittee on Children, Family, Drugs and Alcohol, I have

heard repeated stories bearing witness to these problems before our hearings and informal meetings. Additionally, I have learned from my own travels in Indiana that substance abuse is a primary, if not the primary, concern held by local citizens and youth leaders alike.

It is for these reasons that I want to commend the Indiana Teen Institute on their overwhelming commitment and endless hard work to fight against drug use and abuse. It is crucial that we continue to organize and support this program and others like it. The institute has freed the way for reform in schools and communities in Indiana and is setting an example for other States that drug and alcohol abuse is a serious issue plaguing every community in the country.

The Indiana Teen Institute was created in July 1983 as the result of an enthusiastic response given to a Teen Institute program initiated in Ohio. Consequently, the Indiana Department of Mental Health, Division of Addiction Services, made funding available for the development of the first major alcohol and drug abuse prevention conference for youth in the State. This led the way for the Indiana Juvenile Task Force to develop and implement the Indiana Teen Institute for the Prevention of Alcohol and Other Drug Abuse which was held July 9-14, 1984, at De Pauw University in Greencastle, IN.

The institute will, again, this month have more than 200 high school leaders from approximately 45 Indiana schools participating in this year's program. Unfortunately, many more students wanted to participate than were able to but additional funding was unavailable. However, some schools are currently using Federal money made available through the Drug-Free Schools and Communities Act to help finance these students' week at the Indiana Teen Institute. It is a good use of Federal funds. I know from having addressed students at the institute last year that the week is an excellent opportunity for students to learn about the dangers of drug abuse and, equally important, to prepare to return to their schools and communities to promote drug-free activities and lifestyles.

An especially encouraging sign is the more than 50 adult trainers who will be assisting in informing and educating these students about the dangers of substance abuse and the importance of healthy activities which can be promoted in schools and communities for young people.

The main goal of the teen institute is to educate teens and adults on the effects of substance misuse and to teach them how to take the information they have learned and develop and implement it into their own schools and communities. One concern of the institute is drug and alcohol education and awareness. Through seminars and workshops they are able to educate teenagers on the harmful effects of drug abuse. Teens learn how these harmful substances can be a detriment to themselves, their families, and the community.

Opening the lines of communications between adults and teens is very important in developing bonds of friendship, respect for others and self, and creating a sense of security which can withstand the peer pressure that causes such a significant percentage of teens to experiment and abuse drugs. "Rap Rooms" are meetings set up in class rooms at schools to initiate the discussions. These sessions can be used as a place to give and gain information, ask for help, and just discuss life.

These are just a few of the many successful projects that the participants at the teen institute will learn to use to educate peers in their own schools. The Indiana Teen Institute's dedication to instilling virtues, such as, personal responsibility, caring for others, friendship, and pride in school, family, and community is an outstanding example of commitment to abolish drug and alcohol abuse. Their program is an asset to the State of Indiana and an inspiration to communities in other States.

Thank you, Mr. President, for the opportunity to commend today such an outstanding "Hoosier" youth program.●

OMNIBUS CRIME BILL

● Mr. McCAIN. Mr. President, the Senate yesterday approved S. 1931, which was sponsored by Senator JOHN DANFORTH of Missouri and which I cosponsored, and included it in the omnibus crime bill. I want to commend my colleagues, Senators DANFORTH, GRASSLEY, and THURMOND for their efforts in including this important protection for crime victims in the omnibus crime bill.

This legislation reverses the Supreme Court's recent Davenport decision which allowed convicted criminals to discharge their restitution obligations under chapter 13 of the Bankruptcy Act. Chapter 13 bankruptcy proceedings are not intended to provide a way out for those who have broken the law and are required to pay restitution as a result of their crime. This new legislation corrects the shortcomings in the bankruptcy law by prohibiting convicted criminals from avoiding their obligations.

This legislation also goes a long way to help compensate victims of accidents resulting from drunk driving. Victims' rights need to be protected and restitution is one of the few ways to help make victims whole. This provision restores the mechanism necessary to compensate these victims. No one should ever think lightly of operating a vehicle while intoxicated, and drunk drivers should not be permitted to discharge their restitution obligations through chapter 13 bankruptcy proceedings. This legislation, which has been a priority for Mothers Against Drunk Driving [MADD], is a needed and overdue connection to our bankruptcy laws. All those who have worked to gain Senate passage of it should be commended because neither drunk drivers nor convicted criminals should be allowed to avoid their obligations to society by using loopholes in the bankruptcy code.

I hope the House of Representatives will also approve the needed legislation this Congress.●

TERRY SAUVAIN

● Mr. SASSER. Mr. President, members of the staff of the U.S. Senate serve their country faithfully, with long hours and self-sacrifice. Some staff go that extra mile and serve in the Nation's Guard and Reserve Forces.

One such staff member is the deputy staff director of the Appropriations Committee, Terry Sauvain. On July 1, as a tribute to his many years of work and dedication as an officer in the U.S. Coast Guard Reserve, Terry was promoted to the rank of captain.

I want to extend my sincere congratulations to Captain Sauvain.

Terry has served the U.S. Senate with distinction since 1973. During that time, Terry has served four appropriations subcommittees. In 1981-82, Terry was the Senate's minority secretary, the top democratic staff position during that period.

I have known Terry since my chairmanship of the Legislative Branch Subcommittee in the late 1970's. Terry served as my chief clerk and he became an expert in using the various legislative agencies to correct fraud, waste and abuse practices in the executive branch.

While serving the Senate, Terry has given much of his free time to the Coast Guard Reserve. Terry originally joined the Coast Guard Reserve as an enlisted man and has risen to the rank of captain.

Terry has served the Coast Guard with the same zeal and dedication he has given the Senate.

So, I congratulate Terry Sauvain upon his well-deserved promotion. I think Terry stands as an example of the true public servant.●

CORRECTION OF AMENDMENT

● Mr. BIDEN. Mr. President, the version of this amendment which was included in amendment 2117 to S. 1970 was incorrectly printed in the RECORD of July 11, 1990. I ask that a corrected version be printed in the RECORD.

The correct version follows:

Strike all of title V and insert the following

TITLE V—INTERNATIONAL MONEY LAUNDERING

SEC. 501. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS

(a) REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and every 2 years for 4 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currenty) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the criminal laws of the United States including the provisions regarding asset forefeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

SEC. 502. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary shall, at a minimum, appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member);

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology; and

(C) representatives from each of the following:

(i) the Bureau of Engraving and Printing,

(ii) the Federal Reserve Board, and

(iii) the U.S. Secret Service.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 503. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 504. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 505. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 506. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 507. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005–07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 508. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following: ", or for a refusal to do business with any person before or after disclosure of a possible violation of law or regulation to a government authority.".

SEC. 509. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 510. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For

purposes of this paragraph and paragraph (2)".

TECHNICAL AMENDMENT TO UNNUMBERED TITLE OF AMENDMENT 2104 ENTITLED PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS

Substitute the following for section 1(b):

"(b) In accordance with regulations issued pursuant to this part, in any case in which the Bureau determines that a public safety officer has become permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty, the Bureau shall pay, to the extent that appropriations are provided, a benefit of up to $100,000, adjusted in accordance with subsection (g), to such officer, provided that the total annual benefits paid under this section may not exceed $5 million. For the purposes of making these benefit payments, there are authorized to be appropriated for each fiscal year such sums as may be necessary. Provided further, that these benefit payments are subject to the availability of appropriations and that each beneficiary's payment shall be reduced by a proportionate share to the extent that sufficient funds are not appropriated.", and

Substitute the following for sections 3 (a) and (b):

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect upon enactment and shall not apply with respect to injuries occurring before the effective date of such amendments.●

S&L BAILOUT

● Ms. MIKULSKI. Mr. President, as chair of the Appropriations Subcommittee which funds the Government's share of the bailout of all S&L's that went belly up before January of last year, I am outraged by recent revelations that the U.S. Government has been selling off S&L's with hundreds of millions of dollars in assets for pocket change. The administration is asking my subcommittee to appropriate $4 billion for next year to cover the cost of 202 of the S&L deals.

Their request for the FSLIC Resolution Fund has jumped by a billion dollars since January of this year; last year they went over budget. No wonder I am hearing estimates that they may have to ask for $10 billion before we are finished this year. They are cutting sweetheart deals with wealthy investors instead of sticking up for the taxpayers who bailed S&L's out. It is the 1980's all over again.

Mr. President, S&L's were supposed to invest in their communities; loaning money for a home or a new car, and giving people a place where they could confidently put away a little money every paycheck until it was time to send the kids to college or retire. That is why the Government agreed to insure them.

But the Reagan administration decided that those communities and those people were not important any more, that regulation was bad, and that greed was good. So they let thousands of people run amuck, repealed regulations and fired auditors.

Instead of working people saving a bit every week, we had Wall Street brokers making six-figure deposits by wire. Instead of homes where people lived, we got empty condo developments. And instead of investment we got speculation and fraud.

As Franklin Roosevelt said: "we have always known that heedless self-interest was bad morals, we know now that it is bad economics."

Mr. President, the U.S. Government made a half-trillion-dollar screw up when it let the people who ran the savings and loan industry play roulette with the taxpayer's money. Because of that mistake, every citizen of this country is going to wind up paying $2,000 in taxes. That alone is enough to make me and the people of Maryland angry.

But Mr. President, it gets worse. It is starting to look like we did not learn anything at all from that. It is starting to look like we are going to waste another $500 billion before we learn our lesson. And that outrages me.

In Sunday's New York Times, we found out that the U.S. Government had sold one of the most profitable reorganized S&L's in the country to a man who put up less than $1,000 of his own money.

But it gets still worse. Not only did this man buy an S&L with only $1,000 down, he borrowed $70 million to close the deal. Mr. President, is that not how we got into this mess, with people gambling someone else's money? And the U.S. Government is backing that thrift with almost $2 billion in subsidies.

And to top it off, his was not even the high bid. The Federal Government could have saved $97 million if it had gone with another bidder.

Mr. President, the taxpayers of this country own those banks, they bailed them out and they will be paying for them for the next 30 years. They are not ready to hold a fire sale. They want to get the best price they can. But three S&L's with over $100 million in deposits were sold for less than the price of a new car. This is incredible. This is an outrage.

The absolute least we can do for these hard working people is get top dollar for S&L's when we sell them off.

The Federal Government is supposed to protect the people who put their life savings into the S&L's—and the taxpayers who will spend the rest of their lives paying for the go-go boys who spent those savings on Gucci luggage and trips around the world. It is supposed to insure thrifts like George Bailey's in "It's a Wonderful Life"—thrifts that care about their communities.

Instead, the Government is taking care of the financial vultures circling like Mr. Potter waiting to pick up Bailey's Savings and Loan at bargain basement prices. It is abandoning the hard working people who saved the system in favor of the high rollers who almost destroyed it.

It is like a bad movie, Mr. President, only instead of six bucks, it costs $2,000 a person to watch the show.

I would feel a lot better, and I know my constituents would, if we could at least see some of the people who stole this money breaking rocks or working on a chain gang like the common crooks that they are.

If you rob a bank with a pistol your average sentence is 10 years. If you do it with the stroke of a pen, you only get 2. As far as I am concerned, the only difference between a crook in a suit and one in a ski mask is that the one in the suit got away with more money.

And I would like to see some of the money we lost taken back from those people. If we have to pay someone $2 billion to take over an S&L, let us take that money out of the pockets of the people who stole it. Let us get some six figure fines to go with those six figure salaries they paid themselves. At this point we have recovered less than $100 million. That is unacceptable.

Right now 96 S&L buyout deals that my subcommittee will be asked to fund are being examined. Maybe before we spend one more nickel guaranteeing these bail outs, we ought to have the FDIC take a look at every single one of them and make certain that we are not just bailing the next generation of S&L frauds.

We are not going to make the same mistake twice.●

TRIBUTE TO COL. O'BRENE RICHARDSON

● Mr. SASSER. Mr. President, I would like to take this opportunity to commend Col. O'Brene Richardson on his outstanding service to the State of Tennessee during his tenure as Memphis district engineer. His dedication to the preservation of Reelfoot Lake, restoration of Lenox Bridge near Dyersburg and his efforts to keep vital waterways open during the drought of 1988 are most appreciated.

A native of Kentucky, Colonel Richardson received a bachelor's degree in mathematics from Eastern Kentucky University and a master's degree in communications from the University of Kentucky. He is a graduate of the U.S. Army War College and the Foreign Service Institute. Among his many awards are the Legion of Merit and the Bronze Star earned for service in Vietnam.

As Colonel Richardson departs Memphis to assume the post of deputy commander of the Ohio District Corps of Engineers, he will be remembered by the citizens of Millington and West Tennessee for his leadership and concern during the floods of 1988–89.

We thank him for his services and wish him well.●

EXPANSION OF PUBLIC SAFETY OFFICERS BENEFITS

● Mr. BIDEN. Mr. President, yesterday the Senate passed an important amendment to the crime bill that assists police officers, firefighters, and other public safety officers who are catastrophically injured in the line of duty.

Every day, hundreds of thousands of public safety officers put their lives on the line to keep our streets safe and to provide emergency services when our families and neighborhoods need help.

Under current law, the families of public safety officers who are killed in the line of duty receive a lump-sum benefit. Two years ago, Congress agreed to a provision I coauthored to raise the benefit from $50,000 to $100,000, and to increase the benefit each year based on the rate of inflation. This assistance can't heal the incredible emotional loss that the family of a fallen public safety officer feels, but it can help ease the financial burden that inevitably results when an officer dies in the line of duty.

Unfortunately, public safety officers who are catastrophically injured in the line of duty are not covered under the current statute. The omnibus crime bill contains an amendment that Senators D'AMATO and HARKIN and I authorized to address this gap in the program by extending the lump-sum benefit to families of public safety officers who are catastrophically injured.

The D'Amato-Harkin-Biden amendment simply recognizes our moral obligation to help public safety officers and their families when they are permanently and totally disabled as a result of injuries suffered while protecting our streets and our families. The amendment also corrects current law, which treats rescue squad and emergency medical services officers differently than other public safety officers. Under our amendment, all public safety officers will receive the same benefit when they are killed or catastrophically injured in the line of duty.●

MEDICAID MATCH THROUGH TAXATION

● Mr. PRYOR. Mr. President, earlier this year, Senator BOB GRAHAM introduced S. 1878, a bill which would allow States to finance their Medicaid match through any type of tax and would also let States use donated funds as part of the State's share of Medicaid spending. Today, I am pleased to add my name with several of my esteemed colleagues, including my good friend Senator BUMPERS, as a cosponsor of S. 1878. This bill addresses a Medicaid issue of great importance not only to our State of Arkansas, but to many other States in the Union.

Under current law and rule, States are allowed to use, under certain circumstances, public and private donations and all State taxes as sources of State share of financial participation in Medicaid. In February, HCFA published proposed rules that would prohibit States from doing this. HCFA's rationale for the proposed rule is that the use of these aforementioned funding sources unfairly increases the Federal share of Medicaid payments relative to the State's share.

We are all aware of the enormous burden every State must bear in keeping their Medicaid programs operational. It is a problem that will likely get worse before it gets better. As a result, several States have explored alternative sources of funds to pay for their Medicaid programs, including voluntary contributions and provider-specific taxes. I believe States should have the ability to develop and utilize new funding sources in the way that the State legislature and Governor see fit. HCFA's attempts to do otherwise undermine the States' authority.

Under Senator GRAHAM's legislation, the donation could not amount to more than 10 percent of the State's Medicaid match or more than 10 percent of the donating hospital's gross revenues. These provisions of S. 1878 were included in the House reconciliation package last year; however, the final reconciliation bill included the Senate language, which only provided a moratorium on the issuance of final regulations.

My home State of Arkansas currently has a nursing home bed tax in place, the proceeds of which are used for an alcohol and drug abuse program, and the Division of Aging and Adult Services. The State is also considering the possibility of levying a tax on medical facilities which would be used to increase Medicaid payments to hospitals. I urge my colleagues to join me, Senator GRAHAM, Senator BUMPERS, and the other cosponsors of S. 1878 in supporting this legislation.●

SEQUENTIAL REFERRAL OF NOMINATION

Mr. CRANSTON. Mr. President, as if in executive session, I ask unanimous consent that if and when the nomination of Russell Miller, to be the inspector general of the Federal Emergency Management Agency, is reported by the Committee on Governmental Affairs, it then be referred to the Committee on Environment and Public Works for a period not to exceed 20 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOME HEALTH AIDE WEEK

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 343, designating "Home Health Aide Week," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 343) to designate August 13 through August 19, 1990, as "Home Health Aide Week."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. DOMENICI. Mr. President, I rise to urge my colleagues to support Senate Joint Resolution 343, which would designate the week of August 13 through August 19, 1990, as "Home Health Aide Week."

Health care is one of the most important issues facing the Nation today. The citizens of this country are made increasingly aware of the cost of receiving medical care.

As the population of the United States continues to grow, the number of Americans who will require some form of health care is growing. Be it a member of our own family or even ourselves, at some point in our lives we become dependent on someone else.

In May, I sponsored a conference in New Mexico on a number of these issues. I was pleased that the Secretary of Health and Human Services, the Honorable Louis Sullivan, was the featured speaker. I am committed to addressing the issues facing this Nation's health care system. Among the subjects discussed were those relating to the provision of access for affordable quality health care.

Home health aides are an important part of the solution to many problems. A home health aide is a person responsible for providing care to those in need, a person who assists members of the health profession in patient care, and more important, a person who fills a critical void.

Home health care is one of the most popular ways of reducing costs. In addition, it provides people with the opportunity to stay in the comfort and security of their own home surrounded by family and friends. Familiar surroundings facilitate the healing process.

Seventy-five percent of all home care is provided by unlicensed health care workers. The home health aide is a vital member of the health care team. As the need for the home health provider increases, it is essential that

this group be encouraged to choose this as their vocation, one filled with compassion and dedication. They are the quintessential examples of the President's spirit of voluntarism.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 343

Whereas a home health aide is a person who is a member of a multi-disciplinary team which provides health care for patients in a home environment;

Whereas the personal care and health-related services provided by a home health aide are a vital part of the services provided by home care companies and hospices and help to maintain a patient's physical and emotional well-being;

Whereas a home health aide is responsible for assisting members of a health-care team in following a pragmatic, goal-oriented plan of patient care;

Whereas the duties performed by a home health aide include assisting patients in their daily living activities, providing them with a clean and safe environment, providing them with personal care, rehabilitative and supportive services, and observing and reporting to other members of the health-care team significant changes in the status of the patient; and

Whereas by providing such important health-care services, a home health aide has a significant beneficial impact on the lives of the patients served by the aide: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of August 13 through August 19, 1990, is designated as "Home Health Aide Week", and the President is requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs, ceremonies, and activities.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VITIATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the unanimous-consent agreement relating to drug legislation on page 2 of the Senate Legislative Calendar be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR AND PEACE IN SOUTH ASIA

Mr. CRANSTON. Mr. President, I rise to report, briefly, on a vital issue of war and peace in South Asia.

During the recent congressional recess I visited India and Pakistan to learn what I could about disturbing reports of a possible outbreak of hostilities between the two countries. Paramount among these concerns was a perception in Washington that serious strains between India and Pakistan over Kashmir might lead to armed conflict and, possibly, nuclear war.

I went to the region at the invitation of both countries and with the support of Secretary of State James Baker and the Senate Foreign Relations Committee, of which I am a member. While the primary purpose of my trip was to learn all that I could about the true nature of tensions there, I also sought to underline U.S. support for a peaceful resolution of differences between two democracies that share bonds of friendship with the United States.

The volatile situation in the contested territory of Kashmir has substantially increased the risk of war between India and Pakistan.

While the leaders of both countries assured me they do not want war and will work to reduce tensions, a war could break out through accident or miscalculation.

While in Pakistan I stressed to officials there that continued American friendship and support was predicated on two conditions. First, that they refrain from giving aid and material comfort to Muslim insurgents contesting Indian control of the part of Kashmir held by that country. And second, that Pakistan avoid the possibility that President Bush is unable to certify to Congress—as he is required by law to do every year—that Pakistan does not possess a nuclear bomb.

Similarly, in India I stressed to officials there that the successful containment of any insurgency in the part of Kashmir under their control would require three major changes in governmental policy.

First, the fundamental human rights of Kashmiri citizens must be respected and protected.

Second, that a significant effort be made to promote the region's economic development.

And third, that the greatest degree of political autonomy be granted, as is already provided for in the Indian Constitution.

My visit included stops in Islamabad, Azad (or Pakistani) Kashmir, and New Delhi. Unfortunately, I was unable to visit Kashmir in India due to a warning by some of those involved in anti-government activities that they would fire at random at any light vehicles traveling in the Kashmir Valley. I regret that this threat of violence made it impossible for me to visit Kashmir to explore at first hand the conditions that they claim have caused their disaffection.

During the trip I was able to exchange views with a wide variety of political leaders both inside and outside government, with top leaders of the Indian and Pakistani Armed Forces, as well as with human rights activists and refugees.

I was particularly gratified by the opportunity I had to talk at length with Pakistani Prime Minister Benazir Bhutto, whom I have known for some years, and Indian Prime Minister V.P. Singh, whom I met for the first time. I also held extended talks with the Foreign Ministers of both countries.

I returned to Washington somewhat heartened by the assurances made to me by the political leadership of both nations about their determination to avoid armed conflict. Whatever might be the military outcome of such a clash, there appears to be a generalized recognition that neither side would "win" such an encounter, that it would be a disaster for India and for Pakistan, and that it would not resolve the difficulties in Kashmir.

In recent weeks, prospects for war in the region have lessened somewhat, in part because of the efforts of the two countries to ease tensions and in part due to the fact that the monsoon season makes armed maneuvers difficult, if not impossible. The tensions that separate them will remain, however, if India and Pakistan do not begin in earnest to resolve some of the differences that have given rise to the current situation.

The Government of India is most concerned by evidence it asserts shows that Pakistan is arming, training and infiltrating men intent upon undermining Indian control of Kashmir. Indian security forces told me that they have extensive documentation that proves Pakistan is arming and infiltrating men who they charge are involved in armed "terrorist" attacks against civilian targets.

While in Islamabad I had the chance to talk extensively with Pakistani officials about these charges.

I emphasized to them that the special relationship shared by our two countries—and enhanced by Pakistan's generous support for the United States-backed Afghani freedom fighters—could be put in jeopardy if Pakistan was perceived to be engaged in an aggressive campaign against its neighbor India.

The Government of Pakistan says that it is not now arming or otherwise aiding what it calls Kashmiri "freedom fighters" and what India calls "terrorists." I was particularly pleased by Prime Minister Bhutto's comment to me that she knows that war between India and Pakistan would not lead to any lasting solution of the question of Kashmir.

For its part, the Government of Pakistan is most concerned by evidence that India's military and paramilitary forces sent to Kashmir to quell armed violence have committed serious and widespread human rights violations. The Pakistanis are also concerned that India is not showing sufficient concern for the economic plight of many Kashmiris and is denying to the Kashmiris—a majority of whom are Muslims—the right to self-determination.

Before embarking on my trip, I had the chance to review the reports of various Indian human rights groups, which corroborated the human rights charges against the Indian security forces. On a subsequent visit to Azad Kashmir, I heard first hand substantiating testimony from dozens of refugees from Indian-held Kashmir.

The refugees, who were being held in two separate camps, offered a convincing view of Indian security force misconduct. I heard stories of old people being summarily executed, of women being held for days at security force encampments where they were repeatedly raped, and children who were forced to watch the brutalization of their parents, or who were themselves tortured.

The Government of India acknowledges that there have been some violations of human rights by their forces, but denies that the violations have been widespread or condoned. However, although high-ranking Government officials assured me that such conduct was not officially sanctioned, it was less clear that uniformed offenders had received any real punishment for their acts.

In recent weeks Amnesty International has sought the permission of the Indian Government to travel to Kashmir to investigate the rights charges. Their proposed trip has created something of a political firestorm within India itself, with leaders of the major opposition party asking its militants to use all sorts of means to prevent the Amnesty group from carrying out its work.

I was very pleased to receive assurances from two Government ministers—both members of Amnesty, as am I—about the organization's visit. In addition, Indian Government officials told me of recent efforts to bolster Kashmir's faltering economy. They also pledged that a significant amount of autonomy—already provided for in the Indian constitution, but not carried out in practice—will be implemented as soon as law and order are restored.

The Prime Ministers of India and Pakistan each assured me that their country does not possess nuclear weapons.

However, both countries have substantially mastered the technology to manufacture nuclear weapons and, I believe, could produce at least some nuclear weapons in a short period of time if they so decide.

I am therefore very concerned that a further heightening of Indo-Pakistan tension over Kashmir could result in both countries producing nuclear weapons and using them if war breaks out.

Such a result would be catastrophic for the densely populated region of 1 billion people and would be a major setback to United States-Soviet efforts to restrain nuclear proliferation and create a more peaceful world.

I believe that—beyond expressions of good will and forbearance—the danger would be still further reduced if both nations would agree to most or all of the confidence-building measures suggested to them by Robert Gates of the White House during his recent visits to New Delhi and Islamabad. Both sides need to avoid unexpected military maneuvers and movements that may alarm the other and would lead to misunderstandings.

The gravest risk continues to be that miscalculations and mistakes might lead to an accidental war.

In less than 2 weeks the foreign secretaries of both countries will meet in Islamabad. It is my hope that both sides will seek to make that meeting as productive as possible, perhaps issuing a public reaffirmation of their intentions to resolve their dispute by peaceful means and in keeping with existing agreements.

I should also mention my concern about news reports we received from the United States while we were still in New Delhi, to the effect that the United States would—in the event of war—take a "hands off" position on the conflict.

This view is not my understanding of U.S. Government policy and would be, I believe, a grave mistake. It is imperative for both nations to know that the United States would cut off assistance and other ties with any nation that started a South Asian war. Any other policy would, in my opinion, add further uncertainty to an already unstable region.

I plan to share my views in a more extensive report to my colleagues in the Senate, and I will also provide President Bush and Secretary of State Baker a similar brief.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 2847 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

A LONG OVERDUE REMEDY FOR THE TEXTILE INDUSTRY

Mr. PELL. Mr. President, when the U.S. Postal Service issued a commemorative stamp to celebrate the 200th anniversary of Rhode Island statehood last month, the symbol it chose was a textile mill.

Slater Mill in Pawtucket, RI, built in 1793, was the very first textile mill in the United States. It is regarded as the birthplace of the Industrial Revolution, and with good reason. Samuel Slater's innovation, in one stroke, did the work of 78 home spinning wheels.

Textiles have been an important staple of the Rhode Island economy ever since, although they are by no means as dominant a segment today as they were even as recently as the late 1940's when the industry employed 45 percent of the State's workers.

Last year, the figure stood at about 9 percent of manufacturing employment, and the industry employed some 10,000 Rhode Islanders. Like other textile producing areas throughout the country, we have seen business decline and mills close as our markets were flooded with products from low wage countries, many of which do not have costly requirements for environmental or worker safety standards and no restrictions on child labor.

Rhode Island, where it all began, can well be considered the prime case study of the decline of the textile industry in the face of a tidal wave of economic change, one of the principal elements of which was a deluge of foreign competition.

Since 1985, I am advised, over 3,000 Rhode Island jobs have been lost in the textile, apparel and shoe industries. And here, as elsewhere across the country, those who are thrown out of work are often the most vulnerable. Some 75 percent of the workers in apparel and shoe industries are women and almost one-third are minority workers. And very often these are the industries that provide first employment for new immigrants to the United States.

So once again, I am happy to be listed as a cosponsor of the Senate version of the Textile, Apparel, and Footwear Act of 1990, and I urge its approval by the Senate today.

This bill, in my view, offers a reasonable and modest approach to the continuing problem of low price textile and apparel imports. Its provision of a 1-percent per year increase in imports strikes me as a minimal restraint in the circumstances.

Speaking as a Senator who prefers to support trade expansion whenever possible, I find myself in this case in agreement with those who take the position that the textile industry requires special legislative relief from foreign competition because there is no other way to cope with the problems which confront the industry.

Over the past decade especially, textile, apparel and shoes have borne more than their fair share of the

impact of foreign imports. The bill before us provides for reasonable regulation of that trade at levels which should not be injurious to our trading partners, but which should allow more breathing space for these beleaguered American industries. I hope the Senate will vote decisively in favor of this long-overdue remedy.

TRIBUTE TO QUENTIN NORTHRUP BURDICK

Mr. PELL. Mr. President, it is with great pleasure and personal respect that I take this opportunity to acknowledge the 30 years of commitment and service to the U.S. Senate by my good friend and longtime colleague, QUENTIN NORTHRUP BURDICK.

When I came to the Senate in 1961, QUENTIN BURDICK was already here pursuing a brand of prairie populism that has become the hallmark of his career. His determined and unwavering will in fighting for individuals—the laborer, the farmer, the rancher, the family—has given an able and effective voice for causes too often lost amid the cacophony of competing interests in Washington. His dogged pursuit of his beliefs may surprise some but in light of his lifelong commitment to public service, it is hardly remarkable.

It is well known, for example, that QUENTIN BURDICK is as committed to the goals and ideals of the Democratic Party as any member of the U.S. Senate. What may not be so well known is that this conviction is rooted in a historic past. It was QUENTIN BURDICK, a labor lawyer disenchanted with the unfair treatment of the everyday workingman, who led the founding of the Democratic Party in North Dakota. The early years were far from easy, however, and he was unsuccessful in his first six attempts at public office. But with a stubbornness characteristic of being born on the prairie, QUENTIN BURDICK followed his father—a Republican Congressman—into politics and became the first successful statewide candidate for the Democratic Party in North Dakota when he ran for the House in 1958. It was 2 years later that he followed this milestone up with his election to the Senate. It is no accident that during his 32 year tenure in the House and Senate Democrats have come to hold nearly every statewide office. QUENTIN BURDICK can be placed firmly at the vanguard of progressive politics in North Dakota and, accordingly, in Washington as well.

It is not surprising, therefore, that QUENTIN BURDICK has compiled a lengthy record of accomplishment over the years. I recall his recent work as chairman of the Environment and Public Works Committee, chiefly the rewriting and strengthening of the Clean Water Act and the Clean Air Act—efforts that will stand as environmental policy guidelines for years to come. But for me to reflect on what QUENTIN BURDICK has accomplished over the years would be difficult, if not impossible. It is a daunting task that if it were to be complete would require the work of historians much better suited than I.

Nevertheless, I do feel compelled to offer an observation that has become evident over the years, particularly in the last decade. It has become apparent that along with just a handful of other Senators, QUENTIN BURDICK has taken on the mantle of Franklin Roosevelt and the New Deal legislators in protecting the advances made for rural America during and following the Depression era. All too often, those of us who represent more urban interests forget the critical role that the rural sector of our society plays in preserving our Nation's well-being.

QUENTIN BURDICK has not forgotten—especially in recent years when there has been an ill-advised and shortsighted rush to eliminate valuable government programs. In this regard, I have seen QUENTIN BURDICK fight to preserve rural electrification, rural hospitals, highways and transportation infrastructure, and stability and prosperity in our Nation's agricultural sector. Rural America, and ultimately all of America, has a steadfast friend in QUENTIN BURDICK.

But perhaps the aspect I most admire about QUENTIN BURDICK's service in the Senate is the manner in which he achieves the ends he seeks. An anomaly in today's political environment, he does not seek headlines. He is not eager to claim credit. He does not participate in demagoguery. He is not a television prima dona more concerned with appearance and sound bites than with substance. Rather, he works quietly, effectively, and if I may say so, seems to be a master at a technique that I tend to use myself when he fights for a cause he believes in: He lets the other fellow have his way.

QUENTIN BURDICK has represented North Dakota, the Democratic Party, and the Nation with distinction. His honesty and integrity are unimpeachable and he embodies the definition of an ethical public official. His humility is an outgrowth of the strength of his character. His compassion and concern for others, in particular the common individual, has been the cornerstone of his work in the Senate and this country owes him much in this regard.

It has been my privilege to work with him for all my years in the Senate and I look forward to working with him in the future.

SCHEDULE

Mr. MITCHELL. Mr. President, so that Senators should be aware of the following schedule tomorrow morning: At 8:50, the Senate will turn to consideration of the conference report on the Americans With Disabilities Act with a vote to occur on that at 9:30.

Immediately following that vote, it is my intention that the Senate will return to consideration of the textile bill and the Gorton amendment would be up for consideration at that time under a 90-minute time limitation. Thereafter, such of the other amendments listed that are going to be offered will be considered, and it is my hope that we can complete action on the textile bill tomorrow.

I thank my colleagues, the distinguished Senator from South Carolina and the distinguished Republican leader.

Mr. DOLE. Mr. President, I am advised the Gramm amendment on agriculture says in effect if there is a disproportionate impact on agriculture, then the bill can be waived. That is the essence of it.

Mr. MITCHELL. I thank all my colleagues for their cooperation.

ORDERS FOR TOMORROW

Mr. CRANSTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:15 a.m., Friday, July 13; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that upon reservation of the leaders' time, there be a period for morning business not to extend beyond 8:50 a.m., that Senator BREAUX be recognized for up to 15 minutes and Senator KERREY of Nebraska be recognized for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 8:15 A.M.

Mr. PELL. Mr. President, if there be no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess under the previous order until 8:15 a.m., Friday, July 13, 1990.

There being no objection, the Senate, at 7:51 p.m., recessed until Friday, July 13, 1990, at 8:15 a.m.

NOMINATIONS

Executive nominations received by the Senate July 12, 1990:

THE JUDICIARY

STEPHEN G. MILLIKEN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE JOSEPH M. HANNON, DECEASED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK

TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

JUDGE ADVOCATE

To be colonel

CHARLES G. JONES, xxx-xx-xxxx
MICHAEL A. KILROY, xxx-xx-xxxx
J. CONLEY MEREDITH, xxx-xx-xxxx

LINE OF THE AIR FORCE

To be lieutenant colonel

GREGORY S. DZIUBAN, xxx-xx-xxxx
DONALD A. GRIFFITH, xxx-xx-xxxx
IRIS M. HAGENEY, xxx-xx-xxxx
LINDA K. WRIGHT, xxx-xx-xxxx
KENNETH L. SILAS, xxx-xx-xxxx
MICHAEL J. WILD, xxx-xx-xxxx
RAY A YAGHER, JR., xxx-xx-xxxx

JUDGE ADVOCATE

WILLIAM S. COLWELL, xxx-xx-xxxx

LINE OF THE AIR FORCE

To be major

FREDERICK W. HOEF, xxx-xx-xxxx
STEPHEN A. KAUMANS, xxx-xx-xxxx
DAVID C. ROTH, xxx-xx-xxxx
JAMES R. MCELROY, xxx-xx-xxxx
PHILIP H. SCHWARTZ, xxx-xx-xxxx

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be lieutenant colonel

IRIS M. HAGENEY, xxx-xx-xxxx

To be captain

LEAH A. MCKNIGHT, xxx-xx-xxxx
JAMES D. MOY, xxx-xx-xxxx
JANET L. RAMOS, xxx-xx-xxxx
GREGORY D. WILLIAMS, xxx-xx-xxxx

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW OF DESIGNATION UNDER THE PROVISION OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED, PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

JUDGE ADVOCATE

To be captain

VANESSA M. SUMMERFIELD, xxx-xx-xxxx

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. LOREN K. ACKER, xxx-xx-xxxx 3/21/90
MAJ. ROBERT N. AGEE, xxx-xx-xxxx 3/9/90
MAJ. DOUGLAS S. BROADHURST, xxx-xx-xxxx 3/1/90
MAJ. JULIO A. FUENTES, xxx-xx-xxxx 3/25/90
MAJ. PAUL K. HENNESSEY, xxx-xx-xxxx 4/8/90
MAJ. WILLIAM A. ILLING, xxx-xx-xxxx 4/4/90
MAJ. MICHAEL E. JOHNSON, xxx-xx-xxxx 4/7/90
MAJ. JOHN B. LAWSON, xxx-xx-xxxx 4/4/90
MAJ. ALAN E. LEW, xxx-xx-xxxx 4/7/90
MAJ. MICHAEL V. LOWE, xxx-xx-xxxx 3/21/90
MAJ. TIMOTHY E. LUCKENBACH, xxx-xx-xxxx 3/9/90
MAJ. RICHARD G. MCCOLL, xxx-xx-xxxx 2/10/90
MAJ. MARK R. NESS, xxx-xx-xxxx 4/17/90
MAJ. KENNETH S. PRATT, xxx-xx-xxxx 2/3/90
MAJ. ROBERT S. PROWSE, xxx-xx-xxxx 4/16/90
MAJ. JOHN A. RAMSEY, xxx-xx-xxxx 3/27/90
MAJ. ROBERT L. RAVENCAMP, xxx-xx-xxxx 4/9/90
MAJ. RICHARD L. ROTH JR., xxx-xx-xxxx 4/7/90
MAJ. RALPH H. SHEPARD JR., xxx-xx-xxxx 4/8/90
MAJ. LESLIE W. SHRUM, xxx-xx-xxxx 4/7/90
MAJ. ROBERT D. SHUMAKER, xxx-xx-xxxx 4/7/90
MAJ. TERRANCE R. TRIPP, xxx-xx-xxxx 4/17/90
MAJ. LARRY C. VAUGHN, xxx-xx-xxxx 2/10/90
MAJ. GARY M. WADE, xxx-xx-xxxx 2/10/90

JUDGE ADVOCATE GENERAL DEPARTMENT

MAJOR WAYNE S. CARLSON, xxx-xx-xxxx 4/8/90
MAJOR DENNIS R. JONES, xxx-xx-xxxx 4/7/90

MEDICAL CORPS

MAJOR ROBERT V. DELL xxx-xx-xxxx 4/8/90
MAJOR JUDD K. LUNN xxx-xx-xxxx 4/7/90

DENTAL CORPS

MAJOR ROGER D. CLAY, xxx-xx-xxxx 4/8/90

BIOMEDICAL SCIENCE CORPS

MAJOR SCOTT T. LANDES, xxx-xx-xxxx 4/1/90

IN THE ARMY

THE FOLLOWING NAMED CADETS, GRADUATING CLASS OF 1990, U.S. AIR FORCE ACADEMY WHO HAVE REQUESTED APPOINTMENT IN THE REGULAR ARMY IN THE GRADE OF SECOND LIEUTENANT UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531(A), 541 AND 4353:

LAWRENCE G. FERGUSON, xxx-xx-xxxx
JAMES E. MOORE, JR., xxx-xx-xxxx
PAKER G. SHIPLEY, xxx-xx-xxxx
ROBERT K, WATWOOD, xxx-xx-xxxx
ERIC R. WICK, xxx-xx-xxxx

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES IN THEIR ACTIVE DUTY GRADE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

MEDICAL CORPS

To be captain

CHRISTINA L. SEEBURGER, xxx-xx-xxxx

IN THE NAVY

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL RESERVE OFFICERS TRAINING CORPS, USN

To be ensign; permanent

GEROGE T. ADAMS
JOHN H. AKOURY
SUSAN A. BAUGHER
JOHN S. BELLER
MICHAEL D. BOSLEY
JOHN B. CABELL
CARL S. CATO
CHRISTOPHER A. CHRISLIP
GENE M. COX
AMY L. DAHLIN
JOHN C. DAVID
DAVID A. ELLENBECKER
MARK G. EVERY
RONNIE R. GIPSON
DAVID A. GLEESON
BRADFORD R. GRAFF
BRIAN M. HOFFMAN
TIM D. HOFFSOMMER
LISA J. HORNSBY
DENNIS J. JANUCHOWSKI
VINCENT J. KENNEDY
BRIAN Y. KIM
TODD R. LEE
JOSEPH P. LEPORATI
RONALD T. LEWIS
PETER M. MANTZ
COREY G. MASTERS
DARREN R. MEALER
AARON U. MISHLER
ANN F. MIZE
FEBBIE M. MOORE
MELVIN D. OLIVEIRA, JR.
RICHARD D. OSBURN
CHARLES L. OWENS
JEFFREY S. PEARSON
KERRY L. PEARSON
ERIC C. RANDALL
KAREN M. RICE
CHAD A. RUNYON
JOHN R. SCOTT, JR.
STEPHEN D. SCOTTY
ANGELA C. SHOATES
BRIAN J. SMITH
TED R. VESETH
CHINH T. VU
TIMOTHY M. WALSH
JON D. WALTERS
RICK WATERS

HOUSE OF REPRESENTATIVES—*Thursday, July 12, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

For all the gifts of the world, O God, we offer our praise, for the nurture of the Sun and rain and for the blessings of food, for the gifts of friendship and kindness, we offer our thanksgiving. May we be aware, gracious God, of the beauty and joy and love that is all about us, and may we not miss the grandness and majesty of Your presence. Bless us, O God, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Indiana [Mr. BURTON] please come forward and lead the House in the Pledge of Allegiance?

Mr. BURTON of Indiana led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed bills, a joint resolution, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2472. An act to establish a Senior Executive Service in the Library of Congress;

S. 2539. An act to authorize the establishment of a Smithsonian Institution Senior Service, and for other purposes;

S. 2540. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes;

S.J. Res. 302. Joint resolution providing for the reappointment of Anne L. Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S. Con. Res. 136. Concurrent resolution expressing the sense of the Congress with respect to the 25th anniversary of the Foster Grandparent Program.

A THREAT TO THE BUDGET SUMMIT

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, it is outrageous for the Senate Democratic leader to publicly demand higher taxes and a massive 25-percent increase in the income tax top rate. The Senate Democratic leader is threatening to destroy the budget summit.

Mr. Speaker, Senator MITCHELL does not attend summit meetings. He publicly demands tax increases. Senator MITCHELL does not offer serious budget reforms. He publicly demands tax increases. Senator MITCHELL does not offer spending cuts.

Mr. VOLKMER. Mr. Speaker, I ask that the words of the gentleman from Georgia [Mr. GINGRICH] be taken down.

The SPEAKER. The Chair will merely caution the gentleman from Georgia that such references to Members of the other body are not in order.

PARLIAMENTARY INQUIRY

Mr. GINGRICH. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GINGRICH. I would inquire of the Speaker, if it is in reference to a public newspaper account of public activity by a political leader, and I believe in this House we have a remarkably wide range of free speech, and this is not a reference to any action by the Senator of Maine in the Senate.

The SPEAKER. Under clause 1, rule XIV, it is an improper reference to a Member of the other body.

The Chair would ask the gentleman from Georgia [Mr. GINGRICH] to observe the traditions of the House.

Mr. GINGRICH. OK. I would be glad to observe the traditions.

Would the Speaker, and I am not trying to play games with the Speaker, would the Speaker simply instruct the gentleman what precisely are the ground rules for discussing publicly the activities of the Democratic leader of the other body when they appear in public and not in the other body? What is the ground rule? What am I allowed to say or not say?

The SPEAKER. The Chair will remind the gentleman of clause 1 of rule XIV which states that when any Member desires to speak or deliver any matter to the House:

He shall rise and respectfully address himself, Mr. Speaker, and on being recognized may address the House from any place on the floor or from the Clerk's desk, and he shall confine himself to the question under debate, avoiding personality. Debate may include references to actions taken by the Senate or by committees thereof, which are a matter of public record, references to the pendency or sponsorship of Senate bills, resolutions or amendment, factual description relating to Senate action or inaction concerning those then under debate in the House and questions from Senate proceedings on a measure then under debate in the House and which are relevant to the making of legislative history establishing the meaning of that measure, but may not include characteristics of Senate action or inaction, other references to individual Members of the Senate or other quotations from Senate proceedings.

Mr. GINGRICH. Let me then ask the Speaker:

Is the Chair prepared, because there is a similar phrase about protecting the integrity of the President, is the Chair as prepared to rule tightly when members of the Democratic Party describe President Bush and his immediate family? Are we going to have a standard by which I may not refer to the action of the Democratic leader in the Senate, which is a public action in a newspaper, but the members of the Democratic Party may say virtually anything weakening, and defaming and insulting the President of the United States? Now is the Chair going to be equally tough in this kind of narrowing of free speech on the House floor?

I am prepared to live by that.

The SPEAKER. The Chair will tell the gentleman from Georgia [Mr. GINGRICH] that references to the President of the United States that are personally offensive references are not permitted in debate. They are not covered by this particular rule. This rule reflects upon references to the other body and is in a long tradition of comity between the two bodies of the Congress. It has been recently amended to permit references to Senate actions, but the tradition against making references to individual Senators or characterizing their activity on or off the floor is against the rule and traditions of the House.

Mr. GINGRICH. Mr. Speaker, I will then withdraw my statement about Senator MITCHELL, of course.

I would simply ask:

Is it not also correct that there is another provision in the rules involving the manner in which Members of the House shall refer to the President of the United States?

The SPEAKER. The Chair has enforced traditions with respect to the President of the United States and enforces to the limit of its ability the traditions of the House with references to Members of the other body regardless of party. It is not a matter of party. It is a matter of tradition arising from the established comity between the two bodies of the Congress and is one that arises constitutionally under the power of the House to make its own rules.

Mr. GINGRICH. Let me just say, and I appreciate the Chair's indulgence, that I apologize to the Chair for having spoken too strongly on the House floor. I will, in fact, state all of this in a press conference later on today, and I appreciate and I do think it is a legitimate thing for the House to maintain legislative comity, and I would simply want to serve notice to my colleagues on the Democratic side that we will ask the Chair to be as strict in protecting the President and his immediate family as the Chair is legitimately being with respect to the other body.

The SPEAKER. The gentleman from Georgia [Mr. GINGRICH] has, in effect, cooperated with the Chair on the matter.

Without objection, the gentleman may proceed in order.

PARLIAMENTARY INQUIRY

Mr. ECKART. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ECKART. To what extent do the rules of the House extend to individuals who may be related to public officials.

The SPEAKER. The traditions only go to the references to Members of the other body personally or to the President personally, but do not necessarily go to the matters of the President's family.

Mr. ECKART. I thank the Chair.

□ 1210

The SPEAKER. The gentleman from Georgia may proceed in order if he wishes.

Mr. GINGRICH. No, Mr. Speaker.

OTS' DOUBLE STANDARD

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I rise to bring to the attention of the House the fact that the Office of Thrift Supervision is employing a double standard in their administration of FIRREA for large and small thrifts.

Let me give you one example of what I mean when I speak of a double standard. Almost everyone has heard of Talman Home Federal Savings and Loan Association of Chicago, a large $6 billion institution. It is insolvent but profitable. On the other hand, I know of a small thrift in my congressional district which is solvent and profitable.

Like you, I would assume the regulators would be moving to seize the insolvent institution before more of the Public Treasury was put to risk. However, this is not the case. Because of its size and profits Talman has been given additional time to meet capital requirements.

On the other hand, the small but solvent and profitable institution in my district has been denied additional time to meet the capital requirements.

So the double standard is if you are large, profitable but insolvent you will receive favorable treatment from OTS. If you are small, profitable, and solvent, OTS will subject you to a higher standard.

Mr. Speaker, I strongly support the effort to closely scrutinize the operations of S&L's by the Office of Thrift Supervision; however, it should be handled fairly and equally.

ASKING FOR CRIMINAL INVESTIGATIONS OF S&L CRISIS

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, my Democrat colleagues have been talking about their disgust and dismay regarding the savings and loan debacle. Many of my Democrat colleagues have been pointing the finger at the Bush and Reagan administrations for their so-called lack of action during this crisis.

One thing of which we are all aware, both Democrats and Republicans, is that anyone who has been involved in questionable activities regarding the S&L debacle should be taken to task. Toward that end, I am today formally requesting that my Democrat colleagues join me in signing a letter to the Justice Department asking for full criminal investigations and possible indictments of former Democrat Banking Committee chairman, Fernand St Germain; former Democrat whip, Tony Coelho; and former Democrat Speaker of the House, Jim Wright.

Now I know you are all statesmen and will rise to the occasion. So as John Wayne might say—"Well, listen here, Pilgrim, I have pen in hand, as well as the letter. I await the stampede."

AMERICANS ARE TAXED OFF

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I oppose President Bush's call for a tax increase. The reason is very simple. The American people are taxed, too taxed, overtaxed, screwtaxed, sintaxed, and taxed off the wall. In fact, the American people are literally taxed off. They are taxed off at everybody, both Republicans and Democrats, and now with the savings and loan mess they are simply saying, "Let's cut foreign aid. Let's cut NATO. Let's cut the sacred cow at the Pentagon and let's put American positions first."

Mr. Speaker, it is not good to tax off the American people.

KEEP HANDS OFF SOCIAL SECURITY

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, in our efforts to reduce the budget deficit, some of my colleagues have suggested freezing Social Security COLA's.

Well, I recently asked my constituents in western New York and the Finger Lakes Region their opinion on this question.

Mr. Speaker, in just 3 short weeks, my office was literally flooded with over 33,000 responses.

My constitutents' message is clear and compelling, "Don't touch Social Security."

I brought the 33,000 postcards I received from outraged senior citizens here today, and they are piled in front of us. I have a pile in my hand here from Amherst, Geneva, Canandaiqua, and Hamburg, for example.

I want to show this Congress the intensity of opposition to any attempt to cut or freeze Social Security benefits.

Mr. Speaker, these 33,000 petitions should make it perfectly clear that Congress must not punish deserving senior citizens for the fiscal irresponsibility of this Congress itself.

Mr. Speaker, we must keep our hands off Social Security.

TAX JUSTICE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, the battle to show who controls this country is here. It is called the Budget Summit, and the issue is taxes. President Bush says they are going up. Now, who is going to pay?

Once again, the message from the White House seems clear. It will definitely accept a capital gains reduction. The overwhelming bulk of that goes to upper income.

Perhaps it will accept increases in gasoline, cigarettes, and other sin-

taxes. The bulk of that goes on the backs of the middle income.

Mr. Speaker, let me make it clear. Some of the proposed tax packages look like the Omnibus Crime Act for middle Americans. Capital gains reductions are nothing but capital punishment for the middle income.

And what about the two wage earner families that now pay a higher income tax rate than those people making over $200,000? No relief for them. They are under the so-called tax bubble, and they are tired of the bubbleheads who want to keep them there.

So when you hear from some that they are against tax increases or against raising income taxes, what does this mean? If it means that average Americans end up paying even higher taxes, while upper income persons pay even less taxes, the American people will know this is not tax justice.

BALANCED BUDGET AMENDMENT NO. 1

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, Congress is running out of money to fund its pet projects and is asking the citizens of this country to pay for this folly. We are currently running a deficit estimated to exceed $200 billion and OMB now estimates that the Federal Government will have to raise the ceiling on the national debt now running well over $3 trillion. How can we justify additional spending when we continue to force this country deeper in debt by doing so.

Mr. Speaker, we have to apply discipline to this outrageous spending. We have to apply the necessary fiscal restraint to balance the Federal budget. We cannot continue to expect the American taxpayer to bailout the Federal Government.

Members, the discipline necessary to erase these on-going deficits is staring us in the face. On July 17 we will have an opportunity to vote for a balanced budget amendment to the Constitution. With the current deficit and the possibility of tax increases which studies show only go toward more spending, it is imperative for the future of this country that we pass the balanced budget amendment.

Mr. Speaker, nearly 70 percent of Americans favor a constitutional amendment to balance the Federal budget. Passing the balance budget amendment will tell the American people we are on their side. It will say "yes" to the American people and "no" to the wasteful and abusive use of their money. We as Members of Congress not only have the right to change this fiscal problem, but we have the responsibility to do so for our constituents and for the future of America.

THE NATION NEEDS A HOUSING BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, there is no dearth in America of major problems. One certainly is the lack of affordable housing for our people.

Passage of H.R. 1180, the Housing and Community Development Act, will give a powerful boost to efforts to replenish the Nation's housing stock for all income categories.

I am proud to cosponsor this measure which bears the hallmark of the gentleman from Texas, Banking Committee Chairman HENRY GONZALEZ.

H.R. 1180 contains several important housing initiatives including the HOPE Program, advanced by our former colleague, Housing Secretary Jack Kemp, the Community Housing Partnership, the National Housing Trust Fund, and the Homeless Prevention Program.

Mr. Speaker, our Nation's housing shortage cannot be solved overnight. But, with the type of Federal, State, and local partnership contemplated by H.R. 1180, today's unhappy and unacceptable condition can be alleviated.

TEXAS RENEGES ON SUPERCONDUCTING SUPER COLLIDER

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, a recent article in the Dallas Times Herald brought news that should disturb every Member of this House. The article quoted Texas officials as saying, in effect, that they were reneging on a promise they made to this House and reiterated as recently as 2 months ago.

The promise I refer to concerns the superconducting super collider [SSC], the $8 billion physics project, or from Texas's point of view, the $8 billion construction project to be built outside Dallas. As you may recall, Texas had promised to contribute $1 billion toward the cost of the project plus the cost of land purchases.

This was an issue in the lengthy House debate in May on authorizing the SSC. After negotiations with the Texas delegation and others, Chairman ROE—perhaps the staunchest supporter of the SSC in the House—Chairman ROE offered an amendment that required Texas to contribute the $1 billion and the land for SSC construction to move forward. That language was part of the bill that passed the House.

Now Texas officials are saying, "Well, the bill's not law, so we don't have to feel bound to it." That, of course, is true. But the Texans ought to feel bound by the pledges they made directly to this body.

Members of the Texas delegation pledged publicly and privately to other Members of Congress that Texas would contribute the $1 billion and the land. That pledge was not a matter of statute, but a matter of principle. The Governor of Texas wrote to members of the Appropriations Committee and pledged that Texas would contribute the $1 billion and the land. That pledge was not made pursuant to statute, it was a matter of principle.

Were these promises just political expedients? Were they obligations that were to last only long enough to seduce Members of this body to support spending billions of dollars in Texas? Should the Congress be as cavalier about its willingness to commit to building the SSC as Texas is being about its commitment to help pay for it?

Mr. Speaker, the State of Texas is known for thinking big. Big ranches, big oil, big cities, even big S&L losses. I hope that Texas has not now discovered the big lie.

DOUBLE HULLS ON OIL TANKERS

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Mr. Speaker today the conferees on the oilspill bill will vote on a provision to require double hulls on all new tankers and barges using American ports. I urge the conferees to include this provision as it passed the House; it is a strong, protective measure without loopholes.

The tragic *Exxon Valdez* spill marked the beginning of the public's awareness of oilspills fouling our coasts. Since then, oil has coated the Texas gulf, Massachusetts' bay, and New Jersey's inlets. This is a national disgrace.

One of the most important preventive measures in the bill we passed last fall, and one of the easiest to enforce, is the Gallo amendment requiring double hulls. Double hulls will ensure that a grounding does not mean a polluting spill.

The Coast Guard said that a double hull on the *Valdez* would have contained much of the 11 million gallons that spilled. Since we have required double hulls on tankers carrying liquified natural and petroleum gas, not a single spill on these substances has occurred. A Coast Guard study found that double hulls would have prevent-

ed spills in 96 percent of the cases they studied.

The evidence is clear. Double hulls are a necessity. The conferees should include strict requirements for double hulls on all oil tankers.

□ 1220

CASTRO AND THE PLO: THE GRAND SCHEME OF INTERNATIONAL TERRORISM

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, many are not aware of the intimate relationship between Fidel Castro and the Palestinian Liberation Organization but their affiliation fits into the ultimate network of international terrorism.

The ties between Communist Cuba and the PLO go back at least to 1966 when Castro united 500 delegates from radical groups around the world, including the PLO, to devise an international strategy to counter American "imperialism."

In recent years, there have been dozens of contacts between Cuba and the PLO leaders. Just a few months ago, the PLO and Cuba signed an economic and scientific cooperation agreement at the PLO embassy in Cuba.

The PLO and Castro play a vital role in international terrorism and the partnership between them must be considered before we even think about reestablishing a dialog with the PLO.

AID TO THE SOVIET UNION

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, I rise today to discuss the question of aid to the Soviet Union.

The iceberg of the cold war has not only thawed but melted away.

But as people around the world rejoice in the end of the cold war, one man does not seem to have recognized reality. And that is the President of the greatest democracy in the world, George Bush.

In the Philadelphia Inquirer, yesterday's headline read, "Bush Wins a Delay of Soviet Aid," thwarting the efforts of West Germany, France, Italy, and others. What kind of message does this send to the rest of the world?

Soviet President Gorbachev is caught in a "catch 22." His people demand food and consumer goods before they will support perestroika. But the Soviet economy is a dinosaur, incapable of delivering these goods before serious reform takes place.

We can help him out of this situation, with a modest aid program geared at easing the transition to a market economy. The aid could be hinged on the enactment of economic reforms, or delivered directly to newly forming private enterprises.

Some could be delivered in American food and American products. For example, we could send American-made refrigerated trucks to transport Soviet produce to markets.

When Czechoslovakian President Vaclav Havel addressed us in February, he spoke of the benefits that we would receive from helping the Soviets, in terms of lower defense spending.

We spend $140 billion a year to defend Western Europe. In the words of Vaclav Havel, "the millions you give the East today will soon return to you in the form of billions in savings."

EMERGENCY MEDICAL ASSISTANCE TO LITHUANIA

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing a bill authorizing $10 million for emergency medical supplies for the people of Lithuania.

As a direct result of the Soviet blockade of Lithuania, community health is now severely threatened, and critical medical supplies and equipment have been prevented from flowing into that country.

As a direct result of the Soviet blockade, the mortality rate is on the rise due to medical and psychological complications and severe problems of hygiene. Diabetics are deprived of life-sustaining insulin. The shortage of fuel has caused restrictions in the hot-water supply which affects sterilization in hospitals and clinics. Disinfectants, likewise, are in short supply compounding the threat of outbreaks of infectious diseases.

Basic community health is threatened by the scarcity of chlorine to purify water. Some cities are at the point of exhausting their chlorine supply, and the basic health requirement for purified water is not possible to achieve.

Yesterday the Lithuanian Foreign Minister was in town and, again, reiterated the desperate need for these health care supplies.

My legislation, Mr. Speaker, is a companion bill with Senator MOYNIHAN and Senator ARMSTRONG, and I urge the membership to cosponsor, and that we move expeditiously in seeing this enacted into law.

SUPPORT THE TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, I rise today in support of American jobs. I am referring to H.R. 4496, the Textile, Apparel, and Footwear Trade Act of 1990, and I would like to urge my colleagues to take a long, hard look at what is at stake.

The essential component of this bill is a mechanism to balance trade in textiles. We want trade to be fair. Should America's doors be opened to imports and other countries be closed to ours?

Hanging in the balance are the jobs of over 2 million men and women in every State in our country; jobs of a manufacturing sector of the economy that contributes over $50 billion annually to the U.S. gross national product—more than the petroleum or the automobile industries; and some 400,000 jobs that have already been lost since 1980 due in large part to the continuing assault on the domestic market by foreign-made goods.

I am not against higher profits for any company, but I am against American jobs being needlessly sacrificed in the name of those profits. Let us not forget what's really important in all of this—the livelihood of millions of American families across the country. We cannot afford to let them down.

DOUBLE HULLS WORK

(Mr. GALLO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GALLO. Mr. Speaker, today the conferees for the oilspill bill will decide the fate of double hulls.

As the author of the double hull amendment, I want to remind the conferees that the House voted by the overwhelming margin of 376 to 37 for our strong double hull provision. We need action now, not more studies.

Double hulls work. They protect the environment from the terrible damage done by oilspills. Just last week a loaded Canadian oil tanker ran aground on the Detroit River, but its double hull prevented an oilspill.

A Coast Guard petty officer summed it up nicely: "No pollution. No oil loss." Let us heed the message these simple words convey.

The conferees must include our double hull provision. Protect our environment. Insist on double hulls.

HISTORY OF THE THRIFT FAILURE

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, a lot of folks are peddling revisionist history these days about the savings and loans.

So I thought it would be interesting to read some old quotes: Here's April 29, 1981, when Donald Regan, from the Reagan administration, Treasury Secretary, says, "We ought to deregulate the thrifts," he says, "We should remove restrictions on the lending powers of the thrift institutions." He says, "We don't believe in more regulation. We believe in less regulation."

Here's June 1, 1981, an Assistant Secretary of the Treasury in the Reagan administration says, "While the thrift industry may be losing money, they aren't losing cash in the sense that they aren't able to meet their commitments." He said, "We think what they are experiencing is basically a book problem rather than a real problem."

Here is from February 19, 1982, "The Reagan administration will oppose a plan to bail out the thrifts," said, a White House spokesman, "We support the Bank Board's efforts to deregulate the thrift industry."

But then there is a quote from a banker from Stillwater, OK. He had it right, when in the Wall Street Journal in 1981, he said, "Basically, they (the administration) propose a great leap backward to the laissez-faire days of Coolidge and Hoover."

That, my friends, is the real history of the thrift failure.

□ 1230

SPEAKER WRIGHT'S FRIEND "FAST EDDIE" McBIRNEY

(Mr. HILER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILER. Mr. Speaker, it is often said that "one is judged by the company one keeps." Today's Wall Street Journal reported on yet another friend of former Speaker Jim Wright who has been indicted for criminal activity in running a Texas-based thrift. That friend of Jim Wright's was once the owner of the now defunct Sunbelt Savings, Edward "Fast Eddie" McBirney.

"Fast Eddie" was an original contributor to East Texas PAC which was put together by Speaker Wright's friend from Tom Gaubert—another Texas thrift executive who has been under fire by Federal regulators and prosecutors for his role in looting independent American Savings of Texas. "Fast Eddie" was often called on by Speaker Wright to use East Texas PAC to finance Democratic campaigns, and records show that McBirney gladly did so.

Speaker Wright was shameless in his friendship and solicitation of campaign contributions from "Fast Eddie" McBirney, notwithstanding the fact that Mr. McBirney's Texas thrift was so notorious for its fast and loose spending of depositors money that it earned the nickname "Gunbelt Savings."

Well, just like Speaker Wright's friend, Woody Lemmons, who was sentenced to 30 years for robbing depositors of his failed Texas thrift, Mr. Wright may have an opportunity to visit his friend "Fast Eddie" McBirney in the slammer—Mr. McBirney faces up to 85 years in Federal prison and a $4.25 million fine for his management of Sunbelt Savings.

HEALTH OVERSIGHT ON NUCLEAR WEAPONS PLANTS

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, today the Department of Energy is releasing a study of civilian exposure to radiation from nuclear weapons production at the Hanford facility in the Pacific Northwest. The study shows that kids and families were exposed to significant, health-threatening levels of radiation from the plant. This happened while the families were being reassured by the plant operators that everyone was safe.

To make sure that this tragedy and coverup is never repeated, I have introduced legislation, H.R. 3212, to establish independent health oversight over these plants. Even though a blue ribbon Department of Energy panel has endorsed the concept of independent health oversight, the Department is still keeping an iron hand on health data and research at these facilities.

Mr. Speaker, it is time to put the health officials in charge of health and safety issues. I hope my colleagues will support this legislation on a bipartisan basis.

ELECTION OF MEMBERS TO COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Mr. HOYER. Mr. Speaker, I offer a privileged resolution (H. Res. 431) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 431

Resolved, That the following Members be, and are hereby, elected to the following standing committee of the House of Representatives: Committee on Banking, Finance and Urban Affairs, Ted Weiss, New York, and Tom Lantos, California.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RETAIN DOUBLE-HULL PROVISION

(Ms. MOLINARI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MOLINARI. Mr. Speaker, I rise today to join with my colleagues to urge the oilspill conferees to retain the Gallo double-hull provision in the conference report.

I speak, unfortunately, from too much experience on this subject. The area surrounding my district has been ravaged by 10 major oil spills since January of this year. Well over 1 million gallons of petroleum are destoying a body of water struggling to maintain any semblance of environmental integrity. On June 10, the BT *Nautilis* gushed 260,000 gallons of No. 6 heating oil into the Kill Van Kull. It was caused when rocks cut like a razor through the ships thin skin. It could have been prevented with a double hull.

Last week, the Coast Guard accompanied Congressman DEAN GALLO and myself through the Arthur Kill to survey the damage as a result of this epidemic of spills. The cleanup crews are still scrubbing rocks, steaming seawalls, and removing tar balls from last month's spill. In fact, cleanup efforts from the June 10 spill are expected to last at least another month. And incurred costs of this one spill are already at $10 million, and there is still much to be done.

We cannot afford to wait any longer for a solution. If we had been using the last 6 months to modernize our tanker fleets instead of stalling on the issue of double hulls, we could have prevented the June 10 spill and others which will undoubtedly take place before new provisions take place.

I urge the conferees to keep the double-hull provision, and reiterate my call for tough oversight of unregulated low-level pipelines.

AMERICA MUST SUPPORT 1994 SOCCER WORLD CUP

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, I would like to lighten up the proceedings a little bit and talk about an issue of international sports. The biggest spectacle in the world is not the World Series, it is not the Super Bowl, it is the World Cup of soccer. Last week it attracted over 500 million viewers. The problem that we have is that the United States in 1994 is the host to

this event. What is going to happen to U.S. prestige if we have the World Cup in 1994 and nobody shows up?

Mr. Speaker, we have to dramatize the importance and interest in soccer around the United States. We have to do something about getting a television contract. The world expects the United States to do a credible performance. We must also insure that the American team be first rate in every manner. It is important that we provide our team with the caliber of coaching equivalent to West Germany's Franz Beckenbauer. At the present time, we have virtually no private backing for our effort to host the 1994 World Cup. If the private sector and our sporting federation make no effort to generate interest for this event, I think then that the Government and Congress should step in. The President should create a commission which would insure that the issues I have raised are attended to. The 1994 World Cup should have no less enthusiasm, no fewer viewers than last week's spectacular event.

SENATE MAJORITY LEADER PLACING BUDGET SUMMIT IN JEOPARDY

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, despite a request from the administration, after it had presented its budget in January for summit negotiations, no negotiations were joined. The House was not a problem. Popular opinion was that the Senate majority leader would not agree to the summit.

Three months later all parties went to the summit. After we had been in summit discussions for 6 weeks, the Senate majority leader and others went to the White House and told the President he must restate that all matters were on the table. The President did so.

Yesterday the Senate majority leader stated that a major element of tax policy was not negotiable. He said, "There are points beyond which you cannot go."

He was dead right. There are those points, and he went way past them.

Because the Senate majority leader has removed tax policy from the table, the summit is in jeopardy. Lack of good faith may not have torpedoed the whole exercise, but I, as one summit optimist, have lost my enthusiasm for the exercise.

HOUSE CONFEREES SHOULD STAND FIRM ON DOUBLE-HULLING ISSUE

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, the longest of national debates must at some point come to some conclusion. Today when the conferees meet on oil spill legislation, that day may finally come for the long sought efforts for double bottoms and double hulls on oil tankers.

For 20 years America has debated whether to modernize her tanker fleet and give this added extra effort for protection. The gentleman from New Jersey [Mr. GALLO] and I offered legislation to do just this. Studies indicate that from 65 to 90 percent of all oil that has entered our waters via needless spills in recent years could have been prevented. Coast Guard studies have confirmed it. Even some private oil companies of their own initiative are now requiring double bottoms on their oil tankers. The international community is moving independently.

Now the question is whether we can act, whether the conferees will support the overwhelming majority of this body that seeks that protection. I urge them to do so. I ask Members to join with us today in asking them to stand firm.

TIMELY QUESTIONS FOR DEMOCRATS ON SAVINGS AND LOAN CRISIS

(Mr. BUNNING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUNNING. Mr. Speaker, we have been hearing a lot of talk from the Democrats lately regarding the savings and loan mess. Unfortunately they have taken history lessons from the Soviets and forgotten a few dates from their chronology.

In the spirit of congressional glasnost, I would like to ask the Democrats to answer some questions:

On September 15, 1986, why did then House majority leader Jim Wright meet with Ed Gray and accuse him of being too hard on Texas thrifts?

On October 16, 1986, why did Freddie St Germain urge House Appropriation Committee Chairman WHITTEN to oppose a possible Senate attempt to attach the FSLIC capitalization bill to the continuing resolution.

On December 20, 1986, why did Jim Wright call Ed Gray on behalf of his friend Dan Dixon? * * * You know the guy we indicted last month in Texas.

And you folks on the floor were there on March 19, 1987. What did Speaker Jim Wright say at the Democratic caucus? Does the word forbearance refresh your memory.

And on May 5, 1987, why did Democratic whip and chairman of the Democratic Congressional Campaign Committee Tony Coehlo actively support the plan pushed by the U.S. League of Savings Institutions?

Come on, Let's get the record straight.

□ 1240

PROTECTING FHA AND PRESERVING HOME OWNERSHIP

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, today I intend to introduce, along with my colleague Mr. VENTO of Minnesota, the FHA Protection and Home Ownership Preservation Act of 1990. This legislation will restore actuarial soundness to the FHA's mutual mortgage insurance fund the Federal Government's primary source of assistance to moderate- and middle-income homebuyers and thereby save FHA for the hundreds of thousands of first-time homebuyers who access this important program each year.

Last month, Price Waterhouse released the report of its audit and actuarial analysis of the FHA fund. Though Price Waterhouse found that the fund is currently solvent, it determined that losses of over $200 million a year would push into solvency sometime within the decade.

In that report, several options were put forward that would restore the fund to an actuarially sound footing. Our legislation incorporates the option which brings about actuarial soundness with the least negative impact on potential homebuyers. Additionally, our legislation will ensure that taxpayers are not left with the tab because of insufficient FHA premium funds.

The Vento-Ridge proposal strengthens the FHA insurance premium by returning to a pay-as-you-go structure; mandates a minimum capital standard of 1.25 percent moving to a 2-percent capital standard by the year 2000; and requires that, beginning in 1993, no mortgage will be allowed to exceed the market value of the property.

With home ownership already on the decline and the FHA fund at risk, we need to provide meaningful, sound reform while continuing to facilitate home ownership through the most successful home ownership program established for the American family—FHA mortgage insurance. I ask my colleagues to join with Mr. VENTO and myself in bringing actuarial soundness to FHA by supporting this legislation.

IN SUPPORT OF A LETTER TO PRESIDENT HAVEL

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, last week I received this Castro propaganda carrying the name and address of the Czechoslovak Embassy. That is right, the Cuban interests section is in Czechoslovakia's Washington Embassy. This Cuban/Czech relationship was understandable during the cold war. But in light of the rusting of the Iron Curtain and Eastern Europe's move toward democracy, it should now be terminated.

I ask you to join me, as 46 of our colleagues have already done in urging President Havel to add to his long list of humanitarian accomplishments by evicting the Cuban interests section from the Czech Embassy.

Expelling the Cuban interests section and its propaganda machine from the Czech Embassy will serve to accelerate the withdrawal of international support for Castro's brutal government and weaken his stranglehold on the will of the Cuban people.

With the support of the Czech Government we can ensure that Castro does not escape the tide of freedom and the conscience of men and women committed to justice.

DO NOT FORGET THE REAL CULPRITS

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, for 60 year now, Democrats have been running against the economic memories of Herbert Hoover, but in this brief review of history this morning let me take my liberal friends 50 years closer to today, during the last quarter of 1980 when prime rates were 18½ percent in the Presidency of Jimmy Carter. In the context of the savings and loan industry, that situation threatened an industry with 400,000 employees, $1 trillion in assets, and the insured deposits of millions of widows and orphans and pension funds, all insured by this Government, and which provided an opportunity for Americans to have a family home of their own.

Would our liberal Democrat friends have ignored that situation, permitted that industry and the hard-earned money of those frugal Americans to be lost? I would certainly hope not.

THE 25TH ANNIVERSARY OF THE FOSTER GRANDPARENT PROGRAM

Mr. KILDEE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 136) expressing the sense of the Congress with respect to the 25th anniversary of the Foster Grandparent Program, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Michigan?

Mr. TAUKE. Mr. Speaker, reserving the right to object, I would ask the gentleman from Michigan to explain his request.

Mr. KILDEE. Mr. Speaker, Senate Concurrent Resolution 136 is identical to a measure introduced in the House by myself and Mr. TAUKE which reaffirms Congress' support for the Foster Grandparent Program.

The House companion legislation, concurrent resolution 340, has 44 cosponsors and I will include the names of those cosponsors in the RECORD.

The Foster Grandparent Program enables older individuals to continue to contribute services to children and their communities while earning a small stipend.

In 1988 nearly 27,000 volunteers contributed 20 million hours to children.

Senate Concurrent Resolution 136 celebrates 25 years of successful operation of the Foster Grandparents Program.

Therefore, I ask that Senate Concurrent Resolution 136 be considered and passed.

The cosponsors of House Concurrent Resolution 340 are: Mr. McDermott, Mr. Dickinson, Mr. Bosco, Mr. Horton, Mr. Yatron, Mrs. Unsoeld, Mrs. Slaughter, Mr. Fuster, Mr. Smith of Texas, Mr. Lehman of Florida, Mrs. Boxer, Mr. Durbin, Mr. Oberstar, Mr. Rangel, Mr. Hughes, Mr. Smith of Florida, Mrs. Martin, Ms. Pelosi, Mr. Sawyer, Mr. McGrath, and Mr. Lagomarsino.

Also Mr. Hayes of Louisiana, Mr. Rahall, Mr. Levin, Mr. Emerson, Mrs. Collins, Mr. Poshard, Mr. Dwyer, Mr. Fazio, Mr. Spence, Mr. Erdreich, Mr. Faleomavaega, Mr. Hyde, Mr. Coleman of Texas, Mr. Payne of Virginia, Mr. Weiss, Mr. Martinez, Mr. Mrazek, Mr. Sundquist, Mrs. Johnson, Mr. Goodling, Mr. Roybal, and Mr. Downey.

Mr. TAUKE. Mr. Speaker, continuing to reserve my right to object, I want to observe that today we are considering a very important resolution, Senate Concurrent Resolution 136, commending the Foster Grandparents Program on 25 years of outstanding services. Congressman DALE KILDEE and I introduced House Concurrent Resolution 340, an identical resolution, on June 19, 1990.

Last year we reauthorized all of the important Older American Volunteer Programs administered by ACTION, including the Foster Grandparents Program. This year we have an opportunity to pay a special tribute to the Foster Grandparent Program on the occasion of its 25th anniversary.

Foster Grandparent volunteers are low income senior citizens age 60 and above who provide supportive, person-to-person services to children with exceptional needs. Most foster grandparents work with children at least 20 hours a week. For their efforts, they receive a small stipend, the affection of their foster grandchildren and the self-esteem which comes with knowing they are still an important, necessary part of society.

On Monday, July 16, there will be a special ceremony at the White House and First Lady Barbara Bush will pay tribute to Foster Grandparent volunteers. I am particularly proud that Mrs. Helen Andrews, one of the foster grandparents from my hometown of Dubuque, IA, has been chosen to attend this White House reception. Mrs. Andrews is 71 years old and she spends her time with children at the Hillcrest Family Services shelter in Dubuque—playing everything from basketball to board games. Mrs. Andrews has been volunteering since 1983 and is a good example of why the program works as well as it does. She truly loves what she is doing.

Whether volunteers are playing with children at a shelter like Mrs. Andrews, working with a handicapped child who is learning to dress themselves, assisting a learning disabled student struggling with a homework assignment, or counselling a young runaway, foster grandparents give of themselves what money connot buy—love, patience, and someone to talk to when the rest of the world will not or cannot listen.

Foster grandparents deserve to be commended for their many years of service to the children of our Nation. I urge my collegues to join me in paying tribute to the Foster Grandparent Program and foster grandparents throughout the United States by supporting this resolution.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. GOODLING], the ranking member of the Education and Labor Committee.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I too rise in support of Senate Concurrent Resolution 136, honoring the Foster Grandparent Program for providing 25 years of outstanding service.

In an age when many children grow up without close contact with their grandparents, foster grandparents help provide the love and support many of these children need so much.

It takes but one trip to a site where foster grandparents are working to know the value of the program. Visit an alternative school and witness foster grandparents working with at-risk children with a history of school and legal problems. You will be amazed at how these children come to rely on their foster grandparents for guidance and support—items which are often missing in their home setting. But the children aren't the only

ones who benefit from the program. Many of the foster grandparents themselves will tell you the program has given them a sense of self-worth, a feeling that they are still a needed and necessary part of society.

The Foster Grandparent Program is a love match—with each participant obtaining just as much satisfaction from the program as they are giving in return. Many young lives are rescued because they come in contact with a foster grandparent and it is not unusual for these "grandchildren" to continue to stay in touch with their foster grandparent after they leave the program.

Foster grandparents throughout the country deserve to be honored. This resolution recognizes the valuable contribution foster grandparents have made to society. I urge my colleagues to join me in supporting Senate Concurrent Resolution 136.

Mr. TAUKE. Mr. Speaker, I thank the gentleman for his statement.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise in support of Senate Concurrent Resolution 136, commemorating the 25th anniversary of a very special volunteer effort, the Foster Grandparent Program. As a member of the Human Resources Subcommittee, I was pleased to support the reauthorization of this program, and I would like to thank both the subcommittee chairman and ranking member for bringing up this commemorative legislation today.

The Foster Grandparent Program is unique because it uses older Americans in a role only they can fill—that of grandparents. These volunteers provide children who have exceptional and special needs supportive and personal attention in settings ranging from schools and day care centers to hospitals and institutions. They offer these children their patience, resourcefulness, wisdom, skills, and most importantly, they offer them their care and attention.

I am pleased to have this opportunity to congratulate the Foster Grandparent Program on 25 years of exceptional service. Senate Concurrent Resolution 136 is an honest inflection of, and tribute to, the importance of the work of this program, and our support of the resolution is a demonstration of the esteem in which the volunteer's work is held.

Mr. RAHALL. Mr. Speaker, I rise in support of H.R. 5229, the fiscal year 1991 Transportation and related agencies appropriations bill.

The Transportation appropriations bill is one of the most important bills to come before the Congress each year. It provides the support for this country's infrastructure needs—its roads, its airports, it railroads and its urban/rural mass transit systems.

I would like to take this opportunity to highlight a few of the programs funded in this measure that are of critical importance to my home State of West Virginia, and its Fourth District which I serve.

The bill provides major increases over current funding levels for transportation grants, 26 percent, and funds for the modernization of the air traffic control system, 24 percent, as well as highway grants from the Federal Highway Administration, 19 percent.

In fiscal year 1991, the Federal Railroad Administration will be funded at $736.5 million, of which $482 million will continue Amtrak rail passenger service, with $150 million earmarked for payments on behalf of Amtrak.

I am pleased that the Amtrak reauthorization legislation, after undergoing a Presidental veto earlier this year, has finally been accepted by the President so that the Congress can keep its promise to the American traveling public by providing adequate funding support.

In West Virginia, residents rely heavily on the Cardinal, which supplies a vital link in our transit system, bringing people from throughout the country to our State to enjoy its scenic beauty and recreational opportunities. Amtrak services assures West Virginia's ability to continue to build its tourism industy, the second largest industry in our State.

With regard to urban mass transportation, the agreement appropriates $2 billion, for use in the formula grant program in the coming year. This program provides mass transportation capital and operating assistance to both urban and nonurban areas. Again, West Virginia relies upon this program for its rural and urban systems of travel, and is the foundation on which the State has built the Tri-State Transit Authority in Huntington.

The fiscal year 1991 Transportation bill also funds a program of major importance to West Virginia, the Essential Air Service [EAS] Program, which provides payments to subsidize airline service to smaller communities. The EAS Program, funded under the Federal Aviation Administration's authority, was originally created as part of deregulation of the airlines to ensure that small communities would not lose access to vital air transportation. Five communities in West Virginia will benefit under EAS, two of which—Beckley and Bluefield—are in my Fourth Congressional District. As we continue to address our severe economic situation, and to broaden our industrial base, some of our greatest hopes and expectations lie in our growing tourist industry. Continuation of EAS funding is vital to this effort, and its loss would be a serious setback.

Essential Air Services, originally a 10-year program established in 1978, is funded at $24 million in the coming fiscal year, which is $7 million less than last year, 23 percent reduction. It is estimated that at this level of funding, 120 locations throughout the country, 10 fewer than were served last year.

While I am pleased that the Congress has seen fit to continue the Essential Air Service Program, I am concerned that the level of funding keeps falling dramatically, and fear that eventually this program, which is crucial to economic development in many States will be phased out of existence.

The bill appropriates a total of $6.4 billion for FAA programs in fiscal year 1991, and most importantly it authorizes the release of $1.8 billion from the airport and airway trust fund for airport planning and development grants, providing a total of $8.2 billion for the FAA. This total is $1 billion more, 14 percent, than last year's level, but is $117 million less than the administration's request, 1 percent.

The funds will allow for a 24-percent increase for the modernization of the air traffic control system and a 26-percent increase in assistance for airport capacity expansion projects.

It is important to note that the House will also consider H.R. 5170, the Aviation Safety and Capacity Expansion Act today, allowing for up to 75 percent of FAA's entire budget to be financed by the aviation trust fund. These provisions allow for increased spending out of the trust fund surplus, reducing that surplus over the next year by $700 million, leaving a surplus at the end of fiscal year 1991 of $6.9 billion.

H.R. 5229 appropriates $293 million for the Federal Highway Administration [FHA] next year, $244 million more than the Administration requested. Almost the entire difference is based on the Congress' commitment to continue to fund various highway demonstration projects. The measure authorizes the release of $14.5 billion from the highway trust fund to assist in the construction and repair of the Interstate Highway System and secondary roads and bridges. The amount is $2.3 billion, 19 percent, more than the fiscal year 1990 level, and $2.5 billion more than requested by the President.

I urge my colleagues to support this measure which is of massive importance to constituents throughout my State and district, and indeed throughout this country.

Mr. TAUKE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 136

Whereas 1990 marks the 25th anniversary of the Foster Grandparent Program;

Whereas the Foster Grandparent Program is one of the most successful volunteer programs ever launched in the United States;

Whereas the program has provided immeasurable opportunities for thousands of low-income older persons to volunteer their time for the benefit of children who have special needs;

Whereas thousands of children with special needs, including those who are mentally or physically disabled, emotionally disturbed, learning disabled, or who suffer from abuse and neglect or drug or alcohol dependencies, have benefited from the time and attention of older persons who choose to serve as foster grandparents;

Whereas in fiscal year 1990, 27,000 older persons will volunteer their time for the benefit of these children;

Whereas foster grandparents provide person-to-person assistance every day to more than 70,000 children with special needs;

Whereas foster grandparents serve four hours a day, five days a week in all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands;

Whereas volunteer services of foster grandparents are provided every day to children in hundreds of volunteer stations, including schools, hospitals, juvenile detention centers, Head Start programs, shelters for neglected children, and drug rehabilitation centers; and

Whereas Federal funds to support the Foster Grandparent Program are significantly augmented through contributions of State and local governments and the private sector: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Congress recognizes the enormous contributions made by older person who have volunteered as foster grandparents to benefit children who are faced with special challenges;

(2) the Congress commends the thousands of volunteers who have served and continue to serve the children in our society with special needs;

(3) on the 25th anniversary of the Foster Grandparent Program, the Congress reaffirms its strong support for the Foster Grandparent Program.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on Senate Concurrent Resolution 136, the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

□ 1250

PROVIDING FOR CONSIDERATION OF H.R. 5115, EQUITY AND EXCELLENCE IN EDUCATION ACT OF 1990

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 430 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 430

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5115) to improve education in the United States, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read and all points of order against said substitute for failure to comply with the provisions of section 303(a)(4) of the Congressional Budget Act of 1974, as amended are hereby waived. No amendment to said substitute shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report and shall be debatable for the period specified, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. All points of order are hereby waived against the amendments printed in the report. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentlewoman from Illinois [Mrs. MARTIN], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 430 is a modified open rule providing for consideration of the bill, H.R. 5115, the Equity and Excellence in Education Act of 1990.

The rule provides for 2 hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

The rule makes in order the Education and Labor Committee amendment in the nature of a substitute now printed in the bill as original text for the purpose of amendment. The substitute shall be considered as having been read.

Mr. Speaker, the rule waives section 303(a)(4) of the Congressional Budget Act against consideration of the substitute.

No amendment to the bill shall be in order except the amendments printed in the report accompanying this resolution. The amendments are to be considered in the order and manner specified in the report.

All points of order against the amendments are waived. The amendments are not subject to amendment except as provided in the report. Debate time is provided and is to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto.

Finally, the rule provides one motion to recommit.

Mr. Speaker, this is a very fair rule. The Rules Committee made in order every amendment which was submitted to the Rules Committee for preprinting.

H.R. 5115 represents a major legislative initiative to establish long-term, comprehensive Federal educational goals for the United States. Education is the key to our Nation's future.

Talking about our commitment to improve our Nation's educational system is too easy. More importantly, we must provide the financial commitment to back up our rhetoric.

H.R. 5115 sends a strong message to parents, students, and our schools that the Federal Government is willing to back up its rhetoric with the necessary funding to accomplish our goal of improving our Nation's educational system.

In addition to providing funding for important programs such as Head Start and adult literacy, H.R. 5115 will enable schools to recruit the most talented individuals for the teaching profession, as well as properly reward our best teachers.

I urge my colleagues to join me in adopting House Resolution 430 so that we may proceed with this important legislation.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 430 is a modified closed rule providing for the consideration of H.R. 5115, the Equity and Excellence in Education Act of 1990. The rule provides for 2 hours of general debate divided between the chairman and ranking minority member of the Committee on Education and Labor.

The Education Committee's amendment in the nature of a substitute printed in the bill will be considered as original text for the purpose of amendment under the 5-minute rule. Section 303(a)(4) of the Budget Act is waived against the substitute. That budget act provision prohibits the consideration of new entitlement authority before a final budget resolution is in place. As my colleagues are aware, we are already 3 months past the April 15 deadline for a congressional budget. This waiver is therefore necessary to handle a technical entitlement matter. Section 512 of the bill provides certain members of the governing board of the National Literacy Institute with a specified salary. Since this is technically an entitlement, the waiver is needed.

Mr. Speaker, I hate to be the bearer of bad news, but today we are bringing you another very restrictive rule. This one only makes in order 13 amendments, three of which will be offered by the chairman of the Education and Labor Committee. The good news, I suppose, is that we did make in order all the amendments submitted to the Rules Committee by the July 10 deadline. But the downside to that is that

Members were notified of that deadline on July 5 when the House was not in session due to the Independence Day district work period.

So I don't think this rule can be characterized as being fair since Members had to submit their amendments on the same day they returned to the Capitol.

Mr. Speaker, one of our witnesses yesterday in the Rules Committee testified that this is the first time he can recall a restrictive rule being requested on an education bill. Yes, we've had them on labor and civil rights bills, but not on education bills. Education bills are always brought to us under open rules, and we should stick to that tradition.

Mr. Speaker, so far in this 101st Congress, the Rules Committee has granted 72 rules for the initial consideration of legislation. Of that number, 37 rules or 51 percent have been open, and 35 rules or 49 percent have been restrictive. That's an all-time record high for restrictive rules. The previous record was 46 percent in the last Congress. Back in the 95th Congress, in 1977-78 only 15 percent of the rules were restrictive. But things have gotten progressively worse with each succeeding Congress.

We are slowly but surely strangling deliberative democracy in this House in the name of efficiency and political pragmatism. We are choking off Members who wish to be coequal partners in the legislative process; and we are denying their constituents the full representation they deserve.

To add insult to injury, this rule also denies the minority its traditional right to offer instructions in a motion to recommit. This was denied on grounds that the minority can already offer a substitute under the rule. But why should the majority presume that's what we would offer in the motion to recommit?

Mr. Speaker, I regret that it is even necessary to take this time to educate Members about the denial of their procedural rights in this rule. We should instead already be debating under an open rule how best to educate our citizens. Two of the educational goals included in this legislation relate to making our country's young people and adults alike, prepared for responsible citizenship, and literate and knowledgeable enough to exercise the rights and responsibilities of citizenship. And section 321 of the bill authorizes a program for instruction on the history and principles of democracy in the United States.

Well just what kind of example of democracy are we teaching by this rule today in which only 11 out of 435 House Members may offer amendments to this bill? The time may have come to add another national goal to this bill and that is educating the majority leadership of Congress about the principles of democracy. But unfortunately such an amendment would be prohibited under this gag rule.

Mr. Speaker, H.R. 5115, the Equity and Excellence in Education Act, is an important first step in attempting to establish national education goals and set forth some policies and programs to assist in achieving those goals. And I would hasten to emphasize that this is just a first step.

This is not intended to be a panacea, and I think everyone agrees it would be a mistake for the Federal Government to attempt to dictate to State and local education authorities a comprehensive and detailed program for achieving educational excellence. Education should continue to be the primary responsibility of State and local governments, education boards, teachers and parents.

At the same time, we must recognize that the Federal Government can and should help to play a limited role in addressing what has become a national problem—the decline in educational opportunities, quality, and achievement. Only 10 percent of American 13 year olds are adept at reading today; 28 percent of our students drop out of high school; and the average SAT score is 75 points below its 1963 peak.

President Bush came into office last year promising to be an education President, and we all applauded his commitment to this important task. As a former teacher and a parent, I am especially concerned about the future of American education. I was proud to join as a cosponsor last year of the President's education initiative, H.R. 1675, the Educational Excellence Act. The bill before us today is an attempt to compromise between that bill and several other bills.

It also incorporates the national educational goals drafted by the President and the Nation's Governors last fall. Those goals for the year 2000 include ensuring that all children start school prepared to learn; increasing the high school graduation rate to 90 percent; making our students first in the world in math and science; making every school free of drugs and violence; and ensuring that all adult Americans are literate and skilled enough to compete in a global economy.

Mr. Speaker, this bill is not without controversy despite the effort to accommodate a variety of bills, ideas, and interests.

The administration has raised concerns about the costs of the various programs that have been included in this bill, roughly $1 billion in new program authorizations. It has also expressed disappointment that the bill fails to authorize the President's magnet schools of excellence proposal, and I share in that view. The proposal for Presidential schools of distinction is similar to the administration's merit schools proposal, but with the exception that it is confined to schools participating in the chapter 1 program for disadvantaged students.

I will not take the time of this House to discuss these proposals and controversies during debate on this rule. The bottom line remains that we are unified in our concern about this national problem. It will not be solved by some massive Federal solution or simply by throwing money at it. The key to success will remain with local educators and parents. But this bill is an important first step in setting national goals that together we can all work on achieving.

Mr. Speaker, I submit for the record a chart showing open versus restrictive rules.

OPEN VERSUS RESTRICTIVE RULES, 95TH-101ST CONGRESSES

Congress (Years)	Total rules granted [1]	Open rules [2]		Restrictive rules [3]	
		No.	Percent	No.	Percent
95th (1977-78)	211	179	85	32	15
96th (1979-80)	214	161	75	53	25
97th (1981-82)	120	90	75	30	25
98th (1983-84)	155	105	68	50	32
99th (1985-86)	115	65	57	50	43
100th (1987-88)	123	66	54	57	46
101st (1989-90)	72	37	51	35	49

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the *initial* consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rules, and rules providing for consideration in the House as opposed to the Committee of the Whole.

Note.—The above data differs slightly from that published in previous Congresses because it is based on a rule-by-rule examination and not just on summary tables from committee surveys for the 95th-99th Congresses as was previously done. Moreover, appropriations rules (which only provide for waivers) and original jurisdiction measures are no longer counted.

Sources: "Rules Committee Calendars & Surveys of Activities", 95th-100th Congresses; "Notices of Action Taken," Committee on Rules, 101st Congress, as of July 12, 1990.

Prepared by the Minority Counsel, Subcommittee on the Legislative Process, Committee on Rules.

□ 1330

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON] a member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the Republican manager for yielding time to me.

This rule will make in order an amendment I will be offering next week when this bill comes before the House, an amendment which conditions Federal higher education assistance on the student who is a recipient of Federal taxpayers' dollars staying free of drugs. The academic community is already familiar with the other Solomon amendment, a law which conditions this kind of Federal higher education assistance on a requirement that recipient students register with the Selective Service Commission.

We all know that this legislation was enacted in 1983 and subsequently

upheld by the Supreme Court. And registration for the draft jumped from 75 percent in 1983 up to 98.4 percent today. That is how effective this kind of legislation can be.

Next week I will offer an amendment which uses the same approach to help solve a much more menacing problem facing our country—the illegal use and sale of drugs. As I indicated earlier, the U.S. Supreme Court, in upholding the initial Solomon amendment, maintained, and this is a quote from Justice Powell, "that Federal education benefits are a privileged benefit. They are not a guaranteed right of individuals." If we condition the privilege of receiving Federal education benefits on the responsibility of staying drug free, it will send a meaningful message to our youth. "Obey the laws of our country by staying away from drugs and reap the benefits of this great country. But if you disobey our laws, if you become a drug user or pusher, don't expect the American taxpayers to help pay for your college benefits. Suspending Federal education benefits is a way for us to show we are not going to tolerate casual drug use."

I call this to Members' attention because certainly the academic community will be interested in this amendment. I want them to fully understand what it is, so when it is debated next week we will have unanimous support for it.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 3 minutes to the Republican leader of the Committee on Education and Labor, the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I rise to thank the Committee on Rules, and I also rise to scold the Committee on Rules. I want to thank the Committee on Rules for making all the amendments that were presented by the specified time, making them available to be offered on the floor of the House. There are some which are controversial, and they certainly could have eliminated opportunity to offer those amendments. So I give thanks for that.

My scolding comes from the standpoint that we were on recess, and to receive a notification on a Friday while we are on recess to have amendments to the Committee on Rules on a Monday by 5 o'clock, when we have no votes on that Monday, does not seem to be a very fair way to give other Members other than those Members who serve on that committee an opportunity to submit our amendments.

I also am disappointed in the amount of time allocated for this debate. We will have a defense bill on this floor, and we will spend 1 week, 2 weeks, 3 weeks debating those issues. Defense may be important, but defense is defenseless if we do not have a good educational system. Certainly we should allow equal time or more to debate and discuss the issues that deal with education.

I hope that by whatever date this bill comes to the floor that we have worked out a program with both sides of the aisle that will be acceptable so that we can present to the American public an education bill that will do something about the goals that were set forth by the President and the Governors. As I have indicated many times to the White House, it is fine for them to set goals, but then we have to get the doers involved, and the doers happen to be members of State legislatures, the House of Representatives and the Senate, also the PTA's, the principals, the teachers, associations, et cetera. However, I hope that we will be able to work out a few minor details by that time so that we will be able to present a united front because, of course, a united front is very, very important in dealing with the most important subject we have to deal with, and that is the subject of public education in the United States.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, while I would have hoped to have an open rule for this bill, I want to thank the distinguished chairman of the Rules Committee, Mr. MOAKLEY, for making in order the amendment which I will offer. I understand that all of the amendments submitted to the Rules Committee in a timely fashion were made in order and I believe this will help us to have a full and fair debate on this legislation.

I am aware that there were some objections being raised. The objection claimed a technical violation of the Budget Act. Let me stress that this objection was technical in nature and it misses the point of my amendment. CBO only estimates the direct cost of enactment of my amendment which is only a couple of million dollars. However, what CBO does not estimate is the amount of money saved by implementing my default reduction measures. If we have to spend a few dollars to improve the system of loan collection in order to save the U.S. Treasury and the Student Loan Program the $2 billion lost to defaults this year alone, then I think we need to spend it.

I am, therefore, grateful that the rule granted waives all points of order against the amendments and the bill, so that we can get about the business of eliminating this scandalous student loan default fiasco which was grown from a $200 million problem in 1981, to a $2 billion problem this year.

Many of the changes that my amendments will make are, in fact, the recommendations made to the Education and Labor Committee in 1988 by the Advisory Committee on Student Financial Assistance which was appointed by Congress to report on recommended changes to the Student Financial Aid Program. Let me stress that these are technical amendments recommended by the Advisory Committee and previously accepted by the Education and Labor Committee, but were never passed into law because the default legislation we were then considering was tabled.

In addition to technical changes in the congressional methodology, my amendment will add a new title 9 to the bill to address the student loan default problem head-on. These default provisions are based on the default bill passed by this committee in 1988. Many of these default measures are also included in the Senate's version of the President's education bill, S. 695, which was passed by the Senate earlier this year.

These sections of my amendment are essential if we are to stem the flow of dollars out of the Student Loan Program and shore up public and congressional support for a program upon which many people depend.

While I support the efforts of the Department through their default regulations, those regulations do not go far enough fast enough to stop the ever-increasing tide of red ink in the Student Loan Program.

I have been told repeatedly that we should wait until next year to consider legislative solutions to the default problem when we take up reauthorization of the Higher Education Act. We have a crisis here. Why do we want to wait until next year to do what should have been done long ago? The hemorrhaging in the Student Loan Program must stop now. Further postponement will erode public support and cost the American taxpayer another $2 billion this year.

As I stated earlier, this default scandal has grown since 1981 from a $200 million problem to a $2 billion problem. In addition, the total amount of defaulted student loans now outstanding totals over $7 billion. Do we need to allow this problem to fester out of control until we have another savings and loan scandal on our hands?

Every Member of Congress must find the courage and integrity to correct this scandal. In the other committee on which I serve, the Banking Committee, we have had to deal with failed savings and loans which have cost the taxpayer infinitely more money than student loan defaults. Yet, it is incumbent upon this committee to take action to close down the scam schools, just as Congress is now closing down the scam savings and loans. If we act now, maybe the taxpayer will not have such a large bill to pay for student loan defaults and maybe more deserving students, going to schools which provide worthwhile

training and education, will be able to receive student loans.

I might add that the inspector general of the Department of Education also recommends that these changes be made and the quicker the better. My amendment includes the changes recommended by the inspector general and those of the Department of Education in their legislative recommendations and I am pleased that the rule allows the full House to consider my amendment.

□ 1310

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I, too, am a member of the Committee on Education and Labor, and I believe that the gentleman from California [Mr. HAWKINS] and the gentleman from Pennsylvania [Mr. GOODLING] had all of the best intentions of education equity and excellence in mind when they brought forth legislation that we could consider once this rule is adopted, and I believe that when all is said and done it will be a bill that I will be able to vote for when it comes out of committee.

However, Mr. Speaker, I have to raise the concern that this rule simply stinks. I mean this is the only time in this entire Congress, not just this session, but this entire Congress, that we are going to discuss at all education reform or education excellence, and we come before the Congress with a closed rule. We come before the Congress with x amount of amendments being allowed, but each of those amendments has a very strict time limit. The gentleman from New York is talking about an amendment to deal with drugs and the impact of drugs on higher education. I ask my colleagues, "You know what?" He gets 10 minutes. He gets 5 minutes to make the case. Somebody else gets 5 minutes to say they are opposed. And that is it. The gentleman from Georgia is going to bring forth an amendment to deal with prison education. He gets 10 minutes; 5 minutes to explain the case, 5 minutes for somebody to oppose it, and that is it. The gentleman from Texas [Mr. BARTLETT] is going to bring forth a comprehensive amendment to deal with the whole concept of choice, one of the most controversial and, I think, important discussions about education reform, and they get 30 minutes; 15 minutes to explain it, 15 minutes in opposition. And if one of my colleagues wishes to speak and does not get time, tough.

Mr. Speaker, we do have time here because we do not want to be in session after 7 p.m. We cannot be in session on Mondays because we have got golf tournaments, and educational excellence and reform is not all that important, so we are going to have this constricted rule.

None some of us are on the Committee on Education and Labor were aware of the bill, and we are aware of what amendments we were or were not going to offer, but God help those 400 Members of Congress not on the committee because the Committee on Rules last week on the afternoon of July 3 sends out a notice to Members, and I say to my colleagues, "I hope you weren't here. I hope you were home meeting with your constituents. You probably got it on the 5th, and you were told that, if you don't have your amendment published, printed in the RECORD by 5 o'clock on Tuesday, you're in tough luck. You can't have your amendments considered."

Now what are we doing? We are supposed to be the greatest deliberative legislative body in the world. We are supposed to be a country who has made commitment to educational excellence and educational reform the top priority as we find a way to be competitive worldwide, and we say, "Yes, we'll bring up a bill, but we'll bring up the bill under a narrow rule with strict time limits and only have x amount of amendments which may be considered, those who were lucky enough to have had them published on Tuesday afternoon."

Mr. Speaker, I think we all ought to be embarrassed by this process. Anybody who tries to go home and say they are earning their money as a Member of Congress when they are only willing to spend this amount of time on an education bill ought to be embarrassed for themselves, and they ought to be embarrassed for this institution, and they ought to vote against this rule, and they ought to make sure that we send the message to the leadership that in the future we should make this a deliberative body on bills and legislation. My colleagues, let us be willing to talk about them, amend them and let the debate go on.

Mrs. MARTIN of Illinois. Mr. Speaker, I have no further requests for time, and so I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, on behalf of the Committee on Rules I want to gladly accept the compliment from the gentleman from Pennsylvania on the Committee on Rules for allowing all amendments that were submitted to be made part of this record. I would also like to correct the gentleman from Pennsylvania in his statement that notice was given from a Friday to a Monday, which is not correct. Notice was given on Tuesday, July 3, that amendments had to be submitted, and they had until the following Tuesday, July 10, and contrary to what the gentleman from Wisconsin [Mr. GUNDERSON] said, they did not have to be printed in the RECORD, only submitted to the Committee on Rules.

Mr. Speaker, I am glad to make those corrections and glad to accept the compliments from the gentleman from Pennsylvania that we did make all those amendments that were orderly presented in order.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question wes ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GORDON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 267, nays 151, not voting 14, as follows:

[Roll No. 222]

YEAS—267

Ackerman	Derrick	Johnson (SD)
Alexander	Dicks	Johnston
Anderson	Dingell	Jones (GA)
Andrews	Dixon	Jones (NC)
Annunzio	Donnelly	Jontz
Anthony	Dorgan (ND)	Kanjorski
Applegate	Downey	Kaptur
Aspin	Durbin	Kastenmeier
Atkins	Dwyer	Kennedy
AuCoin	Dymally	Kennelly
Bates	Dyson	Kildee
Beilenson	Early	Kleczka
Bennett	Eckart	Kolter
Bereuter	Edwards (CA)	Kostmayer
Berman	Engel	LaFalce
Bevill	English	Lancaster
Bilbray	Erdreich	Lantos
Bilirakis	Espy	Laughlin
Boehlert	Evans	Leath (TX)
Boggs	Fascell	Lehman (CA)
Bonior	Fazio	Lehman (FL)
Borski	Feighan	Levin (MI)
Bosco	Flake	Levine (CA)
Boucher	Flippo	Lewis (GA)
Boxer	Foglietta	Lipinski
Brennan	Ford (MI)	Lloyd
Brooks	Frank	Long
Broomfield	Frost	Lowey (NY)
Browder	Gaydos	Luken, Thomas
Brown (CA)	Gejdenson	Machtley
Bruce	Gephardt	Manton
Bryant	Geren	Markey
Bustamante	Gibbons	Matsui
Byron	Gillmor	Mazzoli
Campbell (CO)	Gilman	McCloskey
Cardin	Glickman	McCurdy
Carper	Gonzalez	McDermott
Carr	Gordon	McHugh
Chapman	Gray	McMillen (MD)
Clarke	Guarini	McNulty
Clay	Hall (OH)	Mfume
Clement	Hamilton	Miller (CA)
Clinger	Harris	Mineta
Coleman (TX)	Hawkins	Moakley
Collins	Hayes (IL)	Mollohan
Condit	Hayes (LA)	Montgomery
Conte	Hefner	Morella
Conyers	Hertel	Mrazek
Cooper	Hoagland	Murphy
Costello	Hochbrueckner	Murtha
Coyne	Horton	Myers
Darden	Hoyer	Nagle
Davis	Hubbard	Natcher
de la Garza	Huckaby	Neal (MA)
DeFazio	Hughes	Neal (NC)
Dellums	Hutto	Nowak

Oakar	Rowland (GA)	Swift
Oberstar	Roybal	Synar
Obey	Russo	Tallon
Olin	Sabo	Tanner
Ortiz	Saiki	Tauzin
Owens (NY)	Sangmeister	Taylor
Owens (UT)	Sarpalius	Thomas (GA)
Pallone	Sawyer	Torres
Panetta	Scheuer	Torricelli
Parker	Schneider	Towns
Patterson	Schroeder	Traficant
Payne (NJ)	Schumer	Traxler
Payne (VA)	Serrano	Udall
Pease	Sharp	Unsoeld
Pelosi	Shays	Valentine
Penny	Sikorski	Vento
Perkins	Sisisky	Visclosky
Pickett	Skaggs	Volkmer
Pickle	Skelton	Walgren
Poshard	Slattery	Watkins
Price	Slaughter (NY)	Waxman
Quillen	Smith (FL)	Weiss
Rahall	Smith (IA)	Wheat
Rangel	Snowe	Whittaker
Ravenel	Solarz	Whitten
Ray	Spratt	Williams
Richardson	Staggers	Wilson
Rinaldo	Stallings	Wise
Roe	Stangeland	Wolpe
Rose	Stark	Wyden
Rostenkowski	Stenholm	Yates
Roukema	Stokes	Yatron
Rowland (CT)	Studds	Young (AK)

NAYS—151

Archer	Hastert	Pursell
Armey	Hefley	Regula
Baker	Henry	Rhodes
Ballenger	Herger	Ridge
Bartlett	Hiler	Ritter
Barton	Holloway	Roberts
Bateman	Hopkins	Robinson
Bentley	Houghton	Rogers
Bliley	Hunter	Rohrabacher
Brown (CO)	Hyde	Ros-Lehtinen
Buechner	Inhofe	Roth
Bunning	Ireland	Saxton
Burton	Jacobs	Schaefer
Callahan	James	Schiff
Campbell (CA)	Johnson (CT)	Schuette
Chandler	Kasich	Schulze
Coble	Kolbe	Sensenbrenner
Coleman (MO)	Kyl	Shaw
Combest	Lagomarsino	Shumway
Coughlin	Leach (IA)	Shuster
Courter	Lent	Skeen
Cox	Lewis (CA)	Slaughter (VA)
Craig	Lewis (FL)	Smith (NE)
Crane	Lightfoot	Smith (NJ)
Dannemeyer	Livingston	Smith (TX)
DeLay	Lowery (CA)	Smith (VT)
DeWine	Madigan	Smith, Denny (OR)
Dickinson	Marlenee	
Dornan (CA)	Martin (IL)	Smith, Robert (NH)
Douglas	Martin (NY)	
Dreier	McCandless	Smith, Robert (OR)
Duncan	McCollum	
Edwards (OK)	McCrery	Solomon
Emerson	McDade	Spence
Fawell	McEwen	Stearns
Fields	McGrath	Stump
Fish	McMillan (NC)	Sundquist
Frenzel	Meyers	Tauke
Gallegly	Michel	Thomas (CA)
Gallo	Miller (OH)	Thomas (WY)
Gekas	Miller (WA)	Upton
Gingrich	Molinari	Vander Jagt
Goodling	Moorhead	Vucanovich
Goss	Morrison (WA)	Walker
Gradison	Nielson	Walsh
Grandy	Oxley	Weber
Grant	Packard	Weldon
Green	Parris	Wolf
Gunderson	Pashayan	Wylie
Hammerschmidt	Paxon	Young (FL)
Hancock	Petri	
Hansen	Porter	

NOT VOTING—14

Barnard	Jenkins	Morrison (CT)
Crockett	Lukens, Donald	Nelson
Ford (TN)	Martinez	Savage
Hall (TX)	Mavroules	Washington
Hatcher	Moody	

□ 1337

Ms. ROS-LEHTINEN changed her vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON H.R. 5257, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATION BILL, 1991

Mr. NATCHER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 101-591) on the bill (H.R. 5257) making appropriations for the Departments of Labor, Health and Human Services (except the Food and Drug Administration, Indian Health Service, and the Office of Consumer Affairs), and Education (except Indian Education), Action, the Corporation for Public Broadcasting, the Federal Mediation and Conciliation Service, the Federal Mine Safety and Health Review Commission, the National Commission on Acquired Immune Deficiency Syndrome, the National Commission on Libraries and Information Science, the National Commission to Prevent Infant Mortality, the National Council on Disability, the National Labor Relations Board, the National Mediation Board, the Occupational Safety and Health Review Commission, the Prospective Payment Assessment Commission, the Physician Payment Review Commission, the Railroad Retirement Board, and the U.S. Institute of Peace for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. CONTE reserved all points of order on the bill.

WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5229, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 429 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 429

Resolved, That all points of order against consideration of the bill of the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year September 30, 1991, and for other purposes, for failure to comply with the provisions of clause 2(I)(6) of rule XI and clause 7 of Rule XXI are hereby waived. During consideration of the bill, all points of order against the following provisions in the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 6, line 10 through page 7, line 11; beginning on page 8, lines 22 through 25; beginning on page 11, line 8 through page 15, line 2; beginning on page 20, lines 1 through 8; beginning on page 22, line 3 through page 26, line 25; beginning on page 29, line 11 through page 30, line 24; beginning on page 31, line 16 through page 35, line 24; beginning on page 36, lines 8 through 25; beginning on page 37, line 21 through page 38, line 7; beginning on page 39, lines 5 through 9; beginning on page 40, lines 5 through 14; beginning on page 41, lines 15 through 23; beginning on page 42, line 16 through page 43, line 9; beginning on page 46, lines 3 through 14; beginning on page 46, line 23 through page 50, line 11; beginning on page 50, line 20 through page 51, line 5; beginning on page 51, line 8 through page 52, line 25; beginning on page 53, line 18 through page 56, line 14; and beginning on page 56, line 19 through page 57, line 21. It shall be in order to consider the amendment printed in section 2 of this resolution, if offered by Representative Solomon of New York, or his designee, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI and clause 3 of rule XXI are hereby waived.

SEC. 2. At the end of title III, insert the following new section:

SEC. . For each fiscal year beginning after fiscal year 1992, the Secretary of Transportation shall withhold two percent of the amount required to be apportioned to a State (under sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title 23, United States Code) for the fiscal year if that State does not have in effect on the first day of that fiscal year a law which requires the suspension or revocation for a period of not less than 180 days of the driver's license of each person convicted of a violation of the Controlled Substances Act or convicted for any drug or narcotic offense chargeable under the laws of the State or any other State.

□ 1340

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 429 is the rule waiving points of order against certain provisions of the bill, H.R. 5229, the Department of Transportation and related agencies for fiscal year 1991.

Since general appropriations bills are privileged under the Rules of the House, the rule does not provide for any special guidelines for the consideration of the bill. Provisions related to time for general debate are not included in the rule. Customarily, Mr. Speaker, general debate time is limited by a unanimous-consent request by the chairman of the Appropriations Subcommittee prior to the consideration of the bill.

Mr. Speaker, House Resolution 429 waives clause 2(1)6 of rule XI, and

clause 7 of rule XXI, against consideration of the bill. These are waivers of the 3-day layover rule, and the requirement that the relevant print hearings and report be available for 3 days prior to consideration of a general appropriations bill. These waivers are necessary for the House to bring up this important appropriations bill.

The resolution also waives clause 2 of rule XXI against specified provisions of H.R. 5229. Clause 2 of rule XXI prohibits unauthorized appropriations and legislative provisions in general appropriations bills. The provisions receiving this waiver are designated in the rule by reference to page and line in the bill.

Finally, Mr. Speaker, the rule makes in order an amendment to be offered by Mr. SOLOMON of New York, or his designee. This amendment is printed in section 2 of the rule. The rule waives clause 7, rule XVI, which prohibits nongermane amendments, against the amendment. Also waived against the amendment is clause 2 of rule XXI, which I stated earlier prohibits unauthorized appropriations and legislation in general appropriations bills. The Solomon amendment relates to withholding Federal funds to States that do not revoke drivers' licenses for persons convicted of substance abuse violations.

Mr. Speaker, H.R. 5229 provides appropriations in fiscal 1991, for the Departments of Transportation and for certain related agencies. It provides Federal funds for many agencies including the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the Urban Mass Transportation Administration, and the National Transportation Safety Board.

Under the normal rules of the House, any amendment which does not violate any House Rules could be offered to H.R. 5229. I urge my colleagues to adopt the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support for this rule. Two weeks ago, when I managed the rule concerning the foreign aid appropriations bill, I noted that "we had come to expect waivers concerning unauthorized programs, reappropriations, and legislative language in these kinds of general appropriations bills." Certainly the rule before us today is no different.

But I would point out to my colleagues that the right to offer cutting amendments to the transportation appropriations bill has been restored. This was something that had been taken away by the rule concerning the foreign aid appropriations bill.

I would further point out to my colleagues that the rule for this transportation bill was developed in consultation with the Republican leadership on the Appropriations Committee. The gentleman from Pennsylvania [Mr. COUGHLIN], who will be managing the bill on this side of the aisle, told the Rules Committee that all of the waivers in this rule are necessary with one exception. That lone exception, in his view, concerns the provision for funding the Washington Metro system.

And so I urge support for this rule. The process must go forward. But we must also be cognizant of the fact that all of our handiwork on this, and on the other general appropriations bills, is probably going to be undone by the budget summit. In any event, however, the House does have a constitutional obligation to keep the appropriations process moving forward.

Turning now, Mr. Speaker, to the second aspect of the rule: A provision that makes in order an amendment I will be offering. My amendment would reduce Federal highway aid to States by 2 percent annually, unless or until, they establish a program that suspends the driver's licenses of convicted drug users and dealers.

This amendment is aimed at the single most crucial element in our entire strategy for fighting the scourge of illegal narcotics, namely, the need to reduce demand. We can do all that we want, to interdict drugs coming into the country, to put drug pushers behind bars, and to treat those people that have become hooked. But none of this will be to any avail unless or until the demand for drugs is reduced—substantially.

My amendment is also aimed at the single most vulnerable group in our society: Our young people.

Getting a driver's license is a rite of passage for teenagers. And this amendment will serve to remind them that having a driver's license is a privilege, not a right. If they want to acquire and/or hold a driver's license, they will have to stay off drugs.

It is my sincere hope that the threat of losing their driver's licenses will be of sufficient severity so as to enable our young people to stand up to the peer pressure that encourages the use of drugs. This amendment will serve to remind them, in a very tangible way, that if they use drugs, they will lose control over their own lives and futures.

Mr. Speaker, the other body has similar legislation pending. Senator LAUTENBERG introduced it, and that is indeed appropriate because New Jersey already has one of the most effective antidrug statutes on the books. More than 10,000 driver's licenses have been suspended in that State so far.

And so I urge support for this amendment. I urge support for the rule that makes it in order.

□ 1350

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5229, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes, and that I may be permitted to include tables, charts, and other extraneous matter.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Florida?

There was no objection.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. LEHMAN of Florida. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania [Mr. COUGHLIN] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Virginia [Mr. BOUCHER] as Chairman of the Committee of the Whole, and requests the gentleman from Massachusetts [Mr. DONNELLY] to assume the chair temporarily.

□ 1353

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5229, with Mr. DONNELLY, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN pro tempore. Under the unanimous-consent agreement, the gentleman from Florida [Mr. LEHMAN] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. COUGHLIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. LEHMAN of Florida. Mr. Chairman, it is a pleasure to submit for the consideration of the Committee of the Whole House the bill, H.R. 5229, making appropriations for the Department of Transportation and related agencies for fiscal year 1991.

Before I get into the details of this particular bill, let me express my appreciation to the Members who serve on the transportation appropriations subcommittee. The gentleman from Pennsylvania [Mr. GRAY], the majority whip, the gentleman from Michigan [Mr. CARR], the gentleman from Illinois [Mr. DURBIN], the gentleman from New York [Mr. MRAZEK], and the gentleman from Minnesota [Mr. SABO] all provided valuable insight and perspective during the 3-month indepth review we gave to Federal transportation programs and policies during our hearing process. We have been together in transportation for a number of years now. It is my privilege and good fortune to serve with them.

The subcommittee minority members are also special. They never made enough adjectives to describe the gentleman from Massachusetts [Mr. CONTE]. He is a great combination of compassion and courage spiced with his own marvelous humor. The gentleman from Virginia [Mr. WOLF] and the gentleman from Texas [Mr. DELAY] both have the determination, the spirit, the concern, and the commitment to a safe and effective transportation system for this Nation. We are about as bipartisan as a committee can be.

I want to make special mention of our ranking minority member, the gentleman from Pennsylvania [Mr. COUGHLIN], who spent long hours in committee hearings and has such a strong and comprehensive understanding of our transportation programs and policies. I have a great admiration for his knowledge, dedication, and character, and I want him to know of my great appreciation for his sound judgment and cooperation. He is, above all, the personification of a class act, and he is my special friend. The bill before you today is a bipartisan one.

I must also recognize our committee staff, who have worked long and hard to develop an excellent bill within extraordinary constraints and time pressures.

Mr. Chairman, in preparation for this bill the committee reviewed 1,855 pages of budget and grant justification documents and developed a hearing record contained in five published volumes amounting to 5,433 pages. Testimony was received from more than 310 witnesses in over 10 weeks of hearings. Requests were received from about 230 Members of Congress representing over 44 States and territories of this Nation.

SUMMARY OF THE BILL

Let me take a brief moment in order to summarize the bill. In total, it provides spending for Federal transportation programs of about $30.8 billion, of which approximately $13.1 billion is new budget authority and $17.7 billion is comprised of various limitations on contract authority obligations.

In terms of new budget authority, the bill is $32 million above the amount provided in the Transportation and Related Agencies Appropriations Act for similar activities in fiscal year 1990. In terms of the total amount of funding controlled by this bill—new budget authority and obligation limitations—the bill is $2.9 billion or 10 percent over the amounts provided last year.

BUDGET RESOLUTION TARGET

I would direct the Members' attention to page 164 of the committee report, which shows that this bill does not exceed our section 302(b) allocation for discretionary budget authority, outlays, or direct loans. As the Members know, under the Budget Act, the committee is provided a lump-sum allocation pursuant to section 302(a), and the Appropriations Committee then subdivides that among its 13 subcommittees.

This is a fiscally responsible bill which meets the requirements of the House-passed budget resolution in discretionary budget authority and outlays.

BUDGET REQUEST

Mr. Chairman, I think the administration's unrealistic fiscal year 1991 transportation budget deserves special attention at this point. Even though we are under our section 302(b) discretionary budget authority allocation, the bill we are considering today is $4.1 billion over the administration's budget request. That budget request is simply inadequate to handle the serious transportation problems facing the Nation today. Americans spend almost $800 billion each year for transportation products and services. According to the Department of Labor, this represents almost 19 percent of all consumer spending in the United States—a higher percentage than we pay for food, clothing, or health care. These expenses are rising as our highways and airways become increasingly congested. Highway travel delays in urban areas now total more than 2 billion hours each year. Delays at our major airports are now above 20,000 hours a year. These cost billions of dollars in lost working hours and economic production, which is ultimately passed on to American consumers in increased prices for goods and services.

Mr. Chairman, the administration's budget proposal is not too different from what we've seen over the past few years. It proposed large increases in aviation while reducing funds for surface transportation and eliminating Federal support for a national passenger rail system. The committee recognizes that increases in aviation funding are necessary to reduce delays in our airway system. However, we have the responsibility to provide for a balanced transportation system. Here's an administration that proposes large budget increases for the development of long-term, futuristic technologies, yet terminates or drastically reduces programs that provide vital services to Americans today—Amtrak, Local Rail Service Assistance, mass transit operations, and the Interstate Commerce Commission, to name a few. We must reject the assumption and attitude that any one segment of our transportation system is worthwhile and nationally important. All segments of our transportation system are vital to the economic prosperity of this country. The bill before you recognizes the real world and corrects these shortfalls—particularly in the surface transportation sector.

This was not easy to accomplish. Now I want to thank our full committee chairman, the gentleman from Mississippi [Mr. WHITTEN] for his efforts on our behalf. As he often reminds us, our Nation's public works represent the real and lasting wealth of this country. Our first rate transportation system has served our country well—and we must continue to preserve and enhance it.

SELECTED MAJOR RECOMMENDATIONS

With respect to the major recommendations in this bill, I would call the attention of the Members to pages 2 and 3 of the report. A table comparing the bill to fiscal year 1990 and the President's request appears beginning on page 168 of the report. The major highlights of this bill include:

First, a 14.8-percent increase in total FAA funding—$1.1 billion more than last year's level. This includes $1.8 bil-

lion for grants-in-aid for airports—a 28-percent increase, $4 billion for FAA operations—a 6-percent increase, and $2.1 billion for facilities and equipment—a 24-percent increase.

Second, obligations of not to exceed $14.5 billion for Federal-aid highways, an increase of 18 percent over fiscal year 1990;

Third, funding for the existing urban mass transportation formula grant program at a level of $1.79 billion, an increase of $100 million over last year's level;

Fourth, obligations of not to exceed $1.1 billion for the discretionary grants program of the Urban Mass Transportation Administration, excluding funding for section 9(B) formula grants;

Fifth, $482 million for grants to the National Railroad Passenger Corporation [Amtrak], which is somewhat above the zero in the administration's budget request;

Sixth, a 4-percent increase in funding for operations and research activities of the National Highway Traffic Safety Administration;

Seventh, a 4-percent increase in Coast Guard funding, including a minimum of $602.6 million for operating expenses for antidrug programs.

Eighth, $27.2 million for the Coast Guard's oilspill response programs—more than double the administration's request.

Ninth, continued funding for the construction of the Washington, DC, metrorail system at the level of $108 million.

OFFICE OF THE SECRETARY OF TRANSPORTATION

Mr. Chairman, for salaries and expenses of the Office of the Secretary of Transportation, the bill provides a total of $57.6 million. In addition, office-by-office dollar breakdowns are specified in the bill as has been done in the past. The bill also provides the budget request of $23.6 million for payments to air carriers and $107.7 million for GSA rental payments.

Payments to air carriers: With respect to the payments to air carriers appropriation, the committee has tried to strike a fair balance between the transportation needs of rural America and the need to rid this program of the excesses that have taken place in the past. The bill includes $23.6 million, which is adequate to continue service to approximately 120 communities.

COAST GUARD

With respect to the Coast Guard, we recommend a total program level of $3.34 billion, which includes $160 million to be contained in the Defense appropriations bill. This total level is $141 million more than the total Coast Guard program level for fiscal year 1990. We appreciate in advance the continued assistance from our colleagues on the Defense Appropriations Subcommittee, particularly the chairman and the ranking minority member, the gentlemen from Pennsylvania, Mr. MURTHA and Mr. MCDADE.

The bill also requires that a minimum of $602.6 million be made available for drug enforcement operating expenses, $36 million, or 6 percent more than last year's level. I invite the Members' attention to pages 23 through 25 of the committee report regarding drug interdiction.

Operating expenses: For Coast Guard operating expenses, the bill provides a program level of $2.4 billion for fiscal year 1991—assuming that $160 million is provided in the 1991 DOD appropriations bill. This total amount is $134.3 million, or 6 percent, more than the amount appropriated for similar activities in fiscal year 1990. It is also $39.4 million below the budget request. The reduction from the budget is primarily due to transfers of funds to separate appropriations for GSA rental payments and environmental compliance. The bill includes $16.2 million for oilspill response operations, an increase of $12.7 million over the budget request.

Acquisition, construction, and improvements. For acquisition, construction, and improvements, we are recommending an appropriation of $391.9 million for fiscal year 1991. The total program level is comprised of $155.8 million for vessels; $81.4 million for shore facilities; $101.7 million for aircraft; $20.5 million for other equipment; and $32.7 million for administration. This represents increases over the fiscal year 1990 level in four of the five budget categories. Funding for aircraft is down in fiscal year 1991 largely because of a $98 million decrease in requested funding for HH-60 helicopters. The recommended level should provide sufficient funding to continue the large procurement projects that have been initiated in prior years.

Alteration of bridges: The bill also includes $3.7 million to alter or remove bridges that may be unreasonable obstructions to the waterborne commerce of the United States. This sum will support the alteration of three railroad bridges over the Mississippi and Pascagoula Rivers.

Retired pay: The sum of $437.3 million, as requested in the 1991 budget, would be appropriated for the pay of retired military personnel of the Coast Guard and Coast Guard Reserve. This is based on an average of 26,153 personnel on the retired rolls.

Reserve training: For reserve training, $74.3 million is recommended. This is a 3.8-percent increase over fiscal year 1990 and will provide for a Ready Reserve of 19,600, including a Selected Reserve of 12,100.

Research, development, test, and evaluation: The bill includes $24.8 million for the applied scientific research, development, test, and evaluation projects necessary to maintain and expand the technology required for the Coast Guard's operational and regulatory missions. This amount is a 21-percent increase over the fiscal year 1990 level. Most of the increase is to provide additional funding, above the budget request, for oilspill response capability.

Boat safety: For the State recreational boating safety program, we have included $35 million, which is $5 million above the budget request.

FEDERAL AVIATION ADMINISTRATION

For the Federal Aviation Administration, we are recommending a total program level of $8.17 billion, including a $1.8 billion limitation on the use of contract authority for fiscal year 1991. This is $1 billion—or 14.3 percent—more than the fiscal year 1990 level. I believe this large increase is absolutely necessary to continue the restoration of the air traffic control system, continue modernization of the national airspace system, improve our airports, and continue important safety regulatory and research initiatives.

Aviation trust fund: Mr. Chairman, there has been much discussion lately about the adequacy of FAA funding to do its important job. The focus has been on the large balance in the aviation trust fund. But that is the wrong standard against which to judge the adequacy of FAA spending.

What many don't fully understand is the fact that a large percentage of total FAA outlays over the last 10 years have been derived from the general fund, not the trust fund. And when we look at the total amount of FAA spending authority provided, we find that the FAA's funding has increased significantly over the last 10 years—including the funds in this bill. We have increased the controller work force by more than 2,000 people between fiscal year 1987 and fiscal year 1991, and have increased the number of safety inspectors by about 24 percent between fiscal years 1989 and 1991. In short, the need has been there, and Congress has responded to that need. I hope the Members will take the time to read the discussion on pages 39 and 40 of the report, which presents a balanced perspective of FAA funding patterns.

Operations: For FAA operations, we recommend a total program level of $4.037 billion. This represents an increase of $213.4 million over the fiscal year 1990 program level. This would provide for 51,062 positions including 22,613 controllers, supervisors, and support personnel for air traffic centers and towers, and 4,200 flight service station personnel.

Controller staffing: Under the committee recommendation, actual air traffic controller end-of-year employment would increase to the requested level of 17,495 personnel by September

30, 1991. This is 495 controllers above the level projected for September 30, 1990.

Mr. Chairman, for the first time in many years, the committee is pleased to report a bill which minimizes the general fund subsidy for FAA operations. Because of a provision in H.R. 5170 repealing the so-called penalty clause, the committee's recommendation before this body today specifies that $1.994 billion of the $4.037 billion provided for FAA operations is to be derived from the airport and airway trust fund. This will result in lower subsidy of private sector users by the general taxpayer and a $700 million reduction in the trust fund's uncommitted balance. The committee applauds the efforts of the House Committee on Public Works and Transportation for making this possible by recommending repeal of the penalty clause.

Facilities and equipment: For facilities and equipment, the bill contains $2.138 billion for fiscal year 1991—an increase of $417.4 million, 24 percent, over fiscal year 1990. This account finances modernization and improvements to our air traffic control system. I want to stress that, although the National Airspace System [NAS] Plan is behind schedule, those delays are due to technology development and contractor deficiencies—not to lack of funding. For example, this year the General Accounting Office reports that 8 of the NAS plan's 12 largest programs experienced delays of at least 6 months in the past year alone. The two largest programs in the fiscal year 1991 budget are among those with the longest delays.

To provide a larger increase, given the state of individual F&E programs and the deficit problems facing the Nation this year, would not be fiscally responsible. However, as the equipment is developed, adequately tested, and ready to purchase, the funds will be provided. And our record proves this. In fiscal year 1987, the amount appropriated for F&E was over $800 million. In 1988, we appropriated over $1 billion. In 1989, $1.4 billion. And last year, $1.7 billion. That's a 167-percent increase over 4 years, including a 24-percent increase in the committee's recommendation for fiscal year 1991.

Research, engineering, and development: With respect to FAA research, engineering, and development, we recommend $195 million, which is an increase of $5 million over the budget request and $24.8 million over fiscal year 1990.

Airport improvement program: The bill also includes a $1.8 billion obligation limitation for airport development and planning grants. This is the highest funding level ever provided for this program, and represents an increase of $400 million over the fiscal year 1990 level. Both the Office of Technology Assessment and the FAA have indicated that a lack of airport capacity will lead to increasing travel delays if no action is taken. I'm sure many Members have experienced these delays first-hand, as I have.

Aircraft purchase loans: We also recommend continuing the FAA's authority to borrow from the Treasury to pay defaulted aircraft purchase loans at the fiscal year 1990 level of $9.97 million.

FEDERAL HIGHWAY ADMINISTRATION

Under the Federal Highway Administration, the bill provides for a total fiscal year 1991 program level of $16.293 billion in highway aid. This includes a limitation on Federal-aid highway contract authority obligations of $14.5 billion. That is $2.29 billion over last year's level and $2.49 billion over the budget estimate.

Mr. Chairman, this is one of the most, if not the most, important transportation programs that we have. Over 90 percent of total interstate passenger-miles and 20 percent of total interstate freight ton-miles move on the Nation's highway system. As I mentioned earlier, congestion delays on our highways are in the billions of hours each year, and are far greater than the amount of airway system delays. I think the administration's proposal, which would cut total highway spending by 12 percent—about $1.8 billion—is misguided and unacceptable. It is important to our continued economic development and to our national defense to maintain a first class highway system. I received a letter this year from a majority of State Governors urging an increase in highway spending. So it's clear the needs are not limited by geographic boundaries or political party lines.

Highway trust fund balance: Under the provisions and assumptions in this bill, we estimate that fiscal year 1991 outlays attributable to the highway account of the trust fund will be about $14.5 billion. This compares to estimated fiscal year 1991 direct user fee income credited to the highway account of approximately $13.8 billion. In addition, the highway account of the trust fund is expected to receive general fund interest payments of $900 million. A comparison and discussion of highway spending versus trust fund revenues is found on pages 84 through 86 of the report.

Federal-aid highways: Mr. Chairman, the most important account in this program is the "Federal-aid highways" obligation limitation. We are recommending a ceiling of $14.5 billion for this account. A table prepared by the Federal Highway Administration comparing their best estimates of State-by-State obligation ceiling allocations under this bill versus the enacted fiscal year 1990 level and the administration's request is found on pages 89-90 of the report.

Administrative expenses: Mr. Chairman, the bill also provides a total of $189.1 million for FHWA administration expenses, $9.7 million more than the fiscal year 1990 level, appropriation of $15 million for railroad-highway crossings demonstration projects at five different locations. For highway-related safety grants, an obligation limitation of $10 million is recommended, the same as the budget request. We also recommend an appropriation of $5.45 million for highway safety research and development, a limitation on direct loans for the right-of-way revolving fund of $42.5 million, and appropriations totaling $223.85 million for a number of specific highway projects.

Motor carrier safety. For motor carrier safety, the bill includes $40 million to continue the activities of the Office of Motor Carrier Safety. This is an increase of $6.7 million over the fiscal year 1990 level. The bill also provides a $61.5 million limitation on obligations for the motor carrier safety grant program.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For the National Highway Traffic Safety Administration, the bill includes a total program level of $234.7 million. This compares to $235.7 million provided for fiscal year 1990, and $242.9 million requested for fiscal year 1991.

Operations and research. Mr. Chairman, NHTSA's new management team is moving out aggressively in the critical areas of light truck and van safety and defects investigation, which the committee is very glad to see. the committee's recommendation includes additional funding in the areas of crash testing, compliance, biomechanics research, and shock-trauma research, which are necessary to support NHTSA's active rulemaking program. The committee recommends no funds for section 410 alcohol safety incentive grants due to program start-up delays, a reduction of $8 million from the budget request. Members should not view this as a lack of committee support for the section 410 program. It is merely an acknowledgement that additional funding is not needed at this time since no State is qualified yet to receive these grants, and carryover funds can accommodate any foreseeable demands.

State and community highway safety grants: We also recommend a limitation on obligations for the State and community highway safety grant program of $114.6 million, the same as the budget request.

Alcohol safety grants: For the section 408 alcohol safety incentive grant program, we have established a limitation on obligations of $10.9 million in fiscal year 1991. This is the same as the budget request.

FEDERAL RAILROAD ADMINISTRATION

Mr. Chairman, for the Federal Railroad Administration, major recommendations include a program level of $34.1 million for railroad safety, $25.2 million for railroad research and development, $7 million for local rail service assistance, $16 million for the Northeast Corridor Improvement Program, and $13.4 million for office of the Administrator expenses.

Payments on behalf of Amtrak: The bill recommends $150 million in a separate appropriation for FRA to make certain payments on behalf of Amtrak to the Railroad Retirement Trust Account and the Railroad Unemployment Insurance Account. In the past, these expenses have been covered by the appropriation for grants to Amtrak. The Members should be aware that this practice unfairly inflates Amtrak's true subsidy needs, since these expenses are merely passed on by Amtrak as a subsidy for the freight railroads. Under the Committee's recommendation, these expenses would be fully funded, but in a separate FRA appropriation. I direct the Member's attention to pages 124 and 125 of the report, which discusses this issue.

Amtrak: We are recommending $482 million for Amtrak operating and capital expenses in fiscal year 1991. Of course, the President's "kinder and gentler" budget again proposes deleting all Amtrak funds even though Congress has overwhelmingly rejected this proposal year after year. This funding level includes $138.9 million for capital expenses which are critical to Amtrak's future success. Mr. Chairman, Amtrak's financial performance continues to improve. When non-Amtrak expenses are excluded, Amtrak's revenue-to-cost ratio is estimated at 84 percent in fiscal year 1991. However, even administration officials agree that Amtrak needs additional equipment to increase revenues further, and to reduce maintenance costs. The committee's recommendation of $138.9 million for capital is approximately halfway between last year's level of $83.6 million and Amtrak's fiscal year 1991 request of $188 million. A discussion of Amtrak's financial performance and capital needs is shown on pages 126–129 of the report.

In addition, the bill includes a loan of $3.5 million for track work in Illinois. This will be of direct benefit to Amtrak.

URBAN MASS TRANSPORTATION ADMINISTRATION

For the Urban Mass Transportation Administration, a total program level of $3.204 billion is recommended for fiscal year 1991. This is $903.6 million more than the budget request, and $156 million more than the fiscal year 1990 program level.

Formula grants: Under the formula grant program, we recommend an appropriation of $1.695 billion, which includes $5 million for 18(h) rural transportation grants. Another $100 million is provided for the section 9(B) program.

Operating assistance: The committee recommends that $802.2 million of the formula grant appropriation be made available for operating assistance. This is the same as the level provided last year. The administration proposed limiting operating assistance to areas with populations of 1 million or less. The committee doesn't agree that a city should lose Federal support simply because of its size. Some of our biggest transportation needs are in large cities—and for many lower-income families in these cities, mass transit is their only way to get to work and earn a living. The committee's recommendation is $504.4 million above the budget request.

Discretionary grants: The bill also includes language limiting obligations for transit discretionary grants and section 9(B) formula grants to $1.2 billion. This is $63.4 million above the fiscal year 1990 limitation. This account is financed from the mass transit account of the highway trust fund. I invite the Member's attention to pages 136 through 143 of the report for a detailed description of how these funds are to be distributed.

Interstate transfer—transit: The bill also includes $160 million for transit projects that have been substituted for interstate highway projects. Of this amount, 50 percent is to be distributed on a formula basis and 50 percent on a discretionary basis. The discretionary funds will be distributed as outlined on page 144 of the report.

Washington Metro: The bill provides $180 million to continue construction of the Washington, DC, metrorail system. This is $23.3 million above the fiscal year 1990 level.

R&D/administrative expenses: The bill also provides a total of $40.7 million for research and administrative expenses of UMTA.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The bill includes an appropriation of $10.5 million from the harbor maintenance trust fund to finance operations and maintenance of the Saint Lawrence Seaway.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

For the Research and Special Programs Administration, the bill contains appropriations of $26.667 million. When combined with funds elsewhere in the bill for rental payments, this results in a 4-percent increase over the fiscal year 1990 level. Of this amount, $10.367 million is provided for the pipeline safety program, including funding for the State grants-in-aid program at the requested level of $5 million.

INSPECTOR GENERAL

For the Office of the Inspector General, the bill includes an appropriation of $30.97 million. When combined with funds elsewhere in the bill for rental payments, this results in a 4-percent increase over the fiscal year 1990 level.

TITLE II–RELATED AGENCIES

Title II of the bill contains new budget authority for six transportation-related agencies and commissions. Specifically, we recommend $2.7 million for the Architectural and Transportation Barriers Compliance Board, $30.94 million for the National Transportation Safety Board, $45.369 million for the Interstate Commerce Commission, limitations on the Panama Canal Commission of $48.9 million for administrative expenses, and $448.4 million for operating and capital expenses, $10.5 million for the Department of the Treasury to rebate Saint Lawrence Seaway tolls, and $51.6 million for the Federal share of interest payments for the bonded indebtedness of the Washington Metropolitan Area Transit Authority.

TITLE III—GENERAL PROVISIONS

Mr. Chairman, there are a number of general provisions in this bill that will be of interest to the Members, and I direct their attention to pages 158–159 of the report for a discussion of these provisions.

CLOSING

Mr. Chairman, the bill before the body is a fiscally responsible bill which provides adequate funding for our transportation programs and will significantly improve the infrastructure of this Nation. It restores funding for Amtrak and mass transit operating subsidies which the administration proposed to delete, and at the same time provides needed increases for aviation and surface transportation, Coast Guard drug interdiction, and oil-spill response. I say again that it does not exceed the section 302(b) ceiling for discretionary budget authority and outlays. I ask for its favorable consideration and approval.

□ 1400

Mr. Chairman, I reserve the balance of my time.

Mr. COUGHLIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this year's Transportation appropriations bill is proof of the fact that dreams really do come true. In our wildest imagination, we could not have anticipated being able to accommodate so many of the requests on that interminable list of projects competing for transportation funds. In fiscal year 1991, as in past fiscal years, the Transportation Appropriations Subcommittee received many more requests for assistance should be within the realm of the possible. But in fiscal year 1991, our dis-

tinguished chairman, Congressman BILL LEHMAN from Florida, has somehow found a way to assist all of the Members on both sides of the aisle.

I exhort my colleagues to take a good look at this bill. First, we probably will never have as generous a 302(b) allocation again. And, second, we probably will not be able to keep this one after the budget summit. The fiscal year 1991 Transportation appropriations bill shows what we can do when given adequate funding and fulfills our duty to bring out a bill at the 302(b) level.

I've said it before, and it is worth saying again:

Bill Lehman is the most enthusiastic, hard-working, and dedicated Chairman, I know. The hearings may be long and grueling, but he conducts them at a lively pace. The budget requests may not always include funds for every mode of transportation, but he ensures we have a balanced system. The number of requests for projects from individual members may be great, but he will always offer a compromise instead of turning someone down with a flat "no." It is a great treat to know Bill and see him work—even if it takes some degree of effort just to keep up with him.

I congratulate Chairman LEHMAN and the rest of the members of the subcommittee on what I believe is a good bill. All subcommittee members, Republican and Democratic, believe in a balanced transportation system for the United States. Despite personal interests and regional needs, subcommittee members have worked as a team to keep the country afloat, on the rails, on the roads, and in the air. I salute the gentlemen from Massachusetts, Mr. CONTE; Virginia, Mr. WOLF; Texas, Mr. DELAY; my next door neighbor from Pennsylvania, Mr. GRAY; Michigan, Mr. CARR; Illinois, Mr. DURBIN; New York, Mr. MRAZAK; and Minnesota, Mr. SABO. I also compliment the staff on their good work: Kenny Kraft and Bob Gibson for the minority; and Tom Kingfield, Rich Efford, Lucy McLelland Hand, Linda Muir, and Terry Hawkins for the majority.

The bill provides $13,088,092,569 in budget authority. This is $1.2 billion over the President's budget request. It is also only $31.7 million over last year—an increase of less than one-quarter of 1 percent. The bill is under the budget baseline and it is at our 302(b) allocation for discretionary programs in budget authority and outlays.

COAST GUARD

The $2,192,000,000 in operating expenses, plus an additional $160 million from the Defense appropriations bill for a total program level of $2,352,000,000. This is $39 million less than the budget request and $134 million more than the current year.

Not less than $602,600,000 is to be spent on drug interdiction efforts. I call your attention to the report, pages 23 to 25. Marijuana seizures are down while cocaine seizures are up. However, data from the National Institute on Drug Abuse shows that there is no noticeable effect on availability. It is impossible to measure how successful the Coast Guard is stemming the flow of drugs. While the committee still believes that interdiction is important, the long-term solution is to reduce demand not supply. Coast Guard acquisition, construction, and improvements [AC&I] is funded at $436,686,000—$44.6 million less than last year and $27.5 million less than the budget request.

FAA

The Federal Aviation Administration receives over $1 billion more in fiscal year 1991 than in fiscal year 1990. Operations are at $4 billion. Facilities and equipment is at $2.1 billion, a 24-percent increase over current levels. And the obligation ceiling for airport grants is $1.8 billion, $375 million more than current levels and $300 million more than the budget estimate.

FHWA

The bill recommends a limitation on obligations of $14.5 billion for the highway trust fund, an 18.8 percent increase over current levels. Also included are 53 highway demonstration projects. These highway demonstrations are either: First, authorized; second, on-going; and third, cleared by the authorizing committee.

FRA

In the rail area, the bill provides $482 million for Amtrak and $150 million for non-Amtrak related rail expenses.

UMTA

In the Urban Mass Transportation Administration, an incredible $1.79 billion in section 9 formula grants. The $1.14 billion provided for section 3 discretionary grants is earmarked as follows: $135 million for bus, $440 million for rail modernization, and $440 million for new starts.

Washington Metro receives $108 million; $64,100,000 is already authorized; $43,900,000 is available only upon enactment of the authorizing legislation (H.R. 1463, passed House March 28, 1990). The administration and I oppose this money for Metro as:

First, D.C. area has already received 60 percent of the total Federal investment nationwide in new transit system;

Second, D.C. area should now participate with other cities in existing programs to fund transit and not have a special authorization;

Third, D.C. metropolitan area is one of the wealthiest in the United States;

Fourth, D.C. area should not get 75 or 80 percent Federal funding when other cities are getting 50 percent or less; and

Fifth, funding D.C. area this way is at the expense of every other part of the United States.

The President has promised a veto on this bill and it is tied up in the other body where a compromise is trying to be reached.

SUMMARY

Let me call our attention to the editorial in this morning's Washington Post. It calls H.R. 5229 "a good bill" which satisfied the priorities of both the House and the administration. I urge the House to pass the fiscal year 1991 Transportation appropriations bill as it accommodates the Members and provides for a balanced transportation system.

Mr. Chairman, I submit for the RECORD the article to which I referred.

[From the Washington Post, July 12, 1990]

FEDERAL HELP FOR ROADS AND SKIES

After years of legislative grappling over how best to finance improvements in America's ground and air transportation facilities, the House Appropriations Committee has produced a good bill that may actually fly. The measure was crafted as part of a series of agreements between members who have feuded in the past over aviation policies. It appears to satisfy priorities of both the Bush administration and House Democrats. Though reaction in the Senate may be another matter, the bill combines money for popular local highway, bridge, mass transit and railroad projects sought by House Democrats with a substantial increase in the current year for the Federal Aviation Administration, a top transportation priority of the Bush administration.

Another significant part of this package would allow the drawing down at a faster rate of the $7.6 billion Airport and Airways Trust Fund, which derives most of its revenues from airline passengers rather than general taxes; the money would go to finance the FAA operating budget. The Appropriations Committee would continue to put more FAA money into the national air system over the next five years. Airports across the country would be authorized to levy a local passenger tax of up to $3 a trip to pay for local improvements, noise abatement and airport security. This kind of user-fee proposal makes sense but has not been greeted warmly by Congress in the past.

Like any compromise, these agreements fall short in certain respects. The money for ground "infrastructure" projects is beloved in the House because it would spring handsome amounts for "demonstration projects" in congressional districts instead of being allocated by state governments. But the amounts are excessive and contribute to the deficit. Similarly, an argument could be made for extra money for the FAA to proceed more quickly with air traffic improvements, but the measure already exceeds the restraints of a deficit reduction agreement between Congress and the White House.

Overall the action in the House points to needed improvements in air travel—projects that have been locked up in the past by struggles over user fees, the trust fund and highway spending. With similar serious work in the Senate, there could be tangible results.

□ 1410

Mr. Chairman, let me say that this bill will not take man to the Moon or to Mars. It will not take anyone around a racetrack, but it may help to get people to work on time, it may help to get people to the beach without hassle. It may save some people from drowning, even you. It may help get Aunt Minnie through the airport congestion, and it may save someone from being the victim of an air disaster. This bill affects the lives of every single person. I urge its passage.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I appreciate the assistance and cooperation extended by the gentleman from Pennsylvania [Mr. COUGHLIN] as well as the chairman and other members of the committee. I rise in strong support of the legislation.

Mr. Chairman, this Member rises in support of the pending bill which makes appropriations for the Department of Transportation for fiscal year 1991. Once again this Member wishes to express his sincere appreciation to the subcommittee chairman, the distinguished gentleman from Florida [Mr. LEHMAN], and to the distinguished ranking minority member from Pennsylvania [Mr. COUGHLIN], and the other very able committee members for your diligent and effective efforts in bringing the Department of Transportation appropriations measure to the floor for a vote.

This Member, who has appeared before this appropriations subcommittee on numerous occasions, appreciates the courtesy always afforded to me and my constituents. This subcommittee has the very difficult task of deciding which projects among many worthy projects should be funded during a period of ever tightening budgetary restrictions and they perform this task very effectively and conscientiously.

This Member not only wishes to commend the subcommittee for its fine work, but particularly wishes to express great appreciation for its favorable consideration to one item in the committee bill. That is the $3.6 million provided for the Lincoln, NE, rail transportation safety project. This segment called the "K" and "L" Streets project is very familiar to the committee since they have generously seen fit to previously provide funds for design, right-of-way acquisition, and construction. Only $3.6 million is required to complete all the work on this segment, a project that has been before the committee since 1984.

It is ironic that this Member must again be supporting funding for this specific project. Since 1984, the House has appropriated a substantial number of dollars for the project. However, in the past the Senate had not done its part until last year when Nebraska's new junior Senator became actively and effectively involved. His assistance has been most welcomed. Therefore, we are still $3.6 million short of having the funding necessary to complete this important project.

Because of the special leadership of the Nebraska congressional delegation in the early 1970's, Congress authorized the programs of demonstration railroad-highway crossing projects through section 163 of the Federal Aid Highway Act. However, this very well may be our last chance for completion because the authorization of the Railroad-Highway Crossings Demonstration Program terminates at the end of fiscal year 1991. This project is so close to completion it would be unfortunate to stall it due to lack of funding.

The benefits of completing the "K" and "L" Streets project are numerous and have been well chronicled over the years. With such severe budgetary problems at the national level, the city of Lincoln and the State of Nebraska have done their part in keeping costs to a minimum and contributing a very sizeable match to the project. The substantial investment of financial and personnel resources that the city and the State have already made warrants that Congress fulfill the obligation of the Federal Government to support the completion of this project.

This Member appreciates the opportunity to speak on behalf of this project and again express his appreciation to the subcommittee for their assistance, courtesy, and favorable consideration of this specific project in Lincoln, NE.

Mr. COUGHLIN. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Florida [Mr. LEHMAN] has 19 minutes remaining, and the gentleman from Pennsylvania [Mr. COUGHLIN] has 22 minutes remaining.

Mr. LEHMAN of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. WHITTEN], the chairman of the full Committee on Appropriations.

Mr. WHITTEN. Mr. Chairman, we are very proud indeed of the work of this subcommittee and of the gentleman from Florida [Mr. LEHMAN], the gentleman from Pennsylvania [Mr. COUGHLIN], and my other colleagues on the subcommittee.

I think, from years of experience on the Committee on Appropriations, and this is my 12th year as chairman, that we as a Congress must recognize the difference between wealth and paper money. I am glad to see steps made in this bill to recognize that we better look after highways and all those things that go to our real wealth, and do what we can to balance the budget. I hope we can because it will help with stability.

It is time we, as a Congress, start recognizing that this investment in our Nation that lasts for years, as compared to spending that doesn't last more than 24 hours.

Mr. Chairman, the Subcommittee on Transportation is one of the most important of our 13 subcommittees. The different means of transportation contribute greatly to the development of our Nation. We need effective ways to get our products to market and to ports, for until we regain our normal share of domestic and foreign markets, there is no chance of solving our national financial problems.

The means of communication and transportation between our 50 States has been a significant factor in the welding of our States into a great Nation. The programs in this bill are an investment in America. If we do not protect our Nation by developing and maintaining national assets such as highways, airports, and the like, we will stop growing.

All of the commitments made by our Government, both here and abroad, are backed only by the physical resources of our Nation. If we do not protect these assets, our Nation will be weakened. Again, I congratulate everyone on the subcommittee for a job well done.

Mr. COUGHLIN. Mr. Chairman, I yield 5 minutes to the distinguished ranking member of the full committee, the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, I rise in strong support of the transportation appropriations bill for fiscal year 1991. This is the fifth appropriations bill to come before the House, and it appropriates $13.1 billion in budget authority and $29.7 billion in outlays, within our 302(b) allocations.

This bill sticks to the basics. It places highest priority on taking care of the country's basic infrastructure needs through a substantial commitment to financing highway improvements and to increasing aviation system capacity. In it we reverse a 6-year trend of declining Federal support for mass transit, and we continue our past efforts to provide assistance to Amtrak for much-needed capital improvements.

And very important to me, we provide a significant increase to the Coast Guard which will enable them to handle additional responsibilities for oilspill response and environmental cleanup activities.

We also dealt a full hand to Members who had special requests. The bill contains 52 highway demonstration projects—one for every card in the deck, but we haven't dealt any jokers. The projects are either authorized or OK'd by the Public Works Committee, and I want to credit the members of that committee for their help. We do appreciate it.

Of course, the two members responsible for dealing the cards fairly and for making this an excellent bill are the esteemed chairman from Florida and the distinguished ranking member from Pennsylvania.

BILL LEHMAN gave this bill wings by securing a healthy 302(b) allocation, and he and LARRY COUGHLIN piloted it through hearings and markups with a dexterity that would make Chuck Yeager envious. I want to thank both

of them for their leadership on this bill.

This past year there has been a considerable—and I think absolutely necessary—focus on our transportation system's needs. I give much of the credit for that to Secretary of Transportation Sam Skinner, who has been a crusader for improving the system, and whose national transportation policy has set the stage for action by the Federal Government and the States.

I think this appropriations bill, in a very concrete way, recognizes the importance of improving the system, while reaffirming the longstanding congressional commitment to a strong Federal role in financing transportation improvements.

We have provided a $2.3 billion increase in the Federal aid highways program over fiscal 1990. That funding goes to the States for maintenance and expansion of the roads and highways. The bill also provides a $375 million increase for airport improvement grants in order to expand aviation capacity, and a $417 million increase in FAA facilities and equipment to upgrade the air traffic control system. Those increases are needed. Airport delays and traffic congestion are costing our economy billions of dollars in reduced output, and I bet the frustration and stress caused by those delays is just as costly. So anyone who has spent too much time sitting in congested highway traffic or cooling their heels waiting for a plane—and I think that includes just about everyone—should approve of the commitment this appropriations bill makes to solving those problems.

We also take care of Amtrak in this bill. Amtrak continues to reduce its reliance on Federal operating subsidies, which are down $41 million from the fiscal 1990 level. In order to keep Amtrak on the road to eliminating all need for a Federal operating subsidy, we have provided them with $138 million for capital projects, so they can secure vitally needed passenger cars and locomotives. And I am also quite pleased that the committee agreed with me to include $16 million to get highspeed rail service between Boston and New York on the fast-track.

One thing I want to particularly note is the $141 million increase over last year's funding level that we provide for the Coast Guard. The Coast Guard is going to be faced with significant new responsibilities for oilspill response, once the oilspill bill, now in conference, is enacted. We have anticipated the extra need in this bill by providing $27 million for the Coast Guard's oilspill activities, and if it turns out that more is necessary, I am going to be leading the charge to make sure the Coast Guard gets those extra resources.

We will not know the full budget costs until the bill is enacted, but I guarantee that the Coast Guard will not be short-changed.

Mr. Chairman, with action today on this appropriations bill the House can send a message of commitment to maintaining and expanding the country's basic infrastructure and to meeting our transportation needs. I urge Members to give strong support to this bill.

□ 1420

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I simply want to take this time to thank the chairman of the subcommittee and the ranking Member on the other side of the aisle for their help in providing the needed funds to address the problem of inadequate air service at the Central Wisconsin Airport. I think everyone understands that reliable air service is crucial to business development and job development. Certainly there is no issue more important to the central Wisconsin region, and together with the other funding in this bill for highway development and other transportation improvements, I think the Members have done an excellent job with this bill in meeting the needs of our area.

Mr. Chairman, I very much appreciate the cooperation of the subcommittee chairman.

Mr. COUGHLIN. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. WOLF], a member of the subcommittee.

Mr. WOLF. Mr. Chairman, I rise in strong support of H.R. 5229, the fiscal year 1991 Department of Transportation appropriations bill. This is an excellent piece of legislation and I want to commend subcommittee chairman BILL LEHMAN and ranking member LARRY COUGHLIN for their excellent work in crafting a bill that meets the critical needs of our Nation's transportation system.

This bill provides funds to improve our Nation's transportation infrastructure and in particular, our Nation's highway system. This year's bill containes a provision increasing the limitation on obligations under the highway program to $14.5 billion which is an 18.8 percent increase. This will help every State in the Nation meet its highway construction needs.

The bill also includes funds for important mass transit programs across the Nation and for Amtrak, the Nation's passenger railway system.

And finally, Mr. Chairman, the bill includes funds to help ensure that our Nation's aviation system is safe for the traveling public.

I support this bill. It will help keep America moving and will help ensure our ability to compete in the world marketplace and I want to again commend the gentleman from Florida [Mr. LEHMAN] and the gentleman from Pennsylvania [Mr. COUGHLIN] and all of the staff for their outstanding work.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Chairman, Fayetteville, NC, has recently suffered severe traffic problems in its traditional market area because of a past agreement with the Department of Transportation to close a major road in downtown Fayetteville to vehicular traffic. The idea to turn Hay Street into a pedestrian mall that is serviced only by buses seemed like a good idea at first, but local officials and businessmen now realize that the project and the resulting traffic bottleneck in Fayetteville has been a severe disincentive to retail and commercial activity. Downtown Fayetteville is no longer an attractive option to consumers, and as a result the heart of this historic city—the site of North Carolina's Congress to ratify the Constitution and the namesake of the French patriot, the Marquis de la Fayette, is dying.

Mr. Chairman, the conferees for the Transportation appropriations for fiscal year 1991 may have the opportunity to incorporate language to direct the Secretary of Transportation to permit the city of Fayetteville, NC, to allow vehicular traffic, other than buses, to use Hay Street without penalty. I kindly request that the committee and its appointed conferees give favorable consideration to this proposal.

Mr. LEHMAN of Florida. Mr. Chairman, if the gentleman will yield, the committee has been informed of the situation in Fayetteville and is aware of the concerns of our colleague from North Carolina. I assure the gentleman from North Carolina that the conferees will give serious consideration to the stated provision concerning Hay Street in Fayetteville, NC, if the matter is brought before the conference committee.

Mr. ROSE. Mr. Chairman, I thank the gentleman from Florida for this consideration of this matter.

Mr. COUGHLIN. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Texas [Mr. DELAY], a member of the subcommittee.

Mr. DELAY. Mr. Chairman, there are just two things I want to say. I did not intend to take time, but as I sat here on the floor and listened to the remarks being made, I could not help but come down to the floor and into the well to make two points. Both of my points are basically addressed to my side of the aisle.

The first point is that I say to my colleagues on my side of the aisle that they ought to be envious of me because they do not have the privilege of

serving on a subcommittee like the Transportation Subcommittee of the Committee on Appropriations.

A lot of people talk about nonpartisan committees. This subcommittee actually practices that, and it is such a welcome sight. It is so comfortable and so pleasing to serve with Chairman LEHMAN and Vice Chairman COUGHLIN on this subcommittee and other members of the subcommittee, because there has never been a meeting of the Democrats over in the corner to decide what they are going to do and then have them bring it out and stuff it down the throats of the Republicans. All of the issues have been discussed openly and honestly in this subcommittee, and not just with the members. I also want to commend the staff. The staff is nonpartisan. That is not just the staffs of the committee on both sides of the aisle, but also the staffs that work for the members. The staff are very collegial, they are very open with each other, and they do incredible work under very difficult circumstances.

The second point I want to make to my colleagues on this side of the aisle is to remind my colleagues that I am one of the most conservative Members of this House. Most of my colleagues know that. I have a voting record that shows that I make tough choices, and I make tough votes, even in the face sometimes of my own constituents because I believe in it. I just urge my fellow Republicans to vote for this bill, because, frankly, I grow a little weary of calling our bill something that is full of pork or hearing that this bill is nothing but pork barrel.

The way I look at is if you are for competitiveness, if you are for the future of this country, if you are for increasing a growing economy, then you have got to be for infrastructure, and infrastructure is not pork barrel. Transportation, in my opinion, is the circulatory system of this country. To call our transportation system, "pork barrel" would be like calling your own blood vessels and aortas and veins "pork" or "pork barrel."

Mr. Chairman, the lifeblood of moving goods and services around this country is our excellent transportation system. We have provided for this system in this bill, and I urge the support of the Members for it.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I thank the chairman of the subcommittee for yielding me this time, and I want to commend the chairman, the gentleman from Florida [Mr. LEHMAN], as well as the ranking member, the gentleman from Pennsylvania [Mr. COUGHLIN], for this very vital legislation.

Mr. Chairman, I want to engage in a colloquy with the chairman of the Transportation Appropriations Subcommittee. The city of Chattanooga, TN, recently received a planning grant from the Urban Mass Transportation Administration to conclude the studies involving a light rail trolley system in the downtown corridor. Initial studies have demonstrated that such a system will improve the transportation needs of the city. If the final studies confirm this finding, the city will be ready to proceed to construction of the system.

With the construction of a new aquarium, scheduled to open in 1992, more than $400 million has been invested in downtown development all along this corridor. Some form of mass transit is needed to tie this reinvigorated downtown together so that visitors and workers in Chattanooga can travel within this area without using their cars.

The planned system utilizes a simple, innovative concept that has already proven successful in Orlando: Capital funds provided by local, State, Federal Government, and private interests would finance acquisition of a critically needed downtown circulator system, using buses or vintage trolleys, and a modest amount of critically needed parking located at the perimeter of downtown. The operating expenses of the circulator system would be endowed with the net operating revenues of the parking facilities. No tax support would be needed for operating expenses.

The city and the private sector of Chattanooga have dedicated significant resources for this project, so that the matching goals of the Department of Transportation are met. The project will not proceed unless the final studies, including the environmental assessments, are favorable. However, the studies will be complete in the near future—probably before the fiscal year commences. The city will be ready to proceed.

Mr. Chairman, the Senate will be considering this request later in the year, when the studies are at or near completion. I expect that my colleagues in the Senate from Tennessee will request an appropriation of up to $8 million to start the project. If that occurs, I ask my friend, the Chairman, to review the actions of the Senate and the entire record. I will work with him to address all his questions. I ask now if he will consider this request in conference. At that time, I will urge the conferees to agree to the Senate allocation for this important project.

Mr. LEHMAN of Florida. Mr. Chairman, if the gentlewoman will yield, I will respond to the gentlewoman from Tennessee by assuring her that if the Senate provides money for the Chattanooga trolley system, I will carefully consider her request to fund the project. I look forward to working with her on this matter.

Mrs. LLOYD. Mr. Chairman, I thank the gentleman for his consideration.

Mr. COUGHLIN. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Nebraska [Mrs. SMITH], a member of the full committee.

□ 1430

Mrs. SMITH of Nebraska. Mr. Chairman, I rise today in support of H.R. 5229, making appropriations for the Department of Transportation and related agencies for fiscal year 1991. I commend the committee for its hard work, under extreme budgetary pressures to produce a bill that addresses the many pressing needs of Nation's transportation system.

H.R. 5229 provides for the continued improvement and expansion of our air transportation, it provides for further development of our National Highway System, and it provides for the continued improvement of our rail networks.

The bill also provides the Urban Mass Transit Administration with $3.2 billion—an increase of $156 million over fiscal year 1990 appropriations. Of these funds, $1.7 billion will provide formula grants to communities for maintenance and improvements to mass transit systems. Though once again, a mere 2.93 percent of the total will go to small and rural communities—communities that are home to 38 percent of the population. This is an imbalance I am hopeful we will address soon.

Also in this bill is $23.6 million for continued operation of the Essential Air Service Program.

You are well aware of my long-time and continued support for the EAS. And I am pleased that the committee approved funding levels deemed adequate to continue the program, though I do wish that there was more money in this bill for EAS.

I am concerned that the program may be underfunded and that the Department of Transportation may not be administering the program as Congress intended.

The $23.6 million provided by H.R. 5229 is a decrease of almost 23 percent from this year's funding. DOT estimates that this amount will fund 120 communities, down from 130 this year. Not only am I concerned that funding reductions of 23 percent may not be adequate to fund 92 percent of the communities presently served, but I am also concerned with actions the Department may take if there is a funding shortfall.

Calls I made to the Department of Transportation this week yielded very little in the way of clear answers to what cuts in service would be made, and how they would be made. DOT cites a decrease in the number of communities to be served yet seemingly has no list of communities to be dropped.

Last year we agreed on a very specific set of eligibility guidelines for program participation, yet one DOT official said that in the event of a shortfall, they may have to toughen the standards.

Mr. Chairman, I am concerned that we do not have a more clear picture of how the program will look each year through its authorization.

Later today, we will consider H.R. 5170, the Aviation Safety and Capacity Expansion Act. Provisions of this bill will go a long way in setting the EAS Program on firmer ground, allow for more flexible funding and offer protections against leaving at-risk communities without any transportation alternatives.

When a community loses its EAS funding, the price for a ticket doesn't go up—air service disappears.

Mr. Chairman, we must not leave rural America behind in our national transportation policy.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, the Nashville School of Law has conveyed a request which I respectfully request your assistance in honoring when you and other members of the committee go to conference with the Senate.

In particular, I would appreciate the gentleman's assistance in directing the Department of Transportation to erect a sign at the Interstate 65—Armory Drive interchange in Nashville giving directions to the Nashville School of Law.

Under current Federal Highway Administration guidelines and State of Tennessee regulations, signing requests must meet several criteria. In the case of the Nashville School of Law, the only criteria the school fails to meet is the one requiring 1,000 full time students in order to qualify for interstate directional signs.

The Nashville School of Law is prominent and renowned in our region. Among the distinguished graduates are Nashville's mayor, several members of our State legislature, including the Speaker of the House of Representatives, several members of our State judiciary, and some of the most outstanding attorneys in the State of Tennessee, including my brother, Frank G. Clement, Jr.

Mr. Chairman, I am working with the distinguished senior Senator from Tennessee to include such directional language in the Transportation appropriations bill.

I request your help in ensuring that this directional language is included in the House and Senate conference agreement.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. CLEMENT. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, I assure the gentleman from Tennessee [Mr. CLEMENT], my friend, that when we are in conference, I will do all I can to help him in this request.

Mr. COUGHLIN. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Chairman, consideration of the appropriations bill is an historic occasion for the people of Hawaii. For more than two decades the city and country of Honolulu has tried to adopt a workable plan to build a fixed rail mass transit system. Today, we have an opportunity to join hands with the people of Hawaii to solve one of the most pressing problems we face. On an island of limited space, and fast growing population, traffic problems have escalated.

Our highways through Honolulu resemble creeping parking lots every day. The problem has become so serious that our Governor—a Democrat, and Honolulu's mayor—a Republican, joined hands in a bipartisan effort to formulate a practical plan to build a mass transit system. They worked with the State legislature to pass a financial plan in April to build the system on the island of Oahu.

This bill we are considering today, will commit the first Federal resources, $10 million, to that plan. Members of the Appropriations Committee, after studying Hawaii's plan, acknowledge that it is one of the finest proposals they have studied. The Bush administration has also studied the plan, and indicated it could very well be a model for other communities, not only in the United States, but throughout the world.

Just a few short years ago, the Federal Government required local communities to come up with only 20 percent of the funds to build a mass transit system. Washington would provide the rest. That was an inefficient use of taxpayers money, and actually prompted some communities to build projects that had little merit. Honolulu's system is novel in that it only requires the Federal Government to fund 30 percent of the plan while the local community will be responsible to fund the vast majority of the costs of the project.

I would also like to commend the Hawaii State Legislature for finding a way to fund this project without raising taxes. They decided to live within their means and use existing resources to fund the plan.

I have every confidence that the Congress will continue to recognize the need for this system in future appropriations measures. I thank the members of the Appropriations Committee for having the foresight to include the funds for this important project, and ask my colleagues to support the bill.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN], a member of our subcommittee.

Mr. DURBIN. Mr. Chairman, I would like to congratulate the gentleman from Florida [Mr. LEHMAN] and the gentleman from Pennsylvania [Mr. COUGHLIN] for their fine work on this appropriation bill. I know it is not an easy task, particularly in a year of deficit reduction, but I believe this is a responsible statement, not only from this committee, but a statement from this Congress as to our priorities as a nation.

Mr. Chairman, we are engaged in a national debate now concerning priorities in spending. As we reduce our military expenditures, one of the areas that we must concentrate on is transportation: both the facilities and the infrastructure of America. If we want to see increased productivity, economic improvement and an improvement in our standard of living, it is absolutely essential that this appropriation bill and its component parts be given not only due consideration by this Congress and a higher priority.

Over the past 10 or 12 years, we have allowed things to slide. We have cut back, and we have paid a price for it. The American economy is not as developed as it should be today because we have dedicated resources to military spending that should have been dedicated to the development of our infrastructure here in America.

This is an appropriation which encompasses so many different parts. Our subcommittee sits down and worries over such items as drug interdiction by the Coast Guard and funds for Amtrak service to maintain passenger railway service in America.

□ 1440

We also maintain, of course, the roads and the bridges, and the mass transit that keeps America on the move. But our subcommittee is also authorized to look beyond the horizon to where this country should be moving, and I am proud to say we have included as one of the elements in this appropriation bill, funds for research into new high-speed ground transportation in America.

I sense that this may be our Interstate Highway System of the nineties, as President Eisenhower promulgated and developed the Interstate Highway System of the fifties. As that system reaches completion and we look to new horizons in transportation, it could easily be in high-speed ground transportation. Other countries are beginning to show an interest. There is no reason why the ingenuity and resources of America should not jump to

the forefront and why our Nation should not show leadership.

Mr. Chairman, I commend my fellow members of the subcommittee for their fine work on this appropriation bill, and I certainly hope all my colleagues will vote for it.

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I thank my colleague, the gentleman from Pennsylvania, for yielding me this time.

Mr. Chairman, I want to state my concern regarding the limitation on the payment of rent from the Transportation Department to the General Services Administration which is contained in H.R. 5229. The $109 million rent appropriation is close to $12 million short of the amount requested in the budget to meet GSA-assessed rent charges.

This rent is deposited into the Federal Buildings Fund, which is the source of funding for GSA's Public Buildings Service activities. Many Members may not realize that almost all the funds which GSA has available for construction, renovation, lease payments to private landlords, and the operation of Federal space comes through the receipt of rent from Federal agencies occupying general office space—whether federally owned or leased.

DOT, and the Appropriations Committee, have an obligation to provide the necessary funding to pay its rent bill. While this rent cap may look good on DOT's budget, it will have a very negative impact on GSA. As has been noted by others, GSA is about to embark on a major construction project for a new DOT headquarters building—a project to be funded from the Federal Buildings Fund.

Mr. Chairman, limiting the amount of rent to be paid by DOT to an amount substantially lower than the GSA-assessed rent is a bad practice which severely affects the operations of GSA. I am hopeful that this can be corrected in the future.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I rise to engage the committee chairman in a colloquy.

The committee chairman and I have discussed in great detail the planned consolidation of the North Bend Flight Service Station into the McMinnville Automated Flight Service Station. The committee chairman is aware that the Aviation Safety and Capacity Expansion Act to be considered by this body later today, will direct the Secretary to implement the system of auxiliary flight service stations in areas of unique weather or operational conditions.

Is it true that the committee believes that the flight service station at North Bend should remain open until the Secretary can complete his list of automated flight service stations?

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, I am aware that the weather on the south Oregon coast, which frequently includes strong winds and thick fog, can change very rapidly.

I believe that the consolidation of the North Bend Flight Service Station should not begin until the Secretary has had an opportunity to prepare his own auxiliary flight service station plan.

Mr. DEFAZIO. Mr. Chairman, I thank the committee chairman for his support in this matter.

Mr. COUGHLIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just for the record, let me address the rental payments referred to by the gentleman from Wisconsin. First, we have consolidated the rental payments into one account so we can keep track of them. Second, although we provided a 23.6-percent increase in fiscal year 1990, we turned down the request for an additional 10.9-percent increase in fiscal year 1991. The committee felt it was indeed excessive, so we provided the same budget as in 1990 for those rental payments.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Chairman, I thank the gentleman for yielding this time to me.

I just simply wanted to take the floor to commend the chairman of this subcommittee, the gentleman from Florida [Mr. LEHMAN], and our ranking minority member, the gentleman from Pennsylvania [Mr. COUGHLIN] for an outstanding job in writing a good bill. It is a bill that deserves the support of all the Members of the House.

In particular, I want to commend my good friend, the gentleman from Florida [Mr. LEHMAN], who I think is one of the outstanding subcommittee chairmen of any of the subcommittees of the Committee on Appropriations, a man of incredible patience, who along with the ranking member has just done an outstanding job of putting this bill together. It is a good bill and deserves our vote.

Mr. KOSTMAYER. Mr. Chairman, I rise today to commend the Committee on Appropriations and in particular the chairman of the Transportation Subcommittee, Mr. LEHMAN, for their outstanding work in bringing before the House the fiscal 1991 transportation appropriations bill.

As usual, Mr. LEHMAN has struck an admirable balance between the limitations imposed by current budget constraints and the needs of our Nation's transportation system.

In particular, I want to thank the committee for including $1 million to fund vital preliminary environmental studies and right-of-way assessments along the U.S. Route 202 corridor between Doylestown and Montgomeryville, PA.

My district, which consists of Bucks and the eastern portions of Montgomery County is among the fastest growing areas in the Nation. Both Bucks and Montgomery Counties are accessible to New York as well as Philadelphia business centers and are becoming increasingly popular among workers from both metropolitan areas.

This tidal wave of development now is beginning to endanger the very qualities that have brought so many people and businesses to relocate there. The issues of traffic, overdevelopment, loss of open space, environmental protection, traffic and mass transit have vaulted to the top of the list of concerns of the majority of my constituents. The infrastructure of the region, in particular our transportation system, is in peril.

Mr. Chairman, nowhere has this problem reached greater dimensions than it has in the U.S. 202 corridor, a portion of which runs from Doylestown, PA, in my district to Montgomeryville, PA, which lies in Mr. COUGHLIN'S district. The traffic volume on the existing roads between the two communities has swelled to dangerous levels. Long delays in the area are commonplace. Many of my constituents have complained that what used to be a 10-minute trip to the grocery store now takes a half-hour or more. The current Route 202 is a two-lane road, and the lack of shoulders and turning lanes creates an extremely hazardous situation. In addition, congestion in the area clearly adds to air pollution in the surrounding communities. What's more, response time for emergency vehicles has been slowed dangerously.

In the early 1970's, the Pennsylvania Department of Transportation recognized the need for a route to take commuters around the local traffic which burdens the existing artery of U.S. 202. In 1972, PennDOT commissioned engineering drawings for a new U.S. 202 freeway that would carry motorists quickly and safely from central Bucks County to eastern Montgomery County. The need for a freeway was confirmed in a second study conducted by the Delaware Valley Regional Planning Commission in 1984. Unfortunately, the cost of the proposed project, about $160 million, prevented any action on the original plan.

In 1987, with the need for a new roadway growing, PennDOT, along with Bucks and Montgomery Counties, commissioned the Delaware Valley Regional Planning Commission to prepare a second examination of ways to manage traffic in the U.S. 202 corridor.

This study has been released in draft form and reiterates many of the agency's earlier findings regarding the need for an improved road system. The study concludes that:

Without an increase in capacity in the corridor, traffic will continue to increase to highly congested levels on parallel area highways, including Route 202, Upper State and Lower State Roads.

Traffic is sufficient to justify a new road on new right-of-way. Simulations of future conditions suggest that up to 40,000 vehicles a day will use the new road.

Although it may be possible to build the additional needed capacity into the existing roads, the physical improvements such as widening and the high traffic levels on these roads would change their character to the loss of the community. Furthermore, speeds on these roads would be less than on a new road *and the safety would also be inferior.* [Emphasis added.]

Because of the cost associated with a freeway, the new study also recommends the construction of "controlled access arterial roadway," a move that the DVRPC estimates would cut the eventual cost of the project from $160 million to approximately $70 million.

Mr. Chairman, along with traffic relief and safety, a well-constructed arterial roadway could provide increased recreational opportunities and protection for certain historical sites that are part of both Bucks and Montgomery Counties. For example, the 300-foot right-of-way envisioned by the DVRPC plan would pass near the General Hancock House in Montgomery Township as well as the Glen Garry Farm in Warrington. The proposed buffer zoning around the road would provide protections against encroaching development for both of these historic properties.

Recreational opportunities that might be created in the right-of-way include trail activities such as jogging and bicycling. Such trails have already been incorporated in portions of the Blue Route Highway in Delaware County, PA.

A broad right-of-way can also serve as a buffer to current and future development, an advantage to the driver who sees a natural and rural environment and to residents who will be somewhat protected from the noise and activity of the road. The building of an arterial roadway, because it will be designed to meet the needs of the local communities, may not create the development pressure provided by a freeway.

I would also like to point out that time is of the essence in this matter, Mr. Chairman. Several aspects of the Route 202 project are time-sensitive. For instance, Montgomery Township has acquired a significant portion of the right-of-way for the new road under an agreement which would allow the lands to revert to the donor if construction is not begun in the near future. Similarly, the right-of-way proposed in the DVRPC plan remains open and accessible in most areas, a situation that is likely to change as development continues in the area, a situation that we are bound to see repeated in more and more communities around the Nation.

In conclusion, Mr. Chairman, for all of these reasons: the time-sensitive nature of the project, the need for increased safety and decreased traffic congestion in the area, the recreational and historic preservation opportunities which the project presents, as well as the potential buffer against runaway development, I believe that the proposed U.S. 202 arterial roadway makes a worthy Federal highway demonstration project.

I also want to thank the committee for including $200,000 for another project designed to provide relief to our cross-county transportation problems, this one a rail alternative.

SEPTA, the Southeastern Pennsylvania Transprotation Authority has recently issued a plan—also enclosed for your review—for the establishment of a new passenger rail line extending from the Downingtown area in Chester County to the Morrisville area in Bucks County across the Delaware River from Trenton, NJ. I would like to briefly outline several points included in the SEPTA study.

Like the Route 202 project, the new rail line would go a great distance toward alleviating the intrasuburban travel problems in southeastern Pennsylvania and could provide a model for other areas around the country.

SEPTA currently captures very little of the cross-county market, since the new travel patterns are lateral and SEPTA's network has been built on historic, radial travel patterns. New employment center development has basically followed the pattern of the center development has basically followed the pattern of the express highways which have been built in the region. These employment centers are consecutively spaced about 6 to 10 miles apart and stretch from areas near Morrisville in Bucks County to Downingtown in Chester County, roughly paralleling the Pennsylvania Turnpike and part of U.S. 202.

Happily through an accident of history, a predecessor railroad of SEPTA and Conrail constructed a railroad line initially known as the Trenton Cut-Off and currently referred to by Conrail as the Morrisville Line. This line extends from Downingtown in Chester County to Morrisville in Bucks County. It was initially constructed through suburban farmlands and relatively unpopulated areas, and was designed to move long distance freight, not destined for Philadelphia, on a route bypassing Philadelphia to avoid coming into the congested part of the city and the then-congested railyards. Again, through an accident of history, the Pennsylvania Turnpike and U.S. 202 were developed as major highways which spawned, in turn, major development and employment centers along their length.

Today, in a continuous string of employment centers, one can point to Downingtown, Exton, King of Prussia, Norristown, Plymouth Meeting, Fort Washington, Willow Grove, Southampton, Oxford Valley, and the Morrisville/Trenton areas as major beneficiaries of these past public highway investments. These same employment and development centers also happen to be immediately adjacent to this rail line which now rests comfortably parallel to the Pennsylvania Turnpike and part of U.S. 202 for nearly its entire distance. The railroad alignment was built to high speed standards, 80 miles per hour or more, and is virtually free of grade crossings. As a bypass rail line, there are also virtually no local freight customers.

The opportunity exists now to utilize this rail line as the first cross county passenger rail service, interconnecting these employment centers and providing transfer stations with eight of SEPTA's existing rail services: the R7 line from Center City to Trenton, the R3 line to West Trenton, the R8 to Newtown—not currently in use—the R2 to Warminster, the R5 to Doylestown, the R6 extension to Plymouth Meeting, the R6 to Norristown and the R5 to Exton and Downingtown, for easy employment access, both from distant suburban locations, as well as from Center City Philadelphia and the parts of the region which lie between the cross-county line and Center City.

With implementation of this cross county Metro service, SEPTA would be able to create a series of transportation centers throughout the region. With a focus upon this particular cross county service, a series of transit centers would provide easy connections to all parts of the region using rail, bus, van or auto, very similar to the concept now in place at the Norristown Transportation Center and at 69th Street Terminal. These major transportation centers would have large park-and-ride lots for traditional commuters, with easy access from major roadways directly into the parking lot, and standardized, easily recognized signage directing auto users to the park-and-ride facility, perhaps even using electronic signage to convey messages on the next scheduled departing trains. In addition, these terminals would be focal points for a local bus system enabling riders to have quick, easy access from the station to the employment centers in the area and also to nearby residential centers, thereby providing mobility without the use of the automobile. Obviously, these transportation centers would also function as a transfer point for rail-to-rail commuters who might be headed outbound from the city and who are changing trains to the Cross County Metro to get to an employment center.

The concept of the Cross County Metro is new to the Philadelphia area and perhaps even new to the United States. However, it is uncannily similar to the very same concept that has been utilized by highway planners in planning beltways around major cities in the United States to foster suburban travel. The Cross County Metro is really this same concept applied to mass transportation, and it can have a far more beneficial effect on reducing road congestion than any other single investment that the public can make. Compact European cities thrive in spite of severely constrained auto use because they have built a network of radial and peripheral transit lines.

In order to present a case for a Cross Country Metro, it is essential to demonstrate its feasibility both as an engineering endeavor and an economic investment. Therefore, there are three actions which would be helpful in carrying out the planning for this project:

First, a feasibility study to be conducted which would look at the alignment, the demographics, the potential for ridership and its impact upon development along the corridor; and,

Second, preliminary engineering which would establish: the guidelines and specifications for the work to be carried out; the design of the fixed facilities that would be needed to run the operation; and the cost envelope upon which further decisions can be based.

Third, a preliminary environmental impact analysis.

The $200,000 in the bill will allow work on these important tasks to begin and I thank the committee for showing the foresight to include funding for both of my projects in the bill before the House today.

Mr. BORSKI. Mr. Chairman, I rise in strong support of H.R. 5229, Department of Transportation appropriations for fiscal year 1991.

This legislation provides urgently needed funds for improving the Nation's transportation infrastructure. The roads, bridges, airways and public transit which move our citizens, goods and services across America need Federal investment. This bill supplies that Federal investment and a genuine commitment to economic development through infrastructure.

After a decade of neglect, our roads, airports and public transit systems are severely congested and stretched beyond their capacities. Transportation gridlock is reducing U.S. economic competitiveness, lowering air quality and threatening the future well-being of our people.

H.R. 5229 provides the funding necessary to address many of these problems.

The bill appropriates $13.1 billion in fiscal year 1991 for the Transportation Department and related agencies. This is $32 million more than what was spent in fiscal year 1990 and $1.2 billion more than requested by the administration.

H.R. 5229 provides major increases in aviation spending to expand airports, modernize air traffic control and to improve air safety.

One of the most important features of the legislation is authorization to spend down the estimated $7.6 billion surplus in the Airport and Airways Trust Fund. These moneys were collected from the travelilng public for the specific purpose of financing improvements to the Nation's air transportation system. It's time we honor that commitment and spend these moneys to meet the tremendous growth in demand for air travel.

My own Philadelphia International Airport is a good example. To meet the growing air transportation needs of the more than 3 million people who live and work in the Delaware Valley, and the hub operations of U.S. Air and Midway Airlines, Philadelphia International has embarked upon a $1 billion expansion program. This expansion is being financed with moneys from the Airport and Airway Trust Fund. Millions of dollars are being used to build new terminals and parking facilities, resurfacing and for a planned doubling of airport airway and taxiway capacity.

H.R. 5229 also appropriates $2 billion for mass transit programs and it authorizes the release of $1.2 billion from the mass transit account of the Highway Trust Fund for discretionary grants, providing a total of $3.2 billion for UMPTA in fiscal year 1991.

This represents an increase of $156 million over fiscal year 1990 in the face of the administration's repeated requests for significant reductions.

Philadelphia's regional public transit system, SEPTA, will receive more than $100 million for operating and capital expenditures in fiscal year 1991 as a result of this legislation.

In this legislation, the Federal Government recognizes its duty to provide for our national infrastructure. Thanks to the language of my friend from Philadelphia, the House majority whip, WILLIAM H. GRAY III, it also spurs States to do more to preserve our Nation's economic development through infrastructure. Every State should have a dedicated source of funding for public transit. Thanks to this bill, and this language, every State will have one now.

However, unlike the Airport and Airway Trust Fund, the bill fails to authorize the spending down of an estimated $3.5 billion surplus in the mass transit account of the Highway Trust Fund.

After years of severe cuts by the Reagan and Bush administrations, current Federal transit spending levels are just over one-half of what they were a decade ago, without adjusting for inflation. If we expect to provide adequate public transit service to our citizens, alleviate the gridlock on our highways and improve air quality, we must spend substantial sums to rebuild and modernize the Nation's transit systems.

That means spending down the huge surpluses in the mass transit account of the Highway Trust Fund. And I intend to introduce legislation in the near future to do just that.

Finally the bill appropriates substantial sums for improving our roads, bridges, and highway safety programs. The bill specifically appropriates $14.5 billion from the Highway Trust Fund for construction and repair of the Interstate System and secondary roads and bridges. This amount is $2.5 billion more than the fiscal year 1990 level, and $2.5 billion more than requested by the administration.

Mr. Chairman, I strongly support H.R. 5229 and urge my colleagues to do the same.

Mr. SKAGGS. Mr. Chairman, I'd like to express my support for the 1991 transportation appropriation bill. In particular, I want to thank the distinguished chairman and members of the subcommittee for once again showing their committment and support for the new Denver International Airport.

As a member of the Public Works and Transportation Committee, I'm pleased that the committee has appropriated the full amount we expect to authorize for the Airport Improvement Program—$1.8 billion. This is 26 percent more than the amount appropriated in 1990, and bodes well for all of our Nation's airports—including the new Denver airport. Just as important, it marks a major step along what I hope will be a continuing path toward spending down the large surplus in the aviation trust fund.

The bill includes $60 million for air traffic control equipment for the new airport, earmarked to be spent from the Federal Aviation Administration's Facilities and Equipment [F&E] budget. This comes on top of the $50 million in F&E funds we voted for last year. By approving this vital funding well in advance, we are doing our part to assure that the new Denver airport is up and running—or, rather, flying—on time.

There is also language in the bill specifically supporting Secretary of Transportation Samuel Skinner's intention to obligate $25 million in fiscal year 1991 discretionary money for Denver. As my colleagues know, the Secretary issued a "letter of intent" to grant the new Denver airport approximately $500 million. So, what we're doing here today is saying "yes, Mr. Secretary, we support your plan." And, my colleagues, it's a good plan to support.

Our new airport in Colorado is the only major airport start planned for the next decade. Located in the middle of the Nation, the airport will be the modern gateway to the new West, as well as the channel for much of the air traffic from West to East. Yes, this new airport will be built in Colorado, but it will be used by citizens throughout the Nation and around the world.

Because of your continued support, the new Denver International Airport is on course. And our world class airport will lead the Nation's aviation system into the 21st century.

Finally, I would like to thank the chairman and the members of the subcommittee for including $17.6 million for construction of an HOV/bus lane on I–25 to serve the northern metro-Denver area. This marks the fifth consecutive year that Congress has approved funding for this important project, which is designed to address the Denver area's acute transit requirements as well as improve regional air quality. If we are going to make real headway in our fight for clean air, we must continue to encourage and support important mass transit projects such as the HOV/bus lane.

Our strength as a nation depends on a safe, efficient and environmentally sound public transportation system. And this bill provides the critical funding to maintain and improve that system. I'm glad to have the chance to support it.

Mr. HAMMERSCHMIDT. Mr. Chairman, I want to express my concern regarding the provision in H.R. 5229 which appropriates approximately $107.7 million for rent payments from the Department of Transportation to the General Services Administration. The budget request for GSA-assessed rent is $119.4 million, over $11 million more than is provided for in H.R. 5229.

By law, GSA charges all Federal agencies rent to pay for space and services at rates which are approximately equal to commercial charges for comparable space and services in the area. The rent revenues from Federal agencies are deposited into GSA's Federal buildings fund. This Federal buildings fund is a revolving fund which funds all operations of GSA's public buildings service—including construction of buildings, the repair and alteration of existing buildings, lease payments to private landlords, and the operation and management of Federal space.

By limiting the amount of funds appropriated for the rental of space, the Appropriations Committee has directly affected the ability of GSA to provide adequate space and services to Federal tenants. As the ranking minority member of the Public Works Committee, I can assure you that our committee regularly receives requests from Members of Congress to have Federal buildings constructed in their districts. If all agencies had their rental accounts capped as has been done with DOT, GSA could hardly afford to maintain the build-

ings we now have, let alone construct needed new facilities across the country.

This leads me to a rather ironic point. The treasury-postal service-general government appropriations bill which will be considered by the House shortly include $50 million in site acquisition funds for a new headquarters facility for the Department of Transportation—a project which will ultimately cost close to $700 million. Where will these construction funds come from? The answer is obvious. They will come from the Federal buildings fund, the same source of funds which would be decreased as a result of this cap on rent.

Mr. Chairman, if the Appropriations Committee wants to reduce funding for DOT, this is not the place to do it. DOT has an obligation to pay the amount of rent it is assessed by GSA. By capping this rent, we will directly and very adversely affect the operations of GSA's Public Buildings Service. I hope that this can be corrected as H.R. 5229 moves through the legislative process and that these caps will not be included in other appropriations bills we will consider.

Mr. WELDON. Mr. Chairman, I rise in support of H.R. 5229, the Department of Transportation Appropriations Act for Fiscal Year 1991. This is one of the most important pieces of legislation which we will pass this year.

Two months ago I came to the well of this Chamber to speak about the Clean Air Act amendments. I strongly supported the bill because I recognize the importance of promoting and protecting our environment. But that was not enough. Supporting H.R. 5229 will help strengthen our mass transit system. And as we all know, public transportation systems help reduce energy consumption, toxic emissions, and congestion on our highways.

There are many specific provisions of this act that I could cite to justify my support. My colleagues have already outlined many of them, so I will focus on a small section which will help the Southeastern Pennsylvania Transportation Authority [SEPTA], the mass transit system which serves my congressional district.

Philadelphia is the only metropolitan area with a population of more than 3 million people which lacks a dedicated source of funding for public transportation. SEPTA cannot make long-term capital improvement plans because they must compete every year with other more politically attractive programs for the limited resources available at the State level. It is no wonder that SEPTA is strained beyond capacity and badly in need of repairs.

I have worked with Congressman GRAY to develop H.R. 4284, which would deny some Federal highway funds to States which do not have a dedicated funding source for mass transit systems in major metropolitan areas. While this may put a fright into some of my colleagues, there is no cause for alarm. The only city affected is Philadelphia, and Congressman GRAY and I have undertaken this venture specifically because we are concerned about the deterioration of the SEPTA system.

This legislation will require the State government to authorize a regional or local mass transit tax or establish a statewide revenue stream for this purpose. As the former chairman of Delaware County Council, I generally opposed the intrusion of the Federal Government in State and local issues. I reluctantly support the inclusion of this provision, however, because of the dire need to improve SEPTA's funding and the apparent unwillingness of the State legislature to take this action on their own.

Mr. Chairman, I hope that all of my colleagues will recognize the importance of this provision to the future mass transit in the Philadelphia region and join me in support of H.R 5229.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 5229, the Department of Transportation appropriations bill for fiscal year 1991, and to thank the gentleman from Florida, the chairman of the subcommittee, and the gentleman from Pennsylvania, ranking member of the subcommittee, for their consideration in including language in the report on the bill directing the Secretary to give priority to the Santa Clara River Bridge in the allocation of discretionary bridge funds.

The Highway 101 Bridge across the Santa Clara River is perhaps the last remaining bottleneck on Highway 101 and is in urgent need of repair and expansion to accommodate the increased traffic from interstate and through vehicles from Highways 1 and 101. It is also the major link between the cities of Oxnard and Ventura in my district.

I appreciate the committee's attention to this problem and urge passage of the bill.

Mr. SHAW. Mr. Chairman, today I rise in strong support of H.R. 5229, the transportation appropriations bill for fiscal year 1991. I would like to bring to my colleagues' attention a project contained in this bill that is of tremendous importance to the people of Broward County, FL.

The project to which I refer is a tunnel that would be constructed under the intracoastal waterway [ICWW] in Fort Lauderdale. I am pleased that the Transportation Subcommittee has included $4.343 million in this bill for this much needed project.

Three years ago, Congress acknowledged this problem by authorizing and appropriating funds for a feasibility report, which was done by the Federal Highway Administration and the Florida Department of Transportation. This report was completed in 1988 and documented the crucial need and importance of such a project. As a result of that report, a consensus emerged among those who were knowledgeable about this situation that a tunnel was the best, most sensible and realistic course of action.

Presently, there is a drawbridge that spans the ICWW; however, this bridge is old, requires costly repairs and experiences frequent openings each day. In 1986, this bridge opened an average of 43 times a day, and today it opens as often as every 15 minutes. This has resulted in long lines of vehicular traffic averaging well over a half mile in both the eastbound and westbound directions, as well as an alarmingly high accident rate in this area. The accident ratio of 1.87 accidents per million vehicles using the facility was above the statewide average of 1.28 for similar facilities. The 17th Street Bridge is the most heavily traveled route across the ICWW in Broward County and is only getting worse.

Twenty percent of daytime traffic using the facility has experienced stop delays resulting from bridge openings. Additionally, this intolerable traffic flow is increasing as water and vehicular traffic increases in the Fort Lauderdale area.

Such conditions also have a severe impact on response times to locations east of the ICWW for the Broward County Emergency Medical Services [EMS], whose ambulance and emergency vehicles use the crossing an average of 12 times a day. Not only would a free flow facility, such as the proposed tunnel, greatly improve response times and medical care to the oceanside community, but it would eliminate the long lines and reduce the number of accidents in this area.

In addition to vehicular traffic, water vessel traffic has also been inconvenienced by the bridge openings. Water vessels are required to wait a minimum of 15 minutes between bridge openings, causing long lines along the ICWW and creating navigational problems for Port Everglades and its associated shipping traffic. Since the drawbridge is the busiest entry and exit point for the intracoastal waterway in Fort Lauderdale, both water and vehicular traffic will continue to suffer, particularly due to Port Everglades expansion as well as a new convention center which is now under construction and due to open in the fall of 1991. Situated on 33 acres at the northern end of Port Everglades, the convention center is bordered by the intracoastal waterway, the Southeast 17th Street Causeway, and Eisenhower Boulevard.

The cost of maintaining the status quo of the existing bridge in terms of total delay and accident costs was $29 million—1987 dollars—over a 50-year period. In addition, the bridge will be functionally obsolete—can not carry the traffic demands—by the early 1990's, due to a projected 2.5 percent annual increase in bridge openings and a 1.5 percent projected annual increase in traffic volume. Clearly, a sizable amount of money could be saved by replacing the bridge with a free flow alternative. A tunnel under the ICWW would be the most efficient and viable alternative, due to the fact that a new bridge would still have to be a drawbridge in order to accommodate high mast vessels. In addition, the approach roads and ramps to this bridge would have to be built so high that the surrounding property values would be destroyed.

Mr. Chairman, the city of Fort Lauderdale, Broward County, and the State of Florida have each committed to provide funds for this project. There is no opposition to this project on its merits.

Procedurally, it would have been preferable to go through the normal authorization process, but that simply was not feasible this year. After extensive consultation with other Members, and the leadership of the respective authorizing and appropriating committees, I succeeded in persuading the Transportation Appropriation Subcommittee that this project was so important and timely that some limited, initial funding was imperative.

My good friend and Florida colleague, BILL LEHMAN, has been of great assistance and agrees that this is a meritorious project. I support his bill, and strongly urge approval of this

legislation. Thank you for your consideration of my remarks.

Mr. FAZIO. Mr. Chairman, I rise today in strong support of the transportation appropriations bill for fiscal year 1991. I would like to take this opportunity to commend the chairman, Mr. LEHMAN and the ranking minority Member, Mr. COUGHLIN, and the staff for their hard work in crafting this important bill.

H.R. 5229 provides $13.1 billion for the Programs of the Department of Transportation and related agencies. This represents an increase of $32 million over the amount appropriated for fiscal year 1990. There are many provisions in this bill that are of interest to all of our constituents, therefore, I would like to comment on a few of them.

H.R. 5229 provides a 14-percent increase over the fiscal year 1990 level for the Federal Aviation Administration: $6.4 billion is slated for FAA programs which include; operations on a 24-hour daily basis of the national air traffic system; establishment and maintenance of a national system of aids to navigation; establishment and surveillance of civil air regulations to assure safety in aviation; development of standards, rules and regulations governing the physical fitness of airmen as well as the administration of an aviation medical research program; administration of the research and development program; and administration of the Federal grants-in-aid program for airport construction.

Also, the bill provides $3.2 billion for the operations of the Coast Guard, $121 million more than the fiscal year 1990 program level. The Coast Guard certainly deserves an increase in funding as its responsibilities have grown considerably over the past few years. The allocated moneys will be used for search and rescue, navigation aids, marine safety, marine environmental protection, enforcement of laws and treaties, marine science and ice operations, drug interdiction, and military readiness.

In addition, I want to mention my continued support for Amtrak funding. I am pleased that the bill recommends a total funding level of $632 million in fiscal year 1991. Since 1981 Amtrak has made substantial improvement in its financial performance, especially as it relates to reducing the cost of providing national rail service. Amtrak has increased its revenues, its revenue passenger miles, and the quality of its service despite steadily decreasing levels fo Federal financial support.

I would now like to turn my attention to certain items in H.R. 5229 which directly affect the Fourth Congressional District of California.

The bill includes funding for the installation of two new instrument landing systems [ILS] at Sacramento Metropolitan Airport. Currently, Metro Airport operates with only one aging ILS on the west runway, leaving the airport vulnerable in bad weather or if a catastrophic problem with the present ILS system should occur.

Metro Airport's ability to continue providing reliable service to air travelers in Sacramento is dependent upon its ability to operate in poor weather conditions. The new ILS system on the west runway, together with the additional ILS system on the east runway will help ensure the continued, safe operation of the airport during inclement weather conditions.

Also included in the bill is funding for the installation of an ILS at Lincoln Municipal Airport in Placer County, CA. While the Lincoln Airport is not physically in my district, it does serve as the reliever aiport for the Sacramento Metro Airport. Lincoln currently has no ILS system even though its volume of air traffic continues to increase at a rapid pace.

Finally, Mr. Chairman, H.R. 5229 contains funding for two feasibility studies on Solano County, CA. The first study, at a cost of $135,000, involves the lowering of railroad tracks underground at key crossings along the Southern Pacific Railroad tracks in Dixon, CA. The city's main fire station is located on the opposite side of the tracks of major residential areas. Consequently, over half of Dixon's population is cut off from key emergency services on a frequent basis. Moreover, three fatalities have occurred at these crossings since 1987 and over 1,250 school children cross these tracks daily to attend school. We simply can't afford to gamble with their lives any longer.

The second feasibility study would explore alternatives for the construction of a high-level bridge over the Sacramento River and the expansion of Highway 12 in Rio Vista, CA. Currently, Rio Vista experiences severe traffic congestion due to the high volume of commuter traffic on Highway 12 and the boat traffic on the Sacramento River that must pass through the Rio Vista Bridge. The study will locate the best bypass route, estimate traffic patterns and construction costs, and determine possibilities for funding the project. The cost of the study is $200,000. The fiscal year 1991 transportation appropriations bill contains $100,000 for the study. The other half of the funds will be provided by the city of Rio Vista.

All of the projects I just mentioned are vitally important to meeting the transportation needs of the residents in the Sacramento-San Francisco region. However, H.R. 5229 goes far beyond taking care of just local and regional transportation needs. This measure, through Chairman LEHMAN's leadership, lays the groundwork for meeting the transportation demands of future generations by calling for a reinvestment of capital in our transportation infrastructure. Mr. Chairman, H.R. 5229 is fiscally responsible and recommends appropriate funding levels for some of our most important transportation needs. I urge my colleagues to support its passage.

Mr. McMILLEN of Maryland. Mr. Chairman, I rise in strong support of the transportation appropriations bill for 1991 line item of $108 million for the Washington Metrorail.

Mr. Chairman, this amount includes $64.1 million debited against the Stark-Harris authorization for completion of 89.5 miles of the system. Also included in this appropriations figure is an additional $43.9 million toward covering the cost of preliminary design, real estate acquisition, and other activities associated with the construction of the final 13.5 miles, contingent on enactment of new authorization language.

Mr. Chairman, the Washington Metro has served us ably since 1976, and has earned the nickname, "The Nation's Subway." This is because it transports annually over 19 million visitors to the Nation's Capital, a burden that no other metro system in this country faces. Further it is the main conveyance for thousands of Federal Government employees, including Members and congressional staff. Clearly, metrorail has proven to be the workhorse of the metro area transportation system.

Each successive Congress and administration since the 1950's has lent its support to this very worthwhile infrastructure project. I hope that you will join many of our colleagues in supporting this measure.

Mr. COUGHLIN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. LEHMAN of Florida. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 5229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

IMMEDIATE OFFICE OF THE SECRETARY

For necessary expenses of the Immediate Office of the Secretary, $1,215,000.

IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Immediate Office of the Deputy Secretary, $412,000.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $6,420,000.

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Policy and International Affairs, $8,810,000.

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, $2,390,000, including not to exceed $40,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, $2,255,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $21,745,000.

OFFICE OF THE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Public Affairs, $1,389,000.

EXECUTIVE SECRETARIAT

For necessary expenses of the Executive Secretariat, $918,000.

CONTRACT APPEALS BOARD

For necessary expenses of the Contract Appeals Board, $508,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $1,353,000.

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

For necessary expenses of the Office of Commercial Space Transportation, $725,000.

OFFICE OF ESSENTIAL AIR SERVICE

For necessary expenses of the Office of Essential Air Service, $1,251,000.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, $3,465,000, of which $2,600,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: *Provided,* That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $4,777,000: *Provided,* That notwithstanding any other provision of law, there may be credited to this account funds received from user fees established for regulatory services of the Office of Commercial Space Transportation.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $86,264,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriations Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation.

PAYMENTS TO AIR CARRIERS

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $23,600,000, to remain available until expended: *Provided,* That none of the funds in this or any other Act shall be available for the implementation or execution of programs in excess of $23,600,000 for the Payments to Air Carriers program in fiscal year 1991: *Provided further,* That this limitation shall only be in effect if contract authority is enacted for the Payments to Air Carriers program for fiscal year 1991.

RENTAL PAYMENTS

For necessary expenses for rental of headquarters and field space and related services assessed by the General Services Administration, $107,668,000: *Provided,* That of this amount, $15,108,000 shall be derived from the Highway Trust Fund, $28,508,000 shall be derived from the Airport and Airway Trust Fund, and $419,000 shall be derived from the Pipeline Safety Fund.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $2,352,000,000 is authorized to be appropriated, derived by transfer, or otherwise provided in "in kind" commodities and services for Coast Guard operating expenses in fiscal year 1991; of which $2,192,000,000 is hereby appropriated, of which $35,000,000 shall be expended from the Boat Safety Account, notwithstanding any other provision of law: *Provided,* That of the funds provided for operating expenses for fiscal year 1991, in this or any other Act, not less than $602,600,000 shall be available for drug enforcement activities: *Provided further,* That the number of aircraft on hand at any one time shall not exceed two hundred and twenty-two, exclusive of planes and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $391,994,000, to remain available until September 30, 1995, of which $155,750,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment; $101,700,000 shall be available to acquire new aircraft and increase aviation capability; $20,500,000 shall be available for other equipment; $81,385,000 shall be available for shore facilities and aids to navigation facilities; and $32,659,000 shall be available for personnel, survey and design, and related costs: *Provided,* That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: *Provided further,* That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: *Provided further,* That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: *Provided further,* That the requirements for such written warranties shall not cover combat damage: *Provided further,* That none of the funds provided herein for Acquisition, Construction and Improvements shall be made available for personnel compensation and benefits in excess of five hundred eighty-six full time equivalent staff years.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $21,500,000.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $3,747,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $437,300,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $74,306,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $24,800,000, to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

OFFSHORE OIL POLLUTION COMPENSATION FUND

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary to the extent that appropriations are not adequate to meet the obligations of the Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 in fiscal year 1991 for the "Offshore Oil Pollution Compensation Fund".

DEEPWATER PORT LIABILITY FUND

The Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary to the extent that available appropriations are not adequate to meet the obligations of the Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $50,000,000 in fiscal year 1991 for the "Deepwater Port Liability Fund".

BOAT SAFETY

(AQUATIC RESOURCES TRUST FUND)

For payment of necessary expenses incurred for recreational boating safety assistance under Public Law 92-75, as amended, $35,000,000, to be derived from the Boat

Safety Account and to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, establishment of air navigation facilities and the operation and maintenance of aircraft, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, purchase of four passenger motor vehicles for replacement only, $4,037,000,000, of which $1,994,346,000 shall be derived from the Airport and Airway Trust Fund: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities and for issuance of airmen and aircraft certificates, including processing of major repair and alteration forms: *Provided further,* That none of these funds shall be available for new applicants for the second career training program or for a pilot test of contractor maintenance: *Provided further,* That the immediately preceding proviso shall not prohibit the augmentation of the existing field maintenance work force if it is determined to be essential for the safe operation of the air traffic control system: *Provided further,* That, of the funds available under this head, $4,000,000 shall be made available for the Federal Aviation Administration to enter into contractual agreement with the Mid-American Aviation Resource Consortium in Minnesota to operate an air traffic controller training program.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities as authorized by the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301 et seq.), including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1995, $2,138,615,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That none of the funds under this head shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges for any capital project the Federal share of which is in excess of 50 per centum of the total cost of such project.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301 et seq.), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $195,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $1,400,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,800,000,000 in fiscal year 1991 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended, of which not to exceed $117,509,900 shall be available for letters of intent issued prior to July 1, 1990: *Provided further,* That, for each percentage point the amount made available for fiscal year 1991 from the Airport and Airway Trust Fund under sections 505, 506(a), 506(b), and 506(c) of the Airport and Airway Improvement Act of 1982 is less than 75 percent of the aggregate of the amount of funds made available for fiscal year 1991 under sections 505, 506(a), and 506(b) of such Act and the amount of funds made available for fiscal year 1991 for operations of the Federal Aviation Administration, the limitation on commitments shall be reduced by such percentage point but not to an amount less than $1,650,000,000.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for the implementation or execution of programs under this head the obligations for which are in excess of $9,970,000 during fiscal year 1991. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $245,400,000 shall be paid in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That not to exceed $56,286,000 of the amount provided herein shall remain available until expended: *Provided further,* That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities, and private sources, for training expenses incurred for non-Federal employees.

UNIVERSITY TRANSPORTATION CENTERS

(HIGHWAY TRUST FUND)

For necessary expenses for university transportation centers, as authorized by section 21(i)(2) of the Urban Mass Transportation Act of 1964, as amended, $5,000,000 to be derived from the Highway Trust Fund (other than the Mass Transit Account).

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

(HIGHWAY TRUST FUND)

For necessary expenses in carrying out the provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $5,450,000.

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $10,000,000, to be derived from the Highway Trust Fund: *Provided,* That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $10,000,000 in fiscal year 1991 for "Highway-Related Safety Grants".

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the

Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $15,000,000, of which $10,000,000 shall be derived from the Highway Trust Fund.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $14,500,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1991.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $14,300,000,000, or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

During fiscal year 1991 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $42,500,000.

MOTOR CARRIER SAFETY

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939-940), $40,000,000, of which $1,782,000 shall remain available until expended.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97-424 $63,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $61,500,000 for "Motor Carrier Safety Grants".

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970 for the Baltimore-Washington Parkway, to remain available until expended, $9,900,000, to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary.

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $10,000,000, to be derived from the Highway Trust Fund.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

For necessary expenses to carry out construction projects as authorized by Public Law 99-500 and Public Law 99-591, $20,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development through widening and resurfacing of highways on the Federal-aid primary system and on roads on the Federal-aid urban system, as authorized by Public Law 99-500 and Public Law 99-591, $9,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway-railroad grade crossing separations in Mineola, New York, that demonstrates methods of enhancing highway-railroad crossing safety while minimizing surrounding environmental effects, as authorized by Public Law 99-500 and Public Law 99-591, $8,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY WIDENING DEMONSTRATION PROJECT

For necessary expenses to carry out a demonstration project to improve U.S. Route 202 in the vicinity of King of Prussia, Pennsylvania, as authorized by Public Law 100-202, $2,000,000, to remain available until expended.

BRIDGE IMPROVEMENT DEMONSTRATION PROJECT

Of the amount appropriated to carry out a highway demonstration project in the vicinity of Jacksonville, Florida, by the Department of Transportation and Related Agencies Appropriations Act, 1990 (103 Stat. 1079), and not expended, $2,000,000 shall be available for 80 percent of expenses necessary to carry out construction of new roadways on Blount Island, Florida, without regard to whether or not such expenses are incurred in accordance with section 1.9 of title 23 of the Code of Federal Regulations.

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project between Paintsville and Prestonsburg, Kentucky, that demonstrates the safety and economic benefits of widening and improving highways in mountainous areas, $4,000,000, to remain available until expended.

INTERSECTION SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to complete Douglas Street in the vicinity of El Segundo, California, for the purpose of demonstrating methods of improved highway and highway safety construction, $3,600,000, to remain available until expended.

CLIMBING LANE AND HIGHWAY SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project on U.S. Route 15 in the vicinity of Tioga County, Pennsylvania, for the purpose of demonstrating methods of improved highway and highway safety construction, $12,000,000, to remain available until expended.

INDIANA INDUSTRIAL CORRIDOR SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary for an improved route between Logansport and Peru, Indiana, for the purpose of demonstrating the safety and economic benefits of widening and improving rural highways, $3,000,000, to remain available until expended.

HIGHWAY CAPACITY IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to improve U.S. Route 231 between U.S. Route 90 and the City of Campbellton in Jackson County, Florida, for the purpose of demonstrating methods of expanding a two-lane segment of a U.S. highway to four lanes, $2,000,000, to remain available until expended.

ALABAMA HIGHWAY BYPASS DEMONSTRATION PROJECT

For 80 percent of the expenses necessary for the construction of a highway bypass project in the vicinity of Jasper, Alabama, for the purpose of demonstrating methods of improved highway and highway safety construction, $10,000,000, to remain available until expended.

KENTUCKY BRIDGE DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to replace the Glover Cary Bridge in Owensboro, Kentucky, for the purpose of demonstrating methods of improved highway and highway safety construction, $4,000,000, to remain available until expended.

VIRGINIA HOV SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to construct High Occupancy Vehicle lanes on Interstate Route 66 between Interstate Route 495 and U.S. Route 50 for the purpose of demonstrating methods of increasing highway capacity and safety by the use of highway shoulders to construct HOV lanes, $8,500,000, to remain available until expended.

URBAN HIGHWAY CORRIDOR AND BICYCLE TRANSPORTATION DEMONSTRATION PROJECTS

For 80 percent of the expenses necessary to improve and upgrade the M-59 urban highway corridor in southeast Michigan for the purpose of demonstrating methods of improving congested urban corridors that have been neglected during construction of the Interstate system, $10,000,000, to remain available until expended, together with $1,000,000, to remain available until expended, to provide for 80 percent of the expenses necessary for a bicycle transportation demonstration project in Macomb County, Michigan.

URBAN AIRPORT ACCESS SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to improve and upgrade access to Detroit Metropolitan Airport in southeast Michigan, $11,000,000, to remain available until expended, for the purpose of demonstrating methods of improving access to major urban airports.

PENNSYLVANIA RECONSTRUCTION DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to upgrade, widen, and reconstruct the sections of Pennsylvania Route 56 known as Haws Pike and the Windber By-Pass, for the purpose of demonstrating methods of promoting economic development and highway safety, $20,000,000, to remain available until expended.

PENNSYLVANIA TOLL ROAD DEMONSTRATION PROJECT

For necessary expenses for the Monongahela Valley Expressway, $6,000,000, to remain available until expended: *Provided,* That these funds together with funds made available from the Highway Trust Fund, for Federal participation in the toll highway project being carried out under section 129(j) of title 23, United States Code, in the State of Pennsylvania shall be subject to section 129(j) of such title, relating to Federal share limitation.

HIGHWAY DEMONSTRATION PROJECTS

For up to 80 percent of the expenses necessary for certain highway projects that demonstrate methods of improving safety, reducing congestion, or promoting economic development, $23,800,000, to remain available until expended.

HIGHWAY DEMONSTRATION PROJECTS—PRELIMINARY ENGINEERING

For up to 80 percent of the expenses necessary to carry out feasibility studies, preliminary engineering, environmental studies, and right-of-way acquisition for certain highway and bicycle transportation projects that demonstrate methods of improving safety, reducing congestion, or promoting economic development, $46,050,000, to remain available until expended.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended) and the National Traffic and Motor Vehicle Safety Act, $70,075,500, of which $30,197,000 shall remain available until expended.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under chapter 4, title 23, United States Code, to be derived from the Highway Trust Fund, $38,960,500, to remain available until expended.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 402, 406, and 408, and section 209 of Public Law 95-599, as amended, to remain available until expended, $104,825,000, to be derived from the Highway Trust Fund: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $114,655,000 in fiscal year 1991 for "State and community highway safety grants" authorized under 23 U.S.C. 402: *Provided further,* That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $10,967,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further,* That not to exceed $5,078,000 shall be available for administering the provisions of 23 U.S.C. 402: *Provided further,* That notwithstanding any other provision of law, none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1982 through 1991.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $13,404,000, of which $1,669,000 shall remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further,* That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further,* That such additional sums as may be necessary, for payment on the first deed of trust, may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

LOCAL RAIL SERVICE ASSISTANCE

For necessary expenses for rail assistance under section 5(q) of the Department of Transportation Act, as amended, $7,000,000, to remain available until expended: *Provided,* That notwithstanding any provision of sections 5(f) through 5(p) of said Act, from such funds $36,000 shall be reserved for each eligible State for the purposes of either section 5(i) or section 5(h) of said Act, provided that timely application is made in accordance with procedures employed by the Secretary, and the balance of such funds is reserved for use only under sections 5(h)(3)(B)(ii) and 5(h)(3)(C) of said Act: *Provided further,* That no State may apply for fiscal year 1991 funds under section 5 of said Act until such State has obligated all funds granted to it under said section 5 in previous fiscal years.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $34,110,000, of which $1,203,000 shall remain available until expended: *Provided,* That there may be credited to this appropriation funds received from non-Federal sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $25,212,000, to remain available until expended: *Provided,* That of this amount $250,000 is available until expended for a grant to the Long Island Rail Road for a study on the potential impact of the Long Island Rail Road Intermodal Project, including the potential relief of bridge and highway congestion in the New York Metropolitan Area: *Provided further,* That any such grant shall be matched on a dollar for dollar basis by the State of New York and/or the State of New Jersey: *Provided further,* That up to $400,000 of the funds made available in fiscal year 1990 shall be made available for a grant to the National Railroad Passenger Corporation to undertake research to improve access to rail passenger cars from station platforms for individuals with disabilities and elderly persons.

SETTLEMENTS OF RAILROAD LITIGATION

For the payment of promissory notes issued pursuant to section 210(f) of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, $3,097,000, to remain available until expended, together with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such notes.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and the Rail Safety Improvement Act of 1988, $16,000,000, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $482,000,000, of which $343,080,000 shall be available for operating losses incurred by the Corporation and for labor protection costs, and of which $138,920,000 shall be available for capital improvements. Funds made available for operating losses and for labor protection costs which remain unobligated as of September 30, 1991, may be available for capital improvements: *Provided,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further,* That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1991: *Provided further,* That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): *Provided further,* That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Federal sources: *Provided further,* That, notwithstanding any other provision of law, the National Railroad Passenger

Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short-term avoidable costs of operating such service in the second year of operation and 100 per centum of the short-term avoidable operating costs for each year thereafter: *Provided further,* That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Amtrak sources.

PAYMENTS ON BEHALF OF THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to pay obligations and liabilities of the National Railroad Passenger Corporation, $150,000,000: *Provided,* That of this amount $133,000,000 is available only for the payment of excise tax liabilities under section 3221 of the Internal Revenue Code of 1986 due in fiscal year 1991 in excess of amounts needed to fund benefits for individuals who retired from the National Railroad Passenger Corporation and to beneficiaries of its employees: *Provided further,* That the remaining amount of $17,000,000 is available only for the payment of obligations of the National Railroad Passenger Corporation under section 358(a) of title 45 of the United States Code due in fiscal year 1991 in excess of its obligations calculated on an experience-rated basis.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That no new loan guarantee commitments shall be made during fiscal year 1991: *Provided further,* That, notwithstanding any other provision of law, the Secretary of Transportation shall sell securities or promissory notes with a principal value of at least $32,000,000 that are held by the Department of Transportation under authority of sections 502, 505-507, 509, and 511-513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, by no later than September 30, 1991: *Provided further,* That such securities or promissory notes authorized to be sold in the immediately preceding proviso shall be sold only for amounts greater than or equal to the net present value to the Government of each loan as determined by the Secretary of Transportation in consultation with the Secretary of the Treasury: *Provided further,* That the Secretary of Transportation shall transmit a written certification to the Committees on Appropriations of the Senate and House of Representatives before the consummation of each sale certifying that the amount to be realized is equal to or greater than the net present value to the Government of each loan: *Provided further,* That, notwithstanding any other provision of law, for fiscal year 1989 and each fiscal year thereafter all amounts realized from the sale of notes or securities sold under authority of this section shall be considered as current year domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That any underwriting fees and related expenses shall be derived solely from the proceeds of the sales.

REGIONAL RAIL REORGANIZATION PROGRAM

For the settlement of promissory notes pursuant to section 210 of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, $284,979, to remain available until expended, together with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such notes.

CONRAIL COMMUTER TRANSITION ASSISTANCE

For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $5,000,000, to remain available until expended.

AMTRAK CORRIDOR IMPROVEMENT LOANS

For loans to the Chicago, Missouri and Western Railroad, or its successors, to replace existing jointed rail with continuous welded rail between Joliet and Granite City, Illinois, $3,500,000: *Provided,* That any loan authorized under this section shall be structured with a maximum 20-year payment at an annual interest rate of 4 per centum: *Provided further,* That the Federal Government shall hold a first and prior purchase money security interest with respect to any materials to be acquired with Federal funds: *Provided further,* That any such loan shall be matched on a dollar for dollar basis by the State of Illinois: *Provided further,* That any such loan shall be made available no later than thirty days after enactment of this Act.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $32,770,000: *Provided,* That none of the funds provided in this Act shall be used to implement or enforce the April 25, 1989, Notice of Proposed Rulemaking, "Major Capital Investment Projects".

RESEARCH, TRAINING, AND HUMAN RESOURCES

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $8,000,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for training.

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,690,000,000, together with $5,000,000 to carry out the provisions of section 18(h) of the Urban Mass Transportation Act of 1964, as amended, to remain available until expended: *Provided,* That notwithstanding any other provision of law, of the funds provided under this head for formula grants, no more than $802,278,000 may be used for operating assistance under section 9(k)(2) of the Urban Mass Transportation Act of 1964, as amended.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,200,000,000 in fiscal year 1991 for grants under the contract authority authorized in section 21 (a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21 (a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $815,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $160,000,000, to remain available until expended.

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $108,000,000, to remain available until expended, of which $43,900,000 shall be available only upon enactment of authorizing legislation.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $10,500,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, and for expenses for conducting research and development, $16,300,000, of which $1,555,000 shall remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, coun-

ties, municipalities, other public authorities, and private sources for expenses incurred for training and for aviation information management.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, $10,367,000, to be derived from the Pipeline Safety Fund, of which $5,725,000 shall remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $30,970,000.

Mr. LEHMAN of Florida (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any points of order against title I of the bill?

Are there amendments to title I of the bill?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $2,700,000.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), $30,940,000, of which not to exceed $500 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $45,369,000: *Provided,* That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

PAYMENTS FOR DIRECTED RAIL SERVICE

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act.

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

For administrative expenses of the Panama Canal Commission, including not to exceed $10,000 for official reception and representation expenses of the Board; not to exceed $4,000 for official reception and representation expenses of the Secretary; and not to exceed $25,000 for official reception and representation expenses of the Administrator, $48,928,000, to be derived from the Panama Canal Revolving Fund: *Provided,* That none of these funds may be used for the planning or execution of non-administrative and capital programs the obligations for which are in excess of $448,497,000 in fiscal year 1991: *Provided further,* That funds available to the Panama Canal Commission shall be available for the purchase of not to exceed forty-four passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $15,000 per vehicle).

DEPARTMENT OF THE TREASURY

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

For rebate of the United States portion of tolls paid for use of the Saint Lawrence Seaway, pursuant to Public Law 99-662, $10,500,000, to remain available until expended and to be derived from the Harbor Maintenance Trust Fund, of which not to exceed $200,000 shall be available for expenses of administering the rebates.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $51,663,569: *Provided,* That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

Mr. LEHMAN of Florida (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there points of order against title II?

Are there amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Funds for the Panama Canal Commission may be apportioned notwithstanding 31 U.S.C. 1341 to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year nor may any be transferred to other appropriations unless expressly so provided herein.

SEC. 308. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation of any change in the current Federal status of the Transportation Systems Center, and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center: *Provided,* That the Secretary may plan for further development of the Transportation Systems Center and for other compatible uses of the Center's real property, provided that any such planning does not alter the Federal status of the Center's research and development operation.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing executive order issued pursuant to existing law.

SEC. 310. (a) For fiscal year 1991 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to

each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1990, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection: *Provided*, That this subsection shall not apply to funds obligated for the Kennedy Expressway rehabilitation project in Chicago, Illinois.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction that have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1991, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highway program, the strategic highway research program and amounts made available under sections 149(d), 158, 159, 164, 165, and 167 of Public Law 100-17.

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1991 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code; obligations under section 157 of title 23, United States Code; projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, section 320 of title 23, United States Code; projects authorized by Public Law 99-500, Public Law 99-591 and Public Law 100-202; or projects covered under subsections 149 (b) and (c) of Public Law 100-17.

(e) Subject to paragraph (c)(2) of this General Provision, a State which after August 1 and on or before September 30 of fiscal year 1991 obligates the amount distributed to such State in that fiscal year under paragraphs (a) and (c) of this General Provision may obligate for Federal-aid highways and highway safety construction on or before September 30, 1991, an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(f) During the period August 2 through September 30, 1991, the aggregate amount which may be obligated by all States pursuant to paragraph (e) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in fiscal year 1991 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(g) Paragraph (e) shall not apply to any State which on or after August 1, 1991, has the amount distributed to such State under paragraph (a) for fiscal year 1991 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred and twenty political and Presidential appointees in the Department of Transportation.

SEC. 312. Not to exceed $350,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 313. The limitation on obligations for the Discretionary Grants program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

SEC. 314. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan.

SEC. 315. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 316. Every 30 days, the Urban Mass Transportation Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended, including the grant number, the grant amount, and the transit property receiving each grant.

SEC. 317. Notwithstanding any other provision of law, funds appropriated in this or any other Act intended for studies, reports, training, salaries, or research, and related costs thereof including necessary capital expenses, including site acquisition, construction and equipment, are available for such purposes to be conducted through contracts, grants, or financial assistance agreements with the educational institutions that are specified in such Acts or in any report accompanying such Acts.

SEC. 318. The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

SEC. 319. ESSENTIAL AIR SERVICE COMPENSATION.—Notwithstanding any other provision of law, the Secretary of Transportation shall make payment of compensation under subsection 419 of the Federal Aviation Act of 1958, as amended, only to the extent and in the manner provided in appropriations Acts, at times and in a manner determined by the Secretary to be appropriate, and claims for such compensation shall not arise except in accordance with this provision.

SEC. 320. The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended, to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act: *Provided*, That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 321. The Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided*, That no appropriation shall be increased or decreased by more than 5 per centum by all such transfers: *Provided further*, That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

SEC. 322. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act.

SEC. 323. VESSEL TRAFFIC SAFETY FAIRWAY.—None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 324. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration instrument landing systems (along with associated approach lighting equipment and runway visual range equipment), the purchase of which was assisted by a Federal airport aid program, airport development aid program or airport improvement program grant. The Federal Aviation Administration shall accept such equipment and it shall thereafter be operated and maintained by the Federal Aviation Administration in accordance with agency criteria.

SEC. 325. INTERMODAL URBAN DEMONSTRATION PROJECT.—Funds appropriated in this Act for "Intermodal Urban Demonstration Project" shall remain available until expended.

SEC. 326. Notwithstanding any other provision of law, funds available to the Coast Guard under the head "Operating Expenses" in this Act shall be available for expenses incurred in fiscal year 1991 by the Coast Guard in responding to any oil spill.

SEC. 327. MAXI-CUBE VEHICLES.—Section 411(d) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(d)), relating to length limitations on federally assisted highways, is amended by inserting after "boat transporters" the following: "and maxi-cube vehicles".

SEC. 328. WESTSIDE LIGHT RAIL.—Notwithstanding any other provision of law, the Secretary shall, with regard to the Discretionary Grants program of the Urban Mass Transportation Administration, by September 30, 1991, issue a letter of intent and enter into a full funding agreement for the

Westside Light Rail extension, including systems related costs, between downtown Portland, Oregon, and S.W. 185th Avenue. That full funding agreement shall provide for a future amendment under the same terms and conditions set forth above, for the extension known as the Hillsboro project which extends from S.W. 185th Avenue to the Transit Center in the City of Hillsboro, Oregon. Subject to a regional decision documented in the Hillsboro project's preferred alternatives report, the Secretary shall enter into an agreement with the Tri-County Metropolitan Transportation District in Portland, Oregon, to initiate preliminary engineering on the Hillsboro project, which shall proceed independent of and concurrent with the project between downtown Portland, Oregon, and S.W. 185th Avenue.

SEC. 329. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall reduce the aggregate amount which a State may obligate for Federal-aid highways and highway safety construction programs for fiscal year 1991 by 25 percent if such State has a public authority which provides mass transportation for an urbanized area of such State with a population of 3,000,000 or more as determined under the 1980 decennial census of the United States, and if by October 1, 1990—

(1) laws of such State do not authorize a general tax-based source of revenues to take effect on or before January 1, 1992, dedicated to paying the non-Federal share of projects for mass transportation eligible for assistance under the Urban Mass Transportation Act of 1964; or

(2) the laws of such State do not authorize the establishment of regional or local tax-based sources of revenues dedicated to pay such non-Federal share or for paying operating expenses of mass transit service so as to satisfy financial capacity standards as may be required by the Secretary of Transportation.

(b) The Secretary of Transportation may restore any reductions in obligation authority made under paragraph (a) in fiscal year 1991 for any such State which meets by July 1, 1991, subparagraph (1) or (2) of paragraph (a).

(c) For purposes of this section, the terms "mass transportation", "State", and "urbanized areas" have the meaning such terms have under section 12 of the Urban Mass Transportation Act of 1964.

SEC. 330. NATIONAL WEATHER GRAPHICS SYSTEM.—None of the funds made available in this Act may be used by the Federal Aviation Administration for a new National Weather Graphics System.

SEC. 331. NATIONAL 55 MPH SPEED LIMIT ENFORCEMENT PENALTIES.—Notwithstanding sections 141(a) and 154 of title 23, United States Code, none of the funds in this or any previous or subsequent Act shall be used for the purpose of reducing or reserving any portion of a State's apportionment of Federal-aid highway funds as required by section 154(f) of title 23, United States Code, for reason of noncompliance with the criteria of that subsection during fiscal year 1989. The Secretary shall promptly restore any apportionments which, prior to enactment of this Act, were reduced or reserved from obligation for reason of noncompliance under section 154(f) during said fiscal year.

SEC. 332. Unless specifically provided in this Act, none of the funds in this Act shall be available to initiate multiyear contracts for a program which meets the criteria of a Level I or Level II major system acquisition as defined by Department of Transportation Order 4200.14 if the total value of procurement end items in the contract, including options, exceeds $100,000,000: *Provided*, That for the purposes of this section, a multiyear contract is defined as one which provides for more than one year's requirements of systems, subsystems, or components within a single contract: *Provided further*, That none of the funds in this Act shall be available to initiate contracts for major systems acquisition which include procurement options where funding for those options is scheduled to be provided prior to delivery to the Federal Government of at least fifty per centum of all units previously ordered under that contract.

Mr. LEHMAN of Florida (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there points of order against title III?

Are there amendments to title III?

□ 1450

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: At the end of title III, insert the following new section:

SEC. . For each fiscal year beginning after fiscal year 1992, the Secretary of Transportation shall withhold two percent of the amount required to be apportioned to a State (under sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title 23, United States Code) for that fiscal year if that State does not have in effect on the first day of that fiscal year a law which requires the suspension or revocation for a period of not less than 180 days of the driver's license of each person convicted of a violation of the Controlled Substances Act or convicted for any drug or narcotic offense chargeable under the laws of the State or any other State.

Mr. SOLOMON. Mr. Chairman, this amendment reduces Federal highway aid to States by 2 percent annually unless or until they establish a program that would suspend driver's licenses of convicted drug users and pushers.

I would like to speak today on a matter of great importance, combating the demand for drugs.

Currently, up to 75 percent of the money which finances the illegal drug trade in this country comes from casual drug use from middle class and upper class America.

Yes, we should continue to do everything possible to stem the tide of drugs flowing into our Nation.

Yes, we should continue to provide adequate funds to treat addicts.

And, yes, we should continue to jail—and even in some cases even execute—those involved in the sale of drugs that are murdering our children.

But, let us not kid ourselves, this is not enough.

These remedies to the war against drugs, while they are helpful, don't get to the root of the problem and they are not getting the intended results.

Our Coast Guard, and now our military, are heavily involved with drug interdiction.

We are spending billions and billions of tax dollars to treat addicts, and we are jailing pushers by the thousands in this country which are crowding our jails.

But, we could jail every pusher and every drug lord in the world today and new ones would pop up tomorrow because of the enormous profits which come from this deadly trade.

There is only one real solution and that is to eliminate the market or dramatically reduce it by eliminating the demand, not just fight the supply, but reduce the demand for drug among our people.

My amendment would reduce Federal highway funds by 2 percent annually to States that fail to suspend for a period of not less than 6 months, the driver's licenses of individuals convicted of drug offenses.

Individuals who are under the minimum age for license applications and are convicted of a drug offense would find that minimum age moved back another 6 months.

This approach will cost the Government little and will effectively and dramatically reduce the demand for drugs created by casual users.

I strongly feel that if we condition the privilege of driving to the responsibility of staying drug-free, it will send a meaningful message to our youth at a time in their lives when they are yearning for that great rite of passage into adulthood, obtaining their driver's license and more importantly, it would deter peer pressure to try drugs.

The New Jersey and Oregon Divisions of Motor Vehicles have implemented this idea with great results.

Last year alone, New Jersey suspended the driver's license of over 10,000 drug offenders.

The time has come to extend this law nationwide.

Money and rhetoric are not going to win the war against drugs.

And casual drug users are going to continue to finance the drug trade as long as they go unpunished.

But, through education and through the conditioning of privileges such as driving, to responsibilities such as remaining drug free, we can show that we are serious about putting an end to illegal drug use in this country.

Mr. Chairman, I would call the attention of the Members to a poll which was done by the Gallup organization just last week. They asked the

question: "Would you support or oppose penalties against casual users of illegal drugs such as the temporary suspension of a driver's license?" Ladies and gentleman, our constituents, 85 percent of them nationwide, said yes to that question.

We need this amendment if we are going to help save our children from this terrible problem.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I support the gentleman's amendment, and I commend him on his initiative.

Mr. Chairman, I rise in support of this amendment from my fine colleague from New York, Congressman SOLOMON. This amendment will provide a great incentive to our Nation's young people to avoid the tragedy of becoming involved in drugs.

There is nothing a young person values more highly than his or her driver's license. It is their ticket to freedom, employment, social acceptance and maturity. The risk of losing that highly prized privilege will cause many to think twice before delving into the dangerous world of illegal drugs.

It is well acknowledged that casual drug users are rarely given strict sentences. Jail time is rare and fines are inconsequential. In other words, the consequences of the temptation to experiment with illegal drugs are not grave enough to steer many away. Suspension of a drivers license however, is an effective deterrent.

Mr. Chairman, drugs are a scourge on our society and are ruining generations of our youth. Let's give our young people a strong incentive to stay clean. Not only will they benefit, but their families, communities, and the Nation as a whole will benefit from the wiser choices that will be made. I urge my colleagues to join me in supporting the Solomon amendment.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for his support. He is the ranking Republican on the full Committee on Public Works and Transportation.

Mr. LEHMAN of Florida. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not believe this bill is the appropriate vehicle for this amendment. As I indicated yesterday in my testimony before the Rules Committee, I feel this language should be reviewed by the Public Works and Transportation Committee prior to its being made in order on this bill. It is my understanding that the Public Works and Transportation Committee does not support this language. That being the case, I would urge the committee not to accept the amendment. This would allow the appropriate authorizing committee the opportunity to address this language in next year's surface transportation reauthorization bill.

Since the amendment does not go into effect until after fiscal year 1992, this would not delay the effective date for the gentleman's amendment if it is approved in the authorizing legislation.

Mr. Chairman, I urge that the amendment be defeated.

Mr. COUGHLIN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, in addition to serving as vice chairman of this Appropriations subcommittee, I have the honor of serving as vice chairman of the Select Committee on Narcotics Abuse and Control, and I rise in strong support of the amendment offered by the gentleman from New York.

In fact, a very similar provision is already included in comprehensive legislation that we introduced earlier this year by the Republican leader, myself, and other Members on this side of the aisle. We hope it will be acted upon swiftly.

The administration, in addition, approves of the concept of having the States restrict driver's licenses of those who have engaged in illegal drug use.

Mr. Chairman, the President's drug strategy represents a welcome change and approach to our drug problem. Historically we have relied on interdiction of drugs coming into our country, trying to build a wall around our country to prevent the drug use here. It has not worked.

In my earlier remarks about the Coast Guard, I called attention to the fact that we really do not know how much of the drugs coming into the country the Coast Guard interdicts. However, it is a very small percentage, indeed. So the President has changed his philosophy to try to provide for more user accountability, more street-level law enforcement, and more treatment and education.

The proposal by the gentleman from New York goes right to that user-accountability part of the President's program. It says that if one is going to use drugs, one is going to be held accountable for one's actions. Perhaps the most valuable thing that a young person can have is a driver's license. If they know they may lose that driver's license as a result of using drugs, then they will certainly think twice about it.

I commend the gentleman from New York for what he has done and hope that his amendment will pass. I urge its support.

Mr. DURBIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to commend my colleague from New York for this amendment. It is certainly timely, and it is certainly addressing a concern which we all share about drug usage in America.

But I note that the gentleman does not put this provision into effect, if I calculate correctly, until October 1993? Would that be correct?

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, the date is October 1992. The reason for that is that many State legislatures will need to have an adequate opportunity to meet and act on this kind of legislation. That is why in my discussions with the drug czar, Bill Bennett, with the administration and others, with many State legislatures like Texas, which, I believe, will need adequate time to meet—we delayed it until that time. Otherwise, I would love to make this amendment effective immediately; but we, in fairness to State legislatures, do have to give them time to act so as not to jeopardize 2 percent of their Federal highway funds.

Mr. DURBIN. Would the gentleman from New York inform the committee as to how many States presently have laws on the books which would comply with this provision?

Mr. SOLOMON. If the gentleman will yield further, there are three States to my knowledge that have enacted such a law and have it operating. I believe that there are others. But the three that we definitely know about are the States of New Jersey, Oregon, and West Virginia; and we know that it has been very successful in all three States.

Mr. DURBIN. The gentleman, I think, has identified an appropriate concern in the drug crisis facing America. But this appropriation being directed toward transportation issues, could the gentleman tell me what percentage of serious or fatal accidents are the result of drug-related usage by drivers as opposed to, for instance, alcohol?

□ 1500

Mr. SOLOMON. Mr. Chairman, I do know that alcohol-related accidents are a severe problem in this country. I do not have the figures here in the Chamber today. Most of the States do have driving-while-intoxicated laws in effect today, even to the point where many of these driver's licenses that have been suspended are then given back—restricted licenses—so that those convicted individuals could drive back and forth to work without jeopardizing their livelihood and jeopardizing the well-being of their families.

Under this legislation, those same State legislatures could do the same thing as far as drugs are concerned. Because most of the State legislatures already deal with the alcohol-related problem, this particular amendment is only applicable for the drug-related problem. We want to really send a message to young people about the drug problem.

Mr. DURBIN. Mr. Chairman, reclaiming my time, I would say to the gentleman from New York [Mr. SOLOMON] I have several concerns about it, although I certainly support his goal in introducing this amendment.

My first concern, of course, is that those States that might not be in compliance in October 1992 may come into compliance only a few months later, and there is no provision in law for them to recoup any loss of Federal funds.

Second, although we are addressing a serious problem of drug usage related to driving, I certainly believe if we are going to address the carnage on our highways, the gentleman from New York [Mr. SOLOMON] should have included some standard on DWI. If the gentleman wants to try to require the State legislatures to move toward some new national goal, it strikes me that merely confining this to drugs does not really meet the serious, the larger and more serious problem, of driving while intoxicated which still faces our country.

I also have to express some concern. We many times on these appropriations bills try to move forward with some concepts, and I have been guilty of that in the past. But it strikes me with this timetable of a couple years in front of us, that perhaps a hearing by the Committee on Public Works on what is being done at the State level and how we can best make this effective, make it an even better amendment.

Mr. Chairman, I wish the gentleman from New York [Mr. SOLOMON] good luck. If it does not sustain in conference, I would be happy to join the gentleman in cosponsoring this measure otherwise.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield further?

Mr. DURBIN. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, the gentleman brings up some excellent points, and I commend the gentleman because I know he is sincere. I also have been involved with the gentleman on his other efforts along this same line. Let me just say we have every reason to believe that this is going to be sustained in conference. Senator LAUTENBERG from New Jersey is one of the prime sponsors of this identical piece of legislation. They have already held hearings under the jurisdiction of their Committee on Public Works in the Senate; many of the points that the gentleman from Illinois [Mr. DURBIN] brings up have been brought out in those hearings.

Mr. Chairman, I am hopeful that if there are any technical problems, between now and conference time we can probably work those out with the cooperation of Senator LAUTENBERG.

I might also say I do not like to do this. I am a States righter. The last thing in the world I want to do is to order these States to do something. But drugs are such a serious problem nationwide, I think here on the Federal level we have to set some kind of an example. It is that important.

I was hopeful when I introduced this bill over a year ago, that the Subcommittee on Surface Transportation of the Committee on Public Works would hold a hearing on it. I asked for the hearing. I know that they are terribly busy and that today we have serious problems in transportation; no doubt they have good reasons for not having held the hearing. But I am hopeful that between now and conference time, and with the input from the Senate hearings, that we can put together a final bill that will work.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have to express my feelings on this amendment. I did not know about this amendment until this morning, and I have been wrestling with it this afternoon on how to vote on it. I am not going to express myself on how I am going to vote on it because I really do not know how I am going to vote on it.

Mr. Chairman, what I want to say to my colleagues is that in order to be consistent with my philosophy and my point of view, I tend to be against this amendment. Not that it is not a good amendment and not a good concept. It is a good concept. I urge all State legislatures to pass this concept. But I have consistently opposed the 55-mile-an-hour speed limit because the Federal Government has blackmailed the States in imposing a 55-mile-an-hour speed limit. I have opposed imposing seatbelt laws because the Federal Government has imposed through blackmail, withholding highway funds, to impose seatbelt laws.

There is a time and a place for everything. If this amendment was a sense of Congress, that we do this, then I would support it overwhelmingly. But I have serious reservations about once again this Congress usurping States rights in this regard.

The Texas Legislature does not have a law like this. I wish we did. We have had a bill introduced and it is in committee being massaged right now. When they go back into session next year, I am sure this kind of legislation will be passed in the State of Texas, and I would urge it and I will be working for it to be done. But to do it by this Congress, with sort of a blackmail attitude of withholding Federal highway funds because the States do not pass certain laws, I have serious reservations about.

Mr. Chairman, I hope Members will think very thoroughly and think through what they are doing before they do it.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret having to oppose the amendment being offered by the hard-working gentleman from New York [Mr. SOLOMON], our very fine friend and member of the Committee on Public Works and Transportation.

While I understand and support any efforts to fight drugs whenever and wherever we can, I must note that the appropriate place to consider the proposal of the gentleman is not in the Department of Transportation appropriations bill, but in the legislation to reauthorize the Federal Highway Assistance, Mass Transit, and Highway Safety Programs, which will be moved by the Committee on Public Works and Transportation before fiscal year 1992, a full year before the amendment that is being offered by the gentleman from New York [Mr. SOLOMON] takes effect.

Mr. Chairman, I understand that this same point concerning the authorization process was made by the very knowledgeable chairman of the Appropriations Subcommittee on Transportation, the gentleman from Florida [Mr. LEHMAN], before the Committee on Rules.

I should also note that knowing of the proposal of the gentleman from New York [Mr. SOLOMON], and counter to what he mentioned a little while ago, I invited the gentleman from New York [Mr. SOLOMON] to testify, in writing, about his bill at the Subcommittee on Surface Transportation hearing on the reauthorization of the Highway and Mass Transit Programs. Unfortunately, the gentleman from New York [Mr. SOLOMON] did not respond to my February 6 letter, and consequently did not testify before our Subcommittee on Surface Transportation this spring.

Needless to say, I am surprised when the gentleman from New York [Mr. SOLOMON] indicates in his letter to me on July 10, which he handed to me the other day, that the gentleman has received no response for a year from the Committee on Public Works and Transportation to his request for a hearing.

Mr. Chairman, I am further puzzled by the gentleman from New York [Mr. SOLOMON] going on to conclude that he must put his amendment in an appropriations measure because he has exhausted the normal legislative process. Frankly, being the chair of the Subcommittee on Surface Transportation, which has offered to provide the gentleman from New York [Mr. SOLOMON] with the legislative consideration that he requested, I must now oppose this attempt to bypass the authorization process by amending the fiscal

year 1991 Department of Transportation appropriations bill.

Mr. Chairman, I therefore would urge my colleagues to vote "no" on the Solomon amendment.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I am pleased to yield to my good friend the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, first of all let me say that the gentleman in the well, the gentleman from California [Mr. MINETA] that he is one of the Members in this body whom I deeply admire and respect. He has a reputation for being one of the finest chairmen of any subcommittee in this Congress. He does an excellent job and we all respect him for it.

Mr. Chairman, I am sorry that I have no record of receiving that letter. At some point if the gentleman from California [Mr. MINETA] would give it to me this is something I have tried to stay on top of. Having changed offices about that time, I am not sure that something might not have gotten lost. But I apologize for that. I do understand the position of the gentleman.

The gentleman from California [Mr. MINETA] has come before the Rules Committee on numerous occasions when authorizing committees have complained about the Committee on Appropriations overstepping their boundaries and usurping the authority of the Committee on Public Works and Transportation. I have stood there and fought for the gentleman and stuck up for him.

□ 1510

Like I say, I would never be using this kind of procedure if the drug problem was not such a very urgent matter.

One of the reasons why I just object to waiting so long until we would have that opportunity for hearings next year is the fact that we do have legislatures like Texas and others who will need adequate time to meet. So it is a complicated problem, but again I do understand the gentleman's opposition to it.

Mr. MINETA. As I recall, under the gentleman's amendment it does not take effect until 1993, so even with a biannual State legislative system there would still be an opportunity for State legislatures to take action, as our colleague from Texas [Mr. DELAY] had indicated.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am pleased to rise in strong support of the amendment to the DOT appropriation bill being offered by our distinguished colleague from the State of New York, Mr. SOLOMON, reducing Federal highway funds to States which fail to suspend driver's licenses to persons convicted of drug offense.

As a senior member of both our House Select Committee on Narcotics and our International Task Force on Drugs, I have long advocated a five-pronged approach in assailing the scourge of illegal narcotics, simultaneously reducing both supply and demand. It is essential that we eradicate drugs in the producing areas; that we interdict drugs in the arteries of distribution; that we beef up local law enforcement, that we treat and rehabilitate the victims of drugs abuse; and that we educate our young people with regard to the dangers of drugs.

All these efforts have to be undertaken simultaneously if we are to effectively combat this most insidious enemy which our Nation has ever faced.

We have to face the fact, however, that all of these initiatives are not enough. Our young people, although many are turning away from the blandishments of the drug culture, are still susceptible to peer pressure and to the enticing propaganda of the drug pushers. Too many of our young people do not understand that drugs are truly a one-way street, that they are not recreational but are deadly. Many of our young people fail to understand that what happened to John Belushi and what happened to Len Bias—two young talented people cut down in their prime—can in fact happen to them.

Too many Americans, in fact, do not heed the warnings about drug abuse. They believe that taking drugs is a personal decision which affects no one other than the individual who makes that decision.

Unfortunately, evidence abounds that this just isn't so. A few years ago, an Amtrak train derailed near Baltimore, killing 17 persons. It turned out that the engineer was a drug user who had just used drugs prior to the crash. More recently, a little girl waiting for the school bus was struck and killed by a driver high on narcotics while her horrified mother witnessed this tragedy, which took place in suburban Maryland. We read accounts in the newspapers almost daily about crime and fatal injuries caused by narcotics users.

Suspending driver's license privileges to convicted drug users would not just be an incentive to young people to keep away from drugs. It would also protect innocent pedestrians, passengers, and other drivers who all too often innocently fall into the path of drug-crazed drivers.

Suspension of driving privileges would cost the Government little but would reap significant benefits in lives saved and in discouraging potential drug users.

Conditioning the privilege of driving to the responsibility of staying drug free will send a strong message to young people at a time in their lives when they are confronted at the crossroads of decision about which path to follow.

The New Jersey and Oregon Motor Vehicle Departments have already implemented this innovative approach with great success. Over 10,000 drug offenders are off the streets in those two States. The smashing success of this program in the States of New Jersey and Oregon demonstrates that the time has come to implement it nationwide.

Mr. Chairman, I heartily approve this amendment and urge my colleagues to fully support this proposal.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield so that I can ask a question of the sponsor of the amendment?

Mr. GILMAN. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, I would ask the author of the amendment would it be possible under his amendment for a State to pass a law that would revoke those drivers' licenses for a violation of the Federal Narcotics Controlled Substances Act with the caveat that it might be reinstated if there was rehabilitation, for example, by the individual for a period of time. Would that be possible for that State to do that?

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, that is up to the States to make that decision, the same as it would be up to the States if they wanted to issue a restricted license after they had revoked it for a certain period.

Mr. COLEMAN of Missouri. There is nothing to prohibit them from doing that?

Mr. SOLOMON. Absolutely not.

Mr. COLEMAN of Missouri. I thank the gentleman.

Mr. ROWLAND of Connecticut. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. ROWLAND of Connecticut. Mr. Chairman, I want to commend the gentleman from New York [Mr. SOLOMON] for bringing this issue onto the floor, and also our other colleague from New York [Mr. GILMAN] who has been an expert on the drug issue for many, many years. I think I echo the sentiments of those who have spoken in favor of this amendment when I say that the idea of taking drivers' licenses away or suspending licenses is not the only solution to the drug problem. Indeed, over this year, last year and over some 10 years we have discussed many ideas, and this is not to exceed or to bypass any of the other excellent proposals to reduce drug use.

For example, we know in the drug bill we have more money for rehabilitation, more money for education. But I think we need to ask ourselves a question. What major deterrent is there for anyone using drugs in our States or across our Nation?

The fact of the matter is in our Nation we have some 20 million casual drug users, and we find there are no deterrents, whether you are a 16-year-old just getting your license or whether you are a 32-year-old with a cocaine habit. And to those of us who have 15-year-old and 16-year-old children, ask yourselves what the most important thing in their life is. What is the most important issue to a 15-, 16- or 17-year-old? Getting their driver's license and keeping their driver's license, having the ability to drive their motor vehicle. Unfortunately, whether we like it or not, that is also the key time when many of our young people are experimenting with drugs. This is an excellent way to send a message of deterrence.

Over the last year or so I have made many presentations to eighth graders and high schoolers across my district and I have talked about this issue and I have posed the question: "Would you be dissuaded, would you think twice about experimenting with drugs or using drugs if you knew you would lose your driver's license?" Consistently anywhere from 90 percent to 95 percent of those young people say yes. And one day a young lady stood up and she was 14 years old, and she said,

Mr. Rowland, that is a great idea. Not only will it cause my friends to think twice as we try to stand by each other to say no to the drug problem, but it also gives us a reason, almost an excuse to say no.

And I ask her what she meant, and she said,

Well, I can still be cool, but I can turn to my friends that are putting the pressure on me and say the reason I don't want to use drugs is that I don't want to lose my driver's license.

It is a very, very strong message to young people that need all of the help they can get, and to parents, to parents who need all the help they can get. They are struggling out there trying to encourage the young people. Teachers are struggling out there to encourage young people, and even to the 32-year-old or the 42-year-old with a cocaine habit, yes, it will be an inconvenience, yes, it will be difficult for you to get to work. Yes, it will be difficult to take your kids to the park or to go shopping. But we need to start to send a strong message of deterrence.

We have done a lot in this Congress to stop the supply. We have worked with the DEA, we have worked with other countries, we have spent more and more dollars, we have used the Coast Guard and the list goes on. But what have we really done to provide a true deterrent to drug use?

I found in the State of Connecticut alone we have 24,000 young people between the ages of 12 and 17 who have been involved in drug and alcohol abuse. If one person in our State, if one person in our Nation is deterred from drugs and does not get involved in habitual use, then it is worth passing this legislation.

I encourage all of my colleagues who are upset with the procedures, whether they do not like amending this bill, or have an issue of States' rights, it is extremely important that we send a message to all people across this Nation that we are serious about this issue. This is one of the multisolutions that we are proposing, and I encourage Members' support.

Mr. ANDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret that I must rise in opposition to the Solomon amendment.

Mr. SOLOMON is to be congratulated for his desire and efforts to deter drug use. We all share in that desire. In fact, I sponsored an amendment to the 1988 omnibus drug bill authorizing funding for the Drug Recognition Expert Program. This measure established a regional program for training law enforcement officers to recognize and identify individuals who operate a motor vehicle while under the influence of alcohol, controlled substances, or other drugs. The DRE Program has been highly successful and 10 States have implemented such a program and more States have indicated an interest in the procedure. Included as part of the national highway transportation safety programs appropriation in the appropriations bill before us is $5.8 million for fiscal year 1991 for the DRE Program plus $1.2 million for other drug measures. This appropriation will go a long way toward establishing reasonable cause for testing and can be used not only for detecting drug impairment on the highway but in the workplace as well. I fully support its inclusion.

However, to enact legislation that would withhold highway funds from States without going through the authorizing committee process would in effect be putting the cart before the horse. The Committee on Public Works and Transportation traditionally has not proposed the use of sanctions without a hearing on the issue. This issue, although very important, should not be exempt from the committee process in which everyone has an opportunity to present their views. Mr. SOLOMON's provision does not take effect until 1992, which is within the time frame of the Federal-aid highway reauthorization legislation.

There are good reasons why the Solomon amendment should go through the normal authorization process. For one thing, it is unclear at the present time whether or not these laws have been effective in deterring drug use in the States where they are in effect. The enactment of these laws has been too recent.

For another, there is some question as to the constitutionality of these laws, where the courts are now just beginning to draw lines as to what offense can be cause for license suspension when the violation is not highway related.

And finally, States can now enact such laws if they wish.

In the Omnibus Drug Act of 1988, the House indicated its preference for incentive grants rather than sanctions by adopting a committee substitute to the McCollum amendment which would have withheld funds from States that did not have a law suspending drivers licenses from persons convicted of drug possession.

My opposition to the Solomon amendment is not because it is without merit; it is because I believe the merits of this measure ought to be debated after testimony and further research. And the option of incentive grants ought to be considered.

I strongly urge a no vote on the Solomon amendment.

□ 1520

Mr. TAYLOR. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I approach this podium as a State's rights Democrat. I doubt there is anyone in this Chamber who feels more strongly about State's rights than I do.

But I feel like the problem is so great that at times we have to forget about things like State's rights and address the horrible drug problem in our Nation.

As you recall, a few years ago this Congress voted in a voice vote to restrict Federal highway funds by, first, 5 percent and, then, 10 percent to those States that did not raise the drinking age to 21. I can tell you as a former State legislator that individually each of those Members thought it was wrong to have to do that. They felt if someone was old enough to join the Armed Forces, to serve in Vietnam, that they were old enough to buy a beer.

But I can tell you also when it came to a vote and when the State was looking at losing $17 million a year, that by all but one vote that measure passed the Mississippi Legislature. I cast that one vote.

The point is that we have such a tremendous drug problem that 2 percent is certainly probably not enough money. But we have a problem. We need to face it. I want to encourage all the other State's rights Members of this delegation and the Republican

delegation to support this measure. We have to address it from both ends, penalties for the seller and penalties also for those who use it.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I thank the gentleman for his support. I know the gentleman did come to me. He stated his feelings that he thought that perhaps the percentage of highway funds withheld ought to be higher because of the serious problem that he recognizes is there.

I just want to say that we held it to 2 percent at the outset simply because if there are some problems with States acting, especially if their legislatures only meet every 2 years, we did not want them to be unjustifiably penalized. That is how we arrived at 2 percent.

I personally would support a higher figure. But in order to have compromise on both sides of the aisle and with the feelings of Members, we did make it 2 percent.

Mr. Chairman, I thank the gentleman for his support.

Mr. TAYLOR. Mr. Chairman, I thank the gentleman. It is certainly a step in the right direction.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 331, noes 88, not voting 13, as follows:

[Roll No. 223]

AYES—331

Andrews	Browder	Courter
Annunzio	Brown (CA)	Cox
Anthony	Brown (CO)	Coyne
Applegate	Bruce	Craig
Archer	Bryant	Crane
Armey	Buechner	Dannemeyer
Aspin	Bunning	Darden
Atkins	Burton	Davis
AuCoin	Bustamante	de la Garza
Baker	Byron	DeFazio
Ballenger	Callahan	Derrick
Barnard	Campbell (CO)	DeWine
Bartlett	Carper	Dickinson
Barton	Carr	Dicks
Bateman	Chandler	Dingell
Bennett	Chapman	Dixon
Bentley	Clarke	Donnelly
Bereuter	Clement	Dorgan (ND)
Bilbray	Clinger	Dornan (CA)
Bilirakis	Coble	Douglas
Bliley	Coleman (MO)	Downey
Boehlert	Coleman (TX)	Dreier
Boggs	Combest	Duncan
Bonior	Condit	Durbin
Boucher	Conte	Dwyer
Boxer	Conyers	Dyson
Brennan	Cooper	Early
Brooks	Costello	Eckart
Broomfield	Coughlin	Emerson
Engel	Lloyd	Rowland (GA)
English	Long	Russo
Erdreich	Lowery (CA)	Saiki
Espy	Lowey (NY)	Sangmeister
Evans	Luken, Thomas	Sarpalius
Fascell	Machtley	Sawyer
Fawell	Madigan	Saxton
Fazio	Manton	Schaefer
Feighan	Marlenee	Schiff
Fields	Martin (IL)	Schneider
Fish	Martin (NY)	Schroeder
Flake	Mavroules	Schulze
Flippo	Mazzoli	Schumer
Foglietta	McCandless	Sensenbrenner
Frenzel	McCloskey	Serrano
Gallegly	McCollum	Sharp
Gallo	McCrery	Shaw
Gaydos	McCurdy	Shays
Gejdenson	McDade	Shumway
Gekas	McEwen	Sikorski
Gibbons	McGrath	Sisisky
Gilman	McHugh	Skeen
Gingrich	McMillan (NC)	Skelton
Glickman	McMillen (MD)	Slattery
Goodling	McNulty	Slaughter (NY)
Gordon	Meyers	Slaughter (VA)
Goss	Michel	Smith (FL)
Gradison	Miller (CA)	Smith (NE)
Grandy	Miller (OH)	Smith (NJ)
Grant	Miller (WA)	Smith (TX)
Gray	Moakley	Smith, Denny (OR)
Green	Molinari	Smith, Robert (NH)
Guarini	Montgomery	Smith, Robert (OR)
Hall (OH)	Moody	Snowe
Hamilton	Moorhead	Solarz
Hammerschmidt	Morella	Solomon
Hancock	Mrazek	Spence
Hansen	Myers	Spratt
Harris	Neal (MA)	Staggers
Hastert	Neal (NC)	Stallings
Hayes (LA)	Nielson	Stangeland
Hefner	Nowak	Stearns
Henry	Oakar	Stenholm
Herger	Ortiz	Studds
Hertel	Owens (UT)	Stump
Hiler	Oxley	Sundquist
Hoagland	Packard	Tallon
Hochbrueckner	Pallone	Tanner
Holloway	Panetta	Tauke
Hopkins	Parker	Tauzin
Houghton	Parris	Taylor
Hubbard	Pashayan	Thomas (CA)
Huckaby	Patterson	Thomas (GA)
Hughes	Paxon	Torres
Hunter	Pease	Traficant
Hutto	Pelosi	Traxler
Hyde	Penny	Upton
Inhofe	Pickle	Valentine
Ireland	Porter	Vander Jagt
Jacobs	Poshard	Vento
James	Price	Volkmer
Johnson (CT)	Pursell	Vucanovich
Johnson (SD)	Rahall	Walgren
Johnston	Rangel	Walker
Jones (NC)	Ravenel	Walsh
Kanjorski	Ray	Watkins
Kaptur	Regula	Weber
Kasich	Rhodes	Weldon
Kennedy	Richardson	Whittaker
Kennelly	Ridge	Wilson
Kostmayer	Rinaldo	Wise
Kyl	Ritter	Wolf
LaFalce	Roberts	Wolpe
Lagomarsino	Robinson	Wyden
Lantos	Roe	Wylie
Leach (IA)	Rogers	Yatron
Lehman (CA)	Rohrabacher	Young (AK)
Lent	Ros-Lehtinen	Young (FL)
Levine (CA)	Rose	
Lewis (CA)	Rostenkowski	
Lewis (FL)	Roth	
Lightfoot	Roukema	
Livingston	Rowland (CT)	

NOES—88

Ackerman	Cardin	Gephardt
Alexander	Clay	Geren
Anderson	Collins	Gillmor
Bates	DeLay	Gonzalez
Beilenson	Dellums	Gunderson
Berman	Dymally	Hawkins
Bevill	Edwards (CA)	Hayes (IL)
Borski	Ford (MI)	Hefley
Bosco	Frank	Horton
Campbell (CA)	Frost	Hoyer
Jontz	Murphy	Smith (IA)
Kastenmeier	Murtha	Smith (VT)
Kildee	Nagle	Stark
Kleczka	Natcher	Stokes
Kolbe	Oberstar	Swift
Kolter	Obey	Synar
Lancaster	Olin	Thomas (WY)
Laughlin	Owens (NY)	Towns
Leath (TX)	Payne (NJ)	Udall
Lehman (FL)	Payne (VA)	Unsoeld
Levin (MI)	Perkins	Visclosky
Lewis (GA)	Petri	Washington
Lipinski	Pickett	Waxman
Markey	Quillen	Weiss
Matsui	Roybal	Wheat
McDermott	Sabo	Whitten
Mfume	Savage	Williams
Mineta	Scheuer	Yates
Mollohan	Shuster	
Morrison (WA)	Skaggs	

NOT VOTING—13

Crockett	Jenkins	Nelson
Edwards (OK)	Jones (GA)	Schuette
Ford (TN)	Lukens, Donald	Torricelli
Hall (TX)	Martinez	
Hatcher	Morrison (CT)	

□ 1546

Messrs. PETRI, GEPHARDT, KLECZKA, DYMALLY, AND OBERSTAR changed their vote from "aye" to "no."

Messrs. ATKINS, BUSTAMANTE, PACKARD, DE LA GARZA, CHANDLER, VENTO, WISE, FAZIO, TORRES, and CARR, Ms. PELOSI, and Mr. LAFALCE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Chairman, I would like to insert in the RECORD that on the last rollcall vote on the Solomon amendment, I was recorded as having voted "no." Using the electronic voting device, I was inadvertently recorded that way, and would like for the RECORD to reflect the fact that my vote is "aye."

Mr. ALEXANDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the bill, and I wish to commend Chairman LEHMAN, Mr. COUGHLIN, and the other members of the subcommittee for the tremendous job they have done on this measure.

Yes, this bill is over the President's budget by $1.2 billion in budget authority and $2.8 billion in limitations on obligations of contract authority.

But it is within its 302(b) allocation under our budget. And I would say to those who may later propose an across-the-board cut of some sort, now is not the time and this is not the bill.

The truth of the matter is that transportation bills are going to have to spend more year after year for the foreseeable future.

Now, why in the names of GRAMM, RUDMAN, and HOLLINGS is this so?

It is so because no sector of our economy is as basic, vital, as necessary to the health of the overall economy as our transportation infrastructure.

And it is so because no sector of our economy suffered as much from the decade of dis-

investment, the 1980's, as our transportation infrastructure.

I would like to briefly highlight some items in the First District of Arkansas that the committee has provided in this bill, and use them as examples of larger, national needs.

The committee report provides for installation of an instrument landing system at Jonesboro, AR. It also directs FAA to give priority in allocating Airport Improvement Program funds to Jonesboro's request for assistance in extending its runway to 7,000 feet.

I'm grateful to the committee for its assistance in this matter. A new ILS will help Jonesboro's efforts to attract commercial service that more readily links up with major carriers at hubs like Memphis, TN. This, in turn, will help Jonesboro's business recruitment efforts.

I regret that the FAA didn't fund Jonesboro's application when it was first submitted; but, there just wasn't enough money to go around. Two million dollars were available for small airport and general aviation ILS's in Arkansas in 1989; there were $28 million in requests. The situation in the Airport Improvement Program is even tighter.

The report of the Lower Mississippi Delta Development Commission portrayed the situation in stark terms:

Rural Delta areas suffer a severe disadvantage in providing their citizens with access to quality air passenger service due to poorly funded construction and maintenance of small airports. The fact that there are only a few inadequate airports hinders the growth potential of rural areas because the few are unable to provide quality air transportation to existing or prospective businesses and industries.

The committee report also directs the Secretary of Transportation to give priority in allocating discretionary bridge replacement funds to the U.S. 70 bridge over White River at DeValls Bluff, AR. I also thank the committee for its help with this problem.

The bridge was built in 1922. Its bridge rating in 1988 was 62.6, which is functionally obsolete. It has been closed for extended periods twice since 1972, causing great economic hardship to the people of Prairie County, AR. It is open today, but it is dangerous.

I would like to say this situation is extraordinary. Unfortunately, I cannot truthfully do so. The DeValls Bluff Bridge is only one of the nearly quarter-million highway bridges, 77,000 on the Federal-aid system alone, that is either structurally deficient or functionally obsolete. More than a quarter of all Federal-aid highway bridges fit this description.

The Delta Commission again put it plainly when it said:

The Delta's transportation system is in great need of repair and expansion for economic growth.

I believe this is true not just of the Delta, not just of rural America, but of the entire country. And, I believe anyone who tried to cross the Woodrow Wilson Bridge at Alexandria this morning, or anyone sitting in a hot plane on a hotter tarmac at Hartsfield Airport in Atlanta, would agree with me.

This, then, is no time to cut transportation spending, not when this committee has done its job, has been responsible, has held the line. I've said it already, but I will say it again and again: Since 1945, the Appropriations Committee has recommended more than $175 billion less the Presidents have requested.

Mr. Chairman, we have three choices of transportation spending.

We can follow the path of the 1980's, and leave much of rural America stuck in the past while urban America is stuck in traffic.

We can do only part of the job, and let rural and urban America fight each other tooth and tong for what little increase is available.

Or, we can undo the damage of the decade of disinvestment, and bring to all America the kind of transportation system any nation needs if it wants to be an economic superpower in the 21st century.

To me, the choice is clear. This bill goes in the right direction. I urge my colleagues to support this bill, and oppose any across-the-board cuts.

Mr. MRAZEK. Mr. Chairman, I move to strike the last word.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. MRAZEK. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I thank the honorable gentleman from New York for yielding.

Mr. Chairman, I take this time to speak about the federally endangered plant species, the sandplain gerardia. Currently, there are only four populations of this plant that grow in biologically stable environments, one of which is in my congressional district in West Sayville, NY. This land is presently held by the FAA for its International Flight Service Transmitting Facility. However, this facility is being moved to another location. It is my belief that to best care for these endangered plants once the FAA moves its facilities, this approximate 102 acre parcel of land should be transferred to the Secretary of the Interior for use as a unit of the National Wildlife Refuge System, for the primary purpose of protecting the sandplain gerardia. No other owner of this land would be able to promote and protect the growth of these endangered plants as the Fish and Wildlife Service could. I strongly urge that the Fish and Wildlife Service be given every consideration by the General Services Administration to acquire this land once the FAA is finished with the transfer of their facilities to their new location.

Mr. Chairman, again I thank both the chairman of the subcommittee and the gentleman from New York [Mr. MRAZEK].

□ 1550

Mr. MRAZEK. Mr. Chairman, as a member of the Subcommittee on Transportation I would like to offer my personal support to the gentleman from New York [Mr. DOWNEY], my colleague, for his efforts, and we will work with him on this issue.

Mr. LEHMAN of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the gentleman from New York [Mr. DOWNEY] and the gentleman from New York [Mr. MRAZEK], and I promise to work with them to help solve this problem.

Mr. CARR. Mr. Chairman, I move to strike the last word.

Mr Chairman, I rise in strong support of this bill, and I want to thank all the members of the committee for their corporation in putting it together.

However, Mr. Chairman, I find that in reading page 31 of the committee report I must disassociate myself with the portions of the second paragraph to the report.

Mr. Chairman, the first paragraph of the report directs the Commandant of the Coast Guard to procure equipment in the Coast Guard, as the Commandant's own words have said, that would be DOT supported. The committee found objectionable a Coast Guard proposal to procure the T-800 helicopter engine prior to its being fully DOT supported. I support that decision.

However, Mr. Chairman, then the committee went on to make the conflicting point and the conflicting directive of the Coast Guard that they now include in a proof of concept an engine for the Dolphin helicopter, which is not, in fact, now currently supported by the DOT and in anyone's foreseeable future will not be supported by the DOT.

So, I would just like to point out to people who might read the committee report language that the committee report language is inconsistent by about 180 degrees, and I would hope that in the future perhaps the committee report coming back from the conference would correct this glaring error.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Indiana.

Mr. Chairman, I rise in strong support and wish to associate myself with the sentiments of the gentleman from Michigan [Mr. CARR]. As he has indicated, the T-800 is a proven engine, and I think the Coast Guard has a good program, and it should be able to go on with that undisturbed.

Mr. Chairman, I rise in strong concern about the report language on page 31 which raises serious questions about the T-800 helicopter engine. In addition, the language directs that funds be spent on a reengining proof of concept from the French-made Ariel 1C2-CG for use in Coast Guard helicopters.

The language is unfounded. The T-800 has over 8,900 engine test hours. Over 200 flight and ground test hours have been done on an actual helicopter, the Italian Augusta A-129. Nine flight test engines are curently being produced.

This is the engine that was originally designed for the Army's light helicopter program. Unfortunately, design problems with the frame of the light helicopter, not with the engine, have caused a delay. The T-800 is designed to be low maintenance—only six hand tools are required, approximately 60-percent less maintenance time is required per flight hour than current Coast Guard standards.

In addition, the T-800 is an extremely high performance engine. I ask unanimous consent to submit a side-by-side comparison of the T-800 and the Ariel engine.

The T-800 is American made by Allison Engines in Indiana. Hundreds of jobs are dependent on this engine. I am greatly concerned that report language cast a shadow on this irreproachable engine.

The T-800, not a foreign engine, should power the Coast Guard helicopters.

T-800 VERSUS ARIEL

	T-800	Ariel
Inlet particle separator (separates foreign particles, sand, dust, ETC).	97 percent efficient	Approximately. 85 percent efficient.
Self contained emerging oil system (runs 6 minutes without oil for emergency landing).	Yes	No.
Mean-time between overhaul	8-9K hours	3-3.5K hours.
Suction fuel system for fire safety.	Yes	No.
Demonstrated ballistic tolerance.	Yes	No.
Corrosion/erosion resistant materials and coating used.	Yes	UNK.
Available take-off horsepower.	1233	Approximately 700.

T-800 fuel consumption is apprx. 13 percent better than Ariel.

T-800 has the best fuel consumption in the world today in the 700-1300 SHP range.

T-800 is easiest engine to maintain in the world today.

T-800 is designed to operate in the hostile coast guard environment—Ariel is commercial engine designed to operate in less demanding environment.

T-800 is DOD engine—Ariel is not in DOD inventory.

T-800 provides the Coast Guard with single engine hover capability—Ariel cannot.

T-800 is U.S. manufactured engine—Ariel is not—Assembled and tested in United States—components manufactured in France.

Mr. DELAY. Mr. Chairman, I move to strike the last word.

Mr. Chairmsn, I take my time to respond to the gentleman from Michigan [Mr. CARR], my good friend who is a member of the subcommittee. While I appreciate his concerns, I just want to point out to the committee that the Coast Guard has had serious problems with the LTS-101 engine that currently rides on the Dolphin helicopter, and in fact there was just recently a crash of that helicopter as a result of his poor performance of the LTS-101 engine.

Mr. Chairman, I just wanted to say that the subcommittee understands the severe problem that the Coast Guard has with the Dolphin helicopter, and the Coast Guard is trying to find an engine that is immediately available, and I disagree with the gentleman from Indiana [Mr. MCCLOSKEY]. The Ariel engine is immediately available, it is proven, it has millions of hours on that engine. It is a proven engine. The T-800 is not the proven engine. It has not been proven. It has not passed a proof of concept. In fact, it will cost millions of more dollars to prove the T-800 engine, but the subcommittee has not taken a position in that.

Mr. Chairman, what the subcommittee is saying by this language is that both engines should go through a proof of concept and the best engine for the least amount of money be used by the Coast Guard.

As far as it being connected with the DOT, if we waited for a DOT approved engine, we could wait 2 years or more for a DOT approved engine. The DOT does not have any intention right now of going through the expense of proving the T-800, and they want the Coast Guard to do that so that they can have available to them on assembly line the T-800 engine that they want to use in their own helicopters.

The Coast Guard needs an engine to replace the LTS-101 engine that is failing and causing crashes of their helicopters. The subcommittee understands that and appreciates that and is encouraging a quick proof of concept on both engines and not prejudicing the committee on one engine or the other.

Mr. CARR. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Chairman, I appreciate the position of the gentleman from Texas [Mr. DELAY] on the issue and the work he has done in the committee on this particular issue. I might just take exception to a couple of things the gentleman said.

While the Ariel engine has thousands of miles on it, the particular model, the modification of which is specified in a committee report of the U.S. Congress, that particular modification has not been tested and does not have a lot of thousands of hours on it. Indeed I think, Mr. Chairman, it is highly unusual that the Congress of the United States would name in a committee report a particular engine and model number.

Furthermore, I would like to tell the gentleman from Texas [Mr. DELAY] that there are two American-made engines that are not named in the committee report which could be available immediately as well. That is the Pratt-Whitney PT6 and the Allison 630, and the committee did not have any hearings on this. We did not see the language until shortly before the markup.

Mr. Chairman, I would just hope that anybody reading the language would not take it too seriously and come see some of us on the committee about it.

Mr. DELAY. Mr. Chairman, reclaiming my time, I think the Coast Guard takes it very seriously, and I just say it is not thousands of hours on the Ariel engine. It is millions of hours on the Ariel engine. The Ariel engine has millions of hours on the same sort of frame that would be used, and that is in the Dolphin helicopter, and the Allison engine the gentleman refers to would not be available for another 2 years. It is now awaiting certification.

So, Mr. Chairman, I know this is a dispute between companies and between States, but the point is that the subcommittee is leaving it open for the Coast Guard to choose through a proof of concept of both engines.

Mr. ESPY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time as a means to engage the distinguished chairman, the gentleman from Florida [Mr. LEHMAN] in a colloquy.

Mr. Chairman, I appreciate this time for a brief colloquy on the true meaning of the Subcommittee on Transportation's report language which lists priorities for airport construction projects.

Mr. Chairman, the Greenwood-Leflore Airport in Greenwood, MS, has been made a priority project for fiscal year 1991. It received this designation in fiscal year 1988 as well. Does the fact that this project repeats its appearance on the list emphasize its need?

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. ESPY. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, I say to the gentleman from Mississippi [Mr. ESPY], my friend, in regard to the committee's priority listing for airport construction projects, it is to show the FAA what Congress recognizes as those projects it considers most worthy and fundable.

□ 1600

Mr. ESPY. Mr. Chairman, I thank the distinguished gentleman for that explanation and for this generous consideration of this project again in this fiscal year appropriations report.

Mr. LEWIS of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in strong support of H.R. 5229, the 1991 Transportation appropriations bill and to congratulate the subcommittee chairman, the gentleman from Florida [Mr. LEHMAN], and the vice chairman, the gentleman from Pennsylvania [Mr. COUGHLIN], for producing such a fine bill.

This bill contains $7 million for a demonstration project to begin four laning a stretch of U.S. 27 in western

Palm Beach County. This will ensure that this killer highway will get the prompt attention that is needed.

As anybody who has driven on this highway can attest, the morbid nicknames "Killer Highway" and "Bloody 27" are well deserved.

Just yesterday, as a sad reminder of the danger of this road, a truck driver lost his life as a direct result of the narrowness of this road. I have here today's newspaper article which again calls this highway "one of the bloodiest in the State."

This widening is obviously badly needed and I would again like to thank my colleague, the gentleman from Florida [Mr. LEHMAN], for understanding the urgency of this situation, and I urge my colleagues to support this important bill.

Mr. TAUZIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I, too, rise in support of the bill.

I want to point out that while the bill takes, I think, extraordinary care to keep the Coast Guard budget intact, it does in fact provide a 4-percent increase in Coast Guard funding, that one of the deficiencies in the bill is that the bill zeros out any funds for the acquisition of new buoy tenders for the Coast Guard.

Now, for those of you who may not be aware of the buoy tender, it not only is one of the main vessels used by the Coast Guard to maintain aids to navigation which are critical, not only for recreation but for commercial maritime interests, critical for keeping vessels apart in the proper lanes so they do not collide and oilspills may result, but critical also because they are the principal vessel upon which the Coast Guard's men and women are trained.

In addition to that, the Coast Guard's buoy tender fleet is now aging to the point that most of them are 50 years old or more. They are leaky. They are running out of time, and if we do not begin replacing them soon we will have some very difficult trouble with our buoy tender fleet.

In addition to that, the Coast Guard plans in the new buoy tender acquisitions when and if we will approve them, the new buoy tenders will actually have oilspill response capabilities, so they are part of our oilspill response team.

I would urge the subcommittee as we pass on the DOT bill, as we go into conference with the Senate, to look strongly in the conference committee at perhaps improving this one area of Coast Guard funding where we might indeed look toward some replacement of the buoy tender fleet.

Again let me point out, the replacement plan would not only be buoy tenders that are conditioned to take care of our navigational needs, but also oilspill response capable vessels. To increase the Nation's capacity in this area is the subject of a conference I am about to leave to attend to see if we can pass the oilspill response bill.

Second, let me point out that we have been collecting the oilspill response fund, the taxes, 5 cents per barrel, since January of this year. That fund has now accumulated some $70 million or so into that fund. The OMB continues to regard that fund as an available fund to count against the deficit. It is not allocating those funds for the strike team and the prepositioned equipment, the oilspill response equipment that will be needed.

Mr. Chairman, I want to thank the committee for its efforts in that regard in seeing to it that in fact some of those moneys are allocated.

We will be in the conference committee in just a few hours to debate that issue.

I want to commend the honorable chairman of the subcommittee on this important bill before the House for his efforts in seeing that some of those moneys are in fact allocated, but we have a mile to go yet. We ought to do a lot more in that area. Every week when you hear about another oilspill on America's coasts, remind yourselves that we are no more protected today than we were a year ago with the *Exxon Valdez.* Not one extra strike team is out there, not one extra vessel, not one extra buoy, not one extra skimmer is out there to help us, and until our efforts by the subcommittee in this House really come to fruition this Nation will not be protected.

The money is being collected. We ought to start allocating it. I want to thank the committee for beginning that process, but we have a long way to go.

Mr. Chairman, I want to commend the committee chairman for the efforts made on behalf of the Coast Guard and ask once again if in the conference we might not in fact work on the buoy tender issue, as it is an important one, not only for the effectiveness of training our Coast Guardsmen, but for the sake of proper navigation on our waterways and our oil skimming capacity response availability for the Coast Guard.

Again, I thank the committee chairman for his efforts here, and I wholeheartedly support enactment of this legislation.

Mr. GEREN of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage the distinguished committee chairman in a colloquy.

Mr. Chairman, it has come to my attention that a misunderstanding of congressional intent relating to the expenditure of revenue generated by the Railtran project, an agreement between Dallas County and Tarrant County and Dallas and the city of Fort Worth, TX, has and will severely impede the ability of Railtran to prepare the corridor for future mass transit purposes, as was mandated by Congress. The Railtran corridor was acquired through a Federal grant of 80 percent of the cost of acquisition with the remaining 20 percent provided by the local match. I know you are familiar with the very unique and project specific aspects of the Railtran project and with the hopes all of us share that mass transit will exist in that corridor in the very near future.

Mr. Chairman, it is my understanding that Congress recognized the unique nature of the Railtran project when it was mandated and realized that, in order to achieve the objectives of the project, flexibility as to the expenditure of revenues generated by the project would have to be provided. Mr. Chairman, it is my further understanding that Congress intended to provide that flexibility by intending that 20 percent of all revenues generated by the project would be considered local funds as a return on the initial 20 percent local investment and could be expended at the direction and discretion of the Railtran policy board and may be used as a future local match.

I understand that UMTA has raised the question in recent weeks whether it has sufficient authority to carry out this congressional intent and this would create a serious problem for the project.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. GEREN of Texas. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, I do understand the serious nature of this issue and would encourage the gentleman to bring this issue to the attention of the authorizing committee as soon as possible for a legislative resolution. The committee would strongly discourage UMTA from taking any action regarding a determination of the nature and potential remittance of these funds before the Congress has an opportunity to clarify its intent through statutory authority.

Mr. GEREN of Texas. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 57, after line 21 insert the following new section:

SEC. 333. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made avilable by a provision of law is reduced by 2 percent.

□ 1610

Mr. PENNY. Mr. Chairman, I rise, together with my colleague, the gen-

tleman from Iowa [Mr. TAUKE], to offer this amendment which would reduce appropriations in this Transportation appropriations bill by 2 percent in every category.

The bill contains total spending of $30.8 billion. This represents a $2.7 billion increase over last year's spending level for these same programs. That constitutes roughly an 8½-percent increase in spending in this measure, and it is over $4 billion more than the amounts requested by the Bush administration for these various programs.

A 2-percent across-the-board reduction will result in approximately $262 million being trimmed from this legislation. That would still allow roughly a 6½-percent increase in total spending in this bill. The cut would still allow for significant increases in most programs.

For example, the committee bill provides for a 12-percent increase in funding for the Federal Aviation Administration. With the 2-percent reduction, we are still looking at a 10-percent increase.

The bill calls for a 4-percent increase for the Coast Guard. Clearly we will be spending more on Coast Guard programs next year then this year even with the 2-percent amendment.

The bill allows for a 19-percent increase for the Federal Highway Administration. We would have a 17-percent increase even if this 2-percent amendment were adopted.

A 5-percent increase is called for in this bill for the Urban Mass Transit Administration.

Clearly this amendment to cut appropriations by 2 percent is only a modest step, but it is the right step in the direction of reducing the Federal budget deficit.

Again, I would urge the Members to support this amendment if we are serious about holding the line on Federal spending and bringing our Federal accounts back into balance. Two percent is the least we can do.

Mr. LEHMAN of Florida. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as I said before, the bill before us today is below the subcommittee's allocation for discretionary budget authority and outlays, which was based upon the House-passed budget resolution. If these amounts need adjusting at a later point in the process, then we will do that, as we have done in the past. But such action is simply not needed now, and it would undercut the House's position in current budget negotiations with the administration.

But let us set aside for a moment the issue of whether we should follow the established budget process of the House. Let us look at the impact of a 2-percent across-the-board cut. I know this sounds like an insignificant amount. But let me explain what that means to important individual programs. A 2-percent reduction would cut $43.8 million from Coast Guard operations, which would lessen their ability to conduct search and rescue, drug interdiction, and oilspill response activities. For the FAA, this reduction would cut $80.7 million from the operations account, resulting in a less efficient air traffic control system. The Members should know that a large number of the programs in this bill provide for safety activities—air traffic controllers, investigations of the National Transportation Safety Board, the Highway Traffic Safety Administration, hazardous materials inspectors, and so forth. This bill is different from some others in that respect. Does this House really want to cut transportation safety?

Mr. Chairman, many of us in the past have criticized Gramm-Rudman's automatic sequestration as being an abdication of the Congress' responsibility to review and provide adequately for individual Federal programs. It invokes reductions without any regard for the needs of individual programs. This amendment follows the same approach.

Mr. Chairman, I want to reiterate that the committee has done its job. We have reported a bill which meets our allocation for discretionary budget authority and outlays. This is a good, fiscally responsible bill. I strongly urge that the amendment be defeated.

Mr. COUGHLIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman and my colleagues, let me point out that this bill is only $31.7 million over last year, which is an increase of less than one-quarter of 1 percent. That is about as small an increase as one could possibly get. As the chairman has pointed out, it is within our 302(b) allocation.

I notice that the distinguished ranking member of the Committee on the Budget, the gentleman from Minnesota [Mr. FRENZEL], is not here concerned about this bill. It is a good bill.

As the chairman properly points out, if we cut 2 percent out of this, we are talking about aviation safety, we are talking about saving lives at sea, we are talking about safety on the seas, we are talking about safety on the railroads, we are talking about all of our transportation programs and safety in those programs. And we are talking about people's lives.

I urge the Members to defeat the amendment.

Mr. NAGLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is somewhat of an embarrassment to this Member that this amendment is being offered.

I received this morning a copy of a letter from my distinguished colleague, the gentleman from Iowa [Mr. TAUKE], and he says in that letter, which is cosigned by the distinguished gentleman from Minnesota:

> This measure contains significant new funding for some transportation programs, highways and urban mass transit, for example, and should be pared back in an effort to begin the process of serious budget-deficit reduction. This amendment is a modest step in that direction.

Mr. Chairman, my embarrassment arises from the fact that in Iowa we have actually received one of those significant new fundings for transportation on the highways. As a matter of fact, I personally have gone to the committee, and the committee staff and the members of the committee and stressed the importance of highway development needs within the Third Congressional District and the State of Iowa.

The amendment offered by the gentleman from Iowa that he supports would cut overall in the State obligation limit of funds available for highway programs in Iowa $3.3 million. To complete that important new project, he proposes to cut a half million dollars, to cut interstate transfers in my own town of a significant amount, and to demonstrate the audacity of the amendment, he actually proposes to cut the construction design study that the committee so generously approved.

I went to the committee on the basis that all of Iowa supported the committee, that we understood that we had to have a national transportation system.

I do not want the committee members or the Members of this body that support the chairman to believe that every Member of Iowa is part of this blind, across-the-board, meat-ax approach.

The committee has, in the 3 years that I have been here in the Congress, been quite generous to this State, and I do not want them to have the impression that we are turning the back of our hand to them.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROBERTS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 133, noes 283, not voting 16, as follows:

[Roll No. 224]

AYES—133

Archer	Bateman	Bunning
Armey	Bates	Burton
Baker	Bliley	Campbell (CA)
Ballenger	Boehlert	Campbell (CO)
Bartlett	Brown (CO)	Chandler
Barton	Buechner	Clarke

Coble
Combest
Condit
Cooper
Cox
Craig
Crane
Dannemeyer
DeWine
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Fawell
Fields
Frenzel
Gallegly
Gekas
Geren
Gillmor
Gingrich
Goodling
Gradison
Grandy
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Jacobs
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lent
Martin (IL)
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moody
Moorhead
Neal (NC)
Nielson
Oxley
Packard
Parker
Pashayan
Patterson
Paxon
Penny
Petri
Porter
Regula
Rhodes
Ridge
Ritter
Roberts
Robinson
Rohrabacher
Saxton
Schaefer
Schroeder
Schulze
Sensenbrenner
Shays
Shumway
Slattery
Slaughter (VA)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walgren
Walker
Walsh
Weber
Weldon
Wylie

NOES—283

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Costello
Coughlin
Courter
Coyne
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flippo
Foglietta
Ford (MI)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Goss
Grant
Gray
Green
Guarini
Harris
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Hughes
Ireland
James
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Parris
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Roe
Rogers
Ros-Lehtinen
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schneider
Schumer
Serrano
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Solarz
Spratt
Staggers
Stallings
Stangeland
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Washington
Watkins
Waxman
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—16

Crockett
Flake
Ford (TN)
Gephardt
Hall (TX)
Hatcher
Jenkins
Jones (GA)
Lukens, Donald
Martinez
Morrison (CT)
Nelson
Panetta
Rostenkowski
Schuette
Torricelli

□ 1641

The Clerk announced the following pair:

On this vote:

Mr. Donald E. "Buz" Lukens for, with Mr. Jones of Georgia against.

Mr. SERRANO changed his vote from "aye" to "no."

Mr. HUNTER and Mr. NIELSON of Utah changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. NOWAK. Mr. Chairman, I move to strike the last word, and I rise in strong support of H.R. 5229.

Mr. Chairman, I would like to take this opportunity to commend the chairman, Mr. LEHMAN, and the ranking minority, Mr. COUGHLIN, for their outstanding work in bringing before the House a bill that will address the needs of our Nation's transportation system.

This legislation provides $13.1 billion for the programs of the Department of Transportation and related agencies. This represents major increases over current fundng levels for a number of important transportation programs. These increased funds are necessary in our continuing struggle to sustain our Nation's transportation infrastructure.

The Federal Government has made a substantial investment in our country's highway system which is the backbone of our economy. By recommending the release of $14.5 billion from the highway trust fund to assist in the construction and repair of the Interstate System, our secondary roads and bridges, we in Congress are committed to maintaining that investment which is vital to our continued growth and economic development.

As a strong supporter of mass transit, I am pleased that this bill provides increased funding for the Urban Mass Transportation Administration. I am particularly pleased that the committee has resisted the administration's proposal to eliminate operating assistance for the large urban areas. Once again we in the House of Representatives are demonstrating that we have not forgotten about those who rely so heavily on the transit system.

Also, the bill provides $1.8 billion for airport improvement programs. This is consistent with the funding level provided in the Aviation Safety and Capacity Expansion Act of 1990 that will be considered by the House later this afternoon. These are funds which will be well spent as we expand our efforts to meet the airport infrastructure improvements needed to guarantee safe and expeditious travel, which is so important to our economic well being.

I commend this bill and urge my colleagues to support its passage.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1991".

Mr. LEHMAN of Florida. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose and the Speaker pro tempore (Mr. MOAKLEY) having assumed the chair, Mr. BOUCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 385, nays 31, not voting 16, as follows:

[Roll No. 225]

YEAS—385

Ackerman	Dickinson	Inhofe
Alexander	Dicks	Ireland
Anderson	Dingell	Jacobs
Andrews	Dixon	James
Annunzio	Donnelly	Johnson (SD)
Anthony	Dorgan (ND)	Johnston
Applegate	Dornan (CA)	Jones (NC)
Aspin	Douglas	Jontz
Atkins	Downey	Kanjorski
AuCoin	Dreier	Kaptur
Baker	Durbin	Kasich
Ballenger	Dwyer	Kastenmeier
Barnard	Dymally	Kennedy
Bartlett	Dyson	Kennelly
Bateman	Early	Kildee
Bates	Eckart	Kleczka
Beilenson	Edwards (CA)	Kolter
Bennett	Emerson	Kostmayer
Bentley	Engel	LaFalce
Bereuter	English	Lagomarsino
Berman	Erdreich	Lancaster
Bevill	Espy	Lantos
Bilbray	Evans	Laughlin
Bilirakis	Fascell	Leach (IA)
Billey	Fazio	Leath (TX)
Boehlert	Feighan	Lehman (CA)
Boggs	Fields	Lehman (FL)
Bonior	Fish	Lent
Borski	Flake	Levin (MI)
Bosco	Flippo	Levine (CA)
Boucher	Foglietta	Lewis (CA)
Boxer	Ford (MI)	Lewis (FL)
Brennan	Frank	Lewis (GA)
Brooks	Frost	Lightfoot
Broomfield	Gallegly	Lipinski
Browder	Gallo	Livingston
Brown (CA)	Gaydos	Lloyd
Brown (CO)	Gejdenson	Long
Bruce	Gephardt	Lowery (CA)
Bryant	Geren	Lowey (NY)
Buechner	Gibbons	Luken, Thomas
Bunning	Gillmor	Machtley
Bustamante	Gilman	Madigan
Byron	Glickman	Manton
Callahan	Gonzalez	Markey
Campbell (CA)	Goodling	Marlenee
Campbell (CO)	Gordon	Martin (IL)
Cardin	Goss	Martin (NY)
Carper	Grandy	Matsui
Carr	Grant	Mavroules
Chandler	Gray	Mazzoli
Chapman	Green	McCandless
Clarke	Guarini	McCloskey
Clay	Gunderson	McCollum
Clinger	Hall (OH)	McCrery
Coble	Hamilton	McCurdy
Coleman (MO)	Hammerschmidt	McDade
Coleman (TX)	Harris	McDermott
Collins	Hastert	McEwen
Combest	Hawkins	McGrath
Condit	Hayes (IL)	McHugh
Conte	Hayes (LA)	McMillan (NC)
Conyers	Hefley	McMillen (MD)
Cooper	Hefner	McNulty
Costello	Hertel	Meyers
Coughlin	Hiler	Mfume
Courter	Hoagland	Miller (CA)
Cox	Hochbrueckner	Miller (OH)
Coyne	Holloway	Miller (WA)
Craig	Horton	Mineta
Darden	Houghton	Moakley
Davis	Hoyer	Molinari
de la Garza	Hubbard	Mollohan
DeFazio	Huckaby	Montgomery
DeLay	Hughes	Moody
Dellums	Hunter	Moorhead
Derrick	Hutto	Morella
DeWine	Hyde	Morrison (WA)
Mrazek	Rohrabacher	Staggers
Murphy	Ros-Lehtinen	Stallings
Murtha	Rose	Stangeland
Myers	Rostenkowski	Stark
Nagle	Roth	Stearns
Natcher	Roukema	Stenholm
Neal (MA)	Rowland (CT)	Stokes
Neal (NC)	Rowland (GA)	Studds
Nowak	Roybal	Sundquist
Oakar	Russo	Swift
Oberstar	Sabo	Synar
Obey	Saiki	Tallon
Olin	Sangmeister	Tanner
Ortiz	Sarpalius	Tauke
Owens (NY)	Savage	Tauzin
Owens (UT)	Sawyer	Taylor
Oxley	Saxton	Thomas (CA)
Packard	Schaefer	Thomas (GA)
Pallone	Scheuer	Towns
Panetta	Schiff	Traficant
Parker	Schneider	Traxler
Parris	Schroeder	Udall
Pashayan	Schulze	Unsoeld
Patterson	Schumer	Upton
Paxon	Serrano	Valentine
Payne (NJ)	Sharp	Vander Jagt
Payne (VA)	Shaw	Vento
Pease	Shays	Visclosky
Pelosi	Shuster	Volkmer
Penny	Sikorski	Vucanovich
Perkins	Sisisky	Walgren
Petri	Skaggs	Walsh
Pickett	Skeen	Washington
Pickle	Skelton	Watkins
Porter	Slattery	Waxman
Poshard	Slaughter (NY)	Weber
Price	Slaughter (VA)	Weiss
Pursell	Smith (FL)	Weldon
Quillen	Smith (IA)	Wheat
Rahall	Smith (NE)	Whittaker
Rangel	Smith (NJ)	Whitten
Ravenel	Smith (TX)	Wilson
Ray	Smith, Denny (OR)	Wise
Regula	Smith, Robert (OR)	Wolf
Richardson	Snowe	Wolpe
Ridge	Solarz	Wyden
Rinaldo	Solomon	Wylie
Ritter	Spence	Yates
Robinson	Spratt	Yatron
Roe		Young (AK)
Rogers		Young (FL)

NAYS—31

Archer	Gingrich	Rhodes
Armey	Gradison	Roberts
Barton	Hancock	Sensenbrenner
Burton	Hansen	Shumway
Crane	Henry	Smith (VT)
Dannemeyer	Herger	Smith, Robert (NH)
Duncan	Johnson (CT)	Stump
Edwards (OK)	Kolbe	Thomas (WY)
Fawell	Kyl	Walker
Frenzel	Michel	
Gekas	Nielson	

NOT VOTING—16

Clement	Jenkins	Schuette
Crockett	Jones (GA)	Torres
Ford (TN)	Lukens, Donald	Torricelli
Hall (TX)	Martinez	Williams
Hatcher	Morrison (CT)	
Hopkins	Nelson	

□ 1701

Mrs. JOHNSON of Connecticut and Mr. DUNCAN changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably detained during the previous vote on H.R. 5229, and, had I been present for that vote, I would have voted "yea".

CONFERENCE REPORT ON S. 933, AMERICANS WITH DISABILITIES ACT OF 1990

Mr. HOYER submitted the following conference report and statement on the Senate bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability:

CONFERENCE REPORT (H. REPT.) 101-596)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 933), to establish a clear and comprehensive prohibition of discrimination on the basis of disability, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Americans with Disabilities Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—EMPLOYMENT

Sec. 101. Definitions.
Sec. 102. Discrimination.
Sec. 103. Defenses.
Sec. 104. Illegal use of drugs and alcohol.
Sec. 105. Posting notices.
Sec. 106. Regulations.
Sec. 107. Enforcement.
Sec. 108. Effective date.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

Sec. 201. Definition.
Sec. 202. Discrimination.
Sec. 203. Enforcement.
Sec. 204. Regulations.
Sec. 205. Effective date.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

Part I—Public Transportation Other Than by Aircraft or Certain Rail Operations

Sec. 221. Definitions.
Sec. 222. Public entities operating fixed route systems.
Sec. 223. Paratransit as a complement to fixed route service.
Sec. 224. Public entity operating a demand responsive system.
Sec. 225. Temporary relief where lifts are unavailable.
Sec. 226. New facilities.
Sec. 227. Alterations of existing facilities.
Sec. 228. Public transportation programs and activities in existing facilities and one car per train rule.
Sec. 229. Regulations.
Sec. 230. Interim accessibility requirements.
Sec. 231. Effective date.

Part II—Public Transportation by Intercity and Commuter Rail
Sec. 241. Definitions.
Sec. 242. Intercity and commuter rail actions considered discriminatory.
Sec. 243. Conformance of accessibility standards.
Sec. 244. Regulations.
Sec. 245. Interim accessibility requirements.
Sec. 246. Effective date.
TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES
Sec. 301. Definitions.
Sec. 302. Prohibition of discrimination by public accommodations.
Sec. 303. New construction and alterations in public accommodations and commercial facilities.
Sec. 304. Prohibition of discrimination in public transportation services provided by private entities.
Sec. 305. Study.
Sec. 306. Regulations.
Sec. 307. Exemptions for private clubs and religious organizations.
Sec. 308. Enforcement.
Sec. 309. Examinations and courses.
Sec. 310. Effective date.
TITLE IV—TELECOMMUNICATIONS RELAY SERVICES
Sec. 401. Telecommunication services for hearing-impaired and speech-impaired individuals.
Sec. 402. Closed-captioning of public service announcements.
TITLE V—MISCELLANEOUS PROVISIONS
Sec. 501. Construction.
Sec. 502. State immunity.
Sec. 503. Prohibition against retaliation and coercion.
Sec. 504. Regulations by the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Attorney's fees.
Sec. 506. Technical assistance.
Sec. 507. Federal wilderness areas.
Sec. 508. Transvestites.
Sec. 509. Congressional inclusion.
Sec. 510. Illegal use of drugs.
Sec. 511. Definitions.
Sec. 512. Amendments to the Rehabilitation Act.
Sec. 513. Alternative means of dispute resolution.
Sec. 514. Severability.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AUXILIARY AIDS AND SERVICES.—The term "auxiliary aids and services" includes—

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) DISABILITY.—The term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

TITLE I—EMPLOYMENT

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).

(2) COVERED ENTITY.—The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DIRECT THREAT.—The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

(4) EMPLOYEE.—The term "employee" means an individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this title, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) EXCEPTIONS.—The term "employer" does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(6) ILLEGAL USE OF DRUGS.—

(A) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

(7) PERSON, ETC.—The terms "person", "labor organization", "employment agency", "commerce", and "industry affecting commerce", shall have the same meaning given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(8) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing appli-

cants for the job, this description shall be considered evidence of the essential functions of the job.

(9) REASONABLE ACCOMMODATION.—The term "reasonable accommodation" may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

SEC. 102. DISCRIMINATION.

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—As used in subsection (a), the term "discriminate" includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) MEDICAL EXAMINATIONS AND INQUIRIES.—

(1) IN GENERAL.—The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) PREEMPLOYMENT.—

(A) PROHIBITED EXAMINATION OR INQUIRY.—Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) ACCEPTABLE INQUIRY.—A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) EMPLOYMENT ENTRANCE EXAMINATION.—A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this title.

(4) EXAMINATION AND INQUIRY.—

(A) PROHIBITED EXAMINATIONS AND INQUIRIES.—A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) ACCEPTABLE EXAMINATIONS AND INQUIRIES.—A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) REQUIREMENT.—Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

SEC. 103. DEFENSES.

(a) IN GENERAL.—It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) QUALIFICATION STANDARDS.—The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) RELIGIOUS ENTITIES.—

(1) IN GENERAL.—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) RELIGIOUS TENETS REQUIREMENT.—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

(d) LIST OF INFECTIOUS AND COMMUNICABLE DISEASES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, not later than 6 months after the date of enactment of this Act, shall—

(A) review all infectious and communicable diseases which may be transmitted through handling the food supply;

(B) publish a list of infectious and communicable diseases which are transmitted through handling the food supply;

(C) publish the methods by which such diseases are transmitted; and

(D) widely disseminate such information regarding the list of diseases and their modes of transmissability to the general public.

Such list shall be updated annually.

(2) APPLICATIONS.—In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of

Health and Human Services under paragraph (1), and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

(3) CONSTRUCTION.—Nothing in this Act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissability published by the Secretary of Health and Human Services.

SEC. 104. ILLEGAL USE OF DRUGS AND ALCOHOL.

(a) QUALIFIED INDIVIDUAL WITH A DISABILITY.—For purposes of this title, the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) AUTHORITY OF COVERED ENTITY.—A covered entity—

(1) may prohibit the illegal use of drugs and the use alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Transportation).

(d) DRUG TESTING.—

(1) IN GENERAL.—For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) CONSTRUCTION.—Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) TRANSPORTATION EMPLOYEES.—Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Department of Transportation of authority to—

(1) test employees of such entities in, and applicants for, positions involving safety-sensitive duties for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive for illegal use of drugs and on-duty impairment by alcohol pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

SEC. 105. POSTING NOTICES.

Every employer, employment agency, labor organization, or joint labor-management committee covered under this title shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this Act, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

SEC. 106. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format to carry out this title in accordance with subchapter II of chapter 5 of title 5, United States Code.

SEC. 107. ENFORCEMENT.

(a) POWERS, REMEDIES, AND PROCEDURES.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment.

(b) COORDINATION.—The agencies with enforcement authority for actions which allege employment discrimination under this title and under the Rehabilitation Act of 1973 shall develop procedures to ensure that administrative complaints filed under this title and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this title and the Rehabilitation Act of 1973. The Commission, the Attorney General, and the Office of Federal Contract Compliance Programs shall establish such coordinating mechanisms (similar to provisions contained in the joint regulations promulgated by the Commission and the Attorney General at part 42 of title 28 and part 1691 of title 29, Code of Federal Regulations, and the Memorandum of Understanding between the Commission and the Office of Federal Contract Compliance Programs dated January 16, 1981 (46 Fed. Reg. 7435, January 23, 1981)) in regulations implementing this title and Rehabilitation Act of 1973 not later than 18 months after the date of enactment of this Act.

SEC. 108. EFFECTIVE DATE.

This title shall become effective 24 months after the date of enactment.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

SEC. 201. DEFINITION.

As used in this title:

(1) PUBLIC ENTITY.—The term "public entity" means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

(2) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

SEC. 202. DISCRIMINATION.

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

SEC. 203. ENFORCEMENT.

The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

SEC. 204. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244.

(b) RELATIONSHIP TO OTHER REGULATIONS.—Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the

Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) STANDARDS.—Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act.

SEC. 205. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this subtitle shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Section 204 shall become effective on the date of enactment of this Act.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

SEC. 221. DEFINITIONS.

As used in this part:

(1) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing designated public transportation which is not a fixed route system.

(2) DESIGNATED PUBLIC TRANSPORTATION.—The term "designated public transportation" means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 241)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) OPERATES.—The term "operates", as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) PUBLIC SCHOOL TRANSPORTATION.—The term "public school transportation" means transportation by school bus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 222. PUBLIC ENTITIES OPERATING FIXED ROUTE SYSTEMS.

(a) PURCHASE AND LEASE OF NEW VEHICLES.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following the effective date of this subsection and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) PURCHASE AND LEASE OF USED VEHICLES.—Subject to subsection (c)(1), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease, after the 30th day following the effective date of this subsection, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) REMANUFACTURED VEHICLES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system—

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following the effective date of this subsection; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended;

unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) EXCEPTION FOR HISTORIC VEHICLES.—

(A) GENERAL RULE.—If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) VEHICLES OF HISTORIC CHARACTER DEFINED BY REGULATIONS.—For purposes of this paragraph and section 228(b), a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

SEC. 223. PARATRANSIT AS A COMPLEMENT TO FIXED ROUTE SERVICE.

(a) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) ISSUANCE OF REGULATIONS.—Not later than 1 year after the effective date of this subsection, the Secretary shall issue final regulations to carry out this section.

(c) REQUIRED CONTENTS OF REGULATIONS.—

(1) ELIGIBLE RECIPIENTS OF SERVICE.—The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section—

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system;

(B) to 1 other individual accompanying the individual with the disability; and

(C) to other individuals, in addition to the one individual described in subparagraph (B), accompanying the individual with a disability provided that space for these additional individuals is available on the paratransit vehicle carrying the individual with a disability and that the transportation of such additional individuals will not result in a denial of service to individuals with disabilities.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) SERVICE AREA.—The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) SERVICE CRITERIA.—Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) UNDUE FINANCIAL BURDEN LIMITATION.—The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the

public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) ADDITIONAL SERVICES.—The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) PUBLIC PARTICIPATION.—The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) PLANS.—The regulations issued under this section shall require that each public entity which operates a fixed route system—

(A) within 18 months after the effective date of this subsection, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) PROVISION OF SERVICES BY OTHERS.—The regulations issued under this section shall—

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) OTHER PROVISIONS.—The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) REVIEW OF PLAN.—

(1) GENERAL RULE.—The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) DISAPPROVAL.—If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) MODIFICATION OF DISAPPROVED PLAN.—Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) DISCRIMINATION DEFINED.—As used in subsection (a), the term "discrimination" includes—

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as preventing a public entity—

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

SEC. 224. PUBLIC ENTITY OPERATING A DEMAND RESPONSIVE SYSTEM.

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

SEC. 225. TEMPORARY RELIEF WHERE LIFTS ARE UNAVAILABLE.

(a) GRANTING.—With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 222(a) or 224 to purchase new buses that are readily accessible to and usable by individuals with disabilities if such public entity demonstrates to the satisfaction of the Secretary—

(1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;

(3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and

(4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) DURATION AND NOTICE TO CONGRESS.—Any relief granted under subsection (a) shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) FRAUDULENT APPLICATION.—If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) was fraudulently applied for, the Secretary shall—

(1) cancel such relief if such relief is still in effect; and

(2) take such other action as the Secretary considers appropriate.

SEC. 226. NEW FACILITIES.

For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

SEC. 227. ALTERATIONS OF EXISTING FACILITIES.

(a) GENERAL RULE.—With respect to alterations of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) SPECIAL RULE FOR STATIONS.—

(1) GENERAL RULE.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) RAPID RAIL AND LIGHT RAIL KEY STATIONS.—

(A) ACCESSIBILITY.—Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on the effective date of this paragraph.

(B) EXTENSION FOR EXTRAORDINARILY EXPENSIVE STRUCTURAL CHANGES.—The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expen-

sive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following the date of the enactment of this Act at least ⅔ of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) PLANS AND MILESTONES.—The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection—

(A) that reflects consultation with individuals with disabilities affected by such plan and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

SEC. 228. PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES AND ONE CAR PER TRAIN RULE.

(a) PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES.—

(1) IN GENERAL.—With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) EXCEPTION.—Paragraph (1) shall not require a public entity to make structural changes to existing facilities in order to make such facilities accessible to individuals who use wheelchairs, unless and to the extent required by section 227(a) (relating to alterations) or section 227(b) (relating to key stations).

(3) UTILIZATION.—Paragraph (1) shall not require a public entity to which paragraph (2) applies, to provide to individuals who use wheelchairs services made available to the general public at such facilities when such individuals could not utilize or benefit from such services provided at such facilities.

(b) ONE CAR PER TRAIN RULE.—

(1) GENERAL RULE.—Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) HISTORIC TRAINS.—In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 222(c)(1) and which do not significantly alter the historic character of such vehicle.

SEC. 229. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part (other than section 223).

(b) STANDARDS.—The regulations issued under this section and section 223 shall include standards applicable to facilities and vehicles covered by this subtitle. The standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

SEC. 230. INTERIM ACCESSIBILITY REQUIREMENTS.

If final regulations have not been issued pursuant to section 229, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 226 and 227, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

SEC. 231. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act. (b) EXCEPTION.—Sections 222, 223 (other than subsection (a)), 224, 225, 227(b), 228(b), and 229 shall become effective on the date of enactment of this Act.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

SEC. 241. DEFINITIONS.

As used in this part:

(1) COMMUTER AUTHORITY.—The term "commuter authority" has the meaning given such term in section 103(8) of the Rail Passenger Service Act (45 U.S.C 502(8)).

(2) COMMUTER RAIL TRANSPORTATION.—The term "commuter rail transportation" has the meaning given the term "commuter service" in section 103(9) of the Rail Passenger Service Act (45 U.S.C 502(9)).

(3) INTERCITY RAIL TRANSPORTATION.—The term "intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation.

(4) RAIL PASSENGER CAR.—The term "rail passenger car" means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars.

(5) RESPONSIBLE PERSON.—The term "responsible person" means—

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation.

(6) STATION.—The term "station" means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and, where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but such term does not include flag stops.

SEC. 242. INTERCITY AND COMMUTER RAIL ACTIONS CONSIDERED DISCRIMINATORY.

(a) INTERCITY RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW INTERCITY CARS.—

(A) GENERAL RULE.—Except as otherwise provided in this subsection with respect to individuals who use wheelchairs, it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) SPECIAL RULE FOR SINGLE-LEVEL PASSENGER COACHES FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level passenger coaches shall be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair; and

(iv) have a restroom usable by an individual who uses a wheelchair,

only to the extent provided in paragraph (3).

(C) SPECIAL RULE FOR SINGLE-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level dining cars shall not be required to—

(i) be able to be entered from the station platform by an individual who uses a wheelchair; or

(ii) have a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger.

(D) SPECIAL RULE FOR BI-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Bi-level dining cars shall not be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, or a space to fold and store such passenger's wheelchair; or

(iv) have a restroom usable by an individual who uses a wheelchair.

(3) ACCESSIBILITY OF SINGLE-LEVEL COACHES.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches—

(i) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 5 years after the date of enactment of this Act; and

(ii) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than the total number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 10 years after the date of enactment of this Act.

(B) LOCATION.—Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) LIMITATION.—Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) OTHER ACCESSIBILITY FEATURES.—Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (A) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) FOOD SERVICE.—

(A) SINGLE-LEVEL DINING CARS.—On any train in which a single-level dining car is used to provide food service—

(i) if such single-level dining car was purchased after the date of enactment of this Act, table service in such car shall be provided to a passenger who uses a wheelchair if—

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (i) through which an individual who uses a wheelchair may enter.

(B) BI-LEVEL DINING CARS.—On any train in which a bi-level dining car is used to provide food service—

(i) if such train includes a bi-level lounge car purchased after the date of enactment of this Act, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) COMMUTER RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) ACCESSIBILITY.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require—

(i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger; (ii) space to fold and store a wheelchair; or (iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) USED RAIL CARS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(d) REMANUFACTURED RAIL CARS.—

(1) REMANUFACTURING.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) PURCHASE OR LEASE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) STATIONS.—

(1) NEW STATIONS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) EXISTING STATIONS.—

(A) FAILURE TO MAKE READILY ACCESSIBLE.—

(i) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(ii) PERIOD FOR COMPLIANCE.—

(I) INTERCITY RAIL.—All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after the date of enactment of this Act.

(II) COMMUTER RAIL.—Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after the date of enactment of this Act, except that the time limit may be extended by the Secretary of Transportation up to 20 years after the date of enactment of this Act in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) DESIGNATION OF KEY STATIONS.—Each commuter authority shall designate the key

stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) PLANS AND MILESTONES.—The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) REQUIREMENT WHEN MAKING ALTERATIONS.—

(i) GENERAL RULE.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) ALTERATIONS TO A PRIMARY FUNCTION AREA.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) REQUIRED COOPERATION.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for an owner, or person in control, of a station governed by subparagraph (A) or (B) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this Act.

SEC. 243. CONFORMANCE OF ACCESSIBILITY STANDARDS.

Accessibility standards included in regulations issued under this part shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 504(a) of this Act.

SEC. 244. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part.

SEC. 245. INTERIM ACCESSIBILITY REQUIREMENTS.

(a) STATIONS.—If final regulations have not been issued pursuant to section 244, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 242(e), except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to section 244, a person shall be considered to have complied with the requirements of section 242(a) through (d) that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this part and are in effect at the time such design is substantially completed.

SEC. 246. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 242 and 244 shall become effective on the date of enactment of this Act.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

SEC. 301. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The term "commerce" means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) COMMERCIAL FACILITIES.—The term "commercial facilities" means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 242 or covered under this title, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) PRIVATE ENTITY.—The term "private entity" means any entity other than a public entity (as defined in section 201(1)).

(7) PUBLIC ACCOMMODATION.—The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) RAIL AND RAILROAD.—The terms "rail" and "railroad" have the meaning given the term "railroad" in section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)).

(9) READILY ACHIEVABLE.—The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) SPECIFIED PUBLIC TRANSPORTATION.—The term "specified public transportation" means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) VEHICLE.—The term "vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under this title.

SEC. 302. PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) CONSTRUCTION.—

(1) GENERAL PROHIBITION.—

(A) ACTIVITIES.—

(i) DENIAL OF PARTICIPATION.—It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) PARTICIPATION IN UNEQUAL BENEFIT.—It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) FIXED ROUTE SYSTEM.—

(i) ACCESSIBILITY.—It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 304 to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) EQUIVALENT SERVICE.—If a private entity which operates a fixed route system and which is not subject to section 304 purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) DEMAND RESPONSIVE SYSTEM.—For purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 304 to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) OVER-THE-ROAD BUSES.—

(i) LIMITATION ON APPLICABILITY.—Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) ACCESSIBILITY REQUIREMENTS.—For purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2) by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

(3) SPECIFIC CONSTRUCTION.—Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

SEC. 303. NEW CONSTRUCTION AND ALTERATIONS IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES.

(a) APPLICATION OF TERM.—Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 302(a) includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment of this Act that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this title; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) ELEVATOR.—Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

SEC. 304. PROHIBITION OF DISCRIMINATION IN SPECIFIED PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) CONSTRUCTION.—For purposes of subsection (a), discrimination includes—

(1) the imposition or application by a entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to—

(A) make reasonable modifications consistent with those required under section 302(b)(2)(A)(ii);

(B) provide auxiliary aids and services consistent with the requirements of section 302(b)(2)(A)(iii); and

(C) remove barriers consistent with the requirements of section 302(b)(2)(A) and with the requirements of section 303(a)(2);

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4)(A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2); and

(B) any other failure of such entity to comply with such regulations; and

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) HISTORICAL OR ANTIQUATED CARS.—

(1) EXCEPTION.—To the extent that compliance with subsection (b)(2)(C) or (b)(7) would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

(2) DEFINITION.—As used in this subsection, the term "historical or antiquated rail passenger car" means a rail passenger car—

(A) which is not less than 30 years old at the time of its use for transporting individuals;

(B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

(C) which—

(i) has a consequential association with events or persons significant to the past; or

(ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

SEC. 305. STUDY.

(a) PURPOSES.—The Office of Technology Assessment shall undertake a study to determine—

(1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) CONTENTS.—The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 304(b)(4) and 306(a)(2), are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) ADVISORY COMMITTEE.—In conducting the study required by subsection (a), the Office of Technology Assessment shall establish an advisory committee, which shall consist of—

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

(d) DEADLINE.—The study required by subsection (a), along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after the date of the enactment of this Act. If the President determines that compliance with the regulations issued pursuant to section 306(a)(2)(B) on or before the applicable deadlines specified in section 306(a)(2)(B) will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) REVIEW.—In developing the study required by subsection (a), the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792). The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

SEC. 306. REGULATIONS.

(a) TRANSPORTATION PROVISIONS.—

(1) GENERAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 302(b)(2)(B) and (C) and to carry out section 304 (other than subsection (b)(4)).

(2) SPECIAL RULES FOR PROVIDING ACCESS TO OVER-THE-ROAD BUSES.—

(A) INTERIM REQUIREMENTS—

(i) ISSUANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) EFFECTIVE PERIOD.—The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (B).

(B) FINAL REQUIREMENT.—

(i) REVIEW OF STUDY AND INTERIM REQUIREMENTS.—The Secretary shall review the study submitted under section 305 and the regulations issued pursuant to subparagraph (A).

(ii) ISSUANCE.—Not later than 1 year after the date of the submission of the study under section 305, the Secretary shall issue in an accessible format new regulations to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require, taking into account the purposes of the study under section 305 and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) EFFECTIVE PERIOD.—Subject to section 305(d), the regulations issued pursuant to this subparagraph shall take effect—

(I) with respect to small providers of transportation (as defined by the Secretary), 7 years after the date of the enactment of this Act; and

(II) with respect to other providers of transportation, 6 years after such date of enactment.

(C) LIMITATION ON REQUIRING INSTALLATION OF ACCESSIBLE RESTROOMS.—The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) STANDARDS.—The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 302(b)(2) and 304.

(b) OTHER PROVISIONS.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this title not referred to in subsection (a) that include standards applicable to facilities and vehicles covered under section 302.

(c) CONSISTENCY WITH ATBCB GUIDELINES.—Standards included in regulations issued under subsections (a) and (b) shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

(d) INTERIM ACCESSIBILITY STANDARDS.—

(1) FACILITIES.—If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 303, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) VEHICLES AND RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this title, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this title and are in effect at the time such design is substantially completed.

SEC. 307. EXEMPTIONS FOR PRIVATE CLUBS AND RELIGIOUS ORGANIZATIONS.

The provisions of this title shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000-a(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

SEC. 308. ENFORCEMENT.

(a) IN GENERAL.—

(1) AVAILABILITY OF REMEDIES AND PROCEDURES.—The remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(a)) are the remedies and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

(2) INJUNCTIVE RELIEF.—In the case of violations of sections 302(b)(2)(A)(iv) and section 303(a), injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this title.

(b) ENFORCEMENT BY THE ATTORNEY GENERAL.—

(1) DENIAL OF RIGHTS.—

(A) DUTY TO INVESTIGATE.—

(i) IN GENERAL.—The Attorney General shall investigate alleged violations of this title, and shall undertake periodic reviews of compliance of covered entities under this title.

(ii) ATTORNEY GENERAL CERTIFICATION.—On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this Act for the accessibility and usability of covered facilities under this title. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this Act.

(B) POTENTIAL VIOLATION.—If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this title; or

(ii) any person or group of persons has been discriminated against under this title and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) AUTHORITY OF COURT.—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this title—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount—

(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) SINGLE VIOLATION.—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) PUNITIVE DAMAGES.—For purposes of subsection (b)(2)(B), the term "monetary damages" and "such other relief" does not include punitive damages.

(5) JUDICIAL CONSIDERATION.—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

SEC. 309. EXAMINATIONS AND COURSES.

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

SEC. 310. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsections (b) and (c), this title shall become effective 18 months after the date of the enactment of this Act.

(b) CIVIL ACTIONS.—Except for any civil action brought for a violation of section 303, no civil action shall be brought for any act or omission described in section 302 which occurs—

(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less; and

(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less.

(c) EXCEPTION.—Sections 302(a) for purposes of section 302(b)(2)(B) and (C) only, 304(a) for purposes of section 304(b)(3) only, 304(b)(3), 305, and 306 shall take effect on the date of the enactment of this Act.

TITLE IV—TELECOMMUNICATIONS

SEC. 401. TELECOMMUNICATIONS RELAY SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

(a) TELECOMMUNICATIONS.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 225. TELECOMMUNICATIONS SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

"(a) DEFINITIONS.—As used in this section—

"(1) COMMON CARRIER OR CARRIER.—The term 'common carrier' or 'carrier' includes any common carrier engaged in interstate communication by wire or radio as defined in section 3(h) and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b).

"(2) TDD.—The term 'TDD' means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

"(3) TELECOMMUNICATIONS RELAY SERVICES.—The term 'telecommunications relay services' means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

"(b) AVAILABILITY OF TELECOMMUNICATIONS RELAY SERVICES.—

"(1) IN GENERAL.—In order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

"(2) USE OF GENERAL AUTHORITY AND REMEDIES.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this Act by a common carrier engaged in interstate communication.

"(c) PROVISION OF SERVICES.—Each common carrier providing telephone voice transmission services shall, not later than 3 years after the date of enactment of this section, provide in compliance with the regulations prescribed under this section, throughout the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—

"(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission's regulations under subsection (d); or

"(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) for such State.

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Commission shall, not later than 1 year after the date of enactment of this section, prescribe regulations to implement this section, including regulations that—

"(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

"(B) establish minimum standards that shall be met in carrying out subsection (c);

"(C) require that telecommunications relay services operate every day for 24 hours per day;

"(D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

"(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

"(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

"(G) prohibit relay operators from intentionally altering a relayed conversation.

"(2) TECHNOLOGY.—The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology.

"(3) JURISDICTIONAL SEPARATION OF COSTS.—

"(A) IN GENERAL.—Consistent with the provisions of section 410 of this Act, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

"(B) RECOVERING COSTS.—Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

"(e) ENFORCEMENT.—

"(1) IN GENERAL.—Subject to subsections (f) and (g), the Commission shall enforce this section.

"(2) COMPLAINT.—The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

"(f) CERTIFICATION.—

"(1) STATE DOCUMENTATION.—Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

"(2) REQUIREMENTS FOR CERTIFICATION.—After review of such documentation, the Commission shall certify the State program if the Commission determines that—

"(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common

carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

"(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

"(3) METHOD OF FUNDING.—Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

"(4) SUSPENSION OR REVOCATION OF CERTIFICATION.—The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

"(g) COMPLAINT.—

"(1) REFERRAL OF COMPLAINT.—If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

"(2) JURISDICTION OF COMMISSION.—After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

"(A) final action under such State program has not been taken on such complaint by such State—

"(i) within 180 days after the complaint is filed with such State; or

"(ii) within a shorter period as prescribed by the regulations of such State; or

"(B) the Commission determines that such State program is no longer qualified for certification under subsection (f).".

(b) CONFORMING AMENDMENTS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 2(b) (47 U.S.C. 152(b)), by striking "section 224" and inserting "sections 224 and 225"; and

(2) in section 221(b) (47 U.S.C. 221(b)), by striking "section 301" and inserting "sections 225 and 301".

SEC. 402. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

Section 711 of the Communications Act of 1934 is amended to read as follows:

"SEC. 711. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

"Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

"(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

"(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. CONSTRUCTION.

(a) IN GENERAL.—Except as otherwise provided in this Act, nothing in this Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) RELATIONSHIP TO OTHER LAWS.—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

(c) INSURANCE.—Titles I through IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of title I and III.

(d) ACCOMMODATIONS AND SERVICES.—Nothing in this Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

SEC. 502. STATE IMMUNITY.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

SEC. 503. PROHIBITION AGAINST RETALIATION AND COERCION.

(a) RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) REMEDIES AND PROCEDURES.—The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to title I, title II and title III, respectively.

SEC. 504. REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ISSUANCE OF GUIDELINES.—Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act.

(b) CONTENTS OF GUIDELINES.—The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) QUALIFIED HISTORIC PROPERTIES.—

(1) IN GENERAL.—The supplemental guidelines issued under subsection (a) shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) SITES ELIGIBLE FOR LISTING IN NATIONAL REGISTER.—With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards.

(3) OTHER SITES.—With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1)(b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

SEC. 505. ATTORNEY'S FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

SEC. 506. TECHNICAL ASSISTANCE.

(a) PLAN FOR ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this Act, and other Federal agencies, in understanding the responsibility of such entities and agencies under this Act.

(2) PUBLICATION OF PLAN.—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act).

(b) AGENCY AND PUBLIC ASSISTANCE.—The Attorney General may obtain the assistance

of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) IMPLEMENTATION.—

(1) RENDERING ASSISTANCE.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act may render technical assistance to individuals and institutions that have rights or duties under the respective title or titles for which such agency has responsibility.

(2) IMPLEMENTATION OF TITLES.—

(A) TITLE I.—The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance developed under subsection (a), for title I.

(B) TITLE II.—

(i) SUBTITLE A.—The Attorney General shall implement such plan for assistance for subtitle A of title II.

(ii) SUBTITLE B.—The Secretary of Transportation shall implement such plan for assistance for subtitle B of title II.

(C) TITLE III.—The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III, except for section 304, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) TITLE IV.—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) TECHNICAL ASSISTANCE MANUALS.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this Act no later than six months after applicable final regulations are published under titles I, II, III, and IV.

(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each Federal agency that has responsibility under subsection (c)(2) for implementing this Act may make grants or award contracts to effectuate the purposes of this section, subject to the availability of appropriations. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this Act. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or grants described in this paragraph.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from compliance with the requirements of this Act because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

SEC. 507. FEDERAL WILDERNESS AREAS.

(a) STUDY.—The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) SUBMISSION OF REPORT.—Not later than 1 year after the enactment of this Act, the National Council on Disability shall submit the report required under subsection (a) to Congress.

(c) SPECIFIC WILDERNESS ACCESS.—

(1) IN GENERAL.—Congress reaffirms that nothing in the Wilderness Act is to be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

(2) DEFINITION.—For purposes of paragraph (1), the term "wheelchair" means a device designed solely for use by a mobility-impaired person for locomotion, that is suitable for use in an indoor pedestrian area.

SEC. 508. TRANSVESTITES.

For the purposes of this Act, the term "disabled" or "disability" shall not apply to an individual solely because that individual is a transvestite.

SEC. 509. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) COMMITMENT TO RULE XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(2) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(3) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in paragraph (2).

(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.

(6) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) PROPOSED REMEDIES AND PROCEDURES.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(7) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (2) and (6)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (1), (3), (4), (5), (6)(B), and (6)(C) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the purposes of this Act shall, subject to paragraphs (2) and (3), apply in their entirety to the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundredth First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(3) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to the conduct of the House of Representatives regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subpara-

graph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) APPROVAL.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Speaker of the House of Representatives. The remedies and procedures shall be effective upon the approval of the Speaker, after consultation with the House Office Building Commission.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel act of 1980 and regulations promulgated pursuant to that Act.

SEC. 510. ILLEGAL USE OF DRUGS.

(a) IN GENERAL.—For purposes of this Act, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) HEALTH AND OTHER SERVICES.—Notwithstanding subsection (a) and section 511(b)(3), an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) DEFINITION OF ILLEGAL USE OF DRUGS.—

(1) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

SEC. 511. DEFINITIONS.

(a) HOMOSEXUALITY AND BISEXUALITY.—For purposes of the definition of "disability" in section 3(2), homosexuality and bisexuality are not impairments and as such are not disabilities under this Act.

(b) CERTAIN CONDITIONS.—Under this Act, the term "disability" shall not include—

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

SEC. 512. AMENDMENTS TO THE REHABILITATION ACT.

(a) DEFINITION OF HANDICAPPED INDIVIDUAL.—Section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For purposes of title V, the term 'individual with handicaps' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) Nothing in clause (i) shall be construed to exclude as an individual with handicaps an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under title I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any handicapped student who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against nonhandicapped students. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

"(v) For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with handicaps' does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.".

(b) DEFINITION OF ILLEGAL DRUGS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended by adding at the end the following new paragraph:

"(22)(A) The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(B) The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.".

(c) CONFORMING AMENDMENTS.—Section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)) is amended—

(1) in the first sentence, by striking "Subject to the second sentence of this subparagraph," and inserting "Subject to subparagraphs (C) and (D),"; and

(2) by striking the second sentence.

SEC. 513. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under this Act.

SEC. 514. SEVERABILITY.

Should any provision in this Act be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of the Act.

And the House agree to the same.

From the Committee on Education and Labor, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

AUGUSTUS F. HAWKINS,
MAJOR R. OWENS,
MATTHEW G. MARTINEZ,
STEVE BARTLETT,
H.W. FAWELL,

From the Committee on Energy and Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference, except that for consideration of title IV of the Senate bill, and title IV of the House amendment, and modifications committed to conference, Mr. Rinaldo is appointed in lieu of Mr. Whittaker:

JOHN D. DINGELL,
EDWARD J. MARKEY,
TOM LUKEN,
NORMAN F. LENT,
BOB WHITTAKER,

For consideration of title IV of the Senate bill, and title IV of the House amendment, and modifications committed to conference, in lieu of Mr. Whittaker:

MATTHEW RINALDO,

From the Committee on Public Works and Transportation, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

GLENN M. ANDERSON,
ROBERT A. ROE,
NORMAN Y. MINETA,
JOHN PAUL HAMMERSCHMIDT,

From the Committee on the Judiciary, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
ROBERT W. KASTENMEIER,
HAMILTON FISH, Jr.
F. JAMES SENSENBRENNER, Jr.,
(except for amendment to sec. 103(d)),

As an additional conferee, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

STENY H. HOYER,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
PAUL SIMON,
ORRIN G. HATCH,
DAVE DURENBERGER,
JAMES M. JEFFORDS,

From the Committee on Commerce, Science, and Transportation, solely for the consideration of issues within that Committee's jurisdiction (telecommunications, commuter transit, and drug testing of transportation employees):

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
JOHN C. DANFORTH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. Short title

The Senate bill titles the Act the Americans with Disabilities Act of 1989. The House amendment changes the date to 1990.

The Senate recedes.

1A. Findings and Purposes

The House amendment, but not the Senate bill, includes the term "color" in its list of factors which have been the basis of discrimination for which there is legal recourse to redress such discrimination.

The Senate recedes.

TITLE I OF THE ADA (EMPLOYMENT)

2. Definition of the term "direct threat"

The House amendment, but not the Senate bill, defines the term "direct threat" to mean a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

The Senate recedes.

3. Definitions of terms "illegal use of drugs" and "drugs"

The Senate bill uses the phrase "illegal drug" and explains that the term means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act, the possession or distribution of which is unlawful under such Act and does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by the Controlled Substances Act.

The House amendment uses the phrase "illegal use of drugs" and defines the term to mean the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act and does not mean the use of controlled substances taken under supervision by a licensed health care professional or other uses authorized by the Controlled Substances Act or other provisions of Federal law. The House amendment defines the term "drugs" to mean a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

The Senate recedes.

4. Essential functions of the job

The Senate bill defines a qualified individual with a disability as a person who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

The House amendment adds that consideration shall be given to the employer's judgment as to what functions of a job are essential and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

The Senate recedes.

5. Definition of the term "undue hardship"

(a) The Senate bill defines an "undue hardship" to mean an action requiring significant difficulty or expense and then list the factors that must be considered in determining whether an accommodation would impose an undue hardship.

The House amendment specifies that the term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors listed in the statute.

The Senate recedes.

(b) In determining whether accommodating a qualified applicant or employee with a disability imposes an "undue hardship," the Senate bill requires that the following factors be considered: (1) the overall size of the covered entity with respect to the number of employees, number and type of facilities, and size of the budget; (2) the type of operation of the covered entity, including the composition and structure of the entity; and (3) the nature and cost of the action needed.

The House amendment includes the following factors: (1) the nature and cost of the accommodation needed under the ADA; (2) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility; (3) the overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees, the number, type, and location of its facilities; and (4) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity, the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

The Senate recedes.

6. Discrimination

The Senate bill and the House amendment use the same terms but in a different order.

The Senate recedes.

7. Contract liability

The Senate bill specifies that covered entities cannot discriminate directly or indirectly through contracts with other parties.

The House amendment clarifies that a covered entity is only liable in contractual arrangements for discrimination against its own applicants or employees.

The Senate recedes.

8. Reasonable accommodation

The Senate bill specifies that it is discriminatory for a covered entity to deny an employment opportunity to a qualified job applicant or employee with a disability if such denial is based on the need of the covered entity to make reasonable accommodations. In a separate section, the Senate bill specifies that reasonable accommodations need not be provided if they would result in an undue hardship.

The House amendment clarifies the relationship between the obligation not to deny a job to an individual with a disability who needs a reasonable accommodation and the undue hardship limitation governing the covered entity's obligation to provide the reasonable accommodation by including these provisions under the same paragraph.

The Senate recedes.

9. Employment tests

The House amendment adds the term "qualification standards" to the phrase "employment tests or other selection criteria."

The Senate recedes.

10. Preemployment inquiries

The House amendment deletes the word "employee" from the preemployment inquiry provision.

The Senate recedes. The conferees note that in certain industries, such as air transportation, applicants for security and safety related positions are normally chosen on the basis of many competitive factors, some of which are identified as a result of post-offer preemployment medical examinations. Thus, after the employer receives the results of the post-offer medical examination for applicants for safety or security sensitive positions, only those applicants who meet the employer's criteria for the job must receive confirmed offers of employment, so long as the employer does not use those results of the exam to screen out qualified individuals with disabilities on the basis of disability. The conferees do not intend for this Act to override any legiti-

mate medical standards or requirements established by Federal, state or local law, or by employers for applicants for safety or security sensitive positions, if the medical standards are consistent with this Act.

11. Postemployment medical examinations

The Senate bill specifies that an employer shall not conduct or require a medical examination of an employer unless such examination or inquiry is shown to be job-related and consistent with business necessity.

The House amendment deletes the term "conduct" and adds that a covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site so long as the information obtained regarding the medical condition or history of any employee are kept confidential and are not used to discriminate against qualified individuals with disabilities.

The Senate recedes.

12. Defenses, in general

The Senate amendment includes a reference to "reasonable accommodations." The House adds the following phrase "as required under this title."

The Senate recedes.

13. Health and safety

The Senate bill includes as a defense that a covered entity may fire or refuse to hire a person with a contagious disease if the individual poses a direct threat to the health and safety of other individuals in the workplace.

The House amendment makes this specific defense applicable to all applicants and employees, not just to those with contagious diseases.

The Senate recedes. The conferees intend that the term "qualification standard" as uses in section 103(b) permits a requirement that an individual with a disability not pose a direct threat to the health or safety of other individuals in the workplace if reasonable accommodation will not eliminate the direct threat. In addition, the conferees concur with the House provision that defines "direct threat" to mean "significant risk" (section 101(3). The qualification standard in section 103(b) and the definition in section 101(3) clearly spell out the right of the employer to take action to protect the rights of its employees and other individuals in the workplace. Such employer action would include not assigning an individual to a job if such an assignment would pose a direct threat to individuals in the workplace and such a threat could not be eliminated by reasonable accommodation. The conferees incorporate by reference the explanations of the term "direct threat" set out in Senate Report No. 101-116. Consistent with this explanation, in determining what constitutes a significant risk, the conferees intend that the employer may take into consideration such factors as the magnitude, severity, or likelihood of risk to other individuals in the workplace and that the burden would be on the employer to show the relevance of such factors in relying on the qualification standard.

14. Religious tenet exemption

The Senate bill specifies that a religious organization may require, as a qualification standard to employment, that all applicants and employees conform to the religious tenets of such organization.

The House amendment deletes the phrase "as a qualification standard to employment."

The Senate recedes.

15. Food handlers

The House amendment, but not the Senate bill, specifies that it shall not be a violation of this Act for an employer to refuse to assign or continue to assign any employee with an infectious or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage.

The House recedes to the Senate with an amendment. The amendment states:

"(d) LIST OF INFECTIOUS AND COMMUNICABLE DISEASES.—

"(1) IN GENERAL.—The Secretary of Health and Human Services, not later than 6 months after enactment of this Act, shall—

"(A) review all infectious and communicable diseases which may be transmitted through handling food supply;

"(B) publish a list of infectious and communicable diseases which are transmitted through handling the food supply;

"(C) publish the methods by which such diseases are transmitted; and

"(D) widely disseminate such information regarding the list of diseases and their modes of transmissability to the general public. Such list shall be updated annually.

"(2) APPLICATIONS.—In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food that is included on the list developed by the Secretary of Health and Human Services under (a) and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

"(3) CONSTRUCTION.—Nothing in this Act shall be construed to preempt, modify, or amend any state, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the Secretary of Health and Human Services.".

The basic underlying goal of this provision is to ensure that accurate information is conveyed to the general public regarding those infections and communicable diseases which are transmitted through the handling of food.

The purpose of this provision is to assure the American public that the Secretary of Health and Human Services through the Public Health Service will review all infections and communicable diseases that may be transmitted through the handling of food and will then determine, based on valid scientific and medical analysis and using accepted public health methodologies and statistical practices regarding risk of transmission, whether such diseases are transmitted through the handling of food. This will reassure the American public that the Secretary has carefully analyzed this issue and has published a list of infectious and communicable diseases that are transmitted through the handling of food.

The list required under this provision must be updated annually by the Secretary. This requirement is included to reassure the American public that, on an annual basis, the Secretary will review the relevant scientific and medical evidence regarding the transmissibility of all diseases and will determine, based on that evidence, whether any of these diseases are transmitted through the handling of food.

The amendment further provides that the Secretary shall widely disseminate information regarding the list of diseases that are transmission through food handling and the modes by which such diseases are transmitted through the handling of food. This is a critical component of the amendment. The conferees believe that the lack of awareness of the American public regarding which diseases are and are not transmitted through the handling of food has contributed to false perceptions in this area. Instead of allowing false perceptions to determine whether individuals may remain in food handling jobs, this provision requires the Secretary to use valid scientific evidence to determine which diseases are transmitted through the handling of food and then to ensure that the American public is well-educated regarding these facts in order to allay any unnecessary fears.

The amendment further provides that, in any case in which an individual has an infectious or communicable disease that can be transmitted to others through the handling of food, which disease is included on the list developed by the Secretary, and in which the risk of the disease being transmitted in the particular job cannot be eliminated by reasonable accommodation, a covered entity under this title may refuse to assign or continue to assign such individual to a job involving food handling.

This provision is consistent with the underlying requirements of the ADA. If an individual has an infectious or communicable disease which is transmitted through the handling of food, then an employer or other covered entity under this title has the right under the ADA to, for example, reassign that employee to a job involving food handling. The underlying requirement of the ADA is simply that a reasonable accommodation must be made if such accommodation will eliminate the risk of the disease being transmitted in the particular job. For example, if an individual has an infectious disease that can be eliminated by taking medication for a specified period of time, the employer must offer the employee the reasonable accommodation of allowing the individual time off to take such medication. Of course, this accommodation would be subject to the same "undue hardship" limitation which applies to all accommodations under this title.

In addition, the placement of a disease on the list developed by the Secretary does not, of itself, define the disease as a disability for purposes of the requirements of this Act. Rather, whether a person is an "individual with a disability" is determined pursuant to section 3(2).

Finally, this amendment includes an anti-preemption provision. This provision is an explanation of the general anti-preemption provision of section 501(b) of the Act, but is designed specifically with regard to laws regarding food handling. The point of this provision is to clarify that legitimate state and local public health laws and regulations regarding food handling are not preempted by the ADA. State and local public health departments are, many times, at the front lines of protecting the public health. Such legitimate laws and regulations designed to protect the public health, therefore, are not preempted by the ADA.

This provision, however, in amplifying Section 501(b) more clearly defines certain types of existing and prospective state and

local public health laws that are not preempted by the ADA. First, the laws must be designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which risk cannot be eliminated by reasonable accommodation. This is consistent with the definition of "direct threat" under this title. Second, because this provision is designed to apply specifically to laws regarding food handling, such laws must pertain to the list of infectious and communicable diseases published by the Secretary as transmitted through food handling and be consistent with the determinations made by the Secretary regarding the modes of transmissability. This provision ensures that such legitimate state and local laws, ordinances, and regulations which deal with disease transmisstion through food handling, as defined by the Secretary, are not preempted by the ADA.

This amendment appropriately carries out both the letter and the spirit of the underlying requirements of the ADA. Instead of allowing false perceptions to determine whether an employee may remain in a particular job, this provision ensures that valid public health guidelines, rather than false perceptions, will determine the protections afforded under this title. In addition, and of critical importance, this provision should reassure the American public by requiring the Secretary to evaluate this area carefully by reviewing all communicable diseases and by publishing a list of diseases that are transmitted through food handling and by ensuring that the American public will be educated regarding those diseases which are transmitted through the handling of food.

16. Illegal use of drugs and use of alcohol

(a) The Senate bill specifies that the term "qualified individual with a disability" does not include employees or applicants who are current users of illegal drugs, except that an individual who is otherwise handicapped shall not be excluded from the protections of the Act if such individual also uses or is addicted to drugs.

The House amendment specifies that "qualified person with a disability" does not include any applicant or employee who is currently engaging in the illegal use of drugs when the covered entity acts on the basis of such use.

The Senate recedes. The provision excluding an individual who engages in the illegal use of drugs from protection is intended to ensure that employers may discharge or deny employment to persons who illegally use drugs on that basis, without fear of being held liable for discrimination. The provision is not intended to be limited to persons who use drugs on the day of, or within a matter of days or weeks before, the employment action in question. Rather, the provision is intended to apply to a person whose illegal use of drugs occurred recently enough to justify a reasonable belief that a person's drug use is current.

(b) The House amendment specifies that the following individuals are not excluded from the definition of the term "qualified individual with a disability": (1) an individual who has successfully completed a supervised rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use: (2) and individual who is participating in a supervised rehabilitation program and is no longer engaging in such use; or (3) an individual who is erroneously regarded as engaging in such use but is not engaging in such use.

The Senate recedes. Section 104(b)(2) provides that a person cannot be excluded as a qualified individual with a disability if that individual is participating in a supervised rehabilitation program and is no longer engaging in the illegal use of drugs. This provision does not permit persons to invoke the Act's protection simply by showing that they are participating in a drug treatment program. Rather, refraining from illegal use of drugs also is essential. Employers are entitled to seek reasonable assurances that no illegal use of drugs is occurring or has occurred recently enough so that continuing use is a real and ongoing problem. On the other hand, this provision recognizes that many people continue to participate in drug treatment programs long after they have stopped using drugs illegally, and that such persons should be protected under the Act. The conferees intend that the phrase "otherwise been rehabilitated successfully" be interpreted to refer to both in-patient and outpatient programs, as well as appropriate employee assistance programs that provide professional (not necessarily medical) assistance and counseling.

(c) The House amendment, but not the Senate bill, specifies that it is not a violation of title I of the Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual involved in rehabilitation programs is no longer engaging in the illegal use of drugs.

The Senate recedes. Conferees note that, for purposes of this title, an individual covered by the regulations described in section 104(c)(5) who tests positive on an employment related drug test conducted and verified in conformity with applicable federal regulations or guidelines is deemed to be "currently engaging in the illegal use of drugs" and may not invoke the Act's protection, except as provided in section 104(b)(3). The conferees do not intend to prevent individuals covered by section 104(c)(5) or any other individual covered by the employment provisions of the Act from challenging a positive drug test result by invoking the protection of section 104(b)(3). The ADA itself does not provide any standard by which the accuracy or validity of a drug test result is to be determined. Conferees also recognize that current Department of Transportation regulations allows or require, depending on the circumstances, employers to remove individuals in safety sensitive positions who are undergoing drug rehabilitation from such positions. With respect to individuals illegally using drugs or impaired by alcohol, nothing in this Act is intended to affect federal laws or Department of Transportation regulations to protect public safety.

(d) The Senate bill specifies that the covered entity may require that employees behave in conformance with the requirements of the Drug-Free Workplace Act of 1988 and that transportation employees meet requirements established by the Secretary of Transportation with respect to drugs and alcohol.

The House amendment also includes reference to positions defined by the Department of Defense and the Nuclear Regulatory Commission.

The Senate recedes.

(3) The House amendment adds that nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by railroads of authority to: (1) test railroad employees in, and applicants for, positions involving safety-sensitive duties, as determined by the Secretary of Transportation, for the illegal use of drugs and for on-duty impairment by alcohol; and (2) remove such persons who test positive from safety-sensitive duties.

The Senate recedes with an amendment. The amendment substitutes the phrase "entities subject to the jurisdiction of the Department of Transportation" for the word "railroad" in the House amendment; substitutes the phrase "employees of such entities" for the term "railroad employees" in the House amendment; deletes the phrase "as determined by the Secretary of Transportation" in subsection (e)(1) of the House amendment; and adds the phrase "for illegal use of drugs and on duty impairment by alcohol" after the word "positive" in subsection (e)(2) of the House amendment. The conferees agree that, separate and apart from Department of Transportation regulations, nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercie (e.g., as a result of collective bargaining agreements) by entities subject to the jurisdiction of DOT of authority to test employees of such entities in, and applicants for, positions involving safety sensitive duties for the illegal use of drugs and for on duty impairment by alcohol, and to remove such persons who test positive from safety sensitive duties. The conferees intend that the authority for transportation entities to remove persons who test positive includes authority for dismissal or disqualification, consistent with the provisions of this title. The conferees do not intent to prevent individuals covered by section 104(c)(5) or any other individual covered by the employment provisions of the Act, from challenging a positive drug test by invoking the protection of section 104(b)(3). The ADA itself, does not provide any standard by which the accuracy or validity of a drug test result is to be determined.

The conferees note that there was a typographical error in part 2 (Education and Labor Committee) of the House Report No. 101-485. The language in the last paragraph on page 81 should have appeared as follows: "The Act is not intended to disturb the legitimate and reasonable disciplinary rules and procedures established and enforced by professional sports leagues; nor is it intended to disturb collectively bargained policies that have been entered into between league management and its players association that are not inconsistent with this Act."

17. Enforcement

(a) The House amendment adds "powers" to the phrase "remedies and procedures" to conform the ADA to title VII.

The Senate recedes.

(b) The House amendment adds to the enforcement section a reference to section 705 of title VII of the Civil Rights Act of 1964 (authority of the Equal Employment Opportunity Commission).

The Senate recedes.

(c) The House amendment adds a reference to "the Attorney General."

The Senate recedes.

(d) The House amendment substitutes the term "person," which is used and defined in title VII of the Civil Rights Act of 1964 for the term "individual" included in the Senate bill.

The Senate recedes.

(e) The Senate bill includes the phrase any individual "who believes he or she is

being subjected to discrimination." The House amendment substitutes "any person alleging discrimination."

The Senate recedes.

18. Relationship with the Rehabilitation Act of 1973

The House amendment, but not the Senate bill, directs administrative agencies to develop procedures and coordinating mechanisms to ensure that ADA and Rehabilitation Act of 1973 administrative complaints are handled without duplication or inconsistent, conflicting standards. Further, agencies must establish the coordinating mechanisms in their regulations.

The Senate recedes with an amendment. The amendment specifies that "The Commission, the Attorney General, and the Office of Federal Contract Compliance Programs shall establish such coordinating mechanisms (similar to provisions contained in the joint regulations promulgated by the Commission and the Attorney General at part 42 of title 28 and part 1691 of title 29, Code of Federal Regulations, and the Memorandum of Understanding between the Commission and the Office of Federal Contract Compliance Programs dated January 16, 1981 (46 Fed. Reg. 7435, January 23, 1981)) in regulations implementing this title and the Rehabilitation Act of 1973 not later than 18 months after the date of enactment of this Act."

TITLE II OF THE ADA (PUBLIC SERVICES)

19. Structure of title II

The Senate bill includes one set of standards applicable to all public entities providing public services, including entities providing public transportation.

The House amendment includes subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions and subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory. Two parts are included under subtitle B: part I covers public transportation other than by aircraft or certain rail operations (intercity and commuter rail) and part II covers public transportation by intercity and commuter rail.

The Senate recedes.

SUBTITLE A—PROHIBITION AGAINST DISCRIMINATION AND OTHER GENERALLY APPLICABLE PROVISIONS

20. Definition of public entities

The Senate bill specifics that the public entities subject to the provisions of title II include: any state or local government or any department, agency, special purpose district, or other instrumentality of a State or local government. The accompanying report makes it clear that AMTRAK and commuter authorites are considered public entities.

The House amendment defines the term "public entity" to mean any state or local government or any department, agency, special purpose district, or other instrumentality of a state or states or local government; a commuter authority (as defined in section 103(8) of the Rail Passenger Service Act); and the National Railroad Passenger Corporation (AMTRAK).

The Senate recedes.

21. Qualified individual with a disability

The House amendment uses the term "public entity" in lieu of the list of entities covered by subtitle A.

The Senate recedes.

22. Discrimination, in general

The Senate bill specifies the general and specific prohibitions against discrimination by public entities.

The House amendment retains the general prohibition and clarifies that this general prohibition is subject to the other more specific provisions in title II. The House amendment also includes grammatical changes.

The Senate recedes. Questions have been raised regarding the obligations under this legislation of local and state governments to make 911 telephone emergency services available to hearing impaired and speech impaired persons. It is the intent of the conferees that the telephone emergency services operated by local and state governments be accessable to such individuals. This means that such telephone emergency systems must be equipped with technology that gives these individuals direct access to emergency services. For the present, this would require that local emergency systems provide a direct telephone line for individuals who rely on telecommunications devices for the deaf (the Baudot format) and computer modems (the ASCII format) to make telephone calls. In the future, new technology, such as speech-to-text services, may require other forms of direct access for such individuals. With this title II mandate, individuals with hearing and speech impairments will finally join the rest of us in having immediate access to assistance from police, fire, and ambulance services.

23. Enforcement

The Senate bill specifies that the remedies, procedures, and rights set out in section 505 of the Rehabilitation Act of 1973 shall be available with respect to any individual who believes that he or she is being subjected to discrimination on the basis of disability in violation of this Act, or regulations promulgated under section 204 concerning public services.

The House amendment provides that the remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 shall be the remedies, procedures, and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

The Senate recedes.

24. Regulations and standards

The Senate bill specifies that the Attorney General shall issue regulations implementing title II with the exception of section 203 pertaining to public transportation provided by public entities.

The House amendment, consistent with the revised structure used by the House, specifies that the Attorney General shall promulgate regulations that implement subtitle A. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223 (paratransit), section 229 (regulations relating to part I of subtitle B), and section 244 (regulations relating to part II of subtitle B).

The House amendment also specifies that regulations shall include standards applicable to facilities and vehicles covered by subtitle A, other than facilities stations, rail passenger cars, and vehicles covered by subtitle B.

The Senate recedes.

SUBTITLE B—ACTIONS APPLICABLE TO PUBLIC TRANSPORTATION PROVIDED BY PUBLIC ENTITIES CONSIDERED DISCRIMINATORY

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

25. Definitions

The Senate bill uses the following phrases: "demand responsive system," "fixed route system," "operates," and "public transportation."

The House amendment adds definitions for the terms "demand responsive system," "fixed route system" and "operates." The House amendment also substitutes the phrase "designated public transportation" for the phrase "public transportation" and includes the following definition: transportation (other than public school transportation) by bus, rail, or by other conveyance (other than transportation by aircraft, or intercity or commuter rail) that provides the general public with general or special service (including charter service) on a regular and continuing basis. The House amendment also includes a definition for the term "public school transportation.

The Senate recedes.

26. Purchase or lease of new and used fixed route vehicles

With slightly different wording, the Senate bill and the House amendment required that all new vehicles purchased or leased by a public entity which operates a fixed route system be accessible and required such public entity to make demonstrated good faith efforts to purchase or lease used vehicles that are accessible.

The Senate recedes.

27. Remanufactured and historic vehicles

The Senate bill specifies that if a public entity remanufactures a vehicle or purchases or leases a remanufactured vehicle so as to extend its usable life for 5 years or more, the vehicle must, to the maximum extent feasible, be readily accessible to an usable by individuals with disabilities.

With slightly different phrasing, the House amendment includes the policy in the Senate version applicable to remanufactured vehicles and adds a specific provision in the legislation for historic vehicles. Under the provision, if making a vehicle of historic character (which is used solely on any segment of a fixed route system that is included on the National Register of Historic Places) readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or purchase or lease a remanufacuted vehicle with) those modifications which do not significantly alter the historic character of such vehicle.

The Senate recedes.

28. Paratransit

The Senate bill specifies that if a public entity operates a fixed route system, it is discrimination for public transit authority to fail to provide paratransit or other special transportation services sufficient to provide a comparable level of services as is provided to individuals using the fixed route transportation to individuals with disabilities who cannot otherwise use fixed route transportation and individuals associated with such individuals with disabilities unless the public transit authority can demonstrate that the provision of paratransit or other transportation services would impose an undue financial burden on the public transit entity. If the provision of compara-

ble paratransit services would impose an undue financial burden on the public entity, such entity must provide such service to the extent that provision of such services would not impose an undue funancial burden on such entity. The Senate version specifies that the definition of undue financial burden may include reference to a flexible numerical formula that incorporates appropriate local characteristics such as population.

The House amendment includes the following changes.

(a) The House amendment clarifies that a public entity that only provides commuter bus service need not provide paratransit.

The Senate recedes.

(b) The House amendment specifies that comparable level of service must be provided but in the case of response time, it must be comparable, to the extent practicable.

The Senate recedes.

(c) Under the House amendment, paratransit and other special transportation services must be provided to three categories of individuals with disabilities:

To any individual with a disability who is unable as a result of a physical or mental impairment (including a vision impairment) without the assistance of another individual (except an operator of a wheelchair lift or other bording assistance device) to board, ride, or disembark from any vehicle on the system which is accessible;

To any individual with a disability who needs the assistance of a wheelchair lift or other bording assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is accessible if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such an accessible vehicle is not being used to provide designated public transportation on the route; and

To any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

For purposes of the first two categories of individuals with disabilities, boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

The Senate recedes.

(d) The House amendment clarifies that paratransit and special transportation services need only be provided in the service area of each public entity that operates a fixed route system and not in any portion of the service area in which the public entity solely provides commuter bus service.

The Senate recedes.

(e) The House amendment deletes the permissive reference to flexible numerical formula.

The Senate recedes.

(f) The House amendment requires that paratransit be available to one other person accompanying the individual with a disability.

The House recedes with an amendment. The amendment provides that in addition to the one individual specified in the House amendment, paratransit services must be available to other individuals accompanying the individual with a disability provided that space for these additional individuals is available on the paratransit vehicle carrying the individual with a disability and that the transportation of such additional individual will not result in a denial of service to individuals with disabilities. Throughout this section, the conferees intend that individuals accompanying the individual with a disability travel between the same boarding and disembarking locations as the individual with a disability.

(g) The House amendment specifies that each public entity must submit plans for operating paratransit services to the Secretary. The plan must include, among other things, the identity of any other public entity or person providing paratransit service and provide that the public entity does not have to provide directly under the plan the identified paratransit services being provided to others.

The Senate recedes.

(h) The House amendment includes a statutory construction provision that makes it clear that nothing in the ADA should be construed as preventing a public entity from providing paratransit services at a level which is greater than the level required by the ADA, from providing paratransit services in addition to those services required by the ADA, or from providing such services to individuals in addition to those individuals to whom such services are required to be provided by the ADA.

The Senate recedes.

29. Demand responsive systems operated by a public entity

With slightly different wording, the Senate bill and the House amendment specify rules for public entities operating demand responsive systems.

The Senate recedes.

30. New facilities

The House amendment substitutes the phrase "designated public transportation services" for the phrase "public transportation services" used in the Senate bill.

The Senate recedes.

31. Alterations to existing facilities

(a) The House amendment adds a reference to "designated public transportation."

The Senate recedes.

(b) The Senate bill requires that when major structural alterations are made, the alterations as well as the path of travel must be accessible to individuals with disabilities to the maximum extent feasible.

The House amendment substitutes the phrase "an alteration that affects or could affect usability or access to an area of the facility containing a primary function" for the Senate language "major structural alteration" and adds that the alterations to the path of travel and facilities serving the altered area should "not be disproportionate" to the overall alterations in terms of the cost and scope of the overall alterations as determined under criteria established by the Attorney General.

The Senate recedes.

32. Key stations in rapid and light rail systems

(a) The Senate bill provides an extension of up to 20 years for making key stations in rapid rail or light rail systems accessible where extraordinary expensive structural changes are required.

The House amendment permits 30 years where extraordinary expensive structural changes are required except that by the last day of the 20th year at least two-thirds of such key stations must be readily accessible.

The Senate recedes.

(b) With slightly different wording, both the Senate bill and the House amendment require the development of plans and milestones.

The Senate recedes.

33. Access to non-key stations

With slightly different phrasing, the Senate bill and the House amendment specify rules governing non-key existing stations.

The Senate recedes with an amendment. In section 228(a), strike out paragraph (2) and insert in lieu thereof the following new paragraphs:

"(2) EXCEPTION.—Paragraph (1) shall not require a public entity to make structural changes to existing facilities in order to make such facilities accessible to individuals who use wheelchairs, unless and to the extent required by section 227(a) (relating to alterations) and section 227(b) (relating to key stations).

"(3) UTILIZATION.—Paragraph (1) shall not require a public entity to which paragraph (2) applies, to provide to individuals who use wheelchair services made available to the general public at such facilities when such individuals could not utilize or benefit from such services provided at such facilities.".

34. One car per train rule applicable to rapid rail and light rail systems

The Senate bill provides that as soon as practicable, but in any event in no less than 5 years, rail systems must have at least one car per train that is accessible to individuals with disabilities.

The House amendment specifies that the one car per train rule only applies with respect to trains that have two or more vehicles and includes a special provision applicable to historic trains.

The Senate recedes.

35. Interim accessibility

The House amendment, but not the Senate bill, specifies that for new construction and alterations for which a valid and appropriate state or local building permit is obtained prior to the issuance of final regulations and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the accessibility requirement except that if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines, compliance with such supplemental guidelines shall be necessary.

The Senate recedes.

36. Effective date

The Senate bill specifies that the section in title II pertaining to new fixed route vehicles shall become effective on the date of enactment.

The House amendment specifies that sections concerning fixed route vehicles, demand responsive, stations, one car per train and regulations become effective on the date of enactment.

The Senate recedes.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

37. Definitions

The House amendment but not the Senate bill includes definitions of the following terms: "commuter authority," "commuter rail transportation," "intercity rail transportation," "rail passenger car," "responsible persons," and "station."

The Senate recedes.

38. One car per train rule for intercity rail transportation

With slightly different wording, the Senate bill and the House amendment specify a one car per train rule for intercity rail transportation.

The Senate recedes.

39. New intercity cars

The Senate bill provides that all new intercity vehicles must be readily accessible to and unable by individuals with disabilities, including individuals who use wheelchairs.

The House amendment includes a general obligation to make new intercity cars accessible that is identical to the provision in the Senate bill but includes special rules of accessibility applicable to people who use wheelchairs for specific categories of passenger car.

The Senate recedes.

40. One car per train rule and new commuter rail cars

,(a) With slightly different wording, the Senate bill and the House amendment specify the one car per train rule for persons providing commuter rail transportation.

The Senate recedes.

(b) The Senate bill provides that all new commuter rail cars must be readily accessible to and useable by individuals with disabilities, including individuals who use wheelchairs.

The House amendment adopts the same standard and specifies that the term "readily accessible to and usable by" shall not be construed to require: a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger; space to store and fold a wheelchair; or a seat to which a passenger who uses a wheelchair can transfer.

The Senate recedes.

41. Used and remanufactured rail cars

The Senate bill includes special rules for the purchase of all types of used and remanufactured vehicles.

The House amendment includes special provisions applicable to the purchase of used rail cars and remanufactured rail cars similar to the provisions included in the Senate bill applicable to all vehicles (the time period for remanufacture is 10 years for rail cars instead of 5 years for other vehicles).

The Senate recedes.

42. New and existing stations

(a) With respect to commuter rail, the Senate bill specifies that existing key stations must be made accessible as soon as practicable but in no event later than 3 years after the effective date, except that the time limit may be extended to 20 years after the date of enactment in a case where extraordinarily expensive structural changes are necessary to attain accessibility.

The House amendment provides that the extension to 20 years applies where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

The Senate recedes.

(b) The Senate report explains the criteria used to determine which stations are considered "key." The House amendment places these criteria in the legislation. The factors that must be taken into consideration, after consultation with individuals with disabilities and organizations representing such individuals include: high ridership and whether such station serves as a transfer or feeder station.

The Senate recedes.

43. Alterations of existing facilities

(a) The Senate bill specifies that a facility or any part thereof that is used for public transportation and that is altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility must be altered in such a way that it is readily accessible to and usable by individuals with disabilities.

The House amendment adopts the same standard but substitutes for the phrase "public entity" the phrase "responsible person, owner, or person in control of the station."

The Senate recedes.

(b) The Senate bill requires that when major structural alterations are made, the alterations as well as the path of travel must be accessible to individuals with disabilities to the maximum extent feasible.

The House amendment substitutes the phrase "an alteration that affects or could affect usability or access to an area of the facility containing a primary function" for the Senate languge "major structural alteration" and adds that the alterations to the path of travel and facilities serving the altered area should "not be disproportionate" to the overall alterations in terms of the cost and scope of the overall alterations.

The Senate recedes.

(c) The House amendment also specifies that it is considered discrimination for an owner or person in control of a station to fail to provide reasonable cooperation to a responsible person with respect to such station in the responsible person's efforts to provide accessibility. An owner, or person in control of a station is liable to a responsible person for any failure to provide reasonable cooperation. The House amendment also makes it clear, however, that failure to receive reasonable cooperation shall not be a defense to a claim of discrimination by an individual with a disability.

The Senate recedes.

44. Interim accessibility standards

The House amendment, but not the Senate bill, specifies the standards that would apply to stations and rail passenger cars during an interim period between the effective date and the date regulations are issued in final form.

The Senate recedes.

TITLE III OF THE ADA

45. Definitions

(a) The Senate bill includes the term "potential places of employment" to describe facilities subject to the new construction requirements.

The House amendment substitutes the term "commercial facilities" for the phrase "potential places of employment." The House amendment also specifies that the term does not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 222 or covered under title III, or railroad rights-of-way.

The Senate recedes.

(b) The House amendment, but not the Senate bill, includes definitions for the following terms: "demand responsive system," "fixed route system," and "over-the-road bus."

The Senate recedes.

(c) The House amendment, but not the Senate bill, defines the term "private entity" to mean any entity other than a public entity, as defined in title II.

The Senate recedes.

(d) The Senate bill lists a number of specific types of entities that are considered public accommodations and then includes the following catch-all phrase "and other similar places."

The House amendment deletes the term "similar." In addition, the House amendment makes several technical changes to the categories.

The Senate recedes.

(e) The House amendment, but not the Senate bill, defines the term "rail" and "railroad."

The Senate recedes.

(f) In determining whether making changes to existing facilities are "readily achievable," the Senate bill requires that the followng factors be considered: (1) the overall size of the covered entity with respect to the number of employees, number and type of facilities, and size of the budget; (2) the type of operation of the covered entity, including the composition, and structure of the entity; and (3) the nature and cost of the action needed.

The House amendment includes the following factors: (1) the nature and cost of the action needed under the ADA; (2) the overall financial resources of the facility or facilities involved in the action, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility; (3) the overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees, the number, type, and location of its facilities; and (4) the type of operation or operations of the covered entity, including the compositiion, structure, and functions of the workforce of such entity, the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

The Senate recedes.

(g) The House amendment substitutes the term "specified public transportation" for the term "public transportation" with no change in the definition.

The Senate recedes.

(h) The House amendment, but not the Senate bill, defines the term "vehicle" as not including a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under title III.

The Senate recedes.

46. Entities subject to the prohibitions against discrimination

The Senate bill specifies that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation.

The House amendment clarifies that this prohibition applies to any person who owns, leases (or leases to), or operates a place of public accommodation.

The Senate recedes.

47. Contract liability

The Senate bill specifies that covered entities cannot engage in discrimination indirectly through contracts with other parties.

The House amendment specifies that covered entities are only liable in contractual arrangements for discrimination against the entity's own customers and clients and not the contractor's customers and clients.

The Senate recedes.

48. Readily achievable changes to existing barriers

The House amendment adds rail passenger cars used by an establishment for transporting individuals to the list of vehicles from which barriers must be removed.

The Senate recedes.

49. Fixed route and demand responsive systems

With slightly different wording, the Senate bill and the House amendment specify standards for fixed route and demand responsive systems operated by private entities.

The Senate recedes.

50. Health and safety

The House amendment, but not the Senate bill, specifies that nothing in title III requires an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

The Senate recedes.

51. New construction and alterations to existing facilities

(a) The Senate bill includes in separate sections the requirements that alterations and new construction be readily accessible to and usable by individuals with disabilities.

The House amendment places these two requirements in the same section.

The Senate recedes. Section 3030(b) of the Act provides that discrimination as set forth in section 303(a) concerning new construction and alterations in public accommodations and commercial facilities shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities. The exception does not affect the requirement that every newly constructed facility subject to the Act shall have at least one ground story that is readily accessible to and usable by individuals with disabilities. Accessibility requirements shall not be evaded by constructing facilities in such a way that no story constitutes a "ground floor", for example, by constructing a building whose main entrance leads only to stairways or escalators that connect with upper or lower floors; at least one accessible ground story must be provided.

(b) The Senate bill specifies that when major structural alterations are made to public accommodations operated by private entities, the alterations as well as the path of travel and facilities must be accessible to individuals with disabilities to the maximum extent feasible.

The House amendment substitutes the phrase "an alteration that affects or could affect usability or access to an area of the facility containing a primary function," for the Senate language, "major structural alteration," and adds that the alterations to the path of travel and facilities serving the altered area should "not be disproportionate" to the overall alterations in terms of the cost and scope of the overall alterations.

The Senate recedes. The conferees note that in part 2 (Education and Labor Committee) of the House Report No. 101-485, language following the word "alteration" at the end of the third line of the second full paragraph on page 113 was inadvertently omitted. This language specifies that the parameters of the concept of disproportionality of section 303(a)(2) of the bill will be set forth in the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board and in the regulations promulgated by the Attorney General. The conferees wish to indicate their understanding that the requirement of an accessible path of travel, accessible restrooms, drinking fountains, and telephones serving the altered area would be disproportionate if the inclusion of such features would be so large an undertaking, in expense or scope of work, as to be disproportionate to the remainder of the contemplated alteration project.

52. Discrimination and construction

With slightly different wording, the Senate bill and the House amendment specify the general prohibition of discrimination and specific constructions of such discrimination.

The Senate recedes.

53. New vehicles other than new rail passenger cars

The Senate bill specifies that new vehicles other than automobiles purchased by a private entity in the principal business of transporting people must be readily accessible to and usable by individuals with disabilities.

The House amendment includes a special rule for vans with a seating capacity of less than 8 passengers. Such vans need not be accessible if the van is to be used solely in a demand responsive system and if the private entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to the level of service provided to the general public.

The Senate recedes.

54. New rail passenger cars

The Senate bill specifies that all new vehicles purchased by a private entity in the principal business of transporting people must be readily accessible.

The House amendment includes a separate provision applicable to new rail passenger cars purchased by such entities and includes the same standard set out in the Senate bill.

The senate recedes.

55. Remanufactured rail passenger cars

The House amendment, but not the Senate bill, specifies that the remanufacture of a rail passenger car so as to extend its usable life for 10 years or more must be remanufactured in a manner to make it readily accessible "to the maximum extent feasible."

The Senate recedes.

56. Historical or antiquated rail passenger cars and stations serving such cars

The House amendment, but not the Senate bill, specifies that historical or antiquated vehicles that are currently in use or are remanufactured by private entities need not be made accessible to the extent that compliance would significantly alter the historic or antiquated character of such a car or rail station served exclusively by such cars or would result in violation of safety rules issued by the Secretary of Transportation.

The Senate recedes.

57. Over-the-road buses.

The Senate bill specifies that over-the-road buses must be readily accessible to and usable by individuals with disabilities within 7 years for small providers and 6 years for other providers. Further, the Senate bill specifies that the Office of Technology Assessment must conduct a study to determine the access needs of individuals with disabilities and the most cost effective methods of making such buses readily accessible to and usable by individuals with disabilities.

The House amendment deletes the specific obligation to make each bus "readily accessible to and usable by" individuals with disabilities at the end of the 6 or 7 year period, whichever is applicable. Instead, the House amendment specifies that the purchase of new over-the-road buses must be made in accordance with regulations issued by the Secretary of Transportation. In issuing final regulations, the Secretary must take into account the purposes of the study and any recommendations resulting from the study. The obligations set out in the final regulations go into effect in 7 years for small providers and 6 years for others. The final regulations may not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

In the interim, regulations issued by the Secretary may not require any structural changes to over-the-road buses in order to provide access to individuals who use wheelchairs and may not require the purchase of boarding assistance devices to provide access.

With respect to the study, the purpose of the study is revised to include a determination of the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service and the most cost effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options. The study must analyze, among other things, the effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

The Senate recedes.

58. Interim accessibility

The House amendment, but not the Senate bill, specifies that for new construction and alterations for which a valid and appropriate state or local building permit is obtained prior to the issuance of final regulations and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the accessibility requirement except that if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines, compliance with such supplemental guidelines shall be necessary. The House amendment also includes interim policies applicable to vehicles and rail passenger cars.

The Senate recedes.

59. Enforcement in general

(a) The Senate bill makes reference to the remedies available to an "individual" under title II of the Civil Rights Act of 1964.

The House amendment substitutes the term "person" for the term "individual" since "person" is used in title II.

The Senate recedes.

(b) The Senate bill specifies that remedies and procedures of the 1964 Civil Rights Act will be available to any individual who is or is about to be subjected to discrimination on the basis of disability.

The House amendment specifies that the remedies and procedures of title II of the 1964 Civil Rights Act shall be the powers, remedies, and procedures title III provides to any person who is being subjected to discrimination on the basis of disability in violation of title III or any person who has "reasonable grounds" for believing that he or she is about to be subjected to discrimination with respect to the construction of new or the alteration of existing facilities in an inaccessible manner.

The Senate recedes.

(c) The House amendment, but not the Senate bill, includes in the legislation the following policy set out in the Senate report: nothing in the enforcement section shall require an individual with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

The Senate recedes.

(d) The House amendment, but not the Senate bill, specifies that state and local governments can apply to the Attorney General to certify that state or local building codes meet or exceed the minimum accessibility requirements of the ADA. In ruling on such applications from state or local governments, the Attorney General will consult with the Architectural and Transportation Barriers Compliance Board and consider the testimony of individuals with disabilities at public hearings about the state or local building code application.

The Senate recedes.

(e) The Senate bill specifies that the courts may assess civil penalties against an entity not to exceed $50,000 for the first violation and $100,000 for any subsequent public accommodation discrimination violation.

The House amendment specifies that when there are multiple violations that make up a pattern or practice suit brought by the Attorney General, all violations count as a first violation for the purpose of assessing the maximum civil penalty of $50,000. The maximum penalty of $100,000 for a subsequent violation can be applied only in a subsequent case.

The Senate recedes.

(f) The Senate bill specifies that the Attorney General may seek "monetary damages" on behalf of an aggrieved party in Title III public accommodation civil actions.

The House amendment clarifies that "monetary damages" and other relief available to aggrieved persons under Title III public accommodation suits brought by the Attorney General do not include punitive damages.

The Senate recedes.

(g) The Senate bill specifies that the courts may give consideration to an entity's "good faith" efforts to comply with the ADA in considering the amount of civil penalty.

The House version elaborates on the issue of good faith by requiring that the court consider whether an entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the particular needs of an individual with a disability.

The Senate recedes.

60. Examinations and courses

The House amendment, but not the Senate bill, specifies that any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

The Senate recedes.

61. Effective date

(a) The House amendment, but not the Senate bill, precludes suits against small businesses for 6 months or 12 months (depending on the size of the business and its gross receipts) after the effective date of title III of the Act (18 months after date of enactment) for all violations except those relating to new construction and alterations.

The Senate recedes with an amendment. The amendment deletes the introductory phrase in section 310(b) and substitutes in lieu thereof the following: "Except for any civil action brought for a violation of section 303, no civil action shall be brought for any act or omission described in section 302 which occurs—". The purpose of the amendment is to make it clear that in order for an individual with a disability to bring a civil action against a small business meeting the criteria set out in the provision, the discriminatory act must occur after the applicable period has expired. The conferees note that this section gives small businesses additional time to learn the requirements of the ADA and to come into compliance with the Act before they will be subject to a civil action. The conferees fully expect that businesses will, however, make good faith efforts to comply with the Act during this additional phase-in period.

(b) With slightly different wording, the Senate bill and the House amendment provide that certain provisions of title III go into effect on the date of enactment.

The Senate recedes.

TITLE IV OF THE ADA (TELECOMMUNICATION RELAY SERVICES)

62. Definition of "Common Carrier" or "Carrier"

The House amendment deletes the phrase "and any common carrier engaged in both interstate and intrastate communication."

The Senate recedes.

63. General authority and remedies

The Senate bill specifies that the same remedies, procedures, rights, and obligations applicable to common carriers engaged in interstate communication by wire or radio are also applicable to common carriers engaged in intrastate communication.

The House amendment clarifies, without changing the meaning or intent of the Senate language.

The Senate recedes.

64. Provision of telecommunication services

The Senate bill specifies that each common carrier providing telephone voice transmission services shall provide telecommunication relay services individually, through designees, or in concert with other carriers not later than 3 years after the date of enactment.

The House amendment makes several clarifying changes.

(a) The House amendment specifies that a common carrier must only provide relay services "within the area in which it offers service" to ensure that a common carrier on one side of the country is not held responsible to provide services for consumers in a state on the other side of the country.

The Senate recedes with an amendment. The amendment deletes the word "within" and substitutes in lieu thereof the term "throughout."

(b) The House amendment specifies that common carriers may provide relay services "through a competitively selected vendor" in addition to providing such services through designees or in concert with other carriers.

The Senate recedes.

(c) The House amendment specifies that a common carrier is considered in compliance with FCC regulations if the common carrier is either in direct compliance itself with those regulations, or if the "entity through which [it] is providing such relay services" is in compliance with the Commission's regulations. Further, the common carrier is considered in compliance with the FCC's regulations with respect to intrastate relay services when they or their designees are in compliance with a state certified program.

The Senate recedes.

65. Regulations

The Senate bill directs the FCC to issue regulations covering, among other things, minimum standards for the relay systems, conduct by relay operators, separation of costs, and delay in the implementation date.

The House amendment includes two clarifying changes.

(a) The Senate bill requires the FCC to establish minimum standards that would be met "by common carriers" in providing relay services. The House amendment deletes the language in quotes.

The Senate recedes.

(b) With respect to the conduct of relay operators, the House amendment specifies that a relay operator is subject to the same standards of conduct that other operators are subject to under the Communications Act of 1934.

The Senate recedes.

66. Technology

The House amendment adds a reference to section 7(a) of the Communications Act of 1934.

The Senate recedes.

67. Recovery of costs

The House amendment includes the following changes applicable to recovery of costs.

(a) The House amendment specifies that costs caused by interstate relay services will be recovered from all subscribers for every interstate service, thereby ensuring that even those businesses that have private telecommunications systems will contribute to the cost of providing interstate relay services.

The Senate recedes.

(b) The House amendment authorizes State commissions to permit recovery by common carriers of costs incurred in providing intrastate relay services in states that are certified.

The Senate recedes.

(c) The Senate bill prohibits the imposition of a fixed monthly charge on residential customers to recover the costs of providing interstate relay services.

The House amendment deletes this provision.

The Senate recedes.

(d) The Senate bill extends the implementation period to three years for all common carriers and includes authority to extend it one additional year if a common carrier can demonstrate undue burden. The House amendment deletes the undue burden provision.

The Senate recedes.

68. Requirements for state certification

The Senate bill specifies that each State may submit documentation to the FCC that describes the program of such state for implementing intrastate relay services.

The House amendment specifies that such documentation must also include the procedures and remedies available for enforcing any requirements imposed by the State program. The House amendment also provides that in certifying the program the FCC must determine that the program makes available adequate procedures and remedies for enforcing the requirements of the State program. The House amendment also specifies that in a State whose program has been suspended or revoked, the Commission must take such steps as may be necessary to ensure continuity of telecommunications relay services.

The Senate recedes.

69. Closed-captioning of public service announcements

The House amendment, but not the Senate bill, adds a provision requiring the closed-captioning of all television public service announcements produced or funded by the Federal government.

The Senate recedes.

TITLE V OF THE ADA
(MISCELLANEOUS PROVISIONS)

70. Construction

(a) The House amendment adds the phrase "except as otherwise provided in this Act" as a qualification to the provision construing the interpretation of the ADA.

The Senate recedes.

(b) With slightly different wording, the Senate bill and the House amendment specify the relationship between the ADA and other Federal laws (including the Rehabilitation Act) and state laws. The House amendment also specifies that nothing in the ADA shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment, in transportation provided by public and private entities, and places of public accommodations.

The Senate recedes. In light of the concerns raised by some conferees with regard to individuals with contagious diseases of public health significance who work in food handling jobs, the conferees note certain points with regard to this section. First, if a state or locality has a disease control law, or any other public health law, which places certain requirements on certain employees, employers or businesses, but which does not discriminate against people with disabilities, such laws would not be affected by or preempted in any way by the ADA. For example, if a state disease control law requires certain hygienic procedures to be followed by all employees in certain job categories, that law would not be affected in any way by the ADA. In addition, if a state or locality has a disease control law or any other public health law, which applies to certain people with disabilities (for example, if a state has a law which required people with certain contagious diseases, such as tuberculosis, to take certain precautions), that law would also not be preempted by the ADA as long as the requirements of that state or local law were designed to protect against individuals who pose a direct threat to the health or safety of others. Because the ADA itself allows adverse actions to be taken against employees who pose a direct threat to the health or safety of others in the workplace, and against clients and customers who pose a direct threat to others in a public accommodation (as "direct threat" is defined in the statute), a state public health law that similarly guarded against such threats would be a law providing protection equal to that provided by the ADA and hence would not be preempted by the ADA.

(c) The section in the Senate bill concerning insurance includes the proviso "Provided, That paragraphs (1), (2), and (3) are not used as a subterfuge to evade the purposes of title I and III." The House amendment includes the following phrase "Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of titles I and III."

The Senate recedes.

(d) The House amendment, but not the Senate bill, specifies that nothing in the Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

The Senate recedes.

71. State immunity

The House amendment adds states courts of competent jurisdiction to the reference to federal courts included in the Senate bill.

The Senate recedes.

72. Prohibition against retaliation and coercion

With slightly different wording, the Senate bill and the House amendment include prohibitions against retaliation and coercion.

The Senate recedes.

73. Guidelines by the ATBCB

The Senate bill provides 6 months for the issuance of guidelines. The House amendment provides 9 months.

74. Historic buildings

The House amendment, but not the Senate bill, includes specific provisions applicable to historic building.

The Senate recedes.

75. Technical assistance manuals

(a) The Senate bill, but not the House amendment, includes, among others, the National Council on Disability, as an agency responsible for the development of a technical assistance plan.

The Senate recedes. The conferees intend to recognize the National Council on Disability as the impetus, force, and originator of the initial legislation for the Americans with Disabilities Act, reflected in the Council's report, "Toward Independence," published in February, 1986. Therefore, the conferees agree that the National Council on Disability should be one of the federal agencies with which the Attorney General consults in developing a plan to assist entities covered under this Act. The experience, expertise, and commitment of the Council will ensure that the technical assistance activities mandated under section 506 will be comprehensive, focused, and timely.

(b) With slightly different wording, the Senate bill and the House amendment provide for the implementation of the technical assistance plan.

The Senate recedes.

(c) With slightly different wording, the Senate bill and the House amendment authorize the entering into of grants and contracts.

The Senate recedes.

(d) The Senate bill includes a section requiring agencies to provide technical assistance to covered individuals and entities.

The House amendment makes several technical and conforming changes and adds a requirement that appropriate departments and agencies develop and disseminate technical assistance manuals to those who have rights and responsibilities under the ADA no later than six months after ADA regulations are published. However, a covered entity is not excused from complying with the ADA because of any failure to receive technical assistance, including any failure in the development or dissemination of a technical assistance manual.

The Senate recedes.

76. Wilderness areas

The Senate bill specifies that the National Council on Disability shall conduct a study regarding the effect of wilderness designations on access for people with disabilities.

The House amendment adds that the Wilderness Act is not to be construed as prohibiting use of a wheelchair in a wilderness area by an individual whose disability requires the use of a wheelchair but not modifications of land are required.

The Senate recedes with an amendment. The new subsection reads:

"(1) IN GENERAL.—Congress reaffirms that nothing in the Wilderness Act shall be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act, no agency shall be required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area to facilitate such use.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'wheelchair' means a device designed solely for use by a mobility-impaired person for locomotion, that is suitable for use in an indoor pedestrian area.".

Consistent with this section and the Wilderness Act of 1964, the conferees intend that, where appropriate and consistent with the management objectives and maintenance of the wilderness character of the area, the land management agencies charges with the management responsibilities for wilderness areas designated under the authority of the Wilderness Act of 1964 should, when constructing or reconstructuring a trail, bridge or facility, comply with the intent of this Act. In cases where the Agencies have delegated or subcontracted their responsibilities, the intent of this section shall apply to the designee or contractor.

77. Congressional coverage

The Senate bill makes the provisions of the legislation applicable to Congress and the instrumentalities of Congress.

The House amendment also covers Congress and the instrumentalities of Congress but delegates to the House and the instrumentalities of Congress the responsibility to develop applicable remedies and procedures.

The House recedes to the Senate on coverage of the Senate with an amendment. The Senate recedes to the House on coverage of the House. The Senate recedes to the House on coverage of instrumentalities of the Congress. The conferees add the following construction clause: "Nothing in this section

shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 and regulations promulgated pursuant to that Act."

78. Illegal use of drugs

The Senate bill specifies that an individual with a disability does not include any individual who uses illegal drugs, but may include an individual who has successfully completed a supervised drug rehabilitation program, or has otherwise been rehabilitated successfully, and no longer uses illegal drugs. The Senate bill also makes it clear that an individual who uses illegal drugs may not be denied the benefits of medical services on the basis of his or her use of illegal drugs, if he or she is otherwise entitled to such services.

The House amendment includes clarifying and conforming changes to make this provision consistent with other provisions in the legislation concerning the treatment of users of illegal drugs:

(a) The House amendment specifies that an individual with a disability does not include an individual who is currently engaging in the illegal use of drugs when the covered entity acts on the basis of such use.

The Senate recedes. The provision excluding an individual who engages in the illegal use of drugs from protection (other than an individual described in section 510(c) is intended to ensure that covered entities may deny services to or take other actions against persons who illegally use drugs on that basis, without fear of being held liable for discrimination. The provision is not intended to be limited to persons who use drugs on the day of, or within a matter of days or weeks before, the action in question. Rather, the provision is intended to apply to a person whose illegal use of drugs occurred recently enough to justify a reasonable belief that a person's drug use is current.

(b) The House amendment specifies that the following individuals are not excluded from the term "individual with a disability"—an individual who has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use; an individual who is participating in a supervised rehabilitation program and is no longer engaged in such use; or a person who is erroneously regarded as engaging in such use, but is not engaging in such use.

The Senate recedes. Section 510(b)(2) provides that a person cannot be excluded as a qualified individual with a disability if that individual is participating in a supervised rehabilitation program and is no longer engaging in the illegal use of drugs. This provision does not permit persons to invoke the Act's protection simply by showing that they are participating in a drug treatment program. Rather, refraining from illegal use of drugs also is essential. Covered entities are entitled to seek reasonable assurances that no illegal use of drugs is occurring or has occurred recently enough so that continuing use is a real and ongoing problem. On the other hand, this provision recognizes that many people continue to participate in drug treatment programs long after they have stopped using drugs illegally, and that such persons should be protected under the Act. The conferees intend that the phrase "otherwise been rehabilitated successfully" be interpreted to refer to both in-patient and outpatient programs that provide professional (not necessarily medical) assistance and counseling.

(c) The House amendment specifies that it shall not be a violation for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual is no longer illegally using drugs; however nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

The Senate recedes.

(d) The House amendment specifies that an individual shall not be denied health services or other services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

The Senate recedes.

(e) The House amendment includes the same definition of "illegal use of drugs" and "drugs" set out in title I of the Act.

The Senate recedes.

79. Exclusions from the term "disability"

The Senate bill restates current policy under section 504 of the Rehabilitation Act of 1973 that the term "disability" does not include homosexuality and bisexuality. The Senate bill also excludes from the term "disability" the following mental impairments: transvestism, pedophilia, transsexualism, exhibitionism, voyeurism, compulsive gambling, kleptomania, or pyromania, gender identity disorders, current psychoactive substance-induced organic mental disorders (as defined by DSM-III-R which are not the result of medical treatment), or other sexual behavior disorders.

The House amendment lists the various exclusions by category. The first category specifies that homosexuality and bisexuality are not impairments and as such are not disabilities under the ADA. The second category includes transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders. The third category includes compulsive gambling, kleptomania, or pyromania. The final category includes psychoactive substance use disorders resulting from current use of illegal drugs.

The Senate recedes.

80. Amendments to the definition of the term "handicapped individual" under the Rehabilitation Act of 1973

(a) The Senate bill includes amendments to the definition of the term "handicapped individual" used in the Rehabilitation Act of 1973 to exclude current users of illegal drugs which are consistent with the changes made to the definition of the term "individual with a disability" used in the ADA. The Senate bill also specifies that the exclusion does not apply to medical services for which the individual is otherwise entitled. The Senate bill also states that the term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by the controlled Substances Act or other provisions of Federal law.

The House amendment includes the same type of conforming changes to the Rehabilitation Act which are made to the ADA (see above). However, with respect to the provision that specifies that an individual shall not be excluded from medical services on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services, the category is limited to health services and services provided under titles I, II, and III of the Rehabilitation Act of 1973.

The Senate recedes. The conferees incorporate by reference the statement of intent set out in item 16. Conferees note that, for purposes of this title, an individual covered by Executive Order 12564 who tests positive on an employment related drug test conducted and verified in conformity with applicable federal regulations or guidelines is deemed to be "currently engaging in the illegal use of drugs" and may not invoke the Act's protection, except as provided in section 7(8)(C)(ii)(III) of the Rehabilitation Act. The conferees do not intend to prevent individuals covered by Executive Order 12564 or any other individuals covered by the employment provisions of the Act from challenging a positive drug test result by invoking the protection of section 7(8)(C)(ii)(III). The Rehabilitation Act itself does not provide any standard by which the accuracy or validity of a drug test result is to be determined. Conferees recognize that current Department of Transportation regulations allow or require, depending on the circumstances, employers to remove individuals in safety sensitive positions who are undergoing drug rehabilitation from such positions. With respect to individuals illegally using drugs or impaired by alcohol, nothing in this Act is intended to affect federal laws or Department of Transportation regulations to protect public safety.

(b) The House amendment specifies that the term "drugs" and the phrase "current illegal use of drugs" have the same meanings as such terms have under the ADA.

The Senate recedes.

81. Alternative means of dispute resolutions

The House amendment, but not the Senate bill, provides that where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the ADA.

The Senate recedes. It is the intent of the conferees that the use of these alternative dispute resolution procedures is completely voluntary. Under no condition would an arbitration clause in a collective bargaining agreement or employment contract prevent an individual from pursuing their rights under the ADA. The conferees adopt by reference the statement of the House Judiciary Report regarding this provision.

From the Committee on Education and Labor, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

AUGUSTUS F. HAWKINS,
MAJOR R. OWENS,
MATTHEW G. MARTINEZ,
STEVE BARTLETT,
H.W. FAWELL,

From the Committee on Energy and Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference, except that for consideration of title IV of the Senate bill, and title IV of the House amendment, and modifications commtted to conference, Mr. Rinaldo is appointed in lieu of Mr. Whittaker:

JOHN D. DINGELL,
EDWARD J. MARKEY,
TOM LUKEN,
NORMAN F. LENT,
BOB WHITTAKER,

For consideration of title IV of the Senate bill, and title IV of the House amendment, and modifications committed to conference, in lieu of Mr. Whittaker:

MATTHEW RINALDO,

From the Committee on Public Works and Transportation, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

GLENN M. ANDERSON,
ROBERT A. ROE,
NORMAN Y. MINETA,
JOHN PAUL HAMMERSCHMIDT,

From the Committee on the Judiciary, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
ROBERT W. KASTENMEIER,
HAMILTON FISH, Jr.,
F. JAMES SENSENBRENNER, Jr.,
(except for amendment to sec. 103(d)),

As an additional conferee, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

STENY H. HOYER,

Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
PAUL SIMON,
ORRIN G. HATCH,
DAVE DURENBERGER,
JAMES M. JEFFORDS,

From the Committee on Commerce, Science, and Transportation, solely for the consideration of issues within that Committee's jurisdiction (telecommunications, commuter transit, and drug testing of transportation employees):

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
JOHN C. DANFORTH,

Managers on the Part of the Senate.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 933, AMERICANS WITH DISABILITIES ACT OF 1990, AND AGAINST ITS CONSIDERATION

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 427 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 427

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, and all points of order against the conference report and against its consideration for failure to comply with the provisions of clauses 2 and 3 of rule XXVIII are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, I yield the customary 30 minutes, for the purpose of debate only, to the gentlewoman from Illinois [Mrs. MARTIN] and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 427 is a rule providing for the consideration of the conference report on S. 933, the Americans With Disabilities Act.

As my colleagues are aware, conference reports are privileged and ordinarily don't require special rules. In this case, however, a rule was necessary to waive two points of order that would otherwise lie against the conference report.

The first waiver is of clause 2 of rule 28 which requires that conference reports be available for 3 days before they may be considered by the House. Although the original conference report was filed on June 26, it was recommitted to conference yesterday by the Senate and a new conference report was agreed upon and filed just today.

I don't think the 3-day rule should be waived with impunity. In this instance, however, in which this report is nearly identical to the original report, I think the waiver is justified.

The other waiver in this rule is of clause 3 of rule 28 which prohibits conferees from exceeding the scope of matters committed to conference by the two Houses.

This waiver is necessary because the House-passed bill contained a provision requiring that the various agencies responsible for both the ADA and Rehabilitation Acts to issue regulations within a year after enactment to coordinate the handling of complaints and avoid duplication in administration. The Senate-passed bill had no similar provision.

The conference agreement differs from the House version in two respects. First, it specifies which agencies and offices are involved, namely the EEOC, the Attorney General, and the Office of Federal Contract Compliance Programs. And second, the conference agreement gives these agencies up to 18 months, instead of just 13 months, to promulgate these regulations. The change from 12 months to 18 months is technically a violation of scope and therefore a waiver of the scope rule is necessary. I do not consider this an egregious violation.

The scope rule is one which we should jealously protect and vigorously enforce in most instances. The temptation is often great on the part of conferees to write new legislation that has not been previously considered by either House. In this instance however, the waiver truly is of a purely technical nature and therefore I think it is appropriate and support it.

Mr. Speaker, the only thing this rule does is to dispense with the reading of the conference report when it is called up for consideration. This is necessary because the reading is only automatically dispensed with under the rules when the 3-day availability rule has been complied with. I support dispensing with the reading in this instance, however, because the nearly identical conference report has been available in writing to members since June 27.

Mr. Speaker, I do not think this rule or the waivers it contains are controversial. The request for this was bipartisan, as was the Rules Committee vote in granting it.

Mr. Speaker, the only major controversy involved with this conference report is not related to the rule, but rather to the original deletion by the conference committee of the Chapman amendment relating to food handling. As my colleagues will recall, that amendment passed the House by a vote of 199 to 187. While the provision was not in the Senate-passed bill, the Senate did adopt by voice vote a nonbinding motion to instruct its conferees to accept the Chapman amendment.

Notwithstanding these votes by both Houses, the provision was deleted in its entirety from the original conference report that was filed back on June 26. As a consequence, the Senate voted yesterday to recommit the conference report to readdress that issue as well as one relating to enforcement actions by Senate employees.

Both of those issues have now been resolved in the new conference report being brought to us today. I will let the conference managers explain those in greater detail later. The important thing is that these two outstanding problems have been dealt with and we can proceed to vote on the report.

Mr. Speaker, I think this conference report, on balance, is worthy of our support. It is virtually identical to the measure which passed the House by an overwhelming vote of 403 to 20 last May 22.

I think it is especially appropriate that we should be considering this ADA bill with last week's commemoration of Independence Day still fresh in our minds. Thomas Jefferson, the author of our Declaration of Independence, wrote his last letter just prior to the 50th anniversary of the Declaration of Independence, July 4, 1826. In that letter, Jefferson reflected on the meaning of our Independence, and I quote:

May it be to the world * * * the signal of arousing men to burst the chains under monkish ignorance and superstitution had persuaded them to bind themselves, and to

assume the blessings and security of self government.

And Jefferson's letter went on, and again I quote:

All eyes are opened, or opening, to the rights of man. The general spread of the light of science has already laid open to every view the palpable truth, that the mass of mankind has not been born with saddles on their backs, nor a favored few booted and spurred, ready to ride them legitimately, by the grace of God.

And Jefferson concluded, and again I quote:

These are grounds of hope for others. For ourselves, let the annual return of this day forever refresh our recollections of these rights, and an undiminished devotion to them.

As my colleagues will recall from their history, Jefferson was to die on that 50th anniversary of our Independence, July 4, 1826. His words, however, to light the way for the rest of the world. We have recently heard eloquent testimony to that in this very Chamber from the likes of Lech Walesa, Vaclav Havel, and Nelson Mandela.

We continue, however, to have our own unfinished human rights agenda here at home. This bill banning discrimination against the disabled is one important item on that agenda. What better way could there be to heed Jefferson's wish that we annually refresh our devotion to our rights than to enact this bill? What better way than to expand the rights and opportunities of our disabled citizens? I therefore strongly urge my colleagues to join me in voting for this historic and landmark legislation.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 427 is a rule waiving necessary points of order against consideration of the conference report on S. 933 the Americans With Disabilities Act of 1990.

So that there is no confusion, this rule properly applies to this conference report and this is the first time this conference report has been called up on the House floor. The first conference report has been vitiated by the Senate's recommital to conference.

Under the rules of the House, conference reports are privileged and are considered in the House under the 1-hour rule with no amendments in order.

This rule waives clauses 2 and 3 of rule 28 against the conference report and against its consideration. In addition, the rule provides that the conference report shall be considered as having been read when called up for consideration.

Mr. Speaker, House Resolution 427 is a bipartisan rule intended to ensure expedited consideration of the conference report on the Americans With Disabilities Act.

Mr. Speaker, the Americans With Disabilities Act is an historic piece of legislation which has enjoyed bipartisan support throughout each phase of the legislative process.

The bill passed in the House by a vote of 403 to 20 and in the Senate by a vote of 76 to 8. The bill has 250 cosponsors and passed in the four House committees with jurisdiction by a combined vote of 155 to 11.

I urge my colleagues to adopt this rule so that we may proceed with consideration of the conference report.

□ 1710

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the distinguished gentleman from Tennessee [Mr. GORDON] for yielding me this time. I want to thank the gentleman from Tennesee for his remarks as he presented this rule, and I also thank the gentlewoman from Illinois [Mrs. MARTIN], a member of the Committee on Rules, for her remarks.

Mr. Speaker, we are on the verge of passing the conference report of a bill that I think will be one of the historic bills of the 101st Congress. It is indeed a bill which will open up America to 43 million Americans who have been shut out, sometimes consciously, but all too often unconsciously.

This rule is a fair rule. I do not believe this rule is controversial, and I rise in strong support.

Mr. Speaker, I will have some more to say about the conference report when that is offered, but I am in strong support of the rule and would urge my colleagues to overwhelmingly adopt it.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank the gentlewoman from Illinois [Mrs. MARTIN], my colleague, for yielding me this time.

Mr. Speaker, I rise in opposition to this rule. The processes of the House under the leadership of our Democratic friends have reached the point where the rules really do not mean what they say. The rules are what the Democratic majority want them to be, and the means whereby they achieve that result is that they control the Committee on Rules, and they can waive anything that is required to be waived.

This waiver of the rules of the House, points of order, of scope of the bill and of the 3-day rule is in my judgment a further illustration of, as I have indicated in the beginnings of remarks, that the rules are what the Democratic majority say they are, and I am sad to say that because these rules exist for good reason. They put some limitation on the scope of what the conferees can do.

Mr. Speaker, let me illustrate what has happpened in this instance. The Chapman amendment was, I believe, a credible amendment to this bill. It belonged in it. I wanted to offer an amendment to this bill that would have deleted from the definition of disability persons with communicable disease. I think it is very unwise public policy for this country through this Congress to adopt a law which says by definition that, if one has a communicable disease, they fit with the definition of a disabled person. That to me is poor public policy.

Mr. Speaker, I offered that amendment in the committee in which I serve, the Committee on the Judiciary that considered this legislation, got a significant number of votes, but not enough to get the amendment adopted. I went to the Committee on Rules and asked for authority to make this amendment in order, and the Committee on Rules declined to do so.

Where did this idea or concept come from that we will include within the definition of a disabled person somebody with a communicable disease? Answer: From a Court decision of the Supreme Court interpreting a prior act of Congress called the Arline decision. In that instance the court by a divided opinion interpreted an act of Congress saying, "We believe Congress intended to include within the definition of the prior act of Congress persons with a communicable disease."

Mr. Speaker, we who make public policy in this country have never debated this issue that I am talking about now, whether or not persons with a communicable disease fit within the definition of a disabled person. It needs to be debated because there are consequences from this action that I do not think even the most learned supporters really comprehend of what this will entail.

Mr. Speaker, we will find out, as a result of court decisions, that this ADA, Americans With Disabilities Act, is a fertile hunting ground for litigious people in our society to expand the definition.

My heart goes out to those who are disabled as a result of birth or accident. They are truly disabled people, and we should be passing Federal legislation to protect people in that unfortunate status. I concede that.

However, Mr. Speaker, this act trivializes the whole definition of disability by extending the definition of disabled to persons regarded as having that status, the extent of which we

will find out in further court decisions. Certainly not in this bill.

In any event, Mr. Speaker, the Chapman amendment was adopted on the floor of the House after a big debate. The Senate in consideration of the issue instructed its conferees to adopt the same language, and, as my colleagues know, when the conferees got together on this measure, they totally ignored it. That was how the first conference report came out. As a result, there was a discussion as to whether or not the Senate or the House would make an effort to put the Chapman language back in. The Senate moved first. An amendment was offered by Senator HATCH of Utah that in effect guts the Chapman amendment. We will get to that when we discuss the issue of the matter.

Mr. Speaker, I intend to offer a motion to recommit to the bill at the appropriate time when consideration of the conference report is concluded. I would like to offer an amendment to delete from the definition of disability persons with communicable disease, but that would be beyond the scope. I, as a Member of the House, have to follow the rules. But the majority makes the rules so they can do anything they want. In this instance they have waived the points of order, and the 3-day rule and the scope rule.

So, Mr. Speaker, I think that the proper thing for the House to do is to reject this rule as a violation of the House rules.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just briefly wish to respond to the gentleman from California [Mr. DANNEMEYER]. I want to point out that this was not a Democratic rule or a Republican rule. This was a rule that was passed bipartisanly. It was a rule that passed without objection from either party. I think that should be noted.

Mr. Speaker, I reserve the balance of my time.

□ 1720

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FISH], the ranking member of the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I did not anticipate talking at this point, but as a conferee in both conferences on this measure, I feel constrained to set the record straight. The previous speaker said that the conference committee gave no consideration to the issue of the Chapman amendment.

The simple fact is that there were some 81 or 82 issues between the Senate and the House; 79 of these were resolved by the staffs prior to the Members meeting in conference, so there were only two or three issues to be considered, and one of them was the Chapman amendment and it was the burden of the time spent, a matter of a few hours a week or so ago at the first conference. At that time the Senate asked the House Members to recede on the Chapman amendment.

We debated it. We talked about it and we took a roll call vote, which came down on the side that we would recede to the Senate.

I say this only because I think the record should be straight that long before the second conference, the conferees had considered in some detail the question of the Chapman amendment.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana [Mr. BURTON].

(Mr. BURTON of Indiana asked and was given permission to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I think what the gentleman from California said about the rule waiving points of order is a valid argument, and that is one of the reasons why I oppose this rule.

I wanted to take this time to express my concern about the entire concept of this bill. I am for helping the disabled and the handicapped of this Nation. I think anybody who did not have that attitude would be very hardhearted; but some of the things that this bill does go way beyond what I think the public would like to see.

There is going to be about 900 classes of disabled or handicapped people because of this bill, 900; 46½ million people are going to fall under the definition of handicapped or disabled, 46½ million. That is one out of every five Americans who is going to be considered disabled or handicapped.

This goes way beyond the bounds this bill should encompass.

Now, the Chapman amendment, we have not talked about that much, but I am sure we are going to when we get to general debate, but I would just like to read a couple of remarks by the gentleman from North Carolina in the other body when he talked about this bill and the Chapman language. He argued that most people do not want to patronize restaurants that have AIDS sufferers in food handling jobs, and he said, "If you know that the chef in a restaurant you were patronizing had AIDS, would you go there? And No. 2, would you want to eat a salad if he cut his finger and you knew he was working on that salad?"

That is an unsavory thing to think about, but I think most people would say no; but that is not the issue.

What the Chapman amendment did was say that if a person had the AIDS virus, they could be moved into another position in that restaurant or in that health care facility.

The conferees took that out. What that means simply to the American people is that if a person has AIDS, they have to be kept, if they want to, in a food handling job, first; and second, if they are working in a health care facility they have to be kept in close proximity to patients who may have open wounds, if they so choose.

Now, even if AIDS could not be communicated to these people, and there is some question about whether or not that could happen, there are other diseases that a person who had AIDS acquires because their immune system breaks down; for instance, hepatitis-B and tuberculosis. Many times a person who has AIDS would not know they had active hepatitis-B or tuberculosis until sometime in the future, which means a person who had active AIDS who was handling a patient or food might have hepatitis-B or tuberculosis without anybody knowing it, and they will be handling people's food and be handling patients in health care facilities.

That is bad public policy and it is bad for the health of this Nation, and this bill for that reason alone should be defeated.

Now, there are other problems with this bill which I do not have time to go into at this point, but we ought to be concerned about and we are charged with making sure that we protect the health of this Nation.

The AIDS virus is a time bomb ticking that will explode in the future. We have made it even more volatile because we are allowing people with active AIDS to work in close proximity to patients and to handle food.

It is those other diseases that we are going to have to deal with. Tuberculosis, according to recent studies, has been on the upswing dramatically around the world because of the AIDS pandemic, and we are going to allow those people to handle food and to work with patients, and we cannot do anything about it. If the food establishment or the hospital complains about it and does move those people, they are subject to litigation. This bill is going to create a firestorm of litigation. It is an attorney's dream and it is bad for the American people.

Mrs. MARTIN of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 58, not voting 19, as follows:

[Roll No. 226]

YEAS—355

Ackerman	Dyson	Laughlin
Anderson	Early	Leach (IA)
Andrews	Eckart	Leath (TX)
Annunzio	Edwards (CA)	Lehman (CA)
Anthony	Edwards (OK)	Lehman (FL)
Applegate	Engel	Lent
Aspin	English	Levin (MI)
Atkins	Erdreich	Levine (CA)
AuCoin	Espy	Lewis (GA)
Baker	Evans	Lightfoot
Barnard	Fascell	Lipinski
Bartlett	Fazio	Lloyd
Bates	Feighan	Long
Beilenson	Fish	Lowery (CA)
Bennett	Flake	Lowey (NY)
Bereuter	Flippo	Luken, Thomas
Berman	Foglietta	Machtley
Bevill	Frank	Madigan
Bilbray	Frenzel	Manton
Bilirakis	Frost	Markey
Bliley	Gallegly	Martin (IL)
Boehlert	Gallo	Martin (NY)
Boggs	Gaydos	Matsui
Bonior	Gejdenson	Mavroules
Borski	Gephardt	Mazzoli
Bosco	Geren	McCandless
Boucher	Gibbons	McCloskey
Boxer	Gillmor	McCrery
Brennan	Gilman	McCurdy
Brooks	Glickman	McDermott
Broomfield	Gonzalez	McEwen
Browder	Goodling	McGrath
Brown (CA)	Gordon	McHugh
Bruce	Gradison	McMillan (NC)
Bryant	Grandy	McMillen (MD)
Buechner	Grant	McNulty
Bustamante	Gray	Mfume
Byron	Green	Michel
Callahan	Guarini	Miller (CA)
Campbell (CA)	Gunderson	Miller (OH)
Cardin	Hall (OH)	Miller (WA)
Carper	Hamilton	Mineta
Carr	Hansen	Moakley
Chandler	Harris	Molinari
Chapman	Hawkins	Mollohan
Clarke	Hayes (IL)	Montgomery
Clay	Hayes (LA)	Moody
Clement	Hefner	Moorhead
Clinger	Henry	Morella
Coble	Hertel	Morrison (WA)
Coleman (MO)	Hiler	Mrazek
Coleman (TX)	Hoagland	Murphy
Collins	Hochbrueckner	Murtha
Combest	Hopkins	Myers
Condit	Horton	Nagle
Conte	Houghton	Natcher
Conyers	Hoyer	Neal (MA)
Cooper	Hubbard	Neal (NC)
Costello	Hughes	Nielson
Coughlin	Hutto	Nowak
Courter	Inhofe	Oakar
Coyne	Jacobs	Oberstar
Craig	Johnson (CT)	Obey
Darden	Johnson (SD)	Olin
Davis	Johnston	Ortiz
DeFazio	Jones (NC)	Owens (NY)
Dellums	Jontz	Owens (UT)
Derrick	Kanjorski	Oxley
DeWine	Kaptur	Pallone
Dickinson	Kastenmeier	Panetta
Dicks	Kennedy	Parker
Dingell	Kennelly	Parris
Dixon	Kildee	Pashayan
Donnelly	Kleczka	Patterson
Dorgan (ND)	Kolbe	Paxon
Downey	Kolter	Payne (NJ)
Dreier	Kostmayer	Payne (VA)
Duncan	LaFalce	Pease
Durbin	Lagomarsino	Pelosi
Dwyer	Lancaster	Penny
Dymally	Lantos	Perkins
Petri	Schroeder	Tauzin
Pickett	Schumer	Taylor
Pickle	Sensenbrenner	Thomas (GA)
Poshard	Serrano	Thomas (WY)
Price	Sharp	Torres
Pursell	Shays	Towns
Quillen	Sikorski	Traficant
Rahall	Sisisky	Traxler
Ravenel	Skaggs	Udall
Ray	Skeen	Unsoeld
Regula	Skelton	Valentine
Rhodes	Slattery	Vander Jagt
Richardson	Slaughter (NY)	Vento
Ridge	Slaughter (VA)	Visclosky
Rinaldo	Smith (FL)	Volkmer
Robinson	Smith (IA)	Vucanovich
Roe	Smith (NE)	Walgren
Rogers	Smith (NJ)	Walsh
Ros-Lehtinen	Smith (VT)	Washington
Rose	Smith, Robert (OR)	Watkins
Rostenkowski	Snowe	Waxman
Roth	Solarz	Weber
Roukema	Solomon	Weiss
Rowland (CT)	Spence	Weldon
Rowland (GA)	Spratt	Wheat
Roybal	Staggers	Whittaker
Russo	Stallings	Whitten
Sabo	Stangeland	Williams
Saiki	Stark	Wilson
Sangmeister	Stenholm	Wise
Sarpalius	Stokes	Wolf
Savage	Studds	Wolpe
Sawyer	Swift	Wyden
Saxton	Synar	Wylie
Schaefer	Tallon	Yates
Scheuer	Tanner	Yatron
Schiff	Tauke	Young (AK)
Schneider		

NAYS—58

Alexander	Gekas	Meyers
Archer	Gingrich	Packard
Armey	Goss	Porter
Ballenger	Hammerschmidt	Ritter
Barton	Hancock	Roberts
Bateman	Hastert	Rohrabacher
Bentley	Hefley	Schulze
Brown (CO)	Herger	Shaw
Bunning	Holloway	Shumway
Burton	Hunter	Shuster
Campbell (CO)	Hyde	Smith, Denny (OR)
Cox	Ireland	Smith, Robert (NH)
Crane	James	Stearns
Dannemeyer	Kasich	Stump
DeLay	Kyl	Thomas (CA)
Dornan (CA)	Lewis (CA)	Upton
Douglas	Lewis (FL)	Walker
Emerson	Livingston	Young (FL)
Fawell	Marlenee	
Fields	McCollum	

NOT VOTING—19

Crockett	Jenkins	Rangel
de la Garza	Jones (GA)	Schuette
Ford (MI)	Lukens, Donald	Smith (TX)
Ford (TN)	Martinez	Sundquist
Hall (TX)	McDade	Torricelli
Hatcher	Morrison (CT)	
Huckaby	Nelson	

□ 1747

Mr. DENNY SMITH and Mr. RITTER changed their vote from "yea" to "nay."

Mrs. VUCANOVICH, Mr. THOMAS of Wyoming, Mr. RHODES, Ms. MOLINARI, and Mr. McEWEN changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5241, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1991

Mr. GORDON, from the Committee on Rules, submitted a privileged report (Rept. No. 101-597) on the resolution (H. Res. 432) waiving certain points of order during consideration of the bill (H.R 5241) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 1750

CONFERENCE REPORT ON S. 933, AMERICANS WITH DISABILITIES ACT OF 1990

Mr. HAWKINS. Mr. Speaker, I call up the conference report on the Senate bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

The Clerk read the title of the Senate bill.

The SPEAKER. pro tempore. (Mr. MAZZOLI). Pursuant to House Resolution 427, the conference report is considered as having been read.

(For conference report and statement, see prior Proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS] will be recognized for 30 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 30 minutes.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Mr. Speaker, I would like to ask if either the gentleman from California [Mr. HAWKINS] or the gentleman from New York [Mr. FISH] are opposed to the bill.

The SPEAKER pro tempore. Is the gentleman from New York [Mr. FISH] opposed to the conference report?

Mr. FISH. I am not, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS] is not opposed to the conference report, and the gentleman from California [Mr. DANNEMEYER] demands the time?

Mr. DANNEMEYER. I demand time, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] is entitled to time.

Accordingly, the gentleman from California [Mr. HAWKINS] will be recognized for 20 minutes, the gentleman from New York [Mr. FISH] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I rise in strong support of the conference report to accompany the Americans With Disabilities Act, S. 933. Seldom in my many years in Congress have I been privileged to work on a bill which has had stronger scrutiny by four separate committees in the House alone, and stronger bipartisan support. This major piece of civil rights legislation, which extends equal protection to 45 million Americans, is a model of the legislative process.

Today, we have before us a bill which has been carefully crafted to obtain the support of the disability and the business communities, the White House, and the Members of both Chambers. Is it a bill which pleases every one of us, in every respect? No, but such legislation is not within the powers of this, or any other body, to produce. This is a compromise, but it is a significant and vital one.

The bill extends protections to those with disabilities, while protecting the legitimate concerns and interests of the public and private sector. It is in the best interests of the country, and the business communities. It empowers over 45 million fellow citizens to take their rightful place in society, free of discrimination and manufactured barriers.

The conference report which we consider today is also a compromise. When we went to conference on the bill, there were a substantial number of differences, over 80, between the House and Senate versions. Almost without exception, these differences were resolved in favor of the House position. I want to stress this again, that the Senate receded on almost every point of difference, particularly to those which amended the Senate-passed bill with provisions deemed important to business or other private interests.

With respect to the provision dealing with placement of individuals in food handling positions, the House receded to the Senate provision which was the result of a bipartisan and unequivocal compromise fashioned by Senator HATCH. The House also receded to the Senate provision concerning the applicability of the legislation to Senate employees.

We stand poised on the threshold of a bold new day for those Americans with disabilities. Don't hold back the dawn of this equality over a minor provision of little weight. Let us pass this bill now, and tell all Americans we are glad to have you with us. Support the passage of the Americans With Disabilities Act.

Mr. Speaker, I ask unanimous consent that the remainder of my time be under the control of the gentleman from Maryland [Mr. HOYER], who has done a magnificent job of providing the leadership on this most important issue.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland [Mr. HOYER] will be recognized to control the remainder of the time of the gentleman from California [Mr. HAWKINS].

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, testimony to the work that has been done in a bipartisan fashion in this House of Representatives with the leadership of the Speaker, the leadership of the distinguished minority leader, the leadership of the distinguished gentleman from Texas [Mr. BARTLETT], the Chairs of all of the committees, the ranking Members of the committees, is that the Senate for all intents and purposes took the House bill.

There were two exceptions. The House did not act upon the coverage of the Senate under the bill and the mechanism that they would put in place to enforce the provisions of the bill in the Senate. We left that to the Senate.

There was a controversy, as Members know, with respect to the Chapman amendment, an amendment which was designed to provide for the health and safety of our citizens, an objective that all of us on this floor share. The Senate, after debate and conference, adopted an amendment offered by the Senator from Utah, Senator HATCH, and the Senator from Kansas, Senator DOLE, and that amendment was adopted 99 to 1. That amendment we believe fully provides the full protections for the safety and health of the citizens of this country that ought to be extended. I know that will be debated at a little greater length.

But I rise in very, very strong support of this conference report and congratulations to all of the Members on both sides of the aisle who have worked so hard and diligently on this bill. I think this bill has been perfected so that it is an excellent piece of legislation of which all of us in this body will be proud to say that we were Members of the House of Representatives when we extended to over 43 million Americans the welcome sign that we wanted them to come into our society, that we wanted them to have the ability to work and support themselves and their families, that we wanted them to have the ability to ride on our transportation systems, that we wanted them to be able to come into our stores, and our banks, and our doctors' offices, and fully avail themselves of the opportunities of American society.

So Mr. Speaker, I would hope that we would move on very quickly to adopt this conference report, which is overwhelmingly supported by the other body and I believe by the overwhelming number in this body.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BARTLETT].

(Mr. BARTLETT asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in very strong support of the conference report, and I want to call to the attention of the Members of this Congress who voted by a record vote of 403 to 20 on May 22, 1990, the essential reasons why this is the same vote, and those 403 House Members who voted for the bill on May 22, in my opinion, should vote for it again.

Let me be very specific, because there have been many issues talked about back and forth in the newspapers, and in the press, and in the corridors relating to the conference. I will be very specific.

The bill that we passed had 81 points of disagreement with the Senate-passed bill. The Senate receded to the House on all but four of those points, and on three of those four in fact the House helped the Senate and we worked together on the language, and the final language looks more like the House language than the Senate language. So on 80 out of 81, on substance, the Senate receded to the House.

Only on the food handling amendment did the House lose, an amendment offered by the gentleman from Texas [Mr. CHAPMAN]. I agreed with the gentleman from Texas and still do, and supported the food handling amendment. But I want to remind the Members that was the only amendment or the only section of the House bill that did not survive conference.

The food handling amendment that was adopted by this Chamber was important. It consumed a great deal of time and energy as it should have. The rights of those individuals with communicable diseases, with AIDS, are im-

portant and clarification of employer discretion of matters relating to those persons both has merit and economic implications, has been debated before and will be debated again.

But this bill is not about AIDS. This bill is not about food handling. This bill is about the 43 million Americans who are today being denied their civil rights and have been for 214 years, the 2 million Americans with mental retardation, the 15.5 million Americans with severe physical functional limitations, or the 24 million Americans with speech, language, or hearing disabilities, those with spinal cord injuries, those with head injuries, those who are blind and deaf or who have multiple sclerosis, or muscular dystrophy, or cerebral palsy.

Appropriate public policy today, as a matter of law, has not come easily to this body in this country, a country that celebrated our 214th birthday on July 4 of this year.

□ 1800

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. Mr. Speaker, I yield to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Maryland indicated in his remarks that the Dole-Hatch amendment in the Senate sought to address the problem that the Chapman amendment addressed here in the House to which the Senate would not agree. Will the gentleman explain to us what the Dole-Hatch amendment does and how that is going to more effectively prevent the spread of AIDS in our society than would the Chapman amendment?

Mr. BARTLETT. I am going to answer the gentleman's question very candidly and tell the gentleman up front that there is a difference of opinion about conclusions on the Dole-Hatch amendment. But first I want to say, very directly, this bill is about those with spinal cord injuries and this bill is about those who are blind and this bill is about those with head injuries, those with multiple sclerosis and muscular dystrophy.

So there is a disagreement on food handling with those with AIDS, but I want Members of this body to understand that the vote we are about to cast is about the breadth of those with disabilities and not on the one section of those with AIDS with food handling.

Now I will answer the gentleman's question:

There is a difference of opinion. In my candid opinion, the Dole-Hatch amendment, as is in the bill, does not appropriately handle the food handling section. It does not do it either better or at all the way the Chapman amendment did.

The Chapman amendment said that someone who has—an employer who has a cook in the kitchen who has AIDS could transfer that cook out of the kitchen. The Senate bill that is before us, the conference bill that is before us, Dole-Hatch, says that you cannot transfer the person out of the kitchen, because AIDS cannot be contracted by food handling.

So there is a difference of opinion about it.

What we have is what we have. I disagree with the food handling section. I agree with the rest of the bill.

Mr. Speaker, each Member has to make his own judgment on whether limitations on employment of those with AIDS should be based on whether AIDS is transmittable by food handling or whether in fact it should be based on the jeopardy to the restaurant itself.

Mr. EMERSON. If the gentleman will yield further, I understand there are approximately 5,000 cases—in excess of 4,000 cases, of AIDS in this country that no one can figure out how they developed. I mean, we were told in debate when this bill was before us here in the House that AIDS is not an airborne, communicable disease, that you cannot contract it by touching. Yet there are indeed in excess of 4,000 cases that nobody can figure out how the victims contracted the disease.

And I think that until we have an answer to that question, we must be exceedingly careful on this subject.

It was for that reason that I strongly supported the Chapman amendment here in the House. It passed by, as I recall, an overwhelming majority. And I do not understand why the House conferees did not better protect the House position on that subject.

I think, you know, you can argue, yes, "you cannot prove that AIDS cannot be contracted through food handling," but you also cannot prove that it is not.

Mr. BARTLETT. I would say to the gentleman that I am not an expert on the subject, others in this Chamber are. But I would say that the Centers for Disease Control and HHS have said several times that AIDS cannot be contracted through food handling. The Dole-Hatch amendment does require that HHS would publish a list of those diseases that are transmittable through food handling and an employer could prohibit someone from handling food who was on that list. My opinion, candidly, is that AIDS will not be on the list because the Centers for Disease Control and HHS have said that before.

Looking at the date, I think that is correct. I think that the Dole-Hatch amendment does not handle it.

But I also want to say for the bill itself that there are individuals who have cerebral palsy who are trying to go to the movies and are denied admittance not because of anything to do with food handling or anything else in the bill but because there is no public accommodations law for those with cerebral palsy.

There are those who are deaf who are denied employment purely because they are deaf, even though they can do the job.

I want to suggest that AIDS is an important issue that has been debated before and will be debated again in the same terms. I was one of those conferees who fought hard for the House position.

I see some smiles on the other side of the aisle as they remember how hard, in fact, some of the battles were. But we lost. We lost. We lost the House conferees by a two-vote margin. I regret that.

But this is not an AIDS bill, it is a civil rights bill.

Mr. EMERSON. I understand that. If the gentleman will yield further, I just want to say that I appreciate and agree with the gentleman's overall thesis. I know we are dealing with many disabilities here. But I come back to the concern: There are some unanswered questions about AIDS, which is of major concern in our society today, and I think that we may have dealt with it a little cavalierly here by not insisting upon the Chapman amendment.

I thank the gentleman.

Mr. BARTLETT. I thank the gentleman.

Mr. Speaker, as I understand it, the gentleman from California [Mr. DANNEMEYER] has 20 minutes, largely on the food handling issue.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, to answer the question of the gentleman from Missouri [Mr. EMERSON], relative to what happened in the conference this morning, there was a motion that we continue to adhere to the position that the House adopted when it adopted the Chapman amendment. And as the gentleman from Texas correctly stated, we lost by a two-vote margin.

The real question now is whether a continued disagreement on this issue should hold up passage of the ADA. I think the answer has been resoundingly answered in the negative.

I personally would like to see the Chapman amendment stay in the bill because I do not think that the list that this conference agreement requires HHS to develop is really going

to do the trick in dispelling public perceptions when an HIV-positive person is in the food handling position.

But these points have been made. I hope that my fears are not justified, but I do think that we should continue proceeding and pass the ADA so that we can get it to the President and he would sign it into law as soon as possible.

Mr. BARTLETT. I thank the gentleman for his comments.

Mr. Speaker, once again, in my opinion, this Congress will revisit the AIDS issue. We should. We are learning more about it all the time. It is an important issue that ought to be resolved. We visited it before, we will visit it again.

Just one other statement and then I will yield to the gentleman who has been so kind and generous with the time.

I want to recite to those who had—of which there were many—those who had some reservations about this bill the way it came out the first time even though many voted for it. I want to recite some of the portions of the bill, in the House bill, that are now in the conference committee report.

Litigation will not be a problem with this legislation. The fact of the matter is that the only remedies that are included in this are the remedies that are currently in title VII of the 1964 Civil Rights Act, which is reinstatement of back pay and attorneys fees.

Terms are defined, and the definitions in every single case are the same way they have been defined since 1973, with the only exception, with the only exception of ways in which we define the terms even more closely.

The remedies do not include compensatory and punitive damages as they did in the original bill; employers' control over and regulations governing the use of alcohol and drugs are not changed at all in the ADA; those who are current users of illegal drugs are in no way protected by the ADA. Any individual who is a direct threat to the health or safety of others in the work place is not covered by ADA.

Reasonable accommodation is limited to only anything that does not require a significant difficulty or expense, the words of the 1973 law. We know what they mean.

We added site-specific factors that say for the first time in Federal law you can consider the financial impact on that specific site. That had never been in Federal law prior.

A qualified individual with a disability is only protected if he can perform the essential functions of the job.

I want to suggest that in fact this legislation, in spite of some of the concerns, the concerns were related to the original bill as originally introduced; most of those concerns were corrected in the original House bill.

I am not asking for unanimity on the subject, I do not think the House is unanimous. I am just suggesting that those who voted for the House bill when it came out on May 22 should vote for it again today. We prevailed on 80 out of 81 points, and we do provide civil rights protections to those with disabilities for the first time in the Nation's history.

Mr. Speaker, the conference report on S. 933 that we are considering today, is in most respects the bill we adopted on May 22, 1990, on a vote of 403 to 20. It and this conference report are a reflection of numerous hearings, improvements made by the other body and four House committees, and consensus achieved among most players—the disability community, the business community, the administration, and the leadership and Members of both Chambers of Congress.

First, I would like to outline the substantive changes made to the House-passed provisions that are contained in the conference report; and second, to view the two issues that delayed our consideration of the conference report until today.

The initial House-Senate conference on the ADA was held on June 25, 1990, in which all issues were resolved. Out of 81 points of disagreement, conferees proposed amendments to the House-passed bill on 5 points, that were principally clarifications of congressional intent. On another issue, conferees ignored the preference of the majorities in both Houses. On the Chapman food handling amendment, the House receded to the Senate, thereby dropping a House provision that had passed the House floor in a rollcall vote of 199 to 187 on May 17, 1990, and also was endorsed by the other body on a procedural vote on June 6, 1990, on a vote of 53 to 40.

On a final point, congressional coverage as it would apply to the other body, conferees accepted a provision that appeared to allow a private right of action for applicants or employees with disabilities.

Since on these last two issues, the food handling amendment and the private right of action amendment, we reached an uneasy peace, the ADA conference was reconvened, triggered by a motion to recommit from the other body, on July 11, 1990.

Here I would like to reiterate that the conference report is substantially the House-passed bill, it is not an unknown quantity. Although it has taken more time than most would have wanted, it is not because of numerous or complex differences between the Senate and the House with pervasive consequences, but primarily clarifications.

OVERVIEW OF THE CONFERENCE AGREEMENT AMENDMENTS

Transportation employees and alcohol and drugs: On point 16(e), the Senate receded with an amendment expanding the application of the railroad employee alcohol and drug use provision to transportation employees employed by entities subjected to the jurisdiction of the Department of Transportation. This amendment clarifies that the ADA would not and should not alter or undermine policies and practices in effect now or developed later, related to the use of alcohol or the illegal use of drugs by such employees.

Enforcement coordination: On point 18, the Senate receded with an amendment, giving enforcement agencies under the employment title, 18 rather than 12 months, to develop regulations to coordinate enforcement actions brought under the ADA and the Rehabilitation Act.

Ridership of nondisabled individuals on paratransit vehicles: On point 28(f) pertaining to paratransit, the House receded with an amendment that would allow more than one nondisabled individual to rise with a disabled individual in a paratransit vehicle as long as another disabled individual would not be displaced.

Accessibility requirements for non-key stations: On point 33 which addresses accessibility requirements for non-key stations for light and commuter rail systems, the Senate receded with an amendment. The amendment clarifies that structural changes to make such stations accessible to individuals with disabilities would not be required unless structural changes were also being made for other reasons. In addition, structural changes under such circumstances to accommodate individuals in wheelchairs would not be required, if such individuals could not benefit from or use the services being offered in the facility.

Use of wheelchairs in wilderness areas: On point 76 related to the use wheelchairs in wilderness areas, the Senate receded with an amendment clarifying that wilderness areas must allow wheelchairs, like those used in indoor pedestrian areas, into wilderness areas, but need not provide special treatment or accommodations to individuals using such chairs.

AMENDMENTS RESULTING FROM THE MOTION TO RECOMMIT TO CONFERENCE

Food-handling: On point No. 15 the House receded to the other body with an amendment directing the Secretary of Health and Human Services to publish, within 6 months of enactment, disseminate, and to update annually, a list of contagious diseases that can be transmitted through the handling of food. If an applicant or employee had a disease contained on this list, the spreading of which could not be eliminated by reasonable accommodation, an employer could place or transfer such an individual into a job that did not involve food handling.

Congressional coverage of the Senate by the ADA: On point No. 77 the House receded to the Senate with an amendment applicable to the Senate, that would assign to the Senate Select Committee on Ethics the responsibility to investigate and resolve claims with respect to employment in the Senate brought by individuals with disabilities, and to the extent practicable, make available the same remedies available to other employees.

CONCLUSION

On the whole I endorse the amendments made to the ADA through the conference report, with one exception—the food handling amendment. This amendment does not address the purpose of the Chapman amendment, that was adopted by this body and endorsed by the other one. That is, to balance the rights of an individual covered by the ADA

against the economic viability of the employer. Rather, the conference report amendment creates five significant problems,

First, it places a new administrative burden on HHS to develop a list, that has no practical use or easily interpretable legal status.

Second, it places new obligations on employers to reasonably accommodate individuals not intended to be coveed by the ADA, such as those with measles or the common cold.

Third, in the absence of a timely HHS list, it places employers with food handling positions potentially in legal limbo.

Fourth, it creates new demands on such employers to be aware of and assess such a list in terms of its consistency and compatibility with non-Federal requirements with which they must comply.

Fifth, and most importantly, the conference amendment on food handling, unless clarified here and now, potentially sets different qualification standards for employers that have food handling positions than for other employers. It is essentaial that we acknowledge and agree that section 103 (a) and (b) of the ADA apply to the same extent and in the same way to employers with food handling positions as to other employers. Mandating an HHS list in the ADA should not, must not, supersede or undermine the employer's ability to set qualification standards that would allow an employer with food handling positions to reassign individuals who pose a direct threat to the health and safety of others. Such a list should not be viewed as the ultimate or sole legal justification for placing or not placing an individual in another position other than a food handling position, if the individual has a contagious or infectious disease.

Mr. Speaker, we are finally at the end of a long journey; a journey of high expectations, with diverse companionship, unanticipated obstacles and substantial challenges, but a journey well worth the time and effort. Working together, the ADA will provide individuals with disabilities full membership in the world of work, the community, and the general business of daily life. It took longer than it should have, but now that we have the ADA ready for the President's signature, let it reflect our strong endorsement. The conference report is our bill—four committees, 434 Members, and 43 million Americans with disabilities—worked to make this happen. Those special Americans are waiting for their bill, they have tolerated our delays and diversions on tangential issues—within hours it will be theirs, finally.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair will advise the gentleman from New York [Mr. FISH] that 12 minutes of his time has been consumed and he has 8 minutes remaining.

Mr. FISH. Mr. Speaker, I yield 1 minute to the ranking member of the Committee on Public Works and Transportation, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the conference report to the Americans With Disabilities Act of 1990.

I rise on the floor of the House of Representatives today to support this landmark legislation. Today we take one giant step forward toward opening doors to opportunity and independence for millions of disabled Americans.

There are a few individuals whom I wish to thank for their efforts to see this day arrive. I would first like to thank the distinguished chairman of the Public Works and Transportation Committee, Congressman GLENN ANDERSON, for his leadership in seeing that the committee dealt with the bill fairly and completely. I would also like to thank the chairman of the Surface Transportation Subcommittee, Congressman NORM MINETA, and the ranking Republican on that subcommittee, Congressman BUD SHUSTER, for their hard and tireless work on the bill.

I would like to make special mention of one individual who played a great part in legislation benefiting the disabled over many years, Mr. Dennis Smurr. Dennis served for 9 years with the paralyzed veterans of America, one of the finest organizations I have had the pleasure to deal with in my congressional service. Dennis was a consistent and diligent force for the disabled. He possessed impeccable integrity, undaunted enthusiasm, mastery of the issues and a sincere commitment to bettering the lives of those with disabilities. I am happy to say that he was also a very dear friend. Before his untimely death in December, Dennis had been actively involved in the Americans With Disabilities Act. He would have been full of pride and happiness today to see this landmark legislation in its final stages of congressional consideration.

My thanks is extended as well, to Mr. Jack Powell and Mr. Fred Cowell of the paralyzed Veterans of America for taking the helm after Dennis' death. PVA has been a voice of reason and wisdom throughout consideration of the ADA and I thank them sincerely.

Though I support the ADA, I have made it clear to committee members and my colleagues in the House my lingering concerns about some of the bill's provisions. I will not reiterate them today for they are well documented in the additional views in the report of the Committee on Public Works and Transportation on H.R. 2273, and in my statement on the House floor during general debate on the bill.

I do ask, however, that we monitor the implementation of the Americans With Disabilities Act on all fronts with careful diligence. Let us watch the regulatory process closely and the act in practice around this country so that those we intended to help are indeed benefited, and those which must provide service or make accommodations, do so in the way in which we intended.

As a conferee, I supported the Chapman amendment which did not prevail in the conference nevertheless the Americans With Disabilities Act is legislation which we should all be proud to support. It will improve many American lives significantly—lives which have suffered beneath burdens of discrimination for too long. Let us open those doors today and support the conference report before us.

□ 1810

Mr. DANNEMEYER. Mr. Speaker, I yield 6½ minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I understand why the gentleman from Texas was running out of time and could not yield, and we might have enough time to discuss the issue. I want to point out, before I go into my remarks, that the gentleman from Texas is not trying to mislead the House in trying to portray the Civil Rights Act of 1964 as codified in this bill. Title 7 of the Civil Rights Act is referred to in cross-reference in this bill, and if we pass the Civil Rights Act of 1990 as it is moving through this Congress, the punitive damages and the compensatory damage will apply to this bill, make no mistake about it, if it becomes law.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, the gentleman is absolutely correct. My only point is we are not voting today on the Civil Rights Act of 1990. We will have adequate time to debate and vote on remedies under the Civil Rights Act. This bill contains only the remedies which I cited.

Mr. DELAY. That is very true, but the point must be made that the ADA bill refers to remedies in the Civil Rights Act. If we pass the Civil Rights Act of 1990, these remedies will apply to the ADA bill. So, we cannot escape it.

I just wanted to open my remarks by saying, and we know where the votes are, and debating it is probably moot, but I feel compelled to bring to the House's attention what has gone on with this bill. I think that this bill is probably the most closed piece of legislation that I have ever seen and ever witnessed and ever been a part of in my 12 years in the legislative body. Because of support from the White House for this bill, the Democrats for this bill and many of the Republicans for this bill, Members of this House on committees and in the full House have had the political cover to resist any reasonable amendments to this bill. We go and try to pass a reasonable amendment to take care of some concerns of people that have to run these

businesses and provide jobs for Americans, and they were rejected out of hand, and now they are rejected by the conference committees as it met.

There is very little media to speak of, highlighting the ADA bill as it ran through this Congress, and I am telling Members, the American people out there do not know this is about to become law, because as I have traveled around not only in my district but the State of Texas and across this Nation since this bill has been introduced, in talking to business people, they had no idea such a thing was even being considered. They do not know what is about to happen to them, and they will come to Members when they have to comply with this bill.

This bill and the closeness of the bill has created a sort of arrogance, as we have seen and as we have witnessed in the conference committee. It has created an arrogance that has refused reasonable amendments. Amendments, for instance, and think about this, Members, it is true that a person can fire a drug addict who is disabled under the definition of this bill if that person is caught with drugs in the workplace, but it is also true he can go down the street, sign up at a rehab center, and a person would have to rehire him. That will happen under this provision because we were not allowed to pass an amendment which just allowed the employer to consider the record of cleaning up his act in rehabilitation, of the drug addict. The drug addict, under the definition of the bill is disabled. Therefore, he gets all the protection of anyone that is covered by this bill.

The second amendment, and another amendment that I thought was very reasonable, why not put the executive branch and the judicial branch under compliance of this bill? Why not? I mean, if everybody else in the world except private country clubs have to comply with this bill, why not the executive branch and the judicial branch? We even put ourselves in the bill and left out the judicial branch and the executive branch to comply under this bill.

Then we get to the Chapman amendment. The Chapman food handling amendment was taken out as we have discussed. They have already debated this amendment, and Members remember what it does. It allows employers to reassign food handlers with communicable disease or infectious disease of public significance, to positions which the individual is qualified, and the employee sustains no economic damage. This amendment protects owners of restaurants from being required to place a person with AIDS or a contagious disease, in a food handling position. It is the position of the House and the Senate that food handling amendment should be included in the ADA bill. The conferees took it out. This is typical of the arrogance of the problem.

The entire ADA bill highlighted one problem after another concerning why America is having so much trouble competing. Any time we let Government make decisions instead of the people, any time we put the Government in a position of administrator of American business or overseer of American technology, America suffers. We had this problem because there are certain members of the U.S. Government and even Members of this Congress who have an elitist, paternalistic attitude toward the American people. They believe it does not matter what the American people want; Government will decide it for them.

In both the House and the Senate representatives of the American people voted in a clear majority to support the Chapman amendment. Like they have done so many times before, the conferees decided that the will of Congress and the will of the American people are less important than their own subjective decision about right and wrong, good or bad. Whether or not we can restore the food-handling amendment to the ADA, the United States will continue to move forward with or without it. It is the attitude that is the problem. It is the attitude that defeats the capital gains tax cut against the will of the American people, that raises taxes against the American people, that forces American businesses to walk lockstep over the cliff of anticompetitive bureaucracy, regulation, rulemaking, and product control. Somewhere we in Congress must stand up against paternalistic elitism. We should vote to recommit this bill, to tell our conferees to do what we the representatives of the American people told them to do in the first place, support the motion to recommit the ADA conference report with instructions to retain the Chapman amendment.

Mr. HOYER. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. ANDERSON], chairman of the Committee on Public Works and Transportation, who has been so very helpful in the passage of this legislation.

Mr. ANDERSON. Mr. Speaker, by approving this conference report on the Americans With Disabilities Act today, this body will be making a long-delayed acknowledgement of the civil rights of disabled Americans to participate fully and equally in the enjoyment of life. For too long, many in this country have taken a view of individuals with disabilities that is particularly distasteful to me—that they are somehow unable to fully participate in our society.

Yet, often all it takes is an understanding of the need for—and then providing—some reasonable accommodation to bring the disabled fully into the mainstream of society. The ADA will help ensure that this reasonable accommodation is provided.

That is why we must not let the motion to recommit with instructions which will be offered by Mr. DANNEMEYER to further delay the passage of this landmark legislation—legislation which greatly benefit millions of Americans. The Congress has already given the ADA a full and open airing spanning more than 3 years. In the House, a total of four committees reviewed this much needed legislation in countless hearings and markups.

Each of these committees approved a bill which fully protects any establishment's employees and customers from an employee with an infectious disease. The conference agreement before us now preserves the strong civil rights protection in the ADA against discrimination by disability, yet also provides public health protection through the infectious disease review which will be carried out by the Department of Health and Human Services.

I urge all of my colleagues to view the Americans With Disabilities Act as I do—as a civil rights bill. With that in mind, I strongly urge a "no" vote on this motion to recommit and quick approval of the conference agreement.

□ 1820

Mr. FISH. Mr. Speaker, once again I yield such time as he may consume to my friend and colleague, the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding time to me, and I will be brief.

I know that the Members have not had a great deal of time to examine the conference report as it came out, so I do want to make sure I have the correct information on some of the suggestions that were made by my colleague, the gentleman from Texas [Mr. DELAY].

First, on the use of drugs, the fact is that in 104 (a) and (b) the provision we make is that someone who is a current user of drugs, whether or not they are in rehabilitation treatment, is not protected.

In fact, on page 59 of the report, we say that:

> The provisions excluding an individual who engages in the illegal use of drugs from protection is intended to insure that employers may discharge or deny employment to persons who illegally use drugs on that basis without fear of being held for discrimination. The provision is not intended to be limited to persons who use drugs on the day of, or within a matter of days or weeks before, the employment action in question. Rather, the provision is intended to apply to a person whose illegal use of drugs occurred recently enough to justify a reasonable belief that a person's drug use is current.

So if someone is in rehabilitation treatment, in fact the employer could

require a daily drug test as a condition of employment, if that occurred.

Second, there were substantive changes made in this bill through the legislative process. Hundreds were made by the President in his negotiations with Senator KENNEDY on the Senate side. I have counted up all the changes. There were formal amendments that were adopted by the four committees of jurisdiction and it comes to a total 37 different amendments that were adopted, substantive amendments in addition to technical amendments and in addition to changes that were made in the substitutes.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. Let me complete this first.

Third, the executive branch is covered by title 1 of Federal law. It has been covered since 1973. This legislative branch is covered by this bill, under congressional coverage, in both the House and the Senate, but the gentleman is correct, the judicial branch is not covered. It ought to be, and perhaps that can be in next year's bill.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, is the gentleman advocating daily drug tests of those suspected of using drugs?

Mr. BARTLETT. I am not advocating either.

Mr. DELAY. The gentleman suggested that is the only way you can comply with the bill.

Mr. BARTLETT. No, I did not say that at all. I said that this bill does not prohibit an employer from denying employment to someone who is in rehabilitation treatment if there is any indication that they are a current user of drugs. And "current" does not mean on that day; it means with any reasonable proximity of time.

Mr. DELAY. Mr. Speaker, can the gentleman cite me any court cases, any court decisions that say that that is what it means?

Mr. BARTLETT. I can cite to the gentleman the words of the bill and the words of the report, which say in part on page 60 as follows: "This provision does not permit persons to invoke the Act's protection simply by showing that they are participating in a drug treatment program."

That was the gentleman's example, that if someone shows he is a participant, he is exempt. The bill and the conference report say that is not correct.

Mr. DELAY. But the only way you can prove that he is exempt or that the employer can do that is to give him a drug test every day?

Mr. BARTLETT. That is not correct.

Mr. DELAY. How else are you going to tell that the drug addict is clean?

Mr. BARTLETT. This bill is not a drug bill either. It merely says that the use of drugs is not a disability under this law. This is one that prohibits discrimination based on disability, and it says the use of drugs is not that.

Mr. DELAY. Is the gentleman saying a drug addict is not a disabled person under this bill?

Mr. BARTLETT. I am saying under this bill that any current user of drugs is not covered. And "current" is a broad term, not a narrow, 1-day term.

Mr. DELAY. And it is yet to be defined by the courts?

Mr. BARTLETT. No, it is to be defined in this bill by the language of 104 (a) and (b).

Mr. DELAY. But what happens is that a person that is in this situation takes the employer to court and the court decides what we meant by passing this bill.

Mr. BARTLETT. That is simply incorrect. The employee can sign an administrative complaint with the EEOC and have it considered or not. If the employee should go to court after EEOC, the only thing the employee can recover is job reinstatement. No damages are recoverable at all.

Mr. DELAY. Until we pass the Civil Rights Act of 1990.

Mr. BARTLETT. The bill we will vote on today does not have punitive or compensatory damages.

Mr. DANNEMEYER. Mr. Speaker, I yield 6 minutes to my colleague, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I concur with my colleague, the gentleman from Texas [Mr. DELAY], who said that we have developed an elitist attitude around here, that we know better for the American people what needs to be done than they know themselves.

There are a few things I would like to point out. First of all, the No. 1 charge and responsibility of the Congress of the United States is to defend this Nation. Now, I do not think that means just in the sense of defending against foreign adversaries. It means defending this Nation against other things like a national health emergency or a national health tragedy that could occur. I submit that the AIDS pandemic is one of those things that we must in this body defend the American people against, to the best of our ability with our resources. I think that that is one of our charges, to protect the health of our Nation, and I think that is one of the very important charges. I do not think this bill does that anywhere near adequately.

Before I get to the AIDS amendment, the Chapman amendment, I want to talk about three things that are very important. First of all, they tell us there are going to be 43 million-plus people defined as handicapped or disabled by this bill. That is one out of every five or six Americans. When we start talking about the massive amounts of litigation this is going to cause over the next few years, just think about what that is going to do to the economy and the commerce of this Nation. It is going to cause severe problems.

We want to help the severely handicapped and disabled, but this goes way beyond the bounds of reasonableness. One thing that this bill does is it provides that the mass transit systems in every urban area are going to have to provide lifts on the buses to help the handicapped. We want to help the handicapped, and many cities have done that by having special buses to pick them up and make sure they get where they want to go.

We have mass transits—and my colleagues know this—mass transit authorities that come to our offices all the time asking us for financial assistance because they are about to go bankrupt, and we are now adding to them an additional cost for each and every bus, and they are not going to be able to pay for it or they are not going to be able to afford it. We are forcing them to pay for it because the Federal Government is about bankrupt and they are not going to get the money from us. So we are saddling the local communities with expenses they are not going to be able to afford.

Let me talk about multifamily housing. This bill is going to provide that all multifamily housing condominiums and apartment projects are going to have to accommodate handicapped people. Now, 4 to 5 percent of the handicapped people in this country should be accommodated, but every one of these multifamily units is going to have to accommodate the handicapped in total. That means that all new multifamily housing is going to cost, according the National Home Builders Association, between $100,000 and $400,000 more per unit. People who want to buy condominiums and apartments in this country are going to have to pay through their noses because we have gone overboard.

Let me talk about the Chapman amendment. That is a particular concern of mine. This bill will allow a person with active AIDS to work as a health care worker, a nurse or a nurse's aid, and if a hospital or a doctor thinks a patient might be at risk, and that the person with aids should be moved to another part of the hospital so they would not be in close proximity to that person who has had surgery, to protect the patient, that doctor or that hospital would be subject to a charge of discrimination and a possible lawsuit.

So for that reason people with a communicable disease, AIDS, is going to be forced by law or allowed by law to work with people who just had surgery and who might get AIDS because of this person-to-person contact.

No. 2, if a restaurant owner had a person with active AIDS handling food, he could not even move that person to another job in the restaurant without a discrimination charge and the threat of legal action. Now, the Hatch amendment in the Senate said that an employer would not be required to assign or continue to assign an individual with infectuous of communicable diseases that could be transmitted to others through the handling of food, and that the HHS People would publish a list of communicable diseases so that we would be protected from a person with AIDS or some communicable disease from giving it to the poeple who are eating in that restaurant.

The problem is that when you have AIDS, your immune system breaks down, and we do not know at what point a person gets an invasive disease like tuberculosis or hepatitis B. So when a person with active AIDS works in handling food, they are going to be a risk to everybody that comes into that restaurant because they may give them tuberculosis or hepatitis B during the period when they would not know they had that disease.

□ 1830

Mr. Speaker, we know they have active AIDS. We know that their immune system is breaking down. We know that they are going to get a communicable disease, but we do not know at what point, and we are going to have them handling food?

We know from recent news reports that the incidences of tuberculosis is rising dramatically around the world, as well as hepatitis B, and here we are going to endanger the American population, and we have so many people that eat out anymore, by saying that a person with active AIDS is going to be forced on the employer. The employer is going to be forced to keep them handling food, and I say, "Even if they couldn't give you AIDS, they could certainly give you tuberculosis or hepatitis B."

Mr. Speaker, this is very bad public policy. It is bad for the health of the Nation. We should reevaluate what we are doing. The cost to the Nation in litigation and to the economy is going to be dramatic, but I am even more concerned about what this is going to do to the health of the Nation.

We should have at the very least the amendment to keep people from handling food who have the AIDS virus, who have active AIDS. That is the very least we should do. We should adopt the Chapman amendment, but in addition we should keep those people with active AIDS from working in close proximity to patients in hospitals who have just had surgery because AIDS can be communicated from blood to blood contact.

Mr. HOYER. Mr Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary who has been such a leader in the passage of this legislation.

(Mr. BROOKS asked and was given permission to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, today we are taking final action on the Americans With Disabilities Act—one of the most important pieces of civil rights legislation in the last decade. Approval of the conference report today and the President's signature will finally establish the statutory basis to ensure that individuals with disabilities will have the same protection against discrimination that is enjoyed by racial minorities, religious groups, and others who, in the past, have been denied the chance to participate on an equal basis in our society.

The Judiciary Committee, along with three other committees of this body, has made a tremendous effort over the past several months to fashion a bill that will be both effective and workable, so that those who are affected by its provisions understand just what their rights and duties are under the law. In keeping with this effort, it should be noted that the act calls for the architectural and transportation barriers compliance board [ATBCD] to issue minimum guidelines supplementing the current "minimum guidelines and requirements for accessible design" [M-GRAD], which were based on the 1986 standards issued by the American National Standards Institute [ANSI].

While all of us might take issue with one or another of the provisions before us today, overall the Americans With Disabilities Act is a well crafted consensus measure that will achieve our ultimate purpose of extending the full measure of citizenship and participation to all members of our society. This will enable all individuals to make their maximum contribution to the greater good.

I urge the Members to vote to approve the conference report.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, we will complete our work on the Americans With Disabilities Act so that it can be sent to the President for his signature and enacted into law. Thus, we will finally ensure that persons with disabilities are granted the same equal protection of the laws enjoyed by all other Americans.

Because of the outstanding work done by the four committees of the House exercising jurisdiction over the ADA, only two significant issues were left for the conferees to decide. The first dealt with the issue of congressional coverage. We in the House resolved the issue of our own coverage by applying the ADA to employment practices through the fair employment practices resolution—House Resolution 558 of the 100th Congress—and to the House as a public accommodation through the Architect of the Capitol.

Yesterday, the other body agreed to apply the ADA and numerous other civil rights laws to the Senate with enforcement of such provisions to be exercised by the Senate Ethics Committee.

One outstanding issue remained, that raised by the Chapman food handling amendment, section 103(d). This amendment was initially adopted by the House by a vote of 199 to 187 during debate on the ADA. I have opposed the amendment since its introduction because I believe it perpetuates the very ignorance and fear that the ADA seeks to eradicate.

Yesterday, Senator HATCH introduced an amendment to the instructions to recommit to address some of the concerns raised by the Chapman amendment. The amendment provided that the Secretary of Health and Human Services would prepare and publish a list of infectious and communicable diseases which are transmitted through the handling of the food supply. The diseases designated by the Secretary of HHS that pose a real—not imaginary—threat to public health would be considered.

The other body accepted this eminently sensible amendment by a vote of 99 to 1 and this morning, the conferees met and agreed to include the language.

In August 1988, at his acceptance speech for the Republican nomination, President Bush pledged to "do whatever it takes to make sure the disabled are included in the mainstream." Today, we will complete our work on this historic bill so that President Bush can fulfill his promise by making the Americans With Disabilities Act the law of the land and closing the book on our sad history of unequal treatment of the disabled.

I urge a no vote on recommittal and a yes vote on adoption of the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. DANNEMEYER. Mr. Speaker, this Member will offer a motion to recommit at the conclusion of debate on the conference reports that will contain the Chapman language which the House adopted when the bill was

under consideration. Since the rules do not provide for any debate on that motion to recommit, I want to advise the Members that I intend to offer that motion at this time so that my reasons for doing so can be considered by them as to how they want to vote on that motion to recommit.

As I indicated in my remarks earlier, when this bill was before the Committee on the Judiciary, of which I am a member, I offered an amendment to delete from the definition of disabled person a person with a communicable disease because I believe that that issue needs to be debated here in the well of the House so that we in Congress understand precisely what we are doing.

Now admittedly the bill in the form before us says that a person with a communicable disease fits within the definition of disability, but it does not if the person is at risk to health of coworkers or somebody else.

So, Mr. Speaker, I ask a very simple policy question. On the threshold we include the person with a communicable disease within the definition, but then we go around and exclude them if they are at risk to other people, and I say, "If that's what we're doing policywise, why do we include persons with communicable disease to begin with?"

In asking that question, let me suggest to my colleagues what I believe the reason for this provision is. The American people have no idea that with the adoption of this act we are instantaneously going to bring within the definition of disabled person across this land every HIV carrier in America, every person with AIDS. Now that is not what my definition of disability should be including.

Mr. Speaker, most Americans are going to be outraged when they realize that this is what an act of Congress has done. They will say, "You mean to tell me you passed a law that says that an HIV carrier fits within the definition of a disabled person? What possessed you to do that?"

What that will do around this country, and make no mistake about it, is that the homosexual activist community, once this bill is signed by the White House, is going to send out a press release yelling, "Hallelujah. The Congress of the United States has just given us our Civil Rights Act of 1990 because 70 percent of the HIV carriers in this country are male homosexuals," and they will now come within the definition of disabled because they are HIV carriers, and they are going to be going around this country saying this is their badge for equality because they fit within the definition of disability.

Mark my words. This will come in court litigation in case after case around this country, and I predict we will be revisiting this act the same way we revisited the Catastrophic Act which was passed by the Congress in 1988.

I would say on the Chapman amendment that somebody got the idea it would permit an employer to exclude persons with AIDS or HIV. That is not what it says. The amendment of the gentleman from Texas [Mr. CHAPMAN] said, "If you have a communicable disease, an employer, as a food handler, can exclude you from coverage of the act."

Now the general consensus around here has been that that means that AIDS or an HIV carrier would fit within the definition.

I will say it again. The Chapman amendment is not limited to AIDS or HIV. It is all-inclusive for persons with communicable disease for an employer who happens to be handling food.

□ 1840

I think that is sound public policy. It is not as far as I want to go. I want to exclude all persons with communicable diseases from the definition of being disabled, but at least the Chapman amendment is the right direction for people who are in the food handling business. It gives assurance to those of us who go to a restaurant or a public facility where food is being served that people working there are not going to have a communicable disease.

This will have a chilling effect, I suspect, on the restaurant industry of this country unless we adopt the Chapman amendment which makes clear that persons with communicable diseases who are working in a food establishment are excluded from the definition of disabled.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman for yielding to me. I am sorry I was not on the floor a minute ago when the gentleman was looking for me to recognize me.

I just wanted the historical record for my children and grandchildren to show that I think there are disgraceful aspects to this bill, and I voted for it when it left the House before because I was not prepared to face veterans across this country in wheelchairs and tell them that I was not for giving them a fair shot at any kind of employment that they felt they could handle; but the way we have approached communicable diseases in this bill is nothing short of a nightmare. As the gentleman said, as we had to revisit within a year the catastrophic provisions of 1988, we are going to have to revisit this every year that we are here.

Now, I say to my colleagues that this AIDS death toll is so severe that I hope you are all going to be able to talk to younger people in this country and tell them that you have given it your best shot.

I do not think any of you have gone to the World Health Organization in Geneva. I think I am 1 out of 435 who has done that, or the Louis Pasteur Clinic in Paris, or down to the CDC, the Centers for Disease Control in Atlanta. I am going up to NIH at the end of this month for my yearly visit.

Every time I go up there I come away shaking my head at the horror stories that are absolutely horrendous on the statistical growth here.

We have reached a number of AIDS cases, and they are all going to die, that is half the death toll of the 300,000 dead heroes that we lost in World War II.

I try to use as a benchmark every time I talk about the statistics what George Washington lost to give birth to this country in its war of independence. It is an easy number to memorize, because it is the 435 Members in the House with 4,000 before it. Memorize it, 4,435 from the shot at Concord Bridge to precisely 6½ years later at Yorktown on October 18, 1781, 6½ years. We lost 4,435 in combat. We are losing that every month to AIDS, and there is still not precise accounting of everybody who dies.

This should involve this House to the nth degree on a monthly basis. We should have a dialog and a debate on this floor.

Remember the press that Legionnaire's disease got? There were a handful of people tragically killed in a hotel, and we are losing thousands every month.

Mr. Speaker, I commend the gentleman for his efforts.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. OWENS], the distinguished chairman of the Subcommittee of the Committee on Education and Labor, who has been a real leader on the Americans With Disabilities Act throughout its consideration in the Congress of the United States.

(Mr. OWENS of New York asked and was given permission to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, I rise in strong support of the conference report on the Americans With Disabilities Act.

I do not wish to be repetitious. I associate myself with the remarks of the previous speakers who support this act.

I would like to take just one moment to pay tribute to the people with disabilities who mobilize to represent themselves. The community of people with disabilities are the driving force behind this legislation. People with disabilities acted to empower themselves.

On this historic day, my message to the community of people with disabilities is that we salute you for your Herculean efforts and we reaffirm our commitment to proceed henceforth to work with you. We will work with the business community. We will work with the transportation authorities. We will work with all the other people affected by this legislation in the years head to make real the promise of this historic act.

Mr. Speaker, I rise in strong support of the conference report.

A constituent of mine visited my office in the spring and told us that many of my New York City constituents refer to the Americans With Disabilities Act as the hope bill.

The Americans With Disabilities Act of 1990 will at long last provide parallel civil rights protections to our citizens with disabilities as are afforded other minority groups in our society. It speaks to the highest and most deeply felt aspirations of 43 million Americans with disabilities who long for fairness, for full inclusion in our society, for justice. Passage of this legislation will enable us to begin to make significant inroads in the legacy of disability discrimination in our country, to benefit from the full contributions which people with disabilities in our Nation can make and know they can make if only they are provided with an equal opportunity, and to enhance the level of dignity of 43 million Americans by treating them as first class, full-fledged citizens. The bipartisan 403-to-20 House vote on May 22 was a vote for opportunity and inclusion in the finest American tradition and was in support of legislation of which we in the Congress, and all Americans committed to freedom and justice for all in our society, should rightly be proud.

No piece of legislation this Congress will pass articulates more forcefully and eloquently the purposes which must be embodied in our public policies and in our commitments as individuals and as a nation in order for America to thrive in the 1990's. It embodies a philosophy and constitutes a declaration in support of human possibility and capability. Part of America's maturation as a nation in this age must consist of a realization that divisions and inequities which inhibit the fulfillment of human potential hurt us as an economy and as a community of people who are dependent upon one another's successes and support far more than we often realize. With a powerful commitment to building a society which encourages and supports the efforts of each individual to live a productive life, there is no challenge which our Nation cannot meet. In spirit and in substance, the Americans with Disabilities Act of 1990 represents a compelling national commitment to move in this direction, one upon which we must build in the years to come.

Finally, it is most fitting that in this effort—the most positive statement by the Congress in the history of our republic supporting the capabilities of people with disabilities to fully participate in our society—that it was people with disabilities representing themselves who were the driving force behind this legislation. People with disabilities acted to empower themselves. On this historic day, my message to the community of people with disabilities is: We salute you for your herculean efforts and affirm our commitment to proceed henceforth to work with you, the business community, the transportation authorities, and all of the other people affected by this legislation in the years ahead to make real the promise of this historic act.

Again, I would like to thank all of the Members of the House who worked on this landmark legislation. I would also like to salute all of the staff members who labored diligently to bring this masterpiece to fruition. Particularly I would like to thank Bob Tate, a member of the Subcommittee on Select Education which I chair. Bob Tate's thorough, diligent, and dedicated performance went far beyond the necessities of duty.

I am partiuclary pleased that the conference committee worked out a resolution of the food-handler amendment. As many of us have noted, the original amendment offered by Congressman CHAPMAN responded to public fear and misperception regarding people with HIV diseases by legitimizing those fears and by essentially granting them special status and protection under the ADA. By contrast, the approach ultimately accepted by the conference committee, chooses to respond to that fear by calling for more and better education of the American public. This new provision also reinforces the original approach of the ADA, which provides that an individual who poses a significant risk to the health or safety of others in a particular job, which risk cannot be eliminated by reasonable accommodation, is not considered a qualified individual with a disability for purposes of that particular job. That provision, of course, still applies to individuals with all types of disabilities, including individuals with contagious diseases. The new provision, section 103(d) simply explicates this requirement specifically with regard to food handlers, in order to allay any possible misplaced concerns. Under this provision, a person who has an infectious or communicable disease which has been determined by the Secretary to pose a real, not theoretical, risk of being transmitted through food may be reassigned to another job if there is no reasonable accommodation that would eliminate that risk. The Centers for Disease Control, which is the pre-eminent public health agency in this countrty is well able to perform the work mandated by this provision.

I am pleased that we have arrived at an acceptable resolution of this issue, particularly because the ADA offers such critical protection to people with HIV disease in a range of areas. As some have said in a different context, accepting the original Chapman amendment in the ADA would have been like painting a moustache on the Mona Lisa. I am glad our Mona Lisa has survived intact.

As I noted, the ADA will offer critical protection to people with HIV disease in a range of areas. People with HIV disease are individuals who have any condition along the full spectrum of HIV infection—asymptomatic HIV infection, symptomatic HIV infection or full-blown AIDS. These individuals are covered under the first prong of the definition of disability in the ADA, as individuals who have a physical impairment that substantially limits a major life activity. As the various committee reports note, including the report from the Education and Labor Committee, although the major life activity that is affected at any point in the spectrum by the HIV infection may be different, that affect exists from the moment of HIV infection.

It is tragic and wrong that people with HIV disease should experience medically unjustified discrimination on the basis of their disability. Unfortuntely, such discrimination occurs across our country. In a recent, comprehensive report undertaken by the AIDS Project of the American Civil Liberties Union, entitled "Epidemic of Fear," numerous discrimination cases throughout the 1980's were documented.

The ADA's employment provisions will offer important protection for people with HIV disease. It will protect them in the range of employment decision—hiring, firing, promotions, and all terms and conditions of employment. The reasonable accommodation provision of the bill will be particularly important in ensuring that people with HIV disease have the right to flexible work schedules and to time off to accommodate their treatment needs or their various disease-related conditions. It is also important that employers may not deny a person an employment opportunity based on paternalistic concerns regarding the person's health. Thus, an employer could not use as an excuse for not hiring a person with HIV disease the claim that the employer was simply protecting the individual from opportunistic diseases to which the individual might be exposed. That is a concern on which the individual should consult with his or her private physician and make decisions accordingly.

The ADA's employment provisions also offer important protections with regard to medical examinations. Under the ADA, an employer may give medical examinations to applicants, but only after a conditional offer of employment has been made. Further, all applicants must be given the same examination and the results of the examination must be kept confidential. And, of greatest importance to people with the HIV disease, the examination results may be used to withdraw offers only from individuals who are found not to be qualified for the job based on the test results. Under the current guidelines of the Centers for Disease Control, of course, people with HIV disease are qualified to remain in virtually all jobs in the work force. In addition, current employees may be subjected to medical examinations only if such examinations are job-related and consistent with business necessity. Again, the current CDC guidelines do not call for HIV-testing as necessary for virtually any job in the work force.

Finally, while the ADA explicitly does not affect the underwriting and classification of insurance, the employment title of the ADA does offer protection in the nondiscriminatory provision of health benefits. As the Education and Labor Committee reports notes, an employer which offers health insurance benefits to its employees must ensure that its employees with disabilities also receive such benefits. In addition, as the report notes, employers may not refuse to hire an individual with a disability because that individual, or that individual's family, might incur higher health care costs for the employer in the future. Allowing

the fact of such increases costs to justify employment discrimination would effectively gut the protections of the ADA for individuals with disabilities.

I think it is also important to note that the ADA specifically provides that the exception for insurance underwriting and classification of risks may not be used as a subterfuge to evade the purposes of titles I and III of the Act. Questions have been raised to me recently as to whether the term "subterfuge" should be interpreted consistent with the Supreme Court's decision in *Public Employee Retirement Systems of Ohio* v. *Betts,* 109 S.Ct. 256 (1989). The answer is "No." We use the term "subterfuge" to denote a means of evading the purposes of the ADA. It does not mean that there must be some malicious or purposeful intent to evade the ADA on the part of the insurance company or other organization. It also does not mean, as was the case in Betts, that a plan is automatically shielded just because it was put into place before the ADA was passed. The intent of section 501(c) of the Act, as the Education and Labor Committee report makes clear, is that the ADA should not be construed so as to undermine the provision of insurance plans that are based on sound actuarial risks. The provision regarding subterfuge within section 501(c) should not, however, itself be undermined by a restrictive reading of the term "subterfuge," as the Supreme Court did in Betts. Indeed, our committee recently reported out a bill to overturn the Betts decision for which I voted. It is not our intent that the restrictive reading of Betts, with which we do not agree, should be carried over to the ADA.

These protections of the ADA will also benefit individuals who are identified through genetic tests as being carriers of a disease-associated gene. There is a record of genetic discrimination against such individuals, most recently during sickle cell screening programs in the 1970's. With the advent of new forms of genetic testing, it is even more critical that the protections of the ADA be in place. Under the ADA, such individuals may not be discriminated against simply because they may not be qualified for a job sometime in the future. The determination as to whether an individual is qualified must take place at the time of the employment decision, and may not be based on speculation regarding the future. Moreover, such individuals may not be discriminated against because they or their children might incur increased health care costs for the employer.

The public accommodations title of the ADA will also offer necessary protection for people with HIV disease. This title prohibits discrimination in such areas as doctors' offices, dentists' office, lawyers' offices, and various other service providers. These are areas of society in which, unfortunately, people with HIV disease have faced discrimination. In addition, title III prohibits the use of eligibility criteria that screen out, or tend to screen out, people with disabilities, unless such criteria can be shown by the public accommodations to be necessary for the provisions of its services or goods. Thus, for example, a doctor or dentist could not require that a person demonstrate that he or she was not HIV-infected, (for example, by requiring the individual to undergo an HIV test), unless meeting that criterion was necessary to provide services to that individual. Under current CDC guidelines, of course, there is not reason to require proof of HIV-negativity in any public accommodation setting. Thus, title III will finally offer needed protection to individuals with HIV disease.

Mr. HOYER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS], the chairman of the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, who handled this bill. The gentleman from California has been and is one of the giants on civil rights legislation in the Congress of the United States.

(Mr. EDWARDS of California asked and was given permission to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from Maryland for yielding me this time.

I congratulate the gentleman from Maryland and all the Members involved, the gentleman from California [Mr. HAWKINS] and most especially the gentleman from California, Mr. Coelho, who no longer is with us, whose dream is being made real today.

Mr. Speaker, I rise in strong support of the conference report for S. 933, the Americans With Disabilities Act [ADA]. The ADA represents a historic effort to provide comprehensive antidiscrimination protections for persons with disabilities, comparable to civil rights protections afforded minorities and women.

The bill reported from the conference represents the culmination of many years of work, and the evolution and improvement of the ADA, by the Congress and by the many advocates of civil rights for persons with disabilities. I'd like to salute these eloquent advocates, for their thousands of hours of work on the ADA, and for their valuable assistance and advice.

Mr. Speaker, I am very pleased that the conferees were able to reach a resolution on the Chapman amendment dealing with food-handlers. Many of us felt that the original amendment which was added to the bill represented simply the wrong way to deal with a difficult issue. Without a doubt, there is fear and misperception regarding the threat posed by people with acquired immune deficiency syndrome [AIDS] and other forms of human immunodeficiency virus [HIV] disease. But the proper response to such fear and misperception is not to legitimize them by allowing such false perceptions to determine who can hold certain jobs. Rather, the proper response is that taken in the Hatch amendment, which the conferees have adopted.

The new section 103(d) now simply explicates that defense—which appears in section 103(b)—with regard to individuals with certain communicable diseases who work in food handling positions. Thus, if an individual has a disease which the Secretary of Health and Human Services, through the Centers for Disease Control [CDC], has determined poses a true, not theoretical, risk of being transmitted through the handling of food, and the risk of that transmission cannot be eliminated by reasonable accommodation—for example, by having the employee use certain hygienic procedures or by allowing the employee time off to recover from the disease—then the employer may reassign that individual to another job. This is consistent with the basic philosophical approach of the ADA that an individual must be qualified for his or her particular job.

In light of the fact that the food-handler amendment has been so successfully resolved, I would like to take a moment and note how important this entire bill is for people with the HIV disease. People with HIV disease are those individuals who run the spectrum from asymptomatic HIV-infection to individuals with full-blown AIDS. Recent medical evidence indicates that it is most appropriate to view individuals with HIV infection as falling along one continuous spectrum of HIV disease—from asymptomatic infection to full-blown AIDS. As our Judiciary Committee report notes, all of these individuals are covered under the first prong of the definition of disability in the ADA, as individuals who have a physical impairment which substantially limits a major life activity.

While much of America has responded with compassion and dignity to individuals with HIV disease, many others have not. A recent report from the AIDS project of the American Civil Liberties Union surveys AIDS discrimination cases in the United States during the 1980's. See ACLU AIDS project, "Epidemic of Fear" (1990). For those individuals who still experience discrimination from others who are reacting out of ignorance or fear, the ADA will finally extend critical protection in the areas of employment, transportation, and public accommodations.

First, under the ADA, people with HIV disease will finally be protected in private employment situations. The ADA covers the entire range of employment decisions—hiring, firing, promotions, and all terms and conditions of employment. The ADA will prohibit the most basic types of discrimination—the unjustified decision of an employer to fire or not hire a person because the person has HIV disease, because the person is perceived to have HIV disease, or because the person associates with someone who has HIV disease. Moreover, the specific requirements of ADA will be helpful in a range of areas. For example, the reasonable accommodation mandated by the law will be important in ensuring that individuals with HIV disease have the right to the flexible work schedules and time off that are critical to help accommodate the disease.

The ADA's employment provisions also offer important protections to people with HIV disease with regard to medical examinations. Under the ADA, an employer may require medical examinations of applicants only after conditional offers of employment have been made to the applicants. All applicants must be given the same examination, the results must be kept confidential, and the examination results may be used to withdraw offers only from individuals who are found not to be qualified for the job based on the test results. Under the current guidelines of the Centers for Disease Control, of course, people with HIV disease are qualified to remain in all jobs

in the work force. Thus, particularly in light of the legal requirement that employers must ensure that the tests are kept confidential, it is hard to see why employers would decide to require applicants to be tested for HIV. In fact, based on the information I have received, it does not appear that employers are currently requiring such testing.

The ADA also protects employees on the job from unnecessary medical examinations. The ADA allows such examinations only if the employer demonstrates that such examinations are job-related and consistent with business necessity. Again, the current CDC guidelines do not recommend HIV-testing as necessary for any job in the work force. Thus, employees on the job will be protected from involuntary HIV testing unless the employer can demonstrate somehow that such testing is job-related and consistent with business necessity.

The ADA does not take on the difficult job of altering the basic manner in which health insurance companies do business in this country. There is a specific provision in the ADA stating that the bill does not affect the underwriting and classification of risks done under insurance plans. As the report of the Judiciary Committee makes clear, however, there are certain protections that still remain. First, as a basic matter, an employer may not refuse to hire an applicant because of feared increase in insurance costs. This is necessary because otherwise a huge loophole would be created in the employment protections of the ADA; people with disabilities can always be expected to incur some higher health costs than those without disabilities.

Second, under the ADA, an employee with a disability must receive health insurance from the employer, if the employer is offering health insurance to other employees. As our Judiciary report explained, employers may not deny health insurance coverage completely to an individual based on the person's diagnosis or disability. For example, while it is permissible for an employer to offer insurance policies that limit or deny coverage for certain procedures or treatments—for example, a limit or denial of kidney dialysis or a limit or denial of blood transfusions—it would not be permissible to deny coverage to individuals, such as persons with kidney disease or hemophilia, who are affected by these limits on coverage for procedures or treatments, for other procedures or treatments connected with their disability. Thus, the limitation applies to the particular treatment or procedure, not to the overall disability. However, preexisting condition clauses which limit reimbursement for a set period of time remain valid under the ADA. It would also not be permissible to deny coverage to such individuals for other conditions not connected with these limitations on coverage, such as treatment for a broken leg or heart surgery.

As a general matter, the ADA provides that the exception for those establishing and administering insurance plans may not be used as a subterfuge for evading the purposes of the employment and public accommodation titles of the ADA. I think it is important to note that the term "subterfuge" in the act interpreted in *Public Employee Retirement System of Ohio* v. *Betts,* 109 S.Ct. 256 (1989). The term "subterfuge" is used in the ADA simply to denote a means of evading the purposes of the ADA. It does not mean that there must be some malicious intent to evade the ADA on the part of the insurance company or other organization, nor does it mean that a plan is automatically shielded just because it was put into place before the ADA was passed. Indeed, there is currently a bill moving through Congress to overturn the Betts decision and we have no intention of repeating a decision in the ADA with which we do not agree.

The protections of the ADA, while admittedly not affecting the core of insurance underwriting, will still offer important protection for all people with disabilities, including people with HIV disease. Another group of people with disabilities who will benefit are those who have been identified as carriers of a disease-associated gene. The advent of new genetic testing makes it critical that such individuals be protected against unjustified discrimination. Under the ADA, such individuals may not be discriminated against because of fears of increased health care costs that they or their children might incur. Moreover, such individuals may not be discriminated against based on the assumption that they will become sick in the future and will not be qualified to do their jobs. Determinations regarding whether a person is a "qualified person with a disability" must be made at the time of the employment decision, and not be based on speculations regarding the future.

Title III of the ADA will also offer important protection for people with HIV disease. This title prohibits the range of service providers and businesses from discriminating against people with HIV disease. The title also prohibits public accommodations from having eligibility criteria that screen out, or tend to screen out, people with disabilities, unless such criteria are demonstrated by the accommodation to be necessary for the provision of the goods or services. Thus, for example, a hotel or a lawyer's office or any other public accommodation could not require that a person be HIV-negative—or could not test that person for HIV—unless the accommodation showed that being HIV-negative was necessary for the provision of the goods or services. Based on the current guidelines issued by the Centers for Disease Control, I cannot think of any such circumstance.

This is a proud day for the Congress. We do not often have an opportunity to take truly historic actions, to benefit millions of Americans. By voting to adopt the conference report, the House takes its final step to send to the President an extraordinary law to bring 43 million Americans with disabilities into the mainstream of American life.

Mr. Speaker, there are few of us who have not been personally touched by family or friends with a disability. We all know how persons with disabilities are rarely judged by their abilities, but instead on their disabilities. The ADA will go a long way toward changing this situation.

For Americans with disabilities the ADA represents a pivotal opportunity to join in the American dream. We should send the ADA to the President today. Forty-three million Americans, their families and friends, deserve no less.

Mr. HOYER. Mr. Speaker, I understand the time of the gentleman on the other side has expired, and as a result I yield 1 minute to the gentleman from Texas [Mr. CHAPMAN].

(Mr. CHAPMAN asked and was given permission to revise and extend his remarks.)

Mr. CHAPMAN. Mr. Speaker, I sincerely appreciate the gentleman yielding me this time.

I want to take just this 1 minute to explain why I will be voting for the motion to recommit. Normally I would not do that, but in this case in addition to the difference being the Chapman amendment on this legislation, I think it is important that the House understand that the conference committee ignored the will of the House in the vote of the conferees from the House on the Chapman amendment, and the conferees from the Senate ignored the instruction of the Senate on the Chapman amendment.

Simply put, my colleagues, the conference committee thwarted the will of the majority of the U.S. Congress. I think for that reason it is altogether fitting and proper and appropriate that those who supported the Chapman amendment in the House can vote and should vote for the motion to recommit.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. HOYER. Mr. Speaker, I yield 15 additional seconds to the gentleman.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. CHAPMAN. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I would concur with the gentleman on the narrow issue of the motion to recommit on food handling. The gentleman from Texas [Mr. CHAPMAN] is correct. I plan to vote for the motion to recommit also. If that fails, I do plan, regardless of that, I do plan to vote for final passage.

Mr. CHAPMAN. Mr. Speaker, I appreciate the gentleman's statement.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MINETA], the chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation. The gentleman has been one of the major leaders on this legislation.

(Mr. MINETA asked and was given permission to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, first of all, I wish to really commend my colleague, the gentleman from Maryland, among others who have been working on this bill, but especially to the gentleman from Maryland [Mr. HOYER] for his untiring efforts, and to Melissa Schulman, Roger Slagle, from our

staff, Phyllis Guss, and Suzanne Sullivan, from my staff.

Mr. Speaker, disabled Americans are ready, willing, and able, to use their talents, skills, and energy in our communities; but full access to our society, including our transportation systems, is essential if disabled Americans are to realize their potential of becoming self-reliant, productive members of our society.

Make no mistake. The Americans With Disabilities Act is a matter of civil rights.

Our Nation has a tradition of responding to the needs of those among us who have been denied equal opportunity.

This is a great principle, and I believe we must work together to ensure that this legislation retains this commitment to civil rights, and that is why I am particularly troubled by the motion to recommit with instructions by our colleague, the gentleman from California [Mr. DANNEMEYER].

Let us not allow this procedural vote which is based on fear and ignorance and which is opposed by every major public organization including the National Restaurant Association and every major public health organization keep us from granting independence to all Americans in this great country of ours including those with disabilities.

Mr. Speaker, I strongly urge a no vote on the motion to recommit and a yes vote on final passage.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would ask the gentleman from California; a question has been raised regarding the effect of section 102(b)(2) of this conference agreement on the collective-bargaining rights of members of labor organizations.

Is it the understanding of the gentleman that this legislation would not restrict or affect these rights?

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. MINETA. Mr. Speaker, the gentleman from Maryland is correct. Let me assure the gentleman that nothing in the ADA is intended to restrict or prohibit labor organizations and employers from entering into collective-bargaining agreements or labor-protective arrangements including those required under section 13(c) of the Urban Mass Transportation Act.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. WAXMAN], chairman of the Subcommittee on Health of the Committee on Energy and Commerce, one of the Members who is a giant in health care for all Americans and who has himself been a leader on this legislation.

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this historic civil rights legislation.

I would like to engage the gentleman from Maryland in a colloquy.

The conferees adopted the Hatch amendment regarding the food handlers, and it would provide a list to be published by the Secretary of diseases which are transmitted through handling the food supply. By that language, does the gentleman mean that the list should contain every disease which, in theory, might possibly be transmitted, or does it mean the list to contain the best scientific and medical judgment of what is a real risk to the public?

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Maryland.

Mr. HOYER. In response to the gentleman's question, clearly the conferees intend the language to address the real concerns of health, not the speculative, theoretical, or fearful ones. We do not expect the Secretary to prove that a disease is not transmitted by food, but, rather, to find that there is medical evidence that a disease is transmitted and put that disease on the list.

Mr. WAXMAN. If I may continue, the language also specifies that if an individual has a disease on this list that an employer may refuse assignment of that individual to a job of food handling if the disease cannot be accommodated. By that, does the gentleman mean that the disease must be actually cured or that reasonable accommodation must eliminate the risk of the disease to the public?

Mr. HOYER. If the gentleman will yield further, the accommodation, in response to the gentleman's question, should eliminate the risk of disease to the public. That is its objective. The statement of the managers is clearly on this point. Clearly we cannot insist that disabled people become undisabled, just that the risk to the public be eliminated through reasonable accommodation.

Mr. WAXMAN. Finally, let me ask about the preemption provisions of the language. This provision is crafted to allow State and local law to stand if it is about the same issues as the food-handler language. Does this mean that a local or State government can assert that any food-handling regulation is protected, or does this protection only cover those provisions that are legitimately in conformity with the Secretary's findings and list?

Mr. HOYER. If the gentleman will yield further, clearly the State and local standards, I would say to the gentleman from California, must meet the same sort of standards as the Secretary's list. It should reflect sound medical and scientific judgment, reasonable public health methods, and should protect the public from health risks. Simply asserting that a law is for public health will not be enough to protect it from preemption.

Mr. WAXMAN. I thank the gentleman, and I congratulate the conferees on sorting out this issue to make good public health policy while making good antidiscrimination policy as well. I thank the gentleman for his efforts.

Mr. Speaker, I rise in support of the conference report on the Americans With Disabilities Act. This is a historic piece of civil rights legislation for people with disabilities who have waited much too long for this type of important protection.

This legislation also comes at a critical point for people with HIV disease. I am, therefore, particularly pleased that the Chapman amendment has been deleted from the bill and that a provision which reinforces the existing requirements of the ADA—that individuals who pose a significant risk to the health or safety of others which cannot be eliminated by reasonable accommodation are not protected by the act—has been substituted in its stead. I am confident that the Secretary, through the Centers of Disease Control, will carry out well the mandated job of developing a list of diseases that are, in fact, transmitted through the food handling process.

People with HIV disease are those who have the spectrum of the disease—from asymptomatic HIV infection, to symptomatic HIV infection, to full-blown AIDS. As medical knowledge has increased, specialists in the field increasingly recognize that there exists a continuum of disease among those who are HIV infected. All such individuals are covered under the first prong of the definition of disability in the ADA.

Others have noted how important it is that the ADA maintains the same broad, flexible definition of disability that is used to define "handicap" in section 504 of the Rehabilitation Act of 1973. It was particularly important for people with HIV disease that section 504 did not list a series of diseases and conditions that were covered—because HIV disease was not even discovered in 1973. Because section 504 incorporates a description of "handicap," and not a list of diseases, people with HIV disease were covered under section 504 from the first that they have needed the protection of that act.

But section 504 does not have a sufficient reach to protect people with HIV disease in the various settings in which such individuals encounter dis-

crimination. Now, with final passage of the ADA, such individuals will receive needed protection in private employment and in the whole range of public accommodations in which they often face discrimination.

The ADA's employment provisions offer important protection for people with HIV disease. It will protect them in the range of employment decisions—hiring, firing, promotions, and all terms and conditions of employment. The reasonable accommodation provisions of the bill will be particularly important in ensuring that people with HIV disease have the right to flexible work schedules and to time off to accommodate their treatment needs or their various disease-related conditions. In addition, the ADA precludes an employer from denying an employment opportunity to an individual with HIV disease based on paternalistic concerns that the employee might be exposed to additional health risks. That is an issue to be discussed and decided between the individual employee and his or her physician.

I am also pleased that the ADA has incorporated strong provisions with regard to preemployment and on-the-job testing. While medical examinations may be given to job applicants, they may be given only after a conditional job offer has been made, they must be given to all applicants—thus, an employer cannot require just certain applicants to take a medical test—the results of the test must be kept strictly confidential, and—of greatest importance to people with HIV disease—the results of the exam may not be used to withdraw a conditional job offer unless the results indicate that the person is not qualified for the job. Under current medical and scientific judgment, including guidelines issued by the Centers for Disease Control [CDC], people with HIV disease are qualified to remain in virtually all jobs in the work force.

In addition, the ADA clearly sets forth the requirements with regard to medical testing of current employees: such exams must be job related and consistent with business necessity. The purpose of this provision is to ensure that employees are not unnecessarily subjected to tests that would expose their disabilities. Again, under current medical and scientific judgment, including the CDC guidelines, HIV testing is not justified in virtually any job in the work force.

While the ADA explicitly does not affect the underwriting and classification of insurance, the employment title of the ADA still offers significant protection with regard to the nondiscriminatory provision of health benefits. The reports of the House Education and Labor Committee and the House Judiciary Committee spell out this protection. Essentially, the ADA does not interfere with underwriting and classification of insurance. However, employers may not refuse to hire an applicant because of a feared increase in insurance costs. In addition, an employee with a disability must receive health insurance from the employer, if the employer is offering health insurance to other employees. While limitations are allowed on procedures and treatments, a person with a disability must still be able to receive basic coverage for the person's disability. Thus, the limitation may legitimately apply to particular treatments or procedures, but may not preclude coverage for a disability completely.

Finally, the bill explicitly notes that the exception for insurance underwriting may not be used as a subterfuge to evade the purposes of the ADA. I have been informed by those Members who are closely involved in the legislation to overturn the decision of the Supreme Court in *Public Employee Retirement System of Ohio* v. *Betts,* 109 S.Ct. 256 (1989) that the term "subterfuge" in the ADA should not be read as the Supreme Court read that term in Betts. Thus, there is no requirement of an intent standard under the ADA or a blanket exception for insurance plans that were adopted prior to the enactment of the ADA.

The public accommodations title of the ADA will also offer necessary protection for people with HIV disease. Such individuals, unfortunately, continue to face discrimination in doctors' offices, lawyers' offices, and various other service providers. Title III of the ADA will finally prohibit such discrimination. In addition, such individuals are sometimes subjected to unnecessary testing for HIV in such settings. Again, the ADA will offer important protection. Title III of the act prohibits the use of eligibility criteria by public accommodations; for example, requiring that a client have a test result showing the person is not HIV-infected—unless such criteria are shown by the public accommodation to be necessary for its provision of services or goods. Under current CDC guidelines, such criteria would not be necessary in the range of accommodations covered under title III. Thus, I am pleased that ADA will finally offer protection to individuals with HIV disease in the range of public accommodations.

I should note that the employment protections of the ADA will be important, as well, for people who are identified through new genetic tests as being carriers of a disease-associated gene. As has been noted throughout the legislative process on this bill, a person who is regarded as having an impairment which substantially limits a major life activity is covered under this bill. Thus, an individual who is discriminated against, for example in employment, on the basis of being a carrier of a disease-associated gene, would be covered under this third prong of the definition.

Under the ADA, a carrier of disease-associated gene is protected in employment as long as such individual is qualified for the job in question. The determination as to whether a person is qualified must be made, however, at the time of the particular employment decision—of hiring, firing, promotion, and so forth—and may not be based on speculation and predictions regarding the person's ability to be qualified for the job in the future.

Moreover, as I noted above, an employer may not refuse to hire an individual because of fears regarding increased insurance costs attendant on hiring the individual—either because of increased costs to be incurred because of that individual's health needs or because of the health needs of that individual's family. Thus, for example, an employer could not discriminate against a carrier of a disease-associated gene because such individual may be at higher risk of having a child with a genetic disease, whose care would increase costs for the parent's employer. This restriction on employers is basic to the ADA. All people with disabilities may ultimately incur higher health care costs. If the possibility of such increased costs were allowed to justify discrimination in employment, a huge loophole would be created in the protections of the ADA.

Finally, I am disappointed that there is no opportunity for people with disabilities to receive monetary damages under title III—because I fear that many violations will therefore go unaddressed. At the least, however, there is a strong attorney's fee provision in the act, which will be important in aiding the bringing of cases, and the Attorney General has been given extensive enforcement authority for title III. The Attorney General has a high responsibility to carry out this authority effectively. In addition, I look forward to passage of the Civil Rights Act of 1990, which will ensure that damages under the ADA for cases of discrimination in employment.

I am pleased that we are finally at the point of passing this historic piece of legislation. It comes none too soon for millions of people with disabilities—including people with HIV disease.

Mr. HAMMERSCHMIDT. Mr. Speaker, the Public Works and Transportation Committee received absolutely excellent staff support and professional advice and many, many hours of hard work from minority staff director Jack Scheuendorf, his deputy Bob Bergman, the Surface Transportation Subcommittee minority counsel Becky Bentson and her assistant Cindy Elliot.

I'm appreciative of their strong effort in advising our counselors all through the long process of helping successfully bring the Americans With Disabilities Act to its success-

ful conclusion and passage. Their work was exemplary.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of the conference report on S. 933, the Americans With Disabilities Act.

I want to commend the distinguished gentleman from Maryland [Mr. HOYER] for his leadership in coordinating the consideration of this landmark legislation and his efforts to bring to the floor a comprehensive package that will help meet the needs of the disabled community.

There is little doubt that this legislation is needed and its enactment is long overdue. For far too long, the 43 million Americans who are disabled have had to endure needless discrimination and unnecessary obstacles in employment, public accommodations, transportation and telecommunications. Much of the discrimination is based on ignorance and fear. This legislation will enable the disabled to become better integrated into their communities. The disabled have long sought greater opportunities to become productive members of society, but they have been denied that opportunity.

When we deny the disabled the opportunity to contribute, society pays the cost. It is estimated that 8 million working age citizens with disabilities cost our society in excess of $246 billion annually. The disabled do not want charity or a government handout; they want to work. It is imperative that we reduce the staggering 66 percent unemployment rate for the disabled, and thereby reduce Federal disability payments.

I also want to commend the leadership of my distinguished colleague on the Public Works and Transportation Committee, Mr. MINETA. The transportation provisions are the key component of this legislation which will enable the disabled to take advantage of greater opportunities in employment and will provide greater independence for our disabled citizens. Only a multimodal transportation network—incorporating wheelchair accessible buses and paratransit—can adequately meet the transportation needs of the disabled community. A Department of Transportation study indicated that with accessible transportation, SSI benefit savings due to increased employment would account for $276 million a year. In Minnesota, the city of Duluth has provided excellent paratransit transportation services with the STRIDE system, and is also committed to a wheelchair accessible mainline bus service. The transportation provisions of the ADA have also been successfully implemented in Rochester, MN, which has also developed a unique simulator training program that provides the disabled with appropriate training before they utilize wheelchair accessible buses.

In addition to transportation innovations, the State of Minnesota has developed a number of creative efforts to integrate the disabled into our communities. The city of Hibbing, MN recently published the first guidebook in the State that highlights accessibility features of local business and services. Minnesota has also developed a comprehensive, consumer-responsive, statewide system of technology devices and services for people with disabilities. This project, known as STAR [a system of technology to achieve results], is designed to increase the awareness and availability of technology for people with disabilities. In order to help our disabled youth utilize their talents to the fullest, Minnesota has also created community transition interagency committees throughout the State. These committees help coordinate the various programs and services young adults with disabilities may utilize, from education and employment to independent living and recreation.

My colleagues, it is time that we do the right thing and pass this historic legislation. Justice demands that we provide those individuals with disabilities the same protections as those covered under the Civil Rights Act of 1964. I assure you that the investment that we make to enable the disabled to become productive members of our society will pay handsome dividends. Statistics indicate that funds generated by eliminating discrimination would return more than $3 for every $1 spent.

It has been said that the disabled are continually faced with great opportunities brilliantly disguised as insolvable problems. We can take a giant step toward helping the disabled reach their full potential by removing not only the physical barriers but also by eliminating the irrational misconceptions concerning individuals with disabilities. The enactment of the Americans with Disabilities Act will enable the disabled to realize those great opportunities.

Mr. GOODLING. Mr. Speaker, today I had to leave before the vote on the conference report accompanying S. 933, the Americans With Disabilities Act. A valued former employee of mine, Lucille Fetter, passed away and I traveled to my home district to attend her viewing.

I supported the passage of this legislation when it was considered by the House of Representatives and would have voted "aye" had I been present for the final vote on this important legislative measure.

Mr. BERMAN. Mr. Speaker, I rise today to speak about the Americans With Disabilities Act conference report. Specifically, I want to talk about the food handlers amendment adopted by the conference.

The basic underlying goal of this provision is to ensure that accurate information is conveyed to the general public regarding those infectious and communicable diseases which are transmitted through the handling of food and those diseases and infections which are not transmitted through the handling of food.

The Centers for Disease Control [CDC] is the pre-eminent public health agency in this country. The purpose of this provision is to ensure the American public that CDC will review all infectious and communicable diseases that may be able to be transmitted through the handling of food and will then determine, based on accurate scientific and medical analysis, whether such diseases are, in fact, transmissible through the handling of food.

The conferees expect that this list published by the Secretary, will focus on the scientific aspects of different diseases and the different activities involving food handling that an individual may engage in through which the disease may or may not be transmitted. This list must be updated annually by the Secretary. This requirement is included to reassure the American public that, on an annual basis, the CDC will review the relevant scientific and medical evidence regarding the transmissibility of all diseases and will determine, based on that evidence, whether any of these diseases are, in fact, transmissible through the handling of food.

The food handler provision further provides that the Secretary shall widely disseminate the information regarding the list of diseases that are transmissible through food handling and the modes by which such diseases are transmissible through the handling of food. This is a critical component of the amendment. The conferees believe that a major factor which generated the desire to adopt the original "food handler" amendment, for which this provision has been substituted, was the lack of awareness of the American public regarding which diseases are and are not transmitted through the handling of food. Instead of allowing false perceptions, therefore, to determine whether individuals may remain in food handling jobs, this provision requires the Secretary to use valid scientific evidence to determine which diseases can be transmitted through the handling of food and then to ensure that the American public is well-educated regarding these scientific facts as to allay any unnecessary fears.

The amendment further provides that in any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, which disease is included on the list developed by the Secretary, and in which the transmissibility of the disease cannot be eliminated by responsible accommodation, a covered entity under this title may refuse to assign or continue such individual to a job involving food handling.

This provision is consistent with the underlying requirements of the ADA. If an individual has an infectious or communicable disease which, in fact, is transmissible through the handling of food, then an employer or other covered entity appropriately has the right under the ADA to, for example, reassign that employee to a job not involving food handling. The underlying requirement of the ADA is simply that a reasonable accommodation must be made if such accommodation will eliminate the transmissibility of the disease.

For example, if an individual has an infectious disease that can be eliminated by taking medication for a specified period of time, the employer must offer the employee the reasonable accommodation of allowing the individual time off to take such medication.

The forms of reasonable accommodations required would be those required under this title for all people with disabilities. And of course, would be subject to the same "undue hardship" limitation which applies to all accommodations under this title.

Finally, this amendment includes an anti-preemption provision. This provision is an explication of the general anti-preemption provision of section 501(b) of the act, but is designated specifically with regard to laws regarding food handling. The point of this provision is to ensure at legitimate State and local laws and regulations regarding food handling are not preempted by the ADA. State and local public health departments are, many times, at the front lines of protecting the public health.

Legitimate laws and regulations designed to protect the public health, therefore should not be preempted by the ADA.

This provision clearly defines the type of State and local laws that are not preempted by the ADA. First, the laws must be designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation. This is consistent with the definition of "direct threat" under this title. Second, because this provision is designed to apply specifically to laws regarding food handling, the requirements of the State and local laws must be consistent with the list of infectious and communicable diseases published by the Secretary as transmissible through food handling. Thus, for example, a local law which was promulgated in reaction to public fear and ignorance, and was not based on valid scientific evidence, will continue to be preempted by the ADA. The conferees, however, do not expect that many such State and local laws exist or will be promulgated. Rather, the conferees expect that local and State health departments are and will continue to carry out their duties in a responsible fashion and will use the list developed by the Secretary. This provision ensures that such legitimate State and local laws, ordinances, and regulations are not preempted by the ADA.

This amendment appropriately carries out both the letter and the spirit of the underlying requirements of the ADA. Instead of allowing false perceptions to determine whether an employee may remain in a particular job, this provision ensures that valid public health guidelines, rather than false perceptions, will determine the protections afforded under this title. In addition, and of critical importance, this provision reassures the American public by ensuring that the CDC will evaluate this area carefully and publish a list of diseases which are and are not transmitted through the handling of food.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume. I will not take all of my time, and I will now close.

Mr. Speaker, we are on the brink of enacting an independence bill for the disabled of America. They will henceforth, I think, look to this day and the day when the President of the United States signs this bill as the independence day for those who have been disabled but who have a willingness, a desire, and who are qualified and have an ability to productively participate in America, in the promise of America and in the pursuit of happiness.

Mr. Speaker, there were some concerns raised about this bill. There are those who will present a motion to recommit this bill, and they are very open. They want to discriminate against individuals. They want to discriminate against individuals who have a communicable disease. This bill does not allow that.

This bill does, however, say that one can do that if it poses a risk to the public. That is our responsibility, and this bill does exactly that.

The U.S. Senate recognized that concern and adopted an amendment offered by Senator DOLE and Senator HATCH, and that amendment was adopted 99 to 1. Ninety-nine Members concluded, I would suggest, that the public's health concern was protected by the amendment which was adopted in this bill.

There was another concern that was also taken care of. Other than that, this bill represents the work of the House of Representatives. It represents the bipartisan effort of the gentlemen who have spoken on behalf of this conference report.

I would ask the Members of this House on this historic day to say that now is the time, now is the time to open the door of American life to all of the disabled in our country. Today, tonight, do not delay this bill 1 minute more. Let us act now. Let us stand up and say to the disabled, "You are fully part of America."

Reject this motion which is unnecessary, unwise, discriminatory, arbitrary, and capricious. It is not based on medical evidence. It is opposed, I would suggest to the Members, by the Secretary of Health and Human Services.

Let me, in closing, say this, quoting the President of the United States:

Today I call on the House of Representatives to get on with the job of passing the law, as embodied in the Americans With Disabilities Act, that prohibits discrimination against people with HIV and AIDS. We are in a fight against a disease, not a fight against people, and we will not and must not in America tolerate discrimination.

This motion to recommit tolerates discrimination. Reject it out of hand. Move on with this bill. Say "yes" to the disabled; defeat the motion, and pass the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. DANNEMEYER. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DANNEMEYER moves that the report on the conference accompanying S. 933, the Americans with Disabilities Act, be recommitted with instructions that the House insist to the amendment of the gentleman from Texas [Mr. CHAPMAN] which reads as follows:

"(d) FOOD HANDLING JOBS.—It shall not be a violation of this Act for an employer to refuse to assign or continue to assign any employee with an infectious disease or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage.".

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The Chair will state that, pursuant to the provisions of clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the conference report. There will be a 15-minute vote on the motion to recommit and a 5-minute vote on the conference report.

The vote was taken by electronic device, and there were—yeas 180, nays 224, not voting 28, as follows:

[Roll No. 227]

YEAS—180

Alexander	English	Lloyd
Applegate	Erdreich	Marlenee
Archer	Fields	Martin (IL)
Armey	Flippo	McCandless
Baker	Gallegly	McCollum
Ballenger	Gaydos	McCurdy
Barnard	Gekas	McEwen
Bartlett	Geren	McMillan (NC)
Barton	Gillmor	Meyers
Bateman	Gingrich	Michel
Bentley	Grant	Miller (OH)
Bereuter	Hall (OH)	Montgomery
Bevill	Hammerschmidt	Moorhead
Bilirakis	Hancock	Murphy
Bliley	Hansen	Murtha
Broomfield	Harris	Myers
Browder	Hastert	Neal (NC)
Brown (CO)	Hayes (LA)	Nielson
Bunning	Hefley	Olin
Burton	Hefner	Oxley
Callahan	Herger	Packard
Chapman	Hiler	Parker
Clement	Hoagland	Parris
Coble	Holloway	Pashayan
Coleman (MO)	Hopkins	Paxon
Combest	Hubbard	Payne (VA)
Cooper	Hunter	Petri
Courter	Hutto	Pickett
Cox	Hyde	Porter
Craig	Inhofe	Quillen
Crane	Ireland	Regula
Dannemeyer	James	Rhodes
Darden	Johnson (SD)	Ridge
Davis	Kasich	Ritter
DeLay	Kolbe	Rogers
DeWine	Kyl	Rohrabacher
Dickinson	Lagomarsino	Ros-Lehtinen
Donnelly	Lancaster	Rose
Dorgan (ND)	Laughlin	Roth
Dornan (CA)	Leath (TX)	Roukema
Douglas	Lent	Sarpalius
Dreier	Lewis (CA)	Schaefer
Duncan	Lewis (FL)	Schulze
Early	Lightfoot	Sensenbrenner
Edwards (OK)	Lipinski	Shaw
Emerson	Livingston	Shumway

Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weldon
Wilson
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—224

Ackerman
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clay
Clinger
Coleman (TX)
Collins
Condit
Conte
Conyers
Costello
Coughlin
Coyne
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Engel
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Foglietta
Frank
Frost
Gallo
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hamilton
Hawkins
Hayes (IL)
Henry
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Hughes
Jacobs
Johnson (CT)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (NY)
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (WA)
Mrazek
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Roberts
Roe
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Saiki
Sangmeister
Savage
Sawyer
Saxton
Schiff
Schneider
Schroeder
Serrano
Sharp
Shays
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swift
Synar
Torres
Towns
Traficant
Udall
Unsoeld
Vento
Visclosky
Walsh
Washington
Waxman
Weiss
Wheat
Whittaker
Whitten
Williams
Wise
Wolpe
Wyden
Yates

NOT VOTING—28

Chandler
Crockett
Flake
Ford (MI)
Ford (TN)
Frenzel
Goodling
Gray
Hall (TX)
Hatcher
Huckaby
Jenkins
Jones (GA)
Lowery (CA)
Lukens, Donald
Martinez
McDade
Morrison (CT)
Nelson
Pursell
Robinson
Scheuer
Schuette
Schumer
Sikorski
Smith (TX)
Torricelli
Traxler

□ 1919

Messrs. BONIOR, GUARINI, and TORRES changed their vote from "yea" to "nay."

Mrs. LLOYD and Messrs. THOMAS of Wyoming, LANCASTER, SARPALIUS, WATKINS, QUILLEN, and EARLY changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

□ 1920

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HOYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair advises that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 377, noes 28, not voting 27, as follows:

[Roll No. 228]

AYES—377

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Costello
Coughlin
Courter
Cox
Coyne
Craig
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Foglietta
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Grant
Green
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schneider
Schroeder
Schulze
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Towns
Traficant
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—28

Archer
Armey
Barton
Bateman
Burton
Chapman
Cooper
Crane
Dannemeyer
DeLay
Edwards (OK)
Hancock
Hastert
Herger
Holloway
Lewis (CA)
Lightfoot
Marlenee
McEwen
Miller (OH)
Nielson
Olin
Packard
Parker
Shumway
Shuster
Stenholm
Stump

NOT VOTING—27

Chandler	Hatcher	Pursell
Crockett	Huckaby	Robinson
Flake	Jenkins	Scheuer
Ford (MI)	Jones (GA)	Schuette
Ford (TN)	Lukens, Donald	Schumer
Goodling	Martinez	Sikorski
Gray	McDade	Smith (TX)
Guarini	Morrison (CT)	Torricelli
Hall (TX)	Nelson	Traxler

□ 1927

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOYER. Mr. Speaker, I ask unanimous consent that all Members be given 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

PERSONAL EXPLANATION

Mr. JONES of Georgia. Mr. Speaker, I was unavoidably absent for rollcall No. 223, the Solomon amendment, rollcall No. 224, the Penny amendment, rollcall No. 225, final passage of H.R. 5515, transportation appropriations for fiscal year 1991; rollcall No. 226, to provide for consideration of the conference report of S. 933; rollcall No. 227, recommit with instructions; rollcall No. 228, final passage of the Americans With Disabilities Act conference report. Had I been present, I would have cast the following votes: "aye," "nay," "aye," "aye," "nay," and "aye."

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall 222, to provide for the consideration of H.R. 5115; rollcall 223, the Solomon amendment; rollcall 224, the Penny amendment; rollcall 225, final passage of Transportation appropriations for fiscal year 1991; rollcall 226, to provide for consideration of the conference report of S. 933; rollcall 227, recommit with instructions; rollcall 228, final passage of the Americans With Disabilities Act conference report. Had I been here, I would have cast the following votes; "aye," "aye," "nay," "aye," "aye," "nay," and "aye."

PERSONAL EXPLANATION

Mr. GUARINI. Mr. Speaker, during consideration of the conference report on S. 993, the Americans With Disabilities Act, I voted "yes" on House Resolution 427, waiving certain points of order against the conference report and "no" on the Dannemeyer motion to recommit, and "yes" on final passage of the conference report. I understand that my vote was not recorded even though I was on the floor, but the computer did not accept my card.

Mr. Speaker, I ask unanimous consent that my explanation appear following the vote on these matters in the permanent RECORD.

The SPEAKER pro tempore (Mr. RICHARDSON). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall Nos. 222, 223, 225, 226, 227, and 228; and "nay" on rollcall No. 224.

TRIBUTE TO HON. TONY COELHO

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, during the course of the debate I did not get the opportunity to deal with something that I think ought to be said on this floor.

The distinguished gentleman from California, the dean of the delegation, mentioned the chief sponsor of this legislation. The chief sponsor of this legislation is not on the floor today, as all of you know. Tony Coelho was an individual who was very committed to this bill as a Member and has remained very committed to this bill upon leaving the House.

Tony Coelho was an American who had a disability. Tony Coelho was an American who taught all of us in this House who had the opportunity to know him, to work with him, to respect him, that a disability in the mind of one may not be a disability at all.

Tony Coelho has been an example to us, an example to literally millions of those who have epilepsy in this Nation and around the world that that disability would not defeat them. It should not go unnoticed that this bill, in large measure, was the product of his devotion and of his faithfulness and of his commitment to making sure that the disabled of America were considered full participating citizens in our country.

I am pleased, Mr. Speaker, that the House gave me this opportunity to note the incredible contribution that Tony Coelho of California has made to this country, to the disabled, and to the civil rights record of America.

□ 1930

REAPPOINTMENT AS MEMBERS OF THE FEDERAL COUNCIL ON THE AGING

The SPEAKER pro tempore (Mr. MAZZOLI). On behalf of the Speaker, and pursuant to the provisions of section 204 of Public Law 98-459, the Chair reappoints as members of the Federal Council on the Aging on the part of the House the following persons from the private sector: Mr. Raymond Raschko, of Spokane, WA; and Mr. Virgil S. Boucher, of Peoria, IL.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4565

Mr. GRANDY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4565.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

HONORING THE MEMORY OF WALT DISNEY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the resolution (H. Res. 419) expressing the sense of the House of Representatives that the memory of Walt Disney should be honored on the 35th anniversary of his contribution to the American dream, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to yield to the gentleman from California [Mr. DORNAN], the chief sponsor of this measure.

Mr. DORNAN of California. Mr. Speaker, if there was ever a subject that a Member could be brief on it is in asking all of our colleagues and thanking my distinguished colleagues, the gentleman from Ohio [Mr. SAWYER] and the gentleman from Pennsylvania [Mr. RIDGE] for bringing up this commemorative on Walt Disney.

The mark that this man has made in an absolutely positive way on his culture and his society, defies description. I was just talking with the gentleman from Pennsylvania [Mr. RIDGE], who has been watching "The Little Mermaid" with his children, and what a compelling piece of work that is. Just the other day, while fires were raging in California I was watching "Bambi," which has held up for half a century, with four of my seven grandchildren. I had forgotten the strong environmental messages about arson in our national forests, and about protecting endangered species.

It is just an honor for me to have been the original sponsor and to have had over 250 of my colleagues join me again in paying homage to this great

American who has left a legacy in Japan, a building legacy now in Europe, a worldwide legacy of gentleness, respect for all living creatures, and some great human messages in all of the works he touched, starting out as a simple animator, and ending up as an entertainment giant without peer. I thank my colleagues for this commemorative.

Mr. RIDGE. Mr. Speaker, I thank the gentleman from California [Mr. DORNAN] for his words and in getting in excess of 218 cosponsors.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 419

Whereas the name of Walt Disney is synonymous with love of children, the job and freedom of youth, and the strength of the family;

Whereas 35 years ago, Walt Disney made tangible these most basic and cherished values in a magic, ageless land where fond memories of the past are relived and where youth may savor the challenge and promises of the future;

Whereas Walt Disney's dream embodies the ideals, the hopes, and the boundless energy that created the United States;

Whereas this embodiment contributes to the international understanding of life and purpose in the United States;

Whereas official recognition of Walt Disney will enhance the United States, nationally and internationally, as a land where wholesome family pastimes are both encouraged and enjoyed; and

Whereas the 35th anniversary of Walt Disney's creation makes appropriate a salute to its creator: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the memory of Walt Disney should be honored on the 35th anniversary of his contribution to the American dream.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

EXPRESSING THE SENSE OF CONGRESS REGARDING AMERICANS STILL MISSING OR OTHERWISE UNACCOUNTED FOR IN SOUTHEAST ASIA

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 291) expressing the sense of the Congress regarding the need to account as fully as possible for Americans still missing or otherwise unaccounted for in Southeast Asia and to secure the return of Americans who may still be held captive in Southeast Asia, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. SOLARZ], chairman of the Subcommittee on Asian and Pacific Affairs, to explain the resolution.

Mr. SOLARZ. Mr. Speaker, I want to thank my very good friend from California [Mr. LAGOMARSINO] for giving me the opportunity to explain this resolution, as well as for his very strong and significant support for the bipartisan effort to bring about a full and final accounting of the fate of our POW's and MIA's in Southeast Asia. In his capacity as chairman of the Task Force on POW/MIA's, the only Republican in the House, I believe, who chairs an official task force of the Congress, he has played a very helpful role focusing attention on this continuing problem.

The resolution which would be before Members was introduced by the gentleman from Colorado [Mr. BROWN], who I think deserves some credit for having initiated this effort. It is supported by the administration. It has broad bipartisan support in the Committee on Foreign Affairs, and I believe in the House as a whole.

I have asked unanimous consent to bring it up now primarily because tomorrow the National League of Families of Prisoners and Missing in Action will be meeting for its 21st annual convention. This is a national organization which more so than any other has promoted the cause of the families of our men who are still missing in action, in the hope that a full and final accounting of their fate can one day be achieved. We thought it appropriate to consider the adoption of this resolution before that conference actually convenes, as we have every year in the past. The resolution itself expressed the sense of the Congress that we should continue to give the highest national priority to the effort to account as fully as possible for our POW/MIA's. That priority was established by the Reagan administration. It has been continued by the Bush administration, and it has been warmly endorsed by every Congress in the last several years. It also expressed the view that there is a viable and sustained process of joint cooperation with the Vietnamese and Laos Government, to get answers for families of American POW's, because we believe it is very important to have their cooperation if this is going to succeed.

Indeed, in the final analysis, as my friend from California [Mr. LAGOMARSINO] knows better than most, the real answers to this problem lie not in Washington but in Hanoi and in Pnonpenh and Vientiane.

The resolution also says we should place renewed emphasis on seeking an accounting of the 892 American POW/MIA's who disappeared in Cambodia, without placing this humanitarian objective into conference with United States efforts to obtain an acceptable political settlement of the Cambodian situation. It calls for heightened public awareness on the POW/MIA issue in the United States.

Mr. Speaker, this resolution is further proof, not that any is really needed, of the bipartisan nature of congressional action on this issue. Fifteen years after the end of the war in Indochina, 2,302 of our missing men still have families who are haunted by the knowledge that they do not know what has happened to them. I believe that we can always be most effective abroad when we are united at home. This resolution will enable Members to send a strong and continuing signal to Vietnam, to Laos, and Cambodia, that this remains a matter of the greatest and gravest concern to the Congress, and therefore to the American people.

I want to thank the gentleman from Colorado [Mr. BROWN] for initiating the resolution, and I want to thank the gentleman from California [Mr. LAGOMARSINO] for his strong and effective efforts as chairman of the task force in keeping hope alive and the issue current. I urge Members on both sides of the aisle to join in supporting this resolution.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the sponsor of the resolution, the gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Speaker, I would like to express my profound thanks to the gentleman from New York, the distinguished chairman, and the gentleman from California, who have been so instrumental in bringing this measure to the floor.

Mr. Speaker, it was 25 years, slightly more than 25 years ago when Lyndon Johnson sent out a call to those who served their country in the Armed Forces, asking for volunteers to go to Vietnam. He offered that challenge and the opportunity to those who loved freedom, who were willing to defend it far away from the American shores. American men and women volunteered in record numbers. The fact

is, in the early years of the Vietnam war, there was a higher percentage of volunteers who served to defend our country in that far land than any of our modern conflicts. The fact is that those who served our country, who gave a full measure of devotion, some still remain unaccounted for, over 2,300.

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Yet since the fall of Saigon in 1975, there have been more than 1,300 sightings of Americans in Vietnam who have not been returned. These have been investigated; they have been followed up and verified. There still remain almost 100 of these sightings and reports that cannot be explained away and for which there is no answer other than that these people may yet remain alive in Vietnam.

So what we do here tonight is not just to remember those who gave extraordinary devotion and dedication and sacrifice for our country, but we say that this country has no other higher priority than to bring those Americans home and find a full accounting for those who served their Nation. This Nation would be shamed if we allowed those who served us in combat to go unaccounted for, unremembered, and unspoken for. This resolution tonight has the heartfelt yearnings of the American people. It says that we shall never forget them and we shall never stop inquiring about their fate.

Mr. Speaker, we have no other higher priority than to demand their release and their accounting.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, I thank the gentleman from California for yielding.

Mr. Speaker, I rise in strong support of this important resolution, and I commend my colleague, the gentleman from Colorado [Mr. BROWN], who fought for his Nation in Vietnam. I thank him for his efforts in bringing this before the House, and I thank the chairman and ranking member of the subcommittee and the committee for allowing this resolution to come to us at this time when it is important to families and to all of us.

Mr. Speaker, during the past 18 months a great deal has changed in the world and in the way we think about the world. From the perspective of historians and political scientists, Vietnam is already, or very soon to be, of another era in American and world history—a cold war conflict.

From the perspective of the many millions of Americans whose lives were directly touched by the Vietnam war, however, it will not be so easily or readily confined to the historical context. In particular, the Vietnam conflict will remain a personal reality for the spouses, the brothers, the sisters, and the friends of the 56,000 Americans who gave their lives in Vietnam and the 2,302 Americans who are still prisoner, missing, or unaccounted for.

It is my hope, in supporting this resolution, that it will be recognized by the Governments of Vietnam, Laos, and Cambodia as a powerful restatement of our determination to achieve the fullest possible accounting of those 2,302 Americans. It should also be recognized by those Governments as notice from the Congress that truly normal relations with the United States will be impossible so long as the fate of our countrymen remains unresolved.

We owe it to every man and woman who served our Nation during what was perhaps its most painful and difficut hour, as well as to the families and loved ones they left behind, to assure that this issue remains one of high national priority. Our commitment to those individuals will not diminish; it is a commitment immune to time and to history.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the distinguished Republican leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I am honored to be a cosponsor of House Concurrent Resolution 291.

I certainly want to thank the distinguished chairman of the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, the gentleman from New York [Mr. SOLARZ], along with the gentleman from California [Mr. LAGOMARSINO], and those other members of the task force for bringing this measure to the floor.

Earlier today, the House became the recipient of the first Medal of Honor ever awarded, to Jacob Parrot during the Civil War.

A ceremony marking the occasion was held in Statuary Hall.

The Medal will be on display for all to see. It is my hope that visitors to the Capitol Building will take the time to see the display when it is in place, and to meditate on the meaning of the Medal of Honor.

I mention Jacob Parrot's Medal of Honor because the event in which he earned the medal, a daring raid behind Confederate lines to capture a train, which resulted in some of the raiders becoming prisoners of war.

And it strikes me that it is fitting that we should be remembering other POW's and MIA's from another war on the same day that this Medal of Honor becomes a part of the great symbols on display in the Capitol.

The Medal of Honor, after all, is one way the Government has of officially recognizing bravery above and beyond the call of duty.

In a similar fashion, we owe it to all POW's and MIA's to officially recognize their sacrifice, their bravery, their memory.

One way of doing this—and here I quote from the resolution—is by:

Expressing the sense of the Congress regarding the need to account as fully as possible for Americans still missing or otherwise unaccounted for in Southeast Asia and to secure the return of Americans who may still be held captive in Southeast Asia.

I have said before that my feeling about POW's and MIA's can be traced to my experience as a combat infantryman during World War II.

I know what it means to wait in the darkness and, when dawn comes, discover that buddies are missing, gone without a trace.

When something like that happens, you do not forget it. The memory can haunt you across the years.

And I also know, from experience on this issue in recent years, that this is a very emotional issue. It is one that goes to the heart, and sometimes leads to heated confrontations.

I know that there are sincere differences over the measures the Government can take and should take in regard to this issue.

But on one thing there is no division: The House POW/MIA Task Force, under the leadership of our distinguished chairman and ranking member, is making every effort to deal with the complexities of this issue.

And I know that President Bush is also committed to doing all that is humanly possible to account for the fate of those yet unaccounted for.

So I just want to thank those responsible for giving us an opportunity to make these comments this evening and bring the measure to the floor, hopefully to be unanimously adopted.

And I hope that every visitor who sees the Medal of Honor on display, will also take time to see the POW/MIA banner that is in the great rotunda. These are two manifestations of the thanks a grateful Nation offers to the brave.

Both the medal and the banner say, in a different way: We shall never forget.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman from Illinois [Mr. MICHEL].

Further reserving the right to object, Mr. Speaker, as the chairman of the bipartisan House POW/MIA Task Force, and an original cosponsor of House Concurrent Resolution 291, I rise in strong support of this important resolution introduced by our colleague HANK BROWN of Colorado. This resolution reaffirms Congress' support for keeping the POW/MIA issue as one of our Nation's highest national priorties—a designation made by President Reagan and reaffirmed by President Bush.

I want to commend Mr. BROWN of Colorado for introducing his resolution because it is a very important signal to the Vietnamese and the rest of the world that we care about the fate of our 2,302 missing servicemen in Indochina and will not let this issue die.

Sadly, the fates of these missing servicemen and the unresolved questions of their longing families have remained unanswered for so long. Part of this situation can be blamed on ourselves. Some, in their efforts to forget the Vietnam war also forgot about those who did not come home. Others, like the Woodcock Commission, claimed there were no live Americans being held in Southeast Asia. I clearly remember the congressional mission of which I was a part that visited Hanoi in August 1979. In response to our questions regrading the POW/MIA's, now Foreign Minister Nguyen Cao Thach said, "We didn't think you cared." We do care. I care, my constituents care, the POW/MIA families care, the congressional POW/MIA Task Force cares, Congress cares, millions of concerned American citizens care and our Government cares.

Today, under the Bush administration, as before under the Reagan administration, the POW/MIA situation has been made a top national priority. New energies and initiatives have been devoted to our POW/MIA's clearly signaling that America has not forgotten its missing men in Indochina and that we are ready and willing—at the highest national levels—to take the actions necessary to achieve a fullest possible accounting. It is critical for us to be unified on this point. House Concurrent Resolution 291 confirms this unity.

The real reason we still have so many unresolved POW/MIA cases, though, rests with the Vietnamese. The obstacles to progress and the answers to our questions lie with Hanoi, not Washington. The Vietnamese have agreed to treat the POW/MIA issue as a separate, humanitarian issue divorced from other political matters, like diplomatic recognition and so on. We will hold the Vietnamese to this pledge.

I am very encouraged that since General Vessey's mission to Hanoi in August 1987, additional progress toward achieving the fullest possible accounting of our missing men has been made. General Vessey, who was reappointed by President Bush as the President's special POW/MIA emissary, has presented the Vietnamese with a number of discrepancy cases—cases about which we know the Vietnamese have more information. The speed and comprehensiveness with which Vietnam helps satisfactorily revolve these case will, I believe, determine how long until we are able to achieve the fullest possible accounting of these men. While I am encouraged by the increased level of activity, it is not a substitute for results. Unfortunately, results over the past 6 months have been disappointing. More needs to be done by the Vietnamese and the Lao at a much faster pace.

I am absolutely 100 percent convinced that the Vietnamese maintain a stockpile of American servicemen's remains. I am strongly convinced that there are live, unaccounted for Americans in Vietnam. I also believe that there could be live POW's in Southeast Asia—or could have been. The Vietnamese could easily help resolve some of our accounting by releasing the remains they have stored and giving us unrestricted access to investigate other cases. The ball is in their court.

Despite these obstacles, progress has been made. We have recently concluded some joint crash-site investigations and additional remains have been repatriated. We continue to work with Laos on similar projects. Technical teams have and continue to meet frequently with both the Lao and the Vietnamese. But, this progress is too slow. I hope the Vietnamese will realize that they have nothing to gain by dragging their feet on this issue. While the POW/MIA issue is a separate humanitarian one, progress on it—or the lack of progress on it—will have an impact on the resolution of other bilateral concerns. This resolution lets the governments of Southeast Asia know that Congress is watching, closely.

Mr. Speaker, House Concurrent Resolution 291 also recognizes the long suffering of the POW/MIA families. Beginning tomorrow and through this weekend the National League of Families, the only national organization comprised solely of family members, is holding its annual convention here in Washington. These families have waited a very long time to get answers and their league has been instrumental in helping achieve the progress we have made thus far. The league and the families deserve much praise.

Through this resolution, Congress is officially broadcasting that it will remain steadfast with our POW/MIA families and will keep the faith. We are reaffirming our commitment to achieving the fullest possible accounting of our POW/MIA's and reaffirming that "we will not forget." I urge my colleagues to join me in supporting this very worthy resolution.

Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN], who is a chairman of the task force.

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Mr. DORNAN of California. Mr. Speaker, I thank the gentleman from California [Mr. LAGOMARSINO] for yielding, and I thank the gentleman from New York [Mr. SOLARZ] and everybody involved with this over the years. Of all the issues I have been involved with in the House in 14 years, this has been the most heartrending, but also the most satisfying, to see Members of all beliefs, from all parts of the country and from both our great parties working together to make sure, as the gentleman from Illinois [Mr. MICHEL], our Republican leader, said, that we do not forget.

Mr. Speaker, I just wanted to add one note here. Today I am wearing the bracelet of a friend of mine who was shot down in Laos in mid-May 1965. That is 25 years and 2 months ago. He was a known prisoner, Dave Herdlecker, but David would not mind that every other day I alternate this bracelet with one of our current prisoners, the hostages in Lebanon. They are prisoners of a different kind of a war, a war against terrorism, and I spoke with one of the hostages we managed to get out yesterday, Dave Jacobsen, who has a tremendous respect for the missing-in-action issue and the work we did here in the House on that issue while he was a prisoner in Beirut. He went over with me yesterday again the litany of abuses against human rights that Iran, the Iranian Government, is guilty of, and he pointed out again that his friends, two to them that he actually served with, Tom Sutherland who was taken on June 9, 1985, and he has been there now 5 years and 1 month, and that out longest held prisoner, Terry Anderson, was taken March 16, 1985. So, in 3 says that will be 5 years and 4 months. That is past the halfway mark of our longest held prisoner in Vietnam unless there are some still alive, which we pray there are, and we get them out someday, and this prisoner of war issue, this missing in action issue, is a living, dynamic horror story in American life, and the rumors, as we talk tonight, are ricocheting around the world that Brian Keenan, the Irishman who has been held captive for years, that he may be released.

Mr. Speaker, I just hope that someday we will resolve the MIA issue, that all our hard work will prevail in some sore of solace to the families, and I hope to God that 1990 is the last year that any American, or European, or anybody has to rot in some slimy little dungeon tragically in the name of Allah, of God, there in the Middle East. We look forward to all of them coming home, too.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I would like to say that both the gentleman from California [Mr. DORNAN] and the gentleman from New York [Mr. GILMAN] will recall our congressional mission to Hanoi in August 1979 when in response to our questions regarding POW's and MIA's now Foreign Minister Nguyen Co Thach said,

"We didn't think you cared." We do, and we still do, and some of us have been working on this issue all these years.

The gentleman from New York [Mr. SOLARZ], the chairman of the committee, mentioned that I, ROBERT LAGOMARSINO, am the only chairman, Republican chairman, of a task force in the House. I guess that is true, but, as my colleagues know, I would gladly go without that honor. I would like to see us dissolve this task force. But we sure will not do that until all the fullest possible accounting has been made.

Mr. Speaker, further reserving my right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California [Mr. LAGOMARSINO] for yielding, and I want to commend the gentleman who serves as chairman of our task force on MIA's and POW's in our Committee on Foreign Affairs which is under the tutelage and chairmanship of the gentleman from New York [Mr. SOLARZ] who is the chairman of the Subcommittee on Pacific Affairs, and I want to, too, commend all of our Members who have joined together in this resolution and who have for a long period of time been devoted to this cause of making certain that we have a full and final accounting of those who are missing in Southeast Asia. We can do no less for those who gave so much for all of us.

Mr. Speaker, it is important that we keep this issue before the public, before the Congress, before the entire world, and now that the Vietnamese and the Laotians would like normalized relationships with our own country we have an opportunity now to try to find a full resolution of this issue. We are fortunate that we have had General Vessey as the chief of mission appointed by the President to go out to that part of the world to try to negotiate a final disposition of this cause, and we are fortunate, too, to have a President like George Bush who has given solid commitment to obtaining a full and final accounting.

So, Mr. Speaker, I urge my colleagues to give full support to House Concurrent Resolution 291, which is a gesture to keep this measure alive and before the public, before the world, and to encourage once again the Vietnamese, Loatians, and Kampucheans to help resolve the missing, over 2,300 missing in that part of the world as a result of those hostilities in Southeast Asia. The parents, and friends and relatives have waited much too long to resolve this painful, frustrating issue, and I am so pleased that the Members of Congress have joined together to try to help them and to plead their cause.

Mr. BROOMFIELD. Mr. Speaker, achieving the fullest possible accounting of our missing servicemen from the Vietnam war continues to hold the highest national priority for the administration and the Congress.

This is a commitment that reflects a true depth of feeling among the American people with important consequences for our relationship with the nations of Southeast Asia.

It is the policy of this Government that the resolution of humanitarian issues is not contingent upon political issues such as the normalization of relations with Vietnam. In my mind, however, they are related. I believe it is imperative that the accounting of the 2,300 missing in action and the live sighting reports of 46 Americans possibly being held in captivity be resolved as expeditiously as possible. How quickly we resolve the humanitarian issues will determine the pace for addressing the political ones.

I am particularly disturbed by the testimony of the Deputy Director of the Defense Intelligence Agency who said before the Asia Subcommittee that the Vietnamese have been holding back documents on hundreds of our missing servicemen.

Also distressing is confirmation that the Vietnamese had warehoused the remains of more than 400 Americans who died during the Vietnam war, and that a substantial number of remains repatriated by the Vietnamese showed signs of long-term storage. According to the Deputy Director, "We must conclude that a serious effort on their—the Vietnamese—part could result in an accounting for many hundreds more of our men."

Parceling out the remains of our men who died in the Vietnam war to meet Vietnamese political objectives is immoral and will, in the end, be counterproductive. It is not, in my opinion, the way to normalization and sound relations.

Mr. Speaker, I am an original cosponsor of House Concurrent Resolution 291. I commend Congressman BROWN of Colorado for his leadership on this issue, and I urge my colleagues to support this legislation and reaffirm the importance we attach to the fullest possible accounting of our missing servicemen from a war that ended more than a decade and a half ago.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 291

Whereas nearly 2,300 Americans are still missing or otherwise unaccounted for in Southeast Asia;

Whereas by not knowing the fates of their loved ones, the families of those unaccounted for in Southeast Asia have suffered tremendous hardship;

Whereas the United States is committed to resolving the fates of Americans unaccounted for in Southeast Asia as a matter of the highest national priority; and

Whereas the United States must consistently reaffirm that commitment and fulfill its promise to the families of the Americans unaccounted for in Southeast Asia: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the United States should—

(1) continue to give the highest national priority to accounting as fully possible for Americans still missing or otherwise unaccounted for in Southeast Asia and to securing the return of any Americans who may still be held captive in Southeast Asia;

(2) ensure that there is a viable, sustained process of joint cooperation with the Socialist Republic of Vietnam and the Lao People's Democratic Republic to achieve credible answers for the families of America's servicemen and civilians who are missing or otherwise unaccounted for, including primary-next-of-kin access to all records and information resulting from the process of joint investigations, surveys, and excavations;

(3) develop a means to obtain the fullest possible accounting for Americans who are listed as missing or otherwise unaccounted for in Cambodia, without placing this humanitarian objective into conflict with United States efforts to obtain an acceptable political settlement of the Cambodian situation; and

(4) heighten responsible public awareness of the Americans still missing or otherwise unaccounted for in Southeast Asia through the dissemination of factual data.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

THE TAX FAIRNESS INDEX: WHO PAYS FOR THE NATIONAL GOVERNMENT?

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. McCURDY. Mr. Speaker, earlier this week the Progressive Policy Institute released its Tax Fairness Index, an analysis that uses the latest Internal Revenue Service data to measure the changes in the real Federal tax burdens of average- and high-income families.

The Tax Fairness Index proves what every average American knows as a hard reality: the Federal tax burden on average American families increased during the last 10 years, while taxes on the wealthiest Americans dropped sharply.

We now can put numbers on that reality. The Federal tax bite on a typical two-parent, middle-income family rose from 23.7 percent of income in 1980 to

24.1 percent in 1988. In the same period, Federal taxes on the wealthiest 5 percent of U.S. families dropped from 28.9 percent to 25.7 percent. Such a change is contrary to the firmly held conviction of American people that the tax burden should, above all, be fair.

Of course average Americans react negatively to suggestions of tax increases. For 10 years tax increases have fallen on the wage-earning productive backbone of our country.

The time has come to reverse that trend, and I commend this Tax Fairness Index report to the attention of Members of the House.

THE TAX FAIRNESS INDEX: WHO PAYS FOR THE NATIONAL GOVERNMENT

(By Robert J. Shapiro, Vice President, Progressive Policy Institute)

As President Bush and congressional leaders grapple over how best to raise new revenues for cutting the federal budget deficit, one fact should be paramount: Over the last decade, the basic federal tax burden on an average American family increased, while the burden on high-income families fell. Despite the supply-side tax cuts and subsequent tax reforms a typical two-parent family at the national median income paid a larger share of its income in federal taxes in 1988 than in 1980.

This is the principal finding of the Progressive Policy Institute's Tax Fairness Index, designed to measure the changes in the real federal tax burdens of average and high income families—the share of each family's total income paid out in federal taxes. Based on the latest Internal Revenue Service data, the Index shows that a typical two-parent middle-class family found its basic federal tax burden higher at the end of the decade than at the beginning.[1] Including the income tax and both the employee and employer sides of the social security tax. 23.7 percent of the annual income of a typical two-parent two-parent family went to federal taxes in 1980; by 1988, the same family's Tax Index had risen to 24.1 percent.[2] In contrast, the richest five percent of American families saw their basic federal tax burden fall sharply, from 28.9 percent in 1890 to 25.7 percent in 1988.

TAX FAIRNESS INDEX

[U.S. families' Federal tax burden, in percent]

	Median income	Top 5 percent
Year:		
70	19.7	22.6
75	21.5	24.9
80	23.7	28.9
81	25.3	30.4
82	24.5	29.9
83	23.8	28.5
84	24.1	28.2
85	24.2	27.9
86	24.5	28.9
87	23.3	25.9
88	24.1	25.7

Note: Share of family income paid in federal income tax and employee and employer side of payroll tax.

The Index documents the dramatic decline in the progressivity of federal taxes in the 1980s. Throughout the 1970s, a middle-class family's federal tax burden was substantially smaller than the burden on those in the top five percent. The share of an average, two-parent family's income claimed by federal taxes in 1970 was about 15 percent less than the share paid by a very affluent family, and by 1980 a middle-class family's federal tax burden was 20 percent less than that of the very well-to-do.

But by 1985, the gap had narrowed again to about 15 percent, and in 1988 the federal tax burdens for middle-class and rich families had nearly converged. In that year, the burden on a middle-class family was just 6.6 percent less than the burden on the very well-to-do: an average, two-parent family paid out more than 24 percent of its $32,100 median income in federal taxes, while a family in the top five percent, at the $182,000 income level, paid out less than 26 percent of its income in taxes.

TAX PROGRESSIVITY INDEX

[Percentage difference in Federal tax burden for median income families and those in the top 5 percent]

Year:	
70	14.7
75	15.8
80	21.5
81	20.2
82	22.0
83	19.7
84	17.0
85	15.3
86	17.6
87	11.2
88	6.6

The principal factor driving this regressive trend has been the sharp rise in the payroll tax, which for middle-class families more than offset cuts in income tax rates. During the 1980s, the social security tax rate was increased seven times while the income subject to the payroll tax remained limited. As a result, the real burden of payroll taxes rose rapidly in the 1980s only for average Americans, whose incomes are always less than the limit, while most of the income of the well-to-do is exempt from the tax.

The 1986 tax reforms are also an important, secondary factor, helping rich and poor families while doing little for those in the middle. Slashing the top income tax rate from 50 percent to 28 percent probably diminished progressivity, despite many accompanying reforms that reduced tax benefits for affluent taxpayers—notably, ending the preferential rate for capital gains. However, the 1986 Tax Act also increased progressivity for low-income families, as the expanded personal exemption removed millions of poor and near-poor Americans from the income tax rolls.

The real impact of the regressive trends in the tax burden was also intensified by a growing gap in the incomes of average families and the very affluent. In 1970, the average income of those in the top five percent was barely more than four times as great as the median income; by 1980, the very well-to-do made nearly five times as much as an average, two-parent family; and in 1988, the average income of the very affluent was nearly six times that of a typical, middle-class family.

TAX FAIRNESS AND TAX POLICY FOR 1990

The Tax Fairness Index provides substantial support for the view that the top priority for tax negotiators in the budget summit should be to restore tax equity, not simply to raise taxes. The summit offers progressives the opportunity to champion the interests of average working families who received no real tax relief in the 1980s. Middle-class Americans should not now have to pay to clean up the fiscal mess that resulted, in large part, from tax cuts for the wealthy.

A progressive blueprint for tax equity should have four touchstones:

1. Cut social security taxes for average families. Under one approach, the current cap on wages and salaries subject to the payroll tax would be repealed, and the additional revenues would be applied to reduce the payroll tax rate for everyone. With this one reform, the social security tax rate could be cut from 15.3 percent to 13.4 percent, generate tax relief for more than 96 percent of all working families without increasing the budget deficit or the Social Security Trust Fund. This one change would provide about $100 in tax relief for every $10,000 in earnings for everyone with incomes of $50,000 or less.[3]

2. Reject cuts in the capital gains tax, which would further reduce the tax burden on those who already are paying a smaller portion of their incomes in taxes today than they did in 1980, before the deficit ballooned. All credible economic evidence shows that a capital gains tax cut would provide windfall tax relief for the high-income families without generating any general economic benefits for most Americans.[4]

3. Raise new revenues by restoring progressivity to the tax system, with higher taxes for those whose tax burden declined while the deficit was growing. For example, $42 billion could be raised over five years by adding a third, 33 percent rate to the income tax—more than $100 billion if the third rate were set at 38 percent.[5] Revenues also could be raised by closing tax loopholes that benefit only the very affluent. For example, the current $1,000,000 cap on mortgages qualifying for an interest deduction could be cut back substantially, so that average families do not indirectly subsidize mortgages on mansions for the wealthy. Capping deductible interest at the level of a $200,000 mortgage would raise $8-to-$10 billion over five years.[6]

4. Resist higher excise taxes or new value-added consumption taxes, that would raise taxes on middle-class families. A new analysis by the Congressional Budget Office shows that an increase in the federal tax on gasoline would be strictly regressive—costing proportionally less as family income rises—while a hike in the tax on alcohol would hit families in the middle the hardest and those at the top the least.[7] These measures should be debated only if new revenues are still needed after progressivity has been restored.

TAXES ON INCOME, VERSUS TAXES ON LABOR

These touchstones for progressive tax policy are based on three crucial tax and income trends in the 1980s, that determined the basic shape of the Tax Fairness Index.

First, almost every group's income, before taxes, rose in the 1980s; but while the average family's earnings grew only at one percent a year after inflation, incomes for the top five percent grew at five times that rate.[8]

Footnote at end of article.

FAMILY INCOME

	Median Income	Top 5 percent
Year:		
70	$9,867	$42,611
75	13,719	59,246
80	21,023	90,789
81	22,388	108,589
82	23,433	119,094
83	24,674	129,599
84	26,433	140,104
85	27,735	143,424
86	29,458	161,114
87	30,853	171,619
88	32,191	182,124
89	33,587	192,629
90	34,762	206,162

As a result, in 1980, a middle-class family earned nearly one-fourth the income of a family in the top five percent; by 1985, it was less than one-fifth; this year, we estimate it will be barely one-sixth.

Against the background of these income developments, the actual burden of the federal income tax fell moderately for both average-income and affluent families in the 1980s.[9]

FEDERAL INCOME TAX BURDEN

[In percent]

	Median Income	Top 5 percent
Year:		
70	10.0	20.8
75	9.3	22.2
80	10.9	25.4
81	11.4	26.7
82	10.5	26.2
83	9.9	24.8
84	9.7	24.4
85	9.7	24.0
86	9.8	25.1
87	9.0	22.3
88	9.1	22.0

However, since the before-tax incomes of affluent families grew much faster than those of average families, the distribution of after-tax income became less progressive during the decade. In 1980, a middle-class family's income after income taxes was equal to about 28 percent of the after-tax income of a family in the top five percent; by 1988, the average family's after-tax income was equal to barely 20 percent of the after-tax income of that of a very affluent family.

And, as the federal income tax burden was being cut in the 1980s, social security tax rates and the burden of social security taxes on average families increased sharply—while the deficit began to absorb social security revenues to finance other programs.[10]

PAYROLL TAX BURDEN

[In percent]

	Median income	Top 5 percent
Year:		
70	9.6	1.8
75	11.7	2.8
80	12.2	3.5
81	13.3	3.6
82	13.4	3.6
83	13.4	3.7
84	14.0	3.8
85	14.1	3.9
86	14.3	3.7
87	14.3	3.6
88	15.0	3.7
89	15.0	3.7
90	15.3	3.8

PAYROLL TAXES VERSUS INCOME TAXES

The payroll tax burden is the most important single factor determining the shape of the Tax Fairness Index in the 1980s, because while virtually all of the income earned by a middle-class family is subject to this tax, only a small share of a wealthy person's income is similarly taxable. First, the tax applies only to wages and salaries, which account for virtually all of an average family's income but for less than half of the income of very affluent families. Furthermore, the cap on wages and salaries subject to the payroll tax covers all of a median family's income—but less than one-fourth of the total income of a typical family in the top five percent.

As a result, for a two-parent family earning the national median income, the full burden of social security taxes actually exceeds that of the income tax. In contrast, the payroll tax is a minor element in the finances of high-income families, for whom only the income tax presents a significant burden.

The combined impact of these tax and income trends is clear: the economic gulf between the average American family and a very well-to-do family has widened substantially. Throughout the 1970's, a typical two-parent family, after paying both income taxes and social security taxes, had income equal to about 25 percent of the post-tax income of a family in the top five percent. By 1985, the after-federal tax income of a middle-class family equalled barely 20 percent of the post-tax income of a very affluent family; and in 1988, an average family, after paying their federal taxes, had income equal to only 18 percent of the post-tax income of a family in the top five percent.

TAX FAIRNESS AND THE AMERICAN DREAM

These findings are consistent with recent conclusions of House of Representatives Committee on Ways and Means: In the 1980s, those who earned the most paid a declining share of their incomes in taxes, while almost everyone else paid a growing portion of their incomes in taxes.[11] For example, the Committee reported,

Chiefly because of increases in payroll taxes, the federal tax burden for at least 90 percent of all families is higher in 1990 than it was in 1977.

If none of the changes in the tax code since 1977 had occurred—including income tax rate cuts and payroll tax increases—a middle-income family's taxes would be $400 less this year.

In contrast, the changes in the tax code since 1977 have reduced the 1990 federal tax bill for a family in the richest one percent by almost $40,000.

The Tax Fairness Index data demonstrate a particular aspect of the regressive income and tax developments of the 1980s: the impact on two-parent families living on the national median income. The resistance of working families to another tax increase in 1990, as measured by numerous national opinion surveys, reflects the real experience of their rising federal tax burden over the last decade, along with growing awareness of the widening income gap between average families and the most affluent American.

In this context, the principles for progressive tax reform represent not a plan to "soak the rich," but rather a program for supporting the average American family while renewing the civic ethic of equal sacrifice.

SOURCES AND ACKNOWLEDGMENTS

[1] Social Security tax rates and annual tax liability caps are derived from tables in the 1990 *Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds.* The author's calculations for effective federal income tax rates are derived from Internal Revenue Service annual data on adjusted gross income and tax paid by joint returns of husbands and wives, for the years 1970, 1975, 1980, 1981, 1982, 1983, 1984, 1985, and 1986. Calculations for years 1987 and 1988 are based on preliminary Internal Revenue Service data for individual income tax returns as reported in the 1987 *Taxpayer Usage Study* and 1988 *Taxpayer Usage Study*; the resulting estimates for 1987 and 1988 effective rates should be considered preliminary.

[2] The effective federal tax burdens reported in this analysis reflect the combined burdens of the individual income tax and the payroll tax, and do not include federal excise taxes and estate and gift taxes. The analysis also does not include the corporate income tax, because of current uncertainty about the distribution of its burden. For the purposes of this analysis, the full burden of payroll taxes is assigned to employees, in accordance with the preferred practice of tax economics and of public authorities such as the Joint Committee on Taxation of the Congress.

[3] See, "1986 Tax Reform, The Sequel: Cutting Social Security Taxes Without Increasing the Deficit," Progressive Policy Institute, *Economic Outlook*, No. 5, May 14, 1990.

[4] See, "Cutting Capital Gains Taxes: Deja Voodoo?", Progressive Policy Institute, *Economic Outlook*, No. 2, August 3, 1989.

[5] "Federal Taxation of Tobacco, Alcoholic Beverages, and Motor Fuels," Congressional Budget Office, Figure 4, p. xxiii, June 1990.

[6] "Reducing the Deficit: Spending and Revenue Options," *A Report to the Senate and House Committees on the Budget, Congressional Budget Office*, p. 347, February 1990.

[7] "Reducing the Deficit: Spending and Revenue Options," pp. 357-58.

[8] Median family income as reported in *Economic Report of the President*, Table C-30, February 1990. Estimates for the average income for the top 5 percent of families based on Congressional Budget Office estimates for 1977, 1980, 1985 and 1990, as reported in "Tax Progressivity and Income Distribution," Table 10, Committee on Ways and Means, U.S. House of Representatives, March 26, 1990.

[9] Author's estimates based on Internal Revenue Service data; see note 1. For purposes of calculating federal income tax burdens, median income levels are adjusted to reflect the employer's share of social security taxes.

[10] In 1970, the cap on wage income subject to the payroll tax was $7,800—less than the median income. However, the typical median income family had 1.7 wage-earners in 1970, subjecting, on average, all of median wage income to the payroll tax, despite the cap.

[11] "Tax Progressivity and Income Distribution," Committee on Ways and Means, U.S. House of Representatives, March 26, 1990.

The author wishes to note the special contribution in the preparation of this report provided by Wendy Edelberg, as well as the helpful assistance of Mahesh Gehani and Dana Crosby.

A TAX-FREE AMERICA?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, back in February we were shocked to learn that, "as a group, the more than 36,000 foreign-owned companies filing tax returns in the United States reported negative taxable income," the Wall Street Journal, February 20, 1990. In that story, the Journal reports that "many of the subsidiaries the tax agency is examining are owned

by corporations from Japan, this country's stiffest economic competitor, but the IRS said it hadn't gone after Japanese companies specifically."

This week, Chairman JAKE PICKLE has been conducting hearings in his Ways and Means Oversight Subcommittee which are shedding light on how this avoidance has been managed. The loss to the American taxpayer has been estimated to be as high as $50 billion over the last several years. Just think what this could mean toward reducing our operating deficit.

Chairman PICKLE and ranking minority member of the subcommittee, DICK SCHULZE, are to be commended for this investigation by their subcommittee. The American people have every right to know the attitude of these foreign guests in our midst—foreign companies which have been given equal treatment, equal access to our markets, and in some notable instances, State tax forgiveness for locating in the United States.

Evidently, some of them want more. No wonder they are flocking to open plants inside America.

I understand where these foreign owners are coming from; but, Mr. Speaker, yesterday on this floor, Chairman PICKLE made a statement which literally stunned me. He stated—and I quote—"there has been no penalty ever paid to the Internal Revenue Service by any of these corporations on their income tax underpayments."

He explained in a floor speech:

> They (the foreign companies) have not only been getting tax breaks, but they will come in and they will claim certain deductions and/or show no profit, and then if they are taken to task, and the Internal Revenue Service examines them, they may ultimately pay tax and interest, but for the next 2 or 3 years they will deduct that interest and zero out any tax due.

Outrageous and shocking to me. And to my beleaguered constituents who lived through the debacle of the Philadelphia IRS office breakdown. Any one of our colleagues, Mr. Speaker, has file drawers full of complaints of heavy handed IRS behavior for underpayments as small as $50.

But, these are American taxpayers, the little guys. They are not major multinational cartels with hoards of lobbyist-lawyers trailing behind them. These are average people. And now we are being told that there is a double standard of taxation for foreign corporations.

Level playing field? Free trade? Competition? It is reported that 18 foreign-owned electronics firms posted $116 billion in gross receipts, but paid only $654 million in taxes, that is a five-tenths of 1 percent tax rate. U.S. citizens, on average, cope with a 28 to 33 percent tax rate plus a Social Security contribution of over 8 percent.

I want to know who issued the order that no foreign corporations would pay penalties for underpayment of taxes. I would hope that all members of this House will raise that question so loudly that every American will know who is guilty for—what seems to me—the greatest breaking of law involved in this sorry spectacle.

Although I am not a lawyer, I have an understanding of the operations of government on a par with the average American whom I represent. I believe that a police chief who does not enforce the law is more guilty than the criminal who breaks it. The chief has taken an oath to not only uphold the law, but to enforce it.

Now, if it comes to light that there is a whole category of lawbreakers who receive special privilege—then, to my mind, it would seem that some special understanding exists between the police chief and the miscreants.

I want to know whether foreign companies really are allowed to go scot free as they scofflaw IRS requirements. As a Member of the Congress, I also want to know the history of this behavior over the past several decades of foreign investment in this country.

Considering the plight of the average small American businessman—who is not a tax expert, and, who is faced with tax form after tax form, both local, State, and Federal, I am heartsick at some of the stories I hear of their trials with the IRS over honest mistakes. Bank accounts frozen, attachment of wages, on and on.

And yet, that these huge wealthy corporations would have no—no penalties burns me up.

From the evidence being gathered, nonpayment of taxes is deliberate and follows a pattern. As Chairman PICKLE now is investigating corporations, another Wall Street Journal article of June 18 on audits of foreign bank holdings in this country headlines, "Little or No Tax Paid in 80's."

An example of how they are operating was given for the year 1986 when foreign branch banks in this country reported total receipts of $26.3 billion while deducting $25.9 billion in expenses.

I find that very interesting if you contrast it with some of the excuses given by foreign manufacturing companies for their high losses. Some of the newer companies explain that their high expenses are due to startup costs of new plants and new equipment.

I recognize—as do we all—that the capital cost of a green field plant is very high and a very reasonable business expenses to be written off of profits. But, the cost of renting space for a bank?

The information on the writeoffs that the foreign banks are charging is sketchy in the story, but in the congressional hearing on businesses, all sorts of schemes show up. Foreign distributors in the United States are charged more by their parent companies for product than American distributors are. In one instance, even Canadian foreign branch distributors got the product for less than their American counterparts. Evidently, it is more important to cheat the American taxman than the Canadian taxman.

Outrageous. Another trick used was to inflate the costs of shipping and insurance, or interest and other fees. Michael Lane, Deputy Commissioner of U.S. Customs, testified that inflating insurance and shipping costs decreases the dutiable value of the import and also leads to a loss of Federal taxes.

I have been interested in this foreign tax matter for several years and from our own investigations, there are other areas of costs which should be investigated. Payment of imported foreign labor. I think it will be found that many employees—especially Japanese—receive part of their pay inside Japan.

From looking over some immigration requests—for green cards—by a Japanese company, I think it may be found also that comparable to United States employees in similar jobs, foreign workers' pay seems to be excessive running up the cost of production, and if partially paid in Japan, running down the bill to IRS on personal taxes.

I would also be interested in the amount of advertising costs and charitable giving foreign-owned corporations have charged off to their American subsidiaries. The amount charged off—in proportion to a similar size U.S. owned corporation—I suspect, will be startlingly high.

Again, in the case of the Japanese, I would not be surprised one bit if all of the United States advertising costs for every parent company and most of the corporate givings is not charged off to the operating costs of the American subsidiary.

Now, I wish to raise another point which has not been addressed either by the subcommittee or the bank audit and that is, the loss of taxes on profits from foreign-owned real estate ventures in this country.

If a group of foreign investors buys an apartment house in Los Angeles, do they pay the IRS on their profits when they sell? I think not. No. 1, there is no way that the IRS knows they are there, because there is no requirements for foreign investors to register their purchases. The county taxing authorities will know, but not the IRS.

Second, even if the IRS finds them and sends them a bill, they will not have to pay, because they can always claim losses in their home country to offset the American gains and the IRS cannot get their hands on the foreign books.

Once upon a time, when we were possibly a more sophisticated nation, we recognized the possible pitfalls of collecting taxes from foreign entities and saved ourselves a lot of trouble and, from recent testimony, a lot of money by collecting upward of 30 percent on all moneys made in this country before it could be repatriated home.

Simple. Cost effective in all ways. Interestingly enough, we got rid of that law back in 1984 at about the same time that foreign money began to really flow in here.

Let's examine what kind of money we are talking about. There are some telling figures involved in all of this. In 1981—the years of a flat capital gains tax on foreign operations—27,600 foreign-owned companies filed returns showing $5.3 billion of income subject to taxes. By 1986—after they were allowed deductions—36,700 foreign-owned firms filed returns showing a negative $1.6 billion in income.

What a difference that change in law made. With a flat tax, there is no room to wiggle out of what is owed.

I think we should consider going back to the flat tax rate on income before any deductions can be taken and the fund can be removed from the country.

Our income tax system can be destroyed by such widespread demands for auditing of every whit tiddle running through a multimillion-dollar company. If foreign companies are not going to willingly play by U.S. rules—rules which bind the rest of us by fear of draconian retaliation by the IRS, we in the Congress have the power to change those rules back to what they were in a wiser time.

And, if you look at the numbers involved, in truth, we may have to go flat tax or some other form of tax just to be able to handle the problem fairly. A survey in the Journal of Commerce this past spring reports that foreign investment in the United States broke through the $2 trillion mark in 1990. During the 1980's, the foreign investment grew nearly fivefold led by Japan which in 1980 had only a $3.5 billion United States investment, but posted—by 1989—a total investment of $66.1 billion.

In conclusion, Mr. Speaker, I will say, let's treat every one evenhandedly, either tax free for every one, or the tax burden be shared equally by all who benefit from this great country.

□ 2010

Mr. Speaker, before I yield back the balance of my time, I want to point out that one of my distinguished colleagues, the gentleman from Pennsylvania [Mr. WELDON], is going to talk on another subject that shows a great discrepancy of what is happening in this country and, again, where we may be weakening ourselves by turning, again, some of our technology over to Japan instead of pushing it for ourselves.

TECHNOLOGY OF THE TILTROTOR AIRCRAFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 60 minutes.

Mr. WELDON. Mr. Speaker, tonight, in a cooperative vein, my good friend and colleague, the gentleman from Texas [Mr. GEREN], will be dealing with a very important topic to this Congress, our Marine Corps and special forces, the future stability of this Nation economically, the technology of the tiltrotor aircraft, and specifically the V-22 *Osprey* that has been under development for the Marine Corps.

To begin this special order, I call upon my good friend, the gentleman from Utah [Mr. HANSEN], who has some time commitments, to make some opening statements.

Mr. HANSEN. Mr. Speaker, we all know this is an age of technology. We see advances in technology on every side: The personal computer, the VCR, the jet engine, supersonic flight, manned space travel—you name it. It seems to be an endless stream. Occasionally, however, something truly outstanding comes about. That something may not appear to be spectacular at the outset, but later, when its total effect becomes known, it clearly stands apart and indeed may forever change our lives.

Such an advance was the jet engine. Today, I am convinced we are watching something at least as significant—tiltrotor aircraft. I realize that some people may say that is an extravagant statement, but I will stand by it.

Tiltrotor technology and the tiltrotor aircraft started back in the late 1940's when a Bell helicopter engineer put his imagination to work when the Nation decided to embark on what became the military's tri-service VSTOL Program. The Department of Defense encouraged industry to come up with an aircraft that would take off vertically like a helicopter but fly with the speed and comfort of an airplane.

Many approaches were tried—Convair's tail sitter, Lockheed's Hummingbird, the British vectored thrust, LTV's tiltwing and Bell's tiltrotor to name a few of the dozens of efforts. Only two of these have made it into operation: The British vectored thrust; the Harrier; and Bell's tiltrotor, the V-22 *Osprey*. The Harrier, used by the Marines, has great military application and is a technological marvel. But only the tiltrotor has universal application—yet it has been canceled by the Department of Defense.

The military and related applications are nothing short of remarkable. A study just completed for DOD by the Institute for Defense Analyses shows the V-22 is the most capable and cost effective, not just for Marines ship-to-shore assaults, but also for missions ranging as far afield as drug interdiction. In addition, though the IDA study did not mention it, the V-22 will surpass other aircraft for the principal Coast Guard missions as well—as testified recently by the outgoing commandant.

But that is only the beginning. The civil applications hold even greater promise; since the tiltrotor is really a turbo prop airplane that doesn't need a runway, it can take passengers from where they are to where they want to go. For example, October 1, 1984, Bell's XV-15—prototype of the V-22—flew from the Battery Park heliport on Manhattan to the heliport at Bolling in DC in 40 minutes—less time than it usually takes to go from La Guardia to Manhattan by taxicab.

That impressed officials of the Port Authority of New York and New Jersey to such an extent that they have called for the immediate development of a fleet of tiltrotors. They see such a fleet as the only practical way to relieve the congestion and delays in air traffic in the Northeast corridor.

Others, including aviation officials in both Europe and Japan, see the tiltrotor as the only way to meet the growing demand for air traffic in their regions. They recognize that they too will not be able to build any major new airports as they require thousands of acres of land. The tiltrotor, on the other hand, will need only 4 to 5 acres of land.

Still more civil applications readily come to mind such as disaster relief, medical emergency evacuation and oil exploration at great distances off shore. And, beyond all of these potentials, consider the many developing nations which have great distances and little transportation infrastructure. Indonesia, for example, has thousands of islands, 170 million people and only a handful of airports. The tiltrotor will be a God send for those people because almost all travel at present is by boat.

Just where do we stand in light of all this? Those of us on committees concerned with military or aviation programs know and are dismayed. Logic would dictate that the United States as a nation should be pursuing tiltrotor technology toward both military and civil applications as urgently as possible. Logic would dictate that we have a national goal to push forward in this area so as to retain our lead in the next wave of civil aircraft production. This would stimulate our economy, help give us a favorable balance of international trade, create jobs and, in many cases, satisfy urgent human needs.

But, as we all know, logic is not prevailing at this moment since the DOD canceled the V-22. What then do we do? We must restore logic and do the obvious. We must save the DOD from itself, restore funding for the V-22, direct the DOD to finish development of the aircraft and put this remarkable technology into production. We should also ask the administration to lead a concerted effort to initiate a national civil tiltrotor program.

I for one intend to work for restoration of the V-22 in the Armed Services Committee and ask our colleagues on the Public Works and Transportation Committee to enact legislation to begin a national civil tiltrotor program. I ask all of you to join me in these efforts. We must not forfeit this technology to other nations.

□ 2020

Mr. WELDON. Mr. Speaker, I thank the gentleman from Utah [Mr. HANSEN) for his outstanding comments, and would highlight the comments by following up the fact that the FAA has been certifying this aircraft throughout its full military development, and both the current head of the FAA, Admiral Busey, and the past heads of the FAA have all totally and enthusiastically endorsed the tiltrotor for the civilian application that this aircraft can provide.

Later on in our special order this evening my good friend the gentleman from Texas [Mr. GEREN] will be talking specifically about the civilian application of the tiltrotor.

Mr. Speaker, I would like to now yield to the gentleman from Indiana [Mr. MCCLOSKEY], my good friend and strong supporter and advocate for the tiltrotor, and also a member of the Committee on Armed Services, that has worked hard on this issue.

(Mr. MCCLOSKEY asked and was given permission to revise and extend his remarks.)

Mr. MCCLOSKEY. Mr. Speaker, I rise in strong support of the V-22 *Osprey.* This aircraft represents the future of aviation technology and it is critical that America capitalize on our investment; $2.5 billion has been spent in developing the V-22. The program is ready to be fielded. If the United States is to remain competitive and a leader in aviation technology we must move forward with the *Osprey.*

Japanese and European concerns are already actively exploring the tiltrotor and tiltwing technologies. Increasing space limitations worldwide will lead to civilian application of V-22 technology. The question is, who will benefit, Americans or foreign companies?

Militarily, this aircraft fulfills the Marine Corps medium lift requirement today. The *Osprey* has many military capabilities with the other services and with law enforcement agencies in the war on drugs.

The recently completed Institute for Defense Analyses [IDA] study, conducted at the request of Congress, finds that the V-22 is the most cost effective method to fulfill the medium lift requirement. Unfortunately, Secretary Cheney continues to express his opposition to the *Osprey.*

I believe America has too big a stake in the *Osprey,* both for military applications and to retain our competitive edge in civilian aviation technology, not to build the V-22.

I would like to request that two editorials supporting the V-22 *Osprey,* and the overall benefits of tiltrotor technology, be printed in the RECORD.

These editorials are from the Indianapolis News and the Indianapolis Star. They reaffirm what we have been discussing during this special order: America needs the *Osprey.*

LET IT FLY

Indianapolis clearly has a vested interest in making the revolutionary V-22 Osprey aircraft part of the nation's security system.

The engines for the tilt-rotor craft would be built by Allison Gas Turbine. Full production could eventually mean 1,000 more jobs at the Westside plant.

There is much more at stake, however, than a boost to the local economy. The Osprey, half-plane and half-helicopter, could well become an essential weapon in the nation's defense arsenal. The Marine Corps was so impressed with prototypes that it has requested 502 of the craft.

In addition, the Osprey's commercial potential could insure that the United States continues to be the world's largest manufacturer of aircraft.

Those hopes are perilously close to going down the drain. Last year Secretary of Defense Richard Cheney ordered the Osprey program scrapped. Budget cuts make it too costly, he said. He is sticking with conventional helicopters.

Many in Congress disagree. Funds for developing the V-22 were continued and a decision on its fate was delayed. That decision is expected later this year when Congress adopts a defense budget.

Meanwhile, Cheney's opposition continues despite a Pentagon study showing that the craft is cost-effective and the best option for missions ranging from hostage rescue to drug interdiction.

The five-volume study, conducted by an independent research organization, found the Osprey superior in nearly every category to all conventional helicopters. Though more expensive, the tilt-rotor would be "more effective"—sometimes significantly more effective—"than all of the proposed helicopter alternatives."

Cutting the Marines' request to 356 Ospreys would make the cost $24 billion, which is equivalent to the added conventional choppers sought by Cheney. Even the reduced fleet would provide unmatched "speed, range and survivability advantages," said the report.

"The Osprey is head and shoulders above the competition. The study proves conclusively what V-22 supporters have been saying for two years: The Osprey can fulfill more missions at a lower cost than any helicopter alternative, period," said Rep. Curt Weldon, R-PA.

Beyond its cost-effectiveness as a military craft, the Osprey has unlimited commercial applications. It can fly like a plane and hover like a helicopter. The fact that it needs no runway and can land almost anywhere is especially attractive to foreign aviation interests.

The Japanese want to produce the craft if the Defense Department kills the program. Should that happen, the Japanese will inherit the brains, energy and billions of U.S. tax dollars already invested in research and development.

That would be economic suicide. Responsible members of Congress must prevail on Cheney to reverse his budget decision.

AN AMERICAN TRAGEDY

When Defense Secretary Richard Cheney pulled the plug on development of the tiltrotor V-22 Osprey aircraft, it was a mistake from both a military and a commercial standpoint.

The Osprey, which is almost fully developed, employs the best features of a helicopter and a fixed-wing aircraft. It is ideally suited for the types of military operations that U.S. forces are most likely to encounter in this post-Cold War era. Able to take off and land without a runway, but capable of flying twice as fast as a helicopter and surviving some anti-aircraft fire, the Osprey is perfect for missions such as the recent Panama incursion or hostage rescue attempts.

Various branches of the military have been clamoring for the Osprey. The Marine Corps planned to buy 552. The Air Force wants 55 for search-and-rescue operations. The Navy would like 50 to use for hunting submarines.

An equally important potential for the Osprey, however, was its possible commercial applications.

With a slightly modified pressurized fuselage, it is perfectly suited as a short- to medium-range commuter plane or aircraft for industry. It can take off and land from a downtown rooftop or at an industrial site and smoothly fly at twice the speed of a helicopter in difficult weather.

Jim P. Schwalbe, senior vice president of the joint project office of Bell-Boeing, which has been developing the aircraft along with Allison's builder of the Osprey's rotor engines, told The News earlier this year that while a number of airlines are interested in the commerical applications of the Osprey, no single domestic airline has the resources to assume the financial risks of continuing development of the Osprey.

He noted, however, that the Japanese had indicated that if the Defense Department dropped the project, they were interested in pursuing it.

Now comes word that the Japanese-owned Ishida Aerospace Research firm is hiring a number of researchers from Bell Helicopter-Textron who worked on the Osprey to develop a similar aircraft, the TW-68 tilt-wing, to compete with it.

Ishida, located in Fort Worth, Texas, Bell-Textron's backyard, plans to build prototypes of the TW-68 tilt-wing aircraft, a design that was pioneered back in the 1960s by LTV Corp., of Texas. It differs from the Osprey in that on the TW-68 the entire wing of the aircraft tilts from horizontal to vertical, instead of just the engines.

David Kocurek, president of the Ishida research team, says the mechanics of the tiltwing are less complex than the tilt-rotor, making the aircraft cheaper to build and easier to operate than the Osprey. Nevertheless, the basic concept is the same, and with people who worked on Osprey involved

in this project, it is certain much of the technology bought and paid for with American tax dollars will be transferred to this Japanese firm.

Ishida expects to have a prototype of its aircraft available in 1994 and believes that by the year 2005 it will have a potential market of 750 aircraft in the United States and the Pacific Rim.

"The TW-68 and its use of vertical takeoff and landing capabilities brings a new approach to the aviation industry in terms of corporate transportation," says Talichi Ishida, chairman of the Ishida Group and former chief executive of Toyota Motor Co. "We hope from these humble beginnings to make a major contribution to the aerospace industry."

The entire episode epitomizes the failure of America in the 1990s.

It begins with a Defense Department so bedazzled by high technology it cannot see the military applications of a craft such as the Osprey. It continues with a nation lacking its vision of economic opportunity; and, a nation also lacking capital resources to take investment risks. It concludes with handing over the fruits of American ingenuity to a foreign company that has foresight, capital and the stomach to take risks.

Congress needs to quickly rethink its decision on the Osprey. It also needs to take a new look at American antitrust laws. It may well take consortiums of American companies to compete in international marketplace of the future.

What is happening with the Osprey is an American tragedy.

Mr. WELDON. Mr. Speaker, I thank the gentleman from Indiana [Mr. MCCLOSKEY] for his very eloquent statement and his dedication and commitment to this revolutionary aircraft.

For those Members and friends and those across the country who are not familiar with tiltrotor technology, and specifically the V-22, it has been called the biggest breakthrough in aviation since the jet engine. It is a revolutionary aircraft that has the versatility of a helicopter and yet has the speed and range of an airplane, because it can take off in a vertical mode and then can transition to the horizontal mode and fly the distance and speed of a typical airplane. So it gives you the versatility of both aircraft. For that reason it was developed for our Marine Corps.

It truly is the next generation of aircraft. Once this aircraft has been developed for the military, it has tremondous possibilities for civilian application. That is why over the last year, after this program was attempted to be canceled by the Secretary of Defense, there has been a groundswell of support across this country that has said that America cannot afford to lose this technology.

One year ago, Secretary of Defense Cheney startled the world when he announced that he was going to eliminate the V-22 *Osprey,* the No. 1 priority of our Marines and our Special Forces. He did so based upon bad advice. He had only been in office for a short period of time, less than a month, and had to make some severe cuts in the defense budget.

Unfortunately, he was given bad information and bad data which has since been completely refuted, even by the Department of Defense's own study which was released 2 weeks ago, that concluded that the V-22 was in fact the most cost-effective alternative to meet the needs of our Marines and our Special Forces.

When Congress learned of this attempt to eliminate this program, we on the Armed Services Committee who support tiltrotor technology began to do our homework to try to reverse the decision and get the facts on the table. We did not completely win the war last year. We were able to restore continued R&D funding for this revolutionary technology.

Today we have the prototypes flying. Some 200 hours have been flown with tiltrotor aircraft, fully proving the versatility and capability of this unique mode of transportation.

Along with restoring research and development funds, we in the Congress required the Department of Defense to complete an in-depth analysis, an analysis that took some eight months, looking at the V-22 and all the various options.

That study was just released 2 weeks ago.

Mr. Speaker, since that point in time, when that announcement was made by the Secretary to eliminate the V-22, we on the Committee of Armed Services of this House and the Senate have worked diligently to get the facts on the table, from those people who are responsible for protecting the lives of our young marines and our Special Forces in times of military hostility.

General Gray, for instance, on the public record before our Committee on Armed Services, called the alternative to the V-22 as proposed by the Secretary of Defense, his boss, and I will use this quote, "ridiculous." "There is no alternative. It has not been tested," he said, "and the alternative is ridiculous and I would not subject my men to having to use an unproven technology."

General Pitman, who today is responsible for Marine Corps aviation, has said that the Marines still today, 1 year after this program was canceled, need this technology to meet their medium lift requirements, their over-the-horizon, amphibious assault requirements, that are the main requirement of our four deployed forces in times of hostile actions.

General Lindsay, who now commands our Special Operations Forces and who did such a tremendous job in Panama, as they have done time and time again for America in low intensity conflict situations, said on the record, that Special Operations Force missions, the kinds of things that we did in Panama, the kinds of things that we did in Grenada, the things that we attempted to do in Tehran, in trying to rescue the hostages, that these missions would be oneway kamikaze operations without the V-22 *Osprey,* because of the ability to move in quickly, to penetrate the area, and rescue or remove the forces or the hostages in a quick mode without risking the military officials and the military individuals involved in the conflict from the risk of injury or perhaps loss of life.

□ 2030

Former Secretary of the Navy, John Lehman, testifying before the House Armed Services Subcommittee just 2 short months ago called the decision to cancel the V-22 *Osprey* the worst decision made in the budget deliberations in last year's defense budget process. And he said that it was vitally important for our forces, our forward deployed forces to have this revolutionary technology restored by the Congress of the United States.

Finally, the independent IDA study which I have asked to have inserted into the RECORD of this body has reaffirmed that the range and survivability and the speed offered by the V-22 make it the most cost-effective alternative over any other helicopter combination or individual aircraft technology today. So even the Pentagon's own figures, in fact, show that the V-22 is the aircraft that will do the job in the most cost-effective manner.

In an attempt to get this information out to the Members of Congress and to the public, we have elicited the support of many individuals, and we have broadened the base. We have formed a technology coalition from 6 months ago to talk about the potential this aircraft would provide for civilian application to ease some of our commuter congestion and to provide another way to complete search and rescue and emergency response, and perhaps other military missions like antisubmarine warfare, drug interdiction. During that time period a tremendous groundswell of support has developed within the Congress and across this country. Today over 140 Members of the Congress of the United States have joined together in vocal support as members of the tiltrotor technology coalition. Republicans and Democrats from all across this Nation have come together and have said publicly that America cannot afford to lose the tiltrotor aircraft, that for sure if we do not develop this aircraft the Japanese or the Europeans will. We will talk about that in a moment.

People who are involved in commuter operations and commuter transportation and all of the major shuttles in this country have joined with us in the

tiltrotor technology coalition. People who are involved with defense policy initiatives and defense think tanks such as Frank Gaffney from the Center for Defense Policy have spoken out and said if we lost the V-22, the next FSX deal, Japan will certainly build this aircraft and sell it back to us in this country.

We have seen people like former Secretary of Transportation Drew Lewis publicly come out and support the tiltrotor and say that we in fact made a bad decision last year, that we should not have canceled this vital aircraft for military use with a tremendous commercial spinoff potential. Hundreds of people have joined with us from large cities, from urban areas where the problems of congestion and airport expansion are just too great to be dealt with. They are saying that through the years of tiltrotor technology, the use of vertiports, that we can make a tremendous dent into the problems of inner-city transportation in America.

But before we can do all these things we must develop the military version, because that is the top priority that the Marines have.

In a very moving interview and a conversation I had in my office this morning, retired Marine Gen. Keith Smith, who was in charge of Marine aviation under President Reagan and who has now retired, and who was a commanding officer over in Vietnam in the 1960's, told me a story that happened in 1965 in Da Nang while he was there. There was an attack on some of our troops. Over 20 of our young marines lay injured, many of them seriously. The calls were made to bring in the aircraft, the helicopers to rescue these young men, to bring them out, and to bring the medical supplies in to provide the immediate care that they needed. Twelve of those young men did not make it because the helicopters that were brought in could not get in quick enough to where these young men were located, and when they did get in they were not able to carry the amount of supplies necessary to treat their wounds and injuries and then get them out quickly. In talking to the medical officers that were at the scene, some years later, General Smith related to me this morning that the medical officers on the scene had said that if they had had an aircraft with the capability of the V-22 to move in quickly, to make the rescue, to get them out, and bring the supplies in, those 12 young Americans perhaps would be alive today.

In numerous statements made by Marine officials, and Special Operations before our subcommittees of the Armed Services Committee, time and again the comments were made that if we had had the V-22 in the Vietnam war that we would have saved the lives of young Americans. If we had had the V-22 we would have been successful in rescuing the hostages in Tehran. We would not have had to refuel those helicopters in the middle of the desert when several of them crashed and broke down and we had to scuttle the mission. We would have used the V-22 in Grenada, and we would have used the V-22 in Panama.

Many of us in this body realize that the potential for nuclear conflict is becoming less and less with each new event that takes place in Eastern Europe and the Soviet Union. But also, in this body, all of us realize that the very possibility for low intensity conflict as we saw in Panama, as we have seen in Grenada, as we saw over in the Middle East will come time and time again. And who will we call upon? We will call upon the Marines, and we will call upon our Special Operations Forces.

Their top priority today remains the V-22. The Commandant of the Marine Corps has gone before our committees and has publicly stated that he needs an aircraft to meet the need of the medium lift, amphibious assault capability and the V-22 is the only aircraft that can do that.

We owe it to our Marines and we owe it to our young men who are serving in our Special Operations Forces to give them the apparatus and the equipment that they need so that when they are called upon to perform their missions and functions that they can do it efficiently and with minimal risk to loss of life.

A few years ago when President Carter was in office the Marines said that they were in need in of an aircraft called the *Harrier*, another very important technology. The *Harrier* was canceled 4 consecutive years, and the Marines today have called that their most important platform that has allowed them to meet their needs over the last 15 years. It is unfortunate that the same thing is happening with the Marines today in terms of the V-22. Perhaps it is because the Marines are not the large force of the Navy or the Army or the Air Force and does not have perhaps the political clout on the Hill. Perhaps it is because the Marines are a special breed of people, a small but elite force who are called upon to do our most demanding work. We owe it to those men and those women to make sure that they have the technology that will keep them on the cutting edge.

We cannot afford to be buying this aircraft from the Japanese or from the Europeans. We must make sure that this aircraft is produced in America by American men and women, that it will be here for us not only to use to protect the young lives in our military, but that it will also be here for us to reap the benefits commercially and economically by selling this aircraft for civilian use, and to be able to be used by foreign nations in intercity transportation.

Mr. Speaker, we look at the defense budget and look at all of the weapons programs that are in that $300 billion budget that I have to work on every day that I am in this body as a member of the Armed Services Committee. I cannot point to one other program that has the potential to come down in cost of the V-22 does. Let us face it, Mr. Speaker, we cannot sell a nuclear submarine to Carnival Cruise Lines, and we cannot sell the B-2 bomber to TWA but, Mr. Speaker, we have already seen a tremendous willingness on the part of the private sector to take this technology after we have developed it for the Marines and the Special Forces and immediately transfer it to be used for commercial application.

We owe it to our young military personnel, we owe it to our young work force in this country, we owe it to America to develop the tiltrotor technology.

Hon. WELDON,
316 Cannon HOB,
Washington, DC,

DEAR CONGRESSMAN WELDON: I am concerned about the possible cancellation of the V-22 Osprey program. This program could be instrumental in improving or aiding the aeromedical field.

I am a resident in Emergency Medicine. In the field of trauma care the faster a badly traumatized victim reaches surgery the more likely they will survive. If a victim can reach surgery within the first hour after an accident the morbidity and mortality are dramatically reduced. This first hour is called the Golden Hour. Helicopters have been instrumental in reducing the time it takes to get a person to surgery as well as provide sophisticated medical personnel and equipment directly to the scene of an accident. The V-22 could provide fast service to further areas away from trauma centers. This could prove instrumental in saving lives in areas not normally serviced by rapid emergency services. When seconds count in the matter of a life, speed can be an invaluable friend.

The Coast Guard also would be able to put the V-22 to excellent use. The V-22 does not have the downwash of a helicopter and would not buffet a debilitated victim who has been in the water for a long period of time. Due to the V-22's speed, fuel efficiency and longer range it could cover more of a search area. This would be invaluable in search and rescue as well as with anti-drug operations.

On the battlefront the ability to land vertically as well as combining the speed of an airplane could provide safe medical evacuation from a battlefield. The combination of helicopters and the V-22 could advance medical trauma care. These two technological advances could be instrumental in saving lives. Both have advantages that need to be explored in order to provide fast, rapid, safe, medical evacuation from accident scenes.

The Air Care program here at North Carolina Baptist Hospital was instrumental in saving a man's life here. He had crashed in an ultralight aircraft into an area that could not be reached by ground equipment. Helicopters and vertical takeoff/landing air-

craft are invaluable in rescues like this. The V-22 could definitely save time with its speed. I know of many times that the rapid delivery of patients by the Air Care helicopter was instrumental in saving the lives of critically injured patients.

Thank you for your time.

Sincerely,

DAVID ALEXANDER, M.D.,
252-D MELROSE STREET,
Winston-Salem, NC, May 14, 1990.

Continuing on with our special order and commenting on the military application, a good friend of mine from the Armed Services Committee, someone who has worked tirelessly on this effort, and contrary to what the Pentagon might have us believe, someone who has no interest in the program, no subcontractors in his district, no jobs to brag about back home, my good friend from North Carolina, Mr. MARTIN LANCASTER.

Mr. Speaker, I yield to the gentleman from North Carolina [Mr. LANCASTER].

(Mr. LANCASTER asked and was given permission to revise and extend his remarks.)

Mr. LANCASTER. Mr. Speaker, I rise in support of this special order and commend, as others have, the outstanding work that Congressman CURT WELDON has done in support of the development of the V-22. As he indicated, my interest in this development is not because of jobs that will be created or will be lost in my district, but because it is a technology that must be developed, a technology that must be developed in this country, and it is an aircraft which must be built in this country.

The V-22 is a great aircraft, an application of modern technology that can save lives and can fulfill the capability for the Marine Corps Special Operations Forces and the civilian component that is well worth the effort. Even the Secretary of Defense's office, through its spokesman, Pete Williams, the Assistant Secretary of Defense for Public Affairs, said recently:

If we had the money, we would buy the V-22, no question about it. We love the V-22. It is a great aircraft.

□ 2040

Well, if it is a great aircraft, why are we not going to buy it? What is this decision on the part of the Secretary of Defense, what does it say about our priorities and our assessment of the threat that our military and our country faces for the future? I frankly am concerned about that assessment, if the DOD is assessing other threats as they are assessing the threat that applies to the V-22.

What is the threat our country faces for the future? Is it a major nuclear holocaust that was being prepared for little more than 1 year ago, one which would pit this country against the Soviet Union with nuclear weapons poised to be hurled at each other by manned bombers and missiles? Or is it now a threat from Third World terrorists, from the kind of threats that we encountered in Panama, the kind of threat that requires an application of force over the horizon at great speed with great precision, with a very mobile force to insert our personnel and then, once the job is done, to safely remove them?

I believe that that is the greatest threat that America faces. The nuclear holocaust threat was a threat that we faced at the time we began development of the B-2. The B-2 is an even more expensive weapons system than any other we have ever developed, and far, far more expensive than the development of the V-22.

But yet Secretary Cheney has decided that we have got enough money for the B-2 but that we do not have enough money for the V-22. I frankly think that we need to assess accurately the threats that we face and to build the aircraft that will meet that threat, not some perceived threat of the past.

Now, one of the arguments made by Mr. Williams in his press conference was that the V-22, near term, is more expensive than the helicopter alternative proposed by DOD. That is true, if you assume a buy of the V-22 at the rate that was initially proposed. However, if you stretch out the buy, then the near-term expense as well as its long-term expense becomes cheaper than any alternative proposed or studied by the Department of Defense.

But even if it were more expensive, I think what we have to look at is what we are getting for our money. In my opinion, we get what we pay for, and in this case we get more from the V-22 than any alternative.

There is more capability with the V-22 than any alternative regardless of the cost. In fact, it is so capable that studies show that we can afford to buy fewer of the V-22's and still be more effective than any alternative proposed.

Let us look at the combat effectiveness as well as the cost effectiveness. The IDA study in the Department of Defense clearly shows that the V-22 will make the Marines' special operations forces more effective, that it will in fact insert our men into hostile situations from over the horizon at great speed and then, once the operation is completed, be able to remove them. Furthermore, that study shows that the V-22 is more survivable than any alternative, that we will be losing fewer aircraft. And when fewer aircraft are lost, you save money. But far more important than the money we would save by saving aircraft is the savings in loss of life. Losing one aircraft may lose money, but when you lose an aircraft you lose the men on it.

I for one want to do everything we can, whatever we can to save and protect our men whom we send into harm's way as they defend our country and its national security.

This study showed that there would be a 25 percent lower combat loss rate using the V-22 in comparable missions than any alternative studied. The IDA also says that the DOD assessment ignored the savings from survivability in their previous comparisons of costs between the V-22 and the alternatives.

We also need to look at the readiness question because that, in my opinion, is the key to success in any operation.

As Mr. WELDON has already alluded to, the Desert One operation, where we sent helicopters to extract our hostages in Iran, failed because of equipment failures, because of the refueling that was required to get these helicopters into Tehran.

If we had had the V-22 at the time of Desert One, no refueling would have been required, because of the incredible range and speed of the V-22.

How could we ever determine the cost of the loss of lives in that desert and the loss in national anguish, the loss in national pride that we suffered because of the continued holding of the hostages in Iran?

What will our next international crisis be? If we have the V-22, can we avert that kind of loss of life, that kind of loss of national stature that we suffered in Iran? And last, let us talk about technology.

We lost the edge in the production of cameras, cars, VCR's, TV's, and most electronic equipment to the Pacific Rim nations. Are we now about to turn over a technology that we have developed almost to the full production stage, again, to the Pacific Rim countries for them to fully develop and exploit? That, in my opinion, would be the height of folly.

Then we are talking about transferring real jobs from this country to another. Furthermore, we are going to pay through the nose when we buy these planes that we know we need and that are essential to the mission of our Marines' special operations forces, when we have to go hat in hand to Japan and say, "We want to buy this great airplane that we almost developed and almost built in this country."

I say let us build it to protect our men and our reputation as a leader in the field of international development, of defense systems, as well as an innovator in commercial application of technologies.

It is important that the V-22 be built, it is important that the V-22 be built by this country, and I hope that with the support of Americans as well as Members of Congress that we will all see the value of the V-22 and make

certain that it is we who develop and exploit that technology.

I thank the gentleman for yielding.

Mr. WELDON. Mr. Speaker, I thank my good friend and colleague, the gentleman from North Carolina [Mr. LANCASTER] for his excellent statement and very personal comments about the kinds of potential that this aircraft holds, not just for our military but also for the commercial application. He made a very important point about the cost.

Contrary to the rhetoric that we have been hearing out of the Pentagon for the last year, the cost for the V-22 is, in fact, less than all the alternatives proposed by the administration.

Mr. Speaker, I was very, very much taken aback last year when the administration came in and told us that they were proposing an alternative to the V-22 where we could buy less aircraft, less existing aircraft and still save a substantial amount of money. I was a little skeptical at first. I said let us check it out and see if that is true.

Well, the results are in, Mr. Speaker: DOD's own numbers show that the alternative mix of helicopters that they have proposed buying over the next 20 years is actually more costly than the V-22 and the tremendous leap forward in technology that this aircraft will bring to us. And in this fiscal year we are not going to restore this program, as Mr. Cheney would have us believe, by bankrupting the Defense Department or by adding on some additional spending.

No, we are not going to do that, Mr. Speaker. We are going to restore the V-22 within the envelope of funds that he put into the budget for the alternatives to this aircraft, because contrary to what he has led the American people to believe, he has not proposed the elimination of one technology, as has been proposed, with the B-2. What he has proposed is replacing it with an alternative aircraft.

Mr. Cheney has said time and time again that the only Members who are concerned about V-22 are those who stand to gain the jobs. Well, Mr. Cheney's own alternative, which has a cost of approximately $24 billion to $26 billion, is proposing to buy aircraft from one company that happens to be located in one northeastern State. I would assume that those helicopters are also built by human beings who probably have Members of Congress who are interested in seeing that those jobs come home to their New England State.

So, Mr. Cheney's arguments are flawed because the data provided to him by his planning and evaluation department were flawed. We have proven that on the record, irrefutably; the evidence is out, and the alternatives are, in fact, not all that they were built up to be last year.

□ 2050

Yes, there is egg on the face of the people in the Pentagon. However, there is more to it than that. We are pleased to have perhaps the only aeronautical engineer in the U.S. Congress, someone who has been an outstanding advocate from a technical standpoint of the technologies that we have to look at, in our very complex military hierarchy and structure. This gentleman is there because he has the experience of working with new 21st century technology. I welcome to our special order the gentleman from New York [Mr. HOCHBRUECKNER].

Mr. HOCHBRUECKNER. Mr. Speaker, these are exciting and wonderful times. In the last 45 years, we have probably not had a better opportunity for peace than we have at this time in our history.

Certainly, as Members know, there is a lot of discussion here in Washington about the peace dividend. Now, of course, the peace dividend refers to the amount of money that will probably be taken from defense spending this year and spent on something else, whether to reduce the deficit or to fund education or clean up the environment or to provide better services for our senior citizens, or health care for our veterans. There are a variety of ways that the peace dividend will be spent.

As a member of the Committee on Armed Services, and having served for 25 years in aerospace engineering, I have been promoting what I refer to as the second level of peace dividend. Now, what is that? Once there is a handshake this year between the President's people and the leadership of the Senate and the House, we will be spending several hundred billions of dollars on defense. Certainly, we will continue to press in the defense spending area to reduce funding from nuclear weapons and to put it in more conventional weapons that we do on occasion, unfortunately, use. We will be doing that, no question about it.

Now, let Members assume this year that the peace dividend might be $20 billion. So, instead of spending $300 billion like we are spending in this fiscal year, next fiscal year we spend $280 billion. That $20 billion certainly is the peace dividend, and there will be much fighting and gnashing of teeth over how to spend it, but the fact of the matter is that $280 billion or whatever the final number is, is to be spent on defense. It is important that we spend that money well.

What I have been proposing to my colleagues is what I refer to as the second level of peace dividend, and that is to recognize that we will be spending the several hundred billion dollars of taxpayer money on defense, and what we ought to be doing is spending as much of that money that will be spent on defense on programs that, in fact, are important militarily but also have important commercial and civilian spinoff.

Let me just cite two programs that fall into that category. The first one is called x-ray lithography. This is a program that will produce the next generation of computer chips here in the United States. The world's fastest, smallest computer chips utilizing x-ray lithography techniques. Now, certainly no one cares about the technical side, how does it work, how do we get there. But the fact of the matter is we are talking about building the next generation of computer chips, 25 times smaller than that which exists in the state of the art today. That is where the cutting edge of technology is. That is where the leadership is, because in computer chips, smaller is faster, and faster is better. That is where we should be investing dollars, in terms of research and development funds under the defense budget.

Now, this year, we will probably spend between $35 and $40 billion on research and development. Over the last 3 years, I am pleased to say I have been successful in capturing $70 million to promote the x-ray lithography program to give the United States the opportunity to get back in the computer chip game because we invented computer chips. However, as of 1986, the Japanese were exporting more computer chips than we were. They were not even in the game a dozen years before that. So, x-ray lithography is one good example of where we should be taking defense dollars and steering them into a program that, yes, is important militarily, because obviously, if we can build a computer that is smaller and faster and uses less power, it gives that country a leg up in space and in airborne computer and electronics. So it is important militarily, and it is a great place to spend our money.

Recognizing that 88 percent of the computer chips are used in the commercial marketplace, we all know that from the computer in your home, to all of the various electronic gadgetry that surrounds Americans and people in the world today. We need this kind of technology. It is the kind of jobs that we want for our children. High technology, highly paid, environmentally clean. That is where we should be investing military dollars. We are right now. Unfortunately, the administration has not, in each of the last 3 years, supported this program, and they have only reluctantly accepted the funds that the Congress has provided. However, that is a good example of the second level of peace dividend where we spend defense dollars on a program that is important militarily, but, clearly, has great civilian and commercial applications.

A second excellent example of the second level of peace dividend is the V-22 *Osprey.* My colleagues have clearly pointed out the tremendous advantages of this kind of ship. This kind of an airplane. When we think about an aircraft that takes off like a helicopter, converts into conventional flight, clearly that has an infinite number of uses. I will get to that in a little bit in a little bit more detail.

We must face it. If things continue the way we are going in the world today, and I certainly commend the President for the actions that he has taken, and this is a moderate Democrat who is commending a Republican President for his direction in his action to produce a more peaceful world, the fact of the matter is, yes, it may well be a more peaceful world, but make no mistake about it, it is going to be a much more competitive world.

When we look to Europe in 1992, there will in essence be a United States of Europe, with virtually no tariffs or barriers. They are going to be very competitive. If we are going to be competitive with them and be successful, we need to do two things. First, we have to have a level playing field. We have to have markets in the world open to our products. That was the big fight we had with President Reagan 2 years ago over the issue of free trade versus fair trade, and the Congress won. We have a fair trade situation now. Markets are opening up to the United States. Look at the new deal signed with Canada, the new deal signed with Japan. Clearly, the opportunities for the United States are great, but it is going to be very competitive. So we take an action as a Congress, as a government, to provide a more fair playing field, and to give our producers the opportunity to compete.

But the second part of the equation is, we have to have a better product, a better mousetrap. That is, in my opinion, the V-22. It is the better mousetrap. It is a better program. It is the kind of element and program that we need to be selling around the world.

Taking a look at history, we will look at some of our failures as were mentioned by my colleague, the gentleman from North Carolina [Mr. LANCASTER]. We invented the VCR. Is there one company in the United States that manufactures them? No, not one. We invented the television. There is one company left in the United States that now produces televisions. Magnet levitation trains? We invented those in the early 1970's. In 1976, this Nation walked away from that program, like we are walking away from the V-22. The Germans and Japanese have invested over a billion dollars a piece into magnetic levitation trains, and the net result is that we will probably have the first two systems, one in Florida, one in California to Las Vegas, and there probably will be programs that, in fact, the Japanese and the Germans will be manufacturing. Magnetic levitation trains are the future.

Mr. OBERSTAR. Mr. Speaker, on April 25, 1990, the Subcommittee on Aviation held hearings on the civil applications of tiltrotor aircraft technology. On that day as well, the Congress received an up close demonstration of this remarkable technology on the East Front Plaza of the Capitol.

The tiltrotor blends the advantages that traditional helicopters offer with the advantages of traditional fixed wing aircraft. Because of their vertical lift capabilities, helicopters do not have to use traditional airport facilities, while fixed wing aircraft must use airport facilities they are able to go faster, carry more payload, and travel longer distances than helicopters. The tiltrotor combines the vertical lift capabilities with the performance characteristics of fixed wing aircraft.

The tiltrotor has been described as the most revolutionary concept in aviation since the development of the jet engine. It is a technology that gives us an opportunity to make a quantum leap in aviation, to revolutionize that sector both at home and abroad. And it is an American concept, an American technology developed here at home, and one that we feel—those of us who have seen it and who have been privileged to observe its operation and learn about its technology—has great potential for dealing with the needs of aviation, and also for relieving the pressures of congestion at particularly our most heavily demanded airports.

The Federal Aviation Administration testified at the hearing about what needs to be accomplished for the certification of a civil version of the V-22 in parallel with the development of the military aircraft. This is very important as it will enable civil certifications years ahead of when it would have normally occurred. The FAA is to be commended for their foresight and their over-the-horizon thinking.

Also during the hearing the subcommittee received testimony from a wide variety of potential users and beneficiaries of the technology. Of particular interest were the insights from the business community. It was clear that tiltrotor technology is not some esoteric vision of aerospace engineers. It is a technology the business community is looking at in terms of the bottom line. The technology is recognized as having tremendous potential to save costs of doing business by reducing transportation time. Simply put, this technology represents a quantum leap in our transportation system.

Finally, I would like to conclude with what I believe the country really ought to be doing with respect to tiltrotor aircraft technology.

If this were a technology being developed by a British, French, German, and Spanish consortium such as Airbus there would be no question in those countries that there is a national interest that transcends cost and transcends application for military or civilian purpose, those countries have demonstrated that kind of national will by going ahead with enormously expensive ventures in technology such as the Concorde and Airbus Industries.

There was no question in the mind of Charles deGaulle that France had to be first in technology, and he gave the impulse to the national policy that built the TGV, the high-speed train, at a cost of $1 million a mile for the trackage. It was a whole new trackage that was built. They didn't take old track and rehabilitate it; they built new track, bought new right-of-way, and went over terrain that conventional trains couldn't cover. Now it operates.

The Japanese didn't wait for someone to come along with a private sector interest and develop a bullet train. They built it and developed it and put it in place. They took a very new idea we developed in the steel industry, tested it, perfected it, applied it, and sold their steel in the United States to beat us out of the same market that we had invented.

Now we are at that point again on a new technology of looking inside ourselves as a nation and asking, "Do we have to fund a national education program only because we are fooling ourselves that it benefits Defense? Should we again, as we did with the Interstate Highway System, do something of national impact and national interest on the charade that it is beneficial to national security and defense? Can we not for once look this issue square in the eye and say this benefits our economy, this benefits the traveling public, this benefits industry and Americans of all walks of life, and build it in the name of good national productivity and national interest?"

If we can do that, we will find the money to build it. That I hope is where we will come out, with the national resolve to undertake a venture of great benefit to our country and to mankind.

Mr. GREEN of New York. Mr. Speaker, I am pleased to join my colleagues today in support of tiltrotor technology and the V-22 program, a program which represents a significant step forward in aviation technology, combining the vertical takeoff and landing advantages of helicopters with the high speed and cruise efficiencies of turboprop aircraft.

I have long been supportive of developing this technology, believing that the tiltrotor program could lead to an economically viable commercial plane with the potential to play a significant role in reducing airport congestion. This is no where more important than in New York City. I have consulted with Port Authority of New York and New Jersey experts on the V-22 swing rotor program. From those discussions, I am aware of the port authority's interest in and support for the program. At our three airports in New York, international passengers outnumber commuter passengers 8 to 1, yet the number of commuter flights outnumbers international flights 3 to 2. Thus, 3 percent of the passengers are taking up 19 percent of the runway slots. For distances of 300 miles and less, 65 percent of the trip time is spent on the ground, not including delays. Tiltrotors could ease major airport congestion problems by taking up that high-density, short-haul air traffic.

The tiltrotor aircraft does not need a runway. Further, the tiltrotor does not need the huge fixed facilities cost of an airport, but rather that technology only requires relatively small, inexpensive vertiports. The Federal

Aviation Administration, having funded some 14 vertiport feasibility studies across the Nation, reports that tiltrotor technology could provide important help in alleviating air congestion problems in the years to come.

Civil tiltrotors will draw on the technology base created in the development of the V-22 *Osprey* program. Unfortunately, Secretary of Defense Richard Cheney canceled the V-22 program in last year's budget. Congress, however, restored about $350 million in funding to continue the program's development. In the fiscal year 1991 budget request, Secretary Cheney has once again terminated the Pentagon's support for the program. Thus far the House has approved a small amount of funding for tiltrotor technology in the NASA fiscal year 1991 bill, and I believe there is growing support among House defense authorizers and appropriators to retain research and development funding for the V-22.

While I have emphasized here the civilian benefits of tiltrotor technology, I also believe that in military terms, the V-22 makes good national security sense. The V-22 can fly twice as fast, three times as far, and carry twice the payload of the CH-53 and CH-60 helicopters. While the Defense Secretary's decision not to support the program is based on cost concerns, and independent study of the program shows that the V-22 program would be cheaper to operate and maintain over a 20-year lifespan. The capabilities of the V-22 are immediately suited to our defense needs, and should be supported. Eliminating the program at this point would be pennywise and pound foolish.

Mr. COUGHLIN. Mr. Speaker, the dramatic developments we have all witnessed in the Soviet Union and Eastern Europe in recent months have made the likelihood of a United States-Soviet Union conflict in Europe more remote than at any time since the end of World War II. The virtual disintegration of the Warsaw Pact organization and unilateral reductions in the size of Soviet forces mean the United States must reappraise its defense requirements as we approach the year 2000. We must reconsider the dangers to our national security interests and pursue the means necessary to address the most relevant threats.

A review of projected threats suggests that the scenarios most likely to require our attention will involve so-called low intensity conflicts, along the lones of past actions in Grenada and Panama.

That said, it is indeed ironic that the Pentagon has sought to terminate a program—the V-22 *Osprey*—that has the potential to give us a huge edge in exactly the kind of localized hostilities about which we should be most concerned. Compared to helicopters, which are the vehicles we would have to rely on currently in such conflicts, the V-22 offers enormous advantages. It is faster and quieter than a helicoper, reducing the chances that it will be discovered or shot down if involved in hostilities. It has a range far in excess of current helicopter models, and it has the ability to self-deploy to virtually any potential trouble spot, a characteristic not shared by helicopers. It offer a greater lift capacity than helicopers, giving our service personnel the ability to deploy the equipment most appropriate to achieving the task at hand.

The principle reason for the Pentagon's decision to terminate the V-22 was its cost. The fact is, however, that cost comparisions between the V-22 and proposed helicoper substitutes reveal that the V-22 is less expensive when full lifecycle costs are calculated. Other factors, including design and materials advances, mean that the V-22 is more survivable than the helicopers that have been suggested as substitutes by the Pentagon.

The V-22's versatility means that it is capable of many more uses than the medium lift amphibious assult role in which the Marine Corps hopes to employ it. This aircraft will also be capable of conducting special operations, rescue, logistics, medical evacuation, antisubmarine, antimine, refueling, and other missions.

In addition, the V-22 holds out the possibility of revolutionizing civilian air travel in this country. The Nation's busy air corridors and aviation hubs could do with the relief that a civilian tiltrotor aircraft could provide. The V-22 would give commuters flying into congested urban regions the potential to reach their final destinations far more expeditiously than under current transportation regimes.

Finally, pursuit of the V-22 will enable the U.S. aviation industry to maintain its role as the world leader in aviation technology, allowing the United States to maintain its current trade advantages in the aviation sector. Conversely, if we drop the ball on the V-22 we risk abandoning our lead in these areas to the Japanese and Europeans, who are now developing their own tiltrotor concepts.

Mr. Speaker, the V-22 offers us myriad capabilities and vast potential. This is one aircraft that merits our enthusiastic support.

Mrs. BENTLEY. Mr. Speaker, it appears as though the United States is once again poised to give up far-reaching technology, technology that is uniquely American but, in all probability, will end up in the hands of our foreign competitors. We have seen this scene played over and over in a society that once placed enormous value on its ability not only to to break fresh technological ground but to market the successes. The most recent example of this is the proposed termination of the V-22 *Osprey,* an awkwardly shaped piece of next generation aircraft that utilizes truly amazing tiltrotor technology, technology that will give U.S. forces a superior, long-range vehicle for transporting combat troops into hostile zones of engagement.

The tiltrotor aircraft operates under similar principles as a helicopter but has the added advantage of being able to fly forward much like a turboprop airplane. As an assault aircraft, the *Osprey* has tremendous potential to both enhance our defensive capability at a time of budget constraints and also ensure that mistakes of the past are not repeated. For instance, many experts maintain that the *Osprey*'s long-range and in-air refueling capability would—in all probability—have prevented the Iran rescue mission catastrophe from occurring. In that instance, our helicopters were forced to refuel in the desert, which in turn resulted in sand being sucked up into the helicopters engine intakes.

Despite the recent release of an Institute for Defense Analyses report that gives the *Osprey* very high marks, the Defense Department is still saying "nyet." Well, I will tell you one thing: Japan isn't saying "nyet." They're not dense. They have been eyeing our home grown tiltrotor technology since it was first pioneered by the United States in the 1960's and, in fact, has commenced testing prototype models of a similar technology, called tiltwing that is an offshoot of tiltrotor.

Earlier this year, the Ishida group, which is a Japanses business consortium, announced plans to build its tilt-wing aircraft—called the TW-68—here in the United States. The Japanese are banking on the TW-68 and its followons, to have an enormous impact upon the civilian air industry. The Japanese correctly believe that the TW-68 will help alleviate the air congestion that is the rule rather than the exception both here and in Japan. Unfortunately, Mr. Speaker, the V-22 *Osprey* will be left to wither away on the vine while the TW-68 is fed and nurtured with cash infusions—right here in our own backyard.

Mr. SOLOMON. Mr. Speaker, there's an old anecdote that goes—"Don't throw the baby out with the bathwater." Well, the defense budget is getting a scrubbing from the President and the Congress right now. We are all interested to find those areas that can undergo spending reductions without adversely affecting our national security at a time when the world is changing in rapid and unpredicable ways.

The fact is, however, that the V-22 *Osprey,* with all the promise it holds for us militarily and commercially, should definitely not be thrown out of the budget, like the baby in that bathwater. There are just too many points in favor of keeping the V-22 program alive.

What are those points? First, the V-22 is more cost-effective than the alternatives, as shown by the recent study by the Institute for Defense Analysis. Second, the V-22 has the potential, not just to meet our military needs, but to revolutionize our civilian air transportation system.

Third, the V-22 will provide the versatility we need to meet both new threats in fighting drugs and terrorism and in meeting any challenges that may arise outside of the strategic context that has prevailed over the last 45 years. Fourth, and finally, should the strategic threat remain as it is now, instead or receding as we all hope it will, the V-22 will indeed play a vital role in long-range deployment of our forces—without the need for extensive and expensive overseas bases or for the diversion of our strategic airlift assets from their other missions.

I am pleased to see that the V-22 continues to enjoy the strong support it deserves from many of the Members of this Congress. I am confident that as a body we will continue to ensure that our Armed Forces have the tools they need—like the V-22—to meet the challenges that can face our Nation at any time.

Mr. ROE. Mr. Speaker, as chairman of the Science, Space, and Technology Committee I have a special interest in seeing technology developed at taxpayer expense reach fruition

in the marketplace. The V-22 and its likely civil derivatives are an excellent example.

The research conducted by NASA has been the engine of progress in aviation for 75 years. It is often overlooked that the first "A" in the abbreviation "NASA" stands for aeronautics. The strong position of the United States in aeronautical technology today is due, in large part, to work done by NASA. The economic impact of NASA's research in this area is much larger than the impact of its work done on the space side. It is most important that we maintain and strengthen these programs.

The tiltrotor is an American success story. In an era when, daily, we receive some new report of Government mismanagement, technical foul up, or other bad news, its terribly important to tell people when we've done something right and to put it on the record.

We have an excellent system in this country for developing and then applying aeronautical technology. It's no accident that approximately 70 percent of all commercial aircraft flying in the world today were manufactured in the United States. Aviation is one of our winners.

Americans are often accused of not being able to develop and then carry out a long range plan. Well, Mr. Speaker, the story of the tiltrotor aircraft is a case study that gives the lie to that contention.

The first tiltrotor, the transcendental model G-1, flew in this country over 30 years ago. The first successful conversion from vertical to horizontal flight by a tiltrotor aircraft was accomplished by the Bell XV-3 in the late 1950's, and the first proof of concept prototype tiltrotor, the Bell XV-15 was flown for the first time in 1977.

As a direct result of these achievements the Defense Department had sufficient confidence in the technology to allow it to proceed with the V-2 Program.

Dedicated people in industry and in the Government have brought the technology to the point where we must think about practical applications in the civil community. I believe the most important of these is replacing some of the foreign built aircraft on most commuter routes, and, in so doing, to generate a separate air transportation system that doesn't rely on conventional airports or approach corridors.

In this way the tiltrotor can free up some of the slots, now used by commuters, and both relieve conjestion and allow growth in the long haul part of the market.

With the tiltrotor, it is easy to envision a commuter driving a few blocks to his neighborhood vertiport, catching the morning tiltrotor flight and arriving, a short time later, downtown at his destination city—a far cry from the obstacle course he must run today.

Because of the high potential value of the tiltrotor for high density civil air transportation, there is an urgency for the Nation to provide an environment which will accelerate civil tiltrotor development. The need for urgency is based on the value of the tiltrotor as documented by the recently completed studies. The need for urgency is further stimulated by the emergence of European plans for civil tiltrotor development under the Eurofar consortium and the apparent developments in the Soviet Union.

If we do not proceed with some urgency, we may well find ourselves in a following rather than leading position in the world tiltrotor market. Threatened with erosion of our positive aerospace trade balance, we cannot afford to ignore our own technology, and we must get on with developing the tiltrotor aircraft and its many applications.

Mr. BLAZ. Mr. Speaker, I have heard testimony from high-ranking officers to the effect that a study conducted of about 30 battles fought in this century revealed that an aircraft utilizing tiltrotor technology wouldn't have made a difference in the outcome. To that argument I countered: of course it would have not made any difference, because in World War II there was no such aircraft; in Korea, it would not have made a difference, if there was no such aircraft; but you would be hard put to convince me that this technology wouldn't have made any difference in Vietnam, where this aircraft would have been particularly suitable, at a time when this technology was in its infancy.

I then said that, for every one of those theories obtained from an analysis of a particular battle, I can come up with a campaign in which I participated in which this technology would have proven its worth; my experience in regard to this matter doesn't come from reading after-action reports. I yield nothing to those who derive their judgments in this manner.

I would also like to point out that we are not talking about a war toy which a particular service is trying to sell to the American people. We're talking about a branch of the service which has a well-known reputation for sound ideas that are particularly fitting for their time. I wish I could say that I regret that I was a marine, so that my comments would have more meaning. But I could never make such a statement, so let me state it differently: I am making these comments because I was a marine, and I know what I am speaking about.

There were fellow marines that told me that in the 1930's they were the object of ridicule as they foundered in the mud of the Chesapeake Bay, attempting to develop and refine the Higgins boat, which later became the vehicle around which every amphibious operation of World War II was centered. Thanks to the U.S. Marines and their visionary approach to modern warfare, they developed the technique of employing this vehicle and made it work in practice. In Korea, I remember that we were bothered by the presence of a funny-looking aircraft that made a great deal of noise; some derisively called it an eggbeater. From this ungainly machine we developed the concept known as vertical envelopment. This concept is now a classic means of manuever in modern warfare. I remember that, as a student at the War College, I was assigned to study a unique capability of an armed service, and I selected the *Harrier* aircraft. I selected it because the idea of a high-performance aircraft that could take off and land vertically from both sea and ground platforms seemed particularly appropriate to the Marine Corps mission. I went to England to see the technology for myself and came away with the conclusion that this was the aircraft of the future. The Harrier subsequently proved its worth in the Falklands war. As we all know, it is now an operational aircraft in the U.S. Marine Corps and provides unparalleled response time and accuracy in close air support operations. It was, and is not, an idea particularly fitting for its time.

So here we are, in 1990, with another of these ideas which are particularly fitting for their time. We are talking about a capability that is so unique, so advanced, and so easily adaptable to civilian use, it staggers the imagination that there are those who would somehow devote their attentions, their energies, and their resources to aircraft designed solely for warlike purposes. The argument that private industry should develop this technology is a ridiculous one. Historically, this Nation has always devoted a great deal of its time, money, and research to develop aircraft in order to reduce the cost to the point where industry can afford to become involved for commercial purposes.

The capacity of the V-22 *Osprey* from the standpoint of war is obvious to even the most casual observer. I am speaking to the genius, the innovation, and the outright utility of this type of technology as applied to the civilian community. In the last few months, we have seen on television millions of acres of prized forests destroyed by fire. Imagine if we had the capability to load large quantities of personnel and equipment onto an aircraft, fly to the trouble spot as quickly as a conventional airplane, land in the helicopter mode, and then quickly depart for another load. Imagine what you could do in the islands of the Caribbean, or Alaska, or the islands of the Pacific, in areas where there are no facilities for servicing conventional aircraft. Every hospital's waiting time for desperately needed, but perishable, supplies—such as organ transplants—would be sharply reduced. Imagine the applications for law enforcement, particularly in the drug war. I have no doubt that a capability could be developed to assist in environmental disasters, such as oilspills. There are a thousand and one civilian applications for this technology, and, once again, the Marines have recognized its potential far in advance of all others.

I say these things not only as a member of the House Armed Services Committee but also as one who spent 30 years of my life in the business of preparing for the winning of wars. We should buy the aircraft for the type of war that we intend to fight. This is the aircraft we need now, at this time, for both military and civilian applications. We will never have the latter without the former. Just as the helicopter and the jump-jet provided an insight on the future and direction of aviation, so too the V-22 *Osprey* and tiltrotor technology. And remember that there are always those waiting in the wings to exploit that technology whose value, in our shortsightedness, we have failed to recognize.

Mr. FROST. Mr. Speaker, I am delighted to join with my colleagues today to express my strong and enthusiastic support for the V-22 *Osprey.*

Those of us who've supported the V-22 for some time have felt that this program was a cost-effective way to provide the Marines with the transport aircraft fleet required by their mission. Now, with the report that was just

issued by the Institute for Defense Analysis, we know for certain that the V-22 is an aircraft that must be produced.

The IDA study compared the V-22 with other aircraft that could be procured for the Marines, such as the CH-60 and CH-53 helicopters. It found that the V-22's speed, range, and survivability advantages would enable it to be more effective than all of the proposed helicopter alternatives in each of the four Marine missions that were examined. The study also found that the V-22 is more cost effective than helicopter alternatives for the Navy combat search and rescue, Air Force special operations, and DOD or other Government agency drug-interdiction missions.

The Bush administration has been fighting with many of us in Congress over whether to produce the V-22, doing everything it can to terminate the program. As this independent evaluation of the V-22 so clearly shows, however, the President is simply wrong on this issue. It makes no sense whatsoever to terminate this cost-effective and necessary program. Yet, in spite of the study's positive findings for the V-22, President Bush and Secretary of Defense Cheney continue to oppose the program and have indicated that they will actively work to kill it.

Now, we will soon begin deliberations in Congress on the defense budget for fiscal year 1991. We will have to make some hard decisions, and it's vital that we spend our defense dollars wisely on programs which meet critical needs of our Armed Forces. The V-22 is such a program. It will give the Marines a desperately needed capability, and does so in a cost-effective way.

Flight testing continues at Bell and Boeing facilities in Texas and Pennsylvania. Considerable progress is being made and new milestones are being reached with virtually every test flight. We should reject the President's proposal to terminate the program and move forward with development and production of the V-22.

Mr. LAUGHLIN. Mr. Speaker, if the United States is to stay on the cutting edge of technology, we must support the tiltrotor program. The versatility of this state-of-the-art technology is perfect for Coast Guard missions of drug interdiction, at-sea search and rescue, and oilspill containment.

Of immediate concern to Texans is the oilspill accident of the *Mega Borg* tanker off the Texas Coast on June 9, which highlights the need for new technologies to contain oilspills. Since 1979, there have been approximately 16 major oilspills in the Gulf of Mexico, and we need the most efficient technology available to contain and clean future oilspills.

Admiral Yost testified before the House Subcommittee on Coast Guard and Navigation in favor of tiltrotor technology and described its applications as being the answer to a Coast Guard commander's prayer. In a later hearing, Admiral Kime, who is the current Coast Guard Commandant, agreed with Admiral Yost's assessment of the usefulness of this technology in Coast Guard missions.

The tiltrotor aircraft would be perfect for the Coast Guard's missions of drug interdiction because it could intercept any drug-carrying ship or airplane. It could search over a wide range of ocean for a distressed vessel, then touch down and pick up survivors. The tiltrotor could quickly reach the scene of an oilspill and, with oil-trappig booms lowered from its cargo bay, prevent the oil from spreading.

The efficiency and versatility of the tiltrotor aircraft is unlimited. Like a helicopter, tiltrotors can hover, take off and land vertically. By turning their rotors forward in midflight, they can acquire the speed, range, and fuel efficiency of a conventional turboprop airplane. It is faster and more fuel efficient than helicopters; it has a much longer cruising range; and most important, it is more survivable during combat. The tiltrotor aircraft is designed for low-intensity conflicts and it really is the aircraft we need if we want to get American troops in quickly and out safely in a limited warfare scenario.

So far, only the United States has the capability to develop and build this technology. I support the tiltrotor and I support our country's efforts to stay ahead in developing new technologies.

Mr. BRYANT. Mr. Speaker, in an age of spiraling budget and trade deficits, enormous unmet domestic needs and a changing world, our definition of what comprises a "national security threat" is a far cry from the days of the cold war.

National security threats are no longer simply defined as "military threats"—they may also be economic or commercial or social in nature. And the military threats have changed as well to include terrorism, guerrilla warfare, and other threats distinct from strategic nuclear capability.

So, it is critical that our Nation invest its resources in programs best able to address several of these threats.

The V-22 tiltrotor aircraft is the most promising investment we can make to meet many of these threats.

Earlier this week an independent assessment of the V-22 was declassified and made available to the public for the first time.

That Institute for Defense Analyses [IDA] report clearly and unequivocably proved that the V-22 is the most cost-effective and the most operationally effective option for the Armed Services' requirements. The study showed that, for the same price, the V-22 could provide better performance for seven different military missions—including everything from the Marines' amphibious assault and hostage rescue missions to the Navy's combat search and rescue.

The IDA study also demonstrated the V-22's superiority for another grave national security requirement—drug interdiction. At equivalent cost, one V-22 proved far more effective than two helicopters in retrieving evidence and helping to deploy law enforcement personnel on drug-interdiction missions.

And the V-22 also provides critical capabilities that no helicopter offers. Because of its superior speed, only the V-22 would also be able to actually track and intercept the small aircraft favored by drug smugglers.

There are also promising domestic commercial uses for tiltrotor technology. Emergency services are enthusiastic about use of tiltrotor for Medevac services and emergency transport. Air freight businesses look to tiltrotor as a great innovation for their industry. Commuter shuttle airlines are eager to see tiltrotor technology used to move people from downtown to downtown.

America's air capacity has been stretched to its limit—threatening air safety, efficiency, and the environment.

Expanding that capacity will cost billions. Dallas/Fort Worth Airport is planning a $3.5 billion expansion, Denver is building a new $2.3 billion facility, New York is debating a multibillion-dollar expansion of JFK Airport, and Chicago is considering the construction of a new airport.

The V-22 offers a promising solution to relieve pressure from some of America's most overcrowded airports. Nearly half of all flights at the Nation's 10 busiest airports are less than 300 miles—ideal range for the V-22. And tiltrotor aircraft have flown from New York to Washington in 45 minutes.

In addition, because of its vertical takeoff and landing capabilities, the tiltrotor's vertiports can be sited on a football field-sized parcel of land right in or near the downtown of a major city. Because of their lower construction and maintenance costs, the FAA has begun studies for vertiports in several U.S. cities.

The V-22 also offers security to protect against the erosion of America's role as a leader in world trade. America's aerospace industry has the highest positive trade balance of all major U.S. industries—and there is considerable foreign interest in the V-22 program.

In fact, the Japanese trade minister said, "If you build it, we will buy it. If you don't build it, we will."

That is no idle threat. Ishida Aerospace Research, a Japanese company, is building a 20,000-square-foot facility for aircraft research and development at Fort Worth's Alliance Airport to build the TW-68 tiltwing aircraft right in the backyard of the Texas V-22 plant. A European consortium named Eurofar has also begun design on similar aircraft.

As of June, there were four V-22 being tested in Delaware and Texas that logged a total of 161 flights and 162.7 flight hours. In time, the V-22 testing program will include two more aircraft.

Now, as 8 years and 2 billion dollars' worth of research and development investment is about to bear fruit, the Bush administration has decided to tear the program out by its roots.

We can not afford to let tiltrotor technology become the next VCR fiasco. Americans have developed the technology—we should not let it slip away.

Tiltrotor technology and the V-22 allow us the opportunity to address many of our national security threats at once.

Mr. ARMEY. Mr. Speaker, I am a strong supporter of the V-22 *Osprey,* an aircraft which I believe will greatly enhance America's defense.

With the collapse of the Warsaw Pact, we can gradually reduce our defense spending. The specific threats that have concerned United States policymakers for many years—namely, a Soviet invasion of Europe or the Persian Gulf region—are much less likely today than they were even a year ago. This allows us to cut our defense

budget a certain amount, and I can understand my colleagues' enthusiasm for these reductions.

Nevertheless, other threats remain. The Third World, in many places, remains quite turbulent. We can expect continued activity by terrorist groups. There is a need to aggressively combat international drug trafficking. Recent events in Panama demonstrate the types of missions that the United States military will be called upon to perform in the post-cold-war world.

I would suggest, Mr. Speaker, that the V-22 is uniquely qualified to help our troops perform these missions. It is exactly the kind of military system we will need as the threat of major conventional war recedes.

The V-22 can fly twice as far, twice as fast, and with a third more payload than any available alternative. One can imagine what that added capability would mean in situations like the Panama invasion, The Grenada operation, the *Mayaguez* rescue. At Desert One, when our troops were attempting to rescue our diplomats held in Tehran, an aircraft like the V-22 could have prevented a debacle.

Mr. Speaker, the V-22 is not a budget issue; it is a defense issue. We should not deny our troops an aircraft that is ideal for the situations they may be asked to face in the years ahead.

GENERAL LEAVE

Mr. WELDON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order today.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

THE PEACE DIVIDEND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GEREN] is recognized for 60 minutes.

Mr. GEREN of Texas. Mr. Speaker, I yield to the gentleman from New York [Mr. HOCHBRUECKNER].

□ 2100

Mr. HOCHBRUECKNER. Mr. Speaker, actually the break probably came at a good time. I was getting a little excited, because when we see a technology killed in its infancy, it is bothersome. And that is what is going on here, just as magnetic levitation trains were killed by an administration back in 1976.

We are going to have magnetic levitation trains across this Nation in the years ahead, make no mistake about it. With any train that can move at 300 miles an hour and consume less energy per passenger than any of the existing technologies, you had better believe that is going to be the mode of transportation of the future. So magnetic levitation is going to happen, I say to the people of the United States, and probably most of us in a very few years will have the opportunity to ride on a train that is suspended above the track by electromagnetic forces and moves out at 300 miles an hour. That is the kind of technology that we will be seeing.

And certainly on the subject of computer chips, as I said earlier, that was our field. We invented them. But as of 4 years ago, the Japanese were exporting more computer chips than we were, and that was our technology.

We have an opportunity to get back in the game with magnetic levitation. The gentleman from New York [Mr. MRAZEK] is promoting the legislation, along with Senator MOYNIHAN and others, to get us back in the game with magnetic levitation and let us leapfrog back into the system and be players.

We should be building those trains. Our people should be in the factories building those trains and building those tracks and installing them. We invented the technology, it is ours, we should reclaim it, and we are trying to do that.

In computer chips, on x ray lithography, I am promoting another $70 million this year to supplement the $70 million of the last 3 years to keep x ray lithography on track and to get us back in the game building the next generation of computer chips.

But we stand here tonight at this time and in this place looking at another technology that this administration wants to let slide, and that is the V-22. And here is a model of it. The gentleman from Texas [Mr. GEREN] was kind enough to lend this to me. A picture is always worth a thousand words. Look at this aircraft. It takes off like a helicopter, and once it lifts off, it then starts to rotate the engines, and in short order it converts to a conventional aircraft. It is very straightforward and very simple. We have been flying the experimental model of this for years. These aircraft today are flying.

There is absolutely no doubt that the Marines have this as their top priority notwithstanding what their bosses in the Pentagon tell them the party line is. The fact of the matter is the Marines want this plane. The military wants this plane. If you can move your people twice as far and twice as fast as the existing helicopters that this replaces, are you going to want to stay with the old technology?

If you can save the lives of your men, are you going to want this technology? Of course you are, and it is here today. It is within our grasp. We have it, we own it, we did it, it is ours.

Why are we walking away from this at a time when, as the gentleman from Pennsylvania [Mr. WELDON] points out, the dollars to build this and to put it out in the fleet and to put it in the hands of the Marines to save the lives of our sons is the same amount of money that it takes to buy the replacement technology that has already been around for 20 years?

The replacements are very good helicopters. I flew 128 flights in the CH-53. It is a good helicopter, but it is not a V-22. It cannot go as fast or as far. This is the helicopter of the future, and clearly it is an excellent example of the second level of the peace dividend. This is where we should be spending the defense dollars we are going to be spending this year.

The military needs it, it is here, and it works. It is not a dream in somebody's mind. It is real. The military wants it, the military needs it, and we should do it.

Now, the second part of this is this: Think about the uses of this aircraft. Think about how crowded our airports are today. Think about how we could move with an aircraft like this around the world. Think about the venerable old DC-3 aircraft. Probably at any airfield you go to on this Earth today you could find DC-3's. They built thousands and thousands of them. We have seen them in Tarzan movies, for Pete's sake, going way back. These are the old two-prop aircraft. They have been around forever. They are everywhere.

Well, this V-22 will be the next generation of DC-3's on this Earth, and the question comes down to this: Who is going to build them. The Japanese have told us—and the gentleman from Pennsylvania [Mr. WELDON] will certainly quote this for us and tell us who said it and when—"If you build this plane, we will buy it, and if you don't build it, we will build it and sell it to you."

Now, let us think about what is going on. Do we know what our trade imbalance is this year? We are buying in excess of $125 billion more from our trading partners than they are buying from us.

Some people may say, "Isn't that good? Doesn't that mean I get a lower price on my VCR, on my TV, or on my car?"

Yes, probably you can, but there are two sides to every coin, and the second side to the coin is this: Every product you buy overseas represents manufacturing jobs that are no longer here in this country. Certainly it is true that the administration will remind us that over the last decade 17 million new U.S. jobs were created. But only about 25 percent of those jobs are highly paid jobs, the kind of jobs we want for us and our children. Better than 25 percent of those jobs are at minimum

wage. We do not need those kinds of jobs. We need these kinds of jobs, and we should be building this plane.

When we talk about getting back in the game and being more competitive and selling products, what are we going to sell? We are not going to take back the VCR trade. That is gone. We are not going to take back the shoes. That is gone. The textiles are in trouble, and the steels are in trouble. We are fighting like crazy to regain leadership in automobiles.

But this is where we have always been strong, in high technology. This is where we should be putting our energy, putting our weight, and putting our support. These are the kinds of things we need to be selling to other nations, not weapons of destruction but weapons of transportation.

Imagine how many lives could be saved if we had a plane like this that could get into little areas where we need to evacuate people or fight fires or move equipment or move food for hungry people, starving people. This is the kind of plane that can go anywhere and do anything, and its uses are unlimited. That is why we need this plane. The military needs it, and the world needs it. The question is, who is going to build it?

The Secretary tells us that it is a great plane. He says, "We love it, but we can't afford it."

We can afford it. The Secretary asks for over $4 billion for star wars this year. There are many cuts that will be taken in that area and in many other areas. We do not need two mobile missile systems. As a matter of fact, the gentleman from Pennsylvania [Mr. WELDON] has been very shrewd in putting together a program that does not take money from any other major program. So we are not picking fights with those people who support the B-2, the SDI, and the mobile missiles. We could, but we are not.

We are saying, let us take the money from the replacement helicopters that would be bought to replace this. It makes so much sense to take that money back and say, "Look, the CH-53 was a great aricraft, we loved it, but this is today's aircraft, this is tomorrow's aircraft. This is the one that we want to invest in."

As an engineer, having worked for 25 years in aerospace engineering, I have seen a lot of things. I served in the U.S. Navy for a little over 3 years working on the most advanced electronic equipment the Navy had on its planes in that time. I have been involved in a lot of programs, the F-14, the *Tomcat*, the A-6, and a variety of other programs, and I am here to say that based on my 25 years of experience, we need this aircraft today. This Nation needs this aircraft, our manufacturers need this aircraft, and our Marines need this aircraft.

I say to the President, "Mr. President, you have done a great job in moving this world toward peace. We have to accept the fact that you may have won. Peace may happen on this Earth, and it really is time to continue to diminish defense spending."

It is also time to see to it that we take as many of the defense dollars that will be allocated for defense and that we put them into programs that are important militarily, programs like this that are important to the Marines, and it is time that we assure ourselves that we will also help produce the better mousetrap, the better product that we can sell to be more competitive as we look to the future.

□ 2110

With us and Canada in the middle, with the European Community in 1992 with no tariffs, with the Pacific rim nations, Taiwan, Korea, Japan, and then with Russia and the Eastern bloc nations getting into the game in terms of the economy, it is going to be a very peaceful, but a very, very competitive future. If we intend to compete effectively, we have to have the better programs, the better systems, the better products, the better mouse traps, and that means we have got to invest the money to make those products that we can get out there and sell to the world.

Mr. Speaker, I see no better example than the V-22 *Osprey*. So, I say, "Please, Mr. President, Mr. Secretary, help us find that money, make those little mind switches that are necessary to get the V-22 program approved. The Marines will love you. Certainly the people of this Nation who will be holding these highly paid, highly skilled aerospace jobs building the V-22 will love you, and we could all go hand in hand into a much more peaceful, and competitive and successful future."

Mr. GEREN of Texas. Mr. Speaker, I want to thank the distinguished gentlemen from New York [Mr. HOCHBRUECKNER], my colleague, for his outstanding remarks.

Mr. Speaker, supporters of the V-22 *Osprey* aircraft were given a big surprise and a big disappointment last week when Secretary of Defense Cheney decided to ignore a study commissioned by his own Department of Defense which supported our arguments, the arguments that we have been making for months and for years for the V-22 *Osprey*. In spite of the reports, unequivocal support for the V-22, Mr. Cheney has said that he will not change his mind and that he will continue to oppose the V-22 *Osprey*.

Mr. Speaker, only Mr. Cheney knows why he refused to consider that report, why he continues to ignore the facts.

Mr. Speaker, the Institute for Defense Analysis last week told us that the alternatives that have been proposed by the Department of Defense are alternatives that do not measure up. They do not stack up against the capabilities of the V-22, and they cannot match its cost advantage or its capabilities. The study showed that the tiltrotor aircraft is faster, more versatile, more cost effective than all of the competitors. In doing so, the IDA study proved what we have been saying all along, that there is no alternative to the V-22.

Mr. Speaker, Mr. Cheney agrees that the V-22 offers extraordinary capability. Those are his words. But he argues that existing aircraft can fulfill the special needs of the Marines and other military branches who have been counting on the *Osprey*.

Testimony month after month has shown that not to be the case. The Marines do not want the alternatives. The Marines want the V-22.

The IDA report proved the V-22 to be more cost effective. Mr. Cheney argues that the cost of the V-22 is too high, that funding the tiltrotor aircraft would require too much of a tradeoff for the armed services. Mr. Cheney certainly should be commended for his commitment to reducing the budget deficit. He understands the gravity of the threat that our country faces from fiscal excesses that have stacked up 12,000 dollars' worth of debt for every man, woman, and child in this country. The budget crisis is a disease that we must attack, and we must attack forcefully, and it is a disease we have ignored too long. And we must administer the cure before it gets totally out of control.

However, Mr. Speaker, I say, "Mr. Secretary, the V-22 is not part of the problem. The V-22 is part of the answer."

Right now the battle for the V-22 is being fought in the Committee on Armed Services of both the House and the Senate. Certainly that is where the future of the V-22 will be decided. Testimony over the last several months has shown convincingly that the V-22 will, one, first, and foremost save lives, will save the lives of our marines that risk their lives and offer themselves for the defense of our country. The testimony has shown unequivocally that this aircraft can do things that the alternatives cannot do, and the testimony has referred to the alternative, and I quote the highest ranking members of our Marines who have testified in front of these committees and referred to the alternative as ridiculous, and in direct response to our Secretary's criticism of this program, our secretary's criticism which says that this is too costly, the IDA study proves conclusively that the V-22 not only saves lives, not only provides the marines the capability that they need, but, Mr. Speaker, the V-22 saves money.

The military issue, the military issues that we are discussing tonight, that we have discussed over the last several months and several years, is really only one part of the V-22 story. Today in Congress we hear a lot about a peace dividend. Mr. Speaker, the V-22 is part of the peace dividend. It is a peace dividend sitting right in front of our very eyes.

We talk a lot about conversion. How are we going to take this industry that we have attracted the finest workers in America into, our defense industry, and we make defense weaponry and defense technology superior to anything made, manufactured, sold anywhere in the world—we make the best. What are we going to do as this defense budget shrinks? What are we going to do with those fine workers who have devoted their lives to this high technology industry we have in this country? We are in front of this Congress and all across this country asking about what is the next stage in regard to this part of our industry. How are we going to convert? The word around Congress is "conversion."

Well, Mr. Speaker, this is conversion. This is the dream that all of us have, that we can take these highly qualified workers, that we can take this American technology and turn it into American preeminence in one more area of high technology.

Mr. Speaker, the V-22 is a peace dividend. Mr. Speaker, the V-22 is conversion.

Rarely do we get an opportunity to glimpse the future. Well, on April 25 of this year we got a glimpse of the future. It landed right on the steps of this Capitol, the XV-15. The prototype of the V-22 landed there. It was there for every Member of Congress and literally thousands of visitors to our Capitol to see. It landed there in the early morning hours, and it put on a demonstration at lunchtime. We saw the future of civil aviation on the steps in front of this Capitol. We saw a demonstration of what civil aviation is going to be in front of our very eyes.

Since the days of the *Kitty Hawk*, since the days in which the Wright brothers launched the first airplane, America has been preeminent in aviation technology. We have led the way. It is an area where we have a positive balance of trade. Unlike so many other areas, many areas that my distinguished colleagues from Pennsylvania and New York have discussed, areas in which we were once preeminent and given them up, aviation technology is an area where we are still preeminent.

Mr. Speaker, the next step, the next leap in aviation technology, is the V-22 *Osprey*. The civil applications of it are as unlimited as our imagination. In the Aviation Subcommittee we had days of hearings in which we discussed the civil application. We had people come from all over the country and tell us why they need the V-22. The New York-New Jersey Port Authority talked about the advantages it would provide for urban areas in which the airports are choked with their own heavy congestion as well as being crowded out by the neighborhood growing up around them. Urban center transportaiton, that is what the V-22 offers for us.

Look at the amount of money we are spending trying to expand airports around this country. In my hometown the Dallas-Fort Worth Airport is about to spend $3½ billion to expand that airport, expand it to continue to serve the growing needs of the public, but expanding it against the threat of neighbors who want to stop that expansion.

□ 2120

They do not like the noise. They do not want to see this airport and its use work its way into their neighborhoods and into their communities.

Mr. Speaker, the V-22 solves that problem. The V-22 can give the capability that our crowded urban airports need without having to expand runways and without having to add any noise burden on the people who live around these airports. The V-22 is already capable of performing at the noise levels of our stage 3 aircraft. The V-22 could fly in and out of any airport in this country. The neighbors would not know it came in, they would not know it left.

Denver is about to spend $2.3 billion building a new airport. It is crazy to think that we cannot afford the V-22 when we look at the cost of the alternatives.

The uses in drug interdiction, right now drug interdiction is an operation that requires three aircraft. We have a chase plane to follow it. You have another plane that provides surveillance, and then you hope that where they land is close enough where you can get a helicopter to it, because if you try to land with that chase plane, they are going to pull a truck in front of you and you are going to have to go and find a place to land elsewhere.

The V-22 can serve all three missions. Our President has ordered our armed services to join the war against drugs, and I certainly commend him for that. There is no greater threat to our national security than drugs and what it has done to our youth and what it holds as a threat to our Nation. The V-22 can help meet that threat. The V-22 can help our Department of Defense meet that threat. The V-22 is the tool that we need. Our Coast Guard has testified about its usefulness. We need the V-22 in the war against drugs.

The last year has showed us in a very painful way the cost to our environment and the cost in dollars and cents in our efforts to clean up the problems that are the result of the lack of a proper technological response to oilspills.

About a year ago we all watched with horror as the *Exxon Valdez* released its cargo into the beautiful pristine harbor of Alaska.

Recently, my home State of Texas watched with dismay and with grave concern as we watched the *Megaborg* burn off our coast, worried that it was going to break up, worried that it was going to spill its millions of gallons of pollution into our waters and on our coastline. The V-22 could have helped us meet the challenges of both those disasters.

The V-22 could have gotten to the *Exxon Valdez* instantly and could have surrounded that tragic spill with buoys. The V-22 could have taken firefighting equipment and buoys and equipment that we needed to meet the challenge of *Megaborg*.

Oilspill technology is crying out for the V-22.

As we sat in our Aviation Subcommittee hearing, we listened to people from around the world tell us how important the V-22 is to the island nations of this world, nations that are scattered over many islands, our own State of Alaska, scattered over many islands, and our neighbors in the Caribbean.

The V-22 tiltrotor technology could hook up these islands, could provide commerce, could provide freight transportation, and could allow these parts of the world to develop and to become active and dynamic parts of the world community.

Medical emergencies, the uses of the V-22 in medical emergencies is obvious.

Hostage operations, such as the gentleman from New York [Mr. HOCHBRUECKNER] mentioned, the tragedy of the Desert One operation could have been avoided with the V-22. Some of our military victories could have been enhanced with the V-22. Our invasion of Panama, we were fortunate then that we were able to launch an invasion of that country from our own airbase located in that country. We do not have the luxury of a neighboring airbase in many of the potential trouble spots of this world. The V-22 allows us to launch an invasion from over the horizon, would have allowed us to invade Panama from south Texas.

Mr. Speaker, the applications of the V-22 are as limited as our imagination.

Is this a trade issue? You bet it is a trade issue. It is an American trade issue. We invented the VCR. We started the semiconductor industry. We started the TV industry. We do not make them anymore.

We have invested over $2 billion in the V-22 technology, and as I mentioned earlier, the aviation industry is

one of the areas where we continue to be preeminent, one of the areas where we do have a positive balance of trade.

Mr. Speaker, it would be a tragedy if we let this slip offshore. Yes, it is a trade issue, and yes, as our Government considers the future of the V-22 we in our law in 1988, commended that we consider the trade implications.

Is this a job issue? You bet it is. Right now there are thousands of jobs that are supplied to men and women working on the V-22, high-technology, high-paying jobs. When the V-22 goes into full production, we are talking about tens of thousands of jobs, tens of thousands of high-paid, high-technology American jobs.

Mr. Speaker, as we look to the future of our country, we have to make a decision on what kind of investment we are going to make in the American worker. Are we going to make an investment that is going to allow the American worker to continue to produce high-quality high-technology goods that sell all over the world and allow us to maintain a standard of living that dwarfs the standard of living of any other country in the world?

Mr. Speaker, that is what the debate over the V-22 is all about. The V-22 is just one example. We have got to invest in the American worker. We have got to invest in American technology. We have got to invest in American capability if we are going to stay preeminent in this world and if we are going to maintain our standard of living. The V-22 is the most obvious opportunity we have before us today.

We will have a V-22. We will have tiltrotor technology. We are not here today and we in Congress are not debating that issue. We are going to have the tiltrotor. The FAA, when they testified in front of the Aviation Subcommittee, did not talk about if we have tiltrotor what it is going to mean to civil aviation. The FAA talked about when we have tiltrotor, what is it going to mean to civilian aviation. They are already planning for it. They are already spending millions of dollars to get ready for the day when we have tiltrotor technology, so it is important that we understand, we are not debating if, we are debating who.

The Japanese Trade Minister came to the district that I represent, came to Bell Helicopter to see what this marvelous aircraft could do. He watched the V-22. He watched it take off. He watched it land. His message was very simple. He summed up the heart of this debate. He told the people at Bell Helicopter, he said, "If you make it, we will buy it. If you don't, we will build it."

Mr. Speaker, I am proud to represent an area that has played a major role in the advances in aviation technology from the beginning of the aviation industry.

Most recently the proud workers of the district I represent have been making the F-16, the finest fighter plane in the world. It was a product that began as an idea and is now sold all over the world and has produced tens of thousands of jobs, not only in Texas but all over this country.

Mr. Speaker, the V-22 has an opportunity to have that same impact, not only on the district I represent, but all over this country. This is a product of which the people who work on it are very proud.

All of us who have worked in Congress for the V-22 have been proud to stand in front of our colleagues and fight for a program that means so much to the people who work on it, and it is not just a job to those people. If it were just a job, you would not have them taking their vacation time to come up here and make the case to many Members of Congress.

□ 2130

You would not have them writing, and I am not talking about, hundreds of letters, but tens of thousands of letters. They know what they are doing is not just putting bread on their table, but certainly that is important. They know that they are building the future. They know that they are part of aviation history, and they are proud of it.

The people at Bell, the people at Boeing, the people at Allison, the contractors all over this country are proud to be part of the aviation history of this country. They are proud that they have been a part of an advance that has been considered the greatest advance since the jet engine, and they deserve to be proud. They deserve to have us stand behind them. They do not deserve to be let down. They do not deserve to spend the rest of their lives watching our country buy V-22's from some other country.

Mr. Speaker, the tiltrotor will be built. The question before us is very simple. Mr. Matsunaga summed it up very well, and I will sum it up a little differently. The issue before the U.S. Congress is when the tiltrotor is built, when the V-22 is built, what is it going to say on the hull. Is this hull going to say "Made in the U.S.A.," as this model was as the four aircraft that are flying around, or is it going to say "Made in Japan" or "Made in Europe" or made somewhere else? That is an important question for us to answer. It is a question where the only answer is in the affirmative. We have got to stand behind this technology. We have got to stand behind the American people that are so proud of this advance. We have got to stand behind the V-22. The Marines need it. Our military needs it. The future of aviation technology in this country needs it.

I appreciate the chance to share these words with everyone tonight. I now would like to yield to my distinguished colleague, the gentleman from Pennsylvania [Mr. WELDON], who has worked so hard, has provided dogged determination to make sure we do not make a mistake with the V-22, and who has carried the fight across the country, throughout the halls of Congress, both recognizing the military potential and advocating it and, in his position on the Committee on Armed Services, but also recognizing the tremendous civilian application.

Mr. WELDON. Mr. Speaker, I thank the gentleman for yielding.

I would just like to comment on some of the points that he has made here, and perhaps we can have a little bit of a dialog, a discussion about some of these points the gentleman is very eloquent in discussing.

I think the very pointed comments of Mr. Matsunaga, who is the Japanese Minister of International Trade, who visited the district of the gentleman from Texas [Mr. GEREN], and as the gentleman from Texas [Mr. GEREN] has pointed out, he made a very prophetic statement. He was so impressed with the technology that the Japanese have openly said that they are champing at the bit to buy this aircraft. Their country is choked with congestion. They need it for their transportation. So muich of their country is mountainous, and the urban areas need a way to move to their cities quickly. They need to be able to transport people and materials. This is that technology, and what he said is that, "When you build it, we will buy it, not just for defense purposes but for the civilian application that this aircraft offers, but if you do not build it, we are going to build it, and we will sell it back to you." That is a statement.

But let us look at what has happened. In the last 5 years we have seen two Japanese consortiums formed for the sole purpose of building a tiltrotor aircraft. We have documented in committee hearings and on the record that these Japanese companies have hired away American engineers who worked for the Bell Textron Co., in the district of the gentleman from Texas [Mr. GEREN], developing this technology that America has spent over $2 billion in developing.

The aerospace companies in Europe and the combined forces of the European nations have come together to form Eurofor, and Eurofor has as its top priority the mission of developing a tiltrotor aircraft that Europe can build themselves and not just use in their own hemisphere but sell throughout the world as well.

So there are concrete plans and actions underway to take this competitive edge away from America. But by

everyone's estimate, we are at least 5 and perhaps 10 years ahead of any competitor at this point in time. We have invested over $2 billion of public money in this technology for the Marines and for the Special Forces, and while we have been developing it, we have had the FAA certify it, the first time we have done that on a military program. People would say, "Why have not the private sector companies put their money into the picture, into the game?" And they have. We have documented on the record that Bell and Boeing and Allison and other major companies involved in this technology have invested hundreds of millions of dollars of their own money without taxpayer support to tool up and to prepare for the kind of infrastructure necessary to mass produce this aircraft. So the private investment has been there. It has been a cooperative effort. Is now the time to take this investment, to take this technology and give it to the Japanese, give it to the Europeans, and 15 years from now have us buying this aircraft back for all the commuter transportation systems in this country? What a shortsighted decision, especially in light of the fact that militarily on the record we have proven that using the worst possible assumptions, the alternative proposed by Secretary Cheney is in the same dollar range as the V-22, no difference, because we are talking about having to buy twice as many of the existing helicopters which, in 20 years, will be 40-year-old technology as opposed to this brand new concept, this tiltrotor concept, this ability that has the latest avionics system that can fly in the most inclement weather, that can handle all the other problems associated with a Marine amphibious landing, that we have the potential to implement this technology today, as the gentleman from Texas [Mr. GEREN] and the gentleman from New York [Mr. HOCHBRUECKNER] and everyone has said. We are not talking about pie-in-the-sky ideas. We are not talking about one plane that has flown two times. We are talking about a technology that is demonstrated, that has over 200 hours of solid flying time, that has been proven time and again that it is living up to all of its expectations and meeting and exceeding all of its performance requirements.

As a matter of fact, an important point that I wanted to make to the gentleman from Texas [Mr. GEREN] here this evening is that the V-22 is the only major weapon program that is on schedule and within budget when DOD stopped the procurement contracts, the only major weapon program that was on schedule and within budget. In addition, it is the only major acquisition program that remains technically sound and without any forecasted what we would call show-stoppers, major problems that could halt the production, the only program.

Finally, it is the least expensive of all the major weapons programs that the Secretary of Defense has kept in his budget or that have been challenged by Members of this body and Members of the other body, the LH, the B-2, the A-12, the ATF, the C-17, the *Seawolf*, all of which have their own merits, but this is the least expensive of all of them.

I would ask my colleagues not to buy the rhetoric of the Pentagon that this program is an add-on, because, remember, we are proposing to fund this program within the existing dollars that the Secretary has placed in his budget to buy the alternative aircraft to meet this need.

The exact figure in this fiscal year that is being requested is $485 million. We are proposing an R&D and procurement figure that totals $403 million, substantially less than the amount requested by the Secretary for the alternative aircraft.

In adddition, we are continuing to support the heavy-lift requirement that the Marines have and can use that extra money to buy the heavy-lift helicopters that, in fact, need to be available for the heavy-lift requirements of the Marines.

So, contrary to what the Secretary has said in the national media, this is not an add-on. This is not a pork program. Mr. Secretary, if it is a pork program, I would ask you to, please, identify what you call $24 billion of a purchase of additional helicopters over the next 20 years to be built in the State of Connecticut; is that not pork to the Members of Congress that represent that State? Or would you call that some other name?

This program is about common sense. This program is about the men and women who serve in our military. This program is about those marines who are being asked to be on the cutting edge of those situations that jeopardize our freedom and that puts their lives in jeopardy. We cannot afford to give them anything less than the best, especially when we can do it within the budget framework established by the Department of Defense this year.

Let me just say in closing, before I turn it back to my colleague and thank him for his outstanding comments, that I do not blame the Secretary of Defense alone for this decision. As a matter of fact, I lay the bulk of the blame at the pencil-pushers in the Pentagon who, for the most part, do not have the combat experience or responsibility, who have to come up with the budget numbers. What is a tragedy, in my mind of the highest degree, is that the highest commanding officers of our Marine Corps have never had the opportunity to state their case directly to Secretary Cheney.

□ 2140

In all of these deliberations, General Gray has not had the opportunity to sit down one on one and face to face with the Secretary of Defense to convince him of the shortcomings of this decision. Yet the same people who pushed the pencils and who developed the budget numbers were given full access to the Secretary and were able to convince him that cutting the V-22 was the right decision.

As a member of the Committee on Armed Services, I know this feeling is shared by a lot of Members. I have a severe problem with that, because when those marines are being sent around the world, I am not going to rely on the pencil pushers to protect their lives and to guarantee their safety. I am not going to have those pencil pushers go to the families and the homes of those young men who risk their lives and give their lives to explain what happened. I think it is absolutely ridiculous that we would allow in the Pentagon operation these people to have access to the Secretary to convince him to make this kind of a decision when the leading officers of our Marine Corps and our Special Operations Forces were not given the same consideration. I think that is absolutely atrocious.

As a member of the Committee on Armed Services, I will continue to raise that issue long beyond the issue of the V-22.

Finally, I would like to submit for the RECORD a letter sent to me unsolicited from a young American who has worked for the last year in Japan. She is not from my district and I do not know her and have never met her. She sent this letter to me after reading about the debate on the V-22. In this letter, if I can paraphrase it, but I will submit the letter for the RECORD, she talks about America losing its preeminence in technology. She talks about what she is seeing in Japan in terms of their technology and specifically tiltrotor.

What she says to me, and I will quote:

> The V-22 *Osprey* is a quintessential example of such high-level technologies in which the United States has a chance to maintain its technological lead.
>
> If we do not continue to develop it, the Japanese are already on the path to developing it, building it, and selling it to us in the years ahead.

Representative CURT WELDON,
Cannon House Office Bldg.,
Washington, DC.

REPRESENTATIVE WELDON: I am writing about the V-22 Osprey project which I have heard is in danger of termination.

I am an American researcher from Carnegie Mellon University in Pittsburgh, Pennsylvania. I am currently spending one year at the Electrotechnical Laboratory (ETL) of the Japanese Ministry of International Trade and Industry (MITI). The ETL is one

of Japan's top research laboratories in the field of electrical engineering, computer science, and artificial intelligence.

I have made several extended visits to The Electrotechnical Laboratory over the past ten years and I have been deeply impressed with the priority support that the Japanese government has targeted for new technologies. I have seen that the U.S. government has steadily backed down from these very same projects and consequently has condemned American industry to a second-rate position in the industrial fields which are clearly becoming prominent in the 1990's.

The U.S. has lost its preeminence in many areas of technology and is rapidly losing in remaining areas. However, we may still be able to maintain a strong position in high-level value-added products, foremost among which are the aviation and computer technologies. The V-22 Osprey is a quintessential example of such high-level technologies in which the U.S. has a chance to maintain its technological lead.

The V-22 Osprey, developed in the U.S., blazons the path for future generations of military and commercial aircraft. Thus it is a valuable national asset, the loss of which poses a major economic and defence risk for our nation. Please realize that the loss of the V-22 Osprey would represent an irrevocable sacrifice for our technological competitiveness.

Yours sincerely,

MONICA STRAUSS.

Mr. GEREN of Texas. Mr. Speaker, I yield to the gentleman from the State of New York [Mr. HOCHBRUECKNER].

Mr. HOCHBRUECKNER. Mr. Speaker, one of the points that was made before that I would just like to highlight again for the people of this Nation is when it was stated, as the gentleman from Pennsylvania [Mr. WELDON] just did a few minutes ago, aerospace preeminence and certainly jobs in the United States, I am reminded when one looks at who dominates the commercial air space today, it is Boeing jets. In fact, Boeing today has about an $85 billion 5-year backlog in terms of commercial jet orders in airlines around this world.

I am under the impression that Boeing, for example, is the third largest exporter in terms of items from the United States in dollar value of aircrafts that they sell. When one thinks about that, if we are going to be competitive, clearly we need to maintain our preeminence, and we need to also go with our strength. Clearly our strength is in aerospace.

We have seen emerging industrial nations in a variety of areas take over the lower technologies. Clearly aerospace is our forte, and it is a forte that we must fight to maintain.

There is no doubt in my mind as Boeing jets dominate the commercial air space today, it will be the V-22 *Osprey* which dominates the commuter links and the short-run hops of the future.

As was rightly pointed out, it will be built. They will be there. They will be used. V-22 will be our future. The question is, as so rightly pointed out, will it be our people and the factories building those aircraft and selling them to others, or will it be others in other nations building them and selling them to us?

I think the direction is clear. It should be Americans building this American technology. It should be we who bring home the paychecks from building those machines, a wonderful, great machine.

I think it is a tribute to the Kittyhawk that we carry on with this one, too, and show the world what America has to offer.

Mr. GEREN of Texas. Mr. Speaker, we have had people bring up to us the plans that the Japanese group has to begin civilian production of vertical takeoff and landing aircraft. These people have said well, if the Japanese can do it, why can't we do it? Why do we need the Government?

Well, there are two answers to that question. One, the Japanese do not do it without their government's help. Every significant aviation advance in the history of aviation has come through the military. The civilian aviation industry does not want anything until you give the marines a chance to break it, a chance to build confidence in that aircraft. That is the route all of the aviation advances have taken over the last several decades.

The second point is how can the Japanese afford it when we cannot? Well, the answer to that is embarrassingly simple. It was alluded to by the gentleman from Pennsylvania.

We have invested over $2 billion in this program. The Japanese know an easy way to get where we are. They come over here and hire our scientists, our engineers that have done the research. So for whatever it costs in a salary to hire that person, they leapfrog up and catch up with us.

So once again we have an example of a multibillion-dollar investment that is bought on the cheap by foreign countries who see a quick way to take advantage of what we have done.

The group who is planning to build the vertical takeoff and landing aircraft, the Japanese group, 80 percent of its engineers are Americans. Eighty percent of the Americans worked on the V-22. So for the cost of those salaries, the Japanese believe they are going to be able to purchase this. It may be one penny on the dollar, or one penny on $10, the American investment in vertical takeoff and landing technology.

The V-22 is in production currently, and I would like to recognize the gentleman from Pennsylvania [Mr. WELDON] to talk about a Korean version of the V-22 that is in production. As a matter of fact, 535 models of the V-22 that were produced overseas were delivered into Washington, DC, within the last 24 hours.

Mr. Speaker, I would like to yield to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, it is appropriate that this day, which we have appropriately designated as V-22 Day, was the beginning of the process here on the Hill to work the issue on the House and Senate Defense appropriation authorization committees. We had hundreds of people from throughout the country here on the Hill today, as my good friend knows, not just people who are working on the program from the major companies and the subcontracting companies, but ordinary citizens who took time off from work to come down here because they believe in this technology.

We had retired marine officers. I had two in my office this morning. We had members of the Marine Corps working the Hill because, as the 64th annual convention of the Marine Reserve officers put it just recently at their national convention, passing a resolution in support of this aircraft, retired marines believe this is necessary for our current marines.

We had UAW members from all over the country, UAW leadership, from Owen Bieber on down, working the Hill, talking to Members of Congress, talking about the potential for 10,000 new jobs. We had steelworkers. We had members of the building trades, saying America needs to continue to build this new frontier technology.

We had people from the academic world, professors, people involved in transportation planning, working the Hill talking about the need for this aircraft because of its commercial potential.

All of these people visited Members of Congress. We had prepped them because, as my good friend alluded, we had sent around a model, a very in-depth scale model I have here of the V-22 *Osprey,* that according to all the hobby shops in the area is the hottest seller they have. They cannot keep it in stock.

This is a great model. It is exactly like the V-22 in every respect. I would encourage all Members to have their childen or their staff construct it to display on their desks.

There is only one problem with it. If you look on the side of the box, it says, "Made in South Korea."

Well, we do not care if the South Koreans build the model. We do not care if the Japanese build the model. We do not care if the Europeans build the model. We want to build the real thing.

I thank my colleague and all of our colleagues who have joined with us in heightening the awareness of this issue. I say to my good friend, whom I admire and respect very greatly, Dick Cheney, that we have only begun to fight, and we are going to keep telling

the facts and putting the cards on the table.

There are no smoke screens on this issue. As we have placed on the record of the Committee on Armed Services over the last several months and on my good friend's Committee on Public Works and Transportation, the facts speak for themselves. We have made a bad decision. We have got to reverse that. This body has got do that, and we will do that this year. We will work with our colleagues in the other body and we will work to protect the lives of our marines and our Special Forces and protect America's competitive edge.

□ 2250

Before I finally yield back to my good friend, I would like to include statements of my colleagues who would have been with us here tonight but because of the lateness of the hour and the adjournment of the House could not, specifically Mrs BENTLEY, Mr. BLAZ, Mr. SOLOMON, and Mr. ROE. There will be others that will be covered by the 5-day privilege, but all of these individuals have submitted written statements and others will be submitting them.

Mr. Speaker, I thank my colleague for this special order.

Mr. GEREN of Texas. I thank my colleague from Pennsylvania.

Mr. Speaker, I would also ask to include statements of our colleagues, Congressman MARTIN FROST, Congressman GREG LAUGHLIN, and Congressman JOHN BRYANT, as well as include an editorial written by Donald Engen, former Administrator of the Federal Aviation Administration.

The editorial referred to follows:

[From the Philadelphia Inquirer, July 6, 1990]

GET THE OSPREY OFF THE GROUND

(By Donald D. Engen)

More than six decades after the aviation community began working on the concept of vertical flight, the United States is on the verge of applying its benefits in a commercially viable aircraft that not only will transform the way we fly but relieve the congestion of our civil aviation network.

Hard though it may be to believe, the federal government now seems uncertain in its resolve to take the final steps that will move this achievement from possibility to reality.

The advantages of flying machines that could rise from and descend onto small spaces were obvious even to the pioneers of the aviation world, who never imagined, much less needed to contend with, airport shortages and runways lined end-to-end with planes.

The autogyro was developed in Spain and the technology was brought to the United States where it was more fully developed by Harold Pitcairn in the late 1920s. His dream and hard work paid off in the development of the rotary "wing." Helicopters with controlled rotary wings and a true vertical flight capability were subsequently developed by Ignor Sikorsky.

Despite its versatility, one thing helicopters could not do very well was carry passengers. To be sure, choppers could ferry a handful of people very short distances. But due to their limited range, speed and seating capacity, they could not compete with bigger, faster airplanes.

Tilt-rotor flight—which combines the vertical capabilities of a helicopter with the in-flight characteristics of an airplane—will solve this problem. With the rotors operating parallel to the ground, tilt-rotor aircraft take off and land like helicopters. But when their rotors pivot and are perpendicular to the ground, they fly like airplanes, and at speeds in excess of 300 miles per hour, double the speed of a helicopter.

It is one of the curiosities of the aviation business that those of us who want to improve the quality of air transport spend so much time thinking about the ground; that's because so much of an airplane trip actually involves time spent there.

On trips of 700 miles or less, most of a traveler's time is spent on the ground—getting to and from the airport; waiting at the airport for the plane to take off, holding for a gate once the plane has arrived. The shorter the trip, the higher the proportion of ground time—and the more beneficial tilt-rotor travel would be.

Tilt-rotors will enable us to fly from city center to city center—landing and taking off from small spaces on tops of buildings or in parks and flying between cities as an airplane—without first having to travel miles to get to the nearest airport. As a result, tilt-rotor travel will be faster than commercial jet travel for millions of passengers. We could fly intercity, not inter-airport—at reasonably high speeds and relatively low costs.

Because of its military potential, the Pentagon and other federal agencies began funding tilt-rotor research and development decades ago. Last year, this effort culminated in the first flight of the V-22 tilt-rotor Osprey—designed by Bell Helicopter Textron, of Texas, and Philadelphia's Boeing Helicopters, for multipurpose use by all four branches of the armed forces. Unfortunately, the Pentagon has decided to kill the V-22 program for budgetary reasons. But the military program is an essential forerunner of a civil program. Without a military program, the cost of developing commercial aircraft and a tilt-rotor network will be prohibitively high; Federal Aviation Administration certification of commercial tilt-rotors will be delayed by years; and the willingness of the nation's airlines and public to embrace the dramatic technology will be severely hampered.

If Congress does not restore funding for the military programs, it is almost certain that a development that could improve air travel within the next several years may be pushed off into the next decade.

Meanwhile, the FAA predicts the number of passenger boardings will rise 68 percent, and the number of takeoffs and landing will increase by 29 percent, between now and 2001. Cumulative fight delays of more than 20,000 hours a year, which now afflict 21 airports, will choke 33 airports by 1997.

Given such a bleak outlook, delaying the tilt-rotor would profit no one—except he Japanese and European developers who would dearly love the chance to catch up to, or perhaps surpass, America's lead in tilt-rotor technology.

Like the airplane and the helicopter before it, the tilt-rotor has been developed by our government. The cost of development is high, but the potential payoff is great. The administration should step forward in lockstep and for the good of the American people continue to develop this new technology.

We have many programs before us in Congress right now that are threatened by the changes in our defense budget, and we have many of our colleagues who are concerned and rightly so about jobs in their districts, about jobs that support families, and that is a legitimate concern for Members of Congress.

But if the only issue were jobs in this environment, it is unlikely that a program will prevail, unlikely that a program will get the votes it needs to succeed.

The V-22 is about jobs, but the V-22 is about the future of American aviation, and it is about the needs of our military. Because of that reason we have Republicans, we have Democrats, we have westerners, we have easterners, northerners, southerners, conservatives, and liberals lining up in support of this program.

Yes, it is about jobs, jobs in the finest sense. Are we going to keep our American workers working to build the aircraft that will save marines' lives? Are we going to provide American jobs that are going to make sure that our marines and our armed services have the capability to meet the new threat and the challenges that we as a country, as the greatest democracy in the world, as the beacon of hope around the world is going to face in the future? Are we going to have American jobs building that aircraft? Are we going to have American jobs building an aircraft that is going to help us fight the war against drugs? Are we going to have American jobs building the aircraft that is going to allow us to meet the challenge of offshore oilspills that threaten to oil our beaches and spoil our environment? Are we going to have American workers building this aircraft that is going to allow these island countries to become dynamic parts of the world economic community? Are we going to have American workers building an aircraft that is going to allow us to better respond to medical emergencies and to hostage situations?

Yes, we are talking about jobs, and we are talking about whether or not we are going to have American workers in American jobs pushing the frontiers of aviation forward, or whether or not we are going to have jobs in some foreign country, workers in some other country pushing this frontier forward. We have a big choice in front of us, a big decision to make. There is only one right answer in this, and I urge all of our colleagues to look at this issue very closely, make sure that we make the right choice for the American worker, for the American marine, for the future of this country, for the future of American preeminence in the world of high technology.

I thank the Speaker for giving all of us the opportunity to discuss this very important issue tonight and I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JONES of Georgia (at the request of Mr. GEPHARDT) for today after 3 p.m., on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes each day, on July 18 and 19.

Mr. BARTON of Texas, for 30 minutes, today.

Mr. PARRIS, for 60 minutes each day, on July 19, 24, 25, 30, and 31, and August 1 and 2.

(The following Members (at the request of Mr. MCCLOSKEY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes each day, on July 17 and 18.

Mr. FALEOMAVAEGA, for 60 minutes, on July 24.

Mr. DYMALLY, for 60 minutes, on July 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. ROS-LEHTINEN) and to include extraneous matter:)

Mr. CLINGER.
Mr. BURTON of Indiana.
Mr. CONTE.
Mr. CRANE in three instances.
Mr. GOSS.
Mr. YOUNG of Alaska.
Mr. SPENCE.
Mr. BARTON of Texas.
Mr. GEKAS.
Mr. LAGOMARSINO.
Mr. MCEWEN.
Mr. THOMAS of California.
Mr. SUNDQUIST.
Mr. SCHAEFER.
Mr. PORTER.
Mr. GRADISON.

(The following Members (at the request of Mr. MCCLOSKEY) and to include extraneous matter:)

Mr. FOGLIETTA.
Mr. EDWARDS of California.
Mrs. BOXER.
Mr. MCMILLEN of Maryland.
Mr. CLAY.
Mr. HOYER.
Mr. BONIOR in two instances.
Mr. MILLER of California.
Mr. KANJORSKI.
Mr. HOCHBRUECKNER.
Mr. GEJDENSON.
Mr. BILBRAY.
Mr. MORRISON of Connecticut.
Mr. GUARINI.
Mr. TRAXLER.
Mr. MATSUI in five instances.
Mr. NELSON of Florida.
Mr. RICHARDSON.
Mr. MANTON.
Mr. FORD of Michigan.
Mr. DURBIN.
Mr. WOLPE.
Mr. MAZZOLI in two instances.
Mr. BORSKI.

SENATE BILL AND A JOINT RESOLUTION REFERRED

A bill and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2540. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes; to the Committees on House Administration and Public Works and Transportation.

S.J. Res. 302. Joint resolution providing for the reappointment of Anne L. Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

ADJOURNMENT

Mr. GEREN of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 56 minutes p.m.) the House adjourned until tomorrow, Friday, July 13, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3547. A letter from the Comptroller General, the General Accounting Office, transmitting a report on the status of budget authority that was proposed for rescission by the President in his fifth special impoundment message, dated April 23, 1990, pursuant to 2 U.S.C. 685 (H. Doc. 101-214); to the Committee on Appropriations and ordered to be printed.

3548. A letter from the Under Secretary of Defense, transmitting notification that the use of a competitive prototype program strategy for the development of the Kinetic Energy [KE] Anti-Satellite [ASAT] Program is not practicable, pursuant to 10 U.S.C. 2365(c); to the Committee on Armed Services.

3549. A letter from the Secretary of the Treasury, transmitting the annual report on the financial position and results of the operations of the Student Loan Marketing Association (Sallie Mae) for the year ended December 31, 1989, pursuant to 20 U.S.C. 1071 et seq.; to the Committee on Education and Labor.

3550. A letter from the Agency for International Development, transmitting the semiannual report of the Office of Inspector General for the period October 1, 1989 through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3551. A letter from the Agency for International Development, transmitting A.I.D.'s first semiannual management report on the status of audit follow-up; to the Committee on Government Operations.

3552. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3553. A letter from the National Mining Hall of Fame and Museum, transmitting the 1989 audited financial statement and copy of form 990, pursuant to 36 U.S.C. 4111; to the Committee on the Judiciary.

3554. A letter from the Secretary of Energy, transmitting the seventh annual update to the Comprehensive Ocean Thermal Technology Application and Market Development Plan, pursuant to 42 U.S.C. 9002(d); to the Committee on Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NATCHER: Committee on Appropriations. H.R. 5257. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-591). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs H.R. 5002. A bill to amend title 38, United States Code, with respect to veterans' housing and memorial affairs programs; with amendments (Rept. 101-592). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3719. A bill to establish the Florida Keys National Marine Sanctuary, and for other proposes; with an amendment (Rept. 101-593, Pt. 1). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3787. A bill to authorize a joint Federal, State, and tribal study for the restoration of the fishery resources of the Chehalis River Basin, WA, and for other purposes; with an amendment (Rept. 101-594). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3617. A bill to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes; with an amendment (Rept. 101-595, Pt. 1). Ordered to be printed.

Mr. HAWKINS: Committee of conference. Conference report on S. 933 (Rept. 101-596). Ordered to be printed.

Mr. BEILENSON: Committee on Rules. H. Res. 432. A resolution waiving certain points of order during consideration of the bill (H.R. 5241) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-597). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KILDEE (for himself and Mr. YOUNG of Alaska):

H.R. 5256. A bill to amend the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, and for other purposes; to the Committee on Education and Labor.

By Mr. NATCHER:

H.R. 5257. A bill to making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1991, and for other purposes.

By Mr. SPRATT (for himself, Mr. ALEXANDER, and Mr. CARR):

H.R. 5258. A bill to require that the President transmit to Congress, that the congressional Budget Committees report, and that the Congress consider a balanced budget for each fiscal year; jointly, to the Committees on Government Operations and Rules.

By Mr. GEJDENSON:

H.R. 5259. A bill to amend title XVIII of the Social Security Act to provide for coverage of expanded respite care services for medicare beneficiaries receiving hospice care; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. LANTOS (for himself, Mr. PORTER, Mr. ACKERMAN, Mr. BILBRAY, Mr. BUSTAMANTE, Mr. CHAPMAN, Mr. CONYERS, Mr. COX, Mr. DELLUMS, Mr. ECKART, Mr. EVANS, Mr. FAUNTROY, Mr. LEVINE of California, Mr. LIPINSKI, Mr. MCNULTY, Mr. SCHEUER, Mr. SCHIFF, and Mr. SCHUMER):

H.R. 5260. A bill to deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. SAXTON (for himself and Mr. DYSON):

H.R. 5261. A bill to amend title 10, United States Code, with respect to certain agreements entered into by the Department of the Navy; to the Committee on Armed Services.

By Mr. SMITH of New Jersey (for himself, Mr. HALL of Ohio, Mr. HYDE, Mr. COX, Mr. DONNELLY, Mr. LEWIS of Florida, Mr. MILLER of Washington, Mr. DORNAN of California, and Ms. ROS-LEHTINEN):

H.R. 5262. A bill to amend the Foreign Assistance Act of 1961 to authorize the provision of medical supplies and other humanitarian assistance to the Lithuanian people to alleviate suffering during the current emergency; to the Committee on Foreign Affairs.

By Mr. SUNDQUIST:

H.R. 5263. A bill to amend the Congressional Budget Act of 1974 to require that committee reports accompanying bills of a public character contain analyses by the Congressional Budget Office of the estimated costs which would be incurred by State and local governments in carrying out or complying with such bills; jointly, to the Committees on Government Operations and Rules.

By Mr. YOUNG of Alaska:

H.R. 5264. A bill to authorize modification of the boundaries of the Alaska Maritime National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. PASHAYAN:

H.J. Res. 621. Joint resolution suggesting an amendment to the Constitution requiring a balanced budget; to the Committee on the Judiciary.

By Mr. HOYER:

H. Res. 431. Resolution designating membership on certain standing committees of the House; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

470. The SPEAKER presented a memorial of the Legislature of the State of Texas, relative to Federal consumer excise taxes; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. MCMILLEN of Maryland introduced a bill (H.R. 5265) to authorize coastwise and Great Lakes documentation for the vessel *Impulse;* to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 290: Mr. HAYES of Illinois and Mr. BRYANT.

H.R. 381: Mr. UPTON.

H.R. 578: Mr. ROSE and Mr. DEFAZIO.

H.R. 638: Mr. ANDERSON, Mr. HOCHBRUECKNER, Mr. CLARKE, Mr. MCEWEN, Mr. LEVINE of California, Mr. GEJDENSON, Mr. ESPY, Mr. JACOBS, Mr. LEHMAN of California, Mr. SCHAEFER, and Mr. BOEHLERT.

H.R. 1054: Mr. BOEHLERT.

H.R. 1292: Mr. WAXMAN and Mr. WEBER.

H.R. 2230: Mr. HUGHES, Mr. CARDIN, Mr. HARRIS, Mr. SABO, Mr. SYNAR, Mr. BOEHLERT, Mr. MORRISON of Connecticut, Mr. INHOFE, Mr. OBERSTAR, Mr. WILSON, Mr. COOPER, and Mr. PENNY.

H.R. 2285: Mr. MARLENEE and Mr. SCHAEFER.

H.R. 2395: Mr. BERMAN.

H.R. 2460: Mr. MARTINEZ, Mr. RAHALL, Mr. KASTENMEIER, Mr. COSTELLO, Mr. CLEMENT, Mr. FAUNTROY, Mr. KOLTER, and Mr. WILSON.

H.R. 2523: Mr. JAMES.

H.R. 2649: Mr. WISE and Mr. RAVENEL.

H.R. 2816: Mr. RAVENEL and Ms. LONG.

H.R. 2942: Mr. PACKARD.

H.R. 2951: Mrs. BYRON.

H.R. 3251: Mrs. JOHNSON of Connecticut.

H.R. 3409: Mr. FISH, Mr. EMERSON, Mr. LIPINSKI, Mr. LANCASTER, Mr. TALLON, Mr. DEWINE, Mr. HUGHES, Mr. PALLONE, and Mr. SLATTERY.

H.R. 3483: Mr. MINETA.

H.R. 3488: Mr. FAUNTROY, Mrs. COLLINS, Mr. PENNY, Mr. WALSH, Mr. HORTON, Mr. MFUME, and Mr. DWYER of New Jersey.

H.R. 3643: Mr. WEBER and Ms. MOLINARI.

H.R. 3666: Mrs. BOXER.

H.R. 3690: Mr. HOLLOWAY and Mr. INHOFE.

H.R. 3719: Mr. MARKEY.

H.R. 3819: Mr. MONTGOMERY and Mrs. MORELLA.

H.R. 3914: Mr. DENNY SMITH, Mrs. COLLINS, and Mr. SCHUMER.

H.R. 3942: Mr. OBERSTAR.

H.R. 3954: Mr. FAZIO, Mr. DAVIS, Mr. THOMAS of Georgia, Mrs. ROUKEMA, Mr. LEWIS of Georgia, Mr. MAVROULES, Ms. SLAUGHTER of New York, Mr. SMITH of Vermont, Mr. SHAYS, Mr. KENNEDY, Mr. LEVINE of California, Mr. YOUNG of Alaska, Mr. HAYES of Illinois, Mr. GINGRICH, Mr. THOMAS of Wyoming, Mr. CLEMENT, Mr. SOLOMON, Mr. JONES of Georgia, Mr. PARRIS, Mr. DORNAN of California, Mr. RICHARDSON, Mr. MCDADE, Mrs. SCHROEDER, Mr. SLATTERY, Mr. KLECZKA, Mr. WOLF, and Mr. LEHMAN of Florida.

H.R. 3970: Mr. OBERSTAR and Mr. GRANT.

H.R. 4048: Mr. BRUCE and Mr. LEVIN of Michigan.

H.R. 4106: Mr. HASTERT.

H.R. 4110: Mr. HOCHBRUECKNER and Mr. ROYBAL.

H.R. 4121: Mr. STENHOLM and Mr. DWYER of New Jersey.

H.R. 4130: Mr. TRAXLER.

H.R. 4149: Mr. LAFALCE and Mr. BROWN of Colorado.

H.R. 4213: Mrs. MEYERS of Kansas, Mr. PALLONE, Mrs. UNSOELD, Mr. CHANDLER, Mr. LEHMAN of Florida, and Mr. OWENS of New York.

H.R. 4214: Mr. VISCLOSKY, Mr. SCHEUER, Mr. FEIGHAN, Mr. HOUGHTON, Mr. DURBIN, Mr. TRAFICANT, Ms. LONG, Mr. NEAL of North Carolina, Mrs. LOWEY of New York, Mr. KOSTMAYER, and Mr. RAHALL.

H.R. 4299: Mr. HORTON, Ms. KAPTUR, Mr. DURBIN, Mr. TRAFICANT, Mr. PEASE, Ms. LONG, and Mr. OBERSTAR.

H.R. 4323: Mr. SENSENBRENNER, Mr. ECKART, Mr. UPTON, Mr. PAXON, Mr. MCNULTY, Mr. DURBIN, Mr. TRAFICANT, Mr. PEASE, Ms. LONG, Mr. OBERSTAR, Mr. HORTON, Mr. EVANS, and Mr. DAVIS.

H.R. 4362: Mr. EDWARDS of California.

H.R. 4367: Mrs. KENNELLY and Mrs. BYRON.

H.R. 4401: Mr. CAMPBELL of Colorado.

H.R. 4488: Mr. EMERSON and Mr. JAMES.

H.R. 4494: Mr. GINGRICH, Mr. APPLEGATE, Mr. VISCLOSKY, Mr. CARPER, Mr. WILSON, and Mr. DOUGLAS.

H.R. 4516: Mr. WAXMAN, Mr. RINALDO, and Mr. FISH.

H.R. 4548: Mr. EDWARDS of California and Mr. FORD of Tennessee.

H.R. 4549: Mr. ATKINS and Mr. BUSTAMANTE.

H.R. 4714: Mr. MARKEY, Mrs. BYRON, Mr. MCMILLEN of Maryland, and Mr. JONTZ.

H.R. 4724: Mr. ECKART, Mr. SYNAR, and Mrs. BENTLEY.

H.R. 4789: Mr. HYDE, Mr. MANTON, and Mr. WHITTAKER.

H.R. 4824: Mr. WILSON and Mr. TOWNS.

H.R. 4831: Mr. SOLOMON, Mrs. COLLINS, Mr. LIVINGSTON, Mr. DONALD E. LUKENS, Mr. HUGHES, Mr. MCDADE, and Mr. SENSENBRENNER.

H.R. 4898: Mr. FAZIO, Mr. HOYER, Mr. EMERSON, Mr. MRAZEK, Mr. CAMPBELL of Colorado, Mr. FALEOMAVAEGA, and Mr. WAXMAN.

H.R. 4931: Mr. MORRISON of Connecticut, and Mr. SCHEUER.

H.R. 4958: Mr. RANGEL, Mr. MCNULTY, Mr. BUSTAMANTE, Mr. FALEOMAVAEGA, Mrs. COLLINS, Ms. PELOSI, Mr. EDWARDS of California, and Mr. TOWNS.

H.R. 4962: Mr. JOHNSON of South Dakota, Mr. WOLPE, Mr. NOWAK, Mr. SPRATT, Mr. BILBRAY, Mr. GEREN, Mr. GOSS, Mr. FEIGHAN, Mr. GEKAS, Mr. SMITH of Texas, Mr. BORSKI, Mr. HANCOCK, Mr. MRAZEK, Mr. PANETTA, Mrs. MEYERS of Kansas, Mr. DYSON, Mr. COLEMAN of Missouri, Mr. DERRICK, Mr. MOAKLEY, Mr. HARRIS, Mr. SUNDQUIST, Mr. KILDEE, Mr. GEJDENSON, Mr. ACKERMAN, and Mr. EMERSON.

H.R. 5000: Mr. BUSTAMANTE.

H.R. 5002: Mr. MONTGOMERY, Mr. STUMP, Mr. EDWARDS of California, Mr. HAMMERSCHMIDT, Mr. APPLEGATE, Mr. WYLIE, Mr. EVANS, Mr. MCEWEN, Mr. PENNY, Mr. SMITH of New Jersey, Mr. STENHOLM, Mr. BURTON of Indiana, Mr. KENNEDY, Mr. BILIRAKIS, Mrs. PATTERSON, Mr. RIDGE, Mr. JONTZ, Mr. ROWLAND of Connecticut, Mr. MORRISON of Connecticut, Mr. SMITH of New Hampshire, Mr. SANGMEISTER, Mr. JAMES, Mr. GEREN of Texas, Mr. STEARNS, Mr. HOCHBRUECKNER, Mr. PAXON, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, Mr. RAHALL, and Ms. LONG.

H.R. 5007: Mr. DELAY.

H.R. 5025: Mr. OXLEY.

H.R. 5028: Mr. DREIER of California, Mr. LOWERY of California, and Mr. GALLEGLY.

H.R. 5083: Mr. FOGLIETTA and Mr. PANETTA.

H.R. 5084: Mr. AUCOIN, Mr. STOKES, Mr. WOLPE, Mr. DELLUMS, Mr. MFUME, Mr. LEVIN of Michigan, Mr. ATKINS, and Mr. OWENS of New York.

H.R. 5108: Mr. WISE and Mr. RAHALL.

H.R. 5145: Mr. FAWELL.

H.R. 5150: Mr. LEWIS of California, Mr. INHOFE, Mr. GRANT, Mr. KYL, Mr. COUGHLIN, and Mr. DENNY SMITH.

H.R. 5151: Mr. MINETA, Mr. MORRISON of Washington, and Mr. LEHMAN of California.

H.R. 5156: Mr. JAMES and Mr. SMITH of Texas.

H.R. 5166: Mr. JONTZ.

H.R. 5169: Mr. MORRISON of Connecticut and Mr. RAHALL.

H.R. 5208: Mr. SYNAR.

H.J. Res. 214: Mr. THOMAS of Wyoming, Mr. DIXON, and Mr. KOLTER.

H.J. Res. 459: Mr. HUGHES, Mr. PICKETT, Mr. SOLOMON, Ms. PELOSI, Mr. MFUME, Mrs. BOGGS, and Mr. GORDON.

H.J. Res. 486: Mr. HALL of Ohio, Mr. MILLER of California, Mr. FEIGHAN, and Mr. COURTER.

H.J. Res. 507: Mr. FOGLIETTA, Mr. RICHARDSON, Mr. YOUNG of Alaska, Mr. HAMMERSCHMIDT, and Mr. DERRICK.

H.J. Res. 509: Mrs. MORELLA, Mr. SLATTERY, and Mr. NELSON of Florida.

H.J. Res. 519: Ms. SLAUGHTER of New York, Mrs. MORELLA, Mr. SOLOMON, Ms. OAKAR, and Mr. CONTE.

H.J. Res. 528: Mr. LENT, Mr. LEWIS of Florida, Mr. GREEN, Mr. GONZALEZ, Mr. DEWINE, Mr. STARK, Mr. ORTIZ, Mr. GRANDY, Mr. RICHARDSON, Mr. SOLOMON, Mr. BERMAN, Mr. CARR, Mr. ESPY, Mr. EMERSON, Mr. WALGREN, Mr. HUNTER, Mr. HYDE, Mr. JONES of North Carolina, Mr. KENNEDY, Mr. LEACH of Iowa, Mr. LIPINSKI, Mr. MCCOLLUM, Mr. MARKEY, Mr. MATSUI, Mr. MORRISON of Connecticut, Mr. GUARINI, Mr. MYERS of Indiana, Mrs. BOXER, Mr. WEISS, Mr. SOLARZ, Mr. TOWNS, Mr. RINALDO, Mr. MONTGOMERY, Mrs. MORELLA, Mr. NEAL of Massachusetts, Mr. FASCELL, Mr. GALLO, Ms. OAKAR, Mr. HAYES of Illinois, Ms. KAPTUR, Mr. LEHMAN of Florida, Mr. TAUKE, Mr. PETRI, Mr. ROWLAND of Connecticut, Mr. ACKERMAN, Mr. ANDERSON, Mr. ANTHONY, Mr. ATKINS, Mr. BATES, Mr. BILBRAY, Mr. BOEHLERT, Mr. BRENNAN, Mr. CAMPBELL of Colorado, Mr. CARDIN, Mr. CLEMENT, Mr. COOPER, Mr. DARDEN, Mr. DEFAZIO, Mr. DELLUMS, Mr. DINGELL, Mr. DORGAN of North Dakota, Mr. DORNAN of California, Mr. DURBIN, Mr. FEIGHAN, Mr. GRAY, Mr. HERTEL, Mr. HOYER, Mr. JOHNSON of South Dakota, Mr. KANJORSKI, Mr. LAFALCE, Mr. LANCASTER, Mr. LANTOS, Mr. LEWIS of Georgia, Mr. MCCLOSKEY, Mr. MCNULTY, Mr. MFUME, Mr. NAGLE, Mr. NOWAK, Mr. OLIN, Ms. PELOSI, Mr. RAY, Mr. RUSSO, Mr. SABO, Mr. SISISKY, Mr. SKAGGS, Mr. STAGGERS, Mr. STOKES, Mr. WELDON, Mr. WHEAT, Mr. TANNER, Mr. GEREN, Mr. DAVIS, Mr. STENHOLM, Mr. SWIFT, Mr. DYMALLY, Mr. BEILENSON, Mrs. JOHNSON of Connecticut, Mr. APPLEGATE, Mrs. BOGGS, Ms. MOLINARI, Mr. BROWN of California, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. DYSON, Mr. ECKART, Mr. ENGEL, Mr. FLAKE, Mr. GALLEGLY, Mr. GORDON, Mr. HUTTO, Mr. LEVINE of California, Mr. THOMAS A. LUKEN, Mr. MANTON, Mr. SAWYER, Mr. SYNAR, Mr. VENTO, Mr. WAXMAN, Mrs. BYRON, Mr. DERRICK, Mrs. PATTERSON, and Mr. ROBINSON.

H.J. Res. 532: Mr. ERDREICH, Mr. HOCHBRUECKNER, Mr. HAYES of Louisiana, Mr. MARTINEZ, Mr. BILIRAKIS, Mr. PARRIS, Mr. THOMAS A. LUKEN, Mr. HAMMERSCHMIDT, Mr. RICHARDSON, Mr. SLATTERY, and Mr. SMITH of Florida.

H.J. Res. 543: Mr. SHAW.

H.J. Res. 554: Mr. PICKETT, Mrs. MORELLA, Mr. SISISKY, Mr. SMITH of New Hampshire, Mr. MCCLOSKEY, Mrs. BOXER, Mr. LEVINE of California, and Mrs. LLOYD.

H.J. Res. 559: Mr. GILMAN and Mr. SMITH of Texas.

H.J. Res. 616: Mr. CLINGER, Mr. ROE, Mr. RITTER, Mr. HALL of Ohio, Mr. FOGLIETTA, Mr. GEKAS, Mr. MURPHY, Mr. WALGREN, Mr. MCDERMOTT, Mr. YATRON, Mr. ESPY, Mr. QUILLEN, Mr. MURTHA, Mr. FAUNTROY, Mr. HYDE, Mrs. VUCANOVICH, Mr. MOAKLEY, Mr. RAVENEL, Mr. FRENZEL, Mr. SAVAGE, and Mr. CONYERS,

H. Con. Res. 172: Mrs. BYRON.

H. Con. Res. 306: Mr. LIVINGSTON, Mr. SPENCE, Mr. HUNTER, and Mr. ROHRABACHER.

H. Con. Res. 331: Mr. DURBIN, Mr. BOSCO, Mr. LEVIN of Michigan, Mr. MCMILLEN of Maryland, Mr. HUGHES, and Mr. HORTON.

H. Con. Res. 340: Mr. MCDERMOTT, Mr. DICKINSON, Mr. BOSCO, Mr. HORTON, Mr. YATRON, Mrs. UNSOELD, Ms. SLAUGHTER of New York, Mr. FUSTER, Mr. SMITH of Texas, Mr. LEHMAN of Florida, Mr. DURBIN, Mr. OBERSTAR, Mr. RANGEL, Mr. HUGHES, Mr. SMITH of Florida, Mr. SAWYER, Mr. MCGRATH, Mr. LAGOMARSINO, Mr. HAYES of Louisiana, Mrs. MARTIN of Illinois, Mr. RAHALL, Mr. LEVIN of Michigan, Mr. EMERSON, Mr. POSHARD, Mr. DWYER of New Jersey, Mr. FAZIO, Mr. SPENCE, Mr. ERDREICH, Mr. FALEOMAVAEGA, Mr. HYDE, Mr. COLEMAN of Texas, Mr. PAYNE of Virginia, Mr. WEISS, Mr. MARTINEZ, Mr. MRAZEK, Mr. SUNDQUIST, Mrs. BOXER, Ms. PELOSI, Mrs. COLLINS, Mrs. JOHNSON of Connecticut, Mr. GOODLING, Mr. ROYBAL, Mr. DOWNEY, Mr. MCNULTY, and Ms. SNOWE.

H. Res. 134: Mr. SCHUETTE, Mr. MCEWEN, Mr. DELAY, Mr. NAGLE, and Mr. HORTON.

H. Res. 398: Mr. LEACH of Iowa.

H. Res. 414: Mr. BUSTAMANTE, Mr. SCHIFF, Mr. TAYLOR and Mrs. UNSOELD.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4565: Mr. GRANDY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1180

By Mr. VENTO:

—Page 421, line 20, before "Section" insert the following:

"(a) MORTGAGE LIMIT INCREASE.—".

—Page 421 after line 24, insert the following new subsection:

(b) MAXIMUM MORTGAGE AMOUNT.—

(1) IN GENERAL.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting after "higher dollar amount." the following: "In no case may the insured principal obligation (including such initial service charges, appraisal, inspection, mortgage insurance premiums, and other fees as the Secretary shall approve) exceed the appraised value of the property.".

(2) CONFORMING AMENDMENT.—Section 203(d) of the National Housing Act (12 U.S.C. 1709(d)) is amended by striking the period at the end and inserting the following: ", except that this subsection shall not apply to the maximum mortgage amount limitation in the third sentence of subsection (b)(2).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to mortgages insured on or after October 1, 1992.

—Page 422, before line 1, insert the following new sections (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 733. MORTGAGE INSURANCE PREMIUMS.

(a) PREMIUMS.—

(1) IN GENERAL.—Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)) is amended—

(A) by inserting "(1)" after "(c)"; and

(B) by striking ": *Provided*, That with respect to mortgages" and all that follows; and

(C) by adding at the end the following new paragraph:

"(2) With respect to mortgages on 1- to 4-family dwellings—

"(A) insured prior to the effective date of this paragraph, the Secretary shall refund not more than 50 percent of the unearned premium upon prepayment of the principal obligation; and

"(B) insured after the effective date of this paragraph, the Secretary shall establish and collect—

"(i) at the time of insurance, a premium payment of 1.35 percent of the amount of the original insured principal obligation of the mortgage, which premium may be financed as a part of the mortgage loan; plus

"(ii) periodic premium payments of 0.6 percent of the remaining insured principal balance, and shall not refund any portion of the premium in the case of prepayment of the principal obligation.".

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995.

(b) TRANSITION RULES.—

(1) PREMIUM CHANGES.—Notwithstanding section 203(c) of the National Housing Act, mortgage insurance premiums for mortgages subject to section 203(b) of such Act for which mortgages are insured during fiscal years 1991 through 1996 shall be payable as provided in the following table:

Fiscal year of execution of mortage	Percentage of principal obligation paid as premium at the time the mortgage is insured	Premium payable in periodic payments (expressed as percentage of principal obligation)
1991–92	3.75	.24
1993–95	2.15	.48
1996	1.35	.60

(2) REFUNDS.—

(A) Except as provided in subparagraph (B), upon prepayment of a mortgage that was insured at any time prior to October 1, 1995, the Secretary shall refund not more than 50 percent of the unearned premium.

(B) Upon prepayment of a mortgage for which insurance is issued during fiscal years 1991 through 1995, the Secretary shall not refund a portion of the premium paid at the time of insurance that equals 1.35 percent of the original insured principal obligation. The Secretary shall refund not more than 50 percent of any earned premium in excess of the amount referred to in the preceding sentence.

SEC. 734. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following new subsection:

"(e) In determining whether there is a surplus for distribution to mrotgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.".

—Page 426, after line 16, insert the following new sections (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 737. ACTUARIAL SOUNDNESS OF MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsections:

"(f)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after the date of the enactment of this subsection.

"(2) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after the date of the enactment of this subsection, and shall ensure that the Fund maintains at least such capital ration at all times thereafter.

"(3) Upon the expiration of the 24-month period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

"(4) For purposes of this subsection:

"(A) The term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 538.

"(B) The term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

"(C) The term 'capital ratio' means the ratio of capital to unamortized insurance-in-force.

"(D) The term 'unamortized insurance-in-force' means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

"(g) The Secretary shall annually conduct an independent actuarial study of the Mutual Mortgage Insurance Fund and shall report annually to the Congress on the financial status of the Fund.

"(h)(1) If, pursuant to the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (g), the Secretary determines that the Mutual Mortgage Insurance Fund is not meeting the operational goals under paragraph (2), the Secretary may not issue distributions, and may, by regulation, propose and implement any adjustments to the insurance premiums under section 203(c), or any other program requirements established by the Secretary necessary to achieve such goals. Upon determining that a premium or other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for the change. Such premium change shall take effect not earlier than 90 days following such notification, unless the Congress acts during such time to increase, prevent, or modify the change.

"(2) The operational goals referred to in paragraph (1) shall be—

"(A) maintaining an adequate capital ratio;

"(B) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit; and

"(C) minimizing the risk to the Fund and to homeowners from homeowner default.".

SEC. 738. PERIODIC MORTGAGE INSURANCE SAFETY AND SOUNDNESS PREMIUM.

Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of law, the Secretary may require payment on all mortgages that are obligations of the Mutual Mortgage Insurance Fund of an additional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(e). The additional premium charge may not exceed an amount equivalent to one-half of 1 percent per year of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments.".

EXTENSIONS OF REMARKS

JACK KEMP: A JOB WELL DONE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. CRANE. Mr. Speaker, in 1989, President Bush asked Jack Kemp to be Secretary of the Department of Housing and Urban Development [HUD]. Since that time, Secretary Kemp has had to grapple with the Herculean task of not only cleaning up a bureaucratic and scandalous mess, but of turning it around and making it work as well. Thus far, Mr. Kemp has been up to the task. By strengthening the HUD inspector general, substituting a point system for political approval of projects, and slashing the Secretary's discretionary fund, he has done much to ensure that we do not have to face another HUD scandal in the future.

Yet, just as challenging a task lies ahead of him as he attempts to make HUD work for the Nation's inner cities. Even before accepting his cabinet position, Jack Kemp has continually brought forth fresh and innovative ideas. Furthermore, he firmly understands what has taken many people so long to realize. For example, he realizes that programs which subsidize developers are inherently flawed and such programs cannot be corrected merely by some tinkering and more oversight. With this view in mind, Secretary Kemp is taking promising steps to bring an effective philosophy and policy to tap the potentially abundant human resources in our inner cities. I ask my colleagues to give Secretary Kemp credit for his sincere efforts, and I urge my colleagues to read and seriously consider the policies outlined in his Heritage Foundation lecture entitled, "An Inquiry Into the Nature and Causes of Poverty in America and How to Combat It."

AN INQUIRY INTO THE NATURE AND CAUSES OF POVERTY IN AMERICA AND HOW TO COMBAT IT

(Remarks by Jack Kemp)

Thank you for that kind introduction. It is a pleasure to be back at Heritage among so many friends and colleagues. Actually, I was looking forward to working here, until President Bush asked me to join his cabinet. After my first couple days at HUD, when I started discovering the scandal and abuse, I almost called Ed to get my old job back.

We are living in the single most dramatic era in world history, other than perhaps at the founding of our Republic in the Revolution of 1776. Consider this quotation:

"In an ironic sense, Karl Marx was right. We are witnessing today a great revolutionary crisis—a crisis where the demands of the economic order are colliding directly with those of the political order. But the crisis is happening not in the free, non-Marxist West, but in the home of Marxism-Leninism, the Soviet Union. What we see here is a political structure that no longer corresponds to its economic base, a society where productive forces are hampered by political ones."

Ladies and gentlemen, that was not last month or last year, that was said in June 1982 by President Ronald Reagan in a historic speech to the English Parliament. How far we've come! And we've come a lot further than even Mikhail Gorbachev understands. Just a few days ago at Stanford University, he said that it doesn't matter who won the Cold War. With all due respect, it does matter, very much. The real Cold War victory is not our arms over their arms, it is a victory of the American idea of democratic capitalism over the Soviet idea of statist socialism. The truth is President Gorbachev will not be able to repair socialism, it must be replaced.

All around the world, despite the resistance of the old guard, freedom and free markets, democracy and capitalism are increasingly on the march. From Eastern Europe and Latin America to Africa and Asia and even the Soviet Union, people are dreaming of freedom and democracy after decades and even centuries of oppression, poverty, despair, and debt.

In his State of the Union address, President Bush called it the revolution of 1989, but perhaps it may be in reality just the continuation of the American revolution of 1776. Marxist-Leninists used to talk about their "permanent revolution," but as it turns out the only permanent revolution the world has ever seen is the American Revolution.

Yet, in such revolutionary times, Charles Dicken's observation may well still apply: it can be the best of times and the worst of times simultaneously. Here in the U.S., we're enjoying unprecedented economic growth and opportunity, yet after nearly eight years of continuing expansion, there are some parts of our nation and all too many of our people left out and left behind, suffering from the tragedy of homelessness, poverty that stretches over generations, and a sense of hopelessness and despair about the future.

As Ed Feulner said recently, the world is looking to us for advice on the free market ideas of Adam Smith, "they don't want lectures on income redistribution and capitalist exploitation, they want income and capitalism,"

Ed is right; but after one and a half years of representing the Bush Administration at HUD, I know that not only is Eastern Europe looking to us for market oriented answers, but so is East Harlem, East St. Louis, and East L.A.

If we are to present the example of democratic capitalism and the rule of law to the rest of the world, we've got to make it work for the low-income people and distressed neighborhoods and communities right here in our own country.

Helping those left behind and left out is not only a moral imperative for our Nation, I am convinced it is also a winning—indeed decisive—political strategy for bringing impoverished communities and low income people and minorities into the ranks of the Part of Lincoln. Whether it's called bleeding heart conservatism, capitalism with a social conscience, or populist conservatism—it's the right thing to do, the right time to do it, and we're the right people to help lead it.

Robert Kuttner of the New Republic, an equally-bleeding heart but liberal columnist, recently wrote that polls continue to show that the voters trust Republicans more than Democrats to conduct foreign policy, manage the economy, hold down inflation, and resist higher taxes. Democrats still score only on the question of who cares more about the common American. He goes on to conclude that if Republicans ever figure out that they can capture the issue of caring as well, the Democrats might as well go out of business.

Now, I don't want to put them out of business, just out of the Congress!

Traveling across the country, I've seen thousands upon thousands of low income people and families in public housing communities eagerly seeking change and responding positively to our ideas. They don't want more government promises and egalitarian welfare schemes, they want to live in neighborhoods free from crime and drug abuse, with good jobs and opportunities to own property and homes; they want quality education so that they and their children can live better lives. They want what we all want—a chance to develop their talents, potential and possibilities.

Our friend Kimi Gray of Kenilworth-Parkside recently said that her residents and public housing tenants throughout the country may be registered Democrats, but they work with Republicans because Republicans are "the ones that seem to understand that we do not want to stay a poor and permanent underclass."

Well, of course that's true. And that's how Mr. Lincoln built the Republican Party. As he said, "When one starts poor, as most do in the race of life, free society is such that he knows he can better his condition: he knows that there is no fixed condition for his whole life."

A debate over how to increase the wealth and opportunities of the poor plays to the strengths of our Party's Lincoln wing—our most authentic roots. The Democrats will win any debate over redistribution. After all, that's what they are on this earth for. But that's the debate of yesterday. Today's debate is how to tap and unleash the wealth, talent, and potential in low income communities and cities all over America.

In 1984, Governor Mario Cuomo of New York electrified the Democratic Convention with his tale of America as two cities, one rich and one poor, permanently divided into two classes. He talked about the rich growing richer and the poor becoming poorer, with the conclusion that class conflict, if not warfare, was the only result, and redistribution of wealth as the solution.

But with all due respect to Governor Cuomo, he got it wrong. America is not divided immutably into two static classes. But it is separated or divided into two economies. One economy—our mainstream economy—is democratic capitalist, market-oriented, entrepreneurial and incentivized for working families whether in labor or management. This mainstream rewards work, in-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

vestment, saving and productivity. Incentives abound for productive human, economic and social behavior.

It was this economy led by President Reagan's supply-side Revolution of tax rate cuts in 1981 that generated 21.5 million new jobs, more than 4 million new business enterprises, relatively low inflation and higher standards of living for most of our people. This economy has created more jobs in the last decade than all Europe, Canada, and Japan combined. And according to the U.S. Treasury, Federal income taxes paid by the top 1 percent of taxpayers has surged by over 80 percent—up from $51 billion in 1981 to $92 billion in 1987. Harvard and White House economist Lawrence Lindsey, estimates that by 1985, economic output was between 2 and 3 percent higher than it would have been without the tax cut.

But the best news of the eighties was that good policies lead to good results, confirming what deep down we always understood, that the real wealth of America comes not from our physical resources, but our human resources; not from things, but from ideas.

But there is another economy—a second economy that is similar in respects to the Eastern European or Third World "socialist" economy if you will—and it is almost totally opposite to the way people are treated in our mainstream capitalist economy, and it predominates in the pockets of poverty throughout urban and rural America. This economy has barriers to productive human and social activity and a virtual absence of economic incentive and rewards that deny entry to Black, Hispanic and other minority men and women into the mainstream, almost as effectively as hiring notices 50 years ago that read "no Blacks (or Hispanics or Irish or whatever) need apply."

The irony is that the second economy was set up not out of malevolence, but out of a desire to help the poor, alleviate suffering, and provide a basic social safety net. But while the intentions were noble, the results led to a counterproductive economy. Instead of independence, it led to dependency. In effort to minimize economic pain, it maximized welfae bureaucracy and social costs that are near pathological.

Now, let's pause, and step away from our orthodox notions and examine this from afar. What if you wanted to create poverty. What policies and principles would you use to destroy the economy of cities and make people dependent on government? How would you do it? Let me offer some suggestions:

1. Impose steeply graduated and progressive tax rates and then inflate the currency to push people into ever higher tax brackets;

2. Reward welfare and unemployment at a higher level than working and productivity;

3. Tax the entrepreneur who succeeds in the legal capitalistic system much higher than in the illicit underground economy;

4. Reward people who stay in public housing more than those who want to move up and out into private housing and homeownership;

5. Reward the family that breaks up rather than the family that stays together;

6. Encourage debt, borrowing, and spending rather than saving, investing, and risktaking.

7. But most of all, if you really wanted to create poverty and dependency, weaken and in some cases destroy the link between effort and reward.

Examples abound of how Third World disincentives have created poverty in inner cities. I recently read a Wall Street Journal article about a woman on welfare in Milwaukee, Wisconsin who tried to put away a few pennies, nickles, dimes and dollars so that one day she could do what every other mother wants to do, send her daughter to college. She managed to build a savings account of just over $3,000, but there was a catch. The social welfare agency said she was violating welfare rules. She was taken into court, prosecuted for fraud, and fined $15,000. But since she didn't have $15,000, they just took her $3,000, gave her a year's sentence in jail, but suspended it.

Guess what? According to the same Wall Street Journal article, she now spends every cent she gets, and she must rely on government subsidies to pay for just about everything. Incidentally, the story may have a good ending for this woman. After I talked about her in a speech, a man came forward from the audience and offered to finance a trust fund for the cost of a college education for the young girl.

Eugene Lange, a wealthy businessman from New York City, also believes in the power of incentives to produce positive behavior. According to the New York Times, he went into PS 121 elementary school in East harlem and told children that if they stayed in school, got good grades, stayed drug free, and qualified, that he would personally pay for a college education. Talk about behavior modification! Whereas, 60 percent of those children were dropping out, today 90 percent are in their first two years of college.

The startling fact in America today, however, is that the highest marginal tax rates are not being paid for by the rich, but by welfare mothers or unemployed fathers who want to take a job. In most cities, a welfare mother would have to earn $15,000–$18,000 in a private sector job to earn the equivalent of the average tax free welfare payment. According to a study by Christopher Jencks and Kathryn Edin in the American Prospect magazine, a working mother with two children employed at about $5.00 per hour, would actually take home pay of about minus 45 cents per hour. She'd be losing nearly $4 a day after taking into account the loss of government benefits, taxes, and work-related expenses such as transportation and child care.

The heavily-regulated U.S. housing market is another example of government-created scarcity. Rent controls in many major cities have crippled rental housing by making it unprofitable to be a landlord or investor in affordable housing. And make no mistake about it, rent controls do not help the poor. The foreign minister of communistic North Vietnam vividly recalls the lessons of rent control in this own country when he said recently that the war couldn't destroy housing in Hanoi, "but we have destroyed our city by very low rents. We realize it was stupid and that we must change policy."

Ladies and gentlemen, if communists can learn to change, why can't bleeding heart, liberal democrats!

While affordable housing is a real national challenge, and we in the Administration are taking steps to solve it, there is no shortage of low income housing in some so-called tight markets—it's just occupied by affluent people. Author William Tucker points out that Ed Koch maintained a $441 per month Greenwich Village apartment during his twelve years as mayor of New York and actress Shelly Winters paid a little more for a two bedroom apartment near Central Park.

Another glaring example of counterproductive government policy is how HUD was subsidizing vacant public housing until we took over. It had been costing the taxpayer over $1,300 per unit to subsidize vacant public housing often used as crack houses for gangs and drug pushers. You'll be glad to know that we have started a policy called Operation Occupancy where only units actually occupied by low income people will be subsidized with public housing funds.

As I said earlier, the good news is that government policies can change and that good policy can lead to good results. Productive human effort can be promoted, behavior can be modified or altered. Work effort can be unleashed. The forces that cause poverty can be reversed. President Bush said that for these seeds of productive behavior to grow, we must "give people—working people, poor people, all our citizens—control over their own lives. And it means a commitment to civil rights and economic opportunity for every American."

Along with planting a billion new trees in the decade of the nineties, we ought to plant the seeds of millions of new minority enterprises. In other words, expanding the base of capitalism and access to capital can alter the conditions of poverty. In the Bush Administration, we recently set as a goal the creation of more than 1 million new home owners by 1992 through our HOPE initiative, i.e. Homeownership and Opportunity for People Everywhere. We plan through urban homesteading, privatization of public housing, and reform of FHA to make homeownership and empowerment the hallmark of this Administration's housing and urban development policy.

As columnist William Raspberry wrote recently ". . . when assets are present, people begin to think in terms of the asset. If a young mother owns her own home, she begins to pay attention to eal estate values, property taxes, the cost of maintenance and so forth . . . note," he says, "that it is the assets themselves that create this effect, as opposed to just educational programs or exhortations toward better values."

Stuart Butler and Bob Woodson point out that to the liberals empowerment means giving power to government to control our lives. But empowerment really means not control over others, but freedom to control one's own affairs. The poor don't want paternalism, they want opportunity—they don't want the servitude of welfare, they want to get jobs and private property. They don't want dependency, they want a new declaration of independence.

In that spirit, let me outline some ideas for a national agenda to help low income people and our nation find the keys that will unlock the shackles and cycles of poverty and despair.

First, cut the capital gains tax to 15 percent for the nation and eliminate it altogether in distressed inner cities and rural communities we would designate as Enterprise Zones. President Bush correctly implored the Democratic majority in Congress to cut the capital gains tax rate and finally—after ten years—to establish what 37 states have already implemented, Enterprise Zones, as a national policy.

The capital gains tax reduction isn't to help the rich or secure old wealth, but to free up or unlock old capital and old wealth to help new business, new risktakers, jobcreation, and economic growth. Virtually every survey shows that the major problem for inner city entrepreneurs is the absence of seed capital. The capital gains tax reduction, coupled with Enterprise Zones, will help "unlock" existing, status-quo capital to

fund and support a whole new generation of budding entrepreneurs in America's inner cities where economic opportunity is needed most.

When the top capital gains tax rate was reduced from 49 percent to 20 percent, the number of small company start-ups more than doubled, rising to 640,000 and creating 15 million new jobs. By dramatically reducing the capital gains tax rates again, and greenlining inner city neighborhoods, we can expand the economy and put that enormous job-creating potential to work where it is needed most.

Not only would a lower capital gains tax rate help the poor, but it would also increase tax revenues. Lower capital gains rates would greatly increase the number of capital gains transactions passing through Federal, State, and local tax gates, raise the total value of assets throughout the economy, and make the economy bigger, more efficient, and more productive.

Second, an expansion of resident management and urban homesteading in public housing can empower residents to acquire private ownership and control of their homes and receive pride and dignity of ownership.

Third, housing vouchers and certificates should be significantly increased and expanded so as to give low income families greater choice and more freedom where to live, while expanding access to affordable housing for those most in need.

Fourth, a new version of tax reform is needed to remove low income families from the tax rolls and dramatically increase the after-tax income of welfare mothers and unemployed father who go to work.

In 1948, at the median income, a family of four paid virtually no income taxes, and only $30 a year in direct Social Security taxes (1 percent). This year, the same family's tax burden would be over $6,000. To be comparable to 1948, the personal exemption—the tax allowance for the costs of nurturing children—would have to be well over $6,000 today. Instead, it is only $2,000.

Fifth, a dramatic expansion of the earned income tax credit, the creation of up to a $6,000 exemption for children under 16, and the President's Child Care tax credit to roll back this tax burden on low income families and unemployed parents.

Sixth, helping homeless people who now wander aimlessly in streets or are warehoused in shelters. The Congress should pass the Administration's new Shelter Plus Care program to expand community-based mental health facilities, drug abuse treatment, job training, and day care. This program will help homeless Americans get shelter, transitional housing, and support services to help them reenter the mainstream economy.

Seventh, in order to enhance education and opportunity, we've got to expand true choice and competition through magnet schools, education vouchers, tuition tax credits, and the type of choice-enhancing policies that Wisconsin state Representative Polly Williams and Detroit Councilmember Reverend Keith Butler recommend.

Eighth, Congress should pass President Bush's HOPE legislation, including IRAs for first time homebuyers, the low income housing tax credit, and Operation Bootstrap linking housing vouchers to strategies for gaining self-sufficiency.

My friends, over 200 years ago Adam Smith wrote the recipe for creating wealth. It was titled an Inquiry into the Nature and Causes of the Wealth of Nations. Today, I'm asking for an inquiry into the nature and causes of the wealth of cities. It's a variation of Adam Smith's theme of "natural liberty." As I said in another speech to Heritage about what George Gilder called the quantum age of new technology, our greatest assets are not in the wealth we see around us but the potential which is unseen . . . in the minds yet to be educated, in the businesses not yet opened, the technologies not yet discovered, the jobs waiting to be created. Wealth is not what we've done, but what we have yet to do.

This is a country of dreams. America has long dreamed of a better future for people everywhere. America's permanent revolution has brought a fresh air of freedom that's blowing around the world. Yes, it's a struggle. Yes, we need to stay strong. Yes, we need to maintain our alliances, Yes, we must maintain peace through strength. But also it's time to bring the revolution back home to America to extend the capitalist economy across our whole society, and put it to work for all of our nation's people.

In May 1981, Ronald Reagan said that "The West will not contain Communism, it will transcend Communism. We will not bother to denounce it, we'll dismiss it as a sad, bizarre chapter in human history whose last pages are even now being written."

Just as Ronald Reagan predicted the transience of Comunism, so must we commit ourselves to put poverty on a path towards elimination. Let us make the decade of the 90's the time we win the war against poverty, just as the decade of the 80's was the time we won the cold war against Communism. Let us dedicate this decade to the rebirth of human potential, freedom, and equality of opportunity for all.

Thank you, and God Bless America.

MRS. MATTIE F. HOLMES

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. DYMALLY. Mr. Speaker, on Sunday, July 22, 1990, in the great city of Texarkana, AR, the Holmes' family will gather to honor their matriarch, Mrs. Mattie F. Holmes, on the occasion of her 85th birthday which is September 27.

Mrs. Holmes has lived a long and prosperous life. During her lifetime, she married and survived her husband, the late Earl Holmes, Sr. They were married in 1922 and remained continuously married for 59 years. During this time, she was a farmer's wife in Dixon Place, on the Dooley Fairy Road. She is the mother of 5 children; the grandmother of 24; the great-grandmother of 30; and the great-great grandmother of 1 child. In 1965 she moved to Texarkana, AR.

As a member of the New Zion Baptist Church, she has served in serveral positions such as the president of the usher board, church treasurer; and, in fact, she has been everything you can be within the church, except minister. She has contributed to her community as a social and civic leader.

Once again, it is my honor to extend birthday greetings, best wishes and congratulations to Mrs. Mattie F. Holmes on the occasion of her 85th birthday.

NATIONAL REVIEW MAGAZINE CRITICIZES STATEHOOD FOR PUERTO RICO

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. FUSTER. Mr. Speaker, my colleagues have on many occasions heard me tell of various articles in the national press that address an issue pending before both the House and Senate which would authorize a congressionally sanctioned political status plebiscite in Puerto Rico next year between the choices of statehood, independence, and an enhancement of the existing commonwealth status. As my colleagues are aware, I favor the latter option, even though I have great respect for the institution of statehood.

Today, Mr. Speaker, I want to bring to the attention of my colleagues an editorial which appears in the July 23, 1990, edition of the conservative magazine, National Review. As a Democrat, I don't find myself agreeing that often with the opinions of the National Review or of its editor, Mr. William F. Buckley, Jr. But in this case, Mr. Speaker, the National Review has addressed head-on an issue which many fellow conservatives and Republicans, including President Bush, seem unwilling to see when they support statehood for Puerto Rico.

That issue, Mr. Speaker, is the unique cultural and linguistic reality of Puerto Rico, a reality which is best addressed by commonwealth status. I want to emphasize that Puerto Rico, although very pro-United States, is still a separate cultural nationality, and that supporters of statehood have not adequately assessed the implications of this fact. This is one reason why commonwealth status is ideal—it harmonizes two basic but different strains, and is clearly the status which is in the best interest s of both Puerto Rico and the United States.

The National Review editorial, which smacks of a certain cultural chauvinism and xenophobia which I deplore, nonetheless raises a valid point which we in the Congress will have to face if statehood fo Puerto Rico is to be seriously considered as a viable option for Puerto Rico. It is the same point which the nationally syndicated columnist, Mr. Patrick Buchanan, raised in two of his columns this year and which I had reprinted in the RECORD. This is the point: even with the best of intentions, does the Congress want to admit as the 51st state a jurisdiction which, while demonstrably loyal to the Nation, still maintains a very distinct cultural and linguistic personality? Even the leaders of the prostatehood party in Puerto Rico, testifying before House subcommittee hearings on the plebiscite bill, insist that Spanish remain as the primary language if Puerto Rico were to become a State.

The National Review editorializes about this in the context of the Quebec dilemma within a unified Canada. "And," as the National Review says, "Puerto Rico is a society as distinct as Quebec." The entire editorial follows, from the July 23 edition of the National Review, under the general headline, "From the Editor":

Two issues back, Peter Brimelow predicted that even if the Canadian Prime Minister, Brian Mulroney, cobbled together another makeshift compromise between Quebec and English Canada, the country was ultimately heading for divorce. As matters turned out, Mr. Mulroney fell, not in the last ditch, but at the first fence, when his Meech Lake settlement failed to secure ratification. Canada may soon break into two (or more) pieces.

History, which placed two nations with two languages in the one state, is the original culprit. But the Canadian establishment gamely made matters worse by officially promoting bilingualism and multiculturalism, which helped to deprive Canadians of any sense of common identity.

In the U.S., the situation is both more difficult and much better. This is a society composed of innumerable ethnic groups (compared to Canada's original two) united by a single language. Yet various levels of government here propose to throw away the enormous advantage of cultural and linguistic unity by promoting multiculturalism, spreading bilingual education, and inviting Spanish-speaking Puerto Rico into the Union. Multiculturalism will transform the nation into a patchwork quilt of ethnic groups seeking special privileges at the general expense. Locking young people into their separate linguistic ghettos will deny them a fair chance of competing in an economy still run on English. And Puerto Rico is a society as distinct as—Quebec.

If new states are what we need, some of Canada's provinces may soon be knocking at the door. And twenty million Canadians with experience of the dangerous nonsense of multiculturalism would be a healthy deterrent to it here.

ARMENIAN ISSUE

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. BURTON of Indiana. Mr. Speaker, the following article correctly emphasizes that the U.S. Congress must be extremely cautious not to politicize the events that took place in Turkey 75 years ago. I regret the suffering and tragedy experienced by the Armenians. However, it is a great mistake, as Mr. Boyner points out, to stoke the fires of ancient grievances. I urge all of my colleagues to read this article and to be reminded how influential our actions can be.

[From the Turkish Times, June 15, 1990]

COMMENTS ON ARMENIAN ISSUE

(By Cem Boyner)

The United States is Turkey's leading trading partner and oldest, most trusted ally. Close relationships between allies can at times become strained. This happens if your business partners are politicians, because of short term political gains, attempt to distort your history and, thereby, insult you.

To pass judgment on controversial historical events must be left to historians. Only they can determine how many General Custers there are among the Turks, Armenians and Americans. The detailed study of history is not my specialization; it is neither politicians'; but only that of historians. This point is especially crucial when the honor of a nation and the blackening of its history is at stake. Critical conclusions should only be reached by objective historians.

Frankly, if you ask me, I do not pay much attention to a resolution passed by the US Congress about Armenian allegations, because Congress has no right to pass judgment on the history of another nation. However, the Turkish nation is very sensitive about this issue, for they value their national honor above all else. Turks do not take offense when enemies speak unjustly about them, but are gravely insulted when friends do.

American politicians do not have the right to belittle America's image and prestige in the eyes of the Turkish nation for their short-term political gains. My nation considers the US a close and trusted ally. And the continuation of this opinion is to the benefit of both countries.

If politicians begin passing judgment on another nation's history, no one can be certain where this will end. When we look at America's justification, summarized in the motto "all politics is local politics," it is clear this may become uncontrollable.

However, if the US Congress under the Administration endorses unsubstantiated Armenian allegations, history will not reveal that this decision resulted from domestic pressure, ethnic politics, and short-term political gains. History will not say that American politicians acted on purely domestic considerations. History will only say that Congress, representing the American people, accused the Turkish nation of the crime of genocide. There will be no clarification that short-term political manuevering and concessions led to this resolution.

It cannot be wise for anybody to attempt to create a current issue out of controversial event which happened in 1915. The world is full of real problems and we do not need artificially devised accusations, designed to establish a moral base for adventurism. It is time for everyone to turn away from this harmful behavior which serves no one. We must not forget that when we begin pointing an accusing finger at others, three fingers of our own are pointing back at us.

OIL IMPORTS HIGHER THAN EVER, UNITED STATES MORE DEPENDENT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. YOUNG of Alaska. Mr. Speaker, the Congress must get serious about energy in the United States or the east and west coasts will soon feel the excruciatingly painful prospects of another economic dislocation due to oil importation.

We're now producing less oil—and correspondingly importing more—than during the Arab oil embargo which sped the oxidation of infrastructure throughout the Rust Belt. This is despite impressive gains in conservation brought about in our economy as a direct result of the oil price shocks of the 1970's.

America cannot afford to send $140 million a day to Arab potentates and Third World dictators. That is what we are doing today.

America's economy is dependent upon foreigners for one-half of its energy supply. One is forced to wonder whether such a dependency in other basic needs—food, or water, for example—would be met with the same complacency which seems to characterize this growing dependency. There are many things we could be doing about this, and conservation is one of those things. Conservation is an important element of any energy strategy, but it cannot be our only energy strategy. If new domestic sources of oil and gas, nuclear power, hydropower, coal, and geothermal energy are not added, we are left with two choices: More of the transfer of our national wealth to buy energy, or the forced conservation through increased prices for energy as supplies fail to meet demand. This would impose significant economic and social costs on those of our society least able to afford something as basic as heating their homes, cooking their food, and going to work. Also, it is self-evident—although ignored by many in Congress and groups who support conservation at any cost—that the degree to which the United States artificially drives up the cost of its energy to agriculture and industry will be reflected in our ability to compete in a world where others will opt for cheaper energy. This has significant costs to the United States which can no longer be hidden from the view of the average American citizen.

I am enclosing a press release from the American Petroleum Industry from January of this year, which details the growing sad state of affairs in the U.S. energy industry, and ask that it be inserted in the RECORD.

WASHINGTON, January 17.—Domestic crude oil production in 1989 had the sharpest annual decline in history—553,000 barrels per day (b/d), the American Petroleum Institute reported today.

To make up for this shortfall in U.S. crude oil output, the API said, petroleum imports reached a 10-year high.

According to API's Monthly Statistical Report, crude oil production in the United States averaged 7,587,000 b/d last year, compared to 8,140,000 b/d in 1988. U.S. production in December 1989, partly due to the effects of the month's severe weather, was only 7,249,000 b/d.

Total imports (crude oil plus petroleum products) averaged 7,952,000 b/d—an increase of 8.2 percent over the 7,350,000 imported during the previous year.

With regard to demand for petroleum products, the API said that though 1989 "was the first year since 1985 to show only a marginal increase in petroleum deliveries, overall energy consumption is estimated to have continued to rise, but at a more moderate rate than in the previous two years."

Reflecting the "extraordinarily severe weather," demand for petroleum products rose sharply in December. Gasoline deliveries were up 0.8 percent; kerosine jet fuel deliveries rose 19.9 percent while deliveries of distillate fuel oil (home heating oil and diesel fuel) were up 13 percent. The API also pointed out that in December "refinery production of distillate rose to the highest level for the month since 1978."

Among the other highlights of the Report:

Total imports accounted for 46 percent of petroleum demand in 1989. This was second only to the 47.7 percent level in 1977. As recently as four years ago, imports' share of domestic deliveries was only 31.5 percent.

Leaded gasoline's share of the market declined from 18 percent in 1988 to 11 percent last year. Moreover, the Institute said that

the leaded share of the market had slipped below 10 percent in the latter part of the year.

Despite an upturn in December, demand for residual fuel (heavy fuel oil) was down 1.4 percent for the year.

Crude oil production in Alaska, which had been increasing almost every year since 1977, fell 7 percent (140,000 b/d) in 1989.

The utilization rate of the nation's refineries rose from 84.4 percent of operable capacity in 1988 to 86.5 percent last year.

At year's end, total stocks (crude oil plus petroleum products) stood at 989.4 million barrels. This was 4.7 percent less than the 1.1 billion barrel stock level of December 31, 1988.

PUBLIC AMBIVALENCE ON ABORTION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. LAFALCE. Mr. Speaker, media coverage of public opinion in the wake of the Supreme Court's Webster decision have often left the impression that a majority of Americans support the prochoice position on the abortion issue. On the contrary, reliable public opinion polls and careful analyses suggest that assertions regarding majority support for abortion rights are misleading and that public opinion is, in fact, remarkably complicated and ambivalent.

I am, therefore, very pleased to insert in the RECORD the following article written by William Saletan printed in the Wall Street Journal entitled "There's No Pro-Choice Majority Either." I commend Mr. Saletan's article to my colleagues as a more accurate reflection of the subtle contradictions and fluctuations of majority opinion on this controversial issue.

[From the Wall Street Journal, June 27, 1990]

THERE'S NO PRO-CHOICE MAJORITY EITHER

(By William Saletan)

The analysts who so hotly debated the nuances of the murky abortion decision that the Supreme Court handed down Monday seem to lose that subtlety when they confront the abortion views of the American public. In the seven months since pro-choice candidates defeated their pro-life opponents in Virginia and New Jersey gubernatorial races, columnists from coast to coast have cited the pro-choice "majority" as though the matter is settled. National Abortion Rights Action League executive director Kate Michelman coined the conventional wisdom in the wake of last year's pro-choice election victories: "If you're out of touch with the pro-choice majority, you're out of the office."

That's a nice soundbite, but surveys show public opinion is considerably more complex and ambivalent, not just on the morality of abortion, but on its legality as well. A two-thirds "pro-choice majority" can be shown to exist only when abortion is framed broadly as an issue of personal freedom.

SPECIFIC CIRCUMSTANCES

When asked whether abortion should be allowed by law in various specific circumstances, a majority of Americans says that in many cases it should not be. And the cases where Americans would restrict abortion—when the woman's chief reason for abortion is that the potential child would grow up without its father, or that it would strain the woman's financial resources, or disrupt her career, education or relationship with the father—comprise the vast majority of abortions that are performed in the U.S.

In June 1989, shortly before the Supreme Court's restrictive decision in *Webster* v. *Reproductive Health Services,* a CBS/New York Times survey asked whether abortion should be "legal as it is now," legal only in extreme cases (rape, incest or threat to the life of the woman) or entirely illegal. Some 45% of the adults interviewed favored the status quo, but 39% favored allowing abortion only in the extreme cases and another 12% favored outlawing it altogether.

That 51% majority for sharp restrictions dropped by three points in a post-*Webster* survey of the same respondents a month later, creating a 48-48 split between those who favored the status quo and those who favored restrictions. In its written analysis of the poll, CBS heralded similarly near-equal splits on two other questions about abortion as "evidence of movement towards a more pro-choice consensus." But this "consensus" proved short-lived: The percentage favoring sharp restrictions bounced back to a 53-43 advantage in a CBS/Times poll two months later.

The most specific questions about abortion have been put in a series of surveys by KRC Communications Research, which polls for the Boston Globe and the San Francisco Examiner. In a KRC survey last year, before *Webster,* majorities said that abortion should not be legal in cases where the grounds for it are economic or emotional strain, an uncooperative or absent father or the woman's sense that it is the wrong time in her life to have a child. Five months after *Webster,* KRC found a rise in pro-choice sentiment. A bare plurality (statistically a tie) now favored legal abortion when the woman's reason was that she could not afford to bear a child, but majorities still opposed it when the grounds cited were the father's absence or unwillingness to help raise the child.

Pennsylvania and Idaho, the two states whose legislatures passed extensive abortion restrictions in the wake of Webster (Idaho's legislation was vetoed by Gov. Cecil Andrus), have been depicted in the media as exceptional pro-life bastions. But last December, when KRC asked voters across the country whether they would like their states to adopt laws similar to Pennsylvania's, an overwhelming majority said yes. This year, KRC found that 48% of Americans would approve of their state adopting a law similar to the Idaho bill that "outlaws abortion except in the cases of rape, incest, profound fetal deformity or if the life of the mother is threatened," while only 43% would oppose it.

The point is not that there is a pro-life majority. That conclusion would be no more accurate than the converse. Indeed, when confronted with KRC's national finding on the Idaho restrictions, pro-choice activists rightly noted that if the phrasing of the question were changed, the results would probably change as well.

Perhaps the most revealing approach is to let people state their views on abortion in their own words. Just after *Webster* was handed down, American Viewpoint, a Republican polling company, asked voters to name "the one thing you would like your state representative to keep in mind when discussing and voting on" abortion. The most frequently cited theme in the responses was a woman's right to choose, mentioned by 36%. Overall, 54% offered pro-choice answers. But the share of respondents who gave one anti-abortion response or another, plus those who stressed that abortion should be legal only in certain cases, totaled 48%. (The total exceeded 100%; because some responses covered two themes.)

Linda DiVall, who directed the American Viewpoint survey, noted that pro-choice sentiment formed a large, ready-made bloc, while the anti-abortion responses were diffuse. Pulling the latter group together while minimizing the focused hostility of the former group is no doubt an uphill battle for a pro-file candidate. But if a pro-life candidate could hold all his potential supporters together, the voters would apparently split almost evenly. This is why pro-choice activists avoid debating specific restrictions, according to Celinda Lake, a Democratic pollster who works for pro-choice groups.

Pro-choicers who resist acknowledging voters' ambivalence should be reminded that one-dimensional images of public opinion hurt their cause too. Consider: The abortion restrictions most likely to be approved by state legislatures in the wake of *Webster* are not outright bans, but tighter regulation of abortion clinics. The media have widely reported polls that purport to show that large majorities would favor laws to require parental consent, viability testing, a pre-abortion waiting period and a full briefing of the woman on options other than abortion. But last July CBS found that when these restrictions are described collectively—as "laws that would make it difficult for private clinics to perform abortions"—a majority opposes them. Isn't the latter finding as significant as the former?

MULTIDIMENSIONAL IMAGE

Rather than discrediting each other, these snapshots of public opinion, taken from different angles, can combine to flesh out a multidimensional image of public opinion. Recent CBS polls illustrate this nicely. Last fall nearly 70% of adults agreed with the statement, "even in cases where I might think abortion is the wrong thing to do, I don't think the government has any business preventing a woman from having an abortion." In the same survey, a bare 48% plurality agreed that "abortion should be available for those who really want it, but it should not be easy to get." In November, when asked which of three statements best expressed their views, 41% chose to say abortion should be "generally available," and an opposite 15% felt it "should not be permitted," but 42% chose positions favoring legal abortion with "stricter limits" than the status quo.

The result is a triply qualified hypothesis: Two-thirds of Americans believe abortion generally should be decided by the woman, but most think it should not be allowed in the less severe circumstances; and despite widespread reluctance to enforce the law in such cases, about half want barriers to discourage women whose motives are less than compelling. That's a lousy soundbite, but a good stab at what the public really thinks.

CANADA'S HEALTH-CARE SYSTEM: YOU GET WHAT YOU PAY FOR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. CRANE. Mr. Speaker, if one were to name two countries which exhibit the reprecussions of a socialized system of medicine, I can think of no two better than Canada and Great Britain. These case studies in the workings of an equitable system of health care plagued by limited resources should constantly remind the American citizen of the benefits of our system. Granted, the system in the United States is not perfect, but we have one of the few institutions which, by the nature of the environment in which it exists, constantly strives to better itself.

Unfortunately, many Americans are being misled by the false promises of the proponents of socialized medicine and are not being exposed to the many proven shortcomings of such a system. I believe when one asks the question of which system, the American system or the socialized system, provides its patients with the best and most advanced medical care, the answer clearly is the American system.

In Dr. William E. Goodman's article, "Canada's Health-Care System: You Get What You Pay For," we are given important insights into what a socialized system of medical care is really like. More importantly, the article gives the average American a point of reference against which to judge our own medical system. I urge my colleagues to read Dr. Goodman's article which follows:

CANADA'S HEALTH-CARE SYSTEM: YOU GET WHAT YOU PAY FOR

(By William E. Goodman, M.D.)

"Cutbacks Will Affect Health Care." "Blanket Medicare Is Only An Illusion." "Budget Limit On MD's Services." "Painful Truth On Health Care." "A System In Dire Straits," "Men Rejecting MD Careers." "Long Waits For Surgery Threat To Life."

Striking headlines such as these, chronicling the faults, inadequacies, unbearable cost and increasing inaccessibility of care in Canada's national health insurance system, scream almost daily from the pages of Canadian newspapers and magazines, as well as from the country's broadcast media.

Nevertheless, their American counterparts continue to trumpet the glories of the Canadian system. Even in supposedly conservative publications such as the Wall Street Journal the Chicago Tribune, the New York Times and the New England Journal of Medicine, articles, editorials and letters to the editor extol the virtues of so-called "free" Canadian health care, while damning what is claimed to be the more expensive and less comprehensive American system.

The same opinion has been voiced by captains of industry such as Chrysler's Lee Iacocca, whose "gaze is directed longingly northward to a Canadian system which is seen as a panacea. It costs Chrysler Canada $223 a vehicle in health costs, compared with $700 in the United States," according to the Toronto Globe and Mail. One must realize where this is coming from, however: The chairman of Chrysler's board of directors' health-care committee is none other than Joseph Califano Jr., a strong advocate of socialized medicine when he was secretary of health, education and welfare. Furthermore, since almost all Canadian healthcare funds come from general taxation, the adoption of a similar system in the United States would allow Iacocca to foist most of his employees' health-care costs onto all taxpayers, not simply those in the market for new cars.

Quentin Young, MD, president of the Health and Medicine Policy Research Group, wrote in 1987 that "the exciting thing is that Canada has solved or accommodated to problems that are tearing our system apart. . . . The Canadian system has guaranteed equity of access. . . . Doctors have fared well under Canada's system."

I don't know where he got his information. A cursory glance at any of Canada's major newspapers, magazines or non-medical publications aimed at physicians would have overwhelmed him with differing opinions.

Steffie Woolhandler, MD, and David Himmelstein, MD, in widely reported comments published recently in the New England Journal of Medicine and Newsday, made incredible and nonsensical claims such as these: "[Canadian health insurance] costs 25 percent less per capita than the U.S. system. . . . Its overhead is less than 3 percent. . . . [Its adoption in the United States] would save $55 billion in bureaucratic costs. . . . A majority of American doctors now support national health insurance."

The Canadian statistics are questionable, to say the least. As Mark Twain once wrote, there are three kinds of lies: lies, damned lies and statistics. Candian bureaucrats, like those everywhere, are masters in the art of manipulating numbers.

Furthermore, as any statistician knows, proper wording of a questionnaire can produce the "proper" survey results. As Brant L. Mittler, MD, pointed out in the Reece Report, "What about the assertion that [in various surveys] the great majority of Americans support a national health program? Sure, but what about the other surveys that show most Americans wouldn't be willing to spend even $50 to support it? In other words, Americans want a medical free lunch."

In a recent news conference in Toronto, welfare-state stalwart Gov. Michael Dukakis of Massachusetts asserted that the U.S. has a health-care system in danger of collapse and should look to Canada's system for solutions. This, notwithstanding the fact that his own state is in an advanced stage of budgetary collapse, largely a result of his legislative initiatives—including his universal health program.

Even former U.S. Surgeon General C. Everett Koop, MD, while not specifically calling for Canadian-style national health insurance, recently told a Boston audience, "The U.S. system is badly broken. It must be fixed. . . . It is not fair and not just."

More and more, when I hear glowing references to the Canadian medical utopia, I'm inclined to paraphrase an old Brooklyn expression: "If things are so damn good here, why are they so bard!"

The American arguments in favor of Canadian-style national health insurance always are the same:

37 million Americans have no health insurance of any kind. But how many of them could afford health insurance if they gave up cigarettes, beer and liquor, lottery tickets, fast food, vacations, cosmetics, visits to the hairdresser, movies and second cars?

The United States spends much more money on health care per capita than any other nation. Americans also have infinitely greater access to the best hospitals and diagnostic and treatment facilities, and most of the world's best physicians.

Administrative costs in the United States are much greater than in Canada. This is obvious, but it's also obvious that government inefficiency soon precludes any savings.

The administrative billing costs for doctors and hospitals are much less in Canada than in the United States. This is true, but Canadians pay a heavy price because of it. Competition in any marketplace produces costs that might, at first glance, appear to increase consumer prices. However, a basic component of free-market economics is that, in the long run, competition leads to lower costs.

Demand for health services will not skyrocket with "free" health care. This is arrant nonsense. For instance, the average hospital length-of-stay in Ontario recently was 66 percent higher than in nearby Michigan—a classic example of an old economic adage: There is unlimited demand for an unlimited "free" commodity.

Surveys always show that American citizens and, now, many doctors, prefer Canadian-style national health insurance. Of course they do; who in his right mind would refuse a "free" medical credit card that offered unlimited use without any financial responsibility? The problem is that the bill inevitably arrive in the form of horrendous increases in taxes, deficit financing, and inflation—a legalized form of government theft of our savings and those of our parents and grandparents. One reason the per capita Canadian federal debt is double that of the United States is the existence of social welfare schemes such as Canadian health insurance.

Costs can be controlled by "negotiating" annual budgets with doctors, hospitals and other health institutions. This also is nonsense. Canadian government do not negotiate; they go through an annual charade of pretended discussions, then legally impose their will on the protesting but powerless health providers. That's why Canadian doctors protest and strike, and some hospitals close, while others do without modern diagnostic and treatment equipment.

Doctors won't quit or emigrate. To offer some semblance of proof, socialist economists point out that the Canadian doctor-to-patient ratio has increased. This is true, but only because many foreign physicians have immigrated to Canada in the past 20 years, while Canadian medical schools have turned out large numbers of graduates during the same period. This doesn't change the fact that thousands of Canadian physicians moved to the United States in the late 1970s and early 1980s, including many of Canada's most respected medical "superstars." The largest university hospital with the largest medical faculty in the country lost three highly specialized retinal surgeons to the United States, while the largest children's hospital in the country lost almost its entire complement of world-renowned orthopedic surgeons to American institutions. If the same situation arises in the United States, many top-notch physicians probably will end up in countries that once embraced national health insurance but now are re-privatizing—Great Britain is a great example.

It's unfair that the United States should have a two- or three-tier medical system that depends on a patient's ability to pay.

Why should access to health care be any different than access to housing, food, clothing, automobiles, household appliances, hotels or vacations?

Apart from ideologies about socialized medicine, U.S. protagonists of the Canadian health-insurance system either don't know about or don't care abut what such a system engenders: Medical confidentiality is destroyed; the personal liberties of patients and doctors are trampled; patients lose the right to choose their physicians and to determine how their health-care dollars are spent; money is wasted by a government-controlled, non-competitive system driven by political objectives; access to the best diagnostic and treatment facilities is limited; doctors, departing from their traditional role as advocates of their patients, become servants of the state; and the nation's brightest young people are discouraged from choosing medicine as a career.

Even though the U.S. government has not yet taken over the entire health-care system, the number of applications for admission to medical schools already has fallen from 3.8 per position to 1.6 per position. Further, the average academic standing of those applicants is significantly lower than it once was.

Obviously, some Americans realize that the Canadian system is not perfect. Elliott Richardson, secretary of health, education and welfare in the Nixon administration, was quoted in a New York Times article as saying, "Americans would not tolerate the delays that are common in some other countries in obtaining medical care. It is characteristic of us that if a new and better treatment is available, we want it as soon as we can get it, and we really don't care what it costs."

Unfortunately, if the United States adopts the Canadian system, U.S. citizens may be legally prohibited from insisting on the best possible medical care—even if they can afford it and are prepared to pay for it. In the same Times article, Walter Maher, director of employee benefits at Chrysler, unwittingly hit the nail on the head: In Canada, he said, it now is a political decision as to how much money will be set aside for health care.

As Samuel A. Mitchell wrote in Health Affairs, "The problem of maximizing satisfaction relative to cost is immensely complicated by the fact that the same persons's preferences differ, depending on whether that person is a particular beneficiary of the health-care system—a patient—or an anonymous financier of health care either as a taxpayer or as a consumer of goods and services. . . ."

In practical terms, all Canadian-style health-insurance schemes fail because of the discrepancy between politicians' promises and the cruel reality that no country can afford a Rolls-Royce standard of living for all its citizens.

A sound, universal health-insurance system is not beyond the bounds of economic possibility. However, Canada's system does not fall into this category. Obviously, what makes the Canadian system appealing to Americans is that it covers all health-care costs and is free at the point of service. Unfortunately, for the same reasons, the Canadian system is headed toward bankruptcy unless changes are made. As in every country that has tried socialized medicine, these changes take the form of health-care rationing, poor access to care, terrible underfunding of essential facilities, massive government intervention, loss of individual choice and restriction of civil liberties.

The Canadian experience was summed up admirably by Ted Byfield in Western Report: "Through NDP [the Canadian Socialist party] advocated programs, life in Canada has become a fairly painless proposition. Government pays for our birth, educates us, meets our medical costs, tell us how—and how not—to raise our children, rewards us when we are unemployed, pensions us, sustains us through old age and senility and, finally, if need be, buries us. For all of this, good and bad, we have the NDP to thank. We must also thank it for the fact that we are now, as a nation, terminally broke."

To the American Association of Retired Persons, labor unions clamoring for more goodies paid from the public purse, and corporate executives salivating at the idea of dumping most of their health-care costs on the taxpayers, I say, I to paraphrase an old Chinese proverb, "Be careful what you ask for—you may get it."

NOTCH BABIES

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. DYMALLY. Mr. Speaker, I rise to address the unique problem of the Social Security notch, which continues to discriminate in the Social Security benefits, against millions of our senior citizens. It is unfair of the Government to continue to treat the people born during and after 1917, as if they were second class citizens.

Those senior citizens who had the misfortune of being born between the years 1916 and 1928, have been discriminated against, by means of the 1977 Social Security amendments.

In its March 1988 report to Congress, the General Accounting Office confirmed the existence of significant benefits disparities to these senior citizens, due to the 1977 Social Security legislation which was intended to stabilize, not cut, benefits.

Millions of these citizens receive benefits as much as $1,668 a year less than their counterparts who happened to have been born a couple of years sooner or later.

TRIBUTE TO OPERATION EXODUS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. MATSUI. Mr. Speaker, I would like to take this opportunity to call to my colleagues attention the critical and momentous achievements of a group that has been extremely active in promoting Soviet Jewry in my district, Operation Exodus.

One of the pleasant results of the thawing of the Cold War is that Jews are now able to leave the Soviet Union as never before. That is not to say that all obstacles to emigration have been removed for Soviet Jews; indeed, we in Congress must continue in our call for the Soviet Union to formally adopt emigration legislation which has been repeatedly delayed by the government of the Soviet Union. Yet now that the emigration flood gates within the Soviet Union have begun to swing open, we must not assume that the cause of Soviet Jewry is extinct. Rather we, as advocates of freedom must begin to shift our emphasis toward seeing to the needs of the emigres as they reach their destinations and attempt to lead new productive lives.

I am proud to say that Operation Exodus, which has played such an important advocacy role in pressuring the Soviet government to open its borders to Jews desiring to leave, has already begun to make its mark on the now challenge. On Tuesday, June 26, 1990, in my home city of Sacramento, Operation Exodus raised over $750,000 to be used to assist newly emigrated Soviet Jews. I would like to especially call to my colleagues attention the efforts of Steve and Linda Merksamer, who organized this benefit.

Mr. Speaker, the rise of anti-Semitism in the Soviet Union, the continuation of "Poor Relatives" and other discriminatory policies, and the refusal of the Soviet Union to implement an Exit/Entry Law all continue to dictate the need for Operation Exodus. But more importantly, the success of groups such as Operation Exodus in increasing emigration from the Soviet Union mandates a continued need for humanitarian assistance such as that raised in Sacramento earlier this week. I commend Operation Exodus for its responsiveness to the needs of a distressed segment of the world population, and I wish it continued success in maintaining a bright future for the cause of Soviet Jewry.

HOPES FOR END TO ANGOLAN CIVIL WAR

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. BURTON of Indiana. Mr. Speaker, The world is truly changing in remarkable ways. Sadly, the people of Angola have not benefited from any of the dynamic and beneficial developments that have transformed Europe and Latin America. The Marxist dictatorship in Luanda refuses to draw the right conclusions from the collapse of communism all over the world.

The people of Angola deserve peace and prosperity. That is why the United States backs Jonas Savimbi and the UNITA Freedom Fighters. UNITA has called for direct talks and natinal reconciliation. The Luanda Government ought to lay down their weapons and talk to UNITA for the sake of the Angolan people.

I commend to my colleagues the text of a letter written by the Reverend Maurice Dawkins to Secretary of State Baker concerning the situation in Angola.

AFRO-AMERICAN
TASK FORCE ON AFRICA,
Washington, DC, June 1, 1989.

Hon. JAMES BAKER,
Secretary of State, U.S. Department of State, Washington, DC.

DEAR MR. SECRETARY: It is our hope that the Angola Civil War will become a priority on the agenda now that the summit with Mr. Gorbachev has become history.

Since peace only comes when the superpowers seize historic opportunities, many Afro-Americans are praying that President Bush and Mr. Gorbachev will now move to hasten the day when the peace-process and reconciliation prevail in Angola.

We know that the role of the Soviet Union as the principal economic supporter and military advisor of the ruling MPLA Government is critical and determinative.

We therefore wholeheartedly support the United States foreign policy with regard to Angola which advocates a negotiated settlement while providing defensive military equipment to the democracy movement led by UNITA.

We understand the fact that Marxist one-party government have only come to the negotiation table when they were convinced that a military solution was not possible and warfare became economically impractical.

Mr. Secretary the killing fields in Angola are a great tragedy and they must be closed down. A cease-fire advocated by the U.S.S.R. and the U.S. could lead to an era of peace and democracy and the rebuilding of the nation.

Therefore many of us, as Afro-Americans want to go on record as urging the continuation of the current U.S. policy.

As Representative of a cross section of Black American public opinion who believe in multi-party democracy and free elections and one-man-one-vote for South Africa—we want the same thing for Angola.

We commend President Bush for his forthright and uncompromising support for the UNITA freedom fighters in their struggle to make democracy a reality in their country.

We urge the Administration and the Congress to continue bi-partisan strategic planning designed to bring about reconcilitation with the ruling Marxist government under MPLA and the democracy movement under UNITA.

Surely the winds of democratization that are sweeping over Eastern Europe, the Soviet Union, and the nations of Nicaragua, Namibia and the Philippines can soon find their way to Angola.

The push of historical necessity is dictated by U.S. and Soviet Agreements in 1989, the original Alvor Agreement in 1975, and the "Crocker Accord" involving South Africa, Cuba, Namibia and Angola. The "pull" of the ideals of freedom of the individual, a free market and one-man-one-vote in a democracy is combined with that "push" in 1990 to make change inevitable.

Now is the time to continue our support and create a climate where it is clear that a military solution in neither possible nor desirable. These people who have fought for 27 years for freedom from Portuguese and then Soviet sponsored neoclonialism have earned our support as much as the people in Poland and Nicaragua. The struggle for democracy and peace in Angola deserves our best efforts as the leader of the free world.

Let us keep the faith with the Angola Freedom Fighters and our American ideals.

REV. MAURICE A. DAWKINS,
Chairman, Afro-American Task Force on Africa.

HYDE STATEMENT ON FLAG-BURNING DEBATE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. RITTER. Mr. Speaker, these remarks that follow were made by the gentleman from Illinois, Mr. HYDE, in the course of the debate over flag burning and whether an amendment to the Constitution would be an appropriate response.

Mr. HYDE's remarks are of such value to our institution, to our country, that I feel compelled to call attention to them, separately, so that some who may have missed them earlier will have the opportunity to experience them here.

The gentleman from Illinois, is frequently referred to as "the most articulate Member of the House of Representatives." In an age of information overload when superficiality has become an art form, Mr. HYDE's depth of focus on a wide range of issues is unequaled. In an era devoid of Churchillian understanding, his sense of history, giving perspective to current events goes unparalleled. When so many politicians refuse to be confused by facts, his intellectual prowess is rivaled, only by his sense of humor. Yes, in the midst of the most serious of debates, HENRY HYDE will use humor to lighten the load while winning converts and demolishing an opponent's arguments.

But by far, the most admirable trait of Mr. HYDE is his dedication to the ideals and the overarching principles that make America, with all her warts and flaws, the mecca and the role model for those seeking freedom, democracy, and prosperity, the world over.

HENRY HYDE is no ordinary mortal, no ordinary Member, no ordinary man. He is a cut above the rest of us; let's admit it and let's gain from it; let's face it, his presence in our midst makes us all look a little better also.

These superlatives would normally make me uncomfortable—but, not when it comes to the gentleman from Illinois, [Mr. HYDE]. For he conducts himself in modest fashion, with such natural self-depreciation that one is not worried that compliments will ever go to his head. Unlike most, the gentleman is actually humble in the face of all of his talents.

I am personally proud to be a Member of the same body and the same party in which HENRY HYDE serves.

In conclusion, this gentleman from Illinois would have been at home with the Founding Fathers; indeed, he appears to be a 20th century version of them.

So, whether you agree with them or not, please enjoy, relish, and experience the remarks of the Honorable HENRY HYDE on the occasion of the flag-burning debate on Thursday, June 21, 1990.

HYDE STATEMENT ON FLAG PROTECTION AMENDMENT

WASHINGTON.—U.S. Rep. Henry J. Hyde (R-Ill.), a member of the House Judiciary Committee, made the following statement Tuesday morning in support of the proposed amendment to the Constitution that would protect the flag from desecration:

"One of the least pleasant aspects of this controversy is the demagoguery on both sides of the issue. To my conservative friends I say a very respectable case can be made in opposition to amending the constitution.

"The fullest and freest speech, including expressive conduct has much to recommend it, and no one's patriotism ought to be questioned if their best judgment is to oppose the protection of our flag by amending the Constitution.

"By the same token, those of us who support an amendment have been collectively denigrated by the media as yahoos, cowards, mindless political animals and worse—all by those who refuse to concede that a scholarly and cogent case can be made for the amendment.

"Neither side should demean this issue by questioning each other's motives.

"We who support the amendment keep some very distinguished company. Among commentators, George Will and David Broder have stated their support as have Chief Justice Rehnquist, Justice White, Justice Sandra Day O'Connor, Justice Stevens, former Chief Justice Earl Warren, Justices Hugo Black and Abe Fortas—not to mention Judge Robert Bork and many others. All have expressed their conviction that the flag is constitutionally protectable from burning.

"It is not the text of the First Amendment we seek to amend—freedom of speech is untouched—it is a court interpretation of "speech" which expands its meaning to include expressive conduct—namely flag burning—as within the definition of protected speech that we who support this amendment, quarrel with.

"And so we must ask ourselves, is every act, every expressive conduct to be protected? Clearly not—libel and slander, obscenity, copyright and trademark laws, classified information, perjury, verbal agreements in restraint of trade and contemptuous speech in a courtroom—there are all sorts of exceptions to absolute free speech. Do we want to add flag burning to these already established exceptions? That is the question.

"Now it is disingenuous—or historically ignorant—to assert as many journalists and politicians have—that this is the first time in 200 years we would be amending the Bill of Rights.

"Dred Scott vs. Sanford decided in 1857 was overturned by the 13th amendment in 1865 which outlawed slavery, and the 14th Amendment in 1868 which declared that all Americans, native-born or naturalized, are full citizens and entitled to equal protection of the laws, a guarantee spelled out in the Fifth Amendment.

"Those of you who rushed to support the E.R.A.—which really sought to amend the Fifth Amendment and the 14th Amendment ought to use caution in arguing that this is the first attempt to amend the Bill of Rights.

"Pollock vs. Farmers Loans and Trust Company in 1895 involved the court declaring the federal income tax unconstitutional (Five to Four), and it was reversed in 1913 by the 16th Amendment.

"Oregon vs. Mitchell in 1970 (Five to Four)—the court invalidated an act of Congress that gave 18 year-olds the right to vote in state as well as federal elections—Congress reversed that decision with the 26th Amendment in 1971.

"Chisholm vs. Georgia, 1793 was reversed by the 11th Amendment in 1798 which protected the states from citizen's suits brought in federal courts without congressional authority.

"We are not amending the First Amendment—we are amending a decision of the court—something we have done four times in our history.

"Surely we can distinguish between a speech versus action idea and the manner of expressing that idea. We have always, in our laws, made that distinction.

"The flag is a symbol of our unity as a nation—E Pluribus Unum. Mr. Kastenmeier made a revealing comment in questioning Senator Biden last year. He said: "I think we have to be a little bit cautious about placing unity above all else, at least as a concept in this very diverse land."

"Certainly that is true in the case of religion—and our constitution explicitly recognizes that we are a house divided when it comes to religion.

"But there are some fundamental principles of government we ought to be united about: We know and ought to defend the assertion that life, liberty and the pursuit of happiness are human rights, and that to secure these rights, governments are institutions which derive their just powers from the consent of the governed—we don't hold these as opinions over which we might disagree—but as self-evident truths—And so, with respect to these fundamental principles of government we are united—and the flag is the symbol of our community and our unity.

"The Constitution was designed to keep us united—Article 4, section 4, says: 'The United States shall guarantee every state in this union a Republican form of government.'

"We are told that expressive conduct by an artist is protected by the First Amendment—It is fascinating to note that one way to avoid First Amendment difficulties in spending public money to exhibit a crucifix, is to do so by submerging it in urine—thus does art triumph over the establishment clause.

"The court decisions which, in my humble opinion, distort the meaning of the establishment clause into a mandate of equality between religion and irreligion, rather than its historical meaning of no preferment among religions, are examples of the court itself expanding the original intent of the framers—the general subordination of the free exercise clause to this unhistorical interpretation of the establishment clause are other examples of the manipulation of the First Amendment by court decision that not all of us are proud of.

"Lastly, I view this as one more struggle in the culture war that has been raging since Vietnam. There are those who hate America and its values and take every opportunity to demean those values.

"Those who are shocked, revolted and frustrated by the excesses of the counterculture, the pornography and obscenity that inundates our entertainment industry, the drugs, the AIDS explosion, the high abortion rate view flag burning as one more slap in the face of the millions of veterans who found enough values in America to risk their lives in combat. People resent the vulgarization of their country.

"I once saw a bumper-sticker that said: "Honk if you believe in anything!" That says it all for some people.

"A lot of us do believe—and we believe in our flag as a transcendant expression of the values which make our country the envy of the world—values that are still worth dying for!

"Justice Rehnquist said that flag burning does not express an idea, it is a grunt designed not to communicate so much as antagonize.

"In a very special way, the flag is our monument. The Lincoln Memorial, Washington Monument, the Iwo Jima Memorial, the Vietnam Memorial—all honor particular aspects of our common heritage. The flag embodies all of these as a transcendant symbol of our unity and community as Americans.

"Too many have marched beside it—too many have slept in their caskets beneath it—too many parents, children and widows clutch a flag folded into a triangle as the final remembrance of their loved one.

"To say we are powerless to protect the flag from defilement is to confess an impotence that would have astonished our Founders and Framers."

ENACTMENT OF THE FREEDOM OF CHOICE ACT IS ESSENTIAL

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. EDWARDS of California. Mr. Speaker, Judy Mann's column in yesterday's Washington Post graphically highlights the absurdity of a situation where women's decisionmaking in reproductive matters is subject to the whims of 50 State legislatures and a crazy quilt of court interpretations. For your convenience I submit the column for the RECORD, and urge all of our colleagues to read it. I hasten to point out I believe this column in no way reflects upon our distinguished colleagues from Louisiana, with whom I proudly serve in this Chamber.

Women's constitutional right of privacy, the basis of the Court's 1973 Roe versus Wade decision, is clearly a Federal matter requiring a Federal response. That is why 119 of us here in the House of Representatives, and 26 in the Senate have joined in introducing the Freedom of Choice Act (H.R. 3700, S. 1912).

By codifying the principles of Roe versus Wade (which prohibits States from restricting an individual woman's right to choose to terminate a pregnancy prior to fetal viability or in cases where the woman's health or life is at stake), the Freedom of Choice Act would prevent the sort of political grandstanding that is now unfolding in State capitals around the country. It would ensure one standard for women no matter where they live in the United States.

Enactment of the Freedom of Choice Act is essential to assure that individual women, not the Government, have the right to make their own decisions in the very private area of reproduction and I urge our colleagues to cosponsor this crucial legislation by contacting Jan or Deborah at x67680.

[From the Washington Post, July 11, 1990]

LA.'S INBRED LEGISLATORS

(By Judy Mann)

The woman on the telephone was sputtering in outrage. She wanted to know if I'd seen this week's Newsweek. There was this quote in it, on Page 23, in the third column, in a story about the antiabortionists' new tactics. She read the quote. I could see why she called.

"Last week," read the story, "the Louisiana Legislature approved a measure that would allow an abortion only to save the mother's life, but not for victims of rape or incest." And then the story quoted state Rep. Carl Gunter, who opposes abortion in cases of incest, as saying this: "Inbreeding is how we get championship horses."

Inbreeding is also how we get imbeciles.

And the Louisiana legislature appears to have more than its share.

It is the most backward legislature in the nation and in this session it has amply illustrated why citizens need to be able to turn to the federal judiciary for protection of basic rights when they are attacked by a bunch of political buffoons.

The Louisiana House is the one that voted on Memorial Day to fine people $25 for beating up flag-burners. It is also the one leading the charge against allegedly obscene record lyrics. Washington Post staff writer David Maraniss recently described what happened when Rep. Odon Bacque of Lafayette introduced a bill to make it a crime for a man to rape his wife. The bill was brought up at the last hour on a Monday night, a night when legislators want to party, not work. "The moment the bill was read, hooting and hollering began," Maraniss wrote. The bill was tabled.

Bacque is quoted as saying: "They just refused to take my bill seriously. With 102 men and three women in the House, they tend to have the mentality where women are considered objects and property. Those men are here for three months, most of them without their wives. They go out and get entertained every night. They tend to party and carry on and have a good time, and the whole atmosphere, to put it mildly, is not sensitive to the needs of women."

This is the context in which a state representative can compare incest with horsebreeding. It is also the context in which the state Senate can pass a bill that reduces the penalty for beating up a flag-burner to a $25 fine, and then hitch the most restrictive antiabortion bill in the nation to it.

After Gov. Buddy Roemer vetoed legislation that would outlaw abortion except to save the life of the mother, the legislature passed another bill that would allow abortion during the first trimester of a pregnancy caused by forceable rape or incest. For men who laugh at a marital rape law, that's probably a big concession. But to qualify, the rape would have to be reported within seven days to legal and medical authorities. Pregnant rape victims who are retarded and unable to resist could not get legal abortions.

The new bill would punish doctors who perform illegal abortions with up to 10 years of hard labor and $100,000 in fines. Oddly, it doesn't provide for any punishment for the women. You'd think the good old boys would have devised some suitable heinous fate for them, like being sentenced to spend the next 10 years of their lives barefoot, pregnant and in the kitchen—Louisiana's version of community service.

Roemer has 20 days to veto the bill, or sign it, or to allow it to become law by doing nothing. The state attorney general has raised constitutional questions about it: The State Constitution requires that major amendments be germane to the original legislation, which in this case is the flag-burning law. The only thing those two pieces of lunacy have in common is their mean-spiritedness.

There are only three women in the 144-member Louisiana legislature, the fewest of any state. All three women voted against the abortion bill. The Fund for the Feminist Majority has documented a huge gap in the way men and women are voting on abortion rights in legislatures across the country after the U.S. Supreme Court voted to let states limit abortions. Women, usually by large majorities and in both parties, are voting to protect abortion rights while a majority of men in states such as Florida, Kansas, Indiana, Pennsylvania and Michigan are voting to restrict abortions.

The Supreme Court has exposed American women, and their health, to the malicious manipulations of ignorant buffoons like the ones in the Louisiana legislature. And people like Carl Gunter are making it clear that power and control over women, and not some high-minded morality about life, is what is behind the votes to restrict abortion. Women are going to have to elect women to protect them, and they are going to have to cross party lines to do it. It's the best way of getting rid of imbeciles.

THATCHER THRASHING

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. CRANE. Mr. Speaker, Margaret Thatcher has long been criticized by the media for her austere form of government. Tight money, fewer government programs, and a refusal to join the exchange rate mechanism of the EMS are a few examples of the policies Mrs. Thatcher has advocated. Although her policies are fiscally sound, it is not surprising that Margaret Thatcher is frequently blasted by the media.

The U.K. can consider itself lucky that Margaret Thatcher remains unshaken and should feel secure in the knowledge that she is advocating appropriate policies to ensure the long-term prosperity of the United Kingdom. The negative treatment of Mrs. Thatcher by the media in this country only lends more credibility to those who believe that a liberal bias persists in the national media.

I urge my colleagues to read the following article from Media Watch's Janet Cook Award which distinguishes the most outrageously distorted news story of the month. The article is entitled, "ABC News: Thatcher Thrashing," and effectively exposes the fallacies of a recent story concerning Margaret Thatcher.

ABC NEWS: THATCHER THRASHING

Without Ronald Reagan to kick around anymore, why not slam Margaret Thatcher? Elected before Reagan, the Prime Minister of the United Kingdom has embarked on an 11-year battle to dismantle socialism instituted by a series of Labor governments in the 60s and '70s. She has accomplished many goals by selling off inefficient state-run industries, re-implementing free enterprise, monetarist principles, and reforming huge social spending programs.

So it's no surprise that when a controversial poll tax for local services went into effect in England, many American reporters derided Thatcher and her decade-long conservative tenure. London-based ABC News reporter Barrie Dunsmore was by far the most tendentious, employing misinformation and untruths. For his April 12 *World News Tonight* report, he earns this month's Janet Cooke Award.

Dunsmore ostensibly was reporting on rioting caused by the new tax, but his true target soon became the British Prime Minister and her policies: "The worst riot in central London in this century, sparked by a new tax here called the poll tax. Because rich and poor will pay the same in each municipality, the taxes seem, even by many of the well-off, as intrinsically unfair. But many in Britain believe the riots were also an expression of anger about a decade of Margaret Thatcher's policies." Mimicking a line that could be pulled out of any media report on Reagan's economic legacy, Dunsmore continued: "The division between haves and have nots has widened."

Dunsmore accused Thatcher of pitiful governance: "Since World War II, the government here has promised the people of Britain that it will provide the minimum requirements in shelter, education, and health care. Mrs. Thatcher's growing unpopularity appears to be directly related to the number of people who feel that she has broken those promises." He described the National Health Service (NHS) as "once the model for Europe: high quality health care free for everyone. Now patients are treated in hospital corridors. There are acute shortages of beds, doctors, and nurses. More than a million people are now waiting for admission."

Next on Dunsmore's list was the school system: "60 percent of British school children leave school at the age of 16. That compares to ten percent of Germans or Americans." On the homeless and welfare issues, he was the most harsh: "The sight of large numbers of people living on the streets is new in Britain. A national organization for the homeless says there are million people now without permanent homes. These people, and the permanently unemployed, are part of a growing underclass in Britain, a class the Prime Minister does not even concede exists." The report had this exchange:

Dunsmore: "Your critics are likely to say very often that your policies have created an underclass in this country."

Thatcher: "I think their analysis is totally wrong. I do not recognize an underclass. It is a new word and I think it is a commentator's word. I don't think it ties in with reality at all."

Dunsmore added: "In recent years, the government has stopped making support payments to anyone under 18." A homeless activist claimed: "They can't vote because they don't have an address. They don't get any welfare payments. They have nothing to lose." Dunsmore concurred: "Which may account for the very un-British behavior in last month's riots, and for the fears that there may be more to come."

Media Watch asked three British policy experts to analyze the report. All characterized it as extremely misleading and, at times, untruthful. Simon Clark, Director of the Media Monitoring Unit in London, pointed out that the riots were organized by prominent far-left groups, including communists and Trotskyites. Andrew Hubback, Research Director for the International Freedom Foundation-UK, noted that rich and poor certainly do not pay the same pool tax: "People on low incomes can claim rebates up to 80 percent."

Peter Allum, Secretary for Economic Affairs at the British Embassy in Washington, countered Dunsmore's argument that the gap between rich and poor is growing. Real average male earnings have rocketed up 38 percent from 1978 to 1990. Even those making half the average male earnings saw their real wages go up 32 percent. This compares to a real drop of one percent in average male earnings during the Labor Administration in the '70s.

Hubback added that the NHS budget "has been doubled since 1979—an increase in real terms of 30 percent." Thatcher succeeded in cutting back the bureaucracy, leaving more money for proportional increases in the number of doctors and nurses on staff. Thus, Hubback remarked, "the NHS now treats one million more patients a year than in 1979." In late 1989, Allum pointed out, waiting lists for in-patient hospital care was down seven percent from 1979 levels.

Social Security benefits were cut for those under eighteen to discourage dropping out of high school. Clark pointed out that Thatcher introduced the Youth Training Scheme (YTS) to teach dropouts to work in the private sector. If there are young people living on the street, Clark insisted "they are there by choice." As for the homelessness, it is not one million. A quick call to London's Department of the Environment put the figure at no more than 93,000 in late 1989—88,000 of whom were being used by local programs. According to Clark, the one million homeless figure (that would be one out of every 56 people) probably comes from a well-known, left-wing group called Shelter.

Dunsmore did not want to discuss his story nor defend his sources or statistics. Reached in London, he would only say: "I think not. As a general proposition [ABC] takes the attitude that we do our reports and do not comment on them. People either like them or they do not." It's safe to say, critics of Reagan in the United States liked what Dunsmore had to say about Thatcher and British conservatism.

TRIBUTE TO LEADERSHIP SACRAMENTO

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. MATSUI. Mr. Speaker, I am honored to rise today to bring to my colleague's attention the work of a distinguished public service program, Leadership Sacramento.

Over the years, the Sacramento Chamber of Commerce Leadership Sacramento Program has dedicated itself to identifying and developing effective community leaders among the citizens of the greater Sacramento Area. This year-long program meets this challenge by educating future leaders on a broad range of community issues and concerns, encouraging active participation in serving the community in leadership roles of their choice, enhancing leadership and management skills, and creating a spirit of cooperation for the resolution of future community challenges.

Leadership Sacramento is most deserving of our thanks and our praise for their efforts because they provide Sacramento with a generous supply of talented leaders who have a firsthand understanding of the problems and needs of the community.

I wish to commend Leadership Sacramento on this act of public service, and extend my personal congratulations to each of the participants. Being honored today are: Susan Baltake of River West Developments, Hal Bartholomew of Bartholomew & Wasznicky, Sean Barry of Price Waterhouse, Glenda Berger of Karen Bakula & Co., Beverly Brautigam of Brautigam & Co., Julian Camacho of AT&T, Steven Chu of Kaiser Medical Center, Richard Cochran of First Federal Credit Union, Michael Cohill of Sutter Memorial Hospital, Edward Crouse of Psomas & Associates, Sharen Dowdall of Sharen Dowdall & Associates, Thomas Gilbert of Gilbert Accountancy Corp., Rosanna Herber of Councilwoman Kim Mueller's office, Nancy Lee of McDonough, Holland & Allen, David Lehn of United Way Sacramento, Dwyane Little of Bolden Financial Services, Father Daniel Madigan of the Roman Catholic Diocese of Sacramento, Susan Mayer of U.C. Davis Medical Center, John Mendez of Downey, Brand, Seymour & Rohwer, Patricia Newman of Aerojet Techsystems Co., Mary Anne Payne of U.C. Davis, Donald Person of International Executive Technology, William Pepicello of National University, Sandra Perez of Assemblyman Phil Isenberg, Paul Powell of Transitional Living and Community Support, Anne Rewell of Touche Ross & Co., Jerry Salgado of Sacramento Army Depot, Randall Sater of A. Teichert & Sons, Roger Shafer of Sutter Center for Psychiatry, Dennis Smith of Downtown Plaza Associates, Timothy Taylor of Potter-Taylor & Co., Thomas Venturino of Big Brothers/Big Sisters of Sacramento, Robert Walker of Sacramento Symphony and James William of Williams & Paddon.

Mr. Speaker, I know my colleagues join me in wishing these participants in Leadership Sacramento continued success in their future endeavors.

OPPOSE THE BALANCED BUDGET CONSTITUTIONAL AMENDMENT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. MAZZOLI. Mr. Speaker, the Economic and Commercial Law Subcommittee, on which I serve, has conducted comprehensive hearings on House Joint Resolution 268, a proposal to amend the Constitution to require a balanced Federal budget.

Those who support this amendment do so in good faith, understandably seeking some way to force the Congress and the administration to reduce the intolerable Federal budget deficit.

I support deficit reduction and have joined my colleagues over the years in taking necessary steps to reach this laudable goal. Such steps include passage of the Gramm-Rudman-Hollings deficit reduction law which—not without great pain—is moving the budget toward lower deficits and an eventual balance.

I also support the participation of administration and congressional leaders in a special budget summit to develop a workable, long-term budget which also eliminates the deficit.

So, we are all in agreement that the Federal budget deficit must be reduced. The only disagreement is how to do it. I, for one, do not feel that a balanced budget constitutional amendment is how to do it.

My first, but not sole reason, for opposing the amendment route is this. I do not believe the Constitution should be changed if there is another way to get the job done.

There is no statutory or legislative way to protect the flag. Therefore, I supported the proposed flag-protection amendment which came to the House recently. But, by contract, there are many legislative ways to gain control to the budget deficits. So, I oppose a constitutional amendment.

Among such legislative steps are: The Gramm-Rudman-Hollings measure which is already on the statute books; a proposal to move Federal budgeting to a 2-year cycle from the current annual cycle; a proposal for a 2-year experiment with the line-item veto; a proposal to enhance the rescission authority of the President; a proposal to combine the two congressional budget committees; and enough other proposals to fill a bookshelf.

Suffice it to say, there is not a dearth of learned suggestions on how to balance the budget. There is only a dearth of the political courage, fortitude, and discipline—in short, the spine—on the part of Members of Congress, the administration and, yes, even the people of America, to undertake the painful task of balancing our national books.

We are being asked by proponents of the amendment to operate on the Constitution and withdraw its spine and transplant that spine into each of us.

That is not only inappropriate, but it is futile. It is inappropriate because there are other ways to address the problem of deficits. And, it is futile because all proposed amendments I have studied provide a myriad of escape clauses, waivers, and loopholes, allowing a deficit despite the admonitions against one.

I appreciated the testimony by the witnesses during the subcommittee's deliberations, but in all honesty, I found it hard to accept as persuasive those witnesses who favored a balanced budget constitutional amendment.

NORTHERN CALIFORNIA LABOR HALL OF FAME

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mrs. BOXER. Mr. Speaker, I rise to call to the attention of my colleagues a very worthwhile project in northern California which might serve as an example and model for similar efforts in other parts of our country.

I refer to the establishment of the Northern California Labor Hall of Fame which will be formally inaugurated on July 27 with a charter membership of some 18 labor leaders who have made major contributions to the labor movement and to the rich political, economic and cultural history of the area.

The Labor Hall of Fame is the creation of the Labor Foundation which is a nonprofit tax-exempt association formed about a decade ago by the AFL-CIO, ILWU, and the Teamsters for educational and outreach activities. The foundation was also responsible for establishing the Labor Archive and Research Center at San Francisco State University. The Labor Archive has made an impressive beginning in collecting records of the union movement including personal papers of individuals, memorabilia, photos, art, and the start of the research library.

The Labor Hall of Fame will make an important contribution to labor history and education. It honors a group of early labor leaders in northern California who not only built the modern labor movement commencing in the early 1930's, but who also held it together during the preceding dark days of the late 19th and early 20th century. The pioneer honorees are: Michael Casey, the great Teamster leader; Andy Furuseth, Sailors' Union of the Pacific, the emancipator of the American seamen—also known as Abraham Lincoln of the Seas; C.L. Dellums, pioneer organizer of the railroad's Brotherhood of Sleeping Car Porters; Hugo Ernst, who rose from a San Francisco waiter to head the Nation's Hotel & Restaurant Employees Union; Olaf Tveltmoe, militant leader of the Building Trades Unions.

No list of individuals who contributed to working people's causes would be complete without paying tribute to those men and women who accepted responsibility for Labor's resurgence in the 1930's. Not surprisingly, Harry Bridges heads the list. He organized and won important gains for longshoremen in the 1934 strike. Further, he inspired thousands on the Pacific Coast to build vital unions. George Kidwell, of the Bakery Wagon Drivers, is remembered for his wisdom and statemanship. Jenny Matyas, who died 2 years ago, fought to eliminate sweat shops in San Francisco's Chinatown. Until her retirement in 1961, she was a vice president of the International Ladies Garment Workers Union.

Other outstanding individuals served local communities and our Nation with distinction: Jack Shelley headed the San Francisco Labor Council and was elected as Congressman and mayor of San Francisco; Joe Mazzola, head of the Plumbers Union, forged ahead in health and welfare bargaining; George Hardy rose through the ranks to the presidency of the Service Employees International Union; Eugene Paton marched inland to bring warehousemen into the ILWU; Ronald Weakley is remembered for leadership in the IBEW's giant PG&E local; "Tiny" Small is known as Mr. Labor in San Mateo County; Claude Jinkerson opened unionism for Safeway chain's grocery clerks; Ernesto Galarza carried labor's banner to forgotten farm workers; Stan Jensen, International Association of Machinist leader, also negotiated for the Pacific Coast Metal Trades Council; last but not least, Chet Bartalini, former Illinois coal miner, as secretary of the Bay District Council of Carpenters, set high standards for rank and file unionism.

These 18 hall of famers will be inducted at a ceremony on July 27, 1990.

Mr. Speaker, this project is truly an impressive one and will be a source of historical information and inspiration for generations to come. I salute Walter Johnson and other members of the labor community who are responsible for this achievement and commend it to my colleagues and the American people as a model for what may be done in other parts of our great country.

JACK KEMP—THE RIGHT MAN FOR HUD

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. McEWEN. Mr. Speaker, I wish to share with my colleagues a recent article by James Kunen in the June 18 issue of People magazine about one of our Nation's most outstanding leaders in Government service, Jack Kemp.

Jack Kemp, Secretary of Housing and Urban Development, is the right man for his job. His positive motivation is helping to remove the structure of poverty in the inner cities. He is restoring hope where before there was despair. Jack Kemp is succeeding at HUD by producing results which are multiplying for thousands of Americans across the country.

Jack Kemp's positive outlook has shaped his life. He has achieved success and respect in every facet of life, as a professional athlete, public servant, and as a dedicated family man. This balance has made Jack Kemp a model for all Americans. I commend Jack Kemp's record and recommend that my colleagues take note of his efforts to date and work to support his successful proposals:

SURE, HE'D RATHER BE PRESIDENT, BUT CONSERVATIVE JACK KEMP MAY BE THE RIGHT MAN ON THE RIGHT FOR HUD

Jack Kemp, Secretary of Housing and Urban Development, used to be a profootball quarterback. But on this day, as he extols the virtues of capitalism to a luncheon crowd of housing advocates and local luminaries at a Pittsburgh hotel, he sounds more like a cheerleader.

The way to get people out of poverty, he declares, is to "empower" them—starting by giving them the chance to manage, control and finally buy their own housing. "A piece of the rock, if you will! Equity in America!" cries Kemp, 54 his excitement rising. "My daddy was a small businessman in Los Angeles, put four boys through college by driving a truck, then buying a truck, then hiring a truck driver, paying wages and plowing his profit back into more trucks! Ladies and gentlemen," Kemp concludes, his raspy, high-pitched voice cracking with enthusiasm, "gotta make it work in downtown Pittsburgh! Gotta make it work in Watts, in Harlem, South Bronx, Miami, Motown! We can't leave anybody behind!!"

The audience applauds exuberantly as, for a moment, the room is suffused with hope and everything seems possible. Indeed, if the power of positive thinking could raise roof beams, America's housing crises would be over. Jack Kemp is the truest of believers—in capitalism, in Republicanism, in himself. For Kemp, problems exist to be solved, and every setback is an opportunity in disguise.

When George Bush named him Secretary of HUD last year, it must have seemed one of the better-disguised opportunities to come Kemp's way. After running unsuccessfully for President—he won only 39 delegates before dropping out of the Republican race—the nine-term Congressman from the Buffalo, N.Y., area had hoped to be tapped for Vice President. He would have been content with Secretary of State or Treasury. Instead he got HUD—a department so mired in corruption that it was less a government agency than a feeding trough for well-connected developers and politicians. Kemp's predecessor, "Silent Sam" Pierce—who denies any wrongdoing—is under investigation by a special prosecutor, and a congressional inquiry seems to find yet another apparent past abuse at HUD with appalling regularity.

Kemp had scarcely uncrated his bust of Abraham Lincoln in his new office when he called in HUD Inspector General Paul Adams for a briefing on the problems besetting the department, including charges of influence peddling and fraud. The meeting took up most of two days, and the written report that followed filled 700 pages. The bottom line: Misappropriation of HUD funds during the Reagan years could cost taxpayers more than $4 billion. "Lurking underground were all these goblins and snakes and vermin," says Kemp. "Incredible problems of mismanagement. It's unbelievable." Kemp says it really "frosted" him to learn that rich Republicans were ripping off the poor, but he criticizes Pierce only for having a "management style" that was "lax."

Kemp's approach to running HUD is anything but. He keeps a pad by his bedside to jot down ideas in the middle of the night, and during his 10-hour workdays, he rolls up his sleeves and cruises HUD's hallways to exhort the troops. "Hi, I'm Jack,"he says to startled bureaucrats. "Who are you?"

A self-described "bleeding-heart conservative," Kemp admits his concern about urban problems ran considerably deeper than his knowledge when he started at HUD. He tells a story about his naïveté on a visit to a Philadelphia housing project in the winter of '89. As tenant manager Virginia Wilks gave him a tour, he says, "We walked outside on this cold February day, and about 30 feet away were five guys standing around a trashbarrel fire. I said, 'Isn't that nice. Those guys are warming their hands and having a cracker-barrel philosophical discussion,' She said, 'Mr. Kemp, they're crack dealers' "

With typical zeal, Kemp returned to Washington and ordered his legal staff to notify 3,300 public-housing authorities that they had exactly 30 days to evict anyone dealing drugs. It was a bold step—a little too bold for the due process of law, as it turned out, but a step all the same. "I can't say we've gotten drugs out of all public housing," admits Kemp, "but we're getting cooperation."

He got the cooperation of both parties in Congress his first year, pushing through reform legislation that opens the HUD funding process to public scrutiny. He has targeted 50 decaying areas as "enterprise zones" to which he hopes new businesses can be lured with incentives, including tax breaks. Now he's asking for a $5.3 billion increase in next year's HUD budget (to $23.7 billion), including $1.2 billion for his favorite initiative, the HOPE (Homeownership and Opportunity for People Everywhere) program, which would help the poor buy the low-income housing they live in. "We treat poor people as through they're going to be poor forever," complains Kemp, who vows to "change every rule we can get our hands on to reflect the fact that we want people in public housing to move through and up and out."

Critics point out that a program to help people who are already in public housing does nothing for the millions receiving no assistance at all. Indeed, some say Kemp's HOPE plan looks suspiciously like a program to cut back public housing. "He's got a tight budget. The HOPE money has to come out of the money for modernization and construction," says Mark L. Wolfe, director of the Federal Funds Information for States, which serves state legislatures and governors. "But at least it's good to see an activist like Kemp in there, someone who can slap other Cabinet members on the back and get their attention."

Indeed, Kemp regularly sounds off at Bush administration cabinet meetings—and not just about HUD matters. "I'm HUD Secretary and not Secretary of State," he says, "but Bush loves to tolerate a good debate. He knew what he was getting with Jack Kemp." Like Vice President Dan Quayle, Kemp is a spokesman for the Republican right. "I talk about trade and foreign policy," he says, "though [Chief of Staff] John Sununu won't let you get long-winded." With Kemp, that's a challenge. What he calls his "natural quarterback ebullience" spurs him to such feats of oratorical stamina that his staffers regularly give the "Cut! Cut!" sign midway through his speeches. Even his younger daughter, Judith, drew her hand across her throat when his toast at her 1989 wedding threatened to outlast the reception. Observes Kemp's wife, Joanne: "We tease him all the time. We have to say, 'Hey, someone else wants to talk.' He's just always on."

Some say it was Joanne who pushed Kemp to take HUD when George Bush offered it. She reportedly told him, "If you don't do it, don't expect anybody to take you seriously about a conservative war on poverty." In fact she has been his trusted adviser since they met in 1956 as students at California's Occidential College, where she was Maid of Cotton and he the star quarterback. (They married in 1958.) But at HUD, he has had to fend for himself. "I really haven't given him much advice as HUD Secretary, because it's so complicated," says Joanne, 53, a former teacher who now leads a weekly Bible study group of congressional wives. Of late, her chief contribution to his political career, she says, has been taking up the slack at home so he can pour his energy into HUD. "It has been my function to hold everybody together when he's out saving the world," she says. Even when he's relaxing, she adds, "he'll read a World War II history book at the same time he's watching TV and switching channels. He's a multimedia wizard."

Joanne has apparently performed her home-front function well: The family remains extremely close. The four kids—Jeff, 30, a Seattle Seahawks backup quarterback; Jennifer, 27, a Virginia school-teacher; Judith, 24, an aide to Sen. Dan Coats (R-Ind.); and Jimmy, 18, a Wake Forest University sophomore and quarterback—still get together at the family's Bethesda, Md., home or join their parents skiing in Vail, Colo. Jack Kemp the dad, says Jeff, "talked

with us constantly. He was our motivator, encourager—very optimistic. When we were kids, our football games and ballet recitals gave him great material to brag about for a month." When the children were young, Kemp would constantly remind them as they headed off to school, "Be a leader!" And during hard times he would leave upbeat notes called JK-grams on their pillows.

Kemp's positive outlook had been drummed into his head by his strong-willed Christian Scientist mother, Frances, a social worker. "I was taught, if you're not happy where you are, you're not going to be happy where you're not," he recalls. It can't have been easy to fight discouragement during his early pro football years. At 6 ft. he was small for a quarterback and had to stand on tiptoe to see over his blockers. Kemp spent three seasons seeing little action with five different teams. Finally, in 1960, he signed with the Los Angeles Chargers (since relocated in San Diego) and led the infant American Football League in passing. Sold to the Buffalo Bills in 1962, he was chosen to play in six AFL All-Star games. Yet his most enduring gridiron achievement was political, as co-founder and president of the AFL Player Association. "He went out on a limb when it wasn't popular for players to challenge the management," recalls former linebacker Nick Buoniconti. "He got us a pension, medical benefits and a lot of things players never had. He was always a take-charge kind of guy."

Retiring from football in 1970, Kemp promptly won a Buffalo-area seat in Congress, with 52 percent of the vote. Eight years later he polled 95 percent. He had become celebrity in the Republican Party, thanks to his advocacy of supply-side economics, the theory that tax cuts would stimulate economic growth and actually result in increased tax revenue. Ronald Reagan loved the idea. "Dear Jack," he wrote in a 1988 letter framed on Kemp's office wall, "We showed this town that if you want to make this government move, let a guy from Hollywood and a football player call the plays."

Of course, George Bush is now the one calling the plays, having consigned Kemp to the grunt work at HUD. Yet even the housing mess has its positive side. "I look at it as a chance to do something good and have fun at the same time," Kemp says. Gazing out of his 10th-floor window at a panoramic view of Washington, Kemp observes, "I've got to believe I've got the best job in the world—other than the President." Just how long the job will remain "fun" is another question. "He runs a political risk if he stays too long," says one Capitol Hill staffer, who points out that the nation's intractable housing problems could taint Kemp with failure "He talks a good game. Now he has to produce. There's talk that he will stay two years and get out."

For now, Kemp the inveterate campaigner is speaking an average of once a week to audiences around the country. While he's at it, he's building a personal political base among the poor, a constituency to which few other Republicans can turn for support. A born-again Christian, Kemp likes to quote "my favorite HUD Secretary," the Biblical master builder Nehemiah, who restored the fallen walls of Jerusalem and helped provide homes for the poor. "Nehemiah said, 'Come, let us build.' Now, there were some on the sidelines who said, 'He's a fool.' But he wouldn't give up, because he had something burning in his breast."

Some observers think what's burning inside Kemp is the desire to be President. Kemp, however, disavows such ambitions. Beyond HUD, he claims to aspire to nothing more lofty than "the World Bank or the U.S. trade representative or the Agency for International Development. I'd like to go to every third world country and preach Adam Smith and democratic capitalism."

Skeptics point out that he could preach all the louder from the bully pulpit of the White House. But few doubt his sincerity as he tackles the task at HUD. "I don't believe it is the natural condition of the human soul to live in grinding, abject poverty," says Kemp. "I think something can be done about it."

THE 601ST ANNIVERSARY OF THE BATTLE OF KOSOVO

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. GEKAS. Mr. Speaker, the Serbian people recently marked the 601st anniversary of the Battle of Kosovo where the Turks overpowered and defeated the Serbian people on June 28, 1389. Although this great loss resulted in 500 years of Turkish rule over the Serbian nation, Americans of Serbian descent annually celebrate this occasion not because their ancestors were defeated and their homeland pillaged by the Turks, but because the Serbian people endured this time of hardship without losing their religious faith or their heritage and traditions.

The Turkish drive to conquer Europe began in the early 1300's. By 1371, their campaign led them to the banks of the Maritsa River where they soundly defeated the Serbians led by King Mrnyavchevick. Despite this disastrous setback, the Serbians continued to resist their aggressors until the Battle of Kosovo in 1389. The defeat of the Serbians at Kosovo led to their incorporation into the Ottoman Empire for nearly 500 years.

Subjected to the cruel and brutal treatment of the Ottoman Turks throughout this long period of time, the Serbians endured these hardships and remained united generation after generation with the memory of their defeat at Kosovo. The memory of this defeat inspired the Serbian people to face and overcome these tremendous odds in the name of freedom. As the Ottoman Empire gradually faded away in the late 1800's, the Serbs were given the opportunity to regain their autonomy and eventually their independence in 1882. With the end of World War I, the Serbians led the way to establishing a nation state which would incorporate themselves, the Croatians and the Slovenians. This newly created state would become the kingdom of Yugoslavia.

With the Communist invasion of Yugoslavia in 1945, the newly empowered regime banned the celebration of the Battle of Kosovo in an attempt to destroy the heritage and unity of the Serbian people. Over the course of their amazing history, the Serbian people have certainly demonstrated their capacity to cope with extreme hardship and adversity. Their celebration of his defeat and the subsequent brutality of the Turks embodies the very endurance and determination of the Serbian people. Therefore, it is with pride, Mr. Speaker, that I invite my colleagues in the U.S. House of Representatives to join me and the Serbian people of my district as well as the entire Nation in commemorating this great battle and the ongoing struggle of the Serbian people.

TRIBUTE TO EDWARD F. RENWICK

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an outstanding individual from my congressional district who truly deserves to be recognized for his dedication and service to the public. On June 30, 1990, Edward F. Renwick retires after 43 years of dedicated service with the State of California. It is indeed an honor to share with you and my colleagues the inspiring career of this devoted public servant.

Mr. Renwick has spent the entire span of his career serving the citizens of California. Edward's career with the State government began on May 1, 1943, when he began work with the department of fish and game as an assistant game warden. He joined the U.S. Navy in February 1945 and served until his discharge in June 1946. He rejoined State government later that year in October as a clerk I in duplicating with the State personnel board. He was promoted to a clerk II and then storekeeper I prior to transferring to the State department of corrections in July 1955 as a storekeeper II at the Vacaville Corrections Facility. He transferred again in February 1958 to the department of motor vehicles where he served in the capacity of a storekeeper II and II until moving to the department of water resources in July 1965. He served as a business service officer I until joining the employment development department [EDD] in July 1972 where he has remained for the past 18 years. He has served EDD in the capacity of a business service officer I & II (1972–75), a field representative for the associate business management analyst (1975–81), a staff services manager I (1981), and finally as the lead analyst in the forms procurement division. I salute his accomplishments and contributions to State service.

Coupled with Edward's devotion to public service is his dedication to his family. He and his lovely wife, Goldie, have two sons, Frank and Tom, and one grandchild, Frank Jr. He has been active in community service participating in the PTA, Boy Scouts of America and Little League.

Mr. Speaker, Edward F. Renwick has served as an exemplary public servant and I commend him for his outstanding contributions to the State of California government and to the citizens of Sacramento. I ask that my colleagues join me in saluting this stellar public servant and extend best wishes in his future endeavors.

NAVAL ORDER OF THE UNITED STATES RESOLUTION

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. BENNETT. Mr. Speaker, I have received from the Honorable Gilven Slonim, president of the Oceanic Educational Foundation, the following resolution of the Naval Order of the United States relative to oceanographic matters, particularly in support of research and studies relative to ocean assets. I ask for it to be included in the CONGRESSIONAL RECORD at this point.

NAVAL ORDER OF THE UNITED STATES RESOLUTION SEA CHANGE—THE LITERACY MISSION

Whereas: The Naval Order of the United States is motivated by its self-imposed mission for encouragement of all forms of literary endeavor which aim to enlighten American citizens as to their dependence upon the sea for sustenance, for their very survival—the human stake; and,

Whereas: The United States of America, an island nation, derives its strength and security from the Great Global Sea; indeed, the Nation enjoys a richly rewarding Maritime Heritage; and,

Whereas: The "Humanities of the Sea" promises human benefits through future dynamic lifestyle with its psychological, philosophic and spiritual overtones; and,

Whereas: The World Ocean, in the strictest sense, holds vast resources, now in limited supply on the land, water for human use, energy from sources invulnerable to arbitrary interruption, medicine, food, minerals, power and oceanic space to meet mounting human needs within its massive bulk; and,

Whereas: The World Ocean promises a cornucopia of oceanic pharmaceuticals to allay suffering, to enhance human life, throughout the universe; and,

Whereas: The treasures of the deep can be gained only through oceanic knowledge, scientific research aimed at 'secrets of the sea' discovery, and through negotiation of its global expanse; and,

Whereas: The World Ocean awaits full negotiations as mankind's Oceanic Frontier of the Future, a dynamic foundation for the motivation of people toward enhancement of the quality of life; and,

Whereas: Oceanic trade forged the Republic's sinews of economic strength during its formative years, and the competitive drives of vibrant global trade carrying, leading to America's rise to the foremost world power in the market place; and,

Whereas: American interests, just as the potential threats to the security of the U.S. are global in nature, this Nation, must attain a 'Sea Change' in coherent National Policy and strategy of worldwide scope and flexibility dictating key tridimensional naval readiness as a central requirement; and,

Whereas: Seacreation, the enjoyment of the sea, already attracts millions, the major portion of the American people, and provides rich overtones of modern dynamic living, an affirmative perspective through healthful and a fully creative existence to uplift the spirit of our people; and,

Whereas: The Coastal Oceanic interface provides a springboard to the global expanse wherein vast opportunities loom for the youth of the Nation to make satisfying contribution to their society—all of mankind; at the water's edge an entirely new world of human enrichment, of oceanic thought and action, of challenges to the mettle and spirit of men and women emerges; and,

Whereas: The exploration of the atmosphere and space progress with widespread research and support, mankind has yet to launch its first intellectual attack on the world ocean; and,

Whereas: The Presidents of the United States and the U.S.S.R. reached agreement at the recent Summit in Washington as to the importance of an advancement of Oceanic Studies at all levels, and the creation of an oceanic and environmental park in the Bering Sea, and other maritime advances which highlighted the promise of the oceanic expanse for all mankind.

Therefore, the Naval Order of the United States, while in conference at its Centennial conventional celebration, in San Francisco, California on 4 July 1990, does resolve to encourage Oceanic Studies at all levels within American Schools to the end of gaining balance between land and sea in its national curricula. And further resolves to encourage all elements of a stimulating, national literacy efforts to afford our citizens the benefits to be derived through understanding the Great Global Sea, and the benefits to be achieved through its synergistic use worldwide for trade, trade carrying, security, prosperity and benefit to human beings throughout the globe.

Thus in this unanimous resolve the Naval Order defines the "Oceanic Destiny of these United States" and its devotion toward its attainment.

A TRIBUTE TO ROSELLA RYAN

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. MAZZOLI. Mr. Speaker, I rise today to pay tribute to a woman who was an outstanding leader and a caring person: Rosella Ryan of Shively, KY. Rosella left our midst on June 20, but what she did for the people of Shively—located in the congressional district I am privileged to serve—will never be forgotten.

All her life, Rosella was involved in a myriad of activities in the Shively community. She labored long and hard, but usually as a volunteer.

In 1986, Rosella was elected to the Shively City Council where she left her stamp and her convictions on important legislative initiatives.

Outside of politics and public service, family and religion played the biggest part of Rosella's life. Rosella and her husband, Joe, raised five daughters and five sons. They provided their children a loving, caring household in which a strong work ethic and high personal standards were emphasized.

Mr. Speaker, Rosella Ryan will be deeply missed by her family, by the Shively community, and by all who live in Louisville and Jefferson County for her many personal and public contributions.

CRANSTON'S USE OF VOTER-REGISTRATION CHARITIES TO BENEFIT CAMPAIGN HIGHLIGHTS GRAY LEGAL AREA

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. THOMAS of California. Mr. Speaker, I would like to insert in the RECORD the following article written by Brooks Jackson and published in the Wall Street Journal on March 1, 1990.

[From the Wall Street Journal, Mar. 1, 1990]

CRANSTON'S USE OF VOTER-REGISTRATION CHARITIES TO BENEFIT CAMPAIGN HIGHLIGHTS GRAY LEGAL AREA

(By Brooks Jackson)

WASHINGTON.—When Republicans lost control of the Senate in the 1986 elections, Sen. Alan Cranston thanked donors to a $4 million fund-raising drive he had organized to elect Democrats.

"Your support was a major factor in helping us to realize this historic victory," the California Democrat said in a confidential memorandum.

Under law, campaign donations are strictly limited and must be fully disclosed. But Sen. Cranston had taken in donations as large as $400,000 while promising anonymity to the donors, who included business executives with interests before the Banking Committee, of which Sen. Cranston is a senior member. Many givers wrote their contributions off as deductions on their federal income-tax returns.

Sen. Cranston had exploited an area that the campaign-finance laws apparently fail to cover—tax-exempt charities that register voters, in this case poor and minority voters, who are mostly Democrats. The senator says this had a laudable effect—getting people to the polls. "I was determined not to have everything depend upon TV and money," he said in an interview.

The Cranston operation was modeled in part on Republican efforts in 1984 to use tax-exempt groups to register evangelical Christians and to get overseas military personnel to vote by absentee ballot. Internal Revenue Service regulations allow the use of tax-deductible money to sign up voters in promising neighborhoods or demographic groups, so long as canvassers don't ask in advance which party or candidate the potential voters favor.

But documents obtained by The Wall Street Journal suggest Sen. Cranston used the charities as an avenue for what in effect were concealed, tax-deductible election contributions from lobbyists, corporations, labor unions, business executives and rich individuals.

The discovery last year that savings-and-loan owner Charles Keating Jr. had given $850,000 to three voter-registration groups in which Sen. Cranston was involved helped bring the Keating affair to a boil and could damage any re-election effort by Sen. Cranston, whose term expires in 1992.

JUNK-BOND CONNECTION

But a scandal may have been inevitable with or without Mr. Keating. Undeclared-gifts benefiting Sen. Cranston from 1985 through 1988 also included:

$25,000 from Drexel Burnham Lambert—which the senator solicited directly from junk-bond impressario Michael Milken. The senator later sided with Drexel on the Banking Committee against legislation to curb purchase of high-risk bonds by federally insured thrifts, and joined other California lawmakers in petitioning the Securities and Exchange Commission to leave Drexel's junk-bond operation in Beverly Hills;

$25,000 from the law firm of John Camp, a Washington lobbyist for Sears, Roebuck & Co.'s banking interests, with whom the senator lined up by leading a successful effort to weaken legislation regulating limited-service banks:

$25,000 from a foundation controlled by S&L mogul David Paul of Miami-based CenTrust, which was Florida's largest thrift before its ailing junk-bond portfolio caused it to crash:

$15,000 from California's Columbia Savings, the single biggest thrift-industry customer for Drexel's junk bonds.

Much of the money to the voter-registration charities was from wealthy liberals sympathetic to enfranchising the downtrodden and to Sen Cranston's stands for nuclear disarmament and protecting the environment. Joan Kroc, widow of the founder of the McDonald's hamburger chain, gave $400,000 in 1986 and $150,000 in 1988. Department-store heir Frederick Field gave $217,000 to three different groups. Singer Barbra Streisand was another heavy donor.

But other donors included the political-action committees of the Association of Trial Lawyers of America ($200,000) and the Teamsters union ($100,000), the Gallo winery ($200,000), soybean magnate Dwayne Andreas ($50,000), and several labor unions, including the Sheet Metal Workers ($75,000), Hotel and Restaurant Employees ($50,000), and the Service Employees ($40,000).

In all, 75 donors gave a total of $4.1 million in the 1986 elections, according to memos by organizers. Sen. Cranston solicited several million more in donations for the 1988 elections.

Donors were promised anonymity. In one memo dated Sept. 24, 1986, the senator said: "Remember, in addition to being tax deductible, these contributions may be unlimited in amount and need not be publicly reported."

Many donations did become known, partly by accident. Mr. Keating's gifts were discovered by California savings-and-loan examiners going over his company's books. Later, California officials released to several newspapers some tax documents—containing more donor names—that they now say were supposed to remain confidential. This newspaper obtained names of additional donations because of another bureaucratic error. And one tax-exempt group voluntarily released a list of its donors. But Cranston associates won't release a comprehensive donor list, saying they must honor the promises they made.

The 1986 effort to raise tax-deductible money to elect Democrats was dubbed AmericaVotes, and was later renamed USA Votes for the 1988 elections. The intent of the AmericaVotes was explained by its manager Robert Stein in a 1986 memo: "As Democrat, we are trying to regain control of the Senate, to increase our majority in the House of Representative and, in general, to help strengthen the capacity of state and local groups to motivate voters favorable to Democrats this year and in 1988."

AmericaVotes concentrated its efforts in 1986 on states where close elections were expected. Mr. Stein's memos say he made the choices with help from the Democratic House and Senate campaign committees, underscoring the partisan intent of the organizers. Finds went to about 60 voter programs in 13 states. Mr. Stein's memos say the money was used not only to register minority votes, but to push environmental and farm issues where that would be helpful to Democratic Senate candidate.

In North Dakota, where Democrat Kent Conrad defeated GOP Sen. Mark Andrews by 2,135 votes, the America Votes effort invested $100,000. According to a Stein memo. That included $50,000 to the non-profit Dakota Resources Council for what Mr. Stein described as "sophisticated education and GOTV [get-out-the-vote] campaigns."

'HERE, THERE AND EVERYWHERE'

One Dakota Resources publication attacked Sen. Andrews for casting an "anti-farmer vote" in favor of "lower market prices for our farm commodities." A former Andrews aide, Jacqueline Balk-Tusa, recalls that Dakota Resources hadn't been much of a factor before the 1986 campaign. "All of a sudden they were here, there, everywhere," she says. "They got people out to vote who had never voted before." In the midst of the compaign, Bismarck, N.D., lawyer Myron Atkinson complained to the Federal Election Commission that Dakota Resources was engaging in illegal compaign activities. The FEC declined to investigate the complaint.

Mr. Stein also described America Votes money as possibly decisive in Washington State, where Democrat Brock Adams defeated Republican incumbent Sen. Slade Gorton by 2% of the vote. A major issue in the race was Adams's opposition to a nuclear-waste site. "More than $40,000 was invested in education and GOTV programs conducted by peace and environmental groups," Mr. Stein wrote. That was part of a total of $100,000 that America Votes claimed to have funneled into the State, according to the memo.

"Senator-elect Adams attributes his victory to the partisan and nonpartisan efforts designed to increase voter turnout," Mr. Stein's memo said.

By far the biggest chunk of tax-deductible money—$600,000 according to the Stein memo—aided Sen. Cranston's re-election. Mr. Stein said it seemed to be the difference between victory and defeat. "In California, black turnout in Los Angeles and overwhelming voter support for Cranston on the toxics [ballot] initiative appear to have been determinative for him," he wrote. Mr. Stein said some of the same donors also gave a total of $300,000—non-deductible—directly to the California Democratic Party for a drive to get voters to the polls.

Sen. Cranston won by fewer than 105,000 votes, and Mr. Stain said the combined efforts of the party and the tax-exempt groups got at least 160,000 voters to the polls. "Campaign officials believe that they were indispensable ingredients of his victory," Mr. Stein wrote. He said later the word "indispensable" came from Mr. Cranston.

Sen. Cranston denies that. "I don't think the [tax-exempt] registration had anything to do with my election," he said in an interview. He concedes that the party's voter drive, using money he solicited, was "important" to his victory. It was to the State party that Mr. Keating directed an $85,000 contribution, which the Senator says he assumes he or an aide must have solicited. This so-called soft money (governed by State rather than federal campaign laws) came from corporate funds, which would have been illegal if given directly to the Cranston campaign.

When it came to tax-exempt groups, Sen. Cranston routed some donations through his Capitol office. "The checks should be made payable to 'California Center for Voter Education and Participation' and send to me at the Senate," he told one donor in a letter. "Keeping my Senate seat in the Democratic column may be pivotal to our regaining control of the Senate," he wrote.

That group reported spending $306,000, but the Senator says. "It didn't raise much money, and didn't work very effectively." Renamed the Western Center for Voter Education, it disbanded after the 1986 election and was succeeded by another tax-exempt group, the Center for Participation in Democracy, initially operated by Sen. Cranston's son Kim in a house the two own jointly.

Both the Senate Ethics Committee and a federal grand jury in Los Angeles are looking into the tax-exempt groups. But attorneys for Messrs. Cranston and Stein say the groups observed all the proper procedures required to qualify as non-partisn charities.

The Senate may soon consider a measure to tighten the rules. Republican Sen. Mitch McConnell of Kentucky is pressing a bill that would prevent candidates for federal office from raising money for tax-exempt voter-registration groups.

IN RECOGNITION OF THE NATIONAL FORGE CO.'S 75TH ANNIVERSARY

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. CLINGER. Mr. Speaker, I would like to recognize from my home county of Warren a firm celebrating its 75th anniversary, the National Forge Co.

The National Forge Co. was founded in 1915 as the National Forge & Tool Co. in Erie, PA by Clinton E. Wilder. Born in Vermont in 1889 and raised on a farm in New Hampshire, he chose industry as a growing career opportunity. He became a specialist in the process of boring close tolerance holes in long pieces of steel. He designed and was granted patents for some of the specialized tools required for this process. The production and sale of these better coring and boring tools, in addition to providing general contract machining services, was the original business of National Forge.

The new company did well and soon outgrew the backyard machine shop where it started. The forgings from which the patented tools were made became scarce as the national production effort for World War I increased. The new company found an ideal new home in a small drop forge hammer shop—4,000 lbs.—in Irvine, Warren County, PA. They purchased it and moved all their operations to Irvine in the spring of 1917.

In that new shop they began to establish the principles and the strategies that led to the growth and success of the company. They produced 37mm antitank gun barrels for the U.S. Army, small one-throw crankshafts for air compressors, including one for the original

Nautilus submarine. The company began making specialized component parts for a growing oil and gas industry. After installing a much larger hammer—12,000 lbs.—they began producing periscope tubes for U.S. Navy submarines, and multiple throw crankshafts for larger pumps and compressors.

The company paid few dividends, choosing rather to reinvest the earnings in equipment to supply their own steel and forgings in order to gain complete control of the quality of their product, and acquire the latest technology for efficient production. By 1930, National Forge was operating 2 ton and 10 ton melting furnaces, a 1,000 ton steam hydraulic open die forging press, vertical and horizontal heat-treating furnaces, and machine tools for roughing, boring, and finishing steel forgings into precision component parts up to 40 feet long and weighing 20 tons.

These added capabilities made it possible to enter new lines of specialty products such as molds for the production of cast iron pipe for water systems by the newly developed centrifugal casting process. Hollow propeller shafts for diesel driven submarines could now be made, as well as much larger gun barrels for the U.S. Army and Navy.

By the mid-thirties the National Forge began supplying crankshafts for the dieselization of American railroads and cold work rolls to the mills that made the sheet and strip used in autos and appliances, as well as many steel mill replacement parts.

During World War II, National Forge turned most of its production to support of the war effort, adding helicopter rotor shafts and P-39 Air Cobra propeller shafts to its expanded production of the standard items they were already supplying to the Army and Navy. The company earned an All Navy "E" for excellence in quality and quantity of output, and also earned the Army/Navy "E" with five white stars. These awards, and the several won since from its customers inspired the company's motto—"A Tradition of Excellence."

In the post-war period National Forge quickly regeared itself to meet the backlog of demand by its commercial customers, but continued to supply the U.S. Navy, making the propeller shaft for the first nuclear submarine—the *Nautilus*. It invested heavily in new equipment for quality, for efficiency, and to expand its production capability in its selected product lines.

It also acquired Erie Forge and Steel out of bankruptcy, thereby saving the U.S. Navy's single largest source for propulsion shafting for *Spruance* class guided missile destroyers, the *Aegis* class cruisers, and the *Ohio* class and *Los Angeles* class nuclear submarines.

In 1964, National Forge started a new business in the advanced metallurgical field of both hot and cold isostatic pressing of ceramics and powdered metals. Today the company's Press Tech Group is the world's leading producer of large Hot Isostatic Presses, (HIP's) and has the world's largest HIP production. Because it has pioneered the use of hot isostatic pressing for the densification of titanium castings for aerospace use, and a variety of materials for other applications, IMT has become the world's largest independent toll pressing service center. IMT's plants are located in Andover, MA; Portland, OR, and Sint Niklaas, Belgium.

The long term investments made in the PressTech Group, and in the Irvine, Erie and Manchester, England plants of National Forge, combined with its employees' dedication to a tradition of excellence, have made the company globally competitive with exports to 30 countries. Today National Forge employs 1,137 men and women and has become:

1. The world's largest producer of molds for the production of cast iron and ductile iron water pipe.
2. The world's largest producer of crankshafts for diesel engines in the 1,000-6,000 horsepower range.
3. The country's leading producer of hollow propeller shafts and periscope tubes for the U.S. Navy.
4. The country's leading producer of aerospace research shock tubes for analyzing flight and reentry of space flying vehicles.
5. One of the leading innovators in the research and application of high alloy powdered metal technology to the economic manufacture of critical components in the aerospace, ordnance, industrial, and biomedical fields.

As it celebrates its 75th anniversary National Forge recognizes that its success has paralleled the Nation's and is proud that it has contributed to the growth and strength of the United States of America.

TRIBUTE TO THE SACRAMENTO U.S. ARMY RESERVE CENTER

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to the Sacramento U.S. Army Reserve Center which has been selected as one of only five recipients of the prestigious Army Communities of Excellence Award.

The Sacramento USAR Center has diligently served both the Nation and the community of Sacramento. It is home to twelve Army Reserve units employing 1,250 reservists, 19 active duty military personnel, and 16 civilian employees.

The Army Communities of Excellence Program recognizes Army installations which provide both excellent facilities and personal service. The award is based on achievements in personnel support, long range planning and facilities improvement, community relations and mobilization preparedness. The Sacramento USAR Center is distinguished by the fact that it was the only Army Reserve facility on the west coast to be awarded this honor in 1989. Factors which contributed to this honor include the Center's community relations program, veterans outreach programs, self-help programs, dedication of non-commissioned soldiers to service and community and an indomitable "can do" spirit.

This award will be presented at the Sacramento USAR Center on July 21, 1990, by Maj. Gen. William Ward, Chief, Army Reserve. As a recipient of this honor, the center has been awarded $75,000 which will be put toward improvements in facilities and services. In addition, the ceremony will recognize the outstanding contributions of honor guests which include S. Sgt. Raymond S. Bertanini, Mrs. Elizabeth A. Crouser, S. Sgt. Barbara G. Sharpe, S. Sgt. Matthew Schaedler, and S. Sgt. Carol Kiellelea.

Mr. Speaker, I ask that my colleagues join me in extending our heartfelt congratulations and best wishes to the men and women of the Sacramento U.S. Army Reserve Center for this honor which they so richly deserve.

A VISION OF SOUTH AFRICA'S FUTURE

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. BURTON of Indiana. Mr. Speaker, the current situation in South Africa holds much promise, but also much peril. President F.W. de Klerk has embarked on a historic path for his country and for all of southern Africa. There is no question that apartheid is finished. With great courage, President de Klerk has ushered in a new era in South Africa, one which will, we all hope, culminate in a new, democratic constitutional order. I believe we must firmly support President de Klerk in his brave initiative. I commend to my colleagues an article written by President de Klerk setting forth his views on a future, nonracial South Africa. His ideas merit our careful consideration.

I also urge my colleagues to pay close attention to a wire service story on Nelson Mandela's visit to London. During that visit, Mr. Mandela spoke about the very obvious fact that sanctions have harmed the black people in South Africa. He also expressed the hope that sanctions my be lifted in the future, when circumstances are right.

It is because I realize how important economic development is to the blacks of South Africa that I advocate strong support for President de Klerk, and another look at sanctions.

[From the Indianapolis Star, July 10, 1990]

A VISION OF SOUTH AFRICA'S FUTURE

(By Frederik W. de Klerk)

PRETORIA.—I believe sanctions per se are not the main problem in South Africa. Our prime concern is the process of negotiation with all South Africans for a better future and the need for improvement of the quality of life for all.

What sanctions have done, however, is retard our ability to fulfill our commitment to redress social and other backlogs in an imaginative way and on a sufficiently large scale. Should the international community re-evaluate its position on sanctions, it would enable us to harness our country's resources and face our challenges effectively, both inside South Africa and in the whole subcontinent.

South Africa sees itself as an integral part of the southern Africa region, both politically and economically. South Africa has never ceased expressing willingness to help in developing the southern African region. We already have extensive contacts in economic and technological fields.

I believe that the new South Africa will present the region with a window of oppor-

tunity that can have mutual benefit. We would see South Africa as a partner with all her neighbors, not unlike the European Community. If we look at the natural, human and other resources of the southern Africa region, it has the potential of becoming an important engine of economic progress on the whole, depressed African continent.

For this reason, we disagree with the African National Congress' anachronistic emphasis on nationalization of industry, which they see as the guarantee of a redistribution of wealth. We believe that a free enterprise economy is the key to economic progress in the future. It is a proven system capable of generating new wealth and new opportunities, as is evidenced in the progress of the industrialized nations that adhere to it.

In South Africa, unfortunately, this system is seen by many as synonymous with apartheid. In their rejection of apartheid, many would then mistakenly equate a centrally controlled economy with economic progress. These are links which must be broken.

The current experience in Eastern Europe, and also Africa's experience with differing forms of a controlled economy, show that it does not work. I believe that through educating the South Africa population on the merits of the free enterprise system, by broadening private ownership and by stimulating business development, we will be able to create wealth and opportunities for all.

We should not aim at slicing the cake into smaller portions, but rather at making a bigger cake. That is why we have adopted the policies of deregulation and privatization in our economy. Economic growth is one of the most essential elements in bringing about a new, stronger, better South Africa.

My greatest hope is to bring about a just and fair South Africa by peaceful means. The greatest trap would be that radicalism and escalating confict get out of hand. While firmly and fairly maintaining law and order, we must therefore strive for consensus, lifting our gaze above the many stumbling blocks presented by self-interest, exaggerated expectations and fear.

In this endeavor, I believe I can work with Nelson Mandela and other leaders in negotiating a new constitution for our country on the basis of give and take. I have seen Mandela keep his word after discussions with me. I perceive him to be a man who prefers peace to violence.

There is no doubt in my mind that the overwhelming majority of South Africans are in favor of the kind of peaceful change I would like to bring about with the help of Mandela and other leaders with a proven support base. We have a mandate from white South Africans to extend democracy to include all South Africans in a new constitutional dispensation. The results of this 1983 referendum on the present constitution, in which an overwhelming majority of whites voted for participation by and direct representation of coloreds (people of mixed origin) and Asians in the South African Parliament, and the results of the last two general elections bear testimony to this. The mere fact that I could sit down with an African National Congress delegation in May testifies to the will of the South Africans to give peace a chance.

I believe that on the black side of politics there is a growing acceptance of the government's integrity in negotiating a common future. The time of violent confrontation is past. All of us share some common ground in realizing that peace is the only option. Once the negotiation process has gained momentum, the search for consensus will replace polarization.

Over the years, it became clear that apartheid, however well intentioned it might have been, could not work. Racial discrimination could not be justified in either political or economic terms. We now want to work out a just and equitable system for all, but at the same time make sure that those who have enjoyed full freedoms do not forfeit them. That is why the National Party repeatedly emphasizes, in addition to universal franchise, the principle of non-domination and the protection of the rights and interests of minorities.

Franchise on a common voters' roll in an otherwise undifferentiated and unqualified system of political represention must lead inevitably to majority domination of minorities. History has ample examples of the tension, frustration and conflict that unavoidably go together with the domination of closely knit minority groups.

A constitutional system based on the "winner-takes-all" approach is therefore not the answer to South Africa's complexities. It does not provide for adequate protection of minorities, nor for the cultural, religious and language differences among South Africans. However, universal adult franchise within a system into which constitutional mechanisms of protection are built is indeed an achievable possibility.

The whole argument now centers around unqualified majority rule without the balance of protection for minorities. Protection of minorities, I hasten to add, does not mean protection of privilege nor continuation of domination by a minority. It does, however, mean protection against the abuse of power by the majority.

I am in favor of universal adult franchise within a constitutional dispensation based on the principle of non-domination and into which most of the following mechanisms are built; the decentralization of power, the devolution of authority to lower levels, constitutional checks and balances, decision-making by consensus and an independent judiciary. In addition, I stand for a Bill of Rights. Taken together, these elements will pave the path to a fair and just South Africa.

INDIANA EIGHTH—POSTSCRIPT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. CLAY. Mr. Speaker, on Friday, June 29, Ferman Yearby, formerly mayor of Rockport and Republican Party chairman for Spencer County, IN, was sentenced after pleading guilty in U.S. District Court to conspiracy to violate voting laws. Prior to pleading guilty, Mr. Yearby admitted that he solicited political contributions for Republican vote-buying, referred candidates to party officials for vote-buying assistance, and tried to conceal payoffs during the Government's investigation of the allegations. Mr. Yearby's sentencing culminated a 3-year investigation into vote buying by Republican Party officials that resulted in the conviction of 17 individuals, including two former treasurers of the Spencer County Republican Party, a county commissioner, and a township trustee.

While ordinarily I would not take up my colleagues' time over such a matter, this particular item merits the attention of this body. To quote from the Indianapolis News, "at one point, the Spencer County vote-buying scheme had the potential to distort history. In 1984, the 8th Congressional District, of which Spencer County is a part, was the scene of one of the nation's closest electoral contests."

Ferman Yearby and his cohorts have admitted to buying votes in the 1982, 1984, and 1986 elections, including the 1984 congressional election between FRANK MCCLOSKEY and Richard McIntyre. In that election, Mr. MCCLOSKEY was the apparent winner on election eve by a margin of 72 votes. After a partial recount, the Republican secretary of state for Indiana declared Mr. McIntyre the winner by a 32-vote margin. The full recount conducted by Indiana officials later increased Mr. McIntyre's margin to 418 votes, but more than 4,800 ballots had been disqualified including 20 percent of the entire black population of the district. Further examination revealed that the Indiana recount was seriously flawed. As a result, the House conducted its own recount and, as my colleagues may recall, Mr. MCCLOSKEY was declared the winner by a margin of four votes.

To say that the whole issue was controversial is to put the matter mildly. At the time, my colleagues on the other side of the aisle charged the Democratic Party, the House leadership, and me, as a member of the task force that conducted the recount, with having stolen the election. We were accused of disenfranchising voters, though, in fact, our recount had the opposite effect. We were accused of engaging in shameful political charade, of gutting the Constitution, and of jeopardizing the health of our democracy. In light of the recent developments in Spencer County, it is interesting to note just how close to being stolen that election was. It is also revealing to find out who was doing the stealing.

THANKS TO THE PHILADELPHIA NAVAL BASE FOR HELPING OUT WITH THE SPECIAL OLYMPICS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. FOGLIETTA. Mr. Speaker, I rise to salute the people at the Philadelphia Naval Base and their efforts on behalf of the Special Olympics.

The workers, civilian and military, at the Philadelphia Naval Base work hard every single day. They strain to put the ships out on time and under budget. They literally rip apart aging aircraft carriers and create one that's virtually brandnew.

With all that responsibility, it is hard to imagine that they would also spend time helping others. But that's what they've done.

Recently, the Navy base staff helped greatly with the Philadelphia Special Olympics. These

Olympics have completed a successful year of athlete training at the naval base. Over 200 athletes participated in the bowling program and 85 athletes participated in the swimming program.

By offering training and assistance, the naval base has helped the athletes reach their highest goals, their greatest dreams of competition.

And it doesn't stop there. The base will continue these efforts during the 1990-91 school year.

Congratulations to the Navy base for this heartwarming job.

IN TRIBUTE TO REV. HAROLD ANDREW BUETOW

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. MANTON. Mr. Speaker, I am honored to take this opportunity to bring to my colleagues' attention the accomplishments of the Reverend Harold Andrew Buetow, an outstanding citizen who is retiring after many, many years of service to his community and the Catholic church. Father Buetow has achieved renown not only as a Roman Catholic priest, but also as philosopher, attorney, doctor, award-winning author, and professor of education. It is in his active role as a teacher at the Catholic University of America, located here in the Nation's Capital, that Father Buetow has achieved national acclaim as the preeminent scholar on Catholic education in the United States.

Father Beutow has contributed significantly to the education of youth, both at the Catholic University and nationwide, through his prodigious research, writing and personal involvement. He has always been first and foremost a priest. Father Buetow's faith-filled life has and continues to influence all of those with whom he has had the pleasure to come into contact.

Mr. Speaker, Father Buetow has always dedicated his boundless energies and talents to bringing the Gospel message to young people. In 1961, he published the book entitled, "Joy to My Youth." This book is an accessible religious guide for Catholic youth.

Fundamental to Father Buetow's teaching is the need for collaboration between students, parents, Catholic schools, and its teachers, priests, religious and lay pepole in the formation of young people as good Christians. As Daniel Webester said, "Whatever makes men good Christians, makes them good citizens." Over the years, Father Buetow has been actively involved in the making of good citizens.

Mr. Speaker, Father Buetow has tirelessly explored the historical and present relationship between Government schools and Catholic schools; between the first amendment rights of free exercise of religion and the establishment clause, and the balance between the two. As the leading scholar on Catholic education in the United States, Father Buetow's seminal work, "Of Singular Benefit: The U.S. Story of Catholic Education," chronicles the history of Catholic education from the Spanish and French missions of the Colonial period through the 1970's. Father Buetow's work entitled, "The Catholic School: Its Roots, Its Identity and Future," is a powerful and enlightening theological, legal and political analysis of the vital institution called the Catholic school. Together, these prodigious works are pillars in the Catholic theology of education.

Father Beutow is well known for his intensity, wit, self-demanding nature, and complete loyalty and dedication to his friends and church. I know his friends at the university and in Washington will feel a tremendous loss as Father Buetow retires and changes venue. As he quoted in his recent book, "The Catholic School," "no theology of education is complete, it is ongoing." Undoubtedly, Father Buetow will selflessly continue offering profound reflections and wisdom on the Catholic theology of education, regardless of his situs.

Mr. Speaker, to his university, to his country, and to his church, Father Harold Andrew Buetow's faith-filled and tireless work has been of singular benefit. Father Buetow has taken to heart the words Pope Leo XIII spoke on January 10, 1890:

Where the right education of youth is concerned, no amount of trouble or labor can be undertaken how great soever, but that even greater still may not be called for.

Mr. Speaker, I am the product of a Catholic education and, like Father Buetow, a native New Yorker. Therefore, I speak from the heart when I say I wish him well on his return to Brooklyn and whatever undertakings lie ahead for him.

TRIBUTE TO MARK LEWIS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an outstanding individual from my congressional district who truly deserves to be recognized for his dedication and achievement as a student and an athlete. On July 21, 1990, Mark Lewis will be representing the United States in the Goodwill Games in Seattle. It is indeed an honor to share with you and my colleagues the inspiring story of this dedicated individual.

Mr. Lewis has spent much of his life aspiring to be a contender for the world championship in boxing. At the age of 12, he started boxing in a Plainfield, NJ, workout gymnasium. In 1982, when he was living in Merced, CA, Mark joined a local gym, and later became associated with the Merced Boxing Club. In 1987, he went to train at the Sacramento Police Athletic League Gym under PAL's Director of Boxing, Harry "Pop" Wilson. It was here that he fine-tuned his skills to the point where he upset Nevada State Champion Patrick Briseno for the national title at the U.S. Amateur Boxing Tournament in Miami, FL. Then on June 8, 1990, he defeated U.S. Boxing Championship title holder Steve Johnson from Denver in a 4 to 1 decision at the Las Vegas Goodwill Games "Box-Off." This enabled him to represent the United States at the 1990 Goodwill Games to compete in the 139-pound weight class against international contenders from Cuba and the Soviet Union.

Coupled with his devotion to the sport of boxing, Mr. Lewis is enrolled full-time in the Sacramento Job Corps carpentry program. While studying to pass his GED, he receives hands-on training in carpentry sponsored by the Home Builders Institute.

Mr. Speaker, Mark Lewis has shown to be an exemplary athlete and student. I commend him for his dedication in his efforts to succeed as a student athlete. I ask that my colleagues join me in extending our best wishes to Mark as he competes in the 1990 Goodwill Games.

LT. GEN. GEORGE H. McKEE'S RETIREMENT AS GOVERNOR OF THE U.S. SOLDIERS' AND AIRMEN'S HOME

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. CONTE. Mr. Speaker, I rise today to honor Lt. Gen. George H. McKee, governor of the U.S. Soldiers' and Airmen's Home. General McKee has served as governor since November 1, 1978. He is stepping down from that post effective July 13, 1990.

I am taking this opportunity to recognize General McKee for his outstanding service to this country both as a military leader and USSAH governor.

General George McKee, U.S. Air Force (retired), contributed 34 years and 4 months of active military service to his country as an enlisted man, noncommissioned officer, commissioned pilot, and a succession of increasingly responsible command assignments.

After a brief retirement in Florida, General McKee was appointed governor of USSAH by President Carter, on November 1, 1978. Since then, General McKee has been responsible for the daily lives, well being, and care of the 2,000 distinguished veterans of career Army and Air Force service which entitled them to home membership.

Since becoming USSAH governor, General McKee's accomplishments have been most noteworthy. Let me highlight just a few of his contributions. He articulated within the Federal Government the urgent need to restore the viability of the USSAH trust fund, the home's sole source of financial support. As a result of General McKee's tireless efforts, the Congress enacted legislation increasing the trust fund's income, assuring both its ability to support major capital improvements and its viability in future decades.

General McKee carefully managed USSAH resources during his first several years of dangerously low financial support in order to renew long-deferred maintenance programs and equipment replacement among home activities, and to begin initial progress on facility restoration and improvement.

General McKee's improvement efforts have greatly increased the morale and satisfaction of the USSAH membership. His improvements have ranged from the removal of traditional but onerous military terminology, procedures, and inspections, to the provision of extensive

member services and facilities, such as a confortable member lounge, a guest house, an all-weather passageway between dormitories, and a new self-help automotive craft shop for members.

With congressional backing, the home's central dormitory has been centrally air-conditioned and renovated. Construction of a modern 200-bed medical facility is underway for completion by spring 1992, which will provide intermediate nursing and long-term skilled care for the home's aged veterans.

General McKee implemented modern management systems throughout the home, from word processing and ADP systems to highly efficient logistical and management/control systems.

In addition to governor, General McKee also served as president of the USSAH board of commissioners, helping to guide the board and the Secretaries of the Army and the Air Force in their effective stewardship, guidance, and oversight of home affairs.

General McKee has greatly improved and fostered the home's close working relationship with Army, Air Force, Congress, and other Federal agencies. By his leadership, General McKee has inspired the personal esteem and trust of congressional leaders, committee members, and staff.

The USSAH work force has improved because of the General's diligent efforts. He improved the geriatric and gerontological specialties at King Health Center by: expanding medical staff; applying staff recruitment quality standards; and participating with geriatric programs of George Washington University's School of Medicine and other institutions.

General McKee significantly raised standards for the overall care at the home through innovative efforts such as the King Health Center outreach facilities in dormitories; expansion of the mental health and alcoholic treatment programs; sanitation inspections, monitoring of sanitation maintenance, and insect and rodent control; and the innovative 1988 Flu Fighter Program.

General McKee's personal inspiration and guidance resulted in strengthening the home's religious activities to support the membership's spiritual needs.

Under General McKee's stewardship, the preservation and enhancement of the home's grounds, consisting of more than 300 acres, has been assured.

Having been appointed to four successive 3-year terms as the home's 24th governor, General McKee is stepping down, effective July 13, 1990, to a richly deserved retirement with Mrs. McKee in Lakeland, FL. His years of dedicated leadership and caring advocacy with the U.S. Soldiers' and Airmen's Home have been recognized by the Department of the Army Outstanding Civilian Service Medal, in 1983; the Department of the Air Force Decoration for Exceptional Civilian Service, in 1988; and the Secretary of Defense Medal for Outstanding Public Service, in 1990.

I am pleased to ask my colleagues here in Congress to salute Lt. Gen. George H. McKee for a job well done. He will be missed, but his contributions will outlast us all.

SALUTING THE "PELICAN MAN"

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. GOSS. Mr. Speaker, I am delighted today to recognize a remarkable man whose dedicated and commitment to caring for our wildlife has made him something of an institution in southwest Florida.

Mr. Dale Shields, a longtime Sarasota, FL, resident, has received some much-deserved recognition recently—recognition from the highest office in the land. On July 2, President Bush named Mr. Shields—affectionately known as the "Pelican Man"—the 184th daily point of light, saluting his admirable efforts to rescue and rehabilitate injured wildlife.

Today, the Pelican Man operates a bird sanctuary that he founded on City Island, a refuge where sick and injured animals can recuperate while their human neighbors get a chance to get to know them. It's a place where people and wildlife live in harmony, respecting and enriching one another. There are hundreds of volunteers who work with Mr. Shields, rescuing birds and other animals, bringing them to the sanctuary and nurturing them back to health.

All of this began 10 years ago, when a wounded pelican had the great fortune of finding a friend in Dale Shields.

Since then countless animals, and many of us, have been touched by this kind and caring man, whose efforts have saved animal's lives and broadened public concern for preserving the wild.

The President's Point of Light Program is designed to highlight individuals for their volunteer efforts on behalf of others. Certainly, as a newspaper in Sarasota put it, "Dale Shields is a shining example of what President Bush meant when he referred to community volunteers as one thousand points of light."

Southwest Florida is proud of Dale Shields—and so am I.

SANTA BARBARA FIGHTS BACK

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. LAGOMARSINO. Mr. Speaker, I proudly rise to recognize the efforts of a city that has refused to be beaten by drug and alcohol problems. The citizens of Santa Barbara, CA, have decided to fight back against drug and alcohol problems in the community, and I would like to share their vision with my colleagues in the House.

With help through grant funding from the Robert Wood Johnson Foundation, the community of Santa Barbara has embarked on a 2-year planning and development period during which they will finalize a comprehensive demand reduction strategy. One of the greatest strengths of Santa Barbara's plan is the unprecedented levels of cooperation and commitment from all sectors of the community. The medical and health care community is joining with business, media, government, education, and grassroots organizations to develop an effective and comprehensive strategy that encompasses public awareness, prevention, early identification, treatment, relapse prevention, and aftercare.

Through this program, the entire community of the greater Santa Barbara area will be involved in fighting back against drugs. Scheduled town meetings with the fight back program directors will give every member of the community the chance to monitor success and make suggestions during the project. Working together on the fight back program, the community of Santa Barbara will gather input, identify weaknesses, and build on strengths.

Santa Barbara certainly does not have the same high frequency of durg use as is found in other, bigger metropolitan areas. However, I believe that wherever gang members hang around school playgrounds, there is a gang problem, and wherever drugs are sold or used, there is a drug problem. And there certainly is a serious drug problem that must be acknowledged, not denied, and strongly, innovatively, and comprehensively dealt with. I am thankful to the Robert Wood Foundation for giving Santa Barbara the opportunity to attack its drug and alcohol problem head on and prevent a middle-sized community from becoming a major-sized drug problem I hope that my colleague will recognize Santa Barbara as a community that has decided to fight back and applaud their efforts.

ON THE VISIT OF KOREAN PARLIAMENTARIANS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. GUARINI. Mr. Speaker, earlier this month I had the pleasure of hosting a group of distinguished Korean parliamentarians at a meeting of the Democratic Task Force on Trade. The group included Hon. Woong-Bae Rha, Hon. Byung-Tai Hwang, Hon. Seung-Soo Han, Hon. Joon-Sang Yoo, Hon. Kyung-Mok Cho, and Hon. Sang-Mok Suh. This meeting was one of a number of meetings with a broad range of Members of the U.S. Congress and administration officials to establish a dialog and exchange views on a variety of economic and trade issues.

A dialog between the United States and Korea is more important now than ever. Our relationship with Korea has always been strong and continues to grow. Korea is the sixth largest export market for the United States. In 1989, United States exports to Korea totaled $13.5 billion. During the same year, Korean exports to the United States totalled $19.7 billion. The United States is Korea's first largest export market. Because of that, the United States has a sizeable trade deficit with Korea. However, the Korean Government has taken a number of important steps to liberalize international trade. For example, they have reduced tariffs and import licensing restrictions on agricultural and manufactured products, and revised unfair stand-

ards, testing and certification procedures. The Government has also taken important steps to improve the protection of intellectual property rights, and last week Korea applied to joined the GATT Government Procurement code. These measures helped reduce the 1989 deficit by $2.6 billion, but they must do more.

These actions by the Government of Korea demonstrate their strong understanding of United States expectations regarding trade liberalization. For these reasons, Korea was not listed as a super 301 country and was removed from the priority watch list for intellectual property rights.

At the same time, however, our relationship with Korea is not free from friction or misunderstanding. Recent newspaper articles reported efforts within Korea to dampen demand and prevent the importation of luxury items. This anti-import sentiment aroused concern among Members of Congress that it would continue as long as there is a slowdown in South Korea's economic growth and a reversal of its balance of payments position. This problem indicates the critical importance of maintaining an ongoing dialogue between our two legislative bodies.

The United States has a strong commitment to a secure, democratic and economically vibrant Korea. The United States and Korea have a mutual interest in promoting a freer, more harmonious system of international trade. The visit of the Korean parliamentarians and our forthright discussions indicate that we have many issues of mutual concern and that our relationship is deep and close. As long as there is a willingness to work with the U.S. Congress and the administration to resolve international problems, the future of our relationship will remain bright.

THE DOUBLE HULL PROVISION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. WEISS. Mr. Speaker, 1 million gallons of oil have been spilled in the New York Harbor area this year alone. Congress has a chance to help prevent such spills with the oil-spill bill.

But the conferees who are meeting today are not debating ways to prevent such spills. No, they are discussing ways to water down its provisions, particularly the double hull requirement.

Why? In a strong show of support, the House voted 376 to 37 on February 7 to instruct the conferees to include the double hull and double bottom requirement in the conference report.

If the conferees do not believe that such a requirement is needed, they should come visit the New York Harbor area. The environmental damage from five oilspills this year is extensive.

Granted, the double hull provision is not a panacea for future oilspills. But it is a reasonable measure to limit the damage from those spills.

If the conferees dilute the double hull requirement, then they should at least give us scrub brushes to clean our shores.

TRIBUTE TO HELEN CASTELLINI

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. HOLLOWAY. Mr. Speaker, I pay tribute today to a distinguished American, a woman who throughout her lifetime has brought credit upon herself, her family, her community and her State.

Mr. Speaker, Helen Olivier Castellini is a gracious lady, an attorney, public defender, former educator and social worker whose skills and ability are well known to all those privileged to know her.

Throughout her adult life, Mrs. Castellini has used her considerable talents to serve others. A former teacher at the Academy of the Sacred Heart in Grand Coteau, LA, Mrs. Castellini left that field to enter social work. She served the Louisiana Department of Health and Human Resources with great distinction for some 14 years. Her dedication to excellence was formally recognized in 1980 when she was named our State's "Child Abuse Worker of the Year."

Yet, Mrs. Castellini did not stop there. At age 49, when most people start to reflect on the accomplishments of a career, Helen Castellini—notwithstanding ill health—sought, found, and conquered another formidable career challenge.

Mr. Speaker, Helen Castellini commuted 110 miles daily, from Opelousas to Baton Rouge, LA, and back, and successfully completed Southern University Law School in 3 years. Subsequently, she passed the Louisiana State Bar Examination. Mrs. Castellini did all this despite a serious kidney disorder with which she lives and which has almost killed her.

Today, Helen Castellini undergoes kidney dialysis treatment three times weekly. During the last several months, medical problems related to her condition very nearly took her life. Within days of her release from the hospital, Mrs. Castellini returned to her private law practice and her position at Opelousas City Court where as an attorney for the Indigent Defender Program, she represents several dozen clients every day.

Several weeks ago, Helen Castellini faced yet more serious medical problems. An accident left her hospitalized again—this time with a badly fractured leg and broken clavicle. Today she is back at work, in a wheelchair for now. She has triumphed again.

Mr. Speaker, Helen Castellini's story is a remarkable one. Yes, she was a committed teacher of young people. Yes, she was an outstanding social worker. Yes, she is an excellent attorney. But, her story represents something else, something greater. Helen Castellini is a woman of character and courage and indomitable will. She has handled adversity with grace, tenacity and wit. She is one of America's unsung heroes. Her story represents a triumph of the human spirit.

Mr. Speaker, all of us can learn from Helen Castellini, her trials, misfortune, successes and attitude toward each. It is an honor to relate her story today. She is a credit to her family, her community, her State and her Nation. I am proud to know her.

HOSPICE CARE LEGISLATION

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. GEJDENSON. Mr. Speaker, I rise today to introduce a piece of legislation that would create a new reimbursement rate for hospice organizations so that they may provide respite care in a patient's home. Inpatient respite care consists of temporary, short-term, daytime or overnight relief aid which is provided so that family members or primary care givers may have a few hours or days of rest from the stress of caring for the patient.

As you know, hospice programs were first developed in my home State of Connecticut. Congress then initiated hospice demonstration programs, in 1982, in order to study the suitability of hospice care. Medicare coverage of the hospice benefit was fully mandated in 1986, so that individuals who are beyond the hope of a medical cure can opt for a comfortable death in a familiar setting. Pain relief and emotional support are provided by health professionals in the home setting. Family support is an important component of hospice care.

Currently, part A beneficiaries may elect to receive hospice care in lieu of most other Medicare benefits for up to two periods of 90 days each, a subsequent period of 30 days, and an additional extension period if elected. The Health Care Financing Administration implemented a prospective payment methodology for hospice care. Under this methodology, hospices are paid one of four predetermined rates for each day a Medicare beneficiary is under the care of hospice. Currently, a hospice can opt under one of the established reimbursement rates to put an individual in a hospital or hospice facility in order to give the family a period of rest, or respite.

Mr. Speaker, hospice caregivers located in Connecticut indicate that my legislation would give hospices a new, vitally important option of care. Currently, many families raise strong objections to the idea of moving a family member from his/her home to a hospital or hospice facility. Oftentimes, these individuals resist until the time when it becomes impossible for that patient to receive care in the home, either family members become too exhausted, or are not providing the proper level of care to the patient. Many times it becomes necessary to move the individual to a hospital and while there, utilize the general inpatient care reimbursement rate, at $337.20.

The new respite reimbursement rate would be $90 for each 5-hour period of continuous care—increased by $10 for each additional hour of the period during which such care is continuously provided—and is limited to a 40-hour total period of care. This legislation, for example, would provide a total of five night shift periods of respite care, so that primary care givers can get a night's rest.

In fiscal year 1989, the total cost of the Medicare hospice benefit was close to $211 million. The creation of a new reimbursement

rate would give hospice health care providers the flexibility to provide respite care for family care givers, and thus avoid using the more costly hospital reimbursement rate. The added cost of the new rate is estimated to be, at most, $15 million a year. The cost of this benefit will be offset by future savings that are as of yet undetermined.

Home respite care could be the linchpin that keeps a family strong, so that they can provide comfort and care for the dying individual, together with hospice care providers. A new respite care rate which would keep a terminally ill patient in a bed in his/her home, rather than in the sterile setting of a hospital room, a necessary and humane solution.

I urge my colleagues to join me in support of this important legislation.

IN SUPPORT OF HOUSE CONCURRENT RESOLUTION 291—REGARDING POW'S AND MIA'S

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. SCHAEFER. Mr. Speaker, I rise today in support of House Concurrent Resolution 291. This important legislation reiterates our support for efforts to fully account for our missing American servicemen and prisoners of war in Southeast Asia.

My colleague and the sponsor of this measure, Congressman HANK BROWN, is to be highly commended for his work on this issue. He has been a tireless supporter of responsible efforts to ensure a full accounting of our POW's and missing in Indochina. Unfortunately, this fight has not been an easy one.

And this fight is not limited to our missing in Asia. There are still over 78,000 Americans unaccounted for from World War II. From the Korean conflict, over 8,000 Americans are still unaccounted for. Add these to the 2,302 missing from Indochina, and we clearly have a problem of significant proportions on our hands. We need to have a full accounting of these personnel. It needs to be a high priority. And we need to have a government willing to fully disclose information which would be of help in tracking down our missing and imprisoned.

Another critical point, and one that is often overlooked, is the importance these efforts will have for future servicemen. Even with the bright future our world now sees with the triumph of freedom and liberty, the dark possibility remains that our sons and daughters may become prisoners of war in some future conflict. Our policies today will shape the policies of tomorrow, and if we pledge ourselves to have full accounting in future wars, we should start with a sincere and unbridled effort to account for our missing from past wars.

This resolution is an important milestone in voicing our support for these efforts. It also respresents a challenge to our Nation, and embodies our hope that we can and will gain a full accounting of those who have sacrificed so much for our country.

A TRIBUTE TO THE HUDSON RIVER

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. FISH. Mr. Speaker, I wish to bring to the attention of my colleagues and the American people a poem written by one of my constituents, Gerald M. Delaney. This poem reflects the strong feeling which dwell in the hearts of many people about our beautiful Hudson River. Mr. Delaney would like to remind the citizens of this country of the important role this river plays in our heritage and in our appreciation of nature's beauty. We must all do our part to stop the pollution and abuse of the Hudson River and work to maintain its prominent and majestic shores.

ROLL ON "OL" RIVER

Oh, mighty old river, with mountains so high,
Gracing your shores, rising up to the sky.
Through time thats immortal, you keep rolling on,
Down this beautiful valley, and far beyond.
Like the ages of time, you will silently flow,
Never retreating from where you must go.
Those gentle white tips, on top of your waves,
And like time, that is endless, on warm summer days.
As you flow through the valleys, however so small,
Your silent beauty, brings joy to us all.
With a wave of his hand, God brought you to life,
And he made a great river, that no other, is like.

"Roll on old Hudson, Roll on and on,
To fantasy seas, and far beyond.
Your graceful mountains rising high,
Could tell great tales, of days gone bye."

Your moonlight nights, and sunny days,
Are romantic times, that pass our way.
These moments of time, worth their weight in gold,
Are often ours, to have and to hold.
From shoreline to shoreline, you twist and you bend,
Rolling down to the sea, where there is never an end.
You know no todays and you know no tomorrows,
And you can take away life, and never show sorrow.
When twilight falls, under stars above,
We'll look deep in our hearts and dream of love.
For sunshine will follow, and its shadows will blend,
Into a quiet peace, at the old rivers end.

"Roll on Old Hudson, roll on and on,
To fantasy sea, and far beyond.
Your graceful mountains, rising high,
Could tell great tales, of days gone bye."

DIMITRIOS I VISITS THE UNITED STATES

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. BONIOR. Mr. Speaker, I'd like to take this opportunity to extend my warmest greetings to Dimitrios I, the ecumenical patriarch of Constantinople during his historic visit to the United States. Dimitrios I is the spiritual leader of over 250 million Orthodox Christians including the Albanian, Bulgarian, Greek, Polish, Russian, Romanian and Ukrainian Orthodox churches. His trip represents the first time an ecumenical patriarch has visited the United States.

Dimitrios I is truly a man of peace who will play an important role in the spiritual renewal of Eastern Europe. His visit here will greatly enhance understanding between the East and West during this era of change. Many residents of Michigan's 12th District and the Metropolitan Detroit area, including myself, can trace their ancestry back to Eastern Europe. On their behalf, I'd like to welcome Dimitrios I to the United States.

SAVINGS AND LOAN ASSET RECOVERY ACT

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. KANJORSKI. Mr. Speaker, with 21,000 referrals from the financial regulatory agencies gathering dust at the Justice Department it is clear that even with the additional tools and resources the Congress is giving the Justice Department, it will be unable to keep up with the flow of cases.

We need to bring additional resources to work to recover the billions we are spending to pay our obligations to depositors at failed savings and loans.

That is why I have introduced H.R. 5247, the Savings and Loan Asset Recovery Act, to put the resources of the private sector to work to ensure that those whose fraud and mismanagement created this mess, help to pay for it.

We cannot in good conscience ask American taxpayers to spend a single dime on the S&L problem unless we can assure them that every possible effort is made to make the guilty pay for their mistakes.

Mr. Speaker, as far back as the Civil War, the U.S. Government has enlisted the help of private citizens to recover funds fraudulently obtained from the Federal Government. Most recently this authority has been used under the False Claims Act to combat fraud in defense procurement.

My bill, H.R. 5247, amends the President's S&L bailout bill by allowing private citizens to file False Claims Act civil suits on behalf of themselves and the U.S. Government to recover funds from those who have plundered our Nation's savings and loans. Similar legisla-

tion has been introduced in the Senate by Senator HEINZ.

Like the False Claims Act, the Savings and Loan Asset Recovery Act is carefully drafted to ensure that we do not in any way limit the ability of the U.S. Government to file either criminal or civil charges.

As with the existing False Claims Act, the Government has 60 days to review all private civil suits and can opt to take them over. If the Government does not take over the suit, successful plaintiffs receive between 25 and 30 percent of the funds recovered. If the Government does take over the suit the original plaintiff receives between 15 and 25 percent of the funds recovered—unless the suit is based on information discovered by the Government, in which case the original plaintiff receives no more than 10 percent of the funds recovered.

This legislation enables us to marshall the resources of the private sector to help recover the billions of dollars we are spending to pay off depositors at failed savings and loans.

Lawyers have taken cases on a contingency fee basis for years. Let us put them to work for the U.S. taxpayer, on cases that the Justice Department does not have the time or manpower to go after. Private civil actions can resolve cases the Justice Department believes are too small to be worth its time. They will also have the salutary effect of keeping the Justice Department's feet to the fire on larger S&L prosecutions.

Mr. Speaker, this legislation will not enable us to recover the full cost of the savings and loan mess. It will, however, enable us to recover substantial sums at no cost to U.S. taxpayers.

I invite all my colleagues to join me in this bipartisan effort to reduce the cost of the savings and loan mess by cosponsoring H.R. 5247 which I will offer as an amendment to H.R. 5050, the Financial Crimes Prosecution and Recovery Act of 1990.

YGNACIO VALLEY HIGH GOES TO SWEDEN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. MILLER of California. Mr. Speaker, in August 1990, the Ygnacio Valley High School Marching Band from Concord, CA, will be the sole representative from the United States at the Eksjo Tattoo in Eksjo, Sweden. This international competition will include bands from Norway, England, Holland, Germany, Sweden, Scotland, Finland, Latvia, and Estonia. I would like to take a few moments to highlight the substantial achievements of the Ygnacio Valley High School Band.

In May 1989 the marching band was invited to participate in the Victoria Day Parade in Victoria, BC. Again, the band put on an outstanding performance which led them to take third place out of 55 bands. Previous appearances by the Warrior band were in 1983 and 1985.

In April 1987, the band was the only band west of the Mississippi River to march in the Shenandoah Valley Apple Blossom Festival parades in Winchester, VA. Out of 55 bands, Ygnacio Valley placed third and fourth in two separate competitions.

The long hours of hard work the students and directors have devoted is certainly reflected in the band's winning record. The band received first place awards in every parade in which they marched in 1989, with one exception. In State competitions the band has finished first in two of the last Walnut Festival parades, the last four Antioch Band Reviews, two of the last three San Francisco Columbus Day parades, and four of the last five Pacific Grove Band Reviews.

Ygnacio Valley High may be proud of its strong music department. In addition to the exceptional marching band, the wind ensemble and jazz ensemble consistently receive superior ratings in their competitions which include the California Music Educators Festivals.

Mr. Speaker, I am very proud of the dedication these young performers have shown. They can take great pride in their efforts and achievements. I would like to congratulate the Ygnacio Valley High School Marching Band for another successful year, and wish them the best of luck this August in Eksjo, Sweden.

THE TRUE MEANING OF THE STARS AND STRIPES BY GEORGE W. HAILS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. PORTER. Mr. Speaker, during the heat of the debate over the antiflag burning amendment I received a letter from a constituent of mine, Mr. George W. Hails of Arlington Heights, IL, that so captured the essence of the flag issue that I am compelled to share it with my colleagues. I have received hundreds of letters opposing a flag amendment from people in my district, some cogent, many heartfelt, but none was as moving as Mr. Hail's defense of the Bill of Rights and protection of the freedom of expression for all, no matter how offensive.

I commend this letter to your attention, and I commend Mr. Hails for his patriotism and true understanding of the meaning of liberty and freedom:

JUNE 15, 1990.

DEAR REPRESENTATIVE PORTER: You may be interested in my views on the proposed constitutional amendment proscribing burning of our nation's flag. I was a young teenager during World War II reading and listening to news dispatches from the Pacific, African, and European theaters. I was horrified at the misery wreaked by totalitarian governments on people both in, and outside, their own countries.

While still in my senior year of high school my National Guard Division was activated to furnish replacements for the war in Korea. I was assigned to the Second Infantry Division during the battle for Bloody Ridge and just before that of Heartbreak Ridge. Having been immersed in, and witnessing, many acts of war, many courageous and patriotic actions, often inspired by the sight of our flag I believe my views have some weight.

My ancestors in this country burned their nation's flag when their legislators passed laws that took away rights they had held for centuries. They loved their country, and their flag, the Union Jack, but were frustrated in their efforts to win those rights they believed belonged to free men. After a long struggle against men who called them Rebels my ancestors wrote a Constitution that for ever-more would guarantee they would have the right to dissent in the most vigorous manner when they disagreed with their government. Even with the broad freedoms listed in the original, the new states would not ratify the Constitution until the first ten amendments were added guaranteeing more specifically their hard won freedoms. As you know, these amendments are now called our Bill of Rights and contain the very heart of the individual freedoms we have as citizens of this great country.

They made a new flag using colors that were in the old one, but the new flag was different. It was, and is, a symbol of the most perfect form of government ever devised. This flag guarantees that each citizen can hold and express his own opinion about his government, and if he can convince enough people of his views can modify the government. But, these same ancestors were wise enough to know that there would be times when the passions of the moment could cause a majority of the people to modify their government in the heat of their anger so they made it difficult to change the constitution. They also devised a legislature that gave the senior members a longer term in office so they could better withstand the cries of the angry people who might harm themselves in an attempt to limit others' freedoms.

We are on the threshold of passing an amendment that would limit a most sacred right to dissent against our government. I personally despise those people who have burned our flag, but I went to war to defend their right to do so. This is not some hypothetical right that protects us against some hypothetical fear. Anyone who has seen the angry citizens of Eastern Europe in the last nine months has seen people cutting the hammer and sickle out of their country's flag as they railed against a government of old men calling them hooligans. God help us if we ever get to the point where large numbers of our citizens feel they have to deface our flag in frustration with our government. But God will really have to help us if our Constitution has been changed to limit our rights to dissent.

We have an unusual Constitution in its protection of people of minority views and beliefs. It protects a Democrat living in a town full of Republicans. It protects a Dissenter from having to support the King's Church. It protects the Pole from the German and the Irishman from the Englishman and vice-versa. It also is supposed to protect the wacky, loudmouth, offensive, jerk who may have political views I despise even though it infuriates me just to hear him foam at the mouth. Old men, like me, are not tolerant of others ideas so we have to be restrained lest we hear a young hothead such as Patrick Henry and forbid him to speak.

Congressman, my political views are probably farther to the right than Attilla the Hun, but those First Ten Amendments do not need any tampering with. The people, including myself, angry at the current flag burners will not be harmed by these actions. If we erode our freedom to dissent we can be

harmed greatly. Ask the people in Eastern Europe and China.

Respectively yours from a former infantry platoon sergeant and holder of the Combat Infantryman's Badge.

GEORGE W. HAILS.

RICHARD W. SHIPPER, SR.

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. WOLPE. Mr. Speaker, I want to pay tribute to a very special constituent of mine, Mr. Richard W. Shipper, Sr., the fire chief for the Comstock Township's north and central stations. On July 14, 1990, Richard will be honored by his friends and colleagues as he retires from over three decades of distinguished public service.

Richard began his career as a volunteer firefighter for the township of Comstock in March of 1952. He served his community in a number of capacities, including that of assistant fire chief at Comstock North Station, fire chief at Comstock North Station, and since 1988, fire chief of both Comstock North and Comstock Central Stations.

Richard's contributions, however, have not been limited to his exemplary service as a firefighter. He has committed both time and energy to a vast array of community and professional organizations, including the Kalamazoo County Firemens' Association, the Kalamazoo County Fire Chiefs' Association, Western Michigan State Fire Chiefs' Association, and the Comstock Jaycees. His leadership, his drive, and his determination and commitment have been inspirational, and all of Comstock is in his debt.

Mr. Speaker, over the years Richard Shipper has distinguished himself as a dedicated public servant. The care and concern that have always been present in his approach to local problems have endeared him to those he has served. His integrity and his conscientious approach to his duties as a firefighter have earned him the respect and admiration of all who have been privileged to work with him. I know my colleagues will want to join me in paying tribute to a person who personifies the very best in America's tradition of volunteerism and community service. We congratulate Richard Shipper on his well-earned retirement, and we wish him and his family happiness in the years ahead.

TRIBUTE TO HONOR THE WARTIME NURSES OF ALL ALLIED NATIONS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. FORD of Michigan. Mr. Speaker, I would like to call the attention of my colleagues to a significant event that will take place in September this year. On September 13, 10 veterans' organizations will join together for 4 days in Dearborn, MI, to host an international tribute to honor the wartime nurses of all allied nations.

The organizers of the tribute rightly believe that the nurses who have cared for the fighting men of our Nation and the other nations of the world have never received the honor and respect they deserve from the public at large. Far too few people know of the physical courage and selflessness of the wartime nurses, male and female, who have served in battle since the Crimean War.

America's wartime nurses have made the highest sacrifices for their country and the soldiers for whom they cared. Two hundred American nurses were killed on the battlefields of France in the First World War. Many of our nurses were wounded, often two or three times, but they continued to serve. Some were gassed and seriously injured in the first use of chemical warfare.

Those nurses were honored at Arlington Cemetery, but their monument has been neglected. Their sisters in the Second World War received even less attention and respect. Despite valorous service and incredible sacrifice, including the Bataan Death March, no monument was erected to the nurses of the Second World War, and the same fate befell the nurses in Korea and Vietnam.

It is fitting and long overdue that formal recognition be given to the women and men who have volunteered to give medical care to our soldiers in combat. It is only natural that it is the veterans for whom the nurses cared who have organized the tribute in Dearborn.

I hope all of my colleagues will let their local veterans groups and their local news media know about this important event. For more information, they can contact the chairman of the Veterans Tribute to Honor Wartime Nurses, Richard Reichard, at 673 Patterson Ct., Inkster, MI 48141. Mr. Reichard's telephone number is (313) 565-9378.

TRIBUTE TO MR. EDGAR D. NIXON, ARCHITECT OF THE MONTGOMERY BUS BOYCOTT AND CIVIL RIGHTS GIANT

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. LEWIS of Georgia. Mr. Speaker, it is with great personal pride that I bring to the attention of my colleagues the accomplishments of a great and courageous man, a man I knew, admired and loved—a man born 91 years ago today—Mr. Edgar D. Nixon, of Montgomery, AL.

It has been said that real leaders are ordinary people with extraordinary determinations. Those words certainly describe the life and accomplishments of Mr. Edgar D. Nixon. E.D. Nixon dedicated his life to the advancement of all people.

On December 1, 1955, when Ms. Rosa Parks decided to take a seat in jail rather than a seat in the back of a bus, she turned to E.D. Nixon for help. E.D. Nixon bailed her out of the Montgomery jail.

Mr. Nixon, you see, had long been a tower of strength for the black community in Montgomery. Blacks with any problems, especially with the law, knew that no hour was too late for Mr. Nixon to come and give aid and comfort.

Because of E.D. Nixon, the Montgomery bus boycott did not become an isolated protest. Because of E.D. Nixon, Rosa Parks did not become just another unknown foot soldier in the civil rights movement. Because of E.D. Nixon, Martin Luther King, Jr., was given the opportunity to lead one of the most important social and political movements of this century.

After the arrest of Rosa Parks, E.D. Nixon developed the strategy for the momentous Montgomery bus boycott and orchestrated its crucial early stages. This protest was the catalyst for the modern civil rights movement. It led to the transformation of American society.

E.D. Nixon recruited Dr. King, then a 26-year-old minister who had recently moved to Montgomery, to join the bus boycott protest. He supplied Dr. King with his first major platform and the cause on which Dr. King built a distinguished career.

Mr. Nixon dedicated his life to the singularly important cause of freedom.

He founded the Montgomery chapter of the NAACP in 1928.

He organized the local chapter of the Brotherhood of Sleeping Car Porters, the Nation's first successful black union, in 1930.

He organized the first voter registration drive by blacks in the early 1940's.

He led attempts to integrate schools in Montgomery in 1954.

If there had been no E.D. Nixon, Rosa Parks may have had no one to call on that fateful night in Montgomery. Without E.D. Nixon's determination and dedication, there may never have been a Montgomery bus boycott.

Mr. Speaker, it is important for us to remember E.D. Nixon, an Amrican hero. Without him, how different our world might be.

A LESSON TO BE LEARNED

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. GRADISON. Mr. Speaker, I take this opportunity to make an observation about the budget deficit.

CBO has just released its latest report on the economy and the budget. According to CBO, the baseline deficit for fiscal year 1991 is $232 billion. I simply wish to observe that this is higher than the deficit was when we passed Gramm-Rudman-Hollings, which as we know, guaranteed a balanced budget by 1991.

By way of background, when we passed GRH, we thought the deficit was $180 billion—hence, 5 years of reduction at $36 billion per year. Not long thereafter, it was recognized that the deficit was more like $220 billion. Consequently, GRH was revised and extended.

Perhaps there is a lesson here about formula approaches to deficit reduction.

ART CONTEST WINNER SALUTED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. SUNDQUIST. Mr. Speaker, not long ago, I was pleased to bring to Washington the young man who is the winner of the Congressional Art Contest in my district, and to join many of my colleagues in saluting him and other talented young artists from around the country.

The winner from my district is Shawn Davidson of Centerville, TN. He will be a senior this fall at Hickman County High School.

His winning artwork is an oil painting on canvas, titled "Tennessee History" and depicting various scenes from Tennessee's past. They are typical scenes, celebrating the lives and times of the pioneers who settled the Volunteer State. The painting will be proudly displayed here in the Capitol for the next year.

Shawn Davidson represents the thousands of young people whose artistic talent has been encouraged and rewarded by the Congressional Art Contest. Painting is something he enjoys. His winning painting, in fact, had been done for a school project. Shawn, at the urging of his teacher, Ruth McFarland, entered it in the contest.

Every young person who has the opportunity to enter gains something of value, namely, the knowledge that we recognize their artistic talent and encourage them to develop it. Shawn Davidson intends to put his ability to work as he continues his education and seeks a career.

I join Shawn's parents, Bobby and Carolyn Davidson, his teacher Ruth McFarland, and the many others who take pride in his accomplishment, and who find in Shawn a worthy representative of Tennessee's bright, creative talent.

SALUTE TO RALPH PLUMB

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. MACHTLEY. Mr. Speaker, it is with great pleasure I rise today to salute Ralph Plumb for his years of dedicated and unselfish service to his community and fellow citizens.

As Ralph is rapidly approaching a milestone in his career and life, I find him deserving of praise for his maturity in years and for his contributions to various organizations throughout his community. Ralph has been a longtime sponsor of local Little League teams in Newport, RI, and has donated countless hours to helping the youth in his community. His devotion to little league is only exceeded by his passion for fast cars and racing. Truly, Ralph's love of life for one so old is a model for all approaching midlife to follows. His physique is a temple to the quality of food and nutrition which he has consumed during his peak years.

Mr. Plumb is an inspiration to all who have ever hit a slice on the course. He is able to maintain an exemplary composure when missing a sure putt. Nevertheless, we have all developed a great love and respect for the man who so many kids have called Coach.

Thanks, "Coach," and congratulations.

THE SOVIET BLOCKADE OF MEDICAL SUPPLIES TO LITHUANIA

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. DURBIN. Mr. Speaker, I would like to add my support and voice my compassion for the people of Lithuania, who continue to suffer under the iron hand of the Soviet Government.

While I welcomed President Gorbachev's July 2 announcement, that the economic blockade would be lifted and bilateral negotiations would begin, since that time a trickle of oil has been the only tangible evidence of Mr. Gorbachev's promise.

We all know of the economic hardships that have resulted from the Soviet economic blockade. Of the 1.1 million registered employed individuals, over 45,000, are now out of work. The gross national product has declined by 20 percent. And, inflation is currently estimated at 20 to 24 percent.

While these figures reflect the overwhelming economic hardships faced by the entire Lithuanian population, the greatest victims of this blockade have been those who are the most vulnerable: the young, the ill and the elderly. In the 2½ months since the blockade began, .5 percent of the required syringes, ½ of the required scalpels, 10 percent of the required sutures, and only 200 of the needed 587,000 vials of insulin have been received by Lithuanian hospitals. Antibiotics and sterilizing solutions are also in critically short supply. Hospitals have had no choice but to suspend all nonessential surgery. Medical examinations, injections, and hospitalization have been limited to the most critical cases. Dialysis treatment and pediatric care have been severely cut back. These tragic conditions are further exacerbated by the lack of oil and gasoline which has cut back ambulance service and the travel of medical personnel to outlying areas.

What does all this mean? It means that the child who has been diagnosed as diabetic is unable to receive essential insulin injections. It means that cancerous diseases will go unchecked as individuals are unable to obtain preventive check-ups. It means that the ill and elderly who live in remote areas are left unattended.

It appalls me that the Soviet Government, one of the most powerful governments in the world, feels so threatened by Lithuania's quest for freedom that it has stooped to preying on the young, the week and the ill. It is time that the United States, as the defenders of democracy and human rights, let the Soviet Government know that this situation is intolerable.

BETTIE CLEVELAND

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. RICHARDSON. Mr. Speaker, It is my sad duty to inform my colleagues of the death of an outstanding New Mexican. Bettie Cleveland, who died in Farmington at the age of 55, was the first woman to manage a television station in New Mexico. She was also the first woman president of the New Mexico Broadcasters' Association and of the Farmington Chamber of Commerce.

A native of Arizona, Mrs. Cleveland began her career in broadcasting as a sales secretary at KOB-TV in Albuquerque. She moved to Farmington as station manager of KOBF-TV in the early 1980s'. She was the mother of two sons and was active at the station and in numerous community activities until 1 week before her death.

To quote her good friend, Farmington realtor Claudine Riddle, "She was a great lady and a fine person."

Mr. Speaker, to the credit of many, women in positions of power and authority are not as uncommon today as they once were. But we should not forget that it took great courage and determination for the first of them to aim for positions traditionally reserved for men. Bettie Cleveland was an inspiration to many New Mexican women and I know my colleagues join with me today in saluting her.

TRIBUTE TO FBI SPECIAL AGENT JOHN LAWRENCE BAILEY

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. BILBRAY. Mr. Speaker, I rise today to praise a man who rightfully deserves the notice of this great body. On June 25, 1990, FBI Special Agent John Lawrence Bailey was killed in the line of duty trying to stop a bank robbery.

As the suspect was leavig the bank, Agent Bailey challenged him. When the suspect tried to turn on the agent, Bailey fired a single shot and disarmed the robber. But the robber fought back, struggling with Bailey, and the agent went down. The suspect recovered his own weapon and fired three rounds. All of them struck the FBI agent.

Minutes later, after toughing out an ambulance ride to the hospital, Agent Bailey died as a result of those wounds. Two suspects have been arrested.

The people of Las Vegas have poured out their hearts for this agent and his family. The shock of this killing was felt throughout the community. This is the first time in history that an FBI agent has been killed in Las Vegas.

John Lawrence Bailey was born November 17, 1942 in North Hampton, MA His mother Hester and father Robeson had three girls,

Fay, Katherine, Amanda and three boys, John and his twin brothers Matthew and Mark.

John served in Vietnam as a captain in the Marines. He received a Bronze Star. It was after that service that he entered the FBI in August of 1969. Three years later, he married the former Mary Beth Mundis in August of 1972. They have two daughters Megan Elizabeth and Amanda Page. His service with the FBI first took the family to Louisville, KY, on to the Bureau's New York office and then to the FBI's language school here in Washigton, DC. John and his family were then transferred to Tampa, FL. They were reassigned to Las Vegas in September in 1977.

This was a distinguished career Mr. Speaker, John Bailey received five commendations for outstanding investigative efforts with the FBI. He knew about duty. That day in the bank he did what he had been doing throughout his career; he stepped forward and did his job. The community will miss him. His fellow FBI agents will remember him for the example he set. We can only sincerely hope that his wife and daughters can somehow cope with this tremendous loss in knowing that this man and his work will not be forgotten. That is why I rise today. It is fitting that his life be recorded in this permanent RECORD of Congress.

TRIBUTE TO HIS HOLINESS DEMETRIOS I

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. McMILLEN. Mr. Speaker, I rise today to pay tribute to His Holiness Demetrios I, archbishop of Constantinople and ecumenical patriarch of the Eastern Orthodox Church. Partiarch Demetrios visited the Capitol yesterday as part of a tour through the United States, linking the multitude of Orthodox Christian communities throughout this country with their brethren world-wide.

Orthodox Christians in Maryland and the rest of the United States are celebrating Patriarch Demetrios's arrival with open hearts and the generous love of the people. For the first time, Mr. Speaker, a patriarch of the Eastern Orthodox Church has come to the United States. This remarkable event is being enthusiastically greeted by myself and the people of the State of Maryland. This is also a special moment for my Orthodox Christian colleagues in the House of Representatives, their families, and the whole Washington congregation.

We all need to celebrate and welcome Patriarch Demetrios as a penultimate example of the unity and spiritual strength residing in all the Orthodox Christian assemblies of Maryland, the United States and the world.

REQUIRE DOUBLE HULLS IN OIL SPILL LIABILITY ACT

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. McDERMOTT. Mr. Speaker, the *Exxon Valdez* is back in business. Except it has a different name—now it is called the *Exxon Mediterranean*. One thing that has not changed is the design of the tanker. The Exxon Corp. spent $30 million to repair the gutted hull of the *Valdez*. In total, Exxon has spent over $2 billion cleaning up its mess, but will not spend a few million dollars to prevent another one by fitting the *Valdez* with a double hull.

I want to make sure that Exxon, or any other company, never sends another new or repaired oil tanker out to sea without a double hull. The Alaska Oil Spill Commission studies this issue in depth, and here is their conclusion: "no other single factor has as great an effect on limiting oil spills as double hull technology."

This body has debated this issue at length and has voted overwhelmingly to require double hulls on tankers. I call upon the House conferees, when they meet with their Senate counterparts today, to insist upon our version of the bill, to require all tankers and barges traveling in U.S. waters to have double hulls within 15 years.

LONG ISLAND BUSINESSES HONORED FOR TECHNOLOGICAL INNOVATION

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1990

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to ask my colleagues to join with me in recognizing seven outstanding technical firms in my district, the First District of New York, on Long Island. These businesses were awarded grants through the Small Business Innovation Research Program, established in 1982. SBIR funds research and development in areas of interest to Government agencies. Award winners demonstrate their state-of-the-art technological knowledge through a three-phase program that includes research, prototype development, and commercial deployment in markets with substantial potential.

I am very pleased to recognize: ERG Systems, Inc., of St. James; Excel Technology, Inc., of Coram; Inno-Tech Enterprises, Inc., of Ronkonkoma; LNR Communications, Inc., of Hauppauge; MedFa Research Laboratories of Westhampton Beach; Moltech Corp. of Shoreham; and National Hybrid, Inc., of Ronkonkoma. Their awards for fiscal year 1989 total $2,126,341. These firms are leaders of the vigorous technical industry that exists on Long Island, an industry that has made consistent and significant contributions to the development of our Nation's technological base. Although we sometimes neglect to call attention to their achievements, it is, in fact, the work of smaller corporations such as the seven I recognize today that help maintain our technological lead over foreign competitors.

As a Member of Congress as well as someone with over 25 years of experience in aerospace engineering, I enthusiastically applaud the Small Business Administration's program for recognizing innovation in the technical industry and, once again, I salute these seven businesses for their fine work. Long Island and this Congress can be very proud of them.

SENATE—*Friday, July 13, 1990*

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 8:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The prayer this morning is the familiar beautiful prayer of St. Francis of Assisi:

"Lord, make me an instrument of Thy peace. Where there is hatred, let me sow love; where there is injury, pardon; where there is doubt, faith; where there is despair, hope; where there is darkness, light; and where there is sadness, joy.

"O Divine Master, grant that I may not so much seek to be consoled as to console; to be understood as to understand; to be loved as to love; for it is in giving that we receive; it is in pardoning that we are pardoned; and it is in dying that we are born to eternal life."

Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved.

In my capacity as a Senator from the State of West Virginia, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of routine morning business not to extend beyond the hour of 8:50 a.m., with the Senator from Louisiana [Mr. BREAUX] to be recognized for not to exceed 15 minutes, and the Senator from Nebraska [Mr. KERREY] to be recognized not to exceed 20 minutes. Mr. BREAUX.

TAX FAIRNESS

Mr. BREAUX. Thank you very much, Mr. President. I may not use all the time allocated this morning, but I take the time to make my colleagues aware of a recent report that has been done by the Progressive Policy Institute which looks at the last 10 years of this country's history with regard, particularly, to what has happened with the Tax Code.

I think it is very clear that the report indicates that what has happened is that over the last 10 years, the very rich in this country have, indeed, done very well. They have had their taxes reduced. The top rate has gone from something like 70 percent down to 28 percent.

It has not been done without cost. The costs have been borne basically by the middle income in this country, that median family income level of about $30,000 or $34,000. It generally is a family with two parents and maybe one or two children who they struggle to allow to go to school, perhaps to college. In many of these cases, we see a situation where both the husband and the wife are having to work in order to make ends meet.

What has happened over the last 10 years, according to the Progressive Policy Institute, and I will ask at an appropriate time that this be printed in the RECORD, is that they have been having their taxes increase while the very wealthiest among us have been having their taxes decrease.

Mr. President, that is not tax equity; that is not tax fairness. That is a very disturbing trend that I think all of us, as we meet in our budget summit, must bear in mind as decisions are being made as to how we reduce the deficit and bring about some kind of fiscal sensibility to our efforts as we try to govern.

The Progressive Policy Institute points out over the last decade the basic Federal tax burden on the average American family has increased. There is all of this talk about having our taxes reduced. Let me tell my colleagues, speaking on behalf of the average American family in this country, their tax burden has dramatically increased while the burden on high-income families has fallen.

Despite large supply side tax cuts in these subsequent tax reforms that we were all involved in—and there is enough blame to go around—a typical two-parent family of national median income paid its larger share of income in Federal taxes in 1988 than in the year 1980. The median family income saw 23.7 percent of its income go to the Federal taxes in 1980. By 1988, that had risen to 24.12 percent. If we look at the richest level of the families in this country, the highest 5 percent wage earners in this country, you see their tax burden actually has fallen during that same period from 28.9 down to 25.7 percent.

It is interesting, when you look at all of these records and all of these statistics for the last 10 years, and now the numbers are in, now you can put it on a graph, now you can put it on a chart, it is very graphic as to what it will show the American people. For instance, a family with a median income of $34,000 pays taxes at nearly the same rate as a family with an income of over $200,000.

I suggest to my colleagues as we embark upon the budget negotiations, is that basic tax fairness? Is that tax equity? Is that what this country stands for when we talk about progressive taxes, when the wealthiest among us are obligated to pay more, to contribute more to the Government that we all benefit from? While the rich had their taxes cut, their incomes increased at five times the rate of middle-income families in this country. A large amount of that increase is the result of a dramatic decrease in the Tax Code that they are having to pay under.

I point out, Mr. President, that one of these reasons is that while the wealthiest among us have had their income tax dramatically reduced, we have had something like seven increases in Social Security taxes. Seven times during the last decade this Congress, and again I say there is enough blame to go around, has come in and increased Social Security taxes seven times. Where do those taxes fall most heavily? Obviously, on middle-income families because we have a cap after which no Social Security taxes are due.

So while the Social Security tax rates were increasing seven times during this 10-year period, we saw the income tax rates go from 70 percent down to 28 percent. There is no question at all why as we look at these charts and the graphs and see that the income for the median family income in this country has actually gone up substantially and the tax burden has gone up substantially.

It is interesting to note that if none of the tax changes in the Tax Code in 1977 had not occurred a family with a median income would be paying $400 less in taxes this year. The family in the richest 1 percent, the wealthiest among the wealthy, would be paying something like $40,000 more.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. President, I will be speaking more in the coming days about what caused this. What are we doing in the leadership, what leadership was in the administration in the last decade that caused this change, and a rather dramatic change, to occur in the economic situation of the families in this country.

I think a final note should be made that all of us believe in fairness. If there are going to be tax cuts, if there are going to be changes in the Tax Code, I think the guiding principle in this decade is to look at what has happened in the last decade and use this as an opportunity to make the necessary corrections, for us to be able to go to the middle-income families of this country and recognize that they have become the forgotten generation, that they have become the forgotten group of people that Congress has, indeed, neglected and the last administration, I think, intentionally has ignored.

I think we have an opportunity this time to bring about tax fairness and tax progressivity that all of us can be proud of. It makes no sense while Congress pretends to take care of the poorest of the poor, and that needs to be done, it seems that the last decade in Congress we have concentrated on helping the richest of the rich.

I think this is the decade the Congress begins to pay attention to the middle income in this country. I think their tax burden over what has been indicated in the last 10 years has become unbearable. It is time the Congress acts. I hope the administration will consider these facts, and we will be bringing it to their attention over the next several days when we decide what to do with regard to the budget summit and how to correct some of the problems the last decade has brought us.

Mr. President, I ask unanimous consent that a copy of the Progressive Policy Institute report that I referred to be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE TAX FAIRNESS INDEX: WHO PAYS FOR THE NATIONAL GOVERNMENT

(By Robert J. Shapiro, Vice President, Progressive Policy Institute)

As President Bush and congressional leaders grapple over how best to raise new revenues for cutting the federal budget deficit, one fact should be paramount: Over the last decade, the basic federal tax burden on an average American family increased, while the burden on high-income families fell. Despite the supply-side tax cuts and subsequent tax reforms a typical two-parent family at the national median income paid a larger share of its income in federal taxes in 1988 than in 1980.

This is the principal finding of the Progressive Policy Institute's Tax Fairness Index, designed to measure the changes in the real federal tax burdens of average and high income families—the share of each family's total income paid out in federal taxes. Based on the latest Internal Revenue Service data, the Index shows that a typical two-parent middle-class family found its basic federal tax burden higher at the end of the decade than at the beginning.[1] Including the income tax and both the employee and employer sides of the social security tax. 23.7 percent of the annual income of a typical two-parent two-parent family went to federal taxes in 1980; by 1988, the same family's Tax Index had risen to 24.1 percent.[2] In contrast, the richest five percent of American families saw their basic federal tax burden fall sharply, from 28.9 percent in 1890 to 25.7 percent in 1988.

TAX FAIRNESS INDEX

[U.S. families' Federal tax burden, in percent]

	Median income	Top 5 percent
Year:		
70	19.7	22.6
75	21.5	24.9
80	23.7	28.9
81	25.3	30.4
82	24.5	29.9
83	23.8	28.5
84	24.1	28.2
85	24.2	27.9
86	24.5	28.9
87	23.3	25.9
88	24.1	25.7

Note: Share of family income paid in Federal income tax and employee and employer side of payroll tax.

The Index documents the dramatic decline in the progressivity of federal taxes in the 1980s. Throughout the 1970s, a middle-class family's federal tax burden was substantially smaller than the burden on those in the top five percent. The share of an average, two-parent family's income claimed by federal taxes in 1970 was about 15 percent less than the share paid by a very affluent family, and by 1980 a middle-class family's federal tax burden was 20 percent less than that of the very well-to-do.

But by 1985, the gap had narrowed again to about 15 percent, and in 1988 the federal tax burdens for middle-class and rich families had nearly converged. In that year, the burden on a middle-class family was just 6.6 percent less than the burden on the very well-to-do: an average, two-parent family paid out more than 24 percent of its $32,100 median income in federal taxes, while a family in the top five percent, at the $182,000 income level, paid out less than 26 percent of its income in taxes.

TAX PROGRESSIVITY INDEX

[Percentage difference in Federal tax burden for median income families and those in the top 5 percent]

Year:	
70	14.7
75	15.8
80	21.5
81	20.2
82	22.0
83	19.7
84	17.0
85	15.3
86	17.6
87	11.2
88	6.6

The principal factor driving this regressive trend has been the sharp rise in the payroll tax, which for middle-class families more than offset cuts in income tax rates. During the 1980s, the social security tax rate was increased seven times while the income subject to the payroll tax remained limited. As a result, the real burden of payroll taxes rose rapidly in the 1980s only for average Americans, whose incomes are always less than the limit, while most of the income of the well-to-do is exempt from the tax.

The 1986 tax reforms are also an important, secondary factor, helping rich and poor families while doing little for those in the middle. Slashing the top income tax rate from 50 percent to 28 percent probably diminished progressivity, despite many accompanying reforms that reduced tax benefits for affluent taxpayers—notably, ending the preferential rate for capital gains. However, the 1986 Tax Act also increased progressivity for low-income families, as the expanded personal exemption removed millions of poor and near-poor Americans from the income tax rolls.

The real impact of the regressive trends in the tax burden was also intensified by a growing gap in the incomes of average families and the very affluent. In 1970, the average income of those in the top five percent was barely more than four times as great as the median income; by 1980, the very well-to-do made nearly five times as much as an average, two-parent family; and in 1988, the average income of the very affluent was nearly six times that of a typical, middle-class family.

TAX FAIRNESS AND TAX POLICY FOR 1990

The Tax Fairness Index provides substantial support for the view that the top priority for tax negotiators in the budget summit should be to restore tax equity, not simply to raise taxes. The summit offers progressives the opportunity to champion the interests of average working families who received no real tax relief in the 1980s. Middle-class Americans should not now have to pay to clean up the fiscal mess that resulted, in large part, from tax cuts for the wealthy.

A progressive blueprint for tax equity should have four touchstones:

1. Cut social security taxes for average families. Under one approach, the current cap on wages and salaries subject to the payroll tax would be repealed, and the additional revenues would be applied to reduce the payroll tax rate for everyone. With this one reform, the social security tax rate could be cut from 15.3 percent to 13.4 percent, generate tax relief for more than 96 percent of all working families without increasing the budget deficit or the Social Security Trust Fund. This one change would provide about $100 in tax relief for every $10,000 in earnings for everyone with incomes of $50,000 or less.[3]

2. Reject cuts in the capital gains tax, which would further reduce the tax burden on those who already are paying a smaller portion of their incomes in taxes today than they did in 1980, before the deficit ballooned. All credible economic evidence shows that a capital gains tax cut would provide windfall tax relief for the high-income families without generating any general economic benefits for most Americans.[4]

3. Raise new revenues by restoring progressivity to the tax system, with higher taxes for those whose tax burden declined while the deficit was growing. For example, $42 billion could be raised over five years by adding a third, 33 percent rate to the income tax—more than $100 billion if the third rate were set at 38 percent.[5] Revenues also could be raised by closing tax loopholes that benefit only the very affluent. For example, the current $1,000,000 cap on mort-

Footnotes at end of article.

gages qualifying for an interest deduction could be cut back substantially, so that average families do not indirectly subsidize mortgages on mansions for the wealthy. Capping deductible interest at the level of a $200,000 mortgage would raise $8-to-$10 billion over five years.[6]

4. Resist higher excise taxes or new value-added consumption taxes, that would raise taxes on middle-class families. A new analysis by the Congressional Budget Office shows that an increase in the federal tax on gasoline would be strictly regressive—costing proportionally less as family income rises—while a hike in the tax on alcohol would hit families in the middle the hardest and those at the top the least.[7] These measures should be debated only if new revenues are still needed after progressivity has been restored.

TAXES ON INCOME, VERSUS TAXES ON LABOR

These touchstones for progressive tax policy are based on three crucial tax and income trends in the 1980s, that determined the basic shape of the Tax Fairness Index.

First, almost every group's income, before taxes, rose in the 1980s; but while the average family's earnings grew only at one percent a year after inflation, incomes for the top five percent grew at five times that rate.[8]

FAMILY INCOME

	Median income	Top 5 percent
Year:		
70	$9,867	$42,611
75	13,719	59,246
80	21,023	90,789
81	22,388	108,589
82	23,433	119,094
83	24,674	129,599
84	26,433	140,104
85	27,735	143,424
86	29,458	161,114
87	30,853	171,619
88	32,191	182,124
89	33,587	192,629
90	34,762	206,162

As a result, in 1980, a middle-class family earned nearly one-fourth the income of a family in the top five percent; by 1985, it was less than one-fifth; this year, we estimate it will be barely one-sixth.

Against the background of these income developments, the actual burden of the federal income tax fell moderately for both average-income and affluent families in the 1980s.[9]

FEDERAL INCOME TAX BURDEN

[In percent]

	Median income	Top 5 percent
Year:		
70	10.0	20.8
75	9.3	22.2
80	10.9	25.4
81	11.4	26.7
82	10.5	26.2
83	9.9	24.8
84	9.7	24.4
85	9.7	24.0
86	9.8	25.1
87	9.0	22.3
88	9.1	22.0

However, since the before-tax incomes of affluent families grew much faster than those of average families, the distribution of after-tax income became less progressive during the decade. In 1980, a middle-class family's income after income taxes was equal to about 28 percent of the after-tax income of a family in the top five percent; by 1988, the average family's after-tax income was equal to barely 20 percent of the after-tax income of that of a very affluent family.

And, as the federal income tax burden was being cut in the 1980s, social security tax rates and the burden of social security taxes on average families increased sharply—while the deficit began to absorb social security revenues to finance other programs.[10]

PAYROLL TAX BURDEN

[In percent]

	Median income	Top 5 percent
Year:		
70	9.6	1.8
75	11.7	2.8
80	12.2	3.5
81	13.3	3.6
82	13.4	3.6
83	13.4	3.7
84	14.0	3.8
85	14.1	3.9
86	14.3	3.7
87	14.3	3.6
88	15.0	3.7
89	15.0	3.7
90	15.3	3.8

PAYROLL TAXES VERSUS INCOME TAXES

The payroll tax burden is the most important single factor determining the shape of the Tax Fairness Index in the 1980s, because while virtually all of the income earned by a middle-class family is subject to this tax, only a small share of a wealthy person's income is similarly taxable. First, the tax applies only to wages and salaries, which account for virtually all of an average family's income but for less than half of the income of very affluent families. Furthermore, the cap on wages and salaries subject to the payroll tax covers all of a median family's income—but less than one-fourth of the total income of a typical family in the top five percent.

As a result, for a two-parent family earning the national median income, the full burden of social security taxes actually exceeds that of the income tax. In contrast, the payroll tax is a minor element in the finances of high-income families, for whom only the income tax presents a significant burden.

The combined impact of these tax and income trends is clear: the economic gulf between the average American family and a very well-to-do family has widened substantially. Throughout the 1970's, a typical two-parent family, after paying both income taxes and social security taxes, had income equal to about 25 percent of the post-tax income of a family in the top five percent. By 1985, the after-federal tax income of a middle-class family equalled barely 20 percent of the post-tax income of a very affluent family; and in 1988, an average family, after paying their federal taxes, had income equal to only 18 percent of the post-tax income of a family in the top five percent.

TAX FAIRNESS AND THE AMERICAN DREAM

These findings are consistent with recent conclusions of House of Representatives Committee on Ways and Means: In the 1980s, those who earned the most paid a declining share of their incomes in taxes, while almost everyone else paid a growing portion of their incomes in taxes.[11] For example, the Committee reported,

Chiefly because of increases in payroll taxes, the federal tax burden for at least 90 percent of all families is higher in 1990 than it was in 1977.

If none of the changes in the tax code since 1977 had occurred—including income tax rate cuts and payroll tax increases—a middle-income family's taxes would be $400 less this year.

In contrast, the changes in the tax code since 1977 have reduced the 1990 federal tax bill for a family in the richest one percent by almost $40,000.

The Tax Fairness Index data demonstrate a particular aspect of the regressive income and tax developments of the 1980s: the impact on two-parent families living on the national median income. The resistance of working families to another tax increase in 1990, as measured by numerous national opinion surveys, reflects the real experience of their rising federal tax burden over the last decade, along with growing awareness of the widening income gap between average families and the most affluent American.

In this context, the principles for progressive tax reform represent not a plan to "soak the rich," but rather a program for supporting the average American family while renewing the civic ethic of equal sacrifice.

SOURCES AND ACKNOWLEDGMENTS

[1] Social Security tax rates and annual tax liability caps are derived from tables in the 1990 *Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds.* The author's calculations for effective federal income tax rates are derived from Internal Revenue Service annual data on adjusted gross income and tax paid by joint returns of husbands and wives, for the years 1970, 1975, 1980, 1981, 1982, 1983, 1984, 1985, and 1986. Calculations for years 1987 and 1988 are based on preliminary Internal Revenue Service data for individual income tax returns as reported in the 1987 *Taxpayer Usage Study* and 1988 *Taxpayer Usage Study*; the resulting estimates for 1987 and 1988 effective rates should be considered preliminary.

[2] The effective federal tax burdens reported in this analysis reflect the combined burdens of the individual income tax and the payroll tax, and do not include federal excise taxes and estate and gift taxes. The analysis also does not include the corporate income tax, because of current uncertainty about the distribution of its burden. For the purposes of this analysis, the full burden of payroll taxes is assigned to employees, in accordance with the preferred practice of tax economics and of public authorities such as the Joint Committee on Taxation of the Congress.

[3] See, "1986 Tax Reform, The Sequel: Cutting Social Security Taxes Without Increasing the Deficit," Progressive Policy Institute, *Economic Outlook*, No. 5, May 14, 1990.

[4] See, "Cutting Capital Gains Taxes: Deja Voodoo?", Progressive Policy Institute, *Economic Outlook*, No. 2, August 3, 1989.

[5] "Federal Taxation of Tobacco, Alcoholic Beverages, and Motor Fuels," Congressional Budget Office, Figure 4, p. xxiii, June 1990.

[6] "Reducing the Deficit: Spending and Revenue Options," *A Report to the Senate and House Committees on the Budget, Congressional Budget Office*, p. 347, February 1990.

[7] "Reducing the Deficit: Spending and Revenue Options," pp. 357-58.

[8] Median family income as reported in *Economic Report of the President*, Table C-30, February 1990. Estimates for the average income for the top 5 percent of families based on Congressional Budget Office estimates for 1977, 1980, 1985 and 1990, as reported in "Tax Progressivity and Income Distribution," Table 10, Committee on Ways and Means, U.S. House of Representatives, March 26, 1990.

[9] Author's estimates based on Internal Revenue Service data; see note 1. For purposes of calculating federal income tax burdens, median income levels are adjusted to reflect the employer's share of social security taxes.

[10] In 1970, the cap on wage income subject to the payroll tax was $7,800—less than the median

income. However, the typical median income family had 1.7 wage-earners in 1970, subjecting, on average, all of median wage income to the payroll tax, despite the cap.

[1] "Tax Progressivity and Income Distribution," Committee on Ways and Means, U.S. House of Representatives, March 26, 1990.

The author wishes to note the special contribution in the preparation of this report provided by Wendy Edelberg, as well as the helpful assistance of Mahesh Gehani and Dana Crosby.

The PRESIDENT pro tempore. Under the previous order, the Senator from Nebraska [Mr. KERREY] is recognized for 10 minutes.

HEALTH CARE: A HUMANITARIAN ISSUE

Mr. KERREY. I thank the Chair.

Mr. President, my comments connect rather well with the observation of the distinguished Senator from Louisiana on what has happened to working Americans in the 1980's. The decline they have experienced in earning power and their increased tax burden is well documented. I think it is important for our colleagues to pay close attention to the remarks the Senator from Louisiana just made.

I rise today to talk about health care as an issue that I think is closely associated with the decline in the standard of living and the difficulties that working-class Americans are having in purchasing the things that they need. I believe from my experience in Nebraska that health care is perhaps the most important issue that is facing the people of this country.

I believe, first of all, that health care and its availability is a humanitarian issue. It is an issue that is of great importance to all of us who are concerned about the humanitarian nature of the United States of America.

We simply have people who are not getting well because they do not have access to health care. We have people who are not taking their children to see the doctor because they do not have the means to pay for the doctor. We have older Americans who are similarly wondering whether or not they are going to become medically indigent merely because they do not have the capacity to provide that care for themselves.

Health care is an important humanitarian issue. It is an important factor as people try to move up the ladder of economic opportunity that the United States of America has always offered to its people. Yet it can, and in many instances, has become a significant barrier.

When this body debated the Welfare Reform Act 2 years ago, it was a central piece of that effort that we try to provide transitional health care benefits to people as they try to move off of welfare. We know that fear of loss health benefits can be an enormous barrier, particularly for working mothers as they try to get back into the workplace and to move off welfare.

So it is a solid, humanitarian issue, Mr. President. But in addition to being a humanitarian issue, it is also an issue of American productivity. We are now devoting approximately 12 percent of our gross national product each year for health care. That percentage is not declining. It is going up.

Some predict that close to 15 percent of our gross national product will go to health care by the year 2000 and instead of the $650 billion which we expect to spend in 1990, we will be spending close to a trillion dollars by the year 2000. Yet, unless substantial changes are made, more Americans will be denied access to health care services than are today.

Something needs to be done. We have all seen the macronumbers. We have heard from business and labor about the need for fundamental reform. We all understand, it seems to me, there is a crisis in health care and something needs to be done. I rise today to offer a few suggestions that I think would be helpful.

Between June 1 and 3, the Senator from South Dakota, Senator TOM DASCHLE, and I held a series of rural health care hearings in South Dakota and Nebraska. These hearings were authorized by the distinguished Senator from North Dakota, Senator BURDICK, of the Appropriations Committee, and Senator BENTSEN of the Senate Finance Committee.

What Senator DASCHLE and I heard at the microlevel, from doctors, businesses, providers of all kinds, and patients, was that Americans are facing excessive paperwork and redtape, excessive Government regulation, fear of malpractice claims, insufficient Medicare and Medicaid reimbursement, rising business costs and decreased coverage to employees. We even heard of a hospital that, as an employer, is finding itself faced with the need to decrease the amount of coverage provided to the people who work at the hospital to help the hospital make ends meet. We heard of preexisting medical conditions, that not only make it difficult for people to move from one job to the next, but make it impossible for people to find the coverage they need. As a consequence, disturbing numbers of people are finding themselves simply without the resources to meet their health care needs, forced to declare bankruptcy, forced to quit work, forced to go on to welfare. All of these consequences, it seems to me, are in direct conflict with other values we hold as a nation, and all in order to get the care they need for their children.

We also heard stories of how our system is set up to discourage the primary and preventive care services that research has told us is the lowest cost and most beneficial care we can provide to our people. We found examples of this in rural Nebraska, as I suspect exist in all rural parts of our Nation and too many nonrural areas as well. Many of these difficulties revolve around the availability of physicians and other primary care providers. In the decade of the 1980's, the National Health Service Corps was decimated. So that today, in the United States of America, we find underserved rural areas competing with underserved urban areas for approximately 100 National Health Service Corps physicians. That is about two per State, and I urge my colleagues, Mr. President, to observe that this is woefully inadequate to be able to serve underserved areas of this country.

I do not expect any health care system to be complaint free. I have been in hospitals enough as a patient as a consequence of being injured in the war in Vietnam to know you are always going to have complaints. It can never be perfect. The patient is always going to have problems, always going to have difficulties. I do not expect it to be complaint free. But the things I heard during our recent rural health hearings go far beyond ordinary complaints. These are symptoms of the serious problems with our Nation's health care system that I believe we must address.

I ask unanimous consent to include in the RECORD several different statements made over the course of the hearings from a variety of Nebraskans.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF KAROL OSTERLOH

Mrs. OSTERLOH. My name is Karol Osterloh and I'm here to ask you to provide health care to all in memory of our children. I'm speaking to you in memory of my daughter Pam, her twin sons, and all who have suffered and/or died as a direct result of the present American health care system. The purpose is not merely for a grade in my English class, but to raise the awareness of my brothers and sisters so we may unite, change the system and prevent the tragic reoccurence. God grant me the serenity to accept what I can't change, the courage to change what I can and the wisdom to know the difference. Pam's Prayer.

The power of the people can and will change our health care system that is failing miserably to care for our women, children, elderly and poor. Prevention is much more economical and humane than the expensive high-tech procedures that are employed to rescue those put into danger by lack of care. Prenatal care may be provided for as little as $400 to prevent low-birthweight infants which will cost the U.S. health care system from $14,000 to $30,000. The 11,000 low birth weight babies born each year in the U.S. and the cost of each of these infants may reach a cost of $40,000. The 1987 death rate of American infants is 10.2 per 1000 live births compared to Japan's five per 1,000 live births in 1986. If the U.S. could match the Japanese rate, the 20,000 children saved would contribute $2.6 billion in Federal income taxes in their life-

time. Programs designed and maintained to aid the needy are falling far short. The ones who need help are not being reached and others just don't meet the restrictive requirements. For every one dollar Reaganomic's budget cut from the health care programs, the defense dollar increase by $4.15. The strength of our nation lies not only in the strength of its military defense, but in the health and well being of its women, children and all citizens. Does not our destiny rest in the hands of our offspring?

The Closest Thing to Heaven is a Child, sung by the Oakridge Boys tells the story. Our cradles are empty or too often occupied by weak, small inferior babies as compared to other nations. Some 40,000 American infants each year do not live to celebrate their first birthday. In 1986, 38 million Americans had no form of health insurance coverage and 36 percent of them were children, as stated by A National Health Program is Necessary. Without insurance, women seeking prenatal care are denied access to such care unless they can meet the payments demanded of them up front by the greedy medical profession and the greedy clinics. Medicine is big business operated on a grand scale with one goal in mind, Profit. According to a Children's Defense Fund report, babies of mothers who received late or no prenatel care are three times more likely to die in infancy than babies whose mothers receive early prenatal care. Reaganomics on women has brought this about as a direct result of Federal Health-care budget cuts. The Federal government cut programs and proclaimed a declining infant mortality rate, but it is misleading. The death of 11.3 per 1000 is not a result of better prenatal care or prevention, but to higher tech intervention in hospitals. The Children's Defense Fund notes that the death rate climbed in eleven states between 1981 and 1982. Mortality rates are as high as 59.5 per 1000 live births. This is higher than Guyana, Panama, Tobago, and other poorer nations.

Washington, D.C. loses more nonwhite infants than Cuba or Jamaica. Also no or late prenatal care results in endangering the mother's life. This sad fact has brought the predicament of pregnant women home to me in the death of my 25 year old pregnant daughter. Pam was a vital, energetic, and positive person. Behind every cloud she saw the silver lining. She always seemed to be an adult, for even as a small child she visited the older people on our block, She was ambitious, working every summer during her high school years. Pam and Marvin Breeze, fell in love, married, and were a truck driving team for five years. She always wanted to see the country and she saw it through the windshield as they trucked coast to coast. We worried about her on the highway all those hours, but Breeze and Pam won several safe driving awards. The miles took their toll on the truck and the maintenance bills climbed faster than the revenue. Thus, they dreamt and saved for a new eighteen wheeler.

In December of 1989 a brand new 1990 Peterbuild rolled off the assembly line with their name on it. A dream come true. Yes, it took every cent they could muster up, but it will soon return a good revenue. Pam also found out she was expecting their first child. Breeze will now wheel the eighteen wheeler and I'll have my daughter close, as they bought a little house just across the street from me. Having Pam home and the added blessing of another grandchild on the way was an answer to my prayer. Pam is my middle child with two older sisters and two younger brothers. Connie and Shelley are married with two and three children, respectfully. They are busy with their own little tribes, just as they should be. Scott and Brad, Pam's brothers, also have lives and interests as all young men. That left Pam and I as she had no children to occupy her time and Breeze was on the road a lot. Pam would pop in for a few minutes nearly every day or give me a jingle on the land line. The only cloud on the horizon was the new trucking concern that had leased the truck failed to keep Breeze rolling. He would be laid over for two or three weeks at a time, yet the truck payments were rolling around. Shelley had a baby the same year as Pam became pregnant and she told Pam how very much she liked the woman doctor.

On January 10th Pam had her first visit with the doctor. At this time it was revealed that unlike Shelley, Pam had no insurance. Apparently the fee for prenatal care would have to be paid up front before Pam's next visit. Pam made the appointment for February 28 extending it to the very end of the month thinking, of course, that by this time the new truck would easily have returned the $800 she needed. It didn't happen. March, Pam tried again and made another appointment. At this time she had $400, half the fee. The door once again was slammed in her face. Pam was poor, white and proud. She thought she could handle it all by herself, and God forgive me, I thought she could, too. I thought I was doing the right thing by raising my kids to be independent and not interfere. Pam landed a couple of part time jobs, but the money she earned always had another destination. Pam painted furniture for the baby's clothes, removed paneling and painted, converted their office into a nursery. She called me to come see how nice it looked. I had to smile to myself as I watched her prepare her nest. Sometimes Pam would complain a little about getting up a lot at night and her feet began to swell. She had a little cold and her sister Connie, who at this time was pregnant and also seeing the lady doctor, had a cold as well. Pam wouldn't take anything for her cold fearing it may harm her baby. Connie and Pam went shopping and Connie told her what the doctor had told her to use for her cold and so Pam did the same. The doctor would see Connie, for she had insurance. Pam also stopped eating salt hoping this would prevent the swelling. The swelling kept getting worse and everyone was becoming concerned. Shelley told the doctor when she treated Shelley's son's broken finger that she is really worried about her little sister, she is really swelling up and becoming numb on one side. The doctor said, when you are large, pregnant and lay on one side all night, this may happen. This doctor's visit took place on March 19, 1990. Pam told me she didn't feel well and was sometimes sick to her stomach. She still had a little cold. Pam's words will echo forever in my mind, "As old as I am, when I'm sick, I want my Mom."

One night Pam popped in for a moment to show me her hair. She had put a rinse on and it turned a bit orange. Pam's crowning glory is her pretty, thick long blond hair. She was good at cutting hair and after high school attended beauty school. She thought if she fixed her hair she'd feel better. I always feel the same thing, it just makes a woman feel better. On this visit Pam said the doctor would not return her calls and since Pam wanted to see only this woman doctor, I suggested she tell them it is an emergency. You need fluid pills, I told Pam. I had previously suggested Pam call our old family doctor and explain her predicament; seven months pregnant, her physician would not see her, and ask him for a prescription for fluid pills. This is the last time I saw my daughter alive. We chatted on the phone the last time on Friday, April 6th and Pam told me she had the money and an appointment with the doctor on April 9th. I asked why she didn't see her on Friday and Pam replied, she isn't in. Why don't you see her Saturday then, I inquired. Again Pam replied, "She isn't in but I'll see her Monday."

Sunday, April 8th, after Pam did not return Connie and my phone calls, Connie and I went to check on her. We found our Sunshine lying on the floor, dead and no chance to save her or the twins she carried. The doctor Pam had not been able to see was contacted on the day of Pam's death by the investigating officer. He obtained her unlisted phone number and here is what she told him, "I have had no messages from Pam." Connie and Shelley had both expressed their concern for Pam's welfare to this very doctor. Pam's phone bill listed four calls from Pam's to the doctor's office from April 3 through the 6th, at which time Pam managed to make an appointment. Some doctors claim the high cost of medical treatment is caused by the high cost of malpractice insurance. It looks to me as though the medical profession's incompetency and neglect of their patients is a very real contributing factor. Insurance companies say the high settlements they are required to pay out are the reason for the high rates. They have gone so far as to print guidelines for doctors to follow so as to prevent claims. Insurance companies instructing the medical profession on how to conduct their business? Are the doctors so lax in their care that it has come down to the responsibility of the insurance companies? No one expects the medical profession to work without compensation but how much is enough? Why not the sliding rule to include people such as Pam, who just don't have the means, at the time, to meet the high costs of medical care? I have three daughters and all three went to the same clinic and the same woman doctor for prenatal care, and Pam is the only one denied prenatal care after her initial visit. She is also the only one not covered with insurance. The doctor claims she has nothing to do with the front office policy on admitting patients, yet another M.D. working for the same clinic says he makes sure his patients get in for their prenatal visits, regardless of ability to pay or insurance. He also said because of Pam's weight and the fact that she is a smoker, she was a high-risk.

JUNE 8, 1990.

Senator BOB KERREY,
Regional Office, Scottsbluff, NE.

DEAR SENATOR KERREY: We are writing with deep concern of the medical situation in the panhandle. For the past six months we have had a critical care child and these are some of the situations in which we have encountered during her illness.

In February our daughter Molly spent nine days in Omaha's Children's Hospital and the insurance company reimbursed these doctors in full, however when we returned to Scottsbluff and had to hospitalize her again Blue Cross/Blue Shield would only reimburse our pediatrician for approximately half of his charges. After further inquiry, we were told that Dr. Baisch's

charges were over normal and customary charges for Scottsbluff. We feel very strongly that we are being penalized by Blue Cross/Blue Shield for living in a rural area and having a child who demands the need for a specialized pediatrician.

To begin with the lack of qualified pediatricians in the panhandle is frightening. To compensate for this shortage the physicians are allowing their nursing staffs to call in prescriptions without even seeing the patient and charging for this phone call a fee ranging from $10-$14. It is quite disturbing when you can't get your sick child into the doctor's office because the doctor is to busy and full responsibility of the child's well being is placed in the hands of the nursing staff. When a child is sick they need to be examined by their doctor, this way the doctor not only hears but sees the symptoms thus, eliminating guessing over the phone and at the same time adding that reassuring feeling to the parents and patient.

We would also like you to know that the elderly are not the only victims of unfair medical reimbursement. Insurance companies are automatically throwing out large portions of our claims stating that they are in excess of, "usual customary or maximum benefit amounts", their normal and customary charges however are not based on what we have to pay for medical services in the Scottsbluff area. We pay the same premiums as do the rest of the people in the State of Nebraska's insurance plan but end up paying hundreds of dollars out of our pocket because physicians in our area charge more.

We have enclosed a copy of a letter and the 200 signatures of the concerned parents. These signatures represent only a small percentage of parents that are deeply concerned with the pediatrician situation in our area.

Thank you for your time and consideration into these matters.

Sincerely Yours,

BRAD AND MICHELE GOERKE.

SIDNEY, NE, *June 30, 1990.*

Senator ROBERT KERREY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR KERREY: I am writing you to follow up on our conversation of June 3rd in Scottsbluff regarding two issues in particular, CLIA 88 (Clinical Laboratory Improvement Act of 1988) and the over regulation of rural hospitals and physicians.

CLIA 88 has to be the most intrusive, most meddlesome, most irritating, most inflationary, poorly conceived, and most unnecessary piece of legislation that has been developed in a long time. This legislative bill started out to solve a problem with Pap Smear Mills with poor quality control. Most Nebraska physicians did not use these services since we like to know the Pathologist who is reviewing our Pap Smears and use him as a consultant in problem areas. How this bill was expanded to include all Physician Office Laboratories, I will never know. However, it has the potential of disrupting the office practices of nearly all primary care physicians and the cost of the regulations, as now drafted, are astronomical ($2,000.00 for a license and $750.00 to $1,000.00 for proficiency testing, none of which will be covered by Medicare). Virtually all physicians use hospital or clinical laboratories to verify results of the office laboratory many times per month. In our office we cross check results with Metro Laboratory in St. Louis, one of the largest and best equipped clinical laboratories in the country. Even with their "state of the art" technology I still find results that do not fit clinically and on retesting are not confirmed. Testing an unknown specimen from time to time does not guarantee any more accurate results than we are currently providing but it sure does increase the busy work and the cost. The cost figures I cited above are the outside costs only and do not include the "in-house" costs for reagents and nurses' time for running the unknowns. We do controls on our computerized machine daily and reprogram the procedure if the control doesn't check out satisfactorily.

The categories of Laboratories listed in the current regs are ridiculous. There are only 3 levels of laboratories, the waivered lab, the Level I, and the Level II. If the regulation is necessary, which I don't believe it is, then there ought to be at least a dozen levels of laboratories with only those reference laboratories, the ones who sell laboratory services to other labs, hospitals, clinics, and physicians, should be required to have an on site Pathologist. There are not anywhere near enough Laboratory Technologists to fill the vacancies on hospital and reference laboratory staffs now, let alone be available for every physician's office. I used to employ a laboratory technologist in my office and found that she couldn't drink coffee alone—she had to take one of the office nurses with her, which created a real personnel shortage. The current equipment which we have in our office can be operated by any intelligent high school girl, although it is operated by our registered nurses. If the Secretary wants to check the companies who manufacture the equipment, he can do so without CLIA 88. At least half of the capability of our equipment will be shut off by the current regs because the procedures are on the laundry list of Level II laboratories requiring a registered technologist and a pathologist on site.

The disruption that this law will create is unbelievable and will interfere with the care of most of the patients of primary care and rural physicians. It is my feeling that this mess should be repealed and that the Pap Smear problem be solved in an intelligent manner without disrupting the entire practice of medicine as CLIA 88 promises to do as presently drafted. Is it possible to forestall this whole mess by an emergency bill? The Medical profession and the patients we serve would be in your debt if this could be accomplished. Office laboratory service is the most cost effective service available.

The second matter we discussed briefly was that of the possibility of exempting rural hospitals and rural physicians from a lot of the current Medicare regulations. As you are aware, most of the regulations are drafted with the 200 bed hospital and the urban physician group practice in mind. Unfortunately the fiscal intermediaries treat all hospitals and all physicians alike, which make the regulations excessively burdensome for small hospitals (most Nebraska hospitals are 50 beds or less) and for small medical practices of 1-5 physicians. The constant flow of new regulations or new interpretations of old regulations results in monthly letters or small booklets with the accompanying threats of Federal Sanctions, fines, or imprisonment which Federal regs seem to have to include. This paper blizzard is too much to keep up with even if you make an honest effort to do so and these rules constantly get in the way of caring for patients and for getting paid for the services you render in good faith. The Medicare problem is further compounded by the arbitrary division of physicians into those who accept assignment and those who do not. Many of us refuse to accept assignment on the principle that we provide services to patients and expect payment from the person who receives the service regardless of the type of insurance he may or may not have. This is the principle of free enterprise and we happen to think that this is what has made this country great. All physicians accept assignment on persons with demonstrated need and Medicare requires us to accept assignment for all laboratory services we provide. The reimbursement for laboratory services is based on the lowest cost that laboratory services can be obtained from large laboratories on a "batch" testing basis (the cost per test if you do 30, 40, or 100 tests all at the same time). Office laboratory services are provided for the most part on a "stat" basis, the provision of the service at the time it is needed in the care of a particular patient. We seldom do more than 1 or 2 tests of the same type at any one time and frequently will do only one test of a particular kind (plus a control) in a given day. The current tactic in the Medicare program is to portray physicians who do not accept assignment on all patients as second class citizens and money grubbing practitioners and most of the EOB's (Explanation of Benefits) sent to patients of physicians not accepting assignments have a statement telling the patient that he could have saved "X" number of dollars had he gone to one who accepts assignment. They also publish a list of the "favored" so that their practices can be promoted at the expense of the "other guys". Those of us whose practices have large numbers of Medicare patients (older and mostly rural physicians) would be unable to shift the Medicare shortfall to non Medicare patients if we accepted assignment.

As I presented in Scottsbluff, the real problem facing rural Americans is a shortage of qualified physicians who will choose to practice in the over regulated, under reimbursed areas and this spells real danger for the next generation. It is also a concern for me. Who will care for me after I retire? Will I have to leave rural Nebraska, which I dearly love, in order to get the Medical care which I may need some day? This is a real and frightening possibility. Rural practice might be able to compete for physicians if incentives could be offered—namely decreased regulation and increased reimbursement in Federally funded programs.

We in rural Nebraska are looking to you for help, not just for ourselves but for the patients we have served so long, so well, and so faithfully these last many years. The exodus of rural physicians from rural Nebraska is creating a crisis of access to necessary health services and threatens the survival of all our small rural hospitals since the hospital cannot function without a medical staff of physicians.

Thank you so much for your continuing interest in these very important matters. If I can be of service to you at any time, please don't hesitate to call on me. Thank you for coming to Western Nebraska to see first hand the problem we face. We hope to see and talk with you in the future as our Senator.

Sincerely,

C.J. CORNELIUS, Jr., MD.

STATEMENT OF TERRY NULL

Mrs. NULL. Thank you. Terry Null, 2202 Avenue O, Scottsbluff.

I would like to address that twofold issue as a patient's perspective on health care for rural Nebraska.

The first being the care that is received. The second being the filing and collecting under insurance.

I am Terry Null, and I have multiple sclerosis. I was diagnosed 19 years ago. My particular type of MS is a chronic progressive disease. I depend upon Home Health through Regional West Medical Center not only for my care but for insurance filing with costs being reimbursed through insurances.

I require skilled nursing care and physical therapy weekly. Home Health shines in these two departments, and I receive excellent care. The area that I am most concerned about is attendant care. Certified nursing attendants required so many hours of training which is provided by the hospital, and those attendants are paid minimum wage. After training and some working experience these attendants find it more lucrative to go out and work privately on their own.

Therefore, we are understaffed at our hospital. There are not enough attendants to care for individuals. I do require daily attendant care, and I am not receiving it. I cannot get out of bed, toilet, bathe, and dress myself without assistance. Without attendant care, I have been forced to give up so many things I enjoy and love doing.

The main focus on home health care now is either childrenn or the elderly. I am neither so I fall into a gap. I depend on the Handi-Bus service for transportation providing I go between the hours of 8 a.m. and 4 p.m. and not on weekends.

Having a catastrophic disease is a big financial burden. I cannot afford to privately pay for attendant care or transportation. I need a lift van and cannot afford one. I cannot depend upon my husband because of his physical limitations, and he works out of town. I feel that I am too young to go to a nursing home, yet I am not well enough to live independently by myself.

I am not only speaking for myself but for other handicapped individuals. We fall into the gap. What can we do about it? How can we change it? How can we make the system work for us?

The second issue I would like to address is the filing of insurances. This is a monthly task. This is difficult and timely and filing with Medicare is literally a paper battle. I do the best I can and have to employ an individual from Home Health that does nothing but Medicare filing. She has to call on me at my home several times a month for proper filing, and I am only one individual receiving care from them.

Home Health Medicare tells me they are my secondary insurance carrier. My primary insurance carrier is covered through my husband's employer. I first file my Home Health care costs with my primary carrier, and under the policy I am allowed so many visits per calendar year. This insurance covers 80 percent and Medicare covers 20.

My primary carrier rarely correctly processes my claim. I have constant written correspondence, requests, and long distance phone calls to straighten out proper payment. The Home Health clerk does the same thing. Then we have to follow up with payment verifications in the billing department.

In turn Medicare is then filed. The barrage of paper with Medicare is overwhelming. On my lap I have a folder of pending paper work that I am waiting to hear on. Medicare paid on my first claim of June 1989. In May of 1990 Medicare is backlogged 12 months in processing claims.

I filed an equipment claim for a wheelchair purchased in November of 1988 with Medicare twice because Medicare said those papers were lost. The third filing was sent registered mail. Medicare denied payment. The claim was resubmitted, and Medicare requested additional forms. This claim is still pending upon filing of Medicare.

I never know where my claims might go. It might be Iowa, Texas, Kansas City, or Minneapolis. I also find Medicare denying every first claim. Why is this so? Why does a patient have to file, refile, resubmit every claim with Medicare? Think of the hours of manpower logged to this process. It is most difficult for me to keep up with this paper battle. I simply do not know what some handicapped people do for their coverage, and I cannot fathom our senior citizens doing this kind of paper work, and people must give up and like me go ahead and privately pay the balance.

We need to make some revisions on Medicare payment when certain aids or equipment is needed. I find it hard to believe that a shower bench or a chair or grab bars around the toilet are not covered by insurance, because they are not considered necessary but cosmetic.

I feel like I have a good perspective on this situation, and I feel that I can speak not only for myself but for a lot of other handicapped individuals. We need to be concerned about the care we receive or the care we do not receive simply because we fall into the cracks. How do we correct this? What do we do for those of us that need attendant care? We that need equipment or transportation. We cannot privately pay for it on our own, yet we have insurance, and it is not being covered.

We are being bogged down with paper work, and yet we cannot collect. It is a burden financially with those of us with chronic progressive disease; however, let us not forget that we are members of families. We have spouses and children. We have to provide homes, children to raise and educate, and provide all the basic necessities of everyday living. When we have a financial burden of this kind, why it is such a problem that we take away from our families our basic or individual needs. What are the answers and how do we fix it? I thank you for your attention to my concerns, and I hope that together we can find some answers.

STATEMENT OF DR. RICHARD RAYMOND, FORMER PRESIDENT, NEBRASKA MEDICAL ASSOCIATION

Dr. RAYMOND. Thank you, Senator. My name is Dick Raymond. Not only am I immediate past President of the Nebraska Medical Association and speaking here on their behalf, but I have also been in family practice in O'Neill, Nebraska for 17 years. I may be able to connect with Senator Daschle more than the other speakers as I'm just 40 miles from the border. I spend a lot of weekends at Francis Case Lake.

Several of the speakers have already touched on some of the subjects I wanted to bring up, and that as Kate mentioned, is the Canadian experience of paying rural physicians more. Dr. Wright mentioned the number of towns looking for physicians. I would like to point out just a little bit, though, to give you a sense of urgency to the problem, not only have 19 counties lost physicians in the last three years and 19 counties currently have no physicians, but 24 doctors have left rural Nebraska in the last 10 months. O'Neill, community I have practiced in for 17 years, one year ago had five physicians. As of today, they have one. We set up two satellite clinics, Kate, many years ago, perhaps one of the first ones in Nebraska. And they are both now closed because there is no one to staff them.

Dr. Waldman and the dean from Creighton University did a study for the Medical Association, or with us, a year or two ago to try to determine why the applicant pool is declining, and they found 67 percent of freshmen and sophomore medical students were advised by their family physician not to go into medicine. That's the amount of disgruntlement that is out there with current policy.

The reasons I would like to underscore why physicians are no longer staying in rural Nebraska or going to rural Nebraska is many factors. A lot of it is just the bureaucracy and regulations of the MAAC's, PRO's HCFA, liability. Another major reason disproportionate high percentage of Medicare Medicaid patients what we have in rural areas, that that's an elderly population there are so any rules that Medicare makes effects us perhaps two times more than an urban physician. Many of our residents of rural Nebraska are self-employed, particularly farmers and ranchers, and have no insurance so payment is more difficult for them.

When a student graduates from medical school with a hundred thousand dollar indebtedness, he looks at how he is going to pay off—he or she looks at how he is going to pay off that indebtedness and they look to the other specialties that may reimburse them at higher than family practice. If they do go into family practice, they look at where they can make the most money to service that debt, and that is in the urban areas, as has been mentioned many times today because of the disparity which I would like to talk about a little later.

Currently for those in the audience who do not know, there are 237 geographical payment areas in the United States. That's 237 areas that have different payment schedules for the same procedure, and of those 237 payment areas, rural Nebraska is number 236, next from the bottom. I don't know how anybody practices in rural Nebraska. Medicare is the only insurance company that I know of that has a uniform premium throughout the United States. Every Medicare patient pays the same premium regardless of where they live but the reimbursement is based on where they live, not on their needs or on their wealth. In Nebraska 32 rural physicians participate in Medicare. Therefore, our patients have to pay more out of pocket to see the physician because Medicare reimbursement to the patient is second lowest in the nation. Therefore, our senior citizens are being tapped twice. It is socialized medicine. They are supporting health care in Miami and Los Angeles and New York City and it's just not fair. The only explanation I have for it is there are more votes in those populated areas.

There are 237 categories we are told through the Medical Association and HCFA is based on 1973 charge data which is not available for Nebraska. We have tried for years to get a hold of that charge data and it cannot be found. In 1973 I did not prac-

tice medicine but I was still punished by the fee schedule of 1973, and at that time health care was cheaper in rural areas and health care was less adequate in rural areas also. Rural physicians now at rural hospitals are expected to deliver the same quality care as they get in the cities and to deliver that quality of care costs a lot more money than it used to but we cannot raise our fees to compensate for that. Our costs include higher skilled personnel such as nurses, lab techs, X-Ray techs and quite often takes more money to hire them in rural Nebraska than it would if you live in an urban area. We have no group purchasing of supplies with a one or two man clinic. The equipment will be underutilized and we have one or two doctors using one X-Ray machine and doesn't get used as much if you have a ten doctor group using that X-Ray machine and takes longer to pay it off.

Insurance is often higher for physicians in rural Nebraska because in rural Nebraska we do obstetrics. If I lived in the city, I may not do obstetrics, I could lower my malpractice premium. I have no choice in a small town.

Office space is not cheaper in rural Nebraska. In fact, in rural Nebraska you either rent from the only person that owns the clinic or you take out a mortgage and build your own clinic. You do not have a choice of where you practice. Continiuing education costs more money because you have to take a day off to come and testify at meetings like this. You don't get continuing education, you cannot drop across town for a two-hour course and gas costs more. The Texas Medical Association has done an in-depth study of cost differences between rural and urban practices and they reported to PPRC, Physician Payment Review Committee, about that and found that rural costs are 15 to 30 percent higher for rural practice of medicine than urban.

American Medical Association also did studies that coincided well with Texas Medical Association studies that showed rural physicians having more patient contact with older, sicker patients, working longer hours with less cross coverage and they also found that in rural areas the average family physician, 60 percent of his patients are Medicare, where as in urban areas that 30 percent are Medicare.

The Physician Payment Reform had promise to solve this problem. However, Section 4001 of HR 3299 states that, quote, Beginning in 1992, the relative value for each physician's service is based on the sum of three components, general practice expenses, malpractice expenses and physician work. The general practice expense component is defined the same way as the practice expense component was defined for earlier years, except that malpractice expenses are now excluded.

It goes on to define that each urban and each rural area within each state as those areas are defined for payment purposes now will be used in prospective payment system.

We have tried to contact the PPRC to testify and we have not obtained any satisfaction with them. Currently PPRC is investigating the GPCI, Geographical Practice Cost Index factor. This uses 1980 census data for labor, input prices and assumes one national price on supplies and equipment.

They have three current options the PPRC is considering recommending to Congress in July. One would maintain the current 237 areas as they are. One would go statewide which would be a help but they say they cannot do that because of states like California, the large metropolitan areas of L.A. versus the rural areas. So the one they currently put in this book as their one they will probably recommend will actually add areas. Call it the Metropolitan Statistical Areas slash Rural. There will now be 365 geographical payment areas. Nebraska, if you go statewide, will be paid at a ratio of 0.90 which would be second lowest in the country. Senator Daschle, South Dakota, incidently, would be 0.91, they would be a step above us now. In they go MSA slash Rural, which is most likely, and that uses the current Hospital PPS system, Omaha will receive payment of 0.93, Lincoln will receive 0.91 and all the remainder of Nebraska will receive 0.88.

Rural South Dakota will receive 0.89, there will be a five percent differential between rural Nebraska and Omaha, and back to my main point, as long as there is a five percent differential, why won't that young doctor stay in Omaha where he does not have to take as much emergency call at night, has more contact with other professionals and can get continuing education easier and has a better social life. For five percent difference, he will stay in Omaha. He will not come out to the rural areas. We need help in getting rid of that disparity in Medicare reimbursement because it affects us in rural areas even more than it affects the doctors in the city because we see a larger percentage of Medicare patients. The Nebraska Medical Association's House of Delegates has gone unanimous vote twice to be in favor of a one-tier payment system for Nebraska. Omaha and Lincoln doctors do realize what's fair and what they need to do for rural Nebraska. We need your help. Thank you for allowing me to testify.

Senator KERREY. Thank you. The thing at the end, the House of Delegates voted unanimously because of the fact that Lincoln and Omaha doctors will take a vote on this reimbursement and are willing to do it principally because, as you say, it's unfair. It's a significant thing. There is an awful lot of people that say, that may be unfair but if I have to give up something in order to get fairness, I may not be willing to do it. It's a very strong example, I think, of how unfair the current system is in that House of Delegates vote. And we will try and set up through Senator Exon's office, a meeting with the Nebraska Medical Association at HCFA.

Dr. RAYMOND. We have traveled to Washington, D.C. and have representatives of Finance Committee to set up, also representatives of HCFA and your office and Senator Exon's office, and that's why I ran for this job two years ago, to try to maintain access to rural health care, try and solve this one problem.

Senator KERREY. Make any progress?

Dr. RAYMOND. I got into Senator Exon's office and I met your health aide.

STATEMENT OF DR. LESLIE SCHLAKE

Dr. SCHLAKE. Senators, first of all, I would like to express appreciation for being invited here. I have been sending letters to Washington for a long time and I didn't know if anybody is listening. I'm glad there is somebody there.

You have heard over and over again, I'm sure, from much of the practicing rural physicians their interpretation of the cause of hard times in rural medicine. I would just like to point out I'm not here to complain about my income. My partner and I have generous incomes. I do, however, wish to point out that my partner and I work 80 hours a week in order to generate that income and make a living. I don't want rural health care issues to be minimized as simply a bunch of whinning physicians wanting more money. What we're really demanding is a little bit of respect, a little less paperwork and an improvement in our lifestyles. As Dr. Raymond read—already brought up how many physicians have already left the area, I don't think there is much prospect of them coming back and being replaced in the near future. There has to be a reason for this. Some of it is certainly monetary, and, I think, the Congress owes it to rural physicians to at least pay them an adequate wage. They need to realize that in giving us an adequate wage, it doesn't mean we are going to get rich.

What I would like to do is have reimbursement levels that are fair and competitive so that I can attract another physician to my community and in so doing I can cut my 80 hours a week down to 60 hours a week. 60 hours a week I can participate in the rest of the life of the community.

Right now I'm not involved in anything, not rotary, not sports, not school events not even the upbringing of my children. I think that is the heart of the rural health care dilemma. We don't have a life there. Physicians are placed at an economic disadvantage. They make up for that by spending more hours working. Soon they are burned out, disgruntled and they opt for the city where they make a good living and have a personal life. The result, rural areas go shortchanged.

Another dilemma facing rural physicians is the excessive paperwork brought on by HCFA and PRO's. And I agree that they have to have some cost containment and have to do that on skilled physicians. However, the current system is inadequate to do either. It generates paperwork whether you are a good physician or a bad physician. They just keeping firing papers at you and they don't know what's going on.

So far the PRO's identified two practicing physicians in the state of Nebraska and singled them out for discipline. That's out of 2,400 physicians. They have harassed every single one of those physicians in the process. They expended millions of dollars in the review process and generate a lot of benefit—or very little benefit for what they have done. Money could be spent better elsewhere. These agencies cannot really tell from their process whether you are doing good or bad, whether you are practicing economically or not. Persistence seems to be total arbitrary, haphazard and I don't think there is any method in the madness.

Unfortunately, these institutions were designed as cost savings but they have not realized any success there either. Rather than concentrating just on physician reimbursement, I think we need to concentrate on broader issues and that is the survivability of our health care system in general. Right now it is threatening to either consume the entire national product or destruct itself due to lack of finances. It's at a crossroads. We need to get an organized system nationwide which can be fair and equitable not only to rural physicians but to urban physicians. We need to talk about a one-tier system in this country with universal health care.

The working class taxpayers are footing the bill right now, either he's paying his taxes and the government is dispensing it or he's paying his insurance premiums and the insurance companies are dispensing it, but in any case, he spends 40 cents of his dollar

administering the cost and only 60 cents on medical care. We need to rectify that. If we could utilize the administrative money in actual care of people, there would be plenty for all. The government needs to recognize that there are limitations as to what the medical system can give to anybody. We are not capable of giving everything to every person. No matter how much we expend on any individual, that individual will eventually die. It's a God given fact that we are born into this world and we are going to die. We need to set realistic goals as to what an individual can expect from health care and then have a one-tier system which is capable of enforcing those limitations.

Right now no such limitations exist. With a haphazard approach to financing medical care, no one can say enough to anyone. In the current system says the physician is in charge of saying no. When the Gramm Rudman hits and there is a decrease in the budget by 10 percent, I do not have the ability to say no to 10 percent of the heart attack victims. I will not be able to say no to a fracture victim and I will not be able to say no to a delivery. I simply have to take care of them.

In closing, bookkeeping techniques in the real world of medicine is impractical and yet that is the system we have. It is grossly unfair and right now is hitting the rural sector harder than it is elsewhere. Our system is becoming bankrupt. We have only HKFA and PRO which cannot address these problems. They have placed the physician against the patient, the patient against the hospital and generated ill feeling. There isn't a day that goes by that I do not admit a patient to the hospital that expresses fear of being rejected by Medicare. There is a definite fear in this country of losing all health care. In the rural areas I think this fear is justified, much more so than the urban areas. It is the current system and regulations that brings this fear. You as the leaders of this country need to address that fear. Medical care is a necessity in life and is a commodity which most people feel is a right. You need to do what you can to guarantee that right not only for urban centers but for rural areas and for everyone, rich or poor. We need to set realistic limitations as to what people can expect. Not everybody should receive $200,000 worth of medical care. We need to build a system which this country can afford, setting standards at a level that most people can accept as legitimate. You must build disincentives into the system that not only the physician has to enforce but also the patients themselves. A co-payment system would be a good disincentive. And you really need to consider it in the next Congress. In the meantime, if reimbursement levels could be made a little more fairer, that would certainly help the bird of crisis in the rural areas. With the flight of physicians in these areas there will soon be no hospitals, no physicians, no clinics nor other facilities to worry about except in five years we can come back and establish them at three times the cost.

I'm charging you with the duty to go out and devise a survivable system which guarantees adequate levels of service to everybody, to guarantee reimbursements to physicians and hospitals to guarantee their survival and to do it quickly. If you do that, I'll quit bitching and you won't hear from me again.

If you do not, you will be hearing from me as well as a patient, anyone I can bend an ear on. I believe there is a general fear in rural population of losing health care and they will not be silenced. When the health care goes out of rural America, so does the business and industry, so do the schools. You will see a collapse in rural culture. You have a great responsibility before you. Good luck in seeking a compromise with your colleagues of these problems but you must seek it quickly.

Senator KERREY. Well, we are at the end of the hearing—oh, I'm sorry, one person left, Jim Dietloff, Goldenrod Hills Community Action Council, Wisner, Nebraska.

Mr. KERREY. During the hearings, we heard from a doctor in Broken Bow who argued forcefully for a plan to take care of all Americans in a way that is fair and equitable to both the patients and providers of health care.

We heard a poignant presentation by Mrs. Karol Osterloh who had three daughters who were pregnant at approximately the same time. Two of her daughters had health insurance. The third was the wife of a self-employed businessman and did not have health insurance during her pregnancy. As a consequence this daughter was unable to obtain the basic prenatal care services her sisters received. She suffered complications during her pregnancy and tragically died as a result of complications that could have been prevented or minimized with adequate and timely preventive care.

We heard from rural health care providers, family practitioners who said, instead of being reimbursed $14.80 for an office visit, which is what Medicare says they will be reimbursed, they only give you $8. It is different than if the reimbursement were $1400 for a special procedure. If you are going to chase $800, you can afford to do it. But when you are chasing $6, it is simply not cost efficient. We are punishing the very physicians and health care professionals we are trying to encourage to come into our rural communities.

We heard from a multiple sclerosis patient in Scottsbluff, NE, who is trying to receive home health care and is simply unable to get it. The family is struggling to provide the quality care she deserves and simply is not able to get the job done.

We heard from an insurance agent who brought us a document that he hoped would remain confidential of a pricing that he had just given a small business for $740 a month for family coverage for health insurance.

We heard from a hospital administrator in Valentine, NE, a small rural community, complaining, on the one hand, about the woefully inadequate reimbursement that rural communities receive from medicare, a terrible condition throughout all of the rural communities we are reimbursing in Nebraska at the lowest rate in the Nation. At the same time, he is concerned about this reimbursement there is the possibility he might lose primary care physicians and may not be able to keep his hospital open. He recently priced his health insurance, and found employees who are paying over one-third of their income for health insurance. It seems to me incomprehensible that we do not reach a conclusion in the face of that kind of evidence that something needs to be changed.

I have a list of recommendations. Many of the recommendations that I have that would help rural communities immediately have already been identified by some of my colleagues. Senator EXON, the senior Senator from Nebraska, has long been an advocate of a proposal by Senator BENTSEN to immediately eliminate the urban-rural hospital payment differential under medicare. It simply must be done. Otherwise, we are not going to be able to have equity and fairness in rural communities and we are not going to have hospitals to provide services. Unless we make that one fundamental change, it is going to be difficult for us to have equity and get the kind of distribution of health care that we need in rural communities.

The State Offices Rural Health Act is also important. Under this act, State offices of rural health such as the one in Nebraska, can receive some additional assistance, some modest amounts of funding to help improve the rural health care delivery system. The Health Objectives 2000 Act that Senator HARKIN has introduced is also an important piece of legislation. Mr. President, again, this legislation enables States to coordinate the establishment of essentially preventive health care objectives and to obtain some Federal assistance in helping them to get that done. The Rural Nursing Incentive Act that Senator DASCHLE of South Dakota has introduced is also a very important effort to provide opportunities for innovation in the delivery of rural health care services. And the revitalization of the National Health Service Corps that Senator KENNEDY has introduced is also very important as I stated earlier.

We simply must revitalize and strengthen the National Health Service Corps. Two physicians per State is simply not enough. It is unfortunate that we find ourselves in fact with rural and urban communities competing for an inadequate supply of physicians in the rural health service corps.

Mr. President, I have reached some other conclusions about what our Nation's health care system ought to provide. I would simply say that I intend later this year to introduce a more detailed proposal.

I would, however, like to share with my colleagues some general principles that might perhaps help them sort out some of the many confusing elements

in health care in America. It is not a simple issue. There are a lot of competing influences, a lot of competing elements, and a lot of people out there trying to tell us what ought to be done.

Let me suggest a few principles that I have personally concluded and about which I feel very strong. We should have one program for all. The complexity of the current competing programs inescapably leads to cost shifting and the kinds of difficulties in providing and receiving proper care that we have heard over and over again from many people.

I find it difficult to go home and say that, as a consequence of being a U.S. Senator, I am better able to decide what health care should be provided the person who is working delivering health care. We ought to have one health care plan for all.

We ought to debate it. I believe health care is a right, but I do not believe it is an absolute right. I do not believe we have the right to have everything we want.

We have put a Federal system in place that was put in place during the the Presidency of a conservative President, Ronald Reagan. In fact, I think that is part of the problem. So I urge all to consider that nationally financed does not necessarily mean that it is federally delivered.

We should restore the relationship between the physician and the patient. We should concentrate on producing a system that poses fewer administrative problems for the provider. I think we must deal with the question of malpractice, and right along with that deal with the question of a true system of isolating those physicians who are not competent.

We should allow innovation in delivering health sciences. We ought to allow innovation at the State level so States can develop and implement approaches that address their very specific and unique needs. We should put a high priority on health care.

We can set up a system where the money flows through approved institutions. I believe the United States of America has been successful in many areas because we have stressed innovation. Now, we need to similarly stress innovation in health care.

Mr. President, I think we should place greater emphasis on preventive care—making sure that we are putting our dollars early on in young children, making sure that we are putting dollars in the areas where we are apt to prevent much more expensive health care as a consequence of individuals being negligent toward themselves.

Finally, as I referenced earlier, I think health care should be a right to all Americans, but I do not believe it is an unlimited right. It is a relative right. It will be constrained by our own judgments, both objective and subjective—judgments about what ought to be included and what we ought to be paying for, not just a debate on what we are going to pay for people with lower incomes.

It ought not to be just a debate on what we are going to pay providers under Medicare and Medicaid. That should not be the debate. The debate should be what we are going to provide for all of us.

We should not be sitting here arguing on the floor of the Senate how much are we going to cut veterans benefits next year. We should be talking about what our health care is going to be—about what the Members of Congress health care benefits are going to be in the next fiscal year.

We very simply have no mechanism at the moment to even begin that kind of debate.

I close by urging my colleagues to see health care again not just as a humanitarian issue, but as an issue of American productivity. It is an issue where people who are concerned about the welfare of Americans can come together with people who are concerned about the competitive status of America, and reach a common solution.

We cannot continue delivering health care and financing health care in the way we are doing it right now. There are too many Americans who are not covered, and the costs continue to rise as well.

I appreciate and thank the distinguished President pro tempore, also the chairman of the Appropriations Committee, for authorizing the hearings that Senator DASCHLE and I had in June. It was a very informative hearing for me. It gave me increased enthusiasm to make change.

There will be losers in this proposition. There will be people who will have to give up some things. There may be some people that are in business that will not like what we are proposing. There may be Members in this body who will get less coverage as a consequence of bringing all people in. There may be losers, Mr. President, but I think the United States of America will be the overall winner if we can come to grip with this problem, both as I said for humanitarian reasons consistent with the overall values that this country has, but also for economic reasons as well.

So I thank the Chair for the time. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. I understand we are still in morning business; is that right?

The PRESIDENT pro tempore. The time for morning business has expired under the order.

Mr. KENNEDY. Mr. President, what is the business before the Senate?

The PRESIDENT pro tempore. Under the order, the Senate is to go to the conference report on S. 933, but the Chair is advised that the conference report is not at the desk.

Mr. KENNEDY. I ask unanimous consent to be able to proceed for 7 minutes as in morning business.

The PRESIDENT pro tempore. Without objection, the Senator from Massachusetts is recognized for not to exceed 10 minutes as in morning business.

THE ADA CONFERENCE REPORT

Mr. KENNEDY. Mr. President, today we reach a major milestone in our Nation's history. We begin a new era of opportunity for the 43 million disabled Americans who have been denied full and fair participation in our society. By approving the Americans with Disabilities Act, the Congress affirms its commitment to remove the physical barriers and the antiquated social attitudes that have condemned people with disabilities to second-class citizenship for too long.

For generations, society has viewed people with disabilities as citizens in need of charity. Through ignorance, we tolerated discrimination and succumbed to fear and prejudice. But our paternalistic approach did no more to improve the lives of people with disabilities than labor laws restricting women in the workplace did to protect women. Today we are shedding these condescending and suffocating attitudes—and widening the door of opportunity for people with disabilities.

The Americans with Disabilities Act—and the many disabled Americans who have worked tirelessly for its passage—have opened the eyes of Congress and the country to the realities and consequences of disability-related discrimination. Again and again in testimony on the Act, our Committee heard eloquent testimony that disabled citizens suffer more severely from being denied access to society than from their disabilities.

People with disabilities are here today to remind us that equal justice under the law is not a privilege—but a fundamental birthright in America.

In the 1960s, Martin Luther King, Jr., spoke of a time when people would be judged by the content of their character and not the color of their skin. The Americans with Disabilities Act ensures that millions of men, women, and children can look forward to a day when they will be judged by the

strength of their abilities and not misconceptions about their disabilities.

Disabled people are not unable. When this legislation is passed by the Congress and signed into law by President Bush—we will live in a stronger, better, and fairer America.

But this journey has not been easy or quick. It was only in the past 2 years, as the Nation approached the 25th anniversary of the Civil Rights Act of 1964—that it became clear that the time has finally come to address the unfinished business of civil rights for those with disabilities.

In 1988, the National Council on Disabilities—appointed by President Reagan—released its report entitled "Toward Independence," calling for comprehensive and comparable civil rights for people with disabilities. Shortly after that report, Senator HARKIN, Senator Weicker, and I introduced the original Americans With Disabilities Act and the Senate Labor Committee held its first hearings.

At the outset of this Congress, the committee began working extensively with the White House and the Justice Department on the Act. The committee held four hearings on the legislation and heard testimony from a wide array of witnesses. Last August, the committee unanimously approved the bill, with the full and enthusiastic endorsement of President Bush.

One month later, the Americans With Disabilities Act overwhelmingly passed the Senate by a vote of 76 to 8.

The measure received 2 days of full and fair debate on the floor of the Senate—some of which was heated, much of which was conciliatory. Several amendments were added to the legislation on the Senate floor, all of which have been maintained by the Managers and are an integral part of the conference report before you today.

Since that historic day in the Senate, the Americans With Disabilities Act has been considered by four full committees in the House and numerous subcommittees. The House committees held more than 20 hearings. On May 22, 1990, the full House of Representatives passed the act by a vote of 403 to 20.

During the process, the House made a number of modifications in the Senate bill to clarify certain aspects of the legislation and to allay the opposition of the business community. The House has been productive in its deliberations and has included the disability community in shaping its refinements. Senate conferees have accepted almost all of these clarifications.

Earlier this week, the Senate again returned to consideration of the ADA in order to clarify two issues—coverage of Congress, and coverage under the act of individuals with infectious and communicable diseases in food handling positions.

In adopting the Hatch-Dole amendment, the Congress has sent a decisive signal that this Nation will not tolerate discrimination based on prejudice and misperception. We have reaffirmed our commitment to the fundamental premise of the act—that disabled Americans should be judged on the basis of facts and not fear. People with HIV infection deserve no less.

The ADA marks an important and compassionate step in this Nation's response to the HIV epidemic. The ADA will improve the quality of life for persons confronting AIDS. It will allow Americans to seek AIDS counseling and treatment—without fear of recrimination and rejection.

Finally, we could not have reached this moment without the help of thousands of individuals with disabilities who worked tirelessly to shape and pass this legislation.

Facing adversity in their own lives, these remarkable individuals have shown us how to reach out, to help others, and to take action. As we move forward to become a more compassionate society, we would do well to remember these examples of courage and commitment.

This landmark legislation—passed overwhelmingly by the House last evening and, which we send to the President today—is the product of more than 2 years of cooperation between Democrats and Republicans, the Senate and the House, the Congress and the President, and the disability and business communities.

All sides have worked closely together. We have negotiated in good faith and everyone has compromised.

There are many, many good parts of this legislation. But this is one case where the whole is greater than the sum of its parts.

Americans with disabilities deserve more than good intentions. They deserve emancipation from generations of prejudice and discrimination, some of it well meaning but all of it wrongminded. After decades of being asked to wait for their full rights as Americans. People with disabilities should not wait any longer.

By passing this legislation now, the Senate can ensure that, in the theme of National Rehabilitation Week, we will be turning a disability into a possibility—for 43 million Americans.

Mr. President, I want to take this opportunity to thank Senator HARKIN for his tireless efforts in pursuit of this landmark legislation. He has been a determined advocate willing to persist against the odds for people with disabilities. His subcommittee staff director, Bob Silverstein has been an invaluable asset.

I would also like to thank Senator ORRIN HATCH, who believes strongly in this legislation and who worked vigorously to see it through this long process. Earlier this week, Senator HATCH, once again, stood up for public health and for social justice, and I am proud to have him as our ranking minority member.

His staff and mine have always worked closely together. I would like to thank Mark Disler, Steve Settle, Nancy Taylor, and Kris Iverson.

I would also like to thank STENY HOYER who was willing to pick up this bill and run with it in the House. He sheparded the ADA through four committees and is undoubtedly one of the driving forces behind our success. His staff member, Melissa Schulman, is to be commended for her efforts.

But where would an initiative for people with disabilities be if it were not for Pat Wright. For years, she has given of herself far beyond the call of duty, in order to expand opportunities for people with disabilities. Pat is indispensible, and we are proud to have her on our team.

We all owe a great deal to Pat Wright and to DREDF, for their commitment to and passion for civil rights.

I would also like to thank Hi Feldblum, Tom Sheridan, Liz Savage, Paul Marshon, and the entire CCD coalition.

There are several members of my Senate staff who also must be given special recognition for their effective and tireless work on the ADA. Carolyn Osolinik and Michael Iskowitz have had principal responsibility for the ADA. Their work was exceptional, and I am very proud to have worked side by side with them for more than 2 years on this landmark legislation. Carolyn and Michael, and Terry Beirn and Deborah Vonzinkernagel, of our Health staff and Nick Littlefeld, our Human Resources Committee, staff director, have my special thanks for their contribution to the ADA. Terry Muilenburg, now of Senator HARKIN's staff, but previously on the staff of Senator Weicker, played a vital role in developing and shepherding, this legislation from the outset. She also has my gratitude for her contribution to the ADA.

Most important, I thank people with disabilities everywhere—who have given so much and who have shown Congress the way to this historic day.

Finally, Mr. President, I want to express my appreciation to the majority leader, Senator MITCHELL, for his extraordinary support for the legislation, his willingness to help Senator HARKIN and those in our committee to bring this matter to the floor, and for his complete cooperation every step along the way and his strong support for this legislation. I also thank Senator DOLE for his support.

I think, as all of us know, without the strong support of the leadership, we would not have had the opportunity to move this legislation forward and to be able to have the favorable con-

sideration which we have on this particular day.

So, Mr. President, to all of us, and particularly to Senator HARKIN, who, as I have said on many different occasions, and I mean it so sincerely, has really been the principal guiding light and the principal spear carrier for this legislation, which is so meaningful and will be so meaningful to millions of Americans; to our colleague, Senator HATCH, who has been willing to help and assist and has been an ally through every step in the course of this march, I express strong appreciation.

When the history books are written, they will recognize the very, very special commitment and extraordinary contribution of these two individuals in permitting this day to be possible.

Mr. President, I yield back the remainder of my time.

KOSOVA: THE SITUATION DETERIORATES

Mr. PELL. Mr. President, last week several disturbing developments took place in the Yugoslavian Province of Kosova, where Albanians comprise 90 percent of the population. Kosova was an autonomous province within the Serbian Republic until last year when the Serbian Constitution was amended to increase Serbian control over the Province. Since then, the Republic of Serbia, with support from the Yugoslav national government, has used troops and armed police to wage a campaign of repression against Albanians in Kosova.

Last week, over 100 Albanian deputies in the Kosova Parliament issued a declaration calling for the reinstatement of the 1974 provisions of the federal Yugoslav Constitution establishing Kosova as an autonomous province within Serbia. The Serbian Government responded by dissolving Kosova's government and Parliament, silencing its Albanian-language television and radio broadcasts, and stationing police guards around the television station and the office of Rilindja, the main Albanian-language newspaper. These events are further evidence of Serbia's determination to eliminate all remnants of Kosova's autonomy.

Serbia's designs on Kosova are well-documented in an article entitled "The New Yugoslavia" by Michael Scammell in the most recent edition of the New York Review of Books. Mr. Scammell describes how and why Serbian President Slobodan Milosevic set out to rob Kosova of its autonomy. It is clear from this article that the major root of the problem in Kosova is the reassertion of Serbian nationalism.

Mr. President, I ask unanimous consent that the portions of Mr. Scammell's article dealing with the situation in Kosova be incorporated in the RECORD at this point.

Yugoslavia is in danger of falling behind the other nations of Eastern Europe which have embraced democracy and freedom. I urge the Government of Yugoslavia to fulfill its obligations under the Helsinki Final Act, to end the repression of the Albanian majority in Kosova, and to facilitate a peaceful solution to the crisis in Kosova that is acceptable to those who live there.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

THE NEW YUGOSLAVIA

(By Michael Scammell)

The recent elections in Slovenia and Croatia demonstrated that, at least in the north of Yugoslavia, Tito's system of government has become obsolete. In both places (as I reported in the June 28 issue) the newly elected leaders called for a pluralist political system, a market economy, and a greater degree of independence for their republics. Many people in the south of Yugoslavia—in Serbia, Bosnia, and Montenegro—would support this view, but there are not enough of them to create a consensus that the rule of the Communist party must end and a new system must replace it. Viewed from Belgrade, the capital of Serbia as well as of the federal republic, the political landscape looks very different from the landscape seen from Ljubljana, Slovenia's capital, or Zagreb, the capital of Croatia.

This difference in itself is now new, except that the gap between north and south is now wider that at any other time since before World War II. On the surface the cause seems simple: the enormous growth of nationalism throughout the country, which is certainly as strong in Serbia as it is in Slovenia and Croatia. But there is an important distinction between them. In the north, the forces of nationalism have been harnessed by the democratic opposition, so that national self-determination has become synonymous with political and economic reform, whereas in Serbia nationalism has been exploited by the Party and its charismatic leader, Slobodan Milošević.

Milošević was an economist and the president of the Belgrade Bank before he became head of the Belgrade Party organization in 1984. Two years later he was elected chairman of the Serbian Politburo, and in 1987 he organized a coup among his fellow Party members to dismiss the liberal Party chief, Ivan Stambolić, who had been Milošević's own patron. This was followed by a purge of the Party in the old Titoist manner—people who were close to Stambolić or of doubtful loyalty to Milošević were expelled. He then proceeded to fire editors and writers of the Serbian newspapers, television, and radio stations, particularly those who might be critical of him, and he took control of almost the entire public life of Serbia.

The true meaning of these moves was not apparent at first. Milošević presented himself as a reformer drawn to the free market; but in the summer of 1988 he began to call for an abrogation of those parts of Yugoslavia's 1974 constitution that conferred the status of autonomous regions on the two Serbian provinces of Kosovo (on the Albanian border) and Vojvodina (on the Hungarian border), and proposed that they be ruled directly from Belgrade again, as they were before 1974.

The problem was not Vojvodina, where 90 percent of the population was Serbian, but Kosovo, where 85 percent of the population was of Albanian origin and the Serbs accounted for only 10 percent. There had been trouble in Kosovo since 1981, when students demonstrating over bad food, poor housing, and inadequate scholarships were dispersed by police with clubs and tear gas. A large protest movement then spread to other parts of Kosovo, involving not only students but workers, peasants, and housewives as well. Their demands grew to include higher wages, more freeom of expression, the release of political prisoners jailed after earlier demonstrations in 1968, and privileges equal to those of other national groups, including the designation of Kosovo as one of the Yugoslav republics.

The Serbian authorities accused the demonstrators of advocating separatism and reunion with Albania, and put down the demonstrations by force. At least eleven people were killed and 257 injured (unofficial estimates put the numbers much higher). Although the leaders of the ethnic Albanians denied any wish to reunite with the fiercely repressive Albanian Communist regime, mass arrests continued, followed by a thorough purge of the Party, adminstrative institutions, press, and schools in Kosovo, and a new Party organization was installed, led by Azem Vllasi, an ethnic Albanian specially selected by the Serbian Party for his political loyalty. The trials dragged on for years, causing relations between Serbs and Albanians to deteriorate even further.

Ethnic Albanians and Serbs lived side by side in Kosovo (and elsewhere in south Serbia and what is today Macedonia) for generations without bloodshed, although the religious and cultural differences between the Orthodox Serbs and the Muslim Albanians have long been a source of tension. However, Kosovo was by far the poorest region of Yugoslavia, with unemployment running at 54 percent by 1986, and this led to increasingly severe competition between Serbs and ethnic Albanians. Furthermore, the ethnic Albanian birthrate of thirty-two per thousand was three times the rate for Yugoslavia and the highest anywhere in Europe,[1] whereas large numbers of Serbs were emigrating, both for economic reasons and because they felt more at home in Serbia. As a result, by the mid-Eighties Kosovo had a population of 1.7 million Albanians and only 200,000 Serbs, 30,000 Serbs having emigrated within the previous six years.

One might think that, in a country in which ethnic origins are so important, the Serbs would hesitate to assert strong claims to control a region in which they make up only 8 percent of the population and in which ethnic Albanians clearly predominate. But the Serbs do not see things that way, for at least three reasons. First, Kosovo was the ancient heartland of the medieval Serbian state, from which modern Serbia derives its legitimacy. Kosovo also contained the town of Peć, home of the Serbian patriarch, headquarters of the Serbian Orthodox Church, and one of the holiest sites in Serbian history. Third, to lose Kosovo would be to lose about a sixth of Serbia's territory, which, for a people with a long martial tradition and a strong spirit of

[1] These figures come from the Yugoslav census and are quoted in "The Albanians of Yugoslavia" by Anton Logoreci in *Encounter* (July/August, 1988).

machismo, is regarded as tantamount to emasculation.

Milošević therefore staked his reputation on abolishing the autonomous status of Kosovo, and since Vojvodina happened to have the same legal status, he wanted to abolish its autonomy as well. Milošević maintained that no other republic had had two autonomous regions carved out of it, therefore Serbia was being discriminated against. Worse still, Kosovo and Vojvodina had been given the power of veto over any legislation in the Serbian parliament that they judged detrimental to their interests, whereas the Serbs in Belgrade had no power to interfere with legislation on the local level in Kosovo and the Vojvodina.

Soon after coming to power Milošević accused the Albanians of deliberately driving the Serbs out of Kosovo by force and conducting a policy of "genocide." The Albanians, he claimed, were intimidating Serbs to the point where they were selling their houses and property, and he vowed to reverse this trend. He sponsored the formation of a Committee for Organizing Protest Meetings of Kosovo Serbs and Montenegrins, whose members were mostly agitators determined to promote Serbian nationalism at any price. They were sent by bus throughout Serbia to organize angry popular demonstrations, while the Serbs in Kosovo itself were encouraged to arm themselves and set up vigilante squads to resist alleged Albanian "terrorists."

In August 1988 violent demonstrations took place in Novi Sad, the capital of Vojvodina, and in Titograd, capital of the ethnically Serbian republic of Montenegro, which adjoins Kosovo, demanding the current Party leaders be replaced by Communists who were loyal to Milošević. Some of the placards read "Death to Albanians" and "Kill Azem Vllasi" (although Vllasi had been installed by the Communists themselves). In October the Vojvodina Party leaders were expelled, and the demonstratons were carried into Kosovo itself, where ethnic Albanians for five days held counterdemonstrations. Although Albanian demonstrations were entirely peaceful, they were condemned as "counterrevolutionary" and "separatist" by the Serbian Communist party, and a ban was placed on further public meetings.

Milošević got his way in March 1989, when the amendments to the constitution abolishing Kosovo's autonomy were bulldozed through the federal and Serbian assemblies. Kosovo's ethnic Albanians erupted during six days of rioting and were violently suppressed by armed paramilitary police backed by the army and the air force. When tanks, helicopters, and automatic rifles were used to oppose the stone-throwing demonstrators, twenty-four people died and hundreds were injured. Azem Vllasi and a dozen Albanian Communist party leaders, who had taken the side of the demonstrators, were arrested and eventually tried on charges of counterrevolutionary activities and plotting separatism. Over two hundred Albanian intellectuals were also detained.

After months of investigation the prosecution dropped the charge of counterrevolution and accused Vllasi and his colleagues of terrorism instead. In fact, accusations of "terrorism" had been featured for months in the Serbian press and television "controlled by Milošević, but apart from a handful of ancient pistols and rifles (which are commonly owned by Serbs and Albanians alike in Yugoslavia), no hard evidence was ever produced to support the charge. Those I talked with who have close knowledge of the region completely discount these allegations and instead charge the authorities with armed violence. Rajko Danilović, a prominent Serbian lawyer engaged to defend Vllasi, told me that the Kosovo Committee to Defend Human Rights had collected evidence on the violence in Kosovo showing that none of the injured had carried arms, and that 90 percent of them had been shot in the back by the police while running away.

Eventually, most of the Albanian intellectuals were quietly released, and in May the charges against Vllasi and his colleagues were dropped for lack of evidence. Not only was there no evidence of terrorism, there was even less of separatism: the inward-looking Albanian government had made no claims whatever to Kosovo. Indeed, there were signs that Milošević had gone too far. Witnesses at the trial accused both the Party and the secret police of blackmail in trying to stage a show trial, and Albanians have been leaving the Party in large numbers. A popular joke is going the rounds in Belgrade that every Albanian house now has two portraits on the wall: one of President Tito for granting them autonomy in 1974 and one of Milošević for uniting them as never before.

* * * * *

The contest is now between the new model of demoncratic development in Slovenia and Croatia, which gives "sovereignty" to the individual republics, and Serbia's model of "democratic centralism," which appears to be a form of Leninism or Titoism, shorn of Marxist ideology but designed to keep power for the Communist party. One of the reasons for the extreme hostility between the two sides is suspicion of each other's motives. Whereas the Serbs view the "pacification" of Kosovo as a legitimate assertion of their national interest, the Slovenes and Croats see it as a possible rehearsal for the "pacification" of themselves. And when the Slovenes and Croats speak of the right to secession, the Serbs see them as encouraging the ethnic Albanians to secede. Moreover, when the northerners claim that their defense of the Kosovo Albanians is a defense of human rights, the Serbs reply that they are hypocrites who really want to reduce Serbian power.

Whichever way one looks at it, the Kosovo question looms ever larger as the principal obstacle to progress. The "Serbs cannot hold the province down forever on their own, and the other republics (including Macedonia and Bosnia-Herzegovina) will soon start refusing to pay their share of the costs of the repression. Nor can the Serbs reverse history. Even the most fanatical nationalists are not proposing to move the Albanians by force. Milošević's quixotic project to resettle 100,000 Serbs in Kosovo is regarded by all but his most fanatical supporters as ridiculous. Kosovo is not the West Bank. Few Serbs will risk their lives to settle in the most economically backward region of the country, and Serbia has nothing like the economic resources of Israel. Finally, the ethnic Albanians themselves have been lost to Serbia. In April the Serbian-appointed prime minister of Kosovo, together with six of his ministers, resigned, and the government of the province is again in crisis. When asked if they are "separatists," Albanians no longer deny it. But they must separate, they say, not from Yugoslavia—to which they insist they are loyal—but from Serbia. As the popular former foreign minister of Yugoslavia, Kŏa Popović (himself a Serb), commented recently, the Albanians can easily be good Yugoslavs, but they will never be good Serbs.

TRIBUTE TO PAYSON, AZ

Mr. DECONCINI. Mr. President, as you know, the Western United States has been plagued by a severe drought for the past several years. To further compound the problem, central Arizona is experiencing record heat temperatures, with some temperatures exceeding 122 degrees. On June 25, 1990, a lightning strike ignited a fire near Payson, AZ, which raged uncontrollably for over 7 days. The fire, the largest in Arizona's history, consumed 25,000 acres, land covered by pine and other high-country trees. The Dude fire, named after Dry Dude Creek, blazed along the Mogollon Rim, east of Payson. It jumped this 1,500-foot cliff in several places.

The effort to fight this fire was hindered by high temperatures, low humidity, erratic winds, and rough terrain. Because of these conditions, about 1,600 firefighters and support personnel were required to combat the blaze. They were assisted by aerial tankers, helicopters, and bulldozers.

Unfortunately, this fire injured five people and mercilessly claimed the lives of six individuals—five prisoners and one State employee, who had volunteered for firefighting duty.

During the 7 days it burned, the Dude fire destroyed over 75 structures, including a cabin built in the 1920's by Zane Grey, a popular Western novelist, whose writing was inspired by the picturesque scenery. The destructive fire also forced over 1,200 people to leave their homes and obtain shelter elsewhere.

Because of this catastrophic event, Gov. Rose Mofford declared Gila County a disaster area and approved an allocation of $40,000 for relief. In addition, Senator JOHN MCCAIN and I asked President Bush for a similar Federal disaster designation.

I want to recognize the professional firefighters who, while anonymous to most of us, risk their lives every day to protect us. The Dude fire once again demonstrated why each and every one of us owe them a tremendous debt of gratitude.

Mr. President, it seems that in times of emergency people really pull together and help one another. I am proud of the efforts of the citizens of Arizona during this time of need, particularly those of Payson. This Sunday, the town of Payson is recognizing the volunteers of that community whose contributions were essential to the firefighting effort. I know there are many others who deserve recognition but, in anticipation of this luncheon, I would like to share with my colleagues the behind-the-scenes effort of seven individuals whose serv-

ice during this time of need was outstanding.

First, I would like to recognize the town clerk of Payson, Ray Frost, who devoted much of his time and energy to setting up evacuees in various homes and motels, organizing firefighters, and working with the Red Cross. In addition, the superintendent of schools, William Lawson, was instrumental in furnishing the schools' gymnasiums and other structures needed to shelter people. Russ Kinzer and Beth Leeds, employees of the school district, arduously worked to help process the thousands of evacuees. David Wilson, the Payson Chief of Police, played an integral role in coordinating the various organizations involved in fighting this fire. He served as a liaison with the National Guard, the Forest Service, the Red Cross, and the town council, providing them with important information on the conditions of the fire and the needs of the firefighters. Oli Zarnegin, the manager of the Walmart in Payson, displayed his generosity by providing vehicles to transport additional policemen stationed in three different cities who were desperately needed to serve with the National Guard. Finally, I would like to especially comment the town manager of Payson, Jack Monschein, who coordinated and supervised the entire project.

Mr. President, these are just a few examples of the courage and generosity of the citizens of Payson, AZ. I am sure I could spend most of the day on the Senate floor sharing other instances that demonstrate the true spirit of voluntarism that exists in this community. I think, however, you get the picture of the kind people that live there. I ask that my colleagues join me in paying tribute to the citizens of Payson, AZ. They certainly deserve it.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,945th day that Terry Anderson has been held in captivity in Beirut.

THE HARVEST OF PEACE RESOLUTION

Mr. MOYNIHAN. Mr. President, today I rise to join several of my colleagues in cosponsoring Senate Concurrent Resolution 91, the Harvest of Peace Resolution. The resolution is right on target in calling for a reevaluation of American policies, both foreign and domestic.

With the cold war over and the totalitarian ideal evanescing, we are now experiencing what can fairly be called a return to normalcy in international affairs. This return warrants—requires—new thinking on our part. Initiatives rooted in the routines of cold war need to be reexamined. Arming our country to the teeth, preparing for war at all times, shrouding our every move in secrecy—these are outmoded policies. Policies which have at times threatened the vitality of our own democracy. History has now overtaken them. Conflicts will persist, to be sure. But it is time for the United States to champion once again the vision of a world governed by the rule of law.

Senate Concurrent Resolution 91 will help move us in the right direction. The clauses contained therein urge us simply and directly to reconsider outdated thinking and set our sights for the future. The resolution does not advocate specific legislation. That is not its function. We need to formulate policies very carefully in this new era and no resolution can accomplish that for us. But such a resolution can express quite effectively the sense of this Chamber that our Nation must begin to think anew. It can also recommend goals that we should establish. This is presently something which I believe needs to be done. For that reason, I would recommend that the Senate adopt the Harvest of Peace Resolution.

CONGRATULATING SENATOR BURDICK ON 30 YEARS OF SENATE SERVICE

Mr. GRAMM. Mr. President, I join my Senate colleagues in congratulating the senior Senator from North Dakota [Mr. BURDICK] on his 30 years of service in the U.S. Senate.

Senator BURDICK and I serve together on the Committee on Appropriations where he chairs the Subcommittee on Agriculture, and I have had an opportunity to work with him on matters affecting our States. His years of experience and commitment to the people he represents are evident in his committee service. His years in the Congress now span eight Presidents, from Eisenhower to Bush, and the wealth of experience he has gained from those years is demonstrated every day.

He is faithful to the people he represents and is as close to them as the day he arrived in the Senate 30 years ago.

I wish to congratulate him and his family on this anniversary of his years of service in the Senate.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

AMERICANS WITH DISABILITIES ACT—CONFERENCE REPORT

The PRESIDENT pro tempore. The Senate will resume consideration of the conference report on S. 933, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate resumed consideration of the conference report.

The PRESIDENT pro tempore. Under the order, the vote on adoption of the conference report on S. 933 will occur at the hour of 9:30 a.m. today. Meanwhile, the time until that hour will be equally divided between Mr. HARKIN of Iowa and Mr. HATCH of Utah.

Who yields time?

Mr. HARKIN. Mr. President, I am glad to yield out of my time whatever time he needs to the Senator from Arizona.

Mr. HATCH. I am happy to yield 4 minutes to the distinguished Senator from Arizona.

The PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I am pleased to strongly support final passage of the Americans With Disabilities Act. This landmark legislation will mark a new era for the disabled in our Nation. For far too long, we have ignored the talents and gifts of certain Americans. Now, Mr. President, our Nation is proudly reasserting its claim as the world's torchbearer of freedom and opportunity.

On March 8, 1990, for the first time in the Senate's history, a deaf chaplain gave the invocation that sets the tone for the Senate's day. He very appropriately stated, "* * * Especially, we ask Your blessing on people with disabling conditions. We pray that they receive not pity but respect; not shame but dignity; not neglect but inclusion."

Mr. President, it is time we took these words to heart. The ADA is a final proclamation that the disabled will never again be excluded, never again treated by law as second-class citizens. Each and every American has something unique and special to offer, and our Nation is a better place because of them.

I am particularly pleased to have played a part in the passage of this legislation. Over 2 years ago, I sought to ensure that our Nation's telecommunication's network was accessible to the 24 million hearing and speech impaired Americans. At that time, the Congress rightly moved to make the

Federal Government's telecommunication's network fully accessible.

The telephone has become an essential part of our daily lives. For most people, it is impossible to imagine being without one. Yet for more than 100 years, deaf and hearing impaired individuals have been denied full access to the telephone. We are obligated to correct that situation. Title IV of the ADA will move us closer than ever toward granting the hearing and speech impaired the independence and greater opportunities sought in the other sections of the Americans With Disabilities Act. I am enormously gratified to see its final passage.

Mr. President, this bill is an important step in making the American dream available to all. But I urge the real champions of this legislation, the 43 million disabled Americans, to never allow their vigil to wane. The power of law is great, but it cannot change opinion or overcome prejudice. The freedom to be respected for your abilities is a tenuous concept, and the heroes of this legislation have proved that every person has value and deserve our respect and admiration.

The freedom to pursue the American dream is at the heart of what makes our Nation great. That freedom that encourages diversity makes us a stronger nation. We must never loose sight of it. I want to thank my colleagues, Senators HARKIN, HATCH, DOLE, and KENNEDY for all they have done to make sure that those who are disabled are never again denied what is rightfully theirs, the opportunity to pursue their dreams. But most importantly, Mr. President, I thank the 43 million disabled individuals who never stopped believing in themselves, and never gave up the battle for their equal rights. Our Nation is better for their struggle.

Mr. President, I yield back the remainder of my time.

The PRESIDENT pro tempore. Who yields time?

Mr. HARKIN. Mr. President, I yield myself such time as I may consume.

The PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I am only going to take a minute now and reserve the balance of time toward the end of the period of time that we have before the vote.

I shall take a minute to say how proud I am of the actions the Senate and all of our friends who worked so hard on this legislation have taken. As I said, I will have more to say later, but as the chief sponsor of this bill I just could not be more proud of my fellow Senators, Members of the House, and especially people with disabilities, who have worked so hard for this day. It may be raining outside, but this is truly a day of sunshine for all Americans with disabilities.

Before I go any further, I wish to thank Senator MCCAIN for his work on the section of the bill dealing with the relay system for deaf and hard of hearing people. That means a great deal to me personally and a great deal to my brother, who is deaf. I personally thank Senator MCCAIN for all of his work, effort, and diligence.

Mr. President, I reserve about 5 or 6 minutes for myself later on, so I will yield the floor at this time.

The PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. Mr. President, I am very proud to be here this morning. I believe this legislation is going to be good for America. For too long the valuable resources available to this Nation from individuals with disabilities have been wasted needlessly. Why? Because of senseless discrimination, intended or not, which subjected persons with disabilities to isolation and robbed America of the minds, the spirit, and the dedication we need to remain a competitive force in worldwide economy.

Today, we are going to unlock these resources through the Americans With Disabilities Act and bring individuals with disabilities into the mainstream of the economic structure of this country. In employment, in public accommodations, in transportation, in communications services, all of which many of us take for granted today, we are simply saying that no longer can we tolerate the exclusion of the disabled because of ignorance, fear, or intolerance.

I think America will be a better place, a far better place because of the actions we are about to take today. When we look at the demographic changes in America and the coming shortages of labor, particularly skilled labor, I think America's ability to compete on balance will be improved rather than injured by this bill.

However, let me say that I do agree with some of the critics of this bill who say it may cost employers too much to make reasonable accommodations for disabled Americans. I believe this bill will prove very expensive to implement, and Congress ought to begin thinking about ways that we can make this burden, especially for small business, a little lighter.

I agree with some critics of this bill who say there is a lot of potential for unelected Government bureaucrats to write regulations that go overboard and become obtrusive. But, again, I believe Congress should actively work with the executive branch to ensure that the implementing regulations for the ADA are reasonable. None of us here want to help the disabled by eliminating jobs or putting people out of business.

And finally, I agree with the need to protect Americans' public health. This bill will do that in a manner that is based on science and medical research. If any person has an infectious or communicable disease that can be transmitted by handling food, the employer is authorized to take steps to remove the risk that such a disease would be passed to customers.

We have reached the end of a long road, Mr. President, and I urge passage of this conference report. It is time that what people can do is the determinant of their employability, not what they cannot do. It is time that those in wheelchairs, those who have a hearing loss or sight impairment, be able to attend the theater or shop for their own groceries, or participate in the many facets or life which we in America are so privileged to have at our disposal.

Now, Mr. President, I suspect every Senator in this Chamber will feel the floors shake as thunderous applause breaks out around America following our approval of the conference report on the Americans With Disabilities Act. I just want to say that my heart is with each disabled American in this celebration. This is a victory which has taken many long years, and much hard work, and effort to bring to fruition.

There are far too many individuals who deserve credit for making the ADA a reality to name each and every one. But I feel ogligated to express my sincere appreciation to the distinguished Senator from Iowa and the distinguished Senator from Massachusetts for their leadership.

The Senator from Iowa worked hard on this bill and deserves much of the credit for making this bill law. The distinguished Senator from Massachusetts has certainly done his share as he always does on the Labor Committee.

On our side, certainly Senator DURENBERGER, who is here with us this morning and who will speak shortly, Senator DOLE, the minority leader, Senator JEFFORDS, Senator MCCAIN, who has already spoken; Senator KASTEN who arranged to have this debate interpreted on C-SPAN deserve recognition for contributing to this effort.

In passing out credit for hard work and dedication, I must mention as always, the staff people who put so much into this bill. Mark Buse, Carolyn Boos, Maureen West, Sheila Burke, Mark Powden, on the minority side; Michael Iskowitz, Terry Beirn, and Carolyn Osolinik of Senator KENNEDY's staff; and Bob Silverstein and Katy Beh of Senator HARKIN's staff. Of course, I have my own dear staff people who I just want to pay a personal and special tribute to. They have done so much to help see this bill brought to fruition.

But Mr. President, the real credit for this victory belongs to each and every one of the 43 million disabled Americans who will benefit from the ADA. In the final analysis, it was the courage and dedication of each and every disabled American that made this day possible.

I am proud to have played a role and a part in this legislative effort. I am delighted that this bill will now go to the President for his signature and will become the law of the land.

I want to particularly thank Kris Iverson, Chris Lord, George Lewis, Nancy Taylor, and Mark Disler, and of course, my good friend, my labor counsel on the committee, Steve Settle as well.

And, before concluding, let me not forget to pay a special tribute to my dear friend Representative STENY HOYER in the House who stepped in and filled some big shoes, those of my dear friend Tony Coelho, and just did a remarkable job of guiding this legislation through the House with the assistance of this staff person, Melissa Schulman. And of course, I cannot forget my dear friend Lowell Weicker whose vision formulated this effort so long ago.

Mr. HARKIN. Mr. President, I can think of no better year than 1990 for the ADA to become the law of the land.

For in 1990, history is being rewritten, from Pretoria to Prague, and right here in Washington, DC.

History will show that in 1990 after 27 years in prison, Nelson Mandela became a free man, and South Africa took a giant step away from apartheid.

History will show that in 1990, after 45 years, the cold war came to a close. Victory was achieved, not on the battlefield, but in the hearts and minds of citizens in one nation after another.

And history is going to show that in 1990, 26 years after the Civil Rights Act of 1964, 43 million Americans with disabilities, gained freedom, dignity, opportunity—their civil rights.

The history of the United States has been a constant evolution of opening more doors, breaking down more barriers, and extending basic human rights to more and more people.

We have not always lived up to the words of the Declaration of Independence and the Bill of Rights. But we constantly strive to do so.

Each decade, our democracy is made new by grassroots activism, by landmark legislation, by Presidential leadership, and by high court rulings.

In 1863, a century after the Declaration of Independence, Abraham Lincoln abolished slavery.

Some 60 years later, in 1919, women got the right to vote.

In 1964, the Civil Rights Act said "no" to discrimination based on race, color, national origin, sex, and religion.

Just 3 years later, the Age Discrimination in Employment Act barred workplace bias against older Americans.

It has been up to each successive generation to make good the promises of our founders, to extend constitutional rights to all Americans—all—and not just to some.

Leading the way were Republicans as well as Democrats, labor and business leaders, and—above all—those who have felt the sting of discrimination, their families and friends.

It is just such a coalition that has brought the Americans With Disabilities Act to the point of passage.

The version of the ADA included in the conference report is the result of extensive scrutiny, debate, and compromise involving Members of Congress, the administration, and the business and disability communities.

Let us review the history of the ADA. On May 9, 1989, I along with 33 of my colleagues, introduced S. 933. Four hearings were held in the Senate. The Committee on Labor and Human Resources reported out the bill on August 2, 1989, by a vote of 16 to 0, after the Senate sponsors and the Bush administration reached an agreement. The full Senate passed the bill on September 7, 1989, by a vote of 76 to 8.

H.R. 2273, the House companion bill, was also introduced on May 9, 1989. Five hearings were held by the Committee on Education and Labor; two hearings by the Committee on Energy and Commerce; one hearing by the Committee on Public Works; four hearings by the Judiciary Committee; and one hearing by the Small Business Committee.

The Education and Labor Committee reported out the bill on November 14, 1989 by a vote of 35 to 0.

The Energy and Commerce Committee reported out the bill on March 13, 1990, by a vote of 40 to 3.

The Public Works Committee reported out the bill on April 3, 1990, by a vote of 45 to 5.

The Judiciary Committee reported out the bill on May 2, 1990, by a vote of 32-3.

The full House of Representatives passed the bill on May 22, 1990, by a vote of 403-20.

As a result of the extensive scrutiny and the open process used to consider the ADA and the fact that the Senate bill and the House amendment were remarkably consistent, the Senate and House conferees had little difficulty reaching an agreement.

The House of Representatives passed the conference report by an overwhelming vote of 377 to 27.

The conference report strikes a fair and proper balance between the rights of people with disabilities and the legitimate concerns of the business community and other entities covered by the legislation.

The conference report builds on an extensive body of statutes, caselaw, and regulations to avoid unncessary confusion; it allows maximum flexibility for compliance; it provides exemptions for small businesses; and it provides lengthy phase-in periods to enable the business community to learn what is required before the provisions take effect.

In short, the conference report is fair, balanced legislation; it does not place undue burdens on entities that must comply.

Some of my colleagues have no doubt heard from some in the business community who still have fears about the impact of the ADA. The Bush administration, reminded the Congress that similar concerns were raised 13 years ago when the regulations implementing section 504 of the Rehabilitation Act were first issued.

The fears being raised now about the impact of the ADA are similar to those misgivings that were raised in the first few years following implementation of section 503 and section 504 by the Departments of Labor and Health, Education, and Welfare. There were predictions that those covered by the regulations would be bankrupted or forced to severely curtail or alter their services. The doomsday predictions were based on ignorance and myth and proved false. Similar misgivings in the area of race discrimination surfaced in 1965 and proved to be equally unfounded. The administration believes that a similar fate awaits the misapprehensions that have been raised about the ADA.

Let me take a few moments to describe the major components of the version of the ADA included in the conference report.

EMPLOYMENT

With respect to title I of the legislation pertaining to employment, the conference report makes a limited number of clarifying changes to the Senate bill. These changes were made in response to concerns raised by the business community in order to further allay their fears about the legislation. Specifically, the conference report:

First, clarifies that in determining whether a person with a disability is qualified to perform the essential functions of the job, consideration shall be given to an employer's judgment as to what functions of a job are essential and written descriptions shall be considered evidence of essential functions of the job.

Of course, as these positions indicate, they do not go to the weight of the evidence of these factors, but rather reiterate in the statute that, during the process of determining whether a function is essential, a court must give consideration to the employer's judgment as to what functions are essential and must accept as evidence

written job descriptions. A job description that is not tailored to the actual functions of the job, however, will ultimately have little weight. Based on the evidence submitted by the complainant and the respondent, the judge must ultimately decide what constitutes the essential functions of the job.

Second, clarifies how the reasonable accommodation/undue hardship provisions operate in companies that have multiple sites.

Third, clarifies that voluntary health prevention programs are still permissible.

Fourth, clarifies the meaning of the defense that an employer can fire or transfer a person who poses a direct threat to the health or safety of other individuals in the workplace. At the request of the business community the term direct threat is defined to mean a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation. This is the definition set forth in the Arline decision.

In addition, in response to requests by the business community, the conference report requires a coordination between multiple agencies in the enforcement of the ADA and the Rehabilitation Act of 1973.

The conferees rejected the provision in the House amendment pertaining to food handlers, the so-called Chapman amendment. President Bush vigorously opposed the inclusion of this provision. Dr. Sullivan, the Secretary of Health stated:

> Any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to public health. We need to defeat discrimination rather than to submit to it.

The Association of State and Territorial Health Officials stated in opposition to the amendment.

> The appropriate response to public fear is ongoing education, not legitimizing further discrimination in the statute. For these reasons, the Chapman amendment is not only unnecessary, but is counterproductive.

The conferees reaffirmed the basic precept of the legislation that persons with disabilities, including those with infectious diseases and infections, should be judged on the basis of their qualifications and the facts applicable to them and not on the basis of fear, ignorance, and prejudice. The conferees also agreed with the Association of State and Territorial Health Officials that education, not codification of fear and ignorance is the solution to misperceptions by the public about how diseases or infections such as HIV are transmitted.

Consistent with these principles, the conferees agreed to accept the Hatch substitute to the House food handlers provision. This provision requires that the Secretary of Health and Human Services review all infectious and communicable diseases which may be transmitted through the handling of the food supply; publish a list of those diseases which are transmitted through the handling of the food supply; publish methods by which such diseases are transmitted; and widely disseminate such information regarding the list of diseases and their modes of transmissability to the general public. This list must be updated annually.

The provision also provides that in any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of Health and Human Services, and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

Finally, the provision specifies that nothing in this act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety or others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissability published by the Secretary of Health and Human Services.

In short, this provision reaffirms and supports the other provisions of the ADA and says to the world let science and sound medical judgment and not fear, ignorance, and prejudice rule the day with respect to the hiring of people with disabilities, including those with infectious diseases and infections.

STATE AND LOCAL GOVERNMENT AND PUBLIC TRANSPORTATION

The conference report makes no substantive changes to coverage of State and local governments and makes no changes to provisions applicable to ensuring that public buses be made accessible. The conference report clarifies provisions related to paratransit but the basic requirements are still intact. ADA requires paratransit for those individuals who cannot otherwise use mainline accessible transit up until the point that it will create an undue financial burden on the transit authority.

With respect to rapid rail and light rail, the conference report specifies that key stations must be made accessible within 30 years instead of 20 [Senate version] but two-thirds of the key station must be made accessible within 20 years. The conference report delineates special rules for making new intercity and commuter passenger rail cars accessible for people who use wheelchairs and delineates rules governing historic vehicles.

PUBLIC ACCOMMODATIONS AND TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES

The conference report makes a limited number of clarifying changes to the provisions applicable to public accommodations. Again, many of these changes were made to allay the fears of the business community.

Clarifications include: How the readily achievable provision operates where a company has multiple sites; nothing in the ADA requires an entity to permit an individual to participate in a program or receive a benefit if the person poses a direct threat to the health or safety of others; and specifies rules governing historic buildings and vehicles.

A change was made by the conference report concerning transportation by private bus companies. The compromise was worked out by the House and Senate sponsors, along with the disability community and the private bus industry. The Senate versions basically required that within 6 years all new buses would be "readily accessible to and usable by" individuals with disabilities. The Senate bill also mandated a study by the Office of Technology Assessment to be completed within 3 years to look at the most effective means of compliance.

The conference report mandates access within the time-frame included in the Senate version but does not necessarily require any particular means such as lifts for ensuring access. Regulations will define what constitutes access after reviewing the recommendations of the OTA study. The study's purpose has been changed to look at alternative means of providing access.

I would like to read a portion of the letter I received about the compromise from the American Bus Association:

> We are pleased with the amendment that you helped craft. We believe that it is a carefully crafted, fair and equitable compromise. . . .

With respect to enforcement, the conference report clarifies that the Attorney General may not seek punitive damages on behalf of an aggrieved party and a person with a disability can bring a suit for injunctive relief if he or she is being subject to discrimination or has reasonable grounds for believing that he or she is about to be subject to discrimination because the covered entity is about to renovate or construct a new building in an inaccessible manner.

The conference report also clarifies that when a court considers the amount, if any, of a civil penalty, it may give consideration to the good faith efforts to comply, including whether an entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed

to accommodate the particular needs of an individual with a disability.

Finally, the conference report changes the timeframe under which a small business may be sued for violating this title. The conference report retains the provisions delaying the effective date for 18 months from the date of enactment. However, the conference report specifies that with the exception of violations of provisions pertaining to making alterations and new construction readily accessible to and usable by people with disabilities, civil actions may not be brought against businesses that employ 25 or fewer employees and have gross receipts of $1 million or less during the first 6 months after the effective date and no civil actions may be brought against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less during the first year after the effective date.

TELECOMMUNICATIONS RELAY SERVICES

The conference report generally makes technical and conforming changes to the Senate bill. Every common carrier must still ensure that relay services are provide unless a State has enacted legislation that ensures such services are provided.

The conference report continues to cover the House of Representative, the Senate, and the instrumentalities of the legislative branch.

In sum, the conference report provides the proper balance between the rights of people with disabilities and the legitimate concerns raised by the business community.

Before completing my remarks, I would like to state for the record how personally rewarding it has been to serve as the chairman of the Subcommittee on Disability Policy for the 100th and 101st Congress. As Chairman, I have been fortunate to meet some of the most able people I know, who happen to have a disability.

The message I hear over and again is very simple:

> We don't want any favors; all we want is for others to judge us on the basis of our abilities and not on the basis of our disabilities; to judge us on the basis of facts and not on the basis of fear, ignorance, prejudice, or patronizing attitudes. Remove artificial barriers that prevent us from fully participating in the mainstream of society. That's all we want and expect.

That is what the ADA is all about. People like James and Sarah Brady who have done so much to remind us that anyone, at anytime, can become disabled. All it takes is a car accident or a war injury, a wayward gene or—in Jim's case—a would-be assassin's bullet.

Jim recently wrote in the New York Times:

> Since I took a bullet in the head 8 years ago during the assassination attempt on Ronald Reagan, I have come to know the daily problems, frustrations, and needs of those who live with disability. I have had to learn to talk again, to read again, and to walk again. I have succeeded, and I know that everyone can learn to overcome the final obstacle to our equal inclusion in American life: prejudice toward people with disabilities. Passage of the Americans With Disabilities Act will increase acceptance, dignity, and full participation of citizens with disabilities. We do not want pity or sympathy. All we want is the same civil rights and opportunities that all citizens have. We want fairness, acceptance, and the chance to contribute fully to our Nation—just like everyone else.

We cannot undo the damage done that day when the gunman took aim on the President and hit Jim Brady. But we can demolish the barriers of discrimination and educate people about fear, ignorance, and prejudice.

People like Danny Piper, a 19-year-old from Ankeny, IA, who has Downs syndrome and is mentally retarded. He testified at a hearing before my subcommittee about his hopes and dreams to hold down a job and live an independent life outside his parents' home. His mother told us about the investment the Ankeny schools have made to maximize his potential and her fear that discrimination in the real world will deny Danny his dreams.

People like Lisa Carl with cerebral palsy who wouldn't take no for an answer when the owner of a movie theater tried to shut the door in her face simply because of her disability. The ADA will be on her side the next time someone tries to shut her out.

People like Perry Tillman, a Vietnam veteran who was badly wounded in the combat. Perry spent 8 months in a rehabilitation hospital learning how to use a wheelchair, only to return home an outsider.

"I did my job when I was called on by my country," Perry said while testifying before the subcommittee. "Now it is your job and the job of everyone in Congress to make sure when I lost the use of my legs I didn't lose my ability to achieve my dreams."

The Americans With Disabilities Act is our response to Jim and Sarah Brady's courage in fighting for equality; Lisa's cry for help in her quest for dignity and respect; Danny's hopes and dreams for a future filled with happiness and opportunity; and to Perry's challenge.

Let us stand tall for equality and simple justice for Americans with disabilities. Their time has come.

I urge my colleagues to support the conference report on the Americans With Disabilities Act.

Mr. HATCH. Mr. President, I am happy to yield a few minutes to the distinguished Senator from Minnesota.

The PRESIDENT pro tempore. How much time does the Senator yield?

Mr. HATCH. Four minutes.

The PRESIDENT pro tempore. The Senator from Minnesota is recognized for 4 minutes.

Mr. DURENBERGER. Mr. President, I thank my colleagues for their kind comments and also thank them for giving me the opportunity to be here today.

Mr. President, I did not realize a year ago January when I took over as ranking member of the Subcommittee on Disability Policy—it did not have that name at the time—and my good friend from Iowa came to me and said, "We really have one main item on our agenda, I do not know how big a deal it is going to be. It is called the Americans With Disabilities Act," I never realized that a year and a half later we would be standing here for the third or fourth time, right at the finish line, passing what I think people will consider the greatest expansion of civil rights protections since the 1964 Civil Rights Act.

It is a great day for 43 million Americans with disabilities.

Somebody gave me a dimension of that. If you think about all the people that live in all of the United States of America through which the Mississippi River runs, that is how many Americans have been denied for all of their lifetimes equal access to employment, accommodations and a lot of other things. That is an awful lot of people.

I think it is a privilege for me, as we watch the world around us changing, and as we think about human rights as something that is being experienced in Nepal or in Africa or in East Europe, that you think in terms of 43 million people in America who for the very first time are going to have the guarantee that there will not be discrimination against them on the basis of their disability.

The first little talk I make on this subject as we began the process dealt with a young women of my acquaintence in Minnesota. I would like to think about her particular example in this case because she may not be typical, but she sure sounds typical. To me she is a woman who has a bachelor of science degree in psychology and in home economics. She has a master's degree in food science and nutrition. On the registered nutritionalist examination, she ranked in the top 10 in the Nation.

But she has cerebral palsy. And in job after job in this great liberal State of Minnesota, job after job that she applied for, she was turned down. At a job interview in the Metropolitan Twin Cities Hospital she was told why. They said, you are qualified but your fellow employees would not be comfortable working with a person who is as disabled as you are.

Mr. President, this bill will not only change the lives of people like this young woman who live with disabilities every day of their lives, but it will also change the lives of those of us without disabilities by removing the

shades many of us wear, focusing on peoples' abilities rather than their disabilities.

Eighteen years ago, when Congress was debating the Rehabilitation Act here, the then senior Senator from Minnesota, Herbert Humphrey said, "The time time has come when we can no longer tolerate the invisibility of the handicapped in America. * * * These people have the right to live, to work to the best of their ability, to know the dignity to which every human being is entitled."

As freedom and the fight for human rights swells abroad, it is time to complete the work we began 25 years ago by opening all aspects of life—employment, public accommodations, public services, transportation, and telecommunications for persons with disabilities. The ADA is that step forward, giving people with disabilities the assurances that there is a future in this country for persons with disabilities.

A lot of time has been spent debating what the costs will be under this bill. And, as with any legislation, this is very important. But what sometimes gets overlooked are the many benefits of the bill. This bill is about changing lives in ways that we cannot begin to measure here in the Congress. I began this process by telling a story about a young woman who is a constituent of mine. She has a bachelor of science degree in psychology and home economics and a masters degree in food science and nutrition. On the registered nutritionist examination, she ranked in the top 10 in the Nation. But this young woman has cerebral palsy. Job after job she applied for, she was turned down. At a job interview at a metropolitan hospital, she was told why. She was qualified, but her fellow employees would not be comfortable working with a person who is disabled.

This bill will not only change the lives of those like this young woman who live with disabilities every day of their lives, but will also change the lives of those of us without disabilities by removing the shades many of us wear and focusing on a person's abilities rather than one's disabilities.

There are also very real and measurable benefits of this bill. The economics, Mr. President, are simple. Over the next decade, the United States will be in a fight for our economic survival. We are facing a shortage of educated and trained labor. And we simply cannot afford to waste the talents of people with disabilities. We are also facing a serious budget crisis. And we cannot afford to pay welfare benefits to people who can work and who want to work but are unable to because they are regarded as not being fit enough to work. The ADA will give people with disabilities the level playing field they need to become a full member of society.

By giving people the opportunity to become self-sufficient we are also decreasing the amount of Federal money being spent to support individuals with disabilities and increasing tax revenue.

This legislation is an extraordinary culmination of effort by a great number of people, and as our work comes to a close I would be remiss if I did not put at the top of that list, the outstanding work of my distinguished colleague from Iowa. There has no other Member in this body who has spent as much time as he and his staff have in shaping and holding together this bill over the last year and a half. He has truly done a textbook job in handling and moving this legislation through Congress.

I must also mention the extensive work by the senior Senator from Massachusetts—who has committed a lifetime to ensuring the civil rights of all Americans. And the Senator from Utah—who, while not an original cosponsor of this legislation, has been in the forefront of making the changes necessary to bring us where we are today. And the distinguished minority leader—who has always been one of the strongest of advocates for persons with disabilities in this body. Finally, there is no doubt in my mind that we would not be here today without the deep and firm commitment by President Bush to this legislation. He has proven once again, his ability to work with Congress to move important legislation.

Again, Mr. President, this is a great day in the history of our Nation's continued efforts to lead by example in the expansion of human rights for all people. The time is now, Mr. President, to open our doors and to bring all Americans into the mainstream.

I thank my colleagues who are on the floor—the Senator from Massachusetts, who has been doing this for 28 years; the Senator from Iowa, TOM HARKIN; the Senator from Utah; Senator LOWELL WEICKER, who is no longer with us; Senator BOB DOLE; all of the staff who have been mentioned; my own staff, Caroline Boos, all of the people in Minnesota, Mike Ehrlichman, and all the tremendous Minnesotans with disabilities who have contributed to this bill, I want to thank them and thank you for the opportunity to be here for this historic occasion and for the opportunity I have been given by my colleagues to serve in the capacity that enabled me to be here.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KERREY). Who yields time?

Mr. HARKIN. How much time do we have?

The PRESIDING OFFICER. The Senator from Iowa has 12 minutes, 38 seconds. The Senator from Utah has 40 seconds.

Mr. HARKIN (After using sign language). Mr. President, I thank the Chair's indulgence for permitting me to say something that only a few people understood. But I wanted to do that as sort of a special way of thanking a very special person in my life who taught me at a very early age that people with disabilities could do anything that they set their minds to do and that people should be judged on the basis of their abilities and not on the basis of their disabilities.

In sign language, I just wanted to say to my brother Frank that today was my proudest day in 16 years of Congress; that today Congress opens the doors to all Americans with disabilities; that today we say no to fear, that we say no to ignorance, and that we say no to prejudice.

The ADA is, indeed, the 20th century Emancipation Proclamation for all persons with disabilities. Today, the U.S. Senate will say to all Americans that the days of segregation and inequality are over and, as I said, by your winning your full civil rights, you strengthen ours.

And I thanked all Senators for their help in passing ADA today. The ADA is, without exaggeration, Mr. President, the most critical legislation affecting people with disabilities ever considered by the Congress. The conference report before us today is the result of extensive scrutiny, debate, and compromise involving Members of Congress, the administration, the disability community and the business community. As a result, the conferees had little difficulty reaching an agreement.

Yesterday the House passed the conference report by an overwhelming vote of 377 to 27. I would just point out the conference report adopts verbatim the instruction on congressional coverage proposed by Senator FORD and the instruction on food handlers proposed by Senator HATCH, both of which were adopted overwhelmingly by the Senate.

Within a few weeks the ADA will become the law of the land because of the vision of the disability community. You knew in your hearts what we now write into law—that discrimination based on fear, ignorance, prejudice, and indifference is wrong.

It is true that I am the sponsor of the ADA, and my colleagues are cosponsors. However, the ADA is, first and foremost the outcome of the extraordinary efforts of the disability community. This is your bill, and you earned it.

We fought together as a community, singing in the streets that "people united will never be defeated."

From Justin Dart, the chair of the President's Committee on Employment of People With Disabilities, to Danny Piper, a 19-year-old from

Ankeny, IA, who wants to live a proud and independent life, I say ADA is a reality because of your efforts.

To my friend, Dennis Smurr, the former Associate Advocacy Director of the Paralyzed Veterans of America, who passed away late last year, I say you would be proud of what your friends have accomplished.

On Wednesday, I thanked Senators KENNEDY, HATCH, and DURENBERGER for their efforts on this bill and they truly were special, and I say it again. Without the dogged leadership of the distinguished chairman of our committee, Senator KENNEDY, we would not be here today. Without the total heartfelt involvement of my friend from Utah, Senator HATCH, who was with us every step of the way working to ensure that we had a bill that could pass, to make sure we had a bill that was fair and meaningful, I say to Senator HATCH, my heartfelt and deepest thanks.

To Senator DURENBERGER—a year and a half ago I do not think he knew what he was getting into on this bill—but for a year and a half we marched side by side together to make sure that this bill became a reality today. Again, my deepest thanks to my friend and neighbor from Minnesota.

To Senator MCCAIN, as I said, thanks for his efforts for making the telecommunications title of the bill a reality. And, also, the efforts of Senator DOLE, not only this year but for all of the years, for his leadership for people with disabilities.

I want to thank Congressman STENY HOYER on the House side.

But I also want to thank two people who are not here. I want to recognize and thank former Senator Lowell Weicker, my predecessor as chairman of the disability committee, and Congressman Tony Coelho of the House side, the other original sponsors of the ADA. They are true champions of all disabled people.

The ADA was also the result of the efforts our staffs. And I want to give special recognition to Bobby Silverstein and Katy Beh of my staff. Perhaps now their families will see a little bit more of them, after this long year that they have been working on this bill; Carolyn Osolinik and Mike Iskowitz of Senator KENNEDY's staff; Mark Disler, Chris Lord, Nancy Taylor, Kris Iverson, and Steve Settle, of Senator HATCH's staff; Carolyn Boos of Senator DURENBERGER's staff; Mark Buse of Senator MCCAIN's staff; and Melissa Schulman of Congressman HOYER's staff. All of these people played crucial roles.

In closing, Mr. President, I want to make a dedication. All across our Nation mothers are giving birth to infants with disabilities. So I want to dedicate the Americans With Disabilites Act to these, the next generation of children and their parents.

With the passage of the ADA, we as a society make a pledge that every child with a disability will have the opportunity to maximize his or her potential to live proud, productive, and prosperous lives in the mainstream of our society. We love you all and welcome you into the world. We look forward to becoming your friends, your neighbors, and your coworkers.

We say, whatever you decide as your goal, go for it. The doors are open and the barries aree coming down.

I was asked yesterday to try to put into words exactly what the ADA meant and I recalled meeting with Danette Crawford in Des Moines a few months ago. She is a young girl, 14 years old, has severe cerebral palsy—one of the brightest young persons I have ever met, working on a computer at home—absolutely brilliant. I was talking to her about the ADA, and what it would mean to her in terms of jobs, educational opportunity, being able to go out on her own; that she would not be discriminated against in the workplace.

She listened to all this, and in her own way she said, that is all very nice and that is very important. But, she said, all I want to do is just be able to go out and buy a pair of shoes like anybody else.

That really is what ADA is about. It is letting people live like anyone else; opening the doors, breaking down the barriers, so that all Americans, regardless of their disability or abilities, are treated fairly and decently, as coequal in all aspects of American life.

Mr. President, I urge the adoption of the conference report on the Americans With Disabilities Act.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, this is important, indeed historic legislation. I urge each Member of the Senate to support this conference report. It deals not only with those individuals who are disabled and come under the specific provisions of the bill. It deals with our entire society, for it reflects the nature of our society in attempting to ensure that each American can live his or her life to the fullest extent possible, free of discrimination or artificial barriers.

It is based on a very simple principle. We ought not to measure people by what they cannot do but, rather we ought to measure them by what they can do. And each person can do positive, productive, good things in our society; good things for them individually, good things for the people as a whole.

Immense credit goes to those Senators who have devoted large amounts of time, energy and effort over the past 2 years to bring this bill to its present stage of final enactment. Foremost among them, of course, is Senator HARKIN who has been the driving force behind this legislation and who has led the way. He has been joined by his distinguished colleague from Utah, Senator HATCH, without whose positive and constructive efforts this bill would not have been possible.

I thank both of them for their great leadership, as well as that of the chairman of the full committee, the distinguished Senator from Massachusetts [Mr. KENNEDY] who, as always, devoted great energy and pushed this legislation forward at all times.

Senator DURENBERGER, Senator MCCAIN, and a host of others have participated actively.

This is a day in which the Senate can make itself proud by doing what is right, not only for the disabled in our society, but for every person in our society. I hope the Senate overwhelmingly makes that clear.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do we have?

The PRESIDING OFFICER. Ninety seconds.

Mr. KENNEDY. Mr. President, we vote yea and nay and we pass legislation, but this is obviously a matter of enormous personal importance to the originator of the legislation, Senator WEICKER, who had a Down's syndrome child; and to Senator HARKIN. This was the first time I have seen sign language used on the floor of the Senate in my 28 years in the Senate. I can only imagine what that has to mean to millions of people.

Many of us have been touched by those with disabilities. My sister, Rosemary is retarded; my son lost a leg to cancer; and others who support this legislation believe in it for similar special reasons. I cannot be unmindful of the extraordinary contributions of those who have been lucky enough to have members of their families or children who are facing some challenges and know what this legislation means.

Mr. METZENBAUM. Mr. President, I rise today to commend my friend and colleague, Senator TOM HARKIN of Iowa, for his outstanding work on the Americans With Disabilities Act.

The ADA ensures that the great civil rights advances of this century no longer exclude Americans with disabilities. And that, Mr. President, signals an important turning point in our history.

But it did not come easily.

No, Senator HARKIN overcame some formidable obstacles. He has been tenacious in seeing through this important bill. In bringing together so many parties once at odds: Businesses, the disability community, the White House, Republicans and Democrats.

Most recently, Senator HARKIN fended off an amendment that would have undermined the very essence of this bill and codified discrimination—the Chapman food handlers amendment.

Mr. President, for the RECORD let me reaffirm that the ADA will in no way jeopardize the safety of our food system. The ADA already excludes workers whose diseases pose a direct threat to the health of others—so a food handler with typhoid fever could be fired under this bill.

Mr. President, the ADA does not give special protection so Typhoid Mary can flip our hamburgers. All the Chapmen amendment would have done is tell the Ryan Whites of the world that they couldn't get summer jobs handling food. And fortunately, we now have language from Senator HATCH that protects public safety based on science—not prejudice and unfounded fear.

The Chapman amendment had no place in a bill that says, unequivocally: "We will no longer tolerate the exclusion of people with disabilities from the mainstream of life."

Mr. President, decades ago we took down the whites only signs from lunch counters and other public places.

To my knowledge, there have been no signs that proclaim "disabled go home."

But there might as well have been such signs. Because in the years since lunch counter sit-ins, many Americans with disabilities have been excluded from public places, from movie theaters, restaurants, the neighborhood store.

Sometimes that happened because few public buildings are accessible to people with disabilities. Sometimes that happened when people with disabilities actually were kicked out of public places simply because they were disabled.

Mr. President, deep down, I believe we have all known this was morally repugnant, outrageous, and completely unacceptable.

Now, thanks to the persistence of the Senator from Iowa, we also will be able to say this is against the law.

In the decades since Rosa Parks refused to move to the back of the bus, many of our friends with disabilities could not even get on the bus.

Without transportation, disabled Americans have not been able to get to work. And all of America lost when we could not count on disabled individuals to be a productive part of our economy.

And, Mr. President, in the years since the civil rights laws barred discrimination on the basis of race, creed, color, religion, or sex, Americans with disabilities had no legal protections from blatant discrimination.

Employers were free to look only at a person's disability—ignoring what they could do—and cast them aside. Again, America lost out.

I am very pleased that ADA will cover congressional employees. I have long believed that Congress should live up to the standards that we require all other employers to meet, and this is a positive step forward indeed.

We owe a debt of gratitude to former Senator Lowell Weicker, who provided the seed for the bill that will soon become law.

We are indebted to Chairman KENNEDY of the Labor Committee for his leadership and to Senators HATCH and DURENBERGER for their thoughtful contributions.

We also must note that Attorney General Dick Thornburgh and President Bush have held firm in their support of this bill.

But far and above, I salute the distinguished Senator from Iowa [Mr. HARKIN]. He has been a fighter—a relentless fighter. He has taken plenty of heat for standing tall on this bill.

His commitment to civil rights for disabled Americans has been unwavering, and he has pushed this bill through with courage and with grace. For that, I thank him. I believe all Americans—with or without disabilities—are better off because we have once and for all outlawed blatant and sometimes barbaric discrimination against individuals with disabilities. We have said that our great Nation is a strong and tolerant place. We have gone on record as saying never again will we relegate an individual to some hidden corner of society simply because he or she has a disability. No, in this country, we welcome these individuals into the mainstream. None of this would have happened had it not been for the undying commitment and courage of Senator TOM HARKIN. I hope that in the years to come, and the provisions of this law become a part and parcel of American life, we look back proudly on TOM HARKIN and think of this bill not as the ADA—one more acronym—but as the Harkin bill.

Mr. SIMON. Mr. President, this "declaration of independence" for the citizens with disabilities of this Nation has been a long time coming. It is about a week late for our celebration of Independence Day, and many years late for those who have been fighing for the simple right to be treated with equality. But we are finally here, taking the final step before this landmark legislation is sent to the President for his signature. We owe thanks to a great many people for getting us finally to this point.

I want to single out in particular our colleague Senator HARKIN. He has been tireless in his efforts and unflagging in his determination. He has gotten us here as he told us he would at a hearing back in September 1988—by keeping the community together and working closely with the groups affected by this law. He and our colleague Senator KENNEDY, who is another true champion of this issue, as well as Senator HATCH and all the other members and most particularly the staff of the Subcommittee on Disability Policy, deserve our admiration and gratitude for their work. And we must not forget the one who started this process in the Senate, or former colleague Lowell Weicker, and the one who could speak perhaps more eloquently than any other Member of Congress about the effects of discrimination, former Representative Coelho.

But the ones who have truly earned the accolades are those who are members of what we have come to know as the disability community, a diverse group that includes, first and foremost, those with disabilities themselves, but also their families, friends and advocates, both individuals and organizations. They gained our admiration as they won our legislative support.

An early member of that community was our late colleague Senator Hubert Humphrey. I wish he could be here to help in the celebration. He would be jubilant, but he would wonder why it took so long. Nearly 20 years ago, he was urging the protection of the employment rights of individuals with disabilities by including them under the coverage of the Civil Rights Act. I might add, I sponsored a similar bill a decade ago as a member of the House of Representatives.

I was pleased this past Wednesday that our colleague Senator DURENBERGER quoted the late Senator from Minnesota as he spoke on this issue. If I might add another quotation from that great statesman, in 1972 he said:

> The time has come to firmly establish the right of these Americans to dignity and self-respect as equal and contributing members of society and to end the virtual isolation of millions of children and adults from society.

I expect that in a very short time, we will be so used to this law that it will seem it has been on the books since at least 1972. It is a great loss to our Nation and to millions of individual citizens that it has not.

We have ground to make up, as well as ground to gain. The most recent statistics are discouraging, but they also show how much we can gain. They show that the percentage of individuals with disabilities with full-time jobs decreased during the 1980's. And as Deputy Secretary of Labor Roderick DeArment recently pointed out, if the 900,000 persons with disabilities under age 30 now receiving supplemental security income continue receiving it over their lifetime, the Government will have invested $1 trillion in their support. But according to a Lou Harris poll, 82 percent of persons with disabilities said they would give

up their government benefits for a full-time job.

We need to do everything we can to make sure every individual who wants to work can find a job. For people with disabilities, this begins by giving them an equal chance for a job, a chance to get on a bus or train to get to the job, a chance to use their abilities. Today we are finally lifting the blanket of isolation that Senator Humphrey regretted some 20 years ago, and giving millions of Americans their first opportunity for an equal chance to succeed in our society.

I am proud to be part of this historic moment.

Mr. INOUYE. Mr. President, today we will mark one of the great accomplishments of the 101st Congress. The Americans With Disabilities Act will soon become the law of the land. The end of the ADA legislative process in Washington signals a new beginning for 43 million Americans with physical and mental disabilities. In the words of the author of the ADA, Senator TOM HARKIN, the Americans With Disabilities Act is nothing less than an "emancipation proclamation" for people with disabilities who will finally benefit from civil rights protections in the areas of private sector employment, State and local public services, public and private transportation services, privately owned public accomodations, and telecommunications relay systems.

In celebrating this victory, it is appropriate that we recognize and honor our colleague, Senator TOM HARKIN of Iowa, for his authorship of the Americans With Disabilities Act. As chairman of the Senate Subcommittee on Disability Policy, Senator HARKIN has devoted enormous reserves of legislative craftsmanship, integrity, leadership, tenacity, and personal commitment to people with disabilities to make the Americans With Disabilities Act a reality.

Justin Dart, the chairperson of President Bush's Committee on Employment of People With Disabilities, made the following remarks about Senator TOM HARKIN in October 1989:

> Tom Harkin provided courageous and statesmanlike leadership in the Senate, to negotiate a law [the Americans With Disabilities Act] which is a true mandate for equal opportunity but at the same time is completely fair to business and to taxpayers. He transcended politics as usual and subservience to powerful special interest groups to stand firm for justice and the interests of people with disabilities and of all Americans. When the next edition of Profiles in Courage is written, the first chapter should be about Tom Harkin.

I know that Americans with disabilities and all Iowans are proud of Senator TOM HARKIN today—particularly his brother who is deaf and his nephew who is quadriplegic. Many of these proud individuals remember Senator HARKIN's leadership on the floor of the Senate in September 1989 when he led the fight for the Americans With Disabilities Act. For over 10 consecutive hours he fought weakening amendments and skillfully responded to challenges and questions from other Senators. Few Senators could have managed the ADA floor fight so successfully.

The Americans With Disabilities Act has been the centerpiece of Senator TOM HARKIN's work as chairman of the Subcommittee on Disability Policy during the last year. But the Senator from Iowa has established a record of accomplishment in that role that will not be matched anytime soon. In only 3½ years as chairman of the Subcommittee on Disability Policy, Senator TOM HARKIN authored the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 which was signed by the President in October 1987. Mr. HARKIN also authored the Technology-Related Assistance for Individuals With Disabilities Act of 1988 which was enacted in August 1988. The Senator from Iowa authored a bill establishing a National Institute on Deafness and Communication Disorders which was signed by the President in October 1988. TOM HARKIN authored the Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988 which was enacted into law in 1988. Similarly, Senator HARKIN authored the Handicapped Programs Technical Amendments Act of 1988 which was signed by the President in November 1988.

While directing negotiations on the Americans With Disabilities Act this year, Senator HARKIN simultaneously guided the Education of Individuals With Disabilities Act of 1989 through the Senate. Currently, Mr. HARKIN is working vigorously to pass three disability-related bills he has introduced: The Television Decoder Circuitry Act of 1989; the Health Objectives 2000 Act; and the Disabilities Prevention Act of 1990.

Mr. President, legislative craftsmanship alone is not enough to explain Senator TOM HARKIN's successes as chairman of the Subcommittee on Disability Policy. All of TOM HARKIN's efforts reflect his personal commitment to a society that values people on the basis of their abilities, not on the basis of ignorance, irrational fears, or patronizing attitudes. Senator HARKIN has devoted much of his public service to help people with disabilities control their own destinies. Further, the Senator from Iowa has worked tirelessly to guarantee individuals with disabilities the right to be integrated into the economic and social mainstream of American society. These are the things TOM HARKIN stands for. These are the messages of the Americans With Disabilities Act.

Our colleague, Senator TOM HARKIN, has earned over 30 national awards for his service to people with disabilities since 1986. While these awards demonstrate the respect, affection and appreciation of the disability community for Senator HARKIN, the awards also represent TOM HARKIN's collaboration with a disability community that has become stronger and more united because of these collaborations.

Senator HARKIN has frequently pointed out that the Americans With Disabilities Act is also the product of political collaboration.

Throughout this legislative process, leaders on both sides of the aisle and President Bush have worked diligently together in the interests of people with disabilities. In this sense, the ADA represents one of our proudest moments in the U.S. Senate.

So, Mr. President, I know that all of my colleagues will join with me in congratulating Senator TOM HARKIN for his leadership in making the Americans With Disabilities Act the law of the land.

SECTION 506

Mr. SIMON. I would like to clarify with my colleagues a matter concerning the role of the National Council on Disability Policy in providing technical assistance under the ADA. In section 506(a)(1) of S. 933 the Attorney General of the United States is instructed to "develop a plan to assist entities covered under this Act, along with other executive agencies and commissions, in understanding the responsibility of such entities, agencies, and commission under this Act."

The Senate bill states that his plan shall be developed "in consultation with * * * the national Council on Disability" (among others). Section 506(b)(2) of the House bill states that the "Attorney General may obtain the assistance of * * * the National Council on Disability * * *", but his consultation is not required.

If the chairman of the Subcommittee on Disability Policy would respond on this, I believe we agree that it is of the utmost importance that the Attorney General consult the National Council on Disability in developing the technical assistance plan.

Mr. HARKIN. The Senator is correct. The National Council on Disability played a major role in crafting the original Americans With Disabilities Act. Throughout the process they have gained additional expertise that should be shared with the Attorney General and other agencies. It is critical that the newly covered entities are assisted in understanding their roles and responsibilities under this law. The National Council on Disability will work with these agencies to ensure that the civil rights envisioned in the ADA are fully protected and realized.

Mr. INOUYE. If I may join my colleagues in emphasizing this matter,

the National Council on Disability has insight that will vitally enhance discussion and development of this technical assistance plan. The 15 council members are appointed by the President. The majority of them are disabled or are parents of children with disabilities. They have a unique perspective to bring to the debate, and we want to make clear that we fully intend that the Attorney General consult them in this capacity. It is clearly the sense of the Senate that this consultation occur, and the conference report confirms the intent of conferees that such consultation is necessary and important.

Mr. HATCH. Mr. President, if the Senator from Iowa will yield for a question, I inquire about the effect of the pending legislation on drug testing and deterrence programs conducted by professional sports leagues. As the principal Senate sponsor of this bill, and chairman of the subcommittee of jurisdiction, will the Senator clarify the effect of the pending legislation on those programs?

Mr. HARKIN. Mr. President, the conferees recognize that professional sports organizations have promulgated policies to deter and treat substance abuse among athletes. We believe these policies serve to maintain the integrity of sports competition and are in the public interest. The policies generally provide that, in certain circumstances, an athlete may be dismissed from competition for violating the organization's substance abuse policy following an opportunity to obtain treatment. The question of how the bill relates to those policies was initially raised during House consideration of this measure. The House Committee on Education and Labor reviewed the policies in light of this legislation and found that the policies are entirely consistent with the nondiscrimination provisions of the bill. The statement of managers which accompanies this conference report makes clear that the conferees embrace this view and this is also my own view.

Mr. HATCH. If the Senator will yield further, during House floor debate the House floor manager was asked whether the bill was intended to freeze current policies in place. He replied that this measure does not prohibit leagues from modifying their programs in response to changed circumstances or developments in medicine, technology, or drug or alcohol treatment. What is the Senator's understanding in this regard?

Mr. HARKIN. I am familiar with the colloquy to which the Senator refers and I concur with the position expressed by the House floor manager.

Mr. HATCH. I concur with the understanding expressed by the Senator on all these points, and I thank the Senator.

Mr. KENNEDY. A question has been raised as to whether section 102(b)(2) of the act limits the right of affected parties to negotiate collective-bargaining agreements or labor protection agreements which address the terms and conditions under which para transit services required by the act are to be provided.

Mr. HARKIN. Let me assure the Senator that nothing in the act, including section 102(b)(2), or the regulations issued thereunder, shall interfere with the right to negotiate or otherwise prohibit labor organizations and employers from entering into collective bargaining agreements or labor protective arrangements, including those required under section 13(c) of the Urban Mass Transportation Act, which set forth the terms and conditions under which the para and other specified transit services required by the act are to be provided and/or operated.

Mr. CHAFEE. Mr. President, I would like to express my strong support for the conference report on the American With Disabilities Act [ADA].

For too long, our Nation's citizens with disabilities have been subject to discriminatory practices in many aspects of their lives. This discrimination has led to the segregation and isolation of countless persons with mental and/or physical impairments in our country.

Many of us in the Senate have devoted considerable time or effort to reform the Medicaid Program in order to foster increased community-based services for people with mental retardation and developmental disabilities. During the course of my work on Medicaid reform, I have heard from numerous families and individuals who have recounted instances of blatant discrimination.

It is incredible to me that families with a member who is mentally retarded have been refused service in a restaurant because the owner fears that other customers might be offended or uncomfortable eating near that family. Yet, such a practice is not only common, it is perfectly legal. I have heard of similar situations in movie theaters, libraries, bowling alleys, and shopping centers. Think of how those families and individuals with disabilities must feel when they are faced with this type of discrimination. Surely, their vision of a free and just society is shattered.

In addition to the problems I have heard of regarding public accommodations, there are countless other stories of discrimination in employment and transportation. There are thousands of qualified persons with disabilities who are ready and able to work. Yet, as hard as they try to find a job, they are often unsuccessful because employers won't hire them simply because they are disabled. Of those that are fortunate enough to find jobs, many can't get to their place of employment because the only modes of transportation is public transportation, and the buses and subways are not accessible.

Mr. President, our Nation, as rich and caring as we are, simply cannot afford to isolate, segregate and keep people with disabilities economically dependent. Such a policy makes no sense on any ground.

Millions of citizens with disabilities are rightfully asking us to provide them with equal protection under our Nation's civil rights laws. Such rights and protections are long overdue. They have waited long enough.

The Americans With Disabilities Act before us today is sound public policy. It will wipe discrimination based on disability using a commonsense approach. This body voted overwhelming last September to approve ADA. The conference report before us today is actually an improvement to the bill we passed last fall.

Our approval of ADA will reaffirm our commitment to ensure that those with physical and mental impairments will no longer be treated as second class citizens. People with disabilities struggle every day to be independent, productive members of our society. It's time for the Congress to wipe out the many barriers, concrete or attitudinal, that people with disabilities are faced with.

Let's pass ADA and send it to the President for his signature now. In so doing, our message will be clear—Americans with disabilities are an intrinsic and valued part of our society, and deserve to be treated as such. Thank you, Mr. President.

Mr. KOHL. Mr. President, I rise very briefly today to commend my colleagues and their staffs, the scores of disabilities rights advocates and millions of disabled Americans on the passage of this historic legislation. They have led us to the threshold of a new civil rights era in this Nation. They have opened our eyes to a renewed hope and vision for a free and productive America.

Throughout this debate we have confronted the myriad of perceptions, myths, and barriers that have faced Americans with disabilities for decades.

We were asked to not provide access to public transportation. It was argued that paratransit is sufficient. We rejected that separate is equal and the promise of lift-equipped buses running alongside paratransit for those who need it offers equal access for thousands of disabled Milwaukee County residents. They are already working with transit officials and local businesses to facilitate a smooth transition. This legislation is not intended to be litigious. Let us do all that we can

to avoid that. It is time to work together.

We were asked to tolerate misperceptions. In one of the more difficult and remarkable debates on this bill, we were asked to allow the perpetuation of myth and tolerate the discrimination against certain employees while knowing that the nature of their disability would not pose a direct and serious threat to the public. That debate, perhaps more than any, was a testament to the dire need for this legislation.

Like many, I have been concerned with the cost of implementing these rights. But those costs are far less than the cost of not utilizing the vast resources and skills of millions of disabled Americans. I believe that all sectors of society will gain far more than they lose under this legislation.

Again, my deep appreciation and congratulations to all of those who have fought this bittersweet battle. It is truly a day of renewed hope, of victory, and joy for this Nation.

I thank the Chair.

Mr. JEFFORDS. Mr. President, I am pleased that we are finally adopting the conference report on the Americans With Disabilities Act. At long last, we are bringing basic rights to the tens of millions of able Americans who are challenged by disabilities.

From time to time I suppose all of us feel tried, be it politically or personally. But our trials, on the campaign trail or elsewhere, are trivial by comparison to those of Americans who are in some fashion disabled. The very least we can do is to remove the obstacles of prejudice and ignorance.

This legislation will bring fundamental changes to American society. And while this sort of phrase often accompanies our work in this body, in this instance I say it without hyperbole. In employment, public accommodations and telecommunications, tremendous changes will be made.

I cannot help but proudly note that the great State of Vermont has once again shown us the way. Several years ago it amended its Fair Employment Practices Act to provide these same protections to Vermont's work force.

The changes ahead will not be easy, and I am sure there will be rough spots in the road ahead. I think that while it is appropriate to congratulate one another today, tomorrow we need to start the process of putting this bill into practice, working with the administration, the disability community, employers and others to make this bill work.

But today, Mr. President, I want to join in the congratulations—in particular to Senators HARKIN, DURENBERGER, HATCH, and KENNEDY, and to my colleagues from the House as well. When I first joined as a House cosponsor in 1988, I thought it would be some time before this bill would become law. And while 2 years is probably 2 too many, in retrospect the time has flown.

Mr. President, I hope my colleagues will join me in giving resounding support to the Americans With Disabilities Act.

Mr. KASTEN. Mr. President, it gives me great pleasure to vote for a piece of long-overdue legislation, the Americans With Disabilities Act. This bill recognizes the need for our specially challenged fellow Americans to have equal access to the things many of us too often take for granted.

This legislation will help 43 million disabled Americans as well as 24 million hearing-impaired Americans. I am proud to have had a role in ensuring that the entire debate on the bill was accessible to hearing-impaired Americans.

I am especially delighted that deaf Americans will be able to watch the legislative process through closed captioning in the next Congress.

Mr. President, today is a truly historic day for our "abled" Americans. And it's a day of pride for the U.S. Senate.

Mr. REIGLE. Mr. President, as a consponsor and strong supporter of the Americans With Disabilities Act, I am very pleased that this bill is nearing enactment. This legislation represents a major step forward toward ending discrimination against those with disabilities and making it possible for them to participate fully in our society.

The Nation as a whole will benefit from the removal of the attitudinal and physical barriers that now prevent 43 million Americans who have physical and mental impairments from fully capitalizing on the opportunities that this great country offers. Currently, the disabled are more likely to be poor and unemployed than the nondisabled. For many, it is not because they are incapable of helping themselves, but because they face discrimination in employment opportunities and lack of access to transportation and communication services.

Mr. President, it is time that this Nation eradicate the irrational fears and misconceptions about the disabled. The Americans With Disabilities Act can help move us toward that goal by providng a clear, comprehensive, and enforceable law that prohibits discrimination against the disabled.

The ADA prohibits public- and private-sector discrimination in employment and requires access to public accommodations, services, transportation, and telecommunications. While all of these pieces are vital, I particularly am interested in the public transportation section. It is critical that adequate transportation services be available to disabled persons so that they are able to take advantage of the employment opportunities that the ADA opens up to them. The ADA strikes a reasonable balance between the needs of the disabled and the financial obligations of public transit systems.

Much debate has surrounded the issue of costs, particularly with regard to small businesses. We cannot dismiss the financial impact that the ADA will have on businesses as well as State and local governments. We must remain vigilant to insure that compliance with this act does not have counterproductive results that so strap businesses financially that jobs or even businesses are lost.

At the same time, the costs of not eradicating discrimination are great. If we let discrimination continue, an environment that encourages retirement from the work force, fosters dependence on Government assistance, and demoralizes the disabled will persist. The $60 billion per year that the Federal Government now spends on disability benefits and programs premised on dependency will only escalate. By passing the ADA and granting equal opportunity to disabled Americans, we make it possible for the disabled to become more self-sufficient and less dependent on assistance programs.

Furthermore, our economy can no longer afford not to enlist the talents of people with disabilities. The Department of Labor as well as the business community continue to warn us of the mounting shortage of skilled labor. Disabled Americans can help to meet this need, and, according to a Harris poll, they want to work. The poll reveals that 82 percent of disabled people would give up Government benefits in favor of a full-time job. Although two-thirds of the disabled aged 16 to 64 do not work, two-thirds of them would like to work. Productive workers are also taxpayers and consumers who can contribute to the health of the economy.

Since the days of its inception, this Nation has encourged and valued independence and self-sufficiency. There is no better expression of these values than the Americans With Disabilities Act. I am pleased that the President of the United States has stated that he will sign the bill into law.

Mr. ARMSTRONG. Mr. President, earlier today I cast a vote in favor of the conference report on the Americans With Disabilities Act. I voted for this measure because I believe that people with disabilities have the right to attain to their fullest potential without fear of discrimination. Too often we have been so occupied with the disabilities of handicapped people that we have failed to appreciate their abilities. It is my hope that the ADA will facilitate the full integration of people with disabilities into the mainstream of society.

Nevertheless, Mr. President, I voted for the ADA with some reluctance. I was reluctant to vote for the bill because it will create an adversarial relationship between people with disabilities and the proprietors of small businesses, because its definition of disabilities is vague, and because it may be used to advance political agendas that have nothing to do with the rights of handicapped people.

I think it terribly unfortunate that the ADA adopts an adversarial posture toward business. Over the past several years, many employers have begun to rcognize that it is good business to hire people with disabilities. This is a good trend, and one that Government should nurture and encourage, through more generous tax credits, for example. But instead of giving employers enhanced incentives to employ handicapped people, the ADA takes a punitive approach, threatening businesses with protracted litigation, fines and the assessment of damages if they are accused of violating the bill's provisions.

This approach is especially inappropriate in view of the bill's vague and elastic definition of disability. Consider, to take just one example, the section of the conference bill dealing with drug and alcohol abuse. The bill says that people who have abused drugs are protected by the act, but that people who currently abuse drugs are not. That is quite a subtle distinction, and one that is difficult to make in the real world. It is troubling that neither the bill itself nor the conference report does very much to resolve this ambiguity. The conference report simply states that the phrase "currently engaging in the illegal use of drugs" is not "intended to be limited to persons who use drugs on the day of, or within a matter of days or weeks before, the employment action in question. Rather, the provision is intended to apply to a person whose illegal use of drugs occurred recently enough to justify a reasonable belief that a person's drug use is current."

"Recently enough to justify a reasonable belief that a person's drug use is current." Mr. President, what does that mean? I do not know, the conferees obviously do not know, nor will the employer who has a reasonable belief that an employee's drug use is current. That employer will be liable to a charge of discrimination and will have to prove his innocence on the basis of the bill's very imprecise language.

In other words, Mr. President, the courts will resolve the ADA's many ambiguities.

Finally, I fear that this bill may be used to advance the political agenda of groups that advocate for the rights of homosexuals. I recognize that the ADA is not explicitly a gay rights bill, and that the conference report contains a modified version of my amendment, which excludes homosexuality and bisexuality from the definition of disability. On the other hand, the legislative history of this bill makes clear that infection with the AIDS virus—even in the absence of any disabling symptoms—is a covered disability. In addition, the bill covers people who "have a relationship or association with" someone who has a covered disability. What does it mean to "have a relationship or association with" a disabled person? Neither the bill nor the accompanying report makes this clear. That means that judges will have to resolve such issues as whether the homosexual roommate of a person who is infected with the AIDS virus is protected under the act on the basis of his relationship with a disabled person.

Mr. President, the ADA leaves many such troubling questions unanswered. The bill is a legislative Rorschach test, an inkblot whose meaning and significance will be determined through years of costly litigation. While I voted for this bill because I believe that the rights of people with disabilities must be protected, I did so with the awareness that it will engender wave upon wave of court rulings that will extend the bill far beyond its intended purposes.

This is the regrettable and unintentional result of the actions we have taken today, actions that future Congresses will no doubt have to correct.

Mr. MITCHELL. Mr. President, has all the time expired?

The PRESIDING OFFICER. All time has expired on Senator HARKIN's time.

Mr. MITCHELL. Mr. President, I ask unanimous consent the time be extended for 2 minutes to permit the Senator from Utah to address the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I thank the majority leader, and I want to thank him for the kind remarks pertaining to those who have worked long and hard on this bill.

I want to particularly express my admiration for the distinguished Senator from Iowa. I was thrilled, frankly, to watch him use sign language on the floor. That meant a great deal to me personally. I want to compliment him on the hard work he has put in on this particular bill.

Having said all that, I want to end by saying that one of the reasons I feel so very deeply about these matters, among many reasons, is because of the courage and optimism of those persons with disabilities. For the 14 years I have been in Congress, I have worked very hard to try to resolve the conflicts and problems that persons with disabilities face for a very important and very personal reason.

As we prepare to pass this historic legislation, I want to pay a tribute to my brother-in-law who contracted both types of polio as an undergraduate college student. This young man faced adversity which I pray none among us will face, but he finished his baccalaureate degree and then went on to get a master's degree in electrical engineering. Because of his courage, he worked right up to the day he died, going into an iron lung each and every night just to be able to survive. I personally carried him in my arms all the way through the Los Angeles temple of my faith.

He was probably—I am sorry to feel so emotional about this—but he was without question—other than my own brother who was killed in the Second World War—the greatest inspiration of a dogged determinist to do what was right and to make his life worthwhile of anybody I know in my life.

That is just one important reason why I feel very, very deeply about this bill and all those who have worked on it and all of those will benefit from it. And, I personally, from my heart, just want to dedicate all of the efforts that all of us have made to my brother-in-law, Raymond Hansen, for the type of life he lived, for the type of person he was, and similar to Senator HARKIN's brother, for the inspiration he gave us. I am sure we both feel very, very deeply about our brothers and brothers-in-law.

Having made this dedication, let me conclude by saying that this is a banner day for disabled Americans. This is a major achievement and, I believe, a very, very important day in the lives of all Americans who have to be proud that in this great country of freedom, that we will go to the farthest lengths to make sure that everyone has equality and that everyone has a chance in this society.

Again, I thank all my colleagues and all the staffs who contributed to this effort.

The PRESIDING OFFICER. All time has expired.

Is there a request for a rollcall vote?

Mr. MITCHELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

Mr. DOLE. I announce that the Senator from Idaho [Mr. MCCLURE] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 6, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—91

Adams	Exon	McCain
Akaka	Ford	McConnell
Armstrong	Fowler	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Boren	Gramm	Nickles
Boschwitz	Grassley	Nunn
Bradley	Harkin	Packwood
Breaux	Hatch	Pell
Bryan	Hatfield	Pressler
Bumpers	Heflin	Pryor
Burdick	Heinz	Reid
Burns	Hollings	Riegle
Byrd	Inouye	Robb
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Specter
Daschle	Lautenberg	Stevens
DeConcini	Leahy	Thurmond
Dixon	Levin	Warner
Dodd	Lieberman	Wilson
Dole	Lott	Wirth
Domenici	Lugar	
Durenberger	Mack	

NAYS—6

Bond	Helms	Symms
Garn	Humphrey	Wallop

NOT VOTING—3

McClure	Rockefeller	Simpson

So the conference report was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, is my leader time reserved?

The PRESIDING OFFICER (Mr. REID). The Senator has 10 minutes of his leader time.

Mr. DOLE. Mr. President, this is landmark legislation, no doubt about it. I think it is a just and a fair bill. I think it will bring quality to the lives of millions of Americans who have not had quality in the past. Perhaps this bill may not be perfect, and we may be back revisiting it again in a year or two, making changes for the better, I hope. But it is important legislation.

So I want to thank, particularly, the President of the United States and others who made this possible through their hard work and through their dedication, not only Members of Congress, but many, as the Senator from Iowa just indicated, who have been working for years on the outside, those with disabilities, and other Americans concerned about those with disabilities.

Mr. President, I support final passage of the conference report on the Americans With Disabilities Act.

I have supported the ADA because I believe it is a just and fair bill which will bring equality to the lives of all Americans with disabilities. Our message to America today is that inequality and prejudice will not longer be tolerated. Our message to people with disabilities is that your time has come.

The Americans With Disabilities Act will empower 43 million Americans with disabilities to exercise their rights and participate in the mainstream of American life. The Americans With Disabilities Act will enrich our Nation by supporting the talents, skills and abilities of a minority group which has up until now been on the sidelines. Under the ADA, we are all winners.

I am optimistic that this legislation will set an important tone as we enter a new decade. Just as we have seen the walls go down in Eastern Europe, we are now witnessing some of our own walls crumbling—the wall of prejudice, isolation, discrimination, and segregation. We have paid dearly for our policies of the past—discrimination costs, both in human terms and financial terms. Keeping people with disabilities out of the work force and dependent on Government subsidies is a policy of the past.

Let us consider what this legislation will yield in terms of opportunities for persons with disabilities. In terms of employment—it will offer accessible environments and reasonable accommodations to empower persons with disabilities to utilize their full potential in strengthening the work force.

Transportation is the critical link to employment. This bill will result in accessible public transportation to and from the work site.

Living independently and with dignity means opportunity to participate fully in every activity of daily life, be it going to the movies, dining in a restaurant, cheering at a baseball game, communicating by phone or going to the doctor. The ADA offers such opportunity to persons with disabilities.

The tough but fair enforcement remedies of ADA, which parallel the Civil Rights Act of 1964, are time-tested incentives for compliance and disincentives for discrimination. The technical assistance efforts mandated in ADA will support two efforts critical to the mission of ADA: First, they will inform persons with disabilities about their rights under the law; and second, provide the necessary support to business and industry as they undertake the important job of implementing the law.

We have included in this legislation all people with all disabilities, no matter how misunderstood because that is what this bill is about—replacing misunderstanding with understanding. We have not said that you have to employ a person in a job they really cannot do, or in a setting where they will pose a danger to the health or safety of other people. What we have said is that these decisions must be made about individuals, not groups and must be based on facts, not fears.

We have had a patch work quilt up until now—an inconsistent and piecemeal approach to disability policy. Today we move to embrace the most comprehensive civil rights legislation our Nation has ever seen. Today we move to put old stereotypes and attitudes behind us—where they belong.

No individual in America is more committed to equal opportunity than President Bush. His unflagging support of the ADA and his continued eagerness to sign this legislation into law are evidence of unparalled leadership in the White House on behalf of persons with disabilities. We are proud that we have reached this juncture, and confidently send this legislation to the President's desk.

In 1964 this body declared discrimination illegal and laid a solid civil rights foundation for our Nation. Today we build upon that foundation with this landmark legislation providing civil rights protections for the 43 million Americans with disabilities. I am proud of this bill, and I look forward to it becoming the law of the land.

Mr. President, many people have worked long and hard to see passage of this historic piece of landmark civil rights legislation. I just want to take a minute to note these individuals.

Senators HATCH, KENNEDY, HARKIN, DURENBERGER, MCCAIN, DOMENICI, GRASSLEY, JEFFORDS, KASTEN, and other Members have been instrumental in final passage of the ADA in less than 2 years—a record we can all be proud of.

We all know that staff has put endless hours into the details of this legislation and I would like to take a moment to thank them for their tireless efforts.

Bobby Silverstein, Katy Beh, Janet Dorsey, Kathleen Perriera, Mark Disler, Chris Lord, Nancy Taylor, Carolyn Osolinik, Michael Iskowitz, Carolyn Boos, Judy Wagner, Mark Buse, and many more. A very special thanks goes to Nancy Jones of the Congressional Research Service for her legal expertise on the ADA.

We owe a great deal of gratitude to our President as I mentioned before, and within the Bush administration I want to thank John Sununu, Attorney General Thornburgh, Secretary Sam Skinner of Transportation, Boyd Hollingsworth, John Wodatch, Mary Ann McGettigan, Bill Roper, Grace Mastelli, Hans Kuttner, David Sloan, Evan Kemp, Chris Bell, and Bob Funk to name a few.

We would not have the ADA if it were not for the disability and business communities. There are many

who I know will go unmentioned, however, they know that their contributions were many. I want to especially thank Sandy Parrino, Kathy Roy, Ethel Briggs, Jane West, Lani Florian, Justin Dart, Paul Hearne, James Brady, Jay and Gwen Rochlin, Harold Russell, Pat Wright, Chai Feldblum, Paul Marchand, Liz Savage, Lex Frieden, Bob Bergdorf, Judy Brotman, Phil Caulkins, Tom Sheridan, Stephen Smith, Curt Decker, and many others.

The Kansas Delegation on Disability has been instrumental and supportive in the passage of the ADA. A special thanks goes to Michael Lechtner, Martha Gabehart, Kevin Siek, Mike Oxford, Ray Petty, Sister Carlene Richards, Tim Steininger, Glen White, Pat Terrick, Jack Jonas, Brian Atwood, Yo Bestgen, Shannon Jones, Debra Herr, Jim Blume, Connie Steinert, Michael Donnelly, Rud and Ann Turnbull, Frankie Hoover Gibson, Judith Hearne, Michael Byington, and many more.

I would be remiss if I did not thank the staff of Senate Special Services and today's interpreters for accommodating this Chamber and bringing coverage of the floor debate on this legislation to all Americans.

Mr. KENNEDY. Mr. President, I believe we have worked out a good resolution of the food handler amendment. The original amendment responded to public fear and misperception regarding people with HIV disease by legitimizing those fears and by allowing those fears to govern who could serve in certain jobs. By contrast, the approach offered by my colleague from Utah, and the approach ultimately accepted by the conferees, responds to that fear by focusing on educating the American public with valid, scientific information.

This provision appropriately reinforces the original approach of the ADA. Under section 103 of the act, an individual who poses a significant risk to the health or safety of others in a particular job, which risk cannot be eliminated by reasonable accommodation, is not considered a qualified individual with a disability for purposes of that particular job. This provision, of course, still applies to individuals with all types of disabilities, including individuals with contagious diseases. The new provision, section 103(d), simply explicates this requirement specifically with regard to food handlers, in order to allay any possible concerns on the part of the general public.

The new section, section 103(d), provides that the Secretary of Health and Human Services must determine which infectious or communicable diseases pose a real, not theoretical, risk of being transmitted through the handling of food. The Secretary should use the various scientific and medical expertise available through the Public Health Service. In turn, the determination of the Public Health Service should reflect a consensus of medical and public health opinion of true risk to the public, as opposed to perceived or theoretical risks of diseases that have not been found to be transmitted through the handling of food. The Public Health Service currently uses accepted public health methodologies and statistical practices regarding risks of transmission to make such determinations in its guidelines. These same methodologies and approaches should be used in implementing this subsection.

The provision further provides that if an individual has a communicable disease which the Secretary has determined is transmitted through the handling of food, and if the risk of that individual transmitting the disease cannot be eliminated by reasonable accommodation—for example, by having the employee use certain hygienic procedures or by allowing the employee time off to recover from the disease, then the employer may reassign that individual to another job. This is consistent with the basic approach of the ADA that an individual must be qualified for his or her particular job.

Accepting the original Chapman amendment would have undermined the very heart and soul of the ADA. The underlying premise of the ADA is employment decisions must be made on the basis of merit and ability, and not on the basis of myths and perceptions. The Chapman amendment would have substituted fear for facts.

In contrast to the original Chapman amendment, this amendment moves the effort of educating the American public regarding AIDS a significant step forward, instead of moving the effort backward by sending the wrong message to the American public.

Since the beginning of the HIV epidemic, public health officials have talked about the importance of antidiscrimination protection for people with HIV disease. I am extremely pleased that in passing the ADA, the Congress has taken such action. I would like to discuss briefly the important protections that the ADA will offer to people with HIV disease in a range of areas. People with HIV disease are individuals who have any condition along the full spectrum of HIV infection—asymptomatic HIV infection, symptomatic HIV infection or full-blown AIDS. These individuals are covered under the first prong of the definition of disability in the ADA, as individuals who have a physical impairment that substantially limits a major life activity. Although the major life activity that is affected at any point in the spectrum by the HIV infection may be different, there is a substantial limitation of some major life activity from the onset of HIV infection.

Discrimination against people with HIV disease has, unfortunately, been one of the tragic hallmarks of this epidemic. A recent study by the AIDS project of the American Civil Liberties Union, "Epidemic of Fear," documents in detail a range of discrimination cases that have occurred over the past decade across the country.

The ADA's employment title provides important protection for people with HIV disease. Such individuals are protected in the range of employment decisions—hiring, firing, promotions, and all terms and conditions of employment. Thus, basic types of discrimination will be prohibited—the unjustified decision of an employer to fire a person because the person has HIV disease, the decision to deny a promotion to an employee because the person is perceived to have HIV disease, or the decision not to hire an applicant because the person associates with someone who has HIV disease.

The specific requirements of the employment title will also be of significant import for people with HIV disease. For example, the reasonable accommodation provision of the bill will be particularly important in ensuring that people with HIV disease have the right to flexible work schedules and to time off to accommodate their treatment needs or their various disease-related conditions.

The ADA provides that a valid qualification standard is that a person not pose a direct threat to the health or safety of other individuals in the workplace—that is, to other coworkers or customers. A specific decision was made to state clearly in the statute that, as a defense, an employer could prove that an applicant or employee posed a significant risk to the health or safety of others, which could not be eliminated by reasonable accommodation. This is a restatement of the standard set forth by the Supreme Court in School Board of Nassau County versus Arline. It is important, however, that the ADA specifically refers to health and safety threats to others. Under the ADA, employers may not deny a person an employment opportunity based on paternalistic concerns regarding the person's health. For example, an employer could not use as an excuse for not hiring a person with HIV disease the claim that the employer was simply "protecting the individual" from opportunistic diseases to which the individual might be exposed. That is a concern that should rightfully be dealt with by the individual, in consultation with his or her private physician.

The ADA's employment provisions also offer important protections with regard to medical examinations. Under the ADA, an employer may give medical examinations to applicants, but

only after a conditional offer of employment has been made to the applicants. Pursuant to the statute, all applicants must be given the same examination and the results of the examination must be kept confidential. Of greatest importance to people with HIV disease, the examination results may be used to withdraw offers only from individuals who are found not to be qualified for the job based on the test results. Under current medical and scientific judgments, including current guidelines of the Centers for Disease Control [CDC], people with HIV disease are qualified to remain in virtually all jobs in the work force. Paid blood donors is a job for which such individuals are not qualified, according to CDC guidelines.

Employees on the job also receive significant protection with regard to medical examinations. They must be subjected to an examinations or inquiry only if such examinations and inquiries are "job-related and consistent with business necessity." This is a strict standard. Again, current medical and scientific judgments, including the current CDC guidelines, do not call for HIV-testing as necessary for virtually any job in the work force. Again, paid blood and semen donors would be an exception.

Finally, the ADA does not take on the difficult job of trying to make comprehensive health insurance available to all individuals with disabilities. There is other legislation that I have introduced that does address the issue of availability of health insurance. Indeed, the ADA contains a specific provision stating that the bill does not affect the underwriting and classification of risks done under insurance plans.

As the Labor and Human Resources Committee report made clear, however, there are certain protections that still remain. First, as a basic matter, an employer may not refuse to hire an applicant because of a feared increase in insurance costs. This is necessary because otherwise a huge loophole would be created in the employment protections of the ADA. It can certainly be anticipated that people with disabilities will incur some higher health costs than those without disabilities. If that could be used as a justification for employment discrimination, however, the employment protections of the ADA would, in practice, be more theory than reality.

Second, under the ADA, an employee with a disability must receive health insurance from the employer, if the employer is offering health insurance to other employees. As our committee report explained, employers may not deny health insurance coverage completely to an individual based on the person's diagnosis or disability. For example, it remains permissible under the ADA for an employer to offer insurance policies that limit coverage for certain procedures or treatments; for example, a limit on amount of kidney dialysis or a limit on number of blood transfusions. It would not be permissible, however, to deny coverage to individuals, such as persons with kidney disease or hemophilia, for other procedures or treatments connected with their disability. The limitation can apply to a particular treatment or procedure—but may not be used to preclude an entire disability. As the report makes clear, however, preexisting condition clauses which limit reimbursement for a set period of time remain valid under the ADA.

The ADA specifically provides that the exception for insurance underwriting and classification of risks may not be used as a subterfuge to evade the purposes of titles I and III of the act. It is important to note that the term "subterfuge," as used in the ADA, should not be interpreted in the manner in which the Supreme Court interpreted the term in *Public Employee Retirement System of Ohio* v. *Betts*, 109 S. Ct. 256 (1989). The term "subterfuge" is used in the ADA to denote a means of evading the purposes of the ADA. Under its plan meaning, it does not connote that there must be some malicious or purposeful intent to evade the ADA on the part of the insurance company or other organization. It also does not mean that a plan is automatically shielded just because it was put into place before the ADA was passed. The provision regarding subterfuge in section 501(c) should not be undermined by a restrictive reading of the term "subterfuge," as the Supreme Court did in Betts. Indeed, our committee recently reported out a bill to overturn the Betts decision. It is not our intent that the restrictive reading of Betts, with which we do not agree, should be carried over to the ADA.

The public accommodations title of the ADA will also offer necessary protection for people with HIV disease. This title prohibits discrimination in such areas as doctors' offices, dentists' offices, lawyers' offices, and various other service providers. Of particular importance, title III prohibits the use of eligibility criteria that screen out, or tend to screen out, people with disabilities, unless such criteria can be shown by the public accommodation to be necessary for the provision of its services or goods. Thus, for example, a doctor or dentist could not require that a person demonstrate that he or she was not HIV-infected; for example, by requiring that the individual take an HIV test, unless meeting that criterion was necessary to provide services to that individual. Under current medical and scientific judgments, including current CDC guidelines, there is no reason to require proof of HIV-negativity in any public accommodation setting. Thus, title III will finally offer needed protection to individuals with HIV disease.

Mr. HARKIN. Mr. President, I want to thank all Senators from the bottom of my heart for their support and for the overwhelming vote we had for the Americans With Disabilities Act, which will now be enrolled and sent to the President, who said he will sign it.

I want to end by thanking all of my friends in the disability community. I especially want to thank Pat Wright, the most effective advocate I have ever met. Pat is with the Disability Rights Education and Defense Fund, or as we know it, DREDF.

I do not know how many hours and days Pat Wright put in on this bill since we first started on it a couple of years ago, but she put in more hours and days than there are in the calendar, more hours than on the clock, more days than on the calendar. I cannot let this moment pass without thanking Pat Wright.

Mr. President, to my colleagues, my friends in the disability community, and to all my allies in the fight to gain passage of the ADA: this is the proudest day of my 15½ years in Congress. Because today, the Senate, by an overwhelming vote of 91 to 6 in favor of the Americans With Disabilities Act at long last brings 43 million Americans with disabilities under the protections of our Constitution.

Today, we say no to second-class citizenship for people with disabilities, no to segregation, isolation, and exclusion, and no to patronizing attitudes.

Today, we say yes to treating people with disabilities with dignity and respect, yes to empowerment, and yes to judging people on the basis of their abilities, not on the basis of fear, ignorance, and prejudice.

The road to final passage was long and hard. But the journey was an experience of a lifetime. When I think back over the past year and how much we have been through together and how much work it has taken by so many people, I am reminded of Rosa Parks who got off that bus in Montgomery, AL, and said she was not going to ride in the back of the bus anymore. She led the bus boycott. Friends, and neighbors all walked to work and then they walked home, some of them 3, 4, 5, miles a day, rather than take the buses.

After the boycott was all over with, they broke the back of the bus company and were entitled to sit anywhere they wanted to on the bus. When it was all over with, someone asked Rosa Parks how she felt. She said:

Well, it has been a long rough battle, my feet are tired but my soul is at rest.

Today, we have moved one step closer to completing our journey. Soon, we can all say together, and par-

aphrase Rosa Parks, "our bodies are tired, but our souls are at rest."

Mr. President, there are many people across the country to whom I want to recognize and to say thank you.

First, I want to thank President George Bush for his dedication to ending discrimination on the basis of disability. Within the administration I also want to thank Governor Sununu, Attorney General Thornburgh, Secretary Skinner, and Boyden Gray.

Within the Bush administration, I want to thank Bill Roper, Grace Mastelli, Mary Ann McGettigan, John Wodatch, Hans Kuttner, and David Sloan.

Senator Lowell Weicker, the first Senate sponsor of the ADA must also be thanked. Lowell Weicker has dedicated his life to improving opportunities for people with disabilities and testified that people with disabilities spend a lifetime "overcoming not what God wrought but what man imposed by custom and law." We would not be here today without his contributions.

I want to thank former Representative Tony Coelho for introducing the bill, and for Representative STENY HOYER for championing it through the House. Special thanks also goes to Representatives HAMILTON FISH, NORM MINETTA, JACK BROOKS, JOHN DINGELL, GUS HAWKINS, MAJOR OWENS, GLENN ANDERSON, STEVE BARTLETT, STEVE GUNDERSON, DON EDWARDS, ED MARKEY, NORMAN LENT, and MATTHEW RINALDO, and their staff.

Special thanks also goes to Melissa Schulman of STENY HOYER'S staff.

Mr. President, the ADA was accomplished through bipartisanship in action. In the Senate, special thanks goes to Senators MITCHELL, DOLE, KENNEDY, HATCH, SIMON, DURENBERGER, JEFFORDS, and MCCAIN, and their staff including Carolyn Osolinik, Micheal Iskowitz, Carolyn Boss, Maureen West, Mark Disler, Chris Lord, Judy Wagner, Mark Powden, Mark Buse, and Jill Ross.

To the disability community in Washington and across this great Nation, I salute you. Your belief that we would succeed has made this day a reality.

I want to thank Justin Dart, the chairman of the President's Committee on Employment of People With Disabilities, my dear friend King Jordan who told us over and over again that the only thing deaf people cannot do is hear. Also I want to thank Jim Brady and Sandra Swift Parrino and the National Council on Disability.

Special recognition must be given to the Disability Rights Education and Defense Fund. With the leadership of Pat Wright, Marilyn Golden, Arlene Mayerson, Marilou Breslin, the disability community has proven that they are a force to be reckoned with. Pat was able to convince the traditional civil rights lobby in Washington that disability rights are civil rights and that all Americans are entitled to be treated with dignity and respect. Pat is the most effective advocate I ever met.

I want to thank Ralph Neas and the Leadership Conference on Civil Rights, and the legal team including Chai Feldblum, Karen Strauss, Bob Burgdorf, Jim Weisman, Ellen Weber, Bonnie Milstein, Sy Dubow, Tim Cook, and David Capozzi. Thanks goes to Liz Savage of the Epilepsy Foundation for her coordination of the lobbying effort.

I also want to thank the troops, the ones without whom we would not be here today. Thanks to the Consortium for Citizens With Disabilities, Gerald Baptiste, Wade Blank, Frank Bowe, Marca Bristo, Phil Calkins, Dennis Cannon, Tim Cook, Fred Cowell, Randy Davis, Curt Decker, Alice Demichelis, Robert Demichelis II, Cynthia Folcarelli, Karen Franklin, Dwayne French, Lex Frieden, Karen Friedman, Michael Gibson, Eric Griffin, Judy Heumann, Ron Honberg, Ilene Horndt, Dana Jackson, Mark Johnson, Donna Ledder, Carleton Lee, Mark Lewis, Sarah Lichtman, Paul Marchand, Scott Marshall, Doug Martin, Maureen McCloskey, Kathy McInnis, Kathy Megivern, Bonnie O'Day, Becky Ogla, Mary Jane Owens, Lee Page, Steve Pardich, Jim Parrish, Dick Pommo, Larry Robinson, Gwenith Rochlin, Jay Rochlin, Denise Rozell, Harold Russell, Randy Rutta, Judy Shaw, Tom Sheridan, Harold Snider, Ken South, Laurie Summers, Kelly Teed-Wargo, Ginny Thornburgh, Jim Tuscher, Dick Verville, Fred Weiner, and Bob Williams.

In my own State of Iowa, hundreds of individuals with disabilities and their families worked tirelessly on behalf of the Americans with Disabilities Act. Thanks to Mary Etta Lane, Evelyn Villines, Gary Mattson, W.K. Junker, Rolf Karlsson, Merv Roth, and Karon Perlowski. I also want to thank Judy Dierenfield, Louis Arends, Margaret Stout, Patrick Sell, Dr. George Glann, Julie Beckett, Joan Glenn, Robert Hoksch, Dann Larmore, Dr. Bruce Lombard, Bob Gibson, Chris Brosnahan, Vic Elias, Dennis Thurmond, Bill Johnson, Dr. Walter Verduyn, Chris Mortan, Pat Steele, Pam Jochum, Mark Smith, Ken Robinson, Dan Carlson, Dan Ebener, Dr. Al Healy, Carla Lawson, Sylvia, Larry and Danny Piper. John Schnieder, Jean Jones, Art Hedberg, Bev Keiffer, Sharon Bredon, Barb Crawford, Robyn Burgeson Mills, Thelma Tyler, Carol Mouchka, Winifred Carr, and Shirly Hicks.

To those who traveled to Washington to testify on behalf of the ADA, I thank you. Thanks to Mary DeSapio, Joseph Danowsky, Amy Dimsdale, Ken Tice, Perry Tillman, Lisa Carl, Vickie Franke, Ron Mace, Illinois Attorney General Neil Hartigan, Betty and Emory Corey, Paul Taylor, Robert Yaeger, Michael McIntyre, Laura Oftendahl, Mary Lynn Fletcher, Mark Johnson, and Harold Jenkins.

Mr. President, we would not be here today if it were not for the dedication of my staff director and chief counsel on the Subcommittee on Disability Policy, Bobby Silverstein. Bobby's tenacity and overwhelming commitment to this legislation has been a driving force to its enactment. All of us who care about the ADA owe a great deal of gratitude to Bobby. I also want to thank Katy Beh, Sarah Huber, Terry Muilenberg, Mary Richardson, Bill McCrone, Peter Reinecke, Stacy Racine, and Glen Sutcliffe.

Mr. President, I would be remiss if I did not give special mention to one of the most committed advocates within the disability community. Late last year, we lost a dear and good friend, Dennis Smurr, the associate advocacy director of the Paralyzed Veterans of America.

I was fortunate to get to know Dennis over the past several years. Through his incredible positive attitude, Dennis was able to convince many a skeptic that people with disabilities are entitled to be treated with dignity and respect. That is the way Dennis treated everyone. He could charm reporters, Senators and Members of Congress alike. His persistence and commitment to equal justice for all Americans educated so many people about the capabilities, talents and dreams of our brothers and sisters with disabilities. Dennis was always willing to go that extra mile, to do whatever was necessary. With a smile, a kind word, or a joke, Dennis made it possible to be here today. Thanks, Dennis, we love you.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of Senate Joint Resolution 348 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990

The PRESIDING OFFICER. The clerk will report the pending business, H.R. 4328.

The assistant legislative clerk read as follows:

A bill (H.R. 4328) to authorize appropriations for fiscal years 1991 and 1992 for the customs and trade agencies, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the order the Senator from Washington [Mr. GORTON] is to be recognized on an amendment and there will be 90 minutes debate equally divided and controlled under the usual form and order.

Does the Senator from Washington seek recognition?

AMENDMENT NO. 2124

(Purpose: To express strong support for the purposes and progress of the negotiations at the Uruguay Round of the General Agreement on Tariffs and Trade, and to recognize the undesirability of trade legislation that would jeopardize the progress and successful conclusion of the Uruguay Round)

Mr. GORTON. Mr. President, I have an amendment at the desk for which I ask immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 2124.

Mr. GORTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike everything aft the enacting clause and insert the follo g there at:

FINDINGS.—The United S s was a leader in the formation in 194 the General Agreement on Tariffs and ie ("GATT"), which is now the premier m lateral body for regulating trade worldwi .

The United States and 96 other contracting parties of the GATT are in the final stages of the Uruguay Round of multilateral trade negotiations ("Uruguay Round"), the most ambitious effort ever undertaken by the GATT to expand, strengthen and revitalize multilateral trade rules and principles;

Fifty-percent cut in global protectionism would increase the American economy by as much as $200 billion annually, an average of $3,200 for an American family of four;

The successful conclusion of the Uruguay Round will establish multilateral and enforceable disciplines in key areas including tariffs, nontariff measures, natural resource-based products, textiles and clothing, agriculture, tropical products, subsidies and countervailing measures, trade-related aspects of intellectual property rights (TRIP's), trade-related investment measures (TRIM's), and services;

The successful conclusion of the Uruguay Round will encourage fair trade and open markets abroad for American goods and services, and will benefit a broad range of American industries and businesses, including:

Small exporters which currently account for 20 percent of all American exports;

farmers and farm workers, who lose $11 billion annually due to protectionist foreign subsidies and trade barriers;

The commercial services industries such as engineering, telecommunications, consulting, banking, tourism, construction, finance and financial services, law, accounting, and insurance, which together have grown by more than 50 percent over the past decade and account for 9 of every 10 new American jobs;

High-technology, computer software and hardware, electronics and semiconductor, biotechnology, chemical, pharmaceutical, publishing and entertainment industries, which lose $60 billion annually due to industrial theft and counterfeiting and which forego markets due to inadequate protections of intellectual property rights;

Other major industries that are confronted by significant foreign trade barriers such as the mining and metallurgy, rubber, plastic, punished wood products, pulp and paper, and furniture industries;

A number of States are among the leading exporting States for various categories of manufactured products as follows:

		1986 export value (milions)				
Industry group	United States	First	Second	Third	Fourth	Fifth
Total	159,377	California, $17,216	Texas, $10,982	Michigan, $10,878	Ohio, $10,653	Washington, $9,863.
Transportation equipment	36,007	Washington, $6,829	Michigan, $6,353	Ohio, $5,079	Missouri, $2,869	California, $2,710.
Aircraft and parts [1]	18,132	Washington, $5,800 [2]	California, $2,287	Connecticut, $1,793	Ohio, $1,605	Texas, $1,463.
Motor vehicles and equipment [1]	15,505	Michigan, $6,226	Ohio, $3,385	Missouri, $1,270 [2]	Indiana, $761	Illinois, $626.
Other transportation equip [1]	2,370	Pennsylvania, $667 [2]	Washington, $450 [2]	California, $329	Illinois, $145	Florida, $100.
Machinery, except electric	32,456	California, $4,874	Illinois, $2,563	Minnesota, $2,199	New York, $2,068	Massachusetts, $2,063.
Chemicals and allied products	20,968	Texas, $4,106	Louisiana, $1,557	New Jersey, $1,215	New York, $1,033	Florida, $945.
Electric and electronic equipment	18,136	California, $4,259	New York, $1,772	Indiana, $979	Massachusetts, $900	Illinois, $796.
Food and kindred products	11,180	California, $1,217	Texas, $914	Illinois, $727	Kansas, $709	Iowa, $542.
Instruments and related products	8,513	New York, $1,738	California, $1,161	Massachusetts, $702	Pennsylvania, $541	Connecticut, $400.
Fabricated metal products	5,184	Michigan, $772	Ohio, $642	Pennsylvania, $383	Illinois, $378	Texas, $375.
Paper and allied products	4,052	Washington, $505	Georgia, $314	Mississippi, $284	South Carolina, $259	North Carolina, $242.
Primary metal industries	3,404	Pennsylvania, $378	Ohio, $352	Indiana, $286	New York, $249	California, $194.
Petroleum and coal products [1]	3,134	Texas, $764	California, $654	Louisiana, $531	Pennsylvania, $250	Hawaii, $130.
Rubber and plastic products	2,956	Ohio, $374	Massachusetts, $255	Indiana, $195	South Carolina, $181	Michigan, $174.
Lumber and wood products	2,678	Washington, $815	Oregon, $520	Pennsylvania, $158	California, $149	North Carolina, $97.
Tabacco manufacturers [1]	2,023	North Carolina, $1,114	Virginia, $552	Georgia, $120 [2]	Tennessee, $108	Kentucky, $47.
Textile mill products	1,785	North Carolina, $570	Georgia, $318	South Carolina, $266	Virginia, $76	Alabama, $70.
Misc. manufacturing industries	1,647	New York, $301	Rhode Island, $180	California, $156	Massachusetts, $146	Illinois, $96.
Stone, clay, and glass products	1,551	Ohio, $253	Pennsylvania, $132	Massachusetts, $104	Tennessee, $100	North Carolina, $94.
Apparel and textile products	1,391	Michigan, $337	New York, $168	Pennsylvania, $85	Alabama, $82	California, $70.
Printing and publishing	1,256	New York, $386	Pennsylvania, $90	Dist. of Col., $88	Illinois, $79	California, $75.
Leather and leather products [1]	586	Maine, $143	Wisconsin, $64	Michigan, $50 [2]	Massachusetts, $39	New York, $35.
Furniture and fixtures	492	North Carolina, $58	Michigan, $58	California, $42	Indiana, $30	Tennessee, $30.

[1] Partly estimated.
[2] State export rankings by the Bureau of the Census: somne States data are not disclosed.
Source: Bureau of the Census, as reported in Business America, March 27, 1989.

Exports constitute a significant portion of manufacturing and manufacturing employment in every state as follows:

State	State rank as exporter in 1986	Export value 1986 (millions)	Export-related manufactures as percent of State manufacturing production	Export-related manufacturing employment		Total employment, including nonmanufacturing employment	
				Thousands	Percent of manufacturing employment	Thousands	Percent of civilian employment
U.S. total	–	$159,377	13.0	2,318.2	12.6	4,576.6	4.1
California	1	17,216	14.0	289.6	14.7	566.3	4.5
Texas	2	10,982	14.3	122.6	13.5	287.2	3.7
Michigan	3	10,878	12.9	125.3	13.3	213.9	5.3
Ohio	4	10,653	13.9	151.4	13.9	264.2	5.4
Washington	5	9,863	28.2	59.6	21.4	113.9	5.4
New York	6	9,412	12.4	160.9	12.7	338.0	4.2
Illinois	7	7,209	12.2	123.9	12.5	238.6	4.4
Pennsylvania	8	6,027	12.6	132.0	12.7	232.0	4.3
Massachusetts	9	5,514	15.9	95.9	15.6	160.9	5.5
North Carolina	10	5,261	11.4	75.5	9.4	135.1	4.5
Indiana	11	4,787	13.7	76.0	13.2	133.0	5.2

State	State rank as exporter in 1986	Export value 1986 (millions)	Export-related manufactures as percent of State manufacturing production	Export-related manufacturing employment		Total employment, including nonmanufacturing employment	
				Thousands	Percent of manufacturing employment	Thousands	Percent of civilian employment
Missouri	12	4,268	11.4	44.0	10.8	89.4	3.7
Connecticut	13	3,996	17.2	63.8	16.1	107.3	6.5
Minnesota	14	3,692	14.2	54.0	15.1	105.5	4.9
New Jersey	15	3,548	10.5	80.0	11.8	162.4	4.4
Florida	16	3,373	12.4	52.5	10.9	146.4	2.7
Wisconsin	17	3,314	10.5	56.5	11.6	105.6	4.7
Louisiana	18	3,020	13.6	16.7	10.5	51.7	2.8
Tennessee	19	2,910	10.9	42.2	9.0	82.6	3.8
Georgia	20	2,827	8.6	42.5	7.8	92.5	3.2
Virginia	21	2,704	10.7	38.4	9.4	81.0	2.9
South Carolina	22	2,398	13.7	39.1	11.1	67.7	4.6
Kentucky	23	1,940	11.1	24.4	10.3	52.8	3.4
Iowa	24	1,932	10.5	20.7	10.7	49.8	3.7
Oregon	25	1,863	14.5	27.9	15.0	59.0	4.6
Kansas	26	1,835	9.4	20.3	10.9	46.7	4.0
Arizona	27	1,756	20.4	31.3	19.0	58.5	3.8
Maryland	28	1,740	11.9	25.4	11.7	55.9	2.5
Alabama	29	1,685	12.1	31.7	9.6	62.6	3.6
Colorado	30	1,478	12.2	25.3	14.0	52.1	3.2
Mississippi	31	1,337	11.3	16.7	8.2	35.2	3.3
Oklahoma	32	1,085	9.9	19.3	12.1	46.0	3.0
Arkansas	33	1,065	10.6	17.8	9.2	35.9	3.5
West Virginia	34	983	19.6	12.4	14.4	25.0	3.6
New Hampshire	35	893	17.6	15.5	15.2	26.0	5.2
Maine	36	801	13.8	12.1	12.0	21.0	4.0
Nebraska	37	753	8.5	8.2	9.3	22.8	2.9
Alaska	38	713	39.04	3.6	40.0	6.9	2.7
Utah	39	668	13.2	11.9	13.0	23.4	3.2
Idaho	40	503	13.4	6.1	12.5	15.0	3.4
Rhode Island	41	482	12.7	12.9	11.9	21.5	4.5
Delaware	42	430	10.2	8.0	12.5	13.6	4.4
Vermont	43	384	20.1	8.4	19.5	14.2	5.1
North Dakota	44	215	14.8	2.0	14.2	8.9	2.7
Hawaii	45	214	10.3	0.7	3.1	5.3	1.1
South Dakota	46	213	8.5	2.1	7.9	7.7	2.3
New Mexico	47	178	11.9	2.4	7.1	9.5	1.5
Nevada	48	167	12.9	2.7	12.9	7.6	1.4
Montana	49	101	10.6	1.6	7.9	7.7	1.9
Wyoming	50	19	8.0	.5	7.4	3.9	1.6

Note:—Manufactured goods in this report relate to manufactures as defined in the Standard Industrial Classification and include manufactured food, mineral fuel products, fats, oils, firearms and ammunition not typically part of the Standard International Trade Classification definition of manufactures. For the United States as a whole, exports of these additional products totaled $33 billion in 1986. Exports, normally valued at the port of exportation are adjusted to f.o.b. plant values to make accurate comparisons with production (shipments) data.

Source: International Trade Administration, Office of Trade and Investment Analysis, as reported in Business America, Mar. 27, 1989.

The successful conclusion of the Uruguay Round will help promote political stability in Latin America and Eastern Europe by integrating those emerging democracies into an open, market driven trading system;

On July 11, 1990, at the annual Economic Summit convened in Houston, Texas, the leaders of the seven major industrial democracies (United States, Canada, England, France, Germany, Italy, and Japan) and the President of the Commission of the European Communities reaffirmed the importance of a strong GATT and stressed that "the successful outcome of the Uruguay Round has the highest priority on the international economic agenda";

Global import quotas for textiles and apparel are presently being discussed at the Uruguay Round, the objective of which is to liberalize the textile and clothing sector through progressive dismantling of trade barriers and its integration under a precise timetable under strengthened GATT rules and agreements;

The adoption of legislation to establish general import quotas for textiles, apparel and footwear is totally inconsistent with the spirit underlying the GATT, would violate the current agreement among members of the GATT, and would reverse the progress and almost totally destroy the prospects for the successful conclusion of the Uruguay Round, and would therefore penalize the many industries, trades and businesses that would benefit from the successful conclusion of the Uruguay Round: Now, therefore be it

The sense of the Senate that—

(1) It is in the best interests of the United States to encourage the progress and successful conclusion of the Uruguay Round;

(2) That Congress should not pass any trade legislation that reasonably would be expected to jeopardize the progress and successful conclusion of the Uruguay Round, including any legislation to establish general import quotas for textiles, apparel and footwear.

Mr. GORTON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GORTON. Mr. President, this amendment is designed to point out a fact which should be obvious to all Members, and for that matter, to all Americans. The amendment is designed to point out the proposition that we do not act on a subject like this in isolation. This is an attempt to change and to make more restrictive and more protectionist the trade policies of the United States.

It comes at a particularly inopportune time as we are in the home stretch with respect to the negotiations on the General Agreement on Tariffs and Trade. The position of the United States will be seriously undercut by the passage of this bill and it is, therefore, vehemently opposed by the administration and most specifically by the President of the United States and by our international trade representative.

This amendment reflects their views and their concerns and a desire for the continued growth and prosperity of the American economy. This amendment is a substitute for the entire bill. It strikes the bill and substitutes for it a sense-of-the-Senate resolution strongly supporting the successful conclusion of negotiations toward a new and liberalized General Agreement on Tariffs and Trade.

It does so by pointing out what we have already gained by reason of previous successful negotiations to liberalize international trade and what we will lose if this Uruguay Round is unsuccessful. The losses which can and are very likely to result from an unsuccessful GATT, an unsuccessful GATT which is likely to become much more probable if this bill passes, are widespread and cover every corner of the United States.

I think it is particularly ironic that we should be engaged in this mischievous attempt to undercut the American position in these trade negotiations for an industry which, in fact, is a highly successful industry and whose cries of alarm have been proven so totally wrong in the past.

Mr. President, many of those who were Members of the Senate in 1985 may well remember the message which accompanied the introduction of a bill almost identical to this one in that year. This was the prediction which the textile industry made at that point:

If we do not act now to curb imports, in 5 years our entire industry of 4 million jobs that depends on it will simply cease to exist.

Those 5 years have passed, and we have not added to the protection offered to the textile industry and it is healthier by far than it was even then.

While imports in the course of the last 2 or 3 years have increased about 17 percent, exports have increased some 59 percent. This is a profitable industry. It is, in fact, an industry which exports more than it imports. It is simply not a candidate for protection even on the basis of its own relatively narrow interests.

More important, however, is the impact of a proposal like this, should it be passed and become law, on international trade in general. The General Agreement on Tariffs and Trade, its Uruguay round in the course of the last several decades has been magnificently successful. Forty years, four decades ago world trade amounted to approximately $60 billion. Today it is almost $3 trillion. The American economy and the economies of most of the nations of the world have grown more during the course of that 40 years than in any other 40-year period in the history of the world.

Our economy has gone up 300 percent, exports are up 700 percent, jobs relating to trade are up 300 percent.

Yet a trillion dollars' worth of that trade, one-third of it is inadequately covered by internationally agreed rules of fair play. In services and industries that depend on intellectual property, in agriculture most particularly we face serious problems, and in each of these it is the goal of the negotiators for the United States that the trade policies be liberalized.

Let us examine each of those in turn. Services now account for 68 percent, that is more than two-thirds of the gross domestic product of the United States. Our exports in services are growing more rapidly than is trade in tangible physical goods.

Some three-quarters overall of the employment in the United States is in services and services account for 9 out of every 10 new jobs in the United States.

If we are unable to liberalize international rules relating to services, many of our most successful service organizations will find their growth hobbled in the future, as they have to this point.

Insurance falls into that category as does engineering, construction, banking, telecommunications, even tourism, legal services and accounting. All run up against the kind of artificial barriers today which we have been at least modestly successful in removing over the course of the last 40 years with respect to the trade in goods.

It is of vital importance that we open up international rules and increase and encourage international trade in these services because it is precisely in these areas that we continue to have and perhaps even to increase our American lead in competitiveness. The income which can come to the United States by a successful resolution of the problems of the inhibitions on crossing international frontiers with respect to services are literally measured in the billions of dollars.

A very closely allied subject to services is trade in intellectual property.

Our high technology and our entertainment industries depend on the protection of intellectual property. They would be greatly harmed by an unsuccessful Uruguay round in the General Agreements on Tariff and Trade. We are already, according to the International Trade Commission, losing some $60 billion a year as the result of piracy with respect to intellectual property. That is a very large amount of money. It is extremely inhibiting to the development of intellectual property here in this country.

This Uruguay round affords the only chance that we will have in this decade to get a global agreement protecting intellectual property. In all probability, if we do not get such an agreement, that $60 billion figure will not diminish or shrink, it will actually grow.

We have all kinds of our industries which deal in or are dependent upon intellectual property. Pharmaceutical manufacturers, fine chemical manufacturers, our motion picture industry, our publishing and recording industry, computer software programming are all areas in which the United States is preeminent in the world, a leader in the world, and able to compete very, very successfully if we have appropriate rules protecting our companies against that kind of piracy.

All will be hurt if the Uruguay round is unsuccessful, and the Uruguay round is much less likely to be successful if we pass this protectionist legislation than is otherwise the case.

Market access. Market access even for our manufacturing goods. In spite of previous successful GATT rounds, many American exports face high tariffs and other barriers overseas, particularly when small businesses would be benefited by a successful GATT, small businesses which account already for one-fifth of our exports and most of the new jobs in the United States.

The best estimate we have, Mr. President, is that if both tariff and nontariff barriers across the world were cut by 50 percent, not entirely but just in half, the gross domestic product of the United States would increase by about $200 billion, or some 5 percent, an increase in per capita income of more than $3,000 for a family of four in the United States.

Some of our most basic industries are still affected by these barriers. Electronics, chemical, pharamaceutical, aerospace, wood products, semiconductors, computers, and paper are only a few which are still faced with barriers around the world.

In one sense, Mr. President, I have left the best and the most important for last in this respect. Perhaps the greatest barrier, the greatest degree of protectionism, the greatest degree of subsidy around the world, particularly among developed countries, is in the field of agriculture. Everyone here can recognize that the recent meeting which the President had with the other six major Western industrial powers in Houston revolved around agriculture subsidies, particularly those of the European Economic Community.

The President, according to the heads of those other States, was more exercised over these agriculture barriers than he seems to have been with them on any other single issue since George Bush took the Office of President of the United States. He made some real progress in that connection, Mr. President. He got an agreement that agriculture will be on the front burner. It will be the focal point of these negotiations during the course of the next 6 months.

What position will the United States have to break down those barriers costing us literally billions of dollars in agriculture exports, right on the heels of his passionate plea for fair and free trade in agriculture, if we pass a protectionist bill with respect to textiles? The answer is that we will have almost no chance of success in that important and vital area.

Finally, of course, we have a division between the developing countries in the world. In many of the barriers, particularly those with respect to the protection of intellectual property, and those on services which are specially high in the developing world, a world which depends on our quasi-open market for their textile manufacturers, what we can gain with them through the GATT is far more than we can gain by the passage of this bill. To bring them into the international system, to get them to open their markets for our services, to get them to protect against the piracy of our intellectual properties will be absolutely dependent upon the rejection of this bill.

Mr. President, in the body of the resolution, which is this substitute amendment, is a table indicating the exports of the various States of the United States and by kind with the major States outlined. I find it particularly ironic that North Carolina, the home of two of the principal sponsors of this bill, ranks first in the exports of tobacco products and of the products of textile mills and of furniture and fixtures. The great irony is that to pass this bill for a few inefficient textiles manufacturers in their

State will undoubtedly hurt their most successful manufacturers.

South Carolina, I did not notice it ranking first in any of these categories but it is nevertheless among the leaders in a number of manufactured exports in the United States. Those efficient industries, those growing industries, will be greatly hurt if the passage of this bill results, as it almost certainly will, in a less effective GATT or in the total failure of those GATT negotiations.

Mr. President, the entire history of the past 40 or 50 years has shown that the people of the United States benefit from growing and more free international trade. That will be every bit as true in the course of the next several decades as it has been in the decades since 1950. We should not, by passing this short-sighted proposal, obstruct what is our own interest in a wide, wide range of products.

I submit, Mr. President, that every State in the United States, all 50 States, will be benefited by a successful conclusion to the Uruguay round of the GATT talks and that that round will be far less likely to be successful and could fall apart completely if we take an action so inconsistent with our position there as the passage of this bill would amount to.

I commend to my colleagues this substitute which will improve the economy of the United States in place of a bill which will clearly hurt that economy.

Mr. BREAUX. Mr. President, I will just be very brief on this side. I am going to yield to the distinguished Senator from South Carolina for substantive remarks.

But, as a sponsor of the underlying legislation, I think it is very important that everybody know exactly what this amendment does. This amendment strikes everything in the bill. It essentially guts the bill and replaces it merely with a sense of the Congress as to what should be done.

In essence, what it says, we will do nothing and just sit back and let the negotiators decide the future of trade policies of this country without the involvement of the Congress.

The legislation clearly sets out some things that need to be done. This amendment clearly does away with everything. It deletes everything in the legislation and replaces it merely with an expression of the sense of the Congress.

We have been expressing the sense of the Congress for decades and nothing has been done. I think it is time for action, and I think the Senator from South Carolina has spelled out an appropriate course of action that this body should accept and, indeed, actively support.

I yield to the Senator from South Carolina for whatever time he may need.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Louisiana.

Let me say at the outset, looking at these amendments from the distinguished Senator from Washington, they really are just various attempts to gut the bill. In the amendment at hand, there are a lot of whereas's and statistical information regarding imports/exports, but the bottom line is that it says get rid of the bill and sing hosanna for the U.S. Trade Representative in Geneva.

The other amendments are with regard to disproportionate impacts. For instance, a disproportionate impact on farmers. The fact is, this bill does indeed have a disproportionate impact on farmers because it intentionally favors agriculture, favors the farmers. That is why we have the farm organizations in support of this bill.

The bill says that if those nations, particularly the Big Five, increase their imports of American agriculture, then it is the burden and duty of the Secretary of Commerce to negotiate an even higher level of textile imports from that particular country.

So ours is disproportionate but disproportionate in favor of, not disproportionate against farmers; it is disproportionate in favor of America's agriculture.

But then they go down the list: disproportionate impact on the poor, disproportionate impact on consumers, disproportionate impact on middle-income Americans, disproportionate impact on free enterprises, and so on.

Regarding these amendments, I do not intend to cut off anyone. Of course, we have a 45-minute time agreement. But my hope would be to move consideration along and then move to table these amendments after a very brief debate.

I do not want anyone to say well, we did not have a chance to speak or somebody else wanted to be heard on the amendment. There is a deliberation around here that keeps us up late at night and long hours. I thought many a time we ought to be moving to third reading, rather than wait at length for amendments to be brought forward. In that light, I think we can move the bill expeditiously along.

I want to give everybody notice: if they want to talk on an amendment or introduce an amendment, they should be coming to the floor now. Do not complain later that we were discourteous, we did not give Senators a chance.

It is Friday. We have an important bill that 55 Senators on both sides of the aisle have cosponsored. This measure has passed the Senate no less than five times—three times sent to the President of the United States. This is the last call on this textile bill. We hope to get President Bush's attention.

We gave thorough attention to GATT, the Uruguay Round and the negotiations in Geneva, in drawing up this measure. We have meticulously seen to it that this bill conforms to GATT. There are not any real disputes or amendments to this particular measure other than the present amendment that says whoopee for Geneva and GATT.

We say whoopee for that, too. But we look at what they are negotiating and see they are negotiating a global approach, just as this bill incorporates a global approach. The only thing is, in all fairness and candor, they say one thing and do another. They put globalization in there, but then they put their lobbyists out here by the elevator to oppose it and they get the Attorney General to say the bill is unconstitutional, back here in America. But in Geneva, globalization is the policy.

Well, we know what has happened. We have been promised and promised relief for textiles. Every one of these vetoes tells the majority of the people's Congress: Oh, yes, we are going to take care of textiles, we are going to administer the law, we are going to enforce it. Yet look at the record. In 1981 we had $4.5 billion deficit in the balance of textile trade. In 1985 when we passed a textile bill the deficit had gone up to $17.5 billion, and in 1988 the deficit in textile trade under their so-called enforcement and exhortation had gone up to $21.5 billion. Now the textile trade deficit has gone up to $26.5 billion. Yet, they have the audacity to start reading facts and figures about exports and GATT.

We say one thing and do another. On that particular score, let us talk about GATT and free trade. Free trade, as Henry Clay said, "never was and never will be." Free trade has been the cry of the developed nation to the undeveloped. It has been the self-interested cry of industrialized and developed countries in need of markets.

It was the British who needed the American market in our founding days. They advised us, "Let us have free trade." Hamilton told them: "Bug off." He wrote a book on it, "Reports on Manufacturers." He said we were not going to remain the colony of Britain, and as a result the first bill to pass this Congress on July 4, 1789, was—what?—protectionism, a tariff bill of up to 50 percent duties on some 60 articles, beginning with iron. Of course, we continued to protect in the days of the Civil War with President Lincoln, when he said, rather than buying inexpensive iron from Britain we would build our own iron mills to build the railroads. Then we will have

both American iron and American railroads.

Under Roosevelt, in the dark days of the Depression, we developed a dynamic agricultural sector, the world's leader. With what? Protectionism; price supports, protective quotas, Export-Import Bank subsidies. And, of course, Eisenhower himself in 1955 to protect and build our oil industry instituted oil import quotas.

At the end of World War II we were the developed nation. The shoe was on the other foot. We had the only standing industrial base in the world and we were in need of markets. So we implemented the Marshall plan, sending our money—your taxpayers' money—your technology, your expertise, overseas to develop free economies. It has worked. It has been wonderful. We see it today, 45 years later, with the fall of the wall and with capitalism spreading over East Europe.

On the other hand, in doing so, in sending those U.S. multinationals abroad to do good, they stayed to do well. The multinationals discovered the goose that lays golden eggs. They found cheap labor, an unfettered market, and supportive governments. They discovered they didn't have a fussy Congress in Washington invading the free market with a minimum wage, Social Security, unemployment compensation, safe work place, safe machinery, clean air, clean water, parental leave, plant-closing notice, and whatever else we can think of around here. All these market intrusions are part and parcel of the alleged free market and free trade described by our colleague from Washington.

In truth, the global marketplace is about as adulterated as it can be. It always has been. And GATT itself, which we organized at the end of World War II to reduce tariffs, ought to be over in the Smithsonian. It is an anachronism. It is an antique. Tariffs are no longer the determining factor in this dynamic trade war that we are in.

Incidentally, the caterwauling up in the grandstands about "Let us not start protectionism" is nonsense. The nations in the Pacific Rim and Western Europe that were helped by the Marshall plan have outflanked the tariff issue. They rely instead on nontariff barriers and government support. This is the new comparative advantage. If you wrote a book today on economics, instead of David Ricardo's comparative advantage of labor, capital, and natural resources, today the comparative advantage is Government, Government involvement, Government support.

The Government of Taiwan says to Japan, right next door, yes you have a quality product but you cannot sell it in Taiwan. And in France they tell the Japanese, if you send one of those Toyotas, we will take 1 year to inspect it.

Down in Houston this week they absolutely flunked the course, and they expected to flunk. We have representatives in Geneva who can describe defeat as victory. We should have had them around during the war in Vietnam; we would not have wasted 10 years and so many precious American lives.

I heard the distinguished Chief of Staff John Sununu say that President Bush's four speeches at graduation ceremonies were the reason for the fall of communism and the fall of the wall. It was an amazing claim.

If you want to hear a real lawyer describe a defeat as a victory, listen to Ambassador Hills. We received no concessions on agriculture. If you heard Mitterrand on TV, he made it clear that they are not going to concede.

Yes, I think President Bush's effort was commendable. We have $12 billion in U.S. agricultural subsidies. We will pass it next week. They have $35 billion in subsidies in Europe, almost three times our amount. If we can persuade them to give up their $35 billion and we give up our $12 billion, arithmetic tells us we can sell like gangbusters over there.

These are common sensical world leaders. They are not fanciful folk running around parroting "free trade, free trade, free trade." Give me a break.

The Europeans are organizing EC-92 not for free trade but for the trade war.

Why did we go to GATT? Because GATT is Santa Claus. The United States plays Uncle Sucker. Here we have the richest market in the world, we negotiate all the time, and we give up everything.

We sacrifice our industries. We do not get anything in return.

So GATT is a nonstarter now, and what we need is a toughminded policy of true reciprocity. If we can develop a trade policy of reciprocity in this country, then we will get what the distinguished Senator from Washington and the Senator from South Carolina both want.

I am chairman of the Commerce Committee. I live in the port city of Charleston. But this is a complex world. I look out my front window and see boats bringing in Brazilian steel. Now why? I can tell you why. McNamara went to the World Bank pushing 2 percent loans and said you cannot be a nation state unless you have the steel and the weapons to defend yourself. They went around building steel mills in Nigeria, Brazil, and China. So there is now an overproduction of steel. Brazil has more than they can use. So they dump it in here in the United States at less than cost.

What did United States Steel do when they got an infusion of capital? They bought Marathon Oil. They have sense. This is business. Profits are profits; capitalism is capitalism. Let us wake up around this body and understand that we are not just dealing with textiles. We have to look at the overall standard of living. When we talk about free trade, let us remember that after U.S. multinationals set up shop abroad, they said the only way it is going to continue to work is if they are able to continue to dump in the richest market of the world, the United States of America. So they started the chant: "free trade; free trade; protectionism."

Obviously, the Japanese and the Germans, as they developed their own industry, they joined in with the multinationals chanting "free trade; free trade." The big international banks joined in the chorus, because they finance the multinationals.

Then the retailers came along making a bigger profit from imported goods; so they join in. The newspapers, they get 80 percent of their revenues from retail advertising. They join in with their editorials, and it is a veritable drumbeat in this body, here in Washington, "free trade, free trade, free trade."

Vaclav Havel took office in Czechoslovakia earlier this year. He said, as President, "We have been lied to for 40 years. For 40 years we have been saying one thing and believing another." He said, "I do not think you chose me as your President to continue to lie. We have problems. And these problems can only be solved by us."

Someone ought to say the same thing to the U.S. Government here in Washington. We have problems. Those problems can only be solved by us. And we have to disenthrall from this nonsense about free trade, disenthrall from this nonsense about a free lunch, disenthrall from the notion that the Government itself is the enemy. We have heard too much of that nonsense for 10 years. A cynicism has set in. We saw in yesterday morning's paper where there was a huge dropoff in people taking the exam to get into Government. The exam ordinarily attracts 500,000; but only 85,000 showed up; nobody want to be associated with this Government.

John Adams said, "A declaration by people of hostility toward a Government created by themselves, conducted by themselves and for themselves, is an insult."

So let us sober up here this morning and not pass resolutions to gut the textile bill with these fanciful words about GATT and negotiations. Mrs. Hills is negotiating in Geneva in accordance with article I, section 8, the powers and authority given by this Congress, and none other. There is a strong resentment in this Congress that our negotiators are being in-

structed one thing by the Congress time and time again, that this industry, the largest employer of women and minorities in America, 1.9 million workers, good productive workers, proven by MIT and the Office of Technology Assessment as the most productive industry in the most productive country in the world, should not ever be targeted for programmed extinction.

That is why we have offered this desperation bill, why we are willing to give up a majority of our market to importers, to foreign production, willing to give them all the growth in domestic consumption, willing to give them all the protections they want. At the same time, we say at least save enough of the market for us to continue to invest, to continue to improve, to continue to produce, to continue to compete in textiles.

I yield to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I was not seeking the floor in my own right. I will take it.

The PRESIDING OFFICER. Who yields time? Does the Senator from South Dakota, manager of the bill, yield to the Senator from North Carolina?

Mr. DASCHLE. I yield time to the Senator from North Carolina.

Mr. HELMS. Mr. President, I will not take long. I want to say to Senator HOLLINGS that he and I are about the same age. I just look older. But he is old enough to remember Will Rogers. I think of Will Rogers every time I think about GATT. I think about U.S. negotiations with foreigners.

Will Rogers said—and of course that was before Vietnam—that the United States has never lost a war or won a negotiation. And that just about sizes it up.

As for the pending sense-of-the-Senate resolution, down my way they tell me the story about the little boy who caught a fish and the fish was just squirming in his hand. He said, "Hold still, little fish. I am not going to hurt you; I'm just going to gut you." That is the purpose of the amendment by my good friend from Washington, who is one of the most erudite Members of the Senate. He wants to gut the bill.

Let me tell you what is going to happen, and the Senator from South Carolina knows this as well as I do. A plan is afoot to do nothing. I hate to say it, but my administration does not want this bill; they do not want to do anything for the textile industry. They have carried us along for 18 months saying, well, let us have a meeting here at the White House, and let us have a meeting there, and so forth.

Ambassador Carla Hills, who we agree is a charming, erudite, capable, intelligent, articulate lady, can say more words and say nothing in the process than anybody I ever saw. She is a lawyer. I am not a lawyer, and I brag about that. But the point is that we are either going to do something for one of the most important industries in this country, one of the most efficient industries in this country, or we are not.

If we do nothing, it is safe to predict the demise of the industry is at hand. We cannot escape that. Either we put up or shut up. All of this talk about free trade frustrates me. I remember President Reagan sent me over to Geneva one time. He was worried about the European Community. Well, he should have been worried about it, because they just laughed at us because our negotiators—and this goes through both administrations, both parties; it is a bipartisan folly as far as I am concerned—would not even pay any attention.

But finally I went over there, speaking for the White House, and I said to them, "Your right to swing your subsidized fist ends at Uncle Sam's nose." And I made the promise—I do not know whether I could have fulfilled it or not—that if we did not get some accommodation, I was going to come back and report to the Senate and we were going to offer some legislation to correct the problems once and for all.

Well, we got their attention. I remember some very fine, cordial Japanese came to my little sitting room in the hotel in Geneva. By the way, since the Senator from South Carolina is from a tobacco producing State, as I am, I never saw people smoke cigarettes like they did. They lighted them end to end because they got a little nervous. Do you know what kind of cigarettes they were? They were American cigarettes. And I was glad to see that.

The Senator from Washington mentioned that this bill is contrary to the United States position in the Uruguay round. I am glad he knows what the U.S. position is. I sure can't figure it out. It is a moving target. One day it is here, and one day it is there.

I want the Senator to tell me what the position is.

But if he is correct, that may be the most compelling argument in favor of this textile bill. Here is the point. The U.S. negotiators have included in the U.S. proposal a global quota for textiles. That is what they are saying. But I think they have a little expression on their face, "We really don't mean it, folks." They mean something else: "We want to sell out the textile industry."

We propose the same thing, a global quota, in our bill. The difference is that in this legislation, I say to my friend from South Carolina, we are specific; we are specific that the annual growth will be what? One percent. Do you know what the administration proposal is? They do not say. It could be 2 percent, 5 percent, 12 percent, or all of it.

I think that is what the Senator from South Carolina has said. Let us get down to brass tacks and stop the mumbo jumbo and vote as to whether we are going to lend a hand to an industry that deserves it. By saying lend a hand, I am not talking about protectionism. Foreign manufacturers already are going to get 60 percent of the market—in fact they have it now, 60 percent of the domestic market. What the textile industry and the shoe industry and other industries want is a fighting chance to get that other 40 percent of our own people.

The reason we brought this legislation to the floor is because we have been concerned that the United States, let us be honest about it, is not going to stick by its position in Geneva. I have seen it happen over and over again, and so has the Senator from South Carolina.

I have been involved in a lot of negotiations for the past 18 months. If at any time, I say to the Senator from South Carolina, the administration had looked us in the eye and said, "We are going to stick by this global quota proposal," we would not even be here today, would we? This bill would not be up. And you folks who are going to West Virginia, or wherever it is, this afternoon could be on your way now because this bill would never have come up.

The Senator from Washington—and I quote him in such great affection, and he knows I do—not many are his equal in being erudite—but he has just confirmed my fears by offering this sense-of-the-Senate amendment, that the purpose of the administration and some in the Senate is to do nothing, to let the textile industry go down the drain. After all, a sense-of-the-Senate resolution, Mr. President, is like kissing your sister—nothing. That is why we should defeat this amendment and that is why we ought to pass this bill.

I thank the Senator for yielding to me. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DASCHLE. Mr. President, it is my understanding I control the time. I would be interested in knowing how much time I have remaining.

The PRESIDING OFFICER. The Senator has 16 minutes and 10 seconds remaining.

Mr. DASCHLE. I yield 10 minutes to the Senator from South Carolina.

Mr. THURMOND. I do not think I need that much time.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for up to 10 minutes.

Mr. THURMOND. Yesterday, I covered the main points of this bill. I want to reiterate that unless this legislation is passed we are going to lose the textile industry entirely. Now, is that wise? Why is it not wise?

The Defense Department says that textiles rank second to steel—next to steel in importance to the national defense of our country.

Now, if we should lose our textile mills in this country, then what would we do in time of war? How would we get textiles for uniforms, parachutes, and other items for which textiles are necessary?

I think it is foolish, absolutely foolish, not to preserve this industry, It is absolutely vital to our national defense.

Then the next question is, are we interested in our own people? If so, why not protect them? Other governments protect theirs. How can we compete with other countries that subsidize their industries, their textile industries, and when they pay such low wages? We pay $9 and $10 an hour. Some countries pay $2.50. I believe they say China pays 27 cents an hour. We just cannot compete with other countries that are subsidizing their industries and paying such low wages. It is just out of the question.

All we are asking is a level playing field. That is all we want. We are not asking for any favoritism. We are not asking for any so-called protectionism, if you want to call it that. We just want fair trade. Free trade does not work. It is fair trade that works. In my opinion, that is what it has to come to. We just cannot continue like this, this industry cannot continue to lose jobs at its current rate. Where are the 2 million people employed in the textile industry going to work if you close down this industry? That is what it is coming to. Here is a good example.

In my State, in the last week, we have had three plants close: Clearwater Finishing located in my home county of Aiken, 360 jobs; Swiss-owned Schoeller, 240 jobs; Anderson Cotton Mills, which has been in business for 101 years, 155 people laid off. This situation is happening in other places.

I want to say this, too. Every State in this Nation has some textiles. It seems to me that every Senator should be interested. We all have textiles that give jobs to people. Are we interested in helping people, our own people? Give them a chance, an equal chance. That is all we want.

The growth of textiles in this country is about 1 percent a year. The growth of foreign textiles imported from other countries is 3 to 5 percent a year. Is that fair? Why give foreign countries a 3- to 5-percent increase a year and our own people get only 1 percent? It just does not make sense.

Again, I say, all we want is a level playing field. That is all this bill does. This bill is not protectionist. It just gives our own textile people an opportunity to play on a level playing field with a foreign industry.

I hope the Senate will pass this bill. I hope they will defeat this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. Mr. President, I yield such time to myself as I may utilize.

Mr. President, this Senator has not realized that either my distinguished friend from South Carolina, Senator HOLLINGS, or my distinguished friend from North Carolina, Mr. HELMS, felt that somehow or another there was an attempt in this amendment to hide the proposition that it would gut this bill. You bet it would. That is exactly what it is designed to do. That is exactly the way that it was read to the Senate.

This amendment would strike the entire textile bill and substitute for it a set of findings which have the virtue of being, for all practical purposes, uncontroverted about the desirability of an even freer international marketplace and greater opportunities for American exporters.

I find it strange that my friend, the distinguished senior Senator from South Carolina, should plead poverty in this fashion and should tell us that, unless this bill passes, the textile business literally will disappear or will be destroyed in the United States of America.

He was not here a little bit earlier when I read exactly that prediction from 1985. I do not know whether it was the distinguished senior Senator from South Carolina or some other Member who had made the prediction then that if we do not act now to curb imports, in 5 years our entire industry will be gone. It sounded a little bit like what he said here.

Well, we did not curb imports in 1985. The independent industry is not gone. The industry is above average in profitability. The U.S. industrial outlook for 1990 shows that it will continue to gain strength. It gained in the value of its shipments in 1988 by over 3 percent, in 1989 by more than 5 percent. The value of imports in 1988 went down by 5 percent. In 1989 it went up by something a little bit over 5 percent. But the value of exports in this field went up by more than 20 percent in each of those years.

Mr. President, that is not the profile of a dying industry. It is, in this case, the profile of an industry which is doing quite well but which would like to do much better. No one can criticize the desire to do much better, but one certainly can criticize its desire to do much better at the expense of every other exporting industry in the United States, do better at the expense of those industries which are now suffering billions of dollars a year of losses because of the piracy of their intellectual property, doing better at the expense of agriculture when we have finally, in the course of this very week, seen at least the beginnings of the crack in the dam of the protectionist policies of the European Economic Community with respect to agriculture.

It astounds the Senator from Washington that we have now heard three Senators inveigh against the system of international trade, which has increased the prosperity of the people of all of the countries who are participating fully and fairly with the degree of freedom over the course of the last 4 years, and to wish to go from a system in which we increase our trade every year through something like the GATT to what the distinguished junior Senator from South Carolina calls reciprocity.

This Senator believes that there are many nations in this world who should be more severely disciplined by the United States with respect to their own trade restrictions. But this Senator believes that the way to do that is not to start by protecting inefficient industries in the United States from efficient competition overseas. It seems to me highly dubious that we will gain anything but disadvantage from engaging in so blatant a set of practices.

Time enough for these Senators to come back here and tell us about the problems of the textile industry and its needs and desires if, in fact, the Uruguay round should fail; if, in fact, we are repudiated with respect to our position on intellectual property; on the opening of some of the developing countries on agriculture, and on services.

If the world repudiates our position with respect to those portrayed issues in Geneva, we will certainly have a debate on trade here in the Senate of the United States. I trust that it will be a debate which will be somewhat broader than one on textiles, Mr. President. But have it we will.

However, to pass a bill which totally undercuts our position for greater freedom, for a greater opening for American goods and services, for greater protection for American intellectual properties, simply to act totally inconsistently with those goals at this point, less than 6 months before the climax of the GATT round, is literally to cut off our noses to spite our faces.

Yes, Mr. President, this Senator pleads guilty. This amendment is desired to gut a bill, a bill which all of us know is going to be gutted sooner or

later in any event; if not here, in the House; if not in the House, in the White House. The sooner we get rid of it the sooner we will relieve the distinguished Mrs. Hills, our International Trade Representative, from the distracting duty of putting out fires in our own house so that she can work for the betterment of American exporters overseas, and the better off all of us are going to be.

I do firmly believe that this bill should be defeated; that we should give the greatest possible encouragement to our President and to our international trade representative; that we should follow up the President's tentative successes with his partners in the major trading nations during the course of this week and should go forward united toward the conclusion of those GATT rounds. If they are unsuccessful, as I have said, we can deal with that problem at the time. We certainly should not contribute to that lack of success here. We should pass this amendment, and we should gut and defeat this bill.

Mr. HELMS. Will the Senator yield 2 or 3 minutes to me?

Mr. GORTON. Mr. President, I have two other people who desire to speak on this. Nevertheless, not seeing them here, I will be happy to yield 2 minutes to my colleague.

Mr. HELMS. Let me read the Senator a couple paragraphs from two stories in the Journal of Commerce of Friday, July 13, which happens to be today, Mr. President. The first was headlined "Taiwanese Textile Delegation Plans To Tour Plants in China, Both Countries Expect Benefits."

You better believe that is accurate. It begins:

Hong Kong—the world's second and third largest textile exporters may be on the verge of forging cooperative links that could benefit both and increase their lock on the U.S. market.

A large delegation of Taiwanese textile manufacturers is planning to visit China next month in search of cheaper labor and work sites, the Chinese textile ministry said Thursday.

The other story, just below it, is headlined "Chinese Step Up Shoe Sales to the United States." It reads in part:

China has surpassed South Korea as a volume shipper of non-rubber footwear to the United States.

And if U.S.-China economic ties remain, strong, it is just a matter of time before China overtakes Taiwan as the number one shipper.

"As far as volume goes, China will be number one," said Gail Burns, a trade analyst at the U.S. International Trade Commission in Washington. "The sleeping giant has awakened."

Mr. President, I ask unanimous consent that the entire text of the two articles from today's Journal of Commerce be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Journal of Commerce, July 13, 1990]

TAIWANESE TEXTILE DELEGATION PLANS TO TOUR PLANTS IN CHINA

(By P.T. Bangsberg)

HONG KONG.—The world's second and third-largest textile exporters may be on the verge of forging cooperative links that could benefit both and increase their lock on the U.S. market.

A large delegation of Taiwanese textile manufacturers is planning to visit China next month in search of cheaper labor and work sites, the Chinese textile ministry said Thursday.

About 50 Taiwanese are due to visit a number of factories in Shanghai and Beijing beginning Aug. 8. They also will tour China's largest polyester plant in Yizheng in Jiangsu province, the ministry said.

The trip is being hailed by the Chinese media as "another major economic stride" across the strait between the two countries, which have not had direct links for 40 years.

However that may be, it does reinforce the increased interest among Taiwanese businesses in mainland links despite their government's warnings of becoming too dependent on an unstable country.

About 600 Taiwanese businessmen attended a seminar in Beijing last month on improving commercial ties. They were offered an extensive menu of incentives and promises, though such formal undertakings as double-tax accords and investment protection remain elusive.

"Direct exchange is necessary since both sides have a lot to learn from each other," said Ji Jun, deputy director of the Taiwan affairs office of China's ministry of textile industry.

Mr. Ji said he hopes the textile delegation's visit will lead to the introduction of Taiwan's advanced technology into China's huge but underdeveloped industry.

Textiles and garments are China's primary source of export revenue, bringing in US$13 billion last year, an increase of 16% on 1988. Most came from the United States, where China accounts for 13.5% of all textile imports, the largest single supplier.

Taiwan's textile exports brought in US $10 billion last year, keeping it in third place, but it is suffering from high costs and is losing market share to China.

Its manufacturers recently scouted plant sites in Southeast Asia but continue to see China as the ideal location because of its proximity and ethnic similarity.

Hong Kong is the world's largest textile and garment exporter, with sales last year of about US$20 billion. A large chunk of that involves goods transshipped through the colony, frequently from China.

Taiwan's government late last year announced plans to spend NT$2.5 billion (US$100 million) to upgrade designs and improve textile technology. It hopes to raise exports to US$20 billion by the turn of the century.

China's textile industry employs some 8 million workers in 1,300 state-run plants. The labor is cheap, but the industry is well behind Taiwan and Hong Kong in use of new technologies, and suffers from periodic shortages of raw materials such as cotton.

Chinese officials evidently hope an influx of Taiwan manufacturers would help with the former problem if not the latter.

The August visit will "mark the formal start of direct exchanges in the field of textiles" the Beijing ministry's Mr. Ji said. It will be "complementary, as China needs funding and processing technology while Taiwan is short of raw materials and manpower."

CHINESE STEP UP SHOE SALES TO THE US

(By Duncan Robinson)

China has surpassed South Korea as a volume shipper of non-rubber footwear to the United States.

And if U.S.-China economic ties remain strong, it is just a matter of time before China overtakes Taiwan as the No. 1 shipper.

"As far as volume goes, China will be No. 1," said Gail Burns, a trade analyst at the U.S. International Trade Commission in Washington. "The sleeping giant has awakened."

A major potential stumbling block for U.S.-China footwear trade is most-favored-nation status. This U.S. government designation, renewed annually since 1980, allows low tariffs on U.S. imports from China.

On Wednesday, a House Ways and Means subcommittee approved a bill that links extension of trade privileges in 1991 to China's progress in restoring human rights.

Such progress would include the release of political prisoners, an easing of curbs on the press and an end to the harassment of Chinese students in the United States by Chinese government officials.

Despite its passage by the subcommittee, the proposal faces much legislative debate. It is opposed by the Bush administration and will likely face a presidential veto.

Many argue that revoking China's trade status would hurt low- and middle-income consumers and footwear importers in the United States while damaging U.S.-China political and economic relations.

"There is no other source for low-priced footwear anymore," said Peter Mangione, president of the Footwear Distributors and Retailers of America, a Washington, D.C.-based trade association.

In a recent report, the ITC said U.S. shoe imports from China rose 72% in the first quarter of 1990, to 53 million pairs worth an estimated $220 million.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER (Mr. ROBB). Who yields time?

Mr. THURMOND. Mr. President, will the Senator yield me a few minutes.

Mr. DASCHLE. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 11 minutes, 55 seconds.

Mr. DASCHLE. I yield the Senator from South Carolina 5 minutes.

Mr. THURMOND. I want to remind the Senate, Mr. President, that profits for all textile mills fell 58 percent for the first quarter of this year. Profits fell 5 percent in 1989 in the fourth quarter, and this turned into a $47 million loss for 1990's first quarter. That shows a trend. That shows what is happening.

I remind the Senate that 26 percent of the total U.S. trade deficit is attributable to textiles and apparel. We have a trade deficit in this country of billions of dollars; 26 percent of the

U.S. trade deficit is due to textiles and apparel. In other words, foreign countries are bringing in so much, and that is the reason we have such a big deficit there.

I remind the Senate that 25 textile mills have announced 1990 closings, and 65,000 jobs have already been lost. New order volumes have dropped 8 percent. Shipment volumes dropped 7 percent. Employment has fallen off 2 percent. Unemployment rates are up by 2.4 percent. Aggregate hours worked fell 6 percent. The textile mill inventories are up.

In other words, the mills have manufactured goods and have not had a market for them because of the import situation. The imports themselves are up 4½ percent from January to April this year, compared to January to April last year.

These figures speak for themselves, Mr. President. How can anybody deny that the textile industry is not in trouble?

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the time be charged in the quorum call against both sides, equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DASCHLE. Mr. President, the Senator from Washington has indicated I am authorized to yield some of his time to anyone who wishes to speak on the bill.

So, with that understanding, I yield such time as he may consume to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for such time as he may consume up to 13 minutes and 50 seconds.

Mr. BAUCUS. I thank the Chair for that very precise limitation.

I also thank the Senator from South Dakota for his gracious yielding of time.

Mr. President, I rise today in strong opposition to the Textile, Apparel, and Footwear Trade Act of 1990.

The Senate has considered legislation very similar to this bill on two previous occasions. Both times the Senate has passed the bill. Both times the President has vetoed the bill. Both times the Congress has sustained the veto.

Assuming the House agrees to consider this measure, I suspect this same pattern will be repeated again.

Thus, I see no reason to have an extended debate on this legislation.

I appreciate the concerns of my colleagues from textile States. They have very real concerns.

However, I believe this legislation is extremely ill-advised.

We have already heard an extensive debate on the economic health of the textile industry. The economic indicators tell a mixed story.

However, I have risen to oppose this legislation primarily on other grounds.

RETALIATION AGAINST AGRICULTURAL EXPORTS

If adopted, I believe this legislation would inevitably result in severe retaliation against U.S. agricultural exports.

Let me quote briefly from a letter on this subject from Del Wiedeman, President of the National Association of Wheat Growers:

> In our view, passage of S. 241 would invite immediate retaliation against U.S. agricultural by those countries unfairly targeted by the domestic U.S. textile industry * * * We ask you to carefully consider the disastrous effect such legislation would have on U.S. wheat farmers and respectfully urge you to vote against S. 241.

Mr. Wiedeman has a sound basis for his concerns.

VIOLATION OF TRADE AGREEMENTS

This bill would be a direct violation of numerous trade agreements to which the United States is a party.

The bill before us would violate the General Agreement on Tariffs and Trade by placing quotas on imports without a finding of injury.

The bill would violate our international commitment under 38 bilateral textile import limits negotiated under the Multifiber Arrangement.

The bill also violates the Canadian Free-Trade Agreement by placing controls on certain imports from Canada not now under quota.

If any other nation was to so flagrantly ignore its international commitments, there would soon be calls for retaliation in this body. And I might very well be one of those calling for retaliation.

Can we really expect our trading partners to do any less?

THE CHINA EXAMPLE

But we do not have to guess. We know that our trading partners are willing to retaliate if the United States restricts textile imports.

For example, in 1984 the United State and China were involved in a trade dispute over Chinese textile exports to the United States.

As a result, China retaliated against the United States by suspending 600 million dollars' worth of wheat purchases.

THE DASCHLE AMENDMENT

This bill and its immediate predecessor both contain a provision that attempts to minimize the problem of retaliation against U.S. agricultural products by preferentially allocating textile quota increases to those nations that purchase agricultural products.

I appreciate these efforts, but believe they do very little to address the problem.

Under this legislation, most of the Pacific Rim countries that purchase U.S. agricultural exports will have their textile exports to the United States sharply restricted.

The small increases the legislation offers to agricultural customers would not offset the losses in textile exports they would experience as a result of this bill.

Further, these small increases are also promised to the nations of the Caribbean. It seems unlikely that many of our customers would see any real increase in their U.S. textile quotas.

It is thus not surprising that no major agricultural group has changed its position on the textile bill as a result of this provision.

As Mr. Wiedeman put it: "* * * a provision which would tie a foreign textile suppliers' access to the U.S. market to that country's increased importation of U.S. agricultural commodities, is completely unacceptable to us as a substitute for liberal trade."

PUTTING TEXTILES IN PERSPECTIVE

I have sympathy for the representatives of the texile industry that have visited my office.

I wish we lived in a world in which industries never experienced competitiveness problems, plants never closed, and workers never lost their jobs.

Sadly, we do not live in such a world.

Industries do experience competitiveness problems, plants do close, and workers do lose their jobs.

We can and should try to prevent and minimize these problems.

I believe the U.S. Government should maintain in effect an aggressive trade policy so as to minimize those disruptions. That is why I pushed for passage of the 1988 Trade Act and worked to see to it—as chairman of the International Trade Subcommittee of the Finance Committee—that the bill was implemented.

I also believe that temporary import protection is sometimes justified.

But we have already tried to assist the textile industry.

In 1961, we negotiated a special international trade agreement—known as the Multifiber Arrangement—that exempted textiles from the same trading rules that producers of most other products are forced to live with.

The Multifiber Arrangement is in force to this day.

Currently, there are more than 1,000 textile and apparel quotas in place limiting exports from 38 countries. Seventy-five percent of U.S. textile and apparel imports are subject to these quotas.

Both the scope and the duration of this protection is almost without parallel.

Yet, we are again being asked to extend still more protection.

And this time that protection is to come at the cost of competitive export industries, such as agriculture and aerospace.

Wheat is one of the leading products produced in my State. Last year, about 85 percent of Montana's wheat crop was exported—most of it to the same Pacific Rim nations that export textiles to the United States.

Those wheat farmers have been struggling to make ends meet in recent years. I would certainly match the problems of agriculture of those with any other sector, including textiles.

How can we in good conscience jeopardize the livelihood of those farmers to extend still more protection to the textile industry?

I certainly cannot and will not.

I will vote against this legislation, and I would vote to sustain a Presidential veto.

I urge my colleagues to do the same.

Mr. President, I ask unanimous consent that letters against this bill from the National Association of Wheat Growers and the Montana Grain Growers be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF WHEAT GROWERS,
Washington, DC, July 10, 1990.

Hon. MAX BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: It is our understanding that the Senate will soon consider passage of the "Textile, Apparel, and Footwear Act of 1990", S. 241. We are writing to inform you of our strong opposition to this proposed legislation.

In our view, passage of S. 241 would invite immediate retaliation against U.S. agricultural exports by those countries unfairly targeted by the domestic U.S. textile industry. Such nations would include the newly industrializing nations of the Pacific Rim and a large number of developing nations. China alone accounted for 20 percent of our total annual wheat exports in 1989/90.

The proposed legislation would impose import quotas on these nations at 1989 levels, allowing for a one percent increase annually on imports of textiles and clothing. Non-rubber footwear import quotas would be frozen at 1989 levels. Moreover, a provision which would tie a foreign textile suppliers' access to the U.S. market to that country's increased importation of U.S. agricultural commodities, is completely unacceptable to us as a substitute for liberal trade.

As a matter of general trade policy, protectionist legislation such as S. 241 goes against everything the U.S. has been trying to achieve in the Uruguay Round of GATT. The persistence of these bills, gives us pause. We cannot help but notice that American farmers are being asked to compete in the face of fierce international competition with less government support, while our counterparts in the textile and apparel industry are asking for more protection from the international marketplace. American farmers cannot be subjected to continued imperilment of their markets. Undermining our competitiveness in the global marketplace hurts export sales and cuts into farmer income.

We ask you to carefully consider the disastrous effect such legislation would have on U.S. wheat farmers and we respectfully urge you to vote against S. 241.

Sincerely,

DEL WIEDEMAN,
President.

MONTANA GRAIN
GROWERS ASSOCIATION,
Great Falls, MT, July 12, 1990.

Senator MAX BAUCUS,
Washington, DC.

DEAR SENATOR BAUCUS: The Montana Grain Growers Association understands that the Senate is considering passage of S. 241 "Textile, Apparel and Footwear Act of 1990". MGGA is writing to inform you of our strong opposition to this proposed legislation.

In our view, passage of S. 241 would invite immediate retaliation against U.S. agricultural exports by those countries unfairly targeted by the domestic U.S. textile industry. Such nations would include the newly industrializing nations of the Pacific Rim and a large number of developing nations. China alone accounted for 20 percent of our total annual wheat exports in 1989/1990.

The proposed legislation would impose import quotas on these nations at 1989 levels, allowing for a one percent increase annually on imports of textiles and clothing. Non-rubber footwear import quotas would be frozen at 1989 levels. Moreover, a provision which would tie a foreign textile suppliers' access to the U.S. market to that country's increased importation of U.S. agricultural commodities, is completely unacceptable to us as a substitute for liberal trade.

As a matter of general trade policy, protectionist legislation such as S. 241 goes against everything the U.S. has been trying to achieve in the Uruguay Round of GATT. The persistence of these bills, gives us pause. We cannot help but notice that American farmers are being asked to compete in the face of fierce international competition with less government support, while our counterparts in the textile and apparel industry are asking for more protection from the international marketplace. American farmers cannot be subjected to continued imperilment of their markets. Undermining our competitiveness in the global marketplace hurts export sales and cuts into farmer income.

We ask you to carefully consider the disastrous effect such legislation would have on U.S. wheat farmers. We respectfully urge you to vote against S. 241.

Sincerely,

LANNY CHRISTMAN,
MGGA President.

Mr. BAUCUS. Mr. President, I thank the Chair and I yield the floor.

I suggest the absence of a quorum.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the quorum call as suggested be counted against both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, the absence of a quorum will be charged equally against both sides.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. I yield such time as he may consume of my time to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for such time as he may consume up to 6 minutes.

Mr. HOLLINGS. I thank my distinguished colleague. I will be less than that.

A very serious charge has been made about the farmers. Under the leadership of the manager of this bill right now, the distinguished Senator from South Dakota, we worked long and hard with respect to our concern, because you will find a textile State is a farm State.

We have wheatgrowers; we have corngrowers; we have all the other particular agriculture commodities, like soybeans and otherwise, in addition to the matter of tobacco. And so we have very strong feelings about our farmers in South Carolina and we wanted to make certain that what was charged by the distinguished Senator from Montana to occur about retaliation would not happen.

In fact, under the leadership of our distinguished colleague from South Dakota, we fashioned a provision in this bill that says, look, we will retaliate if you do not take care of farm products, we will retaliate and give you less than a textile quota. But, on the other hand, we will favor you. If you import an increased amount of American farm products, you will get an increased amount of a textile quota.

Incentives. We have included in this bill incentives for America's agriculture. As a result thereof, this bill has been supported by the National Farmers Organization, the National Farmers Union, the National Corn Growers Association, the Nebraska Wheat

Growers Association, the National Wool Growers Association, the American Agriculture Movement, and of course the Cotton Council, particularly our wool growers in the State of Montana. There are 120,000 wool operations in America and 41,000 cotton farmers.

So this device that comes about I think really from Wall Street to try to divide and defeat has been faced many times before. And so we solve it, under the leadership of our distinguished colleague from South Dakota, by putting an affirmative action plan within the textile bill to say we do not have to wait and wonder and hope. We put an incentive in this bill for America's agriculture—the more you favor America's agriculture, the bigger textile quota you get. And if you start retaliating or cutting back on America's agriculture, you are going to get cut back on your particular textile quota.

I thank the distinguished chairman for yielding me that time.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I yield myself a couple of minutes. I had not intended to speak, but I must say I want to commend the Senator from South Carolina for his comments in explaining very clearly why it is those of us in agriculture that feel so strongly about this piece of legislation.

There was a time when I opposed this bill. In fact, through the early years of my career in the Congress, especially in the House of Representatives, I voted against this legislation. It was only after a lot of negotiation and work with the Senator from South Carolina and many others that he has worked with that we came to the conclusion that we can bring agriculture and textiles together; that as we bring them together, we can make this program work for both of us.

And so the legislation incorporated in this bill does that very well. It provides us an opportunity to market our products abroad. It provides us an opportunity to say to those countries, look, if you do retaliate, you have more than just textiles to be concerned about—you have agriculture and the broad range of agriculture issues that we must deal with from a trade perspective. Indeed, this legislation does that very well. It is a significant improvement over the legislation that was offered many years ago originally. It continues to represent the sensitivity that we must demonstrate in ensuring that agriculture exports abroad are enhanced and that our opportunity for competitiveness continues to be guaranteed. This bill does it.

It is why this year for the first time I went beyond even indicating my support, I became a cosponsor. I feel that strongly about the need to make this statement, about the need to incorporate agriculture, and about the need for textiles and agriculture to work together in a trade relationship.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, how much time is remaining on either side?

The PRESIDING OFFICER. The Senator controls 58 seconds. The proponents control 6 minutes 15 seconds.

Mr. DASCHLE. Mr. President, I indicated earlier that I have the authority to delegate some of the time of the Senator from Washington. He did want me to save about 5 minutes. So with that in mind, if the Senator from South Carolina wishes 58 seconds, I would be happy to yield the entirety of the balance of my time for his purposes.

Mr. THURMOND. No, thank you. I am prepared to make a motion to table at the proper time.

Mr. DASCHLE. I then would note the absence of a quorum and ask that the time be equally distributed.

The PRESIDING OFFICER. The Chair would remind the Senator from South Dakota that his time is very limited. So at conclusion of his time, all time will be charged to the proponents.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I yield such time to myself as I may have remaining.

The PRESIDING OFFICER. The Senator is recognized for up to 4 minutes and 50 seconds.

Mr. GORTON. Mr. President, there has been some considerable discussion in the last few minutes of the provisions in the bill which this substitute would strike in its entirety with respect to tying foreign textile suppliers' access to the U.S. market to that country's increased import of U.S. agriculture commodities. My distinguished friend from Montana, Mr. BAUCUS, spoke to this as undesirable trade policy. I want to agree very, very firmly with that position. That represents the kind of autarchy which we all hoped was ended in this world more than a century ago.

At this point, Mr. President, because I cannot express it any better, I ask unanimous consent that the position of the National Association of Wheat Growers, as expressed to me in a letter dated July 10, 1990, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF WHEAT GROWERS,
Washington, DC, July 10, 1990.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: It is our understanding that the Senate will soon consider passage of the "Textile, Apparel, and Footwear Act of 1990", S. 241. We are writing to inform you of our strong opposition to this proposed legislation.

In our view, passage of S. 241 would invite immediate retaliation against U.S. agricultural exports by those countries unfairly targeted by the domestic U.S. textile industry. Such nations would include the newly industrializing nations of the Pacific Rim and a large number of developing nations. China alone accounted for 20 percent of our total annual wheat exports in 1989–90.

The proposed legislation would impose import quotas on these nations at 1989 levels, allowing for a one percent increase annually on imports of textiles and clothing. Non-rubber footwear import quotas would be frozen at 1989 levels. Moreover, a provision which would tie a foreign textile suppliers' access to the U.S. market to that country's increased importation of U.S. agricultural commodities, is completely unacceptable to us as a substitute for liberal trade.

As a matter of general trade policy, protectionist legislation such as S. 241 goes against everything the U.S. has been trying to achieve in the Uruguay Round of GATT. The persistence of these bills, gives us pause. We cannot help but notice that American farmers are being asked to compete in the face of fierce international competition with less government support, while our counterparts in the textile and apparel industry are asking for more protection from the international marketplace. American farmers cannot be subjected to continued imperilment of their markets. Undermining our competitiveness in the global marketplace hurts export sales and cuts into farmer income.

We ask you to carefully consider the disastrous effect such legislation would have on U.S. wheat farmers and we respectfully urge you to vote against S. 241.

Sincerely,

DEL WIEDEMAN,
President.

Mr. GORTON. The key sentence in that letter, Mr. President reads:

Moreover, a provision which would tie a foreign textile supplier's access to the U.S. market to that country's increased importation of U.S. agricultural commodities, is completely unacceptable to us as a substitute for liberal trade.

Mr. President, that is entirely correct and that encapsulates the argument in favor of this amendment and against the bill in its entirety. This bill will inhibit the ability of American exporters to gain markets overseas.

I wish to repeat that. This bill will inhibit the widest possible range of American exporters from gaining markets overseas.

It is ironic, or more, that we should have this proposal from a single industry which is getting healthier, which has defied all of the predictions which were presented to this Senate 5 years

ago about its disappearance, if a bill like this did not pass.

In fact, this morning's Wall Street Journal includes an article under the headline, "Alliance of Textile and Apparel Makers Splits as Senate Mulls Import Quota Bill."

Mr. President, I ask unanimous consent that that Wall Street Journal article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 13, 1990]

ALLIANCE OF TEXTILE AND APPAREL MAKERS SPLITS AS SENATE MULLS IMPORT-QUOTA BILL

(By Eduardo Lachica)

WASHINGTON.—The once-solid alliance between textile and apparel manufacturers is coming apart at the seams over congressional legislation that would tighten restrictions on textile imports.

For the first time since this powerful lobbying bloc formed in the mid-1980s, some apparel makers are breaking with the fabric producers and siding with the U.S. retail industry against anti-import legislation. The clothing makers' trade group, the American Apparel Manufacturers Association, says it isn't supporting this latest attempt to curb imports because it prefers to see the issue resolved in multilateral trade negotiations.

"We're in a world-wide economy that can't deal with protectionism for textiles or any other industry," argues Linda Wachner, president and chief executive officer of Warnaco Inc., which makes women's wear and men's shirts. Underscoring the split, Ms. Wachner and Harvey Falk, president of Liz Claiborne Inc., a maker of women's apparel, recently joined retailing executives in lobbying Senate Majority Leader George Mitchell (D., Maine) and other congressional leaders.

Daniel Frierson, chairman of the Fiber, Fabric and Apparel Coalition for Trade, which represents textile manufacturers, cotton and wool producers, labor unions, and others, concedes that his group is missing the support of some of the big, import-dependent apparel makers. But he insists that the bill still is backed by a majority of the group's members, which produce mostly for the domestic market.

The Senate is tentatively scheduled to debate the bill this week or early next week. The bill would effectively scrap the bilateral textile and apparel accords that a U.S. has negotiated with 38 exporting countries and replace them with a more restrictive system of global quotas for all imports except from Canada and Israel. The congressional textile caucus has amassed a predictably large number of cosponsors for the bill—55 in the Senate and 244 in the House—so its passage is all but assured.

So is its eventual veto by President Bush, but that doesn't really concern the bill's backers. Vetoes of textile bills are familiar in Washington; President Reagan did it twice. The bill's real purpose appears to be to pressure U.S. Trade Representative Carla Hills against making concessions on textiles and apparel in the current "Uruguay Round" of multilateral trade talks held under the auspices of the General Agreement on Tariffs and Trade.

The textile crowd is worried that Ms. Hills will cave in to the demands of Hong Kong, South Korea, Thailand and others to rapidly phase out the current system of bilateral import quotas. Those countries are in a strong bargaining position because the U.S. needs their votes on other issues being negotiated in this round of GATT talks.

Yet, looking back home, Ms. Hills doesn't see Americans standing shoulder-to-shoulder on the issue. The difference is that the world is starting to look different to apparel houses. "The apparel industry has become globalized as never before. Cost is just part of it. They're also going offshore for variety and quality," says Joseph Scheines, a spokesman for Kurt Salmon Associates Inc., a New York consulting firm specializing in the textile trade.

A waning of enthusism for the textile mills' legislative strategy was evident in last spring's AAMA convention in Naples, Fla. There was a roar of applause when a retailing executive Leslie Wexner, chairman of Limited Inc., twitted Roger Milliken, one of the most hawkish coalition leaders, for urging stiff restrictions on imported textiles and apparel while insisting on being free to buy his own textile machinery anywhere in the world.

In response, Mr. Milliken, chairman of Milliken & Co., says the mills have to purchase certain spinning and weaving machines overseas because foreign competition has forced U.S. machinery makers out of those lines. "We don't want to see the same thing happen to textiles," he argues.

Apparel makers note that they can offer the same argument: They can't always get what they want in the U.S., either.

Mr. GORTON. Mr. President, the point is that unlike the debate which preceded this one on other similar bills in the course of the last 5 years, we do not even have the so-called beneficiary industries united in favor of this proposal. That is not surprising because the export of apparel is increasing at a much more rapid rate under present law than is the import of apparel products.

I simply want to summarize what I have already said earlier, Mr. President. A wide range of successful industries depend on the successful completion of the GATT progress at Geneva. All of those industries in the United States whose success depends upon intellectual property rights, industries which are subject to piracy at the rate of some $60 billion a year, depend on our getting stronger rules with respect to intellectual properties.

Almost without exception, service industries, most rapidly growing in the United States, a field in which we are most successful and highly competitive, are kept out of foreign markets by nontariff barriers. Perhaps the single greatest area in which improvement can be made in international trade is in the field of services.

As is indicated by this letter from the National Association of Wheat Growers, our agricultural industries in general—we seek to open up the world to them. We cannot succeed in that respect if we close the world to textile imports.

Mr. President, how much time remains to each side?

The PRESIDING OFFICER. The Senator has 6 seconds remaining.

Mr. GORTON. The Senator yields back his 6 seconds.

The PRESIDING OFFICER. All time has expired.

The Chair recognizes the Senator from South Carolina, Senator THURMOND.

Mr. THURMOND. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. DOLE. I announce that the Senator from Idaho [Mr. MCCLURE] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 69, nays 29, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—69

Bentsen	Gore	Metzenbaum
Biden	Grassley	Mikulski
Bond	Harkin	Mitchell
Boren	Hatch	Moynihan
Breaux	Heflin	Murkowski
Bryan	Heinz	Nunn
Bumpers	Helms	Pell
Burdick	Hollings	Pryor
Byrd	Humphrey	Reid
Cochran	Inouye	Riegle
Cohen	Jeffords	Robb
Conrad	Johnston	Rockefeller
D'Amato	Kasten	Roth
Daschle	Kennedy	Rudman
DeConcini	Kerrey	Sanford
Dixon	Kerry	Sarbanes
Dodd	Kohl	Sasser
Dole	Lautenberg	Shelby
Domenici	Leahy	Simon
Exon	Levin	Specter
Ford	Lieberman	Stevens
Fowler	Lott	Thurmond
Garn	McConnell	Warner

NAYS—29

Adams	Cranston	Mack
Akaka	Danforth	McCain
Armstrong	Durenberger	Nickles
Baucus	Glenn	Packwood
Bingaman	Gorton	Pressler
Boschwitz	Graham	Symms
Bradley	Gramm	Wallop
Burns	Hatfield	Wilson
Chafee	Kassebaum	Wirth
Coats	Lugar	

NOT VOTING—2

McClure	Simpson

So the motion to lay on the table the amendment (No. 2124) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. PRYOR] is recognized.

Mr. PRYOR. Mr. President, it is my understanding that under the unanimous-consent agreement there are perhaps an additional number of amendments to be considered. I do not believe that on this side of the aisle there are any amendments to be considered to the textile bill. Is that the understanding of the distinguished Senator from Oregon?

Mr. PACKWOOD. The Senator from Arkansas is right in terms of those who have amendments left. The Senator from Texas [Mr. GRAMM] has one and is ready to start on it, I believe.

Mr. PRYOR. Mr. President, I think momentarily the Senator from Texas will offer his amendment. He said he needs about 1 more minute. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ADAMS. Mr. President, I do not want to in any way slow up the proceedings here. I would, therefore, ask the managers and the others that I might proceed for 5 minutes as though in morning business until the other business is ready to proceed.

Is there any objection? If there is, I will withhold.

Mr. PRYOR. Mr. President, I will not object to this request, but I do know the chairman of the committee and the majority leader want to move this bill expeditiously. There is an amendment that is already ready to be introduced by the Senator from Texas. In fact, I thought it would have been introduced by now.

The PRESIDING OFFICER. Hearing no objection, the request from the Senator from Washington to speak as in morning business for 5 minutes is agreed to.

DOUBLE HULLS ON OIL VESSELS

Mr. ADAMS. Thank you, Mr. President.

Mr. President, for the last decade, ever since I was Secretary of Transportation, the late Senator Warren Magnuson was chairman of the Commerce Committee, I have fought to require vessels carrying oil in American waters to have double hulls.

I am very pleased now to hear reports that the conference that is meeting on the oilspill legislation has now agreed upon a provision that will be in the conference report that all new ships carrying oil in American waters will be required to have double hulls.

This provision is identical to an amendment I offered on the floor last year. That amendment was defeated, but will now be part of the final conference report on the oilspill bill. I commend Senator HOLLINGS and the rest of the conferees for this action.

I wish this had happened in 1977. If it had, millions of gallons of oil would not have been spilled. The *Exxon Valdez* disaster would not have been the disaster that it turned out to be. I must admit I am not pleased that the transition proposal for existing vessels is really a little too long. But I am pleased about the fact that this shift in policy indicates that the Government of the United States recognizes the great dangers of transporting large quantities of oil in ever-increasing amounts in even larger ships throughout the world without using new technology to protect the environment.

By new technology I mean double hulls. It is not that the technology of building a double hull is new because it isn't. Nearly half the U.S.-flag ships built since 1970 were built with double hulls; and we require them on ships carrying liquefied natural gas and other hazardous cargo. But they have never been required on tankers and have been blocked continuously, mainly by forces in the oil industry, and throughout the other shipping countries of the world.

I am very pleased for the late Senator Magnuson, and for others who worked so hard on this, that the conference has now agreed to mandate double hulls on new ships.

Many people were involved: environmentalists, fishermen, people who work in the shipyards, citizens of the United States, those who are concerned about maritime safety, they all joined in this. I thank them all for their efforts, and I thank them for the time that they spent when maybe it looked like this would not happen.

I am hopeful that the conference will soon send a conference report back to the Senate floor where I can make remarks in an additional amount, and with additional fervor about this.

This really culminates for many of us a successful legislative act which has taken many, many years, and which represents a step forward that I know will be accepted by the American public.

I also want to compliment those companies that have already shifted to this policy. It shows that when the Government of the United States, the U.S. Senate, the House of Representatives make up their minds on a policy, it can be done, will be followed, and will be of great advantage to all the people who live in my State and the other States of the United States which have to deal with large quantities of oil tanker transportation through sensitive marine environments.

I thank the President for this time. I thank the managers of the bill.

I yield the floor.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2125

(Purpose: To protect low-income and middle-income Americans from a decline in living standards caused by the provisions of the bill)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2125.

Section 6 of the Committee amendment is amended by adding at the end thereof the following paragraph:

"If the Secretary of Labor determines that implementation of the provisions of this Act will result in, or has resulted in, the cost of textiles or apparel or footwear for lower-income and middle-income Americans increasing by 5 per centum or more, the President may suspend the provisions of this Act.".

Mr. GRAMM. Mr. President, the bill before us is a bill that would dramatically increase the cost of clothing for American workers. I do not know anybody that disputes that claim, anybody that could in any way be called an objective party with regard to the analysis that has occurred of trade protectionism in the last quarter century.

In fact, Mr. President, we have estimates that indicate that the average American family is paying about $238 a year more for clothing because of textile protection. Textiles are protected currently at a rate almost four times the average rate of protection provided to 40 other domestically producted goods.

This new bill, if implemented, a bill which the Washington Post refers to with such phrases as "flagrantly, recklessly, almost comically wrongheaded," if this bill became law the cost to American workers of buying clothing

and shoes for their children would rise dramatically. In fact, simply taking the average of the estimates that have been made of the cost of textile protection in the last 10 years, adding the new costs that would be imposed by this bill, and looking at the decade of the 1990's, we find that during the decade of the 1990's the cost imposed on American workers in higher prices for clothing and other textile products would exceed the cost of the savings and loan bailout.

Mr. President, we can debate the savings and loan bailout, as we have in the last month, there has been a lot more debate lately about the S&L crisis than it ever got when the problem was looking us in the face 5 years ago. But I think one can argue there were many factors involved there. On this issue, there is only one factor involved, and that is a decision by the U.S. Congress to limit the access to markets by those who produce textiles, thereby forcing American consumers to pay higher prices.

Mr. President, I want to argue several things here today. I want to argue, number one, that the imposition of these new restrictions will not protect American jobs. In fact, America will lose jobs as a result of these restrictions. The living standards of American workers will decline. World trade will diminish, and the well-being of all of mankind will be damaged by the adoption of this bill.

Further, I would make that argument even if there were no change in policy by our trading partners, who will have the right under GATT to impose similar, offsetting protective measures against American products. Even if they do not retaliate, all the things I have said will happen. If they do retaliate, the things that I have said will happen, and they will happen in greater abundance, and the overall negative impact on the American worker will be worse.

Mr. President, we are today debating more protection for an industry that is already the most protected major industry in America. Further, this bill flies in the face of the whole tide of history that we see before us. What a great anachronism it is that here in the U.S. Senate, at the moment that the whole world is rejecting protectionism and moving toward greater trade, when even the Chinese have taken hesitant steps to come out from behind their ideological Great Wall, we are in the midst of a debate in this, the greatest deliberative body in all of the democracies of the Earth; we are here debating building a wall around America.

Mr. President, the tide of history is more trade and not less. The tide of history is tearing down trade barriers, not raising them. And this effort being debated today will not be successful. Even if we pass the bill, even if we can override the President's veto, even if we can destroy the GATT negotiations currently underway—which is the objective of this bill—even if we can do all those things, as powerful as this great deliberative body is, it is like a feather in a giant whirlwind, when it faces the movement of history. And the direction of history is for more trade and not less.

Ultimately, the power of trade is going to dominate commerce on this Earth. The question is, are we going to lead, are we going to be the Nation that promotes opening up world markets, or are we going to succumb to individual special interests in trying to buck the tide of history? What a great irony it is, that we are here debating what is clear protectionism, clearly a protectionist measure, at the very time that our President has just completed talks in Houston, urging our trading partners to open their markets to our products, at the very moment that our Trade Representative is directing negotiations aimed at lowering trade barriers.

Mr. President, this bill is anathema to everything we stand for in the world, and yet it will achieve none of the objectives that are set forth by those who have proposed this bill, those who staunchly defend it.

Let me discuss why this bill cannot save American jobs. Let me start with basics—and forgive me if I sound like I am giving an economics lecture, but I have to start out with the basics to make my point.

The value of the dollar relative to all other foreign currencies is not set by an edict of Congress or by a decision of the executive branch of Government. The value of the dollar relative to all foreign currencies is set in the marketplace, in fact, a market where every day there are over 200 billion dollars' worth of transactions made in dollars alone.

Every day, all over the world, individuals and traders that specialize in currency trading trade dollars for other currencies. Every day the value of the dollar relative to those foreign currencies moves exactly to equate the number of dollars Americans want to convert into specific currencies relative to the number of other units of currency that others want to convert into dollars. If the two are not always equal, the exchange rate changes.

Mr. President, let me just pick the yen so that I can talk about Japan. Let me make it clear that Japan is pretty much out of the apparel business. Even as we speak Korea is losing this business. The business is moving from South Korea to countries with lower wage rates and less development, and that is an irreversible trend, in my opinion.

Let me start with the dollar and the yen. Why do Americans want to buy yen? What do they want yen for? They want yen because they want to buy Japanese goods or because they want to invest in Japan or becuse they want to transfer United States earnings to Japan.

That represents on any given day the demand that Americans owning dollars have for yen.

On that same day people who own yen—and let me just make it simple by assuming they are all Japanese—want to buy dollars to buy American goods or to invest or engage in capital transactions in the United States. What happens is that the value of the dollar relative to the yen adjusts on the market until those demands are exactly equal.

Let us assume that we have the value of the dollar relative to a yen, that value set on the currency exchange—and we can pick up any newspaper in the world and it will give us that value for yesterday. It will vary slightly today, depending on what happens, but we can get it in any newspaper in the world. In fact, these markets never close.

What would happen if we pass this bill? What would happen if we pass this bill and we impose a global quota on textiles so that Americans are denied the freedom of buying textiles produced in other countries beyond a certain limit—and let us just take Japan, even though Japan sells us relatively little apparel products—what does that do to the value of the dollar relative to the yen on the world market?

What happens to the value of the dollar relative to the yen is that since Americans are now trying to buy fewer yen to buy textiles, because we use our police power and prevent that from happening, the demand for yen in dollars declines. What happens when that occurs?

When the value of the dollar relative to the yen rises, it means that the dollar will buy more goods in Japan. In fact, looking at all world currencies, what would happen is if Americans could buy fewer textiles, then there would be a decline in the supply of dollars to exchange for currencies of all the textile-producing countries, and as a result the value of the dollar would rise relative to those currencies.

As the value of the dollar rises relative to those currencies, what happens? As the value of the dollar relative to those currencies rises, it makes all goods produced in America more expensive to the countries that were buying them because, they have to have more units of their currency to buy a dollar than they did before the textile bill.

Let me just take my State as an example.

In terms of Texas, we rank overall in the country No. 2 in terms of exports. We export 30 billion dollars' worth of

products. In fact, on a per capita basis, Texas ranks ahead of the No. 1 exporter, California, in terms of export sales.

Now, if through this bill we achieve the objective, which is fewer textile imports, that means, as I explained earlier, the value of the dollar rises, making American goods more expensive. How does that affect us—and I will just take my State, because I know it better than I do anybody else's State. What that means is that all the things that we are exporting in Texas become more expensive. As a result, we sell fewer products.

Texas, for example, ranks fifth in exports of aircraft and parts. What that means is that, to the extent that this bill is successful and reduces American demand for foreign textiles, we in Texas sell fewer aircraft and aircraft parts. We rank No. 1 in exports of chemicals and allied products. That means we sell fewer chemicals and allied products. We rank No. 5 in exports of fabricated metal products. All of those products go up in cost. We rank No. 1 in exports of petroleum and coal products.

So, Mr. President, what happens to all of those markets? What happens is, assuming nobody retaliates, which they have the right to do, and I will explain that in a minute, the value of the dollar goes up. Therefore, the demand of all of these products declines, and all of these products are higher waged jobs than the jobs we claim we are here to protect today.

What happens to the ability of domestic industry to compete with other imports? If this bill is successful and reduces the demand for textiles, it drives up the value of the dollar and makes every other import coming into America cheaper.

So, Mr. President, this bill cannot, will not save American jobs. What this bill will do in my State is that it might save some textile jobs, but it will do so at the expense of jobs in manufacture of aircraft and aircraft parts, chemical and allied products, fabricated metal products and petroleum products, and thousands of others.

Unfortunately, the problem does not end there. If the problem ended there, what this bill would do is distort world trade. It would mean that America was producing less of goods in which we have a comparative advantage, in which we are most efficient. It would drive up the cost to people buying clothing in America. It would drive up the cost to foreigners buying other American goods, and the net result would be decline in living standards, rising costs, misallocation of resources. The world, in general, but the United States of America in particular, would lose.

But this bill also violates the GATT Agreement. So what happens under existing law is that not only do those things tend to happen, but the situation is worse because you do not have the natural market mechanism changing the exchange rates alone. Foreigners get to pick how they retaliate.

What goods do you think they are going to pick? What goods do you think the countries that are damaged by this action are going to pick? Mr. President, I do not know. I have not gone out and interviewed them, but I can make some sort of educated speculation. They are going to pick the highest waged jobs that they can pick. They are going to come in and impose offsetting tariffs on American manufacturing. They are going to impose offsetting tariffs on agricultural products.

So what happpens is that, in addition to the consumer of textiles, the cattle rancher and the grain farmer find out that they are losers from declining markets. The manufacturer ends up losing because of the offsetting reciprocal tariffs imposed against his products.

Mr. President, this bill will not save jobs; it will destroy jobs. This bill will distort trade. While it may protect jobs in one particular industry, it can do that only by destroying jobs in other industries.

The reason that this bill has a broad base of support is because many are looking at only one part of the balance sheet. People do not understand this mechanism. Disraeli once said not one person in 50,000 understands the currency question and yet we meet him every day. I doubt if the number is that high today. We are really talking today about foreign exchange and the currency question.

People see this bill as the way to protect textile jobs, a great and noble purpose, one that I am much in favor of, which is why I want to cut the capital gains tax rate, which is why I want to encourage investment, to modernize, in order to protect American textile jobs. But people just look at the claim over here on the right side of the balance sheet that we are protecting jobs; they do not look at the other side of the balance sheet to see where jobs will be destroyed, where trade will be reduced.

We just recently, through hard negotiation, forced the Japanese to open their markets to American beef, a dramatic change in policy—A 3-year phaseout on quotas, 3-year phaseout on tariffs. If the Japanese do not consume 1 more ounce of beef, we will double our sales to Japan as a result of this breakthrough in trade.

But I do not believe that the Japanese are going to continue to consume the same amount of beef when the price of beef declines dramatically. I think they are going to discover how wonderful it is, something we discovered in Texas back in the cowboy years, and they are going to eat a lot more of it.

But, Mr. President, what if, as a result of this action, either the exchange rate rises or an offset is taken under GATT rules against beef and we lose those markets? Have we benefited America? No. The Japanese lose good, inexpensive beef; we lose inexpensive textiles. And who gains? Nobody gains. Perhaps a small number of special interest groups gain for a time.

We have been protecting textiles for a long time. In fact, we have almost protected textiles out of existence. Only with the growing competition of the last few years have we seen the modernization that is required in that industry.

The idea that somehow by stopping competition we are going to modernize is like a football team that recognizes that they are not competitive. They were 2 and 9 last year, they were 1 and 10 the year before. So they decide to get competitive. They are going to stop playing football for 5 years.

The only thing that makes you competitive is competing.

Finally, Mr. President, let me say that this bill is fundamentally wrongheaded. It is fundamentally wrongheaded because it is moving America in exactly the opposite direction of everything we have claimed to stand for in the world.

You look at the American position since the end of World War II. Imagine that you have, like on a stereo, the thing that lets you phase out the very high pitches and the very low ones, and you focus in on what the real voice of America has been since 1945, the one consistent theme of American policy has been more trade, more opening up of markets.

It was trade that rebuilt Europe, not aid. The Marshall plan was comparatively a Band-Aid. It helped to give tools to people that knew how to use them. But it was the policy that we instituted under Truman and under Eisenhower and under Kennedy, the policy that opened markets in Europe, that rebuilt Europe. Our trade with Japan and Korea and Taiwan created new world powers. It changed the balance of power in the world. Our success through trade in rebuilding Western Europe tore down the Berlin Wall and is on the verge of killing communism in the same century in which it was born.

Why are we here going against everything we have stood for in this country for 45 years? What has changed that has induced us to believe that our policy for 45 years, which has produced unprecedented growth, which has produced the triumph of the individual over the state, and which is literally liberating millions of people all over the Earth as we speak, why is it that here we have decided that all of that is wrong and that we should impose a new level of protec-

tionism on one of America's most protected industries? Why impose a policy that clearly will drive up costs most sharply for those among us who are least able to pay the cost?

Mr. President, the answer is very clear. The answer is that the support for this bill comes from narrow, special interests.

Mr. President, we have to make a fundamental decision on this bill. I know there are many who are saying, "Look, I can vote for this bill. I can say I am for its objectives." I am for its objectives. I just do not believe they can be achieved the way we are undertaking to do it in this bill. The only way we are going to save textile jobs in America is to modernize, to invest, to improve the quality of tools our workers work with.

The tide of history is going to wash over all of this silly protectionism. The question is: Are we going to lead that tide or are we going to be dragged along by it?

Mr. President, I want to conclude my remarks in this first section of the debate by reading a quote that I ran across the other day from a former Democratic Member of Congress who had a great influence on Winston Churchill. In fact, he had been forgotten in history as far as I was concerned, until I was reading one of the new books about Winston Churchill. In that book I ran across this fellow, and he was a great speaker on trade.

There was one paragraph of a speech that he gave in London, I believe in 1903.

This is a speech by W. Bourke Cockran. It was given to the National Liberal Club of England, in London, on July 15, 1903. Having looked at Cockran's speeches, most of which were given on the floor of the House of Representatives, I can see why Churchill admired him so much. The wisdom of these few paragraphs is so profound that I just want to end my statement here today, with these remarks. Not that I think anybody is going to be impressed by the logic of it. Logic often carries little weight here in the Senate. But, it is beautiful, and his words ought to be heard again on this debate today.

Let me also say, Mr. President, that it grieves me that there is no constituency for trade. Our Nation is the largest trading Nation in the world, millions of our jobs depend on trade. All of our workers lose from protectionism, and yet there is no political base for trade in America.

This is W. Bourke Cockran, speaking in London, England, in 1903:

> Your Free Trade system makes the whole industrial life of the World one vast scheme of coöperation for your benefit. At this moment, in every quarter of the globe, forces are at work to supply your necessities and improve your condition. As I speak, men are tending flocks on Australian fields, and shearing wool which will clothe you during the coming winter. On Western fields men are reaping grain to supply your daily bread. In mines, deep underground, men are swinging pick-axes and shovels to wrest from the bosom of the earth the ores essential to the efficiency of your industry. Under tropical skies dusky hands are gathering from bending boughs luscious fruit which, in a few days, will be offered for your consumption in the streets of London. Over shining rails locomotives are drawing trains; on heaving surges sailors are piloting barks; through the arid desert Arabs are guiding caravans all charged with the fruits of industry to be placed here freely at your feet. You alone, among all the inhabitants of the earth, encourage this gracious tribute and enjoy its full benefit, for here alone it is received freely, without imposition, restriction, or tax, while everywhere else barriers are raised against it by stupidity and folly.

Mr. President, today, despite all of the petty protectionism, these lines can be best said about the United States of America more than they could be said about any other power on Earth.

Why are we, here, erecting barriers that deny us the ability to trade in the world and to promote economic and political freedom, which is the very foundation of everything we stand for?

Mr. President, the amendment that I am offering is a very simple amendment. I offer the amendment not because I believe it would be adopted but because I think it focuses our attention on the real problem with this bill. What this amendment simply says is that if the Secretary of Labor determines that the implementation of the provisions of this act will result in the cost of textiles or apparel or footwear for low- and middle-income Americans to increase by more than 5 percent, then the President may suspend the provisions of this act.

Mr. President, there is no doubt that the imposition of this bill, most likely in the first year, certainly in the second year, will produce at least that level of increase in prices. What this provision says is, if the proponents are right, if this bill will not produce an increase in cost, then this provision will not be triggered and the President will not have the power to suspend this bill. But, if, in fact, this bill drives up the cost of shirts to put on the backs of our children as they go off to school or shoes for them to wear in the wintertime, by more than 5 percent, then the President would have the ability to suspend this act.

I hope my colleagues can adopt this modest amendment, which I think is in the interest of every working American.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. HOLLINGS] is recognized.

Mr. HOLLINGS. Having such a high regard for my colleague from Texas, and having worked intimately with him on legislation, I think the best rejoinder is to cite his peroration in which he quotes a Democrat, Ward Cockran, about the fields in Australia and so on, dating back to 1903.

I do not know whether Ward Cockran was full of London gin or scotch. We would say back home he was full of prunes, because that is about the weakest argument I can imagine.

However, there was some substance to other points made by my colleague. Let us get to those particular points.

He talks about textiles as the most protected industry. I have to repeat again that as of last year, the 9-year period from 1981 through 1989 we see the percent of change in imports of major industries in the United States. For example, in iron and steel, imports diminished by 8.8 percent; in nonferrous metals, there was a 47.8-percent increase in imports; paper and paperboard saw a 136-percent increase in imports; in tires, tubes for tires, an 86.3-percent increase; transport equipment, a 149.1-percent increase. But the percent increase in imports over this decade for textiles and apparel was a whopping 163.1 percent. If this is protectionism, then I have had all I can stand. Do not give me any more of this protectionism because I am going out of business with this so-called protectionism.

Similarly, when he talks about the distortion of world trade, or let us say the cost increase—I am trying to be brief and jump to my colleague's major points—there is no question that right now we ought to open our eyes to the real world. We had garment items here yesterday. Permit me to submit them again this morning. We have from Sears Roebuck, an Arnie shirt, one made in the United States of America. The other one is a shirt made in Taiwan. Both of them are off the shelves of Sears Roebuck, both of them, $18 apiece.

He is talking about prices. We know what the standard of living is in Taiwan and those other countries. The truth of the matter is, as has been stated by the Independent Market Research Corp., that the price paid by the consumers for imported apparel now exceeds the price of domestic apparel in over 65 percent of retail purchases. There are no savings, then, for the consumer.

This is a greed and giveaway that we are trying to get a hold of and stop here with this particular bill. The indications are that if we can stabilize this industry, then we will pick up jobs. He says we are going to lose jobs. The truth is, from ICF, Inc., the net domestic economic benefits of this textile bill will be $2.8 billion in the first 2 years and a net increase of some 140,000 jobs.

So, here, where we are creating jobs and stabilizing prices and stopping the monopolistic practices of the importers who now have a majority of the market—and if we do not pass this bill,

we will give them all the market. And if we give them all the market, then prices will go up. We have seen it with ginghams or velveteens. When the last U.S. mill is closed, the next day, the importers jack up their prices.

What we are fighting here is monopolistic trends. Yet the Senator from Texas is talking about the tide of world trade, bless his soul.

I do not want to get into the ebb tide of poverty like England, and I don't want to quote Ward Cockran in London in 1903. I would rather quote, if the Senate please, an economist of 1990. Let us talk about protectionism because I did not realize how erudite I am becoming after 40 years now of dealing with this issue and listening to all the arguments. I quote, of course, the article: "Protectionism. Try it, You'll Like it," by Paul Krugman.

Dr. Krugman is a professor of economics at MIT, a member of the International Economies Editorial and Advisory Board. I ask unanimous consent, Mr. President, that this particular article be printed in the RECORD as it appears in the International Economy for the June-July issue of 1990.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the International Economy, June-July 1990]

PROTECTIONISM: TRY IT, YOU'LL LIKE IT

(By Paul Krugman)

When future historians list the achievements of the U.S. during the 45 or so years that it acted as the undisputed leader of the world's democracies, special emphasis is sure to be given to the creation of a relatively free and open world trading system. From about 1950 until the early 1970s, protectionist barriers to world trade came down steadily and world trade grew rapidly. Nearly everyone thinks that this growth in trade was a good thing.

Yet there are now powerful forces in the U.S. working against free trade. Much of the argument for protectionism represents sheer interest-group politics: It comes from well organized groups that are losing out to foreign competition and want protection, never mind the national interest. Yet not all the opponents of free trade are hired guns (and not all its supporters are disinterested, either). It's important to look at both the political sources of protectionism and its intellectual foundations.

THE POLITICS OF PROTECTIONISM

The basic rule of trade politics is that producers count more than consumers. The benefits of a trade restriction are usually concentrated on a relatively small, well organized and well informed group of producers, while its cost are usually spread thinly over a large, diffused group of consumers. As a result, the beneficiaries of a trade restriction are usually much more effective politically than its victims.

The classic case in the U.S. is the import quota on sugar, which benefits a handful of domestic producers at a typical annual cost to consumers of $1 billion a year. This quota goes unchallenged, because the $5 average annual cost per person is so small that probably not one voter in 200 even knows that the import restriction exists.

But if consumers offer no effective opposition to protection, why is U.S. trade relatively free? Because exporters advocate free trade. Exporters by definition want access to foreign markets and are as well organized as import-competing producers. For the past 40 years the U.S. and other advanced countries have used this fact to provide a framework for maintaining relatively free trade. Trade policies are not set unilaterally; they are negotiated among countries. In these negotiations, U.S. import restrictions must be traded off against the import restrictions of other countries, so that U.S. exporters become a powerful voice urging us to accept imports from other countries if they will accept our exports in return.

The source of new protectionist pressure is now obvious. When the U.S. is running a huge trade deficit, the exporters who want open markets are outnumbered by the import-competing groups who want protection. If in 1980, you had told trade specialists that the U.S. would run trade deficits of more than $100 billion for seven years on end, they would surely have predicted more, not less, protection than we have seen.

The relatively mild protectionist reaction so far is a tribute to the strength of free-trade ideology in the U.S. The question is how long this can last. It may be useful to think of the U.S. as having a "protectionist overhang": a backlog of potential protectionist reaction barely held in check. Fear of this reaction is one of the main reasons for worrying about the trade deficit. If the trade deficit continues, sooner or later the persistent demands for more protection are likely to become irresistible.

But what would be wrong with that? Is protectionism really a fate to be greatly feared?

THE (LIMITED) EVILS OF PROTECTIONISM

Although most policymakers in Washington are convinced that protectionism is a bad thing, few of them have any clear idea why. In popular arguments against protectionism, the usual warning is that protectionism threatens our job—the Smoot-Hawley tariff of 1931, we are told, caused the Depression, and history can repeat itself.

Although protectionism is usually a bad thing, it is worth pointing out that it isn't as bad as all that. Protectionism does not cost our economy jobs any more than the trade deficit does: U.S. employment is essentially determined by supply, not demand. The claim that protectionism caused the Depression is nonsense; the claim that future protectionism will lead to a repeat performance is equally nonsensical.

The real harm done by protectionism is much more modest and mundane: It reduces the efficiency of the world economy. To the extent that countries limit each other's exports, they block the mutually beneficial process by which nations specialize in producing goods for which their knowledge and resources are particularly well-fitted. They also fragment markets, preventing firms and industries from realizing economies of scale. A protectionist country is usually less productive and thus poorer than it would have been under free trade; a protectionist world economy almost always so. (See the accompanying box.)

Just how expensive is protectionism? The answer is a little embarrassing, because standard estimates of the costs of protection are actually very low. The U.S. is a case in point.

While much U.S. trade takes place with few obstacles, we have several major protectionist measures, restricting imports of autos, steel and textiles in particular. The combined costs of these major restrictions to the U.S. economy, however, are usually estimated at less than three-quarters of 1% of U.S. national income. Most of this loss, furthermore, comes from the fact that the import restrictions, in effect, form foreign producers into cartels that charge higher prices to U.S. consumers. So most of the U.S. losses are matched by higher foreign profits. From the point of view of the world as a whole, the negative effects of U.S. import restrictions on efficiency are therefore much smaller—around 0.25% of U.S. GNP.

Other countries are more protectionist than the U.S., and in some Third World nations wildly inefficient protectionist policies have caused major economic losses. Among advanced countries, however, protectionism at current levels is not a first-class issue. Without a doubt, the major industrial nations suffer more, in economic terms, from unglamorous problems like avoidable traffic congestion and unnecessary waste in defense contracting than they do from protectionism. To take the most extreme example, the cost to taxpayers of the savings and loan bailout alone will be at least five times as large as the annual cost to U.S. consumers of all U.S. import restrictions.

If the costs of protectionism are so mild, why does defense of free trade loom so large on the public agenda? Symbolism and politics. Ideologically, free trade is an important touchstone for advocates of free-market economics. As Paul Samuelson once pointed out, comparative advantage is one of the few ideas in economics that is true without being obvious.

Politically, free trade is important as a counterweight to crude economic nationalism. So free trade has passionate defenders in a way that other, equally worthy causes—such as economically efficient environmental regulations—do not.

Even if protectionism isn't the most terrible thing in the world, it is, however, still a bad thing. Or is it? While the great weight of educated opinion still condemns protection, there are some arguments in its favor.

PROTECTION AND THE TRADE DEFICIT

Arguments in favor of protection come in two basic forms. One argument wants the U.S. to use the threat of protection to extract concessions from foreign countries; those who use this argument are not advocating protection per se, but they are willing to use protection as a bargaining threat—a bluff that they are presumably willing to see carried out at least occasionally. The other argument takes protection to be an intrinsically good thing at least in some cases.

The bargaining argument for protection is usually stated in the context of the problem of lowering the trade deficit. The U.S. needs to reduce its trade deficit, say the advocates of this position; but driving down the dollar is ineffective because of foreign trade barriers, and it reduces U.S. living standards. So let's instead expand our exports by threatening to limit our imports: This will force foreigners to open their markets and allow us to reduce the trade deficit without the need for a much lower dollar.

The main problem with this proposal is that it won't work. It is just not realistic to expect increased access to foreign markets to make more than a minor contribution to reducing the U.S. trade deficit, with or without U.S. pressure. The reasons are both economic and political.

First, the economics. When we talk about removing foreign barriers to U.S. exports, what do we mean? Despite the rhetoric, there are only a few major legislated foreign programs that have a large identifiable impact on U.S. exports; most of these are in the agricultural area. If Japan opened its rice market or Europe canceled its agricultural support programs, this would help U.S. exports, but it would fall far short of curing our trade deficit.

Meanwhile, there are political realities. U.S. pressure is simply not going to force radical changes in economic policy abroad. The major barriers to U.S. exports are programs, like Europe's agricultural policy, with powerful domestic constituencies. U.S. pressure may induce marginal changes in these programs, but it is a fantasy to imagine that by getting tough we can force other countries to abandon them. The U.S. economy is no bigger than Europe's, and not much bigger than Japan's. Politicians in other countries answer primarily to domestic interest, just as ours do. We cannot expect to bully Europe or Japan into doing things our way any more they could expect to do the same to us.

Given these economic and political realities, the proposal to use the threat of protection to solve the trade deficit will, in practice, inevitably degenerate into the implementation of that threat. To say that you favor using potential import quotas as a way to spur U.S. exports is, in the end, disingenuous: The result will almost always be fewer imports rather than more exports.

Indeed, however much they may talk about spurring exports, the advocates of a tougher trade policy seem much more interested in limiting imports. Robert Kuttner's own manifest on trade policy, which advocates a broad system of "managed trade," takes as its model the Multifiber Arrangement, an international treaty that purely and simply restricts trade in textiles and apparel. That is, in the end, he views protectionsim not as a bargaining chip, but as a permanent policy.

But what's so bad about that? We have just seen that the conventionally measured costs of protection are not very large. And there are intellectually respectable arguments suggesting that protection may, in some cases, actually be beneficial.

THE ECONOMIC CASE FOR PROTECTION

Economic theories matter, though not necessarily in the ways that their creators might have wished. In the 1970s public finance economists—Martin Feldstein prominent among them—worked hard to persuade the economics profession that flaws in the tax system distort incentives and retard U.S. economic growth. The result was to help create a climate of opinion in which supply-side economists could advocate radical tax cuts, leading to the massive budget deficits that Feldstein took the lead in denouncing. In the late 1970s and early 1980s a group of international economists—myself among them—similarly worked to persuade the economics profession that the principles of international trade needed to be rethought. This rethinking of international trade has won tenure and academic prestige for its leaders. But an unintended byproduct of the effort has been to lend some new intellectual respectability to protectionism.

Traditional international economics attributes international trade to underlying differences among countries. Australia exports wool because its lands are well suited to sheep grazing. Thailand exports labor-intensive manufactures because of its abundance of labor and so on. The new international economics, while not denying the importance of this traditional view, adds that much of international trade also reflects national advantages that are created by historical circumstance, and that then persist or grow because of other advantages to large scale either in development or production. For example, the development effort required to launch a new passenger jet aircraft is so large that the world market will support only one or two profitable firms. Once the U.S. had a head start in producing aircraft, its position as the world's leading exporter became self-reinforcing. So if you want to explain why the U.S. exports aircraft, you should not look for underlying aspects of the U.S. economy; you should study the historical circumstances that gave the U.S. a head start in the industry.

Why does this provide a potential justification for protectionism? Because if the pattern of international trade and specialization largely reflects historical circumstances rather than underlying national strengths, government policies can in principle shape this pattern to benefit their domestic economies.

As journalist James Fallows put it in a recent plea for a more aggressive U.S. trade policy, "Countries that try to promote higher-value, higher-tech industries will eventually have more of them than countries that don't."

Which industries should a country try to promote? One criterion is the potential for technological spillovers. Suppose that you believe that whichever country develops a high definition television (HDTV) industry will find that its other industries, such as computers and semiconductors, gain an edge over their foreign competitors from their close contact with HDTV producers. Then it might be worth developing an HDTV sector—even if it requires a continuing subsidy due to costs that are persistently above those of foreign imports.

This is an old argument, but it becomes much more attractive if the new theory is right, because the new theory suggests that the need for subsidy may be only temporary: Because comparative advantage is often created, not given, a temporary subsidy can lead to a permanent industry.

Another potential criterion for industry targeting has a sexy name: "strategic trade policy" (a term that is also loosely used to refer to the technological argument). A hypothetical example may convey its essence. Imagine that there is some good that could be developed and sold either by a U.S. or a European firm. If either firm developed the product alone, it could earn large profits; however, the development costs are large enough that if both firms tried to enter the market, both would lose money.

Which firm will actually enter? The answer may be determined by government intervention. If European governments subsidize their firm, or make it clear that it will have a protected market, they may ensure that their firm enters while deterring the U.S. firm—and thereby also, ensure that Europe, not the U.S. gets the monopoly profits.

The strategic trade policy story (using the term to refer to both arguments) is not, at base, an argument for protectionism per se. It is really an argument for a limited government industrial policy consisting of carefully targeted subsidies, not for tariffs and import quotas. Yet it provides advocates of protectionism with a new intellectual gloss to justify their position, and it has been picked up enthusiastically by advocates of "managed trade" like Clyde Prestowitz and Robert Kuttner. If they do not argue that the U.S. should adopt a strategic trade policy, they at least claim that other countries—primarily Japan—have already done so, and that the U.S. needs to respond. As Kuttner puts it, "the New View radically alters the context of debate, for it removes the premise that nations such as Japan which practice strategic trade could not, by definition, be improving their welfare."

There is a strong temptation for both politicians and intellectuals to run with this, to claim that all the old ideas about free trade should be thrown out the window.

In fact, however, none of the international economists responsible for the new trade theory has come out as an advocate of Kuttnerian trade policy. This is not because they are afraid to break the free-trade ranks. It is because the actual prospects for a successful strategic trade policy are not very good.

Once again, this is partly a matter of economics, partly one of politics. On the purely economic side, there isn't any evidence that an aggressive strategic trade policy can produce large gains. Technological spillovers could be important, but they are difficult to measure.

Take the example of HDTV. Many regard it as "one of the most, if not the most, crucial technological advancements" about to take place. But a recent Congressional Budget Office study concluded that "it is hard to believe that HDTV will . . . play a pivotal role in the competitiveness and technological development of the electronics sector. . . ." Never mind which side is right: someone is very wrong. Reaching a practical consensus on which sectors really are strategic is certain to be extremely difficult—even without interjection of interest-group politics.

As for the possibility of capturing monopoly profits through strategic trade policy, the result of a good deal of technical analysis of the prospects for such policy in particular industries over the past few years is fairly discouraging.

The general conclusion of those who have tried to estimate the likely gains from strategic trade policies is that while you can do better than free trade, the potential net gains are nothing to write home about—they are even smaller than the conventional estimates of the costs of protection. For example, a recent simulation study of the prospects for strategic trade policies in a number of British industries by Anthony Venables of Southampton University found that the potential net gains were generally less than 3% of sales.

Meanwhile, there is political reality to consider. Given the uncertainty about what strategic trade policy should be, wouldn't any attempt at doing it turn into thinly disguised interest-group politics? Almost surely it would.

THE PROTECTIONIST PROSPECT

There is a better intellectual case for protection than there used to be, and the case for free trade is often understated. Nonetheless, there is still a good care for free trade as a general policy—not as an absolute ideal, but as a reasonable rule of thumb. U.S. interests would probably best be served by a world of free trade, with the temptations of strategic trade policy kept out of reach by international treaty. Unfortunately, that's not going to happen, for two reasons.

First, the other major players are engaging in strategic trade policy. Quite possibly

they are doing themselves more harm than good. But it is extremely difficult to maintain a hands-off position in the U.S. when other countries do not do the same, especially when the U.S. is evidently in relative decline. The extent to which other countries are using strategic policy shouldn't be overstated, but the examples—Japanese protection of supercomputers, European promotion of aircraft—are too conspicuous to dismiss.

Second, the politics of free trade depends on a belief that market access is reciprocal—that open U.S. markets can be traded for open markets elsewhere. For most U.S trade this has been and remains true. When we negotiated a free-trade pact with Canada, it meant increased access for both sides; the same would be true if we could negotiate a similar pact with Germany, or even with Mexico. But free trade becomes very difficult to sustain politically if there is a widespread and growing perception that one of the main players is following different rules.

The problem of relations with Japan—the second largest market economy, one of the U.S. principal trading partners, but an economy into which the U.S. finds it difficult either to export or invest—is not the most important issue we face, but it is one of the hardest to solve.

THE COSTS OF PROTECTIONISM

A hypothetical scenario may be useful for understanding what the costs of protection are, and why they are more modest than many people seem to think.

Let's imagine that most of the world's market economies were to group themselves into three trading blocs—one centered on the United States, one centered on the European Economic Community and one centered on Japan. And let's suppose that each of these trading blocs becomes highly protectionist, imposing a tariff against goods from outside the bloc of 100%, which we suppose leads to a fall in imports of 50%.

So we are imagining a trade war that cuts the volume of world trade in half. What would be the costs of this trade war?

One immediate response would be that each bloc would lose jobs in the industries that formerly exported to the others. This is true; but each bloc would correspondingly gain a roughly equal number of jobs producing goods it formerly imported. There is no reason to expect that even such a major fragmentation of the world market would cause extra unemployment.

The cost would come instead from reduced efficiency. Each bloc would produce goods for itself that it could have imported more cheaply. With a 100% tariff, some goods would be produced domestically even though they could have been imported at half the price. For these goods there is thus a waste of resources equal to the value of the original imports.

But this would be true only of goods that would have been imported in the absence of tariffs, and even then 100% represents a maximum estimate. Our three hypothetical trading blocs would, however, import only about 10% of the goods and services they use from abroad even under free trade.

A trade war that cut international trade in half, and which caused an average cost of wasted resources for the displaced production of, say, 50%, would therefore cost the world economy only 2.5% its income (50%×5%=2.5%).

This is not a trivial sum—but it is long way from a Depression. (It is roughly the cost of a 1% increase in the unemployment rate.) And it is the result of an extreme scenario, in which protectionism has a devastating effect on world trade.

If the trade conflict were milder, the costs would be much less. Suppose that the tariff rates were only 50%, leading to a 30% fall in world trade. Then 3% of the goods originally used would be replaced with domestic substitute, costing at most 50% more. If the typical domestic substitute costs 25% of world income (25%×3%=0.75%).

Mr. HOLLINGS. Mr. President, this is not 1903. Thank heavens for Maggie Thatcher. She is reviving Britain. Let us not use that as an example. Let us get up to 1990 and understand protectionism.

This is very enlightening to me because this article is adapted from the Age of Diminished Expectations, U.S. Economic Policy in the 1990's, by Paul Krugman, and edited by Michael Barker, published in June 1990, copyright Washington Post Co., Briefing Books, all rights reserved, reprinted with permission:

In popular arguments against protectionism, the usual warning that protectionism threatens our jobs, the Smoot-Hawley tariff of 1931, we are told, caused depression and history can repeat itself.

That is the thrust of the argument of our colleague from Texas. Then I go on to quote further:

Although protectionism is usually a bad thing, it is worth pointing out that it isn't as bad as all that. Protectionism does not cost our economy jobs any more than the trade deficit does. U.S. employment is essentially determined by supply, not demand. The claim that protectionism caused the depression is nonsense.

Heavens above, this is exactly what the Senator from South Carolina has been saying. I know my distinguished colleague on the other side of the aisle, Senator HEINZ, of Pennsylvania, has been saying it and should be given due credit. We said this 10 years ago on the floor.

I quote further from Dr. Krugman:

The claim that future protectionism will lead to a repeat performance is equally nonsensical.

I can tell my colleagues right now, if you really want to know what is going on, we are going to have to spend a fortune to take care of what the Senator from Texas represents down there in the savings and loan debacle. I quote:

Take the most extreme example, the cost to taxpayers of the savings and loan bailout alone will be at least five times as large as the annual cost to U.S. consumers of all U.S. import restrictions.

I say that with feeling because we are trying our best to protect the poor and to protect the consumers, we are talking about the little kids going to school and having to pay x dollars more now to get a shirt on their backs. That is why the National Consumers League endorses this particular bill. Why is it that our distinguished colleague forgets that one basic fundamental truth, that Americans, including poor Americans, cannot be consumers unless they have a job? Yet here we are going out of business. We are trying to maintain these textile jobs. We are trying to maintain the remnant of this industry, which is critical not only to our military security but also to our economic security.

I think of woven electronics. We know about the parachutes, webbing, and all the other things. Woven electronics with interspersed copper wiring which is made for the computer industry. You cannot make computers without that. That is also in the innards of a B-2 bomber, a B-1B bomber, a Trident submarine, and everything else. We cannot have national security without a textile industry, and that is what this bill sounds as a warning.

The distinguished Senator says Korea is getting out of textiles. Wrong. Let me read from Japan Textile News—rather than getting out, Korea is out to become the largest textile exporter by the year 2000:

The Government has disclosed plans to make the country the world's largest textile exporter by the year 2000. In order to realize it, the Trade Industry Ministry will spend 3.163 billion chon to structurally reform the textile industry over the next 7 years.

Read those magical words, "Trade Industry Ministry." Where is such a ministry in the United States? On an ad hoc basis, we have a Government policy for agriculture. On an ad hoc basis, we have it for aircraft. On an ad hoc basis, we protect the banks. On an ad hoc basis, we protect other industries, such as housing. But we do not have what the competition has: namely, a Trade Industry Ministry. There is one in Korea; there is one in Taiwan; and, of course, we all know the Ministry of International Trade and Industry [MITI], in Japan. This is Government guided capitalism and trade. That is exactly what Dr. Krugman is talking about in his particular articles. He says:

Because, if the pattern of international trade and specialization largely reflects historical circumstances rather than underlying national strength, Government policies can, in principle, shape this pattern to benefit their domestic economies.

I said the same thing in debate yesterday. This article only came to my attention earlier this morning. I want to try to get Dr. Krugman's book and follow up. It is heartening to know that we are looking at the real world, the real competition here, and not to histrionics. The truth of the matter is that this bill will allow the textile bill to stabilize, and we will be able to get some competition rather than allowing the retailers to mark up the imported items.

So he says this has killed communism. If we do not wake up, it will kill capitalism in the United States of America.

I have been to Korea. I said yesterday that I have been to Pusan, Korea, to the garment sector there. They have literally thousands of young ladies coming into that plant and there are three rows in that plant. They are all making the same garment. At one they have Bill Blass garments; another row, they have Liz Claiborne garments; another row, another particular make, all out of the same plant. The young ladies work for around a dollar an hour. They work 10 hours, 6 days. They do not come in as experienced textile workers. They leave by the age of 22. They come in at age 18 and leave by age 21 or 22 to go back to the village with that dowry to get married.

The Senator stated, incorrectly, that textiles were not a productive industry. I have just shown where the European Community determined that the U.S. textiles industry is the most productive in the world. The Office of Technology Assessment found it the most productive in the world. The MIT study found it the most productive in the world. It is because textiles have invested money and mechanized.

In Stoneswear, for example, they now have a machine to put the cuffs on the shirt, another machine to put on the strip of buttons, another one to put on the pocket, another one to put on the collar. When I first went to Stonewear in my campaigns in the 1950's for Lieutenant Governor, they had 3,300 to 3,600 workers. Now they have less than 1,700, and they have increased their production by mechanization. But the average age of the workers is 50 or 52. They stay there for a long while, a lifetime, as many in this Senate know. They work for many years.

Many of us have gone to 30-year, 40-year, and 50-year pinnings in the textile industry. So that particular industry has what? It has unemployment compensation. It has health insurance. It has all of these things that continue on past the age of 22, which, in Pusan, Korea, they do not have to worry about.

That is the kind of competition that we are into, and that type of commercialization. The Senator and I are in step on that. The Senator from Texas is right. We are trying to get in with the tide. We are trying to keep our head above water. We have already lost over half of the textile business, over 60 percent. I have seen the trend for the past 10 years of a 12-percent increase each and every year in the growth of imports, making, of course, with a 1-percent growth in domestic consumption, a net increase of 11 percent.

Extrapolate that through the 1990's and by the year 2000, rather than the loss of 60 percent, we will have the loss of 92 percent and the textile industry will be gone. Then ask what the price will be for the shirt for the little fellow going to school in Texas. Find out how much they charge then when they engage in monopolistic practices and band together offshore to dump here in the United States while we lecture ourselves on the floor of the Congress.

Thank heavens for Dr. Krugman and other eminent economists who are now coming forward and who understand that market forces do operate, that you can manufacture anything anywhere, and the determinants in this trade war are nontariff barriers and governmental policies. You will see in the Krugman article. He says, "While much of the U.S. trade takes place with few obstacles, we have several major protectionist measures restricting imports of autos, steel, and textiles in particular. The combined costs of these major restrictions to the U.S. economy, however, are usually estimated at less than three-quarters of 1 percent of U.S. national income. Most of this loss, furthermore, comes from the fact that the import restrictions, in effect, form foreign producers into cartels." That is what we are fighting. "They charge higher prices to U.S. consumers. So most of the U.S. losses are matched by higher foreign profits. From the point of view of the world as a whole, the negative effects of U.S. import restrictions on efficiency are therefore much smaller—around 0.25 percent of U.S. GNP."

So when the distinguished Senator from Texas talks about a 5-percent price increase and going "up, up, and away," we know the actual facts that are supported by the best economists. It is refuted on the record.

So we are not off base in this measure. We are here to help the consumer. This bill is endorsed by the consumer organizations. They know it. They understand it. They would not dare survive if they really thought that this was going to run up the prices.

A vote for the amendment of the distinguished Senator from Texas is a vote to kill the U.S. textile industry. I yield the floor.

Mr. GRAMM. Mr. President, if our distinguished colleague from South Carolina is correct, this bill is not going to raise costs, and therefore this amendment is going to have no effect. I suspect that if the Senator from South Carolina votes against the amendment, it will be an indication that he believes that in fact costs will go up by 5 percent on moderate- and lower-income Americans, and that in fact the provisions amendment would take effect.

Mr. President, I do not have a whole lot more to say, but let me just run through several responses to points that were made by my dear friend and colleague from South Carolina.

First of all, Mr. President, I would like to remind my colleagues that while in fact I did quote from a famous American Congressman, speaking on July 15, 1903, in London, it was the subsequent adoption of protectionist policies in England, more than any other policies, that came to the verge of destroying Great Britain as an industrial power. In fact, it is under the leadership of Margaret Thatcher that that process is at least beginning to be reversed.

So to argue that a person speaking in London in 1903 was praising them for their enlightened trade policy and yet we should look what happened to England, is totally fallacious. England was virtually destroyed as a trading nation and as an industrial power because it deviated from the very policies that made a country with relatively few natural resources the world's greatest trading and most powerful nation in the world.

Second, every time we have this debate, this prop of these two shirts is brought out. It is interesting but it is totally irrelevant to this debate. Let me explain why. Cost does not determine price. Supply and demand determine price. Cost would determine price if you had the opportunity for people to produce shirts and ship them into the United States on an unrestricted basis. But when you limit supply, then price is set by the supply that is available relative to the demand for shirts.

So the fact that the shirt produced abroad cost $10 and was sold for $25 simply shows you the result of protectionism, because the demand for the shirt is there at $25 for all of the shirts that we are allowed by existing protectionist measures to import. Without those measures, shirts would come in until the price was driven down to $10.

So the fact that U.S. and foreign shirts sell at the same price, even though they do not cost the same amount to produce, is simply to say that the laws of economics work, which nobody ever doubted. Price is determined by supply and demand. So if you are limiting supply, people are going to sell the shirt at a price up to the point where people will buy all they have.

That price in this case is quite a bit above the selling, free market price. That is why working people are being hurt.

Lawyers and economists increasingly have client relationships, and you can find one to make any argument you want to make. But without any fear of contradiction, I want to say here that there has been no self-respecting economist on the face of the Earth in over 200 years that has argued in favor of protectionism.

If there is one fundamental point that liberals and conservatives have agreed on in economics, it is that protectionism is a disaster for a nation, that it creates poverty, that it stagnates growth, and that it is anathema to everything to which a free people should aspire to.

Finally, to quote on the floor of the Senate that the cost of protectionism in any one year is only equal to one-fifth the cost of the savings and loan bailout, if that is praise of protectionism, then we should be spared all of this debate. The apologists for protectionism say, oh, protectionism in any one year is only about one-fifth of total cost of the savings and loan bailout and therefore we ought not to worry about it. What more needs to be said against protectionism with such arguments from its supporters?

I would not make that case if I were arguing for protectionism. That only means that over the next 5 years we are creating by Government edict a new savings and loan bailout, and we are imposing the cost not generally across the American public but principally on the backs of low-income working Americans.

Finally, we have heard here a lot of talk about a big surge in imports. That process is being reversed as American exports grow. I think when we get beyond this period and we can look back on it, we will see that in the decade of the 1980's what was happening was that as we were running big budget deficits, as the savings rate was falling through the floor. The American economy attracted foreign capital which inflated the value of the U.S. dollar and encouraged Americans to buy foreign goods while discouraging foreigners from buying American goods. I think historians looking at this period will say that, instead of addressing that fundamental problem, politicians found it easier to blame foreigners than they did to blame themselves.

Mr. President, this is a straightforward amendment. If the proponents of this bill are right and costs will not go up, this amendment will never kick in. But all this amendment says is that if the cost of textiles and apparel and footwear rise by 5 percent or more, as borne by low-income and middle-income Americans, if the Secretary of Labor certifies that in fact costs of these important items purchased with large portions of the budget of low-income Americans have risen by over 5 percent, then the President will have the power to suspend this bill.

Those who say this bill will not drive up costs can vote for this amendment, and in the process they can guarantee people, who are concerned about what this will do to low-income Americans, that they do not intend for low-income Americans to suffer as a result of this bill. Quite frankly, I think that this amendment is a way that fears of many could be lessened, and that support for this bill might grow. It would not induce me to vote for the bill, because I do not believe the bill will increase jobs. I think it will reduce jobs. But I think for many that this would be an important amendment, and I hope that the supporters of this bill who say that costs will not rise will give a guarantee of that and support this amendment.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, this amendment by the able Senator from Texas is similar to an amendment that he offered in 1988, and which was defeated by a 2 to 1 vote. It was tabled by a vote of 60 to 34. This amendment is basically the same as the previous one.

Mr. President, the Office of Technology Assessment found that the benefits of cheap foreign labor rarely reach consumers. By far, most of the difference between the foreign production costs and the domestic selling price ends up in the hands of shippers, wholesalers, importers and retailers. Usually the consumer pays the same price for equivalent imported and domestic products.

There are more than 5,300 textile companies, and more than 12,000 apparel companies in the United States. The level of competition is intense. With this large number of domestic textile and apparel companies there is no reason to believe that passage of this bill will raise consumer costs.

Mr. President, I have been handed a pamphlet here that raises some points that I would like to bring out. This pamphlet is put out by the Coalition of Textile people. Imports do not cost consumers less at the cash register. But the higher markup potential for imported goods has made them attractive at the wholesale level and consequently retail shelves are stocked overwhelmingly with imported products. Imported clothing and apparel now account for fully 60 percent—get that figure, 60 percent—of America's domestic market. In other words, 6 out of every 10 Americans are wearing imported clothes.

For nonrubber footwear, the import total is a whopping 80 percent. Mr. President, does that make sense that we are bringing into this country imports to such an extent that 60 percent come from foreign markets and 80 percent of shoes? Why not give these jobs to Americans?

These staggering losses in domestic sales have brought America's largest manufacturing employers to their knees and has cost textile, apparel, and footwear workers more than 400,000 jobs in the last decade. That is 400,000 jobs lost over the last 10 years due to imports.

The most recent figures released by the U.S. Department of Commerce, and that is June 20, 1990, show that the American textile industry lost $47 million during the first quarter of 1990.

Some try to claim textile industry is doing well, and does not need anything. Here are your figures. They lost $47 million in the first quarter of 1990. How are they going to stay in business on that basis? They will all go out. Then what is going to happen? Where are we going to get parachutes, uniforms, and everything we need for our defense? Again, I repeat the Defense Department says textiles rank second to steel. There is nothing more important than textiles except steel. Are we going to recognize that? Are we going to harken to that?

This year 48 more textile, apparel, and footwear plants closed or been reduced. Operations dropped dramatically in the last 12 months. More than 70,000 textile, apparel, and footwear workers have lost their jobs. In the last 12 months, I want to repeat that, more than 70,000 textile, apparel, and footwear workers have lost their jobs. I think the passage of the Textile, Apparel, and Footwear Trade Act of 1990 will determine the future of the textile, apparel, and footwear industries, and whether or not they can continue to exist.

My good friend from Texas has offered this amendment, which says if prices rise by more than 5 percent, as determined by the Secretary of Labor, the President may void this bill.

Who is going to determine these figures? If the President wants something done and word gets out that is what he wants, there will be some way found to manipulate the figures. You cannot rely on that. You just cannot do it. We know that the situation is such that this textile business is going down the drain, if we do not do something about it.

Here are plant closings this year alone, in 1990: the Cone Mills Corp. of Greenville, SC, 450 jobs lost; Milliken & Co., Spartanburg, SC, 129 jobs lost; Milliken & Co., Robbins, NC, 235 jobs lost.

I am speaking of jobs lost this year alone.

Hart Wool Combing, Holyoke, MA, 50 jobs; Springs Industries, Anderson, SC, 400 jobs; Delta Woodside, Easley, SC, 360 jobs.

This is for this year, 1990.

Dacotah Mills, Lexington, NC, 375 jobs; Forstmann & Co., Tifton, GA, 315 jobs; Dixie Yarns, Belmont, NC, 83 jobs; Ames & Smith Hosiery, Pilot Mountain, NC, 130 jobs; Health-Tex (fabric), Cowpens, SC, 400 jobs; Doran Textiles, Shelby, NC, 210 jobs; Amoco Fabrics, Salisbury, NC, 86 jobs; Stan-

ley Woolen Co., Uxbridge, MA, 100 jobs; Washington Manufacturing, Savannah, GA, 200 jobs; Lowell Covered Thread, Lowell, MA; Laurel Industrial Textiles, Skowhegan, ME; Guilford Mills, Augusta, GA, 300 jobs; Gra-Tex, Inc., Burlington, NC; Orinoke Mills, York, PA, 65 jobs; Roxboro Dye Co., Roxboro, NC, 60 jobs; Kraemer Textile, Womelsdorf, PA, 300 jobs; Lion Knitting Mills, Cleveland, OH, 180 jobs; Venture Associates, Los Angeles, CA, a number of jobs; Garland Co. (Bristol Knit), Fall River, MA, 350 jobs.

That is just some of the mills that have closed this year. Are we going to continue to stall this industry? That is where we are headed. Is it worthwhile to keep the textile industry to give jobs to Americans, instead of letting the foreign imports come in and close our plants and put our people out of jobs. Is that what we want to do? That is what we are doing when we do not pass this legislation and do not allow the textile industry to play on a level field.

The growth in imports in this country is 1 percent a year. We are bringing in foreign goods to the extent of 3 to 5 percent a year. That is not a level playing field. What fair-minded person wants to do that to the American people? That is exactly what is taking place. Talk about free trade; how is it free? Foreign importers are subsidizing their plants; they are subsidzing them. We are not doing that in this country. Foreign producers are paying as low as 27 cents an hour, and the highest is about $2.50 or $3 an hour. What are we paying? About $10 an hour. Is that fair?

Again, all we want to do is to have the opportunity to let our own working people compete on a level playing field. That is all we are asking for.

Mr. President, again, I say that this amendment ought to be defeated, just like a similar amendment was defeated almost two to one in 1988, and I hope the Senate will do that.

Mr. HOLLINGS. Mr. President, I do not know whether my senior colleague will make a motion to table. I do not want to cut our distinguished colleague off. I will get right to the point.

The Consumer Price Index is 1.2 percent. If apparel went along with the regular CPI—the truth is it is less than that. If it went along with the CPI, you could get rid of the bill.

On the other hand, since we are not in control of this market and the foreigners are, in this particular provision, the distinguished Senator from Texas maintains that all the foreign importers had to do is run up the price for 1 year and get rid of the textile bill and continue on their monopolistic march of the takeover of this basic industry.

So we know exactly what is in the balance there. We do not want to cut it off, but my colleagues, I think, want to vote. I do not want to cut off anybody.

I do not know whether my senior colleague will make the motion or I will, after the Senator from Texas is completed.

Mr. GRAMM. Mr. President, let me just make a few remarks in response to the comments that have been made, and I will be ready to vote.

First of all, the amendment makes it clear that it would be the act that would produce the increase in price, not general price inflation. The Secretary of Labor would have to find that this act results in the increase in price, not general inflation.

Second, everybody is entitled to their own opinion but not their own facts. You cannot argue at one point by saying that restricted imports do not sell at their production cost, that they sell way above it, and then say price will go up if restrictions are removed. The truth is that the price of imports is way above the import cost, because we are limiting the amount that is imported, and that is what is causing the situation where American families pay as much as 40 percent more for clothing than they would if we had any kind of open market.

Finally, let me say to my dear colleague, the senior Senator from South Carolina, a man that I respect and revere as much or more than anybody in this body, that there is no doubt about the fact that we are talking about competition in the textile industry. But there are two points I want to make:

One, we cannot save those jobs with protectionism; only modernization can save those jobs in the longrun. And we are putting off the only pressure that can save the industry if we engage in more protectionism.

Finally, every State that the Senator mentioned as losing jobs from textiles in the decade of the 1980's has gained more jobs on average as a percentage of their employment base than the national average.

I remind my colleagues that, in the same period we are discussing here, America has created 21 million net new jobs. If you take the textile-producing States, with a few exceptions, such as Texas, which has had a problem with oil and real estate, and now with S&L's, the textile-producing States have grown more, created more jobs, had lower unemployment, have had their living standards rise faster than the rest of the Nation as a whole. In fact, the Department of Commerce presents data that indicates that a major factor pulling employees out of the textile industry is that in those very States people are being hired into other industries at higher wage rates. I refer my colleagues to the U.S. Industrial Outlook, 1990, the section on apparel, which is page 35-2.

So, Mr. President, just summing up—and we will be ready to vote—this bill, if adopted, will not save American jobs. Under GATT, those nations that claim damage as a result of these restrictions will have the right of offset. They will have the right to impose protective tariffs against American products. What products are they going to pick? They are going to pick the very products in which we are the most efficient, in which we are the most competitive. As a result, we are going to end up losing jobs in areas where we are competitive, where our employment base is growing, where we have higher wages. So, Mr. President, the net result will be higher costs to the American consumer for textiles, higher costs to foreign consumers for items such as aircraft and aircraft parts, chemicals and applied products, fabricated metals, industries where we are competitive and where wages are several times the wage in the textile industry.

The net result will be not the retention of jobs, but the loss of jobs in areas that represent growth industries for America, the loss of markets from the retaliation which will occur under law and which in fact is called for under law because this bill violates our GATT agreements.

Mr. President, unless someone else wishes speak—I have been passed a note that Senator PACKWOOD is on his way here and would like to be heard a moment before we vote—if anyone else would like to speak—if not, I would suggest the absence of a quorum so we can give him a chance to be here.

Mr. PRYOR. Mr. President, if the distinguished Senator from Texas will withhold the request for a quorum call, it is now 1:40 p.m. and we have been on this amendment for a considerable amount of time. I am not trying to cut anyone off, but there are certainly definite programs going on this afternoon for which Members have to be available.

Could I get an idea from the Senator from Texas when we might be able to reach a vote on this amendment?

Mr. GRAMM. Mr. President, let me say that Senator PACKWOOD is coming here to speak; so as far as I am concerned, unless someone else speaks in opposition to the amendment and makes points that need be responded to, I would consider myself to be finished on the debate. I am not aware of what Senator PACKWOOD has to say. I do not know who else will be speaking against the amendment. I cannot say to what extent they would raise points I would need to respond to.

It is my understanding that the leadership is trying to work out an agreement on having this vote and possibly having it the last one of the day. I do not control that, being only a private in the Army.

So, that is the extent of my knowledge as to where we are in this procedure.

Mr. PRYOR. Mr. President, that being the case, I see the Senator from Massachusetts may be seeking recognition.

Mr. President, I suggest the absence of a quorum.

Mr. THURMOND. Will the Senator withdraw that?

Mr. PRYOR. I withdraw the request.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Mr. President, I understand we have about seven more amendments. I wonder if we could not reach some agreement to limit these amendments, maybe 40 minutes, to be equally divided to each side, and get through this bill. Otherwise we will be here late tonight or tomorrow.

Mr. PRYOR. Does the Senator from South Carolina say that on seven amendments we have 40 minutes on all the amendments or each of the amendments?

Mr. THURMOND. I think give the other side a chance. Maybe 20 minutes.

Mr. PRYOR. I understand.

Mr. THURMOND. We have been on this amendment here about an hour. If we could cut down 30 minutes or 15 minutes to a side.

Mr. PRYOR. Mr. President, I do see the Senator from Oregon coming in now.

Mr. THURMOND. Maybe Senator PACKWOOD can give us an answer to Senator GRAMM on that question. Possibly we could have 30 minutes equally divided on each amendment. That would be 15 minutes to the side. That would save a lot of time. Then that is going to run us into about 6 or 7 o'clock tonight.

Mr. HOLLINGS. The Senator will propose it and I will agree to it.

Mr. THURMOND. We might cut it down.

Mr. HOLLINGS. I am glad to agree to it; 15 minutes to a side.

Mr. THURMOND. Maybe 20 minutes equally divided, 10 minutes each side for each amendment.

Mr. HOLLINGS. I wonder if the Senator from Oregon would enter into some time agreement. So obviously this is going to put us over. I get this kind of feeling, having been on the floor, we could conclude this one and see what type of time agreement we could have. The time agreement, I guess we would have to check with the majority leader and minority leader and they would agree to vote at a time certain, let us say on Monday or whatever it is. I am not authorized. Of course it would have to be up to the majority and minority leaders.

Mr. PACKWOOD. I am not, either. I would be happy to conclude on this one. I would speak briefly and have a vote and be happy to see what kind of agreements can be reached. I have not talked to anybody.

Mr. HOLLINGS. Let us do that.

Mr. PRYOR. If I might request of the Senator from Oregon, would it be all right to agree then that at, say, 1:50 p.m., does this give the Senator——

Mr. PACKWOOD. Three minutes?

Mr. PRYOR. Pardon me. I apologize. I could not see very well. What about 2 o'clock?

Mr. PACKWOOD. That is fine.

Mr. PRYOR. We will not seek a unanimous-consent request. We will put Members on notice it would probably be in the neighborhood of 2 o'clock there would be a vote. I am not authorized, by the way, to proceed with unanimous consent.

Mr. GRAMM. Let me make it clear on our side I do not know we are authorized to enter into that agreement, either.

Mr. PACKWOOD. I have not talked to anybody. I know Senator WILSON has an amendment, Senator GRAMM has more, and Senator GORTON has one more. I have not talked with any of them. I have been gone for the last hour and have been out of touch.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I strongly support the amendment of the Senator from Texas for any number of reasons. First, I think the bill is a turkey anyway and should not be passed in any way, shape, or form. But if we are going to pass this bill we should not be doing something that injures low- and middle-income people.

I know what the argument is that is made. We are going to save tremendous numbers of jobs if we pass this bill.

First, we are not likely to save tremendous numbers of jobs if we pass this bill. But if we were, should we consider what the tradeoffs are to save them? I emphasize again I am not conceding we will save the jobs by passing this. If we do, we do it at the expense of roughly, depending on whose figures you take, $25 to $50 billion a year in additional costs for the consumers of textiles and apparel. Some of those people are rich. More of them are poor. And more of them yet are middle income.

I am not going to get into a debate here what is middle income. I know the Chair and everybody in the Senate realizes when we talk to anybody, no matter how much money they make, they think they are middle income. Let me simply say that for the great bulk of Americans who make under $30,000 or $40,000 a year, and that is the great bulk of Americans, this bill is going to cost each and every one of them hundreds of dollars a year in higher priced shoes, higher priced suits, higher priced T-shirts, bathing suits, everything you can think of.

That may be what the proponents of this bill want to do and are willing to do. But in fairness, if we are going to do it let us at least have the Senate and the bulk of the country understand the tradeoffs.

We have been through these debates before when we have gone through protectionist measures for steel, been going through domestic content debates for autos, as to what will happend if we enter into some kind of protectionist legislation. The best example that we probably have had in this decade involves cars. In theory, the Japanese have entered into what they call voluntary restraints in which they said that they would not ship more than a certain number of cars to this country.

For those who can remember back to the price of cars in the mid-1970's, you will recall that you could buy good imported modestly priced cars for $6,500, $7,000, $7,500.

But as soon as—I do not want to phrase this wrong, but I want to say as soon as we put in the import restraints, as soon as the Japanese voluntarily agreed to impose them upon themselves—although I would have to say it was with tremendous pressure from us—to restrain the number of cars that they would send to this country, what did they send and what did they cut off? What they cut off were the lower priced cars. You make more money selling Mercedes than you do selling those old Volkswagen buses.

I remember in 1964 buying my wife a new Volkswagen bus for $1,600. So the cheaper cars were not sent. If you can only send so many cars, you are going to send the ones you make the most money on. And that is exactly what is going to happen.

Have you seen the advertisements that have been held up, here is a Ralph Lauren shirt that is imported; here is a Ralph Lauren shirt that is made in the United States. Same price. Then, the argument goes, therefore the consumers are not doing any better. The ones that are making profits are the retailers who are buying the cheap Ralph Lauren products from overseas and raising the price up to what it cost to buy the expensive Ralph Lauren shirt here.

I do not even concede that argument but for the moment, arguendo do let us assume it is true. Now what happens if we put in the limitations and the lower cost Ralph Lauren shirts and the lower cost Liz Claiborne dresses do not come into the country? And what comes in are the higher priced goods, because that is where you can make a bigger margin of profit.

If the argument is made that American goods and imported goods are going to sell for the same price, and if suddenly the price of the imported goods goes up, what happens to the rest of the prices?

What has happend to the cost of the American automobile? Remember the arguments: Give us a year; give us these restraints, let us get back our share of the market.

So the Japanese and the Germans begin sending in their higher priced cars. What happened to the price of the American car? It went right straight up with the foreign cars. We did not suddenly have a panoply of middle-sized, middle-cost American cars underselling the foreign cars by $2,000 or $3,000. Our cars went right up in price.

That is what is going to happen to the consumer goods in this country, what is going to happen to all the athletic shoes. As said yesterday, Adidas, the most popular model, if this bill passes, because it has a quota, will go from about $46 to $63. You add that to most of the other clothes that you buy for most of the other young children and teenagers in this country, let alone the suits you buy for yourself, the dresses your spouse buys for herself, then say to yourself, are we willing to do that to this country in order to allegedly save some jobs—allegedly—in the textile industry?

I find the evidence overwhelming that the reason jobs are declining in most of the industries in this country is not imports, but productivity. We used to brag about that. As I recall, and figures are distant in my mind now, around the turn of the century, we had about 50 million farmers in this country. Today, we have around 2 million. Fifty million a century ago, and we say that is progress.

It is no wonder we sell wheat cheaper than any other country and better. It is no wonder, if we could get into the market, we could sell rice cheaper in Japan than the Japanese can make it for. They will not let us in their market. They are doing the same thing to their consumers that this bill will do to our consumers on textiles and apparel.

So we said when we were able to go from 50 million to 2 million farmers, "Look at that productivity." As a matter of fact, if you divide productivity in this country into three normal sectors—service, manufacturing, and agriculture—it is the service sector over the last 10 to 15 years that has gone up the least in terms of productivity. Manufacturing goes up 3 or 4 percent in a year. Agriculture goes up 5 to 6 percent a year. This is one area where we are better at it than anybody else in this world, and we continue to get better. The gap is widening, not getting worse.

I look at my own timber industry. My good friend who is managing the bill also has a significant timber industry, and I bet it is as true in Arkansas as it is in Oregon. In 1988, we produced as much in 1987—1988 was a good year, 1978 was a bad year—with about 70 percent the employees we had 10 years earlier. Part of that was due to a tremendous capital investment in the eighties of more efficient machines. That is why we can also sell wood, if we can get into the market, cheaper than any other country in this world.

It is interesting to see what the coalition is on this bill. It used to be the textile and the apparel manufacturers. The apparel manufacturers have now left the coalition. They left it because the K-Marts and the Limiteds of this world went to them and said, "We are your biggest customers. Why do you not listen to us?"

I do not know if you heard the story about Les Wexner, who operates the Limited, with 6,500 stores. He said, "I have a list of my customers. Every day I have to please my customers." And when he goes to Roger Milliken or somebody, or wherever he is buying apparel from, he says, "I am your biggest customer. Why don't you listen to them? I do not like this bill because it will not do my customers any good." And they could not get the textile manufacturers to listen and the coalition split. The apparel manufacturers are now saying no, count us out on this bill. They used to support us. Two years ago, they changed their minds.

What you really have are the textile unions and the textile manufacturers wanting a sweetheart deal; for example, tariff restrictions, limitations on anything they can get to jack up the prices on everybody else so that they can benefit. It is the kind of arrangement we used to see in some of the regulated industries in America before we have deregulated them.

I do not know how many years it took us to learn what really happened and why wages went up so tremendously high in the trucking industry in the sixties and seventies. We grasp the concept, and Jimmy Hoffa was a genious. He realized once he organized all of the trucking industry so that if all of the majors were unionized and you could not play off one against the other, then if they all agreed to extraordinary wage increases, they were then all in a position to go to the Interstate Commerce Commission and say, "Sirs and madams, our costs have gone up," and under the law, the Interstate Commerce Commission had to let the truckers raise their prices to the shippers.

And then they both discovered that so long as the unions could keep everybody organized and so long as the Interstate Commerce Commission under the laws that then existed almost prohibited anybody else from getting into the business, then it did not matter what their costs were. If you were going to ship by truck, you shipped on their trucks at their prices. And there was not even any competition on prices, because you had antitrust exemption for all the pricing agencies and the prices were uniform and high.

And then when we finally passed trucking deregulations, what did we discover? You could not get a shipper today that would go back to regulation. They have companies that want to compete for their business, and to their credit you could now not get most of the trucking companies to go back. You could get some. But what has happened over the last 10 years is that some trucking companies have discovered that the market system works and they are run by good entrepreneurs, and they are making money.

Some of the trucking companies in the last years, and I might say some of the biggest trucking companies, have gone bankrupt. Gone bankrupt. And I know people will say that is terrible, and I would say no. That is what the system was intended to do. Those who are good will prosper. Those who are not will go out of business.

We are not lacking for trucking companies in this country. We are not looking for new entrants into the business.

I will give an example what has happened. I had a young kid named Tim Lee working for me just out of Oregon State University in 1975 or 1976 or 1977, I would say about 1977. He worked for me only about a year and a half but was around just as the stirrings of truck deregulation were coming on. He left to go back to Oregon before the act had actually passed, but as soon as it passed he grasped something. He was the first person in the country to grasp it. There is money to be made in bringing together truckers and shippers and he was the middle man. His company today, S.T.S., Superior Transportation, is a multimillion-dollar company. He is a multimillionaire, employing hundreds of people, and to the best of my knowledge he does not yet own a truck. But when he quotes a price to the shipper, he says this price and this bid is a guarantee that I will get the truck and deliver it and I will be responsible for the insurance and I will be responsible for the delivery, and the shipper does not even have to worry about finding the truck.

Clearly, Tim Lee has to be sure he can find truckers who are reliable. You could not have done that, you were not allowed to do that, under the old rules.

What we will have here when this textile bill passes, because I am afraid it is going to pass, when it becomes

law, is on an international scale somewhat the same system. So long as we can keep this a small and tightly bound industry with a good sweetheart relationship between the unions and the businesses, and so long as we can keep out good competitive foreign merchandise, then we are in a better position to charge what we want. Because, make no mistake, there has not been a study done that would indicate that this bill is going to do anything but raise prices. Some say it will raise them more than others, but I have not seen any study that says this bill is going to lower prices.

So, why are we willing to do this? It is because of the old axiom in politics about generalities versus specifics. The generalities are the consumers in this country. They do not know what is going to happen to them. And they may not even notice it. Shoes go up from $3.95 to $4.95 for those very cheap mass-produced shoes or they go up from $40 to $50 for a middle-priced shoe—those are middle-priced shoes now, those athletic shoes—and the consumer does not know who to blame. They blame the store probably. Or they may blame the manufacturer. Both Nike and Avia are headquartered in my State. They are terribly opposed to this bill. I suppose Nike and Avia will be blamed when this bill passes. But it is so incremental that the consumer is unaware as to who is to blame. If it is incremental enough, 1 percent a year, 2 percent a year, 3 percent a year, 4 percent a year, they do not quite feel it.

Therefore, we do not have a massive letter-writing effort from the average consumer in opposition to this bill. But, on the other hand, the proponents of the bill are very narrow, very specific, very organized, and they know what they want. They want to limit the competitive system. They want to limit imports so they can raise prices.

I was intrigued, by the way, by the story in the Wall Street Journal today. Again, I do not know if my colleagues saw the debate that went on at the apparel manufacturers meeting and it was again Les Wexler of the Limited. One of the people who supplies some of his cloth is Roger Millikin, one of the larger textile operators in the country. He was arguing for this bill.

Mr. Wexler asked him why it was he was buying imported machinery for his mills? Well, of course, the answer was the machinery was good and competitive. Mr. Millikin answered he was unable to get the kind of machinery he wanted in this country so he had to buy it overseas. To which Mr. Wexler answered, "And I am unable, on occasion, to get the textiles I want in this country for my business. Why is there one standard for you, Mr. Millikin, and a different standard for me?"

The reason, if there is a reason, is because bills like this might pass, protecting certain industries.

We saw it again—although I do not think it affected my friend's State, Arkansas, and mine—when the State of New York was finally successful in their lawsuit on the milk marketing orders. This was an agreement on what you can get for your milk, and only so much milk could be raised. That was broken in a court suit and the price of milk went down immediately.

There has never been a cabal or a conspiracy or an antitrust exemption that ever helped the consumer in this country. What it may do is help the producer make more profits with less effort. But that is not what the entrepreneurial system is designed to do. It is designed to encourage people to make more profits from the best effort and not from as little effort as is needed to stay profitable and be protected form competitors.

So, Mr. President, I very much hope that the amendment of the Senator from Texas passes. Take a look again at what the amendment does.

If the Secretary of Labor determines that implementation of the provisions of this Act will result in, or has resulted in, the cost of textiles or apparel or footwear for lower-income and middle-income Americans increasing by 5 per centum or more, the President may suspend the provisions of this Act.

If this act results in a 5-percent increase on the goods purchased by low- or middle-income Americans, the President may suspend it. Without this provision, Mr. President, the goods are not going to go up 5 percent, they are not going to go up 10 percent; they are going to go up 15 percent, 20 percent or more, and the President will be able to do nothing about it.

So I very much hope the Senate will adopt the amendment of the Senator from Texas.

Mr. LEVIN. Mr. President, as I indicated when an amendment similar to this one was offered 2 years ago, we ought to be concerned about the effect of this bill on consumer prices. However, that amendment was too loosely worded in a number of respects. The amendment offered today is also too vague regarding the power to suspend the textile and footwear provisions which is given to the President.

The amendment allows the President to suspend the textile and footwear provisions if prices increase on middle- and low-income Americans by 5 percent or more. The amendment specifies neither how long the President could suspend the provisions for nor over what period of time a 5-percent increase is to be measured. These ambiguities are particularly important in light of the fact that this bill, if enacted, will be enacted over a presidential veto. Therefore, the administration is likely to be inclined to resolve ambiguities of language in ways that would minimize the enforcement of this legislation. For example, is the 5-percent increase in costs to be measured over 1 month, 1 year, 2 years? Once the President suspends the textile and footwear provisions, how long do they stay suspended? Is it possible for the President to suspend the provisions for 3 years even though the costs of textiles and footwear increase 5 percent for 1 or 2 years?

Mr. President, I am sympathetic with the concerns which underlie this amendment. However, it is worded too vaguely for me to be able to support it.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Mr. President, if nobody else desires to speak, I move to table the amendment.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion of the Senator from South Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] and the Senator from North Carolina [Mr. SANFORD] are necessarily absent.

Mr. DOLE. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 24, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—69

Akaka	Exon	Kerry
Bentsen	Ford	Kohl
Biden	Fowler	Lautenberg
Breaux	Garn	Leahy
Bryan	Glenn	Levin
Bumpers	Gore	Lieberman
Burdick	Graham	Lott
Byrd	Harkin	McConnell
Cochran	Heflin	Metzenbaum
Cohen	Heinz	Mikulski
Conrad	Helms	Mitchell
Cranston	Hollings	Moynihan
D'Amato	Humphrey	Murkowski
Daschle	Inouye	Nunn
DeConcini	Jeffords	Pell
Dixon	Johnston	Pryor
Dodd	Kasten	Reid
Dole	Kennedy	Riegle
Domenici	Kerrey	Robb

Rockefeller	Sasser	Stevens
Roth	Shelby	Thurmond
Rudman	Simon	Warner
Sarbanes	Specter	Wirth

NAYS—24

Adams	Chafee	Kassebaum
Armstrong	Coats	Lugar
Baucus	Durenberger	Mack
Bingaman	Gorton	Nickles
Bond	Gramm	Packwood
Boschwitz	Grassley	Pressler
Bradley	Hatch	Symms
Burns	Hatfield	Wilson

NOT VOTING—7

Boren	McClure	Wallop
Danforth	Sanford	
McCain	Simpson	

So the motion to lay on the table the amendment (No. 2125) was agreed to.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. If our distinguished colleague, the Senator from North Carolina [Mr. SANFORD] had been present, he would have voted "aye." He was necessarily absent on official business. I want the record to show that.

I thank the Chair.

Mr. ROCKEFELLER. Mr. President, I rise to express my strong support for the Textile, Apparel, and Footwear Trade Act of 1990, a bill which I am proud to cosponsor. I also commend Senator HOLLINGS, the chairman of the Senate Commerce Committee, for his valiant and effective leadership that has brought us once again to acting on this crucial trade measure.

Each day that we delay passage of this bill, we risk the loss of more American jobs in a critical industry. We simply have to take action, and it is our responsibility to provide the leadership that the American people expect. At risk are thousands of jobs in my State, West Virginia—the workers, for example, at M. Serman Co. in Ritchie County, or those at Hanover Shoe in Pendleton County—and hundreds of thousands of jobs across the United States.

I was appalled to learn recently that in the first 4 months of this year alone, 22 textile, apparel, or footwear plants across the country were forced to close or lay off employees—causing a devastating loss of over 5,000 jobs. One 4-month period, and 5,000 jobs gone, all attributed to the flood of imported textile and apparel goods across our borders. That means thousands of families without a wage earner, thousands of families without health insurance, and thousands who are in danger of losing their homes or struggling to put food on the table.

Mr. President, to those who say that the unregulated flood of textile and footwear imports is necessary to help other countries to build their economies, I reply that charity begins at home. Our own people, our own businesses deserve the leadership, the attention, and the help that the bill before us represents. Our first and foremost priority should be to ensure that America's textile workers and companies can survive, prosper, and compete.

The people of West Virginia know hard times, and they know the value of hard work. West Virginians aren't afraid of fair competition. But they ask and they should expect, I would argue, that Congress exercise its constitutional responsibility to regulate foreign commerce and ensure that our workers have a level playing field on which to compete. Passage of this bill will ensure that the American textile, apparel, and footwear industry, a major employer in West Virginia and in many other States, gets that level playing field. American workers should not have to accept unemployment because of the unfair trade practices of foreign textile and footwear manufacturers. Passage of this bill will regulate those imports until unfair trade practices are eliminated. I urge all of my Senate colleagues to vote for passage of this vital legislation.

Thank you, Mr. President.

Mr. HATFIELD. Mr. President, I rise in opposition to H.R. 4328, the Textile, Apparel and Footwear Trade Act; it is the wrong bill at the wrong time. Frankly, this bill is flagrantly, recklessly, almost comically wrongheaded.

This is not a case where the legislation before us has some good provisions and a few troublesome ones; where one votes "yea" or "nay" depending on how the scale tips. In its entirety, this bill is blantantly protectionist, unnecessary, harmful to the economy and anticonsumer. It should be soundly defeated.

The bill limits the growth of imported apparel and textiles to 1 percent per year and prevents any growth of nonrubber footwear imports. In addition, a foreign textile supplier's access to this restricted American market would now depend on that country's increased importation of U.S. agricultural products.

Finally, the bill institutes a new pilot program whereby import licenses will be sold to U.S. importers at a public auction. These provisions are unprecedented, and dangerous.

All of this to further protect a domestic industry which has been one of the most heavily protected in the past 30 years. Apparently, past efforts are not enough to satisfy the textile industry. As the Wall Street Journal sarcastically noted 2 years ago during consideration of 1988 textile quota bill, "* * * the special-interest gods are never satisfied with merely one sacrifice * * * indeed, the textile and apparel industries and their unions demand regular care and feeding."

Thanks to prior law, the American textile industry already enjoys the protection of tariffs on imports averaging almost 18 percent and benefits from more than 1,000 quotas in place with 38 countries, further raising the high wall of protection which has been built around this economic sector. As our U.S. Trade Representative has declared, the textile and apparel industry probably has the least pursuasive case for further import protection of any major industry in this country.

Economic indicators show that these industries are doing well, with steady increases reported in domestic shipments—up by nearly 7 percent in 1989—and exports—up 27 percent in 1989. In addition, this industry is running at full speed; in 1989 the industry operated at 88.9 percent of capacity, outpacing the all-manufacturing average of 84 percent. And unemployment in major textile producing States was generally lower than the national average. Clearly this is not an industry that cries out for more special treatment.

If enacted, the bill would invite retaliation from our trading partners against U.S. exports at the precise moment that these exports are increasing. The steady decrease in our trade deficit is a direct result of increased exports. Greater access to foreign markets has been a key concern of Congress and the administration. Numerous bilateral agreements have been reached with our major trading partners to eliminate foreign trade barriers, and our improved export figures bear testimony to that success. For example, our trade deficit dipped 17 percent in April, the best showing since 1983.

The inevitable response by our trading partners if this import quota bill is enacted will be to retaliate by restricting access to their markets, eliminating all of the gains the United States has made in achieving greater access to foreign markets. As a result, our trade deficit will swell once again and our relationships with foreign governments, in the context of our globalized economy, will become increasingly complicated. Why eliminate the hard-fought gains in export growth and market access just when this steady improvement is helping to reduce our trade deficit? Are we to risk damaging our national economy in the name of protecting an industry that is more protected and more prosperous than other sectors of our economy? The answer is obvious.

The bill also violates some 38 separate bilateral agreements with foreign countries voluntarily limiting their textile imports, not to mention the provisions of the General Agreement on Tariffs and Trade, the Multifiber Arrangement and various other bilateral trade agreements. How can the U.S. Government, in good faith, reach

agreements with various foreign governments regarding trade, only to turn around and knowingly enact legislation that violates those agreements? And how do we respond to our U.S. Trade Representative, who states that passage of this bill will "virtually destroy any chance of a successful conclusion of the Uruguay round of the GATT negotiations"?

And what about the American consumer? There's no question but that prices will rise, and the burden of these higher prices will fall heaviest on those least able to afford it. The USTR estimates that consumer costs per job saved in the textile and apparel industries could average more than $100,000 annually during the first 5 years alone. That is a price tag that the American consumer, and the American economy, can ill-afford to pay.

Whatever textile jobs will be saved from this bill will be more than offset by the employment loss in other sectors of the economy, particularly in the import and retail sectors. As most of my colleagues know, Oregon is home to two of the country's leading athletic shoe companies, Nike and Avia, and their collective imports create thousands of jobs in our State and many more throughout the Nation. Enactment of this bill will effect almost 80 percent of the shoes manufactured by Nike and Avia, resulting in a reduction in supply, a loss of jobs and substantially higher prices.

For all of these reasons, I urge my colleagues to defeat this bill.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, I have been discussing with the distinguished Republican leader and the managers of the pending bill and other measures to be taken up shortly an agreement which would set forth the process by which we will dispose finally of the pending textile bill and proceed to action on other matters. I expect that to take a few more minutes. I hope to have an announcement and to propound a unanimous-consent request shortly in that regard.

The distinguished Republican leader is presently checking with some of his colleagues on some aspects of that proposal.

In the interim, I understand the distinguished Senator from Oregon wishes to address the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

OPEN AIR RELEASE OF IODINE-131 AT HANFORD, WA

Mr. HATFIELD. Mr. President, the Manhattan nuclear project has been hailed as one of this country's greatest scientific and engineering achievements because in just a few short years, at the height of World War II, we were able to construct the entire atomic energy production complex, from Hanford, WA, to Los Alamos, NM, to Oak Ridge, TN, and we successfully tested and delivered the first nuclear device which brought about the end of World War II.

A poignant reminder of this achievement is that, from the time Enrico Fermi first demonstrated the scientific feasibility of a nuclear chain reaction under a Chicago football stadium in December 1942, it took the U.S. Army Corps of Engineers just 19 days to select Hanford, WA, as the nuclear production site which would manufacture the materials for this country's first arsenal of atomic bombs.

Today, Hanford has for all practical purposes been shutdown but unfortunately Hanford is still home to one-half of all the defense nuclear waste ever produced in this country.

While historians have portrayed the scientific and engineering accomplishments of this era as one of the Nation's greatest, only today are we learning what prices have been paid—what human sacrifices have been levied—due to our pursuit of the atom bomb.

Mr. President, it is with a great deal of concern that I take the floor today to bring to the attention of my colleagues a development that already has been widely reported in the media, but which I believe needs to be placed into a broader historical context—that is that independent scientists have now confirmed that the U.S. Government knowingly exposed innocent U.S. civilians, including children, to extraordinarily high doses of radiation through open air emissions of iodine 131. In addition to open air releases, lesser quantities of radiation also were released into the Columbia River.

Specifically, a group of scientists called the Technical Steering Panel led by Dr. John Till, of South Carolina, just yesterday released their initial Hanford radiation dose estimates which indicate that half of the estimated 270,000 residents living in Washington and Oregon and in the communities along that river particularly between 1944 and 1947 were exposed to some level of radiation, and that about 13,500 of these individuals, including 1,200 children, were exposed to doses as high as 2,900 rads. Residents in my State and in Washington have been known for some time to experience increased incidents of cancer related to these Hanford emissions although the Government wants to conduct further epidemiological studies before making any final conclusions.

Mr. President, in my mind the release of the initial Hanford radiation dose estimates by the scientific Technical Sterring Panel is not just another wire story, or interview material for the morning news programs. The release of this report should be known to everyone as part of the enormous human toll that has been taken by the presence of nuclear weapons—a toll that many people believe was incurred only by the victims of Hiroshima, Nagasaki, and Chernobyl—but which we now know has victimized thousands of innocent Americans, including small children.

As many as my colleagues are already aware, I served as a member of a crew that conducted observations at Hiroshima one month after the bomb and since that experience I have feared the continued development and potential use of these weapons of mass destruction. The issuance of the Hanford radiation dose report resurfaces in my mind many of the same emotions that have haunted me since that time in August 1945. Knowing that the nuclear materials for the first atomic bomb may have been manufactured at Hanford, would it not be a sad bit of irony if these innocent citizens were contaminated with the same nuclear materials that went on to destroy 5 square miles of Hiroshima, and take the lives of 100,000 Japanese civilians on that dreadful day of August 6, 1945?

Mr. President, as you can see we have been monitoring this issue for some time now. In fact, in 1988 I requested a GAO investigation into the presence of iodine-129 in the Columbia River ground water that had seeped to the Oregon side and found that not only had the Government discharged such materials but that the Government had systematically avoided telling the public anything about it.

Mr. President, in conclusion I just wanted to congratulate the Technical Steering Panel and Dr. Till for their excellent contribution but I very much wanted to put this report into an appropriate historical perspective. I also wanted to use this opportunity, Mr. President, to express my continued concern for the individuals and families in Washington and Oregon who for almost their entire lives have been

physically and emotionally victimized by their own Government.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes today.

SCHEDULE

Mr. MITCHELL. Mr. President, let me describe for the Senators the proposed schedule for the early part of next week, including the agreement just obtained. Under this agreement the remaining amendments to the textile bill will be debated on Monday. There will not be any votes on Monday, but all amendments will have to be offered and debated on Monday, otherwise they will not be in order. During the day on Monday, I will announce, following consultation with the distinguished Republican leader, a time on Tuesday on which the votes will occur relative to the remaining amendments to the textile bill and final passage of the textile bill.

We will obviously attempt to do that in a manner that is most convenient for the largest number of Senators on Tuesday.

Later this afternoon, and that will be shortly—and I have discussed this with the distinguished Republican leader—I will return to consideration of the civil rights bill and file a cloture motion with respect to the bill. That cloture motion will ripen on Tuesday and will either occur under the rule within 1 hour after the Senate convenes or, more likely, I will announce on Monday, following consultation with the Republican leader again, a specific time for that vote, again to attempt to provide for the maximum convenience of Senators.

In addition, sometime early next week, I intend to attempt to proceed to the consideration of the farm bill. It is a very important measure to many Members of the Senate. I hope that we can get consent to proceed to it. But if we cannot do so, we will have to move by whatever means are available. I hope to get on that bill early next week.

With respect to the civil rights bill, I know that discussions—indeed, I think they can be called intense negotiations—have been occurring for several days and that considerable progress has been made. It is my hope that agreement will be reached prior to Tuesday and that we will be able to vitiate the cloture vote and proceed to act on that during the day on Tuesday. However, if that is not possible, a cloture vote will occur on Tuesday and then we will, depending upon the result of that vote, either proceed to completion of the bill or, of course, cloture will not have been obtained.

In any event, for the information of Senators, there will be no votes on Monday. We will complete debate on the textile bill and complete voting on that on Tuesday. We will either vote cloture on the civil rights bill on Tuesday, or an agreement will have been reached which will enable us to proceed to it, and we will attempt at the earliest opportunity to proceed to the consideration of the farm bill.

I have previously discussed with the distinguished Republican leader my intentions with respect to the remainder of this legislative period. It may be useful for Senators to be aware of that in consideration of their schedules for the next 3 weeks.

Following the completion of the farm bill, it is my hope that we can turn to the campaign finance reform measure. We are continuing our discussions. I believe that there is a widespread desire on both sides of the aisle that we reach a bipartisan agreement, notwithstanding the differences on the measure. I hope that is possible. In any event, whether it is possible or not, we will proceed to that bill probably as soon after completion of the farm bill as possible.

Thereafter, as I previously indicated in correspondence with all Senators, we will attempt to take up any appropriations bills that are available, and we hope some will become available during the next few weeks. Then, not later than July 30, I hope to move to the debt limit extension and the Department of Defense authorization bill.

As I indicated, if we can complete action on those, and I have much hope we can, by August, the recess will begin on that date. If we cannot, we will remain in session until we do complete action on them. I want to make clear I do not intend this to be a wholly exclusive list. There may well be other measures that we will want to be able to take up during that period. The Commodity Futures Trading Corp. bill is one that comes to mind. I know there has been a great deal of interest on both sides of the aisle on that and we may be able to work that in along with some other measures. And we are going to try to do others.

But this represents the items that I have previously discussed with the distinguished Republican leader and set forth over a substantial period of several weeks and the anticipated schedule for the Senate.

So the textile bill, civil rights, farm, campaign finance, debt limit, DOD authorization, and such appropriations bills that are available as well as possible additional measures, some I have mentioned, others I may not have mentioned because they do not come readily to mind. I hope we can make good progress next week on the measures that I have described, particularly the civil rights and the farm bill.

I invite the distinguished Republican leader to make any comments that he wishes to make.

Mr. DOLE. Mr. President, I would only indicate to the majority leader that we have discussed these measures. I hope we can, first of all, reach some agreement on the civil rights bill. There have been intense negotiations. They are not partisan. Different people have different views on both sides of the aisle.

The administration has been working closely with us on civil rights legislation. We had a meeting in my office this morning for about an hour or an hour and a half. I understand now there may be another meeting taking place somewhere in the neighborhood to see if we could still work out some agreement.

On the farm bill, I know the Senator from Alaska [Mr. STEVENS] is staunchly opposed to some provision on fish inspection. I am not aware of the specific concern that he has but he indicates that he will be here if any attempt is made to proceed to that bill and explain in some detail his concern. I am not certain that is something that can be worked out or not.

But, hopefully, if we can work out some agreement on the civil rights legislation, that can be done quickly. If not, then it could take probably most of next week, which would delay the farm bill into next week, which piles up everything else behind that.

But I am an optimist. I still believe we might reach some agreement to satisfy the great majority of Senators, not every Senator, on the civil rights legislation.

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990.

Mr. MITCHELL. Mr. President, I call for the regular order.

The PRESIDING OFFICER. Under the previous order, the call for the regular order places H.R. 4328 back on the calendar.

CIVIL RIGHTS ACT OF 1990

The PRESIDING OFFICER. The clerk will now report the pending business.

The legislative clerk read as follows:

A bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Kennedy substitute amendment, No. 2110, to S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

George Mitchell, Patrick Leahy, Edward M. Kennedy, Barbara A. Mikulski, Terry Sanford, Joseph Lieberman, Wendell Ford, Daniel Akaka, Paul Simon, Tom Harkin, Howard M. Metzenbaum, John D. Rockefeller, John F. Kerry, Alan Cranston, Brock Adams, Frank R. Lautenberg.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the cloture motion occur at 2:15 p.m. on next Tuesday.

The PRESIDING OFFICER. Is there objection. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I further ask unanimous consent that the live quorum be waived.

The PRESIDING OFFICER. Is there objection. Without objection, it is so ordered.

COMMENDING CHAIRMAN GREENSPAN

Mr. DOLE. Mr. President, at this time I would like to take a moment to commend Chairman Greenspan of the Federal Reserve Board for his foresighted comments at yesterday's Banking Committee hearing.

He should be commended for his statements recognizing the financial difficulties—the so-called credit crunch—that households and businesses are currently experiencing, and his willingness to take offsetting action to make up for cutbacks in bank lending.

Chairman Greenspan stated that after watching to see "if the pulling back of commercial banks to less lax lending standards is moving over the line and, in effect, creating a tightening in credit markets," he concluded that "a market tightening of modest dimensions may be occurring."

Key indicators such as slow growth in the money supply, increases in interest rates that banks charge on commercial loans, and subdued inflation numbers indicate that the Federal Reserve can and should step in to offset current credit conditions.

In our current environment of weak economic growth, his actions will support and complement the congressional-administration agreement for fiscal policy that is being hammered out.

This only highlights the importance of a successful agreement as soon as possible.

A successful agreement accompanied by monetary policy that is forward-looking and directed toward offsetting tightened credit lending standards will help us to continue our current economic expansion, the longest peacetime expansion on record.

The current expansion will not only be the longest in peacetime but the longest ever recorded in October 1991. We can hit this goal and extend it further if Congress, the administration, and the Federal Reserve exhibit the will and determination to make it happen.

FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT OF 1990

NEED TO MOVE QUICKLY ON FLOOR

Mr. DOLE. Mr. President, on another topic, we have already had indication this afternoon that next Monday, if it works out, or Tuesday or Wednesday probably at the latest, we will be on the 1990 farm bill.

The Agriculture Committee has put in seemingly endless time and effort in order to get the bill written and introduced on the floor. I am pleased that the distinguished majority leader shares the commitment to a swift and timely period of floor debate, as he has allowed floor time so quickly after we voted the bill out of committee. Timeliness is a top priority to our Nation's Winter wheat farmers, who will be seeding their crops in the near future. Over the life of the 1985 farm bill, farmers have known the tentative program details 60 days in advance of normal planting dates. We are already too late for that, but if we act quickly we can assist those farmers with guidelines that will aid in purchasing and financial decisionmaking. After all, we are writing this bill for our Nation's farmers as well as the consumer, and since farming requires year-round decisionmaking we must keep their needs in mind.

BUDGET WILL PLAY A CENTRAL ROLE

Aside from the factor of time, the bottom line for acceptance and passage of this legislation must be the budget. We are in the midst of budget negotiations which will hopefully result in some bipartisan commitment to addressing the budget deficit. Although all of us from farm country would surely like to think we could somehow exempt agriculture from this fiscal reckoning, we would only be fooling ourselves and creating false hopes for farmers. Agriculture will not be exempt from budget cuts, so it is in the best interest of agriculture to write a bill which has some real savings. If we do not, we face the prospects of a sequester which will be more painful to farmers than implementing fiscally sound policy.

I have heard some comments that those of us who have voted against loan rate increases or target price escalators are voting against farm income. What we are voting for are the market-oriented policies of the 1985 farm bill, under which farm income has reached record levels. We are voting for loan rates which allow the market to reflect worldwide demand, rather than isolationist loan rates which price us out of the world market. And we are voting to protect farm country from adverse swings in interest rates and the value of the dollar which may arise due to a continual disregard for the Federal deficit. Given the highly leveraged nature of farming and the impact which a strong dollar has upon trade, we may be hurting producers more by worrying about a nickel raise for target prices rather than the long-term health of the economy.

NEED TO WORK TOGETHER

In order to accomplish either of these goals of timeliness and fiscal responsibility, we are going to need a bipartisan commitment over the next few weeks. We have faced several contentious issues in committee that became highly partisan, and progress stalled for a period of time. I hope we can avoid such a stalemate on the floor and recognize that at some point both sides may have to compromise. Nobody in this body needs to be told of the pitfalls arising from partisan standoffs, so I hope that we will all keep that and the best interests of American farmers in mind as we proceed.

WORK TO BE DONE

I am pleased that both the committee chairman and the ranking minority member have remained committed to tailoring a bill which remains within the budget constraints. Given that bipartisan commitment, it is time for us to get to work. The farm bill which was voted out of committee is scored over budget by $7 to $8 billion. The commodity titles alone put the 5-year cost of the bill more than $4 to $5 billion over the baseline. This must be addressed, and we can do so by implementing some policy revisions which make budgetary sense and provide for the long-term well-being of American agriculture. Leadership from both sides have stated their budgetary priorities, now it is time to test our mettle and get down to some real fiscal reckoning.

STALEMATE WILL FORCE ALTERNATIVES

If we cannot strike an agreement to get this bill under budget, I will not be able to cast a favorable vote. In that event, I have prepared a substitute farm bill which retains the market-oriented, proven, and fiscally responsible policies enacted in 1985. My substitute

is based on policies which have a track record of success for the farmer, the consumer, and the budget. And if we arrive at a point where progress on the committee bill stalls, I believe my substitute is a bill which makes sense and can be supported by a bipartisan cast of Senators.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FOWLER. Mr. President, I ask unanimous consent the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FOWLER. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL TRIBUTE TO A RESPECTED COLLEAGUE QUENTIN BURDICK

Mr. SIMPSON. Mr. President, I certainly feel remiss, for last week I understand that there was a time to pay special tribute to our fine and respected colleague from North Dakota, Senator QUENTIN BURDICK—who has now completed three decades of distinguished service in the U.S. Senate. I had not realized that opportunity had been presented. I very much want to contribute remarks to this extraordinary gentleman.

QUENTIN BURDICK served here when my dad was here from 1962 to 1966. QUENTIN was always very courteous and kind to my father as a freshman, and my father always deeply appreciated that. My dear dad is in his 92d year of life and living in Cody, WY.

In the nearly 12 years that I have served in this body with Senator BURDICK, neither he nor I were "military brats," we were "political brats." Relatives of ours have served in various capacities as Governor and U.S. Senator. I have come to develop a great respect and appreciation for this remarkable man who has represented the State of North Dakota so tenaciously, courageously, and admirably for a very long time.

During his 30 years of Senate service, Senator BURDICK has conducted himself with great dedication and a consistent theme of assisting his North Dakota constituents. He has also become known by his colleagues for work in many areas of interest. It has been my personal privilege to witness Senator BURDICK's leadership during his tenure as chairman of the Environment and Public Works Committee. During his tenure on the committee, he has been instrumental in helping pass into law a number of much needed and effective bills, including the Clean Water Act of 1987 and the overhaul of the Federal Highway Program. He also succeeded in influencing legislation relating to groundwater research programs, radon gas and toxic waste cleanup. Throughout his efforts, he has consistently worked diligently to protect the needs and interests of the people of his State—the agricultural industry, the minerals industry and the rural Western States.

He pays attention to those who sent him here. I found that out in the last campaign. I was asked by my party people to assist QUENTIN BURDICK's opponent in his campaign efforts against him in 1988. I was a foolish young lad to wander into that one. And I said some things that were harsh and uncharacteristic—and I know that they hurt QUENTIN BURDICK. I felt that they were a source of surprise to him and they were certainly unnecessary for me to have related. Suffice it to say that in the lifetime of politics, the participants have very short memories—although some things said in the heat of combat are hard to forget—my dear mother will never forgive the democratic State chairman who brought down my dear father in his reelection for Governor in 1958. But that is politics. I think we who participate in it understand it.

In any event, at the conclusion of Senator BURDICK's successful campaign, I sought him out and indicated my apology to him for some of the strident things I had said during the course of the campaign. I also had the opportunity to share that expression with Jocelyn Burdick. She was most gracious in accepting my entreaty and so was Senator QUENTIN BURDICK. I appreciate that very much. It set our relationship on the same steady course it had pursued previously. He handled it with great grace and I chalked it down on my ledger as a lesson learned.

I have only done two of those in my 12 years in the Senate, when I campaigned against my colleagues on the other side of the aisle. The first one happened in 1982 and this one in 1988. I will be more circumspect when out on the road in some future campaign endeavor for a colleague of my particular faith.

The important lesson learned is a simple one that we often forget in politics. You can campaign vigorously in praise of your man. You can do that without in any way being detrimental or disparaging of the opponent. My old grandfather had a phrase: "You don't sell your own product by knocking the other guy's." And so it is. So, it was a very gracious and understanding act of Senator BURDICK's to accept my expression of regard at the conclusion of the campaign.

He has had a rich and lively career in Congress and that career has been highlighted by his remarkable longevity and energy. And his father served in the House of Representatives for 20 years. QUENTIN was elected to the House in 1958 and to the Senate in 1960. All during that time, the people of the rugged State of North Dakota have demonstrated—again and again—their extraordinary respect, appreciation, admiration and affection for Senator QUENTIN BURDICK by reelecting him five additional times to the U.S. Senate.

I think all of us are a little bit in awe as to his ability to fully represent his constituents' best interest. Evidenced by that tremendous popularity right there in his home State and by the respect he commands among us—his colleagues in the U.S. Senate.

I personally wish him every further success. I express my most sincere and earnest regard and admiration for him. Ann and I wish him and Jocelyn well as they both continue their remarkable service to their beloved State here in the city of Washington and in the U.S. Senate. God bless him and sustain him for many years to come.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FOWLER. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 877, A. Raymond Randolph, to be U.S. circuit judge;

Calendar 878, Federico A. Moreno, to be U.S. circuit judge;

Calendar 880, Michael L. Johnson, to be U.S. marshal;

Calendar 881, John W. Raley, Jr., to be U.S. Attorney;

Calendar 882, Joseph G. Schiff, to be Assistant Secretary of Housing and Urban Development;

Calendar 883, Andrew C. Hove, to be a member of the Board of Directors of the Federal Deposit Insurance Corporation; and

Calendar 884, Andrew C. Hove, to be Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

A. Raymond Randolph, of Maryland, to be U.S. circuit judge for the District of Columbia Circuit.

Federico A. Moreno, of Florida, to be U.S. district judge for the Southern District of Florida.

DEPARTMENT OF JUSTICE

Michael L. Johnson, of Idaho, to be U.S. marshal for the District of Idaho for the term of 4 years.

John W. Raley, Jr., of Oklahoma, to be U.S. attorney for the Eastern District of Oklahoma for the term of 4 years.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Joseph G. Schiff, of Kentucky, to be an Assistant Secretary of Housing and Urban Development.

FEDERAL DEPOSIT INSURANCE CORPORATION

Andrew C. Hove, of Nebraska, to be a member of the Board of Directors of the Federal Deposit Insurance Corporation for a term expiring February 28, 1993.

Andrew C. Hove, of Nebraska, to be Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

STATEMENT ON THE NOMINATION OF FEDERICO MORENO

Mr. MACK. Mr. President, I am pleased the U.S. Senate has approved the nomination of the Honorable Federico Moreno. Judge Moreno was nominated by President Bush to fill one of the two vacancies on the U.S. District Court for the Southern District of Florida.

Judge Moreno attended the University of Notre Dame where he graduated cum laude with a degree in government. He received his Juris doctor degree from the University of Miami School of Law. During law school, Fred served as the student bar president and on the Moot Court Board.

Fred most recently served as a circuit judge in the Eleventh Judicial Circuit of Florida. He is very well respected in his community of Miami and enjoys an outstanding reputation as a jurist. He has been rated very highly by both the Dade County Bar Association Judicial Poll and by the Cuban-American Bar Association Judicial Poll.

In addition to several other community activities, Judge Moreno has been actively involved in pro bono work. In 1986 he was awarded the Cuban American Bar Association Pro Bono Service Award. Through this service, Judge Moreno demonstrated devotion to serving the disadvantaged.

In numerous letters and telephone calls that I have received in support of Judge Moreno, there has been a central message. Judge Moreno is known for his calm demeanor in the courtroom, his impartiality, and his keen sense of fairness—three characteristics I believe are essential for a judge to possess.

Prior to recommending Judge Moreno to the Attorney General, I had the opportunity to discuss with Fred his desire to become a Federal judge. I was not only impressed with his intellect but also with his sincerity and dedication to public service.

The southern district of Florida is one of the busiest district courts in the Nation. Not only does the southern district court have complex drug cases, but also a growing civil case docket as well. I know Judge Moreno's colleagues are anxious to put him to work and I am confident that as a jurist on the Federal bench, Judge Moreno will continue to fairly and efficiently administer justice.

Mr. President, I enthusiastically support Judge Moreno's nomination and I thank the Chair.

STATEMENT ON THE NOMINATION OF ANDREW (SKIP) HOVE

Mr. EXON Mr. President, I rise today in support of the nomination of Mr. Andrew (Skip) Hove to be a member and vice chairperson of the Board of Directors of the Federal Deposit Insurance Corporation. Mr. Hove's nomination was just yesterday approved by an overwhelming 19-0 vote in the Committee on Banking, Housing, and Urban Affairs.

I am very pleased to be on the floor today in support of this nomination. Skip Hove has been a lifelong resident of my home State of Nebraska. I have known Skip for many years and am confident that Skip has the knowledge, experience, and good judgment that will be necessary for what will be a very difficult assignment.

Skip Hove is truly a community banker and will bring added insight to the FDIC. He is currently the chief executive officer of the Minden Exchange Bank & Trust Co., a small bank in a rural, Nebraska community. He has been with his bank for approximately 30 years and is well versed in all aspects of community banking.

At his hearing before the Senate Banking Committee, Skip received strong endorsements from myself, Senator KERREY and Representative SMITH. And, the chairman of the committee, Senator RIEGLE, joked following the introductions that it would not get any better than that. What was perhaps intended as a comment for the short term clearly can apply to the long term as well.

This nomination comes at what is in my view a very critical juncture in the history of our financial system. In recent years, we have witnessed an unprecedented and complete collapse of our system for insuring deposits in savings and loan institutions. The public's faith in our ability to regulate our financial systems has clearly been eroded. Public confidence in our financial system is the foundation upon which that system is based and it will not be an easy task to reestablish that which has been lost.

One of the key lessons of the S&L fiasco is that we need strong regulators with ample experience in their fields. Skip has the requisite experience. In addition to his experience with his own bank, Skip has served as mayor of his community and has served as president of the Nebraska Bankers Association.

But, to be a strong regulator means that Skip must change his role from being an advocate for the banking industry to becoming an advocate for the American public. Once again, I am confident in Skip's abilities in that regard. He has agreed to sever all ties with his bank upon acceptance of his new position, a step that will be crucial to his keeping the public's interest foremost in his deliberations.

We will need a steady hand at the helm of the FDIC. Our Nation's financial system is rapidly changing and we will be facing many critical decisions in the coming years. One of the first matters facing Skip will be to provide leadership in the area of whether our current system of deposit insurance should be reformed.

Mr. President, I do not envy the difficult task that Skip will face upon confirmation but do not believe that the Senate will be disappointed in his performance in his important new assignment.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT—PM 130

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Com-

mittee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

1. I hereby report to the Congress on developments since my last report of January 25, 1990, concerning the national emergency with respect to Libya that was declared in Executive Order No. 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) ("IEEPA"); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c).

2. Since my last report on January 25, 1990, there have been no amendments to the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (the "Regulations"), administered by the Office of Foreign Assets Control ("FAC") of the Department of the Treasury. Additionally, since January 25, 1990, there have been no amendments or changes to orders of the Department of Commerce or the Department of Transportation implementing aspects of Executive Order No. 12543 relating to exports from the United States and air transportation, respectively.

3. During the current 6-month period, FAC has issued a limited number of specific licenses to individuals and corporations to permit them to engage in activities that would otherwise be prohibited by the Regulations. Under FAC licensing procedures, 15 individuals registered to travel to or remain in Libya with Libyan immediate family members. Fifteen licensing decisions were made authorizing or prohibiting transactions in connection with Libya. The most significant licensing activity since the last report was the authorization of U.S. involvement in a U.N. Food and Agriculture Organization program to eradicate the screw worm, an infestation that threatened both humans and animals in North Africa.

4. Various enforcement actions mentioned in previous reports continue to be pursued. In February 1990, in the U.S. District Court for the District of Minnesota, Sealed Air Corporation and two of its former corporate officers each received criminal sentences for engaging in shipments of rust inhibitor chemicals to Libya in violation of the Regulations. The corporation was fined $500,000, the maximum penalty permitted for a violation of IEEPA. A senior vice president of the firm was fined $100,000 and was ordered to perform 400 hours of community service. A general manager was fined $40,000 and was ordered to perform 200 hours of community service.

In April 1990, FAC closed the offices of a Libyan student group for failure to abide by the terms of its FAC license. All tangible property of the organization and all bank accounts of the organization were blocked. The student group has since elected a new board of directors and has agreed to renew its licensed contractual arrangements for outside monitoring of financial transactions and to obtain funds from Libya in order to resume its operation in accordance with FAC licensing requirements.

5. The expenses incurred by the Federal Government in the period from January 25, 1990, through June 1, 1990, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the Libyan national emergency are estimated at $442,541. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Customs Service, the Office of the Assistant Secretary for Enforcement, the Office of the Assistant Secretary for International Affairs, and the Office of the General Counsel), the Department of State, the Department of Commerce, the Department of Justice, the Federal Reserve Board, and the National Security Council.

6. The policies and actions of the Government of Libya continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya as long as these measures are appropriate and will continue to report periodically to the Congress on significant developments as required by law.

GEORGE BUSH.

THE WHITE HOUSE, *July 13, 1990.*

REPORT ON EMIGRATION LAWS AND POLICIES OF THE REPUBLIC OF HUNGARY—MESSAGE FROM THE PRESIDENT—PM 131

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

In October 1989 I determined and reported to the Congress that Hungary meets the emigration criteria of the Jackson-Vanik amendment to the Trade Act of 1974. This determination allowed for the continuation of Hungary's most favored nation (MFN) status without the requirement of an annual waiver.

As required by law, I am submitting a formal report to the Congress concerning emigration laws and policies of the Republic of Hungary. You will find that the report certifies continued Hungarian compliance with U.S. and international standards in the areas of emigration and human rights policy.

GEORGE BUSH.

THE WHITE HOUSE, *July 13, 1990.*

ANNUAL REPORT ON PREVENTION OF NUCLEAR PROLIFERATION—MESSAGE FROM THE PRESIDENT— PM 132

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I have reviewed the activities of the United States Government departments and agencies during calendar year 1989 related to preventing nuclear proliferation, and I am pleased to submit my annual report pursuant to section 601(a) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242, 22 U.S.C. 3281(a)).

As the report demonstrates, the United States continued its efforts during 1989 to prevent the spread of nuclear explosives to additional countries. This is an important element of our overall national security policy, which seeks to reduce the risk of war and increase international stability. I want to build on the positive achievements cited in this report and to work with the Congress toward our common goal: a safer and more secure future for all mankind.

GEORGE BUSH.

THE WHITE HOUSE, *July 13, 1990.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2844. An act to improve the ability of the Secretary of the Interior to properly manage certain resources of the National Park System.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 2:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 1191) to authorize appropriations for the Department of Commerce's Technology Administration, to speed the development and application of economically strategic technologies, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 291. A concurrent resolution expressing the sense of the Congress regarding the need to account as fully as possible for Americans still missing or otherwise unaccounted for in Southeast Asia and to secure the return of Americans who may still be held captive in Southeast Asia.

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 291. A concurrent resolution expressing the sense of the Congress regarding the need to account as fully as possible for Americans still missing or otherwise unaccounted for in Southeast Asia and to secure the return of Americans who may still be held captive in Southeast Asia; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3246. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on the evaluation of the reorganization recommendations contained in the 1986 report of the National Commission on Agricultural Trade and Export Policy; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3247. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated July 1, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-3248. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, notice that the use of a competitive prototype program strategy for the development of the Kinetic Energy Anti-Satellite program is not practicable; to the Committee on Armed Services.

EC-3249. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Indonesia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3250. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Greece for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3251. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Spain for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3252. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the first report on the Federal Home Loan Association and the third report on the Federal National Mortgage Association; to the Committee on Banking, Housing, and Urban Affairs.

EC-3253. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the third and final report regarding the processing of deposits made at automatic teller machines; to the Committee on Banking, Housing, and Urban Affairs.

EC-3254. A communication from the President of the Oversight Board of the Resolution Trust Corporation, transmitting, pursuant to law, the annual report of the Board on the Resolution Funding Corporation for calendar year 1989; to the Committee on Banking, Housing, and Urban Affairs.

EC-3255. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on highway accidents which will permit evaluation or comparison of highway safety performance of the States, dated June 1990; to the Committee on Commerce, Science, and Transportation.

EC-3256. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report on progress in developing and certifying the Traffic Alert and Collision Avoidance System; to the Committee on Commerce, Science, and Transportation.

EC-3257. A communication from the Administrator of General Services, transmitting, pursuant to law, informational copies of proposed prospectuses; to the Committee on Environment and Public Works.

EC-3258. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Annual Energy Review for 1989; to the Committee on Energy and Natural Resources.

EC-3259. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual update to the Comprehensive Ocean Thermal Technology Application and Market Development Plan; to the Committee on Energy and Natural Resources.

EC-3260. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3261. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3262. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3263. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3264. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3265. A communication from the Deputy Associate Director Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3266. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on a project negotiated under the Department of Energy's Clean Coal Technology; to the Committee on Energy and Natural Resources.

EC-3267. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on a project negotiated under the Department of Energy's Clean Coal Technology Demonstration Project; to the Committee on Energy and Natural Resources.

EC-3268. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on a project negotiated under the Department of Energy's Clean Coal Technology Demonstration Program; to the Committee on Energy and Natural Resources.

EC-3269. A communication from the Secretary of the Interior, transmitting, pursuant to law, notice that soil survey and land classification studies have been accomplished for the Tohono O'Odham Nation, Papago Water Supply Project, Centeral Arizona Project, Arizona; to the Committee on Energy and Natural Resources.

EC-3270. A communication from the Acting Director of the Office of Energy Research, Department of Energy, transmitting, pursuant to law, notice that the report of the Interagency Coordinating Group for Continental Scientific Drilling will be submitted in the near future; to the Committee on Energy and Natural Resources.

EC-3271. A communication from the President of the United States, transmitting, pursuant to law, notice of his intent to add Bahrain to the list of beneficiary developing countries under the Generalized System of Preferences; to the Committee on Finance.

EC-3272. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements other than treaties, entered into by the United States in the sixty day period prior to July 5, 1990; to the Committee on Foreign Relations.

EC-3273. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the extent and disposition of United States contributions to international organizations; to the Committee on Foreign Relations.

EC-3274. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on United Nations consensus decision-making procedures, limitations on seconded employees, and reductions in United Nations Secretariat staff; to the Committee on Foreign Relations.

EC-3275. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to a law, a report on decision-making procedures on budgetary matters in any specialized agency of the United Nations system before outstanding fiscal year 1990 funds for the U.S. contribution to the specialized agencies of

the United States; to the Committee on Foreign Relations.

EC-3276. A communication from the Administrator of the agency for International Development, transmitting, pursuant to law, a management report on the status of audit follow-up for the period October 1, 1989 through March 31, 1990; to the Committee on Governmental Affairs.

EC-3277. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Agency for International Development, for the period October 1, 1989 through March 31, 1990; to the Committee on Governmental Affairs.

EC-3278. A communication from the Chairman of the Advisory Committee on Federal Pay, transmitting, pursuant to law, the annual report of the Committee for 1990; to the Committee on Governmental Affairs.

EC-3279. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Analysis of Appropriated Out-of-Town Travel Funds Shown in Current Budget"; to the Committee on Governmental Affairs.

EC-3280. A communication from the Benefits and Risk Manager, Fourth District Farm Credit Institutions, transmitting, pursuant to law, the annual report on the Farm Credit Institutions in the Fourth District Amended Retirement Plan for plan year 1989; to the Committee on Governmental Affairs.

EC-3281. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a supplemental contract award report for the period July 1 to August 31, 1990; to the Committee on Armed Services.

EC-3282. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, notice of the approval of a personnel management demonstration project; to the Committee on Governmental Affairs.

EC-3283. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-227 adopted by the Council on June 12, 1990; to the Committee on Governmental Affairs.

EC-3284. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of the D.C. Act 8-225 adopted by the Council on June 12, 1990; to the Committee on Governmental Affairs.

EC-3285. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of the D.C. Act 8-224 adopted by the Council on June 12, 1990; to the Committee on Governmental Affairs.

EC-3286. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of the D.C. Act 8-223 adopted by the Council on June 12, 1990; to the Committee on Governmental Affairs.

EC-3287. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-3288. A communication from the Auditor of the National Council on Radiation Protection and Measurements, transmitting, pursuant to law, the annual audit report of the Council for calendar year 1989; to the Committee on the Judiciary.

EC-3289. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report of the Student Loan Marketing Association (Sallie Mae) for calendar year 1989; to the Committee on Labor and Human Resources.

EC-3290. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, reporting forms for use by party and non-party political committees whose activities affect both federal and non-federal elections and who allocate disbursements for those activities between separate federal and non-federal accounts; to the Committee on Rules and Administration.

EC-3291. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations regarding the production of computerized magnetic media for the Commission's audits of the authorized committees of presidential primary and general election candidates receiving public funding; to the Committee on Rules and Administration.

EC-3292. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations governing debts and obligations owed by candidates and political committees; to the Committee on Rules and Administration.

EC-3293. A communication from the Deputy Under Secretary of Defense (Acquisition), transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for the period October 1989 through April 1990; to the Committee on Small Business.

EC-3294. A communication from the President of the Oversight Board of the Resolution Trust Corporations, transmitting, pursuant to law, the annual report on the operations, activities, budgets, receipts, and expenditures of the Board for calendar year 1989; to the Committee on Banking, Housing, and Urban Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-541. A concurrent resolution adopted by the Legislature of the State of Mississippi; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 502

"Whereas, the U.S. Army Corps of Engineers and the United States Environmental Protection Agency have promulgated guidelines regulating the classification and use of wetlands; and

"Whereas, under administrative guidelines applying a broad definition of wetlands, hundreds of thousands of acres already in cultivation or development have been classified as wetlands; and

"Whereas, administrative mitigation guidelines for broadly defined wetlands have placed excessive prohibitions on development possibilities; and

"Whereas, these administrative guidelines have deprived landowners of the use of their property without compensation; and

"Whereas, although wetlands constitute only a small percentage of the land area in the United States, wetlands constitute a very large percentage of the land area in areas such as the Mississippi Delta and the Mississipi Gulf Coast; and

"Whereas, these administrative guidelines classifying wetlands and implementing no net loss standards are impacting lands never before considered wetlands in these areas; and

"Whereas, these administrative guidelines ignore the special needs of unique geographical areas such as the Mississippi Delta and Gulf Coast; and

"Whereas, the ill defined no net loss policy and the lack of specific criteria for evaluation of mitigation efforts and use permits have created a high level of uncertainty; and

"Whereas, the overly broad classification of land as wetlands in counties in the Delta and Gulf Coast regions applies to 40% to 85% of the land area in these counties; and

"Whereas, this will result in tax assessment reductions causing a devastating loss of the tax base and revenues for municipalities and counties in these areas; and

"Whereas, a common sense approach to developing reasonable classification, use and mitigation guidelines and standards will identify special geographical considerations that need recognition and will preserve and protect actual wetlands:

"Now, therefore be it resolved by the Mississippi State Senate, the House of Representatives concurring therein, That we urge the President and Congress to take speedy and appropriate action to ensure that regulatory agencies use a common sense approach in promulgating guidelines regulating the classification and use of wetlands and mitigation of loss of wetlands.

"Be it further resolved, That copies of this resolution be transmitted to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives and to the Mississippi congressional delegation."

POM-542. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Veterans' Affairs:

"HOUSE CONCURRENT RESOLUTION NO. 59

"Whereas, the Vietnam Veterans of Louisiana, Ruston Chapter, Post No. 1, is the first chapter in the state of Louisiana; and

"Whereas, all chapters of Vietnam Veterans in Louisiana must charter their inception from the Ruston Chapter, Post No. 1; and

"Whereas, the Ruston Chapter has dedicated itself to improving the overall image of the Vietnam veterans, and because of its high regard for civic pride and community involvement, this chapter has displayed strong and dedicated support to scouting, to scholarship support for higher education, and to countless civic activities through many hours of volunteer work for community projects; and

"Whereas, the Ruston Chapter, Post No. 1, serves as a model organization for all Vietnam Veteran chapters in the state of Louisiana; and

"Whereas, these valiant soldiers maintained those high standards that have been handed down from generations of American military veterans; and

"Whereas, the Armed Forces in Vietnam never surrendered their flag nor did they ever lay down their arms in the field of battle; and

"Whereas, it is appropriate that the Louisiana Legislature recognize the contributions of these dedicated citizens and express

their appreciation and that of the people of the state for their loyalty and sacrifice.

"Therefore, be it resolved, That the Legislature of Louisiana does hereby praise and express its heartfelt appreciation to the members of the American military forces, and particularly to the Vietnam Veterans of Louisiana, Ruston Chapter, Post No. 1, who valiantly fought to preserve a democratic government for the citizens of the Republic of South Vietnam.

"Be it further resolved, That the Legislature of Louisiana recognizes the Ruston Chapter, Post No. 1, as the first Vietnam Veteran chapter in the state of Louisiana and a model for all Vietnam Veteran chapters in the state, and particularly expresses the appreciation of the citizens of Louisiana for the many contributions of public service which the members of Post No. 1 have made to their community and state.

"Be it further resolved, That a copy of this Resolution shall be transmitted to the speaker of the House of Representatives and the president of the Senate of the United States Congress, to each member of the Louisiana congressional delegation, and to the Vietnam Veterans of Louisiana, Ruston Chapter, Post No. 1."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2606. A bill for the relief of Conwell F. Robinson and Gerald R. Robinson (Rept. No. 101-365).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 2176. A bill to provide better enforcement of the environmental laws of the United States, and for other purposes (Rept. No. 101-366).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 2028. A bill to amend the International Banking Act of 1978 and the Securities Exchange Act of 1934 to provide for fair trade in financial services (Rept. No. 101-367).

S. 1379. A bill to reauthorize and amend the Defense Production Act of 1950, and for other purposes (Rept. No. 101-368).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 2852. A bill to reinstate as Federal service the services performed in temporary positions within the Bureau of the Census; to the Committee on Governmental Affairs.

By Mr. SANFORD:

S. 2853. A bill to prohibit oil and gas leasing, exploration, and development offshore North Carolina until adequate physical oceanographic, ecological, and socioeconomic information is available to enable informed decisionmaking, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD:

S. 2854. A bill to declare that certain public domain lands are held in trust for the Confederated Tribes of Siletz Indians of Oregon; to the Select Committee on Indian Affairs.

By Mr. BINGAMAN:

S. 2855. A bill to require the establishment of Critical Technologies Institute as a federally funded research and development; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI:

S. 2856. A bill to enhance the use of the Department of Energy facilities so as to improve the Nation's competitive posture, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND (for himself, Mr. DOLE, and Mr. HEFLIN):

S.J. Res. 348. A joint resolution to recognize and commend the Battle of the Bulge Historical Foundation in its efforts to create a gallery in the U.S. Army Museum, Fort George G. Meade, Maryland, to commemorate the Battle of the Bulge; to the Committee on Armed Services.

By Mr. DECONCINI (for himself, Mr. D'AMATO, Mr. SHELBY, Mr. DOMENICI, Mr. ROCKEFELLER, Mr. PELL, Mr. KERRY, Mr. DIXON, Mr. LEVIN, Mr. STEVENS, Mr. GARN, Mr. MCCLURE, Mr. THURMOND, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. BURDICK, Mr. ADAMS, Mr. HEFLIN, Mr. BOSCHWITZ, Mr. LIEBERMAN, Mr. NUNN, Mr. DOLE, Mr. ROBB, Mr. SARBANES, Mr. CONRAD, Mr. SASSER, Mr. KENNEDY, Mr. INOUYE, Mr. MITCHELL, Mr. LAUTENBERG, Mr. HATFIELD, Mr. JEFFORDS, and Mr. BOREN):

S.J. Res. 349. A joint resolution designating October 1990, as "Italian-American Heritage and Culture Month"; to the Committee on the Judiciary.

By Mr. BYRD:

S.J. Res. 350. A joint resolution to designate October 18, 1990, as "National Hardwood Day"; to the Committee on the Judiciary.

S.J. Res. 351. A joint resolution to designate the month of May 1991, as "National Trauma Awareness Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SANFORD:

S. 2853. A bill to prohibit oil and gas leasing, exploration, and development offshore North Carolina until adequate physical oceanographic, ecological, and socioeconomic information is available to enable informed decisionmaking, and for other purposes; to the Committee on Energy and Natural Resources.

OUTER BANKS PROTECTION ACT

● Mr. SANFORD. Mr. President, I rise today to address an issue that has created enormous controversy in coastal States across the country. The issue is framed by the following question: Under what circumstances and conditions should offshore oil and gas exploration and development activities be allowed to occur in areas where such activities have not previously occurred?

This question has been the subject of an increasingly strident debate in recent years. It has been posed in various forms from Massachusetts to California to Alaska. It is a question of great national significance both in terms of energy policy and environmental policy. It is also a matter of intense local interest in most coastal States. Since 1988, it has been a matter of intense interest and concern—to say the least—in North Carolina.

Offshore oil and gas activities pose numerous complex questions that do not lend themselves to simple answers. And it is not my purpose today to attempt to find such answers in a national sense. Circumstances have demanded, however, that actions be taken with respect to proposals to allow certain oil and gas activities in the North Carolina Outer Continental Shelf area. Offshore oil and gas exploration would be a new activity for North Carolina, and our citizens are quite properly seeking to ensure that special precautions are taken before any such activities are allowed.

Mr. President, in August 1988, the Minerals Management Service notified me that the Mobil Oil Co., together with 8 other companies, intended to submit an exploration plan for up to 7 wells within a 21-block unit offshore from our Outer Banks. Mobil later decided to submit a plan for a single exploratory well some 45 miles northeast of Cape Hatteras, with a subsequent plan to follow if a discovery was made.

As might be expected in a State which is justifiably proud of its unique coastal resources—and a State with virtually no experience in dealing with offshore petroleum activities—a firestorm was created. Citizens from all walks of life, whether rich or poor; Republican or Democrat; coastal resident or coastal visitor; joined to express concern about the potential effects of offshore exploration and development on our beloved Outer Banks.

The issue galvanized people who do not normally involve themselves in environmental issues and attracted considerable attention even from those who do not normally pay much attention to the affairs of government. Citizens demanded to know more about what the proposal would mean to North Carolina, and urged caution in even permitting a single well.

We do not know a great deal about oil and gas, Mr. President. We are not, and have never been, a producing State. But we do know that we have been blessed with a rare gem indeed in our Outer Banks, our beaches, our coastal wetlands, and wildlife, and a very high quality of human life along our coast.

Most North Carolinians do not want to take a not-in-my-backyard approach to petroleum exploration. But North Carolinians are insisting, as they should, that we not roll out the red carpet for a significant new activity until we are sure what it means for the Outer Banks.

Mr. President, we have learned a great deal in a hurry since August 1988, as we have had to do. The State of North Carolina, Mobil, and the Minerals Management Service entered into an unprecedented agreement last year which was designed to ensure that better information on the environmental and socioeconomic impact of exploration and any subsequent production would be available before a decision was made on Mobil's proposed well. Since that time, Mobil, North Carolina, and the MMS have spent millions of dollars on various studies and models and have produced a draft environmental report designed to aid in the decisionmaking process.

I have tried very hard to keep an open mind on this issue, Mr. President. I have said from the start that we should carefully weigh the costs and benefits of Mobil's proposal, and make the best decision we can based on the most complete information that is reasonably possible. I announced in 1988 that I would pay careful attention to the views of citizens who may be affected by the proposal, and to the views of the scientific community in North Carolina. I have done so throughout this debate.

The issue has been a difficult one. On the one hand, evidence indicated that natural gas, not oil, would be the likely result of a discovery. A major natural gas discovery could provide very substantial, if uncertain, benefits to northeastern North Carolina. This is an underdeveloped area of our State which is in need of economic assistance. The lack of natural gas service to that area is currently a major economic constraint, and a new gas supply located close to that area could greatly enhance the possibility of economically feasible service.

On the other hand, an oil discovery raises the specter of a spill and the possibility, however remote, of the devastation of an extremely fragile ecosystem. We all remember the Santa Barbara blowout some 20 years ago, and the *Ixtoc* spill in the gulf. The recent rash of tanker spills, including of course the *Exxon Valdez,* demonstrate all too graphically what can happen if a major spill occurs, regardless of its source.

While it is true that the odds of an oilspill from exploration or production activities would be extremely slim off the North Carolina coast, such a spill cannot be ruled out. We must therefore take great pains to ensure that we understand the likely consequences of a major spill, and how we could respond, before we allow any exploration or production. After all, if we do not allow such activities, the additional risk of a spill is zero.

Mr. President, when I first began to study this issue in some detail, I learned many things. The evidence available clearly did not support a position of rejecting drilling out of hand, without carefully considering the specifics of a proposal. For example, it is clear that the risks of a major oilspill from offshore oil and gas activities, even if fairly substantial development occurred, would likely be small in comparison with existing risks of spills from the current tanker traffic off our coast. That may be a better argument for getting tough oilspill legislation out of conference than anything else, but that is what the figures show.

I also learned that there has never been a major spill from an exploration well in the OCS area. There has not been a major spill from a production well in the OCS area in over 20 years, although there have been some in other countries. Further, it would appear that the odds of finding oil are only about 1 in 100. If natural gas was found, environmental risks from production and associated infrastructure would be much less severe than would be the case if oil was found.

I further learned that the drilling muds used offshore are generally composed almost entirely of natural materials, such as barite, bentonite, and water. I am aware that trace metals associated with naturally occurring compounds, as well as special materials such as chromium and lignosulfates, can be of significant concern with respect to potential impacts on marine resources. Nonetheless, it cannot be assumed that drilling discharges will automatically result in any great harm, nor are fishery impacts obvious in many areas where production has occurred.

Finally, I should point out that we may be approaching a potential energy crisis that could be even worse than the gas lines of the 1970's. We are now importing half our oil, even more than in 1979. Imported oil is responsible for roughly half of our enormous trade deficit, and that is a major economic problem. So as long as people insist on driving big cars and driving them often, we are going to need to get more energy from somewhere, and that is not going to be from domestic onshore oil sources. Natural gas can substitute for oil in many circumstances, including motor vehicles, but we are not likely to find major new gas sources onshore either. This situation is frequently cited by drilling proponents as an argument for opening new areas to exploration.

My own view is that we ought to recognize this crisis, but we should look first to increasing energy efficiency and renewable sources before we start opening up environmentally sensitive areas to massive new petroleum exploration. In this connection, it may be instructive to note that the Reagan administration succeeded in cutting funding by 90 percent for some very successful renewable energy problems.

That administration also gutted promising energy efficiency programs, while attempting to slap fossil fuel leases on just about everything in sight. We in the United States still waste far more energy than any other nation in the world. So we ought to in general do the very easy things, such as reducing energy waste, before we start considering the tough decisions posed by the expansion of fossil fuel production in new areas.

My thoughts after some early study, then were to urge that intensive site-specific information should be collected with respect to the proposed well. We needed to look at the specifics of the drilling plan; baseline data on fishery resources and bird and marine mammal species that utilize the area at the proposed drill site; ocean bottom topography and stability; ocean currents; and a host of other environmental factors. We needed to look at the socioeconomic aspects of allowing a new and controversial industry into an area where both economy and culture are closely tied to unique natural resources.

I felt then, and continue to feel, that two principles should guide our decision on whether to allow drilling. First, the burden of proof should be on Mobil and the Minerals Management Service to demonstrate that, based upon adequate scientific information, the chances of ecological or socioeconomic damages from offshore oil and gas activities would be negligible. Second, although Mobil is seeking permission to drill only one well, we should carefully examine the consequences of full-scale development associated with a major discovery in advance, because North Carolina's ability to halt or condition such development after a discovery is made may be limited.

Since 1988, Mobile has worked closely with MMS and the State to provide the answers to many difficult question. Last November, a comprehensive draft enviromental report comprising over 800 pages of data was released. While containing a great deal of useful information, the draft ER was subject to considerable criticism from the State and the public in certain areas. A final draft, ER was recently released that includes a number of revisions.

While I am generally pleased with Mobil's cooperation and believe great progress has been made in terms of gathering the information we need to make an informed decision, Mr. President, I do not feel that the burden of proof has been met such that we can allow drilling to go forward at this time. Therefore, I have come to the conclusion that a moratorium on drilling is necessary and today am introducing legislation to accomplish that end. Congressman WALTER JONES has

introduced similar legislation in the other body.

Mr. President, I am not a believer in delay for delay's sake. I do not know whether, or under what conditions, we may wish to allow Mobil to proceed. I am simply convinced that there are still unresolved questions with respect to the potential impacts of drilling and North Carolina's ability to set any necessary conditions on exploration and production, and that we need an appropriate period in which to attempt to fill the gaps in the data.

It is quite clear that the citizens of North Carolina do not believe the current environmental report is adequate. The scientific community in North Carolina has also identified a number of areas in which current information ought to be improved. Among these areas are:

Ocean current data, including filaments and eddies, north of the proposed drilling site, which is necessary to predict accurately the worst-case consequences of an oil or diesel spill;

Baseline data on marine resources in the highly productive area adjacent to the drill site, including the possibility of unusual effects of discharges on juveniles or larvae of certain species even though any concentrations of toxics in such discharges are expected to be reduced to background levels within hundreds of meters of the drill site;

Designation of the "Point" area near the proposed drill site as an "Area of Biological Concern" under EPA regulations and potential restrictions on drilling mud composition or discharge based on such designation;

Exclusion of fishing activities, including both direct spatial exclusion and indirect exclusion through water quality or noise effects;

Stability of the sea floor and the potential for a "slope failure" event along the ocean bottom which may affect drilling operations;

Additional attention to socioeconomic factors, particularly in the event that a major discovery occurs, and planning which could help avoid adverse socioeconomic impacts; and

Additional attention to the possibility of adverse impacts to marine mammals, endangered species, and migratory pelagic bird species.

While there has been consideable public criticism of Mobil's environmental report, I want to make it clear that I do not agree with much of that criticism. It is indisputable that we have gathered far more information than is typically required under law for the drilling of a single well. I might prefer that we generally require more such data to be gathered for all wells proposed to be drilled in new areas, but I think we should generally praise Mobil's efforts. Those efforts clearly go far beyond what is required, and I have no reason to criticize the general quality of their work. But due to the unique qualities of the Outer Banks, we must have an exceptionally high standard to meet here.

I would note that Mobil has been willing not only to go to unprecedented lengths in terms of data collection, but has also agreed to unusual measures to guard against a spill, and to try to ensure that North Carolina would receive as much of the economic benefits associated with its proposed activities as possible. While I believe it is important to have more independent review of Mobil's data, my concerns lie more with the process under which we are expected to make decisions rather than Mobil's actual performance.

Mr. President, my Outer Banks Protection Act is based largely on the efforts of Chairman WALTER JONES, who has done a great service to North Carolina with his consistent, thoughtful leadership on this issue. The bill would do the following:

Require the Secretary of the Interior to conduct additional ecological and socioeconomic studies, building upon the current efforts of Mobil, MMS, and the State of North Carolina;

Establish a five-member independent review panel to consult with the Secretary on such studies, assess the adequacy of the data, and report to the Secretary, with specific guidance as to topics that should be included in the review process;

Prohibit the approval of any exploration plan, permit to drill, or actual drilling, until 45 days of continuous session of Congress after the Secretary has found, based on the findings and recommendations of the review panel, that adequate and reliable data exists on which to proceed with environmentally sensitive exploration activities;

Prohibit the issuance of any new leases off North Carolina until January 1, 2000; and

Authorize appropriations for necessary activities as specified in the bill.

Mr. President, it is also my intention to seek a moratorium on all oil and gas activities off the North Carolina coast through the appropriations process.

When President Bush announced earlier this week that he would suspend oil and gas activities off broad segments of the Nation's coast, he stated that he had selected those segments based on five criteria. Those criteria were the availability of adequate information and analysis; environmental sensitivity; resource potential and existence of proven reserves; effect on the Nation's energy requirements; and national security. Based on any reasonable application of these same principles to North Carolina, the conclusion is inescapable that a moratorium applies to our situation at least as well as it does to the areas selected by the President.

I have no doubt that we have many difficult decisions ahead with respect to the national OCS program. The 1989 National Research Council report, as well as the work of the President's task force, leaves little doubt on that score. But while that work proceeds, we must pay special attention to areas such as the Outer Banks. It is my hope that the Outer Banks Protection Act will provide the impetus we need in North Carolina to gain the information we must have to make an informed decision on offshore petroleum activities.●

By Mr. HATFIELD:

S. 2854. A bill to declare that certain public domain lands are held in trust for the Confederated Tribes of Siletz Indians of Oregon; to the Select Committee on Indian Affairs.

SILETZ RESERVATION ADDITION ACT

● Mr. HATFIELD. Mr. President, today, I am introducing legislation on behalf of the Confederated Tribes of Siletz Indians of Oregon. This bill is designed to assist the Siletz Indians in their quest to achieve economic self-sufficiency, enhance their opportunities to exercise a higher level of self-determination and sovereignty in the management of their natural resources, maintain environmental integrity in the positive use of their resources, and protect third-party interests.

This bill has also been structured in such a way as to offer a model to further the U.S. stated policy of Indian self-determination. This legislation adds a new dimension to that policy by authorizing the tribe to voluntarily waive certain legal trust responsibilities that are borne by the Government in its management of Indian timberlands, including the marketing of timber. The Siletz Tribe has requested this new and innovative authority to permit it to assume greater management control over its resources and to take advantage of rapidly changing timber-marketing conditions. The United States would be held harmless by the tribe in its exercise of this authority.

Under the provisions of this legislation, the tribe would exercise this new dimension of self-determination over approximately 11,500 acres of public domain timberlands which are authorized to be transferred to the tribe by this legislation and added to its present 3,600-acre reservation. These lands consist of over 100 parcels ranging in size from 20 to 500 acres. The lands are located wholly in Lincoln County, OR, and are managed by the Department of the Interior's Bureau of Land Management [BLM]. The fragmented nature of these lands pose management problems for the BLM which would be resolved by the adoption of this legislation.

Historically, the Siletz Tribe occupied a 1,200-acre reservation in west-

ern Oregon. The timber, wildlife, waterfowl, fruit, and berries located on the reservation provided the tribe with shelter and sustenance. Misguided Federal Indian policies eased the way for powerful economic interests to acquire virtually all of this land. The tribe's unique relationship with the United States was terminated by yet another misguided Indian policy in the 1950's. This so-called termination policy was designed to free Indians from the burdens of Federal trusteeship and open the doors of opportunity to mainstream America. The shortcomings and failures of that policy are well documented and require no further elaboration at this time.

In the 1970's, I sponsored legislation in the Senate to provide for the restoration of the Siletz Tribe's unique relationship with the United States. My legislation was enacted into law in 1977, and launched what I viewed as phase 1 of the tribe's drive to achieve economic self-sufficiency.

Following restoration, the Siletz Tribal Council made a conscious decision to exercise its full range of options under the Indian self-determination policy to give meaning and substance to its inherent sovereign powers. The council assumed control and management—save for legal trust responsibilities—over the programs of the Bureau of Indian Affairs and Indian Health Service pursuant to contractual arrangements.

Significantly, it should be noted that the council has managed its Federal grants and contracts in a responsible and businesslike manner. Federal audits of grants and contracts over several years have failed to disclose a single disallowed expenditure. It is fair to state further that the council is applying the same responsible and businesslike management qualities to all of its economic development endeavors.

While the Siletz Tribe has demonstrated important economic progress, its future economic growth is inhibited by an inadequate land and timber base. The 3,600-acre reservation, along with a projected $8 million in Federal contracts and grants, was thought to be sufficient to provide an opportunity for tribal economic self-sufficiency. By 1983, however, the tribe realized that projected revenues from timber sales and Federal sources were overly optimistic. They concluded that the only way to achieve economic self-sufficiency was to seek additional land.

The tribe requested that I sponsor legislation to acquire the balance of public domain lands in Lincoln County for their beneficial use and ownership. But in making this request, the tribal leadership emphasized to me that they wanted more than a traditional Indian land transfer bill. The leadership expressed a strong desire to be vested with broader resource management authorities. The bill that I am introducing today reflects that desire. My introduction of this legislation launches phase 2 of the Siletz Tribe's quest to achieve economic self-sufficiency.

Mr. President, I do not want to give the impression that this legislation is without problems. Major issues need to be resolved in order for this bill to move forward.

As many of my colleagues are aware, the Northwest is in the midst of a highly polarized debate over the future of its forest lands. One facet of that debate deals with the spotted owl—a species that was just listed as a threatened species. At this time, we do not know what the plan for its protection will look like—either in the short term or the long term.

An interagency scientific committee recently issued a report that includes a plan to set aside habitat to assure the viability of the owl. That plan is largely based on large set-asides called habitat conservation areas [HCA's] and may form the basis for future protection of the owl. An initial look at the report would indicate that about half of the proposed reservation-addition lands contained in this bill are also located in potential HCA's.

Because the timber management activities envisioned by the tribe are clearly contrary to the minimal management scheme advocated by the interagency scientific committee, a transfer of these lands would do the tribe little good if the areas in question were set aside for habitat conservation.

Accordingly, we will have to wait for the major timber management questions to resolve themselves prior to any actual lands transfer. However, this should not stop the Select Committee on Indian Affairs from holding hearings to address the underlying concepts in my legislation.

There is no question that those concepts will stir up controversy with regard to their departure from the more traditional view of trust responsibility. Clearly, there have been recent examples of trust mismanagement that would suggest that a more independent tribal role is not warranted. However, there will be those who will claim that eroding the Federal Government's role in overseeing management of trust resources is not in the long-term interest of tribes. These issues need to be explored. I am introducing this legislation today so that we can get the issues out on the table and provide a forum for their discussion.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEFINITIONS

SECTION 1. For purposes of this Act—

(1) The term "tribe" means the Confederated Tribes of Siletz Indians of Oregon.

(2) The term "Secretary" means the Secretary of the Interior.

DECLARATION OF TRUST

SEC. 2. (a) The Secretary shall declare that all rights, title, and interest of the United States in surface and mineral estates of certain lands located in Lincoln County, Oregon, that are public domain lands other than—

(1) National Forest lands,

(2) the lands of the Oregon and California Railroad, and

(3) Yaquina Head,

are held in trust by the United States for the benefit of the Tribe.

(b) Lands that are declared to be held in trust under subsection (a) shall be part of the reservation of the Confederated Tribes of Siletz Indians of Oregon.

(c) The Secretary shall publish in the Federal Register a legal description of the lands that are declared to be held in trust under subsection (a).

MANAGEMENT OF RESOURCES

SEC. 3. (a)(1) Notwithstanding the Act of September 4, 1980 (94 Stat. 1072; 25 U.S.C. 711e note); sections 2116 and 2118 of the Revised Statutes (25 U.S.C. 177, 180); the Act of February 16, 1889 (25 Stat. 673; 25 U.S.C. 196); sections 5, 7, and 8 of the Act of June 25, 1910 (36 Stat. 857; 25 U.S.C. 202, 407, 406); section 6 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 466); or any other provision of law, the Tribe is authorized to—

(A) manage, harvest, remove, sell, or otherwise alienate any timber, any interests in timber, or any other surface or subsurface resources on any lands held by, or in trust for, the Tribe, and

(B) perform any other activities on such lands incidental to the activities described in subparagraph (A), including forest presale activities and road construction and maintenance.

(2) Notwithstanding any other provision of law—

(A) the United States shall not be responsible for the care or management of any lands for which the Tribe has assumed responsibility under paragraph (1), and

(B) the United States shall not be liable for any action or omission of the Tribe that arises in connection with the activities the Tribe is authorized to conduct under paragraph (1).

(b)(1) If the ordinances of the Tribe do not include an ordinance adopted in consultation with the Secretary and the Oregon State Forester that is substantially in accord with the Oregon Forest Practices Act (Or. Rev. Stat. 527.610, et seq.) and the rules promulgated under such Act, the Tribe shall enforce such Act and rules with respect to lands held by, or in trust for, the Tribe as though such Act and rules were ordinances of the Tribe. The Secretary shall publish in the Federal Register any ordinance of the Tribe that is substantially in accord with such Act and rules and any amendments to such ordinance. Any amendments to such ordinance shall be made in consultation with the Secretary and the Oregon State Forester.

(2)(A) Notwithstanding the sovereign immunity of the Tribe, the State of Oregon or any person who is damaged by any action or omission of the Tribe that constitutes a violation of—

(i) an ordinance of the Tribe that is substantially in accord with the Oregon Forest Practices Act and the rules promulgated under such Act, or

(ii) if such an ordinance is not in effect, the Oregon Forest Practices Act or any rule promulgated under such Act.

may bring a civil action in the tribal court of the Tribe to compel compliance, to seek compensation for such damages, or to obtain both compliance and compensation.

(B) If the Tribe does not have a tribal court, the State of Oregon or any person described in subparagraph (A) may bring a civil action in the United States District Court for the District of Oregon to obtain the relief described in subparagraph (A) and the United States District Court is authorized to provide that relief.

(C) The Tribe may be held liable for damages in any civil action brought under subparagraph (A) or (B) only to the extent that the United States would have been held liable for damages if the Secretary were responsible for the action or omission upon which the civil action is based.

(D) The courts of the State of Oregon shall not have jurisdiction over any civil action described in subparagraph (A) and shall not have the authority to provide the relief described in subparagraph (A).

(c)(1) If the Tribe assumes responsibility under subsection (a)(1) for any of the activities described in subsection (a)(1), the Tribe may terminate such responsibility by providing notice of such termination to the Secretary. The termination shall take effect on either—

(A) the date that is 1 year after the date on which notice of the termination is submitted to the Secretary, or

(B) a date upon which the Secretary and the Tribe have agreed.

The Secretary shall publish in the Federal Register advance notice of the date on which such termination is to take effect.

(2) The termination under paragraph (1) of any responsibility assumed under subsection (a)(1) shall not—

(A) affect the liability of the Tribe arising out of any action or omission of the Tribe that occurred on or before the effective date of the termination,

(B) transfer any liability to the United States for such actions or omissions,

(C) obligate the United States to reforest any area, or otherwise remedy any condition, by reason of such actions or omissions, or

(D) affect the eligibility of the Tribe for any services or assistance that are provided by the Secretary to Indian tribes because of their status as Indian tribes.

(d)(1) For each fiscal year for which the Tribe assumes responsibility under subsection (a)(1) for any of the activities described in subsection (a)(1), the Secretary shall pay to the Tribe, out of funds appropriated for such fiscal year under the authority of the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), popularly known as the Snyder Act, an amount that equals or exceeds the amount of funds the Tribe would have received for such fiscal year for carrying out such activities under a contract entered into with the Secretary for such fiscal year under the Indian Self-Determination Act if the Tribe had not assumed responsibility for such activities under subsection (a)(1).

(2) If the Tribe receives funds under paragraph (1) for any fiscal year—

(A) the Tribe shall submit to the Secretary a report which provides an accounting of how the funds were expended, and

(B) the Comptroller General of the United States is authorized to conduct an audit of the Tribe with respect to the expenditure of such funds.

PROCEEDS FROM RESOURCES

SEC. 4. (a) Notwithstanding any other provision of law, the proceeds from the sale of timber on, or the sale of any other surface or subsurface resource of, lands held by, or in trust for, the Tribe that occur after the date of enactment of this Act (including sales occurring after such date under a contract that was entered into by the United States prior to the date of enactment of this Act) shall be paid to the Tribe.

(b) None of the proceeds described in subsection (a) that are paid to the Tribe shall be subject to Federal or State income taxes or be considered as income or resources of the members of the Tribe in determining eligibility for, or the amount of assistance under, the Social Security Act or any other Federal program or program assisted by the Federal Government.

PAYMENTS IN LIEU OF TAXES

SEC. 5. In order to offset the loss of revenue caused by the other provisions of this Act, the Tribe shall pay to the County of Lincoln, Oregon, 1.5 percent of the net revenues from timber harvested from the lands that are declared to be held in trust for the Tribe under section 2(a).

CONSTRUCTION OF THIS ACT

SEC. 6. Nothing in this Act, and no actions taken by reason of this Act—

(1) shall affect any rights any person (other than the United States) has on the day before the date of enactment of this Act in the lands that are declared to be held in trust for the Tribe under section 2(a),

(2) shall be construed to authorize the taxation of timber on such lands or of any interest in, or resources located on, such lands,

(3) shall be construed to authorize the alienation of any interest of the Tribe in any real property other than timber or other surface or subsurface resources on such lands,

(4) shall affect the eligibility of such lands for the services and assistance for insect control, diesase control, and fire suppression on the same basis that such services and assistance are provided to other lands held in trust for any Indian tribe recognized by the Federal Government,

(5) shall affect the responsibility of the United States to protect the lands held in trust for the benefit of the Tribe, and lands otherwise subject to restrictions imposed by the United States on alienation, from taxation and from alienation of any interest in such lands, other than in the timber, surface resources, or subsurface resources on such lands,

(6) shall preclude the Secretary from approving (under part 151 of title 25 of the Code of Federal Regulations or any similar regulations prescribed by the Secretary) applications for trust status for any additional lands acquired by the Tribe,

(7) except as provided in section 3(b) and paragraph (8), affect the regulatory authority of the Tribe over lands held by, or in trust for, the Tribe,

(8) shall grant or restore any hunting, fishing, or trapping rights of any nature, including any indirect or procedural right or advantage to the Tribe or any member of the Tribe, or.

(9) shall diminish any hunting, fishing, or trapping rights that existed prior to the date of enactment of this Act.

PUBLIC ACCESS

SEC. 7. The Tribe may restrict access to the lands that are declared to be held in trust for the Tribe under section 2(a) to the extent that the Secretary is allowed to impose or enforce restrictions on access to public domain lands under Federal law.

TIMBER EXPORTS

SEC. 8. (a) The Tribe shall offer not less than 50 percent of the total sales volume for each year of timber harvested from the lands declared to be held in trust for the Tribe under section 2(a) for sale to United States firms that agree to use the timber purchased for production in the United States of wood products.

(b) Except as otherwise provided in subsection (a), no restrictions shall apply to the exportation of timber harvested from, or other surface or subsurface resources removed from, the lands that are declared to be held in trust for the Tribe under section 2(a).

(c) Nothing in this Act may be construed to impose any restrictions on the export of timber harvested from, or other surface or subsurface resources removed from, any lands held by, or in trust for, the Tribe other than the lands declared to be held in trust for the Tribe under section 2(a).●

By Mr. BINGAMAN:

S. 2855. A bill to require the establishment of a Critical Technologies Institute as a federally funded research development center; to the Committee on Energy and Natural Resources.

CRITICAL TECHNOLOGIES INSTITUTE ACT OF 1990

● Mr. BINGAMAN. Mr. President, a recent report to the Secretary of Defense from the Defense Science Board concerning defense industrial cooperation with our Pacific Rim allies made three basic points. First, technology has replaced territory as the determinant of national power. Second, leadership in dual-use technologies is the key to future economic and military success. And third, history is unkind to nations who lose control of their economic destiny.

These three observations prompted me to author a provision in last year's Defense authorization bill which required the establishment of the National Critical Technologies Panel.

The provision called on the President's science adviser to convene a panel with representation from both government and industry. The panel will prepare a biennial report for the President and Congress setting out its view on the 30 technologies most important both to our long-term defense needs and to our future economic prosperity.

For each such technology the panel must state the reasons it is included, our progress in developing it, and how we stand relative to other countries. The first report is due to the President

on October 1, 1990 and to the Congress on November 1, 1990.

The idea of a critical technologies report is not new. The Japanese have, of course, for many years targeted critical technologies for particular emphasis both by government and industry. The Europeans, through the European Community's Framework Program and numerous cooperative government-industry research and development programs, have selected five key technology focuses. Through the Euclid project under the Independent European Program Group [IEPG], the Europeans have also specified 11 technologies they consider most significant for European security.

In 1987 the U.S. Aerospace Industry Association began its critical technology planning process, identifying eight technology areas of greatest importance to the future of the U.S. aerospace industry. Since that initial list, they have added two more. In 1988 Congress directed the Department of Defense to prepare an annual critical technology plan, and in March 1990, the second of those plans was issued listing 20 technologies of greatest concern. And now the Department of Commerce has just issued its emerging technologies report, identifying 12 technologies critical to American economic opportunity.

There is a tremendous overlap among the priority areas selected in these various reports. Microelectronics and information technologies, advanced materials, manufacturing technology, and biotechnology are recognized by all as critical enabling technologies for numerous applications. In a sense, critical technologies select themselves. The only question is whose industry will bring the resulting products to market first.

In testimony before my subcommittee in the Armed Services Committee, we have repeatedly heard that the initial report of the National Critical Technologies Panel will not nearly be enough to ensure that it will be American industry in the lead. Rather, much more must be done to move us toward a national consensus on what our priorities should be, on how we ensure stability in the funding of research and development in these priority areas, and on what independent or coordinated action industry, government, and academia should take to ensure American leadership in these critical technologies. Specifically, witnesses stressed that there should be a coordinating focal point for gathering the advice from the private sector and the public sector as to appropriate objectives, strategies, and progress assessments with respect to each of these technologies, and that a permanent, highly qualified staff must be devoted to this goal.

Therefore, today I rise to introduce the Critical Technologies Institute Act of 1990. The act will mandate the establishment and funding of the Critical Technologies Institute, a federally funded research and development center [FFRDC], whose primary sponsor would be the Office of Science and Technology Policy. Its mission would be threefold.

First, on the basis of the National Critical Technologies Report and its own analysis of national and worldwide trends in basic and applied research and development of each critical technology, the Institute will coordinate the ideas of industry, universities, and the Federal and State Governments to identify for the Institute's board and sponsor possible national objectives with respect to each such technology. The Institute's staff will prepare reports which summarize the results of such analysis and coordination on the question: What should America's research, development, and production capability be for each technology near term, midterm, and long term?

Second, on the basis of its own research and analysis and of pooled ideas from industry, universities, and the Federal and State Governments, the Institute will prepare in some detail for the Institute's board and sponsor possible strategies for achieving the objectives identified, including what industry, the Federal Government, State governments, and universities might appropriately do, independently or on a coordinated basis, to achieve those objectives.

And third, the Institute will prepare periodic reports for the Institute's board and sponsor which monitor progress on implementing strategies and on achieving objectives.

The Institute would be a nonprofit, membership corporation. Its members would be its board members, and its board will consist of 21 representatives of government, industry, and academia. Eleven members shall be the heads—or their designees—of agencies which are part of FCCSET [the Federal Coordinating Council on Science, Engineering, and Technology]. The Director of OSTP—who shall be chairman of the board—the Secretaries of Defense, Energy, Health and Human Services, Commerce, the Director of the National Science Foundation, and the Administrator of NASA shall be permanent members of the board. The remaining 4 of the first 11 seats shall be filled—on a staggered, rotating, 4-year-term basis—from the other 10 members of FCCSET. The remaining 10 seats on the board shall be filled with representatives of industry and academia, selected by the first 11 members of the board from FCCSET. And the officers of the Institute, elected by the board, will be able to hire a permanent, expertly qualified staff which is typically found in FFRDC's like the Institute for Defense Analysis.

In my view, the establishment of the Critical Technologies Institute is the key to America's regaining control of its economic destiny. It provides the focus for discussion, consensus, and implementing action for government, industry, and our universities, and the professional staff to support that effort. It provides us the occasion to acknowledge that technology leadership is now, in fact, the true foundation of national power, and it provides us the real opportunity to do something about it.

Mr. President, I respectfully request that a copy of the full text of the bill appear in the RECORD, and I yield the floor.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2855

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Critical Technologies Institute Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6681 et seq.), as added by section 841 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1511), provides for the establishment of a National Critical Technologies Panel within the Office of Science and Technology Policy.

(2) That panel is responsible for submitting to the President a biennial report on national critical technologies.

(3) A biennial report of the National Critical Technologies Panel will be of little use if government, industry, and academia do not have a focal point to discuss whether the findings of the panel should be followed with the independent or coordinated action necessary to make the United States competitive in the technologies reported on by the panel.

(4) No agency of the Federal Government currently has the personnel resources adequate to provide the staff support that will be needed in the future by the National Critical Technologies Panel or to support the consideration of appropriate follow-up action on the findings of that panel.

(5) In order to attain the desired objectives, it is essential that the National Critical Technologies Panel have a permanent, highly qualified staff. A Federally funded research and development center is ideally suited to meet that requirement.

(b) PURPOSE.—It is the purpose of this Act to provide to the Office of Science and Technology Policy and the other government agencies that are members of the Federal Coordinating Council on Science, Engineering, and Technology, through a federally funded research and development center, (FCCSET) permanent, expert personnel resources that will—

(1) produce the research and analysis that Federal and State government, industry, and colleges and universities will need in order to consider appropriate independent or coordinated implementing action pursu-

ant to National Critical Technologies Panel findings; and

(2) provide supplemental staff support to the National Critical Technologies Panel, or like panels, as may be needed in the future.

SEC. 3. CRITICAL TECHNOLOGIES INSTITUTE.

(a) ESTABLISHMENT.—There shall be established a Federally-funded research and development center to be known as the "Critical Technologies Institute" (hereafter referred to in this section as the "Institute").

(b) INCORPORATION.—The Institute shall be incorporated as a nonprofit membership corporation.

(c) BOARD OF TRUSTEES.—(1) The Institute shall have a Board of Trustees (hereafter referred to in this section as the "Board") composed of 21 members as follows:

(A) The Director of the Office of Science and Technology Policy, who shall be Chairman of the Board.

(B) The Secretary of Defense, or the Secretary's designee.

(C) The Secretary of Energy, or the Secretary's designee.

(D) The Secretary of Health and Human Services, or the Secretary's designee.

(E) The Secretary of Commerce, or the Secretary's designee.

(F) The Administrator of the National Aeronautics and Space Administration, or the Administrator's designee.

(G) The Director of the National Science Foundation, or the Director's designee.

(H) Four members appointed by the Director of the Office of Science and Technology Policy from among the members of the Federal Coordinating Council on Science, Engineering, and Technology (other than members of such council named in subparagraphs (B) through (G)).

(I) Ten members appointed by the members of the Board referred to in subparagraphs (A) through (H) from among representatives of industry and colleges and universities in the United States.

(2)(A) The term of service of members of the Board appointed under paragraph (1)(H) shall be four years, except that of the four members first appointed, one shall be appointed for a term of one year, one shall be appointed for a term of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years, as specified by the Director of the Office of Science and Technology at the time of the appointments.

(B) The term of office for each of the members of the Board appointed under paragraph (1)(I) shall be specified by the appointing members of the Board at the time of appointment.

(C) Members of the Board may be reappointed.

(D) A vacancy in a membership of the Board appointed pursuant to subparagraph (H) or (I) of paragraph (1) shall be filled in the same manner as the original appointment. A member appointed under this subparagraph shall serve for the remainder of the unexpired term of his predecessor.

(3) The Board shall meet at least twice each year.

(4)(A) The Board shall have an executive committee composed of the members referred to in subparagraphs (A) through (G) of paragraph (1) and six of the members appointed pursuant to subparagraph (I) of such paragraph.

(B) The executive committee shall meet at least six times each year.

(5) A member of the Board who is an officer or employee of the United States may not receive pay for service as a member, other than the pay provided for the member's position as an officer or employee of the United States.

(d) DUTIES OF THE INSTITUTE.—The Institute shall—

(1) survey the views of United States industry, colleges, and universities, and Federal and State agencies, involved in research, development, or utilization of critical technologies on—

(A) each critical technology identified in the most recent biennial report of the National Critical Technologies Panel established pursuant to section 601 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6681); and

(B) each technology that the Institute considers critical on the basis of its analysis of national and worldwide trends in basic and applied research and development;

(2) on the basis of such views and analysis by Institute personnel—

(A) identify suitable near-term, mid-term, and long-term national objectives for the research, development, and production capability of the United States with respect to such technologies; and

(B) prepare possible strategies for achieving the identified objectives, including a discussion of the appropriate roles of industry, colleges and universities, and Federal and State agencies; and

(3) publish reports, as appropriate, discussing—

(A) such national objectives and strategies; and

(B) progress in implementing such strategies and achieving such objectives.

(e) SPONSORSHIP.—(1) The Director of the Office of Science and Technology shall be the sponsor of the Institute.

(2) The Director and the Board shall enter into a sponsor agreement consistent with the requirements prescribed by the Administrator for Federal Procurement Policy that are generally applicable to sponsor agreements.

(3) The sponsor agreement shall—

(A) require the Institute to perform such functions for the Office of Science and Technology as the Director of that office may specify consistent with the requirements of subsection (d); and

(B) permit the Institute to perform functions for the member agencies of the Federal Coordinating Council on Science, Engineering, and Technology that are not inconsistent with the effective performance of the functions specified by the Director.

(f) DEADLINE FOR CERTAIN ACTIONS.—The Director of the Office of Science and Technology Policy shall take such actions as may be necessary to ensure that, not later than 90 days after the date of the enactment of this Act—

(1) the articles of incorporation for the Institute have been appropriately filed;

(2) the corporate bylaws have been adopted;

(3) the Board members have been identified or appointed, as appropriate;

(4) the initial officers of the Institute have been elected;

(5) the first regular business meeting of the Board has been conducted; and

(6) the sponsor agreement referred to in subsection (e) has been entered into.

(g) FUNDING.—(1) The Secretary of Defense shall make available to the Institute, out of funds available for the Department of Defense, $5,000,000 for the first fiscal year in which the Institute begins operations.

(2) There is authorized to be appropriated for the Institute for each fiscal year after the fiscal year referred to in paragraph (1) such sums as may be necessary for operation of the Institute.●

By Mr. DOMENICI:

S. 2856. A bill to enhance the use of the Department of Energy facilities so as to improve the Nation's competitive posture, and for other purposes; to the Committee on Commerce, Science, and Transportation.

DEPARTMENT OF ENERGY SCIENCE AND EDUCATION ENHANCEMENT ACT

● Mr. DOMENICI. Mr. President, I rise today to introduce the Department of Energy Science and Education Enhancement Act of 1990. This bill will help enable the Department of Energy [DOE] to use the full potential of its tremendous scientific resources to the benefit of the Nation.

This legislation takes some modest steps to expand upon the mission and authorities of the Department, enabling it to fully respond to critical national needs to improve the Nation's education, environment, health, and overall economic competitiveness.

Mr. President, during this time of wonderous world political change we must recognize that we are in the midst of a remarkable scientific and technological revolution that is also critically important to our Nation's future. Our society and workplaces are becoming increasingly technologically sophisticated, and in the future will require considerable basic skills in mathematics and science from all our graduates.

Important as well is the critical role scientific excellence and technological advances are already playing in the prospects for our economy. Our democratic, as well as economic, futures depend upon our Nation having a scientific literate citizenry, a high-quality cadre of scientists and engineers, and an industrial base adept at converting technological innovation into economic strength.

However, Mr. President, we keep seeing reports that tell us we are doing a very poor job at educating our students in math and science, and that too few of our excellent students are pursuing technical studies in college. It is particularly problematic that we are clearly falling behind in relation to our trading partners.

We must reform our educational systems to change this.

I believe one important way we can change things is to see that those with the resources and the ability to help—even though they are thought of as outsiders to education—can become highly constructive parts of our education systems. Secretary of Energy James Watkins, the man whose Department employs over 23,000 scientists recognizes the importance of this.

He has been calling upon his agency's active efforts to improve science in America.

Secretary Watkins knows that the future of his Department depends greatly upon the success of American science and math education. He also recognizes that the unique capabilities of this Department can be harnessed to greatly improve math and science education in this country. Secretary Watkins has put forth an excellent vision for the Department and the Nation in this regard, and today I am introducing a bill I have been working on with the DOE to help carry out that vision.

The first significant part of the bill is section 4, which expands upon the basic mission of the Department, directing DOE to use its resources to the fullest extent possible to improve American scientific education. This part is critical for two reasons. In order for the Department to fulfill its basic missions well into the future we must improve the number and quality of scientists, mathematicians, and engineers available to the Department.

In addition, the unique resources of the Department can offer much to America's education system so as to generally improve the educational experience of our students, and enhance math and science education in particular.

Section 5, directs the Secretary to establish specific programs to be operated at, or through, its facilities to generate improvements in three areas: technology transfer from DOE laboratories; math, science, and engineering education; and environment and health. This part of the bill is intended to give the DOE the clear authority and directive to establish proactive programs in these areas.

Importantly, as well, this bill gives DOE great flexibility and new funding authority to design programs that do not detract from their primary missions. This bill would create funding authority for this part equal to 10 percent of last year's appropriation for DOE facilities. This bill will help enable DOE to carry out the education mission in the bill, as well as its new technology transfer mission that we added last year in the National Competitiveness Technology Transfer Act.

Section 6 of my bill would establish a technology development program that builds upon last year's technology transfer law to improve the transfer of new technologies out of the labs and into commercial development. This section would authorize DOE to operate a special program to help move DOE-created technologies beyond the basic research stage, and to the point of commercial viability.

This part helps address a critical stage in technology transfer that has been a difficult one for federally supported laboratories—how to support development of newly created technologies with commercial promise, which are not yet developed enough that private industry is able to commercially pursue them.

Supporting this kind of research at our labs has been somewhat difficult up to now, since the kind of development often needed from DOE in this area sometimes requires taking DOE beyond the basic DOE program missions whose research efforts originally generated the developments.

Section 6 would give DOE clear authority to support this middle stage technology development needed to make technology transfer work for many promising technologies. It would also help relieve the laboratories from the uneasy practice of taxing other programs, or drawing from general laboratory overhead funds, to support this important development function.

Language very similar to section 6 of this bill has already been approved unanimously by the Senate Energy Committee as part of the recently reported global warming bill.

Sections 7 and 8 provide specific authority for two excellent new initiatives that the DOE has developed to promote science and math education. Authorization in this bill will help provide appropriate attention and important stability for these programs.

Section 7 authorizes establishment of laboratory cooperative science centers that would enable the labs to operate a series of creative, laboratory-based education programs for students and teachers. Section 8 provides for university-based programs intended to encourage students to pursue energy-related science careers.

Mr. President, as our world changes we are appropriately reevaluating the need and value of the defense work performed in several of our key national laboratories. I think it is critically important, Mr. President, that in this process we do not rush to dismantle the tremendous scientific resources of the DOE that are vitally important to so many other national interests.

In New Mexico we have two tremendous national laboratories—Los Alamos and Sandia—that have a proud history of helping secure our Nation's defense. Though principally nuclear deterrent laboratories, these labs are also world leaders in research on specialty metals, semiconductors, superconductivity, human gene mapping, and environmental improvement.

These two labs, and the Inhalation Toxicology Research Institute located in Albuquerque, have been developing exciting programs to assist New Mexico's schools and economy. These labs operate a wide range of precollege, undergraduate, and graduate school programs for teachers and students.

Several of these programs are targeted at those traditionally underrepresented in science and engineering fields—minorities, women, the handicapped and economically disadvantaged. Among the most exciting new programs being developed is a "Rural Teacher Training Program" that will support teacher enhancement for middle-school teachers in rural areas that have large Hispanic populations. Los Alamos and Sandia are also working with the Department of the Interior on a very promising scientific consultant outreach program for native American schools in New Mexico and Arizona.

While performing their invaluable missions to strengthen the Nation's defense and ensure energy security, the DOE and its laboratories possess the ability to greatly improve the economic strength of American industry, the quality of the Nation's mathematics, science, and engineering education, as well as our environment and quality of life.

The bill I am introducing today will give the Department the proper authority to operate and expand its efforts, while providing DOE and its laboratories the flexibility to design programs that fit their capabilities and special circumstances.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2856

Be it enacted by the Senate and House of Representatives of the United States of Amercia in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy Science and Education Enhancement Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) scientific, technical, and engineering competence is essential to the Nation's future well being;

(2) the scientific, technical, and engineering capability at the Federal laboratories is unmatched throughout the world;

(3) superb research, development, testing, and evaluation occurs in Department laboratories;

(4) Department laboratories will play an increasing role in assuring that America remains competitive in world markets;

(5) improvements in mathematics, science, and engineering education are needed desperately to provide the trained and educated citizenry essential to the future competitiveness of the United States;

(6) greater effort and funding must be devoted to technology transfer from Department laboratories;

(7) the ability of the Nation to fight disease and overcome human suffering can be greatly enhanced by fully utilizing the health research resources of the Department; and

(8) Department laboratories are in a unique position to take on increased responsibilities in the interest of improving our Nation's competitiveness and our quality of life.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Secretary" means the Secretary of Energy; and

(2) the term "Department" means the Department of Energy.

SEC. 4. MISSION.

Section 91(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2121(a)) is amended by adding at the end the following new paragraph:

"(6) use the facilities, equipment, personnel, and other resources of the Department of Energy to the fullest extent possible to enhance educational opportunities in science, mathematics, and engineering for American students and educators so as to improve the scientific and competitiveness of the Nation.".

SEC. 5. SCIENCE AND EDUCATION PROGRAMS.

(a) IN GENERAL.—(1) To the extent appropriate, the Secretary shall establish programs, to be operated at or through the support of each Department facility, that will use fully the unique scientific resources of the Department to promote—

(A) transfers of federally owned or originated technology to State and local governments, private industry, and universities or other nonprofit organizations so that the prospects for commercialization of such technology are enhanced;

(B) activities enhancing the quality of mathematics, science, and engineering education throughout the Nation, so as to improve the scientific and technical capability and literacy of the Nation and improve the Nation's overall educational capability; and

(C) research, development, and other activities intended to enhance the health and quality of life of the Nation, particularly in areas that pertain to environmental improvement and biomedical research.

(2) The programs described in paragraph (1) shall supplement and be coordinated with current activities of the Department, but shall not supplant them.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for programs under this section for fiscal year 1991 an amount equal to 10 percent of the total fiscal year 1990 appropriation for each Department laboratory facility under the relevant appropriations accounts, to remain available until expended.

SEC. 6. TECHNOLOGY DEVELOPMENT PROGRAM.

(A) ESTABLISHMENT OF PROGRAM.—(1) The Secretary shall establish a program to develop Department-originated technologies, directed at the state of technology development beyond the basic research stage.

(2) The program established pursuant to paragraph (1) shall develop technologies, determined by the Secretary to have significant promise for commercial and public benefit to the Nation, to a point where private industry will undertake further scientific and commercial development.

(3)(A) The program established pursuant to paragraph (1) may be conducted at any Department facility and shall enhance the commercial development and transfer to private industry of Department-originated technologies, consistent with the technology transfer mission of the Department.

(B) As a condition for supporting specific projects, the Secretary may require a private sector commitment to future, wholly non-Federal funding of commercial development of particular technologies.

(4) Establishment of the program described in paragraph (1) shall not preclude the Department or its facilities from continuing operation or support of other programs to advance technology development, but all of the technology development programs of the Department shall be coordinated.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there are authorized to be appropriated $20,000,000 for each of fiscal years 1991, 1992, and 1993, such sums to remain available until expended.

SEC. 7. LABORATORY COOPERATIVE SCIENCE CENTERS.

(a) IN GENERAL.—The Secretary of Energy may establish Laboratory Cooperative Science Centers (referred to as the "Centers") at national laboratories operating under the authority of the Department of Energy.

(b) FUNCTION.—The Centers shall coordinate both laboratory based and offsite programs designed to advance the purposes of this Act.

(c) ACTIVITIES.—The activities of the Centers shall include—

(1) supporting semester-length research appointments for college and university science and engineering students, and faculty/student teams, at the Centers;

(2) supporting research appointments for high school science teachers at the Centers;

(3) supporting research apprenticeship appointments at the Centers for students underrepresented in science and technology careers;

(4) Supporting research experience programs at the Centers for nationally selected high school honor students;

(5) supporting cost-shared projects to encourage more students to pursue careers in precollege science and mathematics teaching;

(6) participating in collaborative projects with other Federal agencies and the private sector to further the objective of this Act;

(7) operating precollege mathematics and science education programs at the national laboratories;

(8) establishing a museum-based science education program;

(9) extablishing collaborative inner-city and rural partnership programs designed to meet the special mathematics and science education needs of students in inner-city and rural areas; and

(10) engaging in other activities to advance the purpose of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 1991 and such sums as are necessary in each fiscal year thereafter.

SEC. 8. UNIVERSITY-BASED PROGRAMS.

(a) IN GENERAL.—The Secretary may coordinate and sponsor university-based programs directed at encouraging more students to pursue energy-related scientific and technical careers, with a particular focus on the recruitment of women and minority students.

(b PREFRESHMAN ENGINEERING PROGRAM.—The programs referred to in subsection (a) shall include a prefreshman engineering program in which middle-school students attend summer workshops on mathematics, science, and engineering conducted by universities on their campuses.

(c AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for fiscal year 1991 and such sums as are necessary to carry out this section in each fiscal year thereafter.●

By Mr. THURMOND (for himself, Mr. DOLE, and Mr. HEFLIN):

S.J. Res. 348. Joint resolution to recognize and commend the Battle of the Bulge Historical Foundation and its efforts to create a gallery in the United States Army Museum, Fort George G. Meade, MD, to commemorate the Battle of the Bulge; to the Committee on Armed Services.

COMMENDING THE BATTLE OF THE BULGE HISTORICAL FOUNDATION

Mr. THURMOND. Mr. President, I rise to introduce a joint resolution of the Congress to recognize and support the efforts of the Battle of the Bulge Historical Foundation and to encourage American awareness and participation in development of a museum as a memorial to Americans who fought in the Battle of the Bulge in World War II. This memorial museum will be an addition to the U.S. Army Museum at Fort George G. Meade, MD and be named the Battle of the Bulge Gallery.

The Battle of the Bulge—Ardennes-Alsace Campaign in World War II described by many as the ultimate and decisive struggle between freedom and oppression was fought from December 16, 1944 to January 25, 1945.

In mid-December 1944, the coldest, snowiest month within the memory of those living in the area, three powerful German armies plunged into the semimountainous, heavily forested Ardennes region of eastern Belgium and northern Luxembourg. Their goal was to reach the sea, trap four Allied armies and impel a negotiated peace on the Western front.

Believing that his daring surprise attack would split the Anglo-American alliance, Hitler envisioned the greatest German victory since the time of Frederick the Great.

Mr. President, although the Germans achieved total surprise, the individual American soldiers outnumbered, alone, often surrounded and initially without any form of support—fought valiantly in many small, sometimes individual actions. Every action that delayed the onslaught for even a minute dearly brought precious time enabling the existing troops to reorganize and adequate defense and permit the redeployment of troops sufficient to stem the German tide and recapture the newly taken German territory. Within days, the determined American stand and the arrival of powerful reinforcements ensured that the ambitious German goal was far beyond reach. In snow and sub-zero temperatures on Christmas Day, the Germans fell short even of their interim objectives—the sprawling Meuse River on the fringe of the Ardennes.

Far from reaching the coast, demoralizing the Allies and setting the stage for a negotiated peace, the German army succeeded only in creating a bulge in the American line. While Germany expended irreplaceable men,

tanks and airplanes, the battle became the biggest, costliest, most desperate action ever fought by the U.S. Army. Four weeks later, after grim fighting in bitter cold and snow, that bulge creased to exist.

Mr. President, Winston Churchill would later call the American victory one of the greatest of World War II.

Always cold and tired, all the combatants knew was what they felt. Many men were sent back with frozen hands and feet. The daytime temperature was usually about 15 degrees with a wind-chill factor of minus 30 or 40 degrees. The foot-high blanket of snow formed huge snowdrifts. Combat continued in fog, ice and rain, and the battleground was rugged, partially mountainous and thickly forested.

Widely recognized as the ultimate turning point in the war in Europe, ensuring Allied victory, the Battle of the Bulge cost both sides dearly. It is estimated that more than 1 million soldiers took part: 600,000 Americans and 500,000 Germans; German casualties reached 100,000. The Allies lost 19,000 lives, 47,500 were wounded and more than 23,000 were reported missing. Each side also incurred massive materiel losses; Germany sacrificed more than 800 tanks and 1,000 aircraft.

Mr. President, it was on the 18th of December 1944, that the 82d Airborne, under the command of Maj. Gen. James Gavin, entered the battle, as did the men of the 101st Airborne. The 101st would go to Bastogne. The 82d went to Werbomont on the north shoulder of the Bulge, which held open the corridor through which Americans escaped. These events have left an idelible imprint on millions of Americans while changing the course of history.

Shortly after the Germans disengaged, a Belgiun school teacher reentered his devastated classroom in Champs to find written on his blackboard:

May the world never again live through such a Christmas night. Nothing is more horrible than meeting one's fate, far from mother, wife and children. Is it worthy of man's destiny to bereave a mother of her son, a wife of her husband or children of their father? Life was bequeathed us in order that we might love and be considerate to one another. From the ruins, out of blood and death shall come forth a brotherly world—(signed) a German officer.

Mr. President, this legacy must be preserved for our descendants. It must remain vibrant in our heritage, so that the sons and daughters of all future generations of Americans may learn about and remember the lessons of this fierce combat which protected their freedom.

As a member of the First Army in the Battle of the Bulge, I personally experienced the horrors and bitter cold of this historic battle. I recall the devastation of the German artillery. Also at one time, this onslaught of German Buzz bombs hit within a short distance from me killing soldiers only two vehicles behind me.

As the keepers of the flame, we must ensure that this brave chapter in our proud history not be lost. We must continually search for ways to help the dangers of oppression from fading from our memory. There must be tangible symbols to remind present and future generations of the harsh reality of the Battle of the Bulge to defeat Hitler's relentless aggression and European domination

Mr. President, this proposed Museum of the Battle of the Bulge is that tangible symbol. I urge my distinguished colleagues to support this worthy effort by approving this joint resolution to recognize the significance of this museum.

Mr. President, I ask unanimous consent that the joint resolution follow my remarks in the RECORD on this joint resolution. Also joining me are Senator DOLE and Senator HEFLIN, and I am sure others will want to join in this worthy effort.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 348

Whereas the battle of the Ardennes-Alsace Campaign of World War II, commonly known as the Battle of the Bulge, was fought in the Ardennes region of eastern Belgium and northern Luxembourg from December 16, 1944, to January 25, 1945;

Whereas the battle took place in the deepest snow and during the coldest temperatures in the memory of the inhabitants of the region;

Whereas 600,000 members of the Armed Forces of the United States fought in the Battle of the Bulge, making the battle the largest land battle ever fought by United States military forces;

Whereas the battle claimed 81,000 casualties, including 19,000 killed;

Whereas Winston Churchill, the Prime Minister of Great Britain, described the battle as ". . . undoubtedly the greatest American battle of the war which will, I believe, be regarded as an ever-famous American victory.";

Whereas more than 7,000 United States veteran survivors of the battle have formed an association known as the Veterans of the Battle of the Bulge whose purpose is to educate future generations regarding the battle and European campaigns of World War II and to perpetuate the memory and honor the sacrifices of the men and women who served in the Armed Forces during World War II and particularly those who fought in the Battle of the Bulge;

Whereas, in 1988, many of the veterans of that famous battle organized the Battle of the Bulge Historical Foundation to commemorate the heroic sacrifices made by the 600,000 United States men and women who saw action during the Battle of the Bulge, to pay homage to the 19,000 servicemen killed in that battle, and to inform the present and future youth of this Nation regarding the costs of war and the price of liberty;

Whereas the efforts of the foundation are directed toward expanding the existing United States Army Museum, located at Fort George G. Meade, Maryland, to include a gallery dedicated to the battle, the participants of the battle, and World War II;

Whereas the Approved Mission Statement for the museum was revised in early 1988 to permit Fort Meade to act as a custodian for a repository of military artifacts relating to the Battle of the Bulge and to collect, preserve, study, and exhibit such artifacts;

Whereas the museum and the foundation have agreed to act jointly to achieve goals relating to the commemoration of that battle;

Whereas installation of a gallery at the museum will result in the museum having the only gallery in the United States devoted exclusively to commemorating that battle;

Whereas Congress regards the Battle of the Bulge as a highly significant historical event that helped shape the character of the modern political world; and

Whereas the Battle of the Bulge Historical Foundation has set as a goal to raise $1,500,000 by December 16, 1994, the 50th anniversary of the battle, to accomplish the objective of approximately preserving the memory of the battle: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress recognizes and commends the efforts of the Battle of the Bulge Historical Foundation to provide for the installation of a special gallery at the United States Army Museum at Fort George G. Meade, Maryland, devoted to the collection, preservation, and exhibition of military artifacts relating to the Battle of the Bulge and to commemorate that historic battle.

By Mr. DECONCINI (for himself, Mr. D'AMATO, Mr. SHELBY, Mr. DOMENICI, Mr. ROCKEFELLER, Mr. PELL, Mr. KERRY, Mr. DIXON, Mr. LEVIN, Mr. STEVENS, Mr. GARN, Mr. MCCLURE, Mr. THURMOND, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. BURDICK, Mr. ADAMS, Mr. HEFLIN, Mr. BOSCHWITZ, Mr. LIEBERMAN, Mr. NUNN, Mr. DOLE, Mr. ROBB, Mr. SARBANES, Mr. CONRAD, Mr. SASSER, Mr. KENNEDY, Mr. INOUYE, Mr. MITCHELL, Mr. LAUTENBERG, Mr. HATFIELD, Mr. JEFFORDS, and Mr. BOREN):

S.J. Res. 349. Joint resolution designating October 1990 as "Italian-American Heritage and Culture Month"; to the Committee on the Judiciary.

ITALIAN-AMERICAN HERITAGE AND CULTURE MONTH

● Mr. DECONCINI. Mr. President, I am honored to rise today along with several of my colleagues to introduce a joint resolution proclaiming the month of October 1990 as "Italian-American Heritage and Culture Month." The month of October will serve as a time for all Italian-Americans to celebrate the achievements of their ancestors and acknowledge their own contributions to this country and the world today.

It is fitting that these people be honored in October, for it was in this month that an Italian first set his feet ashore on this continent. On October 12, 1492, Christopher Columbus dis-

covered the New World and, in the process, paved a path for future Italians who wished to partake in the opportunities offered by this country. Italy has also given the world the renowed music of Vivaldi and Scarlatti, the wondrous literary works of Dante, and the spectacular art of Giotto, Leonardo da Vinci and Michaelangelo. My colleagues and I are also reminded daily of the beautiful artwork of Brumidi that can be seen throughout the U.S. Capitol.

Americans from Italian descent are no less accomplished than their forefathers. William Paca, an Italian-American, was one of the signers of the Declaration of Independence and Joe DiMaggio was one of the greatest players ever to participate in our national past-time. It is hard for one to forget Fiorello LaGuardia, the beloved mayor of New York City, or Enrico Fermi, winner of the 1938 Nobel Prize for Physics. Geraldine Ferraro was the first female vice presidential candidate, Mario Cuomo serves as the Governor of New York and Antonin Scalia is an Associate Justice of the U.S. Supreme Court.

Mr. President, it is important to recognize and honor the accomplishments of this bright and vibrant community. Italian-Americans deserve the recognition that Italian-American Heritage and Culture Month will bring them.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 349

Whereas Italians and Italian-Americans have made contributions in all areas of life in the United States, including art, science, civil service, military service, athletics, education, law, and politics;

Whereas Italian-Americans make up one of the largest ethnic groups in the United States;

Whereas an annual national observance day has been establsihed in October to recognize the accomplishments of Christopher Columbus, one of the greatest explorers in history and the first to record the discovery of the Americas;

Whereas the phrase "All men are created equal", contained in the Declaration of Independence, was suggested by the Italian patriot and immigrant Philip Mazzei;

Whereas the people of the United States take great pride in the accomplishments of the many outstanding men and women of Italian descent who have enriched our Nation's history, including Fiorello LaGuardia, the beloved mayor of New York City, and Enrico Fermi, winner of the 1938 Nobel Prize for Physics;

Whereas Italy enjoys a rich cultural heritage and has given the world the great works of Dante, the breathtaking art of Giotti and Michelangelo, and the inspirational music of Antonio Vivaldi and Domenico Scarlatti;

Whereas the Americas was named for the Italian explorer Ameriga Vespucci;

Whereas William Paca, an Italian-American, was one of the signers of the Declaration of Independence; and

Whereas during October 1990, special attention will be directed to national, State, and local programs promoting Italian heritage and culture: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990, is designated as "Italian-American Heritage and Culture Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.●

● Mr. PELL. Mr. President, I am proud to cosponsor this legislation designating October 1990 as "Italian-American Heritage and Culture Month." I commend my colleagues, Senators DECONCINI and D'AMATO for introducing this important resolution.

Italian-Americans make up one of the largest ethnic groups in the United States, and they have played a key role in our Nation's history. As we all know, the first person to record the discovery of the Americas, Christopher Columbus, was an Italian, and even our name "America" is a derivation of the name of the famous Italian navigator, Amerigo Vespucci.

In my own State, more than 180,000 Italian-Americans are making vital contributions to every aspect of Rhode Island culture. For example, Rhode Island boasts a proud tradition of Italian-American political leaders, which includes the man I consider to be the dean emeritus of Rhode Island politics, our former colleague Senator John O. Pastore.

From the unique Italian-American enclave on Providence's Federal Hill to many other areas throughout the State, the talents and accomplishments of Rhode Island Italian-Americans extend to fields such as science, industry, the arts, athletics, education, medicine and law. I look forward to joining with the Rhode Island Italian-American community in October to commemorate this rich heritage and cultural legacy.

Mr. President, clearly the contributions of Italian-Americans are worthy of our attention and respect, and I urge my colleagues to support this resolution.●

By Mr. BYRD:

S.J. Res. 350. Joint resolution to designate October 18, 1990, as "National Hardwood Day"; to the Committee on the Judiciary.

NATIONAL HARDWOOD DAY

Mr. BYRD. Mr. President, I am introducing today a resolution to designate October 18, 1990, as "National Hardwood Day."

In 1992, we will celebrate the 500th anniversary of Columbus' discovery of America. In 1492, and for more than two centuries after Columbus' arrival in this hemisphere, most of the eastern half of the United States was covered by one of the most immense forests on Earth. In that forest grew some of the finest, choicest trees in human experience—trees of lasting endurance, of beautiful grains and color tones, and of seemingly limitless versatility. Among those trees were oak, hickory, maple, beech, birch, ash, walnut, and cherry.

In the past century, my own State of West Virginia has developed one of the most massive timbering operations in industrial history. Out of the mountains of my State we have hauled millions of board feet of wood, to build homes and stores, bridges, and sturdy and beautiful furniture for people in West Virginia, the Nation, and many foreign countries.

I invite all Senators to join me in recognizing this country's vital hardwood industry by designating October 18, 1990, as National Hardwood Day. While the eastern United States is no longer a forest wilderness, the terrain and the climate in our country's vast hardwood-growing regions still prevail today. Our Nation's hardwood industry continues as a strong and vital industry, a high-technology skilled, coordinated, expanding, and exporting industry that can reap billions of dollars for our economy in foreign trade, and that will use one of our most renewable natural resources to feed the world's endless demand for manufactured wood products.

I believe that, with continuing research and development, with continuing education and training of a skilled work force, and with a wise investment in evolving flexible-manufacturing equipment specially programmed for the needs of the wood-products industry, we can make the United States the undisputed leader in hardwoods. Without a doubt, American hardwoods face a future of growing worldwide wood demand. I invite other Senators to cosponsor this measure, designating October 18, 1990, as "National Hardwood Day."

By Mr. BYRD:

S.J. Res. 351. Joint resolution to designate the month of May 1991, as "National Trauma Awareness Month"; to the Committee on the Judiciary.

NATIONAL TRAUMA AWARENESS MONTH

Mr. BYRD. Mr. President, earlier this year, the Senate passed the resolution that I introduced designating May 1990 as "National Trauma Awareness Month." Once this legislation was signed by the President, the campaign to heighten the public's awareness of the traumatic injury problem in the United States began.

To commemorate National Trauma Awareness Month, the American Trauma Society distributed packets of information on home safety to trauma advocates. The purpose of those packets was to promote trauma prevention

and education in local communities. The society also distributed material to promote "Safe Kids" and "Buckle-Up America" weeks—both trauma-related campaigns.

During May, to promote the use of trauma systems throughout the Nation, the American Trauma Society held educational symposia attended by health-care professionals involved in trauma care. Among those health-care professionals are physicians, nurses, and emergency medical technicians. Those symposia sessions provided a forum for all of the various groups and individuals who are working for the survival, recovery, and rehabilitation of trauma victims to discuss their mutual concerns.

Alerting the public to trauma is important. In my own State of West Virginia, St. Mary's Hospital in Huntington worked with the city of Huntington to develop a community trauma prevention program targeted toward the increased wearing of seatbelts. Aiding St. Mary's Hospital in that effort were the Valley Health System and Cabell County Emergency Medical Services.

In the United States, trauma is the No. 1 killer of people between the ages of 1 and 44, and trauma is the fourth leading killer of all ages. Each year, trauma kills more than 96,000 people in this country. That is more than cancer, heart disease, AIDS, or any other disease. Last year alone, trauma directly affected more than 9.1 million of our citizens, and permanently disabled more than 340,000 of those Americans.

Motor vehicle crashes and home accidents—falls, fires and burns, drownings, and poisons—are the leading causes of unintentional trauma. Every 5 minutes in the United States, someone dies in a car crash. Every 23 minutes, someone dies in the home. These are devastating statistics, and they are made more so because most traumas can be prevented. According to former Surgeon General C. Everett Koop, "Most injuries to people—and nearly all injuries to children—can be predicted and can be prevented."

For such prevention we can take safety measures at home. Those safety measures should include keeping matches and firearms away from children, installing smoke detectors, and separating all household chemicals from food and placing such chemicals out of the reach of children.

We must continue to focus the public's attention on ways to prevent trauma and on the improvements made in trauma care. Therefore, I hope that you will join me in cosponsoring my resolution for the early designation of May 1991 as "National Trauma Awareness Month."

ADDITIONAL COSPONSORS

S. 865

At the request of Mr. METZENBAUM, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 865, a bill to amend the Sherman Act regarding retail competition.

S. 891

At the request of Mr. REID, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 891, a bill to provide for the modernization of testing of consumer products which contain hazardous or toxic substances.

S. 1245

At the request of Mr. MITCHELL, the names of the Senator from Wisconsin [Mr. KOHL], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 1245, a bill to amend the Federal Meat Inspection Act to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes

S. 1400

At the request of Mr. KASTEN, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1400, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes

S. 1627

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1627, a bill to amend the Internal Revenue Code of 1986 to generally treat bonds issued for section 501(c)(3) organizations in a manner similar to governmental bonds

S. 1766

At the request of Mr. DANFORTH the names of the Senator from Alaska [Mr. STEVENS], the Senator from Washington [Mr. ADAMS], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 1766, a bill to amend titles XVIII and XIX of the Social Security Act to require providers of services under such titles to enter into agreements assuring that individuals receiving services from such providers will be provided an opportunity to participate in and direct health care decisions affecting such individuals

S. 1834

At the request of Mr. LIEBERMAN, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Georgia [Mr. FOWLER], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 1834, a bill to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society

S. 2044

At the request of Mr. BIDEN, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes

S. 2083

At the request of Mr. KERRY, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2083, a bill to bring about a negotiated end to the war in El Salvador, and for other purposes

S. 2250

At the request of Mr. DECONCINI, the names of the Senator from Utah [Mr. HATCH] and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 2250, a bill to amend title 5, United States Code, with respect to setting rates of basic pay for law enforcement officers, and for other purposes.

S. 2319

At the request of Mr. GARN, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2356

At the request of Mr. SYMMS, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2356, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 2368

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2368, a bill to establish a national policy for the conservation of biological diversity; to support environmental research and training necessary for conservation and sustainable use of biotic natural resources; to establish mechanisms for carrying out the national policy and for coordinating related activities; and to facilitate the collection, synthesis, and dissemination of information necessary for these purposes.

S. 2525

At the request of Mr. MACK, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2525, a bill to recognize the importance of the domestic fruit and vegetable industry in United States farm policy, and to require the Secretary of Agriculture to conduct a

study of the domestic fruit and vegetable industry, and for other purposes.

S. 2593

At the request of Mr. BRADLEY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2593, a bill to reduce the amount of lead contamination in the environment.

S. 2602

At the request of Mr. METZENBAUM, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2602, a bill to amend the Public Health Service Act to provide assistance for biomedical and health services research, treatment programs and for other purposes relating to Alzheimer's disease and related disorders.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2619

At the request of Mr. GLENN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2619, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare Program.

S. 2637

At the request of Mr. REID, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Colorado [Mr. WIRTH], the Senator from Alabama [Mr. SHELBY], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2637, a bill to amend the Toxic Substances Act to reduce the levels of lead in the environment, and for other purposes.

S. 2663

At the request of Mr. MCCAIN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2663, a bill to provide increased and special benefits to individuals involuntarily separated from the Armed Forces, and for other purposes.

S. 2709

At the request of Mr. BOSCHWITZ, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2709, a bill to amend the Internal Revenue Code of 1986 to provide that certain expenses of travel, meals, and lodging of members of the National Guard or Reserve units of the Armed Forces will be allowable as deductions in computing adjusted gross income.

S. 2736

At the request of Mr. SIMON, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2736, a bill to amend the Follow Through Act, and for other purposes

S. 2757

At the request of Mr. MOYNIHAN, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2757, a bill to amend the Foreign Assistance Act of 1961 to authorize the provision of medical supplies and other humanitarian assistance to the Lithuanian people to alleviate suffering during the current emergency.

S. 2762

At the request of Mr. HATFIELD, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 2762, a bill to facilitate the implementation of National Forest land and resource management plans and for other purposes.

S. 2850

At the request of Mr. MCCAIN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2850, a bill to authorize demonstration projects in connection with providing health services to Indians.

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the names of the Senator from Connecticut [Mr. DODD] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990, as "National Give the Kids a Fighting Chance Week."

SENATE JOINT RESOLUTION 322

At the request of Mr. SIMON, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from South Dakota [Mr. DASCHLE], the Senator from Illinois [Mr. DIXON], the Senator from Utah [Mr. GARN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alabama [Mr. SHELBY], the Senator from Hawaii [Mr. INOUYE], the Senator from North Dakota [Mr. CONRAD], the Senator from Alabama [Mr. HEFLIN], the Senator from New York [Mr. D'AMATO], the Senator from Massachusetts [Mr. KERRY], the Senator from Idaho [Mr. MCCLURE], and the Senator from Tennessee [Mr. GORE], were added as cosponsors of Senate Joint Resolution 322, a joint resolution to designate the 7-day period commencing October 7, 1990, and ending October 13, 1990, as "National Aviation Education Week."

SENATE JOINT RESOLUTION 329

At the request of Mr. KASTEN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 329, a joint resolution to designate the week of June 7, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-1933," and to commemorate the Ukrainian famine of 1932-1933 and the policies of Russification to suppress Ukrainian identity.

SENATE JOINT RESOLUTION 324

At the request of Mr. SIMON, the name of the Senator from Alabama [Mr. SHELBY] was added as cosponsor of Senate Joint Resolution 342, a joint resolution designating October 1990 as "Ending Hunger Month."

SENATE CONCURRENT RESOLUTION 139

At the request of Mr. DECONCINI, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Indiana [Mr. LUGAR], and the Senator from North Carolina [Mr. SANFORD] were added as a cosponsors of Senate Concurrent Resolution 139, a concurrent resolution expressing the sense of the Congress with regard to a United States-Mexico Free Trade Agreement.

SENATE RESOLUTION 288

At the request of Mrs. KASSEBAUM, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Resolution 288, a resolution expressing the sense of the Senate regarding the reopening of universities in the West Bank and Gaza without delay.

AMENDMENTS SUBMITTED

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT

GORTON AMENDMENT NO. 2124

Mr. GORTON proposed an amendment to the bill (H.R. 4328) to authorize appropriations for fiscal years 1991 and 1992 for the customs and trade agencies, and for other purposes, as follows:

Strike everything after the enacting clause and insert the following there at:

FINDINGS.—The United States was a leader in the formation in 1947 of the General Agreement on Tariffs and Trade ("GATT"), which is now the premier multilateral body for regulating trade worldwide;

The United States and 96 other contracting parties of the GATT are in the final stages of the Uruguay Round of multilateral trade negotiations ("Uruguay Round"), the most ambitious effort ever undertaken by the GATT to expand, strengthen and revitalize multilateral trade rules and principles;

Fifty-percent cut in global protectionism would increase the American economy by as much as $200 billion annually, an average of $3,200 for an American family of four;

The successful conclusion of the Uruguay Round will establish multilateral and enforceable disciplines in key areas including tariffs, nontariff measures, natural resource-based products, textiles and clothing, agriculture, tropical products, subsidies and countervailing measures, trade-related aspects of intellectual property rights (TRIP's), trade-related investment measures (TRIM's), and services;

The successful conclusion of the Uruguay Round will encourage fair trade and open markets abroad for American goods and services, and will benefit a broad range of American industries and businesses, including:

Small exporters which currently account for 20 percent of all American exports;

Farmers and farm workers, who lose $11 billion annually due to protectionist foreign subsidies and trade barriers;

The commercial services industries such as engineering, telecommunications, consulting, banking, tourism, construction, finance and financial services, law, accounting, and insurance, which together have grown by more than 50 percent over the past decade and account for 9 of every 10 new American jobs;

High-technology, computer software and hardware, electronics and semiconductor, biotechnology, chemical, pharmaceutical, publishing and entertainment industries, which lose $60 billion annually due to industrial theft and counterfeiting and which forego markets due to inadequate protections of intellectual property rights;

Other major industries that are confronted by significant foreign trade barriers such as the mining and metallurgy, rubber, plastic, punished wood products, pulp and paper, and furniture industries;

A number of States are among the leading exporting States for various categories of manufactured products as follows:

Industry group	United States	1986 export value (milions) First	Second	Third	Fourth	Fifth
Total	159,377	California, $17,216	Texas, $10,982	Michigan, $10,878	Ohio, $10,653	Washington, $9,863.
Transportation equipment	36,007	Washington, $6,829	Michigan, $6,353	Ohio, $5,079	Missouri, $2,869	California, $2,710.
Aircraft and parts [1]	18,132	Washington, $5,800 [2]	California, $2,287	Connecticut, $1,793	Ohio, $1,605	Texas, $1,463.
Motor vehicles and equipment [1]	15,505	Michigan, $6,226	Ohio, $3,385	Missouri, $1,270 [2]	Indiana, $761	Illinois, $626.
Other transportation equip [1]	2,370	Pennsylvania, $667 [2]	Washington, $450 [2]	California, $329	Illinois, $145	Florida, $100.
Machinery, except electric	32,456	California, $4,874	Illinois, $2,563	Minnesota, $2,199	New York, $2,068	Massachusetts, $2,063.
Chemicals and allied products	20,968	Texas, $4,106	Louisiana, $1,557	New Jersey, $1,215	New York, $1,033	Florida, $945.
Electric and electronic equipment	18,136	California, $4,259	New York, $1,772	Indiana, $979	Massachusetts, $900	Illinois, $796.
Food and kindred products	11,180	California, $1,217	Texas, $914	Illinois, $727	Kansas, $709	Iowa, $542.
Instruments and related products	8,513	New York, $1,738	California, $1,161	Massachusetts, $702	Pennsylvania, $541	Connecticut, $400.
Fabricated metal products	5,184	Michigan, $772	Ohio, $642	Pennsylvania, $383	Illinois, $378	Texas, $375.
Paper and allied products	4,052	Washington, $505	Georgia, $314	Mississippi, $284	South Carolina, $259	North Carolina, $242.
Primary metal industries	3,404	Pennsylvania, $378	Ohio, $352	Indiana, $286	New York, $249	California, $194.
Petroleum and coal products [1]	3,134	Texas, $764	California, $654	Louisiana, $531	Pennsylvania, $250	Hawaii, $130.
Rubber and plastic products	2,956	Ohio, $374	Massachusetts, $255	Indiana, $195	South Carolina, $181	Michigan, $174.
Lumber and wood products	2,678	Washington, $815	Oregon, $520	Pennsylvania, $158	California, $149	North Carolina, $97.
Tabacco manufacturers [1]	2,023	North Carolina, $1,114	Virginia, $552	Georgia, $120 [2]	Tennessee, $108	Kentucky, $47.
Textile mill products	1,785	North Carolina, $510	Georgia, $318	South Carolina, $266	Virginia, $76	Alabama, $70.
Misc. manufacturing industries	1,647	New York, $301	Rhode Island, $180	California, $156	Massachusetts, $146	Illinois, $96.
Stone, clay, and glass products	1,551	Ohio, $253	Pennsylvania, $132	Massachusetts, $104	Tennessee, $100	North Carolina, $94.
Apparel and textile products	1,391	Michigan, $337	New York, $168	Pennsylvania, $85	Alabama, $82	California, $70.
Printing and publishing	1,256	New York, $386	Pennsylvania, $90	Dist. of Col., $88	Illinois, $79	California, $75.
Leather and leather products [1]	586	Maine, $143	Wisconsin, $64	Michigan, $50 [2]	Massachusetts, $39	New York, $35.
Furniture and fixtures	492	North Carolina, $58	Michigan, $58	California, $42	Indiana, $30	Tennessee, $30.

[1] Partly estimated.
[2] State export rankings by the Bureau of the Census: somne States data are not disclosed.
Source: Bureau of the Census, as reported in Business America, March 27, 1989.

Exports constitute a significant portion of manufacturing and manufacturing employment in every state as follows:

State	State rank as exporter in 1986	Export value 1986 (millions)	Export-related manufactures as percent of State manufacturing production	Export-related manufacturing employment		Total employment, including nonmanufacturing employment	
				Thousands	Percent of manufacturing employment	Thousands	Percent of civilian employment
U.S. total	–	$159,377	13.0	2,318.2	12.6	4,576.6	4.1
California	1	17,216	14.0	289.6	14.7	566.3	4.5
Texas	2	10,982	14.3	122.6	13.5	287.2	3.7
Michigan	3	10,878	12.9	125.3	13.3	213.9	5.3
Ohio	4	10,653	13.9	151.4	13.9	264.2	5.4
Washington	5	9,863	28.2	59.6	21.4	113.9	5.4
New York	6	9,412	12.4	160.9	12.7	338.0	4.2
Illinois	7	7,209	12.2	123.9	12.5	238.6	4.4
Pennsylvania	8	6,027	12.6	132.0	12.7	232.0	4.3
Massachusetts	9	5,514	15.9	95.9	15.6	160.9	5.5
North Carolina	10	5,261	11.4	75.5	9.4	135.1	4.5
Indiana	11	4,787	13.7	76.0	13.2	133.0	5.2
Missouri	12	4,268	11.4	44.0	10.8	89.4	3.7
Connecticut	13	3,996	17.2	63.8	16.1	107.3	6.5
Minnesota	14	3,692	14.2	54.0	15.1	105.5	4.9
New Jersey	15	3,548	10.5	80.0	11.8	162.4	4.4
Florida	16	3,373	12.4	52.5	10.9	146.4	2.7
Wisconsin	17	3,314	10.5	56.5	11.6	105.6	4.7
Louisiana	18	3,020	13.6	16.7	10.5	51.7	2.8
Tennessee	19	2,910	10.9	42.2	9.0	82.6	3.8
Georgia	20	2,827	8.6	42.5	7.8	92.5	3.2
Virginia	21	2,704	10.7	38.4	9.4	81.0	2.9
South Carolina	22	2,398	13.7	39.1	11.1	67.7	4.6
Kentucky	23	1,940	11.1	24.4	10.3	52.8	3.4
Iowa	24	1,932	10.5	20.7	10.7	49.8	3.7
Oregon	25	1,863	14.5	27.9	15.0	59.0	4.6
Kansas	26	1,835	9.4	20.3	10.9	46.7	4.0
Arizona	27	1,756	20.4	31.3	19.0	58.5	3.8
Maryland	28	1,740	11.9	25.4	11.7	55.9	2.5
Alabama	29	1,685	12.1	31.7	9.6	62.6	3.6
Colorado	30	1,478	12.2	25.3	14.0	52.1	3.2
Mississippi	31	1,337	11.3	16.7	8.2	35.2	3.3
Oklahoma	32	1,085	9.9	19.3	12.1	46.0	3.0
Arkansas	33	1,067	10.6	17.8	9.2	35.9	3.5
West Virginia	34	983	19.6	12.4	14.4	25.0	3.6
New Hampshire	35	893	17.6	15.5	15.2	26.0	5.2
Maine	36	801	13.8	12.1	12.0	21.0	4.0
Nebraska	37	753	8.5	8.2	9.3	22.8	2.9
Alaska	38	713	39.04	3.6	40.0	6.9	2.7
Utah	39	668	13.2	11.9	13.0	23.4	3.2
Idaho	40	503	13.4	6.1	12.5	15.0	3.4
Rhode Island	41	482	12.7	12.9	11.9	21.5	4.5
Delaware	42	430	10.2	8.0	12.5	13.6	4.4

State	State rank as exporter in 1986	Export value 1986 (millions)	Export-related manufactures as percent of State manufacturing production	Export-related manufacturing employment		Total employment, including nonmanufacturing employment	
				Thousands	Percent of manufacturing employment	Thousands	Percent of civilian employment
Vermont	43	384	20.1	8.4	19.5	14.2	5.1
North Dakota	44	215	14.8	2.0	14.2	8.9	2.7
Hawaii	45	214	10.3	0.7	3.1	5.3	1.1
South Dakota	46	213	8.5	2.1	7.9	7.7	2.3
New Mexico	47	178	11.9	2.4	7.1	9.5	1.5
Nevada	48	167	12.9	2.7	12.9	7.6	1.4
Montana	49	101	10.6	1.6	7.9	7.7	1.9
Wyoming	50	19	8.0	.5	7.4	3.9	1.6

Note:—Manufactured goods in this report relate to manufactures as defined in the Standard Industrial Classification and include manufactured food, mineral fuel products, fats, oils, firearms and ammunition not typically part of the Standard International Trade Classification definition of manufactures. For the United States as a whole, exports of these additional products totaled $33 billion in 1986. Exports, normally valued at the port of exportation are adjusted to f.o.b. plant values to make accurate comparisons with production (shipments) data.

Source: International Trade Administration, Office of Trade and Investment Analysis, as reported in Business America, Mar. 27, 1989.

The successful conclusion of the Uruguay Round will help promote political stability in Latin America and Eastern Europe by integrating those emerging democracies into an open, market driven trading system;

On July 11, 1990, at the annual Economic Summit convened in Houston, Texas, the leaders of the seven major industrial democracies (United States, Canada, England, France, Germany, Italy, and Japan) and the President of the Commission of the European Communities reaffirmed the importance of a strong GATT and stressed that "the successful outcome of the Uruguay Round has the highest priority on the international economic agenda";

Global import quotas for textiles and apparel are presently being discussed at the Uruguay Round, the objective of which is to liberalize the textile and clothing sector through progressive dismantling of trade barriers and its integration under a precise timetable under strengthened GATT rules and agreements;

The adoption of legislation to establish general import quotas for textiles, apparel and footwear is totally inconsistent with the spirit underlying the GATT, would violate the current agreement among members of the GATT, and would reverse the progress and almost totally destroy the prospects for the successful conclusion of the Uruguay Round, and would therefore penalize the many industries, trades and businesses that would benefit from the successful conclusion of the Uruguay Round: Now, therefore be it

The sense of the Senate that—

(1) It is in the best interests of the United States to encourage the progress and successful conclusion of the Uruguay Round;

(2) That Congress should not pass any trade legislation that reasonably would be expected to jeopardize the progress and successful conclusion of the Uruguay Round, including any legislation to establish general import quotas for textiles, apparel and footwear.

GRAMM AMENDMENT NO. 2125

Mr. GRAMM proposed an amendment to the bill H.R. 4328, supra, as follows:

Section 6 of the committee amendment is amended by adding at the end thereof the following paragraph:

"If the Secretary of Labor determines that implementation of the provisions of this Act will result in, or has resulted in, the cost of textiles or apparel or footwear for lower-income and middle-income Americans increasing by 5 per centum or more, the President may suspend the provisions of this Act.".

PACIFIC NORTHWEST NATIONAL FOREST ACT

HATFIELD AMENDMENT NO. 2126

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill (S. 2713) to preserve ancient forests, to assure a sustainable and predictable supply of timber harvest, and to enhance recreational opportunities in the national forests, as follows:

At the appropriate place in the bill, insert the following new section:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Forest Plan Implementation Act of 1990."

SEC. 2. FINDINGS.

The Congress finds as follows:

(a) The National Forest Management Act was enacted in 1976 in order to assure orderly and environmentally sensitive planning, with substantial public involvement, for the multiple use of national forest resources in a stable and predictable manner;

(b) Numerous forest land and resource management plans are uncompleted although the Act's deadline for plan completion was September 30, 1985;

(c) Some completed land and resource management plans in controversial areas have not been successfully implemented;

(d) Changes in policy made outside the planning process have resulted in the constructive amendment of completed land and resource management plans without adherence to procedures for plan amendment required by the Act and regulation;

(e) The volume of administrative appeals and litigation challenging the completion and implementation of land and resource management plans is far greater than the Congress contemplated when the Act was passed;

(f) The administrative appeals and litigation have substantially delayed the preparation of land and resource management plans and have frustrated, and at times paralyzed, plan implementation and forest management actions;

(g) On several occasions the Congress has been compelled to enact emergency provisions to alleviate forest management problems in various national forests caused by plan preparation and plan implementation appeals and litigation;

(h) Professional forest management decisions are better made by forest professionals, as intended under the Act, than through the litigation process;

(i) Additional conditions governing the implementation, amendment and revision of land and resource management plans are necessary to achieve the stability and certainty in national forest management intended by the Act, and to avoid the environmental impacts and community social and economic dislocation that result from instability and uncertainty in forest management;

(j) The national forest planning process has ignored the global environmental importance of forest products, whose raw material is renewable and whose energy requirements for production are less than those of alternative materials; and

(k) The inability to implement national forest plans has resulted in negative domestic environmental impacts. Failure of implementation has caused timber shortages and consequent higher prices for wood products. That, in turn, has increased use of environmentally inferior wood substitutes such as plastics, steel and aluminum.

TITLE I—AMENDING AND REVISING PLANS

SEC. 101. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by adding a new paragraph (e)(3) as follows:

[(e) * * * In developing, maintaining, and revising plans for units of the National Forest System pursuant to this section, the Secretary shall assure that such plans—]

"(3) maintain to the maximum extent feasible the stability of any community economically dependent upon a unit of the National Forest System, and shall prepare in the course of any forest plan amendment or revision undertaken after the date of enactment of this paragraph an analysis for each such community that: (i) examines the impacts of planning alternatives on the community, its revenues and budget, the level and quality of its public services, the employment and income of its residents, and its social conditions; (ii) explains how resource allocations for the planning alternatives would comport with or differ from historic community expectations; and (iii) describes how those impacts were considered in selecting a preferred alternative. For purposes of this Act, "community" means a county, borough, incorporated or unincorporated town or village, township, or other local government unit of general jurisdiction or powers recognized by the state in which it is located. The Secretary, in consultation with the Secretaries of Commerce and Labor, shall define by regulation the term "community economically dependent upon a unit of the National Forest System" as used in this paragraph."

SEC. 102. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by renumbering paragraph (f)(5) as (f)(6) and inserting a new paragraph (f)(5) as follows:

[(f) REQUIRED PROVISIONS.—

[Plans developed in accordance with this section shall—]

"(5) no longer have force and effect unless amended within three years of the effective date of any significant amendment to regional guidance, as defined in subsection (g)(5) of this Act, to conform with that amendment. Any regional guidance amendment directly or indirectly reducing an annual commodity output under a plan by more than one per centum in comparison to the average output of the commodity from the forest for the five fiscal years preceding the year in which the amendment is adopted shall be considered significant under this subsection."

SEC. 103. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by adding a new paragraph (f)(7) as follows:

[(f) REQUIRED PROVISIONS.—

[Plans developed in accordance with this section shall—]

"(7) be subject to the following additional provisions concerning amendment and revision:

"(A) Any change in a plan that is required by a court order or designation of a threatened or endangered species or other action under the Endangered Species Act, or that is directly or indirectly proposed by means of an allegation of new information, shall be made only pursuant to paragraphs (4) or (6) of this subsection.

"(B) When a plan amendment or revision process is initiated pursuant to paragraph (A), the Secretary shall consider and discuss in decision and environmental analysis documentation other land use or management changes that, in combination with the required change, would be appropriate to maintain overall plan balance and meet other plan goals and outputs."

SEC. 104. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by adding a new paragraph (g)(4) as follows:

[(g) * * * The regulations shall include, but not be limited to—]

"(4) specifying that in the presentation of alternative plans for each forest, the Secretary shall analyze the fully allocated cost including foregone revenues, expressed as a user fee or cost-per-beneficiary, of each noncommodity output proposed by each alternative."

SEC. 105. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by adding a new paragraph (g)(5) as follows:

[(g) * * * The regulations shall include, but not be limited to—]

"(5) providing procedures for the adoption of, and specifying the role, if any, of regional guidance and minimum management requirements in the planning process, including the following definitions and requirements:

"(A) 'Regional guidance' is any regional directive that provides standards and guidelines for addressing major issues and management concerns at the Forest Service regional level to facilitate forest planning. The issuance of regional guidance is discretionary.

"(B) A 'minimum management requirement' is any directive adopted at the regional or forest level that guides the development, analysis, approval, implementation, monitoring or evaluation of land and resource management plans. The issuance of minimum management requirements is discretionary except where required by this Act.

"(C) The Secretary shall provide for public participation comparable to that required by subsection (d) of this section in the development of any regional guidance or minimum management requirement.

"(D) A minimum management to achieve a level of timber sales based on goals developed pursuant to Section 4 of this Act (16 U.S.C. 1602) shall be established for each unit of the National Forest System."

SEC. 106. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by inserting "(1)" at the start of the first paragraph following the title of subsection (i) and adding to subsection (i) a new paragraph (2) as follows:

"(2) The Secretary shall certify in writing as a part of the decision on each implementing action that such decision does not preclude achieving plan outputs. The Secretary shall regularly monitor forest management and forest outputs to ensure that a plan is not constructively changed through a pattern of implementing actions or failures to take implementing action that is inconsistent with the plan. If the Secretary finds the plan has so changed, he shall direct that corrective implementing actions be undertaken to restore plan consistency or that the plan be amended."

SEC. 107. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by changing the period at the end of subsection (j) to a colon and adding the following:

"Provided, That to maintain the stability of communities economically dependent on a national forest, the Secretary shall delay through annual phase-in the full implementation of any portion of a plan, plan amendment or plan revision as may be required to assure that no reduction in any commodity output under the plan, plan amendment or plan revision is greater than two and one-half per centum per year in comparison to the average output of the commodity from the forest for the five fiscal years preceding the year in which the plan, plan amendment or plan revision is adopted (as measured by volume offered for lease or sale),"

TITLE II—STATUS OF PLANS

SEC. 201. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by inserting "(1)"; at the start of the first paragraph following the title of subsection (c) and adding to subsection (c) a new paragraph (2) as follows:

"(2) When a unit of the National Forest System is subject to a land and resource management plan developed in accordance with this Act, such unit shall be managed under the most recent finally adopted initial, amended or revised version of that plan. If at any time a finally adopted version of a plan or portion thereof is enjoined by court order from operation or ceases to have force and effect under subsection (f)(5) of this Act, the management of the unit shall continue under the immediately previous final version of that plan or relevent portion thereof, which shall not be subject to challenge or injunction except as provided in this section."

TITLE III—IMPLEMENTATION OF PLANS

SEC. 301. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by adding at the end thereof a new subsection (n) as follows:

"(n) ADMINISTRATIVE APPEALS AND PETITIONS.—

"(1) Administrative appeal of a land and resource management plan, regional guidance or other document adopted by the Secretary pursuant to this section, or of an implementing action under a land and resource management plan, shall be in accordance with rules promulgated by the Secretary and with the following additional provisions. Standing to appeal such a plan, guidance or document shall be available only to persons who have submitted written or oral comment in the Secretary's initial preparation, amendment or revision of the plan, guidance or document being appealed.

"(2)(A) If a person believes, based on new information, that a land and resource management plan must be amended or revised, the person shall petition to the Secretary for such amendment, revision or change. Petitions shall be filed in accordance with regulations adopted by the Secretary. The Secretary may provide for further administrative review of the initial decision on the petition.

(B) For purposes of this section, 'new information' means information related to the plan or to an implementing action under the plan that was not known to and considered by the Secretary in the preparation of the plan, plan amendment, or plan revision.

"(3) No administrative stay pending appeal or petition filed under this subsection shall extend beyond, or be imposed after, the regulatory deadline for a final decision on the appeal or the petition notwithstanding whether such final decision has been issued.

"(4) Failure by the Secretary to issue a final decision on appeal or petition by the prescribed regulatory deadline, not including any extensions thereto that may be granted by the Secretary, shall be deemed to be a denial of the appeal or petition for purposes of this section."

SEC. 302. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by adding at the end thereof a new subsection (o) as follows:

"(o) JUDICIAL REVIEW OF LAND AND RESOURCE MANAGEMENT PLANS.—

"Suits to challenge a land and resource management plan, or an amendment or revision thereto, adopted by the Secretary pursuant to this section, or a decision by the Secretary not to amend or revise such a plan, shall be filed in the United States court of appeals for the circuit in which the national forest which is the subject of the plan is located. Such court shall have jurisdiction to hear and determine any suit brought as provided in this subsection, subject to the terms and restriction of this subsection.

"(1) Standing to obtain review shall be available only to persons who have—

"(A) submitted written or oral comment as provided by this Act in the Secretary's initial preparation, amendment or revision of the plan, and

"(B) exhausted their administrative remedies.

"(2) Any suit must be filed not more than 90 days after the final decision of the Secretary on the relevant administrative appeal of the plan. The plan or any portion thereof, as finally adopted, shall not thereafter be reviewable as a part of any other action under this Act or any other law.

"(3) A suit under this subsection shall not allege or rely upon new information as defined in subsection (n)(2)(B) of this Act unless the party has petitioned the Secretary pursuant to subsection (n)(2)(A) of this Act, the Secretary has denied the petition, and the party has exhausted any administrative appeal rights concerning that denial.

"(4) The record upon review shall be limited to the administrative record compiled in accordance with this act, and to such additional written evidence as the court shall permit."

SEC. 303. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by adding at the end thereof a new subsection (p) as follows:

"(P) JUDICIAL REVIEW OF DOCUMENTS ESTABLISHING POLICIES IMPACTING ON FOREST PLANS.—

"Issuance of (i) regional guidance or other document that establishes minimum management requirements in the forests within a Forest Service region, or (ii) a minimum management requirement for a particular forest, shall be considered a final agency action. Suits to challenge such guidance, document or requirement shall be filed in the United States court of appeals for the circuit in which the national forest which is the subject of the plan is located. Such court shall have jurisdiction to hear and determine any suit brought as provided in this subsection, subject to the terms and restrictions of this subsection.

"(1) Standing to obtain review shall be available only to persons who have—

"(A) submitted written or oral comment as provided by this Act in the Secretary's initial preparation, amendment or evisions of the guidance, document or requirement if notice and opportunity for public comment was provided, and

"(B) exhausted their administrative remedies.

"(2) Any suit must be filed not more than 60 days after the final decision of the Secretary on any administrative appeal of the guidance, document or requirement. The guidance, document or requirement, or any potion thereof, as finally adopted shall not thereafter be reviewable as a part of any other action under this Act or any other provision of law or regulation in existence at the conclusion of such 60-day period.

"(3) The record upon review shall be limited to the administrative record compiled in accordance with this Act, and to such additional written evidence as the court shall permit."

SEC. 304. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by adding at the end thereof a new subsection (q) as follows:

"(q) JUDICIAL REVIEW OF ACTION IMPLEMENTING A LAND AND RESOURCE MANAGEMENT PLAN.

"Suits to challenge an action implementing a land and resource management plan adopted, amended or revised by the Secretary pursuant to this section shall be filed in the United States district court for the district in which the implementing action will occur. Such court shall have jurisdiction to hear and determine any suit brought as provided in this subsection, subject to the terms and restrictions of this subsection.

"(1) Standing to obtain review shall be available only to persons who have—

"(A) submitted written or oral comment in the Secretary's development of the challenged implementing action if notice and opportunity for public comment was provided, and

"(B) exhausted their administrative remedies.

"(2) Any suit must be filed not more than 30 days after the final decision of the Secretary on any administrative appeal of the action.

"(3) A suit under this subsection shall not allege or rely upon new information as defined in subsection (n)(3)(B) of this Act.

"(4) The record upon review shall be limited to the administrative record compiled in accordance with this Act, and to such additional written evidence as the court shall permit.

"(5) Any action found to be not inconsistent with the plan it implements is valid."

SEC. 305. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by adding at the end thereof a new subsection (r) as follows:

"(r) DEADLINES AND PROCEDURES.—

"(1) No restraining order, preliminary injunction or injunction pending appeal shall be issued by any court of the United States with respect to a land and resource management plan, regional guidance or other document that establishes minimum management requirements, or implementing action that is the subject of subsection (o), (p) or (q) respectively.

"(2) The affected agency shall take no irreversible action to implement a decision being challenged under this section for the number of days specified below after the date of filing of a suit to challenge, or of filing a notice to appeal or writ of certiorari following the decision on a suit to challenge.

"(A) A land and resource management plan that is the subject of subsection (o), 180 days.

"(B) Regional guidance or other document that is the subject of subsection (p), 120 days.

"(C) An implementing action that is the subject of subsection (q), 60 days: *Provided, however,* That the period shall be 30 days in the case of an action to offer or award salvage timber or in the case of such other action that is determined by the Secretary to be an emergency action.

"(3) A suit governed by this section or any appeal of the decision on such suit shall be assigned for hearing at the earliest possible date and shall take precedence over all other matters pending on the docket of the court at that time except for criminal cases.

"(4) The court shall render its final decision relative to any suit governed by this section or appeal of decision on such suit within the number of days specified in paragraph (3)(A-C) from the date such suit or appeal is filed, unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution."

SEC. 306. Section 6 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1604), is amended by adding at the end thereof a new subsection (s) as follows:

"(s) TIERING OF ENVIRONMENTAL DOCUMENTATION.—

"(1) Where documentation pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 is required on an action implementing a land and resource management plan, such documentation shall be tiered to the final environmental impact statement, as amended or supplemented, on the plan. The documentation on the action shall incorporate by reference the relevant analysis of the final environmental impact statement, including cumulative impact analysis, and shall focus on any site-specific or project-specific environmental consequences which are required to be analyzed and have not been analyzed, or which are substantially different from or greater than the general environmental consequences which have been analyzed in the final environmental impact statement.

"(2) An environmental assessment, as defined by the Council on Environmental Quality, shall be the most comprehensive level of environmental documentation required for an action implementing a plan except when the Secretary, in his discretion, determines that the nature or scope of potential environmental consequences of an implementing action is substantially different from or greater than the nature or scope of the consequences considered in the final environmental impact statement for the plan."

SEC. 307. Section 6 of the National Management Act of 1976, as amended (16 U.S.C. 1604), is amended by adding at the end thereof a new subsection (t) as follows:

"(t) ACHIEVEMENT OF ALLOWABLE SALE QUANTITY.—

"(1) Where a particular land area is identified in a land and resource management plan as contributing to the allowable sale quantity of timber, no management action shall preclude the achievement, on a decadal basis, of the allowable sale quantity designated for that particular area.

"(2) The Secretary shall offer, on a decadal basis, the full allowable sale quantity of timber specified in each land and resource management plan. Not less than 30 per centum of the decadal annual sale quantity shall be awarded in any three consecutive years."

SEC. 308. Section 8 of the National Forest Management Act of 1976, as amended (16 U.S.C. 1606), is amended by inserting the following after the first sentence [Commencing with * * * this section.] of subsection (b):

"Commencing with the fiscal budget for the year ending September 30, 1992, such requests shall include as an appendix to the budget a statement of what funds would be required to achieve 100 per centum of annual outputs specified for each forest in its respective land and resource management plan."

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. WIRTH. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Energy Regulation and Conservation Subcommittee of the Committee on Energy and Natural Resources.

The hearing will take place Thursday, July 26 at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purposes of the hearing are: First, to receive testimony on S. 2177, a bill to improve the collection and dissemination of information relating to the supply of winter heating fuels; and second, to receive testimony on the Energy Information Administration's recent final report: An Analysis of Heating Fuel Market Behavior, 1989-90. Witnesses have already been invited to testify. Any person wishing to provide a written statement for the hearing record may do so by submitting copies to the subcommittee staff before noon on July 26.

For further information, please contact Joel Saltzman of the subcommittee staff at (202) 224-4756.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The field hearing will take place on Friday, July 27, 1990, beginning at 2 p.m. The hearing will be held in the New Orleans Theatre of Performing Arts, 1201 St. Peter Street, New Orleans, LA.

The purpose of the hearing is to receive testimony on S. 2846, a bill to authorize the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States.

Because of the limited time available for the hearing, witnesses may testify by invitation only. It will be necessary to place witnesses in panels and limit the time for oral testimony. Witnesses testifying at the hearing are requested to bring 10 copies of their testimony with them on the day of the hearing. Please do not submit testimony in advance.

Written statements are encouraged and may be submitted for the hearing record. It is necessary only to provide one copy of any material to be submitted for the record. If you would like to submit a statement for the record, you may send it to the Subcommittee on Public Lands, National Parks and Forests, room 364 of the Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact Laura Hudson in Senator JOHNSTON's office at (202) 224-0090 or Tom Williams of the committee staff at (202) 224-7145.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. FOWLER. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on July 13, 1990, at 2 p.m. to hold a hearing on S. 2742, the Trade Agreements Compliance Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FOWLER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Friday, July 13, at 10 a.m. for a hearing on the subject: census overview and confirmation of Barbara Bryant.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FOWLER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Friday, July 13, 1990, at 9 a.m. in executive session for markup of the National Defense Authorization Act for fiscal year 1991 and other pending legislation referred to the Senate Armed Services Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FOWLER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Friday, July 13, 1990, at 9:30 a.m. to conduct hearings on the nominations of Timothy J. McBride of Michigan, to be an Assistant Secretary of Commerce; and C.M. Schauerte, of Texas, to be Federal Insurance Administrator, Federal Emergency Management Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FOWLER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Friday, July 13, 1990, at 11 a.m. to conduct hearings on S. 2748, the Counterfeit Deterrence Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ARNOLD BOLLE: MONTANA CONSERVATIONIST

● Mr. BAUCUS. Mr. President, in Montana we have two very special places named in honor of men who throughout their lives demonstrated a commitment to conservation: The Bob Marshall and Lee Metcalf Wilderness Areas. I propose to add a third such area: The Arnold Bolle Addition to the Bob Marshall Wilderness.

On Tuesday, I introduced S. 2832, the Kootenai and Lolo National Forest Management Act of 1990. One provision of this bill would continue this fine Montana tradition of recognizing outstanding conservationists.

My bill would rename the proposed Clearwater-Monture Wilderness Area after Arnold Bolle, one of the true statesmen of the American conservation movement. A pristine area adjacent to the Bob Marshall, this is an area that Arnie knows well and feels strongly about.

I've known and respected Arnie since my first days in politics in our mutual hometown of Missoula. Nobody has done more to promote the conservation and sensible development of Montana's natural resources. For a decade he served with distinction as dean of the University of Montana's School of Forestry. In the 1960's he headed a commission examining management practices on Montana's Bitterroot National Forest. The so-called Bolle Report issued by this commission became a catalyst that moved Congress toward passage of the National Forest Management Act. Throughout his career, Arnie has been a voice of principled compromise and reason in the sometimes tumultous Montana public lands debate.

Naming this area in honor of Arnold Bolle is just a small way to say thank you for such selfless service to the land and people of Montana.●

A.D. MOYER: CHICAGO DISTRICT DIRECTOR OF INS

● Mr. SIMON. Mr. President, I rise today to make note of the continued service to Illinois by the Director of our Chicago District Office of the Immigration and Naturalization Service, A.D. Moyer.

Although New York City, Los Angeles, Miami, and other port cities are more often considered to be cities with large immigrant populations, Chicago is unique among American cities in the diversity of its immigrant and ethnic communities. Chicago is proud to be the home of vibrant neighborhoods and communities of Irish, Polish, Mexican, Chinese, Italian, Salvadoran, Czech, Greek, Russian, Ukrainian, Slavic, and Cuban ancestries to name just a few.

Gone unnoticed in the midst of this diversity is the important and significant job undertaken by the Immigration and Naturalization Service in aiding these communities. Connie Montana of the Chicago Tribune has recently written a profile of Mr. Moyer entitled, "Immigrants Tune in a Hero out of INS." She describes the trials and tribulations, the successes and difficulties, of this public servant.

As a member of the Senate Immigration and Refugee Affairs Subcommittee, I have long made my concerns known about the sensitivity of the Immigration Service in areas, such as relations with immigrant communities and increased bilingual services, where it can improve. I am pleased to read in Ms., Montana's article, therefore, that Mr. Moyer has had great success and cooperation with the Spanish language media with a program called "Linea Abierta" or "Open Line" during which he answers questions and addresses other immigration concerns. Readers of the Spanish-language TV guide voted Mr. Moyer's program to be their favorite local TV show in 1989.

Mr. President, I ask that the prevously mentioned news article be printed immediately following my remarks.

[From the Chicago Tribune, July 5, 1990]

IMMIGRANTS TUNE IN A HERO OUT OF INS

(By Constanza Montaña)

He's an international celebrity.

Mexicans recognize him and stop him on the street. Poles and Irish wave and cheer as he files by during the Polish or St. Patrick's Day parades.

Latinos read his weekly column in a local newspaper and listen to him on Spanish-language radio. Indians watch his guest appearances on a local television show. His weekly television program has been nominated twice for Chicago Emmy awards.

But his universe is limited to Chicago's immigrant community. He is Alvin Douglas Moyer, better known as A.D., director of the Chicago district of the Immigration and Naturalization Service (INS).

In his job, Moyer directs all operations related to the coming and going of foreigners in the Chicago district, which includes Illinois, Indiana and Wisconsin. He supervises more than 400 employees who annually inspect the entry of more than one million international visitors and the deportation of hundreds of others.

Though Moyer's position as a federal law enforcement officer is often controversial, critics and fans agree that Moyer has improved the operation and image of the immigration service.

"Our Chicago district office is run more efficiently and with more open lines of communication, more give and take than any other INS office in the country," said Robert Gard, chairman of the Chicago chapter of the American Immigration Lawyers Association.

Moyer, 50, began his career three days after graduating form Miami University in Oxford, Ohio, where he majored in sociology and political science and learned Spanish. Since then, he has worked in nearly every job in the immigration service in almost all points of the country.

Moyer took over as Chicago's district director in 1982. But only in the last four years, during the implementation of the Immigration Reform and Control Act of 1986, has Mayer become visible and succeeded in changing the image of the federal agency derisively known as *la migra*. Under this landmark law, illegal immigrants who met certain qualifications were allowed to legalize their status.

But after nearly 30 years as an immigration officer, Moyer is proudest of a job he does on his own time without any pay—his Spanish-languge television show that airs Saturday night and is rebroadcast Sunday afternoon on WSNS-Ch. 44.

The show is called "Linea Abierta," Spanish for open line, because it started out as a live call-in show about three years ago. The question-and-answer format of the show has been preserved, but it is now taped using videoclips and letters.

Almost every Friday afternoon Moyer packs his 6-foot, 205-pound body into a white 1982 Mercedes sedan, a government-issued car seized during an alien smuggling operation, and drives to the station's Lincoln Park studios. There he tapes the show with co-host Constance Lara, an immigration service attorney. He is the only INS district director to have his own television program.

"If you were to add up all the things I've been involved in up to now, the show 'Linea Abierta' is more impacting, more than all the things put together," Moyer said. "The show has tremendous importance."

Though the program may be his most significant achievement, it is partly the result of what Moyer said was his biggest mistake: "Not realizing early in my career that for any law to be successful, you must enjoy broad-based community support."

The Federal government partially funded Moyer's first 17 shows, which began broadcasting in March 1988, during the last months of the immigration law's application period. Since last September, Channel 44 has been bearing the full cost of the program, Moyer said.

Like any television show, "Linea Abierta" and its co-hosts have been praised and panned. For the last two years, the show has been nominated for a Chicago Emmy in the public affairs category. Readers of TeleGuia, a Spanish-language version of TV Guide, voted "Linea Abierta" their favorite local television program of 1989.

But some immigration advocates call the show's information misleading and too simplified. "I can't say he's giving incorrect information," said Carlos Arango, chairperson of the United Network for Immigrant and Refugee Rights. "It's confusing and incomplete."

"We try first of all never to misinform," Moyer said, "Sometimes there is more to the total answer than we give. But if they [immigrants] can take the first step in the process, the rest of our organization should take care of the process."●

FIVE CENTURIES OF PRIDE

● Mr. HATCH. Mr. President, in 1992, the United States will join with the Western World in commemorating the 500th anniversary of Christopher Columbus' historic voyage to the New World. As this anniversary provides the perfect forum for rediscovering and redefining our history and heritage, I rise today to recognize the outstanding contributions Hispanics have made to the growth and development of the New World and the United States of America over the past 500 years. Congratulations to the National Hispanic Quincentennial Commission [NHQC] for their efforts to educate all Americans to the numerous contributions Hispanics have given and continue to give our world.

Americans of Hispanic descent can proudly boast that their ancestors were exploring the southwest and east coast more than 100 years prior to the arrival of the Pilgrims on the *Mayflower*. Two hundred years before the birth of George Washington, the Spanish had founded schools, missions, towns, and new and exotic lands which they named "Colorado—Land of Colors," "Florida—Land of Flowers," "Los Angeles—City of Angels," and "Nevada—Land of Snow." Among the many Hispanic historical figures, Juan de Onate, 1550-1624, is remembered as the founder of the first U.S. Thanksgiving and the father of the first European settlement. Mr. de Onate, a wealthy mine owner in Nueva Espana—New Spain—was also chosen to lead an expedition and settlement of what later would be named Nuevo Mexico—New Mexico. The first play performed in the United States was presented in Spanish; since that time, Hispanics have performed in both English and Spanish, with such notable entertainers as Mr. Ricardo Montalban, actor and honorary national chairman of the NHQC.

Unfortunately, despite the gifts of law, religion, agriculture, mathematics and sciences, art, music, education technology, architecture, cuisine, theater, and exploration with Hispanics have graciously shared with our New World, myths and faulty stereotypes continue to exist. So, I further recognize and appreciate the outstanding areas where Hispanic-Americans continue to excel as productive and proud U.S. citizens, and express gratitude to the NHQC for ensuring that 1992 will be a time of inclusion of the Hispanic-American community in the international and national celebrations.

Mr. President as the chairman of the U.S. Republican Senate Conference Task Force on Hispanic Affairs, I commend the NHQC for providing a national strategy to educate all Americans about Hispanic history and heritage and thank the Hispanic people for paving the path to freedom and democracy for all Americans.●

THE OLDER AMERICANS ACT

● Mr. RIEGLE. Mr. President, this week marks the 25th anniversary of the establishment of the Older Americans Act. The Older Americans Act was signed into law July 14, 1965, and was designed to improve the lives of the Nation's elderly population through grants to develop new programs or to improve existing ones. It has three objectives: To enable people aged 60 or older to live independently in their own homes; to remove individual and social barriers to economic independence; and to provide a full spectrum of care for vulnerable, elderly individuals.

Combining Federal funding with decentralized, State and local level management, the Older Americans Act has created an "aging network," consisting of 57 State agencies, 670 area agencies, and 25,000 service providers. It has been particularly effective in offering a wide range of social services to the elderly.

Despite a virtually static funding level over the years, this strained network has provided unparalleled services for older Americans. It supports the only federally sponsored job creation program benefitting low-income, older workers. It is also a major source of funding for training, research, and demonstration programs in the field of aging. Finally, it provides the authority for a separate program for supportive and nutrition services for older native Americans and native Hawaiians. These programs are wide in scope

and effective in implementation. In effect, they allow elderly people to maintain their sense of self-worth by continuing to function as integrel parts of society.

The Older Americans Act's supportive services program provides help to over 9 million people each year. Its nutritional services program feeds millions, serving 258.7 million meals last year alone. It has given support to numerous research, service, and educational projects, including community-based, long term care; subsidized part-time community service jobs for unemployed, low-income seniors; Alzheimer's disease support services; elder abuse prevention services; health promotion; legal assistance; and career preparation and continuing education in the field of aging.

The Older Americans Act has been indispensable in helping our Nation's elderly citizens to live fruitful, productive, and fulfilling lives. It has been a provider of support, while other avenues of aid have been inadequate or nonexistent. The Older Americans Act has proven to be the bulwark upon which the elderly of America can rest their faith, secure in knowing that the government upon which they placed their trust will not abandon them.●

ELDORADO HIGH SCHOOL OPENS ITS DOORS AND ITS ARMS

● Mr. SIMON. Mr. President, in August 1989, Eldorado High School Principal Carroll Phelps transformed a custodial storage space into a licensed nursery for student-parents and their children. This is the third school-based infant care center to open its doors in Illinois, but I believe Eldorado is the first rural high school to open a center of this sort.

The Infant Care Center was established in an effort to keep young mothers from dropping out of school, and to work with students to prevent unplanned pregnancies. In addition to fulfilling the requirements of full-time students, those involved in the program are required to work in the center for 2 hours a day at minimum wage; enroll in a parenting course through the home economics department and; attend support groups for teen parents.

Currently licensed for 10 children, the Infant Care Center had 7 babies enrolled this past winter, with 2 more due in April. Most of the feedback Ms. Phelps has received from the community has been positive. They received a $40,000 grant from the Illinois Department of Children and Families Services, along with additional funding from the school district.

Mr. President, I want to commend Eldorado High's principal, Carroll Phelps and the infant center director, Brenda Disney, for their outstanding effort in this area. We must break the cycle of children having children. When over 60 percent of female students dropping out of high school cite pregnancy and motherhood as the reasons they leave school, we must look for creative ways to keep these young parents in school. The greater their education, the greater their chances for moving into productive jobs, taking care of themselves and their child.

This is an important support service. I applaud those involved with the program and encourage everyone affiliated with it to keep up their commitment and their energy.●

RURAL HEALTH CARE PROVIDER RECRUITMENT AND EDUCATION ACT OF 1990

● Mr. ROCKEFELLER. Mr. President, I am pleased and honored to joint the distinguished majority leader, Senator MITCHELL, and Senators DURENBERGER, HARKIN, DASCHLE, and BURDICK in introducing legislation that will provide vital assistance to rural communities in desperate need of health care providers. I am especially pleased to be in the company of such true champions of rural health care in the Congress today. I have long admired Senator MITCHELL's commitment to health care. As the past chairman of the Finance Subcommittee on Health, he provided superb leadership in addressing the health care needs of the people of his state of Maine and the entire Nation. Now, as majority leader, even with the numerous issues facing the Senate and demanding his attention, Senator MITCHELL's commitment to better, more affordable health care for rural Americans has not wavered.

For a variety of reasons, rural communities have long grappled with the problem of attracting and retaining physicians, nurses, and other health care professionals. Sadly, due to the pressures of the Reagan administration, the National Health Service Corps has been virtually eliminated. The demise of the NHSC Scholarship Program over the past decade has decimated access to health care in many rural, isolate communities.

In the past, about 36 NHSC doctors were placed annually in rural, isolated parts of West Virginia. Now, only about three to four physicians are placed each year. When I visit health centers, clinics, and rural hospitals all across West Virginia, and even at town meetings, a familiar and depressing theme I hear is how hard, sometimes impossible, it is to recruit a doctor, a nurse practitioner, or a physician assistant to provide primary care in a small town or geographically isolated area.

The Rural Health Care Provider Recruitment and Education Act of 1990 represents a commonsense, practical approach to an admittedly complex problem and builds on the experience of the National Health Service Corps Program. Under this bill, local communities would be assisted in taking an active role recruiting health care providers to practice in their own community. Local communities would be eligible to receive Federal matching funds to send local residents to medical school, nursing school, or to receive physician assistant training. In return for a community's financial sponsorship, the student would make a commitment to return to the rural community and practice for a period of 2 to 4 years. The program would be administered by the State loan program of the National Health Service Corps Program.

I recently learned about a very similar program in Wayne, WV, called the Educational Seed for Physicians, that provides financial assistance to medical students in return for their commitment to practice medicine in rural West Virginia. Since its creation in 1978, 11 medical students have received financial assistance for their medical training in return for a comitment to practice in rural West Virginia for at least 5 years.

Mr. President, I would like to see this model duplicated all across rural America, and I think this legislation could make that possible. Studies have shown that physicians and other health care providers are likely to practice in a rural community if they themselves are from a rural area or have been exposed to a rural setting during their training.

I am hopeful that this legislation will serve to empower rural communities by giving them an opportunity to invest in the health education of a local resident with the promise of health care in return. I urge my colleagues to join us in support of this legislation, which, although a modest proposal, will go far in shoring up a crumbling health care network in rural America.●

PROBLEMS IN KENYA

● Mr. SIMON. Mr. President, there is a disturbing human rights situation in Kenya. The Kenyan Government is brutally repressing its critics. Popular demonstrations for a multiparty, democratic government have been met with government-ordered lethal force.

The dramatic decline in Kenya's human rights situation seriously undermines our historically good relations with Kenya. Over the past several months, a public campaign to end one-party rule has been met with a severe government crackdown. Yet public pro-democracy protests have spread from Nairobi to several other Kenyan cities. A reported 23 people have been killed and over 60 wounded.

At least 40 people have been detained, including Kenneth Matiba and Charles Rubia (two former Cabinet Ministers who have called publicly for an end to one-party rule), John Khaminwa and Mohamed Ibrahim (two human rights lawyers), and Gitobu Imanyara (editor of the Nairobi Law Monthly). Human rights attorney, Paul Muite, is in hiding.

Human rights attorney, Gibson Kamau Kuria, who sought refuge in our Embassy was permitted Tuesday night to leave Kenya. I am pleased with that development and it is an example that our show of public concern can help to improve the situation. Reportedly all lawyers in Kenya are not on strike, and will not go to court until detainees are released. And another pro-democracy rally is expected to take place this weekend.

Recent events compel us to move toward a reexamination of the foreign aid we give to Kenya. For fiscal year 1990, we are giving Kenya about $60 million in development and military aid. In the upcoming weeks, the Senate will have the opportunity to debate and vote on the foreign aid appropriations bill for fiscal year 1991. Kenya, one of our largest aid recipients in sub-Saharan Africa, should receive our tough scrutiny. The fiscal year 1990 foreign aid authorization bill (and a similar House-passed bill) included a provision that Economic Support Fund and military aid to Kenya shall bear a relation to significant steps taken by the Kenyan Government to increase respect for human rights. That is all the more important today.

Most of us concur in the statement made by U.S. Ambassador to Kenya, Smith Hempstone, that the Congress favors providing U.S. foreign aid to countries that nurture democratic institutions, defend human rights, and engage in multiparty politics. Kenya is no exception. I recommend to my colleagues news accounts on the situation in Kenya, and ask that they be printed in the RECORD.

The articles follow:

[From the Los Angeles Times, July 6, 1990]

KENYA CRACKS DOWN, JAILS FIVE OPPONENTS OF ONE-PARTY RULE—EAST AFRICA: TWO FORMER CABINET MINISTERS AND A LAW REVIEW EDITOR ARE AMONG THOSE SEIZED AFTER ADVOCATING A MULTI-PARTY SYSTEM

(By Michael A. Hiltzik)

NAIROBI, KENYA.—In a sign of government unease with a growing opposition movement, police here have jailed five leading supporters of multi-party democracy in a crackdown tht began Wednesday night.

The most prominent figures detained in the government action are Kenneth Matiba and Charles Rubia, both former Cabinet ministers in the government of President Daniel Arap Moi, and Bitobu Imanyara, editor of the Nairobi Law Review. Matiba and Rubia have publicly called for an end to the monopoly party rule of the Kenya African National Union, or KANU, and Imanyara's journal has published articles in support of ending one-party rule.

Matiba and Rubia were picked up by squads of police late Wednesday and driven off to unknown destinations, according to family members and newspaper reports. Accounts of Imanyara's arrest were confused, with the Associated Press later quoting an associate of his as saying the editor had escaped police and gone into hiding.

Detained Thursday were John Khaminwa, a lawyer for Rubia who was reported arrested after he entered a Nairobi police station inquiring about his client, and Raila Odinga, a two-time political detainee who is the son of Oginga Odinga, a key political figure here in the 1970s and 1980s and a leader of the important Luo tribe. The Odingas were reported in the Kenya press recently as having held meetings with Matiba and Rubia. Five members of Matiba's staff were also detained.

Police are reportedly also set to detain several other members of Kenya's burgeoning opposition.

The surge of detentions Thursday brought a response from the U.S. Embassy here, which expressed "interest and concern."

Authorities have expressed increasing concern and anger over plans by Matiba and Rubia for an unofficial rally in favor of political pluralism scheduled for Saturday at a field in the center of Nairobi, and they have announced that police would use force to keep the rally from getting under way.

President Moi recently charged in a speech that the two men were planning to have demonstrators at Saturday's rally shot and to blame the killings on the government. Matiba and Rubia in a joint statement issued about an hour before they were picked up Wednesday, denied that. They said their application to hold the rally at Nairobi's Kamukunji Park had been turned down and that they had dropped the plan.

The detentions climaxed a war of nerves between the government and Matiba and Rubia that began several weeks ago, when the two former ministers issued a call for multi-party democracy in this country.

Over the last two weeks, Matiba's and Rubia's offices have been under police surveillance and their visitors have been tailed. Police broke up press conferences and interview sessions held by both men and seized their passports.

An attempt by police to arrest them June 20 for "holding an illegal meeting"—they were consulting with their lawyer, Paul Muite—was aborted when a large crowd gathered around the sidewalk confrontation between the three men and six plainclothes police officers.

On June 13, a gang of men dressed in civilian clothes but addressing each other by military rank invaded Matiba's house. They asked for him by name and, when told he was not at home, severely beat his wife and daughter before escaping with a pocketbook and a cheap necklace.

Matiba charged that the episode, which the police called a burglary was an assassinstion attempt.

Any confrontation between President Moi and the emerging forces for political change could severely damage what has so far been an African success story. Kenya's political stability and economic success have long held the attention of Africa-watchers. Since Moi came to power in 1978, there has been only one major eruption of unrest—an attempted coup in 1982 by officers of the Kenyan air force. It was quickly put down.

During this same period, unrest has flared repeatedly in neighboring countries: civil war in Uganda, repression and ethnic war in Marxist Ethiopia, civil war and an Islamic fundamentalist coup in Sudan, a near-total breakdown of government authority in Somalia.

Since 1982, Moi has steadily tightened his and his party's autocratic grip on Kenya. Constitutional amendments have outlawed opposition parties and made the tenure of once-independent judges subject to the president's wish.

In a move against the press, a Kenyan court on June 29 charged four editors of a Nairobi newspaper with publishing material "likely to cause fear, alarm and despondency" among the public. The editors of the Standard newspaper were charged after the paper ran a series of stories implying that the government lied about a Nairobi slum clearance operation that turned violent last May.

Meanwhile, economic growth has failed to keep peace with population growth, which is among the world's highest, and Kenya's economic status has slipped. Spreading corruption has driven away foreign investment.

The country would have much to lose in any extended outbreak of public unrest or an escalation of the crackdown on dissient. Tourism in Kenya's leading foreign-exchange earner; last year about 700,000 visitors spent an estimated $340 million here.

Further, Kenya's budget is increasingly dependent on aid from Western donor countries. Foreign aid loans and grants account for 27% of the budget this fiscal year, compared to only 5% three years ago. U.S. aid totaled $76.4 million last year, including $15 million in military assistance.

Recently, however, the United States has put the Kenyan government on notice that democratic countries are likely to get preference in the future. The notice came from Smith Hempstone, U.S. ambassador to Kenya, in a speech to a local businessmen's group in which he described the new standard as congressional policy.

Herman J. Cohen, the assistant secretary of state for African affairs, said in a speech in Washington last April that the U.S. government would show "a change in attitude toward the African one-party state [and that] it is time for most African political systems to evolve toward a Western-style democracy."

Before this week's arrests, the political crackdown here had already elicited a stern reaction from three influential American lawmakers, Reps. Howard Wolpe (D-Mich.), chairman of a House subcommittee on Africa and a frequent critic of Moi; Gus Yatron (D-Pa.), chairman of a subcommittee on human rights, and Dante Fascell (D-Fla.), chairman of the Foreign Affairs Committee.

In a letter to Moi, the three focused on the "harassment" of lawyer Muite and the conviction of the Rev. Lawford Imunde, a Presbyterian minister who was sentenced to six years in jail on the basis of what were deemed seditious entries in his dairy. Imunde has appealed his sentence on grounds that some of the entries were made by the police and that he was tortured into signing a confession and pressured into waiving his right to counsel.

These two episodes, the letter states, are "the most visible signs of growing hostility toward independent voices in Kenya by your government."

The letter continues: "At a time when, throughout the world, we are witnessing the

formation of pluralist democracies—characterized by multi-party elections, respect for human rights and tolerance of opposition views—we are deeply concerned about government efforts to suppress such initiative in Kenya."

Meanwhile, open criticism of Moi's leadership and of KANU, the only legal political party here, has also come from several leading Kenyan institutions.

In the most serious sign of dissatisfaction, 18 Roman Catholic clerics, including Cardinal Maurice Otunga, the archbishop of Nairobi, on June 22 issued a pastoral letter assailing the political situation and the deteriorating economic climate.

The letter, which appeared as a full-page advertisement by the Kenya Episcopal Conference in the country's three major newspapers, attacked what it called widespread corruption in the country and the voting system known as "queuing." In primary elections—key voters in a single-party state—voters do not mark a ballot but line up behind photographs of their favored candidate.

The churchmen reserved their most stinging criticism for the increasing authority of the party over Parliament and other government institutions.

"The least sign of dissent in the face of any particular decision of the party is often interpreted as subversive and as endangering the security of the state," the bishops complained. They compared the situation to the "philosophy of 'national security'" that gave birth to death squads, murder by torture and a breakdown of civil liberties in Latin America in the 1970s.

The political waters here have been stormy since the mysterious death Feb. 13 of Dr. Robert Ouko, Moi's minister of foreign affairs.

Although political assassination has never been Moi's style—it was his predecessor, Jomo Kenyatta—there has been widespread public suspicion that someone in the administration was involved in the Ouko death. Still, there has been no reliable explanation of why an apparently loyal member of Moi's Cabinet should be killed.

Ouko's body was found near his home, charred and mutilated. When the police suggested that he had committed suicide, demonstrations broke out in major cities and marchers carried placards charging a cover-up.

[From the Washington Post, July 9, 1990]

CRACKDOWN IN KENYA STRAINS TIES WITH UNITED STATES—CONGRESS TO REVIEW FOREIGN AID TO NAIROBI

(By Neil Henry)

NAIROBI, July 8—President Daniel arap Moi's crackdown on political opponents and human rights advocates has aggravated already tense relations between the United States and Kenya, prompting a congressional review that could freeze or cut economic and military aid to this East African country.

Kenya, which had long been recognized by the West as a beacon of political and economic stability in a region otherwise noted for chaos and conflict, is the largest recipient of American aid in sub-Saharan Africa, receiving $49.8 million in economic and military assistance this year and tentatively set to get about the same amount next year.

However, the government's crackdown against proponents of greater democracy here—which has seen at least 11 dissidents detained in the last week and dozens of civilians injured during riots—has triggered strong protest from the U.S. and other Western governments which, together with multilateral donors, contribute more than $940 million annually in aid to Kenya's economy.

In a development that could further strain U.S.-Kenyan relations, U.S. Ambassador Smith Hempstone said late tonight that human rights lawyer Gibson Kamau Kuria, who was once detained for nine months by Moi's government, had fled to the U.S. Embassy on Saturday morning and been granted refuge.

Hempstone said Kuria, who won the 1988 human rights award presented by the Robert F. Kennedy Memorial Center, has "indicated that he would like to leave the country," and the ambassador added that the U.S. government would try to facilitate that request.

On Friday, the State Department issued a statement expressing "distress" over the arrests of the dissidents and again urged the Moi government to respect individual rights of freedom of expression and assembly, which have eroded in recent years.

That request came two weeks after top congressional leaders sent a letter to Moi expressing concern for human rights in Kenya. The leaders did not receive a reply.

After the crackdown continued last week with the arrests of two opposition politicians, Kenya's ambassador to the United States, Denis Afande, was told by an American official that Congress would interpret the clampdown as Moi's official response to the letter, Congressional sources said.

"The Hill's response to Moi will be to look again at assistance to Kenya," said a congressional source. "We are developing a strategy to cut aid."

The source said such a strategy could entail freezing funds already allocated for Kenya this year or cutting back funds appropriated for 1991. Congress, currently in recess, will resume its session Tuesday.

For some time, U.S. officials in Washington and Nairobi have been trying to encourage the Moi government to allow a public debate on multi-party democracy in this one-party state, and to consider moves to bring about such a political system.

At a time when democratic values and political pluralism are winning favor in other parts of Africa and the world, the 12-year Moi regime has clung to centralized control and rigid one-party rule, expressing fears of tribal factionalism if more than one political party is allowed to compete for power.

In recent years, particularly after an attempted military coup in 1982, all manner of dissent has been stifled in Kenya, including the banning of numerous publications accused by the rulers of subversion.

During a visit to Washington in February, Moi was told by American officials that U.S. assistance to Kenya would be tied more closely to political accountability and economic freedom here. Moi, whose government has been plagued by charges of widespread official corruption, visited the United States at a time when this nation is steadily losing foreign investment and forecasting a nearly $1 billion trade deficit for next year.

For a while after his trip to Washington, Moi appeared to consent to a public debate of the merits of multi-party politics. But the Kenyan leader never wavered from his opposition to allowing more parties, and accused supporters of political pluralism, of being subversives and suffering from "insects in their heads."

Then, Moi declared the debate over last month when two former members of Moi's cabinet, Kenneth Matiba and Charles Rubia, openly expressed support for more political parties. Shortly thereafter, human rights lawyers complained of harassment by government security forces.

Last week, many of the most outspoken advocates of political change in Kenya were rounded up and jailed. Matiba, Rubia, human rights lawyers John Khaminwa and Mohamed Ibrahim, and Gitobu Imanyara, chief editor of a Kenyan law journal, were among those arrested in the days leading up to a pro-democracy rally that was tentatively scheduled, but canceled, by the former cabinet members.

On Saturday, a couple of hundred observers showed up at the rally site in Nairobi anyway, leading to riots and sporadic clashes between police and civilians in which dozens reportedly were hurt, none seriously.

There were more disturbances today in the capital, when thousands of people returned to the area where the rally was supposed to have been held. When police tried to disperse them, some threw large rocks. Riot police bearing clubs in surrounding neighborhoods occasionally fired tear gas to break up groups of people.

Most political detainees are held under a statute known as the Preservation of Public Security Act, which allows the government to hold suspects for as long as 14 days without charge or trial. The act is just one of numerous examples of human rights violations here raised by the international human rights group, Africa Watch.

"We are very concerned that a strong stance be taken by the Bush administration and Congress," said Joyce Mends-Cole of the group's Washington office. "We'd like them to publicly condemn all that is happening in Kenya."

The government regularly accuses the United States of encouraging discontent here and violating Kenyan sovereignty by demanding political change. One indication of the ragged state of U.S.-Kenyan ties was the front-page headline of an editorial in today's Kenya Times condemning criticism leveled by the U.S. envoy here. "Shut up, Mr. Ambassador," it read.

[From the Washington Post, July 6, 1990]

KENYA ARRESTS PROPONENTS OF MULTI-PARTY SYSTEM

(By Michael A. Hiltzik)

NAIROBI, July 5—Police here have jailed five leading supporters of multi-party democracy since Wednesday in a crackdown taken as a sign of government unease with a growing opposition movement.

The most prominent figures being held are Kenneth Matiba and Charles Rubia, both former ministers in the cabinet of President Daniel arap Moi, and Gitobu Imanyara, editor of the Nairobi Law Review. Matiba and Rubia have called for an end to the monopoly rule of Moi's Kenya African National Union, and Imanyara's journal has published numerous articles in support of ending the one-party system.

Matiba and Rubia were picked up by squads of police late Wednesday and driven off to unknown destinations, according to family members and newspaper reports. Accounts of Imanyara's arrest were confused.

Taken into custody today were John Khaminwa, a lawyer for Rubia who was reported held after he entered a Nairobi police station to seek the whereabouts of his client, and Raila Odinga, a two-time political detainee who is the son of Oginga Odinga, a key political figure here in the

1970s and 1980s and a leader of the important Luo tribe.

The Odingas were reported in the Kenya press recently as having held meetings with Matiba and Rubia. Five members of Matiba's staff also were being held by authorities, and police reportedly are set to arrest several other members of Kenya's burgeoning opposition. The U.S. Embassy has expressed "interest and concern."

Authorities have expressed anger over plans by Matiba and Rubia for an unofficial rally in favor of political pluralism scheduled for Saturday at a park in the center of Nairobi and have announced that police would use force to prevent the gathering, which had been expected to draw large crowds. City crews have begun fencing the area to keep people out.

President Moi charged in a speech that Matiba and Rubia were planning to have demonstrators at Saturday's rally shot and to blame the killings on the government. The two, in a joint statement issued about an hour before they were picked up Wednesday, denied the charge and said they had dropped plans for the rally because their application to hold it had been turned down. The government apparently feared that, despite their words, a large anti-government crowd would turn up.

Over the last two weeks, Matiba's and Rubia's offices have been under police surveillance and their visitors tailed. Police broke up press conferences and interview sessions held by both men and also seized their passports.

Any confrontation between Moi and the emerging forces for political change could severely damage what has so far been an African success story. Kenya's political stability and economic success have long held the attention of Africa-watchers. In Moi's 11 years in power, there has been only one major eruption of civil disorder—an attempted coup in 1982 by officers of the Kenyan air force. It was quickly put down.

Since 1982, Moi has steadily tightened his and his party's grip on Kenya. Constitutional amendments have outlawed opposition parties and made the tenure of once independent judges subject to the president's pleasure.

Meanwhile, economic growth has failed to keep pace with population growth, which is among the world's highest, and Kenya's economic status has slipped. Spreading corruption has driven away foreign investment.●

AUTHORITY FOR COMMITTEES TO REPORT UNTIL 4 P.M. TODAY

Mr. FOWLER. I ask unanimous consent committees have permission to report Legislative and Executive Calendar business until 4 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECORD TO REMAIN OPEN UNTIL 4 P.M. TODAY

Mr. FOWLER. Mr. President, I ask unanimous consent that the Record remain open today until 4 p.m., for the introduction of bills and submission of amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO FILE FIRST-DEGREE AMENDMENTS TO THE CIVIL RIGHTS BILL UNTIL 2 P.M. ON MONDAY

Mr. FOWLER. Mr. President, before I ask for the Senate to stand in recess, I ask unanimous consent that first-degree amendments to the civil rights bill may be filed until 2 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JULY 16, 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate recesses today it stand in recess until 1 p.m. on Monday; that, following the time for the two leaders, there be a period for morning business not to extend beyond 2 p.m. with Senators permitted to speak therein for up to 5 minutes each; that, beginning at 2 p.m. on Monday, the Senate resume consideration of H.R. 4328, the textile bill; that all remaining amendments be offered and debated on Monday; that any votes orderd to occur relative to these amendments be stacked to occur on Tuesday, at a time to be determined by the majority leader following consultation with the Republican leader; that, if an amendment is not offered on Monday, it not be in order following the completion of debate on Monday; that upon completion of votes on the amendments to the textile bill the Senate proceed without any intervening action or debate to adoption of the committee substitute and third reading and final passage of the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RECESS UNTIL MONDAY, JULY 16, 1990, AT 1 P.M.

Mr. FOWLER. Mr. President, I now ask unanimous consent that the Senate stand in recess under the previous order until 1 p.m., Monday next, July 16, 1990.

There being no objection, the Senate, at 3:20 p.m., recessed until Monday, July 16, 1990, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate July 13, 1990:

IN THE AIR FORCE

THE FOLLOWING OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8038, FOR APPOINTMENT AS CHIEF OF AIR FORCE RESERVE AND APPOINTMENT TO THE GRADE OF MAJOR GENERAL IN THE RESERVE OF THE AIR FORCE:

To be chief of Air Force Reserve

To be major general

BRIG. GEN. JOHN J. CLOSNER III [redacted] AIR FORCE RESERVE.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 13, 1990:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

JOSEPH G. SCHIFF, OF KENTUCKY, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

FEDERAL DEPOSIT INSURANCE CORPORATION

ANDREW C. HOVE, OF NEBRASKA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM EXPIRING FEBRUARY 28, 1993.

ANDREW C. HOVE, OF NEBRASKA, TO BE VICE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

A. RAYMOND RANDOLPH, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.

FEDERICO A. MORENO, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

DEPARTMENT OF JUSTICE

MICHAEL L. JOHNSON, OF IDAHO, TO BE U.S. MARSHAL FOR THE DISTRICT OF IDAHO FOR THE TERM OF FOUR YEARS.

JOHN W. RALEY, JR., OF OKLAHOMA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF OKLAHOMA FOR THE TERM OF FOUR YEARS.

HOUSE OF REPRESENTATIVES—*Friday, July 13, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, gracious God, to see Your face in the face of the neediest among us. May we open our hearts as we would open our hearts to You to every person who desires strength in mind, body or spirit. Enlighten us, O God, so that we experience Your presence not only in heaven above, but in the hearts and souls of the people who look to us for support and favor. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Maine [Mr. BRENNAN] please come forward and lead the House in the Pledge of Allegiance?

Mr. BRENNAN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 318. Joint resolution providing for the appointment of Ira Michael Heyman of California as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message also announced that, from the Committee on Finance; Mr. BENTSEN, Mr. BAUCUS, and Mr. PACKWOOD, be conferees, on the part of the Senate, on the bill (H.R. 1465) "An Act to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes."

IN SUPPORT OF THE BALANCED BUDGET AMENDMENT

(Mr. BRENNAN asked and was given permission to address the House for 1 minute.)

Mr. BRENNAN. Mr. Speaker, I rise today in support of a balanced budget amendment. It is 1990. And quite possibly the worst threat to our national security is not from abroad but from our own financial condition, with a $3.2 trillion national debt, it is time for action. Not next year, not in 10 years, but now.

America is continuing to run over budget and extend our borrowing each year to levels far beyond what we in our lifetime, and our children in theirs, can possibly pay.

Unless we act now, our generation will be leaving future generations a debt almost 10 times larger than what we inherited from our parents.

To date, the Federal Government has incurred more than $30,000 in accumulated debt on behalf of each American household. This simply cannot continue.

I urge my colleagues to join with me in support of an amendment to the Constitution requiring an annual balanced budget.

It is time to pay our own bills. Let us not make our children and grandchildren pick up the check for this generation. That is unconscionable.

ONE MINUTE EQUALS $2,400,000

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, I am holding up a debt man clock. It shows the national debt of the United States at over $3 trillion, and it is ticking off at the rate of $40,000 a second.

Mr. Speaker, during the 1 minute I will be speaking to the House, the national debt will have increased $2,400,000, and the numbers just keep rising, as I said, at a phenomenal rate.

This place is like a bunch of drunks in a barroom. Unless the bartender shuts us off, we will keep drinking.

Mr. Speaker, the balanced budget amendment is our shutoff. It is our closing law. We have got to slow those numbers down so the taxpayers of this country will not have this clock continuing ticking away at $40,000 a second.

COMMITTEE ON AGRICULTURE HAS FINISHED DELIBERATIONS ON THE FARM BILL

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker and my colleagues, the Committee on Agriculture has finished deliberations on the farm bill. There are still some Members that will try and conceivably make it a better bill by the time we get to the floor.

In the meantime, Mr. Speaker, we worked on the budget. We think we have good legislation.

This morning the Washington Post had what I consider a very perceptive idea on what the farm bill is, what we intend to do and some of the peripheral attacks that have been launched by Members, and I would invite my colleagues to read that editorial and, hopefully, see the need that we have for farm legislation and how in a very responsible way the Committee on Agriculture has addressed the issue.

TIME FOR A FARM BILL

U.S. farm supports were too high for anyone's good in the mid-1980s. In the last five years they have already been appreciably and constructively reduced. Now the Bush administration wants to reduce them further as part of a reduction in world supports generally. Yet presumably its goal is not to eliminate supports entirely; a safety net and reserve program of some kind remain necessary for consumers' sake as well as producers'. The question is, where is the stopping point? What should the next generation of farm programs look like, if not like what exists today? On that there is no agreement.

It is in that context that the 1985 farm bill is expiring and Congress is having to write a new one this year. Left to themselves, the agriculture committees would like supports to go up in an election year. Trade policy and, closer to home, the budget summit could both force them down instead. The committees, after some early bluster for the folks back home, have basically settled on a policy of holding on to what they have. Most supports would be frozen; over the five-year life of the bill, this would mean they would continue to decline in real terms.

Critics of the programs are playing mainly around the edges. The blatantly protectionist sugar program, the semi-feudal peanut program, the vestigial honey program—those are among their targets. All three richly deserve to be revised if not expunged, but they are peripheral to the grain supports on which farm and food policy mainly depend. There the proposals will be aimed at excess; instead of the largest payments to the largest and presumably least needy farmers, the amenders would either limit

payments per farmer or confine supports to smaller producers, somehow defined.

That's an old and popular idea, except that farm supports are not just meant to assuage need in the farm belt. It's fine to say these programs should cost less; they should. But the president and Congress also need to take the harder next step of figuring out just what levels of food supply and price they want these programs to provide.

SAVINGS AND LOAN SCANDAL TRIVIA

(Mr. BUNNING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUNNING. Mr. Speaker, it's time for America's least favorite game show "Savings and Loan Scandal Trivia."

First question: What do these dates have in common, June 11, 12, 19, 24, 1986 and January 29, February 3, February 10, and March 10, 1987?

Give up? Those are the dates that Chairman Freddie St Germain canceled markups of legislation to deal with the savings and loan crisis.

Too tough for you? OK, Let us try another one. What do Jim Wright, Tony Coehlo, and Freddie St Germain have in common?

Of course. They all have been unelected because of their roles in the savings and loan scandal.

Oops, that's all the time we have today. No more questions.

The "Savings and Loan Trivia" game has been a Jim Wright-Tony Coehlo Production. Freddie St Germain and his magic credit card appeared courtesy of the U.S. Savings and Loan League.

DO NOT HANDCUFF THE WAR ON DRUGS—SUPPORT H.R. 4781

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, if the Congress does not act soon, our local law enforcement agencies, cities, and States may soon be handcuffed in their efforts to combat drugs.

Presently State, county, and local law enforcement officials must come up with only a 25-percent match for Federal law enforcement block grant funds. Yet just as this program is beginning to become effective, the match is scheduled to go up to 50 percent on October 1.

Mr. Speaker, I urge Members to cosponsor my bill, H.R. 4781, to extend for 1 year the current match already in place.

In hearings across the Nation local officials have told our Government Operations Subcommittee about the importance of keeping the 25-percent match. At a time many local communities are already stretched fiscally tight, they should not be required to pay double to fight our No. 1 threat, illegal drugs.

I urge Members to sponsor this legislation. I hope it becomes part of the upcoming drug bill and the Omnibus Drug Act. Doubling the match for our local communities is going to create a double-or-nothing gamble.

JUSTICE WILL BE DONE IN THE S&L CRISIS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker and Members of the House, there is ample evidence that will please the American public, I hope, and begin to satisfy their concerns about the savings and loan crisis.

First of all, Mr. Speaker, the Senate and the House in their separate ways are proceeding with meaningful and thoughtful legislation to cope with the thousands of instances of fraud that are creeping up into this S&L mess. That is good news.

Second, the Justice Department is revealing every single day indictments, new investigations, and a whole series of efforts and processes that are in place to pursue the defrauding criminals of the S&L crisis.

So, it is not as the media is portraying or that some Members of the Congress are trying to portray, that nothing is being done. A great number of things are being done.

Mr. Speaker, as the days roll on, the public will be more and more satisfied that indeed justice will be done and is being done in the pursuit of the S&L crisis.

FOREIGN DEBT THREATENS LONG-TERM U.S. ECONOMIC SECURITY

(Mr. PICKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKETT. Mr. Speaker, last week, the Commerce Department announced that U.S. foreign debt rose to $664 billion in 1989, a number that increases daily as the United States moves further into debt as the world's preeminent debtor nation.

This growing dependence on foreign capital is a dark cloud casting a shadow over the future of America. Foreign nationals now claim ownership of $2.1 trillion of U.S. assets.

Our children and grandchildren will be burdened with these obligations for generations to come. The economic and social policies of our Nation will be increasingly influenced by these foreign economic interests as their control over our economy and means of production continues to expand.

The people in my district are shocked and frustrated by the selling of America. They are confounded by the magnitude and inept handling of the savings and loan swindle. And they are furious about the Federal Government's fiscal policies.

There is still time to act. We must not fail the American people at this crucial time. Failure to adopt new financial and fiscal policies to deal with these problems will surely lead to unnecessary and harsh economic dislocations that will result from leaving the job to the vagaries of the marketplace.

□ 1010

THE $7 BILLION STUDENT LOAN DEFAULT SCANDAL

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, Congress is awash in financial disaster and potential disasters, the savings and loan disaster. The potential for default is in the FHA program.

My question today: When are we going to do something about the $7 billion student loan default scandal?

That is right. The total amount of outstanding student loans in default has topped $7 billion. And in the next year, the next year, we will add another $2 billion to this total—unless Congress does something now.

Next week, the House will consider the Roukema amendment to the Excellence in Education Act—an amendment that will put our student loan program back on track.

The default problem has grown out of control from $200 million in 1981, to over $2 billion this year. That equates to 37 percent of the annual budget for student loans. That is over one-third of the money appropriated for student loans this year that will be thrown down the drain and will not help one student get a higher education.

How long will it be before the American people grasp this chilling fact and withdraw their traditional support for what was once a valuable program?

Let us take action now on student loan defaults before we have to admit to yet another debacle with Congress more interested in talking about balanced budget amendments and catering to special interests and promising action next year. Support my amendment and go back home to tell your constituents that you voted to cut Government waste, fraud, and abuse in the student loan program this year, not mañana.

THE 25TH ANNIVERSARY OF OLDER AMERICANS ACT

(Mr. CLARKE asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. CLARKE. Mr. Speaker, tomorrow our country will celebrate the 25th anniversary of the signing of one of our most important Federal laws, the Older Americans Act.

The programs authorized by this act are among the most successful we have. They provide services that enable millions of older people to continue to live independently in their homes and remain active in their communities.

The services provided by the act include home-delivered meals and in-home services to the frail elderly, transportation, homemaker services, and the lunches at Senior Centers which give older people the opportunity to keep in touch with their friends and neighbors.

The act has enabled many older citizens to continue to use their talents and experience. In my district several hundred older Americans are very useful workers at the jobs corps centers and in the North Carolina national forests.

The 25th anniversary of the Older Americans Act is the time to reaffirm our support for these programs and activities. I have joined with many colleagues in cosponsoring a resolution celebrating this occasion. I commend all those who are making these programs mean so much to older Americans.

SUPPORT THE BALANCED BUDGET AMENDMENT

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, next Tuesday the House will vote on the historic amendment to balance the budget of the Federal Government. It will be only the second time in our Nation's history that such a constitutional amendment vote has been on the House floor.

Right now our Federal debt is over $3 trillion. That is over $12,000 for every man, woman, and child in the United States of America. The Federal debt is growing at the rate of over $3 billion a week. That is over $400 million a day, approximately $1,000 per year per person in this country.

Mr. Speaker, I plan to offer an amendment next week that would require any increase in spending faster than the rate of growth in the national income to require a three-fifths vote, or a super majority vote for any tax increase.

The balanced budget amendment is an amendment whose time has come. I would urge all Members next Tuesday to vote for the balanced budget amendment to the Constitution. We have tried everything else. It is simply not working under the current system.

MIDDLE AMERICANS ACHIEVING THEIR DREAMS

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, in the 23d District of San Antonio resides the Garza family. They are a middle income household with two children. Both parents rise every morning to go to their respective jobs.

Their economic situation, like that of many other middle American families, has worsened in the past decade.

According to a recent population survey conducted by the DSG, 20 percent of the wealthiest families in America received 86 percent of income growth over the past 10 years; while middle American family incomes grew at a much slower and disproportionate rate.

The Garza family, like many other middle American families, are also learning that two incomes have not significantly lessened their financial burdens.

In fact, today's families are struggling to cope with additional strains. We are all too familiar with day care difficulties, employment leaves for pregnancies, costs incurred for transportation to and from work, as well as the challenges generated from not having someone running the household full time.

Our present system, which demands that families earn two incomes to merely survive, has incurred a serious taxation on domestic life. If we are to continue to be a strong nation, we must address this issue immediately.

Only when families such as the Garzas benefit from their labors can this country truly be economically strong and realize its democratic dream.

THE TIME TO BALANCE THE BUDGET IS NOW

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the congressional budget process is sick and in need of a cure. The Stenholm-Craig balanced budget amendment that will be considered by the House next week offers the tough medicine we need to put our financial house in order.

The Federal budget deficit is approaching $160 billion. We have jumped to this level because of excessive Government spending. Any serious effort to control the growth of Government spending will not occur without some pretty strong medicine.

The balanced budget amendment offers the best cure for our budget woes. The bill will require a balanced budget every year beginning in 1993, except during a time of war or if three-fifths of the Members of Congress vote to make an exception. The balanced budget amendment also calls for greater accountability in Congress by requiring that tax legislation be approved by a roll call vote.

For 8 long years the balanced budget amendment has languished in committee. The time has come for this House to give this bill the serious consideration it deserves. Join me in voting "yes" on balanced budget amendment and bringing us one step closer to addressing the problem of the budget deficit.

THE WORST KEPT SECRET IN WASHINGTON.

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, the Hubble Telescope may not help us look into the depths of space, but the failure of the $1.6 billion project may force us to look into the depths of the space program.

The worst kept secret in Washington is that defense contractors who are out of work are now pushing space spending as a national priority, for obvious reasons. Where else can they spend billions of taxpayers' dollars on theory and dreams?

These defense contractors are bringing to our space program many of the nightmares that have haunted Pentagon spending for the last several decades. Consider cost overruns, and then consider the space station. In 5 years, the estimated cost of this project has quadrupled from $8 billion to $37 billion, and some believe that the real cost of the space station will ultimately be $120 billion.

The Hubble Telescope is another example. In 1978 they said it would cost $678 million. Today the estimated cost is $1.6 billion and climbing, and it does not work.

When you total all of the starry-eyed space projects this administration has proposed, you find at least $300 to $400 billion in spending.

If the American taxpayers though peace in the world meant an end to the budgetary excesses of Pentagon contractors, they had their heads in the clouds.

TELL THE REAL STORY ON THE SAVINGS AND LOAN CRISIS

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Mr. Speaker, during the last 48 hours the debate in this Chamber and on this Hill affecting around the savings and loan scandal has taken a dangerous and I think destructive turn for the worse. Partisanship is on the increase. Desire and thirst for the facts and a fair and full story for the public that will let the chips fall where they may, whether their names are Neal Bush or Tony Coelho or Jim Wright or Fernand St Germain is on the decrease.

Really, the subject that should be before this House and before the people of this country is whether we will have prosecution by innuendo, finger pointing, blame laying, the kind of free floating public McCarthyism of the 1990's, or whether we will have a nonpartisan, independent, impartial prosecutor, who will put the Congresses that were involved and the administrations that were involved under the magnifying glass, just like the crooks in the private sector are being put under the magnifying glass.

My resolution, House Resolution 407, does that. I want to thank the many Democrats and Republicans, totaling now 221 Members of this House, who have signed that resolution, and urge and encourage other Members in both parties to take the high road, and I urge the Speaker and our leadership to do the same and tell the public the real story, without the political spin.

□ 1020

THE GOLDEN PARACHUTE LIMITATION ACT OF 1990

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, it is time for some straight talk on the savings and loan crisis instead of political posturing. We know that the savings and loan crisis was an unmitigated financial disaster and there is enough blame to go around.

There are plenty of potential villains to castigate and an endless supply of sound bites for 30-second ads on this issue. I recently saw a clip of President Reagan signing the 1982 Garn-St Germain deregulation bill and declaring "We've hit the jackpot." We now know that was true for a lot of high-flying operators but not for the American taxpayer.

But it is wrong for both parties to focus on who will gain the greatest political advantage in this mess. Instead it is time for some good old-fashioned work.

We need to push the Justice Department to get serious about prosecution, under the authority they already have. We need to pass bills like my Depository Institutions Golden Parachute Limitation Act of 1990 which will keep savings and loan operators from bailing out of troubled or failing institutions with underseved windfalls. We need to pursue the high-flyers that looted these institutions regardless of their political affiliation, to bring them to justice and to recover as many of their assets as possible.

That is what the American people want, and that is what they deserve. Let us quit the name calling and negative politics. Let us focus on criminals, not the latest poll. Let us clean this mess up once and for all.

MAKE SURE AMERICA KEEPS A LITTLE BIT OF THE ROCK

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the cameras that film our debate are usually made in Japan, and most of the cars are made somewhere else. America has become the home for the production of styrofoam. We make styrofoam; other countries now build highrises. They make the steel.

Mr. Speaker, what really frosts me today is we have a thing in America called the green card that foreigners in the country use for work and resident permits. Guess what? A French company was just awarded the contract over Kodak and Polaroid to make 15 million green cards for America.

Ladies and gentlemen, I do not know what is going on. While everybody in Washington is blaming each other, our country is slowly but surely being eroded away like the sand and pebbles on the beaches of our Great Lakes.

I wonder if some foreign entity will take America's water next. Let us quit blaming each other. Let us start trying to make sure America keeps a little bit of the rock here before we have to import the boulders from Mount Fuji.

WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5241, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1991

Mr. BEILENSON. Mr. Speaker, by direction of the Committe on Rules, I call up House Resolution 432 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 432

Resolved, That all points of order against consideration of the bill (H.R. 5241) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes, for failure to comply with the provisions of seciton 302(f) of the Congressional Budget Act of 1974, as amended, clause 2(1)(6) of rule XI, and clause 7 of rule XXI are hereby waived. During consideration of the bill, all points of order against the following provisions in the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 7, line 10 through page 9, line 20; beginning on page 10, lines 14 through 25; beginning with "and of" on page 12, line 22 through page 13, line 2; beginning on page 26, lines 5 through 12; beginning on page 27, line 12 through page 32, line 15; beginning on page 47, lines 7 through 21; beginning on page 48, line 14 through page 49, line 2; beginning on page 66, line 22 through page 67, line 10; and beginning on page 79, lines 1 through 13. In any case where this resolution waives a point of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph. It shall be in order to consider the amendment printed in section 2 of this resolution, if offered by Representative Traficant of Ohio, or his designee, and all points of order against said amendment for failure to comply with the provisions of clause 2 of rule XXI are hereby waived.

SEC. 2. On page 12, line 2, insert after "taxpayers;" the following: "establishing and operating an ongoing training program for IRS employees under which employees will be provided with training and information designed to curtail employee mistreatment of taxpayers;".

The SPEAKER pro tempore (Mr. BRENNAN). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. PASHAYAN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 432 waives points of order against certain provisions of H.R. 5241, the Treasury, Postal Service and general Government appropriations bill for fiscal year 1991.

Since general appropriation bills are privileged, the rule does not provide any special procedures for consideration of the bill. The legislation will be considered under the normal legislative process for consideration of appropriations bills. The time devoted to general debate will be determined by a unanimous consent request.

Mr. Speaker, House Resolution 432 waives clause 2(l)(6) of rule XI and clause 7 of rule XXI against consideration of the bill. These are waivers of the 3-day layover rule, and the requirement that the relevant printed hearings and report be available for 3 days prior to consideration of a general appropriation bill. These waivers are necessary for the House to bring up this appropriations bill today.

In addition, Mr. Speaker, the rule waives section 302(f) of the Congressional Budget Act against consideration of the bill. Section 302(f) of the Budget Act prohibits consideration of measures that would exceed the appropriate subcommittee level alloca-

tion of discretionary budget authority made pursuant to section 302(b) of the Budget Act. Section 618 of the bill contains a 4.1-percent pay increase for all Federal employee's except Members of Congress, Federal judges, and high level executive branch employees, because of this provision the waiver of section 302(f) of the Budget Act is necessary.

Mr. Speaker, the resolution, also waives clause 2 of rule XXI against specified provisions of H.R. 5241. Clause 2, of rule XXI prohibits unauthorized appropriations or legislative provisions and restricts the offering of limitation amendments. The provisions receiving this waiver are designated in the rule by reference to page and line in the bill.

The rule further provides that in any case where the rule waives a point of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

Finally, Mr. Speaker, the rule makes in order an amendment to be offered by the gentleman from Ohio [Mr. TRAFICANT], or his designee. This amendment is printed in section 2 of the rule.

The rule waives clause 2 of rule XXI, against the amendment, which I stated earlier prohibits unauthorized appropriations and legislation in general appropriation bills.

Mr. Speaker, H.R. 5241 provides appropriations for fiscal year 1991, for the Department of the Treasury, the U.S. Postal Service, the executive office of the President, and certain independent Government agencies. Under the normal rules of the House, any amendment which does not violate any House rule can be offered to H.R. 5241.

I urge my colleagues to adopt this rule so that the House can proceed with this important piece of legislation.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 432 is a rule that waives points of order against specified provision of H.R. 5241, which appropriates $20.7 billion in new budget authority in fiscal 1991 for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

Compared to the fiscal year 1990 appropriations this legislation would appropriate $2.271 billion more in budget authority and $988 million more in outlays. Additionally, this bill is 7.8 million—or .037 percent—over the President's proposed budget and $155 million under in outlays. Finally, Mr. Speaker, H.R. 5241 falls within its allocation under 302(b) by $76 million in budget authority and by $2.8 million in outlays.

The rule waives clause 2(l)(6), of rule 11, which requires a 3-day layover and clause 7, rule XXI, which requires relevant printed hearings and reports to be available for 3 days prior to consideration of a general appropriation bill, against consideration of the bill.

Mr. Speaker, House Resolution 432 waives section 302(f) of the Congressional Budget Act, which prohibits consideration of measures that would cause the appropriate subcommittee level or program level to be exceeded, against the bill. The waiver would apply to section 618 of the bill, which mandates a 4.1 percent pay raise for all Federal Government employees, with the exception of Members of Congress, Federal judges, executive levels I to V, and the senior executive service.

House Resolution 432 also waives clause 2, rule XXI, prohibit unauthorized appropriations or legislative provisions in general appropriation bills against specified paragraphs and sections of the bill.

Mr. Speaker, the waivers recommended by the Committee on Rules are necessary because many of the provisions have not been authorized by law and constitute legislation. I shall not detail each provision for which the committee recommends a waiver of clause 2 of rule XXI, but I will insert in the RECORD at the conclusion of my remarks a copy of a letter from the distinguished chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN], outlining many of the provisions and explaining the reason for these waivers.

Mr. Speaker, the administration supports the overall funding of the bill and has provided the Committee on Rules with a detailed list of objections raised by the Office of Management and Budget. I will insert in the RECORD at the conclusion of my remarks extraneous material, which is the statement we received from the administration.

Mr. Speaker, I would note that two amendments to the rule and a motion to strike were offered in committee and failed by voice vote. The first would waive all points of order against funds appropriated the Office of Management and Budget, in particular the Office of Information and Regulatory Affairs. This section is unauthorized and Members may raise point of order on the floor to strike OMB's funding in part or in whole in order to eliminate funding for the Office of Information and Regulatory Affairs. The administration has stated that if the waiver shall not be provided and the bill shall pass without full funding for OMB, the President's senior advisers will recommend a veto of this otherwise generally acceptable bill.

The second amendment offered would waive section 528 as requested by the ranking Republican on the subcommittee, the gentleman from New Mexico [Mr. SKEEN]. This section would bar the expenditure of funds by the Bureau of Alcohol, Tobacco and Firearms for including a tax on manufacturers and importers of less than 50 firearms per year. The Rules Committee also defeated this amendment.

And finally, Mr. Speaker, Mr. QUILLEN moved to strike a waiver provided for in the rule for section 530 of the bill, regarding additional authority for the Secret Service. The committee defeated the motion by voice vote.

Mr. Speaker, this rule does not preclude Members from offering amendments to reduce funds in specific accounts, or to strike provisions, or to add germane limitations.

For all practical purposes, this is an open rule, and Members who want to lower dollar amounts in the bill should support the rule so that the House can proceed to consider the bill.

Mr. Speaker, any portions of this bill that are unacceptable to Members, are deletable under this rule. I support this rule so the House can move on to the business at hand, and I urge my colleagues to do the same.

Mr. Speaker, I am including for the RECORD the referenced letter from the chairman of the Committee on Appropriations.

COMMITTEE ON APPROPRIATIONS,
Washington, DC, July 11, 1990.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Committee on Rules, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Today the Committee on Appropriations ordered reported the Treasury, Postal Service, and General Government Appropriations Bill for the fiscal year ending September 30, 1991.

In view of the time element where we have been directed to expedite the passage of appropriations bills, we respectfully request a hearing before your Committee to seek a rule waiving Clause 2(l)(6) of Rule XI.

Because the bill includes appropriations for a number of agencies and programs for which authorizing legislation has not yet been enacted, we also request a rule waiving points of order under Clause 2 of Rule XXI for the following areas:

TITLE I—TREASURY DEPARTMENT

United States Customs Service:
Salaries and expenses,
Operation and Maintenance, Air Interdiction Program

United States Mint:
Salaries and expenses,
Expansion and improvements

TITLE IV—INDEPENDENT AGENCIES

Administrative Conference of the United States
Federal Election Commission
General Services Administration:
Federal Buildings Fund: Various grants shown under the heading "New Construction" beginning on page 28 of the bill
General Provisions, Sections 12 and 13

National Archives and Records Administration

TITLE VI—GENERAL PROVISIONS

Sec. 618. General Schedule increase in certain pay rates.

The Committee appreciates your continued cooperation.

Sincerely,

JAMIE WHITTEN,
Chairman.

STATEMENT OF ADMINISTRATION POLICY

The Administration continues to oppose Congressional action on appropriations bills in advance of a budget summit agreement. Such action could unnecessarily and perhaps harmfully complicate implementation of a final budget resolution that reflects the agreement. However, inasmuch as the House is apparently going to take action, the Administration will express its views on these bills as they come before Congress. The purpose of this Statement of Administration Policy is to express views on the Department of the Treasury, Postal Service, and General Government Appropriations Bill, FY 1991, as reported by the Committee.

It is the Administration's understanding that a point of order may be raised on the floor to strike funding for the Office of Management and Budget (OMB) in part or in whole in order to eliminate funding for the Office of Information and Regulatory Affairs (OIRA). The Administration is currently engaged in negotiations with the authorizing committee, and, therefore, it would not be appropriate to eliminate funding for OIRA and at this time. Should the House pass the bill without OIRA funding, the President's senior advisors would have no alternative but to recommend a veto of this bill. The House is urged not to allow such an action to result in a veto recommendation for an otherwise generally acceptable bill.

The Administration supports the overall funding level in this bill as reported by the Committee but has concerns about several specific provisions in the bill.

The Committee has included a provision that the Administration believes is a "gimmick" designed to reduce FY 1991 outlays. This provision would prohibit the Internal Revenue Service (IRS) from obligating any funds for its critical Tax System Modernization program until the last day of the fiscal year. If the bill were enacted with this provision, it would effectively delay development of crucial upgrades to our tax processing capability for six to twelve months. It would require layoffs of roughly 863 highly skilled systems personnel working on this project. Furthermore, the provision would raise program costs to defer higher revenue yields, staff savings, and taxpayer service improvements expected from this program. The House is urged to delete this provision.

The Administration opposes provisions in the bill amending 18 USC 3056 to expand the authority of the U.S. Secret Service to investigate financial institution fraud. The Senate recently authorized significant additional resources for the Federal Bureau of Investigation (FBI) and other law enforcement entities to combat such fraud. In light of the Senate's action, this new Secret Service authority is unnecessary, and excessive in scope of jurisdiction. The FBI, which currently has primary investigative authority in this area, has the necessary and proven expertise to handle these investigations. A substitute provision that would permit the Department of the Justice to utilize personnel from the U.S. Secret Service and other Federal agencies in the investigation and prosecution of financial institution fraud could be supported by the Administration.

The President's Budget requested a 3.5 percent pay increase for Federal civilian employees, effective January 1, 1991. However, section 618 of the Committee bill provides for a 4.1 percent pay increase. At a time of fiscal constraint, the Administration believes that such an increase is inadvisable.

These and other Administration concerns about this bill are outlined in the attachment.

H.R. 5241 DEPARTMENT OF THE TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FISCAL YEAR 1991

I. MAJOR PROVISIONS SUPPORTED BY THE ADMINISTRATION

The Administration appreciates the Committee's full funding of the President's request for the Executive Office of the President.

II. MAJOR PROVISIONS OPPOSED BY THE ADMINISTRATION

A. Funding levels

Department of the Treasury

Internal Revenue Service: Recognizing that information systems are investments requiring long-term development, the President's Budget included appropriations language making budget authority for Tax System Modernization ($248 million) available until expended. The House Committee bill fully funds the request but prohibits any obligation of these funds prior to September 30, 1991.

The Administration strongly opposes this provision. Tax System Modernization (TSM) is a major Presidential initiative which will define the tax administration environment for the following decade. It involves major procurements of hardware, software, and contracted services. TSM development is proceeding rapidly along a critical path. Delays until the end of FY 1991 in major procurements would increase development time, thereby increasing the risk of current system breakdown.

In addition to the investment in hardware, software, and labor services furnished by contractors, this initiative also funds the IRS' own ADP specialists and managers involved in the direct oversight of and participation in TSM development. Under this provision, all 863 FTE currently working in Tax System Modernization would have to be let go through a reduction-in-force. The Administration urges the House to support the President's Budget request for this important initiative.

U.S. Customs Service—Salaries and Expenses: By providing $20 million (300 FTE) above the President's request for the U.S. Customs Service, Salaries and expenses account, the Committee bill fails to acknowledge the savings that have justified more than $500 million in investments to date in labor-saving processing and targeting technology (ACS, TECS, IBIS, etc.). These systems were designed to reduce staffing needs without slowing cargo and passenger clearance times or curtailing enforcement efforts. Continued investment in these programs cannot be defended if anticipated savings do not materialize.

U.S. Customs Service—Aerostat Program: The Administration opposes using Department of Defense funds to operate the U.S. Customs Service aerostat program. Since the U.S. Customs Service has had operating responsibility for this program, defense funds should not be used to pay for a domestic discretionary program.

U.S. Postal Service

Revenue Foregone: Adoption of the Postal Rate Commission proposals to terminate special reduced mail rates for certain types of mailers could reduce budget authority and outlays needed for this purpose by $112.0 million. Taxpayers are unintentionally subsidizing political advocacy mail, prestigious professional trade organizations, and very profitable business seminar companies, and advertisers (travel agents, insurance companies, etc.), who "piggy back" onto reduced rate mail sent by universities and other nonprofit organizations. The House is urged to report a bill consistent with these proposals.

General Services Administration

Federal Buildings Fund: The bill contains grants that are not authorized and that are not appropriate expenditures from the Federal Buildings Fund. These projects would cost $43.5 million and represent unnecessary expenditures in a time of budgetary constraint. The Administration urges the House to eliminate these grants and stop this totally inappropriate use of the Federal Buildings Fund.

General Management and Administration: The Committee reduces the President's request for the General Management and Administration (GM&A) account by $55.5 million and requires the General Services Administration revolving funds to reimburse GM&A for the costs. However, the Committee does not provide funds in the Federal Buildings Fund to pay for this reimbursement. The Administration urges the House to specify the source of funds in the Federal Buildings Fund for this reimbursement.

B. Language provisions

Department of the Treasury

Employment Floors: The Committee bill mandates minimum employment floors for the Bureau of Alcohol, Tobacco and Firearms and the United States Customs Service. These agencies have not been able to meet legislatively-imposed FTE floors several times in recent years due to sequester, pay raise, and other unbudgeted cost absorptions and constraints on their ability to hire and train qualified personnel. The Administration objects to these mandated minimum employment levels as FTE floors are difficult to implement and needlessly restrict an agency's ability to manage its resources.

Section 1151 of the Tax Reform Act: Section 524 of the Committee bill prohibits expenditures to enforce section 1151 of the Tax Reform Act of 1986. The Department of the Treasury has advised that section 1151 has been repealed.

Office of Personnel Management

Executive Seminar Centers: Section 517 of the bill would prohibit the Office of Personnel Management (OPM) from closing or consolidating executive seminar centers. The Administration objects to this provision because it prevents OPM from exercising its managerial discretion over how best to use its training resources.

Blue Collar Employee Pay Raises: The Administration objects to section 612 of the Committee bill that would limit the pay raises of only certain blue collar workers to no more than that received by white collar government employees. As presently written, the provision does not contain this limitation on pay raises for blue collar workers

whose wages are set through negotiation rather than by wage survey. The Administration urges the House to amend this provision to limit the pay increases of all blue collar workers.

Restrictions on the Office of Management and Budget's (OMB) Review Authority: The Administration continues to be concerned about various restrictions on OMB's authority to study and review certain areas.

National Security Employee Non-Disclosure Agreements: The Administration strongly objects to section 617 of the bill, a provision that would restrict the President's ability to implement and enforce non-disclosure agreements, for the reasons stated by the President in signing the FY 1990 Treasury, Postal Service and General Government appropriations bill, which contained an identical provision.

Section 617 raises significant constitutional concerns insofar as it may be interpreted to intrude on the President's authority to control national security information in the Executive Branch. The President possesses the constitutional authority to require Federal employees who voluntarily assume positions of high trust, with access to the Nation's most sensitive secrets, to agree to keep those secrets. Such non-disclosure agreements are essential safeguards in protecting the national security.

□ 1030

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I want to thank the ranking minority member from New Mexico [Mr. SKEEN]. I want to thank the chairman of the committee, the gentleman from California [Mr. ROYBAL]. I want to thank the staff, Tex Gunnels and others, for considering the amendment that I offer that would provide for a national program within the Internal Revenue Service that would train and work with agents and employees to ensure that the potential of taxpayer abuse is reduced as much as possible and that the American taxpayer would not be hassled and need not fear our Government.

I appreciate the fact that the Committee on Rules chose to protect this amendment and afford the opportunity of allowing it to come to the floor. As Members know, in past bills I have tried to cut funds for the Internal Revenue Service. I particularly felt that we had to get their attention because of many of these taxpayer abuse problems, many of which I will state later. But I had to balance that out with a real problem. The real problem being that Mr. ROYBAL is one of the best chairman in the House and is doing a good job, and a vice chairman, Mr. SKEEN, also doing a great job, and a nation that surely needs revenue, legitimate revenue, and a nation that needs as much help as it can get, enough energy as it can, enough resources to collect that revenue, and it could not afford cuts. In fact, it needed more money. I accept the committee's facts on this issue.

However, I wanted to use a stick. I am not kidding anybody. I do not know if we will get the IRS' attention, but maybe the position of the committee in offering temperance and moderation through this program to be created to mitigate abuse, will do us all a favor. Maybe we might be able to accomplish both, taxpayer rates and protection and adequate collection of owed revenue.

I say to Members that I will explain my amendment further during debate. I am asking for support of the amendment. I want to thank the vice chairman and the chairman of this committee for being objective and open in allowing this amendment to be brought forward and for our Committee on Rules for having accepted and protected the amendment from a point of order.

I hope Members will enthusiastically support this initiative.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time on this side.

Mr. PASHAYAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Speaker, I am not going to take a lot of time. I am deeply disappointed that a waiver was not granted by the Committee on Rules. It is a good rule in the main and well crafted. My problem is with the provision to waive the points of order against OMB in the case of the Office of Information and Regulatory Affairs.

Mr. Speaker, I think the administration is very serious about their discussions with various chairmen on the Hill about reaching some compromise to accommodate the funding for this particular agency, a very valuable one. I hope that that comes to fruition today, because I do not believe that we could justify having this bill vetoed, as well crafted as it is, over this one provision.

So my only disappointment is in the fact that we were not granted a waiver. The rule is a good one and I intend to support it.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 10 minutes to my friend, the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, during the early 1980's, the Reagan-Bush administration resisted repeated attempts to increase the number of examiners watching over our Nation's thrift institutions.

The American people want to know why.

In 1987, the Department of Justice established the Dallas Task Force to investigate criminal cases of S&L fraud in a region that has had more failures than any other. But after 3 years, there have only been 40 convictions.

The American people want to know why.

As of February of this year, the FBI had over 21,000 complaints of savings and loan fraud that were not being addressed.

And the American people want to know why.

The S&L scandal is the worst financial disaster in the history of this Nation. It will cost hundreds of billions of dollars.

Clearly, there have not been enough regulatory cops on the beat. We cannot afford to repeat the mistakes of the past.

The Attorney General estimates between 25 and 30 percent of the S&L failures are due to criminal activity by thrift officers.

The people responsible for the S&L scandal are still at large, but it's not too late to round them up. We must launch a full-scale attack to put the crooks behind bars and get some of our money back.

Today we have included a simple solution in the Treasury-Postal appropriations bill that will increase by 50 percent the number of investigators working on S&L fraud. It will better allocate our resources, and it won't require additional funds. It's appropriately named SLAMR, the Savings and Loan Accountability Management Reform Act.

Right now there are 600 FBI agents working on the huge backload of cases. SLAMR would add another 300 agents from the Secret Service to work in concert with the FBI.

The Secret Service already has under its jurisdiction offenses relating to credit card fraud, electronic fund transfers, and government securities. They are more than capable of pursuing S&L fraud and are very interested in the additional responsibility.

Mr. Speaker, we must arrest and punish those criminals responsible for the failure of S&L's. It's unfair for honest, middle income Americans to be stuck with the bill left by the S&L high rollers—S&L high rollers who squandered depositors' money on corporate jets, condominiums, bonuses, and sweetheart deals for cronies.

The high rollers must pay for their crimes. We must do everything we can to speed up the investigation and put the responsible parties behind bars.

Unfortunately, the administration opposes this provision.

The American people will want to know why.

□ 1040

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I appreciate the gentleman yielding and want to congratulate him for his remarks. I

think he is absolutely correct that we need to marshal all of the resources that we can find to bring to the bar of justice those who have literally stolen from millions of depositors throughout this country.

We have here crafted, I think carefully, included a group of folks who as the gentleman points out are experienced in this area, who can complement the effort that is now being made, but which obviously we have not had enough resources to pursue the 21,000 cases the gentleman referred to. And I congratulate the gentleman for his remarks and look forward to working with him to see this provision realized.

Mr. BONIOR. I thank the gentleman.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I think the gentleman is raising a very important point. I think it is important that the entire House focus upon this question.

The gentleman from Michigan does appear to be very well informed about activities taking place so far on the part of the Justice Department. Can the gentleman tell me how many indictments have gone forward up to this point?

Mr. BONIOR. I do not have those figures before me right now. It has increased recently, as the gentleman knows, and of course the Attorney General and the President have made note of that in public appearances and press conferences. We are pursuing it at a more accelerated rate, and that is I guess a very hopeful and positive sign.

Mr. LEWIS of California. If the gentleman will yield further, I believe I understand that over the last couple of years there have been approximately 320 indictments, and indeed it would appear that, just following through on the point, I think the gentleman is making a very important point, that over the last couple of years there have been some 320 indictments. The Department of Justice has attempted to communicate that through the media. Frankly, at this point, because the Congress has finally discovered in a political sense that it may be of some value, we are stirring the pot. Hopefully that will accelerate the process whereby we will find Justice adequately and make sure that we pursue those people who truly are at fault regarding this very serious public problem.

Mr. BONIOR. These investigations, as the gentleman knows, take a great deal of time. This is not easy work.

What our constituents are picking up on, and I think correctly, is over the last 3 years, unfortunately, there have only been 40 convictions out of these large numbers of reported complaints, 21,000. So I am hopeful that this provision that has been originally offered by the gentleman from Ohio [Mr. ECKART] and others is passed today, and we can send it on to the President.

I thank my colleague for yielding on this important issue.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 mintues to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, to my colleague from California I say thank you. And I also thank the Rules Committee for providing the appropriate protection for the provisions of H.R. 5098 that have been included with the broad bipartisan support of the Committee on Appropriations, and Members of this House.

Mr. Speaker, this is the time when we put the speech cards aside. This is the time when, in fact, we look at addressing in the most appropriate ways that this Congress can divine, how to solve an important national problem. In this set of circumstances, in a bipartisan way, with strong support on both sides of the aisle, the Congress has determined that it is important that we have one marshal, and that we marshal the Nation's resources to address the critical national concern of bringing those scoundrels who have abused their public trust—and have required the taxpayers to provide assistance to those for whom they had not originally intended to do so—to bring the crooks in the savings and loans scandal to justice.

Our legislation, which is included as part of the Treasury appropriations bill, H.R. 5098, has, as I said, broad bipartisan support. It is the Congress speaking in a bipartisan voice, trying to assist the corraling of the criminals who have caused this raid on the Treasury. H.R. 5098, is a point of difference between a bipartisan Congress and the administration, which has announced its opposition to this particular provision.

As we have heard in testimony from the FBI, they need approximately 400 additional agents, and they seek more money to do this. The provisions of H.R. 5098 provide those additional agents without additional cost by assigning from the Treasury Department, treasury agents of the Secret Service who have broad experience in this area, and have been involved in the arena of financial crime since 1933. The provisions in which they are currently involved deal with the protection of the Federal Deposit Insurance Corporation, corporate instruments, computer crime, and credit card embezzlement. Indeed, the Secret Service has a long and distinguished history as late as the middle 1980's, when they worked closely with the Justice Department in resolving a peculiar bank problem in the State of Texas. In the Northwest and in the Northeast, the Secret Service has worked closely with other governmental agencies in protecting Government assets. And that is what is at stake here—taxpayer-provided assets which have been looted by criminals under the guise of management of savings and loans, but now deserve to have the best that this Government can give, to bring them to justice.

It is important to dispel two concerns that have been raised. First, provisions of this amendment do not interfere with the Justice Department's lead in legally pursuing these cases. Second, this measure provides no additional expenditure of funds. It simply reassigns experienced Treasury, Secret Service agents to the task for which they have had almost 57 years of experience.

Retaining the provisions of H.R. 5098 asserts the Congress's prerogative and says, "let us put those crooks behind bars where they belong."

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I simply want to clarify an amendment I intend to offer to this legislation, if the rule is adopted. There have been ambiguities in one of the notices sent to the Members by a prominent organization of the House of Representatives this morning.

The amendment will strike out the freebies for former Presidents. It will not touch their pensions. They get about $107,000 each, not bad, with one exception, and that is one who served in Congress who gets a double dip. And it does not touch Secret Service protection at all.

So just to clarify that, it only takes out the freebies, the office. Some people think when a President leaves office he leaves office, but he does not. He leaves office and goes right back into another tax-paid office. And since they are all millionaires, I believe they can get their own offices.

Mr. PASHAYAN. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I have listened with interest to the dialog going on this morning about focusing upon those rascals and crooks who have inflicted themselves upon our savings and loan industry, and we must investigate and dig them out and prosecute them and bring them to the bar of justice. I could not agree with that statement more.

But when we focus on who did this to us in America, I think we should also focus upon who caused the savings and loan crisis to come into existence. Among the causal factors we should look at, interestingly enough, is

the Congress of the United States, because we made a policy decision in 1968, that has produced the crisis the Nation is looking at today.

□ 1050

When this Nation, by an act of Congress in 1968, separated the link between the dollar and gold, we let the inflation genie out of the bottle and we are living with the consequences of that act today. The mission of the saving and loan industry was to borrow short, at interest rates from depositors of 3 or 4 percent, fixed by maximum under regulation Q, established by the Federal Government, and then lend that money, long term, to build up the housing stock of America, and those long-term rates were at 6 percent.

It was a beautiful arrangement. It supplied realization of the American dream for the American people.

In 1968, when we let the inflation genie out of the bottle, this is what happened: We found in the early 1970's people began to notice across this land that a money market fund developed which paid, interestingly enough, 7, 8, 9 percent to depositors.

So we Americans began going to the saving and loan to withdraw our money. We were getting 3 and 4 percent. We took our money out and we put it into the money market funds. Who would not? It is a rational decision. Why should I leave my money on deposit for 3 or 4 percent when I can get 8 or 9 percent in the money market?

Billions, tens of billions moved from savings and loans into money markets. So where did the managers of the savings and loans get the money to repay the depositors? Answer: They went to the money market accounts and they borrowed the money from the money market accounts at 9, 10, 11 percent interest.

Now, if you are in the business of having lent out money, long term, at a savings and loan at 6 percent on first-trust mortgages and you have to go into the money market accounts and borrow it at 8 or 9 percent, you do not have to be a mathematical genius or a Ph.D. in economics to realize you are going to go broke.

That is precisely what the policy of the U.S. Government has done to the savings and loan industry in America. We, the Congress of the United States, made the decision to let the inflation genie out of the bottle. The Congress of the United States is the agency that controls the integrity of the U.S. dollar.

When we made the decision to back our currency with nothing, we made the decision at that point to result in the destruction of the savings and loan industry in America.

So when we investigate to find these rascals, thieves, and culprits, I think we should also look inwardly at ourselves because we are the institution in America which has produced this crisis.

Then in 1980, what did we do? In order to assure the depositors of the solvency of their money on deposit in the savings and loans, we raised the maximum by which we would insure their deposit to $100,000. And now we are living with the consequences of that decision.

Nobody knows what the cost will be; it could be $150 billion, it could be $300 billion, it could be $500 billion. We in Congress caused this to happen. When we say we want to put the rascals in jail or prosecute them, I think we should also, as I say, look inwardly at ourselves because we the ones who caused this situation and this tragedy to unfold before our eyes.

Mr. PASHAYAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO LIST ADDITIONAL COSPONSORS OF H.R. 3677

Mr. ECKART. Mr. Speaker, I ask unanimous consent to add the following names as cosponsors of the bill, H.R. 3677: Messrs. LEWIS of Georgia, SAXTON, MCMILLEN of Maryland, and MANTON.

The SPEAKER pro tempore (Mr. BRENNAN). Is there objection to the request of the gentleman from Ohio?

There was no objection.

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1991

Mr. ROYBAL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5241) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New Mexico [Mr. SKEEN] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

□ 1056

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5241, with Mr. STUDDS in the chair.

The Clerk read the title of the bill.

By unanimous consent the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from California [Mr. ROYBAL] will be recognized for 30 minutes, and the gentleman from New Mexico [Mr. SKEEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I yield myself as much time as I may require.

Mr. Chairman, it is a great pleasure and a privilege for me to present this bill to the House. I want to take this opportunity to express my appreciation and thanks to the members of the committee who helped make this presentation possible. We have been working on this bill since last January and have held many hours of committee hearings. It is due to the diligence, effectiveness, efficiency, and dedication of the committee members that we are able to be here today. I especially appreciate the assistance of the gentleman from New Mexico [Mr. SKEEN]. He has been of invaluable assistance, participating in all of our hearings and I want him and all the other members of the committee to know how much I appreciate their help.

The Treasury-Postal Service Appropriations Subcommittee presents a bill for your consideration today that provides $20.7 billion in recommended appropriations for 1991 for both mandatory and discretionary items. The bill before you is—$7.8 million over the President's budget; $2.3 billion over fiscal year 1990; but $73.5 million under the 302(b) allocation for discretionary budget authority; and $8.6 million under the 302(b) allocations for discretionary budget outlays.

The departmental amounts for new budget authority are as follows: for the Treasury Department, $8.7 billion, an increase of $5 million over the budget and $588 million over 1990; for the Postal Service, $523 million, the exact amount of the budget request and an increase of $33 million above 1990; for the Executive Office of the President, $330 million, the exact amount of the budget request and an increase of $54 million above 1990; for

independent agencies covered by this bill—such as GSA, the Office of Personnel Management, the Tax Court, and others—and $11.2 billion, an increase of $3 million above the budget, and an increase of $1.6 billion over 1990.

Now, may I call your attention to certain specific agencies:

First, for the U.S. Customs Service, the Director of the Office of Drug Control Policy has informed the committee that funds in the special forfeiture fund which he administers will be allocated to the Customs Service to restore the President's proposed reduction of 314 positions in 1991. The committee has added $20 million above the President's budget request which should fund an additional 300 positions above the current level. It should also be noted that the committee has reduced the appropriation to the Customs Service Air Interdiction Program by $36 million by transferring the Aerostat Program to the Department of Defense.

The committee believes that the high level of drug abuse and related crime in this country requires a strong law-enforcement effort to stem the tide of illicit drugs coming into the United States. The recommended increase would also expedite the processing of visitors to this country and of our own citizens returning from abroad. Further, this increase would also expedite the processing of commercial goods being imported, and help prevent the illegal exportation of high-technology items to unfriendly countries.

I might also point out that the U.S. Customs Service is the second largest producer of revenue for the Government—over $15 billion per year in customs duties.

Second, for the Internal Revenue Service, the committee recommends the amount requested in the President's budget, an increase of $634 million above fiscal year 1990. For the past several years the committee has been concerned about inadequate funding for the Internal Revenue Service. It now appears that the administration has finally realized the serious shortfalls in IRS funding and has requested additional funds for that agency for fiscal year 1991.

Third, for the U.S. Postal Service, I am particularly pleased today to inform you that this bill provides an appropriation to the Postal Service of $484.6 million for revenue forgone. This appropriation will permit the Postal Service to maintain current postal rates for preferred rate mailers until the end of fiscal year 1991. Qualified preferred rate mailers are defined as religious, educational, scientific, philanthropic, agricultural, labor, veterans, and fraternal organizations, and include such groups as the American Cancer Society, the American Heart Association, the National Easter Seal Society, the March of Dimes, Birth Defects Foundation, the American Association of Retired Persons, National Wildlife Federation, the Salvation Army, as well as many others.

These nonprofit groups have long played a vital role in American life, supplying a considerable share of the social services, health care, education, research, arts, culture, community improvement, international relief, conservation, and environmental protection, occurring in the United States.

The bill before you recommends funding for most of the agencies at the levels requested in the President's budget, as set forth in the report accompanying this bill.

This bill before you also contains a provision which will allow the Secret Service the authority they need to investigate and bring to justice those involved with savings and loan fraud, and provide an important addition to this important criminal battle. This will increase manpower currently assigned to this effort by 50 percent—by adding 300 Secret Service agents to the 600 FBI agents currently working on this issue.

The Secret Service has informed the committee that they can commit, at no cost, 100 agents immediately, with an additional 200 to follow, by reassigning agents to investigate savings and loan fraud away from less critcal cases.

The Secret Service, in the Treasury Department, have experience and responsibility relating to securities fraud, credit card fraud, and computer and electronic transfer fraud. The FBI and the Secret Service are expected to coordinate their activities and get the job done.

The bill also recommends language authorizing a 4.1-percent raise for Federal civilian employees, effective January 1, 1991. It does not include Members of Congress, judges, or other high-level employees.

I again commend the ranking minority member, Mr. SKEEN, for the outstanding job that he has done, and I appreciate the conscientious and faithful service of all of the members of the subcommittee. Mr. HOYER, Mr. ALEXANDER, Mr. EARLY, Mr. SABO, Mr. DIXON, Mr. WHITTEN, Mr. SKEEN, Mr. LOWERY, Mr. WOLF, and Mr. CONTE have all been highly supportive of the bill now before you.

Mr. Chairman, this is a good bill and a fair bill. I urge the support of the Committee.

□ 1100

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to begin by returning the compliment to the chairman of this subcommittee, the gentleman from California [Mr. ROYBAL]. We hear this a lot on these dissertations regarding these appropriation bills, and the subcommittees that deal with them. There is a great deal of camaraderie. No member remembers who is Republican and who is Democrat, because it never comes down to party line votes. The tone is set by the chairman of that particular committee. In this case, the gentleman from California [Mr. ROYBAL] sets a tone of the finest and highest standards of productivity and gentility to the operation of that particular committee, and I want to tell the gentleman that he is to be complimented to the very highest because he turns out a very good work product.

The other members of the committee are also to be commended, and they have certainly given of themselves in this bill, worked hard, long hours of hearings, and I want to make note of that and particularly the support that we have from the staff. Individual members of the staff, committee staff, and all the rest do an outstanding job for members, well-orchestrated, and when something is decided upon, we get the results back in record time. The committee is a good one.

Mr. Chairman, we bring to the House today, H.R. 5241, making appropriations for the Department of the Treasury, the Postal Service, and general Government agencies. The passage of this particular appropriations bill is crucial to all Members of Congress. This bill funds the Internal Revenue Service, the Customs Service, and the Bureau of Alcohol, Tobacco and Firearms, all of which produce the revenue to fund the Federal Government.

The committee has taken major strides in fighting the war on drugs. When no funds were made available for the Customs' Air Interdiction Program, this committee included funds to create an air net along the Southwest border. This net hinders the ability of drug traffickers to bring their deadly cargoes into the United States. I can attest to the effectiveness of this program. At one time, drug smugglers flew small planes across the Mexican border with total impunity. Today, because of the Customs' air net, they are reduced to smuggling the old way—they have to sneak across the border on pack mules. Needless to say, many more of them are now resting behind bars.

Also, we increased the funding for the Armed Career Criminal Program in the Bureau of Alcohol, Tobacco and Firearms by $21 million. ATF has been the lead agency in combating the violent career criminal and armed drug traffickers. ATF has garnered over 1,000 convictions totalling 10,655 years of mandatory imprisonment, not including five life sentences. And, the

number of persons facing such charges is growing exponentially.

Many of us are painfully aware of the billions of dollars left uncollected by the Internal Revenue Service. Part of the reason for this inability to collect outstanding tax revenue is a lack of adequate ADP and systems modernization. This year we have earmarked $248 million for IRS tax system modernization. This initiative will clearly reap substantial financial rewards for the General Treasury, not to mention the relief to taxpayers incorrectly challenged because of computer errors, or who have waited and waited for their tax refunds.

And, Mr. Chairman, I want to congratulate Congressman CONTE for working so diligently with the Secret Service, the Justice Department, and regulatory officials this year to craft amendatory language. He should be commended for assisting the administration in calling to task those fat S&L officers blatantly skimming the cream, while their savings and loan institutions flounder in the dregs. Well, the committee, under the guidance of our chairman, Mr. ROYBAL, agreed to an identical amendment which would grant the Secret Service concurrent jurisdiction to detect and arrest any person involved in financial fraud. This amendment will place 100 highly trained agents immediately into the fray with an additional 200 agents to join them within a year. And, these are not rookie agents or agents assigned to protective duties, but those already seasoned in financial fraud investigation.

There has been a great deal of finger pointing lately regarding who's to blame for the S&L debacle. The time has come to stop the recriminations and to work on a bipartisan basis in solving our fiscal woes. Much like the battle of Gettysburg, blood has flowed. Bodies litter the field of partisanship. But Gettysburg, despite the pain it caused, confirmed the union of two divided sides. Let both sides of the aisle and all jurisdictional agencies stop the bickering and support this amendment. It gives us another mop in the S&L cleanup, and will hopefully put those fat cat crooks in jail with the rest of the criminals.

Mr. Chairman, this is a good bill. There is not one item or $1 I would cut in this bill. There has been a move to zero out funding for the Office of Information and Regulatory Affairs in the Office of Management and Budget. The administration is making a good faith effort to come to an acceptable resolution of the issues surrounding OIRA's reauthorization. In fact, Director Darman and Congressman CONYERS met as late as this morning to resolve their differences.

Let me tell my colleagues exactly what OIRA does. OIRA is the office charged with elimination of the enormous paperwork burdens of the Federal Government. These burdens account for 6.2 billion hours in 1990 alone. Obviously funding for this office is imperative. The cost in time and frustration cannot be calculated. Our constitutents complain about the overload of Federal paperwork. Don't ask them to take the brunt of our political gamesmanship.

Also, the lack of authorization for appropriations is not, in itself, a basis for refusing to make funds available for OIRA. In fact, the committee is funding the Customs Service, the U.S. Mint, and the Federal Election Commission, all of which are unauthorized for 1991. The committee included full funding in the amount of $49,305,000 for the Office of Management and Budget, including OIRA. The House needs to maintain that figure and ensure that same amount is upheld in conference. We have a letter from OMB stating that the administration has no serious objections to our bill as it presently stands—gratifying words indeed. Yet, if funding for OIRA is not included, we have been guaranteed a Presidential veto. Given the work that the committee has put into drafting this bill, it seems self-defeating to pass a bill that is assured of a veto.

Mr. Chairman, I thank Chairman ROYBAL and commend him for his hard work, his integrity, and his even-handedness in guiding the subcommittee through this legislation. I also want to commend the members of the subcommittee for all their fine work, and Tex Gunnels and Bill Smith and Tim Shea for their expertise and support.

I urge the Members of the House to sustain the good work done by this subcommittee and pass H.R. 5241.

Mr. Speaker, I reserve the balance of my time.

□ 1120

Mr. ROYBAL. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise today in support of H.R. 5241, the Treasury, Postal Service, general government appropriations. I commend Chairman ROYBAL, ranking minority member JOE SKEEN, and all members of the subcommittee for their hard work in developing a fiscally responsible bill that recognizes urgent needs as well.

I would like to extend special thanks to the committee for including in this bill the necessary funds for construction of an urgently needed new Federal courthouse in White Plains, NY. Approval of these funds will permit design work to begin during fiscal year 1991 and construction to be initiated in the following year. This facility is critically needed if we want the Federal judiciary in the Southern District of New York to be able to respond in a timely and effective fashion to the very troubling increase in criminal activity, much of which can be directly attributed to illegal drugs.

The present courthouse in White Plains was not designed to serve as a courthouse and, as a result, is substandard for that purpose. Its space is inadequate to meet the needs of the functioning judiciary and its design creates security problems which endanger public safety and jeopardize effective law enforcement.

It is well past time to see that a courthouse is constructed which will facilitate, not impede, the functioning of our judiciary. Our colleagues on the Appropriations Committee understand the need to ensure that our judicial system is equipped to respond to the wave of crime that threatens our communities. I strongly urge the full House to approve this legislation.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I rise today in support of the Treasury-Postal Service appropriations bill.

This bill includes construction funding for a new Federal building and courthouse in Kansas City, KS. These funds will fulfill Congress' commitment to this urgently needed project.

The new Federal building and courthouse are moving on schedule. Last year, Congress authorized the project and appropriated funds for site acquisition and design. A few months ago, the GSA approved a site location and awarded a contract for design. Because ground is expected to be broken on the project in the spring of 1991, construction funds need to be approved this year. This bill provides those construction funds.

I assure my colleagues that this project is needed to improve the operations of the Federal court system in the Kansas City area. The present courthouse has about 28,000 square feet. The Federal courts, however, have projected a need for 112,000 square feet in the year 2000.

The additional square footage will accommodate the fast-growing caseload of the Federal district court in Kansas City, KS. Although this court has a caseload equal to that of the district courts in Topeka and Wichita combined, it is operating with less than 30 percent of their combined space.

Mr. Chairman, I thank the members of the Appropriations Committee for their support of this project. Mr. ROYBAL and Mr. SKEEN have been particularly supportive, and I thank them.

Mr. SKEEN. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I thank the gentleman very much for yielding me this time.

First of all, Mr. Chairman, I think there are many excellent reasons to support H.R. 5241. I would like to use the time allotted to me to identify and to explain one additional reason.

Many of us are fully aware that Americans have been handed a megabuck S&L bill. While many of those responsible for the insider trading, the fraud and the embezzlement, still wander the streets awaiting indictment, prosecution and hopefully jail sentences, the law-abiding citizens of this country are livid about this state of affairs and are demanding action to restore a sense of fairness to the system by apprehending, prosecuting and punishing them.

I might add parenthetically that is not quite as easy a prosecution as some people would have you think. I can recall during my work as a defense attorney that there were some prosecutions that involved evidence of guilt that was much easier upon which to base convictions than others. I can recall a case with which I was involved in Federal court where a couple of individuals committed a bank robbery. They had photographs of the individuals involved in the bank robbery. They had the fingerprints of the individual involved in the bank robbery. They had positive identification by the bank teller of those involved in the robbery, in addition to other physical and substantive evidence. It was very easy for the prosecutors to identify those individuals who perpetrated the crime, bring them to the courtroom, convict them and send them to jail.

The problem with insider trading, fraud, and embezzlement, is simply that it is not quite that simple. The evidence is not as direct. The need for greater assets and resources for investigative purposes is complicated by the fact that the prosecution does not have a photograph, does not have fingerprints, and does not have a positive personal identification. Embezzlers leave only faint traces of their involvement in this insider trading and abuse.

So one of the things that this committee is to be commended for, the gentleman from California [Mr. ROYBAL], the vice chairman, the gentleman from New Mexico [Mr. SKEEN], the gentleman from Massachusetts [Mr. CONTE], the gentleman from Ohio [Mr. ECKART], and many others, is their inclusion of H.R. 5098, the Savings and Loan Accountability Management and Reform Act, the acronym we use is SLAMR, in this particular piece of legislation.

This legislation would give the Secret Service concurrent jurisdiction with the FBI to investigate criminal referrals resulting from this S&L debacle. Its effect immediately would be to increase the number of personnel available for investigations from 600 to 900; suddenly we have a 50-percent increase in the resources available to investigate these very difficult crimes.

We know the public is anxious to bring some of these people to court. We know our constituents are anxious for convictions, and deservedly so. However, prosecutors must weave their way through what are often very complicated mazes of relationships, very complicated mazes of paper transactions in order to get to the perpetrators. To be able to prove beyond a reasonable doubt that these people are guilty, prosecutors need much more investigative help than they have got now.

So I applaud the committee for including this particular provision in the bill. As I said before, it increases the number of people available for investigating these very difficult crimes by 50 percent.

Make no mistake about it, the Department of Justice still has the primary jurisdiction. The Attorney General and Justice will still oversee the investigation. They will hopefully with these 300 additional personnel be able to either expand their investigations to include additional people, or to intensify investigations that are going on at the present time.

□ 1130

So I am pleased to recommend this legislation to my colleagues on both sides of the aisle not only for the merits because of what it does for the independent agencies, the executive branch and everything else, but for the inclusion of H.R. 5098, the Savings and Loan Accountability Management Reform Act, the slammer. It is pretty clear that that is exactly where the perpetrators of these crimes and those responsible for the Savings and Loan debacle must go into the slammer. When we can commit these kinds of assets and personnel to that investigation effort we will improve the prospects of bringing more of these people to the courtroom and to prosecution in a much shorter period of time.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. RIDGE. I am happy to yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I appreciate the gentleman's remarks and his leadership on this issue and fully am in accord with his statements. I think this can be coordinated. I do not think it is going to create any turf wars. What it does is confronts a very serious problem of this country and the people of this country, as the ranking member has said who is such a leader.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. RIDGE] has expired.

Mr. SKEEN. Mr. Chairman, I yield 1 additional minute to the gentleman from Pennsylvania.

Mr. HOYER. Mr. Chairman, as the Chairman has so rightfully observed, what the American public wants is they want people who have stolen from them in jail. They want them prosecuted, and they want people to go after them. This will add some additional resources, as the gentleman indicates, to accomplish that objective to go after them. I associate myself with the gentleman's remarks.

Mr. RIDGE. Mr. Chairman, I thank the gentleman for his remarks. I think he is absolutely correct. This is simply more personnel devoted to something that is clearly a crisis, clearly something people of this country want resolved. They are people who are specifically responsible for the enormous bill that all of us have to pay, and they deserve rightfully to be put in the slammer, and hopefully this will help push them there a lot quicker.

Mr. HOYER. I look forward to joining the gentleman in making sure the amendment goes forward.

Mr. RIDGE. I thank the gentleman.

Mr. SKEEN. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. LOWERY].

Mr. LOWERY of California. Mr. Chairman, I rise to express my strong support for H.R. 5241, the Treasury, Postal Service appropriations bill for fiscal year 1991. As a member of the Treasury Postal Subcommittee, I participated in the formulation of the bill and I believe this is a good piece of legislation that deserves approval by the House.

H.R. 5241 will enable the Customs Service, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco, and Firearms to carry out their vital law enforcement and revenue collecting duties. In addition, these appropriations support GSA's efforts to construct, modernize, and maintain vital U.S. Government buildings and facilities.

H.R. 5241 also funds the operations of the Executive Office of the President, the Executive Residence at the White House, and a number of important independent agencies such as the Office of Personnel Management, the Federal Elections Commission, and the National Archives. While the work of these agencies is not often publicized, their duties are important to the Government and the Nation.

In the preparation of this bill, the committee attempted to meet the administration's request for all accounts. In addition, the committee has sought to insure that the Internal Revenue Service and the U.S. Customs Service will be able to effectively manage their rapidly growing workloads in the next year.

The IRS and the Customs Service are the two largest revenue producing agencies in the Government. They give us an excellent return on our investment and reductions in their funds, particularly their personnel accounts, ends up costing the Government money.

Every Member of this body is concerned about the flow of illegal drugs into our Nation. The Customs Service is the first line of defense against drug smuggling at our seaports and land ports of entry. Drug traffickers try ingenious new smuggling methods every day. We must provide the Customs Service with the personnel and equipment to meet this constantly changing threat.

Many of my colleagues correctly assert that the United States must increase its international trade to remain competitive in the world. Without an effective Customs Service this goal will be impossible. We are now implementing the free-trade agreement with Canada and the President has expressed his intention to negotiate a similar agreement with Mexico.

Those Members with districts near the Canadian border already know that there is a growing flow of trade and travelers from Canada. The Southwest border near my district in San Diego is already groaning under the weight of interaction with Mexico.

If we do not give the Customs Service the resources to manage this explosive growth, and give GSA the authority to build new border facilities, the benefits of free trade with Canada and Mexico will become a nightmare of bottlenecks and tieups at our borders. Let us look to the future and give these agencies the support they need.

I want to express my thanks to Chairman ROYBAL and Mr. SKEEN, the ranking minority member, for their leadership and hard work on the bill. I have served on this subcommittee for 5 years, and each year there have been some inevitable disagreements over certain programs. Nevetheless, the subcommittee members have always worked together in a bipartisan manner to achieve compromises that can be accepted by Congress and the administration. Chairman ROYBAL, Mr. SKEEN, and the members of the subcommittee have always been able to produce a bill that lives up to its intent.

This is a responsible funding measure that conforms with the House budget resolution and is generally in line with the administration's request. The Treasury-Postal appropriations bill provides funding for essential duties of the Federal Government; duties that cannot be carried out by the States. The Appropriations Committee has set realistic funding levels for these fundamental Federal duties.

In addition, as has been expressed by many of my colleagues, we are stepping up to the plate on our responsibilities as relates to the savings and loan problem and will be going after those who conducted themselves in a less than honorable fashion, in fact, in an outright criminal fashion, by stepping up enforcement and bringing those responsible for the problem to justice.

Mr. Chairman, I would urge passage of this legislation.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, in this current fiscal year for this Treasury, Postal Service appropriations, we will expend $18.4 billion. This proposal before us would suggest that we will spend, through this appropriation measure, $20.7 billion. That is an increase of 12.3 percent in 1 fiscal year.

Mr. Chairman, I will offer an amendment to reduce that increase by 5 percent, which will still let it grow by 7 percent, which is greater than the rate of inflation, and the necessity for this discipline, if it is that, and a modest one, can be readily apparent by what we see in terms of the figures of what is coming.

We are scheduled to increase our national debt in fiscal year 1991 by $364 billion. We are scheduled to increase the national debt this year in fiscal year 1990 by in excess of $240 billion, and $70 billion of that increase of the national debt in 1991 will come from money we need to appropriate to make good to those depositors we insured on their accounts to $100,000 per account, and $132 billion of that debt increase represents the amount of interest which the general fund is paying on the securities held by the trust funds, which sometimes is not counted as interest cost expense, but it shows up in the increase of the national debt.

In light of these astronomical figures and this horrendous increase in our national debt, I would submit that a modest reduction of 5 percent in this appropriation level is reasonable, and I would request my colleagues to support it.

Mr. CONTE. Mr. Chairman, I rise in support of this appropriations bill for the Department of the Treasury, Postal Service, and other general Government agencies. It's a good bill fiscally responsibile and within striking distance of the President's budget request.

I have to give ED ROYBAL and JOE SKEEN a lot of credit for pulling a rabbit out of the hat to produce a bill that is within the 302–B allocation for this subcommittee. The allocation, as brought down from on high, was about $151 million below the President's budget for outlays. Even with the demands for increased resources for the war on drugs, the need to put resources into revenue collection programs and fund the construction of Federal buildings, ED ROYBAL displayed exemplary leadership in balancing the competing needs of the agencies funded in the bill against the requirement to keep spending down. He is a fair chairman, a Member of Congress with which I am proud to serve.

I also want to sing the praises of JOE SKEEN, who as ranking member of the subcommittee, has championed law enforcement and drug interdiction programs, and he is an invaluable member of this subcommittee and of the full committee.

Mr. Chairman, this bill is fiscally responsible, and the administration has recognized that fact. In the OMB statement of administration policy for this bill, Director Darman wrote that the "administration supports the overall funding level in this bill as reported" by the committee.

And the administration should support the funding levels, since the major increases over the fiscal year 1990 levels were Presidential requests. For example, the committee recommended the $634 million requested for IRS collection activities, $43 million requested for the drug czar, $1.3 billion requested for GSA Federal building activities, including new construction, and $475 million in mandatory payments to the civil service retirement and disability fund.

If you take all this requested increases into account, the bill as reported is just $7.8 million over the Presidnt's request, and for a $20 billion appropriations bill, it's peanuts. It's just 0.037 percent more that what the President requested.

I should mention, however, that one action taken today could send this bill to the veto pile. Unfortunately, the Rules Committee did not extend the protection for unauthorized programs to the Office of Management and Budget, as it did for the Customs Service, the mint and some others. The administration has made it clear that if funding for the Office of Information and Regulatory Affairs is not included or if a funding prohibition is included, then this bill will be vetoed.

It's that simple. All the good work of the committee will go down the drain because of a problem that should be resolved by the authorizing committee through the regular process—not in the appropriations process.

Mr. Chairman, this bill is tight. It is a bare bones recommendation that is recognized by the administration as fiscally responsible. I urge all my colleagues to support this bill.

SECRET SERVICE INTERACTION WITH FBI

Mr. Chairman, I want to take this opportunity to establish some legislative history with respect to an amendment unanimously added at full committee giving the Secret Service concurrent authority to investigate S&L and other financial crimes.

It's common sense to assume that the Secret Service, in working these S&L cases, will coordinate during their investigations with the FBI or any other Federal department or agency involved in this activity. No one wants duplication of resources, but here when fraud is so widespread, it's hard to imaging resources will be duplicated. As was mentioned at the full committee, thousands and thousands of referrals remain unexamined, and many more are expected over the months to come.

It's my understanding that the Secret Service will work to reduce this backlog within the

strike force system where it is possible. But Members should be aware that the Justice Department has established only one S&L task force so far, in Dallas, TX. Many more are planned, but where there is no structure in place or where it would be impractical, the Secret Service should proceed to investigate these financial crimes wherever it gets the proper referral. Moreover, the Secret Service should take every advantage of collateral investigations when the situations arise.

Mr. FAZIO. Mr. Chairman, I rise today in strong support of H.R. 5241, the Treasury, Postal Service, and general Government appropriations bill for fiscal year 1991. I want to commend Chairman ROYBAL, the ranking minority member, Mr. SKEEN, as well as the staff for the outstanding job they have done in crafting this important legislation.

H.R. 5241 provides $20.7 billion for programs under the Department of the Treasury, the Postal Service, and other general Government agencies. The bill meets the budget authority and outlay targets contained in the House budget resolution, House Concurrent Resolution 310, adopted by the House on May 1.

Of particular interest is the $20 million increase the bill provides in funding for salaries and expenses of the U.S. Customs Service. As you know, Mr. Chairman, the Customs Service is second only to the IRS in generating Government revenue. In addition, the Customs Service performs a number of highly important law enforcement activities. The Customs Service, under the tactical interdiction program, stops smuggling activities along our Nation's borders through a combination of land, sea, and air tactical enforcement operations. The Customs Service also conducts criminal, civil, and fact-finding investigations of customs and related laws, including currency, fraud, neutrality, smuggling, and illegal exports of critical technology. H.R. 5241 would further enhance the Customs Service's ability to carry out these important functions by creating 614 new positions.

As a member of the Appropriations Committee, I am particularly pleased by the committee's unanimous adoption of an amendment which permits the use of Secret Service agents, in coordination with other agencies, to investigate fraud and crime in the savings and loan industry. The FBI has stated it needs 400 more agents to handle the more than 20,000 referrals they have received. This provision will add 300 trained agents without an increase appropriated funds. More importantly, it will provide the manpower needed for a full-scale investigation of savings and loan criminals.

Finally, Mr. Chairman, H.R. 5241 contains $16,791,000 in funding for the renovation and expansion of the John E. Moss Federal Building/U.S. Courthouse in Sacramento, CA. The Moss building is a nine-story office building that was built in 1961. The bill's funding will enable the construction of the 21,000 square feet extension and the renovation of approximately 115,000 square feet of existing space which will permit the courts and court-related activities to remain in a single federally owned location and avoid the costs of leasing. The construction projects will also enhance the work environment and improve the efficiency of operations of the courts and court-related agencies.

Mr. Chairman, H.R. 5241 is a well-balanced and fair piece of legislation. I commend Chairman ROYBAL for his leadership in developing this important measure and urge my colleagues to support its passage.

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 5241, Treasury, Postal Service, and General Government appropriations bill for fiscal year 1991, and request permission to revise and extend my remarks. This is the sixth of the 13 annual appropriations bills.

The bill provides $11.476 billion in discretionary budget authority and $10.291 billion in discretionary outlays. I am pleased to note that the bill is $74 million below the level of discretionary budget authority and $9 million below the outlays as set by the subdivision for this subcommittee.

As chairman of the Budget Committee, I plan to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each bill compares to the budget resolution.

I look forward to working with the Appropriations Committee on its other bills.

[Fact sheet]

H.R. 5421, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FISCAL YEAR 1991 (H. REPT. 101-589)

The House Appropriations Committee reported the Treasury, Postal Service, and General Government Appropriations bill for Fiscal Year 1991 on Wednesday, July 11, 1990. This bill is scheduled for floor action on Friday, July 13, subject to a rule being adopted.

COMPARISON TO THE 302 (b) SUBDIVISION

The bill, as reported, provides $11,476 million of discretionary budget authority, $74 million less than the appropriations subdivision for this subcommittee. The Budget Act provides a point of order if the target for discretionary budget authority is breached. Since the bill is under the subdivision for discretionary budget authority, there is no such point of order against this bill. The bill is $9 million under the subdivision total for estimated discretionary outlays. A detailed comparison of the bill to the spending subdivisions follows:

COMPARISON TO SPENDING ALLOCATION

[In millions of dollars]

	Treasury, Postal Service, and General Government appropriations bill		Appropriations Committee 302(b) subdivision		Bill over (+)/ under (−) committee 302(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	11,476	10,291	11,550	10,300	−74	−9
Mandatory [1]	8,882	9,221	8,882	9,221		
Total	20,358	19,512	20,432	19,521	−74	−9

[1] Conforms to the Budget Resolution estimates for existing law.

Note: BA—New budget authority; O—Estimated outlays.

COMPARISON TO CREDIT ALLOCATION

There are no direct or loan guarantee programs in this bill.

The House Appropriations Committee reported the committee's subdivision of budget authority, outlays and credit authority in House Report 101-545. Those subdivisions are consistent with the total "allocation of spending and credit responsibilities to Committees" as contained in House Report 101-445 to accompany H. Con. Res. 310, Concurrent Resolution on the Budget for Fiscal Year 1991, which was adopted by the House on May 1, 1990.

Following are the major program highlights for the Treasury, Postal Service, and General Government Appropriations bill for Fiscal Year 1991, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Treasury Department:		
Internal Revenue Service	6,135	5,250
Customs Service	1,264	1,043
U.S. Secret Service	398	338
Financial Management Service	219	190
Bureau of the Public Debt	175	149
Bureau of Alcohol, Tobacco, and Firearms	296	258
Payment to the Postal Service Fund	523	523
Other Agencies:		
Executive Office of the President	330	222
Federal Buildings Fund limitation	(5,279)	
GSA Management and Administration	35	25
National Archives and Records Administration	139	111
Office of Personnel Management	114	108
Government Payment for Health Benefits (mandatory)	3,510	3,180
Payment to the Civil Service Retirement Fund (mandatory)	5,687	5,687

Mr. RAHALL. Mr. Chairman, I rise today in support of the fiscal year 1991 Treasury-Postal appropriations bill. This package contains many provisions which will prove beneficial not only to my State of West Virginia, but the Nation as a whole.

The $8.7 billion for the Treasury Department represents an increase of $588 million over fiscal year 1990 funding levels. Within the total $8.7 billion, $296 million is appropriated for the Bureau of Alcohol, Tobacco, and Firearms. This is an increase of $32 million over fiscal year 1990, and sends a strong signal that the Federal Government is serious about fighting crime, since the majority of the increase is intended for staff increases in the Armed Career Criminal Apprehension Program.

The Treasury portion of this bill also contains $1.3 billion for the U.S. Customs Service, the front lines of stopping drug entry into our country. In addition, $6.1 billion is appropriated for the Internal Revenue Service along with $398 million for the U.S. Secret Service.

In light of recent events, I want to add my wholehearted support to the Savings and Loan Accountability and Management Reform Act, which adds 300 trained agents to the FBI's unit assigned to handle investigations of financial institution fraud. We have an obligation to the American taxpayers to pass this measure, and make it absolutely clear that we will not tolerate further abuse of financial institutions at their expense.

This bill also includes important provisions affecting the Postal Service as well as postal and Federal employees.

An increase of $31 million over the fiscal 1990 appropriation levels for revenue foregone on free and reduced rate mail for certain preferred mailers. Revenue foregone ensures that the good work done by many nonprofit charitable organizations will continue unhindered, including braille mailings for the blind, and other special services for the disabled,

the elderly who are unable to visit libraries on their own.

H.R. 5241 also provides a moderate 4.1-percent pay increase for most Federal civilian employees letting our underpaid civil servants know that their work is important, appreciated, and does not go unnoticed. Additionally a provision allowing Federal employees to use sick leave for purposes relating to the adoption of a child is included within this bill, extending to them the same rights afforded biological parents. It also allows for agencies of the Federal Government sponsoring child care facilities to use appropriated funds for the training of their child care personnel, ensuring that those Federal employees making use of these facilities have qualified staff taking care of their children.

Mr. Chairman, I urge my colleagues to vote in favor of this bill.

Mr. CONYERS. Mr. Chairman, there is a provision in this bill which I, as chairman of the Government Operations Committee, strongly support. This provision addresses the mandatory use by Federal agencies of the FTS 2000 contracts. These contracts awarded by General Services Administration under its governmentwide telecommunications procurement authority, as provided by the Brooks Act—(Public Law 89-306)—will supply telecommunication services to the Federal Government from now until the year 2000. The Government Operations Committee has worked very closely with the General Services Administration for over 5 years—during the development, proposal, evaluation, and award phases of this procurement—to assure the American taxpayers that their tax dollars are spent wisely. The Government Operations Committee works closely with the agency as it manages and implements these contracts. The committee will continue to review and monitor all activities associated with the FTS 2000 contracts.

Mr. Chairman, I am working diligently to insert mandatory use language in an appropriate authorizing bill.

Mr. ALEXANDER. Mr. Chairman, I rise in strong support of the Treasury, Postal Service, and general Government bill.

I'd like to commend my chairman, my colleague, Mr. SKEEN, all of the rest of my colleagues on the subcommittee, and the staff members for their hard work.

This is not the most glamorous of the 13 appropriations bills.

There is not as much opportunity in this bill as in some others to work for flashy projects that play well in press releases.

But this is still a critically important bill.

Without the programs funded by this bill, none of those great programs funded by the other bills would be possible.

This is the bill that provides for enforcing many of our laws. There's money in here for the Customs Service, the Bueau of Alcohol, Tobacco, and Firearms, the Secret Service, and the IRS.

This is the bill that makes the money at the Bureau of Engraving and the U.S. Mint.

It's the bill that collects the money through IRS, Customs, and BATF.

It's the bill that disburses the money through the Financial Management Service.

And it's the bill that borrows any extra we may need through the Bureau of the Public Debt.

This is the bill that literally keeps the lights on, keeps the telephone bills paid, keeps the roof over Federal employees' heads, and keeps the agencies in paper and paper clips through GSA.

It is the bill that prevents legal chaos by providing for the administration of two centuries of legal records through the National Archives.

And it's the bill that ensures that competent career professionals work for the Government through the Office of Personnel Management, the Merit Systems Protection Board, and the Federal Labor Relations Authority.

Mr. Chairman, this is also a critically important drug war bill. Outside of the Justice Department agencies and the Coast Guard, every major agency with responsibility for drug law enforcement—Customs, BATF, Secret Service, and IRS—is funded by this bill.

The Customs Service's role in drug interdiction is well known.

But you might be surprised to learn that out of 448 investigations undertaken by the Organized Crime Drug Enforcement Task Force in fiscal 1988, IRS was involved in 306—more than any other agency except the Drug Enforcement Administration.

The other Treasury law-enforcement agencies have important roles in the drug war as well.

The drug kingpins are slick, and they aren't always easy to catch on drug violations. From the days of prohibition, we remember that Al Capone wasn't busted for murder, or contraband. He was convicted of income tax evasion.

All of these important drug war agencies should be supported to the hilt.

One might suppose that the broad range of responsibilities covered in this bill means we are calling for spending that breaks all ceilings.

But, that's not true. The $20 billion bill we bring you today is only $7 million over the President's request.

That's less than one-tenth of 1 percent over the President's budget.

This year's Treasury-Postal bill is in keeping with Congress' 45-year record of passing appropriations bills that have spent $175 billion less than Presidents have recommended.

Today, we are considering the one appropriations bill that makes all of the other appropriations bills possible. And, we have held the line on it. I urge all of my colleagues to support this fine bill.

Mr. SKEEN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROYBAL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 5241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I

TREASURY DEPARTMENT

OFFICE OF THE SECRETARY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $1,649,000, to remain available until expended, for systems modernization requirements; not to exceed $1,000,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $63,083,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Departmental Offices, including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $27,517,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, hire of passenger motor vehicles; not to exceed $1,543,000 to remain available until expended, for systems modernization requirements; $21,296,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed thirty for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $7,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided,* That the Center is authorized to accept gifts: *Provided further,* That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further,* That funds appropriated in this account shall be available for State

and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further,* That the Director of the Federal Law Enforcement Training Center shall annually present an award to be accompanied by a gift of intrinsic value to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, to be funded by donations received through the Center's gift authority: *Provided further,* That none of the funds appropriated under this heading shall be used to reduce the level of advanced training or other training activities of the Federal Law Enforcement Training Center at Marana, Arizona; $36,727,000.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $18,735,000, to remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $218,742,000, of which not to exceed $13,287,000 shall remain available until expended for systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed six hundred and fifty vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; $296,284,000, of which $19,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1991, and of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided,* That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further,* That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further,* That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further,* That this provision shall not preclude ATF from assisting the International Civil Aviation Organization in the development of a detection agent for explosives or from enforcing any legislation implementing the Convention on the Marking of Plastic and Sheet Explosives for the Purpose of Detection: *Provided further,* That funds made available under this Act shall be used to achieve a minimum level of 3,984 full-time equivalent positions for fiscal year 1991, of which no fewer than 692 full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to 1,000 motor vehicles of which 960 are for replacement only, including 990 for police-type use and commercial operations; hire of motor vehicles; not to exceed $20,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $1,140,086,000, of which $7,000,000 shall be for the Interagency Border Inspection System, and of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, not to exceed $4,000,000, to remain available until expended, for research, and not to exceed $3,395,000, to remain available until expended, for renovation and expansion of the Canine Enforcement Training Center: *Provided,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further,* That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further,* That the United States Customs Service shall hire and maintain an average of not less than 17,604 full-time equivalent positions in fiscal year 1991, of which a minimum level of 10,385 full-time equivalent positions shall be allocated to commercial operations activities, and of which a minimum level of 930 full-time equivalent positions shall be allocated to air interdiction activities of the United States Customs Service: *Provided further,* That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1991: *Provided further,* That not less than $500,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District: *Provided further,* That $1,750,000 shall be expended to increase by 30 the number of full-time employees of the United States Customs Service in the Honolulu Customs District.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $107,047,000, to remain available until expended: *Provided,* That no aircraft or other related equipment with the exception of the aerostat program which will be transferred to the Department of Defense, shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1991.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $14,855,000, as authorized by Public Law 100-690; to be derived from deposits in the Fund.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $2,152,000, for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salary and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports or other facilities when authorized by law and designated by the Secretary of the Treasury, and to remain available until expended.

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $51,429,000, including amounts for purchase and maintenance of uniforms not to exceed $275 multiplied by the number of employees of the agency who are required by regulation or statute to wear a prescribed uniform in the performance of official duties.

EXPANSION AND IMPROVEMENTS

For expansion and improvements to existing Mint facilities and for renovation of such facilities as may be acquired, $550,000, to remain available until expended.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $175,139,000: *Provided,* That such sums as are necessary are appropriated to reimburse Federal Reserve Banks for services required by the Secretary to be performed by such Banks as fiscal agents of the United States in support of administering the public debt, effective October 1, 1991.

INTERNAL REVENUE SERVICE

ADMINISTRATION AND MANAGEMENT

For necessary expenses of the Internal Revenue Service, not otherwise provided for; executive direction, management services, and internal audit and security; including purchase (not to exceed 89 for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $136,072,000, of

which not to exceed $25,000 for official reception and representation expenses; and of which not to exceed $500,000 shall remain available until expended for research.

PROCESSING TAX RETURNS AND ASSISTANCE

For necessary expenses of the Internal Revenue Service, not otherwise provided for; including processing tax returns; revenue accounting; statistics of income; providing assistance to taxpayers; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,444,517,000, of which $3,000,000 shall be for the Tax Counseling for the Elderly Program, no amount of which shall be available for IRS administrative costs.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; tax and enforcement litigation; technical rulings; examining employee plans and exempt organizations; investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; the purchase (not to exceed 451, for replacement only, for police-type use), and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $3,560,484,000, of which not to exceed $70,000 shall be for official reception and representation expenses in connection with the 1991 General Assembly of the Inter-American Center of Tax Administrators, to be hosted by the United States, and of which not less than $10,000,000 above fiscal year 1990 levles shall be available for the purposes of enforcement activities related to United States subsidiaries of foreign-controlled corporations that are in non-compliance with United States tax laws.

INFORMATION SYSTEMS

For necessary expenses for data processing and telecommunications support for Internal Revenue Service activities, including: returns processing and services; compliance and enforcement; program support; and tax systems modernization; and for the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $993,927,000, of which not less than $247,878,000 shall remain available until expended and shall not be obligated prior to September 30, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change, and of which not to exceed $60,000,000 shall remain available until expended for other systems development projects and shall not be obligated prior to September 30, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 5 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the House and Senate Committees on Appropriations.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards; and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided*, That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; not to exceed $15,000 to assist in hosting the Biennial Conference of the Organization of Women in Federal Law Enforcement; to be held during fiscal year 1991; not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations, in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $397,640,000, of which $2,500,000 shall remain available until expended for renovations at the temporary official residence of the Vice President and $3,200,000 to remain available until expended for renovations of the New York Field Office; and of which not to exceed $160,000 shall be made available for the protection at the one non-governmental property designated by the President of the United States under provisions of section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note).

TREASURY DEPARTMENT—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 2 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. Notwithstanding any other provision of law, beginning October 1, 1990, and thereafter, the Financial Management Service shall be fully and directly reimbursed from the Social Security Trust Funds for the costs it incurs in the issuance of Social Security Trust Funds benefit payments, including all physical costs associated with payment preparation and postage costs. Such direct reimbursement shall also be made for all other trust and special funds which are the recipients of services performed by the Financial Management Service and which prior to enactment of this provision reimburse the General Fund of the Treasury for such services.

This title may be cited as the "Treasury Department Appropriations Act, 1991".

Mr. ROYBAL (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any points of order on title I?

If not, are there any amendments?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: On page 12, line 2, insert after "taxpayers;" the following: "establishing and operating an ongoing training program for IRS employees under which employees will be provided with training and information designed to curtail employee mistreatment of taxpayers;".

□ 1140

Mr. TRAFICANT. Mr. Chairman, I thank the chairman of the committee, the gentleman from California [Mr. ROYBAL], for the excellent job he has done, as well as the vice chairman, the gentleman from New Mexico [Mr. SKEEN], for his responsible efforts on the bill.

I have tried to cut this particular bill in the past because I felt the only way to get the attention of the IRS on abuses which have become legend was to hit them in the pocketbook.

After talking with the chairman and the vice chairman, there is no question that America has a crisis for revenue. For every dollar that we do spend with the IRS, we increase our revenues, and we collect an awful lot of money that is legally owed.

Not every IRS agent certainly is a tyrant. In fact, we probably have to say that tyrants would be in the minority, although for some reason they

seem to be the ones that carry the banner.

I just particularly feel this: that no American should fear their Government. And without question, the Internal Revenue Service has developed a legend that involves fear. The point is that Congress must make absolutely sure that everybody in this country knows, including the IRS, that the IRS works for the American people. They cannot take advantage of the American people. They cannot intimidate the American people. And by the nature of their charge, which is necessary to collect funds, they cannot be overzealous, they cannot frighten, mishandle, nor intrude into the privacy or obstruct one's constitutional rights in carrying out their charge, period.

I want to cite one particular case today, because I think we are in a tough fix. The American people do not know what the tax policy is, first of all, and second of all, they have to hire a Philadelphia attorney in order to figure it out, and they do not understand it. Then when they do get in trouble, they are guilty until they prove themselves innocent.

Now, that is the law, and I am not here today about the law. I am here today to cite a case of abuse that I believe is classic and that I want to put on the record of this House.

In the early 1970's a couple was married in North Carolina by the name of Alex and Kay Council. He was a graduate of Wake Forest. She had gotten her GED diploma.

They eventually moved to California, where they were successful in business, and they earned in one business year a bonus of $300,000. With that $300,000 bonus they went to a certified accountant and asked them how they could protect their future, how they could invest that money, satisfy their tax responsibilities, and have a nest egg. That is the American way.

The accountant advised them on different shelters that were available under the law. One of them was Jackie Fine Arts. That is where they bought the rights to pictures that they could reproduce and had rights to further reproductions, such as lithographs. They felt in addition to the shelter, they could recoup their original investment. And they made a sizeable investment.

To make a long story short, the IRS found fault with Jackie Fine Arts. Even though this couple meant well, the IRS denied the shelter. Knowing that that was happening, after they had already invested, after the accountant's advice, they expected an audit.

Sure enough, they got the call. They got a call for information. Over several years they gave the IRS the information they wanted. But then in 1983 they got the notice that they owned $180,000 total in tax, interest, and penalties, folks. But they never got a notice of deficiency. They never got a 90-day letter, they never got a 60-day letter, they never got any notices.

To make a long story short, when it all hit the fan, the IRS had the wrong address on the original notice. But when they got to court they heard a mailman say, "I thought I delivered it."

To make a long story short, the judges gave the IRS every opportunity for more time. The meter kept running. It was over $300,000.

This Wake Forest graduate, despondent, took his life. He left two notes. The first note said:

> You can find my body in the woods on the north side of the house.

The second one said:

> There is a tape recorder that will advise you to the best of my ability what to do and how to obtain evidence of the death requirements that will satisfy official authorities so that you can collect $250,000 insurance money protected in the event of suicide.

Members, Kay Council battled them tooth and nail all the way down the line. Six months after that suicide of her husband, she finally prevailed in court where some judge said the IRS did not give adequate notice.

I want to read that suicide note.

> My dearest Kay,
>
> I have taken my life in order to provide capital for you. The IRS and its liens which have been taken against our property illegally by a runaway agency of our Government, have dried up all sources of credit for us. So I have made the only decision I can. It is purely a business decision. I hope you can understand that.
>
> I love you completely, Alex.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 3 additional minutes.)

Mr. TRAFICANT. Mr. Chairman, Kay Council blamed the IRS for this death because of the hassling that she had. She fought them all the way down to the wire and she prevailed. Let me tell you what she ended up with. She ended up with a family without a father and without a husband, and she ended up with $16 in her checking account.

Now, one might say this is abstract, but there is what my amendment calls for. My amendment calls for, and I am hoping for supportive, reinforcing report language in the bill and in conference and in committee to support it. It says that the IRS through the Commissioner will develop a program, and in that program the IRS will make sure that the American people are not intimidated, nor abused. They will work sensitively to reduce abuse. They will go over cases like this that are cited and other cases, and they will report back to Congress on the efficacy of such a program and how they are providing same in the different regions of the Nation in addressing the abuse and mistreatment of taxpayers.

Now, let me say this, and I want to say this to Members: If this is not enough, then I am hoping that some day in the future someone in Congress, if they have to, will use a club. But I am willing to try this. I think we have to look at the side of our American taxpayers. If Congress fails to do that, Congress will have failed in a constitutional mandate that is most important to all of us, the rights of our citizens.

No Amercian should fear the Government. That is not democracy. And Americans do fear the IRS. That is an issue. Whether it is perceived or real, taxpayer fear is an issue. No. 3, Congress must and has the mandate to mitigate these types of problems. This is either a step with a carrot in the right direction, or this is process to show the intent of the IRS. And if the IRS is not operating with integrity in meeting the needs and goals of Congress as set by this amendment and accompanying legislative history, that Congress will someday use a hammer. But either way, the IRS works for the American people. The Congress of the United States works for the American people. The boss is the American people, not an agency of our Federal Government.

Mr. Chairman, I ask for the support of all Members. I ask for support from the committee in inserting report language to make sure the IRS Commissioner gives us a yearly report, sets up a national program, and does not deal with it in a passive fashion, but does so in earnest.

Mr. Chairman, I submit for the RECORD the following article regarding Kay and Alex Council.

THE AUDIT, THE SUICIDE AND THE WIDOW'S BATTLE

(By Megan Rosenfeld)

It was a rational suicide, she said, if there can be such a thing, Kay Council's husband, Alex, killed himself nearly two years ago at the age of 49, leaving her two eerily businesslike notes that she found when she came home from taking her mother to a bingo game. A postscript to one of the notes said she would find his body on "the north side of the house," where he lay with a bullet through his head.

Another, longer note referred her to a tape recording. "I suggest you transcribe it so that . . . you can more easily refer to the information," he wrote. He also urged her to move quickly to "obtain the required evidence of death from the authorities" so that she could get the money from his suicide-proof insurance policy. His death, he wrote, "was a simple business decision."

Kay Council blames his death on the Internal Revenue Service.

For more than four years before he walked into the woods near the house they'd built, the Councils had been fighting to prove they did not owe the IRS nearly $300,000 in penalties, interest and payment on a $70,000 investment in what turned out to be an invalid tax shelter. Six months

after Alex Council's death that June evening, a U.S. District Court judge in North Carolina agreed with them—but by that time the victory was muted. The Councils' house-building business was nearly defunct, Kay Council's credit was nearly ruined, her house was on the block, she owed thousands in legal fees, and she had about $16 in her bank account.

And, of course, her husband didn't know they'd won.

"I don't know which is harder for people to talk about, suicide or [troubles with] the IRS," Council said last week. But recently she decided she would talk about it, she said, because there have been so many rumors back home in North Carolina about why her husband killed himself. And besides, she said, she is still mad. She came to Washington at the suggestion of the National Taxpayers Union to testify at a Senate committee hearing.

The Councils met when they both worked at the same mortgage insurance company in Greensboro, N.C.; she was a data processing manager and he was the vice president and controller of the company. She was a high school dropout with a GED diploma, and he had a degree from Wake Forest University. Both had married young and had two children each and were in the process of divorce when they met.

In 1973 Alex Council was offered a job in California running a new mortgage insurance company; it looked like the fresh start he wanted. Kay followed him to a suburb of San Francisco the next year and they were married. They bought a condo, then moved up to a house, and then to a bigger house, taking advantage of California's spiraling real estate values.

By 1978 the business was a success, and the Councils found themselves the happy recipients of a $300,000 bonus. They wanted to invest it in a way that would ensure their retirement and also minimize their tax liability. Their accountant suggested oil and gas leases and a tax shelter called Jackie Fine Arts, which involved buying the rights to reproduce paintings.

Investors in the company could receive a tax credit in the first year and a depreciation over the total investment during the term of the deal, according to 1980 news stories about Jackie Fine Arts. In addition, the Councils believed they could recoup their investment through the sale of lithographs made from the original paintings.

But in late 1979, after the Councils had claimed a $470,000 write-off for that year's taxes, the IRS announced that those seeking tax shelter at Jackie Fine Arts might find themselves under a leaky roof.

So the Councils expected to be audited and knew they might have to ante up. Indeed, an auditor contacted their accountant and during the next few years repeatedly asked for information that the Councils' dutifully produced.

When neither they nor their accountant had received an official "notice of deficiency" by the time the statute of limitations ran out in May 1983, "we thought we were home free," said Council. But five months later they did hear from the IRS—not the notice, which would have given them a 90-day period to fight the assessment in tax court, but a bill for a tax of $115,895, a penalty of $5,795 and interest of $61,331.12, for a total of $183,021.12. As they tried unsuccessfully to find out what had happened to the original notice, which the IRS said it sent in April 1983 (one month before the statue of limitations expired), the interest meter continued to run until the total reached nearly $300,000.

"Prior to this bill, neither my accountant . . . nor I had received an audit report, a 30-day letter, a 90-day letter or any other notice of assessment," Alex Council said in an affidavit he filed in 1987. "The only communication I had received from the IRS since 1983 indicated receipt of my letters requesting the above information, bills threatening collection procedure, and notices of intent to levy on my assets."

Notices like this one, sent in 1985 and written in the urgent style the IRS favors:

"WE HAVE PREVIOUSLY WRITTEN TO YOU ABOUT THE FEDERAL TAX SHOWN BELOW. IT IS OVERDUE AND YOU SHOULD PAY THE TOTAL AMOUNT DUE IMMEDIATELY TO AVOID ADDITIONAL INTEREST AND PENALTIES.

"IF YOU CANNOT PAY THIS AMOUNT IN FULL, PLEASE WRITE OR CALL US IMMEDIATELY. . . . WE HAVE ENCLOSED A COPY OF PUBLICATION 568A, WHICH PROVIDES INFORMATION ABOUT OUR COLLECTION PROCEDURES AND YOUR RIGHTS IN RELATION TO THEM."

Before receiving their first bill from the IRS and starting their lengthy legal battle, the Councils moved back to North Carolina. They wanted to be closer to her daughter and the child she was about to have, and Alex Council wanted to get into the construction business. "He had always been a coat and tie sort of man," said Kay Council. "Now he was in jeans and flannel shirts and couldn't have been happier."

They continued to correspond with the IRS. They asked for a copy of the notice the IRS said it had sent, and got it—two years later. The IRS maintained the original notice had been sent by certified mail, so the Councils asked for the certification number so they could check with the San Francisco post office. The IRS produced that in 1987, but all the paperwork except one list had been destroyed two years before in routine Post Office procedure.

That list, however, showed a curious error. The Councils' notice of deficiency had been slightly misaddressed. Instead of sending it to 71 Corte Del Bayo, Larkspur, Calif., the IRS sent it to 7+.

The IRS is prohibited by privacy laws from commenting about a specific case, but in its legal brief (which contained two typos itself), the agency's lawyer argued that "actual receipt of the notice is not required if the notice was properly mailed." During the district court trial in October 1988, the IRS called as witnesses the Councils' regular mailman, who said he might have delivered the misaddressed letter anyway, but he couldn't remember whether he had. The IRS also called the clerk who would have put the notice in the envelope, but she couldn't say for sure whether it had been in a window envelope (the address was correct on the actual notice) or mailed in a regular envelope.

The Councils' attorney, James M. Iseman Jr., produced two other persons' deficiency notices that were not mailed in window envelopes, and examples of other incorrectly typed addresses—including that of the Councils' accountant. He too never received the notice of deficiency.

But that was after the matter finally came to trial four months after Alex Council's death. Meanwhile, the IRS had, as a result of the 1979 audit, also audited the Councils' 1978 return, as well as the business returns for 1983, 1984 and 1985. A penalty of $6,821 was levied for 1978—as a result of the problems with Jackie Fine Arts—and was paid.

Council had borrowed money to build his first development of middle-class, suburban homes, sold them and then bought more land. They built a house for themselves first, taking out a $112,000 construction loan to do it, which they planned to convert to a standard mortgage once the development was built and sold. But in July 1987, the IRS placed a lien on the home, and the Council Development Co. began to crumble.

As a result of the lien, which lenders would discover in a routine credit check, mortgage insurance on the houses under construction was canceled, and Alex Council couldn't get the money he needed to keep his business afloat. They could not convert the construction loan on their own home to a mortgage because of the lien, and faced losing the house altogether when the loan came due.

"You get to the point where you expect them to walk in any day and take what you have," said Council. "We lived with that every day. But when they didn't, I came to believe that it was because they knew they were wrong."

In May 1988, the Councils celebrated their 14th wedding anniversary with a three-day trip. "We talked through the whole thing for three days," Kay Council said. "I said I could live with losing everything and having to start over, as long as we had each other. He let me think he felt that too."

That month they had what appeared to be a hopeful sign when the judge in U.S. District Court granted them an injunction against the IRS enforcing the lien. But instead of ruling that the IRS was wrong, as the Councils had hoped, the judge scheduled a trial and allowed the IRS more time to gather evidence.

"There was something so defeating about expecting an answer and getting another delay," she said. "That was a real downer. Of course the 60 days turned into October." By that time the Councils' net worth was about $15,000, she said, their business was stymied, their lives were consumed with their tax battle, and they could not see how to get out from under it all.

A month after their anniversary trip, Alex Council was dead.

In the shorter of the two notes he left, he wrote:

"My dearest Kay,

"I have taken my life in order to provide capital for you. The IRS and its liens which have been taken against our property illegally by a runaway agency of our government, have dried up all sources of credit for us. So I have made the only decision I can. Its purely a business decision. I hope you can understand that.

"I love you completely,

ALEX."

"He was the last person in the world people thought would kill himself," said his widow. "He was the one who always had a solution to any problem. . . . He loved life. This was a man who loved to learn—when he died he was taking a course at Wake Forest in the Constitution. He wanted to know everything, do everything, experience everything. We never fussed or fought. This was a man who never missed a day telling me he loved me, and never got up from my table without thanking me for a good meal. If two people were ever close to being one, it was Alex and me."

After her husband's death, Kay Council had the tape he left transcribed. It ran 15 pages and contained detailed instructions about everything he wanted her to do. Although Kay was a half owner of the construction business, she knew little about the details, she said. For example, she did not know that her husband did not have mortgage insurance.

After she got the $250,000 from his insurance policy (it had a clause that paid off for suicide after two years of premium payments), she tried to do what he wanted her to: keep the court case against the IRS alive, pay off bills, finish building the housing development, in debt.

"I was determined the IRS would not get one penny of Alex's money," she said. "Even if I had to burn it in my back yard. My lawyer said, 'Don't you know you could go to jail for that?' And I said I didn't care."

So she paid her credit card bills, bought herself a $70,000 "cracker box" town house with cash, gave her attorneys $15,000, and tried to run the construction business, which she found rough going. "I really didn't know about that part of the business," she said "What I had done was pick out the color of carpets and that kind of thing."

When the case came to trial, the IRS argued that since the Councils knew from their auditor that their deduction probably would not be allowed, they should have contacted the agency to find out what happened. The judge, in a sentence Council's friends love to quote, dismissed that notion sharply: The tax code "does not place upon plaintiffs the burden of hounding the IRS for delivery of a possible notice of deficiency." He also said that neither the Councils nor their accountant had any motive to falsely claim they had not received the notice, because they had no way of knowing whether the IRS would be able to prove it had sent it. He ordered the deficiency cancelled and the lien revoked.

But Kay Council's troubles were not quite over.

Knowing the construction loan on the house was coming due in March, she put the house up for sale. But in February of last year, one week before the closing, she learned the lien had not been removed by the IRS, and the sale was doomed. Her attorney arranged for the lien to be lifted under the condition he hold the net proceeds of the sale for 10 days. When she went to get the money from him, she said Iseman told her the money was owed to him and refused to release it until she had paid him $10,000 and a deed of trust for $3,000 on her town house.

Iseman says he understands that Council feels attorney's fees were high but that they didn't realize that bills had been mounting since 1985. Although the IRS had been ordered to pay attorney's fees, it did not pay them until two weeks ago—one week before Council was scheduled to tell a Senate committee about her experiences.

Council must pay the difference between the amount Iseman charged and the IRS paid as well as what is left from the other audit. She currently owes about $14,000, and she discovered, to her dismay, that it is her responsibility to convince credit bureaus that the lien has been removed and was improperly filed in the first place.

Kay Council speaks of herself as a woman who had to become tough or "lay down and die." In choosing to fight, she gained strength she never thought she could possess. But she doesn't know quite what to do with it.

Her victory last October was hollow, she said sadly. There was something missing in the dry legal language of the court decision and the dry legal handshakes of her attorney. When she came to Washington last week to tell Sen. David Pryor's committee about what had happened to her, she knew that IRS Commissioner Fred Goldberg was going to precede her at the witness table, and she wanted to meet him.

"I wanted him to shake my hand," she said. "What I wanted was for him to say he was sorry. That they made a mistake, and they were sorry. But he left before I even got near him."

Mr. ROYBAL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am very sympathetic to the issue that the gentleman from Ohio [Mr. TRAFICANT] has raised regarding the conduct of IRS employees. If we go back in time we probably remember that this subject matter was discussed right here in this House about 3 years ago, and I assured members of the committee and the House that we as a committee had already dealt with the problem. In fact, we spoke to the Commissioner of the IRS. We presented the problem to him based on complaints that were made to the committee.

For example, I had received various complaints in which an individual taxpayer has said that at the time that he was audited and went before the IRS, he was made to feel like a criminal, that he was guilty, and that the attitude of his guilt was there on the part of the IRS employee. He felt that that was wrong. He assured me that everything came out to his satisfaction, but, nevertheless, he was complaining about attitudes.

Mr. Chairman, we talked to the Commissioner about that. That same year the Commissioner responded by sending a communication to all employees of the IRS.

□ 1150

In that letter the Commissioner said that the members of the IRS should first of all become familiar with a summary of the taxpayers' bill of rights. And in that taxpayers' bill of rights they urge courtesy and respect.

But he also said in that letter that:

We have always strongly endorsed the need for taxpayers to know what their rights are and for IRS employees to protect the taxpayers' rights.

This was started some time ago. There was no specific organization set up for any training, that is true. But at least they responded to the request of the committee. And then in that same letter the Commissioner went on to say that:

Throughout the implementation and planning process care was being given to make sure that our actions agree with the spirit as well as the letter of the law.

And then he goes on to tell his employees:

I know that I can count on each and every one of you to maintain this commitment as you put our plans into effect.

Now comes the Traficant amendment. I think, Mr. Chairman, it is a good one. I think that what is being planned now is that a mechanism be set up whereby employees of the IRS will get some specific training of some kind. I think that the training that has been available through universities throughout this country is something that perhaps can be used by the Federal Government, and that is training in cross-cultural activities, to find out what the problems are in the various communities. Do not forget that we as a nation represent various ethnic groups, various backgrounds in the United States, and each one of us may have a very different point of view when we come before any particular public official.

But I believe that that public official should be aware of the fact that there is a difference, and that courtesy is one way of getting things done. I think what the gentleman from Ohio [Mr. TRAFICANT] is attempting to do is to be sure that all taxpayers are treated with courtesy. I do not think he is asking too much.

I think this is a good amendment, Mr. Chairman, and I will agree at this particular time to accept the amendment.

Mr. SKEEN. Mr. Chairman, I move to strike the last word and I rise in support of the amendment.

Mr. Chairman, in the years that I have served on this committee I have felt that one of the great pleasures has been being able to examine the IRS. In doing so, I have gained a great deal of respect for those who have been Commissioners of the Internal Revenue Service, because one of the foremost things in my experience, has been the attitude of the Commissioners that they want to improve the relationship and the image of agents from the IRS with the general population, a very difficult task because, as most of us are very much aware, this is like having an illegitimate child at a family reunion and telling them that they are illegitimate. I can understand how agents of the IRS feel day after day of having their legitimacy questioned, that this does something psychologically to an individual that knows that it is a very unpleasant task to begin with, unless they have some sort of a peculiar twist of mind where they decide that they really enjoy examining people, taking their money away from them, telling them that they owe taxes, be the bearer of bad tidings. No one likes to do it. Everyone likes to be loved.

But the great importance of this amendment is that it reemphasizes the position that we have had that we do want to improve that relationship, and

also reemphasizes the fact that these are servants of the general public and they should treat these people of the United States as they do examinations with great repect and kindness, a difficult thing to, and I understand that. But we need to reemphasize that time and time again, and that is what this amendment does, and I hope that we can implement the spirit of this particular amendment and assure that there is a program in the Internal Revenue Service that provides some measure of charm, if you will, to agents. That is a very difficult thing to do, but it is something we should strive for, and we should keep reemphasizing it. It is a worthwhile amendment and I certainly would support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II

UNITED STATES POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; $484,592,000: *Provided,* That mail for overseas voting and mail for the blind shall continue to be free: *Provided further,* That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further,* That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further,* That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1991.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $38,142,000.

This title may be cited as the "Postal Service Appropriations Act, 1991".

Mr. ROYBAL (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any points of order on title II?

If not, are there any amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided,* That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further,* That none of the funds made available for official expenses shall be considered as taxable to the President.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $24,910,000, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $32,799,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $8,495,000, of which $500,000 for the rehabilitation of the White House kitchens shall remain available until expended, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $626,000: *Provided,* That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,587,000.

COUNCIL OF ECONOMIC ADVISERS

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $3,064,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,395,000.

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $235,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $5,893,000, of which not to exceed $2,000 may be for official reception and representation expenses.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $49,305,000, of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C. chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further,* That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further,* That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 105, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $2,914,000.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100-690; not to exceed $7,500 for official reception and representation expenses; for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $66,500,000, of which $50,000,000 will be for activities authorized by section 1005 of Public Law 100-690 for areas designated as High Intensity Drug Trafficking Areas and which may be transferred to Federal agencies and departments for the purposes of assisting such designated areas: *Provided,* That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office.

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities authorized by Public Law 100-690, such sums as may be necessary, to be derived from deposits in the Special Forfeiture Fund, and to remain available until expended: *Provided,* That the amounts made available under this appropriation may not exceed the amounts deposited in the Special Forfeiture Fund as authorized by section 6073: *Provided,* That 28 U.S.C. 534(c)(9) is amended by deleting the second sentence and inserting the following: "For each of fiscal years 1991, 1992, and 1993, the Attorney General shall transfer such sums as may be necessary in unobligated amounts available in the Department of Justice Assets Forfeiture Fund to the Special Forfeiture Fund: *Provided further,* That such amounts will be transferred on a quarterly basis: *Provided further,* That such sums as may be necessary or, if determined by the Attorney General to be necessary to meet asset specific expenses, an amount equal to one-tenth of the previous year's obligations, may be retained in the Fund and remain available for appropriation.": *Provided further,* That funds deposited into the Special Forfeiture Fund may be transferred to Federal agencies and departments for the purpose of executing the National Drug Control Strategy: *Provided further,* That section 6073(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended to read as follows:

"(b) DEPOSITS.—In each of fiscal years 1991, 1992, and 1993, there shall be transferred to and deposited in the Special Forfeiture Fund, from the Department of Justice Assets Forfeiture Fund pursuant to 28 U.S.C. 524(c)(9), not to exceed $150,000,000: *Provided,* That amounts specified in the second proviso of said section may be retained in the Assets Forfeiture Fund and remain available for appropriation."

UNANTICIPATED NEEDS

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1991".

Mr. ROYBAL (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any points of order on title III?

Mr. CONYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had originally intended to make a point of order against language on page 22, beginning on line 5, where it reads "$49,305,000 of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C. chapter 35." I had intended to make this point of order as it would make an unauthorized appropriation on the basis of clause 2, rule 21 of the House.

This provision would fund the Office of Management and Budget at $49.3 million and specifies that $4.5 million of that appropriation would be for the Office of Information and Regulatory Affairs [OIRA] at OMB. Unfortunately, the Office of Information and Regulatory Affairs has been without a reauthorization since fiscal year 1989. For the past year the Committee on Government Operations, which has sole jurisdiction over this Office and 44 U.S.C. chapter 35, has been engaged in a difficult reauthorization effort with the administration.

Mr. Chairman, I am happy to report that this morning I and Mr. HORTON, the ranking minority member of Government Operations, Senator GLENN, chairman of our counterpart committee in the other body, Richard Darman, OMB Director and C. Boyden Gray, White House legal counsel, had an extensive negotiating session. The basic differences between us seem to have been resolved. We gave some and they gave some. That's what the legislative process is about.

Most importantly for the legislative branch, I believe important changes were agreed to which ensure that OIRA's review of regulations will be more out in the open, that deadlines for the length of review time on regulations will be adhered to, and that the public will get access to written reasons for changes in regulations which result from OMB's review process. These are important changes which will improve the regulatory review process and ultimately better protect the public's health.

I want to thank all the parties for the spirit with which these negotiations took place, and give a special nod of praise to Mr. Darman for his accommodating nature.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

□ 1200

Mr. ROYBAL. I would like to commend the gentleman from Michigan [Mr. CONYERS] for the negotiations that have gone on. I think that is the proper way to proceed. I am sure that the final result of his negotiations are most beneficial not only for the passage of this bill but for the country as a whole.

Mr. CONYERS. I thank the gentleman from California, the manager of the bill.

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman. I know it has been a very serious challenge to the chairman of the Committee on the Judiciary, Mr. CONYERS, because of all of the diffusement that has taken place over the years. In working out this kind of a compromise, I think he has established himself as a greater leader and one who can recognize that the work has to go on but that getting some of these folks' attention is sometimes very difficult.

But the gentleman has done an outstanding job. I, too, want to commend the gentleman.

Mr. CONYERS. Mr. Chairman, I thank my colleague.

Mr. Chairman, I close by saying that Richard Darman is the new Director of the OMB. I do not think he should be blamed for many of the differences across the years that have occurred. I think he is a gentleman who bargained in good faith. There are still a lot of details to be cleaned up, but I do not think we can get hung up on details. I think the principles of an agreement have been struck last night and this morning, and I am very pleased to bring this information to the floor.

The CHAIRMAN. Are there further amendments to title III?

If not, the Clerk will read.

The Clerk read as follows:

TITLE IV

INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses; $2,079,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271-79); $1,300,000, and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $207,000: *Provided*, That the annual report of the Advisory Committee on Federal Pay shall be submitted to the Appropriations Committees of the House and Senate and other appropriate Committees of the Congress at the same time the report is submitted to the President.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28 $1,160,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $17,150,000, of which not to exceed $5,000 shall be available for reception and representation expenses.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

For additional expenses necessary to carry out the purposes of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $1,408,870,000 to be deposited into said Fund. The revenues and collections deposited into said fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by installment purchase and purchase contract, in the aggregate amount of $5,279,209,000, of which (1) not to exceed $1,469,642,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

California:

East Los Angeles, a grant to California State University, $200,000

Los Angeles, a grant to the Japanese American National Museum, $39,000

Marymount, a grant to Loyola University, $5,000,000

Menlo Park, Laboratory Building A, $22,000,000

Sacramento, John E. Moss Federal Building U.S. Courthouse, Extension, $5,801,000

San Diego, a grant to Children's Hospital, $2,000,000

District of Columbia:

A grant to the American Indian Higher Education Consortium, $2,000,000

A grant to the D.C. Children's National Medical Center, $2,000,000

Florida:

Miami, a grant to Mt. Sinai Medical Center, $2,000,000

Illinois:

Chicago, John C. Kluczynski Federal Building, Claim, $455,000

Kansas:

Kansas City, Federal Building U.S. Courthouse, $29,475,000

Maryland:

Baltimore, a grant for planning and design of the Christopher Columbus Center on Marine Research and Exploration, $5,000,000

College Park, a grant to the University of Maryland for superconducting materials research, $1,500,000

Prince George's County, U.S. Courthouse, $21,883,000

Massachusetts:

Boston, Federal Building-Courthouse, site acquisition and design, $51,300,000

Waltham, a grant to establish and construct a National Center for Complex Systems at Brandeis University, $5,000,000

Woods Hole, a grant for the continued development of the Marine Biomedical Institute for Advanced Studies, $6,000,000

Michigan:

Houghton, a grant to Michigan Technological University for construction of a center for applied metallurgical, minerals, and materials research, $2,000,000

Minnesota:

Minneapolis, Federal Building and U.S. Courthouse Annex, $68,772,000

New Jersey:

Camden, Post Office and Courthouse Annex, Escalation, $8,903,000

New Mexico:

Alamogordo, a grant to the Primate Research Institute, Site and Facilities, to be constructed on a site leased from the United States Air Force at Holloman Air Force Base, $5,000,000

New York:

Rochester, a grant to Rochester Institute of Technology for a strategic materials research center, $2,000,000

New York:

White Plains, Courthouse, $26,350,000

Oregon:

Portland, Courthouse Annex, $33,320,000

Pennsylvania:

Wilkes Barre, Social Security Administration Data Operations Center, Escalation, $11,905,000

Philadelphia, a grant to Parents Against Drugs, $778,000

Texas:

College Station, a grant to Texas A&M University for the establishment of the Institute for National Drug Abatement Research at the Texas Engineering Experiment Station, $1,000,000

El Paso, a grant to the University of Texas, $2,000,000

Virginia:

Alexandria, U.S. Courthouse, $58,202,000

Non-Prospectus Construction Projects, $5,000,000

New Construction (other):

District of Columbia:

Department of Transportation, Headquarters, Site, $50,000,000: *Provided*, That such funds will be available only with the prior approval of the House and Senate Committees on Appropriations and the House Committee on Public Works and Transportation

Southeast Federal Center, $122,000,000

Louisiana:

Shreveport, Federal Building and Courthouse, $24,669,000

Maryland:

Prince George's County, Internal Revenue Service, $206,502,000

Virginia:

Northern, Naval Systems Commands, $679,588,000

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further*, That all funds for direct construction projects shall expire on September 30, 1992 and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That claims against the Government of less than $100,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $579,710,000 which shall remain available until expended, for repairs and alterations: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:

California:

Calexico, New Border Station, $1,174,000

Otay Mesa, New Facility, $7,000,000

Sacramento, John E. Moss Federal Building U.S. Courthouse, $10,990,000

San Diego, Federal Building and U.S. Courthouse, $7,836,000

San Francisco, Appraisers Building, $3,958,000

San Francisco, Customhouse, $9,508,000

Colorado:

Lakewood, Denver Federal Center, Building 56, $8,584,000

District of Columbia:

Washington, DC Area Elevators, $16,500,000

Hubert H. Humphrey Federal Building, $7,300,000

Veterans' Administration Building, $26,000,000

Georgia:

Richard B. Russell Federal Building and United States Courthouse, $3,544,000

Illinois:

Chicago, Customhouse (phase 2), $10,260,000

Chicago, Everett McKinley Dirksen Building (phase 2), $37,700,000

Chicago, Federal Building, 536 S. Clark Street (phase 2), $6,248,000

Indiana:

Indianapolis, Federal Building and Courthouse, $3,908,000

Minnesota:

Saint Paul, Warren E. Burger Federal Building and United States Courthouse, $7,633,000

New Jersey:

Newark, Peter W. Rodino, Jr. Federal Building, $3,755,000

New York:

New York, Bowling Green Customhouse (phase 1), $4,727,000

New York, Emanuel Celler Federal Building and U.S. Courthouse, $3,915,000

New York, Jacob K. Javits Federal Building, $13,721,000

Rochester, Kenneth B. Keating Federal Building and U.S. Courthouse, $1,994,000

Oklahoma:

Oklahoma City, Post Office and Courthouse, $11,242,000

Pennsylvania:

Philadelphia, Customhouse, $20,166,000

Pittsburgh, Post Office and Courthouse, $2,700,000

Tennessee:

Nashville, Estes Kefauver Federal Building and U.S. Courthouse Annex, $4,616,000

Texas:

Dallas, Federal Building (Terminal Annex), $4,307,000

El Paso, Ysleta Border Station, $9,044,000

Virginia:

Arlington, Pentagon, $35,500,000

Portsmouth, Federal Building, $1,700,000

Washington:

Seattle, Federal Office Building, $17,932,000

Spokane, Federal Building and Post Office, $5,071,000

Minor Repairs and Alterations, $271,177,000: *Provided*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 1992, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $136,579,000 for installment acquisition payments including payments on purchase contracts; (4) not to exceed $1,506,300,000 for rental of space; (5) not to exceed $1,037,200,000 for real property operations; (6) not to exceed $90,781,000 for program direction and centralized services; and (7) not to exceed $242,165,000 for design and construction services which shall remain available until expended, including expenses for preliminary design for a 300,000 square foot Government-owned facility for the Center for Disease Control at their campus on Clifton Road in Atlanta, Georgia, such expenses to be reimbursed to GSA by the Center for Disease Control: *Provided further*, That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further*, That none of the funds available to the General Services Administration shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 1991 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $5,279,209,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities, including services as authorized by 5 U.S.C. 3109; $53,957,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property, including services as authorized by 5 U.S.C. 3109; $13,386,000, to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5).

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, $8,000,000 to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided*, That $2,500,000 of this amount shall be made available to pay expenses related to the relocation of the United States Fish and Wildlife Service regional office authorized and directed by Public Law 101-136: *Provided further*, That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further*, That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided, for Policy Direction, Board of Contract Appeals, and accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109, $35,100,000: *Provided*, That this appropriation shall be available, for general administrative and staff support services, subject to reimbursement by the applicable organization or agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code: *Provided further*, That not to exceed $5,000 shall be available for official reception and representation expenses.

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $39,961,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General $30,997,000 of which not to exceed $1,000,000 shall remain available until expended for procurement and installment of an automation program in support of audits and investigations: *Provided*, That

not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further,* That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,964,000: *Provided,* That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1991 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 5. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

SEC. 6. Notwithstanding any provisions of this Act or any other Act in any fiscal year, the Administrator of General Services is authorized and directed to charge the Department of the Interior for design and alterations to the Avondale, Maryland, property at rates so as to recover the approximate applicable cost incurred by General Services Administration in providing such alterations, and the Department of the Interior is authorized to repay such charges out of any appropriation available to the department and the payments shall be deposited in the fund established by 40 U.S.C. 490(f).

SEC. 7. The General Services Administration shall take immediate action to secure corrections to health and safety problems at the IRS Manhattan District Office and is directed if unable to correct such problems through the lessor within 90 days, to take such actions necessary to accomplish the corrections and withhold such amounts expended on such corrections from rental payments.

SEC. 8. Notwithstanding any other provision of law, the Secretary of the Interior shall transfer to the General Services Administration, without consideration, approximately 14 acres of the United States Geological Survey Western Region Headquarters together with any improvements, structures and fixtures located thereon. The General Services Administration shall construct additional facilities for the United States Geological Survey on this site.

SEC. 9. (a) Notwithstanding any other provision of law, agencies are hereafter authorized to make rent payments to the General Services Administration for lease space relating to expansion needs of the agency and General Services Administration is authorized to use such funds, in addition to the amount received as New Obligational Authority in the Rental of Space activity of the Federal Buildings Fund. Such payments are to be at the commercial equivalent rates specified by section 201(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j)) and are to be deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)).

(b) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purpose of subsection (a).

SEC. 10. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfolk Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 11. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 12. Notwithstanding any other provision of law, the Administrator of General Services is authorized to sell by publicly advertising for bids and on such terms and conditions as the Administrator deems proper, the John W. McCormack Post Office and Courthouse located at One Post Office Square in Boston, Massachusetts. All proceeds from such sale, less direct expenses incurred in the sale, shall be deposited into the fund established under section 210(f) of the Federal Property and Administrative Services Act.

SEC. 13. Notwithstanding any other provisions of law, the Administrator of General Services is authorized and directed to provide not less than 12,000 square feet of storage, office and public space in Pittsfield, Massachusetts, for the New England Regional Archives of the National Archives and Records Administration.

SEC. 14. Notwithstanding the provisions of the Act of September 13, 1982 (Public Law 97-258, 31 U.S.C. 1345), any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: *Provided,* That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

SEC. 15. The Administrator of General Services is directed to coordinate its requirements for office and other space to house Government activities by utilizing assets of the Resolution Trust Corporation and its receivers and conservators.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $139,756,000, of which $5,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended and of which $9,877,000 shall remain available until expended for renovations and improvements to the John F. Kennedy Library.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100-598, and the Ethics Reform Act of 1989, Public Law 101-194, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses: $3,725,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended: *Provided,* That, notwithstanding 31 U.S.C. 3302, the Director is hereby authorized to accept gifts for goods and services, which shall be available only for hosting National Civil Service Appreciation Conferences, to be held in several locations throughout the United States in 1991. Goods and services provided in connection with the conference may include, but are not limited to, food and refreshments; rental of seminar rooms, banquet rooms, and facilities; and use of communications, printing and other equipment. Awards of minimal intrinsic value will be allowed. Gifts provided by an individual donor shall not exceed 50 percent of the total value of the gifts provided at each location; $114,461,000; and in addition $74,379,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes, including direct procurement of health benefits printing, for

the retirement and insurance programs: *Provided further,* That amounts authorized to be transferred from the appropriate trust funds for implementation of the Federal Employees' Retirement System automated recordkeeping system in this or prior Acts, may be transferred at any time the Office of Personnel Management deems appropriate: *Provided further,* That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further,* That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further,* That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1991, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles: $4,607,000; and in addition, not to exceed $3,043,000 for administrative expenses to audit the Office of Personnel Management's insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $3,509,563,000, to remain available until expended.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, $8,700,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $5,687,105,000: *Provided,* That annuities authorized by the Act of May 29, 1944, as amended and the Act of August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $22,564,000, together with not to exceed $1,500,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95-454), and the Whistleblower Protection Act of 1989 (Public Law 101-12), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $6,608,000.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $18,443,000: *Provided,* That public members of the Federal Services Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $31,598,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 1991".

Mr. ROYBAL (during the reading). Mr. Chairman, I ask unanimous consent that title IV of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any points of order against title IV?

If not, are there any amendments to title IV?

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS: Page 43, line 18, strike out "$1,964,000" and insert in lieu thereof "$449,200."

Mr. JACOBS. Mr. Chairman, the latter figure represents the pensions for former Presidents and the surviving spouse of a former President.

Each of the former Presidents now collects a pension of $107,000 per annum by consequence of his service in the White House. Either one or two collect the full congressional pension on top of that.

What this does is strike out the freebies and the emoluments that are given to former Presidents when they leave office—or rather when they do not leave office, because all they do is transfer offices and the taxpayers put up the money for another office when these former Presidents become private citizens.

You will recall that Thomas Jefferson said upon leaving the White House, "I go forth to accept the promotion from servant to master," meaning private citizen. There is no reason for the taxpayers to pay for these offices for former Presidents.

The former Presidency, in most cases, has become big business. A lot of money is made by former Presidents simply because they are former Presidents, and for the taxpayers to pay for the office expenses of carrying on these enterprises, these big business former Presidency enterprises, seems quite unreasonable to me and, by most polls I have read, seems quite unreasonable to most of the taxpayers in this country.

Here is a man who shows his buddy his new house. They go in, and he says, "Here is the living room, here is the dining room, and here is the Florida room."

In the Florida room there is a man and a woman—there are a man and a woman—sitting on a loveseat holding hands and kissing. And the host says, "And that is my wife."

Then they go into another room, "This is the library," and eventually they get into the kitchen. The host pours a cup of coffee for his friend. His friend just cannot stand it anymore. He says, "What about the guy in the Florida room?" And the host says, "Let him get his own coffee."

Now that is how I feel about our revered former Presidents. They are all millionaires, they all can get—although I will say parenthetically President Nixon has declined any honoraria since he has left the White House, and I find that to be a dignified thing to do—but they can command speaker's fees of $25,000 each when they go to be ornaments at conventions at different places.

So let them pay their own overhead.

I hear it said that these offices are to enable former Presidents to answer their voluminous mail that flows in, if you believe that. Therefore, my staff and I have tested that theory a couple of times. From three out of four, we never got any answer at all. From the fourth, we got the kind of post card you can get back from a mail order house which says they do not have the stuff that they advertise.

So I do not think that is much of an argument.

With this Government tottering on the financial brink of disaster, taxpayers in this country might wonder about the sanity of forcing them to give a half-million dollars each to four wealthy men who are already collecting $107,000 a year in pensions.

One of our former Presidents said, "We are going to get government off the backs of our people." This amendment gives one message to the former Presidents: Hop off.

Mr. ROYBAL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as we all know, this amendment has been presented every year, but this appropriation is authorized by law. In fact, it is authorized by title III, United States Code section 102.

If there is any change to be made, it should be made in the law itself. That suggestion has been made year after year, but nothing has happened. There is no attempt of any kind to change the legislation and to change the intent of the law. But what this appropriation actually does is provide an office allowance and pension for former Presidents. That is authorized in the law.

Now, when a man leaves as President of the United States, he does not cease to exist in the public eye. He is still a public figure.

Under this law, the former Presidents are allowed staff to perform certain functions related to their duties as former Presidents.

They receive mail, for example, which should be answered. They should have a staff to do that. That is made possible by the law itself.

Former Presidents make public appearances on various subjects. They, of course, continue with their interests in the welfare of the United States of America.

They also perform certain charity functions and whatever official duties may arise at any time.

I believe, Mr. Chairman, that this amendment should be defeated. I request and ask Members of the House to defeat this amendment.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment. The past several years my good friend, the gentleman from Indiana, has religiously challenged the justification for the allowances for former Presidents. Each year, we've debated the merits of the program.

The arguments pro and con are well known to many Members of the House, but since the issue was raised again this year, and since some Members may not be familiar with this issue, the history and justification for the program deserve repeating.

Thirty-two years ago when this program was authorized, the leaders of both parties recognized the special burdens placed upon those who have served as President of the United States.

For just a moment, and before we vote, let's examine the circumstances surrounding the establishment of this "allowance for former Presidents."

Two unmet needs motivated the creation of this program and, today, justify its continued existence. First, many people in this country continue to place demands on our President after their term has expired.

They receive thousands of letters and invitations, make hundreds of public appearances for charities and occasionally perform official duties.

Most recently, former Presidents Carter and Ford risked their lives and went to Central America as observers of the so-called elections in Panama.

In 1958, when this program was under consideration by the Congress, Speaker John McCormack said at the time:

> The interest of the American people in the President does not cease when his term of office has ended. The public demands * * * the speeches, the conferences, advice, correspondence, and otherwise, * * * after his service as President is over, continues.

Speaker McCormack recognized that public demands on our former Presidents must be met with public support.

Another justification for this allowance can be found in the way our former Presidents were treated as compared to public servants. Before this allowance was authorized, former Presidents were the only major officeholders or public servants not receiving a pension or other benefits from the Government.

At the time, Supreme Court Justices could retire at full salary, at any point, no matter how long they served. Former Speakers of the House receive a pension and a generous allowance for office staff and expenses.

An even better comparison was our treatment of five-star generals. These retired military leaders, technically on active duty, not only received full salaries for pension, but they were allowed a full military staff, a chauffeur, and a secretary. The question at the time was rightfully asked: Should the Commander in Chief of our Armed Forces be treated less than his subordinates?

This program corrects this inequity and provides our former Presidents with a modest allowance to assist them as they continue to serve this country after their terms have expired.

The gentleman from Indiana has been persistent over the years in his commitment to offer this amendment. I believe the gentleman is sincere about this commitment, but I would suggest that we consider this program in the proper forum.

I am willing to take a closer look at this allowance in the proper context and setting. If there is waste and abuse, it should be stopped. If there is excessive spending, it must be curtailed. But the subcommittee received no testimony in opposition to this program, and the administration has consistently supported additional resources.

The increase requested here is modest and the total amount is small in comparison to other Federal programs. In fact, former Presidents have made significant reductions in costs for office space, equipment, and staff.

Former President Nixon, for example, has assumed the cost of his protection and many other expenses associated with maintaining his office.

For 29 years, there has been a Federal commitment to former Presidents of the United States. If changes are required, let's do it right and not disable the program.

I urge Members to maintain this commitment and vote against the amendment.

AMENDMENT OFFERED BY MR. SKEEN TO THE AMENDMENT OFFERED BY MR. JACOBS

Mr. SKEEN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SKEEN to the amendment offered by Mr. JACOBS: Strike "$449,200" in the amendment, and insert in lieu thereof "$1,808,000".

Mr. SKEEN. Mr. Chairman, what this amendment does is cut $156,000 from the President's request, which is about an 8-percent reduction. It brings the amount of this figure down to last year's level.

This is a perennial thing. Mr. Chairman, I have developed a great friendship with the gentleman from Indiana [Mr. JACOBS] over the years, discussing this particular amendment. I do not want to belabor it any longer.

Rather than single out Presidents, former Presidents of the United States, if we are going to do this on retirement and benefits which have been enacted into law, I think we ought to look at the whole spectrum, which would also include former Members of Congress, Supreme Court Justices, Speakers of the House and all the rest, because many of them are also millionaires and have access also to large remunerative commitments that put money in their pockets.

□ 1210

I do think that we have a definite problem in balancing the budget and deficits, and I recognize the gentleman's zeal and candor and sincerity and all the rest, but I think that the proper approach is to leave it where it is, make our commitment to former Presidents who have given great service.

Mr. ROYBAL. Mr. Chairman, I rise in support of the amendment made by the gentleman from New Mexico [Mr. SKEEN]. I think that that amendment makes a lot of sense.

What is does, of course, is to cut back the amount of last year's appropriation which actually results in an 8 percent decrease from that amount requested this year. But it does not destroy the function of former Presidents. It leaves it intact, and perhaps will send a message that we are looking at this account very carefully, and that they will be prudent in the expenditure of funds and their job at all times must be done correctly. I would accept the amendment as offered by the gentleman from New Mexico [Mr. SKEEN].

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in opposition to the amendment. I have joined my colleague from Indiana [Mr. JACOBS] over a good many years on the floor on this subject, and he has faithfully come to the floor and attempted to see if we could not cut back on the expenditures that we make in this body for ex-Presidents. I think ex-Presidents are wonderful for this country. We have had some awfully good Presidents, and they have served this country well. They retire, they certainly should be afforded the dignity and respect that we owe them.

I recall reading about Harry Truman, when he retired back to Missouri he did not have enough money to write letters. He needed some money for postage, and so on. They had no effective pension. It was a tough situation. So Congress responded to that, and Congress responded appropriately. We should respond to that.

However, Members know what has happened in the 1970's and the 1980's. It is on both sides of the aisle, Democrat and Republican former Presidents. We started pumping money into libraries, gave them offices and staff, and a good range of things. And all of a sudden it started looking more like retired royalty than retired President. The gentleman from Indiana has appropriately come to the floor of the House, I think now, for 8 or 10 years and said what is fair is far, but enough is enough. We have plenty of needs for money that we do not have to pile extra money and extra benefits on top of benefits here for people who do not need them. They should have a pension, sure. They should have Secret Service protection. No one is suggesting they should not.

We have gone way too far. This is a country that is a democracy, a republic form of government. It is not a monarchy. We do not have retired kings here, and I think enough is enough. I think the gentleman from Indiana is offering an amendment that is very sensible. The gentleman from New Mexico [Mr. SKEEN], as I understand it, is attempting to whittle away at this amendment and trying to belittle something that does not do much, that heads off what the gentleman from Indiana [Mr. JACOBS] is trying to do. I support what the gentleman from Indiana [Mr. JACOBS] is trying to do. I oppose the Skeen amendment, and support the Jacobs amendment. I think that is the right thing for the ex-Presidents and the right thing for the American taxpayer.

Mr. JACOBS. Mr. Chairman, I move to strike the last word.

I want to point out that I do not think any Member in my group wants to be unreasonable with the former Presidents. We probably ought to have some kind of a transition. They have that, anyway, to private life.

However, once they are in private life, there just really is not an excuse, and if a lot of people do not understand, just go home and ask our taxpayers what they think of giving the millionaires free offices when 90 percent of those offices are used to get richer still.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. SKEEN] to the amendment offered by the gentleman from Indiana [Mr. JACOBS].

The question was taken and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. JACOBS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 300, noes 91, not voting 41, as follows:

[Roll No. 229]

AYES—300

Ackerman	Coleman (MO)	Gallo
Alexander	Coleman (TX)	Gaydos
Anderson	Collins	Gejdenson
Andrews	Combest	Gekas
Annunzio	Condit	Gephardt
Anthony	Conte	Geren
Applegate	Cooper	Gibbons
Archer	Coughlin	Gillmor
Aspin	Courter	Gilman
Baker	Cox	Gingrich
Ballenger	Darden	Gonzalez
Barnard	Davis	Gordon
Bartlett	de la Garza	Goss
Barton	DeLay	Gradison
Bateman	Dellums	Grandy
Bates	Derrick	Gray
Beilenson	DeWine	Green
Bentley	Dickinson	Gunderson
Berman	Dicks	Hall (OH)
Bevill	Dixon	Hammerschmidt
Bilbray	Dornan (CA)	Hansen
Bilirakis	Douglas	Harris
Bliley	Downey	Hastert
Boehlert	Dreier	Hefley
Boggs	Duncan	Hefner
Bonior	Dwyer	Henry
Brennan	Dyson	Herger
Brooks	Early	Hiler
Broomfield	Engel	Hoagland
Browder	English	Hochbrueckner
Bruce	Erdreich	Holloway
Bryant	Espy	Hopkins
Buechner	Fascell	Horton
Bunning	Fawell	Hoyer
Bustamante	Fazio	Hubbard
Byron	Feighan	Huckaby
Callahan	Fields	Hughes
Campbell (CO)	Fish	Hunter
Cardin	Flippo	Hutto
Chandler	Foglietta	Hyde
Chapman	Frenzel	Inhofe
Coble	Gallegly	Ireland
James	Mrazek	Schuette
Johnson (CT)	Myers	Schulze
Johnson (SD)	Nagle	Schumer
Jones (GA)	Natcher	Serrano
Jones (NC)	Neal (MA)	Shaw
Kaptur	Nielson	Shumway
Kasich	Nowak	Shuster
Kastenmeier	Oakar	Sisisky
Kennelly	Oberstar	Skaggs
Kleczka	Olin	Skeen
Kolbe	Ortiz	Slattery
Kolter	Owens (NY)	Slaughter (NY)
Kyl	Owens (UT)	Slaughter (VA)
Lagomarsino	Oxley	Smith (FL)
Lancaster	Packard	Smith (IA)
Laughlin	Pallone	Smith (NE)
Leach (IA)	Panetta	Smith (NJ)
Leath (TX)	Parker	Smith, Robert (OR)
Lehman (CA)	Parris	Snowe
Lehman (FL)	Pashayan	Solarz
Lent	Patterson	Solomon
Levine (CA)	Payne (NJ)	Spence
Lewis (CA)	Payne (VA)	Spratt
Lewis (FL)	Pelosi	Stallings
Lightfoot	Perkins	Stangeland
Lipinski	Pickett	Stenholm
Livingston	Pickle	Sundquist
Lloyd	Porter	Swift
Lowery (CA)	Poshard	Tallon
Lowey (NY)	Price	Tanner
Luken, Thomas	Pursell	Tauke
Lukens, Donald	Quillen	Tauzin
Machtley	Rangel	Taylor
Madigan	Ravenel	Thomas (CA)
Manton	Ray	Thomas (GA)
Marlenee	Rhodes	Thomas (WY)
Martin (IL)	Richardson	Torres
Matsui	Ridge	Towns
Mazzoli	Rinaldo	Traficant
McCandless	Ritter	Udall
McCollum	Roberts	Vucanovich
McCrery	Roe	Walgren
McGrath	Rogers	Walker
McHugh	Ros-Lehtinen	Walsh
McMillan (NC)	Rose	Waxman
McMillen (MD)	Rostenkowski	Weber
McNulty	Rowland (CT)	Weiss
Meyers	Rowland (GA)	Weldon
Mfume	Roybal	Wheat
Michel	Sabo	Whittaker
Miller (OH)	Saiki	Whitten
Miller (WA)	Sangmeister	Wolf
Moakley	Sarpalius	Wyden
Molinari	Savage	Wylie
Mollohan	Sawyer	Yates
Montgomery	Saxton	Young (AK)
Moody	Schaefer	
Moorhead	Schiff	
Morrison (WA)	Schneider	

NOES—91

Armey	Guarini	Roukema
Atkins	Hamilton	Russo
AuCoin	Hancock	Scheuer
Bennett	Hawkins	Schroeder
Bereuter	Hayes (IL)	Sensenbrenner
Borski	Hertel	Sharp
Bosco	Jacobs	Shays
Brown (CO)	Jontz	Sikorski
Burton	Kanjorski	Smith (VT)
Campbell (CA)	Kildee	Staggers
Carper	Lantos	Stearns
Carr	Levin (MI)	Stokes
Clarke	Lewis (GA)	Studds
Conyers	Long	Stump
Costello	Markey	Synar
Craig	Mavroules	Traxler
Crane	McCloskey	Unsoeld
Dannemeyer	McCurdy	Upton
DeFazio	McDermott	Valentine
Dingell	McEwen	Vander Jagt
Donnelly	Miller (CA)	Vento
Dorgan (ND)	Mineta	Visclosky
Durbin	Murphy	Volkmer
Dymally	Neal (NC)	Williams
Eckart	Obey	Wilson
Edwards (CA)	Pease	Wise
Edwards (OK)	Penny	Wolpe
Emerson	Petri	Yatron
Evans	Rahall	Young (FL)
Frank	Rohrabacher	
Grant	Roth	

NOT VOTING—41

Boucher	Boxer	Brown (CA)

Clay
Clement
Clinger
Coyne
Crockett
Flake
Ford (MI)
Ford (TN)
Frost
Glickman
Goodling
Hall (TX)
Hatcher
Hayes (LA)
Houghton
Jenkins
Johnston
Kennedy
Kostmayer
LaFalce
Martin (NY)
Martinez
McDade
Morella
Morrison (CT)
Murtha
Nelson
Paxon
Regula
Robinson
Skelton
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Stark
Torricelli
Washington
Watkins

□ 1236

Messrs. SMITH of Vermont, VANDER JAGT, ROHRABACHER, SYNAR, PENNY, UPTON, EMERSON, ATKINS, LEWIS of Georgia, EDWARDS of Oklahoma, and GRANT changed their vote from "aye" to "no."

Messrs. FLIPPO, FOGLIETTA, DORNAN of California, OBERSTAR, HEFNER, and LANCASTER changed their vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. JACOBS], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SKEEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 379, noes 7, not voting 46, as follows:

[Roll No. 230]

AYES—379

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Brennan
Brooks
Broomfield
Browder
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Frank
Frenzel
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Gonzalez
Gordon
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Mrazek
Murphy
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (VT)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—7

Conte
Dymally
Foglietta
McEwen
Pelosi
Vander Jagt
Weiss

NOT VOTING—46

Boucher
Boxer
Brown (CA)
Clement
Clinger
Coyne
Crockett
Early
Flake
Ford (MI)
Ford (TN)
Frost
Glickman
Goodling
Gray
Hall (TX)
Hatcher
Hawkins
Hayes (LA)
Houghton
Jenkins
Johnston
Kennedy
Kostmayer
Leach (IA)
Lent
Martin (NY)
Martinez
McDade
Morella
Morrison (CT)
Morrison (WA)
Murtha
Nelson
Paxon
Pursell
Regula
Robinson
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Stark
Torricelli
Washington
Watkins
Weldon

□ 1255

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Chairman, I was not able to cast votes on the previous two amendments: The Skeen amendment to the Jacobs amendment—rollcall No. 229—and the Jacobs amendment—rollcall No. 230. A valued former employee of mine, Lucille Fetter, passed away and I traveled to my home district to attend her funeral. Had I been present on the floor of the House, I would have voted in favor of the Skeen amendment, and in favor of the Jacobs amendment as amended.

Mr. FAZIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a brief colloquy with the chairman of the subcommittee, my good friend ED ROYBAL.

Mr. Chairman, the subject pertains to a letter from Charles Bowsher, the Comptroller General of the United States, to the Honorable Richard Darman, the Director of the Office of Management and Budget.

I will insert this letter in the RECORD at this point.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC, July 10, 1990.

Hon. RICHARD DARMAN,
Director, Office of Management and Budget.

DEAR DICK: It is my understanding that OMB has recently announced to the Chief Financial Officers Council that it plans to establish in the executive branch a board to set federal government accounting standards. I am both surprised and concerned by this announcement. In my opinion it would be inappropriate and counterproductive for OMB to unilaterlally embark on the establishment of a new accounting standards setting process for the federal government.

As you know, 31 U.S.C. § 3511 provides that "[t]he Comptroller General shall prescribe the accounting principles, standards, and requirements that the head of each executive agency shall observe." For 40 years we have carried out this assignment in close cooperation with the Office of Management and Budget and the Treasury Department. I think it inappropriate for OMB to now turn its back on this statutorily-mandated and long-standing arrangement and administratively establish an alternate process for standard setting that is inconsistent with the applicable law.

As the Congress and the Administration try to find a resolution of the budget crisis they are handicapped by inadequate federal accounting systems and financial reporting. The participants in the budget discussions have numbers that are neither accurate nor timely, and therefore do not have a true picture of where we stand. This is the heart of the problem, not the standards or the standard setting process.

I am convinced that creating an effective financial management system is important to long term resolution of the government's budget and financial problems. I have shared with you personally both that conviction and my belief that we can work together on this matter without a confrontation over the process of setting accounting standards. During our discussions, you have expressed to me a commitment to dealing with the government's financial management problems and improving federal accounting systems. I and the staff of GAO have been working with you and the staff of OMB on the development of a financial management reform program for the government that we can both support. I would like these cooperative efforts to continue.

Unilateral steps to establish a new process for setting government accounting standards would only impede this cooperation and seriously set back the cause of federal financial management reform which is so important to both of us. I hope that we can meet on this important matter as soon as possible.

Sincerely,

CHARLES A. BOWSHER,
Comptroller General of the United States.

Mr. FAZIO. Mr. Chairman, I would like to point out to Chairman ROYBAL that the Comptroller General's letter states "surprise and concern" that the OMB has decided to unilaterally announce plans to establish in the executive branch a board to set Federal Government accounting standards.

The letter further points out that statutory authority for prescribing such standards resides with the Comptroller General under section 3511 of title 31, United States Code.

The Comptroller General is not objecting to OMB's objectives of improving Federal accounting systems and financial reporting. He merely believes that this should be a cooperative effort. He has made that offer to Mr. Darman and had understood there was general agreement.

But, this unilateral step seems to indicate otherwise.

Mr. Chairman, I know you agree that the Comptroller General has this statutory authority, as defined by section 3511 of title 31.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from California.

Mr. ROYBAL. That is true. Section 3511 says that the—

Comptroller General shall prescribe the accounting principles, standards, and requirements that the head of each executive agency shall observe.

Mr. FAZIO. Mr. Chairman, I urge the subcommittee to remind Mr. Darman of that statute and to work cooperatively with the Comptroller General.

Mr. ROYBAL. We will be happy to do that and I thank the gentleman for bringing this to our attention.

Mr. SKEEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the minority has not been exposed to this particular measure. I do not know what it does or does not do. I would appreciate at least some kind of an opportunity to visit with the gentleman or have it explained to me.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I am happy to yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I will be happy to do so. This is, of course, not anything we need to vote on. It is simply a statement to OMB that they not go forward with a unilateral effort to revise the accounting standards for the executive branch. This is statutorily and traditionally the role of the GAO, and we simply want to assure our Comptroller, Mr. Bowsher, that we understand and appreciate his role, and that Mr. Darman and he work on these issues together as they had tentatively agreed to do. It is not an effort to tell Mr. Darman what to do except that we want to assure him that whatever new changes in the accounting standard be done between the two branches of Government.

Mr. SKEEN. Mr. Chairman, we do not necessarily agree, because we have not studied the problem and would appreciate the opportunity to have some discussion with the gentleman on this.

Mr. SCHUMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a brief colloquy with a member of the subcommittee, the gentleman from Maryland [Mr. HOYER].

I know that in title V of this appropriation bill there will be money and instructions to move 300 Secret Service agents to get involved in S&L investigations. I would certainly say to the gentleman that the amendment is worthy and needed, well intended in the fact that we are desperately short of agents, investigators, U.S. attorneys to look into the crimes of the magnitude that have been perpetrated in the S&L industry, although I do have a concern, and that it is pretty apparent that we need some one person in charge. We cannot have two separate agencies of people running to investigate the same thrifts, subpoenaing the same records, calling in the same witnesses, perhaps working on different charges at cross-purposes.

I would ask the gentleman from Maryland what can be done to make sure that while we utilize the manpower we do not have two separate heads running the same type of investigation.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I am happy to yield to the gentleman from Maryland.

□ 1300

Mr. HOYER. Mr. Chairman, I thank the gentleman for his question and for his comments. I think we all share in this body a view that we need to apply all of the resources available to us to get at the savings and loan problem that confronts this Nation in its great magnitude, and particularly the fraud and abuse and theft that has occurred.

The point of the gentleman is well-taken that in doing this, we do not want to create bureaucracies which will negate effective action as opposed to enhancing effective action.

I have indicated in my discussions with the gentleman from New York [Mr. SCHUMER], which I will follow through on between now and the conference on this bill, working with the gentleman from California [Mr. ROYBAL] and working with the gentleman from New Mexico [Mr. SKEEN], that we will indeed address the question of coordination to make sure that efforts are complementary to one another and not at cross-purposes.

Mr. Chairman, I think the point of the gentleman from New York [Mr. SCHUMER] is very well-taken, and I look forward to working with him toward that objective.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chariman, I want to take this opportunity to establish some legislative history with respect to the amendment unanimously added at the full committee giving the Secret Service concurrent authority to investigate savings and loan and any other financial crimes.

Mr. Chairman, it is common sense to assume that the Secret Service, in working these savings and loan cases, will coordinate during their investigations with the FBI or any other Federal department or agency involved in this activity. No one wants to duplicate the resources. Here when fraud is so widespread, it is hard to imagine resources will be duplicated.

As was mentioned at the full committee, thousands and thousands of referrals remain unexamined, and many more are expected over the months to come. It is my understanding that the Secret Service will work to reduce this backlog within the task force system where it is possible.

Members should be aware that the Justice Department has established only one savings and loan task force so far, in Dallas, TX. Many more are planned, but where there is no structure in place, and where it would be impractical, the Secret Service should proceed to investigate these financial

crimes whenever it gets the proper referral. Moreover, the Secret Service should take every advantage of collateral investigation when the situations arise.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I would like to engage the gentleman from Massachusetts [Mr. CONTE] and perhaps the gentleman from New Mexico [Mr. SKEEN] in a colloquy related to this subject.

As I understand it, the legislation before us grants additional sums to the Secret Service.

Mr. CONTE. Mr. Chairman, reclaiming my time, no, it does not. There are no additional sums whatsoever.

Mr. ROGERS. If the gentleman will yield further, what does the legislation do in regard to Secret Service involvement in the S&L legislation?

Mr. CONTE. This amendment simply allows the funds made available to the Secret Service to be used for criminal investigations related to the savings and loan crisis. It adds no money to the bill, but it does give the Federal Government an additional tool to put the crooks in jail that caused this financial mess.

Mr. ROGERS. Mr. Chairman, I would ask with regard to the investigations being conducted, who is in charge? Will the Justice Department remain in charge of the investigation?

Mr. CONTE. The provision does not affect the existing jurisdiction of any other agency or department, but it will give jurisdiction also to the Secret Service. If they come upon a case where fraud or corruption is discovered, then the Secret Service can get involved on that particular case.

Mr. ROGERS. Mr. Chairman, as the gentleman knows, and all Members I think understand, the Attorney General and the Justice Department has investigative teams all over the world, in fact, at this minute investigating these cases, and has had for several years now. There are literally thousands of investigations going on, a lot of which require the services of Treasury agents, those people who are more expert in the laws of the Treasury Department, the Internal Revenue Service and the like. I have seen nothing myself but cooperation from the Secret Service and those teams that involve FBI, Justice Department lawyers, prosecutors and the like, financial consultants, Secret Service agents and the like, all around the world.

Mr. Chairman, we have not seen as massive an investigation going on with regard to anything in my lifetime as we are seeing today by the Justice Department and Federal agencies in ferreting out the crooks involved here.

Mr. CONTE. Mr. Chairman, let me answer this: The FBI only has one task force devoted exclusively to S&L fraud cases, and that task force is in Dallas, TX.

Mr. ROGERS. If the gentleman would yield further on that, there are other task forces around the world. I am not talking about a prosecutorial task force as in Dallas. I am talking about the investigative task forces that are all over the world investigating cases.

Mr. CONTE. Reclaiming my time, the Attorney General, I might say, estimated that 25 to 30 percent of the thrift failures can be attributed to criminal activity by S&L officers, and many of those cases remain in the box. They are still in the box because of the resources not being available to investigate these crimes. In fact, the estimate is that there are some 20,000 referrals to the FBI that have not even been looked at yet.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. CONTE] has expired.

(At the request of Mr. HILER and by unanimous consent, Mr. CONTE was allowed to proceed for 5 additional minutes.)

Mr. CONTE. Mr. Chairman, one example of where the Secret Service will get involved in S&L cases will be in places where there is no ongoing investigation by the FBI. We are not expecting any duplication. We are trying to marshal every resource that we can in the Federal Government to get after these rascals. Of course, the Secret Service may also join the FBI task forces if that is the most practical option.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, I certainly welcome the additional support to the Justice Department that this legislation gives. I just wish Congress had acted on this a long, long time ago. The Justice Department, and the gentleman from Massachusetts [Mr. CONTE] has been here along with other Members, has been demanding more money for years now. Congress has been the one that has not even passed the Justice Department authorization in 10 years. That is the kind of oversight the Congress has given to this S&L investigation, zero.

Mr. CONTE. Mr. Chairman, reclaiming my time, the gentleman from Kentucky [Mr. ROGERS] is absolutely right. The Secret Service should have had this authority a long time ago. I brought up in the full committee recently that I was going to offer this amendment. Then something happened on the way to the forum, but I won't get into that today. And let me say that I have had a long affiliation with the Secret Service, about 32 years now, going back to Mr. Rowley when he was head of the Secret Service. And I know that additional resources will be needed. We are having more foreign government visitors coming to this country as a result of what is happening in Eastern Europe and around the world, and they are putting a tremendous load on the Secret Service since they are required to provide protection for these officials. They are down to the bare bones at the Secret Service.

Mr. Chairman, the administration should send up a supplemental or a budget amendment to add additional resources. I hope before work on this bill is over, that maybe they will send something up to the Senate for extra money, because the budget is very tight, just taking care of protecting these visiting potentates, as I call them.

Mr. HILER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Indiana.

Mr. HILER. Mr. Chairman, I would like to get more clarification on the role of the Secret Service. Maybe the gentleman from Maryland [Mr. HOYER] would be a better one to answer this question. Would the gentleman envision that the additional help that the Secret Service would provide would be coordinated through the Department of Justice and through the Attorney General?

Mr. CONTE. Not all of it. Not all of it. The Secret Service is granted concurrent authority by this amendment, and as the author of this provision, it is my understanding that the Secret Service will be able to conduct investigations where they are uncovered, especially during collateral investigations.

Mr. HOYER. Will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, there certainly needs to be coordination. I think all Members agree with that. You do not want to have everybody going off on their own hook with uncoordinated investigations.

I would call the attention of Members to the fact that in 1984 we created the Interagency Bank Fraud Working Group, specifically designed to make sure that all of the folks working on bank fraud would be coordinated. In 1989, as the gentleman may well know, the Secret Service was added to that group. It was added to that group because they were involved in these investigations at that time.

□ 1310

So there now exists, and I am not going to go through the whole list, but Treasury, FBI, Justice, Secret Service, and others are in that working group, so there currently exists a mechanism to coordinate.

What I did in my colloquy with the gentleman from New York was to indicate that, of course, we do want to get coordination, and I think we need to discuss with the administration, with Justice, with Secret Service, and with ourselves between now and conference time how this best can be accomplished, because obviously everybody wants to make sure that we do not have the right hand not knowing what the left hand is doing and create an inefficient, though maybe bigger process for getting at the fraud and the theft that has occurred.

Mr. HILER. I thank the gentleman.

Mr. CONTE. I thank the gentleman.

AMENDMENT OFFERED BY MR. FAWELL

Mr. FAWELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FAWELL: Page 28, strike "$5,279,209,000" and all that follows through page 32, line 11 and insert the following: $5,241,692,000, of which (1) not to exceed $1,432,125,000, shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

California:

Menlo Park, Laboratory Building A, $22,000,000.

Sacramento, John E. Moss Federal Building U.S. Courthouse, Extension, $5,801,000.

Illinois:

Chicago, John C. Kluczynski Federal Building, Claim, $455,000.

Kansas:

Kansas City, Federal Building U.S. Courthouse, $29,475,000.

Maryland:

Prince George's County, U.S. Courthouse, $21,883,000.

Massachusetts:

Boston, Federal Building—Courthouse, site acquisition and design, $55,300,000.

Woods Hole, a grant for the continued development of the Marine Biomedical Institute for Advanced Studies, $6,000,000.

Minnesota:

Minneapolis, Federal Building and U.S. Courthouse Annex, $68,772,000.

New Jersey:

Camden, Post Office and Courthouse Annex, Escalation, $8,903,000.

New York:

White Plains, Courthouse, $26,350,000.

Oregon:

Portland, Courthouse Annex, $33,320,000.

Pennsylvania:

Wilkes Barre, Social Security Administration Data Operations Center, Escalation, $11,905,000.

Mr. FAWELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FAWELL. Mr. Chairman, if ever one feels like a skunk at the picnic, it is when one presents an amendment such as I am presenting where I am asking that, in effect, we simply strike 16 unauthorized grants in this appropriation bill under the General Services Administration. These are not authorized. They were not asked for by the General Services Administration. The General Services Administration has indicated to me that it is not, in their opinion, their business to be in the grant business. They point out that their responsibility is to purchase and hold real estate and personal property for this Nation of ours.

So I believe that when one considers the tremendous debt problems that we have in this Nation that we ought to not include, even though the rule did waive a point of order in this regard, we should not include this in the appropriation.

I am not asking that this be an across-the-board cut, though there is lot of merit in that. I am targeting the particular reduction which comes to about $37 million. I am not questioning in any way the quality of these projects or the priority that one might rate them. I know there are several which are under the jurisdiction of the Science, Space, and Technology Committee, and I know that they are controversial and have not been able to make their way out of that committee.

I think that we as Members of Congress have to be responsible and follow just some of the basic rules that we have before we do appropriate.

I was looking just the other day at the CBO estimates in regard to the tremendous debt that we will be adding on the backs of our children and our grandchildren this year. It adds up, Mr. Chairman, to something like $336 billion, $200 billion in a deficit, and I am talking about fiscal year 1990, that is $100 billion more than the Gramm-Rudman deficit target. In addition, $135 billion borrowed from trust funds as we profligately dawn our way there, and then, in addition, this does not count another $30 billion from the S&L crisis. And the CBO tells us that it is going to be more of the same and even closer to $400 billion of brandnew debt next year.

I know this is not popular. I know that some of my colleagues are not happy with what I am doing here. But we do have to pay attention to what the process is, and when we do not, that is why the people of this Nation are losing confidence in us collectively, although seemingly liking us all individually.

So, Mr. Chairman, I do represent this amendment for consideration of the House.

Mr. ROYBAL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the committee has taken all these matters under consideration, and we discussed them quite extensively. The committee has included in the bill funding for grants for universities, for hospitals, and philanthropic organizations.

The truth of the matter is that the requests that we received far exceeded the amounts made available. What we have in this bill is funding for grants that amounts to about $43 million.

My understanding of the amendment is that in one sweep of the amendment almost all of the grants are taken out of the bill, and then the amendment puts back just those that were authorized by the authorizing committee.

We are dealing now with funding that has become necessary because of the great need of these organizations. Each one of them came to the committee; made a presentation. The end result, Mr. Chairman, was that we could not fund them to the full extent. In fact, again, the request was over $120 million to $140 million. We could not do that.

What we actually did is examine very carefully the requests of every organization, and then we were able to grant a small fraction of the total request which, in fact, does amount to about $43 million. That is what is being stricken now if this amendment prevails.

It seems to me that these philanthropic organizations, these universities, and these hospitals that have this kind of need should be able to receive the grants that are requested, because there is not a single one of these requests that were funded by this committee that does not meet a public need. It seems to me, Mr. Chairman, that this amendment should be defeated just on its merit.

Mr. SKEEN. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, I understand the zeal with which many folks in this body feel about debt, the savings and loans, every other fiscal ill that we have visited upon ourselves and this Nation, and we are going to resolve it all every time one of these bills comes through. And I understand the zeal, and I understand the fervor, and I understand the momentum and appreciate it.

In this case we have a situation in which these projects are of a very timely nature. They have tremendous merit. They were taken on the basis of merit, judged on that basis. They are not willy-nilly. It is not who you knew or what you knew or whatever. It was done on the basis of appeal, particularly in the area of timeliness, and this is the way the committee discharged its obligation in regard to these various projects.

It is not capricious. They do cost money. We understand that at a time when we do not want to increase funding for anything. But we cannot make government work without spending some money on something, particular-

ly on worthwhile projects. Life has to go on despite all of the debacles we find ourselves mired in, and we still have to make this country move forward, and as a result of that process the infrastructure disintegration of this country is a good example of not paying heed to those things that are of a timely nature and must be done.

I reluctantly oppose my friend who offered the amendment. But I do not think that this is the time or the place to try to do this.

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I would like to make several points. We have in this Congress set up a system of authorizing expenditures through an elaborate committee and subcommittee process, and then of appropriating. It is a double check system which was, I suspect, a reform of the appropriations process that was probably adopted in the last century.

□ 1320

I understand that sometimes there are emergencies which might require us to telescope that process and waive the need for an authorization in order to deal with an emergency in an appropriation bill in order to get something going.

I just would like to hear, if I could, from anyone on the committee the specifics of why it is necessary to proceed without having had an orderly hearing and authorization of something like the grant to the Japanese American National Museum of $39,000, and so on.

We know, in addition to our own congressional authorizing and appropriation process, that we have set up numerous agencies that are in the grant-giving business, for scientific research, facilities construction and so on.

They have orderly procedures for submitting grants and supporting them and trying to choose between them. That procedure is not being followed.

I understand the committee had to, on some basis, choose between $140 million of requests for appropriations and chose only some $40 million or $50 million. On what basis were the other $100 million excluded from the process and these particular $40 million chosen?

It seems to me it may be necessary upon occasion to waive the ordinary process and go ahead and appropriate because of some emergency, but if this is not an emergency—and I have heard no justification or specifics as to why these different projects are emergency projects—it seems to me that we ought to raise a question and we ought not allow this sort of thing to just go on without notice, because if that happens it will get worse.

I think a line should be drawn and we should not be appropriating for projects without any kind of public notice and thorough hearing and we should not be waiving the process without true urgency.

I therefore support the amendment at this time.

Mr. ARMEY. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I will not take the full 5 minutes.

Let me also pay my regards to the subcommittee.

I understand and appreciate the amount of time, effort and work that the various subcommittees and full committee put into these bills, working on the details, working on the priorities and juggling matters. I certainly do not want to be disrespectful of their hard work. At the same time let me pay my regards to the gentleman from Illinois [Mr. FAWELL]. He is a colleague who serves on the Committee on Education and Labor, where we sit next to each other

I have occasion to watch my good friend from Illinois as he reads the bill and examines the particulars and the details of the bill. I dare say there is nobody in this body who is more diligent in attending to the detail and the fine print of a piece of legislation than the gentleman from Illinois [Mr. FAWELL].

Mr. Chairman, this is a case in point. I also would like to share the portion of view of my friend from Wisconsin [Mr. PETRI] which he just made. As I understand, what the gentleman from Illinois has done is go through one particular section of the bill and has identified as series of grants, particular grants, to particular projects, to particular institutions, none of which have been authorized by the appropriate authorizing committees, nor requested by the appropriate administrative agency, all of which I am sure are worthwhile projects.

Let me mention one in particular so as not appear to be indifferent. There is a particular project. Texas A&M University, a university that I hold in the highest esteem. It is not unusual for me to have said, as an old college professor who has paid attention to these things, that Texas A&M University is the most outstanding educational institution in the Southwest.

I say that with conviction and I say that with a great deal of affection for the institution.

Yet, this institution is afforded here special consideration within the procedures of this House, consideration that the institution does not need within the context of any authorizing body of any administrative agency.

This is a proud institution and an able and well-respected institution that can well endure and survive the rigors of our normal, appropriate procedures and, therefore, does not need this special favored consideration.

I am sure that is true of some of the others. But I think it is only in the best interest of a competitive process and a clear process and the recognition of this across this Nation that the best and the brightest of our applicants for these grants be in clear competition with everyone else.

I do that with the youngsters who apply for nomination to the military academy, with full faith and confidence that not only will those youngsters who get the nomination know that they won it on their merits in a fair competition, but also, and importantly, for those youngsters who did not get the nomination to be assured that it was a fair process, that politics was not a consideration and that they were treated fairly and judged on their merits relative to other people.

That is the way I think we ought to proceed here.

For that reason, I want to support the gentleman's amendment to assure every organization, every agency, every university that should apply to the Federal Government for a grant, for a project, that they define their project well and they demonstrate their merit in a fair and competitive process through normal procedures; they will have a fair hearing and that this Congress, this body spends the taxpayers' money with discretion and careful comparisons rather than to leave any vestige of a doubt.

And please understand I am not suggesting or alleging that. I just want to be sure that our procedures leave no vestige of a doubt with anyone else that political favoritism could possibly or conceivably overrule comparisons based on merit.

Mr. COLEMAN of Texas. Mr. Chairman, I move to strike the requisite number of words.

(Mr. COLEMAN of Texas asked and was given permission to revise and extend his remarks.)

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in answer to the complaints of the two previous speakers, I can provide the background for the subcommittee action in providing the third and final installment of funding for the Institute of Materials Management at the University of Texas at El Paso as part of the fiscal year 1991 Treasury, Postal, general government appropriations bill. I have been working on this effort for 6 years, dating back to my service on the subcommittee. The request I made was for $5,310,300 represented the culmination of what has become a very successful program in the fields of technology

transfer and data base management at UTEP. It has now already been reduced to $2,000,000.

The university's original request for fiscal year 1990 funding ran to nearly $8 million. Because that figure included funding for construction of a facility off campus to house the institute—and because the university at the time was pursuing alternative means of financing the construction portion of its budget—I omitted a substantial share in my request to the subcommittee. To date, the institute has been provided with $3 million in fiscal year 1989 funds through the national defense stockpile transaction fund and $4,152,000 in fiscal year 1990 funds through the General Services Administration for a total of $7,152,000. This final installment will bring the complete cost of the project to just under $12.5 million.

The fiscal year 1991 request, as described in the attached memorandum from the university, includes a relatively small line item for construction $750,000. Last year and this year, with the concurrence of both GSA and the Defense Logistics Agency [DLA], UTEP channeled Federal funds into the renovation of Burgess Hall, a centrally located three-story building on the main campus. At my insistence, the director of the institute has compartmentalized the facility's laboratories into separate areas for defense-related materials management activities and economic database management activities, which are funded by the State of Texas. Although the defense side of the house regularly draws on the automated data processing resources of the economic development wing, Federal funds have been and will continue to be used exclusively for ongoing research projects in such fields as machine vision and "matrix composite-industrial applications"—the development of synthetic polymers for defense and commercial use. With the final installment of funds, the university hopes to complete the equipping of several laboratories and to put in place staff and materials for the recently developed doctoral degree program in materials science and engineering and for a new program involving metals-based technologies for storing industrial wastes.

Because of the subcommittee's consideration and leadership, the institute has already contributed significantly to the missions identified by both the defense community and the GSA. And, as you know, this is not and never has been a project developed by any outside consultant. I have greatly appreciated the work of the subcommittee in bringing the institute up to its present capacity.

I urge opposition to the amendment offered by the gentleman for Illinois.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, all I am going to say is that I applaud the two gentlemen who have offered this amendment. They have been very diligent in examining appropriation bills, trying to ferret out what they feel, in good conscience, should be ferreted out of the bills.

When they argue, though, that things in here, universities or hospitals, have not been authorized, I must remind them that I tried to go through the authorization process for the Speaker O'Neill Library—which is the only one, the only library for a former Speaker that has not been specifically addressed in Federal legislation.

I tried to go through the authorization process and was defeated by these two gentlemen.

I hope someday we can revisit that issue.

Let me say I have no projects in here for my district. I listened very attentively to all of the arguments and the evidence that was presented during the hearing process. Many of these projects are already underway. There are holes in the ground already using funds previously appropriated. So it would be very, very disruptive if the House were to cut them off at this time, because the construction has already begun through appropriations of past years.

So I hope these amendments will be defeated.

Mr. Chairman, I rise in opposition to the amendment, and I do so because I am familiar with many of the institutions mentioned in the amendment and the projects which are funded in this bill.

Let me say at the beginning that none of the projects funded in this bill are in my district. But I'm familiar with these projects because the subcommittee, of which I am a member, carefully reviewed the requests for funding and allocated limited resources based on merit.

I am most familiar with two projects, Brandeis University and the Marine Biological Laboratory, since these institutions are located in my State. First, the Brandeis project is in the second phase of a funding cycle began 2 years ago when the Congress appropriated $3 million to begin planning and design work. Funds allocated to Brandeis will be used to provide the Federal matching share for the construction of a National Center for Complex Systems.

The overall purpose of the national center is to study large, complex systems through the use of a variety of methods. The center will be one of its kind, drawing from many disciplines in the university to produce a single center where the complex systems of the human brain and mind can be studied.

NIH is very interested in this concept, and officials from the Institute have met with university officials.

If this center is built, that agency and others will have facility to contract needed research without having the costs of operating and maintaining a separate lab.

The same is true for the Marine Biological Lab in Woods Hole, MA. I know its not included, but a description is warranted. It's a center for biomedical and marine research, providing training and actual specimens for federally sponsored research.

In fact, a number of NIH Institutes currently maintain labs at MBL, and the facilities funded by this amendment will augment this capability. MBL is truly a world-class institution, claiming 34 Nobel Prize winners over its 102-year history. And 80 members of the MBL corporation are also members of the National Academy of Sciences.

Moreover, the MBL project has been authorized by law, and funded by Congress in the past.

Mr. Chairman, I urge my colleague to oppose this amendment and support the committee's recommendation.

Many of these projects are in the middle of the funding process, and all are partially financed by private resources. It's an investment in America and an investment for the future. I hope the amendment is rejected by the House.

Mr. Chairman, I will include for the RECORD additional materials supporting the Brandeis project.

TESTIMONY BY DR. EVELYN E. HANDLER, PRESIDENT, BRANDEIS UNIVERSITY

Mr. Chairman and members of the Subcommittee, my name is Evelyn E. Handler and I am President of Brandeis University. On behalf of the University, I appreciate the opportunity to provide to the Subcommittee this testimony for funding assistance in the amount of $15,000,000 over two years for the construction of the National Center for Complex Systems on the Brandeis University campus.

In May, 1989, the Federal government awarded Brandeis a grant for $3,000,000 to begin architectural and engineering studies. The project has now finished the conceptual design stage and it will be imperative that construction funds be committed to the project before November, 1990. Without the commitment of construction funds, Brandeis cannot enter into contractual agreements with a general contractor and its subcontractors and proceed with the construction phase of the facility.

Construction costs for the National Center are projected to be $26,500,000. Brandeis has raised and currently expended $2,000,000 on the construction of a new structural biology laboratory. It has also submitted a proposal to the NSF for $4,144,000 for the construction of a portion of the new National Center. The depth of Brandeis' continued commitment to the National Center is best demonstrated by the University's willingness to match the $4,144,000 of the NSF support. Brandeis is also committed to absorbing the continuing operating expenses of the new National Center facility.

The overall purpose of the National Center is to study large, complex systems through the use of a wide variety of methods, including experiments and observations, computational modeling, and the construction of theories. Examples of "complex systems" are large scale simulations, chemical reaction dynamics, and the biological development of cells. However, for the Brandeis faculty who fall broadly within the National Center mission, the complex systems of greatest interest are the human brain and mind. Interest in this area is shared by faculty members specializing in artificial intelligence, cognitive science, linguistics, neuroscience, experimental psychology, and artificial neural networks.

Brandeis University is located in Waltham, Massachusetts, and was founded as a private, non-sectarian university in 1948. The University currently has an undergraduate student population of 2900, a graduate school population of 700, and a full-time faculty of 374. Brandeis University is dedicated to both the dissemination of knowledge to its student body and the creation of new knowledge through its research laboratories.

The stated goals, or mission, of The National Center For Complex Systems are the following:

1. To advance our knowledge of cognitive processes, perception, and neuroscience in order to understand the functioning of the human mind and brain.

2. To transfer advances in the cognitive and neurosciences to improve the design of computer hardware and software in order to develop faster and more sophisticated computational systems.

3. To accelerate progress in the development of medicine and various technologies using advanced computational systems.

4. To develop powerful and novel computational methods that can be used to study a variety of complex systems, ranging from the functioning of the brain to novel emerging technologies.

5. To train a new generation of scientific researchers to lead advances in multi-disciplinary sciences of the future.

A key goal of the National Center is to establish the flow of ideas and results among the various National Center disciplines. To date, neuroscience and cognitive science have not benefited very much from the existence of computers, unlike fields such as physics, where computational modeling occupies a prominent role. A major reason for this difference is that the brain and mind are a great deal more complex. The nervous system is highly non-uniform, and individual neurons and neural assemblies are very different and specialized. Until the advent of high-powered, especially massive parallel supercomputers, it has not been feasible to model such complex systems. However, it is now clear that computers capable of modeling non-trival portions of the brain in detail are now available, and will become both more affordable and much more powerful over the next decade. The National Center hopes to be in the forefront in applying such supercomputers to the modeling of the brain (and other complex systems). In turn, it is believed that our studies in neuroscience, and cognitive and experimental psychology will provide useful knowledge that can be used by computer system designers in building much more intelligent, and possibly more brain-like, machines for the future.

One of the most striking areas where the work of the National Center is making an impact is the understanding of the fundamental mechanism of the chemistry of the brain. The National Center will have a significant role in the understanding of how various drugs work in the brain. Take for example the concept of addiction to drugs. The chemical balance in the brain is a delicate one between neural transmitters and neural receptors. (These are chemicals that control most activities.) When drugs are introduced into the system, the equilibrium chemical balance is destroyed and, in many cases, this change is irreversible, for example, with cocaine addiction. The brain does not work as it should, even though the chemical is no longer in the system. A group of neuroscientists, physicists, chemists, and computer scientists are exploring the transmitter/receptor equilibrium trying to understand what triggers a response. They are even building, out of transistors and resistors, neural networks that model actual living nerve systems. The National Center's first publication, "The Effect of Electrical Coupling on the Frequency of a Neural Oscillator" by T.B. Kepler, E. Marder and L.F. Abbott has been accepted by Science.

A second example involves the understanding of how to cure, repair or learn to reverse the handicaps caused by diseases of the brain or nervous system. Researchers in the National Center are conducting Alzheimer's research where the gene for the production of B-Amyloid (the protein that is believed to cause the disease) has been isolated in a model system. Another example in this area is when people suffer nervous system damage; most of the time it cannot be reversed. Members of the National Center are working on the regeneration of synapses and the growth of new nerve tissues. The cooperation of researchers of different fields including computer scientists and neuroscientists may make it possible someday to insert a neural circuit (a computer chip) that will form the bridge to allow an individual who suffers irreversible spinal cord injury and loss of the use of limbs to regain movement and control again.

A third example of where the National Center's research will affect important national issues is to understand how people learn. Researchers want to understand the fundamental mechanisms of learning. Learning means retaining information and, therefore, understanding memory. Members of the National Center are already working on the identification of molecules that impart memory and can be isolated. Biologists and cognitive scientists are also working together to understand the fundamental processes of changes through development. Working with the Boston VA Hospital, researchers are trying to understand aphasia, the inability to use and understand words. Researchers in Cognitive Science, Computer Science and Neuroscience are working together to understand how language is input, stored and outputted from the brain.

Brandeis University has a group of some of the most outstanding neural scientists including two Hughes investigators, a Markey scholar, three Jacob Javits and two NIH Merit Award winners. Acknowledgment of the quality of the research is borne out by the operational funding the National Center for Complex Systems has achieved during the last fiscal year. A total of $8,610,881 has been received in support for research associated with the National Center for Complex Systems for fiscal year 1989. In addition, we have just received approval of a single grant of $925,266 from the NIMH to support the interdisciplinary research of three individuals on "The Theory and Modelling of Oscillatory Neural Networks".

In the future, members of the National Center for Complex Systems will work to understand how memory functions and affects learning, development, aging and treatment of "diseases" of the mind. They will take our understanding of the brain and transfer it to the artificial world of computers and develop highly intelligent systems that can be used to open up and simplify our complex world. They will gain understanding in various social problems like drug addiction, environmental changes, how people age and how people learn.

In order to make this interdisciplinary National Science Center a reality, a major new facility is needed. Currently, there is no available space for the National Center on the Brandeis University campus. Including the research faculty of these programs in a single new facility will enhance interactions among groups that view similar problems from different fundamental disciplines, thus making the research more effective and productive.

Mr. Chairman and members of the Subcommittee, we respectfully request your support for these novel research efforts by providing funding in the amount of $15,000,000 over two years for the construction of the National Center for Complex Systems on the Brandeis University campus.

Finally, we thank you for your consideration of our proposal.

Mr. BARTLETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, in watching the debate, like everyone else during the course of the debate, I want to remind Members as we proceed to debate on the amendment of the gentleman from Illinois [Mr. FAWELL], there are some facts we need to remember. First we need to remember that the General Services Administration budget in the appropriations, the proposal is to increase the appropriations from last year, fiscal year 1990 level of $288 million to this year's proposal of $1,592,000,000.

□ 1330

I am not on the committee. I am just reading from ledger digest that indicates that is a 450-percent increase. I am concerned there may be more new answers.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I will be happy to yield to the gentleman from Massachusetts if there is a fact not apparent.

Mr. CONTE. Mr. Chairman, that is a Presidential request. It was in the past that we leased Federal buildings. We build the Federal buildings, a private person will build the buildings, and we would lease them back, and the only thing that showed up in the appropriation process were the yearly leases.

Now the President has asked, "Listen, you are going to build a building, pay for it up front."

Mr. BARTLETT. Mr. Chairman, I appreciate the gentleman's clarification. Some of that increase, though, as I understand it, is in this $37 million of specific grants that are contained, that the gentleman from Illinois [Mr. FAWELL] would seek to strike. These grants are neither good nor bad in and of themselves. I am certain some are quite beneficial, and some may not be.

What do they have in common? First, they are buildings that are new construction. The money will not be going to services or to research or to development or to programs or to any

other level of individuals who are being assisted. Second, these buildings will not be owned by the Federal Government. The Federal taxpayers will be paying for these buildings out of the Gramm-Rudman budget, and we will be facing Gramm-Rudman when the budget deficit finally reports, but we know the money will come out of all the programs because of Gramm-Rudman. The buildings will be owned by somebody else, not by GSA, not by the Federal Government, but by another entity. In one case, it is the East Los Angeles California State University. In another case, it is the Japanese-American National Museum. In another case it is Loyola University. All together, no doubt, good universities or entities or programs, but the fact is, they have not been requested by the executive branch. They have not had hearings by the legislative branch. They have not been authorized by authorizing legislation, and they will not be owned by the Federal taxpayer. They will simply be put into an appropriations bill by name, not competed, not for a general public policy purpose, not to assist women, infants and children in their food supplements, not to assist the food stamp shortfalls, not to research, but simply to provide an unauthorized, uncompeted grant, to build a building for somebody else.

In this summer of the deficit summit, we ought to look at the grants and Federal proposals with some sense of prioritizing, and I would suggest that while these no doubt are important to these particular entities, we ought to place them into the lesser priorities category for the Federal Government and say that we will not fund this $37 million that will come out of Gramm-Rudman, and thus be taken out of women, infants, and children and education of the handicapped and vocational rehabilitation, but instead we will require that new construction grants be authorized, be competed, and go through the orderly course of the process in order to determine which grants ought to be funded and which are lower priority.

I support the gentleman's amendment, and I think it does a great deal of service to this process, and I urge a yes vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FAWELL].

The amendment was rejected.

Are there additional amendments to title IV?

If not, the Clerk will read.

The Clerk read as follows:

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations without the advance approval of the House and Senate Committees on Appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided*, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds, is necessary to comply with a final order of the Federal court system.

SEC. 509. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 510. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 511. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 512. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, Marana, Arizona, and Artesia, New Mexico, out of the Treasury Department.

SEC. 513. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 514. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communi-

cation or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 515. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 516. The provision of section 515 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 517. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 518. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to thirty years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 519. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1990.

SEC. 520. (a) Notwithstanding any other provision of law, during fiscal year 1991, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, United States Code, be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, United States Code, be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstances are significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1991 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, United States Code—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1991, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 521. None of the funds available in this Act may be used to contract out positions or downgrade the position classification of the Bureau of Engraving and Printing Police Force.

SEC. 522. The Office of Personnel Management may, during the fiscal year ending September 30, 1991, accept donations of supplies and equipment for the Federal Executive Institute for the enhancement of the morale and educational experience of attendees at the Institute.

SEC. 523. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 524. No monies appropriated by this Act may be used to implement or enforce section 1151 of the Tax Reform Act of 1986 or the amendments made by such section.

SEC. 525. (1) The Secretary of the Treasury shall issue, no later than one hundred and eighty days after the enactment of this Act, to the House Committee on Appropriations and the Senate Committee on Appropriations a report making recommendations on appropriate measures to reduce the Federal expenditures incurred when former Presidents and spouses of former Presidents travel for the purpose of speaking or making an appearance for a payment of money or any thing of value, in excess of any actual and necessary travel expenses.

(2) The Secretary of the Treasury, in consultation with the advisory committee established by Public Law 90-331, shall consider among other expenses, administrative expenses and expenses associated with Secret Service protection, and shall determine what methods of reimbursement would be feasible to offset expenditures by the Federal Government that are associated with such speeches or appearances by former Presidents or spouses of former Presidents.

SEC. 526. The United States Secret Service may, during the fiscal year ending September 30, 1991, accept donations of money to off-set costs incurred while protecting former Presidents and spouses of former Presidents when the former President or spouse travels for the purpose of making an appearance or speech for a payment of money or any thing of value.

SEC. 527. None of the funds made available by this Act may be used to withdraw the designation of the Virginia Inland Port at Front Royal, Virginia, as a United States Customs Service port of entry.

SEC. 528. None of the funds appropriated by this Act or by any other Act shall be used to impose or assess any tax due under subchapter D of Chapter 32 of the Internal Revenue Code of 1986, section 4181, in all cases where less than fifty items are manufactured, produced or imported per annum.

SEC. 529. None of the funds made available to the Postal Service by this Act shall be used to transfer mail processing capabilities from the Las Cruces, New Mexico postal facility, and that every effort will be made by the Postal Service to recognize the rapid rate of population growth in Las Cruces and to automate the Las Cruces, New Mexico postal facility in order that mail processing can be expedited and handled in Las Cruces.

ADDITIONAL AUTHORITY FOR THE SECRET SERVICE

SEC. 530. (a). IN GENERAL.—Section 3056(b)(1) of title 18, United States Code, is amended—

(1) by inserting "financial institutions, and the Resolution Trust Corporation, and concurrent with the authority of any other Federal law enforcement agency," after "land bank associations,";

(2) by inserting "215," after "213,";

(3) by inserting "656," after "493,";

(4) by inserting "1005," after "709,"; and

(5) by inserting "1341, 1343, 1344, 1510," after "1014,".

(b) EFFECT OF AMENDMENTS.—The amendments made by this section shall not alter the authority of any other Federal law enforcement agency.

Mr. ROYBAL (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any points of order on title V?

If not, are there amendments to title V?

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: Page 67, insert after line 10 the following new section:

SEC. 531. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 6.9 percent, except that this reduction shall not apply to amounts appropriated or otherwise made available under Title I for items under the heading "INTERNAL REVENUE SERVICE."

Mr. FRENZEL. Mr. Chairman, my amendment proposes an across-the-board reduction of 6.9 percent for all discretionary spending in this bill with the exception of funding for the Internal Revenue Service. For those who have not looked over the bill, that is a powerful exception, because the Internal Revenue Service funding comprises most of the funding within this bill.

The purpose of the amendment is to reduce to last year's appropriate levels, but to protect the IRS spending, and to acknowledge the bookkeeping changes in the building program. I have not reversed the scorekeeping adjustment on building. Had I done so, the percentage reduction would have been about a third instead of about 7 percent.

Mr. Chairman, the reason for the exemption of the Internal Revenue Service was wholly budgetary because if we reduce funding for the Service, it is quite likely that the Service will be less able to collect moneys due to the United States and, therefore, I thought it was not wise budget policy to make a reduction in that account. There will be reductions in other accounts that would come from the amendment if it were to be adopted that might cause some small reductions, but the IRS factor was too much to be ignored.

I believe that we should not be providing increases in discretionary spending at the same time we are facing a large deficit. I have, each time an appropriations bill has come to the floor, offered an amendment to try to reduce it back to last year's spending levels. When, by rule, we deemed the budget resolution to have passed both Houses of the Congress, and thus allowed our Committee on Appropriations to go forward with these appropriations, I have objected vigorously. I do not believe that while the United States is meeting and attempting to make very large deficit reductions that we should be out here enjoying ourselves and indulging ourselves with appropriations bills that go way beyond any kind of reasonable limit, particularly any that go beyond last year's limit. I believe that each one of these appropriations bills that has passed, including this one which will be passed, is ultimately going to be scaled down monumentally. I think all the Members need to be prepared for that.

That is it. I am not expecting a lot of people will vote for my amendment. I shall, nevertheless, attempt to give them that opportunity. I believe the amendment represents some kind of fiscal responsibility, and I guess that is one of the reasons I do not expect this body to pass it. Nevertheless, I urge such colleagues, as are affected by occasional urges to be fiscally responsible, to vote aye.

Mr. ROYBAL. Mr. Chairman, I rise in opposition to the amendment. This amendment would have a devastating effect on the departments of the Government of the United States.

I notice that the gentleman has excluded the Internal Revenue Service, but the cuts that he is contemplating will be made on very important agencies of the Government, most of which are law enforcement. I think we need more law enforcement now, not less. In fact, this amendment would cut back the appropriation by more than $400 million. It would also make necessary the separation of approximately 800 people, all working in different agencies of the Federal Government, particularly those that work in law enforcement.

I would like to cull from a statement of administration policy dated July 11, 1990. This first page says "The administration supports the overall funding level as reported by the committee."

□ 1340

I take from that particular statement that the administration opposes any cutback in the amounts that this committee has recommended, because this committee has recommended only those amounts recommended by the administration. More than 90 percent of the recommendations that were made are recommendations in which we reflect the true amount recommended by the administration. So the administration thus in fact supports the funding level as reported by the committee.

Mr. Chairman, I urge the defeat of this amendment.

Mr. SKEEN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, with all the respect in the world for the objectives and the intent of the gentleman from Minnesota [Mr. FRENZEL], I have to say that if we want to hamstring the war on drugs or if we want to hamstring the investigation of the savings and loans, this is a good way to do it. The reason I really object to across-the-board cuts is that though they are well intentioned, they are poorly defined and poorly directed, because in a bill such as this one, with so many small agencies, we are dealing with cuts that are devastating.

I heard several statements, not only by the gentleman from Minnesota but by others, that this or that was done with little or no justification. If those folks want to know about the justifications, if they will meet with me on a regular basis, I will be very happy to go over the justifications with them.

Mr. Chairman, I oppose the amendment, and I urge its defeat.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

First, Mr. Chairman, I would like the record to show that I wish to be identified with all the comments of the gentleman from Minnesota [Mr. FRENZEL]. I hope that my colleagues heard all those comments. The gentleman from Minnesota is a very sagacious Member of this Congress, and we should listen to him more often.

Mr. CONTE. Mr. Chairman, I rise in opposition to this amendment, and I ask my colleagues to take a close look at the reason for the increased spending recommended by the committee before you vote on this amendment.

My reasons for opposing this amendment apply to any across-the-board amendments proposed for this bill, and I oppose the meat ax cut for basically two reasons.

First, most of the increase recommended by the Appropriations Committee was requested by the President, and for good reasons.

The President requested a $634 million increase for the IRS, and we gave it to him.

The President requested $43 million for programs operated by the drug czar, and we gave it to him.

The President requested $1.3 billlon for the GSA to operate the Federal buildings, including new construction, and we gave it to him.

The President requested $475 million in mandatory payments for the civil service retirement fund, and we gave it to him.

And the President requested $54 million for the Customs Service and $31 million for the Secret Service, and we gave it to him.

These requested increases—which account for the bulk of the amount over the fiscal year 1990 level—were recognized by the President as essential to the efficient operation of the Government, and any reductions in the amounts recommended will have adverse impact on law enforcement and revenue collection.

And that's the basis for my second objection to this amendment. Proponents of across-the-board cuts tend to focus on the amount saved or the relatively small amount cut from each program. But in the end, like the meat ax of Gramm-Rudman, each of these cuts has a real impact, with measurable consequences.

The cut proposed for the Customs Service will result in a significant decrease in drug enforcement programs. One hundred and seventy-five border inspectors will not be hired, canine facilities and teams will not be assembled, and drug money laundering investigations will be curtailed.

For the Secret Service, the cut means that the 78 additional agents budgeted to conduct computer fraud investigations will not be hired.

For the BATF, the cut means a slowdown in the war on drugs, by reducing funds for the Armed Career Criminal Program.

These cuts are real, even though the percentage cut seems small on the surface.

Mr. Chairman, I urge my colleagues to reject this amendment, and support the increases recommended in this bill and requested by the President.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 130, noes 254, not voting 48, as follows:

[Roll No. 231]

AYES—130

Archer	Hefley	Ray
Armey	Henry	Rhodes
Ballenger	Herger	Ridge
Barnard	Hiler	Ritter
Bartlett	Holloway	Roberts
Barton	Hopkins	Rohrabacher
Bates	Huckaby	Roth
Bennett	Hunter	Schaefer
Bentley	Hutto	Schroeder
Bliley	Inhofe	Schulze
Broomfield	Ireland	Sensenbrenner
Brown (CO)	Jacobs	Sharp
Buechner	Johnson (CT)	Shaw
Bunning	Kasich	Shays
Burton	Kolter	Shumway
Callahan	Kyl	Shuster
Campbell (CA)	Lagomarsino	Slattery
Coble	Lewis (FL)	Slaughter (VA)
Combest	Lightfoot	Smith (VT)
Cooper	Long	Smith, Robert (OR)
Cox	Lukens, Donald	Snowe
Craig	Madigan	Spence
Crane	McCandless	Stangeland
Dannemeyer	McCollum	Stearns
DeLay	McCrery	Stenholm
DeWine	McEwen	Stump
Dornan (CA)	McMillan (NC)	Sundquist
Douglas	Michel	Tallon
Dreier	Miller (OH)	Tanner
Edwards (OK)	Miller (WA)	Taylor
Fawell	Moorhead	Thomas (CA)
Fields	Morrison (WA)	Thomas (WY)
Frenzel	Murphy	Upton
Gallegly	Neal (NC)	Vander Jagt
Gaydos	Nielson	Visclosky
Gekas	Owens (UT)	Vucanovich
Gingrich	Oxley	Walker
Goodling	Packard	Whittaker
Goss	Parker	Wylie
Gradison	Patterson	Yatron
Hamilton	Penny	Young (AK)
Hammerschmidt	Petri	Young (FL)
Hancock	Porter	
Hansen	Ravenel	

NOES—254

Ackerman	Clay	Erdreich
Alexander	Coleman (MO)	Espy
Anderson	Coleman (TX)	Evans
Andrews	Collins	Fazio
Annunzio	Condit	Feighan
Anthony	Conte	Fish
Applegate	Conyers	Foglietta
Aspin	Costello	Frank
Atkins	Coughlin	Gallo
Bateman	Courter	Gejdenson
Beilenson	Darden	Gephardt
Berman	Davis	Geren
Bevill	de la Garza	Gibbons
Bilbray	DeFazio	Gillmor
Bilirakis	Dellums	Gilman
Boehlert	Derrick	Gonzalez
Boggs	Dickinson	Gordon
Bonior	Dicks	Grandy
Borski	Dingell	Grant
Bosco	Dixon	Gray
Brennan	Donnelly	Green
Brooks	Dorgan (ND)	Guarini
Browder	Downey	Gunderson
Bruce	Duncan	Hall (OH)
Bryant	Durbin	Harris
Bustamante	Dwyer	Hawkins
Byron	Dymally	Hayes (IL)
Campbell (CO)	Dyson	Hefner
Cardin	Eckart	Hertel
Carper	Edwards (CA)	Hoagland
Carr	Emerson	Hochbrueckner
Chapman	Engel	Horton
Clarke	English	Hoyer
Hubbard	Mollohan	Schiff
Hughes	Montgomery	Schneider
Hyde	Moody	Schuette
James	Mrazek	Schumer
Johnson (SD)	Myers	Serrano
Jones (GA)	Nagle	Sikorski
Jones (NC)	Natcher	Sisisky
Jontz	Neal (MA)	Skaggs
Kanjorski	Nowak	Skeen
Kaptur	Oakar	Skelton
Kastenmeier	Oberstar	Slaughter (NY)
Kennelly	Obey	Smith (FL)
Kildee	Olin	Smith (IA)
Kleczka	Ortiz	Smith (NE)
Kolbe	Owens (NY)	Smith (NJ)
LaFalce	Pallone	Solarz
Lancaster	Panetta	Solomon
Lantos	Parris	Spratt
Laughlin	Pashayan	Staggers
Leach (IA)	Payne (NJ)	Stallings
Leath (TX)	Payne (VA)	Stokes
Lehman (CA)	Pease	Studds
Lehman (FL)	Pelosi	Swift
Lent	Perkins	Synar
Levin (MI)	Pickett	Tauke
Levine (CA)	Pickle	Tauzin
Lewis (CA)	Poshard	Thomas (GA)
Lewis (GA)	Price	Torres
Lipinski	Pursell	Towns
Livingston	Quillen	Traficant
Lloyd	Rahall	Traxler
Lowery (CA)	Rangel	Udall
Lowey (NY)	Richardson	Unsoeld
Luken, Thomas	Rinaldo	Valentine
Machtley	Roe	Vento
Manton	Rogers	Volkmer
Marlenee	Ros-Lehtinen	Walgren
Martin (IL)	Rose	Walsh
Mavroules	Rostenkowski	Waxman
Mazzoli	Roukema	Weber
McCloskey	Rowland (CT)	Weiss
McCurdy	Rowland (GA)	Weldon
McDermott	Roybal	Wheat
McGrath	Russo	Whitten
McHugh	Sabo	Williams
McMillen (MD)	Saiki	Wilson
McNulty	Sangmeister	Wise
Meyers	Sarpalius	Wolf
Mfume	Savage	Wolpe
Miller (CA)	Sawyer	Wyden
Moakley	Saxton	Yates
Molinari	Scheuer	

NOT VOTING—48

AuCoin	Frost	Morella
Baker	Glickman	Morrison (CT)
Bereuter	Hall (TX)	Murtha
Boucher	Hastert	Nelson
Boxer	Hatcher	Paxon
Brown (CA)	Hayes (LA)	Regula
Chandler	Houghton	Robinson
Clement	Jenkins	Smith (TX)
Clinger	Johnston	Smith, Denny (OR)
Coyne	Kennedy	Smith, Robert (NH)
Crockett	Kostmayer	Stark
Early	Markey	Torricelli
Fascell	Martin (NY)	Washington
Flake	Martinez	Watkins
Flippo	Matsui	
Ford (MI)	McDade	
Ford (TN)	Mineta	

□ 1402

The Clerk announced the following pair:

On this vote;

Mr. Houghton for, with Mr. Mineta against.

Mr. MOODY changed his vote from "aye" to "no."

Mr. SPENCE and Mrs. PATTERSON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

POINTS OF ORDER

Mr. ROSTENKOWSKI. Mr. Chairman, I make a point of order against section 524 of the bill.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROSTENKOWSKI. Mr. Chairman, I make a point of order against section 524 on the ground that it is a tax measure which is in violation of paragraph B, clause 5 of House rule 21.

Mr. Chairman, I am told that section 524 of the bill is identical to language included in last year's Treasury appropriation and was inadvertently included in this year's bill. The intent of the provision last year was to prevent the implementation of code section 89 dealing with the nondiscriminatory coverage requirements of employer-provided health insurance plans. As we all know, section 89 has since been repealed.

However, section 524 constitutes a tax measure within the meaning of House rule 21 because section 1151 of the Tax Reform Act of 1986 contained provisions other than section 89.

Specifically section 1151 of the Tax Reform Act of 1986 contains two tax provisions which were not affected by the 1989 repeal of section 89 of the Internal Revenue Code. First, section 1151(f) strengthens the conditions any employer must meet to obtain tax-exempt status for employer-provided dependent care assistance. Second, section 1151 also imposes certain record-keeping requirements necessary as a condition of obtaining tax qualification for qualified employee benefit plans.

Mr. Chairman, section 524 clearly constitutes a tax measure within the meaning of House rule 21.

I urge the Chair to sustain this point of order.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, the gentleman is correct, and the Committee recedes the point of order.

The CHAIRMAN (Mr. STUDDS). The point of order is conceded, and the Chair sustains the point of order.

Mr. ROSTENKOWSKI. Mr. Chairman, I make a point or order against section 528 of the bill.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROSTENKOWSKI. Mr. Chairman, I make a point of order against section 528 on the ground that it is a tax measure which is in violation of paragraph B, clause 5 of House rule 21.

Mr. Chairman, Section 528 attempts to exempt small manufacturers and importers from the excise tax imposed under section 4181 of the Internal Revenue Code on certain firearms and ammunitions by providing that "no funds appropriated by this act or any other act shall be used to impose or assess any tax" under code section 4181.

Mr. Chairman, under the numerous precedents of the House concerning rule 21(5)(b), this prohibition is clearly a tax measure within the jurisdiction of rule 21. In fact, Mr. Chairman, I would point out that on September 12, 1984, that the Chair ruled that a virtually identical provision which had been proposed as an amendment by the Senate was, in fact, a revenue measure within the meaning of rule 21.

I urge the Chair to sustain this point of order.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, the committee concedes the point of order.

The CHAIRMAN (Mr. STUDDS). The point of order is conceded, and the Chair sustains the point of order.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

PERSONAL EXPLANATION

Mr. KOSTMAYER. Mr. Speaker, due to obligations that required me to be in my congressional district. I was unable to cast my votes on rollcalls 229-231. Had I been present, I would have voted "aye" on rollcall 229, the Skeen amendment, "aye" on rollcall 230, the Jacobs amendment as amended, and "no" on rollcall 231, the Frenzel amendment.

SUNDRY MESSAGES FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. HOYER) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Kalbaugh, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1991

The Committee resumed its sitting.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 67, insert after line 10 the following new section:

SEC. 531. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 2 percent, except that such reduction shall not apply to amounts appropriated or otherwise made available under title I for items under the heading "INTERNAL REVENUE SERVICE".

Mr. PENNY. Mr. Chairman, this should be the last amendment of the afternoon.

The amendment proposes a 2-percent cut across the board in the Treasury and Postal Service appropriations bill, with the exception of the Internal Revenue Service.

I offer this amendment in conjunction with my colleague, the gentleman from Texas [Mr. ARMEY].

As most Members should know, this bill calls for over $20 billion in spending. That is 12 percent higher than last year for these same programs. A 2-percent, across-the-board cut, with the exception of the IRS, would still leave most programs within this bill with sizable spending increases.

In particular, I want to make reference to the White House spending increases. The Office of Administration within the White House, a 34-percent increase.

The Executive residence at the White House, a 25-percent increase.

The Office of Management and Budget, an 11.3-percent increase.

Mr. Chairman, it seems to me that a President who up until 2 weeks ago said no new taxes should also have been submitting budget requests that involve no new White House spending. Though the President has now indicated there may be the need for some tax revenue increases to bring the budget deficit down, I do not think it is justifiable to propose those tax revenue increases only to spend them on White House spending increases.

Mr. Chairman, again this 2-percent reduction is a modest step toward deficit control, and I would urge favorable consideration by the House.

Mr. ROYBAL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment, of course, is not as destructive as the one that was just overwhelmingly defeated by the House.

□ 1410

This amendment does, in fact, cut $160 million, and it affects 425 people that would have to be separated from the Government primarily from law enforcement agencies.

I would like to just break down very quickly where this money would be reduced. In the U.S. Customs, for example, they would receive $23 million less under this amendment. It will affect 340 positions, and it would make it necessary for them to lay off or separate immediately 100 positions. This could well be men and women who are involved in the interdiction of narcotics, and it could very well mean that because we want to save $23 million, it could very well cost us $23 million down the line as we try to take care of those individuals who are affected by the narcotics that could be illegally smuggled in to this country if the reduction takes place.

The other is $5.9 million in Alcohol, Tobacco, and Firearms, that affects 50 positions. The Secret Service would be reduced by $8 million, and as we go down the line, each one of these agencies would receive less money, all affecting their operations and their effectiveness.

I still insist that the administration's recommendation to this body was correct when they said that the administration supports the overall funding level as reported by the committee. The committee surely is not in favor of a 2-percent decrease. I was a vote against this amendment.

Mr. SKEEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

I do not have any intention of speaking at length on this. I just want to point out that if we want to talk about the increases, the increases that are in this particular budget, take a look at what it does in the drug program; $43 million for the drug czar for one, and then there is no wonder that there is a 25-percent increase in the President's request.

Mr. BROWN of Colorado. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Minnesota.

Mr. Chairman, as I understand the figures, this measure, as it stands now, is $2.3 billion over in budget authority from last year. It is $2 billion over last year in outlays. It is $7 billion over in budget authority requests for this year from the President's request.

Mr. Chairman, the fact is every Member of this body is going to be asked to increase taxes on the working men and women of this country. They are going to be asked to increase the tax on cigarettes. They are going to be asked to increase the tax on beer, on wine, on hard liquor. They are going to be asked to increase the income taxes on hard-working men and women. They are go to be asked to increase the tax on gasoline, perhaps on oil. They are going to be asked to increase the tax on insurance. They are going to be asked to increase the tax on a dozen other commodities that we are looking at.

How does anyone go home and face their neighbors and say that we could not stand a 2-percent cut on a bill that is over budget and well over last year?

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Colorado. Mr. Chairman, I yield to the gentleman from Maryland.

Mr. Chairman, I think the statement to be true. It is over on budget authority from what the President requested,

and it is slightly under on outlays. I would appreciate it if the gentleman would correct me, if he thinks that is incorrect.

Mr. HOYER. Mr. Chairman, if the gentleman is talking about 302(b), we are $73.5 million under 302(b).

Mr. BROWN of Colorado. I am sorry, I was referring to the President's request.

Mr. HOYER. If the gentleman will yield further, I want to also tell the gentleman we are $8.5 million under on our outlay ceiling, and it is consistent, as the gentleman has just heard, with the President's level. On the authority number, I will have to get to the gentleman on that.

Mr. BROWN of Colorado. I thank the gentleman for that information. I think it is a valuable consideration.

Let me point out to the Members that if we take the budget as it has passed the House of Representatives, it involved over $19 billion of tax increases in 1 year, so if we are comfortable going to our citizens and talking about supporting those tax increases, this is the vote that counts.

This is a vote to increase taxes, because it is a vote, if you vote against this, it is a vote to increase taxes, because this is very clearly where the rubber meets the road. If you want irresponsibile spending, vote no. If you want to increase taxes, vote no. But if you want to ease the burden on the working men and women of this country, this is a chance to make a small step for fiscal responsibility.

Mr. THOMAS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, and colleagues, this is not 10 percent. This is not 6.9 percent. This is not 5 percent. It is 2 percent. Two percent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PENNY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 201, not voting 53, as follows:

[Roll No. 232]

AYES—178

Applegate	Brown (CO)	Craig
Archer	Buechner	Crane
Armey	Bunning	Dannemeyer
Ballenger	Burton	Darden
Barnard	Callahan	Derrick
Bartlett	Campbell (CA)	DeWine
Barton	Campbell (CO)	Dorgan (ND)
Bateman	Coble	Dornan (CA)
Bates	Coleman (MO)	Dreier
Bennett	Combest	Duncan
Bereuter	Condit	Edwards (OK)
Bilirakis	Cooper	Emerson
Bliley	Coughlin	Erdreich
Broomfield	Courter	Fawell
Browder	Cox	Fields
Fish	Leach (IA)	Saxton
Frenzel	Lent	Schaefer
Gallegly	Lewis (FL)	Schneider
Gallo	Lightfoot	Schroeder
Gaydos	Long	Schulze
Gekas	Lukens, Donald	Sensenbrenner
Geren	Marlenee	Sharp
Gillmor	Martin (IL)	Shaw
Gingrich	McCandless	Shays
Goodling	McCollum	Shumway
Goss	McCrery	Shuster
Gradison	McEwen	Sisisky
Grandy	McGrath	Skelton
Grant	McMillan (NC)	Slattery
Gunderson	Michel	Slaughter (VA)
Hall (OH)	Miller (OH)	Smith (NE)
Hamilton	Miller (WA)	Smith (VT)
Hammerschmidt	Molinari	Smith, Robert (OR)
Hancock	Montgomery	Snowe
Hansen	Moorhead	Spence
Harris	Morrison (WA)	Stangeland
Hefley	Murphy	Stearns
Henry	Neal (NC)	Stenholm
Herger	Nielson	Stump
Hiler	Olin	Sundquist
Holloway	Packard	Tallon
Hopkins	Pallone	Tanner
Hubbard	Parker	Tauke
Huckaby	Patterson	Thomas (CA)
Hunter	Payne (VA)	Thomas (WY)
Hutto	Penny	Upton
Inhofe	Petri	Vander Jagt
Ireland	Pickett	Vucanovich
Jacobs	Porter	Walgren
James	Quillen	Walker
Johnson (CT)	Ravenel	Walsh
Jones (GA)	Ray	Weber
Jontz	Rhodes	Weldon
Kasich	Ridge	Whittaker
Kennelly	Ritter	Williams
Kolbe	Roberts	Wylie
Kyl	Rohrabacher	Yatron
Lagomarsino	Roth	Young (FL)
Lancaster	Roukema	
Lantos	Russo	

NOES—201

Ackerman	Dymally	Lowery (CA)
Alexander	Dyson	Lowey (NY)
Anderson	Eckart	Luken, Thomas
Andrews	Edwards (CA)	Machtley
Annunzio	Engel	Madigan
Anthony	English	Manton
Aspin	Espy	Mavroules
Atkins	Evans	Mazzoli
AuCoin	Fazio	McCloskey
Beilenson	Feighan	McCurdy
Bentley	Foglietta	McDermott
Berman	Frank	McHugh
Bevill	Gejdenson	McMillen (MD)
Bilbray	Gephardt	McNulty
Boehlert	Gibbons	Meyers
Boggs	Gilman	Mfume
Bonior	Gonzalez	Miller (CA)
Borski	Gordon	Moakley
Bosco	Gray	Mollohan
Brennan	Green	Moody
Brooks	Guarini	Mrazek
Bruce	Hayes (IL)	Myers
Bryant	Hefner	Nagle
Byron	Hertel	Natcher
Cardin	Hoagland	Neal (MA)
Carper	Hochbrueckner	Nowak
Carr	Horton	Oakar
Chapman	Hoyer	Oberstar
Clarke	Hughes	Obey
Clay	Johnson (SD)	Ortiz
Coleman (TX)	Jones (NC)	Owens (NY)
Collins	Kanjorski	Owens (UT)
Conte	Kaptur	Panetta
Conyers	Kastenmeier	Parris
Costello	Kildee	Pashayan
Davis	Kleczka	Payne (NJ)
de la Garza	Kolter	Pease
DeFazio	LaFalce	Pelosi
DeLay	Laughlin	Perkins
Dellums	Leath (TX)	Pickle
Dickinson	Lehman (CA)	Poshard
Dicks	Lehman (FL)	Price
Dingell	Levin (MI)	Pursell
Dixon	Levine (CA)	Rahall
Donnelly	Lewis (GA)	Rangel
Downey	Lipinski	Richardson
Durbin	Livingston	Rinaldo
Dwyer	Lloyd	Roe
Rogers	Skeen	Traficant
Ros-Lehtinen	Slaughter (NY)	Traxler
Rose	Smith (FL)	Udall
Rostenkowski	Smith (IA)	Unsoeld
Rowland (GA)	Smith (NJ)	Valentine
Roybal	Solarz	Vento
Sabo	Solomon	Visclosky
Saiki	Spratt	Volkmer
Sangmeister	Staggers	Waxman
Sarpalius	Stallings	Weiss
Savage	Stokes	Wheat
Sawyer	Studds	Whitten
Scheuer	Swift	Wilson
Schiff	Synar	Wise
Schuette	Tauzin	Wolf
Schumer	Taylor	Wolpe
Serrano	Thomas (GA)	Wyden
Sikorski	Torres	Yates
Skaggs	Towns	Young (AK)

NOT VOTING—53

Baker	Hall (TX)	Morrison (CT)
Boucher	Hastert	Murtha
Boxer	Hatcher	Nelson
Brown (CA)	Hawkins	Oxley
Bustamante	Hayes (LA)	Paxon
Chandler	Houghton	Regula
Clement	Hyde	Robinson
Clinger	Jenkins	Rowland (CT)
Coyne	Johnston	Smith (TX)
Crockett	Kennedy	Smith, Denny (OR)
Douglas	Kostmayer	Smith, Robert (NH)
Early	Lewis (CA)	Stark
Fascell	Markey	Torricelli
Flake	Martin (NY)	Washington
Flippo	Martinez	Watkins
Ford (MI)	Matsui	
Ford (TN)	McDade	
Frost	Mineta	
Glickman	Morella	

□ 1432

The Clerk announced the following pairs:

On the vote:

Mr. Douglas for, with Mr. Ford of Michigan against.

Mr. Houghton for, with Mr. Kostmayer against.

Mr. Oxley for, with Mr. Lewis of California against.

Mr. STAGGERS, Mrs. BENTLEY, and Mr. DAVIS changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title V?

If not, the Clerk will read.

The Clerk read as follows:

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SECTION 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $7,100 except station wagons for which the maximum shall be $8,100: *Provided,* That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section may be exceeded by not more than five percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available

for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-24.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to the "Postal Service Fund" (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 610. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 611. No part of any appropriation contained in, or funds made available by, this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

SEC. 612. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1991, or September 30, 1992, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 612 of the Treasury, Postal Service, and General Government Appropriations Act, 1990, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 612; and

(2) during the period consisting of the remainder, if any, of fiscal year 1991, and that portion of fiscal year 1992, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1992, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1991.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1990, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1990, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1990.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 613. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or ap-

praisement functions of any offices in the United States Customs Service.

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 615. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 616. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 617. No funds appropriated in this or any other Act for fiscal year 1991 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement—

(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

(2) contains the term classifiable;

(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

(5) imposes any obligations or invokes any remedies inconsistent with statutory law: *Provided*, That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsection (1)-(5) of this section.

SEC. 618. (a) Notwithstanding any other provision of law, in the case of fiscal year 1991, the overall average percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 4.1 percent.

(b) Any increase in a pay rate or schedule which takes effect under such section 5305 in fiscal year 1991 (in accordance with subsection (a)) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1991.

SEC. 619. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

SEC. 620. None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89-306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

SEC. 621. No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1991, or under any other Act appropriating funds for fiscal year 1991, shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 622. (a) No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to—

(1) announce in any solicitation for offers to procure such goods or services (including construction services) the amount of Federal funds that will be used to finance the acquisition for which such offers are being solicited; and

(2) express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

(b) The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

SEC. 623. Notwithstanding section 1346 of title 31, United States Code, or section 608 of this Act, funds made available for fiscal year 1991 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

SEC. 624. Notwithstanding any provisions of this Act or any other Act, during the fiscal year ending September 30, 1991, any department, division, bureau, or office participating in the Federal Flexiplace Project may use funds appropriated in this or any other Act to install telephone lines, necessary equipment, and pay monthly charges, in any private residence or private apartment: *Provided*, That the head of the department, division, bureau, or office certifies that adequate safeguards against private misuse exist, and that the service is necessary for direct support of the agency's mission.

SICK LEAVE AVAILABLE TO FEDERAL EMPLOYEES FOR PURPOSES RELATING TO THE ADOPTION OF A CHILD

SEC. 625. Section 6307 of title 5, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following new subsection:

"(c) Sick leave provided by this section may be used for purposes relating to the adoption of a child."; and

(3) in subsection (d) (as so redesignated by paragraph (1)), by inserting "or for purposes relating to the adoption of a child," after "ailment,".

SEC. 626. Notwithstanding the provisions of the Act of September 13, 1982 (Public Law 97-258, 31 U.S.C. 1345), any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: *Provided*, That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

SEC. 627. (a) Notwithstanding any other provision of law, the Secretary of Educa-

tion, by appropriate release instrument, shall release New College of California, Inc., from the requirement not to mortgage, or encumber the property as specified in condition subsequent No. 2 as set forth at page 3 of that quitclaim Deed dated April 14, 1975, wherein the United States of America conveyed to New College of California, Inc., certain real property identified in that deed instrument. The intent purpose of such release and waiver being to enable New College of California, Inc., to secure needed financing for repairs to the facility, as identified in paragraph (b) necessitated by earthquake activity of October, 1989; such purpose to be included in the instrument releasing the requirement not to mortgage.

(b) The property, sometimes known as 50 Fell Street, is described as: A parcel of land situate in the City and County of San Francisco, State of California, said parcel being described in the Judgment on Declaration of Taking entered 11 March 1946 in Civil Action No. 25791 in the District Court of the United States in and for the Northern District of California, Southern Division, which was filed March 22, 1946, in the Office of the Recorder, City and County of San Francisco, California. Beginning at a point on the northerly line of Fell Street distant therefrom 100 feet easterly from the easterly line of Van Ness Avenue and running thence easterly along said line of Fell Street 109 feet; thence at a right angle northerly 120 feet; thence at a right angle westerly 109 feet; thence at a right angle southerly 120 feet to the Point of Beginning, being a portion of Western Addition, Block No. 69, and known on the assessor's map as Lot 10, Block 814, City and County of San Francisco, California.

Mr. ROYBAL (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any points of order on title VI?

POINT OF ORDER

Mr. ACKERMAN. Mr. Chairman, I have a point of order.

Mr. Chairman, I raise a point of order against the language contained in lines 13 through 25 on page 82 of the bill.

The CHAIRMAN. The gentleman from New York will state his point of order.

Mr. ACKERMAN. Mr. Chairman, I raise a point of order against this language on the ground that such language constitutes legislation in an appropriations bill and, thus, violates clause 2 of rule XXI. The language in question proposes to amend section 6307 of title 5, United States Code, so as to authorize the use of sick leave for purposes not currently authorized.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, we concede the point of order.

The CHAIRMAN (Mr. STUDDS). The point of order is conceded, and the Chair sustains the point of order.

Mr. WOLF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to ask the gentleman from the Committee on Post Office and Civil Service one question.

This language would help Federal employees adopt children who have no mothers or fathers. It is very important that we pass it. Is there any chance that the Committee on Post Office and Civil Service could move the legislation on its own?

Mr. ACKERMAN. If the gentleman will yield, we will be glad to consider this legislation and look forward to working with the gentleman on the issue.

Mr. WOLF. I thank the gentleman and yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to clarify with the chairman of the Subcommittee on Appropriations that the funding restriction in section 508 of this act in no way applies to the rulemaking and other responsibilities of the Bureau of Alcohol, Tobacco and Firearms pursuant to Public Law 100-690, title 8.

Mr. ROYBAL. If the gentleman will yield, that is correct, the restriction does not apply to the responsibilities of the BAFT under Public Law 100-690 title 8.

Mr. CONYERS. I thank the gentleman.

The CHAIRMAN. Are there further amendments to title VI?

If not, the Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1991".

Mr. ROYBAL. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. ECKART] having assumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 5241) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 300, nays 72, not voting 60, as follows:

[Roll No. 233]

YEAS—300

Ackerman	de la Garza	Hoagland
Alexander	DeFazio	Hochbrueckner
Anderson	DeLay	Horton
Andrews	Dellums	Hoyer
Annunzio	Dickinson	Hubbard
Anthony	Dicks	Huckaby
Applegate	Dingell	Hughes
Aspin	Dixon	Hutto
Atkins	Donnelly	Inhofe
AuCoin	Dorgan (ND)	Jacobs
Ballenger	Duncan	James
Barnard	Durbin	Johnson (SD)
Bateman	Dwyer	Jones (GA)
Bates	Dymally	Jones (NC)
Beilenson	Dyson	Jontz
Bennett	Eckart	Kanjorski
Bentley	Edwards (CA)	Kaptur
Berman	Edwards (OK)	Kastenmeier
Bevill	Emerson	Kennelly
Bilbray	Engel	Kildee
Bilirakis	English	Kleczka
Boehlert	Erdreich	Kolbe
Boggs	Espy	Kolter
Bonior	Evans	LaFalce
Borski	Fazio	Lagomarsino
Bosco	Feighan	Lancaster
Brennan	Fish	Lantos
Brooks	Foglietta	Laughlin
Broomfield	Frank	Leach (IA)
Browder	Gallegly	Leath (TX)
Bruce	Gallo	Lehman (CA)
Bryant	Gaydos	Lehman (FL)
Byron	Gejdenson	Lent
Callahan	Gephardt	Levin (MI)
Campbell (CO)	Geren	Levine (CA)
Cardin	Gibbons	Lewis (GA)
Carper	Gillmor	Lipinski
Carr	Gilman	Livingston
Chapman	Gonzalez	Lloyd
Clarke	Goodling	Long
Clay	Gordon	Lowery (CA)
Coble	Grandy	Lowey (NY)
Coleman (MO)	Grant	Luken, Thomas
Coleman (TX)	Gray	Madigan
Collins	Green	Manton
Combest	Guarini	Matsui
Condit	Gunderson	Mavroules
Conte	Hall (OH)	Mazzoli
Conyers	Hamilton	McCandless
Cooper	Harris	McCloskey
Costello	Hawkins	McCollum
Coughlin	Hayes (IL)	McCrery
Courter	Hefner	McCurdy
Darden	Hertel	McDermott
Davis	Hiler	McGrath

McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morrison (WA)
Mrazek
Murphy
Myers
Nagle
Natcher
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parker
Parris
Pashayan
Patterson
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Richardson
Ridge
Rinaldo
Ritter
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Serrano
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (VT)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Taylor
Thomas (GA)
Torres
Towns
Traficant
Udall
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—72

Archer
Armey
Bartlett
Barton
Bereuter
Bliley
Brown (CO)
Bunning
Burton
Campbell (CA)
Craig
Crane
Dannemeyer
DeWine
Dornan (CA)
Dreier
Fawell
Fields
Frenzel
Gekas
Gingrich
Goss
Gradison
Hammerschmidt
Hancock
Hansen
Hefley
Henry
Herger
Holloway
Hopkins
Hunter
Ireland
Johnson (CT)
Kyl
Lewis (FL)
Lightfoot
Lukens, Donald
Marlenee
Martin (IL)
McEwen
McMillan (NC)
Michel
Moorhead
Nielson
Packard
Pallone
Pease
Penny
Petri
Rhodes
Roberts
Rohrabacher
Roth
Roukema
Russo
Sarpalius
Schaefer
Sensenbrenner
Shays
Shumway
Shuster
Slattery
Slaughter (VA)
Stangeland
Stump
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Upton
Walker

NOT VOTING—60

Baker
Boucher
Boxer
Brown (CA)
Buechner
Bustamante
Chandler
Clement
Clinger
Cox
Coyne
Crockett
Derrick
Douglas
Downey
Early
Fascell
Flake
Flippo
Ford (MI)
Ford (TN)
Frost
Glickman
Hall (TX)
Hastert
Hatcher
Hayes (LA)
Houghton
Hyde
Jenkins
Johnston
Kasich
Kennedy
Kostmayer
Lewis (CA)
Machtley
Markey
Martin (NY)
Martinez
McDade
Morella
Morrison (CT)
Murtha
Neal (MA)
Nelson
Oxley
Paxon
Regula
Robinson
Saxton
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Stark
Tauzin
Torricelli
Traxler
Walsh
Washington
Watkins

□ 1455

The Clerk announced the following pair:

On this vote:

Mr. Johnston for, with Mr. Douglas against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5241, the bill just passed.

The SPEAKER pro tempore (Mr. ECKART). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present I would have voted "aye" on rollcall Nos. 229, 230, and 233, and "nay" on rollcall Nos. 231 and 232.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall 229, the Skeen amendment to the Jacobs amendment, rollcall 230, the Jacobs amendment as amended, rollcall 231, the Frenzel amendment, rollcall 232, the Penny amendment, and rollcall 233, final passage of Treasury-Postal Service-General Government Appropriations for fiscal year 1991. Had I been here, I would have cast the following votes: "aye," "aye," "nay," "nay," and "aye."

EXPLANATION OF VOTE

Mr. BEREUTER. Mr. Speaker, I was unable to reach the Chamber in time to cast my vote on rollcall No. 231. Had I been present I would have voted "no."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3498

Mr. BILBRAY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3498.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

REPORT ON H.R. 5268, RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS BILL, 1991

Mr. WHITTEN, from the Committee on Appropriations, submitted a privileged report (Rept. No. 101-598) on the bill (H.R. 5268) making appropriations for rural development, agriculture, and related agencies for fiscal year 1991, which was referred to the Union Calendar and ordered to be printed.

Mrs. SMITH of Nebraska reserved all points of order on the bill.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO HAVE UNTIL MIDNIGHT, MONDAY JULY 16, 1990, TO FILE REPORT ON H.R. 3950, FOOD AND AGRICULTURAL RESOURCES ACT OF 1990

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs have until midnight, Monday, July 16, 1990, to file its report on H.R. 3950, the Food and Agricultural Resources Act of 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2911

Mr. CHAPMAN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2911.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5258, BALANCED BUDGET ACT 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-599) on the resolution (H. Res. 433) providing for the consideration of the bill (H.R. 5258) to require that the President transmit it to Congress, that the congressional Budget Committees report, and that the Congress consider a balanced budget for each fiscal year, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 268, BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-600) on the resolution (H. Res. 434) providing for the consideration of the joint resolution (H.J. Res. 268) proposing an amendment to the Constitution to provide for a balanced budget and for the U.S. Government and for greater accountability in the enactment of tax legislation, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR THE CONSIDERATION OF H.R. 1180, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged

report (Rept. No. 101-601) on the resolution (H. Res. 435) providing for the consideration of the bill (H.R. 1180) to amend and extend certain laws related to housing, community and neighborhood development and preservation, and related programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I would like to inquire of the distinguished majority whip of the program for the balance of this week and next week, and I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GRAY] for that purpose.

Mr. GRAY. Mr. Speaker, I say to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], it is our expectation on Monday, July 16, that the House will meet at noon and we will proceed to go through several suspensions, approximately 11 or 12. However, the votes will be rolled over until Tuesday.

The House will meet at 10 a.m. on Tuesday, and of course any votes that are required on those suspensions will take place then. Of course, at that time, we will fill the balance of our legislative day considering House Joint Resolution 268, the balanced budget constitutional amendment which, of course, is subject to a rule.

□ 1500

On Wednesday it would be the expectation that we would meet at 10 a.m. We would consider the Agriculture appropriations for 1991 and also the Statutory Balanced Budget Act of 1990.

Then on Thursday, July 19, and on Friday, July 20, the House would meet at 10 a.m. for consideration of the Labor, Health, Human Services, and Education appropriation bill for 1991, the Equity and Excellence in Education Act, the omnibus housing authorization bill, and also the amendments to the Airport and Airway Improvement Act of 1982.

So that would be the schedule for the upcoming week.

Mr. MICHEL. And conference reports may be brought at any time.

Mr. GRAY. And conference reports may be brought up at any time.

Mr. MICHEL. And it is my understanding, for the benefit of those who are not here but who would read the RECORD tomorrow and have that information over the weekend, that a rule has been granted on the balanced budget constitutional amendment that provides for 3 hours of debate, with two amendments, the Barton amendment that would require a three-fifths vote for revenue sharing, and then the Stenholm substitute. And as I understand it, there is a rule that would also make in order the measure the gentleman talked about coming up the following day, the Balanced Budget Act of 1990, and there would be a 1-hour debate on that proposition?

Mr. GRAY. Mr. Speaker, the gentleman is absolutely correct. The balanced budget constitutional rule has been passed out by the committee. However, the Balanced Budget Act for Wednesday requires a separate rule. It is a separate item altogether and cannot be considered with the constitutional amendment.

Mr. MICHEL. Mr. Speaker, I thank the distinguished whip for that clarification.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GRAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday next.

The SPEAKER pro tempore (Mr. RICHARDSON). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

HOUR OF MEETING ON TUESDAY, JULY 17, 1990

Mr. GRAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, July 16, 1990, it adjourn to meet at 10 a.m. on Tuesday, July 17, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ADJOURNMENT TO MONDAY, JULY 16, 1990

Mr. GRAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REPORT CONCERNING NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-215)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Foreign Affairs and ordered to be printed.

(For message, see proceedings of the Senate of today, Friday, July 13, 1990.)

REPORT CONCERNING EMIGRATION LAWS AND POLICIES OF THE REPUBLIC OF HUNGARY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-216)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed.

(For message, see proceedings of the Senate of today, Friday, July 13, 1990.)

ANNUAL REPORT ON ACTIVITIES OF THE U.S. GOVERNMENT RELATED TO PREVENTING NUCLEAR PROLIFERATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs.

(For message, see proceedings of the Senate of today, Friday, July 13, 1990.)

THE DEFICIT REDUCTION ACCOUNT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, I just want to touch on a subject briefly today that I will be returning to. I think it is very, very important, as we have the budget summit and as people look at ways to both find new sources of revenue and also talk about needing to build and invest in our country's future.

I would like to call this body's attention to a proposal, a bill which I introduce and which has a number of cosponsors in the House, called the Deficit Reduction Account or DRA. What the Deficit Reduction Account does is very simple. It says that any new revenues coming in that are earmarked specifically for the DRA would be put into a special account, in fact a trust fund account. Those revenues would then build up, and they would build up interest. Over a 5-year period it would be forbidden to spend those revenues, so you would build up a corpus, a body, a principal, and after 5 years you would retain that principal in that account, the deficit reduction account, but then the interest that comes in the sixth year and every year thereaf-

ter would be earmarked for special long-term capital intensive projects.

What does that mean? What it means is that the taxpayer gets two bites at the apple. The taxpayers know the money they are paying in taxes, specifically if there is some increase in taxes, is going into a specific account to be used for deficit reduction, nothing else. But they get more for that. As they say in the Ginza knife ad, "And there's more." And the "more" is this: The "more" is that you know if you are putting your money into that account, you are investing it in those kinds of projects that are so important to our country's future, projects that often get lost or are the subject of long annual appropriation battles.

Are we talking about space stations? Are we talking about highways? Are we talking about superconducting super colliders? Are we talking about airports? Are we talking about long-term R&D that is necessary to make our country competitive? Whatever we are talking about, let me give some examples of what this account can mean.

If you put into this account $30 billion a year in new tax revenues, first of all, that is not money that is going out to be used for new spending, but is going to be used for deficit reduction. So the taxpayer gets that advantage. But the second advantage is that you put in $30 billion a year, and after 5 years it is $150 billion. With interest coming in, it means that the principal is probably up now to $175 billion, and it is generating something like $12 to $15 billion a year. Well, $12 to $15 billion earmarked for specific projects over a long period of time can mean a lot. That means, for instance, that NASA would have a guaranteed stream of funding for projects that have been agreed upon.

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It would mean, for instance, that you would have a guaranteed stream of funding for a particular type of infrastructure development. It would mean, for instance, that in a time when we know how hard it is to raise money for the water and sewer systems that our country desperately needs, that that money would be available and in that fund, and so the taxpayer once again gets two breaks; first, knowing that the money is not there, their tax revenues are not being used for increased spending, and, second, that it is being used for capital investment purposes.

Mr. Speaker, that is what the deficit reduction account is all about, and I would hope that the budget summiteers would take a look at it as they are considering new sources of revenue, as they are considering new approaches and as they are looking at ways to come out of this summit not only with deficit reduction, but also to come out of it with a program that definitely makes our country more powerful, more strong, more competitive and indeed makes this an investment economy.

Deficit reduction account: Remember that name, the DRA, because I am going to be talking about it a lot, and I think it is something that is important to bring up today.

The SPEAKER pro tempore (Mr. RICHARDSON). Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

[Mr. ALEXANDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

LEGISLATION TO ESTABLISH A NEW PERSONNEL SYSTEM AT THE DEFENSE LANGUAGE INSTITUTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, it is my privilege today to be able to introduce, on behalf of the faculty and administration of the Defense Language Institute [DLI], the Department of Defense and the National Federation of Federal Employees [NFFE], legislation to establish a new personnel system [NPS] for the Defense Language Institute's [DLI] professional personnel.

At my request, representatives of the Department of Defense [DOD], the Defense Language Institute and the National Federation of Federal Employees [NFFE] provided me with drafts of legislation to establish a new personnel system at DLI and responded ably to my requests for assistance in shaping a new personnel system that brings DLI into the 1990's as a truly modern place of scholarship in the languages. The faculty, NFFE, DOD, DLI, and I can take pride in the fact that each of us strongly supports the final product of our labor on this bill, for it represents good government and labor-management cooperation in the truest sense of the words.

I want to express special thanks in particular to Josh Neiman and Alfie Khalil of NFFE, Craig Wilson of the Office of the Secretary of Defense, Col. Donald Fischer, Provost Ray Clifford, and Lt. Col. Peter Kozumplik of the Defense Language Institute and Bob Cover of the House Legislative Counsel's staff. Each of these gentlemen contributed his valuable expertise and a good deal of labor to the final draft of the legislation.

We have responded to the administrative needs of DLI, to the financial and human concerns of the faculty and the institutional concerns of the Department of Defense. Indeed, I believe that this bill also represents progress in education personnel management within the Federal Establishment.

Mr. Speaker, by now it has become a truism that the United States faces a vastly altered world, a world in which our national security requirements are changing rapidly—more rapidly than we have been able to gauge. I would submit that the Defense Language Institute will be playing an ever more important role in the Defense Department's national security apparatus in this decade and the next. Clearly, the ability of our Defense personnel to communicate in the scores of languages our allies and potential foes speak must be bolstered just as surely as they will be required to cooperate with Central and Eastern European defense personnel.

The Defense Language Institute is a critical national asset, serving as the Department of Defense's academically accredited institute for foreign language instruction. The Department and NFFE believe the legislation is necessary to allow DLI to encourage the growth at the Institute of personnel management practiced at successful private and public educational institutions. Under this legislation, DLI would be able to structure a personnel system to resemble those of comparable educational institutions, such as colleges and universities, rather than administrative agencies of the Federal Government. It is our hope that the legislation, if enacted, will lead to greater professionalization of instruction at DLI and of the faculty themselves, with our final goal being higher student language proficiency.

Our legislation would accomplish several very important tasks. It would provide for the first time a statutory charter for the operation of the Institute, it would establish in law a personnel system for its civilian faculty and it would mandate a proper transition period from the current to the new system. The new personnel system contained within our bill sets forth tenure requirements for civilian faculty, the range of compensation of civilian faculty, conditions for the provision of assistance to faculty interested in enhancing their academic credential, the rate of nonsalary benefits and guidelines for the awarding of degrees.

We intend DLI to evaluate instructors for tenure not only on the basis of the quality of their instruction, but also their curriculum development, training, proficiency, research, and other academic activities specified in the legislation. Further, it is our intention that the system vest rank among civilian faculty specifically in person rather than in position. During the transitional year it is our intention that the DLI administration formally apprise all faculty members of the full meaning of the new personnel system in a quarterly letter.

The faculty of DLI are very anxious to implement their new personnel system in fiscal year 1991. Their current improvised personnel system is entirely inadequate by every expert's account. This legislation would enable the best and brightest to remain with DLI for many years to come, and it would attract more of the same. The only current avenue for advancement, unfortunately, has been from the classroom to the administration. It is about time we provided to the DLI faculty the chance to progress as high as their talents will take them.

I urge my colleagues to examine this legislation carefully as an essential step to support for programmatic improvements at the Defense Language Institute and as a wise investment in an increasingly important aspect of our national security, and I call for its expeditious enactment into law.

Following are explanatory notes prepared at my request by the Department of Defense on the purpose of the legislation, background on the needs it addresses, reasons for exemption from certain chapters of title 5 of the United States Code, a detailed description of the Institute itself and proposed policies to accompany the new system.

PURPOSE OF THE LEGISLATION

It is proposed to amend Title 10, United States Code, to formally authorize the Secretary of Defense to establish and operate an Institute for providing foreign language instruction. The proposed legislation would formally recognize the Defense Language Institute as the Secretary of Defense's school for providing foreign language instruction for military service members, and would enable the Secretary of Defense to deviate from certain personnel management practices specified in Title 5 and in regulations promulgated by the Office of Personnel Management (OPM). The Secretary of Defense could adopt personnel practices, policies and procedures for civilian faculty members similar to those used at comparable public, private and Federal educational institutions and colleges throughout the country.

The proposed changes in the personnel management system would lead to the greater professionalization of the faculty, and to the Institute's ability to recruit and retain highly qualified foreign language instructors. A consequence of the proposed changes would be an increase in the foreign language proficiency levels attained by the students assigned to the Defense Language Institute by the military services for formal language instruction. Such increases in language proficiency are required for critical intelligence and foreign liaison functions throughout the Department of Defense and the national intelligence community.

BACKGROUND TO THE PROBLEM

The Defense Language Institute (DLI) is an academically accredited institution of higher education operated for the Department of Defense by the Department of Army through its Training & Doctrine Command. As a part of the Federal Government, it is administered under normal military and civil service procedures. DLI currently trains approximately 5,000 students per year from all four military services. For academic and administrative purposes, it is organized into eight separate language schools with approximately 30 language departments.

Each school is headed by a Dean and each department by a chairperson. During the past decade, the increased need for military linguists has resulted in a significant increase in DLI's civilian faculty which has nearly doubled to its current workforce of approximately 900 instructional and academic support personnel. DLI recruits nation-wide (and in some cases, world wide) for qualified language instructors to meet the needs of the services. The primary prerequisite to faculty hiring is language fluency, with a secondary requirement of a knowledge of foreign language teaching methodology and techniques. Due to the need for instructors in languages essential to the military program (e.g., Russian, Korean, Arabic) all instructors hired are fluent in the "target" language, but most lack both experience and professional training in techniques and problems of second language acquisition.

While in-service training classes are provided for new instructors, the language instruction DLI provides should be graduating a higher number of proficient military linguists. While numerous factors contribute to this shortfall, a major contributor to the problem is the civilian personnel management program as it operates under the current civil service system. DLI's faculty are currently selected, appointed, classified and administered under Federal Personnel provisions of Title 5 and Office of Personnel Management (OPM) requirements. Thus, the positions must be classified under the General Schedule, and faculty members recruited for and compensated on the GS salary range under pay administration rules. Under these rules, it is difficult to establish a professional academic atmosphere and climate. The civil service "rank-in-position" system with its prescribed titling practices provides little or no flexibility for rewarding of or recognizing individual qualifications and contributions as is done in standard academic settings. The current system also places limits on the amount of professional training which can be given to correct identified deficiencies.

PROPOSED SOLUTION

The proposed legislation would authorize the Secretary of Defense to prescribe regulations that would establish a college style personnel structure at DLI. He would be permitted to establish a faculty personnel system following academic models rather than the more administratively position-oriented structure for Federal employment. He could establish a flexible compensation structure comparable to two-year college systems and those of similar federal institutions. The mandate that no salary could exceed that of the entry rate at Executive Level V would be retained.

The Secretary of Defense could establish a system of providing training enabling the faculty to become fully proficient in the principles, theories and techniques of second language acquisition. A procedure for granting tenure and of terminating non-tenured personnel that would follow the example of civilian educational institutions would also be developed. He would be authorized to establish a flexible leave program which would be geared to a teaching environment, and provide means for faculty members to pursue professional level training and development.

A similar system has been authorized for other Federal institutions and programs: the U.S. Naval Academy by section 7478 of title 10; the U.S. Naval Postgraduate School by Section 7044 of title 10; and the U.S. Coast Guard by section 186 of title 14. The bill, if enacted, would permit the establishment of an educational milieu that would attract outstanding foreign language educators, and facilitate educating a cadre of well qualified linguists to provide world-wide services to the United States of America.

CHAPTERS REQUIRING EXEMPTION FROM TITLE V OF U.S. CODE

Chapter	Chapter title and sectional analysis	Reason for exemption
31	Authority For Employment: Covers all employees subject to Chapter 51; requires citizenship of all employees in CONUS paid from appropriated funds.	Need to be exempt from Chapter 51 (Classification); Also need to be able to continue to hire noncitizens
33	Examination, Selection and Placement: Covers competitive service procedures on subjects; Rule 6.3 allows OPM to set procedures (OPM has done this) for filling Excepted Service positions.	Need to be able to set own examination criteria and selection and placement procedures for faculty and academic support staff.

CHAPTERS REQUIRING EXEMPTION FROM TITLE V OF U.S. CODE—Continued

Chapter	Chapter title and sectional analysis	Reason for exemption
41	Training: Includes provisions which preclude the reimbursement to employees for training in non-government facilities which lead to an academic degree.	Need to allow for training leading to a degree—this is essential to the faculty professionalization program.
45	Incentive Awards: Establishes principles of recognizing deserving employees; directs OPM to establish regulations for Agencies to follow in giving awards (linked to 43).	Need to develop own regulations to recognize deserving employees (common to college appraisal systems).
51	Classification: Establishes 18 "GS" levels; directs OPM to set GS classification standards; OPM standards developed are applicable to both competitive and excepted service positions.	Need to develop faculty levels in lieu of GS levels; need to establish faculty level classification criteria.
53	Pay Rates and Systems: Establishes pay schedules; Subch. III covers "... employees, positions, etc." subject to Chapter 51 (classification).	Need to develop faculty and staff salary schedule comparable to 2 year colleges.
55	Pay Administration:	
	Sub. I: General Provisions: For civil service, establishes biweekly pay periods to cover 52 work weeks of 40 hours each.	Need to establish a monthly or bimonthly pay period to cover yearly instructional schedule.
	Sub II: Withholding Pay: Establishes authority to withhold pay for indebebtedness to the U.S. Government and for state and local taxes.	May need to support the changed pay system.
	Sub V: Premium Pay: Establishes authority for overtime pay, and compensatory time off.	Need to establish academic work environment and expectations (linked to Chapter 61).
61	Hours of Work: Establishes a 40-hours work week and requires scheduled tour of duty.	Need to allow flexibility in establishing academic tours of duty.

POSITION PAPER

1. Context: The Defense Language Institute (DLI) is a professionally accredited institution of higher education operated for the Department of Defense by the Department of the Army's Training & Doctrine Command. As an army entity, it is administered in accordance with normal military and civil service procedures. DLI is accredited by the Accrediting Association of Schools and Colleges. As DLI is not yet a degree-granting institution, it is recognized under the jurisdiction of the Junior commission as a specialized post-secondary institution.

2. Organization: DLI, under an Army Commandant, is organized for academic purposes into eight resident, foreign language schools with over 30 language departments under the schools. The schools are organized into language teaching departments.

a. School: A school is established to group languages with a common linguistic or cultural heritage. Where the student enrollment is high enough, schools may consist of only one language (e.g., the Korean School). The schools are organized into language-teaching departments.

b. Language-Teaching Departments: A Language Department is normally responsible for resident instruction in a single language. Multi-Language Departments are responsible for teaching lower enrollment languages which are linguistically, geographically and/or culturally linked.

c. Current Schools and Departments:

Russian I Schools: Russian I-A Dept., Russian I-B Dept., Russian I-C Dept., Russian I-D Dept., Russian I-E Dept.

Russian II School: Russian II-A Dept., Russian II-B Dept., Russian II-C Dept., Russian II-D Dept., Russian II-E Dept.

Slavic School: Russian A Dept., Russian B Dept., Czech A Dept., Czech B Dept.

Asian School: Chinese Dept., Persian Dept., Multi-Language Dept. (Japanese, Tagalog, Thai, Vietnamese).

Korean School: Korean A Dept., Korean B Dept., Korean C Dept., Korean D Dept.

Romance School: Spanish A Dept., Spanish B Dept., Spanish C Dept., Multi-Language Dept. (Dutch, French, Italian, Portuguese).

Middle East School: Arabic A Dept., Arabic B Dept., Arabic C Dept., Multi-Language Dept. (Greek, Hebrew, Turkish).

Central European School: German A Dept., German B Dept., German C Dept., Polish.

3. Academic Operation: The administrative officers of the Institute have broad responsibilities for establishing policies, goals, and objectives. They maintain the physical plant as well as administer the budgets through a joint military and civilian staff. The faculty and academic staff are fully responsible for the detailed development and implementation of all instructional activities.

4. Faculty: The civilian faculty and academic staff are civil service appointees with salary levels established by a General Schedule grade which is not necessarily related to academic qualifications. The current full-time faculty and academic staff consists of approximately 900 civilian members. Faculty members are hired primarily for their foreign language ability. Academic and teaching qualifications are an important secondary consideration.

5. Faculty Personnel Practices: DLI civilian faculty and academic staff are currently appointed under a Schedule A excepted service authority (as contrasted to the competitive service system), following procedures established by the Office of Personnel Management (OPM). This authority has been granted to DLI because of the language fluency requirements of our positions. OPM is unable to test for qualifying proficiencies, and periodically the DLI must hire non-citizens to attain the required levels of proficiencies; non-citizens may not be hired into the competitive service. Positions are classified in accordance with published OPM standards, with the attendant prescribed General Schedule (GS) and General Merit (GM) grades ranging from GS 05 to GM 15. DLI recruits nation and world-wide, determines applicants' qualifications, and currently maintains registers of qualified candidates in 21 separate languages and dialects (inactive applicant files are maintained in 10 additional languages).

6. Problems: The existing civil service personnel system, which is centered on a rank in position concept, has not been adequate to meet DLI needs in the past. The increase in our nation's foreign language requirements have further highlighted systemic shortcomings in the system. Improved technology has made more of the world's communications available while increased military and paramilitary conflicts around the globe (as well as recent treaty initiative) have made exploitation of these communications critical to our nations security. As a result, we have seen over the last decade a doubling of foreign language enrollments and an even greater increase in student graduation requirements. The flexibility and the incentives meeded to meet these challenges are not available in the current personnel system. Some basic problems associated with the current system are:

a. Classification System: As in all conventional civil service appointments, grade and duties are tied to a specific, functional position which is relatively narrowly defined. In a stable environment this causes little difficulty. However, rapidly changing existing programs and the development of new ones demand a high degree of flexibility in assignment of duties. This flexibility is not present in the current system. The Institute has experience in testing and qualifying faculty, and should have the management authority to establish grading criteria for such positions. Current classification standards are inadequate. DLI is actively moving to become a comprehensive, multi-disciplinary center of excellence. Faculty assignment is critically important in this evolution. Recognition and reward for faculty accomplishments must be based on total performance of required duties which are not easily related to a specific grade level. In addition, as with any academic institute, appropriate, specific higher degree qualifications are essential and must be incorporated into the grading system.

b. Professionalization: Central to the success of any educational institution is a highly qualified faculty. The field of language teaching calls for expertise in two independent areas—foreign language and language-teaching methodologies. The DLI faculty and staff are eminently qualified in the former area. Over 80 percent of the faculty are native speakers of the language they teach. Because of the high language proficiency levels required of our graduates, we must continue to emphasize native speaking ability over teaching proficiency as an entry level requirement. However, recruitment of fluent foreign language speakers results in a faculty with limited formal preparation in instructional techniques. The current faculty training program has been limited to basic training in teaching methodology. Limited tuition assistance for formal education has resulted in a faculty only minimally trained in modern language-teaching methods. The Institute demands faculty with appropriate academic credentials; however current law prohibits government contribution for specific degree attainment and the advertisement of such a policy as a recruitment incentive.

7. Proposed Actions: To correct these shortcomings, the DLI Academic Personnel Management System will be restructured to align it more closely with traditional institutions of higher education and other federal academic institutions.

a. Classification and Qualification System: The first critical element of the proposed system would be a rank-in-person classification and qualification system based on the standard academic model. The goal of the proposed personnel management system is to allow the faculty to function over a wide spectrum of responsibilities from classroom instruction to staff support. A faculty member qualified by education and experience for a specific academic rank would perform the full spectrum of duties for which he/she is qualified. Given the dynamic nature of the environment, or academic support, depending on mission requirements.

b. Professionalization & Development: Correcting the deficiency in classification and qualifications will require a faculty training program. The program is three-phased: pre-service enhancement, in-service remedial, and graduate professional development. Prior to beginning teaching, every teacher will be required to pass an instructor certification program taught by the internal Faculty Training Division. Once an instructor is certified, additional in-service training will be provided by faculty trainers. This will develop or enhance specific skills, e.g., use of the classroom computers, or test-writing procedures. Finally, formal graduate education will be required to fully qualify the faculty as professional educators. This program should provide the opportunity for faculty members to pursue degrees from accredited institutions and would include part-time, tuition-aided instruction for about 20 percent of the faculty and academic staff annually. Courses taken would lead to a Master's in Foreign Language Teaching or other appropriate graduate level degrees. Additionally, up to one percent of the faculty and academic staff per year will be fully funded to pursue graduate degrees in fields which would contribute to DLI's academic mission.

PROPOSED POLICY

The specific policies and procedures regarding the proposed rank-in-person structure follow:

1. Policy: This policy statement applies to all civilian members of the faculty and academic staff of the Defense Language Institute currently employed in the 1700 and 1040 series Schedule A excepted service positions.

2. Status of Civilian Members of the Faculty and Academic Staff: Civilian members of the faculty and academic staff shall be appointed by the Commandant, Defense Language Institute under provisions of the proposed law, and applicable regulations issued by the Office of Personnel Management (OPM), the Department of Defense (DOD), and the Department of the Army. (DA).

3. Academic Session: The academic session is of 12-month duration. During this period, all faculty and academic staff are employed in tasks assigned by the commandant, except when absent on approved earned annual leave, leave without pay, or in a long-term training or education program.

4. Academic Ranks: Academic Ranks will be established. The ranks will be based on the educational accomplishments, professional experience, instructional experience, and other related performance and accomplishment criteria. The academic ranks that have been identified for use at the Defense Language Institute are: Assistant Instructor, Instructor, Senior Instructor, Assistant Professor, Associate Professor, Professor, Senior Administrative Faculty, Chancellor.

a. Assistant Instructor: this is a non-tenured, developmental position. The faculty member occupying this position will perform assigned tasks under close supervision and guidance by colleagues of higher academic rank and will be required to satisfactorily complete in-house training courses and university courses in order to advance to the next academic rank.

b. Instructor: This is a non-tenured or a tenured position. The faculty member occupying this position will perform assigned tasks under the supervision and guidance of colleagues of higher academic ranks. The instructor will be required to teach the language portions of any course, maintain course materials, prepare course quizzes and tests, evaluate student performance, and evaluate the basic course components.

c. Senior Instructor: This is a tenured position. The faculty member occupying this position will perform assigned tasks with minimal supervision. The senior instructor will be required to teach the language portions of any course, maintain course materials, prepare course quizzes and tests, evaluate student performance, and evaluate basic course components.

d. Assistant Professor: This is a nontenured or tenured position for both faculty and academic support personnel.

(1) Faculty Positions: The faculty member holding the rank of Assistant Professor will independently teach all levels of the foreign language courses. Duties will include the full range of instructional activities.

(2) Academic Support Positions: The academician holding the rank of Assistant Professor will work in fields such as test development, curriculum, educational technology and/or research.

e. Associate Professor: This is a nontenured or tenured position for both faculty and academic support personnel. This is the first academic rank for supervisory and/or managerial responsibility.

(1) The faculty member holding the rank of Associate Professor will independently teach all levels of the foreign language training courses. The associate professor will conduct area study classes within the assigned school and language-specific, inhouse faculty training and will serve as a professional role model for other members of the faculty. In addition, the associate professor will be called upon to teach other faculty in the areas of test and curriculum development.

(2) The academician holding the rank of Associate Professor will work in fields such as tests and measurements, curriculum, instructional system design, educational technology and/or research, developing course materials, determining a course training plan, training faculty members on the use of the course materials, evaluating student progress, evaluating instruction to improve the training, and recommending changes to courses to meet needs.

f. Professor: This is normally a tenured position. The faculty member or academician occupying this position will perform all duties as described in the associate professor level and will participate in scholarly and administrative activities at a DLI level and in professional activities external to DLI. The professor is accountable for all aspects of instruction and curriculum with national recognition in a specialized field such as teaching methodology, testing, program evaluation, area studies, educational technology or education research.

g. Senior Administrative Faculty: The employee occupying this position will have the ability to administer educational systems and programs in matters relating to execution of policies, supervision of all employees (professional and non-professional), development of education philosophy, resource planning and reports, revision of courses of study to meet changing needs, procurement of instructional aids, materials and equipment, planning for use of facilities and developing facility requirements.

h. Chancellor: As the senior academic administrator of the Defense Language Institute, incumbent will have overall responsibility for establishment and review of academic programs, policies, and budgets for the largest foreign language instructional program in the Free World, generating 10 percent of all postsecondary foreign language instructional hours taught each year in the U.S. He or she must oversee development of manpower and budget requirements, resource allocations, work force planning, and contracting for services.

5. Appointment Criteria/Promotion Criteria: The criteria for initial appointment, conversion to tenure track and promotion will follow the qualification guidelines established for the aforementioned academic ranks, and placement procedures similar to other federal academic institutes.

6. Salary: The salary of all newly appointed civilian members of the faculty or academic staff will be based on their qualifications for the position being filled. The salary for all new appointees will normally be set at the entry rate for their academic rank with provisions for advanced initial-hire rates based on superior qualifications. The procedures for recommendations for yearly cost of living adjustments and salary increases for faculty and academic staff personnel will be patterned on those established for comparable federal and academic institutes.

7. Faculty and Academic Staff Professionalization: DLI's goal will be to expand its faculty and academic staff professionalization program to provide educational assistance to the faculty and academic staff in their pursuit of advanced degrees in foreign language teaching. This expansion will provide tuition assistance for courses to correct specific training weaknesses. This aid will be provided in two programs. The first will be partial tuition assistance for not more than 20 percent of the faculty and academic staff to attend courses offered in the local area which would lead to advanced degrees. The second program provides fully-funded graduate education for a highly select group of faculty and academic staff. This program would be limited to one percent of the faculty and academic staff annually. Participants would be selected based on their potential for significant teaching contributions as well as demonstrated abilities and skills. DLI would require these individuals to sign a contract agreeing to continue teaching at the Institute for three years for each year of fully-funded training. If an employee chose to depart prior to this time, he/she would be required to reimburse the government for the cost of the education.

8. Tenure of Employment: Normally, based on projected need and funding levels, new faculty and academic support personnel will be initially given a three-year non-tenured appointment. Procedures governing employee rights, benefits and entitlements during this period of time will basically follow those prescribed by the OPM for term appointments. Based on projected need and funding levels, conversion to tenure track permanent appointments will be conferred upon members of the faculty and academic staff as recognition of continuing significant contributions to the programs of the Institute. Generally the following rules apply:

a. Assistant Instructor: The initial appointment is for not more than three years. An assistant instructor not selected for higher academic rank by the end of four years of service at the Institute will be reappointed only in exceptional cases as deemed appropriate by the commandant.

b. Instructor: The initial appointment is for not more than three years; reappointment at this rank normally is with tenure. An instructor promoted from within the Institute is usually promoted with permanent tenure.

c. Senior Instructor: The appointment into this position will be from the current faculty at the Institute. There will be no initial hire into this academic rank. This category will be a permanent tenured position for those exceptional employees at the instructor level who cannot progress into the assistant professor level, but who make significant contributions in the teaching area. There will be no requirement for promotion from this rank.

d. Assistant Professor: An assistant professor promoted from within the Institute is promoted with permanent tenure. An initial appointment to civilian faculty at the rank of assistant professor is for no more than three years; reappointment at this rank normally is with tenure.

e. Associate Professor: An associate professor promoted from within the Institute is promoted with permanent tenure. An initial appointment at the associate professor rank may be with tenure. If initial appointment is without tenure, reappointment at this rank normally is with tenure.

f. Professor: A professor appointed from the Institute is promoted with permanent tenure. In the case of an initial appointment to civilian faculty at the rank of professor, the initial appointment will normally not be for more than three years; in exceptional cases, initial appointment may be made with tenure. If initial appointment is for three years, reappointment at this rank normally is with tenure.

g. Senior Administrative Faculty: Same as f. above.

h. Chancellor: Same as f. above.

9. Evaluation and Recognition: The work performance and contributions of all faculty and academic support personnel will be appraised on an annual basis. The results of the appraisal will be used as the basis for training, rewarding, reassigning, promoting and removing employees. Appraisal and recognition procedures, closely aligned to comparable academic institutes will be used.

10. Termination:

a. Reduction-in-force: A lack of federal funds, change in mission, workload, or organization, or other similar and compelling reasons may require a reduction in civilian faculty and academic staff. In such an event, and where possible, 120 days notice of separation through Reduction in Force procedures will be given to the individual(s) affected. At least 60 days notice will be given.

b. Nonreappointment: The commandant has responsibility for determining whether a civilian faculty or academic staff member's appointment will be renewed. In such case, the department or organization will notify the member affected on the following schedule:

(1) First Appointment Year of Service: If the appointment terminates during or at the end of the first year, notice of nonreappointment will be given at least 7 days in advance of termination.

(2) Second Appointment Year of Service: If the appointment terminates during or at the end of the second appointment year, notice of nonreappointment will be given at least 30 days in advance of termination.

(3) Third or fourth Appointment Year of Service: Notice of nonreappointment will be given at least 60 days in advance.

C. Separation for Cause: Any menber of the faculty or academic staff may be separated for reason of misconduct or inefficiency irrespective of tenure or length of appointment. Such separation will be in accordance with applicable civil service and Department of the Army regulations.

d. Resignation: A civilian member of the faculty or academic staff is expected to give at least 60 days' notice of intention to resign.

11. Effective Date of Personnel Actions: Promotions and pay step increases will normally be effected annually. Initial appointments may be made at any time commensurate with Institution requirements.

12. Retirement, Leave, and Health and Life Insurance Benefits: Faculty and aca-

demic staff are entitled to civil service benefits such as holidays, leave, retirement and health and life insurance on the same basis as employees of the competitive civil service. The benefits are set forth in detail in the Federal Personnel Manual and the Department of the Army regulations.

13. Academic Work Schedules: Academic work schedules, modeled after comparable work schedules in other federal institutes of higher education, will be developed.

14. Conversion: [Protection of Rights] Conversion to the Academic Personnel Management System established by law will be optional for all civilian faculty and academic staff members hired prior to the implementation of this policy. Those faculty and academic staff members who elect conversion will retain their current salary in the new structure. Members of the faculty and academic staff who do not elect conversion will retain all existing civil service rights and privileges.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

[Mr. ANNUNZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

WE NEED A CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho [Mr. CRAIG] is recognized for 60 minutes.

Mr. CRAIG. Mr. Speaker, today the Committee on Rules met, and just moments ago this body heard here on the floor the chairman of the Committee on Rules asking for a rule to allow to come to the floor next Tuesday House Joint Resolution 268, a constitutional amendment providing for a federally balanced budget.

Mr. Speaker, House Joint Resolution 268 is the product of a lot of energy, effort, and time invested by myself, the gentleman from Texas [Mr. STENHOLM], the gentleman from Delaware [Mr. CARPER], and the gentleman from Oregon [Mr. SMITH]. For the last good number of years they, along with now 244 cosponsors, have moved this issue to the forefront.

Next Tuesday, following the debate on the rule and the passage of the rule, this body will for the first time since 1982 become involved in very serious and important debate on whether this body should send forth to the American people a constitutional amendment dedicated to the proposition of providing a federally balanced budget. This would be the first step in a long and difficult process that our Founding Fathers established over 200 years ago to protect the integrity of the Constitution. They recognized that at times it may be necessary to change the body of the Constitution as the nature of the country changed. They also recognized that a large central government, if it were to agree to be that, might at some point not be fulfilling the wishes of the general populace of the country.

Mr. Speaker, I believe that the time for the latter concern has come. I believe that in fact a large central government, of which this legislative body is a part, for the last several decades has truly ignored the wishes of the American people, the wishes that we live within our means, that we fund what was truly appropriate and necessary and that we effect wise and well-founded public policy that would arrive at a balanced budget or a near balanced budget on an annual basis.

It was for that reason and for the reason that myself and the gentleman from Texas [Mr. STENHOLM], my colleague, and others recognized in the early 1980's that Congress truly had lost its will to be fiscally responsible, and we felt it necessary to begin a balanced budget movement that now brings us to the point of being able to debate this most important issue on the floor of this body next Tuesday.

Recognizing, as I said, that our Founding Fathers would make this process as difficult as possible, it will not be the 218 votes that sends this issue forth to the American people. It will take two-thirds of this body voting in the affirmtive, or approximately 290 of the Members of the House, a very difficult vote to arrive at, a near impossible vote to arrive at, but when the issue becomes overwhelming, as our Founding Fathers recognized by their wise decision, and only when an issue became overwhelming, should it be allowed out for the American citizens to make a determination on whether it ought to be entered into the Constitution of this country.

Why is it important that we debate a constitutional amendment instead of a normal statute? Well, I think it is very simple. Although this body on two other occasions, actually three, but two occasions since the midseventies, has sent forth statutes requiring a federally balanced budget, and they have been passed and signed into law, those of us who are privileged to serve in this body and our ability to pass law can also change law. We can change statutorial law, and that is, of course, exactly what has happened on those two occasions. Then in the early 1980's we passed a new law, a law called Gramm-Rudman-Hollings. That law was to control the expenditures of the Federal Government and to bring into balance by next year the budget of this country. And yet we know what can happen. We know that we are now nearly $200 billion in deficit, that Gramm-Rudman, as a law, has to some extent held down spending. But we have arrived at an ultimate budget crisis, and, as a result of that, our President some weeks ago convened a summit of the legislative leaders of this body and the other body for the purpose of seeing if we could not arrive at some compromises to continue to bring the deficit down and to solve the budget crisis we were in.

Mr. Speaker, how has all that happened if in fact two balanced budget laws and a Gramm-Rudman law to arrive at a balanced budget by the early 1990's was passed by this body? I ask my colleagues, "Why can't we be there?"

Simply because, as I stated earlier, this body has in my opinion lost its political will to be fiscally responsible. The pressures from all of the spending programs and from those who benefit from those programs has grown so great that this body collectively and by a vote of 218 simply cannot say no. They cannot on every occasion be as responsible as many would like to be, and they find it easier to borrow, they find it easier to deficit spend, to arrive at a time when next Monday, the 16th of this month, we will establish that the Federal debt will be near 3.5 trillions of dollars and that by the end of this month, for this Government to continue to operate, the leaders of this House and the leaders of the Senate will have to ask the bodies collectively to pass a new debt ceiling increase to raise the debt ceiling and the spending ability of our government to 3.5 trillions of dollars.

Mr. Speaker, I guess I could go on, but the obvious conclusion, at least to me and to a good many others, and I hope on Tuesday 290 Members, is that we must turn to the Constitution. We must turn to the superior law of this country, a law that I, nor the gentleman from Texas [Mr. STENHOLM], my colleague, can change with a vote of 218, but a law that only the people can change. Only three-fourths of the States voting in the affirmative in the ratification of a constitutional amendment can in effect change the people's law, the Constitution of this country.

So, Mr. Speaker, next Tuesday we will debate, and I hope wisely so, send out for Senate consideration and for the citizens' consideration a balanced budget amendment to our Constitution which I hope will instill a process that will bring about a reestablishment of the political will that this body had for well over 150 years, and that was to balance the budget on an annual basis or to reach rapidly to a balanced budget when it became out of balance during periods of crisis. That is the ultimate test. We simply cannot continue down the path that we have continued. We must develop the financial, fiscal integrity that this amendment, I think, would bring about, and hopefully we can accomplish that.

□ 1520

I would like now to turn to my colleague, the gentleman from Texas [Mr. STENHOLM], the primary sponsor of this bill, along with myself and the gentleman from Delaware [Mr. CARPER] and the gentleman from Oregon [Mr. SMITH] to discuss some of the ramifications of House Joint Resolution 268 and what we believe can be accomplished by the consideration and the passage of this legislation.

Mr. Speaker, I yield to my colleague, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I thank my friend, the gentleman from Idaho, for yielding to me and I thank him for taking this time today and for giving the two of us, and I hope other of our colleagues will soon join us in which we can begin the debate on this very, very important issue. Amending the Constitution of the United States is a very serious proposition. It is one which should have ample time.

I would point out now that the rule under which we will be operating is a fair rule. It provides for 3 hours of general debate. It provides for 1 hour on the amendment of our colleague, the gentleman from Texas [Mr. BARTON], his substitute amendment. The basic difference there is that the gentleman from Texas [Mr. BARTON] would require a three-fifths vote to increase taxes, but that is an issue that has substantial support in the House and in the country. Therefore, it is deserving of our consideration and a vote in this body, and then 1 hour on the substitute that I in fact will then offer.

Mr. Speaker, this is a fair rule. I think one of the positions or one of the considerations that we are going to be taking on Tuesday, and we want to start this today, and that is debating the various criticisms that some have made of the approach that we have, talking about perhaps a change of wording or inference. These are all valid considerations and considerations that the gentleman from Idaho [Mr. CRAIG], and I, and Congressman CARPER, and Congressman SMITH of Oregon, and many other Members have been taking into consideration for quite some time.

The first point that I would make for the consideration of our colleagues is next Monday we are going to receive the news of how big this year's debt has now grown to and what the new estimate of the deficit for fiscal year 1991, that we are in the process of passing appropriation bills will be.

I have noticed very few, if any, cuts have been noted by this body in any appropriation bill that has come forward as yet, but all of us know, and in fairness to the Appropriations Committee, they are pointing out that it might be a little premature since there is a summit going on.

Well, let me point out here, and the gentleman has already mentioned the fact that perhaps on Wednesday we are going to get a chance to vote on another statute. I say another statute because in 1978 we passed one. In 1979, we passed a statute. We have the Gramm-Rudman law. We have passed more statutes in this body, and we ignore them. We can because there apparently is no penalty for the Congress ignoring the law. That is one of the primary reasons why the gentleman from Idaho and I proposed that we have an amendment to the Constitution. We think that there should be a penalty imposed upon the Congress for not living within our means, and we also believe that the President should be brought honestly into the process, both of which will be accomplished under our amendment.

Let me go a little further. Let me remind our colleagues that we have several difficult votes and each of us is going to be building our own legislative record based on how we vote.

I mentioned the new debt limit. Sometime between now and the middle of August we must increase our national debt to $3.5 trillion.

Now, we either do that or the U.S. Government literally comes to its knees, because we can no longer pay our debt.

Now, that is really not the kind of an issue that ought to make or break political campaigns. We have already spent the money, but it is interesting when I listen to some of our colleagues who intend to vote no on the debt limit, to vote no on the constitutional amendment and to vote no on any summit agreement, but still they are in favor of balancing the budget.

Now, another interesting little scenario that we would like to see debated by those who suggest that we should not be amending the Constitution for this purpose, and I would openly and honestly over and over again admit my own careful consideration and concerns along this line that we have had for quite some time, but we have come to the conclusion now that this is the time. Many of our colleagues as I have been discussing, personally, with as many of the 20 or 30 remaining undecided Members in this body, we have decided and discussed with them the concerns about whether or not we ought to amend the Constitution, and I have a simple question. If not amend the Constitution, if not now, when? And if not this, why? What is your proposal of how to get us off high center with business as usual that is going to show something over a $200 billion deficit this year, when last year when we went home we voted through smoke and mirrors, and we all were doing it, we knew it deep in our hearts. We told the American people that this year's deficit was going to be $100 billion. Now, shock upon shock, it is going to be over $200 billion. So what do we do? We borrow some more money and the debt goes on.

The American people in poll after poll say, "We wish you would stop doing that," and we all get up and make speeches as the gentleman and I could be accused of making today saying that we ought to do something about it.

Well, next Tuesday you are going to have a chance to vote, 435 of us in this body are going to get an opportunity to establish the first step in the game plan of dealing with our national debt.

Now, that is the first step. It is not meant to be the end result. Nothing in the Constitution should ever be construed as saying that is the end result. Our Constitution has been a guiding light, the direction for our country to follow. That is what we have tried to do with this amendment, keep it simple, but put a few extra tools in to force the Congress to do something positive about reducing our deficit.

In the amendment I will offer, we have agreed with our summiteers, the Members of this body on both sides of the aisle that have been involved in this debate, or are being involved in this private debate as yet among our leaders, and that includes the House and the Senate as well as the President. We have listened to them and said that 1995 is a good date. We realize that if we were to do it, as I understand the statute on which we are going to vote on Wednesday, the President says we should do it in 1992. That is ridiculous. The President could not do it. This Congress could not do it in 1992, but by 1995 it is not ridiculous.

What we propose to do is to do it under statute, law by law, beginning with the summit.

Now, the point I am trying to make here that I want our colleagues to listen to and to come on this floor prepared either today or next Tuesday and debate with us is if you do not believe that a constitutional amendment is a proper tool to be implemented or allow the American people to decide whether it is to be implemented or not, what is your plan?

You cannot get there by saying, no, no, no. You cannot get there by saying, "I'm not going to raise taxes. I'm not going to cut spending. I'm not going to raise the debt limit." That dog will not hunt.

Now, how can you get there? We are proposing, the gentleman from Idaho and I are saying that as a proper first step you put a constitutional restraint to be in effect in 1995, that tells at least 290 of us who will go on record voting for this amendment, that tells us we had better get serious this year, when our leaders from the President on down, House and Senate, bipartisanly say, "Here is our recommendation of how we make the first year in-

stallment," 290 of us who have voted affirmatively to establish a constitutional amendment have gone on record publicly that we are serious and we know we cannot duck, at least 218 of us, cannot duck the responsibility of making some tough choices.

□ 1530

Let us assume for a moment that we fail, that there are 146 Members of this body that say, "No, we do not believe that a constitutional amendment and a constitutional restraint is appropriate at this time," my question to my colleagues is: Where do you propose to get the 218 votes? What plan do you have?

I remember the last real decent plan we had on this floor addressing deficit reduction. It was named the Leath-Slattery-MacKay; MARVIN LEATH of Texas, JIM SLATTERY of Kansas, Buddy MacKay of Florida. They brought a legitimate deficit reduction plan to this floor that had the excitement of what we thought was the majority of this House until it came time to stand up and put our little card in the box and hit the "yes" button, and then all of a sudden we found there were only 56 of us that were around to cast that vote.

My point here is that if one does not like this plan for starters, it is going to be incumbent upon you to come up with something. I hope it is going to be better than what I have heard is in the statute. We have got all the statutes, we have got all the laws that we have passed that we need on the books. What we need is a little extra help.

At this point, I yield back for a moment to my colleague from Idaho and stand ready to participate further in the discussion a little later.

Mr. CRAIG. Mr. Speaker, I thank my colleague from Texas for those comments and responses and, of course, the leadership that he has assumed in this most valuable effort.

I will have to say that while my colleague was debating here for just a moment I was reading an article that I am now going to make reference to that have read on several occasions that I found extremely valuable to place what we are attempting to do in perspective, because what happens oftentimes here within our committees, on the floor of the House is that we become embroiled in Government programs, Government ideas and what Government is doing for people, the citizens of this country, instead of what Government might be doing to them in the sense of overspending which creates certain dynamics in the economy that ultimately result in inflation and high interest rates.

In the December 18 Fortune magazine they have an article called How Can America Triumph? Fortune magazine commissioned an econometric group out of St. Louis to study spending habits of the U.S. Government and determine what might happen if we just continue along, in other words, as they referred to it, muddling through. And that is by having deficits and deficits growing and raising a few more taxes and tinkering with the revenue base and maybe tapping a few special types of revenue so that we do not deal with individual tax increases, but, generally speaking, to maintain the course that we have held for the last decade termed muddling through, or to choose a new course, to choose a course that would bring us into balance with our Federal budget.

Interestingly enough, to my colleague from Texas, we choose 1995 in our amendment. This article chooses 1996, and says that what would happen if the Federal Government were to balance its budget by 1996.

Several things happen that I find very interesting in that we tend to lose track of or we tend to lose the perspective for when we get buried into seeing whether this program or that program meets a certain constituency need or provides for a certain level of concern or care for a certain segment of the American public.

Let me quote from this article some interesting statistics. Remember, now, that this is based on the fact that we would balance the Federal budget by 1996. It is an unbiased study. It just simply draws conclusions based on how most economists would agree the economy of this country might respond if, in fact, we were to do what is termed by some to be the impossible, and that is to balance the Federal budget.

First of all, productivity would rise gradually to 1.8 percent by the turn of the century. That is the productivity of the economy. And what would that result in? Interestingly enough, by the turn of the century, and you and I determined years ago that that was a long way off, it is less than 10 years off at this point, that by the turn of the century if we were to balance the Federal budget by 1996, that in 1982 constant dollars we would reach a GMP of $7.3 trillion. What does that mean? That means an extra $1 trillion in the economy of the United States and for the consuming public to have to spend, to invest, to use, $1 trillion extra dollars than we normally would have if we stayed on the constant course that we are on, if we merely balanced the budget by 1996.

The national debt would fall as a percent of GNP from 42 to 12.9 percent, and here is the thing that I think is most interesting, because this hits CHARLIE STENHOLM of Texas and LARRY GRAIG of Idaho right where it hurts; it hits us right where we have to make the votes, and that is on the budget. Believe it or not, if we continue on this course, by the year 1996, it is projected that the Treasury's interest on debt will be a staggering $625 billion, $625 billion on an annual basis. It is now about $160 billion. But if we balanced the budget, that by 1996, the interest that we have to pay on money borrowed will have dropped to $105 billion, a net total difference of $520 billion that could ultimately be used, interestingly enough, for other Government programs or, more importantly enough, might not have to be pulled out of the general economy of this country and could be allowed to stay right there for all of you taxpayers to be able to keep for yourselves and for your children and for your families to invest, to buy homes, to buy automobiles, to do anything you wanted with instead of having to be asked to pay it in taxes to the Federal Government for the purposes of paying interest on the national debt.

In my opinion, that says an awful lot about a balanced budget. If we are to compete as a country in the rest of the world, if we are truly to be competitive, but more importantly, if the citizens, the workers of this country are to be competitive in the competition with Eastern and Western Europe and the Pacific Rim, then to balance the Federal budget would allow the gross private investment to rise by 15 to 20 percent, and ultimately to outdistance, to outdistance the Japanese ability to invest by 23 percent and, of course, the bottom line is the next point that I would like to make.

Remember now, Mr. Speaker, this is only if we balance the budget by 1996. I say that lightly, and I do not mean it lightly. I know my colleague from Texas and I know that without a balanced budget amendment to the Constitution that the pressures applied on us daily here in this Chamber would make it impossible to arrive at that. But if we were to do that, real annual per capita disposable income would grow to $17,000 on the average per household, and that is 11 percent higher than if we just muddle through under current levels of Federal expenditures.

With more money, consumers would spend better than $500 billion a year more by the year 2008 than under the current muddle through scenario. That is one opinion. But it is the opinion of a collective group of economists who put their best heads together and say that if this were true and if this were true this is what could happen.

Why I used those figures is because we will hear an awful lot of debate on July 17, next Tuesday, as we debate a balanced budget amendment to the Constitution, debate that will ultimately say that if we have to do this, what will happen to this program of Government, what could happen to the expenditure level in this program, will we have to cut defense even more, might we have to cut social programs,

would we have to cut discretionary programs.

In other words, I think most of the debate in opposition to a constitutional amendment for a balanced budget will be focused on what happens to governments and what happens to Government programs. Very little debate will be focused on what happens to the American consumer and what might happen to the American taxpayer if we continue to muddle through, if we continue to deficit spend at $150 billion to $200 billion annually and mount a Federal debt that my colleague from Texas reminded us would be nearing $3.5 trillion by the end of this fiscal year.

I think it is time we say what will happen to the American consumer if we do balance the budget, what kind of opportunities will we provide in the economy, the kind of productivity and the growth that relates to an opportunity, a future, the ability to compete with our counterparts around the world.

□ 1540

In other words, the idea to ensure by our actions here that the future will in fact be a good deal brighter, that the private economy of this country will remain productive, that mothers and fathers alike will be able to turn to their children with the kind of assurance that there will be as bright a future for them as the future that those parents had an opportunity to be a part of when they were once children of that age.

You see, we really ought to be talking about the private sector, and we really ought to be talking about the impact upon the private sector that we inflict here on a daily basis by increased levels of deficit spending.

So come the 17th, next Tuesday, I am certainly one who is going to try to mix that debate between the kind of impact it will have on Federal programs, programs of important value to an awful lot of people, but what kind of impact it will have on the public sector, the private sector of our economy, if in fact we fail to balance the budget by 1995, or, as this study shows, by 1996.

Now I would be happy to yield once again to my colleague the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I want to amplify on the point the gentleman has just been making, because one of the concerns that has been expressed to me just today by our colleagues who are still undecided is the concern that since our deficit has grown so large, that maybe we are going too fast to reduce it by 1995. You have talked about 1996.

But here I asked our colleagues to consider the fact that by being concerned that in a $1,200,000,000,000 budget, that we cannot reduce in growth over the next 4 years $300 billion collectively or $75 billion a year, or whatever the number is going to be, without doing damage to our economy, you will have to come to this floor and argue that every dime that we are spending in all aspects of our growth are being productively spent.

Now, nobody will come to the floor and suggest that we cannot make some cuts in spending without touching anything in the economy. The point the gentleman was making is growth in some of the positive things are going to be there we hope to work good things for the economy. But to argue that we cannot make cuts, as time and time again our colleague from Minnesota [Mr. PENNY] has offered 2-percent cuts, and this body cannot make a 2-percent cut.

Mr. CRAIG. If my colleague will yield, this afternoon on the floor of the House the gentleman from Minnesota [Mr. PENNY] offered an amendment for a 2-percent cut in an appropriation bill.

Mr. STENHOLM. And we lost.

Mr. CRAIG. And we lost.

Mr. STENHOLM. Now let me talk a little bit about procedure, because one of the things in the time I will control on Tuesday that I am going to ask of our colleagues, and I have already spoken to enough I think that are going to be willing to participate in this, and that is we want to get some honest debate.

To those that vote no, I think it behooves you to come up with some discussion of where we ought to go and how we ought to do it and why you have a better plan. I hope we will be able to participate in that.

To those that are going to come on the floor next Tuesday and suggest that this is a terrible way to legislate an amendment to the Constitution because this bill that is before us has never, never been considered by the Judiciary Committee, let me say for the record right now the reason it was not considered, the reason why we have many Members legitimately concerned about whether the authors of the amendment have chosen the proper words, the reason we have not had subcommittee markup and the kind of deliberation on bills that we all agree should take place, is the committee refused to schedule the bill.

We did not want to have a discharge petition. We wanted to have the Judiciary Committee consider this in the regular legislative process. The Judiciary Committee in its wisdom chose not to do that.

We are also going to hear that all of the witnesses that testified in the hearings that were held this week, of those, 90 percent were opposed to it.

Well, if I was the chairman of the committee and I selected the witnesses, which I certainly would do if I was opposed to it, and I say that not in a disrespectful way, because I do not have a disrespectful bone in my body for any Member of this House. But it needs to be clear that were Mr. CRAIG and I able to solicit Nobel Prize winners on economics, we could have a series of witnesses that would have testified and had a different story. That is the purpose of what we will be into in the debate in this House.

I do not want people to get the idea that we have by any stretch of the imagination tried to bypass the normal procedure. Here I would add my personal appreciation to the Speaker of the House, our entire leadership, this side of the aisle as well as that. We can truly say this is a bipartisan action. I believe the gentleman from Idaho [Mr. CRAIG], who has worked so hard and has been such a pleasure in fact to work with on this over the last I do not know how many years now, 6 I believe, that we have been working on this, we have finally gotten to the point where we can say honestly to our colleagues we are going to get an up and down vote, unhindered, on a pure expression of the wishes of the House of Representatives. That is what we are doing.

One other point on procedure. I think it is very incumbent on all of us, all Members as we deliberate, and many are not concerned about some of the tough votes we are going to have to cast. If you choose to vote no on the balanced budget amendment, already begin to ask yourselves the question and answer it, how are you going to vote when it comes time to waive the provisions of Gramm-Rudman? Are you going to be prepared to let sequestration take its due toll, which is what the law says, $100 billion plus sequestration? Are you going to be prepared to do that? If not, why not?

When it comes time for the increase of the debt limit, if you have voted against all of the spending cuts that we have had a chance to vote on, and if you voted for all of the appropriation bills, how are you going to vote not to pay the bill?

When it comes time when our leaders, and I do hope they come forward with a package, and they come up with first installment, and the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget, and the gentleman from Minnesota [Mr. FRENZEL], the ranking member, and other members of this deliberation going on in the summit, they are making every effort to come up with a real summit package that is in fact going to make the first year installment and is going to set in stage those other installments that will make it possible once we pass this amendment and the States ratify it and it becomes law, make it possible for us to make it actually be in effect. When we get to that point and we get

those tough decisions cast to us, how are you going to vote?

I have had Members tell me already, "I am going to vote no on your amendment, CHARLIE, because I do not think it is the thing to do. I am going to vote against the deficit increase in the debt limit. I am not going to support that summit."

Well, that is business as usual. That is one of the things that we sincerely ask each Member of the House, to take a good look at our amendment, not what you have heard about it. It is very simple. It is meant to be that way. Take a look at it. Take a good hard look at it.

Those of you that are still undecided, take a good look. Not just at that amendment, but take a good look at the decisions that we have got ahead of us and see if you do not see the same wisdom in it that the gentleman from Idaho [Mr. CRAIG] and myself have.

One other point I would make here, too, that I think needs to be made. This is not just a House of Representatives effort. We have some tremendous effort that has gone on in the Senate. Senator STROM THURMOND, Senator PAUL SIMON, Senator JOE BIDEN, Senator DECONCINI, 11 to 3 on a vote out of the Senate Judiciary Committee after hearings and the kind of deliberation that we should have had in the House have come to the conclusion that their version, which is very, very close, only a few differences, only a few differences that would be very conferenceable, are there.

So it is not something we are springing on anybody. Certainly Mr. CRAIG and I would challenge anyone to say that we have sprung it. We have been talking about this for at least 6 years. We have been modifying, we have been listening to our colleagues, we have had some excellent suggestions of how to make it more constitutional.

The gentleman from Delaware [Mr. CARPER], who has been a very, very constructive player in getting the amendment to the level at which it is today so we can look forward to next Tuesday and having the kind of open and honest discussion, also perhaps on the next Monday when we will have another special order as we are taking today, we want to have it thoroughly deliberated. We want some open and honest debate, because we are looking for solutions.

□ 1550

I believe that this is a tool. It is not the answer, but it is a very, very important tool for the Congress of the United States and the President of the United States to add to their arsenal of being able to deal with our fiscal matters of this country.

Mr. CRAIG. I thank my colleague for these comments and certainly wish to associate with them, because I think they are extremely well thought out and come directly to the point.

Let me close this special order with a couple of comments. For those who read the RECORD or might be observing this afternoon, my colleague, CHARLIE STENHOLM and I have talked about the process and the procedure and the purpose for proposing a balanced budget amendment to the Constitution. But the one thing we have not talked about, that I think is fundamentally important in closing out this discussion, is that we are only proposing. The Congress of the United States may only propose to the citizens of this country an amendment. It will be the citizens of this country with three-fourths vote of the State legislatures of this country that would make a decision over whether a balanced budget amendment would in fact be placed inside of the Constitution.

I guess the wording I would want the RECORD to show is that those who vote for a balanced budget amendment proposal next Tuesday, July 17, will be saying we want the American people to have an opportunity to openly and thoroughly debate the budget processes and the fiscal policies of this country, because we think it is important. In fact, we believe it critically important to our strength and our survival as a nation. For those who would vote against a balanced budget amendment proposal they would be saying to the citizens of this country we do not think you ought thave a right to debate this issue. We do not think that every legislature in the country over the next 2 years or 3 years ought to have a right to openly and thoroughly debate this amendment and decide whether the Constitution ought to have this provision within.

I think it is incumbent upon this body not to interfere with the right of the citizens to participate in this process, that in fact we should be forthcoming, to send to them the very best recommendation we can craft, and we think, my colleague from Texas and I believe that we have that in House Joint Resolution 268. But we also recognize that we are not perfect. We recognize that it would have to be passed by the Senate or a version passed by the Senate, and a conference committee then would debate it and make final changes or considerations in it.

But most importantly, I am one who firmly believes that it is the right of the citizens of this country to be direct participants in the process, and the only way we can allow them to be that is for them to become engaged in a debate that I believe is fundamental to the survival of the economy and, therefore, to the survival of this country, and that is a debate on a constitutional amendment for a balanced budget that would begin if this body and the other one were to send forth to the legislatures of this country an amendment of this nature.

As my colleague mentioned, next Monday we will have again another special order to continue the discussion, and on Tuesday of the coming week, July 17, we will be debating a balanced budget amendment to the Constitution of this country. I hope that my colleagues will all join and participate, and that we can accomplish the 290 votes necessary to send this issue forth to the citizens who have time and time again asked for the right to become involved in the debate and to particiapte in the decisionmaking process.

Mr. Speaker, I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLEMENT (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. FORD of Michigan (at the request of Mr. GEPHARDT) for today on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCEWEN) to revise and extend their remarks and include extraneous material:)

Mr. UPTON, for 5 minutes, on July 17.

(The following Members (at the request of Mr. STENHOLM) to revise and extend their remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STENHOLM, for 60 minutes, on July 16.

Mr. DYMALLY, for 60 minutes, on July 25.

(The following Members (at the request of Mr. GUARINI) to revise and extend their remarks and include extraneous material:)

Mr. OWENS of New York, for 60 minutes each day, on July 23, 24, 25, 26, 27, 30, 31, and August 1, 2, and 3.

Mr. RICHARDSON, for 60 minutes, on July 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCEWEN) and to include extraneous matter:)

Mr. SPENCE.

Mr. COUGHLIN.
Mr. HORTON.
Mr. SUNDQUIST.
Mr. FISH.
Mr. SOLOMON in two instances.
Mr. BEREUTER.
Mr. INHOFE.

(The following Members (at the request of Mr. STENHOLM) and to include extraneous matter:)

Mr. TRAXLER.
Mr. CLAY.
Mr. VENTO.
Mr. MILLER of California.
Mr. CARDIN.
Ms. OAKAR.
Mr. DINGELL.
Mr. NELSON of Florida.
Mrs. SCHROEDER.

SENATE JOINT RESOLUTION

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 318. Joint resolution providing for the appointment of Ira Michael Heyman of California as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2844. An act to improve the ability of the Secretary of the Interior to properly manage certain resources of the National Park System.

ADJOURNMENT

Mr. GUARINI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 56 minutes p.m.), under its previous order, the House adjourned until Monday, July 16, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3555. A letter from the Secretary of Education, transmitting a copy of Final Regulations—Foreign Language Materials Acquisition Program, Library Literacy Program, Library Services and Construction Act Basic Grants to Indian Tribes and Hawaiian Natives Program, and Library Services and Construction Act Special Projects Grants to Indian Tribes and Hawaiian Natives Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3556. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of an award under the Witness Protection Program, pursuant to 22 U.S.C. 2708(h); to the Committee on Foreign Affairs.

3557. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of an award under the Witness Security Program, pursuant to 22 U.S.C. 2708(h); to the Committee on Foreign Affairs.

3558. A letter from the Secretary of Agriculture, transmitting a report on the evaluation of the reorganization recommendations contained in the 1986 report of the National Commission on Agricultural Trade and Export Policy, and the views and recommendations of the Private Sector Advisory Committee; jointly to the Committees on Agriculture and Foreign Affairs.

3559. A letter from the Administrator, Office of Federal Procurement Policy; and Acting Director, Office of Government Ethics, transmitting a draft of proposed legislation to provide for Governmentwide procurement ethics reform, and for other purposes; jointly to the Committees on Government Operations, the Judiciary, Armed Services, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee on Appropriations. H.R. 5268. A bill making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-598). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. H. Res. 433. A resolution providing for the consideration of H.R. 5258, a bill to require that the President transmit to Congress, that the congressional Budget Committees report, and that the Congress consider a balanced budget for each fiscal year. (Rept. 101-599). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. H. Res. 434. A resolution providing for the consideration of H.J. Res. 268, a bill proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation. (Rept. 101-600). Referred to the House Calendar.

Ms. SLAUGHTER of New York: Committee on Rules. H. Res. 435. A resolution providing for the consideration of H.R. 1180, a bill to amend and extend certain laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes. (Rept. 101-601). Referred to the House Calendar.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 5131. A bill to amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes; with an amendment (Rept. 101-602). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. H.R. 5258. A bill to require that the President transmit to Congress, that the congressional Budget Committees report, and that the Congress consider a balanced budget for each fiscal year. (Rept. 101-603, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

H.R. 3664. Referral to the Committee on Ways and Means extended for a period ending not later than July 18, 1990.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. VENTO (for himself, Mr. RIDGE, Mr. FRANK, Mr. KLECZKA, Mr. LAFALCE, Ms. OAKAR, Mr. BARNARD, Mr. LEHMAN of California, Mr. NELSON of Florida, Mr. FLAKE, Mrs. SAIKI, Mr. PRICE, Ms. PELOSI, Mr. ENGEL, Mr. SMITH of Florida, Mrs. LOWEY of New York, Mrs. LLOYD, Mr. TORRICELLI, Mr. AUCOIN, Mr. JOHNSON of South Dakota, Mr. CRAIG, Mr. MCEWEN, Mr. BATES, Mr. DYSON, Mr. SERRANO, Mr. MCCRERY, Mr. HANSEN, Mr. QUILLEN, Mrs. VUCANOVICH, Mr. THOMAS of Wyoming, Mr. FORD of Tennessee, Mr. GORDON, Mr. VISCLOSKY, Mr. HASTERT, Mr. SCHIFF, Mr. STARK, Mr. LANCASTER, Mr. FEIGHAN, Mr. MRAZEK, Mr. DORGAN of North Dakota, Mr. PARKER, Mr. NAGLE, Mr. BRYANT, Mr. PORTER, Mr. SMITH of Vermont, Mrs. MORELLA, Mr. SLATTERY, and Mr. BUECHNER):

H.R. 5266. A bill to provide for safety and soundness of the Mutual Mortgage Insurance Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MARKEY (for himself and Mr. RINALDO):

H.R. 5267. A bill to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WHITTEN:

H.R. 5268. A bill making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1991, and for other purposes.

By Mr. BROOKS (for himself and Mr. HUGHES):

H.R. 5269. A bill to control crime; referred to the Committee on the Judiciary, and concurrently to the Committees on Armed Services, Education and Labor, Energy and Commerce, and Ways and Means for a period ending not later than 3 calendar days following the date on which the Committee on the Judiciary files its report in the House.

By Mr. BURTON of Indiana:

H.R. 5270. A bill to amend the Internal Revenue Code of 1984 to provide a refundable income tax credit for the recycling of hazardous waste; to the Committee on Ways and Means.

By Mr. FRANK:

H.R. 5271. A bill to authorize appropriations under the Legal Services Corporation Act; to the Committee on the Judiciary.

By Mr. HOYER:

H.R. 5272. A bill to amend the Public Buildings Act of 1959 to establish a demonstration program to promote Federal leasing of space in buildings offered by small business concerns owned and controlled by socially and economically disadvantaged individuals; to the Committee on Public Works and Transportation.

By Mr. LEACH of Iowa:

H.R. 5273. A bill regarding the establishment of a free trade area between the United States and the European Community; to the Committee on Ways and Means.

By Mr. MARKEY:

H.R. 5274. A bill to authorize the city of Malden, MA, to retain and use certain urban renewal land disposition proceeds; to the Committee on Banking, Finance and Urban Affairs.

By Mr. OWENS of New York:

H.R. 5275. A bill to amend the Congressional Award Act to temporarily extend the Congressional Awards Board, and to otherwise revise such Act; to the Committee on Education and Labor.

By Mr. PANETTA:

H.R. 5276. A bill to amend title 10, United States Code, to provide a statutory charter for the operation of the Defense Language Institute and to establish a personnel system for the civilian faculty at that Institute; jointly to the Committee on Armed Services and Post Office and Civil Service.

By Mr. SUNDQUIST:

H.R. 5277. A bill to redirect Federal fiscal resources to State and locally determined uses; to the Committee on Government Operations.

By Mrs. UNSOELD (for herself, Mr. DICKS Mr. SWIFT, Mr. MILLER of Washington, Mr. MCDERMOTT, Mr. DEFAZIO, Mr. WYDEN, and Mr. AUCOIN):

H.R. 5278. A bill to require the completion of studies indentified by the Pacific Northwest Outer Continential Shelf Task Force, and agreed to by the Secretary of the Interior and the President, regarding areas of the outer continental shelf off the coast of Oregon and Washington; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. PASHAYAN:

H.J. Res. 622. Joint resolution proposing an amendment to the Constitution of the United States requiring a balanced budget; to the Committee on the Judiciary.

By Mr. GAYDOS:

H. Con. Res. 351. Concurrent resolution expressing the sense of the Congress that American workers, farmers, and businesses should not finance the savings and loan bailout through tax increases; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

471. The SPEAKER presented a memorial of the Assembly of the State of New York, relative to African-American Middle Passage and Slavery; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Ms. SLAUGHTER of New York introduced a bill (H.R. 5279) to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States and the Great Lakes trade for the vessel *Hell's-a-Poppin;* to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 84: Mr. MAZZOLI.

H.R. 496: Mr. HERTEL, Mr. SERRANO, Mr. DWYER of New Jersey, and Mr. BURTON of Indiana.

H.R. 931: Mr. MINETA.

H.R. 1875: Mr. FORD of Tennessee.

H.R. 2025: Mr. DWYER of New Jersey.

H.R. 2098: Mr. SKEEN, Mr. MARTINEZ, and Mr. JAMES.

H.R. 2121: Mr. OWENS of New York.

H.R. 2270: Mr. BOSCO.

H.R. 2319: Mr. HAMILTON.

H.R. 2353: Mr. WYLIE and Mr. LEHMAN of California.

H.R. 2460: Mr. SOLARZ and Mr. BOSCO.

H.R. 2648: Mr. CONYERS.

H.R. 2926: Mr. MANTON, Mr. BOUCHER, Mr. WALSH, Mr. CLARKE, Mr. BUSTAMANTE, Mrs. LOWEY of New York, Mr. BROOMFIELD, Mr. MCDERMOTT, and Mr. PRICE.

H.R. 3053: Ms. LONG.

H.R. 3483: Mr. CONYERS.

H.R. 3546: Mr. SOLARZ.

H.R. 3603: Mr. PANETTA, Mr. PAYNE of New Jersey, Mr. BUSTAMANTE, Mrs. BOXER, Mr. HOCHBRUECKNER, Mr. LAFALCE, Mr. BROWN of California, Mr. DWYER of New Jersey, Mr. BATEMAN, Mrs. ROUKEMA, Mr. BALLENGER, and Mr. SANGMEISTER.

H.R. 3677: Mr. LEWIS of Georgia, Mr. SAXTON, Mr. MCMILLEN of Maryland, and Mr. MANTON.

H.R. 3719: Mr. SOLARZ.

H.R. 3751: Mr. CROCKETT, Mr. KASTENMEIER, and Mr. EVANS.

H.R. 3936: Mr. BOSCO and Mr. CONTE.

H.R. 4095: Mr. PEASE, Ms. SNOWE, Mr. MADIGAN, Mr. BROWN of California, Mr. LEWIS of Florida, Mr. RAVENEL, Mr. SMITH of New Jersey, Mr. TORRICELLI, Ms. LONG, Mr. SAXTON, and Mr. WEISS.

H.R. 4287: Mr. MONTGOMERY, Mr. MCCRERY, Mr. JOHNSON of South Dakota, Mr. BUECHNER, Mr. BOUCHER, Mr. BARTLETT, Mr. ATKINS, Mr. MCCURDY, Mr. MATSUI, Mr. BROWN of Colorado, Mr. RHODES, Mr. KLECZKA, Mr. JAMES, Mr. HOLLOWAY, Mr. SKELTON, Mr. PASHAYAN, and Mr. BAKER.

H.R. 4427: Mr. COX, Mr. HERGER, Mrs. MEYERS of Kansas, Mr. KOLBE, and Mr. ROHRABACHER.

H.R. 4529: Ms. PELOSI, Mr. SERRANO, Ms. KAPTUR, and Mr. CONDIT.

H.R. 4532: Mr. RAVENEL, Mr. ROSE, Mr. GEJDENSON, Ms. PELOSI, Mr. FAUNTROY, Mr. FASCELL, Mr. DEFAZIO, Mr. MILLER of California, Mr. PALLONE, Mr. KLECZKA, Mr. LEWIS of Georgia, Mrs. JOHNSON of Connecticut, Mr. MARKEY, Mr. BROWN of California, Mr. FRANK, Mr. BEILENSON, Mr. KENNEDY, Mr. WEISS, and Mr. OWENS of Utah.

H.R. 4649: Mr. ACKERMAN, Mrs. COLLINS, Mr. PENNY, Mr. BRYANT, Mr. PALLONE, Mr. AUCOIN, and Mr. CAMPBELL of Colorado.

H.R. 4652: Mr. HORTON and Mr. MURTHA.

H.R. 4669: Mrs. LOWEY of New York, and Mr. OWENS of New York.

H.R. 4690: Mr. JOHNSON of South Dakota, Mr. HAYES of Illinois, Mrs. BOXER, Mr. CALLAHAN, and Mr. JAMES.

H.R. 4824: Mr. COURTER.

H.R. 4848: Mr. OXLEY, Mr. DORNAN of California, Mr. PAXON, Mr. GRANT, Mr. PARRIS, Mr. WATKINS, Mr. HYDE, Mr. GINGRICH, Mr. SMITH of Florida, Mr. LEWIS of Florida, Mr. DENNY SMITH, Mr. GILMAN, Mrs. JOHNSON of Connecticut, Mr. HUNTER, Mr. DANNEMEYER, Mr. MYERS of Indiana, Mr. SHAW, Mr. INHOFE, Mr. HERGER, Mr. IRELAND, Mr. HENRY, Mr. SKEEN, Mrs. BENTLEY, Mrs. MARTIN of Illinois, and Mr. PACKARD.

H.R. 4875: Mr. LEWIS of Florida, Mr. JOHNSTON of Florida, and Mr. MCCOLLUM.

H.R. 4879: Mr. PALLONE, Mr. MINETA, Mr. LANCASTER, and Mr. JOHNSON of South Dakota.

H.R. 4880: Mr. MILLER of Washington.

H.R. 4897: Mr. BEREUTER.

H.R. 4915: Mr. NOWAK.

H.R. 4958: Mr. WALSH.

H.R. 4993: Mr. SCHUETTE.

H.R. 5007: Mr. PURSELL, Mr. CONTE, Mr. COURTER, Mr. KOLBE, Mr. HANSEN, Mr. DORNAN of California, Mr. ROBINSON, Mr. HEFLEY, Mr. NIELSON of Utah, Mr. PARRIS, Mr. ROWLAND of Connecticut, Mr. ARMEY, Mr. HANCOCK, Mr. MCEWEN, Mr. MCDADE, and Mr. MCCOLLUM.

H.R. 5098: Mr. WALGREN, Mr. SABO, Mr. BUSTAMANTE, Mr. JOHNSON of South Dakota, Mr. MRAZEK, Mr. LANCASTER, and Mr. SMITH of New Jersey.

H.R. 5101: Mr. LANCASTER.

H.R. 5127: Mr. GEREN of Texas, Mr. SPRATT, Mr. CONDIT, Mr. DERRICK, Mr. YATES, Mr. FLIPPO, Mr. MARKEY, Mr. EDWARDS of California, Mr. LEHMAN of California, Mr. JOHNSTON of Florida, Mr. CLAY, Mr. MATSUI, and Mr. HEFNER.

H.R. 5129: Mr. FOGLIETTA, Mr. MORRISON of Connecticut, Mr. SOLARZ, and Mr. LIPINSKI.

H.R. 5163: Mr. NEAL of North Carolina.

H.R. 5174: Ms. PELOSI and Mr. BROWN of California.

H.R. 5188: Mr. FAUNTROY.

H.R. 5260: Mr. JONES of Georgia and Mr. MORRISON of Connecticut.

H.J. Res. 374: Ms. SCHNEIDER and Mr. LOWERY of California.

H.J. Res. 468: Mr. LANCASTER, Mr. MACHTLEY, Mr. NELSON of Florida, Mr. ROE, Mr. FASCELL, Mr. WHEAT, Mr. FEIGHAN, Mr. PICKETT, Mr. YOUNG of Alaska, Mr. TOWNS, Mr. SPENCE, Mr. DEWINE, Mr. STEARNS, Mr. LEWIS of Georgia, Mr. BROWN of California, Mr. KLECZKA, Mr. CLINGER, Mr. SUNDQUIST, Mr. KILDEE, Mr. SKEEN, Mr. SHAW, and Mr. CLEMENT.

H.J. Res. 507: Mr. SMITH of Texas, Mrs. ROUKEMA, Mr. YOUNG of Florida, Mr. TALLON, and Mr. MCDADE.

H.J. Res. 509: Mr. WALGREN, Mr. TAUZIN, Mr. HAMMERSCHMIDT, Mr. YOUNG of Florida, Mrs. JOHNSON of Connecticut, Mr. TRAFICANT, Ms. SNOWE, and Mr. TALLON.

H.J. Res. 524: Mr. TOWNS, Mr. FORD of Tennessee, and Mr. CLAY.

H.J. Res. 554: Mr. JACOBS, Mr. FISH, Mr. YOUNG of Florida, Mr. IRELAND, Mr. FORD of Tennessee, Mr. VOLKMER, Mr. MCDADE, Mr. SOLOMON, Mr. KLECZKA, Mr. MILLER of Washington, Mr. BOEHLERT, Mr. RANGEL, Mr. HEFNER, Mr. BEVILL, Mr. PETRI, Mr. SMITH of Vermont, and Mr. WEISS.

H.J. Res. 557: Mr. GEJDENSON, Mr. VALENTINE, Mr. KILDEE, Mrs. COLLINS, Mr. LEWIS of Georgia, Mrs. LOWEY of New York, Mr. ERDREICH, Mr. JONTZ, Mr. OWENS of Utah, Mr. THOMAS of Wyoming, and Mr. NEAL of North Carolina.

H.J. Res. 562: Mr. STOKES, Mr. MCCOLLUM, Mr. FALEOMAVAEGA, Mr. FAZIO, Mrs. COLLINS, Mr. TOWNS, Mr. GALLO, and Mr. APPLEGATE.

H.J. Res. 571: Mr. ROE, Mrs. PATTERSON, Mr. TALLON, Mr. APPLEGATE, Mr. BORSKI, Mr. SHAW, and Mr. GALLO.

H.J. Res. 613: Mr. HUGHES, Mr. DORNAN of California, Mr. HORTON, Mr. MCGRATH, Mr.

RICHARDSON, Mr. MCDERMOTT, Mr. GORDON, Mr. KANJORSKI, Mr. KOLTER, and Mr. WOLF.

H.J. Res. 616: Mrs. JOHNSON of Connecticut, Mr. RANGEL, Mr. SPENCE, Mr. HASTERT, Mr. HUGHES, Mr. SCHEUER, Mr. TALLON, Mr. YOUNG of Alaska, Mr. TAUZIN, Mr. SCHULZE, and Mr. DWYER of New Jersey.

H. Con. Res. 304: Mrs. MEYERS of Kansas, Mr. SKAGGS, Mr. BONIOR, Mr. LEWIS of Georgia, Mr. DIXON, Mr. OWENS of New York, and Mr. WAXMAN.

H. Res. 349: Mr. FISH.

H. Res. 407: Mr. SHARP, Ms. OAKAR, Mr. TANNER, and Mr. SMITH of New Jersey.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2911: Mr. CHAPMAN.

H.R. 3498: Mr. BILBRAY.

PETITIONS, ETC.

Under clause 1 of rule XXII,

210. The SPEAKER presented a petition of the Thurston County Commissioners, Olympia, WA, relative to reductions in defense spending; which was referred to the Committee on Armed Services.

EXTENSIONS OF REMARKS

TRIBUTE TO LEONARD J. "POOCH" MILLER

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. FISH. Mr. Speaker, June 26 was the 85th birthday of a man so many of us in this body have grown to love and admire, Leonard J. Miller.

"Pooch," as he is affectionately known to us, has been a waiter in the House Members dining room for 23 years. I always look forward to seeing Pooch because he is such a pleasant man to be around. He always makes you feel at home with a smile or a few kind words.

Pooch's career spans several decades. Before he came to the Hill, he worked at Harvey's, one of Washington's best known restaurants, for 36 years, climaxing his career as maitre'd.

Before entering the restaurant business Pooch attended school in North Carolina. He started at John C. Smith College in Charlotte in 1924 but the next year he won a scholarship to the Agriculture and Technical College in the same city. At that school he excelled in baseball, basketball, and football.

The fact that Pooch is still working at an age when most people are well into retirement is a testament to his love of this institution and his enjoyment of life. He certainly is an inspiration to all of us.

If there is one thing Members on both sides of the aisle can agree on, it is that Leonard J. Miller is No. 1 with us. Happy birthday, Pooch. We hope you'll be with us here on the Hill another 20 years.

SIDONIA PALACE OF WINDHAM, NY: MODEL OF COMMUNITY JOURNALISM

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. SOLOMON. Mr. Speaker, the national media are under so much scrutiny these days that we forget the thousands of men and women in the field of community journalism who perform a vital service for towns and villages all over this country.

Today, I would like to pay tribute to one of them, Sidonia Palace, editor of the Windham Journal in Greene County, NY.

For 25 years, Sidonia Palace has been providing people in such communities as Windham, Hunter, Tannersville, Haines Falls, Lexington, Jewett, and Ashland with information about events of importance in their daily lives. The quality of the Windham Journal has always reflected the character of its editor.

She is equally known for her graciousness and integrity. Such qualities have inspired her family and friends to arrange a testimonial dinner in her honor on Monday, July 23. Such a testimonial is certainly appropriate.

Mr. Speaker, many Members from rural districts like mine know editors like Sidonia Palace, a delight to work with, and a pillar of her community.

I ask you to join me today with our own salute to Sidonia Palace, editor of the Windham Journal.

BAY PORT FISH SANDWICH WEEKEND

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. TRAXLER. Mr. Speaker, I invite my colleagues to join me in paying tribute to one of Michigan's oldest fishing villages, Bay Port. First named Geneva on the Switzerland—1851—and subsequently Wild Fowl Port, Bay Port is today the largest fresh water commercial fishing port in the world. Located on the "thumb" of the Michigan "mitten," this friendly town of 550 has, for the past 12 years, offered its famous, uniquely distinctive culinary delight, "The Bay Port Fish Sandwich" to friends, neighbors, and tourists alike—many, in fact, voyaging from our good neighbor to the north, Canada.

To this thumb area, northeast of Bay City on the Saginaw Bay, each year thousands will soon begin their annual trek to Bay Port in anticipation of their amazing fish sandwiches. Beneath the whir of helicopters waiting to transport these mouthwatering delights across States and nations alike are the many Bay Port volunteers, only one of them is entrusted to safeguard the special recipe for these scrumptious sandwiches.

To commemorate this annual event, I ask that the text of this proclamation to published in its entirety:

Whereas, the village of Bay Port, Michigan, is celebrating the 13th Annual Bay Port Fish Sandwich Festival on August 4 and 5, 1990; and,

Whereas, since 1978, the greatest event of the Thumb is the selling of 10,000 original fish sandwiches; and

Whereas, the awesome spectacle of tourists and helicopters alike are about to descend on this tiny village of 550; and

Now, therefore, be it Proclaimed that August 4 and 5 be known as "Bay Port Fish Sandwich Weekend," the advent of which deserves both national and international attention.

VIOLENCE IN THE OCCUPIED TERRITORIES

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. DINGELL. Mr. Speaker, the U.S. Government and almost all Americans believe that the State of Israel has the right to exist as an independent, sovereign, and peaceful democratic nation. Israel plays a pivotal role in the Middle East and should continue to work with its Arab neighbors to bring about a just and lasting peace. The United States should continue to support Israel in this objective and should encourage that country to employ means in both maintaining its independence and in working toward a prosperous and stable region.

However, Mr. Speaker, we must not forget that the struggle for freedom and liberty is a battle still being waged today. It can be plainly seen in the bloody fighting in the occupied territories of the West Bank, the Gaza Strip, the Golan Heights, and East Jerusalem.

In 1989 alone, the "intifada" claimed the lives of 432 Palestinians, of which over 300 were killed by Israeli security forces. Unfortunately, the terrible violence continues in the region with no end in sight. This can be witnessed by the brutal act of an Israeli civilian who mercilessly killed seven Arab workers on May 20.

The United States has a compelling interest in promoting the peace process in the Middle East as we annually provide billions of dollars in economic and military aid into the region. Yet, for all the money we send to Israel and the other countries in the Middle East, a policy discouraging violence in the occupied territories has not yet materialized.

It is undisputed that Palestinians in the territories are being systematically denied their human rights. They may be held in prison by the Israeli Defense Forces [IDF] for up to 2 weeks before the International Committee of the Red Cross is allowed access, and sometimes that access is delayed even beyond the 14-day wait. Palestinians may be "detained" for alleged security reasons, but often formal charges are not made or the arrest is based on "secret" evidence that is not made available to the detainees or their counsel. By their own figures, the IDF was holding over 9,000 Palestinians in their prison facilities as of January 1.

The Israelis also have used what they call "administrative detention" for alleged security reasons, holding Palestinians without a formal charge. They claim that those detained have engaged in activities deemed a threat to Israeli security. Even those engaged in nonviolent activities have been detained as a challenge to the security of Israeli occupation.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Most orders for detention are for 6 months, with many renewed a second or even a third time.

Even worse, military commanders are often the ones responsible for ordering administrative detention. The Israelis do provide the detainee the opportunity to appeal the order, but the appeal goes before a military judge, and the detention orders are rarely overturned.

A Palestinian in the occupied territories can be arrested by a soldier if "suspected" of having committed a crime. The arresting soldier need have a warrant. Without a warrant a detainee can be held for 96 hours. Without formal charges, individuals may be held for up to 18 days, usually without access to counsel. If it is believed that communication with their lawyers may frustrate the investigation, access may be denied indefinitely.

Schools and universities in the West Bank and Gaza have been closed, denying youth the right to an education.

The sanctity of the home is routinely violated. To enter a home, military authorities do not need a search warrant when in pursuit of what are called security objectives.

In 1989, the homes of 88 Arabs were demolished under the order of the military commander, again for "security" purposes, and an additional 82 homes were sealed. The Israelis have made it illegal for these Palestinians to rebuild their own homes.

The only press the Arabs of the occupied territories have is in East Jerusalem, where all publications that relate to the security and public order of Israel and the occupied territories must be submitted to the military for censorship before being released.

A month ago at least 58 Palestinian children aged 1 to 3 were injured when Israeli troops fired tear gas into the crowded waiting room of a United Nations maternity clinic in the Gaza Strip. The officer responsible for this brutal act was sentenced to a 10-day prison term, to be later suspended after a plea for leniency.

These and other violations of the basic rights of the Arabs in the occupied territories continue.

There are some 5 million Palestinians in the world today, of which 2 million are still registered as refugees with the United Nations Relief and Works Agency, an agency created in 1949 to provide assistance to Palestinian refugees. Those that are not refugees suffer as well, living in constant fear of soldiers or radicals.

Unfortunately, fear is the common denominator in this conflict, with no immunity for anyone. On May 30, an anti-Israeli group carried out an intolerable sneak attack from several pleasure boats, using prepared forces to slaughter civilians laying on the beaches south of Tel Aviv. This outrageous episode, intended to inflict needless death and injury upon innocent people, was thankfully suppressed before the intended slaughter could be carried out. The culpability of terrorist Abu Abbas has led to a suspension of the dialogue between the United States and the Palestine Liberation Organization until the PLO condemns the violence and disassociates itself from the perpetrators.

I condemn the violence that is destroying this region and the hatred that is feeding on this violence. The longer the United States allows this terrible situation to exist, the dimmer the prospects for peace in the occupied territories and the Middle East.

The United States has a responsibility to promote peace and to use all available means to open the dialogue between the parties involved. An important first step is to recognize the present intolerable situation in the occupied territories. It may very well be that the United States will have to reevaluate its policy options for all players in this conflict if future progress is not made in dealing with the violence in the occupied territories.

SPECIAL COUNSEL REQUEST

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mrs. SCHROEDER. Mr. Speaker, a majority of the majority of the House Judiciary Committee have sent a letter today to the Attorney General of the United States requesting that he seek application for a special counsel in the $1 billion Silverado thrift failure.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 11, 1990.

Hon. RICHARD THORNBURGH,
Attorney General of the United States,
Department of Justice,
Washington, DC.

DEAR MR. ATTORNEY GENERAL: The failure of the Silverado Banking, Savings & Loan Association is expected to cost the American taxpayers upwards of one billion dollars. The case has criminal implications that should be aggressively investigated, but the potential for political, financial, and personal conflicts of interest on the part of Department of Justice officials, including yourself and the U.S. Attorney in Denver, raise serious questions about the Department's ability to conduct a fair and vigorous investigation.

Therefore, the undersigned, constituting a majority of the majority of the House Judiciary Committee, respectfully request that you apply for appointment of an independent counsel to investigate the Silverado collapse.

The Ethics in Government Act, 28 USC 591 *et seq* provides that the Attorney General may conduct an investigation and apply for an independent counsel concerning alleged violations of law if the Attorney General concludes that an investigation by him or other Department of Justice officials may result in a "personal, financial, or political conflict of interest."

The government officials involved in and potential targets of the Silverado investigation present several clear personal, financial, or political conflicts of interest:

Larry Mizel is the chairman of MDC Holdings, which held $14 million in Silverado junk bonds and six million dollars in preferred stock in Silverado, and which reportedly unloaded on Silverado, with the cooperation of its management, real estate that was rapidly diminishing in value. Mr. Mizel and a member of his family contributed a total of three thousand dollars to the 1986 congressional campaign of Michael Norton, the present U.S. Attorney in Denver making decisions affecting the Silverado case. Furthermore, Mr. Mizel reportedly raised one million dollars for the Reagan-Bush ticket at a single luncheon in Denver in 1984.

Neil Bush, the President's son, was a director of Silverado from August 22, 1985 to August 8, 1988, when he resigned from the board, shortly after his father was nominated for President and four months before Silverado was seized by federal authorities. According to Office of Thrift Supervision (OTS) documents quoted in the *Rocky Mountain News* and *Denver Post* July 10, 1990, during Mr. Bush's service on the Silverado board he "led Silverado to the point of committing a violation of one of the most important [federal] regulations aimed at eliminating insider abuse." The OTS further stated that "Bush's conduct was one of the worst kinds of conflict of interest."

Ken Good, A Bush business partner and creditor, and Silverado borrower and preferred shareholder, defaulted on Silverado loans that will ultimately cost the taxpayers upwards of $30 million. In 1984, Mr. Good reportedly "lent" Mr. Bush $100,000 for a risky commodity investment with the understanding that the loan would be repaid only if the investment was profitable. Mr. Bush failed to disclose that the $100,000 loan on his conflict-of-interest form required of S&L directors. When the investment went bad, the loan was forgiven by Mr. Good. The *Washington Post* reported July 10, 1990, that Mr. Bush "has decided to report that six-year-old payment as income on his 1990 tax return."

Second, in November, 1986, Mr. Bush presented to the Silverado board Mr. Good's application for a $900,000 line of credit without advising the board that the money would be used for a joint Bush-Good oil venture. Mr. Bush "had a substantial business interest in the line of credit," according to OTS documents.

Third, in 1986, during a period in which Silverado released Mr. Good, in exchange for $3 million cash, from upwards of $11.5 million in collateral because of his financial difficulties, Mr. Bush failed to advise Silverado that Mr. Good had agreed to invest some $3 million in JNB Exploration, Inc., Mr. Bush's oil company, according to OTS documents.

Finally, after Mr. Good had defaulted on his loans from Silverado and after Silverado had been seized by federal authorities, Mr. Good reportedly contributed $100,000 to the Republican National Committee Eagles Club.

Bill Walters, another Bush business partner and creditor, and Silverado borrower and preferred shareholder, reportedly unloaded on Silverado, with the cooperation, of its management, real estate that was rapidly diminishing in value. In 1983, Mr. Walters had invested $150,000 in JNB Exploration. (Mr. Bush, by comparison, only invested $100, while drawing a $75,000 a year salary.) In 1984, Cherry Creek National Bank, which Mr. Walters owned, extended to JNB Exploration a $1.75 million line of credit. The line of credit, upon which JNB drew $1.25 million, remained open through August 1988, when Mr. Bush resigned from the Silverado board.

After joining the Silverado board, Mr. Bush voted to approve six separate Silverado loans to Mr. Walters totalling $106 million, all of which are now in default. According to OTS reports, Mr. Bush "increased the risk to Silverado's financial soundness" in voting to approve these loans.

Finally, in December 1989, one year after Silverado was seized by federal authorities, Mr. Walters and Mr. Mizel co-chaired a Re-

publican Party fundraiser in Denver at which President George Bush was the guest of honor. Neil Bush shared the head table with his father.

Former Federal Home Loan Bank Board of Topeka president and Principal Supervisory Agent Kermit Mowbray testified before the Housing Banking Committee June 19, 1990, that he delayed closing Silverado until after the 1988 elections because "someone in Washington" made a telephone call requesting that the closure be delayed.

Secretary of the Treasury Nicholas Brady, whose department oversees OTS, which is investigating certain aspects of Neil Bush's conduct in the Silverado matter, is on record ("This Week With David Brinkley," ABC, June 24, 1990) stating that "I happen to know Neil Bush" and that although "I can't imagine that he broke the law . . . the facts will have to come out." Secretary Brady's personal acquaintance with Neil Bush and his father, the President, coupled with his prejudgment of the case hardly give the public the confidence that the fact will indeed come out.

OTS officials testified before the House Banking Committee May 22, 1990, that federal bank examiners had made 12 referrals to Department of Justice officials of possible criminal activity at Silverado. The criminal referrals dated back to 1986, when Mr. Bush was on the Silverado board and two years before the thrift was seized. Yet there is no information that the Department took serious action on these referrals.

The Denver FBI Agent-in-Charge and the Denver U.S. Attorney have been quoted in the Wall Street Journal, June 26, 1990, and the Washington Post, June 23, 1990, as being understaffed and swamped with savings and loan scandal cases.

Given these circumstances and conflicts of interest, it would be very difficult for the Department of Justice to conduct the thorough and impartial investigation this matter demands.

Criminal statutes that may have been violated by Silverado officers, directors, investors, and borrowers include (1) Bribery, Graft, and Conflicts of Interest 18 USC 215, Receipt of commissions or gifts for procuring loans; (2) Conspiracy, 18 USC 371, Conspiracy to commit offense or to defraud United States; (3) Embezzlement and Theft, 18 USC 657, Lending, credit and insurance institutions; (4) Fraud and False Statements, 18 USC 1001, Statements or entries generally; 1006, Fedeal credit institution entries, reports and transactions; 1008, Federal Savings and Loan Insurance Corporation transactions; and 1014, Loan and credit applications generally; (5) Mail Fraud, 18 USC 1341, Frauds and swindles; 1343 Fraud by wire, radio, or television; and 1344, Bank fraud; (6) Racketeer Influenced and Corrupt Organizations, 18 USC 1962, Prohibited activities.

Certainly, when the potential targets of a criminal investigation of a one billion dollar thrift failure include the President's son, a major campaign contributor to a Department of Justice official, and a major campaign fundraiser for the current and previous President, we have a case in which Congress, in passing the 28 USC 591(c) "catch-all" provision, intended that you should seek appointment of an independent counsel.

This is a request under 28 USC 592 (g).

Sincerely,

ROMANO MAZZOLI,
EDWARD F. FEIGHAN,
LAWRENCE J. SMITH,
HARLEY O. STAGGERS, JR.,
BOB KASTENMIER,
DON EDWARDS,
RICK BOUCHER,
PATRICIA SCHROEDER,
JOHN CONYERS, JR.,
JOHN BRYANT,
GEORGE CROCKETT,
BRUCE MORRISON.

MAYOR JOHN COYNE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Ms. OAKAR. Mr. Speaker, I rise today to pay tribute to one of Ohio's most outstanding public officals, Mayor John M. Coyne who has served the city of Brooklyn, OH, for 50 years.

During the past five decades, John M. Coyne, a most efficient and effective administrator, has served the residents of Brooklyn as mayor for 43 years, treasurer for 2 years and clerk-auditor for 6 years.

Throughout his 50 years of public service, John M. Coyne has received many honors and awards, one of which was the recognition by Ohio's 117th General Assembly honoring him as the longest serving mayor in the United States. He has enjoyed being honored with the "Ernest J. Bohn Award," the "1983 Irish Man of the Year" and the "1984 Irish Good Fellowship Club Award."

This year, Mayor Coyne was reelected to his fifth consecutive term as chairman of the Cuyahoga County Democratic Party.

Since taking office 50 years ago, Mayor Coyne has led his community with pride and dignity. His numerous accomplishments are clearly recognized by his peers within the Cuyahoga County Mayors and Managers Association. Under his direction he successfully implemented many firsts in civic programs and initiatives, one being the first adopted universal seatbelt ordinance and making Brooklyn, OH, the "Home of the Seat Belt Law."

Mayor Coyne, a registered public accountant, directed the community of Brooklyn to the solid financial status it now enjoys—a city with one of the lowest tax rates in Cuyahoga County, but with the very best in city services. Mayor Coyne has directed the growth of this fine community with its present full-time complement of police, fire, and emergency medical personnel as well as a full time Service Department responsible for weekly refuse collection, groundskpeeping and routine road and sewer maintenance. This year the city of Brooklyn proudly takes its place as the first community in Cuyahoga County to implement a mandatory curbside recycling program.

The residents, especially the senior citizens of Brooklyn, OH are proud to boast of their outstanding services. They are provided with snow removal, sidewalk and driveway, during the winter months and are assisted with lawn maintenance at a minimal cost during the summer months.

A $1.9 million community senior center serves as a focal point for the city's senior service department and other community activities.

Additionally, families in the suburban community are fortunate to have access to the finest in recreational facilities, a $6 million recreation center houses an indoor rink, exercise facilities, raquetball courts, a recently added indoor-outdoor swimming pool natatorium, cardiovascular room, steam room, sauna, and whirlpool.

It is worthy to note that all of these capital improvements were paid for with cash and the city's only debt is a $975,000 note which will be retired during the 1991 fiscal year.

During 1989, John Coyne came up against the National Rifle Association and found himself successful in passing two measures dealing with weapons. One of the measures deals with possession of weapons and the other with a transaction permit and waiting period of 7 days.

He has also worked for the children of Brooklyn through such educational incentive programs as ROCK [Reward Our City's Kids] which rewards students for maintaining a B grade point average.

His most recent project is one which will provide the Brooklyn branch of the Cuyahoga County Library with a toy library section. This program will be the first of its kind operated in a public facility in this area. The concept of toy library will serve as a toy lending learning program for children, including those with special needs, to play with educational and developmentally appropriate toys in a structured setting.

It is clear to those of us in Cuyahoga County, why, during his 50 years of public service and the past 43 years as mayor, John M. Coyne has only been opposed three times, all unsuccessfully.

He is a devoted and loving husband to the first lady of Brooklyn, OH, Jean (Ruth) and a caring, compassionate, and protective father to his four children, Jack, Ed, Penny, and Jim. In addition, he and Jean have nine grandchildren and one great-grandchild.

The residents of Brooklyn, OH, are proud of their leader, Mayor John M. Coyne and I along with my fellow public officials in Cuyahoga County recognize him as a role model for public service. Under his direction within the Democratic Party, John Coyne has helped groom many of the newly elected public officials in our county and I am proud to call him a good Democrat, a good public servant, and a good friend.

ELIMINATE WASTEFUL SPENDING NOW

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. HUBBARD. Mr. Speaker, I would like to share with my colleagues an excellent letter I received last week from William R. Black, president of Ray Black & Son, Inc., of Paducah, KY.

Bill Black, one of my most prominent and talented constitutents and who served on the University of Kentucky board of trustees for 18 years, has eloquently expressed his concern about wasteful Government expenditures

responsible for the Federal deficit. He has pointed out that the General Accounting Office and the Grace Commission have both issued reports about wasteful spending and have detailed solutions for eliminating the deficit.

Unfortunately, Congress has failed to listen to either report. Those reports should be given further consideration by us in Congress.

I urge my colleagues to read and consider his thought-provoking letter. It follows in its entirety:

RAY BLACK & SON, INC.,
Paducah, KY, July 2, 1990.

Rep. CARROLL HUBBARD, Jr.,
U.S. House of Representatives, U.S. Capitol, Washington, DC.

DEAR CARROLL: Late last year, the General Accounting Office, which is the investigating agency of the Congress, issued its *GAO Financial Integrity Act Report.* This report exposes the massive government waste which is responsible for the federal deficit.

In an interview with reporter Terrence Smith of the CBS Evening News with Dan Rather, the Comptroller General of the United States estimated that the waste uncovered by this report totaled $180 billion! That is enough government waste to eliminate the deficit!

Can we get Congress to enact some recommendations contained in this report and help eliminate the federal deficit?

It is shocking that as Congress continues to raid the surplus from the Social Security Trust Fund and while many Congressmen are calling for increases in taxes, this report, which is a detailed road map for eliminating the deficit, remains untouched. The massive federal deficit is a grave threat to each American's financial security. It is discouraging that Congress has failed to enact the recommendations contained in the GAO Report and in the similar Grace Commission Report of a few years ago.

The Grace Commission specifically warned Congress of the Savings and Loan Crisis long before it occurred. If it had enacted the full Grace Commission Report, it not only would have prevented the S&L crisis, but would have eliminated the government waste responsible for the federal deficit. This GAO Report is a second chance to at least help eliminate the waste responsible for the deficit.

I don't agree with everything in the report, but we should eliminate all of the waste possible before asking the taxpayers for additional money.

Sincerely,

WILLIAM R. BLACK.

REMARKS BY HON. STENY H. HOYER

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. CARDIN. Mr. Speaker, I recently returned from the Copenhagen Conference on the Human Dimension of the U.S. Commission on Security and Cooperation in Europe. My good friend STENY HOYER, as vice chairman of the U.S. delegation and co-chairman of the Helsinki Commission, delivered an excellent speech at the plenary session of the conference that I would like to share with my colleagues.

REMARKS BY HON. STENY H. HOYER

Mr. Chairman, it is now five years since I first became an active participant in the Helsinki process. It is a special pleasure for me to attend this conference—which is being held in the birthplace of my father—and to see how far we have come together.

When I was appointed to the U.S. Commission on Security and Cooperation in Europe in 1985, there were serious questions in the United States about the viability of the Helsinki process. Had the process emphasized security at the expense of human rights? Was it perhaps time to reconsider the Helsinki process in the absence of tangible progress on human rights questions?

By the time the first meeting on the human dimension took place in Paris last June, the general health of the CSCE had improved greatly. The growing commitment of the member states to Helsinki principles enabled us to extend our reach beyond anything we had achieved before. At that meeting I had the honor of introducing on behalf of the American delegation a proposal regarding free elections and political pluralism. Since then only one year has passed, but multi-party elections have now been held throughout Eastern Europe. The groundwork has been laid for institutionalizing free elections as a fundamental right. That is a momentous, tangible contribution of the CSCE to the corpus of rights laid out in our international documents.

Today, we are at the second of three scheduled meetings discussing human rights. The situation has changed at such a pace that one can hardly pick up a newspaper without seeing references to the significance of the Helsinki process. In fact, analyzing the recent Bush-Gorbachev summit, the impending unification of Germany, and the search for new European security arrangements, one American commentator described the CSCE as "the sexiest new acronym" in international diplomacy. What that really means is that the press may finally begin to give CSCE the attention it genuinely deserves.

Of course, we here know that the CSCE is not new. Now, however, in the wake of the revolutionary changes which have transformed our world, we must hold ture to the powerful ideals of those CSCE principles which have inspired and guided our work since the beginning: The preservation and enhancement of individual human freedom; respect for the sovereignty of all states; and military security and cooperation among states. They now appear tantalizingly within our reach.

The final act refers to the "common purposes" of all the signatories; it recognizes the "indivisibility" of European security and its link to peace in the world generally; it establishes principles to be applied "equally and unreservedly.' The uniqueness of the final act is not in the rights it describes, for those rights were previously set down in different ways and in many different places. What is singular in the final act is the concept of balance. Our late teacher and master in this work, academician and human rights advocate Dr. Andrei Sakharov once said, "Peace, progress, human rights—these three goals are insolubly linked to one another. It is impossible to achieve one of these goals if the other two are ignored."

It is critical that we maintain the balance to which Sakharov referred in this period of rapid change. I believe that within CSCE a consensus has emerged by which we all recognize unreservedly the dignity of man. The importance of human rights, both in their abstract sense and as a crucial determinant governing the relationship between state and society, has emerged as the guiding principle upon which political pluralism and the eradication of social injustice are to take place. Rarely have leaders in public life been given the chance to achieve so much change. The people of Europe have given us a great opportunity, and we must now nurture, support and guide as best we can. It is a profound and awesome mandate which they have given us.

One of the most fundamental of these rights contained in our documents is freedom of movement. It is extremely gratifying to observe the vast improvements in the implementation of Helsinki principles in the past year. As an American representaive it is reassuring to read that Foreign Minister Shevardnadze and Secretary Baker seem agreed that the emigration of Soviet Jews in fact will not be affected by the peripheral question of settlement in the occupied territories. The notion that people have the right to leave their country—irrespective of their final destination—has clearly sunk deep roots among the governments of participating CSCE states.

Still, the dramatic improvements we have seen—progress for which some here in this very room can claim credit—portend an era of increasingly difficult and complex tasks for all of us. Now, human rights abuses are becoming more subtle and more difficult to eradicate. We must not allow the complexity of the problems to stifle debate or thwart our desire to acheive all that is possible and all that CSCE holds out to us.

Barriers remain which continue to divide our communities, no matter where we live, regardless of our political and economic systems. We are no less vulnerable to such barriers in the United States than in the Soviet Union, no freer of them in France of Germany than in Romania or Hungary. That unmistakable and universal threat to each and every participation state of the CSCE should make the eradication of such divisive obstacles our first priority.

I am speaking, of course, of the alarming spread of intolerance, prejudice and racism in our countries. They are like weeds whose continued presence and tenacious survival can strangle the fragile democratic order we have been laboring to cultivate throughout the CSCE. If we allow their roots to spread, we stand a good chance of forfeiting the progress we have made.

It took my country too many years to answer the command of racial equality contained in the fourteenth amendment to our constitution. It was not sufficient that the Constitution proclaimed all equal before the law. A plethora of laws to implement those words eventually had to be enacted. An independent judiciary had to give force and meaning to the intent of these laws. And societal attitudes had to change. The road which the Rev. Martin Luther King, Jr. travelled from Montgomery, Alabama to Oslo was long and difficult. As a champion of basic human rights for millions of Americans, he won grudging admiration even of his enemies by the strength and serenity with which he held his convictions. Those convictions were a simple yet compelling plea for compassion, for justice, and for respect for the dignity that is inherent in all individuals regardless of race, sex or nationality. Inspired by Reverend King's example, Americans are still working to achieve these goals.

People on this continent are no different. We were all deeply saddened and greatly

disturbed by outbreaks of ethnic and communal violence in the Balkans, the Caucasus and, most recently, in Central Asia. In France, President Francois Mitterand reminded his people of the need to be clear in these matters—as individuals, as nations, and as a community of nations we will not abide intolerance and prejudice. Whether the focus of hatred is the color of one's skin, one's religion, national origin or political views, we must not allow any individual or group to be demeaned or excluded because of prejudice. Not a single one.

In this regard, Mr. Chairman, we cannot ignore what is currently transpiring in Bucharest. The peaceful demonstrations in University Square represented an attempt by many who felt out of the political process in Romania to find a voice. Over the course of seven weeks, they called for a return to the ideals of the December Revolution: Unity, tolerance, mutual respect, and the right to free expression and honest competition for public support of political views.

President Iliescu and his government must use the mandate they won in the elections to open a genuine dialogue with the opposition, healing the profound divisions in Romanian society rather than furthering the dangerous polarization which they regrettably have encouraged.

It is a paradoxical and often frustrating virtue of democracy that it allows free expression to prejudice as well as to nobility of thought and feeling. However, that free rein brings with it a responsibility on the part of government to assure that individuals and minorities do not suffer tyranny at the hands of the majority. Particularly we in the legislatures, where diversity of opinion and the power of persuasion are the tools of our trade, bear a special responsibility to foster a climate of tolerance.

In a December 1989 Berlin speech, Secretary of State James Baker called upon parliamentarians to take part more directly in CSCE processes. The United States Helsinki Commission, composed mainly of Members of the U.S. Congress, already has developed an ongoing relationship with a body in the Soviet Congress of People's Deputies which has been beneficial to both sides. I welcome the growing interest in CSCE exhibited in European Parliaments, especially the new Parliaments of Eastern Europe. We on Capitol Hill look forward to working and consulting with other CSCE Commissions in European legislatures.

Our colleagues in the judicial branches must use laws to shore up freedom and expand discourse. A well-functioning judiciary guarantees that the burden of proof lies with those who would limit freedom—not those who would exercise it.

The CSCE as an institution must also take a stand. Human dignity, tolerance, mutual respect—let these enduring and fundamental values be our standards as we enter the 1990's, a decade in which the number of participating CSCE states will grow. Lithuania, Latvia, Estonia and Albania have all expressed an interest in participating in the CSCE. We welcome their request to join in our ongoing search for security and cooperation among states and in developing policies which guarantee the rights of communities and individuals.

Increasingly, the CSCE will have to address the relationship between the protection of individual and minority rights. Let us pay particular attention to the right to pursue mutually acceptable and fair procedures for resolving peacefully conflicts or disputes between any combination of states, peoples, minorities and individuals.

Particularly in this last area, the CSCE can serve as a source of values and also as an agent of conflict resolution. I urge that this meeting and the CSCE summit later this year consider creating a permanent CSCE Conflict Resolution Council to work with states and peoples.

This council should supplement, not replace, existing conflict resolution institutions. It might mediate internal problems with the concurrence of the state in question, and could be particularly useful in disputes between ethnic groups.

In a speech to a plenary meeting in Vienna in November 1988, I proposed a "zero option" in human rights, envisioning zero prisoners of conscience, zero jamming of broadcasts, zero cases of thwarted family reunification, and other violations of human rights. The violations I then had in mind were the kind that states have the power to control and thus are susceptible to changes in official policy. Happily, we have seen much progress in this regard.

The problem of renewed ethnic antagonisms which now confronts us is different. It is grounded less in the actions of states, through they can be a part, and more in the feelings of individuals and peoples. Feelings, or course, cannot be legislated. Therefore it is unrealistic to propose a "zero option" for national animosities, but we must do everything in our power to foster a better climate. We absolutely must insist on "zero tolerance" for any nationally-based expression of violence.

We all know of the bitterness of many ethnic disputes that have so often and so tragically disrupted peace and cost so many lives. The antiquity and the intensity of these hostilities have caused many to throw up their hands in frustration. Governments and the institutions of government have seemed unable to cope.

On one level, such cynicism may be understandable at the end of the 20th century. But I say, Mr. Chairman, if this be wisdom, then let me not grow wise too quickly. If the revolutions of 1989 have taught us anything, it is two lessons: The dizzying changeability of events and the enduring nobility of the human spirit. Many of the popular leaders now in power in Europe have pointed to Helsinki ideals as the inspiration in their long struggle for democracy and human rights. I want to believe that the Helsinki process will be an equally brilliant beacon shining over progress on nationality relations.

At this dawn of a new age, let us have faith in ourselves and in our ability to overcome the legacy of the past. That is the mission of the CSCE and of all who labor in its vineyards.

SOME REPUBLICANS PLACE POLITICS ABOVE RIGHTS OF FEDERAL WORKERS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. CLAY. Mr. Speaker, the following editorial appeared in the June 28, 1990, issue of the St. Louis Post-Dispatch. The editorial contends, and I agree, that opposition by some Republicans to reform the Hatch Act is motivated by political concerns that Federal employees may be more inclined to support Democratic candidates. Therefore, rather than reform the Hatch Act to afford Federal and postal employees basic first amendment rights, President Bush and 35 Republican Senators prefer using current law to silence those employees.

In vetoing H.R. 20, the Hatch Act reform bill, President Bush stated that the Hatch Act was essential to government integrity. To forbid the free discourse of political views by any segment of our society because one believes those views may differ from his own is to demonstrate an essential disrespect for the most basic principle of republican government. To then justify such an action by contending that one is protecting government integrity is to achieve an Orwellian level of hypocrisy rarely accomplished by American politicians. I commend the following editorial to my colleagues.

POLITICS SCUTTLED HATCH ACT REVISIONS

If Missouri Sens. John Danforth and Christopher Bond had shown respect for the political rights of federal employees and voted to override President Bush's veto of revisions of the Hatch Act, the bill would have become law. Instead, Mr. Bush's record of vetoes sustained by Congress remains intact, and the 3 million federal workers who are denied participation in the system that directly affects their lives must remain second-class political citizens.

When the Senate first voted to loosen the restrictions imposed by the Hatch Act, the bill received 67 votes—just enough to override a presidential veto. But after the House voted overwhelmingly last Wednesday to make the bill law over the president's objections, the Senate could come up with just 65 votes—all 55 Democrats plus 10 Republicans.

Sen. Danforth, who had voted against the original bill, once again sided with Mr. Bush; Sen. Bond, who had not voted when the bill first passed, also cast a negative vote, as did three GOP senators who originally favored the legislation.

Why did the White House put such pressure on Republicans to deny basic political rights to federal workers? With so many of them under a merit system, the protections needed 51 years ago, when the Hatch Act was passed and patronage was widespread, are unnecessary now.

The behavior the bill would have allowed—letting federal employees solicit money from co-workers, hold office in political organizations and attend political meetings, all on their own time—are reasonable. Far from politicizing the federal workforce, it would have given workers rights that no one should have to sign away in exchange for a government paycheck.

The real concern appears to be political. As Senate Minority Leader Bob Dole of Kansas put it, unions of federal workers "want to give more money to Democrats, elect more Democrats." If the only way Republicans like Sens. Dole, Danforth and Bond can avoid that is to forbid federal employees from taking part in politics at all, it doesn't say much for what their party has to offer.

LEARNING IS VALID AS A WAR ON DRUGS

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. INHOFE. Mr. Speaker, I know the statistics, I see the problem in my district; I read the reports to the Select Committee on Narcotics Abuse and Control; I know there is a problem of drug abuse among young people, and that is why I am an enthusiastic supporter of the Department of Education's Learning To Live Drug Free: A Curriculum Model for Prevention. Secretary Cavazos should be congratulated for producing such a well devised strategy to combat drug abuse among the young.

I think Learning To Live Drug Free is one of the best attempts to deal with drug education for the following reasons:

First, Learning To Live Drug Free is divided into four experience levels: Kindergarten through third grade, fourth through sixth grade, seventh through eighth grade, ninth through 12th grade. These distinctions allow the curriculum to be tailormade to a particular maturity and experience level. Each section can be upgraded or modified with techniques and programs schools have already found effective.

Second, Learning To Live Drug Free's philosophy is extremely well thought out. For example:

The tone of the curriculum is positive because the prime premise is that most youth do not do drugs. Young people respond directly to attitudes, and a positive attitude provides the best framework in which a young person can learn.

One of the primary purposes is to "enhance the development of life skills that keep youth from using drugs." This encourages, in the young, a willingness to help themselves, instead of having help forced on them.

The curriculum "explains the susceptibility to drugs at various ages, and it provides the rationale for lessons and activities so that teachers and others will understand the importance of presenting specific information and helping build specific skills at various age levels."

The curriculum emphasizes "general accepted values—such as being honest, setting goals, helping friends, and exercising self-discipline—which encourage students to be caring productive citizens."

Third, the curriculum uses wide and varied methods to teach students how to live drug free. This technique demonstrates that living drug free is important in every aspect of life, and not just in isolated instances. It also allows for a number of different avenues to reach a student, because no one formula reaches everyone.

Fourth, the guidelines for presentation of the curriculum emphasize:

"Students should not be separated or grouped according to whether they may be using drugs." Learning To Live Drug Free is not an attempt to preach to a student who is on drugs, but a way to teach the student how to get off drugs, and stay clean.

That the "information about drugs not be sensationalized," and that it must be accurate. Students, even the youngest, know when you are lying to them; they will not respect anyone who lies to them.

That "students help themselves and their communities by staying drug free." This encourages individual and societal responsibility, and a sense of duty.

Again, I want to congratulate Secretary Cavazos on the outstanding accomplishment of such a useful and needed drug abuse education guide.

ADMINISTRATION INITIATIVES TO ENHANCE DEMAND SIDE ANTIDRUG PROGRAMS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. COUGHLIN. Mr. Speaker, I rise to commend Education Secretary Lauro Cavazos upon the release yesterday of a model drug use prevention and education curriculum to be distributed nationwide for use in kindergarten through grade 12.

"Learning To Live Drug Free: A Curriculum Model for Prevention" provides a flexible framework designed to accommodate various different drug education strategies and techniques. It includes lesson plans for every age group, information for teachers and tips on how parents can work with the community to reinforce the prevention message taught in the classroom. The Department of Education will revise and update the curriculum materials as more is learned about what techniques are most effective in teaching our children to resist the use of illicit drugs.

The curriculum model is a critical component of the Department's ongoing efforts to ensure that antidrug education is an effective, integral part of the educational process for children of all ages. It sends a strong, unequivocal message that use of illicit drugs is both wrong and harmful.

"Learning To Live Drug Free" will be disseminated to superintendents and principals in every public school in the Nation as well as to the 1,500 largest private schools. This curriculum model is an invaluable resource and it is my sincere hope that it will be given the careful attention it deserves.

The Department of Education continues to be in the forefront of Federal demand reduction activities. As one who has long stressed the importance of antidrug education in preventing substance abuse among our Nation's youth, I am delighted that Secretary Cavazos has made drug prevention and education not only a departmental priority but a personal priority as well.

Further evidence of the President's commitment to create effective demand reduction programs is seen with last month's release by the Office of National Drug Control Policy [ONDCP] of "Understanding Drug Treatment" which explores the policy issues concerning drug addiction and treatment and provides the latest research findings and recommendations as to what works and what does not work in treatment. Learning what treatment methods are most effective is essential if we are to increase the overall success rate of the treatment system. The fact is that good treatment program do work and the administration has proven their dedication to improving them through release of the ONDCP publication.

If the President's budget request is approved by the Congress, $2.7 billion will be spent on our Nation's treatment, education, community, and workplace efforts in fiscal year 1991. The President's request almost doubles spending since 1989 in many of these important areas. The administration should be commended for their considerable efforts to improve drug prevention and treatment programs nationwide.

TRIBUTE TO DR. FRANCIS P. McQUADE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, the secular world measures a man by the fruits of his labor while in the spiritual domain his worth is based on the contents of his character. Occasionally God blesses the world with individuals who are inspirational leaders in both secular and spiritual affairs. Dr. Francis P. McQuade was bequeathed with extraordinary natural pedagogical talent. There are great natural singers, great natural athletes, and great natural teachers. Dr. Francis P. McQuade is a scholar who has a special undefinable gift to pass his wisdom on to others. In the classroom he has a certain charisma that opens the minds of the emulous hordes of aspirant leaders—so-called law students—who are dumped at his doorsteps each fall. Dr. McQuade has taught law at Seton Hall University School of Law for the past 33 years. Moreover, he taught philosophy at Fordham University for 15 years before deciding to practice the finer points of the Socratic method on some of New Jersey's finest young men and women. The sacrifices he made cannot be paid for in gold or words of praise. The thousands of students who passed through Dr. McQuade's classroom were each given the opportunity to drink deep from his wisdom and spirit. For Dr. McQuade teaching rewarded itself—the joy of sharing knowledge with and developing moral character within the youth was the only reward he sought. These brief words of official praise seek to commemorate the tremendous contributions that Dr. Francis P. McQuade has made to legal education in New Jersey. These contributions were duly recognized by Seton Hall University which recently awarded its highest honor to Dr. McQuade, the Bishop Bernard McQuaid Founder's Medal for Distinguished University Service. Dr. McQuade was also recently appointed as Seton Hall University School of Law's first official professor of law emeritus in residence.

Distinguished service as a professor was not enough to satiate Dr. McQuade's strong desire to serve the public. He also served as Essex County highway right of way commis-

sioner and as county counsel of Essex County for two terms. Dr. McQuade rose to national leadership positions during his tenure as county counsel. He was elected president of the New Jersey County Counsels Association and also elected national president of the National Association of County Civil Attorneys.

Dr. McQuade's dedication to public service was only surpassed by his dedication to Christian service. He is a recipient of the Archdiocese of Newark's Caritas Medal. He has been a member of the Holy See Permanent Observer Mission to the United Nations for many years. For his work as a representative on the Legal Committee of the U.N. General Assembly he was invested as a papal Knight of St. Sylvester I, Pope, by His Eminence, Agostino Cardinal Casaroli, Vatican Secretary of Stte.

On a personal note, I am proud of my many years of association with Frank McQuade. He is a good friend who always has had time to listen and to contribute to community activities. I have been informed that he is officially retiring from some of his activities in order to devote more time to higher priorities. He has worked with us on municipal and county Democratic committees for 30 years. He still has a lot of work to do and we are delighted that he'll have more time to help out in the future.

INTRODUCING THE PACIFIC NORTHWEST COAST PROTECTION ACT

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mrs. UNSOELD. Mr. Speaker, today I am joined by Congressmen DICKS, AUCOIN, MCDERMOTT, SWIFT, MILLER, DEFAZIO, and WYDEN in introducing the Pacific Northwest Coast Protection Act. The purpose of this legislation is to put into law the President's newly announced policy to delay Outer Continental Shelf [OCS] oil and gas leasing off the coast of Washington and Oregon and to further protect the coast from OCS preleasing activities.

Mr. Speaker, the coast of Washington is one of the Nation's most spectacular and biologically diverse coastlines. From the undeveloped wilderness of the northern coast to the estuaries and areas offshore Grays Harbor, Willapa Bay, and the Columbia River, coastal Washington possesses rich and vast and highly valued resources.

In the State of Washington there is bipartisan support among Federal, State, and local officials for permanent protection of our coast from oil and gas development. The Washington State Association of Counties adopted a resolution urging the President to prevent any and all oil exploration off our coast and the Washington legislature has passed a law barring oil and gas leasing in State waters. The Pacific Northwest Outer Continental Task Force, formed to advise the President on lease sale 132, also recommended that the lease sale be removed from the next 5-year leasing plan and that a long list of studies be completed before any further leasing activities.

The reasons for these actions are clear. Outside of Alaska, the coast of Washington and Oregon is the most ecologically sensitive and highest in marine productivity of any lease sale and it ranks extremely low in potential oil reserves.

Just last month the President announced he would heed the advice of local citizens and officials and give up his immediate plans to drill for oil off our coast, allowing for additional environmental studies. While northwesterners generally applauded this apparent change in policy, many were puzzled by what it actually meant. Does this mean permanent protection, or merely that we are postponing leasing decisions into the future? Is this decision binding? Is it enforceable? And finally, doesn't this decision actually allow the preleasing process, which can include seismic exploration with explosives, to go forward?

This last question is particularly important to Washington's dungeness crab fishermen who are still smarting from a previous incident with the seismic survey vessel that snagged the marker buoys of an estimated 10 percent of the crab pots on the Washington coast. The pots were carried away—lost to fishermen.

Questions are also being asked about these additional environmental studies. Why do we need more studies? According to the Department of the Interior, over $15.5 million worth of studies have already been funded to collect environmental data relevant to this area. And how do we know if the Department of the Interior actually considers any new data? In Bristol Bay, AK, for example, the administration proceeded with the lease sale despite its own studies showing the high fisheries resource values.

Mr. Speaker, the legislation we are introducing will resolve these unanswered questions. It is consistent with the President's decision that there there will be no oil and gas leasing activities until after the year 2000. And when enacted, this will be the law and not subject to change.

Our bill goes further, making clear that all OCS activities, including preleasing steps such as the "industry request for interest [RFI]," are put on hold. I realize that this may depart somewhat from President's decision, but if we need to conduct more studies why proceed with costly preleasing activities before we have a full assessment of the environmental data. Allowing the preleasing process actually begins the leasing process. It also raises suspicion that with industry interest, future OCS activities are inevitable.

Mr. Speaker, I want to emphasize that this bill enjoys bipartisan State and local support and our two congressional delegations are united in the effort to ensure protection of our coastline. In particular, Congressmen DICKS and AUCOIN have played key roles in establishing the Pacific Northwest Outer Continental Shelf Task Force. This task force gives the States an opportunity to participate in future leasing decisions and should be considered as a model for other areas of the country where controversial lease sales occur.

Finally, Mr. Speaker, I know the issue of limiting offshore oil and gas development raises concerns over our growing dependence on foreign oil. I believe we should do our part for national energy planning, but anyone who knows the Northwest knows we have not flatly opposed energy development. One need only look to the impacts of Columbia River dams on our salmon and steelhead runs and the historic contributions the Hanford Reservation has made on our national energy and defense needs to understand that we are willing to participate in essential energy efforts.

However, we can never support an energy program that ignores, our legitimate economic, environmental, and community interests. If we are truly concerned about our energy security, let's commit ourselves to the development of a balanced national energy program, and restructure the OCS leasing program within the context of such a policy.

THE V-22 "OSPREY" PROGRAM

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. BORSKI. Mr. Speaker, I rise today in support of the V-22 *Osprey* Program.

Last year, after Defense Secretary Cheney cancelled the program, Congress restored research and development funding for the V-22 *Osprey*. This year, we should maintain that level of funding and provide production funds for the *Osprey*.

Secretary Cheney admits that the V-22 is an "excellent aircraft," but that the United States cannot afford to build it. I say that we cannot afford not to build it.

The Institute for Defense Analysis, in a study that Congress mandated last year, concluded that the V-22 would be more effective than the alternatives selected by the Defense Department: the CH-53 and the CH-60 helicopters. However, the Pentagon is still not convinced.

I believe that the V-22 *Osprey* is a cost-effective, versatile aircraft that will enhance our national security and increase American economic competitiveness.

The V-22 is the best vehicle for its prime mission: to carry more marines into combat, farther, faster, and safer. But the V-22 can do much more than that.

The V-22 is capable of a wide variety of military missions because of its unique ability to take off vertically like a helicopter and fly at high speeds like a conventional airplane.

The *Osprey* could be utilized by the Navy for antisubmarine warfare, by the Air Force for search and rescue and by the Army to evacuate wounded solders.

The V-22 could also quickly deploy around the world or be used to fight terrorism or help in the war on drugs.

The V-22 revolutionary tiltrotor technology also makes it one of the most important recent advances in domestic aviation. Development of this technology could be a big boost to the U.S. commercial aviation industry.

Tiltrotor aircraft could be used to relieve congestion at airports around the country as commuters and short distance travelers would be diverted to heliports. This would definitely help our overworked air transport system.

Additional domestic uses for tiltrotor technology include disaster assistance, overnight delivery services, and even oilspill response.

The technology provided by developing the V-22 could also help reduce the U.S. trade deficit. We could build it for the domestic air industry and for export.

If we do not build tiltrotor aircraft, someone else will. If that happens, we will be in the position of paying others for technology we developed.

The V-22 is an important, cost-effective aircraft for both military and domestic use. I urge all of my colleagues to support the *Osprey* Program.

ENTERPRISE ZONES

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. SUNDQUIST. Mr. Speaker, Robert Kennedy once observed that "to fight poverty without the power of free enterprise is to wage war with a single platoon while great armies are left to stand on the side." It seems to me that, too often, Government has been content to leave those great armies in the barracks, while engaging the foe with a lone, though well-funded, platoon of Government programs. There is a better way.

I have recently joined my colleague, Mr. RANGEL of New York, to introduce legislation to mobilize the armies of free enterprise through creation of enterprise zones in distressed urban areas, as well as in rural areas which have not shared fully in our Nation's economic growth. Our bill, H.R. 4993, would encourage private investment and job creation in areas where both are solely needed.

H.R. 4993 would designate enterprise zones in particularly distressed areas of our cities and in depressed rural communities. Through Federal tax incentives and credits, we would reward investors and employers who do business in the zones. Importantly, we would emphasize the role of small businesses, the prime generators of jobs.

We propose to offer tax incentives for small, start-up ventures that will make them more attractive to investors. What's more, Federal tax incentives woiuld act as a catalyst for matching State and local programs, as well as private initiatives. All of our efforts are aimed at reinforcing neighborhoods and communities. As we encourage new development and new business ventures, we want also to support and assist businesses already in the neighborhood.

H.R. 4993 aims for these goals with four major provisions:

First, the creation of up to 50 enterprise zones, to be selected on a competitive basis, in areas where the median household income falls below 80 percent of the surrounding communities, or where the population has fallen dramatically over the past 20 years;

Second, no capital gains taxes on tangible assets in enterprise zones, as an incentive for investment and improvements;

Third, investors in qualifying small business ventures are given an up-front deduction of $50,000 per year of new equity, with a $250,000 lifetime limit, thus providing an important source of seed capital for new ventures; and

Fourth, a 5-percent tax credit is applied to part of the wages earned by employees of firms in the enterprise zone, providing an added incentive for prospective workers to get off welfare and take advantage of new job opportunities.

To those who argue that enterprise zones will simply reshuffle existing jobs, rather than creating new ones, I would point out that the tax cuts we enacted in 1981 and again in 1986 resulted in the creation of 20 million new jobs. The incentives in our enterprise zone bill would target job growth to areas that most need it. In addition, we have fine tuned this proposal to ensure that it will not lead to abuses or create uneconomic tax shelters.

Finally, and I believe most persuasively, the enterprise zone program would bring the market economy into play, mobilizing the armies of free enterprise in our depressed rural counties and our distressed inner cities. When dozens of newly-free nations around the world are turning to the American economic model, what better time for us to put our own successful free market incentives to work in those areas of our Nation where we most need them.

I strongly urge my colleagues to support H.R. 4993.

NEW HAMPSHIRE GOVERNOR JUDD GREGG DECLARES CAPTIVE NATIONS WEEK.

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. SOLOMON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

A PROCLAMATION: CAPTIVE NATIONS WEEK—JULY 15-21, 1990

Whereas, the past year has been a historic one for the cause of freedom and the establishment of new democracies in the nations of our world; and

Whereas, still, injustices do persist and the desire for religious and political freedom that united our forefathers over two hundred years ago stirs today in the hearts of many subjugated liberty-loving people; and

Whereas, Freedom is a God-given right which should be the destiny of all mankind and whose denial should not be allowed by free men; and

Whereas, 32 years ago, the United States Congress authorized the President to issue a proclamation emphasizing the existence of captive nations throughout the world; and

Whereas, the fate of people enslaved under these communistic regimes is shaped by the free world's commitment to counter these aggressive systems; and

Whereas, the citizens of New Hampshire, in conjunction with millions of countrymen, long for the day when all freedom-loving citizens of the world will once again enjoy liberties which are basic to the right of self-government and the dignity of human beings; and

Whereas, Captive Nations Week, the third week of July, is a time for the citizens of this nation to stand together in solidarity with the captive and oppressed peoples throughout the world;

Now, Therefore, I Judd Gregg, Governor of the State of New Hamsphire, do hereby proclaim July 15-21, 1990 as Captive Nations Week in New Hampshire, and ask all citizens to the cognizant of the important freedoms and preservation of human dignity proclaimed herein.

Given at the Executive Chambers in Concord, this 20th day of June in the year of Our Lord, one thousand nine hundred and ninety, and of the independence of the United States of America, two hundred and fourteen.

JUDD GREGG,
Governor of New Hampshire.

MICHIGAN FARMER MAGAZINE RECOGNIZES NEED FOR INFRASTRUCTURE

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. TRAXLER. Mr. Speaker, the July 1 issue of Michigan Farmer in an article by Dick Lehnert recognized one of the points that I have been trying to bring home to our colleagues: The need we have to redirect spending to meet our infrastructure needs.

I recommend this article to everyone, and ask that it be reprinted in the RECORD at this point.

SPENDING THE PEACE DIVIDEND

(By Dick Lehnert)

Lee Iacocca tells us that American cars have recovered from the disease of shoddiness and are now, once again, as good as any the competition can make. That's good news, if true, but my growing concern is where I'll drive a fine car, American or Japanese.

Most of you probably noticed that the rural roads pretty thoroughly went to ruin this spring. Wherever thin strips of gravel are laid willy-nilly over largely undrained clay bases, it stretches credibility to call them roads. Some springs are worse than others, and we pay for it dearly. The collective bills for tie-rods and front-end alignments paid by us long-suffering ruralists would darn near pave those roads.

Not only are the roads bad, but often I drive out of my way because only about one road in three has a workable bridge over the small river that crosses my path from home to office.

On some fronts, we are not progressing in this country; we are falling behind. Our forefathers could drive across rivers we can't cross today because we didn't repair or rebuild what they built.

In modern language, we call it the "decaying infrastructure."

COST OF DECAY

Infrastructure is not just roads. In the words of Bay City (eight district) Congressman Bob Traxler, it is "the underlying base of essential elements necessary to build and maintain a strong nation. Physical infrastructure is our public works—our highways, buildings, public transit systems, railroads, airports solid waste facilities, sewer and

water systems built by the government at public expense for public use."

Besides the physical infrastructure, there is also the human infrastructure—those institutions like schools that support "the ability of a country's citizens to become self-sufficient members of the society in which they live."

Traxler wrote an article on the subject in the March 5 issue of the Northeast Midwest Economic Review.

In the article, Traxler argues that this country has allowed its infrastructure to decay, for numerous reasons and that this has cost us in reduced prosperity. Not only do we not have the employment that goes with public works projects, we do not have the results. Our goods and services move more slowly over deteriorated bridges and highways and through clogged airports, adding to labor costs, causing delays, reducing competitiveness.

He quotes David Anschauer, senior economist at the Federal Reserve Bank of Chicago, who sees a correlation between infrastructure investment and economic growth. Of seven nations (U.S., United Kingdom, Canada, Italy, France, West Germany and Japan), the U.S. had the lowest rate of investment in public projects and the lowest rate of productivity growth.

"The United States has been investing less than 1% of output in infrastructure projects," Traxler wrote, "and more than 5% of GNP in military projects. Japan, by contrast, reverses these priorities. It invests only 1% of GNP in its military, and more than 5% of public output in public facilities. The result: Japan's productivity rate has been triple that of the United States."

PEACE DIVIDEND

All of this sets the stage for Traxler's argument that we should spend much of the "peace dividend" on fixing the infrastructure of this nation—not just the physical but the social as well. Just as we cannot afford to have lousy bridges, we cannot afford to have illiterate, drug-addicted, criminal-minded citizens.

Traxler's view is not punitive. Just as we would not put a bridge in prison because it rusted away, he would not build prisons for people who have rusted away for lack of investment in their formation and maintenance. He advocates education and prevention. "We must work to restore the foundations of community and family support that have always made our country strong," he said.

"The pressing need for this effort comes when the world situation permits us to shift funds away from unproductive military spending," he writes.

"I believe now is the time to begin to rebuild America's infrastructure—both physical and human. It is clear that the dramatic changes taking place in the Soviet Union and Eastern Europe today will permit us to reduce our military presence in Western Europe and in the Pacific."

Traxler says some of the savings must go to deficit reduction. And some of the savings must be redirected in ways that don't allow recession to result from the downsizing of the military establishment. The human power now devoted to military uses should be absorbed in the work of rebuilding infrastructure.

"Defense expenditures economically benefit only limited sections of the country," Traxler wrote. "Public works, on the other hand, reach every state, city and village in this nation. They increase demand for contractors, pipe manufacturers, cement producers, steel and heavy equipment manufacturers and truck manufacturers. Public works also provide well-paying jobs to various types of skilled and unskilled workers. The economic spinoff from all this activity is very positive for national and local businesses."

How much should be spent? A doubling of public works spending from about $45 billion annually to $90 billion would make a large impact.

Charles Bartsch, a policy analyst at the Northeast-Midwest Institute, says: "Many in Congress feel that the military could sustain even greater cuts (than the 2% per year proposed in the administration budget) without jeopardizing national security. Shrinking the Pentagon budget by 5% annually until 2000 would reduce defense spending by more than $730 billion during that time."

That amount could provide, on average, $45 billion a year for infrastructure and $28 billion a year for deficit reduction. Not a bad split.

TRIBUTE TO FRED F. LETTIERI

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. McDADE. Mr. Speaker, Fred F. Lettieri of Scranton, PA, my first district administrator upon being elected to Congress in 1962, is being honored by the community on July 20, 1990, for his 18 years of service in meeting the needs of the elderly and low-income citizens of Lackawanna County.

As the executive director of the Scranton-Lackawanna Human Development Agency, Inc., Fred has directed the agency in its mission to provide employment, education, training, and direct human services to those less fortunate. Under the direction of the Private Industry Council, Fred has worked long and hard to involve the educational and business community in opening employment opportunities for the disadvantaged and unemployed.

Fred Lettieri was born and raised in Old Forge, PA. His parents, the late Furey and Matilda Lettieri, owned and operated "Lettieri's Restaurant & Pizza" on Main Street, which is remembered by many as the first local restaurant to offer white pizza.

He was graduated from Old Forge High School, where his achievements on the basketball court earned him a full athletic scholarship to the University of Scranton where he was awarded a bachelor of science degree in economics and business from the university in 1955.

His first jobs after college included schoolteaching, working as an accountant, and various positions in sales and marketing.

In 1962, Fred accepted a position as my district administrator, serving on my personal staff for 10 years. Responding to the questions, problems and needs of individuals, officials and organizations in northeastern Pennsylvania, Fred gained valuable experience in making Federal and State-funded programs available to meet local needs. Employment, housing, welfare, health care, and education problems among constituents were the focus of his efforts during this period.

Since his hiring as executive director of the Scranton-Lackawanna Human Development Agency in October 1972, Fred has overseen the agency's growth as one of the area's largest, most diverse human service organizations. It is the only local agency dedicated exclusively to the needs of Lackawanna County's low income and disadvantaged, and Fred directed the agency's successful expansion in child care and Head Start programming; employment and jobs training services for adults, youth, the elderly and handicapped; energy assistance and conservation programs; food and shelter services; and even economic and neighborhood development programs; incorporating State, Federal and local resources to assist the poor in meeting their basic needs while attaining self-sufficiency.

Fred's efforts have been recognized in consistently high ratings and evaluations by funding sources, and in various achievement awards, including awards from the Pennsylvania Director's Association for Community Action, Catholic Social Services of Lackawanna County, and a recent appointment by DCA Secretary Karen Miller to the Commonwealth Weatherization & Energy Conservation Policy Council. He has also been appointed to the boards of the Economic Opportunity Council's Housing Development Corp., Economic Development Council of Northeastern Pennsylvania, and National Youth Sports Program Advisory Council—University of Scranton. He is also a member of the Scranton-Lackawanna Labor Management Committee, Supported Employment Task Force, Job Center Task Force, and Job Service Employer Advisory Council.

His commitment to the area and area youth extends to his civic and volunteer activities; serving on the boards of the Lackawanna Chapter of the Arthritis Foundation, Boy Scouts of America Forest Lakes Council, and Steamtown Foundation.

Fred and his wife, the former Wanda Katchur of Scranton, are the parents of three children; Fred, Jr., a reporter with WNEP-TV channel 16; Judith, law clerk for Judge James Walsh; and Maria, a student at Wilkes College.

I know that my colleagues join me in congratulating Fred and Wanda Lettieri upon the occasion of this community salute and wish them and their family the very best wishes in the years ahead.

FHA PROTECTION AND HOMEOWNERSHIP PRESERVATION ACT OF 1990

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. VENTO. Mr. Speaker, today Congressman RIDGE, I and 45 of our colleagues are introducing The FHA Protection and Homeownership Preservation Act of 1990. This legislation is a responsible answer to the actuarial review of the Federal Housing Administration's Mutual Mortgage Insurance Fund that was released this summer. The FHA Protection and Homeownership Preservation Act of 1990 will

maintain the actuarial soundness of the insurance fund, while maintaining the operating principal of the FHA—enhancing homeownership opportunities for moderate and lower income families.

Our Nation stands alone in our success to provide affordable housing opportunities for American families. The reason for this unprecedented success of homeownership in our Nation flows to the genius of the FHA program of providing a low down payment with a national insurance basis. This program spreads the risk broadly and provides the opportunity for homeownership to millions of American families.

The success of the FHA program is well documented. In a statement before the Housing Subcommittee, HUD witnesses testified that 6.5 million homes are insured through the FHA insurance fund. There are 690,000 families who used FHA insurance to buy a home last year; 450,000 of them were first-time homebuyers. According to the General Accounting Office over 40 percent of the first-time homebuyers, who used FHA, made down payments of less than 5 percent.

Historically, the FHA has succeeded—not only in terms of providing homeownership opportunities, but also in terms of the insurance fund's actuarial soundness. During the 1970's and into the early 1980's the FHA built a solid surplus capable of weathering any economic storm. However, as with so many other programs, FHA was victimized by the budget scorekeeping pea and shell game. Prior to 1983 the FHA insurance fund was on a pay-as-you-go system. That year, the Reagan administraton budget gurus found a way to use the FHA to mask the size of the deficit. Rather than an annual premium, the FHA insurance fund was changed to an up-front premium which was stored at Treasury rather than being immediately deposited in the FHA. This change made it easier for OMB to reduce the Federal deficit, but it certainly did not help FHA home purchasers by increasing their home mortgage loans and raising the price of homeownership at the critical time of purchase.

This summer the Department of Housing and Urban Development released an actuarial review of the Federal Housing Administration's Mutual Mortgage Insurance Fund conducted by Price Waterhouse. This analysis determined that in the 1980's the insurance fund did experience a serious depletion of this built-up surplus because of poor management and inefficient premiums. These losses are most disturbing and could jeopardize the FHA insurance fund in the future.

In 1989, Congress enacted strong new laws to stop the managerial abuses that have occurred. It is now time for Congress to develop a policy that will once again attain the actuarial soundness of the FHA insurance fund while preserving the historic FHA role as an affordable means of homeownership for moderate and lower income families. This is what the Vento-Ridge proposal is designed to accomplish.

The FHA Safety and Soundness Act implements needed reforms to attain an adequate capital ratio for the FHA insurance fund. The bill requires that the FHA insurance fund attain the Price Waterhouse recommended capital ratio of 1.25 percent in 24 months. In addition, the bill requires an even stronger 2 percent capital ratio by the year 2000.

To accomplish that goal, the FHA Protection and Homeownership Preservation Act takes several steps. First, the legislation reestablishes a pay-as-you-go funding system by reducing the up front premium and replacing it with an additional premium that is payable through life of the loan. This pay-as-you-go system provides a steady flow of funds into the FHA insurance fund to counteract the depletion of the fund and reduces by nearly two-thirds the increased mortgage amount attributed to the up front FHA insurance fee.

The Vento-Ridge bill eliminates the ongoing practice of paying distributive shares out while the FHA insurance fund is not actuarially sound. Distributive shares are similar to stock dividends and should not be paid at a time when the fund is losing money. This commonsense step saves the FHA Insurance fund an estimated $140 to $150 million each year.

In addition, our bill will restrict the amount that the FHA rebates on unearned premiums and saves another $500 million over the next 5 years. The bill also provides better oversight for Congress and the administration by requiring annual audits of the fund and authorizing the Secretary of HUD to raise the premiums when the insurance fund is inadequate.

In achieving the goal of actuarial safety and soundness, the Vento-Ridge bill does not sacrifice homeownership opportunity for American families, especially first time homebuyers. The Vento-Ridge bill does not significantly increase the amount of up front cash that families will require to buy a home. The Vento-Ridge bill continues the successful FHA philosophy of balancing the risk and cost through a national insurance pool. That philosophy has been successful in opening the door of homeownership to millions of American families.

I would be remiss if I did not bring to my colleagues' attention the only other alternative on this issue before the Congress. Last month the Senate adopted a last-minute amendment. The Senate proposal would drastically alter the successful FHA philosophy and place the heaviest cost burden on those who are least able to pay. This amendment, which the administration strongly supported, turns the FHA program on its head. Under the administration proposal, the FHA will provide the most assistance to those most able to pay and will penalize the most, those for whom the FHA is primarily intended.

Rather than restoring the FHA to a pay-as-you-go system, the administration continues, solely for budget gimmickry purposes, a higher up front premium than the Vento-Ridge bill. Added to that is a regressive risk based premium system. As a result, down payments will have to be increased by 40 to 50 percent, doubling the down payment required by the Vento-Ridge bill. The bottom line is a program that is stratified on the basis of up front cash and that effectively locks out over 100,000 potential home buyers from purchasing a home each year. I need not remind my colleagues that most of these 100,000 home buyers will be the first time home buyers who most need our help.

Mr. Speaker, it is essential that Congress reiterates its support for homeownership. The FHA Protection and Homeownership Preservation Act accomplishes that goal. I urge my colleagues to join with Congressman RIDGE and I to cosponsor this legislation and save the FHA.

GSA ADMINISTRATOR RICHARD G. AUSTIN

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. HORTON. Mr. Speaker, I rise to commend the General Services Administration and its recently confirmed Administrator, Richard G. Austin.

GSA recently announced the completion of the transition from the Government's 27-year-old Federal Telecommunications System to the new state-of-the-art FTS 2000 long distance network. This changeover took place last week, 2 weeks ahead of schedule. Even more impressive, the original plan for the network called for a completion schedule of 36 months before the system would be fully operational. But, as a result of the competition mandated in awarding this contract, the expertise of the contractors, and the excellent work of the GSA led Inter-Agency Council on FTS 2000, it took only 18 months to make this system a reality.

Mr. Speaker, FTS 2000 was a tremendous undertaking by GSA. The estimated value of the contract over its life could be as much as $25 billion. Due to the devotion and expertise of the individuals at GSA the contract was competed and awarded without a hitch.

FTS 2000 will completely transform the way the Federal Government does business. It will allow Federal workers across the Nation to exchange data and information instanenously at a great savings to the Government and to the general public.

Mr. Speaker, I applaud the leadership of Administrator Austin and the expertise and professionalism of all of those at GSA who participated in this endeavour.

THE CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1990

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. MARKEY. Mr. Speaker, today I am pleased to join with my colleague Mr. RINALDO, the ranking minority member of the subcommittee, in introducing the Cable Television Consumer Protection and Competition Act of 1990. To a large degree, this legislation reflects consensus reached during various conversations and negotiations of the past few weeks between and among Members of Congress, State and local representatives, consumer representatives, and industry representatives. The bill incorporates the provisions of

the amendment in the nature of a substitute to the committee print adopted by the subcommittee on June 27, 1990.

Over the past several months, I repeatedly have expressed concern about the practices and prices of some operators that have become unreasonable or even abusive of the interests of consumers. Two GAO cable rate surveys requested by the subcommittee have confirmed that some cable operators have betrayed the trust placed in them by the Congress in 1984. I have pledged that in any cable legislation, my principal intent would be to rein in these sorts of renegades in the cable industry.

The legislation we are introducing today would take steps to protect consumers from the excesses of renegade operators. Specifically, it would require cable operators to offer a basic service tier, or broadcast basic tier, consisting, at a minimum, of local broadcast signals and PEG access programming. The Federal Communications Commission [FCC] would establish a formula for determining the maximum price cable operators could charge for this tier.

The bill also mandates the Commission to protect the cable subscribing public by preventing cable operators from charging unreasonable or abusive rates. It directs the FCC to develop the means to identify and to reduce, in individual cases, unreasonable or abusive cable rates. A franchising authority or other relevant State or local government entity would be authorized to file a complaint with the Commission, alleging that a rate is unreasonable or abusive. The FCC would consider the complaint in a fair and expedited proceeding. I believe that this legislation is a balanced and responsible approach that affords consumers true protection, while not burdening the cable marketplace with cumbersome regulation.

A principal goal of this legislation is to encourage competition from alternative and new technologies, especially wireless cable and direct broadcast satellites. In order to do this, the legislation contains three provisions that facilitate access to programming for multichannel video providers.

First, vertically integrated cable programming services would be prohibited from unreasonably refusing to deal with any multichannel video system operator with respect to the provision of video programming. The bill, however, permits exclusive contracts for programming services as long as they do not significantly impede competition. Because this provision is designed to spur competition, the prohibition would sunset after 9 years or earlier if the FCC determines that a competitive market for the delivery of video programming exists.

Second, the legislation would require any person who encrypts any satellite delivered programming to make such programming available for private viewing by home satellite antenna users, to establish reasonable and nondiscriminatory financial and character criteria for dealing with programming distributors, and to establish nondiscriminatory price, terms, and conditions for distribution of such programming.

Finally, cable operators would be prohibited form coercing programmers to provide exclusivity for video programming against other multichannel video system operators as a condition of carriage on a cable system.

We also are moving forward today to legislate a solution to the must carry problem, to ensure that local broadcasting and public television survive and flourish in this growing era of cable television. Under the legislation, cable operators would be required to carry public television stations pursuant to the agreement reached by the cable industry and the public television community. Cable operators also would be obligated to reserve approximately 25 percent of their systems' channel capacity for carriage of local commercial broadcast stations, a requirement consistent with the Commission's earlier rules.

In addition, we are moving ahead today to fill the existing gap in the Federal Communications Act with regard to foreign ownership restrictions on our communications media. The same restrictions that we apply to our telephone and broadcasting systems would be extended to cable, wireless cable, and DBS systems.

Other key provisions in the legislation would require the FCC to establish minimum customer service and technical standards, to collect financial information from cable systems on an annual basis, and to determine whether limitations on harizontal and vertical integration in the video programming marketplace are necessary or appropriate. Further, the Commission would be required to submit to Congress reports concerning diversity, competition, and the future of the video programming marketplace and to initiate a rulemaking to determine whether leased access, common carrier, public interest, or other requirements on DBS systems are appropriate. The Commission also would be required to establish a formula to determine the miximum rate a cable operator could charge for leased access. Finally, the legislation would impose antitrafficking rules for cable systems.

I want to thank and commend my colleagues on the Subcommittee on Telecommunications and Finance, especially Mr. TAUZIN, Mr. COOPER, Mr. BOUCHER, Mr. ECKART, Mr. SWIFT, Mr. BRYANT, Mr. SYNAR, Mr. RICHARDSON, and Mrs. COLLINS, for their leadership on these important public policy issues. In addition, I particularly want to thank Mr. RINALDO for his hard work and the cooperation he brought to the process of developing this legislation. I also want to thank the full committee chairman, Mr. DINGELL, for his active involvement and support. The progress we have made during the past few weeks on this bill would not have been possible without his significant contributions.

I am confident that the provisions embodied in this legislation would protect consumers from unreasonable or abusive rates, ignite competition in the video marketplace, and promote the public interest in securing diversity in video programming under fair and effective governmental oversight. It is my expectation that our continuing efforts in the days and weeks to come will enable us to pass into law a bill that reflects a spirit of bipartisan cooperation. I urge my colleagues to support this important legislation.

RECOGNITION OF COL. WILLIAM WYRICK AND TASK FORCE SMITH

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. SPENCE. Mr. Speaker, we are beginning to hear and read a lot these days about the Korean war. It's as if modern historians are just discovering this terrible war which resulted in the death of some 54,000 Americans. Had the United States abandoned South Korea 40 years ago, there is no question that all of Asia would have been under the threat of Communist subversion.

One of the true heroes of those early days in the summer of 1950, when North Korean aggressors blatantly violated every precept of peace and decency, was a constituent of mine, William Wyrick. He was a member of an Army unit known as Task Force Smith. Now retired, as an Army colonel, in 1950 he was a very young man who, with a handful of colleagues, stopped 20,000 well-armed North Korean troops until help arrived and a front could be established.

Mr. Speaker, thank God for men like Colonel Wyrick, who in the desperate hours stepped forth to protect and defend freedom. Colonel Wyrick is not only a great American, but it is safe to say that he is a first American, since he is an Osage Indian.

I commend to my colleagues' attention the following article, printed in the State newspaper, which details Colonel Wyrick's courageous exploits.

[From the Columbia, SC, State, July 5, 1990]

KOREAN WAR VETERAN PROUD TO REMEMBER

(By Michael Sponhour)

From occupied Japan to Vietnam, William Wyrick's 30-year career in the U.S. Army gave him a front seat for much of America's military history this century.

But it is an obscure battle in an often overlooked war that means the most to Wyrick, who retired as a colonel in 1973 and lives in Columbia.

Only serious students of military history remember a little unit called Task Force Smith—406 soldiers who saw the first American ground action in the Korean War.

It was this undermanned and poorly equipped force that held off 20,000 invading North Korean troops and a host of Soviet-made tanks 40 years ago today.

Although forced to retreat with heavy losses after the seven-hour battle, Task Force Smith has been credited by historians with stemming the communist advance as U.S. troops raced to shore up undefended areas in the rear.

"In our history, maybe only the Minutemen at Concord Bridge would compare with what we were called upon to do and what we accomplished," said Wyrick, 65, a burly Osage Indian born in Skiatook, Okla.

The South Koreans remember. They built a large bronze statue at the battle site, and each year U.S. and Korean dignitaries attend a ceremony honoring Task Force Smith.

Wyrick and about two dozen veterans of that fight will gather today in Washington

D.C., where Gen. Carl Vuono, the Army chief of staff, and a representative of the South Korean Embassy will honor them.

But for Wyrick, the story of Task Force Smith is also one of irresponsible postwar budget-slashing that put thousands of weapons marked "combat unserviceable" in the hands of American boys.

The radios often didn't work. Trucks and jeeps were worn out. The guns were mostly leftovers from World War II. Ammunition was short.

"We want the American people to know about us, and we feel strongly that it should never happen again," Wyrick said as he sat in the den of his Spring Valley home.

"You have no idea how awful it was over there in the summer of 1950. We were working with equipment in very poor shape, limited ammunition; yet we still got the job done."

North Korean forces had poured over the 38th parallel on June 25, 1950, determined to reunite a country divided in the postwar settlement between the United States and Josef Stalin's expansionist Soviet Union.

South Korea saw its capital occupied in three days, and most of the peninsula was overrun in six weeks.

President Truman immediately authorized U.S. air and naval aid to the embattled south. The U.N. Security Council approved armed intervention in the struggle, a move the Soviet Union's representative could have vetoed had been present for the vote.

But the war and diplomatic wrangling were little more than radio news to the 1st Battalion of the 21st Infantry Regiment, a hot-shot unit based in southern Japan. In war games, the battalion had won recognition as the best unit in the Far East. Wyrick commanded one of the battalion's rifle companies.

On the evening of June 30, the orders came—the regiment was headed to Korea. Artillery from another unit was attached to the 1st Battalion to create Task Force Smith, named after its commander, Lt. Col. Brad Smith.

After arriving in Korea, the troops boarded a train—a first-class passenger coach—and headed north toward Taejon. Commandeered trucks took them an additional 80 miles north to Osan. The bumpy road was jammed with retreating refugees.

Blessed with a "beautiful little defensive position" that allowed them to cover both the main road and the rail line, Wyrick's troops dug in on July 4 and waited.

Though the training in Japan had made them confident and eager, Task Force Smith was hardly at full strength. Fully staffed, Wyrick's unit would have had 42 soldiers. Instead, it had 18.

Early the next morning, 33 tanks rumbled down the road. Task Force Smith opened fire, beginning America's ground involvement in the war.

"They probably hit each tank, we hit them with everything we had," Wyrick said. "We had the original bazooka from World War II. Unfortunately, they wouldn't penetrate those tanks."

The bazookas did halt a few tanks by blowing their tracks off. So the tanks just sat in the middle of the road, shooting at the U.S. forces, who could do nothing further to stop them, Wyrick said.

In an hour, a North Korean truck convoy, later estimated to be six miles long, came down the road. Packed like sardines, 40 to 50 soldiers per truck, the battle-tested North Koreans outnumbered the Americans 50 to 1.

After raking the column with machine gun and mortar fire, Task Force Smith nearly was surrounded and out of ammunition. An artillery barrage would have devastated the enemy column, but the tanks had cut communication lines to the rear, Wyrick said.

The U.S. forces were ordered to retreat as best they could. For Wyrick, who was separated from his unit, that meant scrambling across a rain-slickened rice paddy as he was harassed by a North Korean machine gun nest 100 yards away.

"I can still see that thing, I can still feel the bullets hitting around me," he said. "I was scared. You can't take cover because if you fall off that dike into the rice paddy, you can't move at all."

According to the official U.S. Army history of the war, about 250 members of Task Force Smith made it to the rear. It is estimated that the North Koreans suffered 42 killed and 85 wounded.

The North Koreans never achieved their goal of capturing Pusan—the coastal town that for a while would be the last Allied outpost on the peninsula.

Dramatic maneuvers dominated the next year of war. U.N. forces rallied under the leadership of Gen. Douglas MacArthur, whose bold amphibious landing at Inchon threatened communist supply lines and forced them to retreat.

Wyrick assumed command of a company shortly after the fight at Osan. They would get within 11 miles of the Chinese border at the Yalu River before Chinese troops poured into the fight Nov. 26. Later, he became a liaison officer, running messages between units in the rear.

By next summer, Korea was host to a military stalemate, where blood was spilled to take a hill or a few feet of ground.

A truce ended the war July 27, 1953, and established a 2½-mile-wide demilitarized zone at the 1950 border. U.S. forces suffered 54,000 dead and 103,000 wounded. A total of 2.4 million soldiers and 4.4 million civilians on both sides were wounded or killed.

No peace treaty was ever signed. No memorial was ever built in the United States, although fund-raising efforts for one began in 1985. Numerous television documentaries recounting battles from Pearl Harbor to the Tet Offensive have aired. For the Korean War, there are "M*A*S*H" reruns.

America has tried to forget the first war to end in something less than a clear triumph. Yet, had North Korea succeeded, the entire peninsula would have been under the heel of one of the most isolated and dictatorial regimes in the world.

"At the time (the truce) was upsetting to me. I felt then we should have wiped them out," Wyrick said. "But looking back, I think we did win. We kept South Korea from going communist."

As the United States again prepares to scale back defense spending, Wyrick worries the frustrating experience of Task Force Smith will be repeated.

"They're getting ready to do it again, and that's for the birds," he said sternly: "I realize the threat is diminishing and we need less, but whatever we retain must be a complete fighting unit with the proper weapons."

CLIFFORD McCARTHY'S 65 YEARS IN GOVERNMENT SERVICE APPRECIATED

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. BENNETT. Mr. Speaker, Clifford J. McCarthy, a materials expediter at the Naval Aviation Depot in Jacksonville, FL, retired June 30, 1990. His has been an exceptional career.

On November 11, 1989, he completed 65 years of combined Government service—30 years in the Armed Forces and 35 years as a Federal employee at the NADEP.

Born in 1907, McCarthy began his career in 1923 with the 1st Cavalry Regiment—Teddy Roosevelt's Rough Riders of San Juan Hill fame. During his 3 years with the Rough Riders, he saw duty along the Rio Grande from Marfa, TX, to Brownsville, TX, and participated in the making of the movie, "Teddy Roosevelt's Rough Riders." He also witnessed the making of the movie, "Wings," a story of World War I.

When McCarthy's tour of duty with the 1st Cavalry was up in 1926, he joined the Navy and saw duty with the Great White Fleet. Over the next 20-plus years, the young sailor traveled the world with such duty assignments as China and the Panama Canal Zone and, as a crewmember of the U.S.S. *Yorktown,* distinctly remembers December 7, 1941. In 1953, then Chief Machinist Mate McCarthy hung up his chief's hat and retired after 30 years of military service. A few months later, he was back at work, this time as a civilian employee of the Naval Air Rework Facility—forerunner of the Naval Aviation Depot—Jacksonville. And here he stayed. "Mac," as he is known to all who know him, did retire in 1977 when the mandatory retirement age was 70, but when the law was abolished a short time later, he was back on the job.

McCarthy's age at final retirement was 83. Capt. D.C. Wynne, the commanding officer of the Naval Aviation Depot wrote me of McCarthy's career: "His 30 years in the military and more than 35 years as a civil servant gives his an unprecedented 65 years plus of Federal service". Surely his long and faithful service to the Government is an inspiration to everyone. Congratulations.

ISRAEL BONDS HONORS MILWAUKEE'S JOSEPH ZILBER

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. KLECZKA. Mr. Speaker, I would like to inform my congressional colleagues of a very special tribute to Mr. Joseph J. Zilber occurring in Milwaukee on Saturday, August 5, 1990. On that evening, the Development Corp. for Israel-State of Israel Bonds will kick off their year-long, worldwide celebration of

their 40th anniversary by honoring Mr. Zilber's own 40 years of support for Israel bonds.

Through his top-level investments of State of Israel securities, Mr. Joseph Zilber has strongly promoted Israeli economic growth and helped to make the Zionist dream of a Jewish state in the Holy Land a reality. Just like the State of Israel bonds themselves, he has contributed to the social, cultural, and economic development of Israel since 1950, only 2 years after its birth.

The business skills Mr. Zilber applied to the benefit of Israel were developed over many years in Milwaukee. At the helm of Towner Realty Inc., a firm which he founded in 1949, Mr. Zilber excelled in the real estate development and construction, expanding his holdings cross the country.

As a member of the Housing Subcommittee, I am particularly impressed with Mr. Zilber's record in providing homes in Milwaukee; over the past 40 years, his firm has built 3,000 manufactured houses, 2,000 prefabricated homes, and thousands of other homes, apartments, condominiums, and senior citizen public housing towers. He also has played a leading role in the renovation and restoration of classic buildings in downtown Milwaukee, including the historic Riverside Theater.

In addition to his work on behalf of State of Israel bonds, Joseph Zilber and his lovely wife, Vera, have worked for many other worthy causes. The Zilbers have established a scholarship fund in their name at Marquette University, which has awarded over 140 scholarships to date. Mr. Zilber has also served on the Greater Milwaukee Committee and the Mt. Sinai Hospital Board of Directors.

In recognition of his accomplishments and good works, he has received the Judas L. Magnes Gold Medal Award from the American Friends of Hebrew University, the Lamplighter Award from the Greater Milwaukee Convention and Visitors Bureau, and the Distinguished Law Alumnus Award from Marquette University's Law Alumni Association.

Mr. Speaker, the State of Wisconsin and the city of Milwaukee are fortunate in having Mr. Joseph Zilber as a resident, and I am grateful to count him as a friend. His commitment, generosity, and hard work are a shining example to the rest of our citizens.

CONGRATULATIONS TO SPIEGEL

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. FAWELL. Mr. Speaker, I rise to congratulate Spiegel, Inc. Today is the ground breaking for their new corporate headquarters.

I can't think of a better location for the new headquarters than in the heart of the 13th Congressional District.

Spiegel is a name that for 125 years has been synonymous with Chicagoland. Like the Wrigley Building, State Street, and the ubiquitous 60609 ZIP CODE it made famous, Spiegel is one of a kind uniquely Chicagoland.

Spiegel stands as an example of excellence for all companies. With a reputation for outstanding service nationwide, Spiegel is well known:

As a leader in its industry, setting high standards for other retailers to follow, and promoting the value and talents of American fashion designers.

As a merchant meeting the needs of its 5 million-plus customers with fine products and a deserved reputation for outstanding service.

As a generous corporate citizen providing ongoing support for charitable causes and the less fortunate in Chicago and across the country.

And as a major contributor to the economy—a $1.7 billion company with more than 5,500 employees.

Today's ground breaking of Spiegel's new corporate headquarters is the result of 125 years of sound business accomplishments. When the time capsule is unearthed in 2015, I'm sure we'll find Spiegel even more dedicated to the guiding principles which have brought it to where it is today.

Congratulations to Jack Shea and all Spiegel employees on achieving this next step toward a rewarding and prosperous future.

THE PASSING OF SENATOR GENE LEVY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. GILMAN. Mr. Speaker, I deeply regret to inform our colleagues of the passing of an outstanding public servant in the mid-Hudson Valley of New York.

State Senator Eugene Levy dedicated over a quarter century of his life to public service, first as a councilman from the town of Ramapo, followed by 16 years as a member of the New York State Assembly, and more recently, over the past 6 years, as our State senator, representing the 38th Senate District of New York.

In all of these public capacities, Senator Levy earned the utmost respect and everlasting admiration of all political persuasions for his humanitarian concerns, for his humility, and for his extensive knowledge and respect for the rule of law.

Gene and I became fast friends when we served together in the State assembly two decades ago. Over the years we have worked closely together on many important issues and projects on behalf of our region.

Along with the multitude of his admiring constituents, his many friends and colleagues, I will long feel the loss of this outstanding public servant.

Our heartfelt sympathies go out to his devoted wife, Geraldine, to this son Billy, and to his entire family.

TRIBUTE TO NAOMI BYRD

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. FEIGHAN. Mr. Speaker, I rise today to pay tribute to a truly special teacher and one of my constituents, Naomi Byrd. Naomi has just retired after 28 years of dedicated service in the city of Cleveland Public Schools System.

Since the early 1960's—at both Anton Grdina and Riverside Elementary Schools—Naomi has motivated class after class of students. Her commitment to education and community service has left each class with a greater interest and a more positive attitude toward school. Her teaching abilities were even able to give confidence to children who might otherwise have become frustrated.

One of Naomi's favorite times of the year has always been the Right to Read Month, when she can encourage youngsters to read even more. She joined other teachers, parents and students in organizing the annual Balloon Launch, a celebration of Right to Read Month. Each year, due in large part to Naomi's hard work, the Balloon Launch was a huge success. Naomi was also instrumental in bringing in celebrity readers to read stories, and to discuss their career and life experiences with the students.

Next September, the students and teachers at Anton Grdina Elementary School will notice something missing. That something will be Naomi Byrd. I wish her the best of luck and thank her for all that she has given to better the future of our young children.

TO COMMEMORATE THE 20TH ANNIVERSARY OF ACORN

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. HAYES of Illinois. Mr. Speaker, I am honored to rise today to commemorate the 20th anniversary of the founding of the Association of Community Organizations for Reform Now [ACORN].

As you know, ACORN unyieldingly advocates for a stronger local neighborhood voice in and power over the economic, political and social institutions that dominate the lives of families of low and moderate incomes. In the 20 years since it was founded in Arkansas, ACORN has highlighted the concerns of poor people to Federal, State, and local government as well as corporate America.

ACORN in a word is empowerment—empowerment for those who often do not have a voice in this prosperous country of ours, and who are certainly often shut out of this Nation's power structure.

Mr. Speaker, I have the privilege this weekend to offer welcoming remarks at ACORN's 1990 national convention in Chicago. I'd like to take this brief moment today to thank ACORN for its outstanding work on issues that are of such importance to me and to this Nation.

ACORN's grassroots activism is exemplary, and I know from personal experience that without the leadership and support of ACORN, many of this Nation's poor would suffer from even higher utility rates, more inadequate housing and higher taxes. I certainly realize, as a representative of the people, how important ACORN's role has been in developing policies effecting those that suffer in this

Nation. ACORN clearly has improved the quality of life for the poor in this country.

Community organization and unity is the key, and I stand today to express my pride in ACORN's accomplishments and again congratulate it on its 20th anniversary.

VIETNAM VETERANS DEDICATE MICHIGAN MEMORIAL

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. SCHUETTE. Mr. Speaker, I have the privilege today of announcing the dedication of the Michigan Vietnam Veterans Memorial, by the Vietnam Veterans of America, chapter 438. The memorial will be dedicated on July 15, 1990, at Island Park in Mount Pleasant, MI, to honor those brave men and women who sacrificed so much for our freedom during the Vietnam war.

Veterans have served this Nation proudly and with dignity to assure us the basic freedoms that many in this country take for granted. They have given more than most Americans will ever be called upon to give for their country. The veterans of this Nation, through their courage and sacrifice have taught us about patriotism, perseverance, and character.

As Mr. William Sublett, president of the Vietnam Veterans of America, chapter 438, stated, this memorial represents a "coming out, a statement of life, inner strength, and love of country." To the people of Mount Pleasant, MI, the memorial represents the long overdue welcome home the veterans deserve.

Let this memorial be acknowledgement of our infinite gratitude to our veterans, and a reminder of our commitment to bring home, as quickly as possible, those American soldiers who still remain captive. As Americans there should be nothing more intolerable or revolting to us than the thought of our citizens being deprived of those freedoms which this Nation called upon them to defend.

The Michigan Vietnam Veterans Memorial consists of a footbridge that spans the Chippewa River, a flag gallery, and a memorial garden with 16 plaques inscribed with 2,705 names of Michigan military personnel who died on the battlefield or in captivity in Vietnam, and those who continue to be held captive. There is also a flag gallery housing 11 flags.

Mr. Speaker, and my colleagues in the House, please join me today in celebrating the dedication of this long overdue memorial to the Vietnam Veterans of Michigan, and to the men and women throughout this great country who fought so bravely to defend the ideals of this Nation.

HARRIS LAUDS GROUP'S CONTRIBUTION TO DEBATE ON PROVISION ON HEALTH CARE AND COST CONTAINMENT

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. HARRIS. Mr. Speaker, I rise today to discuss an issue that is dear to the heart of most Americans—the cost of health care. Recently the Gallup organization did a survey, sponsored by the Federation of American Health Systems, about the prospect of Medicare cuts to lower the Federal deficit.

The results are worth highlighting again. By a margin of 88 percent to 8 percent, Americans 18 or older oppose substantial cuts in Medicare to reduce the Federal deficit. In addition, the survey suggested most Americans would be willing to spend more than 11 percent of the gross national product for health care services.

I suggest that most Americans are willing to pay for our health care services, as long as they believe they are paying a fair price. It is for this reason that so many Americans support the Medicare system, which provides health insurance for senior citizens aged 65 and older.

One of the most obvious ways to ensure that our health dollars are being wisely spent is to encourage patients to seek the least costly health provider while still ensuring quality care. This careful shopping will lower the average cost per service. Another way to save dollars is to treat patients in an outpatient or ambulatory setting. Routine, regular preventive health care can be much less expensive than acute care, where dramatic medical efforts are necessary to stabilize the patient.

Mr. Speaker, I know all health care professionals share the concern of the general public about this issue of balancing cost containment with access to quality health care. I would especially like to commend the Academy of Ambulatory Foot Surgery for their efforts in promoting outpatient services, supporting the development of new medical technology and techniques and stressing continuing professional education for its members. Under the leadership of my good friend, Dr. Stanford Rosen, this professional organization has come to play a leading role on this important issue, leading by example, not by rhetoric. We need more such contributions to the continuing debate on the provision and proper regulation of health care.

NATIONAL ENDOWMENT FOR THE ARTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. WEISS. Mr. Speaker, yesterday, noted choreographer Bella Lewitzky filed suit in a Federal court in Los Angeles, challenging the National Endowment for the Art's [NEA] requirement that her dance company sign a pledge that it won't use Federal funds to create "obscene" art. The New School of Social Research filed a similar suit in May. Ms. Lewitzky's case says the congressionally mandated grant restriction is too vague and has a chilling effect on the artist. It also says the required pledge "improperly reposes in the NEA, rather than in a judicial officer, the authority to determine what may be considered obscene" and permits the determination of obscenity to be made without due process.

Not only does this conformity pledge tread in murky legal waters, but it also causes artists to self-censor their works. A nation that has long distrusted loyalty oaths should not jump to establish conformity oaths. As Justice Thurgood Marshall once put it, the problem with "a sword of Damocles is that it hands—not that it drops."

In light of the many urgent problems facing our country, it is ironic, or should I say dangerous, that Congress has been expending such an extraordinary amount of energy deciding how to maim an agency that has a near perfect track record, and has exponentially improved and expanded arts in America. This week, in fact, the NEA received the U.S. News & World Report's 1990 Excellence Award for culture.

The NEA has greatly contributed to the growth of art in America. For example, before the NEA, 37 dance troupes performed for a national audience of 1 million. Now, 250 entertain 32 million each year. John F. Kennedy realized the importance of support of art in America:

"I see little of more importance to the future of our country and our civilization than full recognition and support of the artist."

As the NEA reauthorization bill approaches the floor of the House, let those insightful words of John F. Kennedy ring clearly in the Halls of Congress.

Perhaps these Halls should resonate with the knelling of liberty bells as well. Because, not only do we need to be reminded of the importance of supporting our Nation's artists, but also the importance of artists' constitutional right to express themselves. As long as Government funding is conditioned on the political palatability of artists' works, we are sacrificing their first amendment rights. The Supreme Court has repeatedly held that:

The Government may not deny a benefit to a person on a basis that infringes his constitutionally protected interests—especially freedom of speech.

As long as the Government's sword of Damocles hangs closely over an artist's paintbrush, baton, pen, or chisel, we are depriving artists of one of their basic freedoms.

I urge my colleagues to support a reauthorization of the National Endowment for the Arts that will maintain the effective structure of this agency, uphold the integrity of the U.S. Constitution and enable America to fulfill its creative potential.

THE LINDSAY MUSEUM CELEBRATES NATURAL LIFE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1990

Mr. MILLER of California. Mr. Speaker, the Lindsay Museum in Walnut Creek, CA is the oldest and largest wildlife rehabilitation center in the United States. Since its opening in 1955, the museum has cared for numerous orphaned and injured wild animals, and last year released 8,000 back to their natural habitats. Their excellence in wildlife rehabilitation and public educational programs has earned the Lindsay Museum the highest honor a museum can receive, accreditation by the American Association of Museums.

The Lindsay Museum has been educating children for generations about the need to be responsible stewards of the environment and to keep a balance with nature. The museum formally educates more than 22,000 children and this year anticipates reaching at least 35,000 children. Over 60 docents and 400 volunteers contributed more than 76,000 hours of service to the museum and gave 800 tours to schoolchildren in Contra Costa County.

The challenge of living with nature is even greater now than when the museum first opened, and the need for a new facility is urgent. The residents of the San Francisco Bay Area are indeed fortunate to have such a fine facility in their community and the museum deserves strong public support in their capitol campaign efforts to complete the construction of a new 25,000 square-foot museum.

Mr. Speaker, this year the Lindsay Museum will celebrate 35 years of wildlife protection by joining in the fight to save the endangered peregrine falcon from extinction. On July 17, the museum will release two pairs of peregrine chicks to nearby Mount Diablo State Park. I am very proud of the Lindsay Museum's achievements, and I ask that my fellow colleagues in the House of Representatives join me in saluting the years of dedication and commitment the museum has given to our environment and the children and adults of Contra Costa County.

HOUSE OF REPRESENTATIVES—*Monday, July 16, 1990*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. MAZZOLI].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 13, 1990.

I hereby designate the Honorable ROMANO L. MAZZOLI to act as Speaker pro tempore on Monday, July 16, 1990.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May Your special comfort, O merciful God, be upon those that are alone and who have little spiritual support in their daily lives. We remember the infirm or needy, whose days are filled with time that has too little meaning. We recall the hostages who yearn for their families and communities and who endure too many months of solitude. May Your good presence, O God, that moves in ways that we cannot always understand, be with all Your people who are alone and may Your spirit grant hope and assurance to each one. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas [Mr. BARTON] please lead the House in the Pledge of Allegiance.

Mr. BARTON of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 933) entitled "An act to establish a clear and comprehensive prohibition of discrimination on the basis of disability."

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 343. Joint resolution to designate August 13 through August 19, 1990, as "Home Health Aide Week."

HOUSE NEEDS TO COMMUNICATE WITH CONSTITUENT

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, last week on an Indian reservation, the most rural part in this country, I held a town meeting where people came to me to talk about their problems, Social Security, veterans problems, people problems, not the major issues of the day. The reason those people were there was because of a town meeting notice that I sent.

Newsletters, town meeting notices, are under attack.

Mr. Speaker, the essential role for communicating for a Member of Congress is many times through a newsletter and through town meeting notices, especially in rural areas and especially where there are Indian reservations.

Mr. Speaker, this is an essential tool for communicating. Our constituents want to know what we are doing. Many times when we are out there in the rural areas, they ask us about our votes. They want service performed by their Member of Congress. In extreme rural areas, Indian reservations, any further curbs on newsletters or town meeting notices is going to deprive us of an opportunity to represent our constituents.

Mr. Speaker, this is the wrong approach to curb newsletters. It is wrong, wrong, wrong.

MOST AMERICANS KNOW HOW TO BALANCE A BUDGET

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, it is amazing the innovative solutions that we can get from the American people. As I was talking to people in my district this weekend about the balanced budget amendment and the difficulty Congress is having with spending, they made a recommendation. They said they had done something in their church when it had become very hard to meet the budget of their church. They had given each church member a poker chip worth so much and they said that stack of poker chips was all the church had to spend that year, and so each church member then voted on the different areas, and the ones that got a majority stayed in the budget. He was suggesting that maybe to tamper with the Constitution or changing those kind of things, we ought to do that with Members of Congress, and it is not all bad.

We have to do something about spending. I think it is real spending that counts and not any other type of spending. The only thing we should be looking at is how we are voting on spending bills. That tells you whether or not we are ever going to get a real budget.

TIME TO PASS CFTC LEGISLATION

(Mr. COLEMAN of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Missouri. Mr. Speaker, today I feel it is my duty to alert Members of the House to the dilatory attitude toward CFTC legislation that has overtaken our colleagues in the other body.

On September 13, 1989, the House passed the Commodity Futures Improvements Act by a vote of 420 to 0. Despite this overwhelming vote here in the House nearly a year ago, the CFTC has not been reauthorized because the other body has not acted on its own package.

While the other body has allowed its own committee's legislation to languish, Wall Street critics have been busy throwing darts at the CFTC. Even though these critics have been unable to substantiate their own claims, the other body is now entertaining unwise and silly proposals that merely give the appearance of progress without anything being accomplished, for example, giving the Federal Reserve authority to set margins for futures contracts.

This is no time to start making unnecessary compromise proposals in an effort to get a treaty in what has

become a turf war between the SEC and CFTC. The agriculture committees in both bodies have moved responsible reauthorization legislation. It is time for the other body to follow our example and act.

Why does the margin debate continue? Margins are now at prudent levels. Why does Chairman Breeden continue his carping about margins?

Why the debate on Federal Reserve jurisdiction over margins? Chairman Greenspan has repeatedly said that the Fed does not need such jurisdiction; indeed, he has said the Fed does not want such jurisdiction.

Frankly, this entire fiasco has degenerated into nothing more than a business debate between New York and Chicago. It has little or no relevance to most citizens or even investors. Let Congress—both bodies—understand that.

Apparently there are sufficient votes in the other body for passage of the CFTC package. It is time—far past time—to do that. It is time—far past time—to allow the CFTC to get on with its job of regulating this important segment of America's economy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 17, 1990.

VETERANS' HOUSING AND HOMELESS AMENDMENTS OF 1990

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5002) to amend title 38, United States Code, with respect to veterans' housing and memorial affairs programs, as amended.

The Clerk read as follows:

H.R. 5002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Housing and Homeless Amendments of 1990".

SEC. 2. ELIGIBILITY.

(a) SELECTED RESERVE.—Chapter 37 of title 38, United States Code, is amended—

"(1) in section 1801(b), by adding at the end the following:

"(5)(A) The term 'veteran' also includes an individual who is not otherwise eligible for the benefits of this chapter and who has completed a total of service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve.

"(B) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10, United States Code."; and

(2) in section 1802(a)(2), by adding at the end the following:

"(D) Each veteran described in section 1801(b)(5) of this title.".

(b) FEES.—(1) Section 1829(a)(2) of such title is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) in the case of a loan made to, or guaranteed or insured on behalf of, a veteran described in section 1801(b)(5) of this title under this chapter, the amount of such fee shall be—

"(i) two percent of the total loan amount;

"(ii) in the case of a loan for any purpose specified in section 1812 of this title, one percent of such amount; or

"(iii) in the case of a loan for a purchase (other than a purchase referred to in section 1812 of this title) or for construction with respect to which the veteran has made a downpayment of 5 percent or more of the total purchase price or construction cost—

"(I) 1.50 percent of the total loan amount if such downpayment is less than 10 percent of such price or cost; or

"(II) 1.25 percent of the total loan amount if such downpayment is 10 percent or more of such price or cost.".

(2) Subparagraphs (A) and (B) of section 1825(c)(2) of such title are amended by inserting "(other than loans described in section 1829(a)(2)(D) of this title)" after "for each loan".

SEC. 3. PROPERTY MANAGEMENT.

Section 1833(a) of title 38, United States Code, is amended—

(1) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) Beginning on October 1, 1990, the maximum percentage limitation described in paragraph (1) of this subsection shall cease to have effect.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, the Secretary may, beginning on October 1, 1990, sell any note evidencing a loan referred to in paragraph (1)—

"(i) with recourse; or

"(ii) without recourse but only if the amount received is equal to an amount which is not less than the unpaid balance of such loan.

"(B) The Secretary may not sell any note evidencing a loan for which the Guaranty and Indemnity Fund established by section 1825 of this title is available."; and

(2) by striking out "1990" in paragraph (6) and inserting in lieu thereof "1993".

SEC. 4. ENTITLEMENT AMOUNT.

Section 1803(a)(1)(A)(i)(IV) of title 38, United States Code, in amended by striking out "or (6)" and inserting in lieu thereof "(6), or (8)".

SEC. 5. NOTIFICATION REQUIREMENTS.

Section 1832(a)(4) of title 38, United States Code, is amended by striking out subparagraph (C).

SEC. 6. APPRAISALS.

Section 1831(f)(3) of title 38, United States Code, is amended by striking out "1990" and inserting in lieu thereof "1993".

SEC. 7. ADMINISTRATIVE REORGANIZATION.

(a) AUTHORITY.—The Secretary of Veterans Affairs may carry out the administrative reorganization described in subsection (b) without regard to section 210(b)(2) of title 38, United States Code.

(b) REORGANIZATION DESCRIBED.—Subsection (a) applies to the administrative reorganization that involves the closing of the loan guaranty division at the Togus Veterans Affairs Medical and Regional Office Center, at Togus, Maine, and the transfer of the functions of that loan guaranty division to the Manchester Veterans Affairs Regional Office at Manchester, New Hampshire.

SEC. 8. MANUFACTURED HOMES.

Section 1812(c) of title 38, United States Code, is amended—

(1) in paragraph (3), by striking out the second and third sentences; and

(2) by adding at the end the following:

"(6)(A) In the case of making a claim on a guaranty made under this section, the holder of the loan shall have the election of submitting a claim to the Secretary based upon—

"(i) the value of the property securing the loan, as determined by the Secretary, upon receiving the Secretary's valuation; or

"(ii) the actual proceeds from the liquidation sale of the property securing the loan.

"(B) Payments of a claim on a guaranty under this section shall be made only after the filing of an accounting with the Secretary. In any such accounting the Secretary shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Secretary may establish, and the Secretary shall allow the holder of the loan to charge against the liquidation or resale proceeds, accrued interest from the cutoff date established to such further date as the Secretary may determine and such costs and expenses as the Secretary determines to be reasonable and proper.".

SEC. 9. FLORIDA NATIONAL CEMETERY.

Notwithstanding section 1004(c)(2) of title 38, United States Code, the Secretary may provide for flat grave markers in that section of the Florida National Cemetery in which preplaced grave liners were installed before July 30, 1988.

SEC. 10. ADMINISTRATION.

(a) CERTIFICATION.—Section 1820 of title 38, United States Code, is amended by adding at the end the following:

"(g) The Secretary shall, at the request of the Secretary of Housing and Urban Development and without reimbursement, certify to such Secretary whether an applicant for assistance under any law administered by the Department of Housing and Urban Development is a veteran.".

(b) APPLICATION REQUIREMENTS.—Section 1803 of title 38, United States Code, is amended by adding at the end the following:

"(f) The application for or obtaining of a loan made, insured, or guaranteed under this chapter shall not be subject to reporting requirements applicable to requests for or receipts of Federal contracts, grants, loans, loan guarantees, loan insurance, or

cooperative agreements except to the extent that such requirements are provided for in, or by the Secretary pursuant to, this title.".

SEC. 11. DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a demonstration project under this section during fiscal years 1991 and 1992, at least two but not more than 10 regional offices, for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

(b) REPORT.—The Secretary shall transmit a report to the Congress no later than December 31, 1992, containing a description of the results of the implementation of the project carried out under this section and shall continue to make annual reports to the Congress with respect to the default rate and other information concerning the loans guaranteed under this section.

SEC. 12. AUTHORIZED SOURCES FOR PROVISION OF THERAPEUTIC WORK IN COMPENSATED WORK THERAPY PROGRAM.

(a) AUTHORIZED SOURCES.—Subsection (b)(1) of section 618 of title 38, United States Code, is amended by striking out "contractual arrangements with private industry or other sources outside the Veterans' Administration" and inserting in lieu thereof "a contract or other arrangement with any appropriate source (whether or not an element of the Department of Veterans Affairs or of any other Federal entity)".

(b) CONFORMING AMENDMENT.—Subsection (c)(1) of such section is amended by striking out "carrying out the provisions of" and inserting in lieu thereof "furnishing rehabilitative services authorized in".

SEC. 13. DEMONSTRATION PROGRAM FOR OPERATION OF THERAPEUTIC AND REHABILITATIVE ACTIVITIES TRANSITIONAL HOUSING.

(a) THREE-YEAR PROGRAM.—The Secretary of Veterans Affairs may carry out a demonstration program of transitional housing in accordance with this section. Under the program, the Secretary may purchase, lease, or otherwise acquire residential housing and may operate each residence so acquired as transitional housing for veterans described in subsection (b). The Secretary may operate no more than 50 residences as transitional housing under the demonstration program. The duration of the program shall be three years.

(b) ELIGIBLE VETERANS.—The veterans for whom transitional housing may be provided under this section are veterans—

(1) who are furnishing services to the Department of Veterans Affairs under subsection (a) of section 618 of title 38, United States Code; or

(2) who are furnished therapeutic work pursuant to subsection (b) of that section.

(c) PROCUREMENT PROCEDURES.—The Secretary may use such procurement procedures for the purchase, lease, or other acquisition of residential housing for purposes of this section as the Secretary considers appropriate to expedite the opening and operation of transitional housing and to protect the interests of the United States.

(d) CONDITIONS.—A residence may be operated as transitional housing for veterans described in subsection (b) under the following conditions:

(1) Only veterans described in such paragraph and a house manager may reside in the residence.

(2) Each resident, other than the house manager, shall pay rent for the period of residence in such housing.

(3) In the establishment and operation of housing under this section, the Secretary shall consult with appropriate representatives of the community in which the housing is established and shall comply with zoning requirements, building permit requirements, and other similar requirements applicable to other real property used for similar purposes in the community.

(4) The residence shall meet State and community fire and safety requirements applicable to other real property used for similar purposes in the community in which the transitional housing is located, but fire and safety requirements applicable to buildings of the Federal Government shall not apply to such property.

(e) HOUSE MANAGERS.—The Secretary shall prescribe the qualifications for house managers for transitional housing units operated under this section. The Secretary may provide for free room and subsistence for house managers in addition to, or instead of payment of, a fee for such services.

(f) SOURCES OF HOUSING.—(1) The Secretary may operate as transitional housing under this section—

(A) any suitable residential property acquired by the Secretary as the result of a default on a loan made, guaranteed, or insured under chapter 37 of title 38, United States Code; and

(B) any other suitable residential property purchased, leased, or otherwise acquired by the Secretary.

(2) In the case of any property referred to in paragraph (1)(A), the Secretary shall—

(A) transfer administrative jurisdiction over such property within the Department from the Veterans Benefits Administration to the Veterans Health Services and Research Administration; and

(B) transfer from the General Post Fund of the Department of Veterans Affairs to the Loan Guaranty Revolving Fund under chapter 37 of title 38, United States Code, an amount, not to exceed the amount the Secretary paid for the property, representing the amount the Secretary considers could be obtained by sale of such property to a nonprofit organization or a State for use as a shelter for homeless veterans.

(3) In the case of any residential property obtained by the Secretary from the Department of Housing and Urban Development under this section, the amount charged by the Secretary of Housing and Urban Development for that property may not exceed the amount that the Secretary of Housing and Urban Development would charge for the sale of such property to a nonprofit organization or a State for use as a shelter for homeless persons. Funds for such charge shall be derived from the General Post Fund.

(g) LIMITATIONS.—The Secretary shall prescribe—

(1) a procedure for establishing reasonable rental rates for persons residing in transitional housing; and

(2) appropriate limits on the period for which such persons may reside in transitional housing.

(h) DISPOSAL OF PROPERTY.—The Secretary may dispose of any property acquired for the purpose of this section. The proceeds of any such disposal shall be credited to the General Post Fund of the Department of Veterans Affairs.

(i) AVAILABILITY OF GENERAL POST FUND.—Funds received by the Department under subsection (d) shall be deposited in the General Post Fund. The Secretary may distribute out of the fund such amounts as necessary for the acquisition, management, maintenance, and disposition of real property for the purpose of carrying out such program.

(j) REPORT.—After a demonstration program under this section has been in effect for two years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the operation of the program. The Secretary shall include in the report such recommendations with regard to the program as the Secretary considers appropriate.

SEC. 14. LOANS TO ORGANIZATIONS PROVIDING TRANSITIONAL HOUSING FOR SUBSTANCE ABUSERS.

(a) LOAN PROGRAM.—The Secretary of Veterans Affairs may make loans in accordance with this section to assist in the provision of transitional housing exclusively to veterans who are in (or who recently have been in) a program for the treatment of substance abuse.

(b) LOAN RECIPIENTS.—A loan under this section may only be made to a nonprofit organization under selection criteria promulgated by the Secretary and only to assist that organization in leasing housing units for use as a group residence for the purposes described in subsection (a). The amount of such a loan that is used with respect to any single residential unit may not exceed $4,500.

(c) FUNDING.—Loans under this section shall be made from the General Post Fund of the Department of Veterans Affairs. The amount of such loans outstanding at any time may not exceed $100,000. Amounts received as payment of principal and interest on such loans shall be deposited in the General Post Fund of the Department.

(d) TERMS AND CONDITIONS.—Loans under this section shall be made on such terms and conditions, including interest, as the Secretary prescribes.

SEC. 15. MORTGAGE PAYMENT ASSISTANCE TO AVOID FORECLOSURE OF HOME LOANS GUARANTEED UNDER TITLE 38.

(a) IN GENERAL.—(1) Chapter 37 of title 38, United States Code, is amended by inserting after section 1814 the following new section:

"§ 1815. Loans to refinance delinquent indebtedness

"(a)(1) The Secretary may, at the Secretary's option, provide assistance to a veteran under this section for the purpose of avoiding the foreclosure of a housing loan made to that veteran and guaranteed by the Secretary under section 1810 or 1812 of this title (hereafter in this section referred to as a 'primary loan').

"(2) Assistance under this section shall be in the form of a loan to the veteran. Such assistance may be provided only if—

"(A) the dwelling that secures the primary loan is the current residence of the veteran and is occupied by the veteran as the veteran's home;

"(B) the veteran is at least six months delinquent in payments on that primary loan;

"(C) the veteran has lost employment or has had a substantial reduction in household income (as defined in regulations prescribed by the Secretary) through no fault of the veteran; and

"(D) the Secretary determines that there is a reasonable prospect that the veteran will be able to resume payment on the primary loan within six months after receiving assistance under this section.

"(3) For the purposes of this section, the term 'veteran' includes the surviving spouse

of a veteran if the surviving spouse was a co-obligor of the primary loan.

"(b)(1) A loan under this section shall be advanced to the holder of the primary loan. The amount of the loan under this subsection shall first be applied to the amount delinquent on the loan guaranteed under this chapter including any amount delinquent on taxes, assessments, and hazard insurance required by the holder to be included in the veteran's monthly payment on the mortgage.

"(2) The Secretary may make more than one loan under this section to a veteran. The total amount of loans under this section to any veteran may not exceed $10,000.

"(c) A loan under this section—

"(1) shall bear no interest until the date on which payments on the primary loan (including amounts for taxes, assessments, and hazard insurance required by the holder to be included in the veteran's monthly payment on the mortgage) are current;

"(2) shall be secured by a lien on the property securing the primary loan and by such other security as the Secretary may require; and

"(3) shall be subject to such additional terms and conditions as the Secretary may require.

"(d) As a condition of receiving a loan under this section the veteran shall execute an agreement, in such form as the Secretary may prescribe, to repay the loan within a reasonable period of time, as determined by the Secretary, not to exceed 15 years from the date on which such loan is made. If the Secretary determines that the veteran has sufficient income or other resources to do so, the Secretary may require the veteran to make partial payments on the primary loan guaranteed under this chapter during the period the holder of that loan is applying the amount of the loan under this section to payments becoming due on the primary loan.

"(e) Notwithstanding any other law, the Secretary may employ attorneys to bring suit to collect any amount of a loan under this section on which the veteran to whom the loan is made is in default.

"(f) The Secretary's decisions on any question of law or fact regarding assistance under this section, including whether or not to grant such assistance and the terms and conditions under which such assistance is granted or not granted, shall be final and conclusive, and no other official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise.

"(g) A loan under this section shall be made from the fund established under section 1824 or 1825 of this title that is available with respect to the primary loan in connection with which the loan is made under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1814 the following new item:

"1815. Loans to refinance delinquent indebtedness.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 60-day period beginning on the date of the enactment of this Act.

SEC. 16. HOUSING PROGRAMS FOR HOMELESS VETERANS AND VETERANS IN COMPENSATED WORK THERAPY PROGRAMS.

(a) IN GENERAL.—(1) Subchapter III of Chapter 37 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1835. Housing assistance for homeless veterans and veterans in compensated work therapy programs

"(a)(1) To assist homeless veterans and their families acquire shelter, the Secretary may enter into agreements described in paragraph (2) with—

"(A) nonprofit organizations, with preference being given to any organization named in, or approved by the Secretary under, section 3402 of this title; or

"(B) any State or any political subdivision thereof.

"(2) To carry out paragraph (1), the Secretary may enter into agreements to sell real property, and improvements thereon, acquired by the Secretary as the result of a default on a loan made, insured, or guaranteed under this chapter. Such sale shall be for such consideration as the Secretary determines is in the best interests of homeless veterans and the Federal Government.

"(3) The Secretary may enter into an agreement under paragraph (1) of this subsection only if—

"(A) the Secretary determines that such an action will not adversely affect the ability of the Department—

"(i) to fulfill its statutory missions with respect to the Department loan guaranty program and the short- and long-term solvency of the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund under this chapter; or

"(ii) to carry out other functions and administer other programs authorized by law;

"(B) the entity to which the property is sold agrees to—

"(i) utilize the property solely as a shelter primarily for homeless veterans and their families,

"(ii) comply with all zoning laws relating to the property,

"(iii) make no use of the property that is not compatible with the area where the property is located, and

"(iv) take such other actions as the Secretary determines are necessary or appropriate in the best interests of homeless veterans and the Federal Government; and

"(C) the Secretary determines that there is no significant likelihood of the property being sold for a price sufficient to reduce the liability of the Department or the veteran who defaulted on the loan.

"(4) Any agreement, deed, or other instrument executed by the Secretary under this subsection shall be on such terms and conditions as the Secretary determines to be appropriate and necessary to carry out the purpose of such agreement.

"(b)(1) To assist veterans who are participants in a compensated work therapy program authorized under section 618 of this title, the Secretary may convey to persons described in paragraph (2) real property, and improvements thereon, acquired by the Secretary as the result of a default on a loan made or guaranteed under this chapter. Any such conveyance shall be for such amount as the Secretary determines appropriate.

"(2) Conveyance of property under paragraph (1) may only be made to persons who enter into an agreement with the Secretary to employ veterans who are participants in such a compensated work therapy program.

"(3) The Secretary may include appropriate enforcement provisions (including provision for reasonable liquidated damages) in any agreement described in paragraph (2).

"(c) The Secretary may not enter into agreements under subsection (a) or make conveyance under subsection (b) after September 30, 1993.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end of the items relating to subchapter III the following new item:

"1835. Housing assistance for homeless veterans and veterans in compensated work therapy programs.".

(b) EFFECTIVE DATE.—Section 1835 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 1990.

SEC. 17. CLARIFYING AND TECHNICAL CORRECTIONS.

Title 38, United States Code, is amended as follows:

(1) Section 1829(a)(3) is amended by striking out "(in addition to" and inserting in lieu thereof "(in lieu of".

(2) Section 1833 is amended by striking out the subsection (e) that was added by section 5003(a) of Public Law 101-239.

The SPEAKER pro tempore. Is a second demanded?

Mr. HANCOCK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. HANCOCK] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5002, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

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Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5002, the Veterans' Housing and Homeless Amendments of 1990, is a very important bill. The bill would make several changes in the Department of Veterans' Affairs Home Loan Program and will also help homeless veterans.

The bill would make a major change to the Loan Guaranty Program by extending entitlement for home loans to members of the National Guard and the Reserves. To be eligible the Reservist or National Guard member would be required to complete a total of at least 6 years of service. Expansion of the program in this manner responds to changes in the total force concept of our Armed Forces.

Today, a substantial portion of the manpower and equipment of each of the services may be found in their reserve components. Their role will be even more critical in the future as we reduce our active duty forces. Extension is logical as it is made in conjunction with the expanded responsibilities of the National Guard and Reserves in our Nation's defense.

The bill would, among other things, also provide the Secretary of Veterans Affairs more flexibility in handling the disposition of the Department's acquired properties. The bill would establish a demonstration program of adjustable rate mortgages and would make several other changes in the current home loan program which are spelled out in great detail in the committee report accompanying the bill.

I want to thank several Members for their efforts in behalf of this bill. I'm most grateful to the very able ranking minority member of the full committee, the distinguished gentleman from Arizona, BOB STUMP.

I want to pay special tribute to the gentleman from West Virginia, HARLEY STAGGERS, chairman of our Subcommittee on Housing and Memorial Affairs, and the distinguished gentleman from Indiana, DAN BURTON, for their leadership, in getting the bill to the floor. It is the second housing bill they have brought to the House in this Congress and I congratulate them for their efforts.

Mr. Speaker, I urge my colleagues to support H.R. 5002 as amended.

Mr. Speaker, I reserve the balance of my time pending comments from the other side.

Mr. HANCOCK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Veterans' Affairs Committee minority supports H.R. 5002 and urges passage of the bill.

Mr. STAGGERS. Mr. Speaker, I would first like to thank and commend the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the full committee, for his leadership and strong support of this measure. I would also like to thank the gentleman from Arizona [Mr. STUMP] and the gentleman from Indiana [Mr. BURTON], the ranking minority members of the full committee and subcommittee for their efforts and support. The individual members of the committee and subcommittee have worked hard together to develop this legislation, and I would like to thank each of them for their excellent contributions.

Under current law, home loans guaranteed by the Department of Veterans Affairs are available to veterans with sufficient qualifying service since September 16, 1940; for unmarried surviving spouses of veterans who died from service-connected causes; for spouses of service personnel officially listed as missing in action, or captured, for more than 90 days; and for service personnel who have served at least 181 days.

H.R. 5002, the Veterans Housing and Homeless Amendments of 1990, would expand eligibility for the Home Loan Guaranty Program to certain members of the Selected Reserve of the Ready Reserve of the Armed Services, which includes the National Guard, who have completed a total of at least 6 years of service. Expansion of the program in this manner responds to changes in the Armed Forces of this country.

In this report of the Sixth Quadrennial Review of Military Compensation [6th QRMC] it was stated that with the advent of the All-Volunteer Force, the scope, size, and criticality of missions assigned to Reserve components have increased dramatically. Today, a substantial portion of the manpower and equipment of each of the services may be found in their Reserve components. It is evident that the Armed Forces now depend heavily on reservists as a part of a total force comprising 1.5 million Ready Reservists in addition to more than 2 million active component members. Reserve training assignments have been more closely integrated with the missions of active duty units, so that the reservist receives on-the-job training while providing valuable services to the Armed Forces.

It was also reported in the 6th QRMC that approximately 33 percent of the tactical airlift missions flown by the Military Airlift Command have Air Force Reserve air crews and that 75 percent of the continental air defense is performed by Air National Guard crews.

The change to afford entitlement to reservists is needed at this time to recognize their changing role, as cited above, in the United States military defense. Extension of the home loan benefit is logical if made in conjunction with the expanded responsibilities of the Reserves in this Nation's defense.

There are two corollary benefits that may be realized from extending the Home Loan Program to reservists. It is expected that reservists obtaining loans guaranteed by the Department of Veterans Affairs would be better credit risks than recently discharged veterans. They are, generally, an older, more mature, and more stable group with long-time civilian job histories. Many have probably already owned a home and are familiar with the costs and responsibilities of home ownership. Therefore, this group may help to financially stabilize the program through an influx of loan fees with fewer claims to be paid on their behalf. Currently, veterans must pay a loan fee of 1.25 percent of the loan to the Department in order to obtain a guaranteed loan. Fees are lower, 0.75 percent and 0.50 percent with downpayments of 5 percent and 10 percent respectively. In recognition of the differences between veterans and active duty members of the regular Armed Forces, the fees to be charged reservists would be higher: 2 percent of the loan amount or 1.5 percent with downpayments of at least 5 percent and 1.25 percent with downpayments of 10 percent or more. There would be no Government contribution made on behalf of reservists as there is on behalf of veterans.

The second side benefit that may be realized is that entitlement to the Home Loan Guaranty Program may be a recruiting and retention device for membership in the Reserves. The Montgomery GI Bill Act of 1984 [MGIB] extended education benefits to certain reservists. The 6th QRMC reported that since the enactment of the MGIB, there are clear indications that it is having a positive impact on the quality and number of individuals joining the Reserves. The analysis maintains that reservists participating in the MGIB are more likely to remain in the Reserves than their nonparticipating counterparts. Studies indicated that the continuation rate for MGIB participants is 15.2 percent higher than that for Reserve members not participating. It is not unrealistic to expect that the opportunity to participate in the DVA Home Loan Program would also have an effect on the numbers joining and staying in the Reserves.

Mr. Speaker, H.R. 5002 would also prohibit for 3 years the sale of vendee loans made as the result of the sale of properties acquired under the Guaranty and Indemnity Fund in an effort to promote solvency.

Due to high foreclosure rates in recent years, and in conformance with administration efforts to reduce short-term outlays, the Department of Veterans Affairs has been pressured by the Office of Management and Budget to accelerate its loan portfolio sales in order to lessen the need for appropriations. However, it is believed that with the enactment of the Guaranty and Indemnity Fund [GIF] the program will become more financially stable and not require the large appropriations needed in the last several years. According to the Congressional Budget Office, appropriations would not be necessary for the Guaranty and Indemnity Fund until the late 1990's. Therefore, H.R. 5002 would prohibit DVA from selling loan assets resulting from loans made under the Guaranty and Indemnity Fund for 3 years.

The GIF presently consists of loan fees collected from veterans using their loan guaranty benefit. During the next 3 fiscal years the fund would be further increased by certain Government contributions and interest income earned on fund balances invested in Treasury issues. During this 3-year interval, relatively few foreclosures and claim payments are expected. However, it is anticipated that approximately 50 percent of the foreclosures and property acquisitions would result in the establishment of vendee loans and the other 50 percent in cash sales.

Mr. Speaker, it was the opinion of many of the witnesses at the April 26, 1990, hearing before the Subcommittee on Housing and Memorial Affairs that a policy of retaining loans in DVA's portfolio would have the effect of generating more income in the long run than a one-time receipt from a loan sale. The Loan Guaranty Program is funded from a number of sources—loan fees, cash sales of acquired properties, interest income from vendee loans, loan asset sales, and appropriations. Direct program expenses include claim payments, and property management and sales expenses. The retention of vendee loans and their income stream can be effective in reducing appropriations and making the program self-supporting. This provision would affect only the Guaranty and Indemnity Fund and would not preclude sale of loans from the Loan Guaranty Revolving Fund. There is economic value in retaining vendee loans in DVA's portfolio. From a short-term fiscal perspective of 3 years, retention of vendee loans would generate additional income.

Mr. Speaker, H.R. 5002 would make permanent the requirement in section 1832(a)(4) of title 38 that DVA provide information and counseling to veterans who default on DVA-guaranteed home loans about the effect of, and alternatives to, foreclosure. The notification provided by the Department includes, as appropriate in light of the veteran's particular circumstances, information and counseling about methods of curing the default, conveyance to the Department by a deed in lieu of foreclosure, other alternatives to foreclosure, and the liabilities of the Department and veteran in the event of foreclosure.

The notification and counseling assistance requirement took effect on March 1, 1988, and would expire on March 1, 1991. The time limitation was imposed to provide a trial period during which the effects of the provisions on lowering foreclosure could be evaluated by Congress. All indications, by DVA and others including the General Accounting Office, are that the notification and counseling efforts do make a difference in the number of foreclosures occuring in the Home Loan Program. In testimony provided at the April 26, 1990, subcommittee hearing on the Home Loan Guaranty Program, General D'Wayne Gray, Chief Benefits Director, stated that the number of defaults reported, defaults pending, and foreclosures are all down in comparison with recent years. Of the 28,675 defaults reported cured during the first quarter of fiscal year 1990, 913 can be directly related to the over 37,000 personal servicing contacts made by Department personnel. The Department estimated that those 913 cures saved the Goverment over $17 million.

Mr. Speaker, H.R. 5002 would authorize the use of flat markers in a specific area of the Florida National Cemetery. Public Law 99-576 required the use of flat grave markers in National Cemeteries for interments occurring after January 1, 1987. Flat markers are not required in National Cemeteries closed or scheduled to be closed prior to September 30, 1991, and DVA is permitted to continue to furnish flat markers in an open section already using flat markers until the section is completed. Public Law 100-322 permitted the use of flat markers on graves in cemeteries located on the grounds of, or adjacent to, a DVA health-care facility. The Florida National Cemetery is not scheduled to close, does not have a section already using flat markers, and is not located on or adjacent to a DVA health-care facility. However, there is one section of the Florida National Cemetery in which preplaced grave liners were installed prior to the enactment of Public Law 99-576. According to the Department, the size of the grave liners prohibits the use of upright markers. Therefore, the bill would provide authority to the Department to utlize flat grave markers in that section of the Florida National Cemetery only.

Mr. Speaker, veterans are eligible for certain benefits under the National Housing Act. That act, which is administered by the Department of Housing and Urban Development [HUD], provides lower downpayment requirements for loans to veterans insured by the Federal Housing Administration. Since 1966, under an agreement with HUD, the Department has been issuing certificates of veterans status for HUD. The agreement under which the Department processed the certificates called for HUD to reimburse the Department $1.25 per certificate for processing costs. In recent years HUD has declined to reimburse the Department for these costs. As a service to veterans, the Department has continued to issue the certificates. H.R. 5002 would authorize the Department to continue issuing the certificates without reimbursement from HUD.

The bill would also exempt housing loans guaranteed, insured, or made by the Department of Veterans Affairs from the lobbying reporting requirements of 31 U.S.C. 1352, which was added by section 319 of Public Law 101-121. That law prohibits certain Government contractors or recipients of Government assistance from using appropriated moneys for lobbying, and requires certain lobbying disclosures from those persons. That statute does not apply to loans which are $150,000 or less. In the conference report on this legislation (House Report 101-264) it was stated that the $150,000 threshold "serves to exempt * * * individuals who seek federally insured loans—for the purchase of personal residences, for example—from these provisions."

There is no statutory or DVA-imposed regulatory ceiling on the amount of a loan the Department would guarantee. However, custom and practice in the lending industry and secondary market limits DVA guaranteed loans to four times the guaranty amount. Until recently, the maximum guaranty was $36,000. Therefore, DVA guaranteed loans rarely exceeded $144,000. In enacting Public Law 101-237, the Congress recognized that in certain high cost areas of the Nation $144,000 was not sufficient for many veterans to purchase satisfactory housing. Therefore, that law increased the guaranty to 25 percent on loans exceeding $144,000 to a maximum guaranty of $46,000. This new guaranty gives lenders the authority to make no-downpayment, DVA-guaranteed loans of up to $184,000.

As stated in the conference report on Public Law 101-121, Congress recognized that the purchase of a single family home with a federally guaranteed loan has not been the subject of abuse that led to the enactment of Public Law 101-121 and expressed an intent to exempt such borrowers from the burdens imposed by that law. Therefore, this bill would exempt all veterans from that burden including those who reside in areas with high housing costs.

Mr. Speaker, H.R. 5002 would establish a 2-year pilot program on adjustable rate mortgages at no less than 2 but no more than 10 regional offices. Adjustable rate mortgages [ARM's] have become commonplace in the home loan market. The National Association of Homebuilders, in testimony provided at the April 26 subcommittee hearing, stated that the Department of Veterans Affairs is the only major mortgage market participant without an ARM. It was stated that it is necessary for the Department to provide for the guarantee of ARM's to make the program fully responsive to market developments. Volatile interest rate fluctuations reduce housing activity and adjustable rate mortgages are used most during such periods. Although interest rates have been stable recently, it is very difficult to predict when such volatility may again occur. The Mortgage Bankers Association of America also advocates DVA guaranteeing adjustable rate mortgages as it believes that veteran borrowers should have the same option to choose this type of financing as other home loan borrowers.

All the witnesses at the hearing who testified about ARM's advised that a DVA ARM should be conservative, with limits on yearly interest rate increases as well as a maximum cap over the life of the loan. Tailoring an ARM to those insured by the Federal Housing Administration [FHA] was also mentioned. FHA's adjustable rate mortgage program allows interest rates to escalate no more than 1 percent per year with a cap of 5 percent over the life of the loan.

In 1987, the House of Representatives passed H.R. 2672, which included authority for the Department to run demonstration program on ARM's. However, this legislation was not passed by the Senate. A similar provision has been included in this bill. The demonstration program is to be carried out in at least 2 but no more than 10 regional offices for the 2 years in a manner similar to FHA's adjustable rate mortgage program. The bill would also require the Department to furnish the Congress with a report by December 31, 1992, containing a description of the results of this project and furnishing a yearly report with respect to the default rate.

Mr. Speaker, this demonstration project is not intended to put veterans in houses they can't afford. Rather, this is simply another financing option. Therefore, the Secretary may find it appropriate to adopt underwriting standards that are stricter than those used by FHA.

H.R. 5002 would also help certain homeless veterans by bringing together and modifying existing DVA programs. Specifically, H.R. 5002 would authorize the Secretary to carry out a 3-year demonstration program of transitional housing for participants of the Compensated Work Therapy [CWT] Program.

The Department of Veterans Affairs is authorized to operate Compensated Work Therapy Programs under section 618(b) of title 38, United States Code. The purpose of the CWT Program is to provide a clinical procedure for evaluating the patient's vocational or advocational interests, aptitudes, and skills, as well as assessing the patient's physical and mental capacities for work in actual employment situations. The programs encourage the development of good working habits, emphasizing attendance, reliability, punctuality, productivity, craftsmanship, and personal responsibilities. The major component is a work regimen with monetary incentives derived from work contracts with private industry or other sources outside the Department. Jobs performed in CWT may range from simple packaging and salvaging type activities to fabrication and assembly operations using complex machines. Activities can take place in the medical center, in the community, or on the industrial site.

Mr. Speaker, work and medical or rehabilitative treatment are not the only problems associated with chronically mentally ill patients or with the homeless. The need for transitional or therapeutic living space is critical to the success of any of the therapeutic programs. The bill is designed to bring together some existing DVA Programs, with certain modifica-

tions, in order to provide an opportunity for patients to consolidate their clinical improvement and develop sufficient skills and income to achieve maximum levels of independence. Specifically, patients would be involved in a therapeutic program which would combine the CWT Program with therapeutic residential living prior to discharge to the community.

H.R. 5002 would give the Department the needed authority to purchase, lease, and sell housing that would be used for patients participating in the CWT Programs. Included in that authority would be the ability of the Veterans Health Services and Research Administration [VHSRA] to purchase properties if deemed appropriate by the Secretary that has been acquired under the Veterans Benefits Administration's [VBA] Guaranteed Home Loan Program. Properties may be discounted under the authority provided in section 9 of Public Law 100–198, whereby nonprofit organizations may acquire properties to provide shelter for homeless veterans. Currently, these properties may be discounted up to 50 percent.

In order to offer every opportunity for the full use of properties acquired under the Guaranteed Home Loan Program, the bill would also authorize the transfer of such properties from VBA to VHSRA. In addition to being used for transitional housing, these properties could be used as a source of job training if renovation is needed to the property. VBA often acquires properties through foreclosure which require repair and restoration before they can be resold. Skills in the building trades, whether as journeyman or helper, are among the most marketable skills in the current economy. This provision would allow the transfer of such properties to VHSRA for restoration by veterans through the CWT Program under the careful supervision of trained professionals. Restored properties could then be returned to VBA for resale or rented out as transitional housing. This authority would be beneficial to the Department since VBA properties would receive required restoration and homeless or otherwise handicapped veterans would get invaluable training.

Mr. Speaker, another provision of the bill establishing this Transitional Housing Demonstration Program would authorize the Department to collect rent and utilities from individuals living in such housing units. In testimony from the witnesses at the March 1 subcommittee hearing on homeless veterans, it was made clear, particularly by those testifying on behalf of Oxford House, that it is vital that residents in transitional housing be responsible for their rent and utilities in order to foster a sense of responsibility and to prepare them for life after the completion of their stay in DVA sponsored housing. These moneys would also help to defray the operating expenses of these housing units. Veterans may be allowed to live in the therapeutic residences for a stated period of time to be determined by the Secretary. Veterans may remain in the therapeutic residence after completion of the CWT Program only if they are receiving DVA outpatient services and are awaiting placement in community housing. Each therapeutic residence would have a house manager who could be provided room and board and possibly a minimal stipend in exchange for overseeing the residence. The Secretary would be required to prescribe qualifications for house managers for these transitional housing units.

H.R. 5002 would authorize funds to be disbursed from the General Post Fund as may be necessary for the acquisition, management, maintenance, and disposition of real property for the purpose of carrying out this Transitional Demonstration Housing Program. This authority also includes reimbursement from the General Post Fund to the Loan Guaranty Revolving Fund of amounts equal to the amount which could have been obtained by the sale of the Department's acquired property to a nonprofit organization or a State for use as a shelter for homless veterans. Money deposited in the General Post Fund comes from nongovernmental sources and is not appropriated. Fund balances as of May 31, 1990, amount to approximately $30.8 million.

Mr. Speaker, the bill would also authorize the Department of Veterans Affairs to lend from the General Post Fund up to $4,500 to groups or individuals setting up group homes for homeless veterans recovering from substance abuse similar to the ones set up by Oxford House, Inc., with a maximum total outstanding amount of $100,000. The Oxford House concept represents a missing link in the treatment process for alcoholism and drug addiction. Instead of leaving treatment and going home, or back to the streets, where their alcoholism and drug addiction have caused havoc, recovering individuals are able to go to a place where everyone is dedicated to developing a lifestyle free of alcohol and drug use. The Oxford House concept provides the supportive environment which permits individuals to avoid relapsing into addictive use of alcohol and drugs.

Relapses by individuals recovering from either alcoholism or drug addiction are a costly and difficult problem. Harvard Medical School's study of adult development report that in an 8-year post-treatment study of 100 individuals who had inpatient treatment for alcoholism, only 29 percent had achieved stable abstinence of at least 3 years duration. In their testimony of March 1, Oxford House officials indicated that 80 percent of the individuals living in their self-run and self-supporting recovery group homes do not return to drugs or alcohol; and that in their 15-year experience, hundreds of veterans have lived in Oxford Houses.

More than 140 DVA Medical Centers have treatment programs that follow the traditional 28-day inpatient mode. Each of these hospitals has groups of veterans leaving an inpatient program every week. It would seem beneficial to loan such money to groups setting up houses similar to the Oxford House concept for several reasons. This would not only assure that recovering veterans live in a safe place close to aftercare treatment, it would make better use of Federal dollars in the long run by treating more veterans instead of the same veterans repeatedly.

At the March 1 subcommittee hearing on homeless veterans, Oxford House officials also stated that all of their loans are repaid within 2 years. Based on this experience, it is not anticipated that new monies will be necessary to operate the program after that time.

Mr. Speaker, the bill would also authorize mortgage payment assistance up to $10,000 in order to avoid foreclosure of home loans guaranteed by the Department of Veterans Affairs and preclude homelessness. Information developed during hearings, as well as GAO reports, reveals that prompt personal attention by the Department and lenders can help to prevent foreclosure of some DVA-guaranteed home loans. However, there are times when more than just personal attention is needed. The bill would authorize monetary assistance by the Department to veterans who are, or have recently been, either unemployed or underemployed and as a result have fallen behind in their mortgage payments. The assistance would be limited to those veterans who have fallen 6 or more months behind in their mortgage payments.

The assistance provided may take the form of one loan or a series of loans which would be disbursed directly by the Department to the holder of the mortgage loan, who would be responsible for assuring that the veteran's obligation to repay the assistance is secured by a lien of record. The loan, or total of loans, may not exceed $10,000. The assistance may be applied against the veteran's mortgage obligation as either payment in full of each monthly installment, or, if supplemented by cash from the veteran's own resources, as partial payment of the monthly installment. Under the latter option, a veteran could be assisted for a longer period of time, although the $10,000 maximum would still apply. The loan must be repaid within a reasonable amount of time, as determined by the Secretary, not to exceed 15 years. It should be noted that the Department may on a discretionary basis require the veteran to make partial payments when the veteran's income and other resources indicate that the veteran can afford to do so. Similarly, in appropriate cases, the Department may establish initially or as a result of changed circumstances that a sum less than the $10,000 statutory maximum is the maximum amount of assistance to be provided in a particular veteran's case.

No assistance should be afforded in a case where the veteran has no reasonable prospect of repaying the assistance provided. The Department would determine whether or not the veteran has, in the Secretary's sole discretion, a reasonable prospect of both being able to resume full mortgage payments on the primary loan and being able to repay the assistance provided. Assistance under this section of the reported bill is not a grant. It is a secured loan which requires an analysis of the ability of the veteran to repay both obligations. The loan must be secured by a lien on the veteran's home, and the Department may require additional security, when it is believed to be available and appropriate. There is no requirement that the Department determine the value of the veteran's home or estimate the amount of equity the veteran may have in the home.

A veteran who has obtained the maximum authorized benefits of temporary mortgage assistance—$10,000—may not thereafter receive additional benefits. The Secretary would be authorized to employ attorneys and to bring suit at any time to enforce collection of

the repayment agreement, if necessary. Should the veteran, notwithstanding this assistance, still be unable to maintain payments on the primary loan, the Secretary's maximum liability under the guaranty on the primary loan would not be reduced by virtue of the holder having received the proceeds of a loan. Since the assistance provided by the Department would have reduced or eliminated the prior delinquency on the primary loan, it is possible that DVA's ultimate claim payment might be less than would have been the case had assistance not been provided.

No new money would be required to provide this assistance. This program would be funded out of existing revolving funds. If this program is implemented in the manner desired by the committee and most loans recouped, I believe it will prove cost effective to the U.S. Government by substituting this mortgage payment advance for the high expenses currently incurred by the Department in paying claims of lenders, instituting the foreclosure procedures, and reselling acquired properties.

Last, the bill would extend authority to the Secretary for another 3 years to discount foreclosed properties sold to nonprofit organizations to assist homeless veterans and to persons who enter into an agreement with the Department to employ veterans who are participants in the CWT Program.

Again, Mr. Speaker, I wish to point out that there will be no appropriation required for any of the programs contained in this bill. I think that this is a good bill, and I strongly urge its favorable consideration by the House.

Mr. STUMP. Mr. Speaker, I rise in support of H.R. 5002, as amended, the Veterans' Housing and Homeless Amendments of 1990.

Mr. STAGGERS has explained the bill in some detail, so I will only highlight a few features of this legislation which may be of particular interest to my colleagues.

Expanding the Home Loan Program to reservists and National Guard members who have served at least 6 years is one important step that Congress can take to demonstrate our appreciation for their service and to improve the financial stability of the program.

DVA has the only Government loan guaranty program which does not cover adjustable rate mortgages [ARMS]. The reason the committee has previously been reluctant to move into this area is because past foreclose rates of ARMS have been significantly higher than for conventional mortgages.

However, ARMS have evolved to the point that it is feasible to try them on a test basis.

The Homeless Program provisions of H.R. 5002, as amended, largely modify and bring together existing DVA authority and previously passed House bills. I would also like to note that the authority granted to the Secretary of Veterans Affairs by the homeless provisions of the bill is discretionary, and funds required for this bill would come from DVA's general post fund, requiring no appropriation.

Finally, Mr. Speaker, I want to commend Mr. STAGGERS, the chairman of the Subcommittee on Housing and Memorial Affairs, and his staff for their responsiveness to minority suggestions during the crafting of this legislation. My good friend Mr. MONTGOMERY, who is well known as our distinguished and able chairman, also deserves special commendation for his leadership.

Mr. Speaker, I urge my colleagues to consider favorably this veterans' housing and homeless legislation.

Ms. SNOWE. Mr. Speaker, I rise to express my opposition to a provision of H.R. 5002 which would disrupt home loan services to veterans in Maine.

Section 7 of the bill provides approval of a waiver requested by Secretary Derwinski to move the 10 person home loan guarantee program located at the Togus VA Center in Augusta to Manchester, NH. The Secretary, the chairman of the committee, the chair of the Housing Subcommittee and the ranking member are well aware of my opposition to this provision. It is my belief, and that of Maine's veterans, the Maine Realtors Association and the Maine Mortgage Bankers Association, that this consolidation will result in inadequate services being offered.

Togus can be as much as a 500-mile roundtrip for some veterans up in Aroostook County. If a veteran in Madawaska is having trouble with his or her loan which cannot be resolved over the phone, what alternative will he or she have but to drive to Manchester, 400 miles one way, or give up.

If there is a home in Jackman a veteran wants to purchase but a site visit is necessary to answer several questions about the dwelling, how much effort is it going to take to get the Department of Veterans Affairs to make the 280 mile one way trip? Or will that veteran and his or her home be written off as well?

I am sorry, but this move is not "basically administrative in nature" as one member of the committee tried to reassure me. This move will disrupt services and may well prevent Maine veterans who earned the right to participate in this program from doing so.

Mr. Speaker, home ownership has long been associated with the American dream. A veteran who served this country has certainly earned the right to fulfill that dream. Since the inception of the program over 61,000 veterans in Maine have been able to realize this dream through the home loan program. Last year alone, 1,033 veterans were able to purchase a home because of this program. I do not understand why the committee has decided that Maine veterans should be denied this opportunity in the future.

The Secretary has also proposed consolidating the adjudication services in the same manner. These services, compensation, and pension benefits, are the heart of the services this country provides to its veterans. I want my colleagues on the committee to know that I will continue to oppose efforts to consolidate services at Togus, as I do not believe they will produce any results other than frustrate veterans who are unable to obtain the benefits they deserve.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5002, a measure to extend eligibility for the participation in the home loan guaranty program.

I would like to commend the gentleman from West Virginia [Mr. STAGGERS] for introducing this important measure, and the chairman of the Veterans Committee, the gentleman from Mississippi [Mr. MONTGOMERY] and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their unceasing efforts on behalf our Nations veterans.

H.R. 5002 extends eligibility for the home loan guaranty program by including individuals who have completed at least 6 years in the Select Reserves. This measure also extends allowances for refinancing loans, as well as prohibiting the Department of Veterans Affairs from selling loan assets made under the guaranty and indemnity fund for 3 years.

Mr. Speaker, our support of this measure confirms the support in Congress for our veterans by increasing the eligibility of loans. These loans will assist veterans who are in temporary financial distress, recovering from substance abuse, and will provide information and counseling to veterans who default on VA guaranteed home loans.

This measure authorizes the Department of Veterans Affairs to sell the property obtained from defaulted loans to either nonprofit organizations, or to State or local governments for the purpose of providing shelter for homeless veterans.

Mr. Speaker, more of our Nation's veterans are becoming homeless each day. Isn't it time to take steps toward preventing our veterans from living on the streets? H.R. 5002 is directed toward providing the funds needed to improve the housing needs our veterans so justly deserve. Accordingly, I support this measure, and urge my colleagues to vote in favor of it.

Mr. HANCOCK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5002, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, with respect to veterans' housing and memorial affairs programs, to improve the Department of Veterans Affairs compensated work therapy program, to authorize the Secretary of Veterans Affairs to provide a demonstration program of transitional housing for veterans in that program, to provide mortgage payment assistance to avoid foreclosure of home loans guaranteed by the Secretary of Veterans Affairs, and for other purposes".

A motion to reconsider was laid on the table.

AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT ACT AMENDMENTS

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5256) to amend the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, and for other purposes.

The Clerk read as follows:

H.R. 5256

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL POWERS OF BOARD OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) INTEREST AND INVESTMENT INCOME.—(1) Section 1507(a)(12) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4414(a)(12)) is amended by inserting before the semicolon the following: ", including the authority to designate on an annual basis a portion of the funds appropriated pursuant to section 1531(a) for investment without regard to any other provision of law regarding the investment of federally appropriated funds on a short term basis for the purpose of maximizing the yield and liquidity of such funds".

(2) Section 1507 of such Act is amended by adding at the end the following new subsection:

"(c) INTEREST AND INVESTMENTS.—Interest and earnings on amounts received by the Institute pursuant to section 1531 invested under subsection (a)(12) shall be the property of the Institute and may be expended to carry out this title. The Board shall be held to a reasonable and prudent standard of care, given such information and circumstances as existed when the decision is made, in decisions involving investment of funds under subsection (a)(12).".

(b) INSURANCE.—(1) Section 1507(a)(11) of such Act (20 U.S.C. 4414(a)(11)) is amended to read as follows:

"(11) to the extent not already provided by law, to obtain insurance to cover all activities of the Institute, including coverage relating to property and liability, or make other provisions against losses.".

(2) Not later than January 1, 1991, the Attorney General of the United States, after consultation with the President of the Institute of American Indian and Alaska Native Culture and Arts Development, shall issue an opinion to the President of the Institute as to the applicability to the Institute, its officers, employees, and students of all Federal laws providing protection against loss and liability, and the areas in which there is no coverage.

SEC. 2. COMPENSATION OF STAFF.

Section 1509(b)(2) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4416(b)(2)) is amended to read as follows:

"(2) The President of the Institute may fix the basic compensation for officers and employees of the Institute at rates comparable to the rates of compensation at similar institutions of higher education.".

SEC. 3. ESTABLISHMENTS WITHIN THE INSTITUTUE.

Section 1510(b) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4417(b)) is amended—

(1) in paragraph (2), by striking subparagraph (A) and redesignating subparagraphs (B) through (I) as subparagraphs (A) through (H), respectively;

(2) by striking "and" at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting "; and"; and

(4) by inserting after paragraph (2) the following:

"(3) a Musuem of American Indian and Alaska Native Arts, which shall be under the direction of the President of the Institute.".

SEC. 4. TRANSFER OF FUNCTIONS.

Section 1514 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4421) is amended—

(1) by striking subsections (d), (e), and (f); and

(2) by adding at the end the following new subsection (d):

"(d) FORGIVENESS OF AMOUNTS OWED; HOLD HARMLESS.—(1) Subject to paragraph (2)—

"(A) the Institute shall be responsible for all obligations of the Institute incurred after June 2, 1988, and

"(B) the Secretary shall be responsible for all obligations of the Institute incurred on or before June 2, 1988, including those which accrued by reason of any statutory, contractual, or other reason prior to June 2, 1988, which became payable within two years of June 2, 1988.

"(2) With respect to all programs of the Federal government, in whatever form or from whatever source derived, the Institute shall only be held responsible for actions and requirements, either administrative, regulatory, or statutory in nature, for events which occurred after July 1, 1988, including the submission of reports, audits, and other required information. The United States not may seek any monetary damage or repayment for the commission of events, or omission to comply with either administrative or regulatory requirements, for any action which occurred prior to June 2, 1988.".

SEC. 5. COMPLIANCE WITH OTHER ACTS.

Section 1517 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4424) is amended by adding at the end the following;

"(c) OTHER FEDERAL ASSISTANCE.—The Institute shall not be subject to any provision of Federal law requiring that non-Federal or other monies be used in part to fund a project or grant as a condition for the application for or the receipt of Federal assistance. This subsection shall not be construed to effect in a negative manner the review, prioritization, or acceptance of any application or proposal, solicited or unsolicited.".

SEC. 6. ENDOWMENT PROGRAMS.

Section 518 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4425) is amended to read as follows:

"SEC. 1518. ENDOWNMENT PROGRAMS.

"(a) PROGRAMS ENHANCEMENT ENDOWMENT.—

"(1)(A) From the amount reserved for this subsection pursuant to section 1531(a), funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

"(B) The President of the Institute shall provide—

"(i) for the deposit into the trust fund referred to in subparagraph (A)—

"(I) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

"(II) any earnings on the funds deposited under this paragraph; or

"(ii) for the reservation for the sole use of the Institute of any noncash, in-kind contributions of real or personal property, which property may at any time be converted to cash, which shall be deposited as a capital contribution into the trust fund referred to in subparagraph (A).

"(C) If at any time the Institute withdraws any capital contribution (as described in subparagraph (B)(i)) made by the Institute to the trust fund referred to in subparagraph (A) or puts any property (as described in subparagraph (B)(ii)) to a use which is not for the sole benefit of the Institute, an amount equal to the value of the Federal contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

"(2) Interest deposited into the trust fund pursuant to paragraph (1)(B)(ii) may be periodically withdrawn and used, at the direction of the Board or its designee, to defray any expense associated with the operation of the Institute, including the expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

"(3) For the purpose of complying with the contribution requirement of paragraph (1)(B), the Institute may use funds or in-kind contributions of real or personal property fairly valued which are made available from any private or tribal source, including interest earned by the funds invested under this subsection. In-kind contributions shall be other than fully depreciable property or property which is designated for addition to the permanent collection of the Museum and shall be valued according to the procedures established for such purpose by the Secretary of the Treasury. For purposes of this paragraph, all contributions, including in-kind and real estate, which are on-hand as of the date of enactment of this Act and which have been received after June 2, 1988, but which have not been included in computations under this provision shall be eligible for matching with Federal funds appropriated in any fiscal year.

"(4) Amounts appropriated under section 1531(a) for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount of funds or the value of the in-kind contributions which the Institute demonstrates have been placed within the control of, or irrevocably committed to the use of, the Institute as a capital contribution of the Institute in accordance with this subsection.

"(b) CAPITAL IMPROVEMENT ENDOWMENT.—

"(1) In addition to the trust fund established under subsection (a), funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution from the amount reserved for this subsection pursuant to section 1531(a) for the purpose of establishing a separate special endowment for capital improvement, (hereafter in this subsection referred to as the 'capital endowment fund') to pay expenses associated with site selection and preparation, site planning and architectural design and planning, new construction, materials and equipment procurement, renovation, alteration, repair, and other building and expansion costs of the Institute.

"(2) The President of the Institute shall provide for the deposit into the capital endowment fund of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution and any earnings on amounts in the capital endowment fund.

"(3) Funds deposited by the Institute as a match for Federal contributions under paragraph (5) shall remain in the capital endowment fund for a period of not less than two years. If at any time the Institute withdraws any capital contribution to the capital endowment fund before the funds have been deposited for this two-year period, an equal amount of the Federal contribution shall be withdrawn from the capital endowment fund and returned to the Treasury as miscellaneous receipts. At the end of the two-year period, the entire principal and interest of the funds deposited for this period, including the Federal matching portion, shall accrue, without reservation, to the Institue and may be withdrawn, in whole or in part, to defray expenses associated with capital acquisition and improvement of the Institute referred to in paragraph (1).

"(4) For the purpose of complying with the contribution requirement of paragraph (2), the Institute may use funds which are available from any private or tribal source.

"(5) Subject to paragraph (3), amounts appropriated under section 1531(a) for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of the Institute in accordance with this subsection.

"(c) GENERAL ADMINISTRATIVE PROVISIONS.—(1) Funds in the trust funds described in subsections (a) and (b) shall be invested at a rate not less than that generally available for similar funds deposited at the same banking institution for the same period or periods of time.

"(2) No part of the net earnings of the trust funds established under this section shall inure to the benefit of any private person.

"(3) The President of the Institute shall provide for such other provisions governing the trust funds established under this section as may be necessary to protect the financial interest of the United States and to promote the purpose of this title as agreed to by the Secretary of the Treasury and the Board or its designee, including recordkeeping procedures for the investment of funds received under the trust fund established under subsection (b) and such other recordkeeping procedures for the expenditures of accumulated interest for the trust fund under subsection (a) as will allow the Secretary of the Treasury to audit and monitor activities under this section.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 1531(a) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4451(a)) is amended by adding at the end the following new paragraphs:

"(4) Funds appropriated under this subsection for the fiscal year 1992 and for each succeeding fiscal year shall be transferred by the Secretary of the Treasury through the most expeditious method available with the Institute being designated as its own certifying agency.

"(5) Funds are authorized to be appropriated for programs for more than one fiscal year. For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriations Act for any fiscal year to carry out this Act may, subject to the appropriation, become available for obligations on July 1 of that fiscal year.".

The SPEAKER pro tempore. Is a second demanded?

Mr. COLEMAN of Missouri. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I offer a package of technical amendments, H.R. 5256, which I believe have no opposition. They have been developed with the active participation of the minority, particularly my good friend and fellow board member, Mr. YOUNG, and the Board of the Institute. They make technical changes to the authority for the Fine Arts Program for American Indians and Alaskan Natives operated at the Institute of American Indian Arts. This Santa Fe Arts Institute has been the leading institution in the field of preserving and fostering native American arts for two decades.

The Institute is controlled by a Presidentially appointed Board of Trustees, with congressional members serving on the board in an ex officio capacity. Mr. YOUNG, from Alaska, and I have had the pleasure and privilege of serving on this Board for the past 2 years, and I can report to this committee that the Congress' faith in creating such an autonomous entity to operate this program has paid off. The institute has increased its enrollment by more than 50 percent; it has instituted new programs and begun active outreach to Indians throughout the country. Most importantly, it has reached out to the community and the non-Indian arts field, garnering substantial financial, and operational support.

The basic statute for the Institute is sound, and should not be changed. What are being considered today are technical changes to correct problems which have arisen in the last 2 years. They include amendments which split the current endowment provision into two provisions, one dealing with programs, one with physical plant. They substitute board control for financial and personnel issues which were governed by provisions written for the transition period. Finally, they make a number of corrections to facilitate the transfer of funds in a timely fashion and to provide the option for forward funding. I am appending to my statement a brief description of the amendments.

I stress that the institute is a unique institution. Minor course corrections are to be anticipated. I just want to thank the chairman of the subcommittee, Mr. WILLIAMS, and the minority members of the committee, and Mr. YOUNG for their unflagging support and commitment. I thank them on behalf of the Board and the Indian community and I urge my colleagues to support H.R. 5256.

These are needed amendments to the authority for the IAIA:

Section 201: With respect to the investment of the funds appropriated for operation of the Institute, there be an authority to protect the Board and to allow for short-term investments in funds increase liquidity and yield. Also clarify that all appropriated funds shall be invested and the interest remain for the use of the Institute, at the discretion of the Board. With respect to insurance: First, get a determination on whether it is needed; and, second, if so, clarify that Federal funds from the general appropriation can be used to purchase it.

Section 202: Amend the current requirement that pay be tied to comparable Federal positions and make pay comparable to that in similar institutions of higher education.

Section 203: Clarify section 1510, to be sure that the museum reports to the President.

Section 204: Forgiveness for all amounts owed by the BIA when the Board took over and a hold-harmless for any actions taken by the BIA during its tenure.

Section 205: With respect to other Federal grants for which the Institute may wish to apply, waive matching fund requirements.

Section 206: With respect to the endowment funds: Clarify that inkind matches may count, that the interest earned off endowment funds be used as part of the non-Federal match, and create a specific endowment for construction, where the Federal share of the principal could also be removed and used without penalty.

Section 207: Clearly define that the Treasury is to transfer the appropriated funds without delay and clarify that appropriated amounts for the endowment are to remain available until matched or expended. Also, authorize advance or forward funding, possibly on a phased-in basis.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, very briefly the gentleman from Michigan has outlined the issues and the information contained in H.R. 5256. I know of no opposition on this side of the aisle.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and pass the bill, H.R. 5256.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5256, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 1990

Mr. WALGREN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4952) to amend the Consumer Product Safety Act to reauthorize the Consumer Product Safety Commission and to improve the Commission's regulatory process and for other purposes, as amended.

The Clerk read as follows:

H.R. 4952

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Consumer Product Safety Improvement Act of 1990".

(b) REFERENCE.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consumer Product Safety Act.

TITLE I—AMENDMENTS TO ACTS

SEC. 101. IMPROVEMENT OF REGULATORY PROCESS.

(a) PUBLICATION OF PROPOSED RULE.— Section 9(c) (15 U.S.C. 2058(c)) is amended by adding at the end the following: "Any proposed consumer product safety rule shall be issued within twelve months after the date of publication of an advance notice of proposed rulemaking under subsection (a) relating to the product involved, unless the Commission determines that such proposed rule is not reasonably necessary to eliminate or reduce the risk of injury associated with the product or is not in the public interest. The Commission may extend the twelve-month period for good cause. If the Commission extends such period, it shall immediately transmit notice of such extension to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. Such notice shall include an explanation of the reasons for such extension, together with an estimate of the date by which the Commission anticipates such rulemaking will be completed. The Commission shall publish notice of such extension and the information submitted to the Congress in the Federal Register.".

(b) COSTS.—The Consumer Product Safety Commission shall conduct a study of the feasibility of requiring entities subject to the Consumer Product Safety Act to pay to the Commission amounts to defray the reasonable costs of particular services provided by the Commission to such entities. The Commission shall complete the study within one year of the date of the enactment of this Act and shall report the results of the study to the Congress.

(c) VOLUNTARY STANDARDS.—

(1) Section 9(b)(2) (15 U.S.C. 2058(b)(2)) is amended by striking out the period and inserting the following: ", except that the Commission shall terminate any such proceeding and rely on a voluntary standard only if such voluntary standard is in existence. Before relying upon any voluntary consumer product safety standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection.".

(2) Section 3(g)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1262(g)(2)) is amended by striking out the period and inserting the following: ", except that the Commission shall terminate any such proceeding and rely on a voluntary standard only if such voluntary standard is in existence. Before relying upon any voluntary standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection.".

(3) Section 4(h)(2) of the Flammable Fabrics Act (15 U.S.C. 1193(h)(2)) is amended by striking out the period and inserting the following: ", except that the Commission shall terminate any such proceeding and rely on a voluntary standard only if such voluntary standard is in existence. Before relying upon any voluntary standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection.".

(4) Section 7(b) (15 U.S.C. 2056(b) is amended—

(A) by inserting "(1)" after "(b)", and

(B) by adding at the end the following:

"(2) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (1);

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored after the date of the enactment of the Consumer Product Safety Improvement Act of 1990.

The Commission may devise procedures to monitor compliance with any voluntary standard whose development the Commission monitored before the date of the enactment of the Consumer Product Safety Improvement Act of 1990.".

(5) Section 3(g) of the Federal Hazardous Substances Act (15 U.S.C. 1262(g)) is amended by adding at the end the following:

"(3) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (2) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored after the date of the enactment of the Consumer Product Safety Improvement Act of 1990.

The Commission may devise procedures to monitor compliance with any voluntary standard whose development the Commission monitored before the date of the enactment of the Consumer Product Safety Improvement Act of 1990.".

(6) Section 4(h) of the Flammable Fabrics Act (15 U.S.C. 1193(h)) is amended by adding at the end the following:

"(3) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (2) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored after the date of the enactment of the Consumer Product Safety Improvement Act of 1990.

The Commission may devise procedures to monitor compliance with any voluntary standard whose development the Commission monitored before the date of the enactment of the Consumer Product Safety Improvement Act of 1990.".

SEC. 102. PETITIONS AND VOLUNTARY STANDARDS.

(a) CONSUMER PRODUCT SAFETY ACT.—Section 9 (15 U.S.C. 2058) is amended by adding at the end the following:

"(i) The Commission shall grant or deny any petition under section 553(e) of title 5, United States Code, requesting the Commission to initiate a rulemaking, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for granting or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

(b) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding at the end the following:

"(j) The Commission shall grant or deny any petition under section 553(e) of title 5, United States Code, requesting the Commission to initiate a rulemaking, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for granting or denying such petition. The Commission may not deny any

such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

(c) FLAMMABLE FABRICS ACT.—Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding at the end the following:

"(k) The Commission shall grant or deny any petition under section 553(e) of title 5, United States Code, requesting the Commission to initiate a rulemaking, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for granting or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

SEC. 103. ADMINISTRATIVE STRUCTURE.

(a) QUALIFICATION FOR APPOINTMENT.—Section 4(a) (15 U.S.C. 2053(a)) is amended by inserting after the first sentence the following: "In making appointments to the Commission, the President shall at least consider individuals with experience in the safety of consumer products or in related fields.".

(b) QUORUM.—The first sentence of section 4(d) (15 U.S.C. 2053(d)) is amended by inserting before the period a comma and the following: "except that if there are only three members serving on the Commission because of vacancies in the Commission, two members of the Commission shall constitute a quorum for the transaction of business, and if there are only two members serving on the Commission because of vacancies in the Commission, two members shall constitute a quorum for the six month period beginning on the date of the vacancy which caused the number of Commission members to decline to two".

(c) STATUS.—Section 4(g)(1) of such Act (15 U.S.C. 2053(g)(1)) is amended—

(1) by inserting "(A)" after "(1)",

(2) by striking out "shall appoint" and inserting in lieu thereof "shall appoint as officers of the Commission",

(3) by striking out "and a Director" and inserting in lieu thereof "a Director of Compliance, and a Director",

(4) by inserting after the first sentence the following: "The Chairman may only appoint an attorney to the position of Director of Compliance except the position of acting Director of Compliance.",

(5) by striking out the last sentence and adding at the end the following:

"(B)(i) No individual appointed to a position under subparagraph (A) may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule. No individual may be appointed to such a position on an acting basis for a period longer than 90 days unless such appointment is approved by the Commission.

"(ii) The Chairman, with the approval of the Commission, may remove any individual serving in a position appointed under subparagraph (A).".

SEC. 104. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5 of the Federal Hazardous Substances Act (15 U.S.C. 1264) is amended by adding at the end the following:

"(c) In the case of an attorney general of a State alleging a violation that affects or may affect such State or its residents, such attorney general may bring a civil action for an injunction to enforce any requirement of this Act relating to misbranded or banned hazardous substances. The procedural requirements of section 24 of the Consumer Product Safety Act shall apply to any such action.".

(b) FLAMMABLE FABRICS ACT.—Section 5(a) of the Flammable Fabrics Act (15 U.S.C. 1194(a)) is amended by adding at the end the following: "In the case of an attorney general of a State alleging a violation of a standard or regulation under section 4 that affects or may affect such State or its residents, such attorney general may bring a civil action for an injunction to enforce the requirement of such standard or regulation. The procedural requirements of section 24 of the Consumer Product Safety Act shall apply to any such action.".

SEC. 105. NOTIFICATION AND REPAIR, REPLACEMENT, OR REFUND.

(a) IN GENERAL.—Section 15(b) (15 U.S.C. 2064(b)) is amended—

(1) by striking out "; or" at the end of paragraph (1) and inserting in lieu thereof "or with a voluntary consumer product safety standard which the Commission has relied upon in accordance with section 9;",

(2) by striking out the comma at the end of paragraph (2) and inserting in lieu thereof "; or",

(3) by adding after paragraph (2) the following:

"(3) is the subject of a civil action which is brought for a death or grievous bodily injury, including mutilation, amputation/dismemberment, disfigurement, loss of important bodily functions, debilitating internal disorders, severe burns, severe electrical shocks, and injuries likely to require extended hospitalization,",

(4) by striking out "comply or of such defect" and inserting in lieu thereof "comply, of such defect, or of such civil action",

(5) by striking out "defect or failure to comply" and inserting in lieu thereof "failure to comply, of such defect, or of such civil action", and

(6) by adding at the end the following: "A manufacturer, distributor, or retailer reporting to the Commission because of a civil action described in paragraph (3) need not admit or may specifically deny that the information it submits reasonably supports the conclusion that its consumer product caused a death or grievous bodily injury.".

(b) CONFORMING AMENDMENT.—Section 6(b)(5) (15 U.S.C. 2055(b)(5)) is amended by adding before the period at the end the following: "other than a judicial proceeding described in section 15(b)(3)".

SEC. 106. COST-BENEFIT ANALYSIS.

(a) IN GENERAL.—

(1) Section 12 (15 U.S.C. 2061) is amended by adding at the end the following:

"(g) Nothing in this section shall be construed to require the Commission, in determining whether to bring an action against a consumer product or a person under this section, to prepare a comparison of the costs that would be incurred in complying with the relief that may be ordered in such action with the benefits to the public from such relief.".

(2) Section 15 (15 U.S.C. 2064) is amended by adding at the end the following:

"(h) Nothing in this section shall be construed to require the Commission, in determining that a product distributed in commerce presents a substantial product hazard and that notification or other action under this section should be taken, to prepare a comparison of the costs that would be incurred in providing notification or taking other action under this section with the benefits from such notification or action.".

(b) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 15 of the Federal Hazadous Substances Act (15 U.S.C. 1274) is amended by adding at the end the following:

"(g) Nothing in this section shall be construed to require the Commission, in determining that an article or substance distributed in commerce presents a substantial product hazard and that notification or other action under this section should be taken, to prepare a comparison of the costs that would be incurred in providing notification or taking other action under this section with the benefits from such notification or action.".

SEC. 107. CIVIL PENALTIES.

(a) CONSUMER PRODUCT SAFETY ACT.—Section 20(a) (15 U.S.C. 2069(a)) is amended—

(1) by striking "$2,000" and inserting in lieu thereof "$5,000";

(2) by striking "$500,000" each place it appears and inserting in lieu thereof "$1,250,000"; and

(3) by adding at the end thereof the following:

"(3)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calender year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which

the maximum authorized penalty was last adjusted.".

(b) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5 of the Federal Hazardous Substances Act (15 U.S.C. 1264), as amended by section 104(a), is amended by adding at the end the following:

"(d)(1) Any person who knowingly violates section 4 shall be subject to a civil penalty not to exceed $5,000 for each such violation. Subject to paragraph (2), a violation of subsections (a), (b), (c), (d), (f), (g), (i), (j), and (k) of section 4 shall constitute a separate offense with respect to each substance involved, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations. A violation of section 4(e) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required by section 4(e); and, if such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations.

"(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of subsection (a) or (c) of section 4—

"(A) if the person who violated such subsection is not the manufacturer, importer, or private labeler or a distributor of the substances involved; and

"(B) if such person did not have either (i) actual knowledge that such person's distribution or sale of the substance violated such subsection, or (ii) notice from the Commission that such distribution or sale would be a violation of such subsection.

"(3) In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 4, the Commission shall consider the nature of the substance, the severity of the risk of injury, the occurrence or absence of injury, the amount of the substance distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

"(4) Any civil penalty under this subsection may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated, and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the persons charged, the nature of the substance involved, the severity of the risk of injury, the occurrence or absence of injury, and the amount of the substance distributed. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

"(5) As used in the first sentence of paragraph (1), the term 'knowingly' means (A) having actual knowledge, or (B) the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

"(6)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(c) FLAMMABLE FABRICS ACT.—Section 5 of the Flammable Fabrics Act (15 U.S.C. 1264) is amended by adding at the end the following:

"(e)(1) Any person who knowingly violates a regulation or standard under section 4 shall be subject to a civil penalty not to exceed $5,000 for each such violation, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations.

"(2) In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of a regulation or standard under section 4, the Commission shall consider the nature and number of the violations, the severity of the risk of injury, the occurrence or absence of injury, and the appropriateness of such penalty in relation to the size of the business of the person charged.

"(3) Any civil penalty under this subsection may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated, and in what amount, the Commission shall consider the nature and number of the violations, the appropriateness of such penalty to the size of the business of the persons charged, the severity of the risk of injury, and the occurrence or absence of injury. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

"(4) As used in paragraph (1), the term 'knowingly' means (A) having actual knowledge, or (B) the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

"(5)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(d) REPORT ON CIVIL PENALTIES.—

(1) Beginning 1 year after the date of enactment of this Act, and every year thereafter, the Consumer Product Safety Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the information specified in paragraph (2) of this subsection. Such information may be included in the annual report to the Congress submitted by the Commission.

(2) The Commission shall submit information with respect to the imposition of civil penalties under the statutes which it administers. The information shall include the number of civil penalties imposed, an identification of the violations that led to the imposition of such penalties, and the amount of revenue recovered from the imposition of such penalties.

SEC. 108. PRIORITIES.

(a) AMENDMENT.—Section 4 (15 U.S.C. 2053) is amended by adding at the end the following:

"(j) At least 30 days before the beginning of each fiscal year, the Commission shall establish an agenda for Commission action under the Acts under its jurisdiction and, to the extent feasible, shall establish priorities for such actions. Before establishing such agenda and priorities, the Commission shall conduct a public hearing on the agenda and priorities and shall provide reasonable opportunity for the submission of comments.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fiscal years which begin more than 180 days after the date of the enactment of this Act.

SEC. 109. SETTLEMENT OFFERS.

Section 15(f) (15 U.S.C. 2064(f)) is amended by adding at the end the following: "Any settlement offer which is submitted to the presiding officer at a hearing under this

subsection shall be transmitted by the officer to the Commission for its consideration unless the settlement offer is clearly frivolous or duplicative of offers previously made.".

SEC. 110. PRODUCT SURVEILLANCE PROGRAM.

Section 17 (15 U.S.C. 2066) is amended by adding at the end the following:

"(h)(1) The Commission shall establish and maintain a permanent product surveillance program, in cooperation with other appropriate Federal agencies, for the purpose of carrying out the Commission's responsibilities under this Act and the other Acts administered by the Commission and preventing the entry of unsafe consumer products into the commerce of the United States.

"(2) The Commission may provide to the agencies with which it is cooperating under paragraph (1) such information, data, violator lists, test results, and other support, guidance, and documents as may be necessary or helpful for such agencies to cooperate with the Commission to carry out the product surveillance program under paragraph (1).

"(3) The Commission shall periodically report to the Congress the results of the surveillance program under paragraph (1).".

SEC. 111. AUTHORIZATION.

Section 32(a) (15 U.S.C. 2081(a)) is amended by striking out paragraphs (1) through (9) and inserting in lieu thereof the following:

"(1) $42,000,000 for fiscal year 1991, and

"(2) $45,000,000 for fiscal year 1992.".

SEC. 112. EFFECTIVE DATE.

Unless otherwise specified, the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE II—RELATED PROVISIONS

SEC. 201. SLEEPWEAR.

The Consumer Product Safety Commission shall conduct a study under the Flammable Fabrics Act to determine if a special flammability standard is needed for sleepwear other than sleepwear for children. In conducting such study, the Commission shall consider the risks to the elderly and other adults presented by flammable sleepwear and the benefits to the elderly from the promulgation of a special flammability standard. The Commission shall report the results of the study to the Congress not later than one year after the date of the enactment of this Act.

SEC. 202. LIGHTERS.

The Consumer Product Safety Commission shall pursue its pending proceedings to establish a safety standard for cigarette lighters, taking into account the need to protect children from harm from lighters.

SEC. 203. AMUSEMENT RIDES.

(a) DEFINITION OF AMUSEMENT RIDE.—

(1) Section 3(a)(1) (15 U.S.C. 2052(a)(1)) is amended by striking out the first two sentences following subparagraph (I).

(2) Section 3(a) is amended by adding at the end the following:

"(15) The term 'amusement ride' means any device which carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement and which is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device. An amusement ride which is not permanently fixed to a site is a consumer product for purposes of this Act and an amusement ride which is permanently fixed to a site—

"(A) is not a consumer product for purposes of sections 7, 8, 14, 15(b), 15(c), and 15(d), and

"(B) is a consumer product for the remainder of the Act which is otherwise applicable.

"(16) The term 'amusement ride operator' means the owner of an amusement ride.".

(3) Section 3(a)(1)(I) is amended by striking out ". The term 'food', as used in this subparagraph means all 'food' ".

(b) PUBLIC DISCLOSURE OF INFORMATION.—Section 6(b) (15 U.S.C. 2055(b)(1)) is amended—

(1) in the first sentence of paragraph (1) by striking out "the Commission shall" through the end of the sentence and inserting in lieu thereof the following: "the Commission shall, to the extent practicable, notify and provide a summary of the information to—

"(A) each manufacturer or private labeler of the consumer product, and

"(B) to each amusement ride operator who owns the amusement ride

to which the information pertains, if the manner in which such consumer product or amusement ride is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer, private labeler, or amusement ride operator and shall provide such manufacturer, private labeler, or amusement ride operator with a reasonable opportunity to submit comments to the Commission regarding such information.", and

(2) in the second and third sentences of paragraph (1) and in paragraphs (2) and (3), by striking out "or private labeler" each place it occurs and inserting in lieu thereof ", private labeler, or amusement ride operator".

(c) NOTIFICATION AND REMEDIES.—

(1) Section 15(f) (15 U.S.C. 2064(f)) is amended by striking out "(c) or (d)" and inserting in lieu thereof "(c), (d), or (h)".

(2) Section 15 is amended by adding at the end the following:

"(i)(1)(A) Each amusement ride operator who obtains information which indicates that a serious injury occurred during the operation of an amusement ride which the operator owns and which is permanently fixed to a site shall immediately notify the Commission of such occurrence unless the operator has actual knowledge that the Commission has been adequately informed of such occurrence. Each notification shall include a complete description of the occurrence for which the notification was made.

"(B) For purposes of subparagraph (A), the term 'serious injury' means trauma or other injury which actually results in death or a bone fracture or which requires overnight hospitalization or typically requires overnight hospitalization.

"(2)(A) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f)) that an amusement ride which has been involved in a serious injury or is mechanically identical to a ride involved in a serious injury presents a substantial product hazard as defined in subsection (a)(2) and action under this subsection is in the public interest, it may order the amusement ride operator who owns such amusement ride to cease operating the ride until the ride is repaired so that it no longer presents such substantial product hazard. Any order so issued shall specify the substantial product hazard presented by the amusement ride. The amusement ride operator may resume operation of the ride as soon as the ride is repaired so that it no longer presents a substantial product hazard. The Commission shall vacate the order requiring cessation of operation of an amusement ride at any time that the Commission determines that such ride no longer presents a substantial product hazard.

"(B) An amusement ride operator who is subject to an order issued under subparagraph (A) may elect to submit to the Commission a certification that repairs have been made to eliminate the substantial product hazard specified in the order. Such certification shall describe such repairs. A ride for which a certification has been submitted shall be deemed to no longer present a substantial product hazard if the Commission does not reject the certification within 10 business days of its receipt. If a certification is rejected, the operator who submitted the certification may petition the Commission for a hearing in accordance with subsection (f)."

(3) Section 19(a) (15 U.S.C. 2068(a)) is amended by striking out "or" at the end of paragraphs (7) and (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon, and by striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon, and by adding after paragraph (10) the following:

"(11) fail to make a notification required by section 15(h)(1) or to comply with an order of the Commission issued under section 15(h)(2); or".

(d) INSPECTION.—Section 16(a) (15 U.S.C. 2065(a)) is amended by striking out "and" at the end of paragraph (1), by striking out the period before the last sentence in paragraph (2) and inserting in lieu thereof "; and", by striking out the last sentence, and by adding after paragraph (2) the following:

"(3) to inspect, at reasonable times and in a reasonable manner—

"(A) amusement rides which are not permanently fixed to a site, and

"(B) an amusement ride which is permanently fixed to a site if the ride was involved in a serious injury (as defined in section 15(h)(1)) or if the ride is mechanically identical to a ride involved in a serious injury (as defined in section 15(h)(1)).

Each such inspection shall be commenced and completed with reasonable promptness and, in the case of an amusement ride described in subparagraph (B), shall include the authority to investigate the cause of the serious injury in which the ride was involved and to test the safety of the ride.".

(e) REGULATIONS.—The Consumer Product Safety Commission shall issue regulations for the administration of section 15 of the Consumer Product Safety Act, as amended by subsection (c), not later than 6 months after the effective date of this Act.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1991.

SEC. 204. INDOOR AIR POLLUTANTS.

(a) REPORT REQUIREMENT.—Not later than the expiration of 90 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall submit to Congress a report on its activities to reduce exposure of individuals to—

(1) methylene chloride,

(2) formaldehyde,

(3) asbestos,

(4) paradichlorobenzene,

(5) combustion by-products,

(6) allergens and pathogens, and

(7) any other pollutant which the Commission determines poses or may pose an unreasonable risk to the safety of individuals.

(b) REPORT CONTENT.—The report required by subsection (a) shall include—

(1) the amount of funds which have been obligated by the Commission since 1980 for each of the pollutants listed in subsection (a),

(2) a description of each contract entered into since 1980 with respect to such pollutants,

(3) a description of research undertaken by the Commission since 1980 respecting such pollutants,

(4) a description of voluntary standards involving such pollutants and an evaluation of their effectiveness,

(5) a chronology of the standards being developed by the Commission involving such pollutants,

(6) a description of pending petitions to the Commission relating to indoor air quality,

(7) the number of Commission personnel assigned to Commission actions concerning indoor air and the number of vacancies in such positions,

(8) a description of the participation by the Commission in interagency efforts on indoor air pollution,

(9) a description of the hazards presented by such pollutants and the populations affected by the pollutants,

(10) a description of informational materials prepared by the Commission respecting such pollutants, and

(11) the type and number of complaints received by the Commission's Hotline and other Commission offices respecting such pollutants.

SEC. 205. LABELING REQUIREMENT.

(a) GENERAL RULE.—

(1) The Consumer Product Safety Commission shall issue a consumer product safety standard for any toy intended for use by children 3 years of age or older which—

(A) is manufactured for sale, offered for sale, distributed in commerce, or imported into the United States, and

(B) which includes a small part, as defined by the Commission,

to require that the packaging of such toy and any descriptive materials which accompany such toy contain the cautionary label described in paragraph (2).

(2) The cautionary label required under paragraph (1) for a toy shall—

(A) state the age of children for which such toy is not intended, and

(B) contain a description, with respect to children within the age range for which such toy is not intended, of any dangerous property of such toy, and the hazardous consequences which can result from any such dangerous property.

(3) No later than January 1, 1991, the Commission shall establish the consumer product safety standard referred to in paragraph (1) and rules implementing the requirements of the standard.

(b) LABELING REQUIREMENTS.—All labeling required under a standard issued under subsection (a) for a toy shall—

(1) be prominently and conspicuously displayed on the packaging of the toy and on any descriptive materials which accompany the toy,

(2) be visible, noticeable, and in the English language, and

(3) include the word "WARNING" in capital letters.

(c) ENFORCEMENT.—The Commission may use any remedy available to it under the Consumer Product Safety Act to enforce the requirements of the standard issued under subsection (a).

SEC. 206. CHILDREN'S PRODUCTS.

(a) REPORT ON PRODUCTS.—Not later than 120 days after the date of the enactment of this Act the Consumer Product Safety Commission shall report to Congress on products which pose a major hazard to children, including—

(1) wood and metal home playground equipment,

(2) children's products which contain the chemical DEHP (2-ethylhexyl phthalate),

(3) small parts for toys and other products intended for use by children under 3 years of age,

(4) baby pacifiers which contain a total action level of nitrosamines in excess of 10 parts per billion,

(5) baby cribs, including baby cribs with corner post extensions of a length of less than ⅝ of an inch, and

(6) bunk beds.

(b) CONTENT.—The report made under subsection (a) shall—

(1) describe the hazards associated with each product reported on and include data on all known injuries and deaths from such product,

(2) include a review of the actions taken by the Consumer Product Safety Commission with respect to each such product, and

(3) include a time schedule for additional actions by the Commission with respect to such product.

SEC. 207. RECLINING CHAIRS.

(a) SURVEY.—The Consumer Product Safety Commission shall conduct a survey, using statistically significant samples, of—

(1) all reclining chairs being sold in the United States,

(2) the retail outlets for reclining chairs, and

(3) manufacturers of reclining chairs to determine their compliance with voluntary industry manufacturing guidelines designed to reduce the entrapment of children in such chairs.

(b) REPORT.—Within 120 days of the date of the enactment of this Act the Commission shall report to Congress the specific number of reclining chairs, retail outlets for such chairs, and manufacturers of such chairs included in the survey under subsection (a) and the number of such chairs and manufacturers which are not in compliance with voluntary industry manufacturing guidelines designed to reduce the entrapment of children in such chairs.

(c) COMMISSION ACTION.—If the Commission determines that there is a substantial lack of compliance with such industry guidelines, the Commission shall initiate proceedings under the Consumer Product Safety Act to establish a safety standard for reclining chairs to prevent the entrapment of children in such chairs.

SEC. 208. AUTOMATIC GARAGE DOOR SYSTEMS

(a) CONSUMER PRODUCT SAFETY RULE.—The provisions of subsection (b) shall be considered to be a consumer product safety rule issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act.

(b) REQUIREMENT.—

(1) Effective on and after January 1, 1991, each automatic garage door opening system manufactured on or after that date shall conform to the applicable requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, as revised May 4, 1988, or any later revised edition.

(2) Effective on and after January 1, 1993, all automatic garage door opening systems manufactured on and after such date shall be manufactured to operate only if the systems include—

(A)(i) an electric sensing edge located on the edge of the door which does not require more than 5 pounds per square inch of pressure and which when activated is designed to cause a closing door to open and prevent an open door from closing, or

(ii) an optical sensor or other functionally equivalent non-contact sensor which when activated is designed to cause a closing door to open and prevent an open door from closing, or

(B) a device found by the Consumer Product Safety Commission to provide protection from entrapment equivalent to that provided by a device described in subparagraph (A).

A device described in subparagraph (A) shall be designed to operate in a manner such that interruption or misalignment of the device or an open or short in the wires between the device and the power head would cause a closing door to open and prevent an open door from closing.

(c) LABELING.—On and after January 1, 1991, a manufacturer selling or offering for sale an automatic garage door opening system shall clearly identify on any container of the system and on the system the month and year the system was manufactured and its conformance with the requirements of subsection (b).

(d) NOTIFICATION.—Effective on and after July 1, 1991, all manufacturers of automatic garage door opening systems shall, in consultation with the Consumer Product Safety Commission, notify the public of the entrapment hazards of automatic garage door openers and advise owners of automatic garage door opening systems to test their system for the automatic reverse feature required by subsection (b).

(e) PREEMPTION.—In applying section 26(a) of the Consumer Product Safety Act (15 U.S.C. 2075) with respect to the consumer product safety rule of the Consumer Product Safety Commission under subsection (a), only those laws of States or political subdivisions which do not provide the equivalent degree of protection from the risk of injury associated with garage door opening systems as the consumer product safety rule provides shall be subject to such section.

(f) REGULATIONS.—Section 553 of title 5, United States Code, shall apply with respect to the issuance of any regulations by the Consumer Product Safety Commission to implement the requirements of this section.

(g) CONSTRUCTION.—Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under the common law or any Federal or State law.

SEC. 209. ALL TERRAIN VEHICLES.

(a) SALE OF 3-WHEEL ALL TERRAIN VEHICLES.—

(1) Section 19(a) (15 U.S.C. 2068(a)), as amended by section 203(c)(3), is amended by adding after paragraph (11) the following:

"(12) sell any 3-wheel all terrain vehicle—

"(A) which is new or which has not been sold to a consumer, and

"(B) which is not subject to the consent decree approved by the United States District Court for the District of Columbia on April 28, 1988,

if such person is the manufacturer, distributor, or dealer of such vehicle.

Paragraph (12) shall not apply to the sale of a 3-wheel all terrain vehicle on and after the date the Commission promulgates a consumer product safety standard under this Act applicable to 3-wheel all terrain vehicles, the Commission accepts under section 7(b) a voluntary consumer product safety standard applicable to 3-wheel all terrain vehicles, or the Commission accepts as satisfactory a voluntary standard for 3-wheel all terrain vehicles developed under the consent decree referred to in paragraph (12)(B).".

(2) The amendment made by paragraph (1) shall take effect upon the expiration of 30 days after the date of the enactment of this Act. Before the expiration of such 30 days the Consumer Product Safety Commission shall issue a notice to all manufacturers of 3-wheel all terrain vehicles explaining the effect of the amendment made by paragraph (1).

(b) LATERAL STABILITY STANDARD.—Not later than the expiration of 18 months after the date of the enactment of this Act, the Consumer Product Safety Commission shall—

(1) promulgate under the Consumer Product Safety Act a consumer product safety standard for all terrain vehicles which prescribes appropriate lateral stability standards for the vehicle, or

(2) accept under—

(A) the consent decree approved by the United States District Court for the District of Columbia on April 28, 1988, or

(B) section 7(b) of the Consumer Product Safety Act,

a voluntary consumer product safety standard of the type described in paragraph (1) if the standard is acceptable to the Commission.

If the Commission is unable to promulgate or accept such a standard before the expiration of such 18 months, the Commission shall report to the Congress at the expiration of such 18 months and every 6 months after the expiration of such 18 months on the progress it is making in promulgating or accepting such a standard.

(c) REFUNDS.—The Consumer Product Safety Commission shall consider the advisability of requiring refunds to persons who purchased 3-wheel all terrain vehicles before January 1, 1988, and report to the Congress by March 31, 1991, the action the Commission proposes to take (if any) under section 15 of the Consumer Product Safety Act or the Federal Hazardous Substances Act to require refunds to such persons and the reasons for such action.

(d) DEFINITION.—For purposes of this section and the amendment made by subsection (a), the term "all terrain vehicle" means a motorized vehicle which is—

(1) generally characterized by large low pressure tires, a seat designed to be straddled by the operator, and handlebars for steering, and

(2) intended for off-road use by an individual rider on various types of non-paved terrains.

(e) CONSTRUCTION.—Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under the common law or any Federal or State law.

SEC. 210. STUDY OF BITTERING AGENTS.

The Consumer Product Safety Commission shall conduct a study of requiring manufacturers of consumer products to include as appropriate bittering agents in products which present a hazard if ingested to determine the potential effectiveness of the agents in deterring ingestion. The Commission shall report to Congress the status of the study within one year of the date of the enactment of this Act and shall complete the study not later than 2 years after such date of enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALGREN] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we bring to the House H.R. 4952, the Consumer Product Safety Improvement Act of 1990.

This bill comes out of the Committee on Energy and Commerce, and I want to express at the outset how important is the role that not only the full committee chairman, the gentleman from Michigan [Mr. DINGELL], has played in this but the gentleman from New York [Mr. LENT], as the ranking minority member of the full committee, and particularly the gentleman from Pennsylvania [Mr. RITTER], who is the ranking member of the subcommittee.

There have been a number of individual Members who have played particularly important roles in this bill as reflected by its provisions. The gentleman from Texas [Mr. BARTON] has had specific concerns about the ATV vehicles; the gentleman from Minnesota [Mr. SIKORSKI] has been involved with raising questions about garage door openers; the gentleman from Oregon [Mr. WYDEN] raising questions about the CPSC's relationship to toys and small parts related thereto; the gentleman from California [Mr. WAXMAN] involved in the regulation of amusement park rides; the gentleman from Oklahoma [Mr. SYNAR] raising issues with respect to indoor air pollution and others, all of whom have had their role and their mark on this legislation.

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It is a bipartisan piece of legislation that I was pleased to introduce, along with the ranking minority member and a whole number of members of the subcommittee.

This legislation is essential to getting the Consumer Product Safety Commission back on track. The Consumer Product Safety Commission, Mr. Speaker, has a fundamental and important responsibility to take steps to protect the American people from unreasonable risk of injury from consumer products. In their history over the years of operation, they have made critical contributions for which we all should be grateful and recognize the role that a Government agency with good regulatory powers can play in our system.

They were the central focus for the requirement that children's sleepwear be flame retardant. There are numbers of children today in America who would have been horribly burned but for the role the Consumer Product Safety Commission has taken.

The same is true for protecting children from medication that is present in all our households, but would be poison to young children. They played the central role in requiring that these kinds of medications be secured under childproof caps.

Ideological conflict among those on the Commission in the 1980's led to a very bad 10 years. The failure of the administration to fill vacancies on the Commission in that period of time ultimately brought the Commission to a grinding halt. In fact, for a number of months last year, the agency even lacked a quorum to conduct business.

It is time we put the division and lack of support from the administration of these years behind us. We have a new Presidential appointee who has been confirmed as Chairman of the Commission and a total of three sitting commissioners, and every reason to have confidence that the CPSC will operate and meet their fundamental responsibilities.

This bipartisan legislation will reauthorize the Commission for fiscal years 1991 and 1992. It will improve the agency's regulatory process while retaining the Commission's flexibility to manage its agenda. It will make important improvements in the requirement that potentially hazardous products be actually reported to the Commission, and it increases civil penalties to reflect inflation.

It adjusts the quorum requirement to prevent veto power over the agency being held by any one commissioner, and it allows for State legal action to supplement the enforcement actions on the Federal level and gives States the power to enforce product safety rules.

Mr. Speaker, this legislation is vitally necessary to improve the CPSC's ability to carry out its statutory mandate. The change in the quorum requirement would address the situation that occurred last year when the agency was unable to take any official action for almost 11 months.

The existing civil penalties under the Consumer Product Safety Act have not been adjusted for inflation since 1972, and have lost almost half

of their effective value. The legislation would restore that value and the deterrent effect of those penalties.

In addition, there are currently no civil penalties provided under the Federal Hazardous Substance Act, under which the CPSC regulates many toys. This lack of civil penalty has hampered enforcement, and the legislation would provide these necessary penalties under law.

Mr. Speaker, I should note that the legislation being considered today includes three technical, clarifying, and reinforcing amendments to the version reported to the full House by the Committee on Energy and Commerce. Briefly, one amendment would clarify when new toy labeling requirements in section 205 would become effective, making it clear that essentially the effective date of those labeling requirements would be specified by CPSC in the consumer product safety standard to be issued pursuant to section 205(a)(3).

The second technical amendment would add a new subsection (e) to section 209 to clarify that provisions in that section regarding all-terrain vehicles do not affect or modify the obligations or liabilities of any person under the common law or any Federal or State law. This is consistent with language already in the committee report.

The third amendment, an initiative of the ranking Republican member of the subcommittee, reinforces and mandates the continuation of the current practice of the CPSC in maintaining a program of product surveillance to detect unsafe consumer products.

Mr. Speaker, the legislation before us is a bipartisan compromise. It is supported by major consumer and health advocacy groups such as the Consumer Federation of America, Consumers Union, U.S. Public Interest Research Group, Public Citizen, the American Academy of Pediatrics, the Safe Kids Campaign, and others.

The bill has the support of the Coalition for Consumer Health and Safety, a group of 20 insurance companies and 17 consumer and health organizations that have banded together to advance public interest in this area. It also, I might add, is endorsed and supported by the Consumer Product Safety Commission itself.

Mr. Speaker, the CPSC has not been reauthorized since 1981. That is 9 long years without the support of congressional direction. Congressional authorization is long overdue for this agency. I urge Members to join me in approving this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent that my time be controlled by the gentleman from Pennsylvania [Mr. RITTER].

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RITTER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 4952, the Consumer Product Safety Improvement Act of 1990. This bipartisan bill reauthorizes the Consumer Product Safety Commission [CPSC] for 2 years and makes needed changes in the Consumer Product Safety Act and other statutes administered by the Commission. I believe that this Congress has an excellent chance to reauthorize the CPSC, something that has not been done since 1981.

The Consumer Product Safety Commission is a small agency in the world of Washington. Its fiscal year 1990 budget is only a little over $35 million, and it employs just over 500 employees. Yet the range of products over which the CPSC exercises authority and its power to take action to regulate or to ban those products are enormous. This small size, big responsibility dichotomy is why one might call the CPSC "the biggest little agency in Washington."

Reauthorization is not the most glamorous of legislative tasks, but it is a necessary one. Oversight hearings held in the Subcommittee on Commerce, Consumer Protection, and Competitiveness have identified a number of problems in Commission operation that require legislation to remedy. This bill remedies these problems in a number of ways. Most important, it addresses the lack of a quorum that plagued the Commission last year, by reducing the Commission's quorum to two when there are three commissioners, and for 6 months following a Commission vacancy that causes the number of Commissioners to decline to two.

Another desirable improvement that this bill makes to Commission operation is to specify the procedures that the Commission uses when it defers to voluntary standards. The use of voluntary standards is important because they can often be developed and implemented much more rapidly than mandatory rules. This bill ensures that deferral to voluntary standards occurs with opportunity for public comment and complete Commission consideration.

Other sections of the bill improve the ability of the Commission to gather information about product defects and hazards. The bill requires manufacturers, distributors, and retailers to report both failures to comply with voluntary standards and product liability actions brought for death or for grievous bodily injury. These reporting requirements will improve the ability of the Commission to discover and address product hazards.

Another important section of this bill enhances the Commission's ability to improve American competitiveness. In 1988 the Commission, in cooperation with the U.S. Customs Service, began a surveillance program designed to keep defective, unsafe goods out of the United States. This program has been very successful: Unsafe consumer products worth over $11 million have been kept out of this country. Yet, high quality, safe foreign goods have in no way been excluded. This bill gives statutory support for this crucial Commission effort.

Last August the Senate acted to pass S. 605, its version of CPSC reauthorization. It is now time for this House to move and reauthorize this important Commission. H.R. 4952 is a reasonable legislative vehicle and I urge my colleagues to support it.

In closing, I want to commend Chairman WALGREN, Chairman DINGELL, and the gentleman from New York [Mr. LENT], the ranking Republican of the full committee, for their leadership in moving this important reauthorization bill.

□ 1230

Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in strong support of H.R. 4952, a bill to reauthorize the Consumer Product Safety Commission. This will be the first time since 1981 that we have reauthorized this vital Commission. I am very proud of this piece of legislation.

I want to thank the subcommittee chairman, the gentleman from Pennsylvania [Mr. WALGREN] and the ranking Republican member, the gentleman from Pennsylvania [Mr. RITTER]. And I think we need to also thank the former chairman of the subcommittee, then-Congressman Jim Florio, who is now Governor of New Jersey. He worked long and hard on this piece of legislation before he was elected to be Governor.

I am especially proud of one particular section in this bill, section 209. Section 209 permanently bans the sale of new three-wheel, all-terrain vehicles within the United States of America unless thay can meet a safety stability standard, a lateral stability standard.

Prior to 1988 when the industry, the Justice Department and the CPSC all agreed to sign a consent decree which banned the sale of these vehicles for 10 years, thousands and thousands of youngsters, thousands and thousands of adults were injured or killed on three-wheel ATV's. Since 1988 when the consent decree was signed, injuries have fallen dramatically. The industry has made a good faith effort to educate the owners of three-wheel ATV's.

They have undertaken an aggressive advertising campaign. But, under the consent decree, it is possible that new three-wheel ATV's could be sold in the United States after the 10-year period of the consent decree expires. Section 209 bans permanently the sale of these three-wheel ATV's unless they are reengineered so that they can meet the lateral stability standard.

Section 209 also requires a stability standard for four-wheel ATV's to be implemented within 18 months, and that a study be conducted to determine the desirability of whether there should be a refund mechanism for past purchasers of new three-wheel ATV's.

Mr. Speaker, section 209 has been extensively studied in the Congress. There have been numerous hearings. There have been numerous negotiations with members of the Energy and Commerce Committee, the staff, the Consumer Product Safety Commission staff and representatives of the industry.

I think this is a good piece of legislation. I am very proud to have my name on it. I would urge every Member of this Congress to strongly vote for it at the appropriate time.

Mr. RITTER. Mr. Speaker, I want to thank the gentleman for his active participation in this process.

Mr. Speaker, I yield 4 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I stand before you a repentant cosponsor of H.R. 4952. When I cosponsored the bill it was a reasonable compromise, I felt, with the bill we had a year ago which I did not like, and the Senate bill which had very little regulation in it.

Since that time, in subcommittee and committee, three activities have been added, three product-specific amendments have been added which make the bill unbalanced. It smacks of micromanagement in my view.

The gentleman from Texas [Mr. BARTON] who just spoke, made a good faith effort to take care of the ATV problem, and such was done by the Consumer Product Safety Commission. I do not think that the amendment that was added in this committee was necessary because the problem had been solved through the diligent efforts of a year ago.

While I support the idea of taking care of garage openers and chemicals and other things, I do not think the CPSC should have been told how to handle every specific item on their agenda. Nor do I think it is necessary for them to take care of the fixed-site amusement parks. They have not done a good job on mobile amusement parks which go from State to State, so I reject that also.

I would like very much to see the House work with the Senate to see if we can come up with a compromise between the two which will take out of it some of the product-specific directives we have put in this bill. I will support the Consumer Product Safety Commission. I think they have been undermanned, and it was unfortunate that they did not have a full quorum and were not able to act.

The bill makes some good changes there, and I suggest that the gentleman from Pennsylvania [Mr. WALGREN] and the gentleman from Pennsylvania [Mr. RITTER] deserve a good deal of credit for incorporating those improvements in the bill this year. But I still, in its present form, have to vote against the bill.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just in response to the gentleman from Utah, I understand some of his concerns, and I would urge my colleagues in the future, with product-specific legislation, to consider more aggressive oversight in place of statutes to ensure that the Commission addresses risks.

But I also believe that with an active Commission, an authorized Commission, we may have less of these product-specific demands placed on us as we go forward.

Mr. WALGREN. Mr. Speaker, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from Pennsylvania.

Mr. WALGREN. Mr. Speaker, I would like to simply say that I appreciate and certainly understand the reservations that the gentleman from Utah has raised. The gentleman from Utah was a cosponsor of this legislation originally in response to somewhat my request, and I feel very personally grateful to him for the consideration that he has given this bill.

I know that he is deeply committed and completely sincere about the effective role that he would like to see the Consumer Product Safety Commission play, and we are here in no small measure because Members like the gentleman from Utah and others brought that kind of understanding to what can be done through the Consumer Product Safety Commission.

I appreciate that all of the product-specific areas are sort of questions of balance, and there is a line in there that we want to draw someplace. The committee has tried to draw a line that was workable and not overbearing. I would recommend that line to all of the Members of the House on that basis.

But I want to salute the commitment and the values that the gentleman from Utah has brought to this measure, and say how much I respect that.

Mr. GEJDENSON. Mr. Speaker, I rise today to express my support for H.R. 4952, the Consumer Product Safety Improvement Act. In particular, I would like to express my strong support for section 205 of the bill, which will require that toy manufacturers place warning labels on an especially dangerous class of toys: those containing small parts which can cause injury and death of children by choking. This language is virtually identical to legislation that I introduced in the 100th Congress and then again, in this Congress, entitled the Toy Safety and Child Protection Act, which will require warning labels on small toys and toys with small parts.

First, Mr. Speaker, I would like to commend the chairman of the full committee, Mr. DINGELL, for bringing this bill to the floor. I would also like to recognize Mr. WALGREN, the new chairman of the Commerce, Consumer Protection, and Competitiveness Subcommittee, for all of the excellent work that he and the staff of the subcommittee have done on this bill to shepard it through the committee and bring it to the floor.

In 1986, at least 113,000 children were treated in hospital emergency rooms for toy-related injuries. There were also at least 35 reported toy-related fatalities in 1986. The second largest category of toy-related injuries involved the ingestion or aspiration of small toys or parts of toys. In 1985 alone, small toys or parts were responsible for 18 deaths and over 12,000 injuries.

The Consumer Product Safety Commission, which sets standards for certain toys and other children's articles, recognized the danger of toys with small parts when it prohibited toy manufacturers from making toys with small parts designed for children under the age of 3. If a toy intended for a child under the age of 3 fits within a test cylinder 1.25 inches in diameter, it may not be marketed for use by those children.

Toy manufacturers, however, still produce thousands of toys for children over the age of 3 with small parts. But the Consumer Product Safety Commission does not require these toys to have any information to warn parents of potential risks to children under the age of 3.

Warning labels that you find on some toys are placed there on an entirely voluntary basis and in some cases, they are entirely inadequate and confusing to the parent. There are still thousands of toys on the market that may be designed for children over the age of 3 but which contain no warning label at all.

Those toy manufacturers that do include warning labels on their products may not adequately phrase the warning which can misinform or confuse the toy purchaser as to the potential hazards associated with it. A recent informal poll of parental toy buyers done by the toy group of the Americans for democratic action demonstrated that most parents think that toy warning labels have to do with educational levels rather than with safety. Many parents indicated a willingness to buy the toys marked "recommended for age 3 and up" for their child, who were younger than 3 years of age, because they believed that their child was smarter than average, and could "grow into" the toy.

When parents were informed that the warning label actually referred to the safety of the toy, not a single parent was willing to purchase that toy for their child.

Mr. Speaker, I urge my colleagues with young children and grandchildren, on their next trip to the toy store, to take a close look at the toys with small parts. They may see a paint set, currently available at toy stores, which includes a minute paint brush which fails the small parts cylinder test and could easily be swallowed. My colleagues may also find a "little mommy" diaper and bottle which contains a descriptive label stating "ages 3 and up," but which does not state that it contains small parts which would fail the cylinder test.

This provision of this long-overdue reauthorization of the Consumer Product Safety Commission is especially important as there is a growing realization that current regulations to protect children under the age of 3 from toys with small parts are inadequate. In February 1988, the CPSC Commissioners voted to seek information on the merits of increasing the dimensions of the test cylinder used to enforce the current standard. Statistics gathered by the CPSC indicated that 37 deaths were caused between 1973 and 1983 by small toy parts larger than the current CPSC standard.

Requiring manufacturers to place warning labels on toys with small parts would be a perfect complement to a stricter CPSC standard on small parts. More dangerous toys would come under regulation and more parents would know of the danger of the toys they see in the stores.

Few will argue, Mr. Speaker, of the importance of ensuring that parents know which toys contain small parts and what these small parts can do. Death due to ingestion of small parts of toys are preventable. I am pleased that Congress has intervened. If the life of only one child is saved by a proper warning label, it will be worth the effort.

Mr. WYDEN. Mr. Speaker, I rise today in full support of H.R. 4952, the Consumer Product Safety Improvement Act. I also want to commend the leadership of Chairman WALGREN in bringing this bill to the floor. This legislation contains several important provisions to protect the health and safety of our children, including three specific provisions which I have worked to include in this bill.

First, this legislation would require the Consumer Product Safety Commission to conduct a study of the effectiveness of requiring manufacturers to add bittering agents to their products.

The trauma of an accidental poisoning is beyond measure for children and their families. Every innocent life lost by poison ingestion is one too many. British manufacturers already include one bitter compound, denatonium benzoate, in many sweet-smelling, candy-colored house and garden products. An Oregon mother, Mrs. Lynn Tylczak, has already begun a letter-writing campaign urging American companies to make bittering agents part of their most dangerous products at an estimated cost of less than half a cent per pint of solution.

The use of bittering agents in household chemicals is supported by the American Medical Association, the National Safety Council, the American Association of Poison Control Centers, and the Consumers Union.

Every year, hundreds of thousands of children are treated in hospital emergency rooms for toy-related injuries. A large number of these injuries are caused because a youngster has choked on a toy with a small part. This bill would require toy manufacturers to improve warning labels on toys which contain small parts which pose a choking hazard. Currently, any labels that are seen on toys are placed there voluntarily. Under this legislation, the label would advise for what ages the toy is not suited and would contain a description of the toy's dangerous parts. The label would be required to be displaced in a prominent space and include the word "WARNING" in capital letters.

Another provision in this legislation would help improve safety in amusement parks, by making it possible for the CPSC to collect reports from amusement ride operators of any serious injury occurring during the operation of a ride. The Commission would be given the authority to close the ride until repairs have been made.

Mr. Speaker, I strongly support the legislation which will make the world a little safer for children and other consumers and would urge my colleagues to support it as well.

Mr. RITTER. Mr. Speaker, H.R. 4952, as considered by the House under suspension of the rules, contains one section that it did not contain as the bill was reported by the Committee on Energy and Commerce. This section is a nonsubstantive section and I believe that it was appropriate to insert it before consideration by the House. I do want my colleagues to understand why this section was inserted.

Section 110 of the bill as considered under suspension of the rules, states that the Consumer Product Safety Commission shall establish and maintain a permanent product surveillance program. In cooperation with other appropriate Federal agencies, to prevent the entry of the unsafe consumer products into the commerce of the United States. The section goes on to state that the Commission may provide, to agencies with which it is cooperating, information, data, violator lists, test results, and other support, guidance, and documents, to help such agencies cooperate with the Commission. Finally, the section requires the Commission to report periodically to Congress on the results of its surveillance program.

This section does not give to the Commission any authority that it does not already possess under the existing Consumer Product Safety Act. Section 29(c) of the Consumer Product Safety Act states explicitly that the Commission and the heads of other departments and agencies engaged in administering programs related to product safety shall, to the maximum extent practicable, cooperate and consult in order to ensure fully coordinated efforts. In addition, section 27(g) of the Consumer Product Safety Act empowers the Commission to enter into contracts with Government entities for the conduct of activities authorized by the act. Finally, section 17 of the Consumer Product Safety Act explicitly provides for cooperation between the Commission and the Secretary of the Treasury to ensure that products that violate consumer product safety rules, imminently hazardous products, products with substantial defects, or mislabelled products do not enter the United States.

If existing law already authorizes what section 110 of this bill directs, why is the section included? There are two reasons. The first is to give statutory imprimatur and encouragement to a program that the Commission began with the U.S. Customs Service in 1988. That program, known as the Import Surveillance Program, has resulted in the exclusion from U.S. commerce of over $11 million of unsafe consumer goods. These are defective products that never reached the market because the viligant efforts of the Commission and the Customs Service resulted in their seizure at the docks. Such an import surveillance program is especially valuable because dangerous consumer goods are caught en masse at the docks and do not have to be tracked down store-by-store at the retail level or recalled from the hands of consumers. This Import Surveillance Program has been so significant and its results so impressive that I believe that it deserves specific statutory endorsement and encouragement. Section 110 of this bill serves that purpose.

The second reason that section 110 is included in the bill is that it enhances U.S. competitiveness. The purposes of the Consumer Product Safety Commission are set forth in section 2(b) of the existing act: First, to protect the public against unreasonable risks of injury associated with consumer products; second, to assist consumers in evaluating the competitive safety of consumer products; third, to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and, fourth, to promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries. All of these are worthy purposes and all of them will be furthered by section 110 of this bill. But vigorous action to keep out defective and dangerous imported goods, which section 110 provides for, will enhance U.S. competitiveness because it will exclude cheap, dangerous foreign goods that crowd out better quality, yet more expensive U.S.-produced consumer products. At the same time, it will in no way effect safe, high-quality foreign merchandise that American consumers expect and deserve. All Federal agencies must do their part to make American industry more competitive. The Import Surveillance Program of the Consumer Product Safety Commission and the Customs Service is one such program. Section 110 of the bill gives encouragement to the Commission to continue this Import Surveillance Program and to enhance U.S. competitiveness.

Mr. RITTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WALGREN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALGREN] that the House suspend the rules and pass the bill, H.R. 4952, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 605) to authorize appropriations for the Consumer Product Safety Commission, and for other purposes, and ask for its immediate consideration.

□ 1240

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate bill as follows:

S. 605

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Product Safety Commission Authorization Act of 1989".

QUALIFICATIONS OF MEMBERS OF THE COMMISSION; QUORUM

SEC. 2. (a) Section 4(a) of the Consumer Product Safety Act (15 U.S.C. 2053(a)) is amended by inserting immediately after the first sentence the following: "In making such appointments, the President shall consider individuals who, by reason of their background and expertise in areas related to consumer products and protection of the public from risks to safety, are qualified to serve as members of the Commission.".

(b)(1) Section 4(a) of the Consumer Product Safety Act (15 U.S.C. 2053(a)), is amended by striking "five" and inserting in lieu thereof "three".

(2) Section 4(c) of the Consumer Product Safety Act (15 U.S.C. 2053(c)) is amended by striking "three" and inserting in lieu thereof "two".

(3) Section 4(d) of the Consumer Product Safety Act (15 U.S.C. 2053(d)) is amended by striking "three" and inserting in lieu thereof "two".

(4) For the purpose of applying the amendment made by paragraph (1) of this subsection, the office of Commissioner of the Consumer Product Safety Commission whose term expires on October 26, 1990, and the office of Commissioner whose term expires on October 26, 1993, shall cease to exist on the date of enactment of this Act.

APPOINTMENT OF CERTAIN PERSONNEL

SEC. 3. (a) Section 4(g)(1) of the Consumer Product Safety Act (15 U.S.C. 2053(g)(1)) is amended to read as follows:

"(g)(1) The Chairman, subject to the approval of the Commission, shall appoint an Executive Director, a General Counsel, an Associate Executive Director for Engineering Sciences, an Associate Executive Director for Epidemiology, an Associate Executive Director for Compliance and Administrative Litigation, an Associate Executive Director for Health Sciences, an Associate Executive Director for Economic Analysis, an Associate Executive Director for Administration, an Associate Executive Director for Field Operations, a Director for Office of Program, Management, and Budget, and a Director for Office of Information and Public Affairs. Any other individual appointed to a position designated as an Associate Executive Director shall be appointed by the Chairman, subject to the approval of the Commission. The Chairman may remove an individual from any position specified in paragraph (1) of this subsection only with the approval of the Commission. The Chairman may appoint only an individual who is an attorney as the Associate Executive Director for Compliance and Administrative Litigation. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.".

(b) Section 4(g) of the Consumer Product Safety Act (15 U.S.C. 2053(g)) is amended by adding at the end the following:

"(5) No individual may be appointed on an acting basis to any position specified in paragraph (1) of this subsection for a period in excess of ninety days unless such appointment is approved by the Commission.".

PRIORITIES

SEC. 4. (a) Section 4 of the Consumer Product Safety Act (15 U.S.C. 2053) is amended by adding at the end the following:

"(j) At least thirty days before the beginning of each fiscal year, the Commission shall establish priorities for its actions pursuant to the Acts under its jurisdiction. Before establishing such priorities, the Commission shall conduct a public hearing on the priorities and shall provide reasonable opportunity for the submission of comments.".

(b) The amendment made by subsection (a) of this section shall apply with respect to fiscal years which begin more than one hundred and eighty days after the date of enactment of this Act.

DISCLOSURE TO CONTRACTORS

SEC. 5. Section 6(a)(8) of the Consumer Product Safety Act (15 U.S.C. 2055(a)(8)) is amended by striking "officers or employees" and inserting in lieu thereof "officers, employees, or representatives of the Commission (including contractors)".

PETITION REGARDING VOLUNTARY STANDARDS

SEC. 6. (a) Section 9 of the Consumer Product Safety Act (15 U.S.C. 2058) is amended by adding at the end the following:

"(i) The Commission shall approve or deny any petition requesting the Commission to initiate a rulemaking under section 553(e) of title 5, United States Code, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for approving or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

(b) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding at the end the following:

"(j) The Commission shall approve or deny any petition requesting the Commission to initiate a rulemaking under section 553(e) of title 5, United States Code, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for approving or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

(c) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding at the end the following:

"(k) The Commission shall approve or deny any petition requesting the Commission to initiate a rulemaking under section 553(e) of title 5, United States Code, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for approving or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

TIME LIMITATIONS FOR PROPOSED RULES

SEC. 7. Section 9(c) of the Consumer Product Safety Act (15 U.S.C. 2058(c)) is amended by adding at the end the following: "Any proposed consumer product safety rule shall be issued within twelve months after the date of publication of an advance notice of proposed rulemaking under subsection (a) of this section relating to the product involved, unless the Commission determines that such proposed rule is not likely to eliminate or reduce the risk of injury associated with the product. The Commission may extend the twelve-month period for good cause. If the Commission extends such period, it shall immediately transmit notice of such extension to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. Such notice shall include an explanation of the reasons for such extension, together with an estimate of the date by which the Commission anticipates such rulemaking will be completed. The Commission shall publish notice of such extension and the information submitted to the Congress in the Federal Register.".

VOLUNTARY CONSUMER PRODUCT SAFETY STANDARDS

SEC. 8. (a)(1) Section 9(b)(2) of the Consumer Product Safety Act (15 U.S.C. 2058(b)(2)) is amended by inserting immediately before the period the following: ", except that the Commission shall terminate any such proceeding and rely on a voluntary standard only if such voluntary standard is in existence".

(b)(1) Section 9(b)(2) of the Consumer Product Safety Act (15 U.S.C. 2058(b)(2)), as amended by subsection (a)(1) of this section, is further amended by adding at the end the following: "Prior to relying upon any voluntary consumer product safety standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) who were not involved in the development of such standard a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reli-

ance on the involved voluntary standard under this subsection.".

(2) Section 3(g)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1262(g)(2)), as amended by subsection (a)(2) of this section, is further amended by adding at the end the following: "Prior to relying upon any voluntary standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) who were not involved in the development of such standard a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection.".

(c)(1) Section 7(b) of the Consumer Product Safety Act (15 U.S.C. 2056(b)) is amended—

(A) by inserting "(1)" immediately after "(b)"; and

(B) by adding at the end the following:

"(2) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (1) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored.".

(2) Section 3(g) of the Federal Hazardous Substances Act (15 U.S.C. 1262(g)) is amended by adding at the end the following:

"(3) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (2) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored.".

(3) Section 4(h) of the Flammable Fabrics Act (15 U.S.C. 1193(h)) is amended by adding at the end the following:

"(3) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (2) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored.".

COST-BENEFIT ANALYSIS

SEC. 9. (a) Section 12 of the Consumer Product Safety Act (15 U.S.C. 2061) is amended by adding at the end the following:

"(f) Nothing in this section shall be construed to require the Commission, in determining whether to bring an action against a consumer product under this section, to prepare a comparison of the costs that would be incurred in complying with the relief that may be ordered in such action with the benefits to the public from such relief.".

(b) Section 15 of the Consumer Product Safety Act (15 U.S.C. 2064) is amended by adding at the end the following:

"(h) Nothing in this section shall be construed to require the Commission, in determining that a product distributed in commerce presents a substantial product hazard and that notification or other action under this section should be taken, to prepare a comparison of the costs that would be incurred in providing notification or taking other action under this section with the benefits from such notification or action.".

(c) Section 15 of the Federal Hazadous Substances Act (15 U.S.C. 1274) is amended by adding at the end the following:

"(g) Nothing in this section shall be construed to require the Commission, in determining that an article or substance distributed in commerce presents a substantial product hazard and that notification or other action under this section should be taken, to prepare a comparison of the costs that would be incurred in providing notification or taking other action under this section with the benefits from such notification or action.".

NOTIFICATION

SEC. 10. Section 15(b) of the Consumer Product Safety Act (15 U.S.C. 2064(b)) is amended—

(1) in paragraph (1), by striking "; or" and inserting in lieu thereof "or with a voluntary consumer product safety standard upon which the Commission has relied under section 9;";

(2) in paragraph (2), by striking the comma and inserting in lieu thereof "; or";

(3) by inserting immediately after paragraph (2) the following:

"(3) creates an unreasonable risk of serious injury or death,";

(4) by striking "comply or of such defect," and inserting in lieu thereof "comply, of such defect, or of such risk,"; and

(5) by striking "defect or failure to comply." and inserting in lieu thereof "defect, failure to comply, or such risk.".

CIVIL PENALTIES

SEC. 11. (a) Section 20(a) of the Consumer Product Safety Act (15 U.S.C. 2069(a)) is amended—

(1) by striking "$2,000" and inserting in lieu thereof "$5,000";

(2) by striking "$500,000" each place it appears and inserting in lieu thereof "$1,250,000"; and

(3) by adding at the end thereof the following:

"(3)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calender year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(b) Section 5 of the Federal Hazardous Substances Act (15 U.S.C. 1264) is amended by adding at the end the following:

"(c)(1) Any person who knowingly violates section 4 shall be subject to a civil penalty not to exceed $5,000 for each such violation. Subject to paragraph (2), a violation of subsections (a), (b), (c), (d), (f), (g), (i), and (j) of section 4 shall constitute a separate offense with respect to each substance involved, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations. A violation of section 4(e) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required by section 4(e); and, if such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations.

"(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of subsection (a) or (c) of section 4—

"(A) if the person who violated such subsection is not the manufacturer or private labeler or a distributor of the substances involved; and

"(B) if such person did not have either (i) actual knowledge that such person's distribution or sale of the substance violated such subsection, or (ii) notice from the Commission that such distribution or sale would be a violation of such subsection.

"(3) In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 4, the Commission shall consider the nature of the substance, the severity of the risk of injury, the occurrence or absence of injury, the amount of the substance distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

"(4) Any civil penalty under this subsection may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated, and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the persons charged, the nature of the substance involved, the severity of the risk of injury, the occurrence or absence of injury, and the amount of the substance distributed. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

"(5) As used in the first sentence of paragraph (1), the term 'knowingly' means (A) having actual knowledge, or (B) the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

"(6)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1 by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(c)(1) Beginning 1 year after the date of enactment of this Act, and every year thereafter, the Consumer Product Safety Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the information specified in paragraph (2) of this subsection. Such information may be included in the annual report to the Congress submitted by the Commission.

(2) The Commission shall submit information with respect to the imposition of civil penalties under the statutes which it administers. The information shall include the number of civil penalties imposed, an identification of the violations that led to the imposition of such penalties, and the amount of revenue recovered from the imposition of such penalties.

CHRONIC HAZARD ADVISORY PANEL

SEC. 12. Section 28(b)(1) of the Consumer Product Safety Act (15 U.S.C. 2077(b)(1)) is amended by inserting immediately after "States" the following: "(other than employees of the National Institutes of Health, the National Toxicology Program, or the National Center for Toxicological Research)".

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. Section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting in lieu thereof a semicolon; and

(3) by inserting immediately after paragraph (9) the following:

"(10) $34,500,000 for the fiscal year ending September 30, 1989, together with such sums as may be necessary for increases in pay and retirement benefits provided by law;

"(11) $36,500,000 for the fiscal year ending September 30, 1990, together with such sums as may be necessary for increases in pay and retirement benefits provided by law; and

"(12) $38,179,000 for the fiscal year ending September 30, 1991, together with sums as may be necessary for increases in pay and retirement benefits provided by law.".

MOTION OFFERED BY MR. WALGREN

Mr. WALGREN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WALGREN moves to strike out all after the enacting clause of S. 605 and insert in lieu thereof the provisions of H.R. 4952, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read:

A bill to amend the Consumer Product Safety Act to reauthorize the Consumer Product Safety Commission and to improve the Commission's regulatory process, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4952) was laid on the table.

AUTHORIZING CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES IN ENGROSSMENT OF H.R. 4952 CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 1990

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4952, the Clerk be authorized to make such technical and conforming changes as may be necessary to reflect the actions of the House in passing that bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter therein, on H.R. 4952, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

STRATEGIC PETROLEUM RESERVE AMENDMENTS OF 1990

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3193) to extent title I of the Energy Policy and Conservation Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Strategic Petroleum Reserve Amendments of 1990".

SEC. 2. EXTENSION.

The Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) in section 104(b)(1), by striking out "August 15, 1990" and inserting in lieu thereof "December 31, 1994";

(2) in section 171, by striking out "August 15, 1990" each place it appears and inserting in lieu thereof "December 31, 1994"; and

(3) in section 281, by striking out "August 15, 1990" each place it appears and inserting in lieu thereof "December 31, 1994".

SEC. 3. ADDITIONAL AUTHORITY.

(a) DIVERSION.—(1) Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end the following:

"(f) If the Secretary finds that a severe energy supply interruption may be imminent, the Secretary may suspend the acquisition of petroleum product for, and the injection of petroleum product into, the Reserve and may sell any petroleum product acquired for and in transit to, but not injected into, the Reserve.".

(2) Section 167(b)(3) of such Act (42 U.S.C. 6247(b)(3)) is amended by inserting after "(g) of such section" the following: ", or from the sale of petroleum product under section 160(f)".

(3) Section 167(d) of such Act (42 U.S.C. 6247(d)) is amended by inserting after "(g) of such section" the following: ", and from the sale of petroleum product under section 160(f)".

(4) Section 160(d) of such Act (42 U.S.C. 6240(d)) is amended by adding at the end the following:

"(4) For any fiscal year in which purchases of petroleum product are suspended, or the sale of petroleum product is carried out, under subsection (f), the fill-rate requirements of paragraph (1)(B) shall be reduced by—

"(A) the amount of petroleum product not acquired for such fiscal year as a result of such suspension; plus

"(B) the amount of petroleum product sold under such subsection during such fiscal year.".

(b) DRAWDOWN.—(1) Section 161 of such Act (42 U.S.C. 6241) is amended by adding at the end the following:

"(h)(1) If the President finds that—

"(A) circumstances, other than those described in subsection (d), exist that constitute, or are likely to become, a national or regional energy emergency of significant scope or duration; and

"(B) action taken under this subsection would assist directly and significantly in preventing or reducing the adverse impact of such emergency,

the Secretary may, subject to paragraph (2), draw down and distribute the Strategic Petroleum Reserve.

"(2) In no case may the Reserve be drawn down under this subsection—

"(A) in excess of 50,000,000 barrels with respect to any emergency;

"(B) for more than 90 days with respect to any emergency;

"(C) if there are fewer than 500,000,000 barrels of petroleum product stored in the Reserve; or

"(D) below the level of 500,000,000 barrels of petroleum product in the Reserve.

"(3) During any period in which there is a drawdown and distribution of the Reserve in effect under this section, the Secretary shall transmit a monthly report to the Congress containing an account of the drawdown and distribution and an assessment of its effect.".

(2) Section 3(8)(C) of such Act (42 U.S.C. 6202(8)(C)) is amended by striking out "imported".

(c) DISTRIBUTION IMPLEMENTATION.—(1) Section 159(d) of such Act (42 U.S.C. 6239(d)) is amended by inserting the following before the period at the end of the first sentence: ", and during any period in which the Distribution Plan is being implemented, such amendments may be prepared without regard to the requirements of section 553 of title 5, United States Code, section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), and section 523 of this Act".

(2) Section 159(f)(A) of such Act (42 U.S.C. 6239(f)(A)) is amended by inserting before the semicolon the following: ", and during any period in which the Distribution Plan or section 160(f) is being implemented, may carry out such promulgation without regard to the requirements of section 553 of title 5, United States Code, section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), and section 523 of this Act".

(3) Section 161(e) of such Act (42 U.S.C. 6241(e)) is amended by inserting after "by rule" the following: "but without regard to the requirements of section 553 of title 5, United States Code, section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), and section 523 of this Act".

(d) CONFORMING AMENDMENTS.—(1) Section 159(e) of such Act (42 U.S.C. 6239(e)) is amended by inserting the following before the period at the end thereof: "or any action carried out under section 161(h).".

(2) Section 161(d) of such Act (42 U.S.C. 6241(d)) is amended by inserting before the period the following: "or by a drawdown and distribution under subsection (h)".

SEC. 4. ADDITIONAL AUTHORITY TO FILL THE RESERVE.

(a) IN GENERAL.—Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end, after the subsection added by section 3(a) of this Act, the following:

"(g)(1) Subject to paragraph (2), the Secretary may enter into an agreement to acquire petroleum products not owned by the United States for storage in the Reserve.

"(2) Any agreement entered into under paragraph (1) may not be implemented and may not otherwise become effective until it is transmitted to the Congress and is approved specifically by law.

"(3) Any petroleum product acquired under an agreement that becomes effective as provided in paragraph (2)—

"(A) shall be a part of the Reserve and considered to be owned by the Federal Government during the term of the agreement; and

"(B) shall be stored in facilities constructed for the Reserve with appropriated funds, except that the Secretary may provide, with funds available to carry out this part, for the storage of such product in other facilities in the case of any petroleum product (i) acquired when there are at least 750,000,000 barrels of petroleum product in the Reserve, or (ii) that is refined petroleum product.

"(4) No amendment to the Strategic Petroleum Reserve Plan shall be required to implement this subsection.

"(5) For purposes of section 160(d)(1), any petroleum product that is acquired under an agreement that becomes effective as provided in paragraph (2) and is removed from the Reserve at the expiration, termination, or other conclusion of the agreement shall be considered to be part of the Reserve until the beginning of the fiscal year following the fiscal year in which the petroleum product was removed.

"(6) For purposes of section 167(b), amounts obligated for the acquisition, transportation, and injection of petroleum product into the Reserve include amounts obligated pursuant to an agreement that becomes effective as provided in paragraph (2).

"(7) Nothing in this subsection shall restrict the authority of the Secretary to acquire refined petroleum product not owned by the United States for storage in the Reserve under subsection (h).".

SEC. 5. REFINED PRODUCT RESERVE.

Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end, after the subsection added by section 4(a) of this Act, the following:

"(h)(1) Using funds available for fiscal year 1991 for the planning and administration of, and acquisition and construction of storage and related facilities for, the Reserve, the Secretary shall, during fiscal year 1991 and subject to paragraph (3), take such action as may be necessary to begin carrying out paragraph (2) in fiscal year 1992.

"(2) The Secretary shall, subject to paragraph (3)—

"(A) provide that, until there are 20,000,000 barrels of refined petroleum product in the Reserve, not less than 10 percent of the total volume of petroleum product acquired for the Reserve in fiscal year 1992 and each fiscal year thereafter is refined petroleum product; and

"(B) lease or otherwise contract for (with funds available for the planning, administration, and acquisition and construction of storage and related facilities for the Reserve) storage, in one or more regions of the United States most dependent on imported petroleum product, necessary to carry out this subsection.

"(3) The Secretary shall use a least-cost strategy, within applicable procurement requirements established by or under other law, to carry out this subsection. In carrying out such strategy, the Secretary may expend reasonable amounts for the acquisition and the storage of the refined petroleum product, but if the Secretary finds, and transmits such finding and a detailed justification thereof to the Congress, that the cost for the storage of such refined product would exceed an amount equal to twice the cost of storing a comparable amount of crude oil (as determined by the Secretary taking into consideration all costs related to such storage but without regard to the cost of acquisition of the product), the Secretary may not carry out this subsection during any period for which such finding is applicable.

"(4) The Secretary may enter into agreements with one or more States for the purpose of carrying out this subsection or any part thereof.

"(5) The Secretary shall, to the maximum extent practicable, provide that the refined petroleum product acquired for the Reserve under this subsection increases the total amount of such product available to reduce the impact of any disruption in the supply of such product, rather than merely transferring the ownership of, or other control over, the product acquired.".

SEC. 6. TEST DRAWDOWN.

(a) IN GENERAL.—Section 161(g)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6241(g)(1)) is amended to read as follows:

"(g)(1) To provide a continuing evaluation of the implementation of the Distribution Plan, the Secretary may carry out test drawdowns and distributions under this subsection through the sale or exchange of not more than 5,000,000 barrels of crude oil from the Reserve during each such drawdown and distribution.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 161(g)(7) of such Act (42 U.S.C. 6241(g)(7)) is amended—

(A) by striking out "such title or" and inserting in lieu thereof "such title,"; and

(B) by inserting before the period the following: ", or section 501 of the Department of Energy Organization Act.".

(2) Section 161(g)(8) of such Act (42 U.S.C. 6241(g)(8)) is amended by striking out "the drawdown" in the first sentence and inserting in lieu thereof "any drawdown".

(3) Section 167(d) of such Act (42 U.S.C. 6247(d)) is amended by striking out "out subsection (g)" and inserting in lieu thereof "out under subsection (g)".

SEC. 7. REGIONAL PETROLEUM RESERVES.

Section 157(a) of the Energy Policy and Conservation Act (42 U.S.C. 6237(a)) is amended—

(1) by striking out "The" in the first sentence and inserting in lieu thereof "(1) The"; and

(2) by adding at the end the following new paragraph:

"(2) For purposes of carrying out this section—

"(A) any State that is an island shall be considered to be a separate Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations in effect on November 1, 1975;

"(B) determinations made with respect to Regions other than States that are islands shall be made as if such islands were not a part of the Regions; and

"(C) with respect to determinations made for any State that is an island, the term 'refined petroleum product' shall include crude oil.".

SEC. 8. STUDIES AND REPORTS.

(a) EXPORT OF SPR OIL TO OBTAIN REFINED PRODUCT.—(1) The Secretary of Energy shall carry out a study to determine the feasibility and desirability of exporting crude oil from the Strategic Petroleum Reserve—

(A) in exchange for foreign refined petroleum product; or

(B) for the purpose of having it refined outside the United States for consumption of the resulting product in the United States,

during a drawdown or a diversion under section 161 or 160(h), respectively, of the Energy Policy and Conservation Act.

(2) In carrying out such study, the Secretary shall determine the changes in existing law or regulation that would be necessary to carry out such exportation.

(3) The Secretary of Commerce shall provide the Secretary of Energy with information and other similar assistance necessary to carry out this subsection.

(b) REGIONAL RESERVES.—The Secretary of Energy shall carry out a study to determine—

(1) the feasibility, desirability, and costs of establishing regional petroleum reserves with Federal and non-Federal funding; and

(2) incentives necessary to obtain participation by States in establishing such reserves.

(c) REPORTS.—The Secretary of Energy shall, within 180 days after the date of the enactment of this Act, transmit to the Congress reports containing the findings and conclusions of the studies carried out under this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3193, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, the House is considering H.R. 3193, a bill to extend the authority contained in the Energy Policy and Conservation Act [EPCA].

Without this legislation, the authority to use the strategic petroleum reserve [SPR] will expire on August 15, 1990. Because of this deadline, it is imperative we move this bill forward as quickly as possible. Even after House action, there are significant differences in the version reported by the Senate which will have to be worked out in a conference.

The SPR is the backbone of our policy for dealing with an energy emergency. The SPR's existence, along with similar stockpiles held by other nations, may have helped prevent an oil crisis during the tanker war in the Persian Gulf. Few expenditures of our tax dollars have been more farsighted.

While there is little debate over the need to extend the basic EPCA legislation, there are questions about how we finish the construction and fill of the SPR. Opponents of making the SPR more relevant to today's problems argue in effect that it is a strategic reserve, and that we decided with the passage of EPCA that it should be used only for major international disruptions. Leaving aside the fact that the authorization in EPCA was for storage of both crude and products, I think we should be careful about assuming that whatever we decided in 1975 should be carved in stone. Other parts of the bill, if I recall correctly, provided for standby gasoline rationing, oil price and allocation authorities, refinery entitlements, and conversions of powerplants to coal. The world has changed, and we should be willing to adapt our policies to new realities.

The administration has advised that any attempt by the Congress to expand the SPR to 1 billion barrels or to mandate product reserves would result in a veto. I suspect that if the Department had been willing to threaten to use the SPR as freely as it threatens to use the veto, we might not have seen the unprecedented gasoline price spike after the *Exxon Valdez* accident.

Reasonable people can differ on the need for a larger SPR, and the assumptions on which the administration based its recommendations are not universally accepted. I personally believe a billion barrel target is desirable.

I also believe that it is important to maintain the bipartisan support that has characterized the congressional approach to the SPR from the beginning. Therefore, the committee has recommended a compromise—one that is acceptable to the minority in the committee—and one that we had hoped would be acceptable to the administration.

The compromise has several major provisions:

It does not require the expansion of the SPR to 1 billion barrels;

It allows the drawdown of a small quantity of SPR oil without having to meet the test of a severe energy emergency;

It allows the use of the SPR for shortages of domestic oil, not just imported oil;

It establishes a small petroleum product reserve to facilitate a rapid response to a crisis;

It encourages the Department to attempt to lease crude oil from oil producing nations without sacrificing congressional oversight;

And it extends the basic authority to build and use the SPR through 1994.

Like all compromises, this one contains elements that many of us would prefer to change. But the purpose of a compromise is to allow us to move forward in the face of disagreements, and I believe the bill before us makes that possible. I regret that the Department of Energy was not able to join in this spirit of compromise, but I am grateful to the Members on both sides of the aisle who have done so, particularly to the ranking Republican member of the committee, Mr. LENT, and the ranking Republican member of the subcommittee, Mr. MOORHEAD, and to the gentlemen from Louisiana and Oklahoma, Mr. TAUZIN and Mr. SYNAR, who are such strong and knowledgeable supporters of the SPR.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3193, the strategic petroleum reserve amendments of 1990. The existing law which governs the development and use of the strategic petroleum reserve is contained in title I of the Energy Policy and Conservation Act of 1975. Title I—along with title II of EPCA, which covers U.S. participation in the International Energy Agency—expires on August 15 of this year. Extension of these two titles of EPCA is imperative before the August recess. H.R. 3193 extends these titles through 1994.

Like many in this body, I have long been an ardent supporter of the strategic petroleum reserve because it is the Federal Government's principal means of deterring an oil supply disruption and coping with any disruptions which occur. After 15 years of development, the strategic petroleum reserve contains over 580 million barrels of crude oil at 5 salt dome sites on the Gulf coast. Work is underway to raise the storage capacity from 600 million barrels to 750 million barrels.

H.R. 3193, as amended by the Committee on Energy and Commerce, is a bipartisan compromise between the chairmen of the full committee and our Subcommittee on Energy and Power, on the one hand and Mr. LENT and myself as the ranking Republicans on the full committee and the subcommittee, respectively. The bill, as amended, was approved by the subcommittee and reported by the full committee on unanimous voice votes.

I want to assure my colleagues that all of us, but particularly Mr. LENT and myself, tried to work closely with the administration on this legislation, as we do generally. The Department of Energy testified at the hearing on this bill that the administration had several concerns, but only the provision in the original bill to mandate an ultimate expansion of the strategic petroleum reserve to 1 billion barrels drew a veto threat.

Based on the administration's objection, the fact that expanding the SPR to 1 billion barrels would cost $12 billion, and the reality that we would not reach a 750-million-barrel fill level until the end of the decade, we took the fiscally prudent step of deleting the 1 billion barrel mandate. We can and will revisit the billion barrel issue when this extension of EPCA expires

on December 31, 1994. I remain sympathetic to eventually expanding the SPR.

Only after we reached the compromise, a matter of which the administration was well aware, did the Department of Energy come along on the day before the full committee markup and only then tell us that another provision of the bill, which had been in the legislation all along, would now also draw a veto recommendation. The issue in dispute is whether to store a small amount of refined petroleum product, such as home heating oil and gasoline, in addition to unrefined crude oil as is now the case.

The simple fact is that a revised refined product provision was the price we had to pay to drop the 1-billion-barrel mandate. The Energy Department knows that, yet has proceeded to oppose the bill.

The truth is in the numbers. The 1-billion-barrel mandate would have expanded the SPR by 250 million barrels at a cost of $12 billion. We dropped that mandate by agreeing to store up to 20 million barrels of refined product in lieu of what would be stored as crude oil, at a cost under $500 million. That's a pretty good bargain—particularly when there are sound policy reasons for storing some refined product, given refinery constraints and transportation bottlenecks.

In sum, this is a good bipartisan compromise in the best traditions of this institution. We will work with the administration in conference to address its concerns. I ask my colleagues to support the committee and its leaders of both parties by passing H.R. 3193.

Mr. GEPHARDT. Mr. Speaker, Congress must pass the Energy Policy and Conservation Amendments of 1990. It is good energy policy and good national security policy.

This legislation strengthens the Nation's Strategic Petroleum Reserve by expanding it and giving the Energy Department greater drawdown authority to respond to supply disruptions. Importantly, it establishes a product reserve to mitigate regional product supply shocks.

It is often said that the time to fix the roof is when the sun is shining. Now is that time.

America's appetitie for oil has continued to grow even as our ability to satisfy that demand from domestic production continues to shrink. Last year's decline in U.S. production was the largest in our history, and by the end of this year, oil imports will have nearly doubled from their 1985 levels.

At the same time, world production and consumption trends appear likely to restore the market power of oil producers located in the volatile Middle East. The recent exhortations of Iraq's Saddam Hussein to use the oil weapon, however ineffective it might seem today, are a clear warning that we cannot remain complacent.

Although we have added 90 million barrels to the reserve since 1985, our imports have increased at an even faster rate undermining the reserve's effectiveness. The reserve—which held 118 days' worth of imports in 1985—now holds fewer than 80 days supply. There is no question that the United States needs a substantially larger reserve. With energy markets expected to tighten over the next decade, we need to begin now to accelerate its fill rate.

This legislation also helps us respond to instability in product markets by establishing a refined products reserve. Private stocks of products like gasoline have fallen alarmingly in recent years. In 1980 we had 39 days of gasoline in storage; today we have only 29 days of stocks. And with the Nation's market for refined products as tight as ever, even small disruptions can send prices skyrocketing.

Finally, this legislation permits the Department of Energy to enter into innovative, mutually-beneficial arrangements with oil producing countries to fill the reserve at lower cost. Several producing countries have expressed interest in leasing arrangements. Our Western Hemispheric allies like Venezuela and Mexico should be a part of these arrangements, for such cooperation will increase our own security and help those countries obtain needed income.

I therefore believe the administration should give serious thought to intensifying and better focusing its efforts in this area. The administration may wish to consider naming a high-level negotiator, experienced in working with the Congress, to give this project the attention it requires. The negotiator will have to work closely with the Congress and be able to marshall executive branch resources to negotiate these mutually beneficial arrangements.

H.R. 3193 is not a substitute for a more comprehensive energy policy. The Nation needs other actions to promote conservation and stem the loss of domestic production. This is, however, an important step to enhance our security.

I want to thank and commend the chairman of the Energy and Commerce Committee, Mr. DINGELL, and the Energy and Power Subcommittee chairman, Mr. SHARP; for their work in bringing this to the floor. This important legislation commands bipartisan support. It merits swift passage and enactment, and I urge my colleagues to support it.

□ 1250

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 3193, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to extend titles I and II of the Energy Policy and Conservation Act, and for other purposes".

A motion to reconsider was laid on the table.

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2088) to amend the Energy Policy and Conservation Act to extend the authority for titles I and II, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

That this Act may be referred to as the "Energy Policy and Conservation Act Amendments of 1990".

SEC. 2. EXTENSION OF AUTHORITY.

The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended—

(a) in section 104(b)(1) by striking out "August 15, 1990" and inserting in lieu thereof "September 30, 1993";

(b) in section 171, by striking out "August 15, 1990" each place it appears and inserting in lieu thereof "September 30, 1993"; and

(c) in section 281, by striking out the term "August 15, 1990" each place it appears and inserting in lieu thereof "September 30, 1993".

SEC. 3. ENLARGEMENT OF SPR TO ONE BILLION BARRELS.

(a) Section 159 of the Energy Policy and Conservation Act (Public Law 94-163), as amended (42 U.S.C. 6239), is amended by adding the following new subsections:

"(i) No later than eighteen months after enactment of the Energy Policy and Conservation Act Amendments of 1990, the Secretary shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of negotiations undertaken pursuant to part C. The report shall—

"(1) describe the terms of any contracts negotiated pursuant to part C and any cost savings that would result from such contracts relative to the costs of acquisition pursuant to part B;

"(2) give estimates, or ranges of estimates, of any cost savings that would likely result from additional contracts that could be negotiated pursuant to part C for completion of the storage of one billion barrels of petroleum products in the Reserve relative to the costs of acquisition pursuant to part B.

"(j) No later than twenty-four months after enactment of the Energy Policy and Conservation Act Amendments of 1990, the Secretary shall amend the Strategic Petroleum Reserve Plan to prescribe plans for completion of storage of one billion barrels of petroleum products in the Reserve. Such amendment shall comply with the provisions of section 159 and shall detail the Secretary's plans for the design, construction, leasing or other acquisition, and fill of storage and related facilities of the Reserve to achieve such one billion barrels of storage.

Such amendment shall not be subject to the congressional review procedures contained in section 551. In assessing alternatives in the development of such plans, the Secretary shall consider leasing privately owned storage facilities.".

(b) Section 160 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6240), is amended—

(1) by substituting in paragraph (c)(3)—

(A) the term "fiscal year 1993" for the term "fiscal years 1988 and 1989", and

(B) the term "1,000,000,000" for the term "at least 750,000,000", and

(2) in paragraph (d)(1)—

(A) by substituting in subparagraph (A) the term "1,000,000,000" for the term "750,000,000", and

(B) by inserting before the period at the end of subparagraph (B) the words "and the Secretary has amended the Strategic Petroleum Reserve Plan as required by section 159(j).".

SEC. 4. PREDRAWDOWN DIVERSION OF SPR OIL.

(a) Section 161 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6241), is amended by adding the following new subsection:

"(h)(1) If the President finds that a severe energy supply interruption may be imminent, then the execution of new contracts for petroleum products for injection into the Strategic Petroleum Reserve may be curtailed or suspended for a period not to exceed thirty days, and the provisions of sections 160 (c) and (d) shall not apply: *Provided, however,* That the President may extend such finding for additional thirty-day periods if he finds that the conditions that justified the initial finding still exist.

"(2) The period during which such Presidential finding is in effect, and the quantity of any petroleum products involved, shall be disregarded in applying the provisions of such subsections for periods following the effective period of such finding.

"(3) When such a finding is in effect, the Secretary is authorized to sell, in accordance with rules or regulations which he shall promulgate, any petroleum products acquired for storage in, but not injected into, the Strategic Petroleum Reserve.".

(b) Section 167(b)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6247(b)(3)) is amended by inserting a comma and the words "and from the sale of petroleum products under section 161(h)" before the period at the end of the section.

(c) Section 167(d) of the Energy Policy and Conservation Act (42 U.S.C. 6247(d)) is amended by inserting a comma and the words "and from the sale of petroleum products under section 161(h)" after the words "such section".

SEC. 5. LEASING AUTHORITY.

Title I of the Energy Policy and Conservation Act is amended by adding the following new part after part B and redesignating parts accordingly:

"PART C—SUPPLEMENTARY OIL RESERVE

"DECLARATION OF POLICY

"SEC. 171. (a) The Congress finds that budgetary constraints have hindered completion of a one billion barrel Strategic Petroleum Reserve, and that establishment of a Supplementary Oil Reserve can help diminish the vulnerability of the United States to the effects of a severe energy supply interruption, and contribute to the effectiveness of the international energy program.

"(b)(1) It is hereby declared to be the policy of the United States, to the extent consistent with the Strategic Petroleum Reserve program, to encourage supplementation of the Strategic Petroleum Reserve and other domestic petroleum product stocks by contracting for Supplementary Oil Reserve storage of petroleum products in, or readily accessible to, the United States by private firms or foreign governments in facilities not owned by the United States, and by contracting for Supplementary Oil Reserve storage in Government-owned facilities.

"(2) The purpose of this part is to add to the Secretary's existing authority under part B to contract for petroleum products and storage and related facilities for the Strategic Petroleum Reserve by authorizing the Secretary to contract for Supplementary Oil Reserve storage in facilities other than those of the Strategic Petroleum Reserve, and for Supplementary Oil Reserve storage, in otherwise unused Strategic Petroleum Reserve storage facilities, of petroleum products owned by any person or government.

"(3) It is the policy of the United States that the authorities provided by this part shall be used as a complement to the Strategic Petroleum Reserve and not in any manner which reduces the effectiveness of, or diminishes the control of the President and the Secretary over, the drawdown or distribution of the Strategic Petroleum Reserve.

"DEFINITIONS

"SEC. 172. Terms used in this part have the same meaning that they have in part B.

"CONTRACTING FOR PETROLEUM PRODUCTS AND FACILITIES

"SEC. 173. (a) The Secretary may contract for Supplementary Oil Reserve storage, in storage facilities other than those of the Strategic Petroleum Reserve, of petroleum products not owned by the United States.

"(b) Petroleum products stored under such a contract are subject to the Secretary's authority under section 161 (except sections 161 (e) and (g)) to draw down and distribute petroleum products, as if those petroleum products were in the Strategic Petroleum Reserve.

"USE OF STRATEGIC PETROLEUM RESERVE FACILITIES

"SEC. 174. (a) The Secretary may contract for Supplementary Oil Reserve storage, in otherwise unused Strategic Petroleum Reserve facilities, of petroleum products not owned by the United States, to the extent consistent with the purposes of part B and of this part. A contract entered into under this section shall not limit the discretion of the President or the Secretary to conduct a drawdown and distribution of the Strategic Petroleum Reserve.

"(b) Petroleum products stored under any such contract are subject to the authority of the Secretary under section 161 (except sections 161 (e) and (g)) to draw down and distribute petroleum products, as if those petroleum products were in the Strategic Petroleum Reserve.

"(c) The Secretary may store petroleum products under this section with or without charge, or pay a fee for their storage.

"STRATEGIC PETROLEUM RESERVE TIE-IN

"SEC. 175. (a) If the Secretary determines that one or more contracts or proposed contracts for Supplementary Oil Reserve storage of petroleum products under section 173 or 174 would for their duration achieve benefits comparable to equivalent storage of petroleum products in the Strategic Petroleum Reserve and that, because of budgetary constraints, equivalent storage of petroleum products in the Strategic Petroleum Reserve cannot be accomplished, the Secretary may so notify each House of the Congress, including in his notification the same information required under section 154(e) with regard to storage and related facilities proposed to be included, or petroleum products proposed to be stored, in the Strategic Petroleum Reserve. From sixty calendar days after notification, all petroleum products actually stored under such a contract shall be counted as part of the Strategic Petroleum Reserve for purposes of part B.

"(b) Petroleum products counted as part of the Strategic Petroleum Reserve under this section, if otherwise eligible, qualify to satisfy any applicable provisions for Regional Petroleum Reserves or noncontinuous storage under part B.

"(c) Notwithstanding any other law, the expiration of a contract for the storage of petroleum products under section 173 or 174 is not a violation of any requirement concerning the size or rate of fill of the Strategic Petroleum Reserve. For purposes of section 160(d), the reduction in the quantity of crude oil in storage in the Strategic Petroleum Reserve attributable to expiration of such a contract is considered to occur between the end of the fiscal year in which expiration actually occurs and the beginning of the following fiscal year.

"IMPLEMENTATION

"SEC. 176. (a) Notwithstanding subsection 160(c), the Secretary may use, for the acquisition of petroleum products or of petroleum product storage under this part, without further appropriation, funds available for the planning, administration, acquisition, and construction of storage and related facilities of the Strategic Petroleum Reserve, and funds available for the acquisition, transportation, and injection of petroleum products into the Strategic Petroleum Reserve. For the purposes of this section, the acquisition of petroleum products includes payments of amounts due upon the expiration, termination or other conclusion of the acquisition contract.

"(b) The Secretary, in any contract entered into under this part, may provide for the acquisition by purchase or exchange of stored petroleum products by the United States, for storage in, or use in connection with, a drawdown and distribution of petroleum products from the Strategic Petroleum Reserve.

"(c) An amendment of the Strategic Petroleum Reserve Plan is not required for any action taken under this part.

"(d) Petroleum products stored and facilities used in the Supplementary Oil Reserve have the same status as petroleum products and facilities owned by the United States for all purposes associated with the exercise of the laws of any State or political subdivision thereof.

"(e) Contracts under this part may be of such duration as the Secretary considers necessary or appropriate.

"(f) For purposes of any law or regulation affecting the solicitation, negotiation, execution or performance of contracts, contractual action pursuant to this part need not comply with applicable laws and regulations (other than those directly relating to safety, health or the environment) governing the construction of facilities, or the acquisition or provision of services or property.

"(g) Upon the expiration, termination or other conclusion of a contract with a foreign government or agency thereof entered

into under section 173 or 174, the President, notwithstanding any other law, may permit export of crude oil which has been stored pursuant to such contract.

"(h) The Secretary may agree to binding arbitration of disputes under any contract, including a contract with a foreign government or agency thereof, entered into pursuant to section 173 or 174.

"(i) Section 3(c) of the Trade Agreements Act of 1979 (19 U.S.C. 2504(c)) shall apply to a bill submitted by the President in implementation of an international agreement or other agreement negotiated in fulfillment of this part, as if the international agreement or other agreement were an agreement approved under section 2(a) of that Act when the President determines that it is necessary or appropriate to amend, repeal or enact a statute of the United States to implement a requirement of, or amendment to, the international agreement or other agreement.".

SEC. 6. EXEMPTION FROM INTERSTATE COMMERCE ACT.

Section 159 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6239), is amended by adding the following new subsection:

"(k) A storage or related facility of the Strategic Petroleum Reserve owned by or leased to the United States is not subject to the Interstate Commerce Act.".

SEC. 7. AUTHORITY TO ALLOW EXCHANGE OF SPR OIL.

Section 161 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6241), is amended by adding the following new subsection:

"(h) Notwithstanding any other law, the President may permit any petroleum products withdrawn from the Strategic Petroleum Reserve in accordance with this section to be sold and delivered for refining or exchange outside of the United States, in connection with an agreement for the delivery of refined petroleum products to the United States.".

SEC. 8. CONFORMING AMENDMENTS.

The Energy Policy and Conservation Act is amended by inserting in the table of contents at the end of Title I—Matters Related to Domestic Supply Availability, the following items:

"PART C—SUPPLEMENTARY OIL RESERVE

"Sec. 171. Declaration of Policy.
"Sec. 172. Definitions.
"Sec. 173. Contracting for Petroleum Products and Facilities.
"Sec. 174. Use of Strategic Petroleum Reserve Facilities.
"Sec. 175. Strategic Petroleum Reserve Tie-In.
"Sec. 176. Implementation.".

MOTION OFFERED BY MR. SHARP

Mr. SHARP. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHARP moves to strike out all after the enacting clause of the Senate bill, S. 2088, and to insert in lieu thereof the provisions of the bill H.R. 3193, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to extend titles I and II of the Energy Policy and Conservation Act, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3193) was laid on the table.

AMENDING THE FEDERAL AVIATION ACT OF 1958 TO EXTEND THE CIVIL PENALTY ASSESSMENT DEMONSTRATION PROGRAM

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5131) to amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CIVIL PENALTY ASSESSMENT DEMONSTRATION PROGRAM.

Section 905(d)(4) of the Federal Aviation Act of 1958 (49 U.S.C. app. 1475(d)(4)) is amended by striking "the 31-month period beginning on the date of the enactment of this section" and inserting "the period beginning on the date of the enactment of this section and ending on August 1, 1992".

SEC. 2. AIRPORT SECURITY PROGRAMS.

Section 316 of the Federal Aviation of Act of 1958 (49 U.S.C. App. 1357) is amended by adding at the end the following new subsection:

"(g) AIRPORT TENANTS SECURITY PROGRAMS.—The Administrator may approve under this section a security program of an airport operator, and may approve an amendment to a security program of an airport operator approved by the Administrator under subsection (b), which incorporates a security program of an airport tenant (other than an air carrier separately complying with part 108 or 129 of title 14 of the Code of Federal Regulations) having access to the secured areas of the airport—

"(1) if such program or amendment incorporates the measures by which the tenant will carry out, within the tenant's leased areas or areas designated for the tenant's exclusive use under an agreement with the airport operator, the security requirements imposed by the Administrator on the airport pursuant to the access control system requirements of section 107.14 of such title or to the requirements of part 107 of such title; and

"(2) if such program or amendment incorporates the methods by which the airport operator will monitor and audit the tenant's compliance with such security requirements and provides that the tenant will be required to pay financial penalties to the airport operator in the event the tenant fails to carry out any such security requirement in accordance with a contractual provision or requirement imposed by the airport operator.

If the Administrator approves a program or amendment described in this subsection, the airport operator may not be found to be in violation of a requirement of this section in any case in which the airport operator demonstrates that the tenant or an employee, permittee, or invitee of the tenant is responsible for such violation and that the airport operator has complied with all measures in its security program for securing compliance with its security program by the tenant.".

SEC. 3. ADMINISTRATIVE CONFERENCE EVALUATION OF ADJUDICATORY PROCEDURES.

(a) STUDY AND EVALUATION.—The Administrative Conference of the United States shall conduct a study and evaluation of the administrative adjudicatory procedures of the Federal Aviation Administration and the National Transportation Safety Board and shall make a recommendation not later than 18 months after the date of the enactment of this Act as to whether the authority to adjudicate administrative complaints under the Federal Aviation Act of 1958 should remain with the Department of Transportation, should be transferred to the National Transportation Safety Board or should be otherwise modified.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000 for fiscal year 1991. Such funds shall be in addition to amounts authorized to be appropriated under section 576 of title 5, United States Code, and shall remain available until expended.

The SPEAKER pro tempore. Is a second demanded?

Mr. CLINGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, the civil penalty program which this legislation seeks to extend has been a valuable enforcement tool for the Federal Aviation Administration in carrying out its responsibilities, both with respect to security and to safety, specifically, maintenance of aircraft.

The FAA has brought cases against airlines whose security programs were insufficient in detecting weapons in carry-on baggage moved through the screening devices at our Nation's airports.

Prior to the establishment of the civil penalties program, these x-ray screening devices and metal detectors at airports were picking up only about 85 percent of the test weapons brought through airports by FAA inspectors. After institution of the civil penalties program, security screening effectiveness went up to the range of 90 to 95 percent. That is still not perfect, but a whole lot better than it was before establishment of the civil penalties program.

When this civil penalties initiative was undertaken, eyebrows were raised and questions asked about whether

this authority should be permitted to the Federal Aviation Administration. On a closer look, it is clear that civil penalties are used by a wide range of Federal Government agencies. In fact, hundreds of agencies have this authority. Furthermore, the U.S. attorneys' offices were understaffed and frequently unwilling, physically unable, to bring suit against the violators of FAA authority, simply because they had to concentrate their limited staff resources on higher priority cases. This civil penalty authority gave FAA the enforcement tools it needed to bring air carriers into compliance, to bring airports into compliance, to strengthen our security programs, and to strengthen our safety programs on the maintenance side of aviation.

That is not to say that there were not any problems with the civil penalties programs. In fact, there were quite a few problems with respect to general aviation. I received a number of complaints from House colleagues throughout the country about general aviation pilots in their respective districts, who in their view, had been mistreated or treated abruptly by the FAA under this program. Upon close review, we found that the FAA had not followed the standard practice of administering such civil penalty programs. Following hearings by the subcommittee, we sent the FAA back to the drawing board to rewrite the notice of rulemaking, which the Administrative Conference found defective. The FAA did, in fact, completely revise their rules on civil penalties, from top to bottom. They came into compliance with the Administrative Conference's standard procedures for this type of program, and have now published that final rulemaking in the Federal Register, and are working vigorously to be totally fair and objective in the administration of this program.

The FAA has completely separated both the prosecutorial and decisional responsibilities in the administration of its civil penalties program, and in addition, has separated the appeals function by allowing appeal in the Department of Transportation to an administrative law judge who works for the Department of Transportation, not for the FAA, and under a process by which the ALJ is prohibited from discussing cases with his or her counterpart attorneys in the FAA.

There has been some of the possibility of transferring part or all of the civil penalty authority to the National Transportation Safety Board. Such discussion was an outgrowth of discussion, of the frustration that many general aviation pilots felt toward the FAA, and who suggested that this authority ought to be given to the National Transportation Safety Board.

After careful consideration of this proposal, we found that the NTSB now takes an average of 20 months to process an appeal in the cases they already have under their jurisdiction, and, frankly, do not have the staffing they require to clean up their own backlog of over 1,000 cases. So the NTSB, first of all, needs more staffing to carry out its own obligations, and we will address that matter in further legislation that the committee will bring to the House floor shortly. Second, until they have cleaned up their own backlog of appeals from suspension and revocation of aviation licenses, and gotten on top of their responsibilities, and have enough staffing to carry out their primary responsibilities of investigating aircraft accidents, I do not think that we ought to give the NTSB an additional responsibility with the civil penalties program.

Furthermore, I do think that under this 2-year extension period, the FAA has an opportunity to prove itself, to show that they can handle these cases, and be fair in the administration of this responsibility. The subcommittee is going to ride herd on the FAA; we will be following their actions very carefully. We will hold hearings within 6 months after this program is fully in operation, and we will have a very attentive ear to any concerns that general aviation pilots or others in aviation may have about the administration of this program.

Finally, the legislation does direct the U.S. Administrative Conference to undertake a study of whether the administration of FAA's responsibility in civil penalty cases should be given to the National Transportation Safety Board. We will receive that study. We will hold hearings on it, and we will determine within the next 2-year period whether any change should be made.

□ 1300

I think this establishes fairness in the civil penalties program legislation. It responds to the concerns of the general aviation pilot community. It charts the FAA on a course of fair, responsible and effective administration of this authority, and I urge the adoption of the legislation.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in very strong support of H.R. 5131, Extending the Civil Penalty Demonstration Program. As the gentleman from Minnesota [Mr. OBERSTAR] has indicated, the Federal Aviation Demonstration Civil Penalties Program is going to expire at the end of this month unless legislation is enacted here today to extend it.

H.R. 5131 extends the authorization for 2 years. It also requires the Administrative Conference to study and recommend whether the FAA or the NTSB should handle appeals of civil penalty actions. I think this is very appropriate.

It is true that in our committee deliberations the question was raised whether or not this jurisdiction should be transferred to the NTSB. We determined that it was premature to do that, particularly since the FAA has just recently by rule established a new procedure for handling these cases. We feel that should be given an opportunity to work or not work before we would consider a more drastic move of transferring the authorization.

The study is called for and I think over a 2-year period we are going to have a much clearer idea as to whether or not that would be an appropriate place to lodge the jurisdiction.

Prior to the establishment of the Demonstration Program in 1987, the ability of the FAA to pursue civil penalties was seriously undermined by their complete reliance on the U.S. attorney to prosecute cases. Quite often we found that the U.S. attorney was burdened with what were deemed by them to be higher priority cases and also they had a limited staff to apply to these cases, so they chose in many instances not to pursue actions brought to them by the Federal Aviation Administration. As a result of that, a great many violators who were savvy enough and shrewed to challenge the FAA procedures and penalties often escaped any fines whatsoever, except perhaps for the more serious infractions which the Justice Department would choose to prosecute.

So the Civil Penalty Program, as the gentleman from Minnesota [Mr. OBERSTAR] has indicated, was authorized to address this flaw. Initially the FAA structured the program in such a way that it did indeed offend many members of the aviation and the legal community, and we certainly heard those complaints from our colleagues on the committee and in this body because of the manner in which the original procedure abridged due process considerations.

As indicated, the FAA has since modified the Civil Penalty Program and I think has done a good job of addressing and remedying many of the complaints which were raised surrounding that process.

So I believe the FAA has to be given the opportunity to regulate the aviation industry in the same manner that many other Federal agencies regulate specific industries.

The effectiveness of a regulatory system rests in large measure on the ability and aggressiveness of the Government to enforce its provisions. Without good enforcement and without swift and fair punishment, individuals subject to the regulations may disregard them and the program loses credibility.

So in this day and age, Mr. Speaker, with out great reliance on the aviation industry to keep our system of com-

merce moving forward, we cannot allow the FAA's enforcement capabilities to diminish. I think this bill will ensure that that does not happen.

The administration and the FAA, I might say, strongly support this measure. I am a cosponsor of the legislation, and I encourage all Members to support the bill as well.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking member on the full committee.

Mr. HAMMERSCHMIDT. Mr. Chairman, I thank the gentleman very much for yielding me this time.

I want to express my appreciation to the chairman of the Aviation Subcommittee, the gentleman from Minnesota [Mr. OBERSTAR], and the ranking member of the Aviation Subcommittee, the gentleman from Pennsylvania [Mr. CLINGER], for bringing us to a majority consensus on a very difficult and somewhat sticky problem, both in the subcommittee and in the full committee.

As has been explained here, we are now giving the FAA 2 years to further prove their ability to properly administer the Civil Penalties Program.

I think that Admiral Busey has done a good job in rewriting some rules and moving in this direction.

I have always felt that a good part of the Civil Penalties Program really belonged in the National Transportation Safety Board, but as the chairman and as the gentleman from Pennsylvania [Mr. CLINGER] have expressed, they do not have the resources really to even fully run their safety program the way it should be run. They certainly do not have the administrative law judges to handle this program. Therefore, I think this is a very good compromise.

Mr. CLINGER. Mr. Speaker, I thank the gentleman for his comments.

Mr. HAMMERSCHMIDT. Mr. Speaker, when Congress adopted the Civil Penalty Demonstration Program in 1987, we hoped it would provide a simple method for the Federal Aviation Administration [FAA] to resolve small safety violations. The program was established for a 2-year period to see how it would work out.

Unfortunately, since its adoption, the program has been mired in controversy. Many aviation groups have opposed it. They claim that the procedures adopted by the FAA to implement this program were unfair.

Last year, when the program was about to expire, we extended it for 4 months in the hopes that the FAA would make changes in the program to satisfy the many objections. In May, we extended it for another 3 months. It is now scheduled to expire at the end of July.

In the last few months, the FAA has taken several actions to modify this program. It has undertaken new rulemakings to resolve many of the problems with the program raised by the aviation community.

The extension provided by this bill would give us a chance to see how the recent changes made by the FAA are working out.

Another reason for extending this program is that it would give the Administrative Conference an opportunity to consider whether civil penalty appeals should be transferred to the National Transportation Safety Board [NTSB].

The Administrative Conference has already looked at the FAA's Civil Penalty Program generally and has made some useful recommendations to change it. The FAA has adopted many of these recommendations.

However, the Conference has stated that it did not have enough information to determine whether FAA or NTSB was in the appropriate forum to handle civil penalty appeals. This bill would give the Administrative Conference the time it needs to gather the information and make that determination. It would provide them with $50,000 and 18 months to study the issue.

While we are awaiting the Conference's recommendation, it is important for aviation safety to keep the Civil Penalty Program in place. Therefore, I support this bill.

Mr. OBERSTAR. Mr. Speaker, I yield myself 2 minutes.

I have no other speakers, but I want to take this opportunity to thank my colleague on the committee, the gentleman from Pennsylvania [Mr. CLINGER], who spent an inordinate amount of time, along with me, trying to resolve the conflicting viewpoints and the many problems that arose in the course of the consideration of this bill and its predecessor last year.

I do think that working together in an open, frank, and straightforward manner, we have been able to come to an amicable resolution of the problems presented to the subcommittee with respect to the FAA and keep the agency on track in rewriting the civil penalties regulations so that they can be administered in accordance with standard practice.

We are now giving the FAA an opportunity for a further 2-year demonstration program.

It really has been a tribute to the gentleman from Pennsylvania's participation and effort and his legal skill that we are at the point we are today.

I also would like to take this opportunity to express appreciation to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], who, along with the gentleman from Pennsylvania [Mr. CLINGER] and myself, heard many of the same complaints from our colleagues and who have firsthand knowledge of some problems of the Administration of this program by the FAA. The gentleman really has been diligent in maintaining his ever-lively interest in this legislation and working this legislation through to its present state.

Mr. ANDERSON. Mr. Speaker, I strongly support the legislation now before us which extends for 2 years the authority of the Federal Aviation Administration to assess civil penalties in small cases involving violations of FAA safety regulations.

Civil penalties are an important part of FAA's program for ensuring compliance with aviation safety regulations. In 1987, the FAA was given authority for a 2-year demonstration program allowing FAA to assess civil penalties in cases involving penalties of less than $50,000. Previously, penalties in small cases were assessed by the courts.

In support of the demonstration program, FAA pointed out that in these small cases it was difficult to persuade a U.S. attorney to take a case to a U.S. district court, and that in any event these types of cases were not an efficient use of the time of U.S. attorneys or the courts.

Moreover, giving FAA authority to assess civil penalties is consistent with recommendations of the highly respected Administrative Conference and consistent with our general approach to civil penalties. There are literally hundreds of civil penalty laws which provide for assessment of the penalties by executive branch agencies. Indeed, before the demonstration program was authorized, the FAA was rather unusual in being required to go to court to enforce civil penalties.

Unfortunately, in implementing the 1987 demonstration program, FAA adopted procedural regulations without following the Administrative Procedures Act requirements of notice and comment. In addition, the regulations themselves were severely criticized as being unfair to respondents in civil penalty cases.

Late in the last congressional session, we passed legislation extending the program through April, to give the FAA an opportunity to improve its procedural regulations. In May, we again passed a short-term extension through July in order to give FAA time to complete action on revised rules. The FAA has been highly responsive to our concerns, and FAA has recently issued new rules which meet the major objections which have been raised, and establish procedures which are fair to respondents.

With the new rules in place, it is time to put this safety program on a longer track by extending the program for 2 years. I urge my colleague to support this important legislation.

Mr. McEWEN. Mr. Speaker, I would like to take this opportunity to express my concern over provisions in the Civil Penalty Demonstration Program which allow the FAA to play the part of policeman, prosecutor, judge, jury, and appellate court in civil penalty actions taken against pilots. This centralization of prosecutorial power flies in the face of the American system of justice.

While I support the concept of a Civil Penalties Program, and while I want to keep bad pilots out of the skies, and while I want to make sure that pilots are brought to justice quickly and efficiently, I have a problem with the entire responsibility for this action lying with one agency.

Even if the Federal Aviation Administration is fair, even if the agency is responsible, even if the agency is responsive to our every request, I think that if a pilot believes he has been wronged by an FAA action, he should be able to appeal to a different authority.

When a certificate action occurs, when a pilot's license is revoked or suspended, he can appeal to the National Transportation Safety Board. I think this is what should happen in the case of civil penalty action, the case should be sent to the NTSB. Make the procedures parallel so the FAA doesn't shop around for the best forum for a trial instead of focus on what is best for safety.

Some would argue that the NTSB does not have the resources to respond to the demands of this program. But we are only talking about a handful of pilots against whom civil penalty actions are brought each year, not thousands or even hundreds. I think the NTSB has the capability to handle these cases, and that is the appropriate place of jurisdiction.

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 5131, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5131, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AGING AIRCRAFT SAFETY ACT OF 1990

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3774) to amend the Federal Aviation Act of 1958 relating to the suspension of airworthiness certificates at the end of the economic design life of aircraft, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3774

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aging Aircraft Safety Act of 1990".

SEC. 2. ACTING AIRCRAFT RULEMAKING PROCEEDING.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall initiate a rulemaking proceeding for the purpose of issuing a rule to assure the continuing airworthiness of aging aircraft.

(b) INSPECTIONS AND RECORD REVIEWS.—

(1) GENERAL REQUIREMENT.—The rule issued pursuant to this section shall, at a minimum, require the Administrator to make such inspections, and conduct such reviews of maintenance and other records, of each aircraft used by an air carrier to provide air transportation as may be necessary to enable the Administrator to determine that such aircraft is in safe condition and is properly maintained for operation in air transportation.

(2) PART OF HEAVY MAINTENANCE CHECKS.—The inspections and reviews required under paragraph (1) shall be carried out as part of each heavy maintenance check of the aircraft conducted on or after the first day of the 15th year in which the aircraft is in service.

(3) APPLICABILITY OF FEDERAL AVIATION ACT.—The inspections required under paragraph (1) shall be conducted as provided in section 601(a)(3)(C) of the Federal Aviation Act of 1958.

(c) DEMONSTRATION OF STRUCTURAL AND PARTS MAINTENANCE.—The rule issued pursuant to this section shall, at a minimum, require the air carrier to demonstrate to the Administrator, as part of the inspection required by the rule, that maintenance of the aircraft's structure, skin, and other age-sensitive parts and components has been adequate and timely enough to ensure the highest degree of safety.

(d) PROCEDURES.—The rule issued pursuant to this section shall establish procedures to be followed in carrying out the inspections required by the rule.

(e) AVAILABILITY OF AIRCRAFT.—The rule issued pursuant to this section shall require the air carrier to make available to the Administrator the aircraft and such inspection, maintenance, and other records pertaining to the aircraft as the Administrator may require for carrying out reviews required by the rule.

SEC. 3. AIRCRAFT MAINTENANCE SAFETY PROGRAMS.

Not later than 180 days after the date of the enactment of this Act, the Administrator shall establish—

(1) a program to verify that air carriers are maintaining their aircraft in accordance with maintenance programs approved by the Federal Aviation Administration;

(2) a program—

(A) to provide inspectors and engineers of the Federal Aviation Administration with training necessary for conducting auditing inspections of aircraft operated by air carriers for corrosion and metal fatigue; and

(B) to enhance participation of such inspectors and engineers in such inspections; and

(3) a program to ensure that air carriers demonstrate to the Administrator their commitment and technical competence to assure the airworthiness of aircraft operated by such carriers.

SEC. 4. ADMINISTRATOR DEFINED.

As used in this Act, the term "Administrator" means the Administrator of the Federal Aviation Administration.

The SPEAKER pro tempore. Is a second demanded?

Mr. CLINGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the legislation we are now considering will be viewed in later years as the most important piece of legislation on aircraft safety and the safety of the aviation industry in probably a decade or more.

The purpose of this legislation is to put a legislative framework, a legal framework around the maintenance of America's aging aircraft fleet. Today there are some 2,400 aircraft 20 years of age and older in America's Civil Aviation fleet, but by the end of this decade that number will increase to over 5,700.

□ 1310

The number will be even greater in the worldwide aviation fleet. Aircraft are staying in service longer for a variety of reasons, but principally because in the years since deregulation, air travel has literally exploded. To meet this demand, airlines are keeping their aircraft in service for longer periods of time than anticipated when originally manufacturered.

We need to assure that more intensive maintenance is done on those aircraft. The graying of America's civil aviation fleet is a phenomenon that will be with us for more than a decade, and that is why we need this legislation to assure that when passengers get on board aircraft they do not have to wonder how old that aircraft is and how well it has been maintained. They should be able to rely upon a system of maintenance that assure them that they can travel in safety, in comfort, and in peace of mind.

The current average age of the Nation's civil aviation fleet is in the range of 12.7 years, and that average age will increase the tolerance of the decade. Age in and of itself, however, is not the problem, but as aircraft age and go through repeated cycles of operations, damage is done to the structure that must be addressed in an increasingly aggressive manner as the aircraft does age.

As an aircraft goes through the cycles of operation, pressure is put on the hull of the aircraft and it expands, moisture can accumulate, the aircraft depressurizes, putting further stress on rivet joints and the metal. Obviously increasing attention to maintenance is necessary under those conditions as aircraft are kept in service over longer periods of time, and nothing brought that fact more dramatically home than the tragic accident on April 28,

1988, when an Aloha Airlines flight over Hawaii became a convertible. The top ripped off and pulled flight attendant Clarabelle Lansing to her death and this shocked the civil aviation world, the FAA, and the manufacturers of aircraft both at home and abroad because the underpinning of our regulations on inspection and maintenance was called into question.

This one incident galvanized both the industry, the manufacturers, and air carriers and the FAA into immediate action. To the great credit of then-FAA Administrator Alan McArter, the agency did not wait for another incident; did not wait to study this incident, but rather it gathered all the civil aviation authorities of the world and as many air carriers and the manufacturers as it could possibly bring together in a massive meeting, to address this issue with the sense of urgency and importance that it deserved. Out of that first Civil Aviation Conference on Aging Aircraft grew a series of recommendations that have dramatically changed the way maintenance is conducted in the Nation's civil aviation fleet. No longer is the watchword inspect and replace when something is wrong is discovered. The watchword now is inspect and replace at specific intervals regardless of whether a problem reveals itself or not. The incident taught us that airline maintenance programs cannot rely only or primarily on visual inspections to detect potential problems. It underscored the reality that certain parts and certain structures have to be replaced at certain intervals regardless of whether damage is evident or not.

The industry, to its credit, has moved aggressively to adopt the new philosophy to put this new approach into practice and develop a comprehensive program for the maintenance and overhaul of aging aircraft with specific reference to metal fatigue resulting from stress on parts due to pressurization and depressurization and, second, to the intrusive effects of corrosion.

One thing is clear in aviation, that maintenance is a continuous operation. What is now clearer is that that continuous operation must increase in intensity and in scope as the aircraft ages.

This legislation ensures that after the third "D-check—" that is roughly after the 15th year of the aircraft's life that inspection and maintenance will increase in intensity with greater attention to the specific problems of the aging process.

Second, the legislation recognizes that there must be a more activist role by the FAA in pursuing its responsibilities and that there will be more hands-on inspection and that there must be more intensive training of FAA inspectors to do a better job of inspecting the aging aspects of aircraft as they increase in their years of operation.

Maintenance on aging aircraft will become an increasingly important aspect of air carriers' maintenance programs as relatively few aircraft will be retired over the next several years and as aircraft are increasingly operated longer than was anticipated at the time of their manufacture. Prudence dictates that our regulatory philosophy and framework recognize this and be adjusted to take account of these trends and developments. Recent industry and agency actions reflect that the problems associated with the aging fleet require much more than business-as-usual solutions. The aviation laws of the country should reflect this trend as well by establishing special inspections and procedures to address the aging aircraft problems.

A second reason for the legislation stems from the complex web of ownership and leasing relationships and aircraft financial transactions prevalent in the world's airline industry today, resulting in some aircraft changing hands among operators with relative frequency. The General Accounting Office submitted testimony to the subcommittee that some aircraft have changed hands as many as 18 times since 1981, usually crossing international borders each time. The spectre of aircraft maintenance work being deferred to the next owner or lessee in order to save money is very real. This bill will ensure that from an FAA perspective necessary work is accomplished on a timely basis and is not deferred from owner to owner.

Finally, in spite of all that the industry and FAA has done to address the aging aircraft problem, the committee's sense is that most of it has been lost on the traveling public because of the complexity and arcaneness of the current system of safety assurance. The public should not be expected to sort out airworthiness directives, service bulletins, economic design life, and other technical terms and concepts in determining their comfort level with flying. Since the public is very concerned about older aircraft, a comprehensive system of safety assurance that does not require indepth aviation regulatory knowledge is necessary. Under the legislation, an inspection will be required in which a straightforward question will be asked: "Is this old airplane safe?" Under the legislation, the answer to that question will be equally as straightforward: "yes" or "no." Aircraft will not be permitted to return to service until the answer is "yes." The traveling public should take strong assurance from this legislation that all that needs to be done to ensure the safety of older aircraft is being done.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3774, the Aging Aircraft Safety Act of 1990.

First of all, I would like to commend the chairman, the gentleman from Minnesota [Mr. OBERSTAR], for the outstanding leadership he has shown on focusing the attention of the aviation community on an emerging problem.

I think we have taken steps to address this with this legislation so that it does not become a real problem. What this bill does is require the Federal Aviation Administration to inspect commercial aircraft during the first scheduled heavy maintenance inspection following the plane's 15th year in service to ensure the plane's continued airworthiness.

Should findings indicate unsatisfactory maintenance or defects in critical structural components, the Administrator has the authority under this bill to suspend the plane's airworthiness certificate until satisfactory repairs are completed. This is the most drastic remedy that the FAA can take, but should be authorized to take in these instances.

During the course of the last several years, I think all of us have been witness to increasing Federal and industry attention to the phenomenon of aging aircraft. The fleets of almost all the major air carriers are clearly becoming older.

Following the Aloha accident which the chairman, the gentleman from Minnesota [Mr. OBERSTAR] alluded to, industry and government, I think, have worked together very cooperatively to develop a comprehensive agenda of critical safety and structural items, items that heretofore, frankly, were left to the discretion of individual operators to decide whether replacement or repair were necessary. It was a fairly subjective kind of a standard that was applied, and we found after several hearings which we held in our subcommittee and also in the Investigations and Oversight Subcommittee that these hearings made it very clear that operators flying identical types of aircraft quite often approached the task of maintenance, inspection, and replacement in significantly different fashions. There was no set protocol for how those inspections and maintenance operations would be carried out.

This raised the very real specter that approved maintenance practices may not be equally effective. Compounding this uneven treatment of aircraft maintenance is the practice of buying, selling, and leasing aircraft. I personally, and I know the chairman also, have great concerns about an individual aircraft which is bought and sold repetitively during its lifetime

without any one carrier doing more than minimally necessary to satisfy maintenance requirements.

□ 1320

This is something that this bill tries to get a handle on.

H.R. 3774 requires the operator to demonstrate that the aircraft has met all maintenance requirements, no matter who may have been in charge of that aircraft during its lifetime, and that critical life limited components have been replaced.

Mr. Speaker, the gentleman from Minnesota [Mr. OBERSTAR] put his finger on it. This changes the whole focus of this program from inspect and replace if necessary, to a clear direction that there will be replacement of parts at specified times in the life cycle of the aircraft, and that ongoing thorough inspection demonstrate the continued airworthiness of the aircraft.

Mr. Speaker, while I strongly support this legislation, it needs to be noted that many of our largest air carriers have taken initiatives that meet or exceed many of the industry-government recommendations arising from the aging aircraft task force. I would join with the chairman in commending those task forces. They were thorough, they were staffed by top people, and they were serious in what they set out to do and have accomplished.

Nevertheless, I believe that an older aircraft should be subject to continuing inspections during heavy maintenance checks to insure that the plane is air worthy. Such an inspection would not only reassure the carrier, but it would also serve to reinforce the confidence of the flying public in our aviation system.

Mr. Speaker, I yield such time as he may consume to the ranking member of the full committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, for many years, aviation experts had generally assumed that an aircraft, if properly inspected and maintained, could fly almost forever. However, that assumption was dramatically called into question 2 years ago when the top blew off an Aloha Airlines 737 over Hawaii.

The aircraft involved in that accident was one of the oldest 737's in the fleet. Postaccident inspections of the plane revealed significant corrosion and cracking throughout the airplane's structure.

The Aloha Airline accident and other recent incidents have heightened concern about aging aircraft and led to a complete reexamination of the way we approach the problem. Some have suggested that older aircraft should automatically be retired when they reach a certain age. However, given the current backlog in aircraft orders, I doubt that our manufacturers could replace the old planes fast enough.

Therefore, the industry has taken a more moderate approach. They have formed a task force that has made recommendations to the FAA. These recommendations require extensive and costly structural modifications to older planes. In some cases, parts will have to be entirely replaced.

The FAA has begun to implement these recommendations. This represents a significant shift from merely relying on inspections to uncover problem areas. Now changes to the aircraft will have to be made even before problems begin to appear.

I am pleased that the aviation industry and the FAA have acknowledged the problem and have moved to address it. I also congratulate you Mr. Chairman and the ranking Member, Mr. CLINGER, for taking the initiative and bringing the Aging Aircraft Safety Act to the floor.

Given the measures already being taken by the industry and the FAA, some may question whether this legislation is necessary. But I believe that this bill will help to reassure the flying public about the safety of older airplanes. It will help to reassure them that commercial aircraft are safe to fly regardless of their age.

I think it is very important to consider all the possible solutions to the aging aircraft problem. I am confident that this bill will help in that regard and therefore I support it.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Arkansas [Mr. HAMMERSCHMIDT] said a moment ago, as well as the gentleman from Pennsylvania [Mr. CLINGER], the airline industry has not skimped on maintenance. The record should be clear that the industry is spending in excess of $6 billion a year collectively just among the top 10 or 12 air carriers on maintenance. That is a significant amount.

Our purpose here is to ensure that the role of the FAA in overseeing that maintenance is increasingly more intensive as aircraft reach higher number of cycles of operation, and that the maintenance performed by those carriers is equally intensive and done on a continuing basis.

Mr. Speaker, the subcommittee would be remiss in its responsibility to the traveling public if it did not acknowledge the work of several task forces on aging aircraft. Their work was summarized in the hearings that we held, and consummating that work into this legislation that draws a legislative framework around the very responsible course that the FAA has undertaken with respect to aging aircraft. That has been a very long endeavor. It is one that began when the gentleman from Pennsylvania [Mr. CLINGER] and I worked in the Subcommittee on Investigations and Oversight. We chaired hearings repeatedly on aircraft maintenance. We have followed this subject very closely.

Mr. Speaker, there is one issue that has been a passion of mine in Congress, and that is assuring safety, whether in aircrafts, pipelines, or bridges. Our role in the Committee on Public Works and Transportation has been to ensure the safety of transportation and that is to our responsibility to the traveling public, and I think we have discharged it very well. With this legislation, we are taking it a further step, a very responsible step here, and I want to thank the gentleman from Pennsylvania [Mr. CLINGER] for laboring so many hours with me, devoting so much of his talent and skill and concern and genuine public service to this issue.

Mr. Speaker, in addition I would like to thank the very able and hard-working staff of the Subcommittee on Aviation on both sides, the majority and minority staff, who have worked together in a bipartisan way on this legislation. I want to express my appreciation to the staff of the Subcommittee on Investigations and Oversight on both sides of the aisle who very much assisted both the gentleman from Pennsylvania [Mr. CLINGER] and I on this path of concern for safety and maintenance in the best interests of the traveling public.

Mr. CLINGER. The Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. The Speaker, I think with these two bills we have taken a long step in addressing problems that we have perceived in the aviation industry itself. My hope is as soon as possible we will be able to address on the floor another serious problem, that having to do with airport capacity, and that we will be able to bring our airport and airway improvement program to the floor. I know the chairman shares that concern.

Mr. OBERSTAR. The Speaker, reclaiming my time, I appreciate the gentleman from Pennsylvania [Mr. CLINGER] raising that point. I cannot give any assurance, but it looks very good that we are still in the Thursday window of legislative opportunity, provided the appropriation bills scheduled move quickly. I am very hopeful that the House will conclude its business quickly on the matter of the constitutional amendment for a balanced budget which will be taken up tomorrow. If that does not pass, then there will be a statute to deal with the balanced budget, and then the Agriculture appropriations bill.

The Speaker, hopefully if those two are concluded at a reasonable hour on

Wednesday, we can bring our legislation. I know we have the support to bring that bill to a successful outcome, and it is clearly awaited by the other body.

Mr. CLINGER. The Speaker, if the gentleman from Minnesota [Mr. OBERSTAR] will yield further, I share his enthusiasm for getting this bill to the floor as soon as possible.

Mr. ANDERSON. The Speaker, I am in strong support of this legislation. This bill is an extremely positive step in the interest of aviation safety.

The traveling public is very concerned about flying on older aircraft. A large part of this concern stems from the fact that the average age of the airlines' fleets will increase for the balance of the decade. Later this decade it will not be at all unusual for a passenger to get on board aircraft that are 25 and 30 years old.

This bill will direct a special inspection on older aircraft with the inspection focused on aging aircraft problems. It appears that to meet the demand for air transportation the airlines will not be able to retire aircraft as soon as they expected when they purchased the aircraft. If this is going to be the case, we need to have a safety regulatory framework that reflect these circumstances. This bill establishes that framework.

The traveling public looks for strong assurances from the Congress that the agencies charged with protecting their safety are doing all they should. To be sure, over the past 2 years, the FAA and the industry have been doing a great deal to rectify the problems of aging aircraft. This bill institutionalizes those actions. With this legislation, the public will have the assurances that the Government has addressed aging aircraft problems in a straight forward and comprehensive manner.

I urge that the bill be passed.

Mr. BUECHNER. Mr. Speaker, many members of Congress like to talk about enhancing U.S. competitiveness in the rapidly changing global economy, especially in the area of high technology. Many of the same Members often bemoan the state of our transportation system, particularly the airline industry. Well, Mr. Speaker, in the V–22 *Osprey*, these self-appointed "advocates of the future" have the rare opportunity to put their money where their mouths are.

The V–22 *Osprey* is our most advanced tiltrotor aircraft and is positioned at the leading edge of aviation technology. The modern V–22 is designed to take off and land like a helicopter, and to fly like a plane by tilting its wing-mounted rotors to function as propellers. It has been widely emphasized that tiltrotor technology promises to change the face of both the commercial and the military aerospace industries; this plane can serve as a prototype.

Originally developed by the Marine Corps, the *Osprey* is uniquely capable of performing a wide variety of multiservice, military tasks such as troop/cargo transport, amphibious assault, special operations, search and rescue, and antisubmarine warfare. The V–22 also has the potential to one day replace aging helicopters in all four services, combining greater operational versatility with increased performance.

In addition to its military capabilities, the development of tiltrotor aircraft promises to provide significant technological spinoffs for our commercial aerospace industry, thus providing a much-needed advantage to American companies in the extremely competitive world market. In fact, transportation experts with whom I have spoken predict that tiltrotor aircraft could soon revolutionize commercial air travel, particularly in the dense population centers along the east and west coasts.

Mr. Speaker, talking about the future, while an interesting exercise, does nothing to improve it. Accordingly, I ask my colleagues to look into the future and join me in supporting the V–22 *Osprey.*

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 3774, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to assure the continuing airworthiness of aging aircraft, and for other purposes".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3774, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

CONVEYING INTEREST IN FISH HATCHERY TO SOUTH CAROLINA

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3338) to direct the Secretary of the Interior to convey all interest of the United States in a fish hatchery to the State of South Carolina, as amended.

The Clerk read as follows:

Strike all after the enacting clause and insert in lieu thereof:

SECTION 1. CONVEYANCE OF FISH HATCHERY.

Notwithstanding any other provision of law and subject to section 2, the Secretary of the Interior shall convey, without reimbursement, to the State of South Carolina, all the right, title, and interest (including all water rights) of the United States in and to the fish hatchery property located approximately one and one-half miles southwest of the city limits of the city of Cheraw in Chesterfield County, South Carolina, commonly known as the "Cheraw State Fish Hatchery" and previously known as the "Cheraw National Fish Hatchery", consisting of 206.10 acres, more or less, of land together with any improvements and related personal property thereon.

SEC. 2. REVERSIONARY INTEREST IN UNITED STATES.

The property conveyed pursuant to this Act, including the proceeds from the sale of timber or other products, shall be used by the South Carolina Wildlife and Marine Resources Department as part of the South Carolina Fisheries Resource Management Program, and if it is used for any other purpose all right, title, and interest in and to such property shall revert to the United States.

SEC. 3. ANADROMOUS FISH RESEARCH LABORATORY.

The Northeast Anadromous Fish Research Laboratory located at Turners Falls, Massachusetts, shall be known and designated as the "Silvio O. Conte Anadromous Fish Research Center".

SEC. 4. ESTABLISHMENT OF FISHERY RESOURCES.

(a) The Secretary is authorized and directed to conduct a feasibility study on establishing a federal fish hatchery in McDowell County, West Virginia. Conditioned upon the completion of the feasibility study and the location of a suitable site and water supply, the Secretary is authorized to construct a federal fish hatchery as provided for in the feasibility study. The study shall be undertaken by the United States Fish and Wildlife Service in consultation with the State of West Virginia.

(b) If a fish hatchery is constructed in McDowell County, West Virginia pursuant to section 3(a), the fish hatchery shall be known as the "Carl R. Sullivan National Fish Hatchery".

(c) There is hereby authorized to be appropriated the sum of $2,500,000 to carry out the provisions of this section.

SEC. 5. REDESIGNATION OF NATIONAL FISH AND WILDLIFE FORENSICS LABORATORY.

(a) REDESIGNATION.—The United States Fish and Wildlife Service facility located in Ashland, Oregon, and known as the National Fish and Wildlife Forensics Laboratory, is designated and shall be known as the "Clark R. Bavin National Fish and Wildlife Forensics Laboratory".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the National Fish and Wildlife Forensics Laboratory referred to in subsection (a) is deemed to be a reference to the "Clark R. Bavin National Fish and Wildlife Forensics Laboratory".

SEC. 6. AMENDMENT.

Amend Section 4(g)(2) of the North American Wetlands Conservation Act (Public Law 101–233) by adding after the words "this Act" the following: ", including the preparation of environmental documentation pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(a)(C))".

The SPEAKER pro tempore. Is a second demanded?

Mr. SHUMWAY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from California [Mr. SHUMWAY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3338 was sponsored by two of our distinguished colleagues from South Carolina, Mr. SPRATT and Mr. TALLON. The bill would transfer a Federal fish hatchery from the U.S. Fish and Wildlife Service to the State of South Carolina to use for fisheries management purposes.

The State currently operates the hatchery under a 25-year agreement with the Fish and Wildlife Service, but it would like to enlarge the hatchery and—before it spends a lot of money for that purpose—it wants title to the facility. A number of other hatcheries have been transferred to States in similar circumstances over the past few years, and the administration fully supports the bill.

Mr. Speaker, H.R. 3338 includes three other provisions which I would like to mention briefly. First, the bill clarifies the fact that activities undertaken pursuant to the North American Wetlands Conservation Act are Federal activities subject to the provisions of the National Environmental Policy Act.

Second, the bill names the National Fish and Wildlife Forensics Laboratory in Oregon after Mr. Clark Bavin, the former Chief of the Division of Law Enforcement for the Service. Mr. Bavin served with honor and distinction in this position from 1972 until this year and made the Fish and Wildlife Service law enforcement system the finest of its kind in the world. Although a tragic illness ended his career—and this past weekend his life—the legacy of Mr. Bavin's leadership will live on throughout the Service and will be symbolized fittingly by the redesignation of the Forensics Laboratory.

Finally, and in a far happier vein, I am pleased to inform my colleagues that if this bill is enacted, the Northeast Anadromous Fish Research Laboratory in Turners Falls, MA, will henceforth be known as the "Silvio O. Conte Anadromous Fish Research Center." It is altogether fitting and proper that Mr. CONTE should be so honored, for he is, both in my judgment and I suspect his own, the most distinguished sportsman-legislator in America today. In the tradition of Theodore Roosevelt, SILVIO CONTE has fought and fought hard to protect America's open spaces and to guarantee habitat for the fisheries and wildlife resources that are a glorious part of our Nation's heritage. In fact, I doubt there is a fish or duck or goose or elk in our country today that does not owe the gentleman from Massachusetts a debt of gratitude, provided, of course, that he has not personally done something sporting to one of their relatives.

In closing, let me just say this is a good bill. It is, to my knowledge, without opposition. I urge its support.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. SHUMWAY. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise in support of H.R. 3338, which directs the Secretary of the Interior to convey a Federal fish hatchery to the State of South Carolina. This would be done without reimbursement and would provide stipulations that the property would have to be used by the South Carolina Wildlife Marine Resources Department as part of their fisheries and resource management program.

The bill also calls for the renaming of the Northeast Anadromous Fish Research Laboratory located at Turners Falls in Massachusetts as the "Silvio Conte Anadromous Fish Research Center." This is indeed a fine compliment to one of our colleagues who over the last 30 years has supported many fish and wildlife issues and programs.

The bill also designates that the Fish and Wildlife Service's Forensics Laboratory in Ashland, OR, shall be known as the "Clark Bavin National Fish and Wildlife Forensics Laboratory." Mr. Bavin, who passed away this last weekend, was the Chief of Law Enforcement for the Fish and Wildlife Service. This honor is very fitting for a man who has had a distinguished career with the Service.

Mr. Speaker, the administration supports the bill as amended by the Merchant Marine and Fisheries Committee, and I would urge the Members to adopt this measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I introduced H.R. 3338 to authorize transfer of title to the Cheraw State Fish Hatchery in Cheraw, SC, from the Federal Government to the State of South Carolina. This bill has the support of the Fish and Wildlife Service [FWS] of the U.S. Department of Interior, and it passed the Merchant Marine Committee by voice vote. Its consideration by the full House should not be controversial.

This transfer of title would follow a series of previous transfers of other fish hatcheries across the country. Like H.R. 3338, these other transfers were authorized by legislation approved by Congress. Just 2 years ago, for example, fish hatcheries in New Hampshire, Kentucky, and Wisconsin were transferred from the Fish and Wildlife Service to State governments pursuant to H.R. 4030, which became law in January 1988.

These transfers date back to the early 1980's when the Reagan administration decided to shut down those Federal fish hatcheries considered to be intrastate and not to serve any national purpose. The administration saw no national need in continuing to breed freshwater fish like catfish largely for stocking intrastate streams. However, the Cheraw hatchery, which was one of those slated for closure, was so important to my State's Freshwater Fisheries Program that the State government decided to take over its operation. In 1983, the South Carolina Department of Wildlife and Marine Resources negotiated a 25-year lease with the Fish and Wildlife Service, authorizing the State to operate the hatchery. The lease provides for no rental payments. By virtue of the lease, the State independently operates and manages all aspects of the hatchery without Federal supervision.

The State's operation of the Cheraw hatchery has proved successful, so successful that the State has decided to move its entire production capacity there for both the farm pond and the lake, river, and stream stocking programs. Consolidation makes it necessary, however, for the State to expand the existing facility by building a new holding and rearing pond at a cost of over $100,000 in State funds. The State is understandably reluctant to make such an investment in the hatchery without holding legal title to the property. The Federal Government has no further interest in this hatchery; in fact, the Federal Government continues to hold title only because of the State's desire to continue operating it. It makes sense, therefore, for the Federal Government to withdraw completely from the Cheraw hatchery by transferring title, just as it has transferred title to other hatcheries across the country. This bill requires, however, that the South Carolina Wildlife and Marine Resources Department must use the hatchery as part of the South Carolina Fisheries Resources Management Program; and it stipulates that if the State ever ceases to use the hatchery for such purposes, title will revert to the United States.

While the bill was under consideration in the Merchant Marine Committee, the committee decided to add a provision offered by Congressman

RAHALL, which directs the Fish and Wildlife Service to conduct a study on the feasibility of a Federal fish hatchery in McDowell County, WV. If the feasibility study results a favorable recommendation, the Secretary of Interior will be authorized to construct a Federal fish hatchery there.

Mr. Speaker, this bill will allow a vitally important fish hatchery in my State to continue operation at no cost to the Federal Government. The South Carolina Wildlife and Marine Resources Department has shown that it can operate the hatchery, and has the support of the Department of Interior in seeking title to the property. The Committee on Merchant Marine and Fisheries reported the bill favorably by voice vote. I urge my colleagues to pass it.

Mr. TALLON. Mr. Speaker, I rise in support of this legislation that will transfer the Federal lease of the fish hatchery in Cheraw to the State of South Carolina. This is sensible legislation.

In the 1980's the Federal Government began shutting down those Federal fish hatcheries which did not promote a broad national interest. The administration did not see any need for the Federal Government to continue breeding solely fresh water fish species, like catfish. The Cheraw hatchery, which was one of those slated for closure, was so important for my State's Freshwater Fisheries Program that the State decided to take over its operation. In 1983, the State and Federal Government negotiated a 25-year lease authorizing the State to operate the hatchery rent free.

In the past few years, the Cheraw hatchery has enjoyed such growth and success that it requires expansion. The State of South Carolina is willing to fund such expansion but is reluctant to invest such funds in a facility that it does not own the lease to.

This bill transferring the Federal lease to the State of South Carolina will enable my State's important hatchery program to continue to grow. It has the support of the Secretary of the Interior's Fish and Wildlife Service, and I know that my colleagues will find the transfer of lease outlined in this bill to be both positive and useful.

Mr. RAHALL. Mr. Speaker, a provision of this legislation authorizes the Fish and Wildlife Service, in consultation with the State of West Virginia, to conduct a feasibility study on establishing a trout hatchery in McDowell County, WV. Based on the study results, the bill authorizes $2.5 million for the construction of the hatchery.

There is a pressing need for a new fish hatchery to provide stocked trout for southern West Virginia's lakes and streams. At present, we are faced with a dual fold problem: There is inadequate hatchery capacity to meet demand, and existing hatcheries are too distant from many southern West Virginia lakes and streams to make trout distribution feasible.

In an effort to address this situation, two potential hatchery sites in McDowell County have been identified by the West Virginia Division of Natural Resources. The project is feasible due to the existence of mine discharges that have been tested as being an excellent source of nonacidic cold water. In fact, it is estimated that this site could support an annual production capacity of 25,000 pounds of trout.

As West Virginia Division of Natural Resources Director Ed Hamrick explained in a recent letter to me:

Since springs with sufficient flow to support a trout hatchery do not occur in southern West Virginia, the only source of large volumes of cold water are mine discharges. Mine discharges in that area of West Virginia are generally not acidic and could be suitable as a hatchery water supply.

Mr. Chairman, it should also be noted that under the amendment, the fish hatchery would be known as the Carl R. Sullivan National Fish Hatchery. Mr. Sullivan, or "Sully" as he is known to his friends, is often referred to as "the fisherman's fisherman" and serves as a natural resources commissioner of the West Virginia Division of Natural Resources. While his activities and accomplishments on behalf of fishing are extensive perhaps the most noteworthy was the crucial role he played in the passage of the 1984 amendments to the Federal Sport Fish Restoration Act.

As West Virginia DNR Director Hamrick wrote in a recent issue of Wonderful West Virginia:

Because of his tireless efforts, we owe Carl our gratitude for this landmark amendment which expanded the Sport Fish Restoration Act and which made so much more possible for fishermen everywhere. Mountain State anglers can take pride in the knowledge that with every purchase of fishing equipment, an investment in sport fishing for West Virginia and the entire country is made. We can also be proud of the Mountaineer who played such a pivotal role in establishing this valuable legislation.

In conclusion, I would like to extend my deepest appreciation to the chairman of the Committee on Merchant Marine and Fisheries, WALTER JONES, and the chairman of that committee's Subcommittee on Fisheries and Wildlife Conservation and the Environment, GERRY STUDDS, for their willingness to work with me on this provision. I would also note that this is the third time a West Virginia hatchery provision has passed the House recently. On June 14, 1990, an identical provision as contained in the pending legislation passed as part of H.R. 2567, the Reclamation Authorization and Adjustments Act. And, on July 10, 1990, a different version passed as part of the Coalfield Environment Enhancement Act of 1990. I am, as such, deeply committed to seeing this project become a reality.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 3338, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to direct the Secretary of the Interior to convey all interest of the United States in a fish hatchery to the State of South Carolina, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3338, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CHEHALIS RIVER BASIN FISHERY RESOURCES STUDY AND RESTORATION ACT OF 1990

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3787) to authorize a joint Federal, State, and Tribal study for the restoration of the fishery resources of the Chehalis River Basin, Washington, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3787

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Chehalis River Basin Fishery Resources Study and Restoration Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Chehalis River Basin in southwestern Washington, including Grays Harbor and its tributaries, has approximately 1,400 separate rivers and streams totaling nearly 3,400 miles in length which flow into the Pacific Ocean through Grays Harbor, a major west coast estuarine system.

(2) The Basin historically produced large runs of anadromous and resident fish that supported important commercial, recreational, and tribal fisheries within the Basin and off the coast of the States of Washington and Alaska and Canada; however, the population of these fishery resources is less than one-half the levels that occurred prior to 1935.

(3) The decline in productivity of the Chehalis system is thought to result from a number of activities. Ongoing studies by the State of Washington and others have linked significant mortality of Chehalis River salmon to water quality degradation, sedimentation of spawning gravels, reduced stream flows, and reduced spawning escapements.

(4) The Federal Government has a substantial interest in the fishery resources of the Basin because important interjurisdictional (including international) and tribal fisheries are involved and several federally constructed, permitted, and licensed water projects are located in the Basin.

(b) PURPOSES.—The purposes of this Act are—

(1) to require a comprehensive study of the causes of the decline of fishery re-

sources originating in the Chehalis River Basin;

(2) to develop recommendations for a program to address the causes of those declines; and

(3) to restore those fishery resources in a reasonable period of time.

SEC. 3. JOINT FEDERAL, STATE, AND TRIBAL STUDY AND RECOMMENDATIONS.

(a) STUDY.—Subject to section 5, the Director of the United States Fish and Wildlife Service shall undertake a comprehansive study of the fishery resources and habitats of the Basin and, on the basis of such study, develop goals and recommend short- and long-term actions for achieving those goals and maximizing the restoration and conservation of those fishery resources and habitats. The Director shall submit the study, goals, and recommended short-and long-term actions to the Congress before October 1, 1992.

(b) PARTICIPATION OF STATE OF WASHINGTON.—

(1) INVITATION.—In carrying out subsection (a), the Director shall invite the heads of the Departments of Fisheries, Wildlife, and Ecology of the State of Washington to participate jointly in undertaking the study and developing goals and recommending actions.

(2) MEMORANDUM OF UNDERSTANDING.—The Director, the head of the Council of the Chehalis Tribe, the head of the Council of the Quinault Indian Nation, and each head of State department participating pursuant to paragraph (1), shall enter into a memorandum of understanding setting forth the respective responsibilities of each entity in carrying out the study and making recommendations regarding fishery resource restoration under subsection (a).

(c) CONSULTATION.—In carrying out this Act, the Director shall, to the maximum extent practicable, consult with the National Marine Fisheries Service, Army Corps of Engineers, Environmental Protection Agency, Federal Energy Regulatory Commission, Soil Conservation Service, State of Washington agencies, including the Department of Natural Resources, the Northwest Indian Fisheries Commission, affected local governments, appropriate commercial, recreational, and Tribal fishing interests, other affected or interested entities, and (if the joint participation referred to in this section is not affected) the heads of the Departments of Fisheries, Wildlife, and Ecology of the State of Washington.

(d) MAPS.—The Director shall prepare and maintain maps depicting the Chehalis River Basin for use in fulfilling the purpose of this Act.

SEC. 4. STUDY CONTENTS.

The study under section 3 shall take advantage of an build upon ongoing watershed planning and research efforts to identify fishery resource problems in the basin to complete the following.

(1) DESCRIPTION OF BASIN.—A physical, hydrographic, economic, and social description of the Basin.

(2) HISTORICAL FISHERY RESOURCES AND HABITATS.—A historical account of the fishery resources and habitats of the Basin.

(3) DESCRIPTION OF FISHERY RESOURCES AND HABITATS.—A comprehensive description of the fishery resources and habitats of the Basin, including—

(A) population estimates of fishery resources in the Basin that are of sport or commercial value, important forage resources, or otherwise of significance;

(B) an analysis of the current status and trends of the Basin's fishery resources and their use, and the cause of any decline in population of each such species, including the extent and causes of environmental problems in Grays Harbor and the lower Chehalis River and other impediments to smolt and adult migration in the Basin;

(C) an identification of the location, quantity, and extent of utilization of existing adult holding, spawning, and juvenile rearing habitat, as well as the location of degraded fish habitat, and impediments to use of potential adult holding, spawning, and juvenile rearing habitat in the Basin;

(D) estimates of instream flows needed where insufficient stream flow occur due to human activities and development of instream flow strategies to address these problems; and

(E) a projection of the problems that the species identified as a result of subparagraph (A) are expected to encounter in the future.

(4) EFFECTS OF LAND USE ON FISHERY RESOURCES.—An analysis of how Basin characteristics and past, current, and projected land and water use within the Basin have affected, and can be expected to affect, its fishery resources and habitats, including documentation of the nature, source, and magnitude of point and nonpoint pollution, sedimentation, and runoff characteristics.

(5) REVIEW AND EVALUATION OF AVAILABLE INFORMATION AND RESTORATION STUDIES AND ACTIONS.—(A) A review of past and ongoing research on the decline of Chehalis Basin fishery resources and the results of existing or previous attempts to address the declines.

(B) Based on the review under subparagraph (A), an evaluation of the adequacy of the information that is currently available, and specification of the additional types, quantity, and periodicity of information that must be obtained, for the purpose of restoring and conserving the fishery resources and habitants of the Basin.

(6) FEDERAL, STATE, TRIBAL, AND LOCAL GOVERNMENT ROLES.—A discussion of Federal, State, Tribal, and local government statutory authorities and programs that pertain to the conservation and restoration of the fishery resources and habitats of the Basin, with particular attention being given to the fishery management plans and programs of those jurisdictions and the relationship to applicable private fishery conservation and management activities.

(7) RESTORATION PROGRAM RECOMMENDATIONS AND RESPONSIBILITIES.—A comprehensive statement of fishery resource restoration goals and objectives for fish originating in the Basin and the remedial actions and programs necessary to achieve those goals and objectives. The statement shall designate the authorities responsible, together with a projected timetable, for taking such actions and carrying out such programs. In addition, the statement shall prescribe the areas and priorities for any additional studies needed to restore fishery resources in the Basin.

SEC. 5. COST SHARING.

(a) REQUIREMENT FOR SHARING.—The State of Washington may not participate in undertaking the study under section 3, including developing goals and recommending actions for the restoration and conservation of the fishery resources and habitats of the Basin, unless the Director is satisfied that non-Federal and nontribal participants in the study will pay in the aggregate at least one-sixth of the cost of the study.

(b) IN-KIND CONTRIBUTIONS.—

(1) IN GENERAL.—The non-Federal share required by subsection (a) may be in the form of cash or services, or other in-kind contributions, fairly valued, including the time of State employees not funded from Federal sources.

(2) QUALIFICATIONS AND OTHER STANDARDS.—The Director shall by regulation establish.—

(A) the training, experience, and other qualifications which volunteers must have in order for their services to be considered as in-kind contributions; and

(B) the standards under which the Director will determine the value in-kind contributions for purposes of this subsection.

Valuations made by the Director under this subsection are final and not subject to judicial review.

(c) LIMITATION.—The Director shall not consider the expenditure, either directly or indirectly, of Federal moneys received by the State of Washington or any local government of such a State, to be a financial contribution from a non-Federal source. For purposes of this section, funds provided to the tribes under authority of the Indian Self-Determination Act (25 U.S.C. 450f-450n) shall not be considerd Federal moneys.

SEC. 6. DEFINITIONS.

As used in this Act:

(1) BASIN.—The term "Basin" means the Chehalis River Basin in the State of Washington, including the Chehalis River in southwestern Washington and its drainage basin as well as Grays Harbor and the remainder of its drainage basin.

(2) DIRECTOR.—The term "Director" means the Director of the United States Fish and Wildlife Service, acting for the Secretary of the Interior.

(3) FISHERY RESOURCES.—The term "fishery resources" means—

(A) any stock of fish;

(B) one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographic, scientific, recreational, or economic considerations;

(C) any species of fish; or

(D) any habitat of fish.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director not more than $2,500,000 to carry out this Act, to remain available until expended. One-fifth of any amounts appropriated under the authority of this section shall be made available to the Chehalis Tribe and the Quinalult Indian Nation to carry out their responsibilities under a memorandum of understanding entered into pursuant to section 3(b).

The SPEAKER pro tempore. Is a second demanded?

Mr. SHUMWAY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from California [Mr. SHUMWAY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3787 is a bill to authorize the development of a study and restoration plan for the Chehalis River Basin in the State of Washington. The bill was introduced last November 20 by the distinguished gentlelady from Washington [Mrs. UNSOELD] and by her equally distinguished colleague, Mr. SWIFT.

As amended by the Committee on Merchant Marine and Fisheries, H.R. 3787 would authorize a study harnessing the knowledge of Federal, State, local, and tribal experts, to develop an action plan to restore declining fisheries populations throughout the Chehalis River Basin. As a result of environmental degradation, those fish populations have declined by more than 50 percent over the last half century. This bill would set in motion a process to reverse that trend and to restore the Chehalis to its proper place as one of the richest and most productive river systems in the Pacific Northwest.

I would point out that H.R. 3787 was reported by our committee with strong bipartisan support, that it was endorsed by the administration, and that it includes a provision requiring that the costs of the study be shared equitably among those who participate in it.

In closing, I congratulate the gentlelady from Washington for her determination and leadership on this issue, and hope that the bill will be approved without controversy this afternoon.

Mr. SHUMWAY. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise in support of H.R. 3787 which requires the Director of the Fish and Wildlife Service to carry out a study of the fishery resources and habitats of the Chehalis River Basin in the State of Washington. The study would develop goals and recommendations for the restoration and conservation of these resources.

The study called for in the legislation has been estimated at $3 million. Of that amount, the Federal Government would be required to contribute $2.5 million.

The administration testified before the Merchant Marine and Fisheries Committee that it is supportive of the bill.

Mr. Speaker, I urge the adoption of the bill.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, with this legislation we hope to set in motion a series of actions which should lead to a coordinated effort on the part of the interested Federal, State, tribal, and private parties to restore the historic Chehalis River Basin fishery. Ultimately, long-term solutions will be needed to correct the practices which have caused the fisheries to decline. However, this legislation can be the first step of the process toward a revitalized fishery.

Mr. Speaker, I rise in support of H.R. 3787, the Chehalis River Fishery Resources Study and Restoration Act. This legislation, which my colleague Ms. UNSOELD and I introduced last fall, would provide for a broad, comprehensive analysis of fishery resources and habitats in the Chehalis River Basin. This basin, which is located in the westernmost part of Washington State and reaches into my congressional district, supports what historically has been a productive habitat for various anadromous species: Chum, chinook, and coho salmon and a variety of trout. Fish originating in the basin support important recreational, commercial, and Indian fisheries off Washington, Canada, and Alaska and within the basin.

In recent years the salmon and steelhead populations have declined significantly, and the decline has brought adverse economic and environmental consequences. Concern over the decline has prompted various fishing groups, industry, tribes, and State and local government to join together in an effort to address the habitat problem. As a result of studies undertaken locally, some progress has been made in understanding the reasons for the decline. Much work, however, remains to be done.

This legislation is desperately needed. The counties of southwest Washington are economically distressed. As a result of the decline in the fisheries, two of the area's most important industries, commercial fishing, and tourism, which is directly related to the sport fishing opportunities available, have suffered. The area is also highly dependent on the forest products industry and is facing a serious economic crisis as a result of Federal Government actions regarding the timber supply. The modest investment by the Federal Government contemplated by this legislation will not erase the pain of the timber crises, but it can help these communities develop their other economic bases as their economies move away from timber.

I want to commend my colleague Ms. UNSOELD for her efforts in putting together this legislation. I also wish to thank the chairman of the subcommittee, Mr. STUDDS, and the chairman of the full committee, Mr. JONES, for moving this legislation quickly.

I urge my colleagues to vote in favor of this important legislation.

Ms. UNSOELD. Mr. Speaker, I want to start out by thanking the distinguished chairman of our Merchant Marine and Fisheries Committee, Chairman JONES, and chairman of our Fisheries Subcommittee, Chairman STUDDS, for their work in guiding this important bill through committee to the floor today.

During the past 2 years, restoring and enhancing the fish resources of the great Northwest have been at the top of my priority list. This is why I spend much of my time seeking a ban on those horribly destructive high seas drift nets; and this is also why I am so excited about H.R. 3787, the Chehalis River Fishery Restoration Act.

The Chehalis River, located in southwest Washington, has historically been one of the most productive watersheds in the State; producing large numbers of salmon and steelhead that have contributed to the livelihood of commercial and tribal fishermen, as well as recreational anglers along the entire west coast.

During the late seventies and early eighties, however, these once-great fisheries, drastically declined. Today their abundance is well below historic levels and much less than the basin's capacity.

Mr. Speaker, we have some very talented State and tribal biologists, as well as some very dedicated local volunteers all working together to restore the fish runs of the Chehalis. They have made considerable progress toward identifying reasons for these declines and I fully expect their efforts to continue.

What is now needed, however, is a comprehensive and coordinated approach to studying and resolving the problems; an approach that brings together Federal, State, and tribal resources and builds upon local expertise and previous findings. This is why I introduced H.R. 3787.

This legislation takes advantage of the efforts of groups such as the Grays Harbor fisheries enhancement task force and the improved State-tribal comanagement fisheries programs.

The Grays Harbor fisheries task force is composed of groups from commercial and sport fisheries, as well as tribal, Federal, State, and local governments. Their cooperative approach to solving the problems of declining fish runs is commendable and should serve as a model for H.R. 3787.

The State of Washington and the Indian tribes have also been working together. Since the 1974 Federal district court Boldt decision affirming the tribes' treaty rights relative to the salmon fisheries, the State-tribal management of the fisheries has evolved from an era of tension and mistrust to a current partnership to enhance this precious resource for the benefit of all commercial and recreational fishing interests.

Mr. Speaker, I introduced the Chehalis River Basin Fishery Restoration Act to initiate a concentrated State, tribal, and Federal restoration program of this once-abundant river system. I expect this act to build upon and strengthen existing operations and revitalize this important Chehalis River basin.

Again, I want to thank the chairman of our full committee and subcommittee.

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Mr. SHUMWAY. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 3787, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3787, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION AMENDMENTS ACT OF 1990

Mr. SAWYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4982) to promote the study of mathematics and science in elementary and secondary schools, to provide training for mathematics and science teachers, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dwight D. Eisenhower Mathematics and Science Education Amendments Act of 1990".

SEC. 2. FINDINGS AND STATEMENT OF RESPONSIBILITY.

(a) FINDINGS.—The Congress finds that—

(1) students in the United States are falling behind students from other industrialized nations on tests measuring achievement in mathematics and science; and

(2) the Federal Government has a significant role in promoting the study of mathematics and science in elementary and secondary schools, including middle schools, by providing financial assistance to local educational agencies to improve the general quality of programs for the study of mathematics and science and by acting as a source for information concerning successful projects and activities.

(b) STATEMENT OF RESPONSIBILITY.—It is the responsibility of the Federal Government to—

(1) provide an opportunity for the updating of skills for teachers of mathematics and science in elementary and secondary schools, including middle schools;

(2) make information available to local educational agencies regarding updated mathematics and science instructional materials;

(3) conduct clearinghouse and dissemination activities so that successful programs and curricula can be replicated; and

(4) establish a central listing of all sources of Federal assistance to mathematics and science education.

SEC. 3. INCREASE IN AUTHORIZATION LEVEL FOR STATE GRANTS AND NATIONAL PROGRAMS.

Subsection (b) of section 2003 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2983) is amended by striking "for fiscal year 1989" and all that follows and inserting the following: "for each of the fiscal years 1989 and 1990, $250,000,000 for the fiscal year 1991, $300,000,000 for the fiscal year 1992, and $400,000,000 for the fiscal year 1993.".

SEC. 4. IN-STATE APPORTIONMENT.

Section 2005 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2985) is amended by adding at the end the following:

"(c) LIMITATION.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), any local educational agency that receives an allocation of less than $6,000 under subsection (a) shall, for the purpose of providing services under this part, form a consortium with at least 1 other local educational agency or institution of higher education receiving assistance under this section.

"(2) WAIVER.—The State educational agency may waive the application of paragraph (1) in the case of any local educational agency that demonstrates that the amount of its allocation is sufficient to provide a program of sufficient size, scope, and quality to be effective. In granting waivers under the preceding sentence, the State educational agency shall—

"(A) give special consideration to local educational agencies serving rural areas; and

"(B) consider cash or in-kind contributions provided from State or local sources that may be combined with the local educational agency's allocation for the purpose of providing services under this part.".

SEC. 5. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

Section 2006 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2986) is amended—

(1) by redesignating subsection (d) as subsection (e);

(2) by inserting after subsection (c) the following new subsection:

"(d) PRIORITY FOR TEACHER TRAINING.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), in any fiscal year beginning after September 30, 1990 for which a local educational agency receives under this section an amount that is larger than the amount such agency received under this section for the fiscal year 1990, the excess of such amount over the amount received under this section for the fiscal year 1990 shall first be used to provide training for mathematics teachers and science teachers in elementary and middle schools.

"(2) WAIVER.—The Secretary may waive the application of paragraph (1) in the case of any local educational agency that demonstrates to the Secretary that mathematics teachers and science teachers in the elementary and middle schools under the jurisdiction of such local educational agency will receive adequate training without using such excess amounts for such training."; and

(3) in subsection (e) (as redesignated by paragraph (1) of this subsection), by inserting after "this section" the following: ", or $20,000, whichever is greater,".

SEC. 6. HIGHER EDUCATION PROGRAMS.

Subsection (d) of section 2007 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2987) is amended by inserting after "this section" the following: ", or $20,000, whichever is greater,".

SEC. 7. NATIONAL PROGRAMS.

Section 2012 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2992) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

"(d) NATIONAL CLEARINGHOUSE FOR SCIENCE, MATHEMATICS, AND TECHNOLOGY EDUCATION MATERIALS.—

"(1) The Secretary may carry out a merit-based, competitive program of awarding a grant or contract to establish a clearinghouse to be known as the 'National Clearinghouse for Science, Mathematics, and Technology Education Materials' (in this subsection referred to as the 'Clearinghouse').

"(2) The grant awarded under this subsection shall be used to—

"(A) maintain a permanent repository of science, mathematics, and technology education instructional materials and programs for elementary and secondary schools, including middle schools, (including all such materials and programs developed with Federal and non-Federal funds, such as instructional materials developed by the Department of Education, materials developed by State and national mathematics and science programs assisted under this part, and other instructional materials) for use by the regional consortiums established under subpart 2 and by the general public;

"(B) cooperate with other Federal and non-Federal data bases containing science and mathematics curriculum and instructional materials in carrying out the functions under this subsection; and

"(C) disseminate information regarding such materials and programs to dissemination networks, including the National Diffusion Network established under section 1562, and the regional consortiums established under subpart 2, which dissemination, if feasible, shall be carried out through a single on-line computer database that can be readily accessed; and

"(D) disseminate instructional materials and programs to the regional consortiums established under subpart 2 and to the public.

"(3) The Clearinghouse shall employ both traditional and technologically advanced methods for storing and disseminating materials to regional consortiums established under subpart 2 and to the public.

"(4) Each Federal agency or department which has supported or supports the development of a science, mathematics, or technology education instructional material or program, including the Department of Education, shall submit to the Clearinghouse a sufficient number of copies of such material or program for the Clearinghouse and each regional consortium established under subpart 2.

"(5) The Secretary shall establish a peer review process to select the recipient of the award under this subsection.

"(6) The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

"(7) The National Clearinghouse shall expend ⅓ of any amounts received to carry out the provisions of this subsection for the dissemination of materials to the regional consortiums established under subpart 2.

"(8) Nothing in this subsection shall be construed to allow the use or copying, in any media, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless

the permission of the owner of the copyright is obtained.

"(e) MODEL PROGRAMS FOR INSTRUCTION AND TRAINING IN THE USE OF COMPUTERS.—

"(1) The Secretary may make grants to model programs for training and instruction in the use of computers as part of the mathematics and science curriculum of elementary and secondary schools to pay the Federal share of the cost of improving and expanding such programs.

"(2)(A) Except as provided in subparagraph (C), the Federal share of the cost of improving and expanding a model program under this subsection shall not exceed 50 percent of such cost.

"(B) Not less than 25 percent of the non-Federal share of the cost of improving and expanding a model program under this subsection shall be in cash.

"(C) The Secretary may waive the application of this paragraph in the case of any model program operated by a school that demonstrates an inability to obtain funds from non-Federal sources for the program.

"(3) In awarding grants under this subsection, the Secretary shall give priority to applicants that demonstrate the ability to—

"(A) develop a program that can be applied nationally;

"(B) include a shared commitment from a combination of local parties, such as teachers, the business community, and local educational agencies;

"(C) provide teacher training programs in elementary and secondary schools, including middle schools, that are designed to improve the quality of mathematics and science instruction through the use of computers as an instructional tool;

"(D) integrate higher order analytical and problem-solving skills into mathematics and science curricula; and

"(E) provide interactive and manipulative application as part of the instructional delivery system.".

SEC. 8. REGIONAL SCIENCE, MATHEMATICS, AND TECHNOLOGY EDUCATION CONSORTIUMS.

Part A of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2981 et seq.) is amended—

(1) by inserting before section 2003 the following:

"Subpart 1—State Grants and National Programs";

and

(2) by adding at the end the following:

"Subpart 2—Regional Science, Mathematics, and Technology Education Consortiums

"SEC. 2016. PROGRAM ESTABLISHED.

"(a) IN GENERAL.—The Secretary shall carry out a merit-based competitive program of awarding grants to establish and operate regional science, mathematics, and technology education consortiums for the purpose of disseminating and implementing exemplary science, mathematics and technology education instruction materials, teaching methods, and assessment tools for use by elementary and secondary school students.

"(b) LOCATION OF REGIONAL CONSORTIUMS.—The Secretary shall, in accordance with the provisions of this subpart, award 1 grant to an eligible entity in each region.

"(c) GRANT TERM AND REVIEW.—Grants under this subpart shall be awarded for a period of not more than 5 years and shall be reviewed before the end of the 30-month period beginning on the date the grant is awarded. Grants shall be awarded before the end of the 12-month period beginning on the date of the enactment of an act making appropriations to carry out the provisions of this subpart.

"(d) AMOUNT.—In making grants under this subpart, the Secretary shall assure that there is a relatively equal distribution of the funds made available among the regions, but the Secretary may award additional funds to a regional consortium on the basis of population and geographical conditions of the region being served.

"SEC. 2017. USE OF FUNDS.

"Funds provided under this subpart shall be used by each regional consortium to—

"(1) identify, adapt, disseminate, and implement science, mathematics, and technology education instruction materials, teaching methods, and assessment tools for use by elementary and secondary school students;

"(2) train classroom teachers and administrators in elementary and secondary schools, including middle schools, in the use of science, mathematics, and technology education instruction materials, teaching methods, and assessment tools;

"(3) qualify classroom teachers to train other teachers in the use of such instruction materials, teaching methods, and assessment tools in the classroom;

"(4) work with classroom teachers in the identification and adaptation of such instruction materials, teaching methods, and assessment tools for use in classrooms within the region;

"(5) assist classroom teachers, where appropriate, in securing training to enhance such teachers' subject knowledge and teaching skills in the areas of science, mathematics, and technology education;

"(6) offer fellowships, internships, or summer programs to enable teachers to participate in the activities of the regional consortiums;

"(7) disseminate information regarding informal science, mathematics, and technology education activities and programs offered by Federal agencies and private or public agencies and institutions within the region;

"(8) provide technical assistance in order to maximize the effectiveness of such instruction materials and programs and fulfill the instructional goals of the recipients of such materials and programs;

"(9) collect data on activities assisted under this subpart in order to evaluate the effectiveness of the activities of the regional consortiums;

"(10) if feasible, maintain on-line computer networks with all regional consortiums and the National Clearinghouse for Science, Mathematics, and Technology Education Materials established under section 2012(e);

"(11) assist local and state educators in identifying science equipment needs; and

"(12) establish programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, science, mathematics, and technology education, such as women and minorities.

"SEC. 2018. APPLICATION AND REVIEW.

"(a) IN GENERAL.—Each eligible entity desiring to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

"(1) demonstrate that the eligible entity shall implement and disseminate science, mathematics, and technology education instructional materials, teaching methods, and assessment tools through a consortium of the region's science and mathematics education organizations and agencies;

"(2) demonstrate that the eligible entity shall carry out the functions of the regional consortium;

"(3) describe the activities for which assistance is sought;

"(4) demonstrate the capability to properly and effectively implement and disseminate science, mathematics, and technology education instructional materials, teaching methods, and assessment tools;

"(5) provide assurances that emphasis will be given to programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, science, mathematics, and technology education, such as women and minorities;

"(6) include a description of efforts to coordinate activities carried out by the regional consortium with activities carried out by the appropriate regional educational laboratory supported under section 405(d)(4)(A)(i) of the General Education Provisions Act;

"(7) assure that provision will be made for the equitable participation of children and teachers from private elementary and secondary schools consistent with section 2010; and

"(8) assure that the entity will conduct its activities and supervise its personnel in a manner that effectively ensures compliance with the copyright laws of the United States.

"(b) APPROVAL OF APPLICATION.—

"(1) The Secretary shall approve or disapprove applications submitted pursuant to subsection (a) in accordance with the criteria and procedures established under paragraph (2).

"(2) The Secretary shall develop procedures and criteria designed to ensure that grants are awarded on the basis of merit as determined by the peer review process described in paragraph (3).

"(3)(A) The Secretary shall establish a national panel, or to the extent necessary, panels, to submit to the Secretary recommendations for awards of grants under this subpart. The Secretary shall appoint the members of such panel or panels.

"(B) Each panel appointed as required by subparagraph (A) shall include representatives of—

"(i) science and mathematics education and teaching;

"(ii) State and local educational agencies;

"(iii) private elementary and secondary schools;

"(iv) higher education;

"(v) informal education;

"(vi) practicing scientists, engineers, and mathematicians;

"(vii) business; and

"(viii) groups that are underrepresented in, and underserved by, science, mathematics, and technology education, such as women and minorities.

"SEC. 2019. REGIONAL BOARDS.

"(a) GENERAL AUTHORITY.—Subject to subsections (b) and (c), each eligible entity receiving a grant under this subpart may establish a regional board to advise on the administration of and establishment of program priorities for the regional consortium established by such eligible entity.

"(b) REPRESENTATION.—Any regional board established as authorized by subsection (a) shall include at least 1 representative of each agency or organization participating in the regional consortium, and, if not represented on the consortium, at least 1 representative of—

"(1) State educational agencies;
"(2) local educational agencies, including representatives of large, small, urban and rural school districts;
"(3) private elementary and secondary schools;
"(4) teachers;
"(5) institutions of higher education, including science and mathematics educators;
"(6) business;
"(7) professional scientific and mathematics associations;
"(8) parents;
"(9) informal education organizations;
"(10) regional educational laboratories; and
"(11) groups that are underrepresented in, and underserved by, science, mathematics, and technology education, such as women and minorities.

"(c) PROHIBITION ON USE OF FEDERAL FUNDS.—No Federal funds may be used for the establishment or operation of a regional board authorized by subsection (a).

"SEC. 2020. PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.

"(a) PAYMENTS.—The Secretary shall pay to each eligible entity having an application approved under section 2018 the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share shall be—
"(1) 75 percent for the first, second, and third fiscal years in which an eligible entity receives assistance;
"(2) 60 percent for the fourth such year; and
"(3) 50 percent for the fifth and each succeeding such year.

"(c) NON-FEDERAL SHARE.—
"(1) The non-Federal share of payments under this section may be in cash or in kind, fairly evaluated, including facilities, overhead, equipment, or services.
"(2) Each eligible entity having an application approved under section 2018 shall pay the non-Federal share in accordance with the following requirements:
"(A) At least 10 percent of the cost of activities described in the application shall be furnished by business concerns within the region.
"(B) At least 10 percent of the cost of activities described in the application shall be furnished by local educational agencies and the States in the region.
"(C) The balance of the cost of activities described in the application of the non-Federal share may be furnished by members of the regional consortium, institutions of higher education, professional scientific and mathematics associations, philanthropies, or other public and private agencies, institutions or organizations.

"SEC. 2021. ASSESSMENT.

"Each eligible entity receiving a grant under this subpart shall collect data on, and assess the effectiveness of, the programs conducted at the regional consortium. At the end of each grant period, the Secretary shall submit to Congress a report on the effectiveness of the programs conducted at each regional consortium.

"SEC. 2022. DEFINITIONS.

"For purposes of this subpart:
"(1) The term 'eligible entity' means—
"(A) a private nonprofit organization;
"(B) an institution of higher education;
"(C) a public agency;
"(D) an interstate agency established by compact;
"(E) a State or local educational agency;
"(F) a regional educational laboratory or research and development center established under section 405(d)(4)(A) of the General Education Provisions Act;
"(G) a professional scientific and mathematics association;
"(H) an educational association;
"(I) a museum;
"(J) a library;
"(K) a nonprofit educational television station or a nonprofit producer of programs for educational television stations;
"(L) an historically Black College;
"(M) a nonprofit scientific laboratory that receives Federal assistance; or
"(N) a combination of the entities set forth in subparagraphs (A) through (M).
"(2) The term 'institution of higher education' has the meaning provided in section 1201(a) of the Higher Education Act of 1965.
"(3) The term 'region' means a region of the United States served by a regional educational laboratory that is supported by the Secretary pursuant to section 405(d)(4)(A)(i) of the General Education Provisions Act.
"(4) The term 'regional consortium' means a regional science, mathematics, and technology education consortium established pursuant to section 2016(a).

"SEC. 2023. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the provisions of this subpart $15,000,000 for the fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 9. FEDERAL ADMINISTRATION.

(a) REPORT ON SOURCES OF FEDERAL AID.—The Secretary shall, in consultation with the heads of other appropriate Federal agencies, prepare a report listing all sources of Federal aid for mathematics and science education.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required by paragraph (1) to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate not later than March 1, 1992. The Secretary shall also provide such report to each State educational agency and make such report available to the public.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio [Mr. SAWYER] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 4982, the Dwight D. Eisenhower Mathematics and Science Education Amendments Act of 1990.

As I am sure all my colleagues are aware, one of the President's six education goals is that all American students will be first in the world in achievement in science and mathematics by the year 2000. I doubt there is anyone that would dispute the desirability of reaching this goal—but anyone who has actually reserved a shelf for the avalanche of reports warning of American inferiority in this area relative to other nations knows that we have a very long way to go. In fact, it had better be a very, very long 10 years.

This legislation makes a number of smaller changes to the current Eisenhower statute that we believe will strengthen the program. For instance, based on our experience with the permissive consortia provision from the last Eisenhower reauthorization, we have required that local education agencies [LEA's] which receive less than $6,000 to form a consortium with at least one other LEA or institution of higher education. The Secretary will have the ability to waive this requirement under certain circumstances such as when LEA's serve large rural areas.

The bill also provides that a priority be given to teach training at the elementary and middle school level. One of the most consistent findings of all the reports on this issue is that the early and middle years of a students educational experience are the most critical for laying the conceptional foundation upon which future knowledge and the ability to think critically is based.

We have also provided for additional administrative funding for both secondary and postsecondary program administration. Reports examining the overall effectiveness of the Eisenhower program often point out that there is a leadership vacuum at both levels. If we want innovation and program coordination we will have to pay for it—at least initially.

There are also two larger additions to the Eisenhower statute.

The first would give the Secretary the authority to initiate a competition to establish a National Clearinghouse for Science, Mathematics, and Technology Education Materials. This would give us something we are sorely missing—a permanent repository of science, math, and technology education instructional materials. Information on curriculum and model instructional materials would be available to anyone seeking way to improve the content and delivery of math, science or technology education in their communities. Only in this way can we move away from the typical hit and miss approach which is the standard today.

The second new authority would direct the Secretary to carry out a merit-based competitive grant program to establish and operate regional math and science consortiums that would bring state-of-the-art science and math instructional material within easy reach of our Nation's classroom teachers. Under this proposal teachers would be involved in selecting the curriculum that is appropriate for them and their classrooms. They

would then learn how to teach the new science and math courses and eventually teach their peers in the use of the new materials. A strong emphasis would be placed on collaboration between all those groups with a stake in this effort—teachers, parents, business community, State education agencies and others. The regional consortiums would be selected through an open competition using a peer review process. The regional consortia would maintain a close relationship with the National Clearinghouse. This provision will require a meaningful local match and only $15 million in Federal funds.

I hope my colleagues will support this proposal so that we can proceed to a conference with the Senate. Our Senate colleague, MARK HATFIELD has the same, or similar, proposal in the Senate.

Mr. Speaker, I urge every Member of this House to focus close attention on the Eisenhower math and science program. It is the primary math and science legislation for programming at the elementary and secondary level. We need to exhibit stronger support for this program. The President himself has suggested an increase in this program of about 65 percent. Even that, frankly, would not be nearly enough for this program to achieve its promise.

I want to thank my committee chairman and ranking member. Both have been strong advocates for this program for many years.

I urge our colleagues to join us in support of H.R. 4952.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join the subcommittee chairman in encouraging all of those in the Congress to support this legislation.

Mr. Speaker, I had a opportunity last year to ask the Congress to rename the math and science program to the Eisenhower Math and Science Program, realizing that President Eisenhower was extremely interested and knew the value of math and science. And the Congress agreed to that Change.

Today we are suggesting a few changes to the bill. First of all, the first change that we are talking about, the administration apparently objects to. Why, I will never know. We have tried for so many years to say that you turn youngsters on in math and science when they get to 9th grade or 10th grade or 8th grade. That is the silliest thing I have ever heard of.

So in this bill we say we are going to concentrate our efforts on the elementary and the middle school teachers. It is at this time that a youngster either has his or her appetite whetted for math and science or they are lost forever unless at home they happen to have parents who are very much math and science minded.

So it just seems to me it is about time we give some help to that elementary teacher who is asked to teach all subjects and has had very little opportunity to take any courses in math and science while they were in college, many of whom never took all of the math and science courses that were offered in high school.

So it is our hope that by helping the elementary and the middle school teacher to become more proficient in the areas of teaching math and science, we will then whet the appetites of youngsters, not turn them off but make them very interested in continuing in the area of math and science.

The second change we make: So many times, we do little to coordinate our efforts and we have programs going out from all different areas. Now, particularly since education has become an important thing, every committee and their brother seems to want to have a part of the action, we will get so confused we will not know what the left hand is doing.

At any rate, in this we are asking for the kind of coordination we think is necessary.

So we authorize the Secretary to establish regional science, math, and technology education consortia. I understand the administration is opposed to this too. Again, I do not understand what their objection is. Coordination should be the name of the game.

Finally, they seem to be opposed to the fact that we have asked for $250 million. Their request was $240 million. So I do not know that $250 million is outrageous. Therefore, I am sure if they sit down and have a little more time to reconsider this, they will agree that the bill that the chairman has brought before us today is a good bill, and I would encourage all of our Members on our side of the aisle, on both sides of the aisle, to support this legislation.

Mr. GEJDENSON. Mr. Speaker, I rise in strong support of H.R. 4982, the Dwight D. Eisenhower Mathematics and Science Education Amendments of 1990. It is an essential component of the competitiveness package introduced by the House Democratic leadership on June 20.

H.R. 4982 provides much more than the promise of funding for our children's math and science programs. It delivers confidence in our future.

There is a tremendous fear in this country that America has lost its competitive edge. It happened once before when we nervously watched in disbelief as the Soviets launched Sputnik into orbit. That first step into space marked a crisis in America's scientific community. We rose to the occasion, however, and created the finest space program on earth.

We can't afford to wait for the another Sputnik. If we don't act immediately, this nation will slide into economic chaos. As John F. Kennedy once said, "while we cannot guarantee that we shall one day be first, we can guarantee that any failure to make this effort will make us last."

Education is the cornerstone of any competitiveness program. This bill provides the tools to instill a sense of competence and confidence in our children. Among other things, this legislation: provides more funding for math and science programs in elementary and secondary schools; requires the Federal Government to act as a source for information concerning successful educational projects and activities; establishes a national clearinghouse for science, mathematics and technology education materials; establishes regional science, mathematics, and technology education consortia to disseminate and implement exemplary instructional materials and teaching methods; and updates skills for teachers of mathematics and science in elementary and secondary schools.

Mr. Speaker, I urge my colleagues to vote in favor of H.R. 4982 when it comes to the floor next Tuesday. We should pass this bill and get back on the path toward competitiveness.

Mr. MINETA. Mr. Speaker, I rise today in strong support of the Dwight D. Eisenhower Mathematics and Science Education Amendments Act of 1990, and I congratulate my colleague, Mr. SAWYER, on his leadership on this bill.

Mr. Speaker, each year it becomes more clear that we are not doing enough in this country to provide our children with the basic science and mathematics education necessary to prepare them for the modern, high-technology work force.

Ultimately, America's business competitiveness and economic strength are going to be determined by the people who actually are competing—the individual managers, technicians, and workers in the frontlines who are this country's economy. There is no way around it—their flexibility, innovation, productivity, and commitment to quality are what is most important to business competitiveness.

What the Government can do and must do to ensure that America's workers are prepared to meet the competitive challenge is to enhance efforts to strengthen U.S. technology education to better prepare America's work force to cope with a high-technology world.

The Eisenhower Mathematics and Science Education Amendments Act of 1990 will do just that.

Mr. PICKLE. Mr. Speaker, I rise today in support of H.R. 4982, the Dwight D. Eisenhower Math and Science Education Amendments of 1990. This bill is part of an ongoing "agenda for action" designed to promote this Nation's economic competitiveness.

I don't think that there is much disagreement that this Nation needs to do something about the competitiveness of our high-tech manufacturing industries. In short, this country needs to do a better job manufacturing products and must improve its ability to manufacture the technically precise products which are characteristic of high-tech industries.

Perhaps the best way to improve the quality of our manufactured goods is to improve the quality of the work force which produces

these goods. Key to improving the quality of our work force is improving the math and science aptitude of American students.

H.R. 4982 is an excellent step toward upgrading American education in math and science education. By establishing 10 consortia to act as a clearinghouse of information for schools trying to improve math and science curriculum, the bill gives help directly to the educators on the front line of efforts to improve the math and science educations of our young people.

As many Members know, not many studies of competitiveness agree completely on the causes and cures of our competitiveness problems. However, nearly all agree that America's deficiencies in math and science education have something to do with our large trade deficit. There is little question that improving the math and science aptitude of American students will have excellent long-term payoffs for our economy. I commend Representative SAWYER and members of the Education and Labor Committee for advancing this bill.

Mr. MARKEY. Mr. Speaker, I rise in support of H.R. 4982, the Dwight D. Eisenhower Mathematics and Science Education Amendments of 1990. Mr. Speaker, a recent special issue of Business Week questioned what it called the myth that America cannot compete in the race for global economic leadership.

Business Week noted that the United States boasts the highest manufacturing productivity rate in the world. It also noted that we invest more in basic research—$15 billion a year—than any nation in the world. That our overall capital spending outpaces all our industrial rivals except Japan. And that we have 4.5 million trained scientist and engineers, more than both Japan and Germany.

These numbers, and others detailed in the Business Week piece, are cause for optimism about America's economic future. But the magazine confirmed one critical, sobering fact recently reported by the Commerce Department: If current trends continue, by the year 2000, the United States will fall behind both Japan and Europe in critical new technologies, such as biotechnology, high performance computing, and optoelectronics.

How can the United States invest so much and still be in danger of falling behind in the frontier technologies which will determine economic success in the future?

The answer may lie in what Harvard Business School Prof. Michael Porter calls factor conditions, the local conditions that make a nation competitive. In a recent article in the Harvard Business Review, Professor Porter wrote that "in sophisticated industries that form the backbone of any advanced economy, a nation does not inherit but instead creates the most important factors of production—such as skilled human resources or a scientific base." Professor Porter notes that those factors must be tailored to the Nation's particular needs and objectives. He writes that:

Contrary to conventional wisdom, simply having a general workforce that is high school or even college educated represents no competitive advantage in modern international competition. To support competitive advantage, a factor must be highly specialized to an industry's needs * * *.

A critical specialized factor for any nation competing in the race for technological leadership will be the pool of available workers who are trained in math and science. Right now, the American work force lacks the expertise necessary to succeed in this era. Although we boast one of the highest rates of college graduates per person in the world, Japan, with a population far smaller than the United States, produces many more trained scientists and engineers. American students continually score below their Japanese peers in math and science tests.

H.R. 4982 is a crucial first step in America's efforts to upgrade its math and science education. The bill will help us begin to produce not only more scientists and engineers but workers on levels who have the skills necessary to work in complex technological environments.

As the Business Week article points out, America leads the world in basic research. But converting technological breakthroughs into viable products and a competitive economy requires much more. H.R. 4982 will help make America's research investments payoff by providing a skilled work force that can turn ideas into products and help America compete with its new superpower rivals—Japan and the European Community.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAWYER. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and pass the bill, H.R. 4982, as amended.

The question was taken.

Mr. SAWYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

□ 1350

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provision of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

EQUITY AND EXCELLENCE IN EDUCATION ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 430 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5115.

The Chair designates the gentleman from Minnesota [Mr. OBERSTAR] as Chairman of the Committee of the Whole, and requests the gentleman from Massachusetts [Mr. STUDDS] to assume the Chair temporarily.

□ 1351

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5115) to improve education in the United States, Mr. STUDDS [Chairman pro tempore] in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. HAWKINS] will be recognized for 1 hour, and the gentlemam from Pennsylvania [Mr. GOODLING] will be recognized for 1 hour.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

I am pleased to rise in strong support of H.R. 5115, the Equity and Excellence in Education Act of 1990. In my over 50 years of public service, I cannot think of another measure which represents such a coordinated, bipartisan approach to strenthening our Nation's schools.

The Equity and Excellence in Education Act give us the first, and possibly the last, major vehicle of this Congress, for accomplishing the momentous task of focusing our national energies on preparing America's young people for the rigors of the 21st century.

It is based on achieving the national goals for education, proposed by President Bush and the Nation's Governors at the Charlottesville Education Summit. H.R. 5115 contains many of the President's own initiatives. In addition, it bears the stamp of my good friend, and ranking minority member on the Education and Labor Committee, Mr. GOODLING, as well as provisions suggested by Messrs. COLEMAN, FORD, WILLIAMS, SAWYER, and several other Members, Democrat and Republican alike, on our committee. The measure the Education and Labor Committee presents to you today is truly a consensus bill, and deserves the full support of Members from both sides of the aisle.

Educational equity and excellence is not a partisan issue. It is absolutely crucial to our economic stability and our national security. Our rapidly changing technological society demands an educated and well skilled work force. Our need to strengthen this Nation's international competitive position requries immediate and comprehensive action.

H.R. 5115 will help every sector. It will coordinate the steps that must be taken by the Federal Government, in conjunction with others at the State and local levels, to assure educational achievement for all students. Providing a quality education for America's children enables each and every child, regardless of economic, racial, or ethnic, background, or geographic location, to learn to their fullest poten-

tial. It is the right thing to do. And, for those who will only be convinced by a cost-benefit analysis, I can assure you, it is the most economically prudent thing for our country to do.

Demographic projections for the 1990's warn us that educational opportunity must leave no one behind. As the U.S. Chamber of Commerce said in a letter to each Member in support of H.R. 5115, "* * * with every year that a substandard education system remains in place, U.S.-based businesses will face an added competitive disadvantage in the global marketplace due to the lower skill levels of their workers. Provisons in H.R. 5115 designed to alleviate problems with school readiness, school completion rates, and student achievement in critical skills, mathematics, and science therefore appear to be steps in the right direction."

The private sector is the first to admit the need for an immediate increase in educational investment. As the Committee for Economic Development, comprised of over 200 top CEO's and educators, said in their report, Chidren in Need:

> Quality education is not an expense; it is an investment in the future of our Nation * * *. Our industries will be unable to grow and compete because an expanding educational underclass will be unable to meet the demands of (technological) jobs.

The Chamber of Commerce and the CED know that business spends over $210 billion annually on employee education in basic reading, writing and arithmetic. The private sector should not have to educate people for entry-level skills. The very least we should demand from our education system are graduates competent in basic skills.

Illiteracy costs our nation an additional $255 billion a year in welfare checks, crime, incompetence on the job, remedial education, and lost revenues. The 1 million students who dropped out of our high schools just this year alone will reduce revenues by $68 billion, and the students will lose $228 billion in lifetime personal earnings.

To my colleagues who rant and rave about waste, I say What greater disservice could we be doing to the American economy than to underinvest in the education of our future work force? The returns on investment of the education dollar dwarf even the hottest Wall Street tip.

As the CED further stated:

> Any plan for major improvements in the development and education of disadvantaged children that does not recognize the need for additional resources over a sustained period is doomed to failure.

Mr. Chairman, the only way to turn around this national educational crisis is to adequately invest in programs that contribute to increased productivity, economic growth, and business expansion—all the things we need to reduce deficits, and increase standards of living.

These are the very things we have undertaken to do in the Equity and Excellence Act of 1990. H.R. 5115 fills the void. It sets out a specific, programmatic plan of action to reach those Charlottesville goals, as well as other equally important targets. Readiness for school, school completion, student achievement in critical skills, mathematics and science, literacy, safe and drug-free schools, teacher recruitment and retention, postsecondary education opportunities, and provisions for measurement, assessment, and evaluation form the basis of our educational strategy.

And, most importantly, H.R. 5115 states that it is the policy of the Federal Government to fully fund existing Federal programs, such as Head Start, WIC, chapter 1 compensatory education, and the Education of the Handicapped Act, so that all eligible children will be served.

Over the last decade, the number of children served by chapter 1 math and reading programs for disadvantaged students has fallen while the number of children in poverty has grown. Today, only half of those eligible for chapter 1 are receiving needed compensatory education services. The excess costs of educating 4.4 million handicapped children and young adults in America's public schools has declined from 12.5 percent in 1980 to about 7 percent today. This is far below the commitment in law to support 40 percent of these costs.

These programs, and the others included in H.R. 5115, represent cost effective investments, whose expenditures today will save billions in future costs down the road.

The Equity and Excellence in Education Act has forged a partnership between the administration and Members of both sides of the aisle in the Congress. We have consolidated the desire to reward excellence among us—through merit schools and scholars, and awards for effective teacher—with the traditional Federal educational role of ensuring equity in educational opportunity for all. The gifted and the educationally disadvantaged, those who live in urban and rural areas, the rich and the poor, all get something from this bill. We can't be any fairer than that.

I urge my colleagues to heed the final plea of the landmark report "A Nation at Risk," which concluded, "It is by our willingness to take up the challenge, and our resolve to see it through, that America's place in the world will be either secured or forfeited."

Let's not be sidetracked by cheap gimmicks, or snake-oil remedies which may be advocated in the form of amendments, as quick, inexpensive fixes for the very complex problems facing our Nation's schools. Let us instead focus, as H.R. 5115 does, on the Federal Government's responsibility to ensure accountability and leadership to direct the Nation's public and private resources to address educational equity and excellence.

I ask my colleagues to join with us in staking a claim for a strong America by voting yes on final passage of H.R. 5115, and no on all weakening amendments.

Mr. Chairman, I include several letters concerning an amendment to H.R. 5115 to be included in the RECORD and also a letter from the U.S. Chamber of Commerce:

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY,
Washington, DC, July 10, 1990.

Hon. AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in regard to H.R. 5115, the "Equity and Excellence in Education Act of 1990," which was referred to your Committee. Title IV of the bill establishes a federal program of scholarships for undergraduate students pursuing degrees in science, mathematics, and engineering.

Based on Rule X clause 1(g) of the Rules of the House of Representatives, the Committee on Education and Labor has jurisdiction over "Measures relating to education or labor generally" and has ". . . the special oversight function provided for in clause 3(c) with respect to domestic educational programs and institutions, and programs of student assistance, which are within the jurisdiction of other committees." Based on Rule X clause l(r), the Committee on Science, Space, and Technology has jurisdiction over "all bills . . . relating to . . . (7) Science scholarships." Under normal circumstances, we would seek a sequential referral of H.R. 5115. However, we recognize the importance of H.R. 5115 and your desire to move the bill expeditiously. Therefore, in a spirit of cooperation we will not seek sequential referral of H.R. 5115, but will expect representatives from our Committee to be included in any future discussions or conference on this bill.

It is my understanding that the staff of the two Committees are working together on a floor amendment regarding the National Science Scholars program, which is in Title IV of H.R. 5115. This amendment will contain some provisions of H.R. 996, "Congressional Scholarships for Science, Mathematics, and Engineering Act" which passed the House in September 1989. The amendment will include provision for two scholarships from each congressional district with at least one to a female recipient; will add two other science scholarships with payback provisions requiring teaching at the precollege level or pursuing a career in science; and will provide for the Director of the National Science Foundation to play a role in the scholarship selection process.

Our two Committees have worked together harmoniously in the past on legislation of joint interest. I am confident we will continue to do so in the future.

Sincerely,

ROBERT A. ROE,
Chairman.

COMMITTEE ON EDUCATION AND LABOR, SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION,
Washington, DC, July 10, 1990.

Hon. ROBERT A. ROE,
Chairman, Committee on Science, Space, and Technology, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter concerning your Committee's interest in Title IV of H.R. 5115, the Equity and Excellence in Education Act of 1990. We appreciate your decision not to seek sequential referral of H.R. 5115 and we agree that representatives from the Science, Space and Technology Committee should be included in any future discussion or conference regarding the bill.

The Committee on Education and Labor recognize your Committee's specific jurisdiction relative to Title IV of H.R. 5115 under House Rules regarding science scholarships. We also note that you recognize the Education and Labor Committee's general jurisdiction over education and the Committee's special oversight function on programs of student assistance which are within the jurisdiction of other Committees, pursuant to the Rules of the House of Representatives.

I share your understanding that our staffs are working together on a floor amendment to Title IV of the bill which would include some provisions from H.R. 996, Congressional Scholarships for Science, Mathematics and Engineering Act, including provisions for scholarships to be awarded to at least one female from each congressional district, provisions for two additional types of science scholarships, and a provision for the Director of the National Science Foundation to play a role in the scholarship selection process.

I look forward to working with you in the future on issues in which both of our Committees have an interest.

Sincerely,

AUGUSTUS F. HAWKINS,
Chairman.

U.S. CHAMBER OF COMMERCE,
Washington, DC, July 10, 1990.

Members of the U.S. House of Representatives:

The U.S. Chamber of Commerce commends you for your timely consideration of H.R. 5115, the "Equity and Excellence in Education Act of 1990."

Deficiencies in America's education system are contributing to the erosion of economic, community, and family life. Furthermore, with every year that a substandard education system remains in place, U.S.-based businesses will face an added competitive disadvantage in the global marketplace due to the lower skill levels of their workers. Provisions in H.R. 5115 designed to alleviate problems with school readiness, school completion rates, and student achievement in critical skills, mathematics, and science therefore appear to be steps in the right direction.

H.R. 5115 also draws much-needed attention to the literacy needs of our current labor force. Roughly 70 percent of today's workers will still be in the work force 10 years from now. Without efforts to improve basic skills, these men and women will be unable to adapt to changing job requirements brought on by advances in technology.

The Chamber appreciates your efforts to improve education and work force quality and looks forward to working with you to achieve the many educational goals identified in H.R. 5115.

Sincerely,

DONALD J. KROES.

□ 1400

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I would be remiss if I did not call to the attention of all of the Members of the House that this may be the last big education program that this wonderful chairman brings before the House of Representatives. He will be bringing some other pieces of legislation before us, but nothing like this piece, and, unfortunately, much of it will be labor.

This will be the last big education issue of the gentleman from California [Mr. HAWKINS] and I think we certainly owe him a debt of gratitude for all of his efforts, not only to provide access for young people, as far as a good education is concerned, but also to insist that excellence be the name of the game.

Mr. Chairman, I was not here when the other gentleman who spoke softly and carried a big stick was here in Washington, DC, but I have had the privilege of working with this gentleman who speaks softly and carries a big stick most of the time. Sometimes he speaks loudly, but mostly speaks softly and carries a big stick. He certainly has meant much to millions of young people throughout this country in his effort to bring about excellence in education and to try to make sure that, no matter who you are, you have an equal opportunity to have a good education. He is truly going to be missed, and I, for one, am not happy with his decision to retire.

Mr. Chairman, I would like to talk very briefly about the program that we bring to the floor today. First of all, education, I believe, is No. 1 on the agenda throughout the United States. At least as far as rhetoric is concerned. I am not so sure in relationship to action. The big argument comes, of course, as to what is the role of the Federal Government in education.

Mr. Chairman, we used to think that our major responsibilities were, first of all, equal access; and, second, the dissemination of research and the conducting of research. Our role has changed rather dramatically, and even though access, and research and dissemination of that research is still important, we now have to ask ourselves the question, "Access to what?" We have been successful, as far as getting and gaining that access for all Americans, but now the question is, "Access to what?"

The answer to that question has to be, "Access to excellence." And so it is excellence in education that we are talking about when we present this bill today.

Mr. Chairman, we already tackle the whole concept of excellence in chapter one. For the first time, when we reauthorized, we insisted on excellence in education. We no longer said what everybody was saying, which is, "Just give us more money to do the same thing, and everything will be fine."

Mr. Chairman, we will touch more lives. We said, "Yes, give us more money, but we'll do something differently. We will, as a matter of fact, insist on excellence." And so we did that in chapter one. H.R. 5115, the entire bill, dealt with excellence in education, whether it was special education, handicapped, vocational education. The same story: Excellence. Not just access.

We also talked about coordination, that we could not go on piecemealing if we were going to meet the goals that are set out for us to meet, that schools, business, labor have to join together and bring about this reform in education that is so necessary.

So, Mr. Chairman, our role has changed. It is not only access. It is not only research and dissemination of research. Now it is insisting that, in order to meet the goals set out by the Governors and the President, excellence in education is the most important ingredient.

Now nothing is going to change. Nothing is going to substitute for parents demanding excellence from their children and parents demanding excellence from their schools. That will have to continue. In fact, those efforts will have to be redoubled if we are going to bring about the changes that are needed. Nothing will change unless the brightest and best are attracted to the teaching profession, and there is an area of this bill that deals with that issue.

□ 1410

We are back now today to the point where we were after World War II when baby boomers came to the schools. We had neither the facilities nor the teachers prepared to handle that baby boom. We now again are in a boom period. We are also at a period where all the trained teachers at the end of World War II are at retirement or early out stage; so in the bill we talk about recruiting the brightest and the best.

Let me talk just very briefly about what we include in the bill. First of all, let me talk about the approach that we took to the bill. Each title of the bill begins with one of the goals that the Governors and the President set out in the summit and then it includes a statement of policy about the approach we should take at the Federal level to help raise the educational achievement of our people and our Nation's educational system in order to achieve those goals.

Finally, the bill incorporates a number of legislative changes and new initiatives to try to reach those goals.

The President's educational package is part of the bill. It incorporates most of the provisions of H.R. 1675, the President's education package. The centerpiece of the President's program, the President's "School of Distinction," formerly the "Merit School," rewards schools that have improved their students' educational performance, maintained a safe environment, and shown progress in reducing the number of students who drop out of school.

We have targeted the funds toward those schools that qualify for assistance under the Federal Chapter One Program that are by definition in more financial need.

In so doing, we have also corrected a deficiency in Chapter One by recognizing and rewarding those Chapter One schools which are improving. We have asked them to improve. We have demanded that they improve, and now we would reward them for those improvements.

We have also included the additional endowment the President asked for on the historically black colleges and universities, the National Science Scholars, the Excellence in Education Program, and nontraditional routes to teacher licensure.

We have added, in order to meet the goals that the Governors and the President has set, a literacy part, of which the gentleman from New York [Mr. SCHEUER] was a leader and I was happy to be a follower and a supporter, and hopefully offered a few changes that will even improve the program.

So we say that if every adult and every child is going to be literate, we must find a way to make that happen. In the literacy part of that, we believe that we have set forth a program that will help us wipe out illiteracy and functional illiteracy in this country.

Then, finally, the bill includes provisions to enhance and train the teacher force. Again we asked the Federal Government to get involved at the end of World War II when we had the crunch, and we now are back. as I indicated before, at this crunch.

We need to bring about some changes and we need to help recruit the brightest and best into the teacher profession. Not only do we have to recruit them into the teaching profession, we have to find a way to keep them, and, above all, we have to find a way to get them to go to the areas where they are in most need. Many of the areas are affluent districts that can handle this on their own. Rural areas, center city areas cannot, and we have to encourage the brightest and best of minorities, the brightest and best of all to go into the profession, stay in the profession, and go to the areas where they are most needed.

In closing, there are three areas that I hope between now and the time we get to the amendment process that we will be able to include in order to have a comprehensive package that I think will meet the needs that are demanded by those goals that were set out by the President and by the Governors. One is a grant program that would allow grants to go from the Secretary either to local districts or to States to see whether there is any way they can improve their system with open enrollment, with school-based management, giving the teachers more opportunity to be involved, and certainly that has to happen; grants for parental and community involvement and grants for fiscal equity and reform. That is part of the package that I think is necessary to have a comprehensive bill.

Also I think it is necessary to have the educational performance agreements for restructuring, as Congressman SMITH and others have pushed for quite some time.

If a local district can do the job and meet all the goals that we demand as far as access is concerned, but they can do it better than we can dictate it and they can show us that they can do it, then perhaps there is some restructuring that could take place.

Then, of course, literacy, as far as prisons are concerned, is extremely important to be part of this, since many of those who are in prison are either totally illiterate or functionally illiterate, and unless they are more literate when they have an opportunity to come out of those prisons they are going to be back where they started from and will not be any help to society and will be even a detriment to themselves.

So, with an entire package of that nature, I am sure we will have a bill that all will be able to support and a bill that will lead us to meet the goals set out and to bring about a better America because all will be literate.

Mr. Chairman, I reserve the balance of my time.

Mr. HAWKINS. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I rise today in favor of the Excellence in Education and Equity Act (H.R. 5115) as it was reported by the Committee on Education and Labor.

I would like to begin by thanking our distinguished committee chairman, GUS HAWKINS and our distinguished ranking colleague, Mr. GOODLING, for getting us here today. This was a difficult process, I know, but I think we have a fine bill that will give the House a very strong hand to play in conference with the Senate. So, Mr. Speaker I would like to thank our committee leadership for never losing sight of needs of our Nation's children and adults. The Education and Labor Committee has a legacy that is second to none in this House in its service to our citizens. I consider it an honor to be part of that tradition.

I would also like to thank all of my committee colleagues for their support of the literacy title of H.R. 5115. The literacy title of this bill—title V—that the committee reported on June 27, is the result of a good deal of productive discussion and negotiation about how to get at this problem in a way that reaches the largest number of people in need, with the best possible information and practical assistance, and with resources that are sufficient to make a meaningful difference.

The Literacy for All Americans Act of 1990 provides a comprehensive approach for improving the literacy and basic skills levels of adults by coordinating, integrating, and investing in adult and family literacy programs at the Federal, State, and local level. Our proposal seeks to:

Improve the availability of quality research on literacy problems.

Improve the actual quality and delivery of programs by involving all those who have knowledge and know-how about good literacy programs and about the real needs of real people who need to become literate, usually at a point that is late in life. The groups we are talking about include: the school system, community-based organizations, volunteers, business and industry, and many others.

What I think this legislation avoids is the quick fix. What we are seeking to put in place is a system that will support a long-term commitment to what will be an arduous process of upgrading the basic literacy skills of all Americans.

The literacy programs we have now, both public and private, reach only a small portion of the population in need. Current programs are underfunded, and over subscribed. They are almost never coordinated with similar programs which means they often have a marginal and isolated impact, which effectively denies that person access to a coherent, integrated system that will help give them a new or upgraded skill that leads to meaningful employment. These programs are in desperate need of well trained teachers and the kind of technology that can mean the difference between years and months of training.

As we all know, the President and the Governors have declared it to be national policy that every American will be literate by the year 2000. The Literacy for All Americans Act seeks to accomplish that goal in four ways:

First, assistance to States in building their capacity to assist large numbers of adults and families;

Second, quality teacher training and instructional technologies which in-

crease the number of students served and learning gains achieved;

Third, the development of large-scale public-private partnerships to provide programs in the workplace—most illiterate adults have jobs, the workplace is where we need to reach them; and

Fourth, easier access to information about what programs are actually out there and how they can be applied to communities with vastly different needs.

Mr. Speaker, as we move toward a conference with the Senate—and as my colleagues may know, Senator SIMON's literacy proposal passed the Senate by a vote of 99 to 0—we expect to make refinements in the bill. But even as the bill stands today, it does what a Federal legislative proposal should—it provides leadership at the Federal level, it provides incentives for the States to become the focus of change and improvement, and it makes the overall system, including access to funding, more open and equitable.

We are concerned about the work force of the year 2,000, but even if the work we do between now and then is perfect in the quality of its reforms, it is clear that 80 percent of that work force by the year 2,000 is working today, and some 30 million of those Americans cannot read, cannot write or calculate at a sufficient level to be fully productive in our society. That is half the entire population of West Germany. If we can add that 30 million people to our work force with new skills and literacy levels to help our economy over the course of this decade, I would suspect that we are going to give any Nation in the world a run for their money.

We are no longer living in the same Nation we were a century ago, or even 25 years or so ago when I graduated from high school, when anybody in my class could get a job and keep it for a lifetime if they had a strong back and a decent pair of hands and a good attitude. Today we expect more of many entry level jobs than we asked of many college graduates a generation ago. We have to move forward and we will be unable to do that if we fail to reach those that our current system has failed who are in the work place today.

Mr. Speaker, I would again like to express my very profound gratitude to our chairman and to the ranking minority member, the gentleman from Pennsylvania [Mr. GOODLING] for their counsel and collaboration and for their personal efforts in working so hard on this proposal.

I would urge my colleagues on both sides to vote to approve H.R. 5115.

□ 1310

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Missouri [Mr. COLEMAN], vice chairman of the Subcommittee on Postsecondary Education.

Mr. COLEMAN of Missouri. Mr. Chairman, I rise in support of the bill H.R. 5115, the Equity and Excellence in Education Act of 1990. This legislation has broad bipartisan support on the Committee on Education and Labor. It is compromise legislation which embodies the administration's education goals and program priorities. Though a consensus bill, H.R. 5115 is a product of the determination and leadership of Congressman BILL GOODLING, ranking member of the Committee on Education and Labor. Were it not for his leadership, we would not have before us, today, legislation which makes a meaningful beginning to the revitalization of our schools and academic achievement of all young Americans. I want to also commend the leadership of Chairman HAWKINS and the efforts of my friend Congressman BILL FORD to bring about this consensus bill.

This legislation acknowledges the critical role education will play in preparing this Nation for the challenges of the 21st century. Today, we live in an increasingly competitive and economically interdependent world. We cannot face the challenges of this world unless we have a work force capable of responding adequately to technological innovation and the increased use of advanced technology in our production and servicing industries. Today, far too many students fail to complete a basic high school education with the literacy skills necessary to function adequately in the workplace. Too many drop out, and those who finish high school to often lack the necessary academic skills for productive careers in an economy which is increasingly technology-driven.

These are the students who will be left behind in the world of the future.

The phrase "a nation at risk" is no more appropriately used than to describe the current state of mathematics and science education. I strongly support title IV of the bill which makes mathematics and science study a priority, for these are the areas which are critical to technological innovation and our economic competitiveness.

Currently, American students score lowest in mathematics and science achievement tests given to American, European, and Asian students from 18 industrialized nations. Our Nation is facing a crisis in the way we educate in critical academic disciplines which are fundamental for training our future scientists, engineers, and mathematicians. By creating a National Science Scholars Program, this legislation begins to respond to our failure to prepare young Americans to assume the scientific leadership of the next century.

I also strongly support the provisions of this act which increase the participation of low income and first generation college students in postsecondary education, and expand assistance to middle-income families. I authorized legislation which is included in H.R. 5115. This provision, now title VIII of the bill, removes the value of a family's principal residence and family-farm assets from the calculation of the "expected family contribution" in determining a student's eligibility for Federal financial assistance. Middle-income taxpayers, who bear the financial burden of supporting Federal student aid programs, should legitimately benefit from these programs.

During committee consideration of H.R. 5115, I further broadened middle-income student access to grants and campus-based aid programs by an amendment which removed a $40,000 income cap on assets, which I believed to be an unrealistic ceiling. Given the skyrocketing increases in college costs, the 4-year cost of a college education has begun to exceed even the original purchase price of many middle income family homes.

I hope that eventually the conferees will support the House position, and I intend to further broaden access by middle-income students to federally subsidized Stafford student loans during reauthorization of the Higher Education Act in 1991.

I urge my colleagues to support H.R. 5115. A consensus bill, it takes important steps along the road of educational reform, particularly in the areas of student achievement, teacher recruitment, the education of more American students in the critical areas of mathematics and science.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I would like to engage in a colloquy with you to clarify the relationship between title VII, the professional development academies authorized under this legislation and the Leadership in Educational Administration Development Act—Public Law 98-558—[LEAD] centers currently functioning in each State.

Am I correct in understanding that the services provided by the professional development academies may also serve school principals and other school administrators?

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I am happy to yield to the gentleman from California.

Mr. HAWKINS. Yes, the gentleman is correct.

Mr. KILDEE. Am I also correct in assuming that the districts receiving

funds under the professional development academy title may contract with their States' lead center for the purpose of providing professional development opportunities and skills training to principals and other school administrators?

Mr. HAWKINS. Yes, the gentleman is correct. A State lead center is eligible under section 741, subpart 3 as a subcontractor to provide training and profesional development to school principals and other school administrators if they are selected to do so by the contractor.

Mr. KILDEE. Mr. Chairman, I want to thank the gentleman from California for clarifying this important point.

Mr. GOODLING. Mr. Chairman, I yield 7 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], a distinguished member of the committee.

Mr. GUNDERSON. Mr. Chairman and Members, let me join with the others in commending our distinguished chairman of the full committee and our distinguished ranking member for bringing this legislation before us.

The Equity and Excellence in Education Act of 1990 presents a great start, and it presents a real opportunity for us as a Congress and us as a Nation to respond to the educational challenges that face us in the decade ahead as we prepare for the 21st century.

It has been said that our children are our greatest and our scarcest resource, and I think that becomes more true in this knowledge-based, technology-information-hi-tech-global society than it ever has been in the past.

We have all heard all the discussions about are we competitive with other countries, is our education system really 20th in terms of its quality compared with other countries, et cetera. I am not here to talk about those statistics here today, because I think that President Bush has changed the tone, and I think this bill follows that change in tone. Let us not beat up on America's education system. Let us build up America's education system. That is what this legislation does for you.

□ 1430

This includes really three different key parts. It includes the President's education excellence package. It includes a comprehensive literacy package, mainly by our colleague on the committee, the gentleman from Ohio [Mr. SAWYER], and it includes a comprehensive teacher training package to recognize that if children are our scarcest resource, let us make sure we have the absolute best and brightest in the classroom teaching them and educating our children. Those three elements I do believe are a good beginning.

Mr. Chairman, let me focus just for a second on the President. I think the President's initiative, while not dramatic, while not bold, while not large in spending or substantive in its reform, is the first time I can recall that a President has personally as he traveled the country talked to his staff and said, you know, let us see if we cannot do something about that.

He saw some good schools that were being penalized by losing Federal funds. He said that ought not to happen. Let us come up with a merit school program that rewards the successful programs.

He went into the small towns and saw schools and talked to administrators where they were not able to get the best computer, the best education teacher, the best agricultural teacher into the classroom. He said let us find a way to get the best minds of this community into the classroom, and his alternative certification talks about that.

He looked at our desires in trying to compete with Japan and Germany and others in the areas of math and science and he said, I remember the old National Merit Science Scholarship Program. Let us see if we cannot rekindle that kind of a concept to work into the area of providing incentives.

Similarly, with teacher awards and his commitment to the historically black colleges and universities in this country.

Mr. Chairman, the literacy program has been dealt with at length by the gentleman from Ohio [Mr. SAWYER] and is certainly something I support. I think it is absolutely essential as you look at the needs in our society over the next 10 years. Teacher training has been dealt with as well.

Mr. Chairman, I would like to focus just for a second on some of the amendment, because I am hopeful as the rule provides for either the gentleman from Pennsylvania [Mr. GOODLING] or I to offer a substitute amendment during the deliberations, I am hopeful that that amendment is not offered. I think the negotiations are ongoing at the present time, and hopefully enough progress is being made so we can all agree on a bipartisan basis to go forward.

In the process of those negotiations, I want to share with the Members a couple of things I believe will really send a signal of dramatic substantive reform.

First and foremost is the issue of flexibility or decentralization as authored by the gentleman from Vermont [Mr. SMITH], a dramatic but important proposal that says allow a school district, if they so choose, if working with State and Federal authorities, to design a different program that they believe will work better, as long as the academic performance is better, to have the ability to do that. To put some confidence in one of these 16,000 school districts in this country.

A similar provision is being offered by the gentleman from Georgia [Mr. GINGRICH], noted as the Prison Education Program, which was brought to our attention by none other than John Chancellor of NBC News when he talked about the fact that unfortunately in this country it seems we have much more of a reading, writing, and prison concept, than a reading, writing, and arithmetic.

Perhaps we in America could learn from Japan and other nations that suggest before you can even be considered for early parole, for early-out for good behavior or any of those types of issues, that it must be understood that you will have to obtain a basic level of eighth grade literacy, which is considered the adult level of literacy in our society today.

Now, many States today have adult literacy programs in their prisons, but there is no force. There is no compelling need to make those prisoners attend those literacy courses.

Anyone who has seen the statistics, I believe it is something like 60 percent of the people who are convicted and sentenced to prison happen to read at less than the eighth grade level. Let us empower them to come and succeed in America's traditional society, not America's criminal society in the future.

The third area, the area I understand is the greatest difficulty, is the area of the gentleman from Texas [Mr. BARTLETT] and the area of choice. I would hope that somehow we might find a middle ground on this issue, where we indeed can go forth and provide different options for different reforms. Because whether you are talking of Frank Newman, who has written an article, or you are talking of Mr. Albert Shanker, who has written numerous articles, just last week speaking to this convention on incentives for reform, I think it is important to summarize all of this in a sentence by Frank Newman where he says, "It is not that schools have failed in the United States. It is that circumstances have changed."

Mr. Chairman, I include both articles for the RECORD.

CHANGING THE SYSTEM OF SCHOOLING SO THAT THE SCHOOL OF THE FUTURE HAS A CHANCE

(By Frank Newman)

As the United States looks ahead to the schools of the future, we will need to come to grips with an important issue. We must change the system of schooling so that the school of the future has a chance. We are headed into a major period of school reform quite different from the one we have just been through. In this new period, the focus will be on the restructuring or redesign of schools, the changing of schools so that they become effective, exciting centers of learning, turning out a far better educated graduate capable of participating in a far more complex world. As this new trend has emerged, almost all of the attention, so far,

has been focused on changing the climate of learning within the school itself. This is important, the essential starting point, but changing the school alone will not do the task.

As the school reform process has proceeded during the 1980s, it has become more and more evident that schools are too bureaucratic, too much like a factory. Too often, they fail to encourage students in the art of learning, and fail to give them the sense of the joy that comes from active participation in the learning process. Why is this the case? In part it is because it is easier to stand in front of a group of students and lecture at them rather than to engage them in a well constructed give-and-take. For one thing, lecturing is far less threatening to the teacher.

Similarly, for the principal, it is easier to manage a school than to lead it, easier for the principal to tell the teachers what to do, to insist on following the rules and the lesson plans. It is far more threatening to engage the teachers in a serious discussion about how to apply the latest research and new experimental ideas that are being developed around the country. So that perspective is transferred on to the district level and to the state, where it becomes easier to mandate than to create new policies that effectively empower schools and principals to encourage more effective and active learning.

It is not that schools have failed in the United States, it is that circumstances have changed. First of all, the definition of what it means to be an educated person is becoming much more complex. In part this is because we now need every American citizen to have a much deeper knowledge base. As the National Assessment for Education Progress shows, this is particularly so in the fields of science and math, though significantly so in other fields. But the demand is for much more than an increased knowledge base—we need students who become citizens with the capacity to think creatively, who understand the international nature of the world, and who are prepared to contribute to its progress.

The second part of the mismatch is that a growing number of students come to school without the family and community support that is so essential to self-confidence and to the belief in one's own future that is the bedrock upon which effective learning takes place. School cannot and should not replace the family in such circumstances. It can, however, as plenty of evidence shows, have a powerful impact by supplementing the family and helping students gain these capacities.

And, finally, there is a shift, which is affecting the entire world, from an emphasis on control to empowerment. In the United States we saw it first within industry. When industry itself began to restructure, what it meant by the term was the empowerment of the individual. Of course, American industry is not alone in this. Whole countries such as China, Russia, Poland and Hungary are moving from an emphasis on hierarchy and control to an emphasis on empowerment and contribution. We now know that the complexities of the world within which we are already living, let alone the world as it will be in 10 or 50 years, plus the intensity of the international competition we face, require of us more than just a hierarchal approach. We must prepare our graduates for this world of empowerment, participation, and involvement.

The tendency when we discuss these changes is to focus on changing the operating mode of the school. In itself this is a difficult task. What has been proven is that with enough energy and leadership a school can be turned around and transformed. There are examples, literally hundreds of them, of such schools around the country, usually brought to a new and more effective status by an imaginative and courageous principal. There are also many more organized attempts, particularly the Coalition of Essential Schools, and now increasingly in efforts by states such as the Re: Learning Project of the Education Commission of the States, and in cities such as Miami, Pittsburgh, Rochester and San Diego.

The problem, as these cases often demonstrate, is that over time these enormously beneficial changes within the school tend to erode under the pressure of an unchanged school system. The principal and the teachers in the innovative schools are often seen as mavericks. Regulations impede their ability to try new approaches. The bureaucracy gradually overwhelms their capacity to innovate. Sometimes it is something as simple as a thoughtless transfer of a principal and the bringing in of a new principal without any commitment to hard won gains. In other cases it is actual overt hostility on the part of the bureaucracy.

There is a second condition that requires a system that creates a climate of incentive for change. We need not one round of change but endless rounds of changes. If we could restructure every school in the United States today, in 10 years these changes would be inadequate because of continuing change in the world. Society within the United States becomes ever more complex. Other countries with whom we compete are struggling to improve their schools as well. What we need, therefore, is a system that is dynamic, and that encourages and rewards continual and self-renewing change.

How can we bring about such a system? First, it is important that we always begin by focusing on the question of student learning. We need to create a climate within the schools, and then within the school system, that encourages students—all students—to use their minds continuously. Students must be challenged to learn not only what the answer is, but what is the nature of the problem. They must learn how to construct the knowledge they need from an increasing array of resources, not just memorize a textbook. In Ted Sizer's words, "The student must become the worker; the teacher must become the coach." Students must learn how to work together, for the world which they will enter upon graduation is made up of people working together. This means an open and honest give-and-take with each other and with the teacher.

For this to occur, the system must adopt a series of basic premises. Here are a few:

The focus must always be on student learning. Every issue and every policy must be examined to see that it contributes to student learning.

Involvement of people at every level must be encouraged. School and district leaders must be involved in state policy making, principals must be encouraged to become involved in district policy, teachers must be encouraged to be actively involved in school policy, students must be encouraged to be involved in the classroom.

There must be a shared vision—a clearly understood set of goals must be created with the involvement of as many people as possible, including parents and community leaders.

There must be high expectations. A large and growing body of evidence supports the concept that students will largely achieve as much as we expect of them.

There must be support of risk-taking. If attempts to create new ideas and creative approaches are met with hostility, or if every attempt at innovation that does not turn out perfectly is met with a rebuke, who will attempt to be creative?

There must be recognition of the fact that no two schools will be alike, no two teachers will teach the same way, but that basic principles do apply.

In addition to adopting such basic attitudes, school systems need to reconsider what kinds of policies will help encourage change and keep successful innovations in place. Policy can do much to stifle creativity and excellence, or it can do much to encourage it. Here are a few of the policies that have been suggested so far:

There should be access to information of all kinds, how well students in each school are doing, how well the school district is doing.

Modes of testing and assessment need to be reviewed. Over time students learn what the tests ask. If tests trivialize student learning, over time one will get limited modes of rote learning as a result.

Rules and regulations that interfere with, rather than aid, responsibility at the school level need to be reduced.

De-layering—the reduction of the layers of the bureaucracy in the total school system—needs to be accomplished just as much in the school as it has been in business and industry.

Schools are far more effective as learning centers when they are smaller in size. There is considerable debate about what is the right size. Schools must be smaller for at-risk students, who need much more personal attention, than for students who are more self-confident. But an upper limit of 500 has proven to be effective in many settings.

Parental choice of schools, used properly, can encourage creativity on the part of school leadership as well as parental involvement that translates into greater learning.

Alternative forms of certification can provide new pathways for effective people to enter the teaching force.

Incentive funds in small amounts can be given by a state or a school district to encourage innovation. Several states have created programs of competitive grants that encourage school districts or schools within districts to develop new approaches to learning.

Retraining of teachers and principals is essential.

Teacher education must be changed. Traditionally, college graduates have performed in the role of change agents, bringing to industry or to government new ideas and new willingness to employ such ideas. But the schools of education are far behind the schools at the moment, particularly as these new ideas are beginning to take shape. The pressure on higher education must continue to build until sooner or later teacher education moves into new modes more suitable for the current times, and universities become linked in effective collaboration with schools.

No one of these policies alone will turn around any school district. But these and others, taken together, can make a major change. It is inevitable that other things will be added to the list as reform proceeds.

The school reform process in the United States is a heartening one, but it is entering a new and more complex phase. States and

the private sector, both sensing the urgency of better schooling, want to help. But to capitalize on this golden opportunity, schools and school systems must open themselves to new ideas and new influences. To reform a school district or state schooling system is much more difficult than to reform a school. But if the school of the future is going to produce an effective citizen for the next century, then the school system of the future will have to become a different animal than it is today.

INCENTIVES FOR REFORM

(By Albert Shanker)

Where will American public education be in the 1990s? I'd like to be able to predict schools where the dropout rate has fallen into the single digits and every student is successful. But some days I wonder if our schools will survive the coming decade. The school reform movement has not succeeded in making the basic changes the schools need. And the projected shortage of teachers that will overtake us a few years into the 90s is likely to make change even more difficult. In the meantime, some critics are calling for measures that could bring public education to an end.

Americans have had plenty of indications that their education system is in trouble. From "A Nation At Risk" and the National Assessment of Educational Progress (NAEP) to the tests showing how badly most of our students compare with students from other countries, we've heard all about the deficiencies in our schools, our teachers and our students. And we've seen many changes in response to these criticisms during the past six years—most of them the result of sweeping mandates from governors' offices, state legislatures or state education commissioners. Teacher merit-pay and career-ladder plans have come and, in some cases, gone. Entry-level teacher testing is now the norm. High-school graduation requirements are generally stiffer than they were in prereform days, and many jurisdictions require competency tests for promotion and graduation. In some places, even athletes and cheerleaders have been benched for low grades. But if you look at the way students and teachers spend their days, it's clear that these reforms haven't changed the fundamental assumptions or structure of our schools. They haven't fixed the problem.

American automobile companies have found themselves in trouble, too. Their response has been to look at their methods of production and try to change them. They've looked at the way cars are produced in other countries, especially Japan. They are experimenting with production teams, and asking workers what they think would improve the process. But schools still run like assembly-line factories.

Every child in a given community still starts school by virtue of having passed a certain birthday. Children arrive together on the same day at the beginning of school and leave on the same day at the end. They still are organized into large classes where, at the elementary level, they spend most of the day listening to a teacher who must push or pull them through the various lessons so they can all get more or less to the same point at the end of the year. At the secondary level, students still are passed as a group from classroom to classroom, teacher to teacher and subject to subject about every 40 to 50 minutes. Instruction still is organized by curriculum, and curriculum is organized into units to be "covered" and tested by a certain time. We live in a technologically sophisticated society, but "chalk and talk" still is the main technology of schooling from K through 12. We give lip service to the idea that individuals learn in different ways and at different rates, but, in fact, everyone still is expected to learn in the same way—by listening to the teacher talk, by reading books and by reciting and answering questions—and learn at the same rate in order to be considered "normal."

In other words, most schools still act as though education is something done to a child—poured in or glued on—rather than something the child, with the help of the school, makes happen.

Of course there are exceptional schools and school districts, places where teachers and administrators are trying to make basic changes in the way they educate kids, but they are only a handful. Most schools in the 16,000 school districts in the United States are remarkably similar—and unchanged from what they were 50 or 75 years ago, when the grandparents and great-grandparents of our current first graders might have been in first grade. While waving the banner of reform, reformers have just tinkered with the existing system; they have fine-tuned it, but its structure is unchanged.

What's the problem? There's no end of talk about the economic costs of poorly educated workers and the social costs of an underclass of high school dropouts. And no end of talk about restructuring our schools. I've contributed to it myself. Sometimes I feel a little bit like the preacher who goes around telling everyone to stop sinning. During the talk, if it's a good one, people are inspired—they're ready to change—but when the preacher returns next week, they're already back to their old habits.

There are many reasons for resisting the kind of change real school reform would involve. In fact, there are more reasons for not changing than for going ahead and doing it. And everybody involved with the public schools—and that means nearly everybody in our society—is part of the resistance: the public, parents, school board members, administrators, teachers. (The kids might resist, too, if anybody asked them.)

It's hard for some people to get far enough away from an institution like the public schools even to see the need for basic change. The schools—run as they are now—have been part of most people's lives since they were in kindergarten or the first grade. The way they run seems as obvious as the sun, moon and weather, and that makes thinking about change a big order. Some people are complacent—it's the other school districts that are in trouble; the problem is over there. Some people—people in poor areas—can't think about change because what they are thinking about is just surviving. Some people are afraid that change will hurt them—they could lose their job titles or their jobs. Some are just afraid.

But despite the general resistance to change, there are people who have begun to alter radically the way they run their schools. There are good ideas out there and places where people are trying to make them work—but only a handful. No wonder; good ideas aren't enough to make a difference. You have to be a hero to work for change when few people will support your efforts and many will actively resist them. And most people are not heroes. Most people look at all the work that goes into restructuring a school and say, "That's not for me—it's too hard." Yet if we don't get everyone to participate, we'll remain stuck. The good ideas will disappear as the heroes burn out.

The answer? I think we can motivate all the people in our schools to rethink and redesign how we educate kids if we offer the right kinds of incentives. Incentives fuel our economy, and as businesses understand very well, they can move large and disparate groups of people to work for a common goal. Incentives can create a critical mass, and that's exactly what we need to reform the public schools.

Before we start on this project, though, we need to recognize that our schools currently operate like command economies. The incentives, where they exist at all, are lined up the wrong way. A school doesn't get fewer resources because it's doing a bad job or more because it's doing a good one. If a school has many unsuccessful students, it might even get additional money for more of the same kinds of programs and more people to administer them. In other words, we might actually encourage teachers and administrators to go on doing things in ways that don't work. For students the problem is a little different—instead of incentives leading in wrong directions, we offer students virtually no incentives to succeed in school. So how can we apply the principle of bringing about change through incentives to schools?

We can begin by restoring incentives for students. We all tell students to work hard and get good grades because that will be important when they get out of school. But, except for kids who are applying to highly selective colleges, success in high school doesn't make much difference. Any high school graduate will be able to find a college willing to admit him; if he knows how to look, he'll probably find several. Money, not achievement, is the only barrier.

Success in high school is even less important for students going right into the work force. Few employers ask what course students have taken or what grades they've gotten. And they don't ask teachers for references, either. There is no connection between working hard or doing well and getting a better job or a better salary. So why should students listen to parents and teachers who urge them to exert themselves? Why should they do more than put in time?

Businesses that understand the value of incentives when it comes to their employees, and they need to put this understanding to work when they hire new graduates. The Japanese could help us here; they have a system linking high schools and companies that regularly employ more new graduates. This system helped them pull their schools out of a mess comparable to the one we're in. We should redesign it to suit our needs and try it.

And what about encouraging school restructuring by setting up competition among schools? I'm not talking about the kind of competition where winners get framed certificates and copies of news releases to send to local newspapers. Nothing wrong with that, though I don't see it as an instrument of change. But competition can encourage people to undertake real reform by lining up incentives in the right way and rewarding people—teachers and administrators—who succeed.

Many companies offer cash awards to employees or groups of employees who meet specified challenges or goals. They say this does great things for production and consider it money well spent. And modern companies often make the competitions team efforts because they realize they get better results by encouraging people to cooperate than by pitting people against each other.

What if the government offered cash awards to schools or school districts that reformed themselves and gave proof of progress and change over a given period of time—say, five years? The sum of money is important; it will have to be large enough to be worth working for—perhaps $15,000 for every staff member in a school or school district.

For this scheme to work, participating schools must be free to try new things. This means school districts and unions will have to waive various rules and constraints that might keep them from considering any and all promising possibilities for change—except of course for rules dealing with health, safety and civil rights. And it means that school boards will have to give each participating school control over its budget.

The five-year time period is important, too. A year or two wouldn't give people enough time to experiment with new ways of reaching the agreed-on goal. If you take a wrong turn during the first year of a two-year project, that's it—you're not going to recover. So most people would just play it safe and do some simple thing. And we know from experience that adjusting or fine-tuning the system we have won't do the job. Give people a little more time and you have a chance of their coming up with something new and refining it so it works.

The terms of the competition and the methods of assessing the competitors would be the hardest of all. Some people I've mentioned this idea to have said, "That's a great way of rewarding schools that are already on top." But of course there would be no point to setting up this kind of competition unless we could figure out some way to create a level playing field so an inner city school where people aren't used to success can have as good a chance of winning as a school whose students usually come out on top.

The assessments would have to be something much better than the current crop of standardized tests. It's important to assess student success in a variety of ways, so we'd want to consider some of the promising new developments in assessment—student portfolios, for example. In the short run, we might look at NAEP to see if it could be adapted to this purpose. People are doing some interesting things in assessment, and this would give us the opportunity—the incentive, I should say—to examine them.

As for the money to carry out this project, President Bush has already proposed merit schools legislation that would allocate $500 million a year for awards to outstanding schools. Say that money was invested every year for five years—the term of the competition I'm proposing—and say every school district in the country entered the competition. At the end of five years, we'd have enough money to make a substantial award to 10 percent of the competing schools—the $15,000 per staff member I mentioned earlier. And if only half the schools in the country entered the competition, we'd have twice as much.

Would this work? I don't know, but we see the power of competition all the time—and not just in the business world. Schools with team sports and academic and artisitc competitions of various kinds have plenty of experience with how competition encourages everybody's best efforts. And it strikes me as a good way to overcome the built-in resistance to change in our schools. Now, even if the school board and the superintendent and the principal and 75 percent of the teachers in a school favor change—and those are very favorable circumstances—we still have 25 percent who don't go for it. And the majority will probably be hesitant about pushing something on them they don't want. But give all these people with their divergent points of view common cause, something concrete to work toward, and you might see then pulling together. That's the story of competitive sports—and war efforts—and I don't see why, with imagination and care, we can't frame a plan that would give our schools real incentives to reform themselves, to bring about the changes that seem so far to elude us.

If it doesn't work, some schools would carry on with the restructuring they are doing now. The successful ones might shed enough light to encourage other efforts. Public school choice might make changes in the landscape—some for the better, some for the worse. But I don't see a force or an idea that will unite 16,000 school districts to make the effort that's essential.

We've been running our schools as command economies for so long that the notion of using incentives to drive schools to change and students to achieve may strike some people as too radical—even though that's the way we do it in every other sector of our society. But things are radically wrong with the current system, and the choice is clear: We can continue with a proven method of failure—schools as command economies—or we can try a system of incentives that is new to education but has been successful everywhere else in our society.

Fear certainly hasn't accomplished anything. The news couldn't be worse. We are getting closer and closer to vouchers. Closer to schools run from state departments of education. Closer to businesses coming up with our answers for us. Yet people continue to act as if the public education system, run as we run it now, will go on forever. With the results we're getting now, I wouldn't count on that.

Mr. Chairman, first of all, the definition of what it means to be an education person has become much more complex in today's society. We have that chance in this bill to put together the foundation for bipartisan excellence, bipartisan equity, and real reform in education, with a commitment to our public education system. I hope we can succeed.

Mr. HAWKINS. Mr. Chairman, I yield 4 minutes to the distinguished ranking member of the committee, the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I would like to say at the outset that this bill, the Equity and Excellence in Education Act, represents the product of bipartisan effort on our committee to meet the initiatives and fulfill the wishes of the President in legislation that he caused to be introduced by the ranking Republican on the committee. It was not easy at the beginning, but following a long tradition of Democrats and Republicans working together on the committee, we were able to fashion the package that comes here today.

Mr. Chairman, I would just like to echo the wishes of others who have already spoken in saying that I hope people will understand that this represents not what any member believed to be the perfect version of this bill, but what we believe to be one that meets the principal interest of numerous competing political philosophies on our committee.

Mr. Chairman, I think that the credit for bringing the bill that started off as rapidly as this one did in the committee to the floor as a bipartisan package goes to the fine leadership that the gentleman from California [Mr. HAWKINS] gives our committee today, and has always given it as the chairman, and before that as the ranking member.

Mr. Chairman, I would like to just add one thing to what we are saying today, to talk about the necessity for initiatives such as this legislation proposes. Back in 1985 when we were reauthorizing higher education the last time in the House, we became concerned, the gentleman from Missouri [Mr. COLEMAN] and I, with the fact that we heard a lot of people using generalizations about students and student populations, and particularly families, that reflected more of their own individual experience than any broad knowledge of what really exists in this country.

That year I asked the census people to tell me what the children that would be coming through the system that they were trying to anticipate educational needs of were going to look like. So each year since then I have had a census update, a profile of the children who start school in the fall over this country in the American public schools. I would like to share that with Members and for the record.

Last fall when school opened across the United States and these little children showed up for the first time, 23 percent of them arrived at school from families living in poverty. One out of four. Twelve percent of them were children of teenage mothers; 11 percent of them came to school with a physical or mental handicap; 15 percent, an extraordinarily high figure from modern America, were emigrants speaking a language other than English. These were not children of emigrants, but emigrants themselves. Twenty-six percent were children living with only one parent.

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Following the patterns, the census people tell us that 40 percent will be living with a single parent before they reach age 18; 12 percent who came to school had what the Census Department referred to as poorly educated parents. That means a family identified with neither a father nor a mother who had completed high school.

We know from experience and what has been going on, what we can tell from these characteristics, that 25 per-

cent of these children will not graduate from high school. We know what each of these characteristics represents. We do not know as to individual students or individual areas, but as to national figures we know what kinds of problems they present for us to meet in the future, and what these numbers have been telling me for some several years is that the central part of the conclusions in "A Nation at Risk" were correct when they said that what we are doing is not adequate today and it is not certainly adequate for our future. If we look at the children who are now in school and what their characteristics tell us about the special problems that we are going to have to deal with, we realize that we have to do things dramatically different than we have done them in the past or we will have no chance at all of reaching any of the goals that the President and Governors set forth for us.

I urge the adoption of this legislation.

Mr. Chairman, I rise today in support of H.R. 5115, the Equity and Excellence in Education Act. This legislation is the first step in helping our President fulfill his commitment to become "the Education President."

This legislation includes provisions from the education initiatives that the President proposed in his first State of the Union address. These include:

Presidential Schools of Distinction, which are awards to chapter 1 schools who have shown improvement in student achievement,

National Science Scholars, which are academic scholarships to students for the study of mathematics, science, and engineering,

Presidental Awards for Excellence in Education to reward outstanding teachers,

Nontraditional routes to teacher licensure to assist States in developing programs that help midcareer professionals who wish to enter the teaching profession, and

Assistance for historically black colleages and universities to help them build up their endowments.

This legislation also recognizes the six National Education Goals which were established by the President and the Governors, and which the President outlined in his second State of the Union address. H.R. 5115 sets forth the first steps the Federal Government should take, in partnership with State and local governments, to accomplish these goals. By adopting these policies, the Federal Government will be making a commitment to expand important education and child service programs like Head Start, WIC, chapter 1, and Pell grants to ensure that all who need these services can receive them.

The Committee on Education and Labor also included two extra goals which the President and the Governors overlooked. Congress will declare it the goal of the United States to have a well-qualified teacher in every classroom, for without the best teachers we cannot accomplish the other six goals. Also it has always been the policy of U.S. education to strive to educate all children to their fullest potential. Therefore this legislation will establish an eighth goal ensuring that qualified students are not denied the opportunity for postsecondary education because of financial or other barriers.

H.R. 5115 also includes expansions of Federal efforts in two major areas of education—teacher recruitment and retention and literacy. Teacher shortages are growing in many areas of this Nation. The number of teachers in the classroom with only emergency certification credentials is also expanding. We must ensure that the best and brightest not only enter the teaching profession, but remain in our classrooms working with our students. H.R. 5115 includes provisions from Chairman HAWKINS' bill, H.R. 4130, to encourage college students to enter the teaching profession and to enhance the skills of current teachers.

Our Nation also faces an almost overwhelming illiteracy problem, with about 30 million adults who have serious literacy deficiences, both in language and mathematics skills. In an era when our economy and our industry had fierce competition from throughout the world, these are 30 million examples of our greatest natural resource that we cannot afford to waste. The bill before us incorporates provisions from H.R. 3123, introduced by my friend from Ohio, TOM SAWYER. These provisions will help us coordinate our efforts on the Federal, State, and local levels in order to achieve the goal that "by the year 2000, every American will be literate and will posses the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship."

I would like to thank my chairman, GUS HAWKINS, for his leadership in getting this bill to the House floor today. This has been one of the most political bills the Education and Labor Committee has faced recently, causing a major split on the comittee earlier this year. The efforts of Chairman HAWKINS and by good friend from Pennsylvania, Mr. GOODLING, ensured that this split was temporary and that the Education and Labor Committee could continue in its tradition of bipartisan education iniatives. I am hopeful that in his third State of the Union address, our President can cite his signature on H.R. 5115 as a sign of his commitment to become the Education President and to make the 1990's the Education Decade.

Mr. GOODLING. Mr. Chairman, while the gentleman from Michigan, [Mr. FORD] is here, I certainly want to thank him for his efforts to help us bring about a bipartisan piece of legislation that will do the job that needs to be done.

Mr. Chairman, I yield 7 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the bill, H.R. 5115, as it currently stands and hope that at some point during the course of the debate and the negotiations and work as we bring it to the floor that those of a like mind would be able to bring a truly bipartisan education bill to the House floor. As I speak with the ranking Republican, the gentleman from Pennsylvania [Mr. GOODLING], there is some indication that there is some possibility of that, but as of yet it is still not here.

I want to note that I plan to offer an amendment which has been made in order that I will be offering with the gentleman from Ohio, Mr. DENNIS ECKART, that is based in part on legislation that he and I and two dozen colleagues from both sides of the aisle have introduced earlier in the year entitled the Open Enrollment Education Act. We will be offering this as an amendment to the main bill, as an additional provision to put the Federal Government in the forefront of reform in education in this country, and have the Federal Government at least be a helpmate to the State and local governments in terms of parental choice and parental involvement.

I want to make several specific notations about what will be in the Bartlett-Eckart amendment and what will not be in it. I would urge Members to vote for the amendment based on what it is, based on what it does and based on the fact that there is almost, although not quite universal agreement that this type of parental involvement, and some sort of Federal leadership, but no mandate, will help children in education.

First, what is it? Mr. Chairman, it is bipartisan. This legislation has as much support on the Democrat side of the aisle as on the Republican side of the aisle. I would note that a dear colleague letter went out today, cosigned by four Democrats from various parts of the country, including the gentleman from Ohio [Mr. ECKART], the gentleman from North Carolina [Mr. MARTIN LANCASTER] the gentleman from Illinois [Mr. LIPINSKI], and the gentleman from Ohio [Mr. THOMAS A. LUKEN]. I would note that this legislation and this type of amendment has been endorsed by both liberal think tanks, columnists as well as conservatives. It is not limited to any one philosophy or any one group.

Essentially it would permit school districts and States to adopt in a more attainable fashion a parental choice plan or open enrollment plan of their own choosing, but in no way would this amendment require as a condition of Federal funding that anyone adopt any type of management style or of curriculum.

So what does the Bartlett-Eckart amendment do specifically? First, it would remove those specific barriers in Federal law that currently have the Federal Government preventing local school districts from adopting their own parental choice plans. That is most apparent in the allocation of chapter 1.

What this amendment would do is it would say that chapter 1 Federal funding is designed to help students

who are disadvantaged, and so chapter 1 money would follow the students regardless of the organizational plan that the school district chooses.

Second, it would establish a program of demonstration grants and of research to help State and school districts who choose to organize or to attempt or to research or who choose to develop their own open enrollment or parental choice plan. It would adopt a series of demonstration grants that these school districts or States may apply for if they voluntarily choose, and then may use this partial Federal funding to create their own plan. Thus a State or local school district could use this Federal impetus and Federal research dollars to develop their own organizational system without any strings attached from the Federal Government other than the basic law in terms of civil rights and other things.

No school district would be required to adopt any model. No school district would be required to apply for any funding. It would simply permit those States and school districts the use of these desegregation and demonstration grants to use them.

Third, it would include as funding priorities, priorities for disadvantaged and minority students and rural students with strong desegregation requirements. Under no circumstances would any of these moneys or, indeed do any of the current open enrollment and parental choice progams that are now making their way around the country, under no circumstances would they be permitted to have any involvement in any type of resegregation. In fact, they would each be required to have very strong desegregation plans.

Now what does the Bartlett-Eckart amendment not do? It does not require open enrollment or parental choice. What it does not do, and it is important that every Member understand this as we go to the vote, it does not require any State or school district to even consider, much less adopt any kind of new organizational or management style. It does not create a Federal voucher program or authorize tuition tax credits, and it does not foster nor indeed encourage even enrollment in private schools. In fact, in Massachusetts, in Boston and in Cambridge where this has been tried, there has been a decrease in the use of private schools and a increase in transfer back from private schools to public schools.

Eight States have already adopted various types of specific open enrollment. The President, the National Governors' Association and many education and business and public involvement organizations have adopted these kinds of proposals.

Four organizations so far have endorsed specifically the Bartlett-Eckart amendment. Dr. Charles Glenn, director of the Office of Educational Equity for the State of Massachusetts; Dean Evans, superintendant of public instruction for the State of Indiana; the American Legislative Exchange Council; and John Chubb of the Brookings Institute have endorsed the Bartlett-Eckart amendment to be offered this week to the education bill. In fact, let me read what John Chubb of Brookings Institution said about it. He said: "Your bill helps the Federal Government insure equity * * * poor parents won't have the unhappy choice between a better school that cannot provide chapter 1 services and a worse one that can."

State after State has adopted this approach. The Federal Government, by the Bartlett-Eckart amendment, could be a helper, could be a promoter of assisting low-income students who seek better education in more desegregated facilities. Currently the Federal Government is at best neutral and is in some cases in fact counterproductive.

I would note there are some negotiations going on between the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from California [Mr. HAWKINS]. In fact, it is possible, although at this point not likely based on the negotiations that I have seen, but it is possible that there could be an agreed to amendment that would be offered on the floor. I hope that is the case. So far it is not.

Again, I thank the gentleman for yielding time to me.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

□ 1450

Mr. RICHARDSON. First, Mr. Chairman, congratulations to the Committee on Education and Labor, a committee on which I was a member. I regret that I am no longer. Congratulations for coming forth with a very good bill.

The message of this bill is that the United States is going to try to become No. 1 again in education. We have not been No. 1.

No. 2, it means that we have got some goals and the goals are in the area of doing something about the drop-out rate in this country, which is close to 50 percent.

Illiteracy, close to 21 million Americans have a problem of illiteracy. It also addresses, I think, significantly two other key areas: first of all, science and mathematics, boosting us in that area, especially with Germany and Japan overtaking us in that area.

Perhaps last and the most important component is the recruitment of teachers. Unfortunately, teachers have not been, regretably, an occupation that has been paid properly. So we have to offer incentives, scholarships.

Last, this is an important bill for the minority community in this country. It is minorities that have been suffering disproportionately from the educational gap that exists in the United States.

In my congressional district, for example, 40 percent are Anglo, 40 percent are Hispanic, and 20 percent are native Americans.

I recently held a forum in New Mexico to address why it is that Hispanic and native American students are dropping, alarmingly, at rates over 50 percent from high school. Drop-out rates among all New Mexico students is 27 percent.

But why such a higher rate among Hispanics and native Americans? Poverty and unemployment are an answer. Lack of motivational programs in the high schools. Lack of teacher role models.

I think this is important legislation that starts addressing this problem.

We are trying also to increase the number of high school graduates by 90 percent, to help students to become more proficient in math and science and in many other areas that deal with the illiteracy problem.

Mr. Chairman, I do not think this will be the crowning achievement of Chairman GUS HAWKINS. He has a few more months to go here in the Congress. I do not think this will be the last we will see of him and his outstanding legislation.

Chairman HAWKINS is a member of the Black Caucus, but he cares about initiatives for all minorities, for all Americans, for Anglos, Hispanics, Asians, native Americans. I think we are all going to be richer if we enact this legislation.

It is good legislation, it should pass; it commits resources and leadership and it should be, once again, something that the Congress adopts enthusiastically.

Mr. Chairman, I rise today to express my strong support for H.R. 5115. I believe this bill provides for improvements that are necessary to better ensure that our students and American children are receiving the quality education they deserve.

Currently, our educational institutions are suffering some serious problems—the dropout rate estimated to be as high as 50 percent continues to rise as does the illiteracy rate which is estimated to be as high as 21 million. Additionally, for those students who do graduate high school, the programs offered by these institutions often aren't rigorous enough to prepare our children for their future.

In my district these problems are especially predominant because I represent the most ethnically diverse district in the country with 40 percent Anglo, 40 percent Hispanic, and 20 percent native American. I recently held a forum in New Mexico to discuss with teachers, principals, and the community the severe dropout rate New Mexico is experiencing and possible solutions. Currently, the dropout rate

among New Mexico students is 27 percent, and with respect to ethnic groups, Hispanics and native Americans suffer a much higher rate—approximately 11 percent of all dropouts are Hispanics and 13 percent are native Americans. As such, these individuals suffer from severe poverty and unemployment. These statistics are staggering and we must address the problems facing our education system. I believe this legislation is a beginning.

Mr. Chairman, H.R. 5115 would promote programs to deal with these problems. I would promote programs to prepare students for school, to increase the number of high school graduates by 90 percent, to help students to become more proficient in mathematics and science, an area in which we as a country are very weak, and to ensure that every adult American possesses the basic skills to be literate and employable.

Another important aspect of this legislation is the recruitment and retention of qualified teachers. Without qualified teachers, the above mentioned goals are pointless. Currently in America, the number of qualified individuals that are entering into the teaching profession is dropping dramatically. This legislation would also provide a special emphasis on teachers who are members of minority groups.

Mr. Chairman, our educational system is causing us to fall behind the rest of the world economically and is something we can no longer ignore. American children are suffering, our businesses are suffering and our country is suffering. I beleive this legislation will help affirm the goals set forth in the education summit in September 1989 and give the U.S. educational system national goals to shoot for and I am pleased to give my support. I hope my colleagues will do the same.

DRAFT SUMMARY

Compromise between H.R. 1675 (President's bill) and H.R. 4379 (Democrats "national goals" bill).

Findings and Purpose: Use section from H.R. 4379, adding that these are first steps toward achieving these goals, and that state and local governments are expected to dedicate extra resources to address these goals.

TITLE 1—READINESS

Goal: It is the goal of the United States that by the year 2000, all children in America will start school ready to learn.

Statements of policy

In recognition of this goal, it is the policy of the United States to

(1) provide, by 1994, Head Start services to every eligible child who needs such services.

(2) provide, by 1994, sufficient funding for the WIC program so that all potentially eligible women, infants and children have access to the services provided by this program.

(3) expand, by 1995, funding for Even Start to allow programs to reach all parts of the U.S. and to allow each State to fund a sufficient number of Even Start programs throughout the State so that approaches are available for LEAs, SEAs, and other organizations to adopt and carry out.

TITLE 2—SCHOOL COMPLETION

Goal: It is the goal of the United States that, by the year 2000, the high school graduation rate will increase to at least 90 percent.

Statement of policy

In recognition of this goal, it is the policy of the United States to

(1) expand, by 1995, funding for secondary school dropout prevention and reentry programs, and basic skills programs to allow programs to reach all parts of the U.S. and to allow each State to fund a sufficient number programs throughout the State so that approaches are available for LEAs, SEAs, and other organizations to adopt and carry out.

(2) collect uniform, reliable data from the states regarding school completion rates.

Provisions

Require the National Center for Education Statistics to report nationally uniform school dropout data by state.

TITLE 3—STUDENT ACHIEVEMENT AND CITIZENSHIP

Goal: It is the goal of the United States that, by the year 2000, American students will leave grades four, eight and twelve having demonstrated competency over challenging subject matter including English, mathematics, science, history, and geography, and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our modern economy.

Statements of Policy

In recognition of this goal, it is the policy of the United States

(1) to provide remedial assistance for all disadvantaged children in the U.S. by increasing the participation of eligible children in the Chapter 1 program from approximately 50 percent to 100 percent by FY 1993.

(2) to fulfill, by the year 2000, the commitment made by the United States in 1975 to provide 40 percent of the costs of educating children with disabilities with at least 25 percent of such costs being provided by 1995.

(3) to reward successful programs in schools with concentrations of disadvantaged children.

(4) promote efforts that encourage all students to be involved in activities that promote and demonstrate good citizenship, community service, and personal responsibility.

Provisions

Include the Presidential Merit Schools provision of H.R. 1675 (as amended by the Hawkins/Goodling substitute) with the following changes:

Funding for ceremonies are an allowable expense, not a separate set-aside; and

Merit award will be used for improved student achievement (some of the purposes listed in H.R. 1675 would be included in report language).

Include the provision of the Senate bill on the Bicentennial of the Constitution Competition [moves it to be administered by Department of ED, gives it a $5 million authorization, renames it the "We the People * * * The Citizen and the Constitution."]

TITLE 4—MATHEMATICS AND SCIENCE

Goal: It is the goal of the United States that, by the year 2000, U.S. students will be first in the world in mathematics and science achievement.

Statement of Policy

In recognition of this goal, it is the policy of the United States

(1) to, by the year 2000, expand funding for the Dwight D. Eisenhower Mathematics and Science Education Act so that all elementary school teachers and all secondary school teachers of mathematics and science will have an opportunity for updating and improving their mathematics and science education skills.

(2) to, by 1995, expand funding for such Act so that all elementary school teachers have an opportunity for skill improvement; and

(3) to award scholarships to high-achieving students to pursue the study to mathematics, science, and related subjects at postsecondary institutions.

Provisions

Amends the Higher Education Act of 1965 to include $5 million for FY 1991 for National Science Scholars (from HR 1675—with needs analysis change). Report language explanation of one year authorization to coincide with other provisions of Higher Education Act.

TITLE 5—FAMILY LITERACY AND LIFELONG LEARNING

Goal: It is the goal of the United States that, by the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Statement of Policy

In recognition of this goal, it is the policy of the United States

(1) to provide all workers and adults in the United States with the opportunity to acquire the skills needed to function productively

(2) to establish programs for large-scale public-private partnerships in workforce literacy for upgrading the basic functional literacy skills of workers

(3) to provide for teacher training and instructional technologies to increase the number of students served by each teacher and increase the rate and extent of learning gains

(4) to provide easy access to information on model programs by teachers, community-based organizations, volunteers, small businesses and large businesses

(5) to help build the capacity of States to assist larger numbers of adults and families

Provisions

H.R. 3123, introduced by Rep. Sawyer, which contains four parts:

(1) Establishes the Federal government as a leader in the nation's effort to improve the literacy rate for all Americans by creating an Interagency Task Force on Literacy to provide a model on the Federal level for the coordination and delivery of literacy programs and services.

Establishes a National Institute for Literacy to provide research, data and technical assistance to anyone wanting to sponsor a literacy program.

Establishes State Literacy Centers to provide services in individual states and serve as links to the National Institute.

(2) Amends the Adult Education Act to provide greater access to literacy services, teacher training and technology.

(3) Amends the Even Start Literacy program to increase family literacy services.

(4) Establishes a new program to target the literacy problems of the currently employed—the largest group of people in need of literacy services.

TITLE 6—SAFE, DISCIPLINED, AND DRUG-FREE SCHOOLS

Goal: It is the goal of the United States that, by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning.

Statement of Policy

In recognition of this goal, it is the policy of the United States to by 1993, expand for the Drug Free Schools and Communities Act in order to ensure that all students receive drug abuse prevention education and counseling services

TITLE 7—TEACHER RECRUITMENT AND RETENTION

Goal: It is the goal of the United States that, by the year 2000, there will be a well-qualified teacher in every classroom in the Nation and that these teachers will reflect the demographic makeup of the general population of the United States.

Statement of Responsibility

In recognition of this goal, it is the policy of the United States to

(1) recruit individuals who are members of minorities into the teaching profession

(2) ensure that current teachers continually develop their teaching sills and subject matter knowledge

(3) reward successful teachers and encourage them to further enhance their skills

(4) encourage qualified professionals in other fields to enter the teaching profession.

Provisions

Include provisions of H.R. 4130, introduced by Chairman Hawkins and Reps. Williams and Goodling which:

(1) Provides financial assistance to encourage students to enter the teaching profession

(2) Provides assistance for the recruitment and retention of teachers, which special emphasis on teachers who are members of minority groups

(3) Establishes Professional Development Academies to assist current teachers in further developing their skills

Included the Presidential Teacher Awards provision of H.R. 1675 (as amended by the Hawkins/Goodling substitute) with the following changes: Use of funds for professional development and experience (report language allowing travel, purchase of computers, etc. for clarification); and no set-aside for ceremonies, and allowable expense.

Include a provision on Alternative Means for Teaching Licensure, which would focus on assisting qualified professionals meet teacher licensing requirements, instead of asking States to lower their current licensing requirements.

TITLE 8—EQUAL OPPORTUNITY FOR POSTSECONDARY EDUCATION

Goal: It is the goal of the United States that, by the year 2000, no qualified student shall be denied the opportunity for postsecondary education because of financial or other barriers.

Statements of Policy

In recognition of this goal, it is the policy of the United States to

(1) increase the participation of low-income, first-generation-in college and minority students in postsecondary education

(2) expand college assistance to middle income families

(3) reduce the reliance on loans as the principal means of financing postsecondary education for students and their parents by increasing the annual appropriations for the Pell Grant program under Title IV of the Higher Education Act of 1965 by annual increments so that in FY 1995, the maximum Pell Grant, will be $3700, restoring it to the level of purchasing power it had in FY 1975 when the $1400 maximum award was fully funded and increasing the maximum award by at least 10 percent per year thereafter until the year 2000

(4) enhance the capacity of postsecondary institutions to recruit and retain low-income, first-generation-in-college and minority students, including graduate students, and to provide those students with a quality education by increasing the annual appropriations for the TRIO programs under Title IV of the Higher Education Act of 1965 by at least 25 percent per year until the year 2000 to expand the percentage of eligible students served and to more effectively serve the students receiving services from these programs.

Provisions

Provision of HR 1675 on Historically Black Colleges and Universities

Home equity modification which will sunset to be reconsidered during reauthorization of the Higher Education Act

Requirement that the Secretary borrow to fully fund Pell Grants at the level specified in the annual appropriations bill

TITLE 9—ASSESSMENT

Provision

Establish a mechanism for Congressional participation in monitoring the achievement of the goals and standards through which that achievement could be measured.

Include H.R. 4806, introduced by Reps. Williams and Goodling, to provide for a National Summit Conference on Education. This Conference will assist in reviewing and implementing national education goals.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, America should be a Nation that can read. Sadly, the reality is that a shocking number of Americans can't read or even spell their own names. And I'm not just talking about children, Mr. Speaker, I'm talking about adult Americans as well.

Twenty-seven million adults in this country today are functionally illiterate. This is a national problem.

Fortunately, people are finally starting to pay attention. Illiteracy is at last beginning to get the attention it deserves. Mr. Speaker, this legislation gives us an important tool to begin helping all Americans to learn to read and write.

I know just how serious this problem is. Illiteracy hits my district especially hard. We have one of the highest rates of illiteracy in the Nation. My district is the 8th most illiterate in America according to the 1980 census.

One of our biggest problems in trying to solve illiteracy is a lack of coordination between programs. There are lots of well-meaning people doing their best to make literacy projects work in the private sector, as well as programs in the public sector but these groups need a better way to coordinate and learn from each other's efforts.

Let me give an example. The Cumberland Hardwoods Co. is a small wood producing firm in Sparta, TN. They employ about 120 people. Several years ago the firm's President, Mr. John Keisling, realized he had a real problem because many of his workers could not read the numbers on a ruler which is used daily in their trade. The success of his business was at stake, so he created his own solution—a unique program, sponsored partly by State funds, to provide child care and reading assistance for his company's workers. The program has greatly improved workers' skills and enhanced the entire company.

Other small businesses in rural areas could benefit from similar programs—if they knew how to set them up. But where does a small businessman turn to for information about literacy grants? Where could he find the literacy program best suited for workers at small manufacturing firms?

The answer is in title V of this bill. It will create a national institute for the study of literacy. This will be a nonprofit organization which will accomplish the following goals:

First, conduct research on the causes of illiteracy and ways to overcome them.

Second, study illiteracy programs around the country and find out which ones work and which ones don't.

Third, get the word out. Create a clearinghouse to let people know what kinds of programs work best.

Fourth, and finally, provide assistance and technical training to give new programs the boost they need to get off the ground.

Finally, the most important aspect of National Institute for Literacy is that it is a separate entity within the Federal Government. Right now our efforts to improve literacy are extremely fragmented. We have a literacy office within the Department of Education, but we also have separate literacy programs at the Department of Defense, the Department of Health and Human Services, and the Department of Labor. This independent Institute for Literacy can draw the best from these Federal programs as well as State governments, private foundations, big companies, and small businesses. It won't be wedded to one bureaucracy or one approach to solving illiteracy.

Mr. Chairman, a massive problem like illiteracy deserves a national organization that can offer the right solutions. Americans want to help eliminate illiteracy. Thousands of volunteer tutors are helping individuals enrich their lives. Companies are looking for innovative ways to improve their work-

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ers' skills. We should not let this opportunity pass. It's time for us to build on our momentum. This legislation will help to ensure that America is a Nation that can read.

Mr. GOODLING. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding this additional time to me.

Mr. Chairman, I want to bring to the attention of the House today an article from today's Washington Post, written by William Raspberry.

Mr. Chairman, I said earlier it is important to note that the debate over choice, parental involvement in open enrollment, is not a debate that is limited to politics; it includes liberals and conservatives, Democrats and Republicans. But mostly it includes parents who are seeking a better quality education.

The Dennis Eckart-Steve Bartlett amendment, which will be offered this week, will merely have the Federal Government offer to help school districts who are trying to seek higher quality, better quality education for their own students. Or as William Raspberry put it, "The new choice advocates whose voices are changing the climate of the education debate are not the conservative ideologues but ordinary men and women, often black and poor, who have given up on an educational system they are convinced has given up on their children." I will be inserting this into the CONGRESSIONAL RECORD in my extension of remarks today, but I do call the attention of everyone in the House to a very timely article written by William Raspberry in today's Washington Post.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I rise in support of the Equity and Excellence in Education Act. I am particularly happy to see the House taking action on a problem that greatly effects my State—illiteracy. Congressman SAWYER should be congratulated for his work on illiteracy; without his efforts we would still be far from taking the important steps we take today.

My State of Texas ranks 49th of the 50 States in literacy. My home of Houston has 500,000 adults in need of basic literacy services. This crisis effects the health of our economy and our families. In response, Houston has launched a citywide literacy council, the Houston READ Commission.

The commission is an umbrella for 11 nonprofit literacy organizations and provides technical assistance to dozens of community groups which are developing or operating literacy programs. In addition, the commission creates innovative pilot and demonstration projects addressing the needs of groups in inner-city neighborhoods, people in homeless shelters, the workplace and other hard-to-serve individuals. The commission operates a central helpline, funnels funds to local providers to expand services, and trains staff and tutors for local providers.

The commission is the lifeline for literacy services in Houston, Without Houston READ many of the community-based efforts that have sprung up in our city would languish as volunteers leave and funds fall short.

The national organization, Literacy Network, has invested in literacy programs in 11 cities including Houston. I am proud to report that they rate Houston and the READ Commission as their greatest success.

Unfortunately, urban coordinating councils like the READ Commission are prevented by statute from applying directly for Federal literacy funds. They cannot directly access literacy funds in the Adult Education Act, the Stewart McKinney Homeless Assistance Act, the Immigration and Naturalization Act, the Family Support Act and—until recently—the Job Training Partnership Act.

The bill takes a step in the right direction. It is my understanding that perfecting language will be added to insure that urban coordinating councils have direct access to Federal funds—and a voice in the planning process at the national, State, and regional levels. These provisions are essential for cities like Houston.

On a final note I would like to praise the inclusion of the provision targeting workplace literacy. In Houston, we have found that workplace programs are not a luxury—they are a necessity. We must increase the accessibility of literacy to those who need the services, not push them into the same type of institutional atmosphere that failed them originally.

I look forward to the enactment of this legislation. It is the beginning of a better future for millions of Americans.

□ 1500

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GOODLING] has 28 minutes remaining, and the gentleman from California [Mr. HAWKINS] has 27 minutes remaining.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise today in strong support of the national Science Scholars Program Amendment. I commend Mr. HAWKINS, and Mr. GOODLING on their efforts to bring H.R. 5115 to the floor and to my colleagues on the Science, Space, and Technology Committee, Chairman ROE and Mr. VALENTINE on their efforts on this amendment.

I specifically would like to address the scholarship program that has been named in honor or Robert Noyce, the inventor of the computer chip. The scholarship program will be called the Robert Noyce National Math and Science Teachers Corps.

Mr. Chairman, with each graduating class of high school students, it becomes clearer that we are not doing enough in this country to provide our children with a basic science and mathematics education necessary to prepare them for the modern, high-technology work force.

If the United States is to regain competitive position in the world economy, it is essential to begin supplying schools with well-prepared teachers to teach science and math.

Mr. Chairman, by providing scholarships to be awarded to prospective teachers who will pledge to teach science or mathematics for at least 2 years, this bill recognizes the importance of technically literate teachers to our children and the future of our Nation.

Mr. Chairman, Robert Noyce, the Edison of the information age, was responsible for the revolution of genius that laid the foundation of California's Silicon Valley. Bob Noyce's vision led to the growth of the electronics industry which today employs more Americans than our auto, steel, and aerospace industries combined.

Although Bob Noyce has died, by providing science and education elementary and secondary teachers, this bill will help to keep his dreams alive.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my problem is that this list says so-and-so's plane will arrive at 2:45, and another Member at 3, and another Member at 3:15, and another Member at 3:30, which just bothers me to no end, as I said last week. If we had a defense bill here, it would be Tuesday afternoon, Tuesday evening, Wednesday afternoon, Wednesday evening, Thursday afternoon, Thursday evening, and in the next week it would be Tuesday, Wednesday, Thursday, and the next week, and the next week, and the next week.

But here we have the most important legislation dealing with this legislation, whether we are going to succeed or not as a nation, whether we are going to continue to be an aggressive nation and a competitive nation, and we choose a time, when obviously there are no votes, and obviously not many people are in town.

Mr. Chairman, I reserve the balance of my time.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. POSHARD].

Mr. GOODLING. Mr. Chairman, I yield 2 minutes also to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Chairman, I rise in strong support of H.R. 5115, the Equity and Excellence in Education Act of 1990.

This bill is the product of hours of work by both sides of our committee over the last several months. I believe the package which we have formulated is both broad based and well conceived. It rewards the best schools, the best teachers, and the best students. It addresses the problems of illiteracy and drug abuse, it seeks to keep and retain the best teachers and it looks toward the future in monitoring how our schools and our students are doing.

I am proud to be an original cosponsor of this bill, and it is certainly one of the most significant bills which our committee has considered in this Congress. Everyone on the committee and most of my colleagues have had a chance to read recent reports on the poor performance of our students on international exams and we have read about how underfunded our whole elementary and secondary educational system is. This bill is a first step toward an improvement in education.

In the findings and purposes sections in H.R. 5115, we have tried to identify goals for present and future educational funding priorities. Not all of those goals are met in this bill, but we are setting priorities. We are identifying problems and we are looking toward the future.

This bill is a blueprint for future action, a roadmap charting the course for education. We have identified many of the problems, we have found some solutions, and we have laid the groundwork for the future.

One new initiative which I feel should be included in this bill is an amendment offered by myself and my friend and colleague from Vermont [PETER SMITH]. The amendment will give local schools the option of deciding how best to spend the money which comes to them from the Federal Government, as long as they do not compromise the rights and protections which those programs and Federal law provides.

This concept is a bold step in the direction toward more local control of school curriculum and Federal dollars. Congressman SMITH and I are convinced that schoolteachers and administrators can come up with the best programs for their students and they should be allowed to do so.

I would like to commend Chairman HAWKINS for his excellent leadership in bringing this bill to the floor and for the courtesy and consideration which he has extended Congressman SMITH and myself in giving us a forum for discussion of the educational performance agreements.

This is an excellent bill and one which will provide many significant benefits to our Nation's children, and I urge all of my colleagues to support its passage.

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

It has been said that we have attempted to provide courtesy and consideration to all of those who still have amendments to offer. There are some 13 amendments that are printed in the Journal and subject to be called up. We think we have worked out with most of those offering those amendments, some accommodation. We certainly have worked out with the Smith amendment just referred to, the gentleman from Wisconsin [Mr. GUNDERSON], and some of the others.

However, let me be eminently clear on this point: We have not reached an accommodation on the amendment offered by the gentleman from Texas [Mr. BARTLETT] that he refers to as "choice." Choice is a word that appeals to the American psyche. All people like to have choice, whether it is choice of our clothes, our food, where we live, of our friends, and so on. So mask this amendment under the guise of being "choice." It is a misnomer. I think that is eminently fair that we be able to evaluate an operation that has been really floating around for almost a century, and which has failed miserably where it has been tried, because unfortunately it is in conflict, certainly, with the best principles in American education.

□ 1510

That is, Mr. Chairman, if we intend to provide a decent education for every child, we should not be in the business then of taking money away from poor children to build elite schools for a few.

Mr. Chairman, if individuals want to do that with their money, if States and local districts are desirous of doing it, then obviously they should not look to the Federal Government during these times to provide support for that principle in American education. Parental involvement is not involved. We favor, and the proposal before us continues an emphasis on, parental involvement. To say, however, that parents are going to be given a choice under the Bartlett amendment is certainly misleading, and I hope that that misconception will be detected before we make that serious mistake.

Mr. Chairman, we have gone out to the areas that have been the showcases of the so-called Choice programs. We went out to Minnesota. So few parents have selected the schools in Minnesota in the Choice Program that they have stopped talking about it. Athletes, perhaps, are the major ones who move around from school to school to get on the right team. But parents have not become excited about it.

We went out to Richmond, CA, another area that was cited, in which a Choice conference was held. We found the district in bankruptcy.

We went out to Milwaukee, WI, that was referred to us just recently by a certain editorial writer in the Post today, and what we found in 100,000 children in the schools, 1,000 have been given vouchers to go to private schools. And the superintendent of education out there appealed the need, tried to get some help, appealing obviously to the wrong place because he was an advocate of Choice, and now he finds himself, as superintendent of the public schools, trying to make up the deficit caused by the loss of 1,000 students who were given money to go to private schools.

We went out to the East Harlem so-called Choice Program. It has done reasonably well, but it is only because it was given a huge chunk of Federal money at the beginning. It has changed its teaching force from an all-white faculty to an integrated faculty because it is an integrated school, and it has, I think, achieved a reasonably good record. But one would ask then, "Why have not the adjoining school districts—why is it that no other district in that State has followed that so-called great model?"

Mr. Chairman, there is no prohibition in this proposal against Choice, against local districts and States using Choice, if that is their choice. There is nothing to prohibit that. But what the Bartlett proposal intends to do is to use Federal money, chapter 1, for the students in these so-called select schools. Now that is taking money away from an approved program that is heavily loaded with disadvantaged children who need the money in order to give it to a few select schools.

Now it may be a wise idea to have a few select schools depending on the subject to be taught. We do not object to that, and, if a local district, a school district, wants to do it, fine. They should do it. They can do it already, but they have not selected to do it merely becasue these schools are very costly, and that are very select in those that they admit. In other words, we have public schools becoming in effect private schools, selecting those that come to their doors.

Mr. Chairman, we asked the parents in East Harlem about their choice of schools. They said, "We fill out an application blank. We list our first choice, our second, third, fourth, and our fifth choice. And we're lucky to get every our fifth choice because usually we're told that there is not room for our choices." Yet they still use that phrase, the buzz word, "Choice."

I think that it is a serious mistake in a bill of this nature in which we are trying to improve the education of American children regardless of class or race or geography. We are trying to improve every child in every school.

I think it is most unfortunate that we have got to debate an issue that does not really belong at this level. It is not a Federal issue. We have no right to be intervening in local districts, trying to tell them how they should draw attendance lines. That is not a Federal matter whatsoever.

In addition, I am surprised that intelligent people are willing to misconceive and to, in a sense, divert attention away from the real problems in the field of education with something that has not been proved, that has no research behind it, that faces several studies that the Department of Education financed itself that are very, very critical of this proposal, and I would hope that, when we reach that amendment, if we are not able to convince the gentleman from Texas [Mr. BARTLETT] to be satisfied with a planning approach which seems to me to be reasonable; if we are not able to convince him of that, then I certainly will oppose an outright authorization of something which I believe does not even belong in this debate.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I just merely want to say that everything the gentleman from California [Mr. HAWKINS] has just said basically I agree with, and that is why I think it is imperative that we have the substitute program that I have been trying to negotiate so that, as a matter of fact, we go through a grant process that only allows for planning so that they will see, perhaps, while they are planning that it is not going to work in their district, or it will not work the way supposedly it works in some other district.

So, Mr. Chairman, I would hope, before we come back to this, whenever we are coming back, that we will have worked this out so that, as a matter fact, grants will be the name of the game for planning period.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield 1 minute to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, I wish to thank the gentleman from Pennsylvania [Mr. GOODLING]. I certainly pledge that I will continue to work with him to try to get an agreement. I simply wanted to make it clear that we are anxious to reach accommodation.

Mr. Chairman, I would hope that this most important bill goes ahead without complications that may occur during the last amendment that we will approach. I think we have done an excellent job in reconciling the other amendments, and I thank the gentleman from Pennsylvania [Mr. GOODLING], the ranking minority member, for his efforts, and I pledge that I will do likewise in order to try to reach beyond the objections that I have just expressed, to overcome those objections to the Bartlett amendment as well.

Mr. GOODLING. Mr. Chairman, I yield back the balance of my time.

Mrs. ROUKEMA. Mr. Chairman, many Members may have been receiving letters and telegrams from special interest groups regarding the amendment I will be offering to the Equity and Excellence in Education Act. There is a great deal of misinformation and disinformation in these letters. I feel it necessary to give the Members of this body the facts regarding my amendment. Once the facts are understood, I believe that my amendment will be voted upon favorably.

Several of the representatives of trade schools and trade school associations claim that the provisions of my amendment are complicated and complex and hearings need to be held to determine whether the changes I propose should be made. And, my colleagues, these letters come from schools and associations who are running default rates of from 30 to 60 percent and more; is it any wonder they want to push this off until next year? Let me state clearly and emphatically that the Committee on Education and Labor has already held hearings on the provisions of my bill when the committee considered default legislation back in 1988.

Allow me to quote from Report No. 100–1122, the report on the activities of the Education and Labor Committee during the 100th Congress:

One of the principle activities of the Subcommittee (on Postsecondary Education) during the 100th Congress was an exhaustive analysis of the issue of student loan defaults. To initiate this analysis, Chairman Williams convened a group of student aid experts, the Belmont Task Force, to explore student loan default issues and to report to the subcommittee on ways to address this problem.

The subcommittee held four days of hearings regarding defaults in Federal guaranteed student loan programs. The hearings were held on February 2 and 3, and June 14 and 16, 1988.

As a result of these hearings at which testimony from task force members and public witnesses was received, Mr. WILLIAMS introduced H.R. 4798, the Student Default Initiative Act of 1988. On June 30, 1988, the Subcommittee on Postsecondary Education met in open session and marked up H.R. 4798 where the bill was amended and sent to the full committee. On July 7, 1988, Mr. WILLIAMS introduced H.R. 4986, also entitled the Student Default Initiative Act of 1988, which reflected the changes made to the bill by the subcommittee. The full Committee on Education and Labor met in open session to consider H.R. 4986 on July 12, 1988, where the bill was amended and ordered reported. On August 4, 1988, the committee reported the bill to the House.

In addition to this action taken in the House, the Senate was working on default legislation at the same time. The Senate passed their version of default legislation, S. 2647, on September 15, 1988.

The amendment is made up of provisions from both S. 2647 and H.R. 4986 which had full hearings on the issue of defaults. Therefore, the argument that my amendment has not had hearings and needs further consideration is no argument at all.

The provisions are as follows and are identical to those adopted by the committees:

SUMMARY OF DEFAULT PROVISIONS IN ROUKEMA AMENDMENT

1. Risk sharing. When a lender in the student loan program has more than one-third of its outstanding student loan balance for any consecutive two-year period with schools with default rates greater than 30 percent, the federal guarantee insurance will be reduced from 100 percent to 95 percent.

2. State licensing information. Student loan guaranty agencies will be allowed to get information from State licensing boards to help locate defaulting borrowers who have pursued careers in professions requiring State licensure.

3. Credit bureaus. Clarifies procedures for reporting student loan defaults by specifying that student loans must be reported to credit bureaus when payment has been delinquent for 90 days.

4. Disclosure of loan payments. Requires more accurate disclosure of estimated loan repayment schedules so that students clearly understand their expected repayment obligation.

5. Independent accrediting agencies. The Secretary of Education will not recognize any accrediting agency whose officers or directors are affiliated in any way with a school seeking or obtaining eligibility for participation in the student loan program.

6. Borrower information. Before receiving a student loan, the student borrower shall be required to provide to the lender at the time of applying for the loan the driver's license number, if applicable, and the name and address of the next of kin of the student borrower. The school will be required to obtain this information when the student completes the course of study.

7. Independent testing of ability-to-benefit students. Requires that ability-to-benefits tests shall be administered by an agency or entity not controlled or owned by the institution. This will prevent the student results or provide answers for the tests being given.

8. Audit of graduation and placement statistics. Specifies that a school's graduation and placement rates will be certified on the basis of an audit performed by an independent public agency.

9. Restrictions on institution's promotional activity. Prohibits the use of independent contractors, specifically commissioned recruiters, paid on the basis of the number of students they successfully recruit to attend an institution participating in federal student aid programs. This does not prohibit student and alumni volunteers or salaried employees of the institution from promoting the school or recruiting students.

10. Academic year definitions. Prohibits a school from defining its academic year differently for the Pell Grant, campus-based, and Stafford Student Loan programs. In the past, several schools have sought to avoid multiple disbursement requirements by cre-

ating different definitions for different programs.

11. Tuition refunds. This section provides additional protections for students and the Federal Treasury by giving the Secretary of Education authority to require institutions to make refunds to students in cases where an institution has enaged in serious misrepresentation of its educational program, its financial charges or the employability of its graduates. Under this authority, institutions would first reimburse the Federal Govenment for that portion of the tuition and fees paid for with Federal funds. Additional refunds would be applied to the repayment of federally guaranteed student loans, and the remainder to the student.

12. Special accreditation rules. Authorizes the Secretary of Education to remove an institution's eligibility to participate in student aid programs when such institution has its accreditation withdrawn or who withdraws from its accreditation association when it becomes clear that its accreditation is at risk.

We need to take action to stem the flow of $2 billion each year out of the Student Loan Program and we need to do it now.

Please support my amendment when it comes to the floor for a vote later this week.

Mr. GINGRICH. Mr. Chairman, later this week I will be offering a prisoner literacy amendment to H.R. 5115, the Equity and Excellence in Education Act of 1990.

My amendment will require States, within 2 years of enactment, to institute a mandatory functional literacy pilot program in a corrections institution in that State for all persons convicted of a felony who test below the eighth grade level. Within 5 years of enactment, States are required to institute mandatory functional literacy programs in each State corrections institution for all persons convicted of a felony who test below the eighth grade level. Probation and suspended sentences will be denied to those prisoners who refuse to participate.

In the 1974 case of Rutherford versus Hutto, a U.S. District Court upheld Arkansas' mandatory education program for prisoners. In doing so, the judge reasoned that if we are legally able to compel a prisoner to perform uncompensated labor for the benefit of the State, a State has the power to require a convict to participate in a rehabilitation program designed to benefit the prisoner.

On May 2, John Chancellor of NBC Nightly News delivered a commentary titled "Readin', Writin' and Prisin' " in which he stressed that "in the American penal system, too many people go to prison, get out, commit another crime, and go back in again. In Japan, the rate of return to prison is far lower." One reason advanced by Chancellor for the disparity is that in Japan prisoners with a sentence longer than 1 year cannot be released from prison until they have learned to read and write.

Such an approach to prisoner literacy is not possible in our country because of important constitutional safeguards. However, my amendment is designed after the highly successful Literacy Incentive Program in Virginia, which seeks to bring prisoners up to a level of functional literacy. It will give prisoners a chance to learn to read and write. This achievement will give a prisoner the motivation to improve himself, and will supply the self-confidence necessary to live in society as a productive citizen.

I hope you will support my amendment later this week. At a time when 62 percent of all released prisoners who are rearrested have an education level of eighth grade or less, we need to look at this issue and create a program to correct this problem.

Mr. WILLIAMS. Mr. Chairman, I rise in support of the Equity and Excellence in Education Act of 1990.

Americans believe in the value of education. Throughout our history we have understood the necessity of producing a well-educated citizenry. Although the cost of providing that education is high, we realize that we can illafford to leave underdeveloped the talents of any of our people. The education of our children and our adults is an investment. This investment in human capital is key to maintaining our economic competitiveness, our national security, and our freedom.

Today, problems exist within our educational systems that without major investment and prioritization, are likely to get much worse. We have not been giving our schools the resources they need, we have failed to inspire students to do their best, and we have lost needed teachers to higher paying professions and failed to attract enough new instructors with the needed skills. The bill before us today addresses many of these problems and outlines an initial plan of action for the Federal Government to assist States, local school districts, and institutions of higher education in meeting the challenges facing us all. H.R. 5115 has many important provisions. I wish to focus my comments today on two particular provisions of this bill, title VII, Teacher Recruitment and Retention, and title IX, Policy Evaluation and Assessment.

Qualified professionals in all areas of instruction are the key to a solid education system. The Department of Education estimates that in the next decade we must hire 1.6 million new teachers, or an average of 160,000 teachers a year. The primary source of these new teachers will be college students majoring in education. Yet, the percentage of college students majoring in eudcation has fallen 55 percent since 1972. Thus, we are graduating about half the teachers we will need to fill the classrooms of the future. Currently, 20 percent of new teachers leave teaching during their first year; with more than half leaving before the 6th year.

The Federal Government can and should help; and this bill addresses the problems of teacher recruitment and retention. Our interest in facilitating quality teacher education is not new. In the 1930's, the Congress appropriated funds for review of teacher education. In the 1940's and 1950's we supported the GI bill, NDEA, and the Cooperative Research Act, and in the 1960's the EPDA was used to stimulate teacher education programs. We must once again invest in efforts to attract more and better candidates into teaching. H.R. 5115 addresses these problems by providing loan incentives for teaching, financial assistance for institutional recruitment and retention of individuals preparing to enter the teaching force, grants to assist professional development academies, Presidential teacher awards for excellence, and nontraditional routes to teacher licensure.

Title VII of the bill would establish a new effort to provide low-interest loans for students in teacher preparation programs. In return for loan cancellation, an individual would agree to teach in rural areas or inner city areas that are experiencing a shortage of teachers. Priority for loans under this new program shall be given to high achieving minority students or other students underrepresented in the teaching profession or in the curricula areas in which they are preparing to teach.

The second program under this title includes intensified recruitment and retention efforts for persons interested in entering the teaching profession. Five-year grants are provided for financial assistance to institutions of higher education to support efforts to recruit and retain students who are interested in or are preparing to enter the teaching profession.

The establishment of professional development centers would serve as forums for the coordination and provision of a variety of efforts to meet the needs of local education agencies to develop and provide the highest quality professional training for our existing and future educators. These centers would be run by consortia composed of one or more local education agencies and one or more institutions of higher education that offer teacher training programs. Activities may include: teacher recruitment and development; in-service training efforts; summer institutes, sabbatical opportunities, and other retention efforts. The centers would also support efforts to establish or improve school-based management decisionmaking and practices within our schools.

The Nontraditional Routes to Teacher Licensure Program is another program authorized under this title to encourage professionals outside the teacher force to consider this field. It provides assistance to States to develop and implement programs to assist talented professionals who have demonstrated a high level of competence in a subject area outside the education profession and who wish to pursue careers in education to meet State licensing requirements.

As we all know, teachers are faced with one of the most important and difficult jobs in America. They are in the classroom where America's future is being determined. We would like to continue to recognize our outstanding teachers by including the Presidential Teacher Awards for Excellence in Education program in this bill.

This legislation is a first step to upgrade and enhance the teaching profession by recognizing the needs of classroom teachers; providing a means for States, local education agencies and institutions of higher education to coordinate their efforts in addressing those needs; and enhancing our children's educational experience by keeping the best and brightest of our teaching cadre in the classroom.

Finally, I want to focus on title IX of this legislation, particularly part A of that title. This section of the bill makes several changes in legislation we enacted in 1984 calling for a National Summit Conference on Education.

When my colleague Mr. GOODLING and I sponsored the summit conference legislation in 1984, we envisioned a process by which all factions interested in and concerned about education—parents, teachers, school administrators, college officials, business, government leaders, and the public—could come together to consider education reform proposals and develop strategies to address the major issues facing our system of education. We envisioned an inclusive summit because we believed that only by including everyone involved in and concerned with education could we come up with a comprehensive solution to education's problems.

Last fall, the President and the Governors met in Charlottesville. Unfortunately, this meeting did not include the major participants in our education system, nor the public. It did not conform to the goals of the 1984 summit legislation. In my opinion, the September Charlottesville meeting will not have the far-ranging impact envisioned by Congress.

The legislation before us today would amend the 1984, law, updating it to take into account developments since its initial passage, and restructuring it in a way that will achieve the all-inclusive summit originally intended by the Congress. Such a summit is still needed if we are to successfully bring about the kinds of changes that our education system needs. These changes to the 1984 legislation are bipartisan in nature, again cosponsored by me and my colleague, BILL GOODLING. They are important changes, and I hope they gain the support of all of my colleagues.

□ 1520

Mr. HAWKINS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. RICHARDSON] having assumed the chair, Mr. OBERSTAR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5115) to improve education in the United States, had come to no resolution thereon.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5115, the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A HISTORIC VOTE ON BALANCED BUDGET AMENDMENT

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, tomorrow the House of Representatives will have a historic vote. For only the second time in our Nation's history, we will be debating and voting on a constitutional amendment requiring a balanced Federal budget.

There are going to be two excellent amendments offered tomorrow, one by myself and one by the gentleman from Texas [Mr. STENHOLM] and the gentleman from Idaho [Mr. CRAIG]. Both are good amendments.

My amendment, however, I think, is the better of the two because it requires a three-fifths vote to raise taxes and a three-fifths vote to raise the Federal debt ceiling. The Federal debt ceiling right now is at approximately $3 trillion, and it is expected later this month that we will be asked to raise it to $3.5 trillion.

Many groups around the country are supporting the Barton constitutional amendment. In today's Wall Street Journal there is an excellent editorial supporting the Barton amendment. I submit this editorial for inclusion in the CONGRESSIONAL RECORD.

Mr. Speaker, I would urge all our colleagues to vote for the balanced-budget amendment to the Constitution tomorrow; more specifically, vote for the Barton amendment.

Mr. Speaker, I include the Wall Street Journal article, as follows:

BALANCING AMENDMENTS

Tomorrow the House will vote for only the second time in history on a balanced-budget amendment to the Constitution. The last time, in 1982, the vote in favor was 236 to 187, but it didn't win the necessary two-thirds. The vote this time will be close. But even if it passes, the danger is the winning amendment will treat the symptons of deficit spending without applying the needed cure: effective restraints on spending.

Democratic House leaders bottled up the balanced-budget amendment in committee for years, even though this year a solid majority of 249 Members sponsored it. The only chance of getting a vote in the full House was to persuade 218 Members to sign a discharge petition bringing it to the floor. Enough Members were leery of offending House leaders that the petition languished.

The amendment finally broke free last month when GOP Rep. Chuck Douglas threatened to reveal the names of those cosponsors who were hypocritically refusing to sign the discharge petition. There was a sudden rush of Members to sign it.

However, all balanced-budget amendments are not made equal, and there are sharp differences between the two versions to be voted on tomorrow. Members will first vote on a proposal by Texas GOP Rep. Joe Barton, which requires a balanced budget unless three-fifths of Congress agrees to a deficit. Increases in government revenues would be limited to the growth of national income, similar to the Gann limit that curbs spending in California. A three-fifths vote of Congress would be needed to raise the limit.

After the Barton amendment, Members will vote on one by GOP Rep. Larry Craig and Democratic Rep. Charles Stenholm. It would not explicitly restrain government spending, and requires only a majority of both Houses to balance the budget through higher taxes. Only the one with the most votes goes on for a final up-or-down floor vote.

We have always been a skeptical of how much a balanced-budget amendment could restrain the spending habits of a wily Congress. Members are expert at creating off-budget spending, and the 1974 Budget Act, which was supposed to curb spending, has been waived by Congress 398 times in the past decade. We've felt there was as much chance that an amendment would lead to higher taxes as it would curb spending.

Even so, recognize that tomorrow's vote is an important one. Here is a short guide to determine the extent to which your representative is serious about controlling the size of government:

If a Member votes for both the Barton and Craig-Stenholm amendments, he or she clearly wants to impose restraints on how much of the taxpayer's money Congress can take. A vote against both amendments is a clear endorsement of the tax-tax-spend-spend mentality. But if a Member votes against the Barton amendment and for the Craig-Stenholm amendment, they are trying to snow the voters. In effect, they are telling them they want to limit government borrowing, while they oppose the amendment that restrains the spending machine that creates the need for borrowing.

The Barton amendment is too cumbersome for our tastes, although we doubt that will be the basis of many votes cast for or against it. But at least it recognizes that the fundamental problem facing the country is not primarily the size of the deficit, but the total resources the government extracts from the private sector as spending. The Craig-Stenholm approach makes attempts to raise taxes more visible, but doesn't do enough to make it more difficult to pass them into law. Members who support it, but not the Barton amendment, should be in for some tough questions from voters this fall.

OLD GLORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, attached is an editorial, written for the newsletter of United Auto Workers Local No. 2185 in Meridian, MS, by Maureen Files.

Maureen is editor of the newsletter. She is also a native of England who is now an American citizen. Her sentiments represent the feelings of the great majority of Americans and I wanted to share the article with my colleagues.

OLD GLORY

I am appalled that any American would even consider burning the Flag. Many of our readers had friends or relatives who served in Vietnam, Korea or World War II. Many of them gave their ultimate, their lives, many were severely wounded or suffered from mental problems caused by battle traumas.

Have you ever watched a War Veteran when The National Anthem is played? Stone solid, staunch salute, eyes glued on the Flag, singing word for word, many with tears in their eyes.

Ask several Veterans of various ages what they were fighting to preserve or defend

during their conflicts. Some aren't sure, some strived simply to stay alive and protect the lives of fellow servicemen, while some will say they were fighting to preserve American Freedom and keep "The Colors" flying high. Many veterans will say that the most glorious sight after a battle is to still see the "Stars & Stripes" flying where everyone can see it. In Hand-to-Hand Battles and Skirmishes the sign of victory is to capture the enemy's "colors", so our servicemen protected "Their Colors" with their lives.

When the U.S. Supreme Court ruled that burning the Flag was not illegal, it slapped every war Veteran in the face, telling them that the Flag was not worth protecting, not worth saluting, not worth dying for, and that the Red, White and Blue Banner is simply a piece of cloth to express one's state of mind.

The Supreme Court's action said that the thousands of people who have died since 1750, who believed that the "Stars & Stripes" represented freedom, died with the wrong thoughts and may have been defending only a piece of cloth.

For everyone who agrees with "Flying your Colors", get your flag out. Wave it high, run it up your Flag Pole, hang it on your porch, put one on your car antenna, pin one on your sleeve, and show it in a way that makes you proud to be an American. You see, I am not an American by birth but by choice.—Maureen Files, Editor, U.A.W. Local 2185.

A HISTORIC VOTE ON THE BALANCED BUDGET AMENDMENT

The SPEAKER pro tempore (Mr. DORGAN of North Dakota). Under a previous order of the House, the gentleman from Texas [Mr. BARTON] is recognized for 60 minutes.

Mr. BARTON OF Texas. Mr. Speaker, tomorrow, July 17, we are going to have a historic opportunity in the House of Representatives, because tomorrow we are going to vote on a constitutional amendment requiring that the Federal budget be balanced. This will be only the second time in our Nation's history that such a vote has occurred on the House floor. In October 1982, a similar amendment failed by approximately 45 votes.

As we all know, in order to pass a constitutional amendment it requires that two-thirds of the Members voting present must vote in the affirmative. If everyone is on the floor of the House tomorrow that would mean we would need 292 votes to pass a constitutional amendment.

Many Members question the need for such an amendment. They say that we should not amend the Constitution in terms of reforming the budget itself. They say that a constitutional amendment is not the appropriate place to try to balance the budget. Some people say there is no way to enforce a constitutional amendment requiring a balanced budget, but for all those who question the need or question the desirability, my question in return is, what is the alternative?

We have numerous statutes now on the books that require a balanced Federal budget. We have not had a balanced budget on the Federal budget since 1969 and only four or five times in the last 30 or 40 years.

Mr. Speaker, today the Federal debt is approaching $3 trillion. In fact, it is a little over $3 trillion.

A trillion dollars is a thousand billion dollars. A billion dollars is a thousand million dollars. A million dollars is a thousand thousand dollars. So our debt is over $3 trillion. It is expected that in the next month we are going to be asked to raise the Federal debt ceiling to $3½ trillion.

The rate of increase on the Federal debt, commonly known as the deficit, is increasing at the rate of $150 billion a year.

Now, to put that in perspective, that is over $12 billion a month. That is over $3 billion a week and it is over $500 million a day. It is over $18 million an hour, almost $300,000 a minute, or $4,000 a second. That is how fast our deficit is increasing.

So today as we speak, every man, woman, and child in the United States of America, approximately 250 million Americans, every one of those owes over $12,000. That is their per capita share of the debt, and that is going up at the rate of about $750 a year, so we have a problem.

The question is, What are we going to do about it?

As I said earlier, I think what we need to do about it is pass a constitutional amendment requiring that the Federal budget be balanced, and tomorrow on the House floor there are going to be two amendments offered.

There is a H.R. 268, of which I am the original cosponsor, along with the gentleman from Idaho [Mr. CRAIG], the gentleman from Delaware [Mr. CARPER], the gentleman from Texas [Mr. STENHOLM], and the gentleman from Oregon [Mr. SMITH] are the four leaders. Two of the gentleman are in the Chamber today and I would assume will be making remarks in favor of that amendment. That is the first amendment.

The other amendment is the Barton amendment in the nature of a substitute which I would like now to explain. It has eight different sections.

Section 1 requires that each year the President and the Congress shall agree on an estimate of total receipts for that year. It also requires that they must agree on an estimate of total outlays for that year that is in balance, unless three-fifths of the Members of the House and the Senate vote to waive the requirement that the estimated outlays not balance with the estimated receipts. That is section 1.

Section 2 caps the amount of the Federal public debt as of the first day of the second year after the ratification of this constitutional amendment, so it puts a permanent cap on the Federal debt, unless three-fifths of the House and Senate vote to exceed that cap, not a simple majority.

□ 1530

Section 3 requires that each year the President of the United States at the start of the year has to submit to the Congress a balanced budget.

Section 4, and this section 4 is the principal difference between the Barton amendment and the Stenholm-Craig amendment, so I want to read this word for word. Section 4 states as follows:

> Total estimated receipts for any fiscal year as set forth under section 1 of this article shall not increase by a rate greater than the rate of increase of national income in the year not ending less than 6 months before such fiscal year, unless three-fifths of the whole number of the Congress shall pass a bill directed solely to approving specific additional receipts, and such bill has become law.

In plain language, what this means is that we cannot raise taxes faster than the rate of growth in the national income unless three-fifths of the House and the Senate specifically vote to do so. That is the key difference between the Barton amendment and the Stenholm-Craig amendment.

Why is this important? There are some people, many people, many economists that feel that if you require a supermajority to raise the public debt, as both amendments do, but you only require a majority, 218 in the House, 51 in the Senate, to raise taxes, that you will give undue emphasis to raising taxes in order to balance the budget. So section 4 of my amendment balances that. You have to have three-fifths vote to raise taxes just as you have to have three-fifths vote to raise the Federal debt.

Section 5 gives the Congress the right to waive the provisions of the balanced-budget amendment if there is a declaration of war in effect.

In section 6, this is another important section. Right now, under the existing law of the land, we have on-budget and off-budget. Section 6 says that for determining whether the budget is balanced you include everything, on-budget, off-budget, it does not matter, so we will end the accounting gimmicks of saying, well, let us move the Post Office off budget or let us move the highway trust fund off budget or Social Security trust fund or whatever the particular item they are talking about on that particular day.

Section 7 gives Congress the authority to enforce and implement the balanced-budget amendment by appropriate legislation.

Section 8 makes the appropriate date to be fiscal year 1995, or 2 years, or 1 year after the fact that the number of States necessary to ratify it do so. So that is the analysis.

The question is: Will it work? I cannot honestly say that it will or will

not. I can say that nothing else we have ever done has.

As I indicated earlier, the last balanced budget was in 1969. I can state that in the States, the States themselves, that have balanced-budget amendments in their State constitution, taxes are less by approximately $200 per person per year, and spending is less by approximately $400 per person per year than in those States that do not have balanced-budget amendments in their constitution.

If the State example is indicative, I can state that a balanced-budget amendment for the Federal budget will work.

I would urge tomorrow that when these two historic amendments are on the floor that, first, we try to support the Barton amendment, because it does have the supermajority for tax limitation. If that one does not get the necessary two-thirds, I would strongly urge that we support the Stenholm-Craig amendment.

Mr. Speaker, I am happy to yield to the gentleman from Idaho [Mr. CRAIG] or to the gentleman from Texas [Mr. STENHOLM] at this point in time if they would like to make some comments.

Mr. CRAIG. Mr. Speaker, I thank my colleague for yielding and, more importantly, I thank my colleague for taking out this special order to talk about the most important debate that will occur tomorrow, that on a balanced-budget amendment to our Constitution, and the two amendments that will be offered, that of the gentleman from Texas [Mr. BARTON], and the amendment of my colleague, the gentleman from Texas [Mr. STENHOLM] and mine.

Let me though specifically talk about the tax-limitation provision that the gentleman is offering, different from the one we are offering. First of all, let me say that I have supported the gentleman's approach over the years, because I have believed that with a three-fifths vote it simply strengthens the hand of the taxpayer over the tax spender, if you will, and it really does make raising taxes a tough and a well-focused issue, although our amendment, the amendment that I am a coauthor to, does not have that, and I think the provisions that are fundamentally important in both are that there are recorded votes of the total number or the whole Congress. No longer would there be a voice vote. No longer would there be just a rap of the gavel and somehow something becomes law, without those of us who every 2 years stand in the well of the House and raise our right hand and swear to uphold the Constitution of this country and then quietly duck the tough issues as the chairman or the Speaker with the gavel avoids them by rapping it before the vote.

I think it is darned important that the taxpayers of this country have an opportunity to see who raises the taxes and those who do not.

For any on the outside who would say that the Craig-Stenholm provision is less tough or less difficult to meet than is the Barton amendment, the bottom line is the vote, whether it is three-fifths or whether it is the constitutional majority. What is really important is letting that constituent know back home how you voted and, of course, we all know, with the power of the incumbency and the ability to write lots of letters and to say things in very clear and articulate ways, sometimes that is the issue that is avoided. That is really the test of serving here in Congress, to be able to represent the constituency and to have a point of view and then, of course, to express it by a recorded vote in this Chamber and then letting the constituency judge with your own ability to talk to them and to communicate with them, whether you are right or wrong, and, of course, that is what we are talking about, whether it is either the gentleman or I or the gentleman from Texas [Mr. STENHOLM] who proposes a constitutional amendment to balance the Federal budget, we are really talking about accountability.

We are talking about a process that is understood, that is clear, that is easy to follow. What we are not talking about, and what some who are editorializing against this position seem to be talking about, is that we are not talking about an automatic pilot. We are not talking about a mechanism created that somehow, without anybody's participation, is just going to balance the budget on an annual basis.

We know that is not going to happen. We know that it is important that we clean up, that we clarify and streamline the budget process and that there be absolutes and that you cannot pass go. You really do have to make decisions and that they be tough decisions and that the American public see what those decisions are and that we be held accountable for them.

I said, I think, all the key things, that the American public see what it is; that we be held accountable. That says that the press is still going to have to do their job. They are still going to have to follow the House and the Senate and report on a daily basis how we vote and how we respond to the issues. It says that the interest groups that are concerned about fiscal responsibility still monitor us, still report back to our constituencies how we vote, and it still says that we have to go home and say we either voted for a tax increase or against a tax increase, because it meant spending money on a given public priority or not spending money, and that we did so in an honest and fair way, up-or-down vote, recorded, set forth in the CONGRESSIONAL RECORD, because we were required by the Constitution to balance the budget.

I guess what I am suggesting is something that I think my colleague, the gentleman from Texas [Mr. BARTON], and my colleague, other colleague, the gentleman from Texas [Mr. STENHOLM], clearly understand about this process, that we have to bring some fiscal integrity to it, and that for over 200 years, in essence, I believe, that the Constitution has been flawed to that degree, that it did not require this Congress collectively on an annual basis to deal with the fiscal responsibilities of this Government in a way that was clear and understandable and identifiable.

That is why all of a sudden we get a report today that the deficit might be some $60-plus billion greater than it was projected to be, and that before we recess to go to our August work period in the districts that we may have to vote for a debt-ceiling increase of $3.5 trillion. I mean, my goodness, now could that be? How could it be that an American family on the average is in debt to the tune of some $12 billion to their Government?

Mr. BARTON of Texas. Twelve thousand dollars per person; $12 billion per family would be pretty steep.

□ 1540

Mr. CRAIG. You see what is happening here is that even that begins to lose value, and I guess that we misstate those figures simply because this Congress is oftentimes not held accountable for them. The gentleman is right; $12,000 per American family, a phenomenal amount. I guess those are all the issues, whether it is your version, or whether it is our version. For the first time, by an effort of 248, now 250 cosponsors, and a discharge petition and an awful lot of hard work on your part, and on the part of the gentleman from Texas [Mr. STENHOLM] and myself, and a good number of others, Members of the House are going to have to face tomorrow a very tough vote, whether they are going to vote for a balanced budget.

Let me say one other thing. What we are really doing tomorrow is saying that we believe that this issue is so darned important that we start a national debate. Not just here on the floor of this Congress, but we start a national debate in every legislature in the 50 States. Because all we are doing tomorrow is proposing an amendment to the Constitution.

We are saying that we believe the citizens of this country ought to have a right to debate the issue and to decide upon it.

Mr. BARTON of Texas. If the gentleman would yield on that point, could the gentleman from Idaho [Mr. CRAIG] explain for the edification of the Members exactly how the amend-

ment process works? How many have to vote in each House, and then what happens, and what is the role of the President if the House and the Senate were to vote in favor of the amendment?

Mr. CRAIG. Mr. Speaker, our Founding Fathers 203 years ago now decided that the Constitution, as important as it is and was then, as they formed it, single most important goals of that Constitution was to keep a large central government from forming and to allow the individual citizens a right to change that government as they saw necessary to do. The key document for governing and changing the government was the Constitution itself.

Article V of the Constitution provides two routes to do so. One is right here, that this Congress, any day that it is in session, by a two-thirds vote of the membership can propose an amendment to change the Constitution, to be sent out and to be ratified by three-fourths of the States, or 38 States.

But the Founding Fathers also said in article V that large central government which we make up a part of might never want to change the Constitution, so the State legislatures or the State should have a right to petition the Congress for a convention for the purpose of proposing an amendment.

Well, we are using the first part, and that is, of course, for Congress itself to send out an amendment. So what I said a moment ago was we will tomorrow be proposing an amendment.

The Senate must also propose. Then if there is a difference between the House version and the Senate version, we will go to conference. Out of that we will agree upon a common version that must return to these Chambers for a vote. Once that is done, of course, it goes to the people.

Mr. BARTON of Texas. But it does not go to the President.

Mr. CRAIG. It does not go to the President. It goes directly to the people. Then, as I said, in a 7-year cycle, three-fourths of the States must ratify that amendment before it can become the constitutional law of the land.

That is why there have only been 26 amendments to the Constitution. We really do not count the first 10. They were there, but they were the Bill of Rights. So they were tied directly to it in its initial approval stage.

Mr. BARTON of Texas. How many States have required that there be a constitutional convention to balance the Federal budget?

Mr. CRAIG. Well, we were up to 32, I believe. Then two have backed away in recent years. But we were nearly at the magic number. So clearly it is an overwhelming issue out in the States, and by almost all polling, I think all of us could agree that the American public by some 70-plus percent, up to as high as 80 percent, have said this to Congress time and time again.

Mr. BARTON of Texas. So the likelihood is if we pass this by the two-thirds voted tomorrow, since the Senate in recent years has passed a constitutional amendment to balance the budget by a two-thirds vote, and since 32 of the States have requested that there be a constitutional convention on a balanced-budget amendment, the likelihood is very, very high if we pass it tomorrow, within 7 years it should become the law of the land and part of the Constitution.

Mr. CRAIG. Well, I think that is very much the likelihood. Of course, because of that likelihood, you have beeen such phenomenal resistance over the years here. Inside a system that has got such a phenomenal momentum for spending, they clearly cannot say "no" any more.

I think I have used the phrase, and others have used it over the years, that we have lost our political will to be fiscally responsible. The reason that the 11th or 12th or 13th amendment to the Constitution was not a balanced-budget amendment was because in those days it was believed that you always balance budgets. It was just good government. It was just responsible management. When you were not in balance, you quickly got back in balance.

Mr. BARTON of Texas. It is interesting that in the original Constitution income tax was unconstitutional, and until the 16th amendment that said specifically you could tax individual income, there was an inherent safeguard against excessive spending, because you could not tax individual income. It is only since the passage of the 16th amendment that allowed for an income tax that you have seen the explosive growth in Federal spending. So the Constitution as originally passed had a protection against the kind of deficit spending that we have today, because it did not allow for individual income taxes.

Mr. CRAIG. Well, the gentleman from Texas [Mr. BARTON] is absolutely right. I think it is important that we walk through this process. Because as I have said and the gentleman has said on many occasions here in the well of the House, our Founding Fathers were very wise in making it extremely difficult to change the Constitution. They really did want a national debate every time the Constitution was changed, because it is the supreme governing law of the land.

The gentleman or I on a daily basis with 218 Members this body can pass a statutory law that governs the people of this country. But the law that governs us, the law that says how this House, how this Senate, how this Congress will operate. the parameters of governance, really are set forth by the Constitution.

I am always amazed at the cynicism of some that say the Constitution does not work any more. Well, just a few weeks ago we were debating a flag-burning amendment, which has nothing to do with this issue other than to say that the courts think the Constitution works. They still passed judgments against or on the Constitution.

Everything we do here is based on some constitutional parameter. So for those cynics who say the Constitution does not work any more, therefore amending the Constitution for this purpose is of no value, all I can say is, stay tuned and stay with us and support us, and let us give the people an opportunity to ratify this amendment or some version of it. Then we will see whether the Constitution works and whether it does have governance power over this body.

Mr. Speaker, I thank the gentleman from Texas [Mr. BARTON] for taking out this special order to debate and to discuss this most important issue that we are requesting to be involved in directly tomorrow, and that I hope all of our colleagues tomorow in the 3 hours of general debate and 2 hours of special debate, one on the amendment of the gentleman from Texas [Mr. BARTON] and one on the gentleman from Texas [Mr. STENHOLM], will come and participate in how it will work. I think all Members understand the importance of why we need it. But because we were disallowed hearings, because the process here would not allow us the right to proceed normally and we had to do it in an abnormal way, then it is important that the record tomorrow begin debate and begin an understanding of how these amendments will work, as we see it, as we have designed them, so that there be a clear public record. Because I hope we will get the 290 votes tomorrow and that the Senate will act, and ultimately the gentleman from Texas [Mr. BARTON] and I will be very busy over the next few years, out there talking to State legislators and explaining why this is important for us to see it as a constitutional amendment.

Mr. BARTON of Texas. Mr. Speaker, I would like to thank the gentleman from Idaho [Mr. CRAIG] for his strong and continued leadership in this effort. He has made this somewhat of a crusade against long odds, and it must be very personally satisfying to finally see Members allowed to vote on it on the House floor.

Mr. Speaker, with that I am happy to yield to the gentleman from Texas [Mr. STENHOLM], one of the original authors with the gentleman from Idaho [Mr. CRAIG] and one of the true leaders in this effort for a number of years.

□ 1550

Mr. STENHOLM. I thank my colleague from Texas for yielding and which to commend him for his help and his efforts in pursuit of the goal that we will in fact vote on tomorrow.

The amendment that the gentleman from Texas offered is one that we have considered. I find myself at this moment not in total support of the amendment. But I think the gentleman would agree, as I have agreed and have worked very hard, that this is a question that deserves to be debated on the floor of the House. It is something that I have felt very important on many other issues of which we have been stymied from having a true up and down debate, and up and down casting of votes, and that is why I supported the gentleman's amendment in the Rules Committee, the right to have him offer it. I think it is very constructive to debate, and I think it will be very helpful to the overall quest of which we are in total agreement, and that is the necessity of a constitutional restraint on Congress' and the President's ability to borrow money. For if there is a disagreement, the disagreement from this Member is on whether or not it is really necessary to have a three-fifths vote of the House and Senate regarding the raising of taxes. I know the gentleman is very sincere in saying that it is, and I know those who argue that it is well meaning, and they may be right, and the gentleman may be right. But I came to the conclusion as we pursued the amendment that we offer in a substitute that a three-fifths vote on raising taxes is unnecessary. To me, a constitutional majority of 218 on a recorded vote, under a process which will, in fact, be changed if our amendment passes, either yours or ours, and that is putting the horse before the cart, but under our current budget processes we have it just backward. We go through all of the spending and then we discuss whether or not we are going to raise taxes to cut the deficit that we have incurred. In both of our amendments we say that we want to stop that. We want to have an estimate of the amount of revenue available for us, the Congress, and we want the President to agree, or at least to agree to a legislative process whereby we establish how much money we have to spend, and then we stay within that limit unless, and here is a difference, and this is where I am glad to participate with the gentleman today, not so much in a debate but in a clarification of the differences between the two. My colleague from Texas suggests that it ought to take a 60-percent majority for the Cognress to raise taxes. Our amendment says 218 would be sufficient.

The question for the membership of this body to decide is which is the most restraining, which is the most constitutional, and that is something that is open for debate and discussion, and I certainly would not profess to say which is the most correct. I would just say that in this Member's opinion the fact that we would have to, under this new budget process which would be imposed upon the Congress if our amendment passes, we will in fact have to decide the revenue first and then, if in our wisdom through the appropriating process we decide we need to spend more, we have to do one of two things. We would have to raise taxes or we would have to bypass the constitutional restraints on borrowing with a 60-percent vote.

I personally believe that is a very proper additional restraint on Congress.

Contrary to the many debates, and I am sure my colleague, as hard as he has worked on his amendment and our amendment, would find it rather difficult to say his and ours because there is really not that much difference.

Mr. BARTON of Texas. If the gentleman will yield on that point, I think that we both know that sometimes we can agree to disagree agreeably, and while there is a difference on the intensity of the requirement to raise taxes or to raise receipts, I would point out that section 1 of the Barton amendment and the Craig-Stenholm amendment is word for word identical. Section 2, which requires the public debt not to be increased unless there is a three-fifths vote is not identical, but in substance it is identical. The requirement that the President transmit to the Congress a balanced budget is identical. The fact that there is a declaration of war waiver is identical in section 5. The requirement that all receipts and all expenses be included in any calculation is identical.

So, with the exception of some wording in section 2, with the requirement in section 4 about the rate of increase in receipts not being greater than the rate of increase in national income unless three-fifths vote to increase it specifically, and with the fact that in section 17 I have a section that specifically gives the Congress the right to pass legislation to implement it, everything else is identical.

So the bottom line is we may disagree slightly on the intensity or the propensity to tax, in every other particular we are in agreement. I want to stress my strong commitment that if the Barton amendment does not get the requisite two-thirds vote required for passage as a constitutional amendment, I will be strongly supporting the Stenholm-Craig amendment because I am an original cosponsor of that. The bottom line is to get a constitutional amendment requiring a balanced Federal budget with two-thirds vote passed. It does not do any good if both of us get 287 votes. One of us has to get 290 or 292 or whatever the magic number happens to be.

Mr. STENHOLM. The gentleman is totally correct in his analysis of the two, and in the spirit of which he has just acknowledged his intent, win or lose on his amendment, let me say to the gentleman that should his amendment be here on the board showing 288 votes for it, and this Member has not voted for it, the gentleman can bet that I am going to be scratching my head real good as to whether or not I have a concern about a limitation to that degree, or whether or not my wisdom is greater than 288 of my colleagues.

Mr. BARTON of Texas. If we get to 288, I will be right by the gentleman from Texas' shoulder encouraging him to vote a certain way, I can assure him.

Mr. STENHOLM. I think that is the spirit in which all of the 250 of us, and I just added two additional cosponsors to our list today so we now have 250 cosponsors of our amendment, and I think that is the spirit in which we will all be participating in the debate tomorrow.

There are only two basic differences I think, at least that we have been able to discern. There may be others, and I do not want to start saying there are not, or differences because that would in fact be a mistake. I know of several Members who have been very active in this whole idea of a constitutional amendment that do differ quite sincerely with some of the wording, some of the manner in which both of our amendments are expressed, and to those I would say let me point out this is not just a one-house undertaking. The Senate, under the leadership of Senators PAUL SIMON and STROM THURMOND, as well as Senators BYRD and DECONCINI, and at least seven others on the Judiciary Committee have spent hours in the hearing process, have marked up and have, in fact, reported a constitutional amendment very, very similar to the ones that we will be debating tomorrow. There is enough similarity in some of the questions or wording and the inferences and the constitutionality, I would say, that would offer even the most scrutinous eye the assurance that they would need that in a conference between the two bodies that some of what we call the dotting the i's and crossing the t's of this serious venture could in fact be worked out.

Again, we remember that the Senate at one time in 1982 passed a constitutional amendment. The House did not. We got 236 votes at that time. The Senate at one time in 1986 came within one vote of passing such an amendment.

So we hope that the Members, as they look at the basic difference, and that is the gentleman from Texas'

amendment says that we ought to make it a little more difficult to pass a tax increase bill or a revenue-increasing bill, if you please, that as Members look at that basic issue that they will in fact vote their convictions, and we will see what the will of the House is on that amendment. If it should in fact, as we have discussed, get very close, even those of us who have opposed that in the discussions that we have had, as the gentleman said, we will have a lot of friendly arm-twisting and a little checking of the bottom pits of our stomachs as to the wisdom of our convictions.

□ 1600

Let there be no doubt that, according to my most recent vote count, 271 Members of this body now are supporting an amendment to our Constitution providing for a balanced budget. That is the most support that I know the three of us participating today have ever witnessed in our careers, being of different lengths.

But that is encouraging to us. With the numbers that were just released today concerning the sequestration, if the current statute of Gramm-Rudman is allowed to prevail—and it will prevail if this body does not change it. This body can change it because there is no constitutional restraint on us changing any of the laws; if fact most of the time I have judged that we have not bothered to change the laws, we just ignore them and keep going. But in this case we are faced with a sequestration order of $100 billion, and that would be devastating on a large part of our budget, let there be no question about that. Also let me remind all of our colleagues that we also will have to vote sometime between now and mid-August to increase our debt ceiling to $3.5 trillion.

Now, many of us in the past have voted for increasing our debt limit and voted against it. I think this Member probably is about 50–50 voting for or against, depending on the mood that I was in with this body at that time. But it is a vote that we have a pass. We have already spent the money. For us at this time to come in and to say we are not going to increase our debt ceiling means that we in fact are going to cause a collapse of the Government of the United States.

Now, this Member has got some question, some reservations about the vote this year because I happen to believe unless we do something different—in our case, we are proposing a positive significant difference—imposing a constitutional restraint on Congress and future Presidents, that is something different. To those that are saying that this is not the time, it behooves them to come forward and say, "If not now, when? If not this, what we are going to do to deal with our propensity to borrow money on our children's and grandchildren's futures?"

I am the first to agree with the critics of both of our amendments when they say we are really doing something in the Constitution which this body ought to have the guts to do without the constitutional restraint.

Mr. BARTON of Texas. Mr. Speaker, it is interesting to me that this is an argument that is used against the constitutional amendment to require a balanced budget. I have carefully read the 26 amendments to the Constitution that are currently a part of the Constitution. And if you look right after the War Between the States, the Civil War, there were several amendments passed, one of which said that the debts incurred by the States of the Confederacy would not be repaid by the Union or the Federal Government. There is a constitutional amendment. Now, at that point in time that was a very serious issue. Whether that should have been a part of the Constitution is very debatable. But it is.

There are a number of other amendments that are in the Constitution which have passed that, in my judgment, while very important, are certainly of no greater importance than the fact that we must balance the Federal budget.

For example, one of the very last amendments to the Constitution is giving people at the age of 18 the right to vote. Very important. That could have been done, in opinion, without a constitutional amendment. But it was determined that it needed to be in the Constitution.

I cannot think of anything more important than requiring that we give our children, our grandchildren, our great-grandchildren the right to have the kind of a nation, the kind of a Government that we have today. And if we do not limit Federal spending and Federal ability to tax at the Federal level by constitutional amendment, I am not sure that is going to be possible.

Mr. Speaker, I yield further to the gentleman from Texas.

Mr. STENHOLM. Mr. Speaker, I concur with that point. Let me just conclude by in fact reading from our Constitution to those who are concerned whether or not we ought to be amending the Constitution for purposes of balancing the budget, and then validly asking the question: "How is the Constitution going to do that which the Congress and the President have shown no propensity whatsoever to do under the legislative process?"

Let me read first off in article 1, section 8, clause 17, in which it says that "the Congress have power to make all laws which shall be necessary for carrying into execution the foregoing powers" already listed "and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof." Finally, why we believe a constitutional restraint is an important added tool to be used by this body for purposes of bringing our fiscal matters in order, let me remind all of this body as well as the people and the President of the United States—because in this case we all swear, and in the case of the President before he enters on the execution of his office he shall take the following oath or affirmation, "I do solemnly swear or affirm that I will faithfully execute the office of President of the United States and will to the best of my ability preserve, protect, and defend the Constitution of the United States." And each of our 432 colleaues in this body, before we take office for this or any succeeding Congress, including the one we are now in, pledge to do the same. I think that is an important, necessary, and added tool that we need in order to deal with the fiscal matters of this body.

Mr. BARTON of Texas. Mr. Speaker, I yield to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. I thank the gentleman for yielding, Mr. Speaker, on only one point that Congressman STENHOLM just made as it relates to the responsibility of an enforcement thereof of a balanced budget.

If there are going to be, as there are currently, a number of critics who would say, "Well, how do you enforce this? How do you ultimately arrive at a balanced budget? And what is the enforcement mechanism," the important clause in the Constitution that our colleague just read is the beginning of the mechanism. I think it is important that we talk about that briefly here as we work our way through this issue.

Clearly, the enforcement of the mechanism becomes key because if it is not enforceable, why should you have it? The enforcement of balancing-the-budget amendment really would be through the executive. This is something you have not heard talk about a lot. It is the old adage that the Congress proposes and the executive disposes. In other words, we propose the budget and we arrive at the revenue for it, but the executive ultimately spends it, or it is spent out through agencies of government.

We all like to point fingers of blame, but we all seem to blame Presidents, if you will, for deficits, and we certainly blame Presidents for moneys that are expended. We very seldom blame Congress for doing it. The reason is that constitutional battle.

I think we all remember back to the battle of 1974, when Richard Nixon, then an embattled President, basically signed a law denying the right of a President to impound moneys. Of course, up until that time Presidents

had exercised that act of impounding moneys partly under what was then believed to be the constitutional authority of a President to dispose, or to execute a budget.

Now here comes the test: As we monitor the expenditures of a budget that has been passed by this Congress, in other words, as it has been proposed by this Congress, what does the President do who places his or her hand on the Bible and takes the oath of office and pledges to execute the Constitution, as do all of we, when they arrive at a time when they have spent the budget of the United States and they now know they are spending into deficit? They are spending beyond the balance.

I believe they have at that point simply trumped, if you will, the 1974 Anti-Impoundment Act, and I believe at that point, where we are truly dealing for the first time in incorporating the executive into the budgetary process—because heretofore the Constitution does not allow that to happen. We have only done that through the law, through the Budget Act of the 1970's.

Now we have changed the equation. The executive truly becomes the enforcer, if you will, of the expenditure provisions. He cannot, by Constitution, spend into an unbalanced situation. At that point in time, through what we will arrive at legislatively in concert with the executive, will be a mechanism where the Congress or the President must return to Congress and say, "We are within weeks or months of being unbalanced."

□ 1610

What are we going to do about it if that were to become the situation? Hopefully our budget process would not allow that.

However, to those who are skeptical about how it is enforced, and argue that the courts are the first tier of enforcement, I would argue that that simply is not true. I would argue that it is the executive that becomes the first tier in enforcing a balanced budget, because they are the ones that spend the money. They are the executors, the disposers of the money, and they are the ones that meet the first tier of the test for a balanced budged. That becomes critically important as we debate this tomorrow, to develop a better understanding of the very system that for 200 years has served Members.

Some Members who work on it and in it fail to recognize what the Constitution really says, and what the basis of the law that we operate under really come from. I would argue that the 1974 Impoundment Act by our act tomorrow could be trumped, and certainly we are back to the executive being an active participant in the budget process, not only as a proposer of a balanced budget, as both our amendments require, but the disposer of a balanced budget and therefore being in violation of the Constitution, if they are now knowingly spending an imbalance, or they are spending into deficit, a budget that we have not allowed them to do so.

I appreciate the gentleman yielding to me for that point.

Mr. BARTON of Texas. Mr. Speaker, I concur with the gentleman from Idaho [Mr. CRAIG]. I think in current law, and in the Constitution, that it is abundantly clear that the constitutional amendment that the gentleman is offering would be enforceable. I would point out that in my amendment, just to make absolutely clear, I have section 7 that makes explicit in the wording of my section 7, the wording is the same as the 13th amendment to the Constitution, the 14th amendment to the Constitution, the 18th amendment to the Constitution, the 19th amendment to the Constitution, the 23d amendment to the Constitution, the 24th amendment to the Constitution, and the 26th amendment to the Constitution.

So in the Barton amendment it is made explicit. In the Stenholm-Craig amendment it is not explicit, but there is certainly ample authority and precedent, so it would be enforceable.

I would be happy to yield to the gentleman from Tennessee [Mr. TANNER] if he had some comments that he wished to make.

Mr. TANNER. Mr. Speaker, I appreciate this opportunity and want to thank the sponsors for the same. Mr. Speaker, my comments are generic in nature, and they simply go to this proposition. No Member, I think by the vote last week, takes the idea of amending the Constitution of the United States very lightly. We are here in all seriousness, out of a deep and abiding respect for that document. What we have seen as a nation for the last 19 years and for something like 50 out of the last 58 years, is several propositions where we as a nation, as a country, have spent more money in any given year than we have received in revenue. All Members know that cannot continue. All Members know that that is not good government. All Members know it is going to pose problems not only for our generation but for those who will follow.

Mr. Speaker, as a new Member of this body, I and many others see this as a systemic problem. Partly due to the nature of the Congress itself, all Members of Congress are confined by a finite, geographical area that we represent. In the case of Members of the U.S. Senate, State lines are their finite geographical areas, and with it the tenant number of people that live within that State.

We therefore are confined by parochial interest, to some degree, as we try to address the needs of the Nation. The President, however, is unfettered by regionalisms, is unfettered by parochial interests. He or she, therefore, has the ability to look at the needs of the Nation and to submit a document that reflects that need. Oftentimes, I have found here in the Congress that the needs of the part that we all represent individually may not necessarily become or be the needs of the whole.

This approach to our Constitution, I think, is necessary for two reasons. One, to overcome the systemic bias that exists against the needs of the whole sometimes in the Congress. Also, to fulfill the prophecy of Thomas Jefferson when he made the observation that this approach was something like it was necessary to make the Constitution whole. I want to commend the sponsors of this approach. I was an original cosponsor and proud to be so.

I want to finally end by saying simply this. There is no place for partisan politics in the business of America. This attempts, I think, to take the football gamesmanship, the partisan political rhetoric, that shrill approach to the books of the Nation, out of the process, and have Republican or Democrat Presidents, and Republican or Democrat Congresses in the future be a party together to running the needs of America. It is high time that we take this historic step, and I hope all Members as Americans will pass this legislation.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman from Tennessee [Mr. TANNER] for his support and his excellent comments.

I have some concluding remarks that I would like to make at this point. I want to go back to the beginning of my remarks where I emphasized that there is no divergence of opinion by any of the Members currently in the Chamber as to the need for a balanced-budget amendment to the Constitution. We slightly disagree on how strongly we want to make the requirement that we balance the budget by raising taxes. It is my opinion that we should make it a very strong hurdle that needs to be overcome. So my amendment has three-fifths vote required to raise taxes, that is raise rates faster than the rate of growth of national income. That is truly the most basic substantive difference between the amendments.

I submit for the RECORD a table titled "Total Government Surpluses or Deficits in Absolute Amounts and as Percentages of GNP: 1947-1989."

TABLE 15.6.—TOTAL GOVERNMENT SURPLUSES OR DEFICITS (—) IN ABSOLUTE AMOUNTS AND AS PERCENTAGES OF GNP: 1947–89

[Dollar amounts in billions]

	In absolute amounts					As percentages of GNP		
	Total Government	Federal Government			State and local (NIPA basis)	Total Government	Total Federal	State and local
		Total	On-budget	Off-budget				
Fiscal year:								
1947	5.6	4.0	2.9	1.2	1.6	2.5	1.8	.7
1948	12.4	11.8	10.5	1.2	.6	5.0	4.8	.2
1949	.4	.6	−.7	1.3	−.2	.2	.2	−.1
1950	−4.4	−3.1	−4.7	1.6	−1.3	−1.7	−1.2	−.5
1951	5.6	6.1	4.3	1.8	−.5	1.8	1.9	−.2
1952	−2.0	−1.5	−3.4	1.9	−.4	−.6	−.4	−.1
1953	−6.2	−6.5	−8.3	1.8	.3	−1.7	−1.8	.1
1954	−1.4	−1.2	−2.8	1.7	−.3	−.4	−.3	−.1
1955	−4.6	−3.0	−4.1	1.1	−1.6	−1.2	−.8	−.4
1956	3.2	3.9	2.5	1.5	−.8	.8	.9	−.2
1957	2.5	3.4	2.6	.8	−.9	.6	.8	−.2
1958	−4.8	−2.8	−3.3	.5	−2.0	−1.1	−.6	−.4
1959	−14.6	−12.8	−12.1	−.7	−1.8	−3.0	−2.7	−.4
1960	.7	.3	.5	−.2	.4	.1	.1	.1
1961	−3.6	−3.3	−3.8	.4	−.3	−.7	−.6	−(1)
1962	−7.1	−7.1	−5.9	−1.3	(1)	−1.3	−1.3	(1)
1963	−4.4	−4.8	−4.0	−.8	.3	−.8	−.8	.1
1964	−5.3	−5.9	−6.5	.6	.6	−.8	−.9	.1
1965	−.7	−1.4	−1.6	.2	.8	−.1	−.2	.1
1966	−3.1	−3.7	−3.1	−.6	.6	−.4	−.5	.1
1967	−10.1	−8.6	−12.6	4.0	−1.5	−1.3	−1.1	−.2
1968	−24.7	−25.2	−27.7	2.6	.4	−2.9	−3.0	.1
1969	2.9	3.2	−.5	3.7	−.4	.3	.3	(1)
1970	.8	−2.8	−8.7	5.9	3.7	.1	−.3	.4
1971	−23.5	−23.0	−26.1	3.0	−.5	−2.2	−2.2	−(1)
1972	−15.2	−23.4	−26.4	3.1	8.2	−1.3	−2.0	.7
1973	−(1)	−14.9	−15.4	.5	14.9	−(1)	−1.2	1.2
1974	4.5	−6.1	−8.0	1.8	10.6	.3	−.4	.8
1976	−66.9	−73.7	−70.5	−3.2	6.8	−3.9	−4.3	.4
TQ	−16.2	−14.7	−13.3	−1.4	−1.4	−3.6	−3.3	−.3
1977	−29.3	−53.6	−49.7	−3.9	24.4	−1.5	−2.8	1.3
1978	−27.8	−59.2	−54.9	−4.3	31.4	−1.3	−2.7	1.4
1979	−13.7	−40.2	−38.2	−2.0	26.5	−.6	−1.6	1.1
1980	−48.1	−73.8	−72.7	−1.1	25.7	−1.8	−2.8	1.0
1981	−46.5	−78.9	−73.9	−5.0	32.4	−1.6	−2.6	1.1
1982	−93.1	−127.9	−120.0	−7.9	34.8	−3.0	−4.1	1.1
1983	−165.2	−207.8	−208.0	.2	42.6	−5.0	−6.3	1.3
1984	−122.3	−185.3	−185.6	.3	63.0	−3.3	−5.0	1.7
1985	−150.4	−212.3	−221.6	9.4	61.8	−3.8	−5.4	1.6
1986	−156.6	−221.2	−237.9	16.7	64.6	3.7	−5.3	1.5
1987	−95.8	−149.7	−169.3	19.6	53.9	−2.2	−3.4	1.2
1988	−105.0	−155.1	−193.9	38.8	60.0	−2.2	−3.2	1.0
1989	−105.4	−152.0	−204.7	52.8	46.8	−2.0	−2.9	.9

[1] If dollars, $50,000,000 or less. If percent, 0.05 percent or less.

[Percentage of GNP]

	Outlays	Receipts	Deficit
Fiscal year:			
1929 [1]	2.6	3.7	−1.2
1939	10.3	7.1	3.2
1949	14.7	14.9	−.2
1959	19.1	16.5	2.7
1969	19.8	20.1	−.3
1979	20.6	18.9	1.6
1989	22.2	19.2	2.9

[1] Calendar year, national income basis.

In this table it shows that there have only been seven balanced budgets since 1947, the most recent being in 1969. Now, the numbers are very dry and boring, and just to show the table it does not really hit home what that means. I have another chart entitled "Federal Budget Surpluses Versus Deficits," and the Members may be able to see this chart, the only green lines are the balanced budget surpluses, and there have been seven since 1945. The red lines are the deficits. If we had a larger version of the chart, one could see that since 1969 the red lines have been consistent and have gotten longer and longer, the record being $221 billion in 1986. That makes it more graphic, more understandable than any series of chart numbers.

I would also like to point out that each year more and more of our total percentage of national income is going toward Federal expenses. Back in 1929 the Federal budget in terms of outlays or expenditures was 2.6 percent of the national income. The receipts were 3.7 percent. By 1939, outlays had gone up to 10.3 percent, and receipts were at 7.1 percent. The trend becomes clear; 1959, 19.1 in outlays and 16.5 in receipts. Last year, outlays were over 22 percent, 22.2 percent, and receipts 19.2 percent. So we are taking a larger and larger piece of the total pie to be spent at the Federal level. It is my sincere opinion that the only way to reverse that is a constitutional amendment requiring that the Federal budget be balanced, that we have the same limitation to raise taxes, that is, a three-fifths super majority vote, as we have to borrow more money, three-fifths to borrow money.

So, tomorrow when the Barton amendment is on the floor of the House, I strongly encourage each Member to vote for it and point out that many national organizations are supporting it, the U.S. Chamber of Commerce, the National Federation of Independent Businesses, the National Association of Manufacturers. The Wall Street Journal this morning ran a very strong editorial in support of the Barton amendment. Milton Friedman, a Nobel economist, is supporting the Barton amendment. Alan Greenspan, the Chairman of the Federal Reserve, while not specifically supporting my amendment, is supporting the concept of a super majority for a tax increase.

□ 1620

I could go on and on, but I would hope that tomorrow we get 288 to 290 votes in favor of it.

MORE ON THE BALANCED BUDGET AMENDMENT

The SPEAKER pro tempore (Mr. DORGAN of North Dakota). Under a previous order of the House, the gentleman from Texas [Mr. STENHOLM] is recognized for 60 minutes.

Mr. STENHOLM. I will indicate to the Speaker that I do not intend at this time to use the full amount of my 1 hour. We have participated in the previous hour of the gentleman from Texas [Mr. BARTON]. I will, however, ask if the gentleman from Texas has anything additional he would like to say, and, if not, I yield to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I think a point that needs to be made again and again as we debate this most impor-

tant issue of a balanced budget or fiscal responsibility in this body is: Who becomes the net beneficiary of this effort? The budget summit that is now under way by the leaders of this House and the other body, along with the executive branch, is based primarily on the premise of how much money do we spend and for whom do we spend it; in other words, what programs do we fund, and where do we get the resources to fund those programs, and what priorities does the Federal Government place on spending? Mr. Speaker, nowhere in the whole discussion is there any real meaningful talk about the benefits of reducing budgets, the benefits of reducing spending, and the consequences it could have on the economy of this country, and the taxpayers and the general vitality, and it is not unusual. Those of us who reside inside the beltway and are charged with the responsibilities of executing budgets and carrying out the activities of Government sometimes fail to recognize for why we are here; more importantly, for the important balance that is necessarily kept between Government and those it represents, the citizens of this country.

Mr. Speaker, I am one of those who strongly believes that we really ought to be arguing on the side of the taxpayer, that we ought to be giving the taxpayer the benefit of the doubt, that we ought to be concerned about the productivity of this economy than we are worried about what we are going to be doing for certain constituencies. Those are the secondary responsibilities, and it is for that reason that there are a couple of figures that I would like to talk about briefly this evening, to reiterate again, that really, to balance the Federal budget, to keep our fiscal house in order, would have a substantial impact upon the economy of this country and, for all intents and purposes, the economy of the world.

There have been a variety of studies done. Most of them all agree on a couple of things though. They differ by variations of tenths of percentages and given figures, but all of them agree that to balance the Federal budget, and to do so primarily through fiscal restraints instead of tax increases, would launch increased productivity in this economy as a real job creator and wealth creator for our economy. One of those studies suggests, a study that was recommended in Fortune magazine this year as a cover story as to the economy known as "How Americans can Triumph in the Decade of the Nineties, and the Year 2000 and Beyond"; as we have to compete more and more with leading Pacific rim nations, and as we see the growth of the economy of the Western and Eastern European nations as they seem to grow increasingly closer together through the European Community. It is recognized that we simply cannot continue to muddle along, that continuing to put off the tough choices of spending and taxation, to tinker a little here and tinker a little there, and maintain upwards of hundreds plus billion dollars deficits, and to see the debt continually increase, and to know that, if we had a federally balanced budget today, we would not have a deficit, that it is actually the deficit that is the finance figure of the budget on an annual basis says that we could see tremendously increased productivity.

How much productivity? Well, it is suggested that it would grow, if we balanced the budget by 1996, from 1.2 percent annual growth rate to 1.8 percent annual growth rate. That does not sound like a lot, but in a multitrillion-dollar economy it is a phenomenal amount. It is hundreds of thousands of new jobs, it is greater enhanced economic growth in this country, it is 11-percent increase, 11-percent increase in a decade, in the overall incomes of the average American family, and of course we know what happens when incomes go up in the country. Buying power increases. Productivity increases. Investment increases. Jobs increase. That is the positive side.

Mr. Speaker, many would say that being able to spend money for given Federal programs is the positive side, and that seems to be the premise of all budget debates today. I would suggest that determining where we are going to spend the money, how much money we have to spend, and of course the positive side of that spending will always be the argument until we have a federally balanced budget mandated by the Constitution; then for the first time, I believe, a more balanced argument will begin to occur. That is: What kind of an impact will we have on our budget if we have to raise taxes ever so slightly, if my colleagues will? Several billions of dollars maybe so we can have more money to spend in a different program.

For the first time we really have to look at the consequences. What is the tradeoff? Is it worth more to raise the taxes and spend the money on a given program than it is to leave it out there in the private sector where we know that through formulas that most agree with it will be a generator of income, a generator of new jobs? Today that debate is largely absent in the consideration of spending for our Government.

So I only offer that this afternoon as part of the whole of this discussion that the dynamics will change. The dynamics should change in every budget debate, and it will only change the day that this Government must operate under a constitutionally mandated balanced budget.

Mr. Speaker, I again thank my colleague from Texas [Mr. STENHOLM] for taking this special order and this time.

Mr. STENHOLM. Mr. Speaker, I yield to the gentleman from Utah [Mr. OWENS], our colleague. The gentleman from Utah has been a good, solid, strong supporter of this effort on my side of the aisle, of which I am deeply appreciative.

Mr. OWENS of Utah. Mr. Speaker, I thank the gentleman from Texas [Mr. STENHOLM], and I express my appreciation to him and to the gentleman from Idaho [Mr. CRAIG], my neighbor and close friend, for taking this time, and, more importantly, really, for the immense work now coming to a head tomorrow, which they have given to forcing this vital issue to a vote.

Mr. Speaker, I am a death bed convert to the balanced-budget amendment. I opposed it in my first term in Congress in the early 1970's. I opposed it when I ran in 1986 to return to the House. Six months after my reentry into the Congress I discovered, I guess, what the true situation was. I pointed with alarm at the deficit in 1986, and got into the House and decided I had been right, and that was sobering indeed. When our rhetoric of a campaign turns out to be true, that is a rare confrontation with reality oftimes, and in 1987 I very, very reluctantly concluded that we must raise to the level of a constitutional amendment the requirement to balance the Federal budget.

Mr. Speaker, tomorrow the Congress will meet for the third time in a decade to consider a balanced budget amendment to the Constitution. In 1982, when the House first defeated the measure, the deficit stood at $127.9 billion, and the national debt at $1.15 trillion. In 1986, when the Senate rejected the amendment, the deficit had risen to $221 billion, and the national debt to $2.13 trillion. We stand today on the eve of yet another vote.

Mr. Speaker, now, with a looming deficit for next year, which will be more than $300 billion, when Social Security Trust Fund contributions and the monumental costs of the S&L bailout are included, that expenditure, Mr. Speaker, is more than 33⅓ percent above expected receipts.

□ 1630

Imagine that. We take in $900 billion and we borrow $300 billion so that we can expend $1.2 trillion. The accumulated national debt is more than three times than it was in 1980. The interest on the deficit alone averages $1,700 for every American taxpayer.

Now, that is serious. It is scandalous. The country is furious because the savings and loan fiasco will cost each taxpayer perhaps $2,500, and they should be, but here it is in one year,

every taxpayer paying in interest on that debt $1,700, and that will increase.

In 1989, if you exclude the Federal Government, the national savings rate was approximately 5.7 percent of GNP. Financing for the deficit soaked up 2.8 percent of this, money which could have been used to finance investment in housing and business, as well as other expenses, as a consequence, 1.8 percent of our GNP poured in from foreign investment, boosting the value of the dollar ever higher and making U.S. products even harder to sell abroad. A rampant deficit means high interest rates, crippled competitiveness, low savings, and slow growth. It is a crisis which places at risk our economic future and that of our children; it is our No. 1 national security threat.

Mr. Speaker, the Federal deficit has continued to skyrocket despite four separate statutory attempts to balance the budget; and yes, I will vote this week for the new statutory attempt. I do not think it means much, but I cannot vote against the principle of a balanced budget.

The first such attempt in 1978 required that budget outlays not exceed receipts; the second in 1979 required Congress to balance the federal budget, and Gramm-Rudman-Hollings I and II in 1985 and 1987 required that we meet deficit reduction goals, both of which will be soon set back.

Since then, the Congress and the administration have rewritten the book on accounting, repaying loans ahead of schedule, pushing Federal pay days from one fiscal year to another, removing agencies and programs from deficit calculations, and the list goes on and on.

If we have learned anything from this annual budget Kabuki dance, it is that process is not the problem. Courage is the problem. However, while we wait for courage, we cannot legislate that, and faced with a deficit which will cripple our children, the best alternative seems to be to hone the process and keep the feet of Congress and the President to the fire. There is no reason to believe that the engine which has tripled the national debt in just 8 years will slow of its own accord; no reason to believe that we will correct what is perhaps the greatest abuse of the public trust in our Nation's history.

A balanced budget amendment to the Constitution is a desperate measure which enshrines fiscal discipline at the highest stratum of the law of the land. Budget summits and deficit reduction targets merely paper over the problem.

Mr. Speaker, I strongly urge the Members to vote for the constitutional amendment tomorrow afternoon.

Mr. STENHOLM. Mr. Speaker, I yield to our colleague, the gentleman from Virginia [Mr. SLAUGHTER].

Mr. SLAUGHTER of Virginia. Mr. Speaker, I thank my colleague for yielding to me. I want to express my thanks to my colleagues who are here, the gentleman from Idaho [Mr. CRAIG], the gentleman from Texas [Mr. STENHOLM], and others, for taking out this special order. I appreciate that very much.

Tomorrow, July 17, the House is scheduled to debate and vote on the balanced budget amendment.

Since being elected to Congress in 1984, I have been a strong supporter and cosponsor of the balanced budget amendment. The amendment has been bottled up in the Judiciary Committee since 1982, but the recent success we had in attaining the 218th signature on a discharge petition allowed us to bypass the normal committee procedure, making Tuesday's vote possible. I was an original cosponsor of this balanced budget amendment and an early signer of the discharge petition. I am pleased that the House will finally be allowed to vote on the amendment.

Like most Americans, I believe deficit reduction should be a top priority for Congress. The Congress has failed to deal effectively with the deficit, thereby adding to the national debt and creating a burden for our economy and future generations. A balanced budget amendment would require Congress to operate more like responsible families and businesses. That is, Congress would not spend more than the country can afford without being accountable for the spending.

I will be supporting the amendment and I hope that we can reach the necessary two-thirds support in both the Senate and the House in order to forward the amendment to the States for ratification.

Mr. STENHOLM. Mr. Speaker, I yield to our colleague, the gentleman from New Mexico [Mr. RICHARDSON], another cosponsor of our amendment.

Mr. RICHARDSON. Mr. Speaker, I also join in the praise for the gentleman from Texas [Mr. STENHOLM], the gentleman from Delaware [Mr. CARPER] and the gentleman from Idaho [Mr. CRAIG], and all those involved in this balanced budget amendment, not just for their breadth of understanding of the budget process, but for their persistence in seeing that this issue gets a full airing.

I, too, like my colleague, the gentleman from Utah, come to this issue rather reluctantly. I was not a supporter of the balanced budget amendment when it was first introduced. I think I have been a cosponsor for two terms now, and I have come to the conclusion that this is the only way to deal with a Federal deficit guaranteeing that it is going to come down.

We have been through many summits. A lot of industrial people have put forth many valiant and sometimes effective proposals, but they have not yielded a reduction in the deficit, so I am here and I am also confident that the proposal guarantees constitutional rights. I think the basic right being that taxpayers should be protected from any abuses on the part of the Government when it comes to their tax system, when it comes to properly spending their tax dollars, and a constitutional amendment is the right way to go. Every State in the Union, except one, has this balanced budget amendment and I think we should proceed with it.

I will include a letter that I have seen today from Senator Proxmire to be included in my statement.

WASHINGTON, DC,
July 16, 1990.

House of Representatives, Washington, DC.

DEAR REPRESENTATIVE: Next Tuesday, you will face one of the most important votes of your congressional career: the decision to support or oppose H.J. Res. 268, the Balanced Budget Amendment. Doubtless, you have been deluged with information on both sides of the issue.

Throughout my career as a Democratic Senator from Wisconsin, I supported the Balanced Budget Amendment. Let me offer some arguments which helped me to come to this conviction.

This is the right vote. By paying for the programs we want, we will be doing the morally correct thing. Fiscal discipline will make Congress a better manager of the public purse, and more reputable in the eyes of its constitutents. At the same time, you and your election opponents will be forced to confront the voters with the realities of modern government. For once, elections will focus not on unreal, symbolic issues, but on the difficult choices of the budget.

Future generations, our children and grandchildren, will be better off. Deficit spending during the 1980s alone has encumbered future taxpayers, in perpetuity, with huge annual interest liabilities averaging $1,700 per taxpayer. The Balanced Budget Amendment would put the brakes on this reckless hemorrhaging of the American Dream.

The Amendment will not cause a recession. Quite the opposite, by eliminating our dependence on foreign investment, we can lower interest rates, which will stimulate homebuying, investment in businesses, and increased exports and jobs. If it looks too dangerous to balance the budget in any given year, Congress should be able to muster the three-fifths majorities needed to achieve a more gradual balance.

The Amendment will make a big difference. Every state in the union, except one, has a balanced budget requirement in its constitution. The Advisory Commission on Intergovernmental Relations has documented that these requirements play a major role in promoting fiscally responsible state policy. The Balanced Budget Amendment will do the same at the federal level.

More than "political will" is required to balance the budget. Important political and economic disciplines that once worked to keep taxes and spending in line are no longer working. During the last 20 years the national debt has grown by 12 percent an-

nually, compared with two percent annual growth in the preceding 20 years. The steady growth of debt since 1970 constitutes ample evidence that constitutional discipline is needed.

The Balanced Budget Amendment is consistent with other constitutional guarantees. A primary purpose of the U.S. Constitution is to protect the people from the abuses of government. The Balanced Budget Amendment would confer upon our children the right to be free from the tyranny of our debts. Such a guarantee would be fully consistent with other fundamental constitutional protections.

Finally, I ask you to give this issue your most serious consideration. As a member of the 101st Congress, do you want to be remembered for the debts that you left to future generations, or the freedoms that you guaranteed on their behalf? Let it be the latter.

Thank you for your consideration.

WILLIAM PROXMIRE.

Mr. RICHARDSON. Mr. Speaker, I just want to join those in support of this balanced budget amendment. I think it is the right way to go.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman. I thank all my colleagues, in fact, for their support and participation in this special order. I had hoped that perhaps we might get into some of the debate today with some of those who are on the other side of this question, since we will have rather limited time tomorrow, but it seems to this point that has not been possible.

I see my colleague, the gentleman from Louisiana [Mr. TAUZIN], another cosponsor of the amendment and one who has been invaluable in his support to our effort in bringing this to a vote tomorrow.

Mr. Speaker, I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding to me.

Let me join my colleagues in congratulating the gentleman from Texas for his valiant efforts in bringing this to the floor. I am sure the people of our country are aware that it took a petition of the Members of this House to bring this issue to the floor. That is how much resistance does in fact stand in the way of giving the people of our country a chance to vote on this important constitutional amendment.

A key feature of this amendment, I say to the gentleman from Texas [Mr. STENHOLM] that I would like to focus on for the time remaining is the importance of the process starting with the President of the United States.

Often in town hall meetings I have asked constituents if anyone can guess how many times in the 10 years I have served in this body the Congress actually has spent more money than the President requested in his budget. Almost without exception, hands go up and people say 10 years. Everybody assumes that Congress is always spending more than the President requests in the budget.

Well, there is even some dispute over this fact, but let me lay it out. The information we have is that in only 1 of those 10 years, 1986, did Congress actually spend more than the President requested in his budget.

□ 1640

I think in 1986 that Congress appropriated about $15 billion more than the President requested that year. Every other year, whether it was President Carter, President Reagan, or, now, President Bush, Congress has spent less than the President actually requested in his budget in total expenditures. The President may have requested more in military or more in some other area and Congress may have decided to spend it differently, but we have generally lived under the Presidential request, and so when we start balancing the budget, it starts, I think, at the White House, and this amendment that the people of America hopefully will have a chance to vote on through their legislatures if we adopt it tomorrow will first call upon the President of the United States to present a balanced budget to the Congress, in other words, to match his deeds with the rhetoric and to say, "Here, Congress, is a chance to have a budget that does, in fact, live within our receipts."

Then it secondly calls upon the President and the Congress to come to grips with a number, what is expected to be our national receipts, and then to live within that number or else, by supermajority, to agree to live with the deficit.

I know that other speakers have gone over our futile attempts to legislatively correct this problem, and they have been futile. If we look at the acts that Congress has passed in the last 10 or 15 years to try to put some restraint upon spending, that we simply live within our receipts, you see, we have failed miserably. Even the Gramm-Rudman Act has been a miserable failure when we look at it in terms of its real effect. Has it had an effect of maybe toning down the spending initiative? Perhaps it has. But has it really gotten us closer to a balanced budget? The announcement today by the White House should tell us that the budget is actually out of balance more by almost $100 billion now than we were told 6 or 7 months ago. It is getting worse, not better.

As we speak today, the budgeters on this Hill, both in the White House and in the Congress, are still playing games with the numbers. Social Security trust funds are being counted as though we are spending them every year on current operating funds, or the deficit, rather. The Federal FAA accounts, the Federal highway trust accounts, even the oil-spill money we are collecting is being counted as being spent for operating expenses against that deficit when we know that they are really trust fund accounts. On top of that, the money we are spending to rescue failing S&L's across America is not even being counted in the deficit.

When we look at the true picture, the deficit is growing, not shrinking, and when we look at the real numbers under Gramm-Rudman, Gramm-Rudman is failing us.

If there ever was a time, this week with this new announcement of this growing national debt soon to be over $3 trillion, a mortgage on every one of our children and grandchildren, if there ever was a time for us to come to grips with it in this body and for America to come to grips with it permanently in the form of a national constitutional amendment requiring common sense in spending, it is now. If ever there was a time for this body to debate it, it is this week. And if ever we have a chance, I think, to pass it, it is now, as Members come to realize that our statutory attempts have failed. It is time to ask the American public to agree within our Constitution to set limits upon this body and all bodies to succeed us in terms of how we spend their taxpayer dollars.

There is another fact that may have eluded some people as they consider the new efforts to raise taxes here in Washington, DC. If we did not raise a single tax rate in America, the rate of Federal receipts to this Government will continue to grow under current tax law faster than the rate of personal income growth in America. In effect, American pocketbooks are going to grow at a slower rate than the Federal Treasury even though we do not raise a single other one item of taxes in this body, and yet we are talking right now in budget summits about raising the taxes again.

Let me tell the Members something, this has got to stop. America is at that point. There was a tea party once in America, and the tea party is around the block. We have got to put an end to this constant complaint that there are not enough revenues to run this Government and that Americans have to keep coughing up more and more taxes.

We have to put an end to the excuses of every administration that, "Well, things were so much worse when I got here than I thought and, therefore, I have to ask for more revenues."

We have to end the incredible dialog between the politicians and the people they govern by this constant barrage of more taxes and increasing revenues exacted from those incomes when those incomes are not growing as fast as Federal receipts.

This amendment will seek to do that.

The gentleman from Texas [Mr. STENHOLM] has the admiration and re-

spect of so many of us in this Chamber for the efforts he has made to bring this body to this conclusion this week, and I hope we have the courage to act tomorrow to act favorably upon this constitutional amendment. I know the people of America really expect us to give them a chance to vote on this thing, and I hope and I pray that tomorrow is the day we can be proud of in this Chamber where we no longer have excuses, we have solutions, where we no longer put off the day of reckoning, where we come to grips and terms with the problem before us, where we no longer call upon future generations to take care of what we spend today, where we begin living reasonably, responsibly within the receipts we are entitled to in this Government and provide for those receipts adequate services to the American people.

To the gentleman from Texas [Mr. STENHOLM], my congratulations. I hope tomorrow we are celebrating a victory rather than predicting one today.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman from Louisiana for those eloquent words. He has stated it extremely well.

Let me just say in conclusion of this special order that Mr. Kilpatrick, a conservative writer of some renown, recently took some umbrage with this amendment as to its necessity, and he says,

> In peacetime, we shoud pay as we go, because it is morally right. Nothing more needs to be said. People of integrity pay their lawful bills. Why do we need a paper amendment to tell us what we already know?

Well, Mr. Kilpatrick and others who believe that this is a frivolous attempt, and that it is really not necessary and it is a paper tiger, let me remind them that this was not an original idea of any of the authors of this amendment. This first idea came from Thomas Jefferson in a letter of November 26, 1798, when he said,

> I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our Government to the genuine principles of its Constitution. I mean an additional article taking from the Government the power of borrowing."

Today the gentleman from California [Mr. PANETTA], the chairman of our Committee on the Budget, who is doing yeoman work in attempting to deal with the problems of the summit and the Gramm-Rudman and all the other difficulties we are having in meeting the statutory requirements, was asked a question in a news conference which I was privileged to hear in which they asked him, "If we get a summit agreement," as the gentleman from Louisiana has just talked about, "in which now we are talking about the need of additional taxes, in order to spend additional money, if we get that agreement, what will be the enforcement of the summit?" My colleagues, now, that is why we need a balanced-budget amendment: enforcement.

We do not, as demonstrated by our actions in this body, have the courage to deal responsibly with restrictions on the ability of this Nation and this Congress to borrow money.

I do believe it will take an additional tool, and that is what we propose tomorrow, and to those who will not find it in their heart tomorrow to vote for this tool, I ask, again, the simple question: If not this tool, a balanced-budget amendment to our Constitution, what? And if not tomorrow, when?

THE NATIONAL HEALTH SERVICE CORPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico [Mr. RICHARDSON] is recognized for 60 minutes.

Mr. RICHARDSON. Mr. Speaker, I am going to discuss two issues today. I will not take the allotted 60 minutes.

I want to talk about the National Health Service Corps, and I want to talk about employer sanctions.

First, Mr. Speaker, a very important piece of legislation will be coming to the House floor from the Committee on Energy and Commerce, and that is the bill H.R. 4487, the National Health Service Corps, which revitalizes the corps and brings back the scholarship program mainly designed to serve medically underserved areas and do something about access to primary care in rural areas.

The gentleman from Tennessee [Mr. COOPER], the gentleman from Kansas [Mr. SLATTERY], the gentleman from Iowa [Mr. TAUKE], the gentleman from California [Mr. WAXMAN], the gentleman from New York [Mr. TOWNS], many Members have worked very hard on this legislation. It is important, because for many years this program has been struggling.

The National Health Service Corps is the Federal Government's primary means of recruiting physicians to rural, inner-city, and other areas suffering from health manpower shortages. As such, the corps has been a successful model for recruiting physicians and other health care personnel into medically underserved areas.

Needless to say, the corps was more successful in the past than it is now in meeting these needs, mainly because previous administrations have tried to get rid of this program.

Physician shortages are one of the biggest problems we have in this country. In recent years, the corps has declined from a peak field strength of 3,127 NHSC providers in 1986 to the 123 scholarship recipients available for placement this year. That is, once again, from 3,127 to 123.

□ 1650

If the program continues without change, only 18 scholarships are going to be given out in 1993. More importantly, communities served by the corps are losing 600 providers a year with no replacements. There really is a crisis in rural health care. As a result, the corps is no longer even minimally meeting its mandate, which was, to improve and maintain the health status of medically underserved populations.

Given the crisis in rural health care, this cannot and should not be allowed to continue. Today people living in rural areas continue to be in much poorer condition, travel farther for health care, report chronic or serious illnesses more frequently, are more frequently likely to die from injury, and are older than their urban counterparts.

Moreover, rural residents are more than twice as likely as the Nation as a whole to face shortages of primary care physicians.

What H.R. 4487 is, is it revitalizes the National Health Service Corps. This bill enacts changes made at the subcommittee level into the full committee so that now we have a bipartisan consensus bill, a bill that strengthens the commitment to primary health care for medically underserved areas. It continues once again the current loan repayment program, and rejuvenates a scholarship program by ensuring that a minimum of 20 percent, 15 percent, and 10 percent of appropriated funds are used for scholarships in fiscal years 1991, 1992, and thereafter.

In this way the Corps will meet both the short and long-term needs by replenishing the supply of doctors to medically underserved areas.

The bill also ensures midlevel practitioner scholarships. The bill requires that a minimum of 5 percent of appropriated funds be used for scholarships for midlevel practitioners such as nurse practitioners, nurse midwives, and physician assistants. Better utilization of midlevel practitioners can increase the productivity of primary care physicians and save money in the long run.

Mr. Speaker, for many years we have been neglecting these midlevel practitioners. It cannot just be physicians. It has got to be nurses, it has got to be primary care developers. It has got to be across-the-board physician assistants, nurse midwives. We cannot just have physicians.

The legislation also works to recruit and retain providers. To help retain providers and get them into the neediest areas, H.R. 4487 increases the maximum loan payment from 20,000

to 35,000 per year and directs the corps to give priority to individuals with characteristics that increase the probability that they will remain in the underserved areas when their obligation is completed.

In other words, there is assurance for those that are educated, those that benefit from this program, that they go back to their hometowns, to their rural areas, to their urban centers, and practice in the areas where the need is greatest.

In addition, the legislation establishes as a priority the assignment of corps personnel to areas with the greatest shortages based on the following criteria. One, the ratio of health manpower to the number of individuals; two, the rate of infant mortality, low birth rate, and poverty; access to primary health care services; and the effect on access to primary care if corps members are not assigned to a site.

Other changes in the legislation include a requirement that the National Advisory Council on the corps be more representative of the corps, and hopefully more responsive. Clarifying language also that delineates priority in awarding scholarships to those who have already received scholarships, or scholarships under the exceptionally financially needed program, which is under title VII.

H.R. 4487 establishes a grant program for rural health offices. The bill provides $10 million for a new grant program to help States operate new and existing State offices of rural health. Under the legislation, State offices of rural health would be required to serve as clearinghouses on rural health information and provide technical assistance. States could also use these funds to recruit and retain health care professionals in rural areas.

H.R. 4487 reathorizes the State loan repayment program. This was controversial. It was also controversial in my State of New Mexico, because this was a program that was working in that State. In many other States it was not working and States were not making the commitment that is needed.

In this connection I think we should pay tribute to the gentleman from New York [Mr. Towns] who offered the amendment reauthorizing the State loan repayment program. I think it is important that we recognize that the message is simple: even though that we have proceeded to restore the State loan repayment program, we expect the States to use leadership, commitment, and resources, to make sure these programs are viable at the State level. Otherwise, I think you will see our committee in Congress terminate the State loan repayment program.

First, the existing State loan repayment program allowed States to undercut Federal efforts to place loan repayment participants in the neediest areas. Second, the existing program placed no restrictions on States with respect to placement of State loan personnel, meaning States could place corps personnel in places that are not health manpower shortage areas.

Mr. Speaker, what we now have is legislation that is going to make a difference on rural health care, that is going to create the National Health Service Corps into a viable program once again.

I think it is important that we recognize the efforts of many Members of Congress. In this connection I note that the Chair, the gentleman from North Dakota [Mr. Dorgan], as a member of the Rural Health Care Coalition, has been a very active member. In fact, several of his bills will soon be considered in Congress and in the health subcommittees. He is a major actor in a lot of these pieces of legislation.

Mr. Speaker, I want to just bring forth one more time the glaring statistics on health manpower shortage areas. These have not been eliminated by the physician glut predicted a decade ago.

There are currently in this country 1,955 designated primary medical care shortage areas. With a population of 33.6 million in the United States, 4,224 physicians would be required to alleviate these shortages—32 percent of the shortage areas are in metropolitan areas, including 51 percent of the designated underserved population, while 68 percent of the areas are nonmetropolitan, with 49 percent of the underserved population.

Since 1981 the number of designated primary care shortage areas has increased by 36 percent, from 1,432, and the population of such areas has increased by 22 percent, from 27.5 million.

Only the number of physicians needed has declined, by 14 percent, from 4,910. Thus, of the more than 60,000 primary care physicians who began practicing during the 1980's, less than 3 percent established practices in designated health manpower shortage areas. The impact has been most severe on underserved and minority populations. Studies have shown that medical school admissions process can have a significant influence on the specialty and geographic distribution of physicians.

Studies have also shown that the American Association of Medical Colleges show that 67 percent of physicians practice in the geographic location of their training—67 percent.

Exposure of medical residents to high quality rural training opportunities increased their interest in rural practice and choice of practice site.

The death rate from some diseases is now 5 times greater for minorities than nonminorities. The minority infant mortality rate is twice that of the national average.

Minorities remain underrepresented in the medical profession. Blacks are 11.7 percent of the population, while only 3 percent of physicians. Native Americans, or American Indian population, are 0.6 percent of the population, but only 0.1 percent of total physicians—0.1 percent, not quite 1 percent.

□ 1700

Hispanics are 6.5 percent of the population while only 4 percent of all physicians; 48.9 percent of minority medical school graduates state an intent to practice in underserved areas or with minority populations. Only 13.6 percent of nonminority graduates indicate the same.

Indebtedness of minority medical school students and graduates is a special concern. Twenty-eight percent of minority graduates were in debt for $50,000 or more compared to 17 percent for all medical students. Indebtedness increased 14 percent for minorities compared with just 6 percent for all indebted graduates.

Mr. Speaker, this is an important piece of legislation, H.R. 4487, and I think it is important that we pass it.

Mr. Speaker, another issue that the Congress has dealt with this session is the repeal of employer sanctions. This is an issue which strikes at the core of American values. It is not an immigration issue, it is a civil rights issue.

It was my concern and the concern of several of my colleagues that the employer sanction provisions of the 1986 Immigration Reform and Control Act would inevitably lead to discrimination against those individuals legally seeking work who appeared foreign. While I voted in favor of the immigration bill, my support was contingent on the understanding that should the GAO find widespread discrimination as a result of the employer sanction provisions, Congress would move quickly to repeal those provisions. I believe that several Members of this body based their support of this bill on that same contention.

The third and final GAO report was released in March of this year, and it confirms beyond a reasonable doubt that the discrimination as a result of the immigration bill against "foreign-appearing individuals," primarily Hispanics and Asians, is rampant. Here is the GAO report and its quote: "GAO also found that there was a widespread discrimination, but was there discrimination as a result of the immigration bill? That is the question Congress directed GAO to answer. GAO's answer is yes."

A second quote from the GAO: "GAO estimates that 891,000 or 19 percent of the 4.6 million employers in

the GAO survey population nationwide began one or more discriminatory practices as a result of the law. In areas where Hispanics and other minorities are concentrated, the statistics are even higher. In Los Angeles, for example, the percentage of employers practicing discrimination exceeds 30 percent. Over a quarter million employers began a practice as a result of the immigration bill not to hire job applicants based simply on foreign appearance or accent."

Some Members and interest groups have suggested the use of identification cards or other measures aimed at reducing discrimination. While these intentions may be well placed, these are hardly solutions to the problems.

That the employer sanction provisions of the law are inherently discriminatory, that is clear. While antidiscriminatory efforts can be enhanced, discrimination is going to continue to occur unless the sanctions provisions are repealed.

There is no substitute for the proper solution, and that is repeal.

Mr. Speaker, once again, what can we do about curbing the flow of undocumented workers in the United States? That should be our goal. Here are some solutions: Enforce existing workers' laws, increase border enforcement. Do not say that you are going to increase border enforcement and then not provide any resources for it that are significant as the administration tries to do every year, and as the Congress restores funds for those practices that are needed. Third, here is another solution, stronger economic ties between sender countries such as Mexico and the United States. This free trade agreement with Mexico is a step in the right direction.

What we want to do is curb the flow of immigration by creating jobs. People come to the United States because they want jobs. They do not have them in their own country and they see America as the land of opportunity. But I think it is important that we protect American jobs also.

But if we create jobs on both sides of the border, this would be important incentives.

Once again, why should employer sanctions be repealed? When we passed the immigration reform bill in 1986 Congress feared that sanctions would lead to widespread employment discrimination against persons who looked or sounded foreign. What do I mean by that? I mean that anybody that is blonde or blue-eyed probably need not be concerned about this. But anybody that is dark or speaks with an accent, or does not appear like the all-American person that our advertising shows might be susceptible to some kind of discrimination. And there are some statistics that show that based on the GAO survey of 891,000 employers, 19 percent of 4.6 million surveyed employers were practicing discrimination, 19 percent. That is very, very high. Eight hundred ninety-one thousand employers were practicing discrimination on the basis of national origin or citizenship as a result of the immigration bill.

Congress required this GAO study to proceed and see if these were the effects of sanctions, and basically said if the GAO found widespread discrimination Congress would be able to use expedited procedures to repeal sanctions. The expedited procedures, I believe, should be met by this Congress, and a vote on whether we repeal employer sanctions or not should take place.

It does not mean that everybody is going to support it. Perhaps there are some alternative solutions. But I think to the Hispanic and Asian and minority communities in this country, that vote is right. It is a promise that the Congress made and the Government made to our population in this country based on whether employer sanctions were discriminatory.

GAO once again has found that nearly 20 percent of all employers unwittingly are practicing discrimination. They are not patrol agents. They are not border enforcement guards. Employers are employers and they are trying to create jobs and make a profit. But when we give them an extra burden of determining who is legal and who is not legal, of course there are going to be discrimination and other problems.

Has there not been already employment discrimination? How do we know that it is the immigration bill that causes discrimination? The GAO report only asked employers about the discriminatory practices established as a direct result of the immigration bill. Many types of discrimination such as refusing to accept certain types of temporary work permits would never have occurred within the IRCA verification requirements.

Would not more education of employers reduce discrimination? The answer is basically unknown. It is unknown how much employer discrimination as a result of the immigration bill is caused by employer confusion and how much is intentional. The GAO reported that employer awareness of the immigration bill has increased from 1988 to 1989, but the understanding actually decreased.

Further, employer education is not going to eliminate the high percentage of employers that continue to engage in discriminatory practices.

Can we not just strengthen the remedies against employer discrimination some ask. Providing a remedy to injustice is not the same as eliminating the cause of the injustice. Employer sanctions have been shown to cause discrimination. Providing remedies for discrimination is not enough. Hispanics, Asians, and others cannot continue to bear the cost of making employer sanctions work. It simply is not right. Widespread discrimination, even if there are more, better remedies, is simply too high a price to pay for the failed experiment of employer sanctions.

If there has been so much discrimination, why have there not been more discrimination complaints filed, some might ask. First of all, the GAO noted that over a thousand employment discrimination complaints had been filed in the last year. How many complaints or cases of discrimination must be filed to prove that discrimination occurs?

Second, the GAO's own survey concluded that employers who engaged in discriminatory practice made at least 6.8 million hiring decisions in 1988.

Finally, GAO also noted that the number of employment discrimination complaints did not reflect the level of discrimination found.

□ 1710

It noted that many persons did not realize they were being discriminated against. Many did not know where and how to file complaints and many will not file complaints because of time, energy and expense.

Do we not need employer sanctions to stop illegal immigration? The answer is even if stopping illegal immigration was an acceptable goal there are many complex reasons why persons come to the United States, including flight from persecution, for economic hardship, and turning employers into border patrol agents by criminalizing the employment of persons is not going to stop illegal immigration.

Instead of repealing employer sanctions should we not adopt a uniform national work permit document? The answer is no. Whatever we call it, a national I.D. card is simply not the answer. In fact, Congress explicitly rejected any national I.D. card as part of the immigration bill in 1986.

Does everyone want to carry a national I.D. card? Does everybody want the Government to know more of what you are doing or what you have or what we have? Nothing has changed except now the feared discrimination has now been proven. There is no evidence that a national I.D. card will reduce and certainly will not eliminate employment discrimination.

The creation of a national computer data base of every citizen and noncitizen is going to take many years and many millions of dollars. The INS files are incomplete, inaccurate and there are no comprehensive records of American citizens. And there should not be.

Meanwhile, employment discrimination is going to continue and even increase because of employer confusion while the I.D. card is being phased in.

Finally the threat of our civil liberties as a society and the potential for misuse and abuse of any national I.D. card is simply too high.

Mr. Speaker, I have raised this issue because many of us in 1986 voted for an immigration bill that we thought would proceed with American justice, that in exchange for deterring undocumented workers or illegal aliens, that there would be millions who have living in the shadows allowed to proceed with an amnesty and become part of the American dream, nearly 4 million.

That generally has happened. But we recognized that there might be problems with employer sanctions. We were willing to try them and see if they worked and voted for the bill in exchange for a determination that if there was widespread discrimination we would get rid of it or try to improve or certainly try to change them.

Certainly the time has come, Mr. Speaker. The Congress should live up to that agreement with minorities, with everybody that voted for this bill because the American people and the Congress do not want to see discrimination.

Well, Mr. Speaker, discrimination is taking place right now with employer sanctions and it is up to the Congress to change that.

So I am alterting my colleagues that to a concerted effort on the part of many in the Congressional Hispanic Caucus, Mr. ROYBAL, Mr. BUSTAMANTE, Mr. TORRES, myself, Mr. MATSUI from the Asian American Community; that is Congressman MATSUI of California. Also Mr. MINETA and others who feel that the time has come to repeal employer sanctions.

Further information follows:

NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM—WHITE PAPER

I. THE NHSC SCHOLARSHIP PROGRAM WAS A SUCCESS

The National Health Service Corps (NHSC) was established in 1970 "to improve and maintain the health status of medically underserved populations of the Nation by addressing the geographical maldistribution of health manpower resources". Although the NHSC program was initially a volunteer program (i.e., individuals were initially assigned voluntarily to Health Manpower Shortage Areas as Federal employees) a NHSC Scholarship Program entailing a service payback was begun in 1972. The scholarship program became the primary tool for recruitment to HMSAs—full scholarships were provided to students in exchange for year-for-year service obligations in HMSAs.

The scholarship program continued to grow during the 1970's and there was no shortage of applicants. During the 1980's however, scholarships began to be phased out as part of the decreasing Federal involvement in health manpower activities. The phasing out of the scholarship program was in part due to the belief that a forecasted surplus of physicians would diffuse to HMSAs, thereby mitigating the need for obligated health manpower.

A. The default rate was low

The NHSC scholarship program was successful in achieving its mission to a degree that is often overlooked. NHSC scholarships were awarded to over 13,000 medical and other health science students. Ninety-six percent of these individuals fulfilled their commitment with either a service payback (83%) or a financial payback (13%); only four percent remain in default.

B. The field strength was high

Thus, since its establishment, the NHSC has placed over 10,000 scholarship obligors in HMSAs where they have served millions of underserved rural and urban individuals, The NHSC reached its peak placement in 1986 when it achieved an obligated field strength of 3,127 health progressionals. Seventy percent of the obligors served in rural areas, including 17% who served American Indians and Alaska Natives, and 30% served in urban areas.

C. Many stayed after completing their obligation

Corps surveys have shown that about half of assignees who have completed their obligations remain in their assignment community during the year after their obligation is completed.

D. Opportunity was provided for minority and disadvantaged students

In addition to the scholarship program's success in meeting the health care needs of underserved populations, it fostered another societal goal—the scholarship program provided an avenue for disadvantaged and minority students to enter health professions. The financial support provided by the scholarship program enabled students who otherwise would not have had financial access to health professions programs, the opportunity for an education. Thus the program was beneficial in addressing minority parity in the health professions. This in turn benefited minority populations—studies indicate that disadvantaged/minority health professionals are, in general, more likely to serve other minority/disadvantaged populations.

Although the number of blacks accepted into medical schools increased during the 1970s (when NHSC scholarships were available) the number admitted has leveled off over the last 10 years. Further, the number of blacks applying to medical schools has declined since peaking at 2644 in 1981; in 1987 there were 2203 applicants. The decreasing availability of grants and scholarships, including NHSC scholarships has been cited as a factor contributing to these trends.[1]

This position is supported by data on past and current scholarship obligors. Although data is not available on all obligors, available data indicates that of scholarship recipients who have completed their obligations, 17% were black with an overall minority representation of 26%; of the small number of current obligors 20% are black with an overall minority representation of 43%.

Footnotes at end of article.

II. THE NHSC HAS BEEN PARTICULARLY EFFECTIVE IN MEETING RURAL NEEDS

As noted above, approximately 70% of the obligors who served, did so in rural areas, when service to American Indian and Alaska Native populations is included. During the past several years, almost all the placements have been in rural sites—in 1989, 1723 of 2225 obligers were serving in rural and Indian Health Service sites.

Moreover, the effect of the NHSC experience on future practice in rural HMSAs has been a strength of the program. A 1986 study of physicians found that the NHSC experience and the NHSC alumni's satisfaction with their service had a significant effect on decisions to locate in rural areas (i.e., the study found that NHSC service was a significant factor in explaining a physician's choice of a rural HMSA location).[2]

III. THERE IS STILL A SIGNIFICANT PHYSICIAN SHORTAGE IN RURAL AREAS

Although the NHSC has been successful in placing individuals in rural areas, there remains a significant physician shortage in rural areas. Of the 1955 primary care HMSAs designated as of 1989, 1337 (68 %) are in non-metropolitan areas. Further, of the primary care shortage areas classified as experiencing the highest need, 65% are located in rural areas. Approximately 1,900 physicians would be needed to remove the designations in rural areas and approximately 4,000 to remove all designations, whether urban or rural.

A. Disadvantaged and minority populations are most affected

Health manpower shortage areas tend to have higher percentages of blacks, hispanics and other minority populations. They also have higher percentages of the elderly and higher rates of poverty and unemployment.

B. Family physicians are in particularly short supply

The supply of physicians in rural areas can also be considered in terms of aggregate data relating to physician specialty and geographic distribution.

Since the 1970's the supply of physicians has grown faster that the general population, increasing at a rate of approximately 3.4 percentage per year.[3] However, the percentage of general/family practice physicians has actually declined in relation to all MDs. Although this decline has been somewhat offset by the growth in general internal medicine and general pediatrics between 1963-1986, the growth in primary care physicians (39.7%) is far less than the growth in non-primary care physicians (159.7%) and internal medicine and pediatric subspecialties (42.7% and 65.7% respectively).

Of particular concern is the leveling in the number of physicians entering family practice residencies during the last several years. Family physicians are particularly important to rural areas because they, more than other specialists, tend to locate in physicians-short-non-metropolitan and whole-county-shortage areas.[4] Further, family physicians are uniquely suited for rural practice—the breadth of their training enables them to serve all residents of such areas.

This leveling is compounded by the increasing difficulty encountered by communities in recruiting physicians to rural areas, particularly the more rural and isolated areas. The causes of this are complex and relate to such considerations as background of the physician; employment, educational and social opportunities for the physician's

family; professional and technical support and referral systems available to the physician; and the increasing competition from urban health facilities such as HMOs.

C. The growth in the physician supply has a been the lowest in the more sparsely populated rural counties

Although aggregate data of the 1980's indicate that increasing numbers of physicians are moving to non-metropolitan counties, disaggregated data reveal that these increases tend to be concentrated in the more-populated, non-metropolitan counties.[5] Less-populated rural counties (populated <10,000) have benefited least from the diffusion of physicians and therefore remain more dependent upon Federal- or State-assigned physicians.[6]

Hence, in 1985 physician availability in counties with fewer 10,000 residents was approximateley one-third of the U.S. average—53 physicians/100,000 individuals v.s. 163.3 physicians/100,000 individuals.[7] When rural counties with fewer than 10,000 residentss were compared to all rural counties, the less populated counties had only one-half the physician availability of the more populated rural counties. Further, while physician supply increased 47.8 % over 10 years in more-populated rural counties, it increased only 14.2% in less-populated rural counties.

Thus although past Federal policy and market forces have contributed to an increased supply of physicians in more-populated rural counties, less success has been achieved in increasing the supply in less populated and isolated rural counties.

IV. IT IS POSSIBLE TO IMPROVE THE CORPS' RESPONSIVENESS TO RURAL AREAS THROUGH CHANGES IN THE SCHOLARSHIP PROGRAM

Targeted changes in the National Health Service Corps scholarship program (and in programs which educate primary care providers) have the potential to increase the responsiveness of the NHSC to rural areas and increase the proportion of professionals who complete their service commitment and who are retained in HMSAs.

Based on past studies and experience, the following targeted administrative changes in the selection process and support activities of the NHSC scholarship program are indicated:

A. Program effectiveness could be increased

By Selecting Medical Students More Likely to Serve: Select individuals whose backgrounds and educational experiences increase the likelihood of service in underserved areas (e.g., individuals from HMSAs or rural areas, individuals with exceptional financial need, and miniority students).

By Limiting the Medical Schools That Can Participate: The NHSC should limit institutional participation to those institutions that have an excellent track record in graduating individuals who serve in rural or underserved areas. One possible surrogate regulation that could be used with medical schools would be to limit participation to those medical schools whose graduates are in the upper half in terms of graduating students who enter family practice residencies.

By Limiting Awards of Tuition and Fees: Tuition and fees could be limited to the medium cost of all State tax-supported medical schools plus 25%, and actually enhance the value of the program. This would encourage students to attend the more inexpensive schools and the State schools which historically have the best record in graduating students who enter primary care residencies.

By Improving Support Services to Assignees: NHSC support services could be expanded or augmented to enable the program to:

Maintain regular contact with program participants during the educational period;

Provide an orientation meeting prior to placement,

Provide follow-up consultation after placement (e.g., at 8 weeks, 6 months, 12 months, and as needed),

Provide locum tenens for vacations and continuing education.

B. Use of mid-level practitioners should be increased

To assure maximum NHSC responsiveness to rural areas, the NHSC must also reorient its selection process to ensure a complement of primary care providers—physicians and mid-level practitioners (physician assistants, nurse practitioners and certified nurse-midwives). When mid-level practitioners are used in systems of care with physicians, quality care that is cost-effective is available to more rural residents.

The increased utilization of these professionals by the NHSC is evident in four key areas—(1) quality of care provided, (2) scope of practice, (3) levels of retention in rural areas and (4) cost-effectiveness.

In terms of quality of care, three studies conducted in the 1980's by the Congressional Office of Technology Assessment (OTA) and the Institute of Medicine found that the quality of care provided by these practitioners—within their scope of practice—equaled that provided by physicians. The 1986 OTA study also reported that NPs and CNMs were often more adept than physicians in providing services such as managing long-term patients or patients in labor and delivery.[8]

With regard to scope of practice, the utilization of NPs and PAs in collaboration with physicians is also supported. The 1986 OTA Report indicated that most primary care traditionally provided by physicians can be delivered by NPs and PAs (i.e., 60-80% of the tasks normally performed by primary care physicians and 90% of pediatric care).

Third, a national evaluation of rural primary care programs concluded that selective recruitment of NPs and PAs was highly desireable in order to enhance rural primary care practice stability. This study, by the University of North Carolina, found that NPs and PAs exhibited greater initial and ongoing career commitment than physicians to rural practice settings and communities.[9]

Finally, the increased utilization of mid-level primary care professionals allows the NHSC to more rapidly rebuild its pipeline. In contrast to the 8-year educational pathway of a physician, the educational pathway of a physician assistant, nurse practitioner or certified nurse-midwife is generally two years after completion of undergraduate work. Further, educational costs for mid-level practitioners are less than educational costs for physicians. Given limited monies, more primary care providers can be educated and placed in underserved areas if the NHSC utilizes a complement of mid-level and physician primary care providers.

C. Affiliations between NHSC sites and universities should be increased

The NHSC can also increase its responsiveness to rural and other underserved areas by fostering affiliations betwen NHSC sites and education programs for primary care providers, including AHECs. Such affiliations have proven useful in (1) decreasing the isolation experienced by NHSC obligers, (2) promoting the utilization of NHSC sites as clinical training sites for students and residents, (3) maintaining the skills and knowledge of clinicians and thus the quality of care provided, and (4) enhancing opportunities for locum tenens. Such conditions and opportunities promote the retention of providers.

V. THE SCHOLARSHIP PROGRAM EFFECTIVELY COMPLIMENTS THE NEW FEDERAL AND STATE LOAN REPAYMENT PROGRAMS

New Federal and State NHSC loan repayment programs eventually may obviate the need for the scholarship program. However, it is far from certain that this will be the case. Although the Federal NHSC program was able to attract practitioners and expend all funds for FY 88 and 89, available funds limited the placement to only 17 practitioners in FY 88 and 112 in FY 89.[10] The Corps received more applications for the Federal loan repayment program than there were monies available.

The State NHSC loan repayment programs matched and placed 81 practitioners in FY 88, falling short of the anticipated 110 recipients.[11] Initial applications for the state NHSC programs were lower than expected, possibly due to lack of awareness of the program, the time required by states to implement the state programs, and the maximum level of funding available to an individual. Consideration currently is being given within the Department of Health and Human Services to increase the financial value of the inducement.

A. Scholarships may attract a different type of medical student

One perspective on the potential of the loan repayment programs is that with increased NHSC Federal and State program advertisement, sufficient numbers of students will be attracted to utilize any reasonable appropriation. A second perspective is that the NHSC scholarship program attracted a high percentage of students who otherwise would not have attended medical school. This included students who viewed the Corps as a mission, akin to the Peace Corps or Vista, and a disproportionate share of students who otherwise could not have afforded medical school. If this second perspective is correct, the NHSC loan repayment programs will have limited success because graduating students who would have been attracted to it, did not attend medical school.

B. Scholarships are also important in attracting nurse practitioners, physician assistants and nurse-midwives

A scholarship program, rather than loan repayment programs, appear to best meet the needs of most nurse practitioners, nurse-midwives, and physician assistants. Because of the educational patterns of these individuals, the loan repayment programs have not been particularly effective in attracting them (i.e., students in these programs generally continue to work while in advanced training and thus graduate with limited debt). On the other hand, the scholarship program is attractive because it enables those who otherwise would not be able to afford advanced education, the opportunity to become nurse practitioners, nurse-midwives, and physician assistants. As noted earlier, these professionals have played and continue to play a critical role in serving underserved, rural Americans.

C. Scholarship recipients are obligated to serve the hardest to fill vacancies

Scholarship recipients are under contract to serve where the Government assigns them. They serve the areas and populations most in need of physicians and other health professionals. They are assigned to the swamps of the southeast, the deserts of the southwest, the most frigid areas of the northern plains, and so on. By contrast, recent experience has shown that those who apply to serve underserved areas under the loan repayment programs seek to do so in the best of the underserved areas; those whose vacancies are easiest to fill.

Given the uncertainty of the loan repayment program and its limitations in meeting the needs of the most underserved areas and populations, the continuation of the scholarship program appears to be a prudent investment in meeting access needs of underserved and unserved populations. Together the scholarship program and the loan repayment program represent long-range and short-range strategies that compliment each other effectively. The scholarship program with level funding can graduate a reliable and consistent supply of health professionals while the loan repayment program, with its shorter turn around time, can better meet short-term needs caused by fluctuations in the availability of health professionals.

The National Advisory Committee on Rural Health, staffed by the Office, has taken similar positions. Their recommendations—#14 and #15—in their November 1989 report to the Secretary of the Department of Health and Human Services are included at appendix A.

For further information regarding this paper, please contact Jeffrey Human, Director, Office of Rural Health Policy or Cathy Wasem, Program Analyst, at (301) 443-0835 or by mail at room 14-22 Parklawn, 5600 Fishers Lane, Rockville, MD 20857.

For further information on the National Health Service Corps (NHSC), please contact the Corps office at (301) 443-2900. Donald Weaver, M.D. is the Director of the NHSC and Joe Hayden is the Deputy Director.

APPENDIX A

Excerpts from the Second Annual Report to the Secretary

Recommendation 14: Revitalize the National Health Service Corps Scholarship Program.—The Secretary should seek appropriations from Congress in FY 1990 and subsequent years to provide scholarships to entering medical and osteopathic, nurse practitioner, nurse-midwifery, clinical nurse specialist and physician assistant students. In addition, the Secretary should make or, where necessary, seek the authority to make, the following programmatic changes to revitalize the scholarship program:

Priority for scholarships should be limited initially to medical, osteopathic, nurse practitioner, physician assistant, nurse midwifery and clinical nurse specialist students who intend to specialize in family practice, general internal medicine, general pediatrics, or obstetrics/gynecology.

Priority for scholarships should be given to qualified applicants from HMSAs, MUAs and rural areas, to qualified minority applicants, and to qualified applicants with exceptional financial need.

Participation should be targeted to those educational institutions that graduate a significant proportion of professionals (as identified in the first bullet) who enter primary care practice in rural or other underserved areas.

Adequate personnel and dollars should be made available to the NHSC program to enable it to provide support services for scholarship and loan recipients necessary for their continued commitment to the program while in training, and necessary for their retention in HMSAs once placed.

The NHSC scholarship program was instituted in 1973 to address the need for health care professionals in HMSAs. Although initially a volunteer program, the program became a primary source of individuals for deployment to shortage areas. Full scholarships were provided to students in exchange for year-for-year obligations to practice in HMSAs.

In 1981, the NHSC began a marked reduction in the scholarship program based on projections of two major reports—the Graduate Medical Education National Advisory Council (GMENAC) report of 1980 and a RAND report. GMENAC predicted a surplus of physicians by 1990, while RAND projected the adequate diffusion of physicians to the more isolated and inner city underserved areas.

Despite these projections, the expected diffusion has not reached the more underserved communities and populations. In addition, the retention of NHSC alumni in HMSAs has not been sufficient to eliminate the shortage area status in many areas—1,955 primary care HMSAs remain, 1,337 of which are located in rural areas.

NHSC Federal and State loan repayment programs were established in 1987 when it became apparent that a mechanism would still be needed to deploy health care professionals to shortage areas. Under this program, loans incurred by health professionals during their education are repaid by the Federal Government or a State government to the lender. In return, the health professional serves in a HMSA for each year that loans are repaid. Up to $20,000 are repaid per year for up to four years under the Federal program.

It was believed that a loan repayment program would provide a rapid means of obtaining individuals for placement, because it is directed at those individuals whose health professions training is completed or most nearly completed. In addition, it was believed that reaching agreement with participants more closely to the point of service would help reduce the possibility of default, a problem encountered in the scholarship program.[12]

The total number of loan repayment recipients is well below the number of scholarship recipients of a decade ago. The Federal loan repayment program expended all of its funds for FY 88, but this allowed the placement of only 17 practitioners (15 physicians, 1 physician assistant, and 1 nurse practitioner). In FY 89, the Federal program again expended all the funds available to it and was able to enter into contracts with 112 practitioners (97 physicians and 15 baccalaureate and graduate level nurses). The State MHSC loan repayment matched and placed 81 practitioners in FY 88 (74 physicians, 2 mid-level practitioners, and 5 registered nurses). However, this falls short of the projected 110 recipients for the State programs.

The Committee believes that the loan repayment programs are viable health personnel deployment programs and should be maintained. However, it believes that the scholarship program is also essential.

A 1986 study of physicians found that the NHSC experience and the NHSC alumni's satisfaction with their service had a significant effect on their decisions to locate in a rural area.[13] In addition, the study found that NHSC service was a significant factor in explaining a physician's choice of a rural HMSA location. The NHSC was also valuable because it provided the financial means needed by many disadvantaged and minority students to enter health professions.

The Committee believes that targeted administrative changes in the selection process and support activities could make the scholarship program ever more successful in the future. In particular, a revitalized program should be designed to increase the proportion of professionals who complete their service commitment and who remain in HMSAs.

The Committee supports the following changes in a revitalized scholarship program: the program should be targeted to those individuals whose backgrounds and educational experiences will increase the likelihood of service in underserved areas; e.g., individuals from HMSAs or rural areas, individuals with exceptional financial need, and minority/disadvantaged individuals, who education is in a primary care specialty and who attend institutions which have a track record in producing individuals whose serve in rural or underserved areas.

In addition, NHSC support services should be expanded or augmented especially in the following areas: regular contact should be maintained with program participants during the educational period; an orientation meeting should be held prior to placement; follow-up consultation should be provided after placement (e.g., at 8 weeks, 12 months and as needed); and locum tenens for vacations and continuing education should be available.[14] It is further suggested that the NHSC avoid placing corps personnel in solo practice situations which lack support networks.

The Committee also believes the NHSC should reevaluate the physician-focus in its selection of primary care providers for HMSAs. The current depletion of the pipeline of primary care physicians provides the opportunity for the NHSC to reorient its selection to assure a complement of primary care providers—physicians and mid-level practitioners.

It is timely to move in this direction because the utilization of mid-level practitioners affords the NHSC a means to rapidly rebuild its pipeline. In contrast to the 8-year educational commitment of a physician, the educational commitment of a physician assistant, nurse practitioner or certified nurse midwife is generally two years after completion of undergraduate work. Furthermore, studies conducted in the 1980s by the congressional Office of Technology Assessment and the Institute of Medicine found that the quality of care provided by these practitioners—within their scope of practice—is equal to that provided by physicians. Moreover, these mid-level services frequently surpassed those of physicians in the areas of health education and promotion.[15]

In addition, the cost of educating a mid-level practitioner is less than the cost of educating a physician. Given limited monies, more primary care providers could be educated and placed in underserved areas if the NHSC selects and utilizes a complement or mix of providers.

The Committee firmly believes that with the above changes, the NHSC scholarship program can again become a program that successfully addresses health manpower

needs in the Nation's most underserved areas.

Recommendation 15: Support NHSC Loan Repayment Programs.—The Secretary should support States in their efforts to establish effective loan repayment programs by providing adequate funding to States. The Secretary should also continue to seek to develop an effective Federal loan repayment program. As such, the Secretary should seek increased appropriations for the loan repayment program and support legislation that eliminates the tax liability of the Federal loan repayment program. Among techniques the Secretary should consider to attract larger numbers of qualified individuals into the Federal loan repayment program are: (1) increasing publicity about the program, (2) increasing the loan amount the Government can pay back, and (3) covering undergraduate loans.

As noted in the discussion accompanying the NHSC scholarship recommendation, a NHSC loan repayment program was implemented in 1987. As also noted earlier, the State program was not as successful as anticipated in attracting individuals. The Federal program was able to attract practitioners but the funds available allowed the placement of only 17 practitioners in FY 88 and 112 in FY 89. It should be noted that the Indian Health Service (IHS) also has a loan repayment program similar to the NHSC Federal loan repayment program. The IHS program, however, can repay up to $25,000 per year to a broader range of health professionals. The IHS also has been successful in recruiting individuals to its program and has utilized all funds available to it.

Given the diverse nature of shortage areas and their level of need, a range of incentive programs is needed that complement one another. A loan repayment program represents one type of needed incentive program that can effectively complement a scholarship program.

The Committee acknowledges the initial limited success of the State loan repayment program. On the other hand, development of individual State programs is time-intensive and, therefore, the numbers of individuals recruited into a program in its first year may be lower than in subsequent years. State officials have reported that they believe the program has the potential to be a powerful complement to the Federal loan repayment program and State and Federal scholarship programs. A program at the State level has the added advantage of generating awareness within the State, and fostering activities in other State institutions to address the needs of rural and other underserved areas.

The Committee is also concerned about the small numbers of practitioners with whom the Federal program can enter into contracts because of the level of funding available. Further, reports from several Committee members indicate that physicians and nurses finishing their health education programs have not been aware of this opportunity to serve in shortage areas. The Committee strongly supports greater efforts to increase publicity about the Federal program.

Committee members believe that the maximum yearly payback level of $20,000 is insufficient and should be increased. This Federal program is competing against the incentive programs of other employers, such as HMOs, and must provide a sufficient level of incentive.

Last, the Committee is concerned that the loan repayment program may not be the best financial incentive program to attract certain types of practitioners. For example, nurses obtaining advanced education frequently work to support themselves while in school and, therefore, their debts are often small. For these individuals, a scholarship program (i.e., and "up-front" type of financial incentive program) is more likely to attract individuals who obligate themselves to a service committee.

In summary, it would be precipitous for the Federal Government to abandon the State loan repayment program, based on initial slow progress, without first addressing the factors that have limited its initial success. The Committee believes that the Secretary should seek adequate funds to enable the Federal and State programs to mature.

FOOTNOTES

[1] Lloyd S.M., and Miller, R., "Black Student Enrollment in U.S. Medical Schools, JAMA," vol. 261, No. 2, Jan. 13, 1989 (p. 272-274). Simpson, C. and Aronoff, R., "Factors Affecting the Supply of Minority Physicians in 2000." Public Health reports, vol. 103, No. 2, March-April 1988 (p. 178-184).

[2] U.S. Dept. of Health and Human Services, PHS, HRSA, "Young Physicians in Rural Areas: The Impact of Service in the National Health Service Corps," vol. 1 and 2 ODAM Reports No. 3-86 and No. 4-86. Washington, DC: U.S. Government Printing Office.

[3] U.S. Dept. of Health and Human Services, PHS, HRSA, BHPr, "Sixth Report to the President and Congress on the Status of Health Personnel in the United States, June 1988." DHHS Pub. No HRS-P-OD-88-1. Washington, DC: U.S. Government Printing Office.

[4] Ibid.

[5] U.S. Senate, "The Rural Health Care Challenge—Staff Report to the Special Committee on Aging of the U.S. Senate." Senate Report 100-145, October 1988. Washington, DC: 1988. U.S. Government Printing Office.

[6] Ibid.

[7] Kindig, D. and Movassaghi, H., "The Adequacy of Physician Supply in Small Rural Counties." Health Affairs, summer 1989 (p. 61-76).

[8] Congress of the United States—Office of Technology Assessment. "Nurse Practitioners, Physician Assistants, and Certified Nurse-Midwives: A Policy Analysis" (Health Technology Case Study 37), OTA-HCS-37 (p. 25). Washington, DC: U.S. Government Printing Office.

[9] University of North Carolina, Health Services Research Center, "National Evaluation of Rural Primary Health Care Programs: Supplementary Analyses—Final Report to the Robert Wood Johnson Foundation, Princeton, NJ, April 1985.

[10] In fiscal year 1988 15 physicians, 1 physician assistant and 1 nurse practitioner were funded for loan repayment. In fiscal year 1989-97 physicians and 15 baccalaureate and graduate-level nurses were funded.

[11] The State programs placed 74 physicians, 2 mid-level practitioners and 5 registered nurses.

[12] Under the scholarship program, 83 percent of those participating met their commitment through service in a HMSA. Thirteen percent defaulted on their serivce commitment, but met their commitment to the Government by paying back the amount of money received. Later they were required to pay back three times the amount received plus interest. Four percent defaulted without serving or paying back the Government. Defaults were most common among medical students; a almost no nursing students defaulted on loans.

[13] "Young Physicians in Rural Areas: The Impact of Service in the National Health Service Corps," vols. 1 and 2. Health Resources and Services Administration, PHS, DHHS, Report No. 3-86, 4-86 (HRP-0906634), 1986.

[14] Locum tenens is an individual who fills in for the physician or other health care provider, enabling them to leave the practice (e.g., for education or vacation).

[15] Nurse Practitioners, Physician Assistants, and Certified Nurse-Midwives: A Policy Analysis—Health Technology Case Study 37, "Office of Technology Assessment, Congress of the United States, Washington, DC, 1986.

NATIONAL HEALTH SERVICE CORPS.

TITLE I.—REVISIONS IN GENERAL PROGRAM FOR NATIONAL HEALTH SERVICE CORPS

Section 101. National Health Service Corps: Clarifies that the purpose of the Corps is to provide primary health services in health manpower shortage areas. Primary health services are defined as services regarding family medicine, internal medicine, pediatrics, obstetrics and gynecology, dentistry, or mental health, that are provided by physicians or other health professionals.

Section 102. Designation of Health Manpower Shortage Areas: Requires the Secretary of HHS to publish in the Federal Register, by July 1, 1991, and annually thereafter, a list of HMSAs. The current criteria for the designation of HMSAs would remain unchanged.

Section 103. Assignment of Corps Personnel: Deletes certain current law priorities for assignment of Corps members in medically underserved areas, and for assignment of physicians specializing in family medicine.

Section 104. Priorities in Assignment of Corps Personnel: Clarifies and consolidates current law priorities regarding assignment of Corps personnel to HMSAs. Directs the Secretary to give priority to (1) HMSAs with the greatest health manpower shortages, (2) entities within such HMSAs that coordinate the delivery of primary health services with related health and social services, and (3) entities that have a documented record of sound fiscal management. In determining the HMSAs with the greatest shortages, the Secretary may consider only the following: (1) the ratio of health manpower to the number of individuals, (2) indicators of need (i.e., rates of low birthweight births, infant mortality, poverty, and access to primary health services), and (3) the effect of the failure to assign a Corps member on the capacity of the entity to provide primary health services. With respect to scholarship obligors, requires the Secretary to offer a choice of placements, provided that the HMSAs with chronic difficulties recruiting and retaining physicians receive assignments.

Requires the Secretary to publish in the Federal Register, by July 1, 1991, criteria for determining HMSAs with the greatest health manpower shortages. Requires that the Secretary prepare and distribute, no later than July 1 of each year, the list of HMSAs with the greatest manpower shortages and the sites in those HMSAs that the Secretary has designated for placement of Corps personnel beginning July 1 of the following year.

Section 105. Effective Provision of Services: Directs the Secretary to try to match Corps members to sites based on the characteristics of the individual (and spouse, if any), so as to increase the probability that the individual will remain in the HMSA to which he or she is assigned after completion of his service obligation. Requires the Secretary to offer counseling on services in the Corps to individuals during their education and once they have begun providing services as Corps members. Directs the Secretary to provide assistance to Corps members in establishing arrangements through which they get temporary relief from their daily service obligations for continuing education or vacations.

Section 106. Specifies that the National Advisory Council on the Corps be composed of 15 members, including 1 scholarship re-

cipient, 1 loan repayment recipient, 1 resident of a frontier area, 1 resident of a rural area, 1 resident of an urban area, 1 physician assistant, 1 certified nurse practitioner, 1 certified nurse midwife, 1 family practitioner, 1 obstetrician-gynecologist, 1 pediatrician, and 1 internist.

Section 107. Authorization of Appropriations. The NHSC field program is currently authorized at $65 million in FY 1990. Appropriations for FY 1990 are $41.8 million. The bill would authorize such sums as necessary for FY 1991 and subsequent fiscal years through FY 2000 for the purpose of eliminating health manpower shortages in health manpower shortage areas.

TITLE II.—SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS OF NATIONAL HEALTH SERVICE CORPS

Section 201. Scholarship Program. Clarifies that the purpose of the NHSC scholarship program is to assure an adequate supply of physicians, dentists, certified nurse midwives, certified nurse paractitioners, and physicians assistants and, if needed by the Corps, an adequate supply of other health professionals. Specifies that priority in awarding scholarships should go, first, to individuals who have received Corps or Exceptionally Financial Needy scholarships, and second, to individuals with characteristics that increase the probability that he or she will continue to serve in a HMSA after the service obligation ends.

Section 202. Loan Repayment Program. Clarifies that the purpose of the NHSC loan repayment program is to assure an adequate supply of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physicians assistants and, if needed by the Corps, an adequate supply of other health professionals. Directs the Secretary to give priority in making loan repayments to those individuals who have (and whose spouse, if any, have) characteristics that increase the probability that the individual will continue to serve in a HMSA after the completion of his or her service obligation. Allows the Secretary to pay up to $35,000 on behalf of an individual for loans for each year of obligated service (the current law ceiling is $25,000 for Indian Health Service sites, $20,000 for all other HMSA sites). Requires the Secretary to make payments to loan repayment recipients equal to 39 percent of the loan repayments made in order to offset Federal tax liability resulting from the loan repayment.

Section 203. Report and Authorization of Appropriations. Authorizes such sums as may be necessary to eliminate health manpower shortages in health manpower shortage areas for each of the fiscal years 1991 through 2000. Requires the Secretary to obligate, of the amounts appropriated for both scholarships and loan repayments, at least 20 percent in FY 1991, 15 percent in FY 1992, and 10 percent in FY 1993 and subsequent fiscal years exclusively for new scholarships. Further requires the Secretary to obligate an additional 5 percent of the total amounts appropriated for both scholarships and loan repayments (over and above the 20 or 15 or 10 percent set-aside) for new scholarships to nurse practitioners, nurse midwives, or physician assistants. Requires the Secretary to fund scholarships on a single-year basis.

TITLE III.—STATE OFFICES OF RURAL HEALTH

Section 301. Establishment of Program for State Loan Repayments Regarding Service in Health Manpower Shortage Areas. Revises and extends the current authorization for State Loan Repayment Programs for fiscal years 1991 through 1995 at $10 million per year. Authorizes the Secretary, acting through the Health Resources and Services Administration, to make grants to States, acting through a State agency, to operate Loan Repayment Programs that will increase the availability of primary health services in health manpower shortage areas as designated by the Secretary.

In order to qualify for a grant, a State must match each Federal dollar with 1 non-Federal dollar. Federal funds (and matching State funds) could be used only to make loan repayments to health professionals to provide primary health services. Health professionals receiving loan repayments under a State program must be assigned to public or private nonprofit entities providing health services in HMSAs, although not necessarily to the entities that the Secretary has identified as highest priority. States may not offer terms more favorable than those which the Secretary is authorized to offer under the NHSC Loan Repayment Program. State Loan Repayment Program funding could not be used to conduct activities that are funded by the Federal government through Cooperative Agreements with the States or through State primary care associations.

Section 302. Establishment of Program of Grants to States. Authorizes the Secretary, acting through the Office of Rural Health Policy, to make grants to States for the operation of existing State offices of rural health or the establishment of new offices. The grants could equal up to 75 percent of the costs of the offices in the first year, 50 percent in the second year, and 25 percent in the third year; States would have to match these expenditures with non-Federal funds. Appropriations would be authorized at $3 million in FY 1991, $4 million in FY 1992, and $3 million in FY 1993. The program would sunset after appropriations totalled $10 million.

State offices receiving funds under this authority would be required to carry out certain activities: (1) operating a clearinghouse for information on rural health, (2) coordinating activities in the State relating to rural health care, and (3) providing technical assistance to public and private nonprofit entities regarding participation in Federal and State programs regarding rural health. Grant funds could also be used to pay the costs of any activity relating to recruitment and retention of health professionals in rural areas. Grant funds could not be used to provide health care, purchase medical equipment, purchase real property, or conduct activities that are funded by the Federal government under Federal-State cooperative agreements or through State primary care associations.

TITLE IV.—GENERAL PROVISIONS

Section 401. Effective Dates. The amendments would take effect on the later of October 1, 1990, or the date of enactment.

COST ESTIMATES

Under this legislation, any amounts authorized would be subject to appropriations. Preliminary CBO staff estimates are that the bill would result in new budget authority of approximately $77 million in FY 91, $80 million in FY 92, $97 million in FY 93, $80 million in FY 92, $97 million in FY 94, and $100 million in FY 95.

MARKUP ON H.R. 4487, THE NATIONAL HEALTH SERVICE CORPS REVITALIZATION AMENDMENTS BEFORE THE SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

Mr. Chairman, as the sponsor of H.R. 4487, the National Health Service Revitalization Amendments of 1990, with my colleagues, Mr. Cooper, Mr. Slattery, Mr. Tauke, and Mr. Waxman, I am pleased we are marking up this important legislation today.

The National Health Service Corps (NHSC) is the federal government's primary means of recruiting physicians to rural, inner city, and other areas suffering from health manpower shortages. As such, the Corps has been a successful and model program for recruiting physicians and other health care personnel into medically underserved areas. Needless to say, the Corps was more successful in the past than it is now in meeting these needs.

Physician Shortages

In recent years, the Corps has declined from a peak field strength of 3,127 NHSC providers in 1986, to the 123 scholarship recipients available for placement this year. If the program continues without change, only 18 scholarships will be meted out in 1993. More importantly, communities served by the Corps are losing 600 providers a year with no replacements.

Crisis in Rural Health Care

As a result, the Corps is no longer even minimally meeting its mandate "to improve and maintain the health status of medically underserved populations." Given the crisis in rural health care, this cannot and should not be allowed to continue.

THE EXPERIMENT HAS FAILED: REPEAL EMPLOYER SANCTIONS

PERSPECTIVE OF THE NATIONAL NETWORK FOR IMMIGRANT AND REFUGEE RIGHTS

The U.S. General Accounting Office's third report finding that employer sanctions have resulted in widespread discrimination against Latinos and Asians is both alarming and disturbing. The GAO found that 19% of employers (891,000 of 4.6 million surveyed) unlawfully discriminated on the basis of national origin and citizenship.

The GAO offered Congress three options: 1) keep the current law; 2) repeal sanctions; or 3) strengthen the antidiscrimination provisions, increase educational efforts, and start a secure identity card. While favoring the third option, the GAO cautioned that it was fraught with civil liberties problems including violations of constitutionally protected rights to privacy, Thus, maintaining the program would leave Congress between a rock and a hard place: continued discrimination against Latinos and Asians on one hand, or violations of civil liberties on the other through a national ID card. Minorities, historically the victims of discrimination, would thus be forced to abandon rights to privacy as the price for perceived equal employment opportunity.

The GAO also determined (although it did not actually study) that sanctions resulted in decreased illegal immigration. Yet, conclusions drawn from the data are flawed. Studies by Wayne Cornelius and Professor Jorge Bustamante of Mexico confirm that while it is hard for immigrants from Mexico to find employment in the U.S., this has not necessarily deterred immigration. Simply because 16% of persons detained find it may be hard to find work does not mean that im-

migration has stopped. These detentions show that despite these workers' knowledge of the difficulties in obtaining employment, conditions in their homeland force them to migrate to the U.S. in order to survive. Clearly, an accurate understanding by Congress of the conditions in sending countries is required before enacting any new immigration laws, but repeal cannot wait.

The GAO's findings on discrimination were due in part to a massive nationwide effort by immigrant rights coalitions, the States of California and New York, and local governments to document the impact of IRCA. The reports were unanimous: sanctions-caused discrimination was widespread.

But perhaps most disturbing have been voices in Congress who, despite their previous opposition to santions, are now telling civil rights advocates and the Asian and Latino communities that the repeal of sanctions is not the answer. Some have called for "increasing employer education" and establishing a "more secure identification system." Indeed, immediately after the GAO report was released, even Senator Paul Simon, long an opponent of employer sanctions during Congress' debates on IRCA, chose to ignore the civil rights organizations' call for repeal and stated, "It does not offend me to have a national identification card."

But for immigrant, Lantino, and Asian communities repeal is the only viable solution. Members of Congress must understand that the widespread discrimination found by GAO is not merely a matter of statistics but rather the numerical reflection of millions of acts of unlawful discrimination committed upon the least protected sectors of society.

The statistics represent millions of human beings, primarily Asian and Latino workers, who have been unduly and unlawfully denied the opportunity to work—denials resulting in unpaid bills, consequent evictions, malnourished children, unclothed families, lack of health care, and a host of other hardships never recognized by those members of Congress who advocate ID cards and who oppose repeal. Far from creating jobs for U.S. citizens and lawful residents, the law has impoverished the lives of Latino and Asian workers and their families. That price is simply to high to pay for any stated objective.

Realizing the devastating impact of the law, the U.S. Commission on Civil Rights (the majority of whose members are Reagan appointees) appropriately and promptly called for the immediate repeal of sanctions. Senators Kennedy (Chair, Subcommittee on Immigration and Refugee Policy), DeConcini, Cranston, and Hatch (all of whom had voted for IRCA in 1986) promptly introduced Senate Joint Resolution 280 accepting the GAO finding and called for repeal. Congressman Roybal, joined by Congressmen Edwards and Matsui of California, and Congressman Richardson introduced similar resolutions (HR 534 and 536). These resolutions provide important vehicles for educating Congress.

Yet the movement for repeal is slow in building. Not surprisingly, many members of Congress are reluctant at this stage to repeal a law that has been debated for years. Some even charge that a call for repeal is "not credible" in the Congressional debates. The sad corollary, unfortunately, is that proposing alternatives fraught with civil liberties that actually encourage discrimination is the litmus test of credibility. We simply cannot accept that as the standard for civil rights protections.

What is needed is a movement that unequivocally stands for repeal, and that maintains that IRCA-caused discrimination cannot be cured through an ID card or increased education. That movement cannot take lightly the impact of having millions of Latinos and Asians denied employment opportunities.

Elected officials who vacillate on the question of repeal must be constantly and vividly reminded that the statistics in the GAO report are human beings denied their basic civil rights. They must be told that the Asian and Latino communities must no longer be forced to be the guinea pigs of Congress' experiment.

Beyond the stories reflected in the GAO report, however, sanctions have also resulted in the denial of employment to those not necessarily authorized to work, but no less pushed by the conditions of poverty, war, and political repression in their homelands to seek a new life in the United States. Millions have been forced into unemployment or into enduring increased discrimination in the form of sexual harassment, lower wages, denied promotions, and other abuses because of their immigration status. Thus, far from "ending the exploitation of undocumented persons" as proponents of IRCA alleged, IRCA has resulted in heightening the exploitation and abuse.

However, even if Congress repeals sanctions, it will—while operating on its premise that immigrants take away jobs—likely consider other alternatives: increased border enforcement, more raids, decrease in due process rights in deportation hearings, etc.—activities which have continued throughout the last three years while employer sanctions have been the law. Thus, the vigilance to document discrimination must guard against other alternatives which will result in the similar wholesale violation of rights and civil liberties.

The National Network calls on those who believe in civil rights and who oppose discrimination to call for repeal now.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 14, 1990.

DEAR COLLEAGUE: On Thursday, March 29 the GAO released its third and final report on employer sanctions and the question of discrimination. Under the anti-discrimination provisions of the Immigration Reform and Control Act (IRCA), if the GAO reaches the conclusion that employer sanctions are causing a "widespread pattern of discrimination," a thirty-day window is open during which Congress may repeal sanctions by joint resolution and through an expedited procedure. The GAO reached that very conclusion in its final report. Accordingly, we have introduced H.J. Res. 536, a resolution repealing the employer sanctions provisions of the Immigration and Nationality Act.

Congress bears the responsibility for enacting a law which has led to serious and widespread discrimination. According to the GAO report, 19 percent of 4.6 million employers surveyed are discriminating against U.S. citizens and those legally authorized to work who may appear "foreign." The GAO also concluded that this is taking place despite adequate efforts by INS to mitigate discrimination by employer outreach. Clearly, this program is not in need for "fine tuning," it needs to be scrapped.

Many Members of Congress reluctantly supported IRCA despite their belief that employer sanctions would lead to discrimination. However, this support was contingent on the understanding that should widespread discrimination result, the employer sanctions provisions would be repealed. We believe a great many of our colleagues based their support on this understanding.

While stemming illegal immigration remains a laudable objective, it cannot justifiably be achieved through a discriminatory policy. It is our moral obligation to find the least intrusive system for controlling illegal immigration—one that avoids infringing upon basic civil rights of U.S. citizens. We should therefore act expeditiously to find a substitute for employer sanctions. In the meantime, however, we cannot condone the continued violation of employment rights while we explore such alternatives. The time to repeal sanctions is now.

Congress should promote policies and legislation which remove barriers, not creates them. We invite you to join our effort to eliminate this injustice, this barrier to opportunity.

To cosponsor H.J. Res. 536 please contact Ramiro Prudencio (Richardson) at 5-6190.

Sincerely,

BILL RICHARDSON,
ESTEBAN TORRES,
ALBERT BUSTAMANTE,
ROBERT MATSUI,
Members of Congress.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BARTON of Texas) to revise and extend their remarks and include extraneous material:)

Mr. BARTON of Texas, for 60 minutes, today.

Mr. BARTON of Texas, for 60 minutes, on July 17.

(The following Members (at the request of Mr. OBERSTAR) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. AUCOIN, for 60 minutes, on July 19.

Mr. RICHARDSON, for 60 minutes, on July 20.

(The following Members (at the request of Mr. RICHARDSON) to revise and extend his remarks and include extraneous material:)

Mr. DYMALLY, for 60 minutes, each day, on July 17 and 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HAMMERSCHMIDT, after Mr. CLINGER on H.R. 5131, in House, today.

(The following Members (at the request of Mr. BARTON of Texas) and to include extraneous matter:)

Mr. SCHAEFER.

Mr. PORTER.
Mr. RITTER.
Mr. BARTON of Texas.
Mr. GRADISON.
Mr. STANGELAND.
Mr. BARTLETT.

(The following Members (at the request of Mr. OBERSTAR) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 minutes.
Mr. ANNUNZIO in six instances.
Mr. MORRISON of Connecticut in two instances.
Mr. KANJORSKI.
Mr. PANETTA.
Mr. RANGEL.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table, and, under the rule, referred as follows:

S.J. Res. 343. Joint resolution to designate August 13 through August 19, 1990, as "Home Health Aide Week", to the Committee on Post Office and Civil Service.

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNIZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval a bill of the House of the following title:

H.R. 2844. An act to improve the ability of the Secretary of the Interior to properly manage certain resources of the National Park System.

ADJOURNMENT

Mr. RICHARDSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 15 minutes p.m.), under its previous order the House adjourned until tomorrow, Tuesday, July 17, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3560. A letter from the Director, United States Information Agency, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the overobligation of an allotment issued to the Agency's post in Kathmadu, Nepal, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3561. A letter from the Secretary of Education, transmitting a report on recommendations of a Presidential advisory committee in response to the annual report from the National Advisory Council on Educational Research and Improvement; to the Committee on Education and Labor.

3562. A letter from the Acting Director of Administration, National Labor Relations Board, transmitting reports on a previously unpublished system of records, pursuant to 5 U.S.C. 552a(r); to the Committee on Government Operations.

3563. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3193. A bill to extend title I of the Energy Policy and Conservation Act, and for other purposes; with amendments (Rept. 101-604). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2647. A bill to provide for the protection and preservation of coastal and Great Lakes environmental quality for present and future generations; with an amendment (Rept. 101-605, Pt. 1). Ordered to be printed.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 3774. A bill to amend the Federal Aviation Act of 1958 relating to the suspension of airworthiness certificates at the end of the economic design life of aircraft, and for other purposes; with amendments (Rept. 101-606). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FASCELL: Committee on Foreign Affairs. H.R. 3950. A bill entitled, the "Food and Agricultural Resources Act of 1990"; with amendments; referred to the Committee on Merchant Marine and Fisheries for a period ending not later than July 18, 1990, for consideration of such provisions of the amendment recommended by the Committee on Foreign Affairs as fall within the jurisdiction of the Committee on Merchant Marine and Fisheries pursuant to clause 1(n), Rule X (Rept. 101-569, Pt. 2). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FAUNTROY:

H.R. 5280. A bill to amend title 11, District of Columbia Code, to remove gender-specific references; to the Committee on the District of Columbia.

By Mr. HUNTER (for himself, Mr. DREIER of California, and Mr. ROHRABACHER):

H.R. 5281. A bill to restrict United States humanitarian, economic, and military assistance to Malaysia; jointly, to the Committees on Foreign Affairs; Banking, Finance and Urban Affairs; and Ways and Means.

By Mr. MCNULTY (for himself, Mr. SCHUMER, Mr. MARTIN of New York, Mr. DAVIS, Mr. FRANK, and Mr. STUDDS):

H.R. 5282. A bill relating to the creditability of certain temporary service with the Bureau of the Census in connection with unemployment compensation; to the Committee on Ways and Means.

By Mrs. SCHROEDER (for herself and Mr. MARTIN of New York) (both by request):

H.R. 5283. A bill to authorize appropriations for fiscal year 1991 to implement the Federal Civil Defense Act of 1950; to the Committee on Armed Services.

By Mr. SMITH of Texas (for himself, Mr. MCCOLLUM, Mr. SLAUGHTER of Virginia, Mr. BAKER, Mr. COBLE, Mr. COUGHLIN, Mr. CRAIG, Mr. GALLEGLY, Mr. HOUGHTON, Mr. KYL, Mr. LEWIS of California, Mr. MCCANDLESS, Mr. MOORHEAD, Mr. NIELSON of Utah, Mr. RHODES, Mr. DENNY SMITH, Mr. ROBERT E. SMITH, MR. STUMP, and Mr. WATKINS):

H.R. 5284. A bill to amend the Immigration and Nationality Act to expedite removal of criminal aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. MURPHY:

H. Res. 436. Resolution to make the rights and protections of the compensatory time provisions of the Fair Labor Standards Act of 1938 applicable to employees of the House of Representatives who are covered by the rights and protections of that act; to the Committee on Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 486: Ms. PELOSI and Mr. OWENS of Utah.
H.R. 1730: Mr. PAYNE of Virginia, Mr. NELSON of Florida, Mr. Cox, and Mr. LEATH of Texas.
H.R. 1733: Mr. BEILENSON, Mr. FASCELL, and Mrs. BOXER.
H.R. 2259: Mr. BILIRAKIS.
H.R. 3037: Mr. BLAZ and Mr. GAYDOS.
H.R. 3137: Mr. BOEHLERT.
H.R. 3401: Mr. BRYANT and Mr. SHAW.
H.R. 3719: Mr. SAXTON.
H.R. 4226: Mr. MADIGAN, Mr. RAVENEL, and Mr. JACOBS.
H.R. 4294: Mr. BARNARD, Mr. COURTER, Mr. HATCHER, Mr. JAMES, Mr. PETRI, and Mr. SOLOMON.
H.R. 4482: Mr. CHAPMAN, Mr. ENGLISH, Mr. GRANDY, Mr. LAUGHLIN, Mr. MORRISON of Washington, Mr. OBERSTAR, Mr. ROBERTS, Ms. SNOWE, Mr. TRAXLER, Mrs. VUCANOVICH, and Mr. WILLIAMS.
H.R. 4496: Mr. OBEY, Mr. CONDIT, Mr. HENRY, Mr. BLILEY, Mr. SMITH of Texas, Mr. JOHNSON of South Dakota, and Mr. HOUGHTON.
H.R. 4688: Mrs. BOXER, Mr. LANCASTER, Mr. ATKINS, Mr. ECKART, Mr. WYDEN, Mr. BUSTAMANTE, and Mr. ENGEL.
H.R. 4704: Mr. SCHAEFER and Mr. HEFLEY.
H.R. 4977: Mr. BATES and Mr. ECKART.

H.R. 5163: Mr. WALSH.

H.R. 5180: Mr. MCEWEN, Mr. HERGER, Mr. FAWELL, and Mr. SMITH of New Jersey.

H.R. 5196: Mr. LAGOMARSINO.

H.R. 5260: Mr. ROHRABACHER.

H.R. 5266: Mr. BROOKS, Mrs. COLLINS, Mr. ERDREICH, Mr. HARRIS, Mr. MCNULTY, Mr. RAHALL, Ms. SLAUGHTER of New York, Mr. STALLINGS, Mr. TORRES, and Mr. WYDEN.

H.J. Res. 240: Mrs. UNSOELD.

H.J. Res. 268: Mr. COOPER and Mr. MCCRERY.

H.J. Res. 439: Mr. KLECZKA.

H.J. Res. 459: Mr. LEACH of Iowa, Mr. MCNULTY, Mr. SCHUETTE, and Mr. MORRISON of Connecticut.

H.J. Res. 476: Mr. BUNNING, Mr. CLINGER, Mr. MARTIN of New York, Mr. MATSUI, Mr. PARKER, Mr. RITTER, Mr. ROBERTS, Mr. ROBINSON, Mr. SKEEN, Mr. TALLON, and Mr. WATKINS.

H.J. Res. 502: Mr. COBLE, Mr. DYMALLY, Mr. FRANK, Mr. POSHARD, Mr. NEAL of Massachusetts, Mrs. LLOYD, Mr. OBERSTAR, Ms. LONG, Mr. WILSON, Mr. SOLOMON, Mr. MCDADE, Mr. TAUKE, Mrs. VUCANOVICH, Mr. MARTIN of New York, Mr. THOMAS of Georgia, Mr. TRAXLER, Mr. DONNELLY, Mr. YATRON, Mr. RINALDO, Mr. DE LUGO, Mr. LEWIS of Florida, Mr. PARKER, Mr. MURTHA, Mr. KOLTER, Mr. HYDE, Mr. NEAL of North Carolina, Mr. JONES of North Carolina, Mr. GRANT, Mr. CONTE, Mr. ANDERSON, Mr. STAGGERS, Mr. SMITH of New Hampshire, Mr. BUSTAMANTE, Mr. OWENS of New York, Mr. CLEMENT, Mr. HAMILTON, Mr. DEFAZIO, Mr. DEWINE, Mr. MILLER of Ohio, Mr. BURTON of Indiana, Mr. HAWKINS, Mr. GUARINI, and Mr. COLEMAN of Missouri.

H.J. Res. 505: Mr. LEWIS of Georgia and Mr. WEISS.

H.J. Res. 509: Mr. SMITH of New Hampshire, Mr. KANJORSKI, Mr. GOODLING, Mr. TOWNS, Mr. FROST, and Mr. ROE.

H.J. Res. 518: Mr. JONES of Georgia, Mr. OLIN, Mr. SLATTERY, Mr. HAMMERSCHMIDT, Mr. FLIPPO, Mr. DWYER of New Jersey, Mr. ATKINS, Mr. SMITH of Florida, Mr. ASPIN, and Mr. POSHARD.

H.J. Res. 552: Mrs. BENTLEY, Mr. BLAZ, Mr. CARDIN, Mr. DICKINSON, Mr. DICKS, Mr. DORNAN of California, Mr. DWYER of New Jersey, Mr. ESPY, Mr. FORD of Tennessee, Mr. MCDADE, Mr. SPRATT, Mr. MILLER of Washington, Mr. FUSTER, Mr. SCHEUER, Mr. SAVAGE, Mr. ROBERTS, Mr. RINALDO, Mr. QUILLEN, Mr. SKELTON, Mr. DIXON, Mr. SHAYS, Ms. OAKAR, Mr. HAYES of Louisiana, Mr. HYDE, Mr. ACKERMAN, and Mr. ROSE.

H.J. Res. 565: Mr. SCHAEFER, Mr. CALLAHAN, Mr. COURTER, Mr. RAHALL, Mr. PICKLE, Mr. SMITH of Vermont, Mr. KLECZKA, and Mr. KASTENMEIER.

H.J. Res. 574: Mr. LIVINGSTON, Mr. MCCLOSKEY, Mr. MCCRERY, Mr. MCEWEN, Mr. MCGRATH, Mr. DURBIN, Mr. JONTZ, Ms. ROS-LEHTINEN, Mr. SCHAEFER, Mr. MCNULTY, Mr. ERDREICH, Mr. FASCELL, Mr. FAUNTROY, Mr. SLATTERY, Mr. MORRISON of Washington, Mr. SPRATT, Mr. TALLON, Mr. TAUZIN, Mr. TOWNS, Mr. TRAFICANT, Mrs. UNSOELD, Mr. SKELTON, Mr. PALLONE, Mr. SMITH of New Hampshire, Mr. BROWN of California, Mr. CARPER, Mr. SHARP, Mr. NIELSON of Utah, and Mr. HAMILTON.

H.J. Res. 578: Mr. ROHRABACHER.

H.J. Res. 616: Mr. MOLLOHAN, Mr. HAWKINS, Mr. LANCASTER, Mr. BLILEY, Mr. HARRIS, Mr. LEHMAN of Florida, Mr. FROST, and Mr. SPRATT.

H. Con. Res. 177: Mr. ROE.

H. Con. Res. 293: Mr. BLAZ.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

211. By the SPEAKER: Petition of the Pierce County Council, Tacoma, WA, relative to the National Endowment for the Arts; to the Committee on Education and Labor.

212. Also, petition of the Tacoma City Council, Tacoma, WA, relative to the National Endowment for the Arts; to the Committee on Education and Labor.

213. Also, petition of the County Commissioners of Dorchester County, MD, relative to jurisdictional nontidal wetlands; to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1180

By Mr. VENTO:

[Page and line numbers refer to text of H.R. 5157, as introduced]

—Page 421, line 20, before "Section" insert the following:

"(a) MORTGAGE LIMIT INCREASE.—".

—Page 421 after line 24, insert the following new subsection:

(b) MAXIMUM MORTGAGE AMOUNT.—

(1) IN GENERAL.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting after "higher dollar amount." the following: "In no case may the insured principal obligation (including such initial service charges, appraisal, inspection, mortgage insurance premiums, and other fees as the Secretary shall approve) exceed the appraised value of the property.".

(2) CONFORMING AMENDMENT.—Section 203(d) of the National Housing Act (12 U.S.C. 1709(d)) is amended by striking the period at the end and inserting the following: ", except that this subsection shall not apply to the maximum mortgage amount limitation in the third sentence of subsection (b)(2).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to mortgages insured on or after October 1, 1992.

—Page 422, before line 1, insert the following new sections (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 733. MORTGAGE INSURANCE PREMIUMS.

(a) PREMIUMS.—

(1) IN GENERAL.—Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)) is amended—

(A) by inserting "(1)" after "(c)"; and

(B) by striking ": *Provided*, That with respect to mortgages" and all that follows; and

(C) by adding at the end the following new paragraph:

"(2) With respect to mortgages on 1- to 4-family dwellings—

"(A) insured prior to the effective date of this paragraph, the Secretary shall refund not more than 50 percent of the unearned premium upon prepayment of the principal obligation; and

"(B) insured after the effective date of this paragraph, the Secretary shall establish and collect—

"(i) at the time of insurance, a premium payment of 1.35 percent of the amount of the original insured principal obligation of the mortgage, which premium may be financed as a part of the mortgage loan; plus

"(ii) periodic premium payments of 0.6 percent of the remaining insured principal balance, and shall not refund any portion of the premium in the case of prepayment of the principal obligation.".

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995.

(b) TRANSITION RULES.—

(1) PREMIUM CHANGES.—Notwithstanding section 203(c) of the National Housing Act, mortgage insurance premiums for mortgages subject to section 203(b) of such Act for which mortgages are insured during fiscal years 1991 through 1996 shall be payable as provided in the following table:

Fiscal year of execution of mortgage	Percentage of principal obligation paid as premium at the time the mortgage is insured	Premium payable in periodic payments (expressed as percentage of principal obligation)
1991–1992	3.75	0.24
1993–1995	2.15	.48
1996	1.35	.60

(2) REFUNDS.—

(A) Except as provided in subparagraph (B), upon prepayment of a mortgage that was insured at any time prior to October 1, 1995, the Secretary shall refund not more than 50 percent of the unearned premium.

(B) upon prepayment of a mortgage for which insurance is issued during fiscal years 1991 through 1995, the Secretary shall refund a portion of the premium paid at the time of insurance that equals 1.35 percent of the original insured principal obligation. The Secretary shall refund not more than 50 percent of any unearned premium in excess of the amount referred to in the preceding sentence.

SEC. 734. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following new subsection:

"(e) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.".

—Page 426, after line 16, insert the following new sections (and redesignate subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 737. ACTUARIAL SOUNDNESS OF MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act (12 U.S.C. 1711), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsections:

"(f)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after the date of the enactment of this subsection.

"(2) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after the date of the enactment of this subsection, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

"(3) Upon the expiration of the 24-month period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report describing

the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

"(4) For purposes of this subsection:

"(A) The term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 538.

"(B) The term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

"(C) The term 'capital ratio' means the ratio of capital to unamortized insurance-in-force.

"(D) The term 'unamortized insurance-in-force' means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

"(g) The Secretary shall annually conduct an independent actuarial study of the Mutual Mortgage Insurance Fund and shall report annually to the Congress on the financial status of the Fund.

"(h)(1) If, pursuant to the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (g), the Secretary determines that the Mutual Mortgage Insurance Fund is not meeting the operational goals under paragraph (2), the Secretary may not issue distributions, and may, by regulation, propose and implement any adjustments to the insurance premiums under section 203(c), or any other program requirements established by the Secretary necessary to achieve such goals. Upon determining that a premium or other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for the change. Such premium change shall take effect not earlier than 90 days following such notification, unless the Congress acts during such time to increase, prevent, or modify the change.

"(2) The operational goals referred to in paragraph (1) shall be—

"(A) maintaining an adequate capital ratio;

"(B) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit; and

"(C) minimizing the risk to the Fund and to homeowners from homeowner default.".

SEC. 738. PERIODIC MORTGAGE INSURANCE SAFETY AND SOUNDNESS PREMIUM.

Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of law, the Secretary may require payment on all mortgages that are obligations of the Mutual Mortgage Insurance Fund of an additional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(e). The additional premium charge may not exceed an amount equivalent to one-half of 1 percent per year of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments.".

SENATE—*Monday, July 16, 1990*

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

** * * When it is evening ye say, "It will be fair weather: for the sky is red." And in the morning, "It will be foul weather today: for the sky is red and lowring." O ye hypocrites, * * * But can ye not discern the signs of the times?*—Matthew 16:2-3.

Eternal God, perfect in truth and justice, under whose control are times and seasons; judgment and blessing, make us wise to discern our times. With our propensity to demand the optimistic and reject the pessimistic, save us from blindness to signs of our times, lest moral and financial collapse come upon us unexpectedly.

As Thou dost know the end from the beginning, as Thou "art acquainted with all our ways," In mercy overrule every mischievous way in us and amongst us that will feed frustration and prohibit progress so desperately needed in these apocalyptic days. Lead us in the way of wisdom and courage, individually and corporately. Work Your righteous will in this place, in spite of us if necessary. In His name who is the light of the world. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 16, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is now recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this afternoon, following the time for the two leaders, there will be a period for morning business not to extend beyond 2 p.m., with Senators permitted to speak therein for up to 5 minutes each.

At 2 p.m. today, the Senate will resume consideration of H.R. 4328, the textile bill. There will be no rollcall votes today. The remaining amendments in order to the textile bill will be offered and debated today. Any votes ordered relative to these amendments will be stacked to occur during Tuesday's session, at a time to be determined by the majority leader following consultation with the Republican leader.

Any amendments on the list of remaining amendments not offered and debated today will not be in order when the bill is resumed on Tuesday. At 2:15 tomorrow, there will be a cloture vote on the civil rights bill. Senators with first-degree amendments to the Kennedy substitute to the civil rights bill have until 2 p.m. today to file those amendments.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my time and all of the time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business not to extend beyond the hour of 2 p.m., with Senators allowed to speak for 5 minutes each.

FARM BILL CONSIDERATION

Mr. LEAHY. Mr. President, with the distinguished leader on the floor, I reiterate again my desire, of course, to move to the 5-year farm bill. I know the distinguished leader has been working very hard in an effort to schedule that and get it up. It is a significant piece of legislation. I think we have put it in a position where not only is it good policy but it also fits within the budget.

If there are any budgetary questions, I tell the distinguished leader I believe we are in a position to take care of them. The committee is ready to go. I simply want to state that for other Members and to thank and compliment the distinguished majority leader for the efforts he has made during the past week or so in getting that bill onto the calendar. I know he has made it one of his priorities.

Mr. MITCHELL. Mr. President, I thank my colleague and say for the benefit of all of the Members of the Senate it is my intention to proceed to the farm bill immediately upon disposition of the civil rights bill. We will complete action on the textile bill tomorrow morning. We will then have a cloture vote on the civil rights bill at 2:15, and following that we will obviously be in a better position to assess the remaining length of time for the civil rights bill.

But as soon as the civil rights bill is disposed of, I hope to go to the farm bill. I hope we can consent to go to it promptly because it is a very important measure which I understand is necessary for immediate action. I will do the best I can to press forward to get prompt action on that bill starting as early as possible this week.

Mr. LEAHY. I thank the distinguished leader, Mr. President, and reiterate again he has been extremely supportive in the efforts to get the farm bill on the floor.

I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. KASSEBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized for 5 minutes.

A COMPROMISE CIVIL RIGHTS BILL

Mrs. KASSEBAUM. Mr. President, today I am introducing, with Senator GORTON, a compromise civil rights bill, which I intend to offer as a substitute for S. 2104, the Civil Rights Act of 1990. I believe this compromise bill provides a reasonable, comprehensive approach to issues that remain highly contentious despite weeks of discussion.

Since last February, when S. 2104 was first introduced, I have followed this issue very closely, Mr. President. I participated in the series of hearings held on the bill by the Labor Committee. Most recently, I have watched as changes, largely of a technical nature, have been made while negotiations with the administration and others have continued.

Meetings are held, proposals are offered, and legal refinements are made to the point where I am not sure even the lawyers understand what it means. I fear that we once again are setting the stage for a legislative misadventure with potentially severe, long-term consequences.

Mr. President, the compromise proposal we are putting forward today has two basic goals. The first is to restore our civil rights laws to the same strength and clarity that existed before a series of Supreme Court decisions last year. I think many Senators agree that those decisions have significantly increased the difficulty of proving discrimination and, if allowed to stand, weaken our civil rights laws.

The second, equally important, goal of this proposal is to maintain the balance first struck by the Civil Rights Act of 1964 and to preserve the basic philosophy of conciliation, cooperation, and equitable relief that is the foundation of all of our civil rights laws.

My concern about S. 2104 is that it has become a vehicle not merely to correct the problems created by recent Supreme Court decisions but goes far beyond that goal. Taken as a whole, S. 2104 represents a basic change in our civil rights laws and undermines that structure created in 1964 and affirmed by succeeding sessions of Congress.

If S. 2104 were to become law, our philosophy of conciliation would eventually be replaced by one of confrontation. Our goal of prompt, mediated settlements that assure certainty for both the victims and the perpetrators of discrimination would be replaced by protracted, divisive, and radically inconsistent judgments. Under the system established by S. 2104, a few victims of discrimination might be enriched by enormous judgments while others would receive little or nothing.

Mr. President, I understand the frustration that lies behind S. 2104. Many Senators believe there must be more effective and aggressive enforcement of our civil rights laws. But even with its imperfections, the current system has been remarkably successful. It is a real deterrent to discrimination. We should think long and hard before we sweep away this structure of Government-enforced settlements and move to a tort-based system of jury trials and jackpot judgments.

Mr. President, our present civil rights laws have little potential to produce fabulous multimillion dollar judgments, but they do offer remedies carefully geared to the damages suffered—back pay, promotions, injunctive relief, and others. Congress deliberately chose this approach in 1964 as the best way to assure prompt and certain justice. Congress reaffirmed this approach in 1972, specifically rejecting jury trials. I believe we should reaffirm that view this year by striking a careful, thoughtful balance on this legislation.

Senator GORTON and I believe that balance is best struck by the compromise language we are offering. We are not locked in concrete on every sentence in this proposal, but we are convinced that this basic approach achieves the two goals we have set—restoring protections that existed before recent Supreme Court decisions while preserving the fundamental structure of current civil rights law. I want briefly to outline provisions of our proposal.

First, the most contentious issue and the main focus of ongoing discussions has been how to correct the Court's decision in Wards Cove. The original language of S. 2104 sparked a debate about whether this was a quota bill. As a result, supporters of the bill already have modified language addressing Wards Cove, and there have been many long, inconclusive discussions about further changes. Mr. President, whether S. 2104 results in quotas is still unclear, but I believe it is very clear that this section could lead to an explosion of unwarranted and potentially divisive litigation.

In order to address the problems created by Wards Cove, the compromise shifts the burden of proof to the employer. This overturns the Wards Cove decision. In addition, the definition of business necessity comes right out of Griggs and another case that followed Griggs, the New York Transit versus Beazer case. This definition is intended to have the same meaning that "business necessity" has been given in Griggs and in cases which followed Griggs. This is, plain and simple, the law prior to Wards Cove, nothing more, nothing less.

Finally, it also allows the employee to establish his or her case by showing a combination of employment practices causes a disparate impact, provided each practice contributes to the disparate impact. These three measures, taken together, form an appropriate balance between the concerns voiced on both sides: avoiding quotas and excessive litigation versus ensuring equal opportunity in the workplace.

Important as language related to Wards Cove is, there are other sections of S. 2104 that require careful scrutiny. Some argue that this bill would overturn as many as 15 Supreme Court decisions. While this may or may not be the case, it is a fact that S. 2104 does more than merely reverse Supreme Court decisions. Specifically, S. 2104, would allow compensatory and punitive damages, with jury trials for intentional discrimination under title VII.

Mr. President, I am sympathetic to the need for closing the gap in current law to provide adequate remedies for victims of discrimination, particularly on-the-job harassment. However, I am unwilling to do so at the expense of sacrificing the very intent of title VII—to encourage settlement and conciliation between employer and employee.

I believe it is particularly important that remedies under title VII not be replaced by a tort-based system of unlimited damage awards. Instead of encouraging harmony and conciliation in the workplace, this would encourage protracted lawsuits, leading employees to play a litigation lottery game with no certain outcome. The potential divisiveness—not to mention the time, costs, and the further clogging of our courts—will only serve to undermine the spirit of cooperation and consensus of support our civil rights laws not enjoy.

Assuring victims an adequate remedy for discrimination must be kept within the present framework of title VII. Under the compromise proposal, that framework is preserved, but additional protection is provided by giving a judge the discretion to award up to $100,000 where the present remedy of back pay is unavailable. This approach preserves the equitable remedy scheme that is now an essential part of title VII.

The compromise does not contain the provisions found in S. 2104, which expand and protect the recovery of attorneys' fees. Again, such provisions would only encourage litigation and impede settlements. Nor does the compromise retain the retroactive provision of S. 2104. Rather, the compromise addresses the other major Supreme Court cases, Lorance, Patterson, and Wilks, in a moderate and reasonable manner.

The compromise bill should be taken as a whole, a complete package, aimed at addressing the Supreme Court's rulings without encouraging litigation, confrontation, and division. Instead, the compromise will encourage resolution and reconciliation and thereby preserve the widespread support and success our civil rights laws have achieved.

Mr. President, no one wants to see discrimination in the workplace. I wish that we could devise laws that could guarantee that this never could happen. I will close with a quote from Alexander Solzhenitsyn, which I think fits the current situation very well:

When the tissue of life is woven of legalistic relations, there is an atmosphere of moral mediocrity paralyzing man's noblest impulses.

It is my hope that this compromise will help us achieve on all counts that which we wish to do to further the best interest of civil rights in this country.

I send the bill to the desk, and I yield the floor.

Mr. GORTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized for 5 minutes.

Mr. GORTON. I ask unanimous consent that I be permitted to address the Senate on the same subject as that discussed by Senator KASSEBAUM.

The ACTING PRESIDENT pro tempore. Without objection.

A COMPROMISE CIVIL RIGHTS BILL

Mr. GORTON. Mr. President, I am both honored and privileged to join with the distinguished Senator from Kansas [Mrs. KASSEBAUM] as a sponsor of this substitute for S. 2104. This is the culmination, to date at least, of a long and serious process on her part, on mine, and on the part of many other Members of this body, who are concerned both with the events of civil rights and racial and gender justice in this country, and at the same time, concerned that we not go from a situation when rights become pure group rights, and harassment of employers becomes the rule rather than the exception.

I believe that the substitute which Senator KASSEBAUM and I intend to call up or debate as promptly after our return as possible, has four principal goals, four principal differences between it and the form in which S. 2104 appears before the Senate at the present time.

First, and most significantly, from a public standpoint at least, is that I believe that this can end conclusively the debate over quotas. It is perhaps not entirely certain that S. 2104 in its present form mandates quotas, though, there are many who believe that it does. But S. 2104 in its present form clearly makes quotas the rational response of many employers to the situation with which those employers will be faced, should S. 2104 become law, with its various presumptions and with the possibility of heavy penalties in the form of attorneys fees and punitive damages for what could easily be innocent mistakes.

We do so in this proposal by doing in precise statutory language exactly what the proponents of S. 2104 claim that that bill does itself.

That is to establish as the fundamental standard that is in Griggs versus Duke Power and New York Transit Authority versus Beazer.

Literally for the first time during this entire debate we have language in this proposal which actually codifies Griggs by using the exact words from the Supreme Court's decision in both Griggs versus Duke Power and New York Transit Authority versus Beazer.

In Griggs, the Court defined business as "manifest relationship to the employment in question." This phrase is cited and quoted in a number of subsequent Supreme Court disparate impact decisions, namely Albermarle Paper Co. versus Moody, Dothard versus Rawlinson, New York Transit Authority versus Beazer, and Connecticut versus Teale.

In the Breazer case the Supreme Court said that rules significantly serving legitimate employment goals of safety and efficiency are lawful, notwithstanding their disparate impact. The Court based this language on the "manifest" relationship standard set forth in Griggs. Obviously, the Supreme Court reads these two standards as consistent with one another.

Mr. President, this body now has an opportunity to vote to codify the Griggs decision. All the other proposed definitions of business necessity, such as those found in the various versions of S. 2104, use new language, creating a different and more onerous standard and one which must be interpreted anew by the courts. Legislative history notwithstanding, the best way to preserve the Griggs decision is to use the actual language used by the Court in that decision. By doing so, there can be no doubt of the intention of Congress.

By choosing new language, language created by committee or in some backroom negotiations, the courts will know that we as a body have rejected the Griggs standard for language, the definition of which none of us can guarantee. And those who must comply with the law will also have no idea what is required of them by that new standard.

Mr. President, on one other associated subject, the concern of many of the proponents of S. 2104 over unstructured and complete discretion put in the hands of a given individual or small group, I should like to say that in identifying the particular employment practice alleged to produce an unlawful exclusion from employment we do not believe that the plaintiff is required to do the impossible in breaking down an employer's practices to the greatest conceivable degree. Courts will be permitted to hold, for example, that vesting complete hiring discretion in an individual guided only by unknown subjective standards constitutes a single particular employment practice susceptible to challenge.

Mr. President, the second goal of this substitute is that we should remain true to the philosophy of the direction of the Civil Rights Act of 1964 by stressing and encouraging the title VII process of conciliation and the settlement of disputes as against the creation of a trial lawyers bonanza complete with mountainous attorneys' and punitive damages.

Nevertheless we do have a concern with Supreme Court decisions on harassment, and as a consequence there is within title VII in this substitute a new and precise remedy for on-the-job harassment with court-imposed penalties of up to $100,000 but without the tremendous incentive to attempt to go to court with a jury trial in a totally adversarial situation and find for a tiny handful of victims mountainous punitive damage judgments, while most of them end up frustrated as is the case in so many other areas of our law.

Fourth, this substitute proposal will restore those adversely affected by certain affirmative action consent decrees in which they have played no part and decrees which are sometimes not seriously contested the right to redress if they can show that they are adversely affected.

Mr. President, as I have already said, the most important part of the proposal, the part that created the greatest degree of public controversy, is that which is designed to lay to rest the proposition that we cannot create an appropriate civil rights statute without creating a quota-based system. By restoring the precise language of two decisions which preceded Wards Cove and by making it clear that once a plaintiff has not shown a disparate impact and casual relationship between his or her exclusion and some employment practice and that disparate impact then the burden of going forward and establishing justified business practices is on the employer.

By doing these things we have the standards established in this proposal which have been advertised by the proponents of S. 2104. We have gone back to Griggs, the cases which have succeeded Griggs, and we have a proper distribution of responsibility and we retain the title VII structure.

This is an extreme proposal. We hope that Members of this body will consider it very seriously and to that end, Mr. President, on behalf of Senator KASSEBAUM and myself I ask unani-

mous consent that any Member of the Senate who wishes to be denominated an original cosponsor has until noon on Wednesday during which his or her cosponsorship will be considered in that light.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GORTON. Mr. President, this obviously will be discussed and debated at length in the future. But we offer it to our colleagues as a very serious attempt to meet a serious problem facing this Nation.

Mr. DOLE. Mr. President, first I thank my colleagues from Kansas [Mrs. KASSEBAUM] and the Senator from Washington [Mr. GORTON] for their effort to break the impasse on civil rights legislation.

Mr. President, tomorrow the Senate will decide whether to invoke cloture on the so-called Civil Rights Act of 1990.

President Bush has consistently said that he wants to sign a civil rights bill this year. He has said that he wants a bill that is sound, that is reasonable, and one that promotes racial justice, not quota justice.

And I, for one, as Republican leader of the Senate, want to help put that bill on the President's desk.

The President has directed his top advisers, including Chief of Staff John Sununu, White House Counsel Boyden Gray and Attorney General Dick Thornburgh, Roger Porter, and others, to negotiate in good faith with Senator KENNEDY and with the other proponents of the Civil Rights Act. These negotiations began in earnest more than 3 weeks ago. There were many lengthy negotiations last week.

And negotiations are continuing today.

We all agree that section 1981 should be expanded to cover racial harassment on the job.

We all agree that workers should be permitted to challenge discriminatory seniority plans even after these plans have been adopted.

We all agree that there must be adequate remedies in the law to deter sexual harassment on the job.

And we all agree that any major revision to the Federal civil laws must promote conciliation, not litigation.

So, Mr. President, there are many areas of common ground between the administration and the bill's proponents here in Congress. But this common ground is shaky ground, and it will collapse if the bill's proponents do not show at least some willingness to address—in meaningful ways, the very legitimate concerns raised by the President and his advisers.

The language in the Kennedy-Jeffords substitute defining the term "business necessity" is unacceptable. In my opinion, and in the opinion of the President, this language is so extreme, so far removed from the judicial history of title VII, that it will have one inevitable result—de facto racial and ethnic quotas in the workplace.

If we really want to codify the Griggs decision, as the bill's proponents urge us to do, then let us do it. We ought to define "business necessity" in the very same way that the Griggs Court defines it. And we should not distort the Griggs decision by defining "business necessity" with new words that have new and unclear legal meanings.

The section in the Kennedy-Jeffords substitute overturning the Martin versus Wilks decision is also extreme.

When I was in law school, I learned that everyone was entitled to his or her day in court. But the substitute would throw this time-tested and cherished principle out the window by precluding those who have been harmed—in substantial and definable ways—from seeking redress through the Court system.

Finally, the remedies section in the Kennedy-Jeffords substitute seems to have been crafted by the Trial Lawyers Association.

I agree that a damages remedy under title VII, in addition to backpay, makes a lot of sense. Without question, the women of this country need a stronger remedy to deter, and compensate for, sexual harassment in the workplace.

But the combination of unlimited compensatory damages, unlimited punitive damages, and unlimited jury trials is an unnecessary burden on our Nation's employers and a bonanza for the plaintiff's bar.

My distinguished colleague, the majority leader, has outlined a very ambitious schedule leading up to the August recess. The Senate is scheduled to consider the farm bill, the debt limit, campaign finance reform, the Department of Defense reauthorization bill, and any appropriations bill that may be available.

If the Senate is to complete action on these bills, as well as complete action on a civil rights bill that the President can sign, then the proponents of the so-called Civil Rights Act of 1990 must be willing to show some flexibility. And they must be willing to take the negotiating process seriously.

Mr. President, the cloture vote tomorrow does not promote the negotiating process. It does not promote compromise. And it does not promote the cause of racial justice in this country.

A vote against cloture is a vote for racial justice, not quota justice. And it is a vote to keep the dialog alive.

I would just say, as I conclude, that there are a lot of cloture motions field these days. But in this particular case, there have not been any amendments offered. We have not had any debate. We have had opening statements on the civil rights bill. We have had sort of a nonrelated amendment that takes care of Senators who might be sued and that is it. We have not had a single minute of debate on anyone's amendment. We are prepared to send amendments to the desk on this side and prepared to consider the substitute offered now by the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Washington [Mr. GORTON].

I now understand there will be another second cloture motion filed between now and 2 o'clock. In my view, there has to be a filibuster, or should be, or some extended debate before you start trying to shut off debate. In this case, there has been no debate. There have been no amendments offered and no debate on the Civil Rights Act of 1990. Though, I assume the liberal newspapers will be saying the Republicans are holding up the civil rights case, that is not the case. We are prepared to offer amendments, start right now to offering amendments. There is no need for a cloture vote.

I urge my colleagues, some on both side of the aisles, who have serious questions about the bill as it is now pending before the Senate, to vote against cloture and let the dialog proceed. Perhaps there can be some resolution, or better yet, just withdraw the cloture motion, and let us start offering amendments.

I know the distinguished Senator from Utah is prepared to offer amendments. I am certain the principal proponents of the substitute are prepared to offer the substitute. If we cannot work out some agreement, then perpaps we can do it as we normally do things in the Senate, offer amendments, vote them up or down, and have a final disposition of the bill at the earliest possible time.

It would also seem to me that the proponents of this particular act should keep in mind that we are running out of time. There is not much time left in July. There is not going to be much in August. There is going to be about 4 weeks in September unless there is a lameduck session after the November election. They are not many legislative days left, maybe 30, maybe 32, or 33, or 34, I have not counted precisely.

So again it would seem to me it would be in the interest of the proponents of the Civil Rights Act of 1990—and we are all proponents of the civil rights legislation—to somehow come together and to be reasonable and flexible in the negotiations. Perhaps we can resolve this and it would not take much debate at all.

Mr. President, I reserve the remainder of my time.

THE FARM BILL

Mr. PRESSLER. Mr. President, I rise to express strong support for increasing target prices in the upcoming farm bill. I know there has been much discussion of late about the economic summit talks in Texas and about our relationship with Europe. Many years ago on the floor of this Senate, Senator Milton Young of North Dakota offered the target price concept on wheat. That was the first crop on which target prices were offered. And he did it because the European nations were subsidizing their agricultural exports.

Now there is something to remember here. The European countries have always used agricultural subsidies to increase production and to subsidize exports. The United States has always used the target price concept to decrease production of agricultural products and to stabilize the agricultural economy. For example, if target prices are accepted by a rancher or a farmer, that rancher or farmer must set aside land and not produce any crop on it.

So our farm program is designed in part to reduce production. We have the Conservation Reserve Program, we have the acreage reduction program [ACP] and we have other soil and water conservation programs, which are actually designed to decrease production. These are quite different from the subsidies the Europeans use.

Now in the long run, if we could get the Europeans to change the method in which they subsidize agriculture—and indeed, I intend to offer an amendment regarding an international agriculture conservation agreement—then we could achieve some progress toward treating the world's ranchers and farmers equally and fairly.

But the reason I so strongly support an increase in target prices is because our farmers do not deserve a cut in their pay. They deserve prices at least high enough to keep in step with inflation and the costs of production. Indeed, if the Europeans and other countries in this world were to reduce subsidies to a level where our farmers would be treated equally, the arguments might be otherwise. But presently all of the arguments are for an increase in target prices.

Mr. President, I think that the upcoming debate on the farm bill is very important. I feel very strongly that we must increase target prices. We also must improve the Crop Substitution Program. We also must improve our farmers' position in terms of the international trade situation.

For many years, the European countries have protected their small towns and rural areas through a system of agricultural export subsidies. If you go to France or Italy, you will find prosperous small villages or towns because of their subsidies. The small businesses on main street are prosperous. This has enriched their culture and enriched their country and provided them with a strong economic base.

The same thing would be true for the United States. But, unfortunately, many of our small town businesses are being destroyed. We are finding that family farmers and ranchers are being driven out of business. We are losing that important rural economic base. Let us also remember agricultural products still are among the most profitable U.S. exports in terms of contributing to the balance of trade, in spite of this being a computer age, communications age, and so forth. We must keep this segment of our economy strong.

In conclusion, Mr. President, let me say when the farm bill comes to this floor I shall join in efforts to increase target prices; I shall join in efforts to work for better crop substitution programs; and I shall offer an amendment for fair treatment of our farmers and ranchers on the international agricultural markets. We must not turn our backs on our farmers and ranchers at this critical time in America's history.

Mr. President, I yield the floor.

CROATIANS WANT DEMOCRACY

Mr. DOLE. Mr. President, about 2 weeks ago, while the Senate was in recess, the New York Times printed an op-ed piece by the newly elected President of Croatia, Franjo Tudjman.

Dr. Tudjman was elected 2 months ago in the first democratic multiparty elections held in the Republic of Croatia since the Communists took over Yugoslavia in 1945.

In his op-ed, which is entitled "All We Croatians Want Is Democracy," Tudjman emphasizes that the Croatian people, tired of Communist oppression, have set a goal of a Croatian society, based, like the United States, on political and economic freedom, respect for human rights, and the protection of individual liberties—a government truly "of the people, by the people and for the people."

Mr. President, the Croatian people clearly demonstrated their willingness to risk all for democracy. For over 40 years they were crushed under the force of communism. Brave men and women were imprisoned for their political views—Franjo Tudjman himself was sent to prison twice. And, in the early 1970's, students and professors, who peacefully participated in demonstrations calling for democratic reforms, were also imprisoned for 6, 8, 10 years, and more.

Yet, these Croatians did not give up. Many of these courageous people were elected during the elections that took place in April and May. And, the overwhelming majority of the Croatian people did the rest: They voted to bring and end to communism and to rebuild their society to be free like the United States.

Unfortunately, as Tudjman points out in his article, some in the United States fear the rise of Croatian democracy. Some believe that these changes threaten stability and the current structure of Yugoslavia.

Mr. President, I do not know how democracy in Croatia or Slovenia will affect the structure of Yugoslavia—nobody does. However, I strongly believe that we cannot withhold our support for those in Yugoslavia struggling for freedom and self-determination, just because we happen to have a comfortable attachment to the status quo in that part of the world.

Moreover, as the President of Croatia notes, "freedom and self-determination do not threaten stability; repression and tyranny do."

Mr. President, I ask unanimous consent that Dr. Tudjman's op-ed be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 30, 1990]

ALL WE CROATIANS WANT IS DEMOCRACY

(By Franjo Tudjman)

ZAGREB, YUGOSLAVIA.—Last month the Croatian people, sick and tired of Communist oppression, joined the peoples of Eastern Europe in looking away from Communism and toward a democratic future. We have set the goal of a Croatian society that, like the United States, is based on political and economic freedom, respect for human rights, the protection of individual liberties, an independent judiciary and a government that is truly "of the people, by the people, and for the people."

There are those, however, even in America, who fear any measure of Croatian democracy. This surge of national identity and authority will, some say, lead to the breakup of Yugoslavia, to civil war, or both.

These fears are misplaced. Freedom and self-determination do not threaten stability; repression and tyranny do. To reject Croatia's transition to a democracy on the pretext of preserving regional stability, only delays the inevitable—and heightens the risk of regional chaos and violence at some date in the future.

The democratization of Croatia will lead neither to the break up of Yugoslavia nor to civil war. These threats represent a last desperate ploy by the central Communist government in Belgrade to win Western neutrality on the issue of Croatian democratization.

Belgrade has learned and implemented the lesson of Lithuania; rather than condemning democratization, the Communists argue that the price of democratization is higher than the West should be willing to pay. This crude bit of disinformation threatens to undermine Western support for the emergence of democracy, based on free and fair elections, in a Communist country.

In fact, if Belgrade does not cause a civil war by military intervention, there will be no civil war. Croatia is wealthier and more productive than all but one of the other Yugoslav republics. That republic, Slovenia, has held elections recently that also resulted in a mandate for greater autonomy.

It is up to Belgrade whether Yugoslavia will continue to profit from a confederation including Croatia, or whether Yugoslavia will forgo a relationship that remains crucial for the economic stability of the other republics.

It is we, the Croatian people, who have risked our lives to put forward a democratic party and to vote our conscience. And it is we who continue to risk our lives in defiance of totalitarian Communism. If Belgrade chooses to attack us for choosing freedom, we remain prepared to defend our liberty with our blood. It is the height of arrogance for the U.S. to dismiss Croatian democracy on the ground that regional stability is at stake, when we Croatians are willing to put our lives at stake for our freedom and dignity.

The end of Communist rule in Croatia will not result in a domestic bloodbath, as the Belgrade propaganda asserts; there will be no purges against Serbians or retribution against Communist officials and their families.

And I know well the temptation of retribution. Three years ago, when I was 65 years old and after the Communists had sent me to prison twice, I learned the names of the Communist soldiers who shot and killed my father and stepmother in cold blood. These men live today in the Republic of Croatia. For more than four decades, I believed the lie that my parents had been killed by Nazi collaborators. Similar ghastly stories are common in Croatia.

The Croatian Democratic Union and I were elected to end such tyranny. And, despite 45 years of brutal Communist rule, and despite the association of many people with these oppressors, I vow to allow no reprisals in a newly democratic Croatia. I will work to build a society which is a vibrant marketplace of ideas and initiative, where disagreement and debate are signs of strength.

The Communist soldiers who murdered my parents will be judged by God alone. I no longer yearn for revenge; the murderous, inhumane system that killed my parents and tens of thousands like them has been judged for its crimes—in free and fair elections—by the Croatian people. That system has been decapitated.

WALTHAM BAND VISITS THE SOVIET UNION

Mr. KENNEDY. Mr. President, the past year has seen historic changes sweeping the Soviet Union. Recently, the Waltham American Legion Band, led by 74-year-old Dot Hill, became part of that history when it became the first American band to march in Moscow's Victory Day Parade on May 9 commemorating the Allied victory in World War II.

The band captivated the Russian people. Hundreds of residents of Moscow followed the band along the parade route and others gathered in front of the band's hotel for an impromptu concert. In town, the Americans were invited to take part in a wreath-laying ceremony at the Soviet Tomb of the Unknown Soldier. As one American participant said, "They made us feel as though we were their own war heroes. It had everybody choked up. You felt as if you were in a movie."

I particularly commend Dot Hill, who founded the band 42 years ago, for her perseverance in making this dream a reality for the Waltham American Legion Band and in touching the lives of many Soviet citizens. As we continue to make far-reaching decisions in Congress about the future of our relations with the Soviet Union, I urge Members of the Senate and House to consider this example of the extraordinary friendship that the Soviet people have for the American people. I ask unanimous consent that articles about the band's visit may be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Waltham News Tribune, May 23, 1990]

SOVIET TRIP WAS THRILL OF LIFETIME FOR DOT HILL

(By Thomas J. Neville)

Dorothy Slamin Hill took the first step of her triumphant march through the Soviet Union 57 years ago when at 17 she claimed the top award at the 1933 World Championship Band and Drum Major Championships at Soldiers' Field in Chicago.

She graduated from Waltham High School in June of that year and later that night boarded a train in Newton and set out for the World's Fair in Chicago. The young baton twirler was crowned world champ and the Waltham High Band, which she led, garnered top national honors.

Thousands of parades and concerts and as many first place trophies, plaques and citations mark the 57 years which have followed the world title. Yet, despite the accolades and honors, the 1933 world championship remained the highlight of Mrs. Hill's career—until now.

In a post jet lag interview last weekend, Dot Hill, 74 years of age, described her Waltham American Legion Band's musical tour of Russia as her crowning achievement.

"This topped 1933 because it involved people . . . it improved relations between our people and the Russian people," she said.

"The 1933 championship after my high school graduation didn't have the personal effect of improving people's lives." The band tour, she said, made the Soviet people happy at a time when there is a lot of sadness over that country's very rough economic times.

Reflecting on her musical career, Mrs. Hill described the Russian experience as "the biggest thing I could ever expect in my life. It was overwhelming."

One member of the band told Mrs. Hill, "nothing bigger than this could ever happen in our lives."

The interaction between the American contingent and the Soviet citizens was truly the key to the success of the visit. Mrs. Hill said the Soviet Peace Committee, which invited the band, asked her if a return engagement would be possible. One Peace Committee member said his group had never received as many favorable comments about a program it helped arrange.

There was some natural apprehension when the musicians first arrived in Moscow, but as soon as Mrs. Hill struck up the band in front of the Rossya Hotel on the first full day the stage for success was set.

"After we played about three numbers I could see there would be no problems," she said.

She remembers turning around and facing the crowd of curious Muscovites and seeing them clapping and dancing to her music.

It was three days later, Victory Day, that proved to be the most emotional. First, the spectators lining the parade route became caught up with the American unit. Hundreds left their viewing spots and followed the band down the street.

Hill became like a Pied Piper and led the band and several thousand Russians into a square next to the Bolshi Theater. The crowd pressed almost uncomfortably close to Mrs. Hill and her musicians. Unlike the stereotypical stern Russian faces, these spectators beamed and smiled and laughed and cheered.

Retired Russian General Nicolai Sidorenko, a World War II paratrooper bedecked with military campaign medals, stood his ground directly behind Dot Hill. Of that experience, Mrs. Hill said, "I never through I would live long enough to see what happened today. It had to be the biggest thing that ever happened to me when I turned and saw that Russian general crying. It made me start to weep, too!"

Then a 99-year-old woman started dancing as Mrs. Hill directed the band. Mrs. Hill told her she would move up the date of the woman's 100th birthday by playing Happy Birthday. She did.

The day was still Victory Day, May 9th, and more powerful emotions were to be shared. The band was driven to the Tomb of the Unknown Soldier, near the Kremlin Wall. Although it was not on the itinerary, the Soviet officials asked if the Americans would participate in a wreath-laying ceremony for the anonymous Soviet dead.

With no rehearsal, The Dedham Color Guard, Mrs. Hill, Past National Legion Commander Jake Comer, this writer, and the Waltham Honor Guard quietly and slowly approached the tomb.

Soviet citizens, waiting in long lines to pay their respects, watched in silence as we short-stepped to the sacred eternal flame. With reverence and throbbing hearts, the Americans filed outside the gates to a greeting of yet more Russians who witnessed the ceremony. The Russian people broke into cheers and tears. They handed us flowers and hugs and well-wishes.

Mrs. Hill is still unable to answer how such an experience can be topped. But that doesn't mean she won't try. She recalls a delegation from Poland who mingled with her and the band before the big parade. One Pole asked if Mrs. Hill would consider visiting his country. "Just send me a letter and we'll see what we can do," she responded.

Genrikh Borovik, president of the Soviet Peace Committee, said to Mrs. Hill, "to think that this materialized by your perseverance." He told her that the Peace Committee received accolades never before received because of the popularity in his country of the Waltham Legion band.

Mrs. Hill said she will certainly maintain correspondence with the Peace Committee and try to explain to them what the Americans gained from the experience.

If detente can be measured in human emotion, Dot Hill must hold the record of any diplomat in terms of reducing tensions among peoples.

"I never received so many kisses and hugs in my life. I never got that many from my husband," she quipped.

[From the Waltham News Tribune, May 23, 1990]

MUSIC HELPED FORGE TIES BETWEEN OLD ENEMIES

(By Thomas J. Neville)

While sitting on the edges of a bed in the cramped quarters of Pullman Car No. 8 on the midnight train to Leningrad, Soviet citizen Sasha Lukanin described a bond between his nation and the United States.

"There is something very deep in our nation and your nation that wants us to be friends," said the 45-year-old English teacher who was serving as a volunteer with the Soviet Peace Committee. Sipping a bit of scotch, Lukanin added, "We are very much similar to each other . . . lately!"

Taking part in the informal chat were American Legion Post 156 Manager Kevin Igoe, his mother Marion Igoe, Legion Band supporter Amelia "Millie" Cericola and this writer.

"We're sitting here together, one Russian and four Americans, and the main ideas and ideals are the same," offered Lukanin. The Russian, who was serving as a guide and interpreter, noted "we have common problems, yet your country solves them more successfully than mine."

Lukanin said the Soviet Union wants peace. "No longer does our country want to overrun United States. This is not the period of Krushchev (but a time) of understanding life and the essence of life," he said. "We are the same."

Asked what he thought of Dot Hill and her persistence in bringing her band to the Soviet Union, Lukanin responded, "In the Russian Orthodox Church she would have been listed as a saint!"

As the midnight express train rumbled through the Soviet countryside, our Russian interpreter added, "The idea of your coming, born with Mrs. Hill, was splendid."

He reflected on the concert held in Moscow's Palace of Culture a night earlier, noting that the Russian people "received your band better than any other. It was very impressive. They all stood up and clapped while listening to your music."

The Russian was referring to a musical festival in which troupes from 30 nations participated. When Mrs. Hill struck up "Yankee Doodle Boy" the entire audience, Soviets included, clapped their hands and swayed rhythmically to the stirring music.

The Victory Day Parade in Moscow was held 12 hours before our talk on the train. Lukanin, who seemed not to tire from talking, delighted in emphasizing that Muscovites "thronged around your band" after the formal march. "You were all packed in there like herrings," he said.

That was in a square next to the Bolshoi Theater, which is a place normally reserved for Soviet veterans to gather after the parade. But on this 1990 Victory Day Parade all eyes were on the Waltham Legion Band as Mrs. Hill withstood the pressing throngs and turned out a 45-minute impromptu concert.

That event was quickly followed by another, one which Sasha Lukanin described as "the most touching moment." The band and its color and honor guards were asked to take part in a wreathlaying ceremony at the Tomb of the Unknown Soldier, directly behind the walls of the Kremlin.

Thousands of serene Russians stood in what seemed to be an endless line to pass the eternal flame. Lukanin described how he saw the ceremony. "When the (Russian) people saw you, they forgot their own problems. Americans who participated in the ceremony shed tears, as well as the Russians who got close to them. It was most spectacular."

Asked why the Russians applauded the visitors from the United States at the sacred tomb, he said it was "the recognition of the truth that we were allies during the war and they feel as we are allies today.

"That's why they cried."

As our conversation drew to a close, Lukanin concluded, "We were formerly taught to think Americans were our enemies. Those stupid ideas have been luckily forgotten."

[From the Boston Herald, May 7, 1990]

WALTHAM BAND A HIT WITH SOVS

(By Joe Sciacca)

Moscow.—Alexey Ponomarenko, who won a chest full of medals as a Soviet fighter plane gunner in World War II, stared curiously at Dot Hill and her American Legion band yesterday.

But as Hill's 70-member marching band performed outside the Russia Hotel, playing Yankee Doodle Dandy, the Soviet anthem and even Hail Massachusetts, Ponomarenko's feet began keeping beat.

"They're moving by themselves," said the 72-year-old Soviet war veteran.

"I just feel a great spirit in my heart. This is music that unites two great countries," he said.

The sound of the four tubas, eight trombones and the big bass drum pounded by Waltham landscaper Mario Taricano could be heard all the way across the street at the Kremlin.

Hill's "boys" were just warming up. Their big day is Wednesday when they become the first American marching band ever to take part in Moscow's Victory Day parade.

"It's overwhelming. The people have just opened their hearts to us here," said Hill, who at 74 still twirls a hefty metal baton with precision and speed.

As the medals Ponomarenko still displays proudly on his coat began to jiggle during yesterday's impromptu street concert, Nelly Alleva yelled, "Bravo!"

Paying no attention to the eyes of a stern-looking Vladimir Lenin peering down from a huge mural covering the side of a nearby building, Alleva literally jumped into the act.

Flashing a grin with her gold-capped teeth, the 66-year-old woman leaped between Hill and her band.

She broke into dance, waving her arms high above her head and kicking up her heels to "When the Saints Go Marching In."

The woman was so excited when asked what the band's music does for her, the translator couldn't keep up with her gushing explanation.

"She's talking about peace," the frustrated translator finally summed up.

Hill's band members, mostly veterans and their sons, found themselves getting a little emotional as well.

"The only way to end wars is by negotiating. I consider this a form of negotiating," said Legion post commander Tom Neville, a Vietnam veteran.

Post manager Kevin Igoe even found friendliness in the usually stoic floor ladies that enforce Moscow hotel rules.

"Our refrigerator broke so she let us use hers. Not a bad lady," Igoe said.

Hill decided to take her band out for a dry run yesterday after a moving performance in their honor by a group of Soviet schoolchildren.

The youngsters presented Hill with a set of hand-painted wooden dolls that fit inside one another called motrioshka.

"Someday we would love to come to Boston to continue this mission of peace," said choral director Galina Radchenko.

The Waltham Legion Band includes lawyers, painters, accountants, truck drivers, an ophthalmologist and a priest who plays the cymbals.

They will lay flowers at the foot of a veterans' monument just outside the Kremlin's red brick wall after Wednesday's parade.

They are due back in Boston May 15 after visits to Leningrad and Frankfurt, West Germany.

"Your American band," said Soviet businessman Benjamin Nilva yesterday, "It will go down in history."

SPEECH DELIVERED BY GOV. CARROLL CAMPBELL AT THE CAROLINA CELEBRATION OF LIBERTY

Mr. THURMOND. Mr. President, I would like to take this opportunity to insert into the RECORD an eloquent and meaningful speech recently delivered by the able Governor of my great State, the Honorable Carroll Campbell. Governor Campbell and I had the pleasure of participating in the Carolina Celebration of Liberty in Columbia, SC, on July 1, 1990, at which time Governor Campbell made these fine remarks.

Once a year, on July 4, Americans are united in a shining tribute to the freedom and democracy for which our country stands. Yet the meaning of July 4 lives in our minds and hearts throughout the entire year. The patriotic spirit and inspirational message of faith contained in Governor Campbell's Independence Day speech is worthy of serious consideration by my distinguished colleagues.

Mr. President, I ask that the full text of Governor Campbell's speech appear in the RECORD at the close of my remarks.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY GOV. CARROLL CAMPBELL, CAROLINA CELEBRATION OF LIBERTY, JULY 1, 1990

I want to welcome you to this third annual celebration of liberty.

This July Fourth celebration is unlike any this Nation has had. In modern history, as America continues strong and free, the Communist empire crumbles. All across Eastern Europe, people are taking their first breath of freedom.

So today, as we give thanks for our freedom, we can also give thanks for the kinds of freedom that God is blowing through the Eastern block countries—and that human beings, who were created to be free, are experiencing this blessing for the first time in their lives.

It is my prayer that one day all people in all countries will have the opportunities that Americans have had: Opportunities to

worship as they please; opportunities to live and work and learn; opportunities to reach for the stars even as they keep their feet on the ground.

On a personal note, I wouldn't be here today without the opportunities that are uniquely American. I had to go to work after high school. For me, the prospects for a college education seemed remote and beyond reach.

Yet, there I sat—in the daytime a U.S. Congressman, at night, a student earning a masters degree at American University.

Yes, America has problems. We'll always have problems. But, don't talk to me about our shortcomings at the expense of our blessings. Don't tell me you can't do things for yourself if you really want to. And, no matter what the Supreme Court says that you have the right to do, don't burn that symbol of freedom that we call the American Flag because you're desecrating everything that is good and honorable and valiant. And I'll have no part of you.

At the heart of our freedom beats the heart of God. As the Frenchman Alexis De Tocqueville observed in the last century: "I do not know whether all Americans have a sincere faith in their religion, but I am certain that they hold it to be indispensable to the maintenance of their institutions."

The Founders spoke with one voice about the importance of religion in civic life. George Washington called religion and morality "indispensable supports" to democracy. John Adams said the Constitution was made for moral and religious people. James Madison proclaimed that "he who would be a citizen in civil society must first be considered a subject of the divine Governor of Nature."

And on it goes: Founder after Founder intending religion to provide a moral anchor in the turbulence of liberty.

It is from the Judeo-Christian tradition that we get our laws, the basic set of values that links an otherwise diverse people. Our ideals of family and community and service are divinely-organized principles which, when followed, lead to stability. When ignored, chaos and confusion.

America, God did indeed shed his grace on thee, and crowned thy good with brotherhood, from sea to shining sea.

God grant us the faith and courage to remember his grace and his good.

God Bless America!

CONSENT TO AMENDMENTS TO THE HAWAIIAN HOMES COMMISSION ACT

Mr. JOHNSTON. Mr. President, on July 11, the Committee on Energy and Natural Resources reported Senate Joint Resolution 154, a resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920. The committee submitted a report on this bill but the budget impact estimate from the Congressional Budget Office was not ready at the time of submittal. That estimate is now ready and I ask that it be printed at this point in the RECORD.

There being no objection, the estimate was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 12, 1990.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S.J. Res. 154, a resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920, as ordered reported by the Senate Committee on Energy and Natural Resources, June 20, 1990. Enactment of this resolution would result in no cost for the federal government or for state or local governments.

S.J. Res. 154 would grant the consent of the United States to a number of amendments to the Hawaiian Homes Commission Act, 1920, already adopted by the State of Hawaii. These amendments generally concern the administration and development of the Hawaiian home lands.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Marjorie Miller, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER.

NETWORKING THE FUTURE

Mr. JOHNSTON. Mr. President, I would like to ask unanimous consent to place into the RECORD a copy of an article that appeared in Sunday's Washington Post. The article is entitled "Networking the Future" and was written by my friend and colleague, Senator AL GORE.

I want to compliment Senator GORE on a very timely, well-written article about supercomputers and the creation of a national high-speed computer network. The Committee on Energy and Natural Resorces, which I chair, just ordered S. 1976, the Department of Energy High-Performance Computing Act reported to the Senate. This bill supports the establishment of the national computer network that Senator GORE writes about and the bill calls for increased efforts by the Department of Energy in further research and development of supercomputers. Senator GORE was instrumental in bringing this issue to the attention of the committee, and I thank him for his help.

Senator GORE has been a leader in the effort in generating support for a national high-performance computer network. His latest effort in this area is S. 1067, which also supports the creation of such a national network. I congratulate him on his forward looking vision and his dedication to this issue.

Both bills will soon be ready for consideration by the Senate. I look forward to working with the Senator to merge these two to establish a strong Federal role in developing high-performance computing.

For now, I commend to all of my colleagues Senator GORE's article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 15, 1990]

NETWORKING THE FUTURE

(By Al Gore)

Throughout American history, liberals and conservatives have argued about the proper role for government in stimulating economic progress. But they have generally agreed on one thing; the need for an ample infrastructure. In times past, that meant building highways and railroad lines, water pipes and sewers, bridges and tunnels, libraries and schools. It is now time to update our definition.

Just as the interstate highway made sense for a postwar America with lots of new automobiles clogging crooked two-lane roads, a nationwide network of information superhighways now is needed to move the vast quantities of data that are creating a kind of information gridlock. [See box.]

Our information policy resembles the worst aspects of our old agricultural policy, with grain left rotting in thousands of storage silos while people were starving. Similarly, we now have warehouses of unused information while critical questions go unanswered and critical problems remain unsolved.

For example, the Landsat satellite is capable of taking a complete photograph of the entire Earth's suface every two weeks. The information contained in the photographs taken over the last 18 years is invaluable to farmers, environmental scientists, geologists, educators, city planners and businesses. Yet more than 95 percent of those images have never been seen by human eyes. They are left to rot in their digital silos in Sioux Falls, S.D.

In a sense, we have automated the process of gathering information without enhancing our ability to absorb its meaning. The amount of data now available—somewhere—to answer almost any question imaginable is staggering. But the sheer volume we have collected on almost everything now threatens our ability to provide a definitive answer on anything. We're forced to deal not only with information, but also with "exformation": data existing outside our conscious awareness which nevertheless keeps us slightly off balance because we know it exists, even if we don't know where or how to use it.

Yet we have the tools necessary to cope with this vast surplus of information: supercomputers. Cheaper and more powerful each year, they are ideal for finding needles in haystacks and for turning information into knowledge. But we're not using them, largely because they require communications links we don't yet have.

THE IMAGE OF THE FUTURE

Part of what's so special about supercomputers is their ability to translate endless rows of eye-glazing numbers into visual images easily understandable to the human mind. Millions or trillions of binary digits (bits)—which in their raw form seem no more than a bewildering chaos—can be made to reveal meaningful patterns by assigning a color or shape to certain ranges of data (i.e., 3 through 5 will be red, 7 to 9 blue, and so forth) and then displaying the result as a graphic on a computer screen. Not only is one picture worth a thousand words, one three-dimensional, moving graphic is worth a trillion bits.

For example, aircraft designers now depend on supercomputer graphics to understand the complex aerodynamic patterns of modern aircraft. Similarly, chemists creating new materials use three-dimensional graphics to scan through thousands of potential molecular combinations.

I tried one such system during a demonstration of a top-of-the-line Cray supercomputer. By moving a "mouse" to select atoms from a table of elements displayed on the screen, I "created" a new molecule, which was then depicted as a brightly colored three-demensional model. I watched as it resolved itself, stage by stage, into its final thermodynamic state. Then at the top of the screen appeared a menu of properties for which the new molecule could be tested in seconds. The computer allowed a layman to do in a few minutes what might have taken a trained scientist weeks in the laboratory.

Trial and error, throughout history our most powerful teacher, has—until now—been an always slow and frequently painful process. No longer. Supercomputers, properly used, give us the ability to instantly create elaborate visual models of the world around us and watch the way its elements interact, without the limitations of time and space imposed by the real world. As Sheryl Handler of Thinking Machines Corp.—the Cambridge, Mass., supercomputer firm—testified recently before a Senate subcommittee:

"It is hard to understand an ocean because it is too big. It is hard to understand a molecule because it is too small. It is hard to understand nuclear physics because it is too fast. It is hard to understand the greenhouse effect because it is too slow. Supercomputers break these barriers to understanding. They, in effect, shrink oceans, zoom in on molecules, slow down physics and fast-forward climates. Clearly, a scientists who can see natural phenomena at the right size and the right speed learns more than one who is faced with a blur."

Unfortunately, most of the people who could benefit from this revolutionary technology don't have access to it. You can direct-dial Fairbanks, Alaska, from your breakfast nook. But you can't use the full power of a supercomputer without being in the same building—because our current network of telephone lines will not carry the elaborate graphic images that make supercomputers useful. Today's networks thus suffer from what one expert calls "graphic jams."

If we had the information superhighways we need, a school child could plug into the Library of Congress every afternoon and explore a universe of knowledge, jumping from one subject to another, according to the curiosity of the moment. A doctor in Carthage, Tenn., could consult with experts at the Mayo Clinic in Minnesota on a patient's CAT scan in the middle of an emergency. Teams of scientists and engineers working on the same problem in different geographic locations could work together in a "co-laboratory" if their supercomputers were linked.

Yogi Berra once said, "What we have here is an insurmountable opportunity." Supercomputers that sell for $20 million today will, within four to five years, cost only a few hundred thousand dollars. Almost every medium-sized business in America will want one.

Medicine will benefit enormously. The "Human Genome Initiative" has already begun to store huge volumes of data about the sum total of all the genetic information that makes up the human species, including details about the three billion nucleotides in human DNA. Before the end of this century, doctors will routinely use this digital information to diagnose genetic-based diseases.

Our ability to understand the environment will be similarly transformed. The stunning pictures from the Voyager mission to Neptune represented more than one trillion bits of data; but that's nothing compared to the data about our own climate system that will be produced in the "Mission to Planet Earth" program. If you quantify all the scientific information which currently exists about Earth, that much data will be beamed down from orbiting satellites every day during the mission's peak years.

These are only two of the dramatic changes expected. Scientific Americans recently reported that experts in the field have concluded: "The developed world is experiencing a transforming convergence of computing and communications technology whose impact will rival that of the replacement of muscle power by machines." Some have even gone so far as to suggest that the new field of "computation science" is nothing less than a third domain of knowledge creation—co-equal with inductive reasoning (theory) and deductive reasoning (experimentation).

Simultaneously, we are witnessing the emergence of a truly global civilization based on shared knowledge in the form of digital code. The ability of nations to compete will depend on their ability to handle knowledge in this form.

How do we as Americans prepare for this new world? How do we learn to drink from a fire hose?

THE ON-RAMP TO TOMORROW

Eleven years ago, I first proposed a nationwide network of fiber-optic "data highways" to link supercomputers and digital libraries throughout our nation. This legislation, now pending before Congress, would not only create the network needed, it would also create digital libraries, stimulate the development of more powerful supercomputers and increase the number of trained scientists and engineers capable of helping us make the best use of supercomputers. Whereas current information lines transmit 56,000 bits of information per second, this network will accommodate several billion bits per second—an entire Encyclopedia Britannica every second.

It has become one of the most thoroughly studied proposals in recent years. Several years of hearings convinced Congress to pass my Supercomputer Network Study Act—introduced in 1985 on the 30th anniversary of the signing of the Interstate Highway Act. This legislation required a complete executive-branch analysis of the original legislative proposal. In 1987, the Office of Science and Technology Policy formally completed its analysis with a ringing endorsement. In spite of that report, the Reagan White House declined to endorse the idea. Last September, in another OSTP study, dozens of the administration's own advisers urged that these proposals be accepted. The Bush White House says it likes the idea a lot, but not enough to pay for it. Like most infrastructure issues, this one is not partisan. Republicans as well as Democrats support the idea. But, like any bold, national proposal, it requires leadership. If President Eisenhower said he liked the interstate highway system in concept only, we'd still be riding on two-lane roads.

Fortunately, Congress is moving forward in a bipartisan way. Four separate Senate committees—Commerce, Budget, Energy and Armed Services—recently endorsed the network. Even Ronald Reagan's former science adviser, George A. Keyworth, now supports the project: "We're really missing the boat. We have the largest telecommunications system in the world. We have the biggest computer market. And we have the biggest domestic market overall. We should be using our domestic strength as a springboard for our own technological leadership. But we're not. The fiber-optic network should be looked at as a prolific tree, and the fruit will be the new businesses that will hang on that network. And both history and current observation tell us that our major competitor, Japan, will not approach this new technology with a fragmented domestic market."

Indeed, Japan has announced plans to connect every factory and even every home to a high volume network over the next two decades, estimating that when it is completed, as much as one-third of Japanese GNP will come from new goods and services made possible by the network. Europe, soon to be unified, is not far behind Japan in its plans. But this is one area in which the United States still has a large lead—if only we act to exploit that lead before it disappears.

Currently, U.S. companies and their overseas subsidiaries dominate the $30–$40 billion world market for designing and integrating computer systems. More than 60 percent of the $65 billion world software market is controlled by U.S.-based suppliers. And U.S. computer manufacturers still control more than half of the $135-billion computer systems market.

All of these are growth markets. In fact, according to a 1988 Office of Technology Assessment report, more than 40 percent of all new investments in U.S. manufacturing plant and equipment are now in a category called "information technology," twice the rate in 1978. But here's the rub: While we make more supercomputers than anyone else, we don't use them. We make two-thirds of the supercomputers in the world—but the real benefit comes from using them. That's where the network comes in.

The private sector can't build it any more than a turnpike company could have financed the interstate highway system. But, like the interstate highway system, once it is completed, the demand for its use will skyrocket. And, as user fees are collected, private operation will be feasible. However, right now, it is a classic "chicken-and-egg" problem: Since there's no network, there's no apparent demand for its use; since there's no demand, there's no network.

One thing is certain: The information revolution is changing our lives and we need to prepare ourselves to cope with its promise and potential. Our challenge is to process data into information, refine information into knowledge, extract from knowledge understanding and then let understanding ferment into wisdom.

Steam locomotives weren't much use until the railroad tracks were stretched across our land. And that didn't happen until the federal government made it possible. Supercomputers are the locomotives of the information age, but we haven't laid down the tracks. It's time to drive the digital golden spike.

GETTING THE BIG PICTURE

Building a nationwide network of information superhighways will not involve con-

struction in the traditional sense. Rather, it will entail the development of high-technology switches, software and digital libraries that will allow us to use existing fiber-optic cables to carry billions of bits of additional information each second.

Most telephone lines are still made of copper. But the telecommunications industry has already installed numerous fiber-optic cables—generally running underground between cities and stretched from pole to pole within cities. Metal wires carry electrical signals. Optical fibers carry light signals, making it possible for a single hairlike strand to carry more information than hundreds of the thickest copper wires. Moreover, optical fibers are the first transmission lines whose capacity can be expanded without laying down additional lines.

What is needed to exploit this resource is a new generation of electronic equipment at either end of existing fiber cables (and new ones that the network would encourage): high-technology switches, high-speed computers and special software to keep track of the billions of bits of data moving around the system.

Today, dozens of separate computer networks link more than 500 universities, laboratories and hospitals throughout the nation. But these networks are presently unconnected and can carry only a fraction of the information that needs to be made available. Soon after the passage of the information superhighway bill, this network could link more than 1 million computers at some 1,300 locations in all 50 states. Just as the interstate highway system led to new access roads, beltways and feeders, the anticipation of an information superhighway network already has state and local governments planning for trunk lines to connect their information industries, schools, universities and libraries to the system "backbone."

At first, the network would be supported by the federal government; but user fees would make it viable as a private enterprise that would grow exponentially. Eventually it could reach into homes, providing anyone with a personal computer access to a whole universe of electronic information.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,948th day that Terry Anderson has been held in captivity in Beirut.

OMB REVISES FIGURES ON DEFICIT

Mr. HOLLINGS. Mr. President, the Director of the Office of Management and Budget has filed his midyear report. Significantly now, he is finally in step with the Congressional Budget Office, in that he now projects a $231.4 billion deficit for the next fiscal year, beginning here in a few months, in October, whereas, the Congressional Budget Office had already projected a $232 billion deficit for next year.

That projection does not include the Social Security fund surplus. If you include the Social Security surplus, $73 billion, the deficit rises to $305 billion. If you include all the trust fund surpluses then you see the true deficit will be $365 billion. That is the real deficit.

I continue, Mr. President, to see reports to the effect that the Resolution Trust funds are to be considered off budget. The truth is, and I read from page 8 of Mr. Darman's report:

Both the policy and adjusted baseline estimates in this document assume the larger group of failed thrifts, with a medium loss rate, which results in outlays of $63 billion in 1991, compared to the $7.3 billion assumed in January.

So you can see how FSLIC costs are going up, up and away. That is $63 billion there.

If you refer to page 11, to the report entitled "Mid-Session Review of the Budget," by the Director of OMB, you will see therein:

In addition, the act requires that GRH estimates of the Resolution Trust Corporation net outlays be constrained by the current law limit on the availability of RTC funding as provided by the Financial Institutions of Reform, Recovery and Enforcement Act, FIRREA, of 1989, Public Law 101-73. It now appears that RTC may reach the $50 billion limit in early 1991. For GRH baseline purposes, therefore, the RTC must be treated as if it were run out of funds.

But the distinguished Director of OMB does not include it, because it has not been authorized. That is the rationale. We know it is to be expended. I think we should put this to rest once and for all. When a move was made on the floor earlier this year, we refused to put Resolution Trust Corporation funds off budget, FSLIC bailout funds off budget.

The point is that the law requires that all FSLIC bailout cost be on budget. The original thrust of Gramm-Rudman-Hollings was to have trust-in-budgeting, everything on top of the table. And here now we have to be absolutely sure that everything is included.

We know the rationale is given by the Congressional Budget Office to the effect that RTC working capital is different because we will get it back later. The same applies to rural electrification. We make loans, there, and REA has always been repaid its loans. The same applies to the Commodity Credit Corporation, but we include REA and Commodity Credit Corporation on budget. There is a list of some 20 different programs like that which are included. There is no reason for an exception for Resolution Trust Corporation funds. In fact, last month the General Accounting Office of the Comptroller General wrote me a letter to that particular effect.

I ask unanimous consent that two recent letters from the Comptroller General's office be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, June 1, 1990.

B-227245

Hon. ERNEST F. HOLLINGS,
U.S. Senate.

DEAR SENATOR HOLLINGS: This responds to your request for our views on the proper budget treatment of Resolution Trust Corportation (RTC) working capital outlays under the Gramm-Rudman-Hollings (GRH) deficit reduction law.

Some have recently proposed exempting RTC working capital outlays from the GRH deficit calculation. They have argued that these expenditures should be excluded because they have no real economic effect, are only temporary costs to the government, and involve a large degree of uncertainty in their timing and potential budgetary effects. Some also question whether it makes sense to count working capital outlays in the GRH deficit calculation if working capital receipts (the proceeds of asset sales) are not permitted to be counted under the GRH restriction on using special asset sale receipts in the calculation.

We believe that RTC's working capital outlays should be included in the deficit calculation. The budget now recognizes only about $20 billion of the $50 billion in RTC spending authorized by the 1989 Financial Institutions Reform, Recovery, and Enforcement Act and ignores the $30 billion being raised for RTC by the off-additional Resolution Funding Corporation. Excluding additional billions in RTC's working capital spending would further lessen the credibility of the reported deficit.

We do not think the argument advanced for excluding RTC working capital outlays are persuasive. Even if working capital outlays have fewer economic effects than other kinds of spending, this is no basis for excluding them from the deficit calculation. The deficit includes many kinds of governmental spending even though the spending may stem from past economic losses and have minimal current economic effects (as does RTC working capital spending). Payments on defaults covered by federal loan guarantees are examples.

Similarly, if the working capital outlays prove to be only temporary costs—a questionable assumption in view of their substantial exposure to loss—that condition is not a sound basis for excluding them from the budget. There are many budget accounts involving cycles of outlays and collections—such as loan programs and insurance programs—and it is established practice to include such accounts in the budget, including those whose outlays are only temporary costs because they break even or run a profit.

Concerning the uncertainty associated with RTC working capital transactions, we note that many budget accounts have considerable uncertainty in their cycles of operations and net spending levels. The Commodity Credit Corporation is one. While RTC's working capital transactions are larger and more complex than many others, they can and should be estimated and included in deficit projections.

With regard to the GRH restriction on using the proceeds of special asset sales in the deficit calculation, we have stated our opinion that the prohibition does not apply to RTC working capital asset sales. (See attached letter to Chairman Rostenkowski.)

NEED FOR A NEW BUDGET STRUCTURE

At present, the current cash-based, unified budget treats outlays for operating ex-

penses the same as outlays for capital expenditures, even though the latter can produce a payback through enhanced productivity in the economy or lower governmental costs in the future. This creates a strong budget decisionmaking bias against capital programs with their large, "up-front" cash outlays.

This was one of the reasons GAO proposed a six-part budget. Under this concept, the budget would be restructured into general, trust, and enterprise sections and subtotals, with each divided into operating and capital parts. Such a structure would permit the Congress to distinguish between the government's general operations (where the core deficit problem exists) and its trust and business-type activities when establishing budget policy and targets. It also would be ideally suited to highlight RTC's working capital transactions. The enclosed GAO "white book" explains the GAO budget restructuring proposal.

I hope that this letter will be useful to you and the Congress in your deliberations on this issue, and I would be glad to answer any further questions you may have.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General of the United States.

GENERAL ACCOUNTING OFFICE,
Washington, DC, June 12, 1990.

Hon. ERNEST F. HOLLINGS,
U.S. Senate.

DEAR SENATOR HOLLINGS: The Comptroller General's June 1, 1990, letter to you provided our views on the proper budget treatment of Resolution Trust Corporation working capital outlays under the Gramm-Rudman-Hollings deficit reduction law. After receiving that letter, you requested that we provide examples of budget accounts having cycles of outlays and collections.

The enclosed list of budget accounts responds to your request. It contains examples of loan programs and insurance programs in the President's fiscal year 1991 budget which have cycles of outlays and collections.

If I can be of further assistance to you or your staff on this matter, you may contact me at 275-9573 or Mr. Roy Jenney, the assistant director in charge of the work, at 275-1991.

Sincerely yours,

JAMES L. KIRKMAN,
Director, Budget Issues.

SCHEDULE OF SELECTED LOAN AND INSURANCE ACCOUNTS OF THE FEDERAL GOVERNMENT

[Dollars in thousands]

Account title	Account No.	Fiscal year 1989— Gross collections	Gross outlays
Commodity Credit Corporation Fund	12-4336-0-3-351	$11,027,902	$12,610,167
FHA-Mutual Mortgage and Cooperative Management Housing Insurance Funds	86-4070-0-3-371	5,370,932	6,347,337
Rural Housing Insurance Fund	12-4141-0-3-371	2,549,488	6,160,224
Federal Deposit Insurance Corporation	51-8419-0-8-371	5,270,239	6,125,962
Agricultural Credit Insurance Fund	12-4140-0-3-351	2,633,201	5,620,519
Tennessee Valley Authority Fund	64-4110-0-3-999	5,059,539	5,407,956
NASA Space Flight, Control and Data Communications	80-0105-0-1-250	22,773	5,052,993

SCHEDULE OF SELECTED LOAN AND INSURANCE ACCOUNTS OF THE FEDERAL GOVERNMENT—Continued

[Dollars in thousands]

Account title	Account No.	Fiscal year 1989— Gross collections	Gross outlays
Guaranteed Student Loans	91-0230-0-1-502	765,233	4,664,620
Foreign Military Financing	11-1082-0-1-152	6,055,527	3,814,838
Loan Guaranty Revolving Fund	36-4025-0-3-704	2,578,723	3,476,485
Rural Electrification and Telephone Revolving Fund	12-4230-0-3-271	3,046,095	3,158,263
Export-Import Bank of the United States	83-4027-0-3-155	2,172,217	2,219,419
Rural Development Insurance Fund	12-4155-0-3-452	1,622,547	2,025,252
Guaranty Reserve Fund	11-4121-0-3-152	657,157	1,114,192
Public Law 480	12-2274-0-1-151	0	1,098,100
Housing for the Elderly or Handicapped Fund	86-4115-0-3-371	641,709	1,074,932
Business Loan and Investment Fund	73-4154-0-3-376	678,466	747,511
Guarantees of Mortgage-Backed Securities	86-4238-0-3-371	666,951	635,960
Central Liquidity Facility	25-4470-0-3-371	386,832	380,094
Disaster Loan Fund	73-4153-0-3-453	569,588	262,338

Mr. HOLLINGS. Quoting from the first letter: "We believe that RTC's working capital outlays should be included in the deficit calculation." And the letter in its entirety speaks for itself. That is Charles A. Bowsher, Comptroller General of the United States.

I would hope that those interested in covering this particular story, where statements are coming from the so-called budget summit to the effect that we took RTC costs off budget. Wrong. I will tell you they will need 60 votes to take it off. They will have to amend the thrust and intent of Gramm-Rudman-Hollings. We are now going to cut out the monkeyshines and put everything on top of the table. There is no economic reason for putting RTC costs off budget, and there is certainly no political reason, other than, of course, trying to mislead the people.

It strikes me strange, Mr. President, that here where they are trying to sweep certain things under the rug relative to the S&L debacle, Congress would come along now, where people are going to have to pay through the nose some $400 to $500 billion and we say, do not worry about it.

Meanwhile, loans to poor farmers, commodity credit or to the REA, the Federal housing, and other particular items listed throughout our Federal budget all have to be included but now to make that one exclusion if you please in contradiction of the opinion of the Comptroller General of the United States and in contradication, of course, of the law as it now obtains.

We will be watching it closely throughout. Resolution Trust Corporation funds must be included. It is included in the estimate made today of $231.4 billion for 1991, by the Director of the Office of Management and Budget.

So I hope we will not try to finesse the American people on this particular score. It will be adding really injury to injury as has been stated here earlier today.

THE RETIREMENT OF ADM. CARLISLE A.H. TROST

Mr. WARNER. Mr. President, as each individual passes through life, he or she should pause to acknowledge, with gratitude, others who have stepped forward to guide and help. Carl Trost has indelibly influenced my life and helped me to achieve my goals. As Under Secretary and Secretary of the Navy, I was privileged to have his services as a naval aide, but more importantly he gave me his objective counsel, his true friendship.

In the same way, he gave unselfishly to untold numbers of others. The Navy is proud of this "first captain and his bride."

As we gathered at Annapolis this June to participate in the change of command and shared the emotion of the traditional words, "Haul down my flag, Sir," our respect for him rose in our hearts.

Mr. President, I share with my colleagues, and all Americans, the words of wisdom and caution given by this courageous Chief of Naval Operations, Admiral Trost, as he read his final set of orders.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY ADM. C.A.H. TROST, USN

EIGHT BELLS

At some point in everyone's life, one learns the simple truth that, try as you may, you can never turn back the hands of time. We must be content to trim our sails in the present, and hope that the course we set will have a positive and lasting effect on the future. And thus, we cannot change history as we know it today, but we can shape history that generations yet to come will know and study.

To that end, four years ago I stood on these steps, and submitted that I did not intend to preside over a navy that was headed downhill. Admiral Kelso, as the boatswain stands by to sound eight bells on my watch, I feel I've been faithful to that pledge. You are about to take command of the world's finest Navy; a Navy steeped in glory with a proud 215-year history; and, a Navy whose future holds every promise of building on that legacy.

You can imagine that after more than 40 years in this uniform, and four years in this assignment, there are many things and many audiences I would like to address. However, given the fact time and tide wait for no man, I want to direct my comments to three discrete, albeit somewhat inclusive groups: First, to those wonderful people in the United States Navy and Marine Corps; second, the citizens of this great nation; and last, to the citizens of all nations.

To the men and women in our Naval service: Those on duty today, serving on every continent, and on, under, or over every ocean; to those who honorably completed their service during my four years; and to the families of the superb men and women

who made the supreme sacrifice in order that we, the living, would continue to enjoy the virtues of liberty; I consider it the highest of honors and ultimate privilege to have been your leader. You are truly magnificent, unmatched in professionalism and dedication. Of course, it's one thing for me to say this. It is quite another when those same comments are voiced repeatedly by our President, (just now from Secretary Cheney), from Members of Congress, or when you read them in pages of the press. Moreover, when the military leader of the nation that for 45 years has been our principle competitor says it, as he has said to me both here and in Moscow, I think you can be assured it is the truth.

While others speak joyously of peace dividends, you were (and are now) out there on the fringes of peace making daily installments with blood and sweat, separated from your loved ones, and enduring the often cruel, always unpredictable, environment at sea. You know that the price of peace, freedom, and defense, when measured in dollars, is but a small part of what it really costs.

You never wavered, or questioned whether your personal sacrifices were worth it. When you faced the specter of hostility, as you did in the Persian Gulf, the waters and skies off Libya, and in Panama, you were up to the challenge and exceeded every expectation of success. You did what was asked and performed magnificently. And in doing so, you reinforced that heritage of success that runs deep in the veins of the United States Navy.

However, for every time that you were recognized and noticed for your actions, there were countless other occasions that passed without note, simply because you were there. Most of the world, clearly all of the rational world, is well aware that you are the best at what you do. Potential adversaries knew they couldn't take you on and get away with it. That's the very essence of deterrence and peacekeeping. However, it is a very difficult point to impress at times, particularly when a sense of euphoria seems epidemic. But, it is a point worthy of repeating again and again; a point that in some respects must be taken on faith (faith strongly supported by history), because the alternative and absolute proof is one that we as a nation cannot afford.

In addition to combat and your vigil on deterrence, you have distinguished yourselves around the world as ambassadors of goodwill. You've rescued thousands in danger on the high seas, you've built schools and hospitals in jungles and deserts. You have extended a helping hand wherever and whenever you could in order to make life a little easier for troubled peoples. I am confident that I can speak for every citizen of our Nation when I say we are very proud of you. Each of you has left his mark on history, and made the future better for us all. I, the Navy, the Nation, and indeed the peace-loving world, are in your debt.

I want to expand the audience and speak to the citizens of this great Nation. I view the U.S. at a fork in the channel, and we have some very serious choices to make. The current has been running with us, as evidenced by world events of the past several years. It is clear we're getting our message across. However, before we decide to put our rudder over, we should reflect on what it was that got us this far up the channel in the first place—a spot on the chart marked, superpower, in all respects. And the fact that with that title come inescapable responsibilities.

Although we are clearly a nation that has been endowed with rich natural resources and a wealth of talented people, we didn't get here by chance. It happened because we are a nation of individuals joined by a common desire for freedom and self determination. We have been guided by unswerving adherence to moral principle, which was underwritten by the wisdom of our Founding Fathers in our Constitution. Our willingness to endure in the face of severe adversity has been tested at every juncture—in our struggle for independence, in our first foray for freedom of the seas against pirates off the Barbary Coast, in cold waters of the North Atlantic during two World Wars, mine-laden beaches in the South Pacific, and more recently, the perilous cold war that wasn't so cold. But we endured with hard work, commitment, stalwart resolve, and unending desire to achieve freedom and security. And we were successful, not at the expenses of someone else, but rather for the collective good of all peoples.

Today, as we find ourselves as the world's only true superpower, let us look ahead 20 or 30 years, and ask ourselves, what decisions did we make in 1990 that kept things going our way?

Surely one will be how we coped with the uncertain transition in the Soviet Union. Did we equate the breach of Berlin's Wall with a certainty of global stability and dissipation of threats to U.S. security at home and our interests overseas? And therefore, did we precipitously strike a blow to the underpinning strength of our Armed Forces, these very same forces that were so instrumental in bringing about the possibility of a new world order?

Or, did we view the stated intentions of potential adversaries with our characteristic American caution, while awaiting the necessarily much slower diminution of military capability? And, did we continue to focus on the global nature of our interests?

I am the officer charged by law to ensure the United States has a navy capable of gaining and maintaining naval supremacy, and protecting vital sea areas and sea lines of communication. In short, ensuring unimpeded access and passage on the high seas for national security and commerce, as well as the ability to prevail and win in time of war.

At times, execution of that responsibility seems to lead some in our Nation to misperceive the mission of the Navy and the military in general. These misperceptions tend to be aggravated by naive notions as we move to generations where fewer and fewer of our people know first hand the horrors of war, and fewer have served in the military, and therefore cannot fully appreciate the unique hardships and personal sacrifice of military people.

You would not want a military that became preoccupied with trying to intrepret intentions, instead of objectively assessing capabilities of those forces that may threaten us. You have levied a high order of expectations on our military when U.S. forces are committed to situations where conflict is possible. You deservedly expect quick decisive action, minimal injury to life and property, hasty withdrawal, and smooth return to normalcy. We in the military understand those expectations, and structure our forces, deploy our units, and train our people in such a way to ensure that we meet them.

This Nation's military leaders fully recognize the changing completion of the global landscape characterized by easing of tensions with the Soviet Union, and we fully recognize that, yes, we can reduce forces, stop or slow certain weapons systems, and curtail some operational deployments, and in turn raise the threshold of risk that we can reasonably accept. However, if we rush blindly into the process of building down, guided more by desire to save money (desire fueled by wishful thinking) and ignore or discount potential threats to our security, we will clearly, if not irreversibly, damage the ability to control our own destiny.

The lure of peace is strong, and we Americans are idealists. We would like to think that the rest of the world shares our perception of morality, the supreme value we place on human life, and our sense of justice and fairness. But it isn't so. Deep inside we know too well that we have not seen the end of conflict, nor have seen the passing of times when our sons and daughters, brothers and sisters, may be called into action to defend the virtues of liberty that we hold so close.

I am confident that you, the people of this Nation, will not become overwhelmed by euphoria, and permit complacency to displace enduring commitment and national resolve. Those qualities made us what we are, guided us up this channel, and will continue to be a beacon to the future.

Last, I want to share a few thoughts with fellow citizens of the world. For two centuries the U.S. flag has been seen at the masthead of our ships in nearly every corner of the globe. It has been a symbol of hope, freedom, and peace. It has signified this Nation's determination to ensure that the seas remain free for all nations. Our Navy is not a threat. Clearly the history of the United States does not support such a notion. The presence of U.S. warships should only be viewed with trepidation by those who may intend to place the lives of our citizens or property in jeopardy; or, intend to seriously disrupt regional stability which would adversely affect the interests of the United States, our allies, and our friends. The world must acknowledge that the United States is one, among a number of nations, whose security and prosperity is directly linked to the sea—bound to such an extent that we must always be prepared to defend our rights at sea.

In the years ahead that reliance will likely increase. This will be true not only for the United States, but indeed for all nations. The rapid evolution of global markets and enterprise will profoundly influence even those nations who previously had little or no interest in the sea. The entire world has a stake in maintaining regional stability and free access to and safety on the high seas. There should be no doubt in anyone's mind that the most effective method of deterring war and promoting peace is to be prepared for the alternative, and have the determination to prevail if so required. For our part, you can expect the United States Navy is to be prepared and determined.

I cannot let this moment pass without making special mention of those nations, and in particular, those navies with which my Navy has such close association. Together, in both formal and informal alliances with common interests and common goals, we've been instrumental in keeping the peace since World War II. We should not view the emerging world order as a signal to disband or weaken our bonds. Let us remember that point was a central objective of our principal adversary during the last 45 years.

Mariners and Navy men have a unique appreciation of trust and confidence. It is a quality inherent in the business of going to sea—the utter dependence on sound actions

by those in our own ship, and those on passing ships. Such confidence in others is not quickly achieved. Rather, it is the product of time. In a similar vein, long-term peace and stability in our world will be the product of time proven actions, adherence to accepted norms of international behavior and in general, goodwill. It is clearly a goal worth striving for, but not one which should be speciously assumed to exist.

I am completing my active naval service just a few paces from where it began. It really doesn't seem as though it was that long ago. It is said that time passes quickly when you are having a good time.

Twenty-seven years ago, a decorated Navy veteran of World War II and President of the United States, stood on these marble steps, looking out over the head of *Tecumseh*, and addressed the brigade of midshipmen. He told them that he could imagine no more rewarding career than the one upon which they were about to embark. He went on to say that, "Any man who may be asked in this century what he did to make his life worthwhile, can respond with a good deal of pride and satisfaction: 'I served in the United States Navy.'"

Fourteen years before John Kennedy spoke those words, when I stood on this court to take the oath of office after spending only a few hours here, I already had a vague understanding of what he would mean. It doesn't take long to get hooked on the Navy.

Today, 41 years later, at eight bells on my watch, those words mean even more. Yes, I'm proud and immensely satisfied that I served in the United States Navy.

Thank you.

I will now read my orders.

From: Chief of Naval Personnel, Washington, DC.
To: Chief of Naval Operations.
Subject: Bupers Order Number 1210, Retirement Order for Admiral Carlisle A.H. Trost, United States Navy.

Your request to be transferred to the retired list has been approved by the Secretary of the Navy. Effective 1 July 1990, you will be transferred to the retired list with the grade of admiral, pursuant to provisions of title 10, United States Code, sections 6322 and 5034.

When directed by reporting senior, detach in June 1990 from duty as chief of naval operations. Proceed to home of selection. Relieved of all active duty effective, 2400, 30 June, 1990.

(Signed)—J.M. Boorda, vice admiral, United States Navy, chief of naval personnel.

THE JASON PROJECT

Mr. WARNER. Mr. President, earlier this year nearly 300,000 shoolchildren, including several thousand from Virginia, took a live underwater field trip to two U.S. warships that sank in Lake Ontario during the War of 1812.

They viewed these vessels 300 feet below the surface of the lake through the eyes of an underwater robot named Jason.

The Jason project is the brainchild of Dr. Robert Ballard, senior scientist of the Woods Hole Oceanographic Institution and discoverer of the R.M.S. *Titanic* and the German battleship *Bismarck.*

Dr. Ballard started Jason as a way to get students interested in studying science and technology, because the robot gives schoolchildren firsthand experience in the excitement of scientific exploration and discovery.

Dr. Ballard points out that the United States ranks 17th in the world in scientific literacy, a statistic that should concern us all.

If we are to compete in a global economy, then we must have well-trained, well-educated citizens.

Too many of our young people are foregoing the sciences, and that does not bode well for our Nation's future.

The different expeditions are sponsored by the Jason Foundation for Education, a unique partnership between private industry, scientific research facilities, museums, and educational organizations.

The foundation's goal is to encourage and motivate students to study science and pursue careers in science and technology.

But the Jason project is far more than another field trip for the students. For 16 weeks before they see the broadcast, most will have studied a curriculum that the National Science Teachers Association prepared specifically for the Jason project.

This year the course of study included the history of the War of 1812, the ecology and formation of the Great Lakes, robotics, satellite communications and underwater archaeology.

Mr. President, there are other fascinating details too numerous to mention here. I would only add that the partners in the Jason project include the Woods Hole Ocenographic Institution, the EDS Corp., the National Geographic Society, the Turner Broadcasting System, Inc., the Marquest Group, the National Science Foundation, and the National Science Teachers Association.

The development of the Jason robot system is funded by the U.S. Navy's Office of the Chief of Naval Research.

Mr. President, Dr. Ballard and his entire Jason team are to be congratulated for taking on this mission.

The scientific education of our children is critical to the Nation.

The Jason project is an effort that surely will pay substantial dividends for the future.

Thank you, Mr. President.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

CIVIL RIGHTS ACT OF 1990

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The bill clerk read as follows:

A bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kennedy/Jeffords amendment No. 2110, in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The majority leader.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Kennedy substitute amendment, No. 2110, to S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

George Mitchell, Patrick Leahy, Edward M. Kennedy, Barbara A. Mikulski, Terry Sanford, Joseph Lieberman, Wendell Ford, Daniel A. Akaka, Paul Simon, Tom Harkin, Howard M. Metzenbaum, John D. Rockefeller IV, John F. Kerry, Alan Cranston, Brock Adams, Frank R. Lautenberg.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send another cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

Tom Daschle, Brock Adams, Paul Sarbanes, Ernest F. Hollings, Richard Bryan, Christopher J. Dodd, Joseph Lieberman, Bob Graham, Wendell Ford, George Mitchell, Barbara A. Mikulski, Alan Cranston, Albert Gore, Wyche Fowler, Jr., Howard M. Metzenbaum, Harry Reid.

Mr. MITCHELL. Mr. President, I have discussed the filing of these motions with the distinguished Republican leader before doing so, and am aware of the concerns which he expressed during his remarks. It is my hope that the principals involved in

negotiations on the civil rights bill will be able to reach an agreement.

I know a number of Senators on both sides of the aisle and administration officials have for weeks now been engaged in intensive negotiations on the bill and have made a considerable amount of progress in what is a complex and controversial area of the law.

It remains my hope, and I know the distinguished Republican leader shares my hope, that an agreement will be reached and we will be able to proceed to prompt action on the bill tomorrow. I expect to receive a report sometime this evening on the status of negotiations. I have encouraged those negotiating on behalf of the proponents of the bill to attempt, without of course sacrificing any important principle, to reach an agreement if that is at all possible and I hope that will be the case.

I thank the distinguished Republican leader for his cooperation. As I indicated, I have discussed this matter with him prior to doing so and I am aware and sensitive to the concerns which he has expressed in this regard.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent there be a period for morning business until the hour of 2 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. WILSON. What is the pending business before the body?

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990

The PRESIDING OFFICER. Under the previous order the Senate will now proceed to the consideration of H.R. 4328 which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 4328) to authorize appropriations for fiscal years 1991 and 1992 for the customs and trade agencies, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 2204

(Purpose: To provide for disclosure to the public of the costs of protectionism)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California, [Mr. WILSON] proposes an amendment numbered 2204.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

SEC. . CERTIFICATION BY THE PRESIDENT.

Notwithstanding any other provision in this Act, the provisions in this Act shall not take effect:

(a) in any calendar year for which the Secretary of Commerce has not submitted to Congress a report that sets forth the increased costs to American consumers, including American families, for the products affected by this Act, either directly or indirectly, that would result from imposition of the limits otherwise required by this Act; and

(b) in any calendar year for which the President has submitted to the Congress a certification that the increased costs to consumers for the products affected by this Act, either directly or indirectly, that would result from imposition of the limits otherwise required by this Act would total more than one billion dollars.

Mr. WILSON. Mr. President, the bill before us, the pending business of the Senate, is the textile bill. It is proposed by good men. They are expressing the concern that they have for the workers in the textile and apparel industries in the States which they so ably represent, and their understanding of the situation is one that is necessarily colored by the fears they have for the loss of employment.

All of us have experienced that at one time or another, and we would be insensitive indeed to the needs of our constituents if we did not share their concerns, and if we did not do all we could legitimately in order to provide the kind of defense from attack upon their employment, upon their welfare that is entirely justifiable.

Obviously, the difficulty arises in a situation like the present one where on the one hand you have jobs and the concern of workers to keep those jobs, and on the other the concern of consumers, other working people, people who through their jobs are attempting to eke out the kind of buying power that they must have in order to raise young families.

That is precisely the unhappy dilemma in which we find ourselves. It is the concern for the jobs of workers that prompted this body to authorize and appropriate hundreds of millions of dollars for trade adjustment assistance to allow those who are displaced by the competitive operation of the marketplace to have some recourse, to find some remedy when, through no fault of their own as individuals, the industry in which they are a part seems no longer competitive.

Mr. President, what is before us specifically in this amendment is a request for Presidential certification that addresses that latter point, the point about the affordability of goods for the young working families trying to make their buying power extend just as far as it can.

The background for this is very simple. For years many of us have heard estimates on the cost of protectionism, not just in the textile area but in other markets such as steel or automobiles. Unfortunately, despite the credentials of the economists on both sides of the issue, it has been really very hard to find a study that was free from an appearance of bias. It was for that reason that during the consideration of the 1988 trade bill I proposed an amendment that would have required the International Trade Commission to analyze the costs of protectionism so that we might know what in fact the efforts to protect American jobs is costing other American workers in terms of the loss of buying power.

While the amendment that I propose did not make it through conference, the distinguished chairman of the Finance Committee, the senior Senator from Texas [Mr. BENTSEN] worked with me to fashion a request to the International Trade Commission asking for just a one-time study of these costs so that we might indeed become informed as to the real costs of protecting jobs in one industry at the expense of all American consumers.

The first phase of that study was delivered to the Finance Committee last year, and while it had a number of flaws—this was not just my opinion, but also the opinion of the Commission's Chairman and its Vice Chairman—it did at least provide some useful information about the costs of unjustifiable protectionism of certain domestic manufacturing industries.

To come to the point, it found that the costs of existing protectionism—existing protectionism, not that which is proposed in H.R. 4328, but the existing protectionism for the textile and apparel industry—amounted to over $10.7 billion per year, approximately 90 percent of that figure being attributable to the protectionism of the apparel industry.

Translated into terms of its costs to the average American family, this $10.7 billion price tag meant that increased costs for retail goods were forcing American families, before taxes, to earn about $150 in extra pay to be able to offset the extra costs of clothing imposed by the existing textile quotas.

Mr. President, the question is very simply, is this fair? Is it fair for low-

income families? Is it fair for the so-called working poor? Is it fair for young families trying to clothe their children, a daunting task, especially for young children as they quickly outgrow their clothes? Is it fair to senior citizens attempting to live upon fixed incomes?

The answer in each case, Mr. President is "No."

The amendment before us conditions the increased protectionism proposed by this bill on two things. It requires, first, that there be public disclosure of costs to consumers and, specifically, that there be a certification by the President that the costs will not exceed $1 billion in the coming calendar year.

If this sounds somewhat familiar, there may be echos to the effort made by the junior Senator from Texas last week. The second proviso of this amendment would be that if the President cannot in fact certify that the cost will not exceed $1 billion, then the bill's limits on imports, that is the now proposed—limits extending beyond those presently in existence—will not take effect in the coming year.

Mr. President, the idea is very simply to provide protection, not just for jobs, but for the purchasing power of those paychecks of the other American families outside the textile, apparel, and shoe industries. We are not indifferent to the hardship, to the suffering of those in the apparel industry, in the textile industry, and in the shoe industry. On the other hand, as we express concern for them, as we have, through the trade adjustment assistance provisions in our trade laws, we have to ask, what adjustment is being made to benefit that young working family? What offset is provided them for the increased costs, and at a time when, clearly, it seems they will be expected to pay other costs, costs as taxpayers?

We hear, almost daily, new estimates as to the new cost of fixing the S&L mess. There is talk of taxes in the air.

Mr. President, this bill is, in its own way, a tax, but it is a hidden tax. It is not explicit or what we think perhaps it should be. This is a tax that will be paid indirectly by the American consumer. Even before a budget agreement can be reached, it may be that the race to the cookie jar of the families across America will, in fact, be won by those who want to levy a hidden tax of billions of dollars in inflated clothing costs by enacting H.R. 4328.

That is what we are doing here, Mr. President. If the proponents of this legislation, H.R. 4328, were to bring to this floor a $5 or $10 billion tax bill saying that the proceeds will go to the textile, apparel and shoe industries, how many votes would that get?

Well, there is an old maxim in the law familiar to law students, that you cannot do indirectly what you are prohibited from doing directly. Yet, with all respect to the good men who proposed this help for their constituents, that is what they are precisely attempting to do here, attempting to do indirectly what they would have no chance of doing directly.

So with all respect for their good intentions, for their duty as they perceive it, I say that the rest of us have a duty to American consumers not to hide this cost and not to impose it upon them. What we are doing by this amendment is simply saying that the President, with access to the information of the kind that was developed by that International Trade Commission study, in whatever year he finds that he cannot certify that the costs of this new protectionism will not exceed $1 billion, will be able to suspend the provisions of the textile bill.

Mr. President, I yield the floor to my distinguished friend from South Carolina.

Mr. HOLLINGS. Mr. President, I have the greatest respect, as everyone knows, for our distinguished colleague from California. However, it takes a certain amount of unmitigated gall to propose in an amendment that the President certify the cost of anything.

If the President of the United States is going to start certifying costs, he might begin by accurately stating and certifying the true size of Federal deficits. I come from a State government which is strictly pay as you go. We have a AAA credit rating and have maintained it since 1959. We pay for the things that we designate are our responsibilities and duties. If we really want to know the cost to consumers in America, if we really want to know the cost to Americans generally, all we have to do is listen.

This morning, the Director of the Office of Management and Budget reappraised his estimates of the 1991 deficit. The new estimate of $231.4 billion is shockingly high. Why? Because this Congress and White House have provided for all kinds of programs but no revenues to pay for them. "Read our lips."

I notice the other day that, inscribed on a building on Constitution Avenue, Oliver Wendell Holmes said that taxes are the price we pay for a civilized society.

I think that if we are really serious about an amendment of this kind, that we really ought to start talking first about how we are going to pay our own bills.

Right to the point about the so-called burden to consumers, it is absolutely based on a fallacy of fact by the distinguished submitter of the amendment. He assumes that imports cost less than domestic items and are holding the price down. As I have demonstrated repeatedly, this is simply not the case. I have showed in numerous examples where identical shirts, one manufactured in the United States and the other manufactured abroad, sell for the identical price here in our major chain stores such as Sears Roebuck.

Retailers simply take the popular American style and maker name, then go down to the Philippines and order up massive production runs. They go to Hong Kong, Taiwan, Korea, or shop around down in Thailand. Then they jack up the price to U.S. levels when they retail the products in the United States.

I have a shirt here, made in Taiwan. It sells for $18, the same price as an identical made here in America.

We went to the experts. The experts, Market Research Corp., made an uninhibited, unbiased study, and they examined prices of a full range of textile garments.

Market Research Corp. found in 65 percent of the consumers' purchases of textile products they were paying more for the imported than they were for the domestic product. So the assumption underlying this amendment is just flat wrong.

So, the distinguished Senator assumes improperly that somehow imports are keeping prices down. Wrong. The prices stay high. The only thing that falls is the employment of American workers. If the trend continues as it has over the past 10 years, the trend of a net 11-percent increase each year of textile imports into the United States, then by the year 2000 rather than 60 percent of these shirts purchased in the United States being imported, 92 percent will be imported.

When that occurs, the importers really will have control. There will be no restraining influence of domestic production to keep prices down.

Let me give notice here and now this afternoon, it is a Monday afternoon, under the unanimous-consent agreement we vote tomorrow. I do not want to be presumptuous and cut anybody off, but we are not going to sit around all afternoon in quorum calls waiting. I appreciate the distinguished colleague from California coming on to the floor and presenting this amendment. Anybody who wants to talk on this amendment or any other amendment should come up here now and make your speech. Come to the floor and be heard, otherwise this Senator from South Carolina will be moving to table the various amendments, or my senior colleague, who I hope can be here, will move to table. Rather than being delayed we are prepared here and now to move to table, and I will ask for the yeas and nays, and then the yeas and nays will be had under the unanimous-consent agreement sometime tomorrow under the agreement with the leadership.

Now, concerning the present amendment, I would remind the distin-

guished Senator from California that to be a consumer you first have to have a job. If you do not have a job, you do not have money, and you cannot consume.

So let us not talk flippantly about lost U.S. textile jobs. The distinguished Senator from California, once the outstanding mayor of that city of San Diego, knows that in his own region we have our Mexican friends coming into the United States of America for employment. They are the low-skilled minorities, many of them women. I am sure the Senator is familiar with and very deeply interested in them. They are 100 percent behind this particular bill because textiles is a great employer of the semiskilled, of minorities, of women. Employment in textiles is 29 percent women and 67 percent minorities.

So these are the jobs that are providing Americans with the ability to consume, to become consumers. The point should also be emphasized that our textile industry here is not overpaid. The average hourly wage in America of all manufacturing is $10.47. In apparel and related products, the hourly wage is $6.35 for the year 1989, and in textiles, $7.68. So, it is not an American high wage that has to be tempered by a low-cost imported textile product.

The truth of the matter is that prices are held down now thanks to the competition of some 2,000 textile and apparel enterprises in the United States with 2.9 million employees, a basic American industry that is struggling to sustain itself.

I emphasized last week that we are not talking here only about jobs. The greater concern that we have in mind is to preserve an industry fundamental to the economy and national security of the United States. As the wall falls and as we move from the cold war to the trade war, we begin now to look less at military security and more at economy security, and as we view our economic security we begin to understand that in order to maintain status as a world power and an economic power, a nation must have certain basic industries, obviously steel, rubber, glass, aluminum, rolling stock. You cannot deliver your wheat on optic fiber.

Economists come to the Congress and advise us we ought to convert to a service economic and not worry about manufacturing. This is nonsense. Long ago it was determined that textiles were essential to U.S. security interests. Under an old provision under section 232 of the Trade Adjustments Act, President Kennedy in 1961 convened a Cabinet committee of Secretary McNamara of Defense, Rusk of State, Dillon of Treasury, Goldberg of Labor, and Hodges of Commerce, with the purpose of assessing textiles' importance to U.S. national security. They found, of course, that textiles, next to steel, was the second most important industry to our national security. Textiles is critical for the webbing and parachutes, the clothing and other gear. In more recent years, textiles have been critical to computers, and, as such, critical to the B-2 and B-1 bombers, Trident submarine, and so on.

So if we think and reflect on it, we will understand that textiles is very, very important to both the military and our economic security.

This bill is to maintain the remnant of a struggling but vital industry. Congress has passed similar bills to the President three times and it has been vetoed. We keep building up support. Every time they veto it, they say we do not understand the problem, that textiles really are doing well.

I will just look back over the last 10 years. We had a $4.5 billion textile trade deficit at the outset of the 1980's.

They told us in 1985, do not worry about it, you are doing well, but we looked around and we had $18.5 billion deficit in textile trade. Then in 1988 when we submitted a bill the second time they said, oh, you are doing well, but the deficit in textile trade had gone up to $21.5 billion. Now at the end of last year the deficit was $26.5 billion.

We understand now by the first quarter of this year, textile imports are up 13 percent, not 11 percent. Even with an 11-percent growth rate for textile imports, factories are closing down, losing 66,000 jobs last year. More than three dozen companies are closing down. We put that into the RECORD already this year. So we are trying to maintain the remnant of an industry.

So let us not hear this cynical talk about labeling. We have a government that is incapable of truth in labeling with regard to our fiscal mess.

I hope Newsweek will correct itself. Last week, Newsweek wrote that the real deficit is $305 billion, when in fact it is $365 billion. We are spending this minute $365 billion more than we are taking in. And I would like the President to honestly label what we are going to have to do here in 2 weeks' time, namely a $3.1 trillion debt ceiling that is going to have to be raised.

The jump in interest cost this year is $27 billion. We all say how we must restrain new spending programs. But we will start a new spending program here on October 1, namely interest costs will jump at least an additional $30 billion and we will get absolutely nothing for it, not even a label.

And, by the way, if we are going to label textile products, then let's label foreign products so that we know whether the exporter country has a minimum wage, or whether it allows child labor, or whether it has slave labor, and so on. And let us label that the exporter has no unemployment insurance, no clean air, no safe workplace laws, no plant closing notice or parental leave.

So we here are the culprits, running up the costs domestically and saying oh, no, you cannot compete. We are trying to maintain an industry basic to America's economic security, particularly with the interests of minorities and women in mind. So let's not start this monkeyshine of labeling. If we are going to label, let us label ourselves. And I can give you that label and a very accurate one. It is extravagance, it is profligacy, it is total operation in the red for one purpose—reelection. Nothing for the future around here.

I went to a seminar over the weekend. They were talking about how 11 percent of the population is getting a third of our budget; citizens 65 years of age and over, 11 percent are getting over a third of our budget. I can go and get you a quadruple bypass heart operation for $30,000 but I cannot buy a little child a 30-cent breakfast. Women, infants, and children feeding is only 60 percent funded; Head Start, 40 percent funded; title I for the disadvantaged underfunded. Nothing for the kids. Nothing for the future with this crowd. But for the senior citizen, whoopee. Concerning the next generation, we do not see how posterity can do anything for us so, why should we do anything for posterity. We look not to the next generation, but to the next election. It is a sad thing. Heavens above, let us not start labeling, because I do not believe we could get safely back in our homes.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WILSON. Mr. President, as I understand the previous order, it is appropriate at this point to request the yeas and nays, which I would do on this amendment.

The PRESIDING OFFICER. The Senator is correct.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WILSON. Mr. President, I ask unanimous consent to lay the pending amendment aside for the purpose of offering another amendment in accordance with the order.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Mr. President, there is no objection.

If this concludes our debate, then I would move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the vote on the

motion to table will occur on tomorrow.

AMENDMENT NO. 2206

(Purpose: To provide for disclosure to consumers of the costs of protectionism)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 2206.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

SEC. . TRUTH IN PROTECTIONISM.

(a) Any product intended for sale to individual consumers whose importation into the United States is restricted in any fashion by the provisions of this Act, and any product intended for sale to individual consumers that would have its importation into the United States restricted by the provisions of this Act in some fashion if it were produced outside of the United States, shall, at the point of sale to the consumer, have attached to it a tag or other marking indicating the amount of any increased costs to the consumer caused by the limits established by this Act.

(b) The provisions of subsection (a) shall only apply to products whose costs have been increased by an amount that is not insignificant.

(c) The Secretary of Commerce shall have the authority to implement the provisions of this section by establishing appropriate regulations to and by determining the increased costs caused by the limits established by this Act that must be consumer as required by subsection (a).

Mr. WILSON. Mr. President, this is another very simple amendment. Without reiterating either my statements or seeking to rebut those of my friend from South Carolina, let me just state very simply that this amendment proposes what I think is simple equity, which is that the people of this country be permitted to understand what they are paying in the way of inflated costs when they purchase certain items of clothing. It is very simply a requirement that there be a price tag affixed to an article of clothing so that the prospective purchasers will be made aware of the costs; specifically, the costs of the protectionism that attaches to that garment.

In my prior statement, I mentioned that the ITC study which was done in response to the request from myself and from the chairman of the Finance Committee, Senator BENTSEN, determined that the combined apparel and textile protectionism costs run to over $10 billion each year. I will not repeat what I said before. This bill would obviously cause billions in new costs, added costs, added burden. If it were a tax, it would not pass. But in fact it is an added cost.

My friend from South Carolina and I will not agree on that point.

The fact of the matter is, we are faced with not just expert opinion, but, I think, very clear documentation that establishes the point that protectionism is not without costs to the American consumer. And I would assume that no one would challenge the right of consumers to know the effects of what it is the Congress is doing to them.

But the fact of the matter is, Mr. President, I am not going to offer this amendment beyond simply sending it to the desk. I am not going to take it to a vote. It would cost the American consumer a great deal to implement its provisions to actually affix a price tag that gave the kind of information which I hope everyone agrees the American consumer is entitled to have and entitled to know. But there is no point in pursuing an effort that is bound to do more harm than good. In fact, the requirement to affix a tag to bring that information would be both expensive and be borne by the consumer and, as well, I suspect it may be unnecessary because I think smart buyers will begin to understand that things are costing more than they did, and they may even begin to wonder why Congress has done this to them.

That may turn out to be not insult added to injury, but injury added to injury.

But the protection I propose for the consumer, against protectionism, will not be best served by actually implementing a requirement for this kind of notification through individual price tags.

Mr. President, I will not pursue this measure to a vote, not because I lack conviction that it is in the equitable interest of consumers to know what they are being required to pay by way of inflated costs to protect industries that are not themselves competitive; I will, instead, hope this debate in its totality, will occupy some of the time and attention of those same young working families, those same elderly pensioners, who, in fact, will become the victims of the kind of high cost protectionism that is inevitably the result of this effort to protect jobs in selected industries. It is an effort I well understand and with which I have sympathy. That is why, among the vast majority of Members of this body, I supported the Trade Adjustment Assistance Act in its provisions to assist those who suffer hardship because the industry of which they are a member and in which they are employed ceases to be competitive.

Mr. President, I will take this down. I will not trouble my friend from South Carolina even to respond.

I think our previous debate covered much the same ground. This is simply another means of attempting to bring to the attention of the American people the costs of good intentions, the costs or protectionism, a cost which those young working families can themselves ill afford.

Mr. President, I will withdraw the amendment.

The PRESIDING OFFICER. Without objection the amendment is withdrawn.

The amendment (No. 2206) was withdrawn.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina [Mr. HOLLINGS].

Mr. HOLLINGS. Mr. President, I appreciate my colleague from California withdrawing the amendment. Like he, I would like to save consumers' costs by limiting debate.

Now, what we have is five amendments, four by Senator GRAMM that we have been notified about, one with respect to agriculture, one with respect to consumer impact—we had that before, but it might be different—one with respect to Mexico, one with respect to promoting free enterprise, and then one by the distinguished Senator from Washington, Senator GORTON, on aircraft.

We are awaiting their attendance on the floor to submit these amendments. I will only state on that last amendment, of course withdrawn, that that labeling of the cost ought in fairness to also label the conditions.

I am interested in the cost and then I am interested also, on that label, that they have whether it is manufactured by child labor or whether it is slave labor, whether, again, there is parental leave or plant closing notice, what is the minimum wage, what are the working conditions environmentally—whether you check off on the label clean air, clean water, what they do with respect to safe working place, safe machinery.

For those kind of things, a label would soon turn into full-sized scarf for every textile product we make in America. It would be a real bargain. You could get a label scarf and wrap it around your neck and run around with it and be well informed.

Mr. President, we really should be moving ahead with the business of the body. We will wait a respectable time. Otherwise I will have to call on the leadership on both sides of the aisle here to bring us to a conclusion. I do not think it was intended that we rush through. On the other hand, it was not intended that we just sit here and wait at the discretion of someone who has, perhaps, no intention of coming to the floor.

Under the circumstances, I make a plea to the distinguished Senator from Texas [Mr. GRAMM] and the distinguished Senator from Washington [Mr. GORTON] to please attend the

floor or give us notice so we will be informed and can proceed with other Senate business.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I understand the distinguished Senator from Washington is on his way to the floor. Pending his arrival and the submitting of his amendment, I would like to refer to the most recent report of Shearson Lehman Hutton for the last quarter, issued in June, this last month, where they project the textile industry profits to decline 30 to 40 percent in the second quarter of 1990. I quote: "Industry employment continues to decline as a result of the higher levels of imports."

These business stock analysts are some of the best experts at forecasting economic and industrial trends, and I think it substantiates what we have been saying in various ways throughout the debate.

In addition, Mr. President, there is a letter to the editor from John M. Culbertson in Friday's New York Times entitled: "Pauperized Workers Are Price of 'Free' Trade." Dr. Culbertson says:

* * * in the world of reality, the United States is self-destructing in permitting one-sided "free-trade" to throw ordinary American workers into competition with hundreds of millions of foreign workers who can live on much less than they. This kind of "free trade" may be a time bomb of a laissez-faire ideology more deadly even than "free" savings and loan association pillaging, "free' airline mergers, "free" selling of America to foreigners, and "free" government spending without taxes.

Specifically, his reference to jobs alludes, of course, to the draft of the Shearson Lehman report, and you can see in 1989 there was an increase in imports of 11.7 billion square meters, and projected for 1990 the income is 13.3 billion. That increase by 1.6 billion square meters, or 13 percent, represents 160,000 United States jobs.

So it is easy to compute and project the number of jobs lost as the trend continues.

I ask unanimous consent that the letter to the editor of the New York Times on July 13 entitled "Pauperized Workers Are Price of 'Free' Trade" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PAUPERIZED WORKERS ARE PRICE OF "FREE" TRADE

TO THE EDITOR: The foreign-trade deal the Bush Administration has negotiated with Japan (front page, June 29) follows the thinking of the Reagan Administration and will continue the giveaway of essential interests of the United States. Because it assumes the unregulated foreign trade—always called "free trade"—automatically benefits both nations involved, this viewpoint makes light of the onesideness of United States trade. The net takeover of our markets by excess imports, and the shrinkage of our industries and jobs, is attributed to some outside factor, and token policies are devised to deal with these imaginary causes.

Thus, the real causes of the self-destructive pattern of United States foreign trade were not touched by the Reagan Administration's initiating unfair trade practices investigations or getting commitments from other countries to increase their "economic growth." Neither will they be touched by the Bush Administration's getting Japan to increase its public-works spending, to speed up the issuing of patents, to reduce protection of small shops and to increase prosecution of bid rigging. These actions may be desirable, but their effect on the huge United States trade deficit with Japan will be long delayed and trivial. Saving the economic future of the United States requires the regulation of United States imports to bring about balanced, two-way-benefit trade with countries that differ from us in economic policies and institutions, market sizes and qualities, wage levels and other ways.

The widening spread in American incomes and the worsening plight of our ordinary worker is shown by data and has been viewed with concern by many commentators. Americans were once proud of being the only country where the factory parking lot was filled with the workers' cars—cars of one-income families. Two incomes may not permit workers to raise a family in today's United States, and the situation is continuing to worsen.

History provides an illuminating parallel. The ancient Roman Republic became politically unworkable largely because the jobs of ordinary Roman workers and small farmers were taken over by cheaper outside labor, in this case by burgeoning use of imported slave labor. Slave labor was cheaper than the labor of free Romans. Thus "the free market" said, "Use the slave labor." Doing so enriched Roman landowners and the affluent. But the shift to slave labor took away the jobs of ordinary Romans, who had been the backbone of Rome's armies and state. They became an unemployed proletariat in the city of Rome, degraded by politicians' free bread and circuses—and Rome as a republic stopped working.

The United States turned the jobs of its ordinary workers over to outside labor—because it was cheaper than American labor—by accepting imports vastly in excess of our exports, imports that are cheaper than American-made goods because of foreign wage levels a tenth or less as high (as was initially true of Japan, which now relies on other advantages over United States production). One-sided immigration of low-wage labor has the same effect.

The Americans whose jobs are given away to outside labor, like the pauperized Roman workers and farmers, will not go away. They have no place to go. They are finding that the available temporary jobs, the parttime jobs, the minimum-wage jobs without job security, medical insurance and retirement benefits do not permit them to live and raise a family like other Americans—not even when both spouses work. What is to become of these people? What will become of a United States in which groups not subject to such foreign competition live extravagantly, while the ordinary workers thrown by one-sided foreign trade into wage competition with the poorest of the world's burgeoning millions of poor become outcasts in their own country?

The economic theory on which United States policy is based evades this problem by assuming an imaginary world in which unemployment is curred by lowering wage levles, where foriegn trade and job shifts automatically balance out and where cheaper implies more efficient. Laissez-faire economics and the Bush foreign trade policy perhaps would work in this imaginary world—just as Communist economics perhaps would work in its imaginary world.

But in the world of reality, the United States is self-destructing in permitting one-sided "free trade" to throw ordinary American workers into competition with hundreds of millions of foreign workers who can live on much less than they. This kind of "free trade" may be a time bomb of laissez-faire ideology more deadly even than "free" savings and loan association pillaging, "free" airline mergers, "free" liquidate-American-industry takeover deals, the "free" selling of America to foreigners and "free" government spending without taxes.

JOHN M. CULBERTSON.

MADISON, WI, JULY 3, 1990.

Mr. HOLLINGS. Mr. President, on yesterday, very interestingly, Charles D. Gray, executive director of the AFL-CIO's Asian-American Free Labor Institute, published an article in the Outlook section of the Washington Post entitled "China: Most Favored Prison, How American Consumers Support a System of Slave Labor."

The distinguished Senator from North Carolina [Mr. HELMS] and I were discussing just this subject in the debate last week. Now we have a well-documented article to this particular effect. I ask unanimous consent that this be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 15, 1990]

CHINA: MOST FAVORED PRISON

(By Charles D. Gray)

You may have thought that there is an inherent and unbridgeable conflict between a communist dictatorship and American free enterprise. Not so. Not if the price is right, as it is in the People's Republic of China.

Despite the bloody Beijing massacre of June 1989, American business has found the communist climate of the People's Republic quite congenial. Trade with the United States continues to flourish. U.S. exports to China last year were valued at $5.8 billion, and imports from China to the United States reached nearly $12 billion—a total trade increase of 30 percent over 1988 levels.

Garments, toys, games, electronics, and footwear accounted for more than half of those imports into the United States. Many American toy companies, clothiers and department stores are doing a landoffice busi-

ness with products carrying "Made in China" labels. In China, the profits go into the pockets of Communist Party officials who either double as businessmen themselves or parachute their sons, nephews and uncles into the offices of commercial enterprises.

Strangely, that kind of mutual backscratching of communists and capitalists has been praised as a sign that Chinese communism is reforming. But what those so-called reforms mean, mostly, is that American and other foreign business interests are free to enter into unholy partnerships with the Communist Party to exploit the Chinese people.

The events in Tiananmen Square—televised live to the world—showed the world how far the communist regime would go to repress its own people. How many other realities of life in communist China would shock the world if they could be viewed on television? Let us describe one: The Chinese prison system.

The 20 million persons now in China's prisons are more than prisoners. They are part of China's labor force, making products both for domestic and foreign consumption—everything from socks and textile goods up to machine tools and automobiles. There is no problem about constructing new jails in China—prisoners build them. One huge dam and water-power project was built by 1 million prisoners over a 10-year period. The total output of goods and services from prison labor is so large that it is routinely included in the country's GNP statistics. In fact, each prison has two names, one for its connection with the Public Security Department, such as Jail No. 1 of Cheng Tao, and the other, for its role as a normal business enterprise, such as Cheng Tao Machinery Factory.

(It is not easy to identify which of the "Made in China" products reaching U.S. shores are made in prison. Senate investigators, however, recently did identify one: Dynasty wine, a joint venture between the Tianjin "wine-makers cooperative" and the French company Remy-Martin. The company said prisoners on farms had been used to supply grapes from 1982 to 1986 without its knowledge.)

The ingenuity of China's elite to exploit forced labor seems to know no bounds. Prisoners are also now available for leasing to private factories owned by foreign businessmen. In one case, a Chinese intermediary going by the name of Charles Chi offered to lease prisoners to any Western company wishing to open a factory in China.

China's prisons, its gulags, serve a political function that is even more important than their economic role. The prisons form a part of the communist structure to exercise tight political control and discipline over the people of China. Political prisoners serve as constant reminders to millions and millions outside of prison that they had better not deviate from party dictates.

Non-prison labor is kept under control through the All-China Federation of Trade Unions, which the party formed only months after taking power in 1949. The party's so-called "unions" exercise discipline over workers in plants and offices, large and small, making sure that they keep working at the pittance that the government thinks they deserve.

What really frightened China's ruling elite last year was the danger from workers. The student demonstrations were embarrassing enough, but hundreds of thousands of workers were joining them on the streets. Even worse, the workers were taking the daring step of forming their own Workers Autonomous Federations in Beijing and other major cities. China's aging leader, Deng Xiaoping, had long made known to his henchmen that he would not tolerate spread of the "Polish disease"—the founding of a movement like Solidarity—and so when the workers refused to retreat from their independent stance, he ordered a brutal military crackdown.

It so happened that shortly before Tiananmen Square erupted last year, President Bush had to decide whether to continue a trade privilege first granted to the People's Republic in 1980: designation as a "most favored nation"—a status that opens the way to low tariffs for a country's exports to the United States. Despite some criticism, Bush recertified China's status as a "most favored nation" for another year. At the end of this May, the president again endorsed the coveted MFN status for China, even as he withheld it from the Soviet Union.

Now it is up to Congress to overturn his decision. Why? Because China does not deserve to be one of our "favored" nations. It maintains a nation-wide network of slave labor camps. Its autocratic leaders have arrested and killed workers who courageously tried to form free trade unions. They forced world-renowned astrophysicist Fang Lizhi and his wife to flee for their lives to a refuge in the U.S. Embassy in Beijing. And they ordered the massacre of Tiananmen Square a year ago. Do we really want to favor that kind of nation?

Those who favor MFN for China offer a number of rationales:

The United States needs to support the Chinese communists as a buffer against the Soviet communists. The truth is that China's leaders side with our geopolitical interests when it suits them, and only then.

We need to support U.S. business, which would lose its large stake in China if Beijing lost MFN status. Well, that's just too bad. What has happened to the old conservative argument that free enterprise and communism are incompatible? Is American capitalism so weak that it relies for its profits on a system propped up slave labor?

We must protect the interests of poor, ordinary Chinese who benefit from U.S. trade. Oddly enough, we hear this refrain mostly from American business lobbying groups, as though they, of all people, can speak for ordinary Chinese workers. Few Chinese workers are able to speak for themselves, but one who can—a woman now in the United States—told a recent public forum she favors sanctions, even more of them, and specifically cancellation of China's MFN status. Wouldn't that hurt Chinese workers? she was asked on CBS News. The short-term sacrifice, she said, was necessary to make gains for freedom.

We must defend the interests of poor American consumers, who desperately need all those "cheap" Chinese-made shoes and toys and dolls. This rationale is offered at a time when consumers are deprived of ivory because of concern for elephants; when women are pressured not to wear fur coats because of concern for minks; when tuna fishing in the Pacific is restricted because of concern for dolphins. Would it be too much also to expect some concern for the working men, women, and children of China?

And concern, too, for American workers? After all, what happens in the thousands of workplaces of, say, China's Guangdong Province, next to Hong Kong, affects not just the workers there but workers right here in the United States. Why are New York City and some other cities suddenly faced with an outbreak of child labor? One reason is the exodus of young children, under 14, from Guangdong Province classrooms into garment factories that export clothes by container-loads to the United States. Why are women in the garment and textile plants of Pennsylvania and South Carolina working at pay barely above the federal minimum-wage level? One reason is that young women by the tens of thousands are working long hours in the garment and textile plants of Guangdong Province at below-subsistence wages, producing goods flooding the American market.

American business and Chinese communism have formed a partnership that is most favorable to themselves. They are conspiring to deprive both Chinese and American workers of their rights. It is high time to give that odd partnership a severe shock. It is high time to cancel China's most-favored-nation status.

Mr. HOLLINGS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2211

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], proposes an amendment numbered 2211.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, beginning on line 3 strike all through line 24 and insert in lieu thereof the following:

"(e) EXPORT-RELATED ADJUSTMENT.—Notwithstanding the aggregate limits imposed under subsection (a) and in addition to the growth adjustment provided for under subsection (b), for each calendar year after 1989 the aggregate quantity of textiles and textile products from a country classified under each category that may otherwise be entered during such calendar year shall be increased by an amount equal to fifty per centum (50%) of the increase in the total aggregate value, if any, of its imports from the United States of agricultural products in the calendar year preceding such calendar year."

Mr. GORTON. Mr. President, this is the amendment for which this Senator made a reservation on Friday. I wish to thank the Senator from South Carolina for his patience, and the managing Senator, in waiting for us to arrive.

Mr. President, in the present bill there is a slight bow in favor of our agricultural community. That slight bow is the so-called Daschle amendment which says that any country which increases imports of American agricultural products is entitled to increased exports of textiles to the United States.

However, it suffers from a fatal difficulty in that that increase can only take place within the permitted overall 1-percent increase in textile imports into the United States. In other words, if country A increases its purchases of U.S. agricultural products, it gains a slightly larger quota at the expense of other nations, other nations which may need those quotas even more badly, other nations which may be less developed, other nations which themselves may wish to engage in more purchases from the United States. Moreover, it is obvious that if the increase in world agricultural imports from the United States were more than a very modest amount there would be no places from which to take these textile quotas.

The Daschle amendment, in other words, presents us with a zero sum game. Whatever one country gains, another country loses. In fact, it may even provide an incentive for many countries, say this year, to cut back substantially on their import of American agricultural products in order that they can play the game of some small increase next year and get this increase.

My amendment is a relatively simple one. It, instead of paying lipservice to our agricultural communities, gives them a real advantage. It says, in effect, that for every dollar by which they increase their imports of products from the United States they will get a 50-percent increase in their quota of textile imports here. There will not be a limit. It will not be within the 1-percent overall limitations. It will simply say to any textile exporting country in the world that they can substantially increase the value of their exports to us by substantially increasing their purchase of our agricultural products.

This is not a zero sum game. This is a plus game for the agricultural community in the United States. It seems to me very difficult to argue that somehow or another textiles are a more important industry to the United States than is agriculture and that we will forfeit a $2 increase in our export business on the part of our farmers in order to retain $1 for textile manufacturers here in the United States.

Having said that, Mr. President, and having proposed this amendent, I must confess that this amendment, like the one with which we dealt last Friday, is designed every bit as much to show the fallacies of the entire bill as it is to reach the particular goals which are included in the provisions of the amendment itself.

This bill simply operates from the proposition that one business enterprise in the United States, one particular type of manufacturing is not only more important than any other business in the United States but is in many respects more important than all other businesses in the United States combined, and that simply is not the case.

This bill undercuts the position of the United States in GATT negotiations. It leaves us with a clear threat of retaliation against all other forms of our products. It is clearly antiagriculture. It is clearly antiservices. It clearly inhibits our ability to gain protection for intellectual properties in the United States, and it is clearly anti every other industry than textiles themselves.

This policy is particularly ironic in light of the fact that there is probably no other industry, no other manufacturing process in the United States which is as protected as are textile manufacturers today under the present system. The system we have today would almost certainly not be tolerated in any other field except textiles.

The fact that the proponents of this bill are here is eloquent, perhaps the most eloquent possible testimony to the proposition that protectionism of this sort does not work. The more protection the textile industry gets, the more protection it demands. The more it feels threatened, the more it threatens every other business in the United States.

Mr. President, this amendment is designed in part to show that the bill with which we are dealing is not good policy. It is not good policy for any part of the United States. The prosperity of the United States depends upon an increasingly free trade throughout the world. The goal of the United States in GATT negotiations, which are less than 6 months from completion at this point, is to free up our ability to compete with other parts of the world in a wide range of activities.

Nevertheless, Mr. President, I think it is appropriate to bring up this amendment on a Monday, which is about 48 hours before the time at which we will begin to discuss a farm bill, a 5-year farm bill. Agriculture plays a particularly important part in the economy of the United States. It always has, from the beginning of the Republic.

Much of what we propose to do in that farm bill, a bill on which the distinguished Senator who is presiding over the Senate this moment has worked very hard, is designed to increase the competitive nature of American agricultural produce in the world as a whole, either by supporting our agricultural producers in such a way as to make them more competitive directly or to provide monetary incentives to promote those exports in competition with the very closed system of other countries.

Here, in this amendment, we give to every other nation a tangible reason to open its markets to American agricultural produce, a reason which can be followed not only because it will give to those nations a more free market in America for their textile exports, but because it will encourage them to take advantage of that opportunity to purchase American agricultural produce in the best, most efficiently produced system in the world.

So if we are interested in an industry in the United States which is highly cyclical, if we are interested in an industry or an occupation in the United States which has been a part of our economy, a vitally important part from the beginning, if we are interested in what taken as a whole may well be the largest single industry in the United States, that of producing for the use of our own people and the rest of the world wholesome agricultural products, we will support this amendment.

Just to repeat one more time, Mr. President, this amendment will say that any country which increases its purchases of American agricultural products will gain access to the American textile market on the basis of a 50-percent increase in their market here for every dollar by which they increase their purchase of our agricultural products is far more effective at opening up those markets than is the Daschle amendment. It is something which will be supported by every element in our agricultural community. It will provide for one of two things: Either the possibility that every country will ignore it, in which case it will not undercut this bill in any fashion, or the far greater possibility that it will tend to work toward a balance in our trade deficit and will be a net benefit of 50 cents on every dollar to the economy of the United States as a whole.

Mr. President, I strongly commend this amendment to the consideration of my fellow Senators, and I ask for the yeas and nays on the amendment.

Mr. BREAUX. Will the Senator yield before he asks for the yeas and nays?

Mr. GORTON. The Senator will be happy to yield.

Mr. BREAUX. I was just trying to understand the amendment of the Senator. I notice under the agreement we had, the Senator from Washington was to offer an amendment dealing with aircraft. I did not hear the word "aircraft" mentioned in describing the Senator's amendment. I was trying to figure out how this affected aircraft.

Mr. GORTON. The Senator from Louisiana raises a very good question. Originally, we drafted this amendment as an aircraft amendment, or as an aircraft and agriculture amendment. On reflection, the Senator from Washington felt that that would be considered as too parochial, given his own preference from the State of Washington, and so we dropped the aircraft portion of it.

If the Senator from Louisiana wishes or would otherwise raise a point of order, I will simply say "aircraft and/or agricultural products" and put it back into that form. I would prefer to leave it in this form, but it did start out in our drafting process as one for aircraft as well.

Mr. HOLLINGS addressed the Chair.

Mr. GORTON. Mr. President, I did ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Washington does have the floor.

Mr. GORTON. I say to either Senator from South Carolina, I have finished my opening statement, but I asked for the yeas and nays on the amendment, unless the other side intends to move to table, in which case we will ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. THURMOND. Mr. President, I move to table the amendment.

I withdraw that for the purpose of debate.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, right to the point, the distinguished Senator from Washington has submitted another amendment which does exactly what he intended with the amendment he presented last week and was candid enough to say so, which is to gut the bill. He comes forward under the guise of supporting America's agriculture. But it is we who have worked with America's agriculture.

I will read in a moment the endorsement that we have had for this particular bill. We have worked with our colleague from South Dakota and many others who lead the way in defending agriculture in this body. You only have to read exactly how this bill is written, where we give a 50-percent increase in the total value of textile imports to countries that substantially increase farm imports from the United States.

Now, we have five countries that do the majority of the business with the United States in agriculture and in textiles.

Ten of the top exporters of textiles and apparel have balance of trade surpluses with the United States in agricultural products. Ninety-five percent of United States agricultural exports are to 10 markets, and that is the EC, Canada, Japan, Mexico, Taiwan, South Korea, Hong Kong, Brazil, Pakistan, and the Philippines. Only Pakistan has an agriculture trade deficit with the United States. Much of the United States agricultural exports to Pakistan are really under food aid programs.

Let us look at the merits of that particular bill. Under the Daschle amendment, which is included for America's agriculture, the big five countries can hold onto their quotas and get an increase if they increase their agricultural purchases. There would be no disproportionate burden on the U.S. farmer under that Daschle amendment.

We have consulted, of course, and have had the support of the National Farmers Organization, the National Farmers Union, the National Corn Growers Association, the Nebraska Wheat Growers Association, the National Cotton Council, the National Wool Growers Association, and the American Agricultural Movement. After all, textiles is agriculture. Agriculture is textiles. We have some 120,000 wool operations and 41,000 cotton farms in the United States.

With that in mind, and looking at the wording of this particular agricultural amendment, I am prepared for either myself or my senior colleague to move to table at an appropriate time.

Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from Washington.

Mr. GORTON. Mr. President, while we are waiting for the distinguished senior Senator from South Carolina, the Senator from Louisiana raised the question as to whether this falls within the unanimous-consent agreement. I told him privately what I will now state publicly to the other two Senators.

When I left during the preparation of that unanimous-consent agreement, I left the request and instructions that my amendment be aircraft and/or agriculture. It did not turn out that way. What I have seen today is the first notice that I had of this. Given the nature of this debate and the fact it is the last amendment, I would ask my colleagues here simply to grant unanimous consent that this amendment be considered in order as my amendment and that there be no other.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. GORTON. Mr. President, while we are awaiting the senior Senator from South Carolina, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I gather that debate on this proposition is close to being over. I simply wanted to remark that, with respect to the points made by my friend, the distinguished Senator from South Carolina, while there are a list of farm groups who have reluctantly endorsed the Daschle amendment, they have done it, of course, under the impression that it was the best they could get.

I introduced a letter from the National Association of Wheat Growers, which I do not need to have reprinted again with its full text, which says, a provision which would tie foreign textiles suppliers' access to U.S. markets to that country's increased importation of U.S. agricultural products is not an appropriate substitute for liberal trade.

I think that represents the true views of most of the agricultural community on this bill. They will take what they can get.

This amendment offers them a great deal more. This amendment says that for every dollar by which a foreign country increases its importation of American agricultural products they will get a 50-cent increase in the textile quota here to the United States. Is that as good as the present situation? Is that as good as seeing what happens in the GATT negotiations? No, it is not.

But it is certainly a great improvement over the present bill, because it does offer an opportunity for the United States to lessen its trade deficit and for our agricultural producers, and thus our entire economy, to gain much more than the textile business loses. It is an amendment which, I may say, I find it very, very difficult to imagine a rational argument in opposition to. Nonetheless, the sponsors of this bill, wishing to get the bill through without any change at all, have a right to move to table, and we will get a vote on that.

I suspect, Mr. President, that this debate will be very much like previous debates on textile bills, and that the proponents of this ill-advised legislation will win every skirmish; but, unfortunately, ultimately, they will lose the war when any bill is properly vetoed by the President and when that veto is upheld by this body.

Mr. HOLLINGS. Mr. President, once again, we can make a mathematical conclusion, which is a rational argument against the mathematics of this particular amendment. Specifically, a

reading of the amendment will show that textile imports will be allowed to increase by an amount equal to 50 percent of the increase in the total aggregate value of a country's imports from the United States of agricultural products in the calendar year preceding.

So for that 50 percent—we have 95 percent of all textiles coming in now from these particular countries, the dollar value increases, an increase of, let us say, any agricultural product, it would wipe out the market and would be more than we could ever consume. It is obviously an amendment to gut the U.S. textile industry.

In contrast, under the Daschle initiative—and I wish the distinguished Senator from South Dakota was here to review it in detail, but I think my colleagues are totally familiar with it, that there is every bit of incentive and flexibility under the Daschle amendment and every bit of incentive to increase importation agricultural products by foreign nations by holding the line, you might say, with respect to textiles.

In that light, that is why we have and why we talk about the endorsement of the various farm organizations and the support of these farm Senators, once again, with emphasis, on all the cotton and woolen farmers directly interested in something for agriculture.

Therein is the thrust of the Daschle provision under our textile bill, which was supported by a strong majority on the last vote in 1988, and supported again by a good number of farm Senators in their cosponsorship of this particular bill.

I would be glad to yield to my senior colleague, who will make the motion.

I yield the floor.

Mr. THURMOND. Mr. President, I move to table the amendment of the distinguished Senator from Washington.

Mr. HOLLINGS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the unanimous-consent agreement, under which the Senate is proceeding, the vote on the motion to table will occur on tomorrow, Tuesday, July 17.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, this legislation, the Textile, Apparel, and Footwear Trade Act of 1990, which we have been considering is extremely important to about 2 million people who still have jobs in the textile and apparel industry. It is also important to the approximately 75,000 employees remaining in the footwear industry.

Mr. President, as I stated previously, the problems in the textile and related industries are not regional in nature. Every State in the Union, including the District of Columbia, has people employed in one or more of the following sectors: Textiles, apparel, manmade fibers, wool growers, and cotton growers. Over the last 12 months, 48 textile and apparel plants have announced closings resulting in a loss of 71,000 jobs.

This legislation is designed to help level the playing field of the textile and apparel industry. The domestic textile industry has competed with meager wages other countries pay, subsidization of industries, favorable tax treatment, and other unfair advantages. Our domestic industry should not have to continue to put up with this treatment.

The bill currently before us is designed to promote an orderly nondisruptive growth of world trade in fibers, textiles, and apparel products. It ensures strict enforcement of existing trade laws and agreements. It structures a fair trading system for textile and apparel products worldwide. It allows a 1-percent annual growth in imports over the record levels of 1989. This bill also requires the administration to give a preference to foreign countries which increase the purchase of U.S. agricultural products.

I want to repeat that statement. This bill requires the administration to give a preference to foreign countries which increase the purchase of U.S. agricultural products.

Mr. President, that should help every State in this Nation that produces agricultural products.

Mr. President, as I have previously stated this legislation is important not only to the textile workers, but also to the rural communities where these workers live. Further, when a textile plant closes grocery stores sell less food, shops sell less clothing, and States receive less tax revenue. In some small rural communities, the local textile plant is sometimes the only employer.

As I have previously stated, domestic production of textile products is essential to our national security. Next to steel, textiles are the second most valuable item of our national defense. In 1808, Thomas Jefferson said:

> I see with satisfaction * * * that our citizens * * * are preparing to provide for themselves those comforts and conveniences of life, for which it would be unwise evermore to recur to distant countries.

Mr. President, he was merely saying that when we provide goods here, it would be unwise to look to foreign countries for goods.

More recently in testimony before the Senate Armed Services Commitee, General McCausland stated that it would be difficult to meet our Armed Forces needs for textiles and footwear with our current production capacity.

Mr. President, consumption of textiles in this country has increased at the rate of approximately 1½ percent annually in the past 10 years while imports have increased more than 10 percent annually.

Mr. President, I want to repeat that statement. Consumption of textiles in this country has increased at the rate of approximately 1½ percent annually in the past 10 years while imports have increased more than 10 percent annually.

Last year the increase was 13 percent. In 1989, the textile deficit was over $26 billion which was about 23 percent, or almost a fourth of our national deficit of $128.7 billion. This is a heavy burden for one industry to shoulder.

Mr. President, I strongly urge my colleagues to consider this bill carefully and to vote in favor of it to help save American jobs and an industry which is important to this country.

Mr. President, I want to quote from a pamphlet which was done by the ATMI and FIA. "Manufacturing is the foundation of America's standard of living. The average manufacturing wage is $10.68 per hour." Now, that is much more than the service jobs pay. The service jobs pay about $3.80.

Textiles give a lot of employment to people. They employ about 2 million people. The fiber, textile, and apparel complex accounts for 1 of 11 jobs in manufacturing—larger than paper, larger than petroleum refining, larger than primary metals and automobiles.

Mr. President, people generally do not understand the importance of this industry. One out of every 11 jobs in this country is in fiber, textile, and apparel. That means a great deal to manufacturing in this Nation.

We speak about helping minorities. Well, Mr. President, blacks and Hispanics make up more than 25 percent of the textile and apparel industry work force. With all other manufacturing blacks and Hispanics make up only 18 percent of the work force. In other words, textiles hire a larger percentage of blacks and Hispanics than all other manufacturing industries in this country. Textiles as an industry hires more; 25 percent of the jobs in textiles go to blacks and minorities. In all other industries it is only 18 percent.

Furthermore, textiles gives more jobs to women than any other one industry. Women constitute 67 percent

of the textile and apparel industry work force. All other, manufacturing women account for only 32 percent of the work force. Women constitute over two-thirds of the work force of the textile and apparel jobs in America.

This is more than twice the other industries in manufacturing, which is only 32 percent.

In the last 10 years we lost 400,000 jobs in the textile industry. We lost 70,000 jobs in the last 12 months. That translates into job losses for minorities, women, as well as other people.

Women and minorities have made great strides over the last few decades, I applaud that. Yet we are destroying the very industry that does more for women and more for minorities than any other industry.

The employees in this country in textile, apparel and footwear companies help at their local communities. They support education. Industry is playing a leading role with programs for employees and their families. Rather than spend money on education, foreign textile mills often exploit youths who work in sweatshop conditions. China, the leading exporter to the United States, uses forced labor in its plants.

What are these foreign countries doing to help education in this country? Nothing. The domestic textile industries help a great deal. Forty-eight percent of the jobs in my State are in textiles. I do not know of any foreign industry that has helped in the local concerns in my State.

Another thing: Foreign textile employees work in plants so unsafe they would be unlawful in the United States. In this country, the American textile industry has been ranked number one in safety by the National Safety Council 4 out of the last 5 years. Mr. President, no other industry can say that. The American textile industry, ranked number one in safety 4 out of the last 5 years. That is worth something, protecting their employees. All industries do not.

What are foreign industries doing to help protect people?

Mr. President, I want to say further, too, the textile industry in this country has assisted in protecting the environment. U.S. manufacturers spend millions of dollars on environmental controls. Foreign textile manufacturers recklessly pollute.

This absence of environmental responsibilities by overseas producers gives them yet another unfair advantage. They do not have to go through the steps of protecting the environment in their countries as we do here. The textile industry here spends millions and millions of dollars protecting the environment and that protects the health of our people. That is worth a lot.

If we close the textile industries, and it is going to come to that if we keep on as we are, then will our importers take steps to protect the environment?

The local textile industries in this country make good neighbors. Fiber, textile, footwear, and apparel companies are active members of every community where there is a mill or factory. They support hospitals, they support schools, they support drug abuse programs, they support Scouts, they support little league baseball and other things.

These foreign importers who bring in goods here on a massive scale, what are they doing to promote hosptials and schools and things of that kind? Absolutely nothing. Foreign textile manufacturers do not contribute to American communities. All they do is take our money.

Mr. President, somebody said there is a feeling that textiles are on one side and the farmer is on the other. The U.S. textile industry is the best and most reliable customer for U.S. grown cotton. The textile industry is bound to be a good friend to the cotton farmers because it uses their cotton. It consumed more than 8 million bales of cotton in 1989; 8 million bales consumed last year by the textile industry. That is a large market for cotton.

The textile industry consumes virtually all the U.S. wool clipped. I do not understand the attitude of some Senators here from wool States who do not seem sympathetic to this bill. Yet the textile industry consumes virtually all the U.S. wool that is produced in those States.

Mr. President, another important point is we have to have a strong defense. I want to quote from the Department of Defense Textile and Apparel Mobilization Report of April 1990. Here is what it says:

> * * * increased levels of imported ready-to-wear goods will have an adverse impact on the domestic (defense mobilization) base, making fewer sources available to meet those wartime requirements.

That is what the Department of Defense said. In other words, it will have an adverse impact on the domestic defense mobilization base. I hope people will remember that. In the event of mobilization, are we going to tell our adversaries to wait while ships arrive with uniforms and parachutes? What if our adversaries are our suppliers? Suppose we are at war with a country that is producing the parachutes and uniforms? If we were at war with that country, how would we get those things here? It is completely ridiculous to let this textile industry go down the drain and that is what this Government is allowing to happen.

I have already said this is a matter of national defense.

I want to speak just a little bit about shoes. Eight out of 10 shoes sold in America today are foreign made; 8 out of 10; 80 out of 100 are made in other countries. We are just throwing away jobs here. We had lots of jobs in shoes in this country years ago. Now 8 out of 10 come from foreign providers. Textiles and apparel are in equal jeopardy with nearly two-thirds of the domestic market for clothing already taken by imports.

The textile, apparel and footwear bill will give U.S. manufacturers and their 2 million employees a fighting chance for survival. That is all we are asking, is a fighting chance to survive; that is all the textile industry is asking for.

Textiles and apparel used to be one of America's leading earners of foreign exchange. Today, textiles and apparel account for a quarter of the total U.S. merchandise trade deficit. In just 10 years Government policy, not the marketplace, has sharply undercut the competitiveness of one of the country's most modern and productive manufacturers.

The trade deficit for 1989 was $128.7 billion, and for textiles it was $26.6 billion. In other words, that is almost a fourth of the total deficit. We are letting so many textile goods come in here on such a massive scale that that alone is responsible for almost one-fourth of our trade deficit.

Mr. President, Robert L. Kuttner, columnist for Business Week, made this statement:

> We have to have a coherent set of goals for the trading system, not free trade, but a balance of benefits and responsibilities. We have to have instead of being the hagemonic power that plays Atlas, at great cost to our own industry, we have to have a system of shared responsibility.

At the present we do not have a system of shared responsibility.

Mr. President, if we are going to retain this industry and prevent it from disappearing entirely, we have to pass this bill. We cannot keep on going as we are.

I have just tried to state how this bill has helped this country, the employment, nearly 2 million people, the blacks and minorities employed, the jobs for women, and all the benefits it provides. The textile industry has supported education, local hospitals, and so forth. It is the safest industry. It ranked No. 1 in safety 4 of the last 5 years. It protects the environment. It is helping with schools and hospitals, drug abuse programs, and other things.

I do not see why we cannot take steps to preserve an industry that is doing so much good for our Nation. It is just not fair to let these foreign goods come into the United States on such a massive scale. All we are asking for is that we be allowed a level playing field. In other words, let these foreign textile industries grow 1 percent a year. Right now, they are growing from 3 to 10 percent per year, while ours are growing 1 to 1.5 percent a

year. Why can we not be on the same level playing field as the foreign governments? It is not fair to our industry.

I hope the Senate will carefully consider the value of this industry to our Nation and what it is contributing from an economic standpoint, from the local standpoint, where these industries are located, paying taxes, supporting schools and hospitals, and others. These foreign industries are doing nothing along that line.

Mr. President, again I hope our colleagues will carefully consider this bill. It is a fair bill. It establishes global import quotas for each category of textiles and textile products based on the level of imports in that category for the previous year. Each quota will grow by 1 percent each year, which is consistent with the historic growth of the domestic market. There will be no rollback of trade. Nonrubber footwear from all sources would be limited to the level of imports in 1989. Canada and Israel, with which the United States has free trade agreements, would be exempted from the global quota, and Caribbean Basin exports could not be reduced below current levels. Caribbean quotas could actually increase.

The Secretary of Commerce will set regulations to implement the quotas, including rules to require reasonable spacing of imports during each year. As a boost to U.S. agricultural exports, the Commerce Secretary would be instructed to give priority in the quota allocation to countries that increased their commercial purchases of U.S. agricultural products in the previous year. The President would be authorized to negotiate reductions in U.S. tariffs on textile, apparel, and nonrubber footwear imports as compensation for those countries adversely affected; those tariff cuts can be up to 10 percent and must be staged equally over 5 years. This legislation is consistent with GATT article XIX, since it includes a congressional finding of injury to the domestic industry, global quotas, and authorization to negotiate compensation.

Mr. President, I cannot imagine a fairer bill that anybody could bring to the floor of this Senate than this textile bill, one that will protect our own industry, that is adding so much to the economy of this Nation and so much to the civilization of so many people who work in it—nearly 2 million people.

At the rate we are destroying this industry, it is estimated that in 10 years it cannot survive. I do hope the Senate will carefully consider this bill and what it has to offer for the economy of this country and for the people of this country, for the women and minorities that work in this industry.

I do not know of any industry that gives blacks and Hispanics 5 percent of the work force or gives women 67 percent, as does this industry.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ROBB). Who seeks recognition?

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a qourum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2212

(Purpose: To express the sense of the Senate regarding a Free Trade Agreement between the United States and Mexico)

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senator from Texas [Mr. GRAMM], I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], on behalf of Mr. GRAMM (for himself, Mr. DOMENICI, and Mr. MCCAIN), amendment numbered 2212.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Committee amendment add the following:

"SEC. . MEXICO-UNITED STATES FREE TRADE AREA.

"The Senate, on June 26, 1987, adopted legislation calling for the establishment of a North American Free Trade Area.

"President Bush and President Salinas, on June 11, 1990, endorsed the proposal to establish a "comprehensive Free Trade Agreement" between the United States and Mexico and directed United States Trade Representative Carla A. Hills and Mexican Secretary of Commerce Jaime Serra Puche to begin consultations and preparatory work to that end,

"Mexico is the third largest trading partner of the United States and the United States is the largest trading partner of Mexico,

"Since at $52 billion in mutual merchandise trade in 1989, and yet involving almost 350 million people, there is much more room for growth in our trade relations,

"Since a mere 10 per cent annual increase in trade between the United States and Mexico throughout the 1990s would result in trade totalling more than $150 billion between our two countries in the first year of the twenty-first century, and trade could undoubtedly grow at higher levels,

"Since increased trade between our two countries will greatly assist Mexico in its economic development, and an economically prosperous and politically stable Mexico will greatly benefit the United States,

"Since there has been peace among the three great nations of North America, covering more than one-eighth of the earth's surface, for nearly a century and a half, a longer era of peace than that enjoyed in any other region of the world, "It is the sense of the Senate that

"(1) President Bush and President Salinas are to be commended for endorsing the establishment of a comprehensive free trade agreement between the United States and Mexico and initiating the preliminary steps to that end;

"(2) Close cooperation with the Congress in the preparations for and negotiations of such an agreement will facilitate the successful establishment of the agreement; and

"(3) While negotiations proceed for a free trade agreement between the United States and Mexico, each country should consider interim steps to improve further trade relations between our two countries.".

Mr. HOLLINGS. Mr. President, this particular amendment is a sense of the Senate to commend both Presidents Salinas and Bush, of Mexico and the United States, on their temporary initiatives and agreement to move toward a free trade agreement between Mexico and the United States of America. It has various salutary whereas clauses and resolved that they be commended as such, and that they proceed expeditiously to do so.

We on both sides are prepared now to accept that amendment barring one particular perfecting amendment by our distinguished colleague from Arizona.

AMENDMENT NO. 2213 TO NO. 2212

Mr. DECONCINI. Mr. President, I thank the Senator from South Carolina for his patience here while we worked out this arrangement, and also I understand he is willing to accept both the amendment of the Senator from Texas and my perfecting amendment.

With that in mind, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 2213 to amendment No. 2212.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"Mexico is the third largest trading partner of the United States and the United States is the largest trading partner of Mexico;

"Since bilateral trade between the United States and Mexico, topped $52 billion in 1989, with the United States' exports more than doubling between 1986 and 1989 from $12.4 billion to $25 billion;

"Since a mere 10 percent annual increase in trade between the United States and Mexico throughout the 1990's would result in trade totaling more than $150 billion between our two countries in the first year of the twenty-first century, and trade could undoubtedly grow at higher levels;

"Since cooperation between the United States and Mexico on anti-narcotics efforts has steadily improved since President Salinas de Gortari took office;

"Since increased trade between our two countries will greatly assist Mexico in its economic development, and an economically prosperous and politically stable Mexico will greatly benefit the United States; and

"Since there has been peace among the three great nations of North America for nearly a century and a half, a longer era of peace than that enjoyed in any other region of the world.

"It is the Sense of the Senate that:

"(1) President Bush and President Salinas are to be commended for beginning the process to achieve the goal of a comprehensive free trade agreement betweeen the United States and Mexico and initiating the preliminary steps to that end;

"(2) Close cooperation with the Congress in the preparations for and negotiations of such an agreement will facilitate the successful establishment of the agreement; and that the United States Trade Representative should, throughout the negotiating process consult closely with Members of Congress representing key constituencies who would be affected by such agreements; and

"(3) While consultations proceed for a free trade agreement between the United States and Mexico each country should consider interim steps to improve further trade relations between our two countries.".

Mr. DECONCINI. Mr. President, I want to thank both Senators from South Carolina, the senior Senator and the junior Senator. Particularly, I want to thank Senator HOLLINGS for his patience on this particular matter, for his constant interest in understanding the Southwest border, and for the importance of the sense of the Senate to promote a free trade agreement. I am most grateful for that from Senator HOLLINGS.

Mr. President, the amendment I am offering is a second-degree amendment to the pending Gramm amendment regarding a United States-Mexico free trade agreement. My amendment is a perfecting amendment seeking to clarify the principles that I know the Senator from Texas and I agree upon.

On June 11, Presidents Bush and Salinas committed themselves to the concept of a free trade agreement. They directed Ambassador Carla Hills, the United States Trade Representative and Dr. Jaime Serra Puche, the Minister of Commerce, and industrial development of Mexico to undertake preliminary consultations with an eye toward beginning negotiations on a free trade agreement as early as this December.

On June 19, I joined with my colleague in the House, Congressman UDALL, in introducing Senate Concurrent Resolution 139, expressing the sense of the Congress congratulating the two Presidents and urging close consultation with the Congress during this process. Congress' role is essential to the enactment of a free trade agreement. Senator GRAMM's amendment and my perfecting amendment are intended as both encouragement and direction as this process continues. We seek to insure that the Members of Congress are consulted throughout the process and that the process moves forward.

A United States-Mexico free trade agreement is important to the economic future and stability of both the United States and Mexico. Mexico is currently the United States third largest trading partner.

United States exports to Mexico have risen dramatically in recent years rising from $12.4 billion in 1986 to $25 billion last year. The potential for continued growth in the Mexican market for United States goods is outstanding. Additionally, a United States-Mexico free trade agreement offers potential opportunity for United States investors as Mexico would further open its industry to such investment. Currently, United States direct investment in Mexico totals $12 billion, over 60 percent of the total.

President Salinas de Gortari has taken tough courageous steps toward improving Mexico's economy and even tougher steps in the war on drugs. It is this combination of determination and bold action that leads me to support negotiations toward a United States-Mexico free trade agreement.

I congratulate my colleague Senator GRAMM of Texas for his action in proposing this amendment, and I hope that he can accept my second degree which I believe improves his original language. I urge my colleagues to join me in support of this amendment.

Let us send a strong signal to Presidents Bush and Salinas that the steps they have taken are the right ones. And let us also remind this administration to consult with Congress throughout this process.

Mr. President, let me also point out that the amendment offered by the Senator from Texas is an outstanding amendment. It moves us a little step closer toward a free trade negotiated agreement between Mexico and the United States, and it compliments President Bush and President Salinas.

Senator GRAMM has worked for a long time in this area to be sure that these two nations have the optimum environment, if we want to call it that, to work toward a free trade agreement. I have worked in this area on the environment for some time, and I am pleased to have the ability to make some minor modifications to the amendment of the Senator from Texas.

This is all the perfecting amendment does. It clarifies the trade relationships between the United States and Mexico with a few different words as to what is included and the amount of the trade that is there, and my statement lays that out in some detail, the tremendous growth of trade.

It adds a provision on the improvement of the government of President Salinas in cooperation on the antinarcotics effort. It has been a long, long time that this Senator has stood on the floor to say that Mexico is doing the right thing, not totally and not everything that we want, but we cannot expect a neighbor to do everything we want.

But, indeed, this administration and Mexico has moved in the right direction in bringing to a conclusion the Camarena murder conviction in that country, cooperating with our Justice Department, with the trial that is going on now in the United States, and several other major what I consider significant changes in the attitude of the Mexican Government toward the cooperative effort on drugs. This adds reference to that.

It also clarifies the critical role, having been here with the free trade agreement that we went through with Canada and the United States, that Congress should play in the formulation of such an agreement. For these two heads of state, as distinguished as they are, both President Bush and President Salinas, not to work closely with the Finance Committee—and other committees that have an interest in this and, hopefully, Senators along the border and other Senators who have trade items that have passed to and from their State and Mexico—would be a mistake. And the reason I say it would be a mistake is it would only cause a problem in getting such a treaty ratified here if and when, and I believe it will occur, such a treaty is entered into.

My amendment hopes to clarify that it is the intent of the Senate to encourage the President and the administration to work very closely with the Congress, both the House and the Senate, as they formulate and put together a treaty. I only hope that this is done soon. I realize it is not an easy project to put together such an agreement, and it will not be done, needless to say, in the calendar year 1990. But in 1991, the beginning of the first year of the last decade of this century, we should have a trade agreement negotiated with good faith on both sides. Both parties want the trade agreement now, and with the cooperation of the Congress, we could do that next year. That is what this amendment from the Senator from Texas is all about, and that is what my perfecting amendment is all about.

I thank the Senators for their assistance.

Mr. THURMOND. Mr. President, I understand Senator PACKWOOD may want to look at this amendment, and we hope to have it cleared.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I want to thank my distinguished colleague from Arizona for his very nice remarks and return the compliments to him, in that he worked hard. I worked intimately with Senator DECONCINI with respect to our law enforcement, the drug problem and everything else of that kind, and hand-in-glove with Mexican-American affairs.

I urge the adoption of the perfecting amendment and thereafter the adoption of the amendment, as perfected, unless there is further debate. I understand it has been cleared.

Mr. THURMOND. Mr. President, Senator PACKWOOD has approved this, so we can go forward.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 2213) was agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment offered by the Senator from South Carolina for the Senator from Texas?

The question is on agreeing to the amendment.

The amendment (No. 2212), as amended, was agreed to.

Mr. HEINZ. Mr. President, in many ways it is tragic that we have to once again debate this issue. It is tragic because of the tremendous human cost of our delays and failure to enact this bill. Since 1980, more than 400,000 jobs have been lost in the textile and apparel industry and more than 70,000 have been lost in footwear. Many, if not most, of those jobs were filled by women and minorities, including immigrants, trying to break into our economy. Those people badly needed those jobs, and it is precisely that segment of our population that is in the greatest need of our attention.

Too often when we debate these economic issues we deal with them in abstract policy terms and forget that the lives and livelihoods of real people are involved. If we abandon this industry, we do not just abandon its lobbyists and executives, we abandon its hundreds of thousands of workers. Without question, they deserve better than that, and the country deserves better than that.

That is why, Mr. President, I once again wish to express my support for the Textile, Apparel, and Footwear Trade Act, legislation which I have supported since its first introduction in 1985. This bill sets orderly limits on the foreign imports which have damaged three important American industries. The textile, apparel, and footwear industries are engaged in a major struggle to survive America's trade crisis. Since 1980, textile and apparel imports have grown at an annual rate of 12 percent, far greater than the growth objectives of the Multifiber Arrangement which set a ceiling of 6 percent annual import growth, and far in excess of the 1-percent average growth of the U.S. market during that period. This uncontrolled growth of textile and apparel imports has outpaced the growth of the domestic market, resulting in market disruption, job losses, curtailed production, and plant closings.

President Reagan promised as a candidate in 1980 to limit growth in textile imports to the growth in domestic consumption. He reaffirmed this pledge in a letter to Senator THURMOND in October 1982. Under the terms of this pledge, the deficit in textile trade should have increased from $4.7 billion in 1981 to $9.3 billion in 1987.

It is fair to state, Mr. President, that had that promise been kept, we would not be here today debating this bill. However, because of the administration's lax enforcement of the Multifiber Arrangement, the actual textile-apparel deficit has skyrocketed to $26.5 billion, which represents 26.3 percent of our annual trade deficit.

Despite these pressures, U.S. textile and apparel companies are continuing to spend billions of dollars annually to modernize and improve worker productivity. The resulting productivity increase has been nearly twice that of the rate of productivity growth for all U.S. manufacturing. Yet despite this investment and increased productivity, U.S. manufacturers continue to lose market share. Import penetration has now reached 54 percent of the U.S. textile and apparel fabric market and over 80 percent of the U.S. footwear market.

Recent data show that the market's downturn is continuing at least through the first quarter of this year. Textile profits have dropped 71 percent. Other economic indicators such as the 9-percent decrease in new orders and the 7-percent increase in factory inventory point to an alarming softening in the market.

The disaster represented by these numbers has dealt a great blow to American textile, apparel, and shoeworkers. More than 1,000 textile and apparel plants and 400 footwear plants have been closed. Despite the industry's annual $2 billion plant modernization effort, 400,000 textile and apparel jobs and 70,000 footwear jobs have been lost since 1980.

Importers and retailers have lobbied against this bill, claiming that protection of the industry would come at great expense to the consumer because of the price increases that it would cause. A special report by the Office of Technology Assessment [OTA], however, dispels the myth that there is a significant consumer price difference between imported and domestic goods. The report states:

> Even though it may cost producers only one-fifth as much to make their goods abroad, the U.S. consumer may not necessarily enjoy a similar reduction in price.

In fact, retailers typically mark up imported textiles and apparel 200 to 400 percent, compared to a 100-percent markup on similar U.S-made goods. The consumer often pays the same price for equivalent imported and domestic products. OTA found that "many imported blouses, shorts, and shirts actually cost more than their U.S.-produced counterparts."

Mr. President, I can attest to this issue personally. When the original legislation was first introduced in 1985, I looked into the pricing question in some detail and discovered that retailers sell many apparel items at established price levels, making no distinction in the origin of the item. The example I used at the time was men's dress shirts, where I obtained identical shirts made in three different countries, one of which was the United States, all sold by a major national retailer at the identical price. It is not hard to replicate this experiment in numerous other categories of apparel.

I have no doubt that the cost of the same item made in different countries is different. But that difference is absorbed by the difference in retailers' markup. The consumer seeks the same price.

It is simply not accurate to claim that consumers benefit now, or will benefit in the future, from the continuous flood of low-priced textile and apparel imports. It is the distributors and retailers who are profiting from the production of garments by poorly paid foreign laborers. The OTA report states:

> There is often a large disparity between production cost and the selling price in the United States, with much of the difference ending up in the hands of foreign and domestic shippers, wholesalers, and retailers.

Indeed, it is often the continued presence of American producers in a sector that is instrumental in keeping prices at competitive levels. The demise of American production of velveteen is a case in point. The last U.S. producer of velveteen went into bankruptcy in 1984. Within a few months, the price of imported velveteen had risen 33 percent. This example illustrates the consequences of letting American industry and its competitive potential fail in the false pursuit of lower prices today. American workers and American consumers will inevitably pay a high price for such an approach in more ways than one.

This issue also affects our national defense. Textiles apparel and footwear are essential for an adequately clothed and equipped army. The U.S. Government lists hundreds of textile-related items essential to our national defense. Numerous high-tech products are now manufactured from textiles and man-made fibers. A 1986 Defense Department report, however, found the capability of the domestic textile and apparel industries to support defense mobilization requirements seriously lacking. Diminishing sources in the textile industry have seriously affected its production base. This trend was reported as directly related to foreign competition. DOD also concluded in 1985, that during a period of only limited military mobilization, there would not be an adequate supply of footwear.

Mr. President, this legislation will help to reverse the U.S. role as the dumping ground for the world's textile and apparel exports. The OTA report concludes that the United States is:

absorbing a large share of the world's textile and apparel exports, at the expense of its domestic industry.

The United States is hit by developing nations in three ways: Import protection, export subsidies, and low wages. OTA found that developing nations frequently couple export subsidies and import protection to promote their textile industries.

Developing nations want their growing textile and apparel markets with their own countries for themselves. * * * Many countries ban imports altogether. * * * Beyond import restrictions, foreign trade is also influenced by the substantial government subsidies that many nations provide their textile industries. When these conditions are combined with wages that are a fraction of those paid to U.S. workers, it is extremely difficult for U.S. textile and apparel producers to compete in their own domestic market.

I urge all Senators to support this bill. If import growth is not slowed, future investment in these industries will be sharply curtailed, leading to a loss in competitiveness and the continued liquidation on an industry which is a major element of U.S. manufacturing.

This is a responsible piece of legislation. It properly addresses the criticisms that were made of the previous textile bill, and I think there is little question that it is largely possible to implement this bill consistent with our international obligations. Its global quota system does not single out countries or regions, and it allows us to honor existing agreements through its exemption of Canada and Israel. And, in order that we may fully develop the Caribbean Basin initiative, those countries are guaranteed their 1989 market share.

As I have said, Mr. President, if the Multifiber Arrangement had been properly enforced, we would not be here today debating this issue. Likewise, if we had been able to override the President's vetoes, we would not be here today. Each of those failures has added thousands of workers to the unemployment lines and further jeopardized the viability of this critical industry. This year I urge an overwhelming vote for this bill so that we can enact it, revitalize the industry, and put this issue behind us.

Mr. HOLLINGS. Mr. President, I was informed by the Senator from Texas that other amendments will not be offered. That takes care of all of our amendments under the unanimous-consent agreement. We have completed the amendments on the textile bill save the votes tomorrow, and final passage, hopefully.

I thank the chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 1990 FARM BILL

Mr. BOREN. Mr. President, the Senate will soon be debating the 1990 farm bill. Several of my colleagues have expressed their intention to offer an amendment which would establish a means test that would limit eligibility for Federal farm programs. Proposals being discussed would not allow agricultural producers with gross sales of over $500,000 to participate in commodity programs.

I understand the initial, emotional appeal to this sort of proposal. The proponents of this amendment will argue that the programs will still exist to support the family farmer, the fat-cat corporate farmer will be thrown out of the program, and the Government will save millions. As a long-time supporter of the family farmer, I feel I must point out the several flaws in this amendment that is advanced in their name.

First, tying the means test to gross sales makes no sense. It is very possible for a livestock producer to gross $500,000 annually while netting less than the annual wage of a factory worker, bus driver, and so forth.

Second, a wheat, cotton, and stocker cattle operation could exceed this eligibility limit without being a large farm. Many family-owned farms generate this amount of gross sales and cannot be called corporate.

Such an amendment would also be an administrative nightmare. Can you imagine the county USDA officials, themselves farmers, collecting the tax returns of all his neighbors?

This amendment also undermines the goals and functions of farm programs for farmers of all sizes. For example, many environmental rules and incentives are tied to commodity program benefits. If certain larger farmers are thrown out of the program, these soil and water conserving regulations will not apply to them.

I am also skeptical of the amendment's professed savings. Our farm program benefits are used to make up the difference between the market price and an established target price. If this class of farming operation is not allowed to participate, their only choice is to apply more inputs on every acre they can farm in order to maximize production. Higher production from these farms will result in lower market prices, and therefore, higher Government deficiency payments for those farmers in the program.

I have been a longtime advocate of making greater use of our agricultural productive capacity. However, I believe this amendment would only result in the disorderly, self-perpetuating destruction of farm programs.

Mr. President, I hope my colleagues will think carefully about these points and give them full consideration as we debate any means test amendments. I believe they will find that an amendment that sounds like a win-win vote could actually be very damaging to American agriculture.

Mr. President, I have enclosed an article written by Dr. Michael R. Dicks and Dr. Daryll E. Ray that addresses this very subject. Dr. Dicks and Dr. Ray are highly respected economists at Oklahoma State University who have devoted a great deal of effort to the study of these policy questions. I ask unanimous consent that the text of the article be printed in the RECORD following this statement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW COMMODITY PROGRAM PAYMENT LIMITS

(By Michael R. Dicks and Daryll E. Ray)

Targeting commodity program benefits to reduce government outlays and increase the effectiveness of benefits in providing income support has become an issue in the 1990 farm bill debate. The proposed tools for targeting include the use of payment limitations or income eligibility levels. Implementation of a national value for either of these policy tools will (1) impact the effectiveness of supply control and environmental programs and policies; (2) have varying levels of adverse impacts among regions and farm en-

terprises; and (3) transfer price and income stability from taxpayers to consumers.

Several U.S. congressmen have recently taken issue with the large government "subsidies" received by commodity program participants. Representatives Dick Armey (R-Texas) and Charles Schumer (D-New York) have proposed a plan to "weed out wealthy recipients of farm subsidies". Senator Reid (D-Nevada) has proposed a similar measure in the Senate. The plan would reduce eligibility (to all farm program benefits) to farmers with adjusted gross incomes less than $100,000 per year. Other proposals would limit eligibility to farmers with less than $500,000 gross sales, persons with less than 50 percent of income from farming (Glickman D-Kansas) or reducing the payment limitation to as low as $10,000 per year has also been discussed. Targeting program benefits by setting income eligibility limits, referred to as a "Means Test", would require program participants to offer proof of income (presumably by providing ASCS personnel with income tax returns).

While setting income eligibility levels would be a novel approach in targeting program benefits, payment limitations on governmental program benefits were introduced in the Agricultural Act of 1970. This was the first attempt by Congress to target program benefits to "family farmers". The limit, under the 1970 Act was set at $55,000 per crop year but was reduced to $20,000 under the Agriculture and Consumer Protection Act of 1973 and lifted to $50,000 per farm in the Agriculture and Food Act of 1981. Under the Food Security Act of 1985, the payment limitation was set at $50,000 per farm for deficiency payments, $250,000 for Findley payments and $50,000 for CRP rental payments.

IMPACT ON SUPPLY CONTROL AND ENVIRONMENTAL PROGRAMS

Supply control and resource management objectives are currently tied to commodity program benefits. Limiting the availability of benefits will reduce the effectiveness of supply control and resource management programs and policies. Supply control objectives are attained by requiring farmers to hold a portion of their acreage out of production to be eligible to receive commodity program benefits. All commodity program benefits are tied to land retirement requirements. The Acreage Reduction Program (ARP) requires farmers to set-aside a portion of their acreage to receive a deficiency payment while the Paid Land Diversion (PLD) provides a direct payment per acre retired. Since the Food Security Act of 1985, eligibility to commodity program benefits has also been used to induce farmers to use production methods with less adverse environmental impacts. The Conservation Reserve Program (CRP) provides payments to farmers for retiring highly erodible, fragile or environmentally sensitive acreage, while Conservation Compliance (CC), Sodbuster, and Swampbuster require producers to protect fragile soils and wetlands as a condition to receiving commodity program benefits. Thus, taxpayers are paying farmers to maintain a certain level of excess capacity and reduce the level of negative production externalities.

IMPACTS OF PAYMENT TARGETS WILL VARY

The current set of commodity programs attempts to clear the market at an acceptable price to farmers while guaranteeing a cheap and adequate supply of food to consumers. The use of income eligibility levels in addition to the current set of policies would create a competitive disadvantage for larger farmers. For instance, the Findley amendment establishes a price below the basic loan rate to insure competitive exports. The Findley payment has a payment limit of $250,000 while the deficiency payment limit is $50,000. The increased marketings associated with the Findley amendment will put downward pressure on prices and enable higher cost producers within the income eligibility level to receive a higher price than low cost, high income producers. Under these circumstances the lower cost, high income producer would be subject to greater financial stress (increased likelihood of failure) than higher cost, low income producers. However, payment limits that restrict either absentee owners or high income producers will place the burden of supply control and environmental regulation on the lower income producer, the very producer the targeting scheme is attempting to aid.

Nearly 32 percent of U.S. crop sales are attributable to farms with gross sales exceeding $500,000. These farms represent 1.7 percent of all farms and receive just more than 10 percent of government payments. Assets of nearly $2.1 million are used by these large farms to generate an average $1.1 million in sales with $830,000 cash operating expenses. Returns to land and management averaged $270,000 (including government payments). These high income farmers operate an average 2,549 acres, half of which is rented. Eliminating these large farms from program eligibility will severely constrain the ability of current commodity programs in controlling supply or adverse environmental consequences from agricultural production.

A national payment limitation will tend to favor specific regions, enterprises, be less effective when market prices are high or yields are low and more effective when market prices are low or yields are high. Table 1 illustrates the maximum number of acres of wheat which could be farmed and receive a total $50,000 in deficiency payments under alternative program yields and deficiency payment rates. The total farm size would be greater than the acreage farmed because of the ARP set-aside requirement, and, actual yields are generally greater than the program yield.

A wheat farm in southeastern Washington may typically have a program yield of 60 bushels per acre. This farm would reach the $50,000 payment limit by farming 833 acres if the deficiency payment rate was $1.00. However, a western Oklahoma farm with a program yield of 30 could farm 1667 acres before reaching the payment limit with a $1.00 deficiency payment rate. However, the Oklahoma wheat farm also producing beef could have gross sales in excess of $500,000 making it ineligible to receive commodity program benefits under income eligibility limits.

PAYMENT TARGETING WILL TRANSFER RISK TO CONSUMER

The use of government payments to maintain excess capacity in agriculture is a form of progressive tax, insuring consumers a constant and cheap supply of food. Without this excess capacity, food supplies and prices would be highly volatile and consumers would risk periods of high prices. Because the poor consumer uses a larger share of total income to purchase food, national policy which transfers risk from taxpayers to consumers is a form of regressive tax. Limiting commodity program benefits to farmers in a certain economic class will reduce the role of government in maintaining excess capacity and increase price instability.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5229. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes; and

H.R. 5241. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that pursuant to the provisions of section 204 of Public Law 98-459, the Speaker reappoints as members of the Federal Council on Aging on the part of the House the following persons from the private sector: Mr. Raymond Raschko of Spokane, WA, and Mr. Virgil S. Boucher of Peoria, IL.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5229. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes; to the Committee on Appropriations.

H.R. 5241. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes; to the Committee on Appropriations.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4872. An act to establish the National Advisory Council on the Public Service.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 2617. A bill to amend the Public Health Service Act to make various improvements in existing scholarship and loan repayment programs, and for other purposes (Rept. No. 101-370).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2167. A bill to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act (Rept. No. 101-371).

● Mr. McCAIN. Mr. President, S. 2167 is a bill to reauthorize the tribally controlled community colleges in America. It also contains provisions to help the colleges operate more effectively and to allow the colleges to benefit more fully from the tribal college endowment fund. In addition, the bill provides for an expansion of the previously authorized gifted and talented demonstration centers to serve Alaska Natives, Guamanians, and American Samoans.

I want to express my thanks to the cosponsors of this legislation, Senators INOUYE, DASCHLE, CONRAD, BURDICK, MURKOWSKI, DECONCINI, and GORTON.

The 22 tribally controlled community colleges now enroll about 16,000 young people and adults, most of them residing on reservations remote from other opportunities to obtain postsecondary education. In these colleges, they are studying standard academic subjects, and nursing, business administration, and other subjects leading to associate degrees, and in two of the colleges, bachelor of arts or science degrees, and in one, a master of science degree. In addition to being close to home geographically, these colleges are close to the values and traditions of the tribes which have founded and operate them.

What is too little known is that the tribally controlled community colleges also enroll non-Indians, and that non-Indians make up perhaps 10 percent of all students enrolled. Absent this opportunity, these non-Indians in rural areas would probably not be enrolled in any academic or vocational coursework. State institutions are just too distant from their homes.

Only one of the colleges is located in my home State. It is the Navajo Community College, the oldest and largest of the colleges. The other 21 are located in 9 other Western or Midwestern States—Montana, South Dakota, North Dakota, California, Michigan, Minnesota, Nebraska, Washington, and Wisconsin.

I am pleased that the Select Committee on Indian Affairs adopted my bill unanimously, for it has the unequivocal support of the tribal colleges themselves. Based upon the testimony at our hearing in Bismarck, ND, I anticipate no objection to the bill from the administration. I want to express my appreciation to my distinguished colleague, Senator CONRAD, for his many contributions to this bill, including his service in conducting the hearing in Bismarck.

In closing, I must note that the colleges have an additional need, which is beyond the authority of the select committee to meet, and that need is for a level of funding approaching the level authorized, but never appropriated. The level authorized is $5,820 per Indian student count, but this year the appropriation level allows less than $2,200 per student. I am not unmindful of the many demands made of the Appropriations Committee for funds, but I am hopeful that the pressing need of the tribally controlled community colleges for increased funding can be recognized and met in the fiscal year 1991 budget.●

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself and Mr. PELL):

S. 2857. A bill to amend the Public Health Service Act to reauthorize certain Institutes of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. KASSEBAUM (for herself, Mr. GORTON, Mr. WILSON, and Mr. MURKOWSKI):

S. 2858. A bill to amend the Civil Rights Act of 1964 to strengthen civil rights laws that ban discrimination in employment, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself and Mr. PELL):

S. 2857. A bill to amend the Public Health Service Act to reauthorize certain Institutes of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTES OF HEALTH REAUTHORIZATION ACT

● Mr. KENNEDY. Mr. President, today I am introducing the National Institutes of Health Reauthorization Act of 1990. This legislation will reauthorize the National Cancer Institute, the National Heart, Lung, and Blood Institute, the National Library of Medicine, the National Research Service Award program, the National Center for Biotechnology Information, and the Congressional Biomedical Ethics Board. To reverse the damaging effects of a decade of declining funding, the bill contains higher levels of support over the next 4 years for each of the programs to be reauthorized.

The National Cancer Institute and the National Heart, Lung, and Blood Institute are the largest programs at the National Institutes of Health. These two Institutes continue to make remarkable progress in medical research, despite serious reductions in their support. Last spring, for example, two scientists at the NCI successfully introduced new genetic material into human cells, helping the patient's immune system fight against cancer and gaining significant knowledge for development of the new gene therapies. Research supported by the NHLBI is reducing the rate of heart disease. In the near future, Institutes will initiate important new studies, including research on heart disease in women and the management of asthma in children.

Inadequate funding of the NIH also threatens the structure of biomedical research nationwide. The cuts of the last decade are having their worst effect on new and competing research grant applications.

In 1979, the NIH funded 51.6 percent of the research grants approved by peer review. From 1985 through 1988, the rate was between 35 and 38 percent, a level that still permitted support for the most promising investigations and some examination of unexplored areas. It was a rate that permitted the United States to maintain its leadership position in biomedical research.

But in 1989, the rate fell to 29 percent, and in 1990, it dropped even further to 24 percent.

This year, at the Cancer and Heart, Lung and Blood Institutes, officials are able to fund only one out of five of the already approved and most promising research proposals. The other proposals will go unfunded—but they are also excellent and high priority research, the most promising work of our brightest investigators. In fact, there is very little difference between the proposals which do receive financial support and those that do not. The credibility of the peer review system itself is at stake. When that system is weakened, all biomedical research is weakened.

This unsatisfactory situation is deeply affecting the lives of our Nation's most dedicated investigators. Many of the young scientists who fail to receive research grants, even though their projects are approved, will have little choice but to leave the field of biomedical research. Years of training have been invested in them, but their contributions will be lost. Similarly, experienced scientists who have been consistently supported for years will be forced to close their lab-

oratories and high quality work with great promise for the future will be lost.

Even scientists able to secure funds are now finding themselves faced with repeated downward negotiations, a euphemism for research cuts. That means layoffs of research workers and scaling down of research projects, with demoralizing effect on many of our best scientists.

I received a letter recently from Dr. Sebastiano Gattoni-Celli at the Massachusetts General Hospital Cancer Center. The support Dr. Gattoni-Celli has received for the past 5 years will not be renewed, and he writes:

In the last 2 to 3 years the ability of the NIH to support new research grants has plummeted, reaching a historic low. One predictable consequence * * * has been the drop in the percentage of research grants which are funded. * * * Such percentage is far too low and will allow for the "survival" of only about 50 percent of biomedical academic scientists presently active in this country.

* * * I regret not having pursued a dual career as both a clinician and a scientist: by now I would not be as good a scientist as I think I am, but I would not worry about my financial future. I always believed in public service as opposed to financial success; in retrospect I have to admit that I was wrong. After many years of productive research in some of the most prestigious academic institutions, all of a sudden my research funding is being cut off. I am a typical example of what is happening to federally funded biomedical research in this country. I am helplessly watching the demise of my scientific career as well as that of numerous colleagues with unquestionable credentials. It takes an average of 10 years to train professionals with our skills and competence. It is taking a few months to literally destroy this enormous accumulation of knowledge and expertise.

Dr. Gattoni-Celli is now considering a position with a foreign biochemical company.

All Members of the Senate can probably duplicate this story among their constituents. The truth is, we are paying lipservice to medical research, but we are discouraging today's students from pursuing careers in the sciences. The facts do not lie. We have witnessed a decline in the number of students finishing doctoral level training over the last decade.

The Nation's program of biomedical research is at risk of being damaged beyond repair, and our leadership role in biomedical research and biotechnology lost to other nations.

We can no longer keep testing the boundaries to see how much deeper we can cut. Needed research is being left undone. Research projects are being shut down. Our brightest students are not selecting research careers. The educational structure that supports research is being damaged. We need to send a clear message of support and renewal that our commitment to biomedical research is still a major priority of our society.

This bill sends that message. It will reauthorize the National Cancer Institute at $2.25 billion a year and the Heart, Lung, and Blood Institute at $1.65 billion. This will permit these institutes to return their funding for new and competing grants to the 1988 level of 35 percent. It would have permitted Dr. Gattoni-Celli's research to continue. It is a level that will protect investigators from negotiated reductions that repeatedly threaten to compromise the quality of their work.

This bill will also reauthorize the National Research Service Award Program, which provides training grants for scholars across the Nation. The funding of $415 million, will support a total of 17,000 training grants to individuals and institutions, an increase of 5,000 individual and institutional grants for both NIH and ADAMHA.

In 1989, the Senate appropriated funds to support 11,600 training slots for 1990. We must move ahead to support the training of new investigators at a level that assures a continuing supply of scientists, not this steady decline in doctoral level graduates over the last decade. These graduates are our next generation of researchers and the teachers of researchers. Their loss is irreplaceable. We must move quickly to rebuild this valuable component of our national resource pool.

There is no better investment in our future than the investments we made in health research. As former Surgeon General Everett Koop, recently wrote, between 1900 and 1975, every dollar invested by the Federal Government in health research brought a return of $13. Vaccines for polio, mumps, measles, and rubella, save us more than $2 billion in expenses each year. We spend $1.5 billion each day for care of the sick, or $600 billion each year. Yet we spend only 3 percent of our health care dollars on research and the training of researchers.

Humanitarian concern for the ill goes beyond national boundaries. Under this legislation, we will share our knowledge with the emerging democracies in Eastern Europe. The reauthorization for the National Library of Medicine provides for information transfers to these countries, as well as expanded outreach within our own country. We can help these nations by sharing the fruits of the work at the National Institutes of Health on a frequent basis, in order to develop a dialog between their scientists and our own and to encourage new levels of mutual understanding. The bill authorizes $5 million for the purchase and installation of electronic equipment and onsite training of personnel to facilitate information transfers to research centers in Eastern European countries.

The National Library of Medicine received $13 million in appropriations for outreach programs in 1990 through the Medical Library Assistance Act. A prestigious panel chaired by Dr. Michael DeBakey has recommended a substantial increase in the availability of the Library's information system. It will make available to every physician in the Nation who has access to a personal computer the most current knowledge on the origins and treatment of disease. The bill supports this program and other NLM programs with an authorization of $35 million. Improved medical information services can diminish suffering and save many times their cost through earlier diagnosis and more up-to-date treatment.

The Center for Biotechnology Information was established in 1988, and it has demonstrated its usefulness in disseminating current information in molecular biology. The impressive advances in this field, particularly in the capacity to alter DNA, require the expansion of computer systems for entering, storing, analyzing, and transmitting this information. We need to develop new ways to link existing databases, create new databases, and provide integrated computer systems that will furnish easy-to-use access to these databases. The bill authorizes $12 million for the Center for Biotechnology Information in 1991, and such sums as are needed in fiscal years 1992 through 1994.

The bill also deals with several technical issues, the exemption of the NLM from certain provisions of the Paperwork Reduction Act, the addition of the Alcohol, Drug Abuse, and Mental Health Administration to the membership of the National Commission on Sleep Disorders Research and the extension of the deadline for the Commission's final report, and the requirement of a biennial report on carcinogens rather than an annual report.

The bill also reauthorizes the Congressional Biomedical Ethics Board at $2.5 million for 1991, and such sums as are needed in 1992 through 1994. It also continues support for the Alzheimer's Disease Registry.

Our failure over the past decade to support biomedical research is shortsighted. According to a recent survey, the American people rank health research as the first priority for congressional action and defense spending as the last. The message is clear. Citizens want their tax dollars invested in health, and Congress must respond.

I look forward to bringing this legislation before the Senate in the next few weeks, and to its enactment into law. Few priorities we face are more important than restoring the integrity of America's medical research.

I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2857

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Institutes of Health Reauthorization Act of 1990".

SEC. 2. NATIONAL CANCER INSTITUTE AND NATIONAL HEART, LUNG, AND BLOOD INSTITUTE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 408(a) of the Public Health Service Act (42 U.S.C. 284c(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "$1,500,000,000" and all that follows through the period in subparagraph (A), and inserting in lieu thereof "$2,093,400,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994."; and

(B) by striking out "$100,000,000" and all that follows through the period in subparagraph (B) and inserting in lieu thereof "such sums as may be necessary in fiscal year 1990, $156,600,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1994."; and

(2) in paragraph (2)—

(A) by striking out "$1,100,000,000" and all that follows through the first period in subparagraph (A), and inserting in lieu thereof "$1,498,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994."; and

(B) by striking out "$100,000,000" and all that follows through the period in subparagraph (B) and inserting in lieu thereof "such sums as may be necessary in fiscal year 1990, $151,500,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1994.".

(b) RESOURCE PROGRAM.—Section 421(b) of such Act (42 U.S.C. 285b-3(b)) is amended by inserting immediately after paragraph (4) the following new paragraph:

"(5) Shall, in consultation with the advisory council for the Institute, support appropriate programs of training and education, including continuing education and laboratory and clinical research training.".

SEC. 3. NATIONAL LIBRARY OF MEDICINE.

Section 469 of the Public Health Service Act (42 U.S.C. 286b) is amended by striking out "$14,000,000" and all that follows through the first period and inserting in lieu thereof "$40,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.".

SEC. 4. NATIONAL RESEARCH SERVICE AWARDS.

Section 487(d) of the Public Health Service Act (42 U.S.C. 288(d)) is amended by striking out "$300,000,000" and all that follows through the first period and inserting in lieu thereof "$415,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.".

SEC. 5. PAPERWORK REDUCTION.

Section 465(d)(2) of the Public Health Service Act (42 U.S.C. 286(d)(2)) is amended—

(1) by striking out "Rules" and inserting in lieu thereof "Notwithstanding any other provision of law, rules";

(2) in subparagraph (B), by striking out "or" at the end thereof;

(3) in subparagraph (C), by striking out the period and inserting in lieu thereof "; or"; and

(4) by adding at the end thereof the following new subparagraph:

"(D) under licensing arrangements that provide for quality control and full recovery of access costs.".

SEC. 6. NATIONAL COMMISSION ON SLEEP DISORDERS RESEARCH.

Section 162 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) is amended—

(1) in subsection (h), by inserting "and the Alcohol, Drug Abuse and Mental Health Administration" after "National Institutes of Health"; and

(2) in subsection (i), by striking out "18 months" and inserting in lieu thereof "24 months".

SEC. 7. TRANSFER OF PROVISIONS.

(a) IN GENERAL.—Section 12 of the Health Research Extension Act of 1985 (42 U.S.C. 285e-2 note) is—

(1) transferred to subpart 5 of part C of title IV of the Public Health Service Act (42 U.S.C. 285e et seq.);

(2) redesignated as section 445G; and

(3) inserted after section 445F (42 U.S.C. 285e-8).

(b) AVAILABILITY OF APPROPRIATIONS.—With respect to amounts made available in appropriations Acts for the purpose of carrying out the program transferred by subsection (a) to the Public Health Service Act, such subsection shall not be construed to affect the availability of such funds for such purpose.

(c) REAUTHORIZATION AND TECHNICAL AMENDMENT.—

(1) REAUTHORIZATIONS.—Subsection (c) of section 445G of the Public Health Service Act (as so redesignated) is amended to read as follows:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (a), $8,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1994.".

(2) TECHNICAL AMENDMENT.—Section 445G(a) of such Act (as so redesignated) is amended by striking out "and its incidence in the United States".

SEC. 8. NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION.

Section 478(c) of the Public Health Service Act (42 U.S.C. 286c(c)) is amended—

(1) by striking out "$8,000,000" and inserting in lieu thereof "$10,000,000";

(2) by striking out "1989" and inserting in lieu thereof "1991"; and

(3) by striking out "fiscal year 1990" and inserting in lieu thereof "each of the fiscal years 1992 through 1994".

SEC. 9. BIENNIAL REPORT ON CARCINOGENS.

Section 301(b)(4) of the Public Health Service Act (42 U.S.C. 241(b)(4)) is amended by striking out "an annual" and inserting in lieu thereof "a biennial".

SEC. 10. REAUTHORIZATION OF BIOMEDICAL ETHICS BOARD.

Section 381(e) of the Public Health Service Act (42 U.S.C. 275(e)) is amended—

(1) by striking out "$2,000,000" and all that follows through "1989, and"; and

(2) by inserting after "1990" the following: ", $2,500,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1994".

SEC. 11. FETAL RESEARCH.

Section 498(c) of the Public Health Service Act (42 U.S.C. 289g(c)) is amended—

(1) by striking out paragraph (1); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

SEC. 12. ESTABLISHMENT OF FOUNDATION.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new part:

"PART H—NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH

"SEC. 499A. NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish a nonprofit corporation, to be known as the National Foundation for Biomedical Research (hereafter referred to in this section as the 'Foundation'), that shall not, except for the purposes of the Ethics in Government Act and the Technology Transfer Act, be an agency of the United States Government.

"(2) INCORPORATION.—The Secretary, in cooperation with the members of the Board of Directors under subsection (b)(4), shall incorporate the Foundation.

"(3) NONPROFIT STATUS.—The Foundation shall be considered to be a corporation under section 501(c) of the Internal Revenue Code of 1986, and shall be subject to the provisions of this section.

"(b) BOARD OF DIRECTORS.—

"(1) COMPOSITION.—The Board of Directors of the Foundation (hereafter referred to in this section as the 'Board') shall be composed of—

"(A) not to exceed nine voting members to be appointed by the ex officio members of the Board in accordance with this subsection;

"(B) the Director of the National Institutes of Health, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, and the Surgeon General who shall be ex officio members; and

"(C) five initial members to be appointed by the ex officio members of the Board described in subparagraph (B), and the Chairperson appointed under paragraph (2), of which—

"(i) two such members shall represent the general biomedical field and one shall represent the general biobehavioral field; and

"(ii) two such members shall represent the general public.

"(2) CHAIRPERSON.—The ex officio members of the Board as described in subparagraph (B) of paragraph (1) shall appoint an individual to serve as chairperson of the Board.

"(3) TERMS AND VACANCIES.—

"(A) IN GENERAL.—The term of office of each member of the Board appointed under subparagraph (C) of paragraph (1) shall be 5 years, except that—

"(i) any individual appointed to fill a vacancy that has occurred prior to the expiration of the term for which such individual's predecessor was appointed, shall be appointed for the remainder of such predecessor's term; and

"(ii) the terms of office for the initial members of the Board shall expire as determined by the chairperson and the ex officio members of the Board at the time of the appointment.

"(B) SUBSEQUENT APPOINTMENTS.—Individuals appointed to the Board at the expiration of the term of a member shall be selected by a majority vote of all Board members at the last meeting prior to the expiration of the term of the member to be replaced.

"(C) EFFECT OF VACANCY.—A vacancy on the Board shall not affect its powers, and shall be filled in the same manner in which the original designation or appointment was made.

"(4) INCORPORATORS.—The initial members of the Board shall serve as incorporators and take whatever actions necessary to incorporate.

"(5) COMPENSATION.—Members of the Board appointed under subparagraph (C) of paragraph (1) shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Board, as set forth in the bylaws issued by the Board.

"(c) EXECUTIVE DIRECTOR.—

"(1) IN GENERAL.—The Foundation shall have an Executive Director who shall be appointed by the Board and shall serve at the pleasure of the Board. The Executive Director shall be responsible for the day-to-day operations of the Foundation and shall have such specific duties and responsibilities as the Board shall prescribe.

"(2) COMPENSATION.—The rate of compensation of the Executive Director shall be fixed by the Board.

"(d) DUTIES.—The Foundation shall—

"(1) provide funding for the support of the endowed scientists within the organizational structure of the intramural research programs of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration;

"(2) recruit senior biomedical scientists to hold scientific positions as described in paragraph (1);

"(3) support the staffing, equipment, and space requirements for the research undertaken by the scientists described in paragraph (2);

"(4) support the stipends and research expenses of those individual appointed under the National Institutes of Health Scholars program, who shall be appointed for 6-year terms;

"(5) negotiate a memorandum of understanding with the Director of the National Institutes of Health and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration that specifies that Foundation scientists and personnel shall observe the ethical and procedural standards regulating research and research findings, including publications and patents, that are followed by scientists and personnel at the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration, including the Ethics in Government Act and the Technology Transfer Act; and

"(6) conduct biennial audits of the financial condition of the Foundation.

"(e) POWERS.—In order to carry out it's duties under subsection (d), the Foundation is authorized to—

"(1) operate under the direction of its Board;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for one or more officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) hire, promote, compensate, and discharge officers and employees of the Foundation;

"(5) prescribe by its Board its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general operations are to be conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

"(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this section;

"(7) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

"(8) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subtitle;

"(9) establish a mechanism for the selection of candidates, subject to the approval of the Director of the National Institutes of Health or the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, for the endowed scientific positions within the organizational structure of the intramural research program of the National Institutes of Health and candidates for participation in the National Institutes of Health Scholars program;

"(10) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

"(11) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

"(12) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation;

"(13) enter into such other contracts, leases, cooperative agreements, and other transactions as the Executive Director considers appropriate to conduct the activities of the Foundation;

"(14) appoint other groups of advisors as may be determined necessary from time to time to carry out the functions of the Foundation; and

"(15) exercise other powers as set forth in this section, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this subtitle.

"(f) ADMINISTRATIVE CONTROL.—No participant in the program established under this part shall exercise and administrative control over any Federal employee.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as the Secretary determines may be necessary to carry out this part, except that not more than $200,000 shall be appropriated to commence the initial operations of the Foundation, including the appointment of the Board under subsection (b). In the event that adequate amounts are not appropriated under this section, the Secretary shall make available not to exceed $200,000 from funds within the Department of Health and Human Services that are otherwise unobligated.

"(h) REPEALER.—The provisions of this part shall be repealed on the date that occurs 5 years after the date of enactment of this part, except that this subsection shall not take effect if the Foundation has not yet been incorporated under subsection (a)(2) by such date.".

SEC. 13. GENERAL PROVISIONS.

Section 405(b)(1) of the Public Health Service Act (42 U.S.C. 284(b)(1)) is amended—

(1) in subparagraph (K), by striking out "and" at the end thereof;

(2) in subparagraph (L), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding immediately after subparagraph (L) the following new subparagraph:

"(M) may, notwithstanding any other provision of law, in disseminating information pursuant to this section and other laws, enter into licensing agreements that provide for quality control and the full recovery of access costs.".

NATIONAL INSTITUTES OF HEALTH REAUTHORIZATION—BILL SUMMARY

Sec. 1 reauthorizes the National Cancer Institute for four years at $2,093,400,000 in 1991 and such sums as necessary in the remaining years. Provides support for the Institute's Control programs in the amount of $156,600,000 in 1991, such sums for 1992-94.

Sec. 2 reauthorizes the National Heart, Lung, and Blood Institute for four years at $1,498,500,000 in 1991 and at such sums in the remaining years. Provides support for the Institute's Control program in the amount of $151,500,000 in 1991; such sums for 1992-4.

This section also authorizes the National Heart, Lung, and Blood Institute to support training and education.

Sec. 3 reauthorizes the National Library of Medicine Medical Library Assistance program in the amount of $35,000,000 and initiates a new program of outreach to Eastern European scientists for $5,000,000 in 1991 and for such sums as necessary 1992-94.

Sec. 4 reauthorizes the National Research Service Award for four years at $415,000,000 in 1991 and at such sums in the out years.

Sec. 5 amends the Public Health Service Act to exempt the National Library of Medicine from certain provisions of the Paperwork Reduction Act.

Sec. 6 adds the Alcohol, Drug Abuse, and Mental Health Administration to the membership of the National Commission on Sleep Disorders Research and grants a 6 month's extension to the deadline for the submission of the Commission's final report.

Sec. 7 transfers the legislation establishing the Alzheimer's Disease Registry to the Public Health Service Act from the Health Research Extension Act of 1985 and reauthorizes the Registry at $8,000,000 in 1991 and for such sums in 1992-94.

Sec. 8 reauthorizes the National Center for Biotechnology Information at $10,000,000 in 1991 and for such sums in 1992-94.

Sec. 9 makes the annual report on carcinogens a biennial report.

Sec. 10 reauthorizes the Biomedical Ethics Board. The Board is reauthorized at $2,500,000 in 1991 and for such sums in 1992-94.

Sec. 11 establishes a National Foundation for Biomedical Research. The Foundation will solicit support 10-12 endowed chairs for senior investigators and a smaller program for visiting mid-career scientists. This section was previously reported out of Committee in October of 1989 as S. 1391.●

By Mrs. KASSEBAUM (for herself, Mr. GORTON, Mr. WILSON, and Mr. MURKOWSKI):

S. 2858. A bill to amend the Civil Rights Act of 1964 to strengthen civil rights laws that ban discrimination in employment, and for other purposes; to the Committee on Labor and Human Resources.

(The statements of Senators on this legislation appear earlier in today's RECORD.)

ADDITIONAL COSPONSORS

S. 384

At the request of Mr. CHAFEE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 384 a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 1933

At the request of Mr. HEINZ, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1933, a bill to provide for the minting of coins in commemoration of the bicentennial of the death of Benjamin Franklin and to enact a fire service bill of rights and programs to fulfill those rights.

S. 2051

At the request of Mr. HEFLIN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2051, a bill to amend the Social Security Act to provide for more flexible billing arrangements in situations where physicians in the solo practice of medicine or in another group practice have arrangements with colleagues to "cover" their practice on an occasional basis.

S. 2356

At the request of Mr. SYMMS, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2356, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 2584

At the request of Mr. BOREN, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2584, a bill to amend the Internal Revenue Code of 1986 to provide that the deduction for State and local income and franchise taxes shall not be allocated to foreign source income.

S. 2600

At the request of Mr. KENNEDY, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2600, a bill to combat homelessness through the establishment of housing-based family support centers, through the provisions of housing-based services to elderly individuals with chronic and debilitating illnesses and conditions, through the provision of residence-based outpatient mental health services, and through the use of grants for the improvement of community development corporations, and for other purposes.

S. 2645

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 2645, a bill to improve the health status of the urban Indian population and to enhance the quality and scope of health care services, disease prevention activities, and health promotion initiatives targeted at the urban American Indian population.

S. 2712

At the request of Mr. GRAHAM, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2712 a bill to establish a Financial Services Crime Division in the Department of Justice.

S. 2750

At the request of Mr. SASSER, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 2750 a bill to amend the Federal Property and Administrator Services Act of 1949 to authorize the Administrator of General Services to make available for humanitarian relief purposes any nonlethal surplus personal property, and for other purposes.

S. 2785

At the request of Mr. D'AMATO, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2785, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide a lump sum payment to public safety officers who become totally and permanently disabled as a result of a catastrophic injury sustained in the line of duty.

S. 2787

At the request of Mr. D'AMATO, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 2787, a bill entitled the "Iraq International Law Compliance Act of 1990."

S. 2806

At the request of Mr. HEINZ, the names of the Senator from Missouri [Mr. BOND], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 2806, a bill to redesignate the Interstate Highway System as the Dwight D. Eisenhower Interstate Highway system.

S. 2813

At the request of Mr. GRAHAM, the names of the Senator from Idaho [Mr. SYMMS], and the Senator from California [Mr. WILSON] were added as cosponsors of S. 2813, a bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic games.

S. 2836

At the request of Mr. MITCHELL, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2836, a bill to deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment.

S. 2850

At the request of Mr. MCCAIN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2850, a bill to authorize demonstration projects in connection with providing health services to Indiana.

S. 2856

At the request of Mr. DOMENICI, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 2856, a bill to enhance the use of the Department of Energy facilities so as to improve the Nation's competitive posture, and for other purposes.

SENATE JOINT RESOLUTION 345

At the request of Mr. D'AMATO, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Indiana [Mr. LUGAR], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 345, a joint resolution designating August 20 throgh 26, 1990, as "National Headache and Jaw Disorders Week"

SENATE JOINT RESOLUTION 349

At the request of Mr. DECONCINI, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Pennsylavania [Mr. SPECTER], the Senator from Virginia [Mr. WARNER], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 349, a joint resolution designating October 1990, as "Italian-American Heritage and Culture Month."

SENATE CONCURRENT RESOLUTION 99

At the request of Mr. PRYOR, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Concurrent Resolution 99, a concurrent resolution expressing the sense of the Congress concerning the 25th anniversary of the Older Americans Act of 1965.

AMENDMENTS SUBMITTED

CIVIL RIGHTS ACT OF 1990

HUMPHREY AMENDMENTS NO. 2127 THROUGH 2129

(Ordered to lie on the table.)

Mr. HUMPHREY submitted three amendments intended to be proposed by him to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, as follows:

AMENDMENT NO. 2127

On page 6, insert the following immediately following line 19:

"(4) Claims alleging that systems or methods of compensation adopted or used by an employer are discriminatory do not constitute disparate impact cases under this subsection and may not be maintained under this subsection where the system or method of compensation is based on market forces, market wage levels, considerations of supply and demand, or other legitimate economic factors."

AMENDMENT No. 2128

On page 6, insert the following immediately following line 19:

"(4) Claims alleging that systems or methods of compensation adopted or used by an employer are discriminatory do not constitute disparate impact cases under this subsection and may not be maintained under this subsection."

AMENDMENT No. 2129

On page 6, delete all on lines 3 through 5 and insert the following in lieu thereof:

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against—

(A) a claim under this subsection; or

(B) a claim which is based on an employment practice or policy adopted to protect the health or safety of employees or their children, including unborn children.

MURKOWSKI AMENDMENT NO. 2130

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill S. 2104, supra, as follows:

Amend section 15 by adding:

"(d) LIMITED RETROACTIVE APPLICATION OF NEW STANDARDS.—Notwithstanding any other provision of this Act, nothing in this Act shall apply to any disparate impact case for which a complaint was filed before March 1, 1975, and for which an initial decision was rendered after October 30, 1983.".

KASSEBAUM AMENDMENT NO. 2131

(Ordered to lie on the table.)

Mrs. KASSEBAUM submitted an amendment intended to be proposed by her to the bill S. 2104, supra, as follows:

In lieu of the matter proposed to be inserted:

(a) FINDINGS.—Congress finds that additional protections and remedies under Federal law are needed to deter unlawful discrimination.

(b) PURPOSES.—The purpose of this Act is to strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion in accordance with Rule 301 of the Federal Rules of Evidence.

"(n) The term 'justified by business necessity' means that the challenged practice has a manifest relationship to the employment in question or that the respondent's legitimate employment goals are significantly served by—even if they do not require—the challenged practice or group of practices.

"(o) The term 'recipient' means an employer, employment agency, labor organization, joint labor-management committee, controlling apprenticeship or other training or retraining program, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof)."

SEC. 4. DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established only when—

"(A) a complaining party identifies a particular employment practice and demonstrates by statistical evidence that that particular employment practice causes a disparate impact on the basis of race, color, religion, sex, or national origin; and the respondent fails to demonstrate that such practice is justified by business necessity; or

"(B) a complaining party identifies a combination of two or more employment practices and demonstrates by statistical evidence that that combination of two or more employment practices causes a disparate impact on the basis of race, color, religion, sex, or national origin, and that each employment practice in such combination has contributed to the exclusion; and the respondent fails to demonstrate that such combination would not cause a disparate impact but for employment practices justified by business necessity.

"(2) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin except where permitted by 42 U.S.C. 2000e-2(i)."

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(m) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a major contributing factor for any employment practice, even though other factors also contributed to such practice."

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(1), if the respondent establishes that it would have taken the same action in the absence of any discrimination.".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(n) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice specifically required by a litigated or consent judgment or order resolving a claim of employment discrimination under this Title may not be challenged in a claim under the United States Constitution or Federal civil rights laws by a person who, at the time of the entry of such judgment or order, was an applicant for employment with an employee of the entity covered by such decree, whose interests would likely be affected by the consent decree, and who had—

"(A) actual notice that such judgment or order would likely affect the interests of such person and that later challenge by such person would be barred; and

"(B) a reasonable opportunity to challenge such judgment or order;

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government; or

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction.

SEC. 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e) is amended by adding at the end thereof the following language—

"For purposes of this section, an alleged unlawful employment practice occurs when a seniority system is adopted, when an individual becomes subject to a seniority system, or when a person aggrieved is injured by the application of a seniority system, or provision thereof, that is alleged to have been adopted for an intentionally discriminatory purpose, in violation of this Title, whether or not that discriminatory purpose is apparent on the face of the seniority provision.".

SEC. 8. PROVIDING FOR ADDITIONAL EQUITABLE RELIEF IN CERTAIN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "In fashioning remedies for an unlawful employment practice (other than an unlawful employment practice established in accordance with subsection 703(k)), the court may require the respondent to pay the complaining party an amount not to exceed $100,000 if the court finds (i) that back pay cannot be awarded with respect to that practice; (ii) that an additional equitable remedy beyond those otherwise available is needed to deter the respondent from continuing to engage in such unlawful employment practices; and (iii) that such an award is otherwise justified by the equities.

All issues in cases arising under Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e to 2000e-17) shall be heard and determined by a judge, as specified in section 706(f) of that Title (42 U.S.C. 2000e-5f).

SEC. 9. ALLOWING THE AWARD OF EXPERT FEES.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended by inserting "including expert fees) and" after "attorney's fee,";

SEC. 10. EXPANSION OF PROTECTIONS AGAINST ALL RACIAL DISCRIMINATION IN THE PERFORMANCE OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended by adding at the end thereof the following new language:

"The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of state law. This section affords the same protection against discrimination in the performance, breach, modification or termination of a contract as it does in the making of enforcement of that contract.".

SEC. 11. PROVIDING CIVIL RIGHTS PROTECTIONS TO CONGRESSIONAL EMPLOYEES.

Title VII (42 U.S.C. 2000e et seq.) is amended by adding at the end of the following new section:

"SEC. 719. CONGRESSIONAL COVERAGE.

"Notwithstanding any other provision of this title, this title shall apply to the Congress of the United States. The means of enforcing this title as the title applies to each House of Congress shall be determined by the House of Congress.".

SEC. 12. SEVERABILITY.

If any provision of the Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SPECTER (AND OTHERS) AMENDMENTS NOS. 2132 THROUGH 2135

(Ordered to lie on the table.)

Mr. SPECTER (for himself, Mr. JEFFORDS, and Mr. DANFORTH) submitted four amendments intended to be proposed by him to the bill S. 2104, supra, as follows:

AMENDMENT No. 2132

At the appropriate place add the following: It is the sense of the Senate that title VII of the Civil Rights Act of 1964, shall be interpreted in accordance with the decision of the Supreme Court of the United States in Griggs v. Duke Power Co., 401 U.S. 424 (1971).

AMENDMENT No. 2133

At the appropriate place add the following: It is the sense of the Senate that title VII of the Civil Rights Act of 1964, shall be interpreted in accordance with the decision of the Supreme Court of the United States in Griggs v. Duke Power Co., 401 U.S. 424 (1971).

AMENDMENT No. 2134

At the appropriate place add the following: It is the sense of the Senate that title VII of the Civil Rights Act of 1964, shall be interpreted in accordance with the decision of the Supreme Court of the United States in Griggs v. Duke Power Co., 401 U.S. 424 (1971).

AMENDMENT No. 2135

At the appropriate place add the following: It is the sense of the Senate that title VII of the Civil Rights Act of 1964, shall be interpreted in accordance with the decision of the Supreme Court of the United States in Griggs v. Duke Power Co., 401 U.S. 424 (1971).

METZENBAUM AMENDMENT NO. 2136

(Ordered to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the bill S. 2104, supra, as follows:

On page 1, line 3, strike out "SHORT TITLE." and all that follows through line 3 on page 19, and insert in lieu thereof the following: "SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—It is the purpose of this Act to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o) The term 'required by business necessity' means—

"(1) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), bears a substantial and demonstrable relationship to successful job performance; or

"(2) in the case of employment practices not involving selection, bears a substantial and demonstrable relationship to a compelling objective of the respondent.

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices are required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order consistent with the constitutional requirements of due process of law; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons consistent with the constitutional requirements of due process of law.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government; or

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k))—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. If compensatory or punitive damages are sought with respect to a claim arising under this title, any party may demand a trial by jury.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties, except that prejudgment interest may not be awarded on compensatory damages.".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, national origin, sex, religion, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. CONGRESSIONAL COVERAGE.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 200e et seq.) is amended by adding at the end thereof the following new section:

"SEC. 719. CONGRESSIONAL COVERAGE.

"Notwithstanding any other provision of this title, the provisions of this title shall apply to the Congress of the United States, and the means for enforcing this title as such applies to each House of Congress shall be as determined by such House of Congress.".

DOLE AMENDMENTS NOS. 2180 THROUGH 2183

(Ordered to lie on the table.)

Mr. DOLE submitted four amendments intended to be proposed by him to the bill S. 2104, supra, as follows:

AMENDMENT No. 2180

On page 16 strike all after line 18 through "(b)" on page 17, line 11.

AMENDMENT No. 2181

On page 12, strike all after line 22 through page 13, line 23.

AMENDMENT No. 2182

On page 7 strike all after line 18, through line 24 on page 10.

AMENDMENT No. 2183

On page 11 strike all after line 2 through "(b)" on line 16.

HATCH AMENDMENTS NOS. 2137 THROUGH 2179

(Ordered to lie on the table.)

Mr. HATCH submitted 43 amendments intended to be proposed by him to the bill S. 2104, supra, as follows:

AMENDMENT No. 2137

On page 10, between lines 15 and 16, insert the following:

"**Notwithstanding subparagraphs (2) (A)**, (B), or (C) of section 6 of this Act, no person shall be prohibited from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution.".

AMENDMENT No. 2138

On page 10, between lines 15 and 16, insert the following:

"Notwithstandiang subparagraphs (2) (A), (B), or (C) of section 6 of this Act, No person shall be prohibited from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

AMENDMENT No. 2139

On page 3, strike lines 5 through 16 and insert in lieu thereof the following:

"(o) The term 'required by business necessity' means manifest relationship to the employment in question or significantly serves the legitimate employment goals of safety or efficiency.".

AMENDMENT No. 2140

Strike page 6, lines 3 through 5.

AMENDMENT No. 2141

Strike page 2, lines 22 and 23.

AMENDMENT No. 2142

On page 10, after lines 4, insert the following:

" '(4) Provided that, so long as any nonparty to any action described in this subsection, in which a litigated or consent judgment or order was entered, has the right to sue an employer who was party in such action, in order to challenge the terms or implementation of such judgment or order or to seek additional relief from such employer, all nonparties to any such action shall have the same right to sue such employer.'.".

AMENDMENT No. 2143

On page 10, after lines 24, insert the following:

" '(4) Provided that, in cases where the complaining party asserts a right to equal protection of the laws or a right to be free of discrimination in violation of federal statutes or a claim that a less qualified person has been preferred over him or her, if the application of this subsection has a disparate impact on the basis of race, color, religion, sex, or national origin, this subsection shall be null and void.'.".

AMENDMENT No. 2144

At the appropriate place in the amendment insert the following:

"Notwithstanding subparagraphs (2) (A) (B), or (C) of section 6 of this Act, no person shall be prohibited from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution.".

AMENDMENT No. 2145

At the appropriate place in the amendment insert the following:

"Nothing in this Act shall prohibit any person from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution.".

AMENDMENT No. 2146

Strike page 2, line 24, through page 3, line 4, and insert in lieu thereof the following:

"(n) The term 'group of employment practices' means two or more specific employment practices identified by the complaining party, through discovery or otherwise, each of which the complaining party demonstrates causes disparate impact with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.".

AMENDMENT NO. 2147

On page 2, after line 25, strike "a combination of employment practices that produces one or more decisions" and insert in lieu thereof: "two or more specific employment practices identifed by the complaining party, through discovery or otherwise, each of which the complaining party demonstrates causes disparate impact".

AMENDMENT NO. 2148

Strike page 17, line 1, through page 18, line 11, and insert in lieu thereof the following:

"(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

"(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989, and

"(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

"(b) TRANSITION RULES.—

"(1) IN GENERAL.—Any order entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.".

AMENDMENT NO. 2149

At the end of the amendment, add the following:

"Notwithstanding any other section of this Act, the term 'group of employment practices' means two or more specific employment practices identified by the complaining party, through discovery or otherwise, each of which the complaining party demonstrates causes disparate impact with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.".

AMENDMENT NO. 2150

Strike page 17, line 1, through page 18, line 11, and insert in lieu thereof the following:

"(3) section 6 shall apply to all proceedings commenced after enactment of this Act;

"(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

"(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

"(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

"(b) TRANSITION RULES.—

"(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.".

AMENDMENT NO. 2151

Strike page 17, line 1, through page 18, line 11, and insert in lieu thereof the following:

"(3) section 6 shall apply to all proceedings challenging a litigated or consent judgment commenced after enactment of this Act;

"(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

"(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

"(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

"(b) TRANSITION RULES.—

"(1) IN GENERAL.—Any order entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.".

AMENDMENT NO. 2152

Strike page 2, lines 22 and 23, and insert in lieu thereof the following:

"(m) The term 'demonstrates' means meets the burdens of production and persuasion, except that a complaining party retains the ultimate burden of persuading the trier of fact that the employer has violated section 703(k)".

AMENDMENT NO. 2153

Strike page 14, lines 20 through 24.

AMENDMENT NO. 2154

On page 3, strike lines 5 through 16 and insert in lieu thereof the following:

"(o) The term 'required by business necessity' means manifest relationship to the employment in question.".

AMENDMENT NO. 2155

On page 3, strike lines 5 through 16 and insert in lieu thereof the following:

"(o) The term 'required by business necessity' means manifest relationship to the employment in question or demonstrable relationship to successful performance of the job.".

AMENDMENT NO. 2156

Strike page 14, line 15, through page 15, line 10.

AMENDMENT NO. 2157

Strike page 6, line 19, of the amendment, and insert in lieu thereof the following:

"sex, or national origin.

"'(4) Nothing in this subsection shall be construed to remove from the complaining party the ultimate burden of persuading the trier of fact that the employer has committed disparate impact discrimination.'.".

AMENDMENT NO. 2158

Strike page 13, lines 14 through 23.

AMENDMENT NO. 2159

At the end of the amendment, add the following:

"Nothing in this Act or section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) shall be construed to remove from the complaining party the ultimate burden of persuading the trier of fact that the employer has committed disparte impact discrimination.".

AMENDMENT NO. 2160

Strike page 13, lines 7 through 13.

AMENDMENT NO. 2161

Strike page 12, line 23, through page 13, line 23.

AMENDMENT NO. 2162

Strike page 10, line 15, of the amendment, and insert in lieu thereof the following:

"jurisdiction;

"Provided that no person shall be prohibited from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution.".

AMENDMENT NO. 2163

On page 11, strike lines 6 and 7.

AMENDMENT NO. 2164

Strike page 10, line 15, of the amendment, and insert in lieu thereof the following:

"jurisdiction;

"Provided, That no person shall be prohibited from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

AMENDMENT NO. 2165

Strike page 11, lines 3 through 15.

AMENDMENT NO. 2166

At the end of the amendment add the following:

"Notwithstanding any other section of this Act, the term 'demonstrates' means meets the burdens of production and persuasion, except that a complaining party retains the ultimate burden of persuading the trier of fact that the employer has violated section 703(k)".

AMENDMENT NO. 2167

Strike page 12, lines 10 through 16.

AMENDMENT NO. 2168

At the end of the amendment, add the following:

"Notwithstanding any other provision of this Act, section 6 shall only apply to proceedings commenced after enactment of this Act. Section 6(b)(2) shall not become effective.".

AMENDMENT NO. 2169

Strike page 7, line 19, through page 10, line 24.

AMENDMENT NO. 2170

On page 10, line 13, strike "transparently".

AMENDMENT NO. 2171

At the end of the amendment, add the following:

"Notwithstanding any other provision of this Act, section 6 shall only apply to proceedings challenging a litigated or consent judgment commenced after enactment of this Act. Section 6(b)(2) shall not become effective.".

AMENDMENT NO. 2172

On page 8, strike lines 23 through 25 and insert in lieu thereof the following:

"'(ii) sought, and was permitted, to intervene as a party in the case, prior to the entry of the proposed judgment or order;".

AMENDMENT No. 2173

At the appropriate place in the amendment insert the following:

"Notwithstanding any other section of this Act, the term 'required by business necessity' means manifest relationship to the employment in question.".

AMENDMENT No. 2174

Strike page 7, lines 3 through 9, and insert in lieu thereof the following:

"(1) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice, unless the respondent establishes that it would have taken the same action in the absence of any contributing factor based on race, color, religion, sex, or national origin".

AMENDMENT No. 2175

At the appropriate place in the amendment insert the following:

"Notwithstanding any other section of this Act, the term 'required by business necessity' means manifest relationship to the employment in question or demonstrable relationship to successful performance of the job.".

AMENDMENT No. 2176

Strike page 6, line 20, through page 7, line 18.

AMENDMENT No. 2177

At the appropriate place in the amendment insert the following:

"Notwithstanding subparagraphs (2) (A), (B), or (C) of section 6 of this Act, no person shall be prohibited from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

AMENDMENT No. 2178

At the appropriate place in the amendment insert the following:

"Nothing in this Act shall prohibit any person from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

AMENDMENT No. 2179

Strike page 7, lines 3 through 9, and insert in lieu thereof the following:

"(1) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice, except that it is not an unlawful employment practice for an employer, employment agency, labor organization, or joint labor management committee to prefer a more qualified person over a less qualified person because of such better qualifications".

DANFORTH AMENDMENTS NOS. 2184 THROUGH 2191

(Ordered to lie on the table.)

Mr. DANFORTH submitted eight amendments intended to be proposed by him to the bill S. 2104, supra, as follows:

AMENDMENT No. 2184

At the appropriate place in the pending amendment, insert the following:

"It is the sense of the Senate that the Civil Rights Act of 1990 should provide more than an injunction and back pay to victims of intentional harassment on the job in order to make the victims whole and to deter future harassment by employers.".

AMENDMENT No. 2185

Strike out section 8 of the pending amendment and insert in lieu thereof the following:

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "In fashioning remedies for an unlawful employment practice (other than an unlawful employment practice established in accordance with subsection 703(k)), the court may require the respondent to pay the complaining party a fine not to exceed an amount equal to double the average award in the previous year under section 1977 of the Revised Statutes of the United States Code (42 U.S.C. 1981) for intentional discrimination in the course of employment if the court finds (i) that back pay is not available relief with respect to that unlawful employment practice; (ii) that an additional equitable remedy beyond those otherwise available is needed to deter the respondent from continuing to engage in such unlawful employment practices; and (iii) that such an award is otherwise justified by the equities. All issues in cases arising under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e to 2000-17) shall be heard and determined by a judge, as specified in section 706(f) of that title (42 U.S.C. 2000e-5f). For purposes of determining the limit on the fine referred to in this subsection, the Justice Department is authorized to conduct the necessary research itself or to contract out to a separate entity the task of determining the average amount awarded to victims of intentional discrimination in the course of employment in the previous year under section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981).

AMENDMENT No. 2186

Strike out section 8 of the pending amendment and insert in lieu thereof the following:

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "In fashioning remedies for an unlawful employment practice (other than an unlawful employment practice established in accordance with subsection 703(k)), the court may require the respondent to pay the complaining party a sum not to exceed an amount equal to double the average award in the previous year under section 1977 of the Revised Statutes of the United States Code (42 U.S.C. 1981) for intentional discrimination in the course of employment if the court finds (i) that back pay is not available relief or not sufficient relief with respect to that unlawful employment practice; and (ii) that an additional remedy beyond those otherwise available is needed to fully compensate the victim for damages caused by the unlawful employment practice or to deter the respondent from continuing to engage in such unlawful employment practices. For purposes of determining the limit on the fine referred to in this section, the Justice Department is authorized to conduct the necessary research itself or to contract out to a separate entity the task of determining the average amount awarded to victims of intentional discrimination in the course of employment in the previous year under section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981).

AMENDMENT No. 2187

Strike out section 4(k)(1)(B) and insert at the end of section 4(k)(1)(A) the following: *"Provided, however,* That if the elements of a decisionmaking process are shown to be not capable of separation for analysis, they may be analyzed as one employment practice, just as where the criteria are distinct and separate each must be identified with particularity and with its causation established.".

AMENDMENT No. 2188

Strike out section 4(k)(1)(B) and insert at the end of section 4(k)(1)(A) the following: *"Provided, however,* that where a group of interrelated employment practices produce a single employment decision and the elements of the decision are not capable of separation for analysis, the group of employment practices shall be treated as a single employment decision and may be challenged and defended as such.".

AMENDMENT No. 2189

At the appropriate place in the pending amendment, insert the following:

"It is the sense of the Senate that the Civil Rights Act of 1990 is meant to codify the meaning of the term 'business necessity' as it was defined by the Supreme Court in Griggs v. Duke Power Co., 401 U.S. 425 (1971).".

AMENDMENT No. 2190

Strike out section 8 of the pending amendment and insert in lieu thereof the following:

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "In fashioning remedies for an unlawful employment practice (other than an unlawful employment practice established in accordance with subsection 703(k)), the court may require the respondent to pay the complaining party a fine not to exceed an amount equal to double the average award in the previous year under Section 1977 of the Revised Statutes of the United States Code (42 U.S.C. 1981) for intentional discrimination in the course of employment if the court finds (i) that the claim is based on harassment; (ii) that an additional equitable remedy beyond those otherwise available is needed to deter the respondent from continuing to engage in such unlawful employment practices; and (iii) that such an award is otherwise justified by the equities. All issues in cases arising under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e to 2000-17) shall be

heard and determined by a judge, as specified in section 706(f) of that title (42 U.S.C. 2000e-5f). For purposes of determining the limit on the fine referred to in this subsection, the Justice Department is authorized to conduct the necessary research itself or to contract out to a separate entity the task of determining the average amount awarded to victims of intentional discrimination in the course of employment in the previous year under section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981).".

AMENDMENT No. 2191

Strike out section 3(o) and insert in lieu thereof the following:

"(o) The term 'required by business necessity' means—

"(1) in the case of employment practices primarily intended to measure job performance, the practice or group of practices must bear a significant relationship to successful performance of the job.

"(2) in the case of other employment practices that are not primarily intended to measure job performance, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(3) In deciding whether the above standards for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The court may rely on as such evidence statistical reports, validation studies, export testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence and the court shall give such weight, if any, to such evidence as it deems appropriate.".

METZENBAUM AMENDMENTS NOS. 2192 THROUGH 2193

(Ordered to lie on the table.)

Mr. METZENBAUM submitted two amendments intended to be proposed by him to the bill S. 2104, supra, as follows:

AMENDMENT No. 2192

On page 12, strike out lines 1 through 22, and insert in lieu thereof the following:

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k))—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

AMENDMENT No. 2193

On page 2, strike out line 15 and all that follows through line 19 on page 6, and insert in lieu thereof the following new sections:

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(1) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o) The term 'required by business necessity' means—

"(1) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), bears a substantial and demonstrable relationship to successful job performance; or

"(2) in the case of employment practices not involving selection, bars a substantial and demonstrable relationship to a compelling objective of the respondent.

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices are required by business necessity, except that—

"(1) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respndent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin.".

DECONCINI AMENDMENT NO. 2194

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to this bill S. 2104, supra, as follows:

At the appropriate place insert the following:

It is the sense of the Senate that nothing in this bill shall be construed to impose a quota system.

DECONCINI (AND OTHERS) AMENDMENT NO. 2195

(Ordered to lie on the table.)

Mr. DECONCINI (for himself, Mr. JOHNSON Mr. BRYAN, and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2104, supra, as follows:

On page 16, line 10, strike the period and add the following: "or require an employer to adopt quotas on the basis of race, color, religion, sex, or national origin.".

DECONCINI AMENDMENT NO. 2196

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill S. 2104, supra, as follows:

At the end of section 4 insert the following subsection:

"(4) Additional remedies created under section 8 of this act shall not apply in disparate impact case authorized under this title.".

CHAFEE AMENDMENTS NOS. 2197 THROUGH 2200

(Ordered to lie on the table.)

Mr. CHAFEE submitted four amendments intended to be proposed by him to the bill S. 2104, supra, as follows:

AMENDMENT No. 2197

At the appropriate place in the pending amendment, insert the following:

It is the sense of the Senate that it is the intent of the Senate, in considering the Civil Rights Act of 1990, to codify the intent of the unanimous Supreme Court ruling in Griggs v. Duke Power Co., 401 U.S. 425 (1971).".

AMENDMENT No. 2198

At the appropriate place in the pending substitute amendment, insert the following:

It is the sense of the Senate that the Civil Rights Act of 1990 should codify the intent of the unanimous Supreme Court ruling in Griggs v. Duke Power Co., 401 U.S. 425 (1971).".

AMENDMENT No. 2199

Strike out all of section 5 and insert in lieu thereof the following:

"SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(1) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in the title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor that either:

(a) was sufficient by itself to produce the practice, or

(b) was a necessary element in any set of factors that together are sufficient to produce the practice,

even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(1), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(1), damages may be awarded only for injury that is attributable to the unlawful employment practices.".

AMENDMENT No. 2200

Strike out all of section 5 and insert in lieu thereof the following:

"SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(1) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in the title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor that either:

(a) was sufficient by itself to produce the practice, or

(b) was a necessary element in any set of factors that together are sufficient to produce the practice,

even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(1), if the respondent establishes that it would have taken the same action in the absence of any discrimination.".

PRYOR AMENDMENT NO. 2201

(Ordered to lie on the table.)

Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 2104, supra, as follows:

Section 4 of the bill is amended by adding the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

* * * * *

"(4) The mere existence of a statistical imbalance in an employer's workforce on account of race, sex, religion, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.".

DOMENICI AMENDMENT NO. 2202

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2104, supra; as follows:

At the end of the bill, add the following new section:

SEC. 16. REPEAL OF EMPLOYER SANCTIONS AND RELATED PROVISIONS.

(a) IN GENERAL.—The following provisions of law are hereby repealed:

(1) Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), sections 101 and 402 of the Immigration Reform and Control Act of 1986, and section 8704 of title 46, United States Code, each section relating to the unlawful employment of aliens.

(2) Section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b) and section 102 of the Immigration Reform and Control Act of 1986, each section relating to unfair immigration-related employment practices.

(b) CONFORMING AMENDMENTS.—(1) The table of contents of the Immigration and Nationality Act is amended by striking out the items relating to sections 274A and 274B.

(2) The table of sections for chapter 87 of title 46, United States Code, is amended by striking out the item relating to section 8704.

(c) CONTINUATION OF DUTIES BY SPECIAL COUNSEL.—The Special Counsel for Immigration-Related Unfair Employment Practices appointed pursuant to section 274B(c) of the Immigration and Nationality Act shall, for a period of one year after the date of enactment of this Act, continue to carry out his duties under section 274B of that Act as in effect on the day before the date of enactment of this Act with respect to charges of unfair immigration-related employment practices filed within 180 days of practices which occurred before the date of enactment of this Act.

(d) CONTINUATION OF DUTIES BY ATTORNEY GENERAL.—At the expiration of the one-year period described in subsection (a), the Attorney General, acting through the Civil Rights Division of the Department of Justice, shall assume all the duties carried out by the Special Counsel with respect to charges filed as described in subsection (a).

(e) CONFORMING AMENDMENTS.—(1) Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended—

(A) in subsection (h)(1), by striking out "and to provide notice for purposes of section 274A";

(B) in subsection (i)(1), by striking out "(as defined in section 274A(h))"; and

(C) by adding at the end of subsection (i) the following:

"(3) The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.".

(2) The Immigration Reform and Control Act of 1986 is amended—

(A) in section 304(b)(1)(C), by striking out "and the employers' sanctions";

(B) in section 304(j), by striking out paragraph (1); and

(C) in section 304(j), by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(3) Section 1546 of title 18, United States Code, is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(4) The Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) is amended—

(A) in section 103(a)—

(i) by inserting "or" at the end of paragraph (4);

(ii) at the end of paragraph (5), by striking out "; or" and inserting in lieu thereof a period; and

(iii) by striking out paragraph (6); and (B) in section 501(b)—

(i) by striking out subsection (b), and

(ii) by striking out "(a)" before "Any person".

(5) Section 5(f) of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100-239) is amended by striking out paragraph (3).

SIMPSON AMENDMENT NO. 2203

(Ordered to lie on the table.)

Mr. SIMPSON submitted an amendment intended to be proposed by him to the bill S. 2104, supra, as follows:

On page 12, strike lines 1 through 22 (regarding damages in cases of intentional discrimination).

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT

WILSON AMENDMENT NO. 2204

Mr. WILSON proposed an amendment to the bill (S. 4328) to authorize appropriations for fiscal years 1991 and 1992 for the customs and trade agencies, and for other purposes, as follows:

At the appropriate place in the bill, add the following:

SEC. . CERTIFICATION BY THE PRESIDENT.

Notwithstanding any other provision in this Act, the provisions in this Act shall not take effect:

(a) in any calendar year for which the Secretary of Commerce has not submitted to Congress a report that sets forth the increased costs to American consumers, including American families, for the products affected by this Act, either directly or indirectly, that would result from imposition of the limits otherwise required by this Act; and

(b) in any calendar year for which the President has submitted to the Congress a certification that the increased costs to consumers for the products affected by this Act, either directly or indirectly, that would result from imposition of the limits otherwise required by this Act would total more than one billion dollars.

HATCH AMENDMENT NO. 2205

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 4328, supra, as follows:

Strike page 12, line 26, through page 13, line 6, and insert in lieu thereof:

"(1) by inserting '(1)' after '(k)' and

"(2) by adding at the end thereof the following new paragraphs:".

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT

WILSON AMENDMENT NO. 2206

Mr. WILSON proposed an amendment to the bill H.R. 4328, supra, as follows:

At the appropriate place in the bill, add the following:

SEC. . TRUTH IN PROTECTIONISM.

(a) Any product intended for sale to individual consumers whose importation into the United States is restricted in any fashion by the provisions of this Act, and any product intended for sale to individual consumers that would have its importation into the United States restricted by the provisions of this Act in some fashion if it were produced outside of the United States, shall, at the point of sale to the consumer, have attached to it a tag or other marking indicating the amount of any increased costs to the consumer caused by the limits established by this Act.

(b) The provisions of subsection (a) shall only apply to products whose costs have been increased by an amount that is not significant.

(c) The Secretary of Commerce shall have the authority to implement the provisions of this section by establishing appropriate regulations to and by determining the increased costs caused by the limits established by this Act that must be disclosed to the consumer as required by subsection (a).

CIVIL RIGHTS ACT OF 1990

BUMPERS AMENDMENTS NOS. 2207 THROUGH 2210

(Ordered to lie on the table.)

Mr. BUMPERS submitted four amendments intended to be proposed by him to amendment No. 2110 proposed by Mr. KENNEDY (and others) to the bill S. 2104, supra, as follows:

AMENDMENT No. 2207

At the appropriate place in the pending amendment add the following: *"Provided, however,* That any award of punitive damages may not exceed the amount awarded in compensatory damages."

AMENDMENT No. 2208

At the appropriate place in the pending amendment insert the following:

"The term 'required by business necessity' means:

"(1) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), bears a manifest and demonstrable relationship to the employment in question; or

"(2) in the case of employment practices not involving selection, bears a manifest and demonstrable relationship to the employment in question or significantly serves a legitimate employment goal of the respondent.".

AMENDMENT No. 2209

At page 3, line 5 of the substitute, strike all through line 16 and insert the following:

"The term 'required by business necessity' means:

"(1) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention or membership in a labor organization), bears a manifest and demonstrable relationship to the employment in question; or

"(2) in the case of employment practices not involving selection, bears a manifest and demonstrable relationship to the employment in question or significantly serves a legitimate employment goal of the respondent.".

AMENDMENT No. 2210

At page 12, line 16 of the substitute, before the semicolon, add the following: *"Provided, however,* That any award of punitive damages may not exceed the amount awarded in compensatory damages.".

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT

GORTON AMENDMENT NO. 2211

Mr. GORTON proposed an amendment to the bill H.R. 4328, supra, as follows:

On page 29, beginning on line 3 strike all through line 24 and insert in lieu thereof the following:

"(e) EXPORT-RELATED ADJUSTMENT.—Notwithstanding the aggregate limits imposed under subsection (a) and in addition to the growth adjustment provided for under subsection (b), for each calendar year after 1989 the aggregate quantity of textiles and textile products from a country classified under each category that may otherwise be entered during such calendar year shall be increased by an amount equal to fifty per centum (50%) of the increase in the total aggregate value, if any, of its imports from the United States of agricultural products in the calender year preceding such calendar year.".

GRAMM (AND OTHERS) AMENDMENT NO. 2212

Mr. HOLLINGS (for Mr. GRAMM, for himself, Mr. DOMENICI, and Mr. MCCAIN) proposed an amendment to the bill H.R. 4328, supra, as follows:

At the end of the Committee amendment add the following:

"SEC. . MEXICO-UNITED STATES FREE TRADE AREA.

"The Senate, on June 26, 1987, adopted legislation calling for the establishment of a North American Free Trade Area;

"President Bush and President Salinas, on June 11, 1990, endorsed the proposal to establish a "comprehensive Free Trade Agreement" between the United States and Mexico and directed United States Trade Representative Carla A. Hills and Mexican Secretary of Commerce Jaime Serra Puche to begin consultations and preparatory work to that end;

"Mexico is the third largest trading partner of the United States and the United States is the largest trading partner of Mexico;

"Since at $52 billion in mutual merchandise trade in 1989, and yet involving almost 350 million people, there is much more room for growth in our trade relations;

"Since a mere 10 percent annual increase in trade between the United States and Mexico throughout the 1990's would result in trade totalling more than $150 billion between our two countries in the first year of the twenty-first century, and trade could undoubtedly grow at higher levels;

"Since increased trade between our two countries will greatly assist Mexico in its economic development, and an economically prosperous and politically stable Mexico will greatly benefit the United States; and

"Since there has been peace among the three great nations of North America, covering more than one-eighth of the earth's surface, for nearly a century and a half, a longer era of peace than that enjoyed in any other region of the world. "It is the sense of the Senate that

"(1) President Bush and President Salinas are to be commended for endorsing the establishment of a comprehensive free trade agreement between the United States and Mexico and initiating the preliminary steps to that end;

"(2) Close cooperation with the Congress in the preparations for and negotiations of such an agreement will facilitate the successful establishment of the agreement; and

"(3) While negotiations proceed for a free trade agreement between the United States and Mexico, each country should consider interim steps to improve further trade relations between our two countries.".

DECONCINI AMENDMENT NO. 2213

Mr. DECONCINI proposed an amendment to amendment No. 2212 proposed by Mr. HOLLINGS for Mr. GRAMM (and others) to the bill H.R. 4328, supra, as follows:

"Mexico is the third largest trading partner of the United States and the United States is the largest trading partner of Mexico;

"Since bilateral trade between the United States and Mexico, topped $52 billion in 1989, with the United States' exports more

than doubling between 1986 and 1989 from $12.4 billion to $25 billion;

"Since a mere 10 percent annual increase in trade between the United States and Mexico throughout the 1990's would result in trade totaling more than $150 billion between our two countries in the first year of the twenty-first century, and trade could undoubtedly grow at higher levels;

"Since cooperation between the United States and Mexico on anti-narcotics efforts has steadily improved since President Salinas de Gortari took office;

"Since increased trade between our two countries will greatly assist Mexico in its economic development, and an economically prosperous and politically stable Mexico will greatly benefit the United States; and

"Since there has been peace among the three great nations of North America for nearly a century and a half, a longer era of peace than that enjoyed in any other region of the world.

"It is the sense of the Senate that

"(1) President Bush and President Salinas are to be commended for beginning the process to achieve the goal of a comprehensive free trade agreement between the United States and Mexico and initiating the preliminary steps to that end;

"(2) Close cooperation with the Congress in the preparations for and negotiations of such an agreement will facilitate the successful establishment of the agreement; and that the United States Trade Representative should, throughout the negotiating process consult closely with Members of Congress representing key constituencies who would be affected by such agreements; and

"(3) While consultations proceed for a free trade agreement between the United States and Mexico each country should consider interim steps to improve further trade relations between our two countries."

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. WIRTH. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources.

The hearing will take place on Monday, July 30, 1990, in room SD-366 of the Senate Dirksen Office Building in Washington, DC, beginning at 9:30 a.m., and continuing in an afternoon session at 2 p.m.

The purpose of the hearing is to consider legislation to promote energy efficiency through the use of waste and recoverable materials.

Those wishing to submit a statement for inclusion in the RECORD are asked to do so by July 27.

For further information, please contact Allen Stayman or Joel Saltzman at (202) 224-4756.

SUBCOMMITTEE ON GOVERNMENT CONTRACTING AND PAPERWORK REDUCTION

Mr. BUMPERS. Mr. President, the Subcommittee on Government Contracting and Paperwork Reduction of the Committee on Small Business has scheduled a hearing for Wednesday, July 18, 1990. The purpose of the hearing is to receive testimony from representatives of the small business community concerning their increasing problems from expansions in the activities of Federal Prison Industries. The hearing is to be held in the committee's hearing room, SR-428A, commencing at 9:30 a.m. It will be chaired by Senator DIXON, chairman of the subcommittee.

Federal Prison Industries [FPI], or UNICOR—its trade name—is a Government-owned corporation that centrally manages a chain of workshops located at correctional facilities operated by the Federal Bureau of Prisons. These industrial operations are used principally to combat idleness in the Federal inmate population.

Under Federal procurement regulations implementing FPI's statute (18 U.S.C. 4124), FPI is a "required source of supply," giving it precedence over all other sources in meeting the needs of Federal agencies. Agencies must first offer to FPI any requirement they have for products or services furnished by FPI, before offering it as a contracting opportunity to the private sector. The small business community has come to call this FPI's "super preference," since it short circuits the regular Federal procurement process and eliminates opportunities for small firms.

FPI is currently a very large Government enterprise, and has announced plans to grow substantially larger due to the rapid growth of the Federal inmate population. According to FPI's 1988 Annual Report, it operates 72 factories in 41 locations employing an inmate work force of nearly 14,000. Its sales in 1988 totaled $335.9 million. If FPI were ranked among the top 100 Federal contractors for fiscal year 1988, FPI would have ranked 58th, just ahead of Chrysler Corp. FPI is presently forecasting growth to $427 million in total sales for fiscal year 1992.

Small business concerns have been expressing increasing alarm about what they assert is unfair competition from FPI. FPI's activities are concentrated in approximately 250 products and services out of the millions of different items of supply and services bought annually by the Federal agencies. Hence, FPI's impact falls intensely on only narrow segments of the Federal market, and on the small firms competition for those same contract opportunities.

FPI has been expanding its production activities in its current market lines and has been exploring new areas. This has alarmed additional segments of the small business community.

On July 11, 1990, the Senate passed the omnibus crime bill, S. 1970. As passed, this bill includes an amendment establishing mandatory work requirements for Federal prisoners. Representatives of the small business community are deeply concerned that this provision may be a harbinger of additional competition from FPI and the Federal Bureau of Prisons generally.

The provision identifies four broad categories for expanded work activities by Federal convicts: "(A) State and local public works and infrastructure repair; (B) construction and maintenance of prisons and other detention facilities; (C) prison industries; (D) other appropriate labor." The amendment establishes an Federal Private Sector/Prison Industry Enhancement [PIE] Program and expands the non-Federal PIE Program from 20 prison projects to 50 prison projects. Items manufactured through the Federal PIE Program could be sold commercially, unlike the products of FPI. The manufacturing and other activities undertaken under the new Federal PIE Program would be separate from, and in addition to the steadily expanding manufacturing and services activities undertaken through FPI. The amendment to S. 1970 also specifically authorized the Federal Bureau of Prisons to furnish convict labor to private business concerns under contract through both the new Federal PIE Program and the existing FPI Program. Finally, the explanatory material accompanying the amendment specifically encouraged the Federal Bureau of Prisons and FPI to focus on shoe manufacturing, textiles, and electronic assembly work, industry sectors already very hard hit by foreign competition.

Mr. President, given that this legislation may well receive early consideration in the House, the committee wanted to provide the small business community with the earliest opportunity to air its concerns about increasing competition from FPI. The subcommittee will be receiving testimony from small business concerns that furnish furniture, draperies, envelopes, military footwear, and electronic component assembly to various agencies of Government.

Further information concerning this subcommittee hearing may be obtained from the committee's procurement policy counsel, William B. Montalto; Bill may be reached at 224-5175.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on July 27, 1990, beginning at 9:30 a.m., in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following meas-

ures currently pending before the subcommittee:

S. 2521, a bill to exchange certain lands in the State of New Mexico, and for other purposes;

S. 2527, a bill to direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico;

S. 2597, a bill to amend the act of June 20, 1910, to clarify in the State of New Mexico authority to exchange lands granted by the United States in trust, and to validate prior land exchanges; and

S. 2684, a bill to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, NM.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, SD-364, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224-9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on July 16, 1990, at 1:30 p.m., to hold a hearing on the nomination of Paul V. Niemeyer, to be U.S. circuit judge for the fourth circuit, Randall R. Rader, to be U.S. circuit judge for the Federal circuit, John H. McBryde, to be U.S. district judge for the Northern District of Texas, and Fred I. Parker, to be U.S. district judge for the District of Vermont.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DEPARTMENT OF ENERGY SCIENCE AND EDUCATION ENHANCEMENT ACT

● Mr. FORD. Mr. President, I congratulate Senator DOMENICI for introducing S. 2856, the Department of Energy Science and Education Enhancement Act. I am pleased to cosponsor this legislation, and I look forward to its consideration by the Subcommittee on Energy Research and Development, which I chair.

Senator DOMENICI has been a leader in the formulation of policies for the national laboratories of the Department of Energy. As my colleagues know, the DOE national laboratory system had its origins in the nuclear weapons program. These laboratories design and test the components of our national nuclear arsenal. They also carry out highly classified research on all kinds of questions that arise in managing a cold war, while remaining ready to wage a hot one.

Each laboratory also manages significant unclassified research, including some of the largest basic physics, chemistry and biological programs in the Nation.

With the lessening of international tensions and the emergence of a much more peaceful world, the role of these laboratories—or at least the purposes of the funds the laboratories receive—will change. This legislation is one small attempt to make use of the capabilities of the DOE national laboratories to address peacetime problems.

I believe that much more scrutiny of the role function of these laboratories lies ahead. The curtain of secrecy that has surrounded much of their operation will seem increasingly outdated. More Members of Congress will want to know what we are getting from our investment in these laboratories. More Members will ask how these laboratories fit into an economy that is overwhelmingly private.

This debate will ultimately be helpful to the laboratories if it is helpful in defining productive roles in a world less taken up with nuclear armaments. I look forward to participating in the debate. I know Senator DOMENICI will also be an active participant. His legislation helps get the process started.●

NATIONAL REHABILITATION WEEK

● Mr. D'AMATO. Mr. President, I rise today to cosponsor Senate Joint Resolution 279, a bill to designate the week of September 16, 1990, as "National Rehabilitation Week."

More than 36 million people in America are disabled, and 1 out of every 2 Americans will need rehabilitation therapy in his or her lifetime. Cosponsorship of Senate Joint Resolution 279 provides a unique opportunity to celebrate the role played by this significant portion of our society.

National Rehabilitation Week will also raise awareness of the concerns, the triumphs, and the special needs of disabled individuals. Health care professionals, who provide the necessary support services to meet the rehabilitation needs of the disabled or injured, will also be recognized.

I welcome the opportunity to cosponsor this jont resolution to honor not only those citizens undergoing rehabilitation, but all those actively involved in their care.●

NATIONAL ADVISORY COUNCIL ON THE PUBLIC SERVICE ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 4872, the National Advisory Council on the Public Service Act of 1990 be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4872) to establish the National Advisory Council on the Public Service Act of 1990.

Mr MITCHELL. Mr. President, I ask unanimous consent the bill be read for a second time.

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

The majority leader.

AUTHORITY TO FILE AMENDMENTS TO THE KENNEDY SUBSTITUTE TO THE CIVIL RIGHTS BILL

Mr. MITCHELL. I ask unanimous consent that second-degree amendments to the Kennedy substitute amendment to the civil rights bill may be filed until the Senate recesses for the party conferences at 12:30 p.m. tomorrow; and that, should cloture fail, any first-degree amendments to the Kennedy substitute amendment may also be filed until 12:30 p.m.

The PRESIDING OFFICER. Is there objection?

The Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, no objection, but I am confused. In the event cloture fails, the cloture vote does not come until after 2? What about the amendments? If cloture fails, amendments that have already been filed——

Mr. MITCHELL. I am advised those do not have to be refiled.

Mr. DOLE. But any other amendments in addition to those would have to be filed on 12:30 p.m. on Wednesday?

Mr. MITCHELL. Yes. My understanding is that under the rule the time for filing would be until 1 p.m. tomorrow. This is for the cloture motion that ripens on Wednesday. Since we are going to be in recess from 12:30 to 1, this just makes clear that any amendments would have to be filed by 12:30 as opposed to 1 p.m., under the rule.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time, notwithstanding the provisions of rule XXII, proceed to the consideration of S. 2830, the farm bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, and I do so reluctantly.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. It is my understanding there is some indication that the fisheries inspection bill may be offered as an amendment to the agriculture bill. This would be a move that I feel would meet with great disfavor in my State. One out of every six people employed in Alaska works in the fishing industry. It is a very difficult proposition for us to face, the question of agriculture jurisdiction over the fisheries of Alaska.

I would like to have time to consider that proposition and to see whether that amendment would be germane in the event that cloture would have to be sought on the agriculture bill itself.

So, reluctantly and with every good feeling toward the majority leader, who has managed the Senate very well and does not like to have people like me show up and make such objections, I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I thank my colleague for his courtesy. We have discussed this just briefly prior to my making this request. I have the greatest respect for the Senator, but I think the Senate should understand the situation that exists. There is no seafood inspection provision in the farm bill. There is a separate bill to that effect. Indeed, there are two separate bills, one which is sponsored by Senator LEAHY and myself, and another which is sponsored by the Senator from Alaska and others.

What the Senator from Alaska is asking is that Senator Leahy and I and other proponents of our bill not offer it to the farm bill. Otherwise, he will object to consideration of the farm bill.

I have the greatest respect for the Senator, but as I told him, that is the first time anybody has made such a request since I have been majority leader. I thought I had heard every request to delay or prevent legislation from coming up. This is a new one, a commitment in advance not to offer an amendment that the Senator from Alaska does not like.

I understand that it may have been used by others prior to the time that I became majority leader, but this is the first time I have heard this request, and I am not able of course to comply with that request for obvious reasons. I hope that we might be able to work together to develop a bill that meets our common objective.

I know that the Senator believes in seafood inspection, as I do. The question is one of jurisdiction and other matters. Both coming from States in which fishing is an important industry and having cooperated on fishery matters in the past, I hope that we are able to do so in the future.

Mr. STEVENS. Will the Senator yield?

Mr. MITCHELL. Certainly.

Mr. STEVENS. Mr. President, I do regret, as I said, being of the opinion that I should make this objection now. The North Pacific Regional Fishery Management Council, which deals with fisheries in the 200-mile limit off the Alaska coast, is now in the process of setting up an inspection system for fishery management purposes that has, I believe, the support of the Alaska fisheries. We do support an inspection system. Unfortunately, the problem is that the Department of Agriculture does not have much of an operation in Alaska. We have half the coastline of the United States, some 530 separate locations that would require inspection under the bill that came from the Agriculture Committee. We feel the impact of that type of inspection would retard rather than assist in the growth of our fisheries.

We do believe that inspection is necessary as we are getting more and more into the world market. It is our feeling that fish farms could legitimately be under the Department of Agriculture for inspection of their product. But the wild fish, the fish that come from the natural production of our streams and our oceans, we feel ought to remain under the Department of Commerce which has jurisdiction through NOAA over the quality of the water. We are more affected by the quality of the water. We are more affected by the quality of the water than we are the systems of preparation, because the bulk of our fish now is frozen and sent to market.

It is a legitimate and honest dispute that I seek to present to the Senate with regard to the bills that are here. I would be more than willing to enter into a time agreement to take up the agriculture bill so long as the amendment that might be offered in the form of the bill that came from the Agriculture Committee on fisheries inspection would not be qualified under that time agreement.

I understand the majority leader's reluctance to enter into that discussion now, but I do not think it is unheard of on this floor that a Senator try to set the stage for the consideration of a proposition such as the bill from the Agriculture Committee or the Commerce Committee as a free-standing bill, as opposed to an amendment to an enormous bill like the agriculture bill. Our bill would just be lost in conference. There would be different conferees. I feel we would be better off to try to see if we could get it considered on its own. But I do join the majority leader in seeking increased fisheries inspection and finding a way to resolve this dispute.

I thank the leader for his courtesy.

Mr. MITCHELL. Mr. President, I thank my colleague as well for reasons which I have stated and which he understands. I regret that I am unable to accede to this request at this time. Frankly, I say to the Senator, wholly independent of the issue here involved, I am afraid that if I now agreed, it would embolden many other Senators to use this practice and make an already difficult task of getting legislation moving even more difficult.

CLOTURE MOTION

Mr. MITCHELL. Accordingly, Mr. President, as I have previously indicated to the Senator from Alaska and the distinguished Republican leader that I would do, I now move that the Senate proceed to S. 2830, the farm bill, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 2830, the farm bill.

Tom Daschle, Jeff Bingaman, Brock Adams, Ernest F. Hollings, Richard Bryan, Charles A. Robb, Joseph Lieberman, Bob Graham, Wendell Ford, Kent Conrad, Alan J. Dixon, Dale Bumpers, Barbara A. Mikulski, Alan Cranston, Albert Gore, Jr., Wyche Fowler, Jr., Howard M. Metzenbaum, Harry Reid, George Mitchell.

Mr. MITCHELL. I withdraw my motion to proceed to the consideration of S. 2830, the farm bill.

The PRESIDING OFFICER. The motion is withdrawn.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I know that the distinguished Senator from Rhode Island wishes to address the Senate. Does the Senator from Indiana wish time to address the Senate? Might I inquire of the distinguished Republican leader whether he has any further business?

Mr. DOLE. I have none.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the distinguished Senator from Rhode Island be recognized to address the Senate for

such time as he wishes, and that, upon the completion of his remarks, the Senate stand in recess, as under the order, until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TEXTILE BILL

Mr. CHAFEE. Mr. President, I would like to spend a few minutes this evening discussing my concerns with H.R. 4328, which is commonly referred to as the textile bill. In fact, although many of us think of it as a bill to help textiles and the apparel industry in our country, it contains provisions to protect the footwear industry that has nothing to do with textiles.

The footwear quota provisions in this bill specifically apply to all nonrubber footwear. It applies to all nonrubber footwear. What, thus, does it apply to? It means that the quota provisions apply to all leather and vinyl plastic shoes, and thus that means it includes almost all types of so-called tennis shoes, athletic footwear; in short, nonrubber footwear. The area that is encompassed by this legislation includes almost all the shoes ordinarily worn by men, women, and children in our country.

I believe we need to be very clear about what these footwear provisions mean for American consumers. What it means, if this legislation passes, is that the price of shoes will go up, and will go up steeply.

Two years ago I offered an amendment to the then textile bill before the Senate. That was the Textile and Apparel Trade Act of 1988. My amendment would have deleted the footwear provisions from that bill; in other words, leave it strictly a textile bill. I offered that amendment to protect the American consumer from dramatic price increases in athletic footwear that is so popular with children today in our country.

That amendment, similar to the amendment of Senator PACKWOOD last week, was tabled by an overwhelming majority. In other words, it was clear that this Senate, 2 years ago, and I think it is equally clear now, does not choose to separate out the textile provisions from the shoe provisions.

The footwear provisions in this bill will have a significant negative impact on all American consumers, but most important, on the low-income consumers. The poor people are the ones that are going to get shellacked by this legislation.

These quotas will increase the cost of all shoes, especially the athletic shoes that are so popular with children today. If the parents of those children, who may be out right now buying shoes for those children, understood that this legislation will raise the price of those shoes by 10 percent, 15 perent, 20 percent, perhaps more, those parents would be storming this Senate Chamber and our offices to ensure the defeat of this legislation.

The U.S. shoe industry provides less than 10 percent of the domestic consumption of athletic footwear and, in effect, has chosen not to participate in the production of high-technology athletic footwear. This category has been most important to and popular with American consumers during the last decade. We are talking about an area of shoes, so-called athletic footwear, that the American industry is not even participating in. Of all these so-called tennis shoes, the ones with the vinyl or leather uppers, that are sold in the United States, less than 10 percent are now manufactured by American producers, and they do not choose to be in that business. The growth in imports between 1981 and 1989 is almost solely due to this area, and the low-value import footwear, where the American industry does not or cannot compete.

The import of athletic footwear during this period has fueled consumer demand for these products; that is what the Americans want. The lack of participation by the U.S. industry in athletic footwear results in no competition for these imported shoes, and therefore, prices to our consumers are already controlled by foreign manufactures.

We have historic proof of the price increases. It will incur when the United States imposes strict protectionist limits on foreign shoes. Between 1977 and 1981, 4 years—this is not a new venture for us; we tried it. Here we are, we tried something, and it was a failure. The suggestion now is that we try it again.

Let us look and see what happened in those 4 years. In those 4 years we imposed quotas on the shoes imported from South Korea and the Republic of China; namely, from Taiwan. We are talking about numbers of pairs of shoes that could be imported. Our statistics show that those quotas increased the cost of footwear to American consumers by $1.6 billion; $1.6 billion was the price that American consumers had to pay in increased costs because of those quotas we imposed over those 4 years.

According to the Department of Commerce, during this period the price of shoes from Korea increased by 87.2 percent, and from Taiwan the price went up by a whopping 148 percent. During this same period, American manufacturers increased their prices by 48.6 percent.

In other words, when you stop the imports, the American producers do not lower their prices, do not hold their prices constant. They increase their prices, too.

So everybody's prices went up. There was a 148-percent increase on the shoes imported from Taiwan, 87-percent increase on shoes imported from Korea, and United Statesa shoes locally made in our country were increased by 48 percent. When the quotas were lifted in 1981 the price of shoes from Taiwan fell 15 percent, from Korea the price fell by 19 percent, while the price of American shoes kept going up by another 3 percent.

Now, true, those quotas did save about 4,000 jobs in the American footwear industry. Unfortunately, that meant the American consumer paid $40,000 for every American job that was saved. That worked out to about four times the average industry wage of that year. In 1981, 10 years ago, the average industry wage was a little over $9,000. So it costs $40,000 for every job that was saved.

What about these footwear quotas? Let me retreat a minute and go over one more point. How will these footwear quotas have substantial impact on the low-income American consumer? I mentioned that before. Why do I say it? If we enact these quotas which means that the number of pairs of shoes that come into our country will be reduced, it means that the price of shoes will go up. It is the old supply and demand theory; reduce supply, demand remains constant, price goes up.

As production is reduced the availability of low-cost athletic shoes will be reduced and the price will go up. As the importers, Taiwan, Korea, India, you name it, can send in fewer shoes into the United States they are going to concentrate on the higher price shoes. They are not going to produce the low-cost shoes. If they can only send in x number of pairs of shoes, they are going to concentrate on the higher price end of the line. They will not be sending in the low-priced shoes. So who loses out? The low-income American who is used to buying the low-priced shoes.

Therefore, the shoes that are needed the most by low-income American families will either cost dramatically more or they will not even be available.

These products just cannot be matched in price by the domestic industry. Somebody might say, well, we feel sorry for those low-income Americans but do not worry, there will be American producers that will step in and produce those low-cost shoes that formerly came from Taiwan. That is nonsense. That gap will not be filled by the American producer. The structure and cost of the American industry are best geared toward the middle and the high value shoes. The domestic industry has successfully competed in those areas and they will not be producing the lower cost athletic shoes that the low-income people count on.

Now I understand that the footwear industry has suffered employment losses, and any significant employment loss to a U.S. industry is a cause of concern to every one of us. That is why we have done something about it. We recognized that in the highly competitive world there are some areas that we are going to be able to compete in successfully and some areas less successfully. So we have set up these safety nets, if you would, the Trade Adjustment Assistance Program, for example, and unemployment and worker dislocation programs to help individuals who have lost their jobs because of foreign competition.

I have been a strong proponent of United States efforts to open foreign markets and promote free trade all of which is encompassed in the Uruguay round of the GATT negotiation, the GATT, the General Agreement on Tariffs and Trade. The negotiations now underway are called the Uruguay round. That is what we are counting on.

I believe that the future of American jobs lies in the ability of U.S. companies to compete in the global market that is coming about that is dedicated to free trade.

Mr. President, we are considering these provisions, this very bill is before us, at the same crucial time that our negotiators are trying to further free and fair trade in the Uruguay round. The Uruguay round negotiations represent our best and perhaps the last opportunity of this century to reform a number of areas that are now not covered by the General Agreement on Tariffs and Trade.

What are we talking about? Agriculture trade. Our President spoke vigorously about this in Houston last week. We are trying to expand the market access overseas for all U.S. industries and that includes, textile, apparel, and footwear. We are trying to curtail trade distorting subsidies, the subsidies that some nations use, whether it is in steel or agricultural products that are distorting the trading system in our Nation.

We are trying to expand the disciplines of the trading system to service investment industries to provide adequate protection for intellectual property. What do we mean by intellectural property? We are not only talking patents, we are also talking areas such as software for the computer industry. That is called intellectual property. We are trying to ensure that all countries, developed and developing alike, play by fair rules.

That is what the Uruguay round is all about. That is what we are trying to achieve there. It has dramatic consequences for the future of this Nation, and to think at the very time our negotiators are trying to achieve all of that we are trying to impose steeper tariffs and quotas on textiles and on footwear.

I do not believe we can seriously ask the other members of GATT—the other 100 or so nations that are participating—to remove their trade barriers in all these areas we have mentioned when we are considering erecting new textile, apparel and footwear barriers ourselves. The Uruguay round talks are ambitious and the success of those talks is vital to the future economic prosperity not only of the United States but to the world at large.

In conclusion, Mr. President, because of my concerns with the footwear provisions in this bill and the implications that this legislation has on the GATT negotiations, I must vote against it. I believe our President, Ambassador Hills, who is our trade negotiator, and our GATT negotiators in Geneva will be able to achieve the goal of including textiles within the GATT. If that is done, I believe it will provide fair treatment for not only the American textile and apparel industry, and the shoe industry, also, on the one hand, but also fair treatment for the American consumer. And Mr. President, I wish more people would pay attention to the American consumer around this legislature.

I thank the Chair.

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m., Tuesday, July 17; that following the time for the two leaders there be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each; that the time between 11 a.m. and 12 noon be equally divided and controlled between Senators KENNEDY and HATCH for debate only on S. 2104, the civil rights bill; that at 12 noon the Senate vote on the Hollings motion to table the Wilson amendment, No. 2204, to the textile bill; that upon the disposition of the Wilson amendment, the Senate then vote without any intervening action or debate on the Thurmond motion to table the Gorton amendment, No. 2211, to the textile bill; and that on the disposition of the Gorton amendment, the Senate stand in recess for the two party conferences until 2:15 p.m.

I further ask unanimous consent that the vote on final passage of H.R. 4328, the textile bill, occur beginning at 2:15 p.m., to be followed immediately by the vote on the motion to invoke cloture on the Kennedy substitute amendment to the civil rights bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 10 a.m. tomorrow.

Thereupon, at 6:22 p.m., the Senate recessed until Tuesday, July 17, 1990, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 16, 1990:

DEPARTMENT OF JUSTICE

LYNN H. DUNCAN, OF GEORGIA, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF GEORGIA FOR THE TERM OF 4 YEARS. (REAPPOINTMENT)

EXTENSIONS OF REMARKS

WHAT LIES BEHIND THE PANAMA INVASION?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. RANGEL. Mr. Speaker, I rise to call your attention to two newspaper commentaries published June 9, 1990; one by Mr. Theodore Draper entitled "War! (Part III)," the other by Mr. Bob Krasnansky entitled "No Compassion for the People of Panama?" I was, and still am, strongly opposed to the decision to invade Panama. I believe this action was clearly illegal under American and constitutional law and was rationalized under the flimsiest of pretexts. I feel these gentlemen's commentaries are relevant to this discussion and closely parallel my own beliefs.

I am committed to discovering the real reasons for the invasion and our continued presence in Panama. In addition, I am determined to see that there is no further deception of the American people about the incidents that took place during the invasion.

[From the Washington Post, June 9, 1990]

WAR! (PART III)

(By Theodore Draper)

Richard Harwood's columns of May 27 and June 3 ["War! (Part 1)" and "War! (Part 2)"] were aimed at my article, "Did Noriega Declare War?" in The New York Review of Books of March 29. Intended to discredit me, they are a discredit to Harwood and The Post, Nevertheless, something can be gained if the issues are made clear and the U.S. invasion of Panama reconsidered.

Harwood flatly denies that the so-called "declaration of war" allegedly made by Noriega had anything to do with President Bush's decision to invade Panama. Harwood writes that the declaration was not "the provocation of *casus belli* the administration may have been seeking. It was not, as Mr. Draper maintains, 'Noriega's so-called declaration of war'; no one tried to hang his hat on that one."

This is simply wrong. Quite a few people tried to hang their hats on that one. Two of the most important were President Bush and Secretary of State Baker.

In his press conference on Dec. 20, Baker referred to the alleged declaration as if it were responsible for the later acts of violence. "If you go back and remember," he said, "that there was a declaration of war followed immediately by the killing of a United States Marine and the concomitant arrest and beating of a Navy lieutenant and the sexual harassment of his wife. These are actual events that took place in the immediate aftermath of a declaration of war."

In his press conference on Dec. 21, President Bush also referred to these incidents which, he said, with "the declaration of war by Noriega," made him decide to invade Panama.

Editorially, The Post and The New York Times immediately reflected the official line. A Post editorial on Dec. 21 backed Bush's invasion and gave as its first reason "the declaring of a 'state of war.'" The Times of the same date made the same connection.

Noriega's alleged declaration was critical to the invasion because a U.S. invasion could not be rationally hung on the death of one soldier and harassment of another and his wife in a period of tension. They were connected with the "declaration" in order to make them seem to be deliberate acts of war.

In fact, these incidents were passed off as inconsequential until President Bush decided to use them to send in U.S. troops. The Post of Dec. 19 reported: "As recently as this weekend administration officials were saying the killing of the American in Panama was an isolated incident, not linked to Noriega's declaration of a state of war on Friday [Dec. 16]. But on Monday [White House spokesman] Fitzwater revised that view, saying the killing was 'symbolic of the brutality and viciousness with which Gen. Noriega has conducted the affairs' of Panama." In fact, deputy Secretary of State Eagleburger had previously called Noriega's alleged declaration of war "a charade, it's nonsense."

Was the killing of the soldier a deliberate act of war? As The Post reported on Dec. 17, the incident occurred when four U.S. soldiers in civilian dress made a wrong turn in a car in front of Panama Defense Forces headquarters. When PDF troops told them to get out of the car, according to the U.S. Army spokesman, the four "panicked and ran," whereupon the PDF troops opened fire, hitting one of the Americans, who died soon afterward. The other three were uninjured and returned to their units.

On Dec. 18, The Post reported, a U.S. Army officer shot and wounded a Panamanian police corporal in a somewhat similar incident, apparently based on a misunderstanding on the part of both men. These incidents were signs of tension, not deliberate acts of war. Did Noriega act after his "declaration of war" as if he had really declared war? In a press conference on Feb. 27, 1990, Lt. Gen. W. Stiner, who had been in command of the Dec. 20 invasion, declared that no arms had been issued to the Panamanian troops until it was learned at the last moment that U.S. forces were about to attack. U.S. planners knew that Noriega had taken no actions to go to war with the United States. Gen. Stiner said that he had hoped to catch the PDF completely by surprise.

Anyone who actually read Noriega's speech of Dec. 15, in which he allegedly declared war, would know that he was referring to the economic warfare against Panama declared by the U.S. embargo in April 1988. It was a rambling, rhetorical performance in which Noriega called for strengthening "the internal front to improve our resistance."

The resistance was described by Noriega as follows: "Our relations with the United States must include facing the people, raising our voice of protest at forums, assemblies, congresses, pulpits, universities, meetings, political parties, unions, professional gatherings, and business groups, as much as possible." The tenor of this speech was known in official circles in Washington because that is the way it was translated by the Foreign Broadcast Information Service of Dec. 18.

We need not weep over Noriega's personal fate. We do need to worry about a U.S. invasion of a small, weak country, and the destruction it caused, in order to oust one corrupt ruler whose corruption was subsidized by the United States for many years on the flimsiest of pretexts. That pretext is the issue here, because the deception of the American people is too high a cost for what was accomplished in Panama.

Now that we are six months away from the Panama invasion, it would have been fitting for The Post to reexamine its position and reassess the entire episode. Instead, we have been given the frivolous cynicism of an apologist, not an ombudsman.

[From the Washington Post, June 9, 1990]

NO COMPASSION FOR THE PEOPLE OF PANAMA?

(By Bob Krasmansky)

Every Post article, editorial and human interest story about the effects of the Soviet embargo on Lithuanians underscores residual Soviet imperialism—and The Post's hypocrisy.

For The Post gave no such coverage to the effects of the U.S. embargo on Panamanians, though the Panamanians suffered far more than the Lithuanians have. One had to go elsewhere to read that the U.S. embargo wiped out Panama's middle class, drove doctors and other professionals from the country in droves, increased unemployment to over 50 percent and caused the poor so much suffering and premature death from malnutrition that Panama's bishops called the sanctions "immoral" and asked the United States to end them.

Did The Post think the U.S. goal—to get at a single person, Gen. Noriega—so justified the injuring of hundreds of thousands of innocent people that their suffering wasn't even worth reporting?

Or is it unconscious racism: white Lithuanians deserve compassion and copy while brown Panamanians do not?

You are our eyes and ears on the world, and you usually do an exemplary job. We deserve an explanation for the different coverage of these two embargoes. Do you have a hidden agenda?

CHOICE IN EDUCATION

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. BARTLETT. Mr. Speaker, I commend the attached column, by William Raspberry in today's Washington Post, to the attention of my colleagues:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

[From the Washington Post, July 16, 1990]

CHOICE IN EDUCATION

(By William Raspberry)

You're going to be hearing more and more about "choice" in education during the next months and years—and not just from the political conservatives who have been pushing vouchers and tuition tax credits for the past decade and longer.

The new choice advocates, whose voices are changing the climate of the education debate, are not the conservative ideologues but ordinary men and women—often black and poor—who have given up on an educational system they are convinced has given up on their children.

They are people like Polly Williams, the Wisconsin state legislator, who has pushed through a voucher plan under which, starting this fall, 1,000 Milwaukee youngsters can attend any private nonsectarian school of their choosing, with the state paying up to $2,500 in tuition costs; or Lawrence Patrick, the Detroit school board president, who is pushing a plan that will combine Milwaukee-like choice with Chicago-like community control of public schools.

Williams and Patrick are black, and it matters. As long as white conservatives were the driving force behind vouchers, tax credits and other choice mechanisms, the mostly liberal education establishment found it easy to discredit them as not really interested in the education of poor children but only in their own arcane doctrines.

No such charge can stick against Polly Williams, an inner-city single mother who twice headed Jesse Jackson's presidential campaign in Wisconsin. Her interest, she insists, is not in undermining public schools but in educating poor black children. They aren't being educated now, she says, because the school hierarchy has been more interested in perpetuating its own power and in promoting racial integration.

Like Patrick, her goal is not to empty the public schools but to force them to improve.

Choice, of course, embraces far more than tuition payments and community control. Indeed, it may be misleading to subsume under the single heading of "choice" the myriad plans that are either being developed or are already in place in an effort to make the public schools better.

In Chicago, choice means neighborhood school boards, complete with the power to hire and fire teachers and principals, as a means of freeing local schools from the stultifying distance and detachment of "downtown." In Minnesota, it means giving parents the right to send their children to any public school—even across district lines. In New York, it means freeing parents to design their own education programs. In East Harlem, for instance, huge schools have been transformed into a series of smaller ones which, while housed in a common building, employ their own distinctive approaches to organization and teaching.

The fascinating thing about all these schemes is how little they are involved with race. For a full generation following the 1954 Supreme Court desegregation decision, the civil rights establishment has focused on racial integration. The theory has been that the best way of giving black children an equal education is to get them into the same schools and classrooms as white children.

It has worked reasonably well in smaller school districts, where, for instance, two segregated and underfunded high schools could be merged into one. It has not worked well in the larger cities, where racial housing patterns have made integration achievable only by wide-scale busing and, more recently, magnet schools designed to attract white students.

It is true that the magnet schools have generally been both superior and integrated. But it is also true that the educational needs of the majority of black children have been sacrificed to the efforts to attract white children.

As Williams put it, for example, Milwaukee's desegregation plan principally benefitted whites drawn to the magnet schools and black students who were either lucky enough to be included or whose parents were willing to "put their babies on the bus at 5:30 in the morning and not see them again until 6:30 in the evening."

She wants better opportunities for all children. But despite her success in the state legislature, her battle for choice is far from over. A suit against the plan, filed by a coalition including teachers, administrators and the president of the Milwaukee branch of the NAACP is now before the Wisconsin Supreme Court.

Interestingly, while it speaks of uniformity and standards and authority, the suit is virtually silent on the question of instructional quality. As Elizabeth Kristol, of the Ethics and Public Policy Center, noted in The Post [op-ed, June 22]:

"Not once in the petition are the relative merits of the Milwaukee public and private schools assessed in terms of the education or educational climate they offer children. There is no mention of courses of study, rates of graduation, reading scores, school safety, or the presence or absence of drug use. In short, the petition opposing the parental choice program does not touch a single issue that a parent of a school-age child cares about."

What Williams, Patrick and a growing band of choice activists care about is quality education for their children. And unless I misread the mood of millions of frustrated black parents, they are going to find an awful lot of support.

TRIBUTE TO ROBERT K. CAMPBELL

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. RITTER. Mr. Speaker, I rise today, sadly, to pay tribute to my good friend and a "man for all seasons," Robert K. Campbell, chairman, president, and CEO of the Pennsylvania Power and Light Co., who passed away June 16, 1990, at age 59.

If there was ever a Mr. Lehigh Valley it was Bob Campbell. Regional leadership was his way of life and he quietly but firmly brought it to the Lehigh Valley.

Bob was a corporate and civic leader in Allentown for over 20 years. He was chairman of the Lehigh Valley Partnership and a past president of the Pennsylvania Chamber of Business and Industry and a board member of the Pennsylvania Economic Development Partnership. He was a director of Harsco Corp. and Consolidated Rail Corp. Bob was vice president for Exploring of the Minsi Trail Boy Scout Council and was honored in 1987, along with his wife, Alvina, by the council with its Lehigh Distinguished Citizen Award.

Bob Campbell having assumed the helm of leadership in the Lehigh Valley and then in the State of Pennsylvania, was ready to steer our Nation as chairman of the Edison Electric Institute [EEI], probably the highest ranking leadership position in energy production in America.

As a graduate mechanical engineer with a masters degree and with an MBA and law degree, and with leadership experience at AT&T and Pennsylvania Power and Light, Bob Campbell was uniquely qualified to lead EEI at this crucial time. Issues of U.S. electrical energy production related to U.S. global competitiveness and the increasingly difficult regulatory framework plus the onset of Clean Air Act Amendments of 1990 and the issue of the future of nuclear power, demanded a uniquely qualified individual and that person was Bob Campbell. His shoes were enormous and will be difficult to fill.

The following eulogy was delivered at the First Presbyterian Church of Allentown, by Father Daniel Gambet, president of Allentown College of St. Francis de Sales, a college to which Bob Campbell was devoted. It is a very special speech delivered by a man who knew and loved Bob Campbell.

ROBERT K. CAMPBELL

(Eulogy delivered by Father Daniel Gambet)

Alvina Campbell and the other members of Bob Campbell's family have asked me to extend to all of you their heartfelt thanks for your presence here this morning. Your kindness, support, and love are especially needed and especially appreciated in this time of loss. We are gathered here this morning for three reasons:

Most important, and first of all, we have come together to celebrate—I use the word deliberately. We celebrate Bob Campbell's rising to new life.

Secondly, we gather here to reflect. To spend a few moments reflecting on Bob Campbell's life and his virtues—so that each one of us may be inspired to imitate his goodness.

And, finally, we come together to reinforce our own conviction that life is indeed worth living: Because at the end of it—if we believe in God and if we are faithful—we, like Bob, will ourselves rise to new life.

The message of the readings from the scripture we have just heard is a message filled with hope. "I am the resurrection and the life," the Lord tells us, "if anyone believes in Me, even though he dies, he will live. And whoever lives and believes in Me will never die."

What a promise that is. A promise full of hope, given us by the Lord himself. It assures us that for the faithful follower of Christ, for Bob Campbell, death is a time for hope, not of despair: it is a cause for celebration, not for grief. Because death is a beginning, not an ending. It is a victory, not a loss.

Bob Campbell won many victories in his lifetime. His biography can really be read as a series of victories. But last Saturday evening, he won the most important victory of all. He conquered death and rose to new life with the Father. For Bob, at the moment of death, life was changed, not ended: and changed infinitely for the better.

Bob, a very wise man filled with faith, understood that. He told us several times during the past two weeks that he felt especially blessed to have had such a good life here on earth, but that he knew, after death, he would have a much better life.

Bob drew strength, as we should, from the words of the book of wisdom: "Those who are faithful will live with God in love. Grace and mercy await them."

If ever a Christian was faithful, Bob Campbell was faithful. Grace and mercy await him. He lives with God in love.

St. Paul urges us who have been separated from a loved one by death "* * * not to lack understanding concerning those in the sleep of death, lest we yield to grief like the others and have no hope." That's good advice, and we want to take it. Still, it is impossible not to mourn the death of one we love, especially when it is someone like Bob, whose life enriched us all, and whose death surely diminishes the life of each of us who knew and loved him. The pain of separation is especially deep and penetrating for the members of Bob's family.

And so, all of us gathered here this morning to extend our most sincere sympathy to you Alvina; to Bob's sons, "his boys", as he liked to call them: John, Tom, and Joe; to his sisters, Bonnie and Gael; and to all the members of the Campbell family. You are in our thoughts and in our prayers at this difficult time. You do have many consolation. You have the consolation of knowing that Bob led a good, happy, and fulfilled life. (How many times he said that in the past two weeks!) He lived to see his "three boys" happily married and launched on successful careers. He lived to hold three grandchildren in his arms and to help to teach them to walk. He built his company into one of the finest electrical utilities in the country, and how proud he was in his last days that the transition to new leadership could be effected with no loss of momentum. And, on another level altogether, he shot 84 on the Grace Course at Saucon two weeks before he died. (How happy he was about that; he beat me by 18 strokes!)

You have the consolation of knowing that you were his most precious treasure, that you were the ones, most of all, who made his life so happy and so good. You can thank God that his last days on earth were typical of his entire life; days filled with stength and courage (he told us he was not afraid to die) and dignity. And you can thank God that his life ended mercifully without pain and without the loss of self-mastery Bob would have found so difficult.

In spite of these very real reason for consolation, we ask ourselves "why"? Why would God take this good man from his family and from us in the prime of his life and at that apogee of his career? We don't know why, and we never will. We only know that God is smarter than we are. God's plans are not our plans. His designs are not man's designs. One thing is certain: by Bob's untimely death, God wants to remind all of us that human life is fragile and that we should not cling to it too dearly; because He, God is the one who controls our lives. He is the master. We are His servants. And no matter who we are or what we are, when He calls us home to the mansion He has prepared for us, we must go.

I said before that Bob Campbell's life was a series of victories. Bob was a very successful man. Bob Campbell's life was distinguished by success at every turn. Success, first of all, as the world measures it, in terms of esteem, influence, and position. He enjoyed success as one of the most respected and beloved corporate executives in the history of our Valley; as the leading figure in the electrical utility industry in the United States (he was chairman-elect of the Edison Electrical Institute when he became ill); as CEO of PP&L, which he built into one of America's most respected and successful electrical utility companies, and as CEO of one of America's safest and best-run nuclear plants (how proud he was of Susquehanna); as a manager virtually without peer, whose expertise was tapped by the Russians after Chernobyl, and more recently by the Japanese; and by the Boards of Conrail, HAARSCO, and the Whitaker Foundation; as a corporate leader wielding statewide influence and doing statewide good as chairman of the State Chamber and of the Pennsylvania Society; and as a board member of Pennsylvanians for Effective Government; and as a community leader of unequaled vision, whose special concern for the economic well-being of our Valley led to the foundation of both the Business Conference and the Lehigh Valley Partnership. Bob Campbell's life was a life marked by uncommon success as the world measures success. But more important than that—and much more important to Bob—his life was singularly distinguished by success as God measures success.

God put Bob Campbell to the test and found him worthy of an everlasting home. Because, first of all, Bob Campbell was a man of absolute integrity. In this "throw-away" society of ours—a society in which we throw away our values almost as easily as we throw away our beer cans—Bob Campell held fast to his values. And his values were God's values, the values of the Gospel. He always knew what God wanted him to do, and he always did it. Bob Campbell was not only a leader; he was always a principled leader. And because, secondly, in a society of takers, Bob Campbell was a giver. Throughout his lifetime, he made a gift to himself to his family, his coworkers ("his guys" as he liked to call them), his friends, and his community.

There are few organizations in this Valley that have not profited in some way from his leadership and generosity: United Way, the Boy Scouts, Sacred Heart Hospital, the Good Shepherd Home, Cedar Crest College, Allentown College, and most recently, a new center for the homeless at 5th and Chew Streets—to mention but a few. Many were the community projects Bob inspired and promoted. Countless the causes he helped. Great was the good he did, and numberless the lives his goodness touched.

I will always rememer Bob Campbell as a man of enormous intellectual reach, equally at home in the worlds of integrated circuits and nuclear reactors, or in a game of trivial pursuit (at which he was really good); as a generalist in an age of specialists—the closest thing to an authentic polymath I have every known; as a thoughtful man and an apostle of reason in every circumstance; as a firm man when he had to be, but a kind and considerate man always; as a quiet man, but a forceful man; as a business man who never in his lifetime compromised on a single principle; as a man "prominent at the city gates" who was warm and friendly to all, regardless of their station; as a busy man, who was never too busy to help others' as a fun-loving man, who laughed at my Hal Roach stories, as I did at his (he stole them from me); as a caring man, a loving husband and father, and a man deeply sensitive to the needs of the consumer and employee alike; as a Christian man, who loved God and knew that God loved him; as a man of prodigious intellect, limitless energy, and exceptional humanity.

An extraordinary man, but even more important, an extraordinarily good man, whose like we will not see again, and whose presence among us was always a powerful force for good.

As I left the Campbell's house on the night Bob died, and came up onto I-78 from Cedar Crest Boulevard, I saw PP&L's lighted tower illuminating the sky directly in front of me. And I thought to myself that lighted tower, standing proud and tall in the center of our Valley is the perfect symbol of the sense of stability, security, and hope PP&L, under Bob Campbell's leadership has given our community.

And I also thought it is the perfect symbol of the man himself, standing ten feet tall among the rest of us, a constant and inexhaustible source of strength, and a powerful presence given light and hope to all.

Mother Teresa tells us, in an image that is perfect for this day and for this man, that God is the current, and we are the wire. We have the power to let God's current pass through us and use it to produce the light of the world, or we can refuse to be used and alone allow the darkness to spread. He lighted up the world—in more ways than one. Your world, my world, the world of our community, and the world beyond. And, in return, he has now received from God the gift we all hope someday to receive: the gift of eternal life.

In the eyes of the unwise, to paraphrase the Book of Wisdom, Bob Campbell did appear to die. His going looked like a disaster; his leaving us like annihilation. But he is at peace—with God—forever.

UPWARD BOUND: A PROGRAM THAT WORKS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. OBERSTAR. Mr. Speaker, every day, we read of another crisis in education—Johnny can't read, Mary can't spell, Billy can't find Washington on a map, the Russians are coming, or the Germans, or the Japanese.

Despite the warnings of the doomsayers, there is one place where dedicated teachers are effectively motivating students to learn. Upward Bound is a 21-year-old program to help young people from poverty areas succeed through education. It gets little publicity but excellent results.

I submit to my colleagues Coleman McCarthy's column in Saturday's Washington Post regarding the Upward Bound Program in my State, Minnesota, and the program's directors, Bruce and Sharon Schelske.

I would like to call your attention to one particular passage:

I've read too many reports from big-desk experts on why, how, when and where kids aren't making it in school. It's as if the professional ponderers are pursuing mystery solutions that, once fathomed, will turn around the schools. What's unmysteriously true is that when the educational methods of Upward Bound are applied—caring, competent and innovative teachers working

with minimal administrative interference—students will respond.

I agree with Mr. McCarthy. The solution to our education problems must begin in the classroom. Upward Bound is proof. The education community and we in Congress should sit up and take notice.

[From the Washington Post, July 14, 1990]

A POVERTY PROGRAM THAT WORKS

(by Colman McCarthy)

MINNEAPOLIS.—Most of the 15 students had a word about their teacher: a man who "pushed me hard," or "held my hand," or "sat on me" or "had faith in me." They spoke with affection and gratitude and with lightheartedness, too, because the teacher was in the back of the room listening. He was blushing like a beet on hearing the spontaneous praise for his academic midwifery.

The teacher is Bruce Schelske, co-director of the Upward Bound program at the University of Minnesota. He and Sharyn Schelske, his wife and co-director, have been working with Upward Bound students on this campus since 1969, when the program was four years old.

On the day I dropped in on the Schelskes and their charges, hearings on the federally funded program were being held in Washington by Rep. Pat Williams (D-Mont.) for the House subcommittee on post-secondary education. This year marks the 25th anniversary of Upward Bound, one of the original antipoverty programs enacted in 1965 under the Economic Opportunity Act.

Along with its stablemates from that era—Head Start, Legal Services, Community Action, VISTA, Job Corps—Upward Bound has been a dependable workhorse, not a showhorse. Upward Bound is not as well known as the others, and it's often confused with Outward Bound, which teaches in-the-wild self-reliance. Upward Bound's friends in Congress are not given to issuing press releases every time a new grant is awarded to a college in the district.

The program brings high school students from poverty backgrounds to college campuses for an intensive six weeks of summer classes in writing, literature, math, science and electives. Counseling is provided, beginning with such basics as mastering the college-application process and applying for financial aid. Upward Bound, part of the Department of Education and funded for $92 million, now serves 34,000 high school students in 504 projects.

I confess to having been touched by my visit with the University of Minnesota students. These were warmhearted kids without guile who spoke, in intellectual innocence, of their good fortune in coming upon Upward Bound. They had survived society's so-whats: You're poor, you've taken drugs and your father skipped out five years ago? So what? You fell behind in school, teachers said you weren't smart and counselors were too busy with the bright crowd, so you gave up? So what? You want a second chance? So what?

Several of the students with whom I met were Upward Bound alumni now on campus as teaching assistants in the program. One had recently graduated from Brown and will be doing graduate work at Harvard. She had been in Upward Bound all the way through high school. Others were studying at schools throughout Minnesota, a state rich in quality liberal-arts colleges. The Schelskes report that since 1980, 215 of their 219 Upward Bound seniors have graduated from high school, with 88 percent going on to college. Nationally, Upward Bound students have been graduating from college at four times the rate of students from similar backgrounds who weren't in the program.

One reason, I imagine, for my being moved by the interviews here is that I've read too many reports from big-desk experts on why, how, when and where kids aren't making it in school. It's as if the professional ponderers are pursuing mystery solutions that, once fathomed, will turn around the schools. What's unmysteriously true is that when the educational methods of Upward Bound are applied—caring, competent and innovative teachers working with minimal administrative interference—students will respond.

One of the frustrations of the Schelskes is deciding which students can be enrolled. "For every person we take, we're forced to say no to five," Bruce Schelske said. "We take 30 new students out of a school where we could serve 500. The worst part of the year is choosing the students."

The Schelskes say yes to a few and no to many. They keep a balance, taking some students with reading problems, others with harsh home lives and some with such obvious talents that passing them over would be nearly criminal. Still, they wonder about the hordes of eligible kids who've been missed. Some others—in Congress, in the administration of "the education president"—should be wondering, too.

Instead of asking why students are failing, the question should be: Who's failing students?

TRIBUTE TO JULIE BETH NELSON

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. GUNDERSON. Mr. Speaker, I would like to pay tribute to a special constituent of mine, Julie Beth Nelson, who is a Voice of Democracy winner. The contest theme this year was "Why I Am Proud of America," sponsored by the Veterans of Foreign Wars of the United States. It is my pleasure to present to you her script:

Lee Greenwood once sang, "I'm proud to be an American where at least I know I'm free." Americans. We live and breathe freedom. Like the air, freedom has become a vital part of our everyday lives. It surrounds us, giving up the ability to express our rights and beliefs. Without it, our minds would be stifled and suffocated. In America, we are free to express our thoughts, and are encouraged to live by our beliefs. Freedom has given us the opportunity to live by our beliefs. Freedom has given us the opportunity to travel and expand our minds. By expressing our own ideas and listening to the ideas of others, we have become more aware of the world around us. However, with the sense of awareness, comes a sense of responsibility. As a young American, I am proud of the way America has handled the responsibility of freedom.

As a young nation, we acted much like a young child—maturing, getting a feel of the world around us. We chose to remain uninvolved in the problems the rest of the world was facing. As we grew older, we began to realize we could no longer close our eyes. We had to share the priceless gift we'd been given at birth: freedom.

In Boston Harbor, America threw, along with several other things, her first party. Why was the Boston Tea Party such a success? Because we united our efforts and voices in a cry for freedom. Together we fought for independence and I am proud to say America didn't stop fighting in the Boston Harbor, but continues to fight for freedom today.

July Fourth. A day of celebration and remembrance in the United States, is also a landmark day in the Philippines. The Filipinos have good cause to celebrate; they are also free. In 1946, America granted them their independence and helped them improve their economy, and build roads and schools. A Filipino graduate of Harvard is quoted in National Geographic as saying, "Under the Americans we had the very fundamental things: the freedom to inquire, the freedom to move, the freedom to create, the freedom to complain. That gave us a spirit of curiosity." The American spirit, now that's something to be proud of.

During World War II, we heard another nation crying out. France was trapped under the Nazi regime and needed our help. America bravely sent her men to Normandy and delivered the French from dictatorship to democracy. The courage of our forefathers fills me with pride and the desire to tell the world, "I am an American!"

Today, America continues her efforts to spread democracy and freedom throughout the world. President Bush has recently organized a "summit on the seas" with Mikhail Gorbachev to discuss Gorbachev's views on glasnost and his plans for perestroika. Step by step we are working to clear the pathway to freedom in the Soviet Union. But other countries continue crying out. The Baltic States long for independence, the East Germans are demanding freedom, and the Chinese are literally dying for democracy. It makes me so proud to live in the country that epitomizes independence, democracy, and freedom. A prominent East German writer, Stefan Heym, recently stated, "After four decades we have found our voices again. In America we have always been able to use our voices, we must continue to use them to promote democracy and encourage freedom."

My voice, though it may not be as rich or beautiful as Lee Greenwood's, can be heard. Thanks to America, so can many others' around the world. That is why, as Lee Greenwood sang, "I'll proudly stand up next to her and defend her still today. 'Cause there ain't no doubt I love this land. God bless the U.S.A."

IN RECOGNITION OF BILL BARBEAU AND THE MINNESOTA OFFICE OF PIPELINE SAFETY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. VENTO. Mr. Speaker, in July 1986, a tragic gasoline pipeline explosion in Mounds View, MN killed a mother and her young daughter. This tragedy, more than any other single event, prompted the State of Minnesota to reassess its regulation of hazardous liquid and natural gas pipeline systems in our State.

Gov. Rudy Perpich appointed a special pipeline safety commission to make recommendations on how the State could improve its regulation of pipeline safety. In 1987, acting on the commission's recommendations, the Minnesota Legislature created the office of pipeline safety as a division of the department of public safety. I was pleased to be the author of the Federal Pipeline Safety Act which implemented many of these same recommendations into Federal law.

Governor Perpich appointed Mr. Bill Barbeau to serve as director of the Minnesota Office of Pipeline Safety. Under Bill's able leadership, since 1987, the Minnesota OPS has conducted a thorough and comprehensive inspection of all natural gas pipelines in Minnesota for the first time in 13 years. The office has also conducted extensive inspections of hazardous liquid pipelines as well.

The Minnesota OPS has set as its primary objective seeking and obtaining full interstate agent status for the purpose of annual inspections of interstate hazardous liquid and natural gas pipelines. The Minnesota OPS was instrumental in the establishment of the Gopher State One-Call; a centralized repository of information where contractors and persons doing excavation work can call to get timely and accurate information about the location of underground pipelines and utilities before digging. Such information is invaluable in preventing pipeline accidents, most of which are caused by third-party damage to buried pipelines. Recently, the Minnesota Legislature also added a civil penalty clause to the law to encourage continued expanding use of the one-call system. This center is a model for the Nation and now handles more than 1 million inquiries annually.

In its 1990 annual report, the Minnesota OPS has issued over 780 enforcement actions representing over 6,500 minimum violations of the State's pipeline safety laws. Minnesota OPS is also in the process of drafting a model setback ordinance that will propose a 60-foot setback of development from new pipeline construction. Minnesota OPS is also conducting extensive inspections this summer of all propane pipeline operators in the State of Minnesota.

I want to commend Governor Perpich and the Minnesota Legislature for their foresight in proposing solutions to improving the regulation of hazardous liquid and natural gas pipelines in Minnesota. I also want to commend Bill Barbeau and his dedicated and highly trained staff of technical experts in the Minnesota Office of Pipeline Safety for their work in making Minnesota a safer place to live. Not only has their oversight and inspection work helped to improve pipeline safety in our State, but it has also served as a model for other States across the country which are addressing this issue of public safety. Hopefully, from the Minnesota experience, we can help prevent more pipeline accidents in the future through a combined program of a strong regulatory and inspection system, a strong public education and information program, and strong public support.

THE EFFECT OF SUGAR PROGRAM REFORM ON THE CORN INDUSTRY

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. GRADISON. Mr. Speaker, one of the most dramatic developments in the U.S. sweetener industry in the 1980's has been the emergence of corn sweeteners. According to USDA, 348 million bushels of corn were ground for corn sweeteners in the 1980–81 crop year. By the 1989–90 crop year, that figure had risen to 575 million bushels of corn. About 7 percent of a normal crop is currently used to produce corn sweeteners. Corn sweeteners now account for approximately 53 percent of the domestic sweetener market.

The development and evolution of corn sweeteners, including high fructose corn syrup [HFCS], has, at times, been assisted by the relatively high support level afforded to domestic sugar producers. Under the particularly generous price umbrella afforded by the sugar program in the 1980's, the industry has grown, prospered, and matured.

Corn sweeteners are an important market for corn growers across the country, including those in my district. However, a myth surrounds the debate on reform of the U.S. Sugar Program. Defenders of the program assert that any change in the level of the price for sugar will subject the corn sweetener industry and corn growers to volatile changes in prices. Nothing could be further from the truth.

When the 1990 farm bill is considered by the House, Representative DOWNEY and I will offer an amendment to reduce the current level of support for sugar producers by 10 percent—from 18 cents to 16 cents—in keeping with the reductions taken by other commodity producers in the 1985 farm bill. This amendment, which has the full support of the administration, is a reasonable and modest proposal which addresses the numerous problems resulting from current U.S. sugar policy. The corn sweetener industry and corn farmers will not be adversely affected by a 2 cent reduction in sugar support prices.

Recently, the administration and a major producer of corn sweeteners made this quite clear. On July 9, 1990, the Assistant Secretary of Agriculture for Economics, Bruce Gardner, wrote Senator LUGAR that:

[a] two-cent reduction in the loan rate for raw sugar would have negligible effects on sales of HFCS and other corn sweeteners during the 1990s and beyond. Use of corn by the wet milling industry would not be affected and market prices for corn would be the same as with the current sugar loan rate. Therefore, Commodity Credit Corporation (CCC) outlays for corn price and income support would not be affected by a two-cent reduction in the sugar loan rate.

Cargill, one of the Nation's leading producers of corn sweeteners has also come to the same conclusion. Reprinted below is a letter I recently received from the president of Cargill's Corn Wet Milling Division outlining their view.

I hope this clarifies the relationship of the Downey-Gradison amendment to the corn industry. I urge my colleagues to join me in support of this important reform proposal.

CARGILL,
Minneapolis, MN, July 9, 1990.

Hon. WILLIS GRADISON, JR.,
U.S. House of Representatives,
Washington, DC.

DEAR MR. GRADISON: Cargill is one of the country's largest producers of corn sweeteners. We believe U.S. sweetener policy should encourage open competition among various sweeteners in the domestic market, while providing protection against unfair competition caused by widespread subsidization in world sugar markets.

Cargill agrees with your analysis that the existing sugar program with an 18-cent-per-pound loan rate is unsustainable. Further, we support your proposal to retain the current program structure with a 16-cent loan level.

A decrease of two cents per pound will not harm the corn farmers from whom we purchase our raw material. It is the quantity of corn consumed in the production of sweeteners—not the sugar loan rate—that is crucial to corn prices and to the broader health of the corn industry. Demand for corn to be used in sweetener production will not fall if the sugar loan is set at 16 cents.

A two-cent reduction will benefit the millions of American consumers who enjoy foods and beverages made with nutritive sweeteners. Our food-manufacturing customers also should find themselves able to compete more effectively against foreign companies that have access to world-price sugar.

While this change will make the U.S. sugar program more sustainable, it dose not address distortions in sweetener markets caused by the policies of countries around the world. Progress on this problem will require comprehensive multilateral reform of sweetener policies in the Uruguay Round negotiations.

Sincerely,

ERNEST S. MICEK,
President,
Corn Wet Milling Division.

NO QUICK FIX FOR THE AUTO-INSURANCE MESS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. RITTER. Mr. Speaker, I know my colleagues share my concern about the rising costs of automobile insurance. A recent article appeared in the U.S. News & World Report which suggests there are many factors such as "rocketing costs of medical care, lawsuits, and car repairs" contributing to the accelerating cost of automobile insurance. Perhaps if we focused on curtailing collision costs, we could begin to find an answer to this important problem.

A copy of the article which appeared in the July 2, 1990 edition is inserted in the RECORD at this point:

[From the U.S. News & World Report, July 2, 1990]

NO QUICK FIX FOR THE AUTO-INSURANCE MESS

(By Sylvia Nasar)

INSURANCE CONSUMERS, MAD AS HELL

So you think you're paying too much for car insurance? Join the crowd. Zooming rates have sparked a massive consumer revolt. From Seattle to Scranton, drivers are fighting for—and winning—tough new laws modeled on California's Proposition 103. The 1988 law called for large rate rollbacks and tight-fisted regulation of future increases.

Consumers' fury isn't hard to fathom. The average premium has doubled in the past decade, to $500 per car. In high-cost cities like Los Angeles, drivers now pay several times that much. Tempting as it is to go for a quick fix, however, legislating lower rates just won't work.

Insurance companies are easy to hate. Consumers tend to think of them as a monopolistic cabal that piles up excess profits by inflating premiums. But the facts don't jibe. Competition among insurers is surprisingly stiff. More than 350 companies sell auto policies in California, for example. Besides, while a handful of superefficient companies practically mints money, the average auto insurer isn't turning much of a profit. Paul Hasse at McKinsey & Company, a management consultant, points out that California insurers lost an average of $2 for every $100 of car insurance they sold in 1988. Nationally, profit margins are so paltry—3 percent—that insurers like Aetna and Travelers are pulling back from some markets.

What's really driving up rates are rocketing costs of medical care, lawsuits and car repairs, which together devour 86 cents of every premium dollar. "As a matter of simple arithmetic, the rise in rates cannot be explained by an increase in profits," says Alfred Kahn, the Cornell economist who helped deregulate the airlines in the '70s. Take the $265 rise in California's average premium between 1982 and 1987: $225 of it covered additional claim costs, leaving only $40 to pay for five years' worth of rising expenses.

CONTROL COSTS, NOT PRICES

Consumer activities have come up with two fixes. The first is to jam the lid on rates, but trying to hold premiums below costs always backfires. "Insurance is a commodity, like wheat or corn. If the price is inadequate, the product dries up," says August Alegi, group vice president at GEICO, Massachusetts, which has practiced Draconian rate regulation for two decades, proves the point. Nine insurers have already left the state and dozens more want to. Not coincidentally, Massachusetts drivers pay the highest premiums in the land.

Second approach, to even out rates among different groups of policyholders, is equally flawed. It seems unfair for urban drivers to pay several times more than their rural counterparts for the same policy. But since the former will submit many more claims, charging similar rates would force one set of drivers to subsidize another. A more insidious effect of undercharging higher-risk drivers could be more accidents, says University of Massachusetts economist Simon Rottenberg, since such drivers would have less incentive to drive cautiously.

The real solution is to clamp down on costs, not prices. Collaring collision costs requires tougher highway enforcement and a crackdown on body-shop ripoffs and auto theft. The fastest way to get consumers a break would be to enact genuine no-fault laws. That would let insurers sell policies that require them to pay policyholders' expenses no matter who caused the accident. In return, customers would give up the right to sue except in cases of serious permanent injury or death. How much would consumers gain? The industry estimates reductions of roughly 10 to 20 percent. Now that's worth fighting for.

FRANK N. BLEA, JR.

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. RICHARDSON. Mr. Speaker, I would like to ask my colleagues to join me in honoring a New Mexico soldier who has died in the service of our country. Army specialist Frank N. Blea, Jr., of Tucumcari, drowned during night field exercises in Korea last month. He was 31.

Reports of the accident indicate that Blea died after attempting to assist three other members of his platoon who had lost their balance while crossing a stream.

Specialist Blea was born in Tucumcari in 1956 and graduated from Tucumcari High School in 1977. He was active in all sports and held a State record in pole vaulting. He was a two-time boxing champion, rated second in his weight division on the All-Army Boxing Team. He served 7 years in the Army and spent 1 year in Korea.

Mr. Speaker, we must all remember that our Armed Forces are made up of many fine young men like Frank Blea, whose training and other duties are extremely hazardous. In saluting him, I ask my colleagues to recognize that he died both for his country and for his friends.

A TRIBUTE TO NICHOLAS L. REDING, NACA AND MONSANTO EXECUTIVE, FOR HIS CONTRIBUTIONS TO AGRICULTURE

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. STANGELAND. Mr. Speaker, I would like to take this occasion to pay special tribute to a member of the private sector who has been an outstanding leader in behalf of agriculture for many years. Nicholas L. Reding, executive vice president of Monsanto Co., is now moving into other areas for his company and will be missed by the agriculture community, with which he has worked for more than 30 years.

For many years, Nick Reding has been a leader in the activities of the National Agricultural Chemicals Association [NACA] which is headquartered in Washington, DC. He gave yeoman service as chairman of the board of NACA and its executive committee. He also made significant contributions as past vice president and member of the executive committee and board of directors of GIFAP, an international pesticide association representing over 50 nations.

As an NACA and corporate executive, Nick Reding was an invaluable asset both to the Nation's farmers and the House and Senate Agriculture Committees during a critical period. As a member of the House committee, I know I speak for many other Members when I commend him for his leadership and ability to deal innovatively with the many difficult problems that confronted the farmer and the agriculture industry as a whole during that period.

With Monsanto since 1956, he demonstrated his executive capabilities by moving rapidly up the ranks in a series of important posts, including international service in Europe. By 1976 he was a Monsanto vice president and managing director of Monsanto Agricultural Products Co. Soon afterward, he was named a group vice president and then executive vice president, becoming president of Monsanto Agricultural Co. in 1986.

He is moving on as executive vice president of Monsanto Co. with corporate responsibility for environmental, safety, health, and manufacturing operations. He will also be responsible for the long range strategy to insure the future growth and prosperity of Monsanto. He is a member of the executive management committee and a board advisory director.

His achievements and honors in the corporate, governmental, and civic arenas have been many, a testament of the breadth of the ability and dynamism of this native of Iowa. We who are concerned with agriculture will miss his presence and wise counsel and wish him the continued success we know he will record.

INVENT AMERICA!

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. SCHAEFER. Mr. Speaker, I rise today to proudly commend David Little, a student from Everitt Junior High School in Wheat Ridge, CO, for being named a region IV winner in the 1990 "Invent America!" national competition.

"Invent America!" is a dynamic program which has taken the initiative in encouraging our Nation's youth to be innovative.

The analytical thinking skills of our schoolchildren now consistently rank in the bottom 20 percent of the world's industrialized nations. If our Nation is to regain its competitive edge, it is imperative that we strive for creative ways to cultivate our kids' skills and talents. That is exactly what "Invent America!" has set out to do.

It is a great honor for David Little to have been chosen a national winner in this event. The competition was fierce. Elementary and middle schools through the Nation submitted winners from each grade level. Nine State winners—from each grade level—were then selected to compete in a regional contest. Eventually, 45 national winners, including David, were chosen.

The winning invention that gained David his honor is called "Efficooler," which uses natural resources for low-cost air conditioning.

Our Nation is facing a critical period in our technological advancement. Currently, statistics show almost half of all U.S. patents are awarded to foreign nationals, a dramatic increase from 11 percent in the 1960's. Compared with our foreign competitors, America's schoolchildren are receiving lower statistical I.Q. scores, in spite of the fact that the United States spends more than any other industrialized country for education.

"Invent America!" grew out of a desire by J. Morgan Greene, a California businessman, to prepare students to assume the challenges that await them in our increasingly complex and technological world. Mr. Green joined with a group of educators and, within a brief period, the endeavor grew into a national program.

David Little's accomplishment is proof positive that ingenuity and innovation are alive and well in the minds of America's kids. All they need is a little encouragement. I applaud "Invent America!" for providing that spark.

ESPY HONORS MRS. KATHY STARR

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. ESPY. Mr. Speaker, Kathy Starr has the power to touch our soul with pork chops and brown gravy. Mrs. Starr, a native of the 2d Congressional District of Mississippi, has published her secrets in her first book—"The Soul of Southern Cooking."

I would like to honor Mrs. Starr today for her marvelously eloquent book—full of special glimpses into the life of the delta and recipes for wonderefully delicious soul cooking. "The Soul of Southern Cooking," published by the University Press of Mississippi, is a blue print for superb down-home soul cooking.

Craig Claiborne of the New York Times said about Mrs. Starr's book: "Reminds me of my childhood in Mississippi * * * An excellent contribution to the history of black foodways and culture."

Throughout the 191 pages of the book, you can learn about cooking such Southern delicacies as fried okra, blackberry cobbler, fried chicken, oven-baked deer ham, barbecued spare rib, cracklin bread, gar stew, and fist biscuits.

Mrs. Starr's book was published on October 14, 1989. It has had much success and can be found in bookstores across the United States. The book is dedicated to Mrs. Starr's grandmother—Frances Fleming Hunter. Mrs. Starr learned all her secrets about cooking and life from her grandmother while growing up in Hollandale, MS.

Besides publishing a successful cookbook, Mrs. Starr is the wife of Billy Starr, Sr., and the mother of two beautiful children, Billy Starr, Jr., and Frances Starr. She is employed as a health service coordinator for Washington County Opportunities, Inc.

Mr. Speaker, we are proud to have Mrs. Starr as a neighbor in our 2d Congressional District. I personally have enjoyed her cooking many times at events throughout the delta. She cooks meals that should be shared throughout the world.

OFFSHORE OIL LEASING: MOVING TOWARD A LONG-TERM SOLUTION

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1990

Mr. PANETTA. Mr. Speaker, I rise today to inform my colleagues of my intention to seek a provision in the fiscal year 1991 Department of Interior and related agencies which would codify into law the President's recently announced proposal with regards to offshore oil drilling, and to seek my colleagues support of such provision.

As my colleagues well know, I have led the fight in Congress in opposition to the drill-at-any-cost mentality that has guided our Nation's Outer Continental Shelf [OCS] Program since former Secretary of Interior James Watt opened the entire 1.4 billion acres of the Nation's OCS for development. It was this action by the Secretary, and its flagrant disregard for the mandate of the OCS Lands Act Amendments of 1978 which calls for a balance between resource protection and exploitation, that led to the Congress' first enactment of moratorium for the OCS Program that same year.

Since that time, I, with the support of the California delegation, have been engaged in 10 years of guerrilla warfare with the administration over this issue. Until the administration provided for long-term protection of sensitive areas, the delegation was determined to prevent the exposure of our coastline to the threat of offshore development.

During those 10 years, the delegation has gone to the negotiating table twice with the Department. Both times an agreement was reached which would have protected the sensitive areas, while allowing leasing to go forward in areas of high resource potential, and both times the Department unilaterally walked out on the deal.

The net result of this guerrilla warfare has been 9 years of moratoria. Only through the invaluable support of Members like Chairman SIDNEY YATES of the subcommittee, the delegation was able to obtain these stop-gap measures so desperately needed to provide interim protection for our coasts.

While sympathetic to our plight, and critical to our success, the Appropriations Committee has always encouraged the delegation to put an end to these stop-gap measures and seek a long-term solution to the issue.

I am very pleased to inform my colleagues that, with the cooperation and support of the President, I come before you at long last with that long-term solution.

Mr. Speaker, as the leader in this fight, it is a victory for me to finally see a recognition from this President and his administration that the aggressive area-wide leasing programs from the Watt era are an irresponsible and unacceptable mismanagement of our Nation's resources to Congress and the American people and must be abandoned.

As my colleagues are aware, the President recently announced his support for a moratorium on all new leasing off the coasts of California, Massachusetts, southwest Florida, Oregon, and Washington until after the year 2000, with the exception of an area in southern California which may be leased in 1996. In addition, the President announced that he was approving the draft regulations for the proposed Monterey Bay National Marine Sanctuary [MBNMS] which permanently prohibit oil and gas activities in the Monterey Bay.

This announcement was made in conjunction with findings submitted to the President by the President's Outer Continental Shelf Leasing and Development Task Force which was created to resolve environmental concerns with lease sales 91 and 95 in California and 116 part II in southwest Florida.

While the OCS Task Force report has not been officially released, it is understood that the report recommended that no new leasing take place in the three areas studied until further environmental studies of the areas are conducted. Furthermore, a National Academy of Sciences panel confirmed last fall what the delegation has argued for years by concluding that "available scientific and technical information is inadequate and unreliable as a basis for making decisions about the environmental and socioeconomic impact of oil and gas leasing, development, and production of the OCS of California and south Florida."

The verdict is in. The President has made his proposal and Congress is in agreement. It is now our responsibility to codify this long-term policy as an assurance to the President, Congress, and the American people that this policy, which Congress has fought so hard to obtain, is adhered to through future administrations. I ask my colleagues for their support in this effort.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 17, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 18

9:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 2851, to alter the Federal rules applicable to commercial air carriers at high density traffic airports.
SR-301

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Foreign Relations
European Affairs Subcommittee
To hold hearings to review European arms control after the NATO Summit.
SD-419

Governmental Affairs
To hold oversight hearings of the Inspector General's operations and needs.
SD-342

Small Business
Government Contracting and Paperwork Reduction Subcommittee
To hold hearings to examine the continuing problems of the Federal prison industries' competition with small businesses.
SR-428A

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the Federal Reserve's Second Monetary Policy report.
SD-538

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to examine issues relating to the interstate transport of solid waste.
SD-406

1:30 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine the problems with NASA's Hubble Telescope, the shuttle fleet, and the space station.
SH-216

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on visitor facilitation of U.S. points of entry.
SR-253

Foreign Relations
International Economic Policy, Trade, Oceans and Environment Subcommittee
To hold hearings on multilateral aspects of the SEED II (Support for Eastern European Democracy) proposal, the European Bank for Reconstruction and Development (EBRD).
SD-419

Judiciary
To hold hearings on the nominations of Jimmy Gurule, of Utah, to be an Assistant Attorney General, and Steven D. Dillingham, of South Carolina, to be Director of the Bureau of Justice Statistics, Department of Justice.
SD-226

Commission on Security and Cooperation in Europe
To hold hearings to examine results and implications of the Copenhagen meeting on the human dimension held in June 1990, which focused on human rights since upheaval in Eastern Europe and the Soviet Union.
SD-562

2:45 p.m.
Foreign Relations
International Economic Policy, Trade, Oceans and Environment Subcommittee
To hold hearings to examine United States participation in the ninth replenishment of the International Development Association (IDA), an affiliate of the World Bank.
SD-419

JULY 19

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to examine the Federal Trade Commission's (FTC) international antitrust jurisdiction over foreign companies.
SR-253

Energy and Natural Resources
To hold hearings on the nominations of Calvin A. Kent, of Texas, to be Administrator of the Energy Information Administration, Paul L. Ziemer, of Indiana, to be an Assistant Secretary for Environment, Safety and Health, and David H. Leroy, of Idaho, to be Nuclear Waste Negotiator, all of the Department of Energy.
SD-366

Governmental Affairs
To hold oversight hearings on proposed legislation to authorize funds for programs of the Stewart McKinney Homeless Assistance Act.
SD-342

Joint Printing
To hold hearings on the General Accounting Office's investigation of the management of the Government Printing Office.
SR-301

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume hearings to examine certain proposals to reform the deposit insurance system and expanded activities for banking organizations.
SD-538

Commerce, Science, and Transportation
To hold hearings to examine Federal government data collection on foreign commerce.
SD-106

Foreign Relations
Business meeting, to mark up proposed legislation authorizing funds for fiscal years 1991 and 1992 for the Peace Corps, and the proposed Support for East European Democracy Act (SEED), and to consider other pending calendar business.
SD-419

1:30 p.m.
Labor and Human Resources
To hold hearings to review a report of the Taskforce on Workplace and Workforce Readiness.
SD-430

2:00 p.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2827, to improve the administration of the Federal Deposit Insurance Corporation and to make technical revisions to the Federal Deposit Insurance Act.
SD-538

Foreign Relations
To hold hearings on the nominations of Richard C. Brown, of Maryland, to be Ambassador to the Oriental Republic of Uruguay, G. Philip Hughes, of Virginia, to be Ambassador to Barbados, and to serve concurrently to the Commonwealth of Dominica, Saint Lucia, and Saint Vincent and the Grenadines, George F. Jones, of Texas, to be Ambassador to the Cooperative Republic of Guyana, Eugene L. Scassa, of Virginia, to be Ambassador to Belize, and Michael M. Skol, of Illinois, to be Ambassador to the Republic of Venezuela.
SD-419

Judiciary
To hold hearings on the nominations of Carole B. Amon, to be United States District Judge for the Eastern District of New York, Michael Boudin to be United States District Judge for the District of Columbia, Charles W. Pickering, Sr., to be United States District Judge for the Southern District of Mississippi, and William M. Skretny, to be United States District Judge for the Western District of New York.
SD-226

Select on Indian Affairs
To hold hearings on S. 2645, to improve the health status of the urban Indian population and to enhance the quality and scope of health care services, disease prevention activities, and health promotion initiatives targeted at the urban American Indian population.
SR-485

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

3:00 p.m.
Conferees on H.R. 7, to authorize funds through fiscal year 1995 for programs under the Carl D. Perkins Education Act.
2175 Rayburn Building

JULY 20

9:30 am.
Finance
Medicare and Long-Term Care Subcommittee
To hold hearings on S. 1766, to require Medicare and Medicaid providers to make available to their patients information about living wills and other advance directives.
SD-215

Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to examine prospects for a settlement in the Cambodian peace negotiations.
SD-419

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition and Investigations Subcommittee
To hold hearings to examine concentration in the meat packing industry.
SR-332

Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Constance Horner, of the District of Columbia, to be a Member of the

Board of Directors of the National Consumer Cooperative Bank.
SD-538

Governmental Affairs
To hold hearings on pending District of Columbia Superior Court nominations.
SD-342

Labor and Human Resources
To hold hearings on the nomination of Julian W. de la Rosa, of Texas, to be Inspector General, Department of Labor.
SD-430

JULY 23

10:00 am.
Finance
Health for Families and the Uninsured Subcommittee
To hold hearings on problems facing hospitals and doctors who provide care to the medically uninsured.
SD-215

JULY 24

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2800, to permit telephone companies to engage in video programming.
SR-253

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 2807, to direct the Secretary of the Interior to establish and implement power operating criteria at Glen Canyon Dam, and to protect the environmental and recreational resources of Grand Canyon National Park.
SD-366

10:00 am.
Agriculture, Nutrition, and Forestry
To hold hearings on S. 2426, to authorize the President to designate a private nonprofit organization, the National Tree Trust Foundation, to promote tree planting and to establish rural and community tree planting and forest improvement programs.
SR-332

Judiciary
To hold hearings to examine methods for combatting fraud in the savings and loan industry.
SD-226

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on H.R. 3694, to authorize reimbursement by the Secretary of the Interior of certain expenditures at the Minidoka Project, Idaho and Wyoming, S. 1118, to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District of the State of Colorado, and for the protection of fish habitat on the Conejos River, and S. 1932, to provide further relief to the Vermejo Conservancy District from its repayment obligation.
SD-366

JULY 25

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to review the methods of transporting hazardous materials and on proposed legislation authorizing funds for the Hazardous Materials Transportation Act.
SR-253

1:30 p.m.
Foreign Relations
To hold hearings on the nominations of Townsend B. Friedman, Jr., of Illinois, to be Ambassador to the People's Republic of Mozambique, Kenneth N. Peltier, of Texas, to be Ambassador to the Federal and Islamic Republic of the Comoros, and Genta H. Holmes, of California, to be Ambassador to the Republic of Namibia.
S-116, Capitol

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on S. 2044, to require that tuna products containing tuna caught by methods lethal to dolphins be labeled to inform consumers of that fact.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings to examine the findings and recommendations contained in two recent reports concerning the management and operation of the National Park Service's concessions program.
SD-366

Select on Indian Affairs
Business meeting, to mark up S. 1980, to provide for the repatriation of Native American group or cultural patrimony, and S. 2340, to develop and improve child protective service programs on Indian reservations and to strengthen Indian families; to be followed by a hearing on S. 2770, to establish the Indian Finance Corporation, an independent, Federally chartered financial institution in which Indian tribes would be directly involved in its administration in an effort to close the gap between the established sources of private capital and Indian country.
SR-485

JULY 26

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the current operations and future mission of the Department of Energy's national laboratories, focusing on ongoing programs at the laboratories and potential new and enhanced programs, and math and science initiatives that could utilize the expertise of the national laboratories.
SD-366

2:00 p.m.
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 2177, to improve the collection and dissemination of information relating to the supply of winter heating fuels; and to review the Energy Information Administration's final report, An Analysis of Heating Fuel Market Behavior, 1989-90.
SD-366

JULY 27

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings to review the final report on the U.S.-Japan Structural Impediments Initiative (S11) talks.
SD-215

JULY 31

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 2659, to revise and supplement Federal reclamation law to eliminate abuses of the Reclamation program, and H.R. 2567, to authorize funds for the construction of the Buffalo Bill Dam and the Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming.
SD-366

AUGUST 1

2:00 p.m.
Select on Indian Affairs
Business meeting, to mark up S. 2770, to establish the Indian Finance Corporation, an independent, Federally chartered financial institution in which Indian tribes would be directly involved in its administration in an effort to close the gap between the established sources of private capital and Indian country, and S. 2451, to establish in the Department of the Interior a Trust Counsel for Indian Assets.
SR-485

AUGUST 2

9:30 a.m.
Select on Indian Affairs
To hold joint hearings with the House Committee on Interior and Insular Affairs on provisions of H.R. 4117, to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona.
1324 Longworth Building

SEPTEMBER 12

9:00 a.m.
Select on Indian Affairs
Business meeting, to mark up S. 1554, to implement water settlements involving the Pyramid Lake Paiute Tribe, the States of California and Nevada and other parties regarding the waters of the Truckee and Carson Rivers and Lake Tahoe in Nevada and California, and H.R. 5063, to provide for the settlement of the water rights claims of the Fort McDowell Indian community in Arizona.
SR-485

CANCELLATIONS

JULY 17

2:00 p.m.
Foreign Relations
European Affairs Subcommittee
To hold hearings to examine the role of the United States in Support for East European Democracy (SEED).
SD-419

SENATE—*Tuesday, July 17, 1990*

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable TOM HARKIN, a Senator from the State of Iowa.

The PRESIDING OFFICER. Today's prayer will be offered by our guest chaplain, Father Tim O'Brien, of Marquette University, Milwaukee, WI.

PRAYER

Father Tim O'Brien, Marquette University, Department of Political Science, Milwaukee, WI, offered the following prayer:

Let us pray:

Heavenly Father, we acknowledge You as the author of all that is good; we praise You for Your countless gifts and for the opportunities You grant us to create a world that is humane, that is just, and that reflects Your goodness.

Bless this legislative Chamber, its Members and staffs. Inspire them to pursue Your will, to labor energetically in the creation of a vibrant republic—a society rich in diversity and egalitarian in hope and opportunity.

Help us to live as Your people, caring for those who are weak, hearing the voices of those oppressed, challenging those who are blessed, and inspiring all to live peaceably with respect for Your Earth and love for its peoples.

For this we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 17, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM HARKIN, a Senator from the State of Iowa, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. HARKIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting majority leader is recognized.

THE JOURNAL

Mr. CRANSTON. Mr. President, I ask unanimous consent the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. CRANSTON. Mr. President, this morning following the time reserved for the two leaders, there will be a period for the transaction of morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each. The time between 11 and 12 noon today will be equally divided and controlled between Senators KENNEDY and HATCH, for the purpose of debate only on S. 2104, the civil rights bill.

Mr. President, at 12 noon today, the Senate will vote on the Hollings motion to table the Wilson amendment (No. 2204). Upon disposition of that amendment, the Senate will then vote on the Thurmond motion to table the Gorton amendment (No. 2211).

At the conclusion of that vote, the Senate will recess until 2:15 p.m., in order to accommodate the party conferences.

Upon reconvening at 2:15 p.m., the Senate will vote on final passage of H.R. 4328, the textiles bill. Immediately following that, there will be the cloture vote on the Kennedy-Jeffords substitute amendment for S. 2104, the civil rights bill.

RESERVATION OF THE MAJORITY LEADER'S TIME

Mr. CRANSTON. Mr. President, I ask that the time for the majority leader be reserved for his use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the senior Senator from Wisconsin.

THE PRAYER OF THE VISITING CHAPLAIN

Mr. KASTEN. Mr. President, I rise today with great pride and pleasure to welcome to the Senate our guest chaplain, Rev. Timothy O'Brien, of Marquette University in Milwaukee, WI.

Father O'Brien is a dedicated clergyman and a respected intellectual. He is even more than that, he is a true friend of the whole Milwaukee community, and a good friend of mine.

He has been a priest of the Archdiocese of Milwaukee for 21 years, and a professor of political science at Marquette since 1977. He is the author of an important study entitled "Inner-City Public Schools," as well as the producer of the television documentary "Miracle in the Inner City."

Many here in Washington know him as the guiding light behind the Marquette University Congressional Intern Program, which every year sends some of Marquette's finest young scholars to the Halls of Congress.

I am pleased every summer we have had a Marquette intern working at our office.

I know the Senate will join me in extending a warm welcome to our distinguished guest, Father O'Brien.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

The ACTING PRESIDENT pro tempore. Without objection, the time of the Republican leader is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, may I proceed in morning business?

The ACTING PRESIDENT pro tempore. The Senator is recognized.

CELEBRATING U.S. TECHNICAL INGENUITY AND THE BICENTENNIAL OF ADAM SMITH'S DEATH

Mr. WALLOP. Mr. President, 200 years ago today, Adam Smith died. But the system of economic organization that he so memorably explained and propounded has never been healthier. Because Adam Smith was convinced that the market would, literally, deliver the goods, he wanted it left alone.

Two hundred years later, our own Silicon Valley once again illustrates this point. Last Thursday, Conductus, a tiny Silicon Valley startup got a jump on its Japanese competitors by unveiling what is believed to be the world's first factory dedicated to making superconducting chips.

Conductus' factory flies in the face of warnings that government-backed Japanese conglomerates, which have poured hundreds of millions of dollars into superconductor research since 1987, are winning the race to move the material from the laboratory to the marketplace. Conductus says it already has orders for prototype chips from seven U.S. companies.

Conductus was formed in September 1987 soon after researchers in Zurich and later in Texas discovered superconductors that work at much higher temperatures than originally thought possible. The new high temperature materials, which conduct electricity with almost no resistance at about minus 250 degrees Fahrenheit, are considered ideal for use in extremely fast computer chips. But the new materials, a type of ceramic, are hard to form into usable shapes, such as the thin films of material needed to create microscopic circuits on chips. But Conductus tackled that problem at its new factory by using mostly secondhand semiconductor-making equipment.

Obviously, innovation is more than having the most sophisticated laboratory equipment. For Conductus, the key has been the skill of its staff in developing their "secret black magic," as Conductus' vice president calls it. This magic was their ability to invent equipment for thin film deposition. Their success can be attributed to Conductus' ability to woo researchers from around the United States. Its top executives are scientists and lab managers originally from companies like IBM and Rockwell.

Mr. President, I bring this case to the attention of my colleagues because it caused me to pause and to marvel afresh at this fabulously powerful mechanism—the free market.

Despite the collapse of communism, despite the triumph of market economics, despite Ronald Reagan and Margaret Thatcher, state socialism still burdens nearly every sphere of economic life around the world. This is not because the theorists of big government have won the argument. They have not. In fact, they have been discredited by recent events.

However, too many people have grown so accustomed to pervasive Government that they no longer even notice it. Thus, there continues to be a clamor for Government intervention, whether in the form of public welfare or a State industrial policy.

But the example of Conductus bears witness to the dynamic power of the market, unfettered and unencumbered. Many, in their fear of Japanese economic domination, denounced the Reagan administration for refusing to pump millions of dollars into the superconductivity industry in hopes of supplanting the Japanese threat.

They have forgotten something that Adam Smith saw clearly: Every advantage granted by Government to one part of the economy puts the rest at a disadvantage. Government intervention, through subsidies or through Government support of specific technologies, is offered as though it costs nothing; the beneficiaries demand it as of right.

But subsidies are financed not by themselves but by taxes. And taxpayers, forced to spend money on the Government determined product, will spend less on other things they do want, so that other producers will sell less, earn less and employ fewer people. All too often, Government intervention is in itself a cause of the market breaking down—which becomes the reason for further rounds of intervention, and the process goes on.

So let us take the concurrence of these two events—the bicentennial of the death of Adam Smith and the unveiling of Conductus's factory for making superconducting chips—as reason to take stock. Let us take a moment to celebrate U.S. inventiveness which is based on the ingenuity of the free market.

Two centuries later, free trade is not just a matter of the cheapest supply; it is also the best way to force producers to compete. Although we cannot yet rule out the possibility of Japan's bringing a product into the market more quickly, Conductus's vice president believes his company to be closer to commercialization than the Japanese. And with the prospect of success, and thus profitability, the market will induce other firms to enter the competition, thus increasing the likelihood of turning the idea into a product.

As progress in the fields of telecommunications and transportation continue to shrink the size of our globe, trade and competition need each other more now than ever before. Our prosperity, indeed our survival, depend on it. I ask unanimous consent that a recent article from the Wall Street Journal on Conductus be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. Mr. President, for those Americans who continue to think there is no hope for us in a world to be dominated by the Japanese, I think Conductus' record and the fact that Conductus has just opened the world's first factory to make superconducting chips absent a major Government program of intervention, speaks to the future in the most positive kind of way. The Congress would do well to take a lesson from this event. If we rely on the ingenuity of the American engineers and technicians and the marketplace, our country will be stronger in our ability to bring new ideas from the laboratory to the marketplace.

EXHIBIT 1

[From the Wall Street Journal, July 12, 1990]

CHIP MAKER GETS A JUMP ON JAPANESE

(By Stephen Kreider Yoder)

A tiny Silicon Valley start-up will get a jump on the Japanese today when it unveils what is believed to be the world's first factory dedicated to making superconducting chips.

The three-year-old company, Conductus Inc., has quietly turned out experimental chips at its factory since March for companies such as Hewlett-Packard Co., which bought a stake in the closely held company in 1988.

Conductus's factory flies in the face of warnings that government-backed Japanese conglomerates, which have poured hundreds of millions of dollars into superconductor research since 1987, are winning the race to move the material from the laboratory to the marketplace. The company said it already has orders for prototype chips from seven U.S. companies.

"FLAG CARRIER" IN SUPERCONDUCTORS

Conductus "is moving very quickly from superconductors as a material-science curiosity into developing them into prototype devices," said Rod K. Quinn, director of Los Alamos National Laboratory's exploratory research and development center, who warned of a Japanese superconductivity juggernaut after a visit to Japan last year. Conductus "is becoming a flag carrier" for the U.S. in superconductivity, he said.

Conductus was formed in September 1987 by venture capitalists, soon after researchers in Zurich and later in Texas shook the world with the discovery of superconductors that work at much higher temperatures than originally thought possible. The new "high-temperature" materials, which conduct electricity with almost no resistance at around minus 250 degrees Fahrenheit, have the potential to be more economically viable than older superconductors, which operate at about minus 420 degrees, because it costs less to cool them. They're considered ideal for use in extremely fast computer chips.

But the new materials, a type of ceramic, are hard to form into usable shapes, such as the thin films of material needed to create microscopic circuits on chips. Conductus tackled that problem at its 4,000-square-foot factory by using mostly secondhand semiconductor-making equipment, but "we had

to invent equipment for thin film deposition," said Vice President Ora Smith. "That's where our secret black magic lies."

Mr. Quinn of Los Alamos concurred that Conductus' technology is "remarkable." He attributed it to Conductus' success in wooing researchers from around the U.S. Its top executives are scientists and lab managers originally from companies such as International Business Machines Corp. and Rockwell International Corp. Its advisory board includes a blue-ribbon roster of professors from schools such as Stanford University and the University of California in Berkeley.

Conductus makes chips to customers' specifications using either low-temperature or high-temperature superconductors. The company said it will focus on electronic applications rather than on "power" applications, such as electric cables and magnetically levitating trains. Conductus said one customer, for example, is designing Conductus-made chips into equipment to detect objects in space. Superconducting chips filter out extraneous signals better than conventional chips do.

The company also expects to make chips for super-fast computers, telecommunications equipment, satellites' "eyes" that can see stars better, and medical equipment that can look into the human body more safely than X-rays. The company said it's discussing with the National Aeronautics and Space Administration using chips in a Saturn mission to look at the planet's clouds.

A Hewlett-Packard official said the company has "great expectations" for work done by Conductus. Forward-looking research in superconductors is better done by small companies such as Conductus, he said. "It's a very valuable relationship for us," he added.

Investors have plowed $11.5 million so far into Conductus, which expects to be profitable by 1994. The company's factory in Sunnyvale, Calif., can only make about 25,000 chips a year, too few for mass commercialization, but the company said it may increase its capacity.

The company hasn't ruled out the Japanese threat. "We think we're closer to commercialization than the Japanese are," said Mr. Smith, the Conductus vice president. "But we know that as soon as we look successful, Japanese companies will be jumping in very actively."

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wisconsin is recognized.

(The remarks of Mr. KASTEN pertaining to the submission of an amendment for printing are contained in today's RECORD under "Amendments Submitted.")

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TEXTILE BILL

Mr. EXON. Mr. President, I rise in support of the 1990 textile bill. The textile industry, like so many other industries in America, has been damaged by a flood of cheap labor imports.

The era of the 1980's will be remembered as the time when the United States turned over world leadership in a number of key industries including the textile and apparel, machine tools, semiconductors, and electronics to name just a few. In the 1990's, the dawn of the postwar cold era, America must decide whether the lapse of economic leadership in the 1980's will be temporary or whether it will be permanent. At the dawn of this new era, global leadership is coming to be defined in economic terms rather than military terms. Unless quick action is taken, America will pay dearly for the economic neglect of the 1980's.

As one who has frequently warned of the dangers of the supply side agenda I say 1990 should be a time when the United States draws the line and says "no more." While the George Bush, Clayton Yeutter, and Carla Hills have been singing the familiar song which can be best described as cheap is better, they continue to say cheap, cheap, cheap, and they continue to chirp, chirp, chirp like a birdie on this wornout and ill-gotten and ill-considered move.

Cheap imports have seen Americans lose their jobs, industries diminishing or going out of business, and economic futures threatened.

Mr. President, a nation needs industry to be strong. It needs production to create real wealth. Yes, the service sector is increasingly important to the U.S. economy but a strong nation cannot be built solely on a service economy. A strong economy needs production. Those who continue to talk cheap, cheap, cheap and chirp, chirp, chirp along those lines are shortsighted at best.

The question before the U.S. Senate is very simple. It must decide whether America wants a textile and apparel industry or not.

A vote in favor of this legislation will send a strong signal of solidarity with American textile and apparel workers, and certainly also to American farmers. It will send a strong message to the Bush administration that the American standard of living is not up for sale to the lowest bidder regardless of how cheap, cheap, cheap that might be in the short run.

The textile bill before the Senate would not roll back imports or close American markets. It would only control import growth to 1 percent a year.

Contrary to the claims of some, this proposal will also not harm consumers. It will in fact help American consumers. One comment that I hear over and over from Nebraskans is that they cannot find American products in their favorite stores. There is a sense of frustration, and disappointment among shoppers. Today nearly 60 percent of apparel in America is imported, and well over 80 percent of the shoes in America are imported. The textile bill will assure consumers that they continue to have a choice to buy American even though that choice to buy American is an ever-dwindling possibility.

Mr. President, Nebraska is not well-known as a textile and apparel producing State. However, there are about 5,000 Nebraskans employed in various capacities in the American textile complex; down—down, Mr. President—by over 400 since Congress last considered textile legislation.

Presently there are 1,800 Nebraskans employed in the apparel sector, 140 in the textile sector, and about 3,100 Nebraskans are engaged in wool growing.

The good men and women, the workers and the farmers involved in the textile sector, deserve the support of the Congress. I have visited Nebraska apparel plants and know that the workers have great pride in their hard labor. I know Nebraska farmers who earn a little less money through wool production, and I know of Nebraska farm families who survive on a second-income job provided by the textile or apparel industry.

I also know there are Nebraskans involved in the development of new fiber such as milkweed who simply need a chance to get their top-quality products onto the market. These Nebraskans work hard for relatively modest wages. Uncontrolled imports will be devastating to them. It is simply a matter of fairness.

If we are proceeding down this line that I have heard from some on the floor of the U.S. Senate in the last few days, which I want to refer to again as cheap is better, cheap, cheap, cheap—they continue to chirp, chirp, chirp without understanding what they are saying; without any understanding or appreciation—Mr. President, what they are preaching and what they would enhance if we do not pass this legislation is the further decline of the standard of living as we know it in the United States of America where by most standards we enjoy the good life.

Mr. President, I want to cite one realistic example that I think few too Americans understand or appreciate. A few years ago I was a member of a

delegation from the Senate that made a tour of the Pacific Rim countries.

One of our stops was in Hong Kong, and we visited there the Mattel toy factory. After the tour of the plant, we had a discussion with the plant manager. The question came comparing apples with apples: "What are the wage rates and fringe benefits to Mattel factories in the United States and Mattel toy factories overseas, especially in the Pacific Rim?"

The manager of that plant says "Please do not use the word plural plants because we only have"—we Mattel—"one plant left in the United States"—somewhere in California, as I remember it—"where we make our largest toys." Everything else is made overseas. To answer your question, the manager told us, "The wage rate and fringe benefits are essentially $9 an hour in this plant, the single plant left in California." While in Hong Kong it was $1.50; and in Taiwan, it was $1.50 an hour; in South Korea, it was $1.50 a half an hour. "But," he said, "in our brandnew most modern plant that uses robots in Shanghai Red China the hourly rate is 25 cents an hour."

Mr. President, I do not mean to imply that where toys are made is necessarily going to break the economy, or further reduce the standard of living in America. I am simply making the point in this one industry that is repeated over and over and over again. If those who oppose this textile bill know what they are saying, they are saying let us take all of the Mattel factory.

Let us take all of the manufacturers, and if it can be done cheaper overseas at slave labor rates, then that is good for America somehow.

Mr. President, I suggest that it is nonsense. It is shortsighted, at best, and is devised by those people who have never been operating in the free enterprise system themselves, or who have ever been involved in a business where important decisions have to be made.

Therefore, I preach once again against those who mumble mumbo jumbo, cheap, cheap, cheap garbage on the floor of the U.S. Senate. I am very tired of their chirp, chirp, chirping, because they know not of what they speak or what they are destining America to become.

The followup to this, Mr. President, I see that very recently the President of the United States said that we should have a world or a North and South America economic climate, something akin to the recent legislation that we passed where we made, basically, our friends to the north, Canada, and the United States a free trade zone.

Well, there were some things wrong with that legislation, but at least the standard of living in Canada is somewhat the same as the standard of living in the United States of America. Envision, if you will, Mr. President, if we bit on the internationalism that the President of the United States has recently cited by including all of the Americas, all of Central America and all of South America, in that trade zone, how is it going to work? There is only one way that it can work, Mr. President, and that is that the standard of living of Americans would deteriorate to the standard of living in Mexico, in Central America, and in South America. Is that what we want? I think not. Therefore, I hope those cheap, cheap, cheap murmurs that I continue to hear on the floor of the U.S. Senate would be cast aside.

Mr. President, the inclusion of the Daschle amendment, which I cosponsored in the last Congress, is another strong reason to support this important legislation. It is vital and a crucial element of the textile bill. Properly implemented, the provision will fully protect American agriculture from retaliation and will offer the United States an opportunity to expand its agricultural export markets. It will give our trading partners a much needed incentive to purchase more American farm products, to secure their share of the global textile and apparel quotas.

Many in American agriculture have shown strong solidarity with the textile industry, because both are facing similar pressures in international trade negotiations, pressure not from competitors, but pressures from within their own Government. I need only cite, Mr. President, the story that appeared in the Washington Post this morning, where a fellow Nebraskan of mine, Mr. Clayton Yeutter, who is the Secretary of Agriculture, said that the bill recommended by the Agriculture Committee, if it passes, should be vetoed by the President of the United States. That is some leadership—some leadership—from the Secretary of Agriculture, who is supposed to be a spokesman for agriculture.

Mr. President, if we follow the cheap, cheap, cheap, chirp, chirp, chirping of the Secretary of Agriculture, we will also see a plunge beyond the point of no return for a vast majority of the American family size farmers and ranchers. That is not what we want in Nebraska, Mr. President.

I suggest that the Secretary of Agriculture has abandoned his roots, abandoned the place where he received his education, abandoned the farmers and ranchers, who he is supposed to support, for some kind of a concept of cheap, cheap, cheap and chirp, chirp, chirping for something that he obviously understands very little about. He talks to the vitality of America in the future, and the standard of living in America in the future. Both agriculture and textiles are in the same boat in the current General Agreement on Tariffs and Trade, generally called the GATT negotiations.

The Bush administration, and the Secretary of Agriculture from Nebraska, and Carla Hills, the Trade Representative, are anxious to accomplish all of this in international trade negotiations. They want to accomplish it there despite what I think will be the wishes of the Congress of the United States. Enough is enough is enough.

I believe the statement by the Secretary of Agriculture in the morning papers, more than anything else, should alert the Congress of the United States to the mad dash in internationalism that is being promoted by this administration. I know it is not popular, it is not politically popular, to take on the President of the United States, because we must understand that he can do no wrong; he can do no wrong, because he is the President of the United States, and he is popular, and he has a nice smile, and he is kind of everybody's father or grandfather.

Well, I am glad he is not my father or my grandfather, because with regard to the policies of internationalism setting, if you will, Mr. President, the domestic farm programs and policies not in the United States but in GATT, in Geneva, Switzerland is wrong, it is wrong for America. The sooner that all of us come to understand that, when there were Republicans on the side of the aisle or Democrats on this side, the better chance we have of keeping America as it is now, without sliding down to a second- or third-rate economic power and a second- or third-rate standard of living which the policies of the Bush-Yeutter-Hills administration are taking us.

Mr. President, this textile bill would not be necessary if the previous Reagan administration had simply enforced the then existing trade agreements, of if the Bush administration had shown any interest in defending American textile and apparels jobs in the current trade negotiation. The Reagan and the Bush administrations have been so enthralled with free trade and the free trade religion or doctrine, that they have lost faith in the American workers, the American farmers and American ranchers, certainly in American labor.

The administration has brought American jobs to the sacrificial altar of GATT. It is long past time that the administration and the American people understand that the unrestrained worship of free trade without equal reference for fair trade will only result in America's standard of living being brought to its knees, very literally.

Mr. President, the textile bill is a good bill but, of course, it is not a perfect bill. However, it is a perfect way

for the Congress to send a clear message to the Bush administration that there are industries absolutely critical to America's economy and America's standard of living, and that chirp, chirp, chirping, cheap, cheap, cheap is not the answer.

Later this week when the Congress considers the 1990 farm bill, we will have an opportunity to send an even stronger message regarding American agriculture. Together these bills will send the message that a strong economy cannot be built solely on fast foods and paper shuffling, and that a strong economy must be built on balance of services, agriculture, technology, and production.

Last, but not least, unless we have a healthy labor market in the United States, unless we have a healthy agricultural sector in the United States, we are doomed, we are absolutely doomed, Mr. President, as far as the future is concerned by continuing to be a world economic power.

Mr. President, given the economic disruption experienced in the textile and apparel sector, the new textile bill makes sense. The current bill is moderate and it protects not only the textile industry but agriculture.

This bill does not close the American market to imported textiles, apparel, and shoes. It simply holds growth to a manageable level.

Mr. President, although I would have preferred to have had the Reagan and Bush administrations fully enforce the then existing textile and apparel agreements over the last decade, I will enthusiastically support the 1990 textile bill as the only avenue left open to us, elsewhere we will see the total elimination of these vital industries in America.

Our Nation cannot afford to destroy such a fundamental industry in the name of free trade when in reality what we are faced with is slave labor imports. The U.S. standard of living is destined to plunge to the lowest common denominator unless we begin to act in a positive fashion, and I suggest, Mr. President, that the beginning should be in passing the textile bill.

Thank you, Mr. President, and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. EXON. Mr. President, I understand there are about 3 or 4 minutes remaining in morning business; is that correct?

The PRESIDING OFFICER. The Senator is correct. There are approximately 5 minutes remaining in morning business.

Mr. EXON. Mr. President, I would like to be heard on another matter that I believe is coming up on the floor of the U.S. Senate today and that is a cloture vote on the civil rights legislation.

CIVIL RIGHTS ACT OF 1990

Mr. EXON. Mr. President, I have never before in my nearly 12 years of service in the U.S. Senate voted against a civil rights bill. I am not sure but what the civil rights bill of 1990 is not a misnomer. After having studied the bill and the provisions, after earlier having intended to support it, I find in all good conscience I cannot do so. I think it would be probably better, Mr. President, if we renamed this bill, and I think the proper name for it would be the Lawyers' Protection Act of 1990 because I am convinced, Mr. President, that if this bill in its present form should become law I think that you would see the greatest outbreak of litigation that we have ever seen in the United States.

If we can pare this bill back, if we can get away from calling it the Lawyers' Benevolent and Protection Act of 1990, then I might be in a position to support it. But when cloture comes up on this bill sometime today or sometime this week, this is one Senator who will not be voting for cloture in the hopes that we can make some significant changes in the Civil Rights Act as proposed and get it back to what at least I understood was the original meaning and intent of this piece of legislation.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I ask to proceed under morning business for 5 minutes.

The PRESIDING OFFICER. The Chair advises the Senator there are only about 2 minutes remaining in the morning business hour. The managers of the bill who are supposed to occupy the Senate beginning at 11 have not appeared on the floor.

Mr. LOTT. Therefore, I ask unanimous consent to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990

Mr. LOTT. Mr. President, I rise this morning to speak in support of the textile bill that will be debated early on today and will have some amendments thereon.

I had not earlier spoken in general debate on this legislation, but I express myself and urge my colleagues later on today to vote against the two amendments that are pending which are strictly killer amendments, and I urge my colleagues to vote for final passage on this bill.

This is not an issue on which we have not tried to work with the administration, and even though the administration is opposing this bill I emphasize that as a Member of the Senate I have joined with other Senators and have tried to work with this administration and previous administrations to make them realize there is a tremendous need for assistance to the textile and apparel and shoe industry in this country.

We are slowly losing in this battle against a rising tide of textiles, apparel products, and shoes. I want to be able to wear American shoes. I want to be able to wear American clothes. But we are losing this battle.

It is like we are standing on a bank watching a swimmer struggle against the tide to stay afloat. And you may at first say, well, maybe they can swim out, and if they do not succeed you throw them some sort of a life raft, perhaps. But in this case, the swimmer is sinking, slowly sinking, and we have to provide some assistance to this very important industry that is being deluged by foreign imports.

You are going to hear a lot of conflicting statistics. There are those that will come in and say, "Well, the textile industry in America is doing fine. You do not have to worry about them. They are not succeeding in some instances because they are inefficient."

But there will be a lot of others that have statistics that I agree with that show that we are losing American jobs. Yes, we need to be efficient. Yes, we need to produce good quality products at a reasonable price. But I believe many of the industries in America are doing just that. For the past two decades, these industries have fought against this crushing tide of foreign imports. While we have listened to speeches about free trade, we must have free trade, but it appears to me that every time there are negotia-

tions and they have to put something on the table, they want to put up textiles for some other industry. And the textiles are being damaged.

We are dealing with an industry that employs 2.1 million Americans. That is one out of every 11 jobs in the manufacturing sector in this country. These jobs are filled by minorities and women that desperately need the incomes to sustain their families. Blacks and Hispanics make up more than 25 percent and women constitute 67 percent of the textile industry. These are two segments of our work force that cannot afford to lose their jobs.

In the last 2 years alone, we have witnessed a dive in the textile industry profits. For the first quarter of 1990, the textile industry suffered a loss of $47 million. This is not just corporate profits we are talking about here. This translates into an incredible loss of jobs, American jobs; 71,000 American jobs have been lost in the last 12 months alone. Already this year, three dozen plants in America closed. In Mississippi alone, my home State, a State of 2.6 million people, over 65,000 people are employed by the textile and fiber industries.

Now, I am not a protectionist by any means. In fact, in Whalen's book, "Trade Warriors," I am actually portrayed as being as close to a total free-trader as one can get without actually being one. I am optimistic about the ability of our industry to compete in the world market, but also realistic enough to see that right now, today, the industry must have some assistance. We must reach out and provide some assistance to this very important industry.

I urge my colleagues in the Senate to look very carefully at this legislation. It is very reasonable legislation. It would impose global quotas on textiles and apparels with 1 percent growth annually. We are not trying to block out foreign imports. We are trying to have a reasonable growth of 1 percent a year that is allowed under this bill.

Also, in the case of footwear, 80 percent of shoes in America now are imports. We only have 20 percent left. Do we want any shoe industry in this country at all? I do, and I think a lot of other people do.

So I urge my colleagues to give every consideration to this very important legislation and urge its adoption by a large margin so that we can override a veto if it is necessary.

Thank you, Mr. President.

GAO'S FINDING OF DISCRIMINATION BASED ON EMPLOYER SANCTIONS

Mr. SIMPSON. Mr. President, I rise to comment on recent information I have discovered which vividly invalidates the GAO's contention that employer sanctions have been "solely" responsible for a "widespread pattern of discrimination" against persons authorized to work in the United States.

On March 29, 1990, GAO reported that employer sanctions have been solely responsible for a widespread pattern of discrimination against persons who look or sound foreign but who are nonetheless authorized to work in the United States. Employer sanctions were the key provision of the Immigration Reform and Control Act of 1986 [IRCA] which sought to reduce illegal immigration. They have been supported by a majority of both parties in both bodies, and have been proposed and supported by Democratic and Republican Presidents alike.

Under IRCA, if GAO were to find that employer sanctions have been solely responsible for the discrimination that I have described, then Congress could terminate employer sanctions by passage of a joint resolution in 30-day, expedited procedures. Resolutions were introduced in both the House and Senate after GAO made this determination, but they did not move forward during the 30-day period simply because there was not sufficient support in Congress for the repeal of employer sanctions.

I strongly opposed the repeal legislation, and I was very critical of GAO's conclusion that employer sanctions had solely caused any new employment discrimination. I now have clear proof that the GAO's conclusion was tragically flawed: A memo from the head of GAO's methodology division which states that there is no way that GAO could link the discrimination it measured to employer sanctions. This memo was written just 17 days before GAO released a report on a topic on which it had been working for 3 years. It was directed at a draft of the report we read on March 29, 1990, but its criticisms were so profound and scathing that they apply equally to the final report.

GAO's Assistant Comptroller General for Methodology concluded that, because no baseline measurement was taken of employment discrimination before IRCA was enacted, GAO could not say with any certainty that the discrimination it measured after IRCA was in any way linked to employer sanctions. There were two main flaws detected in the report: First, no measure was able to be made that discrimination has increased since IRCA was passed; and second, there was no clear causal link between the discrimination GAO measured and the enactment of employer sanctions. Let me quote in detail from the "GAO memo" on each of these points:

Discrimination has not increased since IRCA.

I could find no real evidence presented in our report that supports an increase in discrimination since IRCA. The question of increase is important because it is one of the indications of an IRCA effect. Without an increase, it's hard to say IRCA caused a change, since there's no empirical evidence for it. It's crucial in this case because discrimination has always been with us—it didn't suddenly arise with IRCA, so we need to know whether it has increased.

There are * * * two methods we used to look at data pre- and post-IRCA. The first is the State employment agencies in three States. * * * Here we found no difference in the rates at which Hispanics and other minorities got jobs before and after IRCA's passage. So, no evidence here of increased discrimination. The second method comes from the analysis of 168 EEOC cases, pre- and post-IRCA. Again, we found no increase in national origin charges of discrimination filed with EEOC after IRCA.

The discrimination GAO found cannot be reliably linked to IRCA.

In this case, we have nothing to compare against, no finding of increased discrimination, no ability to say whether the discrimination we found would have been as bad, worse, or better without IRCA, and no clear hypothesis—now that fear seems unlikely—to explain IRCA as a causal agent.

So I believe the truth is that we have no strong causal link between IRCA and discrimination and in my view, it is just as likely that the discrimination we found has always been there, or that it is spurious, as that IRCA caused it. And we are especially vulnerable without, first, a finding of increase in discrimination since IRCA or, second, a hypothesis to explain how IRCA could have caused such an increase if we found none.

Now, the Comptroller General also attached a letter to this memo, in which he tries to explain away this memo's analysis and reinforce the GAO's conclusion that employer sanctions have been solely responsible for a widespread pattern of discrimination. His basic contention is that the memo I cite here, from Eleanor Chelimsky in his office, responded to a draft of the final GAO report, and that the final report was approved by GAO's Methodology Division.

Unfortunately, the Comptroller General's contention is not supported by the evidence. There are four basic reasons why his cover letter is not persuasive: First, GAO conducted no new studies after the memo to measure pre- and post-IRCA discrimination; second, GAO produced no new evidence after the memo to more reliably link the discrimination it measured to IRCA; third, in response to the memo, GAO merely softened the vigor of its statements linking employer sanctions to the discrimination it measured, and in the process failed to follow its statutory mandate that it determine whether a "widespread pattern of discrimination" has arisen solely because of employer sanctions; and fourth, additional GAO internal documents—reviewed by my staff but not released—indicate that, in response to the memo from the Methodology Division Chief, the writers of the final report admitted that causal links between discrimi-

natory actions and IRCA could not be made with certainty.

Finally, GAO retained five expert consultants on immigration issues to review its report. These five were Frank Bean, Barry Chiswick, Doris Meissner, David North, and Marta Tienda. I have read publications by all of these experts, and I do most certainly concur with the description of these people as "experts." When these experts were briefed on GAO's conclusion that employer sanctions had caused widespread discrimination, their reaction was unanimous: First, GAO appeared to have discovered a "widespread pattern of discrimination"; but second, GAO does not have the data to prove that IRCA was the cause of the discrimination it measured.

It is very much the time to face the facts, and the music. This internal GAO memo, and the views of the expert consultants, so completely undercut the validity of the final GAO report that Congress should proceed with the assumption that no U.S. Government organ has yet determined that employer sanctions have caused new employment discrimination. Therefore, any calls for repeal of employer sanctions based on claims of increased discrimination are simply not justified nor appropriate. I will vigorously oppose S. 2797, which repeals employer sanctions, for this and other reasons.

However, I do not believe in any way that Congress should "wash its hands" of the issue. I do believe that employer education is a very good thing, and I find significant evidence in GAO's final report to support its contention that employers are not fully familiar with the law's details, and that there are too many documents of questionable validity now available which may technically satisfy the employer sanctions requirement of worker verification but don't get the job done. Legislation I have previously introduced, S. 2446, would address these problems, and I will continue to press for the basic proposals that bill describes.

However, I do honestly feel that this internal GAO memo should put to rest a number of proposals; First, repeal of employer sanctions; second, moratoriums on enforcement of employer sanctions; third, expansion of existing antidiscrimination laws and agencies; and fourth, continued reporting by GAO on employer sanctions—with the sunset of employer sanctions being possible if discrimination is found that is linked to employer sanctions.

Mr. President, I ask that the March 12, 1990, GAO memo, and a June 26, 1990, letter from the Comptroller General, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

GENERAL ACCOUNTING OFFICE,
Washington, DC, March 12, 1990.

To: Comptroller General.
From: Assistant Comptroller General for Program Evaluation and Methodology—Eleanor Chelimsky.
Subject: Requested Methodological Review of a GAO Draft Report.

This memo responds to your request last Friday afternoon, March 9th, that I review GAO's report, Immigration Reform: Employer Sanctions Appear to Reduce Illegal Immigration But Increase Discrimination. Because of the very short time available to me, I have confined myself to the issues raised by Michael Teitelbaum in his letter to you: that is, the methodological basis for the report's conclusions summarized in the above title and elsewhere (p. 63) as our determination that "the implementation of the IRCA sanctions provision has resulted in a widespread pattern of national origin discrimination against eligible workers." My review therefore covers the points involved in answering the policy question: Has a widespread pattern of discrimination been caused by the IRCA sanctions provision?

To respond to this question, there are five subquestions that must first be answered:

1. What is meant by "discrimination"?
2. What is meant by "widespread"?
3. Does widespread discrimination exist now?
4. Has discrimination increased since IRCA's implementation?
5. If there is widespread discrimination, was it caused, at least in part, by the IRCA provision?

SUBQUESTION 1: WHAT IS MEANT BY "DISCRIMINATION"?

a. Definition of "Discrimination" Given by Our Report.—In brief, we include in our definition:

Discrimination in hiring, or recruitment, or referral for a fee.

Discrimination in discharging employees or job applicants.

Discrimination on the basis of national origin and citizenship or alien status.

All other kinds of discrimination (e.g., wages, promotions, housing) are excluded.

b. Comments.—None.

SUBQUESTION 2: WHAT IS MEANT BY "WIDESPREAD"?

a. Definition of "Widespread" Given by Our Report.—We will decide what widespread means (i.e., its operational definition) based on our own judgment. This is because there is no guidance or operational definition of "widespread" in the statutory language. The analysis in Appendix IV says: "The only references we have found to it in the legislative history are Senator Kennedy's observations that it requires 'a serious pattern of discrimination' and more than 'just a few isolated cases of discrimination . . .' While there is no indication that such discrimination must be pervasive, there is likewise no indication of how serious it must be or how much more than a few isolated cases."

The basis for our judgment will be an unstated number of employers who discriminate, an unstated number of employees/applicants affected, an undefined distribution of discriminatory practices by industry type and geographic region.

b. Comments.—Not much choice here. While the lack of a specific criterion or set of criteria establishing what we will consider "widespread" can be attacked, so could any criteria we might set, given the statutory language and legislative history.

SUBQUESTION 3: DOES WIDESPREAD DISCRIMINATION EXIST NOW?

a. Evidence Presented by Our Report.—Six methods were used: four are said to show current widespread discrimination; two are said not to show such discrimination (page 63). The methods are:

A survey of 9,491 randomly selected employers, later adjusted to 6,317, of whom 4,362 responded (response rate: 69 percent);

A "hiring audit" (302 audits in two cities);

A survey of 300 job applicants in five cities;

An analysis of 400 discrimination charges filed with the Department of Justice's Office of Special Counsel (OSC);

An analysis of job placement rates before and after IRCA maintained by state employment agencies in three states (I could not find the size of this population anywhere);

An analysis of 168 cases involving discrimination charges filed with EEOC before and after IRCA.

b. Comments.—Although our report states that all six methods dealt with the question of whether widespread discrimination exists; only three can really be said to do so (the others look at the fourth and fifth subquestions given above, addressing change and causation).

Employer survey

The best evidence of widespread discrimination clearly comes from the employer survey. The random selection of employers allows generalization nationwide (presuming that whichever "private marketing service" drew the sample did it right; we didn't verify their procedures, see p. 200), and the responses to survey question 23 do appear to show there is currently widespread discrimination according to our definitions. A proportion of 6.6 percent, widely distributed, is surely more than Senator Kennedy's "just a few isolated cases."

However, I did find some difficulties with the survey that weaken this finding. First, there are at least two types of methodological problems that we need to defend against:

Ulterior motive

Employers have an incentive to report discrimination because in that way they can hope to get rid of the sanctions (see the legal appendix, pp. 209-210). Further, they have been the target of a campaign informing them of the above. Thus the 6.6 percent who responded "yes" could be composed, at least in part of people who did not discriminate but said they did, in order that GAO would find widespread discrimination and the Congress would then remove the sanctions.

Error

Unknown amounts of error can be alleged because of the complexity of our questions (people may have responded to only part of a question, etc.), the uncertainty of people's recall (shown by other research), or because of respondent ignorance.

This again weakens the certainty and credibility of our answers.

Second, our measure of discrimination is very fragile, reposing, as it does, on just one person being asked a question and giving an opinion without any back-up data or use of records.

Hiring Audit

The hiring audits don't do much to establish that widespread discrimination exists

because they were done in only two cities and the results cannot be generalized beyond those cities. However, the findings do appear to show discrimination in Chicago and San Diego, which helpfully reinforces the survey findings.

Survey of Job Applicants

Here again the findings don't establish widespread discrimination. There is a generalizability problem, and also non-random selection. The findings of verification discrimination in five cities seem to be real, but they pale notably when it is discovered (p. 83) that "eighty percent of the foreign-sounding applicants were offered the job compared to 62 percent of those with no accents."

c. Summary of the Evidence for Subquestion 3: Does Widespread Discrimination Exist Now?—Our support for this comes mostly from the survey, with a little help from the hiring audit; the other methods are not helpful here.

We are open to challenge on the basis of (1) problems of ulterior motive and error in the survey against which we must defend (I believe the problem of ulterior motive is not discussed in the report); and (2) problems related to the fragility of our measure of discrimination.

Nevertheless, I think the bottom line is that our survey results, supported by the two hiring-audit case studies, do suggest a problem of widespread discrimination in the United States today. It seems to me we have enough evidence to make this case stick, although I believe we cannot properly—or with impunity—use the emphatic language of the report, given the methodological weaknesses outlined above.

SUBQUESTION 4: HAS DISCRIMINATION INCREASED SINCE IRCA?

a. Evidence Presented by Our Report.—I can find little positive evidence presented on this question. We all understand that without baseline data (and there is none) it is difficult to say—no matter what discrimination exists today—that there is more, less, or the same amount as before IRCA.

The report seems to rely on the employer survey here, but the survey questions about past actions are vulnerable: just discrimination after IRCA doesn't mean they weren't also doing it before IRCA—in the same, or some other form, and in greater or lesser amount. I think that too much of our claim for an increase in discrimination rests upon the wording of a few questionnaire items and the respondents' reaction to that wording.

The hiring audit doesn't help—it is irrelevant to the question of past versus present practices, as is the survey of job applicants.

The OSC analysis doesn't help: it deals with attribution to IRCA (subquestion 5), not changes in discrimination over time.

There are, however, two methods we used to look at data pre- and post-IRCA. The first is the state employment agencies in three states: Florida, Illinois, and Texas (California and New York were omitted because pre- and post-IRCA data were not comparable).

Here we found no difference in the rates at which Hispanics and other minorities got jobs before and after IRCA's passage. So, no evidence here of increased discrimination.

The second method comes from the analysis of 168 EEOC cases, pre- and post-IRCA. Again, we found no increase in national origin charges of discrimination filed with EEOC after IRCA.

b. Comments.—I could find no real evidence presented in our report that supports an increase in discrimination since IRCA. The question of increase is important because it is one of the indications of an IRCA effect. (Without an increase, it's hard to say IRCA caused a change, since there's no empirical evidence for it.) It's crucial in this case because discrimination has always been with us (it didn't suddenly arise with IRCA), and so we need to know whether it has increased. Still another reason for knowing this is the hypothesis that it would increase because of employers' fears of IRCA sanctions.

Thus, we had no choice but to look at whether discrimination increased after IRCA, and we did so as best we could, in the state employment agency and EEOC analyses (our ony available pre-post data) and we found no increases. This message, however, is not clearly presented. First, the caption for these findings downgrades their value before the reader has even had a chance to learn what they are (Other Measures Not Sensitive to IRCA Discrimination). Second, there is no real discussion either of what an increase or lack of increase means in terms of our analysis, or even of our findings themselves. Three paragraphs in all (pp. 91-92) are really insufficient here to give the reader a good understanding (we are not even told what the N was!). But most confusing of all, the title of our report gives a completely contrary message, saying we have found an increase that appears to have been caused by IRCA.

c. Summary of the Evidence of Subquestion 4: Has Discrimination Increased Since IRCA?—There seems to be no real methodological support for such an increase, yet in our title we claim IRCA appears to increase discrimination.

Not only is there no support for an increase, however, the evidence actually goes the other way: we found no change based on the two pre- and post-IRCA data bases we examined.

SUBQUESTION 5: IF THERE IS WIDESPREAD DISCRIMINATION, WAS IT CAUSED, AT LEAST IN PART, BY THE IRCA SANCTIONS PROVISION?

a. Evidence Presented by Our Report.—As I noted above (subquestion 3), we did find evidence for widespread discrimination in our survey (responses to survey question 23). The best evidence allowing us to attribute that discrimination to IRCA is again the responses to survey question 23.

Other evidence is slight to nonexistent. There is no link between the hiring audit and the survey, or between the hiring audit's findings and IRCA, so that's no help.

The EEOC and state employment agency analyses showed no increase in discrimination, so IRCA cannot be said to have caused one, based on those data.

In the analysis of OSC cases, we found one-quarter that "appeared to be" related to IRCA sanctions. But these cases were only allegations of discrimination and more than half of them were closed with no discrimination found. So that again is not helpful.

The job applicant analysis shows some discrimination related to IRCA's verification procedures but none related to hiring (on the contrary).

Finally, we have rejected (p. 105) the hypothesis that fear of IRCA sanctions was related to the widespread discrimination we found.

b. Comments.—This subquestion is a tremendously difficult one. Answering cause-and-effect questions persuasively has not always been accomplished even by the best researchers. In general, what is needed is the ability to make a strong pre-post comparison, to predict what would have happened in the absence of the policy or program (in this case IRCA), and to rule out other possible explanations for the findings.

In this case, we have nothing to compare against, no finding of increased discrimination, no ability to say whether the discrimination we found would have been as bad, worse, or better without IRCA, and no clear hypothesis (now that fear seems unlikely) to explain IRCA as a causal agent.

What we do have is some employer statements from our sample survey that indicate discrimination; for example, that IRCA caused 6.6 percent of them to begin a practice of not hiring job applicants whose foreign appearance or accent led the firm to suspect they might be unauthorized aliens and that IRCA caused 1.8 percent of them to begin a practice of not hiring persons who present Puerto Rican birth certificates.

As I noted earlier, some of these respondents could be mistaken, they could have ulterior motives, they could have misunderstood the question, etc. So I believe the truth is that we have no strong causal link between IRCA and discrimination and in my view, it is just as likely that the discrimination we found has always been there, or that it is spurious, as that IRCA caused it. And we are especially vulnerable without (1) a finding of increase in discrimination since IRCA or (2) a hypothesis to explain how IRCA could have caused such an increase if we had found one.

c. Summary.—As noted above, I find only weak methodological support for a finding that IRCA caused the widespread discrimination we found, and I therefore believe we should not make such a finding or push hard on attribution—beyond talking about "some evidence" or something appropriately tentative. We cannot, I think, defend a stronger position methodologically, based on these data and this analysis.

Postscript: After meeting with the relevant division people, I have good hope that the report will be usefully revised.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC, June 26, 1990.

Hon. ALAN K. SIMPSON,
U.S. Senate.

DEAR SENATOR SIMPSON: This letter responds to your request that we provide you a copy of the enclosed memorandum from the Assistant Comptroller General for Program Evaluation and Methodology to me discussing the methodology underlying a draft of our report on employer sanctions and the immigration law.

Candid internal discussion on the approaches we take in our work is critical to the process we use in GAO to assure ourselves that our analyses, conclusions, and recommendations are sound. Knowing that the IRCA report would be controversial and that our methodology would be closely examined, I had drafts of the report reviewed extensively by top people in GAO not directly associated with their preparation. Questions were raised and addressed. The objectives, scope, and methodology chapter of the final report explains in detail the recognized limitations of our approach and why we could not use a more ideal approach to carry out the statutory mandate given to us.

The final report takes into consideration all points made in the Assistant Comptroller General's memorandum. Comments link between IRCA and the discrimination found to exist were particularly valuable. These

comments led us to clarify and expand on the steps we took to strengthen our methodology and to modify statements that might have been misleading.

We made clear why we selected the methodological approaches we used and the steps we took to ensure that they captured the bahaviors to be tested. We discussed in detail the multiple measures employed and how they interrelated to contribute to our overall conclusions.

The clarifications described the techniques we used to enhance the credibility and certainty of survey responses by employers. We elaborated on how survey questions were carefully crafted to avoid any implication of "right" or "wrong" behavior. And we described more fully the involvement of an expert consultant in drafting the survey questionnaire and pretesting it more than 50 times to make sure that the desired information would be obtained.

Similarly, we expanded a discussion of potential biases to the survey results that could have affected response patterns but which, in our view, did not affect significantly the conclusions we reached. We explained the features of our analysis that tended to make our overall estimate of IRCA-related discrimination conservative.

Before issuing the report, a final revised draft was reviewed again by the top people in GAO, including Ms. Chelimsky, author of the memorandum you requested. Everyone agreed that the clarifications fully addressed the concerns initially raised and that our presentation was fair and our conclusions sound.

To reduce the likelihood of misunderstandings, we would appreciate your disclosing the contents of this letter together with any public reference you might make to the enclosed memorandum itself.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General of the United States.

A TRIBUTE TO SENATOR QUENTIN BURDICK ON HIS 30 YEARS SERVING THE SENATE

Mr. DASCHLE. Mr. President, I rise today to join my colleagues in paying tribute to Senator QUENTIN BURDICK. As we are all aware, this year marks the 30th anniversary of Senator BURDICK's election to the Senate, and it marks 30 years of unparalleled service to the people of the Dakotas and the Nation.

When I was just beginning to get interested in public service and involved politics in South Dakota, no figure loomed larger than QUENTIN BURDICK, and his stature has only grown over the years. No one has ever represented the Dakotas with more dedication and caring than QUENTIN BURDICK, and his accomplishments over the past 30 years will long outlive us all.

Under the guiding hand of QUENTIN BURDICK, programs as diverse as the Federal highway program, disaster relief, ground water protection, rural development and clean air have flourished. As chairman of the Senate Environment and Public Works Committee, Senator BURDICK has affected almost every significant environmental statute in the past two decades. In his role of chairman of the Agriculture Appropriations Subcommittee, almost every program to benefit the farmers of the Nation and rural America in general owes something to QUENTIN BURDICK.

Washington affects men and women differently. People can forget their roots and why they got into public service in the first place. This could never be said of QUENTIN BURDICK, who has always symbolized common sense and represented the values of the common man. Senator BURDICK has always been a hero to me and to anybody who calls the Dakotas home.

As Senator BURDICK enters into his next 30 years of service, I join all South Dakotans and all Americans in wishing him and his lovely wife, Jocelyn, all the best in these special days.

PLAN INTERNATIONAL USE: A NEW NAME FOR AN OLD RHODE ISLAND FRIEND

Mr. PELL. Mr. President, last month the international development organization known as Foster Parents Plan changed its name to PLAN Internnational USA. After much consideration by PLAN officials, the name was changed in order to facilitate PLAN's operations in the United States and abroad.

Based in Warwick, RI, PLAN is a vital link of an international humanitarian network that organizes sponsorships of indigent children and their families in developing countries. Since its foundation in 1937, PLAN has helped countless children and families break the shackles of poverty. PLAN currently operates in developing nations on nearly every continent across the globe.

In a recent letter to me, PLAN's President Kenneth H. Phillips indicated that the name change will eliminate the confusion engendered by the former name Foster Parents Plan. It appears that many in the United States had confused PLAN's programs with in-home placement programs or adoption agencies. In addition, Foster Parents did not translate easily into many languages, which hampered PLAN's operations overseas.

Mr. President, I am proud to serve on PLAN International USA's honorary board. Because of my close association with PLAN over the years, I am able to speak with confidence of their many accomplishments in the field of international development. I am equally certain that the new name, PLAN International USA, will soon become synonymous with their fine work. I congratulate PLAN International USA, and I ask unanimous consent that the letter I received announcing the name change from President Kenneth H. Phillips be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FOSTER PARENTS PLAN,
Warwick, RI, June 13, 1990.

Hon. CLAIBORNE PELL,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR PELL: I want to personally thank you for the interest you have taken in Foster Parents Plan, most recently in our Development Education initiative. Your assistance in this matter, subsequent to my letter of February 12, has been a great help to us. I believe it was your efforts that in fact led to the release of the Request for Proposals by AID for the 1990 cycle.

I am pleased to announce that we have just learned that the PVC office of the Agency for International Development has recommended our new Development Education project, Our Piece of Land is Small, for funding of $79,970 over two years.

This grant by AID is very important to us in that it will lend continuity to and increase our capacity to inform the American public about development in the Third World.

You may be interested to know that our Rhode Island experiment of See Me, Share My World, which was funded by a Biden-Pell Grant, has been so successful that we are now implementing plans to carry the program to schools throughout the nation. We hope that this approach will not only teach American children more effectively about the developing world but, will also lead to more informed decisions and support for private and public foreign assistance.

On another subject, I want you to be one of the first to know that we are changing our corporate name from Foster Parents Plan, Inc. to PLAN International USA in order to bring the US National Organization, the other donor countries, International Headquarters, and the field offices in 26 developing countries into a single corporate identity. This change is specifically responsive to the problems we have had in the US and in other countries with confusion over the "Foster Parents" part of the name which people associate with the in-home, temporary adoption service generally run by state agencies. The PLAN International USA corporate name will more thoroughly communicate our global effort. In addition, we are utilizing a service mark for our well-known sponsorship program which will henceforth be referred to as the Childreach Sponsorship Program. I believe these changes will enable us to increase even further the number of children and families we are helping.

Once again, thank you for your interest in our work and your willingness to express your support of PLAN International USA to the Agency for International Development.

With best wishes.

Sincerely yours,

KENNETH H. PHILLIPS,
President.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,949th day that Terry Anderson has been held in captivity in Beirut.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. LIEBERMAN). Morning business is closed.

CIVIL RIGHTS ACT OF 1990

The PRESIDING OFFICER. The clerk will now report the pending business.

The legislative clerk read as follows:

A bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kennedy-Jeffords amendment No. 2110, in the nature of a substitute.

The PRESIDING OFFICER. Under the previous order, the time between now and 12 noon shall be equally divided and controlled between the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Utah [Mr. HATCH] for debate only on S. 2104, the civil rights bills.

The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I may consume.

Mr. President, we stand today at a historic juncture.

For more than 35 years, the U.S. Supreme Court led the way as America struggled to free itself from the legacy of discrimination that has stained the fabric of this land.

But in 1989, the Supreme Court handed down a series of decisions that significantly undermined the struggle to end prejudice in the workplace. They were ominous steps backward, away from the goal of equal opportunity and justice for all Americans.

Now, Congress must restore and strengthen the laws that shield minorities and women from bigotry on the job.

Today, the Senate must decide whether it is to move forward with this important legislation.

What is at stake?

The bill would overrule the Patterson decision, where, in a single stroke, the Supreme Court nullified the only Federal antidiscrimination law applicable to the 11 million workers in the 3.7 million firms with fewer than 15 employees.

The Patterson decision, with its devastating impact on minority workers in our country, must be overturned. The Civil Rights Act of 1990 overturns it.

It allows victims of race discrimination in the workplace to sue for on-the-job harassment as well as for discrimination in hiring, promotion, and firing.

The bill would overrule the Wards Cove decision, in which the Supreme Court cast aside the unanimous decision by Chief Justice Burger in 1971 in the landmark case of Griggs versus Duke Power. In hundreds of antidiscrimination cases in the past two decades, the Griggs rule was used to strike down the subtle and not-so-subtle practices that kept minorities and women from participating fully and fairly in our economy.

The Supreme Court decision in Wards Cove effectively destroyed the Griggs rule.

The Court in Wards Cove made it far more difficult and expensive for victims of discrimination to challenge the barriers they face. The Civil Rights Act of 1990 restores the standards of Griggs versus Duke Power, which have served our country well for nearly two decades.

The bill would respond to the decision in Martin versus Wilks, where the Court held that consent decrees settling job discrimination cases may be reopened in future lawsuits, even by people who sat on their hands while the Court considered the decree. In the months since that decision, new suits challenging long-settled consent decrees have been filed in more than a dozen cities. These new suits have devastating impact on employers and communities who thought they had long ago turned their backs on a discriminatory past.

The Civil Rights Act of 1990 provides a mechanism that allows finality in cases of job discrimination. It sets up procedures to ensure that interested persons can challenge proposed decrees before they are adopted.

But it also limits endless litigation and ensures that fairly settled cases stay settled. These procedures recognize the right of every individual to due process of law, and the need of businesses and communities to achieve both fairness and finality in job discrimination litigation.

The bill also fills a serious gap in Federal law caused by the lack of effective remedies for women and religious minorities in job discrimination cases. Under title VII, there is no adequate remedy for victims of sexual harassment or other forms of sex discrimination.

Employers who engage in such reprehensible bias can walk out of court scot-free—and even send a bill for court costs to their victims. Those who suffer from religious discrimination are under a similar disadvantage. The remedies available under current law are often completely inadequate to vindicate their rights.

The act provides meaningful remedies, granting victims of intentional sex and religious discrimination the right to recover compensatory damages, and, in particularly, flagrant cases, punitive damages as well.

This is the same remedy already available to victims of international race discrimination under section 1981 of the Civil Rights Act of 1866. Women and religious minorities are not second-class citizens, they do not deserve second-class remedies under the civil rights laws.

The bill also corrects numerous other problems caused by the Supreme Court's recent interpretations of Federal statutes. These problems concern a variety of issues, including seniority systems, attorneys fees, and statutes of limitation.

These are serious problems, affecting millions of women and minorities across the Nation.

This Congress owes a duty to these citizens to address these problems quickly and effectively.

Much has been said and written about the discussions we have had with the Bush administration regarding this legislation. Ever since the Supreme Court announced these decisions last summer, Senator JEFFORDS and I have sought to work with the administration to fashion a strong bill acceptable to all.

For months, the negotiations moved slowly, gaining speed only when the bill gathered 48 cosponsors and civil rights leaders personally interceded with President Bush. Unfortunately, however, while those talks made some progress, they have not yet yielded an agreement.

We know that the long-standing opponents of civil rights are against this legislation. But I believe the bill before us meets every serious concern raised during the negotiations.

Because of the lateness of the time and the press of Senate business, we must move forward.

But the supporters of this legislation are prepared to continue to address each and every legitimate concern raised by Senators who in good faith wish to support this legislation.

Let us take the so-called quotas issue raised in connection with our response to the Wards Cove decision.

Everyone knows that the Griggs rule did not force employers to adopt quotas. Senators have asked, "Why do we not just take a sentence from Griggs and make it clear that we are restoring the Griggs decision?"

We believe that the bill before us does fairly and accurately reflect the holding of the Court in the Griggs case. But to go the extra mile, at an appropriate time, I will offer an amendment to the definition of business necessity to use the exact words of Griggs, so that in all cases involving employee selection—for hiring, promotion, training, and the like—the practice in question must be "significantly related to successful job performance." That language is taken precisely from page 426 of the Griggs decision.

Other practices—that do not involve employee selection—must bear a significant relationship to a significant business objective. That language is taken right out of the administration's recent offer.

The provision will also make it clear that in deciding whether business necessity is the issue, courts may not rely on unsubstantiated opinion and heresay; demonstrable evidence is required. That concept—requiring demonstrable evidence—is also taken right out of the Griggs decision. At page 431, the Court rules that a "demonstrable relationship to successful [job] performance" is required. And the provision will also state that the statutory language is meant to codify the meaning of business necessity as used in Griggs and to overrule Wards Cove.

That is Griggs. If Senators wish to restore the Griggs rule, they should vote for cloture.

Other Senators have asked that language be added to the bill making it clear that employers are not required to adopt hiring or promotion quotas in order to escape liability under the bill.

A number of Senators have spoken and have indicated that they were going to offer amendments on that subject. I want to state my intention is to include language on this issue in the bill, similar to the language that Senator DECONCINI had talked with us about.

The White House has asked whether damages would be available under the newly passed Americans With Disabilities Act, in cases similar to disparate impact cases under title VII. I am prepared to offer an amendment that will make it clear that damages are not available in such cases and that, in accord with the pending bill, damages may be awarded only in cases involving intentional discrimination.

Similarly, Senators have asked whether compensatory and punitive damages would intimidate employers into adopting quotas. The bill already makes it clear that damages are available only in intentional discrimination cases, not in disparate impact cases.

But I am prepared to work out clarifying language on this issue that may be offered by Senator DECONCINI as well.

Language clearly restoring Griggs; language specifically prohibiting quotas; language clarifying damages—these changes remove the list thin reeds in the quotas argument that has been used by opponents of civil rights in their attempts to undermine this bill. The argument is dead.

Any Senator who offers the quotas issue as a basis for voting against cloture simply does not want to end job discrimination and guarantee equal opportunity for all Americans.

We are also prepared to respond to concerns raised by Senators regarding the Wilks provision in the bill.

Questions have been raised about whether the bill would deny persons their constitutional right to due process of law.

We intend to include in the legislation language making it clear that nothing in the bill would preclude an individual from challenging a decree if that person's right to due process would be violated by preclusion.

I ask unanimous consent that a copy of the pending Kennedy-Jeffords substitute, with the changes we propose, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Finally, I want to turn to the damages issue. The damages provision in the bill rests on a very simple concept—parity. Women and religious minorities are not second-class citizens; they are entitled to the same remedy for intentional discrimination now enjoyed by racial minorities—compensatory and punitive damages.

To those who say that allowing them this equal right would create a "lawyer's bonanza," I say hogwash.

Fifteen years of experience under section 1981 demonstrated that such charges are without merit. As Judge Clarence Thomas, who chaired the EEOC during the Reagan years, who supports including compensatory and punitive damages under title VII.

The supporters of this bill have gone the extra mile to meet the concerns raised by Senators.

And I want to make it clear that I will enter into reasonable time agreements to permit Senators with amendments to obtain votes regarding those amendments. But the time has come to move forward.

Mr. President, no Senator likes to cast a controversial vote. But we were sent here to lead; and each of us took a solemn oath to uphold the Constitution's guarantee of equal protection of the laws.

The time has come to live up to that oath. I urge my colleagues to vote for cloture this afternoon.

I yield such time as my principal cosponsor, Senator JEFFORDS of Vermont, would desire.

EXHIBIT 1

PROPOSED CHANGES TO KENNEDY-JEFFORDS SUBSTITUTE

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—It is the purpose of this Act to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), the practice or group or practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of employment practices that do not involve selection, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as use in Grigg v. Duke Power Co. (401 U.S. 424 (1971)) and to overrule Ward's Cove Packing Co., Inc. v. Atonio (109 S. Ct. 2115 (1989)).

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color,

religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices are required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparage impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practices or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practice contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(1) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order consistent with the constitutional requirements of due process of law; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons consistent with the constitutional requirements of due process of law.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government; or

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATON.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k), or in the case of an unlawful employment practice under the Americans with Disabilities Act of 1990, other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102 of that Act, as it related to standards and criteria that tend to screen out individuals with disabilities)—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recovery from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties, except that prejudgment interest may not be awarded on compensatory damages.".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, national origin, sex, religion, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex or national origin: *Provided, however,* That nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendment made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enacement of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by section 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. CONGRESSIONAL COVERAGE.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 200e et seq.) is amended by adding at the end thereof the following new section:

"SEC. 719. CONGRESSIONAL COVERAGE.

"Notwithstanding any other provision of this title, the provisions of this title shall apply to the Congress of the United States, and the means for enforcing this title as such applies to each House of Congress shall be as determined by such House of Congress.".

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I want to make a few brief remarks to try to bring Senators up-to-date on where we stand on the civil rights issue.

I certainly want to commend Senator KENNEDY, as well as Members of our side of the aisle, who have spent many, many hours trying to reach a negotiated settlement on the very difficult issues that we are facing.

However, time is now short. Only a very few weeks remain in this legislative session. It has already been a year since these decisions were handed down by the Supreme Court. Hundreds of cases have been affected and hundreds more will be affected if we do not act.

Proponents and the administration have discussed changes in good faith. Some changes have been made as a result, and others may still be made, even in the next few hours. It is clear, now, though, where the differences are. The options are also becoming clear. The Senator from Massachusetts has outlined some of the options that he will be suggesting as a resolution of the difficult problems that remain.

The final choices, however, must be made now and not later and it will be up to the Senate, and they will have a look at the various options to make their decision to what the rule of law should be on the issues that remain.

Unfortunately, though, we have been unable to reach a decision with the administration on these matters and, therefore, there are two courses which we cannot take. We can talk and talk indefinitely or we can act and make those difficult choices which must be made. It is time to act, in my mind; time to provide basic civil rights protections to tens of millions of Americans covered by this legislation.

Cloture will not be unfair to the opponents of the legislation. While the amendment process has not yet begun, I know of no significant nongermane

amendments that would be foreclosed by cloture. Yes, opponents have been waiting to offer amendments but so, too, have proponents been waiting. Both sides waited in hopes of reaching a compromise with the administration that would not make it necessary to go through the sometimes cumbersome process of amendments. However, the time now has come to put those options out to this body and to allow them to make the choices which will mold the legislation for the future.

There are difficult choices to make. Some of those have been outlined by the Senator from Massachusetts. Others will come forward as we move forward on this legislation.

On the Wards Cove issue, I think we are close. The difference resolves itself down pretty much to whether the selection process should be broadened and those, especially those who represent women, feel the proposals, different from those made by Senator KENNEDY and myself, would open up a huge loophole to have all sorts of problems created in the discrimination area.

Damages is still another critical issue, and there are many options to face there and yet there are understandings.

It is a general agreement at least on the punitive side they should pay half of the punitive damages, whether we go to jury or not jury, whether we have caps on compensatory damages, or not caps, how do we establish the rights of women, handicaps, et cetera, all these issues still need to be resolved but the options are becoming very clear.

All I can say is, in my view, the thing to do now is to vote in favor of cloture, to bring forth the various options that are out there and to have an opportunity to resolve the very difficult decisions that have to be made. Nothing will be served by further delay. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, I have to say I am just a little bit astounded by the arguments made by the distinguished Senator from Massachusetts and by my colleague and friend from Vermont today. Here we are in the second morning—and that is it for this bill since it was laid down—the second morning after the original opening remarks. I said that I am prepared to go to amendments. That is what the Senate is supposed to do. We are supposed to debate. This is supposed to be the greatest debating society, the greatest deliberative body, in the world. And yet consistently the rule lately is: File a controversial bill that everybody has problems with, on both sides, and then file cloture on it. That way we do not have to put up with the debate.

The American people are going to be shortchanged. I was very interested in the comment of my distinguished friend from Vermont. He says we can talk or amend. But how can we amend? He said nobody is going to be foreclosed postcloture from amending. Come on, there are only 30 hours available for debate after we invoke cloture and each Senator has just 1 hour to debate and only two speeches that he can make. And if you happen to have a world-shaking, earth-shaking amendment—and there are a number to this bill because it is a terrible bill—we are going to have all of 2 or 3 minutes to explain the intricacies of this very difficult subject.

Even if you are allowed to bring the amendment up, there are ways postcloture to stop any amendment, except, of course, the amendment of the distinguished Senator from Massachusetts and my distinguished colleague from Vermont. As a matter of fact, the only people who have had a right to amend here are Democrats. The only people who have had a chance to amend are Democrats.

Oddly enough, after cloture I suppose, if it is invoked today—and I will be shocked if our body would invoke that on this type of a bill today without any chance of correcting it—but assuming they do, we are going to get the third bill, the last two of which were never seen in committee. Nobody ever had the slightest idea what was going to be in those two bills, and I do not have the slightest idea what is going to be in this bill. The distinguished Senator from Massachusetts is going to call it up postcloture.

I have to say, if that is the way to run the U.S. Senate, it is not the way I was born to believe it should be run. The minority is going to be foreclosed by cloture from ever amending what really is a heinous bill, what really is a bill that will not work, what really is a quota bill.

I do not care what the distinguished Senator from Massachusetts says about it, we now have the original bill out of committee. We have the right of the distinguished Senator from Massachusetts to file a substitute that was supposed to change the quota amendment and that included the Kennedy-Danforth amendment. Then we had another Kennedy-Danforth amendment; then another Kennedy-Danforth amendment; then a letter from John Sununu; then another suggestion from John Sununu.

If it is not a quota bill, then why are we continuing to negotiate and work on these particular problems? And where is the chance to negotiate after cloture is invoked? We are just getting another version from the distinguished Senator from Massachusetts, Senator KENNEDY.

This is the third or fourth version of this bill. The last two or three versions did not have 1 day of hearing, 1 day of consideration, 1 day of a chance to amend. As a matter of fact, we laid the bill down, we made our opening statements, and then we went to the Ford amendment with regard to congressional coverage. That knocked out Grassley and Harkin that basically said if we are going to impose this on society, we ought to impose it on ourselves. If all members of society, including employers and employees, have a right to court action, then our employees here ought to have a right to court action, if they do not like what the Ethics Committee has done with respect to their discrimination complaint.

Let me say to my colleagues, that the Ford amendment was hardly a crucial amendment to this particular bill. I said that first morning, when we brought this up, that I was prepared to go to the amendments. I had five or six amendments, as I recall. I was not going to filibuster it. There was no need for cloture. I would go with those amendments. If we lost, fine; if we won, fine. Then we would go with the bill. There are others, of course, who have amendments who are being foreclosed as well.

Mr. President, the majority leader has decided, for reasons that appear completely unwarranted, to try to invoke cloture on S. 2104, the so-called Civil Rights Act of 1990. When one looks at how the majority has decided to handle this bill, when one looks at the tactics of the last week as we had one bill after another come forward and intervene and take the time of this bill, it becomes obvious that this decision is unfortunate, it is inappropriate, and it is unnecessary.

S. 2104 is a very, very complex piece of legislation which, when one strips away the rhetoric, stands for the proposition that title VII of the Civil Rights Act of 1964 has failed. That is what this bill basically says. The bill would completely overhaul that statute, overturn 20 years of case precedent, reverse 25 Supreme Court decisions and opinions, reverse several traditions of Anglo-American jurisprudence, such as the notion that every American should have the same right to his or her day in court. And it would create a litigation bonanza for attorneys, and all in the name of civil rights.

We have to wake up around here. We are taking away the rights of both majority and minority to really try and amend this bill, when there has been a good faith offer that we will not filibuster and there is no reason to consider this a filibuster.

Mr. KENNEDY. Will the Senator yield on that point then?

Mr. HATCH. Yes.

Mr. KENNEDY. Will you be prepared to give us a definite time for final passage?

Mr. HATCH. I would. You bet. I am prepared to give time agreements on my amendments. I have to check with everybody else.

Mr. KENNEDY. You are the ranking minority member.

Mr. HATCH. That is right.

Mr. KENNEDY. Are you prepared to, if I make a proposal now?

Mr. HATCH. To vitiate the cloture vote?

Mr. KENNEDY. I will make a proposal regarding time prior to all time expiring. I hope the Senator from Utah will support that particular proposal.

Mr. HATCH. Of course, I want up and down votes on my amendments. I have five or six amendments. I limit myself to those and limit them to time agreements. We will check our side to see if anybody wants to have their amendments governed by time agreements as well. We will try and do that. You bet your life. I would love to do it.

In fact, will you check our side, I say to the Republican leader, and let us see if everybody is agreed to go on time agreements, allowing us to vitiate the cloture vote and get a time agreement on this bill? It will certainly give us time to come up with our amendments, and it will certainly give everybody a chance to vote on these on the floor. I think the only fair way to do it is provide up and down votes, and I am limiting myself to five or six amendments.

Mr. DOLE. Will the Senator yield?

Mr. HATCH. I will be happy to.

Mr. DOLE. I will be happy to check that at noon. We have a policy luncheon at noon.

Mr. HATCH. That is an appropriate time to check it.

Mr. DOLE. It seems to me cloture is being abused here. We have not had any amendments, no debate, no amendments, and we file cloture. It seems to me we are thwarting the legislative process. I do not think cloture is intended to be used to stifle anybody who might have a different view, anybody who did not want to line up with those who introduced a piece of legislation.

I hope that cloture will not be invoked. If this is going to be the Senate, we are going to have debates.

Some of these amendments are very important. We should not be gagged by the majority because we do not agree with some on the other side or on this side. So I hope our colleagues on both sides will take a look at the bill.

We are prepared to offer amendments, and we have been from the start. The Senator from Utah has been on the floor. He and the other Senator from Kansas are ready with their substitute. Let us have some votes. Let us find out where the votes are.

I hope we do not invoke cloture. This is a very important piece of legislation. Everybody says it is. So how much debate have we had on it? None. None.

Now we are being in effect driven to cloture vote to save time. The important thing is to have a good civil rights bill.

I hope those on the other side will understand that we have been negotiating in good faith. We just left a meeting at the White House where that was reinforced by the President.

But on the other hand for those of us who are in the Senate, it has always been my feeling that if cloture is invoked somebody was delaying action. If there has been any delay on this side, I would have to get somebody to tell me about it because I do not know.

Mr. HATCH. Mr. President, the distinguished Senator from Massachusetts just made it clear that he has filed another substitute for this bill, another bill which has not had one day of hearing. We are on so many substitutes and amendments, all by that side, without any chance or opportunity of correcting what I consider to be, and I think many on both sides of the aisle consider to be serious problems with this legislation.

Whether one is for or against this bill, we all must agree it is a sweeping piece of legislation. The trouble begins however if one chooses to look beyond the label and in the actual language of the bill.

Even a cursory review reveals that S. 2104 is simply and unalterably a quota bill, no matter how much the distinguished Senator from Massachusetts say it is not. He has said that from the beginning as he continues to go through amendment after amendment after amendment and change after change after change trying to resolve that problem. He still has not done it.

The legislation still eliminates existing defenses to a challenge of discrimination, forcing employers to hire on the basis of race, sex, and ethnicity to avoid being sued. The legislation still denies some Americans the right to seek relief in court when they have been denied equal justice under the law. The legislation is still a lawyers' relief act, encouraging litigation, discouraging settlement, and reducing opportunities for conciliation.

In sum, this legislation is still completely flawed, and no proposal to date will cure its myriad defects. Action began last Tuesday. S. 2104 was brought up. But it was not the version of the bill that was reported by the Committee on Labor and Human Resources. The chairman of the committee had substituted a brandnew version of the bill, one which most of my colleagues had not seen until the day it was filed. In fact, I would say virtually all of them. The bill reported from the committee, and the accompanying committee report, were rendered null and void by that action.

After opening statements were completed Tuesday morning, I stated that I was ready to offer and begin debate on my first amendment. I indicated to the chairman of the committee that I had maybe five or six amendments that I felt deeply about, was ready to enter into time agreements on all of them, and that is precisely what I am willing to do today.

I subsequently submitted more amendments when the cloture motion was filed to protect myself procedurally but we all know that that is not much protection. I will still be looking for only a handful of votes.

The leadership indicated they would prefer that I wait until after Senator FORD offered his amendment concerning Senate coverage, since his amendment could also expedite resolution of the Americans with Disabilities Act. So, Mr. President, I waited. The Senate adjourned on Tuesday after completing action on the Ford amendment.

On Wednesday I was ready to offer my amendment. But I was told that the Senate would first complete action on the Omnibus Crime Act. Following that vote I was ready to offer my amendment, but was told that the Senate would instead turn to the Americans With Disabilities Act conference report. So I waited.

On Thursday, once again, S. 2104 was set aside, so that the debate could begin on the textile bill which consumed the whole day.

On Friday, we returned to the Americans With Disabilities Act conference report, and then we again took up the textile bill which consumed all of yesterday. No one was offered an opportunity to offer a substantive amendment at all on the so-called Civil Rights Act.

Perhaps the majority strategy is the best evidence we have of the merit of our arguments. I believe there is little interest on the other side in a debate on several of the more appalling provisions in this bill.

For example, few of my colleagues would consent to vote directly to bar Jim Henson from his day in court. Few would want to vote directly for the proposition that an employer is guilty until proven innocent—until he proves his own innocence.

In sum, Mr. President, the majority is engaged in an ingenuous strategy to bar anyone on this side of the aisle from offering an amendment to S. 2104. Naturally, one can argue that if cloture is invoked we will be free to offer our amendments, but all of us know that the majority can manipulate the cloture rules and procedurally block any amendment they dislike,

germane or not. We all know that. The postcloture rules themselves give the minority little leeway.

The concept behind cloture is to cut off debate after a period of time when it is clear that some are trying to prevent ultimate resolution of the bill. The majority however, wants to cut off debate before it even begins. It appears that the real strategy is to be technically on the civil rights bill without ever having to engage in debate, so that the chairman of the committee and the White House will have time to conclude their negotiations, and bring to an expectant body a compromise which we will endorse and pass in a fit of grateful relief.

Mr. President, last week has shown us that this is not an easy piece of legislation to correct. For those of us who have been shown various samples from the negotiations, the most typical reaction has been approval but alarm. Too often proposals have been made without an appreciation of the consequences involved.

Mr. President, the majority leader has an absolutely horrendous task in this body. He has to balance 100 egos, thousands of expectations, and thousands of requests. He has on occasion correctly chided us for not moving as fast as we should. He has on occasion chastised his colleagues for not being ready to offer amendments.

Mr. President, this is the first time of which I am aware where the majority has chosen to penalize Senators for trying to offer amendments. Mr. President, the prudent course of action would be for this body to vote against cloture today, tomorrow, and for the next few days, and allow Senators to offer amendments to S. 2104.

We know cloture is set for today, and for tomorrow, and it may be set for the next day. I do not know. We as a body have much to gain by understanding this bill which is before us and debating the proposals that will be made. Since all of us will be considered employers under the legislation that will be required by law to comply with its provisions, we should have a special interest in comprehending its requirements.

I hope my colleagues are listening to me. If they are going to impose this bill on themselves, even if in the limited way that the Ford amendment permits, they had better darned well know what is in this bill, and I intend to tell them through amendments and through my remarks in support of those amendments.

I think that once Senators find out that they are imposing this on every business in America of a certain size they will be opposed. All of us are going to be considered employers under this legislation, and we will be required by law to comply with its provisions. I think we should have a special interest in comprehending the bill's requirements.

We have nothing to gain by placing the Senate under a virtual gag order. We debated the Grove City legislation. We debated the fair housing amendments of 1988. We debated the Americans With Disabilities Act, and we reached near unanimous conclusions on all of them because we corrected those bills ultimately before they passed. Why must we now bar debate on the Civil Rights Act of 1990 even before it begins? I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 11 minutes, 49 seconds remaining. The Senator from Utah has 9 minutes and 45 seconds.

Mr. KENNEDY. Mr. President, I understand the amendments that are to be proposed by the Senator from Utah will be germane. So there will be an opportuity to consider those amendments should the cloture petition be accepted, which I hope it will. I want to just briefly review for the membership where we are with regard to the situation at the present time.

On June 22 the majority leader moved to take this legislation up. Our Republican friends objected to being able even to proceed to the legislation.

With all respect to the minority leader, and the ranking minority leader of our committee, they objected to even bringing this up.

And before we start having crocodile tears about there being a denial for full consideration——

Mr. HATCH. Will the Senator yield?

Mr. KENNEDY. Not at this time, Mr. President. Regular order.

Mr. HATCH. Mr. President, I raise——

Mr. KENNEDY. Am I recognized, Mr. President?

Mr. HATCH. I raise a point of order.

Mr. KENNEDY. I want to indicate to the membership exactly where we are. That request was made, objected to, and so the cloture petition was filed. On June 25, at the request of the minority leader, the cloture petition was vitiated. There was talk about wanting to get action, talk about wanting to have debate, and talk about having an opportunity to express oneself. It was the belief of the minority that they wanted more time to give consideration. I must say that I certainly supported those procedures, because we were interested in trying to see what kinds of further accommodations could be made, at the administration's request. Quite frankly, those very much involved were Senator JEFFORDS, myself, and the others.

On July 10, 1990, the Senate proceeded to the bill and addressed the issue of the congressional coverage, which the Senator has referred to. On July 13, the cloture motion was filed. Let me say to the Members that with regard to the committee bill and the substitue, every one of those changes have been moving closer to the position both of the administration and of those who found objections to the legislation.

They say we do not want quotas. We say, OK, we will put particular language in there. They say they want specific language from the Griggs decision. We put in specific language regarding the Griggs decision. They want to make it clear there is going to be no damages on disparate impact. We put them in here.

Then we hear, my goodness, we are changing the language in all of these ways that none of us can possibly understand or comprehend in such a short period of time.

Mr. President, that is not reasonable or a fair characterization of the alterations and changes. We are quite prepared to enter into time agreements. I understand from an initial survey that out of 90 some amendments filed, better than 75 percent are relevant. I will ask consent that any of the amendments which are relevant or are germane that the Members want to call up be made in accord to conform with the legislation on which cloture is filed to preserve those rights. I am quite prepared to do that. That would be my intention.

I say, Mr. President, that I doubt if there has been a piece of legislation which in one form or other has been before this body, which Members understood was going to be considered, for a longer period of time than this. Quite frankly, if we were able to get agreement for a definite time for the conclusion of this legislation—and I understand the minority leader wants to do that—I am glad to urge the leadership on our side to follow that procedure. But barring that, Mr. President, I think that on an issue which is essentially discrimination—discrimination against women and minorities in the workplace—I do not know how long we have to wait on that issue. How long do we have to delay the debate on that issue? That is what we are talking about.

There will be those who are opposed to this, who will oppose it on every procedural ground, as well as substantive ground. That has been the record in the 28 years that I have been here. It was true when we were considering the 1964, 1965, and 1967 act, and it is apparently true today.

So I just remind our Members that I feel that the efforts that have been made by the bipartisan group of original sponsors have tried to accommodate the legitimate concerns. Every single change that has been made has been done to address those concerns which have been expressed on the

floor over a period of time. I do not believe that the ranking minority leader can point to an exception to that. So I want to give the assurance to the membership that this is the current situation.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Let me set the record straight. There never was a problem with the motion to take this bill up. I think everybody would have voted 100 percent for it, but they vitiated it because they knew there was no problem. There was a problem in filing cloture. To be honest with you, that is the problem. I do not think I have ever been against the motion to take it up. The fight has to be on the bill.

If there are not quotas involved in this bill, why are all these so-called amendments floating up and down and all around this particular bill? There are all kinds of other problems. I do not think it is fair to stand up and say that only certain people are for civil rights. I think everybody in this body is. We ought to all be for a decent bill.

The real complaint here is not that we cannot get a decent bill. We had it in the past. The complaint is that we have not had a chance. There has not been one second for amendments, other than the Ford amendment, which really is not a critical amendment to this bill.

I yield 30 seconds to the distinguished Senator from Indiana.

Mr. COATS. Mr. President, I thank the Senator from Utah for yielding the time. I recognize the time limitation we are on, and I will not take much time.

Mr. President, even in the most open society there must be some closed questions. And undoubtedly the most essential is the equal treatment of all its members—a uniform respect for individual worth. It is an imperative rooted in Judeo-Christian principle and national precepts. It is a demand of conscience and compassion.

The history of America is propelled by the gradual widening of that circle of legal inclusion and protection. To minorities and women. To the innocent and the elderly and the handicapped. We strive to create a society where the only entrance fee for contribution and accomplishment is talent and industry.

That task is not finished. But our progress must not be devalued. Within the memory of most here discrimination had the sanction of law. The humiliation of a few was the policy of courts and legislatures. Those wounds are still fresh—easily reopened by outbreaks of racial hate. But the law has become a friend of equality.

As we look at civil rights legislation, however, it is important to maintain one distinction. Numerical racial imbalance is a challenge to our persuasion and leadership—a compelling reason to provide incentives for inclusion. Racial discrimination, on the other hand, is a violation of the law that merits our prosecution. There are moral and legal differences between the two.

Numerical imbalance is the result of a national history we must transform by recruitment, education, and training—all the elements of equal opportunity. Discrimination is a criminal act of will and intention, or perhaps of the grossest sort of negligence.

Imbalance does not, in itself, prove discrimination. But that is not a reason for complacency. Redressing racial imbalance requires innovation—beyond tired and discredited quotas.

We need to find solutions. But we need to look beyond rigid quotas or other purely numerical answers. A truly colorblind society is not an unreachable ideal or outdated utopia, existing only in naive civil rights rhetoric of the past. It is the substance of equal treatment under the law. Purchasing any goal, no matter how noble, at the price of race-based preference is not compassion, it is injustice. It engenders resentment and insults those who refuse to be patronized.

And so we come to S. 2104. It is not my intention to sound disrespectful of this proposal, because I am not. I merely fear it.

It comes to us in the language of equality. It professes to defend the weak. But after cutting through each layer of rhetorical flourish, the core of this legislation is an unprecedented extension of governmental power, and an attack on the impartiality of the law. It blurs the distinction between imbalance and discrimination. And it replaces our pursuit of equal opportunity with a destructive search for equality of result.

The deficiencies of this legislation begin in its origins. Supporters claim that important civil rights progress has been undone by the Supreme Court in recent cases. They call for a return to previous judicial standards outlined early in the 1970's.

But their analysis of these earlier cases is seriously flawed. And the errors that result propel S. 2104 far beyond any Supreme Court precedent.

Many supporters of this bill adopt a curious reading of previous court rulings. They claim that, according to the Griggs case decided in 1971, it was the employer that was forced to bear the burden of proving his innocence. If there was a racial imbalance in the workplace, they contend, it was businesses which were required to make their case for economic necessity.

But this, clearly, was never the case. Griggs kept the burden of persuasion on the challenger, not the business. It was the plaintiff that had to prove a business' hiring practices could not be justified by business necessity, not the other way around.

The legislation before us turns this standard on its head. The burden of persuasion is placed squarely on the employer. This measure essentially makes numerical racial or gender imbalance alone an illegal act. If it exists, an employer stands convicted of racism until he proves otherwise—guility till proven innocent.

If an employer tries to make the case for business necessity, this bill immediately stacks the deck against him. Business necessity is defined as "essential to effective job performance" or as the Kennedy-Danforth revision would define it, "substantial and demonstrable relationship to effective job performance."

Griggs did speak of "business necessity" but explained that this meant simply "job related," and having "a manifest relationship to the employment in question." The language of S. 2104 goes far beyond the Griggs requirement, imposing a standard that is virtually impossible to attain. Can a no drug policy, for example, be proven to be "essential to effective job performance?" Can a company require advanced academic degrees or accomplishments if it cannot somehow be proven these requirements are essential to a given position? What form could such proof possibly take?

Each of these requirements could be essential to a business. In each case they could be difficult, if not impossible, to prove. Each could have a disparate impact. Each, it seems to me, would be called into question under this law.

At the same time S. 2104 is opening up the doors to endless discrimination suits, it tries to limit the ability of victims to sue for reverse discrimination. A litigated or consent judgment cannot be challenged afterward, once an opportunity to present objections has been given.

To put it simply, if an employee reads in the newspaper about a judgment entered against his employer, he has been given his final warning. If he does nothing at that point to express his opposition, under S. 2104 he is forever barred from asserting his rights. No notice from the court or hearing on the matter is required. Fairness is sacrificed to efficiency.

There is an odd, Orwellian twist to this legislation that deserves more attention than it has been given. Section 5 of S. 2104 prohibits employers from even thinking discriminatory thoughts when making employment decisions, even if those thoughts are not finally decisive. An employer can be fully justified in firing an employee, but if he has some lurking prejudice as an additional, contributing motivation, he may be subject to compensatory and punitive damages.

This legislation allows for legal redress even with the thinest of causal ties between discrimination and an employment decision. If, for example, sexist thoughts enter into the mind of one member of a partnership review board, this would be illegal. It would not matter that this motivation did not have a decisive effect—only a contributory one—on the board's final decision. Damages would still be available. The result, to put it mildly, is absurd.

In addition, the act may also have the paradoxical effect of making voluntary affirmative action plans illegal. Current laws allows for the consideration of race or gender in employment decisions if there is a manifest imbalance in the representation of minorities or women in a traditionally segregated job category. Minorities can be given preference in a tie breaker among equally qualified applicants.

But under section 5 of this legislation, these voluntary affirmative action plans could arguably be a violation of the law. Any consideration of race or sex as a contributing factor in employment decisions is off limits. A bill designed to aid minorities could end up forbidding our compassion.

The practical result of this confused and confusing piece of legislation is clear. Though it does not mention the Q word, the act will extort quotas from employers. The only alternative is endless litigation.

Consider an employers dilemma. Under this legislation, a plaintiff only needs to show a numerical imbalance of minorities in the workplace, and that an employer has policies with a disparate impact. These charges do not have to be specific. Any good lawyer will be able to draw up a long list of employment criteria that might qualify. Then the employer must justify each and every one as being "essential to effective job performance."

Rather than bear this oppressive burden of proof and pour money into court fights they cannot win, businesses will hire by quotas. This will be their only shelter from this new storm of civil rights litigation.

This bill legalizes, even mandates, the very thing it set out to prohibit—discrimination. It asks for equal outcomes rather than equal opportunity. Instead of promoting healthy and equal competition, it would create racial polarization. Instead of leading us on the path of a colorblind society, it would magnify our differences and lead to tension and resentment. Instead of embracing justice, it promotes favoritism.

This is not civil rights of a type I have ever known—no matter what it is named. And this body would be wise to reject it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself some time. I want to put in the RECORD, from June 22, the request of the majority leader:

Mr. MITCHELL. I now ask consent to call up S. 2104, the Civil Rights Act of 1990.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I have a request that we have an objection on our side.

That is an objection to proceed, Mr. President.

I am glad to yield 2 minutes to the Senator.

Mr. CHAFFE. Mr. President, I would like to direct a question to the distinguished floor manager of the bill.

First of all, my question is: What is lost if cloture is not invoked today, briefly, because I have another question on that? As I see it, in this civil rights bill, since it has been on the floor, we have taken up and disposed of the crime bill, ADA bill, and now the textile bill. So I am not sure that those who do not vote for cloture are delaying the cause.

Is that a suggestion?

Mr. KENNEDY. What I wanted to indicate is basically this legislation in one form or another has been before the Senate for 3½ weeks. I cannot say we had all of it. But we had the essential aspects on it for some 3½ weeks. There is timeliness. As I understand, of all the amendments that have been introduced—there have been some 90 amendments—more than 75 would be germane.

We are quite prepared to enter into time agreements. I indicated to the Senator from Utah as well as the minority leader, if they give us an idea of final passage time I would make the request of the majority leader to vitiate. But we really have to take some action, we believe, on a measure of importance and that has been the subject of a great deal of debate.

Mr. CHAFEE. It is my understanding that the distinguished Senator from Massachusetts has been in on the negotiations that are ongoing and constructive. Am I correct in understanding that the Senator from Massachusetts was with the Chief of Staff of the President as late as last evening negotiating?

Mr. KENNEDY. We have spent many long hours with the Chief of Staff. We indicated from the very beginning, Senator JEFFORDS and I, we believe it is in the best interest of the country to be bipartisan and have the President support it. That is still my position. I am hopeful if we get a strong showing on the cloture that perhaps that may very well be the kind of action that can push us across the finish line. That would be my hope.

Mr. CHAFEE. It seems to me as I look on this that progress is being made in these negotiations. I personally have trouble understanding why we are to cut off, take the peremptory step, if you would, of cloture at this time, when the negotiations are going on quite successfully I think; the parties are moving closer together.

Mr. KENNEDY. There is an essential and fundamental existing difference with the administration to the point where I do not believe there should at this point be cloture. I believe that is a fair representation by the chief of staff and certainly by myself and the others who are cosponsoring this legislation where the Senate ought to express itself. I have never questioned the good faith of the Governor or the willingness of the President.

These are enormously important matters, but I do not believe that we can move beyond it. I want to give assurance to the Senator that I just do not believe we can carry that process further at this time. I think there is a real responsibility and obligation to be decisive about where we stand on this issue.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. The Senator has remaining 6 minutes and 19 seconds; the Senator from Massachusetts has remaining 1 minute and 33 seconds.

Mr. HATCH. I have to say I think it is disingenuous to claim that where there are 90 amendments—I heard there were 70, but with 70 or 90 amendments—that we are provided postcloture with a real debate.

The minority leader on this side would have 1 hour and if we go to any votes, voting time is taken out of my own time. So at the most all I probably would get through with are two amendments, if they would even let me bring them up. They have not let me bring any up so far because of the way they operated the floor.

It took the distinguished Senator from Massachusetts 15 minutes to just explain his current proposal with regard to the quota words, which is a very minor part of the total language of the bill but which is a very major part of the bill.

Can you imagine trying to explain the intricacies of this very complex bill in about 5 minutes max to get two amendments done when you have at least five or six. And there are others, who are Senators here, who have legitimate rights, who ought to be able to present their amendments on both sides of the floor. Will they be equally foreclosed?

Look, the language from page 426 from Griggs cited by Senator KENNEDY is not the holding of Griggs and everybody in employment law knows it. The

phrase "significantly related to successful job performance" is a restatement of the question certified to the Supreme Court. It is the plaintiffs' lawyer's phrasing of the issue, not the Court's. The holding in Griggs, its definition of "business necessity" is: Manifestedly related to the employment in question. This language is used in the Albermarle case, the Dothard case, the Beezer case, the Teel case, all monumental cases in the field of employment law and discrimination law, and all of them holding the same as the Griggs language. None follow the Kennedy language; it is always the Griggs language. The Kennedy language was just a question in the Griggs case, not the holding of the case.

The changes Senator KENNEDY suggested this morning will not solve the quota issue. They will not even come close. I hope we have adequate time to debate the amendments on this bill, but the only way we can is if cloture is not invoked today.

The only way further discussions can occur is if cloture is not really invoked. But the only way we can really act within the hallowed traditions of the Senate is if cloture is not invoked so that we go on this bill and we debate these important amendments and we give Senators a chance to be Senators.

I have to say I am getting pretty sick and tired of major monumental bills like this being called up and cloture filed either the same day or within a relatively short time thereafter, really cutting off effective debate on these matters.

I know there are people on our side who are going to be prepared to shut a lot of things down around here, and I may be one of them, if this is the way we are going to be treated, which is hostile, wrong, unfair; it is not in keeping with the best traditions of the Senate, and on this bill it is dangerous.

I would like a civil rights bill. I would like to be able to support it. I woule like it not to be a quota bill. I would like it not be a litigation bonanza for lawyers at the expense of everybody else in society, running up the cost to everybody in society.

I would like to be able to make sure and ensure that every American citizen has an equal protection constitutional right to their day in court not foreclosure because of some new silly jurisprudential change that this bill is going to bring about.

I would like to address the Price Waterhouse problem where even though the business makes the right decision in the employment decision they can be sued for compensatory and punitive damages because any one of the supervisors had a discriminatory thought. That would overrule and overturn even Justice Brennan's case, his decision, his opinion. That shows how radical this particular bill is. Even Justice Brennan said that should not be done.

Here we are going to do it by cloture, without any chance to debate it, without any chance to have Senators know what is really involved. And we are going to impose all this stuff on us.

I think it would be fitting if this bill passes in the way that it is being imposed on us, because maybe that is the only way the U.S. Senate will ever understand what we are doing to the rest of our country; what we are doing to the business people out there in the country; what we are doing to foster racial hatred, animosity and difficulties. That is what this bill is going to do. This bill triumphs the concept of group results, and it ignores the time-honored concept of equal rights.

This bill is a very, very serious bill. It ought to be debated. I am prepared to live with whatever the Senate decides to do, because I am prepared to live with what the Senate is going to do it itself if it invokes cloture and passes this bill even with the substitute—although I cannot see how any Parliamentarian can find germane what the Senator is going to bring up after cloture.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield my remaining time to the Senator from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. President, the Senator from Utah spoke eloquently in defining the differences he has, which is the point I would like to make. Those differences have been well delineated. We have been negotiating for 2 months with the administration and others who feel differently about the bill than the one that is proposed Many substantial changes have been made during that period of time.

In addition to that, the options have been well articulated. There is no need for any further debate.

I would also like to clear up the fact it was myself and other Republicans who urged to have the motion to proceed vitiated so that we could continue to negotiate. We wanted to see that these issues would be more clearly delineated so there would be a way that this body could quickly ascertain the differences and have the vote.

In my mind there will be sufficient time to discuss those important issues that are left and the time that will be allowed after cloture will give us an opportunity to make this bill into one that we all can agree upon, or at least the majority can and that the President can live with.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah has 13 seconds remaining.

Mr. HATCH. Mr. President, I call on our colleagues to do the fair thing and vote against cloture and let us go to the amendment. I think everybody will feel better about it. It is the fair way to proceed and maybe we will get this bill where 100 percent or a vast majority of Senators will support it. I think I have a reputation for that and I would surely try to do that if we can.

The PRESIDING OFFICER. The Senator from Massachusetts has 12 seconds remaining.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD an excellent New York Times editorial entitled "Enough Haggling on Civil Rights."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 17, 1990]

ENOUGH HAGGLING ON CIVIL RIGHTS

It's been a year since the Supreme Court, after misreading civil rights laws in several cases, overruled its own unanimous 1971 precedent that gave full force to the path-breaking 1964 Civil Rights Act. It's been two months since President Bush, saying he wanted to sign a new rights bill, ordered negotiations with Congress.

Now the Senate ought to go ahead and pass its own solid bill, whatever the White House says.

The most urgent need is to rearm minorities and women with the ability to force employers to justify possibly discriminatory hiring and job practices. These practices include testing and education requirements that perhaps wrongfully frustrate attempts to desegregate the workplace. Former Chief Justice Warren Burger held two decades ago that when minorities can show they're disproportionately fenced out of jobs, the employer must show business necessity.

That was a fair burden. Employers are best positioned to explain why their rules satisfy business needs. But last year the Supreme Court ruled otherwise, arguing that such a burden could drive companies to reverse-discriminatory quotas. But neither President Bush nor business lobbyists who support this decision produce any evidence that the 1971 ruling resulted in job quotas. The issue is a red herring.

Besides insisting that he won't sign "a quota bill," Mr. Bush says that he won't approve "a lawyers' bonanza." The Senate bill does allow more suits for damages. But it doesn't provide huge punitive awards for unintentional discrimination.

Some, with encouragement from the White House, have criticized the Senate bill for not doing enough to help society's underclass. That may be true, but it's irrelevant. This bill is addressed to the rights of workers who are qualified but denied their rightful place in the job market. These eroding rights are in danger and need attention.

The Senate bill would work no radical innovations. Rather it seeks to recapture gains made in the courts of a previous era and in Congress over many years. With today's Supreme Court often pulling in the other direction, these rights require reaffirmation.

The PRESIDING OFFICER. All time has expired.

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 4328, the textile bill, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4328) to authorize appropriations for fiscal years 1991 and 1992 for the Customs and trade agencies, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Wilson amendment No. 2204, to delay the effective date of the bill if the President cannot certify that the cost to consumers for the products affected by the act will not exceed $1 billion. (The yeas and nays are ordered on a motion to table the amendment.)

(2) Gorton amendment No. 2211, to modify agricultural provisions by exempting quota bonus from the 1% global limit and grants quota bonus of 50% for each dollar of agricultural imports from the United States. (The yeas and nays are ordered on a motion to table the amendment.)

● Mr. LEVIN. Mr. President, as I indicated last week with regard to the Gramm amendment, we ought to be concerned about the effect of this bill on consumer prices. But like that amendment, this amendment gives the administration a simple way to avoid implementing the law.

The amendment would suspend the provisions of the bill in any year that the Secretary of Commerce does not submit a report to Congress estimating the effect the bill would have, either directly or indirectly, on consumer prices.

If this legislation is enacted, and I hope it will be, it will become law over a Presidential veto. Given the administration's opposition to the bill, I cannot support an amendment that would give the President the ability to suspend the law simply by not submitting a report to Congress.

Mr. President, I am sympathetic with the concerns which underlie this amendment. However, the amendment gives the administration too much discretion for me to be able to support it.●

VOTE ON MOTION TO TABLE AMENDMENT NO. 2204

The PRESIDING OFFICER. Under the previous order, the question occurs now on the motion to table amendment No. 2204 offered by the Senator from California [Mr. WILSON]. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ] is necessarily absent.

The PRESIDING OFFICER (Mr. KERRY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 70, nays 29, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—70

Akaka	Gore	Metzenbaum
Bentsen	Graham	Mikulski
Biden	Harkin	Mitchell
Bond	Hatch	Moynihan
Boren	Heflin	Nunn
Breaux	Heinz	Pell
Bryan	Helms	Pryor
Bumpers	Hollings	Reid
Burdick	Humphrey	Riegle
Byrd	Inouye	Robb
Cochran	Jeffords	Rockefeller
Cohen	Johnston	Roth
Conrad	Kasten	Rudman
D'Amato	Kennedy	Sanford
Daschle	Kerrey	Sarbanes
DeConcini	Kerry	Sasser
Dixon	Kohl	Shelby
Dodd	Lautenberg	Simon
Domenici	Leahy	Specter
Exon	Levin	Stevens
Ford	Lieberman	Thurmond
Fowler	Lott	Warner
Garn	McClure	
Glenn	McConnell	

NAYS—29

Adams	Dole	Murkowski
Armstrong	Durenberger	Nickles
Baucus	Gorton	Packwood
Bingaman	Gramm	Pressler
Bradley	Grassley	Simpson
Burns	Hatfield	Symms
Chafee	Kassebaum	Wallop
Coats	Lugar	Wilson
Cranston	Mack	Wirth
Danforth	McCain	

NOT VOTING—1

Boschwitz

So, the motion to lay on the table amendment No. 2204 was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the votes by which the motion was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 2211

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to the motion to table the amendment of the Senator from Washington [Mr. GORTON]. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 35, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—65

Akaka	Heflin	Mitchell
Bentsen	Heinz	Moynihan
Biden	Helms	Murkowski
Boren	Hollings	Nunn
Breaux	Humphrey	Pell
Bryan	Inouye	Pryor
Bumpers	Jeffords	Reid
Byrd	Johnston	Riegle
Cochran	Kasten	Robb
Cohen	Kennedy	Rockefeller
D'Amato	Kerrey	Roth
Daschle	Kerry	Rudman
DeConcini	Kohl	Sanford
Dixon	Lautenberg	Sarbanes
Dodd	Leahy	Sasser
Exon	Levin	Shelby
Ford	Lieberman	Simon
Fowler	Lott	Specter
Garn	McClure	Stevens
Glenn	McConnell	Thurmond
Gore	Metzenbaum	Warner
Graham	Mikulski	

NAYS—35

Adams	Cranston	Lugar
Armstrong	Danforth	Mack
Baucus	Dole	McCain
Bingaman	Domenici	Nickles
Bond	Durenberger	Packwood
Boschwitz	Gorton	Pressler
Bradley	Gramm	Simpson
Burdick	Grassley	Symms
Burns	Harkin	Wallop
Chafee	Hatch	Wilson
Coats	Hatfield	Wirth
Conrad	Kassebaum	

So the motion to lay on the table amendment No. 2211 was agreed to.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:42 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Without objection, the committee amendment in the nature of a substitute, as amended, is agreed to.

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Under the unanimous-consent agreement, I call for the regular order.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. DURENBERGER. Mr. President, I rise to express my opposition to the Textile, Apparel, and Footwear Trade Act (H.R. 4328). As all of my colleagues know, throughout the decade of the 1980's, protectionist textile and apparel legislation was adopted by the Congress and then vetoed by former President Reagan. In each instance, the President's veto was sustained. I believe a similar fate awaits this legislation.

Two weeks ago, the U.S. Trade Representative, Ambassador Carla Hills, eloquently stated the reasons why the administration is firmly opposed to this legislation. Let me take a moment to quote Ambassador Hills:

By providing permanent, rigid protection from imports to domestic producers of textiles, apparel, and footwear, this legislation would cause tremendous harm to our economy, flagrantly violate our international obligations, and virtually destroy any chance of a successful conclusion of the Uruguay round of multilateral trade negotiations.* * * As the enactment of this legisla-

tion would be so highly detrimental to the overall interests of the United States, the President's senior advisers would recommend that he veto H.R. 4328, if it is presented to him.

Mr. President, the textile and apparel industries have long operated under the umbrella of strict import protection. We have more than 1,000 quotas with 38 foreign suppliers of textiles and apparel, and we are currently seeking agreements with three additional countries. In fact, 75 percent of our textile and apparel imports are restricted by quotas, and are protected by tariffs of almost 20 percent—tariffs that are nearly four times higher than duties imposed on other imports.

These are not industries that are on the verge of collapse. Quite the contrary. Domestic shipments for both textiles and apparel were up 6.7 percent in 1989 while exports jumped a dramatic 27 percent. And capacity utilization in the textile industry last year was almost 89 percent—6 percent higher than for all U.S. manufacturing.

Mr. President, by establishing unilateral quotas on virtually all textile and apparel imports, this legislation clearly violates the Multifiber Arrangement [MFA] and the 38 international agreements we have negotiated under the MFA. It may also violate GATT article 19. I ask the Members of the Senate, especially the supporters of this legislation to consider the implications for international trade if the United States now decides to unilaterally abrogate commitments it has made in international trade agreements.

The Uruguay round of multilateral trade negotiations is now entering a critical phase. There are less than 6 months remaining in these negotiations and if they fail, we may have lost a real chance to reform the international rules for trade in agriculture, intellectual property, services, and investment. Our negotiators are also discussing trade in textiles and apparel. Should we adopt the bill before us, should the United States unilaterally remove textiles and apparel from the negotiating table, we could well see the demise and collapse of the entire Uruguay round. Is that what we want? I think not.

Finally, Mr. President, I believe that if we adopt this legislation we will not only scuttle chances for success at the Uruguay round, but we will open ourselves to retaliation from our trading partners, which can only lead to counterproductive counterretaliation. In fact, I would suggest to all of my colleagues that a vote for this bill essentially says that clothing, textile, and shoeworkers, who work in facilities where nearly all of the machinery is imported from Japan and West Germany, are to be insulated in perpetuity from international competition; while the American agricultural, electronics, aircraft and other export industries must pay for this protection by finding the doors to foreign markets closed in their face.

Supporters of this bill claim to have carved out a special exemption to ensure that agricultural exports will not be harmed by this bill. This provision says, in effect, that if a country increases it's agricultural imports from the United States, the President can increase that country's textile and clothing export quota. But, in order for such an increase to occur, another country will lose a portion of its quota. Mr. President, that is not the type of agricultural trade policy that is going to help farmers in Minnesota or Iowa or in South Carolina.

In the first place, some countries cannot increase agricultural imports simply because of their size and their small population and economy. For example, Hong Kong already imports virtually all of its food. Should we penalize Hong Kong simply because it cannot purchase more American agriculture products? Moreover, what about the poor countries such as Bangladesh, that just do not have enough foreign currency to buy more of our agricultural products. Should they lose a part of their quota because they are poor?

Mr. President, why should countries be rewarded only for increasing their imports of American agriculture products? Why should there not be rewards if they purchase more American computers, or more American telephones, or more American airplanes, or any other American products? I am not advocating such a change in this bill because I think that we would establish a dangerous precedent in trying to manage world trade based on political agreements rather than market conditions. But what I am suggesting is that agriculture, just like every other industry, would be significantly harmed if we begin down the road of managing trade in one product in exchange for another.

Mr. President, I understand the real human concerns that have been expressed by the proponents of this legislation. Jobs have been lost in this industry despite decades of protectionism. But I would note that many of these job losses have resulted from the industry's efforts to modernize its facilities with highly specialized and automated equipment. Surely it is not easy for our domestic industry to compete with low-range textile and clothing jobs in Bangladesh, Thailand, and other developing countries. But further proection in this industry is not the answer. It will cost jobs in other sectors of our economy and will ultimately drive up the price of clothing for all Americans, especially low-income Americans.

Mr. President, I urge my colleagues to vote against this ill-timed, and protectionist legislation.

Mr. COATS. Mr. President, I am deeply concerned over the potentially negative impact that textile imports have on the textile industry in the United States and Indiana. Yet as I examine H.R. 4328, the Textile, Apparel, and Footwear Trade Act of 1990, I have become very concerned over the possibility of retaliation by our major trading partners and therefore conclude that this legislation before us is the wrong way to address the problem. What is needed is a more comprehensive, broadly based trade reform package.

Instead of addressing a very real problem through comprehensive reform, this bill seeks to protect two industries, textiles and shoes, by imposing restrictions that are sure to invite retaliation. One can apply the same concerns to a number of products like autos, machine tools, steel, telecommunications equipment, computers, and agriculture. These products, and the jobs they provide, are all important to the State of Indiana, yet ignored by this bill.

And what of the almost certain retaliation that this legislation would invite against U.S. exports, particularly agricultural products? People in Indiana are very mindful of the importance of agricultural exports to the State's economy. Indiana is second only to the State of Washington in per capita income derived from exports. Indiana exports nearly 50 percent of all its crops. Our State sent abroad more than $1.4 billion in agricultural products in 1989; ranking fifth in corn exports with $650 million and fourth in soybean exports with $430 million. These exports provide jobs for many Hoosiers, they must not be placed in jeopardy.

While trade reform legislation is a top priority, we cannot afford to adopt protectionist measures intended to protect a few products. Any reform of our trade laws must be comprehensive and take into account all product categories. We also cannot afford to adopt protectionist measures that only serve to invite retaliation by our trade partners, hurting U.S. exporters. Whatever measures are adopted must take into account our commitments and responsibilities under the GATT and the Multifiber Arrangement. Therefore let us respond to our trade problems with strong legislation that ensures a better trading system by insisting on open and fair markets here and aboard.

Mr. GLENN. Mr. President, the Senate last considered legislation similar to the current Textile, Apparel, and Footwear Act in 1988. In considering the 1988 bill, I spent a great deal of time listening to the arguments of both proponents and opponents, as

well as studying statistical information indicative of the market conditions and health of the domestic textile and apparel sector.

It is undeniable that since its peak in 1973, this industry has experienced a very significant decline in employment and increase in imports. To its credit the industry has invested substantially in modernization, increased productivity, and taken other steps to increase its competitiveness. Studies indicate that some of those very steps contributed substantially to the industry's job loss. Despite dire predictions throughout the 1980's, the U.S. textile and apparel industry is still alive, and indeed relatively well, today. I acknowledge that this wellness may not be spread evenly throughout the various segments which make up the industry as a whole.

I concluded in 1988 and reaffirm today, based upon a reassessment of the statistical indicators, that market conditions, cyclical though they may be, simply do not justify the breadth of protection found in this bill. I cannot support permanent import quotas for an industry whose shipments are up; which has been almost consistently profitable; is operating at near full capacity; and whose level of import penetration is not vastly different from that of many other industries of particular significance in my State of Ohio such as steel, autos, machine tools, and glassware.

Now this is not to say that the level of textile and apparel imports should be completely unregulated. Over and above the remedies available to any U.S. industry subject to particularly acute or unfair competition from imports, and tariffs as high or higher than the EC or Japan, the textile and apparel industry currently enjoys the extraordinary protection of the Multifiber Arrangement and associated bilateral agreements. Currently 75 percent of our textile and apparel imports are covered by some 1,200 quotas with 38 foreign suppliers. I have supported the MFA regime and our trade laws, and believe they should be rigorously enforced. Many believe that this regime has helped the textile industry recover and attain its current level of productivity. Under these circumstances, I cannot justify extending additional, broad, and permanent import protection to this industry.

I have listened with great sympathy to the stories of wrenching dislocation caused by the closure of U.S. textile and apparel operations. I feel deeply for the dislocated workers and believe they deserve all appropriate assistance in finding new employment, including retraining in new skills. It is certainly true that some, even a majority of these closures particularly in the apparel sector, are attributable to cheap imports from low-wage countries. Unfortunately, that scenario is not unique to the textile and apparel industry in the United States.

However, this bill addresses itself to the entire textile and apparel industry so we must assess the economic well-being of the industry as a whole in making a determination as to whether additional protection is warranted and in the national interest. We must balance the interests of this industry in additional protection from imports against the considerable cost to consumers of more stringent limitations on imports. We must consider the precedent this bill would establish for other specific industrial sectors facing similar or greater pressure from foreign competition. And we must consider the impact of this legislation on our existing obligations under GATT and on the current GATT negotiations, known as the Uruguay round.

In a June 29 editorial, the Cleveland Plain Dealer argued succinctly and persuasively against the textile bill. I ask unanimous consent that the entire text of that editorial be reprinted at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Cleveland Plain Dealer, June 29, 1990]

HANGING BY A THREAD

Special interests enjoy manipulating Congress during election years, when incumbents are eager to dole out favors to the folks back home. In a pre-election ritual, agribusiness extorts ever-larger subsidies, the military-industrial complex wheedles new weapons contracts, and industrial interests plead for more protection from marketplace competition.

The predictable election-year routine is now under way on trade protectionism. Throughout the 1980s, only the trade-policy pragmatism of the White House prevented Congress from taking the dangerous course of closing the U.S. market—an option, discredited among both liberal and conservative economists, that would surely undermine global prosperity.

This year the trade-policy battle is being played for the highest stakes. The world's central trade forum, the General Agreement on Tariffs and Trade, is overhauling the global rules for liberalized commerce. Having jaw-boned GATT members to accept market-opening guidelines, U.S. Trade Representative Carla Hills is on the brink of scoring a triumph: nailing down a 96-nation treaty that would advance the ideal, shared by both U.S. political parties since World War II, of freer trade.

It is an odd moment for Congress to weaken the U.S. envoy's bargaining position. Yet Congress' bloated farm-subsidy bill is already attracting trade partners' criticism for violating GATT's agriculture rules. The next U.S. anti-market provocation is another textile- and shoe-quota measure, similar to the limitations Congress considered in 1985, 1987 and 1988.

The protectionist impulse was unwise then and it remains unwise now. Despite the concerns of the U.S. textile industry—a sector that, through modernization and reinvestment, has worked its way back to profitability—another layer of protectionism would make matters worse for the U.S. economy.

The Senate Finance Committee last week sent to the full Senate a textile-protection bill sponsored by Sen. Ernest Hollings, a South Carolina Democrat. Pointedly, the Finance Committee—which has more than its share of protectionists—did not recommend that the Senate approve the anti-market measure. Hollings' bill would limit the overall increase of U.S. textile imports to 1% annually, even though American consumers' demand for such imports is growing by 7% a year. It would also freeze shoe imports at their 1989 levels.

Such added restraints would further inflate consumers' cost of apparel. Existing textile quotas and tariffs already cost the economy $25 billion a year, according to the Institute for International Economics; that amounts to $238 a year in higher clothing costs for every family of four. Hollings' bill would increase the total cost to about $85 billion by the year 2000—a sum so great that one longtime champion of textile quotas, the American Apparel Manufacturers Association, shuns this measure.

Sympathy for displaced textile workers leads some labor activists to seek new import limits. Such emotionalism is understandable but misguided: to save each job in the textile industry, where the average salary is $14,000 a year, quotas already compel consumers to pay an annual $40,000 of protectionism.

As the United States has promoted the GATT talks, developing nations like India, Indonesia and Mexico—all of which depend on access to the U.S. market to lift them out of poverty—have pointed to U.S. textile policy as an example of Washington's hypocrisy: As the White House hectors impoverished nations to open their markets to U.S. exports, Congress is crafting new ways to block imports of their goods.

Congress may succumb to the election-year temptation of protectionism, but the White House should remind it—with a veto if necessary—of the bipartisan logic of free trade.

Mr. SASSER. Mr. President, I am pleased at the action of the Senate today in passing H.R. 4328, the Textile, Apparel, and Footwear Trade Act of 1990.

The textile, apparel, and footwear industries are facing unparalleled pressure from imports. Before 1980, the textile industry was fairly stable. It had a growth rate of about 1 percent annually, and imports increased by about 3 percent annually.

Since 1980, however, imports have increased dramatically and now control 60 percent of our domestic market. The shoe industry has been devastated by imports. Footwear imports are now estimated to be as much as 90 percent. It is a portent of what is to come if we do not take action now.

My own State of Tennessee has seen the effects of imports. In 1980, 96,500 Tennesseans worked in the textile and apparel industry. By 1989, that figure had dropped to 87,500—a loss of 9,000 jobs. In the footwear industry the figures are equally grim. In 1980, 15,700 Tennesseans earned their living in the nonrubber footwear industry. By 1987, the last year for which figures are

available, that number had been more than halved—to 7,050.

But these figures are more than mere statistics. They represent real people and real jobs. The closing of a textile or apparel or shoe factory can be devastating to a local community. Many such facilities are located in rural areas. They are often the major employer in the area—areas which have few alternative employment opportunities.

As I travel around Tennessee, I continually see the effects that these imports are having on my fellow Tennesseans. I talk to individuals who have lost their jobs in the communities where they have lived and worked for years. They face the future with no prospect of new jobs.

Many of these workers are prevented by family obligations and ties from moving to a new area. Many are women—often the wives of family farmers. Their income is critical in making that family farm viable. Many others are single parents and the sole support of their children.

I am deeply disturbed that the administration has chosen a head-in-the-sand approach to an issue that is literally shaping people's lives. Sooner or later they are going to have to face the fact that we cannot simply throw away industry after industry and still maintain our industrial base.

The tool for taking some control over import levels has been at hand all along. However, this administration and the previous administration have failed to take any action to enforce the trade remedies already available.

The Multifiber Arrangement that regulates international trade in textiles and apparels allows bilateral agreements that regulate imports. It permits domestic industries to adjust to changing conditions and increased imports.

Successive Republican administrations, however, have failed to use this mechanism to regulate imports. That is why we are here today.

This legislation will allow our domestic textile, apparel, and footwear industries to make an orderly adjustment to increased imports.

It sets a global guota on the import of textiles, apparel, and nonrubber footwear. Imports on textiles and apparels would be allowed a 1-percent annual growth rate. Footwear imports would be frozen at 1989 levels.

As a Senator from a State with extensive agricultural interests, I am pleased that the legislation provides that preference in the allocation of textile, apparel, and footwear quotas will be given to countries which increase their agricultural imports from the United States.

The bill also authorizes the President to negotiate tariff reductions as required under our international trade obligations.

Mr. President, I am hopeful that we can quickly move this bill through conference so that we can assist these industries before any more damage is done.

Mr. LEVIN. Mr. President, I rise to express my support for the Textile, Apparel, and Footwear Trade Act of 1990. Today, the Senate is facing one of the Nation's toughest challenges—the issue of trade.

The economic future of this country is threatened by a trade policy so weak that while 10 years ago we were the world's largest creditor, we're now the world's largest debtor. And while our national trade deficit has grown at a staggering rate, our deficit in textile and apparel has grown at an even faster rate. Textiles and apparel now account for over one-fifth of the total trade deficit. Eight out of ten shoes sold in America today are foreign made, and imports account for about 60 percent of the clothing market.

As a result, hundreds of thousands of jobs have been lost. In 1990 alone, 22 major textile and apparel plants have been closed or experienced major layoffs. Thousands of jobs have been lost in this year that has not yet ended.

Some of the job losses can be attributed to barriers to U.S. textile, apparel, and footwear exports. For instance, Korea, a big textile and apparel exporter, won't issue import licenses for many of the same products unless the domestic industry approves it. And China has a similar policy.

But when it comes to textiles and textile products, we also have an import problem which requires an enforceable limit on the growth of imports. Since 1974, the administration has had the authority under the Multifiber Arrangement [MFA] to control textile and apparel imports. The European Community, Japan, and others have used their authority under the MFA to limit imports, but the United States has not. As a result, imports have been diverted to our market, and we are on the verge of losing this critical domestic manufacturing industry.

Yet the administration has refused to exercise its authority under the MFA, and the domestic industry and American workers have suffered as a result. The administration has refused to do for our industry what our competitors have done for theirs. It's this failure of leadership that has prompted Congress to come up with the legislative proposal the Senate is considering today.

I believe this legislation is balanced and a fair response to the situation. It ensures that our vital domestic industry gets a fair shot at the home market. It provides for textile and apparel imports to grow at the rate of the domestic market. Because domestic production of nonrubber footwear has declined to the level during the Great Depression of the 1930's as a direct result of imports penetration, the bill freezes imports at their 1989 level.

Leading the U.S.A. to competitiveness in this decade and into the next century requires more than getting tough with other nations. It means listening to the people losing their jobs and communities losing their industries. It means creating a new definition of trade. If a market is not fair, then it is not a free market.

When I speak out or when any of us speaks out and fights for jobs and fair trade, we are doing no more than what we work toward on every difficult issue facing this Nation. We are not protecting privilege for any nation, but demanding opportunity for all. Despite the industry's $18 billion modernization plan, legislation is now needed to provide it with a fair chance in today's world market.

When we fight the war on drugs, we are demanding an opportunity for our children to grow up drug free in communities that have the tools to get drugs off the streets and drug criminals behind bars.

When we push for excellence in education, we are providing an opportunity for all Americans to improve their standard of living and compete on a global scale.

When we work to clean up our environment, we are handing the next generation the opportunity to inherit a nation with natural resources second to none.

People are ready for leadership. The world is changing rapidly before our eyes—it takes no great wisdom to see it.

If we in Washington showed the courage of Eastern European leaders like Walesa and Havel, we could lick the economic challenges, win the drug war and protect our environment. People are willing to do what we have to do in the short term to provide for ourselves, and more importantly, for our kids, in the long term.

Enactment of the Textile, Apparel, and Footwear Trade Act of 1990 is a step in the direction of passing on to our children an America with a strong manufacturing base. I urge my colleagues to join me in supporting this legislation.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 32, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—68

Akaka	Gore	Mikulski
Bentsen	Harkin	Mitchell
Biden	Hatch	Moynihan
Bond	Heflin	Murkowski
Boren	Heinz	Nunn
Breaux	Helms	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Burdick	Jeffords	Riegle
Byrd	Johnston	Robb
Cochran	Kasten	Rockefeller
Cohen	Kennedy	Roth
D'Amato	Kerrey	Rudman
Daschle	Kerry	Sanford
DeConcini	Kohl	Sarbanes
Dixon	Lautenberg	Sasser
Dodd	Leahy	Shelby
Dole	Levin	Simon
Domenici	Lieberman	Specter
Exon	Lott	Stevens
Ford	McClure	Thurmond
Fowler	McConnell	Warner
Garn	Metzenbaum	

NAYS—32

Adams	Danforth	Mack
Armstrong	Durenberger	McCain
Baucus	Glenn	Nickles
Bingaman	Gorton	Packwood
Boschwitz	Graham	Pressler
Bradley	Gramm	Simpson
Burns	Grassley	Symms
Chafee	Hatfield	Wallop
Coats	Humphrey	Wilson
Conrad	Kassebaum	Wirth
Cranston	Lugar	

So the bill (H.R. 4328), as amended, was passed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the amendment to the title is agreed to.

The title was amended so as to read: "An Act to provide for orderly imports of textiles, apparel, and footwear."

CIVIL RIGHTS ACT OF 1990

The Senate continued with the consideration of the bill.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Kennedy substitute amendment, No. 2110, to S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

George Mitchell, Patrick Leahy, Edward M. Kennedy, Barbara A. Mikulski, Terry Sanford, Joseph Lieberman, Wendell Ford, Daniel Akaka, Paul Simon, Tom Harkin, Howard M. Metzenbaum, John D. Rockefeller, John F. Kerry, Alan Cranston, Brock Adams, Frank R. Lautenberg.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Kennedy substitute amendment, No. 2110, to S. 2104, a bill to amend the Civil Rights Act of 1964, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 62, nays 38, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—62

Adams	Durenberger	Lieberman
Akaka	Ford	Metzenbaum
Baucus	Fowler	Mikulski
Bentsen	Glenn	Mitchell
Biden	Gore	Moynihan
Bingaman	Graham	Nunn
Boren	Harkin	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pryor
Bryan	Heinz	Reid
Bumpers	Hollings	Riegle
Burdick	Inouye	Robb
Byrd	Jeffords	Rockefeller
Cohen	Johnston	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerrey	Sasser
Danforth	Kerry	Shelby
Daschle	Kohl	Simon
DeConcini	Lautenberg	Specter
Dixon	Leahy	Wirth
Dodd	Levin	

NAYS—38

Armstrong	Gramm	Murkowski
Bond	Grassley	Nickles
Boschwitz	Hatch	Pressler
Burns	Helms	Roth
Chafee	Humphrey	Rudman
Coats	Kassebaum	Simpson
Cochran	Kasten	Stevens
D'Amato	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Exon	McCain	Warner
Garn	McClure	Wilson
Gorton	McConnell	

The PRESIDING OFFICER. On this vote, the yeas are 62, the nays are 38. Three-fifths of Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DOMENICI. Mr. President, I strongly believe our country should have effective laws to protect civil rights. We must assure that people are treated fairly and are judged and considered on the basis of their abilities, not by their race, gender, national origin, or religion.

I look forward to being able to support this civil rights bill, and I hope we can put together a well-considered bill that will truly advance civil rights in this country.

We enacted title VII of the Civil Rights Act of 1964 in order to assure that civil rights are protected in employment. The bill we have before us today proposes several very important changes to that law, changes intended to respond to recent Supreme Court decisions that have increased the difficulty of proving discrimination, and have weakened our civil rights laws. Congress should address these decisions and see that our civil rights laws are as strong as they can be.

I intended to vote against this cloture motion, Mr. President, because I very much want us to produce the best bill that we can.

Negotiations intended to improve the bill are continuing. I believe we must give these negotiations our full consideration. I intend to get involved in these negotiations and do whatever I can to adequately address the concerns still existing with the bill.

Mr. President, invoking cloture in the U.S. Senate is a very special procedure. It should be used only in rare occasions when progress on a highly important issue is being hindered.

This is certainly a critically important issue, but progress on improving this bill is not being hindered. On the contrary, negotiations are proceeding and many important and constructive improvements are being suggested and considered. I for one am strongly in support of serious consideration of this bill and improvements to it. The changes being considered, like the underlying bill itself, are tremendously complicated and may take some time.

So far, the Senate has spent hardly any time at all on this bill. We have spent, perhaps, part of 2 days in debate and have considered only one amendment, an amendment on how this bill should apply to the Senate.

Invoking cloture at this time would not serve the civil rights interests of our country at all. In fact, to invoke cloture now would, in my view, curb our ability to closely consider the many and complex issues involved here and would seriously damage our ability to produce the best civil rights bill that we can.

We owe it to the Nation, and particularly to America's minorities and women, to produce the best civil rights bill we can.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 2164

Mr. HATCH. Mr. President, I send an amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2164.

Mr. HATCH. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike page 10, line 15, of the amendment, and insert in lieu thereof the following:

"jurisdiction;

"Provided that no person shall be prohibited from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I withold the remainder of my time, and allow the distinguished Senator from Missouri to speak on his own time.

I ask unanimous consent that I may then resume without it being considered a second speech under the rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, it was inescapable to those of us in the Chamber that immediately after the vote was announced a great cheer went on outside the Senate Chamber, presumably by those who support the civil rights bill. I must say that the Senator from Missouri does not understand the basis of the cheering or the chants of optimism.

It is clear to this Senator that under the present state of affairs the chances of enacting legislation that the President is going to sign, the chances of enacting legislation that will become law over a Presidential veto, are de minimis.

Mr. President, I was one who voted for cloture. I must say that when I voted for cloture I did so with some concern about my vote. Several months ago, after a long process of negotiations which led to the bill that is now on the floor, I took the position that after those negotiations were completed I would support the bill. I also stated to those who were promoting the legislation that I would vote for cloture. I have fulfilled that obligation. I did so out of a sense of duty. But I do not believe what we have just done furthers the cause of enacting this bill into law.

I do not agree with the strategy that has been adopted by the majority leader of filing cloture motions, particularly in the face of a position that has been taken by those on this side of the aisle that they are prepared to go forward with a bill, even under a time agreement. It is clear that there is no desire on the Republican side to filibuster a bill to death. But there are differences of opinion on the legislation.

I am satisfied with the bill as is. I will vote for the bill as is. But, Mr. President, this bill is not going to become law unless the President agrees with it. It is clear from the vote that we have just had, 62 votes for cloture, that some of those votes were grudgingly squeezed out in the last seconds.

This bill is not going to become law without the President agreeing to it. Therefore, for the last week or more, hours on end, three Senators have done their best to try to get some kind of an agreement between Senator KENNEDY and John Sununu that the President will agree to. Hours, days we have spent trying to do that, Senator SPECTER, Senator JEFFORDS, and I.

Let me tell the President of the Senate how close we came. Last Thursday morning, there was a meeting between Senator KENNEDY and Governor Sununu in the White House. The subject of the meeting was the business necessity language, the most controversial, difficult part of this bill.

Governor Sununu and Senator KENNEDY agreed verbatim on the language to be included in the business necessity part of the bill. It was not just an agreement in principal, it was an agreement verbatim, set down in writing.

Was it popular with the Republican Senators? No. Was it popular with some in the civil rights community? No. But they made a deal, and they set it down in writing.

Then the position that was taken by Governor Sununu was, well, before we absolutely sew that up, let us tie down the second big controversial part of this bill, the so-called black box language, about the degree of specificity that has to be put in place in employees specifying business practices. There, too, the negotiations were going forward.

Yesterday I spoke with Senator KENNEDY, and he told me the specific phrase of the proposal of Governor Sununu that he did not agree with. I called up Boyden Gray at the White House and I said, "I think if you will agree to take this one phrase out, you will have a deal, involving the two most controversial sections of the bill." And he said on the phone, "Well, I will recommend taking it out."

I do not know what happened subsequently, but I know that we were on the very brink of an agreement on the key provisions of the bill that I am convinced would lead to a Presidential signature, and I am convinced that the bill before us will lead to a Presidential veto.

Maybe the deal that was made does not make anybody happy, but it does deal with the Wards Cove issue, and I thought that both parties should have taken it. I think we are now in the business of spinning our wheels. I think we are going to waste days of time on the floor of the Senate. Everybody talks about the business of the Senate. Why do we not get on with the business of the Senate? Why are people here on Fridays? We should not be here late at night, and so on and so forth about the business of the Senate.

Well, I say to the Senate that we are wasting more time by this foolish vote on cloture than we would by most of the other tactics that go on in this place. I am sick about it. But, Mr. President, we are going nowhere. The civil rights community has not won a victory by the vote we just had. I voted with them, because I was honor bound to do it, but they have just shot this bill down the tube.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I agree in part with the statement by the Senator from Missouri, and I want to repeat for the record that we are entering a new era of leadership here. We just filed cloture before there has been any debate or amendments offered and shoved it down the throats of the minority, and it is going to get tough around here.

There was no need for this vote today. We withheld offering amendments because we were told we are going to negotiate this, do not offer any amendments. I congratulate the majority leader. I had eight desertions on this side. Maybe they ought to get a new leader. Maybe I should not be the leader. If we are going to have this kind of operation on every bill that comes up, file cloture and get cloture and forget about it, we are going to have a different Senate to deal with on this side of the aisle.

If there had not been good faith negotiations on this side in my office and offices all around the Capitol and in the White House, I would say that is one thing. But to have this rammed down our throats because it did not please the Senator from Massachusetts—I did not know he spoke for everybody. Apparently, he speaks for everybody on that side.

It seems to me that we are going to be in for a long, hot summer. I have only been around here 20-some years. I thought we used cloture when people up here are trying to withhold any action on a bill, or filibustering and talking, somehow trying to impede the progress of the majority.

There was not any such effort on this bill. There was not an amendment offered, except one to take care of Senators if they got sued. We took care of ourselves first, and that was it.

I do not know what is going to happen in the next few days. We are going to take what little time we have. The Senator from Utah indicated this morning he was willing to enter into a time agreement. I am convinced that the other side could care less about this bill. They want a political issue. They may get a political issue. They may get a bill, I do not know. We only have 38 votes on cloture. I do not

know how we are going to get 34 on a veto. I do not see anybody on our side that is going to change his mind. I would say to the credit of the eight, they did not like the process, the procedure, did not like it crammed down our throats.

We try to get along in the Senate. We have gone the extra mile, stayed the extra hour, in an effort to accommodate the majority. But this is going to end. If we are going to be treated like a bunch of bums on this side of the aisle, say so. There will not be any more time agreements or any agreement at all on anything, until we have some understanding that we are going to run this place in a civil manner, and not have them try to shove it down our throats because they have the votes and they can intimidate everybody but one Democrat to vote with them, when there has been no effort on this side or that side, not a single amendment has been offered, and we have been told not to offer amendments.

I made a statement yesterday that there was no reason for cloture being filed, that there has not been an amendment offered, and that everybody is for civil rights, and nobody disagreed. Did anybody stand up and say I was wrong? So I suggest that maybe we ought to elect another leader on the Republican side. If we are going to let the Democrats run the Senate and we are going to throw eight or nine votes in to help, that is good enough for me. I do not want any part of it.

It seems to me there comes a time that you have to understand what is fairness and what is not fairness, and this is not fairness. We have had members on this side who have been part of the negotiations every day, including the Senator from Missouri, the Senator from Vermont, and the Senator from Pennsylvania, Senator SPECTER.

We have had people agree to language and then renege on the language on the other side. How can you work out a deal? My view is we would have had a civil rights bill in 24 or 48 hours except some of our Republicans think they know better than the leadership; they are going to decide for themselves what we do around here.

Maybe they are right, and maybe 37 of us are wrong and 8 are right. But it seems to me in this case where there has been absolutely no debate, not a single amendment, and nothing but good will on both sides, maybe I have been fooled; that it was just an effort to move the calendar along, get rid of this bill, get up another bill, file cloture on the farm bill.

Why do we not file cloture on everything and have one vote, a voice vote, and pass it all, and get it out of here? Why do we not pass this bill on a voice vote right now if that will help somebody's calendar, take it up and pass it up on a voice vote, as bad as it is, without any debate? We have not had debate yet. Now we are under a cloture gag rule under certain limits on what amendments we can offer.

So I hope this is not a precursor of what is going to be down the line, and I hope some of the members on that side have looked at the bill. If they are for quotas, apparently they are all but one, they are going to get quotas.

This is the game. This is a political game. You can hear the thunder or the roar out in the hall, after the score, after the touchdown, after the victory. Forget about the bill. Forget about working it out with those who have a different view, forget about those who are opposed to quotas in the workplace, shove it down their throats.

Maybe the President will veto it. Try to get a political victory. If that is what they want, they can have it.

Some of us are concerned about civil rights and some of us have been concerned about civil rights for a long, long time and have been voting that way, not just talking that way. When we engage in negotiations in a good-faith effort to get some resolution, we ought to have an opportunity to do it. We did not have the opportunity in this case, and I know the majority leader has to keep the place moving. But in this case it was totally unfair to try to put our party on record as against civil rights with a cloture vote, and it is going to make things a lot tougher.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I listened with interest to the statements of my friend and colleague, the distinguished Republican leader, and my friend and colleague, the distinguished Senator from Missouri.

I would like to make three comments—responding to some of the assertions made by both.

First, my friend from Missouri said that he did not understand the decision of the majority leader to proceed to cloture when the Republicans had offered to complete action on this bill by a time certain.

That is the first time I have heard that the Republicans had offered to complete action by a time certain. The Senator from Missouri is, with all due respect, mistaken. No such offer was made, and I would have been anxious to entertain such a proposal. None was forthcoming.

So the premise of his criticism is factually incorrect. Had there been such an offer, I would have it with the distinguished Senator from Massachusetts, and if it was, I was not only prepared but willing and eager to enter into such an agreement.

Second, we have heard a lot here in the last few moments about cloture. Suggestion has been made, criticism of the use of cloture as a way to move legislation forward in the Senate.

I have not had much time to do this research, but a very brief summary indicates that the rate at which cloture is being used in the period since I became majority leader is less than it was used at any time during this decade. During the 6 years in which the Republicans controlled the Senate, 4 under the majority leadership of Senator Baker, 2 under the majority leadership of Senator DOLE, 75 cloture motions were filed. In the nearly 2 years that I have been majority leader, 22 cloture motions have been filed, a rate less than that employed under Republican control of the Senate.

And I searched the record—and I will stand corrected—but I do not find any record of the distinguished Senator from Missouri standing up and protesting the use of cloture during the time when Republicans were in the majority of the Senate. If he did so, I welcome his standing now and pointing to that in the RECORD.

Is there a double standard? Is cloture a tactic that is——

Mr. DOLE. Mr. President, if the Senator will yield, if you want someone to stand, I will stand and say we cooperated with the majority. We could not get the cooperation when we were in the majority. We had no choice. The majority leader knows we cooperated with him on a number of things where cloture would have been filed.

Mr. MITCHELL. I will get to the substantive cooperation in just a moment, and I thank my colleague for his commenting.

I will just say, Is there a double standard? Is cloture an appropriate tactic when Republicans are in the majority but inappropriate when Democrats are in the majority?

Mr. DANFORTH. Mr. President, the Senator from Missouri was making a very simple point, and I think the majority leader knows that. The simple point that I was making is that for days on end, hour upon hour, on each day three Senators have been trying to work out an agreement on this bill. The three Senators have been Senators SPECTER, JEFFORDS, and myself and an agreement was made verbatim, verbatim with respect to the most controversial single issue in the bill. An agreement was made—I cannot say it was in agreement—but the administration yesterday—at least their legal counsel stated that the one phrase in the proposal for the so-called black box provision that was objected to by Senator KENNEDY would be deleted or at least the legal counsel recommended that it would be deleted. We were within a millimeter of working out the most difficult provisions in this bill, and it is a bill that in the opinion of this Senator—and all you have to do is

look at the numbers in the last vote—will not be passed over a Presidential veto. The President is going to veto what we have before us. I do not mind what we have before us. I am a cosponsor of it. But the President is going to veto it.

I do not stand around telling the majority leader how to run the Senate but I, for the life of me, cannot understand how we have just furthered the cause of getting this bill enacted into law. I think we have set in motion a process where our flexibility is severely limited. I think that we are now going down a track which is leading to nowhere and that we are wasting the Senate's time in the name of saving the Senate time.

I am not here to debate about a numbers vote, about what leaders filed cloture motions, how many times. I could care less. But I do care about this legislation. I have invested an enormous amount of time in this legislation, and we were so close. I want to make the point that in the opinion of this Senator it is not the administration that has been wiggling out of deals around here. That is the only point I want to make.

Mr. MITCHELL. I thank the Senator and I appreciate the fact that he could not care less but I could care less. I could care a lot.

When the Senator stands and suggests something wrong with this approach, I would like to know where was that indignation when Republicans employed this tactic.

Now, in just a few moments research, we have found at least five occasions under Republican leadership when a cloture motion was filed at the time the bill was called up and the cloture vote occurred 2 days thereafter. And we have been unable to find an instance in which the Senator from Missouri protested with the indignation that he has demonstrated today.

Mr. DANFORTH. Will the leader yield?

Mr. MITCHELL. I will yield when I complete my remarks.

Now what happened here? Was cloture filed on the day that the bill was called up? Indeed, it was not. On June 22, nearly a month ago, I sought to move to proceed to this bill and the distinguished Republican leader objected. On June 25, the distinguished Republican leader asked that I vitiate cloture on the motion to proceed. Republicans objected to moving to proceed to this bill which required the filing of a cloture motion, and on the request of the distinguished Republican leader I vitiated that vote.

On July 10, 3 weeks after I attempted to move to proceed to the bill, the Senate took up the bill for consideration. And as the Senator from Missouri knows, he and the Senator from Vermont and the Senator from Pennsylvania on that very day told me that they were "this close" to an agreement and would I forbear from doing anything with respect to cloture for 24 hours. I agreed to do so at their request, not for 24 hours, but for seven times 24 hours, a full week, at which time it was represented to me that we were again that close to an agreement.

I want an agreement. I have done everything I can think of to encourage an agreement.

And with the greatest respect to my distinguished friend and colleague, the Republican leader, this is not a political game. If it were, I would not have vitiated the cloture vote on the motion to proceed. If it were, I would have filed cloture on the bill a week ago. I have done everything possible, consistent with my responsibilities, to encourage a resolution of this matter, but without success.

I hope we can reach an agreement. I believe that an agreement is within grasp and I hope that the vote we have just had today will encourage that result.

I respect the different point of view of the Senator from Missouri. But I repeat to him and to the Members of the Senate, it is not correct that Republicans offered to me a time certain for passage of this bill and that I rejected the offer and insisted on cloture. And I repeat again, had such an offer been made—as the Senator from Missouri has just asserted it was made, incorrectly—I would have been more than willing to accept that, as my intention and my hope and my desire is to gain enactment of a bill that will become law. That is what I still hope happens.

I regret the comments that have been made that may in some event make this a more difficult result to achieve. I hope that is not the case.

Finally, let me comment with respect to the distinguished Republican leader's comments on fairness.

If there is one thing I have tried to do since I became majority leader it is to establish a sense of fairness and comity in the Senate, to attempt to treat every Senator equally, to attempt to apply the rules evenly and to attempt to move the business of the Senate forward in a way that, recognizing the inevitable differences among us on certain issues, would permit us to continue to operate and act in good faith and cooperation whenever and wherever possible.

I thought I was succeeding in that effort. Evidently, the distinguished Republican leader sees it differently. If that is the case, then I can only say that I will continue to do my best to operate in a fair and equitable manner.

I believe I have provided the distinguished Republican leader with a great deal of notice on every action we intended to take and have sought to elicit full cooperation. If, in this one instance, there is a contrary feeling, I regret that. But for the reasons I have just stated, because of the time consumed in this matter, because of the necessity to proceed in what I hope is a manner that will bring about legislation that becomes law, and for all the previous reasons, I felt it important to proceed as indicated here.

I hope that we will be able to get a bill passed and I hope that we will have further cooperation. If that is not to be forthcoming, that is of course a decision to be made by the Republican leader on behalf of his colleagues and we will obviously have to deal with it as each matter arises. In any event, it will not in any way deflect me from the approach which I have adopted or cause me to change that approach, which is attempting to proceed in the manner best calculated to accomplish the public's business in the most fair and responsible way, accommodating the interests of all Senators and treating all Senators, Democrat and Republican, alike.

Now if I might comment finally on the distinguished Republican leader's offer to voice vote the bill right now. As far as I am concerned, I am prepared to accept that offer, and I am prepared to proceed to vote and pass the bill right now, if that is the desire of our colleagues on that side.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, you may have that opportunity before the day is out. I will keep in touch.

I think we have not really been on this bill at all. That is the point. Talking about 3 weeks. There was a motion to proceed filed. That was the week the Senator from Massachusetts was entertaining Nelson Mandela in Boston. That was the reason to indicate that cloture motion was being filed, to indicate somebody here was working on civil rights legislation. There was never any doubt about taking the bill up. But again, we thought we were working out some agreement. I would have to go back and check all the numbers, but I guess it will show that there would have been less reason for cloture because I think the record will reflect we have been most cooperative with the majority leader, because I want to be cooperative with the majority leader. And there has not been a necessity to file cloture on every bill. When you do not have cooperation from the minority, it makes it very difficult. We think we have given that kind of cooperation; sometimes, I may say, to the chagrin of many of my colleagues on this side, and disgust, I might say, in a few cases.

But I wonder, if we are so anxious to cooperate, if the Senator from Massachusetts will enter into a time agreement on the amendment just offered. It is pending. Let us look at the

present; have an up and down vote on the amendment just offered.

We have a lot of amendments. We think most of them are germane.

We will see if everybody wants quotas on that side. Let them vote for quotas. And let us let them vote for this trial lawyers bill. That is what it is. We will see how many votes the American trail lawyers have. I know they have a big PAC. I do not know how many votes they have. So we will bring up those amendments and we will offer those amendments and debate those amendments, also under restraint because now we do not have much time to debate the bill at all.

This Senator views this bill as the most important piece of civil rights legislation in a long, long time. So we are given 30 hours total to dispose of it. If that is fair, I hope we treat minorities better than the minority is treated on this side of the aisle.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. Mr. President, there has been an extensive discussion about the use of cloture. There has been some talk about a voice vote.

I suggest it might be appropriate to look at the substance of what we are dealing with here, what is really important to the American people.

The one comment which has been made which concerns me has been the one with respect to the comment by our distinguished leader on the Republican side about his leadership. I think all Republicans have the greatest respect for the distinguished leadership of Senator Dole as he is proceeding in the minority and as he did when he was the majority leader for 2 years.

I voted in favor of cloture because I felt committed to that position. I believe it is very important to move ahead to get a good civil rights bill.

The American people, or whoever, if anyone, is listening to this on C-SPAN II, must be wondering what goes on in the U.S. Senate when all of the exchanges, or almost all of the discussion is about who has used cloture how many times, or a facetious comment made about a voice vote and an apparently serious response: Well, let us pass it on a voice vote.

There are some of the rest of us around here who have something to say about whether there is a voice vote or whether there is not. That is not decided by a single Senator or two Senators or three Senators. As Senator DANFORTH pointed out, a great many of us have been doing a tremendous amount of work, night and day, for weeks and weeks and weeks, on this subject.

Why have we been doing the work? So there can be a Republican victory or Democratic victory? Absolutely not. We have been on this subject because many of us feel the Supreme Court of the United States in Wards Cove reversed an 18-year-old decision in the Griggs case which should not have been reversed.

There has been a lot of talk about judicial activism in the Supreme Court nominations, many of those comments made by Justices who decry judicial activism. And yet when an issue came before them on this very important subject of civil rights, they threw it all to the winds and decided to reverse an 18-year-old unanimous Supreme Court decision which, by all rules of judicial interpretation, ought to stand because the Congress of the United States left it in place. In terms of a standard interpretation, that that was the law intended by Congress.

In Wards Cove, the Supreme Court of the United States took this important field and turned it upside down. They said the burden of proof was on the employee in a complicated business context, where, under all similar rules, the burden of proof on an affirmative defense lies with the party which has the means to do the proof, to put forward the evidence, and that is the employer. And the Supreme Court of the United States made significant changes in the standards.

That is why many of us have been working to try to change the Supreme Court decision in Wards Cove back to Griggs. My distinguished colleague from Missouri, Senator DANFORTH, and my distinguished colleague from Vermont, Senator JEFFORDS, and I and others, have been working toward that end. When Senator DANFORTH spoke, I disagreed with him only on one point and that is where he said we were within a very close distance of striking an agreement.

I think we did have an agreement. The slight difference on the black box was agreed to. And on this issue of business necessity, on all aspects there was an agreement as of last Thursday.

What is the substance of the agreement, Mr. President? How would the change in the law affect millions of Americans, both employees and employers? This is what it provided. And this is what was agreed to last Thursday, and written down.

> The term required by business necessity means:
>
> (1) in the case of employment practices primarily intended to measure job performance, the practice or group of practices must bear a significant relationship to successful performance of the job.
>
> (2) in the case of other employment practices that are not primarily intended to measure job performance, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.
>
> In deciding whether the above standards for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The court may rely on as such evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence and the Court shall give such weight, if any, to such evidence as it deems appropriate.
>
> Under "Legislative History."
>
> This language is meant to codify the meaning of business necessity as used in Griggs and other opinions of the Supreme Court.

That is it, Mr. President. On the merits, this clearly reinstates Griggs, a decision of the Supreme Court which had been standing for 18 years. It clearly overrules Wards Cove. It moves through a myraid of complexities where we argued about terms like "manifest relationship, demonstrable relationship, "significant relationship," and came to an agreement. Where the field had been very restrictive for employers in the past, with expert counsel from Philadelphian Mark Klugheit, we worked through the language to broaden the kinds of proofs that employers could offer in order to give a fair opportunity to meet the burden of proof which employers had in Griggs, and which employers would have after this amendment.

Mr. President, the essence of this problem is that there are many blacks, women, disabled and others who are discriminated against in America today. We passed a Civil Rights Act of 1964 which said that we should not discriminate on the basis of race, color, creed, religion, or national origin. That should be expanded to women, and also to the disabled. And then the question comes up, how do you prove it?

If intent can be proved, there is no doubt about the claim being established. But intent in the law is a very difficult thing to prove. That is what the courts and the Supreme Court in the Griggs case established what is called "disparate impact." Disparate impact is kind of a scary term; you want to run from it. What does it mean? Well, it means that if in a community you have 40 percent blacks and you have 2 percent employed, that that raises an inference of disparate impact. It does not establish the case, but it is necessary for the employer to come forward and show business necessity, something more than whim or caprice, something which is necessary.

In the Griggs case in 1971, in a unanimous opinion written by the Chief Justice of the Supreme Court, the Court established what the standards would be where there was disparate impact. It was not easy, but America got along with that rule for 18 years. There were a lot of cases and a lot of tough interpretation until Wards Cove, when the rule was turned on its head. The burden of proof was placed upon the employees. The standards of

Griggs were changed. And that is what we are trying to correct here.

Mr. President, the way the Senate functions, it is obviously vitally important that there be comity here and that the leadership be respected. But the fundamental issue today is what we are going to do about this bill. I suggest that the proceedings here today have not advanced that cause.

It is my hope that we will return to the language of last Thursday. It is not perfect language. On both sides there have been loud objections to the language. But I suggest that it would reinstate a very sensible definition and provide the best realistic opportunity for a definition of what ought to be done to protect the civil rights of all involved. But, if we proceed as we are today, Mr. President, we are not going to have a bill. We are going to have a lot of wrangling. We may not even have a Senate.

We ought to get back to basics, and we ought to get back to the substance of what we are sent here to do, and that is to craft legislation which meets the public policy needs of the United States. I think everybody agrees that we want civil rights. Everybody agrees we do not want quotas, and virtually everybody agrees that we do not want Wards Cove and that we do want Griggs. The best way to get there is to promptly adopt this language.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I, first of all, have drawn a different conclusion on the nature of the discussions which have developed over a period of many, many weeks. These discussions have taken place both inside the Senate, among those who have supported the legislation and those who have been opposed to it, and also with the President of the United States.

I stated, for those of us who supported this legislation from the beginning, that we wanted the President's support. This legislation is more meaningful to the American people with the President's support. President Bush has had a record in support of civil rights in the past, and even as we meet here at this time we would welcome his embracing this legislation. That, hopefully, will continue to be the position of all of those who have been involved, Democrat and Republican alike, in the shaping of the legislation.

I just want to indicate first that in the discussions that have taken place—discussions among supporters of the legislation, representatives of the White House, and representatives from the Justice Department—I do not assume anything but good faith all the way through these negotiations.

Mr. President, I will take exception to some of the comments that have been made with regard to fairness in this body. Quite frankly, I wish we could see that kind of indignation about the unfairness that is taking place in job discrimination all over this country against women and against minorities. Why do we not get as agitated about that kind of indignity, about that kind of bias, about that kind of prejudice? We are talking about racism in the job place. That is what this is about. When I hear some of our colleagues talking about "is this fair, is this fair, are we really being fair on this?" Someone ought to speak out about the indignity and the injustice and the unfairness that is taking place and that has taken place for far too long. So I, quite frankly, find it difficult to be enormously sympathetic to that particular point.

Mr. President, I have to take exception with my friend and a person who has been very much involved in the shaping of this legislation, Senator DANFORTH—I wish he were on the floor; I had hoped he would be—about the state of exchange of papers and whether or not there was an agreement. I have had the opportunity, as others have, to work with different members of the administration and my colleagues. I have never stated publicly or privately that there had been an agreement or a deal that had been reached. I thought President Bush stated it quite accurately last Friday. He said "we are close and we are continuing to try." He certainly was aware of whatever was put down on the paper on Thursday and what had been basically and tentatively agreed to by some during the course of those discussions. So the President never claimed that there had been a deal, that the situation was locked up, nor did I nor did most of the other Members who had been involved. Some may have, and they misspoke, and now we are in a situation where we have to move forward.

Mr. President, I will include in the RECORD at the appropriate place—it has been read in there by the Senator from Pennsylvania—language which was discussed and written out which could have formed the basis for an agreement if we had the meeting of the minds which I will call exhibit A. Unfortunately we did not. And then there was more discussion, and I will include in the RECORD the particular language which was written out during the course of that particular exchange, which I believed had been accepted by the White House, Mr. President, which I will call exhibit B.

But I will also include in the RECORD the counteroffer that Mr. Boyden Gray sent late Thursday night to regarding the second provision, the group of practices provision, which I will call exhibit C. That was not the agreement which I believed to exist on the group practices case; In fact, it shifted the burden of proof, which was a key element in this whole Wards Cove decision; the new language returned the burden of proof back to the plaintiff. They were saying that this was an agreement? This was a deal?

Mr. President, that is why I felt it was important that we have clarifications. That is why I wanted to ask my friend from Missouri about his understanding of those particular words. As the Senator from Missouri understands, when legislation was initially introduced, we talked about essential to job performance. Points were raised that this was too strict, so we went to substantial. This is the language: In the case of employment practices involving selection, such as hiring, transfer, promotion, and referral, the practice must bear a substantial and demonstrable relationship to effective job performance. This language was suggested by the Senator from Missouri. Lay that alongside what was proposed, the typed out language proposed last Thursday.

The point that has to be examined, Mr. President, is what does the proposal of the administration apply to? We could not get an agreement on that. Does it apply to selection, such as hiring and firing? I ask my good friend from Pennsylvania, does he understand that to be the case? We could not get a statement by the administration that it would apply to this, and barring that, Mr. President, there can be no agreement; see exhibit D. There can be no agreement because that is the essential aspect of the Griggs case.

Mr. SPECTER. If the Senator is asking me a question, I will be glad to respond.

Mr. KENNEDY. On his own time, if he would please. We have limited time.

Mr. SPECTER. I am sorry. I thought the Senator was asking me a question.

Mr. KENNEDY. If the Senator cares to respond on his own time.

That is the key element, Mr. President. As we know around this institution, there is a time to talk and a time to vote. We are at that point now where the Senate ought to express itself. As to the fundamental difference, we cannot get by it. You either intend that particular language to apply to selection—hiring, firing, promotion, and so forth—or you do not. And if you do mean it, for those particular provisions, I think we are very, very far down the road. But if you cannot make a clear decision on this, there is no basis for agreement and we might as well get about the business of calling the roll.

So, Mr. President, I must say that, as I have before, in spite of the statements that have been made here, I have believed that the President wants

to work this through. Those of us who are the sponsors want to work it through, but we will not compromise on our principles. We will not compromise on them. We will work and try to find the areas where we can find agreement, but we are not going to compromise on our principles. If that is what is being asked and without making that declaration, Mr. President, about what was intended in terms of selection and returning to that concept, we are not going to compromise. There may be those who will say there will not be a bill. Then so be it. But we are going to carry this forward.

I just say, finally, Mr. President, as I mentioned earlier, substantial progress was made on a wide range of other areas. I will not take this time to outline those areas now.

Mr. President, I ask unanimous consent, as my colleague stated earlier, that my response not be counted as a speech, as my colleague from Utah did with his earlier request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent to print in the RECORD the material I mentioned earlier.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXHIBIT A

The term required by business necessity means:

(1) in the case of employment practices primarily intended to measure job performance, the practice or group of practices must bear a significant relationship to successful performance of the job.

(2) in the case of other employment practices that are not primarily intended to measure job performance, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

In deciding whether the above standards for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The court may rely on as such evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence and the court shall give such weight, if any, to such evidence as it deems appropriate.

LEGISLATIVE HISTORY

There would also be in the statute the following language, "This language is meant to codify the meaning of business necessity as used in Griggs and other opinions of the Supreme Court."

EXHIBIT B

Strike subsection 703(k)(1)(B) and insert at the end of (A) the following: "*Provided, however,* That where a group of interrelated employment practices produce a single employment decision and the elements of the decision are not capable of separation for analysis, the group of employment practices shall be treated as a single employment practice and may be challenged as such and defended as such.".

Legislative history: [Agreement that plaintiff can plead a group of employment practices, and the determination of whether a group of employment practices in fact is not capable of separation for analysis shall be made after discovery.]

EXHIBIT C

THE WHITE HOUSE,
Washington.

FACSIMILE TRANSMITTAL SHEET

To: Jeff Blattner.

Fax number: 224-2417.

From: C. Boyden Gray.

Comments: If this is acceptable, we will be happy to address with you the burden issue on business necessity.

PARTICULARITY

In sec. 3, delete subsection (n), p. 2, line 24 through p. 3, line 4 and reletter.

Amend section 4 of Kennedy-Hawkins to provide as follows:

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

An unlawful employment practice based on disparate impact is established under this section when a complaining party demonstrates (1) that an employment practice results in disparate impact on the basis of race, color, religion, sex, or national origin, and (2) if the respondent shows that such practice is required by business necessity, the complaining party demonstrates that such practice is not required by business necessity: *Provided, however,* That if the elements of a decision-making process are demonstrated to be not capable of separation for analysis, they may be analyzed as one employment practice, just as where the criteria are distinct and separate each must be identified with particularity and with its causation established.

LEGISLATIVE HISTORY

Under this Act, a complaining party makes out a prima facie case of disparate impact when he or she identifies a particular employment practice and demonstrates that the practice has caused disparate impact because of race, color, religion, sex, or national origin. At that point, the burden of production is on the respondent to show that the practice is required by business necessity. If the respondent makes that showing, the complaining party must then demonstrate that the practice is not required by business necessity.

In identifying the particular employment practice alleged to cause disparate impact, the plaintiff is not required to do the impossible in breaking down an employer's practices to the greatest conceivable degree. Courts will be permitted to hold, for example, that vesting complete hiring discretion in an individual guided only by unknown subjective standards constitutes a single particular employment practice susceptible to challenge.

It is therefore the specific intention of the proponents of this Act to reaffirm the sort of analysis employed on this issue in *Sledge* v. *J.P. Stevens & Co.*, 52 EPD para. 39,537 (E.D.N.C. Nov. 30, 1989). The court alluded to the difficulty of "delving into the workings of an employment decisionmaker's mind" and noted that the defendant's personnel officers reported having no idea of the basis on which they made their employment decisions. The court held that: "the identification by the plaintiffs of the uncontrolled, subjective discretion of defendant's employing officials as the source of the discrimination shown by plaintiff's statistics sufficed to satisfy the causation requirements of Wards Cove." This Act contemplates that the use of such uncontrolled and unexplained discretion is properly treated as one employment practice and need not be divided by the plaintiff into discrete subparts.

If the elements of a decision-making process are demonstrated to be not capable of separation for analysis, therefore, they may be analyzed as one employment practice, just as where the criteria are distinct and separate each must be identified with particularity and with its causation established. See letter of Charles Fried to Senator Edward M. Kennedy, March 21, 1990 at 4 n.2 (Hearing Record at).

It should also be noted that assuming compliance with all other Title VII procedures, if a plaintiff can make a reasonable good faith allegation that the elements of a decision-making process are not capable of separation for analysis, as described above, he or she may file a complaint and commence discovery on that basis, although this does not affect the plaintiff's burden in making out his or her prima facie case.

EXHIBIT D

JULY 12, 1990 LANGUAGE WITH CHANGES

The term required by business necessity means:

(1) in the case of employment practices primarily involving/related to [choose one] selection, the practice or group practices must bear a significant relationship to successful performance of the job.

(2) in the case of other employment practices not described in subsection (1), the practice or group practices must bear a significant relationship to a significant business objective of the employer.

In deciding whether the above standards for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The court may receive such evidence as statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence and the court shall give such weight, if any, to such evidence as is appropriate.

There would also be in the statute the following language, "This language is meant to codify the meaning of business necessity as used in Griggs and to overrule Wards Cove.

Strike subsection 703(k)(1)(B) and insert at the end of (A) the following: "*Provided, however,* That if the elements of a decision-making process are not capable of separation for analysis, they may be analyzed as one employment practice, just as where the criteria are distinct and separate each must be identified with particularity.".

Legislative history: [Agreement that plaintiff can plead a group of employment practices, and the determination of whether a group of employment practices in fact is not capable of separation for analysis shall be made after discovery.]

The PRESIDING OFFICER. The Senator from Vermont [Mr. JEFFORDS] is recognized.

Mr. JEFFORDS. Mr. President, I would like to direct some questions perhaps, or at least try to get a feel of

where we go from here. The way things are structured now, it seems that we will be unable to debate the way we ought to debate some of the critical issues, and yet it appears to me that the 30 hours that is available should be sufficient to take care of these matters.

As has been discussed somewhat at length, there are four of five critical issues here which need to be fully debated. They involve the language of the Griggs case as has been pointed out, the so-called black box language, which is a controversial aspect as to matters of burden of proof, matters regarding the appropriate language, and the very critical question of damages.

So I would ask perhaps the floor leaders as to whether or not it would be conceivable to attempt to get an agreement to split the hours evenly between each side, 15 hours to a side, and then to work out with each side as to what amendments would be considered during a majority of that time, perhaps with a certain length of time for each of the critical issues, and then leaving the balance of time for other amendments.

It seems to me if we do that then we leave ourselves open to possible future negotiations as well as adequate time to be able to discuss the more controversial issues. I think there has been a tremendous amount of good faith which has been demonstrated over the course of the last few weeks and months as people have worked very hard to try to come to reconciliation of very difficult issues.

It seems to me we are very close on some of these issues, but it also seems to me if we go under the normal process that comes after cloture, the difficulty of proceeding and reconciling those issues in a meaningful way will be next to impossible.

So I would inquire of the floor leaders if they have any comments on the ability for us to be able to do that. I recognize it is a unanimous-consent type of situation, but I hope we would find some way to approach this bill in a more constructive way that would take care of these very difficult issues. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. That is, I think, a very satisfactory and useful suggestion. I would react positively to it for the reason outlined, to give more time on matters which are of particular concern to different parties. We could give notification to the Members perhaps of the order of amendments, there would be a better exchange and notice.

It seems to me that would be a desirable way to proceed. I will mention that to the majority leader. I do not know what the reaction would be of the minority floor manager. But I will pass that on to the leadership. As far as I am concerned, I think that is a sensible procedure.

If we could get agreement of the 30 hours divided equally and then decide how much time the minority wanted on different amendments, we would do the same and announce the time and the order that they would be considered, I think this would probably be the more sensible way to proceed. It would take unanimous consent, and I just do not know, about that but I will pass that on to the leader.

Mr. JEFFORDS. I appreciate the words of the Senator. I realize it is premature to make such an offer. I hate to see all the good which has been expressed here, and the fact that we are so close on concepts, that we want to go back to Griggs, we agree on shifting the burden of proof, we do not want a quota bill, we want damages which are reasonable and equitable—those are the critical goals we are trying to accomplish and everyone agrees. I hope we can do it in a constructive way and we can reach unanimous consent to agree to those issues. I yield the floor.

The PRESIDNG OFFICER. The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. I have to say it is wonderful to stand up and maybe talk about an amendment I support. I have been waiting here for 3 weeks. I have been ready with this amendment from that time forward. I understand that the distinguished Senator from Massachusetts is going to file a second degree to my amendment and we will debate it. But, I ask the distinguished Senator from Massachusetts, is it all right for us to enter into a time agreement on my amendment and a time agreement on his? I would say 5 minute per side.

Mr. KENNEDY. Five minutes.

Mr. HATCH. I planned on taking 4 hours with this amendment because that is how long it would take to really explain it, but it seems to me that all I can do, if I want to responsibly use my hour, is to take maybe 5 minutes or so. Is that all right?

Mr. KENNEDY. That is.

Mr. HATCH. I ask unanimous consent that we have 10 minutes equally divided on my amendment and 10 minutes equally divided on the second-degree amendment of the distinguished Senator from Massachusetts, which will be filed after I conclude my remarks.

The PRESIDING OFFICER. Is there objection? Hearing none, the unanimous consent request by the Senator from Utah [Mr. HATCH] is agreed to.

Mr. HATCH. Mr. President, this amendment tries to correct the section of the bill pertaining to Martin versus Wilks. That particular case basically says that certain people do not have a right to their day in court. My amendment assures persons the right to challenge consent decrees based on denial of equal protection of the laws.

Section 6 of this bill severely restricts the right of nonparties to their own day in court to challenge litigated or consent judgments or orders. It contains a number of narrow exceptions. For example, it does not prevent challenges to such a judgment on the ground that the judgment was obtained through fraud or collusion or that it is transparently invalid.

This amendment adds another exception. The amendment assures that if someone seeks to challenge a consent decree or litigated judgment on the ground that it denies him or her equal protection of the laws, section 6 will not operate to deny the person a day in court. If they were not a party to the earlier case giving rise to the consent decree and are otherwise entitled to have their own full day in court, section 6 will not ban them under my amendment.

The right to equal protection of the laws is fundamental to the Constitution, and Congress should not seek to constrict that right to go to court and assert claims of denials of such a right.

Indeed, the bill itself allows challenges to consent decrees alleging that the consent decree is transparently invalid. Then how can we deny a right to challenge the decree on the basis that it operates to deny someone equal protection of the laws or violates a Federal civil rights law? If the consent decree or litigated judgment is lawful, it will be upheld. If it is unlawful—if it denies equal protection of the laws or denies a Federal civil rights statute—then a person victimized by such a decree should get relief.

We are not just talking legal obstructions here. One of the most eloquent witnesses we had before the committee was James W. Henson. He was a white firefighter from Birmingham, AL. He was chief of the fire department of his own little town, moved into Birmingham, signed on with the Birmingham Fire Department, went 2 years to college for firefighting experience, took other specialized courses, then took an exam where six positions were open for supervisor. He came in sixth. And did he get the job? No.

He asked the supervisor, why did I not get the job since I had all of this experience; I came in sixth on the exam; and there were six positions open? And his manager said you did not get it because you are white, and we jumped a black, who was 85th on the exam with none of the experience, over you to be supervisor.

I do not think anybody would say that is a fair way to proceed.

This amendment would correct that problem, that if a person literally has their equal protection rights violated,

we would protect their right to a day in court to determine that violation.

Now, the Senator from Massachusetts is going to add an amendment to mine which would authorize the denial to any person of the due process of the law required by the U.S. Constitution. I will talk about that in my second 5 minutes. Do I have any time left in the first 5 minutes?

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator has 1 minute 40 seconds.

Mr. HATCH. Let me take that minute and 40 seconds so everybody understands. What his amendment will do will only protect these firefighters, and they may not always be white. They may be minorities as well. But, regardless, it will protect them only if the Constitution requires their rights to be protected. As we all know, that is the question that is left up in the air because the Constitution does not require extension of these civil rights that we have been talking about today. It requires many civil rights but not all of the rights that we are granting in this bill today.

So all I want to do is not allow anybody's rights to be taken away from them. Senator KENNEDY's amendment will take away certain rights from certain people who challenge consent decrees, because frankly it does not protect their rights to a day in court. His amendment does not solve the problem. My amendment does. My amendment has definiteness to it and it makes sense. I hope that we can vote down the Kennedy amendment, and vote up my amendment.

With that, I reserve the remainder of my time.

Mr. KENNEDY. Madam President, in just a few moments, at the expiration of the time, on the Hatch amendment, I will send an amendment to the desk as a second degree amendment to the Hatch amendment.

Basically, there are existing procedures to review various consent decrees. If we look over the period of recent history, the last 15 or 20 years, in a number of different communities across the country that were suffering from the stains of discrimination, consent decrees were considered to set paths to eliminate discrimination.

These consent decrees in many instances were challenged, and subjected to reviews by the courts. It became very clear, Madam President, that when there had been a final ajudication on the consent decree, with fair notice given to those that would be or could be affected, the law prohibited the reopening of those consent decrees, I think very wisely.

There should be some degree of predictability, some degree of certainty, and obviously some degree of notification. Those consent decrees, when they are initially adopted, should be the subject of review and of challenge. But after review, and after challenge are we going to continue to permit the reopening and reopening and reopening of these consent decrees?

We heard just a short time ago by some of those who are opposed to this legislation saying this is a lawyer's delight. Well, if we accept the Hatch amendment without the amendment of the second degree, it will be a lawyer's delight. We can see many communities, small communities, small towns, and cities which have moved on a path toward eliminating discrimination being subject to millions and millions and millions of dollars of lawsuits. That is the case in Birmingham, AL. Mayor Arrington gave some of the most moving and compelling testimony about the burden of such lawsuits to the taxpayers of that community.

So at the appropriate time we want to ensure that when there is a legitimate interest that has been violated—individual rights that have been violated—in certain circumstances we may preserve the possibility of opening up consent decrees.

The Supreme Court has indicated the type of notice that ought to be available when those decrees are put into effect. We want such notice, and our bill provides procedures so that individuals may be notified about those particular events.

But ultimately there has to be finality, or else we are going to see challenges and rechallenges of these decrees. That degree of uncertainty will adversely affect a work force and promote instability.

The amendment that I will offer in the second degree will ensure adequacy of notice to all of those that should be notified.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. One minute and 10 seconds.

Mr. KENNEDY. I may yield that and be prepared to move to put in the second degree.

Mr. HATCH. Let us both reserve the remainder of our time.

Mr. KENNEDY. We will reserve the remainder of our time, and I ask unanimous consent that it be in order to consider the amendment in the second degree.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2270

(Purpose: To prohibit the denial to any person of the due process of law required by the U.S. Constitution)

Mr. KENNEDY. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment No. 2270 to amendment No. 2164.

Mr. KENNEDY. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out the first word of the amendment and all that follows and insert in lieu thereof the following:

"At the appropriate place, insert the following:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order:

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph

(1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

Mr. HATCH. Madam President, I ask for the yeas and nays on the Hatch amendment.

The PRESIDING OFFICER. Will the Senator withhold for clarification from the Chair? Does the Senator seek the yeas and nays on the first-degree amendment or the second-degree amendment?

Mr. HATCH. The first-degree amendment.

The PRESIDING OFFICER. Is there a sufficient second for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Madam President, I ask for the yeas and nays on the second-degree amendment as well.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, S. 2104 ensures every person a constitutional, adequate opportunity to challenge litigated or consent judgment or order. At the same time it ensures that there will be some limit, some bar against endless challenge and endless litigation.

We heard very compelling testimony, as I mentioned, from the mayor of Birmingham, Richard Arrington, about the division in his community, about the 9 years of litigation over the decree. The Senator from Utah says he wants to give every person a day in court to protect his or her right to equal protection of the law. Our bill does that. The Hatch amendment, however, provides for more than their day in court, and more than one bite at the apple.

So there will be no doubt regarding our commitment to protecting the due process rights of all persons, however, I have offered the second-degree amendment, and we ask for its consideration.

The second-degree amendment would allow a person to challenge on equal protection grounds a court decree if that person's previous opportunity to challenge the decree was not consistent with due process.

Therefore, if the individual is able to demonstrate that he or she was being denied due process at the consideration of the consent decree, that individual would have an opportunity under this particular amendment.

It is ironic that the Senator from Utah would seek to prolong employment discrimination endlessly when in the context of our recent habeas corpus debate he argued for the one-bite-at-the-apple principle in the death penalty litigation. I find that to be somewhat perplexing. When it comes to the death penalty and your life is at stake, you get one crack at it. But if it comes to the questions of employment or promotion, you can challenge and challenge and challenge.

Madam President, what we are attempting to do is require the type of notice which is essential for due process, and which has been upheld by the Supreme Court of the United States. If the notice does not meet the test, a court may permit the opening of the consent decree—but if it can meet that test, then so be it. The provision of the Kennedy-Jeffords substitute regarding the consent decree is fully constitutional. It does not deny anyone due process.

I ask unanimous consent that an opinion letter from the law firm of Arnold and Porter on this subject be included in the RECORD. The letter concludes that our bill protects the due process rights of persons who may seek to challenge a title VII consent decree, and it is constitutional.

I withhold the remainder of my time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARNOLD & PORTER,
Washington, DC, July 11, 1990.

Re: Proposed Substitute Language for Section 6 of S. 2104.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: We have received a copy of the language of Section 6 of your proposed substitute for S. 2104, addressing *Martin* v. *Wilks.*[1] At your request, we have reviewed the proposed language in regard to the constitutional requirements of due process and the standards for intervention under Rule 24 of the Federal Rules of Civil Procedure. The substitute language of S. 2104, together with the intervention rights established by Rule 24, adequately protects the due process rights of persons who may seek to challenge a Title VII consent decree and, in our opinion, Section 6 of S. 2104 is constitutional.

BACKGROUND

Section 6 of S. 2104 would bar certain collateral attacks on employment discrimination consent decrees. As originally reported by the Senate Labor and Human Resources Committee on April 4, 1990, S. 2104 provided protection for the due process rights of non-parties affected by an employment discrimination suit while at the same time enhancing the finality of consent judgments and orders by limiting collateral challenges. Your bipartisan substitute for S. 2104 adds language to further ensure that Section 6 protects constitutional due process rights.

In 1989, in *Martin* v. *Wilks,*[2] the Supreme Court held that employees adversely affected by a consent decree could bring a separate action to attack that consent decree, even though they had failed to exercise their right to intervene in the earlier proceeding.[3] Prior to *Martin* v. *Wilks* at least six circuits barred such collateral attacks.[4] The judicially-created collateral attack bar promoted the purposes of Title VII and other civil rights statutes by enhancing the finality of the consent decree and encouraging early intervention by affected nonparties.[5]

DISCUSSION

A. The Martin v. *Wilks decision*

The *Martin* v. *Wilks* decision is not based on due process. Rather, the Supreme Court based its decision on statutory interpretation and left the door open to congressional action limiting challenges to civil rights consent decrees.[6] The Court's only reference to due process in *Martin* v. *Wilks* occurs in a footnote.[7] In the footnote, the Court recognized the existence of special remedial schemes created by Congress which "expressly foreclos[e] successive litigation by nonlitigants," such as the bankruptcy and probate statutes.[8] Such schemes "may terminate preexisting rights if the scheme is otherwise consistent with due process."[9]

Although the Court did not set forth the due process requirements for such remedial schemes, it can be assumed that the due process requirements are the same in this context as in others. Thus, because the proposed amendment does not violate procedural due process rights, it is constitutional.

B. The proposed amendment

Under the amendment, courts would not entertain a collateral attack to an employment practice "implementing and within the scope of" a judgment or order, unless the court in the prior, challenged proceeding failed to find that reasonable efforts, consistent with constitutional due process requirements, were made to provide notice to interested persons and the challenger was not adequately represented in the prior proceeding and had not received actual notice and an opportunity to be heard. Thus, if the amendment is enacted, intervention pursuant to Rule 24 effectively would be the primary avenue available to nonparties for challenging an employment discrimination judgment or order.

The current language of the amendment is narrowly tailored to apply only to challenges to "an employment practice that implements and is within the scope of a litigated or consent judgment." Furthermore, the language specifically incorporates the due process requirements of notice and an opportunity to be heard. In addition, persons without "actual notice" can only be precluded from collaterally challenging a judgment or order if a court finds that their interest in the subject of the judgment or order was protected "consistent with the constitutional requirements of due process of law."

1. Persons With Actual Notice

The notice language, subsection (1)(A)(ii), goes beyond constitutional requirements by limiting that subsection's preclusive effect to persons with actual notice that their interests might be affected and notice that an opportunity to be heard was available. Notice is information or an event as a result of which the person actually knew or should have known of his interest in the litigation.[10] The source of the information is unimportant as long as the persons know or should know that their interests are threatened and they have an opportunity to be heard.[11]

Due process does not require formal notice from the litigants to potentially interested persons.[12] Due process only requires that notice be reasonably designed to

Footnotes at end of article.

insure that interested parties will learn of the proceeding.[13] The essence of the notice requirement is that persons should know that a liberty or property interest is threatened so that they may choose "whether to appear or default, acquiesce or contest."[14] Actual notice, without a formal notice procedure, is sufficient to satisfy the notice requirement of due process. Therefore, the provision in the amendment for "actual notice" meets the constitutional requirement.

The amendment also meets the constitutional due process requirement that persons have an opportunity to be heard if their interests are affected. The opportunity to be heard must provide the opportunity for a hearing appropriate to the nature of the case, granted at a meaningful time and in a meaningful manner.[15]

Although combining the amendment's collateral attack bar with the requirements for intervention pursuant to Rule 24(a)(2) potentially shortens the amount of time in which nonparty employees may act to protect an interest or assert a claim arising out of an employment discrimination action and limits the forum in which such claims can be heard, these limitations are constitutionally permissible.[16]

a. Persons who intervene

Clearly, the amendment does not violate the due process rights of persons who had intervened in the underlying proceeding. Furthermore, the amendment, in subsection (2)(A), specifically protects the rights of intervenors.

A person who seeks and is allowed to intervene in an action has received due process. She has received notice of the action and has had an opportunity to be heard. Moreover, she has become a party to the action and, therefore, any judgment or consent decree is binding upon her. As a party, she can appeal from an adverse judgment, but cannot bring a new suit based on the same claims she asserted as an intervening party.

b. Persons with actual notice who choose not to intervene

A challenger who received actual notice that his protectable interest might be impaired in a proceeding and chose not to intervene has not been denied due process. Due process is satisfied by an opportunity to be heard and does not require an actual hearing.[17] Therefore, failure to intervene waives the right to collaterally attack the prior proceeding.[18] This is particularly true if the challenger received direct notice from the parties or the court and was invited to intervene.

2. Persons Adequately Represented by Others

Persons denied intervention because their interests are adequately represented by parties to the action or by previous objectors also do not have a due process claim, even when they are barred from collaterally attacking the consent decree. First, subsection (1)(B) explicitly requires due process analysis before persons whose interests were represented in the prior proceeding can be barred from collaterally attacking a judgment or order. The representation must have been "consistent with the constitutional requirements of due process of law." Furthermore, the rights of persons found to have been adequately represented were protected in the original action which resulted in a judgment or consent decree, and such judgment or consent decree is binding on them as well as the actual parties.[19]

3. Persons with Statutory Notice

Subsection (1)(C) of the proposed amendment bars all collateral attack on a judgment or consent decree "if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons consistent with the constitutional requirements of due process of law." Thus, some persons who had no knowledge at all of the action until after the entry of the judgment or consent decree, may be denied the opportunity to be heard on a claim that their interests are adversely affected by the judgment or decree.

Reasonable notice, as certified by the court under subsection (1)(C) of the proposed amendment, can be expected to have reached representatives for all but the most remotely interested groups of persons. Certainly, reasonable notice would include notice to all employees, all unions or labor groups and, perhaps, all persons who have applications for employment on file. Furthermore, the amendment explicitly requires that any court determination that "reasonable efforts were made to provide notice" consider the requirements of due process.

Due process requires only notice by a method "reasonably certain to inform those affected," or at least by a method "not substantially less likely to bring home notice than any other of the feasible and customary substitutes."[20] If the notice certified by a court pursuant to the proposed amendment meets this test, there is "no constitutional bar to a final decree foreclosing [the] rights" of potential challengers to a judgment or consent decree.[21]

Furthermore, because of on-going court supervision of the consent decree or judgment, even those persons without actual notice continue to have the opportunity to seek intervention under Rule 24. Thus, the proposed amendment should qualify as a special remedial scheme of the sort noted in *Martin* v. *Wilks* and the scheme does not violate due process.

Due process does not guarantee every party with a claim the right to institute a separate law suit, or even to actually litigate.[22] Due process requires only that every litigant have an opportunity to be heard.[23]

Respectfully,

JULIA L. ERICKSON.

FOOTNOTES

[1] *See* Attachment I—Proposed Substitute for Section 6, S. 2104.

[2] 109 S. Ct. 2180 (1989).

[3] *Id.* at 2188.

[4] *See Martin* v. *Wilks*, 109 S. Ct. at 2185 n.3.

[5] *See Marino* v. *Ortiz*, 806 F.2d 1144, 1146 (2d Cir. 1986).

[6] *Martin* v. *Wilks*, 109 S. Ct. 2180, 2185, 2187 (1989).

[7] *See id.* at 2184 n.2.

[8] *Id.*

[9] *Id.* (citing *NLRB* v. *Bildiso & Bildisco*, 465 U.S. 513, 529-530 n.10 (1984); *Tulsa Professional Collection Services, Inc.* v. *Pope*, 108 S. Ct. 1340 (1988)).

[10] *See Stallworth* v. *Monsanto Co.*, 558 F.2d 257, 264 (5th Cir. 1977).

[11] Kramer, *Consent Decrees and the Rights of Third Parties*, 87 Mich. L. Rev. 321, 347 (1988).

[12] *Nevilles* v. *EEOC* 511 F.2d 303, 306 (8th Cir. 1975) (per curiam).

[13] *Mullane* v. *Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

[14] *Mullane* v. *Central Hanover Bank & Trust Co.*, 339 U.S. at 314.

[15] *Boddie* v. *Connecticut*, 401 U.S. 371, 379 (1971); *Mullane* v. *Central Hanover Bank & Trust Co.*, 339 U.S. at 314.

[16] At long as the nonparties have notice and opportunity to be heard, Congress has the power to place such limitations on legal remedies. Although the time within which a person may intervene is shorter than the time within which the party may bring an independent action, this legislative limitation on the time during which relief may be obtained is constitutional. Otherwise, statutes of limitations would be unconstitutional. Clearly, they are not. *See Chase Securities Corp.* v. *Donaldson*, 325 U.S. 304, 314 (1945); *Order of R.R. Telegraphers* v. *Railway Express Agency, Inc.*, 321 U.S. 342, 349 (1944); *Wheeler* v. *Jackson*, 137 U.S. 245, 255 (1890).

[17] *Mathews* v. *Eldridge*, 424 U.S. 319, 334 (1976): *See also Boddie* v. *Connecticut*, 401 U.S. 371, 378 (1971) (due process does not require hearing on the merits); "[a] State, can, for example, enter a default judgment against a defendant who, after adequate notice, fails to make a timely notice".

[18] *Society Hill Civil Ass'n* v. *Harris*, 632 F.2d 1045, 1052 (3d Cir. 1980) (unjustified failure to intervene bars collateral attack; challengers cannot "escape the consequences of their own tardiness by recasting" motion to intervene as collateral attack); *see also Rosen* v. *NLRB*, 735 F.2d 564 (D.C. Cir. 1984) (holding that failure to intervene in administrative proceeding, despite knowledge that interest might be affected, constituted waiver of right to collaterally attack administrative decision on due process grounds).

[19] *See Hansberry* v. *Lee*, 311 U.S. 32, 40 (1940); *United States* v. *City of Chicago*, 870 F.2d 1256, 1260 (7th Cir. 1989).

[20] *Mullane* v. *Central Hanover Bank & Trust Co.*, 339 U.S. at 315.

[21] *Id* at 317.

[22] Kramer, *supra* note 11, at 339.

[23] *Id* at 339; *see also Boddie* v. *Connecticut*, 401 U.S. 371, 378 (1971) (due process does not require hearing on the merits); *Local 130, Int'l Union of Electrical Workers* v. *McCulloch*, 345 F.2d 90, 94 (D.C. Cir. 1965) (due process right to fair hearing "does not comprehend in every case actual participation as distinct from the opportunity to participate").

Admitted in Minnesota only.

ATTACHMENT I.—PROPOSED SUBSTITUTE FOR SECTION 6, S. 2104

(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements *and is within the scope of* a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights law—

(A) by a person who, prior to the entry of the judgment or order, had—

(i) *actual* notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person *and that an opportunity was available to present objections to such judgment or order*; and

(ii) a reasonable opportunity to present objections to such judgment or order;

(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order *consistent with the constitutional requirements of due process of law*; or

(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons consistent with the constitutional requirement of due process of law.

A determination under subparagraph (C) shall be made before the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

(2) Nothing in this subsection shall be construed to—

(A) alter the standards for intervention under Rule 24 of the Federal Rules of Civil Procedure *or apply to the rights of parties who have successfully intervened pursuant to such rules in the proceeding in which they intervened*;

(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government; or

(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction.

(3) Any action, not precluded under this subsection, that challenges an employment practice that implements *and is within the scope of* a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to Section 1404 of Title 28, United States Code.[1]

Mr. HATCH. Madam President, I do not think we should penalize people because they are white, and I do not think we should penalize people because they are black. It is that simple. If you vote for the Kennedy amendment, you will be voting, in effect, for disproportionately stripping white males of a right to their day in court, a right they currently have according to the Supreme Court decree.

My amendment provides a greater constitutional protection to some victims of discrimination than does Senator KENNEDY's amendment. When you strip away all the legalese, that is the bottom line issue, that everyone is treated the same, everyone. That is what the Constitution says. Frankly, even if the Constitution does not require it, which he would have it require, white males are not protected.

Only the Supreme Court is going to make that determination, and they may make the determination they do not have the same protection as other citizens.

Even if the Constitution does not require that the Jim Hensons of the world be given a day in court, Congress frequently grants people more rights than the Constitution requires, especially in the area of civil rights. This bill does so. It prohibits State and local governments, State and local government employers from engaging in so-called disparate impact discrimination. The Constitution does not prohibit such discrimination, but this bill does.

The Constitution does not grant compensatory and punitive damages for gender discrimination and race discrimination by private employers. This bill creates such a right and gives a person a day in court, regardless, to vindicate those rights.

There are many examples in this bill providing women and minorities more rights than the Constitution does. I am not particularly against that. The Fair Housing Act, the Americans With Disabilities Act that I worked so hard on, along with so many other colleagues, and so many more bills grant rights. Senators need to ask themselves, is it fair to now adopt the Kennedy amendment, which says that only if the Constitution in express language requires the protection will the protection be there. Otherwise, they lose their rights. And that is what the bottom line is.

Senator KENNEDY and those who are supporting his amendment are willing to protect only certain people in our society and not everbody.

Let me just say that the notice that Senator KENNEDY is talking about is no more than an article in a newspaper on a comment by a neighbor over the backyard fence. That is the notice that Mr. Henson and his type of people get. That is not protecting his rights. Under this bill, their rights are not protected. With my amendment, they are.

Everybody is granted equal treatment under the law. I do not like discrimination, whether it is forward gear or reverse gear. Either way, it is wrong.

Anyone who votes for the Kennedy amendment is voting for a fiction. The vote will be against the right of white males who are discriminated against, even testing that discrimination in a court of law, unless the Constitution expressly requires their rights to be protected, which, of course, it does not. So anybody who votes for this better understand they are not voting for an expansion of rights or fairness or equal treatment under the law; they are voting against certain segments of our society.

I think all should be protected. I think all should have those rights. I think it is pure bunk to say there will be continual litigation over the same issues. The courts know how to handle this, and there will not be. That is just a bugaboo and does not really mean anything.

The fact is that my amendment will resolve what is a serious defect in this bill that most people understand is there. I am prolonging this discrimination. I am giving people a right to their day in court, people who claim that they are being discriminated against.

On habeas reform I voted for one Federal bite of the apple, after a prisoner has had several appeals at both the State and Federal level with unlimited appeals to the Superme Court there after. This is entirely different. Frankly, I think it is only fair that we give everybody an equal right to their day in court.

But you cannot get there under the Constitution, unless you vote for my amendment. The only way to do that is to vote down the Kennedy amendment. I will leave it up to our colleagues in the Senate.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time is expired. The Senator from Massachusetts has 2 minutes and 3 seconds.

Mr. KENNEDY. On my amendment?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Madam President, the point I want to make at this time is that this is not in any way a provision that treats whites differently. This provision, by closing the consent decree after adequate constitutional notice, applies equally to women, blacks, browns, and whites. It is universal.

So the idea that the Senator from Utah says this is only against white males is not the fact, Madam President. What we are talking about is a constitutional notification. The question is whether there has been adequate notice, whether there has been adequate communication about the perspective degree. Whether you are black, white, a woman, or whatever, you have to be accorded the various constitutional requirements. If you are not given due process, you can challenge it. If you have been given due process, then you have to conform with the existing law.

I want to point out that this is color blind across the board in terms of race, and there is no distinction, for instance, between men and women. To categorize it that way would not be fair.

With this second-degree amendment we are meeting all of the requirements guaranteed by the Constitution, and I suggest to our colleagues that they review the substitute which provides very significant notification; I believe that it even goes beyond what the Constitution has required.

We really have tried to bend over backwards on that particular provision. I hope that my amendment to the Hatch amendment will be accepted. That way, I think we are consistent with both the objective of the Senator from Utah, and also the constitutional requirements of due process.

Mr. HATCH. Before the Senator yields back his time, it is my understanding that the distinguished Senator from Wyoming on our side is caught in traffic. They have asked if we can hold off the vote.

Mr. KENNEDY. Madam President, I ask unanimous consent that there be a

[1] S. 2104, 101st Cong., 2d Sess. (1990) (language added by substitute bill emphasized).

quorum call, not to be charged to the Senator from Utah or myself, but to be charged to the total 30 hours.

The PRESIDING OFFICER. Cloture does not require that.

Mr. KENNEDY. The time will not be charged, do I understand, to the Senator?

The PRESIDING OFFICER. It will not be counted against any Senator. It will be counted in terms of the 30 hours.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 2270 TO AMENDMENT NO. 2164

The PRESIDING OFFICER. The question is on agreeing to the amendment in the second degree of the Senator from Massachusetts [Mr. KENNEDY]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 60, nays 40, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—60

Adams	Ford	Lieberman
Akaka	Fowler	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Graham	Moynihan
Bingaman	Harkin	Nunn
Bradley	Hatfield	Packwood
Breaux	Heflin	Pell
Bumpers	Heinz	Pryor
Burdick	Hollings	Reid
Byrd	Inouye	Riegle
Chafee	Jeffords	Robb
Cohen	Johnston	Rockefeller
Conrad	Kennedy	Sanford
Cranston	Kerrey	Sarbanes
Danforth	Kerry	Sasser
Daschle	Kohl	Shelby
Dixon	Lautenberg	Simon
Dodd	Leahy	Specter
Durenberger	Levin	Wirth

NAYS—40

Armstrong	Gorton	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Pressler
Boschwitz	Hatch	Roth
Bryan	Helms	Rudman
Burns	Humphrey	Simpson
Coats	Kassebaum	Stevens
Cochran	Kasten	Symms
D'Amato	Lott	Thurmond
DeConcini	Lugar	Wallop
Dole	Mack	Warner
Domenici	McCain	Wilson
Exon	McClure	
Garn	McConnell	

So, the amendment (No. 2270) to amendment No. 2164 was agreed to.

Mr. HATCH. Mr. President, I ask unanimous consent that the yeas and nays be vitiated on the underlying amendment.

The PRESIDING OFFICER (Mr. KERREY). Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The question now is on agreeing to the Hatch amendment, as amended by the Kennedy amendment. The yeas and nays have been vitiated.

The amendment (No. 2164), as amended, was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I know that the distinguished Republican leader and the managers have been discussing a bit of procedure with respect to this measure. We have had similar discussions on our side.

I would like to make a suggestion prior to the distinguished Republican leader speaking, but I particularly ask for the attention of the distinguished Senator from Missouri.

Following the vote on cloture, the distinguished Senator from Missouri criticized me for proceeding with the cloture vote when he said I had been offered a proposal by the Republicans to agree to vote for final passage at a time certain. I arose and pointed out that no such offer had been made. I had not accepted any such offer, and therefore the premise of the criticism was mistaken.

However, I also indicated that I would, had such an offer been made, have not only willing but eager to accept it; that I would have vitiated the cloture vote and proceeded to accept an agreement under which we could have reached final passage by a time certain, because my objective is twofold: first, to complete action and get a good bill passed that can become law, and of course to proceed with the business of the Senate.

Accordingly, might I suggest now to the distinguished Republican leader that we do just that; that if we agree on a time certain for final passage of the bill, that the time be equally divided between the two parties; that the amendments within that time be equally divided by the two parties, and then I would seek unanimous consent to vitiate the cloture vote which has just occurred, in effect, accepting precisely that which the distinguished Senator from Missouri referred to earlier in his remarks. That would enable us to proceed in a manner that he has indicated he wished to do so and would, I hope, enable us to deal with the matter in a way that all Senators agree is fair and yet establishes a time certain for passage of the bill.

Accordingly, I make that suggestion and invite such comment as the distinguished Republican leader or the Senator from Missouri or any other Senator wishes to make on it.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I would be willing to vote right now, voice vote. Earlier I said, stay tuned. If you are still tuned, we are prepared to vote right now, a voice vote, yield back all the time, and lay this matter to rest. The cloture vote was 62 to 38. Everybody is on record, one side or the other. I do not see any reason to debate the bill further.

The Democrats, 54 Democrats, said "yes" to a bill to mandate racial and ethnic quotas in the workplace. Fifty-four Democrats voted for a bill that would deny the hard-working citizens of this country their day in court. They voted for a bill that provides for unlimited compensatory damages, unlimited punitive damages, and unlimited opportunities for the lawyers of this country to line their pockets for decades to come. Fifty-four Democrats voted to make America less competitive by squeezing every last dime out of small business. Fifty-four Democrats have voted for a bill that distorts title VII, not restores it. And 54 Democrats have voted for a bill that has more to do with labor-management relations, more to do with quotas in the workplace than with the civil rights of our Nation's minorities.

It seems to me that the record is clear now. We are not going to be able to prevail on this side. We just had that demonstrated in the last vote. I suggest that we not enter into any time agreement. We are ready to voice vote right now. We will yield back all of our time. We are all for civil rights.

Those of us who had objections made our positions clear in the earlier vote, 38 of us, and 62 disagreed with us. We are in the minority, and we understand that. We do not know what the final outcome will be. I have not talked with the President, but I have notified Mr. Sununu, the Chief of Staff, that I did not see any reason to further delay the Senate. It seems to me that we just ought to vote. I do not know why that is not a good proposition now. Earlier the majority leader and the Senator from Massachusetts were very eager to do that. I said, stay tuned, we will get back to you. I had to check on our side. We checked with everybody on our side, and we are prepared to proceed. We can eliminate all this time, pass the Civil Rights Act of 1990—that is what 54 Democrats want—in its present form. So we are

prepared to proceed. I ask unanimous consent that we may proceed to final passage, voice vote.

Mr. MITCHELL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri. Will the Senator withhold?

Will the Senator from Kansas yield the floor?

Mr. DOLE. Mr. President, I ask unanimous consent that we might just go to a record vote, have the yeas and nays on the bill. That would give everybody a chance to readjust their positions.

Mr. MITCHELL. I object.

Mr. KENNEDY. Reserving the right to object.

The PRESIDING OFFICER. There is objection heard.

Mr. DOLE. Mr. President, it is obvious that the people talking about passing the bill do not want to pass the bill. They want to have it both ways. They want the press to think one thing and the civil rights lobby to think another. When we get down to the nitty-gritty, they want to clean this bill up. They want to add a few perfecting amendments that do not mean anything, but nonetheless get a few Senators off the hook. I do not know why we cannot just vote. If the majority leader wants to expedite the business of the Senate—and we want to cooperate—we are prepared to vote. We hope that we can have the vote. We do not need any time. Why do you want any time? Having said that, it appears there is an objection.

I will call up amendment 2131.

Mr. MITCHELL. Mr. President, I wonder if the Senator would do the Senator from Missouri and myself the courtesy of commenting, first, on the previous suggestion that I made.

Mr. DOLE. I would be happy to.

The PRESIDING OFFICER. Will the Senator withhold his request for the amendment?

Mr. DOLE. Yes. I do not want to disadvantage the majority leader, but I want to retain the floor.

The PRESIDING OFFICER. Without objection, the Senator from Missouri is recognized, without the Republican leader losing his right to the floor.

Mr. DANFORTH. Mr. President, first, let me say to the majority leader that I did say during my comments earlier this afternoon that it was my understanding that an offer had been made to set a time agreement, and the majority leader who is always very accurate, has now three times corrected me on that statement. So after I have been corrected the third time, I assume maybe I was mistaken. My understanding was, based on comments that were made in our Republican luncheon today, that there had been an offer for a time agreement. I was not present to hear such an offer made, so I have no firsthand knowledge. I do not care whether there was or was not. I just threw that out in the conversation.

Here are my views. I think now we are spinning our wheels. I want a bill. I want a bill that accomplishes what I think most of us want to accomplish namely, the overruling of Wards Cove, taking the law back to where we were under the Griggs decision and subsequent cases. And I believe that we were not only very close, but there really was a meeting of the minds between Senator KENNEDY and Governor Sununu. I still believe that the chances of success of this bill depend on an agreement between the President and Senator KENNEDY. I further believe that that is something that can be accomplished.

In a phone conservation with Governor Sununu immediately after the cloture vote and after the peppery exchange on the floor, Governor Sununu said to me, "Well, where do we go from here?" And then he said at the end of the phone conservation, "If you can think of anything that we should be doing, let me know."

The White House wants to work something out. The White House has invested a lot of time into working something out. In fact, they believed and I believed that they had worked something out. Under the present state of circumstances, I see only two possibilities. One is to vitiate the cloture vote, as the majority leader has suggested, and try to work out something through negotiations, which is satisfactory to the White House and to Senator KENNEDY; or the longer way to do that is to proceed as Senator DOLE suggested and basically get rid of this bill.

Just vote on it. then let the President veto it, I think the veto is going to be sustained, and then come back with a new version of the legislation that everybody can agree on. Those are the only two possibilities that I see that can lead us to passing the bill. The present situation does not provide us enough flexibility. We just do not have it.

Senator KENNEDY, I presume, would oppose an amendment which has been filed, which is the agreement that we thought was reached last Thursday. Therefore, I assume that that amendment is not going to be agreed to by the Senate. If we are not going to agree to that, we have to come up with some new language and we cannot come up with some new language under cloture.

So my own view is that whether Senator DOLE's approach or Senator MITCHELL's approach is taken I do not much care because anything is better than were we are now. We have to get out of these woods.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I did not lose my right to the floor.

The PRESIDING OFFICER. I understood that.

Mr. DOLE. I am happy to yield.

The PRESIDING OFFICER. The unanimous consent was the minority leader and the Senator from Missouri, without losing the right to the floor.

The majority leader.

Mr. MITCHELL. Will the distinguished Republican leader yield to the Senator from Massachusetts.

Mr. DOLE. I am happy to yield to the Senator from Massachusetts without losing my right to the floor.

The PRESIDING OFFICER. The Republican leader yields to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, my understanding is that we have filed what we thought was agreed to last Thursday.

Mr. MITCHELL. Mr. President, I still hope we can work this out in a manner suggested by the Senator from Missouri, I simply say with respect to the request of the distinguished Republican leader. Obviously it is a subjective judgment on the part of each of us as to the merit or weight or value of a particular amendment.

But I am advised that Senator KENNEDY had previously indicated his willingness to accommodate concerns of several Senators with respect to several important areas or provisions within this bill, including business necessity, making clear that the bill does not require quotas, damages in disparate impact, damages in the Americans With Disabilities Act, statistical imbalance, and others. I believe those Senators, if the amendments are germane, ought to have the right to offer their amendments and to have them debated and voted upon.

The Republican leader recited a litany of things which he said 54 Democrats voted for. I could with ease stand here and recite a litany of things which 37 Republicans voted against; civil rights, justice, equality and a lot of other things. I do not think that would serve any useful purpose in trying to resolve the matter in the most prompt, fair, and responsible way.

Accordingly, we are apparently unable to reach agreement. I suggest we attempt to continue along those lines and, in the meantime, proceed with the amendment which has been offered or other amendments which are being considered in the interim.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, if I could just make one final suggestion to the majority leader, and I know

that he thinks that I am singing the same song over and over again, but one more day.

If it is correct that the chances of success are directly related to getting an agreement between Senator KENNEDY and the White House, and if they are as close as the Senator has represented them to be, I wonder if there is some mechanism for giving us one more day. I mean I wonder if we could agree to just take 24 hours, before we get on with wherever we are with cloture, or whatever anybody wants to take, but just take one more shot at trying to work out an agreement between the White House and Senator KENNEDY.

So my suggestion, and I am not reluctant to get myself into the scheduling business, but my suggestion would be that maybe we could agree to just lay the bill aside for 24 hours and take up something else just to see if it is possible to negotiate this.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, may I respond to that?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Speaking only for myself I have absolutely no objection to the suggestion. I am prepared to do so. As the Senator knows last week he suggested to defer it 24 hours. I said defer it for a week, if that would produce a result that could become law and advance the interest which I know the Senator from Missouri shares with, I believe, a substantial majority of the Senate. I would be prepared to do that, lay this bill aside.

I just heard the request, so I want to get the opinion obviously of the author and principal manager of the bill, and we could go to the farm bill for a day next, and if we could get to it, we could come back to this in 24 hours. If that will produce a favorable result, I am perfectly agreeable to trying to do that.

I should always try to consult with the Republican leader on scheduling. I made a mistake without consulting with him or with Senator KENNEDY as the principal author and manager. So my remarks are subject to their comments, and obviously that would require unanimous consent. I am just responding for myself. I have no objection to that and would welcome it.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, again I would not wear anybody out on this. I thought earlier everybody was anxious to get rid of this bill. Now everybody want to postpone it a day, offer a few amendments.

We had a cloture vote at 2:30. We can dispose of this bill and be out of here at 6:05. It seems to me that a vote would be an opportunity to move this bill and I do not see any reason to go through any more machinations or spend any more time. The Senator from Missouri furnished the deciding vote for cloture. We had 40. We could get 41.

There have been good faith negotiations by the Senator from Missouri, the Senator from Vermont, the Senator from Pennsylvania. And then a number of us were involved in different ways. The Senator from Utah being the leader, the Senator from South Carolina and myself and many others, along with the White House, and we were very close at times on a number of issues and very far apart on other issues. I think one problem indicated earler by the Senator from Rhode Island is that we had too many chiefs and not enough Indians. Everybody is a lawyer around here. When you get more than one lawyer together, you have a problem. We have several lawyers involved in the negotiations and you can understand, the problems created by that situation. I cannot understand now why we just don't pass the bill. That is essentially why we had the cloture vote for, so we could move this bill out and not wait another day. But I think my colleagues on the other side saw this as an opportunity to put the Republicans on record as being against civil rights, notwithstanding the history and voting records of some Republican Senators on civil rights issues. This is a chance to stick it to them and they did.

Now we told some of my colleagues who voted for cloture really did not want to vote for cloture after all. Now we have to find a way to get them off the hook. That is all we are arguing about now, finding a safe haven for some of those who should have voted against cloture in the first place.

But again I congratulate the majority leader for party discipline. We could not produce it on this side.

We lost eight Senators and the Democrats lost just one.

But that is history and now we have a chance to pass this historic legislation either on a voice vote or record vote, right now, today.

Now we are told we cannot vote. There are some unconsistencies here.

We have 27 hours and 20 minutes remaining. We can finish this bill and have 27 hours that we can devote to other business.

I do not know of any reluctance to vote on final passage.

I see the Senator from Arkansas, who is certainly ready for vote on final passage. He voted for cloture. He must be ready to go. And others I can name must be ready to go. They could hardly wait to rush out and vote for cloture. Now we are told after we voted for cloture that that vote was just for party discipline. Again, I congratulate the Democrats. Party discipline is not a problem on this side of the aisle. We never had it.

We are all free spirits. We are all leaders on this side. So why not conclude action on this bill and whip up something else.

So without any partisan reference, which I seldom make, we are prepared to vote. I want to help the Senator from Arkansas and the Senator from Louisiana, the Senator from North Dakota, all those who voted for cloture, trying to help the small businessman, trying to impose quotas in the workplace, trying to deny people the right to their day in court punitive damages, just trials. That will go great in North Dakota, Louisiana, and Arkansas and Kansas. But at least I can say, "Well, I did not vote for cloture."

I want to keep people in business. I want civil rights, but I want balance. I want racial justice, but I do not want injustice or racial quotas.

And now we are told we cannot vote on final passage because some Senators need to have a little cosmetic surgery and need to offer a few little amendments so they can say, "I voted for that. This is my amendment and the amendment says there are no quotas in this bill."

I do not know why we do not expedite this bill. We are talking about delaying the recess a week. We can save 3 or 4 days right here. Vote on final passage right now. We may even get out a week early. Maybe we will pass the bill on a voice vote. Bring it up. We will pass it. Whatever it is, bring it out here. We will pass anything. We are just in a minority. [Laughter].

The PRESIDING OFFICER. The Chair would admonish the galleries.

Mr. DOLE. I hope that the majority leader would let us just vote. We do not have to use all this time.

Could I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. DOLE. Is it possible to yield back 27 hours and 20 minutes? Can I do that?

The PRESIDING OFFICER. Senators can yield back their individual time, but it does not take the time under the cloture which is 27 hours plus.

Mr. DOLE. But I could do it by unanimous consent?

The PRESIDING OFFICER. That could be accomplished by unanimous consent. The Chair has never entertained a motion like that under cloture, but if the Senator wishes to put it, we will see what happens.

Mr. DOLE. That would be a first.

I ask unanimous consent that all time be yielded back, 27 hours and whatever time remains.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. MITCHELL. Mr. President, the Republican leader is, of course, free to characterize the motives of those who voted for cloture as he wishes. But nothing he says can change the rules of the Senate. The fact is, of course, that a vote for cloture under the rules of the Senate is not a vote to prohibit amendments but rather a vote to limit amendments to those which are germane to the pending legislation and to limit the time within which amendments and all matters relating to the legislation can be considered to 30 hours.

It is, therefore, inaccurate to state that a vote for cloture is a vote for no amendments. It is inaccurate, therefore, to state that a vote for cloture is a vote for immediate passage of the legislation. Indeed, a Senator who strongly favors legislation which may be prevented from passage by those who wish to offer numerous nongermane amendments can pursue no more effective course than to vote for cloture in order to limit consideration on that bill to amendments which are germane. The rules have never stated otherwise, and it is inaccurate to characterize them otherwise.

Those Senators who voted for cloture and who have previously filed amendments which are germane to the bill have every reason, in common sense and consistent with their support for the bill and for their amendments, to proceed in that fashion. Therefore, no person should be under the impression that a Senator who voted for cloture voted to prohibit all amendments from being considered. It is precisely the opposite.

A Senator who votes for cloture votes to prohibit nongermane amendments from being offered, votes to limit the time within which the legislation is considered, but does so with the expressed knowledge and understanding under the rules that those amendments which have previously been filed under the rules and which are germane to the legislation will have the opportunity to be considered. And that is precisely the situation in which we find ourselves.

I could go down the list of Republican Senators and stand here and accuse individuals of being against civil rights, being against racial equality, being against justice in our society in an effort to embarrass them, as an effort is being made here to embarrass individual Democratic Senators. It would serve no useful purpose. I simply state that what cloture means under the rules is clear to every Senator and ought to be clear to all those observing and following this debate.

It appears that, unfortunately, we cannot reach an agreement at this time on how best to proceed. Those Senators who in good faith filed amendments that are germane to the bill and voted for cloture are now entitled to have their amendments considered.

Each of us may hold and offer an opinion as to what their motives are, but they plainly have the right under the rules. I think it best, under those circumstances, if we proceed to deal with them in that fashion.

In the meantime, I will ask the distinguished Senator from Massachusetts to pursue, if possible, any conceivable arrangement which might enable us to reach an agreement and vote on the bill by a time certain and vitiate the cloture vote. If that is not possible, I then will proceed as under the rules.

Mr. DOLE. Mr. President, as the majority leader knows, I will be happy to try to work with him on this, as we have on many other matters. But this is a matter of some intensity and of some importance. When there is a rush to have a cloture vote in an effort to put everybody on this side on the wrong side of a civil rights issue, we get a little testy about it. We do not like it. I would guess, as I look around this room, everybody on this side has a pretty good civil rights record. We do not want to be nailed to the wall in some political exercise as we had here earlier today.

There were good faith negotiations going on. The President said, as recently as this morning at the White House, he still wanted a civil rights bill, one he could sign.

We had a discussion of it with the Republican leadership this morning and we knew the cloture motion was filed. But, as I said in the statement yesterday, there was no reason to file it. Nobody was acting in bad faith. Nobody was doing anything, that I know of, except trying to figure out how we could work it out. Then there was an agreement made—at least almost an agreement—wiith the chief of staff and others at the White House, which apparently fell apart overnight. Maybe there is still some way to reach an agreement. Maybe there is some way we can satisfy the concerns.

But it seems to me with all the hoopla and all the hurrahs and all the noise around here, there was no concern about that; all concern was to nail the Republicans. And you did; you succeeded, with our help.

There is not anyone on this side that I know of who does not want a good civil rights bill. But we do not want a bad civil rights bill. We have some on our side who have gone to the trouble—I talked to one of my colleagues, the Senator from New Hampshire—to sit down and actually read the cases. So we have a lot of informed people on both sides. As far as I am concerned, everyone acting is in good faith. We just have a difference of opinion.

Maybe there is some way to resolve our differences. But to tell us now that everybody is acting in good faith after they rub our nose in it with a cloture vote, it takes us awhile to understand that. Maybe we missed something in the translation.

We have had a lot of House Members over here lobbying, right during the vote. I guess that is permissible. There were big crowds outside cheering; There was a loud noise when the vote was announced. The same happened when the vote on the last amendment was announced. This is not legislating; this is a rally, a political rally. Why not invite everybody in?

My colleague from Kansas, Senator KASSEBAUM, has been working night and day—she is the leader of a group, with Senator GORTON and others—to try to craft a substitute. They have been talking with colleagues on the other side to see if they would be interested in joining that effort. Some have said, well, maybe. Some have not said anything. I ask that we call up amendment No. 2131.

Mr. PRYOR. Mr. President, before the distinguished Republican leader sends the amendment to the desk——

The PRESIDING OFFICER (Mr. GLENN). Does the Republican leader withhold?

Mr. PRYOR. I wonder if he might yield to me for a few moments.

Mr. DOLE. Let me just call it up. Then I will be happy to yield the floor. I am not trying to hold the floor here.

AMENDMENT NO. 2131

(Purpose: To amend the Civil Rights Act of 1964 to strengthen civil rights laws that ban discrimination in employment, and for other purposes)

Mr. DOLE. Mr. President, I call up an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mrs. KASSEBAUM, for herself, Mr. MURKOWSKI, Mr. MCCAIN, and Mr. LUGAR, proposes an amendment numbered 2131.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) FINDINGS.—Congress finds that additional protections and remedies under Federal law are needed to deter unlawful discrimination.

(b) PURPOSES.—The purpose of this Act is to strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion in accordance with Rule 301 of the Federal Rules of Evidence.

"(n) The term 'justified by business necessity' means that the challenged practice has a manifest relationship to the employment in question or that the respondent's legitimate employment goals are significantly served by—even if they do not require—the challenged practice or group of practices.

"(o) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee, controlling apprenticeship or other training or retraining program, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof)."

SEC. 4. DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established only when—

"(A) a complaining party identifies a particular employment practice and demonstrates by statistical evidence that that particular employment practice causes a disparate impact on the basis of race, color, religion, sex, or national origin; and the respondent fails to demonstrate that such practice is justified by business necessity; or

"(B) a complaining party identifies a combination of two or more employment practices and demonstrates by statistical evidence that that combination of two or more employment practices causes a disparate impact on the basis of race, color, religion, sex, or national origin, and that each employment practice in such combination has contributed to the exclusion; and the respondent fails to demonstrate that such combination would not cause a disparate impact but for employment practices justified by business necessity.

"(2) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin except where permitted by 42 U.S.C. 2000e-2(i)."

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SECTION OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(A) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(m) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a major contributing factor for any employment practice, even though other factors also contributed to such practice."

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(1), if the respondent establishes that it would have taken the same action in the absence of any discrimination.".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(n) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice specifically required by a litigated or consent judgment or order resolving a claim of employment discrimination under this title may not be challenged in a claim under the United States Constitution or Federal civil rights laws by a person who, at the time of the entry of such judgment or order, was an applicant for employment with or an employee of the entity covered by such decree, whose interests would likely be affected by the consent decree, and who had—

"(A) actual notice that such judgment or order would likely affect the interests of such person and that later challenge by such person would be barred; and

"(B) a reasonable opportunity to challenge such judgment or order;

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government; or

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction."

SEC. 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended by adding at the end thereof the following language—

"For purposes of this section, an alleged unlawful employment practice occurs when a seniority system is adopted, when an individual becomes subject to a seniority system, or when a person aggrieved is injured by the application of a seniority system, or provision thereof, that is alleged to have been adopted for an intentionally discriminatory purpose, in violation of this Title, whether or not that discriminatory purpose is apparent on the face of the seniority provision.".

SEC. 8. PROVIDING FOR ADDITIONAL EQUITABLE RELIEF IN CERTAIN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "In fashioning remedies for an unlawful employment practice (other than an unlawful employment practice established in accordance with subsection 703(k)), the court may require the respondent to pay the complaining party an amount not to exceed $100,000 if the court finds (i) that back pay cannot be awarded with respect to that practice; (ii) that an additional equitable remedy beyond those otherwise available is needed to deter the respondent from continuing to engage in such unlawful employment practices; and (iii) that such an award is otherwise justified by the equities."

All issues in cases arising under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e to 2000e-17) shall be heard and determined by a judge, as specified in section 706(f) of that title (42 U.S.C. 2000e-5f).

SEC. 9. ALLOWING THE AWARD OF EXPERT FEES.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)), is amended by inserting "(including expert fees) and" after "attorney's fee,";

SEC. 10. EXPANSION OF PROTECTIONS AGAINST ALL RACIAL DISCRIMINATION IN THE PERFORMANCE OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended by adding at the end thereof the following new language:

"The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of state law. This section affords the same protection against discrimination in the performance, breach, modification or termination of a contract as it does in the making or enforcement of that contract.".

SEC. 11. PROVIDING CIVIL RIGHTS PROTECTIONS TO CONGRESSIONAL EMPLOYEES.

Title VII (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"Sec. 719. CONGRESSIONAL COVERAGE.

"Notwithstanding any other provision of this title, this title shall apply to the Congress of the United States. The means for enforcing this title as the title applies to each House of Congress shall be as determined by the House of Congress.".

SEC. 12. SEVERABILITY.

If any provision of the Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

NO. 2175 TO AMENDMENT NO. 2131

(Purpose: To amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes)

Mr. DOLE. Mr. President, I call up Amendment No. 2175 in the second degree and ask for its immediate consideration.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. HATCH, proposes an amendment numbered 2175 to amendment No. 2131.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment insert the following:

"Notwithstanding any other section of this Act, the term 'required by business necessity' means manifest relationship to the employment in question or demonstrable relationship to successful performance on the job.".

Mr. DOLE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I do not seek recognition.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I do not know whose time I am speaking on and I do not care whose time I am speaking on.

The PRESIDING OFFICER. The Senator is speaking on his own time.

Mr. PRYOR. I am not out to nail any Republicans or embarrass any Democrats.

Mr. President, I truly feel maybe I am a little bit naive. After almost a dozen years as a Member of this great body, I think I am naive because I truly believe that conscientious, good faith people, men and women from 50 States across this country, can come together with a very emotional and a volatile problem and through a mutual, conscientious effort, can work it out without going down into the muck and mire of why this person voted that way or that individual voted that way or what party wants to embarrass which party.

I am very sorry that this turn of events has taken place, Mr. President. I would like to explain, just for this Senator—none of my colleagues, no one else on the other side—why I voted for cloture.

It was very simple. Because, one, I think we should have a civil rights bill. I have told the distinguished author of this bill that I want to vote for a civil rights bill but I may not be able to vote for this particular civil rights bill. I wanted a chance to be a part of the process of doing something about quotas; of addressing the issue of punitive damages; of addressing the issue of burden of proof, and many other issues that have deeply concerned me since the inception of this particular bill.

It is a controversial bill. In my opinion it needs changing. The only reason that I voted, basically with 62 Democrats and a few Republicans, on this issue this afternoon to cut off debate, was to find that avenue, was to find that vehicle where we could start amending this piece of legislation; where, one, it would recognize and show concern, not only for the civil rights of those individuals who are being discriminated against, but at the same time begin to answer some of the concerns and some of the fears that have been expressed to us by small business people across my State and across this country.

All I am saying is I hope negotiations can continue. I hope we can continue constructively talking about issues that we can change and make this legislation stronger and more palatable. I hope we do not try to voice vote it.

If there needs to be a cooling-off period, that is one thing. But I truly believe, Mr. President, we can in good faith begin some efforts to consider these amendments, to look at them, to discuss them pro and con, and to debate them and vote yes or no, ultimately, on them. That is the process and I am a part of that process. I want to be a part of that process. And I want to be a part of making this bill stronger and more acceptable to a broader spectrum of our economic situation throughout the country.

Mr. President, that is all I have to say. I am sorry this has taken a turn of events like this and, for one Senator who voted for cloture, I simply wanted to give that explanation.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. STEVENS. Will the Senator from Kentucky yield for just a second?

Mr. FORD. To my friend, yes.

Mr. STEVENS. Mr. President, I yield 55 minutes of my 1 hour to the distinguished minority leader, Senator DOLE.

The PRESIDING OFFICER. The Senator has that right.

The Senator from Kentucky.

Mr. FORD. Mr. President, I have had the opportunity to listen this afternoon, and I had a very good vantage point—from the Chair—to not only look in the eyes of those who were speaking but watch the others who were talking and attempting to figure out what to do now.

I have not been in the Senate very long; 16 years now. This is the first time I have ever heard Senators singled out for an ulterior motive as it related to their vote on a particular bill—it is unusual—and then turn around and use the phrase "stick your nose in it." Everybody knows the connotation of that. And that to me does not reflect on the language that is supposed to be used in this Chamber.

I voted for cloture and I am proud that I voted for cloture. But I did not give up my rights. My right was to vote on amendments and the amendments are there and we expect to vote on them.

We voted for cloture in order to expedite, but have the opportunities under the rules.

Mr. President, I do not take kindly to the abuse that the majority leader has been taking. No one has been better to this Senate and to its Members than this individual.

We have gone from about 3 weeks on, 1 week off: we get 10 days. Nobody is here on Monday or Friday, and the majority leader tries to do the business of the Senate, being pushed and harassed by everybody else. I think it is time that the fur on the back of his neck stood up and he said it is no more; you are going to vote on Monday; you are going to vote on Friday. And you are going to be here to do the business of the Senate. I am ready, and I think most of the Senators are ready to do that.

But then when you are pushed and pulled and rolled, and so forth, and finally you say it is enough, and then you take the criticism that was attempted to be given to the majority leader on the floor this afternoon is something that disturbs me and disturbs me greatly. I know I will probably catch some fire from this, and I do not mind it at all. My daddy told me when I was young, "Lad, you are in politics. They will say things about you, Wendell, that will take your hide off. But always remember, when it grows back, you are tougher."

I had my hide taken off several times. I understand the political arena. But this institution means more to us and to this country than the procedure as it relates to what our colleagues think should be done.

Mr. President, I wanted to get my remarks in, and I want to say to the majority leader, I think he has a lot of spunk. I think it is about time he stood up, and I resent those who would criticize him as not doing his job.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to speak on amendment No. 2131, which is the pending amendment. First, I would like to say that this is in the nature of a substitute because it touches on all parts of the bill which have been in question, and it is intended to address the concerns of many on both sides of the aisle. I have particularly appreciated being able to visit with the Senators from Arkansas, the Senator from Kentucky, and the Senator from Oklahoma, and many others on both sides of the aisle who

very much want to shape a thoughtful, constructive civil rights bill.

On our desks today is an editorial from the New York Times called "Enough Haggling on Civil Rights." I certainly agree with that, Mr. President. It has become haggling, and in many ways I think we are trying to find out how many angels can dance on the head of a pin. Perhaps there are some Senators who do not want a bill, but many of us believed that some of the Supreme Court decisions need to be corrected and need to be addressed with legislation that encourages thoughtful, constructive settlements rather than litigation.

In this editorial from the New York Times, it said:

> The most urgent need is to rearm minorities and women with the ability to force employers to justify possibly discriminatory hiring and job practices. These practices include testing and education requirements that perhaps wrongfully frustrate attempts to desegregate the workplace. Former Chief Justice Warren Burger held two decades ago that when minorities can show they're disproportionately fenced out of jobs, the employer must show business necessity.

Mr. President, that is exactly what we do in the substitute regarding the Wards Cove decision.

I would just like to quote from the language in the substitute:

> The term "justified by business necessity" means that the challenged practice has a manifest relationship to the employment in question or that the respondent's legitimate employment goals are significantly served by—even if they do not require—the challenged practice or group of practices.

That is exactly the language in the Griggs decision and in the Beazer decision. It is language which has been tested in the courts. We also place the burden of proof on the employer.

So when the New York Times editorial suggests we do that, this is exactly the approach that we have taken.

I would like to go on just for a moment and address some of the other parts of this substitute, Mr. President. It has been said regarding Wards Cove that, indeed, this language in the substitute does not overturn Wards Cove but enacts the Wards Cove standards.

Mr. President, that is not accurate. This substitute does overturn Wards Cove by shifting the burden of proof, both the burden of persuasion and the burden of production. It also takes the definition of business necessity, which is right out of Griggs and Beazer, which I mentioned before. If this is not the law prior to Wards Cove, then I do not know what is. I personally believe that it does answer the concerns that have been raised by the Supreme Court's decision.

I have felt strongly that there were many parts of the bill on and beyond Wards Cove that we must look at it as a whole. It seems to me that the bill originally reported out of the Senate Labor Committee was one designed to encourage litigation. I think our goal here is to find language aimed at addressing the Supreme Court's rulings without encouraging litigation, confrontation, and division. Instead, we should try to maintain the widespread support and success that our civil rights laws have achieved.

One of the things that I have felt strongly about, Mr. President, is that we not expand recovery of attorneys fees. I believe the bill passed by the Senate Labor Committee, by broadening the recovery of attorneys fees, again, only encourages a litigious atmosphere. I think regarding damages, again, to allow punitive damages and jury trials, only encourages litigation rather than negotiation.

I am as troubled as anyone by discrimination in the workplace, discrimination anywhere, whether it applies to women or whether it is racial discrimination. I think it is very unjust to say we will not tolerate racial discrimination, but we will tolerate discrimination against women. But I believe that the language that we have come up with in the substitute is language that does help address discrimination or harassment in the workplace.

I believe, Mr. President, that the compromise will treat women, minorities and everyone else much better than now under title VII. Under the compromise bill we will in many ways be much better off. One, it will avoid lengthy litigation and the uncertainty involved in jury trials. While there may not be jackpot jury awards, plaintiffs will, at least, have some certainty, while under the tort-based approach of S. 2104, they may end up with nothing at all. Most important, the reconciliation framework of title VII will be preserved and the broad support our civil rights laws now enjoy will be continued.

I would argue that this is, indeed, a much better approach. It would not permit jury trials, but would allow the judge to allow damages of up to $100,000. It removes the case from a lengthy, uncertain process, as I said, and yet provides remedies that are fair and appropriate.

There are other aspects of the substitute, Mr. President, which deal with other parts of the bill, such as the Wilks and Price Waterhouse decisions. We have had the amendment dealing with Wilks on the floor earlier this afternoon. I personally believe the substitute addresses this issue in a way that is fair. It bars claims by employees and applicants whose interests would likely be affected by the consent decree, provided they also have had actual notice and a reasonable opportunity to challenge it.

So I hope that as we consider all points of this substitute, Mr. President, we all recognize that there are good faith efforts on both sides of the aisle to achieve what I believe is the goal of everyone, a thoughtful means of addressing Supreme Court decisions that need to be addressed. In doing so, we can provide a bill that will be supportive of negotiation rather than contention which only will continue to lead to tensions in the workplace.

What saddens me, Mr. President, is there seems to be a line that has been drawn in the sand, and there is a great deal of effort being made to say, if you are not with us, then you are against us. I think when that happens, it is very difficult to put together compromises in language that can be beneficial to everyone. I think it is possible to achieve that, Mr. President, but I think it is going to require some further efforts. Under the time limitations we have, I only hope we will be able to achieve some compromise.

Mr. DOMENICI. I wonder if the Senator from Kansas will yield. I do not need the floor other than to ask consent.

Mrs. KASSEBAUM. I yield to the Senator from New Mexico for just a moment.

Mr. DOMENICI. Without losing her right to the floor.

I yield one-half hour under cloture to the distinguished Senator from Utah [Mr. HATCH].

The PRESIDING OFFICER. The Senator has that right. The time will be awarded to the Senator from Utah. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to yield to the Senator from Alaska without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, let me acknowledge my thanks to my colleague from Kansas.

Mr. President, I rise today in support of the substitute amendment to S. 2104, the Civil Rights Act of 1990, as offered by my colleague from Kansas. I think everybody in this body, Mr. President, would agree with the goals of Senate bill 2104. We all agree that discrimination in any form is unacceptable. As a free society, we can never rest until every individual is given equal opportunity. When we think about the American dream, that is really what it is all about. The question, however, that this body must answer today is the best way to achieve the goal.

Mr. President, the substitute amendment by my colleague from Kansas clearly avoids the issue of quotas. The substitute amendment provides meaningful civil rights protection to all citizens in America without resorting to quotas. In my opiniion, quotas do more harm to the cause of civil rights than any other provision this body will consider. They are demeaning to

minorities and they are a source of animosity for everyone.

Unfortunately, Mr. President, it is the opinion of the Senator from Alaska that the proponents of Senate bill 2104 have drafted a bill that will have the effect—the effect, the subtle effect—of mandating quotas because businesses will simply find that their best alternative and best protection. The committee bill establishes such a high standard of proof that the only practical way for businesses to avoid lawsuits will be to maintain hiring quotas. The substitute amendment will provide meaningful civil rights protection without falling into the so-called quota trap.

Mr. President, the substitute amendment is preferable to the committee bill for several other reasons. The substitute amendment provides access to the courts without creating, in the opinion of the Senator from Alaska, a full-employment act for lawyers. It is important that all citizens be able to go before the court to ensure that their individual rights are protected, but real racial and ethnic harmony will never be achieved by relying primarily on the courts. Unfortunately, that is exactly what the committee bill does. It encourages fee hungry lawyers to bring any case regardless of merit, and it encourages judges to stretch laws beyond what Congress actually legislated and intended.

The substitute amendment does one thing other which this Senator believes is very important. It limits the retroactivity application of this legislation. Retroactivity is fundamentally unfair. Parties that begin litigation under one set of rules should not have the rules changed on them in the middle of the game, and that is just what this committee bill does.

This Senator had intended to offer an amendment to the committee bill to limit retroactivity. That amendment, however, will not be necessary if this body adopts the substitute amendment by my colleague from Kansas because the substitute eliminates the retroactivity.

Mr. President, I am no lawyer and I am not going to lecture my colleagues on whether retroactivity is constitutional or not. Some leading legal scholars argue forcefully that retroactivity violates the Constitution's separation of powers principle and the due process clause of the fifth amendment. This Senator, however, does know what is fair, and retroactivity is simply unfair. Retroactivity is like my telling someone in the last few yards of a marathon that the rules of the race have been changed and they have to run the first 26 miles again.

Passage of the committee bill would result in unfair retroactivity for a company in Alaska, and that company is Wards Cove Packing Co., a large employer in my State. That company has spent over 19 years, Mr. President, and over $2 million in legal fees proving itself innocent of employment discrimination. In six separate reported decisions, no court has ever found the company guilty of discriminatory hiring practices, yet under this committee bill as proposed by the committee, the company would have to start the case again, but this time it would be under a new set of rules.

Mr. President, the Wards Cove case involves a dispute over the hiring of cannery workers by a fish packing company back in the 1971 salmon season. That is right, Mr. President, 1971. Since 1971, Wards Cove has successfully defended itself in front of the Equal Employment Opportunity Commission, the Federal district court three times, the Ninth Circuit Court of Appeals four times, the U.S. Supreme Court once. Now the committee bill would require Wards Cove to begin in the litigation again, and this is simply unfair.

Mr. President, the specifics covering the chronology, I think, need to be reflected by this body. The first occurred in 1971, the short salmon season of approximately 3 months. That year, the plaintiff argues that Wards Cove committed discriminatory hiring practices in obtaining cannery workers.

Mr. President, so much has been said of the issue of Wards Cove that I think the background is appropriate to share with my colleagues. On June 27, 1972, the next year, an original complaint was filed with the Equal Employment Opportunity Commission. Then 2 years went by. In March 1974, the district court dismissed the lawsuit based on the statute of limitations. But on March 30, 1982, the ninth circuit panel reversed the district court and reinstated the law case. In 1983 the district court decided the case in favor of Wards Cove, no discrimination, Mr. President. In August 1985, the ninth circuit panel affirms the district court decision.

February 23, 1987, the ninth circuit court, the entire court remands a case to panel for a desist based on a new ninth circuit test. September 1987, the ninth circuit panel vacates the original district court desist, and remands the case back to the district court for decisions based on the new ninth circuit court test.

On June 5, 1989, the Supreme Court reverses the ninth circuit court decision and remands the base back to the district court for a decision based on the new Supreme Court test.

Here we are in July 1990 and the Congress is about to establish a whole new set of rules.

Mr. President, I say to my colleagues that enough is enough. Twenty years of litigation is enough for anyone doing business in this country or any other country. The rules of the game should not be changed on anyone after they have repeatedly proven themselves innocent of the underlying charge. The substitute amendment by my colleague from Kansas will prevent this unfair retroactivity.

Mr. President, in conclusion, the goal of providing meaningful protections for civil rights is a goal that we all share. The substitute amendment offered by my colleague from Kansas makes this goal a reality for millions of Americans without restoring the quotas and without restoring the lawyers.

I urge this body to support this substitute amendment.

Mr. President, also not knowing of the ultimate disposition of the substitute by my friend from Kansas, I put my colleagues on notice that I have filed an amendment that is a very narrow amendment and, depending on the disposition of the substitute, it may be that I will offer that specific amendment to exempt the Wards Cove case from retroactivity and attorneys fees.

I yield the floor. I thank the Senator from Kansas for her indulgence.

Mrs. KASSEBAUM. I very much appreciate the remarks of the Senator from Alaska and for his efforts in working on this. I would like to reiterate, because somehow Wards Cove keeps coming back and coming back. People are saying we have not really done anything to address the concerns regarding the Supreme Court's decision in Wards Cove.

Mr. President, I would like to say again, yes, we have. I do not understand why there is such reluctance. I feel this is addressed by the accommodation of the language that we used that is in Griggs. That is the language. Everyone said they wanted to go back to Griggs, and with the burden of proof resting on the employer.

So I think as a matter of fact it is wrong to state that this is not a reversal of Wards Cove. It is a reversal of Wards Cove designed to use language that has been tested in the courts, has been tested, as Griggs has been tested, and I believe it provides the protection against discrimination that we are desiring to achieve.

I yield the floor to the Senator from California. I really very much appreciate his efforts in trying to shape some substitute language.

The PRESIDING OFFICER. The Chair would state that a Senator cannot yield the floor directly to another Senator. He can seek the floor in his own right.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Mr. President, I thank the Senator from Kansas for her very gracious remarks. I thank her more for the leadership that she has demon-

strated in crafting the amendment that is pending before us.

It is a necessary amendment. It is comprehensive in its undertaking to remedy several of the faults of the underlying bill. But I think perhaps the most significant single point, certainly the one that has attracted the greatest amount of controversy and deservedly so, is the attention that her amendment has focused upon the subject of quotas.

Mr. President, much has been said this afternoon and on prior days about the contribution which lawyers have made to this legislation and to the legislative process in general. Some of it has been facetious. Some of it has been serious.

Well, risking either facetious or serious criticism, I will reveal that I am a lawyer. Seriously the point is very well taken that understanding of this legislation must not be limited to those who have passed the bar or undergone legal training. The language should be clear on its face.

If you were to go out in the street and ask most citizens what they understand a quota to mean, I think most would be able to tell you that to them a quota means selection based not upon merit or qualifications but upon the identity of the candidate, hired or appointed because of his or her membership in a particular ethnic group or their gender.

I think most people would find that offensive. The reason is because inevitably and inescapably quotas are simply not fair.

I have had the experience for 11 years of serving as the mayor of a very large, very cosmopolitan American city, San Diego. It is today America's sixth most populous city. San Diego's population includes virtually every ethnic group present in the American population. It is a source of some pride and pleasure to us in San Diego, as it is throughout California. We think that our diversity is to be not tolerated but celebrated, a source of great strength, a blessing that has brought to us the enrichment of many heritages and proud traditions. For all our understandable pride, even those of us who cherish and preserve these differences express ethnic pride, seek and cherish even more the common bond of opportunity which this Nation has offered to those both born here and to those who have struggled to come here.

We like to think that as a nation we stand for a tradition of real opportunity, under which we have been entitled to believe that men and women should be and are judged on the basis of their merit as individuals. Indeed, I think most of us were taught that—taught that in our homes, and at our dinner tables. I was.

I was taught by my parents that you judge people on the basis of what they are, who they are, not the color of their skin, nor the ethnic group to which they belong, nor what religion they practice or fail to practice. You judge people by whether they are honest, whether they are hard-working, whether they are reliable, whether they are trustworthy as a friend. You judge them upon the basis of their skill, their ability, and their character—and whether or not they make a contribution to their society, just as I was taught that I should expect myself to be so judged, that I should expect nothing on the basis of my membership in a particular racial group or economic or social class.

I was taught that the great thing about America is that this is a country in which people are born free to make the most of the gifts that they are given by God—and that they are obliged to do so. In fact, I was told early if they are born healthy and with "reasonably good minds," as my father used to say with a wry smile, they are obliged to give something back to their community.

I have made this brief digression as background to that understanding that most of us share, that what is fair is that people be judged upon individual merit and not upon the accident of birth that places them in one ethnic group or another, in one race or gender rather than another, even in one economic or social class.

And the converse of that, of course, is that we feel that discrimination on the basis of those accidental classifications is inescapably unfair and that people should be permitted to compete and to win upon a level playing field. We have incorporated into our American tradition the understanding that there is not real opportunity, except where we have removed false obstacles to opportunity, including job descriptions that, in fact, discriminate, whether intended to do so or not; including tests for admission to schools or jobs, which do in fact discriminate, whether intended to do so or not. Civil service commissions throughout the land at the State and local level have been at pains, and quite properly so, to remove discriminatory provisions, whether they were intended to be discriminatory or whether they simply have the unintended effect of discrimination.

That is all proper, and in fact vital. That we all agree on, because it is needed to free us of discrimination. It is an effort aimed at achieving fairness and true, real equality of opportunity.

Mr. President, when, in fact, we make appointments based upon some standard other than merit or qualification—when we have taken pains to remove intended or unintended discriminatory provisions or requirements—then we are inevitably engaging in a new kind of discrimination and that is perhaps the most important point addressed by the Kassebaum amendment. It seeks to replace the language that is found at page 17 of the draft bill with a different standard of proof. It requires that we use the standard contained in the Federal Rules of Procedure, Rule 301, specifically, with respect to the burden of persuasion and production; and that we not rely upon a definition of disparate impact to establish an unfair labor practice and unlawful employment practice.

The reason is very simply that the present language, whether it is intended to do so or not, inescapably will have the effect of driving employers, and particularly small employers, to the defensive tactic of hiring by quota and engaging in manifest unfairness. They will do so in much the same way that we feared small employers would engage in discriminatory hiring in order to avoid sanctions under the employer sanction provisions of the Immigration Reform and Control Act. In that case, we were troubled by the prospect of the employer being faced with two job applicants, of whom one might look and sound foreign, even though a United States citizen. What we feared was that the employer, in order to avoid the chance of being prosecuted, would hire someone who did not look or sound foreign, for fear that he otherwise would find himself at least under investigation, and perhaps being prosecuted, for having hired an illegal alien. Indeed, we were so concerned about it that the author of the underlying bill authored an amendment to the Immigration Reform and Control Act in which I joined him as a cosponsor; his amendment sought to determine after a certain period of time whether or not the Immigration and Control Act had brought about defensive discriminatory practices by small employers seeking to avoid the act's employer sanctions.

In much the same way, we need to be concerned that employers, and particularly small employers without the resources to defend themselves in court against Federal prosecution in a civil rights case, will seek to avoid prosecution by the defensive mechanism of hiring by quota. They will say, "Who need it? I can't afford it. I don't want the hassle. I'm going to do it the easy way and take the path of least resistance. And if it is unfair, I didn't create the standard. Congress drove me to it."

They are going to ask, "OK, what is the percentage of a particular ethnic group of applicants? Are they 19 percent? Are they 16 percent?" And then they are going to look at their own work force and ask, "How many do we have? Do we have that many?" And they are going to make the percentages jibe.

Mr. President, what that means is that if they are hiring on the basis of race or gender, characteristics which none of us earn but which are conferred upon us at birth by accident, then we have abandoned the basic American principle of dealing with people as individuals based upon their merit as individuals. And we have substituted instead a new standard, which is inescapably unfair.

Mr. President, we will not cure old wrongs by creating new ones. We will not cure old discrimination by imposing new discrimination. When you hire someone because of their membership in a racial group or because of their gender rather than because of merit, you are inescapably choosing them not on the basis of merit and qualifications; you are ignoring those proper standards and looking to those that are, in fact, the accidents of birth, and you cannot escape being unfair in doing so. In fact, it has been given a name—reverse discrimination, because it is a practice that inevitably results in their discriminating against another applicant.

Let us look at the language on page 17. It says under the heading, "Proof of Unlawful Employment Practices in Disparate Impact Cases." It says:

An unlawful employment practice based upon disparate impact is established under this section when a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex or national origin, and the respondent fails to demonstrate in such practices required by business necessity.

Mr. President, what has been set up is a two-part test. In the first instance, the test is satisfied by a presumption. There is not requirement that the complaining party show that there has been a specific practice which, in fact, discriminated against him or her. It is, instead, simply presumed from the fact that there is a different percentage in the work force of the employer than that in the general population, or pool of available applicants, of the ethnic group to which that complaining party belongs.

As the mayor of San Diego, I had the responsibility to make appointments to city boards and commissions. The city council had to confirm or reject my appointments, in most instances.

Just out of curiosity, Mr. President, I went back and measured whether or not those who were part of a particular ethnic group, who were my appointees to city boards and commissions, were less or more than the percentage of their presence in the city's population.

Mr. President, I looked at the number of black men and women whom I had appointed as members of city boards and commissions, and I found that they substantially exceeded their percentage in the general population.

Let me ask you a question, Mr. President: Should I have instead looked not to the individual merit of each of those men and women but instead to whether or not the appointment of one more, or five more, to a particular board or commission where their service would be appropriate and useful to the city—would exceed the number represented by their percentage in the population?

If I had done that, Mr. President, then I would have been compelled not to appoint a great number of deserving men and women. More to the point, it would have been unfair discrimination not only against them as individuals but would also have deprived the people of my city of the services of very talented men and women on the civil service commission, on the park and recreation board, on the transportation board, the planning commission, on virtually every important city policy-making or advisory board.

I ask you, Mr. President, would that have been right? Would that have been fair? The answer is no. It would have been unfair both to the individuals involved and to the people of my city who depended upon me to appoint the most capable candidates, those with time, talent, energy, and concern enough to be willing to make the sacrifice from their own lives to serve on those boards and commissions.

Mr. President, I did not appoint by quota. I was free to make decisions based upon the merit of the individual applicant. But had I instead been required by law to make those appointments based upon the percentage of blacks within the population of the city of San Diego, I could not have appointed the people whom I did, at least not all of them.

Mr. President, let us come back to the bill language. Disparate impact is a phrase of art. What it really means is that under S. 2104 it is presumed that some employment practice, unspecified, but some practice by the employer in his hiring has produced a lesser percentage of an ethnic group, or other classification, in the employer's work force than the percentage found in the population of the community, or pool of applicants. That is termed a disparate impact; and from the statistical difference in percentages, it is presumed that the employer has engaged in discrimination. S. 2104 does not require the identification of a discriminatory practice as would be required under the amendment of the Senator from Kansas.

The Kassebaum amendment requires simple due process to the employer. More to the point, it will avoid the pernicious if unintended effect upon employers of driving them to engage in defensive hiring by quotas, and the reverse discrimination and unfairness that quotas manifestly and inescapably produce.

Mr. President, some years ago, even before I was mayor of San Diego, I served in the State Legislature of California. In that brief window in the late sixties when Republicans became the majority in the State assembly, I became a committee chairman, the first chairman of the first committee in the legislature dealing with problems of housing and urban affairs. My first responsibility was to hire a chief consultant for that committee. I looked at many applicants for that job.

The applicant I chose was an extremely bright young man. He was perhaps as knowledgeable as anybody I had encountered about problems of housing, housing finance, and community development, and all of those many things, those arcane subjects upon which we were going to dwell in that new committee tasked to better the conditions of people living in cities and to provide housing legislation for the people of California.

He had been prepared both by experience in the private sector and by knowledge gained as a State official in the State department of housing and community development. When he appeared, I was delighted and quickly pirated him away from his employment within the State bureaucracy and appointed him the chief consultant to that committee.

Mr. President, he was black. As it turned out, he was the first black chief consultant to a legislative committee in the history of California. I want to emphasize the fact that I appointed him because he was the best man or woman that I could find for the job based upon his knowledge, his skill, his character, his credentials, in short, upon his merit and qualifications, and not because of his membership in a racial group.

This Nation has prized a tradition of fairness and real equality under the law. We are under a continuing obligation to assure that we have removed discriminatory provisions from job descriptions, from testing, and that we are in fact creating the kind of testing, the kind of job descriptions that are commensurate with the actual requirements of the job. That is a continuing responsibility. And we will not be fair to individual applicants or to the people to whom they provide services, unless we continue to discharge that responsibility vigorously.

But I will also tell you, Mr. President, that if we do not adopt Senator KASSEBAUM's amendment, and if instead we pass this legislation unamended with respect to the requirement of proving actual discrimination and I have not talked yet about the standard of business necessity; I will

not do so on this occasion, then we will have engaged in an act that is manifestly unfair. We will drive small employers to hiring by quota.

Mr. President, let me make another point: There is obvious sensitivity on this floor and on both sides of the aisle to the charge that this legislation, unamended, is a quota bill. The sad fact is: it is a quota bill and will be unless it is corrected by the amendment offered by the Senator from Kansas [Mrs. KASSEBAUM].

Let us be honest and not engage in the transparent sophistory that some other amendment can achieve that needed correction if all it does is say that quotas will not be permitted under this legislation. Mr. President, if that or some similar cosmetic offering is put before us, I would hope the Senate would have the integrity to not even consider it. We all know that no mere statement of good intentions can suffice, because it is absolutely valueless as a matter of law to alter the operative language, which I have read from page 17 at lines 15 and those following.

A statement of the good intention to the effect that nothing in this legislation is intended to create or to impose or encourage hiring by quota is utterly meaningless if in fact the operative language defines an unlawful employment practice, as it is defined at page 17, by some statistical basis which we call "disparate impact."

Mr. President, if such an amendment is put to a rollcall, I have no doubt that everyone on the floor will vote for it. But I hope that those who advance such a cosmetic device will feel a real twinge of conscience and not delude themselves. I do not think they will delude the American people that a simple expression of good intention can, in fact, operate to eliminate the inevitable effect of this legislation, of the operative language, of the words that really mean something, the language that make this a quota bill and that will, in fact, drive lawyers to advise their clients, "Don't take a chance. You'd better hire by quota. That way they can't get you."

Mr. President, there are some who have told me, "You should not say things like that. This is a civil rights bill." There are many who probably would hesitate to say what I have said for fear that by attacking these provisions, indeed by even seeking to amend what is called a civil rights bill, Senator KASSEBAUM and I may subject ourselves to the charge that our opposition, our criticism, is somehow racism.

Well, if anybody makes that charge, I want you to know I will bitterly resent it, and I will react to it strongly. I will criticize quotas or other unfair practices that deny rather than advance opportunity for individuals wherever I find them. And I will say that anybody who does not understand that hiring by quotas is wrong because it is unfair does not understand the American tradition of judging people on their individual merit.

Let us not delude ourselves or seek to delude the American people by the transparent and cosmetic device of a sentence or two that declares fatuously that nothing herein shall be construed as promoting, encouraging, or imposing quotas, when, in fact, we have retained the operative bill language that will drive small employers to hire by quotas.

The only way we will avoid that terribly unfair result, Mr. President, is to adopt the language contained in the Kassebaum amendment, which requires that the burden of persuasion and production as called for under rule 301 in the Federal Rules of Procedure be, in fact, the standard imposed, so that the complaining party must prove that he or she has actually suffered discrimination and must, with particularity, link a hiring practice of the employer that is specifically alleged to have caused the discrimination.

Mr. President, I will simply say once again that we are all obliged to the Senator from Kansas for having had the courage and the leadership to do this very hard work, going back through the cases and seeking to get right the language that is needed to cure discrimination without driving American businessmen and women into reverse discrimination, into quota hiring, into a defensive practice which is, in fact, indefensible; if not on their part, on ours.

So I thank Senator KASSEBAUM. I urge my colleagues to follow her leadership so that, in fact, this can become a civil rights bill worthy of the name, one that has broad bipartisan support in both Houses because it has been freed of the taint of being a quota bill.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. PELL. Will the Senator yield?

Ms. MIKULSKI. I yield to the Senator from Rhode Island, another champion of civil rights.

Mr. PELL. I thank the Senator very much.

Pursuant to rule XXII, I yield my hour of debate to the Senator from Massachusetts [Mr. KENNEDY].

The PRESIDING OFFICER. The Senator has that right.

Ms. MIKULSKI. Mr. President, I rise in support of the bill and in opposition to the Kassebaum substitute.

Mr. President, let me say a few words first generally about the bill and then specifically about one particular concern I have related to the substitute.

First, Mr. President, in terms of quotas, this Senator opposes quotas. I grew up as a Roman Catholic in a Polish American family and very often quotas were meant to keep my kind out. Very often as a woman I have found that there have been unofficial quotas in terms of who could get in. Whether we looked at medical schools or law schools or jobs, quotas often were a tool that kept people out. This is one Senator that believes that quotas do not solve anything.

I do believe that we have received legislative clarification time and time again on this bill that this bill does not mandate quotas. So I think we need to be clear about that. The substitute, no matter how well intended by my sister colleague from Kansas in terms of the quota clarification, is not necessary.

The second point I want to make, Mr. President, is maybe if we had an equal rights amendment we would not have some of the confusion arising out of this bill. During both my time in the House of Representatives and even when I cosponsored the introduction of the ERA with my colleague Senator KENNEDY of Massachusetts, I was told we do not need an equal rights amendment because those who are for equal rights say, "Why not change one law at a time?"

Well, now, Mr. President, here we are changing not only one more law in terms of civil rights, but we are faced with trying to change Supreme Court decisions in the absence of the kind of constitutional amendment that ERA would have provided in terms of women. I hope that those who might oppose this bill would reexamine the equal rights amendment as an alternative that they could then join and cosponsor. We welcome all who would pursue that concept.

Specifically, on this bill, I have conferred with my colleague, Senator NANCY KASSEBAUM, because she and I share so many goals and bipartisan agreements on many issues and I wondered why the substitute was being offered. I know her great concern on this is in some way to curtail needless litigation, and she will speak for herself on that. But I know her intent is let us not have litigation for litigation sake, let us have litigation to accomplish a remedy or to right a wrong. I support that.

Yet at the same time I must bring to her attention and to the U.S. Senate's attention that her substitute fails even to solve all the devastating problems caused by the Patterson decision and instead would preserve part of the harm caused by that decision.

Let me be specific and go to section 10 of the substitute. That section of the substitute seeks to overrule the Supreme Court's decision in Patterson versus McLean Credit Union, 109 Supreme Court 2363, 1989 and to restore the prohibition against all racial dis-

crimination in the making and carrying out of contracts in 42 U.S.C. 1981.

Unlike S. 2104, however, the substitute fails explicitly to prohibit discrimination in "the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship." It prohibits discrimination in the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship. That is what the law is all about, that when you have a legal agreement do not disagree in a legal agreement.

In fact, the substitute is even weaker in this respect than the Bush administration bill, S. 2166, which specifically covers discrimination in the setting of the "terms and conditions" of a contract as set out in section 2. Since the Patterson decision specifically ruled that 1981 did not apply to problems arising from the "conditions of continuing employment" in ruling that racial harassment was legal under 1981, 109 Supreme Court decision at 2372, a court could also interpret the substitute and this is crucial, a court could also interpret the substitute to permit racial harassment under the 1981 ruling. The substitute also contains no transition or other provisions to provide any remedy for the hundreds of bias victims who have already suffered as a result of the Patterson decision.

So, Mr. President, I just wanted to make that point, that the Senator from Kansas is well intended in this substitute, but the unintended consequences of her substitute could cause more harm than this bill is trying to seek to remedy and that we are trying to remedy now because of the Supreme Court's decisions. I hope that tonight or sometime in the future we will pass this Civil Rights Act and that we will defeat this substitute and continue our pledge to all Americans that we are the land of the free and the home of the brave, and the law protects us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I very much appreciate the comments of the Senator from Maryland. As she said, she and I have shared many, many interests. I am not quite certain what the Senator from Maryland is referring to, Mr. President, on Patterson. Let me just reiterate what the substitute does regarding that.

Section 11 of the substitute codifies the broad construction given to 42 U.S.C. 1981 by most lower courts, allowing plaintiffs to sue under this statute for on-the-job racial harassment and other racially motivated violations of contracts.

It also codifies the Supreme Court's 1976 decision in Runyon versus McCrary, reaffirmed by the Patterson court. That section 1981 prohibits discrimination in private contracts.

So, at least as I read it, it certainly does not weaken protections prior to Patterson. What, indeed, we have not done is expand remedies, however, on and beyond that, to include punitive damages and/or jury trial remedies for other than racial discrimination. That is true.

But we have provided additional remedies by the judge being able to make a judicial decision regarding discrimination for all other forms other than the racial discrimination so covered by section 1981, in which an award can be made of up to $100,000.

So, indeed, as I mentioned earlier, I believe as a matter of fact it is a worthy substitute in that it would provide a speedy way to address discrimination on and beyond the racial discrimination that was addressed in the earlier decisions. I am not sure if that is an answer to the question of the Senator from Maryland. I know it is one that probably she would, obviously, not agree with. But I hope it does at least explain how we reached the decision that we did regarding the substitute language.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Montana.

Mr. BURNS. Mr. President, I yield 1 hour of my time to the manager of the bill on the minority side, Mr. HATCH.

The PRESIDING OFFICER. The Senator has that right.

Mr. BURNS. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, the Republican leader will return to the floor in a few moments, and will provide guidance as to, at least from the perspective of our side of the aisle, what is the best way to proceed. That will be in just a few moments.

But I would like to just reflect on the activities of the day for just a few minutes. This is really a remarkably strange place. If you vote this way or that way, for example, on something as sensitive as employer sanctions; or if you vote this way or that way on sanctions against South Africa; or if you vote this way or that way on a "civil rights bill," if you are not on the "rights side," you are considered by many special interest groups to be a racist.

That, really, is one of the most devious things that I have seen in this place. You can be involved in a good-faith debate on one side of the issue or another in the sensitive, sensitive area of race relations and civil rights. If you are on the "wrong" side, then you are considered not "pure" enough for the civil rights groups. I have seen them disassemble people. I watched them disassemble Robert Bork in what still will go down as one of the blackest marks in their particular exercise of political skill and endeavor.

It is unfair to say that those of us who do not embrace their particular scenario are racists. I am offended by that. All of us should be offended by that. This does not have anything to do with racism. It has to do with racism in reverse.

Is this country going to get into a situation where we forget that we are a pluralistic society, with a public culture, a common flag, and a common language? Those are not things that we should mock. Those are real things.

Go look at other countries around the world who are grappling with that. India has 18 languages recognized in its constitution. I do not think any of us would want to say that they have a model of government, even though people from India are remarkable and they enrich our society.

Belgium, Sri Lanka, and Canada are now grappling with such things. Many problems develop from a quickness to label some idea or some person as a "racist." Or to say that a country is filled with victims of racism.

There was a marvelous op-ed piece by William Raspberry of the Washington Post, a man for whom I have the greatest respect. He was a great, knowledgeable follower of illegal immigration reform. He said in effect that this country will just get deeper and deeper into troubling things when we just think of one group or another of people as being victims. The civil rights movement worked because of cooperation between white people who joined with black people to get rid of some terrible things. That was the theme of his op-ed piece, and that is right. Whites and blacks joined constructively together with their colleagues.

Now we have turmoil on college campuses that has to do with racism. The racism is connected with victimization. And we find whites who do not join the blacks to assist in overturning egregious things. They think: I lost my job because this person got it. Or: I did not get admitted to college because that person got in, and they are not as qualified as I am. We get these things cooking in America, and the average Joe—bless him, because this country could not function if it were not a fact that the average person is smarter than the average politician and that is really true. They have a lot more common sense, and they come with good motives.

They say: Hey, I am pretty qualified for that job, and I think I ought to have it. And then to see someone else get it on the basis of a quota system. We have all heard that old saw about Hubert Humphrey standing right here on this floor and saying that if the Civil Rights Act established a quota

system, that he would eat the statute book.

They asked him again: "Senator Humphrey, I know you would not be involved in a quota system." And he said, "I would not have any part of it. I am here to tell you right now that is something I do not want to be involved in."

Yet that is exactly where we are headed here. Supporting this bill may be good fodder. It makes good stuff "inside the Beltway." It can make you very popular, especially because of the biases of many of the media. Those who are biased will write about your support in a laudatory form.

But back at the old home base a guy will say: Hey, how come that is? How come I cannot compete one-on-one any more? Why is that? Who did this? Is this your work?

I think the average American is a very important person to keep in mind, here, as we deal with a civil rights bill that is blown all out of proportion relative to what the Supreme Court really did, which was that they simply interpreted the law. Check with any member of the Supreme Court. We can do that. Even though we have a separation of powers, there is nothing wrong with going visiting with one of your colleagues on the U.S. Supreme Court and saying, "What were you up to?" And ask them; ask the ones who wrote the dissent; ask the ones who wrote the majority opinion.

They look at this debate—some parts of it—and have to just be stunned: What are you doing about Wards Cove and what are you doing to restore Griggs, and why does your bill not restore it?

I mean, it is really an extraordinary venture. I just say I am appalled that in each and every case, the minions of the civil rights movement really believe in many ways that they have all the solutions, and that those of us who do not stick with their position are among those who are out of touch and are the "unwashed" of America.

All I am saying to my colleagues is that there is nothing in my background that indicates one single shred of racism. I do not like the connotation. I think such labels are a very poor way to sell your position. I think you lose a lot of strength and I think you lose a lot of authenticity. You also lose a lot of credibility when those on the other side of the issue are simply pegged in an arrogant, cynical, sarcastic way as just simply being "small minded" or "racist."

They are going to have to do a lot better than that in the future in this country if we are going to survive. Let's not pretend that this country does not do an awful lot of wonderful things for minorities. Go look at the statute books if you do not believe that.

The activists for this bill are clever, they are crafty; and they are manipulative. They know how to use the media. They know how to crank it out by the metric ton. Many of them do a disservice to this country. I think we ought to keep our eye carefully on them as they do their work.

I watched them bring down Bill Lucas, a black man who "wasn't sensitive enough for them." How about that one? If that is not arrogance and cynicism, I do not know what it is.

And then Clarence Thomas came before them. His nomination unnerved them because they had already lost a lot of credibility when they said that Lucas was "not sensitive enough" despite the fact that he grew up in a ghetto and clawed his way to the top. He just happened to be a conservative.

"Do your work," I say to them. Protect minorities. That is your job. That is the essence of the order. But the unfortunate other part of their agenda is simply to "do something" to this conservative or do something to this little group who have a different view on civil rights and try to show, if they can, that detractors are racist if they do not support their position.

I think it is unbecoming and it is certainly repugnant to watch. I think those people are losing a great deal of credibility. They might get the whole package here, but let the American public decide in a year or two what was the package they got. You are going to find a lot of people who are just going to be appalled when they put their attention to this measure. I think it is going to come out of here in a similar form. Let the American public decide but let us not hear cries of racism.

Take a look at the recent letter from Chairman Brown of the Democratic National Committee, his fundraising letter. This fundraising letter sent just a few days ago from Ronald Brown, chairman of the Democratic National Committee, calls JESSE HELMS, Senator HELMS, our colleague, a bigot, and a racist and antisemitic.

Why must we listen to this guff from people who come and give us lectures on what we are doing especially when we do not support their position?

He lumps together Mr. Duke, who has already been repudiated by the Republican Party. Mr. Duke of Louisiana is not a Republican; he has been repudiated by the Republican Party. In this marvelous message that Ron Brown sent out to terrify the people of America and equate the Republican Party with racism, antisemitism, and hate mongering, we are also told about another remarkable person who is running for the governorship of Texas as a Republican. He made some very unfortunate statements, in my mind, about women. They have those in the letter, too. They give us lectures on human rights and civility and nurture of our fellow man. But listen to this: "Helms has made a career out of bigotry." I do not believe that and everyone who knows JESSE HELMS knows that is a lie.

He is up for reelection * * * and 1990 is the best chance we ever had to get Helms and his hateful brand of politics out of the United States Senate.

David Duke will carry his blatant band of racism, antisemitism and hate mongering to the floor of the United States Senate.

Well, if he does, it will not be on our party's ticket. Somebody else can have him. Somebody else must have claimed him; we did not.

It goes on to say:

If we squander this opportunity, Helms will always be there when apartheid needs a friend in the Senate. He'll always have an arena where he can score cheap political points at the real health expense of men and women with AIDS. And if a woman seeks a safe and legal abortion, Jesse Helms will be there to kick her into an alley.

This is some of the worthy band that give us lectures about civility and kindness and caring and nurturing of our fellow man.

Then the letter says more:

If Duke, Helms, Williams and other candidates like them win, those victories for intolerance will have a frightening impact—not just on our politics, but on the whole life of our Nation.

And then, finally, I guess they get to the nub of things, which is pure old, good old politics, and trying to tear into everybody they can get their hands on that might have a different viewpoint than the liberal one:

The possibility that they could be in control of the Senate as the part of a new Republican majority is too dangerous to even imagine.

Their strategy is to lump them all in the same arena, I guess. They do not like to have discussions about those who might just happen, in good faith, to have a different view of quotas and remedies which under this bill is so appalling and so stunning that no employer would do anything but establish a quota system of hiring.

So maybe we can try to keep that in mind. I hope so, as we deal with a civil rights bill which has a name attached to it with that particular nomenclature and definition. It was really an attempt to overturn some rather thoughtful U.S. Supreme Court decisions and situations which have been elevated far, far beyond their original intent.

Everybody says all they want is to go back to Griggs and have no more quotas. They had their opportunity plenty of times. But I certainly hope at least those of us on this side of the aisle and the people in America do not have to listen to this "kinder and gentler" kind of information from the Democratic National Committee, coupled with their natural constituencies,

such as the Leadership Conference on Civil Rights, who are telling us that we are the bigoted and the racist in this society when it is they who are pushing this kind of stuff around the United States of America.

So I hope we will keep our eye on the rabbit, as we continue to do our work in this remarkable arena. I just wanted to say I think it is a pretty poor way to do business when you simply use emotion, fear, guilt, and racism instead of plain old facts to do your work.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will just make some brief comments on the substitute and welcome any opportunity to have these comments elaborated on or questioned by the Senator from Kansas.

There are a number of reasons why I think the substitute should be rejected, quite frankly, Mr. President, but I will just mention these.

First, included in the substitute there is no clear rejection of the reasoning in the Patterson case. For a period of 12 or 14 years, prior to the Patterson case, section 1981 had been applied in contracts, not only to the contracting—the hiring—but also to discrimination on the job. Section 1981 also included promotions and firing.

And then the Patterson case, the facts of which are truly distressing beyond words in terms of the indignities, the racial indignities that this individual experienced on the job. I ask unanimous concent to include references at this point in the RECORD.

There being no objection, the reference was ordered to be printed in the RECORD, as follows:

STATEMENT OF BRENDA PATTERSON, WINSTON-SALEM, NC

MS. PATTERSON. Thank you, Senator. I appreciate your having me here to give my statement. And at this time I am very nervous, so I will read my statement.

The CHAIRMAN. All right.

MS. PATTERSON. And I also want to introduce my husband, Marshall.

The CHAIRMAN. Marshall, we are delighted to have you as well.

MS. PATTERSON. My name is Brenda Patterson. I am from Winston-Salem, NC. From 1972 to 1982, I worked at McLean Credit Union, and throughout that time I was treated much worse than white employees. I was humiliated and insulted by racist comments. I was never promoted and never paid what white employees were paid. And in the end, I was laid off while white employees with less seniority kept their jobs.

These things happened to me because I am black. I went to court because I thought this was wrong, and my case went all the way to the U.S. Supreme Court.

Last June, the U.S. Supreme Court said I did not have a case, and all my claims have now been dismissed.

It has been 18 years since I started working for McLean, and I have nothing to show for it.

I would like to describe just a few examples from my case so you can see why the law should prohibit the things that happened to me.

McLean Credit Union is an office that provides savings and loan services for employees of McLean Trucking Company. When I started in 1972, I was the only black employee in the entire office. During the interview before I was hired, I was told by the president of the credit union, Robert Stevenson, that I was going to be working with all white women and they would probably not like me because they were not used to working with blacks.

As I quickly found out, it was Mr. Stevenson and his managers instead of my coworkers who did not like blacks.

I was a college graduate, which many of my white coworkers were not, and although I accepted an entry-level file clerk job, I made it clear I was interested in advancing to higher-level positions in the office.

I started doing primarily filing work and for 10 years I was not promoted once. Secretaries and accounting clerks were above me, and these were jobs I could have performed easily. I was actually told to dust and sweep the office, even though we had a janitor every day and no white employees were ever told to do this.

The president always assigned more and more filing work to me, and there were times when I was responsible for 20 different filing jobs in the office, such as filing new loans, pulling paid loans, typing and mailing cancellation letters, filing microfilmed checks, filing daily IBM branch sheets, shredding canceled checks, and so forth.

I was even told to do filing for the secretaries, which they were responsible for themselves. But no one was ever assigned to help me in the same way.

Unlike the white workers, when I came back from vacation, none of my work had been done, and I had to catch up on everything. Even my supervisor did a formal review and found that I had too much work to do. He told Stevenson about it, but rather than promoting me for doing the work, the president just gave me more work to do and told me several times that blacks are known to work slower than whites by nature.

I was humiliated. I was nervous all the time. I lost sleep. I worried and dreamed about work and completing jobs. I cried constantly. I felt like I was being used by the credit union and being harassed and downgraded.

It was well known that Mr. Stevenson, who made all the important decisions in the company, was hostile toward blacks. One time, a supervisor recommended a black friend for the position of computer operator. And after meeting the applicant, Stevenson told the supervisor, "Why in the hell didn't you tell me he was black?"

When the supervisor said he did not think it mattered, Stevenson said, "Well, it does. We don't need any more problems around here. We will interview this person, but we will not hire him. We will search for additional people who are not black"

A least-qualified white was hired for the position.

During the 32 years that Stevenson worked at McLean Credit Union, there were a total of only three black workers, and all were given filing jobs.

This racial hostility affected my job in every way. Mr. Stevenson frequently stood near my desk and simply stared at me for several minutes at a time. He never did this to the white workers. When white workers made mistakes, he would say at staff meetings, "This mistake was made." But when I made a mistake, he would tell the whole staff, "Brenda made this mistake," even though I had been told about it before the staff meeting.

I was never promoted in 10 years, but white workers with less education, less seniority, and less experience than I had were routinely promoted and hired into secretary and bookkeeping positions above me.

One time, a white woman with less experience and qualifications than I had was given on-the-job training and promoted to an accounting position, even though her supervisor rated her work below average since she did not grasp accounting functions and stated she was more interested in crocheting and reading magazines than doing her work.

I was denied pay increases that were given automatically to white employees. One time this happened, they said it was because of my attitude problem. But only a month before this increase was denied, my annual evaluation said, "Actually goes out of her way to be pleasant with everyone."

That same year, 1982, I was laid off, even though white employees with less seniority were retained. I am not a lawyer. I do not pretend to understand the technicalities of the U.S. Supreme Court decisions in this case. But I always believed that if a black man or woman was mistreated because of race, we could go to the Federal court house and justice will be done.

I do not expect that you are going to decide my case or make the credit union pay me damages. All I want is a chance to tell my story to a jury and to have it decided fair and square, not on a bunch of technicalities but on whether Mr. Stevenson discriminated against me. I do not think that is too much to ask.

The CHAIRMAN. Well, thank you very much. That is an enormously tragic story. I think that that thing happens in this country has to make all of us feel a sense of shame that that kind of condition exists in our society. Tragically it does in too many instances, and, hopefully, at least we will able, with this legislation, to try to address that kind of situation.

Tell me, after you had worked 10 years and endured that kind of real harassment and bigotry, how did you feel when the U.S. Supreme Court told you that the law didn't apply to protect you?

MS. PATTERSON. I was very disappointed and hurt because after what I went through and suffered, even I couldn't go to the U.S. Supreme Court or go to any court and be satisfied that I could get help. And that was the only place I knew where I could go was to the courts.

The CHAIRMAN. There are people—lawyers, professors—that say that the result of that decision wasn't really a setback of civil rights. What do you say to them?

MS. PATTERSON. It is a setback because they are using my case now as an example, and many cases, discrimination cases, have been lost because of what they've done to me, and if we can't go to court to get satisfaction, where can we go?

The CHAIRMAN. Do you think it sends a message one way or another to employers that they don't have to be sensitive to these kinds of issues?

MS. PATTERSON. Yes, it sends a very negative message to them.

The CHAIRMAN. And what do you think that message is?

MS. PATTERSON. The message is that, "We can do anything or treat minorities and blacks any kind of way because we see now

that the courts are not going to do anything about it and we have the right to treat them as they did back in slavery times."

The CHAIRMAN. That is wrong. It certainly is.

Well, the best way that we can express our appreciation to you for coming up here is to pass this legislation, and we are going to do everything we can to do it right away.

Ms. PATTERSON. Thank you.

The CHAIRMAN. And we share the sense of indignity and sadness which you have endured, but we also share enormous admiration for you for staying with this despite all of these difficulties and for your willingness to come up here.

I can't believe that the American people who have heard that very simple and eloquent and tragic statement, that they wouldn't demand that this be done virtually immediately. We will do everything we can, and I believe we are going to be successful, and when we are, an important part of the credit will be yours.

Ms. PATTERSON. Thank you, Senator.

Mr. KENNEDY. The Patterson decision effectively said as long as there was not discrimination in the actual hiring, it really did not make much difference what else happened to that individual after they were in the door. They could be subject to all kinds of hassles, all kinds of harassment, all kinds of discrimination. The logic of that decision absolutely baffles me.

Now, we put the law back to what it was prior to Patterson in our substitute. The Bush administration has also adopted virtually similar language in their own proposal, to overturn Patterson.

I really do not believe that the provisions which have been included in Senator KASSENBAUM's substitute give the kinds of protections which have been guaranteed either in our own substitute or with regards to the Bush administration, No. 1.

Second, with regard to the Wards Cove decision, a major element of this decision that is of concern to the Senate is where the burden of proof lies regarding justifying employment practices. In over 200 cases since Griggs, the burden of proof had effectively been on the employer, and then the Ward Cove decision changed it. Quite frankly, it would make it extremely difficult, extremely costly for an individual to be able to prevail in court in a claim that a practice or perhaps a group of practices, which the individual did not even know about, caused a disparate impact. I believe that the Bush administration, as well as many of those here on the floor that have not even been supportive of our proposal, have stated is that they want to return to the Griggs decision. As pointed out by the Senator from California, however, the references in the substitute amendment to Rule 301 of the Federal Rules of Evidence effectively preserve the Wards Cove findings about where the burden is.

That is my reading. That was apparently stated by the Senator from California, and it effectively undermines what has been the stated objection of the Bush administration, as well as many of those who have not been satisfied with our business necessity test but still understand the importance of the burden of proof, No. 2.

Third, Mr. President, with regard to damages, by permitting the judge to make that judgment and decision, the Kassebaum substitute raises the most extraordinarily constitutional issues. I do not know of another statute on the books which would permit this.

It was so interesting that even under the Reagan administration, when an administrative law judge made a decision, the suggestion of Brad Reynolds and Ed Meese was that the parties are entitled to a jury trial. And yet this substitute effectively permits the judge to make those kinds of judgments.

I believe I understand what is being attempted here to get some kind of limitations on the damage proposal. I understand that, and this certainly would be some progress, if it had the jury trial—over the current situation where effectively women are not treated the same as minorities, in terms of compensatory and punitive damages. It was certainly part of the purpose of our legislation to insist that there are no second-class citizens in our society. When we are going to have the remedies for minorities, we must have them equally for women and the disabled; our objective in this bill was parity. That has not, however, been a part of the administration position and proposal. The way this has been treated here, however, it raises serious constitutional questions.

This amendment would endorse and codify all or part of each of the restrictive Supreme Court decisions which S. 2104 was introduced to overrule. It would also fail to provide fair remedies for all victims of intentional job bias, relegating women and religious minorities who are bias victims to second-class treatment. It is virtually identical to the earlier-circulated "opposition substitute" except for some changes to the Wards Cove section, which omits some of the problems in the earlier version but would still essentially codify Wards Cove. As explained further in the enclosed detailed analysis:

(1) *Wards Cove:* The amendment would adopt rather than overrule the damaging *Wards Cove* holding with respect to burden of proof, definition of business necessity, and group of employment practices. It also requires plaintiffs to prove that employment practices "cause" rather than "result in" a disparate impact, which could be interpreted to impose additional burdens on plaintiffs.

(2) *Price-Waterhouse:* The amendment requires that plaintiffs prove that race or other prohibited motive was a "major contributing factor" in an employment decision, which is even more restrictive than *Price-Waterhouse* and could actually allow employers to make job decisions based partly on bias.

(3) *Wilks:* The amendment permits disruptive collateral attacks on court-ordered remedies and settlements in bias cases under virtually all the same circumstances as *Wilks*, even by those who sat on their hands and failed to take any action when the remedy was entered, except where the third party had actual notice and was actually working for or had applied for a job with the employer.

(4) *Patterson:* The amendment could be interpreted to codify *Patterson*'s holding that Sec. 1981 does not prohibit on-the-job racial harassment, since it fails explicitly to prohibit bias with respect to the "terms and conditions" of a contract as does S. 2104. In fact, it is even worse than the Bush Administration bill, which expressly covers bias in the setting of the "terms and conditions" of a contract. It also provides no remedy for the hundreds of bias victims who have already suffered due to *Patterson*.

(5) *Lorance:* The amendment preserves the negative effects of *Lorance* in unfairly limiting the time within which employees may challenge discriminatory job rules not related to seniority systems, since the amendment is limited to seniority systems.

(6) *Damages:* The amendment limits additional relief to Title VII victims to up to $100,000 in "equitable" relief, which can only be awarded by a judge and where back pay is not available. This would probably be unconstitutional, would continue to deprive some bias victims of meaningful relief, and violates the important principle of fair treatment for all bias victims. It would send the very dangerous message that some kinds of discrimination are less serious and less deserving of full relief.

(7) *Other:* The amendment omits other key provisions in S. 2104, including: 1) the provisions which direct the courts to interpret civil rights laws broadly and make clear that the Court's recent decisions were incorrect; 2) the provision which adopts a statute of limitations for Title VII more comparable to that for Section 1981; 3) the provisions which clarify and strengthen the attorneys' fees sections of Title VII (except for the expert witness fees provision of S. 2104); 4) the provisions allowing interest and extending the statute of limitations in suits against the federal government; 5) the provision that ensures that the bill will not affect the legality of affirmative action and thus will not call for quotas; and 6) the transition provisions ensuring that bias victims who have already suffered as a result of the Court's restrictive decisions can obtain relief.

DETAILED ANALYSIS OF KASSEBAUM AMENDMENT 2131

Although Amendment 2131, the Kassebaum substitute for S. 2104, purports to strengthen federal job bias laws and restore the law disrupted by recent restrictive Supreme Court decisions, it fails completely to do so. In fact, in several key areas, the substitute endorses and adopts the restrictive Court decisions or makes the law even worse. In a number of areas, the substitute is more harmful to civil rights protections than positions taken by the Justice Department under the Reagan Administration. The amendment differs in a few respects from the earlier "opposition substitute", as noted below in brackets, but continues to contain virtually all the serious problems noted in the earlier analysis of the substitute. The amendment should be rejected.

(1) The substitute would adopt rather than overrule the damaging *Wards Cove* decision. In fact, it would cause even more harm to workers victimized by discriminatory job practices than the position taken in *Wards Cove* by the Reagan Justice Department.

In his opinion for a unanimous Supreme Court in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), Chief Justice Burger ruled that where job practices have a significant discriminatory impact on minorities, such practices are illegal unless the employer can prove that they are justified by "business necessity." This important principle, which helped protect against systemic job bias for over 18 years, was reserved by the 5-4 decision in *Wards Cove Packing Co. v. Atonio*, 109 S. Ct. 2115 (1989), and would be restored by S. 2104. Although the substitute purports to adopt the *Griggs* rule, it actually contradicts *Griggs* and would codify *Wards Cove* itself.

First, the substitute effectively codifies the rule in *Wards Cove* that the victim of discrimination must prove that a discriminatory job practice is not justified by business necessity. Although the substitute appears at first glance to be similar to S. 2104 by stating that an employer must "demonstrate" business necessity once disparate impact is shown, it differs from S. 2104 in a key respect by stating that the term "demonstrate" is to be defined "in accordance with Rule 301 of the Federal Rules of Evidence." Substitute, sec. 3(m), 4(k)(1). FRE 301 states, however, that the burden of persuasion in a case remains on the plaintiff or the party on whom it was originally cast "throughout the trial" unless explicitly provided otherwise by law or court rule. A court could thus easily construe the substitute to provide that even after a plaintiff proves discriminatory impact, the defendant only has the obligation to go forward with evidence, and that the burden of proof remains with the plaintiff at all times on the issue.

This is directly contrary to *Griggs*, which held that the employer has the "burden of showing" business necessity for discriminatory practices once discriminatory impact is shown. 401 U.S. at 432. It is even contrary to Justice Department regulations and to the position of the Reagan Justice Department, which recognized as recently as 1987 that the employer bore the burden of proof as to business necessity. See S. Rep. No. 586 at 17. [NOTE: the Kassebaum amendment does not contain the language in the opposition substitute specifically requiring that plaintiffs prove that a practice is not justified by business necessity.]

Second, the substitute essentially codifies *Wards Cove's* severely weakened definition of "business necessity." Under *Wards Cove*, even a practice which excludes virtually all women or minorities from a job is justified if it significantly serves any "legitimate employment goals." 109 S.Ct. at 2125-26. As even conservative appellate court judge Richard Posner has recognized, this significantly "dilutes" the *Griggs* rule, which required a "showing of necessity" for discriminatory job practices. *Allen v. Seidman*, 881 F.2d 375, 377 (7th Cir. 1989). Nevertheless, the substitute adopts the *Wards Cove* and *not* the *Griggs* standard, stating that a discriminatory practice need only manifestly relate to the employment in question or significantly serve any "legitimate employment goals." See Substitute, sec. 3(n).

Third, the substitute adopts the *Wards Cove* approach of preventing a challenge to groups of employment practices which have a discriminatory impact. Prior to *Wards Cove*, as the Reagan Justice Department itself argued in its own brief in the case, where multiple job practices "combine to produce a single ultimate selection decision and it is not possible to challenge each one, that decision may be challenged (and defended) as a whole." See S. Rep. No. 586 at 21. *Wards Cove* ruled that even in such a case, however, a plaintiff must show that each individual test or practice has a disparate impact. See 109 S.Ct. at 2125. This is an impossible burden in many cases; for example, Justice Stevens noted in *Wards Cove* itself that such separate evidence did not exist. *Id.* at 2133 n.20. Nevertheless, the substitute conforms with *Wards Cove* by providing that a combination of practices may be challenged only where a bias victim can show that "each employment practice in such combination has contributed" to the disparate impact, contrary to the pre-*Wards Cove* rule accepted even by the Reagan Justice Department. See Substitute, sec. 4(k)(1)(B).

The substitute also contains other language which could be interpreted by the courts to create restrictions on disparate impact cases which are not even found in *Wards Cove*. The substitute states that a plaintiff must prove that an employment practice "causes" a disparate impact in order to establish a *prima facie* case. Substitute, sec. 4(k)(1) (A) and (B). This is inexplicably different than S. 2104, which states that the plaintiff must prove that an employment practice "results" in a disparate impact, in accord with the language in *Griggs* which prohibits any practice which "operates" to have a disparate impact without business necessity. S. 2104, sec. 4(k)(1)(A) and (B); *Griggs*, 401 U.S. at 431. Although "causes" could be interpreted similarly to "results", it could also be interpreted to impose a higher burden of proof; for example, it could be construed to require a plaintiff to prove that the discriminatory practice was the underlying "cause" of the disparate impact and that factors such as education did not play a role. This would be directly contrary to *Griggs* itself, which held that a high school diploma requirement not justified by business necessity was discriminatory, even though the underlying cause may well have been that blacks had "long received inferior education in segregated schools." 401 U.S. at 430. [NOTE: unlike the earlier "opposition substitute," the Kassebaum amendment does not limit disparate impact analysis to hiring and promotion cases and does not state that plaintiffs must prove that discriminatory practices "caused the exclusion" of bias victims "because of their race, color, religion, sex, or national origin".]

In contrast, S. 2104 contains none of these problems. It restores the *Griggs* principle that employers must show that discriminatory job practices are substantially and demonstrably related to effective job performance or another compelling business objective, and permits a challenge to a combination of practices resulting in job decisions where available evidence does not permit individual practices to be challenged separately.

(2) The substitute would be even more restrictive than the harmful Price-Waterhouse decision. In fact, it could actually allow employers to make job decisions based partly on discriminatory reasons.

An important principle of job bias law, recognized even in the Supreme Court's decision in *Price-Waterhouse v. Hopkins*, 109 S. Ct. 1775 (1989), is that a job decision is illegal whenever race, sex, or other prohibited grounds played a "motivating part" or was a "motivating factor." *Id.* at 1790, 1795. *Price-Waterhouse* overruled prior law, however, by stating that in such a case, a job decision is legal where it is also motivated by other nondiscriminatory reasons, contrary to the position taken by the Reagan Justice Department itself in *Price-Waterhouse*. See S. Rep. No. 586 at 23. S. 2104 would restore the law by providing that a job decision is illegal where race, sex, or another prohibited ground was a contributing factor, even where other nondiscriminatory reasons may also have played a role.

Under the substitute, however, a job decision is illegal only where race, sex, or another prohibited ground was a "major contributing factor" where other factors were also involved. Substitute, sec. 5(a)(1). This could be interpreted as even more restrictive than *Price-Waterhouse*, and could permit employers to make job decisions based partly on explicitly biased reasons, as long as discrimination was not a "major" motivating factor.

(3) The substitute would permit disruptive third party attacks on court-ordered remedies and settlements in job bias cases even by parties who sat on their hands and failed to take any action when the remedy was initially entered.

Virtually all of the harm caused by *Martin v. Wilks*, 109 S.Ct. 2180 (1989), would be preserved by the substitute. Under *Wilks*, even years after a job bias remedy has been ordered or agreed upon, a third party may attack it, even if he knew all about the remedy and did nothing at all about it when it was initially entered. The same is true under the substitute, unless the third party had actual notice and was actually working for the employer or had applied for a job with the employer at that time. See Substitute, sec. 6.

Prior to *Wilks*, settlements or orders in bias cases could generally not be attacked later by any third parties. See *Wilks*, 109 S.Ct. at 2185 & n.3. S. 2104 would permit later challenges where adequate notice or representation was not provided at the time that the remedy was initially entered, encouraging early notice and resolution of any objections to such remedies while providing the stability necessary to serve Congress' purpose of promoting settlement and early resolution of discrimination claims.

(4) The substitute fails even to solve all the devastating problems caused by the Lorance and Patterson decisions, and would instead preserve part of the harm caused by these decisions.

Section 7 of the substitute seeks to overrule the Court's decision in *Lorance v. AT&T Technologies*, 109 S.Ct. 2261 (1989), which unfairly limited the time within which employees may challenge discriminatory job practices. As with the Bush Administration's bill, however, the substitute is limited to challenges to discriminatory seniority systems. This ignores the fact that the restrictive rule in *Lorance* has already been applied beyond seniority systems to other types of discriminatory job rules, such as promotion policies. See S. Rep. No. 586 at 28. Unlike the substitute, S. 2104 would completely remedy the problems caused by *Lorance*.

Section 10 of the substitute seeks to overrule the Court's decision in *Patterson v. McLean Credit Union*, 109 S.Ct. 2363 (1989), and to restore the prohibition against all racial discrimination in the making and car-

rying out of contracts in 42 U.S.C. 1981. Unlike S. 2104, however, the substitute fails explicitly to prohibit discrimination in the "enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship." In fact, the substitute is even weaker in this respect than the Bush administration bill, S. 2166, which specifically covers discrimination in the setting of the "terms and conditions" of a contract. S. 2166, sec. 2. Since *Patterson* specifically ruled that 1981 did not apply to problems arising from the "conditions of continuing employment" in ruling that racial harassment was legal under 1981, 109 S. Ct. at 2372, a court could also interpret the substitute to permit racial harassment under 1981. The substitute also contains no transition or other provisions to provide any remedy for the hundreds of bias victims who have already suffered as a result of *Patterson*.

(5) The substitute fails to provide fair remedies for all victims of intentional job bias and relegates women and religious minorities who are bias victims to second-class treatment.

A key purpose of S. 2104 is to provide fair and effective relief for all victims of intentional discrimination by adding a damages remedy to Title VII which is equivalent to the remedy available under 42 U.S.C. 1981. This will ensure that damages are available to victims of intentional discrimination on the basis of sex, religion, or national origin just as they are available to victims of intentional race discrimination in appropriate cases.

Section 8 of the substitute purports to address this problem by permitting judges to award up to $100,000 as an "equitable" remedy in cases where back pay cannot be awarded. This is inadequate for several reasons. First, the section would probably be held unconstitutional. Although it attempts to characterize the relief equitable in nature, the relief so closely resembles damages that a court would probably rule that a defendant or a plaintiff could not be deprived of the right to trial by jury guaranteed by the Seventh Amendment, despite the section's attempt to do so.

In addition, the section would continue to deprive some bias victims of meaningful relief. For example, no damages-type relief would be available at all where any amount of back pay can be provided. This would mean that even a *de minimis* back pay award to a sex discrimination victim could deprive her of all compensatory damages, no matter how significant. In addition, in those rare cases where an award of more than $100,000 is necessary to compensate bias victims, it could not be provided.

Perhaps most important, the section violates the important principle of fair treatment for all bias victims. As a result of the restrictions discussed above, as well as other restrictions in the section (such as the requirement that it be shown that the remedy is necessary for deterrence purposes and is otherwise justified by the equities), victims of sex or religious bias will be required to meet potentially onerous procedural requirements in order to obtain damages-type relief that other bias victims are not required to meet. Consequently, full relief will not be available to such discrimination victims, which can only send the very dangerous message that some kinds of discrimination are less serious and less deserving of full relief.

(6) The substitute implicitly endorses the Supreme Court's restrictive interpretation of anti-bias laws and omits other key provisions of S. 2104.

The substitute omits important sections of S. 2104 which indicate that the legislation's purpose is to overrule restrictive Court decisions and direct the Court to interpret civil rights laws broadly to effectuate their remedial purposes. By implication, and by virtue of the extent to which it actually codifies several of the Court's harmful decisions as discussed above, the substitute thus effectively endorses the Court's restrictive interpretation of civil rights laws.

In addition, the substitute omits several other important parts of S. 2104, including: 1) the provision of section 7 which adopts a statute of limitations for Title VII more comparable to that for section 1981; 2) all of the provisions of section 9 which clarify and strengthen the critical attorneys' fees section of Title VII (except that the substitute does explicitly permit expert witness fees to be recovered under Title VII); 3) the provisions in section 10 allowing interest and extending the statute of limitations in actions against the federal government; 4) the provision of section 13 that ensures that the bill will not affect the legality of affirmative action and thus will not call for quotas; and 5) the transition provisions of section 15 ensuring that bias victims who have already suffered as a result of the Court's restrictive decisions can obtain relief. [Note: Unlike the earlier "opposition substitute," the Kassebaum amendment provides for Congressional coverage in the same manner as under S. 2104.]

These are essential elements. Under the provisions of the substitute, it would not provide relief for Mrs. Patterson. In our bill, we return the law to where it was at the time of the Patterson decision, and therefore all of those injured and aggrieved individuals would be eligible for some recovery. But this substitute does not provide that.

So, Mr. President, I believe that this substitute really does fail to meet the fundamental criteria. It does not restore Griggs; it also is flawed on the issue of damages; and it retains what has been one of the most troubling aspects of the Wards Cove provision, the burden of proof issue. For those reasons, I find we should reject this substitute.

At the appropriate time, I will make a motion to table, but I do not want to deny the Senator from Kansas or the Senator from Illinois an opportunity to speak.

Mrs. KASSEBAUM. Mr. President, I would be happy to respond to the Senator from Massachusetts, but is the Senator from Illinois seeking recognition?

Mr. SIMON. I do seek recognition to speak briefly.

Mrs. KASSEBAUM. I would be happy to wait to respond, if the Senator wishes to speak at this point.

Mr. SIMON. All right.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I have great respect for the Senator from Kansas. She is one of the finest Members of this body. But even one of the finest Members of this body has the right to make a mistake, and I believe that in this amendment she has done that.

Let me point out in addition to what my colleagues from Massachusetts said, who has done such a superb job of leading on this bill, that on page 2 of the amendment it says, "The term 'justified by business necessity' means that the challenged practice has a manifest relationship to the employment in question."

Now, that is very broad. For example, if you are an employer and you believe you have to have people on the job throughout the year and you believe if you hire a young woman she may get pregnant, therefore you do not hire young women in the job, I think you could argue that it has a manifest relationship to the employment in question.

Mr. HATCH. Will the Senator yield on that?

Mr. SIMON. I am pleased to yield to my colleague for a question.

Mr. HATCH. I appreciate the comment. I notice that my colleague has criticized the Griggs test which is manifest relationship to the employment in question. Is it my understanding that the Senator has criticized that test as too broad?

Mr. SIMON. I am sorry.

Mr. HATCH. As I understand the Senator's comments, he has stated that the Griggs test, at least as I view it, and the subsequent progeny of cases view it, for the business necessity language, the "manifest relationship to the employment in question" is too broad?

Mr. SIMON. It is too broad. That is correct.

Mr. HATCH. All right, then, let me ask another question. It is my opinion, or at least inference from what the Senator is saying, that the Senator would not agree to that Griggs test?

Mr. SIMON. Well, the Griggs language, the Court decision there contains other language that is, frankly, much stronger than we have in the Kassebaum amendment.

Mr. HATCH. Not language that has been adopted by the subsequent progeny of cases, Beazer, Dothard, Teal, et al. As I understand the distinguished Senator from Illinois, basically the Senator rejects that aspect of the Griggs language as too broad.

Mr. SIMON. I accept the Griggs case and the court decisions that have gone with it. But if you just read the Griggs case—forget any other cases—I think you will find the language taken in toto is stronger than this language.

Mr. HATCH. Is the Senator saying that he accepts the manifest relationship to the employment in question language but he also believes it should have additional language in Griggs, whatever it is?

Mr. SIMON. There are other things, the term "significant."

Mr. HATCH. Would the Senator have any objection if we put that language in the bill along with other language that he likes in Griggs—only language from Griggs though, since we are trying to get back to the Griggs test?

Mr. SIMON. The immediate question at hand is the Kassebaum amendment. The question is, Does this weaken the present bill? Does it go beyond the Griggs decision? I think very clearly it does.

And I guess I will reclaim my time here shortly.

I think you could argue that something had a manifest relationship to employment if in an all white community in southern Illinois or in Nebraska you want to have an African-American hired as a clerk, or as a waitress, or a waiter. You could argue there is a manifest relationship to carrying on the business there. I think that clearly weakens.

Second, on page 3, when you get down to the complaining party identifies a combination and so forth, there you have to prove that each employment practice in such combination has contributed to the exclusion.

I think what you have to prove is an employment practice, not each employment practice. There is a significant difference.

Finally—this I think is extremely important—on page 4 of the amendment, it says "Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex or national origin was a major contributing factor for any employment practice." That is a significant departure from Griggs.

What we have had to prove up to this point is simply that there was discrimination. This goes beyond that, and says you have to prove that it is a major contributing factor.

I think on balance—and I am sure my colleague's intentions are good—the Kassebaum amendment is not a good amendment. It weakens this bill appreciably, and it weakens it far beyond the Griggs decision.

I thank my colleague from Kansas for yielding.

Mrs. KASSEBAUM. Mr. President, I was going to respond to the Senators from Massachusetts but he has left the floor.

Mr. MITCHELL. Mr. President, I suggest the absense of a quorum.

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I would like to answer, if I may, a few of the questions raised by the Senator from Massachusetts.

First, though, in response to some of the comments of the Senator from Illinois, I believe when he mentioned "major contributing factor," he was speaking not of language that is in the Wards Cove decision but that which would affect the Price Waterhouse case. That is language that is currently in our substitute regarding Price Waterhouse—"major contributing factor."

Regarding the Patterson case—and the question raised by the Senator from Massachusetts—I believe the concern perhaps expressed was regarding whether there would be any retroactive feature that would allow those to go back, those cases to be picked up that would be retroactive. That is true. There is no retroactive feature in the substitute language. There would not be the ability to go back and pick up a retroactive case but in no way is the law prior to Patterson weakened.

I have earlier gone through why the law as it was prior Patterson has not been weakened, and I would be glad to repeat that. But I believe what really was troubling to the Senator from Massachusetts was the retroactive feature, and with that I agreed. I do not think it should be retroactive. But I think Patterson itself should be protected, as it is in this substitute language.

Regarding the burden of proof in Wards Cove, I can only state: There are many interpretations of language, whether Griggs is or is not, as a matter of fact, being used. From all that I can understand—and I am not a lawyer—at this point I can only say I am rather relieved that I am not a lawyer because it is amazing the contortions that we can get into in trying to come up with whether we are using the right word or the wrong word.

From the perspective of one who is not a lawyer, it seems to me sometimes that the nuances escape me. But the substitute language, as far as I am concerned, clearly is Griggs language. It is Griggs, as has been stated in court cases before, and we have simply used that same language. The burden of proof has been, in the substitute language, moved to the employer by virtue of being the burden of production as well as the burden of persuasion. I do not know how else to make that clear, and if there are any further questions regarding that, that is something that we will have to get into at a further time.

Regarding the damages section and the constitutionality of whether the judge can award damages in discrimination there, or harassment, the Justice Department has assured me that indeed it is constitutional as it is written in the substitute. I can only say, Mr. President, that I am awaiting a letter from the Justice Department which will spell that out, and I hope to have that tomorrow to make that part of the RECORD, so that it will clarify any concerns about whether it would be constitutional, as far as the Justice Department would interpret it.

Mr. President, I will be glad to yield the floor.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, one of the amendments which is pending and which may be called up at some point in time is amendment No. 2129 by Senator HUMPHREY. Because of the significance of this amendment, I want to insert in the RECORD a memorandum of law concerning this amendment and the background of it. I commend it to the attention of my colleagues. I do submit it and ask unanimous consent that it be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
REPUBLICAN POLICY COMMITTEE,
Washington, DC, July 17, 1990.

MEMORANDUM—FETAL PROTECTION LAWS AND THE CIVIL RIGHTS ACT OF 1990 (S. 2104)

(By Lincoln C. Oliphant, Committee Legislative Counsel)

Section 4 of the Civil Rights Act of 1990 will nullify the fetal protection laws of the United States as they have been developed by the United States courts of appeals in *Auto Workers v. Johnson Controls*, 886 F.2d 871 (7th Cir. 1989) (en banc), cert. granted, 58 U.S.L.W. 3614 (Mar. 26, 1990); *Hayes v. Shelby Memorial Hospital*, 726 F.2d 1543 (11th Cir. 1984); and *Wright v. Olin Corp.*, 697 F.2d 1172 (4th Cir. 1982). See also, *Zuniga v. Kleberg County Hospital*, 692 F.2d 986, 992 (5th Cir. 1982). Unfortunately, the Committee Report breathes not one word of this.

The country's fetal protection jurisprudence will be nullified under both Section 4 of the bill as reported and Section 4 of the Kennedy-Jeffords substitute (of July 9) which, of course, does not have a report. The issues discussed in this memorandum are not new to the substitute, however, and could have been discussed in the committee report which was silent.

In fetal protection cases the courts of appeals have allowed employers to assert a "business necessity" defense. For example, in *Johnson Controls* the Seventh Circuit sitting en banc said:

"[N]either the text of Title VII nor Supreme Court pronouncements mandate a holding that all forms of facial discrimination are justifiable only with a bona fide occupational qualification defense. . . .

"We are convinced that the components of the business necessity defense . . . balance the interest of the employer, the em-

ployee and the unborn child in a manner consistent with Title VII. The requirement of a substantial health risk to the unborn child effectively distinguishes between the legitimate risk of harm to health and safety which Title VII permits employers to consider and the '[m]yths or purely habitual assumptions' that employers sometimes attempt to impermissibly utilize to support the exclusion of women from employment opportunities. Likewise, the requirement that the risk of harm to offspring be substantially confined to female employees means that a fetal protection policy applying only to women recognizes the basic physical fact of human reproduction, that only women are capable of bearing children. Finally, the employee's option of presenting less discriminatory alternatives to a fetal protection policy assures that the policies are only as restrictive as necessary to prevent the serious risk of harm to the unborn child. Accordingly, we agree with the Fourth Circuit, Eleventh Circuit, and EEOC that the business necessity defense applies to these cases. While business necessity defense can be appropriately applied to fetal protection policy cases under Title VII. . . ." 886 F.2d at 886–87 (footnote omitted).

In the quoted case, the Seventh Circuit agreed with the Fourth Circuit which said, "[W]e hold that under appropriate circumstances an employer may, as a matter of business necessity, impose otherwise impermissible restrictions on employment opportunity that are reasonably required to protect the health of unborn children of women workers against hazards of the workplace." *Wright v. Olin Corp.*., 697 F.2d at 1189–90.

In the quoted case, the Seventh Circuit agreed with the Eleventh Circuit which said, "[W]e simply recognize fetal protection as a legitimate area of employer concern to which the business necessity defense extends." *Hayes v. Shelby Memorial Hospital*, 726 F.2d at 1552 n. 14.

In the quoted case, the Seventh Circuit agreed with the EEOC which said, "[T]he Commission follows the lead of every court of appeals to have addressed the question . . . and concluded that the business necessity defense applies to these cases. While business necessity has traditionally been limited to disparate impact cases, there is an argument that in this narrow class of [fetal protection] cases the defense should be flexibly applied." EEOC Notice, "Policy Guidance on Reproduction and Fetal Hazards" at 4 (Oct. 7, 1988). However, in light of *Wards Cove*, the EEOC changed its mind. EEOC Notice, "Policy Guidance on *United Auto Workers v. Johnson Controls, Inc.*" (Jan. 24, 1990).

In the excerpt from *Johnson Controls* quoted above, the Seventh Circuit said, "[T]he text of Title VII [does not] mandate a holding that all forms of facial discrimination are justifiable only with a [bfoq] defense." Section 4 of S. 2104 fixes that. Section 4 adds a new paragraph 703(k)(2) to the Civil Rights Act of 1964 that reads, "A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this [disparate impact] subsection. That language eliminates the business necessity defense for fetal protection policies.

If the bill is enacted, fetal protection policies presumably would be required to meet the stringent bona fide occupational qualification (bfoq) defense. The bfoq defense was established in the original 1964 Act, the defense permits covered entities to act on the basis of a person's religion, sex, or national origin (but not race) "in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise." 42 U.S.C. 2000e–2(e)(1) (1982).

The EEOC's "Guidelines on Discrimination Because of Sex" say ". . . the bona fide occupational qualification exception as to sex should be interpreted narrowly. . . ." 29 CFR 1604.2(a) (1989). "Where it is necessary for the purpose of authenticity or genuineness, the Commission will consider sex to be a bona fide occupational qualification, e.g., an actor or actress." *Id.* at 1604.2(a)(2).

The *Hayes* and *Wright* courts already have said that a fetal protection policy cannot meet the bfoq standard. The Eleventh Circuit said, "We hold that when a policy designed to protect employee offspring from workplace hazards proves facially discriminatory, there is, in effect, no defense. . . . Therefore, under traditional BFOQ analysis, the defense is inapplicable to this case." *Hayes v. Shelby Memorial Hospital*, 726 F.2d at 1549. The Fourth Circuit said, "The inappropriateness of applying the overt discrimination/b.f.o.q. theory of claim and defense . . . is that, properly applied, it would prevent the employer from asserting a justification defense which under developed Title VII doctrine it is entitled to present." *Wright v. Olin Corp.*, 697 F.2d at 1185 n. 21. (The *Johnson Controls* court held that both the bfoq defense and the business necessity defense were available. 886 F.2d at 883–87 (business necessity) & 893–901 (bfoq).)

If the bfoq defense is defined as narrowly as the Committee would like, every fetal protection policy in the country will shrivel and vanish. The Committee said, "The BFOQ defense has, from its inception, been recognized as extremely stringent. As Justice Marshall [observed] in the context of sex discrimination, the BFOQ exception is 'applicable only to job situations that require specific physical characteristics necessarily possessed by only one sex.' Justice Marshall cited with approval the example in the Equal Employment Opportunity Commission regulations on BFOQ, 29 CFR 1604.2(a)(2), that it is permissible to employ actors and actresses for certain roles based on their gender." S. Rpt. 101–315 at 47 n. 39 (citations omitted).

The way the Committee figures, bfoq's aren't for fetuses but for actors and actresses, but in a day when Miss Pat Carroll plays Falstaff at Capitol Hill's Folger Theatre the Committee might consider thinking of bfoq's beyond the footlights.

As noted above, the Supreme Court has agreed to review the *Johnson Controls* case. The Court has agreed to consider four questions. One question is irrelevant to the matters raised in the memorandum but the other three are vital. Here are the three relevant questions as posed by one of the advocates, the plaintiffs-appellants, i.e., those who are challenging the company's policy (and who lost in the court of appeals): ". . . Where employer policy excluding all fertile women from certain jobs because of concerns for health of any fetus that those women may conceive is challenged as unlawful gender discrimination violative of Title VII of 1964 Civil Rights Act: (a) does plaintiff or defendant bear burden of proving that employer's justification for excluding women from certain jobs meets Title VII standards? (b) is that justification judged under explicit provisions of statutory affirmative defense for bona fide occupational qualifications or is employer entitled to assert additional, broader 'legitimate business justification' defense not explicitly stated in statute? (c) if only statutory bona fide occupational qualification defense is available, does fetal protection purpose come within bounds of that defense?" 58 U.S.L.W. 3568 (Mar. 6, 1990).

Of the three relevant questions it can be seen that question (a) presents the underlying problem of Section 4. It is the *Griggs-Wards Cove* burden of proof problem. Questions (b) and (c) present the specific issue of what defense is available for a fetal protection policy.

Question (b) asks if the employer is entitled to a "business necessity" defense. Section 4 of this bill answers "no". Of course, the Seventh, Eleventh, and Fourth Circuits answered "yes"—but if this bill passes Section 4's answer will supersede the answer of the courts of appeals. Section 4 is intended to remove the possibility of answering "yes" to this question.

Question (c) asks if the bfoq defense is available if "business necessity" is not. The bill itself does not appear to address this question, but the Committee report, by adopting the "extremely stringent" interpretation of the broq defense, answers "no". That's also the position taken by the Eleventh and Four Circuits.

The United States, in an amicus brief filed with the Supreme Court, says "It is possible for a sex-based, fetal protection policy to be justified as a BFOQ." Brief for the United States and the Equal Employment Opportunity Comm'n as Amici Curiae Supporting Petitions at 16, *Auto Workers v. Johnson Controls*, no. 89–1215 (U.S.S.Ct.) On the other hand, numerous briefs from those who are generally described as civil rights advocates disagree with the United States and argue that the bfoq defense was not intended to encompass fetal protection policies and is not available to Johnson Controls. In the *Johnson Controls* case, Judges Easterbrook and Flaum took the position that a fetal protection policy can never be a bona fide occupational qualification. 886 F.2d at 908–21 (dissenting opinion).

The Senate should consider the following type of approach, it seems to me: ". . . As previously discussed, it is not clear that [a] *Griggs*-type approach should apply to a fetal protection policy. Yet whether a BFOQ or a 'neutral factor' approach is taken, it is gratifying that, so far courts have seen their way clear to upholding reasonable measures to protect unborn children. One can hope that the law will continue to be so applied, at least until the day when all workplaces can be made healthful for everyone." A Larson & L. Larson, *Employment Discrimination*, sec. 14.50 (1989) (footnotes omitted).

Perhaps Congress wants to narrow or eliminate altogether the legal defense now available for fetal protection policies. Perhaps Congress agrees with Judge Easterbook's amazingly frank assessment in *Johnson Controls* that, "The statute has it costs; prenatal injuries are among these." 886 F.2d at 920 (dissenting opinion). If that assessment sounds harsh, it is at least a forthright and accurate description of the effect of Section 4 of this bill, which is a whole lot more than can be said for the Committee Report which does not mention fetal protection policies or cases at all.

On the other hand, perhaps Congress will sympathize with a large corporation's medi-

cal director who said, "We'd rather face the EEOC than a deformed baby." If so, amendment number 2129 of Senator Humphrey, 136 Cong. Rec. S 9786 (daily ed. July 16, 1990), will ensure that fetal protection polices can continue to be defended by the standards of "business necessity."

Mr. ARMSTRONG. Unless someone else seeks recognition, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I rise today to support passage of S. 2104, the Civil Rights Act of 1990.

Through the years, Congress has passed significant legislation which secured civil liberties for the people of the United States. In 1964 we passed the first sweeping civil rights bill. Since that time, millions of Americans have benefited from opportunities historically denied them due to race, ethnic background, religion, or sex. Such a feat, Mr. President, would not have been possible without the strong guidance of the U.S. Supreme Court.

Recently, however, the opposite seems true. Where we once turned to the Court to safeguard our basic rights and freedoms, we must now turn to Congress.

The landmark Supreme Court decision in overt, or unintentional job discrimination cases was set forth in 1971 in Griggs versus Duke Power. However, the 1989 Wards Cove interpretation challenged this 18-year-old precedent and shifted the burden of proof from the employer to the victim of discrimination.

A series of recent Supreme Court decisions threaten to unravel a quarter-century of achievements garnered by the Court and Congress in civil rights legislation. Mr. President, the Civil Rights Act of 1990 would remedy these recent departures from our established precepts of equal opportunity.

The act, spearheaded by Senator KENNEDY, reverses recent Court rulings to restore and strengthen antidiscriminatory laws in the workplace. In addition, it enables victims of intentional discriminatory practices to be awarded damages. We have heard from many interest groups representing the business sector that this legislation would force the adoption of quotas. Mr. President, I do not believe this is true. Quotas were neither enforced nor mandated under the Griggs ruling, and I do not foresee it happening now.

Mr. President, arguments on both sides are compelling. However, our civil rights must be preserved. We must continue to move forward, never backward in the field of civil rights. For these reasons, I will vote for passage of the civil rights bill.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, and many others who have been following this important legislation, we now have had the opportunity to discuss the best way to proceed on this matter—including myself, the distinguished Republican leader, the Senator from Massachusetts, the manager of the bill, the distinguished Senator from Utah, the minority manager of the bill, as well as the Senator from Wyoming [Mr. SIMPSON], assistant Republican leader, and indeed several of our Republican colleagues.

We have agreed that negotiations—which, as we earlier stated on several occasions during today's debate, have been underway for some weeks—should continue, that all parties have been acting in good faith, and at various stages of the negotiating process have come close to agreement on the many measures, the many aspects of this measure that are in contention.

And, therefore, for the information of Senators, there will be no further rollcall votes this evening, and discussions will continue.

Under the rules of the Senate, once cloture is invoked there can be up to 30 hours of further consideration on the measure. I will shortly ask unanimous consent that when the Senate reconvenes and returns to this measure tomorrow morning there be 12 hours remaining on the bill which would leave us in the position of approximately what we would be had we remained in session during that period, something we are unanimous in agreeing serves no useful purpose.

That will leave ample time for the disposition of the matter, if there is an agreement. If there is not an agreement on the substance of the matter, we hope to be able to reach agreement on how best to handle the pending and any other amendments that Senators may wish to offer which are germane and have previously been filed.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON APPROPRIATIONS REPORT ON THE ALLOCATION OF BUDGET TOTALS FOR FISCAL YEAR 1991

Ms. MIKULSKI. Mr. President, today, the Committee on Appropriations completed its deliberations and favorably reported its 302(b) allocations, consistent with the amounts agreed to in Senate Resolution 308.

I have been requested by Senator ROBERT C. BYRD, the distinguished chairman of the committee, to submit this report which subdivides the allocation among its subcommittees.

I ask unanimous consent that this allocation be printed in the RECORD.

There being no objection, the allocation was ordered to be printed in the RECORD, as follows:

COMMITTEE ON APPROPRIATIONS, U.S. SENATE 302(b) ALLOCATION

[In billions of dollars]

	Discretionary		Mandatory		Total	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Subcommittee:						
Agriculture	10.167	9.476	40.707	25.087	50.874	34.563
Commerce	19.335	18.289	.850	.844	20.185	19.133
Defense	263.324	276.078	.165	.165	263.489	276.243
District of Columbia	.570	.580			.570	.580
Energy	20.900	19.900			20.900	19.900
Foreign Ops	14.678	12.626	.675	.675	15.353	13.301
Interior	12.800	11.925	.071	.072	12.871	11.997
Labor/HHS	50.408	53.208	123.069	122.900	173.477	176.108
Legislative	2.268	2.155	.072	.072	2.340	2.227
Mil Con	7.980	8.666			7.980	8.666
Transport	12.700	29.000	.479	.477	13.179	29.477
Treasury	11.550	10.300	8.882	9.221	20.432	19.521
VA, HUD	61.320	58.545	17.541	20.345	78.861	78.890
Total	488.000	510.748	192.512	179.858	680.512	690.606

Note.—Detail may not add to totals due to rounding.

THE GORTON AMENDMENT TO ELIMINATE THE 1 PERCENT GLOBAL LIMIT ON THE GROWTH OF TEXTILE AND APPAREL IMPORTS (AMENDMENT NO. 2211)

Mr. LEVIN. Mr. President, the amendment would eliminate the bill's 1 percent global limit on the growth of textile and apparel imports from nations which increase their imports of U.S. agricultural goods. Specifically, it would grant these nations a 50-cent increase in their quota of textile imports for every dollar increase in their imports of U.S. agricultural goods.

The bill already ties textile imports to agricultural exports. It provides nations which increase their imports of U.S. agricultural goods with an increased limit on textile exports to the United States. This provision provides textile exporting countries with an incentive to increase their purchase of American agricultural goods. It also recognizes that cotton and wool producers in the United States benefit from a healthy domestic textile and apparel industry. For these reasons, American farm organizations have endorsed this bill the way it is.

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990

Mr. KOHL. Mr. President, I rise today in support of H.R. 4328, the Textile, Apparel, and Footwear Trade Act of 1990. I commend Senator HOLLINGS for his successful efforts to solidify such strong bipartisan support for this legislation.

While I still have some concerns about the bill's effect on existing trade agreements, I believe it provides us with our best hope of getting stronger agreements in the future. As both an elected official and a conscientious businessman, I believe we must use the Uruguay round to actively encourage and negotiate reductions in international trade barriers. But to accomplish this task in a way that protects American interests, we must remind both our trade negotiators and the rest of the world that America will not venture down the free trade path alone: that free trade, and fair trade, is a two-way street.

Right now, the street is decidedly one way. And America's trading partners are passing us in the other lane. While the 1980's brought us a good deal of economic growth, the decade also brought up plant closings, company consolidations, mergers, layoffs, and a general decline in our manufacturing-based economy. Along with the textile and apparel industry, the automobile, steel, and electronics industries were devastated by products being imported from countries which became competitive by taking advantage of our "open door" policy with respect to trade. Their industries get subsidies, ours don't; they pay people low wages, we don't; they tolerate unsafe working conditions, we won't. The net result is that the price of their commodities is lower when compared to ours. This scenario encourages American entrepreneurs to buy the cheaper, foreign-made products in order to stay competitive with their rivals—both at home and abroad.

That is the global picture. And it doesn't change when you focus in on textiles and footwear in Wisconsin. Wisconsin's footwear industry lost 1,679 jobs over the last 10 years—or one-third of the industry's jobs. And it's not just Wisconsin and not just the footwear industry. Between 1980 and 1990, the U.S. textile and apparel industry lost 295,000 jobs; mostly due to the increasing number of imported products formerly manufactured in this country. In 1985 alone, we lost 64,000 jobs in the apparel industry and about 44,000 jobs in the textile industry. Our imports of textiles such as yarn, fabric, and similar materials increased from 2 million square yards in 1980 to 6 million yards in 1989. If we keep that up, we may not have an industry by the end of the next decade.

I remain convinced that if we had reasonable trade agreements, this bill would not be necessary or desirable. But we don't have those agreements now—and we aren't going to get them unless we make it clear that we will respond if we don't. This bill makes that clear. And that is why I am willing to vote for it.

THE CLOTURE VOTE ON THE KENNEDY-JEFFORDS SUBSTITUTE TO S. 2104

Mr. CHAFEE. Mr. President, I would like to take a couple of moments to talk about the cloture vote that will occur.

I am a long-time supporter of civil rights legislation. I would like to see a civil rights bill come out of this Congress. I have been in constant touch with parties involved in this debate, and I have done what I could to bring the sides together. We have some real concerns about the decisions on civil rights handed down by the Supreme Court in 1989, and I think we should get on with it.

Frankly, however, I do not like—nor see the need for—this cloture motion. Cloture is a procedure of last resort. It is a procedure that the Senate leadership uses, usually out of dire necessity, in order to keep some order when this body debates a particular bill. It ensures that we have some limits, some appropriate boundaries when we carry out our legislative work. But it is not a legislative tool of first resort. After other efforts have failed, cloture is filed, or at least threatened. We certainly do not enter into cloture situations lightly.

That is why I am puzzled, to say the least, that cloture was filed in this situation. I do not think that it is justified at this point. I do not think that we have exhausted other possibilities, such as agreement, time agreements, votes tabling motions, discussions, et cetera. This situation just does not seem to warrant as extreme a solution as cloture.

First, we have not started substantive debate on this bill. We have done a few opening statements, but that's it. Instead we have gone on to finish up the crime bill, the ADA bill, and the textile bill. Clearly, cloture is not required at this point.

Second, there are negotiations with the administration going on right now. They seem to be going forward, and agreements are being reached. This is not an administration that wants to veto this bill, and it is trying in good faith to work out a compromise. In fact, the Senator from Massachusetts was at the White House last evening, negotiating on this bill.

Third, cloture shuts out many who have amendments, many of which may be positive contributions to this debate. Senators may not be able to offer them under the strict rules of germaneness that apply once cloture is invoked. That's not fair. Furthermore, limited amendments means that some questions will remain unanswered—questions that perhaps could have been laid to rest or resolved or otherwise disposed of during floor debate.

For these reasons, I feel strongly that we could work this out without a cloture motion. Cloture doesn't help anyone—after all, a narrow victory is not a victory at all in this game. Cloture at this time does no more than engender bad feeling.

In sum, this procedure is unwarranted. Thus, for the above reasons, I will not now support a cloture motion.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination, which was referred to the Committee on Commerce, Science, and Transportation.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 11:35 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 933. An act to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

The enrolled bill was subsequently signed by the Acting President pro tempore [Mr. HARKIN].

At 4:20 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3338. An act to direct the Secretary of the Interior to convey all interest of the United States in a fish hatchery to the State of South Carolina, and for other purposes;

H.R. 3774. An act to assure the continuing airworthiness of aging aircraft, and for other purposes;

H.R. 3787. An act to authorize a joint Federal, State, and Tribal study for the restoration of the fishery resources of the Chehalis River Basin, Washington, and for other purposes;

H.R. 5131. An act to amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes; and

H.R. 5256. An act to amend the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3338. An act to direct the Secretary of the Interior to convey all interest of the United States in a fish hatchery to the State of South Carolina, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3774. An act to assure the continuing airworthiness of aging aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 5131. An act to to amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 5256. An act to amend the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, and for other purposes; to the Select Committee on Indian Affairs.

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following bill, which was placed on the calendar:

S. 1379. A bill to reauthorize and amend the Defense Production Act of 1950, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 17, 1990, he had presented to the President of the United States the following enrolled bill:

S. 933. An act to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 2630. A bill to amend the Public Health Service Act to extend the tuberculosis program, and for other purposes (Rept. No. 101-372).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2631. A bill to amend the Public Health Service Act to reauthorize certain injury control programs, and for other purposes (Rept. No. 101-373).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 2434. A bill to permit the implementation of the Department of Transportation Anti-Drug Program rule for recipients of Federal mass transit assistance (Rept. No. 101-374).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1731. A bill to provide for the creation, restoration, protection, enhancement, and conservation of coastal wetlands, and to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats, and for other purposes (Rept. No. 101-375).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER (for himself and Mr. BOSCHWITZ):

S. 2859. A bill to establish a task force on farm safety, to provide grants for research on issues concerning farm safety, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE:

S. 2860. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for travel expenses of certain loggers; to the Committee on Finance.

S. 2861. A bill to amend the Internal Revenue Code of 1986 to provide special rules for certain gratuitous transfers of employer securities for the benefit of employees; to the Committee on Finance.

By Mr. ROTH:

S. 2862. A bill to prohibit revenue recovery firms and certain auditors from receiving compensation on a percentage of findings basis, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. BINGAMAN, Mr. SIMON, Mr. PELL, Mr. DURENBERGER, Mr. METZENBAUM, Mr. JEFFORDS, Ms. MIKULSKI, Mr. DODD, and Mr. ADAMS):

S. 2863. A bill to amend the Stewart B. McKinney Homeless Assistance Act and the Public Health Service Act to reauthorize certain health, education, training, and community services programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DOMENICI:

S. 2864. A bill to establish the National Atomic Museum; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BOSCHWITZ (for Mr. MURKOWSKI):

S. Res. 309. Resolution to amend Senate Resolution 66, relating to committee funding, to clarify the spending authority of the Committee on Veterans' Affairs; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER (for himself and Mr. BOSCHWITZ):

S. 2859. A bill to establish a task force on farm safety, to provide grants for research on issues concerning farm safety, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARM INJURY PREVENTION AND TREATMENT ACT

● Mr. DURENBERGER. Mr. President, I rise today to introduce, along with my colleague Senator BOSCHWITZ, S. 2859, the Farm Injury Prevention and Treatment Act of 1990.

This bill is simple in concept, addressing an often overlooked subject: farm safety. It has four parts, one on government coordination and information gathering, a part that will make farm machinery safer, an injury treatment and health care section, and a part on farm safety education.

Farm safety is often overlooked, yet agriculture is one of this Nation's most dangerous occupations. There are about 50 agricultural deaths per 100,000. The annual death rate for all industries combined is only 11. In 1986 there were 1,900 agricultural deaths, 300 of them were children and most of them were machine-related. Agricultural equipment is involved in about one-fourth of on-farm work injuries and in nearly half the deaths. In addition, there are approximately 170,000 disabling farm injuries each year. These injuries and accidents cause pain and suffering, cost millions of dollars, and disrupt lives and families. And, they are preventable.

Although a lot is being done by the Federal Government, there is no comprehensive or coordinated program to address the farm injury problem. We

know there is a problem, a big problem, but we don't know how big or where best to focus our resources. This bill calls for coordination and information gathering to help the various Government agencies such as the Extension Service and the Centers for Disease Control focus on their work.

But, coordination and information gathering is not enough. We must act on what we do know. We know that tractor rollovers pose the greatest threat to farmers and that rollover protection systems can dramatically lessen that threat. We know grassroots education can prevent accidents. S. 2859 addresses this coordination problem as well as takes immediate steps to prevent accidents.

Mr. President, before I go into detail about S. 2859, it is important to note that my bill builds upon the quality work already done in recent years by my colleagues, Senators COCHRAN and HARKIN. Senator COCHRAN has sponsored legislation that will provide valuable resources for farm safety education. Similarly, Senator HARKIN has created numerous farm safety programs in the health care areas. My bill will pull these two efforts together, and it addresses the threat farm machinery poses to farmers.

I. COORDINATION AND INFORMATION GATHERING

The first and most important part of S. 2859 is title I which provides for coordination of the Government's farm safety efforts and requires a comprehensive study and compilation of the Nation's farm safety information.

Currently, the two main Federal entities doing farm safety work, the Departments of Agriculture and Health and Human Services, do a lot of work on this issue. But, there is no coordinating process. S. 2859 will order the two Departments to enter into a memorandum of understanding that will expressly outline how the Departments will coordinate their farm safety programs.

The bill also establishes a 17-member interdisciplinary and intergovernmental task force. Serving on the task force will be the Secretaries of HHS and USDA as cochairs and three members each representing: First, other Federal, State, and local governments; second, farm organizations; third, the farm machinery industries; fourth, individuals with medical experience related to farm injury treatment; and fifth, citizens at large. The task force will be located within USDA and its members appointed by the Secretary of Agriculture in coordination with the Secretary of HHS.

The task force will have two duties. First, to advise the Secretaries of HHS and USDA with respect to their farm safety programs, including the designation, development, and maintenance of hospital assistance programs, State accident reporting demonstration projects, and farm engineering grants. The other, and in many respects more important role, is information gathering and disbursement. Although there has been much work in this area, it has not been pulled together, synthesized, gaps plugged, and new areas explored. The more we look at this issue the less we know. The task force will address this knowledge shortfall as well as focus the Government efforts in the most effective areas.

Thus, the task force shall: First, coordinate farm accident activities within USDA and HHS; and second, do a comprehensive review of the farm safety issue, compiling pertinent data in one place on a national level. It will then become an information clearinghouse on farm safety, thereby consolidating and focusing the Government's extensive farm safety efforts and determining areas that need more research and concentration. This should provide greater use of the limited financial resources.

II. FARM MACHINERY

There are two sections of the bill that touch on farm machinery. One section provides small grants—no more than $250,000—to farm engineering research entities who want to design, test, and implement safer farm machines. The other section deals with tractor rollover protection systems or ROPS.

Farmer fatigue, darkness, poor weather and maintenance, and inattentiveness sadly, and all too often, contribute to machine-related injuries. The grants section of my bill will help farm machinery manufacturers to develop safer machines by providing "seed" grants for agricultural engineering departments at land grant colleges. My goal is to make machines safe under all circumstances and known use patterns.

The other farm machinery section deals with tractor rollover protection systems. Tractor rollovers are the single greatest cause of accidental deaths on Minnesota farms where they cause 10 deaths a year. Nearly half the approximately 400 tractor-related deaths that occur each year in this Nation involve rollovers. The great majority of these deaths—about 200 a year—could have been prevented if farmers had simply used the ROPS and seatbelts that farm manufacturers and others have made available for virtually all tractors manufactured over the past 20 years.

The way my bill handles this is to have the task force study the issue and submit recommendations for how best to address the tractor rollover problem to the Secretary of Agriculture and Congress in 12 months. Congress will have 6 months to consider the recommendations and take action on them. If it does not, the Secretary of Agriculture will automatically implement the recommendations. This method lets the experts decide what needs to be done, and how it will be done, while providing congressional oversight.

One way for the task force to significantly decrease rollover injury and increase the numbers of ROPS on tractors currently in the field, with minimal interference with farmers, might be to simply require that ROPS be installed on all tractors—used as well as new—when they are sold. These sales take place every day at equipment dealerships, auctions, and between private parties. Such a requirement, over the next 10 years, in a gradual and systematic way that is not overly burdensome to farm families, and without bringing OSHA inspectors onto farms, effectively deals with most of the tractor rollover problem that exists today. Each year a number of older tractors without ROPS will become obsolete, and each year ROPS also will be added to used tractors as they are sold. The result will be solid progress in dealing with a very serious farm safety problem that can be measured in 100,000's of safer tractors and 1,000's of saved lives.

III. PUBLIC HEALTH

The bill contains three sections on health care that directly deal with farm injuries and their care. In each case, the Secretary of HHS, in consultation with the task force shall: First, issue grants to States and other appropriate entities to improve the recognition, care, and rehabilitation of farm injuries; second, through the Director of the National Institutes of Health, issue grants to support a full range of research and development pertaining to mechanisms of injury, healing, and rehabilitation of farm injuries; and third, provide targeted grants to increase the availability and qualifications of people who can provide adequate farm injury care and rehabilitation.

IV. PUBLIC EDUCATION

The Secretary of Agriculture, in consultation with the task force, shall make grants to States and other entities for the establishment of farm safety education programs concerning safety in the workplace. The goal is to reduce occupational injury and death rates including those resulting from chemical exposure.

Mr. President, to conclude, S. 2859, the Farm Injury Prevention and Treatment Act of 1990, addresses an important but overlooked aspect. The health and well-being of farmers and their families are threatened by conditions that can be changed through education and by making machinery safer. By coordinating the Federal Government's farm safety programs, encouraging the manufacture and use of safer farm machinery, enhancing rural health care capabilities, and augmenting farm safety education programs, this bill will make Government

more effective and the lives of farmers better.

Mr. President, I ask unanimous consent that a report by the Minnesota Farm Safety Task Force and a copy of the bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2859

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Injury Prevention and Treatment Act of 1990".

SEC. 2. FINDINGS.

Congress finds that—

(1) data developed by the National Safety Council indicate that farming is one of the most dangerous occupations in the United States;

(2) farmers face unique severe injuries that threaten both the lives and livelihoods of farmers;

(3) the public needs to fully understand the causes of, extent of, or solutions to, problems of injury to farmers;

(4) it serves the national interest to increase medical treatment and rehabilitation services for farm injuries;

(5) it serves the national interest to increase public knowledge about farm safety issues and the impact of farm safety on rural health; and

(6) it serves the national interest to improve coordination among the many government agencies with jurisdiction over farm safety issues.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) FARMER.—The term "farmer" includes a farmer, rancher, family member of a farmer or rancher who is involved in the operation of the farm or ranch, child of a farmer or rancher, and seasonal employee of a farmer or rancher.

(2) FARM ACCIDENT.—The term "farm accident" means an unplanned incident that—

(A) may result in a farm injury; and

(B) is determined by the Task Force to be a farm accident.

(3) FARM ILLNESS.—The term "farm illness" means a chronic condition causing impaired function that—

(A) results from a farm injury; and

(B) is determined by the Task Force to be a farm accident.

(4) FARM INJURY.—The term "farm injury" means a traumatic or toxic exposure injury to a farm worker that is determined by the Task Force to be a farm injury, including—

(A) an injury that results from improper design or construction of a building, machine, or equipment; and

(B) an intentional injury, including an injury that results from assaultive or abusive action, or suicide.

(5) LAND GRANT UNIVERSITY.—The term "land grant university" means a land grant university established under the Act of July 2, 1862 (known as the "First Morrill Act"; 12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.) or under the Act of August 30, 1890 (known as the "Second Morrill Act"; 26 Stat. 419; 7 U.S.C. 321 et seq.).

(6) TASK FORCE.—The term "Task Force" means the Farm Safety Task Force, established in section 101(a).

(7) TOXIC EXPOSURE INJURY.—The term "toxic exposure injury" means an injury that results from inhalation or contact with chemical, organic, or infectious substances or with electrical or thermal sources.

(8) TRAUMATIC INJURY.—The term "traumatic injury" means an injury that results from acute or repetitive subacute stresses to the human body.

TITLE I—COORDINATION

SEC. 101. TASK FORCE.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture a Farm Safety Task Force.

(b) MEMBERSHIP.—The Task Force shall be composed of 17 members, including—

(1) the Secretary of Agriculture;

(2) the Secretary of Health and Human Services; and

(3) 15 other members appointed by the Secretary of Agriculture, in consultation with the Secretary of Health and Human Services, including—

(A) 3 individuals from other Federal, State, and local government agencies that conduct programs related to agriculture, occupational safety, or health, or other agencies determined to be appropriate by the Secretary of Agriculture and the Secretary of Health and Human Services;

(B) 3 individuals from among individuals nominated by national agricultural organizations;

(C) 3 individuals who shall represent the interests of—

(i) the farm machinery industry; and

(ii) other industries affected by issues of farm safety that have an interest in, and a potential to contribute to, the formulation of national policy related to farm safety, as determined by the Secretary of Agriculture and the Secretary of Health and Human Services;

(D) 3 individuals with medical experience related to farm injury treatment; and

(E) 3 private citizens.

(c) CO-CHAIRPERSONS.—The Secretary of Agriculture and the Secretary of Health and Human Services shall serve as the Co-chairpersons of the Task Force.

(d) TERM OF OFFICE.—The Secretary of Agriculture shall appoint members of the Task Force under subsection (b)(3) for terms of 3 years, except that the Secretary of Agriculture shall appoint one-third of the original members for a term of 1 year, and one-third for a term of 2 years.

(e) VACANCIES.—The Secretary of Agriculture shall fill any vacancy in the membership of the Task Force in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Task Force.

(f) QUORUM.—A quorum shall consist of 9 members of the Task Force, except that 7 members may conduct a hearing.

(g) MEETINGS.—The Task Force shall meet at the call of the Co-chairpersons or a majority of the members of the Task Force.

(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—

(1) COMPENSATION.—Each member of the Task Force who is not an employee of the Federal Government shall receive compensation at a rate not to exceed the daily equivalent of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Task Force.

(2) TRAVEL EXPENSES.—Each member of the Task Force shall receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

SEC. '02. STAFF AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Secretary of Agriculture and the Secretary of Health and Human Services may appoint and determine the compensation of such staff as the Task Force determines to be necessary to carry out the duties of the Task Force.

(2) LIMITATIONS.—The rate of compensation for each staff member shall not exceed the daily equivalent of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code for each day the staff member is engaged in the performance of duties for the Task Force. The Secretary of Agriculture and the Secretary of Health and Human Services may otherwise appoint and determine the compensation of staff without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—

(1) SERVICES AND COMPENSATION.—The Secretary of Agriculture and the Secretary of Health and Human Services may obtain and compensate such temporary and intermittent services of experts and consultants in accordance with section 3109(b) of title 5, United States Code, as the Task Force determines to be necessary to carry out the duties of the Task Force.

(2) LIMITATION.—The rate of compensation for each expert or consultant shall not exceed the daily equivalent of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code for each day the expert or consultant is engaged in the actual performance of duties for the Task Force.

(3) INTENT OF CONGRESS.—It is the intent of Congress that the Secretary of Agriculture and the Secretary of Health and Human Services shall obtain the services of experts and consultants from State agencies, land grant universities, and other organizations that gather farm accident and injury information in accordance with this subsection whenever appropriate in order to use existing expertise and information concerning farm accidents and injuries.

(c) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Task Force, the Secretary of Agriculture and the Secretary of Health and Human Services shall detail, without reimbursement, any of the personnel of the Department of Agriculture or the Department of Health and Human Services to the Task Force as the Task Force determines to be necessary to carry out the duties of the Task Force. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(d) TECHNICAL ASSISTANCE.—On the request of the Task Force, the Secretary of Agriculture and the Secretary of Health and Human Services shall provide, without reimbursement, such technical assistance and administrative support services to the Task Force as the Task Force determines to be necessary to carry out the duties of the Task Force.

(e) OBTAINING INFORMATION.—The Secretary of Agriculture and the Secretary of Health and Human Services may secure directly from any Federal agency information necessary to enable the Task Force to carry out the duties of the Task Force, if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the Secretary of Agriculture and the Secretary of Health and Human Services, the head of the agency shall furnish the information to the Task Force.

SEC. 103. ORGANIZATION.

(a) MEMORANDUM OF AGREEMENT.—Not later than 4 months after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of Health and Human Services shall develop and enter into a Memorandum of Agreement that shall, at a minimum—

(1) identify the resources and programs of the Department of Agriculture, the Department of Health and Human Services, and other Federal, State, and local programs, that relate to farm safety issues;

(2) coordinate the resources and programs of the Department of Agriculture and the Department of Health and Human Services existing on the date of enactment of this Act with the research and grant programs established by sections 104, 201, 202, 301, 302, 303, and 401;

(3) develop and establish appropriate minimum standards for the responsibilities of the Department of Agriculture and the Department of Health and Human Services to the Task Force, including provision of staff to the Task Force to develop recommendations on research and grant proposals, and perform the administrative work of the Task Force;

(4) develop a budget for the activities of the Task Force;

(5) provide that, in the event of a disagreement between the Task Force and the Secretary of Agriculture with respect to any research program established by section 104 or 201, the decision of the Secretary of Agriculture shall be final; and

(6) provide for an annual review of the memorandum of agreement by the Secretary of Agriculture and the Secretary of Health and Human Services.

(b) CONSULTATION.—The Secretary of Agriculture and the Secretary of Health and Human Services shall, in developing the Memorandum of Agreement under subsection (a), consult with and solicit the comments of the heads of other Federal, State, and local programs that relate to farm safety issues.

(c) PUBLICATION.—The Memorandum of Agreement established in accordance with subsection (a) shall be submitted to Congress and published in the Federal Register not later than 6 months after the date of enactment of this Act.

(d) COORDINATION.—The Task Force shall coordinate and serve as a clearinghouse for Federal farm safety outreach and education programs.

(e) PRIORITY.—The Task Force shall determine the scope and priority of each of the research and grant programs established by sections 104, 201, 202, 301, 302, 303, and 401.

SEC. 104. FARM ACCIDENT PREVENTION STUDY.

(a) STUDY.—

(1) SUBJECT.—The Task Force shall—

(A) conduct a nationwide study of the frequency and the types of farm accidents that involve farmers;

(B) gather and provide relevant regional information on farm accidents; and

(C) perform tasks determined by the Secretary of Agriculture to be needed to acquire and analyze the information required to be collected under subparagraphs (A) and (B).

(2) ANALYSIS.—In conducting the study described in paragraph (1), the Task Force shall—

(A) analyze farm accidents involving—

(i) farm equipment and machinery;

(ii) agricultural chemicals;

(iii) livestock;

(iv) farm buildings; and

(v) children;

(B) differentiate between farm accidents that are related to agricultural employment and farm accidents that are not related to agricultural employment; and

(C) use recognized scientific and analytical methods.

(b) STUDY RESULTS.—

(1) ADMINISTRATIVE RECOMMENDATIONS.—The Task Force shall review the information gathered in accordance with subsection (a) and submit to appropriate Federal agencies the findings and conclusions of the Task Force about the adequacy or deficiency of existing farm safety programs operating within various regions of the country, including recommendations for administrative reform.

(2) REPORT TO CONGRESS.—Not later than January 1, 1993, the Task Force shall submit a report to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate describing the findings and conclusions of the study required by subsection (a), including recommendations for legislative reform.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1991 through 1995.

SEC. 105. CENSUS OF AGRICULTURE.

The Secretary of Commerce shall include questions relating to agricultural accidents and farm safety in the 1992 Census of Agriculture.

TITLE II—FARM MACHINERY

SEC. 201. TRACTOR ROLL-OVER STUDY AND REQUIREMENTS.

(a) STUDY.—

(1) SUBJECT.—The Task Force shall conduct a study of protective roll-over devices for tractors. In particular, the Task Force shall examine—

(A) the safety benefits of various protective devices;

(B) the costs associated with various protective devices;

(C) appropriate minimum guidelines for protective devices;

(D) practical and feasible means of encouraging farmers and farm machinery manufacturers to install protective devices on farm machinery; and

(E) practical and feasible means of discouraging users of farm machinery from inhibiting or overriding safety devices.

(2) REPORT.—Not later than 12 months after the date of enactment of this Act, the Task Force shall submit to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary of Agriculture a written report of its findings and conclusions from the study conducted under paragraph (1), including recommendations for administrative and legislative reform.

(b) REQUIREMENTS.—If Congress has not passed legislation concerning tractor roll-over protective devices 6 months after the date the Task Force has submitted the report described in subsection (a)(2), the Secretary of Agriculture shall implement through rulemaking the recommendations of the Task Force contained within the report specified in subsection (a)(2).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) STUDY.—There are authorized to be appropriated for purposes of carrying out subsection (a) $1,000,000 for fiscal year 1991.

(2) REQUIREMENTS.—There are authorized to be appropriated for purposes of carrying out subsection (b) $500,000 for each of the fiscal years 1992 through 1995.

SEC. 202. FARM MACHINERY ENGINEERING RESEARCH GRANTS.

(a) ESTABLISHMENT.—The Task Force shall establish a Farm Safety Fund and is authorized, in accordance with appropriation Acts, to award grants from the Fund to eligible entities to pay for the Federal share of conducting research on farm machinery safety engineering.

(b) USE OF GRANTS.—Entities shall use grants provided under this section to—

(1) conduct research on engineering designs and protective devices to improve the safety of farm machinery;

(2) implement the designs and install the devices on farm machinery; and

(3) test the designs and devices.

(c) AWARD OF GRANTS.—

(1) PEER REVIEW.—The Task Force shall obtain peer review of research proposals, and shall seek the widest participation of qualified scientists in the Federal Government, State governments, colleges and universities, and the private sector to perform the review. The results of the review shall be presented to the Task Force.

(2) PRIORITY.—The Task Force shall award grants under this section in accordance with the priority established by the Task Force in accordance with section 103(e), and shall give priority to applicants that—

(A) receive non-Federal funding;

(B) are land grant universities;

(C) propose research designs that demonstrate a high likelihood of adaptability to existing and future farm machinery; or

(D) propose research designs that address user or behavioral actions that inhibit current safety devices.

(3) AWARDS.—The Task Force shall award grant funds from the Farm Safety Fund on a majority vote of the Task Force. Either the Secretary of Agriculture or the Secretary of Health and Human Services may veto a disbursement.

(4) LIMITATION ON AMOUNT.—In awarding a grant to an entity under subsection (a), the Task Force may—

(A) make individual grants of up to $250,000; and

(B) make total awards of up to $500,000 within any 3-year period.

(d) APPLICATION.—To be eligible for a grant under subsection (a), an entity shall submit an application to the Task Force at such time, in such manner, and containing such agreements, assurances, and information, as the Task Force determines to be necessary to carry out this section. At a minimum, the application shall contain—

(1) a research proposal;

(2) an assurance that the entity will submit periodic reports to the Task Force containing a description of the progress made and findings obtained by the study; and

(3) an assurance that the entity will obtain at least 50 percent of the costs of

conducting research from non-Federal funds.

(e) ELIGIBILITY.—The Task Force shall establish eligibility criteria for an entity, including a land grant university, to receive grants under subsection (a).

(f) FEDERAL SHARE.—The Federal share of grants provided under this section shall be 50 percent.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Farm Safety Fund for purposes of carrying out this section $5,500,000 for each of the fiscal years 1991 through 1995.

TITLE III—PUBLIC HEALTH

SEC. 301. GRANTS TO IMPROVE THE RECOGNITION, CARE, AND REHABILITATION OF FARM INJURIES.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services, acting through the Centers for Disease Control and in consultation with the Task Force, shall make grants, on a competitive basis, to States and other entities to carry out activities to improve the identification, treatment, and rehabilitation of farm injuries and farm illnesses.

(b) USE OF GRANTS.—An entity shall use grants awarded under subsection (a) to—

(1) develop guidelines, standards, and protocols governing the identification, treatment, and rehabilitation of farm injuries and farm illnesses; and

(2) develop training materials and conduct training for paramedical, medical, nursing, and allied therapy personnel in the subject matter of the guidelines, standards, and protocols.

(c) AWARD OF GRANTS.—The Secretary of Health and Human Services shall award grants under this section in accordance with the priority established by the Task Force in accordance with section 103(e). The Secretary of Agriculture may veto a disbursement.

(d) APPLICATION.—To be eligible for a grant under subsection (a), an entity shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and containing such agreements, assurances, and information as the Secretary of Health and Human Services determines to be necessary to carry out this section. At a minimum, the application shall contain assurances that the entity will submit periodic reports to the Secretary of Health and Human Services and to the Task Force containing—

(1) guidelines, standards, and protocols developed in accordance with subsection (b)(1); and

(2) a description of the training conducted in accordance with subsection (b)(2).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of the fiscal years 1991 through 1995.

SEC. 302. GRANTS TO STUDY INJURY MECHANISMS AND REHABILITATION PROCESSES.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health and in consultation with the Task Force, shall award grants to, and enter into cooperative agreements with, public and private nonprofit entities to support a full range of research and development projects concerning farm injury mechanisms, and healing and rehabilitation processes for farm injuries.

(b) USE OF GRANTS.—An entity shall use grants awarded under subsection (a) to establish research and development projects involving—

(1) basic and clinical research, including longitudinal and consortium-type multidisciplinary and clinical trials, on the causes of farm injuries;

(2) biomedical and behavorial studies on the causes of farm injuries;

(3) projects that take a multidisciplinary approach to preventing a specific farm injury; or

(4) demonstrations of advanced methods of diagnosing, preventing, treating, and managing farm injuries.

(c) AWARD OF GRANTS.—

(1) PEER REVIEW.—The Director of the National Institutes of Health shall obtain peer review of research proposals, and shall seek the widest participation of qualified scientists in the Federal Government, State governments, colleges and universities, and the private sector to perform the review. The results of the review shall be presented to the Director of the National Institutes of Health.

(2) PRIORITY.—The Director of the National Institutes of Health shall award grants under this section in accordance with the priority established by the Task Force in accordance with section 103(e).

(d) APPLICATION.—To be eligible to receive a grant or enter into a cooperative agreement under this section, an entity shall submit an application to the Director of the National Institutes of Health at such time, in such manner, and containing such agreements, assurances, and information as the Director and the Task Force determine to be necessary to carry out this section. At a minimum, the application shall contain—

(1) a research proposal; and

(2) an assurance that the entity will submit periodic reports to the Director and the Task Force containing a description of the progress made and the findings obtained by the research or development project.

(e) CONSULTATION AND COORDINATION.—In carrying out the provisions of this section, the Director of the National Institutes of Health shall consult with the Director of the National Institute on Neurological and Communicative Disorders and Stroke, the Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the Secretary of Agriculture, and the Directors of other relevant Institutes and Public Health Service Agencies.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 1991 through 1995.

SEC. 303. GRANTS TO INCREASE THE AVAILABILITY AND QUALIFICATIONS OF CLINICAL STAFF AND RESEARCHERS IN FARM OCCUPATIONAL HEALTH.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Task Force, shall award grants to and enter into cooperative agreements with public and private nonprofit entities to increase the availability and qualifications of clinical staff and researchers in farm occupational health.

(b) USE OF GRANTS.—An entity shall use grants awarded under subsection (a) to establish programs to—

(1) attract new practitioners to careers in aspects of occupational medicine that include farm injury prevention, treatment, and rehabilitation; and

(2) attract new or young researchers to careers in fields involving clinical applications and research on the biomedical, behavorial, and rehabilitative aspects of farm injuries.

(c) AWARD OF GRANTS.—The Secretary of Health and Human Services shall award grants under this section in accordance with the priority established by the Task Force in accordance with section 103(e).

(d) APPLICATION.—To be eligible to receive a grant or enter into a cooperative agreement under this section, an entity shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and containing such agreements, assurances, and information as the Secretary of Health and Human Services and the Task Force determine to be necessary to carry out this section. At a minimum, the application shall contain assurances that the State will submit periodic reports to the Secretary of Health and Human Services and to the Task Force containing a description of the programs established in accordance with subsection (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 1991 through 1995.

TITLE IV—PUBLIC EDUCATION

SEC. 401. FARM SAFETY EDUCATION.

(a) ESTABLISHMENT.—The Secretary of Agriculture, in consultation with the Task Force, shall make grants to States and other entities for the establishment of farm safety education programs concerning safety in the workplace.

(b) USE OF GRANTS.—Entities shall use grants awarded under subsection (a) to provide to farmers—

(1) information and training concerning—

(A) reduction of occupational injury and death rates;

(B) reduction and prevention of exposure to farm chemicals;

(C) reduction of agricultural respiratory diseases and dermititis;

(D) reduction and prevention of noise induced hearing loss;

(E) occupational rehabilitation of farmers with physical disabilities;

(F) farm accident rescue procedures for emergency medical technicians and nonprofessionals; and

(2) appropriate rural health and safety information resources from the Rural Information Center, established at the National Agricultural Library.

(c) COORDINATION OF PROGRAMS.—Education programs funded by grants awarded in under subsection (a) shall be coordinated with State offices of rural health or other entities determined by the Secretary of Agriculture and the Task Force to be appropriate.

(d) AWARD OF GRANTS.—The Secretary of Agriculture shall award grants under this section in accordance with the priority established by the Task Force in accordance with section 103(e).

(e) APPLICATION.—To be eligible for a grant under subsection (a), an entity shall submit an application to the Secretary at such time, in such manner, and containing such agreements, assurances, and information as the Secretary and the Task Force determine to be necessary to carry out this section. At a minimum, the application shall contain an assurance by any State applicant that, if the State contains a land-grant university, including Tuskegee University, the State and the land-grant university shall mutually determine the type of rural health and safety education program needed in the State.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1991, $10,000,000 for fiscal year 1992,

$15,000,000 for fiscal year 1993, and $20,000,000 for fiscal year 1994 and each subsequent fiscal year. Amounts appropriated under this subsection shall remain available until expended.

TITLE V—TERMINATION

SEC. 501. TERMINATION AND REPEAL.

(a) TERMINATION.—Effective September 30, 1995, the Task Force shall be abolished, and all programs established by this Act shall terminate.

(b) REPEAL.—Effective September 30, 1995, this Act shall be repealed.

SAFE FARMS FOR MINNESOTA

[From the Minnesota Advisory Task Force on Farm Safety, Feb. 7, 1990]

"Beardsley injured on farm—Marathoner's leg caught in machinery," read the Star Tribune headline last November 14. Dick Beardsley is well known for his accomplishments as a long distance runner. He finished second in the 1982 Boston Marathon with one of the fastest times ever for an American runner. He is less well known for his career as a farmer. However, farming is how he and his wife make their living. A former farm production specialist for Land O'Lakes, Beardsley and his wife now manage a 50-cow dairy herd and raise food grain.

According to the news report, at 9 a.m. the day before, Beardsley was transferring corn to a crib on his Shafter, Minnesota farm when his coveralls became caught in a tractor power take-off. His wife, Mary, who was in a nearby milk house, couldn't hear his calls for help over the hum of a bulk tank motor. When the motor shut off, she heard him whistle.

"I ran out of the milk house and I couldn't see him, but I knew that he had been working over there," she was quoted to say. "He said to call an ambulance. . . . I knew right away what had happened. I was afraid to go look at him."

Mary dialed 911 and returned to her husband. Beardsley had managed to reach the clutch to shut off the power take-off, but not before it tore off his coveralls and wrapped his left leg around the shaft.

"He was in a lot of pain and very impatient for the ambulance," Mary said. He was admitted to the hospital shortly before 10 a.m. Beardsley suffered ligament damage to his left knee and multiple cuts and bruises. Other than a broken wrist and cracked right ribs, no other bones were broken. "He's very, very lucky," said Mary. "It could have been much worse." Beardsley's running coach said, "It's the most feared of all accidents that can happen on the farm. It's just miraculous that he's alive."

Many other farm accident victims have not been so lucky. If their lives were spared, they may have lost a limb. If they are physically whole, they might be incapacitated by disease or chronic illness. These are the kind of stories which the Advisory Task Force on Farm Safety has heard in the course of its work to date.

LEGISLATURE CREATES TASK FORCE

The Laws of Minnesota 1989, Chapter 350, Article 17, established the advisory task force on farm safety. "The principal purpose of the task force," states the legislation, "is to determine ways in which the very high risks of accident and injury to farm operators and their families and employees can be minimized." The commissioner of agriculture was directed to provide staff assistance and to appoint 11 members broadly representative of groups with an interest in farm safety. Pursuant to Subdivision 5 of the legislation, this document reports the task force's findings and recommendations for legislation on farm accident prevention and other public policy changes that would be likely to improve health and safety on Minnesota farms.

MEMBERS

The following persons were appointed to the task force: Linda Mork (farmer and Minnesota Farmers Union member), Barb Ruhland (farmer and Minnesota Farm Bureau Federation member), Joe Lund (farm equipment manufacturer), Theresa Pesch (community health service director), David Nicolai (Cenex/Land O'Lakes), Jim Faber (insurance industry representative), George Foster (Minnesota Extension Service), Carol Bufton (Minnesota Safety Council), Myron Erickson (farm equipment salesperson), Senator Joe Bertram, and Representative Steve Dille. Assistant Commissioner of Agriculture Herb Halvorson was appointed chair. Staff work was done by Tony Anderson, a public affairs specialist with the Department of Agriculture. Further assistance was provided by Tom Brennan, a farm safety specialist with the Minnesota Extension Service.

ACTIVITIES AND WORK

The task force met monthly beginning in August, 1989. Among resources consulted by the task force were several specialists in farm safety. They included Dr. Paul Gunderson, director of the Center for Health Statistics at the Minnesota Department of Health; Dr. Kelley J. Donham, M.S., D.V.M., professor at the Institute of Agricultural Medicine and Occupational Health at the University of Iowa; Ken Ross, a safety and products liability attorney with the firm of Popham, Haik, Schnobrich & Kaufman Ltd. in Minneapolis; Randy Reinke and Jim Schmitt from Custom Products of Litchfield, Inc., a manufacturer of Roll-Over Protective Structures for tractors; Stearns County Sheriff Charlie Grafft; Keith Anderson, president of the Minnesota Association of Farm Mutual Insurance Companies. In addition, the task force reviewed Minnesota laws, educational videos, articles, and studies to generate an informed discussion.

Age distribution of Minnesota farm fatalities, 1980–88

	Percent
14 years and younger	19
15 to 64 years	58
65 years and older	23

Source: Minnesota Extension Service, 1989

FINDINGS

Farming is America's most dangerous occupation with 48 accidental deaths per 100,000 workers each year. The average for all industries is 11 deaths per 100,000 workers. The National Safety Council reports that in recent years, mining and construction have seen a reduction in the number of accidental deaths among workers in those industries, while agriculture has maintained its death rate.

Injuries and diseases among agricultural workers are more difficult to quantify, but are thought to be at least as serious as the death rate. In addition to farmers and farm workers, family members are often at risk of being killed or injured on the farm.

During the 1980s in Minnesota, there was an average of 48 farm work-related deaths per year. Children under age 15 accounted for 19 percent of the fatal accident victims, while 23 percent were senior citizens over the age of 65.

The Minnesota Extension Service finds that most Minnesota farm work-related deaths (30 per yer) involve machinery, with tractors being the most frequently cited (20 per year). Other sources of danger on the farm include animals, structures such as grain bins and confinement buildings, animal waste storage facilities, electrical boxes and fixtures, and chemicals.

At 10 deaths per year, tractor roll-overs are the single greatest cause of accidental deaths on Minnesota farms, followed by tractor run-overs at 4.6 deaths per year.

Minnesota farm fatalities by type, 1980–88

	Amount
Suffocation	26
Tractor	159
Machinery	90
Falls	27
Other (electrocuted, crushed, animal, truck/car)	107

There are many contributing factors to hazardous conditions on farms. Economic pressures often result in improper maintenance of equipment, taking shortcuts, farming at night after working another job, or putting children to work at what might be considered age-inappropriate tasks. A survey of Iowa farmers found that 65 percent of farm boys operate tractors between the ages of 10 and 12 while 27 percent operate tractors between 7 and 9 years of age. Economic pressures might also result in both parents working, leaving children without adequate child care.

Farmers continually face new situations involving oversized, unwieldy objects that are mechanized, under tension or alive, frequently when it is icy, noisy or dark. Farming is increasingly mechanized. Shields and guards are often taken off because they are awkward. Farming also requires working long hours at peak seasons such as harvest and planting. All these are conditions that make farmers more vulnerable to accidents. Farmers generally begin their occupation at an earlier age and continue to a later age than workers in other industries, often resulting in deficiencies in skill, strength or judgment at some point. Farmers also often work alone. When there is an accident, the nearest hospital or rescue team is likely to be many miles away. This is a growing problem as rural health care facilities continue to disappear.

The merger of farm work and family life, the desire to instill a work ethic in children, greater tolerance for injuries, reluctance to use available safety technology, a macho image and attitude often seen in young, aggressive farmers and an independent nature that resists regulation have also been cited as contributing factors to the dangers of farming. However, there are also off-farm factors contributing to these conditions.

There has been a general lack of awareness and concern among farm organizations, government and academia for farm safety. For example, the United States Department of Agriculture's only occupational safety and health position has gone unfilled for three years. The federal Occupational Safety and Health Administration is charged with enforcing safety conditions on farms, but is prohibited from inspecting "small" farms with 10 or fewer employees, in effect exempting most farms from safety regulations.

State and federal law requires children under age 16 who work as agricultural employees to have safety training certification before operating various farm implements. This requirement is waived if the children

work for or with their parents. Safety training is less and less available. There is no legal minimum age for children to perform any task on their parents' farm.

EXISTING FARM SAFETY EFFORTS

In some ways, Minnesota is ahead of neighboring states in farm safety promotion. For example, it is the only state in the 5-state area that employs a full time, university-based extension safety specialist. Minnesota is also the only one of these states that attempts to compile a record of farm work-related deaths each year.

Besides state-supported efforts, Minnesota is benefitting from the federally-supported work of Dr. Paul Gunderson in the area of farm accident surveillance. He and Carroll Rock, of the Minnesota Agricultural Statistics Service, are beginning a three-year farm accident survey project in 5 states in the north-central region, including Minnesota.

Minnesota tractor deaths by type, 1980–88

	Percent
Overturned	49
Runovers	21
Power takeoffs	9
Falls from	8
Other	8
Crushed/pinned	5

Source: Minnesota Extension Service, 1989.

The township mutual insurance companies have a fire safety inspectors network that monitors for minimum levels of insurability. For 1990, the Minnesota Farmers Union is including safety in its programming for 9–11 year olds.

As a result of the work of the Advisory Task Force on Farm Safety, several safety initiatives have been made privately by task force members. Barb Ruhland has brought educational materials to the attention of programming directors for the Agriculture in the Classroom program and the farm cooperative and 4-H program in her area of the state. Joe Lund, has organized a coalition of machinery manufacturers to participate in a joint safety effort. Linda Mork has brought safety education material to teachers from three school districts. They will be incorporating this material into their curriculum at the fourth grade level. She has also worked with her 4-H organization and the Minnesota Farmers Union youth program. Myron Erickson has had conversations promoting farm safety programming with many, including county sheriffs, major machinery dealers, medical clinics and technical colleges. Erickson successfully persuaded a major seed company to withdraw one of its advertisements showing a farmer unsafely leaping from the operator's station of a combine.

CONCLUSIONS

Based on its study, the Advisory Task Force on Farm Safety has reached the following conclusions:

Farm safety is a broad and multi-faceted challenge that requires continued study to produce a comprehensive state farm safety policy.

Farm families need assistance to identify potential safety and health hazards on the farmstead, and to provide incentives to correct those hazards. The farm mutual insurance companies have an infrastructure in place which currently performs this function at a very basic level.

Existing farm safety laws are too often forgotten, ignored, unenforced or otherwise not complied with. There are many good laws which, if complied with, would promote safer conditions for farmers, their families and employees.

Education is an important component in the farm safety effort. The University of Minnesota, the Minnesota Extension Service and other educational institutions such as the technical college system are important conduits to reach farm families. The safety specialist position in the University's Department of Agricultural Engineering is key in advancing farm safety in Minnesota.

Surveillance systems have been inadequate to identify the causes of the accidents, the frequency and severity of accidents, and the resulting economic loss.

The effects of agricultural chemicals and the environmental conditions in animal confinement buildings on the long-term health of farm workers is not always known. There is insufficient scientific and medical research. There is also no adequate surveillance and reporting system for accidents or occupationally related health effects.

More effort is needed to increase the safety of new equipment, including more research and better education for design engineers about the importance of focusing on safety in the design process.

A significant amount of engineering research has been conducted to improve the safety of new farm equipment. Farm equipment tends to have a long life, however, and older, less safe equipment continues to be used. Promotion and incentives are needed to encourage retrofitting older equipment with new safety devices.

Research on the design of farmsteads, farm buildings and facilities is needed to explore alternative methods of arranging the farmstead for increased safety.

Study of the safety and health of farm families should include examination of the availability of health care facilities in rural Minnesota, as well as examination of the social and economic considerations related to child care for farm families where both parents are working.

FIRST PHASE RECOMMENDATIONS

The Task Force is continuing to develop recommendations for the state and will submit a complete report in one year. However, some initial steps can be suggested. As a first stage of action, the Advisory Task Force on Farm Safety recommends that the State of Minnesota take the following steps to promote farm safety:

1. Empower the Advisory Task Force on Farm Safety to continue its work to inventory existing farm safety programs, build coalitions, and develop recommendations for a comprehensive statewide farm safety and health program. The legislature should direct the task force to report again in one year and to clarify that the task force's appropriation is available for the entire biennium ending June 30, 1991. This action should be taken during this legislative session.

2. Approve and provide funding for a pilot project to develop a comprehensive farm safety audit, in cooperation with the farm mutual insurance companies, to identify safety and environmental health hazards on the farm, to recommend steps to eliminate those hazards, and to test the effectiveness of offering financial incentives to do so. See page six for a summary of the project. This action should be taken during this legislative session.

3. Direct the Department of Public Safety to seek greater compliance with existing farm safety laws through both education and enforcement. Examples include load limits, vehicle maintenance requirements and the use of lights and Slow Moving Vehicle signs on public roads, and the requirement for 4-H training certification for the employment of minors under age 16 for driving tractors and other self-propelled equipment. This action should be taken during this legislative session.

4. Continue to support the farm safety specialist position at the University of Minnesota Extension Service and increased educational activities by other educational institutions accessible to farm families. Funding for the farm safety specialist position should be made part of the permanent base funding for the university. This action should be taken during the 1991 legislative session.

5. Support a surveillance system to track the frequency, severity and causes of accidents and environmental health incidents on farms. The Minnesota Agricultural Statistics Service is currently developing a model for a statewide surveillance system with funding from the Federal Centers for Disease Control. State funding for a statewide survey every four years is recommended. This action should be taken during the 1993 and 1997 legislative sessions.

COMPREHENSIVE FARM SAFETY AUDITS

The task force is interested in promoting farm safety through the adoption of a voluntary farm safety audit program by the insurance industry. Minnesota's 118 township mutual insurance companies in Minnesota insure 85 percent of the state's making them excellent agents for promoting farm safety. These companies currently employ inspectors who evaluate farms for a minimum standard of insurability. They could go beyond this level to provide a comprehensive farm safety audit.

Such a program would incorporate education and an incentive to change attitudes and behavior. The incentive would be a discount on the insurance premium in exchange for meeting certain safety standards. In order for the industry to adopt this program, quantitative and qualitative measurements are needed to demonstrate its level of effectiveness.

A PILOT PROJECT

The Minnesota Extension Service's Department of Agricultural Engineering will design the research project and audit instrument in conjunction with the insurance industry. Township mutual insurance companies would be invited to participate in a two-year pilot project to research the effectiveness of a farm safety audit program. Participating companies and their insured farmers would be divided into three groups: an experimental group in which insured farmers would be offered a free comprehensive safety audit by the insurance auditor, a second experimental group in which insured farmers would be offered the audit with the incentive of a discount on their insurance premium if they meet certain safety standards, and a control group which would be monitored without audits or incentives.

The auditors would be able to inform the farmers about where and how they can improve their safety rating, including what safety equipment to purchase. The farmers in the two experimental groups who accepted the audit would be offered a second, follow-up audit at a later date. In addition to the information collected for the insurance rating, other information useful for farm safety promotion and research could also be collected.

The farms visited in the first year would constitute the experimental and control groups. Measurements would be taken on the rate of acceptance of the offer to per-

form an audit, with and without the incentive. Their insurance claims before and after the audit would be analyzed. The initial safety ratings established by the audits would be complied to form a picture of the safety conditions on farms in Minnesota. The level of improvement in the follow-up audits would also be measured.●

By Mr. DASCHLE:

S. 2860. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for travel expenses of certain loggers; to the Committee on Finance.

TRAVEL EXPENSE DEDUCTION FOR CERTAIN LOGGERS

● Mr. DASCHLE. Mr. President, I am introducing legislation today to address what I feel is an unfair ruling by the Internal Revenue Service. It is a situation where pure tax policy simply is not practical in its application to everyday life.

In my State of South Dakota, there is a national forest called the Black Hills Forest. It is a very large forest of some 6,000 square miles. Many of my colleagues may be familiar with it.

In this forest, there is a thriving logging industry that employs many South Dakotans. The logging companies that have operations there would not be able to do their business without the assistance of those who cut the logs in the first instance and haul or skid them to the trucks that carry the logs to the mill. These cutters and skidders, and the contractors who employ them, are usually referred to simply as loggers.

For a logger, traveling to work every day is very different from the experience of the average commuter. Loggers often travel as much as a couple of hours one way to the site where cutting is taking place. This may involve driving along miles of unpaved forest roads. It isn't possible for them to live closer to their work site, not only because of its location, but also because that site may change from month-to-month. In addition, loggers must have vehicles that are capable of traversing rough forest terrain.

Despite the number of miles the loggers must travel to work each day and the rough terrain, the IRS has said that their expenses of traveling from home to the work site and back again are nondeductible commuting expenses. This is true regardless of the location of the work site within the forest and its distance from the individual logger's home. For, according to the IRS, the entire 6,000-square-mile forest is the loggers' tax home for purposes of deducting mileage expenses.

Despite the IRS's reasons for taking this position, the effect of the rule on loggers in the Black Hills is unfair. It imposes a hardship on them and fails to recognize the special circumstances of their jobs. True, other taxpayers are not permitted to deduct commuting mileage expenses. But other taxpayers generally are not forced to travel such long distances to and from work each day or to drive along dirt forest roads.

To rectify this situation, I am introducing legislation that would allow loggers, in the Black Hills or elsewhere, to deduct their mileage expenses incurred while traveling between their homes and the cutting site, so long as the mileage is legitimately related to their business. The measure would be effective starting with the current tax year.

I ask unanimous consent that the full text of the bill be printed in the RECORD following my remarks. I urge my colleagues, particularly those who have loggers in their State, to take a close look at it. This may seem a smaller matter in the scheme of what we do here in the Senate, but it would restore a measure of fairness to loggers who currently are subject to the IRS's whims.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2860

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION FOR TRAVEL EXPENSES OF CERTAIN LOGGERS.

(a) IN GENERAL.—Section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) SPECIAL TRAVEL EXPENSE RULES FOR LOGGERS.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(2) and section 262, in the case of an individual, there shall be allowed as a deduction under this section such individual's travel expenses in connection with the trade or business of logging (including the miles to and from such individual's home).

"(2) TRADE OR BUSINESS OF LOGGING.—For purposes of this section, the term 'trade or business of logging' means the trade or business of the cutting and skidding of timber."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1989.●

By Mr. ROTH:

S. 2862. A bill to prohibit revenue recovery firms and certain auditors from receiving compensation on a percentage of findings basis, and for other purposes; to the Committee on Labor and Human Resources.

FAIR AUDITING ACT

● Mr. ROTH. Mr. President, national spending for health care services topped $500 billion for the first time in 1987, and health care costs are rising much faster than the rate of inflation. Hospital care expenditures are the largest component, 39 percent, of this mammoth figure. I am introducing a bill today to help limit these rapidly rising figures.

Of course, rising health care costs affect virtually every American, because we all need professional health care at one time or another. Moreover, even if you are perfectly healthy, rising health care costs affect you as a Federal taxpayer, because the Federal Government funds approximately 30 percent of all health care spending in our Nation.

A few weeks ago, the Permanent Subcommittee on Investigations, on which I serve as ranking member, held hearings on a relatively new and rapidly expanding type of business, known as revenue recovery. Revenue recovery firms are companies which contract with hospitals to recover money owed the hospital for services rendered but not billed. These companies operate nationwide. PSI heard evidence that some of these companies were conducting unfair audits on medical bills. Many of the audits embellished unbilled charges while down playing, or ignoring, the instances where the hospital had charged too much. In short, too often revenue recovery firms are not presenting a clean, fair bill.

The hearing revealed many aspects of revenue recovery practices that were less than ethical, but the one key feature that disturbs me is their compensation system. Most revenue recovery firms are compensated for their audits with a percentage of the lost charges they recover for the hospital. Therefore, they have a vested interest in the results of their audits. I am concerned about the incentives to cheat which are created by the contingency fee arrangements under which many revenue recovery firms operate. I am equally concerned about insurance company auditors who are paid a percentage of what they are able to knock off a hospital bill. Both arrangements potentially affect the impartiality and independence of the auditor.

My bill, which is called the Fair Auditing Act of 1990, does away with percentage-based reimbursement for auditors. The bill requires the Secretary of Health and Human Services to promulgate regulations to prohibit any hospital, medical clinic or insurance company from paying their auditors on a percentage-based compensation system. It is a simple concept, but it does away with biased auditing by either health care providers or insurers.

Now I recognize there is a legitimate role for medical auditors whether they work for insurers or hospitals. I certainly don't suggest that every company involved in the revenue recovery business is operating improperly. Indeed, several of the big eight accounting firms have revenue recovery sidelines, although I should add that the business practices of these accounting firms differ considerably from the practices of the revenue recovery firms which were the subject of the PSI hearings. Moreover, many hospitals are facing difficult financial

times, and they deserve every penny which is honestly owed them.

Some may argue that this is a private dispute between hospitals and insurance companies and that the Federal Government need not be concerned if some revenue recovery firms are cheating some insurance companies. Well, I emphatically reject this notion. First, because the Federal Government and the U.S. taxpayers are directly affected. The Federal Government pays more than $8 billion per year as its share of health insurance premiums for Federal workers. Those premiums are experienced based. That is, if the insurance companies' pay-outs increase, the premiums they charge increase. Moreover, the longstanding battle between health providers and health insurers carries with it heavy administrative costs. And who do you think ends up paying the price for these two sides to battle it out? The effect is ultimately the same, whether insurance companies or patients are being gouged. It drives up costs. In the end, you can bet that it is the consumer who feels the pinch, whether it is through an inflated hospital bill or an inflated premium.

Finally, it is my hope that these two industries will synchronize their opposing energies and regulate themselves. I have sent communications to both the American Hospital Association and the Health Insurance Association of America urging that they jointly formulate medical auditing guidelines. I believe this approach is preferable to compulsory legislation. However attempts at self-regulation by the industry have failed in the past, and I feel strongly enough about this issue to pursue legislation in the absence of any agreement. Thus, I am introducing the Fair Auditing Act of 1990 as a first step toward implementing reasonable corrective action.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Auditing Act of 1990".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) REVENUE RECOVERY FIRM.—The term "revenue recovery firm" means an entity that conducts audits of the patient accounts of hospitals to determine whether any unbilled charges are outstanding.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(3) THIRD PARTY AUDITOR.—The term "third party auditor" means an entity that conducts audits of medical or health insurance companies to determine the veracity of medical charges of patients.

SEC. 3. PROHIBITION.

The Secretary shall promulgate regulations to ensure that any hospital, medical clinic or insurance company that receives Federal assistance, or any other entity that receives Federal assistance that is determined appropriate by the Secretary, shall not pay compensation to a revenue recovery firm or a third party auditor if such compensation is based on a percentage of the revenue findings (including unbilled patient charges or permissible reductions in charges) of an audit conducted by such firm or auditor.●

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. BINGAMAN, Mr. SIMON, Mr. PELL, Mr. DURENBERGER, Mr. METZENBAUM, Mr. JEFFORDS, Ms. MIKULSKI, Mr. DODD, and Mr. ADAMS):

S. 2863. A bill to amend the Stewart B. McKinney Homeless Assistance Act and the Public Health Service Act to reauthorize certain health, education, training, and community services programs, and for other purposes; to the Committee on Labor and Human Resources.

STEWART B. MC KINNEY HOMELESS HEALTH CARE, EDUCATION, TRAINING, AND COMMUNITY SERVICES AMENDMENTS

Mr. KENNEDY. Mr. President, today I am introducing, on behalf of myself and Senators HATCH, BINGAMAN, SIMON, PELL, DURENBERGER, METZENBAUM, JEFFORDS, MIKULSKI, DODD and ADAMS, critical legislation to reauthorize the Stewart B. McKinney Homeless Assistance Act.

According to the Partnership for the Homeless, the number of men, women, and children living on the streets of America increased by nearly 20 percent in 1989 alone. The number of homeless families has doubled over the last decade.

Four year ago, Congress addressed this worsening tragedy and enacted the McKinney Homeless Assistance Act to provide emergency food, shelter, health and mental health care, job training, and education for homeless children and adults.

The amendments proposed today will extend the McKinney Act and make it more effective in addressing the needs of the homeless.

The bill will extend all of the McKinney Act programs for 3 years, through 1993. In 1991, the bill will authorize $253 million for emergency services to homeless.

Of this total amount, $69 million will be available to expand and improve the Health Care for the Homeless Program. An additional $28.5 million will be available to continue demonstration grants dealing with substance abuse and mental health. The health needs of the homeless are substantial, and these programs are making a difference across the country—often between life and death.

The bill also reauthorizes job training, community service, and education programs. The Job Training Program would be reauthorized at $15 million in 1991, and a larger percentage of these funds will be available to serve homeless veterans. Provisions proposed by Senator SIMON have been included in the bill to promote better coordination of services and to ensure that grants will be made to areas most in need.

This bill also reauthorizes the Emergency Community Services Program for the homeless at $50 million, to ensure that homeless individuals have the case management they desperately need.

This measure also makes essential changes in the education provisions of the act. When first authorized, these provisions were intended to remove barriers that deny homeless children access to education. However, the Education Department reports that at least 28 percent of homeless school-aged children still do not attend school. Education is the gateway to a better life for homeless children. Without it, these children may never escape the tragic cycle of poverty and homelessness.

The Education Department, State coordinators, school districts, and advocates have all reported that numerous unreasonable barriers are keeping homeless children out of school. These include residency requirements, delays in transfer of school records, burdensome documentation requirements, lack of transportation, unrealistic guardianship rules, and other less obvious requirements. We need to eliminate these barriers, so that homeless children have access to what may be the only normal experience they will have during the time they are homeless.

This reauthorization strengthens the existing education provisions, and expands the McKinney Act to address these barriers and facilitate the enrollment and attendance of homeless children in school. It authorizes $50 million in assistance to cover the extra costs of expediting the evaluation of homeless children and youth for special services, facilitating the transfer of records, and providing transportation to get children into school. It also authorizes before- and after-school programs, tutoring, and counseling to ensure that once in school, homeless students are more likely to remain and to learn.

At Senator HATCH's urging, we have also included a comprehensive evaluation component in this package. The various departments involved in administering the McKinney Act are currently conducting a review of all Federal programs serving the homeless, in order to improve the act. I welcome these efforts, and our evaluation provisions signals the Senate's commitment to working closely with the administration.

Finally, a new $25 million Demonstration Program authorized by the bill will provide grants to prevent the wrongful separation of children from their families and to prevent abuse and neglect of these children.

McKinney Act programs work. In Massachusetts, McKinney funds provided 400 new shelter beds for individuals, and built 9 new family shelters with 178 beds. The Boston Health Care for the Homeless Project was able to provide over 1,400 homeless people with health care; 600 veterans have been placed in housing and jobs. The list of people helped by the McKinney Act goes on and on.

Yet the list of those who need help is much longer. The McKinney Act has helped many homeless Americans, but there are many more who have not been served. McKinney services are needed now more than ever, and I urge my colleagues to support this essential and compassionate legislation.

By Mr. DOMENICI:

S. 2864. A bill to establish the National Atomic Museum; to the Committee on Energy and Natural Resources.

NATIONAL ATOMIC MUSEUM CHARTER ACT

● Mr. DOMENICI. Mr. President, I am today introducing the National Atomic Museum Charter Act, which would grant a congressional charter to the National Atomic Museum. With approval of this charter, this important museum will be able to receive and use gifts to benefit the public and add to its excellent facilities.

The National Atomic Museum is located in Albuquerque, NM, in proximity to Sandia National Laboratory. New Mexico is the birthplace of the atomic age and is the location of Los Alamos National Laboratories which developed the atomic bomb. New Mexico's National Labs were the principal locations for research and development of the nuclear weapons that help bring World War II to an end.

Opened as the Sandia Atomic Museum in October 1969, the museum houses the most comprehensive collection of unclassified nuclear technology, including exhibits explaining the development of the chain reaction, the Manhattan Project, and the atomic theory of matter.

New exhibits and films are being planned on a number of related subjects, including the medical uses of nuclear energy. Emphasis is being placed on public understanding and public awareness, not only of atomic energy, but also the people and scientists involved in the development of the atomic era. It is fair to say, I believe, that the story of the development of atomic energy is not fully understood by many Americans. The museum performs a valuable service, educating the public on this fascinating and important aspect of our history.

As a measure of its success, over 200,000 people visited the museum last year. The number of visitors will surely grow as the use of science museums as educational tools becomes more important. This unique facility, in its historic setting, provides the people of the world with an informative and important resource. It provides a view of the past, as well as thought-provoking insights into the future.

Mr. President, I would like to acknowledge the efforts of the National Atomic Museum Committee, particularly Mr. Herman Roser of Albuquerque and am proud to introduce this legislation. I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF NATIONAL ATOMIC MUSEUM.

The museum exhibiting materials relating to nuclear science, atomic energy, atomic weapons, and peacetime uses of atomic energy, operated by the Secretary of Energy, acting through the Manager of the Albuquerue field office of the Department of Energy (referred to as the "Secretary"), on the grounds of the Kirtland Air Force Base, New Mexico, is established as the National Atomic Museum (referred to as the "museum").

SEC. 2. MISSION.

The mission of the museum shall be to—

(1) provide for the benefit and education of the public a readily accessible repository of information and materials reflecting the Atomic Age (in a setting historically significant in the development of nuclear energy);

(2) serve as an educational resource for students, scholars, and the public in the field of nuclear science; and

(3) preserve, interpret, and exhibit to the public memorabilia, models, and artifacts of significance (and replicas thereof) in the development of nuclear science, atomic energy, atomic weapons, and peacetime uses of atomic energy, with emphasis on the history of atomic weapons and other areas of research, development, and production conducted by laboratories and facilities of the Department of Energy and its predecessor agencies.

SEC. 3. ADMINISTRATION.

(a) IN GENERAL.—(1) The museum shall be administered by the Secretary under such arrangements for the use of facilities at Kirtland Air Force Base as are satisfactory to the Secretary and the Secretary of the Air Force, in consultation with and with the cooperation of the heads of departments and agencies of the United States that have functions relating to the development and use of nuclear energy.

(2) The Secretary shall—

(A) appoint a director of the museum to be responsible for the management and operation of the museum; and

(B) allocate to the museum sufficient funds for—

(i) the operation and maintenance of the museum;

(ii) the conduct of special activities at the museum; and

(iii) the making of necessary capital improvements to the museum.

(b) GIFTS TO THE MUSEUM.—The carrying out of this Act shall be considered to be the work of the Department of Energy for the purposes of section 652 of the Department of Energy Organization Act (42 U.S.C. 7262).

(c) AUTHORIZED ACTIVITIES.—The Secretary may—

(1) operate a museum shop for sale to the public of mementos, replicas of artifacts and memorabilia, literature, and other items of an informative or educational nature relating to the contents of the museum and the development and use of nuclear energy;

(2) mount displays, hold exhibitions, and conduct seminars on the development of nuclear energy, on or off the museum premises, and make reasonable charges to defray the costs thereof; and

(3) conduct other activities appropriate to the operation of a museum, including the acquisition of materials for and the operation of a library, the storage and preservation of artifacts and materials, and the preparation and distribution of literature, advertising, and other forms of communication to acquaint the public with the museum.

SEC. 4. USE OF VOLUNTEERS.

(a) IN GENERAL.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may recruit, train, and accept the services of volunteers to assist in the interpretive services and other functions and activities of the museum.

(b) STATUS OF VOLUNTEERS.—A volunteer employed under subsection (a) shall not be considered to be an employee of the United States except for the purposes of—

(1) sections 5703 and 5901 and chapter 81 of title 5, United States Code; and

(2) chapter 171 of title 28, United States Code.

(c) ADVISORY COMMITTEES.—The Secretary may establish permanent or temporary committees of persons with expertise in appropriate subject areas to provide studies, consultation, advice, or assistance to the museum regarding—

(1) improvements in the museum's facilities and in its operation and maintenance;

(2) proposed changes in the location, size, mission, or nature of the museum;

(3) solicitation of gifts and volunteer services for the museum; and

(4) other matters of concern to the museum.●

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. CRANSTON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a consponsor of S. 15, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 160

At the request of Mr. THURMOND, the name of the Senator from California. [Mr. WILSON] was added as a consponsor of S. 160, a bill to require the construction of a memorial of Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World

War II and to commemorate United States participation in that conflict.

S. 307

At the request of Mr. DODD, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 307, a bill to provide for the standardization of advertised yields on savings accounts and investments, to require the uniform disclosure of the key costs of such accounts and investments, and for other purposes.

S. 1422

At the request of Mr. FOWLER, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1422, a bill to provide for the improved management of the nation's water resources.

S. 1860

At the request of Mr. BOREN, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1860, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 1974

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1974, a bill to require new televisions to have built in decoder circuitry.

S. 2041

At the request of Mr. SYMMS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a consponsor of S. 2041, a bill to amend title XVIII of the Social Security Act to provide uniform national conversion factors for services of certified registered nurse anesthetists.

S. 2186

At the request of Mr. MCCONNELL, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 2186, a bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor.

S. 2284

At the request of Mr. KASTEN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2284, a bill to amend the Federal Food, Drug, and Cosmetic Act to define the term light or reduced fat butter, and for other purposes.

S. 2346

At the request of Mr. REID, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2346, a bill to prohibit certain practices in the raising of calves, and for other purposes.

S. 2413

At the request of Mr. KERRY, the names of the Senator from California [Mr. CRANSTON] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 2413, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoner or taken captive by a hostile foreign government or its agents or a hostile force before April 15, 1962, and for other purposes.

S. 2436

At the request of Mr. CRANSTON, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2436, a bill to amend the Peace Corps Act to extend the authorizations of appropriations for the Peace Corps through fiscal year 1992, to provide for limited exceptions to the limitation on reemployment by the Peace Corps, and to establish a Peace Corps foreign fluctuations account, and for other purposes.

S. 2653

At the request of Mr. BURNS, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2653, a bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

S. 2675

At the request of Mr. KOHL, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 2675, a bill to amend title 13, United States Code, to provide for the enumeration in the census of members of the Armed Forces assigned outside of the United States, and for other purposes.

S. 2689

At the request of Mr. HEINZ, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2689, a bill to amend title XVIII of the Social Security Act to provide for medicare coverage of the costs of home hemodialysis staff assistance, and for other purposes.

S. 2699

At the request of Mr. ROTH, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 2699, a bill to amend title 31 of the United States Code to restrict the use of appropriations amount available for definite periods.

S. 2737

At the request of Mr. ARMSTRONG, the names of the Senator from California [Mr. WILSON], the Senator from Utah [Mr. GARN], the Senator from Washington [Mr. GORTON], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New York [Mr. D'AMATO], the Senator from Idaho [Mr. SYMMS], the Senator from Texas [Mr. GRAMM], the Senator from South Carolina [Mr. THURMOND], the Senator from Alaska [Mr. STEVENS], the Senator from Indiana [Mr. COATS], the Senator from Hawaii [Mr. INOUYE], the Senator from Nevada [Mr. BRYAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. DIXON], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from North Carolina [Mr. SANFORD], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Arizona [Mr. DECONCINI], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. SASSER], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 2737, a bill to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38th anniversary of the ending of the Korean war and in honor of those who served.

S. 2754

At the request of Mr. BIDEN, the names of the Senator from Washington [Mr. ADAMS], the Senator from Michigan [Mr. RIEGLE], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

S. 2779

At the request of Mr. INOUYE, the names of the Senator from New York [Mr. D'AMATO], the Senator from Indiana [Mr. COATS], the Senator from Arizona [Mr. DECONCINI], the Senator from Kentucky [Mr. FORD], the Senator from Florida [Mr. GRAHAM], the Senator from Massachusetts [Mr. KERRY], the Senator from Florida [Mr. MACK], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 2779, a bill entitled the "Iraq Sanctions Act of 1990".

S. 2790

At the request of Mr. BINGAMAN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2790, a bill to promote educational partnerships and establish education programs involving Federal laboratories and public schools, colleges, and universities to promote and enhance science, mathematics, and engineering education at all educational levels, and for other purposes.

S. 2793

At the request of Mr. AKAKA, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2793, a bill to amend the United States Institute of Peace Act to honor the memory of the late Spark M. Matsunaga, United States Senator from

the State of Hawaii, and for other purposes.

S. 2813

At the request of Mr. GRAHAM, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2813, a bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

S. 2819

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2819, a bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes.

S. 2844

At the request of Mr. MITCHELL, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2844, a bill to amend the Public Health Service Act to provide for the establishment, with State loan repayment programs, of demonstration programs to recruit and train physicians and other health care personnel to provide medical services in rural communities, and for other purposes.

S. 2858

At the request of Mrs. KASSEBAUM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2858, a bill to amend the Civil Rights Act of 1964 to strengthen civil rights laws that ban discrimination in employment, and for other purposes.

SENATE JOINT RESOLUTION 277

At the request of Mr. LUGAR, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Joint Resolution 277, a joint resolution designating October 6, 1990, as "German-American Day."

SENATE JOINT RESOLUTION 283

At the request of Mr. CRANSTON, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Joint Resolution 283, a joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park.

SENATE JOINT RESOLUTION 329

At the request of Mr. KASTEN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-1933," and to commemorate the Ukrainian famine of 1932-1933 and the policies of Russification to suppress Ukrainian identity.

SENATE JOINT RESOLUTION 335

At the request of Mr. JOHNSTON, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of Senate Joint Resolution 335, a joint resolution designating July 1, 1990 as "Imported Oil Dependence Day."

SENATE JOINT RESOLUTION 337

At the request of Mr. SIMON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 337, a joint resolution designating Labor Day weekend, September 1 through 3, 1990, as "National Drive for Life Weekend."

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. HATFIELD, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of the Congress with respect to achieving common security in the world by reducing reliance on the military and redirecting resources toward overcoming hunger and poverty and meeting basic human needs.

AMENDMENT NO. 2131

At the request of Mr. MURKOWSKI, his name was added as a cosponsor of amendment No. 2131 proposed to S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

At the request of Mrs. KASSEBAUM, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of amendment No. 2131 proposed to S. 2104, supra.

SENATE RESOLUTION 309—CLARIFYING THE SPENDING AUTHORITY OF THE COMMITTEE ON VETERANS' AFFAIRS

Mr. BOSCHWITZ (for Mr. MURKOWSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 309

Resolved, That (a) section 18 of Senate Resolution 66, agreed to February 28, 1989 (101st Congress, 1st Session) is amended—

(1) in subsection (b) by inserting after "$1,123,937" the following: ", of which amount not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified in section 202(j) of the Legislative Reorganization Act of 1946, as amended)"; and

(2) in subsection (c) by inserting after "$1,148,131" the following: ", of which amount not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946, as amended)".

(b) The amendments made by subsection (a) are effective on March 1, 1989.

AMENDMENTS SUBMITTED

CIVIL RIGHTS ACT OF 1990

DOLE AMENDMENTS NOS. 2214 THROUGH 2217

(Ordered to lie on the table.)

Mr. DOLE submitted four amendments intended to be proposed by him to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes; as follows:

AMENDMENT NO. 2214

On page 12, strike out line 1 through line 22, and insert in lieu thereof the following:

SEC. 8. PROVIDING FOR DAMAGES IN CASES IN INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "In fashioning remedies for an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k)), the court may require the respondent to pay the complaining party an amount not to exceed $60,000 if the court finds—

"(1) that back pay cannot be awarded with respect to that practice;

"(2) that an additional equitable remedy beyond those otherwise available is needed to deter the respondent from continuing to engage in such unlawful employment practices; and

"(3) that such an award is otherwise justified by the equities.

All issues in cases arising under this title shall be heard and determined by a judge, as required under subsection (f).".

AMENDMENT NO. 2215

On page 12, strike out line 1 through 22, and insert in lieu thereof the following:

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "In fashioning remedies for an unlawful employment pratice (other than an unlawful employment practice established in accordance with section 703(k)), the court may require the respondent to pay the complaining party an amount not to exceed $100,000 if the court finds—

"(1) that back pay cannot be awarded with respect to that practice;

"(2) that an additional equitable remedy beyond those otherwise available is needed to deter the respondent from continuing to engage in such unlawful employment practices; and

"(3) that such an award is otherwise justified by the equities.

All issues in cases arising under this title shall be heard and determined by a judge, as required under subsection (f).".

AMENDMENT NO. 2216

On page 8, strike out line 5 and all that follows through line 19 on page 9, and insert in lieu thereof the following:

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice specifically required by a litigated or consent judgment or

order resolving a claim of employment discrimination under this title may not be challenged in a claim under the United States Constitution or under Federal civil rights laws by a person who, at the time of the entry of such judgment or order, was an applicant for employment with, or an employee of, the entity covered by such decree whose interests would likely be affected by the consent decree, and who had—

"(A) actual notice that such judgment or order would likely affect the interests of such person and that later challenge by such person would be barred; and

"(B) a reasonable opportunity to challenge such judgment or order.".

AMENDMENT NO. 2217

On page 3, line 6, strike out the dash and all that follows through line 16 and insert in lieu thereof the following: "that the challenged employment practice has a manifest relationship to the employment in question or has a demonstrable relationship to the successful performance of the jobs for which it was used.".

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

KASTEN AMENDMENT NO. 2218

(Ordered referred to the Committee on the Judiciary.)

Mr. KASTEN submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 183) proposing an amendment to the Constitution relating to a Federal balanced budget, as follows:

On page 2, between lines 6 and 7, insert the following new section:

"SEC. 2. Total receipts for any fiscal year may not increase by a rate greater than the rate of increase in national income in the previous calendar year ending before such fiscal year, unless ⅗ of the whole number of each House of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law."

Redesignate the following sections accordingly.

TAX LIMITATION AMENDMENT TO SENATE JOINT RESOLUTION 183

Mr. KASTEN. Mr. President, today, the House of Representatives is scheduled to vote on a balanced budget amendment to the Constitution. The Senate will soon consider a similar amendment sponsored by Senator SIMON. These amendments would require Congress to approve a balanced budget each year, prohibiting a budget deficit unless it is supported in each House by a three-fifths supermajority vote.

Mr. President, while I support these measures, I am concerned that these proposed amendments could lead to higher taxes and greater Federal spending. Under the balanced budget plan sponsored by Senator SIMON, taxes could be increased by a simple majority vote.

Without a strong provision to limit tax increases, I fear that this balanced budget plan could give Congress an incentive to raise taxes in the name of balancing the Federal budget. Under this amendment, taxes and spending could conceivably rise from their current levels of GNP to 40–50 percent of GNP.

In other words, you can have balanced budgets that go up. High levels of Government taxes and spending as a percentage of GNP would lead to an "unbalanced" economy with higher unemployment, lower productivity, and reduced private sector activity.

Look at the evidence from around the world: The track record of economies with large public sectors in promoting economic growth, jobs, and rising living standards is clearly inferior to low-tax, free market economies.

For example, in the 1960's the public sector in Europe averaged about 32 percent of GNP. By the early 1980's, the European public sector had grown to 50 percent of GNP; up to 60 percent in some countries. High taxes stifled productive incentives. Huge public sector bureaucracies crowded out private-sector opportunities. And as a result, real growth in Western Europe declined from 4 percent per year in the 1960's to less than 1 percent in the early 1980's.

By contrast, those economies with relatively smaller public sectors, like Japan, the Asian Tigers, and the United States, created millions of new jobs—over 20 million in the United States alone during the 1980's.

The key to economic prosperity is to limit the growth of both taxes and spending as a share of our economy, leaving more economic resources in the hands of the people.

The amendment I am proposing to Senate Joint Resolution 183 would require aa three-fifths supermajority vote to raise taxes at a rate beyond the growth rate of the economy. Thus, if GNP rose three percent in a given calendar year, tax revenue increases could not exceed that rate in the next fiscal year.

This language is essentially the same language in the balanced budget/tax limitation amendment passed by the U.S. Senate in 1982. If added to Senate Joint Resolution 183, this amendment would eliminate the bias toward raising taxes—and restrain the growth of taxes and spending as a share of the economy.

I think this amendment is needed now more than ever because the clamor for new taxes has never been louder. But a tax increase is simply not justified by the basic economic facts. First, the Federal Government today collects 19.6 percent of our Nation's output in taxes. That's almost one-fifth of the wealth produced every year through the hard work of our citizens.

Second, the tax burden on middle-income families has risen twice as fast as their income over the last three decades.

Third, despite everything President Reagan accomplished in the area of bringing down our tax rates, tax revenues to the Government almost doubled in the 1980's. But did the deficit get smaller? No, because spending increased at a greater rate.

Furthermore, I do not know of any economic theory—Keynesian, supply-side or whatever—which argues that higher taxes will increase economic growth. A tax increase is precisely the wrong medicine for today's soft economy. It could tip us into a recession. As economist Larry Kudlow recently put it "a tax increase is Hooveresque."

While this amendment limits taxes, it does not provide for an absolute ban on running a deficit or raising taxes. It simply requires that there be an exceptional consensus among the Members of Congress that a budget deficit or a tax increase is warranted.

Mr. President, let me conclude by simply saying that too much Federal spending is the root cause of the deficit problem—not too little taxes on the American people.

Unfortunately, the Senate Joint Resolution 183 fails to address this fundamental problem. Yet despite this flaw, I plan to vote for this balanced budget amendment. It is better to have some kind of constitutional restraint on budget deficits than to have none at all.

I believe that the balanced budget amendment would be vastly improved if it included a strong tax limitation provision.

I ask unanimous consent that the accompanying documents be printed in the RECORD:

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

[Executive Memorandum from the Heritage Foundation, Washington, DC, November 19]

SOLVING THE DEFICIT PROBLEM: A TAX LIMITATION/BALANCED BUDGET AMENDMENT

(By Daniel J. Mitchell and John M. Ollin)

The House of Representatives soon will vote on a balanced budget amendment (H.J.R. 268, S. 183) which would require the President to submit; and the Congress to approve, a balanced budget each year. The amendment also would prohibit Congress from raising the debt ceiling unless this would be supported in each House by a three-fifths vote; currently it takes only a majority to hike the debt ceiling. To become part of the Constitution, this amendment must be approved by a two-thirds vote in each chamber of Congress and be ratified by three-fourth of the state legislatures. The problem is that there are a variety of possible balanced budget amendments. A measure simply requiring a balanced budget could be used to justify higher tax to fund greater spending. What is needed, therefore, is a balanced budget amendment containing a provision restricting the ability of Congress to raise taxes.

In the past three decades, Congress only once has produced a balanced budget. That

was in 1969. Since then, 21 straight years of deficit spending have added more than $2 trillion to the national debt. While many observers discount the economic impact of the national debt, asserting that it is "just money we owe ouselves," deficit spending does in fact harm the economy. The reason is that every dollar that the Treasury Department borrows to finance excessive government spending is a dollar that is not being spent more productively by the private sector. Money that is loaned to the federal government is money that is lost to private borrowers. The borrowers may be a young worker seeking a car loan, a family searching for a mortage for a first home, or a business trying to raise money to build a new factory and expand production. Whatever the purpose of the private borrower, federal deficit spending "crowds out" more valuable uses of funds.

Draining the Productive Sector: Deficits thus are bad. But they are the symptom, not the disease. Government borrows more only because it is spending more. Replacing deficit-financed government spending with spending financed by taxes simply substitutes one policy that harms the economy for another. Taxes, like borrowing, are funds transferred from the productive sector of the economy to the government. With this in mind, the single most important provision of a balanced budget amendment would be a clause restricting taxes.

A "Taxpayer Protection" clause should make it more difficult to raise taxes and should limit the total tax burden to be placed upon the American people. The simplest method of making it harder for the federal government to increase the tax burden would be the so-called super-majority requirement introduced by Representative Larry Craig, the Idaho Republican; it would require a three-fifths vote by each House. Currently, taxes can be raised by a simple majority of those voting. As important, a provision limiting total tax collections as a percentage of the GNP would keep Congress from using a balanced budget amendment as an excuse for annual tax hikes.

Buying Popularity: The current budget debate demonstrates that a balanced budget amendment without a tax limitation provision surely would generate support for higher taxes. The statutory requirement in the 1985 Gramm-Rudman-Hollings deficit reduction law that the 1991 deficit not exceed $64 billion, combined with the refusal of Congress to cut spending sufficiently, seems to be what prompts George Bush to betray his "No New Taxes" promise and join with congressional big spenders in seeking more funds from already overtaxed Americans. Higher taxes, of course, allow more spending, and more spending allows many politicians to "buy" popularity.

It is this allure of buying popularity which prompts lawmakers to say "yes" to taxes even though this may threaten economic growth and impose heavy costs on individuals and businesses across America. This temptation would not be changed by a balanced budget amendment that did not include a provision making tax increases more difficult to enact.

Were such an amendment adopted, if taxes did not equal the amount lawmakers sought to spend, they could raise taxes to finance the spending rather than limit spending. Since the political system currently rewards big spending, a tax limitation provision is needed to restore balance to the political decision-making process.

Strong Tax Limits Needed: A proper balanced budget amendment would strengthen the economy by promoting responsible fiscal policy. This would not be the case with a balanced budget amendment that might spur higher spending and higher taxes. To ensure that a balanced budget amendment encourages sounder economic decisions and is a vehicle for economic growth, the strongest possible tax limitation language should be included.

Proponents of higher taxes and spending understandably have cheered George Bush's flip-flop decision to betray his no-tax pledge. These lawmakers may cloak their tax-and-spend agenda with rhetoric about the need for greater fiscal responsibility and for closing the budget deficit gap. But 21 straight years of fiscal responsibility rhetoric has not balanced the budget. A tax limitation and balanced budget amendment would. Until such an amendment is enacted and ratified by three-fourths of the states, all tax increases should be "off the table."

	Federal Government outlays		Federal Government receipts		
	Total (billions)	Annual growth rate (percent change)	Total (billions)	Annual growth rate (percent change)	Percent of GNP
1970	$195.6	6.5	$192.8	3.2	19.5
1971	210.2	7.5	187.1	−29.0	17.7
1972	230.7	9.8	207.3	10.8	18.0
1973	245.7	6.5	230.8	11.3	18.0
1974	269.4	9.6	263.2	14.0	18.6
1975	332.3	23.3	279.1	6.0	18.3
1976	371.8	11.9	298.1	6.8	17.6
1977	409.2	10.1	355.6	19.3	18.4
1978	458.7	12.1	399.6	12.4	18.4
1979	503.5	9.8	463.3	15.9	18.9
1980	590.9	17.4	517.1	11.6	19.4
1981	678.2	14.8	599.3	15.9	20.1
1982	745.7	10.0	617.8	3.1	19.7
1983	808.3	8.4	600.6	−2.8	18.1
1984	851.8	5.4	666.5	10.9	18.1
1985	946.3	11.1	734.1	10.1	18.6
1986	990.3	4.6	769.1	4.8	18.4
1987	1,003.8	1.4	854.1	11.1	19.3
1988	1,064.0	6.0	909.0	6.4	19.0
1989	1,142.6	7.4	990.7	9.0	19.2
1990	1,205.0	5.5	1,073.0	8.3	19.4

Source: Congressional Budget Office.

CIVIL RIGHTS ACT OF 1990

DOLE AMENDMENT NO. 2219

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill S. 2104, supra, as follows:

On page 3, line 6, strike out the dash and all that follows through line 16 and insert in lieu thereof the following: "that the challenged practice has a manifest relationship to the employment in question or that the respondent's legitimate employment goals are significantly served by, even if they do not require, the challenged practice or group of practices.".

DECONCINI (AND OTHERS) AMENDMENT NO. 2220

(Ordered to lie on the table.)

Mr. DECONCINI (for himself, Mr. BUMPERS, Mr. JOHNSTON, Mr. BRYAN, and Mr. PRYOR) submitted an amendment intended to be proposed by them to the bill S. 2104, supra, as follows:

At the end of section 13, strike the period and add the following: "or require an employer to adopt quotas on the basis of race, color, religon, sex or national origin."

DECONCINI (AND OTHERS) AMENDMENT NO. 2221

(Ordered to lie on the table.)

Mr. DECONCINI (for himself, Mr. PRYOR, and Mr. BRYAN) submitted an amendment intended to be proposed by them to the bill S. 2104, supra, as follows:

At the end of section 4 insert the following subsection: "(4) Additional remedies created under section 8 of this act shall not apply in disparate impact claims authorized under this title."

DECONCINI AMENDMENT NO. 2222

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill S. 2104, supra, as follows:

At the appropriate place insert the following: It is the sense of the Senate that nothing in this Bill shall be construed to impose a quota system.

KENNEDY (AND JEFFORDS) AMENDMENT NO. 2223

(Ordered to lie on the table.)

Mr. KENNEDY (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by them to the bill S. 2104, supra, as follows:

Strike out all after the first word of the amendment, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2 FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—It is the purpose of this Act to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for vicitims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o) The term 'required by business necessity' means—

"(1) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), bears a substantial and demonstrable relationship to effective job performance; or

"(2) in the case of employment practices not involving selection, bears a substantial and demonstrable relationship to a compelling objective of the respondent.

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices are required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demontrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice.".

"(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENT OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order consistent with the constitutional requirements of due process of law; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons consistent with the constitutional requirements of due process of law.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government; or

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application the application of such system or practice during the period that

such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASE OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k))—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. If compensatory or punitive damages are sought with respect to a claim arising under this title, any party may demand a trial by jury.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,"; and

(3) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order.

"(4) At any time more than 10 days before the trial begins, a claimant in an action under this title or under section 1977 of the Revised Statutes of the United States may serve upon the adverse party a demand for judgment to be taken against the defending party for the money or property or to the effect specified in the offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the demand is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the clerk shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offerer is equal to or more favorable than the offer, the offeree must pay double the costs incurred by the offerer after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make a demand for judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability. As used in this paragraph the term 'costs' includes reasonable attorneys fees as set forth in this section and section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties, except that prejudgment interest may not be awarded on compensatory damages.".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, national origin, sex, religion, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performing, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. CONGRESSIONAL COVERAGE.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 200e et seq.) is amended by adding at the end thereof the following new section:

"SEC. 719. CONGRESSIONAL COVERAGE.

"Notwithstanding any other provision of this title, the provisions of this title shall apply to the Congress of the United States, and the means for enforcing this title as such applies to each House of Congress shall be as determined by such House of Congress.".

HUMPHREY AMENDMENTS NOS. 2224 THROUGH 2226

(Ordered to lie on the table.)

Mr. HUMPHREY submitted three amendments intended to be proposed by him to the bill S. 2104, supra, as follows:

AMENDMENT No. 2224

On page 5, delete all on lines 1 through 3 and insert the following in lieu thereof:

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against

"(A) a claim under this subsection; or

"(B) a claim which is based on an employment practice or policy adopted to protect the health or safety of employees or their children, including unborn children.".

AMENDMENT No. 2225

On page 19, insert the following immediately following line 10:

"(4) Claims alleging that systems or methods of compensation adopted or used by an employer are discriminatory do not constitute disparate impact cases under this subsection and may not be maintained under this subsection where the system or method of compensation is based on market forces, market wage levels, considerations of supply and demand, or other legitimate economic factors.".

AMENDMENT No. 2226

On page 5, insert the following immediately following line 3:

"(3) Claims alleging that systems or methods of compensation adopted or used by an employer are discriminatory do not constitute disparate impact cases under this subsection and may not be maintained under this subsection.".

HATCH AMENDMENT NO. 2227

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 2187, proposed by Mr. DANFORTH, to the bill S. 2104, supra, as follows:

On page 1 of amendment 2187, after "established", insert the following: ", except with respect to an allegation of discrimination in compensation based on the theory of comparable worth".

HATCH AMENDMENT NO. 2228

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 2187, proposed by Mr. DANFORTH, to the bill S. 2104, supra, as follows:

At the end of amendment 2187, add the following:

"Nothing in this Act shall prohibit a person from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

HATCH AMENDMENTS NOS. 2229 THROUGH 2230

(Ordered to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by him to amendment No. 2188, proposed by Mr. DANFORTH, to the bill S. 2104, supra, as follows:

AMENDMENT No. 2229

On page 1 of amendment 2188, after "such", insert the following: ", except with respect to an allegation of discrimination in compensation based on the theory of comparable worth".

AMENDMENT No. 2230

At the end of amendment 2188, add the following:

"Nothing in this Act shall prohibit a person from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

HATCH AMENDMENTS NOS. 2231 THROUGH 2234

(Ordered to lie on the table.)

Mr. HATCH submitted four amendments intended to be proposed by him to amendment No. 2191, proposed by Mr. DANFORTH, to the bill S. 2104, supra, as follows:

AMENDMENT No. 2231

On page 1 of amendment 2191, strike all after "means" and insert in lieu thereof the following: "manifest relationship to the employment in question.".

AMENDMENT No. 2232

On page 1 of amendment 2191, strike all after "means" and insert in lieu thereof the following: "manifest relationship to the employment in question or demonstrable relationship to successful performance of the job.".

AMENDMENT No. 2233

On page 1 of amendment 2191, strike all after "means" and insert in lieu thereof the following: "manifest relationship to the employment in question or significantly serves the legitimate employment goals of safety or efficiency.".

AMENDMENT No. 2234

At the end of amendment 2191, add the following:

"Nothing in this Act shall prohibit a person from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

HATCH AMENDMENTS NOS. 2235 THROUGH 2239

(Ordered to lie on the table.)

Mr. HATCH submitted five amendments intended to be proposed by him to amendment No. 2193, proposed by Mr. METZENBAUM, to the bill S. 2104, supra, as follows:

AMENDMENT No. 2235

Strike on page 2, lines 10 through 20, of amendment 2193, and insert in lieu thereof the following: "means manifest relationship to the employment in question.".

AMENDMENT No. 2236

Strike on page 2, lines 10 through 20, of amendment 2193, and insert in lieu thereof the following: "means manifest relationship to the employment in question or demonstrable relationship to successful performance of the job.".

AMENDMENT No. 2237

Strike on page 2, lines 10 through 20, of amendment 2193, and insert in lieu thereof the following: "means manifest relationship to the employment in question or significantly serves the legitimate employment goals of safety or efficiency.".

AMENDMENT No. 2238

Strike on page 2, lines 2 and 3, of amendment 2193, and insert in lieu thereof the following:

"(m) The term 'demonstrates' means meets the burdens of production and persuasion, except that a complaining party retains the ultimate burden of persuading the trier of fact that the employer has violated section 703(k).".

AMENDMENT No. 2239

At the end of amendment 2193, add the following:

"Nothing in this Act shall prohibit a person from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

HATCH AMENDMENTS NOS. 2240 THROUGH 2243

(Ordered to lie on the table.)

Mr. HATCH submitted four amendments intended to be proposed by him to amendment No. 2195, proposed by Mr. JEFFORDS, to the bill S. 2104, supra, as follows:

AMENDMENT No. 2240

On page 1, line 3, of amendment 2195, insert after "require" the following: ", or permit a court to require,".

AMENDMENT No. 2241

On page 1, line 3, of amendment 2195, strike "." and insert in lieu thereof the following: ", nor shall any employer be required to prefer any less qualified person, not a victim of the employer's discrimination, over a better qualified person pursuant to employment standards which are manifestly related to the employment in question, on the basis of race, color, religion, sex, or national origin, under any statute amended by this act or by any court acting thereunder.".

AMENDMENT No. 2242

On page 1, line 3, of amendment 2195, insert after "require" the following: ", nor shall any court order any employer to engage in preferential treatment in favor of a person not a victim of an employer's discrimination against a better qualified person because of race, color, religion, sex, or national origin, under any statute amended by this Act.".

AMENDMENT No. 2243

At the end of amendment 2195, add the following:

"Nothing in this Act shall prohibit a person from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

HATCH AMENDMENT NO. 2244

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 2201, proposed by Mr. PRYOR, to the bill S. 2104, supra, as follows:

At the end of amendment 2201, add the following:

"Nothing in this Act shall prohibit a person from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

HATCH AMENDMENTS NOS. 2245 THROUGH 2254

(Ordered to lie on the table.)

Mr. HATCH submitted 10 amendments intended to be proposed by him to amendment No. 2136, proposed by Mr. METZENBAUM, to the bill S. 2104, supra, as follows:

AMENDMENT No. 2245

Strike page 3, lines 4 through 14, of amendment 2136, and insert in lieu thereof the following: "means manifest relationship to the employment in question.".

AMENDMENT No. 2246

Strike page 3, lines 4 through 14, of amendment 2136, and insert in lieu thereof the following: "means manifest relationship to the employment in question or demonstrable relationship to successful performance of the job.".

AMENDMENT No. 2247

Strike page 3, lines 4 through 14, of amendment 2136, and insert in lieu thereof the following: "means manifest relationship to the employment in question or significantly serves the legitimate employment goals of safety or efficiency.".

AMENDMENT No. 2248

Strike page 2, lines 21 through 22, of amendment 2136, and insert in lieu thereof the following:

"(m) The term 'demonstrates' means meets the burdens of production and persuasion, except that a complaining party retains the ultimate burden of persuading the trier of fact that the employer has violated section 703(k).".

AMENDMENT No. 2249

Strike page 9, line 20, of amendment 2136, and insert in lieu thereof the following:

"a court lacking subject matter jurisdiction; "provided that no person shall be prohibited from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

AMENDMENT No. 2250

At the appropriate place in amendment 2136, and insert in lieu thereof the following:

"Nothing in this Act shall prohibit any person from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

AMENDMENT No. 2251

On page 9, line 19, of amendment 2136, strike "transparently".

AMENDMENT No. 2252

At the end of amendment 2136, add the following:

"Notwithstanding any other provision of this Act, section 6 shall only apply to proceedings commenced after enactment of this Act. Section 6(b)(2) shall not become effective.".

AMENDMENT No. 2253

At the end of amendment 2136, add the following:

"Notwithstanding any other provision of this Act, section 6 shall apply to proceedings challenging a litigated or consent judgment commenced after enactment of this Act. Section 6(b)(2) shall not become effective.".

AMENDMENT No. 2254

Strike page 15, line 19, through page 17, line 1, of amendment 2136, and insert in lieu thereof the following:

"(3) section 6 shall apply to all proceedings challenging a litigated or consent judgment commenced after enactment of this Act;

"(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

"(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

"(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

"(b) TRANSITION RULES.—

"(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.".

HATCH AMENDMENTS NOS. 2255 THROUGH 2264

(Ordered to lie on the table.)

Mr. HATCH submitted 10 amendments intended to be proposed by him to the bill S. 2104, supra, as follows:

AMENDMENT No. 2255

Strike page 3, line 10, of S. 2104, and insert in lieu thereof the following: "means manifest relationship to the employment in question.".

AMENDMENT No. 2256

Strike page 3, line 10, of S. 2104, and insert in lieu thereof the following: "means manifest relationship to the employment in question or demonstrable relationship to successful performance of the job.".

AMENDMENT No. 2257

Strike page 3, line 10, of S. 2104, and insert in lieu thereof the following: "means manifest relationship to the employment in question or significantly serves the legitimate employment goals of safety or efficiency.".

AMENDMENT No. 2258

Strike page 3, lines 4 and 5, of S. 2104, and insert in lieu thereof the following:

"(m) The term 'demonstrates' means meets the burden of production and persuasion, except that a complaining party retains the ultimate burden of persuading the trier of fact that the employer has violated section 703(k).".

AMENDMENT No. 2259

Strike page 8, line 8, of S. 2104, and insert in lieu thereof the following:

"tion;

"provided that no person shall be prohibited from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

AMENDMENT No. 2260

At the appropriate place in S. 2104, insert the following:

"Nothing in this Act shall prohibit any person from challenging the implementation of a litigated or consent judgment or order on the ground that it denies him or her equal protection of the law under the United States Constitution, unless the right to make such challenge is unconstitutional.".

AMENDMENT No. 2261

On page 8, line 6, of S. 2104, strike "transparently".

AMENDMENT No. 2262

At the end of S. 2104, add the following:

"Notwithstanding any other provision of this Act, section 6 shall only apply to proceedings commenced after enactment of this Act. Section 6(b)(2) shall not become effective.".

AMENDMENT No. 2263

At the end of S. 2104, add the following:

"Notwithstanding any other provision of this Act, section 6 shall only apply to proceedings challenging a litigated or consent judgment commenced after enactment of this Act. Section 6(b)(2) shall not become effective.".

AMENDMENT No. 2264

Strike page 13, line 23, through page 15, line 8, of S. 2104, and insert in lieu thereof the following:

"(3) section 6 shall apply to all proceedings challenging a litigated or consent judgment commenced after enactment of this Act;

"(4) sections 7(a)(1), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

"(5) paragraphs (2) through (4) of section 8(a) shall apply to all proceedings pending on or commenced after June 12, 1989; and

"(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

"(b) TRANSITION RULES.—

"(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2) through (4), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.".

HELMS AMENDMENTS NOS. 2265 AND 2266

(Ordered to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to the bill S. 2104, supra, as follows:

AMENDMENT No. 2265

At the appropriate place, insert the following new section:

SEC. . UNLAWFUL EMPLOYMENT PRACTICES.

Subsection (j) of section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(j)) is amended to read as follows:

"(j) UNLAWFUL EMPLOYMENT PRACTICE.—

"(1) It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor committee that is subject to this title to grant preferential treatment, with respect to selection, compensation, terms, condition, or privileges of employment or union membership, to any individual or to any group of individuals on account of the race, color, religion, sex, or national origin of such individual or group, for any purpose.

AMENDMENT No. 2266

At the appropriate place, insert the following new section:

SEC. . UNLAWFUL EMPLOYMENT PRACTICES.

Subsection (j) of section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(j)) is amended to read as follows:

"(j) UNLAWFUL EMPLOYMENT PRACTICE.—

"(1) It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor committee that is subject to this title to grant preferential treatment, with respect to selection, compensation, terms, condition, or privileges of employment or union membership, to any individual or to any group of individuals on account of the race, color, religion, sex, or national origin of such individual or group, for any purpose.

"(2) Notwithstanding any other provision of law, no order of the court or consent decree shall require, authorize, permit, or otherwise grant preferential treatment, with respect to selection, compensation, terms, conditions, or privileges of employment or union membership, to any individual on account of race, color, relgion, sex, or national origin of such individual, for any purpose."

KENNEDY AMENDMENTS NOS. 2267 THROUGH 2275

(Ordered to lie on the table.)

Mr. KENNEDY submitted nine amendments intended to be proposed by him to an amendment to the bill S. 2104, supra, as follows:

AMENDMENT No. 2267

On page 1 of the amendment, strike out all after the first word and insert in lieu thereof the following:

"(1) An unlawful employment practice based on disparate impact is established under this section when a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity: *Provided, however,* That where a group of employment practices produces an employment decision and the impact of the practices within the group is not capable of separation for analysis through discovery, the group of employment practices shall be treated as a single employment practice and may be challenged as such and defended as such.".

AMENDMENT No. 2268

At the end of the amendment add the following:

"Nothing in this section shall preclude an employer from hiring or promoting a more qualified person over a less qualified person so long as the qualifications considered by the employer, and the application thereof, do not violate this section.'.".

AMENDMENT No. 2269

On page 1 of the amendment, strike out all after the first word and insert in lieu thereof the following:

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of employment practices that do not involve selection, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as used in *Griggs* v. *Duke Power Co.* (401 U.S. 424 (1971)) and to overrule *Ward's Cove Packing Co., Inc.* v. *Atonio* (109 S. Ct. 2115 (1989)).".

AMENDMENT No. 2270

Strike out the first word of the amendment and all that follows and insert in lieu thereof the following:

"At the appropriate place, insert the following:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

AMENDMENT NO. 2271

Before the period at the end of the amendment insert the following: ", and to overrule *Wards Cove Packing Co., Inc.* v. *Atonio* (109 S. Ct. 2115 (1989))".

AMENDMENT NO. 2272

On page 1 of the amendment, strike out all after the first word and insert in lieu thereof the following: ", or in the case of an unlawful employment practice under the Americans with Disabilities Act of 1990, other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102 of that Act, as it related to standards and criteria that tend to screen out individuals with disabilities".

AMENDMENT NO. 2273

On page 1 of the amendment, strike out all after the first word and insert in lieu thereof the following:

"Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex or national origin: *Provided, however,* That nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.".

AMENDMENT NO. 2274

On page 1 of the amendment, strike out all after the first word and insert in lieu thereof the following:

Notwithstanding any other provisions of this Act Section 8 shall read as follows:

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k))—

"(A) compensatory damages may be awarded: and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

AMENDMENT NO. 2275

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—It is the purpose of this Act to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of employment practices that do not involve selection, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as used in *Griggs v. Duke Power Co.* (401 U.S. 424 (1971)) and to overrule *Ward's Cove Packing Co., Inc. v. Atonio* (109 S. Ct. 2115 (1989)).

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices are required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is

amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k), or in the case of an unlawful employment practice under the Americans with Disabilities Act of 1990, other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102 of that Act, as it related to standards and criteria that tend to screen out individuals with disabilities)—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties, except that prejudgment interest may not be awarded on compensatory damages.".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, national origin, sex, religion, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex or national origin: *Provided, however,* That nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. CONGRESSIONAL COVERAGE.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 200e et seq.) is amended by adding at the end thereof the following new section:

"SEC. 719. CONGRESSIONAL COVERAGE.

"Notwithstanding any other provision of this title, the provisions of this title shall apply to the Congress of the United States, and the means for enforcing this title as such applies to each House of Congress shall be as determined by such House of Congress.".

DOLE AMENDMENTS NOS. 2276 THROUGH 2281

(Ordered to lie on the table.)

Mr. DOLE submitted six amendments intended to be proposed by him to the bill S. 2104, supra, as follows:

AMENDMENT No. 2276

On page 16, strike out lines 24 and 25, and insert in lieu thereof the following:

"(o) The term 'required by business necessity' means that—

"(1) the challenged employment practice has a manifest relationship to the employment in question; or

"(2) the legitimate employment goals of the respondent employer are significantly served by, even if they do not require, the challenged practice or group of practices."

AMENDMENT No. 2277

On page 20, strike out line 17 and all that follows through line 25 on page 21, and insert in lieu thereof the following:

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice specifically required by a litigated or consent judgment or order resolving a claim of employment discrimination under this title may not be challenged in a claim under the United States Constitution or under Federal civil rights laws by a person who, at the time of the entry of such judgment or order, was an applicant for employment with, or an employee of, the entity covered by such decree whose interests would likely be affected by the consent decree, and who had—

"(A) actual notice that such judgment or order would likely affect the interests of such person and that later challenge by such person would be barred; and

"(B) a reasonable opportunity to challenge such judgment or order.".

AMENDMENT No. 2278

On page 24, strike out lines 3 through line 22, and insert in lieu thereof the following:

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "In fashioning remedies for an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k):, the court may require the respondent to pay the complaining party an amount not to exceed $100,000 if the court finds—

"(1) that back pay cannot be awarded with respect to that practice;

"(2) that an additional equitable remedy beyond those otherwise available is needed to deter the respondent from continuing to engage in such unlawful employment practices; and

"(3) that such an award is otherwise justified by the equities.

All issues in cases arising under this title shall be heard and determined by a judge, as required under subsection (f).".

AMENDMENT No. 2279

On page 24, strike out lines 3 through line 22, and insert in lieu thereof the following:

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "In fashioning remedies for an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k)), the court may require the respondent to pay the complaining party an amount not to exceed $60,000 if the court finds—

"(1) that back pay cannot be awarded with respect to that practice;

"(2) that an additional equitable remedy beyond those otherwise available is needed to deter the respondent from continuing to engage in such unlawful employment practices; and

"(3) that such an award is otherwise justified by the equities.

All issues in cases arising under this title shall be heard and determined by a judge, as required under subsection (f).".

AMENDMENT No. 2280

On page 20, strike out line 17 and all that follows through line 25 on page 21, and insert in lieu thereof the following:

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice specifically required by a litigated or consent judgment or order resolving a claim of employment discrimination under this title may not be challenged in a claim under the United States Constitution or under Federal civil rights laws by a person who, at the time of the entry of such judgment or order, was an applicant for employment with, or an employee of, the entity covered by such decree whose interests would likely be affected by the consent decree, and who had—

"(A) actual notice that such judgment or order would likely affect the interests of such person and that later challenge by such person would be barred; and

"(B) a reasonable opportunity to challenge such judgment or order.".

AMENDMENT No. 2281

On page 16, strike out lines 24 and 25, and insert in lieu thereof the following:

"(o) The term 'required by business necessity' means that the challenged employment practice has a manifest relationship to the employment in question or has a demonstrable relationship to the successful performance of the jobs for which it was used.".

CHAFEE AMENDMENTS NOS. 2282 THROUGH 2289

(Ordered to lie on the table.)

Mr. CHAFEE submitted eight amendments intended to be proposed by him to an amendment to the bill S. 2104, supra, as follows:

AMENDMENT No. 2282

Strike out all of section 5 and insert in lieu thereof the following:

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(1) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in the title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor that either:

"(a) was sufficient by itself to produce the practice, or

"(b) was a necessary element in any set of factors that together are sufficient to produce the practice, even though other factors also contributed to such practice.".

"(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: 'or, in a case where a violation is established under section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination.'."

AMENDMENT No. 2283

Strike out all of section 5 and insert in lieu thereof the following:

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(1) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in the title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor that either:

"(a) was sufficient by itself to produce the practice, or

"(b) was a necessary element in any set of factors that together are sufficient to produce the practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under setion 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice.".

AMENDMENT No. 2284

At the appropriate place in the pending substitute amendment, insert the following:

"It is the sense of the Senate that it is the intent of the Senate, in considering the Civil Rights Act of 1990, to codify the intent of the unanimous Supreme Court ruling in Griggs v. Duke Power Co., 401 U.S. 425 (1971).".

AMENDMENT No. 2285

At the appropriate place in the pending substitute amendment, insert the following:

"It is the sense of the Senate that the Civil Rights Act of 1990 should codify the intent of the unanimous Supreme Court ruling in Griggs v. Duke Power Co., 401 U.S. 425 (1971).".

AMENDMENT No. 2286

At the end of the pending amendment, insert the following:

"Notwithstanding section 5, section 703 of the Civil Rights Act of 1964 is further amended by adding at the end thereof the following new subsection:

"(1) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in the title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor that either:

"(a) was sufficient by itself to produce the practice, or

"(b) was a necessary element in any set of factors that together are sufficient to produce the practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice.".

AMENDMENT No. 2287

At the end of the pending amendment, insert the following:

"Notwithstanding section 5, section 703 of the Civil Rights Act of 1964 is further amended by adding at the end thereof the following new subsection:

"(1) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in the title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor that either:

"(a) was sufficient by itself to produce the practice, or

"(b) was a necessary element in any set of factors that together are sufficient to produce the practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination.".

AMENDMENT No. 2288

At the appropriate place in the pending amendment, insert the following:

"It is the sense of the Senate that it is the intent of the Senate, in considering the Civil Rights Act of 1990, to codify the intent of the unanimous Supreme Court ruling in Griggs v. Duke Power Co., 401 U.S. 425 (1971)."

AMENDMENT No. 2289

At the appropriate place in the pending amendment. insert the following:

"It is the sense of the Senate that the Civil Rights Act of 1990 should codify the intent of the unanimous Supreme Court ruling in Griggs v. Duke Power Co., 401 U.S. 425 (1971)."

DANFORTH AMENDMENTS NOS. 2290 THROUGH 2293

(Ordered to lie on the table.)

Mr. DANFORTH submitted four amendments intended to be proposed by him to an amendment to the bill S. 2104, supra, as follows:

AMENDMENT No. 2290

Strike all after the first word in the 1st degree amendment and insert in lieu thereof the following: "however, that if the elements of a decisionmaking process are shown to be not capable of separation for analysis, they may be analyzed as one employment practice.".

AMENDMENT No. 2291

Strike all after the first word in the 1st degree amendment and insert in lieu thereof the following:

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by deleting the period at the end of the first sentence and inserting the following: ", including statutory damages for intentional harassment not to exceed an amount equal to double the average award in the previous year under section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) for intentional discrimination in the course of employment. The court has discretion to award statutory damages if it finds that an equitable remedy beyond those examples previously discussed is needed to make the complaining party whole or to deter the respondent from continuing to engage in such unlawful employment practices. For purposes of determining the limit on the statutory damages referred to in this subsection, the Justice Department is authorized to conduct the necessary research itself or to contract out to a separate entity the task of determining the average amount awarded to victims of intentional discrimination in the course of employment in the previous year under section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981).".

AMENDMENT No. 2292

If the appropriate place add the following: "Notwithstanding any other provision of law, the term 'required by business necessity' means—

"(1) in the case of employment practices primarily intended to measure job performance, the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(2) in the case of other employment practices that are not primarily intended to measure job performance, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.".

AMENDMENT No. 2293

Strike all from the first word in the first-degree amendment and insert in lieu thereof the following: "term 'required by business necessity' means—

"(1) in the case of employment practices primarily intended to measure job performance, the practice or group of practices must bear a significant relationship to successful performance of the job,

"(2) in the case of other employment practice that are not primarily intended to measure job performance, the practices or group of practices must bear significant relationship to a significant business objective of the employer,

"(3) In deciding whether the above standards for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The court may rely on as such evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence and the court shall give such weight, if any, to such evidence as it deems appropriate."

This amendment shall become effective the date after enactment.

PRYOR AMENDMENT NO. 2294

(Ordered to lie on the table.)

Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 2104, supra, as follows:

Section 4 is amended by adding the following new subsections:

"(4) The mere existence of a statistical imbalance in an employer's workforce on account of race, sex, religion, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation."

JEFFORDS AMENDMENT NO. 2295

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to an amendment to the bill S. 2104, supra, as followings

On page 1 of the amendment, strike out all after the first word and insert in lieu thereof the following:

"Punitive damages under this section may not exceed $500,000.".

SIMPSON AMENDMENT NO. 2296

(Ordered to lie on the table.)

Mr. SIMPSON submitted an amendment intended to be proposed by him to amendment No. 2110 (in the nature of a substitute) proposed by Mr. Kennedy (and others) to the bill S. 2104, supra, as follows:

Strike out section 8 of the Kennedy-Jeffords substitute amendment and insert in lieu thereof the following:

SEC. 8. RESTITUTIONARY AND OTHER EQUITABLE RELIEF IN HARASSMENT CASES.

Section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5) is amended by adding at the end thereof the following new subsection:

"(k) EQUITABLE RELIEF IN HARASSMENT CASES.—(1) Harassment based on an individual's race, color, religion, sex, or national origin is contrary to the public policy established by this title. For the purposes of this section, the term 'harassment' based on race, color, religion, sex, or national origin means the totality of willful conduct that is sufficiently severe and pervasive so as to alter the conditions of employment in a way that creates a working environment that would be intimidating, hostile, or offensive to a reasonable person.

"(2) Notwithstanding any other provision of this section, if a person who is aggrieved by harassment prohibited by this section has filed a timely charge of discrimination under this title, and the Commission has not sought injunctive relief within 60 days of the filing of the charge, then such person may commence a civil action in an appropriate district court of the United States seeking temporary or preliminary injunctive relief without regard to any waiting period that would otherwise prevent the commencement of a civil action under this title and without obtaining a right-to-sue letter from the Commission.

"(3) Any order granting temporary or preliminary relief under paragraph (2) shall be issued in accordance with Rule 65 of the Federal Rules of Civil Procedures, provided that if the individual establishes a substantial probability of success on the merits of the harassment claim, the continuation or likely continuation of such harassment shall be deemed injury sufficiently irreparable to warrant the entry of temporary or preliminary relief. The court shall assign such action for hearing at the earliest practicable date and shall cause such action to be expedited. The determination of the court in issuing such injunctive relief shall not be controlled in any proceeding on the merits of the harassment or other discrimination claim.

"(4) In any civil action on the merits of a harassment claim brought pursuant to this section, if the court finds that the respondent has willfully engaged in, or is willfully engaging in, unlawful harassment against the aggrieved individual, then the court may award, in addition to any other relief available under this section, restitutionary equitable relief to the aggrieved individual as follows:

"(A) for a first violation against the aggrieved individual, up to $15,000,

"(B) for a violation where there has been a judicial finding of a previous violation against the aggrieved individual, up to $30,000.

For the purposes of this section, the term "willfully engaging in" means that the employer either knew, or showed reckless disregard for whether, its conduct was prohibited by this Act.

"(5) In determining whether the alleged conduct constitutes harassment as defined in this section, the court shall look at the record as a whole and at the totality of the circumstances, such as the nature of the conduct and the context in which the alleged incidents occurred.

"(6) The respondent shall not be liable for restitutionary equitable relief nor shall other equitable relief be ordered if the respondent demonstrates:

"(A) that it took immediate and appropriate corrective action,

"(B) that it had promulgated a policy prohibiting such harassment and did not know, or could not reasonably have known, of such harassment, or

"(C) that the individual claiming harassment knew or should have known of, but did not participate in, any program established by the respondent to investigate and remedy such harassment.

"(7) Where the respondent undertakes a bona fide investigation of alleged harassment, any communications or findings made in connection with such investigation that are not actuated by malice shall be entitled to a qualified privilege with respect to defamation, slander, libel, or other similar claims brought by any person in any action under federal or state law.".

SIMPSON AMENDMENT NO. 2297

(Ordered to lie on the table.)

Mr. SIMPSON submitted an amendment intended to be proposed by him to the bill S. 2104, supra, as follows:

Strike out section 8 of the bill and insert in lieu thereof the following:

SEC. 8. RESTITUTIONARY AND OTHER EQUITABLE RELIEF IN HARASSMENT CASES.

Section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5) is amended by adding at the end thereof the following new subsection:

"(k) EQUITABLE RELIEF IN HARASSMENT CASES.—(1) Harassment based on an individual's race, color, religion, sex, or national origin is contrary to the public policy established by this title. For the purposes of this section, the term "harassment" based on race, color, religion, sex, or national origin means the totality of willful conduct that is sufficiently severe and pervasive so as to alter the conditions of employment in a way that creates a working environment that would be intimidating, hostile, or offensive to a reasonable person.

"(2) Notwithstanding any other provision of this section, if a person who is aggrieved by harassment prohibited by this section has filed a timely charge of discrimination under this title, and the Commission has not sought injunctive relief within 60 days of the filing of the charge, then such person may commence a civil action in an appropriate district court of the United States seeking temporary or preliminary injunctive relief without regard to any waiting period that would otherwise prevent the commencement of a civil action under this title and without obtaining a right-to-sue letter from the Commission.

"(3) Any order granting temporary or preliminary relief under paragraph (2) shall be issued in accordance with Rule 65 of the Federal Rules of Civil Procedure, provided that if the individual establishes a substantial probability of success on the merits of the harassment claim, the continuation or likely continuation of such harassment shall be deemed injury sufficiently irreparable to warrant the entry of temporary or preliminary relief. The court shall assign such action for hearing at the earliest practicable date and shall cause such action to be expedited. The determination of the court in issuing such injunctive relief shall not be controlling in any proceding on the merits of the harassment or other discrimination claim.

"(4) In any civil action on the merits of a harassment claim brought pursuant to this section, if the court finds that the respondent has willfully engaged in, or is willfully engaging in, unlawful harassment against the aggrieved individual, then the court may award, in addition to any other relief available under this section, restitutionary equitable relief to the aggrieved individual as follows:

"(A) for a first violation against the aggrieved individual, up to $15,000,

"(B) for a violation where there has been a judicial finding of a previous violation against the aggrieved individual, up to $30,000.

For the purposes of this section, the term "willfully engaging in" means that the employer either knew, or showed reckless disregard for whether, its conduct was prohibited by this Act.

"(5) In determining whether the alleged conduct constitutes harassment as defined in this section, the court shall look at the record as a whole and at the totality of the circumstances, such as the nature of the conduct and the context in which the alleged incidents occurred.

"(6) The respondent shall not be liable for restitutionary equitable relief nor shall other equitable relief be ordered if the respondent demonstrates:

"(A) that it took immediate and appropriate corrective action,

"(B) that it had promulgated a policy prohibiting such harassment and did not know, or could not reasonably have known, of such harassment, or

"(C) that the individual claiming harassment knew or should have known of, but did not participate in, any program established by the respondent to investigate and remedy such harassment.

"(7) Where the respondent undertakes a bona fide investigation of alleged harassment, any communications or findings made in connection with such investigation that are not actuated by malice shall be entitled to a qualified privilege with respect to defamation, slander, libel, or other similar claims brought by any person in any action under federal or state law.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the public that a bill has been added to the hearing before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources scheduled to take place Tuesday, July 24, 1990, at 2 p.m., in room SD-366 of the Dirksen Senate Office Building, Washington, DC. In addition to the three bills previously announced—H.R. 3694, S. 1118, and S. 1932—the subcommittee will also receive testimony on S. 1590, a bill to transfer certain rights-of-way to the Elephant Butte Irrigation District of New Mexico, and for other purposes.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224-2366.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the nomination of Wendy Lee Gramm to be a Commissioner of the Commodity Futures Trading Commission, July 24, 1990, at 2:30 p.m. in SR-332. For further information, please contact Ken Ackerman of the committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

SPECIAL COMMITTEE ON AGING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Tuesday, July 17, 1990, at 9:30 a.m. to hold an oversight hearing to consider the disability determination process for Social Security disability insurance and Social Security income.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, July 17, 1990, at 10 a.m. to conduct a markup of a committee print to amend the Export Administration Act; a committee print which includes titles relating to money laundering, truth-in-savings, and expedited funds availability; and a committee print on fair lending enforcement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, July 17, 1990, beginning at 10 a.m., to conduct a hearing on S. 2046, the National Infrastructure Council Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, July 17, 1990, at 2 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on July 17, 1990, at 10 a.m., to hold a hearing on new drug reports: Do they point to victory in the "War on Drugs"?

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS RIGHTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies, and Business Rights, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on July 17, 1990, at 2:30 p.m., to hold a markup on the S&L investigation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS RIGHTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies, and Business Rights, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on July 17, 1990, at 10 a.m., to hold a hearing on the production of joint ventures.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 17, 1990, at 10 a.m. to hold a hearing on the threshold test ban and peaceful nuclear explosions treaties with the U.S.S.R. together with verification protocols for each treaty; Ex. N, 94-2 and Treaty Doc. 101-19.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SURFACE TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 17, 1990, at 9 a.m. on Supreme Court negotiated rates decision.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 17, 1990, at 4 p.m. to hold a nomination hearing on Aurelia Brazeal to be Ambassador to Micronesia.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MAKING A DIFFERENCE

● Mr. ARMSTRONG. Mr. President, it is my privilege to present to you a speech recently delivered at the commencement of Grace Brethren Christian School by a rather unusual and insightful young woman.

It demonstrates a very thoughtful approach to young men and women as they are entering an increasingly complex and divergent society.

I commend it to my colleagues.

The address follows:

MAKING A DIFFERENCE

(Valedictory Speech, 1990, by Shari Mathieu)

Giving honor to Pastor Dixon, Mrs. Dixon, Mrs. Harris, Dr. Richard Halverson, distinguished guests, teachers, parents, and friends, and to the 1990 graduating class of Grace Brethren Christian School, I greet you in the name of our Lord and Savior Jesus Christ. I would especially like to thank Mrs. Dixon for the special part she played in my attendance and my brother's attendance at Grace.

Today we prepare to leave the security of Grace Brethren and go on to higher education, careers, and, before too long, begin families. Most of us will be chasing that elusive goal called success. Ralph Waldo Emerson wrote:

How do you measure success?
To laugh often and much;
To win the respect of intelligent people
And the affection of children;
To earn the appreciation of honest critics
And endure the betrayal of false friends;
To appreciate beauty;
To find the best in others;
To leave the world a bit better
Whether by a healthy child, a redeemed social condition, or a job well done;
To know even one other life has breathed because you lived—
This is to have succeeded.

Ponder with me three sections of our lives. In the past, we have been given an aptitude for success. In the present, we must develop an attitude for success. And in the future, we will need some altitude for success. Aptitude in the past, attitude in the present, altitude in the future.

It is interesting that Emerson makes no mention of money, status, rank, fame, power over others, possessions, size, numbers, statistics, or other visible non-essentials in light of eternity. I would like to suggest to you that success may be defined as making a difference in someone else's life.

We have been given the aptitude to make a difference. At Grace, we have received an excellent education, counsel from committed Christian teachers, skills in addressing life's problems, and values that equip us for life. We will not soon forget those who gave us the aptitude to make a difference. We will remember Mr. Hornickel's devotionals, jokes, and his ability to take a joke. We will remember Mrs. Kelly's encouraging words, dramatic scenes, sensitive prayers, and understanding way. We will remember Mrs. Schaaf's homework, intelligence, wisdom, and her ability to link current events and Christian principles to a difficult subject like math. We will remember Mr. First's friendship, inspiration, stories from his personal experiences, and, of course, Cindy. Male and female students have told me that they will remember Mr. Stubbs as encouraging, caring, kind, precious, loving, dear, sweet, and considerate.

During this past year, we had the privilege of making a lot of new friends from Camp Springs Christian School. I'm sure that those students would like to express their appreciation for every additional teacher that made an impact on their lives.

Having received the aptitude, we must now develop our attitude to make a difference. I'm sure we will always remember Mrs. Bergman's hard vocabulary words that prepared us to take the Scholastic Aptitude Test. Does anyone remember the words apotheosis (e-pŏthē-ō'sĭs), calumniate (kə-lŭm'nē-āt), or diaphanous (dī-ăf'ə-nəs)? Well, neither did I.

As we think about the attitudes we need to develop in the present, there are certain words that we need to remember and continue to keep in our vocabulary. For example, GRATITUDE. We need to be grateful to all those who have had a part in our lives—family, friends, teachers, administrators, custodians, school bus drivers, etc. Gratitude needs to be part of our attitude.

Another vocabulary word needs to be SERVICE. Use everything that the Lord has provided for you—education, career, material blessings—to serve your fellow man.

The third word is INTEGRITY. Be honest in all that you do, doing your best and keeping your word.

We also need to remember the word RECONCILIATION. We need to be reconciled first to God, and then to each other. In our society, there is too great of a distance between rich and poor, black and white, Hispanic and Asian, Jew and Gentile. Jesus came to break down the middle wall of partition. As we remember the word "reconciliation," we can continue to break down walls that separate us.

The fifth word is SELF-CONTROL. Why self-control? Self-control keeps us obeying God's laws and man's laws whether or not there are restraints. In our society, there aren't many people telling us what's right and what's wrong. The decline of morality in society can be traced back to a lack of self-control. Our society seems to have a preoccupation with three questions: how far can I go; how much can I get away with; and how much can I accumulate. The answer to these questions is a good dose of self-control

The last vocabulary word that I will mention today is FAMILY. First Lady Barbara Bush spoke of her concern about family at another commencement last week. She said, and I quote: "to cherish your human connections, your relationships with family and friends. For several years, you've had impressed upon you the importance to your career of dedication and hard work, and of course that's true. But as important as your obligations as a doctor, a lawyer, a business leader will be, you are a human being first and those human connections with spouses, with children, with friends, are the most important investment you will make. At the end of your life, you will never regret not having passed one more test, winning one more verdict, or not closing one more deal. You will regret time not spent with a husband, [a wife], a child, a friend, or a parent."

Having been given the aptitude in the past and developing the attitudes that we need in the present, we need to put some altitude in our future. Altitude represents how high we rise to make a difference. Some may say that we have finished our course so that we can sit down and take it easy. Jesus would say, "stand up and make a difference." Others may say that we are through school, so we can just lay back and breeze through the rest of life. The Scripture says, "to whom much is given, much is required." This is not the end. This is a commencement. We have only just begun.

Micah 6:8 says, "And what does the Lord require of you? To act justly, and to love mercy, and to walk humbly with your God." We cannot afford to sit down. We cannot afford to take it easy. We cannot afford to lay back. We must make a difference. The world needs Christians who will put some altitude—stand up—for what they believe.

What would have happened if Christians would have stood against Hitler's regime? What would have happened if Christians would have stood against slavery in our country? What can happen if we, the graduating class of 1990, put altitude to our attitude and address the evils of our society? God has called us to make a difference.

Tom Skinner, the author of "Black and Free," was born into a very poor family. His parents were advised, because of their poverty, not to have children. After his mother became pregnant, she was advised not to have the child. But Tom Skinner had loving, caring parents. By the age of six, Tom Skinner was reading on a fifth grade level. By junior high, he had read all of Shakespeare and was acting in Shakespearean plays. When he took his Scholastic Aptitude Test, he scored a perfect 800 on the verbal, and a 700 on the math. Today, Tom Skinner makes a difference. One young man, born into poverty but rich in Christ, now ministers to giant corporations like IBM and travels across the country and around the world to speak to audiences. By the way, he was also a very effective chaplain to the Washington Redskins.

Daniel made a difference because he purposed in his heart to not defile himself. Noah, though he had never seen rain, made a difference. The three Hebrew teenagers refused to bow down to peer pressure and ungodly influences, and made a difference.

Fellow graduates, thank God for the aptitude that has been given us by such a great school as Grace Brethren. We can make a difference. We must now take that aptitude and develop attitudes such as gratitude, service, integrity, reconciliation, self-control, and family. We must make a difference. We must refuse to sit down. We must refuse to take it easy. We must refuse to lay back. Taking the aptitude and developing the attitudes, we must then put some altitude to what we believe in and stand up, and we will make a difference.

Thank you, God bless you, and God bless Grace Brethren Christian School.●

CHILDREN HELPING TO PROTECT THE ENVIRONMENT

● Mr. D'AMATO. Mr. President, I rise today to commend the efforts of 10 fifth graders from Ontario, NY, who have successfully demonstrated their concern for the environment.

Children and young adults are often criticized for their lack of commitment to ideals and principals. However, last April, students at Freewill Elementary School embarked on a successful campaign to protect the environment from harmful chlorofluorocarbons [CFC's] which are destroying the Earth's ozone layer. These students, led by Nikki Donvito, Casey Carpenter, and Brian Kerkhoven, collected approximately 700 signatures from area registered voters on a petition promoting a ban of new uses of CFC's and fines against companies which do not comply with the ban.

By promoting an idea that they believed to be important, these students went as far as delivering their petition to the New York State Assembly Committee on Environmental Conservation and pursuading the town boards of Walworth and Ontario to pass resolutions to back the ban. These budding

environmentalists, our next generation of leaders, have demonstrated a concern for the environment and an understanding of the importance of community service and activism. These are valuable lessons which will remain with them for the rest of their lives.

I am proud of the accomplishments of these students and am delighted to share their success with my colleagues.

Mr. President, I ask that the article that appeared in the Democrat and Chronicle entitled "Wayne Pupils Take Their Worries on Ozone Destroyers to Assembly" be printed in the RECORD immediately following my remarks.

The article follows:

WAYNE PUPILS TAKE THEIR WORRIES ON OZONE DESTROYERS TO ASSEMBLY

ONTARIO.—Ten Ontario fifth-graders are doing something bold about "a problem the Earth has." They're taking their worries about chlorofluorocarbons straight to the state Assembly.

Betty Schaeffer, a teacher of a fifth-grade class for the gifted and talented at Freewill Elementary School in the Wayne Central School District, says the students in her class take their studies to "a higher level."

The students will do just that on Tuesday, when they take their class project to the Legislature in Albany.

The 10 budding environmentalists collected about 700 signatures from registered voters on a petition promoting a ban of new uses of chlorofluorocarbons and fines against companies that do not comply with the ban. The money collected through fines would be used to help finance research on alternatives to the chemicals.

The fifth-graders will deliver their petition to the Assembly Committee on Environmental Conservation.

Chlorofluorocarbons, most widely used in refrigeration, foam packaging products and the electronics industry, break down into chlorine in the atmosphere. The chlorine has been destroying ozone in the stratosphere, allowing more ultraviolet rays to reach the earth's surface, where they increase the skin cancer rate and are harmful to plants.

The drafters of the petition, 11-year-old Nikki Donvito and Casey Carpenter, 10½, will address the Assembly members Tuesday, Schaeffer said.

The Walworth Town Board passed a resolution to back the ban, and the Ontario Town Board approved a resolution supporting the effort of the students.

The lesson on chlorofluorocarbons was just one section Schaeffer taught on ecological issues, she said. However, what started out as a one-month classroom assignment grew into an area-wide, four-month campaign initiated by the two fifth-graders, Schaeffer said.

"In December, we had to pick a problem the Earth had and do something about it," Casey said. Nikki said they concentrated on the deterioration of the ozone because it posses both an environmental and health threat.

"We collected 115 signatures and sent it to Gov. (Mario) Cuomo," Nikki said. Assemblyman Frank G. Talomie Sr., R-Geneva, visited the school in February and invited the girls to speak to the Assembly's Environmental Conservation Committee, she said.

Casey and Nikki enlisted the help of eight classmates and launched a petition campaign in Ontario and Walworth. The students collected signatures by going door to door and posted petitions in businesses, garnering about 700 signatures so far.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $3.3 billion in budget authority, and over the budget resolution by $4.2 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $114.8 billion, $14.8 billion above the maximum deficit amount for 1990 of $100 billion.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, July 16, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1990 and is current through July 13, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated July 10, 1990, the President has signed into law the Amtrack Reauthorization and Improvement Act (P.L. 101-322). This action has no effect upon the current level of spending or revenues.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer).

THE CURRENT LEVEL REPORT, FOR THE U.S. SENATE, 101ST CONG., 2D SESS., AS OF JULY 13, 1990

[In billions of dollars]

	Current level [1]	Budget resolution, H. Con. Res. 106	Current level +/− resolution
Budget authority	1,326.1	1,329.4	−3.3
Outlays	1,169.4	1,165.2	4.2
Revenues	1,060.3	1,065.5	−5.2
Debt subject to limit	3,085.1	3,122.7	−37.6
Direct loan obligations	19.1	19.3	−.2
Guaranteed loan commitments	115.1	107.3	7.8
Deficit	114.8	[2] 100.0	[3] 14.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 106. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with Sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] Maximum deficit amount [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[3] Current level plus or minus MDA.

THE CURRENT LEVEL REPORT 101ST CONG., 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS JULY 13, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous session:			
Revenues			1,068,600
Permanent appropriations and trust funds	954,969	791,109	
Other legislation	635,362	638,737	566
Offsetting receipts	−233,985	−233,985	
Total enacted in previous sessions	1,356,347	1,195,862	1,069,166
II. Enacted this session:			
Dire emergency supplemental appropriations (P.L. 101-302)	2,293	666	
An act making technical amendments to title 5, U.S. Code (P.L. 101-303)		−1	
Amtrak Reauthorization and Improvement Act (P.L. 101-322)	−10		−10
Total enacted this session	2,283	665	−10
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	−8	1	
Payment to judicial officers' retirement fund	−4	−4	
Judicial survivors' annuities fund	−3	−3	
Fees and expenses of witnesses	−5		
Justice assistance	−4		
Fisherman's guaranty fund	1	1	
Administration of territories	−1		
Firefighting adjustments	−1,057	−192	
Federal unemployment benefits (FUBA)	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	−24		
Black Lung disability trust fund	52	31	
Vaccine improvement program trust fund	7	7	
Federal payments to railroad retirement	1	1	
Retirement pay and medical benefits	−4		
Supplemental security income program	263	263	
Special benefits, disabled coal miners	21		
Grants to states for Medicaid	−907		
Payments to health care trust funds	(325)	(325)	
Family support payments to States	84	84	
Payments to states for AFDC work programs	15	15	
Payments to states for foster care	−83		
Health professions student loan insurance fund	−25	−7	
Guaranteed student loans	−175		
College housing and academic facilities loans	−3	−3	
Rehabilitation services	−79		
Payments to widows and heirs	(*)	(*)	
Reimbursement to the rural electrification fund	111	111	
Dairy indemnity program	(*)	(*)	
Conservation reserve program	720		
Special milk program	−2		
Food stamp program	−2,000		
Child nutrition programs	−74		
Federal crop insurance corporation fund	(*)		
Agriculture credit insurance fund	342		
Rural housing insurance fund	(*)		
Rural communication development fund	(*)		
Payments to the farm credit system financial assistance corporation	−2		

THE CURRENT LEVEL REPORT 101ST CONG., 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS JULY 13, 1990—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Coast Guard retired pay	−17		
Payment to civil service retirement	(84)	(84)	
Government payments for annuitants	−3	−2	
Readjustment benefits	−62		
Compensation	258	208	
Pensions	−62		
Burial benefits	−4		
Loan guaranty revolving fund	−7		
Disaster relief	−1,100	−883	
Total entitlement authority	−3,834	−371	
VI. Adjustment for economic and technical assumptions	−28,685	−26,763	−8,900
Total current level as of July 13, 1990	1,326,110	1,169,393	1,060,256
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		4,193	
Under budget resolution	3,290		5,244

* Less than $500,000.

Notes.—Numbers may not add due to rounding. Amounts shown in parenthesis are interfund transactions that do not add to totals.●

CAPTIVE NATIONS WEEK

● Mr. SIMON. Mr. President, July 15-21, 1990, marks the 31st anniversary of Captive Nations Week, honoring the people of oppressed nations around the world in their brave struggle for freedom. I am especially proud to celebrate their efforts this year because of the dramatic developments we have seen in Eastern Europe, the Soviet Union, Asia, and Central America.

We recently celebrated our own Independence Day. We remembered the many sacrifices American women and men have made in the past 214 years to secure the promise of liberty and freedom. Captive Nations Week commemorates the spirit of that promise across the globe.

As we welcome the triumph of democratic forces in much of Eastern Europe, we also acknowledge that our work is not done. The Soviet Union continues to illegally occupy and intimidate the citizens and Governments of the Baltic States: Lithuania, Latvia, and Estonia, who have boldly raised their voices for freedom. The people of Armenia, Ukraine, and Albania can still only hope to begin their march along the road toward freedom.

Mr. President, I am proud to celebrate Captive Nations Week. By honoring the peoples of the world in their struggle for independence, we reaffirm our commitment to a free and democratic world community.●

A NEW VENTURE WITH THE SOVIETS

● Mr. PRYOR. Mr. President, I would like to take a moment to applaud the efforts of several Arkansans who are quietly pioneering better relations and profitable economic ties with the Soviet Union.

This story starts roughly 3 years ago when I organized a group of noted Arkansas businessmen for a trip to the Soviet Union. Our goals were to seek out new opportunities for trade with the Soviets and to explore the potential for joint ventures and marketing agreements.

Among that group, which included corporate giants like Sam Walton and Don Tyson, was an energetic attorney named Graham Catlett from Little Rock, AR. During the trip Graham Catlett saw a vision of great things to come for United States-Soviet relations and trade. He took our goal to heart and in the following years spent a great deal of his own money and time traveling to the Soviet Union to gain the Soviet's trust and respect and to try to match American companies with progressive Soviet organizations.

Mr. President, several weeks ago Graham Catlett got on a plane in Little Rock bound for Moscow. It is his 20th such trip in 3 years.

This flight was different. This time he returned to Moscow carrying the final papers for a landmark joint venture agreement between the United States and the Soviet Union.

The joint venture is called Micro International Exchange, or MIX. It is a 50-50 partnership between United States interests, including Micro Computer Center International of Little Rock and four partners in the Soviet Union.

Like several current joint ventures, MIX will import simple personal computer to the Soviet Union. But, Mr. President, unlike any current trade arrangements, MIX will be the first joint venture to involve the actual manufacture of personal computers in the Soviet Union.

Catlett pulled together several partners in Arkansas who will provide crucial marketing and manufacturing knowledge to the venture. The partners are Terry Johnson, John Beasley, and Laurie Johnson.

On the other end of the world, Catlett is being assisted by Eugene Bourieko, a Soviet with a sharp mind and eye on the future. The Soviet side of the venture is being backed by the Institute of Architecture, which will provide building space, the Finist Bank of Moscow, which is a newly chartered commercial bank, and two free enterprise cooperatives run by energetic entrepeneurs.

Mr. President, I am proud of what Graham Catlett and this group of business men and women are doing today. I am proud for my home State of Arkansas, I am proud for the United States and I am proud for the Soviet Union.

This is an exciting commercial activity and it is an exciting glimpse of what we all hope will become commonplace as the Soviet Union and the United States find new, peaceful, and more profitable ways to work with each other.

Mr. President, I ask that a copy of the announcement of the MIX joint venture be placed in the RECORD following my statement.

The announcement follows:

PRESS RELEASE

LITTLE ROCK, AR, *May 26, 1990.*

The Board of Governors of the Soviet-American Joint Venture "MIX" announce their Articles of Incorporation and formal registration with the Soviet Ministry of Finance on April 11, 1990.

Joint Venture "Mix" or "Micro International Exchange" is a Manufacturing/Sales and Marketing Group with a primary emphasis in computer manufacturing and software development in the Soviet Union.

American Joint Venture Partners are Graham Catlett of Catlett, Inc., and Laure H. Johnson, F. Terry Johnson, and John Beasley of Micro Computer Center International Group, Inc. both companies are in Little Rock, Arkansas. Soviet Joint Venture Partners are the Finist Bank of Moscow, Cooperative "Sovermennik". Soviet Architectural Institute "MARHI", and a Soviet scientific production co-operative "Adlos"—according to Attorney Grahman Catlett of Little Rock, "MIX" Board Chairman.

Members of the Joint Venture "Mix" Board of Governors are Americans Graham Catlett, Board Chairman, John E. Beasley, both of Little Rock, and F. Terry Johnson of Benton, Arkansas. Soviet Board Members are I. Mikhalevsky, K. Khourshudyan, A Stcherbakov, I. Lezhave, and Evegueny Bourelko—all of Moscow.

Joint Venture "MIX" marketing activities will be directed towards software sales and systems development to commercial joint ventures, state enterprises, and co-operatives in the Soviet Union. "MIX" will also focus on networking and communications of personal computers utilizing the newest technology available and will provide hardware/software solution packages to newly emerging business.

Additionally, "MIX" currently maintains offices in Moscow, and Kiev, U.S.S.R. and Little Rock, Arkansas.●

U.S.S. "AARON WARD"

● Mr. SIMON. Mr. President, one of the people I have had a chance to work with through the years, for whom I have the greatest respect is Einar Dyhrkopp. He is a business leader in southern Illinois, who has also shown much above average leadership in civic affairs. He has an uncommon sense of what is needed and what is not needed in this Nation.

He is one of these people you are instinctively proud to be associated with.

One of the experiences that he has great pride in is his experience in serving in the U.S. Navy aboard the U.S.S. *Aaron Ward.* He and his colleagues of the U.S.S. *Aaron Ward* are going to be having a reunion in September in St. Louis.

I hope everyone cooperatives to make this reunion a most successful event.

I asked my friend, Einar Dyhrkopp, to put together a little history of that ship, and he has done so. I ask to insert his statement at the end of my statement. It is another reminder of the sacrifice that a great many people have made on behalf of our freedom.

I had the honor to serve overseas in the Army under the U.S. flag, and I am proud to have done so.

But I also take great pride in people who serve on a ship like the U.S.S. *Aaron Ward,* and I particularly appreciate the kinship that they are still maintaining.

The statement follows:

Fleet Admiral Chester W. Nimitz called Lt. Commander Arnold S. Lott's book, "Brave Ship, Brave Men," "the finest story of the war which I have been privileged to read . . . a beautiful writing job!" It is the story of a remarkable and heroic ship, the U.S.S. *Aaron Ward* (DM34) and the performance of her Captain William H. Sanders, Jr. and her crew. These men served on Radar Picket Station 10 off the shores of Okinawa to give early warning of kamikaze attacks to the main fleet. They were the first targets of the suicide planes sent by a desperate Japan in the last great battle of World War II.

Captain Sanders received the Navy Cross and the crew received a Presidential Unit Citation for heroic service on May 3rd, 1945, after numerous direct hits by suicide planes, bombs, and exploding ammunition nearly sank Aaron Ward. Commander Arnold S. Lott explains it graphically, "The night was black and deep, except where the Aaron Ward burned like a devil's barbecue. There was no electricity, no lights, no power, no pressure on the fire mains. Men fought fire the way they fought fire in Homer's day, with water. There was still plenty of water in the ocean, plenty of it already in the ship, too. Exploding ammunition rocketed toward the stars. Men did not know if they would die by going down or blowing up. They did not know how much time there might be, but in what time there was, they fought to save their ship. And, so they did. And, so they become heroes!"

Aaron Ward was dead in the water, a burned out derelict. She had fired her few remaining guns as long as the suicide planes kept coming, she shot down several. Finally she was towed to Kerama Retto for temporary repairs. Captain Sanders soon realized that his ship would be cannibalized beyond hope of saving her, if he did not leave that place, and his brave crew (what was left of them) would be scattered over the Pacific. He decided to limp home with her, when they were able to get steam up on one boiler. He was determined to keep his ship and her brave men together. And, so he did. And he had kept the crew together ever since.

Aaron Ward (DM34) and her crew were in Brooklyn Navy Yard when World War II was over. Captain Sanders and men had to bid farewell to their fighting ship. She was a fast ship, and they took her in harm's way, and they brought her back. And they're proud as hell, and they're never going to forget. They are sorry that so many of their shipmates didn't make it, but Captain Sanders has kept the rest of them together. Each year there is a Christmas letter from Captain Sanders, together with current information about almost all of the living crew members and their families. Survivors of those who died May 3rd are also included. On this September 14th, 15th, and 16th Aaron Ward's 14th Biennial Reunion will be held in St. Louis, Missouri. A memorial service with Captain Sanders in attendance will highlight the proud occasion.

It is fitting that we pay tribute to them, before their shining metals have turned to rust and their bones have turned to dust.●

SELF-DETERMINATION FOR PUERTO RICO

● Mr. SIMON. Mr. President, I rise today to again speak in strong support of the Puerto Rico plebiscite bill, S. 712, and to share with my colleagues an important article on the status question written by Guillermo Moscoso, a retired lawyer living on the island of Puerto Rico.

Earlier this year, Patrick Buchanan, a well-known newspaper columnist, forcefully outlined what he viewed would be the detrimental political, economic, and social consequences of Puerto Rican statehood. I do not share that view and neither do many Puerto Ricans or others who have considered the status question. Mr. Buchanan's column has been previously placed in the CONGRESSIONAL RECORD. It is instructive, therefore, to consider Mr. Moscoso's response.

Mr. President, I hope for Senate action soon on S. 712. As I have said before, the choice of Puerto Rico's status is one that belongs in the hands of the people of Puerto Rico. A congressionally sponsored plebiscite is the best way for that choice to be made known to Congress and all the American people.

In order that my colleagues can have the full breadth of information on Puerto Rico and Puerto Ricans, I ask that the statement previously referred to be printed in the RECORD immediately following my remarks, as well as Mr. Moscoso's response to that opinion.

The material follows:

PUERTO RICO AS OUR 51ST?

(By Pat Buchanan)

From opposite directions on Pennsylvania Avenue, Oscar Collazo and Griselio Torresola made their way to the iron door of Blair House. The plan: meet at the stairs, shoot their way inside and assassinate President Truman. They came close. Torresola was killed on the spot by dying police hero, Leslie Coffelt, Collazo wounded. But, to the tiny Puerto Rican party then seeking a break free of the United States, Torresola would become a martyr, Collazo a hero.

Four years later, independentistas smuggled weapons into the visitor's gallery of the House of Representatives and sprayed the floor, wounding five.

That was long, long ago. But, as last June's march of 80,000 through San Juan demonstrates, the desire for an independent Puerto Rico yet burns in the breasts of many on that island we seized as war booty from Spain in 1898. Though only a tiny fraction of the 10 percent who seek independence endorse violence, that fraction yet finds bloody expression in Los Macheteros.

To the point, not enough hard thought is being given by Mr. Bush to the potential consequences of making Puerto Rico our 51st state. We may be about to create a Northern Ireland in the Caribbean.

Legislation is quietly moving through Congress for a summer 1991 vote, which would permit Puerto Rico's 3.5 million to choose statehood, commonwealth status or independence. The 248 million in the 50 states would have no say in the matter. If the island chose statehood, the grant of statehood would be automatic.

Again, we had best wake up to what is going down.

Already, 40 percent of the people on the island get federal benefits. If statehood is adopted, the cap on welfare spending comes off, and perhaps 60 percent would be eligible for Aid to Families with Dependent Children, food stamps, Medicaid, etc. The present $6 billion in U.S. budget outlays would explode.

Can we afford this—and not only in welfare payments?

Considering what the Great Society did to Washington, with the nation's highest per capita income, do we really want to convert Puerto Rico (per capita income $4,500, not half that of Mississippi) into a Carribbean reservation mired in the same rage and resentment that those dependent on welfare exhibit everywhere else in America?

Dutifully, of course, such a state would send six Democrats to an enlarged House of Representatives, and two liberal senators to help Massachusetts' Edward Kennedy overturn the Reagan revolution. Why is the GOP enthusiastic about this?

Why not leave well enough alone? Today, Puerto Rico is an enterprise zone. Under Section 936 of the Internal Revenue Code, U.S. factories there are exempt from corporate income taxes; islanders need not file 1040s on April 15. But if Puerto Rico votes statehood—and the proffered bribe of a cornucopia of federal goodies is tilting it that way—all tax privileges would have to go; and we would soon have a tax revolt from Puerto Rico's middle and upper classes.

Have we considered the fundamental change in the character of our union, if Puerto Rico becomes the 51st state?

An English-speaking people, we Americans would become a bilingual nation. For the English language could not be forced upon this island of Spanish heritage, where 60 percent do not even understand it.

According to the Senate bill, all that is needed for this historic change is for just half the island to vote "yes" on statehood. While Puerto Rico is entitled to decide its own future, is 50.1 percent enough of a plurality to effect the permanent transfer of sovereignty, to make Puerto Rico a permanent part of the American Union?

Thirteen decades ago, we fought a bloody Civil War to prevent the Confederate states from breaking free. Are we prepared to send troops, if the people of Puerto Rico should later change their minds? Are we prepared to fight a guerrilla war, like the British in Belfast, if the Macheteros emulalte the Irish Republican Army? Before entering a marriage, "till death do us part," ought not both the island and the mainland reflect longer upon how nasty a divorce would be?

If it ain't broke, don't fix it.

There is no overwhelming clamor for statehood on the island; nothing is wrong with today's commonwealth status that cries out for repair. And, as in the 13 Colonies in 1775, there is a vocal minority for total independence whose views ought to be

respected, if not heeded. The last thing America needs now is to clasp to her bosom forever, 300,000 embittered Hispanics who yet dream of an independent country.

Before this island, with the size and population of a small nation, becomes a state, at least two-thirds of its people, better yet three-fourths, should request it. And, the 248 million who reside in the 50 states should be given time to reflect on their request to join the American family, forever.

From Serbia to Azerbaijan, from the West Bank to Soweto, from Scotland to Quebec, ethnic chauvinism is on the rise. Separatism is everywhere winning converts. People are demanding not what is in their economic interest but what they deem vital to preserving the race, the tribe, the religion, the culture. While we may bemoan the trend, we cannot deny it; nor are we Americans immune to it.

In such an environment, prudence dictates that we think twice, then think again, before annexing forever to the American Union an island people with a separate cultural nationality, who do not speak our language, and who are still deeply divided in their own desires.

PAT BUCHANAN'S INACCURACIES

(By Guillermo Moscoso)

Much has been said about syndicated columnist Patrick Buchanan's article on Puerto Rico, published in The Washington Times on February 26. The article, which reflected a great deal of ignorance about Puerto Rico (something which is par for the course on the mainland, with only ourselves to be blamed for it) was made a part of the record at the hearings on Puerto Rico's proposed status referendum held on March 2 by the U.S. House of Representatives' Insular and International Affairs Subcommittee.

The article, which appeared to be tailor made and the result of a well coordinated pubic relations effort to coincide with the above mentioned hearings in Washington, served to confuse the nation more on our political, economic and social realities. The article was packed with a series of inaccuracies some of which I feel are worth bringing to the public's attention, as follows:

Buchanan: 1. "Ten percent of Puerto Ricans seek independence."

Comment: Historically, since the middle of the nineteenth century, the independence movement in Puerto Rico has never been a political force. For a generation, the votes for independence at the polls have fluctuated between three and five percent, with only around 100,000 voters out of a voting population of over 1.5 million (one million five hundred thousand).

Buchanan: 2. "In June, 1989, 80,000 marched through San Juan demonstrating a pro-independence sentiment."

Buchanan: 3. "The 248 million Americans in the 50 states would have no say in matters of granting statehood for Puerto Rico."

Comment: Evidently, Buchanan forgets that the United States operates under a representative democracy. The people in the states of the Union would have a say through their representatives in Congress. This procedure was carried out when 37 territories were admitted to the Union as states.

Buchanan: 4. "Puerto Rico's per capita income is $4,500 yearly."

Comment: It is actually around $5,500 but even this figure is considered inaccurate in view of Puerto Rico's disproportionately large "undergound economy", prompted by uncalled for high taxes.

Buchanan: 5. "Puerto Rico, as a state, would send six Democrats to the House and two liberal senators to the Senate."

Comment: This is a highly speculative matter. In the case of Hawaii and Alaska, for example, it did not happen as expected, with respect to members sent to Congress. But one thing is certain, Puerto Rican voters are essentially conservative; by far more so than those on the mainland. This is particularly the case on social, foreign relations and defense issues. Religious values and family ties are deeply entrenched in Puerto Rico. On issues like abortion, the opposition to it among Puerto Ricans reflects quite a degree of conservatism. On matters related to defense, the great majority of Puerto Ricans supported the U.S. invasions of Grenada and Panama. With regard to wars in which the U.S. has been involved, the participation of Puerto Ricans in said wars was greater, for example, than the 22 states of the Union (most of the enlistment for military service was done on a voluntary basis).

Under the aforementioned circumstances, Buchanan's prediction that Puerto Rico would send liberals to the U.S. Senate if it becomes a state is without foundation and definitely speculative.

Buchanan: 6. "Under statehood all Puerto Rico's tax privilege would have to go and the U.S. would soon have a tax revolt from Puerto Rico's middle and upper classes."

Comment: At present, Puerto Rico is the U.S. jurisdiction with the highest taxes. Under statehood, after the transition period, taxes in Puerto Rico would go down. Personal income tax in Puerto Rico is so high, that U.S. companies operating in Puerto Rico pay their executives coming from the mainland a tax equalization allowance so that they would only be subject to what they normally would pay on the mainland by way of income tax.

Buchanan: 7. "As English speaking people, we Americans would become a bilingual nation, for the English language could not be forced upon Puerto Rico, of Spanish heritage, where 60 percent do not even understand English."

Comment: It is hard to understand Buchanan's view to the effect that the U.S. would become a bilingual nation if Puerto Rico is admitted as a state. How can he possibly say that the U.S. is not already a nation where many languages are spoken? That the English language is not the official language of the nation and that the U.S. Constitution has left it to the states to determine their official language? Recent court decisions have upheld the right of the states to so determine. How can Buchanan possibly ignore the Spanish heritage of such states as California, New Mexico, Texas and Florida? How can Buchanan ignore the fact that the U.S. is a nation of ethnic groups with different languages, heritages and traditions? How can he ignore the fact that Americanism is not a matter of race, heritage or language, but a matter of the mind and heart?

Evidently, Buchanan ignores that Puerto Ricans, as U.S. citizens, share with other U.S. citizens the same values, traditions, customs and patriotism, without ignoring their own heritage and love for Puerto Rico.

One more thing: Buchanan forgets that, as Puerto Rico's former governor Carlos Romero Barceló correctly said at the March 2 hearings, the U.S. is no longer a melting pot of people from everywhere in the world, but is today a salad bowl!

Buchanan: 8. "If it ain't broken, don't fix it. Nothing wrong with today's commonwealth status that cries out for repairs. There is no overwhelming clamor for statehood on the island."

Comment: Buchanan ignored the fact that the three major political parties in Puerto Rico, including the one which favors commonwealth, requested the status referendum because they feel the present commonwealth status does not satisfy the political, economic and social needs of Puerto Rico. As a matter of fact, for 30 years these parties have shown inconformity with Puerto Rico's political status.

Buchanan also ignored the recent public opinion surveys which have reflected the increasing prostatehood sentiment in Puerto Rico throughout the years and not just now and because of the food stamps program and other federal economic assistance, including provisions of economic help in the Senate's Referendum Project 712, approved by the Senate Energy and National Resources Committee last year.

Let's keep in mind that it is one thing to vote at regular elections for a political party and individuals and quite another to vote in a referendum for the political status destiny of Puerto Rico. I expect that in the latter case, the overwhelming majority of Puerto Ricans will vote for statehood. This will be so because overwhelmingly the people of Puerto Rico want permanent union with the United States, cherish their U.S. citizenship and strongly feel that the real permanent union can only be achieved by being a state of the Union and not under a Pact of Free Assocation or its actutal equivalent, an Associated Republic. And much less under a political formula claiming shared or bilateral sovereignty with the United States, which would be not only unrealistic, but constitutionally and juridically impossible.

Buchanan: 9 "By making Puerto Rico our 51st state, we may create a Northern Ireland in the Caribbean."

Comment: Puerto Ricans are known for being peace loving people. Actually, there is no historical evidence that Puerto Rico could be a Northern Ireland if it becomes a state. Let's not be scared by the boogeyman of Northern Ireland (in Spanish we call it the "cuco"). Of course we are bound to initially have protests and rabble rousers who might even resort to voilence, but soon all this will fade away in light of the overwhelming will of the people of Puerto Rico. But speaking of protests and violence, the U.S. mainland is not immune to them as we frequently read in the newspapers, including protest marches in front of the White House and the Capitol in Washington.

Yes, Buchanan, I agree with you that people throughout the world are claiming their right to self-determination in order to decide what is best for their progress and well being. This is precisely why the U.S. cannot postpone giving the people of Puerto Rico an opportunity to select their status preference. The U.S. Congress must expedite the referendum legislation and reject those who wish to kill it either because they are only interested in obtaining power in the 1992 elections (and control the juicy fiscal budget) or because they have realized that their political status formula cannot win in a referendum.

The United States must show the world that it wants to comply with democractic principles such as the right to self-determination. Above all, the United States must understand that compliance with those principles cannot depend on the economic cost of any one of the political status options which Puerto Rico has. Cost was cer-

tainly not a factor when the U.S. moved to advance self-determination in Grenada, Panama and Nicaragua. Why should it be in the case of Puerto Rico where U.S. citizens are involved? What is really involved in this referendum legislation now before the U.S. Congress in not only the historic responsibility that the U.S. has towards Puerto Rico, but the inherent right of Puerto Rico to be given the opporutnity to decide its own political status destiny according to international law and in the exercise of its right to self-determination. I am confident the U.S. will live up to its commitment.

I, therefore, exhort the members of the U.S. Congress not to allow themselves to be manipulated toward postponing any further the solution of Puerto Rico's ambivalent political status, which in fact makes Puerto Rico the oldest colony in the world today.

I hope Buchanan finds the opportunity to visit us and become acquainted with our history and our political, economic and social realities before he is persuaded again to write about Puerto Rico.●

RESOLUTION TO AMEND SENATE RESOLUTION 66

Mr. BOSCHWITZ. Mr. President, I send a resolution to the desk and ask for its immediate consideration on behalf of Senator MURKOWSKI.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 309) to amend Senate Resolution 66, relating to committee funding, to clarify the spending authority of the Committee on Veterans' Affairs.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 309) was agreed to.

The resolution reads as follows:

S. RES. 309

Resolved, That (a) section 18 of Senate Resolution 66, agreed to February 28, 1989 (101st Congress, 1st Session) is amended—

(1) in subsection (b) by inserting after "$1,123,937" the following: ", of which amount not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946, as amended)"; and

(2) in subsection (c) by inserting after "$1,148,131" the following: ", of which amount not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946, as amended)".

(b) The amendments made by subsection (a) are effective on March 1, 1989.

Mr. BOSCHWITZ. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 o'clock tomorrow morning; that, following the time for the two leaders, there be a period for morning business not to extend beyond 10:15 a.m. with Senators permitted to speak therein; that at 10:15 a.m. the Senate return to consideration of the civil rights bill; and, that there then be 12 hours remaining on the Kennedy-Jeffords substitute to the bill under the cloture rule.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, let me say that I hope very much that those involved in the discussions—and I will not be among those involved—will be able to reach agreement on the outstanding matters. This is a very important bill. I think there is a widespread consensus in the Senate that we want to move forward on this important measure. There is reasonable and understandable disagreement on some aspects of it. But I hope that those differences can be bridged, that we can reach agreement on a bill that will become law, and move us forward in this important area.

I will be pleased to yield to the distinguished Republican leader at this time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Let me indicate that I am in agreement with the majority leader and the unanimous-consent request, and I think everybody agrees it is worth one last shot, one last effort. That will be done starting very soon, and we will see what may develop.

If there is not any resolution, then there are 12 hours. There are a number of options that we have discussed. I do not see any reason to discuss those now. But I want to point out that even if we get into a logger-head, even though the substitute would be adopted, there still could be 30 hours of debate on the bill. It would not be amendable.

So the point I would make is this is not an effort to delay as we indicated earlier. But hopefully, there can be some resolution.

It is very, very complicated, as I indicated earlier. There are so many lawyers involved it may not be possible to resolve it. But I think the majority leader stated it correctly.

Mr. MITCHELL. Mr. President, I thank my colleague.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

PROGRAM

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate convenes tomorrow, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that upon reservation of the leaders' time, there be a period for morning business not to extend beyond 10:15 a.m.; that during morning business, Senator GRAHAM of Florida be recognized for not to exceed 20 minutes, and that Senator WIRTH be recognized to control for not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Mr. President, if the acting Republican leader has no further business and if no other Senator is seeking recognition, I ask unanimous consent that the Senate now stand in recess as under the previous order until 9 o'clock tomorrow morning.

There being no objection, the Senate, at 9:04 p.m., recessed until at Wednesday, July 18, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 17, 1990:

DEPARTMENT OF COMMERCE

WAYNE LEE BERMAN, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE D. BRUCE MERRIFIELD.

HOUSE OF REPRESENTATIVES—*Tuesday, July 17, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, creator of every person, before whom each stands equally in judgment and mercy, bless and protect us in all we say or do. Remind us always, O God, that whatever our power or position, whatever our accomplishments, Your grace is for everyone alike. We acknowledge that Your peace is upon all, without distinction of rank or status, and that to whom much has been given so will much be required.

May Your benediction be upon those in this assembly this day and upon all Your human family. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Georgia [Mr. DARDEN] please come forward and lead the House in the Pledge of Allegiance.

Mr. DARDEN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will announce to the Members that the Chair will recognize 5 Members on each side for 1-minute speeches.

THE PENTAGON'S NEW $670,000 SUPER FAX MACHINE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Pentagon has a brandnew toy. This one is right out of James Bond. It is known as Super Fax or Max Fax, a fax machine that costs $670,000 each, even though you can buy a fax machine for about $1,000; but the Pentagon says it needs 175 of them, and this is why.

It can fax under water. It can fax in outer space. It can fax in the freezer. It can fax in the oven.

Mr. Speaker, it can even fax, the Pentagon says, through a nuclear blast. Now, if you can believe that, you can believe that it could fax through the gas at the Pentagon, too.

The bottom line is, Mr. Speaker, I say today if Super Fax is so good, why not fire everybody at the Pentagon and buy 500 more of them?

Do you want to balance the budget? Do not mess with the Constitution. Take a chain saw to the Pentagon and you will find all the money that America needs to balance our budget.

Super Fax, Max Fax, this is just a plain old taxpayer's screw.

SUPPORT THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, for several weeks now we have been voting on appropriation bills. Unless I am mistaken, at this point we should begin taking a whack at the deficit. So what have we been doing? It is just the same old game of spend and spend and spend some more.

As customary procedure we adopt rosy economic estimates, waive Budget Act points of order and turn a blind eye to pork barrel spending projects. The time has come to restore some semblance of order to this country's financial affairs. We need to have courage to change the rules of the game.

Today we have that opportunity. We can change the rules and pass the balanced budget amendment to the Constitution. This amendment simply provides that Federal outlays will equal rececipts in each fiscal year. The balanced budget amendment also calls for greater accountability in Congress by requiring that tax legislation be approved by a roll callvote.

If we take our responsibilities seriously, we can win the battle against the deficit and we can take responsible action to reduce the Federal deficit. Join me in this commonsense approach for a balanced budget.

THE BALANCED BUDGET AMENDMENT

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, imagine, if you will, someone out there in middle America who has a certain income and savings and certain expenses and has to make ends meet. That is the situation for millions of Americans.

Every day they prioritize their spending—and most learn to live within their means.

There is a message there for Congress, a message of balancing our national budget, a message which has been largely ignored by Congress for three generations.

The next generations—our children and grandchildren—face a fiscal nightmare unless our generation, this Congress, gets hold of this deficit monster and wrestles it to the floor.

For all of our discussions and good intentions, we are still spending—and wasting—too much of this Nation's money; 75 percent of the people want a balanced budget.

Well, today we have an opportunity to show them that we are willing to take serious steps toward getting our Nation's fiscal house in order.

I urge my colleagues to vote for the balanced budget amendment.

There is an old proverb that says "many words, little sense." We have had enough words—now let us start making some sense.

THE DUCK THAT QUACKS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I have a little pin here this morning that is based upon the Budget Director's statement that if it looks like a duck and quacks like a duck, it is probably a duck.

Well, if it looks like a tax and quacks like a tax, it is probably a tax.

Well, let me tell you, Mr. Speaker, there is a flock of taxes headed our way unless we stop them. We can start today by requiring a balanced budget under the Constitution. That would force us to find ways to limit spending, thereby keeping taxes down. No new taxes.

JUGGLING THE DEFICIT

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. DORGAN of North Dakota. Mr. Speaker, one of the curious things about a juggling act is that you can only keep the ball in the air so long. About 5 months ago the President in this Chamber told us the deficit was getting much better. He said, in fact, in the coming year the deficit is going to be about $65 billion, the year after about $30 billion, and then he said the budget will be in balance.

Well, about 5 months later they hold a press conference. They say in this coming year the deficit is going to be $168 billion, and that does not include the savings and loan scandal. If you include that, it is about $230 billion, and that does not include misusing about $70 billion of Social Security funds. If you include that, the deficit is $300 billion.

Last week, again 5 months after the President came here and said things were getting better, he was over at the Ways and Means Committee, through his Treasury Department, saying we need nearly $1 trillion in new debt in the next 3 years.

Mr. Speaker, you cannot keep juggling the books. Ultimately it all comes to rest.

I say to the President, "You should read our lips. No new debt."

We need to get this fiscal house in order. We need to balance our books and reconcile revenues with spending.

Most importantly, the American people demand sober, serious deficit reduction to put America's fiscal house in order.

THE GROWING DEFICIT

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, no new debt, we are all for that. I hope we have got the courage to vote that way when it comes up on 2 percent, 5 percent and other spending cuts during the various appropriation bills.

The fact is, yes, indeed, we have seen $160 billion projections for the fiscal year 1990 deficit. I think that is too much. I think that is why in the summit we need some budget process reforms so that we do not have Gramm-Rudman on 1 year, 1 day only, during the entire fiscal year, because when we spend more than we take in, the Congress is good at that, we create these deficits. These deficits force us to borrow and the borrowing forces us to increase our public debt.

This year we will spend $182 billion on interest on our national debt. That is 24 times all agricultural price support programs. It is 1,070 times the amount of money we spend on the environmental management programs; 12 times as much as we spend on veterans' benefits; 41 times as much as we spend on Pell grants; 12 times as much as we spend on food stamps for the poor; 34 times as much as we spend on child and nutrition programs; 131 times as much as we spend on Head Start; 107 times as much as we spend on all job training programs; 1.6 times as much as we spend on Medicare and health programs for the elderly, and 5.8 times as much as we spend on the transportation budget.

□ 1010

Do we need a balanced budget? Do we need to get our House in order? I think the answer is obvious.

WE NEED A BALANCED BUDGET AMENDMENT

(Ms. SNOWE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SNOWE. Mr. Speaker, all of the histrionics and efforts by the majority party to defeat the constitutional balanced budget amendment would not have been necessary—if the Congress had exercised self-discipline and made tough budget choices.

Experience shows dramatically that Congress will not make the tough choices on its own; look, for example, at yesterday's upward reestimate of the budget deficit to $169 billion; or look at the renewed orgy of higher spending in the appropriations bills the House has passed this year. In fact, of the $16.8 billion in higher spending in five of these bills, the House could not even bring itself to adopt a 2-percent across-the-board cut.

This constitutional amendment will not allow Congress to blithely continue these wayward practices, it will require Congress, fundamentally, to govern responsibly.

Mr. Speaker, 39 different States have balanced budget constitutional requirements, and they live with them; every household in this country has to balance its budget—now it is time for the Federal Government to adopt this amendment and embark on a radical new course: Not spending more than we take in.

VOTE TO CUT WASTE, FRAUD AND ABUSE

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, is it any wonder that the American people are throwing up their hands in disgust? The savings and loan disaster has convinced them that everyone in Washington, DC, is in the pockets of the special interests.

And here is another example of why?

The Education and Labor Committee has an opportunity this week—not next year—but this week to enact reforms and save significant money in the Guaranteed Student Loan Program and the leadership is saying "No. Let's wait until next year."

Defaults in the Guaranteed Student Loan Program have grown to $2 billion. The total of all defaults now stands at $7 billion.

And, may I stress that most of this money has flowed to proprietary and trade schools that are running defaults ranging between 30 and 60 percent. These are the people who do not want us to act.

We can begin to reform the program by adopting the Roukema amendments to the Excellence in Education Act. They encompass reform the committee considered and passed in 1988. Unfortunately, time ran out and the bill never was debated on the floor.

Here we are, 2 years later, and the default rate has reached $2 billion a year for a total of $7 billion. This is a scandal my friends. A scandal.

Vote to cut waste, fraud and abuse. Say "No" to the special interests. Vote "yes" on the Roukema student loan amendment.

WHAT THE PRESIDENT CALLS ECONOMIC LEADERSHIP

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, a decade of Republican administration mismanagement, capped off by Mr. Bush's consistent underestimation of the S&L crisis, is finally catching up with us. As the New York Times reported yesterday, 16 States, with one-third of our population, are in recession.

This is the legacy of the Republican economics of glitz, greed, and live-for-today. The United States is the world's leading debtor nation. Working Americans are earning less in real income today than they were 10 years ago. Each taxpayer is being asked to pay out $2,500 to bailout the wheeler-dealer bankers who have swindled us.

What is the President's reaction to all of this? What is the President's one legislative goal? The President wants to give a capital gains tax break to his mega-rich friends and finance on the backs of working Americans.

That, Mr. Speaker, is the crux of Mr. Bush's economics: Ignore the real problems that are driving our Nation into recession, but take care of his privileged friends. That Mr. Speaker, is what this President calls economic leadership.

WE NEED PRESIDENTIAL LEADERSHIP

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, yesterday the administration ate crow. It acknowledged the deficit is going to be $168 billion, not $100 billion, it is really going to be, if we include savings and loan, much larger than $168 billion.

Mr. Speaker, I do not say this with any glee, but there is a lesson to be learned. The deficit was not the best kept secret in this country or in Washington. It was not any secret at all.

The President shirked his duties in January by not coming clean with the American people. If he did not show leadership in January, it is critical that he now show it in July. We Democrats are willing to meet the President halfway if he shows that leadership. So far, regretfully, I say, he has not come close.

We need more than Mr. Darman coming forth with a list of the cuts and what they will mean and saying it is not up to Congress. We need Presidential leadership to tell the truth to the American people, lay out his plan and rally this Nation to face up to the deficit crisis.

DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION AMENDMENTS ACT OF 1990

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4982, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and pass the bill, H.R. 4982, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 347, nays 19, not voting 66, as follows:

[Roll No. 234]

YEAS—347

Ackerman	Bilirakis	Campbell (CA)
Alexander	Bliley	Campbell (CO)
Anderson	Boehlert	Cardin
Andrews	Boggs	Carper
Annunzio	Bonior	Carr
Applegate	Borski	Chandler
Armey	Bosco	Clay
Aspin	Boucher	Clement
Atkins	Boxer	Clinger
AuCoin	Brennan	Coble
Ballenger	Brooks	Coleman (MO)
Barnard	Broomfield	Coleman (TX)
Barton	Browder	Collins
Bateman	Brown (CA)	Combest
Bates	Brown (CO)	Conte
Beilenson	Bruce	Cooper
Bennett	Bryant	Costello
Bentley	Buechner	Coughlin
Bereuter	Bustamante	Cox
Bevill	Byron	Coyne
Bilbray	Callahan	Craig
Darden	Kyl	Rose
Davis	LaFalce	Rostenkowski
DeFazio	Lagomarsino	Roth
Dellums	Lancaster	Roukema
Derrick	Lantos	Rowland (GA)
DeWine	Laughlin	Roybal
Dickinson	Lehman (CA)	Russo
Dicks	Lehman (FL)	Sabo
Dingell	Levin (MI)	Saiki
Dorgan (ND)	Levine (CA)	Sangmeister
Dornan (CA)	Lewis (FL)	Sarpalius
Downey	Lewis (GA)	Savage
Dreier	Lightfoot	Sawyer
Durbin	Lipinski	Saxton
Dwyer	Livingston	Schaefer
Dymally	Lloyd	Schiff
Dyson	Long	Schneider
Early	Lowery (CA)	Schroeder
Eckart	Lowey (NY)	Schuette
Edwards (CA)	Luken, Thomas	Schulze
Emerson	Lukens, Donald	Schumer
Engel	Machtley	Sensenbrenner
English	Madigan	Serrano
Erdreich	Manton	Shaw
Evans	Marlenee	Shays
Fascell	Martin (IL)	Shuster
Fawell	Martin (NY)	Sikorski
Fazio	Mavroules	Sisisky
Feighan	Mazzoli	Skaggs
Fish	McCandless	Skeen
Flake	McCrery	Slattery
Flippo	McCurdy	Slaughter (NY)
Foglietta	McDade	Slaughter (VA)
Frank	McDermott	Smith (FL)
Frost	McEwen	Smith (IA)
Gallegly	McGrath	Smith (NE)
Gallo	McHugh	Smith (NJ)
Gaydos	McMillan (NC)	Smith (TX)
Gejdenson	McMillen (MD)	Smith (VT)
Geren	McNulty	Smith, Denny (OR)
Gibbons	Meyers	
Gillmor	Miller (CA)	Smith, Robert (OR)
Gilman	Miller (WA)	
Glickman	Mineta	Snowe
Gonzalez	Moakley	Solarz
Goodling	Molinari	Solomon
Gordon	Mollohan	Spence
Goss	Montgomery	Spratt
Gradison	Moody	Staggers
Grandy	Moorhead	Stallings
Grant	Morrison (WA)	Stangeland
Gray	Mrazek	Stark
Guarini	Murphy	Stenholm
Gunderson	Murtha	Stokes
Hall (OH)	Myers	Studds
Hall (TX)	Natcher	Sundquist
Hamilton	Neal (MA)	Swift
Hammerschmidt	Nowak	Synar
Harris	Oakar	Tallon
Hastert	Oberstar	Tanner
Hatcher	Obey	Tauke
Hayes (IL)	Olin	Tauzin
Hayes (LA)	Ortiz	Taylor
Hefley	Owens (NY)	Thomas (CA)
Hefner	Owens (UT)	Thomas (GA)
Henry	Oxley	Thomas (WY)
Hertel	Packard	Torres
Hiler	Pallone	Torricelli
Hoagland	Panetta	Towns
Hochbrueckner	Parris	Traficant
Holloway	Pashayan	Traxler
Hopkins	Patterson	Udall
Horton	Payne (NJ)	Upton
Houghton	Payne (VA)	Valentine
Hubbard	Pease	Vento
Huckaby	Penny	Visclosky
Hughes	Perkins	Volkmer
Hutto	Petri	Vucanovich
Hyde	Pickett	Walgren
Inhofe	Pickle	Walsh
Ireland	Porter	Washington
James	Poshard	Waxman
Jenkins	Pursell	Wheat
Johnson (CT)	Quillen	Whittaker
Johnson (SD)	Rahall	Whitten
Johnston	Rangel	Wilson
Kanjorski	Ravenel	Wise
Kaptur	Ray	Wolf
Kastenmeier	Regula	Wolpe
Kennedy	Rhodes	Wyden
Kennelly	Richardson	Wylie
Kildee	Ridge	Yates
Kleczka	Robinson	Yatron
Kolbe	Roe	Young (FL)
Kolter	Rogers	
Kostmayer	Ros-Lehtinen	

NAYS—19

Bartlett	Gekas	Shumway
Burton	Hancock	Smith, Robert (NH)
Crane	Hansen	
Dannemeyer	Herger	Stearns
DeLay	Miller (OH)	Stump
Douglas	Nielson	Walker
Duncan	Rohrabacher	

NOT VOTING—66

Anthony	Green	Nagle
Archer	Hawkins	Neal (NC)
Baker	Hoyer	Nelson
Berman	Hunter	Parker
Bunning	Jacobs	Paxon
Chapman	Jones (GA)	Pelosi
Clarke	Jones (NC)	Price
Condit	Jontz	Rinaldo
Conyers	Kasich	Ritter
Courter	Leach (IA)	Roberts
Crockett	Leath (TX)	Rowland (CT)
de la Garza	Lent	Scheuer
Dixon	Lewis (CA)	Sharp
Donnelly	Markey	Skelton
Edwards (OK)	Martinez	Unsoeld
Espy	Matsui	Vander Jagt
Fields	McCloskey	Watkins
Ford (MI)	McCollum	Weber
Ford (TN)	Mfume	Weiss
Frenzel	Michel	Weldon
Gephardt	Morella	Williams
Gingrich	Morrison (CT)	Young (AK)

□ 1038

Mr. MILLER of Ohio changed his vote from "yea" to "nay."

Mr. RIDGE changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. JONES of Georgia. Mr. Speaker, I rise today in strong support of H.R. 4982, the Dwight D. Eisenhower Mathematics and Science Education Amendment of 1990. I was unavoidably detained in my district and was unable to cast my vote in favor of this important legislation. Had I been present, I would have voted "aye."

□ 1040

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 268, PROPOSED CONSTITUTIONAL AMENDMENT TO REQUIRE A BALANCED BUDGET

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 434 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 434

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 268) proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in

the enactment of tax legislation, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the joint resolution and shall not exceed three hours, to be equally divided and controlled by Representative Brooks of Texas, Representative Fish of New York, and Representative Stenholm of Texas, or their designees, the joint resolution shall be considered for amendment under the five-minute rule. No amendment to the joint resolution shall be in order in the House or in the Committee of the Whole except the amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments may only be offered by the member specified in the report, or his designee, and shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment. All points of order against said amendments are hereby waived. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution back to the House but only the last amendment adopted shall be considered as having been finally adopted and reported back to the House. The previous question shall be considered as having been ordered on the joint resolution and amendment thereto to final passage without intervening motion except one motion to recommit.

SEC. 2. The resolution (H. Res. 391) providing for the consideration of the joint resolution (H.J. Res. 268) proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation is hereby laid on the table.

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to my friend, the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 434 is a fair rule for the consideration of House Joint Resolution 268, which proposes a balanced budget constitutional amendment. The rule provides 3 hours of general debate equally divided and controlled by Representative BROOKS, Representative FISH, and Representative STENHOLM.

The rule makes in order two amendments in the nature of a substitute, the first to be offered by Representative BARTON and the second to be offered by Representative STENHOLM, and each substitute is debatable for 1 hour. A majority vote is required to adopt a substitute. Only the last substitute adopted will be considered as finally adopted and reported back to the House. All points of order against the substitutes are waived and they are not subject to amendment.

The rule makes in order one motion to recommit. On final passage, a two-thirds vote is required to propose a constitutional amendment.

Mr. Speaker, the rule also lays on the table House Resolution 391 which was the subject of the discharge petition. This action in no way implies criticism of the discharge process or those who used it so successfully. Representative STENHOLM introduced a constitutional amendment which was referred to the Judiciary Committee but the committee did not schedule a hearing. Mr. STENHOLM, along with Representatives BARTON, CARPER, CRAIG, and ROBERT F. SMITH, of Oregon, then introduced a rule for the consideration of the proposed constitutional amendment. House Resolution 391 was referred to the Rules Committee but the committee did not schedule a hearing.

Then Mr. STENHOLM filed a discharge motion and got 218 signatures. That is exactly how the process is supposed to work. Throughout, my friend from Texas, Mr. STENHOLM was fair, candid, and honorable.

He and the cosponsors and the signers of the discharge motion have won a great victory. They are entitled to full and fair consideration of House Joint Resolution 268.

We have agreed on this rule, rather than the discharged rule, because House Resolution 434 provides for a cleanly structured, more focused debate, without diversionary amendments and procedural motions, while protecting the rights of all Members. I congratulate those who have worked so hard for this day.

I hasten to add, however, I strongly oppose a constitutional amendment to require a balanced budget. Of course, this does not mean I am happy about our current fiscal policy. Our national debt more than tripled in the last decade and it is a drag on the economy. Current deficit levels retard economic growth, dampen productivity, lower our standard of living, weaken our competitive position in the world economy, and constrain our abilities as a world leader.

We are borrowing too much from foreign powers and each year's interest payment on the debt—the fastest growing part of the budget—reminds us how much we depend on others to buy our Government bonds. To continue on this path of unbridled consumption and borrowing will place horrendous burdens on our children and grandchildren.

There is no substitute, however, for real deficit reduction. No mandate established in the Constitution, no pretty new procedure set forth in the law of the land, can stand in for actual changes in our spending and tax policies. At best, a constitutional amendment would fortify our will to do the right thing.

A balanced budget, however, is not always the right thing to do. The national economy can be harmed by too sharp a turn toward austerity, by drastic spending cuts and burdensome tax hikes. The call to banish the deficit would produce a recession, if heeded today. On an entirely bipartisan basis, the budget summit participants have said, whatever the size of the deficit and whatever the Gramm-Rudman deficit target, only $50 billion in deficit reduction can be achieved this year without strangling economic growth.

OMB yesterday determined they had underestimated the defict in January and now predicts the fiscal year 1991 deficit would exceed $168 billion, not counting the savings and loan bailout. Add the bailout, as would be required under the constitutional amendment, and we are talking about more than $230 billion. To cut the deficit by that amount, in a sluggish economy, threatens a deep recession.

On Sunday, FDIC Chairman Bill Seidman said the banking industry and the deposit insurance fund are under stress. He warned that, in its current condition, the deposit insurance fund could not withstand a long, deep recession; that would spell a disaster even more costly than the savings and loan scandals. We can imagine the ever-multiplying economic calamities if this constitutional straitjacket were suddenly to constrict our activities today.

I realize the proponents of the amendment allow time for a transition. House Joint Resolution 268 would not take effect until the next Presidential election and, if either of the two substitutes is adopted, the effective date would be pushed back even farther. The transition period suggests the sponsors recognize we should not balance the budget in fiscal year 1991. But if it would be dangerous to balance the budget today, then it may also be wrong tomorrow and it ought not be required by the Constitution.

Yes, we have mismanaged our fiscal house. Yes, we must cut spending and break away from our reliance on borrowing to pay for current consumption. And yes, we need stiffer backbones than we have recently shown if we are to put in place serious, long-term deficit reduction.

Even if you think Congress and the President will not be fiscally responsible unless compelled by a mandate to balance the Federal budget, I still question whether the Constitution ought to be amended.

The Constitution is not the place to enshrine one view of the best fiscal policy—and one that at times may be the wrong policy. To propose an amendment, knowing that it cannot and should not always be enforced, is the worst form of cynicism. Moreover, the deficit problem we want to fix is here today. If we rely on a constitutional amendment to strengthen our resolve we must wait to tackle the

problem until the States ratify, a process that could take another 7 years.

Despite my opposition to the proposed constitutional amendment, I support the rule. Those who have signed the discharge motion are entitled to this vote. House Resolution 434 is a fair and focused way to proceed, providing for a full debate on this very serious matter. I urge adoption of the rule.

□ 1050

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I have a quick question for the gentleman from Massachusetts [Mr. MOAKLEY], the chairman of the Committee on Rules.

He indicated this is not the proper time for this type of an amendment, and we have been arguing about this for years and years. I would like to ask the gentleman, when will be a proper time for a constitutional amendment like most of the States have to put some teeth in the budgetary process, and mandate that we do balance our budget like American households have to do?

Mr. MOAKLEY. Mr. Speaker, if the gentleman will yield, as I said in my statement, I do not think a constitutional amendment is the way to proceed on a fiscal matter as this.

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman from Tennessee will continue to yield, we have been trying for years and years and years to get control of this budget and the budgetary process, and we have not succeeded. Many Members feel the only way we will do it is by putting some teeth in the Constitution, and those who say that we should not do that should come up with an alternative approach to getting control of spending in this House.

Mr. QUILLEN. Mr. Speaker, in the over 200 years our Constitution has been in effect, it has been amended only 26 times. Any proposal to change it is a serious step, not to be taken lightly.

And yet we have come to the point in our national history where change is necessary if we are to leave to our posterity a nation which is not hopelessly buried in debt. The national debt is now over $3 trillion and we will soon be asked to vote to increase it again. It is difficult for many Americans to grasp the magnitude of such a number. Let me try to put it in perspective. If you were counting dollar bills at the rate of 1 per second, it would take 17 minutes to count $1,000. It would take 12 days to count $1 million. It would take 32 years to count $1 billion. But to count up to $1 trillion would take 32,000 years, if you counted 24 hours a day, 7 days a week. And the national debt is now more than three times that trillion dollar amount.

The idea of a constitutional amendment to require a balanced budget is not a new idea. In 1798, Thomas Jefferson wrote the following:

> I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our Government to the genuine principles of its constitution; I mean an additional article taking from the Federal Government the power of borrowing.

For much of our national history up until about 1930 Congress followed an unwritten policy of balancing the budget except in time of war. During these same years, Congress also followed a general policy that the National Government should pay its public debts from surpluses accumulated during time of peace. In the 1930's and early 1940's the national debt level increased because of depression and war. These increases in debt were necessary and had Congress after World War II followed the historical pattern of paying off debts during periods of prosperity, the national debt today would not be a significant problem. But that is not what happened. Congress after World War II continued, in most years, to increase the national debt level even in time of relative prosperity.

Over the years Congress has tried to deal with the problem by legislation. The Congressional Budget and Impoundment Control Act of 1974 was viewed by many at the time as a solution to the deficit problem. It was supposed to force Congress to deal with the spending, revenue, and the deficit in one comprehensive package. It has not solved the problem of increasing deficits. As a matter of fact, since the Budget Act was passed in 1974, deficits have increased by leaps and bounds.

In the 1980's Congress passed the Balanced Budget and Emergency Deficit Control Act, known as Gramm-Rudman-Hollings. It provided for reducing the deficit by automatic across-the-board cuts, if Congress did not act to reduce the deficit. But when faced with really difficult choices, Congress has acted to change the statute.

We have come to the point where we have to admit that legislative solutions are not solving the problem.

For a number of years I have advocated a constitutional amendment to require a balanced budget. In 1982, the last time the House voted on this issue, I was a cosponsor of the proposal; 236 Members of this body supported that effort. At that time the national debt level was $1.3 trillion.

Today we are faced with a much higher debt level, over $3 trillion. And it is growing as we speak. The longer we put off dealing with this problem, the worse it is going to be.

A constitutional amendment is a workable solution. It works in 39 of our State governments today. It forces difficult political choices to be made each and every year, rather than mortgaging the future by borrowing more and more and more.

The time has come when we can no longer permit the public debt to spiral out of control.

This morning in the Washington Post there is a front page article headlined "Deficit Forecast Rises to $168.8 Billion." If we included the S&L bailout, it would be some $231 billions of dollars. I notice in the accompanying picture in the Washington Post the Secretary of the Treasury has his hands over his eyes. That is a telling photograph and a significant headline. We are faced with a crisis. We should do something about it today.

The time has come when we must consider our duty to our posterity. If we continue our present course, future generations will inherit such a debt-burdened government, they will have a greatly reduced standard of living.

The time has come when we have to think of the future.

The time has come for a balanced budget amendment to the Constitution.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON].

□ 1100

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I can recall back in the mid-1970's when this Congress took then-President Nixon to court, to the U.S. Supreme Court, and forced the President of the United States to spend the money that this Congress appropriated. That took away the impoundment right of a President to run the business of this Government. It forced him to spend every nickel the Congress appropriated whether it was needed or not.

I was a citizen back then, and I was outraged at that kind of action, and I decided to run for Congress. And I did.

In the last 8 years alone, beginning 8 years ago, the revenues coming in to these Federal coffers were about $600 billion. Do we know what they are today? Without increasing taxes significantly at all during these last 8 years, they are over $1 trillion.

Many will say, "Well, that was caused by the defense buildup."

Mr. Speaker, if we go back and analyze what happened to expenditures in the last 8 years, we find that about a third of that increase was for the defense buildup and that peace-through-strength program brought about democracy that is breaking out all over

this world and yes, we increased spending by about a third of that $500 billion. The rest was for domestic spending and even with all that new revenue we could not live within our means like we asked the American people to do. The Congress had to run up the huge annual deficits that have made us a debtor nation.

Mr. Speaker, this year alone, even with sluggish growth we are going to take in $70 to $80 billion in new revenues in this year alone without raising taxes at all but will any of that be used to reduce the deficit. The answer is no. We spend it. We pass out these appropriation bills every day between now and when we hope we get out of here in August. We passed out an energy and water bill that is $3 billion over last year's spending. We passed out a commerce, justice, and state bill that is more than $3 billion over last year's spending. And before we're done we will use up every nickel of the new revenues. That's been going on for years and it's the reason we're in this mess today.

Mr. Speaker, the first bill I introduced 12 years ago when I came here was this constitutional amendment. We had 1 chance in 12 years to vote on it. I think that was back in 1982. Now we have another chance. The American people ought to be given the opportunity to say yes or no on this amendment. We ought to let them decide.

Mr. Speaker, let us give the American people a chance. Let us pass this constitutional amendment today so that the American people through their State legislatures can have the final say. Vote yes on the rule and vote yes on the constitutional amendment.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, with all due respect to my colleagues, let me say that we have heard that the only way to achieve fiscal discipline is through a balanced budget. But forgive me, I think it is a dumb idea.

The fact is that a balanced budget is not a goal. The goal is full employment. The goal is stable prices. The goal is having all our people being able to read and participate fully in the fruits of this country and what it has to offer us. A balanced budget is not a goal. Yet we confuse it as such here today.

Some have said we need this balanced-budget amendment to make difficult choices. What about making difficult choices now? Even in the unlikely event that this idea should come to pass in the House and in the Senate and be ratified by the States, that will take years. The problems this country faces are immediate. They are today.

Many of my colleagues do not want to face the difficult choices that we are lectured about. Cutting Social Security, raising taxes, these are the choices that will help us achieve the goals of full employment and stable prices, not this charade.

Let me go over a few numbers that have been asked for by the administration recently before the Committee on Ways and Means. The current debt of the United States is $3.122 trillion. The President would like that raised to $3.8 trillion for fiscal year 1992, and he would like $4 trillion in debt authority by fiscal year 1993. So while we debate this fraud, we are busy engaging in a orgy of borrowing today.

Mr. Speaker, if we want to stop borrowing today, we should face the tough issues of cutting programs and raising revenues. Let us not engage in this charade.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I thank my colleague for yielding this time to me.

Mr. Speaker, let me express my appreciation to the chairman of the Committee on Rules and the ranking member for their cooperation in the crafting of this rule. All of us know its history. My colleague, the gentleman from Texas [Mr. STENHOLM], and I discharged a rule some weeks ago to allow full debate and discussion of House Joint Resolution 268. The committee, deciding that it would be better to hold the debate within certain confines, worked with us in an attempt to draft the rule which is now before us, which allows for full debate of House Joint Resolution 268 and which allows for 2 substitutes to be offered, one by my colleague, the gentleman from Texas [Mr. BARTON], and the other by my colleague, the gentleman from Texas [Mr. STENHOLM].

This is a serious effort. There is no question that all of us on this floor are frustrated by the inability of this Government to control its spending, and we have to arrive at a time and place where that control begins. We just heard a speaker on the floor refer to House Joint Resolution 268 as a fraud. I am convinced we will hear a lot of other things said about it today, and that is because none of us really wants to be saddled with the ultimate responsibility of controling the budget. None of us really wants to face the tough decisions that are at hand, but face them we must, and those decisions will have to be made here in this body in the next several months and years.

But whatever this body does today, we do not decide on whether the Constitution of the United States will have a balanced budget amendment. We must understand that in the debate that goes forth today. What we are deciding is whether we will allow the American people to become involved in what is probably one of the most important debates of this century, not by you, not by me, not by the elected representatives of this country. We are only going to provide for an opportunity for the American people to debate the issue.

During the course of the day I will discuss the merits of House Joint Resolution 268, but we should vote yes on the rule and we should participate in what is a significant debate, not a fraud on the American people, and then we ought to allow every legislature in this country and every citizen who chooses to become a participant in this most important debate to decide as to where this country goes and how it prioritizes the public resources and what type of public policy it will allow to be set under the Constitution of the United States as it relates to the allocation of those resources.

Mr. Speaker, those are the fundamentals of the debate. These are the fundamentals of the rule today, and this is the course and the action we will take in the ensuing hours.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I support the rule. I signed the discharge petition. I believe Members who believe deeply in this issue should have an opportunity to bring it to the floor.

I am going to vote "no," and very simply, let me tell the Members why I am going to vote "no." In 10 years, we have had two conservative Republican Presidents who promised to balanced budgets. They never made one cut, and our Government is now bigger than it was.

Let me say that again. In 1980, candidate Ronald Reagan said, "If I am elected, I will balance the budget by 1982." After he was elected, he had a press conference that is recorded somewhere on someone's microfiche in which he said, "I can't do it now. It will take me to the fall of 1983."

□ 1110

Then we had Gramm-Rudman. I voted "no" then, and everybody wanted to go home and say, "I did something about the default."

I think today the best vote I cast was "no" on Gramm-Rudman, because that was the bill that should have been called Congress Puts Off Until Tomorrow, What Is Painful for Congress To Do Today Act, and let the guy from OMB, the guy behind the tree make the cuts. We won't have to do it.

Now we are going to come back and we are going to deal with a constitu-

tional amendment. You might be snickering, but let me just say this, and I could be wrong, but this is nothing more than a blueprint. It is not an amendment. This is a blueprint to raise taxes and to use Social Security to balance these budgets. In 10 years, where is the balanced budget?

Some President should have had the courage to say, "Well, look, we've got a problem. Let me ship a balanced budget over and let it start to fly."

What they gave us was political speeches.

What we are doing here today is Congress is going to vote, if it happens, for a constitutional amendment and they are going to go home and beat their chests and say, "Look what I've done for you."

Let me tell you what I think we have done, absolutely nothing. We have massive spending in foreign aid. Nobody is going to touch it. We have massive waste at the Pentagon. We have a fax machine over there, Mr. Speaker, $670,000 per copy. They want 170 of them. It can fax underwater. It can fax in a freezer. It can fax in an oven. God forbid, do not let it get close to your wife.

The point I am making is, they cannot even find the money at the Pentagon. Why not take a chain saw to the Pentagon? Why not stop paying for the defense of neighbors who are wealthier than we are? Let them pay the bill. Why not balance our budget with some common sense? The American taxpayers are telling us to do that every day.

This is not read my lips anymore. It is read my taxes, because I don't want to bring a tax. I want to put a constitutional amendment on, so I don't have to make the politically sensitive cuts, so I can continue to get reelected.

Let me say this to both sides of the aisle. I understand the Republicans' position. You are upset with some of the domestic spending and some of that in your opinion has some good arguments.

We are upset with the fat cats and the sacred cows coming out all over the place, too.

Why not have a summit, a real summit? Why not get together and make the cuts? Why do we not balance it, and why did we not get a President who ran on "I'm going to balance the budget by the fall of 1982." Why did he not submit a balanced budget?

Mr. Speaker, when we passed Gramm-Rudman, our deficit was $200 billion. If you want to know the truth, when you take into consideration Social Security and the savings and loan mess, in 1991 the deficit will be $300 billion. And you want to go another 5 years with it?

This is like Congress in this Chamber being in an emergency room. We have a guy who comes in with major cardiac arrest. He is on his death bed. We come in. We give him a couple aspirins and say, "We'll be back in 2 weeks and take your pulse."

Five years, what is it going to be in 5 years, Mr. Speaker, $5 trillion?

Will we have Old Glory flying above the White House, or will it be either the Best Western or the Best Eastern?

I understand that I am probably going to be the only one in my area, maybe, to vote no on this thing. I was one of the few to vote no on Gramm-Rudman, and I was proud of that vote and I am going to be proud today to vote no on that constitutional amendment, because I am ready to make the cuts.

The SPEAKER pro tempore (Mr. OBERSTAR). The time of the gentleman from Ohio has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio.

Mr. TRAFICANT. I tried, Mr. Speaker, to cut foreign aid. It was defeated.

I tried to make some cuts at the Pentagon. They were defeated.

I once agreed with President Bush who tried to cut a hundred agents out of the IRS. That was overwhelmingly defeated.

I am not going to cut school lunches. This country should have health care, not missiles that cannot fly straight.

This country does not need a constitutional amendment. It needs a Congress with some guts.

We are not performing brain surgery here. President Bush should have been told by the Republicans to send over a balanced budget and let us see what they will do with it, but there was not that type of courage. There have not been any cuts. Nobody wants to cut.

What this will be is a blueprint for more taxes that will be palatable around election time and we will take that Social Security, the only Social Security Program helping a lot of people who have nothing else, and throw it out. You know that and I know that.

With that, Mr. Speaker, I hope I did not offend anybody. I do not want you to take any military contracts for me, because I am going to take somebody hostage the next time. I am hurting in my district, but if you want me to make cuts, I am prepared to make them because we are all going to make them.

Mr. Speaker, I appreciate the time.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, I was very entertained by the gentleman from Ohio.

We are going to hear today every possible excuse to keep from passing a budget-balancing amendment to make ourselves accountable to the people of this country.

A few minutes ago the gentleman from New York [Mr. SOLOMON] talked about the growth that is there, the new money that is already there. It shocks some people to find out that back in 1980 the total revenues, Mr. Speaker, to run this country from all sources was $517 billion. Ten years later, in 1990, it is $1.03 trillion. It doubled in that period of time, and mostly what we had during that period of time was tax decreases.

We have an automatic increase built in of $24 billion for each increase, 1-percent increase in economic activity in this country.

This is not anything new. I can remember back 20 years ago a man from California with the National Tax Limitation Committee called me as a State senator and he said, "We know that Congress is incapable of balancing the budget. We are going to have to do it from the States," so he put together a program. He said, "Why don't you introduce a resolution to call for a constitutional convention from the States for the sole purpose of balancing the budget, calling for a budget-balancing amendment?"

So I did. I was the first one to do it 20 years ago. Anthony Harrigan, who is a syndicated columnist in the South in over 300 newspapers, called me a voice in the wilderness, that way out in Oklahoma there is a guy who wants to balance the budget, and here it is 20 years later and I think today we have a chance of making a giant step to get it started.

I served as mayor of the city of Tulsa for three terms. I found out there how difficult it is to balance the budget, but I did. We were able to keep a balanced budget and stop growth in government for three consecutive terms, for 6 years, and it was difficult.

I do not think there were ever any more profound words in some of the speeches that were made around this country than that which was made in 1965 in a rendezvous with destiny, when Ronald Reagan said, "There was nothing closer to immortality on the face of this earth than a Government agency once formed." That is the raw politics of it and that is where we are today.

We have experienced a transformation in this country, a transformation from an insatiable appetite to spend money that we do not have here in Congress to an illness, an epidemic, an addiction, an addiction every bit as strong as that addiction which ruins the lives of so many young people in this country today.

So we have gone from an appetite to spend money to an obsession to spend money.

The gentleman from Ohio made several statements about the President. If

there is ever a guy who has taken a bum rap, it is the President.

If you go back and read this Constitution we have talked about so often, read article I, sections 7 and 8, it is the express and exclusive right and duty of Congress to balance the budget, to address the budget, to pass taxes, and if you read article II of our Constitution the words are not even there as far as budget or taxation, when it talks about the executive branch.

So we have a lot of hypocrites in this body who are going to go out and put their names down as a cosponsor, because they know that somewhere between 75 and 87 percent of Americans want a budget-balancing amendment to the Constitution; so they cosponsor it, hoping they never have to get on record, but now they have to get on record. So today could be singularly one of the greatest, most significant days in our history, when people are going to have go on record and the American people are going to know who in Congress wants to balance the budget and who in Congress does not want to balance the budget.

It could be a great day or it could be a dismal day for America.

□ 1120

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, this so-called constitutional amendment is really the epitome of the idea in politics that when you are in trouble the best way to handle the situation is that if you cannot dazzle them with brilliance, baffle them with b.s. That is exactly what this proposal does.

In the 1980's we talked about the needs of the truly needy. Let me tell the Members today that this so-called balanced budget is the amendment for the truly religious, because the balance to which it refers occurs only in the hereafter.

The fact is that what we have is a President who told the American public just 4 weeks ago that we could not reduce the deficit by more than $50 billion this year without tossing the country into a recession, so we had to change the Gramm-Rudman targets in the summit. That is just before he switched his lips. And now the same President is telling us, "Gee whiz, fellas, we have got to pass this new procedural fix on the deficit."

The problem is that the motto behind this package seems to be, "Not on George's Watch!" because it does not go into effect until 1995.

Right now, we have difficulty enough making the tough decisions when we need to get 50 percent to pass a major fiscal bill. This proposal does not balance the budget. It simply changes a majority from 50 percent to 60 percent.

Can you imagine the additional spending that would have to be wedged into the budgets after 1995 in order to get the votes of 60 percent of the people in the Senate or on the floor of this House? Can anyone imagine what that would cost the taxpayer?

This package is being brought to us by the same wizards who gave us the so-called bipartisan Gramm-Latta and Kemp-Roth packages back in 1981, jammed down our throats by the Reagan administration which tripled the national debt and tripled the deficits. It is being brought to us by the same wizards who then brought to us the Gramm-Rudman fix which, in my judgment, is a public lie put into law, and now we are asked to pass a bill today which puts into law a public fraud to stand next to that public lie.

I think the public is finally going to learn, after being brought these crazy gimmicks, I think they are finally going to learn that every time they get one of these gimmicks they are being had.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time.

Mr. Speaker, I oppose the constitutional amendment to require a balanced budget. But I must say some of the arguments on the other side almost make me change my feelings, because they have been so partisan.

I try to do this in a nonpartisan sense, really having looked at this thing through the kaleidoscopic view of a businessman. I oppose this amendment for four reasons.

First of all, a budget is not a budget. Any budget that many of us have dealt with in the private sector has always encompassed all the accounts. This does not. Whenever we get in trouble, we take something off the budget and put it someplace else, and I think that is a tremendous fallacy. There is no FASB [Financial Accounting Standards Board] that regulates this. We hear the bugles of reform, but we do not see the cavalry coming over the hill.

The second thing, I think, it does crazy things to our accounts. It forces leasing versus buying. It forces selling versus holding such as we have done with rural electrification. It forces raising taxes. It forces raising and pushing pay increases into different years. The question really is, whether it is a business or a government or whatever institution, do you, because you have a tight bond around some particular phase of your economy, slam that economy into a recession?

The most important thing, obviously, is to keep the economy going so that you can preserved the job base.

The third reason is practice is different from principle. I have stood up here and voted for 14½ percent, for 10 percent, for 5 percent, for 2 percent reductions in some of the appropriation bills which have come along here, and many of the same people who now are espousing the constitutional amendment have voted against those decreases. I do not understand why.

The fourth reason is the Constitution. I think it plays games with the Constitution, and I figured that I am down here to do my responsibility rather than lean on the law of the land this way.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, for those observers of the congressional process who may be experiencing difficulty in following our agenda, please be advised that this week's constitutional amendment deals with balanced budgets. To refresh America's memory, this is the same balanced-budget amendment which President Reagan solemnly endorsed for 8 years.

President Reagan and his successor, President Bush, believe ardently that if you cannot produce a balanced budget during your administration, then at least produce a balanced-budget amendment.

President Bush has added his own trademark to this debate. He insisted our Constitution be amended to require a balanced budget, but he demands that such an amendment not go into effect until 1995, long after most of those consumed with zeal are gone from the scene. So there we have it, a constitutional amendment for future generations of politicians, to save future generations of taxpayers from disaster, a perfect political solution. We get the headlines today, someone else gets the headache of making it work tomorrow.

Let us be honest, a balanced-budget amendment in the next fiscal year, for example, would be a disaster. Our Nation is teetering on the edge of a recession. Raising taxes or cutting spending to the tune of $300 billion would push our economy over that edge, and that, in my opinion, is not only what we face, that is also the opinion of the administration.

We need to reduce our deficit in a responsible way. If we want to avoid overheating our economy, we also want to avoid putting it into a stall.

Americans standing in unemployment lines will not applaud this effort today to pass a constitutional amendment.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. COX].

Mr. COX. Mr. Speaker, the balanced-budget amendment is scheduled

for a vote today not because the House leadership decided that our budget crisis now requires a vote on real budget process reform. It is not coming to a vote because the chairman of the Committee on the Judiciary after 7 years decided that the balanced-budget amendment should finally see the light of day. It is not coming to a vote because over 75 percent of the American people support a balanced-budget amendment to the Constitution. It is coming because 218 Members of this House signed a discharge petition.

Mr. Speaker, the 218 of us who signed that discharge petition did so with the understanding that we were also discharging an open rule that would permit us to offer amendments germane of whatever kind. The rule we are now considering is closed to all but two amendments.

I myself offered a line-item veto amendment in the Committee on Rules which was endorsed by the Bush administration. That amendment and all but two others were struck down. The Committee on Rules is bringing a closed rule to the floor on this most important topic.

I urge the Members of this House to reject the closed rule and to support an open rule that a majority of this House has sought.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in answer to the gentleman's question, let me say that his motion would not have been in order on the line-item veto, so it would not have fallen within the four corners of the discharge petition.

Mr. Speaker, for the purposes of debate only, I yield 1 minute to the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Speaker, I rise in strong support of the rule and in strong support of this amendment.

It is very close to one that I proposed. It is good and good commonsense fiscal policy. It should be mandated policy for this Congress and for the operation of this Government.

□ 1130

It is a policy of some 39 States carried out over the years. Certainly we should make these decisions up front, let the American people know these decisions, and not after the fact go out in the marketplace and borrow hundreds and hundreds of billions of dollars after we have made those spending decisions. The amendment is good policy of this country, Mr. Speaker, and I urge its adoption.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, we have heard a lot of demagoguery this morning, but let us look at some facts right now. This year we are going to see an increase in revenues coming from the taxpayers of this country to the tune of $70 billion to $80 billion, and yet the debt is going to go up dramatically, by some $230 billion when you include the S&L bailout in it.

What is the problem? Well, let me tell you what the problems are. First of all, we cannot control our spending. I am very much in favor of child care. I think all of us are. But do we have the money, the resources, to come up with a new child care bill? The answer is no. But this body passed overwhelmingly a new child care bill that is going to cost the taxpayers $30 billion over the next 5 years. We did not have the money. We know we do not have the money, but we all voted for it. I did not, but most Members did.

My question is, Why? We did not have the money. Why did we do it?

I am very much in favor of education, but this very day the Eisenhower math and science bill came up. Last year we spent $136 million for it. Do you know what we spent today? We spent $250 million this year. That is a $114 million increase, when we are trying to cut spending and get control of this budgetary process. Next year it goes to $300 million. The following year it goes to $400 million.

My question is, Why are we increasing spending for these programs and creating new entitlements when we do not have the money?

The answer is, we are trying to buy votes, I believe, many of us.

Let me talk to Members about another thing. In 1982 we passed TEFRA, the Tax Reform Act. We were going to cut spending $3 for every $1 in new taxes. We raised your taxes, America, but we did not cut the $3 in spending.

Now, what makes you think we are going to change now? We need to put some teeth in the process, and that is the constitutional amendment to balance the budget.

Since 1948 for every $1 in new taxes we have spent $1.58. There is no discipline in the budgetary process and there will not be unless we amend the Constitution of the United States by passing this amendment.

Mr. Speaker, we need discipline. We need teeth in this legislative process, and we need it now. Today is the day, my friends. Today is the day.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I rise in support of this rule. Let me take a moment to respond to some of the comments made by several Members earlier. One said this memo was written by wizards, the same wizards that had written Gramm-Latta.

I am one of the so-called wizards who has written this amendment. I was not in the Congress in 1981. I certainly did not write nor support Gramm-Latta.

Another Member has termed this a dumb idea. Another has said it is a charade. Another of my colleagues actually said that Ronald Reagan endorsed this amendment.

Let me just say Ronald Reagan has never seen this amendment. Ronald Reagan would probably not like this amendment. Why? Because this amendment requires the President to lead on the issue and deficit reduction, something we have not seen for at least the last decade.

Mr. Speaker, let me say, maybe some of the Members who spoke earlier were thinking about the last amendment that was voted on here in 1982. They are not thinking about the amendment that is before us today. The amendment debated by the House in 1982 did not require the President to propose a balanced budget. This one does. The amendment that was before us in 1982 did not provide a reasonable lead-in time to balance the budget. This amendment does. The amendment before us in 1982 did not try to develop a basic building block for our budget, a reasonable, realistic revenue estimate. This amendment does. The amendment before us in 1982 did not call for midyear flexibility in case we have an economic downturn. This amendment does.

The amendment before us in 1982 did not provide for a three-fifths vote, super majority, on debt ceiling increases to provide a backstop in the event there is some chicanery in the budget process. Our amendment does.

Very simply, our amendment calls for the President to propose a balanced budget. It says that Congress must not unbalance the budget, effective in 1995, unless three-fifths of us vote to do so, unless three-fifths of us vote to raise the debt ceiling. Our amendment says we can vote to raise taxes. We do not need a super majority to do so, but we do need a rollcall vote of the membership of the House—218 Members voting aye—to raise taxes.

Do we need to make tough choices to reduce the deficit? Sure we do. We all know that. Do we need to cut spending? Do we need to raise some revenues? Yes, we need to do that as well. We need this amendment to provide for accountability, to provide a measure of discipline, and I think you encourage us to make the tough budget votes that all of us are going to be facing this year and in the years to come.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the rule for consideration of the balanced budget

amendment. As one of the leaders of the discharge petition effort, along with the gentleman from Texas [Mr. STENHOLM] and the gentleman from Idaho [Mr. CRAIG] and the gentleman from New Hampshire [Mr. DOUGLAS] and the gentleman from Delaware [Mr. CARPER], we discharged a rule that allowed for an open rule. But the bottom line is we are trying to pass a balanced budget amendment with a two-thirds vote.

In extensive discussions with the leadership in support of the balanced budget amendment, it was decided that our best shot was to go with two amendments, an up-and-down vote, no gimmicks. One, the Barton amendment which is a super majority for the tax increase, which over 155 groups in the United States support. The other is the Stenholm-Craig amendment, which is a very strong constitutional amendment, with the exception that it only requires a majority on a rollcall vote to raise taxes.

Many, many people in this Chamber have worked many, many years to make this day possible. It is only the second time in the history of the Congress that we are going to be voting on a balanced budget amendment to the Constitution.

Mr. Speaker, this is a good rule. The Committee on Rules has worked with the leaders of the balanced budget amendment effort. I urge that every Member on the Republican side support this rule.

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. COX. Is it not the case that the Republican leadership specifically, the Republican leader and whip, were not involved in these negotiations?

Mr. BARTON of Texas. Mr. Speaker, that was not the case. They were involved.

Mr. COX. Can the gentleman from Texas [Mr. BARTON] explain to me at the time of the Committee on Rules meeting why that was not brought to our attention?

Mr. BARTON of Texas. Reclaiming my time, if the gentleman had asked me the question, I would have given him a straight answer. We did not try to snow anybody on this, I will guarantee that.

Mr. COX. Mr. Speaker, notwithstanding that 218 Members of the House signed a discharge petition that discharged an open rule, it is the official Republican tradition that we should have a closed rule but for these two amendments?

Mr. BARTON of Texas. Mr. Speaker, I did not say that.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, throughout the years I have served in the Congress I have been a strong advocate of efforts calling for the passage of an amendment to the Constitution of the United States requiring a balanced Federal budget.

The day has finally arrived when the House of Representatives has the opportunity to fully debate the merits of this proposal and this day is indeed historic and monumental. For by passage of this resolution, we will send a strong signal to our financial markets, and to our competitors in the global economy, that the U.S. Congress is willing to take strong and measured steps to end Federal indebtedness and ensure the future economic prosperity of our Nation. I believe there is no issue of greater importance to the American people.

Mr. Chairman, this is not a perfect solution. Certainly there are many things which will have to be done between now and 1995. But it does put rigid requirements in place which I feel will act as a disincentive against deficts. It troubles me that the interest on our national debt is approaching $170 billion. This does not build a single school, or provide for a single road, or fund a single science project. It does not help one senior citizen have a decent meal or adequate housing. With each end-of-the-year addition to the budget deficit, our national debt is growing—beyond what we in our lifetime, and our children in theirs, can possibly repay. This cannot continue.

The resolution before us is a balanced and measured approach to addressing the deficit crisis that threatens our Nation's financial stability. It simply requires the President and Congress to agree each year on an estimate of total Federal receipts and then limit total outlays to a level no greater than estimated receipts—unless the higher figure was agreed to by a three-fifths rollcall vote of the total membership of each House. It also requires a three-fifths rollcall vote to raise the debt ceiling, and a majority rollcall vote to approve any bill increasing Federal revenues. These constitutional requirements would be waived for any fiscal year in which a formal declaration of war is in effect—thus providing flexibility for the unpredictability of a massive economy.

The American public wants true budget reform and House Joint Resolution 268 will help provide that. Its strong, practical language establishes a constitutional standard that will lead our Nation toward balanced budgets and restore fiscal responsibility to the Federal Government. It deserves to be adopted by the Congress with all possible speed so it can be sent to the States, and thus directly to the American people, for ratification. I urge my colleagues to join with me in strongly supporting its passage.

Mr. QUILLEN. Mr. Speaker, I yield the balance of my time, 4½ minutes, to the gentleman from Illinois [Mr. PORTER].

□ 1140

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, statutes and constitutional amendments, however well-crafted, are no substitute for courage and will when it comes to deficit reduction. The gentleman from Texas and the gentleman from New Hampshire have worked long and hard to bring to the floor the amendment to our basic law that we consider today. They deserve to be commended. They set our sights on what must be achieved. I support their efforts and will support the amendment.

But, Mr. Speaker, I do not fool myself, nor should other Members or our constituents fool themselves, that this will solve our deficit problem. Often we look for institutional changes when problems seems intractable. We want to limit the terms of Members of Congress or give the President line-item veto or write fiscal standards into the Constitution. Some of these are sensible ideas, others not. But none will work or solve the problems they are aimed to solve, unless their is collective will that the problem be solved. The minds of men and women are infinitely creative in working around legal obstacles, if that is what they are inclined to do. One has only to look at Gramm-Rudman I and II to see what can be done to avoid making progress on the deficit. And, Mr. Speaker, let's make no mistake, no, no, progress has been made on the deficit in the last 8 years.

In 1983 our Nation's debt stood at $1.1 tillion. Today, it stands at $3.1 trillion and going up. Simple mathematics tells us that our average addition to the debt over the period has been $250 billion per year. When we talk of Gramm-Rudman deficit numbers of $150 billion or so, we leave out much of the actual obligation that our country has undertaken, not, insignificantly the entire S&L bailout, which is off-budget. We also fail to recognize the net annual additions to the Social Security reserve that are being counted as revenue, offsetting spending, which is not revenue but moneys needed to help provide for retirements in the next century.

Mr. Speaker, I urge the Members to support this amendment. But no one should believe for a minute that the deficit problem will thereby be solved. Only by putting its solution as our No. 1 domestic priority and by placing the standard of living and economic opportunity of our children and grandchildren ahead of our own are we ever

going to get back to a sound fiscal foundation. Mr. Speaker, we are currently destroying the economic opportunity. We are saddling our children and grandchildren with debt that today will cost each of them huge additional taxes, estimated at $150,000 for each one over their working lifetimes just to carry the interest on $3 trillion of debt, and we are, in addition, in the process of destroying their Social Security System as well. This is unconscionable. This is madness. If we allow it to continue, it will destroy us, and all of the values that have been the bulwark of our Nation from its inception.

The amendment sets our sights where they ought to be. But only will and courage, in so short a supply in this Chamber, will ever resolve our dilemma.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, I thank the chairman of the Rules Committee for yielding time to me.

Mr. Speaker, I rise in support of the rule. I think they have crafted a rule that will at least allow us to debate and dispose of this matter in a single day rather than spending the rest of the congressional session debating it.

I have been here for 14 years. I have served 10 years under a Republican President and 4 years under a Democratic President, and in none of those 14 years has the President, despite Presidential rhetoric, ever submitted to this Congress a balanced budget.

I supported Gramm-Rudman as a blueprint for reducing the national deficit. I have voted against appropriations for foreign aid, Commerce, State, Justice, military, and super colliders. I voted for across-the-board cuts of 2 percent and 4 percent across the board on various appropriation measures, all without success.

Individually and collectively, my friends, we have not been able to solve the deficit problem.

A few years ago I voted against the balanced budget amendment because I believed the debate that we could solve it within the confines of this House with the guidelines of that President who was espousing a balanced budget. My friends, we were not able to accomplish that in those 14 years that I have witnessed the process. I therefore join the effort today in support of the balanced budget amendment, in saying that perhaps it will impose the collective will on this body that we will balance a budget in our lifetimes.

Mr. QUILLEN. Mr. Speaker, I yield the balance of my time, 1 minute, to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, I thank the leader of the Rules Committee on our side of the aisle for yielding time to me.

Mr. Speaker, it has been 8 years since the House last had the opportunity to debate and vote on a balanced budget amendment. During that time our total Federal debt has increased from $1 trillion to over $3 trillion. The Federal Government's annual bill for interest on its debt has increased from $85 to $182 billion. Our foreign debt has grown to over half a trillion dollars, making us far and away the world's largest debtor nation. A fiscal problem has become a fiscal crisis.

Is a balanced budget amendment to the Constitution the answer? Will it work? Will Congress find ways around it? I do not know. I do know, however, that we in this body, and our colleagues in the Senate, and the President of the United States have all taken oaths to uphold that Constitution, and that to it we owe our highest allegiance. I want to be believe that we'd honor that oath and prove faithful to that allegiance.

I also know that the road to today's crisis is littered with statutory efforts to balance the budget that have been either ignored or compromised. In 1978 Congress passed a law saying that Federal outlays shouldn't exceed Federal receipts. In 1979 Congress passed a law committing itself to balancing the Federal budget. More recently we've passed Gramm-Rudman-Hollings I, and Gramm-Rudman-Hollings II and, any day, we will have Gramm-Rudman III. We'll also, unfortunately, have a $3 trillion debt that's still growing.

Perhaps the most compelling reason of all for this body to give this resolution the two-thirds majority that it requires, Mr. Chairman, is that the American people, by a majority of 75 to 15 percent, have said that they want a balanced budget amendment to their Constitution. The people's voice on this issue has been consistent and clear.

At issue today, however, is more than just whether or not the Congress will respond to that voice. At issue is also the question of how, and not just whether we want to balance the Federal budget. I offered an amendment in the Rules Committee which would have strengthened the tax limitation provisions in this resolution and thereby given us one opportunity to address that issue. The committee refused me the opportunity to bring that amendment to the floor. Our colleague from Texas, Mr. BARTON, faired better than I and will offer an amendment similar to my own. I urge all of my colleagues to support it.

When you get right down to it, there are just two factors in the budget equation—taxes and spending. The alternatives to a continuation of deficit budgets are fairly clear. We can balance the budget on the backs of American taxpayers or we can balance it by controlling Federal spending.

I think that American taxpayers are already bearing a sufficient burden. Many of my colleagues in the House and the Senate—most of them from the majority party—have an apparently equally strong preference for the taxing alternative. From their quarter we hear that Americans are under taxed and that the Federal Government is underfunded. From their quarter we hear that the answer to America's fiscal problems are new taxes and new revenues. The Democratic budget resolution that passed the House asks for $117 billion more. The Senate Budget Committee recently entertained a proposal asking for one-half of $1 trillion more.

I can tell you that I have not heard from a lot of Illinois taxpayers who share the Democrats view on the source of the problem or the solution to it. They do not want a VAT, they don't want new gasoline or energy taxes, they do not want new Federal income or Social Security taxes, and they do not want to be taxed to bail out the savings and loan industries in Texas and California. What they do want is a sign of fiscal discipline from Washington.

Federal income and FICA taxes have almost tripled—from $2,750 to $7,235 for a homeowning family of four with a $40,000 income in the Chicago area. In percentage terms the total tax bite—including State income and sales taxes—has increased faster than income in my home State of Illinois by 25 percent. Nationally, tax receipts are as high—19.6 percent—as a percentage of GNP as they have been at practically any time since the end of World War II. When they've been higher, America has been in recession.

Increased taxes are not the answer to the deficit problem and the American people know it. Most, according to a recent Gallup poll, believe that spending will increase right along with their taxes. While 58 percent of those polled said they thought new taxes were probable, only 9 percent believed that their Government would act to reduce spending. Their cynicism, unfortunately, is well founded. Every time we've raised a dollar in taxes during this decade we've increased spending by a dollar and a half.

Mr. Speaker, a balanced budget amendment with strong tax limitation language is consistent with the future of economic growth and empowerment at the level of the community, the family, and the individual. Balancing the budget on the backs of taxpayers, on the other hand, is a prescription for greater centralism, more bureaucratic waste and inefficiency, and the empowerment of bureaucrats, administrators, and politicians at the expense of the people.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND of Georgia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it is time for Congress to do more than just pay lipservice to balancing the budget.

We in Congress have endorsed the concept of imposing a strict balanced budget requirement on ourselves over and over again. In the 1970's and 1980's, the House and Senate repeatedly enacted statutory legislation to bring deficit spending under control. Gramm-Rudman-Hollings I and II are just the latest of a number of statutory attempts.

Unfortunately, the statutory approach that we have used has never fully worked. While it is true the country could be in even worse shape if it were not for Gramm-Rudman-Hollings, we know now it's not the ultimate answer. A balanced budget amendment to the Constitution is the better answer.

Except in national economic and military emergencies, such an amendment would all but guarantee that outlays would not exceed receipts. It would protect taxpayers from excessive Government spending. The Constitution should protect against Government excesses.

Congress has voted many times for a mandatory balanced budget. There's broad agreement on that concept. Let us put that concept to work the way Congress has always intended it to work—by voting for a balanced budget amendment to the Constitution.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Speaker, we have seen today already some rhetoric to the effect that this is a charade, this whole atmosphere, this whole process. Mr. Speaker, nothing could be further from the truth in this Member's eyes or for the Members that I have spoken to. No Member in this Chamber or this body takes amending the Constitution lightly.

Certainly the vote last week should prove that for those of us who could have passed an easy political vote but did not out of a deep and abiding respect for the document called the Constitution of the United States.

Today is an entirely different matter. We are serious. We are sincere, and we hope that as the debate continues during the day we can keep it on a level worthy of consideration in this Congress, and worthy of the document that we all revere and trust.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield our final minute to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR. Mr. Speaker, I would like to add my comments to the remarks of the gentlewoman from Tennessee [Mrs. LLOYD]. She made the comment when she was talking about the $180 billion a year that this Nation is spending on interest alone on the national debt, and that it does not educate one child, it does not build one road, it does not add to the quality of life.

□ 1150

The truth of the matter is, as my good colleague from Louisiana told me, it is educating children in Japan, it is building roads in Germany, it is contributing seriously to the well-being of life of the multinational bankers.

But if you happen to think that that $180 billion could be better spent educating Americans, building American roads, seeing to it that we preserve the peace, I think we need a constitutional amendment to balance the budget, to stop this farce of having the third largest expenditure of our Nation just paying interest on the national debt.

The SPEAKER pro tempore (Mr. OBERSTAR). All time has expired.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COX. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 59, not voting 25, as follows:

[Roll No. 235]

YEAS—348

Ackerman	Boucher	Conyers
Alexander	Boxer	Cooper
Andrews	Brennan	Costello
Annunzio	Brooks	Coughlin
Applegate	Broomfield	Courter
Aspin	Browder	Coyne
Atkins	Brown (CA)	Craig
AuCoin	Bruce	Darden
Ballenger	Bryant	de la Garza
Barnard	Bustamante	DeFazio
Bartlett	Byron	Dellums
Barton	Campbell (CO)	Derrick
Bateman	Cardin	DeWine
Bates	Carper	Dickinson
Beilenson	Carr	Dicks
Bennett	Chandler	Dingell
Bereuter	Chapman	Dixon
Berman	Clarke	Donnelly
Bevill	Clay	Dorgan (ND)
Bilbray	Clement	Downey
Bilirakis	Clinger	Duncan
Boehlert	Coleman (MO)	Durbin
Boggs	Coleman (TX)	Dwyer
Bonior	Collins	Dymally
Borski	Condit	Dyson
Bosco	Conte	Early
Eckart	Levine (CA)	Rogers
Edwards (CA)	Lewis (GA)	Ros-Lehtinen
Edwards (OK)	Lipinski	Rose
Emerson	Livingston	Rostenkowski
Engel	Lloyd	Roth
English	Long	Roukema
Erdreich	Lowey (NY)	Rowland (GA)
Espy	Luken, Thomas	Roybal
Evans	Lukens, Donald	Russo
Fascell	Machtley	Sabo
Fazio	Madigan	Saiki
Feighan	Manton	Sangmeister
Fields	Martin (IL)	Sarpalius
Fish	Martin (NY)	Savage
Flake	Martinez	Sawyer
Flippo	Matsui	Saxton
Foglietta	Mavroules	Schaefer
Ford (MI)	Mazzoli	Scheuer
Frank	McCandless	Schiff
Frost	McCloskey	Schneider
Gallo	McCollum	Schroeder
Gaydos	McCrery	Schuette
Gejdenson	McCurdy	Schulze
Gephardt	McDade	Schumer
Geren	McDermott	Serrano
Gibbons	McEwen	Sharp
Gillmor	McHugh	Shaw
Gilman	McMillan (NC)	Shays
Glickman	McMillen (MD)	Shumway
Gonzalez	McNulty	Shuster
Goodling	Meyers	Sikorski
Gordon	Mfume	Sisisky
Gradison	Michel	Skaggs
Grant	Miller (CA)	Skeen
Gray	Miller (OH)	Slattery
Green	Miller (WA)	Slaughter (NY)
Guarini	Mineta	Smith (FL)
Gunderson	Moakley	Smith (NE)
Hall (OH)	Molinari	Smith (NJ)
Hall (TX)	Mollohan	Smith (TX)
Hamilton	Montgomery	Smith, Robert (OR)
Hammerschmidt	Moody	Snowe
Hansen	Morella	Solarz
Harris	Morrison (WA)	Solomon
Hatcher	Mrazek	Spratt
Hayes (IL)	Murphy	Staggers
Hayes (LA)	Murtha	Stallings
Hefley	Myers	Stangeland
Hefner	Nagle	Stark
Henry	Natcher	Stenholm
Herger	Neal (MA)	Stokes
Hertel	Neal (NC)	Studds
Hiler	Nielson	Sundquist
Hoagland	Nowak	Swift
Hochbrueckner	Oakar	Tallon
Holloway	Oberstar	Tanner
Horton	Obey	Tauzin
Houghton	Olin	Taylor
Hoyer	Ortiz	Thomas (GA)
Hubbard	Owens (NY)	Thomas (WY)
Huckaby	Owens (UT)	Torres
Hughes	Oxley	Torricelli
Hutto	Pallone	Towns
Inhofe	Panetta	Traficant
Ireland	Parker	Traxler
Jacobs	Parris	Unsoeld
Jenkins	Pashayan	Valentine
Johnson (CT)	Patterson	Vander Jagt
Johnson (SD)	Payne (NJ)	Vento
Johnston	Payne (VA)	Visclosky
Jones (GA)	Pease	Volkmer
Jontz	Penny	Walgren
Kanjorski	Perkins	Washington
Kaptur	Pickett	Waxman
Kasich	Pickle	Weiss
Kastenmeier	Poshard	Weldon
Kennedy	Price	Wheat
Kennelly	Pursell	Whittaker
Kildee	Quillen	Whitten
Kleczka	Rahall	Wilson
Kolter	Rangel	Wise
Kostmayer	Ravenel	Wolf
LaFalce	Ray	Wolpe
Lancaster	Regula	Wyden
Lantos	Rhodes	Wylie
Laughlin	Richardson	Yates
Leach (IA)	Ridge	Yatron
Leath (TX)	Rinaldo	Young (AK)
Lehman (CA)	Ritter	
Lehman (FL)	Robinson	
Levin (MI)	Roe	

NAYS—59

Anderson	Bentley	Brown (CO)
Armey	Bliley	Buechner

Burton	Hopkins	Slaughter (VA)
Callahan	Hunter	Smith (IA)
Campbell (CA)	Hyde	Smith (VT)
Coble	James	Smith, Denny (OR)
Combest	Kolbe	Smith, Robert (NH)
Cox	Kyl	Spence
Crane	Lagomarsino	Stearns
Dannemeyer	Lewis (CA)	Stump
DeLay	Lewis (FL)	Synar
Douglas	Lightfoot	Thomas (CA)
Dreier	Lowery (CA)	Upton
Fawell	Marlenee	Vucanovich
Gallegly	McGrath	Walker
Gekas	Moorhead	Walsh
Gingrich	Packard	Young (FL)
Goss	Petri	
Grandy	Porter	
Hancock	Rohrabacher	
Hastert	Sensenbrenner	

NOT VOTING—25

Anthony	Hawkins	Rowland (CT)
Archer	Jones (NC)	Skelton
Baker	Lent	Tauke
Bunning	Markey	Udall
Crockett	Morrison (CT)	Watkins
Davis	Nelson	Weber
Dornan (CA)	Paxon	Williams
Ford (TN)	Pelosi	
Frenzel	Roberts	

□ 1211

Messrs. CAMPBELL of California, MOORHEAD, and LEWIS of Florida changed their vote from "yea" to "nay."

Mr. MANTON and Mr. McEWEN changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. OBERSTAR). Pursuant to section 2 of House Resolution 434, House Resolution 391 is laid on the table.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I was unavoidably detained on my way to the House for votes. Had I been here to vote, I would have voted the following way:

On rollcall No. 234, H.R. 4982, the Dwight D. Eisenhower Mathematics and Science Education Amendments Act of 1990, "yea"; on rollcall No. 235, the rule for consideration of the balanced budget amendment, "yea."

PERMISSION TO OFFER STENHOLM AMENDMENT TO HOUSE JOINT RESOLUTION 268, PROPOSED CONSTITUTIONAL AMENDMENT TO REQUIRE A BALANCED BUDGET, IN MODIFIED FORM

Mr. STENHOLM. Mr. Speaker, I ask unanimous consent that, during consideration of House Joint Resolution 268 pursuant to House Resolution 434, I may be permitted to offer the Stenholm amendment printed in House Report 101-600 in the modified form that I have placed at the desk.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MOAKLEY. Mr. Speaker, reserving the right to object, I will not object, but I just rise to say that the gentleman from Texas [Mr. STENHOLM] has discussed his unanimous consent request with me, and I have no objection to it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY CHAIRMAN OF COMMITTEE ON RULES REGARDING HEARING ON H.R. 4825, THE ARTS, HUMANITIES, AND MUSEUMS AMENDMENTS OF 1990

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, this is to notify members of the Rules Committee's plans regarding H.R. 4825, the Arts, Humanities, and Museums Amendments of 1990. The committee is planning to meet on Tuesday, July 24, 1990, at 10:30 a.m. to take testimony on the bill. In order to assure timely consideration on the bill on the floor, the Rules Committee is considering a rule that may limit the offering of amendments.

Any Member who is contemplating an amendment to H.R. 4825 should submit, to the Rules Committee in H312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment no later than 5 p.m. on Monday, July 23, 1990.

The committee appreciates the cooperation of all Members in this effort to be fair and orderly in granting a rule for H.R. 4825.

PROPOSED CONSTITUTIONAL AMENDMENT TO REQUIRE A BALANCED BUDGET

The SPEAKER pro tempore. Pursuant to House Resolution 434 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the joint resolution, House Joint Resolution 268.

□ 1215

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 268) proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation, with Mr. HEFNER in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. Pursuant to the rule, the joint resolution is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 1 hour, the gentleman from New York [Mr. FISH] will be recognized for 1 hour, and the gentleman from Texas [Mr. STENHOLM] will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may require.

Mr. Chairman, I rise in opposition to House Joint Resolution 268. According to its proponents, this proposed amendment to the Constitution would somehow magically create a balanced budget each and every year. The only problem with this lofty and pious statement of good intentions is that it won't do what it purports to do and may produce a host of dangerous and unintended consequences.

The timing of the amendment comes at a most unusual moment: As the administration this week raises its estimate of the fiscal year 1991 deficit to $168 billion, when just last January it predicted that figure would be only $100 billion; as the emergency budget summit called by the President is struggling to cut billions of dollars to reach the Gramm-Rudman targets for this year; as the President is in full retreat from his campaign pledge to the American people of no new taxes; and as the cost of the S&L fiasco begins to climb to astronomical levels, this body is now debating an esoteric constitutional amendment that does nothing to solve any of these problems and may in fact invite financial gridlock and chaos.

Last week the House Judiciary Committee's Subcommittee on Economic and Commercial Law, which I chair, held extensive hearings on this proposal in order to develop a record for an informed vote by the House. The subcommittee heard from a wide array of witnesses that included economists, constitutional experts, and budget officials spanning all administrations from President Nixon through President Reagan. The overwhelming majority, conservative and liberal alike, concluded that the proposal would likely lead either to manipulations of the budget process, thus breeding even more cynicism among the American public, or to paralysis in the most vital functions of Government and throughout the economy.

We heard from the current director of the OMB, Richard Darman, who proudly proclaimed that "President Bush strongly supports passage of a balanced budget amendment to the Constitution." But, when asked why this amendment shouldn't go into effect next year, he immediately began to backpedal, recommending

against the dangers of such a precipitous step. Indeed, he urged us to delay the effective date even further—to 1994. Of course, by that time, the 1992 Presidential elections will be over. For some peculiar reason, I and many others did not find his views to be a particularly bold or action-oriented approach to the problem at hand—but it is consistent with the record of an administration that, along with its predecessor, has paid lip service to the bumper-sticker slogan of a balanced budget while at the same time adding $2 trillion to our national debt over the past decade.

No less than the Chairman of the Federal Reserve, Alan Greenspan, found that the lack of enforcement provisions of House Joint Resolution 268 would create a mess—he warned us that the courts would eventually be drawn into the budget making process if there were an impasse between the executive and legislative branches, as there would almost certainly be. If that happened, would the American economy simply go on hold while we waited for the case to be heard? Would the capital markets simply suspend trading of stocks and the issuance of Treasury securities as time ticked away?

Other fallacies and distortions were revealed at the hearings as well—and not by partisan-oriented witnesses. Roy Ash, who served as OMB Director under the Nixon and Ford administrations, was particularly disdainful of the proponents' comparison of the balanced budget required by House Joint Resolution 268 and the balanced budget provisions adopted by over 30 States. As he pointed out, the States usually balance only their operating budgets and not their capital budgets—that part of the expenditure side that funds the construction of new roads, bridges and buildings. Will House Joint Resolution 268 spawn the same off-budget devices that have proliferated in the States? If so, do proponents believe this will lead to the truth-in-budgeting that they claim to be their motive in seeking to pass House Joint Resolution 268 in the first place?

The amendment that is before us today is filled with soft and fuzzy feel good words that by themselves have no more legislative meaning than a bumper sticker that says "Have a Nice Day." But there is real danger lurking behind the smiley face. What this amendment really represents is an unprecedented transfer of power—to an unelected judiciary and to a power-hungary minority.

An activist judiciary would have a field day with the ambiguous wording of this resolution. This constitutional amendment is nothing more than judicial intervention and judicial tyranny waiting to happen. The real winners out of it will be those judges who always wanted to legislate national policy without going to the trouble of getting elected.

The other winners will be those Members of the minority who have always wanted to be in control of the legislative process without the necessity of gaining a majority. The resolution requires a three-fifths vote of the membership of each House of Congress to pass a resolution for total outlays to exceed total receipts, or to raise the public debt. The amendment to be offered by the gentleman from Texas [Mr. BARTON], would go this one better by adding a requirement that any bill "approving specific additional receipts" also have a three-fifths vote.

Turned around, this means that two-fifths of either House—40 percent—would have a hammerlock on the legislative process. They could extract any demands they wish to in order to permit vital legislation to go forward. Is it any wonder that all but a handful of the minority party in this House—who number 40.5 percent of the total membership—should embrace this scheme? Passing this amendment would give the minority through the Constitution what the voters of this country have denied them at the ballot box for decades: Veto power over the legislative process. This is a radical and cynical proposal.

It is high time to get down to the business of sound government and sound budget policy. I urge my colleagues to reject House Joint Resolution 268, and to get serious about making hard choices on spending and the programs that truly deserve our tax dollars. We do not have the luxury of yet another illusion or deceptive fix when it comes to our economic future.

□ 1220

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my friend, the distinguished gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I thank the distinguished gentleman from Texas for yielding.

Mr. Chairman, I just rise to join my distinguished chairman, and dean of the Texas delegation and a leader in Texas for many years in the statement he just made, and I want to fully support him as chairman of the Committee on the Judiciary who has evaluated this joint resolution. I thank the gentleman for his very hard work in this respect and the leadership he has given us.

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am delighted to join with many of my colleagues in expressing support for House Joint Resolution 268, the balanced budget constitutional amendment. The experiences of the 8 years that have elapsed since this body debated a balanced-budget amendment serve to underscore the fact that we have no viable alternative. Legislative efforts to curb spending have met with only the most limited successes—answering the argument that our governmental institutions can bring the deficit under control expeditiously without the discipline of constitutional change. The national debt has continued to increase with the passage of years—imposing a progressively heavier burden on future generations that must meet growing interest payments.

An amendment making it more difficult for Congress to disregard balanced-budget principles is an appropriate addition to our Constitution. The Framers accepted the concept of a balanced budget and could not have foreseen late 20th century America's excessive reliance on deficit spending. The balanced budget constitutional amendment is an expression of our Nation's recognition that government should spend within its means—a value our constitutional founders shared.

Economic matters clearly fall within the Constitution's purview. The treatment of interstate commerce, taxation, and property rights provide examples of a constitutional design that gives substantial attention to economics. The argument that our Constitution must maintain neutrality on economic issues disregards the reality of a fundamental charter that incorporates economic choices. An expression of preference for adherence to balanced-budget principles would have sounded superfluous two centuries ago—but is far from superfluous today.

A balanced-budget amendment is needed to overcome the current prospending institutional bias of the Congress. It is far easier for an individual legislator to call for spending increases and lower taxes than it is to support a balanced budget and a tax increase. Today, those who advocate excessive spending for particular programs are in a stronger position to influence Congress than those who seek to restrain the growth of spending. A new or expanded program may have a major impact on a particular constituent group but only a minimal impact on the deficit. The advocates of spending possess a focused interest that facilitates action—in contrast to the more diffuse public interest in resisting specific increases in expenditures.

The problem, of course, is that projects may add little to the deficit—when viewed in isolation—but have major impacts when viewed collectively. The balanced budget constitutional amendment—by making it more difficult to engage in deficit spending—encourages Members of Congress to view the overall consequences of particular spending decisions. The proposal is to require a three-fifths vote of each

House's total membership for outlays to exceed estimated receipts.

The constitutional amendments protects future generations of Americans—those who will bear the major burden of an increased public debt but who cannot participate in decisions to increase that debt. The requirement of a three-fifths vote of the total membership of each House to increase the public debt represents a recognition of the impact of debt increases on generations unrepresented today in our political institutions. Laws increasing the public debt should reflect a broader consensus of our society than ordinary legislation.

The balanced-budget constitutional amendment includes a special voting requirement relating to increases in taxes. Such a provision is appropriate to discourage excessive reliance on tax increases to bring the budget into balance.

In the years ahead, the United States undoubtedly will confront situations justifying deviations from the norms that underlie this constitutional amendment. The proposed amendment, it is important to note, does not bar deficit spending, public debt increases, or new taxes, but rather incorporates special voting requirements. In a national emergency or period of economic dislocation, the proposal contemplates that Congress will vote to take the appropriate action—whether that involves engaging in deficit spending, raising the debt ceiling, or altering the tax burden. Congress, I am confident, will respond with flexibility to special economic conditions. The important point is that decisions to deviate from economic norms will be made—in the national interest—with greater care and thoughtfulness.

I recognize that decisions to amend the Constitution must not be made lightly—and that an adequate legislative remedy obviously is preferable to a change in our fundamental charter. A number of our colleagues, in the past, may have been persuaded by the argument that we should attempt through legislation to balance the budget before restoring to a constitutional amendment. Legislation, however, has not worked. The understandable reluctance to amend the Constitution, if legislation will solve a problem, must now give way—in my view—to a recognition that legislation does not realistically offer the prospect of a balanced budget within a reasonable period of time.

Huge deficits have proved intractable in spite of the 1974 Budget Act and the 1985 Gramm-Rudman-Hollings Act. Congress has waived the constraints of the Budget Act hundreds of times. The experience with Gramm-Rudman-Hollings is the strongest evidence that Congress encounters virtually insurmountable pressures to circumvent deficit ceilings when those ceilings lack constitutional status. In the last 40 years, the Federal budget has been balanced only five times.

Most of our States have recognized that we no longer can rely exclusively on legislation in our attempt to balance the budget and have sought a balanced budget constitutional amendment. I call upon those who were skeptical about such an amendment years ago to join with me now in supporting constitutional change. We simply cannot afford to lose more ground in our effort to restrain deficit spending.

I commend the gentleman from Texas [Mr. STENHOLM] and the gentleman from Idaho [Mr. CRAIG] for their untiring efforts on behalf of a constitutional amendment. A number of my Republican colleagues on the Committee on the Judiciary also deserve commendation for their contributions.

□ 1230

Mr. STENHOLM. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I respectfully would reply to the dean of my delegation, and the chairman of the Judiciary Committee, on some of the points that he has made regarding the seriousness of the intent of those of us who have authored this amendment. I would assure all my colleagues that it is not quite described accurately, as my dean has described our intention.

I would say the balanced-budget amendment is not an original idea, Mr. Chairman, with us. It goes back to 1798 with Thomas Jefferson, when he wished for a single amendment to be added to the Constitution—one prohibiting the Government from borrowing. We have attempted to follow the will of that great leader of this country in drafting this particular amendment.

Also, concerning the number of economists who have testified against this, I would like at this point to submit into the RECORD a list of 58 economists who have indicated their support for House Joint Resolution 268 which we are debating today.

The list is as follows:

JULY 16, 1990.

DEAR REPRESENTATIVE CHARLES STENHOLM AND REPRESENTATIVE LARRY CRAIG: As economists and concerned Americans, we commend your leadership in support of H.J. Res. 268, the proposed Balanced Budget Amendment to the U.S. Constitution. The amendment would force Congress to become more fiscally responsible. It also would make Congress more accountable to the people by requiring rollcall votes.

Congress makes daily decisions concerning the budget and the economy. It is these decisions that lead to deficits. A new framework is needed for this decision making process.

The Balanced Budget/Tax Limitation Amendment will provide that framework enabling Congress to better control spending.

H.J. Res. 268 requires that estimated federal expenditures not exceed estimated revenues except in times of declared war or unless Congress jointly approves a specific excess of expenditures by a three-fifths vote. The President would sign the joint resolution. The same three-fifths majority would have to approve debt ceiling limit legislation. The measure also calls for a constitutional majority (51 in the Senate, 218 in the House) vote on any proposal to raise revenues. All these votes would be required to be by roll call.

Additionally, as a partner in the budget process the President would have to submit a balanced budget proposal to Congress.

We, the undersigned, believe the Balanced Budget Amendment is necessary to curb federal spending, to check the growth of the federal debt and to hold Congress accountable so that the people can know who is voting for which proposal, essential requirements for our democracy to work.

List of signers:

Wm. Craig Stubblebine, Economics, Claremont-McKenna College, Claremont Graduate School, Claremont, California. Shirley V. Svorny, Business Administration, California State University, Northridge. Richard J. Sweeney, School of Business Administration, Georgetown University, Washington, D.C. J. Ernest Tanner, Economics, Tulane University, New Orleans, Louisiana. Walter N. Thurman, Economics, North Carolina State University, Raleigh, North Carolina. Richard H. Timberlake, Jr., Economics, University of Georgia, Athens, Georgia.

Robert D. Tollison, Economics, George Mason University, Fairfax, Virginia. Gordon Tullock, Economics, University of Arizona, Tucson, Arizona. Viktor Vanberg, Economics, George Mason University, Fairfax, Virginia. N. Vints, Business Administration, California State University, Northridge. Carolyn L. Weaver, Economics, American Enterprise Institute. G.C. Wiegand, Economics, Southern Illinois University, Carbondale, Illinois.

William Oakland, Economics, Tulane University, New Orleans, Louisiana. E.C. Pasour, Jr., Economics and Business, North Carolina State University, Raleigh, North Carolina. Mark V. Pauly, Health Care Management & Economics, The Wharton School, University of Pennsylvania, Philadelphia, Pennsylvania. Robert W. Poole, Jr., President, Reason Foundation, Santa Monica, California. Morgan O. Reynolds, Professor & Director of Graduate Studies, Department of Economics, Texas A&M University, College Station, Texas.

William H. Riker, Political Science, University of Rochester, Rochester, New York. Paul H. Rubin, Economics, Emory University, Atlanta, Georgia. John W. Sell, Economics, College of Wooster, Wooster, Ohio. Professor Vernon L. Smith, Economics, University of Arizona, Tucson, Arizona. Rodney P. Smith, Economics, Claremont-McKenna College, Claremont, California. Thomas D. Willett, Economics, Claremont-McKenna College, Claremont, California. Walter E. Williams, Economics, George Mason University.

Richard A. Bilas, Commissioner/Economist, California Energy Commission. J. Hayden Boyd, Economics, U.S. Department of Commerce, Washington, D.C. Richard Burdekin, Economics,

Claremont-McKenna College, Claremont, California. Henry M. Butler, Economics/Law, George Mason Law School, Arlington, Virginia. Bernard L. Cohen, Physics, University of Pittsburgh. Roger D. Congleton, Economics, George Mason University, Fairfax, Virginia. Ross D. Eckert, Economics, Claremont-McKenna College, Claremont, California.

H.E. French, III, Economics, University of California, Santa Barbara, California. Randall Holcombe, Economics, Florida State University. Thomas R. Ireland, Economics, University of Missouri, St. Louis, Missouri. William P. Jennings, Business Administration, California State University, Northridge. Gary M. Anderson, Business Administration, California State University, Northridge. Martin Anderson, Economics, Hoover Institution, Stanford University, Stanford, California. David S. Ball, Economics, North Carolina State University, Raleigh, North Carolina.

Thomas Johnson, Economics, North Carolina State University. James Kau, Professor of Insurance & Real Estate, University of Georgia. James B. Kau, Real Estate, University of Georgia, Athens, Georgia. Charles R. Knoeber, Economics, North Carolina State University, Raleigh, North Carolina. Dwight R. Lee, Economics, University of Georgia, Athens, Georgia. David Levy, Economics, George Mason University, Fairfax, Virginia. Allan H. Meltzer, Economics, Carnegie-Mellon University, Pittsburgh, Pennsylvania.

Dennis Mueller, Economics. Richard Muth, Urban Economics, Emory University, Atlanta. Craig M. Newmark, Economics, North Carolina State University, Raleigh, North Carolina. William A. Niskanen, Economics, CATO Institute, Washington, D.C. James P. Beckwith, Jr., Law, North Carolina Central University. James T. Bennett, Economics, University of Georgia, Athens, Georgia. William Beranek, Banking and Finance, University of Georgia, Athens, Georgia.

Mr. STENHOLM. So on the basic question of the intent of who supports what, I would hope that during the debate today that we deal with the facts.

Mr. BROOKS. Mr. Chairman, I yield 4½ minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to House Joint Resolution 268.

Last week the House Committee on the Judiciary held 2 comprehensive days of hearings on this bill. Chairman BROOKS invited the country's most respected economists, including the Chairman of the Federal Reserve Board and high administration officials.

The OMB boss, Richard Darman, though rather tepidly, advocated the President's position. After all, that's his job. But, overwhelmingly, the experts—liberal and conservative—spoke against the proposed amendment.

Now, just what is wrong with this proposal? Why do these wise economists warn us against it? Let me point out just a few of the perils.

First, like Gramm-Rudman, it will not work. As with Gramm-Rudman, the so-called balanced budget will be a phony, loaded with estimates and guesses as to the next year's revenues. These estimates will be closer to wish lists than to facts.

Just look at President Bush's budget delivered to Congress last January. His projections for this fiscal year told us with confidence that the deficit would be $101 billion. Yesterday, the administration announced it would be $168.8 billion. So much for Presidents and their projections.

And please, my colleagues, do not tell us about the 49 States that have constitutions or statutes requiring annual balanced budgets. We all know that the balanced budget requirements in all these States apply only to their operating budgets and not to their capital expenses. If we did the same, the Federal Government would never have a deficit.

Have the balanced budget requirements in the States resulted in less borrowing and less debt increase? One look at the statistics will quickly disabuse you of that idea. Between 1950 and 1981, State and local debt rose by a factor of 15. Between 1981 and 1987—the last year for which State and local data are readily available—State and local debt almost doubled.

Finally, do you want the Federal judges, appointed politically and for life, to make key decisions on the details of the Federal budget? If this constitutional amendment is approved, every projected budget, every assumption therein, will be subject to legal challenge. We will have judges and economists setting Federal budgetary policy. Who elected them to make these kinds of decisions?

We all know why we are in this dismal deficit situation. In 1981 a new president, Ronald Reagan, sold Congress a bad and dangerous idea—supply side economics, the horribly misnamed "Economic Recovery Tax Act." The enormous 25 percent across-the-board tax reduction and the massive new tax loopholes would—so we were told—create so much prosperity and increase tax collection so dramatically that the budget would be balanced in 2 years.

This bizarre theory was bought by virtually every Republican and by enough Democrats to enact the bill. The same Members who demanded the massive 1981 cuts today want this constitutional amendment. They claim it will undo the terrible damage inflicted on us by the 1981 tax bill.

Those of us who saw the foolishness of the 1981 bill and who voted against it say, let us not compound one dumb idea with another. This proposal is not just dumb; it is downright dangerous.

I urge you to reject this legislation.

Mr. FISH. Mr. Chairman, I yield 4 minutes to the gentleman from Idaho [Mr. CRAIG], one of the original sponsors of this legislation.

Mr. CRAIG. Mr. Chairman, I thank my colleague for yielding me this time.

Mr. Chairman, one of the hallmarks of our form of government is constitutionally imposed checks and balances. Where there are no excesses, where there is reason and moderation and control is where our Constitution speaks specifically to the issue; that is the ultimate responsibility of government to govern.

Where there are excesses, where there appears to be no control is where our constitution has remained silent. That is why, within a very short time after the ratification of our Constitution, many of our Founding Fathers said that they had erred. They had erred in that they had not denied this Government the right to borrow.

For a good many years, a number of us in this body have recognized that no matter how loud the excuses—and you have heard many this morning—no matter how high and how fast the hand-wringing—and you have seen some—no matter how bad the name-calling on the issue—and you have just heard some—that it is not a bad idea, it is a horrible idea, but the march goes on. The march toward uncontrolled spending, the march toward a lack of reason, the march toward the fact that this House and nearly everyone in it has lost the political will to be fiscally responsible.

You will hear ultimate excuses from chairmen and vice chairmen and minorities and majorities today and, frankly, none of it works on this issue anymore.

You will hear Presidents blamed, and they deserve some blame, but you will also hear no one blamed here today, at least blamed by their own rhetoric as to the complication of this issue.

□ 1240

We are today proposing that the citizens of this country have a right to become involved in one of the most important public debates, I believe, of the century, and that is whether their law, not ours, their law ought to have within it a requirement that the budgets of this Government be balanced.

For anyone who votes "no" on the final outcome, they are voting to deny the citizens of this country the right to debate the issue. That is really the fundamental fact. Are you going to stand and say to your voters, "No, you do not have a right to become involved in the debate," that only you know better, that your years of seniority in this body make you so superior in knowledge and collective wisdom that the taxpayer who pays your salary and pays the bills no longer has a

right to be involved in the participation of decisionmaking?

That is what you are saying if you vote "no" today. I do not care the reason or what the logic is or what the rhetoric; reality says that if one denies the voters the right to participate, they are doing so by voting "no." That is the fundamental issue.

We are not going to decide the balanced budget amendment here today. We are going to debate whether it should be allowed to become a part, over a 2-or 3-year process, of a debate that will cross this country and be involved in every legislative hall in America, and that you and I may go to those halls and participate in those debates to try to convince States to deny or to ratify a balanced budget amendment to the Constitution. That is the fundamental argument.

I hope that this body will not support the fear of our Founding Fathers that one day central government would become, in fact, so powerful that it would deny the right of the citizen to participate and that it would deny the right of the citizen to, in fact, control that central government. And yet I heard the chairman of the Committee on the Judiciary today say just that in so many words, that we will not allow the citizens to participate in this process, that it is awesomely fearful that we would allow an amendment to the Constitution that would, in fact, give them a right to participate.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. Carper], a major, prime sponsor of this amendment.

Mr. CARPER. Mr. Chairman, we do not need a balanced budget amendment that simply kicks to the courts the making of the difficult decisions that lie before us. We do not need a balanced budget amendment that mandates a balanced budget next year or even the year after that. We do not need a balanced budget amendment that puts the burden entirely on the back of the President or, as some have suggested, entirely on the back of the Congress. We do not need a balanced budget amendment that hamstrings us in the event that we do have a recession, an emergency, an S&L crisis, or a war. We do not need a balanced budget amendment that is a panacea, a cure-all, a substitute for the making of difficult choices.

What we do need, I believe, is the amendment that is before us today, an amendment that is effective in 1995, the date our budget summiteers tell us is the target date for a balanced budget. Effective in 1995, the President must propose a balanced budget, not just talk about a balanced budget, not just say it is a good idea; in 1995, the President must propose a balanced budget.

In 1995, we in the Congress—with the President—must finally agree on an estimate for revenues to provide the basic building block for our budget, effective in 1995.

Effective in 1995, we cannot unbalance the budget here in the Congress, absent a three-fifths vote. We cannot raise the debt ceiling absent a three-fifths vote. We can do those things, but we need a recorded vote, and a three-fifths majority to do so.

Effective in 1995, we can vote to raise taxes. To do so, we are not going to do so with two or three people on the House or Senate floor. We need a rollcall vote, 218 in the House, 51 in the Senate, putting their names and their votes on the line in favor of that tax increase.

Those are the kinds of principles that we need to put in our Constitution. That is exactly what would go into our Constitution on the basis of the legislation before us today.

The Senate Judiciary Committee voted last month to report out, on an 11-to-3 vote, an amendment offered by Senator SIMON and Senator THURMOND that is very similar to that which we consider today. This is not some harebrained idea. This is a good idea.

This is process reform. We need it. Our country needs it. This amendment deserves our support.

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, today we are once again considering a constitutional amendment. Yesterday it was announced that the deficit is now between $150 and $215 billion, or even more, if trust funds are not counted in the calculations. Instead of spending time on producing actual solutions, we spend time on these contrivances so that we can present a facade of looking responsible.

I support a balanced budget but as every Member in the House knows, I have long fought against budget gimmicks. When Gramm-Rudman-Hollings was introduced and debated, it was touted as the solution to all budget problems and the solution to any deficits. It was a gimmick then and is still one. It also has spawned more ruses for avoidance than any law I can identify.

Passage of a constitutional amendment to ensure a balanced budget will not ensure that the budget will be balanced and it also will lead to budget by deception. In order to avoid a constitutional crisis or a further appearance of weakness, certain Members and the administration will devise the necessary means of removing items from the budget. These will be the same devices that have led to the present deficit.

Just as the cost of the savings and loan bailout was maneuvered off-budget, so could a multitude of programs be removed. These tactics would not violate this constitutional amendment and would ensure that, in some fashion, a so-called balanced budget would appear. The amendment does not eliminate any irresponsible budget practices nor does it provide the magic solution to budget decisions.

One supporter of the balanced budget has stated that the passage of this amendment will "provide the necessary backbone" for Members of Congress to make the difficult decisions needed to balance the budget. It is a sad state of affairs that elected officials, particularly Members of Congress, need have to have an excuse in order to perform their job correctly.

This amendment should be defeated for a number of reasons. The passage of such an amendment would put Government in the hands of a minority of members. There are at least one-third of my colleagues who would not vote for additional funds for defense and, there are at least one-third of my colleagues who would not vote for funds for social programs. According to the terms of the amendment, these Members, constituting a minority of the House, could prevent passage of any emergency funds such as were necessitated by the spring floods, the California earthquake, and last year's hurricanes. We would be putting control of our budget in the hands of a few Members.

This amendment could alter the careful balance of power and accountability created by the authors of the Constitution. No longer might Congress have sole responsibility for raising funds and setting Federal spending priorities. As a result of this proposed constitutional amendment, the Supreme Court Justices and other unelected Federal judges could have the final say on the Nation's budget. It is inconceivable to me that we are willing to risk this possibility.

The proponents of this amendment assure us this would not happen because Members of Congress would never permit themselves to actually violate the Constitution, thus the matter would never end up in Federal court. While I would like to believe these assurances, I have doubts that all Members can guarantee that there will be complete agreement on what should be in a budget or off-budget, for purposes of this amendment.

If the President and Congress cannot agree on a budget or even agree on the estimated receipts, thus frustrating the intent of the amendment, unelected Federal judges may end up making our Nation's budget decisions, not just decisions about the constitutionality of particular actions. These are Federal judges who cannot be held accountable through elections.

To ensure a balanced budget, we need several things to happen. First, leadership from the President. In the past 40 years, the Congress has approved budgets lower than those requested by the President. In the past 10 years, since Reagan and Bush came to office, the President has never submitted a balanced budget. If a balanced budget were submitted, it would be hard for Congress not to follow that lead.

Second, we need Members of Congress to stop hiding behind individual votes that will look good on some organization's scorecard. Congress also can show leadership and get down to the business of governing instead of posturing.

Third, the public must become involved in the process, involvement which this constitutional amendment would limit by turning decisions over to a minority of the House and potentially to unelected judges.

I challenge American citizens to sit down and examine the entire voting record of their Members. Look at every individual appropriation your Member has promoted or supported in order to provide a benefit for you and other constituents. Consider why the President, while supporting a balanced budget amendment, has never vetoed an appropriations bill.

Members want to be able to deliver programs and services to their constituents and get credit throughout the year. Yet in order to manipulate a vote these same Members can now vote for a balanced budget amendment and look fiscally responsible by this one vote. It is a sham and the American public should not be deceived. They deserve better. The amendment should be defeated.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Maine [Mr. BRENNAN].

Mr. BRENNAN. Mr. Chairman, I thank the gentleman from Texas for yielding me this time.

Mr. Chairman, I rise in strong support of the balanced-budget amendment.

The Federal Government has been running deficits consistently for the past 30 years. Our national debt now stands at $3.1 trillion. Every year the problem grows worse.

We must take action. The budget deficit must be curbed. Simply stated, we should not continue to look to future generations to pay for the Government services that we enjoy today.

Our policy of deficit spending shows no sign of stopping. This year our deficit could exceed $200 billion. Frankly, the fiscal condition of this Nation grows worse daily. In a nutshell, what we are doing in America today is a little like inviting your family, your friends, your relatives, your acquaintances, and even people you do not like too much, to the most expensive restaurant in town and ordering the most expensive meals and the most select wines. When the person comes with the check, you tell them, "My son or my grandchildren will be along to pay for it later."

□ 1250

To me that is absolutely unconscionable. I think we are better people than that. I believe that we of this generation ought to be paying our own bills. I do not believe that we should be passing our bills on to another generation.

Mr. Chairman, I recognize this amendment will not be a cure-all nor a panacea for our fiscal mess, but I believe it is a step in the right direction, and may be a helpful hint to fiscal sanity in this Nation. So, Mr. Chairman, I strongly support the balanced-budget amendment.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I rise today to oppose House Joint Resolution 268, a constitutional amendment to balance the Federal budget. Sponsors of this constitutional amendment are frustrated that the national debt has tripled since 1980, and are seeking yet another procedural solution to address this problem. I understand their frustration, but their proposal is impractical, unenforceable, and will not end Federal deficits.

Despite the earnest intentions of the sponsors, the amendment does not guarantee a balanced budget. It only states that total outlays shall not exceed estimated revenues unless three-fifths of the total membership of each House votes to do so. Nothing, however, in the amendment guarantees that a balanced budget will actually be achieved. Over the years there has been a dramatic difference between deficit estimates and reality. President Reagan promised in 1981 that the Federal budget would be balanced by 1984, and just yesterday Richard Darman revealed that the administration's deficit estimate was off by over $100 billion. Deficits are arbitrarily defined and easily manipulated. No constitutional amendment that relies on a procedural gimmick will get around this seemingly intractable problem.

Neither does the amendment contain an enforcement mechanism in the event it is violated. It does not say what happens if it is violated, it does not say who has the authority to enforce the amendment, and it does not say whose estimates of outlays and receipts shall be used in making this determination. The amendment is the equivalent of declaring that the United States shall have clean air, or that we shall have a drug-free society, or that the AIDS epidemic shall be immediately eliminated. Without an enforcement mechanism, the amendment is meaningless. It is nothing more than an enforceable exhortation addressed to Congress. It would demean the Constitution and increase the cynicism of those Americans who had expected the amendment to cure an urgent problem.

Because of its lack of specificity and enforcement mechanism, a number of legal scholars, including Robert Bork, argue that the Federal courts could be drawn in to enforce the amendment at some point. If the courts allowed standing to Members of Congress or private citizens to challenge the amendment, hundreds of suits could potentially be filed around the country. It would likely take years of adjudication before one of the suits reached the Supreme Court and finally resolved. If the courts do take responsibility for the fiscal affairs of the country, it would be an unprecedented invasion into the decisionmaking of the legislative branch. It would represent the most egregious break with our system of separation of powers in the history of the country, and would give control of our economy to the branch of Government that has no experience or expertise in fiscal matters.

Finally, Mr. Chairman, I oppose this amendment because it has an inherent tilt in favor of spending cuts and against tax increases. Measures to increase taxes would require more votes to pass on the House and Senate floors than would measures to cut spending. This amendment sets up a procedure that makes it easier for Congress to cut Social Security, education, highways, and the environment than to raise taxes on wealthy individuals. Federal spending on domestic programs has been cut already by 25 percent in real terms over the last 8 years. Unrepaired highways, overcrowded airports, overwhelmed schools, and homeless in the streets are all testimony to the cuts. I cannot support a proposal that would do further damage than has already been done in these critical areas.

A couple of years ago Don Regan said that being Chief of Staff to President Reagan was like being the person with the shovel who follows the elephants in a parade. The metaphorical equivalent is being debated here on the floor today. We are being asked to clean up after the Republican Party who perpetrated one of the biggest political frauds of this century: the supply-side myth that cutting taxes for upper income Americans would lead to a burst of investment, savings, and growth that would balance the Federal budget and maintain the social safety net.

The principal result of these policies has been a bloated Federal deficit, slow economic growth, and a redistri-

bution of income that has greatly benefited the rich at the expense of the poor and middle class. Now we are being asked to amend the Constitution with a proposal that is as flawed as the Gramm-Rudman law. Those who support this constitutional amendment assure us this is the answer to our deficit problems.

Mr. Chairman, I oppose this constitutional amendment. If we want to clean up this mess, no procedural gimmick can take the place of leadership and making tough choices. To begin, we need to cut defense and agriculture subsidies and raise taxes on those individuals who make over $200,000 a year.

I urge my colleagues to vote against House Joint Resolution 268. It is a bad idea whose time should never come.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Chairman, nothing concerns me more than our country's debt situation. Because we have had no real financial restraints on this Congress, our Nation teeters on the brink of financial collapse. If we do not adopt this amendment before this decade is passed, that collapse will come, probably very suddenly and without warning.

One of these Monday mornings when the Treasury holds its weekly auction to refinance the debt and cover the checks that it wrote on Friday, the foreigners are not going to show up to buy. Their lack of confidence will spread to American buyers, and the bond market will plummet, to be followed by a collapse in our stock markets so severe that they are going to be forced to close.

Confidence, which is the glue that holds the financial markets of this world together, will dissolve, and a depression will descend upon us that will make that of the 1930's look like boom times.

Mr. Chairman, adoption of this amendment is our only hope to avoid such a catastrophe. For lord's sake, vote for it.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Chairman, in contrast to the budget summit here in Washington there are a million other budget summits going on each and every day in this country.

Instead of being held at a big conference table, these summits are usually around the kitchen table, in a small room of a house that's all a family can possibly afford.

The husband and wife look over their mounting bills and shrinking paychecks, and they wonder why, even though they both work and sacrifice, they just can't seem to get ahead.

Those Americans are losing ground—and we had better come up with answers for their questions.

Today we have an answer. A balanced-budget amendment that puts discipline into the budget process and forces us to recognize the real needs of our people.

Some will say this is a gimmick. This isn't a gimmick.

A gimmick is not counting the savings and loan bailout against the budget, keeping it off-budget but counting the Social Security surplus to hide the deficit. That's a gimmick.

It is no gimmick to provide Americans with an education for their kids, health care for aging parents, and jobs so they can make their own way in life.

But we've decided that paying interest on our national debt is more important than those things, basic needs of regular people.

That robs us of our potential as a nation.

Imagine how we could improve the quality of life in America if we didn't have this debt. Is this the absolute answer? Maybe not. It will require further discipline to make it work. But can it be worse than the smoke and mirrors games we've been playing in recent years that produced this debt?

I would much rather feed a hungry child than feed the Federal debt.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I rise in opposition to the balanced-budget constitutional amendment and amendments to the amendment.

I go back to 1982, when this Congress first came to grips with this issue of an imbalanced budget and sought refuge, sought some kind of relief and some measure of protection in a constitutional amendment. That, as Members know from earlier votes, failed, and I hope that this effort today fails as well.

This is an effort, as I said in the subcommittee hearings and the Judiciary Committee hearings, to have a spinal transplant. We cannot, as a Congress, seem to generate the spine to balance the budget. We have a number of legislative solutions, a number of interesting ideas, but we do not seem to ever have the spine to make the hard decisions to balance the budget. So we are now going to operate on the Constitution of the United States to find some spine which we would then transplant into ourselves. That is not going to work.

If we find the spine to balance the budget, and I devoutly hope we do, then we are going to find that spine in standing up before our constituents and saying look, one way or the other, we either have to raise taxes or we have to lower spending, or some combination thereof. We should not look to the Constitution for some magic bullet solution.

Mr. Chairman, I salute the chairman of our full committee, the gentleman from Texas [Mr. BROOKS], who conducted excellent hearings. I hope that Members, those who are in the Chamber and those who are not, read what the gentleman from Texas [Mr. BROOKS] sent out today as a "Dear Colleague," in which he summarizes all the evidence we had presented to our committee.

Mr. Chairman, the overwhelming evidence is that the constitutional amendment will not work and the Constitution ought not to be burdened with short-term specific solutions, or pseudo solutions, to the problem. The Constitution should provide a broad array of ideas, not so much specific efforts to solve specific problem.

Mr. Chairman, I hope that Members will defeat this amendment, and then try to find the spine we are looking for not in the Constitution but on our own.

□ 1300

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding this time.

Mr. Chairman, it is most important that we do not underestimate the full importance of this legislation, the balanced budget amendment, and I am proud to stand and join my colleagues in support of this important amendment.

As many of my colleagues know, we have been debating this proposal for many years, and at least since the time I first came to the House in 1981. In the last 10 years as these efforts have failed again and again, the Federal budget deficit has increased from $900 billion to an estimated $3.2 trillion.

It is easy to place blame all over this Capital City. But the point remains that we must impose upon ourselves the discipline of a constitutional amendment to stop this absolute outrage.

Mr. Chairman, on July 2 of this year I was privileged to witness the birth of my second grandchild, this one a beautiful baby girl, given the name of Emilie. In watching her birth I couldn't help but think about how she and her brother, Wyatt, are going to be stuck with the bills of this spend-crazy Congress, this Government that we now serve in 1990. We are not only talking about leaving the bills now to our children, but we are talking about leaving them to our grandchildren.

This foolishness has to stop. We are like a bunch of drunken sailors who have just hit port. We have to impose the discipline of a constitutional amendment on the Federal Government of the United States.

Support the balanced budget amendment to the Constitution.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Chairman, we are all thieves. We are thieves. If we were on trial today we would be found guilty of stealing.

Who are we stealing from? We are stealing from our children and from our children's children by writing hot checks today that they will pay for.

Today about 30 percent of an average family's income is paid in taxes. By the year 2000 about 50 percent of that paycheck will be paid in taxes if we continue to go at the current rate that we are going. Today that child that is in the third grade, when he reaches my age, imagine, over 56 percent of his income will be paid in taxes.

Another very serious problem that we must look at is that today this country is borrowing about $393.5 billion from other countries to pay for our debt. We go to a local bank, we borrow money, and that bank uses that money for investments within that community. Today nearly 20 percent of our debt is owed to other countries. By the year 2000 that will be close to 50 percent. All that will do is generate income and will help the economy in other countries. Our debt today is adding to the benefits of those countries.

I challenge my colleagues to think about our children, think about our children's children and look at what we are doing. We must become responsible, and I challenge Members to vote for this constitutional amendment.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], a distinguished member of both the Judiciary Committee and the Armed Services Committee.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, basically I hope Members vote against this amendment because it is very important to point out that we are going to teeter on the brink of financial collapse if we do not pass it and we are going to teeter on the brink of financial collapse if we do pass it.

This is a absolutely nothing but a constitutional figleaf rather than the normal legislative figleaf.

Not only that, the people in the markets dealing with our debt very clearly are sophisticated individuals who understand what this really is. To put it in common terms, let us talk about what would happen if today instead we were passing a balanced budget amendment that every American had to have a balanced budget. That is a good idea. We all should have balanced budgets. Nobody should be deficit spending.

The very first thing that this amendment says we have to do is at the beginning of the year estimate what our income is and then our outlays are not supposed to be bigger than income. If you think passing this kind of amendment would help every individual have a balanced budget, you are wrong. Every American would instantly figure out that at the beginning of the year you just overestimate your income, and that is exactly what is going to happen here.

Then at the end of the year you have an "oops" press conference, just like yesterday the administration had an "oops" press conference.

"We way underestimated, we are terribly sorry, the deficit is much bigger than it ever was."

People see through this, and they can all figure out how to get around this. This is a very easy thing to do.

But let me tell Members what is a dangerous thing to do, because if we pass this amendment today the Social Security trust funds are going to be treated just like revenue rather than the sacred trust fund they are supposed to be. All of the other trust funds are going to be treated just like revenue. It is not going to help us in the market because these people are sophisticated. They do not want the courts deciding this. They realize there is no enforcement, and when the average American understands the huge loophole in this, they are going to figure it out too. All you have to do is estimate your income high enough to meet your anticipated outlays.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, many opponents of this effort argue that we should not tamper with the Constitution just because the Federal Government is incapable of self-control when it comes to spending. But the Constitution is at the very heart of the matter. It is the legislative branch—Congress—which authorizes spending programs and appropriates the money to pay for them. The President's annual budget is merely a "wish list" and has no force in law; Congress is responsible for Federal spending.

Congress refuses to act responsibly. Money is a substance. Congress is a substance abuser, an addict out of control. And the only treatment is to go back to the source of congressional spending authority: the Constitution. A heroin addict cannot be helped if he refuses to take the prescribed counteractants. Similarly, the Congress has repeatedly refused any and all ministrations to curb its rapacious plundering of taxpayers' cash. So-called budget reform measures have been futile. Gramm-Rudman-Hollings can be circumvented by accounting gimmickry. And public opinion is cavalierly dismissed. It is time to tie the patient to a chair and force him to go cold turkey.

Over the past 9 years—fiscal years 1982 through 1990—Presidents' budgets have requested a total of $8.465 trillion. Actual outlays—reflecting the spending habits of Congress—total $8.7 trillion. We have spent nearly a quarter of a trillion dollars more simply because Congress will not say "no" to special interests wallowing in the public trough sucking on the teat of the Federal cash cow.

It is high time for Congress to stop mugging the American taxpayer. A constitutional amendment appears to be the only way.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, I appreciate the gentleman yielding time to me and also am grateful for the work he and others have done in bringing the balanced budget amendment to this floor. It is only the second time that we have had to vote on a balanced budget amendment.

There are many things wrong with the budget. For one thing, I have been sponsoring a biennial budgeting year for a good number of years, and it seems like everyone is for that, and I do believe that a longer budget cycle would be in our best interest. If we could try that and have better oversight, I think that would be a help. The fact is that we have not been able to achieve that.

We have voted for Gramm-Rudman, and we have had that in effect for 5 years now. That has not helped, and there is great concern throughout the land when we have escalating deficits like we have had, and a tremendous increase in the national debt to over $3 trillion. I think everyone is saying we have to do something.

This is our opportunity to do it. As Members know, nearly all of the States have a balanced budget, and our State of Florida has embedded in our constitution that we cannot spend more than we take in. It has worked quite well, and I think the same is true of all of the other States.

□ 1310

You cannot spend more money than you take in.

Now, a lot of people have come to lean heavily on the Federal Government. It is not easy to cut, everyone wants you to "cut but don't cut me."

I think we have to have the restrictions that come with a balanced budget amendment. I think all of us can understand the gravity of amending our Constitution and we are leery about it, but I believe that when the Founding Fathers set up our Constitution they did not have the problems that we are having now.

So I believe it is time now to listen to the American people and make the hard decision of enacting and putting into our Constitution some restrictions, and I urge you to vote for the balanced budget amendment to the Constitution.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. I thank the Chairman for yielding.

Mr. Chairman, I simply want to state that I rise in opposition to this amendment and the amendments thereof.

Mr. Chairman, I am thinking of my children; I think the best thing I can do for them is to be honest. Honesty tells me this amendment will not cure one bit of our fiscal ills. It is as phony as a $3 bill. It ought not to be supported.

The hard decisions that have to be made must be made by the Congress and the President of the United States. That is what the Constitution says now. That is what it should continue to say. We must be brave enough and willing enough to make those hard decisions today and not 5 years from now.

Mr. Chairman, while I believe that continued action must be taken to reduce government spending with a goal of balancing our Federal budget, I do not believe that the constitution should be amended to do so especially since the amendment will not accomplish what it alleges to do.

After carefully considering the ramifications of such an amendment, I believe that it will only further complicate an already exasperating budget process and could paralyze the Federal Government in the future. The facts have shown that constitutionally mandating a balanced budget does not necessarily mean that a government will spend only what it takes in by means of revenue. In fact, our forefathers fully expected the President to submit a balanced budget to the Congress each year, and intended the Congress to legislate appropriations and taxes which would keep the President's budget in balance.

Such an amendment is likely to result in numerous lawsuits which will take years to resolve and force the courts to moderate, and thus determine, national policy. Meanwhile, all kinds of off budget and nongovernment borrowing concepts could be and probably would be used to bypass the limitation. Another consequence of the amendment would be the overuse of regulatory legislation which would shift the burden of program costs to industry, by requiring industries to act without compensation or assistance. In addition, the amendment would increase the incentive to base budget proposals on an overly optimistic economic forecast, which, as we have seen this year, can be a danger and a waste of time. Finally, as Judge Robert Bork pointed out in his excellent letter to you, the proposed amendment specifies no enforcement procedures in the event of its violation. If enforced at all, the provision might give rise to unlimited taxpayer lawsuits, which could clog the judiciary system while forcing it to assume a considerable degree of control over the fiscal affairs of the United States. As Judge Bork wrote:

> The amendment might well prove to be nothing more than an unenforceable exhortation addressed to Congress. That would demean the Constitution and increase the cynicism of those Americans who had expected the amendment to cure an urgent problem.

I have long supported achieving a balanced budget through legislative and executive action. During my congressional service, I have voted to cut almost every Presidential budget—regardless of the party in office—in a continuing effort to reduce government expenditures. I have also supported pay-as-you-go budgeting and believe that no new programs or expenditures should be authorized without either corresponding reductions in other expenditures or increases in revenue sufficient to cover the cost of the program.

It is essential that the President and the Congress achieve a balanced budget. If we have failed in this, it is not the fault of the Constitution.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to my friend and colleague, the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of House Joint Resolution 268, the balanced budget constitutional amendment. It is indeed a reflection of the strong views held on this issue—its very fundamental importance—that so many of our colleagues in the House of Representatives have chosen to sign a discharge petition to bring this issue to a floor vote.

At the outset, I am proud to acknowledge that I am a cosponsor of Congressman STENHOLM's balanced budget constitutional amendment.

Contrary to what some have said, Congress doesn't just share in the responsibility for our current budget problems. Congress is, and has been, the principal reason for the problem. The Constitution of the United States explicitly grants the power of the purse to the legislative branch—only Congress appropriates money. For decades, the legislative branch has failed to withstand the ever-increasing pressure from special interest groups and has failed to give the necessary scrutiny to executive branch requests.

Our current budget crisis reflects both an institutional problem and a political problem in Congress. It is true that bipartisan cooperation is absolutely essential to resolve the current budget crisis. But bipartisan goodwill is not a total answer to the ongoing need for institutional discipline. Congress has to structure itself in a manner that will both encourage and require us to exercise the necessary responsibility in the appropriations and budget area.

Forty-nine States, including my own State of California, have constitutional or statutory requirements to produce a balanced budget. In addition, 43 States have granted their Governors a line-item veto. These ideas are not just gimmicks—they are legitimate public policy choices.

Mr. Chairman, since 1950, the Federal budget has been balanced exactly five times. Legislation recognizing the need for a constitutional amendment to balance the budget was first introduced in this House in 1936. One need only look at the financial section of any American newspaper to realize that these so-called gimmicks are about financial reality. The problems we face—the serious Federal deficit, the trade imbalance, the unpredictable stock market—are not the result of mere temporary or transitory problems. They are the end result of years and decades of "business as usual".

In my view, we have reached a point where rhetorical calls for greater discipline, in the context of the current structure, are simply not enough. We have reached a time for action. The constitutional balanced budget amendment deserves to be passed.

Mr. STENHOLM. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, it is interesting, listening to three of our colleagues stand in this body today and say, "We do not need a constitutional amendment, what we need is courage and guts."

Let me remind all of us today that in 1984, we had a budget substitute on the floor. It was called the Roemer substitute. It failed on a 59-to-338 vote. In 1985, we had an amendment that the majority of Members said was a good, courageous vote. It was called the Leath-Slattery-McKay amendment. It got 56 courageous votes. And let me say to those 56, there are 47 of us still left and not a single Member has lost a race because of his or her votes.

Then in 1988, the Penny budget substitute failed on a 27-to-394 vote.

Ladies and gentleman, courage and guts, you are right, we do not have it, we have not shown it. Nowhere under any statutes have we shown it. We need some help and an extra tool. We need a balanced budget amendment.

The CHAIRMAN. The Chair would inform Members that the gentleman

from New York [Mr. FISH] has 45 minutes remaining, the gentleman from Texas [Mr. STENHOLM] has 48 minutes remaining, and the gentleman from Texas [Mr. BROOKS] has 33½ minutes remaining.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Chairman, President John Kennedy presided over the first $100 billion debt; the first $900 billion debt was presided over by President Carter; the first $3 trillion debt, by President Reagan. This country in this decade has gone from the greatest creditor Nation to the greatest debtor Nation.

From what I am reading in the papers, we may be, in the 101st or 102d Congress, the first Congress to preside over a default in paying off these debts.

Mr. Chairman, the roots of the free enterprise system, which is the engine which drives the economy of America, is embedded in the Constitution and the Bill of Rights.

I want to make note that the countries emerging from the Communist philosophy are setting their sights on the example of America's free enterprise system. Unfortunately, America's shining example of world free enterprise system is very much endangered, in my opinion. It is endangered because our Treasury and our Congress and administration does not follow the principles which every family, every small business, every corporation, every city, every county, and every State is mandated to follow or be embarrassed and lose its credit, and that is to pay its debts.

Mr. Chairman, some countries around the world have so much debt that they will never pay it out. Citizens of such countries have no hope for the future and no ambition to make a capitalistic form of government work.

Now, I am fearful that we are setting examples for generations to come that debt is all right, whether affordable or not.

Mr. Chairman, a free enterprise system demands that everybody, every institution, every organization, and this Congress be responsible even if there is a situation that we think might not work. Everything we have done in the past certainly is not working. We have got to try.

So we are on the threshold of finally addressing our budget deficits in a meaningful way. We must not allow this opportunity to pass without taking a step in the direction of fiscal integrity.

I want to see those who vote against the balanced budget amendment today vote to raise the debt limit in just a few weeks; in my part of the country I would not be in office next year.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, 12 years ago, when I was first elected to Congress, there was a statute on the books sponsored by the then-Senator from Virginia, Harry F. Byrd, Jr. It mandated a balanced Federal budget by the year 1981. To my knowledge, that statute has never been repealed.

Since 1981, the Congress of the United States has ignored its restrictions and gone on spending, and spending, and spending, and spending.

This very clearly shows that we need to do something that is more powerful to rein in Congress than a mere statute that has been passed by both Houses and signed into law by the President.

The only thing is a balanced budget constitutional amendment. I know there are those who would like to nitpick the concept and the wording of this amendment to try to show there are loopholes in it and that it does not provide the straitjacket that many people think is necessary to rein in congressional spending.

I disagree with that. I believe that this amendment is properly drafted. I believe that this amendment, when it becomes effective, will put the brakes on spending and will require the Congress of the United States to do what every American family has to do, and that is to live within their means.

Amending the Constitution is powerful medicine. We have only amended the Constitution in times of crisis in the past. I would submit we are in a time of economic crisis today.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Virginia [Mr. SLAUGHTER].

□ 1320

Mr. SLAUGHTER of Virginia. Mr. Chairman, today the House has an opportunity to vote for the American taxpayer and against the special interests and congressional irresponsibility that have led Members down the path of deficits for too long. Rarely does the House have such a clear-cut opportunity to vote for financial soundness and against the nightmare of an unsurmountable public debt.

Too often, we overlook the fact that future generations of Americans, our children, and our grandchildren are being saddled with this debt because of our inability and unwillingness to control our present day spending. The balanced budget amendment is a promise to these future generations that we will control our spending rather than leave our problems for tomorrow's leaders to solve.

Mr. Chairman, statutory efforts have failed to control spending. The time has long since passed for the balanced budget amendment, and I strongly urge my colleagues to vote in favor of this proposal.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. COX].

Mr. COX. Mr. Chairman, today's vote on the balanced budget amendment to the Constitution is probably the most important vote that we will cast, any Members, in the current Congress. It will be an opportunity for Members to show the American people in black or white, yea or nay, whether we are serious about real budget process reform.

That is what this amendment is all about. It is not just eyewash. It contains a requirement for supermajority vote in order to bust the budget. During the last decade our spending has grown at 11 percent each year, while GNP, the economy which supports our Government, has grown at only 3 percent. It is time for the Congress to take Walt Kelly and Pogo seriously. "We have met the enemy, and it is us."

I hope that the American people watch carefully this vote and retire any Member who is not serious about balancing our Federal budget.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES of Louisiana. Mr. Chairman, on this occasion the Congress must come to grips with its insitutional failures. I do not believe that we should easily criticize the institution of which we are a part. However, most of those who object to the vehicle employed today to balance the budget do so by suggesting that there are other, better methods.

I agree with that, too, but they are not alternatives, because they are only alternatives if we have the opportunity to cast a vote on them. We are looking at a decade of a lack of opportunity to deal with our own spending habits. We are looking at a country that has plummeted from an economic leader to an economic follower, from a lender, to a borrower. The only excuse we have to offer on the floor today is there must be a better way to do it.

People at home say, "Congressmen, there also must be more talented people who can." I suggest to Members that those twin ideas will walk into the ballot. I believe if we are incapable of saying that as an organized institution we can bring a vehicle to the floor and respond to the public's need, then it is those people whom we must answer. I do not believe this is a political party issue. I believe this issue of whether a majority of those in the House can allow the House to work its will, and to fail to do so I believe directly contradicts the feasibility of maintaining the institution itself. Those who wish to tear it down have no better opportunity to which to

point than the economic collapse of this country. Those who wish to sustain it, can do no better than help to bring the credibility to the performance and the service we are elected to do.

Mr. FISH. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Chairman, the debt of the United States is increasing at the rate of $12 million every 5 minutes. It is a phenomenal increase in our national debt. Forty thousand dollars a second is what the debt goes up, and in the 2 or 3 minutes that I will be speaking, the debt will have gone up several million dollars. That is why we need a constitutional amendment. There is nothing else that will work.

As the gentleman from Texas [Mr. STENHOLM] pointed out so ably, based on some recent statutes, nothing else will work. I want to go back even earlier than he did, to 1974, back when the Congressional Budget Act was enacted. This was meant to impose fiscal responsibility on the Congress. It has been waived 398 times because it is a statute that gets in the way of liberal spenders, and so they waive it. They say, "Well, we will just move that law aside."

What about Gramm-Rudman passed in 1985? That was supposed to be the great statutory budget solution. "Do not worry about a constitutional amendment", they said, we can do it by statute. It is called the Balanced Budget Act of 1985. We all know by September we will have skipped the dates on Gramm-Rudman by several years. Every Member in this room knows that. That will be pushed off a few more years.

What about a statute like the one that was passed in 1979? It was Public Law 96-5 and it was simple. In 1979, the House said, "We will balance the budget by 1982." Guess when it was repealed? September 13, 1982, it was repealed, just before the end of the fiscal year. All Members in here know it is a con game. It is a shell game. We will pass a statute, and then we will repeal it, or we will pass a statute and then we will waive it. Only the Constitution cannot be ducked, cannot be dodged, cannot be waived, and the political cost of avoiding it is overwhelming. I urge a yes vote.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. BARTON], one of the leading sponsors of this initiative.

Mr. BARTON of Texas. Mr. Chairman, we need a constitutional amendment to balance the budget. The national debt is over $3 trillion. It is rising at the rate of over $150 billion a year. That is $12 billion a month, $3 billion a week, $500 million a day, $18 million an hour, $300,000 a minute or $4,000 a second. I have heard no Member of this House stand up and give an alternative except have the guts to vote on it, and as the gentleman from Texas [Mr. STENHOLM] said, every time we are given a chance to have the guts, we vote not to balance the budget.

Will this one work? I think it will. Look at the States. Forty-nine States have got some sort of balanced budget requirement. Forty-two of those States have it in the constitution. In those States that do, the Heritage Foundation did a study based on 1984 spending, and came to the following conclusions: "Per capita spending is between $156 to $192 less, and per capita taxing is $170 less." At the Federal level that would translate to $39 to $48 billion less than spending, and $42 billion less than taxes.

Let Members cut out that charade. Let Members vote for a balanced budget amendment. The Barton amendment simply says a three-fifth super majority vote to raise taxes, three-fifth to borrow money. I believe it is the best, but if it does not pass, let Members vote for Stenholm-Craig and get this budget balanced.

Mr. STENHOLM. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, it is with a heavy heart and some mixed feelings that I rise to support the balanced budget amendment that is before Members. I have opposed the different versions of the balanced budget amendment in the past. I believed that existing legal framework was adequate to provide with fiscal discipline, if only there was a political will that were made available.

However, after 8 years of watching the deficit surge far faster than the economy and reach a point where it now truly threatens the economy, threatens our country's economic future, and threatens the very social fabric of this Nation, I have reluctantly concluded we must strengthen that legal framework.

Some have said that the balanced budget amendment will not strengthen the legal framework or require fiscal discipline at all. Some say that it will be another procedural gimmick, and become subverted and debased, as the Gramm-Rudman law has been.

□ 1330

I did not support Gramm-Rudman I, and I did not support Gramm-Rudman II for two major reasons: No. 1, it did not recognize explicit choices; it did not require that explicit choices among different spending cuts be made, it simply let the computer make those choices across the board. No. 2, perhaps even more significantly, whole spending areas were left out, were left off budget or partially off budget, or, in the case of the S&L mess, were put off budget. But the version of the balanced budget amendment we are debating today has two key features that the present legal framework, including Gramm-Rudman and all the others, lack: No. 1, all expenditures and all revenues would be included, nothing would be off budget. And No. 2, we, the Congress, would have to make explicit choices, something we do not now have to do under the existing legal framework.

Let me illustrate my point with a triangle graph, showing that three and only three, outcomes would have to be selected among if anticipated revenues fell below anticipated expenses—No. 1, spending cuts in the right hand corner and, No. 2, increased taxes, and No. 3, increased debt. Those would be the only choices, and we would have to face each one of them with a proviso that no outcome, none of those three, could simply just happen. We would have to select them by a recorded vote. If we did not want to raise taxes, for example, we would have to cut spending or raise debt, explicity raise debt. If we did not cut spending, we would have to raise taxes or raise debt, explicitly raise debt. If we did not want to raise debt, we would have to either cut spending and/or raise taxes, but we would have to explicitly choose the level for each action—taxes, cuts, or debt.

Right now we only work along the bottom part of this axis, between cuts and taxes. Debts just happen as we vote no on each of these two choices. And, of course, taxes and spending cuts are always politically difficult choices. So the debt goes up. The debt at the third point of the triangle becomes the shock absorber for the budget process, and the Nation suffers.

Some in this body, some who preach fiscal frugality routinely vote no on taxes and they vote no on cuts. They never have to vote explicitly for increased debt. It just happens under the current framework. Under this balanced budget amendment, increased debt could not just happen. It would have to be chosen in advance, not ratified after the fact when it was too late through the debt ceiling vote, which is really not a vote at all since we cannot let the Federal Government default.

In regard to the arguments against the provision that has been raised against us, let me make a point. It would take a simple majority of those present to cut spending and a slightly higher threshold, 218 votes, an absolute majority, to raise taxes. But it would take a supermajority, three-fifths, 261 votes, to increase Federal debt. That is the only super majority this bill would require. It would be much harder to raise the debt, and it should be much harder to raise the debt, given the fiscal and financial sit-

uation we are now in. But it would not be impossible if the times demanded it.

But for the first time, I say to my colleagues, debt would not be the easy escape valve from responsibility that it has been. This balanced budget amendment will not be a panacea. We would still need political courage around here to actually make the tough choices. We, the President and the Congress, would have to work together, but we would have to make those choices.

Mr. Chairman, I urge a vote for the balanced budget amendment.

Mr. STENHOLM. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Chairman, 21 years have passed since the House last voted on a balanced budget. Over 75 percent of the Members here today have never had the opportunity to cast such a vote. In the last two decades, the deficit has been institutionalized by Congress, skyrocketing to well over the $168 billion mark released by OMB yesterday.

In the shadow of this disturbing assessment, the administration's refusal, year after year, to submit a balanced budget only reinforces the concept of the deficit as a way of life. They call for fiscal restraint, they point fingers at the Congress, and then they offer a bloated and unworkable proposal.

This mentality is like that of a serial killer, who writes on the mirror, "Stop me before I kill again."

Voting today for a balanced budget amendment will neither solve our problems by itself, nor will it make that job any easier. It will, however, require that we rise to meet the task of balancing the Federal budget, and it will state, loudly and dramatically, that the ERA of budget deficits must end.

It is the only hope for our children's future and our Nation's future, and that is why I am voting in favor of the balanced budget amendment.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, as we discuss the balanced budget amendment, I am reminded of this adage: Everyone wants to go to Heaven, but no one wants to die.

Everyone wants a balanced budget, everyone wants to reduce the deficit, yet no one wants the funding of his or her project to be reduced.

There is little discipline in this body, it seems, Mr. Chairman, when it comes to getting our books of accounting in order. The element of prudence is sorely lacking in this body when spending money is the issue, and this is money, by the way, that belongs to others. Oh, it is not complicated at all to spend money that belongs to others, and that is precisely what we do in the Congress of the United States each and every day.

Mr. Chairman, since we are incapable, in my opinion, of mustering the required discipline of confining our spending within the limits of our collecting, I submit to my colleagues that the appropriate course, perhaps the only course, for us to pursue to avoid the rocks and shoals of fiscal insanity is for us to adopt the balanced budget amendment.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, recently we were told that the budget deficit may be even larger than originally anticipated. One of the main reasons is that interest rates are expected to go up.

Why would that affect us so much? It affects us because of the amount of interest this Government has to pay every year on money which we have already borrowed. During the last fiscal year we spent $169 billion on interest. This is twice what this Government spent on the entire Medicare Program.

Each and every person and every consumer knows that interest must be paid first. This is money that is not available for health care, it is not available for education, it is not available for any other purpose. We must get the budget process under control, and it is for this reason that I urge adoption of the balanced budget amendment.

Mr. STENHOLM. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I thank the gentleman from Texas [Mr. STENHOLM] for these 2 minutes.

As I advised my colleagues earlier today, a few years ago I opposed the balanced-budget amendment. However, in my 14 years here I have not seen us come to grips with this problem. I want to remind my colleagues that this is not just demagogy on the part of us, those who now support a balanced-budget amendment, but it comes after years of frustration in supporting Gramm-Rudman, a targeted reduction in our deficit, or supporting cuts in our expenses, of voting against supercolliders and superbombers and State-Justice appropriations, along with many others, and across-the-board appropriations, all without success.

□ 1340

Mr. Chairman, we are now confronted with: What shall we do? How can we impose upon ourselves the discipline it takes not to pass this debt on to our grandchildren and great-grandchildren?

For 18 years I served in the Pennsylvania General Assembly. During those 18 years, and subsequent thereto, it was the imposition on that body that, before the fiscal year started in July, that we had a balanced budget. If we did not have a balanced budget, we could not commence the fiscal year. Yes, sometimes we shut down for a day or two, but the will was then imposed upon us to balance that budget.

Mr. Chairman, that is what we are trying to do here today, to say to this Congress and to future Congresses that we will have that imposition on us, that we must balance a budget. We must quit passing down trillions of dollars of debt to the young people of this country who will inherit it.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman. I rise today in support of House Joint Resolution 268, the resolution proposing a balanced-budget amendment to the Constitution.

I have made reducing the deficit a top priority since coming to Congress. As part of this, I have supported statutory efforts to address the deficit.

Despite promises made in proposing and enacting these previous measures—promises that they would provide the fix that would solve budget problems once and for all—we still are facing a huge, and growing deficit. This point was made all too clearly, when my colleagues, Representative GRADISON pointed out that the latest CBO baseline deficit for fiscal year 1991—$232 billion—is higher than the deficit when the Gramm-Rudman-Hollings law was passed.

Mr. Chairman, why do we need a balanced-budget amendment? Well, I think there are four key points that need to be made in answering this question.

First, we need to make a balanced budget the starting point, the rule, not the exception. A balanced-budget amendment will ensure this. It will enforce a discipline that we are unwilling to accept as a responsibility.

Second, we need something stronger than a statutory fix. We have all participated in the cynical subversion of the Gramm-Rudman-Hollings law to the point that this measure is now a joke. A balanced-budget amendment, grounded in the Constitution, will provide the strength and seriousness needed.

Third, we need to address the current crisis of total systemic breakdown of the budget process. We must force Congress to do its job, instead of working through a budget summit which has no legitimacy in the constitutionally established budget procedure, and is itself furthering the charade that has become practice in budget debate.

Finally, we must place real, constitutional limits on growth of Government, restraints on the claims Government lays on the national income.

This balanced-budget amendment will limit the rate of growth of revenues. As it is, we have built a tax system that continually takes a bigger tax bite each year, than the previous year. All of us can therefore go to our constitutents and say, "We kept your taxes low." But when we get home, and our children ask us what we did in Congress, our answer to them will be, "We raised your taxes." By not voting to require a balanced budget and tax limitation amendment, and not forcing Congress to once again operate in the black, we are, in essence, voting to raise the taxes of Americans who aren't old enough to vote, and to slough the problem off to the future.

Mr. Chairman, we have all seen the numbers that show our economy is teetering on the brink. We must take this step to begin restoring integrity and stability to the budget process, and send a signal to the markets and the world that the United States is now serious about its fiscal policy. I urge my colleagues to support the balanced-budget amendment.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Chairman, these are desperate times in this country of ours.

As my colleagues, I vote for this constitutional amendment out of desperation because, if we do not do something about the deficit that we are running today, we are no longer going to be able to sustain the economic base in this country that provides our citizens with one of the highest standards of living in the world. We are no longer going to be able to provide the leadership in the Western World, the leadership for democracy in the world that we have provided over the last 50 years.

Mr. Chairman, where has this budget deficit gotten us? Here we are after the American taxpayer over the last 50 years, and our men and women in arms, have brought about the downfall of the Soviet Union, have brought about the countries in Eastern Europe begging for freedom, and we are not able to take advantage of what we have brought about in the world today simply because we do not have the money to do it, simply because we have let the equity, our equity in this Nation, be eaten up by budget deficits over the last 30 or 40 years. Where has this budget deficit gotten us? We are now, instead of the largest creditor nation in the world, we are the largest debtor nation in the world.

Mr. Chairman, I stand proudly before my colleagues here today and support the balanced-budget amendment, and I say, "If our country is going to sustain its greatness, we must balance that budget."

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, today the newspaper USA Today dedicated their opinion page to the balanced-budget amendment. In their "people on the street" interviews they asked citizens their opinion. The vote was 3 to 3—the yeses said maybe having an amendment will make Congress make the hard decisions; the noes said even that won't make us balance the budget so why amend the Constitution just to show good intentions. My favorite answer was by Joyce Harton—retired administrative assistant, Austin, TX. She said:

> No. In the first place, we could never meet it. Congress has not been able to handle the Gramm-Rudman bill. They say they're meeting the bill's goals, but they're using trust funds from Social Security to meet their obligations. They'll never be able to handle a balanced-budget amendment.

Oh, Ms. Harton, how well you know us.

Let us not prove the man and woman in the street right again. Let's be as honest with ourselves as our constituents are about us.

Let us turn this amendment down today. The people know balancing the budget is a great idea, but we're in so deep now we can't hide behind simple solutions. We can't hide behind promises that in the future we'll be good, while not taking immediate action to achieve the objective.

Hopefully, the summiteers will start us in the right direction soon. Let's use our time now getting ready to make the hard decisions. It is too late to hide behind a balanced-budget amendment. Our beloved Constitution does not deserve this cynicism.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, 10 years ago when I came to this Congress, the first bill I cosponsored, the first speech I gave on the floor of the House, was on the need for a balanced budget amendment.

Anyone who reflects on the state of this Government and this deficit and this national debt today knows well that if we had followed those words 10 years ago, we would all be better off today.

Why do we need a balanced budget amendment? Very simply, this Congress does not have the discipline to deal with the pressures of where to hold the line on spending without it; and, second, unless we do it, we will absolutely spend ourselves into oblivion.

Listen to this: In the 1990 fiscal year we will spend $182 billion on interest on the national debt. That interest will be 24 times what we spend on all agricultural support programs; from my district, 280 times what we spend on the dairy price support program, 78 times what we will spend on all conservation programs, 1,070 times what we will spend on all environmental programs, 12 times what we will spend on helping the veterans, 41 times what we will spend on helping students through Pell grants, 12 times what we will spend on helping the poor through the food stamp programs, 34 times on what we will spend on helping children through the child nutrition program; and, Mr. Chairman, the list could go on.

My colleagues, let us pass this amendment to save us from ourselves.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, the January following each election we, as Members of this body, raise our right hand and swear to uphold the U.S. Constitution. That is something that a lot of people do around here with a degree of ease. For some it is a little more difficult.

Mr. Chairman, there is no doubt about the fact that if we amend the Constitution and have a balanced budget amendment in that, we will make it very tough for Members to continue the voting patterns which have existed over the past several years and, in fact, uphold the Constitution.

On October 1 of 1982, by a vote of 236 to 187 this Congress unfortunately did not vote in support of the constitutional amendment. I will never forget working on the discharge petition with our colleague PHIL GRAMM. It was a struggle then. It was the last time that we had a chance to cast the vote in favor of amending the Constitution.

Mr. Chairman, we all decry the news that came out yesterday, the nearly doubling of the deficit from $93 to $167 billion. It is reprehensible that we pass on this obligation to future generations.

We must pass this amendment.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Idaho [Mr. STALLINGS].

□ 1350

Mr. STALLINGS. Mr. Chairman, in the years that I have served in the Congress, the Federal budget deficit has been the most critical issue facing our Nation and has been a deciding factor in public policy decisions.

Each year during the State of the Union Address, I have listened to the President outline the importance of a balanced budget. Yet, when the President has submitted his annual budget recommendations to Congress, he continually has failed to submit a balanced budget. Congress has failed to enact a balanced budget and the annual deficit and the national debt continue to rise.

Since 1981, the national debt has almost tripled—from $1 trillion to $3 trillion at the end of 1989. Interest on the debt has been one of the fastest growing functions in the budget—increasing from 9 to 15 percent of total outlays. As the debt increases and as interest on that debt takes up a larger share of the budget, less money is available to support programs important to Idaho and to the Nation.

This upward spiral must end. That is why I support a resolution calling for an amendment to the Constitution to require a balanced budget.

The deficit is a time-bomb wired to our economy. Immediate steps must be taken to return fiscal responsibility to our budgeting process. The American people deserve no less. I urge my colleagues to support this amendment.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I thank my committee chairman for yielding me this time.

There are two major reasons why I am going to vote against this amendment. One, we do have an opportunity to make some very serious cuts in this budget outside of this framework here, and that is in defense.

I submit what is going on in Eastern Europe is a qualitatively new event, and if we focus clearheadedly we can cut defense; but there is one aspect, you could do that either with a balanced budget amendment, but there is one thing the balanced budget amendment does, I think, and a lot of Members here have said that it would not do. We have had a lot of complaints from people who object to the fact that we can use Social Security trust funds to make the budget deficit look smaller. My guess is that more than half this House has promised people that they would put an end to the practice of using Social Security funds to reduce the deficit. Both amendments before us today not only do not stop this practice, they constitutionalize it. Both amendments as written would make it constitutional at any time for Social Security trust funds to be used to balance the budget.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, the gentleman is incorrect in that assumption. As the gentleman well knows, the Congress at any time, if it is the will of the Congress to separate in the budget procedure Social Security from budget deficits, it can be done and will be done, as expressed by what I perceive to be the majority of the will of this body.

Mr. FRANK. The problem with the gentleman is that I am all for the will of the majority, but my friend, the gentleman from Texas and others, have three-fifths majorities and other kinds of majorities.

In this constitutional amendment, both versions, it says all receipts, so that no matter what we did statutorily, this has the effect of requiring that when we do it, all receipts count against all expenditures, and the gentleman's statute would not work against his constitutional amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to my chairman, the gentleman from Texas.

Mr. BROOKS. Mr. Darman when asked the question as to whether or not Social Security would be considered as receipts said that it, of course, would be, flat out, no question about it.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Chairman, I have listened today as many of my colleagues have presented many lofty sounding reasons for opposing a constitutional amendment requiring a balanced budget. But let us cut through the rhetoric.

The bottom line is this—if you vote against this resolution today, you are basically saying that you think the American people are too stupid to make a decision on this issue on their own. That is all this resolution does. It gives the people of this country a chance to speak through their State legislators on whether or not they think we should have an amendment in our constitution requiring a balanced budget.

We cannot amend the constitution on our own. It requires the ratification of the people through their State representatives. If nothing else, we should give the 75 percent of the American people who say they support a balanced budget amendment a chance to work their will.

I urge my colleagues to support the American people's right to decide this important debate on the fiscal future of their own Nation.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, today is both a triumphant and a sad day in this House. Triumphant because after years of effort by those of us who have supported this measure, we have finally managed to bring it to a vote.

However, it is sad because it shows the lack of willpower in Congress. The American people have seen this lack of political will for decades, and support this amendment overwhelmingly.

A constitutional amendment requiring that total outlays do not exceed receipts. It is that simple and it is just that right. We cannot spend more than we earn. That should be common sense.

I cannot tell you how many of my constituents have written claiming: "If I ran my household like Congress runs government, I would be in jail." They are right.

Mr. Chairman, a law will not work. Gramm-Rudman has not. We need this amendment for our children and our grandchildren.

Mr. Chairman, let us make this a triumphant day for Congress and the Nation, the day that we finally got serious about fiscal responsibility. Support this amendment.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise to strongly urge my colleagues to vote in favor of this balanced budget amendment proposal today. It is a commonsense thing to do. We have debated it before. It has been 10 years that I have been here, and this is the second vote we have had on it, and really it would be a dramatic shame for the American public not to have us pass something that is a measure and a standard by which we can all be judged and should be judged.

It will not be the end-all be-all solution, but it is important.

You know, just last year, as has been the case in the last several years, on a fiscal year to fiscal year comparison we took in about $70 billion or $80 billion more in revenue than we did the preceding year, without any tax increases.

The fact of the matter is that during that same period of time, though, we increased our spending at about the same level, a little bit greater, as a matter of fact.

We are not able, apparently, to exercise the kind of discipline necessary to balance the budget. If we had been able to simply restrain spending at the previous year's spending level and not increased it at all, in other words, a real freeze, we could have had a balanced budget in the last year or two.

It is a ridiculous situation we are in, and I urge my colleagues to pass the amendment, put some self-discipline on us. The public needs it, demands it and deserves it.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. WEISS], a member of the committee.

Mr. WEISS. Mr. Chairman, if the balanced budget amendment is adopted then the White House should hire Nancy Reagan's astrologer. They will need someone over there to predict the size of the Federal Government deficit.

Yesterday, the Bush administration announced it was having difficulty with its budget figures. The administration's band of forecasters, the

OMB, erred earlier when they said the budget deficit for fiscal year 1991 was $100 billion. Now they say it is $168 billion. It could be $231 billion, if costs of the savings and loans bailouts are included. And they should be. It could be more if other costs are included, like the cleanup of the nuclear weapons plants.

All told, the number crunchers at the OMB were off by $68 billion. Or is it $131 billion. It seems their predictions just weren't in the stars.

But if the OMB's difficulty means anything, it proves that economies, and budgets, are difficult to predict. But this is precisely what the balanced budget amendment is asking us to do—to play astrologer and palm reader.

Under this amendment, Congress and the President would have to agree on an estimate of total receipts for the fiscal year coming up. Such an arrangement would lock Congress into a forecast of revenues and outlays. A three-fifth majority of Congress would be needed to revise these figures.

Never mind that there might be a recession. Never mind that a tornado, an earthquake, or a hurricane might cause widespread damage, and require prompt congressional action. Would we have the fiscal flexibility to deal with such situations? Not with the unwieldy balanced budget amendment.

To be honest, this amendment borders on the farcical and the unconstitutional. Because it's a constitutional amendment, could the Federal courts review our spending priorities? Would we have to wait for a Supreme Court decision to spend money on a specific priority? Such a situation is outrageous. Not only does Congress surrender its budgetary responsibilities, but I submit that the amendment is unconstitutional. It threatens the separation of powers by giving the Federal courts review over fiscal matters. Clearly, this bill creates more problems than it solves.

The motivations behind this bill are sheer politics. This is again a "feel good" bill. Politicans can say they are for a balanced budget. But this bill does not guarantee that the budget will be balanced. This bill is a carte blanche for budget gimmicks. Have we not had our fill of such patchwork legislation, like the Gramm-Rudman-Hollings law?

It gives us magic wands and crystal balls. But the real cause of the massive Federal deficit is that we had 10 years of Republican administrations that never submitted a balanced budget while tripling the national debt. Those same administrations demagogued Congress and the American people into huge military spending increases. They then left Congress to handle the pressing domestic problems facing this Nation—education, infant mortality, to name a few—and pay for the defense spending spree. The driving force behind these massive Federal deficits is that the two parties cannot agree on spending priorities. A constitutional amendment will never solve that.

The balanced budget amendment is a fraud. It has been voted down in Congress before. We should do the same today.

□ 1400

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I rise in support of the balanced budget amendment to the Constitution.

Today we have the opportunity to make a beginning. This amendment can be the cornerstone of a new foundation for responsible Federal spending.

The amendment we are considering today will supply the necessary long-term discipline to our efforts to balance the budget. The Federal Government's fiscal track record is such that any promises it makes otherwise to balance the budget over a reasonable time frame are simply not credible. The Federal budget has now been in deficit for 19 consecutive years. Interest on our national debt is approaching $200 billion annually. There is no margin of safety. A drop in economic growth of a few points, or an increase in real interest rates of a few points will be all it will take for our economy to jump on to the track of runaway debt. If we are to send a positive signal to the marketplaces of our Nation, we need the discipline imposed by this amendment.

When we buy things we are not willing to pay for, we leave the responsibility for correcting our irresponsibility to our children. Thomas Jefferson said, "We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves."

What are we leaving to our young people now? A 20-year-old entering the work force today will have to pay over his lifetime $100,000 in extra taxes to cover the interest owed on the present $3 trillion debt. Is this the kind of legacy we want to leave our young people?

Passage of the balanced budget amendment will send the right message to the marketplace and to the people that a new era is beginning. An era of economic stability built upon the certainty that the National Government will not spend more than it receives. It will take time for us to build credibility in the markets and in the homes of the Nation and the world. But we have to start now. We must spend wisely; planning and prioritizing for our future.

I urge my colleagues to vote in favor of the balanced budget amendment.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to our colleague, the gentleman from Missouri [Mr. HANCOCK], the only Member of the House I think, who has a tax-and-spending limitation statute attributable to his name.

Mr. HANCOCK. Mr. Chairman, I rise in support of House Joint Resolution 268.

Today maybe one of the most important days in the history of our union.

Franklin D. Roosevelt has been quoted as saying, "A country, like a family, can for a year or two spend more than it earns, but a continuance of that habit means the poorhouse."

Ten years ago the people of the State I represent, the great State of Missouri, voted for and passed a constitutional tax limitation amendment, which is commonly known, in Missouri, as the Hancock amendment.

At the time this was done I did not in my wildest imagination ever dream, or maybe have nightmares, that I would be representing the taxpayers and voters of the Seventh District of Missouri in the U.S. Congress. I certainly had no way of knowing the Congress, the greatest most powerful legislative body in the world, would be debating on this date, July 17, 1990, the absolutely dire need of a balanced budget constitutional amendment.

During the 3-year effort to amend Missouri's Constitution I started many speeches with this statement and asked the audience to guess who made it.

The budget should be balanced, the treasury should be refilled, the arrogance of officialdom should be tempered and controlled, and assistance to foreign lands should be reduced lest the state become bankrupt. The people should be forced to work and not depend on government for subsistence.

I ended my speech by repeating this very profound statement, and I believe it warrants repeating here.

The budget should be balanced, the treasury should be refilled, the arrogance of officialdom should be tempered and controlled, and assistance to foreign lands should be reduced lest the state become bankrupt. The people should be forced to work and not depend on government for subsistence.

Who made this statement? The great Roman statesman Cicero, who lived 106 to 43 B.C.

We only have to study what happened to the Roman Empire to recognize the truths of his words. If it is also a truism that history repeats itself, let's study the demise of other great world powers and compare the parallels of our history since Franklin D. Roosevelt.

I respectfully ask the questions: Are we fiddling while Rome burns? Will this day go down in history as the day our destiny was determined by statesmen?

I plead with you to vote for House Joint Resolution 268.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentlewoman from South Carolina [Mrs. PATTERSON].

Mrs. PATTERSON. Mr. Chairman, I rise today in support of the balanced budget amendment.

In a span of about 10 years, the United States has gone from one of the world's creditor nations to the biggest debtor nation. Over the same period of time, the national debt has tripled to more than $3 trillion.

When people ask me why I am supporting a balanced budget amendment, I point to the high interest payments we are paying for our Federal debt. Interest costs on the debt now exceed 15 percent of all Federal outlays.

These interest payments, which some estimates say will exceed $170 billion this year, divert money from other vital areas and continue to rise. National priorities must be delayed or ignored as an increasingly larger share of the budget goes to pay interest, much of it to foreign lenders.

If you believe that the Government needs to spend more on science, this year's interest payments would buy six to eight space stations or 22 superconducting super colliders. If you believe defense is being shortchanged, 1 year of interest payments would buy 586 Stealth bombers or 146 Trident submarines. If you think domestic programs need more funding, a year of interest would almost pay to pave every mile of interstate highway twice or to provide an astounding 25 years of nutrition programs. In fact, the interest this year would just about cover the 1990 deficit.

These statistics demonstrate that our current level of debt is a problem that cuts across the political spectrum. It does not matter if you are conservative, liberal, or somewhere in between, your goals for the Nation are being subverted by this diversion of resources. Everyone has a stake in solving this problem.

Some might question whether financial matters like this deserve a place in our founding document. Yet, a quick look at the Constitution reveals at least six references to taxes, budgets, and debt in article I. In fact, the primary impetus for the development of the Constitution was economic in nature and this amendment is consistent with the goals and underlying philosophy of the document.

Our current debt level is a direct threat to the country's future. Unless we enact this legislation, the long-term effects of this multitrillion dollar debt will be our legacy to our children and our grandchildren. I urge my colleagues to support this legislation.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the balanced budget amendment.

Mr. Chairman, when the cold wintry gales of budget reality blow, it is nice to put on something warm and fuzzy. It feels good. That is what the balance budget amendment is. It is warm and fuzzy, and the nice thing is it does not take effect for a while. You can go home in the election of 1990, and tell them you voted to balance the budget. You can go home in the election of 1992, and tell them the same thing. You do not have to have done it. You can go home in 1994 and 1996.

The ultimate justice would be that someone in this Chamber is present in 1996 and actually has to implement this balanced budget amendment. That is the true justice that could take place here.

It will not balance the budget. It is also confusing and clogs the Constitution with unworkable language. For instance, have you been salivating recently at a senior citizens' center about how you are going to vote to take Social Security off budget? Not under this amendment, you are not; you are locking it in forever on budget. And so that is another reason.

Mr. Chairman, finally, a lot of people talk about the States being fiscally responsible. I think Members had better check their States and see whether they have been plea bargaining and turning themselves into fiscal felons. Take my State, for instance, which has not only a balanced budget amendment and a line-item veto, and after the last administration left in 1988, they only left us with a $300 million deficit, about 20 percent of the general operating funds.

We checked and we found out that my State is not the only State. There are 27 States in some kind of financial distress.

So I urge the Members do not put on this warm and fuzzy sweater, because it is going to turn into a hairshirt and, worse yet, it is going to turn into a straitjacket.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, like a number who have spoken here today, the first act that I did when I came to the Congress was to cosponsor the balance budget amendment almost exactly 5 years ago. A few days later and within 90 days the Congress enacted its prescription for the deficit, the Gramm-Rudman-Hollings law, and now for 5 years I have watched to see how that law has worked.

We now find ourselves here in 1990 in no better condition than we were 5 years ago when it comes to the amount of the deficit. I look at the enormous amount of legislative talent and energy and draftsmanship that have gone into efforts to figure out how we get around Gramm-Rudman, how we use smoke and mirrors and creative legislation to continue to spend year after year billions and billions more than we take in.

If we look at the deficit's real numbers, if we add back the costs of the savings and loan crisis, if we take off the budget the surpluses from the Social Security funds, we find that this Government is so totally fiscally out of control that we have to do something about it.

Today is the day that we can impose by way of this constitutional amendment fiscal restraint that will finally bring sanity back to the budget process, and hopefully in that process address the cynicism that all of us hear from our constituents back in our districts when day after day, in town meeting after town meeting, in speech after speech we are asked the question, "When are you guys going to get your fiscal house in order?"

My colleagues, today is the day to begin that process. Let us fix this problem. Let us address the cynicism of the American people toward their Congress. Let us adopt this balance budget amendment.

Mr. FISH. Mr. Chairman, with great pleasure I yield 2 minutes to the gentleman from Georgia [Mr. GINGRICH], the minority whip.

□ 1410

Mr. GINGRICH. Mr. Chairman, I thank the gentleman from New York [Mr. FISH] for yielding the time. Let me say that I think if you look around America, you find a lot of State governments that have a balanced budget amendment. They have a requirement that their State reach a balanced budget. You have a lot of city governments that have a balanced budget requirement.

Now, it is true, as some Members have suggested, that there are ways you can get around that. It is true that in the end if we had the sheer will power, Congress could solve this problem and you would not need such an amendment.

But if one looks at the history of the last 40 years in the United States, it is clear that we have lost the will as a matter of culture to automatically balance the budget. That where once upon a time it was sort of a habit, an assumption that Congress would balance the budget, that in fact over the last 40 or 50 years that has simply disappeared, and it is now the habit and the assumption that we will spend as much as we can, we will tax as much as we can, and we will borrow the difference.

The real question as we vote today is very simple: Is it helpful for America in the 1990's to send the signal that we want to go back to having a balanced budget as the norm, that we want to establish a pattern that as a matter of habit, politicians ought to get up in the morning thinking that their job is to balance spending and taxes so that they do not leave a large debt to their children and their grandchildren?

Mr. Chairman, I think frankly when one looks at the record of those States that have a balanced budget amendment, overall it has been better. Overall they are a little fiscally more conservative. Overall they are a little tighter about spending, they are a little more careful about setting priorities.

I would just suggest it would be good for America for the Congress of the United States to have the moral courage to say as a matter of values that we believe a balanced budget is a good value. We think it is a positive thing. That does not mean some future generation of smart politicians will not find a few ways to fudge.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, H.L. Mencken once observed that "every complex problem has a simple solution, but it is generally dead wrong." This is the case with the latest edition of the constitutional amendment requiring a balanced budget.

It is easy to vote for such a constitutional amendment. After all, the public is overwhelmingly supportive of a balanced budget and is deeply frustrated with the President and Congress for failing to balance the budget. I share that frustration. A Member of Congress will never have to explain a "yes" vote and will always be able to point to it as a tough sounding but totally ineffective solution to our budget mess.

As my colleagues consider this amendment I hope they will give some thought to how this constitutional amendment will be enforced. Assume two-fifths of the Senate or House voted against deficit spending, a majority voted against raising revenues, and a majority voted against cutting spending. This would probably happen and would lead to a violation of the Constitution, but who would be punished? What would the Supreme Court do? Would the Supreme Court order tax increases or spending cuts? If so, what taxes or what cuts? One thing is certain, this amendment will set the stage for a constitutional crisis, or the Constitution will be ignored. Both outcomes would be disastrous.

My colleagues I do not want to turn this institution and our Government over to the nine unelected members of the Supreme Court.

That is exactly what this amendment will do.

If this amendment is adopted, the concept of majority rule in our democracy will be destroyed. Three-fifths would be required to run the Congress.

This amendment virtually guarantees congressional gridlock.

In addition, Members should know this amendment makes Social Security a permanent part of the Federal budget.

For those who worry about current Federal Government mandates—buckle up. As the budget noose tightens, the President and Congress will find it irresistible to mandate even action on States, local governments and businesses to solve problems involving health care, education, or environmental cleanup.

Taxpayers beware. Under this amendment, it would be easier to raise taxes than to deficit spend. A majority could raise taxes, while three-fifths of 1 percent would be required to raise the debt ceiling or deficit.

To the extent that this constitutional amendment worked, it would encourage more off-budget shenanigans like the Resolution Trust Corporation created last year to address the savings and loan mess. President Bush strongly favored this off-budget arrangement to hide the real cost of the cleanup from the taxpayers.

The highway trust fund and other designated trust funds will be permanently held hostage pending a balanced budget.

In closing, Gramm-Rudman is finally working. All the unrealistic assumptions have caught up with the President and Congress. The prospect of a $80 to $100 billion sequestration will force deficit reduction action this year without the dangers created by the constitutional amendment which will not take effect until 2 years after ratification, probably 1995.

For these reasons, I urge you to join me in opposing this constitutional amendment.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, this Member rises in support of House Joint Resolution 268, the balanced budget constitutional amendment. I wish to commend the distinguished gentleman from Texas [Mr. STENHOLM] for his initiative and dedication in constructing and promoting this fine legislation.

As an original cosponsor of this legislation, this Member offers his wholehearted support in this worthy attempt to balance the Federal budget. Just yesterday, the White House stated that its most recent estimate of the Federal budget deficit has increased to $168.8 billion. The public has constantly heard of America's excessive national debt, most recently cited as $3.2 trillion, and the implications of this borrowing on following generations. To counter this astounding trend, we must discipline the annual budget deficits which consistently enlarge the national debt. Yet, there has only been one balanced budget since 1960, in 1969. Gramm-Rudman-Hollings has certainly not solved this problem, as this year the Federal deficit approaches $200 billion. Part of the solution to this dilemma is, I believe, to approve this proposed constitutional amendment.

The proposed amendment states that in each fiscal year, total Federal outlays may not exceed the estimated level of revenues, unless three-fifths of the House and Senate vote for an excess of outlays over receipts. In addition, it requires three-fifths of both Chambers to increase the national debt. Obviously, either one of the above-mentioned votes is difficult; therefore, more incentive exists to raise taxes or cut spending rather than create a deficit.

I know that a constitutional amendment can aid in balancing the budget, as I come from Nebraska which has a balanced budget provision written into its Constitution. As a former member of the Nebraska State Legislature and its appropriations committee, I have witnessed the positive effect of such a constitutional requirement to balance the annual budget. This type of limitation instills fiscal responsibility and forces governments to avoid the use of deficit financing.

On a Federal level, however, it is obvious that we have had little success in resisting the inclination to spend more of the taxpayer's hard-earned money than the resources available allow. It is time that we abandon the routine use of deficit financing. I currently see no better way available to force such a move than to amend the Constitution. I urge my colleagues in the House to join me and finally pass legislation which actually does force the executive branch and the Congress to balance the annual budget.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, years ago Thomas Jefferson wrote that he had one regret about the American Constitution, and that regret was that there was no amendment in the Constitution restricting the power of the Government to borrow.

Well, now we have a chance to remedy that failure that Thomas Jefferson pointed out. Some of us have worked for this day since we have come to Congress. Why? Because as the national debt has escalated, Congress and the President over the last 30 years have balanced the Federal budget just once.

It is true that this amendment will not solve all of our fiscal problems, but it will provide the fiscal discipline, the framework, so that in the future we can save our children and their children from the problems that we are facing today.

Mr. Chairman, I urge support for the amendment.

Mr. STENHOLM. Mr. Chairman, I yield myself 30 seconds.

First off, the gentleman from Kansas [Mr. SLATTERY] is totally incorrect in his assertions on Social Security. I might add that to stand in the well and to say Gramm-Rudman-Hollings has worked, is laughable. When we passed it in 1985, our debt was $1.8 trillion. Today it is $3.1 trillion. It has worked so well that Senator HOLLINGS has asked his name be removed. I wonder how much longer before GRAMM and RUDMAN are going to have their names removed?

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I am happy to yield 30 seconds to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, let me just make one point, and that is that when I said that Gramm-Rudman is working, the point I was trying to make is that we would not be at these budget negotiations today if it were not for the Gramm-Rudman law. I am absolutely convinced that this year we are going to see at least $50 billion in deficit reduction, real deficit reduction, that will stretch to at least $400 billion over the next 5 years. I will tell the gentleman from Texas [Mr. STENHOLM] one thing. If we do not get that kind of a deficit reduction package this year, I will be back here next year supporting his constitutional amendment.

Mr. STENHOLM. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would make the point that if this constitutional amendment had been in place in 1985, or in 1980, or in 1979, we would not have debtman clicking it off at $8,000 a second today.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, with the deficit spiraling higher and higher and OMB's projections of a $168 billion shortfall next year, it is time for us to take meaningful action.

Over the past several years, we debated and implemented many short term cost saving plans, to reduce the deficit, but none obviously has worked.

And there are other plans we could try—with Japanese investors buying American assets, spending $80 million for a Van Gogh, we could try to sell the Smithsonian's artwork to the Japanese for $3 trillion—they have enough of our money in their banks.

If that didn't work, we could mandate that the IRS collect the more than $50 billion in taxes owed the United States by foreign corporations—taxes that have not been pursued as our Government has not wanted to offend our allies and chance that these allies would erect additional trade barriers.

But these are measures that we have not pursued—the United States, as usual, must look to itself to resolve its debt crisis. At this point, this amendment is the only way to do it. This Congress will not even start to balance the budget otherwise. We pass too many bills, spend too much money for too many causes. All of this has been done with good intentions.

The road to bankruptcy is paved with good intentions.

The mid-session report from OMB on the Gramm-Rudman-Hollings target of a $100 billion shortfall shows an additional $68.8 billion needed to bring the budget in line. This is a gargantuan underestimate of the health of the economy since the majority of the unexpected losses comes from lower IRS collections and higher than expected interest payments on the debt.

Many opponents to amending the Constitution seem to feel that the act of amending is so drastic that it should never be done except in the area of civil rights. To my mind, the greatest threat to the freedom of the people of this country is the $3 trillion plus debt that we have rolled up.

It is an accepted fact that we must bow to foreign pressure on almost any major issue to assure the purchase of our T bills by foreign investors. Recent reports from the Ways and Means Committee exposed the underpayment of taxes by almost 39,000 foreign owned corporations amounting from $35 billion to $50 billion. The greatest shock to me was that none of those accused corporations ever paid 1 penny of fines for deliberately underpaying their taxes.

Do we need their purchase of our Treasury notes to the point of corruption of our tax system? Think about it. I believe the deficit situation is grave enough to warrant the passage of a balanced-budget amendment.

□ 1420

Mr. BROOKS. Mr. Chairman, I yield 4½ minutes to the distinguished gentleman from California [Mr. PANETTA], chairman of the Budget Committee.

Mr. PANETTA. Mr. Chairman, first let me express my respect for the gentleman from Texas [Mr. STENHOLM] who indeed has the courage to cast tough votes on the floor on these issues, and he is probably the last Member who needs a constitutional amendment in order to make the tough choices.

The problem with this amendment is that it could best be described as the last hurrah of the policies of the 1980's and of the Reagan era. This amendment was born in the same cradle of cliches and simple solutions that promised we could have good times without having to sacrifice. For 8 years the Reagan administration promised the American people that it would achieve balanced budgets, for 1982 and 1983, and then it pledged its support for a constitutional amendment to achieve a balanced budget, and yet in 8 years never once did the President submit a balanced budget to this Nation. And in the last 2 years this President has not submitted a balanced budget to this Nation, because in the real world they could not do it.

When you cannot achieve a goal in the real world, then you start looking toward the myths, and one of the prevailing myths we have today is that no problem is so profound, no social or moral ill so bad that it cannot be solved by a simple amendment to the Constitution.

This constitutional amendment promises what it cannot deliver. It is the equivalent of taking a valium when you have a serious illness. It is a refuge, a hiding place for those who want to avoid the pain of making the tough choices.

All of us recognize the serious problems of the deficit, but perhaps a more serious problem today is the credibility of our system of government with the American people. If people trust in their representatives and their system of government, there is no challenge that goes unmet. If people distrust their representatives and their system of government, then there is no gimmick that can restore that trust.

The time has come to stop kidding ourselves and the American people. The bitter truth is we are in for some tough times in the 1990's. The bill for the 1980's is coming due, and it began yesterday with the announcement that we would face a cut order of $100 billion because of our failure to meet deficit targets. We are looking at a deficit in 1991 not of $64 billion, not of $100 billion, but of $232 billion, and if we take Social Security out of that, $300 billion.

The real answer to the deficit is not in a constitutional amendment.

The real answer is in each of us, and particularly now when in the summit we face the tough choices that have to be made on defense spending, on entitlement spending and on taxes. That is where it is at. We all know that. Even if we pass a constitutional amendment today we face tough choices on defense, on entitlements and taxes. No matter what we do on this issue that is what we confront.

The problem is that we cannot find the political courage or guts in any process change. That is something that is inside each of us and our willingness to address the issues that we need to confront in this country. If Members are honestly convinced that somehow they can find courage in a constitutional amendment, then go ahead and vote for it. But my fear is that a constitutional amendment is

not the place to find courage, it is a place to hide courage.

The myths and problems of the 1980's are over and the harsh realities of the 1990's are here. The time has come to face those realities.

Vote against these amendments and brace yourself for some very tough choices that are coming up in the next few weeks. That will be the test, the real test of whether or not Members are for reducing the deficit.

Mr. FISH. Mr. Chairman, I certainly am very sympathetic with the chairman of the Budget Committee and his problems. We hope that with the constitutional amendment we can make his task that much easier in years to come.

Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH].

Mr. ROBERT F. (BOB) SMITH. Mr. Chairman, I thank the gentleman for yielding me this time.

First, I want to extend my sympathy to the gentleman from Texas [Mr. STENHOLM], the gentleman from Delaware [Mr. CARPER], and the gentleman from Idaho [Mr. CRAIG] for their enduring support of this very important issue over these many years.

Mr. Chairman, I rise today in support of House Joint Resolution 268, which would provide for a constitutional amendment requiring a balanced budget.

Passing this amendment and controlling the deficit has been my highest priority since I came to Congress, it has been my highest responsibility, and it should be the Congress' responsibility, as well.

Mr. Chairman, the statistics are truly frightening.

In 1982, the national debt was just over $1 trillion. That number alarmed me then. But today the national debt is $3 trillion. We have tripled the national debt our children must pay off in only 8 years.

Just yesterday, we learned that the Federal deficit for fiscal year 1991 will be $168 billion—over $100 billion higher than the Gramm-Rudman target.

Ours is an alarming, frightening problem that requires a solution and fast.

Despite the obvious logic and common sense behind this amendment, there are—incredibly, it seems to me—those who oppose it.

There are those who argue, Mr. Chairman, that the route of amending the Constitution is too serious, too drastic, and the Constitution was not meant to be altered.

They believe, in short, that the Constitution is an ancient relic best left for viewing under glass at the national archives.

I believe the Constitution is a living, breathing document, as rich and vital as the society it is designed to protect.

The Constitution is as useful and as dear as Americans choose to make it. For those who cherish it, the Constitution is the only recourse for a society whose legislators seem to have abandoned any semblance of fiscal responsibility.

There are those who believe that the Constitution is not the proper receptacle for such things as fiscal policy. It is a patently false assumption. In 1798, Thomas Jefferson wrote:

> I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our Government to the genuine principles of its Constitution; I mean an additional article, taking from the Government the power of borrowing.

Mr. Chairman, we can't prohibit borrowing by the Federal Government. That train has left the station. But it was clearly Jefferson's intent that the Federal Government be restricted in its ability to run deficits.

What's more, he says those restrictions are consistent with the genuine principles of the Constitution.

Clearly, Mr. Chairman, this amendment is not beyond the realm of topics for which the constitutional amendment process was designed.

Rather, it is precisely the sort of topic for which our Constitution should be amended.

So don't anyone tell me that the Constitution should be off-limits to fiscal policy; it never has been, and it shouldn't be now, when we are in the midst of our Nation's greatest fiscal crisis.

There are those who say privately—though they dare not say it publicly—that the deficit is not a sufficiently weighty problem to warrant amending the Constitution.

Mr. Chairman, that $3 trillion that will have to be paid back is sufficiently weighty to our children and grandchildren, for it is our children and grandchildren who will have to pay it back.

The military threat to the United States may be declining around the globe, but the economic threat is increasing. Truly, Mr. Chairman, we have met the enemy, and he is us.

We all recognize our responsibility in an election year.

When it comes time to write a campaign brochure, candidates are sufficiently convinced of the severity of the deficit to tell the voters that they consider the deficit public enemy No. 1.

We all say we favor fiscal responsibility, low spending, low taxes, and so forth.

But that is just talk, and talk is cheap in this town.

Now is the time for the high and the mighty to put their money where their mouths are, Mr. Chairman.

Now is the time for this Congress to demonstrate the courage of its collective convictions.

May all 435 of us who have persuaded the voters that we truly care about fiscal responsibility have the courage to carry out that responsibility by supporting this amendment.

Mr. Chairman, it is also said that deficits are a reflection of the public will.

Congress spends itself into oblivion because the American people require it—the American people place demands for services which the Congress is obligated to provide, or so the argument goes. But that's false, too.

In their own homes the American people have limits, guidelines, and requirements that make up a family budget.

For Congress, budgets are made to be exceeded, promises to be broken. The American people have no such luxury—or should I say curse?—in their family budgets.

Mr. Chairman, let this issue be a supreme test of the sincerity and dedication of this body to represent the people and the people's best interests.

The question is not whether Congress will meet demands placed on it by the American people. With over $1 trillion in tax receipts annually, we can meet a whole lot of needs.

The true test, Mr. Chairman—is whether Congress can meet those needs within reasonable guidelines, the same way the American people do in their family budgets.

Do we have the discipline, Mr. Chairman, to meet America's needs on a paltry $1.2 trillion a year, or will we continue to push the limits of our fiscal health.

Will we continue to cling like a drowning man to the irresponsibility which has transformed our Nation from the world's greatest creditor to the world's greatest debtor?

Without the balanced budget amendment the answer will be an emphatic no; with it the answer can just as surely be yes.

In the final analysis the Congress is the elected body that represents the American people, and the American people are fed up with red ink.

The American people support the balanced budget amendment by a 5-to-1 margin. In this business, 75 percent of the vote is generally considered a landslide.

The American people have had enough of words, Mr. Chairman, they want action.

They support this amendment overwhelmingly, the founders clearly considered it in keeping with the basic principles of the Constitution, and the problem is clearly drastic enough to warrant our attention.

Mr. Chairman, let us let the American people decide this issue.

By passing the balanced budget amendment and sending this issue to state legislatures, we can empower the

American people to make the decision for themselves.

In that event, I have no doubt that the amendment will be ratified.

I am confident that whatever decision the American people make will be the correct one; it always is, Mr. Chairman.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support today of House Joint Resolution 268, the constitutional amendment to provide for a balanced budget for the Federal Government. I also commend the leadership of my colleagues LARRY CRAIG and CHARLIE STENHOLM. I believe that an amendment is the only way to force Congress and the President to put an end to the runaway budget deficits which threaten the financial well-being of our country.

For much too long Congress has played games with the economy, passing meaningless budget resolutions, while making no effort to reform its spending habits. We have a moral obligation to ourselves and to future generations to preserve a strong and prosperous America and, therefore, we must monitor any legislative spending proposals with this goal in mind. A constitutional amendment is necessary to avoid budget deficits and increased taxes.

While I supported statutory changes such as the Gramm-Rudman legislation, it is clear that Congress can still evade the statute and pass exemptions that void the spending restrictions in the statute. A balanced budget/tax limitation amendment is the only surefire way to rein in massive budget deficits.

I find it appalling that the Federal budget has been balanced only eight times in the last 60 years, and only once since 1960—in 1969. Prior statutory attempts have failed to solve the problem and today we are faced with a deficit close to $200 billion and a national debt hovering around $3.2 trillion. I urge my colleagues to support this important step to return our country to financial solvency.

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I rise in support of this constitutional amendment.

This amendment is strong medicine—but the physical malady that we suffer from may be terminal.

We have tried just about everything else and now it is time, past time for a really potent dosage.

The Congress is like a person suffering from obesity who lacks the will to resist the plates piled high with calories. We need a mechanism to restrain our habits of consumption. We will have to have some outside force to limit our appetite.

That outside force is a Constitution which directs a balanced budget.

We have tried to restrain ourselves by laws and that has not worked.

We now must resort to a constitutional amendment. Maybe—as many argue—even an amended Constitution will not save us. We'll find ways to get around it. But we must try.

I urge my colleagues, I beg the Members to pass this amendment. It may be our last hope.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

□ 1430

Mr. PICKLE. Mr. Chairman, I rise in strong support of House Joint Resolution 268, the balanced budget amendment.

Today is a day of reckoning for this House as we struggle to get our Nation's financial affairs in order—probably just the first of many such days we will face before the end of the year.

The Office of Management and Budget now estimates that the Federal deficit for fiscal year 1991 is $168.8 billion—over $100 billion above the target for deficit reduction in the Gramm-Rudman law. That number is very likely to increase before a final estimate is made next month—and it doesn't include the spiraling costs of bailing out our failing savings and loan industry. Our national debt has exploded from $908 billion in fiscal year 1980 to an estimated $3.1 trillion in fiscal year 1990.

The message is clear, Mr. Chairman, our current budget process is not working properly, before the end of this year, we will ask the American people to pay more of their money to run the Federal Government and accept fewer services and benefits for their money. We cannot expect the taxpayers of this country to make that kind of sacrifice without taking action to assure them that their Government will start to live within its means and get a grip on its spending habits.

While I support this amendment, I do so with some reservation. I do not want to create a situation in which my Government does not have the money to function. I can imagine national emergencies, short of a declaration of war, in which this amendment might be a severe hardship. However, it is undeniably clear that the current system is not working, and we cannot go on as we have in the past. We must make a change, and if statutory limits are not the answer, this appears to me to be the most viable alternative. We need to make balancing the budget a fundamental duty of the Government. For that reason, I have cosponsored the Stenholm resolution and support its adoption.

A balanced budget amendment is not a radical step to addressing this problem. Over three-quarters of the 50 States, including my State of Texas, have successfully adopted similar limits on their ability to spend beyond their means. They have proved that the requirement of a balanced budget is workable and will not significantly interfere with the ability of governments to provide fundamental services.

Today, we are merely taking a first step, setting in motion the process of amending the Constitution to require a balanced budget. The Senate must concur, by two-thirds majority, and then 38 States must ratify it. By adopting this resolution, we are giving the States the right to pass judgment on this amendment.

Mr. Chairman, this amendment is not a magic answer to our budget problems. We must still make some very painful decisions on spending and revenues. But adoption of this amendment is a clear pledge to the American people that we recognize our responsibility, and that we are willing to make a balanced budget a fundamental priority to our Government. I urge my colleagues to join me in supporting this resolution.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to my friend, the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman from New York for yielding to me.

Mr. Chairman, it is plain and simple, we are here today debating this issue because the Congress of the United States has failed in its responsibility to the American people; that is, it failed because it is its constitutional duty to provide a balanced budget. It is its constitutional duty to cut spending where required or to provide the revenues necessary to balance the budget.

We have failed, and we must admit it. The American people demand an apology first of all, which this resolution candidly does.

Those who vote for it are, in effect, saying we will do better, we apologize.

And second, it will give us a strenuous guiding force so that we can avoid these mistakes in the future.

You can blame this President and all his predecessors for their role in creating this huge deficit, but when the buck is passed out it does stop here and we have failed to carry out our responsibility.

In this way, the budget balancing resolution, with that we are on our way back to the credibility the American people require of us.

Mr. BROOKS. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I rise in opposition to House Joint Resolution 268, the proposed constitutional amendment to require a balanced budget. It is a bad, if not dangerous, idea that will not solve our fiscal problems.

The Constitution is the foundation of our basic rights and freedoms. It is the document that for 200 years has safeguarded our individual liberties and civil rights. Lately there has been a disturbing trend to try to amend this great document to solve a host of problems that can and should be addressed by a statutory approach. Should these attempts succeed, we would soon have a Constitution the size of those budget documents that President Reagan used to complain about.

I support a balanced budget. But we do not need to alter the Constitution to balance our budget. We simply need to make the tough choices and otherwise spend no more than we take in. We were elected to do just that. Indeed, setting priorities and making those hard choices is at the heart of the legislative process.

The problem with deficits will not be solved by abdicating our constitutional responsibility to set Government policies regarding taxes, social programs, national defense, and basic economic policy. There are no enforcement mechanisms in this amendment, so we are in essence transferring those decisions to nine judges who are not elected and can only be removed by retirement or impeachment. That would effect a major realignment of power that would deny this country the representative government so central to our system of government.

We do not need to take such a step. My Republican colleague, the gentleman from Illinois [Mr. HYDE], and I have repeatedly offered a statutory solution to this problem. Simply make budget resolutions that are not balanced subject to a point of order. If an emergency demands deficit spending, Congress would have to vote to waive the point of order. This approach would produce much more deficit reduction with far fewer negative consequences than the amendment before us today.

Mr. Chairman, the Constitution already gives Congress all the authority we need to overhaul the budget process and pass a balanced budget. We need to pass budget reform legislation to deal with this problem, not a constitutional amendment that passes the buck to our courts. I strongly urge my colleagues to vote "no" on House Joint Resolution 268.

Mr. STENHOLM. Mr Chairman, I yield 2 minutes and 15 seconds to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. I thank the gentleman for yielding.

Mr. Chairman, I would like to congratulate the gentleman for his work on this constitutional amendment. I rise today in support of House Joint Resolution 268.

Mr. Chairman, when I came here almost 8 years ago, I did not support an amendment to balance the Federal budget. I recognized that an amendment by itself would not balance the budget. It might also be subject to gamesmanship to achieve a smoke-and-mirrors type result. Of course, it would also take a long time to get ratified.

Instead, I thought, "Why not just tighten up on spending, use a pay-as-you-go procedure for new or expanded programs and use the growth revenues to balance the budget, because that would work any time we started it."

I supported Gramm-Rudman as an effective mechanism that could bring some discipline to the process. It helped some for a while. But what has happened? Instead of fixing the problem, we have gone along increasing spending for almost every good idea that came along. Little thought has been given to raising the revenue to cover new expenditures.

And at the same time, our Presidents and we in Congress, by our words and our actions, have taught the people that we can get along with borrowing to cover the deficit without raising the taxes necessary to pay the bills.

And where are we now? The national debt has tripled, the annual deficit is at an all-time high, maybe $300 billion, and we are counting on a summit which may be close to collapse.

□ 1440

It is about time that we try a new approach. This proposed constitutional amendment, when it is finally ratified, will represent instructions by the people of the United States to their Government to get and keep its fiscal house in order. It will provide a basis for accountability, for results.

Its terms are simple and direct. Its intentions are clear. I think it will help. It will certainly not be automatic. We will have to work on it as we have worked with earlier constitutional amendments where we wanted to change our attitude or behavior in this Nation.

I urge Members to vote for this constitutional amendment.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I rise in strong support of House Joint Resolution 268, a proposed amendment to the Constitution which would require a balanced Federal budget.

It has been a long, hard battle, Mr. Chairman, but we finally have a chance to vote on a balanced budget amendment to the Constitution. I think a great deal of the credit for this achievement goes to the gentleman from New Hampshire [Mr. DOUGLAS] whose antihypocrisy crusade apparently shamed enough Members into signing the discharge petition which resulted in bringing this measure to the floor. And of course, Mr. CRAIG, Mr. STENHOLM, Mr. CARPER, and Mr. SMITH of Oregon are to be commended for their unwavering commitment to get this most important bill to this stage of the process.

Mr. Chairman, in a more perfect world this amendment would not be necessary. In a more perfect world the Congress would take its appropriations and oversight responsibilities seriously and would terminate wasteful and extravagant corporate welfare and special interest programs. In a more perfect world the Congress would make the tough choices necessary to balance the budget, whether those tough choices be spending cuts or tax increases.

But we do not live in perfect world, Mr. Chairman. All you have to do is look out the window.

In establishing our form of government, the Founding Fathers created a system of checks and balances. The system was also supposed to create accountability. Yet the U.S. Congress has devolved to the point where its modus operandi is to avoid accountability, to avoid tackling any tough issue on its own, and to avoid, at all costs, the unpleasant vote. Maybe that is why so many of my colleagues have survived around here for so long and why we have a 98-percent reelection rate.

This quest for anonymity has led Congress to come up with some pretty inventive ways to cover its tracks. When we couldn't balance the budget we turned to a mechanism, named Gramm-Rudman-Hollings, that would make the spending cuts Congress was incapable of making. Gramm-Rudman was designed to insulate the Legislature from the political consequences of its most important function—making budgetary choices. Indeed, it worked so well—not at cutting the deficit but at sparing individual congressmen criticism about budget choices—that it has become the model for congressional inaction on other divisive issues. Consider.

When we wanted to close obsolete military bases, we had to establish a commission to do it. Congress knew closing bases was a good idea, but we couldn't face making the difficult choices ourselves as to which bases should be closed. So we let others do it for us.

The most egregious example, however, may have been the pay raise enacted 3 years ago. In that exercise we let the President enact the salary recommendations of yet another commission unless both Houses of Congress specifically disapproved the pay raise within 30 days. The House set a new record in cynicism when it voted to disapprove the proposed pay raise on the 31st day, or a day too late to stop the raise from going into effect.

These are just three examples of the lengths to which this body will go to shield itself from the blinding light of public scrutiny.

We don't have a deficit because the Government is too strong, Mr. Chairman. Rather we have a deficit because the Government is too weak in the face of special interests con-

stantly petitioning the Government for an increased share of the Nation's output. In other words, this Government can no longer say "no."

So that is the overriding reason, at least in my mind, to support a balanced budget amendment to the Constitution. More than anything, the amendment is simply a recognition of human frailty. And human frailty is something the Founding Fathers understood. Indeed, the Constitution itself is based on the concept that man is not perfectible, which by the way, Mr. Chairman, is a very conservative concept. The brilliant economist Tom Sowell called this the "constrained vision" in his remarkable book, "A Conflict of Visions." But whatever you want to call it, it is a concept that we need to reestablish.

Mr. Chairman, we all received a letter from the so-called public interest group Common Cause, outlining their opposition to this amendment. In that letter they argue that the amendment would "damage the Constitution by inserting into our basic charter a fiscal declaration irrelevant to its basic purposes." One of the basic purposes of the Constitution, according to Common Cause, was to "fix the machinery of the Federal Government."

Is Common Cause serious? Are they trying to tell us that this amendment does not "fix the machinery of the Federal Government?" It does just that. And Mr. Chairman, the machinery does need fixing. In a big way.

Because of the inability of liberal big-spenders in Congress to enact spending reductions—to say "no"—we have seen our national debt balloon. It will climb to over $3.1 trillion in July and will soon top the $3.5 trillion level. Since 1960, the deficit has been in balance only once, in 1969.

Therefore, this amendment should not be seen as only a reaction to the staggering deficits of the past decade, but rather as the result of a long-term structural erosion in the budget process. And though the deficit recently has been shrinking as a percent of GNP, we are now faced with the prospect that it may start heading the other way again. In short, things may get worse before they get better. So there is no better time to act than now.

Amending the Constitution is not something anybody in this body takes lightly. However, in the circumstances there is simply no other viable alternative—except of course, to continue muddling along while we saddle future generations with our debts. The Craig-Stenholm amendment recognizes this simple reality. As my colleague Mr. STENHOLM said on the floor this past Friday, if anyone opposed to this amendment has a better idea they should come forward with it.

But the Craig-Stenholm proposal does not go far enough. While it does force Congress to deal with the problem in an accountable manner, it makes it too easy for Congress to deal with the problem by raising taxes. That is why I will support the Barton substitute and will urge my colleagues to do likewise.

The Barton substitute would require a balanced budget unless three-fifths of Congress agreed to a deficit. Increases in Government revenue would be limited to the growth of national income, and a three-fifths vote would be needed to raise the limit. This provision is similar to the Gann limit that curbs spending in California.

From a practical view, it is the most important provision in the whole amendment because it recognizes that the fundamental problem facing the country is not the size of the deficit but the command over resources the Government exerts. In determining what level of resources the Government should control, the American people have been very consistent.

If you look back over the figures for levels of spending for the past 25 years or so, it becomes clear that the American people have been willing to give Congress responsibility for the allocation of about 18 to 20 percent of the Nation's wealth, or GNP. Until the Carter and Reagan years, Federal receipts had been roughly 10 to 19 percent of GNP, and outlays had been roughly 20 percent of GNP.

The Carter-Reagan years utterly transformed this historically established contract between the taxpaying public and their Representatives in Congress. During the Carter Presidency, spending broke loose, hitting almost 23 percent of GNP in Carter's last fiscal year, 1981. Because of previously legislated entitlement programs, increases in net interest expenses, and a modest defense buildup under Reagan, Government outlays hit a high point of over 24 percent of GNP in fiscal year 1983.

The point is, the cause of our deficit is not that taxes are too low, but that spending is too high. The Barton amendment recognizes this basic truth and fashions an amendment that reflects it.

In closing, Mr. Chairman, the balanced budget amendment is not a perfect vehicle. But as I said earlier, this is not a perfect world. And as Artistotle pointed out, it is the wise man who acknowledges his ignorance and his imperfectibility. I think we should act in that spirit today and pass this amendment by the two-thirds necessary.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, in the best of all possible worlds, the balanced-budget amendment would not even be discussed. In a partly rational, imperfect world, the balanced budget amendment would not be desirable.

However, in this insane world where we live, where Congress annually expends $200 billion over its receipts, and has accumulated an astounding deficit of $300 trillion, the balanced budget amendment is the solution of last resort.

No Member would chose it if we had not by our collective profligacy put ourselves into this terrible position. We choose it only because of our collective failure, our continuing failure, to manage a sane policy of fiscal sobriety.

A previous speaker, Mr. Chairman, said that we cannot find courage in process changes, or in an amendment, or in a law. I would submit that we cannot find any courage in this House, and that's the only reason to vote for the balanced budget amendment.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I rise in opposition to the resolution. Sending out an SOS to the Constitution is not a proper method to achieve a sound fiscal policy.

In reality, this is a device to use the Social Security trust fund to hide the Federal deficit. We have a $3 trillion debt and a projected $373 billion deficit for next year simply because of our policy. Our policy over the last 10 years has been an unrestricted deficit spending policy. The bills are coming due. These debts are coming due as the result of the fiscal policies of the previous administration. The first step to a balanced budget is for the President to submit one. There has not been a balanced budget submitted to this Congress since 1968.

For many years I have worked to control the Federal deficit. And, for many years I have pushed to protect Social Security trust funds by ending the practice of using them to cut the deficit.

I will not abandon those efforts. I will not desert America's working people and senior citizens today.

Both of the constitutional amendments proposed today allow the Social Security funds to be used to cut the deficit. In fact, the proposed amendments absolutely require that Social Security funds and the reserves of other trust funds be used to cut the deficit. The amendments would write this mandate into the U.S. Constitution.

Although the amendments are being sold as balanced budget amendments, they would continue the deceptive practice of masking the real deficit—the Federal funds deficit—with the Social Security and other trust fund reserves.

That is not balancing the budget. It is hiding the real deficit.

The Federal funds deficit is the greatest barrier to ending budget deficits.

For instance, the 1970's closed out with a Federal funds deficit of $58.5 billion. Last year, 1989, the Federal funds deficit was $275.8 billion. So the decade of the 1980's ended with a Federal funds deficit more than 3.7 times larger than did the 1970's.

To get to the 1989 deficit figure most often used, $52.3 billion in Social Security trust fund reserves; and, $71.1 billion in reserves from other trust funds were used to disguise the real deficit, the Federal funds deficit.

The Congressional Budget Office estimates that by 1991 the Federal funds deficit will be $367 billion.

CBO calculates that 1991 Social Security trust funds reserves will be $73 billion in 1991 and the reserves of

other trust funds will be $62 billion. That will camouflage a lot of Federal funds deficit.

It is estimated that by 1997, the Government will have borrowed $1 trillion from the Social Security trust funds to mask the truth about the real deficit.

The so-called balance-the-budget constitutional amendments do nothing to end this budgetary trickery.

Furthermore, under these proposed constitutional amendments neither the President nor the Congress are forced, before 1994, to face up to even the amount of budget-balancing action they require. It is possible the delay could go into 1998.

If we are serious about ending budget deficits, then we ought to get on with the job.

I did not want to come before this House and just complain about what others have proposed. So, I have joined with a number of our colleagues, some who are for the amendment and some who are against it, introducing H.R. 5258.

This bill, which the House is scheduled to debate tomorrow, would protect the Social Security trust fund reserves against use in deficit cutting; and, require, beginning next year, both the President to submit and the Congress to vote on budgets without a deficit.

Because the constitutional amendment being considered do not protect the Social Security trust funds; and, do encourage more delays in getting the budget deficit under control I will vote against them today and for H.R. 5258 tomorrow.

And, I urge those Members of this House who are committed to ending Federal budget deficits to vote for passage of H.R. 5258 tomorrow, regardless of how they vote on the proposed constitutional amendments today.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, our good friend, the chairman from the State of Texas [Mr. BROOKS] is a connoisseur of good cigars. I have a cigar for the gentleman from Texas [Mr. BROOKS]. It comes, courtesy of our good friend from Texas, Mr. GEREN, who celebrates the birth of his daughter, Tracy.

Unfortunately, as the gentleman is distributing his cigars in honor of his daughter's birthday, this Government was presenting young Tracy with a $12,000 mortgage. That is the mortgage we put on the back of every child born in America today. A mortgage occasioned because of the debt we are piling up, without the enforcement mechanism of a balanced budget requirement.

Now, I cannot and I do not have to make, I think, an argument for this amendment to the conservatives of this body, but let me speak to my friends, the liberals in this body. If there was one reason for Members to adopt this amendment, more than any other reason, it is the extraordinary growth in the part of our budget that goes to servicing the national debt.

In the last 10 years, the interest on the debt has risen to about 251 percent, larger than any other category. Defense rose 121 percent, Social Security 112 percent, education 47 percent, transportation 37 percent, and most of that interest on the debt coming from taxpayers in America is going to those in foreign governments now who buy our Treasury bonds and invest, in fact, in America's debt financing.

It makes no sense for Members to continue this insane policy. The insanity is not only, do we give that big mortgage to young Tracy, but we also curtail every year, our ability to provide for her education and transportation and housing and other things she will need. The part of our budget today that is made up of interest payments alone is now 15 percent. That means we only have 85 percent to do the things this Government ought to do for America. That part is growing at a faster rate than any other. For Tracy's sake, for every young child's sake in America, let Members adopt this amendment.

The CHAIRMAN. The gentleman from New York [Mr. FISH] has 17 minutes remaining, the gentleman from Texas [Mr. STENHOLM] has 18 minutes remaining, and the gentleman from Texas [Mr. BROOKS] has 14½ minutes remaining.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, someday somebody will have to pay the bills. Is that what we are asking? That is what is going to happen.

Nineteen consecutive years we have run these unbalanced budgets. Fifty out of the last 58 years we have had an unbalanced budget. All Members know Gramm-Rudman is not working. We have to do something there.

I know that many who are opposed to this constitutional amendment have stood up here and said, "Well, we have these courageous decisions that we are going to have to make the next several years, and this constitutional amendment is not going to do the job." But the fact is, we cannot agree on cuts. If we can all agree in the U.S. House of Representatives, in the U.S. Senate, on the cuts that we need to make, yes, we would have a balanced budget. But the fact is, that is not happening today, and all Members know that we now have a budget deficit of over $3 trillion. That is $30,000 on every American household.

I ask the question again: Someday, somebody will have to pay the bills. Each year Congress and the administration claim that Gramm-Rudman-Hollings targets were met, even as the Federal deficit continued to increase. Budget gimmicks, overly optimistic economic assumptions, phony savings, and using trust fund accounts to mask the true size of the budget deficit were all tricks by the administration and by Congress. Enough is enough. The American people want the Congress to put the brakes on this reckless hemorrhaging of the Federal budget deficit. Vote for this amendment today to move toward a balanced budget.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Chairman, I rise to express my strong approval of the amendment.

Mr. Chairman, as a sponsor of the balanced-budget amendment to the Constitution, I rise in strong support of House Joint Resolution 268.

The debate that is being waged today is not new. The debate is not about whether or not economic matters should become a part of the Constitution. Such matters are already in the Constitution. Article I, section 8, clause 2 gives Congress the power "To borrow money on the credit of the United States." House Joint Resolution 268 seeks to limit that power. No new powers are being granted, and it certainly is in keeping with the spirit of the Constitution to impose additional limits on the powers of the Federal Government.

The controversy over the omission of a constitutional limit on the amount that the Federal Government can borrow is as old as the Constitution itself. In March 1790, the State of Rhode Island proposed an amendment to the Constitution requiring a two-thirds vote by both Houses of Congress before money could be borrowed on the credit of the United States. Thomas Jefferson, in 1798, wrote:

I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of its Constitution; I mean an additional article taking from the federal government the power of borrowing.

Despite Jefferson's apprehensions, balanced Federal budgets were part of America's "unwritten Constitution" from the Nation's infancy until the onset of the Great Depression and the Keynesian revolution in economic thought in the 1930's. Nearly universally accepted was the maxim that the Nation should live within its means. Though massive debts accrued during both the Civil War and World War I, peacetime surpluses returned as the norm. Budgets were formed not on the basis of desired expenditures, but on the basis of the expected revenue for that year. This linkage between spending and revenue, coupled with the longstanding belief that pubic debt was an evil, restrained congressional spending.

This philosophy remained dominant until the 1930's, when revenues dropped sharply and massive spending for public relief began. Keynesian economic theory, which calls for

deficits during periods of high unemployment and surpluses when there is inflation, became widely accepted. Manipulating the budget, it was felt, could counterbalance the business cycle. This seriously challenged the tradition of a yearly balanced budget. Additionally, widespread support for Government involvement in social services led to vast increases in Government spending that continues today. In 1930, Federal spending as a percentage of GNP was 3 percent; today the figure is over 22 percent.

The acceptance of a countercyclical budget policy with increased Government involvement in social welfare coincided with fundamental political changes. The public started looking toward Congress and the Federal Government to provide increasing services and programs. The result has been massive increases in spending in times of both recession and inflation. Since 1960, the Federal budget has been balanced only once. Deficits during the same period have accounted for 91 percent of America's total debt which now exceeds $3 trillion. Federal spending rose from $92 billion in fiscal year 1960 to its current level of over $1 trillion. That's an increase in excess of 1,000 percent in 30 years. It is that startling growth in Federal expenditures, and the corresponding increase in the amount of money borrowed to finance that growth, that has led the public to doubt Congress' ability to conduct sound fiscal policy within the present budget process, and has given impetus to present efforts to use constitutional means to restrain Federal borrowing.

Some have questioned whether a constitutional amendment is necessary to lead us to a balanced Federal budget. After all, they say, Congress has the power under current law to balance the budget. However, history has shown that mere statutory rules are insufficient against the biases toward spending that the balanced-budget amendment seeks to correct.

The Federal Budget Control Act of 1974 mandated a balanced Federal budget for fiscal year 1981. In 1979, Congress passed Public Law 96-5, which simply said: "Congress shall balance the Federal budget. Pursuant to this mandate * * *," and went on to describe target dates and procedures to be used. Congress again used a statute in 1980, saying in Public Law 96-389: "Congress reaffirms its commitment that beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts." Most recently, during the 99th Congress, the Gramm-Rudman balanced budget law was enacted to balance the budget by setting declining deficit targets over a 5-year period. If Congress failed to meet the target for a given year, across-the-board cuts would go into effect. The underlying assumption was that Congress would take the actions necessary to meet its responsibilities and avoid indiscriminate across-the-board cuts. Budget cuts should be done by carefully reviewing all Federal spending so that programs with a low priority can be reduced or curtailed and programs with a high priority can be protected.

With the passage of Gramm-Rudman, Congress made a commitment to the American people. That commitment was to reduce the Federal deficit and balance the budget by 1991. Honoring that commitment is the single most important task facing Congress, yet it has largely been ignored. Spending has increased, new Federal programs have been created, existing programs have been expanded, but very little has been done to reduce spending. In fact, Congress was so far off the mark, that in 1987, we had to go back and change the deficit targets. The new target for fiscal year 1988 became the old target for fiscal year 1987—$144 billion. In other words, Congress made absolutely no progress toward reducing the deficit that year.

In short, Mr. Chairman, statutory solutions have not worked, nor are they likely to work. Even if Congress were firmly committed to budgetary responsibility, it faces tremendous obstacles, both short- and long-term. First and foremost, statutes can be repealed by Congress by a simple majority, and one Congress cannot dictate permanent policy to a subsequent Congress. Another major impediment is the budget process itself.

As one of the annual rites of spring, Congress debates and adopts a budget for the coming fiscal year. The Federal budget process would appear to be an orderly progression of events. Early in the year, the President makes his recommendations known by submitting a proposed budget to Congress. That proposal is to be used as a starting point for the House and Senate Budget Committees to begin to craft their respective versions of the budget. The President's proposed budget is not binding on either committee; each is free to accept, reject, revise, or delete any portion of the President's budget proposal. It is Congress, not the President, that enacts the budget. The President merely makes his want and wishes known.

Once the House Budget Committee has drafted and approved a budget, it is sent to the House Rules Committee. The Rules Committee determines the procedure under which the budget will be considered and debated in the House of Representatives. The rule dictates how much debate time there will be, who will control the debate time, who can offer amendments, what amendments can be offered, and in what order those amendments will be offered. Once a rule is granted, the Budget Committee's proposed budget is brought before the House. Amendments, if allowed by the rule, are considered, and at the end of the debate, there is a vote on the passage of the proposal.

After the Senate completes its action on its budget proposal, a small group of Members from the House and the Senate hold a conference to iron out the differences between the House and Senate proposals. Once a compromise, or a conference report, is reached, it must be approved by both Houses of Congress. Once the conference report passes both the House and the Senate, it is binding upon Congress. The President does not sign, or otherwise approve or disapprove of the final congressional budget. From that point, individual authorization bills come from the respective committees, which are followed by appropriation bills.

That, in theory, is how the budget process works. It's not a bad theory, except for one detail—it does not work.

Every year, the process breaks down into partisan political haggling with the Republicans accusing the Democrats of stacking the deck, and the Democrats accusing the Republicans of not cooperating by playing the game. The No. 1 complaint of the Republican Members of Congress is that the referee in the game, the House Rules Committee, is biased. Under the rules of the House of Representatives, which were written and adopted by the Democratic majority, there are nine Democrats and only four Republicans on the Rules Committee.

The real kicker in the process is this: Once the budget conference report has been approved and the budget is in place, the Congressional Budget Act of 1974 says that Congress cannot spend more on a particular program, or add new programs, unless they are provided for in the budget. One would think that this would create quite a problem when legislation is introduced and brought before the House that proposes higher spending levels, or creates a new program without cutting spending on another. However, if spending exceeds the limit set in the budget, the Rules Committee has the power—and the votes—to simply ignore or waive the provisions of the Budget Act. Last year alone, the Rules Committee waived the Budget Act over 100 times. Every authorization and appropriation bill the House of Representatives has considered this year has received a waiver from the Rules Committee. That is the primary reason why a budget which promises a lower deficit may miss the mark by $50 to $100 billion.

The problerm is that Congress has no incentive or reason to reduce spending. For every Federal dollar spent, there is a constituent interest who receives that dollar and who is interested in seeing that program or benefit preserved, if not expanded. When a new program is proposed, there is no mandate or incentive to look for outdated or low priority programs from which funds may be diverted. Congress merely borrows more money. It is time for Congress to own up to the reality that the current budget process is not working and ought to be scrapped.

The cornerstone of any real budget process reform has to be the passage of the balanced-budget amendment to the Constitution. While the passage of Gramm-Rudman was a responsible first step, without an effective enforcement mechanism, the Rules Committee can continue to waive its provisions. What is needed is an amendment to the Constitution that cannot be waived. An amendment such as House Joint Resolution 268 will require Congress to make difficult budgetary decisions, and would put an end to this inexcusable cycle of massive deficits.

Passage of House Joint Resolution 268 should be viewed as the first step. Other needed budget process reforms include:

First, the line-item veto for the President. With only 13 bills to fund the entire Federal Government, each of the appropriations bills is massive. When the legislation arrives on the President's desk, he must either sign or veto the entire bill. The President has no discretion on individual items. For that reason, I believe it is imperative that we give the President the same power used by the Governors of 43 States—including California—the line-item veto. With that power, the President could veto wasteful and unnecessary spending without derailing the entire bill.

Second, a zero-based budget where every budget dollar is considered and justified instead of being spent on a current services basis. We now begin the budget process at a point known as the current services baseline. That figure is the amount of money needed to fund all existing programs at their current level under current law. Under such a system, it is very difficult to reduce spending. I propose that we begin at a zero baseline. Every program and every dollar spent on it would have to be justified each budget cycle. By starting at zero, it would expedite and simplify the process of eliminating waste and duplication from Federal programs, and make them more effective at a lower cost.

Third, the use of a 2-year budget cycle. Because of the size and scope of the budget, Congress is unable to address the Federal budget in a thorough manner every year. Consequently, a 2-year budget cycle, one that would correspond to the 2-year terms of Members of the House of Representatives, is needed.

Fourth, the removal of the Social Security trust funds from the unified Federal budget. Social Security is a program that is funded through a tax on employees and employers. However, President Johnson made Social Security a part of the Federal budget in 1967 to hide the increasing costs of the Great Society programs and the Vietnam war. Because of my strong objections to this practice, I first introduced legislation to separate Social Security from the unified Federal budget in 1985. While the passage of Gramm-Rudman officially took Social Security out of the budget, it left Social Security in the budget for purposes of determining the Federal deficit. Because the implementation of Gramm-Rudman is based on the size of the deficit, Social Security is still a part of the budget, and Congress is still hiding the deficit behind the Social Security surplus. This accounting trick is deceptive, and it is wrong. For that reason, I introduced the Honest and Balanced Budget Act in 1988, and reintroduced it in the current session of Congress. The legislation would completely separate the Social Security trust fund from the overall Federal budget, and continue the steps necessary to reduce the deficit and move toward a balanced Federal budget.

Fifth, an end to the use of continuing resolutions. The entire Federal Government is funded through only 13 appropriations bills. However, usually not all 13 bills are enacted before the start of the fiscal year. In fact, at the end of the 99th Congress, not one of the 13 bills has been enacted and signed into law. Much to no one's surprise, Congress found itself on the verge of a crisis. Without appropriated funds, all Federal activities and functions would come to a stop. In order to avert the crisis, Congress passed one bill, called a continuing resolution, to fund the entire Federal Government for fiscal year 1987. It is shocking that with one vote, Congress spent over $1 trillion. Nor was fiscal year 1987 unusual. Congress resorts to continuing resolutions to keep the Government operating nearly every year. Therefore, I propose the elimination of continuing resolutions. Congress should not be excused from meeting its budgetary responsibilities by pointing to a self-induced crisis.

Setting the budget and the fiscal policies of the U.S. Government are the most important functions of the Congress. Yet, it is a process that is currently out of control.

Mr. Chairman, the balanced-budget amendment to the Constitution will provide the needed impetus to force Congress to make the many decisions necessary to restore fiscal sanity to the Federal Government. I have attempted to point out the broad scope and nature of some of the necessary changes. The time for action is now. Congress should pass the amendment and submit it to the States for ratification. Without the amendment, the American people and the marketplace are rightfully apprehensive about Congress' commitment to reduce the deficit and move toward a balanced budget.

More importantly, we have a moral obligation to balance the Federal budget. The deficit is nothing more than spending and consuming today while leaving the bill to be paid by our children and grandchildren. This is an unacceptable legacy. Therefore, I urge my colleagues to support House Joint Resolution 268, the balanced-budget amendment.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, the American people are thoroughly disgusted with the Congress, and I am with them. They are right.

They have hired Members to do a job, and part of that job is to balance the Federal budget. We have not done it. So enough already.

Three trillion dollars of national debt is enough. If we had passed this amendment in 1982, the last time we considered it, we would have saved hundreds of billions of dollars. It is time to stop adding to the national debt. It is time to balance the budget. I support this amendment, Mr. Chairman, and I cannot frankly understand how any responsible steward of the public's money could possibly oppose this amendment.

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Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, the last three Members from Alabama to represent my district, Armistead Seldon, Walter Flowers, and Richard Shelby, have all allocated action to restore a balanced Federal budget. If one looks back at the size of the deficit when my predecessors voiced their concerns, the figures seem miniscule. The debt ceiling now exceeds $3 trillion. Payment of interest on this debt is the third largest expenditure by the Federal Government, consuming some 16 percent of our total Federal spending. In our financial markets this massive Government borrowing has helped maintain high interest rates and has consumed capital which industry needs to increase productivity. It has also had the effect of turning America into a financial debtor nation, as we must finance our deficits through the massive influx of foreign capital. While to the casual observer the idea of financing our deficits with foreign capital may sound attractive, we must realize that when the bill comes due, it can only be paid through export earnings, of which we have none, or by a net reduction in our standard of living. It is interesting to me that everyone in Government condemns this deficit, but instead of actually reducing the deficit, the Government can hardly control the rate of increase. In 1981 the deficit was $998.8 billion, and we have now seen it triple in only 8 years.

Mr. Chairman, we must take action on this problem, and it is apparent that without having such action mandated by the Constitution, neither the executive nor the legislative branches can muster the will or the political courage to take the necessary steps.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, there is a fiscal crisis in the United States. It is not a constitutional crisis; it is a crisis of political will and of political leadership, and it is a crisis in public responsibility.

The answer is not to amend the Constutition; it is to amend our ways.

That will be far quicker and more effective. If leaders, especially the President, do not tell the public clearly that there is a problem, they should not expect the public to enbrace proposed solutions, especially wrenching ones.

It is not appropriate nor persuasive for an administration which has fostered unbalanced budgets and phony forecasts to pass the buck to alleged flaws in the Constitution.

The flaws did not occur in the 1780's; they occurred in the 1980's. They are not in the words of our forefathers, but they are the deeds of this generation of misguided policies and phantom expectations. It is time for all of us to join together to act now and no longer duck our responsibilities.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Chairman, I rise in support of the proposed amendment to the Constitution to require a balanced Federal budget.

I am under no illusion that this resolution is a magic bullet that will solve all of our budget problems. Obviously, there is no substitute for the plain hard work of grinding out a consensus on the spending reductions that must be made in all areas of the Federal budget in order to eliminate the deficit.

It is essential to pass this amendment, however, in light of the magnitude of the problem facing us. I have been a Member of this body for over 17 years. The Federal budget was not balanced when I came to Congress, and since I have been here the deficit has continued to grow. I have supported numerous measures that we have passed over the last several years in an attempt to impose more fiscal discipline over the budget process. None of these measures has worked, for the simple reason that every spending bill we pass waives the statutory limitations on deficit spending.

According to the administration's estimates, announced yesterday, the fiscal year 1991 budget will be $168.8 billion, almost 70 percent higher than the estimate issued just 6 months ago. Ironically enough, 1991 was the year in which the budget was supposed to be balanced under the original Gramm-Rudman statute. An earlier deadline for balancing the budget was to be 1984, and before that, 1981. Like a mirage, the image of a balanced Federal budget continues to recede into the distance, and each plan for eliminating the deficit seems less and less credible to the American people. Likewise, the failure of Congress to effectively solve the most serious economic problem this country now faces has contributed to the plummeting of the public's confidence in us as an institution.

In the past, I have had reservations about a constitutional amendment because it seemed unwise to write a fiscal policy into the Constitution that would leave us unable to respond to changing economic conditions. I believe that this resolution contains enough flexibility to meet that objection, since a budget deficit can be passed by a three-fifths majority of each House. If the need for deficit spending becomes clear enough, there should not be any difficulty in obtaining the requisite majority.

This resolution has been criticized because of its potential impact on both our national defense and on domestic programs that serve our elderly, or young people, and others in need. This argument fails to take into account the effect of a continuing large budget deficit on both our military preparedness and our future generations.

There are those who do benefit from our large deficit spending. Our national debt is not over $3 trillion, and the interest paid on the debt is now the third largest item in the Federal budget. Those who receive these payments increasingly are the foreign investors who are financing our deficit spending. The payments we make to them do nothing for our own citizens, contribute nothing to our economic competitiveness and productivity. This persistent drain on our economy will continue to grow the longer we put off a resolution of the Federal budget deficit.

And who will pay these costs? Critics of the balanced-budget resolution argue that we should not cut spending on programs that seek to improve education, housing, health care, and other services. They fail to realize the long-term effects of deficit spending on our Nation's young people. The promises we make today will have to be paid for by tomorrow's taxpayers unless we are willing to stop borrowing money we don't have to carry out our short-term agendas.

If we fail to gain control of our budget deficit, our children and grandchildren will not enjoy the same standard of living that we have today. The Federal Government's continued aggregation of economic resources will reduce the number of jobs available and continuing high interest rates will make homes and other consumer goods less and less affordable. In the global economy, American industry will fall further and further behind as dollars that should have been invested in increased productivity are used instead to pay interest on our national debt. An ever-increasing share of the revenues the Federal Government collects will be used to pay for obligations from the past, rather than to meet current needs for defense, infrastructure improvements, and human services. We are already seeing the effect of past mismanagement in the savings and loan crisis, which will take up the revenues that otherwise could be used for education, child care, housing, health care, and other needs. These are needs that may not be met now because in the past we failed to take responsible action.

I would not support this resolution if there were any believable alternative to it. The problem has continued for too long, however, and statutory solutions to it have proven ineffective. I therefore support the balanced-budget amendment to the Constitution, not because I think that it will be the perfect solution to the deficit problem, but because there is no other pragmatic alternative on the table.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I say to the Members of the House it is not often that we have the chance to radically alter the course of history in this House. However, today is an exception. We can change the course of this powerful Nation today, a change for the better, by passing a constitutional amendment to balance the Federal budget. It is a course that we should take, now, before it is too late.

Let us face it, the course that this Nation has been taking in the latter half of this century has been the wrong course when it comes to fiscal responsibility. Not since 1969 has there been a Federal budget in surplus, and the past decade has seen budget deficits that boggle the mind. Our national debt, which has soared into the trillions of dollars, will take generations of budget surpluses just to control. The blame can be placed right here in Congress, because the Constitution clearly states that Congress has the power of the purse. That power has been used unwisely, and the results are devastating. We have huge trade deficits that exist because we in Congress spend too much. But it does not stop there. For example, the levels of corporate and individual debt in this country have never been greater, and have resulted in such things as corporate takeovers, the S&L failure scandal, a higher rate of bankruptices, the buying of America by foreigners, and a host of other debt-related problems. We should not be surprised, because the people of this country are only behaving like their Representatives in Congress and spending more than they have. Spend now, pay later, or even worse, do not worry about later. That has become the motto of Congress.

I cannot point to a particular event that prompted this irresponsible behavior in the past, but the results of continued deficit spending are plain for all to see. If we do not get our financial house in order now, our economy will become permanently crippled

by the costs of servicing this monstrous mountain of debt. It is also clear that nothing constrains Congress from acting irresponsibly now when it comes to spending. Whatever mechanism for controlling spending that existed before has been eliminated. If we hope to get our financial house in order, if we hope to keep our economy strong, if we hope to stop the selling of America, if we hope to give our children a decent future, then we must eliminate our budget deficits now. Mandating this course of action through the Constitution is the only way to achieve this. It is responsible, effective, and its the right thing to do. Today, you can make a positive difference. The fate of America lies in our hands, let's do what is right. Vote for responsibility and accountability, vote for our children, vote for America, vote for a balanced budget, vote for House Joint Resolution 268.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, clearly all of us today recognize the existing system is not working. As we have evolved into this communication age, this age of 30-second bites, of fax machines, of newsletters, of special interest groups of every description, it is obvious that this Congress does not have the ability to simply say no.

Our Founding Fathers never even thought about deficit spending. The argument is now that there is not room in the Constitution for a balanced budget amendment, but surely the instrument that not only encompasses the rights of man but includes such mundane things as the election process has grown to accommodate the fundamental process of how the Government runs and is financed.

Our $3 trillion deficit has been mentioned numerous times.

My concern is the fact that people other than Americans today hold one-fourth of this deficit and they are buying one-third of our new debt each month. We may no longer control our fiscal, financial destiny. That is why I think it is absolutely necessary, and now is the time to do it.

Mr. Chairman, I urge my colleagues to support this amendment.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I rise in strong support of House Joint Resolution 268, the balanced budget amendment to the U.S. Constitution.

They say the first step to recovery is admitting you have a problem.

Let's admit we have a problem in this Congress. We are addicted to spending, even when we don't have the money to spend. Month after month, year after year, decade after decade, our Government spends more than it takes in. In fact, we have balanced the Federal budget only eight times in the last 60 years, and only one since 1960.

As a result, we have already run up a $3.2 trillion debt that must be serviced. This year, we will pay more than $250 billion in interest on that debt.

This Congress full of spending addicts pretends it can solve the problem itself. It won't work, and we ought to be honest enough—to ourselves and to the American people—to admit it.

We have tried the statutory approach. In 1978, appalled by a $59 billion deficit, Congress passed a law requiring a balanced budget by 1981. The 1981 deficit was $78.9 billion and since that time we have added $1.6 trillion in debt, not counting this year's projected $160 billion deficit.

In 1985, we tried again. Gramm-Rudman-Hollings gave us a 5-year path of declining deficits to reach a balanced budget by fiscal year 1991. Current projections put the fiscal year 1991 deficit at $168.8 billion.

Of course, we "amended" those Gramm-Rudman targets in 1987, and we'll probably amend them again this year to say that the deficit is only "supposed to be" $150 billion or so.

Mr. Chairman, the American people aren't fooled. They know we are spending junkies, and they know we have to have real help if we are to kick our habit. The balanced budget amendment is not a cure; but it is the support we need if we are serious about dealing with our deficits.

The choice is clear.

We can continue to use deception and gimmickry to mask our profligate spending habits until we have saddled our children with the burden of an overwhelming national debt that threatens their economic and social well-being. Or we can resolve now that we are going to kick the deficit spending habit and make sure we don't fall off the wagon by adopting a balanced budget amendment.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank my friend, the gentleman from New York, for yielding me this time.

Mr. Chairman, this amendment is long overdue. As has been so often stated, it has been 21 years since we have had a balanced budget. When our forefathers framed the Constitution, they said that this House was the people's House. This is where we listen to the voice of the people. The American people are telling us that this is their number one issue, the balanced budget. They want us to balance the budget.

People are disgusted with Congress today. Today in Roll Call the headlines are "Anti-Incumbent Feeling." That is going to be nothing compared to what the people will say if this amendment goes down.

This amendment is going to be the acid test, not only today but in this fall's election. The people are disgusted, and there is an outcry from the public. They want us to balance the budget. There is going to be a real firestorm in this country because we are not listening to the people, the people who sent us to Washington.

I am curious about one thing. If this is really the people's House and the people want this amendment, let us simply vote for it. Today's vote is going to be the special interests and the lobbyists versus the public, and I hope the people win one for a change.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Chairman, I rise in strong support of the amendment to the Constitution to require a balanced budget. It is sadly ironic that we consider this amendment the day after the new budget estimates were released. The new figures indicate that we will have to borrow $168 billion next year if we do not make any progress on the budget this year.

Today's vote is a small, yet significant step in the direction of fiscal sanity. If we don't etch this requirement into the permanent framework of our Constitution, the President and this Congress will find new and creative ways to postpone the day of a balanced budget. If that happens, our children and grandchildren will be the losers. They will have to pay for our excesses, as we are doing now.

The balanced budget amendment is not a cure-all for our deficit, but it is a commonsense step that will make it more difficult for the Congress to continue to spend more than it takes in. My State of Hawaii has a similar provision in its constitution, and it has worked well for the State government.

The people in Hawaii just cannot understand why Washington can continue to avoid making hard decisions on the budget deficit. They know as families and individuals that creditors or the IRS would be at their doorstep if they failed to pay their debts. Most of the great ideas in this country have come from the grass roots, and this amendment is no exception. I urge my colleagues to support this amendment.

□ 1500

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I oppose this amendment. I think we should balance the budget. Let us do it responsibly.

I think we all know what will happen. I do not hear any of the Members here who want to balance the budget talk about cutting the largest item in the budget, the Pentagon budget, which is a $300 billion price tag that has gone up 200 percent in the last decade.

As my colleagues know, what will happen, if a constitutional amendment passes, is we will dip into the second largest pot of money, which is the Social Security Trust Fund, which in 1993 is supposed to be taken out of the budget. Now senior citizens, employers, employees, disabled people want to know why Congress does not take the trust fund out of the budget. It is because we are using those funds to balance the budget.

I say to my colleagues, "If you're for seniors and disabled people, vote against this amendment."

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, I have prepared 2 minutes complete with rhetorical flourishes, which I will submit for the RECORD.

Mr. Chairman, I want to say that I am a death bed convert to this balanced budget amendment. That term hit me last night as I participated in the special order of the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. Chairman, all of my political career, and it extends back 20 years, I have opposed the balanced budget amendment. It will do violence, it is said, to the good social programs which I love and which I strongly support.

However, Mr. Chairman, I am convinced that we are doing greater violence to our children and to our children's children. The Democratic Party, which represents the unrepresented, ought to be representing the children and ought to be saying, "We need this commitment to a balanced budget." I think we are saying that, but I think we need to raise to the level of a constitutional commitment the decision that this country must on an annual basis balance revenues against expenditures.

It is not process improvement that we need, as I heard the gentleman from Minnesota [Mr. FRENZEL] say. It is courage. We need the courage to make priority decisions, and that escapes us often, is not legislatable, is really not on the table today, but is the better answer to this problem.

I do not like this constitutional amendment. I do not know how we can enforce it. But I do think we have to say at the constitutional level that we must, the President and legislative branch, year after year, figure out how to have the courage to raise the revenues or cut the expenditures, and this commitment to a constitutional amendment makes us make that decision today.

Mr. Chairman, I urge the support of my colleagues for this constitutional amendment.

Mr. Chairman, I rise in strong support of the constitutional amendment today not knowing, like most Americans, the scope of the problem we're trying to solve. The Bush administration announced yesterday its revised estimate for the fiscal year 1991 budget deficit. The latest figure—discounting the monumental cost of the S&L bailout, and including the surpluses of the Social Security trust fund and others like it—is more than two-thirds higher than its original estimate 7 months ago. It falls short still of the CBO's July calculation, now projected at $195 billion. I can't help but wonder what the figure will look like 7 months from now.

The Federal deficit has become a sly numbers game. Everyone plays, but scarce few know the rules. The trick is to repay loans ahead of schedule, shift Federal paydays from fiscal year to fiscal year, lease instead of buy, and if it costs too much, take it off the ledger. Everyone wins. Unfortunately, lost in the lingo of budget summits and Gramm-Rudman targets, sequestration and reconciliation, is the notion that we must eventually pay the price of our folly. If not now, then tomorrow. If not us, then surely our children.

The costs are hidden, but we're beginning to pay the price now. American products are to expensive to export. We're investing less, building fewer homes, and neglecting productivity. Were not competitive economically in the world.

With a deficit that is now 5 times what it was in 1976 and a national debt which has tripled in just 8 years, not even the Byzantine rules of the numbers game can preserve the myth of deficit reduction. The President's latest estimate oversteps next year's Gramm-Rudman target by more than $100 billion. Without an agreement at the budget summit, the required across-the-board spending cuts would likely plunge the country into recession. The answer: Push back the deficit reduction targets even further; postpone until tomorrow the fiscal discipline we cannot grasp today.

Mr. Chairman, it's small wonder that the American people haven't lost all faith in Government.

This balanced budget amendment to the Constitution does not close every loophole. It does not answer every question about process or procedure. However, it reaffirms a fundamental principle, the most basic obligation of Govenrnment, which has been lost in a flurry of accounting wizardry. I strongly urge your support.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, it is an absolute outrage that the United States has gone from being the world's largest creditor nation in 1980 to being the world's largest debtor nation in 1990. And it is absolutely essential that we eliminate the huge deficits that are currently undermining our Nation's future.

To solve our frustration with a feel-good palliative, however, rather than tough, painful surgery necessary for the disease of spending beyond our means is merely an attempt to divert the public's attention from the problem. This consitutional amendment does nothing to guarantee a balanced budget and does absolutely nothing to reduce our current debt. There is no free lunch; we ate it and now we've got to pay for it.

The experience of Congress with attempting to implement the Gramm-Rudman deficit reduction law should be illuminating to those who believe that words on paper can achieve fiscal goals. Over the past 5 years, Gramm-Rudman has been an invitation to budgeteers to display their extraordinary ingenuity in finding ways to appear to meet budget targets.

The amendment could also result in giving control of our economy to unelected judges. Is that a cure? I think not.

There is no substitute for restraint and self-imposed fiscal responsibility. Now is the time for leadership, not paper gimmicks; yes, that is what America needs to balance its budget.

President Johnson gave us our last surplus budget.

Let's leave the Social Security trust fund out of this. Let us leave the Constitution out of this. Let us use our existing authority to require the President to submit a balanced budget. Reagan never did. Neither has Bush. Let the head of State lead. Let's have some leadership.

No new gimmicks. No consitutional amendment.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, we simply must get our Nation's fiscal house in better order. The balanced-budget amendment is one tool to help do so.

The Federal budget has been balanced only 8 times in the last 60 years, and only once—in 1969—since 1960. The midsession review of the budget, released yesterday by the Office of Management and Budget, predicts a fiscal year 1991 deficit of $168.8 billion, not counting spending to insure depositors in failed savings and loan institutions.

I am not so naive as to believe that the balanced budget amendment is a panacea for all our financial ills. It is, however, a provision that is part of the constitutions of most of our States. In fact, every State but one has some form of balanced budget requirement.

Congress has a very difficult time resisting the siren call of attractive spending programs. There are also some in Congress—I do not count myself among them—who are absolutely addicted to new taxes. As a result, we are out of control.

Past statutory attempts such as the Budget and Impoundment Control Act in 1974, Gramm-Rudman-Hollings I in 1985, and Gramm-Rudman-Hollings II in 1987 have helped but have not solved our budget problems. They can always be waived by the Congress.

Only a balanced-budget amendment provides the constitution discipline that cannot be easily waived, fudged, or ignored. A balanced

budget at the Federal level is supported by resolution of over 30 States; 75 percent of the public, and the 249 discharge petition signers of which I am one.

We can no longer continue to load debt on future generations in both good times and bad. It is time to pass the balanced-budget amendment now.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in support of House Joint Resolution 268, a bill to enact a constitutional amendment requiring the Federal budget to be in balance. With a $3.2 trillion deficit, we no longer have the luxury of business as usual in dealing with the budget.

Many of my colleagues have come before this body to argue that a constitutional amendment is not required, that we already have a process in place but that it has not worked.

But that's the point. The process has not worked because it has been too easy for the tax-and-spend crowd to simply waive it when it served their purposes.

We have laws which require us to balance the budget. They have been ignored.

We have laws which set definitive dates for completing action on the budget resolution and appropriation bills. They have been ignored.

We have laws which require us to meet specific spending and deficit targets. These have been specifically waived by the leadership of Congress, almost 400 times during the past decade.

As an alternative to this amendment, we will be asked to consider another bill later this week, H.R. 5258. H.R. 5258 is more statutory language requiring the President to submit and Congress to adopt a balanced budget next year, unless, of course, Congress and the President agree that it would not be possible or prudent.

For too many years, budget negotiations in Washington have led to nothing more than ever-present deficits.

Some of my colleagues have come before this body to argue that the requirement for a three-fifths vote to be able to raise revenues or to engage in deficit spending is merely a ploy for the minority party to gain some sense of control over a system that has not worked. What a shock, the minority party in the House of Representatives want to have some say on the issue of budgets, deficits, and the national debt. Yet this is the essence of what our Founding Fathers wanted when they drafted the Constitution.

It is important to note that these same Founding Fathers specifically spelled out the procedure for amending their work in the Constitution, a clear acknowledgement that future leaders could and should respond to changing times and circumstances.

The House of Representatives is billed as the "people's House," subject to a vote every 2 years to make sure that it is in tune with the people we now represent. I have just come back from Wyoming, a place outside the beltway and the Potomac mentality. I did not talk to lobbyists. I did not talk to association heads. I did not talk to special interest groups. I did not talk to agency heads.

I talked to people. And the people told me that they want us to get our fiscal house in order. The people told me they want jobs, and as long as we run $150 to $200 billion deficits and maintain a $3.2 trillion debt we will not be able to keep this economy going. The people told me that they don't think our deficit is a result of too little taxation; Government simply spends too much.

The people in Wyoming, and around this country, have told all of us that they want a balanced-budget amendment to the Constitution. We have an obligation to listen to their wishes.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, around 1969, the popular Simon and Garfunkel recorded a song called "Overs." Its first two lines went:

Why don't we stop fooling ourselves?
The game is over.

I mention this for two reasons. First, coincidentally—as many Members have noted here today—1969 was the last year the U.S. Congress adopted a balanced budget. Imagine, in 21 consecutive years, we have not been able to balance the Federal accounts the way every American taxpaying family has to balance the household checkbook—21 years.

Second, it is time we stop fooling ourselves. We've had the 1974 budget reform, the 1985 Gramm-Rudman bill, the 1986 tax reform, and at this moment we are farther away from balancing the budget than we were a year ago. Just yesterday we were told that our deficit is expected to be $168 billion this year—and no one really has a good answer how to bring it down. Our public debt this year will exceed $3 trillion—T as in trouble.

Why do we not stop fooling ourselves? Good intentions will not balance the budget. Statutory requirements already have failed time after time. Unless we make balancing the Federal budget a true constitutional mandate, it will not happen.

Nothing we do in this House is more important than properly handling the hard-earned income of our constituents. We've been doing a lousy job with that responsibility, and everyone here knows it. So I urge my colleagues to: Let us make a pact with those taxpayers here today. Let us commit ourselves, and all future Congresses, to balancing the books. Let us declare that all the games are over; and let us adopt—at long last—this balanced budget amendment to the U.S. Constitution.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. PAXTON].

Mr. PAXTON. Mr. Chairman, I rise today in strong support of the balanced budget amendment.

Mr. Chairman, as the calls in Washington for new and increased taxes grow louder, today's vote could not have come any sooner. Today the choice for America is clear. Approval of the balanced budget amendment means controlled spending, lower taxes, continued economic growth, and lower unemployment. Defeat of this amendment means higher deficits, higher taxes, higher Federal spending, and an end to economic growth and growing unemployment in this country.

Mr. Chairman, today we can bring the same fiscal responsibility to this Congress that every family in my community must practice, the same fiscal responsibility every family in America must practice. I urge the adoption of this amendment.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BENNETT].

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Mr. BENNETT. Mr. Chairman, I love this institution of Congress. It is a wonderful institution, but not always are wonderful institutions working in the way they should work.

All of us want to balance the budget. We have tried over decades to do it. In 1975 I introduced a constitutional amendment to try to have a balanced budget, and ever since that time I have had such a constitutional amendment before us.

We just have to be realistic about it and realize we are not going to be able to do it without a constitutional amendment. It is not anything we should feel badly about. It is probably institutional. It is probably the way the Constitution was drafted.

Anyway, whatever, it is, the realism is that we are not going to balance the budget unless we have a constitutional requirement that we do so. It will work because 39 States have it. The Confederacy had it. My own State has it, the State of Florida has it. It works well in the State of Florida. It works well in every State that I know of. So it is a thing that can work.

It will cause embarrassment to us. There will be some things we have to give up.

Many of the things the Federal Government does today they did not do here when I came 40 years ago. We did not have an arts and humanities program, never thought about it. We never thought about having the Federal Government pay for our mass transit, our city buses, never gave it a thought. Nobody thought it was anything the Federal Government ought to do. The sewers in Jacksonville are well taken care of because of the Federal Government. We have great big city parks, a landing like they have in Baltimore, beautiful places in Jacksonville with federalized money, money

from the Federal Government that nobody ever thought about asking the Federal Government to do when I came here to the Congress.

So we have gradually found ourselves a way for local governments to do things they would like to do but do not want to tax their constitutents to do. Well, it just does not work. The only thing I can see to do about it is to pass a constitutional amendment, which will make it work. That is necessary not only for our fiscal strength, but also for the security of our country, in my opinion.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, out of frustration I was going to vote for this amendment. The gentleman from Texas [Mr. STENHOLM] knows that, but I am not. Frustration does not make good policy.

We need to reduce this deficit brought about during the Reagan-Bush years. Trickle down that did not work; military spending out of control; tax cuts for the Trumps and Millken; savings and loan greed.

Where were all these cries about our children and our grandchildren from the other side of the aisle when these policies were ramrodded through this institution, with a promise of a balanced budget to boot? I did not hear any cries then.

How do we cut this deficit? How do we balance the budget? By doing it, not by passing this amendment, filled with loopholes. It is a lawyer's dream.

How do we balance this budget? By doing it.

President Bush never submitted a balanced budget. President Reagan never submitted a balanced budget. Let us force them to do it by statute. Let us go that route and defeat this amendment.

I have had a series of conversations with financial leaders from Wall Street to Montgomery Street. They warned me to be responsible and they don't believe this amendment is responsible. Imagine if we go into a deep recession and we cannot respond because of lawsuits and supermajorities.

This is the time to be responsible, not the time to grandstand. This is the time to balance the budget by doing it, not by faking it.

Mr. FISH. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Stenholm-Craig amendment.

Mr. Chairman, the balanced budget amendment debate is about responsibility and accountability. It is the Congress' responsibility to control the spending of the Federal Government—and make no mistake, constitutionally, the Congress holds the power of the purse, and the Congress alone is ultimately responsible—or, rather, irresponsible—for the Federal budget deficit. The tax-and-spend mentality of this body has caused the intractable Federal debt that burdens our economy and present and future generations. The interest alone on our national debt is staggering. Some believe we can relieve the deficit by raising taxes. Yet history shows that for every dollar raised in taxes, the Congress spends $1.50.

Mr. Chairman, clearly, new taxes now will not solve the problem of the budget deficit. Indeed they could undermine a slowing economy.

What is needed is accountability. Accountability to the people who elected us; the people who must go to work, earn a paycheck, and balance their checkbooks. Families must balance their budgets, businesses must balance their budgets, cities must balance their budgets, and States must balance their budgets. These Americans must live within their means; all they ask is that the Federal Government start doing the same—no more budgetary shell games, no more smoke and mirrors.

Our massive Federal debt affects every American. The national debt affects the availability of capital. It makes it more difficult for a small businessman in Allentown, PA, to obtain financing for a minor expansion. It forces higher interest rates, so that a newly wed couple in Bethlehem, PA, can not afford to buy a house, and instead of building equity, they pay rent. The farmers in the New Tripoli, PA, area may not get a loan to replace broken equipment necessary for the fall harvest. Our national debt is robbing each and every citizen of opportunity.

We need a longer term view and the perseverance to stick with a balanced Federal budget, and to take advantage of the great opportunities over the decades. That's what it is all about in building our future and leaving a legacy for our children and grandchildren far less burdened by debt.

Responsible spending, accountability to the people—this is what the balanced-budget amendment is about. This is the kind of mentality we need to instill in the Congress. I urge my colleagues to vote "yes."

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL of Colorado. Mr. Chairman, I rise in support of House Joint Resolution 268 and the Stenholm amendment.

Mr. Chairman, followers of the Federal budget process may finally have something to cheer about this season. Thanks to the diligent work of the gentleman from Texas [Mr. STENHOLM], legislation to create a balanced budget amendment to the U.S. Constitution has finally seen the light of day on the House floor.

This legislation, House Joint Resolution 268, would require the President to submit to Congress a balanced budget, except in times of war or national emergency.

I think the need for this legislation is clear. It has been 20 years since an administration submitted a balanced budget to Congress, and 22 years since an administration—a Democratic one, I might add—actually succeeded in spending less money than it took in. The Reagan administration, for all its talk of fiscal responsibility, never even came close to submitting a balanced budget to Congress.

Now, more than two decades and $3 trillion in debt later, our country is faced with a fiscal crisis that threatens to wreak havoc on our already fragile economy.

Congressional and administration budget summits to address our country's problem deficits have yielded little more than around the edges tinkering, in large part because the Presidential budgets they sought to correct weren't worth the paper they were written on. In short, because of the irrational and ultimately irreparable budgets of years past, the process was poisoned from the core.

A balanced-budget amendment will help end the cat-and-mouse political games that discourage Congress and the administration from reaching realistic budget accords. Under current law, the President can pretty much decide for himself what his budget will look like.

While I do not disagree that the Chief Executive Officer of the United States should have the power to set his own spending priorities, I do not think he should have the power to plunge our country into limitless debt because his political instincts tell him that cutting the deficit is going to cost him votes.

A decade of such political considerations has transformed our country from the world's largest creditor to the world's biggest debtor, and I think most would agree that this is a trend we must reverse.

It may suprise many to learn that Congress in the 1980's actually appropriated less money than requested by the President. And yet, even though Congress managed during the 1980's to pare down by $10 billion the bloated requests of the Reagan administration, without leadership or commitment from he administration for further deficit reduction, further budget cuts were impossible.

A balanced-budget amendment will be an important nail in the coffin of this Reagan-era budgetary hypocrisy; an era in which a President could introduce grossly imbalanced budgets and then blame the Congress for runaway spending practices.

Congress now has a historic opportunity to reverse the trend of staggering budget deficits and politically motivated acts of fiscal skulduggery. With the adoption of a balanced-budget amendment we may soon see a day when Presidential budgets are finally worth the paper they are written on.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, I would like to answer just a couple points that I have heard during the debate. One point that was made against this proposal was that even if it were enacted, Congress would go ahead and vote an unbalanced budget.

Let us analyze that assertion just for a moment. When you are sworn in as a Member of the U.S. House of Representatives, you are sworn to uphold the Constitution of the United States. What sort of an indictment is that of Members of this body to say that a majority will violate their oath of office and violate the Constitution of the United States?

Another argument I hear is that it is unenforceable. You put it in the Constitution, and Congress violates it. What can anybody do about it? The same can be said of any other provision in the Constitution of the United States.

Supposing the Congress of the United States passed a law outlawing the Washington Post. What could the Supreme Court do about it?

What could the Supreme Court do about it under Justice Marshall in the Indian cases when President Jackson sid, "Marshall has made his decision. Now let him enforce it."

The question really basically is about the fundamental integrity of public officials in this country, and whether they will honor the Constitution.

I hear it said, or I see it written today, I think in the paper, that it is wrong to enshrine a particular fiscal policy in the Constitution. And what is this fiscal policy that we seek to enshrine in the Constitution? It is a very complicated policy, that you should pay your bills. That is the particular economic theory that we want to put into the Constitution.

Remember at the dawn of this Republic, the Federal Government was only a rumor. It no longer is.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for yielding this time to me.

"There is always an easy solution to every human problem—neat, plausible and wrong."—H.L. Mencken.

Today the House of Representatives will debate and vote on an amendment to the Constitution which would purportedly require a balanced budget. The amendent is "neat, plausible and wrong," and I will vote against it.

There can be absolutely no question that the tripling of the national debt over the past decade has put the economic security of this Nation at profound risk. Bringing down the persistent annual deficits that have caused that tripling is essential.

Sadly, no President since Jimmy Carter has proposed a balanced budget, and no Congress in the 1980's has passed one. Would this amendment help us do better? I don't think so. But because its shortcomings are much less obvious than its surface appeal, I want to lay out the reasons why this amendment is a bad idea.

What does the amendment say? How would it work?

If it's adopted, each year the Congress would have to pass, and the President sign, a formal estimate of total Government receipts for the coming fiscal year. Then, Government expenditures could not exceed that estimate unless three-fifths of the Members of the House and Senate approved. Likewise, it would take a three-fifths vote of each House of Congress to increase public borrowing. Any tax increase would require a majority of the Members of each House. Each of these voting requirements refers to the total membership of each House, not just the number actually voting. Finally, the constraints of the amendment would be suspended for any year we were in a declared war. Both receipts and expenditures are defined in the amendment to be as all-inclusive as possible.

So what's the problem? Well, let's begin at the beginning—the estimate of receipts for the next fiscal year that will drive all the other provisions of the amendment. Keep in mind that this estimate will be the product of the same Congressional Budget Office and the Office of Management and Budget [OMB] that do similar estimates now. They are almost always in error and almost always too optimistic, that is, too high. By the way, the OMB are the same folks who just admitted that 6 months ago they underestimated the fiscal year 1991 deficit by $66 billion.

Sometimes the error occurs in good faith, due to the inherent difficulty in predicting the performance of the economy a year ahead of time. Sometimes the error is more suspect, flowing perhaps from a desire to make the fiscal predicament we face look less daunting. And sometimes it happens because there's a significant, unforeseen change in the economy. Whatever the reason, the same tendency to err on the high side is likely to continue with or without a balanced budget amendment.

Of course, there is a risk that Congress and the President simply won't be able to agree on any estimate of receipts. The amendment doesn't say what happens then.

If there is an over-estimate of receipts, and so in all likelihood an unbalanced budget, the problem would eventually catch up to Congress when the Treasury Department runs out of authority to borrow. At that point Congress would have three options: First, raising taxes; second, raising the debt limit to permit more borrowing; or, third, cutting programs at a point midway, or later, in a fiscal year.

Under the proposed amendment it would take only a majority to raise taxes, while raising the debt limit would require a supermajority of three-fifths. Why, one might ask, do the advocates of this amendment, who generally have been most adamant in opposing taxes, want to make tax increases the preferred option?

As for midyear spending cuts, that's not a pretty picture, either. Let's say that after Congress has passed 1 year's budget legislation there's an unexpected 1 percent increase in unemployment. Suddenly we'd face a potential imbalance of $50 billion or more. To realize savings of that amount with only half the year to work with would require immediate cuts in spending at an annual rate of $100 billion. That's a tall order. But the alternative would be higher taxes—tough—or increased borrowing—where the determined effort of a minority in one House could force the country into default.

What's the remedy then? Do we want to place in the Constitution a requirement for a certain outcome—a balanced budget—but, failing that, no procedure for resolving the issue if none of the required special majorities can be found to approve an imbalance?

For that matter, you may wonder what the enforcement mechanism would be for any violation for the amendment's requirements? The answer is that we don't know. The proposed amendment says nothing about enforcement. Presumably, as in other areas, the courts would be available to enforce constitutional requirements. And so, we are faced with the courts getting into the middle of things, and trying to determine the proper recourse in matters of fiscal policy. That should give us all pause.

Let me return briefly to that all-inclusive definition of receipts in the proposed amendment. All receipts of the Federal Government are to be counted—everything, including Social Security taxes. Unfortunately, then, this amendment would perpetuate the most serious budgetary deceit of all: treating Social Security trust fund income as if it were available to finance regular Government operations. That's a mistake we ought to be trying to correct, not continue.

One more point. While we are properly driven in the wake of recent budget malfeasance to seek a balanced budget—and, indeed, some day a budget surplus, such may not always be the case. There may well be economic conditions in the future that make a deficit unavoidable—a serious recession, for example. Given that likelihood, is it smart to adopt the inflexible constitutional proscriptions of

this amendment, and put our capacity to deal with an economic emergency at the mercy of a minority of one House of Congress who could block needed action? I don't think so.

The public is cynical enough already about the posturing of politicians over the deficit and a balanced budget. What grave disillusionment there will be in this country if this amendment does become law, its flaws and failings are then revealed, and the people realize they've been fooled again.

In an election year, there's nothing any of us would rather do than go on record for a balanced budget. To vote against this amendment, there'd better be some darn good arguments. As you can see, I believe there are.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, how did we get to this point with this massive deficit? The deficit grew from 1981 to 1986 to be more than in the previous 200 years of this Republic's total deficit.

In 1981, we had the Reagan tax cut for the rich.

In 1981 through 1986, we had the defense buildup when we doubled the defense budget.

I opposed both of these awful deficit producing mistakes.

Now we have this tremendous deficit.

Now we have some hypocrites, not all the people who are backing this amendment, but some, who voted to create this deficit. Now they want to punt to the States and have it wallow around the States in the State legislatures for years rather than facing the issue.

We have the tools. The Founding Fathers gave us the tools in our Constitution. We need a President who will lead and make decisions. We need just a majority in both Houses to work hard, to roll up their sleeves, to say that we are going to reduce this deficit and admit the truth and reverse those policies of the Reagan administration that caused this tremendous national debt.

□ 1520

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, in my 16 years in Congress, I have consistently fought for more responsible and realistic Federal budgets. Now, the time has come for every Member of Congress to go on record as either opposing or supporting the fiscal responsibility and public accountability provided for by House Joint Resolution 268. I am an original cosponsor of House Joint Resolution 268 and I rise in strong support of the resolution.

Fiscal responsibility has always been a popular theme in Congress. Nevertheless, every year Congress seems to let the tough choices slip away and let spending increases take their place. America ends up with a budget deficit hovering near the $200 million mark and a national debt of over $3 trillion. The American people deserve more than just a shrug of our shoulders and some finger pointing. The American people deserve a fiscally responsible Federal budget and a publicly accountable Congress.

House Joint Resolution 268 provides a constitutional framework for fiscal responsibility. The language of the amendment clearly requires that spending by the Federal Government does not exceed the amount of revenues collected in any particular year. As we all know, past statutory attempts to impose budgetary responsibility have not had the strength needed to hold down a Congress intent on spending. I have been a strong supporter of the mandatory deficit reduction targets required by the Gramm-Rudman-Hollings law, but the recent attempts to move the targets or repeal the law have proven that a constitutional amendment is necessary to ensure a balanced budget.

House Joint Resolution 268 would also hold every Member of Congress accountable to their own constituents. I support an amended House Joint Resolution 268 that would require three-fifths of the Members of both the House and the Senate to approve, by recorded vote, any increase in taxes or increase in the national public debt. Every American should know how their elected representative voted on the issue of a tax increase.

Support for a constitutionally insured balanced budget has been clearly demonstrated throughout the country; 49 of the 50 States require balanced budgets as does nearly every American family. It is time for the Federal Government to meet these same high standards.

Again, I urge my colleagues to vote for House Joint Resolution 268 and send the balanced budget constitutional amendment to the States for ratification.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Chairman, I rise in support of the balanced budget amendment to the Constitution, House Joint Resolution 268. There is no more compelling evidence of the need for this measure than the release just yesterday of the midsession review of the budget by the Office of Management and Budget. The OMB now projects a deficit for fiscal year 1991 of $168.8 billion, and this does not include expenditures to resolve the savings and loan crisis. This is over $100 billion more than the Gramm-Rudman-Hollings deficit target of $64 billion. There is a clear failure on the part of Congress and the executive branch to live up to their responsibilities to manage the Nation's fiscal affairs in a responsible manner.

Critics of a constitutional amendment complain that it is inflexible and represents a straightjacket approach to the problem of budget deficits. Mr. Chairman, there is no more binding straightjacket than the $3 trillion national debt that has accumulated from years of deficit spending. Already, 14 percent of the budget—$260 billion—is needed to pay interest on that debt. This is far larger than any forseeable peace dividend and represents resources that could be used for more productive purposes. To finance yearly budget deficits, investment resources are being siphoned from the private sector where they are desperately needed to improve the productivity and competitiveness of American businesses. If we fail to gain control over the budget and eliminate the deficit, our freedom to allocate resources in the best interest of the American people will be constrained indefinitely.

If the balanced budget constitutional amendment did not constrain Congress and the President, it would serve no purpose. We know from our experience with the Gramm-Rudman-Hollings Deficit Reduction Act that legislation alone has not succeeded in imposing the necessary discipline on Congress. For this reason, I believe amending the Constitution is an appropriate and necessary step. Passage of this resolution and the ratification of a constitutional amendment will establish a balanced Federal budget as a fundamental duty of Government, one essential to the Nation's well-being. This is not a substitute for policy, as the President and Congress would still have to decide how to expand the Federal revenues available and, if necessary, make the decisions as to where to curb Federal spending if there is a shortfall. Under this amendment, Congress retains the flexibility to approve a deficit budget in time of war or if three-fifths of its Members agreed to do so.

I believe this amendment is the most immediate and practical way to solve the Nation's deficit problem and safeguard our country's economic future. I urge our colleagues to support the resolution.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, I have great respect for the Members who put together this amendment and have worked on it in great faith. I think all of them have the good inter-

est of our country at heart and believe that this proposal will help us come up with a budget that will be in balance and will help us economically.

I come to the conclusion that this is not the time or not the best way to amend the Constitution for this purpose.

First, I think amending the Constitution is a very far-reaching act, one that is reserved for only extraordinary situations that do not have other solutions, and I am not yet convinced that there is not a better solution to this problem.

I also believe, having watched us including myself on the budget through the years, that there does not seem to me to be a process, a way, a mechanism that will solve our underlying problem, and our problem, of course, is either the lack of human will or the lack of resolve or the lack of political will or the lack of leadership both here and in the White House in order to bring about more balanced budgets.

I guess I have been convinced that there is no magic, easy process that will get us over that problem. I also think that we have got a process in place. It is imperfect. We have found ways around it.

But I would urge Members to understand that we are just about at the point where that process, Gramm-Rudman-Hollings, a legislative process, is about to show its teeth, and its teeth, of course, called sequestration. The Director of the Office of Management and Budget told us yesterday that sequestration will be about $100 billion.

If we get a budget summit package, and I still hope that we can and will, Members of the House and the Senate will have a choice. Do you want the package, or do you want sequestration? Sequestration will call for about a $50 billion cut in defense, $50 billion in domestic programs. And just to remind Members of what that means, $50 billion cut in defense is about $40 billion more than both Budget Committees talked about cutting defense this year.

The way I reckon it if you did the $50 billion cut in defense you would would hand pink slips to 2 million military personnel. It may be that that is what we decide to do. That is tough medicine.

If Members here are looking for a mechanism that works, that gets the budget deficit down to the Gramm-Rudman levels, you will get that chance maybe even in the next 3 weeks. You will decide between sequestration and a budget deal or package or agreement that will have spending cuts, large spending cuts and revenue increases, and Members can choose which way they want to go.

That is not 7 years off, and it is not changing the Constitution, and it is not yet one more process to try to magically solve our problem. It is a cold, hard decision that Members will have to decide on in either the next 3 weeks or the next 2 months.

And so I just suggest to Members who are legitimately worried about the budget deficit, its impact on the economy, its impact on interest rates, there is a better way to do this right now in the next 2 weeks, the next 2 months. You can do sequestration, you can do the budget deal, and you do not have to worry about whether or not the constitutional provision will work or people will find ways around it.

In closing, Jack Kennedy once said no government is better than the people who compose it. Mr. Chairman, this is not a problem of not having the right words on paper, not having the right words in the Constitution. It is a problem that is in our hearts and in our minds. We can solve it. We are going to have a chance to solve it, and I simply suggest that you will not solve it by amending the Constitution. You will solve it by having the courage together to make the right decisions to do the right thing for our country.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I strongly support adoption of a balanced budget constitutional amendment. I believe it is the only means by which we can impose long-term discipline on a clearly out-of-control budget process.

Some opponents of the amendment have risen today to suggest that the amendment is not a genuine solution to our budget problems, and have urged us instead to look to the budget summit for answers to eliminating the deficit.

Indeed, in the past 9 years, we have had five budget summits, yet the deficit increased 4 out of the 5 years following these summits. The most substantial deficit reduction occurred in 2 of the fiscal years which did not follow a budget summit.

This should tell us that, lacking an institutional impediment to deficit spending, Congress has no incentive to balance the Federal budget.

Finally, I believe we must recognize that congressional credibility is on the line today. To reject this amendment and then impose a tax increase on the American people in the name of deficit reduction later this year is to signal business as usual for a perceived tax-and-spend Congress.

Why should the American people believe that any new tax revenues will go for deficit reduction if we prove unwilling to commit ourselves to a balanced Federal budget today? This is a legitimate question many taxpayers will be asking if we fail to adopt this amendment.

□ 1530

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I rise in strong support of the balanced budget amendment to the Constitution. Today's vote could be a historic moment in the economic life of our Nation. Depending on the outcome, it could also lead us down a long and arduous road to recession, massive debt, and uncontrolled Government spending. Here, in this Chamber today, we will likely determine which direction America will choose as a world economic power—upward to economic security, or down toward an inferno of Federal debt.

Just a few years ago I was privileged to lead the charge for a balanced budget amendment. Along with my colleague from Georgia, Mr. JENKINS, we secured a vote and nearly carried the day. I have to say that 7 years later, we have done little to reduce the mountain of debt piling up on the shoulders of our children and grandchildren. In fact, to my astonishment, it went almost unnoticed that America passed the $3 trillion debt level in April of this year. We owe $3 trillion, Mr. Chairman, over $12,000 per American citizen.

It is time to set our Nation on a course toward fiscal responsibility. To do so, I urge each of my colleagues to vote today for a balanced budget amendment to the Constitution. If we fail to enact such an amendment, then we have failed our Founding Fathers, and failed all future generations of American citizens.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Chairman, I want to congratulate the gentleman from Idaho [Mr. CRAIG] and the gentleman from Texas [Mr. STENHOLM] for bringing us this constitutional amendment. I rise today in strong support of the balanced budget constitutional amendment. Amending the Constitution to force Congress to balance its books is a significant step. But one that must be taken if we are to restore common sense to the congressional budget process.

Mr. Chairman, I would just say that anything we can do to try to balance the budget is important. The majority leader just made a point about how we in fact have in place Gramm-Rudman-Hollings. We have other things that can be utilized. I see this as a step in trying to get Americans to understand that we are not short of knowledge, but we are short of courage to do anything about our excess spending habits.

Mr. Chairman, I recommend a yes vote on the constitutional amendment.

We have tried all kinds of laws and resolutions, each to no avail. We wring our hands about burdening future generations, yet continue to vote for huge spending bills every chance we get. We say we are doing it to make our country stronger, but have only suc-

ceeded in burying ourselves under a mountain of debt.

The reason we are considering this step is because the Congress has lacked the courage to make hard decisions. Becoming reelected has become more important than leading the country. We must break that cycle. Mandating a balanced budget will take away our ability to hide from our responsibilities.

A common argument against this amendment is that we must be able to continue running deficits to fund special interest programs. Each of these interest groups pay lip service to cutting the deficit, but would rather see the country commit economic suicide than trim their own cherished programs.

With less money, the Government would be forced to run more efficiently. With a never-ending stream of appropriations, our agencies have become big and bureaucratic. Making them run more effectively will allow us to provide more services for less money than we do now.

I urge my colleagues to support this constitutional amendment as the only practical way to reign in our out-of-control Federal spending.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Chairman, I have been here most all day today listening to the debate. I think there is enough blame to go around. Being new to the Congress I can say it is the fault of the Democratic Party, it is the fault of the Republican Party, it is the fault of the White House, it is the fault of congressional leadership, and it is the fault of the American people, who have demanded more than they have been willing to pay for over the last 25 to 50 years.

Now, no one here denies that we have a tremendous problem. Statutes are transitory in nature.

The author of the Constitution of this country in a letter in 1798, one Thomas Jefferson, said:

If there is one omission I fear in the document called the Constitution, it is that we did not restrict the power of the government to borrow money.

Mr. Chairman, that is why I support this amendment today.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, today the House has the opportunity to address a most crucial issue—America's huge budget deficits.

House Joint Resolution 268 provides for a constitutional amendment to balance the budget of this Federal Government, a policy objective that continues to elude us.

Concerns about spending exceeding revenues first appeared in legislation in 1936, and our Federal budget has not been balanced since fiscal year 1969.

The massive borrowing and huge defense buildup during the 1980's ERA of Reaganomics caused deficits to spiral upward and out of control.

These events threaten to mortgage the futures of our children and grandchildren. Clearly, we need to put our house in order. We owe it to the taxpayers.

Make no mistake, Congress has tried to bring down annual budget deficits. I supported the Gramm-Rudman deficit reduction law, which has helped somewhat. However, economic changes challenge the effectiveness of Gramm-Rudman.

Gramm-Rudman deficit reduction targets have already been changed once, and the revised deficit estimate of $168.8 billion for fiscal year 1991 is not encouraging. Indeed, our colleagues at the budget summit have their work cut out for them if we are to meet the $64 billion target for fiscal year 1991.

In my home State of Wisconsin, a balanced budget has been required since ratification of the original State constitution. This requirement has served Wisconsin well without imposing undue hardship on State finances.

The major provisions of the balanced budget amendment require that: First, Congress and the President must agree on an estimate of total receipts before each fiscal year by joint resolution; second, budget expenditures cannot exceed this estimate without a three-fifths vote or super majority of both Houses of Congress; third, Congress must also vote by three-fifths majority to enact any increase in the national debt limit; and, fourth, any revenue increases must be approved by a majority vote.

Right now, Mr. Chairman, we are debating how this balanced budget amendment will be structured. Of the two alternatives permitted by the rule, I urge my colleagues to join me in support of the Stenholm-Carper substitute.

It keeps the provisions of House Joint Resolution 268 intact and requires the proposal to become effective in fiscal year 1995, or 2 years after ratification, whichever is later. This allows Congress and the President time to implement the new budget provisions and avert disruption in the economy.

A constitutional amendment is more effective than a statute because it is not easily revised or repealed. It will force us to operate within our means.

In addition, while the constitutional amendment demands strict fiscal management, the Government would not be suffocated in an economic emergency. In this event, the Government could respond to abrupt economic changes within the boundaries of this amendment.

Approving a balanced budget amendment now is a remedy for our budget ills. Once ratified, it will serve as preventative medicine for the Nation's long-term fiscal health.

Mr. Chairman, the time has come for fiscal discipline. The time has come for a balanced budget amendment.

The CHAIRMAN. The Chair will inform the Committee that the gentleman from New York [Mr. FISH] has 3 minutes remaining, the gentleman from Texas [Mr. STENHOLM] has 3 minutes remaining, and the gentleman from Texas [Mr. BROOKS] has 2 minutes remaining.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY], a Member whose credentials on spending reductions on this side of the aisle are second to none.

Mr. PENNY. Mr. Chairman, I have worked over the last number of years with the gentleman from Texas [Mr. STENHOLM] and the gentleman from Delaware [Mr. CARPER] and others in developing this balanced budget amendment. I am proud of their leadership on this issue and proud to be associated with them.

Mr. Chairman, I think this particular amendment is tightly drawn and responsibility written. I would not vote for just any balanced budget amendment. There were many introduced in the years that I have been here that I would not want to see added to our Constitution. But this one is crafted in such a way that I think we can get the job done without doing a disservice to our traditional separation of powers.

Mr. Chairman, we often gloss over the fact that many States, I believe well over 40, have balanced budget requirements in their constitutions. It has not brought down the functions of State governments across the country. It will not hamper the functions of the Federal Government.

Having recently voted on a constitutional amendment on the flag, I have to admit some reluctance to be here on the House floor so soon after that vote advocating another constitutional amendment. Clearly, changing the Constitution is not something we should take lightly or do frequently. Beyond that, I think it is important to stress today that a balanced budget amendment does not balance the budget for us. There will still be tough choices required of us if we are to bring spending and revenues into balance in the years ahead. So I am not here to claim that the balanced budget amendment is a cure-all. It is not. But given our record in this Congress on spending over these last number of years, it is obvious to me that we need a more compelling force to restrain spending. This constitutional amendment could not hurt, and, in fact, might help.

Mr. Chairman, I urge a "yes" vote.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, even the most ardent opponents of the balanced budget amendment will agree, I think, that it is irresponsible to spend more money than we take in—year after year after year. How do we go home and explain to our constituents that Congress has waived the Budget Act no less than 398 times over the past decade? How do we explain that, notwithstanding the fact that revenues have grown surely and steadily over the last decade, some folks say we have to raise taxes again? And not only that, but that our deficit is out of control?

A constitutional amendment for a balanced budget is no substitute for direct action on the part of Congress. But we have proven time and again that Congress does not have the ability to provide that action, and we need this forcing mechanism.

We've tried Gramm-Rudman. We've tried budget summits. We've tried other carrot-and-stick approaches. Yet, for the past 30 years, with one exception, the unified Federal budget has been in deficit every year. Why do opponents of this measure expect that this year, or next, or the following year will be any different? It will not, and we know that.

My friends, it's time to bite the bullet. It's time to just say no—and mean it—to the tax-and-spend policies that have gotten us into this mess and just say yes to the balanced budget constitutional amendment.

Mr. FISH. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Chairman, if rhetoric could balance the budget around here, it would have been balanced years ago. The majority leader said a few minutes ago there is a better solution. I agree with him, there is. We just have not used it. That is cutting spending. That is why we need an amendment.

The critics say the balanced budget amendment is irresponsible, it will not cure. We have the tools, we just have not used the tools. The hard decisions have not been made. That is why we need the amendment.

Mr. Chairman, we had to force the bill out on the floor by discharge petition. We have already rolled back Gramm-Rudman one time. We will probably do it again. We spent $250 million this morning on the first vote, adding $250 million more, which some say is going to clutter the Constitution.

The $3.2 trillion in IOU's in our children's crib, that is clutter. It is irresponsible, it is immoral, and it is wrong. I want to leave my kids my house, not my mortgage.

□ 1540

Mr. STENHOLM. Mr. Chairman, I yield myself my final minute.

Let me just say in concluding the debate on this side that we have indeed taken this entire question of amending the Constitution very seriously.

For example, in the Rules Committee, the gentleman from California [Mr. PASHAYAN] leveled some very learned criticisms of the language in our previous amendment, and that is why we changed "agree" to "establish" on line 9 in section 1 of our amendment, because I, upon reflection, agreed with the gentleman.

I yield to the gentleman from California.

Mr. PASHAYAN. I thank the gentleman. As he knows, I had a lot of misgivings about how this amendment was written, and I appreciate the changes the gentleman made, and look forward to working with the gentleman. I have had his private assurances that if this bill should go to conference that we can work on cleaning up the language and putting it into a more constitutional style.

Mr. STENHOLM. That is certainly the intention of this Member, if we should be successful in getting the required number of votes.

Mr. FISH. Mr. Chairman, I yield my final 1 minute to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, most of the problems that we face in this Nation today has come about because we in the Congress have been far more generous with other people's money than we ever would have been with our own.

We will soon be called upon to raise our national debt to over $3.5 trillion. This tremendous national debt forces our interest rates to be much higher than other developed nations.

As an Atlanta newspaper said recently:

> The reason the country does not have low and stable rates is because the Federal budget deficit-bloated monster is eating up capital. When the government borrows so much money it crowds out the little guy who just wants a mortgage. It is simply economics. The greater the demand for borrowered money, the higher its price.

We are passing appropriation bills today that have 16- and 18-percent increases, and we cannot even pass an amendment to cut 2 or 3 percent off of those increases. We are spending money today that we do not have.

The American people want us to balance our budgets, and so I would urge a yes vote on this amendment.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the chairman of a great subcommittee, the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, as this debate winds down I would like to say I have been here 10 years, and I have heard just about every prescription for balancing the budget. We have had a balanced budget amendment, we have had a line-item veto, we have had Gramm-Hollings I, Gramm-Rudman-Hollings II, Gramm-Rudman-Hollings III, everything, that is, but the one that will balance the budget, and that is to sit here and do it.

Right now there is a budget summit. Everyone is waiting for the President to address the American people and tell them we have a crisis. That is where the leadership has to come from, first from the President galvanizing the people, and then from both bodies of the Congress to put together a summit that will really reduce the budget.

We do not need another gyro-gear loose device that delays things 5 years, 10 years, 15 years. If we want to balance the budget we can to it, and do it now, not by this amendment but by actually making the cuts in revenues that we need.

Mr. BROOKS. Mr. Chairman, I yield myself our final 1 minute.

Mr. Chairman, after intensive hearings on the subject and now a protracted floor debate, it is clear to me that the drive for a balance budget stems from a deeply felt concern—and frustration—of the American people to bring about some needed order and discipline in a fiscal process that appears to have run amok and which baffles even the experts with its complexities.

The drive to balance the budget is one thing. Enshrining such a requirements in the Constitution—with no clear direction or plan of attack—is quite another. I am particularly troubled by the lack of attention in House Joint Resolution 268 to the details of crafting a workable and enforceable constitutional provision. There are those who evidently believe that there is no problem that cannot be cured by an amendment to the Constitution. But I think these same individuals are beginning to learn from the American people that our most sacred document should not be devalued by impulsive actions that produce, at best, only sound and fury.

If nothing else, this debate has shown that the Constitution is not a magic wand which only needs to be waved to effect a cure. The cure lies solely within our resolve to make the right choices today, and not be placing budgetary restraints on our successors in 1994. Let us end these charades, and return to the real business at hand.

Mr. BROWN of California. Mr. Chairman, we all want a government that is capable of living within its means. Until Ronald Reagan's Presidency, we did a pretty good job of doing that. In 1979, the annual budget deficit was $27.9 billion; by 1989, that deficit had ballooned to $152 billion. According to the most recent figures, the deficit for 1991 will be $168.8 billion—which is the third estimate from the Bush administration this year, each being higher than the last.

This is an outrageous situation. The total Federal debt grew from $1 trillion in 1980 to more than $3 trillion in 1990 and interest on that debt grew from $52.5 billion in 1980 to over $173 billion in 1990. Servicing our debt has become the third largest budget item behind Social Security and Defense, and that money is going nowhere. It is not building new roads and bridges; it is not educating our children; it is not being used to end the scourge of drugs in our communities. This situation is intolerable. I am as intent on doing something to bring our fiscal house in order as anyone, but this amendment is not the answer. It promises to create more problems than it would solve.

It was George Bush who first warned us that Ronald Reagan was selling a package of voodoo economics. President Reagan told us that we could cut taxes, raise defense spending and still balance the budget. Sadly, the American public and a majority of the Congress bought that package and the huge deficits of the 1980's have been the result.

Now a new brand of voodoo is being offered up to try to make up for the failed voodoo of the past: A balanced budget amendment. This amendment is not the answer to our problems. Rather, it creates new problems that future generations of Americans would be stuck trying to deal with.

Two implications of the proposed amendment are especially disturbing. First, this amendment opens the door to courts settling budget and revenue disputes between the Congress and the President. I am not going to vote for an amendment that puts the Supreme Court in the business of setting national spendng priorities or revenue levels. I do not want to see nine black-robed justices making decisions about whether we should fund Head Start, whether we should build the MX missile or the Stealth bomber, deciding the level of spending on Social Security payments, or imposing higher taxes. The Constitution clearly identifies the Congress and the President as being responsible for the spending and taxing policies of this country. I do not believe we should abdicate that responsibility, turning it over to the unelected members of the Supreme Court.

Second, I object to the supermajorities required to approve budgets that exceed our revenues or to raise our debt ceiling. While the enormous Government deficits of the 1980's have been damaging to our economy, the capacity to run a deficit budget remains an important tool for heading off a recession. This amendment would allow a determined minority in just one House to block policies that would keep a recession from turning into a more severe depression. It would also allow a determined minority to shutdown the government if revenues were not living up to projections: no Social Security checks would be mailed, no services would be provided, and no pay checks to could be issued to our soldiers, sailors, and airmen. I cannot vote for a measure that so clearly places our economic vitality at risk.

In the words of Alice Rivlin, for many years the Director of the Congressional Budget Office, "the Constitution * * * is an expression of permanent policy and economic conditions are not permanent." Proponents of this amendment have been invoking the interests of future generations. If it is wrong to indebt future generations for the consumption of today—and I believe that is wrong—it is no less wrong to cripple the ability of future generations to meet the economic problems of their time. Enshrining a balanced budget requirement into the Constitution would do that. Our generation would then have doubly constrained future generations of Americans by first indebting them, and then stripping them of an important economic policy tool.

I do support responsible fiscal policies. I think that a pay-as-you-go approach would force the Congress and the President to make the hard budgetary decisions which the voodoo economics of the Reagan years let people evade. A statutory pay-as-you-go approach would lead to a more responsible fiscal policy without tying the hands of future policymakers who may be dealing with very different economic conditions—conditions requiring a different policy approach.

Responsible fiscal policies will require sacrifices of us all. It will require making hard choices about how to use the resources at hand. It will require redefining our national priorities, who we are, and what we want to achieve as a nation. We are an intelligent, creative people who have always enjoyed overcoming the challenges before us. My faith remains in America and its people—and I know we can meet the challenge of balancing our budget without the gimmickry of a flawed constitutional amendment.

Mr. McHUGH. Mr. Chairman, I rise in opposition to this constitutional amendment. The amendment gives the impression that Congress is doing something to promote sound fiscal policy without actually doing so. If the amendment is adopted, we will be no closer to substantial deficit reduction, or to a balanced budget, than we were before. To achieve these goals, we must cut some spending programs and raise additional revenue, something we have the power to do right now.

The problem with our fiscal policy is not the absence of a constitutional mandate, but the absence of political leadership and political will. Passing a constitutional amendment is not a substitute for a responsible budget policy.

In fact, if we were to pass this amendment, the time for responsible action on the budget is likely to be deferred. Members can claim that they have done something about the deficits, when in fact we have done nothing. It will be years before the amendment will take effect, and in the meantime the deficits will continue. If we are serious about reducing deficits, we have the power to take the necessary steps today, power that will not be enhanced by amending the Constitution of the United States.

President Reagan and President Bush have been vocal supporters of a constitutional amendment to balance the budget. Yet, not once did either of them submit a balanced budget to Congress. During their years of stewardship deficits have reached historic highs and the national debt has more than tripled. Their rhetoric has been no substitute for political leadership, and I trust that the American people have not been misled by their apparent fealty to fiscal responsibility when the reality of their policies have had the opposite effect. Similarly, many Members of Congress have been aggressive advocates of a constitutional amendment while at the same time steadfastly refusing to vote for meaningful spending restraints and additional revenue, the only steps that can actually reduce deficits and achieve sounder fiscal policies.

Mr. Chairman, the time has come for both the President and Congress to stop hiding behind the empty rhetoric of a constitutional amendment and work together to adopt budgets that put our country back on a sound fiscal basis. I urge my colleagues to vote against this amendment and then get down to serious business.

Mr. COMBEST. Mr. Chairman, we have waited a long time for this day. I refer not only to the Members of the House who support a constitutional amendment to balance the budget, but more importantly, to the people of this Nation.

We must take action today to restore some of the trust that the American people have lost with their Congress. The tax dollars we appropriate do not grow on trees. They come from our constitutents' pockets. Tough decisions must be made when handling the people's money. The Congress simply has not done this.

For example: The six appropriations bills so far passed by the House already exceed last year's total expenditures in those same bills by nearly $16 billion—an increase of more than 11 percent. The projected $168 billion deficit for the current fiscal year is symptomatic of the continued lack of discipline in congressional spending.

I have heard the arguments against this amendment. All I can say is that I wish some here today were as opposed to increasing spending as they are to amending the Constitution.

This amendment is not, as some have characterized it, a purely economic matter that has no place in the Constitution. Nothing could be further from the truth. Tying the spending of the Federal Government to the receipts it collects is consistent with the purpose of the Constitution, which is to define the limits of governmental power and guarantee the rights of the citizens.

The balanced budget amendment further clarifies the role of the Congress and Federal Government to the people, from whom all power derives. It reminds us that we in Congress are the servants of the people, entrusted with making decisions affecting their hard-earned tax dollars.

Mr. Chairman, on behalf of my constituents in west Texas, I urge my colleagues to reaffirm the right of the citizens of this great Nation and vote in favor of the balanced budget amendment to the Constitution.

Mr. SANGMEISTER. Mr. Chairman, the American people are completely fed up with these annual massive budget deficits. The time has come when we, as legislators, must put a stop to the practice of spending more than we take in. Yesterday, Richard Darman, President Bush's top budget adviser, announced the Government now faces a fiscal year 1991 deficit of $168.8 billion. In January,

the President predicted a deficit of $100.5 billion. If you include spending required to clean-up the savings and loan mess, you come to an outrageous deficit of $231.4 billion. As you can see for yourself, Mr. Chairman, the President was way off the mark. In fact, he didn't even hit the barn. According to Darman, the taxpayers are going to suffer the consequences by severe across-the-board cuts in Federal programs.

Today we are asked to vote on a constitutional amendment to balance the budget which is being offered by the distinguished Member from Texas, Mr. STENHOLM. As a cosponsor of this legislation, I urge the House to pass this amendment, which is needed now more than ever before. The amendment would require the President to submit to Congress a proposed budget which total outlays do not exceed total receipts. By making the President submit a balanced budget to Congress, much of the political games that are now being played between the President and Congress would be eliminated. The President would no longer be able to present unrealistic budgets which claim to be decreasing the deficit. Differences between the President and Members of Congress on spending and taxation would be more clearly defined and would not be as easy to mask, if this amendment were to become law.

Mr. Chairman, it is quite clear after 10 years of large budget deficits, that this Government is unable to meet the challenge which these deficits pose. Therefore, the constitutional amendment offered today provides an important option for us to take. I believe we should move forward by passing this amendment so that we can give new hope of bringing the budget under control.

Mr. CONTE. Mr. Chairman, I rise, not happily, to oppose the proposed amendment to the Constitution to require a balanced budget. I voted against a similar amendment in 1982. A lot has happened since 1982. Our deficit has ballooned. It has become persistent. It is a drag on our economy, and interest payments on the Federal debt have risen from 6 percent in the 1960's to 7 percent in the 1970's to 14 percent at the beginning of the 1990's.

We have been struggling since 1985 to get the deficit under control. The progress has been slow. The best you can say is that we've brought the deficit as a percentage of our gross national product down in size from a high of 6.3 percent to somewhere around 3 percent. My aim is to get it down to zero.

On top of that, we've got a budget process that is not satisfactory either. Everyone around here knows that I am no fan of Gramm-Rudman-Hollings or the Budget Act, which promote gamesmanship and provide perverse incentives to avoid deficit reduction.

As one of the members of the budget summit group, trying to hammer out a package that will save $50 billion next year and $450 billion over 5 years, I am frustrated. It is hard. It is hard, hard work, and sometimes it seems impossible, to figure out how we take the steps to a balanced budget. My patience is wearing thin enough that the idea of putting the budget on autopilot is beginning to sound appealing.

But, Mr. Chairman, that's not what we were elected to do. We were elected to make the tough decisions, to decide priorities, to make choices. I wish we could wave a magic wand and make the deficit go away. I wish we could find the magic formula to make the two sides of the equation equal. But the truth of the matter is, even if we pass this amendment, and it is ratified, we are not one step closer to a balanced budget.

Someone will still have to make the tough decisions, the choices, to bring the budget into balance whether it's this year or in 1995. If Congress does not make those choices, who will make them for us—the courts? Surely we are not contemplating abdicting our responsibility, turning over decisions about laws and funding and taxes to the courts. And if we are not, then we end up back where we started, needing to make the same tough decisions as if the budget amendment to the Constitution were not enacted.

So what harm, you say, if we enact the amendment to provide more incentive, more discipline, as an aid to reach the balanced budget? There are two potential harms, I say.

First, what happens in 1995 if Congress has not enacted a balanced budget? We do through the year, and all of a sudden we reach the limit on spending. If the constitutional amendment is in place, we simply don't know what happens. Does the Government stop dead in its tracks? Do we turn off the lights and go home? Send the Army home. Stop the Social Security checks. Close the banks. I submit that a balanced budget amendment would be a roll of the dice. Neither you nor I nor anyone else knows what happens if we write this into the Constitution and then, for whatever reasons, don't achieve it. One potential is calamity of the highest order.

Second, one of the benefits of age is some acquired wisdom. Not a lot of people are around who remember the Great Depression. Collecting coal off the railroad tracks. Worrying aobut food, and shelter, and clothing. What happens if we are in the midst of a depression or a recession in 1995—do we stop paying unemployment checks? There may come a time when we would rather prime the pump, but if we pass this amendment, it would be much more difficult to do so. And for anyone who doubts that such a scenario could occur, let me simply remind them that the economy in the Northeast right now is not exactly rosy.

Our experts tell us we can't cut the deficit in 1 year by more than 1 percent of gross national product, or we risk plunging the economy into a recession. A balanced budget amendment to the Constitution, if it came into effect at the wrong time, could very well do the plunging for us.

As much as I wish the balanced budget amendment were the magic formula, there simply is no substitute for the hard, tough, program by program decisions that must be made to reduce the deficit dollar by dollar. And those decisions can only be made by developing the political consensus and the political will that come from the legislative process.

If we are going to balance the budget, as we must, I want to know that we do it in a way that doesn't destroy our education system, that doesn't take food out of the mouths of hungry children, and that doesn't risk plunging the economy into a recession. There is no process, not even one embedded in the Constitution that can make up for a lack of political will.

We have a choice. We can abdicate our responsibility to a process we hope will solve our problems for us, and probably won't, or we can recommit ourselves to making the tough decisions that get the results we all want. If we're serious, we'll balance the budget, whether there's a constitutional amendment in place or not.

Mr. Chairman, I submit for the RECORD the letter by Judge Bork indicating the problems with the proposed amendment, as well as several letters that I have received on the topic.

[From The Washington Times, July 16, 1990]

BORK MAKES THE CASE AGAINST A BALANCED BUDGET AMENDMENT

(The following letter, which outlines the case against a Balanced Budget Amendment to the United States Constitution, was written by Judge Robert Bork to House Speaker Thomas Foley. The Washington Times would like to thank Speaker Foley and Judge Bork for their permission to reprint this letter. A related editorial appears nearby)

I write to express my opposition to H.J. Resolution 268, "proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation." Though I agree that government spending is a serious problem, H.J. Resolution 268 seems to be a thoroughly ill-conceived proposal for several reasons.

1. The proposed constitutional amendment is unlikely to be effective in controlling any Congress that wishes to spend money. Government has ways of using society's wealth that do not depend upon taxation, borrowing or inflation. The most obvious is regulation. Government need spend nothing on a program if it can find groups in the private sector that can be made to spend their own funds. Much of the heavy expenditure of funds to give us clean air or occupational safety, for example, does not appear in any governmental budget and requires neither taxing nor governmental spending. Industry is simply required to use its own funds. That technique could be used with respect to a variety of programs such as health care. The effect of diverting society's resources to governmental purposes would be the same as an increase in taxation, except that it would be less equitable because the burden would be borne by particular segments of society rather than by all subject to taxation.

It may be objected that this is too cynical a view of Congress. That is not a valid objection. H.J. Resolution 268 itself rests on the assumption that Congress will not behave responsibly in the absence of a constitutional amendment.

2. The provisions of the amendment could also be rendered ineffective by an estimate of total receipts for a fiscal year that was too optimistic. Excessive optimism about future revenues is a phenomenon that has been known to happen before in government.

3. If, as a result of overoptimistic estimates of receipts, outlays outran revenues, it is not clear what remedies would be avail-

able. Given the proposal's restrictions on debt increases, it may be that the result would be some defaults by the United States.

4. The proposed amendment specifies no enforcement procedure in the event of its violation. The operation of the budget and appropriations process is highly complex, and it is likely the disagreements will arise as to whether the amendment has been complied with. It may be thought that the amendment can be enforced, as many other provisions of the Constitution are, by lawsuits. That is either a vain hope or a dismal prospect.

The hope may be vain because the courts, including the Supreme Court, have routinely denied standing to those suing in the capacity of taxpayers or citizens. Thus, the amendment might well prove to be nothing more than an unenforceable exhortation addressed to Congress. That would demean the Constitution and increase the cynicism of those Americans who had expected the amendment to cure an urgent problem.

If the courts allowed taxpayer standing in view of the special nature of this amendment, or if the courts decided to allow standing to members of Congress, the results might be even worse than no judicial enforcement. Scores or hundreds of suits might be filed in federal district courts around the country. Many of these suits would be founded on different theories of how the amendment had been violated. The confusion, not to mention the burden on the court system, would be enormous. Nothing would be settled, moreover, until one or more of such actions finally reached the Supreme Court. That means we could expect a decision about fiscal year 1992, for example, no earlier than fiscal year 1997. Nor is it at all clear what could be done if the court found that the amendment had been violated five years earlier.

There seem to be two possibilities. The court could, exercising its powers newly found in Missouri vs. Jenkins, order Congress to increase taxes to cover prior expenditures. Alternatively, the court could begin to cut spending programs in the current year to produce a surplus adequate to cover the overspending of the year under review. Either way, the judiciary would have effectively assumed a considerable degree of control over the fiscal affairs of the United States. Supervision would be continuous since lawsuits could be expected every fiscal year. That outcome cannot be desired by anyone, including the courts.

Despite the urgency of the problem the proposed constitutional amendment seeks to address, for the reasons given the cure seems likely to be either ineffective or damaging, or both.

THE COMMITTEE FOR
EDUCATION FUNDING,
Washington, DC, July 13, 1990.

DEAR REPRESENTATIVE: The Committee for Education Funding (CEF), a coalition of 100 education associations and institutions, urges you to vote against H.J. Res. 268, the balanced budget constitutional amendment.

Declaring that the budget must be balanced is not a substitute for the political will that is necessary to achieve that goal. Under the current process, the President already has the ability to submit a balanced budget and Congress has the ability to make the difficult choices that are necessary to responsibly achieve a balanced budget. In fact, a constitutional amendment would act as another incentive to invent more budget gimmickry to avoid making decisions to set priorities, reduce spending and to raise revenues.

Ratification of a balanced budget amendment could result in massive cuts in federal education programs and other domestic priorities. Domestic discretionary programs, including education, have borne the brunt of deficit reduction efforts over the last ten years. Experience has shown that these programs, unlike other parts of the budget, are disproportionately vulnerable to spending reductions. Today, domestic discretionary programs account for only 15% of the total budget compared to 25% in 1980. Over the same period, education has fallen from 2.5% of the budget to 1.8%.

If a balanced budget amendment were in place today, education programs would surely be in jeopardy. The total federal education budget is $24 billion. According to the Office of Management and Budget (OMB), the current deficit estimate, or the amount required to balance the budget this year, is $159 billion—over six times the amount allocated for all education programs.

It is clear that a balanced budget amendment would create an unneeded fiscal straightjacket on the ability of Congress to make responsible budgetary decisions and to respond to national imperatives, such as education. We therefore urge you to vote against H.J. Res. 268, the balanced budget constitutional amendment.

Sincerely,

BECKY TIMMONS,
President.

AMERICAN COUNCIL ON EDUCATION,
Washington, DC, July 12, 1990.

Re Constitutional Balanced Budget.

DEAR REPRESENTATIVE: On behalf of the nation's colleges and universities and the students who attend them, the American Council on Education urges you to defeat H.R. Res. 268.

We share your frustration and concern over a deficit that has remained fixed at around $150 billion for the last three years and that could top $200 billion this year even without excluding the Social Security Trust Fund from the unified budget. However, we believe that the adoption of a balanced budget constitutional amendment would seriously jeopardize the responsible conduct of national affairs, while failing to achieve its intended goal of deficit elimination.

We have heard much comment about how we are mortgaging the future of our children to finance the long-term effects of deficit spending. While this is cause for genuine unease, it is seldom mentioned that students currently attending and those who aspire to attend America's colleges and universities already have paid dearly for deficit reduction. Since the imposition of Gramm-Rudman-Hollings, a total of $2 billion has been cut from education by means of a sequester or by summit-imposed domestic discretionary spending caps. Discretionary domestic spending—currently amounting to only 15 percent of the budget, down from nearly 25 percent at the beginning of the 1980s—already has been hit hardest by the deficits of recent years. Under a balanced budget amendment, it inevitably would be doomed. In fact, if the proposed requirement were now in effect, domestic discretionary spending could be totally eliminated, and a sizeable deficit still would remain on the books.

We also would like to raise several additional concerns about the propose resolution.

First, most economists agree that certain economic conditions call for a Federal budget deficit, just as there are times that call for a surplus. The Federal budget is a powerful economic lever, something that goes beyond the sum total of expenditures and revenues, and the use of it should not be unduly restricted. Moreover, the Federal government must respond to national and international circumstances that often are unforeseen.

Second, a rapid and poorly constructed approach to deficit reduction could prove worse than the deficit itself by, for example, plunging the nation into a costly recession.

Third, a balanced budget requirement likely would give rise to additional budgetary gimmicks, especially with respect to the off-budget placement of large expenditures. We have seen enough such gimmicks in recent years.

Fourth, the Federal budget is constructed differently from most state budgets because of the scope of Federal responsibilities and the need for flexibility in meeting them. In addition, arguments that most states have constitutional requirements to balance their budgets are essentially irrelevant and misleading; most states also carry large debts created through their capital budgets and other mechanisms.

We continue to believe that the nation would be better served if Congress and the administration courageously and forthrightly addressed the three major requirements for returning to fiscal health, namely the need to reduce military spending, to examine entitlement programs, and to increase revenues. The present structures for dealing with the Federal budget are quite sufficient for this task; what is needed is the will to act.

In brief, H.J. Res. 268 would be bad public policy, and we respectfully urge you to vote against it.

Sincerely,

ROBERT H. ATWELL,
President.

AMERICAN VOCATIONAL ASSOCIATION,
Alexandria, VA, July 1990.

DEAR REPRESENTATIVE: The American Vocational Association represents over 40,000 vocational educators across the nation. These are the dedicated women and men who teach the 50% of our high school and community college students who seek to learn the occupational skills needed to pursue better jobs, better careers, and better lives.

Although our focus is on the individual student and his or her success, we are acutely aware that the economic future of our nation depends on increased competitiveness by business and that, in turn, rests on an adequate supply of highly trained, well educated workers. But more productive workers in a post-industrial society need a high level of technological sophistication. We are proud to participate in the effort to transform American society into a high-productivity high-wage economy that can once again compete vigorously in a world market.

But this vital mission, as well as the enhancement of economic opportunity for millions of students is jeopardized by the proposed balanced budget amendment (H.J. Res. 268).

The effect of the Balanced Budget Amendment would be to encourage balancing the budget by simple reductions in do-

mestic and military discretionary programs, such as education. This would leave us less prepared to educate our future workers, less prepared to move into a high productivity economy, less prepared to compete in a world market.

Deficit reductions of the size which would be compelled by the Balanced Budget Amendment could tip the economy into a recession, which would ironically lead to an increase in federal spending due to high levels of unemployment, food stamps, welfare and other social service programs. The result: economic stagnation.

We urge you to vote against H.J. Res. 268, the Balanced Budget Amendment, and support instead a reasonable, effective deficit plan worked out beween the President and Congressional leaders in the current budget summit.

Sincerely,

CHARLES H. BUZZELL,
Executive Director.

THE NATIONAL PTA,
Washington, DC, July 13, 1990.

DEAR REPRESENTATIVE: On behalf of the 6.8 million parents, teachers, students, and other child advocates who are members of the National PTA, I am writing to ask that you oppose H.J. Res. 268, the proposed constitutional amendment to require a balanced budget.

This proposal would have a severe negative impact on funding for vital education and child-related programs. We know from experience that the discretionary spending portion of the budget is the most vulnerable to cuts. In 1980, domestic discretionary programs—which in addition to education, include federal spending for many critical health, nutrition, environmental, job training, juvenile justice, anti-drug and other social services programs—accounted for 25 percent of the total budget. Now these programs account for only 15 percent. Even if all this spending were totally eliminated, we would not achieve a balanced budget.

The National PTA does not believe that a balanced budget amendment should be part of the U.S. Constitution. This amendment will not provide the political will needed to approve responsible budgets, and implementation of the proposal would needlessly involve the courts in a process that rightfully belongs to the Congress and the President. We are also concerned that the rigid parameters of the amendment would leave Congress and the President with little flexibility in accommodating unexpected needs, such as disaster relief, except to make additional spending cuts.

A balanced budget amendment would hurt children and youth the most by reducing vital services at a time when the federal government should be expanding youth opportunities. Children will lose in the fierce competitive battle of "pay as you go" budgets.

Rather than rely on ineffective short-term "fixes", Congress and the President must work together to devise and implement sound fiscal policies that do not employ rosy economic assumptions or intricate budgetary gimmicks to mask the true national financial picture. In addition, federal budget policies must reflect national priorities. While most Americans want to reduce the federal deficit, they also strongly support increased federal investment in education and child-related programs.

We believe our nation should move toward putting its economic house in order, but we vehemently disagree that a constitutional amendment to balance the budget is a prudent first step. We urge you to oppose this amendment.

Sincerely,

ARLENE ZIELKE,
Vice-President for Legislative Activity.

Mr. RAHALL. Mr. Chairman, I rise in opposition to the balanced budget amendment which is before us today.

While I am as cognizant of our need to get a handle on the budget deficit as proponents of the BBA are, having been in Congress over the past decade when the deficit grew from an alarming $50 billion under President Jimmy Carter to nearly four times that amount under President Reagan and now Bush, I do not believe that this resolution is the answer to anyone's prayer. It's a charade—a cruel hoax upon the American people.

It isn't the Constitution that is our problems, but the fact that we must find a way to get out from under a massive debt which came about directly, in my view, and solely because of a 10-year massive buildup in our defense budget and foreign aid.

Now that we are about to make an effort to make dramatic cuts in the defense arena, let us now give peace a chance to work in our favor. It won't work for us overnight, but over a 5-year period, the so-called peace dividend realized from fewer dollars being spent on nuclear arsenals could lead to a more stable economy through reduced deficits.

In all candor, it has to be said that just yesterday we were told that the President's revised deficit projections are $68 billion above the level he sent to Congress just a few months ago—and they would be much higher if you count the costs of the savings and loan bailout.

If the President is unable to determine the true fiscal condition of the country now, what can we hope to gain from a constitutional amendment to balance the budget, requiring that same President to determine ahead of time, on a prospective basis, what next year's estimated revenues are going to be, on which he will base his annual balanced budget to the Congress?

As my children would say, "Give me a break, here!"

Proponents of a balanced budget, including the Governors of many States, base their justification for such an amendment to the Constitution on the fact that States are required to balance their budgets.

Just let me recite some of the true facts about balanced budget requirements under State constitutions.

First, it is important for us to recognize that the Federal Government's budget differs from those of State and local governments. The Federal Government combines current operating expenses with long-term investment or capital expenses all in one budget.

States and required to balance only their operational budgets. States can and do borrow money to finance capital projects, thereby incurring debt and spreading costs among present and future generations of taxpayers—all of whom benefit from the project expenditures. That money which is borrowed for capital projects at the State level is off-budget. It isn't counted.

House Joint Resolution 268 does not parallel the balanced budget requirements in State and local government charters because it would not permit capital debt to be off-budget. I am not a proponent of off-budget borrowing, nor of off-budget spending. But it is important to call a spade a spade—and calling the amendment which is before us the same kind of balanced-budget requirement that States are held to, simply won't wash.

It is evident that if State and local government accounting standards were applied to the Federal Government, only two of the years between fiscal year 1960 amend fiscal year 1981 would show a deficit—the oil-price induced recession years of 1975 and 1976.

All of the other years would show operating surpluses, and throughout those years the Federal Government incurred debt for the same reason that States and local governments incur debt: to finance capital expenditures.

When large operating deficits did develop in fiscal year 1982, it was the result of policy choices to cut taxes for the wealthy while providing large increases in defense spending—not because of the lack of a constitutional amendment.

Even with massive defense spending and tax cuts for the rich, in fiscal year 1987 small annual operating surpluses had returned.

Further, studies will show that balanced-budget requirements have not prevented State and local governments from accumulating debt. In fact, until 1981 they accumulated debt at a faster rate than the Federal Government—which had no balanced budget requirements.

Between 1960 and 1980, Federal non-financial debt—which excludes various credit and loan instruments not properly related to financial physical capital—grew at any average rate of 5.9 percent a year, compared to a growth rate of 8.2 percent per year for comparable State and local debt.

In other words, the nearly 10 percent per year growth in State and local debt outstanding occurred despite their balanced budget requirements, and most of it was incurred in order to provide capital investment in projects intended to benefit in many ways the people of those States and localities.

Finally, there is one thing the Federal Government is responsible for, and which States are not responsible for—and that is to counteract economic downturns that hurt people everywhere in every State in the Union. If we did not have that flexibility—and we will not if a constitutional amendment to balance the budget is adopted—we would be unable to counter economic downturns that affect everyone everwhere.

I have concluded that it would be a serious economic mistake to give up the Federal Government's fiscal flexibility in favor or an untested budget requirement which does not, in fact, apply to other government entities—such as States.

We cannot work toward the revitalization of our cities and towns without investing in education, housing, job training, job creation, and health care if we have an inflexible balanced budget amendment in place.

If we do not make those investments we will most assuredly become a second-rate power in the world of global economics.

For the past decade, no President has submitted a balanced budget to the Congress. Yet Congress has consistently spent less than President's have recommended over that 10-year period. Presidents, then and now, who claim that Congress is responsible for the debt because we approve appropriations bills, are not being precisely correct in their claims—for every President has the power of the veto if he doesn't like a bill that calls for spending levels beyond his recommendations. While there have been a few Presidential vetoes over the past decade of appropriations bills, the reasons for those vetoes have been over policymaking such as abortion our other policy issues, not over spending limits.

This measure before us says that in any year in which a war is declared, there need not be a balanced budget.

Mr. Chairman, we must all understand that there are several kinds of threats to our national security—of which war is only one of them. Other national security threats are our inability to provide health care to 37 million Americans, many of whom are the old and disabled, or the 13 million children living in poverty, who are not being educated or even nourished well enough to become creative, productive adults or future leaders of this Nation. That is as great a threat to national security as future wars.

A budget summit has been going on between congressional representatives and the White House for nearly 3 months, yet even Members of Congress are unable to agree among themselves on how to address deficit reduction, much less reach agreement with the President.

Yet this measure before us straight off says that every year the Congress and the President will agree on an estimate of total receipts. What compels them to agree under a constitutional amendment when they can't do so today?

Do you say: Lets enact a constitutional amendment now, and work out the operational details later?

What if at the end of the year, say 90 days from the end of the year, we find that our early revenue estimates didn't come into the treasury and we need to cut $15 billion from our spending side of the ledger. Who decides what to cut? If we don't decide on program-by-program cuts will we then have a sequester go into effect automatically?

My colleagues, we have sequester ability now under Gramm-Rudman, and that hasn't helped us make those hard decisions—if it had, we wouldn't be here today doing what we are doing.

You say we have a requirement in this measure requiring a super-majority vote before anything can be changed. A super majority, as I understand it, is not a three-fifths vote of Members present and voting, but three-fifths of the entire membership of the House and Senate. How are you ever going to get every Member present to vote, if even one of them is vehemently opposed to the vote? What if one is in a hospital somewhere, or out of the country during an emergency? Just one missing Member of Congress can cause failure by the Federal Government to take care of the general welfare of the people.

What if we enact a balanced budget amendment and then find ourselves unable to help people pay for health care because we have no money? Does that mean we can't provide health care?

Not necessarily. Congress does not need to pay for things by taxing you, or by borrowing. We can simply spend the money necessary for health care by finding groups in the private sector that can be made to spend their money to pay for the Nation's health care. How? The most obvious way, according to Robert H. Bork is through regulation. We can simply require that every business/employer provide and pay for health care benefits for their workers and the worker's dependents. That is a remedy even worse than taxation, because at least through taxes everyone would be required equally to share in the burden of financing health care; but by regulation such burden would be borne by one segment of our private sector—mainly businesses.

Should the courts decide, if this measure is enacted, to give standing to individual citizens to sue as taxpayers in any year in which that citizen believed the Constitution had been violated by Congress in the matter of budget balancing, we might end up with the Judiciary assuming control over the fiscal affairs of the United States.

The argument that States balance their budgets under constitutional requirements, and so should the Federal Government is an argument that falls on deaf ears as far as I concerned. While States claim to balance their budgets, they have in fact created more than 25,000 entities among them to receive off-budget financing of other than operational costs.

That is exactly what Congress did last year when it created the RTC in the Savings and Loan bill, and then proceeded to allow the financing of the bail-out to occur off-budget—just another gimmick the Federal Government learned from State governments who seek to hide the true costs of governing.

I and others of my colleagues are supporting taking the trust funds off-budget. But if we do so with a balanced budget amendment in place, then every time those trust funds are spent through annual draw-downs, that amount has to be offset—or cut—elsewhere in the budget—if it is to be in balance—or a supermajority would have to vote an exception for trust fund spending.

And if this measure is adopted, and a balanced budget had to be achieved by October 1, 1993, for example, with the deficit reduction to be reached set at $150 to $200 billion, this could mean taking a shot at Social Security, since it is the unified budget that must be balanced, which now includes Social Security.

And finally, if we were to do all this, and achieve a balanced budget in too short a period of time, we could cause a recession—then what?

Shall we let unelected members of the judicial branch make our decisions for us in the future? It might happen in any year in which Congress fails to either enact a balanced budget, or to even agree to one in consultation with the President.

Mr. Chairman, I urge my colleagues to reject this unnecessary balanced budget amendment which uses gimmicks instead of well-reasoned choices.

Mr. KANJORSKI. Mr. Chairman, today the House is considering House Joint Resolution 268, a proposed amendment to the Constitution of the United States to require a balanced Federal budget.

A balanced budget is described as a very simple concept. While the concept may be simple, its execution certainly is not. If it were so simple, then there is no reason why either of our Presidents over the last decade, Presidents Reagan and Bush, could not have sent to the Congress a balanced budget. Yet despite their professed support for the concept of a balanced budget, and despite their support for a constitutional amendment to require a balanced budget, neither President Reagan nor President Bush have ever submitted a balanced budget to the Congress.

Mr. Chairman, like most Americans, I support a balanced budget. The inability of President's Reagan and Bush to even propose a balanced budget, however, suggests that it is much more difficult to achieve as a reality, than it is to exhort as a concept.

It is frequently but incorrectly assumed that the reason for all this red ink is the inability of the Congress to control the urge to spend. That charge simply does not hold up under close scrutiny.

In fact, since 1980 the Congress has appropriated $7.5 billion less than requested by the administration. Since the end of World War II, the Congress has appropriated $174 billion less than requested by our Presidents.

In short, while Congress and the President may have disagreed over what to spend money on, since the end of World War II it is the Congress which has acted to curb the spending impulses of the administration, not the other way around. It is the administration, not the Congress, which has lacked the self-restraint to control spending.

A second myth is that only the Federal Government's budget is out of balance and that State and local governments, families, and private businesses all have balanced budgets.

This generalization compares apples with oranges because the Federal Government uses a much stricter accounting system than State and local governments.

The Federal Government has what is called a unified budget under which both long-term capital expenses and short-term operating expenses are combined on one ledger.

State and local governments on the other hand, as well as most individuals and businesses, have separate capital and operating budgets.

When the Federal Government buys an aircraft carrier, builds a Federal building, improves a highway, or purchases a national park it pays cash on the barrel, up front. This is reported as an expenditure on the Federal budget in the year the asset is acquired.

State and local governments, on the other hand, usually issue long-term bonds to finance such projects. As with an individual's home mortgage or a business' long-term loan to buy plant or equipment, only the interest and principal payments for that year are listed as expenditures on the State or local government's operating budget. The larger expense is part

of the State or local government's separate capital budget. The State or local government's operating budget is in balance only because the bulk of the cost of the acquisition has been shifted to its capital budget.

If most State and local governments had to report their budgets on the same terms as the Federal budget, they probably would not be balanced. Similarly, if the Federal Government broke its budget down into a capital budget and an operating budget, the deficit would shrink dramatically, and might even disappear.

The budgetary system used by State and local governments is not necessarily wrong. There is a legitimate difference between capital assets and operating expenses. When a highway is built, park land is acquired or a building is constructed, the Government is acquiring an asset with real value.

A case can be made that the Federal Government should adopt the budgetary system used by State and local governments and establish separate capital and operating budgets. But that is not what House Joint Resolution 268 proposes to do.

The proponents of House Joint Resolution 268 have also not considered its impact on our Social Security system. House Joint Resolution 268 would continue to include Social Security as part of the Federal budget, even though it has a separate trust fund and is financially sound.

Many in Congress, myself included, have been working for years to have Social Security declared off budget so that the administration cannot dip into the Social Security trust fund whenever we have a debt crisis. All this work would be undone if this amendment is passed.

Enactment of this amendment would virtually guarantee either reductions in Social Security benefits, diversion of revenues from the Social Security trust fund to the general fund, or both. This would break the sacred commitment we have made to our Nation's senior citizens, and to today's workers, that adequate funds would be available for their retirement.

I would like to share with my colleagues a detailed analysis of House Joint Resolution 268 prepared by the Honorable Roy L. Ash, the former president of Litton Industries, a Fortune 500 company, and Director of the Office of Management and Budget under Presidents Nixon and Ford.

Mr. Ash is a card-carrying fiscal conservative, and a Republican, but his analysis of House Joint Resolution 268 demonstrates both why it will not work, and why its enactment would result in disastrous consequences which are neither intended nor desired by its sponsors. Mr. Ash is just one of a number of prominent conservative businessmen, jurists, and academicians, including Judge Robert Bork, who oppose enactment of House Joint Resolution 268.

Mr. Chairman, there is an old saying that for every problem there is a simple, and easy solution, but that solution is usually wrong. This proposed amendment is a case in point. It is no substitute for a determined effort by the President and the Congress to make the hard choices which are necessary to reduce the budget deficit. I am prepared to make those hard choices, and several months ago I outlined the Peace Production Board plan to eliminate the annual budget deficit in the short-term, and to retire the national debt in our lifetime.

I look forward to making those hard choices with my colleagues and I want to share with them Mr. Ash's astute analysis of the pitfalls of the proposed balanced budget amendment, House Joint Resolution 268.

TESTIMONY OF ROY L. ASH

I've listened carefully over the years to many of the proponents of a constitutional amendment requiring a balanced budget. Their reasoning generally takes four steps.

First, deficits are horrendous, we must do something to end them. Second, nothing we've tried so far has stopped the deficits. Third, the one arrow left in the quiver is the constitution with its ultimate clout, so let's invoke it; that'll assuredly do the job. And fourth, to prove that should do it, we need only look to the successful experience of the states, almost all of which have balanced their budgets under constitutional constraints.

I agree with the first proposition; outsize deficits are bad. I also agree with the second; we haven't done much to curtail them. But then, I can't join in making the nimble leap of faith necessary to believe an amendment to the constitution will do what its proponents intend for it. Let me tell you why. Then I'll also discuss the misplaced reliance on state budget balancing as supporting evidence of what we should do.

A constitutional amendment is not the answer to fiscal discipline because it would be operationally unworkable, let alone counterproductive. Proponents avoid discussing its practical workability saying, "pass it now, in it broad constitution-like language; we can take care of the operational details later." I submit that, in this instance, the devil is in the unavoidable operational details necessary to make it work. Dealing with them as you consider this bill just can't—or shouldn't—be avoided.

The bill has seven sections. Let me give you, briefly, its eight critical deficiencies as I see them. Together, and in some cases even singly, they would doom the effectiveness of a constitutional amendment as a way to achieve fiscal discipline.

1. H.J. Res. 268 provides that "the Congress and the President shall agree on an estimate of total receipts" at the beginning of each fiscal year. What if the Congress can't agree among itself? What if one element, in the administration or in the Congress, wants to assume a tax increase in its estimate for the year ahead and the other doesn't? Or have a different assumption regarding the economy? What compels them to agree? What if they don't? Is the Supreme Court the next step or is such a requirement, one that can be violated with impunity, meaningless?

2. The proposed constitutional amendment would require actual outlays for the year to conform to previously estimated receipts. A formidable task, especially as the year nears its end, will be to conform actual expenditures to budgeted amounts. Let's assume we're 90 days from the end of the year and find that $15 billion has to be removed from actual spending in those remaining days. This is not an unusual circumstance. Furthermore, $15 billion in 90 days equals an annual rate of $60 billion per year of expenditure reduction. Who has the authority to decide what to cut—program by program? Would some programs be exempt, such as entitlements? Or are we back to sequestration? Just what happens? Yet, if quick money is not saved on short notice, someone goes to jail, so to speak, for violating the Constitution.

3. The proposed amendment provides that the budget need not be balanced if a super majority of the Congress votes to allow that condition. But that can be an opening to spend even more money. Consider this. If congressional action to spend money required only one vote, the vote would be an easy one to get—i.e., the proponent's own vote—and the money would be spent. Even 25% of congressional votes would be relatively easy on many issues. But the greater proportion of total votes needed for approval of anything, the more that has to be "offered" to get those last incremental votes. And the political currency available to be offered is money—money for the favorite expenditure of those whose votes are being sought. So, the greater the number of votes needed to allow the breaking of the budget, the more the situation is tantamount to announcing that the spending train is about to pull out of the station; those who help release the brakes will get their favorite programs aboard. The more votes needed to release the brakes, the more it costs to get those last votes.

4. In the proposed amendment fewer votes (50%) are needed to raise taxes in order to meet the budget balancing requirement than the proportion necessary (⅔) to overun expenditures and thus be "excused" from balancing the budget. The path of least political resistance, without violating the Constitution, seems to be tax increases, hardly appealing to this Administration or to many others. Shouldn't it be more difficult, rather than less, to raise taxes than to allow higher expenditures?

5. Under H.J. Res. 268, all provisions of the proposed amendment are waived in case a declaration of war is in effect. Historically, most of our needs for military buildup have preceded an actual war declaration, and there have been significant military activities without a declaration. Preventive buildups may be the best way to avoid a declaration of war. Furthermore, lesser congressional support is required to declare war and be "excused" from budget balance than that necessary to finance, above budget balance, preparation for war. Shouldn't it be harder, not easier, to declare war than to get the votes necessary to suspend budget balance, so as to prepare for and thus deter war? Do the proponents really want budget balancing to have policy preference over national security?

6. Another major reason the amendment idea should be rejected is that it is likely to add to taxing and spending. Worse, yet, the actions for doing so will be so concealed we won't be able to see or control them. Basically, open and visible taxing and spending could be supplanted readily by "regulatory taxation" and spending. And a number of other escape mechanisms are conveniently available.

The scope for regulatory taxation is broadening almost daily. Let's not add pressure to push further in this direction. Areas already staked out for regulatory taxation are health and disability care, child care, aging, employment displacement and retraining, the environment, consumerism, plant closing, minimum wage, parental leave, pension portability, etc. A regulatory tax on business is no less a tax on society than direct governmental taxation. Billions could be pushed off the federal budget in this direction.

Revolving funds and government loan and loan guarantee programs, also, could proliferate as ways to avoid controls and remove budget accountability. Some of these already are growing fast and need to be put into the budget, not left out as escape hatches. And the so-called "tax expenditures" have plenty of yet untapped potential as ways of escape. Government accounting, even applying Section 6 of the bill, leaves infinite opportunity for "creativity". I do know we can't adopt a constitutional amendment prohibiting politicians from being imaginative under pressure.

7. The Constitution is not a trivial document. It's meant to be binding, in a very serious way. The other side of the coin is that it articulates citizen rights. Under the amendment proposed, Federal taxing, spending, and even bookkeeping would be subject to challenge, in the courts, by any citizen of standing who could assert his own idea of how the books should have been kept and how taxing and spending should have been conducted. Do we want the Federal courts to be our fiscal policy makers, too? And establish our bookkeeping rules?

8. Were the proposed constitutional amendment to be in place and applied, i.e., not overridden, years of economic decline, which automatically add billions of dollars to unemployment and other stabilizing expenditures, would force offsetting the Herculean reductions of other programs, further exacerbating the decline. Fundamentally, it can be counterproductive, and even dangerous, to say that a balanced annual budget is our government's foremost economic goal. Congress and the President are expected to have broader and more balanced views.

Now, let's get to the states as budget balancing models. States, generally, are required by their constitutions to balance their budgets. But the facts don't end there. In contrast to Federal bookkeeping, states don't charge the cost of new schools, prisons and other capital facilities to their current budgets but instead finance them outside and off their budgets by issuing bonds. It is not at all unusual for the amount of off-budget state bonds issued—that is, money borrowed—to exceed the states' reported budget surpluses, equivalent to a deficit according to federal accounting rules.

Furthermore, as a Cato Institute study has pointed out, the states and their local units have created and operate over 25,000 off-budget entities to tax and spend outside budget restricting controls. These account for hundreds of billions of dollars of ever growing debt even while states live with constitutionally mandated balanced budgets. As Cato observed, "The primary attraction of off-budget entities was the evasion of restricting limitations on government borrowing." So, I guess, politicians can be imaginative.

In summary, I suggest that this committee not be satisfied merely to hear, in colorful language, that deficits are evil and that, automatically, all will be well if the ultimate force, the Constitution, is brought to bear. Instead, it should require the bill's proponents to demonstrate the operational workability of a constitutional amendment were it actually in place. I believe I've made the case it just won't work as intended.

Mr. CALLAHAN. Mr. Chairman, let's be honest. Often what we do here in this beautiful, historic room, in the presence of our peers and before a national television audience, is stand up and say what we think is going to sound good to our constituents who might be listening back in our respective hometowns and congressional districts.

But Mr. Chairman, today as we debate this important amendment to the Constitution, we must first do a little soul searching. For you see, no matter how we might dress it up or dress it down, what we are actually voting in the form of a balanced budget amendment, is the future of America.

Such an amendment would once and for all force the Congress into getting this wasteful spending under control. But more importantly, such an amendment would guarantee to every little boy and girl who's birthright and birthplace is America, that they can look forward to a future without the burden of a mismanaged government whose bureaucracy went astray.

Mr. Chairman, for once, let's put down the swords of political rhetoric and the badges of partisan politics, and let's stand together, Republican and Democrat, black and white, man and woman, and give to our country with this vote what hundreds of thousands of campaign promises have not yet produced—a balanced Federal budget. Today is the first step on this important journey.

Mr. STARK. Mr. Chairman, I plan to vote against the constitutional amendment to provide for a balanced budget. The amendment won't work. I don't always agree with former Judge Robert Bork, but he has outlined the reasons that this amendment will be a disaster. It takes the world's finest legal document and adds a statutory mess.

The amendment would work about as well as the Gramm-Rudman-Hollings program. I note that my Republican friend from Ohio [Mr. GRADISON] has just pointed out that this year's budget deficits will be about $232 billion, counting the S&L bailout, $52 billion higher than when we passed Gramm-Rudman-Hollings. Despite 5 years of formula deficit reduction, we are worse off than when we started.

The Constitution already contains the way to obtain a balanced budget. It is called the veto. The President has used it 13 times so far, and won every time. He says he is for a balanced budget—then start vetoing.

I am for a balanced budget in this time of relative full employment. Keynesian economic theory—which seems to be the only theory that works reasonably well—calls for a balanced budget and even a surplus in this situation. I don't need a constitutional amendment to give me the backbone to do this—I will make these hard votes and I will explain them to my district. That is what every Member should be doing.

I won't hide behind an amendment; I will tell my constituents right now what kind of changes I would make to achieve a $168.8 billion reduction in the deficit in the 12 months beginning October 1, 1990. The following proposal follows the lines of a recent poll of my district. These are tough cuts, but they do not hurt our lower income citizens, they reflect the collapse of the Warsaw Pact and the turmoil within Russia, and the taxes restore some degree of progressivity to our tax system:

Major cuts in weapons spending ($75 billion or about 25 percent):

The cancellation of the B-2 bomber program, and no new weapons starts for at least one year,

A reduction in the number of carrier task forces, the mothballing of all World War II battleships,

Either full burden sharing in Korea, Japan, and Europe or the removal of most troops from all three regions and the demobilization of an equivalent number of personnel,

The cancellation of all but theoretical research on SDI, and

A shut-down of the land-based missile part of our defense triad (it has never made sense to base these missiles in the US land mass, since they will just attract massive nuclear attack in a World War III; we should rely on sea-based deterrents and an airborne force);

Termination of all military band and PR units, consolidation of intelligence agencies and procurement staff, etc.

No more foreign aid ($18 billion),

Major reductions in NASA manned missions ($4 billion),

No Bureau of Reclamation construction ($0.6 billion),

Severe limits on farm programs, so only truly small farmers are helped ($9 billion),

Cut Amtrak in half ($0.3 billion),

Collect the cost of treating Medicare/MediCaid/VA smoking induced diseases from tobacco companies ($5 billion),

Freeze inflation adjustments for most doctors under Medicare (this is the nation's highest paid profession and inflation in this sector has been running at approximately 10-14 percent a year), severely reduce payment to hospitals for capital costs when hospitals have high vacancy rates, cut reimbursement rates for MRI scans, etc. ($3 billion),

Reform way Medicaid buys prescription drugs and adopt New York State method of controlling dispensing of prescription drugs ($1 billion);

Shut down Voice of America/Radio marti, propaganda tools no longer necessary ($1 billion), and

One year freeze on airport construction (money comes from a Trust Fund, but to extent not spent, it reduces deficits and need for borrowing) ($4.3 billion),

Environmental taxes:

Enact Stark bill H.R. 4805, to impose tax on carbon emissions ($6 billion),

Include water irrigation subsidies as income (H.R. 4176), Redwoods severances tax (H.R. 4168), encourage paper recycling (H.R. 4201), increase tax on gas guzzlers (H.R. 4301) ($0.5 billion),

Deny tax deductions for cigarette advertisements (why allow tax deductions for the sale of an addictive drug?) ($1 billion),

Eliminate the so-called tax bubble, that is, impose a permanent 33% rate on those above the current bubble ($3.8 billion),

Impose a surtax on millionaires (they are the ones who benefitted most from the Reagan give-away years and the S&L bailout) ($5 billion),

Tighten the capital gains at death rules ($5 billion),

Raise corporate tax rate from 32% to 40% ($22 billion),

Reduce tax deduction for business meals and entertainment from 80% to 50% ($3.5 billion),

Increased IRS auditors to concentrate on low tax rates paid by foreign companies ($0 first year), and

Legislative branch spending cuts ($0.5 or 22%)

Mr. Chairman, I urge my colleagues to vote against this constitutional amendment. Stop being vague: Tell your constituents exactly how and when and where you'd make cuts to balance the budget. An amendment that would take effect in 1995 or later is no excuse for each Member not identifying where he would make changes—today.

Let us leave the Constitution intact, and get on with the immediate business of reducing our deficits.

Mr. FAZIO. Mr. Chairman, I oppose House Joint Resolution 268, a proposed constitutional amendment to require a balanced budget except when there is a declaration of war or when three-fifths of the House and Senate vote for a specific deficit.

This amendment and its concept are flawed in many ways. The lack of this amendment's specificity and the lack of a mechanism to achieve a balanced budget almost certainly means that the Federal courts will be required to enforce this amendment. Should this happen, and the courts make the decisions necessary to balance the budget, then we will have given up our fiscal responsibility, one of our most important constitutionally guaranteed responsibilities.

I agree that we must reduce the huge deficits that are undermining our Nation's future. But this proposed amendment is not the answer. Like Gramm-Rudman, it is simplistic and shortsighted. Our experience with that law—the gimmicks, the delays—should be telling of our efforts to control our budgets through process changes and quick fixes.

The amendment's requirement that three-fifths approve a budget deficit is also unacceptable because it will allow a minority to thwart a potentially real need to have a budget deficit. Further, it makes no allowances for a recession and clearly threatens our ability to deal with emergencies. We need flexibility to address dire circumstances which might confront our Nation and we need the flexibility to do so quickly.

Our most recent Presidents have repeatedly called for this amendment yet even without it, each has failed to submit a balanced budget. There is no indication that this amendment, especially without an enforcement mechanism, will magically transform our President's ability to provide a balanced budget.

A balanced budget amendment is also an unwise use of the Constitution as it is not the appropriate place to establish fiscal policies or fix our fiscal woes. It trivializes our Constitution for the short-term political gain of some.

We need to put to rest our reliance on procedural fixes and replace it with simple leadership. This is the real solution to our continually mounting deficits. We must make the tough choices about our national budget and spending priorities, and the President must lead in this effort. We have put off making the hard choices for too long. We should instead look to the imminent summit agreement, which reflects a realistic and workable solution to achieving real deficit reduction. I urge my colleagues to oppose this proposed amendment.

Mr. GREEN of New York. Mr. Chairman, although I support the concept of a balanced budget and believe that Federal spending must be restrained, I rise in opposition to the measures offered today that would amend our Constitution to require a balanced budget.

Under these measures, Congress would be able to breach a balanced budget—other than after a declaration of war—only if three-fifths of the Members agreed. This need for a super majority is ironic, since only a simple majority is required to declare war. In addition, the super majority requirement would alter the constitutional principle of majority rule and would create the potential of tyranny by a minority.

Not only could a minority deny Congress the ability to exempt itself from a balanced budget in time of emergency, it could, if it so chose, extract concessions from the majority totally unrelated to the emergency at hand as a price for its support. Furthermore, the Government simply must have the ability to react to economic trends, especially in times of recession or world crises. It would be unwise to permit a minority in one House to frustrate the efforts of the President and a majority in Congress to respond quickly to dire economic emergencies.

The amendment also fails to guarantee a balanced budget because it does not provide for any enforcement mechanism. Should the courts determine to enforce the amendment, it would represent a radical departure from the principle of representative Government since it would give control of the economy to the judicial branch, which has no experience or expertise in fiscal matters, not to mention undermining the American people's confidence in the basic law of the land.

Balancing the budget requires more than painless gimmicks and idle words, it requires fiscal resolve. I urge my colleagues to continue to work cooperatively on approaches to our budgetary problems that will reduce the deficit and slow Government spending. However, let us not destroy the constitutional principle of majority rule by giving control of our economic destiny to a minority. Vote no on the balanced budget amendments before us today.

Mr. HEFLEY. Mr. Chairman, as a cosponsor of House Resolution 268, I strongly support a balanced budget amendment to the Constitution. It is a prudent and necessary step toward instituting sanity into the congressional budget process.

Right now, the President and congressional leaders are negotiating a budget package for fiscal year 1991. For reasonable Americans, there is very little optimism that this negotiating process will be any more successful than last year's summit, when budget gimmicks and less-than-honest accounting turned a proclaimed $100 billion deficit into a $150 billion deficit.

In fact, last year's negotiating process was just one in a long line of budget summits. In 6 of the last 9 years, Congress has resorted to negotiating the Federal budget for the upcoming fiscal year, and 6 of the last 9 years, these budget summits have failed.

What we are presented with today is the unsavory picture of Congress and the executive branch piling fiscal failure upon failure. Unable to work within the confines of the congressional budget process, the Federal Government has resorted to negotiating its operating budget with a promise and a handshake. Promises to institute budget reforms and spending reductions, and a handshake to say it will be done if only we can raise taxes just one more time. Unfortunately, that handshake has been less than sincere, and more often than not, the promises have been left unfulfilled.

The situation is intolerable and it cries out for change. In my mind, that change can begin with passage of the balanced budget amendment. Not an end unto itself, the BBA will create a bulwark of fiscal discipline to the congressional budget process, beyond which neither Congress nor the President can tread. The BBA will reform the budget process by forcing Congress to make decisions between increasing taxes and cutting spending. If the tax cap provisions are included with the BBA, then Congress will have no choice but to prioritize its spending decisions. Even without the cap, however, the BBA will provide a line of defense for the American taxpayers that simply doesn't exist today.

Nevertheless, there is strong opposition to BBA. Basically, this opposition falls into three distinct groups. First, there are those who fear that the balanced budget amendment will tie the hands of Congress and force it to cut some programs in order to fund others. In other words, they fear that Congress will have to set priorities and then live up to them.

In my opinion, this is the best argument supporting the balanced budget amendment. Every letter I receive from special interest groups objecting to the BBA because it would restrict Congress' abiilty to make funding decisions, or that it would make the budget process less flexible, has reinforced my support for the amendment.

Second, there is a group of fiscal conservatives who argue that a balanced budget amendment without a cap on taxes will encourage the push for tax increases. They fear that, given Congress' proven inability to reduce spending, the balanced budget amendment will provide Washington free-spenders with a constitutional mandate to raise taxes.

This is an extremely compelling argument and it strikes at the heart of my support of the BBA. My response, however, is twofold. First, even without a cap on taxes, the BBA will force Congress to raise the revenues to pay for its programs, something we don't have to do right now. In my mind, forcing Congress to make the hard decisions is an improvement, even if one of its choices is to raise taxes.

Second, the balanced budget amendment will force taxpayers to pay for the Government services, and disservices, they receive. I believe when American taxpayers recognize just how much all this government costs them, they'll change the type of elected official they send to Washington.

Finally, some opponents argue that the BBA is too trivial or specific and that it would mar the beauty of the Constitution. This is an obtuse argument whose most attractive feature is that it avoids addressing the issue entirely. Even the most cursory glance at the Constitution reveals a large number of very specific, very fiscal items, including the mandate that the House of Representatives control the purse strings of the Federal Government.

A national balanced budget amendment is an idea whose time has come. This year's budget summit, initiated by the collapse of the budgeting process, exemplifies the complete failure of the 1974 Budget Act. While the balanced budget amendment is not the final answer to our fiscal problems, it will provide a measure of discipline that doesn't exist now, and it will instigate reforms that otherwise wouldn't occur. For that reason, I applaud this effort and support the balanced budget amendment.

Mr. MICHEL. Mr. Chairman, I support a constitutional amendment requiring a balanced budget.

It has been said—and quite correctly in my view—that we owe it to the future, to our children and our grandchildren, to reduce the deficit so that they will not be burdened by a debt we incurred.

But we also owe a balanced budget to the past, to the hard-working people who built this Nation, to those who scrimped and saved and worked at two jobs and did without because they believed that a family and a nation should have as little debt as possible. We owe it to them to admit that their wisdom has been forgotten, and that in forgetting, we have lost much that helped to make us great.

We live in a world where such sacrifice—and the moral philosophy at the root of such sacrifice—is all but faded from memory. And so, here we are—we are no longer able to balance our budget through sacrifice and discipline, so we are going to have to balance it through the mechanism of a constitutional amendment.

Thus, the need for such an amendment is an indictment, not of one group or class or party, but of a way of life. Passing this amendment will, I believe, go far to help us regain the discipline necessary to make tough choices. But unless it is accompanied by a reaffirmation in the Congress, in the White House, and throughout the land, of the American virtues that once held tremendous debt as ethically, as well as economically, unacceptable, we will not have solved any of our problems.

Thomas Jefferson first proposed the idea of a constitutional limit in the Federal Government's ability to spend and borrow money. At that time the idea was probaby not incorporated because, as I said, there existed a strong societal consensus that debts incurred would be paid off and not left to future generations. Obviously the commitment to balance the Federal budget had waned in recent years, although, it should also be noted that 49 of the 50 States currently operate under some type of balanced budget requirement.

The pressures to spend Federal tax dollars are great. Each constituency which now receives a piece of the Federal pie jealously protects it or seeks to expand it. New needs, or at times, new ideas, arise which demand new Federal spending. Those who seek to eliminate outdated or low-priority programs are often overwhelmed by the interests seeking to protect these programs. If we had the discipline, we wouldn't have the problem. But we do have the problem. What is to be done?

A constitutional amendment to balance the budget, unlike statutory schemes, cannot be changed or repealed at any time by the will or the whim of Congress. Thus, once a balanced budget amendment has been ratified, it will force Congress and the administration to make the tough choices required to bring Federal spending in line with Federal receipts. I believe that a constitutional amendment is necessary to ensure adoption and enforcement of a Federal balanced budget since history has demonstrated that statutory requirements are too easily circumvented. Therefore, I will vote for House Joint Resolution 268.

Mr. MATSUI. Mr. Chairman, I rise in opposition to the balanced budget amendment the House is considering today. This legislation is nothing more than a coverup for our inability to draft sound fiscal policy.

This year, when we are unable to address a problem appropriately, we have turned to amending the Constitution. Amending the Constitution is not the answer to our current budget crisis, just as it was not the answer to dealing with individuals who burn the American flag. Proponents of these measures cannot continue to hide behind the Constitution every time they are at loss for a solution to the Nation's problems.

It is unrealistic for us to believe that an amendment to the Constitution to require a balanced budget will achieve its intended goal. Since 1985 the Gramm-Rudman-Hollings balanced budget law has been in effect, requiring us to gradually reduce the budget deficit until it equals zero. Even with the threat of sequestration—and this year the threat is more draconian than ever—we have been unsuccessful in making significant progress toward this goal. When Congress enacted Gramm-Rudman-Hollings in 1985, the Federal deficit was $212 billion. Just yesterday, the Office of Management and Budget announced that the Federal deficit for fiscal year 1991 is projected to be $231.4 billion. What kind of deficit reduction discipline has this law provided us with?

A more appropriate course of action would be the development of a comprehensive deficit reduction package that truly moves toward reducing the deficit. It does not take procedural steps to balance the budget, it takes leadership and the willingness to make hard choices about spending reductions and revenue increases.

The President has the opportunity every year to submit to Congress a balanced budget, but he has not done so. Through 8 years of Ronald Reagan, Congress heard of the importance of the balanced budget amendment, yet he did not once submit a balanced budget to Congress.

It is ironic that at the same time the President is urging us to pass a constitutional amendment to balance the budget, the Treasury Department came before the Ways and Means Committee last week to ask us to increase the debt limit by $700 billion over the next 2 fiscal years to cover our anticipated deficits plus the rapidly rising costs of the S&L bailout.

I urge my colleagues to vote against this balanced budget amendment. It is a political answer to a serious fiscal problem. The budget deficit will not be solved by approval of quick fix legislation that tinkers with the Constitution.

Mr. GALLO. Mr. Chairman, I rise in support of House Joint Resolution 268, the balanced budget amendment, which has finally come to the floor for consideration by this House. It is a compelling agrument in favor of this amendment that it has been brought to the floor through the use of a rarely successful parliamentary technique—the discharge petition.

I celebrate the fact that the will of the people, as expressed through their elected representatives to this House who signed the discharge petition, has been able to overcome the opposition of the leadership of this body which has, for 8 long years, kept this idea bottled-up in the dark recesses of their tightly controlled committee structure.

The need for this amendment could not be any clearer. Despite the rhetoric, despite the promises, and despite the best efforts of those Members of this body who have clearly demonstrated a commitment to balancing this budget, we seem to fall further and further off the mark as each year goes by.

This amendment is an idea whose time has come—in fact, came long ago. Quite literally, we can afford to wait no longer.

Some have argued that this amendment is a cop-out, that Congress ought to be able to exercise fiscal responsibility without being forced to through the mechanism of a constitutional amendment. I agree with them—we should be able to do that. But the unhappy truth is, we haven't. No longer can we afford to sacrifice economic responsibility on the abstract altar of legislative responsibility. If Congress cannot muster the self-control it needs to balance the budget, we will have to provide a mechanism for self-control.

This amendment will not lock Congress into draconian budget policy in times of national emergency or otherwise compelling circumstances. Congress has the ability, under this amendment, to authorize deficits with the concurrrence of the three-fifths of the Members. By so doing, the amendment promotes accountability. We would have to justify to the people who send us to Washington our reasons for not balancing the budget. If the American people are convinced that a special situation exists, they will support us. If they do not, then we should not be overspending anyway.

In a perfect world, this amendment would be unnecessary. But what more evidence do we need to show that this is not a perfect world than the fact that our total national debt is more than $3 trillion, and that our deficit this year alone will exceed $150 billion.

Mr. Chairman, I urge the support of my colleagues for this much needed amendment to the Constitution. Since the last time this body considered, and rejected this amendment, the argument for its passage has only become more compelling. Let's show the American people that we are serious about balancing the budget. Let's follow the good example of the 49 States that require a balanced budget and require no less of ourselves.

Mr. ROGERS. Mr. Chairman, I rise in support of House Joint Resolution 268, a proposed constitutional amendment to require the Federal Government to achieve a balanced budget. But, first I wish to commend Congressmen STENHOLM, CRAIG, DOUGLAS,

CARPER, and BOB SMITH of Oregon for their dedication, persistence, and courage for bringing this resolution to the floor today. Such consideration is long overdue.

In light of yesterday's revised economic forecast, and the grim accounts of what a $100 billion sequester will do, passing the balanced budget amendment to the Constitution is more important than ever.

We are facing a $241 billion Federal deficit, including the RTC funding, food stamp renewals, and normal census expenditures.

Mr. Chairman, deficits do matter. They add to the national debt. Interest payments grow. Programs sought by the American people get squeezed out. And, when domestic savings are low, funds must then be borrowed from abroad. America's economic destiny increasingly lies in the hands of bankers abroad.

As interest payments grow, the taxpayer's burden grows. But most troublesome of all, taxes are being transferred to future generations. In less than 5 years the average taxpayer will pay $3,247 in taxes just to cover the interest owed for that year on the projected debt. A 20-year-old entering the workplace today, over his 45 years, will have to pay $100,000 in extra taxes just to cover the interest owed on the Nation's $3.1 trillion debt.

Mr. Chairman, we all are acutely aware, that sometime before the August recess, the Congress must raise the limit on that $3.1 trillion debt: that is an unconscionable legacy to leave our children.

The time is long overdue to restore some semblance of common sense to the way this Nation conducts its economic affairs. That is all that this amendment does. It does not say that Congress cannot increase spending. It does not say that we can never incur budget deficits. All that this says is that if Congress chooses to pursue any of these courses, they are going to have to make decisions. Each Member is going to have to make priorities about spending programs, about tax burdens upon the people, and about spending public moneys that do not exist in the Treasury.

This resolution is not a panacea for the economic problems. It is not a magic wand that will automatically get our economic house in order. It is merely a first step toward preserving the Nation's long-term economic health and prosperity.

Mr. LOWERY of California. Mr. Chairman, I rise in strong support of House Joint Resolution 268, the balanced budget constitutional amendment.

America stands at a crossroads. Challenged today by the growing economic might of Japan and the economic potential of a reunited Germany and the European Economic Community, the United States must take immediate steps to get its economic house in order if we are to maintain our role as a world leader.

I am convinced our first step should be to mandate our Government operate with a balanced budget. House Joint Resolution 268, the balanced budget amendment, represents the cornerstone for the resurgence of American preeminence as the world's economic leader.

U.S. debt payments on our $3.2 trillion debt are strangling our financial markets. American capital that could be driving growth and expansion in our economy is tied up servicing our debt. And our debt is growing. By failing to face the problem of unrestrained spending we are sowing the seeds of disaster for future generations of Americans.

Today, more than 75 percent of the American people favor a balanced budget amendment. Americans from all walks of life agree that the continuation of deficit spending threatens both our role as a world leader and our way of life. We need to recognize and respond to the fundamental good sense of the American people.

Thirty-nine States have recognized the futility of deficit spending and have adopted some form of balanced budget amendment. This process works.

The Federal budget has been balanced only 8 times in the last 60 years. Constituent pressures for the services and programs that increased spending can provide have proved to be irresistible and are not likely to change in the foreseeable future. If we are to bring this problem under control we must resort to a solution with the strength of this resolution.

Our problem is simple. We have spent beyond our means. Our spending has wounded our economy and could eventually cripple our growth. We must bring spending under control. This resolution protects our economy, creates the opportunity for rekindled economic growth, and provides an economic insurance policy for future generations of Americans. It is the right thing for us to do.

Mr. SHUMWAY. Mr. Chairman, I am pleased to have this opportunity to once again reiterate my long-term support for the balanced budget amendment. Since originally sponsoring legislation providing for such an amendment in 1979, I have prepared no less than three dozen statements endorsing the effort and explaining why I believe we need it. While there is little new to say, the arguments in favor of an amendment to balance the budget and limit taxes are well worth repeating.

Much as I would like to see our membership achieve budgetary balance voluntarily, the dismal record of deficit spending accrued over the past four decades leaves little doubt that such is hardly likely to be the case. Everyone in this Chamber knows that we are forced to increase the debt ceiling each year. To me, that embarrassment alone confirms the fact that there is no orderly budget process, and that we are losing the war against the deficit. Clearly, the balanced budget amendment is the weapon of choice in that war. Simple statutes prohibiting deficit spending do not work. Gramm-Rudman has a dubious record. A self-imposed pledge by this body to limit the mischievous continuing resolution approach to dire emergencies has not worked. It has simply resulted in very liberal and flexibile interpretations of emergency situations, all of which immediately become dire when they demand funding.

There is no doubt in my mind that Americans want, and need, less Government spending, freedom from inflation, manageable interest rates, and reasonable taxes. In the latter regard, I have joined with many of my colleagues in urging the President to resist the revenue increase pressures now rampant. I have said before and will say again that no tax increase in our history has ever been used to retire old debts. For the tax-and-spenders, new sources of revenue are simply too tempting to resist. They end up financing new spending.

We must bring the budget, and the deficit, to heel. And, with all due respect to congressional and administration leaders negotiating on budget realities, I believe we will only be able to do so when the balanced budget amendment has become a reality.

Representing as I do a State which is prohibited from running up unlimited debts, I can attest to the success of the experiment. No doubt Thomas Jefferson would be pleased to see his idea in effect in the vast majority of our States, and wonder what has taken Congress so long to see the light. One of my favorite quotes from Jefferson, addressing the possibility that power will be misused, contains the admonition to "let no more be heard of confidence in man, but bind him from mischief by the chain of the Constitution."

I am not proud of the fact that Congress seems to need a constitutional cattle prod to practice fiscal responsibility. However, as a recent analysis by the Cato Institute has pointed out, Gramm-Rudman has made it clear that a law Congress may change or evade is insufficient.

While we cannot reverse the fiscal errors of the past, we can ensure that they are not repeated. If we have the courage to do so, we can not only tame the deficit, but also protect our childrens' futures, removing at least some of the mortgage which now confronts them. Not incidentally, we would also enhance our image as a responsible leader in the international community, a position perhaps more deserving of protection and reaffirmation today than ever before.

Now is the time to enact a balanced budget and tax limitation amendment.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of this resolution. I have cosponsored the balanced budget amendment for the past several years because I think it is the only way to put some teeth into the budget process, and force the Federal Government to live within its means.

I supported the Gramm-Rudman law, but over the years, we have used smoke and mirrors to get around making the tough decisions that would put us on the course toward a balanced budget. This simple amendment will not allow us to dance around the issue. It very firmly requires a balanced budget—period.

Public opinion polls have consistently shown that the American people support a balanced budget amendment by a 3-to-1 margin. They are forced to live their daily lives on a budget. Why shouldn't the Federal Government do the same?

I think the amendment is a simple one that would mandate a balanced budget, while providing safeguards to protect the economy in time of war or other emergency.

Let's approve this resolution and send it to the States for their consideration. After all, the people are the ones who are footing the bill for our deficit and national debt problems. They should have a say in whether or not the Federal budget should be balanced. I think I know how they will respond. They want a balanced budget and we ought to move this res-

olution as quickly as possible to start the process.

Mr. RAY. Mr. Chairman, I rise today in strong support of House Joint Resolution 268, the balanced budget amendment to the Constitution.

A recent poll indicates that over 75 percent of the American people favor the adoption of a balanced budget amendment. It is evident that the people want this change, and our large Federal budget deficits are an indication of the Nation's need for this change.

There are those who will say that the President and the Congress already have the power to balance the budget—an amendment to the Constitution is not necessary. However, both the President and Members of Congress have an incentive to support increased funding for programs which benefit their constituents, and they are reluctant to raise taxes. Anyone can see that this leads to debt. And perhaps this is why America is the world's greatest debtor nation with over 3.1 trillion dollars of debt. Approximately 18 percent of this debt is owed to foreigners. We have more than tripled our national debt in the last 10 years. As my colleagues know, we will soon be faced with the need to raise the debt limit even higher.

A balanced budget amendment to the Constitution will not be a panacea for all of our Nation's fiscal ills. However, it will put in place a procedure which will make it more difficult to spend in excess of Federal revenues. It will slow us down—it will make us balance our checkbook the same way in which every business and every family does. The amendment allows the Government to spend in excess of revenues in years when it becomes necessary to do so.

Some will argue that the Constitution should not be amended with respect to the budget process—they say we should enact a statute rather than a constitutional amendment. However, it is my opinion that another budget law on the books will not do the job. We have these laws now, and they do not work. We need a stronger, more binding means of balancing the Federal Government's revenues and spending. Frankly, we need the strength of the Constitution to force the hard decisions that need to be made to reduce this Nation's budget deficit. A balanced budget amendment would combine the strength of the Constitution with a tougher process for allowing deficit spending. Tough but necessary budget decisions would have to be made requiring us to pay as we go and to ensure that we do not leave a legacy of debt for future generations.

I have been in Washington since 1972—first as chief of staff to the senior Senator from Georgia—then since 1983 as a Member elected from the Third District of Georgia. I have watched our Nation's debt climb ever steadily in that time. Gramm-Rudman-Hollings has been the only serious attempt to reduce our budget deficits, and even this law has allowed us to have a budget deficit this year in the range of $160 billion.

We are on the threshold of finally addressing our budget deficits in a meaningful way. We must not allow this opportunity to pass by without taking a step in the direction of fiscal integrity. I strongly urge my colleagues to join me in voting to pass House Joint Resolution 268.

Mr. STEARNS. Mr. Chairman, our country is experiencing the cold sweats of a financial nightmare when it comes to the Federal budget. Currently, our debt is growing beyond the $3.1 billion mark. Every year it seems that our Government's expenditures stretch further and further ahead of our revenues. There seems to be no stopping the swirling budgetary chaos that has lead this country into severe economic difficulties.

We can wake up from this nightmare, if we are willing to use the same kind of principles that people across the country use for their small business and family budgets. Principles of common sense and economic fairness—the balanced budget amendment is central to those principles.

I strongly support the House Joint Resolution 268 and urge my colleagues to do the same. The Government should spend only what it takes in. After 60 years of unbalanced budgets, that have drained our Nation's resources and an attitude of pay it off next year, we can no longer use gimmicks and slight of budget tricks to limp from one fiscal year to the next. Now is the time to discipline ourselves, now is the time to operate this great Government responsibly the way it should have always been—balanced.

Mr. BAKER. Mr. Chairman, I wish to express my support for House Joint Resolution 268. An illness in my immediate family requires that I remain at home and take a leave of absence on this very important legislative day. It is my strongest belief that this House should, today, propose a constitutional amendment that would require a balanced budget. I cosponsored House Joint Resolution 268 and I signed the discharge petition to report this measure from the Judiciary Committee.

One of the benchmarks of our federal system of government is the Constitution's system of checks and balances. This system separates the powers among the President, the Congress, and the Judiciary. The framers of our lasting Constitution, however, did not contemplate a system of checks and balances when it comes to our Federal budget deficit and Congress' spending practices.

For every dollar that is taken in by the Federal Government in increased revenues, the Congress spends over $1.50. A tax increase is not the answer to this Nation's budget woes; rather we need to come to grips with unnecessary spending. The very fact that everyone in this Chamber can find some Government spending to cut is enough evidence to show that the problem is with unnecessary spending and not with insufficient revenues.

The need for a balanced budget amendment arises from this lack of fiscal accountability within our Government today. I strongly urge all Members to support House Joint Resolution 268, the proposed constitutional amendment for a balanced budget. Sending this proposed amendment to our districts back home is an essential step in installing a system of fiscal accountability in our federal system of government. I regret that I cannot be a part of this historical day on the House floor.

Mr. SMITH of New Jersey. Mr. Chairman, the issue before us is one of the most significant of our day. The financial security of our children depends upon our commitment to meaningful deficit reduction. I urge my colleagues to join me in supporting the adoption of the balanced budget amendment.

Mr. Chairman, with the recent announcement of the President's midseason budget review, we have clearly reached a critical stage in the battle against the deficit. Progress in this struggle, unfortunately, has moved at a glacial pace. Today it appears that the scope of the deficit has surpassed our worst expectations.

Now, more than ever, Mr. Chairman, we must act to decisively address this fiscal nightmare. Bold action, in the form of a constitutional mandate, is needed to revamp our budget process. Past legislative efforts to limit the practice of deficit spending have not provided the answer to our problem. The requirements of the 1974 Budget Act have been waived by Congress at virtually every opportunity. The Gramm-Rudman-Hollings law, while imparting a good degree of discipline to the process, it is not a permanent solution.

Gramm-Rudman-Hollings did succeed in giving Congress a tighter grip on Government spending. For instance, we reduced the deficit as a percentage of the GNP from approximately 5.4 percent in 1985 to only about 2.6 percent in 1989. Furthermore, we were able to limit the growth in Federal spending by approximately 2 percent over that same timeframe. Yet, in light of the latest deficit estimates, a long-term solution appears to be necessary. A balanced budget amendment would address deficit spending swiftly and could not be bypassed or circumvented unless special circumstances warranted it.

Mr. Chairman, few would disagree that the U.S. Government should exercise the same financial restraint that we expect of the citizens we represent. A balanced checkbook is simply a part of living within one's means. Businesses, likewise, are also expected to abide by reasonable accounting principles. Even Donald Trump has been put on a financial diet due to his balance sheet woes.

It's time for the voices of the American people to be heard. The popular support for a balanced budget amendment is evident. Some polls even show 75 percent of the people in favor of this initiative. Virtually every State, moreover, already has included a balanced budget requirement in their own State constitutions.

Mr. Chairman, the American people are counting on us to show leadership and responsibility. Let's show them that we are serious about the deficit by passing this balanced budget amendment.

Mr. BORSKI, Mr. Chairman, I rise in strong opposition to the proposed balanced budget amendment. The fiscal mess our Nation is immersed in is a complex, long-term problem that defies simplistic solutions like the one we are debating.

Today, the House is poised to amend the greatest political document ever written—the U.S. Constitution—in order to provide some short-term political cover for ourselves. This proposed amendment not only makes a mockery of the budget process, it demeans the U.S. Constitution.

The most recent deficit forecast predicts a $168 billion deficit in 1991. If the cost of the savings and loan bailout were included and the Social Security surpluses were not, that estimate would rise to more than $300 billion.

The fact that this deficit must be eliminated is not in dispute. Both proponents and opponents of the amendment agree that we must balance the Federal budget. What we are debating is how best to achieve that goal.

I believe this amendment will do little to achieve that goal. It does not guarantee a balanced budget. There are no enforcement mechanisms to force Congress and the President to eliminate deficit spending. This is budget gimmickry that will not put our fiscal house in order or encourage responsible budgeting.

I am especially concerned about the effect of such an amendment on the Social Security trust fund. Under the proposed change, all Government receipts—including dedicated revenues like Social Security surpluses—would be included in deficit calculations. This would only make permanent the current, misleading practice of using Social Security surpluses to mask the true size of the deficit. Social Security is paying its own way. It should not be used to hide shortfalls in other Government programs.

Mr. Chairman, since I came to Washington in 1983, there has been ongoing debate about the merits of a balanced budget amendment. In fact, former President Reagan made a habit of arguing for it in his annual State of the Union Address. President Bush also wants one. Yet, neither Mr. Reagan or Mr. Bush ever—in 10 years in the White House—proposed a balanced budget.

The truth is that the President does not need a constitutional amendment to deliver a balanced budget to Congress; he needs only to do so. President Reagan chose not to do so and, so far, President Bush has followed his lead.

Rather than wasting time debating smoke-and-mirrors solutions like a balanced budget amendment, Congress and the Bush administration should summon the political will to make tough choices that will yield real solutions.

There is no substitute for fiscal discipline, not even a constitutional amendment. I urge my colleagues to reject this misguided proposal so that we can get back to the serious business at hand.

Mr. BILIRAKIS. Mr. Chairman, I rise in support of the balanced budget amendment.

Since I was first elected to this body nearly 8 years ago, I have supported, cosponsored, and attempted to gain consideration of a balanced budget amendment. Therefore, today represents the culmination of many years of effort—not only on my own part—but through the combined efforts of many Representatives on both sides of the aisle.

Today, after years of discussion, debate and indeed frustration, the balanced budget amendment can finally be subject to a formal vote. The democratic process will be allowed to work, and years of inaction ended.

Yet today, I do not rejoice in this event. I can find no joy in the bitter fact that this amendment is necessary in the first place, that we are voting on something that, to the ordinary person balancing his checkbook and meeting everyday expenses, should not be necessary in the first place.

Indeed, the fact that we are considering this amendment today represents failure. It represents failure of our internal budget process and failure of the House rules as well as the failure of this body to abide by its own laws.

We have technically outlawed deficit spending for more than a decade; yet when Members of the House sought to enforce this law against pending appropriation bills, the provisions of this legal requirement were effectively waived. We simply ignored the law created to solve the pernicious problem of the Government spending beyond its means.

To those who oppose using the Constitution as a vehicle to enforce spending restraint, I think this is the most telling argument against relying on new laws and procedures rather than the amendment process. We passed a balanced budget law long ago—but the sheer inability of this law to control spending is clear for all to see.

Indeed, I would doubt that any Member of this body needs to be reminded that next year's deficit is estimated at over $160 billion, without considering the costs of the savings and loan bailout. This is failure plain and simple.

So on a personal level, I take no solace in the fact that we are considering this amendment today even though I signed the discharge petition to bring this amendment to the floor in the first place. I feel only regret that such an extraordinary vehicle as a constitutional amendment is required. But it is necessary. We cannot continue to spend regardless of income, oblivious to the mounting burden of our Nation's borrowing. We cannot continue to mortgage our children's and our children's children's future.

We entered the 1980's the world's largest creditor nation; we left the decade the world's largest debtor nation. I do not need an economist in an ivory tower to tell me this isn't good.

Indeed, I feel it is remarkable that it has taken us this long to respond. Perhaps because an overt budget crisis has been absent from the public consciousness over the last few years, we have failed to act on this amendment or other measures which could have reduced the burden of our Nation's debt.

In retrospect, I believe it is unfair to say that our congressional attention has been diverted by other serious matters, whether they be the ouster of Noriega or the enactment of a new Clean Air Act. These were and are weighty matters which require congressional action. However, while we were so preoccupied, we have let the National, American Express, Visa, and MasterCard bills rise far above healthy levels.

Our economy has generally performed at a steady pace, inflation has been low, employment high and our country in a state of comparative peace. These conditions, while salutary, removed the urgency to do something about growing debt. Perhaps some unconscious psychological avoidance may even have played a role. Perhaps we have not looked under the bed of deficit spending because we knew a real monster lies there.

But time has run out and I believe our citizens know it. I believe that Americans want Congress to reform itself and its budget process. Any one who has ever earned a paycheck and then seen his or her earnings taken away in Federal and State withholding, FICA, and Medicare—and later through capital gains, sales, property and transfer taxes to say nothing of user fees and other, hidden taxes—wants to know that every possible effort be made not to increase taxes as the first avenue of deficit reduction.

The amendment before us will not cure all of our deficit ills, but it does concentrate relief on the source of the problem—the congressional budgeting process and the seemingly endless stream of appropriation bills. An unbalanced budget may, in fact, still be approved and enforced, however such budgeting can only be adopted by super majorities of three-fifths vote.

Therefore, the amendment creates a new bias in the budgeting process, but this bias is not the historical inclination of this body in favor of more spending. The amendment slants the budget process in favor of a balanced budget; it finally creates strong incentives for Congress to work within the framework of balanced expenditures and receipts.

In my mind, this goes to the heart of the problem. Discipline has been sorely needed in the congressional budget process—a process which must be changed to produce sensible, enforceable guidelines for Federal spending. Although I wish Congress had the fortitude to reduce the budget deficit without amending the Constitution, I support the balanced budget amendment because it is designed to fundamentally impose such discipline, to fundamentally change the rules of the House and to fundamentally alter the process which has allowed us to pile debt upon debt.

Even with this benefit, though, it is important for us to remember that the amendment does not relieve Congress of the responsibility to make sensible investments in our country's future and to address real human needs. Hard decisions will still be necessary.

We will still need to find the necessary resources to invest in education and programs for our children, in the environment and in affordable health care for our citizens, in basic research and the economic infrastructure of our country. The amendment will not alleviate this responsibility to our citizens and taxpayers nor provide a ready solution for the weighing and balancing which must take place in the appropriation process.

In addition, even if we gain quick approval for the amendment, we must still foster congressional accountability for the budget process. We should make no mistake today to think that the balanced budget amendment alone will accomplish this. On a basic level, we will need to change the hearts and minds of this body, we will need to garner a continuing commitment by the elected membership to eliminate deficit spending.

Altogether, I believe it will take responsible legislation and strict adherence to budget guidelines to bring spending under control, and by this action, to bring deficits down to a balanced level. The constitutional amendment

will help this process, but not resolve it in or of itself.

Instead, the balanced budget amendment is merely the first step in moving toward the elimination of our massive budget deficit. It is not a complete solution or an action which will remove congressional responsibility for spending decisions—but it is an effort which can help lead us down the path of fiscal sanity.

It is often said that "a journey of a thousand miles begins with the first step." A journey to remove trillions of dollars of debt from the backs of the American people similarly requires an initial act and an initial commitment to head in the direction of balanced expenditures and receipts.

Without this fist act, we cannot hope to arrive at our ultimate goal. We should approve the balanced budget amendment today and initiate the process of ratification. We should take the first small, but substantial step.

Mr. STUMP. Mr. Chairman, as many of my friends and colleagues know, my father is critically ill. This morning, I was notified that his condition worsened and I am returning to Arizona to be with him. I regret that I will be unable to be present as we debate and vote on the balanced budget amendment today.

For more than a decade, I have been a cosponsor of the balanced budget amendment because Congress has proven itself unwilling to control Federal spending. In 1982, the last time we considered the amendment, I was part of the successful effort to discharge it from committee, giving us an opportunity to vote on the matter. Unfortunately, while a majority of House Members voted in favor of the amendment, we fell short of the two-thirds vote needed for passage.

Now, 8 years later, we have another opportunity to pass what is a vital first step toward controlling excessive Federal spending. We can also begin today the long, but necessary, process of paying off our national debt.

Mr. Chairman, when I first came to office, the Federal Government spent about $500 billion, and Federal revenues were about $450 billion. Today, both expenditures and revenues exceed $1 trillion. We continue to run annual deficits which have resulted in a national debt in excess of $3 trillion. And every day, taxpayers face an interest payment on the debt of nearly $500 million.

It is time that the Federal Government begins to operate under the same rules which apply to the average American household—we also must live within our means.

Mr. Chairman, as a cosponsor of the balanced budget amendment, I wanted more than anything to be present today. I support and urge my colleagues to support both the Barton and Stenholm amendments, and to give final approval to House Joint Resolution 268. Let's send a clear signal to taxpayers that we are serious about eliminating deficit spending and reducing the national debt.

Ms. SCHNEIDER. Mr. Chairman, I must admit that I have been a reluctant convert to the idea that we need an amendment to the Constitution requiring a balanced budget. When the House considered the idea in 1982, I was in my first term, and I voted against the balanced budget amendment. At that time I had the confidence of a novice in the ability of the Congress to make the hard choices that a balanced budget demands.

In 1984, after several years of watching the budget process, I voted in favor of a legislative solution to impose budgetary restraint on a reluctant Congress. This approach would have required the President to present a balanced budget to the Congress and required Congress to vote on at least one balanced budget alternative. That bill, similar to one that will be considered here tomorrow, passed the House but was never considered by the other body.

Today, after 10 years of watching the budget deficit grow, I have concluded that Congress is unwilling to take the leadership needed to turn back the tide of red ink. Gramm-Rudman-Hollings, while a noble experiment in enforcing spending constraints, has not successfully brought the budget under control. The threat of sequesters has proven to be a pistol loaded with blanks held to the head of a profligate Congress.

Some of my colleagues argue that until the public outcry is sufficient, there is no political advantage to cutting programs that people want or raising revenues sufficient to pay for them. They contend that we can continue borrowing until some catastrophe occurs in the stock market or until the Japanese decide we are over-leveraged or until a massive recession forces us to face the facts. The alternative that I support today is to take preventive action before a calamity occurs.

In the best of worlds, Congress would act responsibly and make the difficult choices during the annual budget debate. Unfortunately, as long as we can pretend to get something for nothing through deficit spending, it will not happen.

This week we have seen the estimates of the deficit and the projected impact of sequestration grow to a size that cannot be ignored. Other solutions to reducing the deficit have not been successful and opponents of the balanced budget amendment have offered no realistic alternative today. The amendment offered allows deficit spending when three-fifths of the Congress deem it necessary. It is, I feel, a responsible and flexible way of ensuring the future of solvency of America.

Ms. PELOSI. Mr. Chairman, I do not rise today to debate the pros and cons of balancing the Federal budget. We all agree on the need to move toward balancing the budget—but what we are debating today is an amendment to the Constitution that would dramatically alter the delicate balance of power that has served our country well for over 200 years.

The authors of our Constitution conceived a system whereby Congress makes spending decisions—not the President, not the courts. Because of their importance to the people, spending and taxing decisions were to be made by the people's representatives—the Congress.

As the Presidency has grown, we have all witnessed increased Presidential influence on budget decisions—to the point where the President asks us to give him the ultimate budgetary power, a line-item veto.

The result, Mr. Chairman, is that the people are quickly losing the power of the purse. And where has this abandonment of power gotten us? Because of Presidential mismanagement of the budgetary process in the 1980's, we now face a budget deficit that threatens to eclipse every effort to address the serious needs of our country.

House Joint Resolution 268 will take budgetary decisions farther away from the people of this country. It will place them in the hands of lawyers and judges—who are not elected to represent the people.

These lawyers will not ask—is this budget good for the country? Does it address the needs of the people? Does it prepare us for the future? Rather, they will merely ask—is this budget constitutional?

I believe the budget should be a reflection of our national priorities—including the national concern about our deficit. The best way to ensure that the budget reflects the priorities of the people is to keep important decisions in the hands of the peoples' representatives—not the administration, not the courts.

Mr. Chairman, let us not allow the balanced budget amendment to create an imbalance of power that would ultimately lead to a government that is less accountable to the people it serves. I urge my colleagues to vote against this resolution.

Mr. GRADISON. Mr. Chairman, I rise in support of the constitutional amendments to require a balanced budget, but I do so more out of frustration than conviction.

Like all budget process reforms regardless of their merits, these votes provide Members with political cover. They allow Members to continue to pass deficit-increasing appropriation bills and yet tell the folks back home that they are for fiscal frugality.

The likelihood of actually amending the Constitution is low indeed. Should an amendment pass the House, which we are told is unlikely, and then the Senate, it will face rough going in the State legislatures where it will be perceived as but another way to reduce Federal aid to the States.

Gramm-Rudman proves that laws cannot make Congress do what it does not want to do. Will a constitutional amendment do what Gramm-Rudman clearly has not done? I think not; I see no way to enforce the provisions of these amendments. I doubt, for example, in lieu of achieving a balanced budget in accordance with a balanced budget amendment, that a judge or court is going to decide which spending to cut and which taxes to raise in order to achieve a balanced budget.

Gramm-Rudman failed to balance the budget. Under Gramm-Rudman, we have learned that sequestration is an insufficient threat, regardless of its size. Will this President, or any President, sign a $50 billion sequestration order, or an $84 billion order—as presently required—or a $100 billion sequestration. Can the Supreme Court force a President to sign an Executive order? Perhaps. Will the Court try? We may find out.

So, in frankness, Mr. Chairman, my vote today may well be the moral equivalent of voting "aye" with my fingers crossed. For myself, I see no inconsistency in my voting for a constitutional amendment to balance the budget and my votes on substantive fiscal measures. I vote "aye" to protest the failure of this institution, and with the hope that,

against my fears, it will improve the chances of a budget agreement that finally starts us down the road to a balanced budget.

Mr. MACHTLEY. Mr. Chairman, I rise today in support of House Joint Resolution 268, a constitutional amendment to require a balanced Federal budget. We all owe a great tribute to Congressmen STENHOLM, CRAIG, and others for their efforts to bring this important resolution to the House floor.

Mr. Chairman, American families throughout the Nation must often make great sacrifices to make ends meet in their household budgets.

The variety of Federal, State, local, and other taxes—in addition to burdensome costs for their children's tuition, food, home mortgages, car payments and other items—have forced American families to scrimp, save and sacrifice just to balance their costs with their wages earned.

Indeed, there are more two-income families these days than at any other time in our history, largely due to the increasing difficulty in making ends meet.

In light of the burden our economy often imposes on American families, my question to my colleagues today is why can't we, in the Federal Government, play by the same rules we ask of millions of hard-working American taxpayers.

Were an American family allowed to run deficits of the $200 billion magnitude we face today, they would undoubtably find themselves in a court of law.

Thankfully, Americans are not permitted to run never-ending deficits the way the Federal Government does. Let us use the American family budget as a model for use by passing this constitutional amendment requiring a balanced budget.

Mr. SCHUETTE. Mr. Chairman, I rise today in support of a constitutional amendment to balance the budget of the United States of America and to provide a measure of tax relief to our citizens. I believe nearly all my colleagues are familiar with my strong stand against tax increases. People know that higher taxes will lead to more spending by Congress—not a lower deficit. People also know that the expansion of the Federal Government is leaving large debts for their children and grandchildren to pay off, and that Congress must take action to end this spending binge.

People who want to purchase a new home, or start a business, or keep their struggling small business afloat, know that the large amount of borrowing caused by the annual Federal deficit forces them to pay higher interest rates. They want an end to deficits, they want to erase the national debt, they deserve to have their hardearned money managed more wisely.

We have all seen Congress play its version of "Let's Make a Deal" over and over again. Members of this body have promised so many times that they will balance the budget—if they could cut just one more deal. And the deals were cut. The price for those deals has always been higher taxes, more extravagant spending and soaring deficits. It's time to stop playing the game, to stop making and breaking deals, to stop deceiving the American people. It's time to force Congress to act responsibly. It's time for a balanced budget amendment.

This amendment is strong medicine for Congress. It is just the type of medicine needed to keep Congress on a spending diet and to overcome a ferocious appetite for more spending and more Government programs. Another statutory approach will not work, cannot work and should not be adopted.

I am pleased today to be able to cast my vote for the constitutional amendment to balance the Federal budget and for the Barton amendment to limit tax increases and require a supermajority to impose them. This amendment is in keeping with the ethic of the American family: to live within our means, to spend no more than we take in, to act responsibly with our money and most importantly with the money that came from others.

Mr. OXLEY. Mr. Chairman, I rise today in support of House Joint Resolution 268, the balanced budget amendment. This proposal is long overdue in my opinion, and I am pleased to have an opportunity to vote on this matter.

The Federal Government has not had a balanced budget since 1969. Twenty-one years is too long and our public debt is too great to delay action on the balanced budget amendment any longer. Our budget system is broken. It has been broken for quite some time and it is time to fix it. Now, will enactment of this constitutional amendment solve all of our budget woes? Of course not. But it will begin to fix the budget process and compel this Congress to live within its means.

This is not a radical proposition. When I travel through my district, people tell me that they live within their means, they spend no more money than they make in a given year. This is common sense. Why, then, do we hear the opponents of House Joint Resolution 268 argue that we need no changes in our budget process and that this amendment would be unwise? What would be unwise would be to turn our backs on the overwhelming majority of Americans who want this legislation passed.

As everyone in the House knows, the Federal budget picture looks more bleak every day. Office of Budget and Management Director Richard Darman said just yesterday that, for Gramm-Rudman-Hollings purposes, the fiscal year 1991 deficit will be nearly $170 billion. The real deficit is much more. Moreover, the Treasury Department recently asked the Ways and Means Committee to raise the debt from $3.12 trillion to $4.05 trillion.

A number of actions have brought us to this fiscal gridlock. It is true that recent administrations have failed to submit balanced budget plans to Congress, but does anyone really believe that these plans would have been greeted with open, outstretched arms? Of course not. The majority decisionmakers in this body systematically have contended that President Reagan's and President Bush's budgets have been dead on arrival.

The problem lies with Congress' inability to control its spending addiction. During the decade of the 1980's, Federal revenues grew dramatically, about 8 percent per year. Unfortunately, Congress increased Federal spending by some 11 percent each year. As we look back, we see runaway spending is not a new phenomenon. Since 1948, Congress has spent $1.58 for every $1 of revenue raised. This, Mr. Chairman, is what has lead us to our fiscal dilemma.

If Congress wants to spend outrageously, so be it. But Congress should not be permitted to increase the Federal deficit and the debt burden which our children must shoulder each and every year. House Joint Resolution 268 will help stop this runaway deficit financing. The balanced budget amendment will restore fiscal sanity to the budget process, and I urge my colleagues to support this legislation.

Mr. BUECHNER. Mr. Chairman, C.F. Bastable, a leading scholar of public finance, stated in 1903 that "under normal conditions, there ought to be a balance between these two sides—expenditure and revenue—of financial activity. Outlay should not exceed income, * * * tax revenue ought to be kept up to the amount required to defray expenses." In fact, it was believed that a balanced budget was synonymous with a sound political economy.

For the first 150 years of our Nations' existence, this was the ethos which was followed. In fact, it has been said that this ethos was indeed an unwritten element of our Constitution; I would even submit that it never occurred to the Founding Fathers that this premise would ever be challenged. Not spending beyound one's means is an axiomatic characteristic of fiscal responsibility.

Recognizing this simple wisdom, the American people overwhelmingly support a balanced budget amendment. Only in Congress—where deficit spending originates—has this idea been received cooly. Inasmuch as our primary job is to represent the will of the American people, one must ask: How can this body of representatives produce results which the majority of the American people oppose?

The answer to this question revolves around a fundamental defect in our constitutional system. Congress is subjected, on the one hand to the constant and concentrated pressure of spending constituencies, and on the other to the more ephemeral concept of fiscal responsibility. Although fiscal responsibility is in everyone's interest, the taxpayer is a poor lobbyist compared to the organized special interests. Only through a constitutional amendment—a means which Congress cannot repeal by itself—can balance be restored, can fiscal responsibility, and through it, continued prosperity, be guaranteed.

Mr. Chairman, if we are to serve the people well, we must never stray too far from the principles which govern their lives. We cannot put ourselves above the commonsense principles we would expect of them. As Adam Smith stated in the wealth of nations: "What is prudence in the conduct of every private family, can scarce be folly in that of a great kingdom." Accordingly, I urge my colleagues to join me in supporting this amendment which restores common sense to the budget process and represents the interest of every taxpayer.

Mr. MARLENEE. Mr. Chairman, the balanced budget amendment would require the Federal Government to recognize what every person who owns a small store, or a farm, runs a household or balances a checkbook already knows—you can't spend more than you

have. And despite what anyone tells you, it really is just that simple.

Poll after poll has shown that the American people by an overwhelming majority want this amendment. Every State government but one requires that receipts equal expenditures. Congress has tried the "quick fix" approach before but the problem has only become worse. There has been much talk about fiscal responsibility and numerous half-hearted attempts to limit spending but the deficit keeps soaring higher.

Last year, $170 billion—14 percent of the entire Federal budget—was spent to service the interest on our national debt, money which has so many better uses. The debt itself is at $3.2 trillion. That's right, Mr. Chairman, $3.2 trillion. Continued service of this growing debt will mean a decreased standard of living for all Americans in this generation and the next. It is high time that Congress acts decisively.

There are those who argue that we should not to alter the Constitution. However, a fundamental function of our Constitution is to protect the people from excesses and abuses of government. I can think of no greater abuse than stunting American productivity, enlarging the public debt, and mortgaging our children's future merely because Congress, like an overindulgent parent, can't say no.

The simple fact is that for every $1 that Congress raises in taxation, it spends $1.58. We have tried statutory measures to control spending. Yet over the last decade Congress has waived the 1974 Budget Act 398 times. There is already talk of pushing back or canceling the Gramm-Rudman-Hollings deficit reduction targets presently prescribed. Statutory prohibitions simply don't work.

Sixty years ago Federal Government spending accounted for 3 percent of the GNP. Today, it is over 22 percent. Worse still, over the past three decades there has been only one balanced budget.

I urge my colleagues: Do what needs to be done; do the will of the people; do what is right. Vote for the balanced budget amendment.

Mr. SCHEUER. Mr. Chairman, in the last decade, neither President Reagan nor President Bush has ever presented a balanced budget to the Congress or the American people. In 1980, when they took office, the cumulative debt of the entire 200-year history of our Nation was just over $900 billion. After almost 10 years of the Reagan-Bush spend-and-borrow, spend-and-borrow policies, the national debt has more than tripled, to well over $3 trillion. Instead of doing something about his own annual $160 billion deficit, President Bush is calling for a mandatory balanced budget for his successors. He can then parade around as the "Balanced Budget President" without ever creating a single balanced budget of his own.

This absurd turn of events began with a military buildup of such huge proportions that no expense was ever spared, resulting in today's $300 billion annual price tag. This military expansion was questionable then, and is out of the question now.

It is imperative that the Congress reduce the ruinous deficits that the spend-and-borrow Reagan years left our Nation, forcing us to borrow untold bilions from foreign countries. But this amendment is not the solution.

The amendment is a gimmick. It says outlays shall not exceed total receipts." Just like that! What happens if the law is violated? Who is to determine who is at fault? Who is to determine total receipts and expenditures to begin with? None of these critical questions is addressed in the bill.

What is it about the Constitution that makes people constantly want to amend it? We've seen a parade of bad ideas from the antiabortion amendment to the flag burning amendment to this. Let's have a constitutional amendment to eliminate poverty. Another one can mandate educational excellence and economic competitiveness. Let's pass a law mandating clean air and clean water. We can then enact law requiring a disease-free country, legislating AIDS out of existence. These laws will be as effective as the balanced budget resolution before us.

It is time to quit kidding the public with fluffery and puffery and get down to the tough decisions we are paid to make, not to avoid. We have the means to begin addressing the budget shortfalls realistically. We must look at what can be pared down and what has to be saved. For example, we haven't begun to look at the potential peace dividend.

NATO has declared the cold war over. former Defense Secretary Robert McNamara has called for the reduction of the military budget by half in 10 years or less. Gen. Andrew Goodpaster, chief of the European theater during World War II, is pushing for a structured downward path in defense spending to half the present level in 10 years. CIA Director William Webster has declared the democratic movement in the Eastern bloc and the Soviet Union "irreversible." The Warsaw Pact has faded into the mist. We must begin examining our military needs, exposing the few regional trouble spots remaining and eliminating unnecessary spending throughout the services.

As the Soviet threat has evaporated, the excuse for military expansion has also. We cannot afford billions for a B–2 bomber we will never use, billions more for a star wars system that will never work, and countless billions more for nuclear warheads with no enemy to point them at. We can radically pare down the military without destroying careers of military personnel by providing education, training, and relocation services to affected members of the armed services and the military-industrial complex.

It is unconscionable that we continue to maintain a $300 billion military budget in this day and age, while ignoring the societal needs of our country. Instead of playing with budget mirrors, we should be cutting back where appropriate and investing in the education, health, and infrastructure needs of our Nation now and in the future.

Mrs. LOWEY of New York. Mr. Chairman, if we hope to go forward as a nation, we must eliminate the Federal budget deficit.

In the short run, massive deficits threaten to provoke a new spiral of inflation, higher interest rates, or a crippling recession. In the long run, massive deficits are threatening us with economic decline. As a nation, we must address the deficit crisis or risk lasting damage to our standard of living and to our security.

Thus far, the response of the legislative and executive branches to this crisis has been inadequate. For more than a decade, the President has submitted, and Congress has approved, budgets that contain enormous deficits. In fact, deficits rose from $40.1 billion in 1979, to $221.1 billion in 1986. Since then, deficits have retreated to approximately $150 billion—but this level is still unacceptably large. In each instance, Congress and the President have failed to make the tough choices that are necessary to bring the deficit down once and for all.

Today, we have before us a constitutional amendment to require a balanced Federal budget, and its proponents insist that it will provide us with a lasting solution to the deficit crisis. However, this constitutional amendment is severely flawed. While action to balance the budget is urgently needed, the constitutional amendment may actually set back efforts to achieve a balanced budget.

First, the amendment will not be effective unless three-fourths of the State legislatures ratify it over a period of up to 7 years. After it is ratified, it will not take effect for another 2 years. This means that any action to balance the budget might be postponed for up to 9 years.

Our Nation cannot afford to wait that long to solve the deficit crisis. Rather, we need action in the short term to cut the deficit, revitalize our economy, and restore our competitiveness as we approach the new century. The balanced budget constitutional amendment may have the ironic effect of postponing any meaningful action on the deficit crisis until we have entered the new century.

Second, this constitutional amendment does not exempt Social Security from consideration in calculating the deficit. The inclusion of Social Security in deficit calculations artificially lowers deficit calculations, hiding the true size of the deficit. Moreover, the inclusion of Social Security in deficit calculations could expose the Social Security system to severe cuts which would threaten the future of this vital program. We should not even contemplate an effort to balance the budget on the backs of our Nation's senior citizens.

Unfortunately, the amendment contains no specific enforcement mechanism. This means that there will be an enormous incentive for increased budget gimmickry and deceit of the type that has characterized enforcement of the Gramm-Rudman balanced budget law. This will set back efforts to achieve substantial deficit reductions.

Due to the lack of an enforcement mechanism, the Federal courts will likely be called on to enforce the amendment. The courts may choose not to do so, in which case the amendment will be rendered meaningless. But the courts may also choose to actively enforce it, raising risks for all American citizens.

The courts have little expertise in economic matters, and judicial enforcement efforts would be unpredictable in their effects on the economy and on specific Federal spending programs. Moreover, judicial enforcement of a balanced budget amendment raises the ominous specter of court-ordered tax inceases or

spending cuts to balance the budget. I do not believe that American citizens are prepared to have unelected officials make important decisions on taxes and spending—decisions that will be crucial to their finances and to the future of our Nation.

These types of decisions regarding taxes and spending cuts are not properly made in the courtroom. They could dramatically affect our economy, and they could drastically harm programs that are essential to our Nation's future. We should not be willing to give the judicial branch this type of authority over economic matters.

Further, the amendment threatens the ability of our Nation to respond to an economic emergency. Traditionally, the Federal Government has manipulated our fiscal policy in order to react to trends in the economy. This is an important role for the Government to play, and it could well prove crucial in a time of economic turmoil. But the pending amendment would tie the Government's hands at a time of deep recession or spiraling inflation.

Late this week, the House will consider a balanced budget statute which will require the President to submit a balanced budget to Congress in each fiscal year. It will also require the budget committees in Congress to report balanced budgets in each fiscal year, and it will force Congress to vote on these proposals. This statute is far preferable, in my mind, to the pending constitutional amendment.

First of all, the statute can be enacted immediately. It would be effective in the coming fiscal year, forcing Congress and the President to come up with a plan to cut the deficit right away.

Second, the statute forces Congress and the President to come up with a plan for reducing the deficit without using the Social Security trust funds. This will protect the trust funds from those who wish to raid them, and it will result in a more truthful accounting of the actual size of the deficit.

Third, this statute allows Congress and the President to address the deficit issue without raising economic principles to the constitutional level. The Constitution is not a proper repository for economic precepts, and the statue prevents unnecesary tampering with the most important document of our democracy. It will also permit our Nation to respond more effectively to economic emergencies.

Most importantly, the statute will encourage Congress and the President to act quickly to break the current budget impasse and move forward with dramatic deficit reductions. Unless we can forge a bipartisan consensus that will result in meaningful deficit reductions, rather than continually postponing any meaningful action, our Nation's future will remain at risk.

The balanced budget constitutional amendment will postone any reckoning with our fiscal woes well into the future. It raises troubling questions about the role of the courts in our fiscal affairs. And if the ax does fall, it may fall on those who are least responsible for the budget mess—our Nation's senior citizens and other Americans who are most vulnerable.

Congress and the President do have a fundamental responsibility to respond to the deficit crisis. In the face of this fiscal crisis, Congress and the President must be willing to make tough decisions about our budget priorities. The balanced budget statute will contrubite to that process. It will force Congress and the President to propose balanced budgets in each fiscal year, and to vote on those proposals.

The President has already entered into budget negotiations with congressional leaders aimed at achieving major defict reductions in the near term. The choices are not going to be easy. But extraordinary times call for plitical courage and for leadership that thinks not only about the here and now, but about our Nation's future.

I commend the President for his willingness to approach the deficit issue in a bipartisan fashion, and I am hopeful that the current budget negotiations will look long and hard at all current spending programs of the Federal Government. We know that there continues to be waste and fraud in the budget. We have seen it time and again in recent years—in the Department of Housing and Urban Development, in the Pentagon, and in the savings and loan debacle.

The task of the budget negotiators—and the entire legislative and executive branch—is to root out waste and fraud wherever they may be. And then, to make the tough choices about which programs really serve our national interest. Those programs which are meeting urgent needs such as improving education, fighting drugs, protecting the environment, and providing affordable housing, should continue to recieve funding, according to the extent of their contribution. But programs that are not serving a vital interest should be eliminated.

Now is a time of dramatic changes abroad. The threat from the Soviet Union has been significantly reduced, and there is a growing recognition that our Nation's next important battle will be in the world marketplace, where our competitors are challenging our economic supremacy. The changes abroad have offered us a unique opportunity to revise our foreign and military policies—and to reorder our Federal budget priorities here at home to reflect the economic challenges that we now face.

Our Nation stands at a crossroads. A meaningful response to the deficit crisis is urgently needed if we hope to revitalize our economy and meet the economic challenges from abroad. We must take action to cut the deficit once and for all. The balanced budget statute, which mandates action on the deficit by next year, will help us achieve meaningful deficit reductions in the near term.

We should adopt the Balanced Budget Act and embrace a comprehensive deficit reduction package designed to make a dramatic difference in the way the Federal Government conducts its financial affairs. Only then will we have done our duty to protect the future of our children and the future or our Nation.

Mr. WOLPE. Mr. Chairman, I support a balanced budget. If we don't have the money, we shouldn't be spending it. And it is immoral to pass on to future generations the consequences of our lack of fiscal discipline. Moreover, we have an economic crisis on our hands: The horrendous deficits we are running are now threatening a national recession.

It is because of my sense of the urgency of our deficit crisis that I supported the Gramm-Rudman budget law. And, while that law has clearly not done the job, there is little doubt that the problems we face would be far worse without Gramm-Rudman. Likewise, it is clear that the budget summit now in process is the direct result of Gramm-Rudman and its threat of the automatic budget cuts that will be triggered if the President and the Congress cannot work out a budget agreement.

To the extent that Gramm-Rudman has not been more successful, it has been because of the opportunities for evasion and budgetary gamesmanship it has permitted. And the proposed constitutional amendment would provide even more opportunities for such evasion and irresponsibility. It would therefore move us even farther away from our goal of a balanced budget:

First, the amendment offers no bar to defining Federal programs as "off-budget" and therefore not subject to the discipline of the balanced budget requirement.

Second, the amendment will virtually guarantee that the Social Security trust fund will remain on-budget, so its surpluses can continue to mask the size of the true Federal deficit.

Third, the proposed amendment would mean continued delay in facing up to our immediate deficit crisis: It could take up to 7 years to achieve ratification by the required 38 States, and would not become effective until 2 years after ratification. It is conceivable that the amendment would not even be effective until the turn of the century.

Fourth, there is no enforcement mechanism even hinted at in the language of the amendment. What happens if the President and the Congress cannot agree on the economic assumptions to be used? Or on the elements of the deficit reduction package? What compels them to agree? Either the Supreme Court becomes the final arbiter—in which case we would be turning over national budget decisions to a group of nine unelected judges, radically transforming our constitutional system—or the balanced budget requirement becomes meaningless, a requirement that can be violated with impunity.

Mr. Chairman, all of us here know what is necessary to balance the budget. What is needed is a President who provides budgetary leadership; a Congress willing to make the tough decisions; and an American public deeply involved in the fiscal debate over the size of the deficit and over national priorities. This constitutional amendment would do none of these. In fact, it would do the reverse. It would create the impression that the Federal Government had at least taken decisive action to get its fiscal house in order. However, the reality would be quite different. The proposed constitutional amendment would allow Presidents to continue to offer unbalanced budgets to Congress. It would allow the Congress to continue to duck the hard choices. And it would only deepen the growing public cynicism about our ability to address the Nation's problems.

Mr. Chairman, I urge my colleagues to oppose the balanced budget amendment.

The CHAIRMAN. All time has expired.

Pursuant to the rule, no amendment to the joint resolution shall be in

order except those amendments printed in House Report 101-600, except that the amendment offered by the gentleman from Texas [Mr. STENHOLM] is modified, as permitted by the unanimous-consent request previously entertained. Said amendments shall be considered in the order and manner specified in said report and shall not be subject to amendment.

The Clerk will read.

The Clerk read, as follows:

H.J. RES. 268

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE—

"SECTION 1. Prior to each fiscal year, the Congress and the President shall agree on an estimate of total receipts for that fiscal year by enactment into law of a joint resolution devoted solely to that subject. Total outlays for that year shall not exceed the level of estimated receipts set forth in such joint resolution, unless three-fifths of the total membership of each House of Congress shall provide, by a rollcall vote, for a specific excess of outlays over estimated receipts.

"SEC. 2. The public debt of the United States shall not be increased unless three-fifths of the total membership of each House shall provide by law for such an increase by a rollcall vote.

"SEC. 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SEC. 4. No bill to increase revenue shall become law unless approved by a majority of the total membership of each House by a rollcall vote.

"SEC. 5. The provisions of this article are waived for any fiscal year in which a declaration of war is in effect.

"SEC. 6. Total receipts shall include all receipts of the United States except those derived from borrowing. Total outlays shall include all outlays of the United States except for those for repayment of debt principal.

"SEC. 7. This article shall take effect beginning with fiscal year 1993 or with the second fiscal year beginning after its ratification, whichever is later.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BARTON OF TEXAS

Mr. BARTON of Texas. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BARTON of Texas: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE—

"SECTION 1. Prior to each fiscal year, the Congress and the President shall agree on an estimate of total receipts for that fiscal year by enactment of a law devoted solely to that subject. Total outlays for that year shall not exceed the level of estimated receipts set forth in such law, unless three-fifths of the whole number of each House of Congress shall provide, by a rollcall vote, for a specific excess of outlays over estimated receipts.

"SEC. 2. The amount of Federal public debt as of the first day of the second fiscal year beginning after the ratification of this Article shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SEC. 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SEC. 4. Total estimated receipts for any fiscal year as set forth under section 1 of this Article shall not increase by a rate greater than the rate of increase in national income in the year ending not less than six months before such fiscal year, unless three-fifths of the whole number of each House of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SEC. 5. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect.

"SEC. 6. Total receipts shall include all recepits of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

"SEC. 7. Congress shall enforce and implement this Article by appropriate legislation.

"SEC. 8. This Article shall take effect for fiscal year 1995 or for the second fiscal year beginning after its ratification, whichever is later.".

□ 1550

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. BARTON] will be recognized for 30 minutes.

The gentleman from Texas [Mr. BROOKS] will be recognized in opposition to the amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I felt it was very important to read the entire substitute amendment because as a constitutional amendment I think it is important that every Member of this body take time to recognize the vote that we are going to be making later this afternoon.

My substitute amendment has one basic difference between it and the Stenholm/Craig amendment, and that is section 4 that deals with the tax limitation provision.

That states that the estimated receipts shall not increase faster than the estimated rate of growth in the national income unless three-fifths of the body, both House and Senate, votes, by a bill solely directed to that subject, to do so. That is commonly called the tax limitation provision.

I think this provision puts the necessary symmetry into the balanced budget amendment so that you have the three-fifths vote for raising the taxes just as we have the three-fifths vote for the borrowing.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, I rise in opposition to this amendment offered by my colleague, the gentleman from Texas [Mr. BARTON]. It would essentially do two things to change the original Stenholm proposal: It would subject any bill raising Federal receipts to a veto by a minority of either House of Congress, and—surprise, surprise—it would push the effective date of this amendment back 2 years, past the 1922 election.

The Barton proposal's requirement that any increase in receipts receive a three-fifths vote of the total membership of each House fits in very neatly with the resolution's other requirements, that increases in outlays over receipts and that increases in the public debt both be subject to this supermajority vote. Taken together, these three requirements would enshrine a "tyranny of the minority." A 40.1-percent minority of either House could simply sit on their hands and extract any demands they wished to in return for their allowing budget legislation of any consequence to go forward. I am certain that it is nothing but sheer coincidence that the minority party in this House holds 40.5 percent of the seats. What joy there would be in their caucus if this amendment were in effect. Notwithstanding the unpleasant fact—unpleasant to them at least—that the voters of this country have not seen fit to give them a majority in this House for nearly 40 years, this amendment would hand over to them the effective reins of power on critical issues of budget policy.

In addition to the conceptual wrongheadedness of the Barton amendment, I am at a loss to understand how it would work in practical effect. It tells us that total estimated receipts for a fiscal year shall not increase by "a rate greater than the rate of increase in national income in the year ending not less than 6 months before such fiscal year" without a three-fifths vote. What in the world does that mean? What are receipts? They're anything you want to call them. What is national income? Anything you want it to be. I have one additional question about the Barton proposal: Why in the world should we add language like this to our Constitution, the basic national charter that has guided our Government well and faithfully for two centuries?

Mr. Chairman, the Barton amendment makes one additional change to the Stenholm proposal. It would let the Bush administration off the hook and spare it the inconvenient duty and responsibility of backing up its lipservice about balanced budgets with action during the term of office to which they were elected 2 years ago. By pushing the effective date back to fiscal year 1995 at the earliest, the Barton amendment embodies the legislative equivalent of St. Augustine's prayer: "Dear Lord, give me chastity and continence—but not just now."

I urge defeat of the Barton amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the distinguished gentleman from that great State of New Hampshire, Mr. ROBERT F. (BOB) SMITH.

Mr. SMITH of New Hampshire. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the gentleman's amendment.

Mr. Chairman, you are either for a balanced budget or you are against it; you either want to continue deficit spending, or you don't; you either want to leave our children and grandchildren a large debt or you do not. There is no gray area in this debate, no middle ground. You cannot be for fiscal responsibility and vote against the balanced budget amendment.

The question comes on the Barton amendment, "How do you want to achieve a balanced budget? Do you want to do it with a tax increase, or do you want to do it by cutting spending?"

I think, contrary to the statements made by the chairman of the Committee on the Judiciary, that if the American people could be polled, I think they would say, "We pay enough taxes. We want you to cut spending." And that is what the Barton amendment does, and I am proud to support it.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, I do not ordinarily do this, but I would like in this case to start out by saying I have a lot of respect for the gentleman from Texas [Mr. BARTON]. He is a very thoughtful Member. I would like him to think this through just a little bit more, though.

What kind of situation do you have in terms of an equation when it takes a supermajority, or let's put it the other way, when it takes a simple majority to vote the spending and a supermajority to vote to meet the responsibility to cover the spending?

That pretty much characterizes the last 40 years in general and the last 10 years in very sad particular in terms of the fiscal policy of this Government.

I do not know how it came about; when I first came to the Congress the slogan was, "Vote for every appropriation and against every tax bill." At that time it was considered cowardice not to meet the responsibilities, to go out and charge a lot of nice things but not pay the bills; you just let them pile up into debt.

That was considered lacking in prudence, that was considered lacking in honor. But somehow or another, during the eighties, that cowardice was transmogrified into some sort of heroism: "Make my day, read my lips, the American people don't want to pay taxes."

Well, the American people do not want to make car payments either, but if they have the car they usually have to make the payments.

Now, I do not know if the American people wanted to multiply the farm program by a factor of 6 during the eighties as was done; I do not know how much the American people wanted to enrich certain military contractors who were then forgiven taxation on their gains; I do not know how badly the American people wanted all these excesses. They elected the majorities which voted for them, bipartisan majorities; they elected the President who called for them.

I do know, though, that you cannot repeal reality and that there is a connection between what you spend and what you owe.

So if this amendment required a three-fifths vote to raise the spending, which necessitates the taxation, then it would itself be balanced.

□ 1600

But I believe the amendment is badly out of balance when it simply says "by simple majority" Members can vote to whoopee and say yes to every spending demand by every special group.

One the other hand, when it comes the day of reckoning to meet the responsibility for that spending, it takes a three-fifths vote. It takes no courage to vote against taxes. That is the easiest thing to do.

Mr. BARTON of Texas. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Chairman, we have heard a lot today about "Trust us, we will take care of this. Do not amend the Constitution. Do not worry, you can trust us." The same body that has the national debt up $3.1 trillion, and going to $3.5 trillion, the same body that is going to come in here in the next 2 months and raise your taxes? Do not worry? They are just dying to raise your taxes but say "Trust us."

I prefer to trust Thomas Jefferson. He was a good judge of character, and he said something 200 years ago that I think is the best counsel for Members today:

> In questions of power, let no more be heard of confidence in man, but bind him from mischief by the chains of the Constitution.

Jefferson knew unless we were enchained by that Constitution, the taxpayers were going to be the victims. That is why the Barton amendment makes sense.

The current Stenholm-Craig constitutional amendment says three things: To raise revenue we have a simple majority; to raise spending above receipts, we have to have a three-fifths vote; and to raise the national debt we have to have a three-fifths vote. All of those have to occur by rollcall. So at least the folks who hire us Members will know who to shoot in November when they find out that they do not like our votes. However, Stenholm-Craig, 5 years ago had the Barton amendment in it. So this is really restoring Stenholm-Craig to where it was 5 years ago.

I have a copy of the bill from that time. It was House Joint Resolution 27, and it said, "A three-fifths vote to raise revenue." and that is really all we want, symmetry. It would solve the gentleman from Indiana's [Mr. JACOBS] problem. Now, to raise the debt, to raise revenue, or to spend more than we have, we would have to have a three-fifths vote. In all of those circumstances, who are we protecting? The taxpayers of the United States. Who are we hurting? The lobbyists, the 25,000 lobbyists who are registered to come in here and ask Members to raise taxes so they can get more money out of the taxpayers of this country.

I think the Barton amendment makes perfect sense. I urge that we support it.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, today the House has the opportunity to begin the long journey to fiscal responsibility. We must pass the balanced budget amendment to the Constitution if we are to stop the growth of this crippling debt which has now topped the $3 trillion mark.

I am in strong support of House Joint Resolution 268 as both a cosponsor and a signer of the discharge petition. However, I now rise in strong opposition of the Barton amendment that would require a three-fifths supermajority to rise taxes.

I understand the premise of this provision and agree that we should make it difficult to raise taxes. But this

amendment is misguided for two major reasons.

Under the Stenholm substitute, each Member would be required to go on the record twice—not once—but twice in favor of raising taxes: once on the revenue estimate joint resolution and then again on the actual tax bill. All of my colleagues understand the pressure we will be under between these two votes if the American public were to believe a tax increase unnecessary.

More importantly, if the President did not believe a tax increase was needed, he could veto the bill. This would force both Houses to muster a two-thirds vote, larger than a three-fifths votes, to pass the tax increase. We should not write in some kind of ghost veto.

At this time, when we are so close to taking a giant leap toward fiscal responsibility, we cannot afford to have this 60-percent tax vote weighing the bill down like a ball and chain.

I urge my colleagues to vote against the Barton substitute and for the Stenholm substitute. Let's start down the road to fiscal reform.

Mr. BARTON of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I rise in strong support of this amendment.

Mr. Chairman, I rise today to express strong and unconditional support for the proposed balanced budget constitutional amendment which this body is debating today. There is no denying the need for some kind of mechanism, some sort of hammer to require this Congress to produce Federal budgets which make sense and mean something.

To those who contend that a constitutional amendment is not the answer to our fiscal problems, I ask "what is the answer?" Each and every year I have served in this body, the Congress has used smoke and mirrors to produce a Federal budget which lowers the deficit. Each year, in fact, the actual budget deficit seems to be far in excess of projections. Let's, for once, face the facts: our congressional budget process has broken down. Everyone in this House knows that.

Mr. Chairman, we are in a ridiculous situation. No wonder Members of Congress are held in such low esteem by the general public. Most families are able to live within a budget. It is tough sometimes, but they manage to do it. Most businesses are able to live within a budget. It is tough sometimes—I own a nursery business, I know—but it can be done and it is done.

Mr. Chairman, why, oh why, can Congress not do the same thing? We have had years to try. For years we have failed. I stand here in agreement with my distinguished colleague from Georgia: the attitude in this House, and in the other body, is "We'll spend as much as we can, we'll tax as much as we can, and we'll borrow what we have to in order to make up the difference." I stand here today to declare that there is no reason, absolutely no reason, not to pass this amendment and pass it on to the States. The Congress should be required to practice good sense with taxpayer dollars and cents. The idea is simple: Congress should not spend more money than it collects. Families do it. Individuals do it. Businesses do it. Industry does it. Congress must do it. I wholeheartedly support this amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I enthusiastically rise today in strong support of the balanced budget amendment, hopefully as amended by the Barton amendment.

Why?

Thirty years of deficits, 30 years of failing to balance the budget;

A $3.2 trillion debt; soon to be increased;

Annual interest of $270 billion;

CBO projection of $366 billion in new debt for 1990; and

Gramm-Rudman target deficit for 1990 was $100 billion.

That is why we are debating this balanced budget amendment. That is why 218 Members of this body demanded that this issue be taken from committee and voted upon.

I've heard that Members have been called "gutless" for supporting the balanced budget amendment. I've heard it called a copout. I've heard lobbyists tell me it is a way for Members to shirk their responsibility.

Mr. Chairman, I respectfully suggest that the easiest way to shirk our responsibility is to fail to pass House Joint Resolution 268, as amended by the Barton amendment.

Collectively, this Congress would be gutless in electing to go with the system we now have. We have perfected shirking to a quintessential art. We need radical surgery to reverse the ills of Congress.

Don't be fooled by the statutory alternative. Statutes are already on the books. They don't work. Not because they are poorly crafted, but because we ignore them. We all know our most favorite rule, used 398 times in the past decade; the one that waives all budgetary points of order.

In addition, there is not one of us who does not know the appropriations process of this body is not working. We all know that under the "system," with its rewards and punishments, unwritten as they are, the expenditures of this body can only grow. And they do.

Let me quote from economist William Niskanen: "There is now ample evidence that our routine political processes are biased in favor of deficits and higher taxes." That is, biased in favor of passing on to our children and grandchildren a national debt which, after the years 1990 and 1991, should be near $4 trillion. This should traumatize us. But it apparently doesn't. It's easier to say yes to the spenders of today, because the taxpayers of tomorrow, our children and grandchildren, have yet to have a voice.

I suggest it is time to say "no" to the drugs to which Congress is addicted, that is, the present budgetary and appropriations process.

The time has come to protect posterity by the use of special majority rollcalls in regard to revenues which would exceed the rate of increase of the Nation's national income. That simply says the Federal Government should not grow faster than the Nation and/or create deficits without a special majority vote. In instances of deficits, the only bias left would be in favor of Congress cutting spending rather than increasing revenues beyond the rate of growth of the Nation.

Thirty years of unbalanced budgets should have taught us that our present Federal budget and spending process is hopelessly prejudiced in favor of spending, the building of deficits, and then new revenues to rescue us. Requiring special majority rollcalls does not forbid either new revenues or deficits. It does emphasize the importance of such votes and it does require accountability.

Thomas Jefferson seemed to predict our madness in which we find ourselves when he said:

In questions of power, let no more be heard of confidence in man, but bind him from mischief by the chains of the Constitution.

Let me again refer you to the words of Thomas Jefferson:

I place economy among the first and most important virtues, and public debt as the greatest of dangers to be feared * * * To preserve our independence, we must not let our rulers load us with public debt * * * we must make our choice between economy and liberty or confusion and servitude * * * If we can prevent the government from wasting the favor of people, under the pretense of caring for them, they will be happy.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I rise in opposition to the Barton amendment. I believe it is well-intentioned. I also believe it is a bridge too far, and I will not vote for it.

Having said that, I want to acknowledge the contribution of the gentleman from Texas [Mr. BARTON] in this effort to try to enact an amendment today, and I want to thank him for his efforts.

Some of my colleagues worship at the altar of balanced budgets. I do not. Our Republic has survived for over 200 years without an amendment to the Constitution mandating a balanced budget every year. Why do we need one now? My answer is, we do not. That might sound like an unlikely

answer coming from someone who has coauthored the amendment that is before Members later today. However, I believe there are times when it is appropriate, when it is necessary, for the Federal Government to run deficits: In times of economic downturn or recession, in a depression, in times of a crisis like the S&L crisis, in time of an emergency, or for war.

Having said that, 22 years have passed since we last balanced our Federal budget.

□ 1610

Our national debt in the past decade has more than tripled, as we have heard ad nauseam here today. This year's operating deficit, when we take away the Social Security mask, is bigger than the year before and bigger still than the year before that. The situation, as we know from yesterday's announcement from the White House, is not getting better; it is getting worse, Gramm-Rudman and other statutory remedies notwithstanding.

Today, we gather here as the world's largest debtor nation. Our trade deficit mirrors our budget deficit. We borrow enormous sums from the Japanese and the Germans and others through T-bill auctions to maintain a standard of living that in this country has been stagnant now for two decades.

What we need most to restore fiscal sanity in Washington is for our President and our Congress to summon the political courage to make tough decisions on spending and tough decisions on revenues and to stick with those decisions. It is not possible to craft a constitutional amendment that will produce a surplus of that kind of political courage.

Four Members of the House, the gentleman from Texas [Mr. STENHOLM], the gentleman from Idaho [Mr. CRAIG], the gentleman from Oregon [Mr. ROBERT F. SMITH], and I have endeavored to craft an amendment that will be before us later today which does require the President to lead on deficit reduction, while making it more difficult for us in the Congress to unbalance the budget.

There are some critics of this amendment who say, "Well, if this were an appropriate thing to include in the Constitution, then our forefathers would have included it." Yet, we have heard Thomas Jefferson quoted here today, that if he could have included one amendment to the Constitution, it would be to require balanced budgets.

Other Members have stood up and criticized our constitutional amendment, saying it is not enforceable. Let me make a few observations: Congress has granted to it under article 1 of the Constitution all powers necessary to make proper and necessary laws to execute the mandates of the Constitution. We do not try to dot every "i" and cross every "t" with this constitutional amendment to get the job done. Congress has that authority to spell out in statute how this amendment would be enforced.

What if the President sends us in 1995, a budget that is out of balance. What are we going to do? If the President is a Republican, every Democrat on this side will stand up and lambaste him or her. If the President is a Democrat, I am sure we will receive like kind from the Republicans.

What if we, the Congress, pass a budget in 1995 or beyond that is out of balance. The President has the responsibility under this amendment to veto that budget. We would need a two-thirds vote to override that veto.

How about the political considerations as a check? We as Democrats will hold the Republicans in compliance in some respects, and they will hold us in check and in compliance. The press will not look the other way either on our failure to properly discharge our collective responsibilities under this amendment. And, the public will be the final arbiter on this matter. If we need an arbiter after that, the courts will decide and only as a final resort.

What have other critics said of balanced budget amendments? Well, some other people say that large, chronic budget deficits are not all that bad, that they are not all that big a problem for our country. If they believe it is acceptable for us to continue to collect and spend every dollar of income taxes collected west of the Mississippi just to make interest payments on our debt, fine, maybe big budget deficits do not matter. But I think the status quo is unacceptable. Heaven help us if we have a recession.

There are four elements to any serious deficit reduction plan. First, we must cut waste to the extent that we can; second, we must cut the growth of spending, including entitlement programs; third, we must raise some revenues; and, fourth, budget reform or process reform is needed. That is what we are talking about here today. Our budget summiteers are working on a 5-year plan that promises to lead to a balanced budget in 1995. If that promise is to be kept, the President and the Congress need to be reminded every year, next year, 1992, 1993, and 1994, that somewhere along the way, the rubber hits the road. We are going to have to balance the budget. The President will have to begin proposing a balanced budget, and if the Congress wants to unbalance it, we need a super majority, a three-fifths vote, to do so.

Mr. Chairman, I urge the defeat of this amendment, and I urge support of the Stenholm substitute.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Louisiana [Mr. McCRERY].

Mr. McCRERY. Mr. Chairman, there is, I think, in this country, a general consensus that for the Federal Government to continue to run deficit after deficit is contrary to the long-term national interest. My generation is smart enough to know that we are, in effect, mortgaging the future of our children and grandchildren. We do not want to be the first generation in the history of this Nation to leave for those who follow us a standard of living lower, not higher, than that which we enjoyed. Thus the need for a balanced budget amendment.

There is also, though, a general consensus in this country that the cause of the continuing deficit is that the Congress spends too much, not that the American people are taxed too little. Thus the need for the Barton amendment. Adding a tax limitation provision to the balanced budget amendment will ensure that Congress and the executive department look first at reducing spending to balance the budget and consider tax increases only as a last resort.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. MOODY], a member of the Committee on Ways and Means.

Mr. MOODY. Mr. Chairman, I thank the distinguished committee chairman for yielding time to me.

Mr. Chairman, I am supporting the Stenholm-Craig balanced budget amendment for the reasons I have outlined on the floor earlier, because it forces us to make tough choices. It forces us explicitly to decide that we want debt if we are not willing to either raise taxes or cut spending. That is a painful choice, but it is one that is not being made now.

Debt is simply the shock absorber of the budget process. We push everything into debt that we are not willing to face with taxes or spending cuts.

However, I oppose this amendment because what it does basically: It guts and destroys the heart of the Craig-Stenholm initiative. Why do I say that? The key feature of the Craig-Stenholm initiative is that it makes debt harder than either tax increases or spending cuts. It requires 218 votes to raise taxes, it requires a majority, which might be around 218 or slightly less, to cut spending, but it requires 261 votes to raise the debt. There should be a difference between the ease of raising debt and the ease of raising taxes. The gentleman from Texas [Mr. BARTON] would put those two on the same level playing field, which would be most unfortunate for a lot of reasons.

Let me state why very briefly. Debt is much worse than taxes. Nobody likes taxes, but taxes are the price of

civilization, as Justice Brandeis reminded us. Taxes are what we pay to have the necessary resources to run the public sector, for national defense, for education, for the environment.

One billion dollars in taxes transfers $1 billion from private consumption to public consumption, to education, environment, et cetera. One billion dollars in debt makes that same transfer, but in year one, in year two, in year three, in year four, in year five, and every year thereafter it burdens us with an additional percentage increase of that initial transfer.

So not only do we transfer the $1 billion from the people's private consumption, from education to environmental, which may or may not be a good idea, but at least we decided to do it, but for every year thereafter to infinity we have to add another $10 million or $12 million or whatever the cost of interest is then forever. That is a very unwise thing to do. It is a drastic thing to do. We only want to do that under extreme circumstances. We do not want to saddle future generations with the perpetual cost of that debt which we decide on today. There should not be equal footing between taxes and debt.

Debt is much more deleterious to the economy and to society and to those future generations which many Members who support this profess to care about. If we care about future generations, we will make debt more difficult than taxes.

The Barton amendment does not do that. It guts the essence of the Craig-Stenholm amendment by putting taxes and debt on the same footing, as though they were equally pernicious. They are not. Debt is much more serious. Debt is a tax on the future, as well as a tax on the current society.

So, Mr. Chairman, I urge the Members to not support the Barton amendment but to support the Stenholm amendment as drafted.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. GRANT].

Mr. GRANT. Mr. Chairman, I guess just about everybody opposes debt. I have heard speaker after speaker today say how awful it is. The gentleman from Texas [Mr. BARTON] has allowed me 2 minutes to speak on this amendment this afternoon. That means the debt is going to grow about $36 million while I am talking.

Speaker after speaker has also said that this amendment to the Constitution is just a gimmick. Well, it does not take a genious to figure out that there are ways by which we can control the growth of the deficit each year. We can borrow money, as the gentleman from Wisconsin [Mr. MOODY] suggested, more appropriately than we can raise taxes. But raising taxes is the second way.

We can also cut the expenditures of this Government, and we can increase productivity. We have not talked to much about increasing productivity lately, I noticed. Our responsibility as public officials includes protecting the economic rights of our citizens, and a $3.1 trillion debt speaks very profoundly about failure as leaders, more so than all the speeches delivered in this House for many, many years.

The simple fact is that we cannot control spending because we continue to build on our mistakes. Study after study, including those by an agency of this Government, has identified billions of dollars that we could save, hard-earned money of our hard-pressed taxpayers, every year, and those studies are ignored. They gather dust on the shelves of this Government, waiting for our courage to come, while yearly we add money to every program conceived by the mind of man without regard to its continued effectiveness or even to its need.

□ 1620

My colleagues, somebody is going to have to pay for these programs. A man or a woman somewhere in America got up this morning to go to work to pay for these programs. Let us not forget it.

The amendment of the gentleman from Texas [Mr. BARTON] strengthens this bill because it makes it confront our addiction to spending, and I support the amendment and urge its adoption.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, "There is always an easy solution to every human problem; neat, plausable, and wrong."—H.L. Mencken, 1949.

Once again the American public is being touted an imaginary cure-all for our very real problem with the Federal deficit. Pass one bill—the balanced budget amendment—we are told, and we will resolve all the budgetary troubles that have bedeviled Congress and the administration over the past 10 years. "Fraud" is an ugly word, because it assumes an insincerity of purpose. Many who are proposing this amendment are, I know, sincere. Nevertheless, the proposal—if enacted—would be fraudulent because it will not do what it is supposed to do. In the end, it will be a simple solution, a painless remedy, a bottle of snake oil.

First, why will it fail to do what it purports to do? The amendment states that total outlays shall not exceed estimated receipts unless three-fifths of the total membership of each House votes to do so. But estimates are slippery things. Nothing in the amendment guarantees that a balanced budget will actually be achieved. If we have learned anything in the past 10 years, as the national debt has increased by more than 200 percent, it is that there is often a dramatic difference between estimates and reality. For example, President Reagan's first budget, in 1981, estimated that the budget would be balanced by 1984. As it turned out of course, President Reagan never came even close to submitting a balanced budget.

The illusion is that this is a painless "cure" to do away with Federal deficits, but when you read the label it is clear that the amendment does not include any enforcement mechanisms at all. It simply states that "total outlays shall not exceed total receipts." It does not say what happens if this amendment is violated; it does not say who has what authority to enforce the amendment; and it does not say whose estimates of outlays and receipts shall be used in making this determination. This is a loophole-finder's paradise. The opportunities for abuse are numerous, from putting items offbudget, to creative accounting maneuvers, to ensnaring the Social Security trust fund into budget calculations.

I believe the side effects from the amendment are also worrisome. It will be an engraved invitation to the courts to enter into the fray to interpret and reinterpret what the amendment is and is not supposed to do. With endless litigation based on a flawed piece of legislation, the opportunities for a serious attack on the budget will be inevitably and indefinitely postponed.

So what should we do? A few years ago I supported a budget proposal that, if followed, would by now have balanced the budget. It would have cut $75 billion from the deficit by freezing entitlements and defense, and raised $12 billion through higher taxes on cigarettes and alcohol, an import-oil fee, and a minimum corporate tax. But the proposal was not supported by the administration, who opposed defense cuts, or the House leadership, who opposed freezing entitlements, and in the end only 55 other Members joined me to vote for it.

Also, I would actively support passing a simple law requiring the President to submit—along with any other budget proposal—a balanced budget so that Congress and the American people can very clearly see what spending cuts and revenue requirements are necessary for a balanced budget. I think that would be a very useful piece of legislation.

I believe that if the President will sincerely commit this administration to some serious deficit reduction, Congress would support such an initiative. But it can't be done without him, for it is the President that proposes budgets and has the ability to veto what he doesn't like. Congress is essentially limited to reacting to the President's budget proposals within the options he indicates he will not veto. For the past 8 years we have had a President who spoke eloquently about balanced budgets and then proposed ones that were wildly out of balance. President Bush's first budget was based on unrealistic growth estimates, unrealized revenue increases from proposed user fees, more efficient tax collection, and essentially no changes in defense spending.

If we are to do the job of cutting the deficit, then everything has to be on the table: defense, entitlements, nonessential Government services, and revenue increases. There is a growing agreement of that tough requirement here in Congress. It may be that we now have

the attention of the administration. We shall see. But the certainty is that we won't balance the budget by taking snakeoil.

Mr. COLEMAN of Texas. Mr. Chairman, I rise in support of the Stenholm amendment calling for a constitutional amendment to balance the Federal budget. I do so with some misgivings, because I am not persuaded that this initiative will erase the budget deficit. And I regret the implications of this amendment for the fiscal policymaking process of this Government and this country.

But I have listened to my district on this issue. West Texans favor such an amendment. They are tired of an executive branch which tells them they can have everything we want without having to make any choices. They are tired of having administrations send up unbalanced budgets to Capitol Hill and tired of having the Congress unable to rearrange those Presidential submissions to bring them into balance.

If the people of the 16th District are ressured that the passage of this amendment will help us bring our house into order and will constrain us to spend money on things only when we have the money to pay for them, I will support it. As a member of the Committee on Appropriations, I saw what happened to discretionary spending under sequestration. The Gramm-Rudman law has exempted entitlement programs from across-the-board cuts with the predictable result that domestic programs got hit the hardest. My district is the fifth poorest in the country. Those programs are important to my district—more important to us, in fact, than to most other districts in the Nation. So too is defense spending important to my district. In moderation, we might have had both and still not gone so far into debt. Moderate reductions or moderate increases in defense and domestic programs can be accepted by the citizens of west Texas.

But the 1980's were not a time for moderation. They were a time for excessive spending on the military, a time of irrational deregulations and an occasion for letting the wealthiest Americans have their personal income tax rates cut in half, with all that implied for the Treasury and the budget.

I have sponsored legislation in the Congress for each of the past 5 years calling upon the President to submit a balanced budget. In Texas, our State constitution requires that the chief executive show that kind of leadership. One of the better features of this resolution is that it forces the President to do what no one since Lyndon Johnson has been able to do—that is, to lay out a plan at the front end of the process, and not in reaction to the polls or the latest fad, which tells us where we should be going as a nation and how we are going to pay to get there.

This amendment is unfortunately an admission that we have gone too far down the wrong path and that we can't get back under our own power. If we in the Congress can make the system work by virtue of bringing the power of the Constitution to bear on fiscal policy, then I am willing to try it. If there were any other means of keeping the deficit from spiraling out of control, or any other method to prevent those whose eyes are bigger than their pocketbooks from passing the bills we run up on to our children, then I would support it. But Gramm-Rudman is a proven failure. And, sadly, there is no direction from the White House in budgetary matters.

I will vote for this amendment because it was written in good faith, just as I voted against the earlier substitute because of its obvious political pandering. With the 1990 deficit now estimated at over $160 billion, the time has run out for alternative solutions.

Mr. DICKINSON. Mr. Chairman, while many Members of the House discount the economic impact of the national debt, deficit spending does in fact harm the economy.

Every dollar that the Treasury Department borrows—or takes from the taxpayer—to finance excessive Government spending is a dollar that is not being spent more productively by the private sector.

What is needed is a balanced budget amendment that prevents out-of-control spending.

It is the allure of buying popularity which prompts Members to say yes to more spending even though this may threaten economic growth and impose heavy costs on individuals and businesses across the country.

This temptation will be avoided by imposing a balanced budget amendment.

Liberal Members may cloak their tax-and-spend agenda with rhetoric about the need for greater fiscal responsibility, but after 21 straight years of fiscal responsibility rhetoric, the budget has not been balanced.

Therefore, I urge Members to vote for the only substantive approach toward achieving a balanced budget by casting a yes vote for the balanced budget amendment.

Mrs. COLLINS. Mr. Chairman, a balanced budget is something we should strive for over the long run. However, we should not cut, slash, and burn everything that is American in order to reach it.

The United States has a bona-fide budgetary problem and a solution must be agreed upon. Gramm-Rudman targets made an effort to bring the budget under control, but it, too, has been largely ineffective. The main reason is that Congress as a whole still has not been willing to concentrate on essentials and depart from massive noncritical spending. The principal culprit is still the roughly $300 billion per year spent for defense during a time of sharply decreased international tensions. When defense cutbacks are suggested by the administration, the cuts are only miniscule. There is no longer any reasonable basis for such spending.

Also problematic is the tendency to find ways around Gramm-Rudman restrictions. Most notably, the exemption of the S&L bailout was done with no rational or budgetary reason. Rather, there were only political reasons, as some Members preferred to try sweeping the mess under the Federal carpet. In other instances, various accounting ploys were used to mask spending realities.

The problems with a constitutional amendment for a balanced budget are many. First, it will encourage deceptive budgetary practices as just mentioned.

Second, it will eliminate the constitutional authority of the Federal Government to respond to national crises when they arise. We were elected to serve our constituents by coming to their aid in times of need. How can we assist victims of natural disasters, extend loans to ravaged farmers and provide food and housing to the poor if we have no spending authority to do so?

Third, the Federal budget is unlike the budgets of the States and the relevance of State balanced budget amendments is minimal. They have an entirely different scope of authority and responsibilities to fulfill. For example, they do not have to consider such varied expenditures as those for national defense, interstate commerce, foreign aid, assistance to farmers and veterans. In cases where their jurisdiction overlaps with that of the Federal Government, some States simply rely on Federal moneys for essential services. If we join them in neglecting such needs, it is the people who need us the most who suffer most harshly.

Fourth, and perhaps most importantly of all, is that a short-term balancing of the Federal budget would sacrifice our duy to our poorest and most needy people. Social Security, Medicaid, Medicare, homeless assistance, education, job training, child care, small business assistance, drug use prevention and law enforcement programs would all be primary victims of a budgetary straitjacket. Even now, the budget constraints of the Women-Infants-Children Program are cutting hungry families off of food aid. As the inscription on the Statue of Liberty states, "Give me your tired, your poor, your huddled masses yearning to breathe free." Are we willing to heed the call of our financially secure citizens by abandoning our traditional commitment to others who need us? Certainly not. Our priorities must remain intact.

Mr. Chairman, the balanced budget constitutional amendment sounds attractive. But the net result is that it would poison our Government by serving only some of the people, some of the time. Millions of Americans already feel that the Federal Government falls far short of fulfilling its obligations toward them. This proposed constitutional amendment would increase dissension to catastrophic proportions. I urge my colleagues to defeat this amendment.

Mr. McMILLEN of Maryland. Mr. Chairman, today I rise in support of a balanced budget amendment to the Constitution.

I support the balanced budget amendment because I believe our burgeoning budget remains the single most important issue facing Congress.

Interest payments on the Federal debt are now the second highest expenditure in the entire Federal budget. This year we will spend $263 billion on interest. That is a 251-percent increase since 1981.

One argument against a balanced-budget amendment is that it would be too stringent. Yet, the Stenholm-Craig amendment, while ensuring fiscal responsibility, at the same time provides flexibility. The amendment recognizes there will be times that the Government may need to run a deficit, for example, if the country is at war the amendment is not in force. And, if Congress at other times deems it appropriate, if three fifths of both Houses could vote to spend in excess of revenues.

My greatest concern about the Stenholm-Craig amendment relates to the date at which the bill takes effect. This measure will take effect in 1995. Thus, unless there is a three-fifths vote otherwise, we will have to rid ourselves of a $305 billion deficit—if you offset the total Social Security surplus and add financing for the S&L bailout—in less than 5 years. I would have preferred a later date, because of the macroeconomic repercussions of eliminating such a large deficit in so short a period. We are having a great deal of trouble reducing $50 billion from the budget deficit this year, the prospects of eliminating $305 billion over 5 years is even more tenuous. Furthermore, I believe that had a later date been chosen, more members would have supported the Stenholm-Craig amendment.

Nevertheless, I will be voting in favor of this bill today, because I believe we are better off with the amendment than without it. The Stenholm-Craig amendment would eliminate a lot of the budget chicanery practiced by both the administration and the Congress by counting all items on and off-budget, and by penalizing unrealistic budget assumptions.

In his inaugral address of 1801, Thomas Jefferson stated that "the honest payment of our debts, I deem—one of the—essential principles of our government, and, consequently—one—which ought to shape its administration." These words were never truer than today. I urge my colleagues to support the balanced budget amendment.

Mr. FEIGHAN. Mr. Chairman, today, the House of Representatives considers an important piece of legislation—House Joint Resolution 268, the balanced budget amendment.

Drastic situations sometimes call for drastic solutions. Next year's deficit is now estimated at $168.8 billion, more than $100 billion over this year's Gramm-Rudman target. Add the cost of the savings and loan bailout, unmask the Social Security trust fund, and the deficit balloons to nearly $300 billion. Now that is a drastic situation.

We have before us today a drastic solution—one that I have supported in the past. Amending the Constitution to require a balanced budget amendment is thought by many to be the only way to ensure that the President and the Congress end the freewheeling spending that got us into this mess. However, while today's legislation sets admirable goals, I believe it does not have what it takes to make sure these goals are achieved.

The Congress and the President should be able to balance the budget each year. American taxpayers do it, State and local governments do it, we should do it. We do not, however, need a constitutional mandate to do so. If this amendment were approved, "outlays would not be allowed to exceed estimated revenues." But this legislation does not say what happens if the President and Congress ignore this mandate. The only remedy is to turn fiscal policy over to the courts—a branch of government with little or no fiscal policy experience.

In addition, this amendment would not take effect until 1993 at the earliest. One proposal to be considered today would push it back to 1995. We cannot afford to wait 3 to 5 years to act on the deficit. Americans expect action now and rightfully so.

Today's legislation also continues the shameful practice of using the Social Security trust fund to balance the budget. Congress should be passing a law which prohibits the Federal Govenment from raiding the trust fund, not an amendment to the Constitution which condones this.

The President and the Congress should have the courage and the honesty to face up to the deficit and make the tough choices necessary to cut the deficit. We don't have an amendment which says Congress ought to balance the budget, we need legislation which will balance the budget. The American people want bills cutting out the 180 billion dollars' worth of Government waste. They want legislation freezing or cutting the nearly 2 trillion dollars' worth of Federal spending. That's what the American people expect and that's what they deserve.

Mr. BROOKS. Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the distinguished gentleman from the great State of North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I rise in strong support of the balanced budget amendment to the Constitution.

Back in 1977, when I was a member of the North Carolina General Assembly, I helped pass an amendment to the North Carolina Constitution requiring a balanced budget for the State. Simply put, in my home State, we cannot spend what we do not have. As some of you may know, my State is currently experiencing a $500 million budget shortfall. The general assembly is hard at work to balance the budget. If North Carolina operated like the U.S. Congress, the State would just continue to spend, spend, spend. Having a constitutional law provides the discipline needed to ensure that it could not be violated. What works for a clear majority of the Nation's States can surely work for the Federal Government.

If given the choice of spending more or spending less, Congress always chooses more. For instance, the President proposed a modest education bill calling for $440 million in spending. After working its way through the House Education and Labor Committee, the bill more than doubled in cost to $1 billion. Consider that the House passed a child care bill estimated to cost $27 billion over 5 years. New cost estimates place the real cost around $47 billion.

The common element in both these initiatives is that Congress has the option of improving education and providing a child care bill—for less but chose to pass the higher spending bill. These are but two examples. I'm sure each of you can think of many.

The Federal Government does not have an unlimited number of resources to fund new programs. With a budget deficit of $168 billion, in fact, our resources are severely limited. These bills while well intended, are more of an election year gimmick to appease voters in our districts. We are only kidding ourselves if we think these programs will be fully funded.

I suspect the folks in my district know what is going on. The people back home are aware of the dangers we face by not following commonsense rules in weighing priorities and spending beyond our means.

It is time for Congress to get down to real business and start working our way out of the deficit hole we've dug for ourselves. Amending the Constitution to require a balanced budget will provide the fiscal restraint we need to control Federal spending now and in the future. Without the amendment, we can only dig ourselves deeper and deeper into the hole.

The enactment of a balanced budget amendment will go a long way toward restoring fiscal responsibility and discipline to our budget process. The amendment has two important features:

First, three-fifths of the total membership of the House is required to authorize a deficit in the next fiscal year by rollcall vote; and

Second, three-fifths of the total membership of the House is required to authorize an increase in the limit on the public debt by rollcall vote.

Also, the amendment has provisions to restrict tax increases by requiring a majority of Members to approve tax increases.

By using the moral force of the Constitution and increasing the level of difficulty for deficit spending and for raising taxes, a balanced budget amendment will force the Congress and the President to make the tough budget choices that must be made. Discipline will be returned to the budget process while maintaining flexibility to cope with unforeseen circumstances in times of crisis.

Congress has a serious responsibility to deal with the vital issues of importance to the welfare of our Nation. None can be more important than controlling Federal spending and eliminating our budget deficits.

Join me in voting "yes" on the balanced budget amendment to the Constitution.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. HANCOCK] who helped pass a tax limitation provision into the Missouri Constitution.

Mr. HANCOCK. Mr. Chairman, the U.S. House of Representatives is on the very verge of making a momentous decision. Yes, we are at the very cutting edge of a decision that will send a message throughout the world that this Government, this Republic called the United States of America, is not

going to collapse from within by continuing the fiscal irresponsibilities of the past 50 years. The people of my State, the great State of Missouri, passed a constitutional tax limitation amendment in 1980, by over 1 million votes. If this amendment were placed on the Missouri ballot today, I am confident even more of the taxpayers and the voters would support this amendment to a Federal Constitution.

However, Mr. Chairman, let us do it right. Let us not stop with halfway measures. Let us pass the amendment of the gentleman from Texas [Mr. BARTON] and give the taxpayers of this country a balanced budget amendment with constitutionally mandated restrictions on raising taxes.

I urge my colleagues to vote for the amendment of the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from the great State of Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I rise in strong support of the amendment of the gentleman from Texas [Mr. BARTON], and I say to those who question it that I just had the results of a poll taken last week in my district. Seventy-five percent of the people said that we should reduce spending through cuts in expenditures and not be raising taxes. That is why the Barton amendment is good.

To those who oppose the constitutional amendment in general I say, and to those who say that we do not need it, "Yes, that's true, if we lived in a perfect world." But I ask them to read the CONGRESSIONAL RECORD for the last several weeks. We have been considering appropriations bills, and I do not see them on the floor, but, when the gentleman from Minnesota gets up near the end of the course of action on each bill and offers a simple amendment for a 2-percent cut, we cannot even pass that.

Mr. BARTON of Texas. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I rise in strong support of the amendment offered by my friend from Texas, Mr. BARTON.

We need a balanced budget amendment, the right balanced budget amendment. Nobel Prize winning economist, Dr. Milton Friedman, strongly supports the Barton amendment. The reason anyone on this floor favors amending the Constitution is out of concern for our economy as well as for the short-term and long-term well-being of our people.

The Barton proposal adds a critical ingredient to the balanced budget amendment. It puts a reasonable limit on spending, ensuring that in the name of a balanced budget, the American people will not be taxed into servitude and deprivation.

Today, Government takes 44 cents out of every dollar. Tax freedom day did not arrive this year until May 5, which means for the months of January, February, March, April, and 5 days of May the average American, through direct and indirect taxation, was working as a servant of the Government. Is this consistent with the ideal of freedom which inspired our forefathers?

Mr. Chairman, the vote on this amendment will separate the taxers and spenders, from those working to protect the take-home pay and the freedom of working Americans.

This amendment sets the parameters, the limits, to which the Federal Government can go, at least without requiring a three-fifths vote. It makes sense to protect the freedom of our people by requiring something more than a mere majority to increase the share of their income taken by the Federal Government.

It makes good sense to protect the viability of our economy by requiring a three-fifths vote.

The reason America is threatened with a murderous level of deficit spending is not a lack of tax revenue. Tax revenue collected by the Federal Government has doubled in the last 10 years. At some level of taxation, economic growth and prosperity in America will cease to exist. Taxation at some level turns a free people into servants, even slaves.

We are nearing those limits, Mr. Chairman. It is time for a balanced budget amendment; an amendment that includes a protection against economy destroying, irresponsible spending and taxing policies; an amendment that protects our liberty as well as our economy.

Thomas Jefferson once said:

> I place economy among the first and most important virtues, and public debt as the greatest of dangers to be feared * * *. To preserve our independence, we must not let our rulers load us with public debt * * *. We must make our choice between economy and liberty or confusion and servitude * * *.
>
> If we run into such debts, we must be taxed in our meat and drink, in our necessities and comforts, in our labor and in our amusements * * *. If we can prevent the Government from wasting the labor of the people, under the pretense of caring for them, they will be happy.

Consistent with the ideals of Thomas Jefferson, I urge my colleagues to vote for the Barton amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS], a distinguished Member, the most valuable player of last year's congressional baseball game and the former president of Baylor University senior class.

□ 1630

Mr. FIELDS. Mr. Chairman, I have been listening to the debate. I think it is important to vote for the Barton amendment because it prevents items from being taken off the budget, and just as importantly, it makes it more difficult to raise taxes to balance our budget.

I think Members should support both the Barton amendment and the Stenholm amendment; but most importantly, Members should support a constitutional amendment to our Constitution.

I have been here 10 years and I am convinced that we will never balance our budget until we get this amendment in our Constitution. Forty-nine States have a balanced budget amendment, including my State of Texas.

Today we heard that Congress can balance without an amendment, and that is true, but we never will.

We heard today that tomorrow we will have a vote on a balanced budget statute, but we already have that. It was enacted in 1974, and it has been waived 400 times. That statute is nothing but a cover for those people who want to run from the tough decisions that a constitutional balanced budget amendment would require.

Well, let me remind my colleagues, as a member of the National Republican Executive Committee, that if you vote against the balanced budget amendment to the Constitution, you may run, but you cannot hide.

The Democratic leadership has told Members not to worry, that people will forget. Well, the people will not forget this vote today. Seventy-five percent of all Americans support a constitutional amendment that requires a balanced budget, simply because all Americans have to balance their own budgets. They have to balance the budgets of their schools, their churches, and the places they work. Those who do forget, I, along with others, will help to remind them about this vote today.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, since being elected to Congress, I have found to my dismay that a tax and spend Congress acts a lot like feeding babies: irresponsibility on one end and no accountability on the other.

I urge my colleagues to vote in support of the Craig-Stenholm balanced budget amendment and the Barton tax limitation amendment today. Just as parents have to provide discipline for their children, adoption of these important initiatives will go a long way in providing discipline to our budget process.

People in America's heartland are frustrated with a Congress that cannot balance its own budget. Contin-

ual overspending by Congress is increasing the amount of money wasted on interest payments to pay for our borrowing binge, while shouldering future generations with the principal and interest.

Congress has continued to overspend every year since 1969. Consequently, 14 percent of our budget now goes to just pay interest on the debt run up by congressional deficit after congressional deficit.

Just this morning, I received some disturbing news from the Office of Management and Budget. OMB's "Mid-Session Review of the Budget" states that individual tax payments should amount to $524 billion over the next fiscal year, but Federal interest payments are expected to come to an astounding $196 billion dollars. Interest payments soak up 37 percent of individual tax returns.

It is time that the big spenders in Congress be forced to manage a budget just like every family in America. Congress cannot continue to pile on debt as if it never has to be paid back.

It is high time for some responsibility and accountability. I urge passage of the balanced budget amendment and the Barton tax limitation amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I rise in support of the Barton amendment. I think the threshold for raising taxes to solve our budget fiasco should be raised to 60 percent, rather than a majority. The reason I say that is that we are not undertaxed as a people. We are just spending too much.

I have an analysis that I would like to place in my comments today indicating that had Congress followed the policy of restraining outlays in the decade of the 1980's to no more than the CPI each year, we would in the fiscal year 1991 be facing the reality of a deficit of $152 billion, rather than where we are today, namely, a deficit in the fiscal year 1991 of $364 billion.

For this reason, I believe the way we get to a balanced budget is by restraining the growth of spending by no greater than the CPI, not by raising taxes.

Mr. Speaker, I include a comparison of budget deficits, as follows:

BUDGET DEFICITS—A COMPARSION, ACTUAL VERSUS A NOMINAL FREEZE, 1982–91

[Dollar amounts in billions]

Fiscal year	Revenue [1]	Outlays [2]	Deficit	CPI (percent)	Outlays w/CPI [3]	Deficit/surplus
1979	$463.3	$503.5	−$40.2	11.3		
1980	517.1	590.9	−73.8	13.5		
1981	599.3	678.2	−78.9	10.3		
1982	617.8	745.7	−127.9	6.2	$748.1	−$130.3
1983	600.6	808.3	−207.7	3.2	794.4	−193.8
1984	666.5	851.8	−185.3	4.3	819.9	−153.4
1985	734.1	946.3	−212.2	3.6	855.1	−121.0
1986	769.1	990.3	−221.2	1.9	885.9	−116.8
1987	854.1	1,003.8	−149.7	3.6	902.7	−48.6
1988	909.0	1,064.0	−155.0	4.1	935.2	−26.2
1989	990.7	1,142.6	−151.9	4.8	973.6	+17.1
1990 [4]	1,044	1,202	−159	4.8	1,020	+24
([5])		36	−36		36	−36
Total		1,238	−195		1,058	−12
1991 [4]	1,123	1,2 85	−162	4.3	1,069	+55
([5])		70	−70		70	−70
Total		1,355	−232		1,139	−15
([6])			−132			−137
Total			−364			−152

[1] Actual, CBO estimates for 1990–91.
[2] Actual, CBO estimates for 1990–91.
[3] Adjusted for inflation only (1981 as base).
[4] CBO estimates.
[5] RTC costs (CBO estimate).
[6] Trust fund surpluses (CBO estimate) deducted from stated deficit to reflect true deficit.

Mr. BARTON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Idaho [Mr. GRAIG], one of the leaders in the effort to bring the balanced budget amendment to the floor.

Mr. CRAIG. Mr. Chairman, I thank my colleague for yielding me this time.

Today as we consider the Barton amendment and the Craig-Stenholm substitute, is it inconsistent for you to vote for Barton and then vote for Craig-Stenholm? No, it is not.

It is not inconsistent to believe in a tougher tax provision, but more importantly, to believe in the total concept and the total value of a balanced budget amendment and the debate that would ensue with the passage of that in the House.

We have heard a tremendous amount of rhetoric this afternoon on both sides of the issue, but as I mentioned in my opening remarks earlier in the afternoon, the fundamental debate is whether we are going to stand in the way of American citizens, the taxpayers and the voters of this country, to have a right to debate in the halls of their State legislatures and then to decide whether they want a constitutional amendment to balance the Federal budget, with a variety of provisions built in it, a three-fifths vote on agreeing with a revenue projection, a three-fifths vote on raising the debt ceiling, and the Barton provision, a three-fifths vote on raising revenues.

Fundamentally, what we are talking about when we talk about tax increases and the difficulty of making those tax increases is what percent of the gross income, or the gross product of this country, are we going to spend for government versus the amount that we will allow to be left in the private sector for citizens to spend?

Do you notice what I said, we to allow. If that is not the fundamental statement of arrogance, I know of no other, but that is the debate that goes on this afternoon, when you hear people say, "You can't vote for Barton, and you can't vote for Craig-Stenholm because it would tie the hands of government."

What they are saying is, "We want to have the right to take from the citizenry of this country any amount we so justify for the purposes of determining the public policy we wish to implement."

We had a revolution 200-plus years ago because there was a government with that attitude. I would suggest that our Founding Fathers said that we would not tolerate a central government that had that kind of an attitude. That is the fundamental debate today. That is the fundamental issue, whether it is with Barton or whether it is with Craig-Stenholm. What are you going to allow the American people to decide they want for their Government as it relates to the formation of public policy, as it relates to the formation and the direction of public resources for the expenditure of the public good?

Mr. BARTON of Texas. Mr. Chairman, I had one additional speaker, but that particular Representative is not here, so I yield myself the balance of the time to close the debate.

The CHAIRMAN. The gentleman from Texas has 6½ minutes remaining, and the gentleman from Texas yields himself the time up to 6½ minutes.

Mr. BARTON of Texas. Mr. Chairman, the Barton amendment that is now pending before the House of Representatives is identical to House Joint Resolution 268, the Stenholm-Craig amendment, in almost every respect except for section 4. I want to read at this time section 4:

> Total estimated receipts for any fiscal year as set forth under section 1 of this article shall not increase by a rate greater than the rate of increase in national income in the year ending not less than six months before such fiscal year, unless three-fifths of the whole number of each House of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

In plain language what this means is that you cannot raise receipts, that is taxes, unless you have a three-fifths vote of each House, the House and the Senate.

I would point out that this provision that is in the Barton amendment was in House Joint Resolution 27, which was introduced into the U.S. House of Representatives in 1985, and which had 220 cosponsors, of which the gentleman from Idaho [Mr. CRAIG] and the gentleman from Texas [Mr. STEN-

HOLM] were the two original cosponsors.

The Barton amendment creates the symmetry. If we adopt Stenholm-Craig, there will be, in my opinion, a bias toward balancing the budget by raising taxes.

The Barton amendment has got the support of many, many noted economists, Nobel Prize winners. Dr. Milton Friedman sent me a letter dated July 13, 1990. I will insert the entire letter in the RECORD, but I want to read one of the most important paragraphs.

□ 1640

"The basic difference between Stenholm-Craig and Barton is that Barton contains an effective tax (i.e., spending) limitation bylinking any increase in total permitted tax revenues to prior growth in national income, while Stenholm-Craig has no such limit, simpy requiring a majority of the whole House, on a rollcall vote, for any tax increase. For these reasons, I urge you to vote for Barton and against Stenholm-Craig as the only tactic that could lead to a really effective amendment emerging from the House."

HOOVER INSTITUTION,
ON WAR, REVOLUTION AND PEACE,
Stanford, CA, July 13, 1990.

Hon. JOE BARTON,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE BARTON: I understand from Bill Niskanen that there will be a vote on Tuesday, July 17, on the balanced budget/tax limitation amendment, under rules that involve three votes: on (1) the Barton amendment, then on (2) the Craig-Stenholm amendment, both on a simple majority basis. The last amendment to receive a majority will then be voted on to try to get the two-thirds majority necessary for a constitutional amendment. Clearly the cards are stacked in favor of (2).

The basic difference between (1) and (2) is that (1) contains an effective tax (i.e., spending) limitation by linking any increase in total permitted tax revenues to prior growth in national income, while (2) has no such limit, simply requiring a majority of the whole House, on a roll call vote, for any tax increase.

Unfortunately, indexing has not eliminated bracket creep, simply reduced it. Real income growth still leads to an increase in tax revenue by a larger percentage than the increase in income (Bill tells me that he estimates that federal tax receipts could rise over the next decade from 23 percent of national income to over 25 percent, if no changes were made in current tax law). In addition, the adoption of (2) would mean pressure to eliminate indexation and to increase the progressivity of the income tax.

For these reasons, I urge you to vote for (1) and against (2) as the only tactic that could lead to a really effective amendment emerging from the House.

May I add that insofar as I have any occasion to make public statements about these amendments, I shall oppose (2) as defective, but shall support (1) enthusiastically. The real need, in my opinion, is to put a limit on government spending.

I hope you will pardon me for imposing my views on you on this issue. I do so not only because I regard it as vital to the future health of our country but because I know you share my views on the desirability of halting the steady growth in government spending as a fraction of national income.

Cordially yours,

MILTON FRIEDMAN,
Senior Research Fellow.

I also have a document from Mr. William Niskanen, former Chairman of the Joint Council of Economic Advisers which makes the same point, and I will insert that into the RECORD.

WILLIAM A. NISKANEN,
Washington, DC, July 14, 1990.

Hon. JOE BARTON,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE BARTON: At the request of the National Taxpayers Union, I have prepared the enclosed synopsis and analysis of the two proposed amendments to be considered on July 17. This material should be useful both to explain the two amendments and to make the case for approving one or the other. You are free to distribute this material to whomever you choose.

Best wishes for a successful outcome on Tuesday.

Sincerely,

WILLIAM A. NISKANEN.

Attachment.

SYNOPSIS AND ANALYSIS—THE BALANCED BUDGET/TAX LIMITATION AMENDMENT

(By William A. Niskanen, Chairman, Cato Institute, and former member, Council of Economic Advisers)

OBJECTIVE

The common objective of the two proposed amendments to be introduced in the House of Representatives on July 17 is to make deficits and increased taxes the exception, rather than the rule, in federal budgets.

The historical record is clear: Federal spending and taxes have increased relative to the size of our economy for 60 years, without a single amendment to the Constitution that would have authorized an increase in federal fiscal powers. For the past 30 years, with one exception, the unified federal budget has been in deficit every year. (The one exception to these patterns was in FY 1969, when a temporary income-tax surcharge increased federal receipts and led to a small surplus.)

[Percentage of GNP]

	Outlays	Receipts	Deficit
Fiscal year			
1929 [1]	2.6	3.7	−1.2
1939	10.3	7.1	3.
1949	14.7	14.9	−0.2
1959	19.1	16.5	2.7
1969	19.8	20.1	−0.3
1979	20.6	18.9	1.6
1989	22.2	19.2	2.9

[1] Calendar year, national income basis.

The pattern of outlays and receipts indicates a huge increase in the federal budget share of our economy without any constitutional test of whether this increase reflects a broad consensus of the American people. The primary effect of the recent pattern of deficits is to shift a part of the burden of current federal services to future generations who are not adequately represented in our routine political processes.

COMMON STRUCTURE OF THE PROPOSED AMENDMENTS

The common structure of the two proposed amendments would change the congressional voting rules on two important fiscal decisions:

1. Congress may authorize an expected deficit in the next fiscal year only by the approval of three-fifths of the total membership of each House on a rollcall vote.

2. Congress may authorize an increase in the limit on the public debt only by the approval of three-fifths of the total membership of each House on a rollcall vote.

Compared with the current voting rules affecting the budget resolution, the debt limit, and changes to the Gramm-Rudman law, these provisions strengthen the protection against federal deficits in three ways. The approval rule is changed from a majority to three-fifths. The voting base is changed from a quorum to the total membership. And a rollcall is required on each vote.

Congress would be expected to approve a balanced budget under normal conditions. The first provision, however, would permit a broad consensus of Congress to approve an expected deficit under unusual conditions when outlays are expected to be temporarily high or receipts are expected to be temporarily low. The second provision would strengthen the protection against biased forecasts of outlays and receipts, because a three-fifths rule would also apply to approving any actual deficit that exceeds the current debt limit.

The other common provisions of the two amendments are a requirement that the President submit a balanced budget, the automatic waiver of the special voting rules upon the declaration of war, a definition of outlays and receipts, and a provision making the amendment effective in the second fiscal year beginning after ratification.

DIFFERENCES IN THE TAX PROVISIONS

Each of the two proposed amendments would also change the voting rule on increases in federal taxes, but the proposed tax provisions are quite different.

1. The amendment proposed by Representatives STENHOLM, CRAIG, and others requires that any bill that would increase total federal receipts (in any fiscal year) be approved by a majority of the total membership of each House on a rollcall vote.

This provision strengthens the protection against tax increases in two ways. The voting base is changed from a quorum to the whole membership. And a rollcall vote is required on each bill that would increase total receipts. Since most significant tax legislation has been approved by a majority of the total membership on a rollcall vote, this provision provides only weak additional protection against an increase in federal taxes. For this reason, this provision is best described as a "tax accountability provision" rather than a "tax limit" provision.

2. The amendment proposed by Rep. BARTON and others requires that the estimate of total receipts (on which the approved budget is based) may not increase at a rate higher than the rate of increase in national income in the second prior fiscal year without the approval of three-fifths of the total membership of each House on a rollcall vote.

This provision includes two strong protections against tax increases that are not included in the Stenholm/Craig amendment.

a. The estimate of total receipts may not increase at a rate higher than the rate of increase in national income without the approval of a specific amount of additional receipts.

It is important to recognize that total receipts now increase faster than national income without any change in the federal tax code, a consequence of the progressive rate structure and the lack of full indexing for changes in the price level. For the existing tax code and current economic conditions, for example, total receipts increase at a rate about one-eighth faster than national income. This implies that the federal receipts share of national income would increase about two percentage points a decade without any change in the tax code. Moreover, any increase in the progressivity of tax rates, weakening of tax indexing, or increase in the inflation rate would increase the receipts share of national income at an even faster rate. Under the Stenholm/Craig amendment, the federal spending and receipts share of national income could increase gradually without ever triggering the special voting rule on a new bill that would increase total receipts. Under the Barton amendment, in contrast, any increase in estimated receipts at a rate higher than in the increase in national income must be approved by a special voting rule.

Two special features of this provision may need to be explained. National income is the sum of the compensation of employees, the pretax earnings of corporations and partnerships, and net receipts of interest and rents. In turn, national income plus the depreciation of the capital stock and a few miscellaneous items equals the gross national product (GNP). The substitution of GNP for national income in this provision would have almost the same effects. The rate of increase in the second prior fiscal year was selected for both implementation and countercyclical reasons. The first estimate of national income in the second prior fiscal year is reported prior to completion of the President's budget proposal, and a firm revised estimate is reported prior to congressional approval of the budget. And, given an average business cycle of four years, linking allowed federal spending to the rate of increase in national income in the second prior fiscal year would smooth federal spending relative to the business cycle. One other observation may be relevant: this type of tax limit provision was included in the proposed amendment approved by the Senate in 1982.

b. The second protection against a tax increase is that a specific amount of additional receipts must be approved by a three-fifths vote.

The effect of this protection is to make the special voting rule on additional receipts symmetric with the voting rule to approve an expected deficit. A tax provision with a majority approval rule, in contrast, would bias fiscal decisions in favor of a tax increase.

THE CASE FOR A SPECIAL MAJORITY ON MAJOR FISCAL DECISIONS

There are substantial reasons and now ample evidence that our routine political processes are biased in favor of deficits and higher taxes. Future generations are not adequately represented. The special interests of spending constituencies are better represented than the general interest of taxpayers. The case for a special majority approval rule on the major fiscal decisions affecting total outlays, receipts, and the deficit is to offset the effects of these biases.

One should recognize that the Constitution prescribes super-majority rules for a range of important decisions. The limits on the powers of the federal and state governments (in Article 1 and the Bill of Rights) may not be changed by any legislative majority, without ratification of a new constitutional amendment. A new amendment must be ratified by three-fourths of the states. A two-thirds rule is prescribed for Congress to propose a new amendment, to approve treaties, overturn a presidential veto, approve the impeachment of a federal official, and expel a member. Indeed, the only majority rules prescribed by the Constitution bear on the electoral college vote to elect the President and the definition of a congressional quorum; it is most intriguing that the Constitution does not prescribe a majority approval rule for either routine legislation by Congress or decisions by the Supreme Court.

Congressional decisions to shift some part of the tax burden to future generations or to increase the federal spending and tax share of national income are clearly important fiscal decisions that should be subject to a voting rule with a higher majority than that for routine decisions. The proposed amendments are clearly consistent with the spirit and the structure of the Constitution.

THE CASE FOR A CONSTITUTIONAL AMENDMENT

Many members of Congress share the objectives of the proposed amendments but express the view that these objectives are best served by a statute. Critics have observed that the proposed amendment is no substitute for the hard choices to reduce the deficit and constrain the growth of spending. That observation is correct but irrelevant. As the experience under the Gramm-Rudman process has proved, a law that Congress may evade or change is not sufficient. An amendment now appears necessary to constrain the political processes that have led to indefinite deficits and increasing taxes.

As is so often the case, Thomas Jefferson provided the best counsel on these issues: "In questions of power, let no more be heard of confidence in man, but bind him from mischief by the chain of the Constitution."

The fiscal mischief of the past several decades cannot be reversed, but it can be ended. Now is the time to approve an effective balanced budget/tax limitation amendment.

I would also like to call your attention to the Wall Street Journal editorial dated July 16, 1990, entitled "Balancing Amendments." I want to read one of the paragraphs in that editorial:

If a Member votes for both the Barton and Craig-Stenholm amendments, he or she clearly wants to impose restraints on how much of the taxpayer's money Congress can take. A vote against both amendments is a clear endorsement of the tax-tax-spend-spend mentality. But if a Member votes against the Barton amendment and for the Craig-Stenholm amendment, they are trying to snow the voters. In effect, they are telling them they want to limit government borrowing, while they oppose the amendment that restrains the spending machine that creates the need for borrowing.

Mr. Chairman, I am including that article in the RECORD.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 16, 1990.

DEAR COLLEAGUE: The Congress will be making several important votes tomorrow on measures to amend the Constitution requiring a balanced federal budget. I will be offering a substitute to tie federal spending and taxation. The amendment effectively controls the excessive growth of federal spending and new taxes by limiting total receipts to the growth in national income.

I encourage my colleagues to closely read the Wall Street Journal editorial of July 16th. It clearly and concisely spells out the importance of my amendment and the other votes to be taken Tuesday.

Sincerely,

JOE BARTON,
Member of Congress.

BALANCING AMENDMENTS

Tomorrow the House will vote for only the second time in history on a balanced-budget amendment to the Constitution. The last time, in 1982, the vote in favor was 236 to 187, but it didn't win the necessary two-thirds. The vote this time will be close. But even if it passes, the danger is the winning amendment will treat the symptoms of deficit spending without applying the needed cure: effective restraints on spending.

Democratic House leaders bottled up the balanced-budget amendment in committee for years, even though this year a solid majority of 249 Members sponsored it. The only chance of getting a vote in the full House was to persuade 218 Members to sign a discharge petition bringing it to the floor. Enough Members were leery of offending House leaders that the petition languished.

The amendment finally broke free last month when GOP Rep. Chuck Douglas threatened to reveal the names of those cosponsors who were hypocritically refusing to sign the discharge petition. There was a sudden rush of Members to sign it.

However, all balanced-budget amendments are not made equal, and there are sharp differences between the two versions to be voted on tomorrow. Members will first vote on a proposal by Texas GOP Rep. Joe Barton, which requires a balanced budget unless three-fifths of Congress agrees to a deficit. Increases in government revenues would be limited to the growth of national income, similar to the Gann limit that curbs spending in California. A three-fifths vote of Congress would be needed to raise the limit.

After the Barton amendment, Members will vote on one by GOP Rep. Larry Craig and Democratic Rep. Charles Stenholm. It would not explicitly restrain government spending, and requires only a majority of both Houses to balance the budget through higher taxes. Only the one with the most votes goes on for a final up-or-down floor vote.

We have always been skeptical of how much a balanced budget amendment could restrain the spending habits of a wily Congress. Members are expert at creating off-budget spending, and the 1974 Budget Act, which was supposed to curb spending, has been waived by Congress 398 times in the past decade. We've felt there was as much chance that an amendment would lead to higher taxes as it would curb spending.

Even so, we recognize that tomorrow's vote is an important one. Here is a short guide to determine the extent to which your

representative is serious about controlling the size of government:

If a Member votes for both the Barton and Craig-Stenholm amendments, he or she clearly wants to impose restraints on how much of the taxpayer's money Congress can take. A vote against both amendments is a clear endorsement of the tax-tax-spend-spend mentality. But if a Member votes *against* the Barton amendment and *for* the Craig-Stenholm amendment, they are trying to snow the voters. In effect, they are telling them, they want to limit government borrowing, while they oppose the amendment that restrains the spending machine that creates the need for borrowing.

The Barton amendment is too cumbersome for our tastes, although we doubt that will be the basis of many votes cast for or against it. But at least it recognizes that the fundamental problem facing the country is not primarily the size of the deficit, but the total resources the government extracts from the private sector as spending. The Craig-Stenholm approach makes attempts to raise taxes more visible, but doesn't do enough to make it more difficult to pass them into law. Members who support it, but not the Barton amendment, should be in for some tough questions from voters this fall.

Mr. Chairman, the question is: Will this amendment work? Will a balanced-budget amendment work? In my opinion, it will.

I can point to the State history. We have got 42 States that have constitutional amendments requiring a balanced budget. As I pointed out earlier, in those States that have such an amendment, spending is less by an average of $156 to $192 per capita. Taxing is less by an average $170 per capita.

This vote on the Barton amendment is a key vote of the U.S. Chamber, the National Federation of Independent Business, Citizens for a Sound Economy. Over 155 groups in this country support this Barton amendment.

I would ask, if we do not vote for a serious, tough, balanced budget amendment today, when will we? Now is the time. Our Nation's future is at stake.

We have a $3 trillion deficit. It is going up at the rate of $4,000 a second, $150 billion a year.

My children, and I have three of them, and each of them right now owe $12,000 as their share of the Federal debt. I want to see that stopped.

I want to see us balance the budget. I want my children and grandchildren to have the same future as I have had and my father has had and my grandfather and all of the Bartons who came before me.

For those reasons, Mr. Chairman, I would strongly urge a "yes" vote on the Barton constitutional amendment.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I am happy to yield to the gentleman from California.

Mr. COX. Mr. Chairman, I thank the gentleman for yielding and for the yeoman's work he has done in bringing this amendment to the floor.

With the procedural change that we will be making in the Stenholm-Craig balanced-budget amendment, we will be introducing a procedural path of least resistance in favor of tax increases. We will be introducing a supermajority requirement to raise spending beyond projected tax increases. There is no such supermajority requirement for tax increases.

This amendment wisely levels that playing field and requires the same supermajority to raise taxes. Some people around here, when they were in grade school, may have used the excuse, "The dog ate my homework." I do not want to see anybody in this Chamber have the excuse that, "The Constitution made me do it." It is equally weak.

Let us make sure we level this playing field and require the same supermajority to raise taxes and spending.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. BARTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARTON of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 244, not voting 4, as follows:

[Roll No. 236]

AYES—184

Archer	Douglas	Hyde
Armey	Dreier	Inhofe
Ballenger	Duncan	James
Barnard	Edwards (OK)	Jenkins
Bartlett	Emerson	Johnson (CT)
Barton	Erdreich	Kasich
Bateman	Fawell	Kolbe
Bennett	Fields	Kyl
Bentley	Fish	Lagomarsino
Bereuter	Flippo	Laughlin
Bevill	Frenzel	Leach (IA)
Bilirakis	Gallegly	Lent
Bliley	Gallo	Lewis (CA)
Bosco	Gaydos	Lewis (FL)
Broomfield	Gekas	Lightfoot
Browder	Geren	Livingston
Brown (CO)	Gingrich	Lloyd
Buechner	Goodling	Lowery (CA)
Bunning	Gordon	Lukens, Donald
Burton	Goss	Machtley
Bustamante	Grandy	Madigan
Callahan	Grant	Marlenee
Campbell (CA)	Gunderson	Martin (IL)
Campbell (CO)	Hall (TX)	Martin (NY)
Chandler	Hammerschmidt	McCandless
Clinger	Hancock	McCollum
Coble	Hansen	McCrery
Combest	Harris	McDade
Cooper	Hastert	McEwen
Coughlin	Hefley	McMillan (NC)
Courter	Henry	Miller (OH)
Cox	Herger	Miller (WA)
Craig	Hiler	Molinari
Crane	Holloway	Moorhead
Dannemeyer	Hopkins	Murphy
DeLay	Hubbard	Myers
Derrick	Huckaby	Nielson
Dickinson	Hunter	Oxley
Dornan (CA)	Hutto	Packard
Pallone	Sangmeister	Snowe
Parker	Sarpalius	Solomon
Parris	Saxton	Spence
Patterson	Schaefer	Stangeland
Paxon	Schneider	Stearns
Petri	Schuette	Sundquist
Pickle	Schulze	Tallon
Porter	Sensenbrenner	Tauke
Pursell	Shays	Tauzin
Quillen	Shumway	Taylor
Rahall	Shuster	Thomas (CA)
Ravenel	Skaggs	Thomas (WY)
Regula	Skeen	Upton
Rhodes	Slaughter (VA)	Vander Jagt
Rinaldo	Smith (NE)	Vucanovich
Ritter	Smith (NJ)	Watkins
Roberts	Smith (TX)	Weber
Robinson	Smith (VT)	Weldon
Rogers	Smith, Denny (OR)	Whittaker
Rohrabacher	Smith, Robert (NH)	Wolf
Ros-Lehtinen	Smith, Robert (OR)	Wylie
Roth		Young (AK)
Rowland (CT)		
Saiki		

NOES—244

Ackerman	Foglietta	McMillen (MD)
Alexander	Ford (MI)	McNulty
Anderson	Frank	Meyers
Andrews	Frost	Mfume
Annunzio	Gejdenson	Michel
Anthony	Gephardt	Miller (CA)
Applegate	Gibbons	Mineta
Aspin	Gillmor	Moakley
Atkins	Gilman	Mollohan
AuCoin	Glickman	Montgomery
Bates	Gonzalez	Moody
Beilenson	Gradison	Morella
Berman	Gray	Morrison (CT)
Bilbray	Green	Morrison (WA)
Boehlert	Guarini	Mrazek
Boggs	Hall (OH)	Murtha
Bonior	Hamilton	Nagle
Borski	Hatcher	Natcher
Boucher	Hawkins	Neal (MA)
Boxer	Hayes (IL)	Neal (NC)
Brennan	Hayes (LA)	Nowak
Brooks	Hefner	Oakar
Brown (CA)	Hertel	Oberstar
Bruce	Hoagland	Obey
Bryant	Hochbrueckner	Olin
Byron	Horton	Ortiz
Cardin	Houghton	Owens (NY)
Carper	Hoyer	Owens (UT)
Carr	Hughes	Panetta
Chapman	Ireland	Pashayan
Clarke	Jacobs	Payne (NJ)
Clay	Johnson (SD)	Payne (VA)
Clement	Johnston	Pease
Coleman (MO)	Jones (GA)	Pelosi
Coleman (TX)	Jones (NC)	Penny
Collins	Jontz	Perkins
Condit	Kanjorski	Pickett
Conte	Kaptur	Poshard
Conyers	Kastenmeier	Price
Costello	Kennedy	Rangel
Coyne	Kennelly	Ray
Crockett	Kildee	Richardson
Darden	Kleczka	Ridge
Davis	Kolter	Roe
de la Garza	Kostmayer	Rose
DeFazio	LaFalce	Rostenkowski
Dellums	Lancaster	Roukema
DeWine	Lantos	Rowland (GA)
Dicks	Leath (TX)	Roybal
Dingell	Lehman (CA)	Russo
Dixon	Lehman (FL)	Sabo
Donnelly	Levin (MI)	Savage
Dorgan (ND)	Levine (CA)	Sawyer
Downey	Lewis (GA)	Scheuer
Durbin	Lipinski	Schiff
Dwyer	Long	Schroeder
Dymally	Lowey (NY)	Schumer
Dyson	Luken, Thomas	Serrano
Early	Manton	Sharp
Eckart	Markey	Shaw
Edwards (CA)	Martinez	Sikorski
Engel	Matsui	Sisisky
English	Mavroules	Skelton
Espy	Mazzoli	Slattery
Evans	McCloskey	Slaughter (NY)
Fascell	McCurdy	Smith (FL)
Fazio	McDermott	Smith (IA)
Feighan	McGrath	Solarz
Flake	McHugh	Spratt

Staggers	Traficant	Weiss
Stallings	Traxler	Wheat
Stark	Udall	Whitten
Stenholm	Unsoeld	Williams
Stokes	Valentine	Wilson
Studds	Vento	Wise
Swift	Visclosky	Wolpe
Synar	Volkmer	Wyden
Tanner	Walgren	Yates
Thomas (GA)	Walker	Yatron
Torres	Walsh	Young (FL)
Torricelli	Washington	
Towns	Waxman	

NOT VOTING—4

Baker	Nelson
Ford (TN)	Stump

□ 1706

The Clerk announced the following pair:

On this vote:

Mr. Stump for, with Mr. Nelson against.

Mr. CLARK and Mr. RANGEL changed their vote from "aye" to "no."

Messrs. HUTTO, FLIPPO, BROWDER, HARRIS, DERRICK, TAYLOR, and TALLON, Mrs. PATTERSON, and Mrs. LLOYD changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STENHOLM, AS MODIFIED

Mr. STENHOLM. Mr. Chairman, I offer an amendment in the nature of a substitute, as modified.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. STENHOLM, as modified.

Strike out all after the resolving clause and insert the following: That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE—

"SECTION 1. Prior to each fiscal year, the Congress and the President shall establish an estimate of total receipts for that fiscal year by enactment of a law devoted solely to that subject. Total outlays for that year shall not exceed the level of estimated receipts set forth in such law, unless three-fifths of the whole number of each House of Congress shall provide, by a rollcall vote, for a specific excess of outlays over estimated receipts.

"SEC. 2. The limit on the public debt of the United States shall not be increased unless three-fifths of the whole number of each House of Congress shall provide by law for such an increase by a rollcall vote.

"SEC. 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SEC. 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House of Congress by a rollcall vote.

"SEC. 5. The provisions of this article may be waived for any fiscal year in which a declaration of war is in effect.

"SEC. 6. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SEC. 7. This article shall take effect beginning with fiscal year 1995 or with the second fiscal year beginning after its ratification, whichever is later.".

Mr. STENHOLM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. STENHOLM] will be recognized for 30 minutes, and the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes in opposition.

The Chair recognizes the gentleman from Texas [Mr. STENHOLM].

□ 1710

Mr. STENHOLM. Mr. Chairman, I yield myself such time as I may consume.

Let me first say that I want to thank the leadership of the House, the Speaker, our entire leadership for the manner in which they have treated not only myself but also Mr. CARPER, Mr. CRAIG, Mr. SMITH of Oregon and Mr. BARTON as we have striven for all these many days and months to bring this amendment to the floor at this time with a straight up-and-down vote.

We appreciate very much the many courtesies that have been given to us, and I would say also at this point that the amendment that we now consider is the amendment that we have had under consideration for these last 18 months. It has 250 cosponsors. The only changes are technical in nature and the change of the date to make it effective as of 1995.

Amending the Constitution of the United States is a very serious undertaking, and all of us who have participated in the support of this amendment have done so with that in mind.

Let me just say at the final conclusion of my opening remarks that amending the Constitution is a very serious matter and we have worked with many, many individuals in attempting to get the language right and to make sure that it fits within the spirit of the Constitution as it was originally drafted 200 years ago.

Mr. Chairman, what are the purposes of the Constitution?

To provide the framework that allows the Government to function effectively, to protect the people from harmful excesses of that Government and to address the broadest issues and the most enduring principles.

House Joint Resolution 268, cosponsored by 250 Members of this House, very much accomplishes such purposes.

A government does not function effectively that drops $180 billion a year into the pockets of wealthy bondholders and foreign lenders, instead of feeding children and fighting illiteracy.

People—especially our children—are not protected today from a government that has run up $12,000 in debt for every American, nearly $40,000 for every family. Living within our means as a government and as a nation, to ensure the standard of living, the economic freedom of our children, is a broad principle. The fact that we have run deficits in 52 of the last 60 years, shows we are not discussing short-term concerns.

ANSWERS TO COMMON CRITICISM OF MOST BBA'S AND ANTICIPATED OBJECTIONS TO H.J. RES. 268

Won't a Constitutional requirement of a "Balanced Budget" simply invite moving some items off-budget?

H.J. Res. 268 does not require that a single document, a "budget" be written in balance. Rather, it deals with actual spending and taxing bills, and how actual outlays conform to estimated receipts. Taking any item "off-budget" would have absolutely no effect on the operation of H.J. Res. 268. The government will still be required to balance its outlays with its receipts—including outlays and receipts from items that are "off-budget".

Wouldn't the temptation remain great to commit some other evasion, such as manipulating the definitions of terms used in the BBA?

Terms such as "outlays", "receipts", "public debt", and "raising revenue" either already appear in the Constitution or are commonly understood. Furthermore, H.J. Res. 268 defines outlays and receipts so that there will be no confusion as to what they encompass.

Outlays: "Total outlays shall include all outlays of the United States except those for repayment of debt principal." Sect. 6

Receipts: "Total receipts shall include all receipts of the United States except those derived from borrowing." Sect. 6

Public debt: Congress was given the power to borrow money in Art. I, Sec. 8, Cl. 2. Furthermore, Art. XIV, Sec. 4 uses the phrase "public debt".

Revenue: Section 7 of Article I states, "All Bills raising Revenue shall originate in the House of Representatives". This term has a long history of interpretation to include taxes.

Won't the BBA be unenforceable? What effective enforcement mechanisms are in place according to this amendment?

In Art. I, Sect. 8, Cl. 17, Congress is empowered to make all laws that are "necessary and proper" to execute the mandates of the Constitution. Furthermore, the President is required by Art. II., Sect. 1, Cl. 8 to take an oath promising to "preserve, protect and defend the Constitution". These provisions require Congress and the President to take the necessary steps to carry out the Constitutional mandates. It is likely that if this amendment is passed Congress will pass some sort of budget reform laws to establish a process by which a balanced budget will result. It may include certain target dates within the budgeting process and procedures to deal with the failure to comply with the BBA's requirements.

The President for his part has his budget proposing authority, his veto authority and any other authority (executive orders) pres-

ently granted to him as tools of enforcement of the BBA.

It is assumed that the President and Congress will monitor each other and to the limits of their authority enforce the provisions of the amendment against the other.

The public will also have a significant role. A breach of the amendment's provisions would be readily apparent, and if a breach occurs a political firestorm would very likely erupt from the public. The electorate can enforce the Constitution through their own votes and collective voices.

Finally, only a final resort and only in the most compelling circumstances, the judicial branch may act to insure that the procedures implementing the amendment are not subverted. If the Balanced Budget Amendment provisions are broken, a Member of Congress or possibly the Attorney General will probably have standing to file suit challenging the legislation. One example of this was Rep. Synar's successful challenge of the Gramm-Rudman-Hollings Budget proposal.

What if the President and Congress do not agree on a joint revenue estimate as required by Section 1 of H.J. Res. 268?

Currently, under the Constitution, if Congress fails to make appropriations or provide for further Treasury borrowing, the Government faces risk of shutdown. Since under H.J. Res. 268, outlays could not exceed receipts, no outlays could occur unless an estimate of receipts is enacted. In this case, H.J. Res. 268 simply adds one step, that Congress and the President agree on the receipts estimate, to the current Constitutional spending process.

What if Congress, ignores H.J. Res. 268, and passes appropriations in excess of estimated receipts?

Assuming no veto is sustained, the last-passed bill that exceeds estimated receipts would be unconstitutional. H.J. Res. 268 assumes, as any BBA must assume and as the Constitution presently, assumes, Congress and the President will exercise some degree of responsibility in making spending decisions. Because of the joint receipts estimate requirement, Congress will know how much it has to spend. If Congress delays passage of one or two appropriations because it would breach the revenue ceiling, it has made the deliberate choice not to enact those bills, unless a 3/5 vote is obtained.

On the other hand, the general charge that acutal outlays do not exceed estimated receipts also creates a general obligation for Congress and the Executive to monitor the continual flow of outlays and to view reasonably foreseeable annual spending as a whole. Therefore, there is a mandate to take necessary and proper steps to prevent overall outlays, notwithstanding the "last-passed bill" interpretation above, from exceeding estimated receipts. This would not imply any change in the balance of powers between the branches, but rather, require them to use existing tools at their disposal toward this end.

What is to prevent Congress and the President from drastically over-estimating revenues and then declaring, "Oops", when outlays and receipts are unbalanced at the end of the fiscal year.

If such a scenario occurred, Congress would have to pass by a three-fifths vote a resolution raising the debt ceiling or raising taxes. This two-vote process acts as a powerful incentive for truth in budgeting. Any such mis-estimates would also be subject to the very public process of budget-making. Such a widely publicized "mistake" is normally avoided by Congress and the President due to its political impact.

If a contracting economy causes a revenue shortfall, wouldn't harmful pro-cyclical measures, such as cutting spending or raising taxes be required in mid-year?

Not under H.J. Res. 268. This BBA was designed to react flexibly to sudden changes in the economy, by establishing the joint receipts estimate as the outlay ceiling for the entire fiscal year. A revenue shortfall would not precipitate any mandatory changes in taxing or spending. Spending would still be tied to the estimate of receipts not actual receipts.

If a contracting economy causes social spending outlays to rise in mid-year, would compensating action be required?

Possibly. Rather than trying to anticipate every economic contingency in Constitutional language, the authors wrote what they believe is an amendment sufficiently flexible to accommodate economic changes. Several responses are possible; for example:

(1) Congress can only control what is reasonably controllable. Often such changes will be sufficiently small that it cannot be determined with reasonable precision that an imbalance will exist at the end of the fiscal year. In such a case, no adjustment would be necessary.

(2) To the extent such outlay increases are foreseeable and fairly certain, a mid-year adjustment might be necessary, relying on offsetting rescissions or other account adjustments, as is the case when a supplemental appropriation must be made deficit-neutral under G-R-H today.

(3) If Congress and the President agree that the economic situation warrants outlay levels above the receipts ceiling, achieving a three-fifths majority to approve such spending is not an insurmountable hurdle.

What if a law enacted in good faith belief that it is revenue-neutral turns out to increase revenues?

As with other laws that may be challenged on Constitutional grounds, if it were shown that Congress and the President acted in good faith and had a reasonable basis for projecting revenue-neutrality, the law would not be struck down.

What if a bill provides both for increases and decreases in revenues?

H.J. Res. 268 refers to a "bill to increase revenue." The clear intent is to look to the overall revenue effect of a bill.

What effect would H.J. Res. 268 have if, in the process of building a "consensus deficit-reduction bill," revenue increases were combined with spending reductions?

H.J. Res. 268 does not require a "vote directed solely to that subject" in the case of increasing revenues. As currently written, H.J. Res. 268 simply would require the authors and managers of such a combination bill to make a strategic decision whether they preferred to offer separate revenue-raising and spending-cut bills or to subject the spending-cut provisions (tied to the revenue raising provisions in a single bill) to a Constitutional requirement of a majority vote of the whole membership of each chamber.

Couldn't the various super-majority requirements in H.J. Res. 268 thwart the wills of majorities in both Houses and the President?

Yes. Such is also the case of Senate filibusters, G-R-H points of order, and other procedures today. For the past few years, a decided minority of the House has thwarted the will of the majority as well as the will of 85% of the American people, to pass a Balanced Budget Amendment.

As is the case with all super-majority requirements in the Constitution (or in law), the purpose is to protect the immediate rights of a significant minority and arguably the long-term rights of the people against a "tyranny of the majority," a phrase frequently invoked by the nation's Founders.

In our current budget process a sufficient structural bias exists for deficit spending and against accountability in tax decisions. Super-majority protections are warranted to combat this bias and force Congress and the President to take more fiscally responsible positions in budget proposals. Moreover, it is noteworthy that the super-majority levels involved are reasonable and modest.

Shouldn't economic policy be kept out of the Constitution?

Economics is politics and vice-versa. Governance inescapably involves addressing questions of economics. Moreover, our Constitution is replete with economic policy. For example, our Constitution now protects private property rights, prescribes Congressional (and Executive) roles in federal fiscal activities such as raising revenue, spending and borrowing; provides for uniform duties, imposts, and excise taxes; discusses the regulation of interstate commerce; discusses the coinage and copyrights. These are all provisions laced with economic policy. The test is not whether an issue is an economic issue, but whether it encompasses broad and fundamental principles, its relevance is not transitory, and its importnce is far-reaching in scope and over time. The need for a BBA and the proposal of H.J. Res. 268 in response meets this test.

Shouldn't the federal government have the flexibility to enact counter-cyclical economic measures?

Yes and this flexibility is preserved in H.J. Res. 268. What the amendment does is mitigate against the structural bias to spend and borrow (and raise taxes in preference of restraining spending) in good times as well as in bad. In restoring this level playing field, H.J. Res. 268 strikes a reasonable balance, requiring fiscal responsibility and allowing flexibility.

Wouldn't adopting a BBA result in cutback in services for the poor and needy, for senior citizens, for health and housing programs, and even possibly for defense programs?

The BBA would do none of these things. What it would do, though, is require Congress and the President to prioritize within a balance of receipts and outlays. This would move the actual budgeting decisions to an open arena where decisions can be made on the merits of each program. Today, our budget process consists of ignoring the deficit until a debt ceiling vote or a sequestration limit appears. Then there is a mad rush to find the appropriate cuts to meet the necessary limits. Decisions are not made on the merits of a specific program or its needs, but rather where the deepest cuts are most easily found. The BBA would impose a dicipline upon Congress to make decisions up front, instead of waiting for the next fiscal crisis to strike.

Since "the BBA itself would do none of these things" isn't it just a "political free lunch" raising false hopes while diverting attention from the real and difficult budget decisions that need to be made?

Far from that, H.J. Res. 268 would force Congress, the President, and the public to own up to the hard choices that need to be made. The BBA's provisions are general because, like most provisions in the Constitution, it encompasses broad principles from which a mandate of action flows. But its result will be to make unavoidable the

asking of those questions some elected officials have avoided: How much government do we want? How willing are we to pay for it? Which programs should be priorities?

Isn't this amendment superfluous? There is no real way to balance our budget dollar spent to dollar received.

Even though we have an Equal Protection Clause, that does not mean that everyone automatically recognizes and carries out that mandate. People's rights are violated. What the equal protection clause does do, though, is provide an avenue of redress for those injured. It establishes a guideline from which equal protection is more likely to occur.

The Balanced Budget Amendment is much the same. This amendment does not put government on autopilot and automatically balance the budget for us. Rather it sets the goal of a balanced budget and the parameters within which it should be achieved. It is flexible enough to realize that a balanced budget will not always result while ensuring that Congress and the President are held accountable for any deficit that does result. The Balanced Budget Amendment gives us the foundation from which we can work to restore fiscal responsibility to the federal government.

Doesn't H.J. Res. 268 imply that the President would have enhanced powers to block spending on a pretext of unconstitutionality?

A frequent criticism of previous BBA proposals has been that the President is not brought into the budget process sufficiently to share the responsibility of governing and the blame of impasse, although the President can criticize the Congress that "holds the purse strings". H.J. Res. 268 recognizes the accepted role the President has played under statute since the 1920's, by requiring the President to submit a balanced budget. The President must also share fiscal and political responsibility with Congress for H.J. Res. 268's joint receipts estimate. But beyond the role in that new joint estimate, H.J. Res. 268 does not broaden in any way the powers of the President. On the other hand, it does make the President more accountable for how the budget process proceeds.

Wouldn't H.J. Res. 268 dangerously and inappropriately transfer power to the courts in a whole new area by opening up to court challenge on Constitutional grounds virtually every budgetary decision made by Congress and the President?

The courts could make only a limited range of decisions on a limited number of issues. For example, they could invalidate an individual appropriations or tax act. But it would not be appropriate for the courts (and it would be inappropriate to call upon the courts to do so) to rewrite budget priorities and fiscal law. The political question doctrine of *Baker* v. *Carr*, the requirement of a justiciable case or controversy, *Aetna Life Insurance Co.* v. *Haworth* and questions of standing would prevent the floodgates of litigation from opening upon the process in place during a suitable BBA.

Why do so many economic analyses project devastating results under a BBA?

Those that do generally assume either (1) that a balanced budget would be imposed immediately, without transition, or (2) that the requirement for balance would be adhered to without exception and the Congress will not exercise its prerogatives under this flexible amendment to enact countercyclical measures.

This amendment will not go into effect until, at the earliest, two years after ratification. Once passed through both houses, we would hope that Congress, would recognize the impending deadline and act to meet that date by which the budget must be balanced. By allowing a multi-year phase-in, we believe any such "drastic" economic effects would be diminished—if not erased.

As we stated before this amendment has the flexibility to address economic emergencies through the 3/5 release vote on balancing the budget. This allows Congress and the President to act in response to circumstances such as a recession or some other emergency, which insuring that such a decision is made in a fiscally responsible manner.

Of what use is a BBA in today's atmosphere of impending fiscal crisis, if it won't be in force for several years?

(1) A BBA is a long-term proposition. It should be adopted because it is a valid response to a long-term & structurally inherent problem.

(2) Its long-term nature notwithstanding, even a BBA that is not in effect for several years will prompt deficit-reduction actions in anticipation of its being in place. Therefore, submission of the amendment to the states would stimulate an immediate response in federal fiscal behavior.

(3) With the Budget Summit working toward the goal of balancing the budget by 1995 we can utilize its agreements as a mechanism to achieve the goals and mandates of this amendment.

Question. How will the courts be involved in enforcement of this amendment?

Answer. Minimally. As is generally the case, the courts, under this amendment will step in only to declare an act of Congress unconstitutional or to tell the President when he/she has executed the law incorrectly.

We may have an appropriation bill or continuing resolution invalidated. Then we go back to square one.

This amendment does not, emphatically not, allow the court to order Congress to raise taxes. Period.

In Missouri versus Jenkins, the courts told the school board in Kansas City it had to raise money to implement a desegregation program that the court said was required by the Constitution. This is a different case. To enforce this amendment, all the courts can tell us is that we can't spend unless we get a three-fifths vote.

Question. How often will the courts get involved?

Answer. Rarely. First, someone has to have standing to sue. Courts have held that the individual, as a taxpayer, virtually never has that standing. Who will? Just a few parties with a direct interest in budget legislation, such as when the gentleman from Oklahoma sued, and brought the courts into the budget process, to declare part of G-R-H unconstitutional.

We can make the role of courts in this process even more limited if we enact implementing legislation that is precise and predictable.

For example: In the Senate, several points of order lie against bills and amendments that add to the deficit, and they can be waived by a three-fifth vote. That's it. A three-fifth vote, up or down, and the issue stays out of court.

Question. Under this amendment, aren't Social Security Trust Funds treated like other revenue, likely to be raided?

Answer. Congress is still free to protect Social Security through separate legislation.

The amendment doesn't make us raid Social Security.

Today, we have on-budget deficits, off-budget deficits, unified deficits, and deficits for the purpose of sequestration.

We can have more than one kind of accounting.

For example, under this amendment, Social Security would still be exempt from sequestration.

Our amendment addresses total receipts and outlays; first, to use the broadest measure of the Government on the economy, second, to prevent accounting loopholes, and third, to make it harder for the Government to run up debts that we pass on to our children.

Is this the report card my colleagues want to take home this fall?

CONGRESSIONAL VOTING RECORD—NOV. 6, 1990

YES OR NO AND VOTES (FEEL FREE TO ADD COMMENTS)

Yes: $3.5 trillion debt ceiling. No choice!

Yes: $600+billion in 13 appropriations. I only voted for essential programs; someone else added the others

Yes: $100+ billion sequester (meaning 25-35% cuts across-the-board). At least a partial; no choice!

Yes: Postpone Gramm-Rudman-Hollings balanced budget target 2 more years. Unrealistic target; Bad law, anyway.

Don't know: Agree to a painful $50-60 billion summit agreement (T-words, E-words, DOD-words, DOD-words etc). Don't really trust the other guy . . .

No: H.J. Res. 268—Balanced Budget Amendment to the Constitution. No substitute for political courage! Summit will do it for us!

The deficit/debt problem has been so bad for so long with such ominous implications for the economic well-being of our children; will our constituents really accept a contract to balance the budget that is any less binding than a constitutional amendment? Please vote today to send House Joint Resolution 268 to the Senate and the States.

It has been said that those who refuse to study history are doomed to repeat it. Anyone who thinks that passing a shiny, brandnew balanced budget statute will solve our national debt problems, hasn't studied history.

In little more than a decade, we have passed at least five statutes intended to create a balanced budget or budgetary discipline. The chart below indicates just how successful those statutes have been in accomplishing those goals.

Total gross Federal debt

In billions

PL 95-435 (1978) (Balanced budget tied to IMF vote)	$776.6
PL 96-5 (1979) (Balanced budget tied to debt limit vote)	828.9
PL 97-258 (1982) (Separate balanced budget statute)	1,136.8
PL 99-177 (1985) (Gramm-Rudman-Hollings I)	1,817.0
PL 100- (1987) (G-R-H II)	2,345.6
Shiny New Statute (1990)	3,127.2

I believe in optimism, but if my colleagues think a balanced budget statute will reduce our debt, it's time to pull our heads out of the sand. Our constituents know better and we should too.

I would also ask to insert into the RECORD the following statement made by the architect of the Declaration of Independence, the third President of the United States and the founder of our Democratic Party

THOMAS JEFFERSON ON PERPETUAL DEBT AND THE RIGHTS OF SUCCESSIVE GENERATIONS

"I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of the Constitution; I mean an additional article taking from the federal government the power of borrowing."—Letter to John Taylor

"It is a miserable arithmetic which makes any single privation whatever so painful as a total privation of everything which must necessarily follow the living so far beyond our income."—Letter to William Hay, 1787

"The question whether one generation of men has a right to bind another . . . is a question of such consequences as not only to merit decision, but place also, among the fundamental principles of every government."—Letter to James Madison, 1789

"I am for applying all the possible savings of the public revenue to the discharge of the national debt."—Letter to Elbridge Gerry, 1799

"The honest payment of our debts, I deem [one of the] essential principles of our government, and, consequently [one] which ought to shape its administration.—First Inaugural Address, 1801

"I consider the fortunes of our republic as depending, in an eminent degree, on the extinguishment of the public debt before we engage in any war; because that done, we shall have revenue enough to improve our country in peace and defend it in war, without recurring either to new taxes or loans. But if the debt should once more be swelled to a formidable size, its entire discharge will be despaired of, and we shall be committed to the English career of debt, corruption and rottenness, closing with revolution. The discharge of the public debt, therefore, is vital to the destinies of our government . . ."—Letter to Albert Gallatin, 1809

"Ought not then the right of each successive generation to be guaranteed against the dissipations and corruptions of those preceding, by a fundamental provision in our Constitution? . . . Let us hope our moral principles are not yet in a stage of degeneracy, and that in instituting the system of finance to be hereafter pursued, we shall adopt the only safe, the only lawful and honest one, of borrowing on such short terms of reimbursement of interest and principal as will fall within the accomplishment of our own lives."—Letter to John Wyles Eppes, 1813

"To preserve our independence, we must not let our rulers load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude."—Letter to Samuel Kerchival, 1816

"I place economy among the first and most important of republic virtues, and public debt as the greatest of the dangers to be feared."—Letter to Governor Plumer, 1816

"The principle of spending money to be paid by posterity, under the name of funding, is but swindling futurity on a large scale."—Quoted by Henry Adams

And, thoughts on the power of the Constitution: "In questions of power, let no more be heard of confidence in man, but bind him from mischief by the chain of the Constitution."

At this time, Mr. Chairman, what I would like to do is to recognize a few of my colleagues for closing remarks, and helping us to close out the debate on this side.

Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I have listened carefully to the debate today and I have heard friends on this side of the aisle rise and say, "Well, this is a gimmick." Well, when I ran for Congress in 1986, I shared that view. I said "surely the President, the elected leaders of the U.S. Congress, House and Senate assembled, realized the magnitude of this problem that it poses for today and future generations of Americans. They can sit down and they can come to a reasonable accommodation and we can cut the deficit and we can begin to defray the national debt."

But now in my fourth budget cycle, I have to say that my experience here in the House of Representatives belies that. The reality here is not to deal with the burgeoning deficit or the debt. The debt has grown $1 trillion in the 4 short years I have been in the U.S. Congress, $1 trillion.

The President proposes budgets each year that are wildly out of balance, and Congress rearranges those priorities but we do not attempt to further attack the deficit. We do not one up him on that; we just rearrange the priorities.

I have heard others say, "How can a progressive Democrat support an amendment on the balanced budget? It is a blueprint for cutting domestic programs; it is aimed at the heart of Social Security, it is a raid on Social Security."

How can I not, as a progressive Democrat, support the balanced budget amendment to the Constitution? Look at what is happening today.

There is not enough grant money for all the good programs we want, child care, health, education, law enforcement, drug treatment. Every single dollar of Social Security that we collect from today's workers for tomorrow's retirees we are spending in current consumption. We are borrowing and spending every single dollar of that program.

How are we going to pay for the retirees of the next century?

The interest on the debt this year will be 10 times the amount of money we spend on all the education programs of the Federal Government, 80 times what we are proposing for child care, 10 times an ambitious home care program.

We cannot go on piling debt on debt. Let us balance the budget.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I have been closely listening to the debate today and feel strongly compelled to rise in opposition to this legislation.

One thing that we certainly can all agree on is the fact that our deficit is out of control. Spending must be controlled. Of course, if this administration could get the deficit figures straight, that would be of great help. We must, none the less, continue to search for the best way to balance this country's budget.

I, however, do not agree that the balanced budget amendment approach is the right course. I desperately need to know when we in this Congress are going to concern ourselves with balancing the budget of those people who have no budget. How can we continue to fund wasteful defense programs when we are in need of national health care. I tell you, I have babies dying in my district from lack of prenatal care and lack of adequate medical facilities. Right now in my district there is not one trauma center open and operational for my constituents.

There are so many concerns that I have in addition to health care—housing, education, and employment. These are my budgetary concerns. It is far more important for me to help people to survive who suffer in this world with little or nothing, than to worry about funding a new stealth bomber—that is what democracy is all about for me.

I strongly believe that the approach that needs to be taken is to reduce wasteful spending and put this Nation to work. One clear way to decrease the deficit is to increase revenues, and I certainly think that focusing on the need for this Nation to encourage a more productive economy by creating jobs, would go a long way in solving this Nation's deficit problems. This is the very goal of my quality of life legislation. H.R. 1398, which lies dormant with no action.

I cannot in good faith support legislation that will certainly be detrimental to my constituents and, I believe, to this Nation as a whole. I do think that we need to refocus and quit worrying about how we are going to fund multimillion dollar defense projects and weapons that serve little if any positive purpose, and begin to consider investing in the people of this Nation by creating jobs, providing national health care, developing adequate housing and controlling wasteful spending.

Mr. Chairman, these are not easy choices that we have to make in the coming months concerning the budget. However, we neither should make the mistake, today, of adopting a balanced budget amendment to the Constitution. It is not the answer. Thank you, Mr. Speaker.

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to

the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, I rise in support of the Stenholm amendment.

Mr. Chairman, our record on fiscal policy is a history of missed deadlines and ever increasing deficits. We've utilized accounting gimmicks to hide the true size of the deficit, and we've changed our own requirements and deficit targets to avoid the hard decisions.

I've heard a number of my colleagues on the floor here today state that we do not need a balanced budget amendment to get Federal spending under control. They say instead that it's just a matter of will—Congress and the President simply must exercise their will and make the tough decisions. Let's take a good, hard, and honest look at just how effectively we exercise our will when it comes to fiscal responsibility:

Congress devised the 1974 Congressional Budget Act to limit the expansion of Federal programs and to limit the creation of new ones; this law has been waived 398 times in just the last 10 years.

Five short years later, in 1979, we passed legislation to require that the reported appropriations bills bring the Federal budget into balance in 1981 and 1982; we repealed that law in 1982.

In 1985, Congress passed the Gramm-Rudman balanced budget law to impose automatic spending cuts when specified deficit reduction targets were not met. The deficit mechanism has been altered, and the targets have already been pushed back once, and many of my colleagues are currently discussing the need to push them back again, or even to cancel them altogether.

We have passed, and Presidents have signed, laws mandating deficit targets, laws imposing automatic spending cuts, and laws setting budget limitations. And we have changed every one of them when things got tough.

We will not be able to treat an amendment to the Constitution with the same disregard.

Today we have the opportunity to end, once and for all, the deficit cycle. We have the opportunity to call a halt to the endless shell games and accounting chicanery that have come to characterize the Federal budget process. Today we have the opportunity to ensure that Congress and the President face up to the hard realities of fiscal policy. Today we have the opportunity to do our jobs.

Please join me in voting in support of this balanced budget amendment.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, I am not going to take 1 minute. But I have to look back, as we all do, when we first arrived in this body and took the responsibility as Members of Congress, I can very vividly remember that the same players that are here today before you, CHARLIE STENHOLM, LARRY CRAIG, stood up with those of us who were elected in 1978, and the first thing we did was talk about this Institution, talk about our Government and talk about how it should be on a sound fiscal footing.

□ 1720

This is far more sound and more fiscally responsible than a balanced budget. I think our Nation should be exactly as most of our 50 States are, and that is to spend what they have, and make it work.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the gentleman's amendment and the constitutional amendment to so-called balanced budget. Mr. Chairman, there is a lot that is wrong with this Congress. Clearly, Congress cannot hold itself as a model of balancing the budget. Clearly, there has been a lack of political leadership from both the administration and from Congress in terms of addressing the issue of the budget and balancing the budget.

We have lent ourselves to spending rules in various means. The Gramm-Rudman-Hollings which, really, I think defeats the purpose of what we are trying to do, and we failed to address the problems during the 1980's. People came in here with programs and did not provide the funding to meet them.

The consequence, of course, is today this $3 trillion plus deficit. The fact is, though, this measure is not going to do it. It is not going to make up for the lack of political foresight and the willingness to tell people what they always want to hear. Want catastrophic health insurance? It will cost something. Members of Congress ran for cover last year when that message came back, and the problem does not exist today.

That is the type of response that has been too prevalent with programs, or no response at all, giving the program without a funding mechanism. Fundamentally, what this bill does is create a three-fifths majority, supermajority. We can emulate after the Senate. Three-fifths vote is always easy to get when we do not need it. But I was not sent up here, in other words, this body, the House is based on representation. The Senate has disparate membership, with two Senators from each State. That was a balance struck over 200 years ago. But I was not sent to Congress, and neither were the Members of this House, to give away the will of the majority. The will of the majority ought to be worth something and be able to be heard in this body. However, what these legislative proposals do is create a supermajority, permitting the minority to dictate what the policies are, just the policies related to taxes and budgets. That is all. That is the ballgame, in terms of what we are working on.

Therefore, I think we have to defeat this and dedicate ourselves to resolve the issue, rather than take away the power from the majority of the people in this country.

Mr. Chairman, I rise in support of the goal of a balanced budget but in opposition to the constitutional amendment before us today.

Every Member of this House is concerned about the runaway deficits which are clouding our Nation's economic future. In my service in this body I have supported numerous measures aimed at reducing Government spending, increasing revenues in a fair way from a variety of sources, and eliminating ineffective or wasteful Federal programs. If I felt this approach would balance the budget and eliminate budget deficits I would certainly vote for this measure. Unfortunately, the constitutional amendment approach is flawed and does not guarantee a balanced budget. A better approach is to produce a balanced budget the way millions of American families do every year: by rolling up their sleeves and making some tough choices, starting today and not in 1995 as this amendment proposes to do, if even then.

The amendment does nothing to assure the achievement of a balanced budget. It states that total outlays shall not exceed estimated receipts unless a three-fifths supermajority of the total membership of the House and Senate each votes to do so. As we have learned, estimates on the size of the deficit usually have little to do with economic reality. Yesterday the administration released its mid-session review of the budget and not surprisingly projected the fiscal year 1991 deficit to be $168 billion—$68 billion more than it projected just 6 months ago in January. Deluding ourselves by drinking the wine of rosy economic assumptions, we wake up at the end of the budget cycle with a deficit hangover. We can't escape the reality of budget deficits by fleeing to a dream world of economic assumptions.

Furthermore, the amendment would do nothing to prevent the continued use of budget gimmickry. We have become accustomed to the special budget scorekeeping rules using smoke and mirrors to reach deficit law targets. Such procedures and processes lend themselves to political expediency to achieve compliance with the law, but saddle us with enormous deficits. The balanced budget amendment would codify the biggest budget gimmick of all: the use of the Social Security trust fund to make the deficit appear smaller. As a supporter of legislation to move the Social Security surplus off-budget, I am concerned that the adoption of this constitutional amendment will make this treatment of the trust fund permanent and make any reform impossible. Appropriations spending measures made according to a deficit figure falsely lowered by the Social Security surpluses are in effect spending those surpluses and replacing them with U.S. Government IOU's. Such budgetary IOU's will have to be paid back to the Social Security system someday through either more drastic cuts in spending on important programs, an increase in taxes, or adding even more to the deficit.

Mr. Chairman, the constitutional amendment for a balanced budget calls for a supermajority that is three-fifths of the membership of this House and or Senate to act upon tax and budget measures. This requirement would be a fundamental shift of power in our Constitution to the minority of the membership in the House. The Constitution already provides disparate representation in the U.S. Senate—two Senators from each State without regard to the size of such State. Is the House of Representatives prepared today to vote away the constitutional balance of powers retained for the majority of Americans under the guise of balancing the budget? This is clearly a change of great significance and impact. It is easy enough to get a three-fifths majority, except when it is needed. Representative government and the will of the majority would be the casualty of this ill-conceived provision.

The amendment demeans the Constitution yet further by providing unsatisfactory means of enforcement in the case of a violation. A violation would either result in no enforcement or draconian enforcement by Federal courts. Citizens seeking enforcement of the amendment through a lawsuit may be surprised to find that they have no standing to sue. Courts have frequently denied standing to those seeking to sue as taxpayers. However, the alternative of no enforcement may be the lesser of two evils compared to the unprecedented possibility of appointed Federal judges deciding budget matters which are the constitutional province of the U.S. President and the Congress. If the courts do allow standing for citizens, hundreds of lawsuits would likely be filed and it would take years for the courts to rule, leaving the budget in a constant state of limbo. Furthermore, the judicial branch, which is not elected and has little experience in fiscal affairs, would become intricately involved in determining our Federal budgets. Conceivably, the Supreme Court would be placed in a position to order tax increases or spending cuts to achieve a balanced budget. Needless to say, this breach in the separation of powers would be unprecedented in our Nation's history.

The perennial pursuit of this amendment by the current and previous administration reminds me of the phrase "do as I say, not as I do." The lesson seems to be if you can't quietly produce a balanced budget then loudly pronounce your support for a constitutional amendment to do the same. While frequently speaking out about the need for such an amendment, President Reagan never submitted a balanced budget to Congress in the 8 years he served. In fact, the spending he proposed exceeded by billions of dollars the amounts appropriated by Congress. This fiscal imprudence, this duplicity, led to the tripling of the national debt and the grave predicament we now find ourselves in. Fortunately, the current President has recognized the severity of the budget crisis and has finally put everything on the table in the current budget summit talks. I look forward to congressional and administration negotiators reaching agreement on a budget outline soon and in reviewing the product of these discussions.

Mr. Chairman, we can vote for and pass the constitutional amendment before us today. But before we pat ourselves on the backs for doing something about the deficit, we should take a reality check. We won't be doing our jobs until we pass spending and revenue bills which reduce the deficit and address the budget without budget scorekeeping gimmicks. Tough decisions are in store. The borrow and spend mentality that characterized the eighties is hopefully over. I urge my colleagues to get to work on a real deficit reduction plan in 1990 which will address the budget today rather than wishing upon a balanced budget star for 1995.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, I rise in strong support of the constitutional amendment for a balanced budget offered by the gentleman from Texas, which I cosponsored. For 10 years we have seen an administration refuse to submit a balanced budget. We have seen a Congress which has been unable, although we have had great debate, to come up with a deficit reduction package which is real. We have debates where people talk about the threat to America's security.

My colleagues, these deficits are the real threat to the national security of the United States. The economic security of the United States. This deficit puts a lid on the future of our country and our grandchildren. There is no more important issue in this Congress than having a package that reduces the deficit, that provides the opportunity for this country to grow economically, today, and in the future.

For those Members who argue that Democrats should not support this, let me say that because of 10 years of Republican administrations that ran on campaigns of balancing the budget while tripling the national debt we need this amendment. Trickledown theory did not work. Supply-side theory did not work. Summits only prolong the agony. Now is the time to pass this amendment and be honest with the American people, and let them have a choice in what the future of this country will be. Support this amendment.

Mr. BROOKS. Mr. Chairman, I yield myself 4 minutes.

The Stenholm amendment will have the sole effect of delaying this amendment's effective date to 1995, letting the Bush administration go on saying one thing and doing another. They did not want to have a balanced budget in 1990, they did not want one in 1991, they do not want one in 1992. They do not want one in 1994. They want to put if off until 1995.

It is like telling a person, "I'm going to give you a blood transfusion because you are dying, but I'm not going to give it to you for 5 years."

Now, if this amendment is such a good idea, if it is such a wonderful, wonderful magic idea to solve our problems, then why would it not be good in 1993? Why are we going to put off this wonderful idea for another 2 years?

I ask Members to oppose the amendment. That is all it is about. They just want to put it off, because they know it is a rotten deal, and they will figure out another way to beat the rap in another 5 years.

Mr. Chairman, I reserve the balance of my time.

Mr. STENHOLM. Mr. Chairman, I yield myself 1 minute.

To the distinguished chairman of the Committee on the Judiciary, if we want to balance the budget in 1991, 1992, or 1993, let the summit, let our own elected leader make that recommendation, and let Members see how far it gets on the floor of the House tomorrow.

The gentleman misses the point entirely. What we have tried to do with this amendment is say that we want the summit to work, we want the first installment to be paid this year, but there will be four additional installments that must be paid, and at the end of that installment process we will have a constitutional amendment in place that will say that no future President and no future Congress can do what the last President and the last four Congresses have done to the debt for our children and grandchildren.

The gentleman from Texas [Mr. BROOKS] misses the point entirely of what the amendment is all about. We have never proposed that this would balance the budget. Never. What we are talking about is a process to allow it to work.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, as someone who has opposed earlier unwise versions of the balanced budget amendment, that is $2 trillion in debt ago, I have come to the reluctant conclusion that we must strengthen the legal framework within which we function.

What is wrong with the country's setup? What is wrong with it is that we never have to make tough fiscal choices. When expenses exceed revenues, one of three things have to happen: Either we have to raise revenues, we have to cut expenses, or the debt goes up. The problem is, we only choose between two of those, raising revenues or lower expenses. Neither one is politically popular.

So what do we do? We do not do either very well. We do half measures, and the budget deficit, the debt, the third point on the chart here, becomes the shock absorber of the economy. So the debt climbs because we do not want to make the choice, and we are not forced to make the choice.

Under the Stenholm-Craig amendment, we would have to make those choices. Not a supermajority for cut-

ting spending, and not a supermajority for raising taxes, but a supermajority for raising debt, and that is the way it should be, because debt is far more pernicious to this economy and to our future than either of the other two. We would have to accept debt explicitly, not let it just happen. We would have to go on record, there would have to be a rollcall.

□ 1730

We would have to say that we want the debt to go up. Right now we do not say that. It just happens, and then we have to vote to have it go up ex post facto when we vote the debt ceiling, after we have already incurred the obligations and it is too late to turn back.

Nothing in this budget amendment has the flaws that have plagued Gramm-Rudman. Gramm-Rudman does not make the explicit choices; it lets the computer make the choices if we cannot make them. In Gramm-Rudman the other flaw is that much is off budget. Under Gramm-Rudman, it was either take it off budget originally or partially off budget, or it was taken off budget, as recently with the S&L's, because we could not face it.

Under the Stenholm-Carper-Craig proposal, nothing would be off budget. We would have to deal with everything, and it would have to fit into one of these three corners. We would have to make explicit decisions. Since the debt is wrecking the future of our economy by everybody's consensus and since the current political and legal framework does force us to make the tough choices, I think we should change it. I came to that very reluctant conclusion as someone who has not supported the House budget amendment in the past.

Mr. Chairman, the Stenholm amendment is a responsible and creative approach to a burgeoning national crisis. I suggest that we support, and support strongly, the Stenholm amendment.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. GEREN].

Mr. GEREN of Texas. Mr. Chairman, all day long we have listened to theories why we should or should not have a balanced budget amendment. The advantage we have today is that we do not have to look to theories to make this decision.

Part of the genius of our Federal system is the opportunity to take ideas and put them into the laboratories of our 50 States and see if they work. That has given us the opportunity to make many of the advances we have seen in our system of government.

We have done that with this theory that we debate today; 49 of our 50 States have a balanced budget requirement; 44 have a balanced budget constitutional amendment. I invite all of my colleagues to look to the experiences they have had in their States.

Let us not worry with theories. It is not necessary. We have put this theory to the test, and it works. In the final analysis, that is what matters today. Does it or does it not work? If we look to our States, I believe we will see that it does work, and I urge the Members to vote for the Stenholm balanced budget amendment.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GEREN] has expired.

Mr. BROOKS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Texas [Mr. GEREN].

Mr. Chairman, will the gentleman yield?

Mr. GEREN of Texas. I yield to the chairman of the committee, the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, we have had 2 days of hearings, and in our hearings people have said there were 27 of the States that did not have balanced budgets.

It was testified today by a Member from West Virginia that West Virginia has a $3 million deficit with a fixed budget, an on-budget limit law in that State. I would just say that most of the States balance their budgets—and I want to be honest about this, and I think people ought to realize this—by balancing their operating budgets, not their capital budgets, and they separate them.

If we balanced the budget for the U.S. Government the same way States balance their budgets, our budget would be in balance. We would pick up all the capital investments, put them in a separate budget and put the operating budget in a separate one, and we could balance it. I just want it indicate that that is what the experience has been in the States. That is what the facts have revealed on that.

Mr. CARPER. Mr. Chairman, will the gentleman yield?

Mr. GEREN of Texas. I yield to the gentleman from Delaware.

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me add a point that was made earlier on the floor today. We are not proposing a balanced budget for the sake of having a balanced budget.

The States have requirements to balance the budget, and some of the States have capital budgets. We are not here mandating a balanced budget every year.

But what we are saying is that when our national debt increases threefold in less than a decade, when our operating deficit this year is greater than the year before and greater than the year before that, when we spend all the personal tax income collected west of the Mississippi just to pay interest on the debt, something needs to happen.

What we say here is that we are going to start requiring the President to propose a balanced budget. We leave to the Congress the right to unbalance that budget if we have an economic downturn, a recession, or a depression, or if we have an S&L crisis or if we have an emergency such as a war. We are not mandating a balanced budget every year, but we make it more difficult to balance the budget.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I graduated from Texas A&M University, and we have a saying that we never lose, but sometimes we get outscored.

Mr. Chairman, I just got outscored. I want to thank the 184 Members of the House who voted for the Barton amendment. During the vote on that amendment there were 5 Members who did not vote, so by my count, to pass Stenholm-Craig, we need 288. That is, we need 104 Members of this House who voted against Barton to vote for Stenholm-Craig.

I am going to vote for the Stenholm-Craig balanced budget amendment. I urge every Member who voted for my amendment to vote for their amendment. I also urge that those Members who did not like the supermajority required for a tax increase in my amendment to strongly consider voting for Stenholm-Craig.

This is the second time in the history of the Congress that we have had a balanced budget amendment on the floor of the House. It has taken 8 years to get this second vote. Who knows how long it will be before we get another one.

Since the last vote, the national debt has gone up $1.5 trillion. If not now, when? If not us, who?

Mr. Chairman, I ask the Members to please vote for the Stenholm-Craig amendment.

Mr. STENHOLM. Mr. Chairman, may I inquire as to how much time remains?

The CHAIRMAN. The gentleman from Texas [Mr. STENHOLM] has 16 minutes remaining, and the gentleman from Texas [Mr. BROOKS] has 22 minutes remaining.

Mr. BROOKS. Mr. Chairman, I reserve the balance of my time.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER], who has worked extremely hard and very effectively in putting together this amendment that we consider today.

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding me this time, and I just want to say what a pleasure it has been to work with him and with many of our colleagues on both sides of this aisle.

The gentleman from Texas [Mr. BROOKS] asked earlier, if we are interested in balancing the budget, why do we not do it in 1990, in 1991, and why do we not do it in 1992? Why do we not do it in 1994? Why do we wait until 1995 under our proposal?

The reason why we wait until 1995 under our proposal and we do not do it in 1991 or 1992 is that we do not want to turn our economy on its head. We do not want to turn our capital markets into turmoil. If we ask the chairman of the Federal Reserve or if we ask any economist of any repute what would happen if we tried to balance the budget next year or the year after that, they will tell us it would wreak havoc. We do not want to do that.

The year 1995 is our target because it is the summiteers' target for a balanced budget. That is where we got it. That is where it has come from. They are working on a 5-year plan that requires a balanced budget in 1995. We have drafted an amendment that attempts to complement that, to work for that, to reinforce that.

Both the President and the Congress need to be reminded in 1991, in 1992, and in 1993, as we face difficult, tough choices on revenues and on spending, that we cannot put the tough votes off until next year, that we cannot put everything off until 1995, because in 1995, first, the President has to propose a balanced budget, and second, if we are going to unbalance that budget, we need a super majority, and third, if we want to raise taxes at that time, we need a recorded vote.

Our balanced budget amendment is not a panacea, it is not a cure-all. It is one of the elements, and I think it is a very important element that is needed to restore fiscal sanity here, to require accountability on behalf of the President and on behalf of all of us who serve here in the Congress.

Mr. STENHOLM. Mr. Chairman, may I inquire as to who has the privilege of closing debate?

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] has the option to close the debate.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Idaho [Mr. CRAIG], and before he is recognized, let me also point out how much we have appreciated working with him in this body, since we realize he has other ambitions ahead of him. We will miss the gentleman, and those of us who have worked with him on this amendment sincerely appreciate his efforts and his untiring work in bringing us to this point of almost having a vote and, we hope, winning on this amendment after some 10 years of work.

Mr. CRAIG. Mr. Chairman, I thank my colleague for yielding this time to me, and let me say at the outset of my comments that I truly appreciate the leadership the gentleman from Texas [Mr. STENHOLM] has lent to this effort. It has been untiring as we have worked together since 1984 to craft what we not have before us, what we believe to be a very workable addition to the Constitution of this country.

While we were before the Rules Committee day before yesterday, we became engaged in a colloquy with my colleague, the gentleman from California, who is on the Rules Committee. He expressed concern about some of the language in the amendment.

At this time I think we both agreed that we recognized that this was not an amendment that was absolutely perfect, as my colleague, the gentleman from Connecticut, has said, but it is one that will have to work through the process. It will go to conference if the Senate votes, and I think if we pass this today, the Senate certainly will act on this. And it is at that time that I believe we agreed that if there needs to be fine-tuning, the language can be penned to the perfect constitutional tone and that could be accomplished.

□ 1740

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. CRAIG. I yield to the gentleman from California for a brief comment.

Mr. PASHAYAN. Mr. Chairman, I appreciate the observations of the gentleman from Idaho [Mr. CRAIG] very much.

As my colleagues know, I personally felt that there was a lot of excessive language in there, and really actually some inconsistent language, and I would urge that, if it does go to conference, that we spend a good deal of time trying to take out that which is surplus, not essential to the teeth of the amendment, and to leave only the pure logical enforcement that the amendment intends to impose. And if that is not going to work, then nothing will as far as the constitutional amendment.

Mr. CRAIG. Mr. Chairman, I thank the gentleman from California [Mr. PASHAYAN], my colleague, for those comments.

Mr Chairman, I think all of us are concerned that when we deal with the Constitution that this body take it more seriously than any other legislative effort they become involved in and that certainly the language that ultimately might be placed in the Constitution by the citizens of this country meet the muster, meet the constitutional test. We believe House Joint Resolution 268 comes very close to that.

Mr. Chairman, I say to my colleagues, "Within a few moments you will be asked to make a decision, a fundamentally important decision, I believe, not just to this body, not just to government itself or to the programs. In your decision you will not only be deciding on how public moneys will be spent in the allocation toward public priorities. You will also be making a fundamentally important decision as to the productivity of this country: how much of the gross income of this country will Federal Government consume versus how much will be left in the private sector to continue the economic growth and expansion that we've seen by the decade of the eighties, well into the nineties and beyond."

As my colleagues know, that is a fundamentally important question that we have not debated here today. While we all seem to be wrestling with our great concern about the dollars that the Government has to spend, I would ask my colleagues to be equally concerned about the money that should be left in the private sector for the citizens to spend, to invest, to create jobs, to save for their families, to build resources for educating their young, for living the good life. That is really what is at stake here, building long-term economic growth and expansion for this country by a predictable consumptive effort on the part of our Government as it relates to the allocation of resources for public policy.

We are not asking that we determine what the amendment will be. We are asking that we give the citizens of this country the right to make that determination because in a constitutional amendment we can only propose that amendment, and by two-thirds vote today we will not stand in the way of the citizens of our country being given the right for their central Government to debate and to decide over the next several years if they would choose to have this amendment or some version of it in the Constitution, and I ask my colleagues to vote in favor of the Craig-Stenholm House Joint Resolution 268.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Chairman, we have heard today about how we are going to knuckle down and we are going to vote to reduce spending. We have heard that before, but let's look at what happened. If we go back just a little while, 10 years ago, we had people standing on the floor making similar statements when I was offering a 2- or a 5-percent reduction in spending on the 13 appropriations bills. I finally heard it so many times that I did not want them to forget it. Ten years ago I used this sign on the House floor to remind those whose actions did not always match their words, and it states, "There are 1,000 other programs you could cut, but don't cut this one."

Mr. Chairman, too often we had Members that were sacrificing, they felt the dollars going to their area, and I can understand that. They had re-

sponsibility to vote their district. But by the same token, collectively, we did not have the votes we needed in order to pass the 2-percent and 5-percent amendments to reduce Federal expenditures. We did at that time pass enough to save, perhaps $2 or $3 billion. But that was nothing compared to the deficits we have today.

So, Mr. Chairman, it has happened before. I am convinced that only by using the force of the Constitution to tighten the screws on the Congress and the President will the necessary steps be taken to reduce spending and balance the budget. To prevent Congress from continuing business as usual, we must support a constitutional amendment balanced budget. It is the only way out.

Mr. STENHOLM. Mr. Chairman, I yield myself the balance of my time.

Let me say, in order to try now to summarize today's debate and discussion and to make several points to my colleagues that, first, this is a little debt man. Many of my colleagues have walked by it. It is clicking off our national debt. It is now at $3,153,325,979,000. Every minute that I have yielded to a colleague today to speak our debt has gone up $475,620. Rather astounding in numbers.

Mr. Chairman, let me answer specifically the question that was raised by some of our colleagues concerning Social Security. It was a red herring when it was brought up, and the Members that brought it up know it was a red herring because this amendment does not make us raid Social Security. Today we have on-budget deficits, off-budget deficits, unified deficits and deficits for the purpose of sequestration. For example, under this amendment Social Security would still be exempt from sequestration. It has nothing to do with the decision of this body as to whether we take Social Security off budget or on budget. That is a decision for this body to make.

What our amendment deals with is making it tougher to borrow money, and I do not understand why more Members have not understood that.

Let me also say to those that have worried about process, because I have worried about process; the gentleman from Idaho [Mr. CRAIG], the gentleman from Oregon [Mr. ROBERT F. SMITH], the gentleman from Delaware [Mr. CARPER], the gentleman from Texas [Mr. BARTON], all other Members, the gentleman from California [Mr. PASHAYAN] have worried about the process, that this is serious business, amending the Constitution.

Read the Constitution to see what the process is going to be under our amendment already because it says in article I, section 8, "The Congress shall have the power to make all laws which will be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution and the Government of the United States."

My colleagues, it is up to us, all of us who have made the statement today that it takes guts. If this amendment passes, it is going to take guts. If it does not pass, it is going to take guts. We have not shown them without an amendment. That is why we are here today.

To those who worry about the fact that the President has never submitted a balanced budget, and I have been here 11½ years with three Presidents, not a single one submitted a balanced budget or one that had the hope of balancing the budget.

□ 1750

That is why we have got the amendment. Read the amendment. That is the purpose of it, to have our President submitting balanced budgets and stop playing this insane game we are playing.

Oh, and once again, those who talk about courage, Members who have stood in this well today and said that we lack courage and guts and pointed the finger, and every single time that every single Member has said that on the floor, when it has come time to gut up and put your vote on the board and vote yes, you voted no, and you stand here and criticize us for offering an amendment because we do not have the guts.

Who does not have the guts? If you vote this amendment down, you are going to get a chance to vote for increasing our debt ceiling to $3.5 trillion. You are going to get a chance to sequester. You are going to get a chance to do this.

Let us watch where the guts are when it comes time to vote. Those of us who are going to vote yes in a minute on this amendment are going to be saying that we are going to have the guts to follow through, because it is going to take a 5 year plan. We cannot get there in 1 year. We did not get into this mess in 1 year. We cannot get out in 1 year, but what we are suggesting is that we ought to put in place an amendment that will say to those of us who do gut up that when we do gut up and we do make these tough decisions, we have got a chance that is going to work.

I submit to those who vote no today, what is your plan?

Mr. CRAIG. Mr. Chairman, will my colleague yield?

Mr. STENHOLM. I yield briefly to my friend, the gentleman from Idaho.

Mr. CRAIG. Mr. Chairman, certainly one of the points that will necessarily have to be made in the coming days if this body is asked to vote for a tax increase, in 1983 we were asked to vote for a tax increase and for every dollar of taxes we were to raise, we were going to cut $3 in spending.

Well, history is now well recorded. We raised revenues by that dollar that we promised in taxes and we raised spending by $125 for every dollar. We did not cut anything.

What we are saying to the American people with this vote is that if it is necessary to raise taxes, we will guarantee to you that history will not be repeated, that this Congress cannot "pass go," that it cannot slide in an easy vote, that if it raises revenues it has to cut accordingly. It has got to keep the budget in balance. It has got to live with the word that it offers to the American people.

Mr. STENHOLM. Mr. Chairman, I thank my colleague for those comments.

Let me point out one other thing. Those who talk about guts in this body, 503 times in this body in the 11½ years I have been here, we have voted to waive the Budget Act; 503 times we have voted to waive those acts when it comes time to gut up and they pass time and time again, and this Member probably has voted for more than his share of them. That is where we are today.

It is time to have an additional tool, not another statute as we will vote on tomorrow. We tried that in 1978 when our debt was $776 billion. We tried it again in 1979 when it was $828 billion. We tried it again in 1982 when it was $1,136,000,000,000. We tried it again in 1985 with Gramm-Rudman-Hollings when it was $1.8 trillion. We tried it again in 1987 when it was $2.3 trillion. We will try it again tomorrow with some when it is $3.1 trillion.

Now, my colleagues and the majority leader made an excellent speech. The only thing he left out is that he is going to vote for our amendment. He said everything that I wanted to say. He said it like only one who is involved in the summit could possibly say, and the budget chairman. They said it because they know how tough it is.

What we ask of our colleagues today is simply to give all of us, not a cover, as some say, but give us a constitutional reason to find some guts to do what 75 percent of the Americans say over and over again, "Congress, balance the budget."

Now, if it takes a fig leaf of cover, so be it. I do not call it that. I call it the Constitution of the United States that has served this great Nation so well for all of these years, and one more amendment, as Thomas Jefferson proposed in his wisdom in the early days of this country is all that we ask for today.

Vote aye on the Stenholm-Craig-Carper-Smith amendment.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I rise today to voice my op-

position to House Joint Resolution 268. I support a balanced budget, but I do not believe this constitutional amendment is the answer to this very serious issue. The Federal budget deficit has risen dramatically since 1980 and it has gone up because many in this chamber and in the executive branch have refused to make the necessary decisions which would put priorities on our Federal spending. No constitutional amendment is going to take the place of what is really needed and that is, the willingness to make tough choices about this Nation's budget priorities. If I believed that a constitutional amendment would really have an impact on our burgeoning deficit, I would support it. However, this amendment is simply a way for some in this Chamber to claim political courage where none exists.

Mr. Chairman, I am not opposed to amending the Constitution. If it were not for the amendment process there would be no protection of free speech, women would not have the right to vote, and slavery would still be legal in this country. The problem with this amendment is that it gives entirely too much power to the minority. Requiring a three-fifths vote on passage of any budget or tax legislation means that 40 percent of the House or Senate can block what 60 percent of the majority deems in the best interest of this country. Our Government is based on a system of simple majority rule. But the proponents of this legislation believe majority rule—which has existed for over 200 years—is not good enough. This amendment would make it more difficult to raise the debt ceiling.

Our current budget process leaves much to be desired. "On" and "off" budget, shifting pay days, and counting trust funds to mask the deficit are only a few of the many smoke and mirror tactics that are used to meet the Gramm-Rudman targets each year; but an unenforceable, unworkable, constitutional amendment is not the answer. We must not abdicate our budget responsibility to the Supreme Court which is where this amendment will take us. There are plenty of tough choices that face us as we come upon the beginning of the new fiscal year, but voting for a meaningless amendment is not one of them.

Clearly there is no easy solution to our Nation's current budget crisis. But by pretending that this amendment would make it any easier or any less painful to reduce the deficit is simply another smoke and mirrors game.

Mr. BROOKS. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, everybody knows what they want to do on this amendment. I would think that the basic Stenholm—you can name all the people you want-amendment is a waste of time and will devalue the Constitution that we have lived under for 200 years. It is a mistake. We ought not to do it. It is a disgrace. It is a farce. It will not work. If anybody thinks it will work, why not put it into effect now? Instead, by this latest amendment through the Stenholm et cetera amendment, he has another amendment today which says he wants to put it off until 1995. If it is worth anything, if it is such a wonderful panacea for all our troubles and problems, why do you not want to do it in 1990, 1991, 1992, 1993, and 1994, and put it off until 1995?

It is foolishness. We should vote against the amendment and vote against the amendment that the gentleman is trying to amend.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. STENHOLM].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROOKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 276, noes 152, not voting 4, as follows:

[Roll No. 237]

AYES—276

Andrews	Coughlin	Hall (TX)
Annunzio	Courter	Hammerschmidt
Anthony	Cox	Hancock
Archer	Craig	Hansen
Armey	Crane	Harris
Ballenger	Dannemeyer	Hastert
Barnard	Darden	Hatcher
Bartlett	Davis	Hayes (LA)
Barton	de la Garza	Hefley
Bateman	DeFazio	Hefner
Bates	DeLay	Henry
Bennett	Derrick	Herger
Bentley	DeWine	Hiler
Bereuter	Dickinson	Hoagland
Bevill	Dorgan (ND)	Holloway
Bilbray	Dornan (CA)	Hopkins
Bilirakis	Douglas	Horton
Bliley	Dreier	Hubbard
Boehlert	Duncan	Huckaby
Bosco	Dyson	Hunter
Boucher	Early	Hutto
Brennan	Eckart	Hyde
Broomfield	Edwards (OK)	Inhofe
Browder	Emerson	Ireland
Brown (CO)	English	James
Buechner	Erdreich	Jenkins
Bunning	Espy	Johnson (CT)
Burton	Fields	Johnson (SD)
Bustamante	Fish	Johnston
Byron	Flippo	Jones (GA)
Callahan	Frenzel	Jones (NC)
Campbell (CA)	Gallegly	Jontz
Campbell (CO)	Gallo	Kasich
Carper	Gaydos	Kleczka
Carr	Gekas	Kolbe
Chandler	Geren	Kyl
Chapman	Gibbons	LaFalce
Clarke	Gillmor	Lagomarsino
Clement	Gilman	Lancaster
Clinger	Gingrich	Laughlin
Coble	Goodling	Leach (IA)
Coleman (MO)	Gordon	Leath (TX)
Coleman (TX)	Goss	Lent
Combest	Gradison	Lewis (CA)
Condit	Grandy	Lewis (FL)
Cooper	Grant	Lightfoot
Costello	Gunderson	Lipinski
Livingston	Paxon	Skeen
Lloyd	Payne (VA)	Skelton
Lowery (CA)	Penny	Slaughter (VA)
Luken, Thomas	Petri	Smith (NE)
Lukens, Donald	Pickle	Smith (NJ)
Machtley	Porter	Smith (TX)
Madigan	Poshard	Smith (VT)
Marlenee	Price	Smith, Denny (OR)
Martin (IL)	Pursell	Smith, Robert (NH)
Martin (NY)	Quillen	Smith, Robert (OR)
McCandless	Rahall	Snowe
McCollum	Ravenel	Solomon
McCrery	Ray	Spence
McCurdy	Regula	Spratt
McDade	Rhodes	Stallings
McEwen	Richardson	Stangeland
McGrath	Ridge	Stearns
McMillan (NC)	Rinaldo	Stenholm
McMillen (MD)	Ritter	Sundquist
Meyers	Roberts	Tallon
Mfume	Robinson	Tanner
Michel	Rogers	Tauke
Miller (OH)	Rohrabacher	Tauzin
Miller (WA)	Ros-Lehtinen	Taylor
Molinari	Rose	Thomas (CA)
Montgomery	Roth	Thomas (GA)
Moody	Roukema	Upton
Moorhead	Rowland (CT)	Valentine
Morella	Rowland (GA)	Vander Jagt
Morrison (WA)	Saiki	Volkmer
Murphy	Sangmeister	Vucanovich
Myers	Sarpalius	Walgren
Neal (MA)	Sawyer	Walker
Neal (NC)	Saxton	Walsh
Nielson	Schaefer	Watkins
Nowak	Schiff	Weber
Olin	Schneider	Weldon
Ortiz	Schuette	Whittaker
Owens (UT)	Schulze	Wilson
Oxley	Sensenbrenner	Wolf
Packard	Sharp	Wylie
Pallone	Shaw	Young (AK)
Parker	Shays	Young (FL)
Parris	Shumway	
Pashayan	Shuster	
Patterson	Sisisky	

NOES—152

Ackerman	Gephardt	Mrazek
Alexander	Glickman	Murtha
Anderson	Gonzalez	Nagle
Applegate	Gray	Natcher
Aspin	Green	Oakar
Atkins	Guarini	Oberstar
AuCoin	Hall (OH)	Obey
Beilenson	Hamilton	Owens (NY)
Berman	Hawkins	Panetta
Boggs	Hayes (IL)	Payne (NJ)
Bonior	Hertel	Pease
Borski	Hochbrueckner	Pelosi
Boxer	Houghton	Perkins
Brooks	Hoyer	Pickett
Brown (CA)	Hughes	Rangel
Bruce	Jacobs	Roe
Bryant	Kanjorski	Rostenkowski
Cardin	Kaptur	Roybal
Clay	Kastenmeier	Russo
Collins	Kennedy	Sabo
Conte	Kennelly	Savage
Conyers	Kildee	Scheuer
Coyne	Kolter	Schroeder
Crockett	Kostmayer	Schumer
Dellums	Lantos	Serrano
Dicks	Lehman (CA)	Sikorski
Dingell	Lehman (FL)	Skaggs
Dixon	Levin (MI)	Slattery
Donnelly	Levine (CA)	Slaughter (NY)
Downey	Lewis (GA)	Smith (FL)
Durbin	Long	Smith (IA)
Dwyer	Lowey (NY)	Solarz
Dymally	Manton	Staggers
Edwards (CA)	Markey	Stark
Engel	Martinez	Stokes
Evans	Matsui	Studds
Fascell	Mavroules	Swift
Fawell	Mazzoli	Synar
Fazio	McCloskey	Torres
Feighan	McDermott	Torricelli
Flake	McHugh	Towns
Foglietta	McNulty	Traficant
Ford (MI)	Miller (CA)	Traxler
Ford (TN)	Mineta	Udall
Frank	Moakley	Unsoeld
Frost	Mollohan	Vento
Gejdenson	Morrison (CT)	Visclosky

Washington	Whitten	Wyden
Waxman	Williams	Yates
Weiss	Wise	Yatron
Wheat	Wolpe	

NOT VOTING—4

Baker	Stump
Nelson	Thomas (WY)

□ 1818

Mr. KASTENMEIER changed his vote from "aye" to "no."

Mr. WALSH changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. HEFNER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 268) proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation, pursuant to House Resolution 434, he reported the joint resolution back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question was ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CRAIG. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 279, noes 150, not voting 3, as follows:

[Roll No. 238]

AYES—279

Andrews	Brennan	Coble
Annunzio	Broomfield	Coleman (MO)
Anthony	Browder	Coleman (TX)
Archer	Brown (CO)	Combest
Armey	Bryant	Condit
Ballenger	Buechner	Cooper
Barnard	Bunning	Costello
Bartlett	Burton	Coughlin
Barton	Bustamante	Courter
Bateman	Byron	Cox
Bates	Callahan	Craig
Bennett	Campbell (CA)	Crane
Bentley	Campbell (CO)	Dannemeyer
Bereuter	Carper	Darden
Bevill	Carr	Davis
Bilbray	Chandler	de la Garza
Bilirakis	Chapman	DeFazio
Bliley	Clarke	DeLay
Boehlert	Clement	Derrick
Bosco	Clinger	DeWine
Dickinson	Laughlin	Robinson
Dorgan (ND)	Leach (IA)	Rogers
Dornan (CA)	Leath (TX)	Rohrabacher
Douglas	Lent	Ros-Lehtinen
Dreier	Lewis (CA)	Rose
Duncan	Lewis (FL)	Roth
Dyson	Lightfoot	Roukema
Early	Lipinski	Rowland (CT)
Eckart	Livingston	Rowland (GA)
Edwards (OK)	Lloyd	Saiki
Emerson	Long	Sangmeister
English	Lowery (CA)	Sarpalius
Erdreich	Luken, Thomas	Saxton
Espy	Lukens, Donald	Schaefer
Fawell	Machtley	Schiff
Fields	Madigan	Schneider
Fish	Marlenee	Schuette
Flippo	Martin (IL)	Schulze
Frenzel	Martin (NY)	Sensenbrenner
Gallegly	McCandless	Sharp
Gallo	McCollum	Shaw
Gaydos	McCrery	Shays
Gekas	McCurdy	Shumway
Geren	McDade	Shuster
Gibbons	McEwen	Sisisky
Gillmor	McGrath	Skeen
Gingrich	McMillan (NC)	Skelton
Goodling	McMillen (MD)	Slaughter (NY)
Gordon	McNulty	Slaughter (VA)
Goss	Meyers	Smith (NE)
Gradison	Mfume	Smith (NJ)
Grandy	Michel	Smith (TX)
Grant	Miller (OH)	Smith (VT)
Gunderson	Miller (WA)	Smith, Denny (OR)
Hall (TX)	Molinari	Smith, Robert (NH)
Hammerschmidt	Montgomery	Smith, Robert (OR)
Hancock	Moody	Snowe
Hansen	Moorhead	Solomon
Harris	Morella	Spence
Hastert	Morrison (WA)	Spratt
Hatcher	Murphy	Stallings
Hayes (LA)	Myers	Stangeland
Hefley	Natcher	Stearns
Hefner	Neal (MA)	Stenholm
Henry	Neal (NC)	Sundquist
Herger	Nielson	Tallon
Hiler	Olin	Tanner
Hoagland	Ortiz	Tauke
Holloway	Owens (UT)	Tauzin
Hopkins	Oxley	Taylor
Horton	Packard	Thomas (CA)
Hubbard	Pallone	Thomas (GA)
Huckaby	Parker	Thomas (WY)
Hunter	Parris	Upton
Hutto	Pashayan	Valentine
Hyde	Patterson	Vander Jagt
Inhofe	Paxon	Volkmer
Ireland	Payne (VA)	Vucanovich
Jacobs	Penny	Walgren
James	Petri	Walker
Jenkins	Pickle	Walsh
Johnson (CT)	Porter	Watkins
Johnson (SD)	Poshard	Weber
Johnston	Price	Weldon
Jones (GA)	Pursell	Whittaker
Jones (NC)	Quillen	Whitten
Jontz	Ravenel	Wilson
Kasich	Ray	Wolf
Kleczka	Regula	Wylie
Kolbe	Richardson	Young (AK)
Kyl	Ridge	Young (FL)
Lagomarsino	Rinaldo	
Lancaster	Ritter	
Lantos	Roberts	

NOES—150

Ackerman	Collins	Feighan
Alexander	Conte	Flake
Anderson	Conyers	Foglietta
Applegate	Coyne	Ford (MI)
Aspin	Crockett	Ford (TN)
Atkins	Dellums	Frank
AuCoin	Dicks	Frost
Beilenson	Dingell	Gejdenson
Berman	Dixon	Gephardt
Boggs	Donnelly	Gilman
Bonior	Downey	Glickman
Borski	Durbin	Gonzalez
Boucher	Dwyer	Gray
Boxer	Dymally	Green
Brooks	Edwards (CA)	Guarini
Brown (CA)	Engel	Hall (OH)
Bruce	Evans	Hamilton
Cardin	Fascell	Hawkins
Clay	Fazio	Hayes (IL)
Hertel	Moakley	Sikorski
Hochbrueckner	Mollohan	Skaggs
Houghton	Morrison (CT)	Slattery
Hoyer	Mrazek	Smith (FL)
Hughes	Murtha	Smith (IA)
Kanjorski	Nagle	Solarz
Kaptur	Nowak	Staggers
Kastenmeier	Oakar	Stark
Kennedy	Oberstar	Stokes
Kennelly	Obey	Studds
Kildee	Owens (NY)	Swift
Kolter	Panetta	Synar
Kostmayer	Payne (NJ)	Torres
LaFalce	Pease	Torricelli
Lehman (CA)	Pelosi	Towns
Lehman (FL)	Perkins	Traficant
Levin (MI)	Pickett	Traxler
Levine (CA)	Rahall	Udall
Lewis (GA)	Rangel	Unsoeld
Lowey (NY)	Rhodes	Vento
Manton	Roe	Visclosky
Markey	Rostenkowski	Washington
Martinez	Roybal	Waxman
Matsui	Russo	Weiss
Mavroules	Sabo	Wheat
Mazzoli	Savage	Williams
McCloskey	Sawyer	Wise
McDermott	Scheuer	Wolpe
McHugh	Schroeder	Wyden
Miller (CA)	Schumer	Yates
Mineta	Serrano	Yatron

NOT VOTING—3

Baker	Nelson	Stump

□ 1835

So, two-thirds not having voted in favor thereof, the joint resolution was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 268, the House Joint Resolution just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. STUMP. Mr. Speaker, as many of my friends and colleagues know, my father is critically ill. This morning, I was notified that his condition worsened and I am returning to Arizona to be with him. I regret that I will be unable to be present as we debate and vote on the balanced budget amendment today.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall Nos. 234, 235, 237, and 238.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT TOMORROW, WEDNESDAY, JULY 18, AND THURSDAY, JULY 19, 1990 DURING THE 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask that the Committee on the Judiciary may be permitted to sit while the

House is reading for amendment under the 5-minute rule on Wednesday, July 18, and Thursday, July 1990.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF COMMITTEE ON THE JUDICIARY TO SIT FRIDAY, JULY 20, 1990 DURING 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary may be permitted to sit while the House is reading for amendment under the 5-minute rule on Friday, July 20, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1840

NATIONAL LAW ENFORCEMENT TRAINING WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 554) designating January 6, 1991 through January 12, 1991 as "National Law Enforcement Training Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. (Mr. PENNY). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so simply to acknowledge the work of the gentleman from Wisconsin [Mr. ASPIN], who is the chief sponsor of this joint resolution.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise today in strong support of House Joint Resolution 554, designating January 6 through January 12, 1991 as "National Law Enforcement Training Week." I wish to commend the gentleman from Wisconsin, Mr. ASPIN, for introducing this legislation.

Our Nation is fortunate to have 500,000 law enforcement officers who work to protect our safety each and every day. These brave men and women fight drug pushers, violent criminals, and others who seek to disturb the lives of law-abiding citizens. Law enforcement is a dangerous job. In the past 10 years, more than 1,500 law enforcement officers have been killed in the line of duty. Every 57 hours, an officer loses his or her life while protecting the American public from crime; 200,000 officers have been injured on the job in the last 10 years, and 600,000 have been assaulted.

Law enforcement training is crucial for the safety of the citizens of our towns and cities. It is our duty to honor those selfless individuals who daily risk their lives for our protection. Further, it is in the best interests of our Nation to encourage our young people to recognize the importance of law enforcement in America.

Mr. Speaker, I urge my colleagues to join me in support of this important legislation.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 554

Whereas law enforcement training and sciences related to law enforcement are critical to the immediate and long-term safety and well-being of this Nation because law enforcement professionals provide service and protection to citizens in all sectors of society;

Whereas law enforcement training is a critical component of national efforts to protect the citizens of this Nation from violent crime, to combat the malignancy of illicit drugs, and to apprehend criminals who commit personal, property and business crimes;

Whereas law enforcement training serves the hard working and law abiding citizens of this Nation;

Whereas it is essential that the citizens of this nation be able to enjoy an inherent right of freedom from fear and learn of the significant contributions that law enforcement trainers have made to assure such right;

Whereas it is vital to build and maintain a highly trained and motivated law enforcement work force that is educated and trained in the skills of law enforcement and sciences related to law enforcement in order to take advantage of the opportunities that law enforcement provides;

Whereas it is in the national interest to stimulate and encourage the youth of this Nation to understand the significance of law enforcement training to the law enforcement profession and to the safety and security of all citizens;

Whereas it is in the national interest to encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training; and

Whereas it is in the national interest to make the youth of this Nation aware of career options available in law enforcement and disciplines related to law enforcement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 6, 1991 through January 12, 1991, is designated as "National Law Enforcement Training Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate exhibits, ceremonies, and activities, including programs designed to heighten the awareness of all citizens, particularly the youth of this Nation, of the importance of law enforcement training and related disciplines.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL AGRICULTURAL RESEARCH WEEK

M.. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 548) designating the week of August 19 through 25, 1990, as "National Agricultural Research Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to recognize the work of our colleague, the gentleman from Minnesota [Mr. WEBER], who is the chief sponsor of this joint resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 548

Whereas the Act to establish a Department of Agriculture, enacted May 15, 1862, which placed the primary responsibility for scientific experimentation in agriculture with the Department of Agriculture, provided the basis for the development of the modern nationwide cooperative agricultural research system;

Whereas past public commitments to agricultural research in the United States provided the scientists and facilities essential to the development of the most successful technological advancements known to the science of agriculture;

Whereas the American public has been the major beneficiary of agricultural research through a broad array of food, fiber, and forest products unsurpassed in cost, availability, quality, safety, and convenience; and

Whereas the agricultural production and marketing system of the United States faces urgent challenges from increased international competition for markets, consumer demands for healthier and safer foods, the need to adjust to the uncertainties of climatic change, appeals to conserve the natural resources of the Nation and protect the environment, and the need to improve the economic well-being of rural America: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of August 19 through 25, 1990, is designated as "National Agricultural Research Week".

The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that week with proper ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL SENIOR CITIZENS DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 591) designating the third Sunday of August of 1990 as "National Senior Citizens Day" and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to recognize the work of the gentleman from Florida [Mr. SMITH], who is the chief sponsor of this joint resolution.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise today in support of House Joint Resolution 591, designating the third Sunday of August 1990, as "National Senior Citizens Day." I wish to commend the gentleman from Florida, Mr. SMITH, for introducing this resolution.

Older Americans make up 12 percent of our population. The number of senior citizens in our society is growing twice as fast as the rest of the population. Advancements in health care have resulted in increasingly longer and more productive lifespans for our Nation's citizens.

Senior citizens today contribute greatly to our society through their knowledge and experience, as well as through their energy and enthusiasm. They deserve our respect and merit this special recognition.

Mr. Speaker, I have been a proud supporter of legislation aiding our Nation's seniors, and I am pleased to be able to once again recognize the special contributions seniors make to our society. Accordingly, I urge my colleagues to support this legislation.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

Mr. SMITH of Florida. Mr. Speaker, thank you for allowing me this opportunity to speak about my resolution, House Joint Resolution 591. This resolution marks August 19, 1990 as "National Senior Citizens Day" to acknowledge America's senior citizens and their contributions to our Nation.

This country's seniors are a wealth of knowledge and history. Because many are no longer working and have perhaps retired far away from their families, our seniors are not always surrounded by people who may both learn from and appreciate their accomplishments. But these people are living history, unending sources of warmth, ideas, and experience and we should acknowledge this.

Our senior citizen population is growing. In 1989, 21 percent of the population consisted of citizens aged between 55 and 65, while 12 percent were over the age of 65. During the last two decades, the elderly population grew twice as fast as the rest of the population. This phenomenon is due to a number of factors, including longevity, advanced medical technology, and the coming of age of the post World War II baby boomers.

Mothers are recognized on Mother's Day and fathers receive their credit on Father's Day; now we will let the mothers and fathers of our Nation know that we recognize and appreciate the contributions they have made to our society.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 591

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the third Sunday of August of 1990 is designated as "National Senior Citizens Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities in honor of the contributions to the United States of individuals more than 55 years of age.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DARE DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 281) to designate September 13, 1990, as "National DARE Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to recognize the good work of our colleague, the gentleman from California [Mr. LEVINE], who is the chief sponsor of this joint resolution and who spoke on it eloquently last year as well.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise today in strong support of House Joint Resolution 535, designating September 13, 1990, as National DARE Day. I commend the gentleman from California, Mr. LEVINE, for his annual introduction of this legislation.

Among members of the high school class of 1989, over 50 percent reported having used an illicit drug; 43.7 percent of these young people had used marijuana, and over 10 percent had used cocaine. These numbers reflect the magnitude of the drug problem among young Americans. The DARE Program is helping reduce these staggering numbers.

The drug abuse resistance education program originated in 1983 as a joint venture between the Los Angeles Police Department and the Los Angeles school system. In 1990, the DARE Program reaches 4.5 million students in 49 States. The program has also been adapted for use internationally.

The semester-long program originally was aimed at fifth and sixth graders, but has been expanded to encompass students in kindergarten through 12 grades. Program instructors are veteran police officers, who have completed an 80-hour training course and who are familiar with the realities of the drug problem.

In the DARE Program, parents, teachers, administrators, police officers, and students work together to reduce the drug problem. Children develop the skills necessary to make positive decisions and resist peer pressure, as well as develop the ability to discover alternative ways to deal with stress.

Mr. Speaker, the DARE Program has proven itself to be a valuable weapon in the fight to keep our Nation's children drug-free. It is an innovative and highly effective program. I urge my colleagues to join me in support of this important resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 281

Whereas D.A.R.E. (Drug Abuse Resistance Education) is a comprehensive program under which children from kindergarten through the 12th grade are taught how to resist the pressures of experimenting with drugs and alcohol;

Whereas the D.A.R.E. program provides parents with the information and techniques necessary to reinforce and further develop the decisions of their children to lead drug free-lives;

Whereas the D.A.R.E. program targets children at ages when they are most vulnerable to extreme peer pressure to try drugs and alcohol and teaches them how effectively to resist pressure to engage in negative behavior;

Whereas the D.A.R.E. program is now conducted in local schools in more than 2,000 communities in 49 States and in Department of Defense Overseas Dependent Schools worldwide;

Whereas more than 4,500,000 school children will be reached through the D.A.R.E. core curriculum in 1990;

Whereas, school children are sometimes more streetwise about substance abuse than are classroom teachers, the D.A.R.E. program is taught by veteran police officers having direct experience with cases involving criminal drug offenses and with people whose lives have been ruined by substance abuse;

Whereas each police officer who teaches the D.A.R.E. program completes an 80-hour training course that includes instruction in teaching techniques, relationships between officers and schools, self-esteem development, child development, and communication skills;

Whereas the D.A.R.E. curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District, helps children understand self-image, recognize and manage stress without using drugs or alcohol, analyze and resist media presentations about drugs and alcohol, evaluate risk-taking behavior, resist gang pressure, apply decision-making skills, and evaluate the consequences of the choices facing them;

Whereas independent research shows that the D.A.R.E. program has exceeded its goal of helping students combat peer pressure to use drugs and alcohol by contributing to improved study habits and grades, by reducing vandalism and gang activity, and by instilling greater respect for police officers; and

Whereas the D.A.R.E. program has achieved outstanding success teaching positive and effective approaches to one of the most difficult problems facing young people today, namely drug and alcohol abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 13, 1990, is designated as "National D.A.R.E. Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LYME DISEASE AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 276) designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week" and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the work of our colleague, the gentleman from New York [Mr. HOCHBRUECKNER] who is the chief sponsor of House Joint Resolution 528.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise today in support of a joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week." Lyme disease, as you may know, is transmitted by a small, little-known tick species which have become abundant in a large part of my district. In 1982, there were 60 reported cases of Lyme disease in my district; by 1989, there were 1,731 cases and the actual number may be several times higher. Over the past years the number of reported cases have increased not decreased.

Although Lyme disease was first officially reported just 14 years ago in Lyme, CT, it has fast become the most common tick-borne disease and one of the fastest spreading infectious diseases in the United States. If treated early, the disease can be cured by antibiotic therapy; however, early diagnosis is often thwarted by the disease's resemblance to the flu and other less dangerous ailments. Indeed, without early treatment, a victim of Lyme disease can expect severe arthritis, heart disease, or neurologic complications. Later effects, often occurring months or years after the initial onset of the disease, include destructive arthritis and chronic neurological disease. If it were not for AIDS, Lyme disease would be the No. 1 infectious disease facing us today.

I believe the primary way to control Lyme disease is by educating the public on how to take precautions against tick bites and by being aware of symptoms associated with the disease.

Mr. Speaker, I have cosponsored H.R. 979, the comprehensive Lyme Disease Act of 1989 which was introduced by my fellow colleague, the Representative from New York [Mr. HOCHBRUECKNER]. This piece of legislation would do just that; offering grants to public and private nonprofit entities to conduct research, provide treatment and to educate.

In that regard, I want to commend the New York medical college in Valhalla, NY for their extensive, significant disease research.

I feel, July 22, 1990, is an appropriate time to inform the public of Lyme disease and its dangers. As a Representative of the people in my district, it is in their best interest to educate them of the dangers involved.

□ 1850

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. PENNY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 276

Whereas Lyme disease is spread by the tick species Ixodes Dammini by means of the bacterium Borrelia Burgdorferi;

Whereas these ticks are no larger than the head of a pin;

Whereas these ticks can be carried by domestic animals such as cats, dogs, and horses;

Whereas these ticks can be transferred from domestic animals to humans;

Whereas Lyme disease was first diagnosed in southeastern Connecticut and has spread to 43 States;

Whereas the Centers for Disease Control has reported more than 21,000 cases of Lyme disease since 1982;

Whereas Lyme disease is easily treated in its early stages by an oral vaccine administered by a physician (penicillin and erythromycin for young children and tetracycline for persons allergic to penicillin);

Whereas the early symptoms of Lyme disease may be a bullseye rash, severe headaches, fever, and swollen glands;

Whereas Lyme disease often mocks rheumatoid arthritis and heart disease;

Whereas if left untreated, Lyme disease can cause severe damage to the heart, brain and joints;

Whereas the best cure for Lyme disease is prevention;

Whereas prevention of Lyme disease depends upon public awareness; and

Whereas education is essential to making the general public and health care professionals more knowledgeable of Lyme disease and its debilitating side effects: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 22, 1990, is designated as "Lynme Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AN ANALYSIS OF THE VOTE ON THE BALANCED BUDGET AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, it is very often said as people discuss issues across America that there is no real

difference between the two political parties, that they all come to Washington and stand for the same things, and that, therefore, they are simply picking between two essentially similar elements in terms of philosophy in their votes in Washington.

We have just completed a vote which belies that analysis. Seventy-five percent of the American people have said clearly that they want an amendment to the Constitution to require a balanced budget. That has shown up on a series of polls over a period of some years. So it is a pretty firm figure. We understand where the American people are on the issue of a balanced budget.

The two political parties in the vote just concluded divided fairly significantly on the issue. There were many Democrats who stood in favor of the balanced budget. I congratulate those Members, I congratulate them for their votes, and I congratulate them for the work they did. But I think the American people need to understand that they were riding against the tide of their own party.

Their own party, by a substantial majority vote, 110 to 145, voted against the balanced budget amendment to the Constitution. A majority of Democrats defined their party position as being against the balanced budget amendment to the Constitution.

On the other hand, a majority of Republicans, by an overwhelming majority, defined themselves as being for that balanced budget amendment to the Constitution supported by 75 percent of the American people. By a vote of 169 to 5, the Republicans in the House of Representatives said that they wanted the balanced budget amendment to the Constitution passed.

This is a vote where there is a clear difference between the two parties. On one hand, a majority of the party supports a balanced budget amendment to the Constitution and says so in the votes they cast on the House floor. On the other hand, a majority of the party voted against the balanced budget amendment, thereby defining their party's base position.

Again, Mr. Speaker, I congratulate those Democrats who stood with us in this effort, but the fact is that there are two party positions that were clearly indicated in the vote just cast.

Mr. McCURDY. Mr. Speaker, will the gentleman yield to the gentleman from Oklahoma, who voted for the constitutional amendment for a balanced budget?

Mr. WALKER. Sure, I am glad to yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Speaker, I voted for that amendment for a number of reasons, but one of the principal reasons, quite frankly, is that we have had a Republican administration in the White House for 10 years that did not submit a balanced budget, that never even got close to submitting a balanced budget, and I can assure the gentleman that Members who voted for the amendment sincerely believe it is in the best interest of this country that we achieve that goal. This should not be a Democratic issue or a Republican issue.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his contribution. I would also make the point that I have served in the Congress now since 1977, and this Congress has not produced a balanced budget either, and in that full time the House has been under the control of the Democratic Party. They have never come forward with a balanced budget.

In fact, the spending habits of this Congress are today out of control. I know that the gentleman from Oklahoma votes for some of the across-the-board cuts that I do. I know the gentleman votes for some of the spending cuts on the House floor. The fact is that the overwhelming majority of his own party never supports cuts and never attempts to get a control on spending.

Yes, you can point to a Republican administration. The gentleman is wrong in terms of the past administration. President Reagan's first budget sent to Capitol Hill did in fact contain a balanced budget, and that was immediately rejected on Capitol Hill.

I would hope that Presidents in the future can in fact exercise the discipline to help us balance the budget. But we had a chance here to force the situation in ways that would have made a difference, and the votes of the two political parties are very, very important in their contrast.

□ 1900

Mr. Speaker, 169- to 5-Republicans voted in favor of the balanced budget amendment—110- to 145-Democrats voted against the balanced budget amendment to the Constitution.

THE IMPORTANCE OF LYME DISEASE AWARENESS WEEK

(Mr. HOCKBRUECKNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOCKBRUECKNER. Mr. Speaker, I am delighted that minutes ago Lyme Disease Awareness Week, beginning July 22, was approved, and it is very important that we educate people in this Nation about Lyme disease.

This particular chart that I have shows the 45 States in which Lyme disease has now become a major problem and concern. Now Lyme disease is the second fastest growing infectious disease in this Nation, second only to AIDS.

Now it is not a disease that kills. At least that is not what they tell us yet, but it is debilitating. Second, it is a disease that is carried by the very tiny deer tick, so the kind of ticks that are found on animals and children, that is not really the tick to worry about. It is the much smaller variety, the deer tick, and the main carrier of the deer tick appears to be field mice. So, these are all over the place, certainly in the East.

In fact, Mr. Speaker, Lyme disease got its name from Lyme, CT, where it was first discovered, but now, of course, it is in 45 States, and it is very heavily on Long Island, in Westchester and in a variety of counties around the Nation.

It is a kind of disease that mimics others, so I say to my colleagues, "If you get a bull's-eye rash, and whether you find a tick or don't find a tick, if you get a bull's-eye kind of rash, and you feel sort of drawn out and arthritic, go see your doctor because there are three phases of Lyme disease."

Clearly, Mr. Speaker, people need to know more about it so that they can determine what it is because with a good application of antibiotics it can be stopped in the early stages without great difficulty.

So, Lyme Disease Awareness Week is here next week. Clearly people should be aware of it. I say, "Keep your eye out for those very tiny ticks, and, if you get that kind of a bull's-eye rash, please see your doctor. They're learning a lot more about it now that we brought it to the Nation's attention. Nip it in the bud. Get it quickly, and we can go on to have a much healthier Nation."

We have already approved $3 million in the appropriation bill this year to increase the spending on Lyme disease. We need a better test for Lyme disease, and clearly we need, hopefully in the future, some kind of vaccination or other control in order to clobber Lyme disease, L-y-m-e, Lyme disease.

Again, Mr. Speaker, I say to my colleagues, "Find out about it. If you get it, clobber it as quickly as possible, and let's be a healthier Nation."

GENERAL LEAVE

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. COOPER). Is there objection to the request of the gentleman from Indiana?

There was no objection.

THROWING IT ALL AWAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, I rise today to relay some new information on the continued assault by the nation of Japan on America's industrial and technological infrastructure. It seems that we in this country still refuse to acknowledge the plain truth, that America is being deposited piece by piece into the treasury vaults of foreign nations.

On June 7, I chaired a meeting which attempted to address one element of this crisis. The focus of the meeting was the testimony of several individuals representing well-managed, highly efficient U.S. companies. In short, good competitors.

They also, however, shared another common characteristic. The companies have all had extreme difficulty at various times with Japan's business and political community. One of the key ingredients in their frustration was the conflict they encountered with the Japanese patent system.

More than any other industrialized nation, Japan has made extensive use of nontariff barriers to achieve the goals of its industrial policies. The patent system is a large component of this policy. In the words of Larry Evans, director of the patents and licensing division of BP North America, "The Japanese patent system is the chief non-tariff trade barrier in Japan."

I think that Mr. Evans makes an excellent observation. What remains to be discerned is the reasoning behind Japan's patent system. The results are easy enough to display. In practical terms, Japan's patent system has created significant advantage for firms in Japan which are well placed to take advantage of their country's patent rules.

The patent system in Japan rests on assumptions very different from that of the United States, and while the Japanese claim that their system is more in step with the rest of the world than ours, there are, in actuality, significant differences. What one must recognize is that the mechanisms of Japan's system have been influenced in such a manner that the patent system acts as a receptional for information—information that can later be used to further Japan's competitive position. One of these contention areas is the extensive lag between the time when a firm applies for a patent and the time where a patent is received.

In what is probably the most noteworthy example of this system is the case of Texas Instruments, who, after waiting 30 years for a patent on integrated circuits, finally received approval. This absurdity highlights the problem, but, in the long run, Texas Instruments, because it is a large firm has been able to continue to function.

The true danger of this system comes about when small- and medium-sized firms are forced to face the massive keiritsu of Japan.

There firms find themselves easily overwhelmed once inside Japan, and, because they often are not heavily diversified companies, they find that holding even a modest position in Japan's market becomes impossible.

It does not take too long to find examples of the friction this policy creates. I would like to read some passages from the testimony of Mr. Edgar Otto, chief executive officer of Therma-Systems Corp.

Mr. Otto was one of the witnesses at the meeting which I previously mentioned.

The history of Mr. Otto's company is what many would call a classic success story. His company, Therma Systems, was started, using his words, "in a 30- by 40-foot garage." But Therma Systems has grown and today is a multimillion dollar corporation with an established record of quality service worldwide, including Japan.

One of Therma Systems' products is known as a therma tray. It is used to hold foods for hospital patients and in doing so, keep hot food hot, and cold food cold. The result being that the patient can enjoy his or her food to a much higher level of satisfaction. Until this product made its way to Japan, food distribution methods were very crude in many of Japan's hospitals, and as a result patients were unable to receive the benefits of this service.

Mr. Otto provided a very enlightening explanation of the conditions in Japan when he testified, let me read his statements:

> I traveled to Japan, and much to my surprise, found the Japanese to be far behind us by at least 20 years, in assembling and delivering foods to patients.
>
> A quick analogy might be the way the cars were assembled before Henry Ford made an assembly line. The individual parts were brought to cars, strategically placed around a building. Henry Ford introduced the assembly line, the rest is history.
>
> We found that assembly line technology and temperature retention technology was almost non-existent. We appointed AIM as our exclusive sales agent and made our first sale using a tray designed for the American menu and diet. We quickly realized that Japanese meals did not fit into our American tray designs. With the encouragement of AIM, we brought Japanese food service directors to America to consult with us. We spent a great deal of time in Japan, and developed a tray specifically for the Japanese menu items, which are substantially different than ours. So we did what all the textbooks said to do * * * don't try to impose a western product on the Japanese civilization. Make your products to their needs, we did that.

Therma Systems played by the rules. One can in no way criticize them for lack of effort. JETRO, the Japan external trade organization, could not have prescribed a more thorough formula for success in the Japanese market. Indeed, Therma Systems was successful.

Mr. Otto continues:

> We retained a Japanese patent attorney and applied for a Japanese patent in 1983 * * * We also allied ourselves with one of Japan's largest trading companies, the Mitsui Company. In fact, they held a gigantic reception in the Mitsui skyskraper building, overlooking the Japanese Imperial Palace to announce our involvement with AIM. One evening we went on a private tour after closing hours to the New Tokyo Disneyland, for which AIM was the food service contractor and had a sumptuous western style meal. I can assure you that when the Japanese want something, they know how to entertain. Additionally, we found ourselves a Japanese representative to whom we paid a commission. This person was well connected politically with the Mitsui Corporation and even today represents some of Japan's largest companies in their dealings. In fact, these people hosted us at one of Japan's premiere golf clubs in Karizura, Japan, where the former Prime Minister, Nakasone was also a member.
>
> Today, through our efforts, the word "Therma-Tray" is generic in Japan for the delivery of hot food in hospitals.
>
> We did all of the right things. We were clients of a Japanese firm with strong relationships, we did business through the Mitsui Trading Company, who absolutely had no problems getting our products imported and approved by MITI, the Ministry of International Trade and Industry. We designed a product for the Japanese marketplace and backed it in full.
>
> One thing that JETRO does not guarantee for a successful company, however, is the duration of success. For Therma Systems, the voyage for its products to and from Japan encountered smooth sailing for five years, then, in a matter of minutes, during one phone conversation, the seas turned violent and scuttled the market for Therma Systems. Mr. Speaker, this reminds me of the legend of the kami kaze, the divine wind, which in an instant, swept away the mongol fleets, thus keeping Japan free of taint from the forces of occupation.

Mr. Otto was told that his products were of inferior quality at that. Therma Systems was no longer wanted as a business partner. Otto pressed for specifics, but received no reply, only a cryptic statement, "I am sorry, but your quality is not acceptable any longer. Good bye."

American businessmen have been told for years that the Japanese cherish close business ties, why after 5 years with no complaints did Therma Systems receive such rude, seemingly uncharacteristic treatment? According to the Japanese who spoke with Mr. Otto, it was precisely this concern over not wishing to disturb Therma Systems that prompted no communication until the decision was made to terminate the relationship.

As usual, there is more unsaid than said in the Japanese discourse, and so it was in this case that, according to

Mr. Otto upon speaking with his Japanese representative, he was told that, "what the AIM division of Mitsui had done was to furnish samples of my trays to another Mitsui affiliated company in the plastics business and then assisted them in the design and the construction of the tray."

It is important to mention that Therma Systems applied for a patent on its tray in 1983. If and when it receives this patent I am sure that the market for these trays will be saturated by homemade products that had none of the costs associated with research and development to bear. I wonder whether this sort of thing could occur anyplace other than Japan.

This long delay can be very frustrating, and there are additional major areas of concern. One of the most damaging to United States interests in Japan has been the Japanese practice of multiple patenting. In many ways, this method of applying for massive numbers of patents and applying for patents with little or no significant difference from the originally filed invention has contributed to both the extensive backlog of patent cases in Japan and the equally serious problem that exists where the original inventors of a product or concept are essentially taken out of the market that they created by a flood of these so-called sashimi patents.

[From the National Journal, May 1988]

THE CULTURE OF PATENTS

(By Bruce Stokes)

The next time you quaff a Coors beer or gulp down a "McDLT," stop before you pitch the leftovers and contemplate the can or Styrofoam container. The colors of the advertising printed on the packaging are sharper today than they were on similar wrappings a decade ago. That's because the inks are now cured with ultraviolet (UV) radiation, not dried by heat in an oven as they once were.

This printing revolution was made possible by an invention—a small quartz tube filled with gases, mercury and other elements. When this bulb is subjected to microwaves, the gas inside is energized and emits UV rays that trigger a photochemical process in special inks, adhesives and other products, instantly drying them.

Such technological innovation might seem insignificant against recent scientific breakthroughs in biotechnology or superconductivity. But its commercial potential is almost limitless. This simple lamp—it sells for only $200—and the UV curing process are now used in everything from automobile assembly to the making of computer chips.

Sashimi patents are the central concern of the Fusion Systems Corp. Fusion Systems has been a pioneer in the development of ultraviolet light curing technology. As a result of Fusion Systems' efforts, the world we live in is much more colorful than it would have been. The National Journal of May 21, 1988, provides some historical background.

Fusion Systems has had a good run in Japan; in the words of Ms. Nancy H. Chasen, assistant to the president of Fusion Systems, "We have been successful in the Japanese market, holding dominant market share against strong Japanese competitors—including Mitsubishi—in most of our specialized market niches."

The company which Ms. Chasen represented is one of the best examples I have seen to date of a company that is victimized by the sashimi patent system.

TESTIMONY OF MS. CHASEN

Yet, in spite of our ability to successfully invent, market and service superior advanced technology products and our willingness to take appropriate risks in the world market, a powerful Japanese competitor can and did manipulate the Japanese patent system to pose a serious threat to our business. Our competitor claims to have done nothing wrong; MITI, which ovesees the patent system, dismisses our difficulties as a mere "commercial dispute."

Fusion entered the Japanese market in 1975, filing for patents on our core technology. In 1977, Mitsubishi Electric Company purchased and reverse engineered one of our products. Within a few months, Mitsubishi began to file a flood of patent applications in the field of high intensity microwave-driven lamps—the technology pioneered and patented by Fusion in the early 1970's.

To date, Mitsubishi has filed nearly 300 patent applications in Japan, copying and surrounding our technology. Some seek to patent designs in the lamp system they purchased from us. Others represent attempts to secure patents on information clearly in the public domain. Still others claim so-called "improvements" on Fusion's technology that more accurately represent trivial modifications. One Mitsubishi application includes virtually an exact functional copy of a circuit diagram from a Fusion manual. Another seeks to patent a simple clamp attaching two basic components of our lamp system. Yet another seeks to patent the delay between two successive steps in powering up the equipment.

Mr. Speaker, this country must realize what it is up against. This is not the American system that we are dealing with. American laws, ethics, and practices do not exist in Japan's system. It is vital that America recognizes these facts. Even more important, America must formulate a coherent, effective trade and economic policy to combat these challenges.

Recognizing the challenge of Japan's patent system is one of many important steps we must take to come to grips with the new trade reality in the upcoming century.

Let us return, though, to the problems of Fusion Systems. What is at stake in the case of this company goes beyond the issue of patent infringement, Japan's patent system encourages the unwilling transfer of technology from American firms to the willing hands of the Japanese economic system.

The alleged purpose of patent systems is to protect the rights, both creative and financial, of the creator. This is not the purpose of patent systems in Japan.

Ms. Chasen eloquently testified about the vexing nature of this phenomenon when she said:

In the United States, a similar pattern of behavior would constitute patent fraud and we would have clear and available remedies. Not so in Japan. Indeed, the Japanese patent system not only permits but by its nature invites this behavior on the part of corporations large and powerful enough to afford it. Although a bilateral U.S.-Japan Working Group on Intellectual Property has been established, Japanese negotiators have shown no inclination even to acknowledge existence of the problem.

The Japanese patent system today is like a pipeline that supplies Japan's corporate monoliths with a constant flow of new product ideas and future revenues. America must wake up and shut down this pipeline.

This country must insist that it receive fair treatment in trade. Reform of the Japanese patent system is a needed first step in achieving this treatment.

The United States must be ever vigilant in ensuring that Japan answer to the faults of its system. Effective resolution of these difficulties must be achieved. Japan has a long history of making seemingly watershed agreements appear in the final analysis to be only trickles in an ocean of difficulty. The United States has played a waiting game with Japan for the past 30 years.

America must realize that the conflict with Japan is not merely a struggle over one product or another. It is a struggle over the economic future of both countries. The sooner that this country comes to grips with this reality, the safer the economic future of all Americans will be.

The effectiveness of the patent system in Japan is obviously significant. Yet, as I have noted on many occasions, each element of Japan's trade policy acts as a piece in a puzzle. The various shapes all fit together to form a coordinated whole. Furthermore, just as it is often very difficult in a puzzle to visualize the final picture from any one piece, it is also very hard to see the connections between separate elements of Japan's trade policies. In truth, however, the Government of Japan, in cooperation with its big business benefactors, has effectively engineered a trade policy that is utterly opposed to the concept of an open Japanese market.

□ 1920

Mr. Speaker, I will continue this discussion of these blatant actions on the part of Japan and their patent system in another discussion.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mrs. BENTLEY. I am happy to yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, I wish to congratulate my colleague for her studious and dedicated work on the steel caucus, and also on this approach that she has been persistently following involving a subject matter that few in this House have an intimate knowledge of.

I think it is very important, I think, some of the observations the gentlewoman has made here, and I would hope they would reach the ears and eyes of those who are attuned to what we are doing here in Washington through C-SPAN, and I would hope that that group of our American citizens who come down here on a regular basis and have petitioned us as the steel caucus would take cognizance of the gentlewoman's remarks today.

I just wanted to make a very fast referral to the fact that the Japanese are still doing what they have done over the last 5 or 10 years. I think the gentlewoman in the well, who is so familiar with the subject matter, will agree with me. They are still doing this dilly-dallying around, talking on one side, cooperation on the other side, prohibitions, and we are talking about the automobile industry, we are talking about the aluminum-bat situation which we discussed in the steel caucus, ironically, and a host of other things.

The revelation by the gentlewoman today with the Toshima patents is most enlightening.

Again, I would recommend to all of our American businessmen, even our citizens, hopefully, to review what the gentlewoman has said today, and I am going to look forward to the subsequent dissertations the gentlewoman is going to present to this House, and I would like to participate in it if the gentlewoman would give me advance notice.

Mrs. BENTLEY. I thank the gentleman from Pennsylvania for those kind remarks, and I also want to point out that the gentleman from Pennsylvania has been one of those who has been willing to listen and also to participate in pointing this out to the American public. I thank the gentleman.

I will advise the gentleman when we continue this discussion on the patents.

□ 1930

THE POLITICS OF THE RICH AND THE POOR

The SPEAKER pro tempore (Mr. COOPER). Under a previous order of the House, the gentleman from Oklahoma [Mr. MCCURDY] is recognized for 60 minutes.

Mr. MCCURDY. Mr. Speaker, this evening in this special order my colleagues and I will be discussing a number of issues that I think are being brought to light recently to the American people. I do not often do this, but I am going to refer to a recent book by a Republican Party strategist, Kevin Phillips, called "The Politics of the Rich and Poor."

It is interesting that in the book jacket they are talking about the analysis that Mr. Phillips, who has been seen as one of the prominent strategists for the Presidential Republican campaigns and whose number of books have been cited as being almost the political bible of the Nixon era and other guideposts for the other party, but in the book jacket they hawk this book on the premise that Phillips combines his analysis with a provocative interpretation of American political history. He shows how the 1980's were the third era in which the Republican policies managed to concentrate vast wealth in the hands of a favored few. The two previous Republican heydays were, of course, the 1920's and the gilded age of the late 19th century.

In all three heydays, Republicans presided over boom cycles, marked by conservative ideologies and probusiness governments promoting less regulation, high interest rates, and low taxes, periods in which the rich got richer, on the crest of debt and speculation.

In all three Republican heydays, the downside has also been similar, collapsing farmland values, the decay of older industries, and even a recurrent increase in homelessness.

The first two of these periods of excess resulted in the Progressive Era and the New Deal. It is Phillips' thesis that the Republican excesses of the 1980's have brought us to the edge of yet another such reversal.

As a matter of fact, in the introduction of Mr. Phillips' book, he says,

> The 1980s were the triumph of upper America—an ostentatious celebration of wealth, the political ascendancy of the richest third of the population and a glorification of capitalism, free markets and finance. But while money, greed and luxury had become the stuff of popular culture, hardly anyone asked why such great wealth had concentrated at the top, and whether this was a result of public policy. Despite the armies of homeless sleeping on grates, political leaders—even those who professed to care about the homeless—had little to say about the Republican Party's historical role, which has been not simply to revitalize U.S. capitalism, but to tilt power, policy, wealth and income toward the richest portions of the population.

Mr. Speaker, the richest portions of the population.

What Kevin Phillips in his book is saying is what many Americans have felt, Americans in my district in Oklahoma, Americans in homeland States, heartland States in the center of the country that during the 1980's saw a massive shift of wealth from the heartland to the coasts, built on a false economy. Much of that was based on public policy, and now we are paying that price.

We had today a vote and a debate on the constitutional amendment for a balanced budget. Even though the amendment is not a solution to the economic and fiscal problems of this great Nation, it is a step in the direction to provide discipline and honesty in budgets that is required in order to achieve fiscal prosperity and economic growth.

We recently shared a graph that showed the percentage change from fiscal year 1980 to this year, 1990, that illustrates how defense and Social Security were the only two programs in this country as a part of the Federal budget that exceeded the cost of living increases during that period. However, the largest single increase over the decade of the 1980's was interest on the debt, a 251-percent increase on interest on the debt. The third largest expenditure in the Federal budget today is interest on the debt, 14.1 percent of the Federal budget.

All the discretionary spending in the entire budget, all the remaining discretionary spending is only 15.1 percent. So interest is only 1 percent less than all the discretionary spending in the budget.

Most Americans were not surprised when President Bush recently broke his promise of no new taxes. They know that the Republicans have been raising taxes on Americans all along, on working Americans. At the same time George Bush was promising no new taxes the Republicans were raising the payroll tax seven times in the last 2 years.

We believe the hardworking middle class has suffered enough. When it comes to taxes, the average two-parent family is worse off today than it was 10 years ago. Now we have proof. Recently the Progressive Policy Institute released a tax fairness index which shows how much the Federal tax burden has shifted from the wealthy onto the middle class in the last decade.

Over the last decade the tax burden on an average American family rose while the tax burden on high-income families fell. The median-income two-parent family saw 23.7 percent of its income go to Federal taxes in 1980. By 1988, that had risen to 24.1 percent. However, the richest 5 percent saw their tax burden fall in the same period from 28.9 percent to 25.7 percent.

A family with a median income of $34,000 pay taxes at nearly the same effective rate as a family with an income of over $200,000. While the rich had their taxes cut, their income increased at five times the rate of middle-income families. The rich got richer, the middle class got taxes.

Mr. Speaker, the 1980's saw President Reagan cut taxes for the wealthiest 1 percent of this country. We should not allow President to begin the 1990's by increasing taxes on the middle class, the working class, working Americans in this country.

Mr. Speaker, at this point I would gladly yield to my colleague from Minnesota, who has spoken out so often not only for honest budgets and trying to bring discipline to an unorderly process, one who has raised the question of rising taxes, of the FICA tax, Social Security tax on the average American, the issue of tax equity and tax fairness, a person who has continued to demonstrate incredible political courage when it is not always popular, to express his views, the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding. First, let me express my respect and agreement with the remarks that the gentleman from Oklahoma [Mr. MCCURDY] just made to the House. I also want to compliment the gentleman from his leadership here in Congress, and also his leadership within the Democratic Leadership Council, a group of moderate conservative Democrats who have banded together to communicate to mainstream voters all across America.

□ 1940

I want to thank the gentleman from Oklahoma [Mr. MCCURDY] for organizing what is now being referred to as the Mainstream Forum, a group of House Members who will periodically come here to the floor of the House to speak about the issues that we feel matter most to the American public and to the future of this Nation.

Tonight we have another edition of the Mainstream Forum. Our concern tonight is the unfair burden that has been put on middle-income families by our tax system.

Most Americans were not surprised when President Bush announced he was no longer opposed to raising taxes. They knew that their taxes have already been increasing, in spite of his read-my-lips rhetoric. Their payroll taxes were increased seven times in the last 10 years.

Reagan may have spent the 1980's cutting taxes on the rich, but not for most working Americans. We Democrats cannot let Bush start the 1990's by raising taxes on the middle class as part of the deficit reduction plan.

The tax fairness index released last week by the Progressive Policy Institute proves what many of us have suspected all along. The tax burden has shifted from the wealthy to the middle-class taxpayers during the Reagan-Bush years. Over the last 10 years, the tax burden on an average American family rose while the tax burden on high-income households fell.

The index shows what in 1980 the middle-income, two-parent family saw 23.7 percent of their income go to Federal taxes. By 1988, that had risen to 24.1 percent. At the same time, the richest 5 percent saw their tax burden fall from 28.9 percent to 25.7 percent. And while the rich had their tax rates cut, their income increased at five times the rate of middle-income families.

The legacy of Reagan and the decade of the 1980's is that the rich got richer and the middle class got taxes.

Why has this happened? Our overall Tax Code has become regressive in spite of our efforts to make the income tax code more progressive. The Economist recently noted that the United States has one of the least progressive total tax codes in the developed world. The principal factor in making taxes more regressive has been the sharp rise in the payroll tax which has more than offset cuts in income tax rates for middle-income families.

The Social Security tax rate, which increased seven times during the 1980's, fell hardest on middle-income working families whose income was rising at a much slower pace than the rich. In addition, the top income tax rate was cut from 50 to 28 percent, further reducing progressivity.

It is interesting to note that if none of the changes in the Tax Code since 1977 had occurred, a median-income family would be paying $400 less in taxes this year, while a family in the richest 1 percent would be paying $40,000 more.

The Tax Reform Act of 1986 was a step in the right direction by taking away many of the deductions and breaks that were used mainly by the rich. But it could not completely offset the breaks received from the Reagan tax cuts in the early 1980's and the increase of the Social Security tax which affected only the middle- and low-income families.

So what do we as Democrats need to do? First, I believe we should cut the Social Security taxes.

One way is to adopt the Moynihan plan, to reduce the FICA tax rate, a plan which I have introduced in the House. He proposes to reduce the FICA rate to 6.02 percent, the 1989 level, and to further reduce the rate to 5.1 percent in 1991. This would eliminate the Social Security surplus while still protecting full benefits for all those currently retired and those nearing retirement. By embracing the Moynihan plan not only are we adding progressivity back to the Tax Code, we are also protecting the Social Security fund.

It is unfortunate, but true, that the surplus that is currently building up within the trust fund is being used to fund other programs and activities of the Government, thereby making the Federal deficit look $60 billion smaller. This budget deficit allows the President and Congress to avoid tough decisions about balancing the rest of the budget, and worse yet, threatens the future viability of the Social Security System.

So we as Democrats have a golden opportunity to make the Tax Code more fair while protecting Social Security and putting our Federal budget on more honest terms.

Another approach in this regard that is worth looking at is to revise or raise the cap on wages subject to the payroll tax and use the additional revenues to cut these tax rates for everyone. This one change would provide $100 in tax relief for every $10,000 in earnings for every worker earning under $50,000 a year.

A second option for consideration is that Democrats should reject Bush's plan for cuts in the capital gains tax rate. Proponents of capital gains tax cuts say that they will spur investment, reinvigorate the economy, and increase revenues to the Government. These are laudable goals and maybe a plan can be constructed that would do this, but the Bush plan does not do the job. The Bush-supported measure, considered by the House last year, for example, would have sent 80 percent of the tax savings to those making over $100,000. It is estimated that by fiscal year 1993, this capital gains tax cut measure would have added a $5 billion drain to the U.S. Treasury, money that would either have to be borrowed or put on the backs of middle-income taxpayers. There has to be a better way.

Finally, if we are to raise taxes now that Bush has placed taxes on the table at the budget summit, if they are to be a part of a deficit reduction plan, and most middle-income families would agree that any tax increase should be tied to significant spending cuts as a part of that plan, let us do it in a way that is fair. If taxes are on the table, let us add them to the package in a way that is fair.

What is wrong with asking upper-income taxpayers to continue to pay the same 33 percent tax rate that applies to middle-income taxpayers?

It is estimated that $42 billion can be raised over 5 years by doing this. This makes more sense than other taxes such as excise taxes that would just add to the tax burden on lower- and middle-class wage earners.

In conclusion, as Democrats our goal must be to undo the inequities of the Reagan and Bush years. We must bring fairness and progressivity back to our tax code. That is what our party has traditionally stood for and must stand for again.

Mr. SLATTERY. Mr. Speaker, will the gentleman yield?

Mr. McCURDY. I am glad to yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Speaker, I thank my colleague from Oklahoma for yielding. I would like to express my appreciation to him and our friend from Minnesota for requesting this time this evening to really address what I think is a growing issue of fairness to the American taxpayers and to the American public.

I do not know whether this has been pointed out by previous speakers or not, but I am going to touch on this point because I think it is very important.

The highest income, one-fifth of the population, paid a smaller percent of their income in taxes in 1990 than they did in 1977, while the bottom 80 percent paid more of their income in taxes in 1990 than in 1977.

Taxpayers in the top 1 percent and top 5 percent showed the largest reduction in taxes as a percent of income. Over the same period, the incomes of the top 20 percent of the families rose faster than the average family income, and the income of the bottom 40 percent of all of the families in America fell in real dollar terms during the period 1977 to 1990.

□ 1950

So the roaring eighties were not necessarily good times for 40 to 50 percent of the lower income Americans in this country. I think it is very important for us to understand that and to address that problem.

Because their incomes rose faster than average, the top 20 percent of families earned a higher share of overall family income in 1990 than in 1977. As a result, they paid a higher share of the total Federal taxes but they paid less of their income in taxes in 1990 than in 1977. Therefore, their share of total family income grew faster than their share of total Federal taxes paid.

To illustrate the sort of problem that we have today, which is really an issue of fundamental fairness, the question of spreading the tax burden in this country around in an equitable way, just keep this in mind: If an American family today is making $50,000 in taxable income, taxable income, if they earn another $1,000, on that last $1,000 they earn they are going to pay to the Federal Government $482.20 in taxes if they happened tc be self-employed. That is $330 in additional income taxes on that last $1,000 of income plus $76.10 in Social Security tax for a total of $406.10. And if they are self-employed, be they a farmer, shopkeeper, any self-employed person in the country, they will pay another $76.10 in self-employment tax on that last $1,000 of taxable income for a total of $482.20.

Now, if that taxpayer is earning $200,000 a year, $200,000 a year, four times as much, and if they earn another $1,000 in taxable income, guess what? They will pay to the Federal Government on that last $1,000 of taxable income. That is $200 less in Federal taxes paid on the last $1,000 of taxable income for the person making $200,000 a year compared to the person making $50,000 a year in taxable income.

I submit that is fundamentally unfair. In fact, the person making $200,000 a year is going to pay $50 less in income taxes under the current situation than the person making $50,000 a year in taxable income. I submit that is fundamentally unfair.

So when we hear our President and our friends on the other side of the aisle not changing the tax rates, what they are really talking about is maintaining this fundamental inequity in the existing tax structure which protects the very wealthy in this country. And for the life of me, I do not understand how the President of the United States can stand with a straight face and face the American public and suggest to them that this should not be changed, so that the top 1 percent are at least paying the same rate that those that are earning $50,000 in taxable income are currently paying.

So when we deal with this problem at the budget summit, I hope and I know that the Democrats participating in that economic summit are pushing for tax equity and they are pushing hard and working hard to address this fundamental inequity.

I hope that the American public that is listening out there will understand that when the President of the United States is saying, "We don't want to raise the tax rates," they are talking about not wanting to raise the tax rates on the top 1 percent that right now are paying a lower rate than middle-income America. And I, as a Member of this body, certainly do not want to raise any taxes on anyone in this country with a taxable income of $50,000 a year.

The payroll taxes, as the gentleman from Minnesota [Mr. PENNY] has already suggested, are way too high.

Mr. Speaker, I am very close to endorsing the concept that Senator MOYNIHAN has talked about as a way to further expose what a fraud it is for us to take all this social security money from people in this country that are making less than $53,100 a year and diverting that social security money into paying interest on the national debt or for the Pentagon build-up or for whatever reason the Federal Government might need to spend it.

As far as I am concerned, perhaps the Moynihan approach is the only way to really honestly expose this problem to the American public so that we can build the political support and consensus required to ultimately correct this.

So I again appreciate my friend from Oaklahoma and my friend from Minnesota requesting the time this evening to really focus some attention on a very, very important problem that we are dealing with.

I sincerely hope that as this budget process and negotiation proceeds, that the American public will have a better understanding of really what the Republicans mean when they talk about not wanting to raise tax rates. What they are really saying is, "We want to protect the very wealthy in this country that have really had it very well in the last decade."

You know, I do not want to overextend my welcome on the time of the gentleman this evening, but just one other observation I would like to make.

During the 1980's, Kevin Phillips wrote this very good book called "The Politics of Rich and Poor." I see that the gentleman from Oklahoma [Mr. MCCURDY] has brought it to the floor this evening.

Of course, the author was an adviser of President Richard Nixon.

In this book he makes a very good point of the fact that during the 1980's, if you had cash and lots of it, you did not have to look very far to find someone who was willing to borrow it for record high interest rates. The Federal Government was the biggest borrower of money in the world during the 1980's. In fact, they paid, oftentimes, real interest rates that were two and three times higher than the historical norm during the 1980's.

Now guess who benefited from those policies of enormous deficits during the 1980's? It was the people who had the money, the cash to loan to the Federal Government.

Now, to sort of sweeten the whole experience for those people during the 1980's, the Federal Government cut their taxes from about 70 percent in the late 1970's—which was too high, and I acknowledge that—to the current 28-percent marginal tax rate, which is lower than at any time since President Calvin Coolidge.

So these folks were able to loan the Federal Government enormous sums of money, draw interest at two to three times the historical norm in real interest rates, and at the same time the Federal Government said, "Thank you very much. Now we are going to further sweeten the pot for you. We are going to cut your tax rates to the lowest rate since Calvin Coolidge," the 28-percent rate.

You know, it is interesting because the American public might be interested to know who was really able to take advantage of this, and it might be possible to explain why President Reagan would talk about the constitutional amendment to require a balanced

budget amendment while submitting to the Congress budgets that had a $200 billion deficit. President Bush is continuing this process, although I think he is more sincere about dealing with it than Reagan ever was, because in reality some of their supporters have been the big winners under these policies of the last decade.

I think the American public really needs to focus on this and realize that there have been big winners with huge deficits. As long as these huge deficits continue, there will continue to be big winners.

There will be big losers, too. The big losers are the people who had to borrow the money, like a lot of farmers, small business people in this country, homeowners, people who wanted to buy a car and had to borrow money to buy the car. Those were the losers.

The winners were those people who had enormous amounts of money not only in this country but around the world who could loan the Government a lot of money.

So I think when we deal with this whole question, there are some very compelling reasons why we need to make whatever sacrifices are required today to deal with this deficit issue and deal with it in an honest, candid, straightforward way.

A big part of this overall solution is going to be restoring some basic tax fairness, tax progressivity to our income tax structure in the country and also reduce the payroll tax burden on middle income Americans.

Again I thank my friend for yielding to me.

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Mr. McCURDY. Mr. Speaker, the gentleman from Kansas [Mr. SLATTERY] has raised a very good point. I want to raise or add to that point one fact. The big losers in all this in the 1980's are our children and our grandchildren. The deficits that have been piled up which are not being paid off like a bond issue in a State that may borrow by issuing bonds, but they have a payback schedule. This debt is not being paid off. It is accumulating, a mountain of debt. We see every second of the day how it increases dramatically. The losers are the children. It puts a lid on their economic future.

For the first time in many, many a decade, we will see the next generation, the successor generation of young people will see their standards of living threatened. They will see their standards, the opportunity for success, and the opportunity for their standard of living to be higher than their parents and grandparents, actually stripped away. They, for the first time, will not see the benefits that we saw.

My father was a maintenance electrician, worked in a factory. My mother worked on the assembly line as well. My grandfather was a blacksmith. My great-grandfather was a farmer. Before him, a Confederate soldier that homesteaded in Indian territory in Oklahoma. However, each successive generation knew that their opportunities would be greater, that they would be handed to them a higher standard of living. But because of the decade of the 1980's and because of public schools that encourage the accumulation of debt, their future is threatened. That is what we are talking about.

We are talking about the values of America. Over the coming weeks and months we will be standing here, discussing these issues. It is not a partisan debate. The mainstream forum are the men and women in that, are Democrats, but it is really an issue that is not party labeled or ideology. It clearly is the issue of values.

I know the gentleman in the chair, the gentleman from Tennessee [Mr. COOPER], has been very involved and very vocal, and the gentleman from Minnesota, the gentleman from Kansas, the gentleman from Alabama, South Carolina, all over the country we have Members who want to talk about these issues, know full well that values is what we need to be discussing, that we need to be telling the truth about Washington, about what is going on here, even when it hurts.

We are not here to propose tax increases. On the contrary, I want to make it clear that if a deficit reduction package comes forward, I want to consider it. The gentleman from Kansas knows that I voted for a budget back in 1984 that was a tough budget, a real budget, that would have reduced the deficit, that would have led to a balanced budget and was painful, but it had to be done. We would be a lot better off today if we had voted for that budget. I am not for increasing taxes, but I will look at a tough budget. But I will be darned if I am going to support a deficit reduction package that has capital gains cuts for the wealthy, at the same time they are increasing excise taxes on items that the average American depends on.

Mr. SLATTERY. Mr. Speaker, if the gentleman will continue to yield, one of the most recent proposals that now is floating, apparently, in the budget talks, is a proposal that would raise the insuring premium for the secondary insurance mortgage for home mortgages and the net effect, of course, is to really increase the cost of interest in the payments on home buyers in this country. I call it a housing tax.

But it really is not that straightforward. It is sort of hidden by increasing the insurance premiums on home mortgages. This is something that is being floated now, and like I say, this is fundamental. A housing tax to be imposed on middle-income Americans again, those people that I just described, that are currently paying, if they are making $50,000, about more than 40 percent of their last thousand dollars of taxable income to the Federal Government. The administration's proposal is to go back to those folks, hit them again with more taxes that they do not call taxes. It is an insurance premium increase on their home mortgages, but it is taxes, as far as I am concerned. I think that Secretary Kemp would probably agree with me on that point, that it is a terrible idea. But that is another idea that is being floated, that is an attempt to raise revenue, and place the burden again on the overtaxed middle Americans, while avoiding the real need to address this fundamental inequity on the question of what the upper 1 percent are currently paying.

Mr. McCURDY. Mr. Speaker, I believe the American public is willing to join together to sacrifice to reduce the deficit. But they are not going to be willing to do that if they see a Donald Trump or someone who has incredible increases in wealth because of policy in this country over the last decade, getting off without paying their taxes, filing backruptcy or whatever, and still keep amassing wealth, profiting from a system which they are asked to sacrifice. They are not going to stand for that.

We in this country have to come forward with a plan that is fair, that is equitable, that is real—not smoke and mirrors—that leads to a brighter future.

Mr. Speaker, I yield to the gentleman from Alabama [Mr. BROWDER] who has been very much involved in this debate.

Mr. BROWDER. Mr. Speaker, I would like to thank the gentleman from Oklahoma for yielding. I would like to talk for a few minutes about some of the ideas that have been expressed here tonight by colleagues from Oklahoma, Minnesota, and Kansas. We are not here to talk about tax increases. I am not here to deliver a canned speech.

What I would like to do is just share a few thoughts with my colleagues about the values that we are trying to push in the mainstream forum. These are mainstream American values. Some of my friends here in this House and some of my constituents have asked me exactly what are we talking about. Are we talking about raising taxes? No, we are not. I will be the first to oppose a package that unfairly puts more taxes on the backs of the average American families.

They ask, are we talking about soaking the rich? No, we are not talking about soaking the rich. What we are talking about is an unfair burden that has been put on the backs of working Americans. I would like to speak for

just a few minutes about how we got in this shape over the past decade because quite often I think that the people who are asking me this have not really looked at this as closely as some of the rest of the Members have, and make it as worthwhile for Members to go back and even though it may be repetitious, to cover some of these points.

How did we get in this shape? First, almost every group's income before taxes rose in the 1980's. That is a fact. However, while the average family's income grew only at 1 percent a year after inflation, incomes for the top 5 percent grew more rapidly. Second, against this background of growth across the board, the actual burden of the Federal income tax fell moderately for almost every group in the 1980's. However, when we look at the fact that the before-tax income of affluent families grew much faster than did the incomes of average Americans, the distribution, the bottom line, the distribution of taxed income became less progressive during that decade. We mean that the people at the lower and middle end were paying more. Third, as the Federal income tax burden was being cut in the 1980's, Social Security tax rates and the burdens of Social Security taxes on average income families increased sharply.

□ 2010

And the deficit began to absorb Social Security revenues to finance other programs. We call this the payroll tax, the Social Security tax. A lot of people do not understand how that relates to their tax burden. That payroll tax is the most important single factor in determining the shape of the fairness index that we have talked about.

Virtually all the income earned by a middle class family is subject to this tax. If you have a family income of $20,000, $30,000, $40,000, or $50,000, you are paying that tax on this income, but a wealthy person's income has only a small share of that amount taxed. That tax is applied only to wages and salaries, and that accounts for vitually all the income of the average American family. But for affluent families, that is only part of their income, and for the median family income that means the cap on wages and salaries subject to the payroll tax is a bigger chunk of their income.

Taken together, the result of these three factors, these trends, has been a substantial widening in the gap between the average American family and the very well-to-do.

Back in the 1970's, if you took a typical 2-parent family, after income taxes and Social Security taxes, that family had income that was equal to about one-fourth of the posttax income of a family in the top 5 percent. So a family at the top had about four times as much income as the median family in America.

In 1985, the after Federal tax income of a middle class family was equal to barely 20 percent of the posttax income of the very affluent. And by 1988, an average family, after taxes, had income equal to only 18 percent of the posttax income of those in the top 5 percent. The burden keeps getting greater on these middle class people, and the gap between them and the top 5 percent keeps getting wider.

There are a couple of examples I can point out that I think illustrate maybe a little more clearly what is happening to us. Because of these increases in payroll taxes, at least 90 percent of all families will have a higher tax burden than they had in 1977. If the tax laws had not changed since 1977, a middle income family's taxes would be $400 less this year. In contrast, those changes in the Tax Code since 1977 have reduced the tax rate for a family in the richest 1 percent by almost $40,000.

So in this context, the principle of progressive tax reform, one of the values that we in the mainstream forum have been preaching, does not represent a plan to soak the rich.

Mr. Speaker, this represents a program for supporting the average American family.

Mr. McCURDY. Mr. Speaker, I thank the gentleman from Alabama [Mr. BROWDER] for his comments. He continues to play a very important role, although he has only been in the Congress for a short time, and we appreciate his candor.

Probably more important is the fact that the gentleman has been out in his district and his State more recently than some and perhaps understands some of those issues in a better way and has a closer perspective. I am not looking at the gentleman from Pennsylvania when I say that, because I know how closely he stays in contact with his district.

Mr. SLATTERY. Mr. Speaker, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Speaker, I will take some of the remaining time of the gentleman from Oklahoma to highlight the point my friend, the gentleman from Alabama [Mr. BROWDER], made, and that is that for the top 20 percent, if you look at this country, they are the only people that today are paying more income taxes than payroll taxes.

To put it another way, the lower 80 percent of the households in America today pay more payroll taxes than income taxes, and that is why it makes it extremely important for us to address this fundamental question of the inequity of the payroll tax and what is being done with the payroll taxes that are currently being collected.

This idea of using $50 or $60 billion a year of payroll taxes to fund the other operations of the Federal Government is fundamentally unfair. We are not using that money for the purpose for which it was collected. We were supposed to advance funds for the retirement of the baby boom generation. That is not being done. We are lending that money to the Federal Government so the Federal Government can pay for the ongoing operations of the Federal Government, and it is fundamentally unfair in light of the fact that those people who are paying those payroll taxes are people who are making less than $53,100 a year.

Again, Mr. Speaker, the bottom 80 percent of the people in this country today are paying more in payroll taxes than they are in income taxes.

Mr. Speaker, I appreciate the opportunity to participate in this special order this evening.

Mr. McCURDY. Mr. Speaker, I thank the gentleman from Kansas for his participation.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. McCURDY. I am glad to yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, I thank my colleague, the gentleman from Oklahoma, for yielding.

Mr. Speaker, I would like to spread in the RECORD at this time the fact that it was indeed a pleasure to be sitting here and listening very attentively, if I may use this term, to the comments of some of our younger Members in analyzing this very critical problem that is before the House. I like the way they have done it. They have shown me a dedication to the problem, they have made a complete study of the problem, and also they have considered the technical aspects of it. I think they should be congratulated.

For what it is worth, let me say again for the RECORD that I feel very good that the Members, and particularly this group here today—and maybe they may again be classified as younger Members—have shown such a dedication on such an important subject matter. That bodes well for the Nation, and it is good for this Congress. I hope our listening public out there agrees with me. I know they do.

Mr. McCURDY. Mr. Speaker, I thank the gentleman from Pennsylvania for his contribution.

DEATH OF LARRY CONRAD

The SPEAKER pro tempore (Mr. COOPER). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, the death of Larry Conrad marked the passing of

a man whose life gave true meaning to the term "public servant." His imprint on our lives can be found in a variety of places, from the U.S. Constitution to the smallest neighborhoods of Indianapolis and Europe. His trip to Europe, which ended with his death in Lyon, France on July 7 was a speaking tour on behalf of "Partners for Livable Places," an international group devoted to urban development. This trip was indicative of his desire to improve the quality of life for those around him.

Larry Conrad was a person who loved people. He had a zest for life that was inspiring, a sense of humor that was infectious, and an ability to bring people together. Although a lifelong Democrat he had a knack for gaining bipartisan support for many civic endeavors. Not enough can be said for the time, the energy, the talent, and enthusiasm that Larry contributed to not only the city of Indianapolis, the State of Indiana but to people everywhere.

Life in Indiana may be poorer without Larry Conrad but it would not be what it is today if he had not worked so long and so hard to help make our lives better. Our thoughts and prayers are with his family. He will be sorely missed.

[From the Indianapolis Star, July 10, 1990]

LARRY A. CONRAD

Not enough can be said for the time, the energy, the talent and the enthusiasm that Larry Conrad contributed freely to the city of Indianapolis and the state of Indiana.

He was a person who loved people and let it show. He had a zest for life that was inspiring, a sense of humor that was infectious and an ability to bring people together that was legend.

Full of ideas, speeches and stories, Conrad was always on the go. He was on a speaking tour of European cities in June when he suffered the massive heart attack that led Saturday to his tragic and untimely death at 55 in Lyons, France, His trip was on behalf of Partners for Livable Places, an international group dedicated to the betterment of cities and which had an Indianapolis office partly through the efforts of Conrad.

The list of such projects which won Conrad's interest is long. Among the most significant for the city, however, was the National Sports Festival at Indianapolis in 1982. As co-chairman, Conrad directed the festival, together with the thousands of volunteers, and put Indianapolis clearly on the national map as a sports center, paving the way later for the Pan American Games here.

A former secretary of state and a candidate for governor early in his career. Conrad, an attorney, later had a knack for bringing the spirit of bipartisan cooperation to civic endeavors. But he could be an outspoken critic or advocate as a situation required.

In life he had many friends and many admirers and in death he has had many tributes.

Gov. Evan Bayh said, "I am not sure I ever met anyone who appreciated life as much as he did."

Mayor William Hudnut noted that "there are very few people who loved this city and indeed the state as much as Larry Conrad."

Life in Indiana may be poorer without Larry Conrad but it would not be what it is today if he had not worked so long and so hard to help make it better. Our thoughts and prayers are with his family. He will be sorely missed.

Mr. McCLOSKEY. Mr. Speaker, Hoosiers and thousands of them were recently saddened by the death of Larry Conrad, former Indiana secretary of state, Democratic nominee for Governor, and dynamic civic leader.

Anyone who ever met Larry Conrad knew immediately that he was a special and gifted person. Larry's untimely death at the peak of his talents leaves two major voids—one in our hearts and the other in Indiana public life.

He and his wife Mary Lou were major factors in the election of our great Hoosier Senator Birch Bayh. Larry's skills as the youngest chief counsel for the Senate Judiciary Subcommittee on Constitutional Amendments has strengthened and improved our constitutional landscape for all time.

His service as secretary of state, and in two statewide campaigns for Governor, exemplified dedication, dignity, intelligence, and compassion. Both on and off the stump, his special wit, his flair for stories and his abundant love of history made him one of the most spirited and entertaining public speakers of our generation.

His Indianapolis and State community leadership, while associated with Mel Simon & Associates, were vital contributions to the people of our State.

Perhaps most significantly Larry always will be remembered as a dear friend, and an able and honest counselor—to scores in and out of public life.

He always took the time to listen, to actually help. Always his advice was wise and honest—not just what a listener wanted to hear.

A great leader, a special person and a dear friend. Our hearts go out to Mary Lou and all the family.

Mr. VISCLOSKY. Mr. Speaker, I would like to commend my fellow Hoosier, DAN BURTON, for organizing this special order to memorialize Larry Conrad. Indeed, I think that it is significant that it is my Republican colleague who has called for this special order to remember a former Democratic State office holder. It is indicative of Larry's special attributes, concerns, and efforts that transcended political boundaries and endeared him to all that came to know him.

Larry Conrad had a 30-year love affair with the city of Indianapolis and the State of Indiana. He began his political and public service career when he successfully managed Birch Bayh's Senate campaign to defeat an incumbent Senator. Joining Senator Bayh's staff in Washington, he became the youngest chief counsel ever of the Senate's Judiciary Committee Subcommittee on Constitutional Amendments. In this role, Larry played a key role in crafting the 25th amendment to the Constitution, which created the process to fill vacancies in the Office of the Vice President. Larry was also very involved in the drafting of the 26th amendment, which extended voting rights to 18-year-olds.

After returning to Indiana, Larry was one of the few Democrats to win statewide office in the 1970's when he was twice selected to be Secretary of State. While unsuccessful in his effort to be Governor, Larry continued to be an active and vocal supporter of the State.

His energy and enthusiasm in support of civic, arts, educational, and charitable organizations is legendary in the State. He served on dozens of board of directors, utilized his skills to aid to numerous organizations, and spoke in favor of countless important issues. It would have been easy for him to just pay lipservice to any of these, but that was not Larry. When Larry adopted a cause, he became a tireless worker and advocate. It is not surprising that his untimely death came while he was in Europe, not on vacation, but on a speaking tour on behalf of Partners for Livable Places, an international organization whose goal is to improve urban centers.

Perhaps Larry's greatest accomplishment was his key role in the renaissance of Indianapolis. Selected to be cochairman of the 1982 National Sports Festival in Indianapolis, he organized, oversaw, and directed thousands of volunteers whose efforts resulted in a successful event. The festival not only placed Indianapolis on the national and international map as an outstanding sports center, but acted as a catalyst to revitalize the city and its surrounding communities.

Larry was a special person whose contributions to his city, State, and Nation will outlive us all. He was part politician, part public servant, part humanitarian, and part cheerleader. All Hoosiers are indebted to him for his efforts on behalf of our State. Those who were fortunate to know him personally are better because of his friendship. He will be missed, but he will not be forgotten.

Mr. HAMILTON. Mr. Speaker, I join my collegues on the House floor today to express my deep sorrow at the death of Larry Conrad. He was one of Indiana's finest. His life did not span the biblical measure of three score years and ten, but he got, in the words of the Hoosier poet, "a heap of living" into those years.

Larry Conrad was a warm and caring man of vision and indefatigable energy. He was a politician with flair and flamboyance. All of us can remember being regaled by one of his humorous Hoosier stories. Larry devoted himself to the needs of the people of Indiana and of this Nation. In his service as the counsel to the Senate Judiciary Committee's Subcommittee on Constitution, as Indiana's Secretary of State during the 1970's, and in his many subsequent leadership roles in the public and private sectors, Larry contributed greatly and freely to Indiana. His many contributions have helped improve the quality of life for all Hoosiers.

Larry Conrad reflected great credit on our State of Indiana and Nation. He led a good and productive life. He was a good man, and a good friend. I am one of the many who will miss him and remember him with fondness and appreciation. I extend to his wife—Mary Lou—and to their children—Jeb, Andrew, Jody, and Amy—my deepest sympathy.

Mrs. MYERS of Indiana. I rise to join those paying tribute to a Larry A. Conrad of Indianapolis, IN, a good friend, a fellow Hoosier and one of the most respected political and civic leaders in our State.

Larry and I did not see eye to eye on every political issue. We were on the opposite sides of the aisle. But, I never for one moment doubted his motives or sincerity or his sense of fair play.

Larry loved his city, his State, and Nation and he died last week while on a mission for his community and country—a mission to find the key to making each of our communities more humane and livable, not only in America but around the world. I will always remember Larry as a human dynamo—ever on the go in the pursuit of life, ever taking the time to say a word of encouragement, ever taking the time to prepare himself and the task to which he had committed himself.

Larry did not say he would do it unless he meant it. You soon learned that you did not ask Larry to do something unless you wanted him to do it.

And so we pause to say thank you to Larry Conrad and to remember the seeds he sowed of trust in this fellow citizens and his commitment to making this world a better place in which to work and live.

Ms. LONG. Mr. Speaker, I rise today to pay tribute to the Honorable Larry Conrad.

Larry Conrad was a very unique person. He had so many and such varied characteristics that it is hard to believe that they were all contained in the same person. He had energy, intelligence, creativity, and sincerity, but his most memorable characteristic was his humor. Even in a conversation of the most serious nature, Larry could add humor—not in a disrespectful manner, but in a way that would bring a new and better perspective to an old subject.

Larry had an attitude from which we can all learn—never take oneself too seriously and find the fun and humor in all things; this makes life much more enjoyable. There are many things in life that dampen our spirits. Larry always lifted our spirits.

Larry Conrad touched so many lives—in broad sweeping ways, such as when he played a major role in drafting the 25th amendment to our Constitution, and in very personal ways, like when he worked to improve the quality of life in his own community. Larry often took a particular concern under his wing and brought it to the attention of his friends and colleagues so that a solution could be found.

Larry Conrad will be sorely missed by many, especially by his family and friends, but also by the many local, national, and international organizations in which he was involved. We will miss his humor, we will miss his creative responses to complicated problems, and we will miss the energy and enthusiasm he brought to any project he undertook.

No one could ever replace Larry Conrad—he was truly one of a kind. He accomplished so much for others during his 55 years.

I am grateful to have known Larry and I am honored to be able to be here today to express the sorrow and loss that I, and many that I know, have experienced by the loss of Larry Conrad.

Mr. JACOBS. Mr. Speaker, the following article about Larry A. Conrad by Indianapolis Star columnist Bob Collins speaks for itself. But it also speaks for all the rest of us who loved and admired Larry, who among about a million other good things once served as chief counsel for the Senate Judiciary Subcommittee on the Constitution.

No one, including me, could have said it better than Bob Collins. In fact most of us could not have said it so well.

[From the Indianapolis Star, July 10, 1990]

CONRAD CARED FOR ALL OF US

You don't replace a Larry Conrad. Instead, you try to find five people who will work seven days a week for a multitude of civic and sports events and worthy causes.

Larry, who died Saturday, was first a politician. Thus, he didn't run from the limelight. But he could operate without it.

The man was a natural born do-gooder. You had a show that needed an emcee, call Larry. You had a program that was strangling on disorganization, call Larry. You had a charity that was starving for bucks, call Larry.

The man was a dynamo. He died at 55, which is a bit young. But I'll flat guarantee you that he managed to squeeze in 110 years.

And the finest thing that can be written or said about the man was that he cared. He really cared; about all of us.

So it was no surprise to many of us that when he died, after a massive heart attack in Lyons, France, he was on a speaking tour for a group called Partners for Livable Places.

The last time we talked, he was concerned about my health. My health for God's sake! Larry's gone, and I'm still here.

Larry, right down to the twang, was as Hoosier as a sycamore or the Wabash. Death doesn't take reservations. But given a choice, you can believe he would have wanted to depart from right here in the middle of Indiana.

Folks, we lost us one helluva horse.

OSHA/ARCO

Mr. SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, just 12 days ago, on July 5, 1990, 17 workers at an Arco Chemical Co. facility near Houston, TX, were killed in an explosion.

I sincerely sympathize with the families and coworkers of those 17 victims of this apparently preventable tragedy. I recognize their pain and frustration as well as their desire to blame someone for these unnecessary deaths.

I am concerned, however, that in a rush to react to those cries of pain and suffering from the victims' families and friends, we might lose sight of our proper task—to determine what happened so that we can take effective action to prevent the repetition of such tragedies.

I am concerned that a hearing scheduled by a Government Operations Subcommittee for next week into OSHA's failure to take action to prevent this unfortunate circumstance may be directed more toward assigning blame rather than getting meaningful and factual knowledge because, as we all know so well, the investigation into the explosion at the Arco facility has not as yet been concluded.

As I think about this self-serving rush to the hearing, I am reminded of a few lines from Shakespeare's Macbeth:

* * * it is a tale told by an idiot, full of sound and fury, signifying nothing.

For everyone's general information, OSHA is moving forward toward improvements in the ways it will inspect and review activities in chemical manufacturing and processing.

What's more, the Congress as a body, itself is moving forward in this same arena.

Just today, OSHA published in the Federal Register a notice of proposed rulemaking on its chemical process safety standard. I will grant that it has taken too long to get to this position and that both the Arco tragedy as well as last October's explosion at the Phillips Petroleum complex in Pasadena, TX, which took 23 workers' lives might have been prevented if the standard were in place.

But there is more going on than meets the eye. As I mentioned, the Congress as a body is more deeply involved. Because of OSHA's slowness in acting on this standard, both the House and Senate versions of the Clean Air Act amendments contain provisions that statutorily require the Secretary of Labor, through OSHA, to publish a final rule on chemical process safety within 12 months after enactment of the bill.

As a member of the House-Senate conference on that section of the Clean Air Act amendments, I can assure everyone that the provision will be in the final version and will continue to include the list of issues which the standard must address.

Mr. Speaker, I have been a member of the Subcommittee on Health and Safety for all of my 22 years in Congress and I have been its chairman for the past 12 years.

I resent the implication by any person on any committee that the Subcommittee on Health and Safety isn't doing its job, that we are too busy defending OSHA.

I don't want anyone to think that I am an apologist for OSHA. Yes, when the Agency has acted vigorously to protect workers, I have applauded it; and rightly so. But I have been more critical of OSHA over the years than anyone else in this body.

But there is far more to health safety in the workplace than attacking OSHA.

I have personally suffered every time a worker has been killed or injured on the job, whether it has been a coal miner trapped forever in a mine

cave-in, a construction worker suffocated in a trench collapse, a poultry processing worker who has lost the use of his or her hands, or a chemical worker killed in an explosion.

I have committed my entire congressional career to making every workplace safer and healthier. I made that commitment in 1970 when I took an early active role in the passage of the Occupational Safety and Health Act; the first comprehensive attempt in this Nation's history to enforce workplace health and safety rules.

I reaffirmed that commitment in 1977 when I was the floor leader during passage of the amendments to the Federal Coal Mine Safety and Health Act of 1969.

In 1986, when the Secretary of Labor was moving too slowly in adopting a field sanitation standard for migrant farm workers, I introduced legislation to create that field sanitation standard statutorily. It came as a surprise to no one that shortly after hearings on that legislation, the field sanitation standard was formally adopted by OSHA.

In 1987, I was floor manager during the debate on the High Risk Occupational Disease Notification and Prevention Act, which passed the House by a margin of 39 votes, 225 to 186.

And during this Congress, the Subcommittee on Health and Safety has again led the way in focusing on critical issues in workplace health and safety.

Most notable among these is the Construction Safety, Health, and Education Act, which we anticipate will go a long way in reducing the 2,500 deaths and 200,000 injuries in the construction industry every year.

We conducted five hearings on the bill and we are almost finished with a revamped version based on the testimony provided by the broad range of witnesses at those hearings.

Another item on the subcommittee's legislative agenda is the Nuclear Facilities Occupational Safety Improvement Act which is directed to providing the same health and safety protections to those men and women who work in nuclear weapons facilities owned by the Department of Energy and operated by private contractors that all other workers in the private sector have.

Beyond these legislative initiatives, subcommittee hearings have focused on OSHA's proposal for protecting health care workers from hazards associated with blood-borne pathogens, such as HIV and hepatitis B virus; OSHA and EPA standards and requirements for training workers engaged in the removal of asbestos or who are working near asbestos; and the hazards associated with exposures to emissions from diesel-powered equipment in closed workplaces, such as mines and poorly ventilated warehouses.

Now, let me return to the issue under immediate discussion—health and safety in the chemical manufacturing and processing industry.

We all know that far too many workers have been killed and injured as a result of explosions or leaks of toxic substances at chemical manufacturing, processing, and storage facilities.

We know that these explosions and leaks also pose a threat to the health and well-being of people living in areas immediately adjacent to those facilities.

But it wasn't until we saw the consequences of an uncontrolled runaway chemical reaction of something as lethal as methyl isocyanate in Bhopal, India, in December 1984, in which more than 2,000 died, that we really woke up to the threat of such an incident in the United States.

Following that unprecedented tragedy, in 1984 and 1985, the Subcommittee on Health and Safety conducted a series of hearings on the implications of the Bhopal incident for the United States. During the course of those hearings, we discovered that OSHA's inspection policies were not sufficient.

On recommendation of the subcommittee at the conclusion of those hearings, OSHA initiated a wall-to-wall inspection of the Union Carbide Co.'s chemical facility in Institute, WV.

That inspection raised a great many eyebrows. It was learned at that time that injuries and illnesses at that plant were seriously underreported. In fact, the inspection triggered the first in a series of large fines for record-keeping violations.

Based on that inspection and at the urging of the subcommittee, OSHA, in late 1985, initiated its Chemical Industry Special Emphasis Program.

Before its conclusion in early 1987, OSHA inspected some 40 chemical manufacturing and processing facilities across the country and found a great many weaknesses in its inspection program.

In its final report, OSHA recognized that the Agency's traditional approach to determining compliance with safety and health standards was insufficient to address the identification and correction of potentially catastrophic situations.

Clearly and simply, OSHA needed a new and better inspection structure for the chemical industry—and even OSHA recognized that need. I am attaching the executive summary of OSHA's final report on the Chemical Industry Special Emphasis Program so as to provide an overview for my colleagues who may not be aware of it.

As a result of that special emphasis program, OSHA began crafting what is known now as a "Chemical Process Safety Standard." That standard will provide requirements for the management of hazards associated with processes using highly hazardous chemicals and will establish procedures for process safety management that would protect employees by preventing or minimizing the consequences of chemical accidents.

And, as I mentioned, OSHA's notice of proposed rulemaking on the chemical process safety standard appears in today's Federal Register.

Has OSHA moved rapidly enough on the development of the chemical process safety standard?

Judging by the deaths and injuries of workers in these plants since the completion of OSHA's Chemical Industry Special Emphasis Program, the answer has to be a resounding "No!"

There have been too many incidents—explosions, fires, and leaks of toxic materials—that have resulted in too many worker deaths and injuries in the past 2 years for OSHA to walk away from free.

But it's not all OSHA's fault. The industry deserves part of the blame. Why did the American petroleum industry wait until January 1990, to publish its recommended practices on "Management of Process Hazards"?

OSHA submitted the proposed standard to the Office of Management and Budget [OMB] on May 9, 1990, for approval so it could be published as a notice of proposed rulemaking. Why did OMB wait until July 6, 1990—one day after the 17 workers were killed in the Arco explosion—before releasing the proposal for publication in the Federal Register?

As a matter of fact, if the Committee on Government Operations and any or all of its subcommittees want to do something worthwhile, perhaps they ought to review OMB's practice of delaying and frustrating the rulemaking process through the misapplication of the Paperwork Reduction Act.

In the meantime, I intend to preserve my subcommittee's jurisdiction in the area of occupational safety and health and I will continue to do whatever I can to improve the health and safety of American men and women wherever they are working.

I made that commitment 22 years ago when I first came to Congress, I have very proudly reaffirmed that commitment many times during my service, and I will continue to show that I am committed through actions as well as words.

CHEMICAL SPECIAL EMPHASIS PROGRAM FINAL REPORT—EXECUTIVE SUMMARY

I. SUMMARY

Catastrophic chemical releases in this nation and abroad in 1984 and 1985 caused the Occupational Safety and Health Administration (OSHA) to focus attention on the potential for similar occurrences in the U.S. That attention led to a Chemical Special Emphasis Program (ChemSEP) of in-depth safety inspections of chemical manufactur-

ing processes. OSHA has conducted forty such inspections. The valuable lesson learned by OSHA from these ChemSEP inspections is that an inspection process different from the agency's traditional approach of determining compliance with safety and health standards is needed to address the identification and correction of potentially catastrophic situations. A comprehensive approach, which includes both physical conditions and management systems, is indicated.

OSHA proposes to begin incorporating this new approach into inspections in its standard operating procedures. OSHA will also consider adopting a requirement that chemical employers conduct self-audits of safety systems and devices.

II. INTRODUCTION

OSHA conducted a special emphasis program in the chemical industry (ChemSEP) in 1986. The program was initiated in response to the Bhopal disaster and other incidents which raised concern about safety in chemical plants. Unlike ordinary OSHA inspections which focus on physical facilities and the health hazards, ChemSEP evaluated safety and health management, including emergency preparedness. The Senate Appropriations Committee expressed interest in this OSHA initiative, requested a special report on ChemSEP's effectiveness and asked that it be advised of "additional resources required to expand the program nationwide." OSHA submitted an interim report on July 15, 1986 covering ChemSEP's development. The present report covers implementation and results.

Forty chemical plants have been visited in this program. One processing unit, which manufactured one of 10 targeted chemicals, was inspected at each plant. ChemSEP inspections, while limited in number and scope, were nonetheless thorough within the stated limits, and they provide valuable information about observed conditions and about OSHA's capacities. However, because the chemical industry includes more than 12,000 firms (many with multiple process units), conclusions drawn from this limited sample may not be applicable to the whole industry.

III. FINDINGS

Each inspection required more than 383 inspector-hours on the average, twelve times that of a typical health inspection and 38 times that of a typical safety inspection. Levels of compliance are generally high because of the advanced technology of the industry and because of general awareness of catastrophic potential. Nonetheless, some conditions were found and corrected which might have contributed to significant harm to workers and perhaps to others outside the workplace. Specifically, no fewer than 128 serious violations were identified in these forty inspections. Older and smaller plants were noted to have more hazards than newer, larger facilities even when the older and smaller plants were owned by large firms with ample resources.

The combination of a low volume of safety and health standards citations with frequent use of the Occupational Safety and Health Act's General Duty clause and frequent resort to recommendations in lieu of citations raises questions about how the orientation of existing OSHA standards might relate to the prevention of potential chemical catastrophes. OSHA's standards applicable to conditions found in chemical operation were developed to protect worker safety and health against common hazards, not rare catastrophic events. Re-evaluation of the role of existing standards and consideration of an approach to require industry to conduct self-audits seems to be indicated.

Inspectors reported high levels of cooperation by employers and general acceptance of ChemSEP's comprehensive approach to inspections. Industry recognized ChemSEP as similiar to its own historical safety audits and thus many (but not all) employers found ChemSEP both familiar and relevant. Some, however, had no effective safety programs. Employers were aware of the program and some saw the inspection as beneficial. This attitude prevailed despite some concerns about potential confidentiality problems and resource burdens in small firms. Uninspected firms were reported to have inquired about the program and to have taken similar self-inspection and remedial action although they were not targeted for inspection. ChemSEP inspections thus had "ripple effects" in firms and in the industry.

IV. RECOMMENDATIONS

Over the long term, OSHA should:

1. Consider developing a standard requiring that industry conduct system-wide safety and health audits, with OSHA spot-check inspections for verification.

2. Make available more chemical engineering expertise for spot-check inspections by the agency and for consultation.

In the near term, OSHA should:

1. Integrate ChemSEP inspection techniques into chemical industry inspections on a limited scale, focusing on those establishments in which potential may exist for a catastrophic chemical release.

2. Begin to use the skills and techniques learned from ChemSEP to make in-depth inspections that involve an assessment of a company's safety and health management not only in the chemical industry (SIC 28), but also in other workplaces where hazardous chemicals are used, stored or handled.

3. Encourage voluntary compliance with the best industry standards, through training, education, and dissemination of information.

V. RESOURCE IMPLICATIONS

These recommendations can be implemented within the FY 1988 budget request. Regarding the long-term recommendations, existing staff resources can accommodate consideration of a requirement for employer self-audits. Policy implementation can also occur within the existing framework of instructions, directives, training materials and courses, and policy documentation. Chemical engineering resources may be increased gradually as vacant positions are filled through normal hiring processes. If necessary, in subsequent years funds may be requested to contract for specific services, including technical assistance to inspectors and development of guidelines and promotional materials.

Short-term recommendations have already begun to be implemented. Training is being conducted, and by year's end, more than 200 compliance officers will have attended the chemical industry course. OSHA plans to use ChemSEP procedures, modified to reduce average inspection time from 383+ hours to about 240 hours, in firms using hazardous chemicals, in the chemical industry and elsewhere. In addition, increased availability of trained compliance officers throughout the agency will enable OSHA to conduct similar inspections in other areas when necessary. These special inspections are expected to result in fewer regular safety and health inspections. This reduction will be offset by the higher quality of these inspections and their concentration in locations where potentially catastrophic safety hazards are most likely to occur. Educational materials, including information developed from the ChemSEP inspections, will be developed and distributed using existing resources.

SECTION I: INTRODUCTION

In 1984 and 1985, a series of incidents involving hazardous chemicals raised concerns about the safety of workers in chemical plants and of the general public in the vicinity of chemical plants, refineries, and similar installations. Specifically, a natural gas explosion in Mexico City and a chemical release in Bhopal killed large numbers of people. In West Virginia, a smaller release in a pesticide factory casued the hospitalization of many people. As a result, Federal agencies, including OSHA, and State and local government bodies, moved to reassess their policies for the prevention of chemical-related disasters, and for the mitigation of the effects of chemical-related incidents should they occur.

Following the Bhopal tragedy, OSHA immediately made inspections in all domestic methyl isocyanate manufacturing plants. It also initiated a thorough inspection of a major plant in which the processing units for several chemicals were investigated. These early initiatives indicated possible benefits from more special investigations in the chemical industry. An experimental "Chemical Special Emphasis Program" ("ChemSEP", hereafter) to explore these possible benefits was called for, and developmental work began in mid-1985.

The major objectives of the experimental program were to test OSHA's capacity to inspect chemical manufacturing workplaces using current safety and health standards, and to assess industry practices with respect to prevention and investigation of disastrous releases. Until major incidents precipitated re-thinking of policy in the industry, OSHA had little reason to single out chemical manufacturing for special attention or development of policies that differed significantly from other industries. A special targeting system, based on a list of hazardous chemicals, was developed for the program and special procedures were devised to evaluate both the safety management in chemical plants and their physical conditions. These steps were described at length in an interim report submitted to Congress in July 1986.[1]

Originally, ChemSEP was intended to include inspections of approximately 80 firms, and it was to commence in the early Fall of 1985 and to be completed at the end of the fiscal year, September 30, 1986. Each of eight selected area offices had a target of ten inspections, which were to be performed by teams consisting of a safety compliance officer and a health compliance officer (industrial hygienist), both specially trained for the project. Each inspection was projected to require four to six weeks of each team's time.

The purpose of this report is to examine what actually was accomplished in this pilot project and to present findings about OSHA's capacity to conduct intensive inspections in the Chemical industry. Although only a very small sample of the more than 12,000 chemical plants were inspected, some limited observations on work-

[1] Appendix A contains the body of the interim report.

ing conditions are included. The report also describes possible alternative strategies for implementation in FY 1988 and later.

II. SUMMARY OF FINDINGS

A. Who Was Imspected

1. Number of Inspections

Forty workplaces were inspected in the Chemical Special Emphasis Program. Thirty-three firms are represented in this group. One process unit which was manufacturing a listed chemical was inspected at each workplace.[2] Delays in beginning the program, the amount of time required for the inspections and other factors, such as unexpected attrition in all of the 8 Area Offices made it impossible to reach the original target of eighty inspections.

The pilot program ran for eight months, from late January to September 1986. To allow completion of cases and full evaluation in time for inclusion in this report, no new inspections were begun after September 1986. Enough information has been gathered to allow assessment of procedures and development of alternatives for further testing.

2. Characteristics of Inspected Firms

a. SIC Distribution:

Primary Standard Industrial Classification (SIC) codes for the forty firms were as follows:

TABLE 1.—DISTRIBUTION OF INSPECTIONS BY STANDARD INDUSTRIAL CLASSIFICATION

SIC	Number	Workplaces
2079	1	Shortening and cooking oils.
2812	3	Alkalies and chlorine.
2813	11	Industrial gases.
2819	3	Industrial inorganic chemicals.
2821	5	Plastics materials and resins.
2833	1	Medicinals and botanicals.
2865	2	Cyclic crudes and intermediates.
2869	3	Industrial organic chemicals.
2879	4	Agricultural chemicals
2911	5	Petroleum refining.
3312	1	Blast furnaces and steel mills
3811	1	Engineering and scientific instruments.

b. Establishment Size:

ChemSEP Inspections included a cross-section of establishment size categories. Table 2 shows a distribution of inspections by the total number of workers employed at the plant and in the process unit affected by the inspection. In many cases, the number affected is much smaller than the total number because only one process unit was inspected in each plant. Further, support services (such as clerical and administrative functions) are not usually included among affected employees. Note, however, that the limit scope of the inspection may cause changes in procedures throughout the entire establishment and where the establishment is part of a multi-plant operation, effects may be felt through the larger organization.

TABLE 2.—INSPECTED WORKPLACES—SIZE DISTRIBUTION

Size category	Plants, based on total employees	Plants, based on affected workers [1]
1–10	2	6
11–20	7	9
21–50	2	6
51–100	3	7
101–250	7	7
251–500	8	2
501 and more	11	2
Average number of employees	933	193

[2] Inspected firms are listed in Appendix B.

TABLE 2.—INSPECTED WORKPLACES—SIZE DISTRIBUTION—Continued

[1] The number of employees at a worksite (who) are covered or affected by the scope of the inspection.—OSHA Instruction ADM 1–1:12a

c. Geographic Distribution:

ChemSEP inspections were conducted in 7 states, corresponding to the locations of participating OSHA area offices. The distribution is presented in Table 3.

TABLE 3.—*Geographic Distribution of Inspections*

Louisiana	4
New Jersey	7
New York	7
Ohio	8
Pennsylvania	4
Texas	9
West Virginia	1

d. Substances:

Producers of ten substances were inspected through ChemSEP, as indicated in Table 4.[3]

TABLE 4.—*Distribution of Firms by Substance*

Substance	Number of firms
Acetylene	9
Phosgene	8
Chlorine	7
Hydrogen sulfide	6
Hydrogen	2
Ammonia	2
Hydrogen selenide	2
Acrylonitrile	2
Formaldehyde	1
bis-Chloromethyl ether	1

B. Resources and Methods

1. Compliance Officer Timer Usage

The average (mean) time spent on ChemSEP inspections was 383 hours, including time on- and off-site. Individual inspection totals range from 134 hours to 922 hours. These are minimum figures, reflecting time usage on January 21, 1987 before completion of some cases. Work on on-going cases will increase the average slightly. The average does not include supervisors' time nor administrative support hours, which are conservatively estimated at 35-50 hours per case. Approximately two full-time position equivalents were also required in the National office to support the program. A comparison of the average with similar figures for other inspection types is presented in Table 5.[4]

[3] See Appendix A for explanation of the selection of targeted chemical and their role in the identification of workplaces for inspection in this project.

[4] In several workplaces, compliance officers found contractor personnel working in chemical plants. In these cases, separate inspection reports and citations were generated. These related cases are not included in the figures presented here. They are, however, important in understanding the overall patterns of employment in the industry, and should be considered in planning future chemical programs, since contract employees in construction, maintenance and other SIC's may be exposed to the same hazards as employees in the "Chemical SIC's."

TABLE 5.—*Comparison of Average Inspection Time*

Inspection type	Mean hours
Chemical SEP	383
Programmed safety	10
Programmed health	31

2. The Special Problem of Recordkeeping

Resource usage in the special emphasis program was affected by the discovery of significant underrecording of injuries and illnesses in more than half of the firms. Investigation of recordkeeping and increased documentation requirements for citations of recordkeeping violations put a significant burden on the compliance officers and increased the amount of time needed for each inspection.

A special OSHA/BLS study is now under way to examine record-keeping practices in a variety of industries.

2. Procedures

Procedures developed for ChemSEP were explained in the interim report referenced above. OSHA Instruction CPL 2, which spells out the inspection and targeting procedures, is included as Appendix C.

C. What Was Found

1. Citations

Appendix D contains citations issued on ChemSEP inspections, including descriptions of the hazards associated with each cited standard, or with the alleged violation of the General Duty Clause. Citations issued after January 1987 are not yet available.

Table 6 shows the frequency with which various OSHA Standards were cited in ChemSEP inspections.

TABLE 6.—STANDARDS CITED—FREQUENCY

[As of January 21, 1987] [1]

Standard	Number of firms cited	Subject
1904.002	21	Recordkeeping.
1910.020	7	Access to medical records.
.022	4	General requirements.
.023	5	Floor and wall openings.
.025	1	Ladders.
.028	1	Scaffolding.
.036	1	Means of egress, Gen.
.037	1	Means of Egress.
.038	2	Emergency and fire plan.
.101	5	Compressed gases.
.102	2	Acetylene.
.103	1	Hydrogen.
.106	8	Flammable liquids.
.132	7	Personal protective equip.
.133	4	Eye and face protection.
.134	22	Respiratory protection.
.145	2	Accident signs and tags.
.151	14	Medical services and first aid.
.156	3	Fire brigades.
.157	3	Portable fire extinguishers.
.165	1	Employee alarm systems.
.178	2	Powered industrial trucks.
.219	2	Mechanical power transmission.
.252	1	Welding, cutting and brazing.
.303	2	Electrical systems (general).
.305	1	Wiring methods and components.
.307	9	Electrical—hazardous location.
.1001	1	Asbestos.
.1008	1	bis Chloromethyl ether.
.1200	22	Hazard communication.
5(a)(1)	13	General duty clause.

[1] Citations, if any, issued in 33 cases out of 40.

One of the two most cited standards, 29 CFR 1910.134, a standard for respiratory protection, is widely applicable in industry. Virtually any manufacturing plant may have processes which require the use of respirators. Frequent violation of this standard is of concern to the extent that employers rely on respirators for employee protection

in lieu of engineering controls under normal conditions and for egress or rescue in emergencies.

The other most frequently cited standard was 1910.1200, the Hazard Communication standard. Its frequency is partially explained by the newness and complexity of the standard, and by its applicability to all manufacturing workplaces. In contrast, specialized standards, such as 1910.1008 (bis Chloromethyl ether) apply to far fewer workplaces and are thus less frequently cited.

Table 7 compares numbers of serious violations in ChemSEP inspections with serious violations in all OSHA inspections in FY 1986.

TABLE 7.—SERIOUS VIOLATIONS IN CHEMSEP AND OTHER OSHA INSPECTIONS

Establishment size (employee)	1986 OSHA inspections	ChemSEP inspections
All establishments	1.0	4.3
1–49	0.9	7.3
50–249	1.4	4.5
250 +	1.6	2.6

2. General Duty Clause Citations

Section 5(a)(1) of the Occupational Safety and Health Act provides that: "Each employer * * * shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.* * *"

OSHA cites this clause when a hazard is found in the workplace for which there is no specific OSHA standard, and when the employer is aware that the hazard exists. The employer's awareness of the hazard may be documented by existence of an industry consensus standard, such as the Boiler and Pressure Vessel Code or the Compressed Gas Standard.

Table 8 summarizes citations under Section 5(a)(1). A complete set of the citations, with descriptions of the violations, is found in Appendix "D."

TABLE 8.—CHEMICAL SPECIAL EMPHASIS PROGRAM GENERAL DUTY CLAUSE CITATIONS

[Partial list Jan. 22, 1987]

Company	Hazard	Source of hazard
Van de Mark	Phosgene exposure pressure vessel failure.	Equipment design.
Chevron-USA	Pressure vessel failure, lack of warning device.	Maintenance procedures equipment.
	Fire, toxic exposure	Equipment design.
Two-Six, Inc.	Leaks, H_2Se exposure	Procedures, maintenance.
Union Carbide (W. Mifflin).	Flammable liquid	Equipment.
	Fire	Operating procedures.
DuPont (Niagara)	Liquid chlorine exposure	Equipment design.
Liquid Air	Confined space	Procedures, training.
	Burns and fire	Equipment design.
Armco	Fire, explosion	Maintenance procedures.
	Pressure vessel rupture	Do.
Union Carbide (N. Royalton).	Burns, fire	Do.
	do	Equipment design.
Occidental (Niagara Falls).	Chlorine exposure	Equipment.
Valley Welding	do	Equipment design and maintenance; Containment; Safety device.

3. Recommendations Letters

In many cases, compliance officers found potential hazards which were not in violation of OSHA standards, and which could not be cited under the General Duty Clause because of difficulties in establishing employer knowledge of the hazard. In such cases, letters were written to employers identifying the area of concern and suggesting ways in which potential hazards might be lessened or eliminated. These letters are summarized in Appendix E. Note that:

i. Not all recommendations identified serious hazards.

ii. Not all items noted were, ultimately, found to be hazardous. In some cases, employers recognized the potential problem but dealt with it in other ways (equipment specifications, operating procedures, maintenance schedules, etc.)

iii. Without exception, employers responded to the recommendations by taking appropriate action.

The summary indicates that recommendations clustered in 7 major categories: "process equipment", "training", "safety equipment", "safety programs", "emergency procedures", "standard operating procedures", "evaluation", and "other." Recommendations addressed both new initiatives and improvement of existing arrangements. Most recommendations addressed problems in process equipment and standard operating procedures. Personal protective equipment recommendations appeared in three of the seven categories.

4. Compliance Officer Survey

As part of OSHA's effort to evaluate the program, compliance officers were asked to complete a survey questionnaire regarding the firms they inspected and the special emphasis program. The results of the survey were summarized, and they appear in Appendix F.

5. Employer Reactions

a. Employer Cooperation:

Compliance officers reported high levels of cooperation by employers, and general acceptance of the SEP approach. (See Appendix F). According to compliance officers:

i. Employers were cooperative and appeared generally to be aware of the Special Emphasis Program.

ii. Employers shared information, usually completely, in only one case—in which a licensed, patented process was involved—was it necessary to resort to legal action to obtain technical information.

iii. Some employers said that they expected benefits out of the SEP inspection: i.e., neutral assessment of their safety and health practices, reinforcement of safety programs, and recommendations.

iv. Employers recognized that the general scope and pattern of the inspection was similar to their own internal audit system.

b. Contacts with Employers:

Contacts with employers corroborated the compliance officers' reports:

i. Generally, employers expressed approval of the SEP approach. They viewed the comprehensive review of programs as more relevant and more useful than usual OSHA inspection.

ii. Although much more time was required on the employer's part (and on OSHA's), few objected to this burden. Some employers noted, however, that in a small plant, safety staff resources can be monopolized with lengthy inspections, forcing duties to be delayed.

iii. ChemSEP inspections had discernible "ripple effects."

Employers reported that safety staff were called upon to brief other divisions on the inspection procedure and inspection findings.

In other cases, published inspection findings led to changes in policy in uninspected firms. One firm revised its recordkeeping policies and made retroactive changes in injury records to conform with OSHA regulations.

Some plant safety officials reported inquiries from uninspected firms in their vicinity regarding OSHA inspections, indicating reassessment of policies and operations.

In one firm which has no corporate level safety program (instead, the function is decentralized to individual plants), the inspection results have nonetheless been shared throughout the corporation.

iv. Confidentiality of information is a rising issue. Although firms provided information freely to OSHA, they report concern for:

(a) Inadvertent release of trade secret information by OSHA.

(b) Inadvertent release of confidential business information (such as production parameters and collateral processes which affect the economics of the firm).

(c) Inadvertent release by company personnel of confidential information without proper safeguards.

OSHA's policy is to return to the employer all materials obtained during an inspection when they are no longer needed for enforcement purposes.[5]

III. ANALYSIS

A. Results and Resources

1. Productivity: Hazards Discovered, Citations and Recommendations

a. Citations:

Citations were issued in thirty-eight of forty ChemSEP inspections. Violations were far more prevalent in small and medium-sized establishments than in large ones. Size of the establishment, rather than size of the parent corporation appeared to be the significant variable in determining the prevalence of violations. These forty firms are, however, a limited sample and caution should be exercised in applying these results to the industry as a whole.

b. General Duty Clause:

The methods used in ChemSEP may have contributed to the discovery of a high number of 5(a)(1) violations. The emphasis on supporting documentation, extensive systems review and knowledge of industry practices led to identification of these types of violations.

ChemSEP inspections did reveal hazards which are not covered by existing OSHA standards. Such hazards were addressed through General Duty Clause Citations ("5(a)(1) Citations") and through written recommendations to employers. These hazards ranged from the specific and equipment-oriented (concerning a pilot light in a flare tower) to problems concerning program management (development of maintenance schedules and providing for emergency communications). The lack of appropriate pressure relief devices was also often noted among 5(a)(1) citations. Some citations indicated that employers were not closely checking valves, leaving them "unlocked", a dangerous situation. Finally, 5(a)(1) citations were used here—as in other chemical industry cases—to prohibit use of employees for "sniffing" for leaks.

The 5(a)(1) citations and recommendations indicate some problem areas which should be considered for regulation. A standard may be needed to require monitoring for releases of certain chemicals, such as chlorine, carbon monoxide, phosgene and

[5] OSHA Instruction CPL 2, Section K.

others although further study would be needed to determine whether regulatory action is the appropriate remedy.

c. Use of Recommendations:

OSHA plans to study general duty clause citations and recommendations to identify specific problems which may be addressed administratively or through regulation. Preliminary examination of the case files, however, provides the following observations:

i. Recommendations were offered to almost all inspected firms. Thus, OSHA identified potential hazards in chemical plants, over and above items specifically addressed by regulation.

ii. While the significance of the hazards varied widely, in some small operations, OSHA's recommendations and citations led to major changes in safety and health practices. In at least one such firm, major changes in production processes—and increased productivity—resulted.

iii. Employers appear to have responded affirmatively to OSHA's recommendations, and have made needed changes. This demonstrates both the usefulness of the recommendations and industry willingness to eliminate hazards.

iv. The number of recommendations made was greater than the number of violations cited. This may indicate that existing standards cannot be used optimally in the chemical industry for purposes of addressing the potential for chemical releases.

2. Impacts on the Industry

It is difficult to measure precisely the results of ChemSEP in terms of process or management changes that reduce the likelihood of chemical releases. Factors which led OSHA to focus on the chemical industry are also operating as an independent force for change within that industry. Individual firms' decisions to reduce storage of hazardous materials and to install sensors are evidence of these pressures; industry-wide efforts, such as the Chemical Manufacturers' Association's CAER (Community Awareness and Emergency Response) program developed in response to these pressures. Thus, OSHA's actions may catalyze other actions or they may be additive to processes which have driving forces of their own. In this setting, evaluation of OSHA's impact is necessarily inferential and anecdotal.

OSHA's experience in ChemSEP demonstrates that enforcement activity makes a difference in the safety management within inspected firms and among firms (inspected and uninspected) in the chemical industry.

Inspected employers report informal contacts by neighboring firms regarding OSHA inspection procedures, areas of particular interest and types of hazards identified. Officials from other inspected workplaces said that their experience was shared throughout parent corporations, both in terms of the inspection process and, more important, correction of potential hazards found by OSHA inspectors. These reports show direct relationship between inspection activity and employer compliance efforts. Further, they suggest that the effects of inspections are not limited to single firms or workplaces.

Secondary effects of this type cannot be easily measured. OSHA does not know whether—and how much—information was shared in all inspected firms. Also, information is shared through professional associations. OSHA cannot know whether sharing of information would continue, increase or decrease if the inspection program were extended to other geographic areas, types of firms, or groups of chemicals. Present evidence indicates, however, that the "enforcement presence" makes a difference in the way firms share information internally and externally, and in the way that they use their safety and health resources.

B. Costs, Benefits and Potential Changes

As indicated in Section II, above, ChemSEP inspections averaged some 383 hours, twelve times more than the hours used for health inspections and thirty-eight times greater than the time used for safety inspections. The quantifiable results of the ChemSEP inspections do not appear to justify so great an expenditure of resources. However, they do support a continued policy of active OSHA involvement in the chemical industry. Inspections, in fact, identified hazards and catalyzed changes in inspected firms and others in the industry. The question remains, however, whether the amount of time spent can be reduced without diminishing the desired result.

OSHA believes that it can be reduced and that even better results can be obtained. First, some of the shorter ChemSEP inspections resulted in the greatest number of significant changes. These inspections were in small establishments, often older ones, that had relatively fewer resources (professional services) at their disposal. Here, inspections made the greatest difference.

Second, OSHA could make more effective use of its experience and shorten the "learning curve" required for chemical-related inspections. One way to do this is to extend these inspections to handlers and users of targeted chemicals. (The pilot program included only manufacturers.) This change would increase the number of firms "eligible" for inspection, especially smaller firms, which require less time per inspection.

Third, average inspection time could be decreased by devoting fewer resources to intensive and extensive reviews of every employer's injury and illness records. This can be accomplished without reducing the impact of OSHA on improved recordkeeping in the industry.

C. Adequacy of Legal Authority

ChemSEP inspections presented no unusual problems in terms of legal authority. In only one case was a warrant required to enter the workplace, and in that case, protection of trade secrets was the employer's particular concern. The problem was handled routinely.

Citations were limited to conditions affecting workers, and they were supported by specific standards or by the general duty clause. Thus, legal authority was sufficient for enforcement purposes.

Employers willingly provided information about matters which spanned both worker safety and public safety, such as the details of emergency response plans, coordination systems for emergencies, means of informing public officials about plant hazards, and related matters. Had cooperation been withheld, the information could have been obtained through legal process, but at a greater cost of time and resources for all parties.

D. Adequacy of Standards

OSHA proposed to issue citations in thirty-eight workplaces (out of forty). The citations, summarized in Section II, Table 6 and presented at length in Appendix D, are quite similar to citations issued in other industries.[6] The relatively high number of 5(a)(1) (General Duty Clause) citations and the many recommendations (Appendix E) reflect difficulty in applying current standards to potential catastrophic releases. OSHA relied on industry guidelines and standards to support 5(a)(1) citations, including American Petroleum Institute standards, ASME standards, Chlorine Institute Pamphlets, and others.

Observations about citations made in the ChemSEP program can be summarized as follows:

1. Specification standards (for instance, requiring specific pieces of equipment) will not, by themselves, ensure safety in the chemical industry. They tend to freeze technology and may minimize rather than maximize employer safety efforts.

2. Performance-oriented standards for the industry should be considered to address the overall management of chemical production and handling systems. In essence, OSHA finds that safety is not only a matter of "having the right equipment," but that it is more nearly a function of all of the management activities which touch on use of the "rights" equipment. Thus, standards for the chemical industry should be broad and applicable to many kinds of operations. They should incorporate state-of-the-art protections, but they should be open to changes in technology and new products, processes and research. The guidelines used in the ChemSEP inspections, being derived form industry self-audit guidelines, include the subjects which should be considered for inclusion in an industry standard. These subjects may include—but are not limited to—maintenance schedules for critical equipment, upgrading of operating procedures and process diagrams, emergency preparedness and response plans, and basic process safety considerations. Any such OSHA action, would, of course, have to be closely coordinated with EPA guidelines and regulations on community awareness programs, chemical hazard information, and chemical releases.

Adequacy of Staffing

OSHA's staff resources were stretched somewhat by the ChemSEP demonstration project. Workload problems prevented some offices from completing additional ChemSEP inspections; in other offices, trained staff were lost to other employment opportunities.

The skills of OSHA's staff were adequate to the task, and they improved with experience during the program. Special training strengthened the awareness of chemical industry problems and imparted basic information about chemical production and handling. The program would be strengthened by the addition of more experienced chemical engineers to provide technical support.

IV. A POLICY FRAMEWORK

As the information presented in preceding sections indicates, ChemSEP was a successful demonstration project in most respect. Although its size was not sufficient to cover a cross-section of the chemical industry, it gave OSHA valuable information about procedures, standards and policies which are likely to be effective. It also provided a picture of the amount of staff time required to conduct even a small enforcement-oriented program in the industry.

In light of this experience, OSHA plans two streams of activity, the first addressing short term needs of the agency and the industry, and the second oriented toward building a more effective policy framework for the industry over the long run.

[6] Fourteen of the twenty-nine standards cited were among the most frequently cited ten percent of all OSHA standards in 1986.

Long Term Development

Long-term initiatives should fully consider the dynamics of the industry and the larger economic and regulatory environment. Day-to-day management decisions, operating procedures, maintenance, emergency preparedness, employee training, the availability of information about hazards, and community awareness are far more powerful in their impact on worker safety than the occasional OSHA inspection or citation. Nor is OSHA the only regulatory actor affecting the industry: state and local agencies and other Federal agencies (EPA, DOT, CPSC, and others) also help to shape industry decision making. Also, and not least, economic factors including insurance company requirements, international competitiveness pressures, and changing patterns in tort liability have powerful impacts. Thus, in the long run, OSHA policy must recognize the agency's limitations. Ultimately, self-audit programs which recognize industry's responsibility for worker safety will be more effective than a more resource-intensive program. Self-audit programs use the "momentum" of forces already at work in the industry and allow OSHA to focus on workplaces with greater hazards.

The OSHAct rests on the premise that primary responsibility for plant safety rests with plant management. Long-term policies must be shaped with this fact as a starting point. In this context, OSHA will consider "self-audit" type programs, supplemented by training and education, appropriate standards, and enforcement. In the long term, enforcement will focus on employer's overall safety and health protection systems, including the factors which were assessed in the ChemSEP program.

Near Term Response

OSHA's regular health inspections in the chemical industry have focused on chronic exposures to hazardous substances. While this concern is sometimes appropriate, it is not germane to the problem of preventing catastrophic releases. Instead, a systems-wide approach is more likely to ensure that full range of appropriate physical and procedural safeguards are in place and functioning. OSHA has learned, through ChemSEP, how such inspections may be conducted, and it is prepared to expand their use in the future.

For this reason, OSHA has decided not to conduct additional special emphasis inspections, but to begin to phase in systems-wide inspections. Initially, these inspections will be concentrated in area offices where large numbers of chemical-using workplaces are located; similar inspections may be conducted in other areas. Specially trained staff will be available in all OSHA area offices.

Therefore, in the near term, OSHA will integrate techniques tested in ChemSEP into regular health inspections, particularly where potential for catastrophic releases exists. Such inspections should not be limited to firms in the chemical industry; instead, system-wide inspections should be used wherever large quantities of hazardous chemical substances are used. Users as well as manufacturers are at risk from these hazards.

Firms will be identified for inspection using normal health inspection targeting procedures. A list of hazardous substances, perhaps with threshold quantities, could be used to identify firms most in need of the inspections. EPA has published such a list as part of its implementation of the 1986 Superfund Amendments, and some version of that list may be used.

As in ChemSEP, inspections will be conducted by a team of compliance officers, joining safety and health expertise. Assuming that more of the smaller firms are identified through this system, and that other modifications are made in inspections procedures, these inspections should each require about 40 hours of compliance officer time.

As in ChemSEP, OSHA conducted 40 inspections averaging 383 hours each. With the same resources, OSHA plans to conduct 60 to 80 inspections of this new type, at the same time including more industries, more chemicals, and more geographic areas. This level of activity would by equivalent to about a sixth of the total programmed health inspections conducted in the chemical industry in FY 1986.

In addition, OSHA will encourage voluntary compliance with the best industry safety and health practices, and with OSHA standards, through training, education and dissemination of information. Training will continue to be offered at the OSHA Training Institute for Federal and State compliance officers and for consultants. Results of the Chemical Special Emphasis Program will be summarized and made available for distribution.

Resource Requirements

These recommendations, long-term and short-term, can be implemented within the FY 1988 budget request. Regarding the long-term recommendations, the data collected through ChemSEP inspections will enable existing staff resources to accommodate consideration of a standard requiring self-audits. Chemical engineering resources may be increased gradually as vacant positions are filled through normal hiring processes. If necessary in subsequent years, we may contract for specific services, including assistance to inspectors and development of guidelines and promotional materials.

Near term recommendations have already begun to be implemented. Training is being conducted, and by year's end, more than 200 compliance officers will have attended the chemical industry course. Because the planned special inspections will be conducted with existing resources, the impact will impose no fiscal cost, but additional time devoted to chemical-related inspections will result in fewer regular inspections. Thus 60 to 80 special inspections could be expected to result in about 1000 fewer regular inspections. This decrease is already reflected in FY 1988 inspection projections.

STUDENT SUCCESS STORIES

Mr. Speaker, while I have the floor, let me briefly switch to another topic, the successes of the career training schools in this country to train men and women for critically needed jobs.

Later this week, the House will consider a package of amendments to H.R. 5115, the Equity and Excellence in Education Act, that are directed toward ending Federal student aid to Americans who wish to acquire career skills that will lead to direct and immediate employment in the fields of their choice.

I will speak more directly to the amendments during the floor debate on them, but let me suggest to my colleagues that these career training schools serve a useful purpose. They train Americans for jobs. And, what's more, they are successful.

Career training schools graduate hundreds of thousands of bright, talented Americans every year.

Let me tell you of two graduates who recently earned entrance into the Hall of Fame at the National Association of Trade and Technical Schools—Candace Barnett and Patrick Gelsinger.

Fascinated with flying since childhood, Candace Barnett set out to become a professional pilot.

She was told by her high school guidance counselor that she lacked the necessary academic skills to achieve her dream, but she refused to heed this warning. After graduating from high school and earning her private pilot's license, Ms. Barnett enrolled in the Spartan School of Aeronautics, in Tulsa, OK.

In 1978, she received her certificate in commercial, instrument, and flight program at the school.

She spent a year teaching in aviation in Tulsa, then spent 5 years with an aviation sales company where she eventually became chief pilot.

In 1984, Ms. Barnett accepted a position with Dow Corning Corp. as first officer on three different types of airplanes.

Today, she holds the rank of Captain with Mead Corp. in Dayton, OH, and pilots jet aircraft in support of the corporation's various divisions, subsidiaries, affiliates, and corporate staff.

Two of the qualifications for Ms. Barnett's present post include: Operating all of the aircraft's systems in normal, abnormal, and emergency conditions; and, performing emergency procedures from memory under simulated emergency conditions.

Ms. Barnett is a truly talented pilot.

When Patrick Gelsinger was in high school, he became interested in electronics.

During his junior year of school, he took the scholarship exam for the Lincoln Technical Institute in Allentown, PA, a test that is usually taken by students in their senior year.

After Mr. Gelsinger was awarded the scholarship, he made arrangements with school officials to complete his high school studies while beginning electronics technology course-work at Lincoln Tech.

Mr. Gelsinger maintained a perfect 4.0 grade point average at the institute while he worked at a local radio-television station as assistant chief engineer, served as Student Council secretary, and played in the school's bowling league.

This dedicated young man even finished the program early by completing the course-work for two semesters simultaneously.

After graduating from the institute, Mr. Gelsinger was hired as a reliability engineering technician. He took on more progressively complex assign-

ments in this job while he earned his bachelor's degree from Santa Clara University, his master's degree from Stanford University, and completed his course-work toward a Ph.D. from Stanford.

In addition to these academic accomplishments, Mr. Gelsinger served on the design team for the Intel 80386 computer chip, and was honored for this work as PC Magazine's Person of the Year in 1988. He was also the architect and design manager of the team developing the 80486 chip, which is considered the foremost microprocessor in the world.

Today, Mr. Gelsinger is manager of the Platform Architecture Center at Intel Corp.

Career training helped these students, and many others, lay invaluable foundations on which to base their future successes.

I find it disheartening that too many people try to make career training schools and their students scapegoats for every problem that arises in the student loan programs.

The simple fact is that the majority of the schools are not out to rip off the students, and the majority of the students are not deadbeats who refuse to pay back their loans.

The owners and operators of career training schools are genuinely interested and committed to teaching career skills, to graduating their students, and to placing them in productive, meaningful jobs.

And all the students want is the chance to buy into the American dream.

They deserve the opportunity and we must respond by making the grants and loans available to them. That is our commitment.

□ 2040

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BAKER of Louisiana (at the request of Mr. MICHEL) for today and tomorrow on account of illness in the immediate family.

Mr. STUMP (at the request of Mr. MICHEL) from noon today and for the balance of the week on account of family medical emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. SOLOMON, for 60 minutes, on July 18.

Mr. BEREUTER, for 5 minutes, on July 18.

Mr. KYL, for 60 minutes each day, on July 18 and July 24.

Mr. IRELAND, for 60 minutes each day, on July 17, 18, and 19.

Mr. BURTON of Indiana, for 60 minutes each day, on July 24, 25, and 26.

Mr. WALKER, for 5 minutes, today.

(The following Members (at the request of Mr. MCCURDY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MCCURDY, for 60 minutes each day, on July 24, 25, 26, and 31, and August 1 and 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. BILIRAKIS in two instances.
Mr. PORTER.
Mr. GUNDERSON.
Mr. BROOMFIELD.
Ms. ROS-LEHTINEN in two instances.
Mr. LEWIS of Florida.
Mr. YOUNG of Alaska.
Mr. WELDON.
Mr. DICKINSON.
Mr. MICHEL.
Mr. MACHTLEY in five instances.
Mr. SCHULZE.
Mr. JAMES.
Mr. SHAW.
Mr. DOUGLAS in two instances.
Ms. SNOWE.
Mr. CAMPBELL.
Mr. GRADISON.
Mr. CRAIG.
Mr. BURTON of Indiana.

(The following Members (at the request of Mr. MCCURDY) and to include extraneous matter:)

Mr. ATKINS.
Mr. ESPY.
Mrs. LOWEY of New York.
Mr. NELSON of Florida.
Mr. KLECZKA.
Mr. KANJORSKI.
Mr. HAMILTON.
Mr. TRAXLER.
Mr. TRAFICANT.
Mr. FEIGHAN.
Mr. HAWKINS.
Mr. RAHALL.
Mr. EDWARDS of California, in two instances.
Mr. JACOBS.
Mrs. LLOYD.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 933. An act to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

ADJOURNMENT

Mr. GAYDOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 18, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3564. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-236, "Conveyance of the Jewish Community Center Act of 1989," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3565. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-235, "Motor Vehicle Fees Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3566. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-234, "District of Columbia Government Employee Affirmative Obligation Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3567. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-233, "Vital Records Act of 1981 Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3568. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-231, "District of Columbia Income and Franchise Tax Conformity Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3569. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-232, "National Council for Negro Women Equitable Real Property Tax Relief Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3570. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-230, "District of Columbia Statutory Savings Provision Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3571. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-229, "Victims of Violent Crime Compensation Act of 1981 Conforming Amendments Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3572. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-228, "District of Columbia Emergency Overnight Shelter Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3573. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3574. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3575. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3576. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3577. A letter from the Executive Director, American Society of Mechanical Engineers, transmitting a copy of a report entitled, "Engineering 2000: A Look at the Next 10 Years"; to the Committee on Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: July 17 1990 Committee on Agriculture. Supplemental report on H.R. 3950 (Rept. No. 101-569, Pt. 3). ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FRANK:

H.R. 5285. A bill revoking most-favored-nation treatment for the products of the People's Republic of China; to the Committee on Ways and Means.

By Mr. FRENZEL (for himself, Mr. VANDER JAGT, Mr. DONNELLY, and Mr. COYNE):

H.R. 5286. A bill to amend the Internal Revenue Code of 1986 to increase to $25,000 the amount of a home improvement loan which may be financed with tax-exempt bonds; to the Committee on Ways and Means.

By Mr. KYL:

H.R. 5287. A bill to amend the Federal Election Campaign Act of 1971 and the Internal Revenue Code of 1986 to reduce the influence of special interests in elections for Federal office and to increase the influence of individuals and political parties in such elections; jointly, to the Committees on House Administration and Ways and Means.

By Ms. SLAUGHTER of New York (for herself, Mr. LEWIS of Georgia, and Mr. OWENS of Utah):

H.R. 5288. A bill to establish a National Commission to Support Law Enforcement; to the Committee on the Judiciary.

By Mr. SMITH of Iowa:

H.R. 5289. A bill to amend title XIX of the Public Health Service Act to clarify the provisions of the allotment formula relating to urban and rural areas, and for other purposes; to the Committee on Energy and Commerce.

By Ms. SNOWE:

H.R. 5290. A bill to amend the Public Health Service Act to establish certain administrative entities and programs regarding women's health; to the Committee on Energy and Commerce.

By Mr. STENHOLM (for himself, Mr. MADIGAN, Mr. HATCHER, Mr. EMERSON, Mr. ROBERTS and Mr. GUNDERSON):

H.R. 5291. A bill entitled the Organic Food Standards Development Act of 1990"; to the Committee on Agriculture.

By Mr. VOLKMER:

H.R. 5292. A bill to prohibit the Secretary of Agriculture from implementing the proposed below cost timber sale pilot test included in the fiscal year 1991 budget submitted by the President; to the Committee on Agriculture.

By Mr. ENGLISH:

H.R. 5293. A bill to eliminate the scourge of illegal drugs and fight drug abuse; jointly, to the Committees on Foreign Affairs, Ways and Means, the Judiciary, Banking, Finance and Urban Affairs, Energy and Commerce, Armed Services, Education and Labor, Public Works and Transportation, Merchant Marine and Fisheries, Post Office and Civil Service, Science, Space, and Technology, and Government Operations.

By Mr. SCHULZE:

H.J. Res. 623. Joint resolution designating the period of September 15 through September 23, 1990, as "American Mushroom Week"; to the Committee on Post Office and Civil Service.

By Mr. BROOMFIELD:

H. Con. Res. 352. Concurrent resolution expressing the sense of the Congress regarding human rights violations against the Albanian ethnic minority in southern Yugoslavia; to the Committee on Foreign Affairs.

By Mr. HALL of Ohio (for himself and Mr. EMERSON):

H. Con. Res. 353. Concurrent resolution authorizing the World Summit for Children Candlelight Vigils to sponsor a public event on the U.S. Capitol grounds; to the Committee on Public Works and Transportation.

By Mr. SOLOMON (for himself and Mr. HERTEL):

H. Res. 437. Resolution concerning an international memorial to the victims of communism; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. FUSTER introduced a bill (H.R. 5294) for the relief of Edgardo, Ismael, Juan Carlos, and Edilliam Cotto Roman; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 468: Ms. PELOSI.

H.R. 520: Mr. FISH and Mr. VALENTINE.

H.R. 521: Mr. FISH and Mr. VALENTINE.

H.R. 522: Mr. FISH and Mr. VALENTINE.

H.R. 523: Mr. FISH and Mr. VALENTINE.

H.R. 594: Mr. DEWINE.

H.R. 707: Mr. SMITH of New Jersey.

H.R. 724: Mr. BOEHLERT.

H.R. 725: Mrs. KENNELLY and Mr. MADIGAN.

H.R. 1317: Mr. BONIOR, Mr. HAYES of Illinois, Mr. ANDERSON, Mr. LEHMAN of California, Mr. ROBINSON, Mr. MAVROULES, Mr. CONDIT, and Mr. HARRIS.

H.R. 1400: Mr. HEFLEY, Mr. GUARINI, Mr. COYNE, and Mr. SENSENBRENNER.

H.R. 1693: Mr. MAZZOLI.

H.R. 2121: Mr. INHOFE.

H.R. 2336: Mr. SUNDQUIST and Mr. GUNDERSON.

H.R. 2353: Mr. PRICE, Mr. IRELAND, Mr. CONDIT, Mr. BOEHLERT, and Mr. WATKINS.

H.R. 2460: Mr. BUSTAMANTE and Mr. FROST.

H.R. 2613: Mr. SCHEUER.

H.R. 2902: Mrs. MEYERS of Kansas.

H.R. 2972: Mr. OWENS of New York.

H.R. 3512: Mr. COSTELLO and Mr. COURTER.

H.R. 3651: Mr. BOUCHER.

H.R. 3686: Mr. SMITH of Florida.

H.R. 3880: Mr. MINETA.

H.R. 3899: Mr. LIGHTFOOT, Mr. LIPINSKI, and Mr. DIXON.

H.R. 3933: Mr. RAHALL and Mr. MFUME.

H.R. 3970: Mr. FORD of Tennessee and Mr. KOSTMAYER.

H.R. 4025: Mr. LAUGHLIN.

H.R. 4121: Mr. GORDON and Mr. SARPALIUS.

H.R. 4144: Mr. QUILLEN.

H.R. 4157: Mr. FISH and Mr. PAYNE of Virginia.

H.R. 4195: Mr. SUNDQUIST.

H.R. 4208: Mr. WEISS.

H.R. 4268: Mr. SMITH of New Jersey, Mr. MCNULTY, Mr. EMERSON, and Mr. FRANK.

H.R. 4269: Mr. WILLIAMS, Mr. WEISS, Mr. OWENS of New York, Mr. MARKEY, and Mr. JOHNSTON of Florida.

H.R. 4274: Mr. OBERSTAR and Mr. ESPY.

H.R. 4363: Mr. FISH.

H.R. 4393: Mr. FISH.

H.R. 4443: Mr. FRANK and Mr. GONZALEZ.

H.R. 4484: Mr. TRAXLER and Mr. MARKEY.

H.R. 4485: Mr. GEKAS, Mr. JENKINS, Mr. MOLLOHAN, Mr. RAVENEL, and Mrs. LLOYD.

H.R. 4494: Mr. DURBIN, Mr. MCCRERY, Mr. MORRISON of Washington, Mr. JOHNSON of South Dakota, and Mr. TANNER.

H.R. 4608: Mr. HOLLOWAY and Mr. CAMPBELL of California.

H.R. 4714: Mr. SAXTON, Mr. BROWN of California, Mr. LEHMAN of California, Mr. MORRISON of Connecticut, and Mrs. KENNELLY.

H.R. 4719: Mr. DWYER of New Jersey, Mr. HANSEN, and Mr. HASTERT.

H.R. 4731: Mr. THOMAS A. LUKEN, Mr. ATKINS, Mr. HOYER, Mr. CROCKETT, Mr. HAYES of Illinois, Mr. MFUME, and Mr. POSHARD.

H.R. 4761: Mr. FRANK.

H.R. 4824: Ms. KAPTUR.

H.R. 4840: Mr. ANNUNZIO and Mr. LEVINE of California.

H.R. 4847: Mr. WALSH.

H.R. 4868: Mr. ECKART.

H.R. 4892: Mr. POSHARD, Mr. BUSTAMANTE, Mr. LAUGHLIN, Mr. GEREN, Mr. LEATH of Texas, Mr. OWENS of Utah, and Mr. ORTIZ.

H.R. 4923: Mr. MARKEY.

H.R. 4948: Mr. SYNAR.

H.R. 4979: Mr. HUBBARD.

H.R. 5007: Mr. STUMP, Mr. FISH, Mr. ROBERTS, Mr. STANGELAND, Mr. BATEMAN, Mr. BURTON of Indiana, Mr. IRELAND, Mr. MACHT-

LEY, Mr. GRANDY, Mr. LUKENS (DONALD E. "BUZ") Mr. VANDER JAGT, Mr. WOLF, Mr. QUILLEN, Mr. SMITH of Texas, Mr. LEWIS of California, Mr. BLILEY, Mr. SHUMWAY, Mr. COYNE, Mr. GREEN, of New York, Mr. FRENZEL, Mr. APPLEGATE, and Mr. LIGHTFOOT.

H.R. 5050: Mr. GALLO, Mr. GRANT, Mr. DENNY SMITH, Mr. AUCOIN, Mr. INHOFE, Mr. SMITH of New Jersey, and Mr. GEREN of Texas.

H.R. 5053: Mr. ARMEY, BRENNAN, Mr. EVANS, Mr. FISH, Mr. GORDON, Mr. INHOFE, Mr. IRELAND, Mr. JONES of Georgia, Mr. KLECZKA, Mr. MCCANDLESS, Mr. MCDERMOTT, Mr. MARTIN of New York, Mr. MARTINEZ, Mr. MOORHEAD, Mr. NATCHER, Ms. OAKAR, Mr. PICKETT, Ms. ROS-LEHTINEN, Mrs. MORELLA, Mr. SHAW, Mr. STUDDS, Mr. SUNDQUIST, Mr. HAYES of Illinois, Mr. HOLLOWAY, Mr. LEATH of Texas, Mr. ROWLAND of Georgia, Mr. ACKERMAN, Mr. DENNY SMITH, Mr. GALLEGLY, Mr. HASTERT, Mr. MATSUI, Mr. MARLENEE, Mr. MICHEL, Mr. FRANK, Mr. NIELSON of Utah, Mr. HAMILTON, Mrs. MEYERS of Kansas, Mr. HUTTO, Mr. JAMES, Mr. PAYNE of New Jersey, Mr. SKELTON, Mr. CRANE, Mr. MOLLOHAN, Mr. STAGGERS, Mr. BROWDER, Mr. COLEMAN of Missouri, Mr. DAVIS, Mr. HENRY, Mr. HOAGLAND, Mr. JOHNSON of South Dakota, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LOWERY of California, Mrs. LOWEY of New York, Mr. MCDADE, Mr. MACHTLEY, Mr. MFUME, Mr. MORRISON of Washington, Mr. OWENS of Utah, Mr. OXLEY, Mr. PASHAYAN, Mr. POSHARD, Mr. RAHALL, Mr. REGULA, Mr. SANGMEISTER, Ms. SLAUGHTER of New York, Mr. SWIFT, and Mr. UDALL.

H.R. 5082: Mr. SHARP.

H.R. 5166: Mr. EVANS and Mr. FUSTER.

H.R. 5185: Mrs. BOXER.

H.R. 5188: Mr. FALEOMAVAEGA.

H.R. 5191: Mr. OWENS of New York, Mr. WAXMAN, and Mr. WEISS.

H.R. 5217: Mr. HYDE, Mr. MILLER of Washington, and Mrs. UNSOELD.

H.R. 5218: Mr. SCHUETTE and Mrs. MARTIN of Illinois.

H.R. 5245: Mr. HUGHES.

H.R. 5246: Mr. MILLER of California and Ms. SLAUGHTER of New York.

H.R. 5262: Mr. GILMAN, Mr. FEIGHAN, Mr. WOLF, Mr. ACKERMAN, Mr. MCEWEN, Mr. PEASE, Mr. MADIGAN, Mr. FRANK, Mr. DONALD E. LUKENS, Mr. PALLONE, and Mr. MCNULTY.

H.J. Res. 214: Mr. ASPIN, Mr. KENNEDY, Mr. BROWDER, Mr. HARRIS, and Mr. MCDADE.

H.J. Res. 240: Mr. BRYANT and Mr. FALEOMAVAEGA.

H.J. Res. 468: Mr. PALLONE, Mr. KASICH, Mr. DENNY SMITH, Mr. GEKAS, Mr. SMITH of Florida, Mr. COUGHLIN, Mr. WOLF, Mr. GALLEGLY, Mr. COURTER, Mr. MAZZOLI, Ms. KAPTUR, Mrs. BENTLEY, Mr. LEVIN of Michigan, Mr. CROCKETT, Mr. FOGLIETTA, Mrs. COLLINS, Mr. MCGRATH, Mr. CONYERS, Mr. ACKERMAN, Mr. LIVINGSTON, Mr. HORTON, Mr. FAZIO, Mr. DWYER of New Jersey, Mr. EVANS, Mr. MARTINEZ, Mr. VALENTINE, Mr. QUILLEN, Mr. PRICE, Mr. LAGOMARSINO, Mr. RITTER, Mr. GEREN of Texas, Mr. OWENS of Utah, Mr. GREEN of New York, Mr. POSHARD, Mr. SMITH of Texas, Mr. BLILEY, Mr. PAYNE of New Jersey, Mr. FUSTER, Mr. LAFALCE, Mr. ATKINS, Mr. ENGEL, Mr. DORGAN of North Dakota, Mr. TRAFICANT, Mr. GUARINI, Mr. FAUNTROY, Mr. BRYANT, Mr. LIPINSKI, Mr. WYDEN, Ms. SLAUGHTER of New York, Mr. CHANDLER, Mr. LEVINE of California, Mr. DE LUGO, Mr. HARRIS, Mr. ERDREICH, Mr. FORD of Tennessee, Mr. PASHAYAN, and Mr. COYNE.

H.J. Res. 469: Mr. AUCOIN, Mr. BATEMAN, Mrs. BOXER, Mr. DANNEMEYER, Mr. FLAKE, Mr. HUTTO, Mr. LEHMAN of Florida, Mr. STANGELAND, Mr. SWIFT, and Mr. WHITTAKER.

H.J. Res. 476: Mr. BATEMAN, Mr. BUECHNER, Mr. COX, and Mrs. MEYERS of Kansas.

H.J. Res. 486: Mr. MINETA and Mr. RITTER.

H.J. Res. 507: Mr. BARNARD, Mr. FAWELL, Mr. LAGOMARSINO, and Mr. VALENTINE.

H.J. Res. 509: Mr. MACHTLEY, Mr. RICHARDSON, Mr. NEAL of Massachusetts, Mr. ACKERMAN, Mr. DURBIN, and Mr. SAVAGE.

H.J. Res. 512: Mr. CARPER, Mr. FRANK, Mr. CROCKETT, Mr. GRANDY, Mr. FASCELL, Mr. DONNELLY, Mr. LEHMAN of California, Mr. RICHARDSON, Mr. CONYERS, Mr. ENGLISH, Mr. LAUGHLIN, Mr. BERMAN, Mr. CLEMENT, Mr. KENNEDY, Mr. KLECZKA, Mr. KILDEE, Mr. GREEN of New York, and Mr. LEVINE of California.

H.J. Res. 513: Mr. STANGELAND, Mrs. COLLINS, Mr. SCHUETTE, Mr. VANDER JAGT, Mr. GINGRICH, Mr. MAZZOLI, Mrs. BOXER, Mr. ERDREICH, Mr. DICKINSON, Mr. PURSELL, Mr. CLEMENT, Mr. HASTERT, Mr. DYMALLY, Mr. BARNARD, Mr. BUECHNER, Mr. THOMAS of Georgia, Mr. DIXON, Mr. LAUGHLIN, and Mr. DURBIN.

H.J. Res. 519: Mr. NIELSON of Utah, Mr. HALL of Texas, Mr. ROWLAND of Georgia, Mr. TAUKE, Mr. YOUNG of Alaska, Mr. BLILEY, Mr. FROST, Mr. SKEEN, Mr. SAXTON, Mr. WHEAT, and Mr. ROBINSON.

H.J. Res. 528: Mr. CALLAHAN.

H.J. Res. 538: Mr. FUSTER, Mr. VALENTINE, Mr. STAGGERS, Mr. BUNNING, Mr. WOLPE, Mr. MOLLOHAN, Mrs. COLLINS, Mr. HUBBARD, Mr. CROCKETT, Mr. COLEMAN of Texas, and Mr. ACKERMAN.

H.J. Res. 548: Mr. ASPIN, Mr. BALLENGER, Mr. BATES, Mr. BEREUTER, Mr. BERMAN, Mr. BOEHLERT, Mr. BORSKI, Mr. BROWDER, Mr. BUECHNER, Mr. BUSTAMANTE, Mr. CALLAHAN, Mr. CAMPBELL of California, Mr. CLARKE, Mr. CLEMENT, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. CONTE, Mr. COX, Mr. CRAIG, Mr. DARDEN, Mr. DAVIS, Mr. DEFAZIO, Mr. DE LUGO, Mr. DEWINE, Mr. DINGELL, Mr. DORNAN of California, Mr. ENGEL, Mr. ENGLISH, Mr. FAWELL, Mr. FAZIO, Mr. FLIPPO, Mr. FRANK, Mr. FRENZEL, Mr. FROST, Mr. FUSTER, Mr. GALLO, Mr. GINGRICH, Mr. GONZALEZ, Mr. HANSEN, Mr. HASTERT, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HENRY, Mr. HERGER, Mr. HILER, Mr. HOUGHTON, Mr. HUBBARD, Mr. HUTTO, Mr. HYDE, Mr. INHOFE, Mr. JENKINS, Mr. KENNEDY, Mr. LAGOMARSINO, Mr. LEVINE of California, Mr. LOWERY of California, Mr. DONALD E. LUKENS, Mr. MCCLOSKEY, Mr. MCCRERY, Mr. MCDADE, Mr. MCGRATH, Mr. MCNULTY, Mr. MACHTLEY, Mr. MARTINEZ, Mrs. MEYERS of Kansas, Mr. MICHEL, Mr. MILLER of Washington, Mr. MONTGOMERY, Mr. MORRISON of Washington, Mr. MURPHY, Mr. NIELSON of Utah, Ms. OAKAR, Mr. OLIN, Mr. OWENS of Utah, Mr. PALLONE, Mr. PASHAYAN, Mr. PAXON, Mr. PAYNE of Virginia, Mr. PETRI, Mr. POSHARD, Mr. PURSELL, Mr. QUILLEN, Mr. RAVENEL, Mr. RAY, Mr. RHODES, Mr. ROBINSON, Mr. ROGERS, Mr. SAVAGE, Mr. SCHEUER, Mr. SCHIFF, MR. SERRANO, Mr. SHUMWAY, Mr. SLATTERY, Ms. SLAUGHTER of New York, Mr. SMITH of New Jersey, Mr. DENNY SMITH, Mr. SMITH of Texas, Mr. SMITH of Florida, Mr. SMITH of Iowa, Mr. SMITH of Vermont, Mr. SMITH of New Hampshire, Mrs. SMITH of Nebraska, Mr. SOLARZ, Mr. SOLOMON, Mr. SPENCE, Mr. SPRATT, Mr. STUMP, Mr. TAUKE, Mr. THOMAS of Wyoming, Mr. THOMAS of California, Mr. TOWNS, Mr. TRAFICANT, Mr. VALENTINE, Mr. VANDER JAGT, Mrs. VUCANOVICH, Mr. WALGREN, Mr. WASHINGTON, Mr. WAXMAN, Mr. WHITTAKER, Mr. WOLF, Mr. WOLPE, Mr. WYLIE, Mr. YATRON, and Mr. YOUNG of Alaska.

H.J. Res. 565: Mr. GOODLING, Mr. BATEMAN, Mr. RICHARDSON, and Mr. MILLER of Ohio.

H.J. Res. 602: Mr. SLATTERY, Mr. JOHNSON of South Dakota, Mr. GORDON, Mr. CARPER, Mr. CONYERS, Mr. SMITH of Vermont, Mr. DOWNEY, Mr. DAVIS, Mr. DE LUGO, and Mr. BUSTAMANTE.

H.J. Res. 612: Mr. MCDADE, Mr. QUILLEN, Mr. BURTON of Indiana, and Mr. THOMAS of Georgia.

H.J. Res. 613: Mr. CHAPMAN and Mr. TANNER.

H.J. Res. 616: Mr. PALLONE, Mr. ASPIN, Mr. MFUME, Mr. FISH, Mr. BORSKI, Mr. JONTZ, Mr. EMERSON, and Mr. WOLF.

H. Con. Res. 257: Mr. CONDIT.

H. Con. Res. 313: Mr. CARDIN, Mr. CLEMENT, Mr. CRAIG, Mr. DIXON, Mr. DUNCAN, Mr. FAZIO, Mr. HASTERT, Mr. HOCHBRUECKNER, Mr. KOLBE, Mr. LANTOS, Mr. THOMAS A. LUKEN, Mr. MACHTLEY, Mr. PASHAYAN, Mr. RUSSO, Mr. SAXTON, and Mr. SHAYS.

H. Res. 134: Mr. GEREN OF TEXAS, Mr. PAYNE of Virginia, Mr. TAUZIN, Mr. SAXTON, and Mr. ROBINSON.

H. Res. 418: Mr. ATKINS, and Mr. MCDERMOTT.

EXTENSIONS OF REMARKS

SERIOUS DEVELOPMENTS IN THE PROVINCE OF KOSOVO, YUGOSLAVIA

HON. WM. S. BROOMFIELD
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. BROOMFIELD. Mr. Speaker, I am alarmed about the recent dissolution of the Kosovo Provincial Assembly and believe that the current policies of the President of the Republic of Serbia will lead to further ethnic strife in that tense Province and could trigger the breakup of Yugoslavia. Today, I introduced legislation concerning the ongoing tragedy of Kosovo. Should the situation in Kosovo further deteriorate, I will consider stronger legislation that will have a serious economic impact on that country.

The seamy side of Yugoslavia's policies toward its ethnic groups was brought to my attention by Ekrem Bardha, my good friend and a leader in the United States-Albanian community, in 1986. A young Michigan resident, Pjeter Ivezaj, visited his family in Kosovo and was arrested, abused and put on trial for having demonstrated in front of the Yugoslav Embassy in Washington in 1981. After he was given a long prison sentence, I introduced legislation that would have denied Yugoslavia most-favored-nation trading status with the United States. Fortunately, Mr. Ivezaj was released.

Last year, the sad story of Dobroslav Paraga, a young Croatian human rights activist, came to my attention. He was imprisoned, along with another Croatian, for having called for the release of political prisoners in Yugoslav jails. While in prison, he was beaten, and his colleague died in prison under mysterious circumstances. After learning of the flagrant violation of the basic human liberties of Mr. Paraga, I introduced legislation in the House last September condemning the brutal treatment of that decent man and highlighting the tragic human rights record of that country. An identical bill passed the Senate in August and received strong support from our colleagues who share our concerns about Yugoslavia and human rights. The Department of State's "Country Reports On Human Rights Practices for 1989" and Amnesty International's report for 1990 clearly document the ongoing human rights abuses in that country.

In April, Congressman LANTOS held a hearing in his Human Rights Caucus on the human rights situation in Yugoslavia and invited me to testify about Mr. Paraga. A few hours prior to that hearing, the state of emergency was lifted in the Province of Kosovo and several political prisoners were released. Many Members of Congress were led to believe at that time that a period of healing was beginning in Kosovo.

Unfortunately, the situation in that troubled Province has worsened. This month, the Government of the Socialist Republic of Serbia dissolved the 188-member Kosovo Provincial Assembly, took over the organs of the provincial government and closed Albanian language news media. The virtual ending of Kosovo's status as a province began in 1989 when the nationalist-inspired President of the Republic of Serbia amended the Serbian constitution and severely limited Kosovo's autonomy. His recent actions were designed to inflame ethnic tensions by denying the ethnic Albanian people, who constitute 90 percent of the population of Kosovo, the right to have a province of their own.

In response to the unwarranted actions of Mr. Milosevic in 1989, ethnic Albanians peacefully protested. Over 50 of them were gunned down, scores more were wounded, and others were imprisoned. It is important to remember that all of these unfortunate events are happening in Kosovo when respect for justice, democracy, and minority rights is growing in Eastern Europe.

The unfortunate policies of Mr. Milosevic have curtailed the possibility for the Albanian community to express opinions freely and defend its interests through a peaceful process. The policies of the leadership of the Serbian Republic have undermined prospects for a peaceful democratic solution in Kosovo that would respect the rights of all of the citizens in that Province.

The democratic movements in Kosovo have attracted nearly 1 million supporters despite the severe restrictions upon human rights and the democratic process in that Province. Mr. Milosevic remains clearly enamored with the Communist Party and is doing everything possible to contain the rising tide of democracy and the need for free elections in Kosovo.

The house that former Yugoslav President Tito so carefully built was designed to contain Serbian nationalism. Mr. Milosevic is attempting to rebuild the former Serbian kingdom at the expense of ethnic Albanians and others who may stand in his way. Many in today's Yugoslavia fear a rampant Serbia. Is there any wonder that many Europeans are calling the Serbian President the most dangerous man in Europe and a real threat to peace in the Balkan region?

My sense of the Congress resolution commends the ethnic Albanians for showing restraint during these difficult times and encourages a peaceful solution to the problems of Kosovo. The bill also urges the Government of Yugoslavia and the Government of the Republic of Serbia to restore the autonomous status of Kosovo and abandon its nationalistic policies which can only serve to undermine the unity of Yugoslavia.

I urge my colleagues to support this timely resolution.

CURRENT ISSUES SURROUNDING UNITED STATES MILITARY PRESENCE IN HONDURAS

HON. RONALD V. DELLUMS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. DELLUMS. Mr. Speaker, as political and civil strife wane in Central America, allowing for recovery and development to take place, it is crucial that we analyze what is happening in Honduras, a country which has received hundreds of millions of dollars in United States aid in recent years, and is currently under the new leadership of President Rafael Leonardo Callejas. Such questions as the restructing of its economy, its role in the political equilibrium of Central America, and its ties with Europe and the United States deserve to be examined. In this context, the Honduras-United States military alliance is also undergoing substantial revisions.

Amidst popular opposition to continued United States military presence, the Callejas administration is restructuring its vision of the role of the country's armed forces, focusing on a demilitarized cooperative effort aimed at combating deforestation the increased use of Honduras as a transshipment point for illicit narcotics. In order to provide some background on the current issues surrounding United States military involvement in Honduras, I draw your attention to an article by a researcher with the Council on Hemispheric Affairs [COHA], which first appeared in the July 11 issue of that organization's biweekly publication, the Washington Report on the Hemisphere. I encourage my colleagues to read this illuminatory article by Research Associate Renato Bendana.

HONDURAS OPPOSES PERMANENT U.S. MILITARY PRESENCE—PRIORITIES SHIFT AS REGIONAL TENSIONS LESSEN

(By Renato Bendana)

Recently inaugurated President Rafael Leonardo Callejas has stated categorically that he will not sign an accord providing for the establishment of permanent U.S. military installations on Honduran territory. The statement came in response to increasing controversy over what role the U.S. military, which for years has conducted extensive operations in Honduras on what is technically a temporary basis, will play in the country now that prospects for continued civil strife in the region have diminished and emphasis has shifted towards economic development.

If ratified, the controversial proposition, known as Protocol III, would become an extension of the 1954 Bilateral Military Assistance Agreement, in which both countries agreed to "act together for the common defense and for the maintenance of the peace and security of the Western Hemisphere." Two protocols have since been added, cover-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ing issues ranging from diplomatic immunity for U.S. personnel to counter-terrorism training. Protocol III would mark a significant break from the past, and set the stage for a new and even more controversial era in U.S.-Honduran relations.

U.S. Ambassador to Honduras Crescencio Arcos, who previously dabbled in the country's politics while serving as press secretary at the embassy during the height of the contra war, has argued that U.S. bases would be a tremendous asset to Honduras, considering that this country's military presence contributes an annual $45 million to the Honduran economy. Some government officials in Honduras agree, saying that the signing of Protocol III would guarantee much-needed U.S. economic and military support.

Despite the alleged economic benefits, President Callejas has maintained a determined stance against any permanent bases, stating that the government does "not deem the U.S. presence vital for our own security." He also denied rumors that the United States and Honduras have discussed plans to move U.S. Southern Command headquarters from Panama to Honduras when the contract with Panama expires in 1999. But those who have monitored U.S.-Honduran relations over the years are quick to recall that Washington almost inevitably gets its way in Tegucigalpa by maintaining good relations with high military and civilian officials.

Although Protocol III has found a certain degree of acceptance in government circles where the relationship with the United States is still seen as profitable, it has been opposed by many rank and file citizens who view continued U.S. involvement in Honduras as an infringement upon their country's sovereignty and constitution. In a recent public protest, an estimated 30,000 to 50,000 workers from both leftist and rightist unions marched together demanding "the departure of the U.S. troops and the rejection of any agreement that implies the establishment of foreign bases on Honduran territory." Despite the increase in opposition to the American presence, Foreign Minister Mario Carias Zapata has asserted that having U.S. troops in Honduras "is still justified" because "fighting could possibly resume" in El Salvador and the situation in Nicaragua is "very unstable."

While Callegas astronished many observers by asserting that the country, after almost a decade of witnessing massive nonstop joint military maneuvers, still has a need for military training and assistance, he stresses the importance of a "reorganization" of such military exercises. The Honduran president sees a shift in the type of training U.S. military personnel will provide Honduran troops; he already has transferred army units to what have been called "green battalions" that will specialize, with U.S. assistance, in prevening and combating forest fires, and also has arranged with Washington for the installation of radar to detect drug trafficking activity in the environs of his country.

The armed forces, despite a drop of 50 percent in U.S. military assistance in fiscal year 1990 and a 10 percent reduction in its budget, so far has cooperated with Callejas, even acquiescing to the government's suggestion that it may convert the Palmerola air base, currently used by over 1,000 U.S. troops, into a civilian airport. At the same time, the armed forces are engaged in an ongoing confrontation with the national legislature over the status of military conscription. Menacing enough, armed forces commander Gen. Arnulfo Cantarero Lopez has warned critics that although the armed forces have subordinated themselves to the civil government to date, they "are not tolerant or weak in any sense."

Callejas' contention that "perhaps this is a good time to remember that we cannot be so dependent on U.S. aid," could reflect a slightly revised line of thinking on the part of the Honduran government. In an effort to begin to ease his country away from its dependence upon Washington, the president has become a staunch supporter of Central American economic integration and has emphasized stronger ties with the European Economic Community, Asia and hemispheric neighbors such as Mexico and Venezuela.

TRIBUTE TO PAOLO B. DePETRILLO, M.D.

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to an exceptional member of my district who was awarded a Faculty Development Award by the Pharmaceutical Manufacturers Association, Inc.

Paolo B. DePetrillo, M.D., of Providence, was given this prestigious award for his dedication to research and training within the clinical pharmacology field. This field is imperative to our society as a whole. One out of every four chairmen of pharmacology departments in the United States is a former PMA Foundation awardee. I know of many young scientists who have received a foundation award have gone on to excel in their field. I am sure that he will also.

It is with great pleasure that I commend Paolo B. DePetrillo on his award. I wish him the best of luck and continued success.

H.R. 3719—FLORIDA KEYS PROTECTION ACT

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. JAMES. Mr. Speaker, I would like to state my strong support for H.R. 3719, the Florida Keys Protection Act. Florida has been blessed with great natural beauty. The keys are just one example of the unique environmental structure that Florida is famous for.

Possessing one of the largest living coral reefs in the world, the Florida Keys are in danger of destruction by the grounding of recreational and commercial vessels. Both Key Largo and Looe Key are protected and regulated by the National Oceanic and Atmospheric Administration by designation as National Marine Sanctuaries. In spite of this protection, vessels avoiding the gulf stream create a navigational and environmental hazard.

This bill will expand the coverage of the National Marine Sancturaries and creates an advisory council consisting of Federal, State, and local officials to help prepare and implement a management plan. In addition, the Florida Keys Protection Act will direct the Secretary of Transportation to submit a proposal to the International Maritime Organization to designate the sanctuary as an area to be avoided.

Furthermore, H.R. 3719 will prohibit all mineral activities, including oil and gas leasing, exploration, and development within the sanctuary.

Florida's Keys are worthy of safeguarding. I would like to thank my colleague from Florida, Congressman FASCELL, for his great concern for protection of the environment and his introduction of this legislation. I support his effort to preserve these natural wonders.

THE LIONS HOME FOR THE BLIND, INC.

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize the humanitarian work and selfless dedication of the Lions Home for the Blind, Inc. of Dade County, FL. This nonprofit organization provides assistance and comfort to those who cannot see.

The Lions Home for the Blind offers rehabilitative and social services to the blind of the Miami community free of charge. The Rehabilitation Program serves 45 blind people daily with transportation, education, and lunch. The Social Services Program renders assistance to another 95 blind people by providing transportation to medical and dental appointments, to the pharmacy, to the market, and to many Government agencies.

On July 21, 1990, the Lions Home for the Blind will have their annual Radio Marathon to raise urgently needed funds to continue charitable work. The Radio Marathon will be heard on WQBA-AM radio, La Cubanisima.

Mr. Speaker, I would like to congratulate the Lions Home for the Blind for its generous contributions in helping those without sight. I especially would like to commend Mr. Fernando Rodriguez, president; Mr. Oscar D. Vidal, I.C., executive director; Ms. Marta Perez, assistant director; Ms. Aleida Leal, director of the Radio Marathon; Mr. Hector Gasta, treasurer; and Mr. Alfonso Infante, accounting for their personal commitment and dedication to helping others.

THE NORTHERN REGIONAL RESEARCH CENTER'S GOLDEN ANNIVERSARY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. MICHEL. Mr. Speaker, the Northern Regional Research Center in Peoria, IL, one of the Nation's most prestigious and successful agricultural laboratories, recently celebrated its 50th anniversary. The research done at the ag lab has benefited families and communities throughout the world. I want to pay tribute to

the great achievements of the research center during its first 50 years and wish it well as it begins its next half century.

At this point I want to insert in the RECORD, "Officials Mark 50 Years of Ag Lab" from the Peoria Journal Star, July 17, 1990.

OFFICIALS MARK 50 YEARS OF AG LAB

(By Clare Howard)

State and federal officials helped celebrate the 50th anniversary of the Northern Regional Research Center on Friday.

U.S. Rep. Robert H. Michel, R-Peoria, said the center's accomplishments make it worth investing in.

"This center puts science to work. The work done here benefits families and communities all over the state, the nation and the world," he said.

He said the lab is in need of extensive renovation, and "we need to do some modernizing and renovation. I'm aware you are doing some on your own, but that's like wringing out a turnip."

The ag lab is expected to undergo a $50 million renovation over the next decade.

"The building shows signs of age, and we will undergo a major renovation and revamping to meet the standards of the next century," said center director Bert Princen.

He cited the Technology Transfer Act of 1986 as a critical means for commercialization of government research.

"There was a reluctance on the part of private companies to pick up our research, and it was then developed by foreign companies," Princen said. "Today we are even importing superslurper (invented at the ag lab) from Japan. We may have to start buying jojoba from other nations. That's unfortunate because the plant is native to the U.S., and we did the oil research here in Peoria."

Michel said: "It took us so long to realize the marriage of private industry and government. We finally woke up to the fact that our Japanese friends come here and take notes and pictures and we deny the same opportunity to our own people. We've woken up to the times."

Charles Hess, assistant secretary for science and education with the U.S. Department of Agriculture, said for every dollar invested in agriculture research, society realizes a $40 return.

"The burden of success is elevated expectations that follow," he said. "Agriculture faces may challenges and we will see more emphasis on commercialization of products from agriculture. NRRC is at the forefront of this research."

He said within the next few days the secretaries of the Departments of Agriculture and Energy will sign an agreement to stimulate more uses of agriculture products for alternative fuels.

The center is celebrating its anniversary today with a public open house from 8 a.m. to 6 p.m.

ESSAYIST TAMARA MARSH

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. DICKINSON. Mr. Speaker, 43 years ago the Voice of Democracy Scholarship Program was started by the Veterans of Foreign Wars of the United States and its ladies auxiliary.

The scholarship program is based on an essay contest, and the winning entry from each State is flown to Washington, DC, to compete in a national competition.

The winner this year from Alabama is no exception to the high academic standards set by the Veterans of Foreign Wars. She is an honor student at Carroll High School in Ozark, AL, and involved in many different student leadership roles.

Tamara A. Marsh has been youth ambassador to the Soviet Union, a member of the National Honor Society, Who's Who Among American High School Students, and a member of several organizations. Tamara now intends to pursue studies at Auburn University in international trade.

Miss Marsh's winning script shows, in her own words, why she is proud of America:

WHY I AM PROUD OF AMERICA

(Tami A. Marsh, Alabama winner, 1989-90 VFW Voice of Democracy Scholarship Program)

Why I am proud of America. Being an American is more than baseball and apple pie. It is more than red, white and blue. It is coming from a long line of rich heritage. It is loving my country and understanding how it was brought to life.

On a hot summer's afternoon over two hundred years ago thirty-nine of the most scholarly men in the world proudly signed a piece of parchment that became the foundation of America. The Constitution is still as beautiful this day as it was that afternoon over two hundred years ago.

In that document a most brilliant form of government was created. This government was a government formed by the people, for the people. For the first time, a government made provisions to protect the rights of every individual.

This summer I visited the Soviet Union. It was here I realized the true value of the Constitution, our Bill of Rights, and American citizenship. Americans should be thankful that we may choose any denomination and any church where we feel led to worship. When we attend, we are not forced to sign a list showing that we worshipped something besides the State. We have total freedom of religion, and for some inscrutable reason, we take it for granted.

We have a media system that does not withhold important information or bend the truth. We do not live in constant fear of scrutiny or the secret police. We are allowed to be individuals; we can be ourselves and not be worried about what the government will think. Americans are not afraid to smile and laugh. In fact, we often have reason to do so. That is a wonderful part about being an American.

Our economic system is another cause to stand proud for our nation. Capitalism enables us to own our own businesses and strive through competition. Because of capitalism, America has variety in every aspect of life. Our lives are not monopolized by the government. In the Soviet Union, I watched as the people stood in line for minutes for a glass of warm water.

When they had finished, they would pass their glass to the next person in line and drink after one another. Then the Soviets would all tell me how things were getting better. I could not help but wonder what things were like before they "got better". I am so thankful to be an American.

America did not just happen. It was a long, hard fight for independence. We must never forget the diseases, the bloody Indian massacres, and the long winter days at Valley Forge that our forefathers endured all for a dream of freedom. That is why chills race down my spine when the notes of our National Anthem are played. That is why my eyes tear up when I place my right hand over my heart and look up to that noble flag that stood high over Fort McHenry so long ago. Even as the flames ripped and the bombs exploded around it, that very flag still flapped majestically in the breeze of the Chesapeake Bay. America is a unique place . . . a special place. It is, and always will be, "the land of the free and the home of the brave".

DAVIS-BACON: CORRECTING THE RECORD

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. DELLUMS. Mr. Speaker, on June 25, the Wall Street Journal published an article by Mr. Scott Allan Hodge of the Heritage Foundation in opposition to the Davis-Bacon Act. Mr. Hodge labeled the Davis-Bacon Act as racist. I believe this is absolutely wrong.

I am including an expanded letter that I wrote in refutation.

DAVIS-BACON: "CROCODILE TEARS" FROM THE HERITAGE FOUNDATION

Today minorities and women are threatened with the loss of many of the economic and social gains of the previous decades. Ironically, those who have led this assault almost invariably seek to justify their actions by claiming to act in the interest of the minorities and women who will be most harmed. In truth, the attack on minority and female advancement arises from economic self-interest and from nothing else. A case in point is the Davis-Bacon Act.

The Heritage Foundation in a recent editorial—"Davis-Bacon: Racist Then, Racist Now"—calls for the repeal of this law which protects the wages of all construction workers, including minorities and women. The Heritage Foundation seeks to justify repeal of Davis-Bacon by asserting that reducing the wages of minority and female workers is somehow in their interest—rather than the economic interest of the corporate sponsors of the Heritage Foundation.

The truth is that minority and female workers have entered construction in increasing numbers over the past decade. Because they are often the newest members of the industry, these workers are particularly vulnerable to the wage-cutting practices which the Davis-Bacon Act of 1931 is designed to prohibit. Norman Hill, President of the A. Philip Randolph Institute, has characterized women and minority workers as "particularly vulnerable to exploitation such as the Davis-Bacon Act of 1931 is designed to prohibit."

With all due respect to the Heritage Foundation, we have distinguished African-American members of Congress who strongly support the Davis-Bacon Act and, in my view, are far more likely to look out for minority interests in this country than is the Heritage Foundation. Representative Bill Clay of Missouri has eloquently expressed the protections which all workers—regardless of race—derive from the Davis-Bacon when he

stated that "[t]he average non-union construction worker subject to the Davis-Bacon Act earns $14,000 a year. The average union workers earn $17,000 a year under the Davis-Bacon Act * * *. It is not just morally reprehensible, but logically ludicrous, to believe that reducing these meager incomes of construction workers even further will somehow reduce the budget deficit. [Repeal] will undoubtedly have the effect of increasing the profits of a few employers, but it does so at the expense of both workers and taxpayers."

In the same vein, former Representative Parren Mitchell of Maryland observed that, "I have served on the House Small Business Committee for 15 years, and I have chaired the subcommittee that deals with minority business for the last 5 years. In that total of 15 years, I have never received one single complaint from any minority business with regard to Davis-Bacon, not one. I hear about them in terms of capital; I hear about their complaints in terms of everything else, but I have not received one complaint from a single minority business with regard to Davis-Bacon."

Shocking examples of the exploitation of African-American and Hispanic workers even in the face of Davis-Bacon violations are legion. Typical is one situation described by a Department of Labor official involving an "Arkansas contractor . . . found owing over $7,000 in back wages to employees. Payrolls were falsified to show compliance . . . The employees were all black and are another example of a group exploited by an unscrupulous employer."

Like the Heritage Foundation, many opponents of the Davis-Bacon Act attempt to put the issue in the context of union vs. non-union and argue the law's only supporter is organized labor. This is clearly not true.

Indeed, workers who are not unionized perhaps are in greater need of its protection because they cannot turn to a union for protection. African-American, Hispanic, Native American and other minority workers, as well as women and young workers especially need this law. For this reason the NAACP, the National Women's Political Caucus, the Navajo Tribal Council and the Mexican-American Unity Council have all endorsed the Davis-Bacon Act.

The Heritage Foundation is as bad at history as it is at speaking for the concerns of minorities and women. Senator James Davis was Secretary of Labor in the Cabinets of Presidents Harding, Coolidge and Hoover. In 1930, he was elected to the Senate as a Republican from Pennsylvania. Mr. Bacon was also a Republican from upstate New York. And the Davis-Bacon Act was signed into law by President Hoover on March 3, 1931. Indeed, even a Republican so eminent as President Reagan did not support repeal of the Davis-Bacon Act. To suggest that the law is a product of Southern "Jim Crow" racists is just plain wrong.

In the future, if the Heritage Foundation supports Davis-Bacon repeal, let it put its cards on the table rather than shedding "crocodile tears" for minorities and women.

RONALD V. DELLUMS,
Member of Congress.

TRIBUTE TO MR. THEODORE "TEDDY" MICHAUD

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to a champion of youth, Mr. Theodore "Teddy" Michaud.

Recently, in appreciation of his service, the Newport American Little League dedicated the Theodore "Teddy" Michaud Minor Little League Field. Teddy has donated 11 years of his time in various capacities to Little League in Newport, RI, including coach, equipment manager, and scorekeeper.

Aside from his unselfish involvement in the Newport American Little League, Teddy, a Purple Heart recipient from Vietnam, has remained active with various armed services organizations, including the Disabled American Veterans, the Veterans of Foreign Wars, the Fleet Reserves, and others. Teddy has also shared his success and fortune with his wife Cherly and their two children.

On behalf of the people of Rhode Island, I would like to thank Teddy Michaud for his years of service to the young men and women of Newport. I commend Teddy for his enduring faith in the youth of America.

A TRIBUTE TO LAKEITHA DANIELS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it gives me great pleasure to call attention to an exceptional individual in my congressional district, an outstanding young lady, LaKeitha Daniels of Opalocka, FL. This young girl was one of the featured speakers at this year's National Association for the Advancement of Colored People National Convention held in Los Angeles, CA. She spoke on a subject very close and familiar to her heart: "The Cost of Freedom."

LaKeitha Daniels is no stranger to involvement in her community and with the NAACP. This hard working 11-year-old girl has been an active member of the NAACP for over 5 years. Even at her young age, she has tried to make her community a better place. Ms. Daniels has participated as a tutor, fundraiser, and voter registration volunteer and she is making a difference.

Ms. Daniels should be a shining light to everybody in south Florida and to all of the United States. She vividly makes us aware that everybody can make a difference. Ms. Daniels illustrates that a person's will to succeed, kind-heartedness, and desire are not dependent on age. She is a beacon to the youth all over the United States and especially in Miami because she epitomizes the spirit that I hope our young people capture. An energetic young girl who is willing to give of herself so as to make the community of Miami a better place to live. We need more people like Ms. Daniels to carry on our torch for our country's future.

Congratulations and my sincere hopes for a bright future to an outstanding young citizen, Ms. LaKeitha Daniels.

AID THE SOVIETS CAN REALLY USE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. HAMILTON. Mr. Speaker, an article by Mr. Richard Gardner was published in the Washington Post on July 8, 1990, entitled "Aid the Soviets Can Really Use." The article focuses on the importance of Western technical assistance in fostering the process of economic and political reform in the Soviet Union. I commend the article to the attention of my colleagues. The text follows:

[From the Washington Post, July 8, 1990]

AID THE SOVIETS CAN REALLY USE

(By Richard N. Gardner)

The seven industrialized democracies have an opportunity at the Houston economic summit to help the reformers in the Soviet Union who want to make their country a free-market democracy. What is needed are two initiatives for coordinated Western aid—one economic, the other political.

The first element is an economic package that should not start with large-scale loans, which in the present disorganized state of the Soviet economy would bring no lasting benefits and could not be repaid. What the Soviet Union most urgently requires is a credible program to transform it into a market economy, coupled with the building of the necessary institutions to carry such a program out. These institutions must include laws that create and protect private property rights, a stock market, a private banking system, anti-monopoly legislation and an organized process of privatizing state enterprises.

A week of economic discussions in Moscow last month with senior Soviet officials and academics reinforced my conviction that the Soviet Union cannot devise and carry out such a program on its own. It lacks people with the necessary knowledge and experience in free-market economics, and it badly needs Western advice and technical assistance.

Nor can these needs be supplied by occasional brief visits of Soviet delegations to the International Monetary Fund and the World Bank in Washington, to the Organization for Economic Cooperation and Development in Paris or to the European Commission in Brussels. What the Houston economic summit should offer Mikhail Gorbachev is the establishment in Moscow as soon as possible of an international team of experts—selected by these organizations—who could work with Gorbachev's economic advisers and those of Boris Yeltsin at the Russian republic level.

The purpose should not be to impose a Western design upon the Soviet Union but rather to help it fashion a program that would provide the basis for a subsequent package of financial aid.

Since the IMF, the World Bank, OECD and EC cannot finance such a joint mission for a country that is not a member, a

modest technical assistance trust fund of, say, $5 million could be created in the United Nations Development Program on behalf of non-market economies in transition, for which these organizations could serve as executing agents. There is reason to believe that Gorbachev and Yeltsin would welcome such an initiative provided it were clear that it was intended as a consultative mission and not as an infringement on Soviet sovereignty.

But it is obvious that a program of economic liberalization in the Soviet Union cannot succeed without a parallel program of political liberalization. The latter process requires an alliance between Mikhail Gorbachev, Boris Yeltsin and those reformers on their left who want to transform the Soviet Union into a real free-market democracy. Such reformers include such men as Anatoly Sobchak, the mayor of Leningrad; Gavril Popov, mayor of Moscow; Sergei Stankevich, Moscow's deputy mayor; and Viktor Aksyuchits, leader of the new Christian Democratic Party.

Western governments cannot help such reformers directly without risking the charge of interference in the U.S.S.R.'s internal affairs. But they could agree at Houston to encourage a coordinated program of aid on the part of their political parties, trade unions and civic groups. In the United States, a leading role could be taken by the National Institute for International Affairs of both the Democratic and Republican parties, which already have a successful track record of assisting democracy in such countries as Chile, Nicaragua and Czechoslovakia. Together with European groups, they could offer advice on the drafting of the U.S.S.R.'s new constitution, on the effective operation of the Soviet and republic parliaments, and on the creation of an independent judiciary.

A popular election for president of the Soviet Union is now scheduled for 1994, and Gorbachev will be under pressure to advance that date to 1991 or 1992. By providing the non-Communist forces with needed hardware (computers, fax machines, and publishing equipment) as well as advice on running political campaigns, the West can help them—and perhaps reform Communists as well—to compete in these elections on the basis of equality.

The skeptics will say that a liberalized Soviet Union is a chimera and that the country's future holds nothing better than chaos followed by repression. It is true that in the light of Russia's tragic history, an orderly transition to free-market democracy is a long shot. But the seven leaders at Houston should make a prudent investment in that long shot, given what their countries and all humanity have at stake.

STRATEGIC PETROLEUM RESERVE REAUTHORIZATION

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. SYNAR. Mr. Speaker, yesterday the full House considered and adopted by voice vote H.R. 3193, amendments to EPCA which reauthorized the Strategic Petroleum Reserve Program. I had hoped to be on the floor during discussion of that measure, but was not able to be present.

Mr. Speaker, like other Members of the House, I continue to be a strong supporter of our Strategic Petroleum Reserve Program, and I want to commend our distinguished subcommittee chairman, Mr. SHARP, for his leadership in crafting this latest reauthorization bill. The measure addresses a number of important issues which have arisen relatively recently, such as regional product reserves, clarification of the President's drawdown authority, and certain proposals for leasing SPR oil from producing countries. I am pleased to support the legislation and look forward to our continuing work with Chairman SHARP as the bill goes to conference with the Senate.

I also wanted to take the opportunity to note my concern, however, over an issue related to allocation orders and auctioning of reserve crude which was not specifically before the committee as part of this measure.

Mr. Speaker, as my colleagues know, the Secretary of Energy has authority to request that U.S. oil companies supply crude oil to one or several of our IEA sharing partners. For instance, in a supply emergency which has triggered the IEA sharing agreement, the Secretary can request that a company divert a tanker of crude enroute to this country directly to another IEA partner. Under DOE's current program, a company which complied with such a request would then be required to queue up with everyone else at a DOE public auction for SPR crude oil, at which the crude is sold to the highest bidder.

In other words, in order to assure replacement of the oil it voluntarily diverted to another IEA member at our request, the company would have to be the highest bidder for that amount of SPR crude at auction. This could put the company in the unfortunate position of having to replace that oil for a higher price than it received for the tanker load it voluntarily diverted to help meet the Nation's oil sharing obligations.

That is simply unfair, Mr. Speaker. It seems to me that a company which voluntarily helps the United States meet its emergency sharing responsibilities should be able to replace its diverted cargo from our SPR reserves at a price which does not result in a loss for the company. Indeed, just as it would be inappropriate for a company to unduly profit by replacing those supplies at a lower price than they received for their diverted oil, we should not expect companies to voluntarily relinquish supplies at the Secretary's request if they are forced to do so at a loss.

The obvious solution is for DOE's drawdown and auction procedures to provide a mechanism whereby the company can acquire an equivalent amount of crude from the reserve for a price equal to what it received from the IEA member country, adjusted for any transportation and quality differentials.

Mr. Speaker, I hope this issue can be addressed as the House moves into conference with the Senate. I look forward to working with DOE, Chairman SHARP and the members of the conference committee on this and other SPR issues of concern.

STRATEGIC PETROLEUM RESERVE REAUTHORIZATION

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. BILIRAKIS. Mr. Speaker, yesterday the House approved H.R. 3193, legislation amending the Energy Policy and Conservation Act. Within this bill, reauthorization was provided for the strategic petroleum reserve.

I was not able to join in the debate of H.R. 3193, but I have supported the SPR in the past as a prudent measure to help ensure our energy security. Although we have recently witnessed such dramatic events as the impending reunification of Germany—we must remain concerned over the expanding dependence of our country on foreign oil and plan accordingly.

In this regard, the Energy and Power Subcommittee, of which I am a member, has done much to promote conservation initiatives as well as review programs designed to respond to an oil embargo or other emergency. To this end, I wanted to associate myself with the remarks made today by my colleague, Mr. SYNAR, concerning the SPR and operation of international oil sharing in the event of curtailments in supply.

Mr. SYNAR has outlined the current planned operation of IEA sharing as well as a scenario under which the Secretary of Energy would request the diversion of oil to an IEA partner and then provide for the recoupment of this oil by auction. I think my colleague's remarks outlined the basic unfairness of this procedure—that is, that a company which voluntarily parted with crude oil in order to fulfill U.S. international obligations should be required to bid for replacement oil with other bidders who may not have parted with oil.

It would seem prudent, necessary, and reasonable for procedures to be altered so that this unfairness does not occur. If voluntary cooperation in the IEA Program is sought—it would appear the general workability of the program could be greatly enhanced by the knowledge that participation would not carry with it a cost penalty in the form of a higher bidding price for replacement oil.

I therefore hope that is a matter which can be addressed when the House moves into conference with the Senate. I look forward to working with Chairman SHARP and members of the conference committee in resolving this and other issues of concern.

SILVER ANNIVERSARY OF THE BLACK REPERTORY GROUP

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. DELLUMS. Mr. Speaker, I rise to recognize the work and the accomplishment of the Black Repertory Group, and its founder, Ms. Nora B. Vaughn. On July 20, 1990, the Black Repertory Group will be celebrating its silver

anniversary, and there is much to acknowledge and to praise.

The theater group, which is both a teaching and a performing theater, grew out of a drama program at Downs Memorial United Methodist Church in 1964. The founder and its present executive director, Nora Vaughn, staged and produced Christmas and Easter pageants which were vigorously supported and attended by the community.

In 1967, the theater, with its corps of volunteers, moved to a storefront, 1719 Alcatraz Avenue in South Berkeley, converting the space into an intimate theater seating 99 guests. In the ensuing years they produced works by more than 50 African-American writers, introducing to east bay communities the plays of Langston Hughes to Charles Fuller. It was during this period of time that the Black Repertory Group expanded its purpose to include the youth development and educational components in response to the obvious social problems evident in the community in which they were located.

From 1978 to 1987, the board of directors and Ms. Vaughn worked hard to get the city, the State, and the Federal governments, and community resources to construct a more permanent and adequate facility in South Berkeley. This combined effort succeeded in creating a beautiful theater from a weedy, seemingly abandoned lot.

On October 11, 1987, the supporters of the theater proudly dedicated the Black Repertory Group's Cultural Arts Center. The building contains a 250-seat main stage—the Birel L. Vaughn Theater—office space, workshop/rehearsal space, and an outdoor courtyard area with future performance potential.

The group is committed to produce full length plays by or about black people; to feature new, local African-American playwrights, directors, and performers; to give training classes in the performing arts for youth ages 4–18, preprofessional training for talented amateurs aspiring to become professional; master's classes for professionals in theater, blues, African/jazz/interpretive dance, and other black classical folk art forms.

I salute the Black Repertory Group not only for its past record of commitment to the cultural life of our community but to its ongoing commitment to use the performing arts as a tool through which to instill self-confidence and self-esteem in participants as well as to provide a vehicle through which the community can discover and rediscover African-America's rich cultural heritage.

TRIBUTE TO CHIEF MICHAEL F. MOISE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to an exceptional member of my district who is retiring from the Providence Fire Department after 36 years of dedicated and loyal service.

Providence Fire Department Chief Michael F. Moise will retire after 36 years within the department. He served as chief for 17 years and has fought major catastrophic fires such as the Providence College dormitory fire, the Outlet fire, and the Olneyville mill complex fire.

Chief Moise is the kind of role model that our community respects and admires. His dedication to his work and to the State is to be commended.

On this occasion of his retirement, I extend my congratulations to Chief Moise and I wish him continued success and best wishes for the future.

VOICE OF DEMOCRACY SPEECH BY PATSY EDLER: "WHY I AM PROUD OF AMERICA"

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. JOHNSON of South Dakota. Mr. Speaker, for almost 30 years the Veterans of Foreign Wars have sponsored the Voice of Democracy competition for young people in all parts of our country. Last year more than 137,000 students took part, with participation by 8,000 schools. More than 4,800 VFW posts and 4,000 VFW ladies auxiliaries sponsored the program, and 2,300 radio and television stations cooperated.

The 1990 Voice of Democracy contest winner in South Dakota is Patsy Edler of Bruce. Miss Edler is the daughter of Lucian and Marilyn Edler, and she is recent graduate of Sioux Valley High School in Volga. As an honor roll student and a member of the National Honor Society, Miss Edler represents thousands of other dedicated, patriotic young people who give us reason to be hopeful and optimistic about the future of our Nation and world.

I am proud to recommend Patsy Edler's Voice of Democracy speech, "Why I Am Proud of America," to my colleagues and all other Americans:

WHY I AM PROUD OF AMERICA

(By Patsy Edler)

Why I am proud of America. America—one simple word that brings to mind hundreds of images; baseball games, hotdogs, "spacious skies and amber waves of grain". Each individual has his or her own image of what America is and why they are proud of it. For myself, when I think of America, I think not only of its symbols, I think of the people who have made America what it is today. I am proud of Americans.

Throughout our history, there have been such outstanding Americans that their names are instantly recognizable. George Washington, Abraham Lincoln, Susan B. Anthony, John F. Kennedy, and Martin Luther King have all become national heroes. And while they are all deserving of this praise, there are millions of Americans who are unsung heroes and are equally deserving of recognition. There were those who suffered at Plymouth Rock, those who lost their lives in the Civil War in order to preserve America, and those who followed Louis and Clarke into the West to settle that unknown frontier. The most obliviously heroic, of course, are the millions of American men and women who have fought for our country's freedom since its birth. Few became famous war heroes, but all were willing to sacrifice their lives for future generation of Americans.

Today, there are still Americans who devote their time and talents for the betterment of mankind. If it were not for the disaster workers who helped in the aftermath of Hurricane Hugo and the San Francisco earthquake, there would have been far fewer survivors today, and reconstruction would just be beginning. That is what America is really about, people helping people. We're not really so much one country, as we are one vast community of people. This sense of community spirit is alive and well in our own area. The volunteer fire department, the collection of canned goods by Boy Scouts, Angel Trees at Christmas time, and the many organizations designed to help the chemically dependent, the abused, and the poverty stricken are all examples of our willingness to help our neighbors; because our neighbors are our friends, and our family. Currently, this American concern has manifested itself into the intensely dedicated search for Jacob Wetterling, a young boy kidnapped on October 22nd, and who is still missing.

America is represented by so many things, but they're not what America is truly about. I am not proud of hotdogs and baseball games, I am proud of the veterans sitting next to me at a game eating a hotdog. I am not proud of "spacious skies and amber waves of grain", I am proud of the men and women who are there when the skies are dark and the fields barren. It is people who made America what it is today, and future generations who will make it even better. I am proud to be an American, and I am proud of Americans.

SPOTTED OWL AS A "TOOL" AGAINST AMERICAN WORKERS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. YOUNG of Alaska. Mr. Speaker, in case Members missed it, I would ask that the following excerpt from Andy Stahl, a resource analyst at the Sierra Club Legal Defense Fund in Seattle, be entered in the RECORD. If you are laboring under the misapprehension that the environmentalists who oppose logging in the Pacific Northwest are concerned about spotted owls, I recommend you to read this.

This very candid statement by someone in the forefront of the northern spotted owl controversy points out clearly that the owl exists as a tool for an antigrowth agenda, and has nothing to do with the cute little furry owl.

How many times is the Congress going to stand idly by and watch the interests of the working, producing sector of this economy laid to ruin in order to appease the never-ending demands of an elite group representing the leisure lobby?

[From the Washington Times, July 10, 1990]

THANK GOODNESS THE SPOTTED OWL EVOLVED IN THE NORTHWEST

(Following are exerpts from an address by Andy Stahl, a resource analyst at the Sierra Club Legal Defense Fund in Seattle, to the

Sixth Annual Western Public Interest Law Conference, "Environmental Law: Looking to the Future: Old Growth's Last Stand?" The talk took place on March 5, 1988.)

I'm going to talk about litigation strategies to delay federal timber sales on Bureau of Land Management and Forest Service land which log oldgrowth forests. For example, I won't discuss Clean Water Act cases that might affect old-growth forests, nor will I discuss roadless area protection cases in which old-growth forests are found in those roadless areas, nor, for example, a variety of sophisticated uses of the Native American Religous Freedoms Act for protecting old-growth forests when those sites happen to be important to Indian Tribes. . . .

Here's the problem facing a litigator entrusted in delaying a federal old-growth timer sale: There is simply no specific statutory protection for old-growth forests. . . .

Until legislation is adopted which protects these forests, we need at least one surrogate, if you will, that will provide protection for the forests. A surrogate must have three qualities to be a good surrogate. First, it must be unique to old-growth forests, secondly, it must be measurable using scientific methods, and third, it must of course, enjoy some amount of statutory protection.

[A]s the strategy for protecting old-growth matured, it appeared that wildlife would offer the most fruitful hunting grounds for a surrogate that meets the three criteria. It's quite biologically sensible to hypothesize that one or more species of wildlife would, in fact, be unique to old-growth forests, because such forests were for millennia the dominant forest type in the Pacific Northwest. In addition, wildlife are measurable; you can count them. And as we'll see, you can count them in amusingly significant ways. And thanks to the work of Walt Disney with Bambi and her friends—I think he was female—wildlife enjoys substantial substantive statutory protection.

Well, the northern spotted owl is the wildlife species of choice to act as a surrogate for old-growth protection, and I've often thought that thank goodness the spotted owl evolved in the Northwest, for if it hadn't, we'd have to genetically engineer it. It's a perfect species for use as a surrogate. First of all, it is unique to old-growth forests, and there's no credible scientific dispute on that fact. Second of all, it uses a lot of old-growth. That's convenient because we can use it to protect a lot of old-growth. And third, and this is more a stroke of good fortune in one sense and in another sense, an indication that environmental groups tend to wait too long before they act, it appears that the spotted owl faces an imminent risk of extinction. That's very important, for if it didn't, federal agencies could argue that they could continue to log old-growth and not hurt the spotted owl. It's important that not only it faces a risk of extinction but that we haven't gone too far because then federal agencies could argue: Why should we bother to protect old-growth; it's too late already; the spotted owl is doomed. In other words, we have to be right on the edge and by good fortune, it appears that we are in this decade right on the edge.

AARON ALLEN ANDRUSKEVITCH—EASTERN NATIONAL GRANDS WINNER

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. DURBIN. Mr. Speaker, I would like to take this opportunity to recognize Aaron Andruskevitch from Riverton, IL, the winner of the Eastern National Grands Junior Stock car race in Columbus, OH.

Aaron set a new track record, won the A Main race and took the Pretty Car Award. It is with great pleasure that I submit the text of a feature article on Aaron from the April/May issue of Quarter Reporter.

Congratulations, Aaron, and best of luck next year.

AARON ALLEN ANDRUSKEVITCH—EASTERN GRANDS WINNER!

Age: 9.

School: Riverton Elementary.

Town: Riverton, Illinois.

Member: Illina Q.M.A. Indiana, Sangamon County Q.M.A. Illinois, Casey Q.M.A. Illinois.

Car: Fast Track Coil-over.

Aaron has been around quarter-midgets since he started to walk, so it wasn't a surprise when he said that he wanted to race one. Dad was kind of hoping he would. We started him out in an old Curtis for training back in 1986. He picked up on it fast and competed in the Eastern Dirt Grands in Lincoln, Illinois in Jr. Novice. He made it to the B Main and halfway through it, parked the car. He was done with the old Curtis, "It was beating me to death" we were told and he wanted to run the new car that was setting back home in the garage. So we brought it out and started 1987 in a new car. He had a good year with his share of wins and fast-times. By mid-year, he transferred to Jr. Stock. He won the States Race and went to Huntsville Eastern National Grands. This time he made it to the A Main and finished 5th. This was Aaron's first time on asphalt. All his racing from the start was done on dirt and that was all he knew. We came back to dirt, through, as he was not too sure he really liked asphalt. 1988 brought another new year. Aaron ran Jr. Stock and Lt. Mod. Out of 34 starts he had 18 wins, 13 seconds and 7 fast-times. These were all at dirt tracks in Region 5. He participated at the Western National Grands in Pueblo, CO in Jr. Stock. He got 4th fast-time and made the A Main where he finished 4th.

Of all racing, 1989 will always be remembered as our "BEST". This year we decided to devote totally to asphalt racing. We ran Region 4's yearly points championship. Aaron decided that he liked asphalt the best and as a result only raced 3 times on dirt. He ran 17 sanction events, had 8 first places, 7 seconds and 9 fast-times (3 of which were track records). We went to the Eastern National Grands in Columbus, OH, with high hopes as many of the kids he would race with in Jr. Stock he had raced with all year. He gave it his best shot as every kid there did. He got fast-time and set a new track record and won the A Main. If that wasn't enough, his car took Pretty Car award and he qualified for the Hall of Fame race. The trophies were almost bigger than he was. He was thrilled, but not half as much as Mom and Dad and Gramma and Grampa. He finished out the year coming in second in Region 4's points championship (missing first by only one point).

Aaron was also old enough to start racing go-karts. We have a local go-kart track and he wanted to try it. So when we had a weekend with no quarter-midget racing scheduled, we would run the go-kart. This really gave him the asphalt experience he needed. Aaron holds the track record for 2-cycle rookie and came in second in their season point championship. He plans on running Lt. Mod. and Lt. B in the Quarter-midget and 2-cycle rookie in the go-kart in 1990.

"I would like to race full midgets and sprints when I get older and maybe even go on to race Winston Cup cars someday. I want to thank Jason Harms, Johnnie Crawford and Flea Ruzic for helping me get started and giving me advice and guidance and to the Newmans and Parsleys for their help when I went to asphalt racing. Also thanks to my sponsors: Greg's Machine Service of Riverton; Blendzall, Inc., Martins Ferry, Ohio; Mr. Don Spence, Sales of Charlie Sattler Olds-Cadillac, Springfield, Illinois; Total Seal, Phoenix, AZ; and Burris Racing, Los Alamitos, CA. And a BIG THANKS to Dad, for building my engines and keeping my car in shape, and to Mom for always keeping it clean! Also, Rose, THANKS for asking us to be UP CLOSE AND PERSONAL!"

TRIBUTES TO MATTHEW T. SILVIA AND CHRISTOPHER FERLAND

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to two exceptional members of my district who performed a heroic act and were given an award from the Carnegie Hero Commission.

Matthew T. Silvia of North Smithfield, and Christopher Ferland of East Providence saved the life of a drowning girl on the shore of a beach. Matthew risked his own life by swimming 150 feet into the ocean to save her as Christopher grabbed a life ring on the shore and leaped in to help. They were able to hold on to the ring and swim safely back to shore.

These two students exemplify the kind of young people we have in our State today. Society only seems to hear about negative occurrences with today's youth. This heroic act only goes to prove that we can truly be proud of our youngsters. We need to center upon the positive aspects and praise acts such as performed by both boys.

It is with great pleasure that I commend both Matthew T. Silvia and Christopher Ferland for their heroic act. I know they have a successful future ahead of them.

IS THE PRESS STRAIGHT ON ABORTION?

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. WELDON. Mr. Speaker, the abortion issue continues to be a highly debated issue. Each side has strong emotional arguments. With such a highly debated issue in the spotlight, it is only fair that each side receive equitable coverage. An article in the July 16 U.S. News & World Report entitled "Is the Press Straight on Abortion" clearly shows that this currently is not the case. The press has allowed a variety of influences to lead to inadequate and even biased coverage of the pro-life movement. I urge my colleagues to read this article to clearly understand how the media has failed to properly cover the abortion issue. And I urge the media to recognize the wrongs of their ways and correct them immediately.

IS THE PRESS STRAIGHT ON ABORTION?

(By John Leo)

About a year ago, I noticed that one of our major metropolitan newspapers had taken to using "abortion provider" as a neutral term in reporting the abortion debate. It is not neutral. "Abortion practitioner" and "doctor who performs abortions" are neutral terms. "Provider," with its overtones of nurturance and protection, is a one-word argument in favor of abortion, just as "abortionist," with its overtones of back-alley sleaze, is a polemic against it. I fired off a helpful note to the city desk pointing out this unprofessional misuse of the clanging euphemism "abortion provider" and signed it "John Leo, Journalism Provider." No answer yet.

A good deal of comment has appeared recently about the semantic tilt on the abortion issue. ("Pro-choice" for abortion-on-demand and "pro-life" for anti-abortion are both examples of ghastly argumentative jargon. The press generally uses the first as a neutral term, but not the second.) Under pressure from the anti-abortion side, this sort of concern has broadened into a wider questioning of press coverage. On May 6, because of a column by Richard Harwood of the Washington Post, the issue broke into the open, and editors across the country sat up and began to take notice.

The column by Harwood, the newspaper's ombudsman, reflected and made public the views of Managing Editor Leonard Downie, who had already moved to correct the apparent basis at the paper. Harwood wrote that the Post's "shabby" coverage of the April 28 pro-life rally in Washington "has left a blot on this paper's professional reputation." Only two short articles appeared in the Post, one the day of the event, one the day after, neither on Page One. U.S. Park Police estimated the crowd at 200,000. By contrast, Harwood wrote, the Post "nannied" the pro-choice rally last year (police estimate 125,000), devoting a dozen stories to it, plus all sorts of maps and charts, and featuring it on Page One as the lead story of the day. (He might have added that the Post homed in on the wholesome mother-daughter angle favored by rally organizers, and played down the colorful "Dykes for Choice" and "The Pope is an angel of death" contingents.)

There were some mitigating circumstances. The Post had just finished its vast coverage of Earth Day on April 22 (56 stories, 77 columns over several weeks) and may have been suffering from postparty depression. And the 1989 pro-choice rally, the first major one by the movement in almost a decade, had built-in hype because of the suspense over the pending Supreme Court decision on Webster.

Newsroom insularity. Still, Harwood was unsparing. He described Downie's recollection that Post staffers had a pervasive awareness about the pro-choice rally and Earth Day, whereas nobody at all mentioned the pro-life rally at the meeting on plans for weekend coverage. Harwood wrote of Downie: "Journalists here, he thinks, not only are not part of the anti-abortion movement but don't know anyone who is." This airy isolation is precisely what's wrong with so much coverage of the abortion issue. It is why "abortion provider" slips past copy editors, why police brutality toward Operation Rescue and other anti-abortion demonstrators never seems to get mentioned in many papers, and why complex half-a-loaf compromises get reported as victories for those who favor abortion.

This issue will now have to be addressed head-on. A good starting point is the report from an eight-month study by the Center for Media and Public Affairs, which found that reporters for the three network news shows and the Washington Post and New York Times quoted nearly twice as many pro-choice sources as pro-life ones. In stories filed by female reporters for the two papers, the pro-choice advantage was 3 to 1. An unnamed network news official said: "The problem, pure and simple, is that the media's loaded with women who are strongly pro-choice."

The above quote appeared last week in a post-Harwood four-part series on the issue by David Shaw in the Los Angeles Times. The gist of the series is that Harwood is correct. Ethan Bronner of the Boston Globe, one of the best and fairest of those covering abortion, told the Times: "I think that when abortion opponents complain about a bias in newsrooms against their cause, they're absolutely right."

One problem is that the new crop of female reporters, most of them smart, tough feminists of childbearing age, is having trouble dealing fairly with abortion reporting. Because the feminists have turned abortion into a litmus test for movement loyalty, these reporters are under enormous pressure to file politically correct copy. After Susan Okie of the Washington Post wrote a story on new procedures for saving premature babies, she was warned by a friend that this kind of story was not good for the abortion-rights movement. Okie told the L.A. Times: "I felt that they were . . . [saying] 'You're hurting the cause'. . . that I was . . . being herded back into line."

The other problem is that since so few editors and reporters seem to know anybody who is anti-abortion, abortion protesters have been relatively easy to demonize. As the L.A. Times points out, protesters are frequently described as militant, strident zealots, or asked by TV types to "look angry" for stereotyped sound bites. I think it is true that the anti-abortion movement contains all too many fanatics and woman-haters, but it also contains a great many ordinary concerned Americans from all walks of life and many veterans of the civil-rights and anti-war struggles. It is an extremely broad and vaired movement depicted routinely, in Harwood's words, "as one of those . . . 'fringe' things somewhere out there in Middle America or Dixie." Harwood is inviting us to address the contempt, insularity and obliviousness that lie behind the press failures on abortion. Thanks to him and the Post, that effort is now under way.

ESSAYIST JASON DICKERSON OF WEST VIRGINIA

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. RAHALL. Mr. Speaker, I rise today in commendation of a young man from my district, Jason Dickerson, who was recently named West Virginia's winner in this year's Veterans of Foreign Wars Voice of Democracy broadcast scriptwriting contest.

I would also like to commend the VFW and its ladies auxiliary for their fine work on the contest, and their commitment to educating our youth about the values that have made this country strong for over 200 years. During my high school days in Beckley, WV, I was a district runner-up in Voice of Democracy competition and to this day proudly display my award.

After reading this essay, I was filled with hope for the future of our Nation. Mr. Dickerson demonstrates unusual insight and understanding of what we all feel as Americans, and I am pleased to see that our next generation will not take for granted the democratic tradition that still brings refugees in search of democracy from all over the world.

Mr. Speaker, by unanimous consent, I wish to insert the complete text of "Why I Am Proud of America" immediately following my remarks.

WHY I AM PROUD OF AMERICA

(By Jason Dickerson, West Virginia Winner, 1989/90 VFW Voice of Democracy Scholarship Program)

It was a warm summer morning, and I was wading in the choppy waters of the Atlantic Ocean. There's so much talk these days about how dirty our environment is, but the earth looked just beautiful as I stood there. And, then something miraculous happened. The brilliant light of our sun rose over the water, and in the distance a school of dolphins leapt out of the sea. I know the sun rises and dolphins leap out of the water everyday. But, still, seeing that majestic sight made me realize what a truly beautiful place America is; it made me realize how blessed we really are in this special land. I am proud of America.

I'm proud of this beautiful land. From that ocean water and those dolphins off the South Carolina coast to the high mountains and bald eagles of Alaska, America has been blessed. Our environment is a gift that has been passed from one generation to the next, and this generation will work to save the oceans and the forest and the ozone layer, so that precious gift will be enjoyed by generations yet to come.

I'm proud of our heritage. Our nation has been called a "melting pot," a mixture of diverse and distant cultures. Gradually, all these cultures have blended into one: the culture of America. It's a culture of pride, of optimism, of hard work, and of freedom. No

other nation can boast of having a society so rich in diversity and unity.

I'm proud of our history. To say that Americans have been "tough" would be an understatement. We've overcome unbelievable odds to become the most important society in the history of mankind. It's been less than 500 years since Christopher Columbus sailed to the West. Yet, in that time, we've built a nation, saved countless millions from poverty and repression, cured disease, went to the moon, and lit the world with our culture.

I'm especially proud of the people of this special land. Everyday they do the work that makes the American ideal come alive. Over the years they've cooked, cleaned, toiled, wept, and fought to make America what it is today. People from every nation and every background . . . they've worked together; they've struggled together.

Finally, there's freedom. It's what the United States is all about. When Thomas Jefferson wrote that historic Declaration in 1776, he wasn't just scribbling some idle words on paper: he was defining the spirit of a nation. I'm proud of those men and women who've fought to preserve that spirit: from Valley Forge to Nomandy, from Korea to Khe Sanh. To those people who have fought and especially to those who have died. I say "thanks" for perserving the American birthright of liberty.

And, yet, with all that greatness behind us, America is still a young nation.

I'm hopeful about America's future. Sometimes the problems of the present seem to outweigh the possibilities of tomorrow. We can't let that happen.

Think about the odds we've overcome to get this far. Think about the American heritage: the heritage of passing this glorious nation from one generation to the next. Our nation is good, but we could be better. We are wise, but we can be wiser. We are strong, but we must be stronger.

Very soon, America and the world will face a new millennium. It will be a time to take stock: to think about where we are and where we've been and where we're going. The past has been great, but the future can be greater.

Someday, my children will stand in the ocean, just as I did on that warm summer morning. Someday, they will watch the sun rise over the water and over a nation that's even prouder, stronger, freer, and more beautiful than the one that we have today.

I am proud of America. But I'm even prouder that America's best days are yet to come.

TRIBUTE TO HIS HOLINESS DIMITRIOS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to His Holiness Dimitrios who was recently elected the 269th Ecumenical Patriarch of Constantinople.

The Ecumenical Patriarch Dimitrios is now acknowledged as the spiritual authority over world Orthodoxy. At the age of 17, he entered the theological school of the Ecumenical Patriarchate at Halki. His Holiness has also previously served as deacon of the SS. Constantine and Helen Church at Ypsomathia. In 1942, he was ordained to the priesthood and 3 years later as a pastor in 1945. The Holy Synod of the Ecumenical Patriarchate elected him titular bishop of Elaia in 1964 and he was consecrated to the episcopate the same year. The Ecumenical Patriarch Dimitrios is the first ecumenical patriarch to visit the Western Hemisphere.

It is with great pleasure that I recognize His Holiness Dimitrios and congratulate him for his outstanding achievements. I wish him continued success as a spiritual leader of world Orthodox Christianity.

PRICE OF FREE TRADE

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. TRAXLER. Mr. Speaker, I rise to bring to the attention of my colleagues a letter which appeared in the July 13, 1990, edition of the New York Times. If my colleagues have ever wondered whatever happened to our Nation's industrial might or if anyone questions where American jobs have gone, the answers are contained in the letter below.

PAUPERIZED WORKERS ARE PRICE OF "FREE" TRADE

To THE EDITOR: The foreign-trade deal the Bush Administration has negotiated with Japan (front page, June 29) follows the thinking of the Reagan Administration and will continue the give-away of essential interests of the United States. Because it assumes that unregulated foreign trade—always called "free trade"—automatically benefits both nations involved, this viewpoint makes light of the one-sidedness of United States trade. The net takeover of our markets by excess imports, and the shrinkage of our industries and jobs, is attributed to some outside factor, and token policies are devised to deal with these imaginary causes.

Thus, the real causes of the self-destructive pattern of United States foreign trade were not touched by the Reagan Administration's initiating unfair trade practices investigations or getting commitments from other countries to increase their "economic growth." Neither will they be touched by the Bush Administration's getting Japan to increase its public-works spending, to speed up the issuing of patents, to reduce protection of small shops and to increase prosecution of bid rigging. These actions may be desirable, but their effect on the huge United States trade deficit with Japan will be long delayed and trivial. Saving the economic future of the United States requires the regulation of United States imports to bring about balanced, two-way-benefit trade with countries that differ from us in economic policies and institutions, market sizes and qualitities, wage levels and other ways.

The widening spread in American incomes and the worsening plight of our ordinary workers is shown by data and has been viewed with concern by many commentators. Americans were once proud of being the only country where the factory parking lot was filled with the workers' cars—cars of one-income families. Two incomes may not permit workers to raise a family in today's United States, and the situation is continuing to worsen.

History provides an illuminating parallel. The ancient Roman Republic became politically unworkable largely because the jobs of ordinary Roman workers and small farmers were taken over by cheaper outside labor, in this case by burgeoning use of imported slave labor. Slave labor was cheaper than the labor of free Romans. Thus, "the free market" said, "Use the slave labor." Doing so enriched Roman landowners and the affluent. But the shift to slave labor took away the jobs of ordinary Romans, who had been the backbone of Rome's armies and state. They became an unemployed proletariat in the city of Rome, degraded by politicians' free bread and circuses—and Rome as a republic stopped working.

The United States turned the jobs of its ordinary workers over to outside labor—because it was cheaper than American labor—by accepting imports vastly in excess of our exports, imports that are cheaper than American-made goods because of foreign wage levels a tenth or less as high (as was initially true of Japan, which now relies on other advantages over United States production). One-sided immigration of low-wage labor has the same effect.

The Americans whose jobs are given away to outside labor, like the pauperized Roman workers and farmers, will not go away. They have no place to go. They are finding that the available temporary jobs, the part-time jobs, the minimum-wage jobs without job security, medical insurance and retirement benefits do not permit them to live and raise a family like other Americans—not even when both spouses work. What is to become of these people? What will become of a United States in which groups not subject to such foreign competition live extravagantly, while the ordinary workers thrown by one-sided foreign trade into wage competition with the poorest of the world's burgeoning millions of poor become outcasts in their own country?

The economic theory on which United States policy is based evades this problem by assuming an imaginary world in which unemployment is cured by lowering wage levels, where foreign trade and job shifts automatically balance out and where cheaper implies more efficient. Laissez-faire economics and the Bush foreign trade policy perhaps would work in this imaginary world—just as Communist economics perhaps would work in its imaginary world.

But in the world of reality, the United States is self-destructing in permitting one-sided "free trade" to throw ordinary American workers into competition with hundreds of millions of foreign workers who can live on much less than they. This kind of "free trade" may be a time bomb of laissez-faire ideology more deadly even than "free" savings and loan association pillaging, "free" airline mergers, "free" liquidate-American-industry takeover deals, the "free" selling of America to foreigners and "free" government spending without taxes.

JOHN M. CULBERTSON,
Madison, Wis., July 3, 1990.

(The writer, emeritus professor of commerce at the University of Wisconsin, is author of "The Trade Threat, and U.S. Trade Policy.")

TRIBUTE TO ELBON DUCOTE

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. HOLLOWAY. Mr. Speaker, I am most pleased to pay tribute today to Mr. Elbon Ducote, of Bunkie, LA, who nearly 1 year ago died a true American hero. Mr. Ducote risked and gave his life July 21, 1989, in order that someone else's might be saved. Such character and unselfishness is exceptionally rare. It speaks volumes about the kind of man Elbon Ducote was and the values which he held. His heroism and valor has been formally recognized by the renowned Carnegie Hero Commission. Now, Mr. Speaker, I am proud to extend my personal tribute to Mr. Ducote. What did Mr. Ducote do? He saved a young swimmer from drowning in the Old River in Mansura, LA.

All of us would do well to remember the example of Elbon Ducote. Despite his own ill health, Elbon Ducote did not for 1 second hesitate to rush to the aid of someone in trouble. In doing so, he sacrificed his own life. Mr. Speaker, Elbon Ducote showed courage. He was brave. He was unafraid.

Elbon Ducote acted when most others would not have. He cared about his fellow man. May his wife, Geneva, his children, family, and neighbors take pride in the actions of this authentic American hero. Elbon Ducote is no longer with us. But the people of his community and his State should never forget his deeds.

REPRESSION CONTINUES IN INDIA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. BURTON of Indiana. Mr. Speaker, last week the Indian Ambassador Abid Hussain came to see me and indicated that human rights organizations were going to be allowed into the Punjab and Kashmir areas of India. I later learned that there appears to be restrictions on human rights groups going into those areas in that they have to declare they are going there for human rights causes and have to get a special visa from the Indian Government. I was distressed to find that in all probability, international organized human rights groups are continuing to be restricted from doing thorough human rights investigations in the Punjab and Kashmir. Today I received from Justice Ajit Singh Bains, chairman of the Punjab Human Rights Organization, reports that the repression continues, and that more than 14,000 political prisoners are languishing in Indian jails. Thousands are being detained illegally, torture continues, and other human atrocities are taking place. I have attached for the RECORD a report by the justice showing human rights conditions in the Punjab. In addition, I am also including articles by the New York Times International which gives more information on the situation in the Punjab and Kashmir.

PRESS RELEASE BY JUSTICE AJIT SINGH BAINS (RET'D), CHAIRMAN PUNJAB HUMAN RIGHTS ORGANIZATION, 22, SECTOR 2, CHANDIGARH, PUNJAB, INDIA

The people of Punjab are reeling under state repression for the last 7-8 years. There is no rule of law. Bullet for bullet theory is openly practised by the state authorities. The most undemocratic laws, such as TADA and NSA, are in operation. Such laws were not in operation even during the British rule in Punjab. Political prisoners have no rights. More than 14,000 are languishing in jails for many years. Thousands of innocent people are detained under illegal detention in the police stations and concentration camps under the control of the Central Reserve Police (CRP) and Border Security Force (BSF). People are tortured, women are ill-treated and raped, extra judicial murders are also committed. Uniformed brutality is on the increase. Punjab is virtually under seige. More than one hundred and fifty thousand para-military forces are occupying Punjab, besides the Punjab police and army. Buses, cars, etc., are searched at gunpoint. Police can enter any house at any time without following legal procedures. Undercover gangs of police are in operation. Most of the looting, extortion, rapes and murders are committed by them. Major B.S. Ghuman was murdered on June 23, 1990 by one such gang. All the historic Sikh Gurdwaras are surrounded by the CRP. The Golden Temple is virtually occupied by the CRP. Its periphery is totally destroyed. Pilgrims are thoroughly searched by metal detectors, as if they were checking in at the airport. There is no freedom of movement and expression; basic civil liberties, such as the right to live, are virtually taken away. People are at the mercy of the police and para-military forces; there is a permanent curfew during the night (sunset to sunrise, dusk to dawn) in the border villages. Farmers cannot even tend to their farms. The entire state of Punjab is virtually like a concentration camp and is cut off from the rest of the world.

In the recent Lok Sabha elections, the people of Punjab voted against state repression and for freedom. They rejected the Congress and the old Akali leadership—it was virtually a vote against the seige. They expected the new National Front government, under V.P. Singh, would lift the seige, repeal the draconian laws, withdraw the para-military forces, dismantle the oppressive machinery, punish the guilty police and civil officers, try them in a court of law, but none of that has happened. Rather, the repressive fake encounters are on the increase. In a single average day, scores of innocent people are killed by the police. For example, 13 innocent people were killed on January 17, 1990.

The people of Punjab want the restoration of the rule of law and they want their basic human rights to be restored. They want political, economic and social justice which has been denied them so far for the last few years. They want the release of the innocent who are languishing in jails; they want expeditious trials against those who the cases are registered for. They want the winding up of the illegal concentration camps organized by the CRP and BSF.

No regime can continue without imparting social, economic and political justice. This is the basis of a government. It is when justice is denied and the basic human rights violated that the people rise in revolt. To avoid such a situation, a universal declaration of human rights was adopted on the 10th of December, 1948, by the United Nations, of which India is a signatory to this declaration and the various covenants adopted by the UNO.

Conditions in Punjab are even worse than those practised by the racist South African regime and can result in open revolt if the oppression continues and the rule of law is not restored.

Punjab is virtually a police state. Civil administration is irrelevant. All the resources of Punjab are spent on the maintenance of the oppressive machinery. Development of Punjab is at a standstill. Such conditions cannot exist in any civilised democratic country. The government of India is neither secular nor democratic. It is, rather, communal and fascist. It wants to destroy the identity of the minorities, dalits, tribals and other ethnic groups.

It is time that the government of India stop relying on bullets and bloodshed and solve the Punjab problem politically. Mighty empires who relied on repression crumbled in the past and the same fate awaits such regimes in the future also.

[From the New York Times International, May 31, 1990]

SIKH BEARS A SWORD, PRISON SCARS AND A GRUDGE

(By Barbara Crossette)

AMRITSAR, INDIA, May 26.—Along the border with Pakistan, there are many tales to tell of Punjabi villagers who risked their lives to help India provision its army for three wars between these two countries. The stories have a ring of nostalgia about them now.

On Saturday, the leader of the strongest Sikh poltiical organization in the state said that if India went to war with Pakistan again, Sikhs—a religious minority that has been a mainstay of the Indian Army—would refuse to fight. Farms, many deserted after nearly a decade of separatist war and security sweeps, will no longer offer help, he said.

Simranjit Singh Mann, a Sikh nationalist elected to the Indian Parliament six months ago from a prison cell where he says he was subjected to physical and mental torture, also said Sikhs had been watching events in neighboring Kashmir with great concern.

"We have learned that if they suppress the Kashmiris through the bullet and the tank, they will do the same thing on the rolling fields of the Punjab, which has no forests, no place to even hide our heads," he said.

DETAINED FOR FIVE YEARS

Mr. Mann is a 45-year-old former federal police official who was detained for five years without trial on unsubstantiated charges of conspiracy in the assassination of Prime Minister Indira Gandhi in 1984. He was released after being elected to Parliament.

Mr. Mann's faction of the 70-year-old Sikh party, the Akali Dal, won 6 of 12 Punjab national parliamentary seats and has allies in several more. But he has not taken his own seat because he has been refused the right to enter Parliament with a three-foot sword.

Carrying a sword, called a kirpan, is part of the Sikh code, permitted by the Constitution. Other Sikh members have agreed to carry miniature versions, but Mr. Mann rejects this.

600 KILLED THIS YEAR

In an interview before setting out on a six-week walk around Punjab to listen to grievances and strengthen this political base in

anticipation of state elections, Mr. Mann asserted that 20,000 Sikh men and boys had "disappeared" in the custody of Indian policemen and intelligence agents over the last few years.

Mr. Mann's assertions were relayed for comment to the Indian Government spokesman's office, which has not issued any reply.

Indian authorities have been reporting the deaths of several "hard-core terrorists" daily, along with a dozen or more other victims of Sikh militants, paramilitary authorities or criminals. At least 600 people have died this year in violence in Punjab, 200 in the last month.

Mr. Mann said Punjabi Sikhs, feeling that they are all regarded as separatist suspects, have become so alienated and frightened of troops and policemen that some are talking of fleeing to Pakistan, reversing the movement families made at the partition of India in 1947.

Reflecting a bitterness couched more and more frequently in religious terms over the last year in both Punjab and Kashmir, Mr. Mann mocked India's claims to the label of the world's largest democracy while two states had legislatures suspended and were under virtual martial law.

"There is democracy for the Hindus," he said. "But as for Kashmir, which is a Muslim state, and Punjab, which is a Sikh state, they refuse us. They give us strong homilies that there should be democracy in South Africa, that there should be democracy in Fiji. Whereas in their own two states they deny us the very basic democratic sturcture."

"Do you understand the hubris and arrogance of these people?" he asked.

Political analysts in the Punjab and in New Delhi say that the Government of Prime Minister V.P. Singh would like to find a more cooperative candidate to head a state government before allowing elections to take place in Punjab, the country's most productive agricultural state.

Mr. Mann has many critics, among them armed separatists who fault him for clinging to the democratic system and traditional politicians who see him as a latecomer to politics who lacks a coherent political philosophy, but his party remains more popular than any other and it is apparently for that reason that the Government in New Delhi has postponed state elections.

Less than a decade ago, before he left Government service to protest New Delhi's armed response to Sikh militancy, Mr. Mann was a high-ranking federal police official in charge of some of India's most sensitive nuclear and petrochemical installations in five Western states around Bombay. But years in prison have left him bruised and subdued.

PRISON AGONY RECOUNTED

Through five years in prison, he suffered mental and physical torture, he said. He was confined with insane criminals, forced to watch hangings, beaten, subjected to the agony of having his beard pulled out in tufts, and wired to an electric-shock machine he said he recognized as Soviet by its Cyrillic markings. He took off his shoes and socks to show his blackened, dead toenails.

"If the blood pressure gets too much, then it stops the shocks," he said. "They have perfected torture to such an extent—Russia and India—that they made torture humane."

"They used every method to humiliate me," he said. "They wanted to teach the Sikhs a lesson because I was the seniormost officer in their service who had challeneged in writing their misdeeds in Punjab."

His specific allegations of torture were among the charges conveyed to the Government spokesman without drawing comment from him.

"Law enforcement in India has become primitive," Mr. Mann said. "Fifty people are killed in the streets of Kashmir because there are no procedures for stopping a riot, for dealing with crowds. They just go for the kill."

[From the New York Times International, June 15, 1990]

AMID KASHMIR 'PARADISE,' A DEADLY STRUGGLE

(By Barbara Crossette)

SRINAGAR, KASHMIR.—Silent, barefoot men dug a very small grave recently at the Idgar Martyrs' Cemetery, a new landmark on the outskirts of this battered city. The grave was for 6-year-old Sajad Ahmad Sofi, shot by Indian troops, his relatives said, as he tried to hide between his father's legs during a search of the family home.

"Put aside the malnutrition, the shortage of vaccines, the gastroenteritis, the trauma, the nightmares of children," said Altaf Hussain, a pediatrician. "Here we have 3-year-olds, 4-year-olds subjected to bullets. And to add insult to injury, we hear them dubbed 'terrorists' on the evening news from Delhi."

Over the last two years, there has been a silent revolution in the Kashmir Valley, the verdant home of poetry and song that Mogul emperors called Paradise on Earth.

SEPARATISTS GAIN SUPPORT

Small groups of armed Muslim separatists, who 15 months ago were described as a radical fringe attractive mostly to unemployed youth, now apparently have the support of an alienated, influential middle class.

Kashmiris say the introduction late last year of thousands of Indian troops and paramilitary forces, who patrolled deserted streets and searched houses, only speeded up a process of alienation that has been going on for more than 40 years.

"They have made every Muslim a suspect," a businessman said of the Indian armed forces' attempts to subdue a fast-growing independence movement. "We are all militants now."

More than 10,000 civil servants are said to have signed an "open letter to the citizens of the world" cataloguing the human toll of extended curfews, violent searches, the interrogations of young men and women, the gang-rape of a bride and the firing on mourners carrying the body of the assassinated religious leader, Moulvi Mohammad Farooq.

"It was not bullets," the letter says, "but something worse than venom being poured out of those guns that has shattered hundreds of families, brought shame to Indian democracy and left a scar on the psyche of Kashmir that would never be removed."

[In New Delhi, Jagmohan, who served twice as Governor of Jammu and Kashmir state, said in an interview that by the beginning of his second term "all the components of power had been taken over by the terrorists or their supporters." Mr. Jagmohan, who uses only one name, served from April 1984 to July 1989 and from January through May of this year. He was dismissed after troops fired on a funeral procession, killing at least 47.

["By mid-1988," he said, "they could call a general strike and the government couldn't do anything. In two years they had the upper hand in every aspect of the establishment—administration, schools, hospitals." The former governor said he had no alternative but to impose long curfews—one lasted 16 days—and crack down on militancy while trying to rebuild local administration.]

HUMAN RIGHTS MONITORS BARRED

India bars international human rights organizations from visiting Kashmir, where all foreigners must register with the police on entering the valley. But several Indian teams of concerned citizens have visited the valley and written very critical reports.

In Srinagar, Mufti Bahauddin Farooqi, a former chief justice of the Jammu and Kashmir High Court, and his son, Shoukat Ahmed Farooqi, a lawyer, have begun documenting allegations of human and civil rights violations against Kashmiris.

Talking about their work in an interview at Justice Farooqi's home, they say they focus on both the state administration and on the array of federal forces deployed here: the Indian Army, the paramilitary Central Reserve Police Force, the Border Security Force, the Indo-Tibetan Border Patrol, National Security Guards and various intelligence agencies.

Troops in Srinagar alone have commandeered at least 15 hotels as well as guest houses and private homes.

Justice Farooqi said the armed forces were sent to Kashmir in contravention of Jammu and Kashmir's special status in the Indian Constitution.

MANY DETAINED WITHOUT TRIAL

Between 11,000 and 15,000 Kashmiris have been detained without trial, according to members of the Kashmir Bar Association, who also say that bodies of some have been dumped along the Pakistan border to be labeled as "infiltrators."

Reporters visiting the Kashmir Valley are inevitably introduced to victims of torture. Sometimes these are local policemen, who say they are distrusted by Indian forces, who doubt their loyalty. A state police constable in Baramulla said he was picked up, wearing civilian clothes, at a bus stop by federal troops.

"I showed them my police identity card," he said. "The colonel said, 'This has no value in my eyes.'" Refusing to implicate a Kashmir police officer in the terrorist movement, he said, he was subjected to electric shock.

"They also put hot irons on my back and thighs," he said. "When I asked for water, they threw petrol mixed with chilis on my wounds."

"On the fourth day, they threw me in a truck and told the driver to dump me at the side of the road and back over me," he said. "I was saved by a shopkeeper, who pulled me away and took me to the hospital."

He lifts his shirt, and loosens his hospital trousers to show dozens of branding-iron burns on his body.

Kashmiris also charge Indian forces with theft—an allegation also made in northern Sri Lanka when Indians were stationed there from 1987 until early this year.

A woman in her mid-70's said 32 soldiers of the Border Security Force entered the home where she lives with her son and his family. It was just after midnight. There was no warning.

"They came in here where we were sleeping. I had 33,700 rupees [about $2,000]. They took 26,000. After they left, we discovered they had also stolen our radio, a watch,

shoes, slippers, water glasses, a flashlight and a nutcracker."

Surgeons and other medical staff of one of Srinagar's largest hospitals crowded into a consulting room, all offering accounts of torture cases they have seen, including a man whose rectum had been torn by the insertion of a dirty bamboo pole.

"Whenever the medical profession has extended a hand to victims of the violence in our society, there have been problems," a doctor said. "The security forces have entered hospitals, beaten patients, hit doctors, entered operating theaters, smashed intruments. Ambulances have been attacked, curfew passes are confiscated. A number of people have died, unable to reach hospitals."

Doctors say there are shortages of medicines for diabetics, cardiac patients, ulcer treatments, hypertension and cancer. They charge that Indian Airlines won't accept shipments of drugs from New Delhi, 600 miles away. The airline says it is curtailing cargo shipments for security reasons.

A TRIBUTE TO THE UNIVERSITY OF MIAMI SCHOOL OF MEDICINE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to congratulate the University of Miami School of Medicine Training and Simulation Laboratory for its advancements in almost 25 years of education.

This year has been recognized by the medical training and simulation laboratory [MTSL] as being its most productive year. In 1990, the MTSL will complete its $1 million building expansion; double the output and add new disease states and technology to the cardiology patient simulator; begin training over 3,000 learners per year in the Emergency Medical Skills Training Program; and launch a national multicenter study of their Computer Assistance Instruction Program which is the most advanced system anywhere.

These successes do not alone mark the beginning of the decade for the university. On October 5, Friday at 11:30 a.m. at the medical training skills laboratory, the W. George and Ethel M. Kennedy Emergency Training Center, as well as the Rochelle and Harold Fein Cardiovascular Training Center, will be dedicated by the annual advisory board meeting and demonstration. The annual advisory board will also hold its founders dinner dance on December 1, Saturday 7:30 p.m. at the Coral Reef Yacht Club.

I would like to specifically recognize the members of the advisory board of the medical training and simulation laboratory for their school and laboratory's achievements. These members are Linda Aversa; Robert Bellamy; John B. Cantisano, Jr.; Bea Dossick; Richard A. Elias, M.D.; Harold Fein; Bernard Fogel, M.D.; Harold S. Geneen; Philip George, M.D.; Melvin Greenberg; Karyn Herterich; Wayne Kennedy; Raul Masvidal; Archie Monroe; Lois Pope; Paul Pope; Earl Powell; Simeon Spear; Joan K. Stout; David Weaver; Robert Wilhelm; and the president, Eric Arturo Delvalle. May they have continued success in their work to which they are so dedicated.

VIOLENCE AND HYPOCRISY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. EDWARDS of California. Mr. Speaker, a persistent question raised during Nelson Mandela's recent visit to America was whether the ANC would renounce violence as a form of political action.

In a July 7 editorial from the New York Times, Tom Wicker poignantly reminds us of the need to clean our own house before we go about condemming the actions of the ANC and Mr. Mandela.

As Mr. Wicker points out, the United States has opted to use violence numerous times in the past few years in order to send political messages to other nations. Furthermore, Mr. Wicker astutely notes our deplorable record on domestic violence, for which we in the House must assume some responsiblity.

I would like to insert Mr. Wicker's article in the RECORD, and I commend this article to the attention of my colleagues.

[From the New York Times, July 7, 1990]

VIOLENCE AND HYPOCRISY

(By Tom Wicker)

Seldom has there been a more blatant case of blaming the victim than those pious American demands, during Nelson Mandela's visit here, that he renounce violence as a political instrument.

Mr. Mandela made the proper answer on the White House lawn. The violent and repressive Government of South Africa, he said, had given his people "no alternative but to resort to violence." Once that Government "removed all obstacles to negotiation"—which it has not yet done despite its belated change for the better under F.W. de Klerk—the A.N.C. "would consider the cessation of hostilities."

To his credit, President Bush apparently had expected this obvious response and did not appear to let it affect his welcome or his admiration for the great South African. That does not remove the taint of hypocrisy from U.S. talk of nonviolence to the leader who spent 27 years as a political prisoner, owing to information provided to a brutal Government by the C.I.A.

Nor should any American pretend to a better knowledge than Mr. Mandela of the status of apartheid in South Africa, even after the recent reforms. Who in Washington knows better than he what the Afrikaner minority still must concede before the huge black majority can claim anything like equality and security?

Demands for nonviolence, moreover, ill become a U.S. Administration that with ample Congressional support invaded Panama and killed four times more civilians than Panamanian soldiers, and 26 Americans—all in pursuit of one alleged criminal it may not even be able to convict.

Violence was a prime tool of the Reagan Administration, of which George Bush was second in command, when the U.S. bombed Libya on the assumption that Muammar el-Qaddafi had ordered acts of terror in West Germany, when it mounted an amphibious conquest of the formidable island of Grenada, and when it armed, trained and financed the contras to achieve U.S. goals in Nicaragua.

All that violence resulted from Government policy; but the record of Americans acting privately may be worse. In 1987, for example, they murdered 4,223 men aged 15 to 24—a homicide rate of 21.9 per 100,000 young American men, which makes this country the unchallenged killing champion of the world.

Not by a narrow margin, either. Figures published last month by the National Center for Health Statistics show that the nearest competitor was Scotland, where 5 young men per 100,000 were murdered, a quarter of the U.S. rate. And murders of men aged 15 to 24 account for only one-fifth of a U.S. total that probably has risen since 1987, because homicide has been happening more often since crack cocaine came into wide use.

South Africa was not rated, perhaps due to incomplete statistics or maybe to the number of eligible young men still in prison for political reasons—one of those obstacles to negotiation and an end to violence that Nelson Mandela cited.

"We're so immersed in violence"—here in the nation that urged nonviolence on Mr. Mandela—that homicide is a "large and important health problem," in the judgment of Dr. James Mercy of the injury division at the Centers for Disease Control.

Homicide, at a rate of 85.6 per 100,000, is in fact the leading cause of death among young American black men—a prime reason why another recent study found that young men in Harlem are less likely to reach age 40 than are young men in Bangladesh, one of the poorest and most over-crowded of all nations.

In Michigan, the most dangerous state for young black men, they were murdered in 1987 at the rapid rate of 232 per 100,000—10 times the rate for all young American men. Even in the "safest" states for young black men (North Carolina and Kentucky) they were murdered far more often than the overall national rate and seven times the rate for all young men in any foreign nation. No wonder American black men, at a recent public hearing in New York, were termed "a hunted and endangered species."

The endemic violence of American life sometimes is glibly attributed to a frontier heritage. But in Australia, a nation no further past its frontier days than the U.S., only 2.5 young men per 100,000 were murdered in 1987—just over a tenth of the American rate. There is, however, one peculiarly American factor: the easy availability and prevalence of guns.

A firearm, consequently, was the weapon of choice in 75 percent of those 4,223 murders of young American men in 1987. Does a nation that can't even ban assault rifles from its streets have a right to lecture Nelson Mandela on the evils of violence? Tell it to the American Indians—what's left of them.

TRIBUTE TO MS. JENNIFER GWYNNE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor a young student from my district who distinguished herself recently by winning first place for Rhode Island in the National Peace Essay Contest for high school students, sponsored by the U.S. Institute of Peace.

Ms. Jennifer Gwynne of North Providence High School, in North Providence, RI, placed first in the State with her essay, published in her school newspaper, on U.S. efforts to resolve or prevent an international conflict and lessons for future peacemaking.

I take the time now to salute Jennifer for her accomplishment and extend my heartfelt congratulations to her.

TRIBUTE TO PETER J. DeCARLI

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. GEJDENSON. Mr. Speaker, I would like to pay tribute to Mr. Peter J. DeCarli of Deep River, CT, who at the age of 73, is closing his lace factory.

Mr. DeCarli devoted a lifetime of hard work to this lace factory which is one of the last of its kind existing in the Nation. After years of good business, however, it must be closed.

The problem for Mr. DeCarli's business is mostly that people like Mr. DeCarli are unique in their dedication to pursue skilled craftsmanship, and that too few children of the lace work force have decided to follow in their parent's footsteps. With no new apprentices enlisted to learn the highly specialized job of making cloth lace, and with the changes in both the market and in the way lace is made, Mr. DeCarli realized that he must surrender his vocation.

Another factor in the closing was the change in the market of making lace. New machines have been introduced to the lace market which take 2 to 3 months to master while Mr. DeCarli's machines, each containing 4,600 constantly rocking bobbins, take over 2 years to master. Although his attempts to remain competitive were significant, the new, simpler lace industry attracted more young lace apprentices.

I would like to pay tribute to Mr. Peter J. DeCarli for a life of devotion to a unique industry. The contributions he made to the lace industry can never be duplicated in the future by the new businesses. I wish him the best of luck in the future.

THE BALANCED BUDGET AMENDMENT

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. DOUGLAS. Mr. Speaker, the attached letter from me to the Washington Post and from the White House to minority leader BOB MICHEL will set forth some of the reasons we need a balanced budget amendment to the Constitution.

[From the Washington Post, July 5, 1990]

THE BALANCED BUDGET AMENDMENT

The Post's recent editorial "No Balanced Budget Amendment" opposes the amendment because it "substitutes a procedural fix for political will." Yet Congress has tried applying "political will" in the form of budget limiting statutes, and they have not worked. The 1974 Congressional Budget Act, for example, is supposed to limit the expansion of existing federal programs and the creation of new ones. Over the past decade, though, Congress waived the budget act no less than 398 times, as it passed one massive spending bill after another. Gramm-Rudman has been similarly fudged. Shell-game accounting is common, and there is now talk of pushing back, or canceling, the required deficit-reduction targets.

The Post also says that there should be no "particular fiscal policy" in the Constitution. Yet Article I alone is full of specific instructions on how the government must handle matters of "revenue," "taxes," "debt," "appropriations" and "expenditures." In fact, the Balanced Budget Amendment is in harmony with the basic philosophy of the Constitution, because it limits the power of government.

Meanwhile, federal spending just keeps going up. In 1930, federal government spending accounted for 3 percent of GNP—today, it is more than 22 percent. In the past three decades, the federal budget has been in balance only once, and spending has jumped from $92 billion in 1960 to more than $1.1 trillion today—a 1,000 percent increase. Last year, $170 billion was spent just to pay interest on the national debt. There are a lot of better ways to use that money, like cutting taxes and leaving it in the pockets of the people who earned it.

The problem is that Congress, like a doting parent, just can't seem to say "no." For every federal dollar spent, some constituent group or special interest gains and demands to have its program preserved—or expanded.

What is needed is something bigger than Congress. A constitutional amendment that cannot be fudged, waived, ducked, dodged or, best of all, ignored. Congress would have to balance the budget or stand in violation of the Constitution.

The timing of the July 17 vote is interesting. Later this month the government is likely to run out of borrowing authority, and Congress will face the painful exercise of raising the national debt ceiling. Also, the president has indicated that Congress will soon confront another politically unwelcome task by raising taxes. Thus voting "aye" on the Balanced Budget Amendment will be one of the few chances members will have of putting the most expensive credit card in the world—their electronic voting card—to a more popular purpose.

Polls consistently show that more than 70 percent of Americans want a Balanced Budget Amendment. Most state constitutions already have such a debt-limiting provision, and more than 30 states have called for one at the federal level. Every American family knows of the need to stay within a budget, and the federal government should be required to do the same.—CHUCK DOUGLAS, U.S. Representative, Washington.

THE WHITE HOUSE,
Washington, July 16, 1990.

Hon. BOB MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR BOB: I am writing to urge prompt adoption of H.J. Res. 268, which proposes an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation. In order to help restore fiscal integrity to the Government, we need such a balanced budget amendment, along with a line-item veto constitutional amendment, and enhanced rescission authority for the President. Together with political courage and discipline, these tools are vital to solving the problem of budget deficits.

A constitutional amendment to require a balanced budget is the most fundamental change needed in the Federal budget process. A balanced budget amendment is both necessary and appropriate to protect the interests of citizens not now able to represent themselves: the citizens of future generations. The seriousness of this issue is reflected in the fact that more than 30 State legislatures have already called for a constitutional convention for this purpose. As for alternatives that would require statutorily a balanced budget, such alternatives are an inadequate substitute for a constitutional amendment.

Sections 2 and 4 of H.J. Res. 268 raise technical concerns related to the public debt and taxes respectively. These concerns are addressed separately in a Statement of Administration Policy on H.J. Res. 268.

I am prepared to continue working with the Congress to enact meaningful, credible, and effective budget reforms. Adoption of H.J. Res. 268 will be an important first step toward this goal, which is crucial to our Nation's long term economic health and prosperity.

Sincerely,

GEORGE BUSH.

MILWAUKEE'S MAZUR POLISH DANCERS CELEBRATE 50TH ANNIVERSARY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. KLECZKA. Mr. Speaker, it is with pleasure and pride that I inform my congressional colleagues that August marks the 50th anniversary of the Mazur Polish Dancers of Milwaukee, Inc.

In the fall of 1940, Prof. Alfred Sokolnicki, dean of the Marquette University College of Speech, organized the Mazur Polish Dancers for the performance of a "Polish Wedding" at the 1941 national convention of the American Legion. The wedding, held on September 15,

1941, was a great success as the 250-member troupe was acclaimed as "the largest group of Polish dancers ever to present a single performance at one time on one stage in the United States."

The Mazur Polish Dancers have kept an essential element of Polish culture alive during a long, dark period when the Polish nation was once again threatened with extinction by outside forces. The troupe was established after Poland's brutal occupation by the Nazis at the beginning of World War II and continued performing while Poland was under Soviet imposed Communist rule.

The Mazur Polish Dancers, billed for years as America's leading Polish Folk Dance group, are as skilled in the art of dancing as they are dedicated to their Polish heritage. They have created a new folk dance form, known as danscene, which combines various dance routines, music, and temperaments with the art of pantomime. To further their authenticity, different sets of costumes are used for dances emanating from Poland's many distinctive regions.

For many years, the Mazur Polish Dancers limited their membership to teenagers. More recently, the troupe has lifted their age limit so that father-and-daughter dance teams now perform assisted by father-and-daughter musical accompanists. These combinations are sure to be a highlight of the gala dinner dance that the Mazur group will be holding on August 18 to celebrate their 50th anniversary.

Mr. Speaker, I know that all my colleagues in the House of Representatives join me in congratulating the Mazur Polish Dancers on 50 years of outstanding accomplishments in folk dance and in wishing them 50 more to come.

JAPAN'S SUCCESS STARTS IN SCHOOL

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. EDWARDS of California. Mr. Speaker, we now face a question of national will in America, one which will impact our country as each of the generations currently attending our public schools matures. From the elementary grades to the high school years, our children are undereducated. As the article below by Nicholas Wade from the New York Times, editorial page of July 9 points out, business in America must spend about $30 billion per year on remedial education because our schools are not doing the job.

The answer to this shameful problem, as the article explains, does not lie solely in increasing educational funding. Only funding with a clear purpose will help our schools. Perhaps more importantly, we in Congress must convince the American People that we need to make the most of our human resources by taking education seriously. We need to impress every American with the seriousness of our educational crisis.

Enlisting the American people, parents, and children, in the difficult struggle ahead can only lead to a renewed sense of national purpose for our educational system.

[From the New York Times, July 9, 1990]

JOHNNY CAN'T ADD, HIROKO CAN—JAPAN'S SUCCESS STARTS IN SCHOOL

(By Nicholas Wade)

In international education tests among industrial nations, American students usually come close to the bottom in math and science; the Japanese are always on top. More than 90 percent of Japanese children graduate from high school; close to 30 percent of Americans drop out. If a nation depends on the quality of its people, American children should be worried about their future competitors.

Rigid social stratification, based on educational achievement, is what gives Japanese students the incentive to study feverishly. Their fates in life begin to be determined from their early school years by the quality of the high school and then university to which they gain entry. Graduates of Tokyo University have a ticket to the best companies and elite Government ministries; lesser universities lead only to second-class jobs.

It is easy to add up the faults of Japan's educational system, of which the Japanese are well aware. There's considerable hazing in school, pressures on children to conform, discouragement of creativity and independent thought, and rote learning reinforced by trivia-type tests. Japanese children do well in international competitions at least in part because they're so drilled in test-taking. Also, with shorter holidays and six-day weeks, they spend 40 days more a year in school than Americans; over 12 years a Japanese child has had four more years of school.

Yet the faults of Japan's system seem minor compared with the virtues of making everyone attain high standards and teaching habits of hard work. According to Thomas Rohlen, author of "Japan's High Schools," "The great accomplishment of Japanese primary and secondary education lies not in the creation of a brilliant elite . . . but in its generation of such a high average level of capability. The profoundly impressive fact is that it is shaping a whole population, workers as well as managers, to a standard inconceivable in the United States."

In the United States, by contrast, students are so ill equipped for the work force that American industry spends an estimated $30 billion a year in remedial education. America's spending for elementary and secondary education rose by one-third during the 1980's, but SAT scores were unchanged. The problems evidently lie deeper than money.

Japan's educational system is intimately shaped by social structure and national needs. Educational policy is driven by the idea that a country lacking in natural resources must make the most of its human resources. Such a goal could be justified on moral grounds alone. If the U.S. intends to avoid a comparative decline in standards of living it will soon become a practical necessity too.

A TRIBUTE TO THE SOUTH MIAMI-KENDALL JAYCEES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to pay tribute to the South Miami-Kendall Jaycees for their vast success in promoting the welfare of the community and its citizens.

Since the South Miami-Kendall Jaycees chapter was chartered as the junior chamber of commerce in 1951–52, it has been able to touch thousands of lives. Through its over 600 members' enthusiastic participation in numerous projects including diabetes research, Kids in Crisis, Miami Childrens' Hospital, muscular dystrophy, cancer research, the homeless, child abuse, AIDS risk reduction, crime prevention, Ronald McDonald, government involvement, Shooting Education in the schools, gun safety, hurricane preparedness, environmental awareness, and literacy.

As a result of these and many other individual development projects, the South Miami-Kendall Jaycees has earned distinguished service community awards, such as the Henry Giessenbier Memorial Award (1989–90) and the Dan McCarty Memorial Award (1989–90). These prestigious awards recognize the South Miami-Kendall Jaycees as the most outstanding chapter in their population division and the State of Florida respectively.

The chapter celebrated these achievements at their Giessenbier/McCarty Celebration on Saturday, July 14, at the St. Andrews Greek Orthodox Church Community Hall, 7900 North Kendall Drive, Miami, at 7:30 p.m. The chapter was honored by the presence of Mr. Rick Waelti, president of the Florida Jaycees, as well as the former Jaycee, Congressman DANTE FASCELL.

My sincerest congratulations to the South Miami-Kendall Jaycees and its 39th president, Millie Velez, on their deep dedication to an admirable cause and recognizable success.

BALANCED BUDGET AMENDMENT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. SHAW. Mr. Speaker, today this body will vote on one of the year's most important pieces of legislation, a resolution to enact the balanced budget amendment. I rise in support of this amendment.,

As many of you know, we have been debating this proposal for many years, and at least since the time I first came to the House in 1981. In the last 10 years, as these efforts have failed again and again. The Federal budget deficit has increased from $900 billion to an estimated $3.2 trillion. Blame has been cast in many directions, but the fact is that Congress enacts the budget and, as an institution Congress has not been able to practice any type of fiscal restraint. Currently, we and the American people are facing an increase in the Federal budget deficit of $168.8 billion for fiscal year 1991. This can not continue.

We, sitting as Members of the Congress of the United States, can no longer avoid the fiscal responsibilities that every working person in America must bear. Being fiscally responsible is an obligation of the U.S. Government. As every American family must keep its finances and household in order, so should we in Congress. The balanced budget amend-

ment will not only instill fiscal responsibility in this body, but will also bring the issue to the people by way of the State legislatures—where resolutions in support of balanced budget amendments have proven to be successful year after year. I hope that we can take the bold step to pass this amendment, and put this Government financially back on track.

I would like to commend the authors of this resolution. These Members have made the difficult decisions that are the hallmarks of great leadership. Today, when voting on this amendment, we should do the same.

ON THE OCCASION OF THE FORMATION OF THE NEW TRNC GOVERNMENT

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. LAUGHLIN. Mr. Speaker, I would like to point out a recent statement made by President Rauf Denktash after the elections in Northern Cyprus last June. Once again the Turkish Cypriot leader demonstrates his good will by calling on the Greek Cypriots to negotiate under the auspices of the U.N. Secretary General, and in accordance with Security Council Resolution 649.

Mr. Speaker, this body should remember that both in 1985 and 1986 the Turkish Cypriots accepted U.N. proposals for a resolution of the Cyprus issue which unfortuantely were rejected by the Greek Cypriots. Despite President Denktash' good will, the Greek Cypriot Administration's recent application for full membership to the European Community—as part of the plan to internationalize the Cyprus problem—undermines the initiative of the U.N. Secretary General.

STATEMENT ISSUED BY PRESIDENT RAUF R. DENKTASH ON THE OCCASION OF THE FORMATION OF THE NEW TRNC GOVERNMENT

There is an effort, both on the part of the Greek side and other circles, to create the impression that there is an impasse in the negotiating process. This is not only wrong, but it is also contrary to the UN Secretary-General's assessment of the situation. The Turkish Cypriot side welcomed Security Council Resolution 649 (1990) of March 12, 1990 and made a public statement to this effect at the time. It considered this Resolution as a step in the right direction which could constitute a fresh starting point for future negotiations.

On June 15, 1990, the Turkish Cypriot side gave its consent to the UN Secretary-General's ideas with regard to the basis of the talks and confirmed its "commitment to all aspects of Security Council Resolution 649 (1990) and to cooperate fully with the Secretary-General in accordance with the resolution."

On the occasion of the formation of the new TRNC Government, the Turkish Cypriot side wishes to reiterate its readiness to pursue the negotiating process, including confidence-building measures, at any agreed level, be it at the high or technical level, in cooperation with the Secretary-General within his mission of good offices with a view to completing an outline of a comprehensive settlement.

The Turkish Cypriot side solemnly appeals to the Greek Cypriot side to return to the negotiating table for serious and meaningful talks in order to reach freely a mutually acceptable solution providing for the establishment of a bicommunal and bizonal federation based on the political equality of the two sides.

WHY RYAN CVANCARA IS PROUD OF AMERICA

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct the Voice of Democracy broadcast script writing contest annually. This year more than 137,000 secondary school students participated in this contest.

Ryan Anthony Cvancara, the North Dakota winner wrote an excellent essay about why he is proud of America, the contest's theme this year. His essay is printed below.

WHY I AM PROUD OF AMERICA

(By Ryan A. Cvancara, 1989/90 VFW Voice of Democracy Scholarship Program)

Why I am proud of America. The picture postcard on my desk proclaims Mt. McKinleys height to be 20,320 feet above sea level. My atlas lists the Mississippi River as 3,880 miles long. And the Great Plains stretch farther than the eye can see. But Everest dwarfs McKinley, the Nile outstretches the Mississippi, and Russia's Steppes outspan the Plains. No, it is not the land that makes me proudest of America.

My teacher reveals his copy of the Constitution and points and says, "The oldest in the world". Then he shows us all pictures of famous Americans: Jefferson, Lincoln, Roosevelt. And I think, "Greece has had democracy for two and a half thousand years. Switzerland has not shed blood in six generations. And Canada has had no Bunker Hill." Then I realize, it is not the government that makes me proudest of America.

The works of William Faulkner sit on my shelf. I have copies of paintings by O'Keefe and records of Gerschwin's music. I have seen Mount Rushmore and been awed by the Lincoln Memorial. But Beethoven was German; Michaelangelo, Italian. Shakespeare wrote in the Queen's English. And it is evident that it is not art that makes me proudest of America.

So, unaware of why I love a country whose greatest examples of natural beauty, history, and art are matched or bettered by someone else in this world, I step outside onto the streets of Chicago, where a young man fresh from Poland speaks in his native tongue to an old man born on the South Side. I step into southern California, where the Vietnamese mother tends her house in silence, so that her children may learn English. I find myself amongst the Irish of Boston, the German of Tennessee, the French of Louisiana. I oversee the deck of an aircraft carrier, with its clockwork array of New Yorkers, New Mexicans, and new recruits. The Polynesian melting pot of Hawaii lies over the horizon, where school teachers are also showing pictures of Jefferson, Lincoln, and Roosevelt . . . but to kids from Manila, Shanghai, and Roratonga. And I realize what makes me proudest of America.

There is something in this nation that makes a Constitution more than a collection of centuries . . . old words, but a credo by which every citizen lives. This is the same ingredient that allows East to meet West everyday, not with a clashing of ideologies, but with a building of cultures. What I speak of gave us our heritage * * * stoked the engine of history, and guided it with a steady hand. This is the one resource in which the U.S. holds a monopoly * * * her people. People with an unequaled patriotism, whether their grandfathers disembarked the Mayflower at Plymouth Rock, the slavetrader at New Orleans, or the steamship at Ellis Island. And whatever their differences, not one will accept second best. It is Americans that make me proudest of America.

NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Ms. SLAUGHTER of New York. Mr. Speaker, today I introduced a bill creating the National Commission to Support Law Enforcement which will examine issues relating to police benefit levels, conditions of employment, the communications and information infrastructure, and the adequacy of Federal resources for local law enforcement agencies.

The magnitude and the breadth of challenge facing local law enforcement agencies today are unprecedented. Local law enforcement officers, who serve on the front lines of our war against drugs and crime, deserve all the support we can give them. The dangers and the job-related pressures have escalated, yet Federal support for crime fighting has been woefully inadequate.

The issues relating to Federal support for local law enforcement have not been reviewed since 1965, when President Lyndon Johnson appointed a Commission on Law Enforcement and the Administration of Justice. Over the past 25 years, there has been a dramatic increase in the number of drug-related crimes and in the number of criminals armed with sophisticated semiautomatic weapons.

Courageous men and women put their lives on the line every day to protect us, for modest rewards and too little recognition. Government has a responsibility to ensure that these public safety officers have all the resources they need to do their jobs.

The National Commission to Support Law Enforcement will examine the following issues: the sufficiency of Federal funding; the conditions of employment; information sharing and infrastructure among law enforcement at all levels; the adequacy of equipment and physical and human resources; the status of law enforcement training, education, and research; and the impact on law enforcement of the criminal justice system. After 18 months, the Commission will report its analysis and recommendations.

The 19-member Commission will include 5 representatives of national law enforcement

organizations representing law enforcement officers and 5 representing law enforcement management, 2 academic experts in law enforcement issues, 2 Members of the House of Representatives, 2 Members of the Senate, 1 representative from the Department of the Treasury and 1 from the Department of Justice, and the Comptroller General of the United States.

This bill has been received with unanimous support by the law enforcement community in my district in Rochester and by the representatives of the national law enforcement organizations in Washington. With the endorsement of these experts, this bill should move easily in Congress.

I'm pleased to have Representatives JOHN LEWIS and WAYNE OWENS as original cosponsors of this bill. I urge my colleagues to join us in supporting this bill to help law enforcement.

MARY SHY SCOTT

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. LEWIS of Georgia. Mr. Speaker, on Saturday, July 21, 1990, in Richmond VA, Alpha Kappa Alpha Sorority, Inc., will begin to write a new chapter in its illustrious history of serving mankind. On that day, the mantle of leadership of one of our Nation's oldest, largest and most effective service organizations will be passed to one of my constituents, Mrs. Mary Shy Scott of Atlanta, GA.

For 82 years, Alpha Kappa Alpha has been a forerunner in the volunteer sector. By giving billions of hours in service and millions of dollars in contributions, Alpha Kappa Alpha not only has helped blacks to reverse the tolls which adverse conditions have exacted in our communities, but it has also developed programs to help make the American dream attainable for all people.

Mrs. Scott has pledged to produce "powerful results" through a six-pronged focus on education, health care, economic empowerment, the black family, the arts, and global concerns. Atlanta, Georgia, the Nation, and the world will be benefactors of this six-pronged focus.

As the U.S. Representative of the Fifth Congressional District of Georgia where Mrs. Scott resides and provides important community leadership, I take special pride in Mrs. Scott's becoming president of Alpha Kappa Alpha Sorority, Inc. I commend Mrs. Scott for her achievement. I stand with her in spirit as she and the members of Alpha Kappa Alpha continue their noble service.

IDAHO'S VOICE OF DEMOCRACY

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. CRAIG. Mr. Speaker, I rise today to recognize the accomplishments of Kathryn Christina Blazor of Payette, ID, winner of Idaho's 1989–90 VFW Voice of Democracy broadcast scriptwriting contest.

As the winning contestant from Idaho, Kathryn earned a trip to Washington, DC, for the final judging as a guest of the Veterans of Foreign Wars. Nationwide, over 137,000 secondary school students participated in the program this year, competing for $56,000 in scholarship prizes.

This year's theme was "Why I Am Proud of America." As you can tell by reading Kathryn's script, she is truly proud of America. I join all Idahoans in congratulating her and thank her for representing us so well. In addition, I would like to thank the VFW for their continued involvement in this most important program.

Mr. Speaker, I have submitted the winning script from Idaho and ask that it be included in the CONGRESSIONAL RECORD.

WHY I AM PROUD OF AMERICA

(By Kathryn Christina Blazor, Idaho winner, 1989/90 VFW Voice of Democracy Scholarship Program)

Why I am proud of America. My life, my family, my friends; all of these things I am proud of, but I am more proud of my country my America, than any of those other things. And why should I not be proud? For my country is, without a doubt in my mind, the best country and nation in the world.

"What is there to be proud of"? Someone might ask. There are so many things, but I will tell you about the ones that are most important to me.

As we all know, our country was founded by immigrants, people seeking solace from political turmoil, persecution from religion, or just the chance to start a new and better life. They came to America for freedom. And freedom it granted, through hard work and perseverance. The immigrants found the solace and peace that they needed then and they can find it today. People from all over the world dream of having a government, and free life like the Americans have. So these people who are seeking the American life style, join the other millions that make their dreams a reality. But the reason why I am so proud of America, is because it still reaches out with open arms to receive and accept the bitter people that need the peace of mind that only our country can offer.

The Bill of Rights is also an important factor in my pride. But one of my most appreciated rights is the freedom of speech. So many people cannot safely speak out, to voice their opinions, to make known their feelings. But Americans can speak their thoughts and rest in the knowledge that they cannot be arrested for expressing themselves. Along with this freedom, people show their concerns for social issues like abortion, drug use and abuse, child abuse and many other things. Americans can cry out to the other people of their own country, to their leaders, to the nations around them, their feelings about such problems. Public speakers, and representatives, demonstrators, and the average person * * * all have the right and the freedom to tell everyone around them how they feel. Many problems have been solved by the expressed opinions of the people * * *. I am very proud of that fact.

As I had stated before, America was built on the hard work and perseverance of its people. That hard work has paid off. Look at our country!

How great it is! It is so young compared to many of the "great" nations of the world. China, Japan, most of Europe * * * they are all more than a thousand years old, and we have not long ago celebrated our bicentennial! Only two hundred years old and yet look at what a stand we take in the rest of the world! America is number one in so many respects. Look how far we've come! Only our determination to make a union, a country, a nation, could make us as strong as we are * * * and I am so proud to be an American.

To change my speech to a lighter note. I thought I would tell you about some of the things that symbolize America to me, and how they make me proud.

When our class was first asked to write the Voice of Democracy speech, my teacher suggested that we include symbols. "The Statue of Liberty!" The Eagle! The Bill of Rights, the flag, Thanksgiving!", are what many of the students replied. But simpler thoughts came to my mind first.

Hot dogs: Even though they did not originate in America, they came here with the German immigrants. Today they are so much a part of American culture, it's hard to imagine life without them.

Hoola Hoops: A toy used by thousands of kids in the mid fifties. A simply toy that brought smiles and laughter. A toy that was played with by kids in the streets * * * children who had nothing to fear. Free children, free streets, a free country.

Baseball: Now here is an All American sport and symbol. Every person on the street, if asked, would tell you that baseball is as much a part of America as apple pie, red, white, and blue, and Chevrolet.

But all in all, I would like to leave you with this thought: There are so many things to be proud of America for. Rather they are the one's I mentioned or others that are more personal to you * * * America is a proud place to be and I am proud of America.

FIFTIETH ANNIVERSARY OF THE DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN AMARILLO, TX

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. SARPALIUS. Mr. Speaker, I rise to commemorate the 50th anniversary of the Department of Veterans Affairs Medical Center in Amarillo, TX. On Saturday, July 21, a celebration will be held to recognize that anniversary and to dedicate a new nursing home care unit as part of the facility.

The facility opened as a VA hospital on May 12, 1940. The first patient was Maynie Carter Walker, an Army nurse. She was admitted in April 1940, before the hospital had officially opened. There were 24 doctors on staff 50 years ago. Today, including consultants and residents, there are more than 100 doctors at the medical center serving the needs of more than 91,000 veterans in the Texas Panhandle.

The medical center provides a full range of medical specialties including medicine, surgery, intermediate care, ambulatory care, and psychiatry. The center is also at the forefront of the community in medical research and education of health care personnel. The opening of the nursing home care unit will com-

plete the cycle of care available to panhandle veterans.

Mr. Speaker, I urge the other Members of this House to join with me and all the residents of the 13th District of Texas in congratulating the Department of Veterans Affairs Medical Center in Amarillo on its 50th anniversary.

WOMEN'S HEALTH RESEARCH ACT

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Ms. SNOWE. Mr. Speaker, today, I will introduce legislation establishing a Women's Health Research Center at the National Institute of Health [NIH].

The inequitable state of women's health research was highlighted at a recent NIH reauthorization hearing held by Representative WAXMAN's Subcommittee on Health and the Environment. In a report released by the General Accounting Office [GAO] at the hearing, it was shown dramatically that NIH has made little progress to implement its own 1987 policy requiring researchers to include women in federally funded studies, and that NIH lacks appropriate mechanisms for monitoring compliance with the policy.

Under the 1987 NIH policy, a grant applicant who intends to utilize males only is required to provide a substantive rationale for excluding women from the study population. But lack of gender specific data was identified as an important factor limiting our understanding of women's health care needs by the Public Health Service Task Force on Women's Health Issues in their 1985 report.

For example, 45,000 women die every year from breast cancer yet the National Cancer Institute refused to fund a study of the affect of diet on breast cancer because of cost.

In addition, although heart disease is the leading cause of death for women over age 60, a breakthrough finding of the Physician's Health Study, which established the connection between aspirin and coronary disease prevention couldn't be applied to women—because the study looked at 22,071 men, no women.

Or, further, there was the Multiple Risk Factor Intervention Trials, which studied coronary disease risk factors—and used a pool of 15,000 men.

In the hearings on June 18, 1990, NIH admitted the obvious: That they had been lax in enforcing their own policy. A variety of reasons are continually posited as the reason for the exclusion of women—but they ring quite hollow. There are complaints about the cost of including women—but it's costly to study men as well, and the costs for not treating women are even higher.

And there are complaints that health research could endanger, or would be affected by women's reproductive systems. I would argue that medical research, rather than ignoring that fact as an inconvenience, should work to accommodate it.

The Women's Health Research Act creates three new initiatives within the Department of Health and Human Services. First, an Office of Women's Health would be established under the Office of the Secretary to initiate and coordinate women's health promotion activities within all divisions of the Department. Second, A Center for Women's Health Research and Development would be created at the National Institutes of Health to identify research needs, support and coordinate research between the various institutes, and monitor inclusion of women in clinical study population. Finally, the legislation directs NIH to establish an intramural program in obstetrics and gynecology to initiate research and conduct clinical trials within the Institutes.

It is clear from the GAO study that a permanent office is needed at NIH to ensure the implementation of and compliance with their policy. With these and other initiatives, we will have a chance of ensuring that the women of America will no longer be a medical afterthought in the health research field. I urge my colleagues in the House to support this legislation.

TRIBUTE TO THE LATE MRS. LOIS BOAGNI

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. HOLLOWAY. Mr. Speaker, many people talk about serving their fellow man, but all too few of us actually do it. The unselfish and caring souls who actually spend the better part of their lives serving the less fortunate among us truly deserve to be remembered. I remember such a person today.

Mrs. Lois Boagni was a woman of character, a humanitarian in every respect. She died June 20, at age 84, killed brutally and senselessly in her own home. May swift justice be meted out to those responsible for her death. But it is not her death which I recall today. Instead, I wish to reflect on the legacy of her life, what she did and the example she set.

I did not have the pleasure of knowing Mrs. Lois Boagni personally. I wish I had. Every single one of us can learn from her. The way Mrs. Boagni lived and the work she performed daily at the Opelousas Cerebral Palsy Center demonstrated the true meaning of love.

She was not simply the executive director of the cerebral palsy center. Lois Boagni cared, showed it—and expected nothing in return. She spent every day doing her part to help handicapped children—and she made a significant difference in the lives of a lot of people over the course of many years. She gave her time, energy, heart, and soul to disabled children, many of whom struggled simply to reach, walk, or speak.

What did Lois Boagni teach those lucky enough to know her? To be kind and act kindly. Care about other people, in thought, word, and simple deed. Give of yourself. Don't turn inward; always be ready and eager to reach out to those who can't (yet) do it for themselves. Be something special to somebody. Don't just talk. Act. Do it every day.

Many of the kids to whom Lois Boagni gave her time were unable to thank her in words. Unfortunately, Mr. Speaker, they can no longer thank her. She is at God's side. But, every one of us can honor the memory of this rare and heroic human being.

Mr. Speaker, we can best honor Lois Boagni not by building a physical memorial, but by doing what she did best and doing what she did all of her life. Let us all give of our time, give of our talents, and give of our energy to serve others. She would want us to do so.

A CONGRESSIONAL SALUTE TO JUDITH ELAINE TYLER, DVM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding individual in the South Bay community. Dr. Judith Elaine Tyler will be honored by the Zonta Club of South Bay Area on July 15, 1990. This occasion gives me the opportunity to express my appreciation for her many years of dedicated service.

Dr. Tyler was born in Little Rock, AR, and later, at the age of two, came to Berkeley, CA, with her family. Her junior and high school education, however, took place in Liberia. After high school, and before attending Veterinarian School at Tuskegee University in Alabama, she lived in Uganda. It was at Tuskegee University that she met her husband, also in Veterinarian School, Dr. Rudyard Taylor. In 1971, they both moved to California, and later, in 1974, opened the Laguna Vista Small Animal Hospital.

Dr. Tyler's dedication to the community, and her career, are evident by her being honored by the Zonta Club of South Bay Area as "Zontian of the Decade." She has been a member of this fine organization since 1983, serving as president in 1987–88, and earlier as a two-term vice president. Prior to her service as president and vice president, she held the post of treasurer and membership chairman. Despite the rigorous responsibility of running her own animal hospital, she found time to infuise her enthusiasm into the Zonta Club over the past decade. It is not surprising that the club has decided to honor her for all her years of service.

While the responsibilities of her veterinary practice and the Zonta Club are many, she has never compromised on her responsibility to her three sons, Christopher, Michael, and Matthew. On this special day, and in her honor, my wife, Lee, joins me in extending our heartfelt thanks and congratulations to this caring and giving woman. We wish Dr. Tyler, and her family, all the best in the years to come.

AGRICULTURE UTILIZATION RESEARCH: NEW MARKETS, NEW JOBS

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. WEBER. Mr. Speaker, I rise today in strong support of House Joint Resolution 548, designating August 19–25, 1990, "National Agriculture Research Week."

I introduced this bill in April as a way to recognize and promote one of the most promising areas in agriculture—utilization research. Why is this kind of research so important? The answer lies in the overall success of the American farmer themselves.

Traditionally, the chief goal for agriculture has been to produce more—more soybeans, more corn, and more wheat per acre to meet demands both at home and abroad. We have demonstrated our ability to succeed by doubling production in just 20 years. In fact, yields now grow faster than food demand, and our concern has shifted from not enough to too much.

As a result of increased production and shrinking demand, some estimate that by the year 2000 the United States will require less than half of its present cropland to supply the population with farm products.

Our success on this front provides an opportunity to fan the fire of innovation in agriculture research. The focus for the future must be on expanding the uses of the agriculture commodities we have become so good at producing.

We are seeing success in agriculture utilization research, but we can do more. For instance, in Minnesota's second district, we are working to develop plastic containers from corn starch, pelletize soybean meal for export, and use soybean oil as a grain dust suppressant. All of these projects mean potential new businesses and jobs for rural Minnesota, as well as new markets for the entire agriculture industry.

Minnesota is not the only State involved in agriculture utilization research. States like Iowa, Illinois, and Nebraska are also working to develop new uses for our commodities. Perhaps the most famous of these is ethanol, the fuel produced from corn.

Increased ethanol use will stem from new needs in the energy market and lower ethanol production costs. As lead is phased out of gasoline, ethanol stands ready to replace it as an octane booster. With new technology, ethanol production costs will drop, and it will gain even greater market penetration.

In future years, we could very well see agriculture become an increasingly important supplier of industrial raw materials as well as a food supplier. This becomes all the more significant as we face a world with limited supplies of key resources.

Agriculture utilization research is aimed at developing new commercial products from farm commodities that can be mass produced in our small towns. This research prepares us for tomorrow while strengthening the economy of today. Clearly, with stakes like this we can ill-afford to overlook agriculture utilization research.

I urge my colleagues to support House Joint Resolution 548 designating August 19–25, 1990, "National Agriculture Research Week."

AMERICAN MUSHROOM WEEK

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. SCHULZE. Mr. Speaker, today I'm introducing a resolution designating the week of September 15–23 as "American Mushroom Week." My State of Pennsylvania produces approximately 44 percent of the mushrooms raised in the United States. Furthermore, Kennett Square in my district, produces more mushrooms than any other congressional district in the country and is commonly called the Mushroom Capital of the World.

Mushrooms are a delicious and healthy addition to all meals. They can be eaten fresh, sauteed, fried, stuffed, or served in many ways in many other foods. I may be somewhat biased but I can say with some pride that mushrooms grown in Pennsylvania are the finest in world.

This designated week will help give a clearer understanding of how valuable the mushroom can be in not only our daily diet, but in our Nation's economy as well. I ask my colleagues to join me in honoring the American mushroom industry by cosponsoring this resolution.

IN HONOR OF JEFFREY PLEDGER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to honor Mr. Jeffrey Pledger of White Plains, NY, a recent recipient of a special honors award through the National Scholastic Achievement Awards Program sponsored by Recording for the Blind, a National Nonprofit Organization.

Jeffrey is pursuing a career in electronic data processing and management. He is currently a student at New York University, majoring in management information systems. He recently competed in his seventh marathon race, the Boston Marathon, and won second place in the Blind Runners Division. He has also participated in the New York City Marathon, has traveled to Italy and Poland to compete in long-distance events, and received the New York City Road Runners' Achilles Track Club Award for Disabled Runner of the Year in 1987.

The special honors award recognizes Jeffrey's academic accomplishments and service to others from Recording for the Blind. RFB is to be commended to providing opportunities for the blind, including services such as recorded textbooks, and other library materials. Those services enable blind Americans to participate more fully in our society. The scholastic achievement awards have been presented to outstanding blind college seniors since 1959. The award has been sponsored for the fifth consecutive year by the General Electric Foundation.

I am, therefore, pleased to be honoring today an outstanding young student who has overcome a disability and gone on to accomplish a variety of impressive achievements. I praise Mr. Jeffrey Pledger for his accomplishments and commend RFB and the award's sponsor, the GE Foundation, for their contributions to the blind community.

THE PHILIPPINE EARTHQUAKE

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. CAMPBELL of California. Mr. Speaker, yesterday afternoon, an earthquake six times stronger than last October's Loma Prieta Earthquake ripped through the Philippine Islands. The death toll now stands at 234, and it will certainly rise as rescue workers move through the scores of destroyed buildings.

Our country's hearts go out to the families of the victims of yesterday's tragedy. The Loma Prieta Earthquake deeply affected my own congressional district, and the suffering that follows this type of tragedy hits very close to home.

As happened last October, the world is reaching out; but much remains to be done. In Geneva this morning, the International Red Cross appealed for $357,000 to provide food and medicine for earthquake victims. In the Philippines, there are reports of severe shortages of blood, medicine, and rescue equipment. Heavy equipment is needed to remove rubble.

I'm pleased that our country is rushing aid to the Philippines. U.S. military units from Subic Bay and Clark Air Force Base are providing some of the needed medical supplies and engineering equipment. The U.S. Agency for International Development has dispatched a disaster relief team, and the American Ambassador has committed an initial $25,000 from his emergency fund. These efforts will continue long after the tragedy disappears from the front pages of the world's newspapers.

Last October, we, in the San Francisco Bay area, suffered a terrible natural tragedy. Let us use this opportunity to return the compassion that was given us, and do what we can to help the Philippines.

CONGRATULATIONS DONALD JENSEN

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. FEIGHAN. Mr. Speaker, I want to congratulate Donald Jensen who is retiring after 30 years of distinguished service with Ernst &

Young, the leading integrated professional services firm in the United States.

Donald Jensen is my constituent from Pepper Pike. For the past 30 years, Mr. Jensen has been a leader in the growth and development of Ernst & Young. In his current position as vice chairman for Human Resources and Planning, he has been responsible for directing the firm's departments that develop and administer human resources policies, procedures, and practices.

Don has always worked for the best interests of the people in his firm. Because of his sensitivity to the needs of those responsible for managing as well as those being managed, he has always adhered to the philosophy that communication is a two-way process. Don Jensen has instilled the belief that people who have responsibility for supervising others should become people sensitive—willing to listen to the people working for them. He believes that this kind of attitude fosters an environment where the willingness to express ideas builds a stronger relationship among employees and makes the firm a better place to work.

Mr. Speaker, having extolled Don Jensen's dedicated service with Ernst & Young. I want to make special note of his very active role in civil and professional affairs. The litany of his activities would fill a book. But let me mention a few just to give you an idea of Don's commitment to making the community a better place to live and work. He was a national vice president of the National Association of Accountants; a trustee of the Cleveland Ballet, and a member of the Dean's Advisory Committee for the College of Business at Ohio State University; a member of the Executive Committee's Governor's State Operations Improvement Task Force and a Director of the Ohio Chamber of Commerce.

I urge my colleagues to join me in wishing Don Jensen the best wishes in his retirement years. I know that given Don's energy and commitment, he will be called on again to serve his community and those around him that he has worked with so well over the years.

WILLIAM G. PRICE: A TRIBUTE TO AN OUTSTANDING CITIZEN OF IMMOKALEE IN COLLIER COUNTY, FL

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. LEWIS of Florida. Mr. Speaker, I am proud to take this opportunity to share with you and my distinguished colleagues my congratulations to Mr. William Price on his retirement.

Mr. Price has enjoyed an illustrious 44-year career as a full-time banker and as a humanitarian. His credits are numerous and include several Outstanding Citizens Awards as well as a Business Hall of Fame Laureate and the State Farmer Award, Florida FFA.

With his retirement, Mr. Price is ending the longest uninterrupted span as a banker in the area. His banking achievements include holding the positions of president, Florida Bankers Association and Florida vice president of American Bankers' Association, as well as serving as the State director of the Bank Administration Institute.

Despite a busy banking schedule, Mr. Price finds time to be involved in his community. His activities encompass a wide range of interests including presidency of the Downtown Kiwanis Club, Fort Myers; presidency of both the Sunniland and the southwest Florida Councils of the Boy Scouts of America; and membership of the Board of Directors of the Southwest Florida Goodwill.

Mr. Speaker, I join many others in extending my congratulations and heartfelt thanks to Mr. Price for his many years of service to southwest Florida's banking industry and look forward to his continuing involvement in Immokalee.

OFFICER MICHAEL COPPERNELL AND AGENCIES IN SARATOGA SPRINGS MAKE DARE A SUCCESS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. SOLOMON. Mr. Speaker, I am a cosponsor of House Joint Resolution 535, which will declare September 13, 1990, "National DARE Day."

DARE is an acronym for "Drug Abuse Resistance Education," a program which teaches students the skills necessary to "say no to drugs." It has proven itself to be enormously successful, not only in helping students resist the temptation of illegal drugs, but in improving study habits, grades, relations between ethnic groups, and the outlook of students toward their schools. It has also decreased truancy and vandalism.

I can vouch for its success, because one of those success stories has been in Saratoga Springs, NY, in my district.

In particular, Mr. Speaker, I want to pay tribute today to the police department, the department of public safety, and the city school system of Saratoga Springs, for their cooperative effort in making the program work so well in that city.

Special recognition should go to Mr. Michael Coppernell, DARE Officer for the Saratoga Springs Police Department. It takes a special person to relate to today's youth, to inspire other program participants, and in general to make the program a success. Officer Coppernell is such a person.

I urge you to join me in cosponsoring legislation on behalf of this excellent program. But first, please join me in saluting the agencies involved in the program in Saratoga Springs, and especially Officer Michael Coppernell for his outstanding leadership role.

INVENT AMERICA!

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. GUNDERSON. Mr. Speaker, I want to take some time to discuss the value of a program called Invent America! I first heard of Invent America! from a constituent of mine—Miss Mae Simpson, of Menomonie, WI. She wrote to ask me to support House Joint Resolution 565 which would designate July 22 through July 28, 1990, as "National Invent America! Week" and to let me know that her invention was selected as the best in Wisconsin. From the excitement of her letter and the feeling of self-pride which she showed in her invention it was obvious that this program was something unique—a program which deserved a second look.

In the past 4 years, more than 30,000 elementary schools across the country have participated in Invent America! This program challenges and teaches our young people—participants range from kindergarten to eighth grade—to use their analytical problem-solving skills to overcome problems encountered while going through the process of creating their own inventions. Furthermore, Invent America! dares our future inventors to compete against each other, just like the real world, in creating the best product.

This unique program is proof that competitive creativity can be fostered in a healthy way, even at the earliest of ages. Unlike the conventional classroom setting in which students sit listening to a teacher, Invent America! lets the students create their own projects and learn as they create. Moreover, the program allows them to compete their ideas against those of others. It seems likely that the next Alexander Graham Bell, Thomas Edison, or Steve Jobs might very well get his or her start—or have already started—by competing in the Invent America! Program.

Mr. Speaker, I applaud the Invent America! Program and I encourage other Members to sign on to House Joint Resolution 565 and support the program. To all the young inventors who have participated, like the Wisconsin Champion Mae Simpson of Menomonie—I congratulate you and wish each of you the best of success as you continue to Invent America!

TRIBUTE TO DR. NEILS W. "ROBBIE" ROBINSON

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. TANNER. Mr. Speaker, I rise today to extend best wishes and the gratitude of the State of Tennessee to my good friend, Dr. Neils W. "Robbie" Robinson who has retired from his full-time position as a professor of animal science at the University of Tennessee at Martin.

Dr. Robinson has devoted his life to teaching. He dedicated his talent to helping young people gain a greater appreciation for the advances in technology and genetics in the animal sciences. At a time when there is renewed emphasis on improving education, he stands as an example of how one person can affect future generations of Americans as they seek the knowledge they need to be constructive and innovative citizens in our great land.

Dr. Robinson will be sorely missed at the University of Tennessee at Martin. He has been a highly respected fixture there as a very effective classroom instructor. In 1970, after only 2 years on campus, Dr. Robinson was selected as the university's outstanding teacher. In addition, he has conducted numerous laboratory experiments aimed at improving livestock.

If his outstanding academic record was not enough, he has served an important role in the development of the UTM rodeo team. Since its inception in 1968, he has served as its faculty adviser. Over the course of these 22 years, the team has received numerous accolades and won many individual and team regional and national titles. It was the first team east of the Mississippi River to earn a trip to the National Collegiate Rodeo Association's national finals. The team has successfully defended its Ozark Regional Championship for the past 9 years.

Certainly, Dr. Robinson's record of service to his community and the university is an example we can emulate. Fortunately for those of us who admire and respect him, his retirement from full-time teaching will not completely remove his influence from our midst.

He remains the pastor of the First Christian Church in nearby Fulton, KY, and has agreed to continue as adviser to the UTM rodeo team. He will also be able to devote more time to his passion for training bird dogs.

He will spend much deserved time with his five children and the grandchildren of which, like any grandfather, he is proud.

I want to extend to Dr. Robinson, and his lovely wife, Alberta, my hope that their retirement from full-time teaching is a blessed and happy one.

A TRIBUTE TO FATHER GHEORGHE CALCIU DUMITRESA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to honor Father Gheorghe Calciu Dumitresa, a native of Romania and prominent critic of the past policies of the Ceaucescu regime.

Father Calciu has spent the majority of his life in and out of Romanian prisons. While studying medicine at the University of Bucharest, he was arrested due to his involvement in an illegal anti-Communist political student group, charged with fascist-terrorist crimes, and sentenced to 15 years in prison. He was tortured both physically and psychologically during his prison term. At one point, the Romanian Government planned his extermination but, fearing that Romanian entry into the United Nations would be jeopardized should rumors of maltreatment of political prisoners reach the West, decided to hold off. He was finally released from prison in 1964, yet incarcerated once again in 1978 because he repeatedly spoke out against restrictions placed on religious worship. In 1985, the Romanian Government was forced to free him due to an international campaign calling for his release. He immigrated to the United States to join his family.

Father Calciu is dedicated to seeing that the Romanian people attain true freedom. He made several trips to Romania after the December revolution and before the national elections to ascertain public opinion in the country. He reported his findings to Members of Congress and has worked ceaselessly with private organizations in the United States to get medical and agricultural supplies to a devastated Romania, as well as political supplies to emerging political parties to broadcast their views within the country. He is an eloquent and sincere voice for the people of Romania in the United States.

HOUSE OF REPRESENTATIVES—*Wednesday, July 18, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we think about the new realities of our world and the needs of our own Nation, we pray for a renewed sense of vision and wisdom to do those tasks that are necessary to provide justice for people. We admit that we too often grasp the advantages of the moment and do not focus instead on the needs of the future. Grant us, good God, the strength to be the people You would have us be and do those good things that honor You and serve people everywhere. Bless us, O God, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from New York [Mr. SERRANO] will please come forward and lead the House in the Pledge of Allegiance.

Mr. SERRANO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PUERTO RICO, OUR LAST COLONY

(Mr. SERRANO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SERRANO. Mr. Speaker, half the month of July has gone by and the people of Puerto Rico and Puerto Ricans throughout the United States still wonder whether Congress will ever allow them to vote on their political future.

Changes take place every day throughout the world, and the people of Puerto Rico still wait. We took part in changes in Nicaragua, we took part in changes in Panama. We are taking part in changes in Germany. After 92 years of a political relationship between the United States and the people of Puerto Rico, we must allow Puerto Ricans the opportunity to express, through a referendum, how they want this relationship to continue.

In addition, let us not deny Puerto Ricans who live outside the Island the opportunity to participate in this vote to determine the political future of Puerto Rico, our last colony.

TAXPAYER JAMMERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there is some good procurement news from the Pentagon. The Air Force got a $330 refund on the purchase price of a pair of pliers.

Now the bad news is the Air Force paid $999 for this pair of pliers. But you know, it goes hand in hand because the Air Force spent $2 billion for jammers to jam enemy radar and protect our flights and our pilots and our crafts. The truth is these jammers jam nobody except the American taxpayer.

Mr. Speaker, maybe the Air Force and the Pentagon have come to their senses and they are paying $999 for a pair of pliers to fix these taxpayer jammers. I do not know but what we should start balancing the budget by cutting foreign aid, cutting NATO spending which is paying for the defense of rich neighbors and sending a chain saw over to the Pentagon to cut some of this fat out.

Taxpayer jammers is what this amounts to.

MEANINGFUL CAMPAIGN FINANCE REFORM NEEDED

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, in my judgment it is time to move ahead with meaningful campaign reform which should include a limit on total expenditures spent on a campaign, a reduced role for political action committees and public financing for at least a portion of the costs of a race for Congress.

There is a growing perception among the American people that Government officials in all branches of Government are more beholden to the private moneyed interest than to the public interest as a whole. The savings and loan catastrophe and especially the bailout costs of nearly $2,000 per person create the impression in people's minds that public policy is being driven by banks and wealthy Americans not terribly interested in the public interest.

While that perception may not be 100 percent accurate in fact, it is driving a wedge between the American people and their Government, and is exacerbating the alienation and cynicism many people feel about our Democratic institutions. That has dangerous implications for American democracy.

It is time to move on this issue, time to show the American people that the public interest, not the narrow accumulation of special interests is paramount in this country. It is time to pass a meaningful campaign finance reform bill.

STUDENT LOAN DEFAULTS

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, many of our colleagues have been receiving letters and telegrams from special interest groups regarding the Roukema amendment on student loan defaults that I will be offering to H.R. 5115, the Equity and Excellence in Education Act when it comes to the floor.

These letters claim that no hearings have been held on my amendment and that we should wait until we reauthorize the Higher Education Act next year to make these changes.

This is simply untrue disinformation. The fact is that 4 days of hearings were held by the Education and Labor Committee when debating what to do about the growing student loan default problem back in 1988. Default legislation was then introduced in the House and the Senate which contained provisions identical to the ones in the amendment that I will offer. This legislation was approved by the Education Committee in the House and was passed by the Senate in 1988.

Do not be deceived by the special interest groups writing these letters. They represent the very schools with default rates of 30, 40, 50, 60, and, yes, even 70 percent and are the cause of a default scandal that has grown from $200 million in 1981, to over $2 billion in 1990. Let us clean up this mess now, not mañana.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

THE SILVERADO MONEY TREE

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, money may not grow on trees, but it sure grew at the Silverado Savings & Loan, which collapsed and will cost the taxpayers $1 billion.

But apparently, one of the borrowers of Silverado has found a better scheme than a money tree. William Walters, who was a partner with Neil Bush, borrowed more than $85 million from Silverado and defaulted on the entire amount.

Mr. Walters testified before the Banking Committee recently that he had a zero net worth. Today, the Los Angeles Times, in an outstanding bit of reporting, carries a report that Mr. Walters, who has saddled the taxpayers on his own with more than $85 million in debt, and claims to have a zero net worth, is doing very well for himself.

According to the Times story, Mr. Walters is living in a $1.9 million home in Newport Beach, CA, described as a palace, complete with two Mercedes automobiles in the driveway. And has a beach house and plenty of servants.

Mr. Speaker, what I want to know is where the money came from. What happended to the money that Mr. Walters borrowed from Silverado and failed to repay?

The Federal Government should move immediately to get liens on all of Mr. Walters' possessions that he owns either directly or indirectly. If the Government can seize the assets of drug dealers, we certainly can seize the property of those who have cost the taxpayers millions of dollars in losses.

It is time to chop down the money tree at Silverado and get back the taxpayers' money.

BEST WISHES FOR INJURED SON OF CONGRESSMAN RICHARD BAKER

(Mr. HAYES of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Louisiana. Mr. Speaker, yesterday during the balanced budget amendment I looked at the board and noticed that the gentleman from Louisiana [Mr. BAKER], was not present, and I thought it odd at the time. I later inquired and found out that his son had been in a very, very serious accident and is in critical condition in Baton Rouge.

The words Republican and Democrat pale in comparison to the word "family," and both the Republicans and the Democrats in the Louisiana delegation will continue the prayer that Chaplain Ford began this session with today and throughout the remainder of our terms here, and wish RICHARD and Kay and their family the absolute best.

SHIFT IN UNITED STATES POLICY TOWARD CAMBODIA

(Mr. ATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, I welcome reports this morning from Paris about an announcement by Secretary of State Baker of a major shift in administration policy toward Cambodia.

The Cambodian people have suffered too long. The Khmer Rouge have continued to terrorize a nation in a decade's long march for Penom Phenh. And the United States has let the wound of Vietnam fester for too long. I applaud the administration's decision to cut off U.S. assistance to the so-called non-Communist resistence to the battlefield partners of the Khmer Rouge. I am grateful for the first steps toward a leadership role by the United States in forging peace in the region. Finally, we may be able to help ease the pain of so many as the United States begins talks with the Vietnamese.

Three weeks ago this body debated these very questions. In the Senate, our colleagues have also wrestled with these same issues. Together, we have helped forge a path for peace. Together, we have said the United States will tolerate no role for the genocidal Khmer Rouge. And together we will work toward the day when old wounds are healed and painful memories of the Vietnam war can be overcome by new relationships which promise dialog, respect for human rights, compassion, humanitarian assistance, and trust of one another.

CONGRESS WILL VOTE AGAIN ON A BALANCED BUDGET AMENDMENT

(Mr. ROBERT F. (BOB) SMITH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERT F. (BOB) SMITH. Mr. Speaker, yesterday the balanced budget amendment lost in this House by an eyelash, some seven votes. In 1982 the balanced budget amendment lost by 46 votes.

I can guarantee this House and the American people that another balanced budget amendment will be offered in the next Congress of the United States, and hopefully the American public will select seven more votes to pass this very needed and necessary amendment to our Constitution.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on consideration of the bill, H.R. 5268, which will be considered today, and that I be permitted to include extraneous matter.

The SPEAKER pro tempore (Mr. GLICKMAN). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5268) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1991, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentlewoman from Nebraska [Mrs. SMITH] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

□ 1016

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5268, with Mr. NEAL of North Carolina in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentlewoman from Nebraska [Mrs. SMITH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, as my colleagues know, this is the 12th year that I have served as chairman of the Committee on Appropriations. What is not gener-

ally known is that I have been on the Defense Appropriations Subcommittee for many, many years starting in 1943, and I also serve on the Subcommittees on Public Works, Interior, Health and Human Services, Transportation, HUD-Veterans, and all of the other subcommittees. But may I say that in my judgment the bill we are considering today and bring before my colleagues touches the American people probably more than any bill that we have, regardless of its perceived standing by the public or the press.

AGRICULTURE—OUR GREATEST ASSET

Certainly this bill has what we might say are all of the programs or practically all that are of assistance to consumers, meat, bread, and potatoes, food, clothing, and shelter still are basic to the needs of the American people.

Not only that, but what we do not realize and what is not generally known is that agriculture is the biggest industry that we have—it is larger than the auto, steel, and housing industry combined. This fact has been overlooked for the last 10 years. Agriculture is also the key to our overall economy. It is the biggest market and the biggest dollar earner in world trade. Historically, and unfortunately, this has not been appreciated as much as it should be by those in charge of the budget or in charge of the Federal Government.

May I say our Subcommittee on Appropriations, all of the members of that subcommittee, BOB TRAXLER, MATT MCHUGH, BILL NATCHER, WES WATKINS, DICK DURBIN, MARCY KAPTUR, VIRGINIA SMITH, JOHN MYERS, JOE SKEEN, and VIN WEBER, bring to you a bill that is less than the budget request.

□ 1020

It is within the discretionary 302(b) allocation.

I pause to say a few words about one of the members of my committee, a colleague and coworker, the gentlewoman from Nebraska [Mrs. SMITH]. I believe this is the last regular bill she will handle here. I want to say for the record that she has made a marvelous record through the years, showing her interest not only in Nebraska but in the Nation. I have told her kiddingly, of course, that we never have consented for her to retire. But when she does retire, certainly she will leave an excellent record here in Congress and one that will be a challenge to whoever succeeds her or whoever serves in Congress in her place.

Mr. Chairman, I say to the gentlewoman from Nebraska, "You have done a marvelous job, and we regret seeing you leave. But you do leave with a fine record behind you."

I also want to acknowledge another member of our subcommittee, my good friend and colleague, Mr. WATKINS of Oklahoma. He will be leaving us soon to run for the governorship back home.

He is a former chairman of the Congressional Rural Caucus and a valuable asset to our committee. Few have worked longer or harder for the farmer and rural America. He will be missed by many when he leaves here.

I also want to thank our former colleague, DANNY AKAKA, who is now in the Senate. We miss DANNY and his contributions to the committee.

Further, Mr. Chairman, to get on with this bill, over half the amount of money in this bill is for food and consumer programs. We have $27.3 billion for food programs and $1 billion for Food for Peace. There is $689 million in the bill for the Food and Drug Administration and $441 million for food inspection.

WIC PROGRAM

Most of the Members are familiar with the drive by many of my colleagues, and properly so, for the WIC Program—Women, Infants, and Children. The funds for the program were depleted this year in some States for several reasons, and we were asked to go along with making additional funds available. We did go along and made it possible for those areas to borrow money against the fiscal year 1991 program to operate for the remainder of this year. We have passed up any return of that money at this time. I would like to point out here for those who are interested, because the WIC Program is particularly of interest in the cities, that we have in here $2,350,000,000 and that is $224 million more than we had in 1990. And in order to be sure we do not run into the same situation, we provided $25 million to be held in reserve where it will be available if required.

May I say that for the bill we have before us, 623 requests have come from our colleagues in the Congress, and in my service in Congress and on the Appropriations Committee since 1943, my effort has been, and the effort of those on the subcommittee have been to try to help our colleagues, because they are familiar with the problems in their particular districts. So certainly we have tried to be fair, and as I have said many, many times, our Committee on Appropriations is the one place where we have a bipartisan handling of these things. The Republicans and Democrats work together.

May I say that on these requests we have been unable to do everything that was asked, and in many, many cases we have had to go along with 50 percent or less of what was requested in order to get the money to go around. That comes because of the budget ceiling and because of the 302(b) allocation.

May I say that I have been greatly disappointed, since during the last 10 years people seem to have forgotten the lessons of history. For many years those engaged in agriculture got what was left over. Years ago we finally passed a law to say that those engaged in agriculture were entitled to equal treatment with industry and labor. It was provided in the domestic market that CCC stocks could be sold only for 110 percent of parity while selling competitively in world trade.

FARM SUBSIDIES, A MISNOMER

We read about the farm program being a subsidy to agriculture, but that is a misnomer.

In the manufacturing area, industry passes whatever its costs are on to the buyer, and in the case of labor, whether it is minimum wages or barganing rights of labor, they pass that on as part of the retail price. For the first 48 years of the farm program the American farmer could pass on a fair price to the buyer, and in that process we had a prosperous United States. All sections of the United States prospered together.

We also provided for years—and it is in the law now, but they will not use it—section 32 of the Triple A Act, that 30 percent of customs receipts from import duties are set aside to promote agriculture. This is to permit agricultural products to move into world trade at competitive prices, and thus retain our balance with industry and labor. May I point out that section 32 is set up primarily for perishable commodities. The purpose is to buy up the surplus so that the supply and the demand are in balance. The surplus that is bought up goes to school lunches and other food programs. But, in recent years, the money has been divided out among various consumer programs. Section 32 has not been used for the purpose for which it was created.

We read in the paper now that from downtown they are asking for further cuts for farmers.

This is in the so-called subsidy: Since we started reducing prices as a matter of law, we have started getting checks out of the Treasury to the farmers to cover part of their costs and all their profits. When we call that subsidy at the highest level of government it looks to me as though they have overlooked the history of this country. Early in our country's history we wasted about half our timber and we let our rich soil wash out to sea. We did all those things, and finally we got it corrected, but now we find that they are selecting folks for the soil conservation program based on environmental desires and things of that sort. We forget the lessons of the past.

I repeat again that agriculture is the basis of our economy, and if we do not wake up to the fact that we had better look after our own country, we will not

be able to do all these things we try to do for other countries.

THE NATION'S FINANCIAL CRISIS

I am on the summit committee where I can point out our overall situation and I think I should do it here. A finding by the Committee on Appropriations reveals some of the causes of the problems that we now face. The record shows that the 1981 tax bill, since 1981 has deprived the Government of over $2 trillion in income. It shows that the 1986 tax bill has deprived the Federal Government of $70 billion in income. Not only that, but we have the so-called open markets, which means that we open our markets to foreign countries, and that has resulted in a loss of about $1 trillion in our balance of trade over the last 10 years, in that we are buying that much on credit for which we are borrowing from Japan and various other countries. We let all these things come into this country, depriving our producers of the domestic trade.

1983 JOBS BILL

Many Members will not remember this, but in 1981 President Reagan asked that we rescind $16 billion. We did that. Then 2 years later they came to us and said we were in a recession and asked us to bail them out. May I say that they asked three or four other people to bail them out first, and then finally they got around to the Appropriations Committee. When they got around to us, we did the job, and we stayed here through the Easter recess. We called together all the unfunded requests made of the various 13 subcommittees, of which I am a member. As a starting point, we called together all the testimony which we had from the requests which had not been able to be funded. We came up with a jobs bill. Now, my Democratic leaders let the President get the credit for that bill. But we bailed out the President and stopped the recession, because when they cut spending back $16 billion, it resulted in a recession, and we managed to bail ourselves out of that.

May I say that I believe that is the situation we face again. Many folks say we can cut back spending to the point of curing what ails us. How are we going to pay a debt of $3 trillion with savings on basic programs? We make a mistake in trying that. I believe in balanced budgets for stability, but to balance paper money and neglect the real wealth of the country itself, is shortsighted. I vote for balanced budgets as a target because I think we need to, but I say again that this question of balancing paper money is serious.

I hear folks talk about the fact that we are going to leave all this debt to our children. Goodness knows we should not, and it will be up to them whether they pay it. But if we let the country go down and let our real wealth go down, they will have nothing left on which to build.

INVESTMENT SPENDING ESSENTIAL

May I point out, too, for the record that since 1934, when we started meeting local problems over the Nation with Federal programs, our wealth has increased 41 times. Not only that, but since 1940 it has increased 36 times. We may remember, too, that in an effort to bailout this country we had to have revenue sharing, where over 39,000 American communities participated and almost fought each other to be sure they got a dollar's worth of value. That program lasted for 14 years. When it was discontinued, the authorizing committee voted 21 to 8 to restore it, and our Committee on Appropriations voted 29 to 15, but the leadership of both parties joined in blocking the program. But that was set up, may I say again, to restore the economy of this country.

AGRICULTURE BEING SHORTCHANGED

I say again that the record shows that through the years the folks who have taken it in the neck, so to speak—the farmers—comprise the biggest industry we have, and it is the one on which the whole economy is dependent.

I was here at the time when this happened—when they put a limit of 64 cents on the price of cotton back in World War II and sold it to Spain. They, in turn, could resell it for 96 cents.

□ 1030

Because of the invasion of Afghanistan, in 1980 President Carter prohibited us from selling to Russia. What it did was to deprive the American farmer of the Russian market for it just made Russia buy it from our competitors.

In 1981 we had large stocks of butter which had been accumulating. We didn't want to sell it to Russia. We sold it to New Zealand and they sold it to Russia and we let them make their profit on it.

So I just say that through the years we have failed to fully recognize the fact that agriculture is basic to the economy and basic to the well-being of this country.

Some of you may remember the Department of Agriculture came out with a PIC Program. They did that when the world was hungry, 25 percent of the people in the world not having food and clothing that they needed. We paid our people to cut back on our production. We actually paid them sometimes with the commodity itself.

Under the PIC Program, we just gave our markets to our competitors overseas. We just cut our production 11 percent, and our competitors increased their by a like amount. It cost us $12 billion.

Today we have a program where we have 70 million acres lying idle at a time when the world is in bad need of its production. Not only that, but our country is in bad need of it, too.

I say again that the farm subsidy is a misnomer. They have come out with a program of giving the farmers a government check, instead of using the law which still permits them to pass the real cost on to the purchaser, who in turn does not have to pass that on to the consumer.

CROP INSURANCE PROGRAM

I call attention to this, we have left out funds for crop insurance in fiscal year 1991 because it was not crop insurance. It was another grant. The record shows that the program cost over $4 billion in the last 10 years. If we were to restore that program it would cost an estimated $1 billion next year.

The administration recognizes that it is an unsound program, and supports our actions.

I met today with the chairman of the Legislative Committee. I have a long record of trying to handle the Crop Insurance Program as long as it is actuarily sound.

OPEN DOOR POLICY FOR IMPORTS

Again I say we are paying our people not to produce when the world is begging for our production. Not only that, but we have people running around over the the world trying to get other folks to let us sell to them while we are letting their production come back here.

One of the things that disturbs me is that we have made the situation so bad by having this open door policy for imports into our country. A whole lot of our national corporations are moving their plants overseas to use cheap labor and then sending their products back, here under our open door policy. My experience leads me to know that we can run all over the world if we want to and beg these people to open their doors to us, but they are going to find one excuse or the other not to let out products in.

The Secretary of Agriculture, in his efforts will find this to be true as we have found out over the years. The same goes for our Trade Representative.

AGRICULTURE BASIC TO OUR ECONOMY

It is time that we realize that agriculture is basic to our economy, basic to the well-being of our people, and absolutely essential if we are going to protect the integrity of the economy of our own Nation.

Again, I am on all these other subcommittees—Defense, Interior, HHS, Transportation, and HUD-Veterans, and all the rest. None of them is as important in my mind as the bill we have before us, because it not only looks after the people, young, old and middle aged, not only does it look after small businesses and the corpora-

tions, but it protects the country itself, which after all is our wealth.

Mr. Chairman, if we are to reverse this downward slide, the Department of Agriculture must again return to using the Commodity Credit Corporation and other farm programs to stimulate production, regain our normal share of world markets, and enable the producer to receive a fair price from the purchaser of his products rather than having to depend on a check from the U.S. Treasury. We need to produce our way out of this financial mess our country is in and agriculture is the place to start.

COMMITTEE'S APPROACH TO THE BILL

Mr. Chairman, we have restored the rural development programs which the budget had proposed to either eliminate or severely reduce. We have restored the rural housing program and the water and sewer programs, and, in fact, have provided some increases in both of these programs. We have restored the various conservation programs, including the Agricultural Conservation Program, and the programs of the Soil Conservation Service. We have again this year restored the rural electric and telephone programs which were proposed for termination in the budget request.

Mr. Chairman, our committee has always felt all of the rural development programs are far too important to rural America to be reduced or even cut out as the budget request generally proposes.

We have also provided funds for research and extension work, including the restoration of funds for the special grants program and numerous other programs such as urban gardening and the nutrition aides who are so important in our large cities.

TITLE I—AGRICULTURAL PROGRAMS

Mr. Chairman, H.R. 5268 provides $1.4 billion, an increase of $109 million above the fiscal year 1990 level and $85 million above the budget request, for agricultural research and extension activities funded through the Agricultural Research Service, Cooperative State Research Service, Extension Service, and the National Agricultural Library.

To assure the availability of a variety of wholesome and healthful food at the lowest cost in the world, H.R. 5268 provides $906 million for the marketing and inspection services of the Department. This total includes $380 million for the Animal and Plant Health Inspection Service to provide for the arrest and eradication of infectious diseases or pests of animals, poultry, and plants; $441 million for the Food Safety and Inspection Service for the meat and poultry inspection program; and $57 million for the Agricultural Marketing Services to allow for continuation of all marketing services. Other agencies included in this total are the Federal Grain Inspection Service, Packers and Stockyards Administration, Agricultural Cooperative Service, and the Office of Transportation.

H.R. 5268 provides $5 billion for restoration of losses of the Commodity Credit Corporation, an increase of $767 million above the amount appropriated for fiscal year 1990 and a decrease of $1.1 billion below the budget request. Included in this amount are funds for restoration of fiscal years 1989 and 1990 losses resulting from the following programs: $566 million for the export enhancement program, $200 million for the targeted export assistance program, $150 million for the Federal crop insurance program; $472 million in connection with domestic donation of commodities; $208 million in connection with export donations; and $3.4 billion for all other losses.

H.R. 5268 provides $102 million for the Federal Crop Insurance Corporation for administrative and operating expenses and the Corporation fund.

H.R. 5268 provides $133 million for the Economic Research Service, National Agricultural Statistics Service, and the World Agricultural Outlook Board for statistical and economic intelligence about the national and international agricultural conditions and outlook.

For cleanup of hazardous wastes at sites that pose the greatest health risk the bill provides $24.8 million, an increase of $4.8 million above the funds provided for fiscal year 1990.

TITLE II—RURAL DEVELOPMENT PROGRAMS

Mr. Chairman, H.R. 5268 provides $13.1 billion in budget authority and $7.5 billion in loan authorization authority for the Farmers Home Administration. The bill restores funds for housing programs, watershed planning and flood prevention, resource conservation loans, soil and water loans, and rural development grants. Increased funds are provided for rural water and sewer grants.

H.R. 5268 provides $335 million in budget authority and $1.8 billion in loan authorization authority for the Rural Electrification Administration. The bill restores funding for the Rural Electrification and Telephone Revolving Fund, $861 million is included for the direct loan program.

H.R. 5268 provides $1 billion for the traditional conservation programs funded through the Soil Conservation Service and the Agricultural Stabilization and Conservation Service. For the conservation reserve program [CRP] H.R. 5268 provides $1.3 billion, an increase of $304 million above fiscal year 1990 and $563 million below the budget request. The bill reflects current and more realistic assumptions for acreage enrollment in CRP.

TITLE III—DOMESTIC FOOD PROGRAMS

Mr. Chairman, for the child nutrition programs the bill provides $5.3 billion. This amount includes an increase of $2.5 million for nutrition education and training.

The committee has always considered WIC to be a high priority program. In the last 9 years alone the committee has added over $1 billion above the administration's budget request. When the committee was considering program funding levels of the Department for fiscal year 1991, WIC continued to be a high priority.

The bill provides $2.35 billion for the WIC Program. This is a 10.5-percent increase over fiscal year 1990 and a 6.1-percent increase over the President's budget. This amount includes a $25-million reserve to be used at the Secretary's discretion to meet unanticipated program needs.

Even though the benefit to participants of WIC are well documented, the committee included a provision that the Department work closely with States to better target participation to the most nutritionally at risk.

Mr. Chairman, the bill provides $19 billion for the Food Stamp Program. Included in this amount is $962 million for the block grant for nutrition assistance to Puerto Rico, of which $10.8 million for the cattle tick eradication project in Puerto Rico is to be transferred to APHIS.

TITLE IV—INTERNATIONAL PROGRAMS

Mr. Chairman, the bill provides an appropriation of $105 million for the Foreign Agricultural Service. This funding allows for an increase in analyzing and reporting foreign agricultural production, markets, and policies; and the development of foreign markets for U.S. farm products.

For Public Law 480 the bill provides a program level of $880 million to carry out titles I and III and a program level of $696 million to carry out title II, for a total program level of $1.6 billion.

TITLE V—RELATED AGENCIES

Mr. Chairman, H.R. 5268 provides $689 million for the Food and Drug Administration. This is an increase of $88 million above the fiscal year 1990 level and $157 million above the budget request. The President's budget included the collection of $157 million in user fees for the Food and Drug Administration. These user fees require specific authorization in law which is not now available. The committee has provided that $157,175,000 will be available to FDA only upon receipt of an official budget request by the administration.

In addition, the bill provides that not less than $11.5 million be used for the Orphan Drug Program. The bill also provides increases for the enhancement of human drugs, medical devices, biologics activities and seafood inspection.

Pending final congressional action relating to reauthorization and jurisdictional disputes of the Commodity

Futures Trading Commission, the bill provides $39.7 million.

CONCLUSION

Mr. Chairman, I would also like to again thank all of the members of the subcommittee and their efforts in bringing this bill to the floor today, the gentleman from Michigan [Mr. TRAXLER], the gentleman from New York [Mr. MCHUGH], the gentleman from Kentucky [Mr. NATCHER], the gentleman from Oklahoma [Mr. WATKINS], the gentleman from Illinois [Mr. DURBIN], the gentlelady from Ohio [Ms. KAPTUR], and the gentleman from Iowa [Mr. SMITH]. On the minority side, our ranking minority member on the full committee, Mr. CONTE, and our ranking minority member on the subcommittee, Mrs. VIRGINIA SMITH, who works so long and hard for agriculture, and the gentleman from Indiana [Mr. MYERS], the gentleman from New Mexico [Mr. SKEEN], and the gentleman from Minnesota [Mr. WEBER].

Mr. Chairman, this is a good bill and it is a bill we are proud of and it deserves the support of the Members.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first, let me say that while I rise today to support this bill, I do so with mixed emotions.

I want to thank our chairman, Mr. WHITTEN, for once again working to put together an agricultural appropriations bill that meets the most essential needs of our farmers, rural communities, and urban consumers in this country.

I have mixed emotions about this appropriations bill not because funding priorities were inappropriately addressed, but because, as my last agricultural appropriations bill, I will miss working with the chairman and every member of the subcommittee and all 56 members of the full Appropriations Committee.

I have enjoyed and appreciated every minute of my tenure on this committee under Chairman WHITTEN's leadership. And as the ranking Republican member of the House Agriculture Appropriations Subcommittee, I know of no leader who is more dedicated to agriculture, or more effective for agriculture.

As chairman of this subcommittee for 41 years, Mr. WHITTEN has promoted the welfare of agriculture, and nutrition of our citizens, and rural life across America. For the last 14 of those 41 years I have worked with and learned from our great chairman. I have grown to appreciate the support many of Mr. WHITTEN's priorities, and I hope that some of my priorities will continue with him and the subcommittee once I have gone.

Regardless of our party labels, we have consistently tried to achieve the same goal—promoting agriculture. And I believe that everyone should know that each member of our subcommittee cares deeply about the farmers and ranchers who make agriculture this Nation's largest single industry.

On this subcommittee, we have worked on a completely bipartisan basis—not as Democrats or Republicans, but as leaders working in the interest of agriculture and consumers.

I have appreciated working with every one of my good friends; Mr. Myers who I have benefited from working with on these agriculture bills as well as energy and water appropriations; my thanks to my outstanding Republican colleagues Mr. SKEEN, Mr. WEBER; then there is Mr. TRAXLER and Mr. NATCHER, Mr. MCHUGH, Mr. WATKINS, Mr. DURBIN, and Mr. SMITH—all are wonderful gentlemen, and our newest member, Ms. KAPTUR. All make this subcommittee a pleasure—not a chore.

I must also say thank you to our ranking Republican on the full committee, Mr. CONTE. I have enjoyed getting to know our Massachusetts legend, and I am proud to call him a dear friend and colleague even though I have never been able to convince him to fully support essential air service.

Also, our great staff deserve the thanks of this Chamber. Like the members of this subcommittee, they have worked with all of us on a completely bipartisan basis. Particularly, I want to single out Bob Foster and Tim Sanders for all the excellent work they have done.

Mr. Chairman, in H.R. 5268, we bring to the floor an agricultural appropriations bill completely within 302(b) allocation guidelines, providing $50.3 billion for fiscal year 1991, an increase of $5.1 billion from 1990, and $86.5 million below our current budget estimates.

In this bill, we have tried to meet the most important national priorities for agriculture, for good consumer nutrition, and for rural development programs.

H.R. 5268 is representative of the hundreds of hours of hearings and testimony before the Appropriations Subcommittee on Rural Development, Agriculture, and Related Agencies, the review of thousands of written requests, and considerable consultation with experts, administrators, Federal officials, and constituents. A long and enduring process.

Members provided nearly 650 written requests for increases in funding for projects and programs of particular interest to their districts, totaling hundreds of millions of dollars.

I am sure no one would be surprised to learn that our subcommittee did not receive a single request from Members of Congress for decreased funding for a program important to their State—another sign of increasing competition for fewer Federal dollars.

Mr. Chairman, some people accuse me of being proagriculture. And that is just fine because I am.

I consider it a great privilege to stand before this Chamber to express and to protect the interest of farmers, ranchers, and rural America.

Throughout the early eighties, farm incomes were declining, farmland values dropped, and U.S. agricultural exports were falling both in total value and market share. Producers suffered from unstable prices and incomes due to uncontrolled grain reserves and inconsistent agricultural policy.

Today, agriculture and rural America are rebounding due in great part to the decisions and policies pursued by agricultural leaders and Congress. Farm incomes have stabilized, agricultural exports have regained strength, and grain reserves are being better controlled with a greater market-oriented philosophy.

For 1990, crop sales are expected to grow by 6 percent and livestock sales could be up to 4 percent higher than 1989. Most importantly, net cash income is forecast to range between $55 and $59 billion, 2 to 9 percent above 1989.

Many of the policy changes that have allowed our farmers to climb out of the economic recession of the 1980's include the agricultural spending priorities endorsed by Congress and funded in this bill.

The 1991 agriculture appropriations bill is a collection of spending priorities addressing the concerns, recommendations, and requests of those who care about agriculture.

However, as our chairman has pointed out so many times, more than half of the money in this bill does not go to agriculture—it goes to consumers.

CONSUMER PROGRAMS

In H.R. 5268, we have recognized the funding shortfalls faced by the Women, Infants, and Children [WIC] Program. For 1991, we have provided an additional $224 million, 9 percent—$74 million more than requested by members of the Select Committee on Children, Youth, and Families—to respond to higher prices from last year's freezes and droughts.

For child nutrition programs, including the school lunch, school breakfast, and summer food service programs, we are providing more than $5.2 billion—an increase of $378 million from 1990. And we have provided more than $13.8 million additional for the Commodity Supplemental Food Program [CSFP] over 1990—raising the total funding level to more than $68 million.

Finally, additional increases in food assistance programs include a small $2 billion—12 percent—hike for the Food Stamp Program. Funded at just under

$17 billion last year, 1991 will bring more than $19 billion to help alleviate hunger and malnutrition among low-income people.

Programs funded in this bill that provide services to all Americans—not just agriculture—do not stop with food assistance programs.

The Food and Drug Administration [FDA] will receive an increase of $88 million for a total appropriation of $655 million to ensure the safety of our food and drug products. And we have provided $32.9 million to the Agricultural Research Service, also to ensure food quality and safety.

Included in the fiscal year 1991 budget for the FDA is an increase of $5 million for new seafood inspection activities, and not less than $11.5 million will be spent for the orphan drug program. Certainly, these are national needs, but they do not go to agriculture.

Since 1935, we have provided more than $56 billion for rural housing programs through the Farmers Home Administration [FmHA]. Through 1991 our subcommittee has approved more than $2 billion in rural housing programs for communities of less than 20,000 people; $300 million for rural rental assistance payments; and more than $1 billion in rural development activities.

Again, these programs are not for farmers. But our committee has come to realize that housing legislation rarely addresses the problems of rural America—so we must.

FEDERAL CROP INSURANCE CORPORATION

Unfortunately, amidst these proposed funding increases for consumer programs that should please many members, I have grave reservations regarding our subcommittee's decision to reduce funding to the Federal Crop Insurance Corporation [FCIC]—effectively eliminating the program as of September 30, 1990.

In the administration's recommendations for the 1990 farm bill, the elimination of the Federal crop insurance program in favor of permanent disaster assistance legislation was proposed—unless significant improvements were made in the current program.

The Commission for the Improvement of Federal Crop Insurance and the General Accounting Office have carefully studied the entire program, and the Agriculture Committee has been working to develop a new, more cost-effective program. I look forward to supporting new legislation to reform FCIC.

Farmers in my district support continuation of a Federal crop insurance program, and 62 percent of all acres in Nebraska are covered by the FCIC. In my home county, participation in crop insurance has reached more than 90 percent.

If the necessary steps are taken to improve the current program and correct the practices that have led to excessive costs, I am hopeful that our committee will be able to revisit FCIC funding for additional consideration.

AGRICULTURAL TRADE

Throughout our subcommittee hearings, stimulating the growth of agricultural exports and U.S. competitiveness overseas have been issues of particular concern. Many have expressed fear that the Congress would be reluctant to continue to fund a strong agriculture trade policy.

Since 1986, agricultural exports have grown over 35 percent. For 1990, exports should be slightly stronger—increasing by $300 million from 1989 to a total $40 billion. Every member of our subcommittee wants to insure that this growth in exports continues.

After careful review of the current world situation and recurring natural disasters in regions of the United States, the committee has put forward a recommendation to fund the Export Enhancement Program [EEP] at $500 million and the Targeted Export Assistance [TEA] Program at $200 million.

Both programs have proven instrumental in the marketing of U.S. agricultural commodities throughout the world. Although these recommended funding levels are below the administration's request, the committee proposal would continue to provide adequate funding of these programs.

We are also sending a clear signal to producers, exporters, and our foreign competitors that until successful completion of a new GATT accord on agriculture, the United States will continue to aggressively pursue foreign export markets.

ENVIRONMENT

Our subcommittee continues to pay close attention to the increasing public interest in environmental issues. It used to only be the farmers who came to me and requested resources to assist in protecting this Nation's vital natural resources. Apparently, many of our urban counterparts have followed the lead of our agricultural producers and now realize the need to implement sound conservation practices.

H.R. 5268 increases the funding for Soil Conservation Service conservation operations by $32 million from 1990, to $509 million in 1991.

For farmers, the 1985 farm bill brought new laws to agriculture that we are just now beginning to fully understand. During the next 5 years many producers are facing significant changes in the farming methods they will be allowed to utilize.

According to the Soil Conservation Service [SCS], producers in Nebraska will have to convert 5.4 million acres to conservation crop rotation, 3.6 million acres to conservation tillage, and 1 million acres will have to be converted to contour farming.

In addition, Nebraska farmers will have to install 180 million feet of terraces, 940,000 feet of tile outlets, and 1.5 million feet of windbreaks. And when you assume that terraces cost approximately $1 per foot—terraces alone will cost Nebraska producers $180 million.

To complete all this work in 5 years will be very difficult indeed.

I believe it is our responsibility to help farmers complete the conservation compliance provisions of the 1985 farm bill by providing adequate funding, staff, and technical assistance.

Under current law, farmers face significant penalties if they do not have their conservation plans fully implemented by 1995. Some farmers may find their plans too expensive to fully implement and will stop participating in Federal farm programs. If that should happen, not only will we lose the best avenue to encourage better conservation practices, but with increased commodity production farm program costs will escalate.

Finally, H.R. 5268 addresses additional environmental concerns by including $32.5 million to the Agricultural Research Service, an increase of $5 million from 1990, and $17.6 million to the Soil Conservation Service [SCS] for research and projects designed to enhance water quality and quantity.

NEBRASKA PROJECTS

In H.R. 5268, there are a number of initiatives of particular interest to Nebraskans. As one would expect, this bill has a major impact in my home State and my district.

Under H.R. 5268, the University of Nebraska would receive a substantial boost to begin construction of facilities for the proposed center for science and technology.

This center will strengthen the ability of Nebraska and other States in the region to develop human resources and foster development and the technological transfer of new products and processes to industry.

In fiscal year 1989 the Federal Government provided $250,000 for the planning and design of the facility, and $3 million in 1990 to begin construction. In 1991, H.R. 5268 would provide $4.5 million for the center to continue construction activities.

This initiative will support the Federal Government's technology transfers activities while also working to support high-technology research advancements. More than a simple emphasis on biotechnology, the center will bring into a single cooperative setting the resources of three academic areas: biotechnology, biological chemistry, and chemical engineering. Scientists will focus on targeted basic and applied research critical to our regional and national economic security.

I am pleased that the Appropriations Committee has carefully considered Nebraska's request and has recommended this funding level.

In addition, this bill provides that the Meat Animal Research Center in Clay Center, NE, be funded at $1.9 million in fiscal year 1990. This increased funding, $500,000 above the administration's $1.4 million recommendation, will be utilized to fully staff the animal health unit, complete construction of swine facilities, and undertake a new initiative in gene mapping.

MARC has proven to be an effective and premier research facility for the Department of Agriculture. One of only two such facilities in the Nation, the research and experimentation conducted will continue to provide leadership and direction for livestock producers across the Nation.

With an eye to the future in other areas, the committee has also approved $100,000 for continued range management and grazing research conducted at the Gudmanson ranch in Whitman, NE.

The bill would provide for continued milkweed—$80,000, crambe—$70,000, and corn polymer—$40,000—research conducted in Nebraska. And it also provides for the continuation of the Nebraska Cooperative Extension Service programs, including Managing Main Street—$200,000, and Rural Community Revitalization—$219,000.

The futher support of Nebraska's initiatives have been and will continue to be a wise investment for the Congress.

CLOSE

Mr. Chairman, for my last time, I join our distinguished committee chairman, Mr. WHITTEN, and the rest of the members of our subcommittee in support of H.R. 5268. It is a fair bill that meets the most important needs of agriculture, rural America, and urban consumers. H.R. 5268 meets the 302(b) budget targets set by the House earlier this year.

Although it is unable to fulfill the requests of every individual, organization, or agency, H.R. 5268 attempts to balance the multiple interests, concerns, and suggestions the Appropriations Committee has faced.

Thank you for 16 wonderful years in Congress and for the privilege of serving on this committee.

□ 1040

Mr. WHITTEN. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. MCHUGH], a member of the subcommittee that handles this matter, as well as many other activities in the Congress.

Mr. MCHUGH. Mr. Chairman, I rise in support of this appropriations bill and urge my colleagues to support it. I appreciate the leadership of our chairman, Mr. WHITTEN, whose contributions to American agriculture span a period of almost 50 years in Congress, and the cooperation of the ranking Republican on our subcommittee, Mrs. SMITH, who will be retiring at the end of this year with the appreciation and affection of all of her colleagues. We will also miss the contributions of our friend from Oklahoma, Mr. WATKINS, who is running for Governor this year. Indeed, it is a privilege to serve on this subcommittee where there is genuine bipartisan support for the important programs funded by this bill.

Each year this bill appropriates what is necessary to fund the opertions of the Agriculture Department, and of course that is important to the farmers and producers of our country. Needless to say, helping to sustain those producers, a dwindling population, is both beneficial and essential to us all. But this bill is of direct benefit not only to producers. More than half the resources in this legislation is devoted to feeding, nutrition, and other programs and services of direct benefit to consumers—programs that serve some of the most vulnerable people in our society: the children, the elderly, and the poor. It funds the Food and Drug Administration, rural housing programs, water and sewer systems in rural communities, and vital research to assure that our Nation will be able to meet its need for food and fiber in the future.

Mr. Chairman, there is a wide array of essential programs funded in this bill, but I would like to take special note of the WIC Program, the Special Supplemental Food Program for Women, Infants and Children. As you know, this nutrition program is targeted at pregnant women with limited incomes and their children up to age 5 who are at nutritional risk. Independent studies have repeatedly demonstrated that the supplemental food packages provided at modest cost are extraordinarily effective in reducing infant mortality rates and in enhancing the health of vulnerable children. These same studies have shown that for every dollar invested in WIC there is a saving to taxpayers of more than $3 in medical costs that would have otherwise been incurred in programs like Medicaid.

For this reason the WIC Program has enjoyed unusually strong bipartisan support. Even during the 1980's, when many domestic programs were being severely cut or eliminated, our committee was able to not only protect WIC, but to extend its reach to more women and children. More specifically, in 1980 we appropriated $736 million and served a total of 2.2 million people. In this bill we are recommending $2.35 billion for fiscal year 1991, which would serve approximately 4.5 million people.

Our recommendation calls for an increase of $224 million over last year—fiscal year 1990. This will not only maintain current services, but provide an additional $140 million for expansion. Of that amount, $25 million is being placed in a reserve to permit the Secretary to deal with emergency situations, unanticipated program changes, or other events that are unforeseen and would adversely affect the program.

In this fiscal year, despite increased appropriations to expand caseloads, many States had to cut back on those served, in part because of unanticipated price increases in commodities that make up the WIC food package. For example, there were unexpected increases in the price of orange juice and milk. The reserve is designed to enable the Secretary to respond to such unanticipated problems next year, problems which could result from inflation or significant reductions in infant formula rebates, the level of which cannot now be predicted as the States renegotiate their rebate contracts. This committee expects the Secretary to act expeditiously in releasing the reserve funds if such problems arise in the next fiscal year.

If the committee were not subject to significant budget constraints, I am confident that we would be recommending even larger appropriations for WIC. It is one of the most cost effective programs we fund, and even with the increases of the last 10 years we are still reaching only 50 to 60 percent of the eligible population. Hopefully, we can do better in future years.

Mr. Chairman, this is a bill that promotes the interests of American producers and consumers alike, while at the same time keeping faith with the budget limitations we must live with. I urge my colleagues to support it.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 7 minutes to my good friend, the distinguished gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Chairman, I rise to support H.R. 5268, the rural development, agriculture and related agencies bill for fiscal year 1991.

Once again our chairman, JAMIE WHITTEN, our ranking member, VIRGINIA SMITH and their staffs have done yoeman's work in crafting a responsible and fair agriculture appropriations bill.

Before I outline some of the specific reasons I support this legislation, I want to take a few minutes to recognize the work of an individual who has worked tirelessly on behalf of American agriculture and American consumers—Congresswoman VIRGINIA SMITH.

□ 1050

As we all know, Mrs. SMITH has decided not to return to Congress after 16 outstanding years of service in the House of Representatives. I will miss her. Not just because she is a great

lady and a good friend, but because of the leadership she has so ably provided in our subcommittee.

There are few in the House who can match her tenacity and conviction in looking after the interests of her constituents. There are few who have been such an ardent and successful proponent of America's most essential industry—agriculture.

Certainly, there are few in the House who are as qualified to talk about agriculture as Mrs. SMITH. I will give you an example. As newlyweds, VIRGINIA and her husband Haven left Iowa for western Nebraska. They bought a farm and began the daunting task of earning a living off of the land. The Smiths went to their local extension agent to ask for advice on how to raise poultry.

They learned very well because they were soon recognized for raising best poultry in Nebraska.

Mrs. SMITH has told this story to show how important USDA programs are to agriculture and the men and women who are involved in feeding and clothing this Nation. This lifelong exterience has resulted in Mrs. SMITH not only being a strong supporter of agriculture, but she has helped to make agriculture work for us all.

Again, I appreciate the help the gentlelady from Nebraska has provided me and many others in the House. I thank her for being a great spokesman for American agriculture. And I wish VIRGINIA and Haven all the best.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, may I join with the gentleman from New Mexico [Mr. SKEEN] in saluting the gentlewoman from Nebraska [Mrs. SMITH], one of the outstanding agricultural leaders of this House and a dear friend and person who has contributed so much to this body and to our Nation, and who has represented American agriculture in the very finest traditions of rural America. The gentlewoman is going to be dearly missed by all Members. I am pleased to join with the gentleman in that salute.

Mr. SKEEN. Mr. Chairman, I thank the gentleman from Michigan [Mr. TRAXLER] for his comments. They are very well earned.

Now back to the legislation currently before us.

I know there are many Members of Congress and many agriculture producers who are disappointed in how this bill addresses Federal crop insurance. Well I am also disappointed—disappointed that the administration and Congress have not come to an agreement on how to structure the program in the future.

I support crop insurance. I believe it is an important and an essential management tool for agriculture producers. I want the program to work right.

As our chairman has stated, the current Federal Crop Insurance Program has cost the taxpayers more than $4.6 billion during the past decade. This has to change.

At this point I do not think anyone has the answer on how to make the program work. It is going to take some time to find those answers. But I am hopeful that within the next few months an agreement is reached that will lead to the availability of a strong and viable program for next year.

Another important component of this legislation is how we address the issue of food safety.

This bill provides the means to implement a program that will vastly improve the information we have on the safety of our Nation's food supply. Neither consumers, farmers, or ranchers can afford a national debate on food safety that is based on gross inaccuracies or incomplete data. This program will hopefully focus future discussions on the facts. We cannot afford anything less.

If the Members of this body want an example of how Congress can be responsive to the needs of this diverse Nation, they don't have to look any farther than this bill.

Take a look at WIC, at the Extension Service, the Rural Electric Administration, and numerous other agencies funded within this legislation. American consumers, our rural population, and millions of disadvantaged men, women, and children are all being helped through this legislation.

Yes, we have funded programs that assist large portions of our population, but this legislation is also structured to focus on regional and local problems, such as the problems our chile pepper growers are experiencing in New Mexico.

The significance of this help has not gone unnoticed.

An editorial that appeared last week in a newspaper in my district summarized the issue as well as anyone. It stated:

> Government and farmers have traditionally worked together in making American agriculture the most productive among the world's major nations. Federal funds have made possible the development of new plant varieties, new farming methods, the eradication of pests, better fertilizing methods, soil improvement and the general improvement in the quantity and quality of crops. The result is an agriculture that feeds us well and provides a surplus for export. You could call it a fruitful partnership.

I might add that this bill continues that fruitful and essential partnership.

Again, I want to thank the chairman for his leadership on this legislation. Within this bill we have maintained funding for certain programs; we have restored funding for certain essential programs; and we have initiated new programs that will benefit us all.

I urge my colleagues to give their full support to this fair and responsible bill.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. TRAXLER], a valuable member of the subcommittee.

Mr. TRAXLER. Mr. Chairman, I want to add my voice in support of this bill. I most especially want to commend the chairman, the gentleman from Mississippi [Mr. WHITTEN] for his many years of service to American agriculture and the American consumer.

This, in my opinion is an outstanding bill, and it deserves the support of every Member of this body. I would also like to say, Mr. Chairman, in addition to the words that I spoke concerning the gentlewoman from Nebraska [Mrs. SMITH], that I would like to extend my best wishes, and I am sure those of the committee, to our distinguished colleague the gentleman from Oklahoma [Mr. WATKINS], who will be leaving this body at the end of this term. We know after the November elections in Oklahoma we will be addressing the gentleman as Governor. So we extend to him our sincere and best wishes in the coming election and will miss him in the years to come.

Mr. Chairman, I commend this bill to all Members and urge its adoption.

Mr. Chairman, I rise in support of H.R. 5268, a bill making appropriations for rural development, agriculture, and related agencies programs, for fiscal 1991. It is a balanced bill which responds to the many diverse needs of both producers and consumers, while recognizing that rural America continues to need responsible Federal help in trying to improve the quality of life.

I want to offer my thanks and compliments to our distinguished chairman, the gentleman from Mississippi [Mr. WHITTEN]. Few have ever come close to his zeal for recognizing the benefits bestowed on all of us by rural America, and his personal knowledge of the situation continues to invaluably help us through difficult budgetary times.

I also want to pay particular compliment to the gentlelady from Nebraska [Mrs. SMITH], our ranking minority member of the subcommittee. She is here for the last time as one of the managers of this bill. She will be leaving Congress at the end of this term for new challenges. Mr. Speaker, I have learned a great deal about both Nebraska and about American agriculture from Mrs. SMITH. We were fortunate to have her here, and the people she represents in the third district of Nebraska are more fortunate to have had her assistance since she came to the House of Representatives.

Additionally, I want to pay tribute to another departing member of our subcommittee, the gentleman from Oklahoma [Mr. WATKINS]. He is leaving us to return to Oklahoma, and I am sure that after this November we will be addressing him as Governor Watkins. He is a

champion for American agriculture, and for the producers of Oklahoma in particular. We offer him our sincere best wishes for the future.

Mr. Chairman, we are at a very difficult time. We have a budget that is forcing us to make very difficult choices. Some have argued in recent days—and will continue to argue next week during debate on the 1990 farm bill—that the American farmer is getting too much from the Federal Government. Too few people are benefiting from farm programs.

But, Mr. Chairman, farm programs have been cut during the last several years. Their costs are today only one-fifth of what they were 5 years ago. The American farmer has said that he was willing to pay his share and he has. Some of our colleagues conveniently forget this fact, and want to demand—not ask—that farmers pay even more.

Yet, Mr. Chairman, when we as American consumers want our food supply, where do we get it? The American farmer. When we want a wholesome product, who provides it to us? The American farmer. Who helps us to have an unequaled diversity in food products? The American farmer.

This bill, as our distinguished chairman says each year, is for all Americans. It provides for research activities to ensure the continued availability of a wholesome and diverse food supply. It provides for conservation activities to preserve land and ground water resources, both for the productive and recreational use of future American generations. It provides for meaningful food assistance for those who are in need, both here through our domestic feeding programs, and overseas through Public Law 480. And most importantly, Mr. Chairman, this bill provides for some measure of assistance to the American farmer, because without him, we would all be in a less fortunate situation than we are today.

But while the funding levels in this bill are good, they should not be presumed to be immune from change. The current budget summit negotiations mean that we all should be prepared to see our favorite programs receive less than we would prefer. It is the price we have to pay for the excesses of the past 10 years in order to insure the stability of the years to come. Today is a high point in our budgetary development. It is a level that we should seek to maintain, not one that we should hope to exceed. I am sure that reductions will be made in the months ahead. I will do all that I can to see that they are fair.

As I do each year, I would like to describe to you some projects of particular importance to the Nation that will be operated in Michigan by virtue of this bill.

We provide $250,000 for work on food toxicology at the center for environmental toxicology at Michigan State University. This work will continue efforts on food safety begun some years ago, and will merge into a new food toxicology center for which we provide $5,190,000 in construction costs. No issue is more important to consumers than food safety. We need to make sure that consumers—and producers—are receiving accurate information. Our research efforts in this regard have been inadequate to date, and as our scientific knowledge increases, we need to have a better way of assuring consumers that they are receiving the best possible food product.

We also continue some important wheat research programs within the Agricultural Research Service, involving dwarf bunt research and wheat quality research. Again, these projects are designed to insure the producer's ability to have a product, while making sure for the consumer that the product is as good as possible.

We continue some important potato research programs with the Agricultural Research Service. Some of the funds will be used to complete work being done on potato scab research in Michigan. The project is intended to help eliminate a problem that causes a large part of the potato crop to be discarded because of a condition that makes the potato unacceptable to consumers. We increase funds for potato beetle research and potato variety research, the two chief priorities of the National Potato Council. It has been a pleasure to work with the members of this organization who have banded together to bring forward a responsible agenda for dealing with the needs of potato producers across this Nation. It is an example of cooperation that should be followed by other groups.

We also provide modest increases for food fermentation research so that more work can be done on an increasingly important food preservation technique that is more commonly known as pickling.

Within the Cooperative State Research Service, I am pleased that we have provided an increase of 4 percent for formula research funds. This money is the base of the cooperative research program we have with States, and deserves to be continued. Budget constraints have eroded the level of Federal participation, and I am hopeful that we will restore old levels of participation as we see our funding priorities shift in the years to come.

One of the biggest increases in this entire bill comes in the competitive grant program—an effort that has been known as the national research initiative since its inception at the National Academy of Sciences. The admirable goal of this program is to increase the pool of resources available to stimulate research activities so that we can have a resurgence in scientific development.

Our subcommittee, which has historically questioned not the research but the need for the competitive grant approach as opposed to contractual grants, provides $73 million for competitive grants in fiscal 1991. It is an amount that is very generous in our current budgetary atmosphere, and reflects the importance of research activities.

But I again want to convey an important message regarding our research agenda. Those involved in these activities need to make a comprehensive and detailed review of research activities. They need to recognize that we must make room for the small commodity as well as the large commodity. We must be able to conduct the mundane research that will keep a farmer in production as well as the exciting research on which breakthroughs are based. We need to be able to respond to the needs of the producer as well as the interests of the bench scientist. This philosophical approach to research is a vital one as we prepare for what could be much tougher budgetary days. If careful planning is done now, the anguish of cutting programs we would all like to support can be mitigated later.

We renew funding for the various special grants in Michigan. These ongoing projects are vital to many specific commodities, and each one of them is undergoing review to determine their levels of progress and need for continued funding. They were offered with the expectation of solving specific problems, and as those answers are developed, these projects will be discontinued.

There are certain special grants, however, which deserve special mention. First, we continue funding for the Bean and Beet Research Farm in Michigan. A primary component of this research is the continuation of narrow row planting work which helps us to reduce farm production expenses while in some instances even improving production quality. It is a technique that is now being required by some of our sugar beet processors, showing how quickly research activities can become standard production practice.

We provide a modest increase for the Michigan Biotechnology Institute. This effort involves assessing scale production techniques involving biotechnology. If our farmers are to remain productive, then we have to find new markets for their products. This research is designed to help move in that direction.

We provide a major increase in funding for subirrigation research. The funds of the Cooperative State Research Service combined with those of the Soil Conservation Service will double our efforts to find an irrigation practice that is environmentally sound based on the best management practices available to use a vital resource that is becoming increasingly scarce. We want to reduce our demand for ground water. We want to have less nonpoint source pollution from farm land runoff—either through the soil into ground water supplies, or into streams and other bodies of water into which those streams flow. Subirrigation can help us do that. The research this year will move us into assessing more fully the environmental effects of subirrigation, while monitoring practices in irrigation districts specifically designed to accommodate subirrigation practices.

We also fund one new special initiative this year; animal waste disposal research. I want to compliment my friend and colleague from Michigan [Mr. BONIOR], who brought this matter to the attention of our subcommittee. This $75,000 project is intended to develop new and innovative methods to modify, store, transport, and utilize the animal waste that comes from our animal agriculture facilities. Little work has been done in this area in 15 years, and with our increased concern for ground water quality, it is vital that we reassess how we are handling animal waste.

I regret that we were not able to provide any funding for new research consortiums or for trade centers. We received a significant number of requests for very worthwhile projects. However, our budgetary limitations are such that we could not start programs that our budgetary situation may not leave us in a position to support in future years. We need to find alternative ways to deal with these requests, and this goes back to the point of re-

viewing the philosophical approach to research that I mentioned earlier.

I am pleased, Mr. Chairman, that we have provided some modest increases for the Extension Service. This is a vital agency for the transfer of information to farmers. We can do all the research that anyone wants, but society does not benefit from it until the technology is transferred from the laboratory to the farm. Extension does this important work.

We provide a small increase for the Expanded Food and Nutrition Education Program. Funding for this program has been level for a number of years, and its ability to perform its task has been eroded by its declining real dollar purchasing power. This modest increase is a step toward restoring the program's vitality.

We provide $7.5 million for the new youth at risk initiative. This program is intended to provide major help to young people who need an extra helping hand to improve their situation. It is modeled after a number of successful State extension programs, including the spaces program operated in Michigan.

For the Animal and Plant Health Inspection Service, we provide certain increases for important animal health programs like brucellosis and pseudorabies. We approved the administration's request for $64.5 million for brucellosis, an increase of more than $2.5 million over the current fiscal year, while providing an increase of $2.4 million over the budget request for pseudorabies.

I want to call attention to a report directive from the committee. We have been concerned by reports that APHIS may be trying to reallocate brucellosis resources from one location to another without adequate consultation with State authorities. While this reallocation could help some areas of the country, it risks a decline in monitoring activities in areas where we have had success. If adequate care is not taken in this situation, we could see a reoccurrence of brucellosis because monitoring activities were not sufficient to catch it before it became a problem. For this reason, our report directs APHIS to maintain levels of support at each location to avoid any regression in the program.

For the Federal Crop Insurance Corporation, we have accepted the administration's request to fund only the phaseout of this program. Crop insurance has been more costly and more complicated than anyone had ever expected. While some farmers are happy with the program, others—primarily specialty crop producers—find that the insurance is not necessarily a worthwhile purchase because coverage is so low. I know that the House Agriculture Committee has a number of reform proposals under consideration. I have discussed some of these reforms with members of the Crop Insurance Commission, including Mr. Jack Laurie, the president of Michigan Farm Bureau and a constituent. In the absence of these reforms, I am convinced that crop insurance will not become a viable alternative to disaster programs. I am hopeful that reform legislatioin will be forthcoming, and we can revisit the funding issue at that time. Recommendations for reform were made many months ago, and there is no good reason to delay them any longer.

We restored Rural Electrification Administration and rural telephone bank funding generally to fiscal 1990 levels, notwithstanding the administration's proposal that we drastically alter these programs. The administration's recommendations continue to be unrealistic for many rural areas, and are not likely to be adopted until those difficulties are satisfactorily resolved. The situation is too important for us to accept budget recommendations with a justification of trust us.

The budget for the Soil Conservation Service in this bill is the best it has been in a number of years. This reflects the importance that we associate with the activities of this agency. The conservation operations account receives an increase of $32 million over fiscal 1990, demonstrating that there is major work that this agency needs to undertake to monitor the conservation provisions of the 1985 farm bill.

The Food and Nutrition Service receives more than half of the funding provided by this bill; $19 billion alone is provided for the Food Stamp Program, with $2.1 billion held in reserve subject to an official request from the administration for its use. The Department has advised us of its projected need for food stamp dollars, but has yet to officially request the money. We are taking this action so that those in need will not fall victim to the whims of budget developers who refuse to ask for the necessary amounts of funds until the situation is critical.

We had two experiences like this during the current fiscal year, involving the Women, Infants, and Children Program, and the Commodity Supplemental Food Program. Both programs had situations in which funds were inadequate to maintain actual participation. Had it not been for action by this Congress, needy people would have gone without. Pregnant women, infants, and elderly who need help would not have received it because the people running the program said "if we reprioritize who we serve, we can do it within available funds." That is the wrong answer. What happens to those removed from the rolls? Do they have to beg for help in a nation which they have supported with their tax dollars during their lifetime?

We face critical funding decisions in the years ahead with WIC. The infant formula rebate program has been successful in adding people to the rolls. But as the manufacturers now want to cut back on the amount of rebates, we are left with the difficult choice of either coming up with additional hundreds of millions of dollars to simply maintain caseloads, or saying that we will let the program reduce the scope of operations because of budgetary considerations. I hope that our budget situation is not that callous, and I call upon all concerned individuals to make sure that they keep their voices heard in this matter.

We provide $81.9 million for the Commodity Supplemental Food Program, a significant increase over both the fiscal 1990 appropriation and the administration's request. Revised figures which reflect a higher caseload stemming from our supplemental appropriation, and from an expectation that the projected CCC donated nonfat dry milk will have to be purchased because the donation is not likely to occur means that we have to provide this increase. Our ability to expand the program is subject to the variations in food costs. And we yet have to prepare for the increase in administrative funding that is likely to be mandated by the 1990 farm bill. All of these factors combined make me believe that we will have to deal with a supplemental for this program in fiscal 1991, and I sincerely hope that the Department is more forthcoming with accurate budget projections and supplemental requests once the farm bill is signed into law.

Our report also calls attention to a very specific problem in which new program operators in existing CFSP States do not have their caseloads protected for an additional cycle in the same fashion as do new program States. While the Department says that caseload allocation within a State is a decision for State authorities, this answer begs the question. If a State has its caseload reduced because it has not met projections, then the State authority cannot realistically maintain caseloads at a new program site without taking caseload away from another program that may be serving its entire caseload. There needs to be a way to protect a portion of a State's caseload for new program operators for an extra fiscal period, while leaving at risk only the caseload of those program operators who have been in operation for over a full year. We expect FNS to review this matter and to be realistic in its caseload allocation procedures.

We also call upon FNS to allow expansion of the elderly program when caseload is available within an area. We know that there have been significant requests from program operators for additional caseload for both the elderly and mother, infant and children components of the program. I am hopeful that future budgets will leave us in a situation to more adequately deal with this situation.

Mr. Chairman, this is a good bill. It provides something for all Americans. It is one that our colleagues can and should support. I urge its adoption.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 3 minutes to my good friend, the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Chairman, I support the bill. I do have a statement to include in the RECORD. I would like to commend the chairman and staff for the usual good work they have done, and I urge the body's support for the bill.

Mr. Chairman, I am not going to talk much about the bill. I am not going to talk much at all. All I wish to say is to add my voice to those that have come to this floor today to pay well-due tribute to our leader on the Republican side, the gentlewoman from Nebraska [Mrs. SMITH].

I came to Washington as a staffer in 1975 for our former colleague Tom Hagedorn, and that was the first year the gentlewoman from Nebraska [Mrs. SMITH] was elected. It was a very small crop of Republicans that were elected in that Watergate election of 1974. It was a great credit to her to have been

elected in that very difficult year for our party.

It was also a time when there were very few women that were elected to the Congress. There are still relatively few, but there are a lot more than there were back in the mid-1970's. If my recollection serves me, there were two women at least that came in in that Republican class of 1974, the other one being Millicent Fenwick from New Jersey. The press gave her a little more attention because she smoked a pipe, and our colleague from Nebraska has never been known to smoke a pipe, so she has not made the national news media quite as often.

But in terms of a contribution to this body and a contribution to agriculture generally, the gentlewoman really has been unexcelled by any Member of this body.

I have said for a long time, as many Members who have served with Mrs. SMITH have said, Nebraska cannot possibly know how well served they are by VIRGINIA SMITH. Any number of occasions I have come to the floor knowing very little about any particular bill that is on the floor, and VIRGINIA SMITH in discussing with me has pointed out the impact that it would have on a particular township in some county in western Nebraska. I feel like aside from my own district, I probably know more about western Nebraska than any congressional district in the country, and I think there are any number of Members on both sides of the aisle that feel that way.

As I mentioned, many Members have said for years, I know I have said this with our colleague the gentleman from Kansas [Mr. ROBERTS] and the gentleman from New Mexico [Mr. SKEEN], people of Nebraska cannot possibly know how well served they have been.

Mr. Chairman, I take that all back. It is my understanding that a poll was recently conducted of all the political leaders in the State of Nebraska, and without quoting all the specifics, the most popular political leader in the State of Nebraska in either party by a huge and overwhelming margin is our colleague the gentlewoman from Nebraska [Mrs. SMITH].

I would just conclude by saying in this particular Congress in which both parties have been sort of pilloried by ethics problems or at least doubts about the institution and in which the polls show that respect for the institution has hit an all-time low level, to end 16 years of service in the Congress of the United States with over 90 percent of your constituents saying they approve of the job that you do, is about as high a tribute as anyone can pay.

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It is a great tribute to an illustrious career to a person I know as the first lady of American agriculture, VIRGINIA SMITH, and we are going to miss her badly.

Mr. Chairman, I rise in strong support of H.R. 5268, the rural development, agriculture and related agencies appropriations bill of 1991. I would also like to take this opportunity, Mr. Chairman to commend the chairman of our committee, JAMIE WHITTEN, for his work on this bill. Due to his efforts, this is the best bill that we have reported out since I have had the privilege of serving on this committee.

I also want to commend the honorable Congresswoman from Nebraska, VIRGINIA SMITH, for her work and assistance. As the ranking minority member, she did an excellent job of representing the concerns of rural Nebraska. I want to thank her for her help and advice to me since joining this committee. I deeply appreciate her assistance and I can assure you, Mr. Chairman, that her presence on this committee will be sorely missed.

As I stated, Mr. Chairman, I believe that this is the most important bill that our committee has reported out in recent years. As the chairman correctly pointed out in the opening provisions of the report, the valuable and essential programs funded in this bill are of benefit to all segments of the American economy, both rural and urban, since agriculture is the backbone of our economy.

In the Second Congressional District of Minnesota, agriculture is the backbone of our economy. This was dramatically pointed out in the mid-1980's when agriculture went through one of the worst depressions since the thirties. While the rest of the country was enjoying stable economic growth, land valuations in my district were dropping up to 50 percent in 1 year. Hundreds of small business's were forced to close their doors.

Almost 12 percent of the Nation's farmers, over 300,000, went broke and left the farm. In addition, many communities which heavily rely on agricuture are still trying to recover.

As a result of that depression, Mr. Chairman, we in rural America did learn some lessons. Farmers have now become more aware of the need to farm efficiently. To expand markets agriculture research has started to concentrate more time and money on developing new uses from traditional crops. And, rural communities have begun working to diversify their local economies. In an effort to assist a changing rural America, I think the committee has done an outstanding job of providing adequate resources in spite of tight budgetary constraints.

Various members of the committee have pointed out the need for programs funded in this bill. I also want to take this opportunity to highlight a few programs that show the dedication of the committee in assisting a changing rural America.

Mr. Chairman, the committee has provided over $337 million for the Cooperative State Research Service. This is an increase of over $35 million from 1990. CSRS is required to administer acts of Congress that authorize Federal appropriations for agricultural research carried on by the State agricultural experiment stations. The research conducted by the experiment stations is of vital importance to the future of agriculture. In my district alone, the bill provides for $700,000 to be used in low-input research and the development of new commercial uses from crops. Research that will ensure that agriculture will remain as one of this Nation's greatest assets.

The committee has also recognized the need to assist communities in retaining and attracting industry and jobs. I was glad to see that we were able to provide $100 million for the Business and Industry Loan Guarantee Program. The administration had recommended the elimination of this program which would have been a mistake. Over 500 new jobs have been created in my district through the use of this economic development tool. The program has leveraged private dollars into rural areas and has enabled local banks to provide financing and create more jobs. This type of success has taken place with relatively little cost to the taxpayer.

Finally, Mr. Chairman, this bill attacks drug abuse which is one of the most pressing issues facing rural and urban America. The committee provided over $7 million for Extension's Youth at Risk Program. This is a substance abuse prevention program which features teen teams. Groups of teenagers are trained to conduct their own alcohol and drug abuse prevention programs in fifth- and sixth-grade classrooms. This is a good program, Mr. Chairman, and I am proud that our committee made this type of commitment to the youth of our Nation.

This is a good bill for rural America, which means that it is a good bill for our Nation. I would encourage my colleagues in the House to vote for ths bill.

Mr. WHITTEN. Mr. Chairman, I yield such time as he might require to the gentleman from Kentucky [Mr. NATCHER], the ranking member of the Committee on Appropriations, and also the chairman of the HHS subcommittee, where he does a marvelous job. He never has forgotten agriculture, and he is quite active in everything we do.

Mr. NATCHER. Mr. Chairman, for a period of 35 years I have served as a member of this subcommittee. I want the chairman and all the members of the committee to know that it has been a distinct honor and a privilege for me to serve with my friend, JAMIE WHITTEN, of Mississippi, the chairman of the full Committee on Appropriations and also chairman of this subcommittee.

I have served with about 2,000 members, Mr. Chairman, since I have been a Member of Congress. I have never served with a Member more dedicated, more able or a Member who knows more about agriculture than my friend, JAMIE WHITTEN.

We will miss the gentlewoman from Nebraska [Mrs. SMITH], and our friend, the gentleman from Oklahoma, [Mr. WATKINS], two of the able members of our subcommittee and two of the able members of the Committee on Appropriations; and also, as Members know, Mr. Chairman, two of the able Members of the House. I want to

wish both of them the best of everything in the future.

Mr. Chairman, the Subcommittee on Agriculture, Rural Development and Related Agencies Appropriations brings to the floor for your approval the annual appropriations bill for fiscal year 1991.

In the bill that we present today, we make recommendations for funds for all activities of the Department of Agriculture except the forest service which is funded in another bill. In this bill we also provide funds for various related agencies such as the Food and Drug Administration, the Commodity Futures Trading Commission, together with recommendations of funds for the Farm Credit Administration and the Farm Credit System Assistance Board. This bill provides funding for the Agriculture Production Processing and Marketing Activities of the Department of Agriculture including research, extension, animal and plant health, food safety, and marketing services. In addition, Mr. Chairman, it provides funds for farm income stabilization and farm export programs.

Approximately one-half of the total funds included in the bill are for nonfarm programs which include food stamps, school lunches, the WIC Program and others which are of considerable importance to our cities rather than our rural consumers.

This bill provides funding for Federal assistance to rural areas which covers 84 percent of the entire land areas of our country. This assistance incudes electric and telephone systems, housing water and sewer systems, fire protection financial assistance, soil and water conservation and food protection. The bill also includes funds for the food programs of the Department of Agriculture.

This bill is under our 302(b) funding level and is structured in such a manner that it should receive full support in the House of Representatives, the U.S. Senate and be signed into law by our President.

One way to help the American farmer is to help him sell his commodities. We all know that the cost of production is increasing each year and it is imperative that we have a price support level that more accurately reflects the cost of production plus a reasonable profit. Today, agriculture is the only industry I know of where a seller must accept the price offered or else return home with his commodity.

In our country the farmer knows how to produce and today our country is still the largest exporter of food to the other nations of the world. Assets invested in agriculture exceed any of those of the next 10 largest industries and this certainly means that the American farmer is entitled to a fair share of our Nation's income.

For our Extension Service, we recommend the sum of $393,877,000. This is $24,697,000 more than the 1990 appropriation and $48,201,000 more than the amount requested by this administration. For payments under the Smith-Lever Act the committee provides $253,858,000 which is an increase of $11,586,000 over the amount available for fiscal year 1990.

As you have heard many say before, Mr. Chairman, REA is one of our great achievements and certainly we should not accept the proposal contained in the budget estimate for this program. For our loan authorizations for the rural electrification and telephone revolving fund, we recommend $1,794,375,000. For reimbursement for losses, we recommend $266,603,000. For the rural telephone bank we recommend $28,710,000. For direct loans we recommend $177,045,000. For reimbursement for losses we recommend $1,264,000. As of September 30, 1989, REA borrowers had received more than $60.8 billion from REA loans, guaranteed commitments and RTB loans. Loan guarantee commitments account for most of this financing. REA's record of principal and interest collections has been excellent. As of September 30, 1989, REA had collected more than $17 billion in principal and interest payments from the rural electric and telephone revolving fund borrowers. Total losses to date have amounted to only $44,478.

For Agricultural Research Service we recommend $633,708,000.

For ethanol research we provide $200,000 for research on ethanol.

For brucellosis we provide in this bill $64,553,000.

For the Commodity Credit Corporation we provide in this bill $5 billion.

Soil and water conservation is of great importance to our country and to every farmer in this country. For conservation operations we recommend $509,056,000. This is $2,058,000 over the 1991 budget estimate. For river basin surveys and investigations we recommend $12,783,000. For watershed planning we recommend $9,176,000. For watershed and flood prevention operations we recommend $191,544,000. For resource conservation and development we recommend $29,900,000. For the Great Plains Conservation Program we recommend $24,637,000.

For the Food and Drug Administration we recommend $654,808,000 which is an increase of $87,729,000 above the amount available for fiscal year 1990 and $157,175,000 above the budget request.

For the Food Stamp Program we recommend $19,038,806,000. As you know, Mr. Chairman, the Food Stamp Program was authorized by the Food Stamp Act of 1964.

Mr. Chairman, these are only a few of the programs for which we recommend funding in this bill for fiscal year 1991. This is a good bill and we recommend the bill to the Committee.

Mrs. SMITH of Nebraska. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN], a member of the subcommittee.

Mr. DURBIN. Mr. Chairman, I thank the gentleman for yielding the 2 minutes, and I want to join in stating my admiration and appreciation to the gentlewoman from Nebraska [Mrs. SMITH] for the years that we have served together on the subcommittee. She will be missed. She has been an excellent Member of Congress and a great contributor to the work product of this committee.

Also, of course, we are losing the gentleman from Oklahoma [Mr. WATKINS] and we hope that he is on to bigger and better things in Oklahoma.

Our committee was decimated further by the loss of the gentleman from Hawaii [Mr. AKAKA], who went over to the other Chamber as an appointee to the U.S. Senate, but the committee carried on with our new member, the gentlewoman from Ohio [Ms. KAPTUR] and I believe this work product is a great credit to the chairman, the gentleman from Mississippi [Mr. WHITTEN], as well as to the entire subcommittee.

Let me say I believe this is an excellent bill. There are many fine things to commend it. I have a very short period of time and I will just say one or two things about it.

Mr. Chairman, the one aspect of this bill that I take particular pride in is the work that Chairman WHITTEN and the members of the subcommittee have done for the Women, Infants and Children's Supplemental Food Assistance Program. We have added over $1 billion to this program over the President's request in the last 9 years, and this year we are adding $140 million. I can say to the taxpayers of America and to those who are listening, this is money well spent. This is money spent to help children, pregnant women and those who are most vulnerable in our society to survive.

Unfortunately, at this moment only 60 percent of the eligible people are presently being served under the WIC Program, but through the fine work of Chairman WHITTEN and this subcommittee that number is growing in each appropriation cycle. We have had a tough year with WIC, with the increase in costs for dairy products as well as orange juice, and we have had to come up with some supplemental help for the program. But again, let me say it is money well spent.

If this House of Representatives as well as the other body should stand behind this appropriation, we will be

making an additional investment in the future of America by making certain that some of the most disadvantaged kids in America and pregnant women facing the prospect of low-birth-weight children will instead receive the benefits of this program and have a happy, healthy, and productive life.

I commend my chairman for his fine work on this bill. I am happy to have added some part to it, and I hope that my colleagues in the House will vote overwhelmingly in favor of its passage.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. SMITH], the ranking member of the committee.

Mr. SMITH of Iowa. Mr. Chairman, I thank the gentleman for yielding time to me and want to add my comments to those concerning the gentlewoman from Nebraska [Mrs. SMITH], who not only carries my own surname, but her husband has my wife's maiden name. No one else can claim that in the House I am sure. She has served as a very good member of this subcommittee in all of the years that she has been on it. I say the same about the gentleman from Oklahoma, Mr. WATKINS who has been so dedicated to his State and the Nation.

I do point out something that I do not believe has been fully explained yet. That is that $27 billion of the $50 billion in this bill is for food programs. That includes food stamps, the WIC program, other programs like that. Less than $10 billion, only about a third of that amount is for the stabilization and support programs under the CCC. It is those programs that give us a stable supply of food at a very reasonable price. If we did not have those stabilization programs, the increase in the cost in the food programs we have in this country would be that much in some years. Prices of government supported food programs would fluctuate wildly. In the last year we had a considerable increase in the WIC Program due to the freeze and the orange juice prices.

But these basic commodities provide the stabilization that we need to have plentiful supplies, not only for domestic purposes in this country, but also for those who are not on a government-sponsored program. So the stabilization on reserve programs are not just for the benefit of those who produce the food in this country. They are a benefit, for all of the people of the country because all of us are interested in one way or another in having stable supplies at a very reasonable price.

Again I thank the gentleman for yielding time to me.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 3 minutes to my distinguished friend, the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 5268, the rural development, agriculture, and related agencies appropriations bill for fiscal year 1991. I would also like to thank the chairman of the subcommittee, Mr. WHITTEN, and the ranking member, Mrs. SMITH for their hard work and diligence in preparing such a balanced package within a highly constrained budget.

This measure represents what has been a long and deliberative process. It is fair to say that those of us who have been involved in shaping this legislation have worked to send an appropriations bill to the floor that meets many of today's agricultural needs, but yet reflects much needed fiscal responsibility. This legislation represents many difficult budget decisions that continue to prove agriculture is willing to pull its fair share of the budget reduction load.

Additionally, I am also pleased to note a particular item within this appropriations measure that continues to benefit agricultural producers across the Nation. For several years now, research on the soybean cyst nematode problem has been conducted in my district at the Delta Area Agricultural Research Center in Portageville, MO. This facility is ideally suited to conducting this research, given its extensive past work on the problem and the fact that many farmers in the country continue to face a serious cyst nematode problem.

It is my hope that this body will approve this research as part of the appropriations package. By doing so, I believe we will be saving a number of farmers from financial ruin in the long run, thus saving the Federal Government many times the $385,000 we will spend on soybean cyst nematode research this year.

Likewise, there are many other fine projects and research efforts contained in this bill and I urge my colleagues to show their support for these endeavors by giving favorable approval to this appropriations measure.

Once again, I thank the gentlewoman from Nebraska [Mrs. SMITH] for her graciousness in extending me this time.

Mr. WHITTEN. Mr. Chairman, I yield our remaining time to the gentleman from Oklahoma [Mr. WATKINS], a valuable member of the subcommittee.

The CHAIRMAN. The gentleman from Oklahoma [Mr. WATKINS] is recognized for 2 minutes.

□ 1110

Mr. WATKINS. Mr. Chairman, I thank the chairman for the couple of minutes that I asked for.

I also want to state to the minority leader on the committee and all my colleagues on this committee how I have enjoyed these some 10 years on the subcommittee. It has been one of the more heartwarming endeavors I have had with my background in agriculture and the rural areas of Oklahoma, and being able to do some things that would help build better opportunities for people in those areas. That has been my goal. You have allowed me to achieve some of those successes.

We were not able to accomplish everything in this bill that I would like to have seen, or even with the past bills. We have had a most trying time during the last decade, I think, with the budgets that we have ever had in trying to deal with the needs of people across this great country of ours. As a result there are a lot of things that we were not able to do.

Mr. Chairman, let me say I think over the years we have seen changes in the production of agriculture where during the Depression days we had 75 percent to 80 percent or more of the people in the production of agriculture. Back about 30 years ago I had the great opportunity to serve as the State president of the Oklahoma Future Farmers of America, FFA. I used to make speeches saying that 16 percent were in the production of agriculture. As you know, today we have less than 2 percent of our people in the production of agriculture.

As a result, we have had to take some other directions in trying to build some rural development activities, and building off-farm jobs out in the rural areas of this country.

I want to thank you for trying to meet some of those needs in those rural areas, such as water, sewers, industrial parks, housing in those areas across the country where we feel like there is a tremendous amount of opportunity for this country.

We have a good work ethic out there. People are willing to work and live on acreage, on farms. Let me say this particular bill is drafted in a way that will assist as much as possible in those particular areas.

Mr. Chairman, I want to thank you and the other Members and especially the staff for all the work that they have done in crafting this bill and other bills which have passed.

So thank you very much.

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 5268, the bill providing appropriations in fiscal year 1991 for the Department of Agriculture and related agencies. This is a good and fair bill, and I urge my colleagues to support it.

Mr. Chairman, I would like to thank the chairman of the subcommittee, Mr. WHITTEN, and the ranking minority member, Mrs. SMITH, as well as their able and very fine staffs, for putting together such a balanced package. In particular, I would like to thank them for their

continuing sensitivity to the somewhat unique problems of agriculture in California.

Specifically, the bill includes $1.2 million to initiate construction on the National Grape Importation Facility to be located in Davis, CA. This project is being hailed as vital to the wine grape growing industry's ability to compete in the international market.

The facility will be a joint Government-industry project that will help the U.S. wine grape growing industry to experiment with and introduce new varieties of wine grapes. It will also help the U.S. wine industry to become more diverse and internationally competitive with France and other major wine producing countries in Europe.

Specifically, the facility will serve the national grape industry by providing accessible grape importation services, protecting the industry from dangerous foreign pathogens, and improving quarantine procedures.

And, the University of California at Davis, where the facility will be located, is particularly well suited to manage this effort, given that it is an internationally acclaimed leader in viticulture research.

I would also like to point out that the bill continues to provide essential support for the Targeted Export Assistance Program which helps develop overseas markets for U.S. commodities, including many of our California-based specialty crops.

Many of our State's nut and tree fruit growers—including almonds, walnut, raisin, and citrus growers—have had tremendous success in developing markets for their products abroad using TEA funding, and I expect this program will continue to make a valuable contribution to this important sector of our agriculture economy.

In addition, Mr. Chairman, the bill before the House provides $87,500 for a special study of ways to combat the Russian wheat aphid in California.

California cereal grain growers are, for the first time, faced with the economic hardship of fighting the Russian wheat aphid while losses nationwide are approaching $100 million per year.

California wheat and barley producers have a combination of irrigation practices, crop rotations, local cultural methods, and overwintering problems which must be fully analyzed if the destructive Russian wheat aphid is to be brought under control.

This Federal funding will help ensure that these studies are completed on an expedited basis.

The bill also provides $40,000 for the Department of Agriculture to do a study of the need for an alternative pest management research facility. Increasingly, California and American growers are being called upon to reduce their use of chemicals in agricultural production. But the loss of major pesticides in the absence of alternative pest control technologies and management systems could have severe economic impacts on U.S. agricultural and result in higher food prices, increased imports, and reduced exports of our agricultural products. Thus, it is imperative that we expand and accelerate research to control exotic pests, like the medfly, and develop viable alternative pest control technologies and management systems.

I would also like to commend the committee for its continued support of the Special Supplemental Food Program for Women, Infants and Children [WIC]. Over the last 9 years alone, the committee has added over $1 billion above the administration's budget requests for WIC.

WIC is our first line of defense against infant mortality, low-birth weight, malnutrition and other health problems associated with inadequate nutrition among American children. Studies have shown that for every dollar spent on WIC, $3 are saved in future health care costs.

In providing a funding increase, the committee has demonstrated its commitment to adequately funding WIC so that the largest number of nutritionally at-risk women, infants, and children may continue to participate in this cost-effective and important program. I would also like to commend the committee for including a funding reserve in case of any unanticipated emergency. I would hope that these funds would be quickly released for any unanticipated need.

Mr. Chairman, again, this is a good and balanced bill, and I urge my colleagues to vote for the measure.

Mr. JONES of North Carolina. Mr. Chairman, I wish to take just a few moments to express my avid and continuing support for the Federal Crop Insurance Program, a program that has been instrumental throughout the years in protecting farmers from unpredictable and natural disasters.

As you know, the House Appropriations Committee just recently approved an agriculture spending bill (H.R. 5268) on July 13 of this year which would only provide funds to cover crop insurance policies sold before September of this year. No money was allocated for new policies after the September cutoff date. While I commend the fine work done by my colleagues on the House Appropriations Committee throughout the years, I fail to understand why the Federal Crop Insurance Program was not included in the appropriations legislation as has been the normal course of action over the years. The reasons for this mandate to end the Federal Crop Insurance Corporation Program are given to be a lack of participation on the part of farmers and the high costs associated with the program.

Evidently, many of my colleagues who accept these arguments have never traveled through eastern North Carolina which is a rural area full of small family farms that are dependent upon the Federal Crop Insurance Program. The argument of low participation cannot be used in eastern North Carolina where numerous farmers continue to rely upon the program heavily. As far as costs are concerned, many opponents of the program feel that a system of direct disaster payments to farmers would be cheaper and more beneficial. Again I fail to see the reasoning behind this argument. The Federal Crop Insurance Program guarantees farmers protection in the case of disaster. If disaster strikes, then the farmer is compensated for his losses. However, if no disaster occurs, then no compensation is awarded.

It is important to note that participating farmers in the Federal Crop Insurance Program contribute to the program through insurance premiums and thus help alleviate the costs of the program. The same cannot be said for direct disaster assistance loans. I fail to see how this can be considered so much more costly than direct disaster payments. As we all know, direct disaster payments have proven very expensive over the past few years in light of the natural disasters occurring throughout the country. I believe we need a stable, dependable, and reliable system of protection for our Nation's farmers. Quite simply, I feel the best way to provide this protection for our farmers is through the Federal Crop Insurance Program.

I think one argument is not being considered by many opponents of the Federal Crop Insurance Program. Many farmers in my State must appeal to banks every year for needed operating loans. Oftentimes, unless a farmer has Federal Crop Insurance Program coverage, the banks will not approve of needed loans and thus the farmer finds himself in dire financial need months later. Lending institutions see the Federal Crop Insurance Program as a guarantee that the farmer will not reap losses and will be compensated if losses do occur. However, I do not feel that direct disaster assistance payments will be seen by lending institutions as reliable as the Federal Crop Insurance Program. Direct disaster payments are only as reliable and predictable as the disasters that make them necessary. Quite simply, without the Federal Crop Insurance Program, many farmers will find themselves unable to get loans from lending institutions and I think we will see many small farmers throughout the Nation go into even further financial debt or foreclosure. Therefore, I urge my colleagues to continue to keep the Federal Crop Insurance Program alive to ensure that the American farmer is able to continue to produce the world's safest and most plentiful food supply. I thank you for the time, Mr. Chairman, and the chance to express my further support for the Federal Crop Insurance Program.

Mr. PRICE. Mr. Chairman, I rise today to express my support for the work of the Rural Development and Agriculture Appropriations Subcommittee and specifically to thank Chairman WHITTEN for providing $750,000 for construction of a State biotechnology center building in North Carolina.

North Carolina's center is the Nation's oldest statewide biotechnology initiative and its efforts have demonstrated the tremendous potential of biotechnology in promoting economic growth and improving our Nation's research capabilities. In its role as a partner in assisting biotechnology business development, the center has provided loans and grants in the amount of $2.3 million to 24 companies. These funds have leveraged another $23.5 million from outside sources.

Mr. Chairman, the committee has allocated $750,000 to help build a permanent facility for the biotechnology center in North Carolina's Research Triangle Park. The State of North Carolina and private sector businesses will join the Federal Government in partnership in this important effort. The State has already appropriated $2.2 million and efforts to raise private sector funds are well underway. This commitment of Federal funds represents a

major step in getting construction underway this year.

A recent USDA visitor to the center termed North Carolina's biotechnology initiative as a "unique national model for biotechnology development, smart in its premise that sustained biotechnology development requires a comprehensive approach, and impressive for its educational activities."

I commend the chairman and members of the subcommittee for recognizing the accomplishments and promise of North Carolina's biotechnology initiative in such a tangible way. I assure you that this investment in our State's economic future will pay rich rewards for our State and for the Nation's biotechnology industry.

Mr. BROWN of California. Mr. Chairman, the bill before us today, H.R. 5268, the fiscal year 1991 rural development, agriculture, and related agencies appropriations bill, is the product of a difficult process. In each of the last few years, I have commented upon this appropriations bill and empathized with my colleagues on the Appropriations Committee who must bear the greatest responsibility to deal with our fiscal woes while continuing essential Federal programs. I feel that the bill before us makes the best of a difficult situation.

As in years past, I must express my admiration of Mr. WHITTEN, Mrs. SMITH, and the rest of the members of the House Appropriations Subcommittee on Rural Development, Agriculture, and Related Agencies, for the work they have done. I have appeared before the subcommittee and pressed my causes, as have many of colleagues, and have always been treated fairly on these matters.

The areas of special interest to me have always been the agriculture research, extension, and teaching programs. This year, these programs have fared well and I think that the members of the committee have made a wise choice in this investment in the future of agriculture. The problems facing agricultural production today are great, but they are also problems which have solutions if we make a sufficient investment in research and extension programs. And, we must not neglect the teaching and education programs which will provide the problem-solvers of tomorrow. Despite tough funding restraints, the committee continues to show its farsightedness by continuing support for these programs.

I specifically want to thank the committee members for their wisdom in increasing the funding for the competitive research grants program at the Department of Agriculture. This program, is an essential component of our research, extension, and teaching system and holds great promise for the future of American agriculture. The National Academy of Sciences has focused on this program and recommended a major increase in order to keep our agriculture sector competitive. I recognize the budgetary constraints facing the subcommittee and commend them for the modest funding increase they were able to provide.

I must also thank the committee for providing funding for the U.S. Salinity Laboratory in Riverside, CA. This aging facility is the only Federal laboratory which conducts research on soil and water salinity, a process which is costing agriculture producers nearly $1 billion a year nationwide. It also costs urban residents in higher water bills which result from having to remove salinity from drinking water. The lab also conducts research on the fate and transport of various salts and other compounds, including toxic compounds, thus laying the groundwork for dealing with water quality problems generally.

Yet this facility is in outdated facilities which threaten its work. We have made arrangements with the University of California for the provision of land for a new facility which will reduce the construction and operating costs. We have held hearings and passed specific authorization for the facility, as required by Federal facility construction reforms enacted in the 1985 farm bill, and have worked on this project for most of the last 10 years. I am appreciative for the committee's continuing interest in this facility.

I must sound one sour note before I close, however. This bill would end the crop insurance program which is so essential to agriculture in California. Many of our so-called minor crops depend upon crop insurance as the only means of protecting minor crop production. I recognize the shortcomings in the current crop insurance program and sympathize with the members of the committee. I must also urge the committee members to work with the House Committee on Agriculture in working to solve this problem. Please, do not leave our minor crop producers without this safety net.

I must also note, with regret, that this is the last appropriations bill on which I will be able to work with Congresswoman VIRGINIA SMITH, who has been a good friend and colleague over the years. I will miss her, as will all of us here.

Again, thank you Chairman WHITTEN, Mrs. SMITH, and the rest of the members of the Appropriations Committee for your fine work in difficult times.

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 5268, rural development, agriculture, and related agencies appropriations bill for fiscal year 1991, and request permission to revise and extend my remarks. This is the eighth reported of the 13 annual appropriations bills.

The bill provides $9.938 billion in discretionary budget authority and $9.558 billion in discretionary outlays. I am pleased to note that the bill is $229 million below the level of discretionary budget authority and $1 million below the outlays as set by the subdivision for this subcommittee.

As chairman of the Budget Committee, I plan to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each bill compares to the budget resolution.

I look forward to working with the Appropriations Committee on its other bills.

[Factsheet]

H.R. 5268, RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1991 (H. REPT. 101-598)

The House Appropriations Committee reported the Rural Development, Agriculture, and Related Agencies Appropriations bill for Fiscal Year 1991 on Friday, July 13, 1990. This bill is scheduled for floor action on Wednesday, July 18, 1990.

COMPARISON TO THE 302(b) SUBDIVISION

The bill, as reported, provides $9,938 million of discretionary budget authority, which is $229 million below the appropriations subdivision for discretionary budget authority for this subcommittee. The bill provides $9,558 million of discretionary outlays, which is $1 million under the discretionary outlay subdivision for this subcommittee. The Budget Act provides a point of order if the target for discretionary budget authority is breached. Since it is not, there is no such point of order against this bill. A detailed comparison of the bill to the spending and credit allocations for this subcommittee follows:

COMPARISON TO SPENDING ALLOCATION

[In millions of dollars]

	Rural development, agriculture appropriations bill		Appropriations Committee 302(b) subdivision		Bill over (+)/ under(−) 302(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	9,938	9,558	10,167	9,559	−229	−1
Mandatory [1]	41,002	25,382	41,002	25,382		
Total	50,940	34,940	51,169	34,941	−229	−1

[1] Conforms to budget resolution estimates of existing law.

Note.—BA—New budget authority; O—Estimated outlays.

The bill, as reported, is equal to the discretionary credit subdivision for new direct loan obligations and for new loan guarantee commitments. A detailed comparison follows:

COMPARISON TO CREDIT ALLOCATION

	Rural development, agriculture appropriations bill		Appropriations Committee 302(b) subdivision		Bill over (+)/ under(−) 302(b) subdivision	
	DL	LG	DL	LG	DL	LG
Discretionary	6,281	1,508	6,281	1,508		
Mandatory						
Total	6,281	1,508	6,281	1,508		

Note.—DL—New direct loan obligations; LG—New loan guarantee commitments.

The House Appropriations Committee reported the Committee's subdivisions of budget authority, outlays, and credit authority in House Report 101-545. Those subdivisions are consistent with the total "allocation of spending and credit responsibilities to Committees" as contained in House Report 101-455 to accompany H. Con. Res. 310, Concurrent Resolution on the Budget for Fiscal Year 1991, which was adopted by the House on May 1, 1990.

The following are the major program highlights for the Rural Development, Agriculture, and Related Agencies Appropriations Bill for Fiscal Year 1991, as reported by the committee:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Agriculture programs:		
Commodity Credit Corporation	5,080	80
Agricultural Research Service (including buildings)	660	499
Extension Service	394	335
Animal and Plant Health Inspection Service	402	331
Cooperative State Research Service	418	195
Federal Crop Insurance Corporation	185	61
Payment to Farm Credit System	90	90

PROGRAM HIGHLIGHTS—Continued

[In millions of dollars]

	Budget authority	New outlays
Rural Development programs:		
Rural Electrification Administration	232	246
Direct loan total	(1,643)	
Agricultural Credit Insurance Fund	5,634	13
Direct loan total	(1,109)	
Loan guarantee limit	(1,248)	
Rural Housing Insurance Fund	2,528	−64
Direct loan limit	(1,914)	
Rural Development Insurance Fund	1,603	6
Direct loan limit	(600)	
Loan guarantee limit	(160)	
Soil Conservation Service Conservation Operations	509	469
Watershed and Flood Prevention Operations	192	106
ASCS Agricultural Conservation Program	198	91
Conservation Reserve	1,315	1,315
Farmers Home Administration Salaries and Expenses	440	391
Nutrition Programs:		
Food Stamp Program	18,077	15,182
Child Nutrition Programs	5,266	4,298
Supplemental Feeding Programs (WIC)	2,350	2,209
Nutrition Assistance for Puerto Rico	962	962
Cash and Commodities for selected groups	260	212
Temporary Emergency Food Assistance Program	170	150
Other Programs:		
Public Law 480, Food for Peace	1,011	1,434
Direct loan total	(806)	
Food and Drug Administration (including buildings)	689	566
Food Safety and Inspection Service	441	401

Mr. HALL of Ohio. Mr. Chairman, it is with great admiration that I rise to commend Representative WHITTEN, the distinguished chairman of the House Appropriations Committee, for his efforts in crafting H.R. 5268, the rural development, agriculture and related agencies appropriations bill, which is before us today. In particular, Mr. Speaker, I want to thank Chairman WHITTEN for the appropriation and report language regarding the Special Supplemental Food Program for Women, Infants and Children [WIC]. The gentleman from Mississippi is a true friend of the WIC Program. That's clear from the way he has provided WIC with a funding increase of $114 million over current services for the coming year, and in the program changes recommended in the report accompanying this legislation.

Each year, over the 11-year tenure of his chairmanship, Congressman WHITTEN has waged a successful campaign for annual increases in program funding to facilitate the delivery of food and health care services to a greater number of low-income women, infants, and children who are at nutritional risk. In the face of divisive budget debates, he has established WIC funding to be a priority.

Just a rew short months ago, we learned that unanticipated food price increases were forcing State WIC Programs to reduce caseloads. The Select Committee on Hunger conducted a survey of State WIC directors to assess the extent of projected shortfalls. The survey revealed a nationwide shortfall affecting 34 States and totaling $67 million. My committee, in cooperation with the House Education and Labor Committee, and the Select Committee on Children, Youth, and Families, was able to work with Chairman WHITTEN to jointly develop a swift and effective congressional response to this crisis. On June 28, the House passed H.R. 5149, legislation I introduced which would permit States to borrow up to 3 percent of their fiscal year 1991 allocations to prevent the termination of services to current participants. This bill was signed on July 12—Public Law 101-330. I am grateful to the gentleman for his advice and cooperation in crafting and moving this needed legislation.

I commend the gentleman, as well, for attempting to prevent a recurrence of the shortfall dilemma like the one we just experienced. Specifically, the committee report to accompany H.R. 5268 addresses a number of issues which will help to assure continuous program operations at consistent caseload levels during fiscal year 1991. I am particularly pleased that the committee established a $25 million reserve fund to meet the cost of unanticipated changes in program expenses. This reserve fund would be used in the event of unanticipated price changes in items in the WIC package, or changes in infant formula rebate agreements which might otherwise result in midterm caseload reductions. The report also contains language requiring USDA to inform State WIC directors of projected food price fluctuations on a monthly basis. This needed change in policy makes good sense. If the Department has access to monthly food price reports, they should make that information available to State WIC directors, so that they, in turn, can plan their caseloads accordingly. I think it's fair to say that if that had been the policy this year, many of the caseload reductions could have been avoided. The Department will also be required to develop a price index specifically for the WIC package. This way, the specific price changes in the particular items in the WIC package will be tracked on a monthly basis, giving State directors accurate, up to date information on which to base their program decisions.

The challenges facing WIC are not yet over. As is also referenced in the committee report, the program is in jeopardy of losing funds as a result of reduced infant formula rebates next year. We must also monitor the allocations to States that exercise borrowing authority under Public Law 101-330 in order to assure the availability of supplemental funding to compensate for the emergency loan situation. I look forward to working with Chairman WHITTEN on these issues as the information on amounts borrowed under Public Law 101-330 become available. As the author of the authorizing legislation, and as the chairman of the Select Committee on Hunger, I look forward to working with the gentleman to ensure that vulnerable women, infants, and children in this country are guaranteed uninterrupted access to the crucial benefits offered through WIC.

Mr. ROBERT F. SMITH. Mr. Chairman, I rise in support of H.R. 5268, the rural development, agriculture, and related agencies appropriations for fiscal year 1991.

This measure provides for a total of $50.35 billion for USDA's rural development, domestic food assistance, and international programs. Among other things, it will fund our agriculture research, food stamps for the needy in our urban areas, and food aid for the starving in distant lands.

This bill is not just for our Nation's farmers. Its for anyone who eats.

Research money helps develop new and more efficient farming methods and products so that our consumers will continue to enjoy a broad selection of high quality goods in their grocery store.

Forty percent of this bill is devoted to food stamps, which helps put meals on the tables of families in need. Twenty-six million people received food stamp benefits last year, 24 million children are fed daily in the National School Lunch Program and one of every three babies born in the United States receives benefits from the supplemental food program for women, infants, and children.

The Public Law 480 Food for Peace Program gives a hand up to those in faraway lands who suffer famine and horrible poverty. This 30-year-old program continues to meet the multiple objectives of moving U.S. farm products abroad, meeting food and development needs in Third World countries and supporting foreign policy goals.

The export programs funded by H.R. 5268 help our producers remain competitive in an increasingly unfair trading environment. Program such as our GSM-102 and 103 loan guarantees, targeted export assistance and the export Enhancement Program ease our balance of trade, build new markets, and put other nations on notice that we will not concede our markets without a fight.

Agricultural exports will total about $40 billion this year, maintaining a favorable agricultural balance of trade that the United States has enjoyed for four decades. Meanwhile, every dollar in farm exports generates $1.51 in economic activity, much of it outside the farm sector.

H.R. 5268 also serves as a preclude to legislation that will be coming before you very soon. Next week, the Agriculture Committee will bring to the floor H.R. 3950, the 1990 farm bill. The farm bill establishes and defines our agricultural commodity programs for 5 years.

You have received numerous letters from your colleagues about how provisions in the farm bill unfairly benefit some farmers. And you've heard from other colleagues who insist this isn't the case. While time limits prevent me from sorting our these important questions for you now, I would like to take this opportunity to underscore the one thing that is absolutely certain.

Your constituents, like mine, must feed themselves and their families. And your constituents, like mine, currently enjoy the highest quality food and fiber in the world, while spending a smaller percentage of their income than in any other nation on Earth.

This is due entirely to the productivity of America's farmers. I hope you'll support this legislation, and the farm bill coming before us next week, so that we may build upon the market-oriented policies that allow our ranchers and farmers to work their magic for America's consumers.

Mr. ESPY. Mr. Chairman, I rise in support of this appropriations bill. It is needed and it is fair. It is within the 302A and 302B budget guidelines and it responds admirably to a host of competing demands. I know the chairman of the Agriculture Appropriations Subcommittee has worked hard with his panel members and they are to be congratulated for a job well done.

I would like to note several points in the bill that are important and need mentioning. The report offered by the committee notes a directive for the Lower Mississippi Delta Development Commission in studying and submitting a proposal on locating Federal prisons within the delta region. The Commission is directed

to use its surplus funds for this purpose. This is important to the region and is a followup on its recent recommendation to Congress.

This bill contains targeted export assistance funds, much needed in our effort to expand our trade markets abroad. Mr. Chairman, it is imperative that we continue our trade initiatives. As trade barriers fall and as the GATT talks conclude in December, we need to be ready. According to recent reports agriculture trade has accounted for about one-half of our economic growth, and there are many more markets abroad. These TEA funds, $325 million will be well spent—for soybeans, catfish, raisins, and almonds.

Mr. Chairman just let me say a few words regarding the Federal Crop Insurance Program. Many farmers are using crop insurance as a tool for lending purposes. They cannot get a farm operating loan without it. Banks do not want to loan money with no guarantee of getting any of that money back in the case of natural disaster. We have got to have a crop insurance program. We have been working for several months now on crop insurance reforms. We will come up with a viable program. We have no choice. However, we must have the necessary funding. Our farmers cannot operate without a crop insurance program.

The chairman of the Appropriations Committee is commended on the increase for domestic food and nutrition programs. I represent one of the poorest districts in the Nation and I understand the very real need for assistance in this area. Hunger in this country is not caused by a lack of food. It's due to a lack of education and outreach. This money is necessary to combat the problem of hunger and malnutrition in our country today.

And in conclusion, I must note the work of the agriculture appropriations subcommittee for their foresight in providing $1.3 billion for urgently needed low-income housing, nearly $691 million more than the President requested.

I realize the tremendous job and applied balance that was necessary in crafting this bill. Again, I commend the chairman on a near excellent bill and I urge its passage.

Mr. GEREN of Texas. Mr. Chairman, I rise in support of H.R. 5268, the rural development, agriculture, and related agencies appropriations for fiscal year 1991 and I commend the members of the Appropriations Committee for their work on this bill.

H.R. 5268 appropriates a total of $50.35 billion in fiscal year 1991 for the Agriculture Department's [USDA] agriculture, rural development, domestic food assistance, and international programs, and for several related agencies.

In particular, I am pleased that the committee has increased the appropriation for the Women, Infants, and Children [WIC] Program. The bill appropriates $2.35 billion in fiscal year 1991 for the Special Supplemental Food Program for Women, Infants, and Children [WIC], 9 percent more than in fiscal year 1990. The measure appropriates an additional $25 million for a reserve to be used only in the event of unanticipated changes in the WIC program—such as increases in milk and orange juice prices that occurred over the past year, leading some States to reduce their caseloads in order to stay within their 19 WIC allocations. The measure also directs the U.S. Department of Agriculture to provide States with monthly reports containing economic information, in order to permit advance planning and avert such problems in the future.

Recently it was announced that Texas would cut over 27,000 individuals from the WIC Program because of the miscalculation in the food prices for the items that are included in the basic food package. Although it was estimated that food prices would rise by 4 percent this fiscal year, food prices actually rose by 8 percent in just the first 6 months of this year. Because of this shortfall, Texas is cutting the cereal allowance for 1 year old and 2 year olds from 36 ounces to 24 ounces a month.

The WIC Program is one of the Federal Government's most successful social service programs. Unfortunately WIC only reaches approximately 27 percent of the eligible women and children in Texas. We must do more to help those that are not being helped.

I represent the 12th Congressional District of Texas which includes the city of Fort Worth and Tarrant County. In two of the most economically depressed areas of the city, the infant mortality rate is nearly three times the State average. The infant mortality rate for the State of Texas is 9.9 per 1,000, but in southeast Fort Worth, in the area called Stop Six, the rate is 25.1 per 1,000. On the norhside of Forth Worth, in the area called Diamond Hill, the rate is 24.4 per 1,000.

Mr. Chairman, these numbers illustrate the consequences of not providing adequate nutrition to these pregnant women who are poor. The WIC Program is an important component of our effort to address the tragedy of infant mortality.

Investing in the WIC Program now not only will save lives but will save billions of dollars in health care for the Medicaid Program in the future because the WIC Program gives children a chance to get a healthy start on life and receive nutritious food in the critical early years of their lives.

The increased appropriations for the WIC Program will protect the WIC Program against a funding shortage next year. We must do a better job in Texas and around this Nation in meeting the basic needs of our neediest citizens.

Mr. Chairman, I know that Members of Congress must make some difficult decisions in the coming months on setting the budget priorities for the 1991 budget and for the budgets for the next 5 years. The WIC Program must be a top priority.

Again, I commend the committee on its work on this important bill and on the increase to the WIC Program.

Mr. HOCHBRUECKNER. Mr. Chairman, I rise in strong support of the rural development, agriculture, and related agencies appropriations bill for 1991 (H.R. 5268), and wish to congratulate the gentleman from Mississippi [Mr. WHITTEN] and the members of the Appropriations Committee, for their fine work.

I would like to call to Members' attention an important sentence on page 20 of the House Appropriations Committee's report accompanying H.R. 5268 which gives instructions to the Department of Agriculture:

> The Committee expects the Department to pursue research and extension efforts to assess the role of composting as a reduction and recycling technique for farm wastes and for other waste streams, as appropriate, and to identify agricultural uses and markets for finished compost.

Today's action by the House send a clear and important message. The message is that composting is an environmentally sound alternative to landfilling which should be promoted. I would like to recognize the support for the composting provision by Congressman MATTHEW MCHUGH, a member of the Appropriations Subcommittee on Agriculture, and by Appropriations Committee Chairman JAMIE WHITTEN.

The appropriation bill also contains $808,000 required to support Animal and Plant Health Inspection Service [APHIS] inspectors in Westhampton Beach, NY, who test potatoes and other Long Island crops for parasites. Their screening services are vital to instilling confidence in buyers and in Canadian customs officials that local produce shipments are free of golden nematode infestation. The termination of the golden nematode program, repeatedly proposed by the Reagan administration, could have dealt many farmers a crippling blow because the export of Long Island farm products could cease.

Mr. Chairman, Suffolk County is the leading agricultural county in New York State based on the wholesale value of its farm products. Preserving the golden nematode inspection program is a critical farming issue for Long Island.

Mr. BEREUTER. Mr. Chairman, this Member would like to commend the chairman of the Appropriations Committee, the gentleman from Mississippi [Mr. WHITTEN], and the gentlewoman from Nebraska [Mrs. SMITH] for their leadership in developing the appropriations bill now before the House. The leadership of the gentlewoman from Nebraska will definitely be missed next year by the residents of all of Nebraska and by the greater agriculture community.

This bill will provide $50.4 billion, an increase of $5.2 billion over fiscal year 1990 agricultural appropriations, and still remain below the target allocation of the House-passed budget resolution by $229 million. This Member commends the gentleman from Mississippi and the gentlewoman from Nebraska from their diligence in this regard.

This Member is especially pleased that $4.5 million is provided for the University of Nebraska's Center for Science and Technology. This center will be instrumental making UN–L a leader in developing and commercializing biotechnology, biomedical technology, and chemical engineering technology. Successful long-term development projects such as this one will prove to be a crucial activity in providing economic opportunity to the residents of Nebraska and other rural States in the future.

Funding for the Meat Animal Research Center [MARC] in Clay Center, NE is increased by 20 percent. Research completed at this center is critically important to the livestock industry throughout all of the United States as well as Nebraska.

This measure would appropriate $230,000 million for research into new and experimental

uses of several crops including: $110,000 for development of industrial uses for agricultural products; $40,000 for improving plastic products with cornstarch; $80,000 for milkweed production and fiber development; and $70,000 to demonstrate the feasibility of producing and marketing industrial oils from crambe and rapeseed. Such projects will do much to broaden opportunities for farmers and enhance the profitability of crop production enterprises. The "Managing Main Street" Program, operated by the Nebraska Cooperative Extension Service, is slated to receive $200,000 to promote rural development in Nebraska.

This Member has actively encouraged the committee to increase funding for the Women, Infants, and Children [WIC] Program and is very pleased that $2.35 billion, an increase of $224 million over fiscal year 1990 appropriations, was included in the bill. This program is perhaps the most effective and humane antihunger program operated by the Federal Government.

International programs such as the Public Law 480—Food for Peace Program—fully funded by the committee. This Member has taken a very active interest in this program which provides food and development assistance to poor and starving people around the world and would commend the committee for continuing to recognize the importance of this program. Other export programs, such as the GSM-102 and GSM-103 export credit programs, that have a large benefit to farmers by serving to facilitate the export of agricultural commodities, were also fully authorized.

This Member has been a longtime supporter of the Federal Crop Insurance Program but has also recognized the compelling evidence that would require reform of the program to enable it to better meet the needs of farmers and also be responsible to taxpayers. Federal crop insurance has disproportionate value to Nebraska and other high plains States which suffer much greater extremes and variability of weather than do other agricultural States. This Member would hope that a compromise on reforming the program could be reached so that funding for this critically important program could be approved.

Mr. RAHALL. Mr. Chairman, I rise today in support of H.R. 5268, fiscal year 1991 appropriations for rural development, agriculture, and related agencies. Within the bill's total of $50.35 billion, there is necessary funding for many programs which are extremely important to my State of West Virginia.

The Committee on Agriculture's recognition of continued housing problems in rural America stands in contrast to the Bush administration's budget recommendation. H.R. 5268 appropriates a total of $2.02 billion for the rural housing insurance fund, nearly $500 million more than the fiscal year 1991 budget. Part of this total is an allocation of $1.26 billion for low-income housing loans, which represents more than twice the President's proposed amount of $589 million.

The committee's funding level of $760 million for the rural development insurance fund adds $314.3 million to the administration budget. I strongly support this section of the bill, as it contains $500 million for water and waste disposal loans. For those who do not care to understand or simply do not care about rural infrastructural development, water and waste disposal system improvements are essential elements for increasing the quality of life in rural America. Perhaps the administration would sooner forget our rural citizens than actually devise a reasonable budget that is not balanced on the head of rural America.

Other funding of note to West Virginia is the $393.9 million for extension services, for programs that are of vital interest to our land grant colleges and universities. In addition, the committee budget, unlike the administration's, does not seek to cut rural development grants, which are provided a slight increase over fiscal year 1990 to $16.5 million.

Another agency of considerable significance to rural America is the Rural Electrification Administration. REA assists rural electric and telephone organizations in securing requisite funding for the delivery of electric and telephone service to nonurban areas. The fiscal year 1991 agriculture appropriations sets aside $334.6 million for REA, partially composed of $266.6 for reimbursement to the rural electrification and telephone fund and $28.7 for the Rural Telephone Bank.

Finally, this bill looks ahead to our future. Through increases of $2.55 billion more than the President's in domestic food programs, reaching a total of $27.3 billion, we continue to protect those most in need, and those who will someday lead this Nation. The Women, Infants, and Children [WIC] Program, for example, receives $2.33 billion, and I would like to take a moment to say that the increased funding for the highly successful WIC Program is not quite enough to bring into the program all those women, infants, and children who are eligible and in need, but it is a step in the right direction. Nationally, WIC reaches about 60 percent of those eligible, but in West Virginia only about 35 percent of eligible recipients are served.

A recent shortfall of funds has created problems in all the States, which came about in part as a result of a price war among providers of infant formula, from which the States that have cost containment programs receive a rebate for each container of formula sold to WIC recipients. West Virginia, I am pleased to say has just appropriated a first-time $400,000 for WIC support, and the Congress just passed an emergency measure permitting States to borrow up to 3 percent—instead of only 1 percent—of the money they will receive in next year's allocation to shore up this year's. This action by Congress, coupled with the State's contribution, will keep more than 2,000 women, infants and children already being served from being dropped from the roles.

Food stamps receives $19.04 billion, and food donation programs $260.1 million as sections of the total $27.3 billion. I strongly believe that our priorities rest upon continuing to provide money to these and similar programs.

Mr. Chairman, while I sincerely wish we had more money to offer these vital programs I have highlighted, I urge passage of H.R. 5268 and send a message to the White House that we will not forget the continued struggles of the backbone of our Nation, rural America.

Mr. LAGOMARSINO. Mr. Chairman, while I support domestic food programs contained in H.R. 5268, such as the Special Supplemental Food Program for Women, Infants, and Children [WIC], the Child Nutrition Program, the Special Milk Program, I cannot, in these times of budget constraints, support the entire agriculture appropriations bill, particularly the subsidies to agriculture.

Domestic food programs contained in H.R. 5268 are essential in maintaining needed levels of food supply and proper nutrition. I strongly support the WIC Program and recently signed on to a letter to Chairman WHITTEN in support of the much-needed assistance, but, I cannot support the passage of an excessive appropriations bill especially in advance of a budget summit agreement.

This appropriations bill maintains the status quo for many agriculture programs and needless farm subsidies. Mr. Chairman, with the Federal deficit hovering around $200 billion and a national debt of over $3 trillion, status quo will not solve our problems.

Hard decisions must be made in every appropriations bill before this House. Rather than supporting status quo, we should begin making those hard decisions with H.R. 5286.

Mr. BILBRAY. Mr. Chairman. I rise in support of the full increase in funding for the Special Supplemental Food Program for Women, Infants, and Children [WIC] in the agriculture appropriations bill for fiscal year 1991.

The WIC Program has grown over recent years, but 40 to 50 percent of all poor women, infants, and children eligible for WIC still are left out of the program due to funding limitations. This is a tragedy that we have the opportunity to amend today. H.R. 5268 appropriates $2.35 billion in fiscal year 1991, an increase of 9 percent more than in fiscal year 1990 and 5 percent more than the President's request. While tough budget choices must be made this year, we cannot afford to let these poor children and their mothers slip through the cracks.

For the RECORD I would like to insert an editorial from the July 17 edition of the Las Vegas Sun newspaper that addresses the need for expanded funding for poor and hungry families throughout America.

When we think of starving children, we usually are reminded of Africa and war-torn Central America. But the problem is much closer to home.

Malnutrition is a form of starvation. Without the proper diet, a human can't function well. For an infant the problem is worse because it can be denied the basic right to develop into a normal human being. This is happening in New York, Utah, Las Vegas, maybe even across the street.

A federally funded program to provide nutrition to pregnant women, infants and children at nutritional risk is running out of money. Funds were made available but the cost of milk, orange juice and other items has risen much more than anticipated, forcing cutbacks that have dropped some children out of the program.

Shortened to WIC, the Special Supplemental Food Program for Women, Infants and Children is more than a handout. It is structured to provide only specific foods that the clients purchase themselves at the nearest supermarket, using vouchers that are administered by the state.

In Las Vegas the program is run by people concerned about the problem and working

to do their best, with the funds they have, to provide nutrition to those families in need.

Those who participate in the program must attend classes to learn how to shop for nutrition. Failure to attend the classes can disqualify them from the program. When the nutritional risk is over, these people can go on with their lives, using the knowledge they gained in the classes to buy foods important to their children's diet.

A bill has been introduced in Congress to increase funds for the WIC program. While there is a cry for cuts in government spending this is one program that must be expanded. Nevada's congressional delegation should be encouraged to support this program. In Las Vegas more than 50 have already been dropped from the WIC program at a time when the need is growing.

The money spent on WIC can yield strong dividends. For example, Dr. Buford Nichols of the Baylor College of Medicine's Department of Pediatrics told the Senate, "20,000 infant deaths can be prevented each year by improving prenatal nutrition and care."

The Surgeon General says the average medical cost of a low birth-weight baby can exceed $39,000, while the average cost of the WIC package is only $30 a month. It is estimated that for each $1 invested in WIC, the government avoids spending $3 in medical costs.

Without adequate WIC funds, many young Americans will be denied the opportunity to reach their human potential for leading healthy, satisfying and full lives. According to Congressman Tony Hall of Ohio, "That is a tragedy not only for the individuals affected, but for society as a whole, which is deprived of their potential contributions." Remember, we are talking about our neighbors.

In conclusion, Mr. Chairman, I urge my colleagues to support the increase in the fiscal year 1990 Agriculture appropriations bill. There are few investments of Federal dollars as worthwhile as WIC, which results in savings in health care and in helping disadvantaged young children—our future work force—reach their full potential.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 5268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1991, and for other purposes; namely:

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $1,943,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $477,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $4,971,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $544,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $49,305,000, of which $3,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $25,093,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,407,000: *Provided,* That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, except for expenses of the Commodity Credit Corporation, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $24,757,000, to remain available until expended: *Provided,* That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $23,002,000; and in addition, for payment of the USDA share of the National Communications System, $50,000; making a total of $23,052,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

WORKING CAPITAL FUND

To increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies, $3,750,000 (7 U.S.C. 2235).

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

For necessary expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded in this Act, $1,095,000.

OFFICE OF PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $8,442,000 including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $440,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, as amended, $55,580,000, including such sums as may be necessary for contract-

ing and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978, as amended, and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $23,130,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $529,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analysis of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $54,400,000; of which $500,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided*, That this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further*, That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $76,451,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $2,196,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $512,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $631,208,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: *Provided further*, That appropriations hereunder shall be available to conduct marketing research: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $1,000,000, and except for ten buildings to be constructed or improved at a cost not to exceed $500,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $250,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives: *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,500,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $26,039,000: *Provided*, That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $163,327,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $13,494,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a-582-a7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $26,346,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges including Tuskegee University; $56,909,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $73,000,000 for competitive research grants including administrative expenses; $5,695,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $918,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $500,000 for grants for research and construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178); and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $7,000,000 for higher education grants

under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,750,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $2,227,000 for grants to States for the operation of international trade development centers, as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292); $4,450,000 for low-input agriculture as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 4701-4710); and $14,985,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which $8,250,000 shall be for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee University, of which and not to exceed $100,000 shall be for employment under 5 U.S.C. 3109; in all, $373,076,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $45,361,000.

EXTENSION SERVICE

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $253,858,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $60,525,000; payments for the urban gardening program under section 3(d) of the Act, $3,640,000; payments for the pest management program under section 3(d) of the Act, $7,450,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $3,080,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99-198, $9,508,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $950,000; payments for extension work under section 209(c) of Public Law 93-471, $991,000; payments for a groundwater quality program under section 3(d) of the Act, $10,375,000; payments for a financial management assistance program under section 3(d) of the Act, $750,000; for special grants for financially stressed farmers and dislocated farmers as authorized by Public Law 100-219, $1,750,000; payments for youth-at-risk programs under section 3(d) of the Act, $7,500,000; payments for a food safety program under section 3(d) of the Act, $1,500,000; and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $22,880,000; in all, $385,727,000, of which not less than $79,400,000 is for Home Economics: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $8,150,000, of which not less than $2,300,000 is for Home Economics.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, $16,373,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $675,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $497,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b); and to protect the environment, as authorized by law, $380,266,000, of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Animal and Plant Health Inspection Service shall not be in excess of $400 annually: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $21,396,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $440,882,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $9,706,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $37,164,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 per centum with notification to the Appropriations Committees.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,864,000; of which $99,000 shall be available for a field office in Hawaii: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $47,914,000; of which not less than $1,934,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $40,162,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the Agency may exceed this limitation by up to 10 per centum with notification to the Appropriations Committees.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $8,255,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,250,000.

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,429,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $10,687,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $506,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, not to exceed $630,406,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $5,000: *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further*, That this amount shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursement.

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop

Insurance Act, as amended (7 U.S.C. 1516), $101,579,000: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $162,939,000, of which up to $117,368,000 is to reimburse the Federal Crop Insurance Corporation Fund for agents' commission and loss adjustment obligations incurred during prior years, but not previously reimbursed, as provided for under the provisions of section 516(a) of the Act.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1991, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $6,100,000,000 in the President's fiscal year 1991 Budget Request (H. Doc. 101-122)), but not to exceed $5,000,000,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a-11).

Such funds are appropriated to reimburse the Corporation to restore losses incurred during prior fiscal years. Such losses for fiscal years 1989 and 1990 include $566,000,000 in connection with carrying out the Export Enhancement Program (EEP), $200,000,000 in connection with carrying out the Targeted Export Assistance Program (TEA), $150,000,000 in connection with carrying out the Federal Crop Insurance Program, $472,326,000 in connection with domestic donations, $208,412,000 in connection with export donations, and $3,403,262,000 in connection with carrying out the commodity programs.

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $7,803,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager, of which up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order against title I?

Are there any amendments to title I?

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so first in order to permit me to allow myself to respectfully associate with the words spoken about the distinguished gentlewoman from Nebraska [Mrs. SMITH], who is leaving after a very prominent career here. Her dedication to agriculture is certainly appreciated by all of us.

I also associate myself with the remarks extending best wishes to our distinguished colleague, the gentleman from Oklahoma [Mr. WATKINS].

At this point, Mr. Chairman, I am concerned about crop insurance, which was mentioned by the gentleman from New Mexico [Mr. SKEEN]. Let me say first a little bit of history: Federal crop insruance was instituted to allow our producers a safety net because agriculture is the most susceptible of our industries to natural disasters. The private sector was not in a position to provide adquate insurance on crops and on some trees like in the citrus areas.

So to fill that void, a Federal system of crop insurance was instituted.

Regretfully, it was not working as well as intended. Therefore, the Congress commissioned a commission to make a study. The legislative committee, the Committee on Agriculture, began conducting hearings. The administration recommended to do away with crop insurance, to go to an ad hoc disaster-type situation.

So we find ourselves now that the legislative committee is working, endeavoring to come up with a viable program. In the meantime, though, I am concerned, and I would like to visit with the chairman of the Committee on Appropriations concerning the action taken here by the committee that might send the wrong signals to American agriculture that the Congress and the administration are deserting them in this area of needed support.

I say this because crop insurance has now become the new farming era. Bankers, for example, would not allow loans to farmers, production loans, unless they have crop insurance. So we find ourselves in a dilemma.

I hope that we are not sending the signal that there would be no Federal crop insurance, that there would be no program safety net, that all of American agriculture would be subject to ad hoc disaster assistance when and if it comes.

Therefore, they will not be able to plan. The farmers of today now use it as a very viable tool of production.

So I would like to engage in a colloquy, if possible, with the distinguished chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN], to see if we can send the proper signal as to what it is we are trying to do, what it is we would like to do. For what we would like to do, from the Committee on Agriculture, on the legislative side, is to see that we have a program that is viable, that is run as nearly as actuarially sound as possible.

I again echo, if it were actuarially sound without the necessity for Government interference, it would already be done by the private sector.

So within those constraints, I would like to visit with my distinguished friend, the chairman of the Committee on Appropriations, so that we might allay some of the fears but yet send a signal as to where it is we would like to go.

Certainly the gentleman from Mississippi will be a viable, integral part of whatever end result we come up with.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. Mr. Chairman, I yield to my distinguished friend at this time.

Mr. WHITTEN. I thank the gentleman for yielding.

Mr. Chairman, may I say to the distinguished chairman of the Committee on Agriculture that for many years our subcommittee carried the program for crop insurance. We had a very difficult time in making it actuarially sound.

The record of the present situation is such that the President and the President's budget did not recommend any continuation of it. I will put in the record some of the facts having to do with that.

From 1939 through 1979 the program basically broke even. Since 1980 the program has lost over $2.6 billion in indemnity payments. Premium income has been only $4.7 billion. In addition, administrative costs for the past 10 years have cost $2 billion. The total cost to the Government is over $4.6 billion.

Since 1981 the program expects to borrow over $2.7 billion from the Commodity Credit Corporation or the U.S. Treasury.

From 1981 to 1990 administrative and operating expenses have gone up over 300 percent, while acreage insured changed little through 1988 and changed only recently because the Disaster Act of 1988 required that any person receiving a disaster payment must take insurance in 1989. This caused insured acreage to increase from 44,975,000 in 1981 to about 99,000,000 in 1990.

In 1985, FCIC started a gain/loss provision with insurance companies. The intent was to have reinsurance companies bear more risk in bad years and share in gains in good years with the Federal Government. Since then the Government has "shared" in losses of $1.2 billion while the companies shared gains of $50.4 million. The following table shows the annual results:

	Federal Government losses	Company gains
1985	−$161,432,000	+$3,346,000
1986	−197,676,000	+8,037,000
1987	−16,629,000	+17,884,000
1988	−542,207,000	−7,883,000
1989	−315,039,000	+29,954,000
Total	−1,232,983,000	+67,104,000

The Government Accounting Office, the USDA inspector general and the committee's investigative staff have all done reviews of the crop insurance program. All have noted significant problems, including loss adjustment, poor management, and fraud and abuse within the program.

Generally, the program is expensive for the farmer, difficult for agents to keep up with changes in the program, and cumbersome to manage and too expensive for the Federal Government.

We are left with a 302(b) allocation, where we would have to cut something else in the bill to add money for crop insurance. This adds to the unsoundness of the program.

But we have a long record of trying to work out an actuarially sound crop insurance program. I do not know whether we can or not. Certainly if it can be worked out by my colleague from Texas, the chairman of the Committee on Agriculture, we will certainly look with favor on anything we could do because we have a long record along that line.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. DE LA GARZA. I continue to yield to the chairman.

Mr. WHITTEN. As the gentleman knows, we have to do the best we can. As this country gets more and more urban, it has less understanding of agriculture and its place in the overall scheme of things. But we have supported it as long as anybody here. What we have now is a program that is not actuarially sound. The cost is charged up to the farmer and the benefits go to only special ones. But the big money earners from the crop insurance program are those engaged in the insurance business. So if a good program can be worked out, we certainly would look with favor on it.

Mr. DE LA GARZA. I thank the gentleman. I have no disagreement with the gentleman. I know of his continuous interest and dedication in this area, and I am happy to hear from him that he would be agreeable for us to continue trying to reach a viable, as nearly economically sound as possible, program.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield at this point to the distinguished chairman of the subcommittee, the gentleman from Oklahoma [Mr. ENGLISH] who has been working very diligently in this area.

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, I simply would like to express my concern. I will ask for my own time to make a statement.

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But I believe the effect of what we are doing here today, should this be agreed to by the Senate and sent to the President to be signed into law, would terminate the program. It is going to be very hard to form a program from something that has been terminated, but that is the action that we would have taken by the legislation.

Mr. Chairman, I thank the chairman of the Agriculture Committee for yielding.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman from Oklahoma [Mr. ENGLISH], and let me say that basically the gentleman is correct.

I would like to send a signal from the Legislative Committee that we know there is a problem and we are studying the problem. We do not want the signal to go from here saying that this is it and there would be no safety net, that we would not allow the producers the necessary tools, because basically it has become a part of the production credit needs of the individual producers, those in Mississippi and Texas and Iowa and Nebraska, and unless we send the necessary signals, there will be a problem and we know it is a problem. But we will see to it that we come up with a viable working alternative.

I am happy to hear the distinguished chairman of the Committee on Appropriations say that he would work with us in this respect. Hopefully we will be able, before the process is finished with this legislation, to have necessary legislation introduced.

Mr. CONTE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 5268, the Virginia Smith agriculture appropriations bill for 1991.

Mr. Chairman, I have been privileged to work with my very dear friend from Nebraska, the lovely lady, VIRGINIA SMITH, for the 16 years she has served her people with distinction here in Congress.

For 14 of those years we have had the benefit of her knowledge and wisdom on the Appropriations Committee. When she joined our committee, VIRGINIA immediately asked for a seat on the Agriculture Subcommittee, and I promised to help her get the first available opening.

Well, to no one's surprise, it has turned out to be a perfect match. There is no stronger advocate for rural America than VIRGINIA SMITH, and she has made an invaluable contribution to this Nation through her vigor and commitment on this committee. We are all going to miss her when she retires at the end of the session, and her shoes on the committee are going to be hard to fill. VIRGINIA, I want to personally thank you for the outstanding contribution you have made to Agriculture appropriations, for you dedicated service, and of course, for your friendship.

I look forward to working with you over the last few months of this session.

The Agriculture appropriations bill is the 7th of the 13 appropriations bills for 1991 to come before the House. It appropriates $9.6 billion in discretionary budget authority, and totals $50.9 billion in overall budget authority, both under the 302(b) allocations.

I want to commend Chairman WHITTEN for another excellent year's work on this appropriations bill. As usual he has crafted a bill that stays within the 302(b) allocations and accommodates the overwhelming majority of Member requests.

The bill fits the patterns established by past Agriculture appropriations bills. It provides increases for fundamental agricultural research and outreach activities, particularly in the Cooperative State Research Service. As in past years, the Farmers Home Administration has seen most accounts held steady or slightly increased, with some exceptions. Substantial increases have been provided for the water and sewer facility loans and rural water

and waste disposal grants, both of which are in high demand across rural America.

Also we have provided $100 million for a new pilot project on subsidized loan guarantees for section 502 low-income housing. This was requested by the President, and I am pleased that we were able to incorporate it into the bill.

We have taken special care of the WIC Program, providing $2.35 billion for next year. That is a $224 million increase over the 1990 level, and should allow some program expansion as well as cover food price increases which have forced several States to cut back on WIC caseloads recently. I am hoping that this increase will prevent those kinds of problems in 1991.

I also want to note the $1.5 million increase we have provided for orphan products development under the Food and Drug Administration.

This is the only account in the whole Federal Government devoted to developing treatments and therapies for the millions of Americans who suffer from rare diseases and disorders. It is tremendously important that we continue to make headway against the ravages of orphan diseases, and I thank my chairman and Mrs. SMITH for their strong support of this program.

Finally I do want to say that I favor the committee's actions on Federal crop insurance. I think it is time we made the choice between crop insurance and disaster assistance, and I suspect that as long as there is a Congress, there will be disaster assistance. Crop insurance has cost the Federal Government over $4.6 billion in the past decade, and that is far too much, especially when we are also paying out billions in disaster assistance every time the wind blows, the rain falls, or the Sun comes out. Something has got to give, and in this bill it is crop insurance.

Mr. Chairman, this is a good bill, and I urge Members to support it.

Mr. ENGLISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, two actions proposed by this bill pose a direct threat to the economic well-being of the farmers of this Nation, and both represent unilateral decisions by the Appropriations Committee. I believe that these proposals must be brought to the attention of the Members.

The first arbitrary action that I wish to bring to the attention of the Members, Mr. Chairman, is the decision to end the Federal Crop Insurance program. The efficient operation of this program has been a matter of deep concern to the Committee on Agriculture. The Appropriations Committee report about the inefficiency of the program is correct. It must be fixed, but is should not be canceled.

More than 2 years ago, the Congress established a Commission to make recommendations on how to improve the efficiency of the program. The subcommittee I chair has spent innumerable hours since last year trying to devise changes to the program to improve the effectiveness. Our efforts have not proved successful yet because everything we examine has a higher budgetary cost than the current program. We are trying to do better at no greater cost.

This arbitrary decision makes our task even more difficult, if not impossible.

And it breaks faith with a large number of farmers who have depended on the protection of crop insurance against natural disasters. We have received testimony and communications from farmers in all parts of the Nation, including those who live in the districts of members of the Agriculture Appropriations Subcommittee. These farmers have told us how necessary crop insurance is, even though it is not as efficient and effective as it should be.

The bankers who loan to these farmers told us how they depend on crop insurance to shield the loan against unavoidable natural disaster. They have told us that in most cases they will not be able to make production loans without insurance, and in others the interest rate must be increased to compensate for no insurance.

These are the people who are hurt by this arbitrary proposal.

Since last Friday, the farm community has advised us of the continuing support for crop insurance and opposition to the appropriations decision. This information has come, unsolicited, from the American Farm Bureau Federation, the National Farmers Union, the National Association of Wheat Growers, the National Corn Growers Association, the National Grain Sorghum Producers Association, the American Bankers Association, and Norwest Bank. Members who are not on the Agriculture or Appropriations Committees have told us that there have been a great number of phone calls from farmers since Monday asking that crop insurance be continued.

Mr. Chairman, I regret that the Appropriations Committee has decided that farmers don't deserve the protection of insurance against natural disasters.

The second arbitrary action is the appropriation for the Commodity Futures Trading Commission. This agency is the watchdog for farmers against unfair and illegal trading on the Nation's futures exchanges. But as a watchdog, CFTC has been on a short leash. While the volume of trading has spiraled upward until it amounts to an annual dollar volume larger than that of the New York Stock Exchange, CFTC has been held to appropriations about one-fifth of the level for the Securities Exchange Commission.

But last year, the leash holding back the watchdog started getting a little bit longer. The House, by a vote of 420 to zero, authorized appropriations levels of $40 million and $45 million for fiscal years 1990 and 1991. This bill has not yet passed the Senate, but the House has spoken.

The Appropriations Committee recognized the important work of CFTC and added extra funds so that an additional 10 persons could be hired in fiscal year 1990 to join the enforcement and surveillance activity. This money was cut in the sequester, so the Appropriations Committee added money in this year's supplemental. These actions were recommended by the Committee on Agriculture because we had conducted a 5-month investigation which clearly showed that CFTC needed more assets.

The Appropriations Committee must be applauded for these efforts.

But this bill starts reeling the watchdog back in again.

It freezes next year's appropriation at about this year's level. The excuse for the freeze is that there may be some shift in jurisdiction of regulation for stock index futures, and therefore CFTC won't need as much money.

The plain facts are these:

There are 13 active futures exchanges, each of which must be regulated by CFTC.

Four of those exchanges have stock index futures, two in Chicago, one in Kansas City, and one in New York.

If regulation of stock index futures is moved to another agency, CFTC must still regulate 13 futures exchanges. These exchanges trade wheat, corn, oats, grain sorghum, cattle, hogs, pork bellies, cotton, orange juice, sugar, and soybeans, all of which form the basis for farmers income. The exchanges also trade in foreign currencies, precious metals, oil, gas, industrial metals, treasury bonds, and lumber, the price of which affect the net income of farmers.

CFTC asked for $44.9 million for next year, an increase of about $5 million over the current year. With that additional money CFTC planned to add 23 people to its enforcement staff, 11 to its market surveillance staff, 24 to its audit staff, six to its computer operation and two lawyers to handle the increased load expected from the other new people.

This modest increase for fiscal 1991 is sorely needed, and it needs to be matched by a further increase in fiscal 1992. The Committee on Agriculture has worked with CFTC to create a careful schedule of increases until CFTC gains the staff it needs to be the best watch dog on the block.

Mr. Chairman, I regret that the Appropriations Committee has decided tion this Nation's farmers don't need the adequate protection that another $5 million this year would provide.

□ 1130

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my colleague, the gentleman from Oklahoma, used the word "arbitrary." My offhand recollection of the definition is "without reason."

Certainly there is every reason. The President did not recommend funding for crop insurance. He recommended eliminating it. Under our present rules, we have a 302(b) allocation. In order to add back money for crop insurance we would have had to cut something else to do this.

From 1939 to 1979, when our committee went along with it, the program broke even. The changes made, however, have cost us about $2.6 billion in indemnity payments. The premium income has only been $4.7 billion.

Now, if we look at the record from 1981 to 1990, the cost of handling this, the administrative cost, has gone up 300 percent, but the acreage has remained pretty much the same.

I just want to show you what this corporation has done. I can understand insurance. I have friends in the insurance business that hate to see it end. I have got farmers who hate to see it end, but let me just show you what their record is under a so-called gain/loss sharing provision of the corporation.

In 1985, the loss to the Government was $161 million; in 1986, $198 million; in 1987, $17 million; in 1988, $542 million; and in 1989, $315 million.

The total loss is $1,232,983,000.

While gains shared by insurance companies totaled over $62 million.

Now, all that is charged to American agriculture, but only relatively few got the money.

I also say that the record shows, and we have been parties to it, that regardless of crop insurance, if there was a disaster, our committee has come in at the request of the President and others and taken care of the disaster.

So I respectfully insist that it is not arbitrary. If crop insurance was included, you would have to cut out several hundred million in other accounts. The gentleman may have some idea where to cut it out, but I do not.

Mr. ENGLISH. Mr. Chairman, will the committee chairman yield to me?

Mr. WHITTEN. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I appreciate the chairman yielding to me.

I simply make the point, of course, as the gentleman well knows, that once the disaster program is ended, if we follow this line——

Mr. WHITTEN. What I picked up was the word "arbitrary." That is not arbitrary from my viewpoint.

I could give the gentleman a bookful of reasons, if he wants.

Mr. ENGLISH. Mr. Chairman, if the gentleman will yield further, I was looking at it from the standpoint of the House Agriculture Committee. It looks pretty arbitrary. We have been working on this long and hard, and with no money, there is no program.

Mr. WHITTEN. That is to be expected. If the insurance companies get $62 million in gains and the Government gets $1,232,983,000 in losses, I can see that they hate to give it up.

With all due respect to the gentleman's problem, anybody dealing with agriculture, as the gentleman is and I am, has their hands full.

Mr. ENGLISH. Mr. Chairman, if the committee chairman will continue to yield to me, the only point I would make is that without the disaster program, of course, we do not have anything.

Mr. WHITTEN. As I said earlier, we have spent 12 years trying to make it actuarily sound, and if the gentleman can do it, we will certainly be glad to have it again.

Mr. ENGLISH. Mr. Chairman, I thank the gentleman, and hopefully we will make it actuarily sound.

Mr. ALEXANDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the bill, and I commend our great chairman, the ranking minority member Mrs. SMITH, the other members of the subcommittee, and the staff for their efforts in crafting this excellent bill.

For more than 20 years my priorities in Congress have been, and remain, more jobs for Arkansas' economy; new markets, both foreign and domestic, for Arkansas' products; and improvements in the quality of life for the people of the First Congressional District.

Each year, this bill has been the one that does more than any other to help me meet those goals.

Each year, this bill is carefully put together by a chairman and a committee who believe that the people in America's heartland should not be second class citizens.

As long as Government is willing to do its part, there is no reason people in the small towns and villages and countrysides of America should not have the same, basic quality-of-life infrastructure as their city cousins.

This is the bill that provides for those quality-of-life projects and programs. In northeast Arkansas, we could not do without it.

Let me explain what this bill does for Arkansas, because these are examples of what it does all across America.

Nationwide, the committee's bill calls for $300 million in new grants and $500 million in new loans for rural water and sewer systems. These figures represent an increase of $92.3 million in grants and $149.7 million in loans over the fiscal 1990 amounts.

The committee was good enough to accept an amendment I offered to the report which specifically mentions proposed water systems in Calico Rock, AR, and Fulton County, AR, as worthy of FmHA review.

Since I came to Congress in 1969, 66,392 families in the First Congressional District have received clean, healthy drinking water because of these programs, run by the Farmers Home Administration.

But, there's still so much more to do in this area. My city and suburban colleagues may be surprised to learn that in much of rural America, there are still plenty of places where the availability of indoor plumbing is contingent upon ground water wells and septic tanks.

And, shameful as it is to say, there are still parts of rural America where people do without indoor plumbing.

For another example of what this bill does for the quality of life in Arkansas, let's look at the Riceland Mosquito Management Program, which is funded by the Cooperative State Research Service.

Arkansas is rice country, and rice means standing water. Unfortunately, standing water means that during the summer months, nighttime brings mosquitoes the size of B–2 bombers.

But thanks to this bill, we're working to change that.

Under the mosquito management program, scientists at universities in Arkansas and four other States are developing new, environmentally acceptable methods of mosquito control.

The program's findings are demonstrated in the Grand Prairie Municipal Mosquito Abatement Program in Arkansas and Prairie Counties, AR. Thanks to this program, it's now possible to sit outside on a summer's night in Stuttgart, DeWitt, Gillett, and Hazen.

This program has also produced real economic benefits to the region by enhancing outdoor recreation.

The bill before us also works to promote new markets for the products we produce in northeast Arkansas.

One of the most promising new markets for agriculture across America is the newly developing alternative fuels market. When it is finally passed, the Clean Air Act will stimulate demand for farm-grown ethanol. In the coming years, a variety of new ethanol feedstocks, in addition to corn, will be necessary.

The bill includes $200,000 in grant money for research at Arkansas State University that will identify ways for Arkansas and the other delta States to get a piece of this market.

ASU's research effort will help us take advantage of the potential of shifting wealth out of the oil fields of the Middle East and into the grain fields of the middle South.

Finally, there's been a lot of talk recently about how agriculture relates to the environment. This bill helps to protect and conserve those environmental resources that are vital to farm productivity.

For example, it continues to fund the 26-county east Arkansas water conservation project.

I mentioned earlier that northeast Arkansas is rice country. Rice is very irrigation-intensive, and in the 90 years of rice production in Arkansas we have depleted our ground water supply at an alarming rate.

Some studies show that if nothing is done, there will be no ground water in northeast Arkansas by the year 2030.

The east Arkansas water conservation project has identified a number of best management practices that farmers can use to conserve our precious ground water, including land leveling tailwater recovery, and, most importantly, construction of above-ground, on-farm reservoirs.

This bill continues that study, and the accompanying report asks the Soil Conservation Service to consider including west Poinsett County, AR, in its water quality initiatives program as a first step toward implementing the study's conclusions.

If I might engage the chairman in a brief colloquy, I would like to bring to his attention a matter that I just found out about at 6:30 last night, which of course was well after the report was filed.

Apparently, a catfish processing plant in the State of Missouri, which did a lot of business with fish farmers in Arkansas, has closed.

Arkansas fish farmers are suddenly looking for a buyer, and, of course there is a need to promote value-added agriculture in Arkansas.

A not-for-profit corporation, Arkansas' Best Catfish, Inc., has been formed for the purpose of promoting the catfish industry in Arkansas and encouraging the location of a catfish processing plant near Cotton Plant, AR. This corporation will soon apply for a rural development grant from the Farmers Home Administration.

Would the chairman agree with me that, given the needs of catfish farmers in Arkansas and the high unemployment of the counties surrounding Cotton Plant, FmHA should give careful consideration to this proposal?

Mr. WHITTEN. Yes, I do.

I thank the chairman for his consideration. This is a bill that keeps hope alive in rural America, and I urge all my colleagues to support it.

If I might engage the committee chairman in a brief colloquy, I would like to bring to his attention a matter that I just discovered last evening about 7 p.m., which of course was well after this report was filed.

Apparently a catfish processing plant in the State of Missouri which was the plant that bought and processed most of the product from the State of Arkansas has closed. Arkansas fish farmers are suddenly looking for a processor to buy their product and, of course, there is a need to promote value-added agriculture in Arkansas as well as other States.

A not-for-profit corporation, Arkansas Best Catfish Corp., has been formed for the purpose of promoting the catfish industry in Arkansas and encouraging the location of a catfish processing plant near the city of Gotton Plant, AR.

□ 1140

This corporation will soon apply for a rural development grant from the Farmers Home Administration.

I would like to ask the chairman, would the chairman agree with me that given the needs for catfish farmers in Arkansas for a processing plant to buy their product and the high unemployment of the counties surrounding Cotton Plant, the Farmers Home Administration should give careful consideration to this proposal?

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I am happy to yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, may I say to my colleague who is from Arkansas just across the river from me, I am as familiar, I think, with his district as I am with my own.

Certainly, in view of the present shortsighted farm program, I realize a real need for some activity other than crop farming if it can be had, so I certainly would insist that the Farmers Home Administration consider the gentleman's request in connection with any program that they have.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for his reply.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. MCCLOSKEY) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1143

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

The Committee resumed its sitting.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this legislation and rise specifically to commend the chairman of the committee and the ranking minority members for their efforts to fully fund the Budget Committee request for the Women's, Infants and Children's Program.

As most Members of this Congress know, this is a program which is our front-line effort to try to prevent mental retardation and birth defects and low birth weight babies in this country. It is one of the most successful programs that the Congress engages in and that this country engages in in terms of preventive medicine, and the long-term health impacts of newborn infants and pregnant women. It is this program that has led us in our most successful efforts to change the outcome of pregnancies from one of disappointment, one of distress, one of trauma to one of joyfulness and happiness among new parents because their baby is born at normal birth weight.

We know that children who are born at low birth weight have 40 times the chance of a normal child of dying in the first year of life. We have engaged in this effort, the Women, Infants, and Children's Program, over the last 16 or 17 years, and every organization that has studied this from the Federal Government to private health foundations to universities have found that this is one of the most cost-beneficial programs we have run.

I realize that in this year of declining resources and competing claims on this resource that the Committee on Appropriations had a grand struggle to engage in, yet the chairman and the committee were able to find $140 million, new dollars, so we can increase the services of this program to some 300,000 women and children who are awaiting this program who have been certified to be in medical need of this program for the healthy development of the pregnancies, of the newborn infants and of the very young children so that they will have the full physical, the mental facilities to try to participate in American society as we would all want for our own children.

I must say that I am concerned that this committee has seen fit to establish a reserve fund of some $25 million. I would hope that in the coming weeks and in the negotiations with the Senate that the committee would make sure that this fund is not so restrictive that it cannot be used. We

are, many of us who have been involved in this program, are concerned about the trend that we are now seeing among the formula makers as they negotiate with the States to start reducing the rebates that they have been giving the States under competitive contracts to try to hold onto those contracts. There is starting to appear a very unsettling trend for the formula makers to start to take back some of those rebates. That will drive up the cost of this program. It will mean fewer women, fewer children will be able to be served by this program. I hope that that will be taken into account in the consideration of what are unforeseen circumstances with respect to the reserve fund.

Finally, I would hope that the committee and the chairman would consider the idea that by a date certain in the fiscal year that this money could be released, because, again, all of the evidence suggests with this program that the earlier we get to these women in the pregnancies the greater chance we have for success of a normal birth weight child, the greater we have for a chance of success of preventing the retardation, preventing the birth defects that accompany that and preventing the death in so many unnecessary cases where we get to the women early on in their pregnancy. That is the design of the program, so the earlier in the fiscal year we will know that this money is available, we can go out and add women who are on waiting lists who have been certified at medical risk by their doctors, children that have been certified at medical risk by doctors who engage in this program, so that we can help them.

So I want to commend and thank the chairman and the committee for their efforts to fully fund the request by the Budget Committee, a program that has had tremendous bipartisan support throughout the Congress, but I would hope that they would also give attention to these concerns that I and many other people that have worked hard on the WIC Program over the years share with this reserve fund.

I also want to thank my colleague, the gentleman from New York [Mr. MCHUGH] for all of his efforts in the subcommittee with respect to the WIC funding levels.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $530,000.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured and guaranteed loans as authorized by title V of the Housing Act of 1949, as amended, $2,014,340,000, of which not less than $1,963,740,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales, and for loans to finance sales or transfers to nonprofit organizations or public agencies of not more than 5,000 rental units related to prepayment; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718). During fiscal year 1991, commitments to guarantee loans may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed $100,000,000.

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $308,100,000, to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided*, That of this amount not less than $128,158,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not more than $5,214,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further*, That $174,728,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further*, That agreements entered into or renewed during fiscal year 1991 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further*, That agreements entered into or renewed during fiscal years 1987, 1988, 1989 and 1990, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $40,000 as authorized by section 521(c) of the Act, also including not to exceed $11,800,000 for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act; $2,167,186,000. For an additional amount as authorized by section 521(c) of the Act, such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $542,000,000, of which $475,500,000 shall be guaranteed loans; $7,000,000 for water development, use, and conservation loans, of which $1,500,000 shall be guaranteed loans; operating loans, $3,550,000,000, of which $2,600,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters; and for matching grants authorized by section 502(b) of the Agricultural Credit Act of 1987 (7 U.S.C. 5101-5106), $3,500,000.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $5,620,159,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: water and sewer facility loans, $535,000,000, of which $35,000,000 shall be for guaranteed loans; guaranteed industrial development loans, $100,000,000; and community facility loans, $125,000,000, of which $25,000,000 shall be for guaranteed loans.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,466,160,000.

RURAL DEVELOPMENT LOAN FUND

For direct loans to intermediary borrowers, $25,000,000, as authorized under the Rural Development Loan Fund (42 U.S.C. 9812(a)), to be available from funds in the Rural Development Loan Fund, $2,000,000 and from funds appropriated to this account, $23,000,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $300,000,000, to remain available until expended, pursuant to section 306(d) of the above Act: *Provided*, That these funds shall not be used for any purpose not specified in section 306(a) of the Consolidated Farm and Rural Development Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000, to remain available until expended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $11,000,000, to remain available until expended.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,750,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,500,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $500,000, to remain available until expended.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $23,000,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310(B)(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, $16,500,000: *Provided,* That $500,000 shall be available for grants to qualified nonprofit organizations to provide technical assistance for rural communities needing improved passenger transportation systems or facilities in order to promote economic development.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III-A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $439,854,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(a) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $3,359,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrowers, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided,* That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1991 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1991, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $266,603,000.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1991 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,264,000.

RURAL ECONOMIC DEVELOPMENT SUBACCOUNT

For grants and loans authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $5,000,000, to remain available until expended: *Provided,* That this amount will be in addition to any amounts generated by the interest differential on voluntary cushion of credit payments made by REA borrowers.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $229,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1991, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $32,826,000: *Provided,* That none of the funds in this Act may be used to authorize the transfer of funds to this account from the Rural Telephone Bank: *Provided further,* That not less than $500,000 of this appropriation shall be expended to provide community and economic development technical assistance by Rural Electrification Administration employees to rural electric and telephone systems.

CONSERVATION

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $520,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); op-

eration of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $509,056,000, of which not less than $5,563,000 is for snow survey and water forecasting and not less than $7,873,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $370,000,000 is for personnel compensation and benefits: *Provided further,* That except for $2,399,000 for improvements of the plant materials centers, the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a-590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e-2): *Provided further,* That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006-1009), $12,783,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), $9,176,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, $191,544,000 (of which $27,789,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000,000 shall be available for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $4,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $29,900,000: *Provided,* That $600,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $24,637,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q), and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1504, 1506-1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $197,935,000, to remain available until expended (16 U.S.C. 590o), for agreements, excluding administration but including technical assistance and related expenses (16 U.S.C. 590o), except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided,* That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further,* That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further,* That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further,* That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further,* That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further,* That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political

activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $12,446,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), $10,498,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $10,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out a voluntary cooperative salinity control program pursuant to section 202(c) of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592(c)), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $14,783,000, to be used for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county ASC committees, approved by the State ASC committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided,* That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further,* That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831-3845), $1,314,926,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices provided for in approved conservation reserve program contracts, for annual rental payments provided in such contracts, and for technical assistance: *Provided,* That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order against title II?

If not, are there any amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $485,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788-1789); $5,265,539,000, to remain available through September 30, 1992, of which $569,038,000 is hereby appropriated and $4,696,501,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary: *Provided further,* That up to $3,653,000 shall be available for independent verification of school food service claims: *Provided further,* That $500,000 shall be available to operate the Food Service Management Institute.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $19,268,000, to remain available through September 30, 1992. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $2,350,000,000, to remain available through September 30, 1992, of which up to $2,000,000 may be used to carry out the farmer's market coupon demonstration project: *Provided,* That $25,000,000 shall be placed in reserve to be released by the Secretary only to meet unanticipated needs.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $81,928,000: *Provided,* That funds provided herein shall remain available through September 30, 1992: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2029), $19,038,806,000; of which $2,100,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress: *Provided,* That funds provided herein shall remain available through September 30, 1991, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations:

Provided further, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further,* That $962,125,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028, of which $10,825,000 shall be transferred to the Animal and Plant Health Inspection Service for the Cattle Tick Eradication Project.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $228,138,000.

For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988, $32,000,000.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided,* That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

For purchases of commodities to carry out the Temporary Emergency Food Assistance Act of 1983, as amended by section 104 of the Hunger Prevention Act of 1988, $120,000,000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $96,778,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $9,923,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there points of order against title III?

If not, are there amendments to title III?

If not, the Clerk will read.

The Clerk read as follows:

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $125,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $105,048,000: *Provided,* That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

AMERI FLORA '92 EXPOSITION

To enable the Secretary to meet any extra expenses of participating in the planning, organizing and carrying out of the Ameri Flora '92 Exposition, the first international horticulture and environment exposition to be held in the United States, $500,000 as authorized by section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $880,000,000, of which $314,853,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales, carryover balances and commodities made available from the inventories of the Commodity Credit Corporation by the Secretary of Agriculture pursuant to sections 102 and 403(b) of said Act, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $696,000,000, of which $696,000,000, is hereby appropriated: *Provided,* That not to exceed 10 per centum of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $5,268,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further,* That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581-3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further,* That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), $875,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there points of order to title IV?

If not, are there amendments to title IV?

If not, the Clerk will read.

The Clerk read as follows:

TITLE V—RELATED AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $654,808,000, of which $157,175,000 shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress: *Provided*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That of the sums provided herein, not to exceed $2,000,000 shall remain available until expended, and shall become available only to the extent necessary to meet unanticipated costs of emergency activities not provided for in budget estimates and after maximum absorption of such costs within the remainder of the account has been achieved.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment of facilities of or used by the Food and Drug Administration, where not otherwise provided, $8,350,000.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: *Provided*, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by Section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued through 1991, as authorized, $90,000,000: *Provided*, That not to exceed $2,017,000 of the assistance fund shall be available for administrative expenses of the Farm Credit System Assistance Board: *Provided further*, That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $39,691,000, including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $41,548,000 (from assessments collected from farm credit system institutions and the Federal Agricultural Mortgage Corporation), shall be available for administrative expenses as authorized under 12 U.S.C. 2249, of which not to exceed $1,500 shall be available for official reception and representation expenses.

Mr. STENHOLM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do this for the purposes of engaging in a colloquy with the distinguished chairman of the Committee on Appropriations.

Chairman WHITTEN, I have had an opportunity to review the language in the agriculture appropriations bill, as well as the accompanying report language. I would like to inquire as to the specific language in the report which addresses the merger of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas.

As the gentleman may remember, the Agricultural Credit Act of 1987 mandated a restructuring of the Farm Credit System's banks in order to effectively address the financial difficulties and inefficiencies of the System.

The System has evolved exactly as intended in 11 of the 12 farm credit districts. Farmers/borrowers in almost all 48 contiguous States are enjoying the benefits of more efficient and effective system operations.

Partly, as a result of these mergers, the operating cost of the Farm Credit System has decreased $170 million since 1985.

As you are aware, the unfortunate failure of the Federal Land Bank of Jackson during the transition period prevented the reform in Louisiana, Mississippi, and Alabama until the 10th District/Farm Credit Bank of Texas took over the operations of the failed Federal Land Bank of Jackson in 1989.

The merger between the Federal Intermediate Credit Bank of Jackson and Farm Credit Bank of Texas has been approved by the Farm Credit Administration and the legality of the merger has been upheld by the courts.

In the agricultural appropriations report on page 125, the language reads as follows: "The Farm Credit System was set up on a national scale to serve farmers and an obligation exists to maintain such a system on a national scale. It has been brought to the attention of the committee that the Jackson Land Bank District is to be abolished and the territory taken over by the Texas Land Bank District."

It would appear that the decision on a merger was not given to the stockholders in the States of Alabama, Louisiana, and Mississippi. Therefore, the Chairman of the Farm Credit Administration should take such action as will provide for the States of Alabama, Louisiana, and Mississippi, the full benefits formerly afforded to farmers of such States.

As I am sure the gentleman would agree, every effort should be taken by the FAA to fulfill the mandates and intent of the Agricultural Credit Act of 1987.

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This is my question to the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. May I say to the gentleman from Texas [Mr. STENHOLM] that our purpose in writing this language was to try to resolve an argument namely, the question of who is going to run the Farm Credit System in Alabama, Louisiana, and Mississippi, and whether Alabama, Louisiana, and Mississippi shall have the full benefits of the various farm credit institutions.

For many years our committee supervised the overall Farm Credit System. Some years ago they were able to get out from under the annual review by or report to Congress. We kept the right, under the law, where we would have a hearing on the system each year.

Now, you use the world "merger," as the farm credit officials do. But the question, after listening to witnesses on all sides, the question is whether merger is a proper determination or proper description of what has happened.

It is true that one group wants to be tied to the Wichita District. While Texas wants to affiliate with the banks. Will they have full benefits of Texas or continue to be "taken over"? Will these States have a Federal land bank? The report really calls for a report on this situation prior to agreeing to the so-called merger for there has been no vote of the three States.

The interest I have is to see that in the process the farmers of Louisiana, Mississippi, and Alabama do not lose some of the benefits available to others of the Farm Credit System in the Texas district.

Mr. STENHOLM. But it was not the intent of the Committee on Appropriations to circumvent in any way the Agricultural Act of 1987?

Mr. WHITTEN. Certainly we want to work with them. We did not put language in the bill. I do understand that the decision of the courts is on appeal, but as a lawyer I have not studied it. I do not know what the merits may or may not be. What we tried to be sure of is that they do not lose some rights that they would normally get with the Farm Credit System.

Mr. STENHOLM. But again, not to circumvent any of the intent of the law that was passed in 1987.

Mr. WHITTEN. They may come back and show that it is a real merger.

That is what they call it, but I do not know whether it has that aspect, to the people of Mississippi, Louisiana, and Alabama. They did not get a vote on whether to merge or not. So I want to be sure it is a merger and not a takeover as such.

Mr. DORGAN of North Dakota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say first how much respect I have for the chairman of the subcommittee. The gentleman does an awfully good job under very difficult circumstances. But I take the floor today because I am very concerned about the dropping of crop insurance.

The Federal Crop Insurance Program is absolutely essential in my part of the country, and terminating the program would be a devastating blow to family farmers.

We have completed a decade of failure in farm policy. I know some Members think farm policy has worked. It has not worked. We have had more farmers leaving the farms and our main streets are being boarded up. This farm program is not working.

If you want to hasten the decline of rural America, hasten the failure of family farmers, hasten the closing down to main streets, then just take away the Federal crop insurance. As limited protection as it now gives, it is still essential.

Our job, it seems to me, is not to abandon Federal crop insurance. Our job is to figure out how to make Federal crop insurance work. Farmers will pay more for Federal crop insurance if they are given a program that provides better and broader coverage.

The fact is that crop insurance is mandated by many lenders. Lenders say to a farmer, if you do not at least provide that basic coverage that crop insurance gives you, we are not going to exercise the risk here to give you a loan.

So if you take away crop insurance, what are they left with? Where is the protection?

We need to find a way to strengthen it. My state has one of the highest participations in the country, I think the highest participation in Federal crop insurance. Many states have relatively low participation.

The reason that the participation is not as good as it should be is the crop insurance is not a good as it should be. If we had better breadth and depth of coverage, you would see much better participation. And if you charged more for a better product, you would have better financial soundness.

We spent $1 billion last year and got $600 million back. In other words, we spent a net of $400 million on crop insurance as a subsidy. We have had it for 10 years.

I agree with the gentleman from Mississippi [Mr. WHITTEN] that it does not work very good. But the last thing on Earth we ought to do is withdraw it. We have got farmers out there hanging by their financial fingertips.

Two nights ago I got a call from a young fellow from near my hometown in North Dakota. He left the farm, got his master's degree, went out and became a division manager for one of the largest corporations in the country in the retailing business, out here on the east coast. A wonderful young man, in his thirties. He came back a few years ago to farm his dad's farm.

He called me recently and said, "You know, I don't know that I can keep doing this very much longer. I do a pretty good job. But you have a $4 target price on wheat, but we don't get $4 in North Dakota. That $4 is the price at the Twin Cities or the ports—an average national price. Our price for wheat is supported at $3.40 or $3.60."

Wheat prices were $2.81 the other day at my hometown elevator. The fact is this farm program is not working. If you take away crop insurance at this moment, it will be devastating.

We not only have to improve crop insurance, we have to improve a farm bill, and create a farm policy that makes sense to family farmers. But most of all, Mr. Chairman, we cannot at this time withdraw support for crop insurance.

I do not come here today to criticize the chairman. I think the chairman has done an excellent job in many, many areas. But we must, working with the Committee on Agriculture and working on some funding mechamisms later, find a way to save this Federal Crop Insurance Program. It means success or failure to a whole lot of family farmers out there.

Despite the fact there is not money in this legislation today, I hope the chairman will work with us to find a way to make that program work.

Mr. Chairman, I would be happy to yield to the gentleman from Mississippi [Mr. WHITTEN] if he has any response to that.

Mr. WHITTEN. Mr. Chairman, may I say I can appreciate the interest my colleague the gentleman from North Dakota [Mr. DORGAN] has in this. As I pointed out a while ago, in the last 10 years the cost to the Government has been more than $4.6 billion, which is charged up to all the farmers.

Something has got to give. We nursed this law along for 12 or 15 years trying to make it actuarially sound.

May I say the gentleman had better give some thought to what I say here. We need to return to the old farm program, where folks got a fair price from the buyer. Now they get less than cost and the farmer gets a check from the U.S. Government. It is called a subsidy. But for 48 years they got it from the buyer, and it was not a subsidy.

Today labor and industry pass their increases on to the buyer. We need to return to the old law, and the law still permits it. Now we have got the program to where they reduce the price to the farmer. Goodness knows the people in the Government and the White House and everyone else does not seem to understand they are talking to the biggest supporter of our economy we have got. We need to go back and use the law, where they got their money from the folks that are the buyer. But I agree they can use every dollar you can give them, and we have been giving it to them under this program.

Mr. DORGAN of North Dakota. Mr. Chairman, reclaiming my time, the Federal Crop Insurance Program is subsidized, but it is taken back from farmers a dozen times on the other side by requiring them to grow products and sell them at a price that is less than the cost of production.

Mr. WHITTEN. If we get an actuarial program, I will take as much interest as anybody in supporting it.

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman from Mississippi [Mr. WHITTEN].

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE VI—GENERAL PROVISIONS

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1991 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 612 passenger motor vehicles, of which 607 shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621-1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this

Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $4,500,000 for the contingency fund to meet emergency conditions, $5,000,000 for the Grasshopper and Mormon Cricket Control Programs, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Agricultural Research Service, buildings and facilities, and up to $10,000,000 of funds made available for construction at the Beltsville Agricultural Research Center; Cooperative State Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $3,500,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C. 3152(a)(3)(B)); $8,250,000 for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890, including Tuskegee University; and buildings and facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 620. During fiscal year 1991, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1990 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 622. In fiscal year 1991, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Food and Drug Administration, 8,259; Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided*, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further*, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further*, That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 631. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delin-

quent payments from Farmers Home Administration borrowers.

SEC. 632. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund. Further, Rural Development Insurance Fund loans offered for sale in fiscal year 1991 shall be first offered to the borrowers for prepayment.

SEC. 633. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a targeted export assistance program under section 1124 of the Food Security Act of 1985 if the aggregate amount of funds and/or commodities under such program exceeds $200,000,000.

SEC. 634. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out an export enhancement program (estimated to be $900,000,000 in the President's fiscal year 1991 Budget Request (H. Doc. 101-122)) if the aggregate amount of funds and/or commodities under such program exceeds $500,000,000.

SEC. 635. None of the funds in this Act, or otherwise made available by this Act, shall be used to regulate the order or sequence of advances of funds to a borrower under any combination of approved telephone loans from the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

SEC. 636. In fiscal year 1991, section 32 funds shall be used to purchase sunflower and cottonseed oil, as authorized by law, and such purchases shall be used to facilitate additional sales of such oils in world markets at competitive prices, so as to compete with other countries.

SEC. 637. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 638. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 639. None of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research Service that exceed 14 per centum of total direct costs under each award.

SEC. 640. Funds available to the Animal and Plant Health Inspection Service (APHIS) under this and subsequent appropriations shall be available for contracting with individuals for services to be performed outside of the United States, as determined by APHIS to be necessary or appropriate for carrying out programs and activities abroad. Such individuals shall not be regarded as officers or employees of the United States under any law administered by the Office of Personnel Management.

This Act may be cited as the "Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991".

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1200

The CHAIRMAN. Are there any points of order against the remainder of the bill?

If not, are there any amendments to the remainder of the bill?

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: Page 79, insert after line 2 the following new section:

SEC. 641. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 7.7 percent.

Mr. FRENZEL. Mr. Chairman, before I begin discussing my amendment I would like to join the choir that is singing a hymn of praise to the distinguished gentlewoman from Nebraska [Mrs. SMITH]. It has been my pleasure to work with her and for her numerous times as she has worked hard for her constituents, and I can think of almost nobody who has done a job like VIRGINIA SMITH has done.

While sometimes I have been critical of the work of the subcommittee, I have never been critical of the gentlewoman from Nebraska, and I must say that the body is going to miss her intensely. I would say the same thing about the gentleman from Oklahoma [Mr. WATKINS], who is also leaving the subcommittee and will be missed intensely in these halls.

With respect to my amendment, Mr. Chairman, I have offered a similar amendment on each of the appropriation bills. They have all been aimed to reduce the amount of discretionary spending back to the fiscal year 1990 level.

Members will recall the House and Senate have not passed a joint budget resolution. Under the Budget Act, the appropriations committees are not permitted to go forward. What happened, however, was that the House, in a very controversial resolution, deemed the budget resolution to have been passed. Thereafter the Appropriation Committee has appropriated using 302's from the House budget resolution which were, in my personal judgment, inordinately, and outrageously, high.

The result has been enormous increases in spending. This bill on the discretionary side increases spending by 7.7 percent over fiscal year 1990, certainly well beyond the cost of inflation, the CPI deflator or whatever index we want to use, and my amendment simply seeks to cut back the discretionary spending within the bill to fiscal year 1990 levels.

It removes from the discretionary account only about $764 million. The whole darn bill is over $50 billion, so the total effect of my amendment reduces it by only a percentage point and one-half. It is a tiny amendment.

The problem here is that whenever the committee can make a savings, as it has attempted to do in the crop insurance section, it spends the money elsewhere, and we shall hear about one of those accounts later. But there are many accounts which were raised above 7.7% as this committee struggled to do its work.

With respect to crop insurance I might say also, Mr. Chairman, that not only do we help the farmers with the crop insurance. That is No. 1. We then help the insurance company by paying some of their expenses. That is No. 2. And then ultimately we come along with the disaster aid, and that is No. 3.

The Federal Government probably should not mind paying once or twice, but to pay three times is an affront to the taxpayers and the citizens of the country. There is no need for it. Reduction of crop insurance is one of the best features of this bill.

Mr. Chairman, I do not expect the House is going to accept the opportunity that I am going to give it to exercise a little fiscal sobriety, and I am getting very much used to that. I only hope that when and if the summiteers bring back a responsible agreement that the Members will be able to reduce their very inflated aspirations about what they should do for the constituencies they represent. I hope they will be willing instead to pull in the belt a couple of notches. Only then will we be able to restore some fiscal sanity to this country.

AMENDMENT OFFERED BY MR. PENNY TO THE AMENDMENT OFFERED BY MR. FRENZEL

Mr. PENNY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY to the amendment offered by Mr. FRENZEL:

In the matter proposed to be inserted strike "7.7 percent" and insert "9.5 percent" and the following: except that this reduction shall not apply with respect to amounts appropriated or otherwise made available by title III for necessary expenses to carry out the special supplemental food program for women, infants, and children (WIC) as authorized by section 17 of the Child Nutrition Act of 1986.

Mr. PENNY. Mr. Chairman, quite simply my amendment would exempt from any cuts the WIC Program and adjust the across-the-board reduction accordingly.

In attempts to reduce the spending in each of the appropriation bills it has been my objective this year to identify certain programs within those bills which, in fact, are a higher priority. For example, in previous efforts on the housing bill we exempted section 8

contracts because we felt those were obligations that had to be honored. In the Treasury, Postal Service appropriation bill, our amendment exempted IRS funding because we understood that the additional staff in that agency was necessary to better improve the enforcement of our tax policies and the collection of tax payments due to the Federal Government.

Here in the agricultural appropriation bill there are many accounts that are largely administrative in nature. But there is one account in particular which we all understand to be of high priority for needy women and children in our society. That is the WIC Program.

This program targets assistance, food assistance to pregnant mothers and to their infant children. It is a program that has proven to be highly successful. It has improved our birth weight in children. It has avoided birth defects and other health complications.

I think that this program pays dividends down the line for a very modest investment at the onset of life, and I would like to see this amendment adopted so that we can demonstrate that even in this time of fiscal austerity that we do have our priorities in this Government. This is clearly a program within the agriculture appropriation bill that does stand out as a more needed and worthwhile program than others.

Even with this amendment we will see funding in the overall bill held at the 1990 levels. And so we will demonstrate our willingness to hold the line on spending increases in this area of Federal expenditure while tipping our hat to one particular program which deserves some level of increase. And because I am a strong proponent of the WIC Program, as I think most Members here are, this is the single program in the bill that I think deserves some level of increase at the expense of other programs within the Department of Agriculture.

I would ask the gentleman from Minnesota to consider this as a friendly amendment, and if not, then we can proceed to a vote.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, when I drew my amendment I considered very carefully the WIC appropriation and I noted that it was increased by 10.5 percent. In fact, the enormous increase in WIC of over $200 million was part of why we brought nothing down to net after taking out the crop insurance.

After giving effect to my amendment as it was originally submitted, WIC would still have an increase of nearly 3 percent. However, Mr. Chairman, because the gentleman from Minnesota's amendment does not reduce the total amount of dollars reduced by my amendment, and because the gentleman from Minnesota has been a relentless supporter of reductions to what I consider to be excessive spending by this House, I do not object to his amendment and I wish him well.

□ 1210

Mr. WHITTEN. Mr. Chairman, I move to strike the last word and would like to address the pending amendment and the amendment to the amendment.

Mr. Chairman, whatever we bring here, some of our friends—and I have the highest regard for them—are going to offer amendments to cut further.

May I say the Committee on Appropriations—and I am proud of our record—since 1965 has reduced the requests of Presidents by $173.6 billion. The bill before you, in trying to go along with our 23 requests from our colleagues, we have had to cut many programs to about 50 percent of what would be sound. Not only that, but through the passing of a budget provision, we on the Committee on Appropriations, have to abide by a 302(b) allocation for our different subcommittees. Luckily for me, I serve on Defense, Public Works, Transportation, Military Construction and all the rest of the subcommittees as well as being chairman of the full committee. We have stayed within those limits.

May I say that I notice you exempt those things that are fixed by law. Only about 15 percent of the total expenditures are subject to discretionary action by our committee.

Now, if we are going to get cut further, it would be like when I was practicing law, I settled a lawsuit against an insurance company. The clerk of the court there had the bill of costs, and the attorney on the other side said, "Charley, why did you put this in there? And he said, "I knew you were going to bellyache about something. So I put it in there so you could take it out." We do not do that. But if we are going to be faced with this, may I say to my good friends on the Budget Committee I have not seen one of them object to an authorizing bill or any bill that causes this money to be spent, and now you exempt it. But all of the discussion for cuts has been directed to the Appropriations Committee.

May I say again we have already done our job. I hope you will defeat these efforts.

Under leave I submit the following table showing reductions which would be made in the major items of these programs by the Frenzel amendment and other amendments which I understand will be offered.

The table follows:

REDUCTIONS IN MAJOR PROGRAMS UNDER THE PROPOSED ACROSS-THE-BOARD-CUTS

	Penny minus 9.5 percent	Frenzel minus 7.7 percent	Dannemeyer minus 5 percent	Penny minus 2 percent
Food Stamps	−$1,808,610,000	−$1,465,972,000	−$951,930,000	−$380,772,000
WIC	0	−180,950,000	−117,500,000	−47,000,000
Elderly feeding	−14,240,000	−11,542,000	−7,495,000	−2,998,000
Commodity Supplemental Feeding Program	−7,783,000	−6,308,000	−4,096,000	−1,638,000
REA loans	−170,466,000	−138,167,000	−89,718,000	−35,888,000
Rural housing	−191,362,000	−155,104,000	−100,717,000	−40,287,000
Water and Sewer	−79,325,000	−64,295,000	−41,750,000	−16,700,000
Loans	(−50,825,000)	(−41,195,000)	(−26,750,000)	(−10,700,000)
Grants	(−28,500,000)	(−23,100,000)	(−15,000,000)	(−6,000,000)
Soil Conservation	−97,211,000	−78,792,000	−51,164,000	−20,466,000
Conservation Reserve	−124,918,000	−101,249,000	−65,746,000	−26,299,000
CCC	−475,000,000	−385,000,000	−250,000,000	−100,000,000
Restoration of Loan Funds	−779,011,000	−631,408,000	−410,005,000	−164,002,000
Farm Ownership Loans	−51,490,000	−41,734,000	−27,100,000	−10,840,000
Farm Operating Loans	−337,250,000	−273,350,000	−177,500,000	−71,000,000
Research and Extension	−141,401,000	−114,609,000	−74,422,000	−29,769,000
FDA	−65,433,000	−53,035,000	−34,439,000	−13,775,000
Total	−4,343,500,000	−3,701,515,000	−2,403,583,000	−961,434,000

Mr. TRAXLER. Mr. Chairman, I move to strike the penultimate word.

Mr. Chairman, I have noticed that in the course of this year there has been a series of amendments offered to the various appropriations bills as they have come to the floor. There are suggestions made that the appropriations bills bust the budget.

I think it is terribly important to bear in mind that the makers of those

kinds of amendments have not clearly identified whose budget they are talking about. When you say budget to this body, you have to ask whose budget are you discussing? The key here is that the Committee on Appropriations has limits placed upon it by the Budget Control Impoundment Act as amended by Gramm-Rudman. And in that process there is a legitimate function performed by the Committee on the Budget in sending to the floor its budget resolution and sending to the Appropriations Committee what is called the 302(a) number. That is a number that we live with in terms of the gross. I have not said anything about the President's budget. That is a separate one.

That is a gross figure that we take and we do a 302(b) process with it. Now this is rather technical, but it is critically important that you understand it because it is a process that is regular, orderly, and rational and produces a document and the numbers for the subcommittees on appropriations that are within the President's gross number and within the 302(a) number.

This bill does not bust anybody's budget under our processes, and it is rational and logical. What it does provide for is the reorganizing of the priorities, No. 1, of the President and, on occasion, of the Budget Committee who delve into subcategories to achieve their 302(a) number, which is the only one binding on the Appropriations Committee and the only significant thing they do.

Now, there are those on the Budget Committee and in the administration who, in the course of the budget negotiations going foward now, would clearly, clearly like to restrict and restrain the prerogatives given to the Committee on Appropriations and the rules of the House and the Budget Control and Impoundment Act as amended by Gramm-Rudman.

Let me say to them, if you are serious about garnering the votes to pass a budget reduction package in the coming weeks and months, I would not offend 50 Members of this body with such ridiculous procedural "reform."

You strike at the very heart of this process. I might want to reprogram the process also and eliminate the Budget Committee, but that is not why we are here today.

What we are here today doing is considering a measure which, under the rules of this body and this House, is fully within the constraints placed upon it and within the 302(a) number and fully within the 302(b) numbers.

The committee is to be congratulated, the full Committee on Appropriations, and the distinguished chairman of this subcommittee. He has repeatedly made statements on this floor which no one listens to because this does not fit the script and they do not want to hear it.

This committee has lived fully within the President's total gross budget figure and the 302(a) number and, furthermore, has abided of course by our 302(b) allocations.

When people come to this floor and offer amendments to slash the bills on the basis that they bust the budget, the question is whose budget are they talking about?

We have reorganized the President's priorities, as we have every constitutional right to do and ought to do. Ought to do. Where did we find the money to put in this bill, for instance, which is different from the President's numbers? Well, we took it from defense, both in terms of 302(a), as they got to that number, and in terms of the 302(b) process.

So, any, any reference that the Appropriations Committee busts budgets, the question is whose budget, what budget? And have we exceeded the total, the bottom-line number of the President or of the Budget Committee, the 302(a) number? Of course we have not. Of course we have not. The fact of the matter is that if you take all of the discretionary spending, the total appropriation bills will be lower than the President's. That is critical, and that is important.

I respectfully suggest that this committee has acted in a responsible fashion to protect both the American taxpayer and the budget process. Do I like deficits? Of course I do not. Am I pleased that we have these? Of course I am not.

I await the day that a President will send us a balanced budget.

I thank you for your indulgence.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has asked the right question: Which budget are we busting? That was the point I began this discussion on. It was that there is no congressional budget and you do not have any 302(a)'s or 302(b)'s. What you have is something deemed to you by the Committee on Rules which is not a congressional budget. That is the thrust of my amendment.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. TRAXLER] has expired.

(On request of Mr. FRENZEL and by unanimous consent, Mr. TRAXLER was allowed to proceed for 2 additional minutes.)

Mr. FRENZEL. I had about finished. There is not a budget. We have deemed one. Therefore, we are flying blind.

The Congress could not or did not or would not pass its own budget. That is what upsets me because we are operating, in my judgment, at the House budget level which was one body's idea of what should happen, which I think is considerably more than is going to be what ultimately results from some kind of summit agreement that we may all be able to make.

I tell the gentleman: "whose budget" is a heck of a good question, and I invite his response.

Mr. TRAXLER. I would say to the gentleman, he is correct in factually stating what he has. We are deeming. But I would also say, the good news is—and I regret that the other body could not, for whatever reasons over there. As the gentleman knows, they act on unanimous consent. They do not seem to have any rules.

But in any event, what I want to remind the gentleman is that the good news is that in all discretionary spending, including defense, we are under the President's budget when you take all of the 302(b) allocations that our committee put together. That ought to be good news for the gentleman. He ought to be pleased with it.

Mr. FRENZEL. That has always been good news to this gentleman when you appropriate less of anything. The problem is that as soon as you do that, by giving the President less military than he wants, you spend it on something else as you have done in this bill in which you are $3 billion above his budget.

□ 1220

If you would take some of those savings down to net, we would build an altar to the Appropriations Committee in every church in the country.

Mr. TRAXLER. Mr. Chairman, I think the gentleman makes a valid point in the sense that the Congress has the right to reorder the President's priorities, and that is what the Budget Impoundment and Control Act, the budget resolution, and the congressional budget process is all about. It allows the Congress to ascertain systematically the needs of the Nation and to put its stamp on what it visualizes to be those needs to meet the ever-growing demand of this growing population.

I agree with the gentleman, this is different from what the President wanted. I might add that if one looks at public opinion polls, we are on track and in sync with the people of America.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. TRAXLER] has expired.

(On request of Mr. FRENZEL, and by unanimous consent, Mr. TRAXLER was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Mr. Chairman, will the gentleman yield further?

Mr. TRAXLER. I am delighted to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I think the gentleman is right. The Congress has put its stamp on this process, and its stamp now has us over $3 trillion in the hole.

Mr. Chairman, I thank the gentleman for yielding.

Mr. FAWELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, first of all, I would like to thank both the gentleman from Minnesota [Mr. FRENZEL] and the other gentleman from Minnesota [Mr. PENNY], who have consistently done a job which I think many of us have wanted to avoid, and that is to bear the bad news about the appropriations process of this Congress. As fine a Member as is, for instance, the gentleman from Mississippi—and no one would disagree with that—I think we all have to understand that somewhere this appropriations process which has just been talked about is doing a very, very poor job. Their end product is, after all, disastrous debt for this Nation.

This is the day after, the day after we as a body said that we will not elect to ask the States of this Union as to whether they want a balanced budget amendment which would require supermajorities in order to spend or basically to create deficits. I think every Member who spoke yesterday recognized the fact that there is a lack of guts on our part in Congress in regard to cutting spending. I might say that is true of the executive branches, too, for the last 20 or 30 years. When we say that this appropriation is less than what the executive branch wants—that is no great story—Congress and the executive branch in general for 30 years have been somewhat in union in not balancing budgets. I do not have to go over the numbers. They are catastrophic. But we have had Members in this body such as the two gentleman I have just mentioned who time and time again have incurred the wrath of the Appropriations Committee and of others by coming before us and saying that if we do not start taking a few steps—even a first step is a start on a thousand-mile journey—we are never going to solve the problems which are before us. And these "across-the-board" cuts are the most minor of steps that we ought to be taking.

I say, first of all, "I thank you very much" to these two gentleman. Mr. Chairman, there is a bias toward spending in this body. We all recognized that yesterday. We all said we were going to have the wherewithal to do something about it. I hope, and I mean this sincerely, that all members of our Appropriations Committee—and I know they labor long and hard—recognize that something must be done to change this appropriations process. I know that one person's boondoggle is another person's real fine project and all that. But we have to conclude, I think, that there is a serious national debt problem that has built in America, and all we are doing, when we spend and spend and create these deficits is eventually, like a boil that is popping on your nose, having to seek a solution, and that always is to increase revenues because we do not want to cut spending, that is, to change the process of this Congress, the system under which we appropriate.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. When I have finished, I will be glad to yield if I have time left.

Mr. Chairman, the time has come when we not only have to welcome the FRENZEL's and the PENNY's, who I know have probably given up trying to get things out of appropriations, but we have to welcome everybody so far as the appropriations debates are concerned, as we do in regard to all the other committees. There has been a kind of sacred aura in regard to the Appropriations Committee, and I can understand that. But we cannot afford that any longer. We have to have debates maybe for several days on these tremendously large appropriations. We have to get away from having these large appropriation bills dropped on our desks the day before, less than 24 hours before, when the Members have no opportunity whatsoever to know what is in there.

It is true that we have trepidations when we stand up before these august gentleman. The gentleman from Michigan [Mr. TRAXLER] said in his comments just recently that you would be offending 50 members of this committee. And there you have it. Who is going to get up and offend 50 members? And you can multiply that by 13. Not all the subcommittees of the Committee on Appropriations have the same numbers, but roughly let us say that. So nobody wants to offend anybody. We do not want to offend, and maybe our districts will not have the proper funding, and so forth. So what we do is really put all the appropriation bills on some kind of a default calendar, and no one question these appropriation bills. And so they grow and grow, and so do our deficits and national debt until we face the catastrophic debt which now confronts this Nation. That system has to charge or we shall never cut spending.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 2 additional minutes.)

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. Let me finish first, and then I will be glad to yield.

Mr. Chairman, what I am saying is that I hope there is a rebirth that is going to take place in this Congress now. I hope we will be seeing many Members of Congress now getting the opportunity to review these appropriation bills, and I hope that nobody on the appropriations committee will be offended if somebody questions whatever they may be doing and engages in debate, and presents amendments, because we all have agreed that it is Congress—and I would bring the President in on this, too—that is responsible for the process and the system whereby we cannot cut. We just cannot do it. We do not have the wherewithal.

I would say it is not from lack of intelligence. We have tremendously gifted people in Congress, but we simply cannot cut spending under the system we have. I could cite perhaps seven or eight projects in this bill in regard to which I would like to file amendments, but I did not have time to do it.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I will wind up in another 15 seconds, and then I will yield.

Mr. Chairman, I picked out something like $84 million in projects where I would look at things, things like urban gardening and District of Columbia agricultural services. I do not know of any farms here in the District. I looked at all the special research grants building a library for a private law school, giving grants to private colleges, things of that sort. But I do not have the time, and we hardly have the staff. But I think we ought to start changing all that, and I hope we do not give offense to our friends who are part of the appropriations process. I hope we do not do that because we cannot afford those kinds of tender feelings any longer.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has again expired.

(On request of Mr. TRAXLER, and by unanimous consent, Mr. FAWELL, was allowed to proceed for 2 additional minutes.)

Mr. TRAXLER. Mr. President, will the gentleman yield now?

Mr. FAWELL. Yes, I am glad to yield to the gentleman from Illinois.

Mr. TRAXLER. Mr. Chairman, I am grateful to my colleague for yielding.

Mr. Chairman, I want to assure the gentleman that I know he is a very valuable Member of this body, and we respect his judgment. He is a courteous gentleman, and nobody could ever take anything away from him in that regard. He is polite, and we honor him for that, and he has been very kind in yielding to me.

Mr. Chairman, I just want to say here that I think it is important to put this process in some sort of a perspective. Really that is kind of easy.

These bills come out here one at a time, and, therefore it is difficult to see the totality here because we are looking at a tree and perhaps not the forest. But what is the forest all about? I know the gentleman will be interested in this.

For instance, on the discretionary expenditures, let me give the gentleman the President's budget numbers to help him work his way through some of these issues. The President's budget numbers for 1991 in budget authority were $499,682,000,000, and the House Budget Committee—and we are raising their numbers incidentally in these appropriation bills—came up with $492,757,000,000, and I am sure the gentleman as a Member of this body would be proud to know that the Congress is some $7 billion under the President's budget authority numbers.

Now, the gentleman would be further thrilled and elated, I am certain, to know that the President's budget in outlays is $517,923,000,000, and that the House Budget Resolution and the appropriation bills in toto will be $513,679,000,000 or some $4 billion or so, perhaps $3 billion or $4 billion, under the President's figures in outlays.

□ 1230

Now, the gentleman must be very proud of that record. I am.

Mr. FAWELL. The point I tried to bring across, and I know I did not do a good job, is that at this point I no longer care what the President's budget is.

What I want now is that Members of this Congress who are not members of the Appropriations Committee have the opportunity to be able to look at what is in these appropriations bills and then we, having had that time, be able to openly debate these bills on the floor of the House. The need to cut spending is too great to be bound by the President's budget figures or the figures of any appropriation committee.

Mr. TRAXLER. Mr. Chairman, if the gentleman will yield on that point, of course, the bill has been printed and available for 3 days. There was an open markup last week on the bill. This is a standard process.

Mr. FAWELL. We got it just yesterday.

Mr. TRAXLER. There is a better way at getting at this. It is an open rule. The gentleman can offer any amendment within the rule.

Mr. FAWELL. Yes, but let me make this clear. What good is an open rule when there is an unwritten rule, and it is clear, nobody will deny it, that you do not do that. An open rule does not mean anything if people do not feel they really have the opportunity in regard to every one of these appropriation bills to stand up and start questioning them.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. FAWELL. That is my point, Mr. Chairman. The situation in America is calamitous. We are going to go to $4 trillion of national debt. We are going to be coming in in 1990, with $366 billion of new debt, and yet we go along with the same scenario, the same system. We make no changes, while we all profess we have got to cut spending. We all agree on that, but we are not able to do it, and this is my point, because of the appropriations process.

We talk about 302(a) and 302(b) to deal with what somebody else is doing or what the President is doing.

We have to look in the mirror and ask ourselves how we can cut, and we have to give all the other Members, for instance, the ability to look at these bills and find, for instance, according to the USDA, the bill spends $3 million to build a private medical school at Wake Forest, and ask is this the job of the Agriculture Subcommittee in regard to appropriations?

Certainly we have respect for the committee, but it cannot be such that we do not bring these matters to the floor. That is what these two gentlemen are doing, and I support their amendment.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

First, I would like to tell you how deeply I appreciate those generous and gracious comments that have been made about my personal service here in the Congress. Working with all of you on this committee has been a highlight experience of my entire life. I am going to miss you, but let me invite you to come out to Nebraska next year and I will cook a steak for you on the barbecue.

Now, Mr. Chairman, I reluctantly rise in opposition to this amendment which has been proposed by one of my friends whom I admire and cherish the very most in this Congress, that I really believe that this is not the most prudent action at this time.

Our committee has had hearings. We have worked for many weeks on these issues. This bill deals with two areas. It deals with a group of our people who provide the cheapest food on Earth for American citizens. No other country in the world has an abundance of food for only 11.6 percent of its income, and this bill helps provide the stability that makes that possible.

The other part of the bill, more than half of it, provides better nutrition for the most vulnerable people in our society. I really do not believe in making cuts like this—of about $100 million in food inspection services and over $60 million in our program designed to protect the soil for future generations. It is a careful bill, and I do oppose the amendment.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I heard the chairman of the Appropriations Committee, the gentleman from Mississippi [Mr. WHITTEN] say earlier that Congress has decreased requests from the President over the last 5 years, if I recall correctly, by around $175 billion.

Now, I have the figures here and I am going to quote what the President asked for and what Congress appropriated, beginning in 1985.

In 1985, the Presidential request was $940.3 billion. Congress appropriated $946.3 billion.

In 1986, the President asked for $973.9 billion. Congress appropriated $984.8 billion.

In 1987, the President asked for $994 billion. Congress appropriated $1.003 trillion.

The President requested in 1988 $1.024 trillion. Congress appropriated $1.064 trillion.

In 1989, the President asked for $1.094 trillion. We appropriated in Congress $1.142 trillion.

In 1990, the President asked for $1.151 trillion. Congress has appropriated so far $1.202 trillion.

The facts are, Mr. Chairman, with all due respect, Congress has appropriated more money than what the President has asked for. The reason we are in this fiscal mess is not because we changed who occupies the White House. The problem is that we have not changed who occupies the seats in the House of Representatives. The spenders are in control and the only way the American people are going to bring this mess under control is to bring some retirement to some people around this place who have not yet accepted the discipline of just modestly reducing expenditures.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to the gentleman from Mississippi.

Mr. WHITTEN. The gentleman is talking about the 85 percent that goes around our committee. My statement was made that the Appropriations Committee has held the total down.

Mr. DANNEMEYER. Mr. Chairman, I am going to reclaim my time. I am talking about all expenditures.

Mr. WHITTEN. Eighty-five percent of the spending has bypassed our committee, so when you put it all together, it makes a good story, but the gentleman's figures are not accurate. That is 85 percent that you went around us for.

Mr. DANNEMEYER. Well, I have to put the gentleman down as undecided,

but the fact of the matter is that we are the problem in this country.

It is not the person occupying the White House.

Mr. Chairman, I rise in support of the amendment.

Mr. TRAXLER. Mr. Chairman, will my distinguished colleague, the gentleman from California, yield to me?

Mr. DANNEMEYER. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, perhaps the gentleman could help me, perhaps. I am just intrigued with the things the gentleman has been saying.

Perhaps the gentleman can help me out. When I came to this Congress, we had a national debt of some $400 or $500 million, then a billion dollars, and then under Jimmy Carter it was close to a trillion dollars, and then within 10 years the former Governor of California pushed that up to $3 trillion. In other words, he more than tripled it in 10 years. Now, how did he manage to do that?

Mr. DANNEMEYER. I will reclaim my time, Mr. Chairman.

Mr. TRAXLER. Well, let us have dialog on that.

Mr. DANNEMEYER. What I am saying to my friend is that the data shows that the Presidents propose and Congress disposes. The Congress has consistently appropriated far more money than the President has asked for. That statement is true even during the Reagan budget years.

Mr. TRAXLER. Mr. Chairman, the gentleman knows that is not a correct statement.

Mr. DANNEMEYER. Historically what Congress did with President Reagan's defense request was reduce what he asked for and then load up on social programs to the Moon. That is what the problem is.

Mr. TRAXLER. We did not increase his number, though, his total number, did we? We rearranged his priorities. The gentleman did not like that.

□ 1240

Mr. DANNEMEYER. Mr. Chairman, the responsibility for the spending belongs in the Congress of the United States, belongs to the House of Representatives by the Constitution. This is where the appropriation bills are initiated.

Let me share with my colleagues some of the blackmail that is going on with this Member of Congress.

Mr. TRAXLER. Does not the President have a veto power?

Mr. DANNEMEYER. The House considered the transportation bill. There is $1 million for Orange County in there for some kind of a transportation study. The Members know that I have authored a 5-percent reduction to all appropriation bills across the board. Somebody called my office and advised my staff that if this Member had the audacity to offer a 5-percent reduction to that transportation bill, would you believe that that $1 million expenditure for transportation in Orange County, CA, would have come out in conference? Now, that is hardball politics, but what it shows is the addiction of the spenders in this institution to have their way. Any Member who seeks to modestly reduce spending is told, "If you do not go along, you are not going to get along." I resent that.

Mr. TRAXLER. If the gentleman will yield further, let me say if that happened, I would resent it, too.

I do not think anybody on the Committee on Appropriations or their staff would make that kind of phone call.

Mr. DANNEMEYER. I am not making it up. What I described took place. It took place about 10 days ago.

Mr. TRAXLER. It just occurred to me, could the gentleman explain to me if all of this was going on and the gentleman is unhappy with some acts of the Congress or why we did not balance President Reagan's unbalanced budgets, could the gentleman advise me why he did not veto this bill? What was his problem?

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

(By unanimous consent, Mr. DANNEMEYER was allowed to proceed for 2 additional minutes.)

Mr. DANNEMEYER. The staff of President Reagan advised the President that if he got confrontational with the Democrat majority in the House of Representatives, he would have stalemate and historians would record that he was not able to develop a consensus to govern the country and his Presidency was a failure, because that is where confrontation would lead. President Reagan made a judgment as to how he would react to this reality. History will record what he has done.

I think, in balance, he has done a tremendous job in turning the whole concept in Western democracies of lower taxes and lower Government spending, and I commend him for that. Had I been where he was during the years of his Presidency, I would have welcomed the opportunity of getting confrontational with the Democrats who control this institution and control the level of spending, so the American people would understand where the responsibility is as to why we are in this mess. It is because of the big spenders on the gentleman's side.

Mr. TRAXLER. If the gentleman will yield further, I appreciate the gentleman's response. I guess truth or beauty is in the eyes of the beholder. As a Midwest populist and son of the soil, one might say, I remember the terrible beatings I took in this Chamber by the Reagan coalition. I wish the gentleman's analysis of history and his reconstruction of events were correct, but I do not believe that the Democratic majority ran things in those days. We had a Republican Senate.

Mr. DANNEMEYER. I do not want to wish my friend more trouble than he has experienced, but I can say that we did not beat him up enough, because he is still standing and smiling, and I think he is just full of life and full of fight. I commend him for sticking to his principles even if he is wrong.

Mr. TRAXLER. Just to make the gentleman feel more comfortable, the historic fact is that no Congress since 1946 has moved the numbers on a President around more than 2 percent, a remarkable record for Presidents. Their budget is the road map. It is the blueprint by which the congressional budget finally gets adopted. That is the fact of the matter. I thank the gentleman for his courtesy.

Mr. DANNEMEYER. I thank the gentleman for the exchange.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have had a number of interesting discussions here in the last few minutes, and I agree with some of what has been said by my colleagues on the other side.

It is just that I have a little bit of problem putting it in the perspective of what we heard yesterday when we were debating the balanced budget amendment to the Constitution.

My colleague, the gentleman from Michigan [Mr. TRAXLER], said a few minutes ago that the Committee on Appropriations is operating fully within the restraints of the Committee on the Budget. He is right. They are.

It is, as the gentleman from Minnesota [Mr. FRENZEL] pointed out, a budget that has been deemed rather than passed, because we did not have the political will and courage to do the job of actually coming up with a budget that was a firm figure from which the Committee on Appropriations should operate. But we do, in fact, have this document that has been deemed, and that the Committee on Appropriations is operating within, and I think that is fine.

The problem is that that deemed document is completely inadequate to the job. It was a dumb document. I voted against it. It should not have been passed. It did not have appropriate figures in it. It was far too much on the spending side of things, and so the fact that we are operating within that document does not give us any movement toward a balanced budget whatsoever.

The fact is that the appropriation that we have before us here right now is $5.2 billion over last year's spending—$5.2 billion. We had massive defi-

cits that we were dealing with last year, and you now come to us with an appropriation bill that is $5.2 billion more than what we were spending last year. That is what we cannot afford.

I do not care whether you operate within the budget or not. The budgets are nonsense. What we need to have is what we heard talked about here on the floor yesterday, and that is the political will and courage to actually reduce the deficits. Where is it? I have not seen it in any of the appropriation bills that we have brought forward so far this year. It is certainly not in this appropriation bill.

The gentlemen from Minnesota, both of them, have offered previous attempts to cut the spending. They have been rolled on the House floor. They have been rolled in part because of the kind of, I would not call it blackmail, that the gentleman from California told us flatly that he has experienced.

I am just a little disturbed to hear all of the talk on the floor yesterday when we tried to develop a policy aimed at dealing with deficits and we cannot do that, because we are told that we have to have political will and courage, and it ought not be done constitutionally, and then we come to the point where we have to exhibit the political will and courage, namely, on appropriation bills, and we are told we cannot do it there either, because we are going to argue about how much the President asked us to spend or whether or not we are operating within the constraints of the Committee on the Budget. There are no constraints. The President's budget is not a constraint. The House Budget Committee document is not a constraint, because neither of them do anything about reducing deficits.

If we are going to reduce deficits, we have to cut into the spending patterns that we have been using for the past decade or more in this body, and we are not doing that. This bill does not do it.

Even if the two gentlemen from Minnesota, as valiant as their effort is, were to succeed, their modest amendment would not do it. We would still be spending more than we spent last year in the totality of this bill, far more than we spent last year in the totality of this bill. That is the reason why some of us are concerned.

We are concerned about the fact that we cannot develop policy aimed at constraining deficits, and neither can we vote to actually constrain the deficits when it comes to the spending.

We ought to vote for the amendments offered by the gentlemen from Minnesota, but they are not enough.

This bill deserves to be defeated.

Ms. KAPTUR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will insert my full statement in the RECORD.

Mr. Chairman, I rise in opposition to the amendment, and let me just say that having served on the Committee on the Budget until very recently, I want to say to the previous gentleman speaker from Pennsylvania that I could not disagree with him more.

Not only is this bill within the mark that the Committee on the Budget gave us but the budget resolution that was passed here in the House over 5 years saved $83 billion more than the President's budget. It did it without including Social Security Trust Fund reserves in the totals that we put together. I think it was a very responsible budget. I voted for that budget. I only wish the President of the United States would agree with that budget.

I respect the chairman and the members of this subcommittee and the full committee in putting this agricultural budget together, and I will vote for it. Agriculture is Ohio's biggest business, and in the area that I represent, this bill is extremely important to the farmers and to those who export our agricultural commodities around the world. I think this is a very responsible proposal.

I think the Committee on Appropriations has done an excellent job of staying within the budget mark.

Mr. Chairman, I also wanted to say to the gentlewoman from Nebraska [Mrs. SMITH] a special word of thank you and gratitude for your service, your hard work on behalf of our country, your own State, your own district, certainly the subcommittee, and to say what an immense contribution you have made to the Nation. We will take you up on your steak-dinner offer. We wish you very well in the future personally, with your family, and we hope to see you back here many times.

As a new member of the committee I would like to commend the chairman and members of the committee for a very cost-effective and excellent bill. American agriculture is recognized as the most productive in the world. As a Midwesterner, I would like to reiterate my support for the backbone of America, the family farmers. The family farm is the cornerstone of American agriculture and is key economic power in the United States.

In my State of Ohio, agriculture and food processing are Ohio's biggest business. These businesses also generate port activity and shipping, thus enhancing the economy of my district in northwest Ohio.

Overall, the U.S. farm sector is gradually recovering from a mid-1980's recession. The value of farm exports, which fell 40 percent between 1981 and 1986, has been on the upswing since 1987. Overseas sales have been encouraged by more favorable macroeconomic conditions and the provisions of the last omnibus farm bill, the Food Security Act of 1985 which expanded export subsidies. Net cash income reached a record high of over $57 billion nationally in 1988.

Ohio's farmers produce basic commodities and products valued at more than $4 billion annually and employ more than 70 thousand persons. For each Ohio farmworker there are more than 13 Ohioans employed in other industries linked to agriculture. Each dollar's worth of farm production is tied to about 75 cents in economic activity in the farm supply industries, gets used in creating nearly $4 of new value industries that process farm products and manufacture food, fiber and forest products and is associated with another $3.25 worth of economic activity in domestic transportation, distribution and merchandising industries. The total retail value of the products of Ohio's agriculturally related industries exceeds $40 billion a year. To this can be added more than $1 billion in foreign sales of basic farm commodities. In some years, this has approached $2 billion.

In 1986, nearly 1 billion dollars' worth—26.3 percent—of farm products produced including corn, soybeans and wheat were exported through the Great Lakes and Mississippi River systems and by unit trains to the east coast ports. In sum, the Ohio agricultural industry exports more than one-fourth of its products while contributing more than $40 billion to the State's economy and accounting for one of every five Ohio jobs.

In 1988, farmland and buildings in Ohio were valued at $991 per acre compared to $564 per acre, for the Nation overall. Nearly half of Ohio's land is cropland, compared to 22 percent for the Nation as a whole. There are currently 84,000 farms in the State of Ohio and 2,176,110 in the United States. Of this number in my district, Fulton County has 1,190 farms, Lucas County has 530 farms, and Wood County has 1,400 farms. There are 15,600,000 acres of land in farms in the State of Ohio and 998,692,000 acres in farms in the United States. The average size of farms in Ohio is 186 acres with the national average of 463 acres. Lucas County farms average 162 acres, Fulton County farms average 188 acres and Wood County farms average 227 acres.

Ohio currently ranks ninth in the Nation in terms of the number of farm crops marketed. In livestock sales Ohio ranks 18th. Ohio is No. 5 in chicken production, No. 6 in milk cows, and No. 8 in hogs and pigs. Ohio ranked 19th in the Nation in terms of farm acreage and 10th in terms of farm value.

There are 1,800,000 cattle on Ohio farms, 300,000 sheep and lambs, 2,150,000 hogs and pigs, 4.81 billion pounds of milk were produced in Ohio, 11 million broilers were produced, 3.4 million turkeys were raised in Ohio, and 4.35 billion eggs were produced. Farm marketings of Ohio crops were totaled $1,808,000,000. Livestock marketings totaled $1,614,000,000 and the total value of crops and livestock marketed by Ohio farmers totaled $3,422,000,000.

The top crops produced in my district are soybeans in Wood County, corn in Fulton County, and vegetables in Lucas County.

Wood County harvests 1,040 acres of sugar beets with an average yield of 11.6 tons per acre, 12,100 tons of sugar beets were produced in this county in 1988. The State of Ohio as a whole, harvests 14,700 acres of sugar beets with an average of yield of 15.9

tons per acre, and 234,000 tons of total production. This compares to national averages of 1,300,000 acres harvested, a yield of 19.1 tons per acre, and 24,810,000 tons of sugar beets produced.

In Ohio, 300 million acres of corn for grain are harvested. This includes 78,500 acres in Fulton County, 18,900 acres in Lucas County, and 79,300 in Wood County, 18,900 acres in Lucas County, and 79,300 acres in Wood County. The United States has 58,164,000 acres in corn for grain. The average yield per acre in Ohio is 85 bushels with the counties of Fulton, Lucas, and Wood all above the State average—100.4, 97.4, and 86.4, respectively. Total bushels produced in Ohio are 255 million with 7,881,800 produced in Fulton County, 1,841,000 in Lucas County, and 6,853,800 in Wood County. The Nation as a whole produces 4,921,191,000 bushels of corn for grain.

The number of acres of soybeans harvested in Ohio is 3,700,000, with a yield of 27.0 bushels per acre and 99,900,000 total bushels harvested. In my district, Fulton County has 82,300 acres of soybeans harvested, Lucas County has 32,600 and Wood County has 118,200. The average yield in Fulton County is 30.7 bushels, Lucas County has 28.2, and Wood County has 27.7 bushels. The Nation produces 26.8 bushels on average per acre. Fulton County produces 2,528,000 bushels of soybeans, Lucas County produces 920,600 bushels, and Wood County produces 99,900,000 bushels of soybeans. The United States as a whole, produces 1,538,666,000 bushels of soybeans.

Ohio harvests 274,920 acres of tomatoes for processing. Of this amount, 1,410 acres are harvested in Fulton County, 350 acres in Lucas County, and Wood County harvests 17,700 acres. The average yield in Ohio is 20.3 tons per acre, with Fulton County averaging 21.3 tons, Lucas County averages 21.4 tons, and Wood County averages 18.2 tons. Total tons of tomatoes produced for processing in Ohio are 359,310, with 30,000 produced in Fulton County, 7,500 in Lucas County, and 36,200 in Wood County. The United States produces 7,409,920 tons of tomatoes.

I thank the chairman and the committee for their hard work and dedication to the farmers of this Nation. I urge Members to support the rural development, agriculture and related agencies appropriations bill.

□ 1250

Mr. McMILLAN of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment of the gentleman from Minnesota [Mr. FRENZEL]. Today we are like a drowning man in 50 feet of water who does not have the will to come up for air and sinks further with each passing moment on appropriations bills.

Mr. Chairman, the issue really is not the budget adopted by this House, which I did not support. Because if we are going to get that budget in line with the Gramm-Rudman deficit reduction target, we would need to reduce it over $60 billion. The latest CBO numbers, which are already out of date, estimate the 1990 deficit at $159 billion, without including the numbers to honor our commitment to protect S&L depositors. That is $51.3 billion over the Gramm-Rudman deficit reduction target of $110 billion for 1990.

The baseline deficit estimate for fiscal year 1991 is $164 billion, and that is out of date. CBO has now raised that to $168 billion. That is $90 to $100 billion over the Gramm-Rudman-Hollings deficit reduction target for 1991.

CBO projects total baseline outlays in 1991 of $1,287,000,000,000. That would require a reduction of 7 percent in projected outlays, or $90 billion, to achieve the Gramm-Rudman target, even before funding of the Resolution Trust Corporation.

Mr. Chairman, if we are not willing to cut projected outlays by 7 percent, which is not much more than a freeze, or even 2 percent, which was the intent of the Penny amendment, or any combination thereof, then we are apparently willing and prepared to increase taxes to close that gap, which requires an 8-percent increase in revenues just to meet the Gramm-Rudman deficit reduction target for 1991.

The amendments offered by the gentlemen from Minnesota and myself are a bare minimum this House should do toward rising to the surface and the fresh air of the balanced budget over a 5-year period. This amendment may save only peanuts when you are talking about what really needs to be done, which is closer to $100 billion as I have said in deficit reduction.

Mr. Chairman, I would suggest that if one really is serious about reducing the deficit according to the Gramm-Rudman targets, without a full tax increase of 8 percent, then it seems to me we are compelled to support amendments like this and others like it to reduce Federal outlays. If we don't, then we should be ready to vote for higher taxes.

The American people have already started to blame Congress for being asleep at the switch during the S&L crisis, and with good reason. The President showed his willingness to take politically difficult steps yesterday, whether some of us on this side like it or not. Let us give him and the American people some hope that there is still some semblance of leadership left in this Congress, and let us vote for fiscal responsibility and modify this appropriations bill as this amendment calls for.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY] to the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman. I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 115, noes 305, not voting 12, as follows:

[Roll No. 239]

AYES—115

Archer	Hastert	Ritter
Armey	Hefley	Roberts
Ballenger	Henry	Robinson
Bartlett	Herger	Rohrabacher
Barton	Hiler	Roth
Bates	Hopkins	Saxton
Bentley	Houghton	Schaefer
Bliley	Hunter	Schroeder
Broomfield	Hyde	Schulze
Brown (CO)	Inhofe	Sensenbrenner
Buechner	Ireland	Shaw
Bunning	Jacobs	Shays
Burton	Johnson (CT)	Shumway
Campbell (CA)	Kasich	Shuster
Coble	Kolbe	Slattery
Combest	Kyl	Slaughter (VA)
Cooper	Lagomarsino	Smith (TX)
Cox	Lewis (CA)	Smith, Denny (OR)
Craig	Livingston	Smith, Robert (NH)
Crane	McCandless	Snowe
Dannemeyer	McCollum	Solomon
DeLay	McEwen	Spence
Douglas	McGrath	Stenholm
Dreier	McMillan (NC)	Sundquist
Duncan	Michel	Tauzin
Edwards (OK)	Miller (OH)	Thomas (CA)
Fawell	Molinari	Thomas (WY)
Fields	Moorhead	Upton
Fish	Nielson	Vander Jagt
Frenzel	Oxley	Vucanovich
Gallegly	Packard	Walgren
Gekas	Pallone	Walker
Gingrich	Parris	Weldon
Goodling	Paxon	Whittaker
Goss	Penny	Wolf
Gradison	Petri	Wylie
Hamilton	Porter	Young (FL)
Hancock	Ravenel	
Hansen	Rhodes	

NOES—305

Ackerman	Callahan	Durbin
Alexander	Campbell (CO)	Dwyer
Anderson	Cardin	Dymally
Andrews	Carper	Dyson
Annunzio	Carr	Early
Anthony	Chandler	Eckart
Applegate	Chapman	Edwards (CA)
Aspin	Clarke	Emerson
Atkins	Clay	Engel
AuCoin	Clement	English
Barnard	Clinger	Erdreich
Bateman	Coleman (MO)	Espy
Beilenson	Coleman (TX)	Evans
Bennett	Collins	Fascell
Bereuter	Condit	Fazio
Berman	Conte	Feighan
Bevill	Conyers	Flake
Bilbray	Costello	Flippo
Bilirakis	Coughlin	Foglietta
Boehlert	Courter	Ford (MI)
Boggs	Coyne	Ford (TN)
Bonior	Darden	Frank
Borski	Davis	Frost
Bosco	de la Garza	Gallo
Boucher	Dellums	Gaydos
Boxer	Derrick	Gejdenson
Brennan	DeWine	Gephardt
Brooks	Dickinson	Geren
Browder	Dicks	Gibbons
Brown (CA)	Dingell	Gillmor
Bruce	Dixon	Gilman
Bryant	Donnelly	Glickman
Bustamante	Dorgan (ND)	Gonzalez
Byron	Downey	Gordon

Grandy	Martinez	Russo
Grant	Matsui	Sabo
Gray	Mavroules	Saiki
Green	Mazzoli	Sangmeister
Guarini	McCloskey	Sarpalius
Gunderson	McCrery	Sawyer
Hall (OH)	McCurdy	Scheuer
Hall (TX)	McDade	Schiff
Hammerschmidt	McDermott	Schneider
Harris	McHugh	Schuette
Hatcher	McMillen (MD)	Schumer
Hawkins	McNulty	Serrano
Hayes (IL)	Meyers	Sharp
Hayes (LA)	Mfume	Sikorski
Hefner	Miller (CA)	Sisisky
Hertel	Miller (WA)	Skaggs
Hoagland	Moakley	Skeen
Hochbrueckner	Mollohan	Skelton
Holloway	Montgomery	Slaughter (NY)
Horton	Moody	Smith (FL)
Hoyer	Morella	Smith (IA)
Hubbard	Morrison (WA)	Smith (NE)
Huckaby	Mrazek	Smith (NJ)
Hughes	Murphy	Smith (VT)
Hutto	Murtha	Smith, Robert (OR)
James	Myers	
Jenkins	Nagle	Solarz
Johnson (SD)	Natcher	Spratt
Johnston	Neal (MA)	Staggers
Jones (GA)	Neal (NC)	Stallings
Jones (NC)	Nowak	Stangeland
Jontz	Oakar	Stark
Kanjorski	Oberstar	Stearns
Kaptur	Obey	Stokes
Kastenmeier	Olin	Studds
Kennedy	Ortiz	Swift
Kennelly	Owens (NY)	Synar
Kildee	Owens (UT)	Tallon
Kleczka	Panetta	Tanner
Kolter	Parker	Tauke
Kostmayer	Pashayan	Taylor
LaFalce	Patterson	Thomas (GA)
Lancaster	Payne (NJ)	Torricelli
Lantos	Payne (VA)	Towns
Laughlin	Pease	Traficant
Leach (IA)	Pelosi	Traxler
Leath (TX)	Perkins	Udall
Lehman (CA)	Pickett	Unsoeld
Lehman (FL)	Pickle	Valentine
Lent	Poshard	Vento
Levin (MI)	Price	Visclosky
Levine (CA)	Pursell	Volkmer
Lewis (FL)	Quillen	Walsh
Lewis (GA)	Rahall	Washington
Lightfoot	Rangel	Watkins
Lipinski	Ray	Waxman
Lloyd	Regula	Weber
Long	Richardson	Weiss
Lowery (CA)	Ridge	Wheat
Lowey (NY)	Rinaldo	Whitten
Luken, Thomas	Roe	Williams
Machtley	Rogers	Wilson
Madigan	Ros-Lehtinen	Wise
Manton	Rose	Wolpe
Markey	Rostenkowski	Wyden
Marlenee	Roukema	Yates
Martin (IL)	Rowland (GA)	Yatron
Martin (NY)	Roybal	Young (AK)

NOT VOTING—12

Baker	Lukens, Donald	Rowland (CT)
Crockett	Mineta	Savage
DeFazio	Morrison (CT)	Stump
Dornan (CA)	Nelson	Torres

□ 1316

The Clerk announced the following pairs:

On this vote:

Mr. Morrison of Connecticut for, with Mr. Mineta against.

Mr. Stump for, with Mr. Nelson of Florida against.

Mr. Dornan of California for, with Mr. DeFazio against.

Ms. ROS-LEHTINEN and Messrs. GILLMOR, HOLLOWAY, TOWNS, SCHUMER, and GUARINI changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. LOWEY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to enter into a colloquy with the gentleman from Mississippi [Mr. WHITTEN].

If I may, I would like to take a few moments to engage the chairman briefly with regard to an area where I would encourage the Agricultural Research Service to take an active role. That is in dealing with the growing problem of Lyme disease spread by deer ticks and, according to one recent report, possibly by horse flies.

Lyme disease is an increasingly serious problem; it is spreading at a dramatic rate, second only to the spread of AIDS. It has hit 45 States and is a serious problem in a number of areas including on Long Island and in my own Westchester County. Believing as I do in preventive measures, one area where we should focus our attentions is in stemming the expansion of the deer tick population, particularly in populated areas.

Noting that the committee has included in its bill $6.2 million for work aimed at responding to the problems caused by cattle ticks, I would hope that the committee would work with me in encouraging the Agriculture Research Service to direct financial resources and its considerable expertise to combating infected deer ticks which are spreading Lyme disease in the human population as well.

I would bring to the committee's attention and that of the Agriculture Research Service the ongoing work at the New York Medical College in Valhalla, NY on population ecology of the deer tick. Under the guidance of Dr. Durland Fish, the New York Medical College is working to better understand the ecology of areas in which deer ticks prosper and, thereby, to develop steps which can be taken to foster environments which will help curb the expansion of the deer tick population.

May I ask of the chairman if he and the committee would be willing to work with me in encouraging the Agriculture Research Service to cooperate and lend financial assistance to the important work being done in this field at the New York Medical College?

Mr. WHITTEN. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY of New York. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, may I say to my colleague that I recognize the seriousness of this problem. I would be glad to join in calling it to the attention of the Department in urging that they give consideration to this problem which could be widespread. I know it is a serious illness. We have had several Members of Congress suffer from this. I am glad to urge the Department to look at this matter, and perhaps maybe we can make a difference.

Mrs. LOWEY of New York. Mr. Chairman, I appreciate your willingness to work with us in this regard and to be in contact with the Department of Agriculture. The New York Medical College work offers hope for large numbers of Americans that the spread of Lyme disease can be brought to a halt.

□ 1320

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 79, insert after line 2 the following new section:

SEC. 641. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 5 percent.

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANNEMEYER. Mr. Chairman, this year we are spending some $451 billion for those items designated in this appropriations bill. The bill as it is presented to the House proposes to spend $50.3 billion. That is an increase of 11.5 percent for 1991 over 1990.

I believe, as some of my colleagues do, that that is an increase that we cannot justify for any appropriation bill. I would like to have this amendment pertain to 5 percent across the board of the entire $50 billion-plus that is covered in this bill, but if the amendment were drafted that way, a point of order would be asserted and sustained that the only extent or reach of my amendment can be to the discretionary funding in this bill, which represents roughly 20 percent of it, or about $9.9 billion. So this 5 percent will result in a reduction of some $500 million. But even so, my amendment after it is adopted will still permit an increase in discretionary funding of 5.6 percent over what we are spending this year. That is more than the rate of inflation, and because of this, I believe that it is an amendment that any of us, wherever we come from around this country, can defend to our constituencies.

Mr. Chairman, the facts are that in fiscal year 1991, beginning October 1, we are scheduled to increase the national debt by some $364 billion. The measure of the deficit to me is how

much we are going to increase the debt by. We are scheduled to increase the national debt in this fiscal year by about a quarter of a trillion dollars. I mention this because if there is ever a time when we should be modestly reducing spending, it is in the face of the reality that I have described.

When we increase the national debt by better than a third of a trillion dollars, the interest expense of carrying that additional debt in one year is in excess of $25 billion which we are thereby adding to the spending stream of this national budget. It will just be a question of time until the interest expense on the national debt consumes greater portion of public spending and drives out the ability of many of these programs that are dear to the hearts and souls of the Members of Congress to be funded, and they will not be able to be funded at all.

Mr. Chairman, I will not belabor the point any longer. I think a 5-percent cut in discretionary is reasonable, and I ask for the support of the Members.

Mr. WHITTEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will use the same words I used earlier. Our Committee on Appropriations has already held appropriations down. I am strongly opposed to this amendment, and I think my colleagues recognize that extent to which this bill has been cut. If my colleagues understand how this amendment would affect the existing and necessary programs, I think they would oppose this amendment, too.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTED

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 115, noes 300, not voting 17, as follows:

[Roll No. 240]

AYES—115

Archer	Dannemeyer	Herger
Armey	DeLay	Hiler
Ballenger	DeWine	Hopkins
Bartlett	Douglas	Houghton
Barton	Dreier	Hunter
Bates	Duncan	Hyde
Bennett	Edwards (OK)	Inhofe
Bentley	Fascell	Ireland
Bliley	Fawell	Jacobs
Bosco	Fields	Johnson (CT)
Broomfield	Fish	Kasich
Brown (CO)	Frenzel	Kolbe
Buechner	Gallegly	Kyl
Bunning	Gekas	Lagomarsino
Burton	Gingrich	Lent
Callahan	Goss	Lukens, Donald
Campbell (CA)	Gradison	McCandless
Coble	Hamilton	McCollum
Combest	Hancock	McEwen
Cooper	Hansen	McGrath
Cox	Hastert	McMillan (NC)
Craig	Hefley	Michel
Crane	Henry	Miller (OH)
Molinari	Robinson	Snowe
Moorhead	Rohrabacher	Stearns
Nielson	Saxton	Stenholm
Oxley	Schaefer	Sundquist
Packard	Schroeder	Thomas (CA)
Pallone	Schulze	Thomas (WY)
Parris	Schumer	Upton
Paxon	Sensenbrenner	Vander Jagt
Penny	Shaw	Vucanovich
Petri	Shays	Walgren
Porter	Shumway	Walker
Pursell	Shuster	Weldon
Ravenel	Slaughter (VA)	Whittaker
Rhodes	Smith, Denny (OR)	Wolf
Ritter	Smith, Robert (NH)	Wylie
Roberts		

NOES—300

Ackerman	Evans	Lipinski
Alexander	Fazio	Livingston
Anderson	Feighan	Lloyd
Andrews	Flake	Long
Annunzio	Flippo	Lowery (CA)
Anthony	Foglietta	Lowey (NY)
Applegate	Ford (MI)	Luken, Thomas
Aspin	Ford (TN)	Machtley
Atkins	Frank	Madigan
AuCoin	Frost	Manton
Barnard	Gallo	Markey
Bateman	Gaydos	Marlenee
Beilenson	Gejdenson	Martin (IL)
Bereuter	Gephardt	Martin (NY)
Berman	Geren	Martinez
Bevill	Gibbons	Matsui
Bilbray	Gillmor	Mavroules
Bilirakis	Gilman	Mazzoli
Boehlert	Glickman	McCloskey
Boggs	Gonzalez	McCrery
Bonior	Goodling	McCurdy
Borski	Gordon	McDade
Boucher	Grandy	McDermott
Boxer	Grant	McHugh
Brennan	Gray	McMillen (MD)
Brooks	Green	McNulty
Browder	Guarini	Meyers
Brown (CA)	Gunderson	Mfume
Bruce	Hall (OH)	Miller (CA)
Bryant	Hall (TX)	Miller (WA)
Bustamante	Hammerschmidt	Moakley
Byron	Harris	Mollohan
Campbell (CO)	Hatcher	Montgomery
Cardin	Hawkins	Moody
Carper	Hayes (IL)	Morella
Carr	Hayes (LA)	Morrison (WA)
Chandler	Hefner	Mrazek
Chapman	Hertel	Murphy
Clarke	Hoagland	Murtha
Clay	Hochbrueckner	Myers
Clement	Holloway	Nagle
Clinger	Horton	Natcher
Coleman (MO)	Hoyer	Neal (MA)
Coleman (TX)	Hubbard	Neal (NC)
Collins	Huckaby	Nowak
Condit	Hughes	Oakar
Conte	Hutto	Oberstar
Conyers	James	Obey
Costello	Jenkins	Olin
Coughlin	Johnson (SD)	Ortiz
Courter	Johnston	Owens (NY)
Coyne	Jones (GA)	Owens (UT)
Darden	Jones (NC)	Panetta
Davis	Jontz	Parker
de la Garza	Kanjorski	Pashayan
DeFazio	Kaptur	Patterson
Dellums	Kastenmeier	Payne (NJ)
Derrick	Kennedy	Payne (VA)
Dicks	Kennelly	Pease
Dingell	Kildee	Pelosi
Dixon	Kleczka	Perkins
Donnelly	Kolter	Pickett
Dorgan (ND)	Kostmayer	Pickle
Downey	LaFalce	Poshard
Durbin	Lantos	Price
Dwyer	Laughlin	Quillen
Dymally	Leach (IA)	Rahall
Dyson	Leath (TX)	Rangel
Early	Lehman (CA)	Ray
Eckart	Lehman (FL)	Regula
Edwards (CA)	Levin (MI)	Ridge
Emerson	Levine (CA)	Rinaldo
Engel	Lewis (CA)	Roe
English	Lewis (FL)	Rogers
Erdreich	Lewis (GA)	Ros-Lehtinen
Espy	Lightfoot	Rose
Rostenkowski	Smith (IA)	Traficant
Roth	Smith (NE)	Traxler
Roukema	Smith (NJ)	Udall
Rowland (GA)	Smith (TX)	Unsoeld
Roybal	Smith (VT)	Valentine
Russo	Smith, Robert (OR)	Vento
Sabo	Solarz	Visclosky
Saiki	Spence	Volkmer
Sangmeister	Spratt	Walsh
Sarpalius	Staggers	Watkins
Sawyer	Stallings	Waxman
Scheuer	Stangeland	Weber
Schiff	Stark	Weiss
Schneider	Stokes	Wheat
Schuette	Studds	Whitten
Serrano	Swift	Williams
Sharp	Synar	Wilson
Sikorski	Tallon	Wise
Sisisky	Tanner	Wolpe
Skaggs	Tauke	Wyden
Skeen	Taylor	Yates
Skelton	Thomas (GA)	Yatron
Slattery	Torricelli	Young (AK)
Slaughter (NY)	Towns	
Smith (FL)		

NOT VOTING—17

Baker	Morrison (CT)	Stump
Crockett	Nelson	Tauzin
Dickinson	Richardson	Torres
Dornan (CA)	Rowland (CT)	Washington
Lancaster	Savage	Young (FL)
Mineta	Solomon	

□ 1346

The Clerk announced the following pairs:

On this vote:

Mr. Morrison of Connecticut for, with Mr. Mineta against.

Mr. Stump for, with Mr. Nelson of Florida against.

Mr. Dornan of California for, with Mr. Lancaster against.

Mr. WISE and Mr. COUGHLIN changed their vote from "aye" to "no."

Mr. INHOFE and Mr. McEWEN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. SKELTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this opportunity to rise in strong support of H.R. 5268 as reported by the Committee on Appropriations.

Mr. Chairman, I commend the distinguished chairman of the subcommittee and of the full committee, the gentleman from Mississippi [Mr. WHITTEN], for crafting this bill that meets the needs of the citizens of rural America while considering our current budget restraints.

Mr. Chairman, as chairman of the congressional rural caucus, in which capacity I have served for the past 6 years, I am pleased that this bill contains funding for programs that are important to the welfare of rural America, cooperative extension, the Farmers' Home Administration, the Rural Electrification Administration, the Soil Conservation Service, and there are other programs funded by this bill that contribute to the quality of life not just for farmers in America but for the entire rural community in our country, domestic food programs

such as the Supplemental Food Program for women, infants, and children, which provides nutritional needs to millions of our citizens.

Mr. Chairman, I take this opportunity to urge my colleagues to support this bill and oppose any cuts in funding these critical programs.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 79, insert after line 2 the following new section:

SEC. 641. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 2 percent, except that this reduction shall not apply with respect to amounts appropriated or otherwise made available by title III for necessary expenses to carry out the special supplemental food program for women, infants, and children (WIC) as authorized by section 17 of the Child Nutrition Act of 1986.

□ 1350

Mr. PENNY. Mr. Chairman, so far as I know, this is the last amendment to the agriculture appropriations bill. I rise to offer this amendment in conjunction with my colleague the gentleman from North Carolina [Mr. MCMILLAN]. Our amendment would cut all accounts in this bill by 2 percent with the exception of the program for women, infants, and children.

Overall this bill calls for $50 billion in spending for fiscal year 1991. That is an 11.5-percent increase over the current spending level for these programs.

As I mentioned earlier, my amendment would cut 2 percent in the discretionary accounts in this bill. It would result in an overall spending reduction of approximately $150 million. We do not, I repeat, we do not cut the program for women, infants, and children. It is my judgment that that is a valuable program, deserving of a funding increase, and for that reason it is exempt from this 2-percent cut.

Mr. Chairman, it should be noted that our amendment would still allow for sizable increases over current levels in many programs. The Agricultural Research Service receives an 8-percent increase in this bill. They will still receive a 6-percent increase after my amendment The Extension Service receives a 5-percent increase. They would still receive a 3-percent increase after my amendment is adopted. Rural Development Assistance is increased by 25 percent in this bill. They would still be left with a 23-percent increase after the adoption of my amendment. Rural water and waste grants receive a 43-percent increase. They would still receive a 41-percent increase after my amendment. Supplemental food programs receive a 19-percent increase. They would still receive 17 percent more if my amendment is adopted.

Mr. Chairman, it goes without saying that this is a very modest step toward reducing our budget deficit. The House has already today rejected an effort to freeze this appropriations bill at current appropriated levels. The House just now defeated an amendment to cut the accounts in this bill by 5 percent. This 2-percent amendment is as easy as they come. I urge a yes vote.

Mr. MCMILLAN of North Carolina. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I will be brief. I have already spoken on this issue in support of other modifying amendments to this appropriations bill. The latest estimate on the budget deficit for next year is $168 billion, not counting any funds for paying off depositors of failed S&L's. The House-passed budget reduce the deficit by something like $36 billion. So if we give them full credit for that, we still have got $130 billion to go; $130 billion.

Now, if we are not willing to address a very modest amendment such as this, to very modestly modify this legislation, which is already an 11.5-percent increase over last year, then I would have to say that we are not taking ourselves seriously. If you are not prepared to support a 2-percent lesser amount, which still leaves roughly a 10.5-percent increase in discretionary spending in this bill, then I would suggest one should be prepared to go home and tell those same constituents you are going to have to vote for about an 8-percent tax increase to deal with it otherwise. That is the issue we are faced with.

Mr. Chairman, I urge my colleagues to take this seriously and vote for this very minimal adjustment in this bill.

Mr. WHITTEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, may I say again, the Committee on Appropriations, since 1945, has held appropriation bills a total of $173.6 billion below the recommendations of the President. I point out again that in most cases you are trying to make us absorb cuts because of increases to programs where others went around our committee, which is about 80 percent of the total expenditures.

Mr. Chairman, I say again that I just cannot understand the efforts to cut after we have gotten through and the same amendments have been offered. It is every Member's privilege.

Mr. Chairman, I get asked about the balanced budget. I advise people that I believe in a balanced budget, balancing our paper money, so as to have stability, but not at the expense of sound and essential programs. Programs that are essential to the well-being of the American people.

Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PENNY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 216, not voting 14, as follows:

[Roll No. 241]

AYES—202

Anderson	Gunderson	Pickett
Andrews	Hall (OH)	Pickle
Applegate	Hamilton	Porter
Archer	Hammerschmidt	Pursell
Armey	Hancock	Ravenel
Ballenger	Hansen	Rhodes
Barnard	Hastert	Ridge
Bartlett	Hefley	Rinaldo
Barton	Henry	Ritter
Bateman	Herger	Roberts
Bates	Hiler	Robinson
Bennett	Hoagland	Rohrabacher
Bentley	Holloway	Ros-Lehtinen
Bereuter	Hopkins	Roth
Bilirakis	Houghton	Roukema
Bliley	Hughes	Russo
Boehlert	Hunter	Saiki
Bosco	Hutto	Sangmeister
Brennan	Hyde	Saxton
Broomfield	Inhofe	Schaefer
Brown (CO)	Ireland	Schneider
Buechner	Jacobs	Schroeder
Bunning	James	Schuette
Burton	Jenkins	Schulze
Byron	Johnson (CT)	Schumer
Callahan	Jones (GA)	Sensenbrenner
Campbell (CA)	Kanjorski	Sharp
Campbell (CO)	Kasich	Shaw
Chandler	Kolbe	Shays
Clarke	Kostmayer	Shumway
Clement	Kyl	Shuster
Clinger	LaFalce	Slattery
Coble	Lagomarsino	Slaughter (VA)
Combest	Leach (IA)	Smith (FL)
Condit	Lent	Smith (NJ)
Conte	Lightfoot	Smith (TX)
Cooper	Lipinski	Smith (VT)
Courter	Livingston	Smith, Denny (OR)
Cox	Long	
Craig	Lukens, Donald	Smith, Robert (NH)
Crane	Machtley	
Dannemeyer	Martin (IL)	Smith, Robert (OR)
Darden	Martin (NY)	
DeLay	McCandless	Snowe
Derrick	McCollum	Solomon
DeWine	McCrery	Spence
Dornan (CA)	McCurdy	Spratt
Douglas	McEwen	Stallings
Dreier	McGrath	Stangeland
Duncan	McMillan (NC)	Stearns
Edwards (OK)	Meyers	Stenholm
Erdreich	Miller (OH)	Sundquist
Fascell	Miller (WA)	Tauke
Fawell	Molinari	Tauzin
Fields	Moody	Thomas (CA)
Fish	Moorhead	Thomas (WY)
Frenzel	Morella	Upton
Gallegly	Murphy	Vander Jagt
Gallo	Nielson	Vucanovich
Gaydos	Owens (UT)	Walgren
Gekas	Oxley	Walker
Gibbons	Packard	Walsh
Gingrich	Pallone	Weldon
Glickman	Parris	Whittaker
Goodling	Patterson	Wolf
Goss	Paxon	Wylie
Gradison	Payne (VA)	Yatron
Grandy	Penny	
Guarini	Petri	

NOES—216

Ackerman	Annunzio	Aspin
Alexander	Anthony	Atkins

AuCoin	Hatcher	Panetta
Beilenson	Hawkins	Parker
Berman	Hayes (IL)	Pashayan
Bevill	Hayes (LA)	Payne (NJ)
Bilbray	Hefner	Pease
Boggs	Hertel	Pelosi
Bonior	Hochbrueckner	Perkins
Borski	Horton	Poshard
Boucher	Hoyer	Price
Boxer	Hubbard	Quillen
Brooks	Huckaby	Rahall
Browder	Johnson (SD)	Rangel
Brown (CA)	Johnston	Ray
Bruce	Jones (NC)	Regula
Bryant	Jontz	Richardson
Bustamante	Kaptur	Roe
Cardin	Kastenmeier	Rogers
Carper	Kennedy	Rose
Carr	Kennelly	Rostenkowski
Chapman	Kildee	Rowland (GA)
Clay	Kleczka	Roybal
Coleman (MO)	Kolter	Sabo
Coleman (TX)	Lancaster	Sarpalius
Collins	Lantos	Savage
Conyers	Laughlin	Sawyer
Costello	Leath (TX)	Scheuer
Coughlin	Lehman (CA)	Schiff
Coyne	Lehman (FL)	Serrano
Davis	Levin (MI)	Sikorski
de la Garza	Levine (CA)	Sisisky
DeFazio	Lewis (CA)	Skaggs
Dellums	Lewis (FL)	Skeen
Dicks	Lewis (GA)	Skelton
Dingell	Lloyd	Slaughter (NY)
Dixon	Lowery (CA)	Smith (IA)
Donnelly	Lowey (NY)	Smith (NE)
Dorgan (ND)	Luken, Thomas	Solarz
Downey	Madigan	Staggers
Durbin	Manton	Stark
Dwyer	Markey	Stokes
Dymally	Marlenee	Studds
Dyson	Martinez	Swift
Early	Matsui	Synar
Eckart	Mavroules	Tallon
Edwards (CA)	Mazzoli	Tanner
Emerson	McCloskey	Taylor
Engel	McDade	Thomas (GA)
English	McDermott	Torricelli
Espy	McHugh	Towns
Evans	McMillen (MD)	Traficant
Fazio	McNulty	Traxler
Feighan	Mfume	Udall
Flake	Miller (CA)	Unsoeld
Flippo	Moakley	Valentine
Foglietta	Mollohan	Vento
Ford (MI)	Montgomery	Visclosky
Ford (TN)	Morrison (WA)	Volkmer
Frank	Mrazek	Watkins
Frost	Murtha	Waxman
Gejdenson	Myers	Weber
Geren	Nagle	Weiss
Gillmor	Natcher	Wheat
Gilman	Neal (MA)	Whitten
Gonzalez	Nowak	Williams
Gordon	Oakar	Wilson
Grant	Oberstar	Wise
Gray	Obey	Wolpe
Green	Olin	Wyden
Hall (TX)	Ortiz	Yates
Harris	Owens (NY)	Young (AK)

NOT VOTING—14

Baker	Mineta	Stump
Crockett	Morrison (CT)	Torres
Dickinson	Neal (NC)	Washington
Gephardt	Nelson	Young (FL)
Michel	Rowland (CT)	

□ 1416

The Clerk announced the following pairs:

On this vote:

Mr. STUMP for, with Mr. NELSON of Florida against.

Mr. MORRISON (of Connecticut) for, with Mr. MINETA against.

Messrs. GEJDENSON, BORSKI, DEFAZIO, SAWYER, and TALLON changed their vote from "aye" to "no."

Mr. SCHUETTE and HOAGLAND changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 79, insert after line 2 the following new section:

SEC. 641. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 0.0000000002 percent.

Mr. WALKER. Mr. Chairman, I might say at the outset that I offer this amendment on behalf of myself and the gentleman from New Hampshire [Mr. SMITH], who has helped me in drafting this amendment and in putting together the arguments on it.

The gentleman from New Hampshire [Mr. SMITH] and I were both moved yesterday when we heard literally dozens of Members come to this floor talking about the political courage that would be needed in order to balance the budget. I must say that some of the speeches I heard about political courage brought tears to my eyes. These were people who really do believe that at some point we have to balance the budget, and the place to begin is in the House Chamber.

So it is in that spirit that I offer this amendment. This amendment will be an across-the-board cut, and I have to tell Members, it will hurt, because this amendment goes to all of the programs in this $50 billion bill. This amendment even covers programs that some amendments here have exempted, such as the WIC Program. In total, in total, this amendment will cut $19.90 from the $50 billion appropriation.

□ 1420

The actual figure here, just so the Members understand what it is they are voting on—I do not want anybody to be blindsided on this—is .000000002 percent. That comes out to $19.90, although I must admit that it may be a couple of pennies either way. But in major programs such as the WIC program, this could cut as much as 50 cents. In fact, I have been in touch with the Department of Agriculture, and they have told me that there are several major programs under this amendment that may be cut by a dollar or more.

So we have to muster political courage on this floor in order to approve this amendment. The courage that we talked about yesterday is going to have to be shown on this amendment. So far today we have had a number of across-the-board cuts offered, and we have been unable at this point to muster any political courage on those. I am certainly hopeful that given the type of rhetoric we displayed yesterday on the balanced-budget amendment, this is the place where we can stand up and be counted.

I do not kid anyone that pain is not connected with this amendment. We need to do this, and I think it is time to do it now.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding, and I applaud the thrust of his amendment.

However, I do think that there are some programs that should be reconsidered in an across-the-board cut such as this, and I think the WIC program is one of those that deserve exemption. The gentleman said that would be only 50 cents out of the $18.90. Would the gentleman consider a unanimous-consent request to strike the 50 cents from his amendment and exempt the WIC Program?

Mr. WALKER. Mr. Chairman, I would say to the gentleman that in answer to that unanimous-consent request, I would have to object. I want this to be an across-the-board cut, and if we are going to have courage here, I think we have to have the courage to take that 50 cents out of WIC Program as well. I know that for the gentleman that is painful, but it is the sort of pain that is going to be distributed by this amendment. If that request were made, I am afraid I would personally have to raise an objection to it.

Mr. CRANE. Mr. Chairman, I applaud the gentleman for his stand.

Mr. WALKER. Mr. Chairman, I thank the gentleman from Illinois, and I understand his concern.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the distinguished gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, I just want to comment to my friends on the Democratic side who seem all upset by this that later on today we are going to waste several hours on a balanced budget legislative act, which is at least as big a joke as this is. So I do not think there is anything wrong with this.

Mr. Chairman, I thank the gentleman for yielding.

Mrs. COLLINS. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentlewoman from Illinois.

Mrs. COLLINS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just want to offer him $20 now. Or does the gentleman want me to wait until 1995 so we can

save this $19 if we pass this amendment?

Mr. WALKER. Mr. Chairman, I am glad the gentlewoman has that $20, and I know that she will spend it well. I must say to her, however, that we will not have to wait until 1995 on this amendment. This applies to this year's appropriation bill, so we can get the $19.90 right here today, and I know she wants to join me in that right now.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would say to the gentleman that he would not give anything away, because by 1995 that 20 bucks may swell up to 30 or 40.

Mr. WALKER. Mr. Chairman, I thank the gentleman, and I say to him that is right, and I am hopeful that if in 1990 we can pass this amendment for $19.90, next year we can muster the courage to go to $19.91.

Mr. SMITH of New Hampshire. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to point out that the gentleman has shared with me the point that in 1991, if this amendment does not pass, there will be another dollar. It will be $19.91, so it is going to go up and it is going to cost us more.

If you think this is mocking the process, I would think that you should recall what you just did on this appropriations bill. You had an opportunity to cut 7 percent; you did not do that. You had an opportunity to cut 5 percent; you did not do that. You had an opportunity to cut 2 percent, and you could not even do that. And then you stood on the floor yesterday and said we should let the process work and we should make tough decisions. Where? When?

There was a comment made a few minutes ago about 1995. The point about 1995 is that if the balanced budget amendment had passed 10 years ago, we would not have to worry about 1995. The whole process is a mockery.

Mr. Chairman, I am pleased to rise in strong support of this amendment.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, many of us take our jobs seriously. I want to say that the Appropriations Committee has done its very best. I want to say here what I have not said in the past.

We created the Budget Committee to keep down the appropration bills that would in any way unbalance the budget. They have not done anything toward raising income to balance the budget. They have not done anything to prevent language from being passed about entering into contracts that require spending. They worked on the Appropriations Committee, and as I say, we have taken our jobs seriously.

My friend, the gentleman from Pennsylvania, has had a lot of fun out of this, but in the process it would cost thousands of dollars in time for the people of the United States to carry out his amendment. There is no telling how many hundreds of thousands of dollars it would cost. There is no telling how much time would be involved and how much cost of the Congress staying in session might enter into it.

So I ask the Members to look at this matter seriously, and let us not have the American people laughing at us about something of this sort. We had our fun, and I am asking the Members to consider what we are doing.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would point out to my colleague that the gentleman from Pennsylvania purports to save $19.90, but I would like to point out also to my colleague that it costs $480 to print a page in the CONGRESSIONAL RECORD. So far the gentleman is saving the taxpayers $20 but costing them $480. Talk is cheap, and this amendment is evidence of that.

Mr. WHITTEN. Mr. Chairman, I take a back seat to no one in trying to have a balanced budget on account of promoting stability, but I do not believe in doing it at the expense of programs that are absolutely essential to the well-being of the American people. I believe the record of our Appropriations Committee shows that.

Mr. Chairman, I hope we will defeat this amendment and not make ourselves a laughingstock of the country.

Mr. ROTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, our Nation's deficits are a very serious matter.

The gentleman from Ohio has said that talk is cheap. That is true, talk is cheap, but the programs passed here for the special interest groups are very costly. Talk is cheap, but it takes some courage to make some of these cuts, and to say "no."

This is déja vu. In 1988, I appeared before the Rules Committee to warn of the dire consequences in the problems facing the S&L industry. But the Congress then, as now with this problems, would pay no heed. The problems then in the S&L's were poohpoohed. Again, Congress will not face reality in our budget crisis. Every American has a stake in this debate and congressional action. If you own a home, have a pension, retirement fund, or saving, it could well all be wiped away or greatly lessened in value because of these huge fiscal deficits.

Let me reemphasize: In 2, or 3, or 4 years from now these deficits are really going to come back to haunt every single American. If you have equity in a house, if you have a savings account, if you have pension funds, it is all going to come back to haunt us, because all of this is going to be wiped away if we do not show some courage right now.

Mr. SMITH of New Hampshire. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from New Hampshire.

Mr. SMITH of New Hampshire. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, there are people in this country who are having difficulties paying their tax bills. We could not get a cut on this program. The American people need to know a few things that are in this bill today. This bill provides $3,647,000 for urban gardening.

□ 1430

It has never been authorized or reauthorized.

It provides funding for the D.C. Extension Service by $45,000.

There is $56,900,000 for special research grants, $31 million of which was not requested.

They include $80,000 for milkweed and pod research to replace goosedown in pillows and clothing.

There is $75,000 for Belgium endive research.

And you cannot make one small cut in this program? Come on.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I am happy to yield to my friend, the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I have seen the projections of spending that we have done in this Congress since fiscal year 1981. If we had limited the spending growth since 1981 to the Consumer Price Index. spending today would be $169 billion less than it is now.

The projected budget deficit is $168 billion, so we could have gotten to a balanced Federal budget without an amendment and without a statute simply by limiting our appetite to spend the taxpayers' money through the increase in inflation. I think that makes the point

Mr. ROTH. Mr. Chairman, I thank the gentleman.

The big spenders and the big taxers say talk is cheap. Yes, but the bills they pass and the taxes they levy weigh very heavy on the backs of our taxpayers and the backs of our children and our children's children. Well, we have had enough words. Now let us see the deeds.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number

of words. I am opposed to the amendment.

I found out during the last vote that about three-fourths of the Members did not know that about $27 million of the $50 million in the bill is for food for the poor. This is a food for the poor bill. It is not surprising that some people would attack that subject as the most logical place to make cuts to balance the budget instead of some other programs but I think that is the last place we should cut. That is what you are voting on.

Taking away any amount of money from the poor people in this country for food surely is not what we want to do.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding to me.

We have spent a few minutes listening to nonsense. We can spend a few minutes listening to the facts.

The fact is this is "holy picture" time.

What you have here is a case of the people who caused the problem in the first place with their votes to support Kemp-Roth and Gramm-Latta packages which tripled deficits and tripled the debt now attacking the chairman who is least responsible for the problem.

I want to give you some numbers. When poor old beleaguered Jimmy Carter left office, the national debt was $932 billion.

The national debt today is $3.38 trillion. It has been tripled because this Congress gutlessly and spinelessly followed the policies of the Reagan administration and its successor.

I want to give you some numbers. According to the Congressional Budget Office, deficits have exploded beyond budget resolutions by an average of $44 billion in each of the years since 1982. Forty-five percent of that has come from the fact that revenue estimates have simply been too low, so we missed on the revenue side by 45 percent.

Technical outlay reestimates caused another 23 percent.

Entitlement reductions fell short by 16 percent.

Economic reestimates when we were recovering from the administration's false and phony economic estimates represents another 9.9 percent of the problem.

And discretionary domestic appropriations, the only spending portion for which this committee is responsible, accounts for only 2.9 percent of the difference, and most of that came from funding major earthquake problems around the country.

So I am not surprised today that we have fun and games being played on this serious appropriation bill by the people who caused the problem in the first place.

I would submit that if they want to take themselves seriously over such a silly amendment, they have a perfect right to, but we have no obligation to do so. I suggest that we get on with the serious business of the House and conduct the matters before this House in a serious and rational way.

Mr. SMITH of Iowa. The point is, Mr. Chairman, this is simply a vote on whether or not you want to reduce the amount of money that is needed for food for the poor.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think one of the previous speakers on the other side made a very valid point, and I think we ought to keep it in mind, when he talked about how much it costs us to talk here and how much it costs to print a page of the CONGRESSIONAL RECORD.

I would just like to point out to my colleagues across the aisle how much money they have spent desperately trying to prevent a $19 cut.

Mr. PENNY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would urge the gentleman who has offered this amendment to withdraw the amendment. The gentleman has made his point. It does not deserve a vote. If we proceed to a recorded vote, we will spend far more to print that vote in the RECORD than this amendment would save. If we do proceed to vote, I urge all the Membership to vote against this amendment.

We have previously today considered real amendments that would have saved real money. This amendment is a joke. It should be treated as such.

Mr. DOUGLAS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

I just wanted to point out where we have been on the Penny amendment, because we just had a vote in which we had a chance to be courageous. I think it is worth looking at where the spending and the waste of money is caused around here.

The Republicans voted 6 to 1 in favor of the Penny amendment, and the Democratic Members of this body voted 4 to 1 against it. That is why yesterday when we heard all the speeches about courage, "We'll do it here," it rings hollow as long as the Democratic Members continue to vote against 2 percent, 5 percent or any other cuts.

I think this is a typical example of what we are going to see, probably a party line vote on whether to save $20.

Mr. DORGAN of North Dakota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me point out that the facts are clear about spending. There is not a plug nickel's worth of difference between how much money you want to spend and how much money the people on this side of the aisle want to spend. You can croak about it all day long. There is not a bit of difference. You want to spend it on things that explode. We want so spend it on things that feed people. There is not a bit of difference.

Now, the Appropriations Committee provides documentation that in the last 9 years the President has proposed spending of $4.915 trillion and Congress has spent $4.897 trillion, slightly less than the President proposed in spending.

□ 1440

We have spent slightly less than the President has requested. That is what the Committee on Appropriations documents tell us.

Let me ask the gentlemen from the other side how active they are on these nickel-and-dime amendments when the appropriation bill comes to the floor that proposes spending $900 for a pair of pliers or $800 for a hammer in the defense budget. We do not see them on the floor in those kinds of discussions.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from North Dakota [Mr. DORGAN] a question. You know, I have been privileged to serve here for 12 years, and I have watched Members stand and offer amendments to reduce spending bills, but, you know, in searching my memory, I cannot remember an instance where the gentleman ever offered to cut anything. Can the gentleman refresh my memory on that?

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. It is well known the gentleman has a terrible memory.

Mr. DANNEMEYER. Reclaiming my time, that is the least of my faults, and I thank the gentleman for the compliment, but aside from that, can the gentleman refresh my memory? Has the gentleman ever cut?

Mr. DORGAN of North Dakota. Let me tell the gentleman that I think just to use one example, I think star wars is nuts. Yes. I suggested cutting star wars. I voted for it on the floor. That is not $20. That is billions of dollars of cuts.

Mr. DANNEMEYER. Reclaiming my time, I will not waste our time. I think my point has been made.

When the gentleman stands up and tells me that he, in his history of service here, has offered amendments to cut, then my attention to what he is saying is increased, but until he can tell me that, I have a different assessment.

Mr. DORGAN of North Dakota. If the gentleman will yield further, I will be happy to provide to the gentleman's office, if he will be there shortly, a copy of the votes.

Mr. DANNEMEYER. The memory failure is not here. It is there.

Mr. ACKERMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, the courtesy of the gentleman from California prevented him from hearing my answer, but I will provide for his office a copy of an amendment that I offered on the floor on the cut in the Foreign Military Assistance Program, in the foreign aid bill. The gentleman has made recorded votes on motions that I have offered here in the House to cut spending, and I will be happy to provide that documentation to him.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 214, answered "present" 23, not voting 20, as follows:

[Roll No. 242]

AYES—175

Anderson	Crane	Henry
Archer	Dannemeyer	Herger
Armey	DeLay	Hiler
Ballenger	DeWine	Hoagland
Bartlett	Dornan (CA)	Holloway
Barton	Douglas	Hopkins
Bennett	Dreier	Houghton
Bentley	Duncan	Hubbard
Bereuter	Edwards (OK)	Hunter
Bilirakis	Emerson	Hyde
Bliley	English	Inhofe
Broomfield	Erdreich	Ireland
Brown (CO)	Fawell	Jacobs
Bruce	Fields	James
Buechner	Fish	Johnson (CT)
Bunning	Frenzel	Kasich
Burton	Gallegly	Kolbe
Callahan	Gallo	Kyl
Campbell (CA)	Gekas	Lagomarsino
Carper	Gillmor	Leach (IA)
Carr	Gingrich	Lent
Chandler	Goss	Lewis (CA)
Clarke	Gradison	Lewis (FL)
Clinger	Grant	Lightfoot
Coble	Gunderson	Livingston
Coleman (MO)	Hall (OH)	Lowery (CA)
Combest	Hamilton	Lukens, Donald
Cooper	Hammerschmidt	Machtley
Coughlin	Hancock	Madigan
Courter	Hansen	Marlenee
Cox	Hastert	Martin (IL)
Craig	Hefley	Martin (NY)
McCandless	Roberts	Smith, Robert (NH)
McCollum	Robinson	Smith, Robert (OR)
McCrery	Rogers	Snowe
McDade	Rohrabacher	Solomon
McEwen	Ros-Lehtinen	Spence
McGrath	Roth	Stangeland
McMillan (NC)	Roukema	Stearns
Meyers	Rowland (CT)	Sundquist
Miller (OH)	Saiki	Tauke
Miller (WA)	Sangmeister	Thomas (CA)
Molinari	Saxton	Thomas (WY)
Moorhead	Schaefer	Upton
Morella	Schneider	Vander Jagt
Nielson	Schuette	Visclosky
Oxley	Schulze	Vucanovich
Packard	Sensenbrenner	Walker
Pallone	Shaw	Walsh
Parris	Shays	Weber
Patterson	Shumway	Weldon
Paxon	Shuster	Whittaker
Petri	Slattery	Wolf
Pursell	Slaughter (VA)	Wylie
Quillen	Smith (NE)	Young (AK)
Ravenel	Smith (NJ)	Young (FL)
Regula	Smith (TX)	
Rhodes	Smith (VT)	
Rinaldo	Smith, Denny (OR)	
Ritter		

NOES—214

Ackerman	Frost	Myers
Alexander	Gejdenson	Nagle
Andrews	Gibbons	Natcher
Anthony	Gilman	Neal (MA)
Applegate	Glickman	Neal (NC)
Atkins	Gonzalez	Nowak
AuCoin	Goodling	Oakar
Barnard	Gordon	Oberstar
Beilenson	Gray	Olin
Berman	Green	Owens (NY)
Bevill	Hall (TX)	Owens (UT)
Bilbray	Harris	Panetta
Boehlert	Hatcher	Parker
Boggs	Hawkins	Pashayan
Bonior	Hayes (IL)	Payne (NJ)
Borski	Hefner	Payne (VA)
Boucher	Hertel	Pease
Boxer	Hochbrueckner	Pelosi
Brennan	Horton	Penny
Brooks	Hoyer	Perkins
Brown (CA)	Huckaby	Pickett
Bryant	Hughes	Pickle
Bustamante	Hutto	Poshard
Byron	Johnson (SD)	Price
Campbell (CO)	Johnston	Rahall
Cardin	Jones (GA)	Rangel
Chapman	Jones (NC)	Ray
Clay	Kanjorski	Richardson
Clement	Kaptur	Roe
Coleman (TX)	Kastenmeier	Rose
Collins	Kennedy	Rostenkowski
Conte	Kennelly	Rowland (GA)
Conyers	Kildee	Roybal
Costello	Kleczka	Russo
Coyne	Kolter	Sabo
Davis	LaFalce	Sarpalius
de la Garza	Lancaster	Savage
DeFazio	Lantos	Sawyer
Dellums	Laughlin	Scheuer
Derrick	Lehman (CA)	Schroeder
Dicks	Lehman (FL)	Schumer
Dingell	Levin (MI)	Serrano
Dixon	Levine (CA)	Sikorski
Donnelly	Lewis (GA)	Sisisky
Dorgan (ND)	Lowey (NY)	Skeen
Downey	Luken, Thomas	Skelton
Durbin	Manton	Slaughter (NY)
Dwyer	Markey	Smith (FL)
Dymally	Martinez	Smith (IA)
Dyson	Mavroules	Solarz
Early	Mazzoli	Spratt
Eckart	McCloskey	Staggers
Edwards (CA)	McCurdy	Stallings
Engel	McDermott	Stark
Espy	McHugh	Stenholm
Evans	McMillen (MD)	Stokes
Fascell	McNulty	Studds
Fazio	Mfume	Swift
Feighan	Miller (CA)	Synar
Flake	Moakley	Tallon
Flippo	Mollohan	Tauzin
Foglietta	Montgomery	Taylor
Ford (MI)	Morrison (WA)	Thomas (GA)
Ford (TN)	Mrazek	Torricelli
Frank	Murtha	Towns
Traficant	Walgren	Wise
Traxler	Watkins	Wolpe
Udall	Waxman	Wyden
Unsoeld	Weiss	Yates
Valentine	Wheat	Yatron
Vento	Whitten	
Volkmer	Wilson	

ANSWERED "PRESENT"—23

Annunzio	Guarini	Moody
Bateman	Hayes (LA)	Murphy
Bates	Jenkins	Ortiz
Bosco	Jontz	Schiff
Browder	Kostmayer	Sharp
Condit	Lipinski	Skaggs
Darden	Long	Tanner
Geren	Matsui	

NOT VOTING—20

Aspin	Leath (TX)	Porter
Baker	Lloyd	Ridge
Crockett	Michel	Stump
Dickinson	Mineta	Torres
Gaydos	Morrison (CT)	Washington
Gephardt	Nelson	Williams
Grandy	Obey	

□ 1500

Mr. ANNUNZIO changed his vote from "no" to "present."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ECKART) having assumed the chair, Mr. NEAL of North Carolina, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5268) making appropriations for rural development, agriculture, and related agencies programs for the fiscal year ending September 30, 1991, and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 335, noes 86, not voting 11, as follows:

[Roll No. 243]

AYES—335

Ackerman	Gallo	McMillen (MD)
Alexander	Gaydos	McNulty
Anderson	Gejdenson	Mfume
Andrews	Geren	Miller (CA)
Annunzio	Gibbons	Miller (OH)
Anthony	Gillmor	Miller (WA)
Applegate	Gilman	Moakley
Atkins	Glickman	Mollohan
AuCoin	Gonzalez	Montgomery
Barnard	Goodling	Moody
Bateman	Gordon	Morella
Beilenson	Goss	Morrison (WA)
Bennett	Grant	Mrazek
Bereuter	Gray	Murphy
Berman	Green	Murtha
Bevill	Guarini	Myers
Bilbray	Gunderson	Nagle
Bilirakis	Hall (OH)	Natcher
Bliley	Hall (TX)	Neal (MA)
Boehlert	Hamilton	Neal (NC)
Boggs	Hammerschmidt	Nowak
Bonior	Harris	Oakar
Borski	Hastert	Oberstar
Bosco	Hatcher	Obey
Boucher	Hawkins	Olin
Boxer	Hayes (IL)	Ortiz
Brennan	Hayes (LA)	Owens (NY)
Brooks	Hefner	Owens (UT)
Browder	Hiler	Oxley
Brown (CA)	Hoagland	Panetta
Bruce	Hochbrueckner	Parker
Bryant	Holloway	Parris
Buechner	Hopkins	Pashayan
Bustamante	Horton	Patterson
Byron	Houghton	Paxon
Callahan	Hoyer	Payne (NJ)
Campbell (CO)	Hubbard	Payne (VA)
Cardin	Huckaby	Pelosi
Carper	Hughes	Perkins
Carr	Hutto	Pickett
Chapman	Ireland	Pickle
Clarke	James	Poshard
Clay	Jenkins	Price
Clement	Johnson (SD)	Pursell
Clinger	Johnston	Quillen
Coble	Jones (GA)	Rahall
Coleman (MO)	Jones (NC)	Rangel
Coleman (TX)	Jontz	Ravenel
Collins	Kanjorski	Ray
Condit	Kaptur	Regula
Conte	Kastenmeier	Richardson
Conyers	Kennedy	Ridge
Cooper	Kennelly	Rinaldo
Costello	Kildee	Ritter
Coughlin	Kleczka	Robinson
Courter	Kolbe	Roe
Coyne	Kolter	Rogers
Craig	Kostmayer	Ros-Lehtinen
Crockett	LaFalce	Rose
Darden	Lancaster	Rostenkowski
Davis	Lantos	Roth
de la Garza	Laughlin	Rowland (CT)
DeFazio	Leath (TX)	Rowland (GA)
Dellums	Lehman (CA)	Roybal
Derrick	Lehman (FL)	Sabo
DeWine	Lent	Saiki
Dicks	Levin (MI)	Sangmeister
Dingell	Levine (CA)	Sarpalius
Dixon	Lewis (CA)	Savage
Donnelly	Lewis (FL)	Sawyer
Downey	Lewis (GA)	Saxton
Durbin	Lipinski	Scheuer
Dwyer	Livingston	Schiff
Dymally	Lloyd	Schneider
Dyson	Long	Schroeder
Early	Lowery (CA)	Schuette
Eckart	Lowey (NY)	Schulze
Edwards (CA)	Luken, Thomas	Schumer
Emerson	Machtley	Serrano
Engel	Madigan	Sharp
Erdreich	Manton	Sikorski
Espy	Markey	Sisisky
Evans	Marlenee	Skaggs
Fazio	Martin (NY)	Skeen
Feighan	Martinez	Skelton
Fish	Matsui	Slaughter (NY)
Flake	Mavroules	Slaughter (VA)
Flippo	Mazzoli	Smith (FL)
Foglietta	McCloskey	Smith (IA)
Ford (MI)	McCrery	Smith (NE)
Ford (TN)	McDade	Smith (NJ)
Frank	McDermott	Smith (TX)
Frost	McHugh	Smith (VT)
Smith, Denny (OR)	Tauzin	Watkins
Smith, Robert (OR)	Taylor	Waxman
Snowe	Thomas (CA)	Weber
Solarz	Thomas (GA)	Weiss
Spence	Torres	Weldon
Spratt	Torricelli	Wheat
Staggers	Towns	Whitten
Stallings	Traficant	Williams
Stangeland	Traxler	Wilson
Stark	Udall	Wise
Stearns	Unsoeld	Wolf
Stenholm	Vander Jagt	Wolpe
Stokes	Vento	Wyden
Studds	Visclosky	Wylie
Swift	Volkmer	Yates
Synar	Vucanovich	Yatron
Tallon	Walgren	Young (AK)
Tanner	Walsh	Young (FL)
	Washington	

NOES—86

Archer	Gekas	Moorhead
Armey	Gingrich	Nielson
Ballenger	Gradison	Packard
Bartlett	Grandy	Pallone
Barton	Hancock	Pease
Bates	Hansen	Penny
Bentley	Hefley	Petri
Broomfield	Henry	Porter
Brown (CO)	Hertel	Rhodes
Bunning	Hunter	Roberts
Burton	Hyde	Rohrabacher
Campbell (CA)	Inhofe	Roukema
Chandler	Jacobs	Russo
Combest	Johnson (CT)	Schaefer
Cox	Kasich	Sensenbrenner
Crane	Kyl	Shaw
Dannemeyer	Lagomarsino	Shays
DeLay	Leach (IA)	Shumway
Dornan (CA)	Lightfoot	Shuster
Douglas	Lukens, Donald	Slattery
Dreier	Martin (IL)	Smith, Robert (NH)
Duncan	McCandless	Solomon
Edwards (OK)	McCollum	Sundquist
English	McCurdy	Tauke
Fascell	McEwen	Thomas (WY)
Fawell	McGrath	Upton
Fields	McMillan (NC)	Walker
Frenzel	Meyers	Whittaker
Gallegly	Molinari	

NOT VOTING—11

Aspin	Gephardt	Morrison (CT)
Baker	Herger	Nelson
Dickinson	Michel	Stump
Dorgan (ND)	Mineta	

□ 1519

The Clerk announced the following pairs:

On this vote:

Mr. Mineta for, with Mr. Morrison of Connecticut against.

Mr. Nelson of Florida for, with Mr. Stump against.

Messrs. JACOBS, KASICH, and WHITTAKER changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent and missed rollcall vote No. 242, which occurred on the Walker amendment to delete $19.90 from the Agricultural appropriations bill. Although I was paired in favor of the other amendments to this bill that made across-the-board cuts, I would have voted "no" on this amendment.

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during rollcall votes 239, 240, 241, and 242. Had I been present on the House floor I would have voted in the following manner:

Rollcall 239, "No" on Frenzel amendment to H.R. 5268, Agriculture Appropriation.

Rollcall 240, "No" on Dannemeyer amendment to H.R. 5268

Rollcall 241, "No" on Penny amendment to H.R. 5268

Rollcall 242, "No" on Walker amendment to H.R. 5268

PROVIDING FOR CONSIDERATION OF H.R. 5258, BALANCED BUDGET ACT OF 1990

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 433 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 433

Resolved, That upon adoption of this resolution it shall be in order to consider in the House the bill (H.R. 5258) to require that the President transmit to Congress, that the congressional Budget Committee report, and that the Congress consider a balanced budget for each fiscal year. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI are hereby waived. Debate on the bill shall continue not to exceed one hour, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations. The previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. SKAGGS). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from Illinois [Mrs. MARTIN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 433 is the rule providing for consideration of the bill, H.R. 5258, the Balanced Budget Act.

The rule provides for consideration of the bill in the House. Thirty minutes will be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules and 30 minutes will be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations.

The rule waives all points of order against consideration of the bill for failure to comply with the provision of clause 2(l)(6) of rule XI. This provi-

sion requires that committee reports be made available to Members 3 days prior to consideration on the floor. The Rules Committee filed its report on Friday and the report was available on Tuesday. Finally, the rule provides for a motion to recommit.

Mr. Speaker, H.R. 5258 would require the President to submit a budget not in deficit and the Budget Committee on each House to report a concurrent budget resolution not in deficit. The bill also provides that if the President determines that a balanced budget is not feasible, and submits written reasons in support of that determination, the President may also submit a budget in deficit. Likewise, if the Budget Committees decide a balanced budget is not feasible, and include written reasons in support of that determination, the committees may report a budget in deficit. The bill also requires that each budget resolution must contain whatever reconciliation directives are necessary to implement that resolution.

H.R. 5258 also includes, as an exercise of the rulemaking powers of each House, a requirement for a separate vote on each of the four possible budgets. Thus the bill establishes procedures to guarantee Members an opportunity to vote for a balanced budget from the President as well as the Budget Committee.

Mr. Speaker, this rule will provide for expeditious consideration of this important legislation. Yesterday this House voted overwhelmingly for the concept of a balanced budget, but we failed to muster the necessary two-thirds to propose an amendment to the Constitution. This bill will move us toward that same goal by a different route, and I urge all Members to support this rule.

Mr. Speaker, I supported the balanced budget constitutional amendment yesterday, and I think it is one of the sad times in this House that it did not pass because it is so badly needed. This is not a constitutional amendment nor will it ever do the things we hoped a constitutional amendment would do. But this is second best. This is what we have before us, and this is better than nothing.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 433 is a closed rule providing for the consideration of the bill H.R. 5258, the so-called balanced budget bill. This is an unusual rule for an unusual bill, to say the least.

The rule provides for the consideration of the bill in the House instead of the Committee of the Whole, and orders the previous question to final passage. That means no amendments may be offered except in recommital instructions. The rule divides the hour of debate equally between the chairmen and ranking minority members of the Committees on Rules and Government Operations.

The rule waives clause 2(l)(6) of House rule XI against the consideration of the bill. That clause prohibits consideration of a bill unless the report has been available to Members for at least 3 calendar days. Although the Rules Committee filed its report on this bill last Friday, the report did not become available until yesterday. That means that without this waiver the bill could not be considered until tomorrow.

Mr. Speaker, perhaps far more serious than the 3-day layover waiver for the Rules Committee report is the fact that the other committee of jurisdiction, Government Operations, has not even considered or reported this legislation. The bill was only introduced last Thursday, July 12—the day before the Rules Committee met to consider a rule.

In fact, the Rules Committee agenda we received on Thursday of last week had this bill listed as H.R. 5258. As we pointed out in our dissenting views, that was perhaps the most appropriate designation for the bill "because blank bullets are all it fires and blank looks are all it draws." And as we went on to observe in our views, and I quote:

> What easier bullet to bite than a blank? Perhaps that is only fair, though, since this bill has no teeth to begin with.

Mr. Speaker, yesterday the House had the chance to bite a real bullet in a balanced budget constitutional amendment. That failed by just seven votes. With that vote the emperor was exposed for having no clothes. Do you think you can change that by covering the emperor with Saran Wrap today?

For you Democrats who used to complain about the Teflon Presidency, hold up a mirror and look at yourselves: Behold the Saran Wrap Congress. Do you think for a minute the American people don't see through this ploy for what it really is?

Just what does this great balanced budget bill do? All it says is that Congress and the President should recommend balanced budgets beginning next year unless they determine that is infeasible. In that case, they must produce a feasible unbalanced budget as well as an infeasible balanced budget. This sets up the possibility of four different budgets for consideration before we even begin to allow for the consideration of substitutes by other Members.

If you think playing king-of-the-Hill with budget substitutes is fun now, just imagine how much more fun you'll have if this proposal is enacted with its cornucopia of feasible and infeasible budgets to choose from. We might have to change the name of the game from "king-of-the-Hill" to "jokers-of-the-Hill"; or maybe better yet, "52-budget pickup."

Mr. Speaker, there are a number of reasons why Members vote against rules. They may restrict the number of amendments that may be offered; they may waive important House rules; or the bills they make in order may not have had a proper hearing or may have been poorly drafted. In the case of this rule and bill, all of those reasons, and probably a few more, are legitimate reasons to vote against this rule. This is a bad rule and a bad bill. Defeat this rule so we can give the bill the swift and deep burial it deserves—Saran Wrap and all.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I speak in support of this rule and in support of the bill. I would like to commend the committee for crafting this rule and bringing it to the House floor, and I would like to commend the authors of this very important bill for bringing it on to the floor.

I believe, Mr. Speaker, that this bill is considerably preferable to any amendment that would actually have amended the Constitution of the United States. We can accomplish in a much more direct and a much more immediate and a very clear fashion what needs to be accomplished through the enactment of this particular piece of legislation.

H.R. 5258 will go into effect starting next year for fiscal year 1992. It will require the President of the United States to submit a balanced budget next year. That is something that should not require waiting until 1995. This is an urgent matter, and it should be attended to immediately. The constitutional amendment that was before us yesterday would have allowed any serious action to wait until 1995, whereas this particular piece of legislation will recognize the urgency of the deficit situation by requiring action immediately, requiring the President to submit a balanced budget next year for fiscal year 1992.

□ 1530

If, in fact, the deficit situation is as urgent as we all say that it is, and, in fact, I believe it is indisputable that it is that urgent, we should not be tinkering in a fashion that will allow delay.

This particular statute as crafted which will be before us, after this rule enacted, will require immediate action and will require the President to act immediately.

It will also require the Budget Committees to report balanced budgets next year and it will require floor

votes on administration and committee balanced budgets.

It will allow the consideration of alternative budgets in deficit, and it will exclude the Social Security trust fund from deficit calculations.

Mr. Speaker, we heard in the debate yesterday from both sides of the aisle very significant, very important statements as to the urgency of this matter. I do not think any Member needs to be reminded just how urgent the deficit situation is.

We will have before us today an opportunity to respond to that deficit situation in a manner which is immediate, in a manner which is significant, and in a manner which will not require actually amending the Constitution of the United States. All of those factors make this a preferable alternative to the alternative that was before us yesterday.

So Mr. Speaker, I am pleased to speak in support of the rule and in support of the act as before us. I urge my colleagues on both sides of the aisle to put this bill on the President's desk, urge the President to sign this bill so that we can move ahead in an immediate and in a meaningful way toward balancing the budget through the Balanced Budget Act of 1990.

Again I want to commend the sponsors, commend the Rules Committee and commend the Government Operations Committee.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. HORTON], the ranking member of the Committee on Government Operations.

Mr. HORTON. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

I want at the outset to appeal to both sides of the aisle, my Republican colleagues and my Democratic colleagues, on this rule. I want to urge that we defeat the rule. This is an unusual request on my part. Normally I do not speak on rules, but in this case I would like to make some suggestions. I have a great deal of respect for the Government Operations Committee on which I serve as the ranking minority member. I have been in the Congress 28 years. I have served that entire time on the Government Operations Committee. The Government Operations Committee is, I think, expert enough and has the ability and the willingness to look into this bill.

This bill, H.R. 5258, was introduced last July 12, which was last Thursday. Friday intervened and then, of course, Saturday and Sunday. There were no votes on Monday. We just had Tuesday, and today is Wednesday, so we only had a few days since this bill was introduced.

The bill, H.R. 5258, says in here:

Introduced the following bill which was referred jointly to the Committee on Government Operations and the Committee on Rules.

Now, the Government Operations Committee has not had an opportunity to look at this matter. I think that is an important consideration for the House to look at. I mean, the least you can do is give a competent, capable committee, the opportunity to look at this legislation and report back. We can report back very quickly. I am sure that the chairman could call a meeting and we could look at this, have hearings on it, report it back, so that we could look at it. Better than what we are doing here now.

As I understand it, what the bill does now is it requires three things. It requires the President and the Budget Committee to submit balanced budgets. Then if the budget is infeasible, and I do not know that anybody knows what that means, but if it is infeasible, then it allows the President and the Budget Committee to submit unbalanced budgets and then it requires the Rules Committee to report out a rule allowing for a vote on all four of those budgets.

We can do that now, so there is no need for this bill; but I think if the Government Operations Committee looked at this, we could at least come up with some suggestions and perhaps report out a bill that could accomplish what is being attempted here, without the haste and the pressure on the legislation that has been reported.

The other reason for not voting for this rule is that it is a closed rule. It is not a modified open rule. It is not a modified closed rule. It is a closed rule. We have 1 hour of debate. I have got 15 minutes as the ranking minority member of the Government Operations Committee. The chairman of the Government Operations Committee has 15 minutes, and then the Rules Committee has the other half hour. We talk for an hour and then we vote.

Well, it seems to me that in good conscience, what Members should do is vote against this rule, give the Government Operations Committee an opportunity to look at it and then let us report it back, but let us vote down this rule. It lets us go home a little bit earlier today, too, I might point out.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield another minute to the gentleman from New York, and ask the gentleman if he will yield to me.

Mr. HORTON. I yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Speaker, the reason there really is not a lot of time is that this was not taken terribly seriously. In the last debate, we heard some cries from the other side of the aisle about what a waste there could be on this. There is no question what this bill is, so the gentleman from New York is absolutely right. Not only has his committee not looked at it or been given a chance, not only is there no time for debate, there is no substance here to do it with and we should go home early. The gentleman is absolutely right.

Mr. HORTON. Mr. Chairman, I thank the gentlewoman.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. Cox].

Mr. COX. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I would like to follow up on the comments by the ranking member of the Committee on Government Operations on which I serve.

I sought assignment to the Committee on Government Operations precisely because since coming to the Congress I had been interested in statutory process reform. I myself am the author of legislation which would bring about needed reforms to our badly broken Federal budget process. I have been urging the chairman of my committee to take up budget process reform as a serious subject in our committee. We have yet to have the opportunity to do that in our committee, and I hope soon we do.

There is one reason and one reason only that in a very big hurry we are rushing to the floor a bill that was referred to our committee, but has not yet been taken up because it has only been in the hopper since last Thursday, and that is because some of us Members, 218 of us, signed a discharge petition to bring to the floor of this House, against the wishes of the leadership, a constitutional amendment to introduce real budget reform. That amendment lost yesterday by seven votes.

Therefore, some Members of this House who voted the wrong way are looking for political cover. That is not a good reason to rush to the floor a statutory proposal that has not seen the light of day in the Committee on Government Operations, which is the only committee that has substantive jurisdiction over the content of the bill.

I second the call of the ranking member of that committee to reject this request to short circuit our committee process, to give us in the Government Operations Committee an opportunity to look at this bill and to recognize this proposed rule for the sham that it is.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for yielding this time to me.

I take this time to respond to the statement of the gentleman who has previously spoken, alleging that this bill was hastily brought to the floor. The subject of this bill has been pend-

ing for a long time. In fact, it was first offered back in 1984, as I recall, and passed in this body. I believe it passed and failed in the other body; and, several similar measures similar to the bill being presented, of which I am a cosponsor, have been discussed in the Halls of Congress continuously over the years.

□ 1540

The fact remains that there has been a renewed emphasis on the issue of a balanced budget and possibly a change in fiscal policy. The bill that is being offered here today is timely. It is one whose time has come, and perhaps in the collective wisdom of this Chamber it will rise to the occasion and pass the rule so that we can debate the merits of the legislation that has been presented here today.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, this House is the most important legislative body on the planet Earth, and its responsibilities are important and sometimes almost frightening in their implications on the impact on the lives of real people, our citizens, who make up the society of this magnificent Nation.

We have earlier today in the consideration of a previous amendment to the agricultural appropriations measure had some levity, and that is appropriate in our society. A sense of humor is important to Americans and their history. But as has been said by the gentleman from Illinois just a moment ago, this bill simply has not been and is not now being taken seriously even by the Members of this body.

An anonymous source is credited with saying many years ago, "English law prohibits a man from marrying his mother-in-law. This is our idea of useless legislation." This bill is the next-best example of useless legislation that I can think of.

There is an old saying in Virginia where I come from that, "The thunder roared and the lightening flashed, and a chigger was killed." Well, listen to the language of this bill: "The Congress shall consider a balanced budget for each fiscal year." Why can't they consider one now? What do you mean by "consider"? What if they consider it and reject it, as we always have?

This is the legislative equivalent of saying, "Thou shalt not steal, thou shalt not covet thy neighbor's wife," and so forth. It is simply a smokescreen. It is a legislative loin cloth to permit those who voted against the balanced budget amendment yesterday that would have put some discipline into this system, so that those people who voted that way yesterday will have something, even this very small fig leaf, to go home with and beat their chest about to their constituents. With a lack of accountability that exists in the process, maybe one or two just might get away with it, but I would not count on it.

We ought to defeat this rule and this bill summarily, and I will vote to do so.

Mr. DERRICK. Mr. Speaker, I yield 4½ minutes to the distinguished gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I thank my colleague, the gentleman from South Carolina, for yielding me this time.

Mr. Speaker, this rule makes in order a very simple and basic bill.

Mr. Speaker, this is a very basic bill. It simply requires the President to submit each year beginning next year a budget not in deficit. At the same time, it allows the President an out. If the President decides that a balanced budget is not "feasible," he can submit an alternative budget, along with his balanced budget, provided he explains why it's not feasible to balance the budget.

This bill does not stop with the President. It imposes the same requirement on the Budget Committees of Congress that it places on the President. It says that the Budget Committees must also report a budget resolution that is not in deficit. If either committee decides that a balanced budget is not "feasible," it can report an alternative budget resolution with a deficit, provided the committee explains in its report why it is not feasible to balance the budget for that fiscal year.

This bill differs from others offered before by going one step further. It requires not only that balanced budgets be submitted and reported, but that these budgets be brought to the floor. This bill requires that if the Rules Committee reports a rule providing for consideration of budget resolutions, then the rule must provide for consideration of any budget submitted by the President and for consideration of any budget resolution reported by the Budget Committee. To make certain that the President's balanced budget and alternative budget are considered, the bill requires that any budget submitted by the President be introduced by the majority leader.

Unlike the constitutional amendment we considered yesterday, this bill goes into effect almost immediately. Its requirements apply to the next budget year, fiscal year 1992. If we enact this bill, we guarantee consideration of a balanced budget for fiscal year 1992. The constitutional amendment we considered yesterday would not have gone into effect until 1995, or the second fiscal year after ratification. Thus, if we enact this bill, those Members who support a balanced budget in concept will have an opportunity to vote on one next year.

It has been said that there have been no hearings on this particular bill. As you can see, its scheme and purpose is simple and basic. It hardly requires any hearings. Members can make their decision here on the floor on the strength of debate. There have been hearings on similar bills. A bill was introduced by Jim Jones in the past. There were hearings in the Committee on Rules on October 1, 1984, and on September 28, 1982, before H.R. 6300, a similar bill, was adopted in the past.

Given the time taken for ratification, the adoption of a constitutional amendment amounts to just one more promise to do something about the deficit later. Adoption of our bill will mean that we do something about balancing the budget now. Now, I know that preparing a balanced budget does not mean that we will pass a balanced budget; but I think the exercise will be good discipline for Congress and the President. It will force Congress and the executive branch to sort out the hard choices in getting rid of the deficit, and it will expose those choices to the American people.

A few years ago, David Stockman devised a multiple-choice test he called an "Exercise in Hard Choices." He used it to make members of the executive branch focus on budget tradeoff's. A version of it was devised for Members of Congress, and many of us completed it.

The preparation of a balanced budget serves the same purpose, only more so. We had a sample of what's in store for us 2 days ago, when Richard Darman tried to shock us into understanding why sequestration is such a nightmare. We have been warned of active duty military cuts equal to 1 million personnel; Pell grant cuts falling on 1.2 million students; massive RIF's in the Social Security Administration.

Well, Darman's sequestration nightmare is just an opener. After savage across-the-board cuts to get the deficit down by $100 billion, the budget is still $64 billion in deficit; and in reality, it is even deeper in deficit, because OMB is using a surplus of some $73 billion in the Social Security trust funds to mask the real deficit in the rest of the budget. I don't think we are going to pass a balanced budget next year or the year after, but I honestly think it would add reality to our debate over the deficit if we started it by admitting how tough the problem is; if we started it by drawing up a balanced budget, by painting the stark picture of what a balanced budget would really look like. If such a requirement were made law, the President would not be able to come here, as he did last January with his State of the Union, and tell the country euphorically that we have almost licked this problem; that we

almost have the deficit down to 1 percent of GNP.

One final point of clarification. In this bill, the budget to be balanced is the unified budget. Current law requires that Social Security, as well as the Postal Service, and starting in 1993, the Medicare Hospital Insurance trust fund, be excluded from the unified budget. This bill will become part of current law, and so it will require that the President and the Budget Committees to develop balanced budgets without using the Social Security trust fund surpluses to offset the deficit in the rest of the budget. The constitutional amendment we considered yesterday spoke simply to total receipts and total outlays. For its purposes, the Social Security trust funds remained on budget, where the offset and obscure the true size of the deficit in the rest of the budget.

Mr. Speaker, this bill by itself is not going to get rid of the deficit next year or the year after, but it will move us in that direction. I urge my colleagues to vote for it.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, this has been an interesting discussion. It, I think, helps make the point of the gentleman from New York that this probably should be a matter of some hearings before we bring it to the floor.

The gentleman from Arkansas told us that this is the same bill we have considered on numerous occasions so, therefore, it did not need any hearings at the present time. The gentleman from South Carolina tells us it is significantly different from bills that we have had on the floor before so that we obviously have a division of opinion among the people. The gentleman from South Carolina also tells us there have been hearings on this bill, and he goes back into 1984, and some places where a large portion of the membership of this Congress was not even in office when the hearings were held on the legislation we now have before us.

I do not think that that is probably the kind of pattern that we want to adopt as a way of proceeding. But then I was fascinated by the gentleman from South Carolina telling us that this bill in some place in it takes the Social Security Program off budget. Could the gentleman from South Carolina tell me where that is in this bill?

Mr. SPRATT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Speaker, the bill is an amendment to current law which means that it deals with the unified budget. The unified budget excludes the Social Security surpluses, as I said, beginning in 1993. It will exclude the surplus in the Medicare Hospital Insurance Trust Fund and the Postal Service.

□ 1550

So the amendment to current law is an integral part of current law.

Mr. WALKER. Mr. Speaker, reclaiming my time, one of the arguments we had from the gentleman's side has been this bill will take effect immediately, and so it would be different from the bill we had before us. So until 1993, it does include the Social Security trust fund, is that right?

Mr. SPRATT. Mr. Speaker, it does.

Mr. WALKER. That helps me. So the gentleman's bill in fact does not comply with the Social Security trust fund. It does in fact include the Social Security trust fund for at least the next 2 years.

Mr. SOLOMON. It does? Oh, my god.

Mr. WALKER. So the gentleman from South Carolina [Mr. SPRATT] was not precisely accurate in that. So the argument we heard from his members out here earlier in the discussion was just not in line with what the gentleman's bill does. Maybe we should have had some hearings to clear that up.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be happy to yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. WALKER] for yielding. The gentleman is partially correct.

Mr. WALKER. I thought I was.

Mr. ALEXANDER. As the gentleman sometimes is, he is partially correct. The bill is substantially the same. I stand corrected, if I said it was the same bill as has been presented. I stand corrected. It is substantially the same. There has been one additional minor feature that has been added to the bill which we can explain during the debate.

Mr. WALKER. Mr. Speaker, let me reclaim my time to say that the gentleman though is arguing that the reason why we ought to adopt this rule that prevents any hearings is because this is the same bill, and so therefore we did not really need to have any hearings. Now the gentleman is modifying his position. If what we are saying is this is a different bill than what we have had before, then perhaps the gentleman from New York [Mr. SOLOMON] was absolutely correct in suggesting that we ought to have some hearings. It appears as though we are confused about what it says. It appears as though it may be significantly different or significantly the same, depending on whose opinion you get. To adopt a rule that allows us to consider a bill that no one knows exactly what is in it, is absolutely foolish.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I simply want to clarify the statement that I made, namely that under the definition of the unified budget as presently provided for, the Social Security retirement trust fund surpluses are excluded from the unified budget deficit. Beginning in 1993, as I said, the hospital insurance trust fund providing for Medicare will be excluded. In 1993 it is excluded. Social Security trust funds are excluded now.

Since this particular bill amends the current statute which depends upon the definition and uses the definition of unified budget, it excludes the Social Security retirement trust funds from the calculation of the deficit in arriving at a balanced budget.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentlewoman for yielding the time. Mr. Speaker, this last colloquy that we just had between our good friend the gentleman from South Carolina [Mr. SPRATT] and our good friend the gentleman from Pennsylvania [Mr. WALKER] is exactly why during the Committee on Rules meeting that I insisted that this bill be referred to the Subcommittee on Rules of the House before subcommittee. I am the ranking member of that subcommittee. The gentleman from Massachusetts [Mr. MOAKLEY] is the chairman of that subcommittee.

Mr. Speaker, we had the chairman of the Committee on Government Operations come before us. He could not answer the question of how Social Security is treated in this. No one during the Committee on Rules hearing could tell us exactly how it was treated. That is even more reason why this bill should not be on the floor today. It is here today, I am beginning to believe, strictly for cover for those Members who voted against the constitutional amendment. I hate to say that. I am serious about it, because when the bill came before the Committee on Rules, we were told that the bill had already been looked at in this House before.

Mr. Speaker, I went back and I researched for the last 18 years. This bill has not been before the Committee on Rules in the last 18 years. No hearing, neither in the Committee on Government Operations nor in the Committee on Rules, has ever been held on this particular bill dealing with the problems, particularly the problems of Social Security.

Mr. Speaker, I think that right now the leadership in this House, the Speaker, ought to recall this bill and ought to send it back to the Commit-

tee on Rules and save us the embarrassment of having to vote on it here today and to defeat the rule so that we can get this matter and other matters cleared up.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I am a little bit at a loss to know how to talk about this bill. Usually we deal with serious material around here, even if we deal with $19 amendments. This bill does not look to me to be serious material.

Throughout it is sprinkled with the word "infeasible." I looked this word up in the dictionary, and the closest I could come to a synonym was "impractical." "Impractical" is a bit of a fuzzy word for any kind of legal interpretation.

As one goes through and finds the word used again and again, one can only conclude that it was meant to be fuzzy. One might also conclude that perhaps the perception that has spread through the city of Washington that this bill was introduced to be a cover for Members who felt they could not support the real balanced budget constitutional amendment yesterday, is, in fact, the truth.

It is also worth noting that this is the speediest bill I have seen since we put the Washington Redskins on television within 24 hours once a few years ago. There were no hearings in the committees which have jurisdiction over the budget procedures. Only the accommodating Committee on Rules, the trusty mouthpiece, the marionette of the Speaker, considered it.

We are faced with a very suspicious set of circumstances. The definitions are fuzzy. The bill has no good purpose. It was whisked through an abbreviated process. No amendments are allowed. All these conditions create an aroma of rottenness.

And then we are told that we are changing the accounting on Social Security. We are not doing anything with Social Security. The bill is wholly silent on Social Security. The bill happens to refer to parts of the budget law, but it does not change one thing that is to be done with Social Security.

The bill does not tell us what we do with the savings and loan rescue effort, which we are told is going to be some $50 to $60 billion above what we expected last year. This bill, that purports to move us toward a balanced budget, is silent on this $60 billion item. Do you suppose the authors simply forgot it or was it too difficult to handle.

Mr. Speaker, I have asked unanimous consent to revise and extend my remarks because I cannot think of enough silly things to say about this silly bill. I simply conclude by saying that it has an odor such that it is unlikely to become law.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. SPRATT] for a further explanation of his position.

Mr. SPRATT. Mr. Speaker, for further clarification I would like to read from section 710(a) of the Social Security Act which provides,

> The receipts and disbursements of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the taxes imposed under Section 1401(a), 3101(a), and 311(a) of Title XXVI shall not be included in the totals of the budget of the United States Government as submitted by the President or any Congressional budget, and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending budget outlays of the United States Government.

It is this section which excludes the Social Security trust funds from the unified budget concept, and it is the section which applies to the definition of a balanced budget or a deficit budget as provided in this particular bill.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, that is a neat law the gentleman from South Carolina [Mr. SPRATT] read, but that is not the bill we are talking about.

Mr. SPRATT. Mr. Speaker, reclaiming my time, this bill amends the budget laws of the United States which we adopted which deal with the unified budget, and this bill defines a unified budget.

Mr. FRENZEL. Mr. Speaker, if the gentleman will yield further, what the gentleman read is what is already in the law. We have also got lots of other books of laws. They are going to be there tomorrow, whether this bill passes or not. So is the thing that you read us. It just has nothing to do with the material that is before us. The material before us does not come under that section of the bill.

Mr. SPRATT. Mr. Speaker, reclaiming my time, this bill is an amendment of this law. Consequently, it depends upon the provisions provided in that law.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I rise today in opposition to this rule and to H.R. 5258, the Balanced Budget Act of 1990. We ought to defeat this rule. If the rule is not defeated, we certainly ought to defeat the bill that follows.

The Speaker, I have two objections to the legislation. First, it is another example of how this body avoids making tough choices.

□ 1600

Yesterday the leadership, the Democratic leadership, was able to block a balanced budget amendment to the Constitution that would have forced Congress, would have imposed some discipline on us, would have forced us to act responsibly. But they said, "No, no, we will make the tough choices, we will make those choices here on the floor."

So today they are going to offer the fig leaf for their Members. They are going to have promises, promises.

Why ought we or any of the American people believe that this time anything is going to be different? H.R. 5258 is just another promise. It has no backbone to it. But the Democratic leadership says it is serious about balancing the budget. But this measure just repeats many of the mistakes that we made in the past, including some of the mistakes that we made under Gramm-Rudman and the way we have implemented that.

The second thing is that this bill adds insult to injury; instead of forcing tough choices, this legislation in fact further would limit the President's power in the budget process. It will give more of the power to Congress.

Now, comedians ought to get a lot of mileage out of that joke. Giving Congress more power in the budget process, in view of our record on the budget, would be like hiring Charlie Keating to run to RTC.

I think the American people would view both actions in the same light. I think their humor on this has just about run out. There is one thing that we can all agree on: That the time has come to make some tough choices on the deficit. Yet, only 30 minutes ago we could not even muster votes to cut an appropriations bill by 2 percent across the board or even by $19.90.

One of the gentlemen said that that was a joke, that amendment was a joke, that it cost $400 to print a page in the CONGRESSIONAL RECORD. But how many hundreds of dollars are we going to waste here today printing pages in the CONGRESSIONAL RECORD about this joke that we are debating here? We should make tough choices. Let's not play games. Let's not offer a fig leaf to those who are unwilling to vote for real spending reductions.

The Speaker, I urge my colleagues to vote against this rule and against H.R. 5258.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and to include therein extraneous matter, when the House resolves itself into the Commit-

tee of the Whole House on the State of the Union.

The SPEAKER pro tempore (Mr. SKAGGS). Is there objection to the request of the gentleman from Arkansas?

Mrs. MARTIN of Illinois. Mr. Speaker, reserving the right to object, just to help the gentleman out, I do not know if we are going to be in the committee. We are going to be considering it in the House. So if the gentleman asks permission to put it in the way he did, it will never get in.

The SPEAKER pro tempore. The point of the gentlewoman is correct; we are not going into the Committee of the Whole. If the gentleman would care to amend his request, he may do so but the gentleman's unanimous-consent request is, without objection, granted.

Mr. WALKER. Mr. Speaker, reserving the right to object, what was just granted? What are we granting?

The SPEAKER pro tempore. To include extraneous matter in the RECORD.

Mr. WALKER. In the RECORD, in the meeting of the Committee?

Mr. ALEXANDER. Mr. Speaker, I withdraw my request.

The SPEAKER pro tempore. The gentleman withdraws his request.

Mr. DERRICK. Mr. Speaker, I reserve the balance of my time. I have no further requests for time.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 4 minutes to the Republican whip, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I appreciate the gentlewoman yielding me the time.

This is the sort of bill which you cannot decide whether to attack in anger or just sort of relax and laugh at it, create a general sense of awareness. It is the sort of Democratic bill which has the effect, I think, of undermining public confidence in the Congress.

First of all, the bill is 7 days old. Now, compared to the last Saran-wrapped fig leaf, which was the one on the flag, that makes this an aging monster. The last one was introduced 24 hours before we voted it down. This one was introduced 7 days ago.

It has had no hearings, which is appropriate, I think, because the hearings would have shown that in fact this bill accomplishes only one thing: It would add to the total amount of paperwork. It would require that the President and the Budget Committee print up one additional budget each, ship them out, and we would have more paper which people would then neglect. The reason is very simple: This proposal would have no impact in the real world except in the fantasy world of Congress.

Now, the facts are very clear. Yesterday we had a real vote on a real constitutional amendment. It might have been a good amendment, it might have been a bad amendment, but it was a real amendment. On that vote, 145 Democrats voted "no," 110 voted "yes." And the Democratic Party indicated clearly it rejected a balanced-budget amendment that would have been real and would have been constitutional.

We were told by those who opposed the amendment that what was needed was courage, that the Congress could balance the budget if only it had courage. Today we had a series of four votes cutting the appropriations bill, less than 24 hours after the lesson in courage.

We had a vote on a 7-percent cut; the majority of the Democrats voted "no." We had a vote on a 5-percent cut; a majority of the Democrats voted "no."

We had a vote on the 2 percent cut, and the majority of the Democrats voted "no."

Then we had the famous Walker $19.90 cut, and while it was, frankly, a rather silly motion, it was a motion made to make a point, in the tradition of French farces; the fact is we had two senior members of the Committee on Appropriations rise and automatically give their standard speech.

One of them claimed that this $19.90 amendment would gut major programs. I mean it was as though he automatically went on automatic and just began saying whatever he had recorded 35 years ago or 25 years ago to say anybody any time, Members can go back and look at the record. They can go back and look at the videotape if the record has been altered.

The fact is, even faced with a $19.90 cut, the Democratic leaders stood up and were aghast at the prospect that less money would be spent.

And now, in the very same day, the very same day as we had defeated four consecutive efforts to cut spending, we have this mouse, a Saran-wrapped fig leaf, an effort to say, "Oh, I have a new device to balance the budget. We will insist that the President send in a balanced budget." Well, of course.

Well, of course, he can. It would be a farce. Nobody in America believes you can go from the current deficit to a balanced budget in 1 year. And then we will insist that the congressional Budget Committee match the President's budget and they produce something. And then the Congress will suspend both those and, having spent thousands of dollars to print them up and thousands of dollars of staff work to create them, what will the net result be? Some handful of politicians will go home and say, "Oh, yes, I know I voted against the balanced budget constitutional amendment; oh, yes, I know I voted against the 7 percent cut, I voted against the 5 percent cut, I voted against the 2 percent cut, and I saved the Department of Agriculture from BOB WALKER'S ferocious $19.90 cut. But when the moment came to be courageous, I stood up and voted for a bill" which has had no hearings, has no substance, and is in fact the Additional Paperwork Act of 1990.

I urge every Member who has any sense of people someday wanting to respect this Congress to vote "no" on the rule and vote "no" on the bill.

Mrs. MARTIN of Illinois. Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I would like to say a word in conclusion, but I would have no further requests for time.

Mrs. MARTIN of Illinois. In other words, the gentleman wants to be the final speaker, is that correct?

Mr. DERRICK. Yes.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Let me say this: We talk about Saran-wrapped mice. Well, I can think about Saran-wrapped "Bedtime for Bonzo" over the last 10 years as well.

You know, that is why we are here. We are here because, unfortunately, the Congress followed the leadership of an administration for the last 10 years that has gotten us in this difficulty. It is not all the administration's problem, it is our problem as well.

You know, this may not be the greatest statute that has ever come before the House. It may not be, I do not think, as great as what we tried to do yesterday. But the fact of the matter is that we failed.

It was a bipartisan vote, and it failed.

We all know that in the matter of government that sometimes you do not get everything that you want. This is, admittedly, a compromise.

So I would suggest that we do support this and that we do support the rule.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DERRICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 251, nays 173, not voting 8, as follows:

[Roll No. 244]

YEAS—251

Ackerman	Glickman	Owens (UT)
Alexander	Gonzalez	Pallone
Anderson	Gordon	Panetta
Andrews	Gray	Parker
Annunzio	Guarini	Patterson
Anthony	Hall (OH)	Payne (NJ)
Applegate	Hall (TX)	Payne (VA)
Aspin	Hamilton	Pease
Atkins	Harris	Pelosi
AuCoin	Hatcher	Penny
Barnard	Hawkins	Perkins
Bates	Hayes (IL)	Pickett
Beilenson	Hayes (LA)	Pickle
Bennett	Hefner	Poshard
Berman	Hertel	Price
Bevill	Hoagland	Rahall
Bilbray	Hochbrueckner	Rangel
Boggs	Hoyer	Ray
Bonior	Hubbard	Richardson
Borski	Huckaby	Roe
Bosco	Hughes	Rose
Boucher	Hutto	Rostenkowski
Boxer	Jacobs	Rowland (GA)
Brennan	Jenkins	Roybal
Brooks	Johnson (SD)	Russo
Browder	Johnston	Sabo
Brown (CA)	Jones (GA)	Sangmeister
Bruce	Jones (NC)	Sarpalius
Bryant	Jontz	Savage
Bustamante	Kanjorski	Sawyer
Byron	Kaptur	Scheuer
Campbell (CO)	Kastenmeier	Schroeder
Cardin	Kennedy	Schumer
Carper	Kennelly	Serrano
Carr	Kildee	Sharp
Chapman	Kleczka	Sikorski
Clarke	Kolter	Sisisky
Clay	Kostmayer	Skaggs
Clement	LaFalce	Skelton
Coleman (TX)	Lancaster	Slattery
Collins	Lantos	Slaughter (NY)
Condit	Laughlin	Smith (FL)
Conyers	Lehman (CA)	Smith (IA)
Cooper	Lehman (FL)	Solarz
Costello	Levin (MI)	Spratt
Coyne	Levine (CA)	Staggers
Crockett	Lewis (GA)	Stallings
Darden	Lipinski	Stark
de la Garza	Lloyd	Stenholm
DeFazio	Long	Stokes
Dellums	Lowey (NY)	Studds
Derrick	Luken, Thomas	Swift
Dicks	Manton	Synar
Dingell	Markey	Tallon
Dixon	Martinez	Tanner
Donnelly	Matsui	Tauzin
Dorgan (ND)	Mavroules	Taylor
Downey	Mazzoli	Thomas (GA)
Durbin	McCloskey	Torres
Dwyer	McCurdy	Torricelli
Dymally	McDermott	Towns
Dyson	McHugh	Traficant
Early	McMillen (MD)	Traxler
Eckart	McNulty	Udall
Edwards (CA)	Mfume	Unsoeld
Engel	Miller (CA)	Valentine
Erdreich	Moakley	Vento
Espy	Mollohan	Visclosky
Evans	Montgomery	Volkmer
Fascell	Moody	Walgren
Fazio	Mrazek	Washington
Feighan	Murphy	Watkins
Flake	Murtha	Waxman
Flippo	Nagle	Weiss
Foglietta	Natcher	Wheat
Ford (MI)	Neal (MA)	Whitten
Ford (TN)	Neal (NC)	Williams
Frank	Nowak	Wilson
Frost	Oakar	Wise
Gaydos	Oberstar	Wolpe
Gejdenson	Obey	Wyden
Gephardt	Olin	Yates
Geren	Ortiz	Yatron
Gibbons	Owens (NY)	

NAYS—173

Archer	Bentley	Brown (CO)
Armey	Bereuter	Buechner
Ballenger	Bilirakis	Bunning
Bartlett	Bliley	Burton
Barton	Boehlert	Callahan
Bateman	Broomfield	Campbell (CA)
Chandler	Inhofe	Roberts
Clinger	Ireland	Robinson
Coble	James	Rogers
Coleman (MO)	Johnson (CT)	Rohrabacher
Combest	Kasich	Ros-Lehtinen
Conte	Kolbe	Roth
Coughlin	Kyl	Roukema
Courter	Lagomarsino	Saiki
Cox	Leach (IA)	Saxton
Crane	Lent	Schaefer
Dannemeyer	Lewis (CA)	Schiff
Davis	Lewis (FL)	Schneider
DeLay	Lightfoot	Schuette
DeWine	Livingston	Schulze
Dickinson	Lowery (CA)	Sensenbrenner
Dornan (CA)	Lukens, Donald	Shaw
Douglas	Machtley	Shays
Dreier	Madigan	Shumway
Duncan	Marlenee	Shuster
Edwards (OK)	Martin (IL)	Skeen
Emerson	Martin (NY)	Slaughter (VA)
English	McCandless	Smith (NE)
Fawell	McCollum	Smith (NJ)
Fields	McCrery	Smith (TX)
Fish	McDade	Smith (VT)
Frenzel	McEwen	Smith, Denny (OR)
Gallegly	McGrath	Smith, Robert (NH)
Gallo	McMillan (NC)	Smith, Robert (OR)
Gekas	Meyers	Snowe
Gillmor	Michel	Solomon
Gilman	Miller (OH)	Spence
Gingrich	Miller (WA)	Stangeland
Goodling	Molinari	Stearns
Goss	Moorhead	Sundquist
Gradison	Morella	Tauke
Grandy	Morrison (WA)	Thomas (CA)
Grant	Myers	Thomas (WY)
Green	Nielson	Upton
Gunderson	Oxley	Vander Jagt
Hammerschmidt	Packard	Vucanovich
Hancock	Parris	Walker
Hansen	Pashayan	Walsh
Hastert	Paxon	Weber
Hefley	Petri	Weldon
Henry	Porter	Whittaker
Herger	Pursell	Wolf
Hiler	Quillen	Wylie
Holloway	Ravenel	Young (AK)
Hopkins	Regula	Young (FL)
Horton	Rhodes	
Houghton	Ridge	
Hunter	Rinaldo	
Hyde	Ritter	

NOT VOTING—8

Baker	Mineta	Rowland (CT)
Craig	Morrison (CT)	Stump
Leath (TX)	Nelson	

□ 1630

The Clerk announced the following pair:

On this vote:

Mr. Morrison of Connecticut for, with Mr. Craig against.

Mr. DUNCAN and Mr. GILMAN changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 244 and "nay" on rollcall No. 242.

□ 1630

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT ON H.R. 3950, FOOD AND AGRICULTURAL RESOURCES ACT, 1990

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight tonight, July 18, 1990, to file its report to accompany the bill, H.R. 3950, the Food and Agricultural Resources Act of 1990.

The SPEAKER pro tempore (Mr. SKAGGS). Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT ON H.R. 3664, OMNIBUS AGRICULTURE COMMODITY PROMOTION AND RESEARCH ACT OF 1989

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight tonight, July 18, 1990, to file its report to accompany the bill, H.R. 3664, the Omnibus Agriculture Commodity Promotion and Research Act of 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

BALANCED BUDGET ACT OF 1990

Mr. DERRICK. Mr. Speaker, I call up the bill (H.R. 5258) to require that the President transmit to Congress, that the congressional Budget Committees report, and that the Congress consider a balanced budget for each fiscal year, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 5258 is as follows:

H.R. 5258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENT TO TITLE 31, UNITED STATES CODE

SEC. 101. SUBMISSION OF BALANCED BUDGET BY THE PRESIDENT.

Section 1105 of title 31, United States Code, is amended by inserting at the end the following new subsection:

"(g)(1) Except as provided by paragraph (2), any budget submitted to Congress pursuant to subsection (a) for the ensuing fiscal year shall not be in deficit.

"(2) For any fiscal year with respect to which the President determines that it is infeasible to submit a budget in compliance with paragraph (1), the President shall submit on the same day two budgets, one of which shall be in compliance with paragraph (1), together with written reasons in support of that determination.".

TITLE II—AMENDMENT TO CONGRESSIONAL BUDGET ACT OF 1974

SEC. 201. REPORTING OF BALANCED BUDGETS BY COMMITTEES ON THE BUDGET OF THE HOUSE OF REPRESENTATIVES AND SENATE.

Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end the following new subsection:

"(j) REPORTING OF BALANCED BUDGETS.—

"(1) Except as provided by paragraph (2), the concurrent resolution on the budget for a fiscal year referred to in subsection (a) as reported by the Committee on the Budget of each House shall not be in deficit.

"(2) For any fiscal year with respect to which the Committee on the Budget of either House determines that it is infeasible to report a concurrent resolution on the budget in compliance with paragraph (1) and includes written reasons in support of that determination in its report accompanying a concurrent resolution on the budget, the committee shall report two concurrent resolutions on the budget, one of which shall be in compliance with paragraph (1).

"(3) Each concurrent resolution on the budget reported by the Committee on the Budget of either House shall contain reconciliation directives described in section 310 necessary to effectuate the provisions and requirements of such resolution.".

SEC. 202. PROCEDURE IN THE HOUSE OF REPRESENTATIVES.

Section 305(a) of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

"(8)(A) If the Committee on Rules of the House of Representatives reports any rule or order providing for the consideration of any concurrent resolution on the budget for a fiscal year, then it shall also, within the same rule or order, provide for—

"(i) the consideration of the text of any concurrent resolution on the budget for that fiscal year reported by the Committee on the Budget of the House of Representatives pursuant to section 301(j); and

"(ii) the consideration of the text of each concurrent resolution on the budget as introduced by the Majority Leader pursuant to subparagraph (B);

and such rule or order shall assure that a separate vote occurs on each such budget.

"(B) The Majority Leader of the House of Representatives shall introduce a concurrent resolution on the budget reflecting, without substantive revision, each budget submitted by the President pursuant to section 1105(g) of title 31, United States Code, as soon as practicable after its submission.".

SEC. 203. PROCEDURE IN THE SENATE.

Section 305(b) of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

"(7) Notwithstanding any other rule, it shall always be in order in the Senate to consider an amendment to a concurrent resolution on the budget for a fiscal year comprising the text of any budget submitted by the President for that fiscal year as described in section 1105(g)(1) of title 31, United States Code, and, whenever applicable, an amendment comprising the text of any other budget submitted by the President for that fiscal year as described in section 1105(g)(2) of title 31, United States Code.".

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

This Act and the amendments made by it shall become effective for the concurrent resolution on the budget for fiscal year 1992 and shall be fully reflected in the fiscal year 1992 budget required to be submitted by the President in January 1991 as required by section 1105(a) of title 31, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from South Carolina [Mr. DERRICK] will be recognized for 15 minutes, the gentlewoman from Illinois [Mrs. MARTIN] will be recognized for 15 minutes, the gentleman from Michigan [Mr. CONYERS] will be recognized for 15 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 15 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a very significant bill before us today. As everyone in this body knows, the very survival of our Nation depends on our Government getting its fiscal house in order. We cannot continue year in and year out with the budget deficit that we have particularly suffered during the 1980's.

Mr. Speaker, as I recall my history, it took almost 200 years of our history to reach a budget debt of $1 trillion. It has taken us only 10 years during the 1980's to double that to $3 trillion, and the administration has just recently asked that we increase the debt limit for this Nation by an additional almost $400 billion over the next 12 or 13 months.

The only way that we are going to balance the budget, the only way that we are going to bring about any fiscal sanity to this Nation, is that the Congress, working with the administration, must do it. And, of course, we must have the will to do it.

However, Mr. Speaker, this bill today is a road map that does not start in 1995. It does not start in the year 2000. It starts next year. It goes into effect for fiscal year 1992.

Mr. Speaker, it requires the President next year to submit a balanced budget. It requires the Budget Committees next year, in fiscal year 1992, to report balanced budgets for that year. It requires next year floor votes on administration and committee balanced budgets. It requires next year that, if we are going to have any sort of deficit, that we must consider those alternative budgets and vote on these alternative budgets. Very importantly, Mr. Speaker, it excludes the Social Security Trust Fund from the deficit calculations.

I, like almost two-thirds of the Members of this House yesterday, voted for a balanced budget constitutional amendment. I regret that did not pass and we did not get two-thirds, but, as all of us know who practice the art of politics, we cannot always get everything we want.

This is something that is very positive. The bill that is before us will be very helpful to the Congress and to the administration in bringing some fiscal sanity to this Government of ours.

Mr. Speaker, we seem to be having a little difficulty here. I yield to the gentlewoman from Illinois [Mrs. MARTIN] and I reserve the balance of my time.

Mrs. MARTIN of Illinois. If I may, Mr. Speaker—and I do this in courtesy—I thank the gentleman from South Carolina [Mr. DERRICK] for yielding. I have my own time because we are past the rule now, but I will take it anyway.

Mr. DERRICK. Mr. Speaker, I yield to the gentlewoman from Illinois for the purposes of using her own time.

Mrs. MARTIN of Illinois. Mr. Speaker, I can understand why there is this rush to speak for this bill on their side. It is the old "We put the band-aid on quickly or not."

Mr. DERRICK. Mr. Speaker, we run deep and silent on this side of the aisle.

Mrs. MARTIN of Illinois. Very silent on this one.

I say to the gentleman from South Carolina, "Your side is finally showing some wisdom."

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Will Rogers once said that: "With Congress, every time they make a joke it's a law. And every time they make a law it's a joke."

While that might be little bit of an exaggeration, in the case of the so-called balanced-budget bill before us today, Will Rogers was right on target. This bill is a real knee slapper.

I ask my colleagues to take just a minute to cut through he legalese of H.R. 5258 and go straight to the punchline. What does this great balanced-budget bill really say? It says that the President and congressional budget committees should present balanced budgets unless they think it is not feasible.

To my mind that is a little like telling your child to brush his teeth three times a day unless he does not have the time or it is too much trouble. Is this bill really the best the majority leadership can come up with to elicit greater self-discipline and fiscal responsibility from the Congress?

Has the majority leadership forgotten that we already have a much tougher balanced-budget law on the books? It is called the Gramm-Rudman Balanced Budget and Emergency Deficit Control Act of 1985. As my colleagues are aware, that law calls for steadily declining deficits each year until a balanced budget is achieved by fiscal year 1993.

Does the bill before us today in any way strengthen or improve Gramm-Rudman? The simple answer is, "No, it does not." In fact, if this bill were enacted into law it could actually weaken Gramm-Rudman. It would permit the

Budget Committee to report a deficit budget in fiscal year 1993 even though Gramm-Rudman prohibits the consideration of such a deficit budget.

How do we reconcile these two potentially conflicting provisions? It is easy. We just go to the Rules Committee and get another waiver of the Budget Act. Never mind that budget waivers are a major reason we are having such a terrible time making the existing balanced budget law work. We will just compound that problem by making necessary even more Budget Act waivers.

Mr. Speaker, if this bill now indirectly allows an exception to the Gramm-Rudman balanced-budget requirement in fiscal year 1993, might it also be used as an escape hatch from the sequestration enforcement mechanism of Gramm-Rudman? Could the lawyers argue that this law, which sanctions an unbalanced budget in 1993, takes precedence over Gramm-Rudman since it is the more recent enactment? I am not a lawyer and I do not know the answer to that question. But I would caution my colleagues against voting for a law that could knock the teeth out of the only meaningful balanced-budget law we have.

Finally, Mr. Speaker, I find it ironic that this bill calls for a vote on the President's budget, but it does not allow the President a chance to sign or veto the final budget resolution. If we want to convert what is now the congressional budget process into a congressional-Presidential budget process, then let us fully involve the President throughout. Some of my colleagues are understandably frustrated by the summit process that circumvents the committee system. Well, here was your chance to formally involve the President; and you blew it. Vote down this bill.

□ 1640

The SPEAKER pro tempore (Mr. SKAGGS). The Chair will advise Members that for purposes of this debate, it is the intention of the Chair to recognize those delegated to control the time from the Committee on Rules for the first half hour and then recognize the Members controlling the time from the Committee on Government Operations.

The Chair recognizes the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. PANETTA], the distinguished chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Speaker, we have been through a lot of debate on balanced budgets these last few days, but I think the one thing that has been missing from this entire debate on balanced budgets is specifically how do you achieve a balanced budget? It has been fun and games to talk about the goal of balanced budgets. That is easy. All of us, obviously, support the goal of achieving a balanced budget: but what is missing is now do you get there in specific terms? How do you achieve a balanced budget?

It is for that reason that I support this proposal because it requires that you lay out in specific terms in the context of a budget how to achieve a balanced budget.

Second, it forces a vote on the specific approach to balancing the budget.

What has not been said during these last few days is how you would achieve a balanced budget, for example, in the fiscal year 1991. As I understand the report from the Office of Management and Budget, the deficit that we are now looking at is a deficit of approximately $169 billion. If you add the thrift crisis on top of that, it is $231 billion and if you exclude Social Security from that, it is $300 billion.

Now, let us discuss in specific terms how to balance a budget of $300 billion, because obviously yesterday's vote was clearly an indication that everybody here is for a balanced budget. But the next question you have to ask, is how do you get there? Perhaps we want to sequester $150 billion from defense and $150 billion from domestic spending. That is one way to get to a balanced budget, if Members are willing to vote for that.

Possibly another way is to take $100 billion out of defense, $100 billion out of entitlement programs and perhaps raise $100 billion in revenues, taxes. That is another way to get there if Members are willing to vote for that approach.

The point is that what this debate needs on balancing the budget is to put some meat on the bones. What do you have to do in specific terms to get there, not just talk about goals, but specifics. And it requires a vote on specifics, so that Members just do not go back and give a Rotary Club speech on how great it would be to balance the budget, but it forces Members to put their cards in the slot and vote for a balanced budget or for an unbalanced budget. That is the name of the game in our system of government.

People talk about enforceability. There is only one way to enforce anything here and that is through a majority vote of the Members of this body.

For those who want accountability, then this also forces the issue of accountability in the sense that it says to lay out for the American people, for all the Members, for the Congress, exactly how we achieve a balanced budget.

So it is for those reasons that I kind of like this amendment, because it gives us the opportunity to see from the President how he would approach a balanced budget, since he supports a balanced budget constitutional amendment, and it would see how the Congress approaches a balanced budget amendment.

I think that is healthy. It is healthy for all of us to be able to vote on those kinds of issues.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I say to the gentleman that I will be happy to yield the gentleman 2 minutes of my time.

The SPEAKER pro tempore. The gentleman from California [Mr. PANETTA] is recognized for an additional 2 minutes.

Mr. HORTON. Mr. Speaker, as I understand this bill that is before us, which has not come to the Government Operations Committee, and the gentleman has testified before the Government Operations Committee on several occasions, and I think it is very important that we have that kind of testimony on this particular bill. The gentleman just said something that I do not understand as far as this bill is concerned.

As I understand this bill, it requires the President to submit a balanced budget. It requires the Budget Committee to submit a balanced budget.

Then it has something called infeasible. If the balanced budget is infeasible, then it allows the President to submit another budget and then it allows the Budget Committee to submit another budget, unbalanced I assume, and then it requires the Rules Committee to report out a rule which allows a vote on all four budgets.

Are we on the same wavelength?

Mr. PANETTA. The gentleman is absolutely correct.

Mr. HORTON. Would the gentleman explain to me how that is going to solve problems that are not able to be solved today? In other words, what is this bill going to do to make it possible for the gentleman, as the budget chairman, to do something that he cannot do today?

Mr. PANETTA. What it is going to do is to present to the Members, Members who obviously support achieving a balanced budget, it is going to give them the opportunity to vote on a specific way to achieve a balanced budget, not just talk about it, but vote on it. I am for that. I think we ought to do it.

Mr. HORTON. We can do that now.

Mr. PANETTA. I also think, very frankly, it is impossible to do. For example, in the 1991 budget, there is no way you are going to get a majority of Members here to vote for a $300 billion reduction in the budget, so that allows us the opportunity to offer the second budget, both by the President as well as by the Budget Committee,

so that maybe we can get back to the real world with the second budget.

Mr. HORTON. The gentleman does not really feel that this is salvation to the problem today?

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. HORTON. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. HORTON. We can do that right now without this bill. I do not know what this bill is going to put in place that is going to give the gentleman the opportunity to think it is going to do what he thinks it is going to do.

Mr. PANETTA. It is going to do exactly what I would like to see done, to have both the President of the United States who says publicly he supports a constitutional amendment to balance the budget, very frankly to put his actions where his mouth is, which is basically to present this country with what it would take to achieve a balanced budget, and it requires the committees of the Congress to do exactly the same thing. It may not pass, but I think it makes a heck of a point.

Mr. HORTON. What would happen to the Gramm-Rudman legislation, a law that we have on the books, if this were passed?

Mr. PANETTA. It does not change Gramm-Rudman one iota.

The gentlewoman from Illinois mentioned that, and it is not true. The fact is that under this proposal with regard to the second budget, you would still have to meet the Gramm-Rudman targets, because that is the law of the land.

□ 1650

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, yesterday we had a chance to do the right thing and pass a balanced-budget constitutional amendment. We all know that today some of my colleagues for whom I have a very great deal of respect are asking us to agree to what is frankly a very poor substitute, another statute.

The history books show evidence that statutory balanced-budget restrictions do not work and do not last. In 1978 and 1979, and I was not here, but some of us were, public law decreed that as of 1981 we would have a balanced budget. It was a very nice thought, but we all know it did not happen.

These days, as we pick up the newspapers, they are full of evidence that the white flag of surrender is flying on another statutory attempt to tame the budget deficit monster, and that is the Gramm-Rudman deficit target program.

The real issue here is our credibility. The credibility of the Federal Government, and the U.S. Congress is part of that; in my view, it is no secret that that credibility is slipping. We have been getting very bad marks from the American people because we deserve bad marks and, frankly, we flunked again yesterday.

Three out of four American people want a balanced-budget amendment. That message has been sent, and at a time when we have hardly won the confidence of our citizens for our congressional handling of the S&L fiasco, defeating the balanced-budget amendment is understandably going to reinforce that "throw-the-rascals-out" mood that is, in fact, brewing across our Nation.

So what are we doing here today? Will anybody be fooled? I think not. I think I know that the American people will see this sham for what it is. It is somewhat of a useless attempt to cover up what we should have done but did not have the courage to do yesterday.

I urge my colleagues to defeat this legislation, refocus their efforts on bringing a balanced-budget amendment back for another vote. The balanced-budget amendment is the most compelling incentive to reduce waste and cut spending of the options that are now available.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Michigan [Mr. Carr].

Mr. CARR. Mr. Speaker, I thank the gentleman for yielding to me this time.

Mr. Speaker, I think most of us know that I do not get up and talk an awful lot on an awful lot of issues, but I do stay tuned in to what is going on on the House floor, and a lot of times I like to watch on television like a lot of people out across America.

Frankly, the debate of the last couple of days I find somewhat disappointing although I know that it is well intended. We have been treated to a lot of Republicans blaming Democrats and Democrats blaming Republicans, and we have been treated to Congress blaming the President and the President blaming the Congress over who is responsible for what.

The partisans across the country are probably cheering as their champion gets up and bashes the other person. But I think a lot of people out there are just getting kind of tuned out and tired out of this whole budget debate. In fact, they have heard so much about it for so long about how the sky is falling and, yet, in their daily lives, they seem to wake up in the morning and sort of trudge through and make things work and, yes, they do not like what is going on. They get kind of disappointed about it. Then they turn on the TV and they look at some of us and they get even more disappointed, because for them the light does not seem to be at the end of the tunnel.

The fact of the matter is all of us inside this House with our insider perspective have made a very tragic, I guess, assessment of the public attitude. We have made an assessment that people are going to be less harsh on irresponsibility than they will be on messengers who bring bad news. We are all afraid of being that messenger who is going to bring some bad news to the American public, no less so the President of the United States. I can understand how the President of the United States does not want to deliver any bad news any more than this Member of Congress wants to deliver bad news about the economic condition we are in.

So I would hope that we would strip away a lot of the political posturing and blaming and come to one simple proposition. This legislation which we have offered today is not a panacea. It is not going to correct all the ills of our economy, and it is not going to erase the deficit. But it can be a very small additional helpful step in getting us back on course.

It is basically not whether you think the Republicans caused the deficit or the Democrats caused the deficit, or it was the Congress' fault or the President's stupidity or anything like that. Basically it comes down to this: Either you think it is a good idea for the Chief Executive Officer of our country and all of the people that he or maybe someday she will have at the Office of Management and Budget to work through the exercise of balancing a budget and telling the American people how they did that as a precursor to getting on with what the country needs to do in terms of its financial planning, or you do not believe that that is a good exercise to engage in. It has nothing to do with fig leaves. I do not know about all of the sponsors of this particular piece of legislation, but I know that the gentleman from South Carolina [Mr. Spratt] and I both voted with great sincerity for the balanced budget amendment yesterday as did most of the people in this House.

We do not need fig leaves, and I think it is unworthy to suggest that that is what really this is about. This is really about seeing if we cannot make one small step while we are all focused on budget deficits and budget mechanics, if we can make one small step to making the process a little better.

Like I said, either you think it is a good idea for the President to engage in this exercise or it is not. And let us get back to that simple proposition.

I hope the people will support the amendment.

Mr. Chairman, in the past, our approaches to balancing the budget have all involved postponing the ultimate action, whether to another Congress and another administration.

It's time to stop waiting for the problem to go away, and to take some concrete steps toward balancing the budget.

The constitutional amendment approach has failed, and I am sure that many of my colleagues had good reason for rejecting that approach. However, it is another day, and there is another way.

H.R. 5258 is a fresh approach to bringing the budget in balance. Gramm-Rudman has failed us. We need a new law to direct the budget process.

Our legislation compels us to begin making those hard choices that lead to a balanced budget. First the President, then the Budget Committees will have to produce a balanced budget. And we in the Congress will then have to vote on it, up or down.

There is nothing in our bill that requires a balanced budget be enacted. It does not take away congressional flexibility or authority. In fact, it specifically allows the President and the Budget Committee to propose a deficit budget, and allows us to enact it into law.

It only requires that balanced budgets be drafted and voted upon.

The current system has failed us. This administration, like those before it, cloaks the deficit in unrealistic revenue estimates which at the last minute it admits.

Our budget negotiations remain unresolved in August, even as we enact our appropriations bills. And Gramm-Rudman threatens to automatically cut the budget, in ways that none of us want, because we have not had the wisdom or the courage to do so.

Balancing the budget will be a difficult and painful process. Perhaps that is why many of us yesterday rejected any requirement that we do so.

H.R. 5258 does not require us to balance the budget. It only asks the White House and the Budget Committee to prepare a balanced budget, for presentation to this House and to the American people.

It is a starting point, not a solution in itself and certainly not a quick fix. But if we cannot muster the political will to produce a balanced budget even for discussion's sake, how will we ever balance the budget in fact?

In 1984, 411 Members of this House voted for a similar bill, which ultimately failed. We have made some progress since then against the deficit, but Gramm-Rudman has clearly failed us.

It is time to try again.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. Cox].

Mr. COX. Mr. Speaker, briefly in response to a point just made, our vote on the constitutional amendment to balance the budget was important because it represented authentic procedural reform, not eyewash. It would have required a supermajority vote to bust the budget. It would have required a clear-up-or-down vote on any tax increase, and it would have been impossible for this body, the House, or the other body to waive it willy-nilly as we so often do.

My very first day on the floor of this House as a new Member, then-Speaker Jim Wright promised in advance that we would break the law. He promised we would pass 13 appropriation bills by the August recess. In fact, the law, the 1974 Congressional Budget Act, requires that that be accomplished by June. I do not think that most Members knew when he said that that we were about to break the law. Yet, routinely we waive provisions of statutes. That is why constitutional reform is so necessary.

Today we are looking at a statute that was rushed to the floor literally without hearings. I serve on the Committee on Government Operations. I sought out that committee precisely so that I could work on the issue of budget process reform.

This bill has not had one day of hearings in Government Operations, and it comes to the floor with a closed rule. That means that the normal markup process by which amendments could be offered to improve the bill is short circuited utterly.

If we had an opportunity to have authentic statutory procedural reform here, some of the things that we would include, and we would include them by way of amendment in the Government Operations Committee, we would include them by way of amendment pursuant to open rule if, for some reason, it were important to us to come directly to the House floor.

We would require a budget, first, and spending, second. Right now we go right ahead with appropriation bills whether we have a budget or not.

We would require a joint resolution for our budget, not just a nonbinding concurrent resolution but a joint resolution, a budget in the form of a law that we would have to comply with.

We would get rid of these "such sums" kinds of appropriations, "such sums as may be necessary," open-ended entitlements. We call these programs uncontrollable. They are not uncontrollable, merely uncontrolled.

This statute does none of the above. In fact, this statute demonstrably makes existing protections in the law worse and weaker; 31 United States Code section 1103 currently requires a balanced budget. That is one of the many statutes that in Congress we routinely break.

The new bill, if it were to pass, would require a balanced budget except when the Committee on the Budget of either House determined that it is infeasible. That is a radical weakening of existing law.

Mr. Speaker, the current budget process is a runaway monstrosity. It has gone out of control. It is time for us to harness this wild beast and show that we are serious about true budget process reform.

Let us vote against this turkey.

□ 1700

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. COX. I yield to the distinguished chairman for the purpose of a colloquy.

Mr. CONYERS. Mr. Speaker, I want to thank the gentleman and member of the Committee on Government Operations for raising the point about lack of hearings. I want to assure the gentleman that is chair of that committee, that even with the passage of this measure and in the event that it passes, and I urge Members to support it, that we will hold hearings additionally.

Mr. COX. Mr. Speaker, reclaiming my time, I am delighted that we will be following a unique procedure, pursuant to which we pass the bill first and hold hearings second.

Mr. DERRICK. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, those who know me know that I have, to put it politely, minimum high regard for procedural fixes to serious political problems. I think process is no substitute for duty. It is no substitute for candor. It is no substitute for honest accounting. You have to want to solve a problem, rather than finesse it. If you are really going to make any progress in dealing with budget deficits, you have to be willing to look at the numbers, and not the polls.

But the fact is I think this bill helps in at least a marginal way, and that is why I am going to vote for it. Here is why. I think there is a constitutional imbalance in the existing Budget Act.

From 1921, up until the Budget Act passed, the President had the responsibility to send down a budget. Every President I served under until the Budget Act passed took that budget responsibility seriously. Take Richard Nixon; I did not agree with his budget, but you cannot accuse him of not sending down a serious budget.

But since the Budget Act has passed, we have seen two Presidents now send down budgets which everybody knew from the day they were printed were essentially irrelevant, because they were based on all kinds of phony assumptions.

The problem is that the existing budget process lets the President off the hook, because all he has to do is send down a bunch of numbers. He can make phony cuts here and phony additions here. He never has to run them through the test of reality in the legislative process. So in essence, the Presidential budget presentation becomes nothing more than a press release.

In contrast, the Congress has to be serious. The Congress has to translate

whatever budget it produces into specific legislation. It has to run the gambit of criticism right here on this floor, from both sides of the aisle, and we have to in the end produce 13 appropriation bills and other entitlement bills which add up. The numbers have to match. At least while we are voting on them they have to match.

I think the virtue of this bill is that it will require the President to be real again. I want to see a day come when the press judges the President's budget not on the basis of whether it meets a phony Gramm-Rudman target or not, but whether it meets all of the targets we ought to have in our budgeting, whether it meets the investment needs of the country, whether it meets the defense needs of the country, whether it is based on sound economic assumptions, whether it is based on sound revenue estimates, whether it is based on a sense of fairness.

Those ought to be the standards by which we judge a President's budget. And if it meets those tests, then this Congress, regardless of which party controls it, ought to support the budget. If it does not, then we ought to fashion our own budget that does.

Mr. Speaker, I think this bill will help us in that process, because, while it keeps in place what I regard as a public fraud in Gramm-Rudman, at least it requires us to begin to focus on real choices. It does that by making the President put his money and his budget where his mouth has been up to now.

Yesterday's proposal on the constitutional amendment on the balanced budget was an amendment for the truly religious, because it sought a balance only in the hereafter, only after 1995, only after George Bush's watch.

In contrast, this budget is an approach for the truly serious. It says if you are serious about a balanced budget, Mr. President, propose one. Do not just give us a macro number. Show us what your impact is on each and every program, and we will judge it accordingly.

Mr. Speaker, I think that is constructive, and that is why I am going to vote for this.

The SPEAKER pro tempore (Mr. SKAGGS). All time of the gentleman from South Carolina [Mr. DERRICK] has expired.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentlewoman for yielding. This is, of course, a statutory approach to the balanced budget. It is not as though that is something new for the House. Back in the late 1970's we passed such a bill. It required a balanced budget by the year 1981, I think it was.

I remember the specific action because over a course of some months and even a couple of years, I came to the floor with amendments, seeking to get compliance with that particular bill. We were required to have a balanced budget, and all my amendment said was you cannot spend the money in violation of the law, the law that we had for a balanced budget.

On every one of those occasions, when it came to the question of violating the law or spending the money, we spent the money.

Now, why in the world would we think that we would do anything different under this balanced budget or statutory approach? We won't.

We also have the Gramm-Rudman law. That also was to bring the budget into balance within a timeframe. When the balanced budget approach of Gramm-Rudman began to bite, what did we begin to do? We began to waive the Budget Act.

How many times have we brought rules to the floor waiving the Budget Act, Sometimes in minor ways, sometimes in major ways. But the fact is the Committee on Rules regularly approved rules that say the law does not matter, it is time to spend the money.

All this statutory approach does is give the Committee on Rules one more set of rules to waive, one more set of laws to waive, when it comes time to spend the money.

I would suggest that that is not anything close to an approach that will balance the budget. It is one more phony way of trying to convince the American people that we are serious. This is not serious legislating. We have proved in the past that we have no intention about being serious when it comes to statutory approaches to balanced budgets.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself 30 seconds. That is just to say I suppose it is too much to hope this will not have to be partisan. Really, for those Members that did not agree with the balanced budget amendment and voted no, they spoke with courage, what they believed. For those Members who do, we voted yes.

Mr. Speaker, this is just a foolish kind of play that does none of us too much credit, and we should probably just rid ourselves of it as quickly as possible.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentlewoman from Illinois [Mrs. MARTIN] yields back the balance of her time. We will now proceed with the 30 minutes allocated to the Committee on Government Operations.

Mr. HORTON. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I rise today in opposition to H.R 5258, the Balanced Budget Act of 1990. This legislation would require that any budget submitted by the President and the congressional budget be balanced. Under this act, the President and congressional budget committees may submit two budgets, one in deficit, one not, if they determine a balanced budget is infeasible, whatever that means, in a given fiscal year.

I understand it, and I asked the chairman of the Committee on the Budget, who indicated that he was familiar with this legislation, I asked him and he agreed with me that this bill does three things. First, it requires that the President and the Budget Committee submit balanced budgets. That is the first thing. But then it says if a balanced budget is infeasible, it allows the President and budget committees to also submit unbalanced budgets.

Then it requires the Committee on Rules to submit a rule which allows a vote on all four of those budgets.

Now, the Balanced Budget Act of 1990 is attempting to mandate a balanced budget statutorily. We are talking about a statute now.

How many times must we make the same mistake before we learn our lesson? In the Congress we have tried in the past, and many of the Members have talked about this, we have tried in the past to bring about fiscal restraint through statutes and regulations. None of them worked until we got to Gramm-Rudman-Hollings. And then the Gramm-Rudman-Hollings, that was No. 1, and because we violated that law we then went to conference, and I know I spent many hours in that conference working, trying to agree on Gramm-Rudman II.

Ultimately we put in place Gramm-Rudman II, which is on the books right today.

That says that by 1993, we will have a balanced budget. That is what is on the books now.

But the statute does not mean anything. The law requires us by June 15 to have a balanced budget. We do not have a balanced budget.

We did vote in the House for a budget which was not balanced, but we did vote for a budget in the House earlier this year. We passed it. I voted against it because I thought it took too much out of defense.

But the House did act.

The Senate has not acted.

Then all of a sudden the prices have gone up, the amounts we are talking about have gone way out of line, and yesterday, when the OMB took their first snapshot, they came to us and said, in essence, because the revenues expected were not as much as we had hoped they would be and because of other factors, that now, therefore, we are going to have to have $100 billion in order to meet the Gramm-Rudman target.

But the point I am making is that we do it by statute. That is what this bill attempts to do, to say by statute, but it is very unclear. That is one of

the reasons I think we ought to take this to the Government Operations Committee rather than try to work it out here or just accept it. All we have a choice of here is a "yes" or "no."

I think that these balanced budget amendments, statutes, are not going to live up to their billing. There is even talk right now, as we all know, talk about relaxing Gramm-Rudman.

I am not for relaxing Gramm-Rudman. I think we ought to keep on the track. But they are talking about taking off Social Security, which I would like to do; they are also talking about taking off the highway fund.

They talk about taking other things off the budget, which adds more to it. We are talking about extending the Gramm-Rudman target.

I do not know what this bill would do to the Gramm-Rudman bill. I asked the budget chairman, and he indicated that he thought it would not have any effect on it.

Well, I think it would really muddy up the waters. I think it would be very disastrous for us to pass something that really is ambiguous, does not mean anything, does not say anything, does not require anything except for each of them to submit a balanced budget, but if it is infeasible—whatever that means—we would come up with another budget and we will vote on something.

You think that has teeth? Anybody who believes that, I have a bridge in Brooklyn I will sell you.

There may be a statute somewhere with enough teeth to really help us balance the Federal budget, but this bill is not it.

As I mentioned previously, H.R. 5258 permits submission of an unbalanced budget by the President and the congressional budget committee if a balanced budget is determined to be infeasible. Unfortunately, there is no definition of "infeasible." I have not heard anybody tell me what it means.

In any given fiscal year there could arise dozens of reasons for declaring a balanced budget infeasible. This could range from high interest rates to higher-than-expected unemployment rates requiring increased unemployment benefits.

Just as it sounds, H.R. 5258 leaves far too much room for business as usual. I believe my Republican colleagues who serve on the Committee on Rules, in their dissenting views, expressed it best when they said, "This bullet is not tough to bite because it is blank."

Beyond the substantive problems with H.R. 5258, the procedure by which this bill is being brought to the floor leaves a great deal to be desired.

The Government Operations Committee, on which I serve as the ranking minority member, did not report out H.R. 5258. We only got it, it only was just last Thursday referred to the committee. As far as I know, we have not had any opportunity to do anything with it.

We certainly could not do anything with it in the next day or two. It should not be under consideration by the House today. I urge my colleagues to support a motion to recommit if one is ordered, so we can send it back to the Committee on Government Operations; or, if not, then vote against it because there are too many unanswered questions. This is not going to solve any budget problem. I think everybody in this House, Republican and Democrat alike, believes that. And I think that if it went to the Committee on Government Operations, at least we would have the opportunity to shore it up, compare it with Gramm-Rudman, try to put it in place so it could do something which could be effective to help us try to get a handle on the budget.

But this legislation per se is not going to do it.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Delaware [Mr. CARPER], who is a coauthor of this measure.

Mr. CARPER. I thank the gentleman for yielding this time. I must correct the gentleman: I am not an author of this measure. I was a coauthor of the balanced budget amendment which we voted on yesterday. I was disappointed yesterday in the outcome: I did not regard that outcome as a sound defeat. It fell just seven votes short of a two-thirds majority, in fact.

I am more disappointed, though, today, that we are considering this particular measure. Some Members criticized our balanced budget amendment yesterday, and one person described it as a fig leaf. I just want to say that comparing yesterday's measure to this one, our amendment yesterday looks more like a mighty fig tree, maybe even more like a forest of mighty fig trees. This proposal is, I am sorry to say, the fig leaf.

Mr. PANETTA stood in this well a few minutes ago, and he talked about the magnitude of the operating deficit that we face. When we consider that if we actually do take away Social Security off the budget, take away the Social Security mask, if we actually put the cost of the S&L bailout on budget, if we actually accepted the figures released by OMB this past week on the rest of the budget, we are looking at a $300 billion operating deficit for next year. $300 billion.

□ 1720

Folks, do we really seriously expect the President to propose to Congress a budget in 5 or 6 months which honestly reduces that deficit to zero? Do we seriously expect Members to negotiate and debate a budget resolution here next spring that would take that budget deficit to zero? I do not think so. If the capital markets took seriously what is before us today, they would be in turmoil.

We have a history of adopting balanced budget statutes, and I just want to take a minute and talk about a couple of those.

Five times in the past 12 years, the Congress has passed, and the President has signed, balanced budget statutes: In 1978, 1979, 1982, 1985, and 1987. Meanwhile, our Nation's debt has grown from $777 billion in 1978, to over $3 trillion today. Who are we kidding? Moreover, the Budget Act has been waived more than 500 times during the past 12 years.

Perhaps a vote for yet another statute provides a little cover for some of our colleagues, and I don't begrudge them that. Regrettably, this statute does not provide any real hope for resolving our Nation's fiscal woes, and I am compelled to oppose it.

Mr. HORTON. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, in the debate on the rule, we discussed some of the difficulties with this particular bill, H.R. 5258. The problem of defining "infeasible," the problems of pushing the bill through without any apparent intent to find out what it meant, but simply to get it ratified by a willing Committee on Rules, and bring it to the floor where it would be approved on a party alone vote. The general conclusion was that, yes, it was a coverup for those Members of the majority who were not able to vote for the balanced budget amendment, and they could go home and tell their constituents they voted for the balanced budget something or other.

I would like to say from a budget standpoint, that it is a highly confusing piece of work, and were it subjected to the scrutiny of the Committee on the Budget or to the Committee on Rules that took it into a proper subcommittee, or to the Committee on Government Operations, it would be either rejected or substantially rewritten. It provides four new budgets for Members to fool with, and we already have a Presidential budget. We have a Gramm-Rudman budget. We have a unified budget. We have what some people call an operating budget. Then we have a House budget and a Senate budget. Sometimes, we have a congressional budget.

This year, of course, we are breaking the law by not even having one of those. This adds four more budgets, actually six more. Assume we will have two in the Senate, two in the House, and two by the President. I think what this would do would add real confusion. I do not think it was intended seriously, and I think it is a frivolous bill to provide cover. We elephants believe

it correctly pins the tail on the tail of the donkey.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to an author of the measure, the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I noticed a minute ago on the news that there is to be a dedication this week of a library in California honoring former President Richard Nixon.

President Nixon is relevant to this debate today because in 1969—his first year in office and, incidentally, the year I came to Congress—the last balanced budget came to Congress from the White House.

Since that time I have watched budget deficits go from double digit billions of dollars under Presidents Nixon, Ford, and Carter to triple digit billions under Presidents Reagan and Bush.

Each year, as the budget continues to be out of balance, the public blames Congress. The rationale is simple. Congress appropriates the money for the operation of Government and, therefore, must be responsible for the deficit.

But is the charge totally correct? In looking here on the floor and seeing the chairman of the Committee on Appropriations, I know that he would tell you that in these years, Congress has appropriated less money than requested by the President.

For instance, in 1982 through 1989, Congress appropriated $4.7 billion less than the President requested be appropriated. And, in the last 45 years, Congress has appropriated $173.5 billion less than Presidents asked.

So, the facts are clear and I would like to include data proving the point in my remarks.

Like all other Members, I have worked on the budget problem for many years. I cosponsored the Congressional Budget and Impoundment Control Act of 1974; I cosponsored legislation on deficit control; I have supported pay-as-you-go amendments to the budget process; and, 8 years ago, I offered a balance-the-budget constitutional amendment on which the House voted.

Those experiences have certainly been an educational process.

The fact remains, Mr. Speaker, that the Nation is in the red because deficit spending has been the national policy for more than 20 years—a policy proposed by each President, none of whom have proposed a balanced budget, and a policy enacted by Congress.

It is certainly true that we in this body are partly to blame. Those Members who have voted for those Presidents' proposals which included deficit budgets have to shoulder some of the responsible for the current fiscal mess.

I have made my share of such votes, but plead innocent when it comes to casting affirmative votes on the program known as Reaganomics.

The big question now is: Do we wish to continue the policy of deficit spending or do we wish today to take a step in a different direction?

It is appropriate that our opportunity to take a different direction comes at a turning point in world history. This year begins the first year of the post-cold war era. During this era, economic power will be more important than military power.

The economic arena, the global marketplace—not the battlefield—is where we will compete in the future. We are about to see world economic competition the likes of which we in this country have never seen before.

We must be prepared to go into battle in the economic arena. I believe that one of the most important steps we can take in making sure we are victorious is to drain the sea of red ink upon which this Nation currently floats.

We must change the direction of our fiscal policies in order to compete—and I urge my colleagues to support the passage of H.R. 5258 so we can be on our way toward that goal.

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATIONS BILLS COMPARISON OF ADMINISTRATION BUDGET REQUESTS AND APPROPRIATIONS ENACTED

Calendar year	Administration budget requests	Appropriations enacted	Difference (under −) (over +)
1945	$62,453,310,868	$61,042,345,331	− $1,410,956,537
1946	30,051,109,870	28,459,502,172	− 1,591,607,698
1947	33,367,507,923	30,130,762,141	− 3,236,745,792
1948	35,409,550,523	32,699,846,731	− 2,709,703,792
1949	39,545,529,108	37,825,026,214	− 1,720,502,894
1950	54,316,658,423	52,427,926,629	− 1,888,731,794
1951	96,340,781,110	91,059,713,307	− 5,281,067,803
1952	83,964,877,176	75,355,434,201	− 8,609,442,975
1953	66,568,694,353	54,539,342,491	− 12,029,351,862
1954	50,257,490,985	47,642,131,205	− 2,615,359,780
1955	55,044,333,729	53,124,821,215	− 1,919,512,514
1956	60,892,420,237	60,647,917,590	− 244,502,647
1957	64,638,110,610	59,589,731,631	− 5,048,378,979
1958	73,272,859,573	72,653,476,248	− 619,383,325
1959	74,859,472,045	72,977,957,952	− 1,881,514,093
1960	73,845,974,490	73,634,335,992	− 211,638,498
1961	91,597,448,053	86,606,467,273	− 4,990,960,780
1962	96,803,292,115	92,260,154,659	− 4,543,137,456
1963	98,904,155,136	92,432,923,132	− 6,471,232,004
1964	98,297,358,556	94,162,918,996	− 4,134,439,560
1965	109,448,074,896	107,037,566,896	− 2,410,508,000
1966	131,164,926,586	130,281,568,480	− 883,358,106
1967	147,804,557,929	141,872,346,664	− 5,932,211,265
1968	147,908,612,996	133,339,868,734	− 14,568,744,262
1969	142,701,346,215	134,431,463,135	− 8,269,883,080
1970	147,765,358,434	144,273,528,504	− 3,491,829,930
1971	167,874,624,937	165,225,661,865	− 2,648,963,072
1972	185,431,804,552	178,960,106,864	− 6,471,697,688
1973	177,959,504,255	174,901,434,304	− 3,058,069,951
1974	213,667,190,007	204,012,311,514	− 9,654,878,493
1975	267,224,774,434	259,852,322,212	− 7,372,452,222
1976	282,142,432,093	282,536,694,665	+ 394,262,572
1977	364,867,240,174	354,025,780,783	− 10,841,459,391
1978	348,506,124,701	337,859,466,730	− 10,646,657,971
1979	388,311,676,432	379,244,865,439	− 9,066,810,993
1980	446,690,302,845	441,290,587,343	− 5,399,715,502
1981	541,827,827,909	544,457,423,541	+ 2,629,595,632
1982	507,740,133,484	514,832,375,371	+ 7,092,241,887
1983	542,956,052,209	551,620,505,328	+ 8,664,453,119
1984	576,343,258,980	559,151,835,986	− 17,191,422,994
1985	588,698,503,939	583,446,885,087	− 5,251,618,852
1986	590,345,199,494	577,279,102,494	− 13,066,097,000
1987	618,258,048,956	614,526,518,150	− 3,741,530,806
1988	621,250,663,756	625,967,372,769	+ 4,716,709,013
1989	652,138,432,359	666,211,680,769	+ 14,073,248,410
Totals...	10,249,467,607,455	10,075,912,028,737	−173,555,578,718

Source: Prepared by House Committee on Appropriations.

Mr. HORTON. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, we have heard so much lately about why the American people are cynical about the Congress of the United States. If Members wonder why, take a look at H.R. 5258. Last month we commemorated in an all-night session, the fact that we had celebrated the first anniversary of the introduction of the President's crime package which, at that point, had not been moved out of the subcommittee. One whole year to deal with crime and drugs, and we cannot get it done.

Take a look at 5258. It was introduced last Thursday. Not even 1 week later we have this bill on the floor. Why? Because this is the protection of the great seven, whoever those seven Democrats are that if we had the courage to vote for the constitutional amendment yesterday to really do something about the balanced budget, we would not have to deal with this. I think it was in the consideration yesterday that our good friend, the gentleman from Texas [Mr. STENHOLM] said, "If I recall correctly, this Congress has voted 530 times in this session to waive the Budget Act." That is why H.R. 5258 is not worth the paper it is printed on, because we can tear it up, and we can waive the Budget Act any time we want, on any bill we want. That is what statutes are about, to change them at a whim, as they come before Members.

Now, the concept of this bill is to suggest that the President next year ought to automatically submit a balanced budget to Congress. My suggestion is, if we are so serious about that, why does the Committee on the Budget not do that this year, report out a balanced budget? Why wait until next year? Let Members start right now and have a balanced budget, and let Members figure out a way in which the Democratic majority in the House and the Democratic majority in the Senate can get together as the majority party and produce a budget consensus so that the appropriation bills have some guidelines. This is nothing but pure posturing. It is why the American people are cynical about this body. Let Members defeat this bill. It deserves no better.

Mr. CONYERS. Mr. Speaker, I yield 5½ minutes to the distinguished majority whip, the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Speaker, yesterday this House took a historic vote. Through a long and distinguished debate, advocates on both sides emphasized that it was time to act. In that spirit, Members who differed yesterday are united today in offering this bill, a bill sponsored by Members who support it, as well as opposed the constitutional amendment that was before this body yesterday.

□ 1730

With this bill, I say to my colleagues, we are offered three simple choices: Do we want to act now, as this bill mandates, or push the problem into some distant and foggy future that says we should balance the budget in 1995? Do we want to keep Social Security surpluses off the budget, as this balanced budget does, or use those surpluses to continue to mask the deficit at the expense of endangering future Social Security benefits? Do we want a clean process, as this bill establishes, with up or down votes on balanced budgets, or do we want to continue to play hide and seek, duck, weave, and bob and simply talk about balanced budgets? Why do we not want to vote on balanced budgets?

These are the choices. Many of my friends and colleagues will remember that I had the distinguished opportunity afforded to me by my colleagues on the majority side to serve for 4 years as chairman of the Budget Committee, and one of the things that irritated me the most during my 4 years of chairing that committee was listening to the rhetoric of those who kept saying over and over again, "Please give me a constitutional amendment so that I can have a balanced budget," while those very people were saying that, those who were requesting a constitutional amendment, were giving to me every year budgets that were out of balance and that had bigger and bigger deficits.

I say to my friends that it is time to stop playing that game. We do not need a constitutional amendment. All we need is for Members to put balanced budgets here on this floor. What this proposal says is, let us cut through the rhetoric. Let us stop talking about it. Let us do it starting in January 1991. Let us not call for 38 States to ratify an amendment that may not get done until 1995, and then we will start to do it.

No, that is what we heard throughout the 1980's. We heard from Members who every year gave us budgets that were out of sync, with growing deficits, and yet they said, "Help me to stop spending by giving me a constitutional amendment."

Mr. Speaker, I say to my friends, if we want to bring this charade to a halt, then we can vote today to demand that the President give us a balanced budget next January, not in 1995, not in 1996, not after 38 States have ratified it, or whatever. And that demands that we in the House respond with our own balanced budget. We could put it right here, and we would vote on that balanced budget.

I would ask the Members to please explain to Mr. and Mrs. America out there on Main Street what is wrong with that approach. They understand what the issue is. Some want to talk about balanced budgets, and others say, "Let's debate, and then let's vote on balanced budgets not in the future, but right now."

We have three choices. I urge the Members to make the right choice. If you are for a balanced budget and if you voted for a constitutional amendment, if you are for real, you will say, "Let's do it in January through this statute."

If you do not like the constitutional amendment approach because you think we should not play with the Constitution and you believe in fiscal responsibility, then you should vote for this balanced budget bill that says, "Mr. President and Congress, both of you, put your bills right here, let us have up and down votes, and let us do it in 1991."

All of us ought to believe that we should stop messing with Social Security. Our President stood here and said that, and I agree with him. Let us stop messing with it. Let us take it off budget.

I, therefore, say to the Members that yesterday in the constitutional amendment approach they were going to leave Social Security on and keep messing with it. I say to my friends that I know where I stand on each of the issues. I want to act now. I want to keep the Social Security surplus off budget, I want a clean process, and I want a vote on balancing budgets starting in January of 1991, not in 1995, 1996, or 1998. At the same time I want us to make the right choices and put some discipline in the process. We can do that right now.

Mr. Speaker, I ask the Members to support this bill.

The SPEAKER pro tempore (Mr. SKAGGS). The gentleman from New York [Mr. HORTON] has 1 minute remaining.

Mr. HORTON. Mr. Speaker, I yield my 1 remaining minute to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Speaker, I have been here for 14 years, and I recall back in 1985, when the deficit began to look like $200 billion. I will not mention who was chairman of the Budget Committee at that time, but we had about 40 Republicans who worked night after night, starting in January, working through February, and they put together a balanced budget for 1991 without a tax increase.

We hardly got any consideration, certainly not by the Budget Committee.

So I think some of us have worked constructively over the years, and we have tried diligently to put together a constructive budget. That was presented by a group called Group 92. We spent night after night with CBO and other appropriate experts, and we put together, as David Stockman said, the best budget ever written on the Hill. The Budget Committee did not even have the opportunity to consider it.

So, Mr. Speaker, I think the Members of Congress ought to look to themselves and not blame any administration. We have to address this issue here and now.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this has been an interesting debate, because no one has objected to the principles that are contained in H.R. 5258. No one has taken the floor to claim that we should not exclude Social Security funds, with deficit calculations, from the budget, and I am very pleased to hear that.

No one has objected to an effective starting date of this legislation for next year, fiscal year 1992. I congratulate those who participated in the debate on this score.

No one has objected to the requirement that the President be required to submit a balanced budget. Again I express my appreciation to everyone who participated in this discussion.

No one has objected to the requirement that there be floor votes on administration and committee balanced budgets alike.

So the question that we have to close the debate on is, if you did not approve of the constitutional amendment yesterday or you approved of it and were unsuccessful, and if we have a statutory solution today and you do not like that, please tell me, what is it that you would really want to say as a way of dealing with the incredible problem that is before us?

In 1984, we passed a very similar balanced budget statutory bill out in this House. There were 411 Members who joined in a bipartisan fashion to pass a bill very similar to this.

So I would urge, Mr. Speaker, based upon the debate of yesterday and the analysis that I presented, that we repair to the final business of the evening and that we pass H.R. 5258.

Mr. BROOKS. Mr. Speaker, yesterday, I rose in opposition to a constitutional amendment to require a balanced budget. That measure was deeply flawed—not because of its laudable goal which we all share—because it would have handed over to the minority the power to make this Nation's most fundamental fiscal decisions and would have made the courts the ultimate "budgeteers" in cases of impasse.

The statute before us today, however, is a preferable and far more workable approach. It finally compels the President and the Congress to bite the bullet—or be ready to explain to the American public exactly why we cannot do so. If an emergency like the S&L crisis makes a balanced budget impossible to achieve in a particular year, then we should say so and lay out the reasons for all to see. That should quickly end the practice of concealing "off-budget" expenditures while touting the need for "truth in budgeting" as a credo to live by.

Let us not soon forget what was attempted and said on this floor yesterday. A movement was afoot to constitutionally require a balanced budget, but with one small caveat: the amendment wouldn't go into effect until 1995—well after the 1992 Presidential election. To me, that type of "wait and it shall come to pass" proposal was dramatically at odds with the tough-sounding rhetoric that we were hearing in speech after speech.

Now, we have a statute before us that will quietly but effectively replace rhetoric with action: next year, both the President and the Congress will have to be accountable for either balancing the budget, or not doing so and explaining why. That type of "either-or" proposition is vastly superior to the current state of affairs where an OMB Director can state confidently in January that the budget deficit will be $100 billion, and then admit in July that he was only off in his estimates by about $70 billion.

H.R. 5258 is the kind of statute that is needed to end the budget charades that characterized the 1980's. If we are really serious about the need for fiscal integrity, then let's show our resolve by supporting H.R. 5258.

I urge my colleagues to join with me in voting for the bill's passage.

Mr. GREEN of New York. Mr. Speaker, today I rise in opposition to H.R. 5258, the so-called Balanced Budget Act. While I support the concept of a balanced budget and believe that Federal spending must be restrained, the proposal being considered by the House today could have some serious negative consequences.

Specifically, I am concerned with a provision in the legislation which would require that outlays and receipts involving only on-budget agencies be balanced. Persistent efforts to remove trust funds from the deficit calculation for the purpose of balancing the budget could seriously distort fiscal policy.

As a result of the 1977 and 1983 Social Security amendments, there is a positive cash flow in the Social Security trust funds. It is estimated that this positive cash flow will increase to as much as $400 billion a year at its peak. These positive cash flows reduce the need of the Treasury to borrow in the credit markets, and they are therefore relevant in terms of the macroeconomic impact of Federal operations. A $400 billion surplus in overall Federal operations could have serious negative economic consequences. Therefore, I simply cannot support a proposal that ignores that economic reality.

Mr. GALLO. Mr. Speaker, yesterday, we fell seven votes short of approving a House resolution proposing an amendment to the U.S. Constitution requiring a balanced Federal budget.

That amendment would have given the American people a new right—the right to hold the Government accountable by requiring that we live within our means.

That amendment would have required the Federal Government to meet the same high standard that is required by 49 States. It would require the Congress and the President to limit spending to no more than the amount of money that would be available to spend.

What a revolutionary idea, Mr. Chairman—if you don't have it, you can't spend it. This is so revolutionary an idea that more than 150 of our colleagues voted against this requirement.

It is so revolutionary an idea that it took a discharge petition, signed by more than half of the members of this body, to get this resolution out of committee, even though 32 State legislatures have passed resolutions supporting a Federal constitutional amendment.

But, Mr. Speaker, I submit to my colleagues for your consideration the observation that the American people are in a revolutionary mood. In fact, the tea bags are once again arriving in the mail as proof that taxation, even with representation, is a reason for concern when accountability is lacking.

A balanced budget amendment would have increased accountability by outlawing deficits unless three-fifths of the Members of Congress were willing to certify with their votes that our Nation faced a crisis of sufficient gravity to require an exception to the no deficit rule.

That is accountability, plain and simple.

The process of amending the Constitution was deliberately designed by the Framers to provide the maximum possible degree of accountability. Congress merely proposes amendments. The States must ratify them. Why are we so afraid to allow the States to have their voices heard on the question of a balanced Federal budget?

How can we claim to have greater wisdom than the States, when it is we who are running the deficits, not them?

I believe that the leaders on the other side of the aisle understand that the American people want budget accountability and have proposed this bill in order to have something to talk about when the people ask why they have opposed the constitutional amendment.

But I hope the people of this country realize that this statutory substitute for the balanced budget amendment will not provide the real accountability that the American people want, nor should it give those Members who voted against the balanced budget amendment yesterday the ability to say that they voted for reform.

This bill is far from being real reform. It does not change anything. Congress has the power right now to do everything that this measure purports to do.

Not only is this bill unnecessary, it provides no realistic means of enforcement and can be changed at any time by a simple majority vote—it has no teeth.

Real reform is not possible without the balanced budget amendment. It is not possible unless the President has the power that 43 State Governors have—the power of line item veto. And if not a veto, then the President should at least have the power of recission—the power to hold funds pending a full review of the merits of the spending being proposed.

On this side of the aisle, we have offered these and other proposals to provide real budget reform in Washington and to give the American people the accountability that they desire.

Mr. Speaker, in its current form, I must oppose this bill because it sidetracks us from the real issues. I urge my colleagues to vote no.

Mr. ATKINS. Mr. Speaker, I rise today in support of H.R. 5258, the Balanced Budget Act. In my mind, this debate is not about the need to balance the Federal budget and rid ourselves of the mountain of debt that is literally mortgaging the future of our children. Nobody would debate that need, which I consider to be our No. 1 national priority. What the debate is really about is the best means of attacking our fiscal problems, and whether it is appropriate to use our Constitution to frame our Nation's fiscal policy.

I share the frustration held by the American public with our runaway deficits and the inability of the President and the Congress to address the problem. I voted for the Gramm-Rudman-Hollings balanced budget law because I believed that a fiscal sledgehammer was needed to instill in the executive and legislative branches the will to make the tough choices that are necessary to balance Federal spending with Federal receipts. I still believe that such a sledgehammer is needed, and that is why I support the legislation that is before us today. But I also believe that the sledgehammer should not be wielded by our Constitution, and that is why I voted "nay" on the balanced budget amendment to the Constitution.

The Balanced Budget Act would instill the same fiscal discipline and provide the same degree of accountability as the balanced budget amendment, but it would not devalue our Nation's most sacred document. In addition, this statute would give us important budget reforms that the balanced budget amendment would not have provided. For example, H.R. 5258 would require Congress and the President to submit balanced budgets right away, rather than in fiscal year 1995. Perhaps even more important, the Balanced Budget Act would prohibit off-budget trust funds from being included in balanced budget calculations. As a result, the enormous Social Security surplus could no longer be used to mask the deficit in other parts of the budget. It is time we give the Social Security contributions of American workers the protection they deserve.

Mr. Speaker, I believe that extreme fiscal restraint is necessary to put an end to our massive budget deficits. I believe that both the administration and the Congress have lacked the will that is necessary to restore fiscal health to our economy. Therefore, I believe that we must require under the law that the legislative and executive branches exert the fiscal discipline that is necessary to balance our budget. A balanced budget is an economic necessity, it is the responsibility of those who govern and it should be the law of the land—that's why I support the Balanced Budget Act, and that's why I will use my votes and my actions in this Congress to demonstrate that discipline and to make the tough choices.

Mr. WOLFE. Mr. Speaker, I rise in strong support of H.R. 5258, the Balanced Budget Act of 1990. I do so frankly because it is time for the games to end—all of the games. I am, frankly, tired of seeing Presidents and Members of Congress posture publicly about their support for balanced budgets, then offer budget after budget and cast vote after vote, that moves us away from that goal of a balanced budget. It is time for the President and

Members of Congress alike to match their deeds to their rhetoric.

For the first time, the President and the budget committees would be required to offer balanced budgets, and Members of Congress would be required to vote on these balanced budgets. In the event that the President or the congressional budget committees determined that it was not feasible to balance the budget in a particular year, they could submit alternative budgets that would not be in balance. But even in that case both the House and the Senate would have to vote on the balanced budget proposals. This procedure, in my view, would dramatically reduce the hypocrisy and the posturing that gets in the way of a more serious and informed budget debate.

There are two other elements of this proposed act that are deserving of our support. First, unlike the proposed constitutional amendment that would not have been effective until 1995 at the earliest, this act requiring the consideration of a balanced budget would be effective immediately.

Second, this act stipulates that the Social Security trust fund would be kept off-budget, so that the trust fund surpluses could no longer be used to mask the size of the real Federal deficit. This kind of truth-in-budgeting is long overdue.

Mr. Speaker, I urge passage of the Balanced Budget Act of 1990. In my view, it represents an important step in the right direction.

The SPEAKER pro tempore. All time has expired.

Pursuant to the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GRADISON

Mr. GRADISON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GRADISON. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Gradison moves to recommit the bill (H.R. 5258) to the Committee on Rules and the Committee on Government Operations with instructions to report the same to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SEC. 101. AMENDMENTS CHANGING "CONCURRENT" TO "JOINT" RESOLUTIONS.

(a) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "concurrent" in the items relating to sections 301, 303, and 304 and inserting "joint".

(b) Paragraph (4) of section 3 of such Act is amended to read as follows:

"(4) The term 'joint resolution on the budget' means—

"(A) a joint resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 301; and

"(B) any other joint resolution revising the congressional budget for the United States Government for a fiscal year as described in section 304.".

(c) Sections 300, 301, 302, 304, 305, 308, 310, 311, and 401 of the Congressional Budget Act of 1974 (2 U.S.C. 631 et seq.) are amended by striking "concurrent resolution" each place it appears and inserting "joint resolution".

(d) Section 301(i)(2) of such Act is amended by striking subparagraphs (B) and (C) and by striking "(A)".

□ 1730

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. SKAGGS). Is there objection to the request of the gentleman from Michigan?

There was no objection.

POINT OF ORDER

Mr. CONYERS. Mr. Speaker, I reserve the right to object on a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. CONYERS. Mr. Speaker, I have not seen the language that has been presented.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] reserves a point of order.

The gentleman from Ohio [Mr. GRADISON] is recognized for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, is the gentleman from Michigan [Mr. CONYERS] reserving the right to object on the question of the reading of the motion, or is he reserving simply a point of order? I understood he was reserving the right to object.

The SPEAKER pro tempore. The Chair understood the gentleman from Michigan [Mr. CONYERS] to reserve a point of order against the motion.

Mr. GRADISON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first acknowledge that the bill before us in my judgment is artfully crafted. It provides political cover to some of those who opposed the constitutional amendment yesterday, but in its present form I oppose it because it fails to deal effectively and permanently for our need for a balanced budget.

Nevertheless, Mr. Speaker, the bill does provide us with a vehicle for making a much needed major improvement in the budget process, one which would bring the President and the Congress together each year to negotiate the terms of a mutually acceptable budget resolution covering, of course, both revenues and expenditures.

Since, under the rule, the only way to change this bill is through a motion to recommit, I have sent to the desk a motion to recommit with instructions that the bill be amended to make the budget resolution a joint resolution, thereby requiring the signature of the President. As my colleagues know, under current law budget resolutions are concurrent resolutions that do not go to the President.

H.R. 5258 requires that any rule providing for consideration of a budget resolution reported by the Committee on the Budget must also make in order a vote on the President's budget. It mandates a vote on the President's budget, but otherwise leaves the current budget process as is.

If Congress insists on mandating a vote on the President's budget, then it is only fair that the President should also be a part of the budget process. That is, the congressional budget process should be changed to a congressional-executive branch budget process. This is easily accomplished by making the budget resolution a joint resolution.

Mr. Speaker, a joint budget resolution would allow the President to become a player early in the budget process. The President's budget more likely would be viewed as a negotiating document rather than as dead on arrival, as so often happens around here.

In frankness, Mr. Speaker, it is fundamentally unfair to require an up or down vote on the President's budget while excluding the President from the budget process. The best way to remedy this unfairness is to involve the President right from the beginning by requiring the President's signature on budget resolutions.

Mr. Speaker, I urge my colleagues to support this motion to recommit which would ensure that the President becomes a player in the budget process right from the start.

POINT OF ORDER

Mr. DERRICK. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. DERRICK. Mr. Speaker, the motion of the gentleman from Ohio [Mr. GRADISON] is out of order. It goes beyond the scope of the Budget Act. It is entirely out of the scope of the what we are dealing with. It requires a complete revision of the Budget Act in that we ask the President to sign it.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, the gentleman from Michigan [Mr. CONYERS] reserved the point of order. Is it in order for the gentleman from South

Carolina [Mr. DERRICK] to make the point of order that was reserved by the gentleman from Michigan?

The SPEAKER pro tempore. Under the rules of the House, a timely reservation of a point of order by one Member insures to any other Member that wishes to press it, and so the gentleman from South Carolina [Mr. DERRICK] is entitled to press that point of order.

Mr. GRADISON. Mr. Speaker, I would like to speak to the germaneness of the motion to recommit.

Mr. Speaker, the motion to recommit the bill, H.R. 5258 with instructions to amend the bill by striking out all after the enacting clause and inserting language changing the concurrent budget resolution to a joint resolution in the Budget Act, is a germane amendment to the underlying bill. For an amendment to be germane it must be akin to or relevant to the subject matter of the bill. An amendment must not be on a subject different from the bill under consideration.

Mr. Speaker, H.R. 5258 amends the 1974 Congressional Budget Act in several instances. The bill required reporting by the Committee on the Budget of balanced budgets unless a report is made stating why a balance budget is not possible. The bill further changes the procedure by which budget resolutions are considered in the House, requiring the Committee on Rules to make in order the President's budget for a vote in the same rule providing for consideration of the budget resolution reported by the Committee on the Budget.

Mr. Speaker, amending the Budget Act to require that the concurrent budget resolution be made a joint resolution, as provided in this motion to recommit, is relevant to the Budget Act changes made by the underlying bill. The bill itself changes consideration of the budget resolution to include a vote on the President's budget. The amendment made in my motion to recommit with instructions would provide additional changes to the Budget Act to further bring the President into the existing procedures.

For these reasons, Mr. Speaker, I urge the Chair to overrule the point of order.

Mr. CONYERS. Mr. Speaker, if I may be heard on my point of order, I believe that the motion of the gentleman from Ohio [Mr. GRADISON] is not germane because it amends the table of contents to make it a joint resolution. This is the only way it can be done, and in effect it affects all budget resolutions, not just the Balanced Budget Act, H.R. 5258.

So, therefore, Mr. Speaker, I urge that the point of order be sustained because it is not germane.

Mr. GRADISON. Mr. Speaker, I would like to pursue, with the Chairs' indulgence, the point just made.

Mr. Speaker, my understanding is that the bill before us amends all budget resolutions and that it requires the Committee on Rules, in bringing any budget resolution to the floor, to include four choices which may be in addition to other budget resolutions which may be brought to the floor for consideration. So, I frankly am confused by the point raised by the gentleman from Michigan [Mr. CONYERS] because it seems that the criticism which he is levying against my motion to recommit would apply equally to the measure before us.

The SPEAKER pro tempore. The Chair will apply the fundamental purpose test of germaneness to this motion. The underlying legislation is described primarily in the second paragraph of page 2 of the Rules Committee report field with the bill.

The intention of the motion to recommit and the instructions contained therein would, in the opinion of the Chair, change fundamentally the purpose of the bill before the House to include the President, as well as the Congress, in the entire congressional budget process, including all procedures and sanctions resulting therefrom.

For that reason it fails the test of germanencess, and the point of order is sustained.

MOTION TO RECOMMIT OFFERED BY MR. HORTON

Mr. HORTON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HORTON. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. HORTON of New York moves to recommit the bill, H.R. 5258, to the Committee on Government Operations with instructions that the Committee hold hearings on the implications of the bill.

The SPEAKER pro tempore. The gentleman from New York [Mr. HORTON] is recognized for 5 minutes in support of his motion to recommit.

Mr. HORTON. Mr. Speaker, I will not take my 5 minutes. I just want to make the point, as I have during the rule, when I spoke on the rule and then during the debate.

Mr. Speaker, this bill was referred to the Committee on Government Operations, but it was only referred last Thursday. We have had no opportunity to have hearings on it. It does, I think, involve a lot of complicated problems in areas which we cannot handle here in a closed rule, and I think it should go to the Committee on Government Operations to give us a chance to be heard on it and to report back a bill after we have had hearings and after we go through the normal committee process.

Therefore, Mr. Speaker, I move that we send it back to the Committee on Government Operations with instructions that there be hearings on the bill.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, the motion of the gentleman from New York [Mr. HORTON] to recommit does nothing but assure that the Committee on Government Operations would hold hearings on the legislation.

Is that correct?

Mr. HORTON. That is all.

Mr. WALKER. So, anyone who votes against this particular motion to recommit is really saying that they do not want any hearings on the bill, and they do not want the Committee on Government Operations to play the role that supposedly they were assigned when the bill was given to them in the first place under the assignment from the Speaker.

Is that right?

Mr. HORTON. The gentleman from Pennsylvania [Mr. WALKER] is correct. The Committee on Government Operations has not held hearings, and I do think that it is important for us to hold hearings.

This is a complicated bill. It has a lot of ramifications and complications, and I feel it would be appropriate for our committee to have the opportunity to have expert testimony come in and testify how it relates to Gramm-Rudman, the laws that we have now, whether statutorily we can do this and how it would affect the present statutes that we have.

□ 1750

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, I just want to make one point as to why the hearings that the gentleman proposes are correct.

The chairman of the committee a few minutes ago described this bill as being a bill that changes the way in which we deal with Social Security under the budget bills. That is absolutely wrong.

The gentleman from South Carolina who authored the bill explained earlier that it does nothing to change present law. So therefore, there is total confusion on the other side of the aisle as to how this bill relates to Social Security. That is something which ought to be understood in the Government Operations Committee. It is one good reason for holding hearings. I cannot imagine that anyone who really does believe in the committee process here could be opposed to the gentleman's motion.

Mr. CONYERS. Mr. Speaker, I rise in opposition to the motion to recommit.

It is not that the Government Operations Committee with whom I have

served for a number of years with my distinguished colleague and friend, the gentleman from New York [Mr. HORTON] abhors or shuns hearings. We have had hearings on Social Security. That prospect that someone has remarked about is that we have examined the Social Security Trust Fund. As a matter of fact, we had the distinguished gentleman from the other body, the gentleman from New York, as the leadoff witness in addition to a number of executive branch representatives from OMB and other parts of that branch of our Government.

The reason I would argue that we do not send it back to the committee is that time is running out. Do we really want a new statutory provision that will kick in for next year, for fiscal year 1992, or do we not?

If you are for excluding the Social Security Trust Fund from the deficit, that is what is in the bill right now.

If you want to make some more speeches about why it ought to happen, it is happening now.

I have not heard anybody on this floor argue against that provision with reference to Social Security.

So what I am saying is that if you really want to delay a final resolution of the budget process for the summer of 1990, then send it to the Government Operations Committee and we will spend—when, in August, holding hearings? I do not think so. Maybe in September we will come back and hold hearings?

Well, maybe, but not guaranteed.

Mr. Speaker, now is the time. We have examined the constitutional process. The majority of us determined that we should not do that. We voted on it yesterday.

Today we have a statutory process to which there has not been one serious objection made about the statutory measure that is now before us to balance the budget.

For those reasons, Mr. Speaker, I decline to seek this to be referred to my committee.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York, who has been with me for many years on this committee.

Mr. HORTON. Mr. Speaker, it is true, and I have a great deal of admiration and respect for my chairman, it is true that we did hold hearings. We have had hearings on the budget, but we have not held hearings on this particular bill.

There was some confusion and misunderstanding, this was during the debate on the rule, with regard to whether or not Social Security was or was not covered under this particular bill.

Mr. CONYERS. Mr. Speaker, reclaiming my time, the gentleman knows, though, that we did not debate this bill, but we had hearings on whether the Social Security trust fund should be excluded from the deficit calculations of the budget, and we agreed that would be the case.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. HORTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the passage of the bill.

The vote was taken by electronic device, and there were—yeas 181, nays 244, not voting 7, as follows:

[Roll No. 245]

YEAS—181

Archer	Gillmor	McCollum
Armey	Gilman	McCrery
Ballenger	Gingrich	McDade
Bartlett	Goodling	McEwen
Barton	Goss	McGrath
Bateman	Gradison	McMillan (NC)
Bentley	Grandy	Meyers
Bereuter	Grant	Michel
Bilirakis	Green	Miller (OH)
Bliley	Gunderson	Miller (WA)
Boehlert	Hall (TX)	Molinari
Broomfield	Hammerschmidt	Montgomery
Brown (CO)	Hancock	Moorhead
Buechner	Hansen	Morella
Bunning	Hastert	Morrison (WA)
Burton	Hefley	Myers
Callahan	Henry	Nagle
Campbell (CA)	Herger	Nielson
Chandler	Hiler	Oxley
Clinger	Holloway	Packard
Coble	Hopkins	Parker
Coleman (MO)	Horton	Parris
Combest	Houghton	Pashayan
Conte	Hunter	Paxon
Coughlin	Hyde	Petri
Courter	Inhofe	Pickett
Cox	Ireland	Porter
Crane	James	Pursell
Dannemeyer	Johnson (CT)	Quillen
Davis	Kasich	Ravenel
DeLay	Kolbe	Ray
DeWine	Kyl	Regula
Dickinson	Lagomarsino	Rhodes
Dicks	Leach (IA)	Ridge
Dornan (CA)	Lent	Rinaldo
Douglas	Lewis (CA)	Ritter
Dreier	Lewis (FL)	Roberts
Duncan	Lightfoot	Robinson
Edwards (OK)	Livingston	Rogers
Emerson	Lowery (CA)	Rohrabacher
Fawell	Lukens, Donald	Ros-Lehtinen
Fields	Machtley	Roth
Fish	Madigan	Roukema
Frenzel	Marlenee	Rowland (CT)
Gallegly	Martin (IL)	Saiki
Gallo	Martin (NY)	Saxton
Gekas	McCandless	Schaefer
Schiff	Smith, Denny (OR)	Thomas (WY)
Schneider	Smith, Robert (NH)	Upton
Schuette	Smith, Robert (OR)	Vander Jagt
Schulze	Snowe	Vucanovich
Sensenbrenner	Solomon	Walker
Shaw	Spence	Walsh
Shays	Stangeland	Weber
Shumway	Stearns	Weldon
Shuster	Stenholm	Whittaker
Skeen	Sundquist	Wolf
Slaughter (VA)	Tauke	Wylie
Smith (NE)	Thomas (CA)	Young (AK)
Smith (NJ)		Young (FL)
Smith (TX)		
Smith (VT)		

NAYS—244

Ackerman	Frost	Natcher
Alexander	Gaydos	Neal (MA)
Anderson	Gejdenson	Neal (NC)
Andrews	Gephardt	Nowak
Annunzio	Geren	Oberstar
Anthony	Gibbons	Obey
Applegate	Glickman	Olin
Aspin	Gonzalez	Ortiz
Atkins	Gordon	Owens (NY)
AuCoin	Gray	Owens (UT)
Barnard	Guarini	Pallone
Bates	Hall (OH)	Panetta
Beilenson	Hamilton	Patterson
Bennett	Harris	Payne (NJ)
Berman	Hatcher	Payne (VA)
Bevill	Hawkins	Pease
Bilbray	Hayes (IL)	Pelosi
Boggs	Hayes (LA)	Penny
Bonior	Hefner	Perkins
Borski	Hertel	Pickle
Bosco	Hoagland	Poshard
Boucher	Hochbrueckner	Price
Boxer	Hoyer	Rahall
Brennan	Hubbard	Rangel
Brooks	Huckaby	Richardson
Browder	Hughes	Roe
Brown (CA)	Hutto	Rose
Bruce	Jacobs	Rostenkowski
Bryant	Jenkins	Rowland (GA)
Bustamante	Johnson (SD)	Roybal
Byron	Johnston	Russo
Campbell (CO)	Jones (GA)	Sabo
Cardin	Jones (NC)	Sangmeister
Carper	Jontz	Sarpalius
Carr	Kanjorski	Savage
Chapman	Kaptur	Sawyer
Clarke	Kastenmeier	Scheuer
Clay	Kennedy	Schroeder
Clement	Kennelly	Schumer
Coleman (TX)	Kildee	Serrano
Collins	Kleczka	Sharp
Condit	Kolter	Sikorski
Conyers	Kostmayer	Sisisky
Cooper	LaFalce	Skaggs
Costello	Lancaster	Skelton
Coyne	Lantos	Slattery
Crockett	Laughlin	Slaughter (NY)
Darden	Leath (TX)	Smith (FL)
de la Garza	Lehman (CA)	Smith (IA)
DeFazio	Lehman (FL)	Solarz
Dellums	Levin (MI)	Spratt
Derrick	Levine (CA)	Staggers
Dingell	Lewis (GA)	Stallings
Dixon	Lipinski	Stark
Donnelly	Lloyd	Stokes
Dorgan (ND)	Long	Studds
Downey	Lowey (NY)	Swift
Durbin	Luken, Thomas	Synar
Dwyer	Manton	Tallon
Dymally	Markey	Tanner
Dyson	Martinez	Tauzin
Early	Matsui	Taylor
Eckart	Mavroules	Thomas (GA)
Edwards (CA)	Mazzoli	Torres
Engel	McCloskey	Torricelli
English	McCurdy	Towns
Erdreich	McDermott	Traficant
Espy	McHugh	Traxler
Evans	McMillen (MD)	Udall
Fascell	McNulty	Unsoeld
Fazio	Mfume	Valentine
Feighan	Miller (CA)	Vento
Flake	Moakley	Visclosky
Flippo	Mollohan	Volkmer
Foglietta	Moody	Walgren
Ford (MI)	Mrazek	Washington
Ford (TN)	Murphy	Watkins
Frank	Murtha	Waxman

Weiss	Wilson	Yates
Wheat	Wise	Yatron
Whitten	Wolpe	
Williams	Wyden	

NOT VOTING—7

Baker	Morrison (CT)	Stump
Craig	Nelson	
Mineta	Oakar	

□ 1816

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Morrison of Connecticut against.

Mr. Stump for, with Mr. Nelson of Florida against.

Messrs. DARDEN, LAUGHLIN, and OBERSTAR changed their vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SKAGGS).

The question is on the passage of the bill. The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair will remind the Members that pursuant to the prior announcement, this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 282, noes 144, not voting 6, as follows:

[Roll No. 246]

AYES—282

Ackerman	Collins	Frost
Alexander	Condit	Gaydos
Anderson	Conte	Gejdenson
Andrews	Conyers	Gephardt
Annunzio	Cooper	Geren
Anthony	Costello	Gibbons
Applegate	Coyne	Glickman
Aspin	Crockett	Gordon
Atkins	Darden	Gray
AuCoin	de la Garza	Guarini
Barnard	DeFazio	Hall (OH)
Bates	Derrick	Hall (TX)
Beilenson	Dicks	Hamilton
Bennett	Dingell	Harris
Bereuter	Dixon	Hastert
Berman	Donnelly	Hatcher
Bevill	Dorgan (ND)	Hawkins
Bilbray	Downey	Hayes (IL)
Boggs	Duncan	Hayes (LA)
Bonior	Durbin	Hefley
Borski	Dwyer	Hefner
Bosco	Dymally	Henry
Boucher	Dyson	Hertel
Boxer	Early	Hoagland
Brennan	Eckart	Hochbrueckner
Brooks	Edwards (CA)	Holloway
Broomfield	Emerson	Hoyer
Browder	Engel	Hubbard
Brown (CA)	English	Huckaby
Brown (CO)	Erdreich	Hughes
Bruce	Espy	Hutto
Bryant	Evans	Jacobs
Bustamante	Fascell	Jenkins
Byron	Fazio	Johnson (CT)
Campbell (CO)	Feighan	Johnson (SD)
Carr	Flake	Johnston
Chapman	Flippo	Jones (GA)
Clarke	Foglietta	Jones (NC)
Clay	Ford (MI)	Jontz
Clement	Ford (TN)	Kanjorski
Coleman (TX)	Frank	Kaptur
Kastenmeier	Oberstar	Slattery
Kennedy	Obey	Slaughter (NY)
Kennelly	Olin	Smith (FL)
Kildee	Ortiz	Smith (IA)
Kleczka	Owens (NY)	Smith (NE)
Kolter	Owens (UT)	Smith (NJ)
Kostmayer	Pallone	Smith (VT)
LaFalce	Panetta	Snowe
Lancaster	Parker	Solarz
Lantos	Parris	Spence
Laughlin	Patterson	Spratt
Leach (IA)	Payne (VA)	Staggers
Lehman (CA)	Pease	Stallings
Lehman (FL)	Pelosi	Stark
Levin (MI)	Penny	Stearns
Levine (CA)	Perkins	Stenholm
Lewis (GA)	Petri	Stokes
Lipinski	Pickle	Studds
Lloyd	Poshard	Swift
Long	Price	Synar
Lowey (NY)	Pursell	Tallon
Luken, Thomas	Rahall	Tanner
Machtley	Rangel	Tauke
Manton	Ray	Tauzin
Markey	Regula	Taylor
Marlenee	Richardson	Thomas (GA)
Martinez	Rinaldo	Thomas (WY)
Matsui	Roe	Torres
Mavroules	Ros-Lehtinen	Torricelli
Mazzoli	Rose	Towns
McCloskey	Rostenkowski	Traficant
McCrery	Roth	Traxler
McCurdy	Roukema	Udall
McDermott	Rowland (CT)	Unsoeld
McHugh	Rowland (GA)	Upton
McMillen (MD)	Roybal	Valentine
McNulty	Russo	Vander Jagt
Meyers	Saiki	Vento
Mfume	Sangmeister	Visclosky
Miller (CA)	Sarpalius	Volkmer
Miller (OH)	Sawyer	Walgren
Moakley	Schaefer	Washington
Mollohan	Scheuer	Watkins
Montgomery	Schneider	Weiss
Moody	Schroeder	Whittaker
Morrison (WA)	Schumer	Whitten
Mrazek	Serrano	Williams
Murphy	Sharp	Wilson
Natcher	Shays	Wise
Neal (MA)	Sikorski	Wolpe
Neal (NC)	Sisisky	Wyden
Nowak	Skaggs	Yates
Oakar	Skelton	Yatron

NOES—144

Archer	Gallegly	Martin (IL)
Armey	Gallo	Martin (NY)
Ballenger	Gekas	McCandless
Bartlett	Gillmor	McCollum
Barton	Gilman	McDade
Bateman	Gingrich	McEwen
Bentley	Gonzalez	McGrath
Bilirakis	Goodling	McMillan (NC)
Bliley	Goss	Michel
Boehlert	Gradison	Miller (WA)
Buechner	Grandy	Molinari
Bunning	Grant	Moorhead
Burton	Green	Morella
Callahan	Gunderson	Murtha
Campbell (CA)	Hammerschmidt	Myers
Cardin	Hancock	Nagle
Carper	Hansen	Nielson
Chandler	Herger	Oxley
Clinger	Hiler	Packard
Coble	Hopkins	Pashayan
Coleman (MO)	Horton	Paxon
Combest	Houghton	Payne (NJ)
Coughlin	Hunter	Pickett
Courter	Hyde	Porter
Cox	Inhofe	Quillen
Crane	Ireland	Ravenel
Dannemeyer	James	Rhodes
Davis	Kasich	Ridge
DeLay	Kolbe	Ritter
Dellums	Kyl	Roberts
DeWine	Lagomarsino	Robinson
Dickinson	Leath (TX)	Rogers
Dornan (CA)	Lent	Rohrabacher
Douglas	Lewis (CA)	Sabo
Dreier	Lewis (FL)	Savage
Edwards (OK)	Lightfoot	Saxton
Fawell	Livingston	Schiff
Fields	Lowery (CA)	Schuette
Fish	Lukens, Donald	Schulze
Frenzel	Madigan	Sensenbrenner
Shaw	Smith, Robert (OR)	Waxman
Shumway	Solomon	Weber
Shuster	Stangeland	Weldon
Skeen	Sundquist	Wheat
Slaughter (VA)	Thomas (CA)	Wolf
Smith (TX)	Vucanovich	Wylie
Smith, Denny (OR)	Walker	Young (AK)
Smith, Robert (NH)	Walsh	Young (FL)

NOT VOTING—6

Baker	Mineta	Nelson
Craig	Morrison (CT)	Stump

□ 1824

The Clerk announced the following pairs:

On this vote:

Mr. Morrison of Connecticut for, with Mr. Craig against.

Mr. Nelson of Florida for, with Mr. Stump against.

Mr. WHEAT and Mr. PAYNE of New Jersey changed their votes from "yea" to "nay."

Mr. WHITTAKER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5258, the bill just passed.

The SPEAKER pro tempore (Mr. BRYANT). Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC STABILIZATION OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT ON TOMORROW DURING THE 5-MINUTE RULE

Ms. OAKAR. Mr. Speaker, as Chair of the Subcommittee on Economic Stabilization, I ask special leave of the House that the subcommittee be permitted to sit, for purposes of marking up H.R. 486, the Defense Production Act Amendments of 1990 and H.R. 3999, the Defense Economic Adjustment, Diversification, Conversion and Stabilization Act of 1990 at 10 a.m. on Thursday, July 19, 1990, while the House of Representatives is in session under the 5-minute rule.

The ranking minority member of the subcommittee, the gentleman from California [Mr. SHUMWAY], concurs in this request.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

ANNUAL REPORT OF NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS AND NATIONAL HOUSING PARTNERSHIP FOR FISCAL YEAR ENDING FEBRUARY 28, 1990—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs:

(For message, see proceedings of the Senate of today, Wednesday, July 18, 1990.)

SCIENTISTS DISCOVER THE GENE IN ELEPHANT MAN'S DISEASE

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CONTE. Mr. Speaker, last week scientists announced one of the biggest discoveries in genetic medicine ever. They found the gene responsible for neurofibromatosis, the disfiguring and debilitating disease which strikes 1½ million people worldwide and 100,000 people in America.

I congratulate Dr. Francis Collins and Dr. Raymond White for making the discovery. I also congratulate all the private support and advocacy groups for working so long and hard for many years to find the gene. Claudette Kiley, a local NF support group leader in my district, and Mary Ann Wilson of Neurofibromatosis Inc. deserve our thanks for making NF a major health priority.

Back in 1984, when I first asked NIH to accelerate NF research, the doctors were stymied. Nobody knew if or when we could find the gene. But now, 6 years later, our persistent efforts paid off in a big way. Nobody in their wildest dreams would have thought we could have come this far so soon.

This positive proof that biomedical research is our best investment. Dr. Bob Martusa of the Massachusetts General Hospital, with NIH funding, is now leading the hunt for the gene causing NF-2, a much rarer form of the disease. And I'm confident that the second gene will be found soon.

Mr. Speaker, the message to the people with NF, indeed all people with genetic diseases, is "Don't give up hope!" We are appropriating $8.3 billion for NIH this year. With this investment, many more breakthroughs in medicine will be accomplished and untold numbers of precious lives will be saved.

I am submitting for the RECORD, an article in the New York Times describing this momentous discovery.

[From the New York Times, July 13, 1990]

GENE FOUND FOR ELEPHANT MAN'S DISEASE

(By Natalie Angier)

After three years of struggling to overcome frustrating technical snags and red herrings, scientists have isolated the gene that causes the disfiguring and sometimes fatal condition known as Elephant Man's disease.

The discovery of the gene for the disease, neurofibromatosis, is the first for a hereditary disease of the nervous system, said Dr. Allan E. Rubenstein, medical director for the National Neurofibromatosis Foundation. The organization helped finance and coordinate the research leading to the new finding.

OTHER DISEASE GENES FOUND

The gene had been among the big-game quarry of molecular biologists, both because the illness is one of the most common hereditary diseases, afflicting one in 4,000 people worldwide with varying severity, and because scientists believe studying the gene will yield insights into the biology of the brain and the nervous system, the targets of the disease.

"In my view, this is the single most exciting discovery in neurogenetics that has ever taken place," Dr. Rubenstein said.

In the last few years researchers have isolated genes that cause cystic fibrosis; Duchenne muscular dystrophy, a rare type of familial eye cancer; colon cancer and several other disease genes. The gene responsible for a second and far rarer form of neurofibromatosis remains to be found.

Researchers say the most immediate benefit of having the common gene in hand will be in diagnosing the disease. Neurofibromatosis can be extremely difficult to diagnose at its early stages, when patients may exhibit symptoms no more severe than the appearance of dark patches on the skin, known as café au lait spots.

Using the isolated gene, doctors will be able to screen the DNA of patients to identify definitively those afflicted with the disorder, allowing doctors to intervene quickly if a patient develops more dangerous symptoms, like the growth of tumors on the optic nerve.

Researchers are optimistic that the isolation of the gene will eventually lead to improved treatments for neurofibromatosis, which cannot now be cured.

UNUSUAL FEATURES FOUND

Scientists said the gene displayed extremely unusual features, which partly explain why it was so difficult to isolate. They said the gene was enormous and that embedded within it were three smaller genes. Those enclosed genes may or may not contribute to the disease, the researchers say.

"It's a fascinating gene," said Dr. Francis S. Collins of the University of Michigan in Ann Arbor, who leads one of the teams that discovered the neurofibromatosis gene. "It's unprecedented in humans to find a big gene with three little genes inside it. I think this will have a real impact on neurobiology."

Dr. Collins's findings are appearing today in the journal Science. Another group, which independently isolated the gene, Dr. Raymond L. White's laboratory at the University of Utah in Salt Lake City, is reporting its work in the journal Cell today.

Neurofibromatosis is an unusual hereditary illness on several counts. Unlike cystic fibrosis, which afflicts predominantly those of Northern European extraction, or sickle-cell disease, which predominantly affects blacks, neurofibromatosis seems to strike all ethnic groups equally.

SEVERITY VARIES WIDELY

One and a half million people are thought to suffer from the disease worldwide, and about 100,000 of them live in the United States.

The disease is also unusual because its severity varies widely. Some people suffer only mild symptoms their entire lives, showing café au lait spots one to 12 inches in diameter on their face or bodies, or having benign lumps known as dermal neurofibromas on or beneath the skin. Doctors are not sure what these lumps are, but they believe them to be abnormal proliferation of the myelin-like cells that sheath the peripheral nerves of the body.

In some cases, the neurofibromas can grow so large and so abundantly across the face and body that they become painful an extremely disfiguring, a state that prompted the disease to mistakenly be named after Joseph Merrick, the original Elephant Man, who lived in London in the 19th century. But doctors now say Merrick had another disorder, called Proteus syndrome, which affects the skull.

Surgery can remove some of the lumps, but doctors note that the lumps frequently grow back, either at the initial site or elsewhere.

'LIVING WITH A TIME BOMB'

More seriously still, neurofibromas may also crop up on the optic nerves, sometimes leading to blindness, or in the brain, which may cause death. In rare cases, the benign masses become malignant and can spawn breakaway tumor cells that then spread throughout the body like other cancers.

Neurofibromatosis patients also frequently suffer from learning disabilities. Perhaps worst of all, the course of the disease is highly unpredictable.

"Even if you make it to age 20 or 30 with only mild symptoms, you can end up with a brain tumor at age 40," said Dr. Rubenstein. "It's like living with a time bomb."

Scientists began searching for the gene by combing through the DNA of about 120 families that had one or more members with neurofibromatosis. That search for genetic abnormalities common to the disease led them to conclude in 1987 that the gene was on the 17th chromosome. (Humans have 23 matched pairs of chromosomes.)

FREAK CHROMOSOMAL MISHAPS

Researchers were then able to further narrow the gene's position as a result of freak chromosomal mishaps that occurred with two patients. Pieces of the 17th chromosome had switched places with shards of other chromosomes. This led researchers to believe that the gene must sit somewhere just at the point where the 17th chromosome had broken apart.

Even with this clue, scientists were long stymied. They said they now realized that the reason for their confusion was the presence of the three genes inside the larger neurofibromatosis gene.

"It was a manic-depressive experience for us," said Dr. White, the University of Utah researcher. "Every time we thought we had the right gene, it turned out to be another one of these littler guys."

Dr. Collins, at the University of Michigan, referred to the smaller genes as red herrings

because they diverted attention from the basic issue.

The researchers say the impressive length of the neurofibromatosis gene may explain why the disease is so common. "Because it's big, it offers substantial opportunities for mutational events to deactivate it," Dr. Collins said.

Much work remains to be done on understanding the function of the gene, he said, but he suspects that it normally works in the body to suppress the growth of tumors. Thus, the deactivation of the gene through a mutation results in the abnormal proliferation of neurofibromas, Dr. Collins said.

JAPANESE FISHING AND WHALING PRACTICES CONTINUE TO THREATEN THE OCEANS OF THE WORLD

The SPEAKER pro tempore (Mr. BRYANT). Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, as we become increasingly aware of the delicacy of the world's environment, it is self-evident that all the nations of the world must act responsibly. Even if only a few nations pursue dangerous environmental policies, the damage can be enormous. This Member wishes to raise concerns about the continued willingness of some nations to abuse the ocean's resources. In particular, I would point to the Japanese attitude toward whaling, and Japan's policy toward driftnet fishing as examples of disturbing and unwarranted abuse of the ocean's resources.

As we all are aware, Mr. Speaker, generations of commercial whaling have brought many species of whale to the brink of extinction. International recognition of the plight of the whales resulted in the creation of the International Whaling Commission [IWC] in 1946. As a result of the IWC's efforts, quotas on the size of catches were established and finally, in 1986, a 5-year moratorium on commercial whaling went into effect.

Throughout this period, Japan has sought to circumvent the moratorium. It has used a provision which permits the taking of whales for "scientific" purposes, but has then turned around and sold the harvested whale meat for profit. Despite having its research proposals disapproved by the IWC Japan continues to harvest hundreds of whales each year. While other nations have also violated the moratorium, Mr. Speaker, Japan's actions consistently have been the most egregious.

Mr. Speaker, in recent months the Human Rights and International Organizations Subcommittee, which has jurisdiction over international environmental matters, has conducted hearings which have been highly critical of Japanese whaling practices. This Member, who serves as ranking Republican on this subcommittee, would point to the particularly strong leadership of the gentleman from Pennsylvania [Mr. YATRON], who chairs that subcommittee. He is responsible for a number of congressional resolutions on this matter, and he has worked to ensure that Japanese whaling practices do not go unnoticed. This Member certainly wishes to commend and endorse Mr. YATRON's efforts in this important area of environmental policy.

Japanese driftnet fishing practices are equally disturbing. Driftnets are plastic filament nets, 30 feet deep and, incredibly, up to 50 miles long. They are dropped into the ocean, allowed to drift overnight, and pulled up the following morning to harvest the evening's catch.

Mr. Speaker, driftnets have come to be called walls of death because they kill everything they touch—fish, whales, seals, dolphins, turtles, birds. Each night the fishing fleets of Japan, and to a lesser extent those of South Korea and Taiwan, set out tens of thousands of miles of these nets. This wanton, indiscriminate killing of sealife is quite literally the strip mining of the oceans.

The numbers of incidental killings are simply staggering. For example, monitoring on 32 Japanese boats during the last 6 months of 1989 showed that driftnet fishing incurred the following incidental killings: over 58,000 blue sharks, 914 dolphins, 141 porpoises, 52 seals, 25 puffins, 22 marine turtles, 539 albatrosses, and almost 9,000 pelagic birds. And incredibly this terrible toll was exacted by only the 4 percent of the Japanese North Pacific driftnet fishing fleet which was monitored.

Mr. Speaker, we have witnessed an extraordinary example of the lengths to which the Japanese fishing industry will go in its wanton pursuit of ever-greater catches. Recently, on May 20, Soviet patrol boats stopped what appeared to be a fleet of North Korean driftnet boats operating in restricted Soviet waters. What the Soviet inspectors discovered was not North Korean vessels but, instead, Japanese boats manned by Japanese fishermen. It turns out that several Japanese fishing companies had entered into ageements with North Korea to supply the North Koreans with boats and provide technical guidance in return for reflagging of the vessels. In short, the Japanese leased their lethal fishing capability to the North Koreans. This elaborate scheme allowed the Japanese to evade fishing quotas agreed upon by the Soviet Union, the United States, Japan, and Canada.

Whether the Japanese Government was aware of this reflagging operation is not the point. Indeed, while this Member has focused on the actions of the Japanese fishing industry, there are others who are equally culpable. The point that this Member wishes to make is that without very serious international efforts, the greed and avarice of a few in the fishing industry will in a relatively short time practically strip the oceans bare.

The justifiable international outrage that has been caused by this incident and others has begun to produce results. Just this week the Japanese Government announced its intention to suspend driftnet fishing in the South Pacific for the coming fishing season. This Member recognizes that such a driftnet ban is a positive step, but it does not go far enough. The Japanese continue to use driftnets in regions outside of the South Pacific, and are reportedly planning to begin driftnet fishing in the Indian Ocean.

Mr. Speaker, last December the United Nations passed a resolution calling for a ban on driftnet fishing in the South Pacific by 1991, and a worldwide ban by 1992. The International Whaling Commission expressed its support for such a ban in its most recent meeting. Such a comprehensive ban on driftnet fishing seems to this Member to be a sensible and absolutely necessary proposal. Given the damage it does, is no reasonable justification for driftnet fishing; it should be banned immediately.

As the ranking member of the Subcommittee on Human Rights and International Organizations, which has jurisdiction over international environmental policy, this Member has in the past worked to expedite legislation concerning driftnet fishing, and will continue to do so with accelerated concern. It is this Member's hope that increased public knowledge of these whaling and driftnet practices will result in public outrage. Timely congressional action and diplomatic pressure, can enhance the ongoing international effort to put an end to this intolerable strip mining of the ocean.

TIME TO EXAMINE FEDERAL PRISON INDUSTRIES

The SPEAKER pro tempore. Under a previous oreder of the House, the gentleman from Michigan [Mr. UPTON] is recognized for 5 minutes.

Mr. UPTON. Mr. Speaker, back in the 100th Congress, the Federal Bureau of Prisons told Congress that Federal Prison Industries needed broad new powers to expand. We were told that expansion of this Government-sponsored manufacturing corporation—named UNICOR—was needed to keep the increasing number of Federal prisoners busy.

Despite the fact that the House of Representatives had earlier voted against this idea, supporters tucked these new powers into text of the Omnibus Drug Act of 1988.

The most powerful new tool in the UNICOR arsenal was unlimited borrowing authority from the U.S. Treasury. At the time, we were told that this new source of funds was needed to finance prison industries construction.

Now, it has come to my attention that UNICOR has money enough to wine and dine U.S. Government contracting officers. In my hand is a letter from UNICOR to Air Force procurement and design officials inviting them to visit prison manufacturing plants in Minnesota and Kansas all the way from an Air Force base in Hawaii. The letter graciously provides a UNICOR account number to bill for "expenses incurred for these visits."

Having checked with GSA, I have confirmed that private companies are generally prohibited from paying for such courtesy visits to manufacturing plants under most Government agency standards for ethical conduct. It is not an accepted practice. In fact, it would most likely not be appropriate for private companies to buy Government officers coffee and donuts, much less pay their travel expenses. These standards have been established to avoid even the appearance of favoritism in contracting.

This UNICOR letter, however appalling it may seem, is certainly not surprising. UNICOR enjoys statutory advantages in the Federal marketplace, preferenced in the procurement process before even small and disadvantaged businesses. The type of practices outlined in the letter reinforce and enhance the built-in favoritism for UNICOR products found in the Federal procurement process.

I understand and support the need to keep inmates busy, and to rehabilitate them at the same time. All the more reason for Congress to take a hard look at UNICOR's operations as it plans to double its size in a few short years. We need to look at whether taxpayer's dollars are being spent well on quality prison products. We need to ensure that Federal prisoners are doing the work on products, not private contractors and subcontractors. We should work to minimize the impact on private industry as Federal Prison Industries expand.

Finally, I urge your support for H.R. 4743, the Federal Prison Industries Competition in Contracting Act, introduced by our colleague, Representative HOWARD COBLE of North Carolina. This bill would instill a measure of competition in the Federal market, yet still allow UNICOR to invoke its superpreference when it is determined that a contract is necessary to avoid inmate idleness.

The letter referred to in my comments is as follows:

UNICOR,
FEDERAL PRISON INDUSTRIES, INC.,
Washington, DC, March 20, 1990.

Lt. Col. EDWARD REAVES,
Director, 15th ABW/LGCR, Hickam AFB, HI.

DEAR COLONEL REAVES: On behalf of UNICOR, Federal Prison Industries, I would like to invite you, or your designee, plus Major Tom Krusemark, and AF Designer, Sandy Warner to visit our Systems Furniture manufacturing facility at the Federal Correctional Institution, Duluth, MN. At the same time, we would like you to visit our furniture and mattress factories located at the U.S. Penitentiary, Leavenworth, KS. We believe these visits would be beneficial to Air Force personnel who are involved in both the design and procurement of furnishings for PACAF furniture projects.

You are hereby authorized to use the following fund citations to bill UNICOR for expenses incurred for these visits. Fund Citation: 15X4500. ALC: 1080001

Billing should be as follows: Federal Prison Industries—Resources Division. Attn: Jim Allen 320 1st St. N.W. Washington, DC 20534.

As per my discussion with Major Krusemark, we hope it will be possible for your group to make this trip the later part of May. I would appreciate your letting me know, as soon as possible, what dates would be convenient for you so I may make the necessary arrangements.

Very Truly Yours,
BILL VALENTINE,
Manager, Corporate Sales.

□ 1840

PERSONAL EXPLANATION

The SPEAKER pro tempore (Mr. BRYANT). Under a previous order of the House, the gentleman from North Carolina [Mr. CLARKE] is recognized for 5 minutes.

Mr. CLARKE. Mr. Speaker, I was absent on Tuesday, July 17, during consideration of rollcall No. 234, the Dwight D. Eisenhower Mathematics and Science Education Amendments Act of 1990. Had I been present I would have voted "yea."

CAPTIVE NATIONS WEEKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, this week marks the 32d observance of Captive Nations Week, and it is an appropriate time for us in Congress to renew our commitment to the people throughout the world who are striving to achieve freedom and self-determination.

In 1959, when President Eisenhower signed legislation into public law to designate the third week in July as Captive Nations Week, the United States dedicated itself to keeping the spirit of liberty and independence alive for the people living in nations under Communist domination, and to supporting them in their aspiration for the ultimate recovery of their freedom. Today, we in Congress remain committed to this objective.

Although the past year has been a time for rejoicing as democratically elected governments have emerged in Eastern European countries, once under complete domination of the Soviets, we are all too aware that many countries have been unable to break away from the tyranny of their oppressors. At every opportunity, we in Congress must continue to support these individuals in their efforts to break the yoke of tyranny, as well as support the new governments which are working hard to build lasting democratic institutions as they rejoin the community of free nations.

Mr. Speaker, on the occasion of the 32d observance of Captive Nations Week, I join with my constituents in the 11th Congressional District of Illinois, which I am honored to represent, and throughout the United States, in celebrating the freedom of those nations which have triumphantly begun their return to democratic rule, and also in rededicating ourselves to working for the freedom of those people still living under the domination of their oppressors.

INTRODUCTION OF THE MEDIPLAN ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, today I am introducing the MediPlan Act of 1990.

MediPlan is a comprehensive program to provide health insurance and long-term care services to all Americans.

With the enactment of MediPlan, health and long-term care services will become a basic right of all Americans. All residents of the United States would be enrolled in MediPlan and eligible for health benefits. All chronically ill individuals, regardless of age or income, would be eligible for comprehensive long-term care services.

My bill would close the gaps in the current system so that every American, rich or poor, including the 37 million uninsured, would have basic health care benefits. It would provide additional, essential benefits, such as prescription drug coverage, for low-income Americans. MediPlan would also offer relief to chronically ill individuals of all ages faced with the crippling costs of long-term care.

Mr. Speaker, I believe it is extremely important to offer a comprehensive approach to health care reform. The need for long-term care services is as vital and pressing a problem as the need for health insurance protection. MediPlan is a model program to provide health insurance and long-term care coverage to all Americans.

MediPlan is based upon four fundamental principles:

All residents of the United States should have a right to comprehensive health and long-term care services;

Health and long-term care services should be affordable to all Americans and financed according to every individual's ability to pay;

All providers should receive reasonable payment for services provided; and

A comprehensive plan should be self-financing and budget neutral.

The proposed legislation raises the revenue necessary to cover its cost. Through a combi-

nation of employer and employee-paid premiums plus a new tax on gross income, MediPlan provides a blueprint for financing comprehensive health and long-term care benefits.

The need for comprehensive health insurance and long-term care has been well documented. The recently completed work by the Pepper Commission documented the size of the uninsured and long-term care populations, the health and financial consequences of the existing, inadequate system and the fact that health and long-term care expenses appear to be beyond the resources of most Americans.

MediPlan's health and long-term care benefits and specific financing mechanisms are described below. I suspect that most will embrace the benefits included in this bill, but not support the proposed taxes necessary to fund the benefits.

To talk about the benefits without considering the costs and how to pay for benefits is to mislead the American people. To those who disagree, I would point out that the House just gave a majority vote to a constitutional amendment to balance the budget.

I would urge those who object to the financing proposal to offer one of their own, or suggest areas where benefits of the program should be reduced.

I hope that my plan, which combines universal coverage for health and long-term care services, with a specific broad-based, progressive financing proposal, will help to move the process forward on these extremely important matters.

BASIC HEALTH CARE BENEFITS UNDER MEDIPLAN

Thirty-seven million Americans currently lack health insurance and another 7 to 10 million are underinsured by inadequate plans. As many as 65 million Americans lack health insurance at some point during the year.

Lack of health insurance has taken its toll on the health of the American people. Recent surveys confirm that families without health insurance do not seek appropriate health care when they need it. The uninsured tend to have fewer physician visits, lower immunization rates among children and lower rates of prenatal care than the insured population. Only 11 percent of children without health insurance reported being in excellent health, compared to 78 percent of children with private coverage.

Under MediPlan, every American not eligible for Medicare would be enrolled in the new national health program for basic health benefits. The plan would build upon the popular and proven Medicare Program and assure every American access to high quality medical care at a reasonable cost. Basic benefits would be based on the model of Medicare with minor modifications.

Because MediPlan would cover every American, there would no longer be a need for the Medicaid program to cover acute care needs. For low income persons, MediPlan would provide additional benefits, such as prescription drug coverage.

Mr. Speaker, MediPlan represents a departure from other access proposal that I have introduced in the past and differs from the recommendations issued recently by the Pepper Commission. MediPlan would move away from plans that involve employer mandates, or the "pay or play" approach.

This proposal moves toward a publicly financed program like Medicare for a number of reasons. First, employment-based approaches are less likely to be as comprehensive as a public plan. In all probability, part-time and seasonal workers would not get the health insurance they need and would continue to be excluded with an employment-based approach.

This proposal moves toward a publicly financed program like Medicare for a number of reasons. First, employment-based approaches are less likely to be as comprehensive as a public plan. In all probability, part-time and seasonal workers would not get the health insurance they need and would continue to be excluded with an employment-based approach.

Moreover, the changing nature of family patterns, with increasing numbers of single parents and multimarriage families, create equity problems with employer based systems and often leave children or spouses without the coverage needed.

Second, a public approach such as MediPlan would provide for far greater control of health care costs than do proposals that mandate the purchase of private health insurance by employers. Through the use of a single national plan, operated by the Federal Government, it will be possible to bring the same kind of fiscal discipline to MediPlan as we have already achieved in Medicare hospital payments and as we expect to achieve in Medicare physician benefits, through the recently enacted physician payment reforms.

Third, use of a single national plan is the only realistic way to make health insurance affordable to small employers. A national plan pools high risks with low risks, thus assuring that no employer is penalized simply because a given employee suffers from a chronic malady which requires expensive medical treatment.

Fourth, MediPlan would eliminate existing inequities in the current system with its substantial emphasis on employment-based health insurance coverage. Employers who provide health insurance presently pay five times for health care—first for their own employees, second through the payroll tax for Medicare, third through State and Federal income tax for Medicaid, fourth through local property taxes for the public hospitals and the medically indigent, and fifth through hidden cross subsidies built into charges in order to pay for uncompensated care.

To meet the objective of providing universal health insurance coverage to all Americans, all residents, other than Medicare beneficiaries, would be eligible for MediPlan benefits, including:

Medicare benefits except single deductible of $500 and out-of-pocket limit per person of $2,500;

Children's benefits, including well-child care and preventive care recommended by American Academy of Pediatrics without copayments or deductibles;

Low-income benefits, including unlimited hospital care, outpatient prescription drugs, eyeglasses and hearing aids and no copayments or deductibles;

Pregnancy-related services, such as prenatal care, inpatient labor and delivery, postnatal care, and postnatal family planning services based upon the recommendations of the American College of Obstetrics and Gynecology, without copayments or deductibles.

Employers currently providing health insurance to employees would be required to continue providing benefits in excess of the MediPlan basic benefits, to current employees and dependents.

Reimbursement to providers would be based upon Medicare's reimbursement systems, including the prospective payment system for hospitals and the resource-based relative scale [RB RVS] subject to volume performance standards for physician services.

To finance the basic health benefits, every person with income above the poverty line would pay the MediPlan premium—about $1,000/person—through the income tax system. Every employer would pay 80 percent of the MediPlan premium on behalf of each working American through a payroll tax of about 40 cents per hour to a maximum of $800/year per employee. Thus, each worker would be responsible for $200 of the annual premium.

Low-income persons would not pay the individual's share of the MediPlan premium. Between $8,000 and $16,000 for individuals and $16,000 and $32,000 for married couples, the individual's share of the MediPlan premium would be phased in.

LONG-TERM CARE COVERAGE UNDER MEDIPLAN

More than 9 million Americans currently need long-term care services and require assistance with their activities of daily living. The demand for long-term care services will only increase with the projected growth in the elderly population.

Few can afford the staggering costs of long-term care. The average cost of a nursing home has increased to nearly $36,000 per year. For those who purchase home care services to help care for a severely impaired family member with Alzheimer's disease, the costs can easily exceed $15,000 per year.

Despite the high costs of nursing home and long-term home and community-based services, public financial support for long-term care is limited. The Medicare Program spends $3 billion per year for home care services, and limits coverage to the elderly and disabled who are both homebound and in need of skilled services. Medicare finances only 2 percent of total nursing home costs. The Medicaid Program, by contrast, covers nearly half of the Nation's $43 billion nursing home bill, but limits coverage to the poor.

Earlier this year, the Pepper Commission completed its work looking at the issues of access and long-term care. Unfortunately, I was unable to supoport the final recommendations of the Pepper Commission. My reluctance to support the recommendations pertaining to long-term care was based upon three basic concerns.

First, the Pepper Commission recommended public coverage of the first 3 months in a nursing home. It is my belief that advocates of long-term care are far more concerned with the catastrophic cost of lengthy stays in nursing homes, than they are with costs of the first few months.

About 20 to 25 percent of the elderly will spend more than a year in a nursing home. One in five nursing home users will exceed 5 years of nursing home care over the course of their lifetime. In fact, those who stay in a nursing home for over 6 months end up having an average stay that exceeds 2.5 years. This could mean more than $75,000 in out-of-pocket costs.

The prospect of having to spend $75,000 for a family member with Alzheimer's disease or other chronic illnesses is the real fear that is driving support for a new long-term care program. The first few months in a nursing home—referred to as the "front end" and amounting to $6,000 or even $9,000—is a relatively small concern by comparison. It is moreover, relatively easy to cover with personal savings or private insurance.

A second concern with the Pepper Commission recommendations is that the bulk of nursing home dollars are directed to a means-tested nursing home program. Middle-income Americans who have worked and saved throughout their lives, should not be forced onto welfare before receiving nursing home benefits.

My third concern with the Pepper Commission's long-term care recommendation, like my concern with the access recommendation, is the absence of specific financing proposals. In my view, it is unrealistic to put forward a long term care plan without simultaneously suggesting specific financing options. We cannot and will not have comprehensive long-term care benefits unless and until sufficient revenues are raised.

To address these concerns, MediPlan includes a number of important features:

All chronically ill individuals, regardless of age or income, would be eligible for long-term care benefits;

All chronically ill individuals and their families would have true protection from financially devastating long nursing home stays;

All chronically ill individuals would have access to the full range of long term-care services, including nursing home, home care and a range of community-based services;

Under this program, the benefits would not be means-tested; the financing would be progressive.

Comprehensive nursing home benefits would be covered for eligible individuals of all ages and would be phased in over a 7-year period. The comprehensive nursing home benefit would provide substantial assistance to families who are concerned about the high cost of a long nursing home stay from a devastating illness such as Alzheimer's disease.

The first year of implementation would restore the Medicare catastrophic coverage skilled nursing facility [SNF] benefit for 180 days and would repeal the 3-day prior hospitalization requirement. In year three, the nursing home benefit would be expanded to cover all stays for Medicare beneficiaries, with a 12-month deductible period.

Comprehensive nursing home benefits, with a 2-month deductible, would be fully phased in for the nonelderly by year seven.

Home and community-based long-term care services would also be phased in over a 7-year period. Initially, the Medicare home health benefit would be expanded. Comprehensive home and community-based benefits would be phased in for the elderly by year three and for the nonelderly in year seven.

Individuals would be required to pay the nursing home deductible and 20 percent copayment for nursing home, home and community-based benefits. Individuals with incomes below 200 percent poverty would not be required to pay deductibles and copayments.

I believe it is extremely important to spell out the costs of this long-term care program. Because a comprehensive solution is so very expensive, the financing mechanism is likely to be unpopular.

The long-term care benefits are estimated to cost approximately $60 billion when fully implemented. This bill would include sufficient revenues to fund the new benefits.

FINANCING MEDIPLAN'S HEALTH AND LONG-TERM CARE BENEFITS

MediPlan requires $60 billion to support health insurance for children, pregnant women, and low-income persons and another $60 billion to support long-term care services.

To cover the $120 billion in benefits, revenues would be raised under MediPlan through a 4-percent tax on gross income, including tax-exempt income, deferred income and other forms of income not currently subject to taxation. Individuals with incomes below 200 percent poverty would be exempt from the tax. All revenues from the MediPlan income tax would be paid into the MediPlan trust fund.

No doubt it will be extremely difficult to construct a politically acceptable benefit package with adequate financing. The bill that I am introducing today is a serious attempt to move forward on this extremely important issue.

A summary of the MediPlan Act of 1990 follows:

MEDIPLAN BILL SUMMARY—A PLAN TO PROVIDE UNIVERSAL ACCESS TO HEALTH AND LONG TERM CARE SERVICES

UNIVERSAL ACCESS TO HEALTH CARE

I. Eligibility

A. All residents of the United States would be enrolled in MediPlan;

B. Non-residents who are citizens of other countries which offered benefits to Americans under their national health plan would also be eligible for benefits.

II. Benefits

A. Basic benefits: Medicare benefits except single deductible of $500 and out-of-pocket limit per person of $2,500.

B. Children's benefits: Basic benefits plus well-child care and preventive care recommended by American Academy of Pediatrics without co-payments or deductibles;

C. Low-income benefits: Basic benefits plus unlimited hospital care, outpatient prescription drugs, eyeglasses and hearing aids and no co-payments or deductibles;

D. Pregnancy-related services: Pre-natal care, inpatient labor and delivery, postnatal care, and postnatal family planning services based upon the recommendations of the American College of Obstetrics and Gynecology, without co-payments of deductibles.

III. MediPlan Health Benefits Premium

A. Every person with income (except poorer Americans) would pay the MediPlan premium (about $1,000/person) through the income tax system;

B. Every employer would pay eighty percent of the MediPlan premium on behalf of each working American through a payroll tax of about $.40 per hour up to $800 per year;

1. Employer-paid tax is credited against employees' MediPlan premium paid through income tax, thus reducing each working adult's liability to about $200 per year.

C. Low-income persons (those individuals below $8,000 in income and those couples filing jointly with less than $16,000 in income would not pay the individual's share of the MediPlan premium;

1. Between $8,000 and $16,000 for individuals and $16,000 and $32,000 for married couples, the individual's share of the MediPlan premium would be phased in;

2. Only individuals with incomes above $16,000 or married couples filing jointly with incomes above $32,000 would be responsible for the entire individual's share of the MediPlan premium.

D. Children would generally not pay the premium (unless a child had income of their own in excess of the threshold) and receive additional benefits, as detailed below.

IV. Maintenance of Effort

A. Employers currently providing health insurance to employees would be required to continue providing benefits in excess of the MediPlan basic benefits, to current employees and dependents.

V. Reimbursement of Providers

A. Payment Methodologies: Providers would be reimbursed using Medicare's reimbursement systems, including the Prospective Payment System for hospitals and the Resource-Based Relative Scale (RBRVS) subject to volume performance standards for physician services.

B. Extra Billing: Extra billing would not be allowed;

C. Electronic Billing: All claims would be transmitted and processed electronically.

VI. Relationship to Medicare

A. The aged and disabled would continue to be covered by Medicare.

LONG TERM CARE

I. Eligibility

A. All individuals, regardless of age or income, would be eligible for long term care benefits.

B. Eligibility would be based upon functional status, measured by limitations in activities of daily (ADLs) or cognitive status.

1. Individuals unable to perform three or more ADLs without assistance or individuals who have severe cognitive impairments would be eligible for comprehensive nursing home coverage.

2. Individuals with two or more ADLs or with severe cognitive impairment would be eligible for home and community-based services.

II. Benefits

A. Nursing home benefits would be phased in over a 7-year period.

1. Year 1: the 3-day prior hospitalization rule would be repealed for Medicare beneficiaries.

Copayments would be required for the first 8 days and the benefit would be expanded to 180 days.

2. Year 3: Nursing home coverage with 12 month deductible for elderly individuals who meet eligibility criteria.

3. Comprehensive nursing home coverage with 2 month deductible for elderly individuals who meet eligibility criteria.

4. Year 7: Comprehensive nursing home coverage with 2 month deductible for elder-

ly and non-elderly individuals who meet eligibility criteria.

B. Home and Community-based long term care benefits would be phased in over a seven year period. These services would include home health, homemaker, personal care and adult day care services.

1. In Year 1 the Medicare home health benefit would be expanded for Medicare beneficiaries.

2. The Comprehensive home and community-based benefits would be phased-in for the elderly by year three and for the non-elderly in year seven.

3. Comprehensive home and community-based benefits would be phased-in for the elderly and non-elderly.

III. Beneficiary Payments

A. Individuals would be required to cover the nursing home deductible and 20 percent copayments for nursing home, home and community based services.

B. Individuals with incomes below 200 percent of the federal poverty level would not be required to pay deductibles and copayments.

C. Extra billing for long term care services under this Title would be prohibited.

IV. Eligibility Determination and Patient Management

A. The Secretary would contract with non-profit state-wide agencies, who are not providers of care, for case management services. Case manager employed by an assessment and case management (ACT) agency would determine eligibility and provide case management services for the long term care benefits. Case managers would include registered nurses or licensed or certified social workers.

B. The ACT agency's case manager would: (1) assess initial and continued eligibility, (2) develop a written plan of care based on a comprehensive needs assessment, (3) make arrangement with or referral to approved providers, (4) provide on-going case management and (5) service monitoring.

C. ACT agencies would be subject to review by the Secretary on an annual basis to determine if they were providing appropriate case management services in a cost effective manner.

D. Beneficiaries would have the right to appeal denial of eligibility for benefits as under the current Medicare appeals process.

V. Reimbursement to Providers

A. Reimbursement for nursing homes and other providers would be based upon a case-mix adjusted prospective payment system.

B. Extra billing would not be permitted.

MEDIPLAN FINANCING

A. MediPlan requires:

1. $60 billion to support health insurance for children, pregnant women, and for low-income persons.

2. $60 billion to support long-term care benefits for the chronically ill.

B. Revenue raised through new four percent tax on gross income, including tax-exempt income, deferred income, and other forms of income not currently subject to taxation.

1. Individuals with income below $16,000 annually would be exempt from the tax.

2. Families with income below $32,000 annually would be exempt from the tax.

Families below twice the poverty line would be exempt from the tax.

C. The four percent tax would apply to corporate income, as well.

D. States would be required to maintain effort for health and long term care services to the poor.

1. State payments would be equal to current state expenditures for the state share of Medicaid benefits covered by MediPlan, inflated by the increase in the Consumer Price Index-urban.

2. States would be expected to continue other services to low-income persons not covered by MediPlan.

E. All revenue from the MediPlan income tax would be paid into a MediPlan Trust Fund.

THE NEA, PAT ROBERTSON, AND CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 60 minutes.

Mr. DANNEMEYER. Mr. Speaker, during a point of personal privilege on June 20 our good friend and colleague, the gentleman from Montana [Mr. WILLIAMS], asked his colleagues to look at the work of Rev. Pat Robertson.

To quote him exactly, he said:

I hope every Member of Congress pays attention to what Pat Robertson is saying. It is scornful, deceitful, and it is a reflection of the level to which the most virulent opponents of the arts endowment have taken this debate.

I have taken the gentleman from Montana's words to heart. After all, I am a virulent opponent of Federal funds for the National Endowment for the Arts and I am a personal friend of Pat Robertson. So I revisited the words of Mr. WILLIAMS and I have read the full page ad in the Washington Post which makes Mr. WILLIAMS and others the object of scorn.

Mr. Speaker, I must admit that I do not see anything in error concerning the advertisement purchased by Pat Robertson. I realize the concern that the gentleman from Montana must feel. It is a powerful commentary on the politics surrounding the vote to defund or restrict the NEA.

The gentleman from Montana states that the NEA did not fund any of the items listed in Pat Robertson's ad. Obviously, he believes indirect funding differs in substance from direct funding. I do not. I believe Congress is responsible for every Federal dollar, from when it is appropriated to its final resting ground. The complexities involved in tracing a Federal dollar should not deter us from keeping track of the people's money. After all, we created the complexities.

More disturbing, in my opinion, than what I view as a truthful advertisement paid for by private dollars, are his anti-Christian, anti-religious comments. The gentleman from Montana has every right to discuss on this floor words attributable to Pat Robertson. He can agree or disagree. That seems to me to be fair game. What is not fair game is religious bashing.

I cannot remember the last time a liberal even suggested that an ethnic minority should not use racial status as a foundation for some passionately held political beliefs. The same holds for gender and national origin. So why does it matter to the gentleman from Montana when religion is the foundation for political beliefs? Or to be more exact, for conservative political beliefs.

I guess that's the rub. Pat Robertson is a political conservative. The gentleman from Montana is a dyed-in-the-wool liberal. He has a 100-percent rating from the National Gay and Lesbian Task Force. A major part of his national prominence is based on his ever-willingness to spend tax dollars on the arts community. I can understand why he does not want someone such as Pat Robertson to broadcast far and wide the political connection between the arts community and the gentleman from Montana. These alms for the arts bring him the praise of Hollywood and numerous like-minded peers inside the beltway.

Pat Robertson and I do not see eye-to-eye on all things. Although one area of agreement is religious liberty. The gentleman from Montana seems to mock the religious work of Pat Robertson simply because he has no "real church with flesh and blood people." I submit that the gentleman's comments against Pat Robertson were exactly because of the flesh and blood people who comprise Pat Robertson's constituency, perhaps even some from his western Montana district.

He states the Pat Robertson "employs fear, intimidation, manipulation, misunderstanding, hostility, and exploitation." And that he "in the long, shameful tradition of rightwing extremism, uses code words to encourage and inflame hatred, words like feminist, lesbian, secular humanists, and communists." I will remind the gentleman from Montana that us rightwing extremists did not create these code words, liberals did. Their mere recitation should offend no one.

The gentleman asks, "How is it that a self-proclaimed national religious leader could be so blatantly misleading?" The answer: He's not. The ad tells the truth. He then asks, "How is it that he could show such little faith in our people and the values that they hold in their hearts, and homes, and inculate in their children?" The answer: Pat Robertson respects the rights of parents to raise their children as they see fit. Unfortunately, the issue at hand is Federal funding of the NEA, not parenthood.

And then, finally, the gentleman asks, "How can he imply that we are all so weak and so corrupt as a Nation that a few pictures will drive our children to unnatural acts?" The answer: First, I am glad to see that the gentleman believes that homosexual sodomy is an "unnatural" act. To the point, Pat Robertson can imply anything he wishes in this free country of ours and

especially in his role as a minister. Last, many environmental forces influence kids. Are kids immune from the influences of dirty pictures?

In closing, let me say that I am surprised that the gentleman from Montana would have a problem with the free speech of Pat Robertson or anyone else. First, the suppression of religious liberty and then free speech. This brings a new definition to liberalism.

CONFLICT IN CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. FEIGHAN] is recognized for 60 minutes.

Mr. FEIGHAN. Mr. Speaker, this afternoon, we have taken out a special order to focus attention on one of the most difficult and vexing of conflicts on the international scene today. I am speaking of the conflict that continues to fester on the island nation of Cyprus.

On July 20, 1974, Turkey's invasion troops first landed on Cyprus. A month later, they returned in a second invasion, grabbing and keeping nearly 40 percent of the island. That illegal occupation continues to this day. In response, the United States instituted an arms embargo against one of our own NATO Allies—an unprecedented move, but one that was justified in response to the actions of the Republic of Turkey.

The embargo has since been lifted. It was lifted with the intention of replacing the stick with a carrot, that is restoring our aid relationship with Turkey in the hopes that the Turks would be more forthcoming in working for a solution to the Cyprus problem. Sadly, that just hasn't been the case. In 1983, the breakaway occupied area unilaterally proclaimed its independence. That declaration was recognized by one country: Turkey. Today, Turkey remains the only country to recognize the breakaway state.

Today, Members of the House have joined in remembering the 1974 invasion of Cyprus. We remember the 200,000 Cypriots who became refugees; the 1,619 people who are still missing—five of those missing are American citizens. We remember that on Cyprus today, Turkey continues to maintain a garrison of over 35,000 troops. That occupation has been expanded by the transfer of some 82,000 settlers from mainland Turkey. And finally, we must remember that the United States in effect subsidizes that occupation with United States foreign aid—to the tune of roughly half a billion dollars a year.

I am pleased and honored to be joined by a number of our colleagues this afternoon, all of whom have played an important role in keeping the Cyprus issue on the front-burner of the United States foreign policy agenda.

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Mr. Speaker, I yield to the gentleman from New York [Mr. MRAZEK] who has been a Member of this body for the past 8 years, has been a vocal spokesman and a very important spokesman on the problems of Cyprus, and he has played a very important role in trying to force a resolution of this conflict as a member of the Committee on Appropriations.

Mr. MRAZEK. Mr. Speaker, I thank the gentleman from Ohio [Mr. FEIGHAN], my colleague, for planning this special order to remember what happened on July 20, 17 years ago. Now that 16 full years have passed, we have seen 16 years of ignoring the human rights of the Cypriot people, 16 years of ignoring United Nations resolutions and all other diplomatic pressures. Turkey has ignored the Nixon, Ford, Carter and Reagan administrations, and they have ignored more congressional resolutions than one can dream of in the last 17 years.

Mr. Speaker, the fact is that Turkey very much likes the status quo on Cyprus. They will be celebrating in Ankara on July 20, almost certainly very proud of what they have accomplished, I suppose, over the last 16 years.

There should be no doubt that Turkey is a major part of the problem with respect to solving the challenge of allowing the Cypriot people to live together in peace. Certainly the matter must be settled by Greek Cypriots and Turkish Cypriots themselves, but unfortunately Turkey will not let them. If Turkey withdrew its occupation troops and stopped its financial and diplomatic support, the Greek and Turkish Cypriot communities would, in my opinion, rapidly reach a settlement based on the outlines established by the U.N. Secretary General, Mr. Perez de Cuellar.

Certainly the United States must also share a portion of the responsibility for the lack of progress on Cyprus, and, as Greek Prime Minister Mitsotakis said on his recent visit to the United States:

> The United States cannot remain neutral on this. My impression is that, if the United States upgrades the Cyprus issue, then Turkey would not remain indifferent.

Mr. Speaker, I certainly agree with that statement by the Prime Minister. In fact, the United States has enabled, if not encouraged, continued occupation by virtually the nearly $6 billion in military aid which we have provided to Turkey since the invasion. If there is going to be any change on Cyprus, the United States Congress and the administration must put Cyprus near the top of the foreign policy agenda, and we must take steps to put some real pressure on Turkey.

Mr. Speaker, that is one of the reasons why some of us, including the gentleman from Ohio [Mr. FEIGHAN], the gentleman from Illinois [Mr. PORTER] and myself formed the Cyprus Working Group earlier this year. And that is why I worked hard along with the gentleman from Illinois [Mr. PORTER], who is along with me a member of the House Subcommittee on Appropriations on Foreign Operations to substantially reduce United States military aid to Turkey this year.

Mr. Speaker, the $70 million cut in military assistance to Turkey for fiscal year 1991 is a direct reflection of Congress's concern over Turkey's failure to undertake any efforts to end the division of Cyprus and our dismay over counterproductive actions such as the continued increase in the number of settlers from mainland Turkey and its role in allowing Mr. Denktash to torpedo earlier talks earlier this year in New York.

If significant progress is not made in resolving this Cyprian dispute, then I think Turkey should expect the Congress will press for much deeper cuts in aid to Turkey next year.

What can Turkey do? Well, it can start removing troops, weapons and military equipment from Cyprus, it can dismantle military facilities on Cyprus, it can permit the resettlement of Famagusta. It can support other confidence building measures that will reduce pressures between Greek and Turkish Cypriots. Many of these have been opposed by our United States special coordiantor for Cyprus, Mr. Nelson Ledskey. These are plans designed to bring the two communities together instead of the current actions and policies aimed by Turkey at sustaining a permanent division.

Mr. Speaker, I again want to compliment the gentleman from Ohio [Mr. FEIGHAN], my colleague, who is probably one of our foremost spokespeople in the House of Representatives on a range of foreign policy issues and principally those related to the human rights of people all over this world.

Mr. FEIGHAN. Mr. Speaker, I yield to the gentleman from Illinois [Mr. PORTER] who, as has been mentioned, is a member of the Committee on Appropriations, has been particularly active and focused on the problem on Cyprus and, in his capacity as cochairman of the human rights caucus, has been extremely effective in raising congressional and national American concern for the problems that exist on Cyprus today.

Mr. PORTER. Mr. Speaker, I commend the gentleman from Ohio [Mr. FEIGHAN] for his leadership in focusing the House of Representatives once again on the ongoing division of Cyprus, and I commend him also for his great and constant leadership, not

only in this area, but in matters of human rights and democracy throughout the entire world.

Mr. Speaker, I rise today to focus attention on the one wall that is not coming down.

The Berlin Wall separated the people of that city for nearly 30 years before it crumbled and the people of Berlin were reunited. But the wall that has divided the small island of Cyprus for 16 long years, unfortunately remains intact.

Since the 1974 Turkish invasion, a "Green Line" stretches across the island separating both Turkish, and Greek-speaking Cypriots from their traditional homes. Thirty-five thousand troops occupy the north, exacerbating the division and making more difficult the negotiations necessary to reunification.

Mr. Speaker, these troops must go home. It is unconscionable that the United States, that we, provide hundreds of millions of dollars of military aid to Turkey, and in effect, subsidize the occupation of part of Cyprus and impede the resolution of differences. These troops, Mr. Speaker, must go home.

Mr. Speaker, my wife Kathryn and I first visited Cyprus in 1981, and have been back several times. When we first visited, we were tremendously impressed with the beautiful scenery, the beaches, and the friendly people that we met. But a black cloud hangs over Cyprus in the form of an artificial separation of the island. We have met with the President of Cyprus and the Prime Ministers of Greece and Turkey, to discuss possible solutions to this dilemma. We also met on two occasions, with the Turkish Cypriot leader, Mr. Denktash, but unfortunately, Mr. Denktash has proven a great obstacle to the reunification of this beautiful island.

As a consequence, Mr. Speaker, the Foreign Operations Subcommittee is looking at ways to use United States aid to bring other elements of the Turkish community into contact and communications through cooperative projects with the Greek community. The House Foreign Operations Subcommittee on my amendment, with the strong support of the gentleman from New York [Mr. MRAZEK], who has been such a leader in the Congress, and in the Committee on Appropriations and our subcommittee in focusing on Cyprus and in bringing us together in a unified and joint effort to try to address this problem in some legislative way. The subcommittee reiterated its commitment to resolving the Cyprus issue by earmarking $15 million in this years' appropriations bill for bicommunal projects between Greek-Cypriots and Turkish-Cypriots. Since all travel from the north to the south of Cyprus has been banned for 16 years, the exchange of ideas between Greek-Cypriots and Turkish-Cypriots has been suspended. There is a real danger that the two groups, separated for a long time, will lose touch with each other and fall prey to irreconcilable mistrust and hatred. If this occurs, the division of Cyprus will become much more difficult, if not impossible, to resolve. Bicommunal projects, which bring Cypriots from both sides of the Green Line together, are one of the few ways for Greek- and Turkish-Cypriots to begin a dialog on reunification.

Earlier this year, Mr. Speaker, the Congressional Human Rights Caucus, which I cochair with Congressman TOM LANTOS, sponsored a bicommunal children's art exhibit here in Washington. Representatives from both the Greek-Cypriot and Turkish-Cypriot communities were present and had an opportunity, through the innocent eyes of children, to see that their differences are not as great as they appear when seen from opposite sides of the Green Line.

In addition, on July 4, the Government of the Republic of Cyprus completed its formal application for full membership in the EEC.

□ 1900

This application shows the Cypriot dedication to cooperation and unity and is evidence of the Cyriot Government's desire for long-term political and economic stability for the entire island.

Turkish Cypriots can look to this application as a Greek-Cypriot investment in the future and an invitation to them to share in the relative economic prosperity of the South. I encourage the EEC to accept Cyprus' application.

Other forces are also calling for a solution. Many women on Cyprus banded together to form the "Women's Walk Home Movement" in their marches across the Green Line, Mr. Speaker, they focused the international media on the on-going Cypriot division with the force of peaceful nonviolent protest. My wife, Kathryn, participated in one of these marches and later started the Cypriot Women's Foundation. The foundation's goal is to channel the energies of women on both sides of the Green Line into bicommunal, interactive projects involving mothers and children. Such projects offer a new vision for the society Cyprus must become. Their efforts show that the pressure on both sides to find a solution is increasing. Let us hope that this year will bring a breakthrough.

Mr. Speaker, we commend the efforts of the United Nations through Secretary-General Peres de Cuellar to bring the sides together in peaceful negotiations and hopefully to find the key that will unlock a solution to the reunification of Cyprus.

In his New Year's message, Cypriot President George Vassiliou, a man of great goodwill, a man committed to peace and to reconciliation, asked "Can Cyprus be kept away from the earthshaking developments of 1989, thus constituting the only exception in Europe?"

The answer, Mr. Speaker, must be a resounding, "no." Cyprus must share in the advances that the rest of the world is enjoying and must be united once again.

In closing, Mr. Speaker, let me once again commend the gentleman from Ohio [Mr. FEIGHAN] for his great leadership and for bringing us together in this special order to focus the attention of the House of Representatives on the on-going division of Cyprus and to work together toward bringing the people of Cyprus together once again.

Mr. FEIGHAN. The Speaker, I thank the gentleman from Illinois.

I yield to the gentlewoman from Maryland [Mrs. BENTLEY] who is a cosponsor of this special order this evening and who as a cosponsor of House Resolution 1045 has been particularly active in trying to fashion an American foreign policy that would precipitate a solution to the problem that rages on Cyprus.

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from Ohio for yielding to me.

Mr. Speaker, as I join with my colleagues on the floor of the House today to mark yet another year of occupation of the Republic of Cyprus by Turkish troops, I want to commend the distinguished gentleman from Ohio [Mr. FEIGHAN] for taking this time this afternoon on this special order to discuss this very important international issue.

As has already been said today, Mr. Speaker, it now has been 16 years since Turkish troops invaded Cyprus, occupying nearly 40 percent of the island. Year after year, Members of Congress have come to this floor to denounce this occupation, but when it comes to taking action, precious little is done.

Resolutions are passed, angry statements are made. But in the end, the myth of Turkey as a vital United States ally on the Soviet border prevents this Congress from taking the steps that might drive us closer to a just solution.

What is the Turkish record on Cyprus? Tens of thousands of Greek Cypriots have been driven from their ancestral homes and live even today as refugees in their own country.

Cultural monuments, especially Greek Orthodox churches and shrines, have been destroyed and razed to eradicate any evidence of Greek civilization, in an attempt to make the island ethnically clean of its long Greek heritage.

I would remind the House that it was only within the past year that a United States Federal judge ruled that a precious sixth century Byzantine mosaic, one of a kind in all the world, was ripped from the wall of a church in occupied Cyprus and sent to this country for resale with false Turkish export papers.

Turkish involvement in this case is not a rumor, but a fact found to be true in United States district court. While this mosaic soon will be returned to the Church of Cyprus by court order, this case highlights what the Turks have attempted to do to Greek Cypriot culture during this occupation.

Sixteen hundred Cypriot citizens and five American citizens are still listed as missing from the Turkish invasion, and it is presumed that many still languish in jails on the Turkish mainland.

There is no question that this occupation is in violation of international law. The United Nations has ruled time and time again that Turkey is in the wrong in this matter.

Not one nation in the world, with the exception of Turkey itself, has recognized the creation of the pseudostate, the Turkish Republic of Northern Cyprus.

And this continued occupation has consistently violated U.S. law as well, more specifically the Foreign Military Sales Act of 1961. It was only a few years ago when Defense Secretary Cap Weinberger admitted to Congressman GUS YATRON in a House Foreign Affairs Committee hearing that United States military aid was being used, in violation of the law, to sustain Turkey's illegal occupation of Cyprus.

United States aid to Turkey must be cut and it must be cut deeply until the Turks take real and progressive measures to end their illegal occupation of Cyprus. Congressmen FEIGHAN, BILIRAKIS, and myself jointly introduced legislation in the last session to cut all aid to Turkey until they take such measures.

Dozens of our colleagues, Members from both sides of the aisle, have joined this bill, H.R. 1045, as cosponsors. This bill has also been introduced in the Senate with five Senators as cosponsors.

I believe we have sent a clear message to the Turkish Government that there are a significant number of Members of Congress in both Chambers, from both political parties, who are concerned enough about the Cyprus crisis to seek not only to limit aid to Turkey but to cut it entirely, until the crisis is resolved.

I also would note that the European Economic Community, the EEC, earlier this summer for the first time indirectly linked Turkish membership in the Community with progress on the Cyprus crisis.

What was the Turkish response? The Turks immediately proclaimed that all of Europe had taken the side of the Greeks in a political dispute.

Why is it, Mr. Speaker, that Turkey, isolated and alone, feels it has the only correct position on the Cyprus crisis? Are the United Nations, the International Court of Justice, the United States, and the EEC all wrong on this issue?

I think not. Turkey has isolated itself in its own protective shell in which it has been able to ignore world criticism. This has worked for the past 16 years, because of Turkey's so-called strategic importance to the United States.

But I would say with much certainty that in 1990, the people of many nations that Turkey formerly helped us monitor and guard against are today very much freer than the citizens of Turkey itself, where Kurds and Armenians are still repressed, and where even ethnic Turks live with many political restrictions.

The Turks would have you believe that they alone have been staunch United States allies in the eastern Mediterranean region of the world. Let us take a closer look at this myth of Turkish friendship.

In October 1973, during the war in the Middle East, Turkey permitted Soviet military overland convoys to resupply Syria and Iraq, and military overflight permission for the Soviet Union to resupply Egypt.

During this same period, Turkey refused to allow the United States refueling and reconnaissance facilities during the American airlift to Israel.

Between 1976 and 1983, Turkey allowed, over United States and NATO objections, three Soviet aircraft carriers, the *Kiev*, the *Minsk*, and the *Novorosiisk*, to pass through the Bosporus and the Dardanelles Straits. These transit rights constituted a direct violation of the 1936 Montreaux Convention, and posed a serious threat to the U.S. Sixth Fleet.

In 1977, Turkey allowed the Soviets overflights to resupply the Ethiopian rebels who eventually won their struggle to establish a Marxist government in that country. A direct result of this action was the elimination of the U.S. military facility in Eritrea.

In 1978, Turkey signed a nonaggression pact with the Soviet Union, while at the same time a NATO member.

In 1979, Turkey refused United States requests for U-2 intelligence flights for SALT II verification, because the overflights were not cleared with Moscow.

Also in 1979, Turkey refused a United States request to send 69 marines and six helicopters to United States military bases in Turkey for the possible evacuation of Americans from Iran and for the protection of the United States Embassy in Tehran.

In July 1975, Turkey broke a United States-Turkish agreement and unilaterally closed American intelligence bases in Turkey in response to this House's vote to continue its rule of law military embargo of Turkey in response to the invasion of Cyprus.

In 1983, Turkey refused a United States request to censure the Soviet Union as a response to the downing of Korean Airlines flight 007.

In 1987, Turkey refused to allow the United States permission to support military action in the Persian Gulf from its bases in Turkey.

Also in 1987, Turkey denied a United States request from Secretary of State George Shultz to restrict airspace rights to Libyan and Iranian aircraft believed to be carrying chemical weapons and mines to and from Tehran.

In 1989, Turkey rejected a United States request to inspect a Mig-29 Soviet jet fighter that was flown to Turkey by a Soviet defector.

In 1989, the Turkish Government ordered all Turkish official buildings, including the Turkish Embassy in Washington, to fly their flags at half mast during the funeral of the Ayatollah Khomeini.

Premier Ozal's message of sympathy to Iran mourned, and I quote, "the death of honorable Khomeini, a person who carried out a great revolution in the history of Iran * * *."

It should be abundantly evident that the myth of Turkey as an ally does not stand up in the light of day. It is a myth, created by $2 million plus of Turkish money each year, to such Washington lobbying firms as Hill & Knowlton and others.

I urge the House to look at the facts, see past the myth of Turkey as an ally, and stand up for the people of Cyprus, who have endured brutal occupation for 16 years, an anniversary we will mark in 2 days.

Until Turkey withdraws the occupation troops from Cyprus, let us advise Turkey now that this Congress means business. Let us stand with the United Nations and the EEC, all of whom are united on the only just solution for Cyprus' future.

I commend my colleagues for taking time from their schedules today to participate in this special order, and I would ask each of my colleagues to consider what you can do to put on the pressure to end Turkey's illegal occupation of the Republic of Cyprus.

Mr. FEIGHAN. Mr. Speaker, I thank the gentlewoman from Maryland who from her statement today we can all see has a very deep grasp of the problems related to this whole issue of the conflict on Cyprus, as well as having a wide range of very sensible recommendations for proceeding, and I thank the gentlewoman very much for being part of this today.

□ 1910

The ranking minority member of the Subcommittee on Europe and the Middle East, the gentleman from New York [Mr. GILMAN], has been particularly helpful over the past several years in trying to fashion a policy that is responsive to the problems and that can ensure that we are turning to the foundations of American foreign policy on this issue, to ensure the protection of human rights and the integrity of all the people on that island, and I would like to recongize now the gentleman from New York [Mr. GILMAN], the ranking minority member of the Subcommittee on Europe and the Middle East.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I commend the gentleman from Ohio [Mr. FEIGHAN] for arranging this special order in order to enable us to review the Cyprus issue.

Mr. Speaker, on July 20, 1974, Turkish troops invaded the island of Cyprus. Since that time, Ankara has maintained an occupation force, 30,000 strong, in northern Cyprus. The United Nations, with United States support, has been promoting an intercommunal negotiating process aimed at creating a new federal republic on the island. Such a federal republic would be a bicommunal, bizonal, nonaligned, and independent state.

Since late 1988, Greek Cypriot President George Vassiliou and Turkish Cypriot leader, Rauf Denktash have been meeting with U.N. Secretary-General Perez de Cuellar. After a June 1989 meeting in New York, U.N. officials circulated a draft outline to the two sides, outlining points of possible mutual understanding on such issues as territorial concerns, security guarantees, and the nature of the new constitution.

The United States Government has monitored developments in Cyprus most closely. Our Foreign Affairs Committee annually authorizes $15 million to Cyprus with the intent of promoting bicommunal projects, and to provide scholarship money to Cypriot students. Our executive branch has also played an important role in the quest toward a peaceful resolution to the Cyprus problem. To that end, I would like to commend our special coordination to Cyprus, Ambassador Nelson Ledsky, for his outstanding negotiating efforts. But frustration remains. During the last round of talks in New York, Turkish Cypriot leader Denktash once again demonstrated an intransigent attitude, by failing to negotiate issues of importance, and thereby ending progress toward peace.

Mr. Speaker, July 20, 1990 unhappily, marks the 16th anniversary of Turkey's illegal presence on the island of Cyprus. Turkey's invasion of Cyprus killed thousands of Cypriots, and displaced an additional 150,000 from their homes. The division of Cyprus has resulted in violent confrontations along the so-called Green Line for the last 16 years.

Accordingly, I join my colleagues in urging President Bush, and Secretary Baker to place Cyprus at the top of our Nation's foreign policy agenda. The executive and legislative branches of our Government must join together, to send the strongest message possible to Ankara: "Get those troops and military equipment out of Cyprus now."

Mr. FEIGHAN. Mr. Speaker, I want to thank all my colleagues for taking the time to participate in this special order. This group of Members, along with other Members who are unable to be here, but have submitted statements for the RECORD, have shown a special commitment to keeping this issue alive.

I support this effort because I think the commitment stems from some very fundamental principles upon which U.S. foreign policy is built—the principle for respect for international law; the belief in the peaceful settlement of disputes; and a commitment to the cause of human rights—including the right to move freely in one's own country, to own property and to live where one chooses.

The anniversary of the 1974 invasion is not only a time to recount the history of these sad events. It is a time to assess what has transpired in the past year, and most important, it is a time for Members of Congress to advance concrete suggestions for the administration to pursue in addressing the Cyprus question.

One year ago, expectations for a solution ran high. On Cyprus, President George Vassiliou continued his efforts to advance the prospects for a negotiated settlement, based on the U.N. framework that would guarantee a unified, Federal solution to the Cyprus problem. President Vassiliou and Turkish-Cypriot leader Rauf Denktash met for over 100 hours of bicommunal talks aimed at developing a draft framework agreement.

Sadly, that effort collapsed in March 1990 when Mr. Denktash torpedoed the talks. The talks began with an opening statement by Secretary-General Perez De Cuellar, after which Mr. Denktash launched into a verbal assault on the Secretary-General's comments. Denktash's remarks included the introduction of new terms that changed the nature of the draft agreement and fell outside the mandate of the Secretary-General to pursue a Federal solution to the Cyprus problem.

To long-time observers, Denktash's performance in New York was premeditated—calculated in advance to scrap the talks. The Atlanta Constitution got it right in its editorial following the talks:

The refusal to budge by Rauf Denktash, leader of the so-called Turkish Republic of Northern Cyprus, goes beyond stubbornness. Cyprus' trouble has festered too long. His inaction seems calculated to make it worse.

The talks are now at a standstill. The occupation continues. The hope of a solution is like a flame flickering at the end of a long dark tunnel. If ever there was a time for intense, concerted American diplomacy, it is now.

By and large, I have to credit the Bush administration with having a very positive approach to the Cyprus problem. I applaud the appointment and the conduct thus far of the President's Special Coordinator for Cyprus, Ambassador Nelson Ledsky. I also applaud the President's own statement, issued early last year that the status quo was unacceptable.

However, I have to say that I am somewhat disappointed by the administration's failure to back up these positive moves with clear and unambiguous efforts to bring about a resolution of the Cyprus problem. Longstanding U.S. policy has been to support the good offices mission of the U.N. Secretary-General. We all support the efforts of the U.N. Secretary-General. But the United States needs to do more. We need to deliver a message to the leadership in Ankara—forcefully, unambiguously, and repeatedly—that the United States-Turkish relationship will continue to be threatened by a failure to reach a settlement on Cyprus.

As a member of the Foreign Affairs Committee, I find it increasingly difficult to continue to acquiesce in sending hundreds of millions of dollars in United States foreign aid to Turkey, each year, while Turkish troops remain on Cyprus.

While we witness the enormous changes in Eastern Europe, the ending of the cold war between East and West, the winding down of regional conflicts in Afghanistan, Central America, and the Far East, I am increasingly frustrated by the fact that the administration is unwilling or unable to focus the kind of diplomatic, political, and economic tools at our disposal to help resolve the Cyprus conflict.

In closing, I would once again call upon President Bush to make good on his statement that the status quo is not an acceptable solution to the Cyprus problem. I think that it is now appropriate and timely for the administration to back up that statement by seriously considering the conditioning of United States aid to Turkey on the Turks' willingness to help reach a resolution on Cyprus.

Such an action will ensure that U.S. policy in the region accords with fundamental principles that we have always supported. It will send a message to our allies in Greece, Turkey,

and Cyprus that despite all the changes in the world, we do not want to see the Cyprus problem left unresolved. And it will send a message to all Cypriots—Greek and Turkish—that the United States supports the establishment of a unified, Federal Republic on Cyprus, free of occupation from foreign troops and committed to the protection of human rights of all Cypriot citizens.

Mr. CONTE. Mr. Speaker, I rise to join in this special order, and I congratulate Representative FEIGHAN, BILIRAKIS, and BENTLEY for calling it today.

We live in a remarkable era. Throughout the world, in nations near our borders and far away, ordinary people are settling their differences in peace and joining together to build free, democratic and united societies. A blessed era of democracy and freedom has come to the nations of Eastern Europe. The dictators have gone from South America. Change is proceeding before our eyes in South Africa and the Soviet Union.

Mr. Speaker, it is frustrating, tragic and angering that a similar change has not yet come to Cyprus. For 16 years now, the beautiful island has been divided. Tens of thousands of refugees have been barred from their neighborhoods and their homes. The families of over 1,600 people—Greeks, Cypriots, and Americans—have been denied the knowledge of the fate of their parents, their brothers and sisters, their sons and daughters. Sixteen years is far too long.

In the last months, we in Congress have been honored with the presence of giants—men and women whose stature ranks with that of our own Founding Fathers. Lech Walesa, Vaclav Havel, and Nelson Mandela came to this Hall to tell us of their countries' hopes, the dreams of democracy their people share, and the struggles they face in the years to come.

It is my fond hope that very soon, the leader of united Cyprus will address us in this Hall. That leader will speak of the Cypriot nation's commitment to build prosperity, unity and tolerance, and ask for our support in that noble endeavor. That leader will not speak of Greeks or Turks or of Christians and Moslems, but simply of Cypriots working and living together.

Mr. Speaker, that day has been delayed too long. After 16 years, the time has come to make the Green Line vanish as completely as the Iron Curtain and the Berlin Wall have. Mr. Speaker, the time has come.

Mr. BROOMFIELD. Mr. Speaker, while I commend Congressman FEIGHAN and his colleagues for their initiative in sponsoring this special order, I regret to say that July 20 marks the 16th anniversary of the tragic Turkish invasion of the Cyprus.

For many years, I have closely monitored the sad situation on Cyprus and must honestly say that an essential factor is missing from the peace process. That element is a serious Turkish commitment to resolving the problem. The key to a settlement on Cyprus is clearly in Ankara. Until our Government informs Turkish officials that they must become fully engaged in putting the Cyprus problem to bed, there will be no peace on that cruelly divided island.

The 1974 Turkish military operation on Cyprus took the lives of 4,000 Greek Cypriots and displaced 200,000 more who became refugees in their own land. They lost billions of dollars in property and personal assets in the process of being driven out of the north. A young Michigan resident and American citizen, Andrew Kassapis, was visiting Cyprus at the time of the invasion. He was taken away from his home on the island and never seen again. Andrew is among the nearly 1,614 Greek Cypriots who are still classified as "missing" since their bodies have never been found.

Since the attack, 30,000 Turkish troops have occupied the northern part of the island and 60,000 Turkish settlers have been brought from Turkey to live there. The troops are armed with United States-supplied equipment that was originally given to Turkey for NATO defensive purposes. U.N. troops along the Green Line divide the island into two separate entities and bar passage across the line. There is essentially no contact between the two communities there.

Although the United States-Turkish military relationship was suspended after the invasion, the United States Government again began to provide Turkey with arms with the clear understanding that Turkish occupation forces would be withdrawn from the island. That promise was ignored. Sixteen years after the invasion, the northern part of Cyprus remains an armed camp.

Although the intercommunal talks appeared to be making some progress last year, those talks are now on hold. The leader of the Turkish Cypriot community, Mr. Denktash, derailed the U.N.-sponsored talks in March. He criticized the role being played by the United Nations's Perez de Cuellar and offered language in the discussions that fell outside the Secretary General's mandate. President Vassiliou of the Republic of Cyprus still strongly supports the intercommunal process and continues to work for a negotiated settlement of the Cyprus conflict. He has shown a willingness to compromise in the talks and an admirable determination to bring peace to that divided island.

Rather than taking helpful steps, Turkish officials and the Turkish Cypriot leadership have violated relevant U.N. resolutions and international law. They have taken a series of counterproductive actions following the 1974 invasion which are aimed at consolidating the occupation of that island. In 1983, an attempt was made to create a new Turkish political entity in the occupied areas. Only Turkey recognizes that so-called state as being legal. In recent weeks, President Vassiliou applied for membership in the European Community for the entire island of Cyprus. His sound decision, which would benefit all of the people of Cyprus, was widely criticized by Turkish and Turkish Cypriot officials.

Turkey also continues to largely finance its military occupation of Cyprus from United States foreign aid funds. For fiscal year 1991, the administration has requested over $598 million in foreign assistance for Turkey to include $545 million in foreign military financing. During a period of reduced tensions between NATO and the Warsaw Pact, such high levels of military assistance are clearly unwarranted. Where I come from, friends help friends. Is Turkey behaving like a friend? Why should the American taxpayer continue to provide the third largest package of United States assistance levels to a country that does so little to promote peace on Cyprus?

With conflicts being resolved all over the world, it is time for the administration to seize the moment and prioritize a settlement of the Cyprus dispute. It is also time for the Department of State to get tough with Turkish officials who clearly hold the key to the future of Cyprus. If Ankara is unwilling to commit itself to a full-scale peace offensive on Cyprus, the United States Government should seriously consider drastically reducing United States assistance levels to that reluctant government. I will be more than willing to introduce appropriate legislation that cuts Turkish aid levels. It is time to resolve the longstanding Cyprus dilemma and put that difficult problem behind us.

Mr. DELLUMS. Mr. Speaker, I want to thank Congressman FEIGHAN for requesting this special order.

The Turkish invasion of Cyprus in 1974 was a very sad event. It had many consequences. One particularly poignant tragedy is the disappearance of several Americans during the 1974 hostilities. As of today, there are several unresolved cases of American citizens who have not been acknowledged to be either Turkish prisoners or among the dead.

These Americans are among some 2,000 persons still missing since the Turkish invasion. The Turkish Government denies knowledge of them.

One case is especially well documented. Andrew Kassapis, then 17, was born in Detroit. He grew up with his family in suburban Highland Park.

In 1967, the family went to Cyprus to visit grandparents and to provide a warmer climate for Andrew's father, who was in ill health.

The family decided to stay in Cyprus until the children finished their secondary education.

On July 20, 1974, the Turks invaded Cyprus. On August 14, disturbed by constant airplanes over their home in Asha, about 12 miles from the capital of Nicosia, they decided to flee in the family car.

As they pulled out of their garage, two columns of Turkish tanks lined the street about 20 yards away. They returned home.

A half hour later, four Turkish soldiers broke down the door but the Kassapis' American passports gave them a reprieve. For the next 5 days, about every half hour or hour around the clock, Turkish soldiers and Turkish Cypriots went to the home and searched it. The American passports kept them from arrest.

But on the sixth day—August 20—Turkish Cypriots in uniform ignored the passports, and took away Andrew, then 17, and his future brother-in-law. As a final gesture, the father handed Andrew his American passport.

Three days later the rest of the family was removed from the home by Turkish authorities and eventually trucked to Larnaca, in the unoccupied area. Their house, their car and other belongings were confiscated.

The father went to the American Embassy, to the United Nations and to relief organizations. The result? No results.

On October 25, a Greek Cypriot prisoner repatriated from Turkey, found the father and re-

peated to him the message he heard coming from the basement of Amasia prison in Turkey. The young man was there.

Mr. Kassapsi went to the American Embassy again. Turkey still denied knowledge.

A little later, a list of 136 Greek Cypriot students slated for release was given to the United Nations by Turkey. Andrew Kassapis was on the list. Ninety-five students were indeed released but 41 were not. Kassapis was one of the latter.

The father journeyed to Washington to seek congressional and administrative aid. He received much sympathy—but not his son.

Our Ambassador in Nicosia personally discussed the case at length with a senior Turkish Cypriot authority on four more occasions, the last of which was in January 1976. The Turkish Cypriot authority said he had checked both through official and informal channels and was unable to develop any specific information on Kassapis' fate, although he did have reports of deaths having occurred in the area and at the time in which Andrew Kassapis disappeared.

Our Ambassador in Ankara also raised the case with the Turkish Foreign Minister on August 13, 1976 and the Foreign Minister recounted the steps Turkish authorities had taken at the request of the United States to locate missing American citizens who had been in northern Cyprus. The Foreign Minister could add no further information on the fate of Kassapis.

Our Ambassador in Nicosia discussed the case and our efforts with Mr. Costas Kassapis, Andrew's father, on July 17, 1979. The Ambassador wrote later that year to several Congressmen, who had inquired on behalf of Mr. Kassapis, that further efforts to obtain additional information had been unsuccessful.

The Turkish Government must be held accountable until it provides the requested information on the fate of Andrew Kassapis, the other Americans and the 2,000 missing Cypriots.

Mr. APPLEGATE. Mr. Speaker, on the 16th anniversary of Turkish occupation, the island of Cyprus remains divided. A 1974 coup by the Faction of Greek Cypriots and the Greek Army to bring about union of Cyprus with Greece prompted an invasion and occupation which has left refugees on both sides of the Green Line.

While both Greek and Turkish troops had been stationed on the island of Cyprus, the July 1974 coup compelled Turkey to invade militarily to protect its citizens on the island and keep the small country from uniting with Greece. Less than 1 month later, Turkish troops and civilians occupied 41 percent of Cyprus. Over 200,000 Cypriots were forced to flee their homes in the northern territories leaving homes, businesses, and personal belongings behind. The Turkish Government brought in 60,000 civilians to live in the homes left empty, giving the Turks a democratic majority. Meanwhile, in the south, the Cypriot refugees were forced to start over from nothing.

Mr. Speaker, on behalf of Cypriot-Americans in the 18th District of Ohio and the citizens of Cyprus, I appeal for the Turkish troops to leave the island of Cyprus. The citizens of Cyprus desire the rights of free movement, free trade, and freedom to acquire land throughout their country. The people of the island of Cyprus deeply desire the basic human and democratic right that is fundamental to our great Nation—the right of the minority to be heard.

Mr. FAZIO. Mr. Speaker, on November 9, 1989, the world was witness to an historic event. The Berlin Wall, symbol of East-West tension which has divided friends, families, and a nation for decades, came down. While this was a great stride toward freedom for the entire world, it was also a reminder of the human suffering that results from the political divisions of territory. And yet, I believe that this event should give world leaders the encouragement to forge solutions to divisions that still exist in other divided areas throughout the world.

Thirty years ago, the island of Cyprus became an independent state; however, for 17 years, the northern part of the island has been under the grip of foreign occupation, creating a divided capital, Nicosia, and a divided nation. Since the 1974 invasion, a Green Line has stretched across the island separating both Turkish and Greek speaking Cypriots from their traditional homes; 200,000 Cypriots have become refugees in their own country, leaving behind land, homes, and personal property worth millions of dollars. And the decades that have followed have been marked with violence and bloodshed.

For several years, the United Nations has worked hard to bring about a resolution in Cyprus. However, the most recent U.N. meeting, held in March, ended in deadlock. As a NATO ally to both Greece and Turkey, the United States should use its strong relationships with these countries to promote the peace process. On the eve of the anniversary of the Turkish invasion, we must pledge our continued efforts to help stabilize this troubled nation and end the reign of terror for so many of this Nation's citizens.

Mr. ANNUNZIO. Mr. Speaker, on the occasion of the 16th anniversary of the Turkish invasion of Cyprus, I rise to join with my colleagues in the House of Representatives in calling for an end to the illegal occupation of this country.

Sixteen years ago, on July 20, 1974, Turkish armed forces occupied the Northern part of Cyprus, forcing 180,000 people to abandon their homes and flee south. Ancient churches were destroyed, and numerous atrocities were committed against Greek-Cypriots by their Turkish invaders.

Today, under the nonpartisan eye of the United Nations Secretary General, negotiations to reach a peaceful resolution to this occupation, are at a standstill. These talks were undermined by the unreasonableness of Rauf Denktash, leader of the Turkish occupiers, and I believe that it is appropriate for the United States to now turn up the pressure and play a decisive role in resolving this situation.

As the wave of democracy continues to sweep across Europe, the time has come to let the Turkish government know that the status quo of a divided Cyprus is no longer acceptable. Inasmuch as the role of NATO is now changing and is being redefined, all arguments of providing any United States economic or military assistance to Turkey must also be reevaluated. Congress must end United States aid to Turkey, until this illegal occupation comes to an end.

Mr. Speaker, on the occasion of the 16th anniversary of this illegal occupation of the Republic of Cyprus, I am glad to have the opportunity to join with my colleagues in the House of Representatives in recommitting ourselves to taking whatever steps are necessary to return Cyprus to its former status, free from the occupation of foreign forces.

Mr. MANTON. Mr. Speaker, I would like to thank my colleagues Mr. FEIGHAN, Mr. BILIRAKIS, and Mrs. BENTLEY for reserving this time to remember the 1974 Turkish invasion of Cyprus.

Mr. Speaker, Friday, July 20, 1990, will mark a grim and solemn anniversary. On that day 16 years ago, Turkish forces illegally invaded the island nation of Cyprus; 4,000 Greek Cypriots lost their lives as a result of this invasion.

Mr. Speaker, the past year has been a momentous one. We have witnessed the fall of the Berlin wall and the release of Nelson Mandela from jail. However, despite the hope and optimism these events have inspired, the island of Cyprus remains the center of a bitter dispute: 35,000 Turkish troops still occupy northern Cyprus and 200,000 Greek Cypriots are refugees in their own land.

Mr. Speaker, the Cyprus issue is sometimes characterized as a problem which can be equally blamed on Greeks and Turks alike. I submit this is not the case. We must remember that the Turkish invasion of Cyprus violated stipulations of United States foreign assistance law and several bilateral agreements between the United States and Turkey. Turkey's occupation of Cyprus also violates the Treaty of Lausanne of 1923 in which Turkey renounced all claims to Cyprus.

Mr. Speaker, as a NATO ally, Turkey enjoys a special relationship with the United States. However, we must not allow this military relationship with Turkey to cloud our judgment on the issue of Cyprus. The United States cannot ignore Turkey's violations of International law and the NATO Charter simply because they are perpetrated by an ally. In fact, the United States should use the leverage this relationship provides to urge Turkey to work toward a settlement to this conflict.

Mr. Speaker, the United States currently sends Turkey half a billion dollars annually in foreign assistance. Given Turkey's violation of United States and international law, I believe we must reexamine this commitment. Earlier this year, Rauf Denktash, leader of Turkish Cypriots was quoted as saying, "It is our existence which has prevented Cyprus from becoming a NATO base." Mr. Denktash has also spoken out in strong terms against our country's desire to end the division of Cyprus. Although U.N. Secretary General Javier Perez de Cuellar has been working tirelessly to promote a peaceful settlement of the division of Cyprus, Mr. Denktash has continually thwarted his efforts.

Mr. Speaker, Mr. Denktash's actions and statements serve to underscore what friends of Greek Cypriots have known for a long time: that United States foreign assistance to Turkey injures American interests. The unlawful Turkish occupation of Cyprus must not be tolerated. The United States must show

Turkey we have not forgotten their presence on Cyprus and we have not forgotten the devastation the Turkish forces wrought in 1974.

Mr. WOLPE. Mr. Speaker, as we watch the winds of change blow through Eastern Euopre, Central America, and South Africa, sadly the island of Cyprus continues to suffer the effects of the Turkish invasion in 1974.

On July 20, 1974, the Republic of Cyprus was invaded by Turkey, a member of NATO, resulting in the continued occupation of 37 percent of the territory of the republic, the forceful expulsion of 200,000 Greek Cypriots, the unknown fate of 1,619 missing Greek Cypriots, the unknown fate of 8 missing American citizens and the plundering of the Cypriot cultural, archaeological and religious heritage in the occupied area.

The Cyprus dispute has been allowed to fester for too long. Efforts by the United Nations to find a settlement to this conflict have been fruitless. The most recent U.N. meeting, held in March, ended in deadlock due to the continued intransigence of Turkish-Cypriot leader, Rauf Denktash. Members of Congress have, in a bipartisan fashion, criticized Mr. Denktash for torpedoing the talks.

It is essential, in my judgement, that Congress send a strong message to the Turkish leadership that the Cyprus problem will continue to be an obstacle to better United States-Turkish relations, and that the status quo is unacceptable. A peaceful settlement to this conflict will help ease NATO tensions and, at least, bring justice to the people of Cyprus.

Mr. YATRON. Mr. Speaker, I rise in strong support of today's special order to mark the 16th anniversary of Turkey's invasion of Cyprus. I commend the sponsors of this special order, Representatives FEIGHAN, BILIRAKIS, and BENTLEY for their continued leadership in focusing attention on Cyprus.

The miraculous developments taking place worldwide in Eastern Europe, and Nicaragua, and the peaceful resolution of several regional conflicts, is largely the result of a sustained commitment by the United States and the western alliance to promoting our shared goals and objectives. Our guiding principles, representative government, respect for individual human rights, and self-determination have unified successive administrations and congresses for generations.

The victory of democracy has given many of us hope that the United States would use its influence to promote the same goals on Cyprus. Unfortunately, Congress and the executive branch are not united on a policy toward Cyprus.

Mr. Speaker, the United States should be consistent in promoting the same policies on Cyprus that we have for the rest of the world. But the fact of the matter is that Cyprus is not a dispute that fits into the traditional East-West conflict that we are now seeing resolved. Policymakers, particularly in the executive branch, have tended to look at Cyprus as a symptom of a larger problem between Greece and Turkey. The notion of the United States taking sides in a conflict between two allies has never been well-received at the State Department or the Pentagon. Even when it is clear that one country—Turkey—is the aggressor the policy of not taking sides—which is a policy of benign neglect remains the preferred option.

Mr. Speaker, in the 1970's, Congress imposed an embargo on military aid to Turkey in response to its invasion of Cyprus. Since the embargo was repealed, Congress has regularly spoken out against Turkey's unjust occupation. Annually the Congress caps assistance to Turkey to reflect the commonly used 10 to 7 ratio in aid for Turkey and Greece. This ratio sends a policy signal to Ankara that it should not expect an improvement in relations with Washington as long as it occupies Cyprus.

Mr. Speaker, last spring the U.N. Secretary General's most recent initiative to achieve a peaceful settlement on Cyprus was scuttled by the Turkish-Cypriot leader, Rauf Denktash. Mr. Denktash's intransigence that fact was recognized by the international community which has long supported a settlement to this dispute.

The Turkish-Cypriot leadership and the Government of Turkey thought that by undermining the U.N. talks, the rest of the world would accept a permanent division on Cyprus. They were wrong.

As long as Turkey occupies Cyprus the United States Congress will continue to opposed executive branch proposals to improve relations with Ankara and our European allies will continue to bar Turkey from joining the European community.

Mr. Speaker, a settlement on Cyprus which protects the security for all people on Cyprus would be good for Cyprus, good for Greece and Turkey, good for NATO and good for the United States. The 16 years of occupation has not lessened our desire to see peace on this war-torn nation. It has strengthened it.

Mr. Speaker, once again, I commend my colleagues for convening this special order. I hope next year we can celebrate a peaceful settlement to the Cyprus dispute instead of the 17th year of the Turkish invasion.

Mr. GALLO. Mr. Speaker, we are here today to voice our concern for the people of Cyprus and to express strong support for finding a lasting and peaceful solution.

I am disappointed that the many efforts by the U.N. Secretary General to mediate a solution between Greek and Turkish Cypriots have failed. The current stalemate in these negotiations serves no one; it hurts all parties to the negotiations and hurts most the people who struggle day to day to live stable, productive lives in that strife torn country.

As a member of the Foreign Operations Subcommittee of Appropriations, I have supported the 7:10 ratio that is used to set military aid levels to Greece and Turkey as a means to encourage all parties to negotiate a settlement. However, I strongly believe that a lasting solution cannot be reached unless and until foreign military forces are removed from Cyprus.

I have also supported funding for bicommunal projects between the two communities of Cyprus. This small amount of aid helps to build bridges of understanding and mutual respect among all Cypriots. We should continue our support in this area.

Finally, let me add my voice to those of my colleagues urging all parties to return to the table, to negotiate in good faith, to remove the troops, and to allow the Cypriot people to move on with their lives.

Mr. FAUNTROY. Mr. Speaker, I am pleased to join my colleagues in this special order addressing the situation in Cyprus. American foreign policy, in the case of the island of Cyprus, has been one ridden with contradictions. While United States policy is to press for the removal of Soviet troops from Angola and Ethiopia, our Government appears to tolerate Turkish occupation troops and colonialism in Cyprus. We call, as we should, for free elections, majority rule, and rule of law in the Philippines, Panama, and elsewhere, yet we stand mute as an 18-percent minority executes veto power over all major government decisions in Cyprus. Mr. Speaker, the United States should have a foreign policy with one standard, promoting self-determination and human rights for all people.

Because Britain bears the overall responsibility for the Cyprus tragedy, and the United States primary responsibility for the tragic events of 1974, both countries have a moral and political obligation to work for diplomatic negotiations between the Cypriot and Turkish peoples, peaceful evacuation of the Turkish military, and self-determination for the people of Cyprus.

Historically, it must be recognized that the legacy of colonialism and occupation has played a major role in contributing to the communal conflict in Cyprus.

I join my colleagues in urging our Government and that of Great Britain to now develop effective policies that can lead to a non-violent resolution of the long standing communal strife in Cyprus and to assist the people of Cyprus in the effort to obtain self-determination.

Mr. RUSSO. Mr. Speaker, I want to thank my colleagues from Ohio, Maryland, and Florida for arranging this special order on Cyprus. I am pleased to have this opportunity to again speak out against the illegal Turkish occupation of the small island nation of Cyprus.

Turkish troops invaded the Republic of Cyprus 16 years ago using the pretense that they were protecting the rights of the Turkish Cypriots. This military action, which was condemned by the entire international community, left over 4,000 people dead and resulted in Turkey controlling 37 percent of the island. Some 200,000 Greek Cypriots remain refugees in the unoccupied part of Cyprus, unable to return to their homes in the north, which were seized during the invasion.

The past year has seen changes of a magnitude that none of us in this body could possibly have imagined. The Berlin Wall, the symbol of the East-West conflict, has crumbled and the Warsaw Pact has dissolved as a military alliance. Still, the winds of change that have blown through Eastern Europe have yet to reach the shores of Cyprus.

About 35,000 heavily armed Turkish troops continue to occupy the northern part of Cyprus. The Green Line continues to bar the free movement of the Greek and Turkish Cypriots, and the Government in Ankara continues with its separatist policies on Cyprus. It is unbelievable that in the 16 years since the Turkish invasion so little progress has been made toward resolving the conflict.

Turkey's intention to permanently divide Cyprus became clear in 1983 when they recognized the illegally declared "Turkish Republic of Northern Cyprus." Turkey remains the only country to recognize this illegal breakaway state. Turkey has also greatly complicated the reunification of Cyprus by allowing and encouraging 60,000 Turks to settle in the occupied areas of Cyprus. The influx of settlers from mainland Turkey threatens to permanently alter the demographics of Cyprus and change the culture of Cyprus forever.

The U.N. sponsored talks aimed at the reunification of Cyprus broke down in March after Turkish Cypriot leader, Mr. Rauf Denktash, insisted on introducing concepts and terminology that were contrary to the concepts and terminology previously adhered to by all the parties. Despite the breakdown of the talks, we cannot give up hope.

The United States must do everything in its power to see that the Cyprus dispute is resolved. I agree with the administration's position that the status quo on Cyprus is unacceptable. At this time, however, I believe we must intensify our efforts to end the tragic division of Cyprus, for 16 years is far too long to have let this problem fester.

Mr. PAYNE of New Jersey. Mr. Speaker, as peace flourishes around the globe, Cyprus remains in the throes of civil conflict. The United Nations has mediated over 100 hours of discussions over the last 2 years, but a peaceful solution has yet to be found for the small Mediterranean island. Today, nearly 16 years after the Turkish invasion, national polarity best illustrates Cyprus' lack of a national identity.

The U.S. Special Representative, Mr. Ledsky, deserves commendation for his mediating work between the two communities, but President Bush should receive the credit for the U.S. successes in facilitating peace negotiations. As a member of the Foreign Affairs Committeee, however, I believe that the U.S. should do more. A stronger position comprised of both sticks and carrots should be adopted on the Cypriot issue.

Military aid is our most effective tool and we should use it to that end. The Turkish Government must be made to understand that without the complete withdrawal of its troops and some major concessions from Mr. Denktash, a peaceful resolution can never be attained.

A peace based on the three freedoms of movement, property, and settlement; the concept of a new constitution based on equitable bicommunal participation at the Federal level; and the Cypriot resettlement of new Famagusta, are reasonable proposals, supported by much of the international community. However, the Turkish opposition has simply refused to discuss the proposals.

President Vassiliou, on the contrary, has made a commitment to peace that has served as a model for any national leader. He has persistently worked to strengthen efforts to dissolve the Green Line and has consistently availed himself for talks.

As a gesture of confidence, therefore, I believe that the administration should support $15 million in assistance to promote bicommunal development projects and scholarship aid to educate young Cypriots. This initiative has already passed the full House within the fiscal year 1991 appropriations bill and is now being considered in the Senate. In addition, I believe that we should help to bolster the Cypriot economy by supporting Cypriot efforts to join the European Community.

I would again urge President Bush to call upon Mr. Denktash and the Turkish Government to reaffirm their commitment to peace by returning to the negotiating table. A peace resolution in Cyprus could serve as a model for other conflicted nations in the midst of negotiations, and the United States should work to play a larger role in achieving this goal.

Mr. ACKERMAN. Mr. Speaker, I welcome the leadership of Representatives BENTLEY, BILIRAKIS, and FEIGHAN in organizing this special order to mark the 16th anniversary of the Turkish invasion of Cyprus.

On July 20, 1974, Turkish forces invaded Cyprus, citing the need to protect its citizens from Greek Cypriot aggression. Today there are approximately 35,000 Turkish troops and 82,000 Turkish settlers living on the island.

United Nations General Secretary Javier Perez de Cuellar has called numerous times for the removal of Turkish troops and for the protection and recognition of civil and human rights for all people of Cyprus. But although President George Vassiliou of Cyprus has proved willing to negotiate a settlement, the Turkish Cypriot community has demonstrated an intransigent attitude toward resolving this dispute.

President George Vassiliou, of Cyprus, and Rauf Denktash, the Turkish-Cypriot leader, have met several times to attempt to bring about a reconciliation to these 16 years of occupation. Unfortunately, the most recent United Nations meeting, held this past March, ended in the deadlock wherein nothing was resolved. I find it disturbing that Mr. Denktash, as a representative of the Turkish community, has illustrated so little desire to hammer out a settlement to remove Turkish troops on the island.

I can only continue to hope that both sides will work together to resolve this situation. Almost 16 years of forced occupation, bitterness, death, disappearances, and the separation of families is enough. The time has come to end this war. Whether it is a war of bullets or a war of propaganda is irrelevant. Peace must return to this island and we in the U.S. Congress must use every means available to see that it is done.

Ms. PELOSI. Mr. Speaker, several times a year since I was sworn in to Congress, I have joined with my esteemed colleagues to bring attention to the tragic situation in occupied Cyprus. Today, on the 16th anniversary of the Turkish invasion of Cyprus, I rise once again to conclude sadly that no progress has yet been made in peacefully resolving the Cyprus tragedy and the occupation continues.

Throughout the last 16 years, Greek Cypriots have made regular attempts to cross the Green Line which divides their homeland. Their message is clear, the Cypriots have not given up hope for a peaceful reunification and an end to the violations of their human rights.

The peace talks sponsored by the United Nations are still stalled. Rauf Denktash, the Turkish Cypriot leader, continues to demonstrate an unwillingness to participate in the process of bringing this situation to a resolution. Since he ended the talks on March 2, 1990, after participating for only 1 week, Mr. Denktash has steadfastly refused to start them up again.

The situation on Cyprus has been worsened by the threat to much of its cultural heritage. The destruction of and vandalism of historic properties and religious sites of particular importance to Greek Cypriots have been well documented.

I join with the Secretary General of the United Nations in urging the Government of Turkey to recommence negotiations with the Government of Cyprus, to withdraw the occupation forces and to restore peace to Cyprus.

Ms. SNOWE. Mr. Speaker, I would like to commend the gentleman from Ohio [Mr. FEIGHAN] for conducting this special order today to draw attention to the continued agony of Cyprus, 16 years after its invasion and division by Turkish troops.

I wish that it were not necessary to remember this tragic event, and to recite once again the depressingly familiar facts of the Cyprus dispute. This is an exciting and dynamic time in world events, when other conflicts that long seemed irresoluble have swiftly and refreshingly given way to progress.

Freedom is returning to the people of Eastern Europe after decades of repression; the two German states are approaching unification after decades of division; different communities in South Africa are negotiating after decades of hostility; and democratic regimes are prevailing throughout Latin America, after decades of militarism and civil wars there.

Sadly, though, beleaguered Cyprus cannot join Germany, Poland, Namibia, and Panama on the roster of the international success stories of our time. At the beginning of the 1990's, Cyprus is subjected to the same excruciating problem it has endured since 1974: more than one-third of its territory is occupied by 35,000 Turkish troops, supporting 82,000 settlers from the Turkish mainland and the illegitimate, self-proclaimed Government of the "Turkish Republic of Northern Cyprus."

The armed occupation and division of Cyprus are so grievous an offense that they have inspired considerable efforts to resolve this conflict. The U.N. Secretary General has personally sponsored talks between the leaderships of the two Cypriot communities, and I commend him and his representatives for the considerable time and attention they have devoted to this effort. But the talks have become stalemated and the agony of Cyprus persists, for the simple reason that the Turkish Government will not end its occupation and allow a settlement to occur.

In the face of Turkey's obstructionism, perhaps only the sustained and vocal attention of the world community to this issue can make a difference and break the deadlock. The world rightly joined together to remember and to condemn, year after year, the Soviet occupation of Afghanistan and the Vietnamese occupation of Cambodia. I believe that such constant and high-profile international pressure contributed to the withdrawal of foreign forces from those countries.

Surely, Cyprus deserves no less, and I am pleased to note that the United Nations Security Council, the U.N. General Assembly, the

European Parliament, and the Commonwealth have all gone on record in support of a peaceful settlement that will preserve the unity and the territorial integrity of the Cypriot Republic. The European Community has also explicitly linked a resolution of the Cyprus conflict to its consideration of Turkey's application to join the EC.

It is therefore incumbent upon us, as Members of Congress, to use occasions such as this to lend our voices to the international chorus, and to stress that the outrageous violation of human rights, freedom, and international law on Cyprus, caused by Turkey's invasion and occupation of that island, is simply unacceptable, and must be brought to a speedy end. I hope that it will not be necessary to join my colleagues again at this time next year to make the same point.

Mr. OWENS of Utah. Mr. Speaker, 18 years ago, Turkish troops flooded the shores of Cyprus, claiming the lives of more than 4,000 Greek-Cypriots, and casting out 200,000 more from their homes. More than 1,600 are still missing. Today, barbed wire divides the country. Concrete barricades and reinforced checkpoints dot the Green Line. Nicosia remains divided. I wish I could join my colleagues today in remembering this invasion as a tragic event of 1974 alone. However, the events of 18 years linger on Cyprus, as do 30,000 Turkish troops and 60,000 Anatolian settlers.

The world has transformed since then. The monumental changes sweeping the Soviet Union and Eastern Europe continue to reshape our world view and redefine the very meaning of our national security. Just as the Berlin wall entered our lexicon as a symbol of the cold war, so will its fall signal a new age.

From the Soviet Union to Latin America, Eastern Europe to southern Africa, the machinery of political reconciliation is in motion, and many conflicts which have raged for decades are finally drawing to an end. Today we lament not only a tragic event which has come and gone, but a problem made utterly intractable.

I have watched and waited since the first Makarios-Denktash meeting in 1977 through three rounds of talks these last 2 years. I watched the most recent maneuvering of Mr. Denktash in March. It pains me to say that the physical and emotional barriers which divide Cyprus are more daunting than ever before.

In order for the Green Line to disappear, the United States must stop being a spectator. We must embrace our responsibility and put some pressure to bear on Ankara, where the root of the problem really lies. The commendable efforts of President Vassiliou are essential, but he cannot carry the process by himself. The continued work of the U.N. Secretary-General is crucial, but he cannot compel Mr. Denktash to discuss these issues in good faith.

If the astounding changes in the world over the last few months mean anything, they mean that this administration can afford to recognize Turkey for what it really is and put Cyprus where it belongs—at the top of our foreign policy agenda. It's time for us to stop sacrificing justice in pursuit of a cold war conception of Turkey's strategic value.

Some say it's more difficult to bring pressure to bear in a conflict where two friends are involved. I believe that because Greece and Turkey are both NATO allies, the United States has a unique opportunity to serve as an interlocutor and encourage the process of reconciliation. In order for this to happen, however, we must redouble our efforts to raise public consciousness of the Cyprus conflict, and prevent it from slipping further into obscurity.

Mr. HUGHES. Mr. Speaker, I rise today, as a member of the Congressional Working Group for a Just Settlement of the Cyprus Problem, to express my deepest concern about the situation in Cyprus. Divided and partitioned by a Turkish occupation force since it was invaded in 1974, Cyprus has been prevented from joining the tide of peace and freedom that has been sweeping the globe.

It now seems like years since the Berlin Wall came crashing down, even though it happened just a few short months ago. It seems more distant because that historic moment has been followed by an avalanche of cooperative agreements, arms reductions, expansions of civil liberties, and economic reforms. These events in Germany and Eastern Europe point out what can happen when leaders focus their attention on the advantages of cooperation rather than the fear of a different culture.

It is time to end the partition of Cyprus, time to unite this country under one government that respects and protects the rights of all its citizens.

It is also time to recognize that the continuing occupation of Cyprus by the Turkish Army calls into question the need for continued military aid to Turkey. If Turkey can afford to maintain 30,000 troops in Cyprus, perhaps it can afford to provide for more of its own defense needs.

Mr. Speaker, in March of this year, I and 28 of my colleagues in the House sent a letter to President Bush expressing our concern over the stalled talks between President George Vassiliou of the Republic of Cyprus and Turkish-Cypriot Leader Rauf Denktash. That concern has not diminished.

By continuing to provide large amounts of foreign aid to Turkey, our Government bears a special responsibility to ensure that the actions of the Turkish Government promote and do not impede a peaceful settlement of this situation. I urge my colleagues and the President to approach this responsibility with all due seriousness and to work diligently to end the partitioning of Cyprus.

Mr. SCHUMER. Mr. Speaker, I would like to thank the gentleman for organizing and coordinating this special order.

The last 12 months have witnessed dramatic changes throughout Europe. The Berlin Wall has come down, the oppressive Ceaucescu regime of Romania has fallen, and revitalized democratic States have emerged in Eastern Europe. When we survey this encouraging scene, however, we must not forget that peace has not yet come to the island of Cyprus, which remains an occupied and divided nation.

On July 20, 1990, Cyprus will complete its 16th year under Turkish military occupation. At the dawn of a more peaceful and prosperous age, Cyprus remains divided by the guards and barbed wire of the Green Line, splitting the nation into two zones, one Greek, one Turkish. Nicosia remains the only divided capital on the continent of Europe.

Our greatest hope for a reunified and peaceful Cyprus lies with the negotiations initiated by U.N. Secretary Perez de Cuellar. Unfortunately, the talks have broken down. We must encourage the Turkish Government to return to the table, so that these critical talks may resume. The Greek Cypriots under the leadership of President Vassiliou have participated in the negotiation process in the spirit of reconciliation and solidarity; I hope the Turks will follow suit.

Sixteen years of division and strife in Cyprus must be brought to an end, so that a unified Cyprus, like the nations of Eastern Europe, can reap the benefits of democracy and peace.

The time for peace in Cyprus is now. Mr. Speaker, I would like to thank Mr. MANTON for his leadership on this important human rights issue.

Mr. RINALDO. Mr. Speaker, I rise today to join my colleagues in remembering the 1974 Turkish invasion of Cyprus. Since that invasion in 1974, which left over 4,000 people dead, the Cyprus problem has been with us. Cyprus remains one of the few countries in the world that is occupied by a hostile military force.

The world has witnessed historic changes over the past year, with the cry for democracy and freedom ringing out in Europe, Asia, and Central America. Unfortunately, despite the historic changes taking place throughout the world, the Cyprus problem remains deadlocked. The U.N. Secretary General has done everything in his power to resolve the dispute, but unfortunately, the most recent round of negotiations ended this past March in New York.

There is hope for Cyprus. Both the U.N. Secretary General and the President of Cyprus, George Vassiliou, are constantly striving toward a negotiated settlement of the dispute. As the problems around the world continue to be solved the world community will focus greater attention on the remaining problems, including Cyprus. In fact, the Cyprus issue has been raised at the highest levels over the past few months. President Bush and President Gorbachev discussed Cyprus during their recent summit meeting here in Washington. The issue was also raised several times during Greek Prime Minster Mitsotakis' visit to the United States.

Finally, just last week the Republic of Cyprus submitted an appropriation for full membership in the European Community. I welcome this application as a positive step that will benefit both the Greek and the Turkish communities on Cyprus.

Ms. LONG. I commend my colleagues, EDWARD FEIGHAN, MICHAEL BILIRAKIS, and HELEN DELICH BENTLEY for calling this special order. The effects of the 1974 Turkish invasion of Cyprus continue to plague the people of this beleagured nation, and its anniversary serves as a reminder that Cyprus' problems remain unsolved.

Since the invasion in 1974, Cyprus has been segregated into, essentially, two separate entities. Divided by the "Green Line," a boundary that severs the island into Greek

and Turkish communities, Cyprus has lost many of the rights and privileges its citizens enjoyed before the invasion. Restrictions on the right to travel and to associate and the censure of demonstrations for civil liberties are but two of the many reasons the separate communities must be rejoined.

Unfortunately, while there have been many efforts to make Cyprus whole again, the successes have been too few. The U.N. Secretary General has played an instrumental role in the commencement of negotiations between the feuding parties. However, in a U.N. meeting last March, talks ended in a deadlock and it is uncertain whether negotiations will resume. A history of failed negotiations haunts current attempts at renewing the talks.

Although negotiations are currently at an impasse, the United States should actively encourage the removal of the barriers that currently impede the negotiating process. By supplementing U.N. efforts, we can communicate our dismay and concern that the Green Line still exists, and stress the need for both sides to take conclusive steps toward reuniting their divided country. On numerous occasions, President Bush has stated that current conditions in Cyprus are unacceptable. We should reconfirm our support and commitment to a peaceful, unified Cyprus. Negotiations are the catalyst for relieving tensions. We should support such thoughtful measures to foster a meaningful dialog between the two groups, on all levels, and encourage ties that could result in peaceful interaction. With the opportunity to work peaceably together, without the threat of external military intervention, the citizens of Cyprus can be united.

Mr. Speaker, for the past 16 years, Cyprus has suffered a tragic division of its citizenry. Civil and human rights have been compromised, hostilities have endured, and the Green Line persists. Tensions will not disappear, nor will they simply die down. Through an integration of efforts, domestic and international, positive and lasting change can finally occur. I urge my colleagues to reflect on the situation in Cyprus, and to contemplate what measures we can take to help the Cypriots regain a unified nation and the liberties and freedoms that only a Cyprus made whole can provide.

Mr. CARDIN. Mr. Speaker, yesterday I was unable to join the special order on Cyprus with my colleagues, Representative FEIGHAN, Representative BILIRAKIS, and Representative BENTLEY to mark the 16th anniversary of the Turkish invasion of Cyprus. I wanted to join with my colleagues in remembering that for Cyprus it has been 16 long years under Turkish domination.

The status quo in Cyprus is untenable. Secretary General of the United Nations, Javier Perez de Cuellar, has worked hard to bring both sides to the table. Unfortunately, the latest attempt to conduct meaningful negotiations last June and this March resulted in deadlock, due to the continued intransigence of Rauf Denktash. While just last year we held high hopes for progress in the Cyprus situation through negotiations, these aspirations have been virtually torpedoed by Mr. Denktash last March.

While winds of change have blown throughout Europe, they have yet to reach Cyprus. Both Greek and Turkish Cypriots have suffered long enough. That mayors of the Greek and Turkish parts of Cyprus' capital have been working together on joint infrastructure projects demonstrates the ability of both groups to work together to solve the problems on Cyprus. It is very unfortunate that Turkey is unwilling to use this good example to negotiate a settlement to the current situation.

In response to Cyprus' application for membership in the European Community, Mr. Denktash has said he will not return to the negotiating table. Moreover, he also threatens to take over the city of Famagusta-Varosha whose Greek Cypriot inhabitants were driven away by the Turkish Army in 1974. The United Nations Security Council has called for the immediate resettlement of refugees in the city and Turkey has refused. I believe it would be a terrible signal for Turkey to take over Famagusta-Varosha.

The United Nations Secretary General has invested time and effort in an attempt to bring the parties together. He deserves our support. But, Mr. Speaker, perhaps the time has come for our Government to take a more active role in solving the crisis. Perhaps, it is time to make explicit to the Turks that our foreign aid program must take into account progress on Cyprus. Certainly, we should make clear to the Turks that the situation on Cyprus is of paramount importance in any decision to improve United States-Turkish relations. Greek and Turkish Cypriots should be permitted to return to their homes and should be permitted to determine for themselves the future direction for Cyprus.

Mr. BLILEY. Mr. Speaker, today we are once again pausing to mark another year of Turkish occupation of Cyprus. Sixteen years ago, the Turks invaded the Northern portion of Cyprus and have since occupied 37 percent of the island. One third of the population or 182,150 Greek Cypriots, were driven from their homes during the invasion of 1974. Overnight, the Greek Cypriots became refugees in their own land. Today there are 35,000 Turkish soldiers and more than 65,000 illegal colonists in Cyprus.

Recently, President Vassiliou of Greece has applied for membership in the European Community [EC]. He has stated his desire to share economic prosperity with the Turkish Cypriot people. This historic step should be welcomed by the Turkish Cypriots. Since Turkey's invasion and occupation, the economic gap between the Greek and Turkish Cypriots has widened. Turkish Cypriots are worse off relative to the Greek Cypriots even though Turkey seized 80 percent of the island's industry and resort facilities as well as the best farmland. Cyprus' membership in the EC should help improve the economic condition of the Turkish Cypriots.

Unfortunately, Mr. Denkatash, mayor of the Turkish section of Cyprus, has reacted strongly against President Vassiliou's application and declared that he will not return to the negotiating table. Even worse, he threatens to open new wounds by declaring that he will take over the city of Famagusta-Varosha. Once a flourishing resort town boasting Cyprus' best hotels and beaches. Famagusta-Varosha has been uninhabited since its Greek Cypriot residents were driven away in 1974 by the Turkish Army. The Turkish Army still controls the city, which is not a ghosttown. This declaration by the mayor will only worsen conditions and further inhibit any progress toward a peaceful agreement and negotiations.

It has become even more apparent that the Greeks are continuing to make peaceful attempts to neutralize hostilities and return to the negotiating table which has been abandoned since June 1989. While at the same time, it seems that the Turks and their representatives have no intention of meeting at that negotiating table.

Mr. Speaker, I strongly urge my colleagues to work toward a peaceful resolution to the Cyprus situation to the best interest of the Greeks, the Turks and international peace in the Mediterranean.

Mr. BONIOR. Mr. Speaker, I'd like to thank my distinguished colleague, Mr. FEIGHAN, for calling today's special order to mark the 16th anniversary of the Turkish invasion of Cyprus.

Since the August 1974, Turkish invasion, Cyprus has been a divided nation. Today, 25,000 to 30,000 Turkish troops remain in Cyprus. Thousands of Cypriots dislocated by the invasion have been unable to return to their homes or recover their property.

A barbed wire fence cutting across Cyprus, known as the Green Line, is a stark reminder of the Turkish invasion. To this day, Cypriots are not free to travel, buy a house or settle in parts of their own country. People have had to leave the towns and communities that their families lived in for generations.

The United Nations has sponsored negotiations to resolve the differences between the Greek and Turkish-Cypriot communities. Unfortunately, these negotiations have not produced an agreement. The latest round of talks broke down in March when Turkish-Cypriot leader Rauf Denktash brought demands that were outside the authority of the U.N. mission.

Turkey receives over $563 million in United States aid annually and benefits from the protection of the NATO alliance. The time is long overdue for the United States to actively pursue the unification of Cyprus and to apply pressure to Turkey to remove its troops. The Turkish Government must know that the division of Cyprus will continue to be an obstacle to better relations with the United States.

I'd like to mention my support for the application of Cyprus to become a member of the European Community. Membership in the European Community will benefit all Cypriots with much needed opportunity for economic growth. I hope that their application will be received favorably.

As the barriers between the West and the East are falling, we must not forget that Cyprus remains divided. The time has come for the Green Line to meet the same fate as the Berlin Wall. Today, we mark the 16th anniversary of the division of Cyprus. It is my deep hope that when we gather here next year, there will be no 17th anniversary.

Mrs. BOXER. Mr. Speaker, I am both proud and saddened to have this opportunity to participate in commemorating the 16th anniversary of the Turkish occupation of Cyprus.

I am proud to lend my voice to the remembrance of an event that the world should not ignore: The illegal Turkish invasion of the

island republic of Cyprus on July 16, 1974; 6,000 Greek Cypriots were killed in this surprise attack, and one-third of the population was driven from their homes.

I am saddened by this anniversary because the people of Cyprus continue to live in a divided country. The Turkish occupation of a portion of Cyprus has separated family members and forced many Cypriots to become refugees in their own homeland.

Unfortunately, United Nations sponsored peace talks have been on hold since June of 1989. Mr. Denktash, the Turkish Cypriot leader, refuses to abandon the policy of occupation and partition that was staked out 16 years ago this month. Clearly, it is time for the United States to apply more pressure on the Turkish Government in order to bring them to the negotiating table.

One way to do this would be to eliminate all economic and military assistance to Turkey unless the Turkish Government withdraws all its forces from Cyprus, withdraws its recognition of the Turkish Republic of northern Cyprus, and takes positive steps toward revoking the illegal declaration of an independent state in northern Cyprus. This approach is outlined in H.R. 1045, which I am a cosponsor of.

It has long been U.S. policy to support democratic nations. We cannot solve all the problems of Cyprus, but progress toward unification of that country and its people can be made if our Government does what is necessary to encourage Turkey to change its present policies.

Mr. TORRICELLI. Mr. Speaker, this month, we commemorate the invasion of Cyprus by Turkish forces 16 years ago. The people of the United States, and Members of Congress in particular, must use this occassion to reaffirm their commitment to the peaceful resolution of the crisis in Cyprus.

The attention of the world has been diverted by events in Europe. We must be careful that the ongoing problems of Cyprus are not ignored as we celebrate these other events. The people of Cyprus are no less deserving of the world's attention than those elsewhere, since they too are a nation divided, and their Berlin wall still stands.

The United States has sought negotiations between the different parties to the Cypriot problem. The time is ripe for the representatives of all Cypriots to sit down at the table and begin to discuss a future for Cyprus without a dividing line through it. The United States must use its good offices to push the process forward. We must continue to urge the United Nations to press ahead with its visits to the island and its attempts to achieve resolution of the issue. We must also commend and support President Vassiliou for his strong efforts on behalf of peace.

We have seen progress on regional and individual conflicts all over the world in the last, fast-paced year. Let us continue to work to insure that this progress comes to Cyprus as well. The people of Cyprus deserve the same peace, the same rights, as those in Germany, the Soviet Union and elsewhere.

Mr. PALLONE. Mr. Speaker, today I join my colleagues in reminding the world that Cyprus is not free. Just as we shall remember the victims of Tiananmen Square, we cannot forget the 6,000 Greek Cypriots who lost their lives as the Turkish Army occupied Cyprus in 1974. Whether Cyprus is or is not in the headlines, those Greek Cypriots who perished are in our hearts.

It is my hope that Turkish Cypriot leader Rauf Denktash will end his pursuit of partition and prejudice, and open his heart and mind to the constructive actions of Mayors Demetriades and Akinci of the Greek and Turkish parts of Cyprus. By their cooperative actions on the infrastructure needs of Cyprus, the mayors are a symbol of hope on the occupied island.

Mr. Speaker, cement and barbed wire can no longer contain the aspirations of any people, anywhere, for freedom and human rights. May the lessons of Berlin, Budapest, Prague, and Soweto not be lost on the occupiers of Cyprus.

GENERAL LEAVE

Mr. FEIGHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. BRYANT). Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1920

LANGUAGE, THE TIE THAT BINDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 60 minutes.

Mr. EMERSON. Mr. Speaker, last month, an important deadline passed for our friends in Canada. At that time, the constitutional amendments granting French-speaking Quebec recognition as a distinct society failed to win unanimous approval of the English-speaking provinces. Thus, with the strength of the separatist movement in Quebec, the future of a united Canada is in doubt.

We are witnessing in Canada the power of a single province, set apart by language and culture, that appears ready to place its own diversity above the unity of the whole country. Quebeckers apparently hold affection for Canada, but they give prime importance to their language and their distinct society.

We in the United States have a lesson to learn from the Canadian experience. It is the lesson of our Nation's motto: E Pluribus Unum—Out of many, one.

With 148 of the world's 208 language groups represented within our borders, how is it that we in our country remain united? What has made a nation out of this hodgepodge of nationalities, races and colors represented by the immigrants who people our land? Why haven't we fragmented into enclaves of Italians, Greeks, Mexicans, Germans and Poles?

The single most important reason is our common language, English.

We as Americans are united, of course, by love of freedom, feelings of patriotism, respect for individual rights and love of country. These beliefs cannot be seen or felt, but they can be articulated through a common language.

The English language has made possible the communication among all the various elements in our country. It is with our common language that we have dissolved mistrust and fear and drawn up understandings and agreements that make our society possible.

In the Congress, we come from all backgrounds, all nationalities. We are truly a melting pot. We debate, we argue, we huddle, we compromise—using our skills in English to communicate our beliefs on issues and to translate those beliefs into legislation.

We are demonstrating on a national level that in the United States nationhood is based not on race or ethnic or tribal identity, but on a set of beliefs about liberty, equality and individual rights.

It is those beliefs—and the freedom to express them—that keep us united. But it is important to understand that unity does not mean uniformity. To be unified does not mean we all have to be exactly alike. It does not mean we all have to have brown eyes or listen to Bach or like french fries. It means we share common dreams and goals and a dedication to common ideals. And it means we must communicate, really communicate. Thus it is that our common language, English, is the single most unifying force in the history of our country.

Within this framework of unity, fostered by our common language, there is room for a great wealth of diversity. Our country is living testimony to the fact that unity, genuine and solid, allows us—even encourages us—to be diverse. Thus it is that we celebrate our diversity with community festivals, then join together as one nation to celebrate the Fourth of July and Memorial Day.

In Canada, the language issue divides the country into two camps—English and French. The Canadian Government in 1969 passed a law designating both French and English as official languages. Five years later, Quebec—attempting to preserve its distinct language and culture—declared French its sole official language, effectively prohibiting the use of English in every sphere of public

and commercial life. The decision aroused profound resentment among English-speakers in the nine other provinces where the Federal Government imposed bilingualism and spent millions of dollars trying to give the two languages equal status.

The United States cannot ignore language strife in Canada, nor can it dismiss as unimportant the calls for official bilingualism in our country. The Hispanic Issues Conference in Racine, WI, this spring suggested a full bilingual approach in public affairs: Spanish-speaking pollworkers at elections, translators at city government meetings, Spanish language news updates in local newspapers, important information printed in both English and Spanish.

In light of the Quebec experience, we must ask the Hispanic activists who claim to speak for Hispanic Americans if their ultimate goal in the United States is official bilingualism. If it is, we must examine ways to finance government services for the 147 other language groups represented in our country.

The inescapable conclusion emerging from the Canadian crisis is that official bilingualism does not work. The language division over English and French has undermined the unity of Canada. That is the primary lesson for the United States as we respond to calls for bilingualism in our country.

As sponsor of the Language of Government Act, H.R. 4424, I urge my colleagues in the House to join me in affirming the wisdom of designating a single, official language of government.

Mr. Speaker, at this time I am delighted to yield to my good friend and colleague, the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman from Missouri [Mr. EMERSON] for yielding time to me, and more especially for taking time this evening to identify what is becoming a problem in our country. I must say I am shocked and disappointed that 214 years after our developing this country, we would even be here talking about making the English language the official language of our country, one that we would use as a common way of communicating. It is really shocking.

Mr. Speaker, I can remember as a young child talking to families who had emigrated, and all of us have parts of our families that have emigrated from some place, and families talking with pride about how quickly they learned English, and they required their children to learn English right away. Families took pride in the fact that they had come from some other country, but they wanted to adopt English as their language.

Mr. Speaker, what has happened? Why are we here tonight talking about this, and how important is it that everyone in the country should be up in arms saying my goodness, isn't the English language really the official language of our country? Shouldn't we be communicating to everyone in one language? Isn't it still the desire of everyone to speak the English language and learn it?

So it is shocking tonight that we should take the time and find it necessary to take the time, but I do thank the gentleman from Missouri [Mr. EMERSON] for taking this time this evening and bringing up something that regretfully has to be brought up.

Mr. Speaker, bilingual education should not be confused at this time as something that we would not be considering. I remember back in 1968, we had a Bilingual Education Act before this Congress. I believe I probably voted for it, with some thought in mind that maybe we are not doing quite the right thing. But most of us back then who did vote for this had no intention of making the country a multilanguage speaking country, as the gentleman has spoken about regarding Canada and the problems they are having today because they took a similar act.

We did it because we wanted to bring forth the act. We had many emigrants coming into the country, being forced out of their countries, their native lands, for many reasons. We wanted to make it easier for those people to make the jump, make the transition from their country to speaking in the English language. So that was the intent when we passed the Bilingual Education Act of 1968.

But the fact is that it has gone in the other direction. I read the other day with some shock that a number of high schools in this country, in a great many States, allow high school graduates, children who go through elementary education, high school education, that cannot read or write English, graduating from high school in some of our communities. So this again shows the necessity that we must do something along this line.

Mr. Speaker, I, too, am a cosponsor of H.R. 4424. I hope it gets immediate action in the House. We should not have to be here tonight talking about it. We should not be here, but we are. If that is the case, we all should endorse it. I hope Members who are not with us tonight will also cosign and that soon we will have the opportunity to vote on H.R. 4424 in the House.

□ 1930

We are in a very competitive position in the world today. As we move into the 21st century, our pages here and others who are going to be taking up the reins of responsibility for being competitive with the rest of the world, a world that is going to be much more technical, it is not going to be enough to get a high school education anymore and then climb to the top. Some may still do it, but technology is becoming more and more imminent and more and more necessary, and certainly the ability to communicate, to speak the English language is going to be even more required as we approach the 21st century, that highly technical world in which we are going to live.

So I say tonight English should be the language of our Nation. We should not have to be here. But since we are, let us make sure that English is used in our schools, English is required from our people.

I congratulate and thank the gentleman from Missouri for taking the time this evening to point out this very necessary function that we ought to be getting on right away.

Mr. EMERSON. Mr. Speaker, I thank the gentleman from Indiana [Mr. MYERS] for his valuable contribution to this discussion. Mr. Speaker, I hasten to add there is nothing in our proposal that is designed to discourage people from learning a second language. Indeed the proponents of the Official English Language Act encourage us to know other languages. This is really an effort to get us to focus on the fact that we do need the one common language to unite us and that in the process of everyone learning English, there is nothing to say that we should not know other languages as well.

Mr. MYERS of Indiana. Merci beaucoup. Danke schoen. Grazia. And thank you.

Mr. Speaker, I rise as a cosponsor of the Language of Government Act, H.R. 4424, to call attention to a fact I find astonishing as we in this country face the 21st century and move into an era of increased international economic competitivenesss. The fact is that in the United States, there are States in which a student may go through school and graduate without knowing how to speak and write the English language.

I bring this to the attention of my House colleagues to underscore the need for our country to make a commitment to English as our official language and to begin putting more resources into public and private institutions specifically for English instruction.

The Language of Government Act would make English the language of our legislative, administrative, executive and judicial branches of government. Since our Government functions in English now little would change about the manner in which we conduct the public business. But setting a clear language policy would accomplish a very important objective: We will be saying that in order to reap the benefits of living in the United States, it is essential to know English. That message is crucial to the future of our country.

There are many reasons for encouraging our citizens to learn English, but I can think of none more compelling than our economic wellbeing. U.S. companies depend upon well-educated workers, but many fear—with

reason—that the work force of the year 2000 will lack even the most basic skills. Young people doubly at risk have neither the ability to communicate in English nor the literacy skills they need for good jobs.

Economists tell us that this country is moving rapidly from a manufacturing-based to a service-based economy. The Hudson Institute's WorkForce 2000 study indicates the fastest growing occupational fields by the turn of the century will be professional and technical, managerial, sales and service jobs. On the other hand, jobs such as machine tenders, assemblers, miners and farmers actually will decline. At the time the need for higher skilled workers is growing, the Bureau of Labor Statistics indicate fewer new workers will be entering the work force. Competition for qualified employees is going to be stiff.

Employers are going to be more willing to offer jobs and training to those they have traditionally ignored—the minorities. However, the jobs being created by the economy will demand much higher skills than the jobs that exist today. Studies indicate that minority workers may have language problems that prevent them from taking advantage of the jobs that will exist.

In short, we are going to find ourselves with a work force that doesn't possess the skills for the work that needs doing. Education, paradoxically, is both the solution and the problem. Part of the problem with language instruction for minority children is a program called native language based bilingual education. This program teaches limited English-speaking pupils in their native language—not in English. It is systematically undereducating our language minority children and severely reducing their opportunities for economic and social advancement.

I want to stop here and emphasize that I am not critical of all bilingual education programs. I support bilingual education that moves the non-English-speaking student into the educational mainstream as quickly as possible.

In the 22 years since bilingual education began, the number of different languages represented in schoolrooms nationwide has grown to 153. These programs have become the most controversial area in public education, and it's no wonder.

Native language based bilingual education programs, in most instances, segregate limited English-speaking students, offer them inferior education and often doom them to unskilled jobs as adults. These are the unskilled jobs that the Department of Labor says will be in short supply in the coming decade.

Evidence of the impact of ineffective bilingual education programs abounds. In late 1988 Con Edison, the public utility company of New York City, gave an English language aptitude test to 7,000 applicants for entry level jobs. Only 4,000 passed—and not one of those was a graduate of the city's bilingual education program. Yet a coalition of ethnic activists recently succeeded in convincing the State Board of Regents to pass new regulations keeping more limited English children enrolled for more years in native language classes.

In New Jersey last year, the State board of education announced that limited English-speaking students may take the test of basic skills required for high school graduation in any of 12 languages. What the board didn't explain was how a student who passes the test only in Spanish can get a job in our English-speaking society our qualify for college entrance.

The solution proposed for these problems by bilingual education advocates is more native-language-based bilingual education. Despite its own studies showing that native-language-based bilingual education fails the children it is meant to help, the U.S. Department of Education continues to direct the major portion of its funding for language-minority children into these same programs.

Thus, we have students in 1990 graduating from high school in the United States without being able to read and write the common language of our land. How can these young people take their place in the economic, social, political and cultural life of our country without knowing the English language?

The Bilingual Education Act of 1968 was designed to remove language barriers to learning. Access to an equal education was its primary goal and early mastery of English was seen as the key. Three years of study was recommended under the new initiative called bilingual education, which was expected to help students learn English faster, develop self esteem and master subjects for grade promotion and high school graduation. The aims were noble, and clearly everyone understood that limited English-proficient students needed more help than had been previously provided. The old "sink or swim" method is unacceptable.

But soon bilingual education programs began to change. Bilingual advocacy groups exerted pressure at the State level for public schools to provide support for maintaining students' native cultures, as well. Often schools were urged to hire only teachers of the same ethnic background as the students. There were repeated efforts to keep students in bilingual classes beyond the 3 years originally recommended.

In many cases, political pressure changed what was to be a temporary, transitional program into a permanent vehicle for developing the students' native language and culture at the expense of English-language learning and integration into the mainstream classrooms. It is not surprising, then, that schools in some areas are graduating students who speak Spanish but not English. When students are taught a substantial part of each day in Spanish, the language they will know is Spanish, not English. But if they live in an English-speaking country, as ours is, their economic, social and political options will be limited.

Languages serve a practical, commonsense purpose—communication. Language policies have to be judged in light of that basic reality. A language or dialect that severely restricts how many people you can communicate with is a great handicap, no matter what its merits may be, compared to other languages.

Spanish is a language of great beauty and subtlety, but if you live in an English-speaking country, you cannot use it to communicate with as many people as you can reach with English. If you cannot communicate with employers, you may not get a job.

About 60 percent of native-language-based bilingual education students are Hispanic. Proponents of the program have claimed the method is superior to any other method of language instruction and that this superiority can be proven objectively by standardized achievement test scores. In reality, the proof has not been forthcoming.

After 22 years of bilingual education programs, the rate of dropout before high school graduation among Hispanic students in the United States remains at nearly 50 percent. Forty percent of these students never reach the 10th grade. Bureau of Labor Statistics reports indicate that a total of 14 million Hispanics will be in the United States labor force by the year 2000. With the shrinking number of unskilled jobs available, where will we find work for people who don't have high school educations? These young people leaving school before the 10th grade are the very ones to whom we need to be providing quality education, chock full of basic skills like reading and writing—in English.

By the year 2000, Hispanics are projected to be 10 percent of the United States labor force, up from 7 percent in 1986. This increase results in 6 million more Hispanics entering the labor force by the turn of the century.

These sobering statistics add up to but one conclusion: more joblessness among the least skilled and less joblessness among the most educationally advantaged.

My colleagues, the issue is not maintaining one's culture. Can a person working three jobs to put bread on the table for his or her family going to have much time to devote to fine art or great literature or classical music? This issue is, quite frankly, the economic future of our country. The kind of legacy we want to leave our children and grandchildren. If our economy fails to meet the challenges of the 21st century and we fail to leave a vigorous, thriving economy, we won't be able to accommodate the immigrants who want to make their home here, much less provide jobs and futures for the people who already live here.

Where does Official English fit into this scene? How does making English our language of government affect our educational preparedness for the coming decades?

First, it is important to understand that the Language of Government Act will not affect the teaching and learning of other languages in our country. The purposes of this legislation is not to dampen the interest or enthusiasm that our citizens hold for other languages. In fact, the teaching and learning of other languages will become more and more important as our economy grows. This legislation will not deter the private use of other languages in the home, the community, the church and elsewhere.

The Language of Government Act establishes a national language policy that says to those who live here and those who come here: English is the language of the U.S. Government. You may live in the United States without knowing English, but to participate fully in the political, social and economic benefits that our country offers, you should know the English language.

I urge my colleagues to join me in cosponsoring H.R. 4424, the Language of Government Act.

Mr. EMERSON. I thank the gentleman from Indiana.

Mr. Speaker, I am delighted to yield to my friend and colleague, the gentleman from Ohio, the Honorable CLARENCE MILLER.

Mr. MILLER of Ohio. I thank the gentleman for yielding.

Mr. Speaker, the State of Alabama last month overwhelmingly reaffirmed the strong wave of support in our country for making English the official language of the United States when more than 90 percent of the voters ratified a constitutional amendment making English the State's official language.

An integral component of any society is that its people have a common unifying factor. The United States' greatness comes from its wide diverse ancestoral background and our English language is the common unifying factor which allows us to assimilate and integrate our diverse cultures into one.

In these times when we are striving so hard to ensure individual civil rights and the acceptance of all of our residents into the mainstream of American life, let us at the Federal level further open the doors of opportunity for all by designating English as our primary language—ensuring equality of opportunity for all Americans. If we as a country and a people are going to realize our full potential, it will require a unified and cooperative effort on the part of all involved. good coordination and cooperation evolve from a thorough understanding of each other's wants and needs.

It stands to reason that a common and recognized national tongue would better facilitate such understanding and help this country and its people more readily attain that potential.

Again I thank the gentleman for yielding.

Mr. EMERSON. I thank the gentleman from Ohio for his valuable contribution.

Mr. Speaker, today, coincidentally, is the 84th birthday of a great man, one of the world's preeminent linguists, former distinguished Senator from California who, through his boundless energy, enthusiasm, and determination has shown to many of us the importance of a single unifying language in a nation.

Mr. Speaker, I want to wish the Honorable S.I. Hayakawa, an American of Japanese extraction, a very happy birthday.

It is my hope that by this time next year the House will have passed the Language in Government Act, and for Senator Hayakawa that would indeed be a very special birthday present because it would represent a step forward toward a fulfillment of his very long and tireless efforts.

Turning once again to the issue, I would like to address some of the criticisms that have been leveled against this bill, the Language in Government Act, and its predecessor, the English language amendments.

A hearing was held on the ELA in March 1988. At that hearing it was suggested that efforts to make English the official language of the U.S. Government were somehow an assault on the many cultural heritages of the people of this great land. It was even suggested by an opponent of the ELA that the State of Colorado would instantly have to change its name as would many other places in the United States. This assertion is more than untrue, it is ludicrous. Declaring English the official language of the United States would have no effect on the names of cities, towns, States, or any other person or place.

I will give you an example that is close to home. The name of my home State of Missouri is derived from the native American language. The State itself represents a very rich, broad heritage representing diverse peoples and influences.

When you come to the Eighth District of Missouri—and I invite you as I have the distinguished former speaker here this evening, the gentleman from Indiana [Mr. MYERS], I have taken him to visit St. Genevieve and we have towns like Valley Mines and Bonterre, named for the French people who settled in there or New Madrid, or, as we call it, New Madrid, named after the capital of Spain, evoking memories of the Spanish explorers.

Travel southwest a bit and stop at Wappappello Lake, named in the American Indian tongue for recreation. Come back east and you can stop at New Hamburg or Altenburg or Frohna or Whittenburg or Altenburg, towns that were all founded by German settlers. Stick around for a while and you can have some of the best bratwurst west of the Mississippi. Or spend a wonderful day at a folk fair, Fete du Jour.

The point of this brief international tour through Missouri's Eighth District is not so much to brag about the bratwurst, although it is good, but to show the many cultures that settled here, very alive and very well, thriving among descendants of the immigrants.

Southeast Missourians are proud of our heritage, but we are all Americans first and foremost. Thanks to the common language that we all share, we can communicate not only with each other in our French and German communities but also with folks in California on one coast and Maine on the other.

We will not change the names of our cities or towns, but because we all speak the same language, we are able to participate in the affairs of our Nation as a single people, as Americans.

Another criticism which has been aimed at this bill is that folks who do not speak English, newly arrived immigrants, perhaps, will not be able to receive the essential information because they do not speak English. Let me assure you that this is not the intent of the bill and the legislation makes specific reference to this problem.

Any action that protects the public health or safety is not subject to the official language declaration, nor is any action which protects the rights of victims of crimes or criminal defendants nor any action, document, or policy that is purely informational or educational in nature.

□ 1940

No individual rights would be infringed by this bill. The intent is to bring people, all people together, and not to drive people further apart.

A third criticism directed at the bill centers on the teaching of foreign languages. Some folk allege that if English becomes the official language of the United States our children will not be able to learn foreign languages. This is a ridiculous and unfounded assertion. Supporters of official English, not only condone, but actually encourage the teaching of foreign languages. The study of foreign language can open doors to new and exciting worlds for young students, but if these same students are not proficient in English, the doors of our own country may be closed to them opportunity wise. We should never lose sight of that fact.

English is the language of opportunity in America. Knowledge of English is the key to breaking the chains of the ghetto. It is the first step on the way to achieving the famed American dream. Many of our immigrants came to America in search of that dream, in search of a better life for them, and for their children. Their children will not have the chance at that better life if they do not learn to speak English.

We cannot solve all the problems of the ghetto. We have waged a war on poverty, but poverty still exists. We are fighting drugs and crime, and we have made advances, but drugs and crime still ravage our neighborhoods. However, we can solve at least one problem. We can remove the language barrier. There is absolutely no reason in the world that a child in America cannot learn to speak English. In my view, the Government should have an additional obligation to take on this challenge. H.R. 4424 imposes just such an obligation. This is something that we can do, and it is something that we should do.

The critics of this bill have based their comments and criticisms on false

assumptions. This bill will not halt the teaching of foreign languages. It will not cut off folks from their ethnic heritage. It will not force anyone to give up their culture or native language. What this bill will do is reaffirm that there is one language in which all of our official business is conducted. As Americans, we must not remain strangers to each other, but we must use our common language to develop a fundamental and open means of communication, to break down artificial language barriers, to explore our many cultures and traditions, and to define our national identity. Let Members support H.R. 4424 and achieve these goals.

Mr. Speaker, coincidentally, today is the 84th birthday of a very great man, one of the worlds preeminent linguists, a former distinguished Senator from California, who through his boundless energy, enthusiasm, and determination has shown to many of us the importance of a single unifying language in a nation. I would like to wish the Honorable S.I. Hayakawa—an American of Japanese extraction—a very happy birthday. It is my hope that by this time next year, the House will have passed the Language of Government Act. For Senator Hayakawa, that would be a very special birthday present, for it would represent a step toward fulfillment of his long and tireless efforts.

Turning to the issue itself, I'd like to address some of the criticisms that have been leveled at this bill—the Language of Government Act—and its predecessor, the English language amendment [ELA].

A hearing was held on the ELA in March 1988. At that hearing, it was suggested that efforts to make English the official language of the U.S. Government were somehow an assault on the many cultural heritages of the people of this country. It was even suggested by an opponent of the ELA that the "State of Colorado would instantly have to change its name, as would many other places in the United States." This assertion is more than untrue; it's ludicrous. Declaring English the official language of the United States would have no effect on the names of cities, towns, States, or any other person or place.

I will give you an example that is close to home. The name of my own State of Missouri is derived from native American language. The State itself represents a rich, broad heritage, representing many diverse peoples and influences. When you come to the Eighth District of Missouri, I invite you to visit Sainte Genevieve, Valle Mines and Bonne Terre, named by the French people who settled there, or New Madrid, evoking memories of the Spanish explorers. Travel southwest a bit and stop at Wappapello Lake, named in the American Indian tongue, for recreation. Come back east, and you can stop at New Hamburg, Frohna, Wittenburg and Altenburg—towns that were all founded by German settlers. Stick around for a while, and you can have some of the best bratwurst west of the Mississippi. Or spend a wonderful day at a folk-fair, the Tour de Fete.

The point of this brief international tour through Missouri's Eighth District is not to brag about the bratwurst—although it is good—but to show that the many cultures that settled here are alive and well, thriving among descendants of the immigrants. Southeast Missourians are proud of our heritages, but we are all Americans first and foremost. And thanks to the common language that we all share, we can communicate not only with each other in our French and German communities, but also with folks in California on one coast and Maine on the other. We won't change the name of our cities and towns, but because we all speak the same language, we are able to participate in the affairs of our Nation as a single people—Americans.

Another criticism which has been aimed at this bill is that folks who don't speak English—newly arrived immigrants, perhaps—won't be able to receive essential information because they don't speak English. Let me assure you that this is not the intent of the bill, and the legislation makes specific reference to this problem. Any action that protects the public health or safety is not subject to the official language declaration—nor is any action which protects the rights of victims of crimes or criminal defendants; nor any action, document, or policy that is purely informational or educational in nature. No individual rights will be infringed by this bill. The intent is to bring us—all of us—together, not to drive us further apart.

A third criticism directed at the bill centers on the teaching of foreign languages. Some folks allege that if English becomes the official language of the United States, our children will not be able to learn foreign languages. This is an unfounded assertion. Supporters of official English not only condone, but actively encourage the teaching of foreign languages. The study of a foreign language can open doors to new and exciting worlds for young students. But if these same students are not proficient in English, the doors of our own country will be closed to them.

English is the language of opportunity in America. Knowledge of English is a key to breaking the chains of the ghetto. It's the first step on the way to achieving the famed American dream. Many of our immigrants came to America in search of that dream—in search of a better life for them and for their children. Their children will not have a chance at that better life if they do not learn to speak English.

We can't solve all the problems of the ghetto. We've waged a war on poverty, but poverty still exists. We're fighting drugs and crime, and we've made advances, but drugs and crime still ravage our neighborhoods. But we can solve at least one problem—we can remove the language barrier. There is absolutely no reason in the world that a child in America cannot learn to speak English. In my view, the government should have an affirmative obligation to take on this challenge. H.R. 4424 imposes just such an obligation. This is something we can do. And we should do it.

The critics of this bill have based their comments and criticisms on false assumptions. This bill won't halt the teaching of foreign languages. It will not cut off folks from their ethnic heritage. It will not force anyone to give up their culture or native language. What this bill will do is reaffirm that there is one language in which all of our official business is conducted. As Americans, we must not remain strangers to each other, but must use our common language to develop a fundamental and open means of communication, to break down artificial language barriers, to explore our many cultures and traditions, and to define our national identity. Support H.R. 4424, and let's achieve these goals.

Mr. MONTGOMERY. Mr. Speaker, I want to thank my colleagues from Missouri, Mr. EMERSON, for taking this special order today and for his leadership on this issue, as well as the work of IKE SKELTON and NORM SHUMWAY. I am a cosponsor of the legislation to make English the official language of the United States because I think a knowledge of English is essential for anyone who wants to fully participate in the economic and political life of this great country.

I understand it is possible today in some parts of the United States for students to go through school without learning the English language. But they will surely find many doors of opportunity closed to them out in the real world without an understanding of English. Without that knowledge, they will not be able to experience the American dream and be part of the mainstream in this country.

Many foreign countries teach English to their students because it is generally accepted that English is the language of commerce around the world. A great majority of the world's business gets done on English and people everywhere recognize the importance of knowing the language. We ought to be working even harder to convince our own citizens of that fact as well.

No one is seeking to prevent Americans, whose families have come here from other parts of the world, from teaching and preserving their cultural heritage. On the contrary, that should be encouraged because we are proud of the fact that we have combined widely varying cultures to make this great Nation. But we are bound by a common thread—the English language.

If we are to continue to compete in a world economy, we must have well-educated and well-trained workers. But they will lack both of those assets without an ability to understand and communicate in the English language. Unless they know English, these people will be locked out of so many of the great opportunities we have in America today.

I think this legislation has a lot of merit and I want to again commend Congressmen EMERSON, SKELTON, and SHUMWAY for taking the lead on this issue.

Mr. BROOMFIELD. Mr. Speaker, as a cosponsor of the Language of Government Act, H.R. 4424, I call attention to Canada as an illustration of why we must designate English as the official language of the United States.

After years of attempting to provide equal status for English and French, Canada today is divided by bitterness, resentment, and even hatred. The secessionist movement is strong in Quebec, which is seeking recognition as a distinct society. The message for the future of the United States is inescapable: Bilingualism in government does not work.

While language conflicts in our country are serious now, they are not acute. But, as the Canadians have learned, linguistic problems

often bubble beneath the surface for years before erupting. Discord between the two language groups in Canada dates back 200 years. More recently, the 1969 Official Languages Act [OLA] attempted unsuccessfully to resolve the problems. The OLA ensured equal status for both languages, ushering in cereal boxes and toothpaste tubes with English-French labels.

In Quebec, however, many view bilingualism as a threat to the preservation of French language and culture. Quebec's rejection of official bilingualism 5 years after the OLA set the province on its unilingual course. Quebec decided to allow only the use of French, and effectively prohibit the use of English, in every sphere of public and commercial life. The decision aroused profound resentment among English speakers in the nine other provinces where the Federal Government had imposed bilingualism.

The situation is complicated by the fact that Canada is a confederation, an alliance in which the 10 provinces hold much greater power than the American States. Confederation enabled Canada to pursue Federal bilingualism and unilingualism in the provinces, with limited concessions to official language minorities. Quebec's refusal to grant reciprocal concessions to its 800,000 English speakers exacerbated the current crisis.

In contrast to Canada, the United States is historically English speaking. For centuries, immigrants coming here recognized the necessity to learn the common language. Today, however, increasing demands for official bilingualism are producing small fissures in our national unity that may one day rupture, much as in Canada.

Some Hispanic activists in this country are demanding Government services in Spanish. The Hispanic Issue Conference in Racine, WI, this spring suggested a full bilingual approach in public affairs—Spanish-speaking pollworkers at elections; translators at city government meetings; Spanish language news updates in the local newspapers; and important information printed in both Spanish and English, side-by-side, instead of placing one language higher than the other.

Some activists maintain that Hispanics will not assimilate into the culture of the United States; therefore Government services must be provided in Spanish. Still others point out there are now areas in this country where a knowledge of Spanish, not English, is vital for daily living.

It is time to ask these activists if they seek to establish linguistic enclaves, much like Quebec, in this country? Some are quite open in answering "yes" to these questions.

Canada is used as a model by those promoting official bilingualism in this country: "In Canada * * * the legislature * * * passed the Official Languages Act," said Josue Gonzales, former president of the National Association for Bilingual Education in testimony before Congress. "Perhaps it is a bit too early to think seriously about a comparable bill in this country. But if the present rate of growth of Spanish speakers continues, it is not unlikely that we will soon have to consider that as a very definite possibility."

The words of Dr. Gonzales and others have not gone unnoticed. Commentator Eric Sevareid provided one observation in a recent C-SPAN interview. When Sevareid was asked what he perceived as the greatest danger today, he replied: the issue of language. Sevareid said:

> What is happening today is unpresented in U.S. history. In the past, millions of people who migrated to the country all understood the need to speak English to live and work and prosper in this Nation.

But today, he explained, an attitude persists that the Government must conform to those who do not know the common language. This attitude, Sevareid said, has led to a feeling that Spanish may become a second official language. "This would mean government, schools, businesses, would be legally required to use Spanish as well as English," he said.

The Language of Government Act is not about whether one language is better than another. It's about whether we will have one language of government as opposed to chaos. If the Hispanic can demand Government services in their language, why shouldn't all of the 148 language groups in our country receive services in their languages?

And how do we pay for this? Official bilingualism costs Canada more than half a billion Federal dollars a year. Local costs are much more.

In cosponsoring H.R. 4424, I do not mean to downplay the importance of other languages. During my years in Congress, and particularly in my experiences as vice chairman of the Foreign Affairs Committee, I have seen first hand the value of knowing other languages. I encourage the study and use of other languages.

But as an American I appreciate the importance of English as a unifying force in this diverse land populated by diverse peoples. Perhaps President Teddy Roosevelt made the best argument for a common language in government when he said 75 years ago:

> The one absolutely certain way of bringing this nation to ruin, of preventing all possibility of its continuing to be a nation at all, would be to permit it to become a tangle of squabbling nationalities.

I urge my colleagues to join me in cosponsoring H.R. 4424, the Language of Government Act.

Mr. SLAUGHTER of Virginia. I thank my friend from Missouri, Mr. EMERSON, for giving us time today to discuss an issue which I believe should be addressed by the Congress.

As the population in the United States continues to diversify, the English language is ever important as a unifying factor in education, government, and the private sector. The ability to communicate effectively has become essential in our highly competitive world. Certainly, we should teach foreign languages in order to communicate with nations all over the world, but here at home, we should promote the single, unifying language that has played a central role in our national heritage and culture.

I believe Congress should pass measures to promote the English language, and I commend my colleague from Missouri, along with my colleague from California, Mr. SHUMWAY, for taking a lead in the Congress in the promotion of English. I recently signed on as a cosponsor of H.R. 4424, the Language of Government Act of 1990, which Mr. EMERSON introduced earlier this year. H.R. 4424 would designate English as the official language of the Federal Government. The bill states that the Government has "an affirmative obligation to protect, preserve and enhance the role of English as the official language of the United States." It is my belief that the official business of the Federal Government should be conducted in English.

I also support and am cosponsoring House Joint Resolution 81, a proposed constitutional amendment sponsored by Congressman SHUMWAY to designate English as the official language of the United States. I believe such a constitutional amendment is the best means by which we can ensure that the proliferation of the English language in our country enhances opportunity for all Americans. Our country's dominant language plays a crucial role in the education of our children and in unifying Americans.

Since coming to Congress in 1985, I have supported measures to promote the English language, and I believe it is time we move forward with this type of legislation. Certainly, opportunity would be enhanced for all Americans if the population is well versed in English. Of the many languages spoken in the world, over 100 are represented in our country. English serves as a bridge, a common cultural bond in this diverse world. During my career in Government and law, time and again I have seen the importance of effective communication.

I want to again thank my friend from Missouri for taking this time today.

Mr. NIELSON of Utah. Mr. Speaker, there is peace between the powers in our time. Yes, more peace than at any time in modern history. The shrill sabers of war are silent on the East-West front. Constructive dialog is replacing reactionary diatribes between diverse nations.

Yet, tragically, within the borders of many nations, violent civil contentions continue, the citizens of Sri Lanka, Cyprus, Israel, and others suffer in part because they speak a different language than their neigbhors.

I support H.R. 4424 because I believe in an America united—not divided. Our country would not be the world's leading nation if each of the 50 States had its own language. If Dutch was the tongue of New York, while the Texans spoke Spanish, the North Dakotans German, and Utahns the Danish and Welsh of their ancestors, American speech would be a cacophony of chaos rather than a chorus of cooperation.

The problems in the Soviet Republics of Estonia, Latvia, Lithuania, Georgia, Armenia, the Ukraine, Moldavia, Azerbaijan, Tadzik, and Kazahk dramatizes this. Too many people unable to communicate easily now exacerbates existing ethnic tensions. Thus, the Soviet Union is falling apart along each republics borders, while America is as united as ever.

I am not opposed, by any means, to the study and use of foreign languages here in America. I appreciate them. I am fortunate to have a multilingual staff. Among them are fluent speakers of Japanese, Spanish, Thai, Korean, and Arabic. It enables them to communicate with others from around the world,

to share their thoughts, knowledge and friendship. Yet each who speaks another language tells me they believe America is strong in part because America is united by the English language. Let me share a few of their comments with you.

Min Choi, an intern from Northwestern University wrote:

I am a Korean immigrant. My family came to the United States when I was four. As a little girl, I was overwhelmed by the fact I would need to learn a brand new language other than my own; but I realized I would sink or swim in America unless I learned English, and so I did.

Min continues:

By learning the language I was able to compete and succeed in academics, as well as on the playground, and most importantly, in the American society in which I lived. That is why I support having English as the official language; language can unify the people and give them a sense of belonging to their society.

Min concluded:

My family and I have retained our Korean culture. We often speak Korean at home. Making English the official language does not take any of that away. Rather it serves to solidify a strong, united American society.

Sandra Haraguchi, an intern from Brigham Young University wrote:

My ancestors came from Japan. Upon coming to this country they were obliged to learn English, and did so as a matter of survival. I believe that English should be the official language of the United States. The very name itself, "United" States implies a nation sewn together by common threads of history, culture, customs, and government. The English language is one of these strong threads.

Michael Mower, one of my legislative assistants, worked as a English tutor to Spanish-speaking migrants while on a mission for the Mormon Church in Oregon. He observed that the American dream can turn into a nightmare for people trying to live and survive in this country without knowing English. Mower said:

America is viewed as the land of opportunity by these migrants. Not being able to speak the language of their employers leaves them at the mercy of others. English is the great equalizer. It serves as the common link for all.

I again state my support for H.R. 4424. I only caution that we remember to encourage the use of English to unite us, not divide us along racial or linguistic line. Learning English is a challenge for immigrants, many of whom are trying to adapt to life in a new land. Often it can be a painful process. Another intern of mine, Suhair Khatib, came to this country as a Palestinian refugee.

Learning English as a 10-year-old was a challenge. Classmates often used to taunt me, telling me that I was a stupid foreigner for not speaking English. "Now you're in America. Learn to speak English." Khatib said they would tell her.

Despite the challenges facing them, my interns Suhair Khatib and Min Choi, like millions of other immigrants, learned to speak English. They retained the culture of their native lands while embracing the language of their new home. That is the beauty which comes from our united tongue, English. Immigrants from Korea, Japan, Jordan, and Mexico, yes from around the world, gather in our Nation. And when they learn to speak English they can communicate as a united people.

Mr. HUTTO. Mr. Speaker, as a cosponsor of the Language of Government Act, H.R. 4424, which seeks to make English the language of the Government of the United States, I am concerned with the diversity in our Nation as it coexists with the unity of our Nation. In trying to understand the role a common language plays in unifying our society, I have focused on a single question: how is it that the United States has maintained such a strong society out of the hodgepodge of nationalities, races and ethnic groups represented by the immigrants that define our Nation? It is language, of course, that has made communication among all our diverse elements possible.

One only has to spend time in a foreign nation to realize how important it is for a nation to have a single, common language. For example, within many of the nations of Africa, a so-called official language has to compete with the languages of various tribes. The diversity among the tribes is readily apparent and there is little, if any, unity.

The United States has debated for years whether its citizens should have an official language. The question grows more pressing as refugee populations around the world begin to swell and the United States, as it always has, considers opening its doors to take in more and more. The time has come to decide the language question: The United States needs to make a commitment to English as its official language and begin putting more resources into public and private institutions, specifically for English instruction.

The issue is not of prejudice or alienation of certain peoples or of stripping them of their cultural identity. The issue is whether Americans will continue in the years ahead, as they have in the past, to communicate well. It is an issue of having one common element, amid our rich diversity, that gives us the essential tool for working within our communities and economy. Having one common, official language is commonsense. A common language provides common ground, a cultural signpost that we as an astonishingly diverse nation must maintain for the sake of our unity and prosperity.

A single official language would not oppress minority groups but would give them far more opportunity and freedom. Immigrants who commit themselves to learning english are far more able to take care of their own basic needs, like employment, shelter and food. When these needs are met, these new Americans are able to not only contribute to our society, but also to preserve their culture and traditions.

When their economic needs are met, they have the time and energy to devote to community ethnic groups, and most important to teaching their children to appreciate their heritage. They also have the time and the skills to share this heritage with Americans who might be ignorant of it.

Our country can no longer afford its lack of commitment to English. It is paying to much in welfare and social services that drag on and on because these individuals do not have the skills to get a job or establish independence. Moreover, we are losing the contributions that immigrants could make to society.

Realizing that the great majority of immigrants to our Nation want to learn English, we must establish more programs to teach English as a second language. We must also direct resources to the immigrants first months in this country.

We must recognize that it is not only the immigrants that have a difficult time reading, writing or filling out job applications. We should not require immigrants to learn English while allowing many native-born Americans to escape a command and appreciation of the language. Every English speaker should have a working knowledge of a foreign language. Our ability to compete in a global economy demands more bilingual and multilingual Americans. English is not the only language we need to know, but in this, the most diverse Nation on Earth, it is the essential tool for keeping our families and communities together.

Designating English as our official language is, to paraphrase President Theodore Roosevelt, the one absolute way to prevent our country from becoming a nation of squabbling nationalities.

When we reflect on the rich differences our society offers and learn about the cultures our country embraces, we must remember that we enjoy this great wealth of diversity because we are united. Our common language, English, enables us to debate our disagreements, share our joys and sorrows, and express the beliefs in freedom and individual rights that make us uniquely American.

Mr. SHUMWAY. Mr. Speaker, as a sponsor of H.R. 4424, the Language of Government Act, as well as a long-time sponsor of the English language amendment, I am pleased to be involved with what I view as a worthwhile and valuable effort, designating English as the language of government in our Nation.

When I first became involved in the effort to designate official English, I reviewed the role played by the English language has played in shaping our great Nation, and I asked myself the question which is often asked of me: Why do we need English as our official language? After all, for more than 200 years, English has been our de facto language of government. Why is the official designation needed?

To answer that question, we must examine the makeup of our country. The American people do not share a common ethnicity, religion, race or background. We have shaped our Nation from a multiplicity of nationalities, melding a people from immigrant ancestors representing many nations and cultures. And what has unified us, forging strength from our rich cultural diversity? Without doubt, a common language. Through our common language—English—we are able to communicate with one another the beliefs and commitments which bind us together as Americans: love of freedom, respect for individual rights, patriotism and love of country.

Official language is not a new or radical concept. More than half the nations of the world have designated a language in which their respective governments will operate. Indeed, determining the language which will

be used to conduct the business of government is what official language is all about.

We need to designate English our official language for a number of very good reasons. First, we cannot take our common language of government for granted. A Federal judge in Arizona recently ruled that a State government employee has the right to refuse to speak English while performing official duties. The judge determined that the employee has the right to speak any language preferred while on the job. While it is being appealed, that ruling is quite a landmark. And, given that some 148 ethnic languages are presently spoken in this country, it has nightmarish potential. Can you imagine being unable to find anyone able or willing to speak English in a government building?

Cases involving language conflicts are finding their way into courts and government agencies from California to New York. For example, an Ohio carpenter successfully sued a city because civil service examinations were not made available in a language other than English. Other suits have been filed in attempts to have non-English-speaking juries empaneled for trials. In Miami, two women successfully complained to the Dade County Fair Housing and Employment Appeals Board about a cleaning service which would not hire them because they could not speak English. Documents have been submitted to courts in languages other than English. In El Paso, TX, a road crew worker was fired last year after he complained that his supervisors and coworkers all refused to speak English to him.

The most important reason for official language remains unity. Around the world, we are witnessing the divisiveness of language conflicts. We need look no further than Quebec for confirmation of the folly which ensues when fellow citizens are pitted against one another over language controversy. Despite the diversity of our people, we have been spared this bitter conflict thus far. Why? Because adopting the English language has always been part of becoming an American. The role of the English language in uniting us has been recognized by such international leaders as Mikhail Gorbachev. In his book "Perestroika," the Soviet Premier pointed to our common language as a major unifying element in the development of the United States.

> Though representatives from many ethnic groups came together in the United States, English became their common language * * * One can imagine what would happen if members of each nation moving to the United States had spoken only their own tongue and refused to learn English.

Another important reason for supporting official English is because, in this country, English is the language of equal opportunity. Knowledge of English is the key to educational opportunity and economic success. Without a sound foundation in English, newcomers to our shores are doomed to remain forever on the fringes of opportunity.

Language has a practical and commonsense function: It permits us to communicate. Language policy must be judged in the light of that practical reality. At least 750 million people worldwide utilize English, and some estimates are closer to 1 billion; 350 million of those people speak English as their mother tongue. By designating English our official language, we acknowledge not only its role in our own past, but also its global significance in the future.

Skeptics are quick to note that unity, opportunity, and global awareness are excellent goals, but that English has served all three without an official designation thus far in our history. Why such a designation now? Because our Nation is changing rapidly. The drive for public recognition of other languages has gained momentum in recent years. There has been strong pressure brought to bear in some quarters to mandate the use of other languages for official purposes. The Hispanic Issues Conference, meeting this year in Racine, WI, called for a full range of public bilingual services. Former Miami Mayor Maurice Ferre predicted 8 years ago that, by 1992, there would not be a word of English spoken in Miami. He said residents would either have to learn Spanish, or move.

What's wrong with granting other languages parallel linguistic rights with English in city, State, and Federal Government activities? Why can't we meet those demands? Bear in mind those 148 languages spoken in the country which I mentioned earlier. Who will decide, and how, which other languages will be utilized? How will we pay for the implementation? In Canada, official bilinguilism is estimated to cost the National Government $1 billion each year. Local costs are much more.

In the face of increasing demands for bilingual or multilingual government, it is necessary to reafirm the importance of English in preserving national unity, strength, and opportunity. We must also reaffirm that a common language makes good sense in a nation of nearly 240 million people from every ancestry, every religion, every cultural background, every race.

The official English movement was begun some 10 years ago by former Senator Hayakawa of California, perhaps the Nation's most respected linguist. A lifelong student of languages and an immigrant himself, he saw the need for maintaining English as our common glue. Unfortunately, his vision has spawned a number of specious arguments and falsehoods about official English, which I hope to lay to rest once and for all.

This movement is not about discrimination in any way, shape, or form, be it economic, ethic, racial, or political. It is about opportunity, hope, and success, for everyone. Official English advocates seek to include all people in the mainstream of our society, not segregate them.

This movement is not about English only. That term implies that no other language will be spoken, and that is ridiculous. Personally, I speak two languages and am learning a third. My children for the most part are also bilingual. Everyone should be encouraged to learn a second language is today's shrinking world, and everyone in this country is free to speak whatever language he or she chooses. Again, official language deals with official function, not private choice. It does not eliminate effective bilingual education programs, nor does it interfere with the teaching, learning, or use of other languages.

The movement would not deny rights or prevent assistance to those in need. For example, an Italian-speaking employee would not be precluded from speaking Italian to a person needing help in completing some paperwork. Instead, laws, regulations, rulings, decisions, and other official Government documents would be printed in English as our official language of Government.

A wonderful side effect of the official English movement is that it promotes proficiency in English; 67 million adults in America today have reading skills below the 12th-grade level; 27 million people can't read well enough to understand instructions on a prescription, or complete a job application. Those are dismal—and, for us as a nation, shameful—statistics. The key to opportunity and advancement is proficiency in English, and the official English effort fosters and promotes that proficiency.

As an American, I am both pleased and proud to exercise the right to learn and explore other languages. Many of my colleagues are familiar with my knowledge of Japanese, and my efforts to become fluent in Spanish. However, also as an American, I recognize the importance of English as a unifying force. As a nation, we are a rich tapestry woven from the threads of 100 different cultures and heritages. The common thread to all throughout that tapestry, the thread which makes it strong and durable as well as colorful and beautiful, is the English language.

Thank you again for this opportunity to express my views.

GENERAL LEAVE

Mr. EMERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 60 minutes.

Mr. SOLOMON. Mr. Speaker, I will not use anywhere near the hour. It is late, and we would like to have all employees get home for supper.

Thirty-one years ago President Eisenhower signed the first Captive Nations Week proclamation, and my special order today continues that recognition of human beings still enslaved under communism, that deadly atheistic, inhumane philosophy called communism.

Mr. Speaker, I yield to the second ranking member of the Committee on Foreign Affairs, a longtime leader in this captive nations issue, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I want to commend the gentleman from New

York [Mr. SOLOMON] for arranging to discuss this special order this evening. He certainly has had a long-term commitment to captive nations. I want to commend him, too, for bringing together today some of the leaders in the Nation's Capital who are concerned about captive nations.

Mr. Speaker, during last year's celebration of Captive Nations Week, I rose before this body and expressed the hope that more men and women throughout those nations behind the Iron Curtain would realize their aspirations for liberty and independence in the following year. I am proud to be able to rise today to proclaim that there are many people in the world right now whose aspirations for liberty have been met during the past year.

Sweeping changes in Eastern Europe have made possible the realization of freedom for millions of people in that region. These changes came about due in part to the strong defense posture to which our Nation has adhered.

Today, Mr. Speaker, I rise on the occasion of the President's proclamation commemorating this third week of July as Captive Nations Week, to shed light on those nations in this world whose people still cry out for freedom and a greater sense of self-determination, despite the great advances made by their neighbors.

In particular, the plights of Estonia, Latvia, Lithuania, and the Ukraine should be of particular interest to Americans. These separate, independent-minded states were incorporated into the Soviet Empire by the Communists. Leaders seeking a greater independence from the Soviet Union have intensified their efforts over this past year. Consequently, Soviet leaders have been extremely wary of letting these nations go their own way.

This past Monday, the Ukraine declared its sovereignty within the Soviet Union, with plans to develop its own armed forces, citizenship laws, and currency. In the spirit of Captive Nations Week and in the spirit of our own heritage of a fierce belief in freedom and independence, I ask my colleagues to join with me in saluting the Ukrainian people for their actions.

At the same time, Mr. Speaker, I ask my colleagues to keep a close watch on the events sure to develop in the Ukraine. With a population which rates it as the second largest republic in the Soviet Union and a strategic placement as a buffer zone between Europe and the Russian Republic, this is a region which will not be readily allowed to attain any amount of autonomy from Moscow.

The original Ukrainian independence movement was squelched by Sovet troops in the wake of World War I. The Ukrainian Famine Commission, on which I was honored to serve as a member, recently concluded its work. It was our finding that 3 to 5 million Ukrainians died of hunger during the 1930's as a result of a state-sponsored and a state-masterminded famine designed to quench forever, their desire for freedom.

Recently, Soviet Union leaders have imposed the same type of famine on the Baltic Republics of Estonia, Latvia, and Lithuania. By withholding valuable commodities such as gasoline, and constantly threatening the use of Red Army soldiers to force their hand, Moscow has been trying to squelch their cries for freedom as well. I fear for what might lie ahead for the Ukraine, which, strategically, is important for the Soviet Union to retain within its empire.

Accordingly, on the occasion of Captive Nations Week, I join my colleagues in celebrating the past year's events, which has led to freedom for Eastern Europe. But I want to inform my colleagues that there are still peoples that desire more freedom and seek ways to liberate themselves from oppressive rule.

Hopefully next year, Mr. Speaker, I will be able to say that even more men and women achieved their dreams for liberty this year.

Mr. SOLOMON. Mr. Speaker, I most certainly thank the gentleman from New York [Mr. GILMAN] for participating in the event at lunchtime today when we entertained many of the people from the Captive Nations from around the world, and certainly for participating here this evening.

As the gentleman has said, through many bitter decades the representatives of the nations held captive by communism have stood fast and strong in their dedication to freedom, and as recent events in Eastern Europe have shown, that dedication and the efforts of the American people and their allies from around the world are now finally being rewarded.

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□ 1950

As the walls of communism come down across much of Europe, however, there is far more that needs to be done. American policy toward the Soviet Union and the nations it still holds captive stands at a crossroads today. A new rededication to freedom is called for if we are indeed to see the full measure of its victory after these long, long decades of struggle by these poor human beings.

Many of us here today can well remember the decade of the 1970's, when American policymakers in both political parties dangerously mistook a Soviet strategic maneuver—détente—for a fundamental change in the nature and beliefs of the Communist leadership.

It was only in the last month of the last year of that decade, after the Soviet invasion of Afghanistan, that an American President, who had previously derided the "inordinate fear of communism," admitted to his countrymen that his opinion of the Soviets had changed more drastically in 1 week than in the previous 3 years of his administration. That was a profound remark.

Many of us here today can also recall the effort to establish a confrontational peace through strength policy that put American foreign policy toward the Soviet Union back on course during the 1980's. That peace through strength policy has brought us to this crossroads today, when again we must carefully look at developments in the Soviet Union, try to discern what is simply Soviet strategy and what is real, fundamental change, and then choose an appropriate policy that best serves the interests of both peace and freedom throughout this world.

To ensure the success of that policy in the next few years, we must indeed rededicate ourselves to the goal of freedom for all of the captive nations within the borders of the Soviet Union—and also for its client states—like Afghanistan, Ethiopia, Angola, Cuba, Vietnam, North Korea, and many others. And, let us not forget the tremendous problem of gaining freedom for those under the rule of the Chinese regime—the most criminal of them all! If we do not rededicate ourselves to this goal, American policy toward the Soviet Union, in particular, may again slide dangerously off-track, accepting the Soviet idea that the so-called secession crisis it now faces is strictly an internal affair. It is not an internal affair.

The so-called secession crisis in the Soviet Union today has not gone on for just 1 year or 2. It has been going on right from the first day the Bolsheviks seized power 73 years ago! It is not a crisis of the territorial integrity of the Soviet Union. It is a crisis of freedom for human beings. It is a decades-long struggle by many major nationalities in Europe and Asia to be free, like you and me.

It is a struggle that grew stronger after the First World War, but was again submerged by Joseph Stalin's terror and his secret pact with Adolph Hitler. And finally, it is a struggle that is now, again, coming to the surface, as Mikhail Gorbachev, whether with good intentions or not, seeks solutions to the moral and economic corruption that the Communist ideology has visited on all the nations under its sway.

Should we be concerned that American policy, which has so strongly contributed to the recent victory of economic and political liberty in so many Communist-run states in Eastern Europe, might fail to recognize this secession crisis for what it really is? Yes, we should be concerned—for several reasons. First, and most important, is the very personality of Mikhail Gorbachev. A master of public relations, he has led far too many American policymakers into the assumption that his fall from the Soviet leadership would have only dire consequences—that only someone worse could succeed him.

Mr. Speaker, this assumption is by no means proven, and you and I and the American people cannot afford to gamble. It may actually be a symptom of a problem, common in foreign policymaking, called clientitis—a situation in which policymakers in one country become so sympathetic to the practical challenges facing policymakers in another country that they forget to pay proper attention to their own, more deserving, long-term interests, the interests of the United States and the American people. In this regard, I am reminded of what the great British leader, Winston Churchill, once said about dealing with the Soviet Union. It was his advice, based on long experience, that the time to extract concessions from the Soviets, rather than grant them, was at the very time they would seem to need them most. And I say to my friends that time is today, when the Soviet Union needs the free world.

This leads me to the second reason why American policy is in danger of taking the wrong road—because the economic news from the Soviet Union these days is, in fact, so relentlessly bad that American policymakers—in good will and in the interests of better relations—are indeed tempted to ignore Churchill's sage advice.

Finally, and just as important, we live in a world of nuclear armaments, and certainly arms reduction agreements have a proper place among our policy goals. Regrettably, the Soviet leadership is most likely to try to reinforce the idea with American policymakers that successful nuclear and conventional arms agreements depend on their acceptance of the secession crisis as a destabilizing element that is wholly an internal Soviet affair.

It seems plain that American policy needs to follow a different road. There are those who argue that Soviet political reform is dependent on Gorbachev's survival, that his survival is, in turn, dependent on economic reform, and so, if we want to see that succeed, and thus bring freedom to the Soviet Union, we need to provide him with financial aid.

Well, that seems to be putting a truly expensive cart in front of the horse. First of all, even if we don't heed old Winston's advice, it should be plain to see that what the Soviet economy needs is not more cash, but more freedom.

The fact is that, until true economic freedom is granted, money poured into the Soviet Union will be like pitchers of water poured into the Sahara desert. A fact that is recognized by Mr. Gorbachev, however, is that the kind of freedom that would bring the true and lasting prosperity that the peoples of the Soviet Union want would also mean the end of central economic planning—one of the levers of power used by the Communists to keep the secession crisis under control.

Rather than rewarding Gorbachev with aid for his recent, 10-week energy embargo against Lithuanian independence, we ought to instead be making it clear to the Russian people—if he is unwilling to hear it—that economic prosperity will best come to all the peoples of the Soviet Union through the freedom and respect for national sovereignty that will allow the nations now held captive by the Soviet Union to build a new common eurasian home—to paraphrase Mr. Gorbachev.

Some might say that to follow such a course could lead Gorbachev to reverse his policies. My reply would be that, yes, of course policies can be reversed, but that the key to the success of economic reform is, again, freedom. No policy of reform is going to work in the U.S.S.R. until the Soviets acknowledge that fact, deal with the consequences of the secession crisis, and enter into negotiations to meet the aspirations of their captive nations.

For those who are concerned about arms control, let them consider this: arms treaties will have their place, but it is the spread of freedom to all of the captive nations of Europe that will ultimately bring a greater stability to international relations, and in turn, far better serve our security interests. Can anyone dispute that the recently-successful independence movements in Europe are reducing the threat of war far more than any arms treaty could? All the more reason for American policy to stand clearly in support of the independence movements in those nations still held captive.

Two things are clear from recent events. First, the so-called beneficiaries of scientific socialism would just as soon pass on it. Second, the strength of the nationalist movements within the Soviet Union is such that recent, simple appeals for moderate reform were transformed almost overnight into demands for independence. So far, 10 of the 15 Soviet Republics have formally asserted the primacy of their laws over those of the Soviet Central Government, most recently the 50 million strong nation of Ukraine.

In closing, let me state that American policy towards the Soviet Union should leave the present crossroads supporting not the survival of any one political leader, but the success of these independence movements and the true freedom they promise instead. As the secession crisis intensifies, and it will, the United States and its allies should make it clear that the suppression of these movements will result in the restriction or outright halt of Western capital and technology in the Soviet Union. At the same time, we should assure Mikhail Gorbachev that his sincere negotiations will have our support and our hand will be extended to at long last welcome into the community of free nations an independent Russia, Ukraine, Estonia, Latvia, Lithuania, Georgia, and all of those people who have been so inhumanely treated over these last 40, 50, or 60 years.

It is this message that we must not only send to Mr. Gorbachev, but to those peoples still enslaved under communism, a system that in so many ways robs them of their human spirit and deprives them of decency and respect.

Mr. Speaker, President Bush will issue tomorrow a proclamation on Captive Nations Week, and on July 25 there will be a world ceremony proclaiming that week as Captive Nations Week. I want to extend many thanks to all those who have given their strong support on behalf of captive nations, expecially to Ambassador Lev Dobrianski, who has donated his life to this very worthwhile mission.

Mr. HOYER. Mr. Speaker, it is my pleasure to take part in this special order to commemorate Captive Nations Week. I congratulate my colleague Jerry Solomon for undertaking this important initiative.

As co-chairman of the Helsinki Commission, I have observed that over the past year many of the formerly captive nations have become a little less captive, while the most populous captive nation, the People's Republic of China, has become more repressive.

And yet, even where there is progress, there is still a long way to go.

I would call particular attention to the plight of the Baltic States: Estonia, Latvia, and Lithuania.

The people of these three small nations have bravely, yet peacefully, pressed for the human rights, their democratic freedoms, and the nationhood that they lost as a result of the deal between Hitler's Nazi Germany and Stalin's Soviet Union.

In fairness to Mr. Gorbachev and his government, it must be noted that the Soviet Union has now recognized the illegality of the seizure of the Baltic States. And perestroika and glasnost have given the Baltic States the opportunity to press their legitimate demands to restore their independence.

But today the Baltic States are still captive nations. When Lithuania declared independence, Moscow initiated an economic block-

ade. Lithuania has since suspended its blockade in return for negotiations on its independence, but as of this moment, Moscow does not seem inclined to negotiate in good faith. In fact, there are reports that the blockade is beginning to reappear. Tanks roll through Estonia. In Latvia, an anti-independence, pro-Moscow gang tries to take over the Latvian Supreme Soviet. And for all three Baltic States, KGB border troops taking orders from Moscow control the borders.

Mr. Speaker, this situation need not continue. It is unjustifiable, a violation of international law, and contrary to Mr. Gorbachev's proclaimed new thinking. The Soviet Union would be much better off with 10 million Balts as its willing neighbors than its unwilling subjects.

As co-chairman of the Helsinki Commission, I would call upon the Soviet Union to allow the Baltic States to peacefully reestablish their freedom so that they can be removed from the list of captive nations.

Mr. BROOMFIELD. Mr. Speaker, 31 years ago this week, President Eisenhower signed the first Captive Nations Week Declaration. That declaration recognized that enslavement of a substantial part of the world's population makes a mockery of the idea of peaceful coexistence between nations. It further recognizes that the desire for liberty and independence by the overwhelming majority of the people of these captive nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace.

The declaration also states that it is fitting that we clearly manifest to the people of the captive nations "that the peoples of the United States share with them their aspirations for the recovery of their freedom and independence."

Much has happened to the world in those intervening 31 years and especially in the last couple of years. Characteristic of these changes was the destruction of the Berlin Wall. But the winds of change and freedom that are so dramatically blowing through Eastern Europe are blowing throughout the world. One could point to the free and fair elections in Nicaragua and the changes in Mongolia and Burma. Even in China, the forces of change and political reform have won through the present aging leadership does not know it.

Just a few years ago, these changes were unimaginable. At times, it almost seemed that there was an unacknowledged attitude in official Washington to concede to the Communists their sphere of influence and basically kiss the capitive nations goodbye.

America could have forgotten the captive nations and the plight of the millions of people who were suffering under their chains of bondage in those countries. But America did not forget. Much of the credit must go to the supporters and sponsors of such events as the Captive Nations Week observance, and the many Americans of various ethnic backgrounds who worked to ensure that their relatives and friends and fellow countrymen behind the Iron Curtain were not abandoned.

Their dedication helped give the United States the backbone to stand up for so long to the Communist bloc, and to give real meaning to the provision in the Captive Nations Week Declaration that states that those "submerged nations look to the United States, as the citadel of human freedom for leadership in bringing about their liberation and independence * * *."

There are many who are captivated by images of the Berlin Wall coming down and of elections in Eastern Europe and other parts of the world. They believe that the captive nations are no longer captive, that the Iron Curtain has now become a memory, and that our policies should be adjusted accordingly.

To those suggestions I respond with the Mandela theory. When Nelson Mandela came to the United States he was asked if it wasn't time to lift United States sanctions on South Africa. The de Klerk government had made some major reforms, it was said, and we should respond by easing up.

No, said Mandela. This isn't the time to ease up; it's the time to keep the pressure on. He said sanctions should be lifted only when progress toward a just society is irreversible.

Mr. Speaker, it's been 31 years since President Eisenhower signed Public Law 86-90, designating Captive Nations Week. The law called for a Presidential proclamation each year "until such time as freedom and independence shall have been achieved for all—and I repeat, all—the captive nations of the world."

We have seen dramatic changes, but there is still a lot of work to be done before the goal of the Captive Nations Week Declaration is finally achieved. America must continue to serve as a light on the hill to benefit all who seek their freedom and independence from the oppression of the Soviet Union and other Communist dictatorships.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, in closing, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject matter of my special order tonight.

The SPEAKER pro tempore (Mr. BRYANT). Is there objection to the request of the gentleman from New York?

There was no objection.

THE ACCOUNT CLOSING ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. IRELAND] is recognized for 60 minutes.

Mr. IRELAND. Mr. Speaker, I rise to speak in support for H.R. 5121—the Account Closing Act of 1990.

Mr. DINGELL and I introduced the Account Closing Act of 1990 on June 21, 1990. We were joined in this effort by Mr. CONYERS, Mr. BLILEY, Mr. HORTON, and 12 other of my distinguished colleagues.

The bill has been referred to the Government Operations Committee where the chairman, Mr. CONYERS, has promised to "bring the full jurisdiction of the committee", to bear on the problem.

I would like to urge the committee to act quickly on this measure. Each day that we fail to act, we risk the expenditure of billions of Federal dollars—virtually without congressional oversight, approval, or control.

H.R. 5121 will restore discipline and accountability over lapsed but still available appropriations that accumulate in surplus accounts.

Through the M and merged surplus accounts, the Department of Defense [DOD] and other Federal agencies breathe new life into lapsed appropriations by stripping them of the fiscal year and line item identity and merging them in one big pot of money that remains available for expenditure indefinitely.

With no accountability, with no regular statement of accounts required, with no procedures in place for reviewing and auditing these accounts, and with no information on balances or transactions, we have a situation ripe for abuse, and plenty of abuse has occurred.

The GAO, though usually overly cautious in finding fault, has carefully documented two cases of illegal use of M account money at the Pentagon. And that's just the tip of the iceberg. Other instances of abuse and misuse have been documented in report after report by various inspectors general, the Appropriations Committees, and other reliable sources.

The results of some of this investigative and audit work is summarized in a statement I placed in the CONGRESSIONAL RECORD on May 21, 1990—pages H2589-2591.

The balances in the two Pentagon accounts exceed $50 billion. The M accounts at all other agencies total $10 billion, but we don't know how much is in merged surplus accounts governmentwide.

The GAO has informed me that it would take its auditors 6 months to compile figures for the whole Government. In the absence of better information, some estimate the total could be as high as $100 billion.

The bureaucrats who use these accounts would like us to think this isn't real money, but they are mistaken. The money in the surplus accounts is as real as any money Congress appropriates and the executive branch spends, and it is being spent at a fast clip—at least at DOD.

In fiscal year 1989, expenditures from the Pentagon's M accounts totaled $3.9 billion. This year, outlays from the M account are expected to jump to $6.9 billion. What accounts for the sudden increase? Will they double again next year? Is the Pentagon planning to drain these accounts before we do?

Despite numerous requests, I have been unable to obtain answers to these questions. One thing seems clear to

me. Information on M account expenditures is scarce—even at the Pentagon.

By keeping everyone in the dark, the military is free to spend billions of dollars without the burden of scrutiny. This is not consistent with the Constitution. Congress will never regain control over this rogue fiscal operation until this or similar legislation is enacted.

Important money decisions are being made at a relatively low level—mostly by program managers—without the knowledge or approval of the Pentagon's own financial managers and far beyond congressional authorization and appropriations process.

As elected officials, we have a responsibility to hold DOD and other agencies accountable for how and when tax dollars are spent.

Last year Congress made a halfhearted effort to regain control of the surplus accounts by imposing new reporting requirements. DOD now has to notify Congress of transactions over $25 million. This has proven ineffective, as most withdrawals come in much smaller sums.

Since that legislation took effect, perhaps $5 billion has been drawn from the M account and spent. Yet only one notification has been made and that was for $418 million to cover cost overruns on the B-1 bomber, which Congresss already knew about.

Clearly, last year's legislation did not solve the problem. Another kind of fix is needed, and I think the Account Closing Act of 1990 does the job. In a nutshell, the Account Closing Act of 1990 would eliminate those accounts altogether and place a finite limit on the time agencies have to spend appropriations.

On June 6, 1990, a joint hearing was held before the Energy and Commerce and Government Operations Committees to solicit agency comments on the bill. Three comptrollers testified: DOD, HHS, and DOE.

A consensus for eliminating merged surplus accounts was clearly evident, in their testimony. Even DOD Comptroller Sean O'Keefe, commenting on the Pentagon's $31.8 billion merged surplus account, said:

> The merged surplus size is far in excess of need. We don't have any demand for it * * *. We fully support wiping out the balance in those accounts.

There is less unanimity on the M accounts, however. DOE and HHS maintain minimal balances—$6.6 million and $429 million respectively—and seem to police them.

DOD, by comparison, refuses to budge one iota on its $18.7 billion M account even though both the GAO and DOD IG have concluded that the vast majority of those obligations are invalid.

Herein lies the crux of the issue: Are the DOD M accounts justified? The answer is no, and I will tell you why.

DOD officials argue that part of the $18.7 billion held in the M accounts is real debt, and these debts must be met. That's a fact, but ask them to place a dollar value on those obligations. I did, and they can't do it.

Even though required by law to audit the M accounts each year—as specified in section 1554, title 31, United States Code—DOD's accounts have never been audited in their entirety. Only partial audits have been performed—nothing more than spot checks.

The Pentagon says the job is just too big to handle. It doesn't have the audit resources to do it.

As a former banker, I never knew of an account that was too big to audit. I don't think such an account exists, nor do I believe that one should be allowed to exist. There is a real paradox here. If DOD can't audit the M account, how can DOD justify drawing billions from it each year?

If DOD says it can't audit the M accounts, that is reason enough to abolish them.

The difficulty of an audit job is directly proportional to the quality of records kept. An inability to audit means the audit trail is gone. It means slipshod accounting practices.

When Government money loses its fiscal year and line item identity—and that's what happens in the M account—the audit trail disappears. Records are destroyed. Linkage between appropriations and contracts is broken down.

When that happens, anything goes.

The whole system is rotten to the core. Congress has a responsibility to close down this kind of operation and terminate the M accounts.

Now, how will Government agencies pay old bills and claims once the M accounts are closed? Our bill offers one solution. There are others.

First, the bill authorizes the use of current appropriations in small amounts to pay outstanding bills and claims if chargeable to the same account. I can assure you that there is no shortage of money at the Pentagon to pay old bills.

DOD has more than $40 billion in current appropriations that remain unobligated. These funds, which are in part destined for the surplus accounts, could be used to cover valid transactions.

Second, Federal agencies should move to establish special claims accounts. A law authorizing such accounts is already on the books—section 1304 of title 31, United States Code. Adequate sums should be deposited in those accounts to cover such contingencies.

Third, the Appropriations Committee could extend the periods of funding availability specified in annual appropriations bills—if warranted. That would greatly reduce the need for maintaining large sums in claims accounts.

Decisions about how and when billions in tax dollars are spent should be made each year by the Congress of the United States through the authorization and appropriations process—not at the discretion of a purchasing officer at the Pentagon.

The Account Closing Act will inject some discipline and accountability into the process governing use of lapsed appropriations and allow Congress to fulfill its constitutional responsibilities.

A report on DOD's "Surplus" accounts was prepared by the surveys and investigations [S&I] staff of the House Appropriations Committee.

Over the years, the S&I staff has produced a number of important studies. They have a reputation for probing and honesty. This one is no exception. It bores right in and exposes the problem for what it is.

The report ends with this warning:

> As balances continue to grow and management attention remains weak, the risk of possible misuse or abuse increases.

This assessment is supported by a number of very revealing examples of how the money in the surplus accounts has been misused.

The report shows how lax and ineffective audit procedures produce invalid obligations and invalid disbursements. It shows how DOD controls are weak. It shows how most obligations are neither reported nor approved. It shows how the surplus accounts are used to fund cost overruns.

Most importantly, it shows how the surplus accounts are frequently used to increase the scope of work in procurement contracts, which is illegal.

Mr. Speaker, I recommend the S&I report to anyone interested in understanding the M and merged surplus accounts and the need for the Account Closing Act of 1990.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STERNS) to revise and extend their remarks and include extraneous material:)

Mr. UPTON, for 5 minutes, today.

Mr. PASHAYAN, for 60 minutes each day, on July 30 and 31.

Mrs. BENTLEY, for 60 minutes each day, on July 27, 30, and 31, and August 1, 2, and 3.

Mr. WOLF, for 60 minutes, on July 23.

Mr. DANNEMEYER, for 60 minutes each day, on July 31, and August 1 and 2.

(The following Members (at the request of Mr. MANTON) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. FAZIO, for 5 minutes, today.
Mr. CLARKE, for 5 minutes, today.
Mr. ASPIN, for 60 minutes, on July 23.
Mr. LANTOS, for 60 minutes, on July 31.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. STEARNS) and to include extraneous matter:)

Mr. CAMPBELL of California.
Mr. BUECHNER, in two instances.
Mr. WALSH.
Mr. MCEWEN.
Mr. COUGHLIN.
Mr. GALLO.
Mr. YOUNG of Alaska.
Mr. MACHTLEY in four instances.
Mr. CONTE.
Mr. BARTON of Texas.
Mr. LEWIS of Florida.
Mr. GALLEGLY.
Mr. CRAIG.
Mr. DICKINSON.
Mr. LEWIS of California.
Mr. LAGOMARSINO.
Mr. GILMAN.

(The following Members (at the request of Mr. MANTON) and to include extraneous matter:

Mr. RAHALL.
Mr. MOODY.
Mr. HOYER in two instances.
Mr. GUARINI.
Mr. VOLKMER.
Mr. HAMILTON.
Mr. STARK in three instances.
Mrs. LOWEY of New York.
Mr. NELSON of Florida.
Mr. STALLINGS.
Mr. HERTEL.

ADJOURNMENT

Mr. IRELAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 12 minutes p.m.), the House adjourned until tomorrow, Thursday, July 19, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3578. A letter from the Director, the Office of Management and Budget, transmitting the supplementary summary of the fiscal year 1990 budget, pursuant to 31 U.S.C. 1106(a) (H. Doc. No. 101-217); to the Committee on Appropriations and ordered to be printed July 18, 1990.

3579. A letter from the Secretary, Department of Energy, transmitting a report assessing the possible effects on the abilities of the United States to monitor compliance by the Soviet Union with any agreement to limit testing of nuclear devices, pursuant to Public Law 101-189, section 101(a), (b) (103 Stat. 1545, 1546); to the Committee on Armed Services.

3580. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend the Department of Defense Authorization Act, 1987, to extend the time for implementation of the system of health care enrollment for covered CHAMPUS beneficiaries; to the Committee on Armed Services. July 18, 1990.

3581. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-237, "Real Property Tax Rates for Tax Year 1991 Amendment Act of 1990," and report, pursuant to D.C. Code, Section 1-233(c)(1); to the Committee on the District of Columbia.

3582. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's seventy-fifth annual report for the period ending September 30, 1989, pursuant to 15 U.S.C. 18a(j); to the committee on Energy and Commerce.

3583. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 02-90, concerning a proposed Memorandum of Understanding with the Ministries for National Defense of Spain and Italy, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs. July 18, 1990.

3584. A letter from the Vice President of Public Affairs, Farm Credit Bank of Texas, transmitting the annual report for the pension plan for the year ended December 31, 1989, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3585. A letter from the Secretary of Energy, transmitting a report entitled "Global Climate Trends and Greenhouse Gas Data; Federal Activities in Data Collection, Archiving, and Dissemination"; jointly to the Committees on Appropriations and Energy and Commerce.

3586. A letter from the Comptroller General, General Accounting Office, transmitting a report on the final financial statements of the Federal Savings and Loan Insurance Corporation (GAO/AFMD-90-79, July 1990), pursuant to 31 U.S.C. 9106(a); 31 U.S.C. 3512(f); jointly to the Committee on Government Operations and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3664. A bill entitled the "Omnibus Agricultural Commodity Promotion and Research Act of 1989"; with amendments (Rept. 101-568, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Energy and Commerce. H.R. 3950, A bill entitled, the "Food and Agricultural Resources Act of 1990"; with amendments (Rept. 101-569, Pt. 4). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3950. A bill entitled, the "Food and Agricultural Resources Act of 1990"; with amendments (Rept. 101-569 Pt. 5). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. VENTO (for himself, Mr. UDALL, Mr. MILLER of California, Mr. RAHALL, Mrs. BYRON, Mr. DE LUGO, Mr. KOSTMAYER, Mr. DARDEN, Mr. OWENS of Utah, Mr. LEWIS of Georgia, Mr. MCDERMOTT, and Mr. JOHNSON of South Dakota):

H.R. 5295. A bill to provide for designation by the Secretary of the Interior and the Secretary of Agriculture of an ancient forest reserve system, including lands managed by the Bureau of Land Management and portions of national forests established by reservations from the public domain; to require the Secretary of the Interior and the Secretary of Agriculture to enhance economic stability in the Pacific Northwest; and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. APPLEGATE:

H.R. 5296. A bill to amend title 38, United States Code, to revise the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, to make miscellaneous improvements in veterans' compensation and pension programs, to permit certain veterans with service-connected disabilities who are retired members of the Armed Forces to receive compensation from the Department of Veterans Affairs concurrently with military retired pay, without deduction from either, to provide a presumption of service-connection between the occurrence of certain diseases incurred by veterans of active service in Vietnam during the Vietnam era and exposure to certain toxic herbicide agents used in Vietnam; and for other purposes; jointly, to the Committees on Veterans' Affairs and Armed Services.

By Mr. BARTON of Texas:

H.R. 5297. A bill to amend title 17, United States Code, to protect computer programs; to the Committee on the Judiciary.

By Mr. CAMPBELL of California:

H.R. 5298. A bill to extend the statute of limitations applicable to any criminal offense which was committed by an officer or employee of the Department of Housing and Urban Development between 1981 and 1988 and which was related to activities of the Department; to the Committee on the Judiciary.

By Mr. GALLEGLY (for himself, Mr. DE LUGO, Mr. WOLF, Mr. HAYES of Louisiana, Mr. LENT, and Mr. LAGOMARSINO):

H.R. 5299. A bill to establish the Drug Paraphernalia Law Enforcement Fund for education and training of State and local prosecutors and law enforcement personnel to enhance enforcement of criminal laws relating to drug paraphernalia); to the Committee on the Judiciary.

By Mr. STARK (for himself and Mr. COYNE):

H.R. 5300. A bill to amend the Social Security Act and the International Revenue Code of 1986 to provide for a Mediplan that assures the provision of health insurance coverage to all residents and coverage of long-term health care, and for other purposes); jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. COUGHLIN:

H.R. 5301. A bill to provide authority to the Coast Guard to use necessary and appropriate force, in strictly controlled circumstances, to compel aircraft used in drug trafficking to land; jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

By Mr. EDWARDS of Oklahoma:

H.R. 5302. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to require for each fiscal year that States notify local units of government of the availability of nondiscretionary funds under such title and allow local units of government to apply for such funds during a period of not less than 60 days; to the Committee on the Judiciary.

By Mr. IRELAND (for himself, Mr. SISISKY, Mr. SKELTON, and Mr. TORRES):

H.R. 5303. A bill to direct the Administrator of the Small Business Administration to conduct a study of the impact of electronic data interchange technology on small business concerns; to the Committee on Small Business.

By Mr. McEWEN:

H.R. 5304. A bill to maintain a competitive, financially strong, and secure uranium enrichment capability in the United States by reorganizing the uranium enrichment enterprise, and for other purposes; jointly, to the Committees on Energy and Commerce, Interior and Insular Affairs, and Science, Space, and Technology.

By Mr. MATSUI:

H.R. 5305. A bill to amend title II of the Social Security Act to provide for limited investment of the Federal Old-Age and Survivors Insurance Trust Fund in State and local obligations; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mr. WAXMAN, Mr. GOODLING, Mr. HOYER, and Mr. WALGREN):

H.R. 5306. A bill to amend the Public Health Service Act to establish a program of categorical grants to the States for comprehensive mental health services for children with serious emotional disturbance; to the Committee on Energy and Commerce.

By Mr. RAHALL (for himself, Mr. MCCLOSKEY, and Mr. PERKINS):

H.R. 5307. A bill to amend section 2(a)(3) of the Mineral Leasing Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STALLINGS (for himself, Mr. CRAIG, and Mr. CAMPBELL of Colorado):

H.R. 5308. A bill to approve the Fort Hall Indian Water Rights Settlement, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CHAPMAN (for himself, Mr. RAHALL, Mr. CLINGER, and Mr. BOUCHER):

H. Res. 438. Resolution to express the sense of the House of Representatives with respect to the proposals currently before the Congress to place a tax on fuels based on their carbon content or to tax the carbon emissions from the burning of fossil fuels; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FUSTER:

H.R. 5309. A bill for the reflagging of the vessel *Esperance;* to the Committee on Merchant Marine and Fisheries.

By Mr. MILLER of Washington:

H.R. 5310 A bill to remove certain prohibitions to the licensing of a vessel for employment in the coastwise trade of the United States for the vessel *FV Ocean Prowler;* to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 159: Mr. CONDIT.

H.R. 303: Mr. TAYLOR.

H.R. 500: Mr. BILIRAKIS.

H.R. 857: Mr. BUSTAMANTE, Mr. DICKS, and Mr. CROCKETT.

H.R. 995: Mr. GRANDY.

H.R. 1054: Mr. HOCHBRUECKNER.

H.R. 1500: Mr. WAXMAN and Mr. MFUME.

H.R. 1582: Mr. PAYNE of New Jersey.

H.R. 2359: Ms. SCHNEIDER.

H.R. 2405: Mr. BORSKI, Mr. TOWNS, Mr. HOCHBRUECKNER, and Mr. GALLO.

H.R. 2564: Mr. PACKARD.

H.R. 2776: Mr. MCCOLLUM, Mr. MCDADE, and Mr. WYLIE.

H.R. 2853: Mr. BILIRAKIS.

H.R. 3037: Mr. MURPHY.

H.R. 3050: Mr. BROWN of California, Mr. MATSUI, Mr. FAUNTROY, Mr. MORRISON of Connecticut, and Ms. OAKAR.

H.R. 3745: Mr. PAYNE of New Jersey.

H.R. 3752: Mr. MARKEY, Mr. STOKES, Mrs. COLLINS, Mr. NEAL of Massachusetts, Mr. MCDERMOTT, Mr. PORTER, Mr. KILDEE, Mr. FRANK, and Mr. BRUCE.

H.R. 3925: Mr. SERRANO.

H.R. 3973: Mr. SAXTON.

H.R. 4011: Mr. MCDERMOTT.

H.R. 4040: Mr. DENNY SMITH.

H.R. 4181: Mr. HARRIS, Mr. JOHNSTON of Florida, Mr. ORTIZ, and Mr. WYLIE.

H.R. 4265: Mr. GILLMOR and Mr. UPTON.

H.R. 4267: Mr. MCMILLEN of Maryland, Mr. IRELAND, Mr. CONDIT, Mr. MATSUI, Mr. KOLTER, Mr. BLILEY, Mrs. BOXER, Mr. MOORHEAD, and Mr. SCHEUER.

H.R. 4300: Mr. MOAKLEY.

H.R. 4424: Mr. STUMP, Mr. CLEMENT, Mrs. JOHNSON of Connecticut, and Mr. SPENCE.

H.R. 4516: Mr. MATSUI, Mr. MANTON, Mr. SERRANO, Mr. ACKERMAN, Mr. LENT, and Mr. MCMILLEN of Maryland.

H.R. 4530: Mr. CAMPBELL of Colorado.

H.R. 4531: Mr. WEISS, Mr. SCHEUER, Mr. MCMILLEN of Maryland, Mr. TORRES, Mrs. COLLINS, Mr. EVANS, Mr. MARKEY, Mrs. UNSOELD, Mr. LEVINE of California, Mr. DYMALLY, Mr. WAXMAN, and Mr. CAMPBELL of Colorado.

H.R. 4555: Mr. BRUCE, Mr. WALSH, and Mr. CAMPBELL of Colorado.

H.R. 4573: Mr. FROST, Mr. EMERSON, Mr. MCDERMOTT, and Mr. KOLBE.

H.R. 4604: Mr. PORTER, Mr. STARK, Mr. KOSTMAYER, Mr. WEISS, Mr. LIPINSKI, Mr. BILBRAY, and Mrs. BOXER.

H.R. 4801: Mr. HAYES of Louisiana, Mr. STUDDS, Mr. ECKART, and Ms. SLAUGHTER of New York.

H.R. 4816: Mr. ROGERS and Mrs. LLOYD.

H.R. 4845: Mr. HOCHBRUECKNER, Mr. MORRISON of Connecticut, Mr. GREEN, Mr. SAXTON, and Mr. WEISS.

H.R. 4939: Mr. DORGAN of North Dakota and Mr. ROHRABACHER.

H.R. 4972: Mr. BUNNING, Mr. COSTELLO, Mr. LAGOMARSINO, and Mr. YATRON.

H.R. 5000: Mr. ROHRABACHER.

H.R. 5013: Mr. GRANDY, Mr. WALSH, Mr. SARPALIUS, and Mr. BALLENGER.

H.R. 5029: Mr. WHITTAKER.

H.R. 5053: Mr. BEREUTER, Mr. CAMPBELL of California, Mr. COUGHLIN, Mr. DELLUMS, Mr. HALL of Texas, Mr. JONTZ, Mrs. KENNELLY, Mr. KOLBE, Mr. LAGOMARSINO, Mr. MILLER of California, Mr. PAXON, Mr. RAY, Mr. RINALDO, Mr. SCHAEFER, Mr. SHUMWAY, Mr. SMITH of Florida, Ms. SNOWE, Mr. STEARNS, Mr. UPTON, Mr. WYLIE, Mr. GRAY, Mr. YOUNG of Florida, Mr. MCNULTY, Mr. PORTER, Mr. MCMILLEN of Maryland, and Mr. KOSTMAYER.

H.R. 5086: Mr. STAGGERS.

H.R. 5088: Mrs. MEYERS of Kansas and Mr. WEISS.

H.R. 5094: Mr. HERGER and Mr. GRANT.

H.R. 5127: Mr. MAZZOLI.

H.R. 5245: Mr. MOAKLEY.

H.R. 5258: Mr. BRYANT, Mr. COOPER, Mr. MCCURDY, and Mr. HOAGLAND.

H.R. 5266: Mr. ACKERMAN, Mr. ALEXANDER, Mrs. BENTLEY, Mr. BILBRAY, Mr. BOSCO, Mr. BRENNAN, Mr. BROWN of California, Mr. CLARKE, Mr. CLEMENT, Mr. COX, Mr. DEFAZIO, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. HUGHES, Mr. INHOFE, Mr. JAMES, Mr. JOHNSTON of Florida, Mr. JONES of Georgia, Mr. RICHARDSON, Mr. LANTOS, Mr. LIGHTFOOT, Mr. MACHTLEY, Mr. MFUME, Mr. PALLONE, Mr. PARRIS, Mr. PAYNE of New Jersey, Mr. SCHEUER, Mrs. UNSOELD, Mr. SMITH of Texas, Mr. LEVINE of California, Mr. TRAXLER, Mr. WISE, and Mr. WOLPE.

H.R. 5284: Mr. BLILEY, Mr. MCEWEN, Mr. PACKARD, and Mr. SENSENBRENNER.

H.J. Res. 285: Mr. POSHARD, Ms. SNOWE, Mr. COX, Mr. PURSELL, Mrs. MARTIN of Illinois, Mr. MCCRERY, Mr. STARK, Mr. ROE, Mr. BURTON of Indiana, Mr. DELAY, Mr. TANNER, Mr. SCHAEFER, and Mr. YOUNG of Alaska.

H.J. Res. 431: Mr. SCHUETTE, Mr. COSTELLO, and Mr. GREEN of New York.

H.J. Res. 459: Mr. BILIRAKIS, Mr. FALEOMAVAEGA, Mr. HANSEN, Mr. MCDADE, Mr. BOSCO, Mrs. JOHNSON of Connecticut, Mr. COSTELLO, Mr. WOLPE, Mrs. KENNELLY, Mr. MARTIN of New York, Mr. SAVAGE, Mr. MATSUI, Mr. IRELAND, and Mr. MCCOLLUM.

H.J. Res. 469: Mr. DORGAN of North Dakota.

H.J. Res. 519: Mr. FUSTER, Mr. JOHNSTON of Florida, Mr. BROOMFIELD, and Mr. FIELDS.

H.J. Res. 566: Mr. ACKERMAN, Mr. ANNUNZIO, Mr. RICHARDSON, Mr. HARRIS, Mr. TOWNS, Mr. FLIPPO, Mr. LEWIS of California, Mr. PAYNE of New Jersey, Mr. DURBIN, Mr. STOKES, Mr. MATSUI, Mr. RAVENEL, Mr. RAHALL, Mr. CLAY, Ms. OAKAR, Mr. WHITTEN, Mr. DARDEN, Mr. FROST, Mr. DE LUGO, Mr. DORNAN of California, Mr. COSTELLO, Mr. LEHMAN of Florida, Mr. BILIRAKIS, Mr. HAYES of Louisiana, Mr. HERTEL, Mrs. MEYERS of Kansas, Mr. GALLEGLY, Mr. HENRY, Mr. BORSKI, Mr. BOSCO, Mrs. BYRON, Mr. DICKS, Mr. FISH, Mr. JONTZ, Mr. YOUNG of Florida, and Mr. CARDIN.

H.J. Res. 598: Mr. ROGERS.

H.J. Res. 616: Mr. WELDON, Mr. SHUSTER, Mr. HAYES, of Louisiana, Mr. FAZIO, Mr. COUGHLIN, Mr. COYNE, Mr. GOODLING, Mr. GEJDENSON, and Mr. PURSELL.

H. Con. Res. 270: Mr. TORRICELLI and Mr. RAHALL.

H. Res. 374: Mr. SCHAEFER.

H. Res. 402: Mr. ANDERSON and Mr. CLEMENT.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3950,

By Mr. FRANK:

—In the amendment made by section 901 to section 107A(c)(1)(E)(i) of the Agricultural Act of 1949 amend the first sentence to read as follows:

The established price for wheat shall not be less than—

"(i) $3.96 per bushel for the 1991 crop;

"(ii) $3.92 per bushel for the 1992 crop;

"(iii) $3.88 per bushel for the 1993 crop;

"(iv) $3.84 per bushel for the 1994 crop; and

"(v) $3.80 per bushel for the 1995 crop.

—In the amendment made by section 1001 to section 105A of the Agricultural Act of 1949 amend subsection (c)(1)(E)(i) to read as follows:

"(i) MINIMUM PRICE.—The established price for corn shall not be less than—

"(i) $2.72 per bushel for the 1991 crop;

"(ii) $2.69 per bushel for the 1992 crop;

"(iii) $2.66 per bushel for the 1993 crop;

"(iv) $2.63 per bushel for the 1994 crop; and

"(v) $2.60 per bushel for the 1995 crop;

By Mr. KOSTMAYER:

—Page 900, after line 7, insert the following new section:

SEC. 1618. AGRICULTURAL RESOURCE CONSERVATION DEMONSTRATION PROGRAM.

(a) DEFINITIONS.—As used in this section:

(1) ELIGIBLE LOAN.—The term "eligible loan" means loans with terms of not less than years made by lending institutions to State trust funds to further the purposes of this section. No principal payments shall be due on such loans for the first 10 years after each is made and the principal amount shall be paid by the State trust fund at the end of the tenth year. For each such eligible loan, each State trust fund shall be entitled to receive an interest rate subsidy from the Secretary as provided in subsection (b)(2).

(2) ELIGIBLE STATE.—The term "eligible State" means any State which, on or before August 1, 1991—

(A) operates or administers a land preservation fund which invests funds in the protection or preservation of farmland for agricultural purposes; and

(B) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

(3) LENDING INSTITUTION.—The term "lending institution" means any Federal or State chartered bank, savings association, cooperative lending agency, or other legally organized lending agency.

(4) PROGRAM.—The term "program" means the farmland preservation program established under this section.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(6) STATE.—The term "State" means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

(7) STATE TRUST FUND.—The term "State trust fund" means a trust fund or an account established by an eligible State, approved by the Secretary to participate in the program, in which Federal funds received under this section are deposited for use by such trust fund.

(8) ALLOWABLE INTEREST RATE.—The term "allowable interest rate" refers to an interest rate which shall be the current average rate of interest which each State pays on 10-year notes or other similar obligations of the State, or a comparable interest rate as determined by the Secretary.

(b) ESTABLISHMENT OF PROGRAM BY THE SECRETARY.—

(1) IN GENERAL.—The Secretary of the Department of Agriculture, shall establish and administer a program, which shall be known as the "Agricultural Resource Conservation Demonstration Program", to provide Federal guarantees and interest rate assistance for loans made by lending institutions to State trust funds. Under the program, the Secretary shall guarantee the timely payment of the principal amount and interest due on eligible loans made by lending institutions to State trust funds and shall subsidize the interest on such loans at the allowable interest rate for the first 5 years in accordance with regulations set forth under paragraph (2). Each State trust fund shall pay the rate of interest, and the principal at the end of the tenth year, as set forth in the loan agreement regarding each eligible loan.

(2) MANDATORY ASSISTANCE TO EACH STATE TRUST FUND.—The Secretary shall—

(A) fully insure or guarantee each eligible loan made by lending institutions to each State trust fund under regulations issued by the Secretary; and

(B) subject to the availability of funds for such purpose, annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan the State trust fund receives, as determined under regulations issued by the Secretary, during each of the first 5 years after each such loan is made.

(3) REGULATIONS.—The Secretary shall issue proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

(A) the application procedures for eligible States;

(B) the factors to be used in approving applicants;

(C) procedures for the prompt payment of the obligations of the Secretary under paragraph (2);

(D) recordkeeping requirements for approved State trust funds;

(E) requirements to prevent program abuse and procedures to recover improperly obtained funds;

(F) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this section; and

(G) any other rules necessary and appropriate to carry out this program.

(d) APPLICATIONS.—In applying for assistance under this section an eligible State shall—

(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

(2) agree that the State trust fund will use any funds provided by the Secretary under this section in a manner which is consistent with this section and the regulations issued by the Secretary; and

(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

(e) ADMINISTRATION.—

(1) ANNUAL APPLICATIONS.—Eligible States may apply for Federal assistance under this section on an annual basis.

(2) MATCH AND MAXIMUM AMOUNT.—The total amount of any guarantees provided by the Secretary under this program shall not exceed an amount that is equal to double the amount that each eligible State makes available for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any State.

(f) REPORT.—Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report concerning the operation of the program created under this section.

(g) DURATION OF PROGRAM.—The program established under this section shall expire on September 30, 1996, except that any financial obligations of the Secretary entered into under this section on or before such date shall continue to be met as required by this section.

(h) IMPLEMENATION AND EFFECTIVE DATE.—The Secretary shall issue final regulations to implement this section within 160 days after enactment of this section. This section shall take effect on October 1, 1990.

H.R. 5257

By Mr. BROWN of Colorado:

—Page 48, insert after line 21 the following new section:

SEC. 306. The amounts otherwise provided in this title for "SCHOOL IMPROVEMENT PROGRAMS" are reduced by $6,400,000, and for "STUDENT FINANCIAL ASSISTANCE" are increased by $6,400,000.

—Page 39, line 17, strike "and title IV".

SENATE—*Wednesday, July 18, 1990*

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Chaplain will lead the Senate in prayer.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Blessed is the nation whose God is the Lord; and the people whom he has chosen for his own inheritance.—Psalm 33:12.

Eternal God, Lord of history, Ruler of the nations, every day from the first day Congress met in 1789, both Houses have been opened with prayer by the Chaplain. Experience teaches that familiarity may breed contempt even for sacred realities. May such never happen in this place. We heed the words of President John Adams as he spoke to the House and Senate at the first meeting at Congress in this building, in this city, in November 1800.

"It would be unbecoming the Representatives of this nation to assemble, for the first time, in this solemn temple, without looking up to the Supreme Ruler of the Universe, and imploring his blessing. Here, and throughout our country, may simple manners, pure morals, and true religion, flourish forever!"

Help us never to treat the opening prayer as a meaningless custom, but to take it seriously as an essential part of legislation. Grant that the Chaplain, whoever he is, will exercise his responsibilities reverently and with great care. In the name of Jesus, our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I believe that under the previous order, the time for the leaders has already been reserved. Is my understanding correct?

The PRESIDENT pro tempore. That is correct.

Mr. MITCHELL. And that there will be a period for morning business between now and 10:15 a.m.

The PRESIDENT pro tempore. That is correct.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 10:15 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Chair will announce that under the order of yesterday, the period for the transaction of morning business will extend to the hour of 10:15 a.m., not beyond that hour, with Senators permitted to speak therein. However, under the order, the Senator from Florida [Mr. GRAHAM] is to be recognized for not to exceed 10 minutes and the Senator from Colorado [Mr. WIRTH] is to control time for not to exceed 30 minutes.

The Senator from Missouri is recognized for not to exceed 5 minutes.

SAVINGS AND LOAN CRISIS

Mr. BOND. Mr. President, several weeks ago I came to this body and suggested that I had written to the President asking for the appointment of a special commission to review the causes of the savings and loan crisis. I also said that I welcomed the input and participation of my colleagues in establishing by legislation such a bipartisan commission which would look into the reasons why we have approximately a $130 billion problem in the savings and loan industry.

My thesis at the time was that while we had many crooks, thieves who had come into the savings and loan industry when that industry was weakened, there were also many other mistakes that we had made, regulatory mistakes, legislative mistakes, and administrative mistakes, mistakes on the part of professionals in the private sector, from attorneys to accountants to real estate appraisers. I felt it would be well to take a look at why we had allowed the Federal Deposit Insurance System to be trapped in such a hole that it has run up a tab that is going to be on the backs of all of us for many years.

Mr. President, it was with some interest today that I read the lead editorial in the Washington Post. Our views do not always coincide, the Post editorial page and mine, but I thought that this particular editorial was particularly interesting because it is headlined "The $150 Billion Question." It mentions the desire of some people to establish independent prosecutors, and certainly where there is criminal wrongdoing, I think prosecution must be pursued. That is why I supported, and this body supported, additional moneys for the Department of Justice to go after crooks, and more money to go after those who, while maybe not guilty of criminal wrongdoing, had acted to cause losses and to incur debts to savings and loans and ultimately the savings and loan insurance fund.

The Washington Post says that while an independent counsel is not a bad thought, it goes on to say:

> * * * the trouble with an independent counsel's investigation is that it focuses on crimes and criminal prosecution. As the country saw in the Iran-contra case, the necessities of prosecution can interfere severely with a full and public account of what went wrong in the political process. In the S&L bankruptcies, as in most great scandals, it was the political errors that came first and invited the crimes. Pursuing the crooks is important, but it's essential not to neglect the mistakes in policy.
>
> It's an assignment that in other circumstances a congressional committee might undertake. But partisan interests have now risen to a point that would make it difficult for any committee to produce an account that would be generally accepted as credible and dependable.

Mr. President, I think that is the problem. We can come down here and lob hand grenades back and forth at each other. I think we do ourselves no service; we do the institution no service. If one wants to read off a list of Republicans who have erred, others of us will read off lists of Democrats who have erred.

The fact of the matter is that people in my State, and I suggest in every State in this Nation, are tired of finger pointing and saying it was the other party's responsibility; it is this party; it is that party; it is this person; it is that person. When you have a $150 billion or $130 billion problem, it takes real teamwork; a lot of different

bodies; a lot of different people were involved in it.

Mr. President, I still think that an independent bipartisan commission appointed by the President and by the leaders of Congress involving people who are not in Government, which could report, we hope by early January 1991, is the best way to lay out the mistakes of the past and perhaps chart a course that would avoid those mistakes in the future.

I once again invite my colleagues to join me in a resolution to establish such a commission. I believe that we can serve our constituents, serve the people of this country by laying out the problems; not just the crimes, but the venality, the shortsightedness, the stupidness, and the policy blunders that led us to this point.

Mr. President, I ask unanimous consent that the text of this editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE $150 BILLION QUESTION

For their money—something upwards of $150 billion of it—taxpayers are entitled to a better explanation of the S&L disaster than they are now getting. With the approach of the congressional elections, it's degenerating to the level of the schoolyard and yes-you-did versus no-I-didn't. Neil Bush's relationship to his famous father has brought a good deal of attention to the collapse of the Denver S&L of which he was a director. That's part of the story, but only a small part. The biggest mistakes were not in Denver, but here in Washington.

The question is how best to obtain an account of this whole melancholy affair that is complete, authoritative and, as far as possible, unbiased. A first-term Republican from Vermont, Rep. Peter Smith, has offered a resolution—and something more than half of the House has now cosponsored it—calling on the president to appoint an independent counsel to investigate the part that government officials played in the savings and loan scandal. That's not a bad thought.

But the trouble with an independent counsel's investigation is that it focuses on crimes and criminal prosecution. As the country saw in the Iran-contra case, the necessities of prosecution can interfere severely with a full and public account of what went wrong in the political process. In the S&L bankruptcies, as in most great scandals, it was the political errors that came first and invited the crimes. Pursuing the crooks is important, but it's essential not to neglect the mistakes in policy.

It's an assignment that in other circumstances a congressional committee might undertake. But partisan interests have now risen to a point that would make it difficult for any committee to produce an account that would be generally accepted as credible and dependable. One possibility is a presidential commission, appointed equally by the president and the speaker of the House. Alternatively, Congress might find one person with sufficient reputation for impartiality to accomplish the job. The authority to hold hearings and to subpoena testimony would probably be necessary.

A full and reliable account would serve two highly valuable purposes. It would tell voters what happened to the public trust and allow them to fix blame on the basis of good information rather than on rumors and accusations. It would also help the government itself to avoid similar mistakes in the future. The entire banking system is now under great strain, and there may be serious trouble ahead. A short historical inquiry into the causes of the S&L collapses would be insurance against more expensive errors in the 1990s.

CAPITAL GAINS TAX

Mr. BOND. Mr. President, there has been much discussion about how it is not desirable and not necessary to have a reduction in the capital gains rate. There is more and more steam being generated on that point.

Some have even said a capital gains is unwarranted. I have spoken on the floor many times before to point out that many constituents in my State, elderly people who own small farms, small businesses, who own rental property, have purchased those properties many years ago and as they prepare for retirement, plan to sell those properties at a price in dollars, nominal dollars, that exceeds by severalfold what they paid initially for the properties.

However, the purchasing price of the dollar has been so devalued by inflation that, if we are to continue our present taxing scheme where we tax capital gains at regular income rates, they will be paying a very heavy tax on the phantom gains of inflation, which is not fair. It is not sound by any economic standards. I hope the negotiators will not abandon consideration of a capital gains differential, which not only will reflect the declining worth of the dollar and avoid taxation of phantom capital gains, but will restore the incentives for sound economic investment by providing the capital gains differential.

The PRESIDENT pro tempore. The Chair recognizes the Senator from Nebraska [Mr. KERREY].

SAVINGS AND LOAN CRISIS

Mr. KERREY. Mr. President, I thank my colleague from Missouri for making the observation about the savings and loans. I quite agree with him. I believe the Nation will grow increasingly impatient and angry if our debate is reduced to confrontation between political parties, trying to prove who is right and who is wrong, trying to gain political advantage in the debate about the savings and loans.

I also read the Washington Post editorial referencing this need, perhaps for some additional analysis of what went wrong and what we might do to avoid such problems in the future.

I might observe, however, that it is difficult sometimes to make genuine policy criticisms, which I feel are legitimate and, in fact, I believe are needed if we are to improve the process of working ourselves out of this problem; if we are, for example, going to have a good debate about how to pay for the savings and loan problem. Are we going to pay for it in present value terms, for example, over a 5- or 6-year period, or are we going to pay for it over 40 years? How is the structure of the bailout going to work? What sort of policies are we going to have toward housing in America? All these sorts of things, it seems to me, are legitimate questions, and we are apt to have disagreements.

It seems to me we do need to focus upon policy. We do need to bring our attention to the policy itself because there are lots of questions that I continue to have.

I applaud the Senator from Missouri's observation of what I think is essentially correct. I think the American people will grow weary and I believe we ought to avoid trying, at least upon this floor, to discover which political party is going to benefit as a consequence of the issue.

(The remarks of Mr. KERREY pertaining to the submission of Senate Concurrent Resolution 140 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDENT pro tempore. Under the previous order, the Senator from Colorado controls not to exceed 30 minutes. Mr. WIRTH is recognized.

REMARKABLE TIMES OF CHANGE

Mr. WIRTH. Thank you very much, Mr. President. As we view these remarkable times of change going on in the country today with dramatic changes in Central and Eastern Europe, the collapse of the Berlin Wall, Nelson Mandela is free, elections in Nicaragua, successful elections for democracy, changes on the home front, George Bush dramatically changing his economic strategy, the S&L scandal coming up and enveloping us, there are many people who say this is a time in which the institutions and the personnel of our Government are going to change significantly as well. We are going to have a great turnover in the House, a great turnover in the Senate, a great turnover among the Governors.

The last time that that happened, Mr. President, was in 1974. In 1974, we were right in the wake of Watergate, the Vietnam war was winding down dramatically, Richard Nixon had resigned and Jerry Ford was the new President.

In the election of 1974, we also had some very, very significant changes. At that time in the U.S. House of Representatives, 75 new Democrats were elected, 19 new Republicans were elected and 4 returnees, Members of

Congress who had been previously in the House—Congressman JACOBS, Congressman Mikva, now on the court, Congressman Ottinger were among those who had returned.

There was a change at that time of nearly 100 Members, nearly one-quarter of the House of Representatives turned over. It was a remarkable change. The country said we want change following all of those events of Vietnam and Watergate, and so on, the civil rights movement, the emergence of the women's movement, and the solidity of the environmental movement. The country said we want change in our institutions of Government, and into the Congress came this very, very large class, particularly in the House of Representatives.

I was privileged, Mr. President, to be part of that class. Many of those individuals are still in the House: Congressman TOM DOWNEY from New York, a very powerful and senior member of the Ways and Means Committee; HENRY WAXMAN from California, leading the battle on clean air over there; PHIL SHARP, Mr. Energy on the Commerce Committee; ANDY JACOBS, a returnee, a Congressman from Indiana, now one of the senior people on Ways and Means; CARROLL HUBBARD and JOHN LAFALCE on the Banking Committee; HENRY NOWAK, JOE EARLY, STEVE NEAL on the Banking Committee, as well doing all of the international operations; NORM MINETA, a very distinguished and senior member of the Public Works Committee; many others—MARILYN LLOYD from Tennessee—many others who are still in the House.

Across the country, that class has made a contribution as well. Jim Blanchard, Governor of Michigan; Jim Florio, the very successful Governor of New Jersey, as Blanchard is in Michigan. Toby Moffett in Connecticut, now running again for the Congress, ran for the Senate and was not successful, as was Andy Maguire from New Jersey, Bob Drueger from Texas, and others. And here in this institution, Mr. President, we have many alumni from that group on the other side of the aisle including Congressman GRASSLEY, now Senator GRASSLEY, Senator KASTEN, Senator PRESSLER, Senator JEFFORDS, and on our side of the aisle, Senator HARKIN, Senator SIMON, and myself, all part of this great wave of people that came in.

You might ask, Mr. President, why am I going through this litany of history, why am I talking about this? It is interesting, the last great sea change. I think we have another one coming in American politics not dissimilar from what happened in 1974, but why particularly reference that today? Because, Mr. President, I would like to join with many of my colleagues in paying tribute to one Member of our class who probably represented the spirit, the fun, the iconoclasm better than anybody else, Congressman Ned Pattison from upstate New York.

Congressman Pattison was elected in 1974, one of the surprise winners as many of us were. We had no right to win at all. We were the classic Watergate babies, defined that way by former Congressman Frank Thompson from New Jersey. The Watergate babies rolled into town having won for historic reasons—the country, the mood, the wave was changing. And probably nobody represented that group better than Ned Pattison, who is now very sick at home in upstate New York, and many of us wanted to make a few comments about Ned.

Right after the election in 1974, Mr. President, with many of us as surprised as the press was that we had won the election, we received a telephone call from the leadership office in the House of Representatives congratulating us. This was the obligatory call the day after the election, saying we wanted to congratulate you and tell you what your benefits are. There was a discussion then that you had certain health benefits and certain retirement benefits, and so on, as if that is the reason all of us had run for the House of Representatives. And then, sort of a footnote to that telephone call, and, oh, by the way, there is going to be a small organizational meeting held in early December and you might want to think about coming back to that if you have time.

Here we were, this wave of history, these changes, we were getting these telephone calls suggesting these were the benefits, that was the purpose of running and, by the way, there was an organizational meeting. A number of us got on the phone, called up and said, what is this little organization meeting.

It turned out, of course, that was the Democratic caucus in which the rules for the 94th Congress—that was the class of the 94th—were going to be combined. I called around to a few people, got hold of Ned Pattison, whom I had never met before, and I said you are a surprise winner and so am I. Why not go to Washington and see what is going on.

So we arrived in Washington and found that, yes, indeed, there was this organizational caucus going on, and maybe that caucus was going to go by before all of us had the opportunity to make our presence felt. We were almost 100 strong at the time.

Pattison and I got together and decided what we have to do is organize this group. We have to figure out how we are going to get all of us together, all of us to do a better job of understanding each other, understanding where we came from and where we are going. So we went out and raised a little bit of money, got an office over on New Jersey Avenue, hired a little staff, had a telephone, and sent out telegrams to all the members of the class saying we are going to have this organizational meeting, why not all get together the day beforehand and talk about where we are and what we were doing. Pattison, with his wonderful kind of pixiest sense of humor about this thing, said if we send out a telegram that will become well-known to everybody, it will be a shot across the bow and these people worried about us all arriving in town are really going to in fact sit up and take notice.

That is precisely what happened. We had a meeting that first day of all of these 75, this bizarre group from across the country, very interesting cross section of America—Jim Krebs from California, Congressman Hall from Illinois, a whole variety of people had arrived. We all sat around over in the Congressional Hotel, went around and introduced each other, talked a little bit about where we come from, what we were doing, and said where are we going to go from here, what are we going to do from here.

Pattison made the suggestion maybe what we ought to do is have a meeting with all the committee chairmen and ask the committee chairmen in the House what it was they wanted to do, what their program was, where they wanted to head. So we all agreed that was a good idea, and we sent out the invitations to all of the committee chairmen.

Well, this was harassing in the House of Representatives, at that point operated totally in a hierarchical fashion, not in a way in which there was any reference to anybody who has not been around for period of time. Sending out invitations to interview the chairmen was not considered to be a particularly good idea by those chairmen.

We received a lot of negative responses saying they would not want to meet with us. And so Pattison defined another strategy along with I think former Congressman Fithian, who had run for the Senate in Indiana later on. They designed a strategy that what we will do is tell the chairmen if they do not come and meet with us, we would not vote for them. This was a vote of 75 Democratic votes for chairmen of committees. Seventy-five votes was a lot of negative votes, and it changed very rapidly and all of those chairmen came and were interviewed. We had a very stormy set of sessions with those chairmen coming in, and the result of that was some very significant changes which we have all heard about in the seniority system that occurred in January 1975.

Three committee chairmen were not reelected, the chairman of the Banking Committee, the chairman of the Armed Services Committee, and another chairman. We came very close,

as a matter of fact, to making changes as well in the Committee on House Administration.

I will never forget we had a big debate on the floor as to whether the then sitting chairman of the Committee on House Administration ought to be reelected to that post. Ned Pattison again led much of the fray on the floor. We were all very worried that if we were not successful in changing the Committee on House Administration, all of us would find ourselves with parking places in Bethesda, maybe rented office equipment from the 19th century, and maybe an office that would be down on the other side of Capitol Hill somewhere. Pattison took the risk and stood up and debated very strongly against the chairman of the Committee on House Administration, who it turned out after many iterations eventually won. He came very close to losing, but at the last moment the incumbent committee chairman of the Committee on House Administration won.

Pattison was deeply worried about this, saying I really committed myself now, I am way out over here, I truly will not be parking in Bethesda but probably in West Virginia somewhere. I am very worried about that.

We were discussing this as we walked through the first floor of the Rayburn Building, and we ran into the chairman coming the other way. He said to the two of us, "Ned, Tim, good to see you. Ned, why don't you come down to my office. We are having a little celebration that I won this election, come down to the office and we will bury the hatchet." Ned Pattison could not help himself and said, "Where are you going to bury it, Mr. Chairman, in between my ears?" That sort of broke the ice, that wonderful sense of humor. Even the chairman was forced to laugh. Ned Pattison was really the spirit of that class and spirit of that time.

Eventually Ned lost, I think in the election of 1978. He was with us for a couple of terms. He was very involved in the Clearinghouse of the Future, which is an operation that continues in the House of Representatives and the Senate today, reaching out toward future issues to which Ned was deeply committed. He was involved with a variety of activities there and was and is a very close friend of many of us. Many of us are very concerned about him and his family, his wife Ellie, and their four kids. We are hoping all is well with them.

This was a remarkable time, Mr. President, this time of 1974. All of us get a little wistful thinking back on that particular period, thinking a little romantically probably about that, and it is interesting to reflect on it as well since this was a time of such dramatic and remarkable change. We are probably heading into a similar era. I hope that as we do head into an era like this we find coming to Washington the breadth and depth of quality that represented both sides of the aisle at that time.

The country was very fortunate. It was a great wave of generally younger people coming to Washington, dedicated to the idea of public service, deeply concerned about where their country was headed, and how much change had to occur—a time not dissimilar from that of today, a time not dissimilar from the great shifts that are going on around the world and domestically which I think is going to see change in American politics and introduce a whole lot of new people to the Congress.

I hope, as those new people come to Washington and come into government, they have the same great sense of positive feeling and sense of direction, and that that class will lead, as it was so ably by Ned Pattison.

Mr. President, there are a number of other people who wanted to come over and make comments at this time. What I would like to do at this point is yield the floor, and I will be coming back in just a few minutes with some of the others in the class that wanted to make a couple of comments.

I yield the floor.

TRIBUTE TO FORMER CONGRESSMAN NED PATTISON

Mr. DODD. Mr. President, I rise today to pay tribute to one of my dear friends and former colleagues, Ned Pattison.

Ned is the fifth generation of Pattisons to practice law in Troy, NY, and he has a great love of politics. He served as treasurer of Rensselaer County from 1970 to 1975, before winning election to Congress in 1974. He and I began our congressional careers together in January 1975.

Mr. President, much has been written about the class of 1974. I dare say that few classes of freshmen Representatives have been as close-knit personally, or as united by a sense of common purpose, as we were. Ned typified many of the qualities that I like to attribute to this class. He believed that the Halls of Congress ought to be brought closer to the people. He believed that Government must squarely face the problems that face the Nation and that the public good must always supersede parochial interests. Most of all, Ned wanted results.

In his own district, Ned sought to shrink the distance between Capitol Hill and his constituents. He logged many hours on many plane rides between here and Albany, so that he could spend his weekends meeting with constituents. His mobile office roamed his huge district, letting people know that they had a place to turn to when they were having difficulties with Washington and/or the Federal Government. He held frequent town meetings, and was always willing to listen to the concerns of people about the Federal Government.

In the House, Ned sought to learn the details of complex issues, and he was a master of the art of negotiation. He was instrumental in crafting the first major revision of the copyright laws in over 50 years—an area of the law which had been in desperate need of update to address the development of copying machines, motion pictures, and other creations of modern technology. Ned was also not afraid to tackle the difficult, unglamorous issues—as is evidenced by his work on a special House panel convened to develop ethics guidelines for the use of computers in House mailing operations.

Ned also believed that Congress must be more than a 535-Member crisis response team. Sound policymaking, he felt, required Members of Congress to understand the larger ramifications of particular situations, and to foresee longrun problems that might not immediately appear on Congress' short-term agenda. That is why he involved himself in the Congressional Clearinghouse for the Future, an organization which, as my colleagues know, seeks to promote awareness of emerging issues, and of the big picture. He remains involved with that effort to this day, as chairman of the Clearinghouse's private counterpart, the Congressional Institute for the Future.

Mr. President, during his time in the House, I always admired Ned for his candor and integrity. Sometimes these qualities got him into trouble, but I admired him even more because he never stopped being a straight shooter. The United States is a much better Nation because Ned Pattison chose to become a public servant, and it saddens me greatly to know that grave illness continues to threaten him. I want my good friend to know that my prayers are with him, and his wife, Eleanor, and his children, Mark, Lynn, Laura, and Wendy.

Mr. EXON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Colorado has 16 minutes left.

Mr. WIRTH. I would like to retain my time, if I might, and I ask unanimous consent.

The PRESIDENT pro tempore. Without objection, the Senator from Colorado may reserve the remaining 16 minutes of his time.

Mr. WIRTH. I thank the President.

The PRESIDENT pro tempore. The senior Senator from Nebraska [Mr. EXON] is recognized.

CIVIL RIGHTS LEGISLATION

Mr. EXON. Mr. President, on yesterday the Senate became involved in a debate, sometimes very contentious, with regard to the civil rights piece of legislation. Yesterday morning at about this hour, I signaled my intent to vote against cloture that was coming up later in the day. At that time, I briefly outlined my objections to what I felt was possibly an overreach in certain sectors with regard to the civil rights legislation that was passed.

I appealed at that time for more understanding, a pause perhaps so that we might be able to come to some kind of a consensus together, consensus which could pass a civil rights piece of legislation this year along the general lines that were originally envisioned for such legislation.

As I said yesterday, I supported the fact that we need to pass a civil rights bill this year. But I happen to feel that—although I am sure it was not intended—the facts of the matter remain that, at least in the judgment of this Senator, we had some gaping holes in the legislation that was introduced with regard to the establishment of quotas which this Senator feels would cause an outbreak, a rash, if you will, of litigation that would be not only very disturbing to the business sector but to those concerned in civil rights cases.

I guess no one is wise enough to know exactly where that line should be drawn. Even though cloture was invoked, I understand those involved in some of the meetings that are going on are trying to fashion the compromise that would be acceptable to all sides that are concerned on this very, very vital issue. I was concerned yesterday, Mr. President, with some of the charges that were made pro and con on this issue, questioning the motives of others which I think is highly improper especially on a very important piece of legislation which the Civil Rights Act of 1990 is.

I did not feel, nor do I feel now, that undue pressure was brought to try to force anything down anyone's throat. In fact, I have been engaged in discussions and negotiations with several of those on each side of this issue all whom I fervently believe are interested in a workable civil rights package for 1990.

I am still hopeful that will come to pass. I still think it is important that we pass some civil rights legislation that would have the effect of overturning some, if not all, of the cases decided in the Supreme Court in the last few months. But I hope and expect that we all would recognize that everyone is trying to reach the same goal.

I, for one, do not criticize the actions of those who have been working on the floor and behind the scenes to try to come up with a formula that would be generally accepted, and also one that could be and would be signed into law by the President of the United States.

I think civil rights is a vital issue and, as I explained yesterday, I do not believe that I have ever voted against civil rights legislation in my nearly 12 years now in the U.S. Senate. I did not cast that vote against cloture yesterday because I do not think we are properly wrestling with a very, very difficult issue. By that vote I did not imply, as I explained yesterday, that I was against civil rights legislation.

I hope, Mr. President, that the whole series of negotiations, collections of thoughts, statements of goals and concepts will continue. I hope, Mr. President, that without tying up the Senate for days and days and weeks and weeks and months and months that we will be successful in coming up with a piece of legislation that would have the general support, if not the total support, of the U.S. Senate, and hopefully one that the President of the United States will sign into law.

Little is accomplished, I suggest, by heated debate with charges and countercharges against many, many very well-meaning individuals on both sides of the issue, at least on both sides of the issue as of yesterday. I suggest that nothing is accomplished if we pass civil rights legislation in the U.S. Senate, and likewise across the way in the House of Representatives, only to have that legislation vetoed by the President, and therefore not become law.

So I encourage all of the players that are involved in this piece of legislation, last evening, last night and again this morning to try and try very hard, because I think we should try very hard and put our minds at work keeping fairness as the primary goal in mind, and making sure that the legislation does not establish quotas which I think is a main concern of all of the very honorable Members in this body. Therefore, I encourage negotiations to continue, and hopefully out of those negotiations—as has come in the past—will come a very outstanding piece of legislation that this Senator and most of the Members of the United States can enthusiastically support.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Nebraska [Mr. KERREY] is recognized.

THE 1990 FARM BILL

Mr. KERREY. Mr. President, I rise today to offer some preliminary comments on the upcoming debate of S. 2830, the 1990 farm bill. I will not urge upon my colleagues that this is a great farm bill, that this is somehow some great piece of legislation, but it is a good farm bill; it is a bill hammered out in the process of trying to compromise a variety of different interests. Most particularly, it is a farm bill that has been put together as a consequence of trying to hammer out compromises between different philosophies. It is a bill that has been produced as a consequence of a clear direction given by the chairman of the committee, the distinguished Senator from Vermont, who told us that we must stay within the budget, told us that we must have bipartisan support coming out of the committee, who told us that we must have a bill that is oriented toward a market that is not a dramatic departure from the past.

Mr. President, it seems to me that our chairman, the distinguished Senator from Vermont, deserves a great deal of credit for being able to simply get this bill out of committee and to present to our colleagues a bill that I, in fact, think will continue a fragile recovery that we currently have in American agriculture.

I point out briefly to my colleagues that the first question that must be answered is whether or not we need a farm bill at all. We have not had a great deal of support from the administration on the philosophy of the farm bill. Why do you have it? Why is it important? Unfortunately, there have been very few appeals to the American people that a farm bill is not just good for farmers, it is good for American consumers and, perhaps most important, Mr. President, good for the American economy.

It is not accidental that the 1985 farm bill itself not only turned around American agriculture, but it also enabled a significant recovery in the industrial Midwest in our manufacturing sector. These are not coincidental events.

It is also significant to note that when the President of the United States tried to get Chancellor Kohl to change the agricultural policies of the Federal Republic of Germany, the Chancellor said politely, "No." It was not just because he was concerned about losing votes in Bavaria, as some argue. He looks at his program, oversubsidized though it is—and I would love to see Ambassador Hills be successful in GATT and get reductions in world subsidies—as oversubsidized as they are, the Federal Republic of Germany has a very healthy economy and rural economy as well, and Chancellor Kohl is saying, look, we are loaning you money, not the other way around,

so for me to take advice on this particular issue seems to me to be inappropriate.

Mr. President, we need a 5-year farm bill not just for farmers, but for consumers; not just for consumers and farmers, but also for the common health of the United States of America. I believe that. If I did not believe it, I would be coming here to the floor arguing for something entirely different.

I believe as well that though this is not a great farm bill it is not a bad bill either. It will keep intact for the next 5 years the basic farm programs that have served our Nation's farmers and consumers so well. That is reason enough to support the bill.

In fact, when measured against the simple 1-year extension of current law—complete with further declines in target prices and loan rates—that our GATT preoccupied Secretary of Agriculture has come to support, this is, indeed, a good farm bill overall.

Much has already been said and will likely continue to be said here on the floor about two very important issues in this bill. The first is the need for greater flexibility in our farm programs, and second, the present policy for setting commodity loan rates.

On the issue of flexibility I would like to review some recent history for my colleagues so that it is clear to everyone just exactly how we got to this point where both farmers and politicians are calling for more flexibility in our farm programs.

Planting flexibility is important because it frees farmers to produce any mix of crops in response to market signals. It is also important because planting flexibility allows farmers to rotate their crops and thus better conserve the soil, protect ground water, and reduce the need for fertilizers and herbicides.

Our farm programs used to provide farmers this needed flexibility. Under the Carter administration, farmers operated under something called the normal crop acreage system, or NCA, that allowed farmers themselves to decide which program crops and oilseeds to plant.

All that was changed in 1981. During the Senate Agriculture Committee's consideration of the 1981 farm bill—in fact, it was on April 29, 1981—the senior Senator from Kansas offered an amendment to scrap the flexible NCA system and impose the rigid, inflexible, crop-specific base system that agriculture is stuck with today.

As the Senate-passed version of the farm bill went to conference in 1981, it faced a House-approved bill that proposed to retain the flexible NCA system. In a compromise, the conference report simply provided the Secretary of Agriculture the option to choose between the old NCA system or the new, restrictive crop-specific alternative. Unfortunately, the Reagan administration subsequently chose to implement the restrictive system.

The rationale offered by the sponsor of the policy change and reaffirmed in the committee report in 1981 was that the crop-specific base system would provided a more effective means of controlling agricultural production.

Mr. President, anyone who is familiar with the traditional Republican rhetoric on farm programs will appreciate the rich irony here. In this case, a Republican Senator, and a Republican-controlled Senate sought to give a Republican administration—the Reagan administration—the means to restrict farmers' planting freedom, restrict farmers' ability to respond to market signals, and limit farmers' ability to follow environmentally sound crop rotations practices—all in the name of more effective supply control in agriculture.

As I indicated, the Reagan administration seized this authority, implemented it, and the administration that promised to get Government off the backs of farmers moved to tie farmers' hands instead.

The inflexibility of our current farm programs is now regularly cited by farm program critics—frequently Republicans—as a typical case of what happens when the Federal Government attempts a role in agriculture. But this is really just another example of the pattern—seemingly perfected by Republicans—to take the reins of a Government program, mismanage that program, and point to the resulting carnage as reason for the Government to end its role.

Mr. President, I want greater flexibility in our farm programs as much as anyone. That's why the farm bill that I introduced back on April 3 proposed to return agriculture to the normal crop acreage system. But as I continue to hear the Secretary of Agriculture and certain Republican members decry the lack of flexibility in our current programs I must ask them: Why did you do this to agriculture?

The second issue that we are likely to hear more about, is loan rates.

I support the notion that our loan rates should not be so high as to risk massive grain forfeitures to the Commodity Credit Corporation or undermine our ability to compete in the world marketplace.

Back in 1985, when the Secretary of Agriculture was given significant discretion to lower loan rates, two major policy considerations were frequently cited in support of granting the Secretary this new authority.

The first was a general need to make our exports more competitive, a need that was acute during the first half of the 1980's because of the greatly overvalued dollar and the administration's blanket refusal to consider any action to bring the dollar more in line with other major currencies.

Any one of my colleagues that represents a State with a basic manufacturing industry in that State remembers the early 1980's, remembers the overvalued dollar, the export tax that was placed upon our producers of basic commodities, not just agricultural goods but minerals and woodstocks for this Nation. Lower loan rates, it was argued by the administration would not only help to restore our competitiveness but also discourage farmers in other countries from producing more under the price umbrella offered by our loan rates. It is a constant theme of our current Secretary of Agriculture.

The second major reason offered for substantially reducing U.S. loan rates was to help clear the massive grain inventories that had accumulated during previous years. These excessive stocks threatened any chances for improved commodity prices in the foreseeable future.

Lower loan rates may have helped the United States to reclaim export markets and reduce its surplus stocks, but they were aided substantially by a sharp slide in the value of the dollar that began late in 1985 and back-to-back droughts that cut U.S. agricultural production in 1988 and 1989. But despite loan rate reductions of nearly 40 percent since 1985, the administration continues almost blindly to seek every opportunity to lower loan rates and lower market prices with apparently no pause to assess whether or not we've gone far enough.

I am a little amused by how the debate over appropriate loan rate policy often gets painted as a partisan debate with Democrats favoring high loan rates and Republicans favoring low loan rates. Such a characterization simply ignores the fact that the largest loan rate increase in modern U.S. agricultural history occurred when then-President Gerald Ford, in the middle of the 1976 Presidential election campaign, used his discretion to increase the wheat loan rate by 64 percent, to $2.25 per bushel, and the corn loan rate by one-third to $2 per bushel.

Another of the largest loan rate increases occurred in 1982 when then-Secretary of Agriculture John Block used his authority to increase from $2.55 to $2.90 per bushel the loan that a farmer could get for storing corn for up to 3 years under the farmer-owned reserve program. Because this loan rate was 35 cents per bushel higher than the regular 9-month price support loan, USDA effectively told corn farmers that they could set a record-high corn loan of $2.90 per bushel, but only if they agreed to lock their grain away in the reserve. Not surprisingly, stocks of corn held in the reserve

swelled from 1.3 billion bushels in 1981 to 1.9 billion bushels in 1982.

With a record like that, how can Republicans continue to accuse Democrats of favoring higher loan rates without regard to the impact on the market?

I believe the administration has gone too far in its zeal to cut loan rates. In the process, it has reduced farmers' ability to use commodity loans as a reliable source of credit and as a marketing tool that provides farmers the option to hold grain as they keep a watchful eye for improved marketing opportunities that may present themselves in the course of the year.

If current loan rate policy for wheat and feed grains is merely extended, as our Secretary of Agriculture has insisted, the corn loan rate would fall from $1.57 this year to $1.22 in 1995, according to USDA. The wheat loan rate would decline from today's $1.95 to $1.77 by 1995.

The committee bill offers the opportunity for modestly higher loan rates that should improve farmers' cash flow and enhance their marketing options without risking grain forfeitures to the Government or undermining our ability to compete for exports.

On balance this is a good bill that is fair to consumers, taxpayers, and producers, and I urge my colleagues to support it.

Mr. President, the farm bill that we produced that we have now with the coalition of Republicans and Democrats in the Senate committee is a good one, principally because it orients the farmers to the marketplace. It orients for emphasis the farmer to the marketplace; not USDA to the marketplace, but the farmer to the marketplace. It attempts to say to the farmer "You must make the assessment of risk; we will provide a loan rate that is sufficient. We will provide a target price. We will give you some assistance. But you are the one who is going to have to watch your cash, the one who is going to have to watch your resource base. You are the one going to have to look at the marketplace and make decisions. We are going to try to keep our policy as neutral as possible so that you can make the decisions you have to make in order to be successful."

Mr. President, I believe this is a good bill. Again, I applaud the distinguished chairman of the committee and ranking member, the distinguished Senator from Indiana, who put up with an awful lot from those of us who disagreed on what our policy should be, oftentimes appearing to be in a position where we were intransigent, unwilling to compromise. They worked with us, stayed with us until we did reach a compromise.

It is a bill that is important to preserve the fragile recovery in American agriculture. It is a bill that is important to sustain what is a remarkable success record in the United States of America, and our ability to produce food and fiber to our people at the lowest cost rate for the products. Eleven percent of disposable income goes to food; 11 percent. It is the lowest in the world, and that is the average income in America. That is not for us here in the U.S. Senate. That is the average income in the United States, 11 percent of our income.

We have been free of the fear of running out of food, as a consequence of good, solid policies in this country. And third, Mr. President, it is important for our economy. Those who advocate the elimination of the farm program, those who advocate stark reductions of the farm program, looking for an easy way out, those who buy what I consider to be the misguided arguments of editorials I have seen recently in the New York Times and the Washington Post will rue the day, Mr. President, if those conclusions are reached. Because the economy of the United States of America, as the economy of most nations on this Earth, depend upon healthy agriculture.

Look at the signals we are getting from the Soviet Union. What is the first thing they are trying to rebuild? Are they trying to build a service industry? Are they out there trying to figure out how they can push paper around? No, Mr. President, they are trying to figure out how they can build a healthy agricultural economy. That is the principal thing they are trying to put together. We dare not see this thing as an opportunity just to reduce the budget. We dare not forget the importance of this basic industry to the economy of the United States of America.

I believe we have a good bill before us. I hope my colleagues will consider it well, consider it hard, and will, in the end, enact this piece of legislation so desperately needed by all of America.

EXTENSION OF MORNING BUSINESS

Mr. KERREY. Mr. President, I ask unanimous consent to extend the period of morning business to not beyond 10:30 a.m., with Senators permitted to speak therein.

The PRESIDENT pro tempore. Without objection, the request is agreed to. Morning business will be extended to the hour of 10:30 a.m. with Senators having permission to speak therein.

The Senator from Alaska is recognized.

PARTY DISCIPLINE

Mr. MURKOWSKI. Mr. President, I rise this morning to share a concern with my Republican colleagues over an incident that occurred yesterday in connection with the civil rights cloture vote.

Mr. President, having been in this body for the last 10 years and observing the political process as it occurs gives one the opportunity to observe the party discipline within our two parties as evidenced by our two leaders. A good deal of discussion has occurred as a consequence of the vote yesterday on cloture and the fact that the Republican leadership could not prevail in holding the Republican minority. There was eight Republicans who saw fit to depart, if you will, and I believe one Democrat, from the party position.

Mr. President, the Senator from Alaska appreciates, I think, to the degree that the eight Republicans saw fit, for reasons based on perhaps legalistic arguments, that they determined that it was in their best interests or the best interests of this body to depart from the Republican position, which was to vote against cloture. However, I think one has to at times consider the alternatives. In some cases it is simply a matter of maintaining a continuity, because it becomes a numbers game, if you will. You either have the votes or you do not.

So I would like to call to the attention of my eight colleagues who saw fit to depart, for obviously good reasons, the disappointment of the Senator from Alaska that we as a body did not back our leadership for the specific reason that that is what leadership oftentimes is all about. I do not pretend to stand and debate the legalistic arguments of my colleageus on our side who saw fit to depart. That is their decision. But I do feel it appropriate to share my disappointment that on such a vote we were not able to maintain the party discipline that we have observed in our Democratic colleagues from time to time.

I think, with deference to the leadership on either side, it comes from a style of leadership in this body. I think, at least from our vantage point, Mr. President, it is the observation of the junior Senator from Alaska that the Democrats have been able to maintain a party discipline that has been lacking on our side. That discipline is represented, in my opinion, as a consequence of having a more traditional type management style than is evidenced by the Republican minority leader who, perhaps, practices a more democratic form of leadership through the internal discipline of the party system.

Outside of sharing this observation that it is with disappointment I see the lack of support for our Republican leader on the particular vote of yesterday, I would appeal to my colleagues, many of whom are scholars in their

own right, to recognize that there are indeed occasions—and this was, in the opinion of the Senator from Alaska, the appropriate decision—to abandon the legalistic arguments to justify the particular position and recognize the obligation to stick together as a party unit to support our appropriate leadership.

Seeing the President pro tempore in the chair this morning, one who has had the wisdom from experiencing a number of leaders, who has dealt with the internal party discipline, it would, indeed, be interesting to hear his views on how party discipline is maintained. I am sure he has had his share of successes and disappointments. But, on the other hand, I am sure he has learned the most successful way to proceed with the responsibility as leader for maintaining that leadership style.

Whether we can expect the Republican leader to perhaps change his internal authority as leader in enforcing discipline on our side I do not know. But I think it provides reasonable food for thought because, clearly, the Republican minority has been given, I think, an extraordinary amount of freewheeling motion by the Republican leader, which I commend him for, but I think we collectively owe him, on occasion, a support base that was lacking as of yesterday.

With that profound observation, Mr. President, I yield the floor at this time and thank the Chair for listening to my observation.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON] is recognized. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, upon the completion of morning business, the Senate will return to consideration of the civil rights bill. I understand the distinguished Senator from Washington is to address the Senate on the pending amendment at that time.

Last night, as I have just advised the Senator from Washington, the distinguished Republican leader and I and several of our colleagues dicussed the matter and agreed that we would proceed this morning with debate only until we have had a chance to talk and see if we can reach agreement on the best procedure to follow for disposition of the matter. I merely wanted to state that now for the information and benefit of Senators.

I understand the Senator from Washington does wish to address the subject, and that is perfectly agreeable, when we return to the bill. I will be meeting momentarily with the distinguished Republican leader to see if we can reach some understanding in that regard. I yield the floor, Mr. President.

Mr. GORTON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON] is recognized.

PRIVILEGE OF THE FLOOR

Mr. GORTON. Mr. President, I thank the distinguished majority leader and I will, shortly after we return to a discussion of this bill, make certain remarks in that connection.

Mr. President, in that connection, I ask unanimous consent that David Fortney be granted floor privileges to act as my staff for the duration of the debate on this bill.

The PRESIDENT pro tempore. Without objection, it is so ordered.

A THOUGHTFUL ARTICLE ON THE HOUSING ACT

Mr. GORTON. Mr. President, I have just had brought to my attention a thoughtful article in last Wednesday's Washington Times on the celebrated and wide-ranging Housing Act which was passed by this body on June 27, authored by our colleague, the junior Senator from Florida [Mr. MACK]. Because I believe this article outlines both the nature of the debate and the nature of the triumph of the new direction in housing policy represented by that act, I ask unanimous consent Senator MACK's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, July 11, 1990]

BRINGING AID AND TENANTS TOGETHER

(By Connie Mack)

On a recent visit to a public housing project in Tampa, Fla., Essie Mae Reed, a resident, summed up for me the direction our nation's housing policy must take: "I'm teaching my children that they should become taxpayers, not tax burdens."

Her words rang clear recently as the Senate debated and passed (June 27) a wide-ranging housing reform bill that takes the first major step toward providing low-income Americans and senior citizens who need housing assistance with the freedom to one day become independent from government programs.

The House will soon begin floor consideration on a bill that authorizes some $28 billion in the next fiscal year for housing programs—a 65 percent increase over current appropriations.

A cornerstone of the Senate's legislation is an initiative that gives state and local governments the option of establishing direct rental-assistance programs instead of relying solely on construction and rehabilitation of traditional housing units. Unfortunately, the House has concentrated on the bricks-and-mortar approach instead of direct tenant assistance.

Direct assistance—in the form of vouchers and certificates—will give Americans who need housing assistance the freedom to live near families, transportation, schools, day care and employment to help them become independent.

It also lifts the burden of wasteful construction programs off taxpayers and directs scarce federal dollars to those Americans who are truly in need of temporary assistance.

The Senate bill sparked a debate on our nation's housing policy that shifted the focus of housing programs from the traditional bricks-and-mortar approach to initiatives empowering the elderly, young Americans and low-income Americans with opportunities.

I've visited public housing projects throughout Florida and talked with residents such as Mrs. Reed, and it became increasingly clear that our housing policies simply have not worked.

Too many federal dollars were being squandered on programs that encouraged dependence on the government or were spent on consultants and middlemen who abused the system.

A special Senate subcommittee investigating past abuses in federal housing programs attempted to analyze how various government programs interacted in order to create a successful housing project.

As the ranking Republican member of the subcommittee—which is chaired by Sen. Bob Graham, Florida Democrat—I found it amazing that in a model project using six different types of assistance, only 45 of the 140 units created were for low-income people, including senior citizens. Less than a third of the units of a typical successful government housing project actually helped those for whom a federal housing policy was designated.

It also was evident that throughout much of the country the housing problem had become one of affordability rather than availability.

According to estimates from the Department of Housing and Urban Development, vacancy rates for available rental housing for low-income Americans are at an all-time high, not counting public housing.

In a report this year, the vacancy rate for private low-income housing stood at 13.2 percent in the Miami-Fort Lauderdale area. Many of America's larger urban areas have similar vacancy rates.

It's clear that throwing more tax dollars at programs that only build housing units is simply wasteful.

The debate in the Senate concentrated on whether to provide state and local governments the option of direct rental-assistance programs or force them into a program solely of construction and rehabilitation even when more units were not needed.

In the end, the option of direct rental assistance won out, giving state and local governments the ability to tailor housing programs to meet their specific needs.

The Senate bill goes beyond the direct rental assistance approach. It includes programs to establish low-income homeownership, tenant management, elderly independ-

ence, and a host of initiatives from day-care centers to job assistance under the umbrella of Operation Bootstrap to help low-income Americans and elderly persons take advantage of economic opportunities.

The programs, first proposed by HUD Secretary Jack Kemp last year, represent a new approach to our housing problems, empowering people instead of middlemen who want low-income housing construction.

The Kemp proposals in the Senate bill direct our limited resources away from building projects and toward building communities with less drugs, less crime, less poverty and more opportunity.

Let's hope the House takes Mrs. Reed's advice and looks to new directions in housing policy.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been raised, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MIDEAST WATER SPEECH

Mr. REID. Mr. President, I have just returned from a week in Israel and 3 days in Egypt. I was the first American official to meet with the Ministers of the new Government in Israel, including Yitzhak Shamir, Ariel Sharon, David Levy, Yitzhak Rabin, and Moshe Arens, as well as Shimon Peres. In addition, I visited the West Bank and spoke with a number of Soviet immigrants. In Egypt, I met with a number of that Government's ministers.

I believe I have returned with some good news. There is, in the Middle East today, a spirit of realism among the peoples of all sides. Though I have visited the region a number of times in the past, this spirit is something I have not seen before. But, the nations that have been party to the long and bitter conflicts must match that spirit with acts—acts of cooperation and mutual benefit. That will be the challenge.

There is no question that Israel deeply wants and needs peace with its neighbors. The traditions of the nation, the ethical history of Judaism and the yearning of any family for an opportunity to go peacefully about its business mandate it.

Egypt, I firmly believe, is willing to cooperate, for the Egyptian people themselves have tremendous problems. The rise of fundamentalism and a population growing at the rate of a million every 9 months are just two of these problems. Egypt can only benefit from its relationship with Israel—a relationship we can be proud America has done so much to foster.

Even Syria has made overtures toward a settlement, expressing the new realism. The Syrians need stability if they are to grow, and President Assad knows that Iraq presents a grave threat to his nation's existence—a threat never represented by Israel.

The Iraqis have used poison gas in war and against their own people. They are working to develop their own long-range delivery systems for these hideous weapons, and they have threatened to use them against Israel. Saddam Husayn may or may not be insane, but he is determined to dominate the region. Only cooperation among the West, the Arab nations and Israel can contain Hussayn's threat.

The cadaverous spectre of the Ayatollah Khomeini still reigns over the Iranian Islamic fundamentalist movement. The masses have been roused to holy war, and the mullahs are xenophobic. In the long run, the only hopes are education and an improved living standard for everyone. It is only the man who has something to lose who resists the tides of violent change.

There are a number of other troubled areas in the Middle East. Jordan and Lebanon are in deep trouble. Jordan totters continuously on the brink of a cataclysmic fate; Lebanon has already met that fate.

Finally, there remains the problem of the Palestinian people. For so long they have been the football of the Middle East. Ironically, the only nation in the region which has shown any compassion toward them has been Israel.

It was Israel which offered peace time and time again—in the 1940's, 1950's and 1960's. It was the Arab nations which convinced the Palestinian Arabs to flee their homes and which confined them in the squalid camps which they still occupy today. Those events, however, are in the past, and those who always look to the past will never have a future.

During my recent trip, I saw that Israelis are beginning to believe, in far larger numbers than ever before, that what has been done for the Palestinians in Israel, and in the occupied territories, in terms of education, sewage, water, electricity, and health care, among other things, is still not enough. Some form of Palestinian self-determination is on the horizon. The Governments of Israel, Egypt, and the United States have all proposed it. The real question is what form it will take.

Our Nation can take a leading role by acting as an honest broker and taking action to speed up the peace process. This is the role we have played successfully in the past, particularly at Camp David.

The first and most basic step toward peace is to find areas in which the parties can mutually and readily cooperate. And areas of opprotunity exist. One such is the recognition that the environment, and especially water, is a matter of joint concern.

Upon returning from Israel, I watched a report on CNN which described as "explosive" the potential for a Mideast war over water. The report quoted an expert from the Global Water Institute which pointed out the underlying problem: Israel, Jordan, and Syria have access to the same overused water resources.

Water is vital to Israel's chemical industries on the Dead Sea, and to its agricultural miracles which have made hills and valleys fertile again. Israel and Jordan both rely on the River Jordan for agricultural purposes.

Jordan says Israel is blocking a $400 million World Bank loan which would finance the construction of a dam on a feeder tirbutary of the Jordan River, and both Israel and Jordan fear Syrian plans to construct a dam on another tributary which could completely dry up the Jordan River.

As you know, in a desert climate, water is life. And though water could potentially be the subject of conflict, it could also be a potential source for peace.

Last week I spoke to Dr. Alef Ebeid, the Minister for Cabinet Affairs for the Egyptian Government, and he considers environmental issues so important he retains the post of Environmental Secretary for himself. The same is true in Israel, where Prime Minister Shamir, with whom I also met, retains that job in addition to his numerous other duties.

I have proposed that the United States, Israel, and Egypt work together to foster the production of water through desalinization, and to stop the desertification which threatens the entire region. This is not an idle dream, nor is it by any means impossible.

Right now, even though they are in a technical state of war, Israel works in quiet cooperation with Jordan on management of resources at the Dead Sea. Israel is the world's leading expert on producing the solar power which is the only realistic source of the energy needed for mass desalinization.

Minister Ebeid was enthusiastic about the idea. He considers desertification "the most significant problem facing future governments of Egypt," and noted that Egypt has devoted substantial resources to research and development in dry land and salt land agriculture.

The Egyptian Government intends to introduce smog control and industrial pollution control legislation. It is also moving to protect its ancient and awe-inspiring antiquities, which are truly a legacy to the entire world, and to create and protect natural parks and seaside resources.

In Israel, water conservation is a way of life, and, as stated, it leads the world in the research and development of solar energy technology. Israeli water projects have instructed the rest of the world, and now it is time for that knowledge to benefit and bring peace to the reigon which has been for so long hostile to that tiny democracy.

There is a great deal we can do to foster that process, and the Israelis and Egyptians are enthusiastic about the idea.

I am presently working in the Senate on funding for a number of water and environment related projects. But, our Government needs to foster communications within our own executive departments to deal with water problems. When I spoke to our Ambassador to Egypt, Frank Wisner, he told me of a recent International Water Conference attended by representatives of five United States Government agencies; none had ever met any of the others. Those experts must start talking to each other, and we in the Senate can foster that cooperation.

We can also provide seed money for desalinization research; studies which would directly affect not only the people of the Middle East, but much of the rest of the world, including Nevada.

There is much to be learned about agriculture in dry climates, and about prevention of water and air pollution in desert environments. The Middle East can be Nevada's laboratory for growth, and by funding various environmental programs we can benefit ourselves and the world, both with peace and prosperity.

America has done a great deal of basic research on air pollution control in desert climates. That research can also benefit all the peoples of the Middle East. Minister Ebeid and the Egyptian Government recognize the threat of their population. Infants who breathe lead, adults who breathe polluted dusts, pregnant mothers exposed to poisons and toxins, all contribute a significant burden on an emerging economy. Our technology can help provide basic controls which lessen that burden, and do so in a cost-effective manner.

The peoples of the Middle East thirst for the waters of peace and life. Together, Mr. President, we can assuage that thirst.

CLOTURE VOTE ON S. 2104

Mr. McCAIN. Mr. President, I voted yesterday against cloture on the Civil Rights Act, not out of a desire to filibuster the bill or impede its passage, but because cloture cuts off the ability of Senators to offer relevant amendments and correct many of this bill's problems.

A number of Senators have been prepared to offer amendments and vote on them. They were encouraged not to. Bipartisan teams of negotiators have been trying to work out an agreement with the White House on the problems of quotas required by the bill, and that is prejudiced by cloture. Voting against cloture is not voting to filibuster, nor is it disagreement with entering a time agreement to expedite Senate consideration of the bill. Cloture is a tool that cuts off the ability of Senators to offer highly relevant amendments. To equate opposing cloture with filibustering is patently false.

Mr. President, my record shows a consistent commitment to ensuring every American's civil rights are fully protected. That commitment can be shown in my efforts on behalf of Hispanics, blacks, and Native Americans. That commitment can be shown in my efforts to combat unjustified sexual discrimination as when I voted against President Reagan and voted to override his veto of the Grove City civil rights bill last Congress.

But there is a major point of disagreement in this bill as it stands that is of utmost concern to many civil rights advocates—from Hubert Humphrey on—and that is the imposition of racial quotas.

I am not a lawyer, and I do not pretend to be. But the testimony of Charles Fried before the Senate on this bill speaks pointedly to this concern. I will ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

It seems pretty plain to me that the bill that has come before us will in effect require many employers to institute quotas when hiring because it is the only way to protect themselves against law suits for discriminating hiring practices.

There is a wonderful irony here—making employers use racial classifications for their hiring decisions because if they do not they will be sued for impermissible racial hiring practices.

America is changing rapidly in many ways, including ethnically, racially, and culturally. Those changes need not be feared or resisted, because they will make this country an even more dynamic, unique nation. But in our increasingly diverse ethnic and racial mix, it is even more imperative that employment opportunities be available to everyone in a colorblind way. It is imperative that our Government reduce barriers and tensions and promote a colorblind society.

The reason we are such an ethnically diverse nation is that we have always tried to be an open, opportunity society. That is why people immigrate to the United States. That is why, when they get here, they start with a common American value. That opportunity society is why this country is great. Yes, we must make sure opportunities are kept open, and there are times when government must intervene to ensure that. Bigotry and prejudice are unfortunate, ugly things, and we should try to eliminate them with the full force of Federal law.

But the credo of an open opportunity society—one that allows individual creativity, ability, and initiative to determine success, rather then artificially manipulated outcomes—is an essential social glue. It is a common denominator that no one can seriously say is invalid or unjust.

This principle unites us and must be maintained to keep us united.

Quotas divide us. Quotas segment us.

Are we going to forge a Balkanized society where employment opportunities and economic success can rise or fall because of one's race or ethnic background?

Our opportunities must never be made to depend on how many people in our ethnic, racial, or sexual groups have jobs with a particular enterprise. The door of economic opportunity must always be open equally to all.

The agenda of promoting racial quotas sows the seeds of discontent. Those seeds are different from the discontent of the 1940's, 1950's, 1960's, and 1970's when we needed to break down racial barriers to ensure access to opportunity and equality. That discontent, however real, was not legitimate because it failed to respect the principle that every person in this Nation must have equal rights and opportunities, and race and ethnicity are never legitimate barriers to that.

The seeds of discontent about quotas are different, because quotas are a form of societal discrimination based on race and ethnicity. It is not a colorblind society under quotas. It is a society that requires employers to discriminate against and victimize people who are innocent of discrimination themselves in order to help people who have not been discriminated against by the employer. That is wrong. That will breed resentment that is legitimate. That will create an increasingly divisive America.

For these reasons, Mr. President, I believe the procedural tool of cloture was an inappropriate way to cut off debate and restrict the ability to deal with this most difficult and complex issue. The issue is too serious, and the ramifications too significant.

Let's get a civil rights bill through this Congress this year. I support that as does President Bush. But pushing through a quota bill under the guise of the Civil Rights Act of 1990 is consistent with the ideal of a colorblind America and should not be fostered by cloture petitions.

I ask unanimous consent that the statement of Mr. Charles Fried be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE CIVIL RIGHTS ACT OF 1990—TESTIMONY OF CHARLES FRIED [1]

1. INTRODUCTION

The bill we are considering does some very good things, which need to be done. It also contains some provisions that are unfair, extreme, and dangerously, pointlessly intrusive into inner workings of private businesses and institutions of all sorts.

I use as my major premises the principles that Hubert H. Humphrey set out in the great debate which led to the Civil Rights Act of 1964.

(I) Discrimination (public or private) on grounds of race, sex, religion or national origin is wrong in itself, injuries us as a community, deprives the most vulnerable among us of what they want most—the opportunity to work and contribute—and deprives the community of the contribution of those who are excluded. In short, it is wicked, harmful and inefficient.

(II) No employer who is not discriminating should be forced—directly or indirectly—to hire someone just because of their race, in order to maintain some kind of numerical ratio of proportionality in its work force. Quotas, by whatever name and under whatever disguise, are as loathsome as the discrimination they are supposed to remedy.

(III) As we work to stamp out discrimination and to open opportunities which discrimination had closed off, we must avoid unnecessary intrusion into the way businesses, labor unions and private institutions manage their affairs.

I also take as a fixed premise what the Supreme Court has said many times, but definitively last Term in *City of Richmond* v. *Croson* that the Fourteenth Amendment of the Constitution protects all persons alike, that the use of racial classifications of any sort is always highly suspect, and that the Constitution is as hostile to racial discrimination that calls itself "benign" as it is to racial discrimination of the old fashioned kind.

2. RESPONDING TO PATTERSON V. MC LEAN CREDIT UNION

The bill does a very good thing here: it extends the protection of the Reconstruction Civil Rights Act, what is now section 1981, to some very ugly and demeaning forms of discrimination which the Supreme Court in the Patterson case last Term held were not covered by that statute. By the amendment that is proposed in this bill, acts of discrimination after a person has been hired are as actionable as racially motivated refusals to enter into the employment relation in the first place. Such discrimination, for instance, the harassment and denial of promotion opportunities which Ms. Patterson had to endure, are as harmful, as demeaning and as pointlessly wasteful of our citizens' capacities, as disciminatory refusals to hire. Indeed it might be said that from a human point of view it is worse for a person to be subject to demeaning treatment in a job they have come to rely on than to be foreclosed from getting into the situation in the first place.

The Supreme Court held that its limiting construction was compelled by the words of the statute itself. As Solicitor General I filed an amicus brief on behalf of the United States suggesting a way that the Court could reach a more generous result without yet doing violence to the words of the statute. The Court rejected that suggestion. The present bill, because it is not interpreting the statute can go further than I suggested at the time, and I believe it is quite proper to propose this more comprehensive treatment. The only word of caution I would enter is that the Committee consult with experts and interested persons to make sure that there is not any unnecessary and confusing overlap with other statutes—particularly Title VII—in a way that may provoke unnecessary litigation and undermine the conciliation function of the EEOC.

3. RESPONDING TO LORANCE V. A.T.&T. TECHNOLOGIES

Another good piece of work the bill would accomplish is reversing the result in the Lorance case so as to give persons injured by improper and discriminatory seniority plans a fair chance to challenge them. The Supreme Court's decision in that case came from no hostility to the justice of the claims, but from a sense that the Court was boxed in by its prior decisions interpreting Title VII. Again as Solicitor General I had filed a brief on behalf of the United States arguing that this unfortunate conclusion was not a necessary one, but the Court rejected our argument. I am glad that the bill would extricate the law from a box it did not seem to me it really was in.

I should add that the impulse behind this provision—that a victim of discrimination should have a fair and generous opportunity to come to court and seek relief—is not consistent with what this bill proposes in its section 6, the section supposed to undo the Supreme Court's decision in *Martin* v. *Wilks*. There is an unfortunate suggestion in this inconsistency. There is the suggestion that the grievances of the women who were barred in Lorance were real grievances, deserving a fair hearing, while the grievances sought to be raised in the Martin case were somehow not to be taken quite as seriously, not to be treated as generously.

4. RESPONDING TO WARDS COVE PACKING CO. V. ATONIO

This brings me to Section 4 of the Bill, which responds to the Supreme Court's decision in the Wards Cove case. This section comes as close to anything I have seen in federal legislation to imposing quota hiring throughout the private sector. The word quota is not used. The language is technical. Indeed, unless you are familiar with the statutes and precedents which this section would supplement, you would not get a glimmer of this. Yet set in its context of existing law and litigation realities, this provision threatens great harm. It would force employers to use quotas in hiring or else expose themselves to law suits they cannot win. And it encourages courts and plaintiffs' lawyers to substitute their one-sided, inexpert judgment of how the private institutions of this country should run their businesses for that of the owners and managers and entrepreneurs and administrators who manage the private businesses and institutions—profit and no-for-profit—of our country.

Section 4, like the Wards Cove case and the Griggs case, which Wards Cove clarifies and develops, address an important and difficult issue in discrimination law. Title VII of the Civil Rights Act was directed at intentional discrimination. That is the root evil. But early on the courts recognized, and in 1971 the Griggs case acknowledged, that employers and unions can erect (or maintain) barriers to minority workers without necessarily having had any evil intent—at least at the outset; and yet the barriers may be just as exclusionary as the worst bigotry. The most obvious examples were the rules in some unions giving preference or limiting membership to relatives of existing members. Now this was not intended to exclude minority workers, but since few if any minority persons may have been members of certain unions at the time the Act was passed, the barrier was a formidable one, and very unfair. I would liken this to someone who perhaps quite innocently puts an obstacle in the public highway. Once he knows or should know of the hazard he has created he is responsible for the harm he causes, even if he acted innocently at first. The Griggs case and the so-called effects test (or disparate impact test) address this problem. The idea is that if you have an employment requirement or test or procedure which operates as a barrier to minority opportunity, and there is no real reason to maintain that barrier, you should remove it and open the way to opportunity. That is the idea, and it is a good and fair one.

It is a good idea, but I am sorry to say that there are those who do not accept—they have never accepted—Hubert Humphrey's second principle: his abhorrence, an abhorrence shared by most Americans, to quota hiring. There are some who, from the best motives, would just force businesses and schools and colleges and institutions of every kind to hire workers and accept students and give contracts so that minority persons got a fixed share, would force all these institutions to meet a quota.

The reason this is wrong (the reason even the proponents of quotas rarely come right out and defend them by name) is because quotas are an insult to the diversity and freedom and sheer orneriness of the American people. People in this country just do not like to be forced into categories. They like to be viewed as individuals, and they like to view others as individuals. People want to be judged on their merits. The quota mentality—however admirable its desire to open things up to the disadvantaged—regiments and categorizes in a way that the American people rightly resist. We simply do not want to get into a situation where factories and offices are made to hire certain people or certain kinds of people because of a political decision that this is who should be getting the jobs. One can have an interesting philosophical discussion about how much regulation there should be of the private sector, but when politics starts controlling who gets jobs in the private sector we have moved right out off the map of what the American people find acceptable.

Banning discrimination is in the best of our traditions of treating all persons alike and as individuals. But quotas are not like that. They violate both the second and third of Hubert Humphrey's principles. They bureaucratize and politicize what is at the heart of having a private sector. They are social engineering at its worst.

Let me come back to Section 4 of the bill and Griggs and Wards Cove. It made sense for the law to extend the prohibition against employment discrimination to tearing down pointless barriers to minority opportunity. But that sensible goal was allowed by some lower courts and by the threat of law suits to turn into pressure for quota hiring. It is that tendency that the

[1] Carter Professor of General Jurisprudence, Harvard Law School, former Solicitor General of the United States.

Supreme Court addressed in the Wards Cove case. Section 4 of this bill is not fine-tuning. It is a radical and heavy-handed rejection of what Wards Cove was all about. It would be the closest thing in our law that I have seen to force quota hiring on practically every employer in the country.

Of course the Section does not say so. But any reflection on how it works makes that conclusion inescapable. This is how it works. A plaintiff accuses an employer of employment discrimination. What he shows to get into court is that the employer has a lower proportion of minority employees than is available in the work force.[2] He has not met his quota. Then the only other thing the plaintiff has to do to win is to point to a list (and you can be sure it will be a very long list) of that employer's various practices and requirements: where it recruits, where it advertises, when it accepts applications, what qualifications it may impose, that it requires interviews, references, and so on. According to Section 4, that list and the failure to meet a quota standing alone mean that the plaintiff wins. There is something very wrong with a law that would do that. The private businesses and institutions of this country should be very frightened of it.

One of the things the Wards Cove case said was that before a plaintiff could win a Griggs-type case he would have to show not only that the defendant employer is hiring too few minority persons; he must also make the connection between the failure to come up to quota and whatever practice or requirement he is complaining about. It is not enough, said the Supreme Court, just to say the numbers are wrong. You must prove that something the employer is doing is making them come out wrong—and that means proving which of the many things every employer is doing are having this effect.

And it is this very sensible clarification of the law in the Wards Cove case that section 4 wants to reverse. This is the so-called causation requirement, and (b)(i) of section 4 of this bill says that the plaintiff "shall not be required to demonstrate which specific practice or practices within the group [of practices the plaintiff has pointed to] results in such disparate impact." This is extreme and very unfair.

The other thing the bill does, which is extreme and unfair and interferes drastically with the prerogatives of the private sector, is tucked away in a definition clause, section (2) (o): which defines business necessity as "essential to job performance." The common sense of Griggs and the common sense of disparate impact litigation has generally worked like this: Once a plaintiff has shown that an employer's test or procedure or requirement operates as barrier to minority workers, the employer can defend himself by showing that that job requirement is imposed for a reason legitimately related to running its business, and not as a pretext for keeping out minority persons or just as a pointless barrier left in place out of habit or indifference. And that is another thing the Wards Cove case made clear: that an employer can defend itself by showing that what it is doing is reasonable in terms of the kind of business it is.

What that innocent-sounding phrase tucked away in that definition clause of section (2) of this bill would do is to take away that defense from an employer who has not met his quota, and let it have the defense back only if it can prove that the requirement is essential. Now the word "essential" is strong stuff. It means an employer cannot run its business in any other way. How many requirements that a business or institution, say an airline or blood bank or college, imposes are "essential"? Very few. They are usually reasonable, sound ways of doing business. They are judgment calls. They are the kinds of exercise of discretion that makes us a diverse and free economy and society—people doing things their way, because they reasonably think that the economy will prosper or students will learn better, or you will run a safer airline, a better hospital or research laboratory if you do things this way. Substitute the word "essential" and you kill all the discretion that gives us our diversity and creativity. This is an example of people with only one thing on their mind using the blunt instrument of the law to make every business and institution in the country—though innocent of discriminatory motives—answer to their purposes. It is the worst kind of regimentation.

Of course you can avoid having to answer to a plaintiff's lawyer and court about how you run your business and why what you do is essential to it. You can avoid being regimented in that way—by quota hiring.

Let me be clear. I do not say that any requirement of qualification can be imposed so long as it is not a pretext for discrimination. I think it is reasonable to make an employer at least offer an explanation why what he is doing is reasonable to his legitimate purposes. But to use the word "essential" is to go thermonuclear.

And the bill goes even further in driving employers towards quota hiring. As hard as it is to defend any particular challenged employment requirement as "essential", the bill really makes it impossible for the employer to succeed. Since the plaintiff need not provide which of a potentially long list of requirements he points to is causing the bad numbers, the bill in effect makes the employer prove every one of them is essential. Only then can the employer escape liability and possibly heavy money damages.

In sum, what the bill says to every private employer in the country—business or nonprofit—if you do not engage in quota hiring you will be open to a law suit that will be long and expensive to defend, and which in the end you cannot win. So in the guise of introducing minor adjustments in the law, this bill is one of the most radical and extreme intrusions into private sector autonomy introduced in recent times.

5. RESPONDING TO MARTIN V. WILKS

Martin v. *Wilks* responded to a dilemma the law has faced in a number of areas: whether (a) to require interested parties to intervene in litigation that effects them or be precluded by its results or, (b) to require the litigating parties themselves to bring these outsiders into the law suite if they wish to bind these outsiders. The Federal Rules of Civil Procedure have chosen the second route as a general rule, because of the constitutional requirements of the due process clause that hold that a person may not be bound by litigation in which he has not been represented and has not had a fair opportunity to be heard. The federal rules made this choice because preclusion would only be constitutionally permissible if these third parties had received actual notice of the litigation, and that is often extraordinarily difficult to accomplish and difficult to prove. All the Court did in the Martin case is to apply this general rule to civil rights cases where third parties—usually white males—claim that the arrangements reached by the litigants in a consent decree violate these third parties' constitutional rights.

Now I cannot avoid the fear that much of the hue and cry about this decision comes from those who really do not believe that these white males have any real constitutional rights to be complaining about, and therefore they should not be able to upset longstanding arrangements to assert them. But the Supreme Court has told us that they do have constitutional rights. So it is wrong to proceed on the premise that their constitutional rights are any less worthy of being heard than the statutory rights which this bill quite properly protects in its repair of the Lorance case. In this respect paragraph (C) is right off the map. It would allow a third party to be bound by a litigation of which he had no notice, if a court determined that reasonable efforts had been made to give him notice.

[2] Under existing law, and certainly under the law as clarified by the Supreme Court, the plaintiff would have to show as part of his prima facie case that the pool he is talking about is only the pool of qualified candidates. So a university could say that the pool it is to be measured against is only people with Ph.D.s. Under the bill, of course, that answer would be cut off. The plaintiff would allege that it is precisely by using a doctoral degree as a requirement that the university is discriminating. And then the defendant could only win by itself proving that a Ph.D. was essential to teaching there—not just one reasonable and proper way to run a university among many people might argue about.

STATEMENT HONORING SENATOR BURDICK ON 30 YEARS OF SERVICE IN THE SENATE

Mr. GRASSLEY. Mr. President, I would like to take this opportunity to recognize a fellow midwestern colleague today. Senator QUENTIN BURDICK was first elected to the Senate 30 years ago and since that time has served the State of North Dakota and our Nation well.

During his tenure on Capitol Hill, Senator BURDICK has earned the respect and praise of his colleagues and constituents. As a member of the Senate Agriculture Appropriations Subcommittee, I appreciate his leadership as chairman in working toward improving America's food supply and its rural and farm economy.

Additionally, he cofounded and cochaired the Senate Rural Health Caucus, and served on a host of committees—the Interior and Insular Affairs, Labor and Welfare, Judiciary, and Aging, to name a few. As chairman of the Committee on Environment and Public Works, Senator BURDICK has always been helpful to me on transportation and public works concerns of my State.

Senator BURDICK, your dedication to your constituents and to the citizens of this country is commendable.

Again, I want to join the rest of my colleagues in congratulating you on 30 outstanding years of service to the people of North Dakota and the Nation, and to extend a special thank you for your tireless work and dedication to this institution and your colleagues.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,950th day that Terry Anderson has been held in captivity in Beirut.

UNANIMOUS-CONSENT AGREEMENT—CIVIL RIGHTS ACT OF 1990

Mr. MITCHELL. Mr. President, I am about to propound a unanimous-consent agreement with respect to consideration of the civil rights bill, and I am authorized to state that this has been cleared and approved with the Republican leader.

I ask unanimous consent that when the Senate resumes consideration of the civil rights bill this morning, that no floor amendments be in order until noon.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, the hour of 10 a.m. having arrived, morning business is closed.

CIVIL RIGHTS ACT OF 1990

The PRESIDENT pro tempore. The Senate will now resume consideration of S. 2104, which the clerk will report, with 12 hours remaining on the pending Kennedy-Jeffords substitute amendment No. 2110.

The assistant legislative clerk read as follows:

A bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Kennedy-Jeffords amendment No. 2110, in the nature of a substitute.

(2) Dole (for Kassebaum-Murkowski) amendment No. 2131 (to amendment No. 2110), to strengthen civil rights laws that ban discrimination in employment.

(3) Dole (for Hatch) Amendment No. 2175 (to Amendment No. 2131), to define the term "required by business necessity" as meaning a manifest relationship to the employment in question or demonstrable relationship to successful performance of the job.

(Mr. SANFORD assumed the chair.)

Mr. GORTON. Mr. President, during the course of last evening, the Senate was debating an amendment in the nature of a substitute for this, the civil rights bill, offered by the distinguished Senator from Kansas [Mrs. KASSEBAUM]. That remains the pending business, though as I understand it we will not reach a conclusion to debate on this amendment until the leadership has had an opportunity to see whether or not it is possible to reach an agreement under which we proceed in an orderly fashion on a number of amendments to this bill with a time certain for a vote on the bill on final passage.

Because this amendment represents a full and complete alternate proposal to that which is contained in the bill presented by the committee itself, it seems to me important that all Members understand just what is included in this substitute, what is not included, and how it differs from the proposals which are before the Senate at the present time.

This is obviously a debate on a vitally important issue. These changes which are proposed to the Civil Rights Act of 1964 are profound and will have a significant impact on the way in which business and personal relationships are conducted in the country for a long time in the future should they be passed in any form, whether the form of the current bill or that of the substitute which is here provided.

From the perspective of this Senator, while there are many deficiencies in the proposal which is before us, the two most significant of those deficiencies are that the bill in its present form will in the view of this Senator require most if not all rational employers to engage in a quota-based hiring system in order to prevent constant and debilitating lawsuits on the part of disgruntled persons who do not receive employment or who do not receive the treatment to which they feel they are entitled while they are employed. And second, the profound changes in remedies pursuant to this bill will undermine what have been the successful conciliation and settlement processes under title VII for more than a quarter of a century, and transfer a system which has worked tolerably well into one which encourages litigation, the piling up of often excessive attorneys fees and reaching for the brass ring of large and often unjustified awards of punitive damages.

At the same time, most of the public advertising of the bill which is before us has vehemently denied that it will either establish or encourage a quota-based hiring system. It has been advertised that this bill returns us to the rule in a major case called Griggs versus Duke Power decided almost 20 years ago.

Mr. President, it is my firm position that it very precisely does not do that and does not reach that goal. In fact, given the limited nature of the amendments which are potentially before this body, only the Kassebaum substitute returns to the rule in Griggs versus Duke Power and the subsequent rule relating to employment goals contained in a decision of the Supreme Court entitled New York Transit versus Beazer.

The key, the principal holding, the holding which has been consistently cited by the Supreme Court and lower courts in subsequent litigation, found in Griggs power, defines justified by business necessity as practices which are "manifestly related to the employment in question." When we get to other qualifications, New York versus Bezer describes them as practices which "significantly serves legitimate employment goals."

It is that language precisely which is found in the Kassebaum amendment. That language is found only in the Kassebaum amendment among all of the iterations and proposals which are before us or are potentially before us. I wish to emphasize that point. If in fact we wish to go back to the rules of those two cases, this is the only way in which we can do so precisely.

Other proposals take other language from the Griggs case, language which has not subsequently been cited or which is not a part of the holding in that case, or language which has been developed out of or modified from the language in those two Supreme Court decisions. But, Mr. President, as a Member here who has argued a number of cases before the Supreme Court of the United States, I believe I am safe in assuring my colleagues that if we consciously change the language in a particular case on which we say we rely, the Court will interpret that, and will properly so, that we mean something different from what the Court meant when it adopted that language some 20 years ago. It will then have to determine what it is we mean to change in that holding. None of us can be certain in predicting exactly what that will result in, but we can almost certainly be sure that we will have been interpreted as wanting to be tougher on employers than was the Supreme Court under the Civil Rights Act of 1964 in that Griggs case.

So for Members who wish to reach the goal which this bill had advertised it reaches, the only safe course of action, the only proper course of action, the only just course of action in this connection is to adopt the Kassebaum amendment. The much different language in the proposal which is before us, which requires that an employment practice "bear a substantial and demonstrable relationship to an effective job performance" is one

which is quite different. That creates an extremely high burden of proof for an employer with any or all of that employer's business practices, and it simply means that most of those employers will be advised by their lawyers to stay in a quota-based system; make sure that your employee group reflects as accurately as it possibly can the population of the surrounding area or eligible people; stop choosing your employees on merit; start choosing them under a system of entitlements.

It represents a profound change in the course of employment law and, for that matter, law in general.

It is not what the American people want. It is not consistent with justice. It is not consistent with economic efficiency.

This is the central point in connection with this debate. Senator KASSEBAUM and I have done the best job we possibly could in drafting this amendment to see to it that we reach precisely the goal which has been advertised that we see in past legislation on this subject.

Second, the Kassebaum amendment remains true to the Civil Rights Act of 1964 by continuing to stress, and to rely on the conciliation and settlement processes which are engrained in title VII of that Civil Rights Act.

We believe firmly that this has been a system which has worked well. We do not believe it is appropriate to change that system in such fashion that we create a bonanza for trial lawyers, that we create strong incentives to seek the jackpot in discrimination legislation.

But we change title VII. We change title VII particularly in the field in which harassment is involved. The objection to title VII has been that on the job harassment often is almost without a remedy if the harassed person has not been driven from his or her job because there are no damages. There is no loss of income.

As a consequence, in cases in which backpay is not available under the law, the Kassebaum substitute allows the court to—not a jury—award up to $100,000 in damages in the form of a penalty as a substitute for punitive damages for intentional discrimination.

This seems to me, Mr. President, to provide a proper balancing. That is a very real and a very significant sanction. A monetary remedy of up to $100,000 is by no means minor or de minimis. But it is cast in the framework of mediation and conciliation theories and processes of title VII as it exists at the present time. It will not create a lawyer's bonanza. It will, if anything, encourage that kind of mediation and conciliation.

Last night, during the course of his remarks on the floor, the senior Senator from Massachusetts aimed most of his criticism of this provision on questions relating to its constitutionality; that is to say, can we allow such awards by judges outside the constitutional right to jury here in the United States?

Suffice it to say, Mr. President, the Department of Justice has found that this system is and would be constitutional. And given the current nature of title VII and the other remedies which it permits a court to offer, that decision seems to me to be sound. I believe we can pass this proposal with a high degree of confidence in its constitutionality. If for some reason or another it should be disabled in any fashion whatsoever, obviously, this Congress is a continuing body, and can revisit that issue when it becomes appropriate or necessary to do so. I do not believe that it will be necessary to do so. I believe that it would be found to be constitutional.

Third, this Kassebaum substitute restores to those who are adversely affected by consent decrees to which they have not been parties the right to a day in court if in fact they have not sat on their rights or ignored them for an unreasonable period of time or in unreasonable fashion.

It is therefore somewhat different from the present bill in that respect. It is far more consistent, I say, Mr. President, with the justice of the case to do exactly that. We all know that consent decrees are often, if not sweetheart agreements, certainly agreements which have not taken into account the interests of all of the people who will be affected by them. They involve on one side either governmental entities or large corporations, and on the other side, generally speaking, challenging civil rights groups. The employer, whether public or private, under circumstances like that is often, if not most often, less interested in present or future employees than it is in getting out of the litigation and creating a situation in which it can go back to its primary goals.

But those consent decrees often do affect and affect very adversely skilled, highly qualified members of the work force. In the appropriate circumstances, they should have the right to challenge the adverse impact of such decrees on their own lives and on their own careers. This proposal does exactly that.

In other words, Mr. President, we have here, a fair, a middle-ground proposal. It deals with the primary source of criticism in the so-called Wards Cove decision by properly balancing the duty of meeting a certain degree of burden of proof or burden of coming forward with evidence.

It states very clearly—and I think in a way which cannot be misinterpreted—that it is the duty of a challenging employee or challenging group of employees to prove first a disparate impact so-called, a work force which does not reflect surrounding society, and a causal relationship between a practice on the part of an employer or a group of employers, and that disparate impact.

That is all that it requires of the employee in the first instance. Then it is up to the employer. This is the area in which Wards Cove is reversed. At that point, it is up to the employer to show that the practice or the group of practices which has resulted in this disparity is justified by business necessity. Business necessity then is defined as I have already outlined in precisely the terms used in the Griggs case, and in the Beazer case.

The Kassebaum substitute goes on and says even though the employer has proven this business necessity, the employee or the representative of the employee gets another crack at showing that a less onerous or less strict business practice or employment practice would meet the same employment goals; that if it can be done, then a smaller impact on the change in those employment practices will be required.

Mr. President, this seems to me to be eminently fair. It leaves at each stage of the proceeding the burden of going forward on the person who or group who ought to carry that burden. It encourages settlement of disputes of this sort. It is not as punitive with respect to productivity. It does not cause a lurch in our public policy from a society and an employment system based on merit to one based on entitlement, and at that, entitlement based on gender or on race or the like.

It is, in summary, an appropriate response to the problem which we face and which will do the greatest degree of justice to the widest range of people here in the United States. I believe that it deserves a very, very careful consideration on the part of all Members, and such an appropriate response.

Mr. President, under the circumstances in which we find ourselves at the present time, with cloture having been invoked, many of the normal rights and authorities of sponsors of amendments are lost. One of those is the right on the part of the sponsor of an amendment to modify that amendment pretty much at will. Such modifications now require unanimous consent. Because Senator KASSEBAUM and I desire this to be genuine bipartisan across-the-board approach, we have discussed it with many Members on both sides of the aisle, several of whom have had constructive suggestions for graphic changes. None of those changes would modify the basic philosophy of this amendment, as I have outlined it, but some of them do represent improvements.

At an appropriate time—and this is obviously not that appropriate time,

with no other Member on the floor—we intend to ask for unanimous consent to make these relatively minor changes to the amendment so that we can have a perfected substitute on which to vote at that appropriate time.

With that, Mr. President, I have given at least my initial views on this subject. As I do not see any other Member on the floor, I suggest the absence of a quorum, with the understanding that it is simply charged against the bill and not against any individual.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. I thank the Chair.

(The remarks of Mr. BOREN pertaining to the introduction of S. 2865 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BUMPERS. Mr. President, I voted for cloture yesterday on S. 2104. I did not vote for cloture because I thought the bill was in perfect shape. I voted for cloture because I thought it was capable of being put into an acceptable condition, in a condition that will be fair to those who feel discriminated against, who are in fact often discriminated against, and the business community which has to worry about employment practices as well as hiring practices, to try to work out a balance that would be fair to both parties.

Needless to say, a lot of people in this country are very anxious to see this bill pass. A lot of them would like to have seen it passed in the form it was originally brought to the floor. But there are some of us, particularly in my position as chairman of the Small Business Committee, who want to be sure that the bill is fair to minority groups, women in this country, and fair to the employers who have to pay damages. I would suggest there may even be a case occasionally where somebody has to pay damages where they might not otherwise have but they settle because they are frightened to go further with the case for fear of what it ultimately might cost them.

So when the people say this bill does not require quotas, technically and legally that is correct. You will not find the word "quota" in the bill. You will not find any suggestion in it that an employer has to have a representation of minorities on his staff or on his payroll that is a reflection of a minority population in the community. But when you look at some of the language of the bill, you can see why especially small business believes that the effect of it will be to require them as a defensive mechanism to defend themselves against the possibility of a huge punitive damage judgment to hire based on quotas so that they will never be challenged.

I think therein lies the big problem. What this Senator wants to do is to pass a bill that the President will sign. I am not interested in the political issue of having the President veto this bill and look as though he is opposed to civil rights.

I have heard a comment like that on the other side of the aisle. I am only speaking for one Senator. I do not want the politics of this issue. I want a bill that is acceptable to minorities and to the business community, acceptable to women in the business community. I would like to think that we could do that, and perhaps if some of the rancor could be quieted on this floor and we could bring up some amendments to change the bill, we can in fact accomplish that. Men and women of good will, with a common objective in this body, have often done remarkable things.

Now, it may be that the volatility on both sides of this issue—and I must say one of the reasons morale in the Senate, in this Senator's opinion, is at all time low is because we never seem to vote on anything around here that does not have a very large vocal group on both sides, each one of them writing to you and saying we are going to be watching your vote on this and if you do not vote for my side, do not expect my vote when you are up for reelection. I must say that that kind of lobbying is not very persuasive with me.

But here you have a problem, discrimination in the workplace, and I think it is unarguable that to some extent this bill does require quotas.

There are a lot of amendments at the desk—and this Senator has three of them—designed to try to bring some balance. I do not mind telling you I think my amendments will be adopted because I hear what is going on in the Cloakroom. I hear Senators on the floor talking, and I know what they all want as a common goal.

But this morning, when I turned on the Senate television channel in my office, I hear the Presiding Officer say we will now return to consideration of S. 2104 on which there is 12 hours remaining. What happened to the 30 hours? I assume that somebody asked unanimous consent last night that we give up all the time except 12 hours beginning in the morning at 10:15 and everybody says hooray, it is agreed to. And now we have the Kassebaum amendment, a very substantial amendment, which ought to be analyzed very carefully by everybody in the Senate. Senators ought to determine how they are going to vote on it. We have a second-degree amendment by the distinguished minority floor manager, Senator HATCH, to the Kassebaum amendment, and my question is this: How long are these amendments going to take? Are we going to go until there is 1 of the 12 hours remaining for everybody else to offer their amendments?

Mr. President, I am just telling you that I am highly apprehensive. I was not here when all that transpired, at least I was not on the floor. I do not know how it transpired, and I do not know what is at work here. All I am saying is I know a lot of Senators have very good amendments which will improve this bill immeasurably and will help this bill pass. It is not an ironclad certainty this bill is going to pass in its present form.

I think it can pass with some of these amendments, and, it will pass enthusiastically. I am very concerned now about 30 hours suddenly dissolving into 12, some of us wondering how long all of this is going to take before we can bring in an amendment.

Mr. President, I will have more to say on these particular amendments in a little while if I ever get a chance to bring them up. But right now I am just curious. There is no time agreement on the Kassebaum amendment or the Hatch second-degree amendment. I am going to speak to some of these people about how long this is going to take.

I see my good friend, the distinguished majority leader, on the floor. Perhaps he can enlighten me.

My question is with an agreement apparently reached last evening to limit further debate to 12 hours, I am just curious as to how long the present amendment, which is a major amendment, which ought to be debated fully, is going to take and how long will the rest of us have to offer the amendments we have at the desk.

Mr. MITCHELL. Mr. President, in response to my friend and colleague, it is of course an important amendment which is being debated. Discussions are now underway and have been since last evening both on the substance of the measure and on the best way to proceed with respect to resolving the very questions asked by the Senator. I wonder if I might have an opportunity to discuss it with them in somewhat more detail at this time.

Mr. BUMPERS. I thank the majority leader. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. GORTON. I am happy to yield to the majority leader.

Mr. MITCHELL. Mr. President, earlier this morning I propounded a unanimous-consent request which was agreed to which provided that debate would continue on the bill but no amendments would be offered until noon. Discussions are still underway among our colleagues on the other side. I hope they will be back to us shortly in that regard. To accommodate those discussions, with the prior approval of the Republican leader, I am about to request that that time continue until 1:30.

Accordingly, Mr. President, I ask unanimous consent that the previous order be modified to extend it until 1:30 p.m., and during that time within which debate will continue on the bill no floor amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleague, Mr. President.

Mr. GORTON. Mr. President, during the course of last evening, and for that matter this morning, there has been debate on the amendment sponsored by my distinguished colleague, Senator KASSEBAUM, both on the overall merits and direction in which it attempts to proceed, and also on some less significant matters more or less of draftsmanship.

Those criticisms are collected in a one-page release from the leadership conference on civil rights which I understand has been delivered to each of the offices in the Senate this morning. It includes five specific criticisms of the Kassebaum amendment.

Together Senator KASSEBAUM and I wish to answer each of those criticisms, and to make an offer, which we will not present formally at this time, but simply wish to notify our colleagues that we will propose at some later time which will deal totally with two of those objections, and to such constructive suggestions which have been made by other Members of this body.

The first of the objections which appear in this paper relates to damages which can be recovered by women and religious minorities. Suffice it to say we do not agree with that characterization. I will leave the response to this to my friend and colleague, Senator KASSEBAUM.

The second objection which has been raised to the Kassebaum amendment states that it would adopt, rather than overrule, the damaging Wards Cove decision. It would require biased victims to bear the burden of proof on business, and would adopt the weakened Wards Cove definition of business.

Mr. President, in large part, that statement is simply untrue. The definition of business necessity, which is included in the Kassebaum amendment, is taken literally word for word from the Griggs decision. That portion of the Griggs decision, which has been consistently cited by succeeding Supreme Court decisions, if we wish to go back to the Griggs definition of business necessity with respect to hiring practices, only the Kassebaum amendment does so.

However, the rationale for this criticism, has to do with a rather obscure reference in the Kassebaum substitute to an obscure rule of evidence in the Federal Rules of Civil Procedure. Because of the remote possibility that that might have an impact on the burden of proof, the burden of proof which we have in the Kassebaum amendment shifted to the employer.

When business necessity is to be established, we will propose, among our technical amendments, to drop that reference to the Federal Rules of Evidence, so that this second objection simply will be totally removed and not logically be a part of the debate. The definition of business necessity will be taken from the Griggs decisions and the Beazer decisions. The burden of proof will be shifted, therefore meeting the primary criticism of the Wards Cove decision.

The third point made in the Kassebaum substitute requires that bias victims prove that race or other prohibitive motive was a major contributing factor in the job decision. This would make the law even worse than under the Supreme Court's Price Waterhouse decision and could actually allow employers to make job decisions based partly on bias.

Mr. President, that simply is not the case. It is clear that here, as in most of the rest of this bill, that the Kassebaum substitute is a middle ground between the proposals of S. 2104, as it was reported by the committee, and is not making any major changes. The Price Waterhouse holding was that if an impermissible consideration was a motivating factor in an employment decision, then the employer must prove that the same decision would have been made absent that consideration.

The Kassebaum substitute states that if an impermissible consideration was a major contributing factor in an employment decision, then the plaintiff prevails, regardless of whether the employer would have made the same decision otherwise. That is not making it more difficult for the plaintiff, as this statement alleges. It is making the task of the plaintiff much less difficult, but not so much so that a 1-percent factor automatically outweighs a 99-percent consideration, which was totally and completely valid.

Fourth, this paper states that the Kassebaum substitute would endorse and codify all or part of each of the restrictive Supreme Court decisions which S. 2104 was introduced to overrule.

That is simply erroneous, Mr. President. The decisions which are expressly codified in the Kassebaum substitute are Griggs and Beazer. They are codified by using the exact words of their primary holdings. We have understood from the beginning of this debate that that is exactly what the proponents of the bill purported to do. So this statement is erroneous, unless it is Beazer and Griggs, which they desire to overrule, but that has never been their stated purpose from the beginning of this debate.

Finally, Mr. President, this paper says, "it could even codify the holding in Patterson that on-the-job racial harassment is legal under 42 U.S.C. 1981 by failing explicitly to prohibit bias with respect to the 'terms and conditions' of a contract as S. 2104 does."

Mr. President, after looking at it, Senator KASSEBAUM and I have determined that there is some validity to that criticism, and that for reasons that neither of us understand or purposed at the time this proposal was under draft, a particular phrase was omitted from our section 2. We would propose at the time of our request for unanimous consent to make modifications in our amendment to add the phrase "or in the setting of the terms or conditions thereof" into that particular section, so as to obviate that consideration.

I simply repeat what I have said earlier, that the proposal which is before you now is the only one which in fact does use the primary holding of Griggs and of Beazer to set the standard. It does in fact reverse the burden of proof on business necessity. It is an appropriate middle ground on which all Members should be able to unite to terminate this very difficult debate and process amicably and effectively.

Mr. KENNEDY. Mr. President, I, too, ask unanimous consent the following statement not be considered as a speech under the two-speech rule. I would be glad to make the same request on behalf of the Senator from Kansas or the Senator from Washington, since at the present time I would like to be able to enter into debate with the Senator from Kansas or the Senator from Washington. But given our current situation on the floor restricting it to the two-speech rule, we are seeing the time pass without the opportunity, to the extent that Members are interested, to hear some of the other arguments.

The PRESIDING OFFICER. Is there objection to the request.

Mrs. KASSEBAUM. Will the Senator yield for a question?

Mr. KENNEDY. Sure.

Mrs. KASSEBAUM. It was my understanding that under cloture the two-speech rule does not apply; is that wrong?

The PRESIDING OFFICER (Mr. SHELBY). In a situation where there is restricted debate such as this, we do not think it should apply.

Mrs. KASSEBAUM. I thank the Chair.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I listened with interest to the comments of the Senator from Washington. I understand that at some time there will be an attempt to find unanimous consent to make some adjustments along the way that he outlined briefly here.

I would not object to that, with the hope that there would not be objection to some of the other inclusions that we hope to make. I had spoken earlier to the Senator from Kansas, believing that realistically we are moving to a situation where there will probably be either the two opportunities for the Senator from Kansas or a combined leadership amendment.

There will be two different proposals, and at some time I hope that the Senator from Kansas was able to take into consideration some of the alterations so that we have the best package in terms of what the Senator from Kansas has in mind. I hope that we, too, would be able to put out into a package the kinds of things that were discussed before we recessed for our caucus yesterday. During the caucus, I outlined to the Senate that we were prepared to move to perhaps one or two other items which are a principal concern to our colleagues. That remains to be seen.

I want to address the principal concerns that I have for the Senator's underlying amendment. I know, as I heard the Senator from Washington indicate, they wanted to alter and change it. But I want to, at least at this time, mention the principal concerns about how the amendment is drafted at the present time.

I know that the Senator from Kansas has worked in good faith to develop a civil rights bill. But the substitute she has proposed is not the civil rights bill that our country needs. It does not provide the protections against job discrimination that the working people of our country deserve.

The proposed substitute does not repair the damage which the Supreme Court did last year. In fact, in several areas, it would actually enact into law some of the devastating rules of law announced in those decisions. It would gut this important civil rights legislation.

The section of the substitute addressing Wards Cove versus Atonio actually adopts rather than overruling that decision's harmful holding that places heavy and unfair burdens of proof on the plaintiff in disparate impact cases.

For 18 years, under Griggs versus Duke Power, employers had the burden of proving that practices with a discriminatory impact were justified by business necessity. More than 200 decisions over those 18 years confirmed this fundamental truth.

But in Wards Cove, the Court switched the burden, requiring workers to bear the burden of persuasion on this key issue. That rule is fundamentally unfair, because employers know why they adopted the practices in question, and they have far better access to the relevant information than employees do. The substitute effectively adopts this strikingly unfair aspect of the Wards Cove decision.

In addition, the substitute would adopt the weakened standards of business necessity used in the Wards Cove decision. It allows any practice—no matter how devastating the impact on women or minorities—to continue as long as it serves some "legitimate employment goals," the same standard the Court used in Wards Cove. Even well known conservative Judge Richard Posner recognized that the Wards Cove decision diluted the Griggs standard for business necessity. We cannot allow this diluted standard to remain as a barrier to equal opportunity.

One of the most distressing portions of the substitute is the section which addresses the issue of remedies under title VII. Under current law, racial minorities, who can sue under section 1981 of the Civil Rights Act of 1866, can obtain damages for employment discrimination; women and religious minorities, who can sue only under title VII, cannot. This leaves many victims of discrimination without any remedy at all; a victim of sexual harassment may be left without recourse—and may even have to pay the court costs of her harasser. That court case permits that situation.

The substitute claims to address this problem by permitting judges to award up to $100,000 as an equitable remedy in cases where back pay cannot be awarded.

Unfortunately, there are several problems. First, the section is flatly unconstitutional. Under the seventh amendment, in a case where damages may be awarded, the parties have a right to demand a jury trial. No matter what label the Kassebaum substitute would put on its remedy, the Supreme Court would call it damages. And if you can obtain damages in a Federal court—in any amount—you have a constitutional right to a jury trial.

The Justice Department recognized this fundamental fact; they even challenged the constitutionality of fair housing legislation in 1987 on the ground that it did not permit a jury trial in administrative proceedings where damages could be awarded. I ask unanimous consent that a memorandum prepared by the Office of Legal Counsel at the Justice Department be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF LEGAL COUNSEL,
Washington, DC, June 8, 1987.

MEMORANDUM FOR WILLIAM BRADFORD REYNOLDS, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION

Re: Use of Punitive Damages in the Fair Housing Act.

This responds to the request of Deputy Assistant Attorney General Mark Disler for our opinion on the Seventh Amendment issues raised by the use of civil penalties and punitive damages in proposed amendment to the Fair Housing Act, 42 U.S.C. 3602-3631. The Civil Rights Division has drafted a bill entitled "Fair Housing Amendments Act of 1987" ("draft bill"), while the Senate is considering S. 558.

The draft bill and S. 558 raise the three questions. First, may an arbitrator award anything other than equitable relief in a voluntary arbitration proceeding? Second, is the defendant in a civil action entitled to a jury trial on the issue of liability for civil penalties? Third, may an arbitrator or an administrative law judge award compensatory damages, punitive damages, or civil penalties in an administrative proceeding?

I. ANALYSIS

(a) Punitive Damages in Voluntary Arbitration

The first question is whether an arbitrator may award damages in a voluntary proceeding under section 812 of the draft bill. The section would permit the parties to agree to voluntary arbitration that would be binding on the parties. Section 812(a)(2).[1] There is certainly no impediment to the arbitrator in such a voluntary proceeding imposing the equitable relief now outlined in the draft bill: a permanent or temporary injunction and restitution. Nor do we believe that the Seventh Amendment precludes the parties from agreeing voluntarily to submit their dispute to an arbitrator who could impose punitive damages. In these circumstances, both parties will have waived any Seventh Amendment rights that would otherwise obtain.

The question whether this proceeding is consistent with Article III of the Constitution is somewhat more problematic. The voluntary participation of private litigants in a proceeding outside the confines of the federal judiciary does not *ipso facto Comm'n v. Schor*, 106 S.Ct. 3245, 3257-58 (1986) (*Schor*). The Court in *Schor* emphasized that the strictures of Article III (unlike the protection of Seventh Amendment) cannot be waived by the consent of the parties. *Id.* at 3257-3258. For the reasons discussed more fully below, however, we believe that the arbitration proceeding contemplated in section 812 of the draft bill would survive

Footnotes at end of article.

Article III scrutiny because a very similar administrative scheme was upheld in *Schor* primarily because of its voluntary nature. *Id.* at 3260.

(b) Jury trial in civil action

On the issue of liability for punitive damages, we believe that the Seventh Amendment entitles the defendant to a jury trial in a civil action under either section 814(c) of the draft bill or section 813 of S. 558.

The Supreme Court recently held that suits by the Government to recover civil penalties are analogous to a common law action in debt, an action covered by the Seventh Amendment's requirement of a jury trial. *Tull v. United States*, No. 85-1259 (U.S. April 28, 1987) (*Tull*), slip op. at 9-12. Therefore, the defendant in an action to recover a civil penalty under the Clean Water Act, 33 U.S.C. 1319(d), is entitled to a jury trial. The Court distinguished between actions at law, which are covered by the Seventh Amendment, and actions in equity, which are not.[2] *Tull*, slip op. at 4. Noting that civil penalties were punitive in nature, and were intended to do more than make the offender disgorge unlawful profits, the Court in *Tull* observed:

"A civil penalty was a type of remedy at common law that could only be enforced in courts of law. Remedies intended to punish culpable individuals, as opposed to those intended simply to extract compensation or restore the status quo, were issued by courts of law, not courts of equity."

Id. at 10. The Court analyzed the legislative history of the Clean Water Act's penalty provision and determined that it was intended to punish offenders and therefore reflected "more than a concern to provide equitable relief." *Id.* "Congress wanted the district court to consider the need for retribution and deterrence, in addition to restitution, when it imposed civil penalties." *Id. Tull* therefore stands for the proposition that civil penalties that are designed to punish are actions at law that must be tried to a jury under the Seventh Amendment. See also *Curtis v. Loether*, 415 U.S. 189, 194 (1974). The determination in a civil action of liability for "punitive damages" thus requires a trial by jury. Punitive damages are designed to punish and were, not surprisingly, identified by the Court as another kind of action at law that requires a jury trial. *Id.*, slip op. at 9 n.7. Therefore, a defendant in an action brought under section 814(c) of the Act or section 813 of S. 558 would be entitled to a jury trial.

Moreover, even if civil penalties or punitive damages were not available, a jury trial would still be required so long as a private litigant could recover actual, compensatory damages. The Court in *Curtis*, noting that "[a] damages action sounds basically in tort," held that a suit by an aggrieved person to collect damages under section 812 of the Fair Housing Act required a trial by jury. *Id.* at 194-195.

(c) Seventh Amendment and Article III; Permissibility of Administrative Adjudication

Having concluded that an action for compensatory or punitive damages would require a jury trial in an Article III court, we turn to the most difficult question posed by the draft bill and S. 558: whether providing precisely the same cause of action in an administrative tribunal where no jury is available can survive constitutional scrutiny under the Seventh Amendment and Article III.

(1) *Case Law.*—The Supreme Court has held that the Seventh Amendment does not prohibit Congress from assigning adjudication of certain statutory rights to an administrative forum, even if a jury would have been required under the Seventh Amendment had Congress assigned adjudication of the same rights to a federal court. *Atlas Roofing Co. v. Occupational Safety and Health Comm'n*, 430 U.S. 442 (1977) (*Atlas Roofing*).

"At least in cases in which 'public rights' are being litigated—*e.g.*, cases in which the Government sues in its sovereign capacity to enforce public rights created by statutes within the power of Congress to enact—the Seventh Amendment does not prohibit Congress from assigning the factfinding function and initial adjudication to an administrative forum with which the jury would be incompatible."

Id. at 450 (footnote omitted). See also *Tull, supra*, slip op. at 5 n.4; *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937); *Block v. Hirsh*, 256 U.S. 135 (1921). The Court made clear, however, that actions involving "private rights" as distinguished from "public rights" could not be transferred to administrative proceedings.

"Our prior cases support administrative fact-finding in only those situations involving 'public rights,' *e.g.*, where the Government is involved in its sovereign capacity under an otherwise valid statute creating enforceable public rights. Wholly private tort, contract, and property cases, as well as a vast range of other cases are not at all implicated." [3]

Id. at 458.

The problem is that the Court has never stated with any clarity what distinguishes a public right from a private right.[4] "The distinction between public rights and private rights has not been definitively explained in [the Court's] precedents." *Northern Pipeline Construction Co.* v. *Marathon Line Co.*, 458 U.S. 50, 69 (1982) (*Northern Pipeline*) (plurality opinion). But while the Court's application of the public rights doctrine has not been particularly consistent or coherent, the conceptual underpinnings of this theory are reasonably discernible.

Essentially, the public rights doctrine reflects the Court's recognition that the nature and historical backdrop of the federal right at issue are quite significant in determining whether congressional substitution of alternative tribunals for Article III courts impermissibly encroaches on the independence and authority of the federal judiciary. At one end of the spectrum, the Court has sought to prevent Congress from usurping the constitutional prerogatives of courts and, in some circumstances, juries, by removing from Article III tribunals matters which the Constitution's text, structure and history suggest are theirs to resolve. At the other end of the spectrum, the Court has perceived no plausible threat to an independent judiciary or trial by jury from non-Article III resolution of matters that are committed by the Constitution or historical consensus to political branches, and which thus "could have been determined exclusively" by the executive and legislative branches [5] absent any judicial review save that required by the Due Process Clause. *Northern Pipeline*, 458 U.S. at 68, citing *Crowell* v. *Benson*, 285 U.S. 22 (1932) (*Crowell*). In short, the dividing line that has emerged from the Court's precedent is that cases which are 'inherently . . . judicial" (*Ex parte Bakelite Corp.*, 279 U.S. 438, 458 (1929)) because they involve traditional rights governing "the liability of one individual to another" (*Crowell, supra*, 285 U.S. at 51) may not be removed from adjudication in the federal courts absent extraordinary circumstances, while those involving disputes "between the government and others" may permissibly be committed to agency adjudication. *Ex parte Bakelite Corp., supra*, 279 U.S. at 451. While the Court has not comprehensively, or even consistently defined this concededly abstract line of demarcation, it has identified the factors which tend to differentiate public from private rights.

Probably the most important factor in defining the nature of the federal right presented is the historical underpinnings of the right. If the claim at issue is analogous to "the stuff of the traditional actions at common law tried by the courts at Westminster in 1789", there is at least a strong presumption that it must be resolved by an Article III court. *Northern Pipeline, supra*, 458 U.S. at 90 (Rehnquist, J., concurring). While the *Northern Pipeline* plurality and some earlier cases seem to hold that Congress may not "withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty," (*Northern Pipeline, supra*, 458 U.S. at 67, quoting *Murray's Lessee v. Hoboken Land & Improvement Co.*, 59 U.S. (18 How.) 272 (1856)), the Court's recent decisions seemingly conclude that the traditional common law attributes of a claim do not, standing alone, prohibit such a withdrawal. Nevertheless, even these recent decisions have emphasized that such traditional legal and equitable causes of action are at the "protected core" of Article III judicial powers. *Thomas v. Union Carbide Agricultural Products Co.*, 105 S. Ct. 3325, 3336 (1985) (*Thomas*). See also *Schor, supra*, 106 S. Ct. at 3259. As the Court put it in *Schor*, "the state law character of a claim is significant for purposes of determining the effect that an initial adjudication of those claims by a non-Article III tribunal will have on the separation of powers for the simple reason that private, common law rights were historically the types of matters subject to resolution by Article III courts." *Id.* at 3259.[6]

Accordingly, if Congress creates a statutory cause of action, the roots of which can fairly be traced to a traditional legal *or equitable* claim, there is a heavy, albeit rebuttable, presumption that the claim may not be delegated to administrative adjudication.[7]

Conversely, "matters arising 'between the Government and persons subject to its authority in connection with the performance of the constitutional functions of the executive or legislative departments,' [and] matters that historically could have been determined exclusively by those departments" are clearly public rights. *Northern Pipeline, supra*, 458 U.S. at 67-68, quoting *Crowell, supra*, 285 U.S. at 50. See also *Schor, supra*, 106 S. Ct. at 3259 ("when Congress selects a quasi-judicial method of resolving matters that 'could be conclusively determined by the Executive and Legislative Branches,' the danger of encroaching on the judicial powers is less than when private rights, which are normally within the purview of the judiciary, are relegated as an initial matter to administrative adjudication"); *Thomas, supra*, 105 S. Ct. at 3337; *Ex parte Bakelite Corp., supra*, 279 U.S. at 458; *Oceanic Steam Navigation Co. v. Stranahan*, 214 U.S. 320, 339 (1909). The Court has thus concluded that disputes involving newly created rights unknown to the common-law and/or matters that, as an historical matter,

"could be conclusively determined by the Executive and Legislative Branches" may be adjudicated by non-Article III forums. *Thomas*, 105 S. Ct. at 3337, quoting *Northern Pipeline*, 458 U.S. at 68. In such circumstances, the dispute is not over the scope of the federal statutory duty X owes to Y, but the scope of the Government's authority in administering its own programs; it is thus a dispute between the Government and others. Accordingly, the Court has looked to whether the rights asserted are derived from a comprehensive regulatory scheme concerning a specialized area, such as federal broadcast licenses and "entitlements" to federal welfare benefits. See, *e.g.*, *Schor*, 106 S. Ct. at 3258; *Thomas*, 105 S. Ct. at 3343 (Brennan, J., concurring).

It is more difficult to discern whether public rights are created by virtue of the Government's participation in matters not committed to its exclusive and all-encompassing regulatory discretion. Specifically, it is unclear what significance should be attached to the mere fact of Government participation in a representative or prosecutorial capacity, rather than in its capacity as administrator of its own regulatory programs.

The Court has recently established that neither the presence nor the absence of the Government as a party of record is dispositive in resolving whether a particular right is public or private.[8] Rather, one must "loo[k] beyond form to the substance of what [the statutory scheme] accomplishes" with due regard for "the origin of the right at issue [and] the concerns guiding the selection by Congress of a particular method for resolving disputes." *Thomas*, 105 S. Ct. at 337, 336.

For this reason, as we previously stated with respect to another proposed amendment to the Fair Housing Act, the Government's participation is of little significance if it "simply has stepped into the individual's shoes in [the] administrative proceeding, and is suing in a representative capacity."[9] In this context, the Government simply acts as a prosecutor to vindicate the rights of one private individual against another, not to resolve a dispute between an individual and the Government *qua* Government; it is thus difficult to discern why the presence of the United States should convert such private disputes into "public" rights. Giving such talismanic effect to the Government's mere initiation of an administrative complaint would be inconsistent with *Thomas'* admonition that public rights analysis should not be a formalistic endeavor which focuses on the "identity of the parties alone" without "regard to the origin of the right at issue." *Id.* at 3337, 3336. As one commentator has noted, any such understanding of the Court's Article III precedent does indeed result in "[f]orm replac[ing] substance: Congress could avoid conferring jurisdiction upon an Article III court simply by altering the party structure in its new action, by replacing the private plaintiff with a government prosecutor." L. Tribe, *American Constitutional Law*, at 43.[10]

Nevertheless, there are cases in which administrative schemes have provided incidental relief to private parties in the course of enforcing public policy. See *Schor, supra; NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937); *Block v. Hirsh*, 256 U.S. 135 (1921). The relief available in *Jones & Laughlin*, however, was essentially equitable in nature (reinstatement and backpay), and only the NLRB could seek court enforcement of the order.[11] Moreover, although the Court often cites *Block v. Hirsh*, 256 U.S. 135 (1921), for the proposition that what would usually be viewed as a private right—a landlord/tenant dispute—can be a "public right,"[12] it does so without noting what the *Block* court itself recognized: the case arose during an extraordinary housing shortage in the District of Columbia caused by World War I, which had transformed housing from its normal status as a matter of private sector concern into a matter of grave public concern. "[C]ircumstances have clothed the letting of buildings in the District of Columbia with a public interest so great as to justify regulation by law." *Id.* at 155. Thus *Block* did not involve a purely private right. "The [rent] commission did not simply step into the shoes of a judicial tribunal and afford all-purpose relief to complaining private parties." 1978 Opinion, at 6. As we stated in our 1978 memorandum, "it cannot be concluded, based on this rather limited evidence, that administrative proceedings initiated by a public agency but providing the full panoply of judicial relief to private parties are necessarily permitted under the Seventh Amendment." 1978 Opinion, at 5.

Further, the Court, principally in the *Schor* opinion, has considered two other factors in determining whether judicial resolution of particular disputes is constitutionally required. Although the Court's language admits of differing interpretations, we do not view these factors as interpretive aids in defining the public right but rather as exceptions to the public right doctrine. In other words, these factors identify the narrow circumstances in which non-Article III adjudication of arguably private rights may be permissible.

First, *Schor* establishes that the Court will attach great, if not dispositive, significance to whether the party asserting a constitutional deprivation has participated in the non-Article III proceeding on a purely voluntary basis and thus has effectively waived any right to complain. The complaining party in *Schor* had opted for the CFTC's administrative forum rather than state or federal courts with full knowledge that the regulatory scheme allowed the CFTC to exercise jurisdiction over all counterclaims, including those involving matters of state law; indeed, the complaining party then "expressly demanded that [the opposition party] proceed on its [state law] counterclaim in the [administrative] proceeding rather than before the District Court." 106 S. Ct. at 3257. While the *Schor* Court determined that Article III separation of powers limitations, unlike Seventh Amendment rights, cannot be "waived" by a private litigant, it nonetheless made clear that the purely voluntary nature of the proceedings severely minimized any Article III concerns that might otherwise have obtained. "[J]ust as Congress may encourage parties to settle a dispute out of court or resort to arbitration without impermissible incursions on the separation of powers, Congress may make available a quasi-judicial mechanism through which willing parties may, at their option, elect to resolve their differences." *id.* at 3260. See also *id.* at 3256 (noting that "the absence of consent to an initial adjudication" was "a significant factor" in *Northern Pipeline's* condemnation of Article I bankruptcy courts.)[13]

Second, the *Schor* Court also seemed to permit administrative adjudication of private rights, at least where participation in the administrative process is voluntary, if those private claims are wholly ancillary to the public rights created by the federal regulatory scheme and if their resolution in the administrative process is necessary to enable resolution of the statutory public rights in that forum. The issue in *Schor* concerned a CFTC administrative process established to provide reparations to "disgruntled customers of professional commodity brokers seek[ing] redress for the brokers's violations of the Act of CFTC regulations." *Id.* at 3250. When Mr. Schor invoked this procedure, his broker counter-claimed, on state law grounds, for a debit balance which Mr. Schor alleged had resulted from the broker's violations of the Commodity Exchange Act that were at issue in the administrative proceeding. If resolution of such private state law counterclaims was not permitted in the administrative forum, administrative resolution of the public rights created by the CEA would never occur, as a practical matter, "for when the broker files suit to recover the debit balance, the customer will normally be compelled either by compulsory counter-claim rules or by the expense and inconvenience of litigating the same issues in two fora to forgo his reparations remedy and to litigate his claim in court." *Id.* at 3254.

Accordingly, *Schor* created an exception to the public rights doctrine, which permits resolution of private claims in otherwise valid administrative schemes where resolution of those private rights "is limited to that which is necessary to make the [scheme] workable" by resolving the public rights created by the regulatory scheme. *Id.* at 3260. As the Court put it, "absent the CFTC's exercise of that authority [over state law counterclaims], the purposes of the [administrative] reparations procedure would have been confounded." *Id.* at 3260. In context then, *Schor's* departure from the public rights line of cases is clearly premised on the voluntary and necessary aspects of the administrative tribunal's resolution of private rights.

Finally, and most generally, the Court has looked into the "concerns motivating the legislature" in choosing a non-Article III forum. *Thomas*, 105 S. Ct. at 3338. In this regard, the Court has attached significance to a showing that there is an "imperative necessity" for administrative procedures because of the specialized, complex nature of the subject matter and a demonstrated need for expedited adjudication. *Murray's Lessee, supra*, 59 U.S. (18 How.) at 282. See also *Crowell*, 285 U.S. at 46; *Thomas*, 105 S. Ct. at 3338; *Schor*, 106 S. Ct. at 3258. Cf. *Palmore* v. *United States*, 411 U.S. 389, 407-408 (1973). The rationale here is that strong "evidence of valid and specific legislative necessities" (*Schor*, 106 S. Ct. at 3260) can be accommodated without unduly disrupting separation of powers concerns because such exceptions are limited in scope and reveal that Congress' sole motivation was to solve a pressing emergency, not to avoid Article III adjudication for its own sake. See *id.* at 3260-3261; *Thomas*, 105 S. Ct. 3338-3339.

(2) *Analysis.*—Application of these principles to the draft bill leads us to conclude that it is of doubtful constitutional validity. While S. 558, unlike the draft bill, provides that the Department of Housing and Urban Development (HUD) will act as the moving party in an administrative proceeding, we do not believe that this difference alone should substantially affect the constitutional inquiry.[14] We will analyze each of the proposed bills in turn.

Perhaps the most important consideration in assessing the draft bill's proposed admin-

istrative proceeding is that the right adjudicated is derived from a common law action that is historically within the exclusive preserve of Article III courts. In *Curtis* v. *Loether*, 415 U.S. 189, 195-196 (1974), the Court concluded:

"We think it is clear that a damages action under § 812 [of the Fair Housing Act] is an action to enforce 'legal rights' within the meaning of our Seventh Amendment decisions. [citations omitted]. A damages action under the statute sounds basically in tort—the statute merely defines a new legal duty, and authorizes the courts to compensate a plaintiff for the injury caused by the defendant's wrongful breach. As the Court of Appeals noted, this cause of action is analogous to a number of tort actions recognized at common law. More important, the relief sought here—actual and punitive damages—is the traditional form of relief offered in the courts of law."

Thus, the statutory right to be adjudicated in the draft bill's administrative proceeding is directly analogous to a cause of action that was subject to judicial resolution at the time the Constitution came into being, thus creating a strong presumption that it must be tried in an Article III court pursuant to normal procedures. See *supra*, at 2-3. Moreover, the Civil Rights Division draft bill provides that actual and punitive damages may be awarded in the arbitration hearing. Section 813. As indicated earlier, these are classic "legal" remedies of the type that could be awarded only by a court of law with a jury, not by a court of equity. See *Tull*, slip op. at 9 n.7. Cf. *Atlas Roofing*, 442 U.S. at 459, 460 (Seventh Amendment is intended to "preserve" the right to a jury trial in common law suits, not to require them where none was previously required.).

Further, wholly apart from its historical roots, the right at issue here is private in nature, in that it is intended to determine the liability of one individual to another. *Crowell, supra*, 285 U.S. at 51. Under the Civil Rights Division draft bill, virtually the only role played by the Government is to provide a federal rule of decision which defines the liability between private actors. Under the proposed bill, only private litigants may initiate the administrative proceeding and they may themselves seek review or enforcement of the arbitrator's order in court. Section 813(a)(1), (c). While HUD may prevent formal arbitration by not issuing a "reasonable cause" determination and may intervene in the hearing, the entire matter may well proceed to final judgment without Government participation, and, in any event, HUD's intervenor role would clearly be limited to vindicating the rights of the private litigant. In this regard, we note as well that civil rights statutes generally are intended to create personal rights, guaranteed to the individual. See generally *Connecticut v. Teal*, 457 U.S. 446 (1982); *University of California Regents v. Bakke*, 438 U.S. 265, 299 (1978) (opinion of Powell, J.); *Los Angeles Dept. of Water & Power v. Manhart*, 435 U.S. 701, 708, 709 (1978); *Shelly v. Kraemer*, 334 U.S. 1, 22 (1948). In short, because the statutorily created right here derives from a dignatary tort and is enforceable primarily by private individuals for their own benefit pursuant to common law remedies, the Court's precedents strongly indicate that these administrative hearings will be viewed as "wholly private tort . . . cases [that] are not at all implicated" by the public right exception described in *Atlas Roofing. Atlas Roofing, supra*, 430 U.S. at 458.

Moreover, none of the other factors on which the Court has focused militate in favor of the draft bill's validity. It is clear that a defendant would be an involuntary participant in the arbitration proceedings, and it seems quite doubtful that the private housing market in the United States would generally be considered a "specialized area" for administrative regulation by the federal government. Further, the exception created in *Schor* for ancillary and necessary private claims is inapplicable since adjudication of common law claims is clearly not "incidental to, and completely dependent upon, adjudication of . . . claims created by federal law." *Schor*, 106 S. Ct. 3260.[15]

We further note that the Fair Housing Act certainly does not seem to involve the imperative necessity that the Court recognized in *Thomas* as a legitimate motivating factor for Congress' consideration in choosing an arguable prompter administrative remedy. *id.* at 3338. Indeed, the *Loether* Court rejected similar arguments advocating the need for expedited *judicial* review of Title VIII actions without a jury trial. Noting the availability of preliminary injunctions and non-jury trials in cases seeking only equitable relief, the Court states "[m]ore fundamentally, however, these considerations are insufficient to overcome the clear command of the Seventh Amendment." 415 U.S. at 198. It is nonetheless conceivable that a strong legislative record demonstrating that administrative trials are for some reason necessary to resolve meaningfully Fair Housing cases would tend to support the validity of the congressional purpose in opting for these proceedings. Of course, any such claim is substantially undermined by the fact that judicial proceedings remain available to plaintiffs so inclined, thus undercutting any notion that administrative proceedings are "necessary."

Indeed, in the circumstances presented here, the congressional purpose underlying the establishment of administrative proceedings may well be viewed as a substantial deficiency, since the draft bill's structure and background suggest that the sole purpose of the administrative alternative is simply to supplement or displace adjudication by Article III courts and juries. In this regard, it is significant that "there are only minimal differences between the relief available in the administrative forum (in which a civil penalty for the Government replaces punitive damages for the individual) and the judicial forum." [16] By providing for punitive damages in either the administrative or judicial forum, moreover, the draft bill leaves it entirely up to a plaintiff in an individual case to choose between the Article III and Article I forum, without sacrificing any weapon in his arsenal of remedies. Thus, the clear effect of the Act is to create parallel, virtually identical Article III and Article I processes; a dualism which serves no apparent purpose other than enhancing plaintiff's options and his ability to avoid bringing his case before a jury or an Article III judge.

We do not mean to suggest that providing plaintiffs with a choice between such parallel schemes by itself raises independent due process problems, even where, as here, it renders the defendant's right to a jury trial utterly dependent on the plaintiff's choice of fora.[17] However, the dual structure may well directly signal "the concerns guiding the selection by Congress of a particular method for resolving disputes." *Thomas*, 105 S. Ct. at 3336. In this regard, it is also noteworthy that "the Department would enter the fray, not at the outset, but nearly [19] years after the creation of a private cause of action in the district court which provides for identical remedies, and nearly [13] years after the Supreme Court expressly ruled that under such circumstances trial by jury must be available on demand." 1978 Opinion, at 7.

Against this backdrop, a reviewing court may fairly conclude that, in contrast to *Schor*, Congress' "primary focus was [not] on making effective a specific and limited federal regulatory scheme, [but] on allocating jurisdiction among federal tribunals." *Schor, supra*, 106 S. Ct. at 3260. In other words, the background and parallel structure of the Act might well strongly suggest that the "concerns that drove Congress to depart from the requirements of Article III," *id.* at 3258, were merely Congress' desire to depart from the requirements of Article III because of the cost and delay which attend a jury trial in a federal court. While the speed and efficiency of Article I tribunals are virtues, we believe that speed and efficiency alone cannot be viewed as sufficient reason for establishing Article I adjudication absent "imperative necessity." Indeed, acceptance of such a justification would lead to the somewhat circular rule that Congress may avoid the constraints of Article III and eliminate the Seventh Amendment right ringingly endorsed in *Tull* solely on the ground that it believes that Article III adjudication is more cumbersome than alternative dispute resolution without judges and juries.

We turn next to consideration of S. 558 which is identical to the draft bill in all material respects save one: it provides that only HUD may institute administrative proceedings "on behalf of the aggrieved person filing the complaint" of housing discrimination, rather than the aggrieved person himself. S. 558, section 810(g)(2)(A). Significantly, the private complainant has a right to file a complaint with the Secretary or to intervene as a full party in an administrative proceeding initiated by HUD, and he apparently may obtain both judicial enforcement and review of an adverse decision even if the Secretary does not go forward. *Id.*, sections 810(a), 812(h)(2). While, for the reasons noted above, the issue is hardly free from doubt, we think that the better view is that the Secretary's participation in initiating the complaint is not alone sufficient to obviate the constitutional difficulties previously described.

As we have suggested, HUD's participation as a party in these circumstances says very little about the "public" nature of the right involved, but simply describes the parties that are authorized to enforce that right. For this reason, the better understanding of the Court's precedent is that the Government's party status should not be given dispositive weight, particularly where, as here, the Government does not possess exclusive enforcement authority.

We are fortified in our conclusion by the fact that this Office has previously determined, albeit not without equivocation or difficulty, that a proposed 1978 amendment to the Fair Housing Act, virtually indistinguishable from S. 558, was probably unconstitutional. We so concluded because, as with S. 558, HUD "would not be the sole enforcer of the statutorily created" government policy and would not be acting in a regulatory capacity with regard to a public right.[18]

Our 1985 Memorandum points to a similar conclusion. There we concluded, albeit ten-

tatively, that a proposed amendment would probably survive constitutional scrutiny, but we did so in large part because the administrative process failed to "provide the aggrieved individual the punitive damages typically available at common law." [19] As noted, S. 558, like the draft bill, does provide this traditional legal remedy, thus substantially reinforcing the private, common law nature of the cause of action and rendering the administrative hearing virtually identical to a judicial proceeding.

It should be noted, however, that *Thomas* and *Schor*, two subsequent decisions of the Supreme Court have evinced less sympathy for constitutional challenges to administrative proceedings and upheld statutes which share some, though clearly not all, of the defects described above. Nevertheless, for the reasons that we have previously indicated, a review of the *Thomas* and *Schor* opinions persuades us that they contain nothing which requires an analysis or conclusion different from those expressed in our prior memoranda. First, with respect to the specific question of the Government's party status, *Thomas* reinforces the correctness of our previous determination that such party status means little unless it affects the "substance of what [the statute] accomplishes." *Thomas*, 105 S. Ct. at 3337. Second, *Schor's* arguable departure from prior cases is not of controlling importance here because the proposed bills contemplate the involuntary participation of the defendant in administrative hearings and do not adjudicate private rights in order to preserve the agency's practical ability to adjudicate public rights.

Finally, we discern nothing in *Thomas* which either signals any sort of wholesale retreat from the Court's Article III jurisprudence or lends meaningful support to the proposed bills. *Thomas* simply upheld the administrative implementation of a comprehensive federal regulatory scheme in an opinion joined by every member of the *Northern Pipeline* plurality that reached the merits of the case. See *Thomas*, 105 S. Ct. at 3340 (Brennan, J., concurring). At issue in *Thomas* was administrative resolution of a very mechanical and straightforward dispute over the amount of compensation owed for access to privileged data, a dispute that nonetheless needed to be resolved expeditiously if the administrative scheme was to accomplish its purpose. As the Court noted, "Congress, without implicating Article III, could have authorized EPA to charge follow-on registrants *fees*" and that such "rate-making is an essentially legislative function." *Id.* at 3338 (emphasis added). Thus, the charging of such fees was a matter that "could be conclusively determined by the Executive and Legislative Branches." *Id.* at 3337, quoting *Northern Pipeline*, 458 U.S. at 68. Conversely, the Court placed heavy reliance on the fact that the statute at issue did not "displac(e) a traditional cause of action (or) affec(t) a preexisting relationship based on a common-law (claim)" because "the statutory right to compensation does not depend on or replace the right to such compensation under state law." *Id.* at 3336, 3335. In short, *Thomas* broke no new Article III ground because "at its heart the dispute involve(d) the exercise of authority by a federal government arbitrator in the course of administration of (the statute's) comprehensive regulatory scheme. As such it partakes of the characteristics of a standard agency adjudication." *Id.* at 3343 (Brennan, J., concurring).

Having said all that, we emphasize that, due to the meandering and confusing course of the Court's precedent, it is both impossible to offer any determinative opinion in this area and possible to construct a defense of the proposed bills which may prevail in some courts. A line of defense which might be accepted by a sympathetic court would proceed along the following lines. First, elimination of racial and ethnic discrimination in housing is a paramount public purpose. Further, Congress has great discretion in choosing the manner in which to resolve disputes, so long as the subject matter of the dispute concerns an area over which Congress permissibly exercises authority, including any area it may reach pursuant to the Commerce Clause. See *Atlas Roofing Co.*, 430 U.S. at 456-457; *Northern Pipeline*, 458 U.S. at 105-113 and cases discussed therein (White, J., dissenting). Moreover, under a highly formalistic approach, a court could conclude that the common law antecedents of section 812 of the Fair Housing act are unimportant because Congress created a "new" statutory duty when it outlawed housing discrimination, had that the presence of the United States, at least as the moving party under S. 558, is of great significance. The Court could further determine that housing discrimination is a "specialized area" requiring administrative expertise and that it should defer to Congress' determination that there is a tangible need for expedited review. More generally, a court could fairly note that differentiating between public and private rights and/or the regulatory and prosecutorial role of the government is a highly abstract endeavor which has not received, and is not susceptible to, principled or consistent resolution.

We acknowledge that there is language in some of the Court's cases which can be interpreted to support such a line of analysis. This sort of analysis would place virtually no limits on congressional authority to remove the resolution of disputes entirely from Article III courts. Congress always creates "new" rights by enacting statutes; these statutes must always be directed at an area which Congress has the power to regulate, and administrative tribunals are always more expeditious and convenient than juries and judges, Indeed, such an analysis comes perilously close to subordinating Article III's reservation of the "judicial Power" and the express guarantees of the Seventh Amendment to the Necessary and Proper Clause.[20] Accordingly, we believe the draft bill and S. 558 in their current form are and would likely be declared unconstitutional on Article III and Seventh Amendment grounds.

II. CONCLUSION

While the policy implications of any modification to the draft bill are obviously for you to resolve, we recommend certain changes in order to enhance the constitutional viability of the draft bill. All concerns under the Seventh Amendment and Article III would be alleviated, of course, by deletion of the provisions establishing an administrative hearing process. Short of this, the best solution from a constitutional perspective would be to limit the relief available in an administrative proceeding to equitable remedies such as injunctons and restitution, thus avoiding any conflict with the Seventh Amendment's preservation of jury trials in "suits at Common Law." At a minimum, serious consideration should be given to eliminating at least punitive damages for private litigants in the arbitration proceedings. The retention of compensatory damages alone might be upheld under reasoning similar to that outlined in our 1985 Memorandum.

Please let me know if we can be of further assistance.

CHARLES J. COOPER,
Assistant Attorney General,
Office of Legal Counsel.

FOOTNOTES

[1] Section 812(a)(5) provides sufficient safeguards to insure that the hearing will be conducted according to rules that provide for presentation of witnesses and evidence so as to satisfy any due process concerns.

[2] Actions at equity include temporary and permanent injunctions and orders, such as reparations, that restore the *status quo*.

[3] *Tull* does not diverge from this line of cases. In a footnote, the majority stated:

"The Court has also considered the practical limitations of a jury trial and its functional compatibility with proceedings outside of traditional courts of law in holding that the Seventh Amendment is not applicable to administrative proceedings. But the Court has not used these considerations as an independent basis for extending the right to a jury trial under the Seventh Amendment."

Id., slip op. at 5 n.4, citing *Atlas Roofing* and *Pernell* v. *Southall Realty*, 416 U.S. 363 (1974). We are not quite sure what these two sentences mean. At a minimum, however, they indicate that *Tull* is not meant to signal a reexamination of the principles underlying *Atlas Roofing*.

[4] We believe the public rights doctrine is primarily based on Article III principles and thus will discuss this issue principally in those terms. The conclusion that a right is "public" for Article III purposes would seem to subsume any Seventh Amendment objections on this basis. Cf. *Atlas Roofing*, *supra*, 430 U.S. at 456; *Northern Pipeline*, 458 U.S. at 67 n.18. In any event, in analyzing the public rights doctrine, the Court has treated the constraints of the Seventh Amendment and Article III as virtually coextensive, discussing and citing Seventh Amendment and Article III cases interchangeably.

[5] This and similar phrases, often repeated but rarely explained by the Court, apparently refer to those matters which the political branches could have disposed of in a summary fashion before the evolution of modern substantive and procedural due process theories. This would include those areas where the text of the Constitution grants plenary authority to one of the political branches—such as immigration or taxation—and disputes concerning the removal of "privileges" such as Government financial assistance, rather than "rights" as traditionally understood. "The understanding of these cases is that the Framers expected that Congress would be free to commit such matters completely to non-judicial executive determination, and that as a result there can be no constitutional objection to Congress' employing the less drastic expedient of committing their determination to a legislative court or an administrative agency." *Northern Pipeline*, 458 U.S. at 68. See also *Crowell* v. *Benson*, 285 U.S. at 50; *Thomas* v. *Union Carbide Agricultural Products Co.*, 105 S. Ct. 3325, 3341 n.1 (1985) (Brennan, J., concurring). Moreover, "[t]his doctrine may be explained in part by reference to the traditional principle of sovereign immunity, which recognizes that the Government may attach conditions to its consent to be sued." *Northern Pipeline*, 458 U.S. at 67. See also *Murray's Lessee* v. *Hoboken Land & Improvement Co.*, 59 U.S. (18 How.) 272, 283-285 (1856); *Ex parte Bakelite Corp.*, 279 U.S. 438, 452 (1929). In other words, the original Article III cases seem to be premised on concepts akin to the "bitter with the sweet" theory of procedural due process and the "right/privilege" distinction. See *Arnett* v. *Kennedy*, 416 U.S. 134 (1974); *Bailey* v. *Richardson*, 182 F.2d 46 (1950), *aff'd*, 341 U.S. 918 (1951). That is, the Government could condition suit against itself on the plaintiff's waiver of any right to choose a forum or a jury trial, and in connection with exercising plenary grants of authority or limiting financial benefits, the political branches were fully free to dispose of government-created entitlements without providing any means of contesting such summary action.

Of course, as a due process matter, subsequent case law has undermined these conceptual underpinnings. It is now clear that there is a property interest in Government entitlements, a substantive due process right against arbitrary or capricious government practices, and a prohibition against conditioning the extension of Government benefits

on the waiver of constitutional rights. See, *e.g., Goldberg v. Kelly*, 397 U.S. 254 (1970); *Cleveland Board of Education v. Loudermill*, 105 S. Ct. 1487 (1985); *Speiser v. Randall*, 357 U.S. 513 (1958). Nevertheless, for Article III purposes, we believe these concepts help to describe what is meant by matters which "could be conclusively determined" by the executive and legislative branches. The notion is that traditional, private state law claims antedating the newly created federal statutory rights are the type that should remain within the province of Article III courts. These rights do not exist *solely* by virtue of the federal statutory scheme, do not involve disputes between a private individual and the Government *qua* Government, and do not concern alleged deprivations caused by the Government's administration of its own regulatory or financial assistance schemes. Accordingly, even under a "consent to suit" or "bitter with the sweet" theory, such matters would not be subject to summary disposition by the political branches because they involve traditional disputes solely between private individuals and would thus fall outside the rationale supporting the earlier Article III cases. Again, the rise of modern due process theory should not affect the Article III analysis. The fact that recent due process cases create checks against the Government's power to engage in summary disposition of certain matters does not provide a rationale supporting the non-Article III adjudication of matters *not* previously subject to summary disposition.

[6] The Court has emphasized that the historical antecedents of a particular right, not an objective evaluation of whether it is of the sort that *should* be resolved by the judiciary, are paramount in public rights analysis. As the plurality noted in *Northern Pipeline*, "Doubtless it could be argued that the need for independent judicial determination is greatest in cases arising between the Government and an individual. But the rationale for the public-rights line of cases lies not in political theory, but rather in Congress' and this Court's understanding of what power was reserved to the Judiciary by the Constitution as a matter of historical fact." *Id.* at 68 n.20, cited in *Schor, supra*, 106 S. Ct. at 3259.

[7] The public rights analysis obtains with respect to "new" rights created by congressional statutes, as well as to non-Article III adjudication of common law claims not embodied in a congressional statute. See *Curtis v. Loether*, 415 U.S. 189, 193 (1974) ("We have considered the applicability of the constitutional right to jury trial in actions enforcing statutory rights 'as a matter too obvious to be doubted.'"); *Pernell v. Southhall Realty*, 416 U.S. 363, 375 (1974); *Tull, supra*, slip op. at 8. Indeed, a contrary conclusion would make nonsense of the Court's emphasis on the historical lineage of the right and would essentially eviscerate the protection of Article III and the Seventh Amendment, since Congress always makes law by embodying "new" rights in a statute.

[8] In *Northern Pipeline*, the plurality stated:

"It is thus clear that the presence of the United States as a proper party to the proceeding is a necessary but not sufficient means of distinguishing 'private rights' from 'public rights.'"

Id. at 69 n.23. Only a few years later, however, a majority of the Court rejected this "bright-line test" as exalting from over substance, holding that the United States' party status was neither necessary nor sufficient in resolving the public rights question for purposes of Article III. *Thomas, supra*, 105 S. Ct. at 3336. In *Thomas*, the Court rejected both the view that "the right to an Article III forum is absolute unless the federal government is a party of record" and the contrary view that "Article III has no force simply because a dispute is between the Government and an individual." *Id.*

[9] Memorandum for William Bradford Reynolds, Assistant Attorney General, Civil Rights Division, from Ralph W. Tarr, Acting Assistant Attorney General, Office of Legal Counsel, Feb. 8, 1985, at 8 (discusing S. 1220, Mathias-Kennedy bill).

[10] As we stated with regard to a 1978 proposal which would have authorized the Department of Housing and Urban Development to file administrative complaints:

"It could be argued that Congress should not be able, under the vague rubric of 'public right,' to circumbent the Seventh Amendment completely by creating a chain of administrative courts capable of giving traditional common-law remedies to private litigants seeking relief from wrongs (such as dignitary torts) traditionally regarded as private in character."

Memorandum for the Honorable Ruth T. Prokop, General Counsel, Department of Housing and Urban Development, from Larry A. Hammond, Deputy Assistant Attorney General, Office of Legal Counsel, January 25, 1978, at 8 (1978 Opinion).

[11] *Id.* (citing *Amalgamated Utility Workers v. Consolidated Edison Co.*, 309 U.S. 261 (1940)).

[12] See *e.g., Thomas*, 105 S. Ct. at 3337.

[13] The Court in *Thomas* described the chemical companies as "voluntary participants in the program," 105 S. Ct. at 3338, although the only element of choice seems to have been whether to engage in the manufacture of chemicals.

[14] We do not believe that the use of administrative law judges to determine punitive damages may be upheld on the theory that the administrative proceeding is merely an adjunct to the district court.

The Supreme Court has upheld against Article III challenges the use of administrative agencies as factfinders in cases involving private rights "only as an adjunct to an Art. III court, analogizing the agency to a jury or a special master." *Atlas Roofing, supra*, 430 U.S. at 450 n.7. However, we do not believe that these cases uphold the use of adjuncts in cases involving private rights that are also actions at common law. As originated in *Crowell*, the adjunct theory did not include private rights of action found at common law. *Crowell* involved a case arising in *admiralty* and the Court distinguished this from common law actions. "In cases of equity and admiralty, it is historic practice to call to the assistance of courts" non-judicial factfinders. *Id.* at 51. However, "on the common law side of the Federal courts, the aid of juries is not only deemed appropriate but is required by the Constitution itself." *Id.* Thus, the Court recognized that juries—not non-judicial factfinders—were required in cases involving common law questions. *Crowell*'s language certainly supports an argument that the Seventh Amendment prevents Congress from placing actions that are both private *and* based on common law actions beyond the reach of a jury trial. *Crowell* reads the Seventh Amendment as requiring a jury in cases arising under the common law, *id.* at 51, while permitting agencies to act as *de facto* juries for private rights arising in equity or admiralty. *Id.* See also *Northern Pipeline*, 458 U.S. at 81-82 ("*Crowell* does not support the further proposition necessary to appellants' argument—that Congress possesses the same degree of discretion in assigning traditionally judicial power to adjuncts engaged in the adjudication of rights *not* created by Congress.") (emphasis in original); *United States v. Raddatz*, 447 U.S. 667 (1980). We are especially reluctant to adopt this adjunct theory in the Seventh Amendment context when to do so would permit Congress to take from the courts a factfinding function that courts do not have in common law actions under the Seventh Amendment. See *Tull, supra*. Unlike the action at issue in *Raddatz*, the right being resolved under the draft bill is not one a court could decide if it wished—the right to punitive damages has to be resolved by a jury. The adjunct theory, if applied to private rights based on common law actions would render the Seventh Amendment's protection hollow, dependent entirely upon the whim of a congressional majority.

[15] We note that the Civil Rights Division's draft bill, as well as S. 558, provide for court enforcement of the administrator's award. Draft bill, sec. 813 (d), (g); S. 558, sec. 812 (h), (i). We confess that we are not sure whether this is an argument in favor of or against the proposed bill's constitutional validity since the Court's precedent points in opposite directions. Under the adjunct theory of Article III, assignment of some limited functions to a non-Article III tribunal is sometimes permissible, so long as "'the essential attributes' of judicial power are retained in the Art. III court." *Northern Pipeline*, 458 U.S. at 81. See also *Crowell*, 252 U.S. at 51. Thus, under the adjunct theory as traditionally understood, it was quite clear that the constitutional permissibility of the statutory scheme was *enhanced* if the non-Article III forum was given only quite limited "judicial" powers, such as the right to enforce its own orders. Quite naturally, therefore, *Northern Pipeline*, in contrasting *Crowell*, said that a major *defect* in the bankruptcy courts scheme was that these non-Article III tribunals could enforce their own orders without "seek[ing] enforcement of its . . . orders in the district court". *Northern Pipeline*, 458 U.S. at 85. See also *id.* at 91 (Rehnquist, J., concurring); *Crowell*, 258 U.S. at 51. In *Schor*, however, the Court stated that the Article III validity of the arbitration scheme was *enhanced* because it "relie[d] tangentially, if at all, on the Judicial Branch for enforcement" of the arbitrators' orders, a conclusion that seems directly at odds with *Crowell, Northern Pipeline*, and the entire rationale of the adjunct theory as previously understood. *Id* at 33-38. Fortunately, we need not engage in the task of reconciling these cases, since we have previously concluded that the adjunct theory is probably inapposite here because the statutory right to be enforced is derived directly from a private, common law claim. See n. 14, *supra*. We note, parenthetically, that the powers assigned to the arbitrator under the draft bill and S. 558 are considerably greater than the power (*i.e.*, assessmen of value) assigned to the adjunct in *Crowell*, but less than the plenary powers given to the bankruptcy courts in *Northern Pipeline*. See 1985 Memorandum, at 11-13.

[16] 1985 Opinion, at 8.

[17] *Id.* at 20-22.

[18] 1978 Opinion, at 7. Although acknowledging the difficulty of the issue, we concluded, "were we to opine one way or the other our conclusion would probably favor finding that [the proposal] is unconstitutional." *Id.* at 8.

[19] 1985 Memorandum, at 9.

[20] Nor do we understand why the grave importance of a public policy is an argument supporting *removal* of that controversy from an impartial judiciary insulated from political influence.

Mr. KENNEDY. This was a position Bradford Reynolds in the Reagan Justice Department took both with regard to title III judges and also with regard to administrative judges.

An unconstitutional remedies provision which would be thrown out of court at its first challenge is no remedies provision at all.

In addition, this equitable relief can never be awarded in a case where the Judge orders back pay—no matter how small the amount of back pay. Think of Ms. Carol Zabcowicz, who testified in the House hearings on this legislation; she was subjected to 3 years of the most vicious sexual harassment imaginable. When she was pregnant, her doctor ordered her to take time off from work because the horrible stress of this harassment was threatening her pregnancy. When she finally took the case to court, she was awarded 2 months back pay for the time she had taken off. Under this substitute, Ms. Zabcowicz would be no better off than under current law. In either case, for 3 years of brutal harassment, she would be awarded 2 months of back pay. Because under the substitute if they get any kind of relief, as limited as it is, that eliminates the possibility for recovery in this case in a sexual harassment. I think that is, beyond the constitutional issue, not good, sound policy.

The substitute also fails to respond effectively to the decision in Patterson versus McLean Credit Union, which held that an 1866 antidiscrimination statute does not bar racial harassment in the workplace. Unlike S. 2104—or the Bush administration's proposed legislation, the Kassebaum substitute does not explicitly prohibit racism regarding the terms and conditions of a contract. That has been referred to by the Senator from Washington. Because of this, courts may hold that this statute does not prohibit on-the-job racial harassment. And it is quite

clear that the substitute would offer no relief to Brenda Patterson or to the victims of intentional race discrimination in the more than 200 other cases dismissed because of the Supreme Court's clear misinterpretation of the law, because we are restoring the rights of these various defendants to what they were prior to the time of the Brenda Patterson, and the substitute does not do so.

The substitute also fails to address the problem created by the Supreme Court's decision in Lorance versus AT&T Technologies. In the Lorance decision, the Supreme Court unfairly limited the time in which employees could challenge a discriminatory seniority system. Although Lorance can be—and has already been—applied outside of the seniority context, the substitute deals only with seniority systems. This leaves a hole in our civil rights laws though which many workers might fall.

The substitute would also permit disruptive collateral attacks on consent decrees. It does not counteract the damage caused by the Supreme Court decision in Martin versus Wilks. In that decision, the Court laid open to infinite challenges every consent decree settling job discrimination cases.

We heard a good deal that this is a lawyers' bonanza. This provision makes the substitute a lawyers' bonanza, because it permits constant revisiting of consent decrees ad infinitum. This would place a heavy burden on local taxpayers who are trying to defend various agreements that have been entered into for a long period of time. We had the debate on this issue. The proposals in this substitute effectively go back to permitting the constant reopening of cases. Talk about many bites at the apple. This will just continue the problem. Quite frankly, we have found that we have a variety of different business men and women who support our proposals because they do not want to be subjected to constant challenges. They do not want to be brought into court on these various consent decrees and subjected to harassing lawsuits after being able to work out some nondiscriminating procedure. We are talking about the local taxpayers in the local communities that are getting the money up for these challenges that can go on ad infinitum, and we are talking about businesses that resolve these issues but are still subject to constant challenges. In our particular proposal, we have crafted a procedure where there has to be adequate notification to meet the various challenges in the due process as it should be. And if it is not, you can open up that consent decree but not to go back to restatement effectively of the Martin versus Wilks holding.

The substitute allows such attacks under virtually all of the same circumstances as Wilks; it carves out only a narrow exception to the rule that anyone who wants to can challenge a consent decree after the fact, no matter how much due process they were accorded. Because of this, it does not provide the finality that businesses need.

Mr. President, I heard earlier that there will be a desire to try to make some adjustments in terms of the burden of proof and other aspects of the Kassebaum amendment. Let me indicate that I certainly will not object to those kinds of adjustments, as long as we are able to make some of the modifications that I have referred to here and that our colleagues have referred to in the course of this debate briefly.

So, Mr. President, this gives a brief summary of the reasons which I hope would cause those who are interested in seeing some progress made in the legislation some pause in supporting the particular proposal. I have had the opportunity to talk about some of these matters both informally and on the floor here with the Senator from Kansas. We always welcome the opportunity to visit on these issues.

I have a great, high regard and respect for her desire to try to come to grips with some of these questions. I hope that the membership, prior to the time that we will have the opportunity to dispose of this particular proposal, will give thought to those particular items.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I was very interested in the comments of the Senator from Massachusetts. I think all of us here have really tried very hard to find a fair, reasonable compromise. We all wish to address the five Supreme Court decisions in a way that can correct those decisions so that we can address the question of discrimination that was weakened, I believe, by those five Supreme Court decisions.

But, Mr. President, it is a bit like a mirage in the road. We get right up to what we think is going to be the compromise that everyone can agree to, and it slips away from us. We end up getting all caught up in the nuances of a word here or a word there. We fail to realize that in this very complex piece of legislation we are addressing issues that are going to have a profound impact on employee and employer relationships in this country at a time when we should care a great deal about the competitiveness and productivity of our marketplace.

Some of the questions that were raised by the Senator from Massachusetts are ones that we have already addressed in the substitution that is at the desk and is being considered, not in the modification. One of them is that this substitution does not adopt Wards Cove holdings. It adopts the holdings of language that is in Griggs and in Beazer that has been tested by further Supreme Court decisions and language that has been used in following decisions.

Also, I do not know how to make it clearer, I would say to the Senator from Massachusetts, but we do shift the burden of proof. The burden of proof rests with the employer. We have not now just changed it. That has been in language that has been at the desk. If there is any question, we are going to provide further clarification of that so there could be no doubt in anyone's mind.

Mr. President, I would like to address some language that was used in the leadership conference on civil rights letter that was circulated to everyone. In that letter it said, "It would make it impossible"—the substitution—"for women and religious minorities who are biased victims to recover any damages whatsoever."

That is just not true. As a matter of fact, we expand the remedies. "This is because the amendment's so-called $100,000 equitable relief provision is patently unconstitutional because it violates the fundamental constitutional right to a jury trial in damage cases under the seventh amendment."

Mr. President, the Supreme Court has long held that the seventh amendment does not require Congress to provide for jury trials simply because it provides for awards of monetary relief. This has been proven and found in findings in the Terry case in 1990. Moreover, S. 2858 vastly expands the remedies available under title VII to permit courts to award up to $100,000 to all victims, including women and racial minorities, of intentional discriminatory practices, including harassment.

Mr. President, this is obviously one part of the legislation I care a great deal about. There is harassment that takes place in the workplace. There is discrimination against women. It is my belief that women should have remedies that are sufficient to cover those trials and tribulations of that type of discrimination. Perhaps there is never a monetary award that could be enough to cover the discrimination. But I believe, in the expanded remedies that we have adopted in this substitute, we have at least given some means to cause notice that there will be the opportunity to have a remedy, and the very threat of that I hope will cause some changes in the work place.

But by moving, as does the Senator from Massachusetts' bill, to punitive damages and trial by jury, I think we only expand the tension in the workplace. I think we only expand and prolong the question of what type of settlement may or may not be there. I see this, frankly, as a better way to ad-

dress what obviously is a problem and a problem for women and minorities who have not had the chance to have the same means of redressing it as racial discrimination under section 1981.

So I would just answer that with the Terry case, I believe a very persuasive argument is made that constitutionally a judge can make those awards.

Mr. BUMPERS. Will the Senator yield?

Mr. KENNEDY. Will the Senator yield?

Mrs. KASSEBAUM. I am happy to yield to the Senator from Massachusetts and then to the Senator from Arkansas.

Mr. KENNEDY. It is my understanding, I say to the Senator, that the kind of financial remuneration that has been permitted has been limited to backpay in terms of the courts.

Mrs. KASSEBAUM. That is true.

Mr. KENNEDY. So where you might have a situation where you have had—and what we are talking about for punitive damages is malicious conduct—some of the most outrageous kinds of treatment of individuals. An employer might be involved this type of conduct time after time after time, involving either women or minorities.

As I understand, the history of these cases is that under those circumstances, the court finally makes a judgment that this outrageous conduct has gone on long enough and that there ought to be some punitive damages.

Under the Senator's amendment, as I understand it, there would not be even the possibility of compensatory damages. Effectively what the Senator is talking about in terms of remedies is something considered to be equitable relief rather than damages. There are some court decisions that say in the limited area of equitable relief, such as backpay, that that could be done without a jury trial. But if we are really talking about damages, either compensatory or punitive, then a right to a jury trial is necessary. So I think in the substitute, the Senator is talking effectively about those particular circumstances.

The substitute may have an appealing top figure of $100,000, because I know there has been a good deal of groping in terms of trying to find out top figures, we know that if you are able to get some relief, any kind of relief, you are eliminated from dipping into that $100,000, and you will only be able to use that $100,000, in any event for backpay but not for punitive or compensatory.

Mrs. KASSEBAUM. It is my understanding that the technical amendment will overcome that particular question raised. But let me just say that, yes, we are talking about equitable relief, but injunctive relief, where you have a situation that is repetitive, is one that already is addressed by the court.

Mr. KENNEDY. As I understand, we already have injunctive relief.

Mrs. KASSEBAUM. That is true. That is already in existence. So you could not have a continued case, if there is already a means to address it.

Mr. KENNEDY. It is my understanding of the state of the law, it is my understanding of the state of the Reagan Justice Department—Brad Reynolds, Ed Meese, and the rest of them—that when either punitive damages or damages that would be awarded in administrative proceedings that the right to a jury trial was necessary.

In terms of the backpay issue, there is, as the Senator points out, a different history. I thank the Senator.

Mrs. KASSEBAUM. Mr. President, probably this may be the only time that the Senator from Massachusetts would be quoting favorably from Brad Reynolds.

Mr. KENNEDY. I do it whenever I get a chance, which is not often.

Mrs. KASSEBAUM. I prefer, Mr. President, to use the Terry case decision of the Supreme Court.

Mr. BUMPERS. Mr. President, if the Senator from Kansas would permit me to lay a basis for my question because this is an immensely complex thing. There are not many civil rights lawyers on the floor of the Senate. The history of civil rights legislation in this country is very complex. As I say, I doubt very many people on this floor have read the decisions.

But in the past, as the Senator from Kansas knows, people who were members of a racial minority could bring an action under section 1981, which is a statute that is over 100 years old. They could sue for compensatory damages plus punitive damages if they could prove they had been discriminated against. Women and religious minorities did not have that privilege. They were limited to actions under title VII of the Civil Rights Act of 1964. The Senator would agree with me so far.

Also, if they brought actions under title VII they were limited, for the most part, to backpay, maybe restitution of their jobs, and attorney's fees. Those were the general kinds of damages they could get. And injunctive relief, of course—you know, "Do not do it any more."

As I understand the so-called Kennedy-Jeffords bill, now women and religious minorities are entitled to bring the same kinds of action under title VII that could previously be brought only by racial minorities under section 1981, and it has also added two layers of damages. Instead of just getting your job back and being compensated either for the promotion you did not get or being compensated for the job you lost, S. 2104, now the Kennedy-Jeffords bill, adds two layers of damages under title VII cases. One is compensatory damages where intentional discrimination has occurred—and as most trial lawyers here know, compensatory damages is very broad. Some woman who is being sexually harassed is under terrible mental anguish, seeing a doctor, taking medication, suffering all kinds of mental anguish, and she is entitled under the bill before us to be compensated for that mental anguish that she has suffered as a result of sexual harassment.

In addition to that, if a jury—and incidentally this is normally a jury of 6, not a jury of 12. I do not like that, frankly. If I had my way there should be no juries of six. I know I am prejudiced. As a former trial lawyer I am just accustomed to talking to 12 people. I like a big audience so, if I could, I would eliminate the juries of six. But, if you can prove to the jury that in addition to intentional discrimination on the part of the employer—which entitles this woman to compensatory damages—that the discrimination was malicious and willful, she can get punitive damages.

One of the big issues on this floor, and all 100 Senators know that, is are we or are we not going to put a cap on punitive damages? Are we going to limit the amount anybody can recover in punitive damages? But that is a separate issue.

My question to the Senator from Kansas is this. I think, if I chose to vote for her substitute—she very graciously called me when she first started talking about introducing this, and I thank her for that—but if I were to vote for the substitute of the Senator from Kansas, could I not be fairly accused of saying that if you are discriminated against as a racial minority you are entitled to proceed under 1981 and receive compensatory and punitive damages, but if you proceed under title VII, which women under the substitute of the Senator would be forced to do because they have no rights under section 1981, they would be forced to proceed under title VII and no matter how egregious the matter might be, they would not be entitled to anything more than $100,000? There is a $100,000 cap on the Senator's bill; is that not correct? Maybe the cap ought to be $50,000. I am not here to judge what the amount ought to be. But what I am talking about is are women not discriminated against to some extent under the proposal of the Senator from Kansas, simply because they are not entitled to the same remedy, even under her substitute, that racial minorities are entitled to in proceeding under section 1981?

Is the Senator from Kansas wondering what the question is now?

Mrs. KASSEBAUM. No, Mr. President, I believe I know what the question is of the Senator from Arkansas.

That is one, I must say, I wrestled with myself. Because my colleague is correct, in many ways, in saying that because racial discrimination may be addressed in section 1981, there are no other forms of discrimination that can be addressed in that same way and those actions fall under title VII.

As I said earlier, it certainly grieves me because I believe that discrimination in the form of sexual harassment in the workplace is something that none of us really would ever condone, and would wish to be able to find ways that it can be addressed. That is why I felt expanding the remedies available for that type of harassment under title VII, where we are talking about women and racial minorities, was one means we could do it without really significantly expanding the ability for punitive damages and jury trails and prolonged litigation; without encouraging, as a matter of fact, litigation and tension that I think does not help us get to the focus of what our civil rights legislation has always attempted to do, and that is to find a compromise. It is to find negotiations that can succeed, that provide an atmosphere in the workplace where relations can flourish in a way that is a positive one rather than a way that is simply going to be a litigious one.

That is why, even though I would certainly concur that it is not as I might wish it in a perfect world, it seems to me that it does provide remedies on and beyond what exist by far now. And yet certainly to some it will not be enough.

As I said earlier, I do not know that there is any amount of money that can cover the damages that can be suffered by a woman caused by discrimination in the workplace, as well as anyone else who suffers discrimination in the workplace.

Mr. BUMPERS. I thank the Senator from Kansas.

Mrs. KASSEBAUM. I yield the floor, Mr. President.

Mr. KENNEDY. Let me respond briefly on the point the Senator from Kansas made. The fact remains that for a period of 10 years, under section 1981 there were only 68 cases where there was an award of punitive or compensatory damages, and the majority of those were less than $50,000. It seems to me reasonable to believe that, given that record in the past, there is every reason to expect that that would follow a similar path with regards to women and those who experience prejudice and bias because of religious discrimination.

I ask unanimous consent to have printed at this point in the RECORD 24 statutes which are on the books currently that provide for compensatory damages, and 26 statutes that provide for punitive and treble damages.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPENSATORY DAMAGES

To be able to browse preceding or succeeding code sections, transmit B. The first page of the document you are currently viewing will be displayed in full. Note: This ability only applies when the B prompt is displayed in the cite.

LEVEL 1—24 SECTIONS

1. B 10 USCS 2324 (1989), Title 10—Armed Forces, Subtitle A—General Military Law, part IV. Service, supply, and procurement, Chapter 137. procurement generally, amended, see 101 P.L. 189 311(a)(1)(A), 11(a)(1)(B) Amended, See 101 P.L. 187 833(a)(1)(A), 853(a)(1)(B), 853(a)(1)(C), 853(a)(2) Amended. See 101 P.L. 189 853(b)(3). 2324. Allowable costs under defense contracts, United States Code Service.

2. B 12 USCS 1787 (1989), Title 12—Banks and Banking, Chapter 14. Federal Credit Unions, Share Insurance, 1787. Payment of insurance, United States Code Service.

3. B 12 USCS 1790b (1990), Title 12—Banks and Banking, Chapter 14. Federal Credit Unions share insurance, 1790b. Credit Union employee protection remedy, United States Code Service.

4. B 12 USCS 1821 (1989), Title 12—Banks and Banking, Chapter 16. Federal Deposit Insurance Corporation, 1821. Permanent Insurance Fund, United States Code Service.

5. B 12 USCS 1831j (1990), Title 12—Banks and Banking, Chapter 16. Federal Deposit Insurance Corporation 1831j. Depository institution employee protection remedy, United States Code Service.

6. B 15 USCS 2622 (1989), Title 15—Commerce and Trade, Chapter 53. Toxic Substances Control, 2622. Employee protection, United States Code Service.

7. B 18 USCS 401 (1989), Title 18—Crimes and Criminal Procedure, Part I, Crimes Chapter 21, Comptempts, 401. Power of court, United States Code Service.

8. B 18 USCS 981 (1989), Title 18—Crimes and Criminal Procedure, Part I, Crimes, Chapter 46, Forfeiture, 981, Civil forfeiture, United States Code Service.

9. B 18 USCS 3663 (1989), Title 10—Crimes and Criminal Procedure, Part II. Criminal Procedure, Chapter 232. Miscellaneous Sentencing Provisions, 5663. Order of restitution, United States Code Services.

10. B 26 USCS 186, Title 26. Internal Revenue Code, Subtitle A.—Income Taxes, Chapter 1.—Normal Taxes and Subtaxes, Subchapter B.—Computation of Taxable Income, Part VI.—Itemized Deductions for Individuals and Corporations Sec. 136. Recoveries of damages for antitrust violations, etc., United States Code Service.

11. B 26 USCS 1305, Title 26. Internal Revenue Code, Subtitle A.—Income Taxes, Chapter 1.—Normal Taxes and Surtaxes, Subchapter Q.—Readjustment of tax between years and special limitations, Sec. 1305. Repealed, United States Code Service.

12. B 28 USCS 1606 (1989), Title 28—Judiciary and Judicial Procedure, Part IV. Jurisdiction and Venue, Chapter 97. Jurisdictional Immunities of Foreign States, 1606. Extent of liability, United States Code Service.

13. B 28 USCS 2671 (1989), Title 28—Judiciary and Judicial Procedure, Part VI. Particular proceedings, chapter 171. Tort Claims Procedure, 2671. Definitions, United Stats Code Service.

14. B 28 USCS 2674 (1989), Title 28—Judiciary and Judicial Procedure, Part VI. Particular Proceeding, Chapter 171. Tort Claim Procedure, 2674. Liability of United States, United States Code Service.

15. B 29 USCS 621 (1989), Title 29—Labor, Chapter 14. Age Discrimination in Employment, 621. Congressional statement of findings and purpose, United States Code Service.

16. B 29 USCS 626 (1989), Title 29—Labor, Chapter 14. Age Discrimination in Employment, 626. Recordkeeping, investigation, and enforcement, United States Code Service.

17. B 35 USCS 1514 (1989), Title 33—Navigation and Navigable waters, Chapter 29. Deepwater Ports, 1514. Remedies, United States Code Service.

18. B 41 USCS 256 (1989), Title 41—Public Contracts, Chapter 4. Procurement Procedures, 256. Limitations on allowability of costs incurred by contractors in certan proceedings, United States Code Service.

19. B 42 USCS 300j-9 (1989), Title 42—The Public Health and Welfare, Chapter 6A. The Public Health Service. Safety of Public Water Systems, General Provisions, 300j-9. General provisions, United States Code Service.

20. B 42 USCS 2000e (1989), Title 42—The Public Health and Welfare, Chapter 21. Civil Rights Equal Employment Opportunities, 2000e. Definitions, United States Code Service.

21. B 42 USCS 5851 (1989), Title 42—The Public Health and Welfare, Chapter 73. Energy Reorganization, Nuclear Regulatory Commission, 5851. Employee Protection, United States Code Service.

22. B 42 USCS 7622 (1989), Title 42—The Public Health and Welfare, Chapter 85. Air Pollution Control, General Provisions, 7622. Employee protection, United States Code Service.

23. B 49 USCS Appx. 2305 (1989), Title 49 Appendix—Transportation, Chapter 32. Commercial Motor Vehicles, Safety, 2305. Protection of employees, United States Code Service.

24. 101 P.L. 73; 1989 H.R. 1278, Aug. 9, 1989—Public Law 101-73.

PUNITIVE DAMAGES

49 USC App. 2008: Hazardous Pipeline Facilities.

45 USC 831: *Railroad Revitalization*—for violation of conditions for the reception of guarantees.

29 USC 1514: For equitable relief of violation of Act re: *Deepwater Ports.*

11 USC 303: Against petitioner who filed in bad faith in an action for *involuntary bankruptcy.*

18 USC 2520: For improper interception, disclosure, or use of wire and oral communications.

18 USC 2710: For *knowing disclosure of videotape rental and sale records.*

12 USC 1723a: *Granted to "proper body corporate"* in suit against co. using the business names Federal National *Mortage Association* or Government National Mortgage Association.

12 USC 3417: For willful or intentional violation of financial privacy provisins, through disclosure of customer records.

47 USC 552: For the disclosure of personally identifiable subscriber information by a cable operator.

15 USC 78u: Against the Securities Exchange Commission for the possession of a customer's financial information in violation of the act.

15 USC 298: For the bringing of a suit for injunctive relief against company using falsely stamped gold or silver frivolously, or to harass or restrain trade.

49 USC App. 1679b: For violation of provision or regulation under provision-relates to pipeline, no other info.

49 USC 1811: Specific relief under the Hazardous Materials Transportation Act.

15 USC 1691e: For individuals and class action suits, limited to $10,000 and $500,000 respectively, for violation of equal opportunity law relating to some form of credit transactions.

15 USC 1681n: For willful noncompliance with laws regulating use of consumer credit information in the provision of credit.

42 USC 7622: Compensatory and exemplary damages for failure to comply with order under whistleblower protection provision of air pollution prevention. For discrimination on basis of assistance in enforcement.

42 USC 5851: Compensatory and exemplary damages for failure to comply with whistleblower protection provision of some Atomic Energy regulation.

22 USC 2399b: President may institute suit to withhold funds owed by any US agency to any person who makes false claims to any financial institution or US employee under this section amount equal to exemplary damages.

15 USC 2621: Exemplary damages may be appropriate where an employer discriminates against or fires an employee in violation of the whistleblower protection provision of the Toxic Substances legislation.

TREBLE DAMAGES

12 USC 2607: For violation of consumer protection provisions in real estate settlement statute-re discounts for referrals and kickbacks.

15 USC 1117: For violation of trademark laws.

42 USC 9607(3): For failure of person liable for release, or threat of release, of hazardous substance to take remedial action.

10 USC 2207: Exemplary damages of 3-10 times cost for bribery in relation to DOD contract.

15 USC 1693f: For failure of financial institution to recredit customer account where lack of good faith or lack of reasonable basis for decision, or where knowing and willful decision made unreasonably.

15 USC 15: For injury due to action in violation of *antitrust* laws.

26 USC 162: Taxpayer may not deduct ⅔ of treble damages paid for violation of antitrust laws from income taxes.

Mr. KENNEDY. That is why we have tried to track a practice which has not been abused, No. 1; and No. 2, to recognize this is a practice which is used in a wide variety of other different statutes; and No. 3, because we fundamentally believe there should not be second-class citizens, and that women and those who experience religious discrimination are entitled to the same kind of remedies as others in our society.

Second-class remedies, second-class citizens—we are committed to try to avoid that status. Of course, I respect the effort of the Senator from Kansas in trying at least to move this process in a more constructive and positive direction. I appreciate her willingness to address this issue in a serious way.

Mr. BUMPERS. As the Senator knows, it troubles me because I think women quite often suffer indignities and abuses in the workplace and sometimes suffer from lack of promotion. That is discriminatory. That is the thing that really gives me more pause about the Kassebaum amendment than anything else. As the Senator knows, the thing that causes me more pause about his bill than anything else is punitive damage. The fact that the statistics and the studies show that in all of these cases very seldom does a punitive award exceed $50,000, I can tell my colleague that that is of no consolation to a small businessman. My State is virtually nothing but small business. I have great empathy. I used to have a small business myself, very small. When I practiced law, I did not have any personnel problems. It was just my secretary and me. Sometimes she did not speak to me for a week or two, but that was the only personnel problem I had.

But small business people, for example, who worked their entire life providing 100 jobs in some small community and if there are no minorities in the community, I think the chances of them ever being charged with discrimination are very low. The more blacks there are in a community, the more likely you are to succeed, certainly, with a title VII kind of case.

If you have punitive damages in that case and punitive damages are awarded—let us say a guy has worked all his life. He has 100 employees and maybe he is even worth $1 million. As a former trial lawyer, I can tell you it is not what the statistics show the average award is. It is that a Damocles sword is hanging over your head when a jury sitting there is deliberating and debating your very existence and knowing full well that the plaintiff has asked for $3 or $4 million in punitive damages and may get $1 million, which not only puts you out of business but puts another 100 people out of a job.

I know the Senator from Massachusetts does not intend those kinds of terrible, untoward results, and yet it is, I think, imperative that this body put a cap on punitive damages. I think it is imperative that we make sure that the language is precise and clear, that we are not intending for anything to be forced to or to even feel they are forced to hire by quotas. I can tell my colleague, those are the two things that the small business community and the big business community are most concerned about in this bill.

Mr. KENNEDY. Will the Senator yield?

Mr. BUMPERS. I will be happy to.

Mr. KENNEDY. We are ready to accept, as I indicated yesterday, prior to the recess at noontime, language which had been worked out with the Senator from Arizona to make very clear that no quotas will be required in that language, and we invite the Senator to review that language. We are quite prepared to accept it because it was never intended.

We have the support of a number of organizations that have longstanding policies against quotas—the American Jewish Congress, the Anti-Defamation League, and a number of others that have that policy, as a fundamental principle. We are prepared to accept this. I had indicated in my other remarks that we were prepared to do so.

Second, I want to continue to underline the point that there are no monetary damages whatsoever in this legislation for disparate impact. We are quite prepared to accept an amendment—I think it was the Senator from Arkansas who had an amendment—to make that very clear. It is in the report. We believe that is in the language, but it was never our intention, and we are glad to make that clear.

I, myself, would prefer not having a cap. But I understand the concerns which have been expressed here. If that is the will and the judgment of this body, I certainly accept that because I think the other provisions in this legislation are so important in terms of addressing the fundamental problems. We should not prohibit those remedies from going into effect because of that particular issue.

I will announce later in the day, working with the Senator from Arkansas and others, the Senators from Oklahoma and Montana and a number of others who are concerned about this, what we might try and achieve and do. I just wanted to give those assurances to the Senator as we move forward in this.

Mr. BUMPERS. I thank the Senator very much.

Mr. THURMOND addresssed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent to speak out of order for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Hearing none, the Senator from South Carolina is recognized.

REACTION TO THE HOUSE OF REPRESENTATIVES VOTE ON A PROPOSED CONSTITUTIONAL AMENDMENT MANDATING A BALANCED FEDERAL BUDGET

Mr. THURMOND. Mr. President, yesterday, the House of Representatives voted in strong support of a proposed constitutional amendment mandating a balanced Federal budget. The 279-to-150 vote in favor of the proposal was, unfortunately, seven votes short of the two-thirds majority needed for approval.

However, Mr. President, it should be noted that Senate Joint Resolution 183, a balanced budget amendment which Senator SIMON and I drafted, was passed by the Judiciary Committee on June 14 and is currently ready for action here in the Senate. I strongly urge the majority leader to bring this important proposal up for consideration and a final vote. It is my belief that if we approve this constitutional amendment in the Senate, the House would likely vote again on this issue and seven votes could very well be changed. Approval by the Senate would send a clear message to the House of Representatives that the Congress must take the important step of fiscal responsibility and reduce these huge deficits.

Mr. President, the budget deficit is a major concern with President Bush, our colleagues, and the American people. They understand that the Congress has not shown the necessary discipline to reduce spending. Earlier this week, the Office of Management and Budget released their forecast of the budget deficit for fiscal year 1991 and placed it at $169 billion. This should be compared to the deficit for fiscal year 1989 which was a staggering $152 billion. Also, the deficit for fiscal year 1990 will be over $160 billion. Just recently, the national debt topped $3 trillion. According to Daniel Mitchell, project director for Citizens for a Sound Economy, if you spent $100 every second, 24 hours a day, every day of the year, it would take you 735 years to spend the amount of debt the Federal Government has incurred.

The national debt averages about $12,000 for every man, woman, and child in America. Payment of interest on the national debt is the second largest item in the budget. I repeat, payment of interest on the national debt is the second largest item in the budget for which we get no services. That money is not going to help our senior citizens, students, farmers, the homeless, or any other group in America. It is a sunk cost that is financing a debt incurred by congressional extravagance with taxpayers' money. Congress has been unwilling to operate on a pay-as-you-go basis and we have balanced the Federal budget only once in the last 29 years. I want to repeat that. We have balanced the budget only once in the last 29 years.

Mr. President, a constitutional amendment mandating a balanced budget will ensure fiscal responsibility and it is time the Congress be accountable for the fiscal policy of this Nation. Let us begin to fulfill our duty and restore fiscal sanity to a spending process which is out of control.

Again, I urge the majority leader to schedule time for consideration of Senate Joint Resolution 183, the Simon-Thurmond proposed balanced budget amendment. Favorable action in the Senate would be a strong incentive for the House to vote again on this important issue, and I firmly believe if the Senate approves it, that the House would also act favorably.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that I now be permitted to use my leader time which was previously reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADMINISTRATION CHANGE IN CAMBODIA POLICY

Mr. MITCHELL. Mr. President, I welcome Secretary Baker's announcement of changes in American policy toward Cambodia, although I do not believe they go far enough in clearly and effectively preventing future Khmer Rouge domination of Cambodia. While I await the final details of this policy change, preliminary reports indicate that it consists of three major elements: Easing of restrictions on humanitarian aid to the Cambodian Government, discussions with Vietnam about the situation in Cambodia, and an end to United States support for the claim by a coalition including the Khmer Rouge to represent Cambodia at the United Nations.

While these are positive developments in a policy that has long been fundamentally flawed, I urge the administration to take additional steps and to examine the basic premises upon which the policy is based.

With widespread reports of increasingly effective Khmer Rouge military actions inside Cambodia, there is simply no excuse to delay additional action.

Some are comparing the current situation on the ground to that preceding the Khmer Rouge takeover in 1975. The horrifying possibility of a return of the genocidal Khmer Rouge should be sufficient to convince the administration that its policy has been a dismal failure.

At best, that policy has been ineffective in forestalling the Khmer Rouge. At worst, it has strengthened the Khmer Rouge, the very forces that nearly destroyed the entire country during their region of terror.

U.S. policy requires overhaul and intensive effort, not tinkering and fleeting attention. I hope that a comprehensive rethinking of current policy is underway and that the administration will make prevention of a return of the Khmer Rouge a top priority.

Indeed, the circulating congressional letter makes this very request—and this request is not fully met by the reported changes in administration policy. The letter outlines those aspects of American policy which are most in need of immediate change and ask that American policy more clearly and effectively help prevent future Khmer Rouge domination of Cambodia.

While it is positive that the United States appears more willing to cooperate with the Soviet Union and is ready to open a dialog with Vietnam about Cambodia, my colleagues and I believe that the United States should be talking with the regime in Phnom Penh now. The Hun Sen regime is the only force currently fighting the Khmer Rouge. It is obviously the key element of an elections process, and of a peaceful settlement. It is critical that we have direct contacts with the regime, and I urge the administration to open these contacts immediately.

I also believe that it is crucial to confront the cause, not just the symptoms, of the problem in Cambodia. This means focusing on China, the sponsor of the murderous and genocidal Khmer Rouge.

The United States must do everything possible to pressure the Chinese Government to end its support for the murderous Khmer Rouge. There are reports that Chinese assistance recently has increased, even as administration officials insist that they have asked China to curb its aid. Either the United States is not pushing China very hard, or the Chinese refuse to listen.

In either case, the proper course is for the administration to press harder. I hope Ambassador Lilly will make this a top priority in his communication with Chinese officials. I hope the President will express his personal concern regarding China's sponsorship of the Khmer Rouge. I urge him to do so publicly.

The Chinese leadership must be made to understand that it stands entirely alone in support of genocidal forces known as the Khmer Rouge in Cambodia.

Reports that the United States-backed non-Communist resistance [NCR] is cooperating tactically and strategically with the stronger Khmer Rouge are extremely troubling. It is illegal for United States funds to have, and I now quote American law, "the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge or any

of its members to conduct military operations in Cambodia or elsewhere in Indochina." There appears to be reason to question whether this law is being obeyed. My colleagues and I urge the administration to fully examine this possibility and act accordingly.

I am confident that the American people do not wish to promote, in any way, shape, or form, the aims or success of the Khmer Rouge.

Perhaps more fundamentally, it is worth questioning why the United States is funding the so-called non-Communist resistance forces that do not oppose the Khmer Rouge, but fight with the Khmer Rouge—and fight against the only group that does oppose the Khmer Rouge.

If one accepts that the Khmer Rouge are undisputedly the greatest danger in Cambodia, it is hard to understand the logic behind supporting a group that fights with the Khmer Rouge in support of the Khmer Rouge.

By funding non-Communists allied with the Khmer Rouge, we legitimize the very genocidal forces that we should be discrediting and isolating.

I believe that the United States should encourage, in every possible way, the military and diplomatic divorce of the U.S.-supported non-Commuist factions from the Khmer Rouge. I am extremely pleased that the United States will withdraw its support for United Nations seating for a coalition that includes the Khmer Rouge. This step has long been overdue.

It is incumbent upon the administration to seriously reexamine the situation in Cambodia. Barring reversals of current trends, the Khmer Rouge—the strongest resistance faction which is expanding its reach inside the country—appears likely to again turn Cambodia into killing fields. Time is on the side of the Khmer Rouge.

Certainly this lends urgency to international efforts to forge a diplomatic settlement to the conflict. It is disappointing that years of maneuvering have produced little, while many of the proposals would include the Khmer Rouge in a settlement. My colleagues and I urge the President to clearly state that the United States will not support a negotiated solution that would give the Khmer Rouge a role in Cambodia's future or increase the likelihood of a Khmer Rouge military victory.

We further call for the United States to focus on achieving an agreement to hold elections, rather than emphasizing the creation of an interim power-sharing arrangement leading up to elections. Hun Sen, Prime Minister in the Phnom Penh regime, has committed the regime to holding free and fair elections supervised by the United Nations. If there is to be hope for Cambodia, elections must occur before the Khmer Rouge become so powerful that free choice is an impossibility.

In considering the prospects for elections, it is important to remember that United States policy has contributed heavily to ensuring the poverty and isolation of Cambodia. These factors help the Khmer Rouge most of all. That has been what has been most distressing about the administration's policy to date. The reported United States willingness to provide the congressionally authorized humanitarian aid to children in Cambodia is an extremely positive step. I hope that eased restrictions will also allow development aid and increased travel and communication between the United States and Cambodia.

I am encouraged that Secretary Baker has focused on American Cambodian policy and the dangerous possibility of a return of the Khmer Rouge. I welcome and applaud the announced changes in United States policy, and I look forward to studying the details, and urge the administration to take the urgently needed additional measures to help prevent a return of the Khmer Rouge and its terror to Cambodia.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1990

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, for the information of our colleagues, discussions are continuing on two levels with respect to the pending civil rights bill. First and most important, of course, deals with the substance of the measure and it remains my hope that we will be able to reach agreement on the substance of the measure that will permit us to pass and see enacted into law a strong and effective civil rights bill. That process of negotiation has been ongoing for several weeks and I know that many Senators have been involved, including the distinguished Senator from Vermont who is present on the floor who has been a valuable contributing member to those negotiations.

In addition, we have been discussing the best way to proceed to disposition of the bill with or without an agreement.

As all Senators know the invocation of cloture limits the time for Senate consideration of the bill and that time continues to run. I have earlier today obtained agreement to proceed to continue debate on the measure and, to facilitate the continuing process of negotiations in both respects, not to have any amendments offered during that time.

In both instances those have followed discussions with and have been cleared with the distinguished Republican leader, so that that process can continue, having this cleared by the Republican leader.

I now ask unanimous consent that the prior order be extended to 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield the floor.

Mr. JEFFORDS. Mr. President, I would like to follow up on the comments of the majority leader and say that we are indeed attempting to proceed with negotiations in order to reconcile the key elements of the civil rights bill. New proposals have been exchanged by both sides and are under study at this point.

We are hopeful and we Republicans have committed ourselves to the President to continue negotiations this afternoon and as long as it is necessary in order to reach a resolution of the situation. I know that the same good faith exists on the part of civil rights organizations with whom I am also communicating. We are hopeful that perhaps by the end of this afternoon we will have a breakthrough in this critical area.

I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unamimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTORTIONS ABOUT FARM SUBSIDIES

Mr. CONRAD. Mr. President, I take the floor this afternoon to clear up some misunderstandings and what I believe are substantial distortions that are appearing in the press repeatedly in this country with respect to farm legislation.

The most recent article I want to respond to is an article that appeared in the July 12 issue of the Washington Post entitled, "Statement Aimed at Farm Subsidies Impasse." The subheadline is "Industrial Nation Leaders

Hope To Give Impetus to Uruguay Round of Free Trade Talks."

Mr. President, when we read the article, they are circulating misinformation that, frankly, distorts the whole farm program debate.

First, the article states that subsidies to U.S. farmers were $67 billion in 1989, according to the Organization for Economic Cooperation and Development.

It is unfortunate that USDA circulated numbers like that at the Houston summit because they are wrong. It is not even close to being accurate. Yet this kind of information is put out at a Houston summit. It gets repeated in the newspapers across the country. It is no wonder there is a reaction against agriculture in this country when we have falsehood after falsehood spread across the pages of the major American daily newspapers day after day because for some reason the Department of Agriculture that is supposed to be an advocate for agriculture in America seems to have a different agenda. It has an agenda to undermine and perhaps to kill the farm program in this country.

Mr. President, let me give a few examples of what is included in this number of $67 billion that it is asserted repeatedly across the pages of America's newpapers is the American subsidy for agriculture. Included in the $67 billion is about $20 billion for food stamps. Who does the $20 billion for food stamps benefit? I assert that is a benefit for low-income households in this country that do not have enough money to buy food. That is not a subsidy to the American agriculture producer. Other nutritional aids and food aid are included, both domestic and foreign. It has long been a policy of America, on a humanitarian basis, to help those who are hungry, and now we find that is put on the farmers' account. I thought that was a societal obligation broadly shared.

It does not stop there. The cost of food reserves in this country are attributed as benefits to farmers. The fact is, the fact that we have a food reserve benefits consumers. What could be more clear, from the droughts of 1988 and 1989. In America we had devastating droughts in those years and the consumer hardly ever noticed.

There were no food lines in America. There was no one waiting to be able to buy a loaf of bread or fresh fruit or a piece of meat. In my city in North Dakota, my hometown, we just had visitors from the Soviet Union. Friends of theirs took them to a local grocery store.

The man was so overcome after going down three aisles of that grocery store he had to leave. He was so overcome by emotion at seeing what is available to a typical American consumer, contrasting that with what is available in the Soviet Union, he had to ask to leave the store. He could not handle it emotionally.

It does not stop there either, Mr. President. The fact that we have food reserves benefit consumers. It has been the policy of nations all across the world to have a food reserve policy so food is available in times of shortage. The fact that America had a food reserve benefited consumers dramatically after the droughts of 1988 and 1989. In fact in the last 3 years we have produced less food than has been consumed in the world and yet everything goes on because of the food reserve policy America has had.

The cost of meat and poultry inspection is considered a subsidy to farmers in the OECD number, as is the cost of border inspections of imported fruits and vegetables. Roads, highways, bridges, and other infrastructure in rural areas are counted as a subsidy to farmers.

We have a whole lot of folks living in my State who are not farmers who are using those same roads and bridges. Yet all of the money is being counted as a subsidy to agriculture.

Rural development—again most of the people in my State are not farmers. Yet we are desperately in need of rural development. Why? Last year we led the Nation in personal income decline. For the last 3 years we have led the Nation in outmigration. Is that because farmers are getting rich? If we watch the newspapers across America we would swear that every farmer is a millionaire. I wish the critics would come and visit my State.

Research on nutrition, plant and animal diseases, and new methods of producing food which is less environmentally intrusive is counted as a subsidy to farmers. Mr. President, we have a problem in America. We have an enormous environmental problem in this country and that is a problem not just for farmers, that is a problem for all of us. To count research that looks at ways of making environmentally more sensitive the things we do in agriculture should not just be put on the account of farmers. That is a broad societal responsibility.

Disease control—that is counted as a subsidy to farmers.

State government expenditures on agriculture, including State fairs—that is included as a subsidy to agriculture.

Mr. President, to what level of absurdity do we sink in this debate when numbers are being put out at the Houston summit that say it is a subsidy to agriculture when a State like Indiana holds their State fair and people from all over the State come to take a Ferris wheel ride. That is a subsidy to agriculture, according to this number. What kind of nonsense is this?

Commodity checkoffs, which are paid for by farmers themselves, are counted in these numbers as a subsidy to farmers.

This number, which is being broadly forecast in the United States and now around the world as American subsidy to agriculture, is just absurd. It cannot be supported by the facts.

I just want to repeat that last item. Commodity checkoffs paid for by farmers are being counted in this number as a subsidy to farmers. How can that be? The farmers themselves have paid for the commodity checkoff. They have agreed to take something out of the check that they get when they sell their cattle or something that they contribute to a fund to promote the dairy industry, for example; it is taken out of their milk check. In this number that is being broadcast, that is counted as a subsidy to farmers, and the money is coming from farmers.

The OECD calculation as a measure of support for farmers is simply nonsense. Anyone familiar with these calculations understands that they represent a gross measure of Government involvement in the food industry, not subsidies to farmers.

In reality, farmers receive not $67 billion in subsidies in the United States, but $11 billion—that is what our commodity programs cost in this country—a large portion of which is compensation for lower prices caused by food reserves designed to protect the United States and the world from shortages.

Who benefits? Consumers benefit. I wish that in this country we can have the opportunity to take every American to Eastern Europe or to the Soviet Union. I would love to have the chance to take the people who tonight will go to the local grocery stores and have an abundant array of food choices before them at the lowest prices of any country in world history, I would like to take those folks and have them have the opportunity that I had last year to see what it is like in the Soviet Union, to see people standing in a line that goes around the block because there is a rumor that they have a piece of meat in the butcher shop; to see the people standing around the block waiting in line because they have heard a rumor that some fresh fruits and vegetables might be available. That is a farm system that does not work. Ours is working, and we ought to think very carefully about what we do before we have radical surgery on that program.

What is even greater nonsense, Mr. President, is that USDA and our trade representatives are putting out this kind of misinformation to the press as fact. This type of misinformation is a disservice to the political process in America.

On the other hand, when President Bush is talking about eliminating all farm subsidies, maybe he is talking about eliminating food reserves, because that is in the number that he

has circulated. Is that the President's intention? Is that his agricultural policy? Does he intend to eliminate all food reserves? If so, maybe he would want to advise the American people of that. If he does, maybe he would like to advise them of the consequences. Maybe he would like to tell them what would have happened in the droughts of 1988 and 1989 if we would have had a policy of no food reserves in this country.

Maybe he is talking about eliminating food and nutrition assistance because that is in the number. He says he wants to eliminate subsidies. There is $20 billion in there for food stamps and nutritional assistance to people who cannot afford to have the diet that we all understand they need. Is that his intent?

Maybe he is talking about eliminating all State fairs. Is that the proposal that the administration is pushing in Geneva? Are we going to eliminate all State fairs in the country?

That, Mr. President, is why this document implies things that simply are terribly misleading and do no service to the ongoing debate.

Mr. President, the same article in the Washington Post alleges that sugar can be bought for 9 cents a pound on the world market compared to 45 cents per pound on the grocery shelf in Washington, DC. A subsequent article on Monday, July 16, says that U.S. consumers could have bought sugar on the world market for 5 cents a pound in 1984 through 1987. Those figures are just plain, old-fashioned baloney.

Raw sugar can be purchased on the world dump market for about 12 cents. That is raw sugar, before it has been refined. The sugar that they are talking about, world market sugar, is raw. It has never been refined.

I suggest that after it has been transported to the United States, refined, wholesaled, transported to the grocery shelf, it will cost a lot more than the 9 cents a pound they allege in the article and, in fact, the world dump market price right now is 12 cents a pound.

Even USDA admits that the residual sugar market does not represent a true world sugar price. That is true because most sugar in the world is consumed internally by producing countries or exported under agreements at prices which cover the cost of production.

A residual is dumped on the world market for whatever it will bring, and these new stories refer to that as the world price. That would be like taking Christmas trees on December 26 and saying that average price is the average price for Christmas trees. That is exactly what we are talking about here. This world price is a dump price. It has nothing to do with supply and demand.

About 80 percent of the world sugar supply is sold internally in the country of origin or under long-term contract. The rest is dumped, for whatever it will get, and it is sold at a price that is far below the cost of production. That is the reality. The 9 cents to which they refer is a dump price, a residual price and, in addition, an unrefined price. Then they compare that to the refined cost of sugar on the grocery shelf. They are not comparable. They are not close to comparable, and it is misleading to suggest that they are.

In that same article, there is an allegation by the Representative from New York that consumers are paying $2.4 billion extra for sugar because of the U.S. sugar program. Sheer nonsense. That assumes that U.S. consumers could buy an unlimited amount of sugar at that world dump price. Mr. President, that is below the cost of production of even the most efficient producers in the world. The best estimate of the world price of sugar, if there were no sugar subsidies by any nation, is from 15 to 22 cents a pound. The midpoint is 18.5 cents, which is above the U.S. support price.

The fact is that the average retail price of refined sugar in the world, according to USDA, is 41 cents a pound, compared to 44 cents a pound in developed countries and 40 cents in the United States.

The fact is when you compare apples to apples, oranges to oranges, refined sugar costs 40 cents in the United States, costs 41 cents a pound in the world, costs 44 cents a pound in the developed world. Our price, U.S. price, is below the world average and below the average of the developed world.

I do not read that in the newspaper. I do not see anybody reporting that fact. Instead, they take a world dump price, a residual price, an unrefined price, and compare it to the retail price of sugar.

I know it takes some digging to get at the facts, but I always thought that newspapers had some obligation to report factually so that people could make some reasoned judgment.

U.S. sugar producers are ready, they are willing to live in a market in which everyone is on a level playing field. No program in the United States, if there is no program in these other countries, that would be a level playing field. Our producers are ready for that. They are not ready to be abandoned in a world in which other countries have aggressive programs to support their industry and leave our farmers, our producers out there acting as though there is a world free market when none exists.

Mr. President, I keep hearing this romantic rum drink dream floating around in the press that we would lose our sugar market to the CBI nations or South America under free trade. The fact is that many of these nations would not have a sugar industry at all under free trade because their cost of production is simply too high.

I conclude by saying we are going to have an intense debate in the Senate on agricultural policy, and I hope it is done on the basis of facts, on the basis of careful analysis, and that the American people have a chance to hear both sides of the story. I believe that they are well able to make a judgment if they get both sides of the story.

I simply admonish the news media that perhaps there needs to be a fact checker as they report on what is very complex, the farm policy not only in this country but worldwide. The hard reality is that we are in a worldwide trade war on agriculture. Our friends in Europe have a strategy; they have a plan. They believe the United States is getting ready to blink. They believe the United States cannot stand the pressure. They believe the United States does not have the will to stay the course. They believe the United States is getting ready to back off, and they are rubbing their hands with glee in Europe waiting to take over world agricultural markets. They have already seen themselves go from being major importers of food to major exporters, and they are just waiting, just waiting for the United States to unilaterally disarm.

Mr. President, I hope very much that this country understands what it is up against, what the stakes are, what the opportunities are, and that we move based on fact, not on fiction; that we move based on correct information; not misinformation.

With that, Mr. President, I yield the floor.

I note the absence of a quorum.

The PRESIDING OFFICER (Mr. ADAMS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1990

The Senate continued with consideration of the bill.

Mr. DODD. Mr. President, what is the pending business of the Senate?

The PRESIDING OFFICER. Amendments to the civil rights bill, S. 2104.

Mr. DODD. I thank the President.

Mr. President, I would like to take a few moments here to discuss and share with my colleagues and others my thoughts on the Civil Rights Act of 1990, and then briefly a few thoughts on the Kassebaum amendment, which, as I understand it, is the pending business. I make a parliamentary inquiry. It is my understanding that under the

unanimous-consent agreement no amendments would be considered until 4 p.m. this afternoon. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. The Kassebaum amendment is the pending amendment?

The PRESIDING OFFICER. It is the Dole amendment, which was submitted for Senator KASSEBAUM. Then there is a Dole amendment in the second degree. Both of those amendments are pending to the Kennedy-Jeffords substitute.

Mr. DODD. I thank the Chair for that description. I will be addressing the Kassebaum amendment as presented by Senator DOLE at the conclusion of my remarks.

It is axiomatic that the 14th amendment of the U.S. Constitution stipulates: "No State shall deny any person within its jurisdiction the equal protection of the laws." Every American citizen who has bothered to spend any time examining the Constitution of the United States, if not familiar with those words exactly, understands that, if they have lived any life at all here, that fundamental principle is something we all share, live by, and under.

In fact, anyone who might try to detract from that fundamental statement of principle would be considered, I think, by most to be in fundamental violation of our values and principles embraced in our Constitution. To be protected and not to be denied the equal protection of the laws of this country is as fundamental as anything.

Section 1981 of the Civil Rights Act of 1866 and title VII of the Civil Rights Act of 1964 were laws enacted by Congress, as we all know, to protect American workers from employment discrimination.

Over the past 35 years the legislative, executive, and judicial branches of our Government have considered the 14th amendment when enacting and enforcing our historic civil rights legislation. During that time the Supreme Court broadly interpreted section 1981 and title VII to provide American citizens protection against discrimination in the workplace.

Last year, however, the Supreme Court shocked the American public, the Congress, and even the administration when it blatantly reneged on its commitment to providing hard working Americans equal protection under laws. Decisions handed down by the Court in at least five cases stripped our historic civil rights laws of their enforceability.

That is what brings us here today to this debate, to this legislation, and to this discussion. The laws, as we now know, are riddled with holes, making it considerably more difficult for victims of discrimination in our country to win their cases. As a result, millions, of hard-working Americans have lost the protections of section 1981 of the 1866 act with title VII of the historic 1964 Civil Rights Act.

The decisions, these five decisions, represent, in my view, an unprecedented retreat on the part of the Court from the enforcement of the antidiscrimination laws in our Nation. And, according to many people, the leading organizations of this country who follow Supreme Court decisions, "There is clear evidence of these decisions' adverse impact on Americans who are seeking legal redress against unfair treatment at work."

In addition to weakening section 1981 and title VII, the Supreme Court's decision in the Paterson case prevents plaintiffs from collecting any compensatory or punitive damages for on-the-job discrimination, no matter to what extent they are now prohibited. People for the American Way have reported that this decision alone is responsible for the withdrawal of some 100 employment discrimination claims within the last year alone.

Before the Wards Cove ruling, once the plaintiff had developed a prima facie case, it was up to the defendant to prove that the hiring practices in question had a business necessity, commonsense kind of ruling. Now the Court expects the plaintiff to develop both the prima facie case, which it always had to do, but also to prove that a hiring practice was discriminatory and not a business necessity.

Now, it is up to the plaintiff to prove that. That will not be the case. By shifting this burden of proof from the defendant to the plaintiff, the Court has made a difficult task an almost impossible one for the working men and women of this country who are the plaintiffs in these cases. Cases decided in favor of the plaintiff before the Wards Cove decision have already been appealed and reversed in favor of the defendants.

In the last year, Mr. President, Americans have been dealt the greatest setback, one might argue, in the recent history of civil rights and equal rights movements. A branch of the Federal Government has made an unreasonable determination that workers do not deserve equal protection under the laws. In their dissenting opinion for the Wards Cove case, Justice Blackmun may have said it best. I quote him in his dissenting opinion: "One wonders whether the majority—of the Court—still believes that discrimination is a problem in our society, or even remembers that it ever was."

Mr. President, I share Justice Blackmun's curiosity and puzzlement. Discrimination persists in our country, and that is a fact. We owe the workers, men and women who keep our infrastructure functioning and our businesses competitive, equal employment opportunities. Now that the Supreme Court has abandoned its fight against discrimination, it is our responsibility here in this body as Members of the Senate and Members of the Congress to try to ensure that workers are protected from intentional discrimination and that perpetrators of discrimination know that their actions are reprehensible and illegal.

To restore the heart and soul to our civil rights laws—to guarantee working Americans of all colors, genders, and religions equal protection under the law—the Congress, in my view, must act to overturn the 1989 Supreme Court rulings. And the only vehicle to accomplish this is the legislation that is now before us.

S. 2104 would overturn the 1989 Supreme Court decisions to restore original congressional intent to our antidiscrimination laws. S. 2104 would also strengthen section 1981 and title VII to extend to victims of sexism or religious bigotry the same protection from job discrimination provided to minorities.

Finally, S. 2104 will strengthen title VII to make protection under the Civil Rights Act of 1964 consistent with protection provided under section 1981.

For months, Members of Congress have pursued negotiations with the administration and the opponents of S. 2104. In fact, those negotiations are ongoing even as I speak here this afternoon. I am hopeful that those negotiations will result in bipartisan support for this legislation.

It was announced on Friday by the Supreme Court, and we all felt the sense of relief that we are finally going to be able to move forward on this legislation. I was hopeful, as were my colleagues here, that we would be voting on final passage of this legislation today.

The No. 1 concern that has been voiced by the bill's opponents was the danger that the original language would result in hiring quotas. We have resolved that concern, I believe, Mr. President, with the compromise language. So I hope that within the next few hours, no longer the next few days, we can reach an agreement in this important matter.

Passage of S. 2104 would send a very strong and powerful message to working men and women in this country that equal employment opportunity is a personal freedom that we intend to uphold in this Congress. Passage of S. 2104 would send a very clear and unequivocal message to employers that discriminatory practices are punishable under the law. For these reasons, Mr. President, I strongly urge my colleagues to support S. 2104 and to vote for the final passage of this legislation when it comes before us.

Mr. President, I would like to share a couple of general observations about the pending matter, the Kassebaum

amendment, as presented by Senator DOLE. This amendment would endorse and codify all or part of each of the restrictive Supreme Court decisions which S. 2104 was introduced to overrule. The adoption of this amendment, without any modifications to it, would end up being a defeat for the Civil Rights Act of 1990. It is hard to read it any other way.

This amendment unmodified, left as it is, would fail to provide fair remedies for all victims of intentional job bias, which, at the very least, this legislation ought to be able to accomplish, relegating women and religious minorities who are biased victims to second-class treatment under our laws.

This amendment is virtually identical to the earlier circulated opposition substitute, except for some changes to the Wards Cove decision, which omits some of the problems in the earlier version, but still essentially codifies the Wards Cove case.

Mr. President, I hope that the amendment is modified or that some modification can be reached, and that it should be understood that this is not a compromise proposal at this particular juncture. It may emerge as one, but on this day, at this hour, that is not the case. I urge that if it is unmodified, if some agreement is not reached on the amendment, that the amendment be rejected.

I yield the floor.

Mr. JEFFORDS. Mr. President, I wish to address the Kassebaum amendment. I have looked it over carefully, and I know good faith is involved with bringing this amendment, in an attempt to resolve some of the issues that are before us.

I was hopeful that perhaps there would be ways that we could get together and be able to come forth with one that we all could agree upon. Unfortunately, due to the constraints that were imposed upon us by cloture, and for other reasons, I do have some serious problems with the Kassebaum amendment and, therefore, find that it is impossible for me to support it.

First of all, let me discuss the issues involving the Wards Cove case. There are primarily two very important aspects of Wards Cove which must be dealt with in the minds of those of us who want to see a fair resolution of civil rights situations. First, and probably the one which got the most attention, was the burden of proof issue. That is as to who ought to have the burden of proof under these circumstances.

Under the law, as we understood it before Wards Cove, the plaintiff had the burden of proof and burden of going forward and the burden of preponderance of the evidence on the issue of showing that there was a disparity. However, once that was proven to the extent that it would be either an issue to be resolved by the court or a jury, then the burden shifted to the defendant to have both the burden of coming forth with evidence, as well as the burden of persuasion on the issue of business necessity.

The Kassebaum amendment initially seems to say that that proposal that existed prior to Wards Cove was the one which prevailed, which is the identical language, up to a point, of the Kennedy-Jeffords substitute. However, it goes on then to use these words: "in accordance with rule 301 of the Federal Rules of Evidence," that follows these words: "The term 'demonstrates' meets the burdens of production and persuasion." That is fine, and that would appear to be what was intended.

Then you might slide over and say, well, if it is in accordance with the rules of Federal evidence, that phrase must be all right, too. If you read section 301, you find that they have, in a sense, created a definition for presumption which they use, which is quite different from what the words are, as intended in the Kennedy-Jeffords substitute. I quote from the Rules of Civil Procedure, section rule 301.

> A presumption imposes on the party against whom it is directed the burden of going forward with the evidence to rebut or to beat the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion.

If you take that over to the defendant in this situation, it means that we have just incorporated the Wards Cove decision, which essentially used this approach to the burdens. Thus, you have either a substantial and irreconcilable conflict in the wording of subsection M, which I read previously, or else the only sense you can make to it—by using the words "in accordance with 301," means that you would interpret it such that it would in fact incorporate Wards Cove on the burden of proof issue.

Then we go on to the next definitional situation which is subsection N. That one also is one which troubles me greatly. I think that perhaps the intention of all of those are the same, that is, to return to grace. On the other hand, if we are not careful by selecting language without putting in the factual situations or types of cases that are involved or whatever, we can create a situation quite different than we intend to by going back to Griggs.

Under the words in the Kassebaum amendment, business necessity means that "the challenged practice has a manifest relationship to the employment in question or that the respondent's legitimate employment goals are significantly served by." Probably the biggest problem with that is the second phrase which opens us up to a whole other set of circumstances, of legitimate employment goals.

The reason that is so troublesome to me, and to those of us who are concerned about what can happen in these situations with respect to hiring, is that these perhaps leave the infinite possibility for selection processes to be used which would create a disparate impact upon different groups.

The one we might take a look at, for instance, is single parents. Single parents obviously have children, and by hiring or not hiring single parents, you could accomplish a legitimate business goal of reducing your health costs, because the insurance would be less costly for a person without children.

There are many other types of situations which would come under that possibility, because you have a legitimate business purpose of trying to reduce the cost of doing business. Yet, it would have nothing to do with what we would say the basic criteria ought to be, that is, the ability to perform satisfactorily on the job.

There are others in other sections, which I am not going to refer to that are also troublesome; I think that those have been adequately discussed at this point. The other problem which does concern me is primarily in the damages section. I know there are problems in the Kennedy-Jeffords substitute, as far as the desire in this body regarding handling the damage situation. We all have our problems to deal with.

The one that I see right now with respect to the Kassebaum situation is the basic question, first, of the right to jury trial.

I know that there has already been placed in the RECORD a memorandum dated June 8, 1987, relative to the use of punitive damages in the Fair Housing Act which has prepared by the Office of the Attorney General, and I am not going to duplicate by putting that in the RECORD. But I think it points out very clearly on pages 777 and 778 in the situation which is referred to in the Kassebaum amendment which says that we are here not only to get necessarily back pay but also perhaps compensatory damages and, in addition to that, punitive damages with the intention of trying to, in a sense, penalize or serve as a bar or barrier to people using harassment and other types of unlawful activities.

That memo makes it clear that in either of those circumstances where you are doing something which is intended to penalize or you are doing something which is intended to compensate over and above those things which would be easily assignable such as back pay, then it will be necessary and essential that you have a jury trial. Also since there is a severability clause here recognizing that this problem exists that in the event that the court does determine that you have a constitutional problem and should

rule these provisions unconstitutional then we have no damage provisions in the Kassebaum amendment because they would be thrown out as being violative of the Constitution.

In addition to that, and I believe these points have been brought out already, but I will mention them just briefly, there is inconsistency within the terms under section 706(g) as it is modified under certain circumstances because there is a conjunction between the various phrases that only in the case if back pay cannot be awarded can you get additional remedies.

If back pay can be awarded, if you get $5 in back pay or $100 in back pay and if it was not for that fact you might be entitled up to $1,000 you would only get the back pay amount of whatever it might be. That seems to me to be quite inconsistent with the concept of parity or trying to get some sense of the ability to award people or to reward people for damages which have been suffered under harassment cases and other cases.

So for these reasons I find that unfortunately it is impossible for me to adopt or to vote for the Kassebaum amendment. But I do certainly commend the Senator from Kansas for attempting to deal with some of these very difficult issues and I would hope that as time goes by, and we try to unwind ourselves from the constraints of the problems created by cloture, perhaps some of the ideas that are incorporated here along with those of the Kennedy-Jeffords substitute we will be able to come out before we leave here the end of the day or whenever the time will permit a bill which is satisfactory to us and will not be vetoed by the President.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I have listened with great interest to the remarks of my distinguished friend and almost seatmate, the Senator from Vermont, with whom I share among other backgrounds a service as a State attorney general and whose views both on matters relating to legal interpretation as well as those related to the substance, that I believe deserve very considerable consideration by this body.

I may, however, point out there are certain disagreements with what he has said, that the constraints under which we are operating by reason of a highly premature invocation of cloture before any of these matters could be discussed are not constraints which were favored by or voted before by either the Senator from Kansas or by this Senator.

We now find ourselves in a situation in which absent unanimous consent, neither the amendment which we have proposed nor the Kennedy-Jeffords substitute can be changed by so much as a comma, and I think it is becoming increasingly obvious that no such unanimous consent will be available for either such amendment. So we are simply going to have to deal with them as they are.

The Senator from Vermont has been working diligently to attempt to come up with something which will be approved by much wider majorities both in this body and in the country as a whole than will the original Kennedy proposal, and as a consequence he has almost certainly missed the offer from the distinguished Senator from Kansas and from this Senator to deal with and to correct in a way which he would find appropriate to the objections which he has outlined for this bill at the very least.

The first of those objections is his statement that in spite of the intentions of the sponsors of this amendment it does not, in fact, shift the burden of proof of a practice being justified by business necessity to the employer.

My position on that is quite simple: The express precise language of the Kassebaum amendment does, in fact, cause that shift. The dispute is caused by a reference to section 301 of the Federal Rules of Evidence. I can certify to the body that I believe that the intention of the sponsors of this amendment would be cheerfully and unanimously carried out by the courts. Nonetheless, in order to remove the apprehensions of those who have any concern we have offered simply to remove the reference to section 301 from the definition section of this bill.

The same thing holds true with respect to the last point which was made by the distinguished Senator from Vermont, the point that no award at all could be made under our amendment as much as we would desire to do so if there were even the slightest award of back pay. That is also a proposal which the distinguished Senator from Kansas has responded to graciously and completely, and any revision which we may make in the future will make it clear that the penalty awards of up to $100,000 may be granted in addition to any actual damages which are awarded in a title VII proceeding for harassment and for other similar violations.

The fundamental objections, however, of the Senator from Vermont and others who agree with him on this amendment do not relate to the details or to the intentions of this amendment. They represent a fundamental difference over exactly what it is we ought to do in this connection. This is where our frustration, I suppose, reaches its apex.

In this connection, the Senator from Vermont has said that we do not actually go back to the rules set forth in the Griggs decision and the decisions which followed it. Yet, as we have repeatedly stated on the floor of the Senate, the Kassebaum-Gorton amendment is the only proposal which is before the body which uses the principle and the cited holdings in those cases precisely and absolutely and to the point. The manifest relationship language, the legitimate employment role language are taken verbatim from the Griggs decision and from the Beazer decision.

It is, I would have to say, Mr. President, similarly absurd to use outlandish examples which have never seriously been pressed in court that got by employers and would not be upheld by courts to say that somehow or another the language taken directly from those decisions would be interpreted in a way totally contrary to the spirit of those decisions. It is, in fact, all of the iterations of this set of proposals on business necessity proposed by the Senator from Massachusetts both in his own original bill and in the revisions which we will get in which the Senator from Vermont has had a part which depart from the definitions and from the direction of Griggs and the cases following Griggs up to but not including Wards Cove. They use different language or they use obscure language from some of those earlier decisions, language which has never been followed or construed in later cases. The only logical response of a court of law to changing those holdings will be a decision that we do not mean to follow Griggs, that we do not mean to follow Beazer, that we mean a much different and a much tougher statute.

Now, we lost 20 years or more of Supreme Court decisions which have not created controversy, which have built a body of law, understood by employers and employee organizations alike, if we deliberately and consciously depart from the language of the very decisions we are told we are attempting to restore. If we wish to restore them, we should restore them in the language which they actually use.

This substitute the Senator from Kansas and I have proposed does, in fact, restore the status quo of Wards Cove. It does create very clearly the burden of proof on employers which was highly questionable before Wards Cove, one not clearly decided by the Supreme Court. And that change in burden of proof is in the favor of the employee itself.

Finally, of course, we get to the subject of remedies and the relationship between title VII and a section in 1981, an 1866 statute. If all of what the proponents of this bill desire is pure and complete equality, we could, of course, limit punitive damages, and for that there are other forms of damages in section 1981 that they would reject that we have not even suggested because pure and absolute equality is not

the only value nor the primary value sought by any legislation in this field.

In 1964, the Congress made the conscious decision that discrimination cases of this sort should primarily be handled through title VII, should primarily result in an attempt for accommodation and conciliation, should primarily result in a termination fo controversy in a fair and nondiscriminatory manner. As a consequence, title VII consciously avoided the conflict inherent in jury trials and sat up a set of procedures which has worked to a considerable degree of satisfaction except in a fairly limited number of isolated cases.

The proposal of the Senator from Kansas expands title VII remedies. I wish to repeat that. It expands title VII remedies. It takes remedies away from no one who has remedies under present law under any set of circumstances. It allows for rather substantial awards by courts in the case of harassment actions and other forms of action.

We hear constantly here the statement that it is somehow unconstitutional because monetary awards cannot be made by a Federal court in the absence of a jury trial.

Mr. President, let me just simply list for you some of the present Federal statutes which allow for substantial monetary awards without jury trials. Title 17, United States Code, section 504 on copyright infringement allows either actual damages to the owner plus the profit of the infringer or statutory damages of up to $20,000. In the case of willful infringement, those statutory damages can reach $100,000, precisely the figure which is included in the substitute proposed by the Senator from Kansas.

In title 17, United States Code, section 911, the infringer of property rights in semiconductor chip product may be subject to actual damages or the court may award up to $250,000 as the court may deem just.

Title 18, United States Code, section 2520, an individual injured by a violation of the wiretap statute can get between $50 and $500 under some circumstances and up to $10,000 under certain different circumstances. In video and rental equipment violation, $2,500. Under a statute protecting seasonal agriculture workers, up to $500, without regard to actual damages. For violations of the Privacy Protection Act, $1,000; for cable operator violations, $1,000; for unauthorized satellite transmission, up to $100,000.

In fact, this issue has been dealt with by the Supreme Court as recently as its 1990 session and the Supreme Court has affirmed once again the right of courts of the United States in equitable actions like those in title VII to add specific amounts in favor of plaintiffs where justice requires it. This is in fact a constitutional method of operation. It is a much preferable method of operation.

The Kennedy bill and, for that matter, the Kennedy-Jeffords substitute jettisons, for all practical purposes, title VII remedies, places all of them in section 1981, invites constant and persistent litigation with unlimited potential awards, puts us ironically into the situation in this connection, with which I suspect a strong majority of Members on this floor wish to avoid and cancel, with respect to product liability and a number of other forms of litigation.

Should a product liability bill which greatly limits punitive damages and restricts the kind of forum shopping and seeking for great award comes to the floor of this Senate, it will no doubt be approved by a very heavy majority of Members on both sides of the aisle. Here, ironically, we are attempting to re-create the very situation where we do not have a situation which needs to be fixed that we will seek to avoid or to cancel or to cut back on in other situations.

Finally, Mr. President, the basic debate over this bill, from a substantive point of view as against procedures and remedies and the like, is whether or not we are going to, by the bill as it exists on the floor today, create a situation in which employment decisions will be based on race or sex or ethnicity, whether or not we are going to create a situation in which a rational employer simply says, "My risks are too great to run an employment and promotion system based on merit. I am required to follow a system of quotas and of very, very conscious hiring and promotion without regard to merit in order to prevent myself from being victimized by a legion of plaintiffs and a legion of lawyers."

Above all, Mr. President, it seems to me, to quote back through the ages, we should seek not to do harm. In this case, with this bill, we are almost certainly doing great harm not only to the American economy but to an American sense of justice.

Perhaps the best tribute to the truth of this proposition is the fact that each of the changes which have been made or are about to be made by the proponents of this bill move in the direction for which we call. We are gratified by those changes and by those proposed changes. We do not think they cure the vice of this legislation. It is not legislation, of course, even in its original form which says thou must enact quotas. It is simply legislation to which the only rational response will be to adopt quotas and therefore it has the same impact.

The Senator from Kansas and I have offered to the body an opportunity to reach the stated goals of this bill without those risks and highly consistent with justice, while the proponents of the original bill are moving certainly somewhat in our direction, as I must confess we have moved in theirs to the extent we are criticized by some of our own constituencies.

But to the extent that they move toward us—they have simply moved to a clearer definition, a clearer set of goals—we can settle and pass this bill.

Mr. JEFFORDS. If the Senator will yield for a moment, I would just inquire with respect to the case my colleague cited in 1990. I am not familiar with that case. I have read the memorandum which I referred to, a 1967 case which seems to indicate if his provisions delineate—in subsection (ii), it says—"additional and equitable remedy beyond those as otherwise available as needed to deter the respondent from continuing to engage in employment practices"—and it allows up to $100,000. It seems to fall completely within the Cove decision which says a civil remedy was the type of remedy at common law that could only be enforced in courts of common law:

> Remedies intended to punish culpable individuals as opposed to those simply required to extract compensation or restore the status quo were issued by courts of law as opposed to courts of equity.

Then it goes on to say that such cases require a jury to determine the damages under the seventh amendment.

I would appreciate knowing that because certainly it does open up a number of options for us if you do not have to go to the jury trial, which I am sure this body would be interested in.

But my reading of the Cove case, and the memorandum, would indicate that such provision as contained in the Kassebaum amendment would necessarily require a jury trial to ascertain that kind of a damage award.

Mr. GORTON. Mr. President, the specific case to which my reference was made is dated 1990; Chauffeurs Local No. 391 versus Terry, in which the court says:

> The court has not, however, held that any award of monetary relief must necessarily be legal relief.

It puts that word in quote—"legal" relief. Legal relief, of course, is the type which would require a jury trial. "First," the court says, "we have characterized damages as equitable where they are restitution, such as an action for disgorgement of improper profits."

"Second, a monetary award incidental to or intertwined with injunctive relief may be equitable."

In these harassment cases, that is almost always the kind of equitable relief which is sought.

I do not need to repeat the other kinds of cases in which such awards are permitted under our statutes without a jury trial except to say that cases like copyright cases have a great

deal of relationship to the situation we had here. They are very frequently cases in which it is clear that there has been a violation of the plaintiff's rights but where precise delineation of exactly what damages are is extremely unclear. I cannot tell my colleague at this point whether or not these statutes have been tested but they are still on the books so they are still being enforced to authorize awards of what amount to damages in very large amounts—the largest I think I quoted here was up to $500,000—without jury trials.

We firmly believe what we have here is an analogy to these other statutes and we have been informed by the Attorney General of the United States that he believes it to be a valid method of legislating.

Mr. JEFFORDS. I thank the Senator, Mr. President, for that elucidation. However, I am not at all convinced that we have in any way removed the great risk involved by the provisions of the Kassebaum amendment which in my mind just is asking for a Supreme Court decision to be able to declare it unconstitutional, in which case, then, we would not have remedies at least in the sense of compensatory or punitive damages.

So I appreciate that information. I would just say at this point I am not convinced it does alleviate the problems which I delineated, but certainly it is one that we should take in consideration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to explore briefly with the Senator from Vermont some of the questions he raised. I have enormous respect for the Senator from Vermont. I do not believe there is another Senator who has spent more time and is more familiar with the civil rights laws than the Senator from Vermont. He has tried very hard over a period of a couple of months, if not more, to work out some language that would gain consensus of support on all sides.

I would like, for just a moment, to go back to the Wards Cove case and the Senator's question on the language used from Griggs. Let us take that first. That defines the manifest relationship to the employment in question which is Griggs.

It would be my understanding that the Senator has no objection to Griggs' language; is that correct?

Mr. JEFFORDS. There is no question but that language comes from the Griggs case. But the problem created is twofold, in the sense there is quite a bit of disagreement over what manifest relationship means in view of subsequent decisions, but also the conjunction "or" which says "or that respondent's legitimate employment goals are significantly served by * * *."

That seems to open it up way beyond the concept, even certainly beyond the so-called Beazer case. So my colleague is in my mind just opening a huge door for all sorts of other, what would be considered legitimate business goals, such as those that I mentioned like reducing health care costs—all sorts of things that could be utilized under the Senator's language to justify a disparate impact case.

Mrs. KASSEBAUM. That is what I wanted to explore. First, the Senator does not quarrel with the Griggs' language?

Mr. JEFFORDS. I do not quarrel going back to Griggs, but I do think that language utilized in that form does not take the meaning of the Griggs language to be involved in employment selection cases rather than general business practices.

Mrs. KASSEBAUM. Mr. President, if I may explore further with the Senator from Vermont, the concerns that he really seems to raise by going on to use the Beazer language, "or that the respondent's legitimate employment goals * * *."

The Senator is saying he would not want in any way to overturn Griggs, that he has no problems with codifying Griggs.

Would the Senator want to overturn the Beazer language?

Mr. JEFFORDS. I did not have a problem with Beazer as long as it is done in the factual context in which Beazer was. Beazer was a job selection case in which the employer, the respondent, said we believe it is appropriate to consider the fact that the individuals involved are on methadone treatment and that the court justified the decision as being relevant to job selection on the basis of safety and said, since this involved transportation situations where they were drivers, it was all right in the selection of individuals to be concerned about safety and therefore the fact that individuals were on a methadone maintenance program because of heroin addiction, that the risk of either relapsing to heroin or whatever was such that it was relevant to job performance and job selection and therefore it is essentially a job selection case. But if we take those words out of context with respect to the factual situation, we open a huge difference, allowing very different factual situations involving legitimate business purposes which have nothing to do with job selection or job performance per se.

Mrs. KASSEBAUM. Mr. President, an example given by the Senator from Vermont was one of a woman, a single head of household with a child who an employer would view as being a higher insurance risk and therefore could say that she would be dismissed and could not have recourse because that would not be a legitimate business goal.

But I would say to the Senator from Vermont clearly that is discrimination and where it is legitimate discrimination, there is redress in the courts. Mr. President, I say to the Senator from Vermont, I did not mean legitimate; I meant intentional discrimination. There is no legitimate discrimination.

Mr. JEFFORDS. The question is as to whether or not it would be unlawful under the Senator's bill for a business to say that we will not take any single parents because it falls under the second clause, the legitimate employment goal, which is to hire people with the least possible insurance cost. I do not know of anything that says it is illegal to try to reduce your insurance cost, at least at this time. We might well want to pass something and may have to sometime in the future if we get so much of what we are seeing now of trying to reduce cost by refusing to hire people who may have a higher than the least possible insurance cost.

That is an issue that is not going to be resolved in this bill. In our mind, it does open up that possibility for those kinds of discriminations which would not be unlawful under the Senator's bill.

Mrs. KASSEBAUM. Mr. President, I guess I am missing a point somewhere because I believe, one, where there is intentional discrimination that is addressed by current law and, two, in the case of Wards Cove, where we were concerned about the Wards Cove decision, the desire has been to overturn that decision and get back to the original language which was the Griggs language, which has been used in other cases as being language that was accepted practice, and also the Beazer language.

This is, indeed, what we have tried to do. Where there was some question about the burden of proof, as we did move it back to the employer, we have said we would be happy to delete that definition of demonstrates which has caused some confusion. We did not intend ever to be confused on that point.

I just say to the Senator from Vermont, it has certainly been the intention of Senator GORTON and myself to try and simply reverse Wards Cove, to answer the questions of those who believed, of course, that that particular decision did weaken civil rights law. We wanted to get back to what everybody said they wanted to get back.

Mr. JEFFORDS. Why do we not end on that note, because I think we all agree on that. We want to reverse Wards Cove; we want to get back to where the law was before Wards Cove. We do not want to have quotas in any way proposed or in any way required by any of the legislation that we want to vote for here. The very awkward and very discouraging thing is that we all have the same goals, but we cannot

find the magic terms and little words that will get us to that position.

I am going to leave now and meet again with other Senators to try to find those magic words. If my colleague has a great inspiration—and I do not at this particular time—that solves all these, the Senator from Kansas will be a hero of all time for civil rights. We will appreciate it if the Senator can contribute. I know the Senator has contributed by this dialog and raising of these issues.

Mrs. KASSEBAUM. Mr. President, as I said before, there is no one who was worked harder to try and find a solution to this than the Senator from Vermont. I very much appreciate the ability to have this exchange, and I hope that we can just find a way to go back to case law.

I yield the floor, Mr. President.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. (Mr. LIEBERMAN). The Senator from Washington.

Mr. GORTON. Mr. President, I have listened to this conversation with great and considerable interest. I am somewhat troubled by at least the implications of what the Senator from Vermont has said. He indicates, at least indirectly, that if a particular practice is significant, significantly serves legitimate employment goals, though it is not manifestly related to the employment in question, perhaps that which should be covered by that is the use of drugs in a transportation situation, which is the precise facts of Beazer.

I cannot imagine that he is saying that there are no other legitimate employment goals which can authorize or justify a business practice on the part of an employer.

Perhaps even more significant than that, however, is that in this entire debate, we are not talking about a universe of ideas and about a universe of employment practices. We are speaking about and dealing with desparate impact cases. We are speaking of the type of case in which there is a challenge that a particular practice systematically, over an extended period of time and space, keeps a significant group of people from having particular kinds of jobs.

We have not repealed in this amendment, in this substitute, or for that matter, the Kennedy bill, the basic antidiscrimination provisions. While I cannot claim to be a legal expert here, a conscious decision by an employer not to hire people of any sex or any race because their insurance costs them a great deal of money would undoubtedly be a violation of law, whether it had a disparate impact or not.

We should remember this; we are speaking in this case only of disparate impact cases. And the situation which the Senator from Vermont spoke to where a single female, a single member of a racial minority, was deprived of a job for a reason like that would not involve a disparate impact necessarily, because all kinds of people could be discriminated against on those grounds.

These are troubling grounds. These are grounds we have dealt with or are about to deal with in other legislation. It is irrelevant to the course of this debate.

Mr. McCLURE. Mr. President, I ask unanimous consent that I yield 15 minutes of my time to the distinguished Senator from Washington [Mr. GORTON] and reserve the remainder of my time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GORTON. I thank my friend from Idaho, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, for the information of Members of the Senate, I have periodically during the day reported on the status of discussions relative to the civil rights bill and I will do so again now.

I am advised that the negotiations on the substance of the bill are at this moment continuing and, in addition, discussions with respect to proceeding to disposition of the bill, either in the event of an agreement or in the event of no agreement being reached, are also continuing.

All of the participants, as well as the distinguished Republican leader, have concluded that the interests of moving forward on the bill would be best served by permitting those discussions to continue. As all Senators know, the time remaining for consideration on the bill is limited and continuing to run as these discussions are underway.

I will momentarily, therefore, propound a unanimous-consent request which has been cleared with the Republican leader that would provide for a period of morning business until 5 p.m., with Senators permitted to speak therein on any subject matter since debate has been concluded on the amendments that are now pending. And the time between now and 5 o'clock would count against the bill, so there would be no delay in the ultimate determination to be made by the Senate on this measure.

MORNING BUSINESS

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that there now be a period for morning business to extend until the hour of 5 p.m., with Senators permitted to speak therein; that the time between now and then be counted against the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank all my colleagues for their patience. I especially want to thank those involved in these discussions. Several Senators: Senator KENNEDY, Senator JEFFORDS, Senator DANFORTH, Senator SPECTER, and Senator METZENBAUM, and many others, have devoted what in total is surely in the hundreds of hours attempting in good faith to reach an agreement with the administration.

And I state to my knowledge there is good faith on the part of the administration wanting to reach an agreement as well. So we hope that still will be possible.

If not, then we will proceed to vote on the amendments pending and others this evening, barring some agreement to the contrary between the two parties.

So while no action is occurring on the Senate floor, discussions are being held immediately off the Senate floor that we hope will be productive and pave the way for what is the common objective of, I believe, the overwhelming majority of Senators, and that is to get a fair, strong civil rights bill.

Mr. President, I yield the floor. Seeing no other Senator now seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2868 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 2869 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TOURISM IN VIRGINIA CITY, MT

Mr. BURNS. Mr. President, I rise today to give recognition to a highly significant historical tourism site in my home State of Montana.

I refer to Virginia City, MT, the third most visited tourism site in Montana. On May 26, 1863, gold was discovered in the Virginia City area for the first time. The little town sprung up to give support to the miners who arrived on the scene hoping to fulfill their wildest dreams of becoming rich.

Little did they know that this little town would last in its original state until way into the 1980's and beyond. Today, we are trying to preserve the historical gem in our great State of Montana. We are working with the National Park Service, the Montana Historical Society, the Virginia City preservation task force, interested Montanans and local Virginia City residents, who depend on this historical tourism site for their living, to rally around saving Virginia City.

Mr. President, I ask unanimous consent that an article from Historical Preservation News entitled "Montanans Rally To Save Virginia City" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MONTANANS RALLY TO SAVE VIRGINIA CITY

(By Thomas W. Sweeney)

In 1944 Charlie Bovey first strolled through the forgotten gold-mining town of Virginia City, Mont., and was horrified to discover one of the few remaining inhabitants ripping apart a historic wooden interior for firewood.

"That's all these old buildings are good for," the scavenger reportedly told Bovey, who was so distressed at the prospect of losing one of the West's most historic towns that he and his wife, Sue, later purchased and restored a large portion of it. Virginia City sprang into existence following the discovery of gold in the area on May 26, 1863. More than $100 million in gold was extracted from Virginia City's Alder Gulch strike through placer mining.

Montana's third-largest visitors attraction—Yellowstone and Glacier National Parks are the first and second, respectively—the National Historic Landmark Virginia City Historic District is threatened once again. Since the deaths of Charlie Bovey in 1978 and Sue Bovey in 1989, financial investment in the maintenance and general care of the buildings has declined. The Boveys' son, Ford, a resident of Scottsdale, Ariz., has inherited 96 percent of the properties and recently announced his intention to auction off approximately 17 "historic draw" museum properties because of the high cost of liability insurance and maintenance.

Rumors have circulated among the 150 residents of Virginia City that Knot's Berry Farm, a southern California theme park, would buy the buildings and add them to bolster the park's western motif. "We were worried about the loss of Montana history," says Virginia City Councilman Michael Majerus. "The buildings are the oldest in the state." The loss of the structures would be particularly painful because Montanans have taken a strong interest in their history since the founding of the Montana Historical Society in 1865 in Virginia City's Dance and Steuart Building. "We have pretty good documentation of our history because it was being documented as it was being made," notes Majerus.

In March the city council passed a resolution supporting a proposed National Park Service study that would assess preservation alternatives, including federal purchase and designation of the historic district as a national park. Majerus says the town was heartened by a National Trust-sponsored meeting in Virginia City in March that was attended by "the movers and shakers in the historic preservation world." Organized by Trust Mountains-Plains Regional Office Field Representative Michael Matts, the meeting resulted in support of congressional funding of the Park Service study and a plea to Bovey to delay sale of the buildings.

David Hoffman, Bovey's attorney, says Bovey has agreed not to sell the buildings at least until the end of this year as long as progress with National Park Service acquisition is apparent. Hoffman says he is pleased so far with the government's interest in the historic district but estimates that any possible purchase offer from the Park Service is at least one year away.

"What makes most people nervous is the cost," says Rodd L. Wheaton, the chief of the Park Service's Cultural Resources Division in the Rocky Mountain Region. Montana's congressional delegation—Sen. Max Baucus (D), Sen. Conrad Burns (R), Rep. Ron Marlenee (R), and Rep. Pat Williams (D)—all support the National Park concept, says Pat Bick, Deputy State Historic Preservation Officer of Montana.

According to Bick, Virginia City's survival is unprecedented. "The town was built to last only five years for the initial strike phase. The buildings were thrown up quickly—many without foundations. It's amazing they've survived this long," says Bick. "Most people have fond memories of touring Virginia City. It pulls at the heartstrings as being more Montanan than any other site."

"It illustrates what it took to become a western mining town," comments the Park Service's Wheaton. One of Virginia City's most remarkable qualities is that Wallace Street, the main thoroughfare, retains a rare timeline of commercial architecture that Wheaton describes as "from log to frame to bricks and stone." While other western towns are known for specific architectural styles that often were created after a devastating fire destroyed their architectural past, Virginia City retains the legacy of its commercial development.

"It commanded the Boveys' interest. They saw it as the Williamsburg of the West," says Wheaton. The Boveys extensive collection of western artifacts, described in a 1980 Park Service survey as "one of the finest collections of period artifacts assembled in the United States," was displayed by Sue Bovey to make visitors feel as if they had stepped back into the 19th century.

In some instances, storekeepers had just turned the key and left behind an undisturbed commercial timepiece. Such was the case in 1939 when Hanna and Mary McGovern permanently closed their millinery shop. The "Gone to Lunch" sign they left still remains in the window. Inside, unsold hats and fancy trimmings are just as the McGovern sisters left them. ("I don't think they had sold anything for years or bought any new merchandise," says John Ellingsen, Virginia City's town historian and a Bovey Restorations employee since 1972.)

"These buildings are all outfitted and many have the original store stock, much of it dating from the 1880s and the 1890s," says councilman Majerus. "But it's not like Williamsburg where everything is restored to the teeth."

As for the future of Virginia City, townspeople are awaiting a decision on the possible sale and removal of the buildings and their contents. "There aren't many towns of one hundred fifty people where its demise would create this amount of concern," he says.

VIRGINIA CITY SAVIOR

"Charlie [Bovey] loved Virginia City dearly," says John Ellingsen, who worked with Bovey for six years. "He wanted to be right there moving the logs and nailing boards. He really liked the preservation of things."

Bovey's father, the president of General Mills Corp., told him that if he didn't plan to "apply himself" in college, he had the option of learning the milling trade. Young Bovey opted for milling and started as a sweeper at a Great Falls mill and learned carpentry as a millwright's assistant.

Although Bovey later served as a state senator for 20 years and owned a successful wheat farm, his primary interests revolved around history and the early stages of the historic preservation of the West. He founded the Historic Landmark Society of Montana in an effort to keep historic buildings on their original sites. Whenever building owners refused to do so, Bovey came to the rescue. Ten of the orphan structures were rebuilt in 1939 within a large barn at the Montana State Fairgrounds and called Old Town.

When Bovey's collection of dismantled ranch houses, stores, and other western buildings grew too large, he erected them in Nevada City, a town located just a mile and a half from Virginia City that had just 12 original buildings left. Now there are 50 buildings in Nevada City, including those from the state fairgrounds.

Bovey yielded to the requests of others for Virginia City to offer such amenities as a hotel, a restaurant, a tavern, and a theater. "That's the way Bovey restorations grew," says Ellingsen. "It was a service organization for the benefit of those who came to see Virginia City."

Mr. BURNS. Mr. President, I yield the floor.

CAMBODIA

Mr. McCAIN. Mr. President, I wish to comment briefly upon the just announced change in the administration's policy on one of the most vexing and troubling foreign policy questions of recent times. The problem of Cambodia stands as a warning to us all. For even in this era of democratic resurgence and communism's collapse, there remain some problems which are not rendered easier to comprehend much less easier to conclusively resolve. In the twilight of the cold war, the problem of Cambodia persists. It frustrates the amibitions of well-intentioned diplomats who have failed to extract Cambodia from regional and global conflicts whose origins lay in the distant past far removed from these sunny days of international comity.

Mr. President, with the exception of Lebanon, no other country or problem

confronts us with a greater variety of unattractive policy options. Like Lebanon, there are few people and organizations in Cambodia with which the United States can work to advance the cause of peace and democracy in Cambodia. Like Lebanon, Cambodia appears to suffer from a scarcity of good guys and a tragic oversupply of bad guys. To find an anchor there for an effective policy that serves not just Western security interests but Western moral values is an exceedingly difficult challenge.

In painting this grim scenario, I do not mean to discourage diplomatic efforts. However, I do not think it is useful for us to consider the problem of Cambodia under the mistaken impression that alterations and midstream corrections in the design and conduct of United States policy in the region will immediately improve this grave situation. Neither will they automatically sever Cambodia's roots in the larger regional and global conflicts. We need only to glance at recent headlines concerning the progress of the murderous Khmer Rouge to note that while we contemplate the nuances and subtleties of diplomacy, the prospects for peace and freedom in Cambodia grow dimmer.

With that note of caution in mind, Mr. President, I welcome the changes in the administration's policy. They are appropriate and necessary responses to this worsening problem of Cambodia. It has been apparent to me for some time that our support for representation in the United Nations of a coalition which includes the Khmer Rouge should be reversed. I applaud the administration's stated intention to now cease that support.

Implicit in our refusal to directly or indirectly support the Khmer Rouge is the seriousness of our opposition to any form of cooperation with the Khmer Rouge by anyone. Let the Government of the United States make clear to the entire world that we will not just regret, but actively oppose any support for the Khmer Rouge. Tactical cooperation between the noncommunist resistance and the Khmer Rouge should occasion the ending of U.S. support for the non-Communist resistance. And any provision of material assistance from China to the Khmer Rouge should occasion the most serious reappraisal of our relationship with China.

Mr. President, the biggest problem obstructing our efforts in Cambodia remains the continued support and supply of the Khmer Rouge by the Chinese.

I also endorse the administration's willingness to discuss directly with representatives of the Government of Vietnam the question of their critical contributions to the Cambodian conflict. During our discussions on Cambodia it must be made clear to the Vietnamese that for Americans no issue transcends in importance the resolution of outstanding POW/MIA questions.

Mr. President, I repeat, we will not allow that issue to be transcended by any other. We will not rest until the matter is resolved. Do not let our zeal to settle the issue of Cambodia obscure this issue that is so enormously important to millions of Americans especially those who fought and served in Southeast Asia.

Americans care about a great many issues in Southeast Asia, Mr. President, but they understandably expect the fullest possible accounting for our missing in action to be the primary object of our policy in the region. Also, Mr. President, we should use the opportunity provided by these discussions with Vietnam to again urge the release of internees in Vietnamese reeducation camps. Moreover, as we encourage free and fair elections throughout the world, why not encourage the free and fair election in South Vietnam that was promised to the American people if the United States withdrew from South Vietnam.

Remember the phrase, let the South Vietnamese people determine their own future themselves. Let us do that. Let us urge a full and fair election. They had one in Bulgaria, in Czechoslovakia, in Hungary; hopefully we are going to have one in Albania, possibly even Korea. Let us seek one in Vietnam.

I urge those people who supported our presence in Southeast Asia and those who opposed it to join me in calling for a free and fair election in Vietnam. Let the Vietnamese people determine their future themselves.

I will tell you what the results of the election will be. They certainly would not opt for continued repression by the government in Hanoi.

As we know, Vietnamese troops have returned to Cambodia. The size and orders of their troops are in dispute, but their violation of Vietnam's commitment to remain uninvolved militarily in the affairs of Cambodia is beyond doubt.

If through our discussions with the Vietnamese, the United States can persuade them to withdraw all of their troops from Cambodia then those discussions certainly will have been worth undertaking. Moreover, if we can convince Vietnam to cease promoting the Cambodian conflict and begin contributing to its peaceful resolution, then the wisdom of the administration's approach will be apparent to all.

Mr. President, I cannot say that I am terribly optimistic that our effort will meet with success. Nevertheless, I strongly encourage the administration effort to make abundantly clear to the Vietnamese that their international reputation will depend in very large measure on their complete withdrawal from Cambodia and on the extent to which they encourage flexiblity in the policies of the Pnomh Penh regime regarding a peaceful settlement of the conflict.

The reason I remain cautious about my expectations for a change in Vietnam's policy is rooted partly in my past experiences with Vietnamese officials and promises. But mostly, Mr. President, my skepticism is based in the observation that China—that other party to the conflict, has not shown an inclination to reverse its material and moral support for the treacherous Khmer Rouge. Until they do, it is unlikely that Vietnam will cease its support for the government of that former Pol Pot lieutenant, Hun Sen.

Chinese support for the Khmer Rouge is not mentioned in the reports of the administration's new proposals. But I am confident that opposition to that support remains a major element of our policy. I call on the administration to redouble its efforts to discourage China from assisting in anyway the Khmer Rouge's demented dreams of once again submitting the Cambodian people to the horror of Khmer Rouge control. The administration must continue to assert in no uncertain terms that the future of Sino/United States relations depends very much on the cessation of all assistance to the Khmer Rouge.

Mr. President, I believe everyone—in Congress and in the administration—share the same aspirations for Cambodia. The cruelty of the prolonged torture inflicted on the Cambodian people by the internal, regional, and global conflicts that have made Cambodia their arena is unsurpassed in modern history. All of us seek to relieve Cambodians from their horrible suffering. We all seek peace for Cambodians. We all seek self-determination through free elections for Cambodians. We all seek to deny the Vietnamese authority over the affairs of Cambodia. And Mr. President, every civilized person in humanity is morally compelled to oppose the return to power of Pol Pot's bloody butchers.

I believe these fundamental objectives are the focus of the administration's new policy. Increasing our pressure on both China and Vietnam, I believe will help increase the efficacy of our support for the non-Communist resistance. I am aware that some have called for the establishment of improved diplomatic and trade relations between the United States and the Hun Sen regime. I feel that the establishment of interest sections or the lifting of trade restrictions at this time would be counterproductive. Those measures are two of the most important levers we have with both Hanoi and Pnomh Penh and we should not give them up in advance of greater co-

operation by both regimes in the peaceful settlement and democratization of Cambodia.

Therefore, I see no need for these further measures at this time. However, I do see a need, Mr. President, for closer cooperation between Members of Congress and between Congress and the administration. We share the same goals, let us respect each others good intentions and work to relieve Cambodia from its grim fortunes. The future for Cambodia may not be bright, Mr. President, but without a united, serious American commitment to Cambodia its future is hopeless.

I especially appreciate the efforts of my friend from Nebraska, Senator KERREY, who has been so actively committed to this issue. I look forward to working with him as we work to resolve the problem of Cambodia. There is much we can accomplish together. I applaud his efforts in this body to move us toward seeking a resolution of one of the most tragic chapters in the history of the 20th century.

Mr. President, I yield the floor.

TRIBUTE TO ARTHUR M. WILLIAMS, JR.

Mr. THURMOND. Mr. President, I would like to take this opportunity to pay tribute to Mr. Arthur M. Williams of Columbia, SC, who passed away last week. Mr. Williams was one of the finest individuals, kindest men, and most generous community members I have known. In addition to these great personal attributes, he was an outstanding businessman. As former chairman of South Carolina Electric & Gas Co., he combined savvy business sense with diplomacy and tact to help bring more electric power to South Carolina.

Mr. Williams' commitment to others stands out as the consistent theme of his life's work. His record of service ranges from the Richland District 1 school board, to the South Carolina Human Affairs Commission, to his recent presidency of the University of South Carolina's Research and Development Foundation; dedication to serving others has always been the common denominator in Mr. Williams' endeavors. I am proud of my long personal association with Arthur Williams, and I regret that there are not more men like him in our world today.

I am confident that his memory will live on in the hearts and minds of all those whose lives he has touched with his compassion and friendship, and that his life will serve as an inspiration to future generations of public-minded citizens.

My wife Nancy joins me in extending our most sincere condolences to the entire Williams family: his lovely wife, Katherine Murphy Williams; his daughters, Mrs. John (Katherine) Mahon, Jr., Miss Elizabeth M. Williams, and Mrs. Rigdon (Pat) Boykin.

Mr. President, I ask that the following articles regarding Mr. Williams appear in the RECORD at the close of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follow:

[From The State, July 14, 1990]

ALL-PURPOSE LEADER

"One word describes him: honorable."

That was banker W.W. "Hootie" Johnson's comment on Arthur M. Williams Jr., the retired chief executive officer of the S.C. Electric and Gas Co. who died Monday at 75. It was typical of the sentiments in Mr. Williams' large and influential circle of friends.

Few knew him better than Robert S. Davis, who has retired as CEO of the R.L. Bryan Co. and as chairman of the state-owned Santee-Cooper power authority. Their business and public service careers ran parallel. The two served on the Richland District One school board for many years.

They fought on opposite sides of the public-versus-private electric power disputes of 20 years ago but ultimately reached agreements that led to unprecedented cooperation. "Arthur and I worked together and opposed each other," Mr. Davis said. "I often think of what we went through solving the utility problem. We had our differences, but we stayed friends. I've never heard anyone say anything detrimental about him. And I never heard him turn down any job for the community, even though he was a very busy man."

Arthur Williams was indeed one of those all-purpose people who could function up front or behind the scenes to get things done. Education was perhaps his main sideline, and his contributions were made at both the public school level, as noted above, and at the college level (honorary degrees from both the University of South Carolina and Clemson for hands-on services to those institutions, plus terms as a trustee of Benedict and Converse colleges).

Lawyer, business executive, teacher, amateur historian, civic leader, family man, nice guy. Every city, every state, needs such people as Mr. Williams, not only to make things happen, as former Gov. Robert McNair said, but also to make things better.

[From The State, July 11, 1990]

WILLIAMS "MADE THINGS HAPPEN," SAY HIS FRIENDS

Arthur M. Williams, Jr. was involved in most of the noteworthy events in the community and state for the past 30 years, "most of the time leading the way," former Gov. Robert E. McNair said Tuesday.

"We're losing some people of real leadership, and Arthur Williams is one of them," said McNair, governor from 1965 to 1971. "He was one of those people who made things happen."

Williams, former chairman of S.C. Electric & Gas Co., died Monday at age 75.

Funeral services will be at 11 a.m. today at Trinity Episcopal Cathedral, with burial in Elmwood Cemetery.

Friends and associates on Tuesday paid tribute to Williams for his extensive leadership in business and civic life. But they also said he was a kind and considerate man who was able to communicate at all levels and bring people together.

"He had a special talent for getting people together and getting along with them," said Robert C. Davis, former R.L. Bryan Co. chairman and a longtime friend and associate of Williams. "He never turned down an opportunity to make a contribution to the community."

Davis and Williams were rivals in a sense in the 1960s, when investor-owned utilities, such as SCE&G, were battling publicly owned power—the electric cooperatives—for service territory Davis was chairman of the S.C. Public Service Authority (Santee Cooper), which generated power for many of the cooperatives.

"We fought battles together and separately," Davis said. "I get a weak feeling as I look back over the years. I admired him. He was a great gentleman."

Davis said Williams deserves much of the credit for successful peace talks between public and private power, leading to a state law defining territories for electricity service.

Education was one of Williams' chief areas of involvement, ranging from service on the Richland District One school board in the 1960s to his recent presidency of the University of South Carolina Research and Development Foundation.

"Arthur played a prominent role in smoothing integration of the schools," Davis said.

"He was always receptive of my approaching him for advice or assistance," said Dr. Maceo Nance, former president of S.C. State College. "He was a solid, no-nonsense kind of guy—very businesslike. He liked to get right to the point. He didn't use a lot of verbiage. He had the ability to get to the bottom line, and that's a characteristic not everybody has."

James E. Clyburn, executive director of the S.C. Human Affairs Commission, recalled Williams as one of the first members of the commission, created in 1972. Clyburn helped former Gov. John C. West select the appointees. The commission resolves hiring and firing disputes among state agencies.

"That first commission had to have credibility in the white community and in the business community," Clyburn said, "We had to have people who were not afraid to bring issues to the table. One of the first three or four people had to be Arthur Williams."

Williams was a Clemson University graduate, but Othniel H. Wienges, former chairman of the USC board of trustees, cited Williams' contributions to USC—right up until recent weeks.

"He was a Clemson man, but you know something, he was very loyal and supportive of the University of South Carolina, and a lot of people admired that about him," Wienges said. Williams was a lawyer and a graduate of USC's law school.

"His life was most rewarding in the later years despite the fact he was in tremendous pain," Wienges said. "The thing I'll remember about him more than anything else is that he was quiet and patient, but he could be very aggressive at times when it was necessary."

Another friend was Columbia lawyer Thomas E. McCutcheon.

He described Williams as a "superb student and an excellent husband and family man."

"He was a kind person," McCutcheon said. "People tend to overwork that word sometimes. But by 'kind,' I mean someone who is considerate and thinking of others, and he did that—all the time."

"This man was very public-spirited. He had a sense of community not only for this city, but the entire state, and he believed it was everyone's duty to give something back. That's what he lived by."

Williams was born in Charleston, Sept. 16, 1914, a son of the late Arthur M. Sr. and Katherine Ward Williams.

He was a member of Forest Lake Club, Columbia Cotillion Club, the Palmetto Club, the Quadrille, Pine Tree Hunt Club, and Trinity Episcopal Cathedral.

Surviving are his widow, Katherine Murphy Williams; daughters, Mrs. John (Katherine) Mahon Jr. and Miss Elizabeth M. Williams, both of Columbia, and Mrs. Rigdon (Pat), Boykin of Bedford Hills, N.Y., and four grandchildren.

Memorials may be made to the S.C. Episcopal Home at Still Hopes, West Columbia, or the S.C. Presbyterian Home, Summerville, or to the Carolina Children's Home in Columbia. Dunbar Funeral Home, Gervais Street Chapel, is in charge.

CAMBODIA POLICY CHANGE

Mr. HATFIELD. Mr. President, Secretary of State James Baker today announced a reversal of United States policies regarding Cambodia, Vietnam, and the hated Khmer Rouge. This change is welcome, and we can only hope that it is accompanied by a renewed commitment to utilize our country's resources to achieve peace in Cambodia.

Secretary Baker announced that limited discussions would be initiated with the Government of Vietnam in order to halt the Khmer Rouge's bloody march toward Phnom Penh. Just as importantly, the United States will give up its support for the non-Communist coalition's claim to the United Nations seat, a move which severes the Khmer Rouge from a critical diplomatic tool.

As I said, these changes are welcome, especially for those of us who have long urged a shift in policy toward Southeast Asia. Increased dialog may lead to a peaceful resolution of the Cambodian war and will provide a boost to our efforts to resolve the MIA/POW issue. For it has been clear to me, ever since I traveled to Vietnam 3 years ago, that any serious effort to end the years of uncertainty for our POW/MIA families will only come from increased discussions with the Vietnamese.

We have been bombarded with news reports about the inhumane suffering of the refugees of Cambodia and Vietnam, but have remained paralyzed by our own reluctance to let go of the animosity built up by the Vietnam war. For over a decade we have wrung our hands about the horrible chaos in Cambodia, but our inability to be responsive to a changing world led us into a policy which accepted the Khmer Route as a fact of life.

For several decades, in fact, our policy toward Cambodia has been about everything but Cambodia: Our Vietnam war strategy, our foreign relations, even our humanitarian policies have been obsessed with Cambodia only to the extent that Cambodia represented a stretch of land deemed pivotal to whatever cold war policy happened to be popular at the moment.

The Secretary of State has announced limited discussions with Vietnam. I am not aware that he made any plans for discussions with China and its support for the Khmer Rouge. Yet, even now, with this advancement of a more enlightened policy toward Cambodia, we are refusing to fully acknowledge the role Cambodia itself should play in the effort to find peace. I hope that there will be sincere attempt to establish dialog with Hun Sen. The administration also must continue to review its continued call for assistance to the non-Communist resistance, which is allied with the Khmer Rouge. And our Government should begin to build constructive bridges with the people of Cambodia through increased travel and humanitarian support.

After all, it was the Cambodians who lost one-fifth of their countrymen to the sadistic cruelty of Pol Pot's army. The Cambodians are being shelled by the Khmer Rouge in the provinces. The Cambodians are sitting in refugee camps along the border. And the Cambodians daily are being conscripted into the ranks of the Khmer Rouge either by fate or by force.

Today's announcement in Paris was important. I commend the President and the Secretary of State for their decision. I hope that it represents the start of an aggressive and coordinated policy of preventing the return of Khmer Rouge. And I hope that the administration fully recognizes that we are running out of time.

TRIBUTE TO GEN. GEORGE L. MABRY, JR.

Mr. THURMOND. Mr. President, I rise today to honor the memory of Gen. George L. Mabry, Jr., who passed away last friday. General Mabry was a true American hero who served his country with vigor and dedication in peacetime as well as war. I join with his many friends and admirers in mourning his loss.

George Mabry grew up on a farm in Stateburg, SC. As a youth, he showed uncommon ability as an athlete and a leader. Before joining the Army in 1940, he graduated from Presbyterian College with a bachelor of arts degree and played minor league baseball.

He began his Army career as a second lieutenant in the fourth infantry division, landing at Normandy on D-day and fighting throughout France, Luxembourg, Belgium, and Germany. In World War II, he singlehandedly captured three German bunkers and cleared a path through a minefield during a battle in the Huertgen Forest, killing three enemy soldiers and taking nine others prisoner. For this heroic act, he was awarded the Congressional Medal of Honor for conspicuous bravery.

General Mabry remained in the Army after World War II. He was a vocal proponent of a strong defense and an acknowledged expert on Central America. He served for 10 years in the Panama Canal Zone and was instrumental in establishing the United States Army jungle warfare training center there.

During the course of his distinguished career, General Mabry became one of the most decorated soldiers in South Carolina history. He received every decoration the U.S. Government awards for valor in combat. He was also awarded the Distinguished Service Order, which is the highest honor the British Government can bestow on a non-British soldier.

General Mabry was a loving husband and father, a respected citizen and a loyal friend. He remained an avid athlete and sportsman until his death. Prior to his retirement he often played softball with his soldiers, and after retiring he continued to enjoy hunting, fishing, and golf.

Mr. President, Gen. George Mabry was a man of courage, conviction, and compassion. With his passing, South Carolina has lost an outstanding citizen and our country has lost a brave and valiant soldier. Nancy joins me in sending heartfelt condolences to his wife, Eulena, his two sons, Lt. Col. George L. Mabry III and the Honorable Benjamin M. Mabry, and his daughter Abigail Ferrick, at this difficult time.

I ask unanimous consent that articles from the State newspaper and the Sumter Daily Item be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the State, July 16, 1990]

GEN. MABRY, "A TRUE AMERICAN HERO," DIES AT 72

(By Dave Moniz)

He was a soldier's soldier, a man who reveled in military life and excelled in sports and combat.

On Friday, he faded away.

Retired Army Maj. Gen. George L. Mabry Jr., a Medal of Honor and Service Cross recipient, died Friday morning in Columbia after a short bout with cancer. Mabry, 72, was one of the most decorated soldiers in South Carolina history and in his nephew's words, "a true American hero."

"He received every decoration for valor that the United States government awards," nephew Bufford Mabry said.

Mabry, retired since 1975, landed at Normandy on D-Day in June of 1944, and later won the Medal of Honor for "conspicuous bravery" during an attack through the Huertgen Forest in Germany. During the attack, he captured three bunkers, cleared a mine field path, killed three Germans and

captured nine others. The British government also honored him for bravery, awarding the Distinguished Service Order.

Mabry, a career U.S. Army officer, was considered an expert on Central America and served 10 years in the Canal Zone in Panama, four as commanding general. He once debated Sen. Ernest F. Hollings about Canal Zone policy and advocated a strong U.S. defense posture.

Sen. Strom Thurmond issued this statement Friday:

"He served his country with great dedication and distinction and deserves the highest plaudits of his fellow man. South Carolina has lost an outstanding citizen and our country has lost a brave and valiant soldier."

A Stateburg native, Mabry grew up on a farm and showed uncommon athletic ability as a youth. He earned a bachelor of arts degree from Presbyterian College and played minor league baseball before joining the Army in 1940.

Later in his life, his nephew remembers, he hunted, fished, played golf and walked frequently.

"He was stationed out of town on his last tour and was playing softball with his soldiers. He got injured sliding into second, had to go to the base hospital and the Navy officer who sewed him up about dropped his teeth when he saw he was sewing up a major general," Buford Mabry said.

Mabry, chief counsel for the state Wildlife Department, offered another anecdote that he said explained his uncle's zest for life.

"I remember one time, he and another full colonel drove all night, from Washington, D.C., to Stateburg to go quail hunting over Thanksgiving. They hunted all day and the next day and drove back all night the next day to the Pentagon.

"One of his favorite expressions was, regardless of pain, you 'push on through,'" Buford Mabry said.

Mabry is survived by his wife, Eulena; two sons, Lt. Col. George L. Mabry III and Benjamin M. Mabry; and a daughter, Abigail Federick. Funeral plans are incomplete, but the family is tentatively planning the funeral for 5 p.m. Sunday at the Holy Cross Episcopal Church in Stateburg. The family asks that donations be made to the American Cancer Society. A scholarship is planned in his name at Presbyterian College.

The family will receive visitors today from 6-7:30 p.m. at Dunbar Funeral Home on Gervais Street.

Funeral services will be held at 5 p.m. Sunday, Holy Cross Church, S.C. 261, Stateburg.

[From the Sumter (SC) Daily Item, July 16, 1990]

MABRY DIES AT 72; WAR HERO REMEMBERED AS GREAT AMERICAN

(By Jeff Owens)

Retired Maj. Gen. George Lafayette Mabry, Jr., a Stateburg native and one of the nation's most decorated war heroes, died Friday in Columbia after an illness. He was 72.

Mabry, a veteran of the June 6, 1944, Allied D-Day landing, was a recipient of the Medal of Honor for his bravery during World War II.

He became the nation's second most decorated soldier, receiving every military honor awarded by the United States to a combat soldier as well as several decorations from foreign governments.

Mabry received the Medal of Honor for his bravery Nov. 20, 1944, in the Huertgen Forest near Schevenhutte, Germany, where he singlehandedly cleared a path through a minefield, captured three enemy bunkers, killed three enemy soldiers, put another out of action and captured nine more.

Mabry also served three tours in Panama, where he became a close acquaintance of Gen. Manuel Noriega. While there, he developed an invasion plan similar to the one the United States used in December 1989 when it invaded Panama and captured Noriega.

A South Carolina patriot

Mabry's family and friends described him Friday as a compassionate man who was dedicated to God, his family and his country. He was described by state and national officials as a man South Carolina can be proud of.

One of his closest friends, Col. William Alston of Sumter, fought back tears Friday as he described Mabry as "one of the greatest men who ever walked this earth.

"A great man and a great American has fallen and he will be sadly missed by everyone," said retired Marine Rudy Singleton, who engineered the establishment of the Gen. George L. Mabry, Jr. Veterans Memorial Park that was recently dedicated near Shaw Air Force Base.

Singleton said the memorial park committee named the park after Mabry because "we wanted to make sure it was named after a great American."

At the park's dedication ceremony, fellow Medal of Honor recipient retired Sgt. 1st Class Webster Anderson of Winnsboro said, "This memorial has been named in honor of a man who is much greater than any of us."

Singleton said that though he met Mabry only a few months ago, "I'll always remember him as a very humble and a very appreciative man who was very dedicated to the survival of this nation."

"He cared about young people and how they would grow up if patriotism was not carried on. He was very concerned about patriotism in this country," he said.

Mabry was deeply honored that the park was named after him, according to his brother, retired Sumter educator Bufford Mabry, who said Mabry's greatest regret was that his illness prevented him from attending the July 4 dedication ceremony.

Friends remember Mabry

Two of Mabry's closest friends, retired Chief Warrant Oficer Harold "Speed" Wilson and retired Col. Charles Murray, who were also recipients of the Medal of Honor, said Mabry was a war hero all veterans admired and looked up to.

"And not only his contemporaries, but people under him and his seniors," Murray said, "He was a great friend and a real down-to-earth person who was liked by almost everybody. He was always going out of his way to be a friend to his country and everyone he met."

"He was an outstanding soldier and an outstanding gentleman," Wilson said.

Mabry was also a close friend of U.S. Sen. Strom Thurmond.

In a statement issued through his Washington office Friday, Thurmond said Mabry "served this country with great dedication and distinction and he deserves the highest plaudits of his fellow man.

"South Carolina has lost an outstanding citizen and our country has lost a brave and valiant soldier," he said.

U.S. Rep. John Spratt said, "I have the greatest admiration for General Mabry. He was a genuine good person as well as a genuine hero. He was well respected for his humanity as well as his military service."

Early days

Mabry was born in Stateburg on Sept. 14, 1917, a son of George L. and Alberta Stuckey Mabry. He graduated from Hillcrest High School in 1935 and from Presbyterian College in 1940.

He was commissioned a second lieutenant in the U.S. Army Reserve and began his active duty military career on July 5, 1940.

He married his high school sweetheart, Eulena Myers, in 1941 before he went to war. The wedding was in Hagood, where she lives today.

Their daughter, Abigail Mabry Ferrick, and younger son, Benjamin Myers Mabry, live in Columbia, while their older son, Lt. Col. George L. Mabry III, is stationed in Stuttgart, Germany, with the U.S. Army. The family also includes five grandchildren.

The Mabrys lived at military bases around the world during his Army career, including the southeastern U.S., Korea, the Canal Zone and the Pentagon in Washington, D.C.

During his second tour in the Canal Zone, Mabry was promoted to brigadier general and assigned in 1963 as director of operations for Southern Command headquarters at Quarry Heights, a key U.S. installation during the 1989 invasion.

He returned to the Canal Zone to lead the Southern Command from 1970 to 1975.

Mabry went to Vietnam twice during that conflict. In 1966 he led a 100-member team to evaluate U.S. army combat operations in Vietnam. He returned to the battle three years later as chief of staff and assistant deputy commanding general at the Army's Vietnam headquarters.

Military honors.

Mabry retired from the Army in August 1975 with 35 years' service and decorations including the Medal of Honor, Distinguished Service Cross, Distinguished Service Medal Legion of Merit, the Silver Star and the Bronze Star, the Purple Heart and the Presidential Unit Citation.

Several of his decorations had additions signifying multiple awards for valor in addition to service. He also received awards from foreign governments including the Belgian Fourragere, the Distinguished Service Order from Great Britain, and the Republic of Vietnam's National Order 5th Class and Gallantry Cross with Palm.

His service medals included the World War II Victory Medal, the Distinguished Unit Badge, the European-African-Middle East Campaign Medal with four bronze stars, the Vietnam Campaign Medal and the Vietnamese Service Medal with three bronze stars.

Before college and the Army, Mabry developed many lifelong friends while growing up in Stateburg and playing football and baseball at Hillcrest High. He also played baseball for the local American Legion team and at Presbyterian College.

Alston, a classmate and teammate of Mabry's, remembers him as an outstanding athlete. He described him as a slick fielding shortstop and the leading hitter on his high school and American Legion baseball teams.

"He was one of the greatest athletes Hillcrest ever had back in the old days," he said.

A man of honor

Alston also described Mabry as a "very compassionate" and "very kind" person with strong religious beliefs.

"He could always make up his mind about what he wanted to do," Alston said. "He was

just a fine person all around. I can't say anything but the highest about him and don't think anyone who knew him could."

Clarence McLaughlin, who also went to high school with Mabry, said he remembered him as a "very conscientious and very dedicated" person.

"Whenever he went after something, he went after it with all his ability," he said. "He was highly motivated."

McLaughlin said he was not surprised when he learned that Mabry had been awarded the Medal of Honor.

"It didn't surprise me at all," he said. "He was always the type of guy who would do something like that."

Former Sen. Henry B. Richardson said he first met Mabry when they played baseball together as youngsters, and became reacquainted with him after World War II when they both became charter members of the Society of the High Hills of Santee, a group of Stateburg natives and their descendants.

"George was a man of real principle and pleasant, attractive and articulate gentleman," he said. "We were all mighty proud of him. We were all proud of having the distinction of knowing such a brave man. He really helped put Stateburg on the map."

Spratt added, "Sumter County should all be proud of him as a native son."

Mabry will be remembered at a funeral service with full military honors at 5 p.m. Sunday at the Church of the Holy Cross in Stateburg.

The family will receive visitors from 6 to 7:30 p.m. today at the Gervais Street Chapel of the Dunbar Funeral Home in Columbia.

TRIBUTE TO CHIEF MASTER SERGEANT OF THE AIR FORCE JAMES C. BINNICKER UPON HIS RETIREMENT FROM ACTIVE SERVICE

Mr. THURMOND. Mr. President, today I would like to salute a loyal and distinguished American, Chief Master Sergeant of the Air Force James C. Binnicker, who retires from active duty August 1 after 33 years of dedicated service to his country.

In his duties as personal advisor to the Chief of Staff and to the Secretary of the Air Force, Chief Binnicker reached the pinnacle of the enlisted force. With this monumental accomplishment, however, this man never forgot his roots, as evidenced by his steadfast commitment over the past 4 years in caring for the morale and well-being of more than 450,000 enlisted Air Force men and women.

Chief Binnicker was born in Orangeburg, SC on July 23, 1938, and graduated from Aiken High School in 1956. He is a graduate of the Air Force Senior Noncommissioned Officer Academy and the First Sergeant Academy. On August 1, 1957, Chief Binnicker entered the Air Force and reported to Lackland AFB, TX, for basic training.

His first assignment took him to Altus AFB, OK, where he worked until 1963 with the 96th Air Refueling Squadron as a life support specialist. He then retrained into the air operations career field and was assigned to the 816th Strategic Aerospace Division at Altus as an air operation specialist.

Following tours in Hawaii and North Dakota, Chief Binnicker was assigned to Vietnam from August 1968 through September 1969. During that time, he was the noncommissioned officer in charge of base operations at Binh Thuy Air Base and a language instructor for the Republic of Vietnam Armed Forces Language School in Saigon.

Upon returning to the United States, the chief was assigned to Robins AFB, GA as an air operations superintendent. He served in a varity of base operations duties until being assigned to Seymour Johnson AFB, NC, where he served as base sergeant major and senior enlisted advisor for the 4th Tactical Fighter Wing. In September 1975, Chief Binnicker became the senior enlisted advisor to the Commander of Tactical Air Command's 12th Air Force at Bergstrom AFB, TX.

From October 1977 until April 1978, Chief Binnicker was the Air Force's enlisted representative and senior enlisted advisor for the President's Commission on Military Compensation. Two months later, he returned to Hawaii to become the senior enlisted advisor for Pacifi Air Forces, headquartered at Hickam AFB.

Following a tour as chief of the enlisted retention division, Air Force Manpower and Personnel Center, Randolph AFB, TX, Chief Binnicker was appointed as assistant for chief master sergeant matters. He became senior enlisted advisor for the Tactical Air Command, Langley AFB, VA, in May 1985 and assumed his duties as the Air Forces's senior noncommissioned officer in July 1986.

Chief Binnicker is married to the former Jan Chambers of Kenansville, NC. They have two sons, Carmen and Michael.

Throughout his 33 years of service to his nation, Chief Binnicker epitomized American airmanship each and every chance he had. He is a leader respected both in the ranks of America's military and on Capitol Hill. The integrity and guidance he so eloquently and equitably portrayed in his world travels, and during his many appearances before the various committees of this Congress, will continue to exemplify the meaning of leadership for those in the Armed Forces and for Americans everywhere.

A THANKS TO ANN McLAUGHLIN, CHAIRMAN OF THE PRESIDENT'S COMMISSION ON AVIATION SECURITY AND TERRORISM

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Ann McLaughlin, who, as Chairman of the President's Commission on Aviation Security and Terrorism, recently completed a job for which all Americans can be thankful.

On May 15, 1990, the Commission presented to the President its report on aviation security. As my colleagues know, this Commission was formed to look into events surrounding the tragic bombing of Pan Am flight 103 over Lockerbie, Scotland, on December 21, 1988.

The Commission's task was a formidable one. Its job was to conduct a comprehensive review of aviation security, here in the United States, and abroad. In conducting this review, the Commission was directed to answer some of the nagging questions about the Pan Am 103 bombing: How it could have been allowed to happen; and what needed to be done to reduce the chances of it happening again.

These were questions that could not go unanswered. The families of the victims had a right to know. That is why, in March of 1989, with the support of the families, I called on the President to appoint a Commission to conduct this investigation. When I made that request for a Commission on Aviation Security and Terrorism, I had no preconceptions about who might be selected to lead the Commission. We could not have been more fortunate in having such a professional, dedicated person as Ann McLaughlin to guide the Commission.

As Chairman, her job was perhaps even more daunting than the Commission's itself. She had to coordinate the actions of the Commission's six other members; not an easy task when one looks at the membership—two Senators, two Congressmen, and two former prominent military men. She had to pull together a professional staff of investigators, convene hearings, fulfill the Commission's mandate, and report to the President—all within the short space of 6 months.

By any account, Ann McLaughlin did an incredible job. The report has been acclaimed by the President, the Secretary of Transportation, and most importantly, so many of the families themselves, for its depth, honesty, and commitment to finding the sometimes painful answers to tough questions.

The Commission's report is serving as a blueprint for major changes in our aviation security system. The result will be safer to travel for Americans. For the role that she played in shaping these changes, Ann McLaughlin deserves a tremendous amount of credit, and our thanks.

CONTROL OF NOXIOUS WEEDS ON FEDERAL LAND

Mr. PRESSLER. Mr. President, irresponsible noxious weed control on lands owned by the Corps of Engineers and U.S. Fish and Wildlife Service has caused serious problems for adjoining

private landowners. Today I met with Richard Ekstrum, South Dakota Farm Bureau president, who stressed to me the seriousness of this problem. Private land is infested by noxious weeds growing on Federal lands. County weed supervisors have contacted my office regarding inadequate noxious weed control on U.S. Fish and Wildlife Service land.

In response to this problem, I will be offering an amendment to the 1990 farm bill to grant jurisdiction over noxious weed control on land owned by the Corps of Engineers and U.S. Fish and Wildlife Service to the county weed board in those counties containing lands owned by the Corps of Engineers and U.S. Fish and Wildlife Service.

Mr. President, something must be done to control noxious weeds on federally owned land. Private landowners are required to control noxious weeds on their property. The Federal Government should live by the same rules. My amendment would protect privately owned lands from the noxious weeds growing wild on Corps of Engineers and U.S. Fish and Wildlife Service lands.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, has time for morning business expired?

The PRESIDING OFFICER. It has.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanious consent that the period for morning business be extended to permit the Senator from Idaho to address the Senate as in morning business and that upon the completion of his remarks the morning business period be closed and that I may not lose my right to the floor at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I thank the distinguished majority leader.

(The remarks of Mr. McCLURE pertaining to the introduction of S. 2870 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1990

Mr. McCLURE. Mr. President, I ask unanimous consent that it be in order for me, on behalf of Senator McCONNELL, to yield 30 minutes of his time to Senator HATCH.

The PRESIDING OFFICER. The Chair hears no objection. It is so ordered.

Mr. McCLURE. Mr. President, I therefore yield 30 minutes of Senator McCONNELL's time to Senator HATCH, and I yield 45 minutes to my time to Senator DOLE.

The PRESIDING OFFICER. The Senator has that right.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 5:30 p.m. with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I further ask unanimous consent that the time between now and 5:30 be counted against the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ACCUSATIONS OF RACISM

Mr. GORTON. Mr. President, I wish to make a short series of remarks on a subject which has been brought to my attention today with respect to this debate.

Mr. President, it has been brought to my attention that certain self-serving critics outside of this body who are still stuck in the sixties mentalities of confrontation have asserted that the proposal by the distinguished Senator from Kansas [Mrs. KASSEBAUM] and me, is one which attempts to "turn back the clock to little better than the days of slavery."

Mr. President, that kind of allegation is a flat-out lie. In fact, that kind of comment is so absurd that under different circumstances it might well be regarded as a joke, except for the fact that much in our society today seems to encourage the substitution of accusations of racism for rational discourse on the merits of issues which are very, very difficult to deal with.

Senator KASSEBAUM and I want to pass responsible legislation which will protect the civil rights of all Americans while not establishing a system forcing employers to adopt discriminatory quota practices. We are convinced that the vast majority of well-thinking Americans agree with that; that they do not want to set one person against another in connection with quotas and having quotas take the place of merit.

The President of the United States has vowed to veto quota language like that of the bill which is before us at the present time, but backs the amendment by the Senator from Kansas and myself. It goes without saying that he is not a racist, that he has the interests of all the people of the United States at heart.

What good is it to call for legislation which will simply cause the exercise of a veto? Real progress requires not empty partisan rhetoric, but a fair and a balanced approach. I hope that the end of the road which we have recently begun, unlike its beginning, will bring us to that goal.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, the request I am about to make to extend further the time for morning business to permit continued discussion, as I previously described, on the civil rights bill has been cleared with the Republican leader.

Accordingly, I ask unanimous consent that the period for morning business be extended until 6 p.m. and that the time between 5:30 and 6 p.m. be charged against the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. Morning business will run until 6 p.m.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1990

Mr. BUMPERS. Mr. President, the parliamentary situation here on S. 2104, the Civil Rights Restoration Act, is not necessarily complicated but I do not think it hurts to review where we are.

As I understand it, the Kassebaum amendment to the substitute, a first-degree amendment, is pending as is a second-degree amendment which was offered by the distinguished Senator from Utah [Mr. HATCH]. I also understand that the strategy apparently is to use as much time as possible on those two amendments. This would prohibit Senators from offering amendments to the bill, which is going to pass, which would make the bill much more acceptable to the business community of this country, and even more especially to the small business community in America.

There are two things about this bill that have been of the gravest concern to the business community. In my opinion those two things can be addressed with amendments which have been filed and are germane. Those amendments can make this bill much more palatable without jeopardizing the rights of anyone who might be discriminated against in the future and without jeopardizing the rights of anyone who has been genuinely aggrieved by discrimination. They would still have a right to bring their actions.

The first of the two things to which I refer is damages. As I said earlier this morning, there is no language in the bill that requires businessmen to hire by quotas. But if you were a small businessman, as I was once, you would certainly understand that when you hang punitive damages over our heads tell us people have a right to sue us, and that those people might get a judgment for punitive damages, we become very concerned.

You can show people all the studies that reveal that punitive damage awards in the past have not been for astronomical amounts. I wanted to show people how that has not been the case in the past, and that very few cases have punitive damages under section 1981 which exceed $500,000.

But I can tell you that is small comfort if you are on the receiving end of a lawsuit where the allegation is for say $3 or $4 million in punitive damages. That is your exposure. When somebody files a lawsuit against you and they say," I am entitled to $100,000 in compensatory damages and $5 million in punitive damages," it will ruin your whole night's sleep. It is just as simple as this: Once that lawsuit if filed, you face the possibility of a $5,100,000 judgment. So that is the concern of the business community, and it is a legitimate concern.

Some of us who are sensitive to the problem have said we must have a cap on punitive damages. We have to at least tell people that they are not going to be put out of business by this whole new wave of damages under title VII.

The Senator from Massachusetts has said that he is willing to accept a very severe cap on punitive damages. So sometime before this bill expires, if they take up all the time and no amendments are offered, these amendments are going to be voted on, or they are going to be accepted.

I want to say to those people who are obviously just taking time and hoping that no amendments, can be offered that will make this bill acceptable, not just to the business community but to the President, these are the kinds of amendments the President and John Sununu say they want.

The second amendment, Mr. President, is an amendment by the Senator from Arkansas, my distinguished colleague. It is a very good one and ought to provide great assurance to the business community that they are not going to be required to hire by quota. Senator PRYOR's amendment says that the mere existence of a statistical imbalance in an employers work force does not make a prima facie case of discrimination. That really takes us back to where the law was in the beginning. That is what we have all said we wanted.

The Senator from Massachusetts says he is willing to take that amendment.

It goes without saying that there are 10 or 12 Senators on this side who have been uneasy about this bill not because of any lack of devotion to civil rights but because of a genuine interest in balancing the rights of people who may suffer discrimination and those who may be sued for discrimination. It is a simple, equitable view that we have that this ought to be fair to both sides.

I will never forget when I was Governor of my State. There were hotly contested cases before the Public Service Commission. I called a man in who had worked for me as a legislative aide during the legislative session. I said:

I am going to make you chairman of the Public Service Commission. I want to tell you what that means. That means you have to referee a lot of fights between the consumers and the utility companies. Your job is to be fair to the utility companies and fair to the ratepayers of the State. You are not to tilt in either direction. You are to make sure the ratepayers get electricity, for example, at the lowest possible rate, the lowest possible rate that will still afford the electric utilities a profit.

That does not sound terribly difficult to me.

Incidentally, he did an outstanding job. He would have done it without that admonition from me. But here that is precisely what we are talking about in the civil rights bill—protect people against discrimination but make sure you do not discriminate against business people in the process.

We are looking for that balance and we have found it.

If I had my way about it, there are a couple of other amendments I would like to offer. But apparently the other side will not allow us to do that. I personally believe that any time you sue for punitive damages there ought to be a 12-person jury. Right now, the vast bulk of these jury trials in title VII cases are six-person juries.

When you are asking somebody to punish somebody, not just to redress a wrong but to punish somebody, that is almost tantamount to a criminal charge. The man or woman who is being accused of doing something so egregious that they should be punished for it should be given a 12-person jury. You ought to have to convince 12 of your peers, not just 6.

There are other things that would help the bill and perhaps some of these can be addressed in the House or in the conference. But the two principal amendments that would make this bill very palatable to almost everybody in this body are the two dealing with capping punitive damages so that business people, particularly small business people, do not feel they have a sword hanging over their heads every time they get sued; and No. 2, saying not only do you not have to hire by quota, but the mere existence of a statistical imbalance in an employer's work force is not a prima facie case of discrimination.

I promise you the business community will sleep a lot better when that amendment is put on the bill.

Mr. President, it is a perplexing thing. It is political. I said this morning, and I say again, this is a serious matter. Maybe the politics are on the other side. I do not know. But there ought not be politics on either side of this case. Nobody ought to be benefiting from this. We ought to be trying to redress a wrong, the possibility of a wrong, making people whole if they are discriminated against, and at the same time making sure that we make the procedure as fair as possible.

So, Mr. President, as I say, this is too serious a matter for people to try to get political advantage out of it. Everybody is wondering whether the President will veto it. Will he win if he has to veto it, will American public opinion shoot him up in the polls, or shoot him down if he has to veto it? That is not the consideration that the Senate ought to be giving to this bill. We ought to be talking about decency and fairness in this country to all of the parties who may be brought into

play because of this legislation in the future.

I really regret, I seriously regret, that this bill has taken the turn that it has taken because a lot of people, eight or nine Senators on this side, have been working trying to achieve some equity in this thing. They offered some amendments that would make the bill a much, much better bill. But we are told no, if the President is going to veto this bill, we want it to be as bad as possible.

What kind of nonsense is that? The American people have a right to expect more of us.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to commend the Senator from Arkansas for the excellent presentation both earlier today and now, as we, hopefully, will be moving toward some action on the legislation. I know that the Senator and others have been very much concerned about trying to ensure that in the situation of punitive damages that there would be at least some opportunity to ensure that these damages would not threaten segments of the small business community.

I basically prefer not to have those kinds of limitations, but I think he made a very strong case on this issue and I, for one, am not prepared to see the whole progress of the legislation put at risk.

I want to give assurance that I will support a cap. I know the Senator is going to make a request later to try and make a modification of his amendment, and then if we are able to get that established, we are going to monitor those various findings and work with the Senator from Arkansas, and the others who are interested, over a period of time to ensure that justice is really done. I know the Senator would welcome the opportunity to do so. So I indicate to him that we will support that effort and welcome that effort, and we will also try to do everything we possibly can to see that the legislation that comes out of the conference will reflect the concept which will be recommended by the Senator from Arkansas.

Second, the issue of statistical imbalance. The Senator has correctly defined what this legislation would and would not do.

There have been those who have opposed the legislation, who have attempted to distort and misrepresent what the legislation would do in this area of statistical imbalance. We have had good conversations with the Senator from Arkansas on this question. We were quite prepared to accept the amendment of the Senator from Arkansas. I am very hopeful that we will be permitted to accept that. I indicated yesterday, prior to the time of the cloture vote, that it was our intention to accept it. I thought that was clarified both in the report and the language. But I think there have been sufficient distortions and misrepresentations so that we would welcome the opportunity to clarify.

Just a few moments ago, I talked with the chairman of the House committee, GUS HAWKINS, and he indicated complete support in the area of statistical imbalance. He views the situation as I do and as the Senator from Arkansas does. I think we can give the assurance to both the Senator from Arkansas and others that any legislation that will come back from the conference will have that point clarified.

I hope that when the matter comes up later this evening and the effort is made by the Senator from Arkansas to permit in the legislation that the substitute include that, I hope there will not be objection, for the reasons that the Senator has outlined.

I want to make it very clear in the RECORD that the legislation will not come back from conference without that particular provision. So whether we have that included this evening, we will give that assurance to those Members—and there have been a number, but they are not on the floor at this moment—I take the opportunity to state it now, and also to indicate to them personally, and to indicate to the whole Senate what our position would be.

Mr. BUMPERS. I thank the Senator.

I was going to say that I cannot, even for political purposes, imagine why President Bush would not be jumping up and down with joy at the prospect of these amendments. These are the very things that he has been saying that he found objectionable in the bill, and they were the things I found objectionable in the bill, and the things that caused, as I said, 10 or 12 of us on this side of the aisle considerable pause. For us not to be able to offer amendments to do the very things the President said he wanted on the bill is perplexing and confusing.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I remember talking earlier to the representatives of the administration regarding the three areas where they had indicated they wanted action: First, was on the consent decrees, and we resolved that in the votes yesterday; second, was the issues of quotas, and I believe the measure of the amendment of the Senator from Arizona [Mr. DECONCINI] will address that issue head on, to be included in the substitute, and we believe that we have responded to that question.

Now on the issue of remedies, the Senators from Arkansas, Oklahoma, Montana, Kentucky, and a number of other Senators had indicated that they wanted to ensure that we are going to get some cap on these measures, and we have indicated that we will support that particular provision in a way which we feel the great majority of the Members would.

So in the areas which have been outlined as being the most serious, we feel that we have been responsive on the question of the business testing, from essential to substantial down to significant, and responded to these three questions in the ways which we have outlined.

I just want to review for a moment, basically, what we are talking about and what kind of protections will exist in our society and whom in society will be protected. We have a labor market of 117 million, of which half are women; 53 million women. We have some 12 million black Americans, 9 million black and Hispanic Americans, and in many instances they feel the state of discrimination in two different ways. First, because of being a woman and being black or Hispanic. Twenty-one million have children, and what we are doing here in the form of discrimination against women is going to affect their families and affect children.

That is what we are talking about in this legislation. Are we going to ensure that those Americans are not going to feel the spur and the stain of bias and discrimination in the workplace, where they are trying to provide for their families? That is what we are talking about.

Eighty-five percent of the new entries in the job market, by the year 2005, will not be white males; they will be women and minorities. When you talk about the question of the application of equal protection of the law, you talk about what is going to be happening in the workplace of America. And all this is attempting to do is free, to the extent we can and to the extent that laws can, those individuals from the stain of discrimination.

Mr. President, the point that I just want to mention at this time in the discussion, once again, is on the question of quotas. We did not have quotas in 1971 when the Griggs case became law. There has not been a single statement or documentation from any of those who have stated that this bill will provide quotas; there has not been a single substantial piece of evidence from any of them that would justify the position that going back to Griggs will result in quotas, not one.

We have not had a full and complete debate and discussion, but I have heard many speeches, particularly those who have been most vehement in opposition, and I have not heard

one. We did not have it in 1972 under Griggs. We did not have it for 17 years; 17 years. You cannot show us a single study that would indicate it. And we have seen important changes by the Supreme Court in the efforts to return, as this legislation does, to Griggs, and still we hear that talk about the issues and quotas.

The PRESIDING OFFICER. The time for morning business has expired.

The Senator from Maine.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I have discussed the matter further with the distinguished Republican leader, who is now engaged in discussions on this measure, and accordingly I ask unanimous consent that the period for morning business be extended to 6:30 p.m. with the time between now and 6:30 to count against the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

We are in morning business.

Mr. BOREN and Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

CIVIL RIGHTS ACT OF 1990

Mr. BOREN. Mr. President, I want to complete one point from what Senator KENNEDY just said.

Would that inconvenience my colleagues from Oregon?

I will try to be very, very brief.

Mr. President, in listening to the remarks of my colleague from Massachusetts just a moment ago, I know that he understands that I share his very strong conviction that we must take action to restore the rights of all Americans to act against discrimination in employment in this country. We cannot afford to be two Americas; one America in which there is opportunity for some, and another America in which a growing number of people in this country are absolutely falling through the cracks.

We look at the number of those dropping out of school each year; 29 percent of our 18-year-olds not finishing high school, the tragic waste of human talent. We see more and more people addicted to drugs in this country, and we see whole segments of our society really dropping out, not even seeking to be a part of the mainstream.

We realize that we cannot afford to become two Americas; one where there is opportunity and one where others feel foreclosed, where because of circumstances of birth or race or other characteristics, they simply do not have the same kind of opportunities, growing up on societies where family units are not as supportive, where there is not the community to support them, where there are not role models to follow.

If we are going to be one America, strong and united, we must provide for every citizen in this country an open opportunity for employment as far as the talents of that individual can carry. We must change a pattern that tragically exists in our country in which all too often opportunities for advancement are indeed, as a matter of fact, foreclosed because of sex, or race, or religious view, or other factors.

If we are to be one people, just as important as equal opportunity to public accommodations or to hold public office or to participate in public policy positions, is the equal opportunity through the private sector for talents to be used to the fullest. So I am certainly in sympathy with what the Senator from Massachusetts is trying to accomplish.

At the same time, I think we have to realize that in certain areas of this legislation, we are moving into unchartered waters. We are providing rights here and particularly providing remedies within the legal system that have not been provided under current law. We are expanding the kind of damages that can be awarded; we are expanding the kind of remedies that can be sought.

Therefore, it is very important—and I would like to ask the Senator from Massachusetts just one or two questions before I conclude—it is very important that we have an understanding about how far we will go with these remedies.

I was reluctant yesterday as I voted for cloture on this matter—not reluctant because of my overall commitment to the changes that need to be made to assure equal justice in our society; I feel that commitment very strongly. But I was reluctant to vote yesterday for cloture, as I finally did vote for cloture, because of my concern that the legal remedies, inexperience under these remedies, might make it possible with the amount of litigation to increase to such a large level that it will imperil the very existence of certain relatively small economic operations in this country; that there could be perhaps one judgment rendered, perhaps for punitive damages against a relatively small company. Even one that employs 100 or 200 employees could be impacted very seriously by a large judgment being rendered.

While we hope that juries would always be reasonable we know from past experience, particularly from those in the legal profession, and ourselves, that sometimes excessive damages are awarded.

I think we have to strike a fair balance in trying to provide new mechanisms to ensure equal opportunity for all of the our citizens and, at the same time, do it in a balanced way that will be fair to small businesses in particular and that will not overly encourage litigation or excessive awards.

That is why I have felt that at least additionally there should be some overall constraint on the amount of damages that could be awarded until we have experience under this particular law and understand the amount of litigation that is likely to be involved so that we can have the support of the entire business community of this country. The vast majority of people want to see equality of opportunity within the private sector, so we can have their support without fear it will change the very existence of some of the smaller business operations.

That is why I joined with a group of Senators, including Senators BUMPERS of Arkansas, Senator PRYOR, Senator EXON, Senator NUNN, Senator DECONCINI, Senator BAUCUS, Senator FORD, and others, who have been meeting trying to come up with some suggestions for changes in this legislation that would strike that balance in a better way.

One of the items that I ask the Senator from Massachusetts to respond to, one of the items which we have come forward with to make as a proposal, is that there be placed an overall cap on the amount of punitive damages that could be awarded to a person found to have been wronged under this statute in the amount of $150,000. Or there could be a particularly egregious situation where there were very large out-of-pocket damages, medical damages, for example, very large amounts of back pay to which a person should be entitled that would establish the fact that there have been very, very severe damages here undertaken, that compensatory damages in a situation like that might exceed $150,000.

So we would propose an amendment that would limit the amount of punitive damages to either $150,000, or the amount awarded in compensatory damages, whichever is larger, so that we leave room and some flexibility here to handle a particularly egregious situation where the courts and juries have found that the plaintiff was entitled to very large compensatory damages.

But I think this kind of proposal would strike that balance and would reassure those in the business community, particularly those in smaller operations, that they could at least be protected against outright financial disaster that might end up closing the doors of a company and throwing a lot of innocent people out of work; that until we have experience under this law, this would be a proposal that would be a reasonable one.

The Senator from Arkansas [Mr. BUMPERS] has a proposal that puts some limitation on punitive damages. It requires unanimous consent to modify the Bumpers amendment, to change it to the language which I have just proposed, a cap of either $150,000 or the amount of compensatory damages awarded, whichever is the greater amount.

But I hope that that could then be done. We want the best bill we can have. We want the fairest bill we can have. And I hope that is something that could be granted on both sides of the aisle.

I simply ask my colleague from Massachusetts if we are able to modify the Bumpers amendment, and the Senator from Arkansas very much wants to modify his amendment to allow this language to be presented, would the Senator from Massachusetts be prepared to accept that amendment? Would he be prepared to offer no objection to the modification of that amendment so that it could be considered here on the floor of the Senate?

(Mr. ROCKEFELLER assumed the chair.)

Mr. KENNEDY. Mr. President, first of all, let me express my appreciation to the Senator from Oklahoma and the group of our colleagues who have spent a good deal of time on this particular issue and question.

I have indicated on a number of different occasions in the course of discussion and debate my own position on this, which is at some variation to the Senator's. But I always felt if it were the sense of the Senate that such a cap should be put on the punitive damages, I would support it.

I also indicate that I would follow this issue very closely. I had always thought that would make sense if we were going to do it, to use the experience in section 1981 and see what happened there, and benefit from that experience.

But I want to give the assurance that it is my sense and my feeling, from talking to our colleagues on both sides of the aisle, that there is a very strong desire for that kind of a limitation, and I would support it. I will work with the Senators from Oklahoma and Arkansas and other Members as we move ahead with this legislation to monitor that very closely. I will work with them and find out whether acceptance of that does provide forms of injustice.

But I know of the strong interest and the desire to ensure that there will be compensatory damages and also an opportunity for punitive damages. I also know the Senator has viewed the other kind of considerations.

It is my understanding that it is the sense of the Senate to move ahead in that direction, and I am prepared to accept it and do everything that we can in the conference to come out with a cap. And I will be glad to stay in close touch with those who feel strongly about that as we move toward the conference, to work with them and to ensure that whatever comes out of the conference will be acceptable.

I will say to the Senator from Oklahoma, I have raised the issue of the statistical imbalance—which we will have an opportunity to talk about—and a cap with Chairman HAWKINS earlier this evening. He indicated and agreed with me that no civil rights bill would come out without addressing the statistical imbalance. He does understand the importance of the issue of the cap. He was unable to give any kind of assurance of what the will of the House of Representatives would be. But I did feel compelled to raise this with him and indicated that there was a very substantial group here that wanted and desired it and I was going to support a cap and indicated to him what the nature of the cap was going to be.

Mr. LEAHY. Mr. President, if the Senator from Oklahoma would just allow me 10 seconds.

I yield 50 minutes of my 1 hour to the senior Senator from Massachusetts, under cloture.

Mr. KENNEDY. I thank the Senator.

Mr. BOREN. I express my appreciation to my colleague from Massachusetts for the comments which he has just made. I see my colleague from Nebraska, Senator EXON, who has been a part of these negotiations; Senator PRYOR and Senator DECONCINI, along with others that I have previously named, who have all been a part of making these proposals, along with the proposal of the Senator from Arkansas which relates to the statistical information and how it will be used. I am certainly reassured by this answer.

Let me say that I hope that the Senate procedurally will follow the willingness of the Senator from Massachusetts that has just been indicated to allow us to have such an amendment considered here on the floor. I think it would make the bill a much stronger bill. I would say it would make it much easier for all of us to vote for it.

And with the assurance that the Senator from Massachusetts has given, his assurance he will allow this amendment to come up, not object to it, allow for a modification so it can come up procedurally and we will accept it, we will take it to conference, along with his support for the kind of suggestion on statistical information and the treatment of it being made by the Senator from Arkansas, that it certainly puts this Senator in the position, with these kinds of changes, which will hopefully be allowed to be made because it is the will of the Senate to make this kind of change, in my own estimation it certainly would allow this Senator to be in a position to support this particular piece of legislation and to send it on to the conference committee.

I appreciate very, very much the willingness of the Senator from Massachusetts to enter into these kinds of discussions and to try to enable us to strike a fair balance to broaden the numbers and the support for this legislation in doing so, because, after all, the goals of this legislation are goals which we all strongly share. I thank my colleague from Massachusetts.

Mr. EXON. Will the Senator yield for a question?

Mr. BOREN. I am happy to yield.

Mr. EXON. I thank my friend from Oklahoma and the managers of the bill and others for their consideration.

We have to put a great deal of time on this today. As I said yesterday morning and again this morning, this Senator is very much interested in getting a civil rights bill that becomes law. I am not particularly interested in a knock-down, drag-out on the floor of the U.S. Senate and having us pass a bill that is never going to be able to become law. Some people, I am fearful, do not understand that just because we pass something here, good, bad, or indifferent, does not mean automatically that it is going to become law.

We have talked about several things today, the punitive damages and the cap and the compensatory cap. I would just like to have my friend from Oklahoma explain very briefly, if he can, whether or not the compromise that we talked about earlier today on several occasions, which, as I understand it, has been accepted by the Senator from Massachusetts, if and when he can get unanimous consent to bring that up onto the bill because of the parliamentary situation that we presently find ourselves in, just what is $150,000 and how does that relate to it being raised?

Mr. BOREN. Mr. President, let me answer my colleague by reading the exact language that we would propose. I have discussed this with Senator BUMPERS, from Arkansas, who has an amendment filed. He would propose to modify his amendment on behalf of several of us, to use this language:

At the appropriate place, insert the following: The amount of punitive damages awarded to an individual under this section should not exceed the greater of $150,000 or the amount awarded to such individual in compensatory damages.

There could be a situation, a very egregious situation, in which, let us say, a person suffered severe medical damages and had very huge medical bills that would be larger than $150,000 but those are actual damages, or perhaps they had very large amounts of back pay, the kind of items

that would certainly show an unusually grave situation.

Mr. EXON. Which is compensatory?

Mr. BOREN. That is compensatory. We do not limit the compensatory because that amount would vary with the actual damage that had been done. But what we would say here is that punitive damages could be either not higher than compensatory, equal to compensatory, but not more than $150,000, whichever is more. If you had a very unusual situation, if you had a very large amount of compensatory damage awarded, found by the jury and the court to be sustainable, that would be an egregious and unusual circumstance.

Mr. EXON. Let me ask this question for clarification purposes so we fully understand. Assuming through the court process there was $500,000 awarded in compensatory obligations that the court felt should be paid, does that mean that there would be no punitive damages?

Mr. BOREN. No.

Mr. EXON. If the maximum were allowed in the case that I have just cited, that would be $500,000 in compensatory damages and no more than $150,000 on top of that?

Mr. BOREN. No. It could be another $500,000 if you had a compensatory situation where the damages would be that high. That would be a very highly unusual circumstance. Normally, punitive damages would probably outstrip the compensatory damage. Normally, the compensatory damages would fall far less than $150,000. If you had an egregious situation, it would probably be an indication that there was malice present, some very serious situation present. Only in highly unusual circumstances can I possibly imagine compensatory damages, which are such things as back pay because you have been denied compensation for a period of time or a very large medical bill, someone who has been inflicted with very serious medical harm those are the kinds of things that are usually given as compensatory damages.

Mr. EXON. What is the Senator saying, then? Is the Senator advising the Senate that, if there was a an award of $500,000 in compensatory damages, then there could be no more than $500,000 in addition to that as punitive damages, or not?

Mr. BOREN. There could be. In other words, the cap would be as follows: Let us say compensatory damages are $30,000 or $40,000, which is far more likely in punitive damage, the cap would be $150,000. If you had a situation in which compensatory damages were higher than $150,000——

Mr. EXON. For a total of $190,000?

Mr. BOREN. That is correct. Where you had compensatory damages that were higher, your cap would be equal to whatever the compensatory damages were. Let me cite some history for you, because I think this will give some idea. We had this study, made by Shea and Gardner, of 576 cases during the 1980's.

Under current law, compensatory damages, with our current experience, our of 576 cases, only 2 cases existed in which there was a compensatory damage given above $250,000. No cases occurred in the entire 1980's in which compensatory damages were higher than $500,000. The vast majority of compensatory damages were in the range of from zero to $49,000.

So I think the likelihood of having a situation in which the amount of compensatory damage would be above the $150,000 would be highly unusual. You would have to have some egregious situation that would really cry out, from a point of view of justice, probably, for some additional punitive damage to be rendered. It would be a very unusual circumstance.

So I think we have here a fair balance, in the sense that we do discourage some of those in the legal profession who, let us say unfortunately, might be interested in stirring up litigation, who might be attracted to these cases in the hope that they could get some sort of contingency fee based upon some huge recovery of punitive damages; the kind of encouragement of litigation that is not healthy in our society.

I think by putting a $150,000 cap on there you discourage those kinds of people from getting involved and bringing these kinds of cases.

On the other hand, I think it is fair and right to allow the limit to go to the level of compensatory damages as opposed to $150,000, in that unique circumstance, singular circumstance in which there is a figure larger than that.

I cannot really imagine a circumstance in which it would be large and, as I have said, out of 576 cases studied there were only 2 instances that went above $250,000 and no instance of it going above $500,000.

Mr. EXON. Let us assume there is $150,000 in compensatory damages. Is there any cap? What is the cap?

Mr. BOREN. There is no cap on compensatory damages.

Mr. EXON. There is no cap on compensatory. I am choosing this as an example. There is awarded $150,000 in compensatory damages. Now, punitive damages under that kind of an award would be limited to what, under the proposal?

Mr. BOREN. Limited to $150,000.

Mr. EXON. So $300,000.

Mr. BOREN. Essentially. Of course you would have to establish malice under the higher standard to get punitive damages.

Mr. EXON. I understand all that.

Let us assume the compensatory damages was $160,000 rather than $150,000. What would be the cap on punitive damages?

Mr. BOREN. The cap would be $160,000 potentially.

Mr. EXON. In all cases, then, you could not get more than $150,000 in punitive damages, unless it was a lower amount of the two that we are talking about?

Mr. BOREN. The only case above $150,000 would be the exceptional extreme case when compensatory damages were awarded above $160,000. And looking at this situation, it would be perhaps 1 percent of the cases that would be the case.

Let us put it bluntly. Let us suppose you are a lawyer out here who is just out chasing cases, the kind of lawyers we hope are few in number in this country and I think are few in number in a profession that I think, by large, upholds high standards. But there are some of these people in any profession. You have those kinds of people out there who are trying to seek cases, encouraging people to sue, maybe even seeking clients aggressively.

They are going to look at that cap of $150,000 on punitive damages. That is going to make them much less likely to go out and try to seek these, stir up these kinds of lawsuits for their own personal gain; not because they have any commitment to principle for equal opportunity in hiring or not because they have any devotion to doing anything about discrimination. It is because they are interested in money in their own pockets.

If you have those kinds of people they are going to be much less encouraged to do that if you have a cap of $150,000 than if they think the sky is the limit; they might get a $2 or $3 million punitive damage judgment.

Also, a small business person who feels he is innocent, he or she feels nothing discriminatory was done, might be encouraged to settle for a rather large amount if he or she thinks if I go to trial I might have a $3 million judgment that might absolutely devastate my business and close it forever. From the point of view of discouraging this kind of litigation, it would allow an employer, in the case where he or she feels she has not done anything wrong, to go ahead and follow this through court and not just pay a settlement almost as a form of blackmail to get rid of a case. I think from both points of view this would have a very good effect, to have this kind of cap.

It will give us a chance to have experience. We have had experience under the other section of civil rights legislation and to this point in time I have to say it has not really been abused. There have been very few cases of excessive awards. Maybe we will find

that to be the case in this circumstance as well, but this will give us a period of time to have some experience for dealing with this situation. That is why we wanted to take this to the Senator from Massachusetts, why so many of us worked on this today, to see if he would be willing to accept it. I know philosophically he has some different views about it. But I think he understands it in terms of building support for this legislation and bringing us all to that ultimate goal, as my colleague has just said, of having a bill that will not just be passed by the Senate but signed into law, become law, let us hope with the signature of the President of the United States.

I certainly cannot speak for him. But I think the more we can balance this provision and strike a fair balance, the greater chance we have of getting civil rights legislation, antidiscrimination legislation actually signed into law. I think most of us here have that desire.

I see the Senator from Kansas on her feet and I do not want to delay her being able to speak. Certainly she has worked long and hard, as have others here, to try to fashion some bipartisan approach.

I am not interested in scoring points. I don't not think most of the Members of the Senate are. I think what we want is some fair balance in this legislation. I am not interested in pushing a bill to try to embarrass the President. I am interested in having a civil rights law that will make a fair balance for the people in this country, end discrimination that should not exist, and prevent the kind of litigation that is unhealthy, that can be damaging, that is unjustifiable.

That is what we are trying to do.

Mr. EXON. I have one more question, if I might.

The PRESIDING OFFICER. The Chair will point out at this point there are only a few minutes remaining in morning business and there are several Senators who do wish to speak.

Mr. EXON. Let me ask my question briefly. Will the Senator tell us—it seems we are making some progress which I am delighted to see—what about the quota situation? I know the Senator from Massachusetts says it is not in there. There was concern. Have we done anything about that in the form of an amendment?

Mr. BOREN. I would prefer to defer to the Senator from Massachusetts and the Senator from Arkansas [Mr. PRYOR] on this particular question as opposed to the question of the cap because—we have been negotiating and talking about the problem of capping punitive damages—I know there have also been discussions on this subject led principally by the Senator from Arkansas [Mr. PRYOR].

Mr. President, at this point I yield the floor and allow the Senator from Kansas, the Senator from Arkansas, my good friend from Alaska, and others to enter into this discussion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes remaining in morning business.

Mr. KENNEDY. Mr. President, we had intended and we will have included in the amendment which hopefully we will have a chance to offer, language which was intended to be offered by the Senator from Arizona. It will be at page 15 of the proposal. That will say:

> Nothing in the amendments made by this act shall be construed to require an employer to adopt hiring or promotional quotas on the basis of race, color, religion, sex or national origin providing nothing in the amendments made by this act shall be construed to affect court ordered remedies, conciliation agreements or otherwise in accordance with the law.

We have tried, by moving from what was originally in this legislation, to emphasize the restoration of Griggs. That case was decided in 1971 by Justice Burger, and it was in effect for 17 years. In the total debate and discussion by those who support the Wards Cove outcome and have indicated that the restoration of Griggs would somehow bring about quotas, there has not been one study that has been entered into the record—there has been rhetoric but not one single study by any of those who have opposed this legislation here on the floor of the U.S. Senate—that would indicate that resulted in any kinds of quotas.

We believe that to be the case in the legislation. But to make sure that it would not take place we are prepared to support that kind of language. I must say we have had the endorsement and support of a number of organizations who, historically, have resisted quotas, fought against quotas, opposed quotas. We have reviewed the legislation in very careful detail with them—not that they are the final word on this matter, but they have a very keen awareness of what public policy decisions result in quotas.

And they have reviewed this and given us a very, very strong support. There is no evidence that under Griggs we had quotas; and we have, in addition, the strong support of organizations which, over the period of years, have made the issue of quotas a matter of very great importance.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, has the time for morning business expired?

The PRESIDING OFFICER. It has.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I have consulted with the distinguished Republican leader. With his concurrence, I ask unanimous consent that the period for morning business be extended until 7 p.m. and that the time between now and 7 p.m. count against the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I ask unanimous consent that a half hour of my time on the bill be allocated to Senator HATCH.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair, in my capacity as the Senator from West Virginia, yields 10 minutes under my hour under cloture to the manager of the bill, Senator KENNEDY, and 35 minutes to the majority leader. The Senator from Kansas.

CIVIL RIGHTS ACT OF 1990

Mrs. KASSEBAUM. Mr. President, I have a question or two I would like to ask the Senator from Oklahoma, if I might. This morning when we were debating on the Senate floor in an exchange with the Senator from Arkansas [Mr. BUMPERS], he asked me under one of the provisions in our substitute package, and it is a package, the provision dealing with damages under title VII: "Are you not discriminating against women?" I would like to ask the Senator from Oklahoma with his recommendation, are you not discriminating against women?

Mr. BOREN. Mr. President, I know my colleague from Kansas very well, and I know her commitment to equal rights. I do not think it was her intention under her substitute to discriminate against women. I would not characterize it in that fashion. So I would take the position that neither her proposal nor this proposal for a cap on punitive damages does so.

I think we have to understand this. There is a long history of law dealing with racial discrimination. We have experience, statistical studies that have been made which I have been quoting in terms of actions that have been brought and damages that have been awarded. We are here talking about opening up a new area of law, giving legal remedies to additional categories of discrimination, those who have been subjected to them. I think we have to, and we are using new language, to some degree, even though it tracks old language in some places in terms of standards that must be met.

It is not just a matter of opening up the categories of discrimination and legal remedies, but to some degree, new language is being used, new bur-

dens of proof are being used, new legal procedures are being used.

I think it is prudent to put an overall limitation on the amount that can be awarded in damages under these new kinds of procedures until we have some experience, some test in court to see exactly how the burdens of proof, the standards of evidence, as well as the categories of discrimination are being covered to see what the result really is.

I certainly would not say that discrimination based upon gender, or discrimination based upon religious belief, is by any means less serious or less to be condemned than discrimination based upon race. All of these forms of discrimination are reprehensible, all deserve to be condemned, and the parties who suffer as a result of them all deserve to be made whole and to have some damages awarded to them to deter this kind of behavior in the future.

I do think that the proposal we just made is in honesty a slight improvement because it does allow either an absolute number cap on punitive damages or the amount of compensatory damages awarded, whichever is larger. That would allow for an exceptional case to have higher punitive damages where you do have a situation where very high compensatory damages were found to be in order.

Mrs. KASSEBAUM. I would like to ask the Senator from Oklahoma, can attorneys fees be recovered under punitive damages?

Mr. BOREN. Yes, there would not be any particular change of how attorneys fees would be recovered. I would say this: I think in terms of capping the amount of punitive damages, you make it much less attractive, as I was saying to the Senator from Nebraska a moment ago, for those motivated by simply chasing the dollar, not motivated out of concern to overturn discriminatory practices.

It would make it much less likely to go out and, let us say, actively encourage these cases, solicit these cases, try to stir up these cases purely for economic gain by putting some overall constraint on the amount of punitive damages if they were to have a contingency fee based on a potential recovery of $150,000. That is a lot difference in terms of motivation than a contingency fee on what they hope to be a $5 million recovery, for example.

Mrs. KASSEBAUM. I think perhaps the Senator from Oklahoma addressed this earlier, and I did not hear all the remarks. How is pain and suffering addressed under his proposed amendment?

Mr. BOREN. We have not changed the way in which compensatory damages would be awarded under the existing legislation. That is still a possibility it can be awarded as compensatory under the present form under existing legislation.

Mrs. KASSEBAUM. I appreciate the Senator clarifying that.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

It was not clear to the Chair. It may have been the Senator from Alaska. The Senator from Alaska has been trying to speak for some time.

Mr. HATCH. How long will he take?

Mr. MURKOWSKI. I anticipate 7 minutes, Mr. President.

Mr. HATCH. I would like to be recognized after he is through, if I can.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair and my colleague from Utah.

I think there is a fundamental point here that my colleague should recognize and that is the issue everybody is concerned with in this civil rights legislation, and that is fairness. But obviously fairness means different things to different people.

My colleague from Oklahoma wants fairness, but is he willing to acknowledge that this present bill, as it stands, as far as it addresses the issue of Wards Cove, which is the fundamental issue here, it is going to mandate that the Wards Cove case be retried after 20 years of litigation and six courts that have upheld the position of Wards Cove? Is that fair?

Wards Cove is real people in this country who are being treated unjustly by this legislation, and it is simply uncalled for, Mr. President. Senate bill 2104 would mandate that this firm go back into the courts. Much has been lost in this debate because it has moved up to the legal interpretation of the bill.

I am very amused at my colleagues on the other side. I find it ironic that they are complaining about the inability to offer amendments at this time in the procedural situation. I think we should remind ourselves that they were the ones who voted for cloture and got us into this mess yesterday with the help of some on our side, which is another matter and something I spoke on earlier today.

Mr. President, it is inconceivable to me that this body would proceed with this bill, Senate bill 2104, and the Members, as well as the public, not be aware of just what Wards Cove is all about, how it would be unjustly treated in this bill by mandating that the whole litigation process start again.

I had proposed an amendment to exempt Wards Cove, Mr. President. My amendment would have limited the retroactive application of this bill, Senate bill 2104, to disparate impact cases for which a complaint was filed after March 1975, and for which a decision was rendered after October 30, 1983. Mr. President, to the best of this Senator's knowledge, only one case would have been affected by this amendment. Well, I cannot offer the amendment, can I?

So we have a bill before us and it is moving down and everybody says they want fairness, and everybody generalizes over Wards Cove. But my friend, the manager of the bill who has vacated the floor at this time, will not give the assurance to the Senator from Alaska that Wards Cove is exempt, yet he wants this to be a fair civil rights bill.

Mr. President, the Wards Cove case involves a dispute over the hiring of cannery workers in Alaska by a fish packing company for the 1971 season. That long ago. The 1971 season. That is right, Mr. President, the facts of the Wards Cove case centered on the percentage of nonwhite skilled and unskilled employees hired by Wards Cove Packing Co. In general, Mr. President, the so-called skilled jobs involved office work and unskilled jobs were working in the cannery, putting up the pack.

Anyone who has ever visited a salmon canning plant knows that it is difficult work because the canning process has to be done as soon as possible as the fish fleet comes in, and they have to be packed expeditiously. The work is hard. The cannery workers get paid very well. But, Mr. President, in the 1971 salmon season, Wards Cove Packing Co. hired 24 percent nonwhite skilled employees from a relevant labor market in which 10 percent of the general population was nonwhite.

Just to restate this, the point is the relevant labor market of nonwhites was 10 percent and Wards Cove actually hired 24 percent. With regard to unskilled employees almost 80 percent of Wards Cove employees were nonwhite. The number of nonwhite cannery workers was so high because Wards Cove had an agreement with a local hiring hall that was controlled by minorities, Mr. President, to provide those unskilled workers, and almost all the members of the union, as I stated, were nonwhite.

I do not think the Members of this body are aware of that. They generalize about Wards Cove, the significance of this the case, but not one of them has acknowledged that the union hall they were hiring from was minority controlled.

The district court judge who heard this case took one look at the percentage of white-to-nonwhite employees involved and determined that under the Griggs test there was no disparate impact and thus no unemployment discrimination. The first time the judge looked at it he said no discrimination exists.

This point is important because this Senator is not in any way trying to in-

fluence a court case on the merits. The fact is that Wards Cove has been tried on the facts and found innocent. There is no provision to exempt Wards Cove, yet we generalize that this is justice, this is fairness, this is civil rights. But nobody is saying let us exempt Wards Cove. Why not, Mr. President?

The Senator from Alaska has been eliminated from the opportunity to offer this narrow amendment. And if we are talking about justice and equity, I would ask my colleagues why?

Well, it is the process, Mr. President, and I guess that is just what we are going to have to be satisfied with. But this Senator is not satisfied.

The reason this amendment that I have proposed is necessary is because under section 15 of Senate bill 2104, the new standard established would apply retroactively. What is the justification for that? Why should this apply retroactively?

Mr. President, this Senator is not a lawyer. I do not want to lecture my colleagues on retroactivity, as to constitutionality. Some leading scholars argue forcefully that retroactivity violates the Constitution's separation of powers and due process clause of the fifth amendment. This Senator does know what is fair though, and retroactivity in the application of this case is unfair. Retroactivity is like telling the Broncos and the 49'ers they have to replay last year's Super Bowl because Congress decides it does not like the way the referee conducted the coin toss. It might be a good idea for the Broncos, but it is not fair to the 49'ers.

Mr. President, this Senator would like to see the entire retroactivity provision excluded from this legislation. That is not what this amendment does though. My amendment, if I could offer it, would be drafted to exclude the one company that the court has excluded. This company has been found innocent of employment discrimination by the courts, yet it is being included in this bill.

The Wards Cove case, as I indicated, began a generation ago, in 1971, under the standards of law that existed at that time. It is fundamentally unfair, unjust, to make Wards Cove relitigate its case and to make Wards Cove 1971 employment practices be subject to standards which did not exist until now.

Compounding this inequity, Mr. President, the retroactivity application of the committee bill makes Wards Cove subject to the bill's provision on compensatory and punitive damages, attorney's fees, and the statute of limitations. None of these existed in 1971 when the Wards Cove case began. Since 1971, Wards Cove has successfully defended itself in front of the Equal Employment Opportunity Commission, the Federal district court three times, the ninth circuit court of appeals four times, and the U.S. Supreme Court on one occasion. Wards Cove Packing Co. has spent 20 years and $2 million in legal fees defending itself. In six separate reported decisions no court has ever held that this company is guilty of discriminatory hiring practices.

In the 1971 salmon season, the plaintiff argued that Wards Cove had committed discriminatory hiring practices in obtaining cannery workers. Two years later, in June, there was an original complaint filed with the Equal Employment Opportunity Commission. In March 1974, the original lawsuit was filed in the Federal District Court. In 1979, the district court dismissed the lawsuit based on the statute of limitations.

In March 1982, the ninth circuit panel reversed the district court and reinstated the lawsuit.

On November 4, 1983, the district court decided in favor of Wards Cove—that there was no discrimination.

On August 16, 1985, the ninth circuit panel affirmed the district court decision.

On February 23, 1987, the ninth circuit, the entire court, remanded the case for a decision based on the new ninth circuit test.

On September 2, 1987, the ninth circuit panel vacated the original district court decision and remanded the case back to the district court for a decision based on the new ninth circuit test.

On June 5, 1989, the Supreme Court reversed the ninth circuit decison and remanded the case back to the district court for decision based on the new Supreme Court test. And here we are, in July 1990, and Congress again wants to establish new rules so that Wards Cove can go back and litigate.

I do not know, but it looks like a full employment act for attorneys to this Senator.

The first time the Federal court judge judged Wards Cove on standards outlined by the Supreme Court in 1971 in the case of Griggs versus Duke Power, the district court found Wards Cove innocent under the Griggs test. The ninth circuit panel found Wards Cove innocent under the Griggs test. The full ninth circuit decided that Wards Cove should be subject to stricter standards than Griggs.

The Supreme Court decided that Wards Cove should be judged under looser standards than the ninth circuit and looser than Griggs.

The committee bill said it would judge everyone under Griggs but the actual language is much stricter than Griggs. I think we would all agree on that. The Kassebaum substitute, of course, would judge everyone under actual Griggs tests. Wards Cove has clearly already been judged under Griggs and found innocent. But now we are proposing in this legislation to have the retroactive application in effect to apply to Wards Cove.

Mr. President, I fail to understand the logic behind those who would not be willing to exempt Wards Cove in a matter of simple justice. I would appeal to my friend and colleague, the Senator from Massachusetts, the floor manager of the bill, to address specifically justice as it applies to the Wards Cove because I think there is grounds for justice.

Wards Cove has been tried under the Griggs standard and found innocent. Senate bill 2104 does not adopt Griggs standard. So Wards Cove will have to relitigate a case under a new standard. Wards Cove will be subject to almost a litigation lottery. Under S. 2104 Wards Cove would now be subject to compensatory and punitive damages, attorneys' fees, and potentially a new statute of limitations.

Mr. President, I cannot do anything more than appeal to my colleagues on the merits of the narrow application of the Wards Cove case and the justification for equity.

If my friend from Massachusetts can shed any light to justify why Wards Cove should be included in S. 2104, I would be deeply grateful.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah, under the previous order is recognized.

Mr. HATCH. I am happy to yield without losing my right to the floor to the distinguished Senator from Florida for a unanimous-consent request and then to the distinguished Senator from Massachusetts for 2 minutes.

Mr. GRAHAM. Mr. President, I ask unanimous consent to yield 45 minutes of the 1 hour which I have pursuant to the cloture petition to the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Thank you, Mr. President.

Mr. KENNEDY. Mr. President, I have a very limited period of time, but I want to point out in the Wards Cove we are talking probably about seasonal workers, about some of the poorest seasonal workers. We are talking about Eskimo and Native Alaskans, Samoans, Chinese, Filipino, Japanese ancestry, complaining that minorities have been systematically limited to the less desirable lower-paying cannery jobs, blocked from better paying jobs and opportunity.

You read this case. You find out in the background, these are the poorest of the poor. They had the allegations and judgments. They talked about separate hiring. They talked about the workers housed and fed separately. The cannery workers housing and dining facilities were in many cases re-

ferred to in ethnic terms such as "Oriental bunkhouse," "Filipino mess."

Perhaps I will get into more detail later on. All the upper jobs are 94 percent white, and in the other part the cannery, the poorest paying jobs, are 70 percent Alaskan Native, Filipino, Chinese, and other ethnic groups—the various channels, the nonchannels, how it resulted.

I mean you read through that. You might have needed a lot of convincing about the facts, about what was going on. Maybe others draw different conclusions, Mr. President. But I would think in terms of a system of justice. On the issue of discrimination they ought to at least have been given their day in court.

An interesting fact is in every single civil rights bill that has overturned case law; it has been applied back to the time that the case was decided. But evidently the Senator from Alaska does not choose to have this one done that way.

I cannot accept that, particularly in the time that is given. Mr. President, and I think if there is any case, any time that there is a justification, it is for these workers.

Mr. MURKOWSKI addressed the Chair.

Mr. HATCH. I ask unanimous consent that I, without losing any right to the floor, may yield——

Mr. KENNEDY. Mr. President, I am glad to enter into a dialog with the Senator from Alaska. but he challenged, and asked me point blank what was the justification. I took 2 minutes to do it. If we want to have a debate on it, fine. I am going to object. We will have a chance to debate this later on.

Mr. HATCH. With that understanding, I ask unanimous consent that I be permitted, without losing my right to the floor, to yield 2 minutes to the distinguished Senator from Missouri, who would like to make an announcement.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri. The Chair announces also 6 minutes remain in morning business.

Mr. DANFORTH. Mr. President, for a period of many days and many, many hours, long hours within each day, negotiations have been going on with respect to trying to work out the language on the definition of business necessity.

This is the most difficult, most contentious part of the entire bill. Last night there was a meeting that lasted until midnight. In fact, it was in Senator MITCHELL's office, with Governor Sununu present. There was a lot of give and take, involving Senator KENNEDY, Senator HATCH, Senator JEFFORDS, and myself.

This morning, after those talks apparently were not doing very well, the President asked Senator JEFFORDS, Senator SPECTER, and me, together with Senator DOLE, to the White House, and the President urged us to try our best to work out some sort of an agreement. He urged us to act as mediators in that effort.

The White House also agreed at that time to a proposal to make which we in turn presented to Senator KENNEDY, in fact urged it on Senator KENNEDY, believing that this proposal was a fair compromise, and was in the best interests of passing the bill. We have been back and forth with various language possibilities since that time.

I regret to tell the Senate that in the judgment of this Senator, there is no possibility of working out the business necessity language.

I think that we have tried virtually every combination of words imaginable. In my judgment, there is no way to work it out other than submitting it to a vote on the floor of the Senate.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DANFORTH. I ask for another 20 seconds.

Mr. HATCH. I yield another 20 seconds under the same unanimous consent.

Mr. DANFORTH. In my opinion there is no way to work it out through negotiations other than submitting it to a vote, which of course is not possible under cloture. Therefore, it is clear to me that we are now proceeding on a road to a certain veto. I regret that is the way the Senate is proceeding.

This is a bill which has great promise, and can do a lot of good for a lot of people. It is going nowhere. I think it is the intent of the Senate to send it nowhere.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 7:30 p.m., and that the time be counted against the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from Alaska. I ask unanimous consent that I do so without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, the Senator from Massachusetts, with all due respect, does not know what he is talking about with regard to Wards Cove and the practical realities associated with employment there. I was raised in Ketchikan. I know where Wards Cove is. I know the function.

To suggest there is something wrong with the Filipino bunkhouse, that somehow that is anticivil rights, is poppycock. Filipino workers, who come up under contract with their union, stay in the bunkhouse, or dormitory, and it is called a Filipino bunkhouse.

What my friend from Massachusetts did not listen to was the facts—I will restate them again. I hope he is listening this time—the relevant labor market for nonwhites was 10 percent and Wards Cove was actually hiring 24 percent. That is in the area of Ketchikan, AK, during those summer months.

With regard to unskilled workers, almost 80 percent of Wards Cove employees were nonwhite. The number of nonwhite cannery workers was so high because Wards Cove had an agreement with a local union hiring hall to provide unskilled workers. Those union halls are controlled by minorities. There is nothing wrong with that. It is just a reality. Most of the members of the union were nonwhite.

When I hear my friend from Massachusetts talk about Griggs, and then talk about this case, I would remind him that the court has upheld six times Wards Cove Packing Co. under the Griggs interpretation. Yet, he says he wants that in his language.

Well, Mr. President, the reality is that you have a situation here where you have the headquarters located 600 to 700 miles from the cannery in Seattle, WA. Surely, you are not going to have the same minority representation in a Seattle head office, but it is the circumstances that nobody in this body cares to address.

In Ketchikan, AK, in the summer, you have a high percentage of minorities.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. MURKOWSKI. Mr. President, I think I have made the point that oftentimes our colleagues generalize about things in a locale that one Senator has a particular knowledge about, and that is indeed unfortunate. I think the facts of the courts speak for themselves, and I would appeal, as this body goes about adopting legislation to provide civil rights and fairness, to everybody that we should not deny that very fairness to people who have already proven themselves innocent, not once, Mr. President, but six times. How much is enough?

Mr. HATCH. Mr. President, I have sat here this afternoon and have

watched what is going on, and I agree with the distinguished Senator from Alaska, how ironic it is that some Members of the majority who voted for cloture are now expressing frustration at their inability to offer amendments.

We warned the Senate that if cloture was invoked, Members would lose their right to offer amendments. That is the history of cloture. I am sorry about that. We are just as upset as they are. It is a little too late for them to express this frustration. They had a chance to not have to do it that way.

During my entire time in Senate, I have rarely witnessed such discomfort among my colleagues as was expressed publicly and privately yesterday. It became clear, after the passions had cooled, that the Senator from Missouri had perhaps stated the current legislative reality most succinctly, when he noted that the majority had the power and votes to pass legislation, but they do not have the power to enact laws.

As a result, the majority had two options: To work with those of us in the minority to fashion a workable compromise that everybody here can support, including the administration; second, to engage in what can be called little more than procedural mugging. That they chose the latter was not just unfortunate, but ultimately it may scuttle the very legislation they so desperately seek.

It was also clear yesterday that no one in this body relishes being asked to vote against a bill bearing the label "civil rights." No one wants to be branded, no matter how incorrectly, with all the baggage that comes with a "no" vote on a measure that some claim is antidiscrimination.

Perhaps it is time for us to admit that just because a bill bears the civil rights label does not mean that it is worthy of passage. Just because the proponents claim that their bill helps minorities does not mean that this bill will actually do so. Just because the proponents assert that their bill will fight discrimination does not mean it will not cause a brandnew type of discrimination. This bill does.

The time-honored test on civil rights legislation should always be: Does it help us to ensure that every American, regardless of race, ethnicity, sex, or disability, will be treated the same? When measured against that standard, Mr. President, the various versions of S. 2104 fail.

Mr. President, perhaps I have served too long on the Committee on Labor and Human Resources, so my expectations have been greatly lowered. I have watched year after year, Congress after Congress, as this committee has on occasion rushed to the floor with some tortured, inexplicable major legislative product, which we as a body are then supposed to completely redo in a frenzy of substitutes or amendments, or amendments and substitutes.

As hardened as I have grown to the absurdity of that process, I have to admit that this shell game associated with S. 2104 was still a surprise to me. Every day, with the rising of the Sun, comes a brandnew substitute for S. 2104.

When the bill was introduced, we started with Kennedy version No. 1. As a result of the committee process, we were given Kennedy version No. 2. Before floor action was commenced, we were told to expect a brandnew Kennedy-Danforth substitute. That is No. 3. But this substitute was discarded before it was even offered, so that the chairman of the committee could introduce Kennedy-Jeffords 1. That is No. 4.

After a day of discussion on the Hill, we were told that this model had been scrapped for Kennedy-Jeffords No. 2. That is No. 5. Five complete bills here. I venture to say there are not two or three people on this floor who have any idea what really happens to be in these particular bills.

One is forced to wonder if the majority has a small staff locked in some room off some hidden corridor of the Senate complex, who are madly churning out substitute after substitute. Maybe some of my colleagues voted for cloture because they hoped that by doing so, we would be able finally to pin down the actual version of S. 2104 that the majority expects us to vote on. They are in for a great surprise, or should I say great disappointment, because the amendments which have been filed indicate that we will see a brand new bill, even after cloture. That is No. 6.

I have not had this experience, as bad as my experiences on the Labor and Human Resources Committee have been through the years; I have not had anything approaching this experience the whole time I have been in the U.S. Senate. I am now in my third term.

What makes this process particularly perplexing is that all of the furious substituting has been among the cosponsors of the bill. One can only wonder about the frantic debate among the proponents, as they struggle against themselves, anguishing over each proposition, agonizing over each punctuation mark. It quickly becomes obvious why there has been no actual progress on this bill. The sponsors and their own lobbyists cannot themselves agree on the language.

Mr. President, I have not been privy to all of the negotiations that occurred on this bill. Various accusations and assertions were made yesterday about good faith and broken promises. Only the participants know what really happened in the past, but I do know what happened last night, because I did not leave this august building until after midnight last night.

Mr. President, I cannot imagine what more a President's Chief of Staff could do; I have never seen a Chief of Staff of any administration so willing to sit down day after day, night after night, hour after hour, to negotiate a single bill.

He was home having dinner when we called him and said come on down; let us try one more time. He jumped in his car and came down. Boyden Gray, the White House counsel, jumped in his car and came down. The Chief of Staff offered, last night, a variety of compromises which exceeded what some of us in this body would ever countenance, but his proposals were still rejected.

Mr. Sununu understands the issues, he understands their importance. The fact that agreement was not reached cannot be blamed on the lack of good faith on the part of the White House. The members of the administration have gone more than the extra mile to accommodate the proponents of this bill. But in the opinion of this Senator, there has not been a comparable movement on the other side.

Mr. President, despite the handful of amendments that we have been allowd to offer, there are still some serious problems with this legislation. As is so often the case with bills on which we do not have a chance for more than a cursory review, it is difficult to fathom all of the reasons or the need for all of the detailed provisions in the legislation.

What is abundantly clear is that the latest version of S. 2104 still seeks to turn title VII of the Civil Rights Act of 1964 on its head, but still overturns the major court decisions which have interpreted that statute and still rejects the goal of equality of opportunity in favor of equality of result.

(Mr. BRYAN assumed the chair.)

Mr. HATCH. First, let us look at the issue of quotas, which the Senator from Massachusetts claims he has finally resolved. Unfortunately, the latest version of S. 2104, which I believe is embodied in amendment No. 2275, does not solve the quota problem, but in fact makes it worse.

Now some claim that all we need to do is to put language in the bill that states that the legislation does not require quotas: but this accomplishes nothing.

No one on this side has ever asserted that the bill contains specific language demanding quotas. The authors of this bill are far too sophisticated for that. The way we encounter quotas under S. 2104 is not through actual language specifically calling for quotas. Instead it is through the provisions in the bill that eliminate the traditional defenses currently available to employers charged with discrimination.

S. 2104 drastically rewrites the rules concerning disparate impact cases, leaving an employer with no real alternative but to do all it can to avoid being sued in the first place. And, the only way to avoid being sued is to guarantee that each job in one's work force is a perfect, numerical match of the general work force. And, the only way to accomplish this requirement is to use hiring and promotion quotas.

Mr. President, the Senator from Massachusetts said there is no substantial evidence that quotas were used after Griggs. Even if this were accurate, and it is not, it is completely irrelevant. The bill does not restore Griggs. It dramatically overturns that very important decision which has been in existence for almost 19 years. It dramatically overturns that decision, and, in so doing, it will result in the adoption of quotas by employers wishing to avoid costly litigation that they cannot win.

Title VII of the 1964 Civil Rights Act already bans international discrimination, as, for example, when an employer simply decides not to hire any minorities for a job. Title VII also already bans neutral devices that screen out a higher proportion of a protected group than other groups when the devices are not job related. This is the disparate impact standard set forth by the Supreme Court in *Griggs* versus *Duke Power* (1971). S. 2104 completely rewrites the principles of that decision in the guise of restoring it.

Under current law, dating back to 1971, this is what is illegal under title VII's disparate impact theory: a neutral device—or devices—which causes a disproportionate impact on a particular racial, ethnic, or gender group and is not job related. Accordingly, it is no surprise that the burden or persuasion is on the plaintiff to prove the existence of each of these elements of wrongdoing—just as the burden is on the plaintiff to establish each element of a tort or contract claim, and that is American jurisprudence. In fact that is mainly the world's jurisprudence.

Current Supreme Court case law, such as *New York Transit Authority* v. *Beazer*, 440 U.S. 568 (1979), and *Wards Cove Packing Co.* v. *Atonio* 109 S.Ct. 2115 (1989), however, facilitates the plaintiff's ability in a disparate impact case to meet his or her burden of proving that illegal discrimination occurred. The plaintiff need not prove all of these elements in the initial presentation to the Court. At the outset, the plaintiff merely has to identify the specific employment practice—or practices—he or she is complaining about and show that it causes a disparate impact on his or her group. This constitutes the plaintiff's prima facie case. At that point in the case, the employer must come forward with a credible explanation of "business necessity," justifying the use of the employment practice—or practices—in question. In the words of Griggs, "business necessity" means that employment practices should be "related to job performance" and that "any given requirement must have a manifest relationship to the employment in question." 401 U.S. at 431, 432. This is a burden of production of evidence, of articulating legitimate reasons for an employment practice.

Once the employer meets this burden, the case has now been sufficiently focused so that the plaintiff is then put to his or her ultimate burden of persuasion—of proving that the employer's explanation is unpersuasive, and therefore, that the employer is guilty of discrimination. The Supreme Court made this clear in 1979, in the Beazer case. Thus, the plaintiff never has to disprove all possible justifications for an employer's practice; the plaintiff's task is simplified by forcing the employer to explain the basis for its practice. It is then—and only then—that the plaintiff must prove that the practice is not job-related and thus discriminatory. This is fully consistent with the manner in which garden-variety title VII intent cases are tried. Moreover, from the outset of the case, the plaintiff has the full opportunity for discovery as to the employer's explanations and the evidence in support of those explanations.

For example, if a plaintiff shows that a fire department's employment test disproportionately denies members of a particular group a job opportunity, it is then up to the employer to articulate a justification for the test. The employer might argue that it relies on a 20-year-old study by an industrial psychologist which concluded that the test will yield qualified firefighters. The plaintiff now is on notice as to the justification for the test.

The plaintiff can then attack the study's methodology, and can introduce other evidence that the study is faulty or that other tests do an equal or better job of selecting firefighters and with less impact on the group. The plaintiff need not rebut every possible justification for the test, only that which is proffered by the employer. The plaintiff, in short, must prove there is discrimination. There is nothing new or unusual about this.

S. 2104 drastically rewrites the manner in which disparate impact cases are brought under title VII in three crucial ways. In so doing, it overturns Supreme Court decisions in Griggs versus Duke Power Co. (1971), New York Transit Authority versus Beazer (1979), Wards Cove Packing Co. versus Atonio (1989), and others. I stress that the rewriting of the definition of "business necessity" is only one of at least three components that make S. 2104 a quota bill.

First, under S. 2104, a plaintiff need not identify the specific employer practice or practices allegedly causing the disparate impact—the imbalance. Instead, a plaintiff need merely point to an imbalance in a job and allege that all of the employer's hiring—or promotion—practices cause the imbalance.

Second, at this point, S. 2104 does not shift to the employer a burden of producing evidence explaining its employment practices, with the plaintiff retaining the ultimate burden of persuasion to prove that the employer committed discrimination. Instead, S. 2104 shifts the burden of persuasion to the employer to prove that it did not commit discrimination with respect to each of its employment practices. This requires the employer to prove its innocence and is contrary to Supreme Court precedent and American jurisprudence. This shift in the burden of persuasion to the employer occurs even though the plaintiff has not shown, and the employer may not know, the cause of the imbalance. It is impossible for an employer to defend itself without incurring tremendous litigation costs.

These seemingly technical changes are highly significant: They make racial, ethnic, and gender imbalance alone illegal. By so doing, title VII becomes a statute whose mandate is not equal opportunity for individuals but equal outcomes for groups. This reverses 25 years of title VII policy. The plaintiff wins by merely showing that the number of employees in a job do not parallel the racial, ethnic, or gender breakdown of the labor force, even if there are many legitimate explanations for the difference. For example, a business with fewer minorities in a particular job may be located in a neighborhood distant from minority neighborhoods and poorly served by public transit. Under this bill, such an explanation is no defense. The easiest way to avoid a lawsuit and its great costs will be to hire and promote by quota.

Thus, even before we come to S. 2104's rewriting of the definition of "business necessity," S. 2104 is a quota bill. And I do not see how anyone can argue against that.

Third, to even put more nails in the coffin, S. 2104 and its various substitutes redefine the term business necessity, which is the basis of the employer's justification. What is particularly intriguing, Mr. President, is that the majority has now repeatedly tried to restore the language of the Griggs decision concerning business necessity and has muffed it every time. Let us take a look at the convoluted process that resulted in the language before us today. We started with the Kennedy definition, which defined business necessity to mean "essential to effective

job performance." This definition cannot be found in Griggs, the standard to which Senator KENNEDY subscribed. Instead, it is significantly different from the Griggs standard that the practice in question must bear "a manifest relationship to the employment in question." The proponents claim the "essential standard" merely codifies the Griggs decision, but a comparison of the two phrases makes it clear that the definition of business necessity in S. 2104 is much tougher than the definition actually found in Griggs.

The Kennedy standard was replaced with the so-called Danforth-Kennedy compromise. Under this compromise, business necessity means that the challenged practice or group of practices must bear "a substantial and demonstrable relationship to effective job performance." We were told with no little fanfare that this new language resolved completely the question of whether the bill would inadvertently result in quotas, and again, that this new language codified Griggs. But, once more, this new language does not come from Griggs. Indeed, when Senator KENNEDY introduced this language on July 10, he acknowledged that the word "substantial" does not come from Griggs, but from some lower court cases. But we are told that the proponents want to restore Griggs. Moreover, the word "demonstrable" is plucked completely out of context from Griggs and used in the Kennedy-Danforth definition in a manner different from its use in Griggs. This was a brand new definition.

This second standard is just as onerous as the first. According to Frank J. Landy, president of the Society of Industrial and Organizational Psychology, "the term 'substantial' is considerably more demanding than the prevailing standard." Ronald C. Pilenzo, president of the Society for Human Resource Management, said that this new definition "exceeds rather than restores Griggs."

But the Danforth-Kennedy fix had a relatively short shelf-life. When S. 2104 was introduced on the floor, the proponents made a third attempt at defining the Griggs standard without using the actual language from the decision. This definition retained the Danforth-Kennedy language but added an entirely new subsection. Here, employment practices related to selection—hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization—are subject to the Danforth-Kennedy rule. Employment practices not related to selection must bear "a substantial and demonstrable relationship to a compelling objective of the respondent."

Did this new language come from Griggs? No. One can only assume that the new second part is targeting employment practices such as those regarding health and safety. Has the Supreme Court addressed applying the Griggs standard to health and safety issues? The answer is yes. In 1979, in *New York Transit Authority* versus *Beazer,* the Supreme Court said that if an employer's "legitimate employment goals of safety and efficiency * * * are significantly served by—even if they do not require—the employer's rule" that rule survives under the disparate impact theory. Let me say it again: The phrase is "legitimate employment goals of safety and efficiency," not "compelling objective." The term is "significantly serve," not "substantial and demonstrable relationship."

Mr. President, the proponents have repeatedly promised us that all they want to do is restore the Griggs decision, yet they consistently avoid ever using the language from the decision. Instead of creating a brand new standard which will be litigated for years, why not just use the actual language from the Supreme Court's decision. The answer, Mr. President, is that despite the assurance of the proponents, Wards Cove did not overturn the Griggs decision. It is consistent with Griggs. It is only S. 2104 which overturns Griggs.

But Mr. President, the scriveners of S. 2104 have not sat idle these last few hours. The latest version of S. 2104 contains yet a fresh new definition of business necessity, which once again is purported to codify Griggs. In amendment 2275, the standard is changed to "the practice or group of practices must bear a significant relationship to successful job performance."

We should give credit where credit is due. The proponents obviously found the Griggs decision, because for the first time they use language from the decision. But, it is the wrong language. This language is from the question certified to the court. It is not the court's decision, but a question certified to the court. To the best of my knowledge, the particular language in the amendment does not appear in any other Supreme Court decision. It has been adopted by no one. It is a joke.

The Griggs test is "manifest relationship to the employment in question." This is in the definition cited in the Supreme Court's decisions in Beazer, Dothard, Teal, and Albermarle, the four most important cases in this. Why not use the actual language?

The proponents assert that every time they offer a definition of business necessity that it codifies Griggs, but all four are different. All four cannot be correct. Then they assert that the "manifest standard" is so close to theirs, so why not accept their language? The answer is that if nothing else, the flurry of definitions proves the point that if you do not use the actual language of Griggs, you create a new standard. To resolve this issue, all the proponents need to do is use the language of Griggs. But the proponents have repeatedly refused this simple, accurate solution. One has to be suspicious when the proponents try to define Griggs four different times and every time miss the mark. One has to assume there must be some overriding reason for avoiding the actual language of Griggs.

Mr. President, these are important remarks because they are meant to be definitive remarks explaining why this situation we are in is not a fair situation and why it is not going to resolve this problem and why the administration cannot take this bill.

Given the way S. 2140 and its substitutes allow blanket challenges to employer practices, switch the burden of persuasion, and eliminate the traditional defenses available to an employer in a Title VII suit, there is only one effective means for avoiding liability. Never be sued in the first place. And, how does one avoid being sued? By hiring and promoting persons on the basis of race, sex, and national origin so that one's work force exactly matches the outside labor force. Remember, under the revised disparate impact standard, the bottom line is a statistical disparity. If one eliminates that disparity, then one cannot be sued. By utilizing employment practices which produce equal numerical results, better known as quotas, an employer can avoid liability. That is the long and short of it.

The most recent substitute allegedly resolves some of the problems surrounding the issue of causation, that is identifying the employment practice that causes the statistical disparity. The substitute says that if a plaintiff can identify the specific practice causing the imbalance, through discovery or otherwise, it must do so. But if the plaintiff cannot do so, it can still challenge all of the employer's practices. This is an exception which swallows the rule. In fact, it not only fails to resolve the quota dilemma but also permits suits, such as a claim involving comparable worth, which are not actionable today.

The proponents assert that if a plaintiff cannot identify through discovery and other means the practice causing the disparate impact, then why should he or she not be able to simply challenge a group or all of the practices and make the employer provide the justification. The argument fails to address one practical point. If the plaintiff cannot identify the practice which causes the disparity through a discovery process which makes available every employer document and policy, then how can we expect the employer or anyone else to

determine what causes the disparity? It is unfair.

Moreover, in 1971, and ever since, the disparate impact theory has been formulated by the Supreme Court to address specific, identifiable neutral devices causing disparate impact and which are not related to the employment in question. The disparate impact theory is not intended for use as a broad-gauged attack against an employer's practices. Congress made clear in section 703(j) of title VII that a mere imbalance in a job is not illegal. This bill, even with this substitute language, effectively overturns this 25-year-old title VII policy.

As Justice O'Connor said in Watson:

It is completely unrealistic to assume that unlawful discrimination is the sole cause of people failing to gravitate to jobs and employers in accord with the laws of chance. * * * It would be equally unrealistic to suppose that employers can eliminate, or discover and explain, the myriad of innocent causes that may lead to statistical imbalances in the composition of their work forces. Congress has specifically provided that employers are not required to avoid "disparate impact"as such—

Citing section 703(j), as I just did.

As Justice White said in Wards Cove:

Just as an employer cannot escape liability under title VII by demonstrating that, "at the bottom line," his work force is racially balanced (where particular hiring practices may operate to deprive minorities of employment opportunities) a title VII plaintiff does not make out a case of disparate impact simply by showing that, at the bottom line, there is racial imbalance in the work force. As a general matter, a plaintiff must demonstrate that it is the application of a specific or particular employment practice that has created the disparate impact under attack. Such a showing is an integral part of the plaintiff's prima facie case in a disparate-impact suit under title VII.

Both Justices O'Connor and White warned that a contrary rule invites employers to utilize quotas to avoid a lawsuit.

If a plaintiff cannot identify the practice or practices causing disparate impact in a job, even with the records the EEOC requires employers to maintain, and with the help of discovery, then he or she has available the intentional discrimination theory of liability under title VII.

Let me just mention one of the many consequences of allowing a plaintiff to challenge all of an employer's practices without identifying which ones cause the disparate impact: There will be an explosion of comparable worth lawsuits. This theory, thoroughly discredited as a title VII theory in the 1980's, will be a winner if this bill passes because the bill allows plaintiffs to allege that an employer's entire set of compensation practices causes disparate impact between two different groups in two different jobs. It will, of course, be impossible for the employer to trace the specific practices causing the pay disparity.

The employer would then be forced to defend every element of its pay-setting practices, with reliance on the marketplace unavailable as an explanation.

Here is what then-Judge Kennedy said in the well-known AFSCME versus State of Washington decision:

AFSCME's disparate impact argument is based on the contention that the State of Washington's practice of taking prevailing market rates into account in setting wages has an adverse impact on women, who, historically, have received lower wages than men in the labor market. Disparate impact analysis is confined to cases that challenge a specific, clearly delineated employment practice applied at a single point in the job selection process. * * * The instant case does not involve an employment practice that yields to disparate impact analysis. As we noted in an earlier case, the decision to base compensation on the competitive market, rather than on a theory of comparable worth, involves the assessment of a number of complex factors not easily ascertainable, an assessment too multifaceted to be appropriate for disparate impact analysis. Spaulding, 740 F.2d at 708. In the case before us, the compensation system in question resulted from surveys, agency hearings, administrative recommendations, budget proposals, executive actions, and legislative enactments. A compensation system that is responsive to supply and demand and other market forces is not the type of specific, clearly delineated employment policy contemplated by Dothard and Griggs; such a compensation system, the result of a complex of market forces, does not constitute a single practice that suffices to support a claim under disparate impact theory.

AFSCME v. *State of Washington,* 770 F2d at 1405-06.

Mr. President, if we accept the language of this bill, then we overturn this case on comparable worth. Language that says that if a plaintiff cannot identify the practices causing imbalance then the plaintiff can make a blanket disparate impact challenge against all of an employer's practices creates a huge loophole. It makes mere imbalance in a job alone illegal. In a claim of pay discrimination no one, as then—Judge Kennedy indicated, will be able to identify the specific practices responsible for a particular pay level—that is one of the geniuses of the free market. Under this bill, a plaintiff can indict the free enterprise system and overturn it in the setting of wages.

We are grabbing practices in this bill that the East European countries are trying to throw off their backs so they can be free. We are trying to adopt failed practices that have wrecked their countries. We would be the laughing stock of the world if we adopt this kind of a bill and we do it under the guise of civil rights.

S. 2104 also places in serious jeopardy a wide variety of employment standards which the courts have found to be lawful.

Suppose an employer requires extensive prior flight experience for airline pilot positions. Such a requirement has been upheld by lower courts under Griggs versus Duke Power well before the Wards Cove decision. Under S. 2104, however, it will likely be struck down. For example, in the face of a lawsuit by a plaintiff with 200 hours of flight experience, an airline must prove that a requirement of 500 hours prior flight time is significantly related to successful performance of the job. The court will not be concerned with what standard yields the most qualified employee or is more likely to guarantee the safety of fellow employees and customers. The standard court will look to see what criteria yields a minimally qualified employee, in this case an airline pilot. Further, once an employer uses a particular standard, say, 500 hours of flight experience, it will be extremely difficult for an employer to justify raising its standards to require greater competence or safety, such as 1,000 hours of prior flight experience.

S. 2104's new formulations effectively eliminate an employer's ability to use traditional job standards, such as experience requirements, personnel reports, interviews, and supervisory evaluations. How can they meet a requirement that they bear a "significant relationship to successful performance of the job?" The significant language is a new standard.

MARTIN VERSUS WILKS

The latest version of the bill also has many other flaws. For example, it continues in section 6 to deny some Americans their equal opportunity to a day in court to assert the most fundamental rights of all: the right to equal protection of the laws and the right to be free from invidious discrimination. It insulates reverse discrimination embodied in a consent decree from effective challenge by a person never a party to the lawsuit in which the consent decree is entered.

The substitute now explicitly says a practice is not subject to challenge only if it is within the scope of a litigated or consent judgment or order. That adds nothing to the previous bill.

The requirement that a person have "actual notice from any source" about a proposed consent decree also adds absolutely nothing to the bill. The earlier bill said that a person could receive "notice from any source" and be precluded from suing once a consent decree operates to harm him or her; adding the word "actual," in fact, is no change. Under the original bill, an employee could learn of a proposed consent decree and its provisions in the newspaper, or even from a neighbor over the backyard fence. That satisfied the bill's requirements. It also satisfies the requirements of this substitute.

The substitute's new language that the notice must also include the opportunity to be heard also adds absolutely nothing to the earlier two versions of this bill. The earlier bill already said that a person had to have a reasonable opportunity to be heard, and, obviously, this presupposes notice.

Under the substitute, a person is still denied the right to a day in court after he or she is harmed by a consent decree in a case to which he or she was not a party.

Ironically, in so doing, it contains several double standards. For example, the bill preserves current case law which protects the right of some Americans to challenge consent decrees, but not others. Suppose the EEOC or the Department of Justice sues an employer on behalf of minorities, asserting the employer discriminated against them in promotions. Assume further that the employer and the Federal Government propose a consent decree which only provides promotions and backpay for some of the minority employees. After the consent decree is entered, in this example, a minority employee who did not get such relief is free to sue the employer in an independent lawsuit to seek it, notwithstanding the consent decree settling the case. But, by overturning Martin versus Wilks, S. 2104 would effectively bar a nonminority employee harmed by this consent decree from ever suing to protect his or her rights when the harm occurs. Sure, that is finality—but only in one direction.

PRICE WATERHOUSE

Historically, our legal system has been premised on the notion that those who commit wrongs must recompense the injured parties for injuries caused by those wrongs. The Civil Rights Act of 1990 takes a far different approach. It provides that where an employment action is taken for both discriminatory as well as legitimate motives, the employer should be liable for damages, even if the action would have been taken without the discriminatory motive.

The committee bill speaks in terms of motivating factors. If race or sex were a motivating factor in the employment decision, then the employer would be liable for damages even if the same action would have been taken absent a motivating factor. In the proponents' explanatory statement, they correctly point out that some have "argued that the provision in the committee bill responding to the Price Waterhouse decision punished discriminatory thoughts." To remove any doubt on the matter, the Kennedy-Jeffords substitute lowers the standard even further. Instead of requiring the factor to be a motivating factor, this latest draft proposes that a contributing factor should be sufficient to trigger punitive compensatory damages.

A much more sensible solution, and one that would prevent unnecessary cases from further clogging already crowded courts, would be to leave intact the Price Waterhouse decision, written by Justice Brennan. Otherwise, we will be doing what Senator Case warned us against when title VII was originally enacted, writing a "thought control bill" that punishes people on the basis of what they think, even if what they do is completely legal.

Mr. President, there are some additional problems with the substitute that we have not yet discussed.

First, the chairman announced that the new substitute changes section 9 of the bill, which overturns the Supreme Court's decision in Evans versus Jeff D. In Jeff D., the Court reaffirmed the right of parties to resolve all aspects of a dispute including the right to attorney fees. In other words, if the parties to a suit agree to a settlement at some point during the litigation, the settlement agreement can cover attorney fees.

Under S. 2104, the bill required that any title VII settlement presented to a court must be accompanied by a certification from the parties and their attorneys that a waiver of attorney fees by the plaintiff was not compelled as a condition of settlement. As I understand it, this provision was included to guarantee that plaintiffs and their attorneys could not be coerced into signing settlements that did not provide adequate compensation for the plaintiff's attorney. Apparently, there is a concern that attorneys who cannot get their share of the settlement from a client will be reluctant to sue employers in the future. Again, it is interesting to see just who is the key group S. 2104 is attempting to protect.

The problem with this provision is that it has nothing to do with the real world. Title VII provides for attorney fees, so the typical settlement will cover this issue as well all other claims. The bill, however, would segregate out the issue of attorney fees and require the parties and their counsel to sign a paper certifying that attorney fees were not compelled to be waived.

Mr. President, how the parties and the lawyers get to a settlement is a matter which should be left to the parties and their lawyers. The bill would have the court review every settlement on this point and allow a disgruntled plaintiff or his or her attorney to revisit the issue after the settlement is agreed to. And, in the case of frivolous lawsuits, they will be even harder to settle.

Now, the senior Senator from Massachusetts has indicated that he has changed this provision. After carefully reading the new language, I find that the only difference seems to be that instead of saying that the parties and their counsel must sign the certification, now either the party or the counsel can sign the certification. What practical difference does this really make? This alleged improvement does nothing to resolve the problems with section 9. The bill remains an unwarranted interference with the settlement process.

Second, the Kennedy-Jeffords substitute does not change the initial bill's abandonment of offers of judgment in title VII. This is another instance where the bill departs from the title VII's longstanding emphasis on conciliation and settlement. The Supreme Court's decision in Markey versus Chesney held that there was no reason to treat title VII cases differently from other civil litigation. Under rule 68 of the Federal Rules of Civil Procedure, up until 10 days before trial, the defendant can offer the plaintiff a dollar settlement. If the plaintiff declines the settlement and goes to trial and wins less than the settlement offer, the employer need not pay the plaintiff's costs incurred after the settlement was declined. Title VII includes attorney fees as part of costs.

This procedure forces the plaintiff to make a realistic assessment of the case and to treat settlement in a reasonable manner. But it doesn't force the plaintiff to settle if the plaintiff thinks a greater amount can be recovered in a trial. It also forces the employer who wants to settle to come up with a settlement figure that has some chance of being accepted by the plaintiff. In this manner, lengthy trials can be avoided.

S. 2104 would eliminate the use of offers of judgment. It does this by taking out existing title VII language that treats attorney fees as part of costs. Recent changes to the bill do not restore rule 68. An important incentive for settlement will be lost, and there will be no incentive to force the plaintiff to make a realistc assessment of the case.

Fourth, the substitute fails to change section 7, which expands the time for filing a charge to 2 years. Presently, charging parties have up to 300 days in most jurisdictions. They have 180 days if there is no State deferral agency to handle the charge. This has proven to be ample time to file a charge. It is basically the same filing period we provided in the Age Discrimination in Employment Act. Indeed, the existing 300 days is substantially longer than the 180 days for filing a charge under the National Labor Relations Act. By expanding the title VII filing period to 2 years, S. 2104's supporters cannot point to any Supreme Court decisions that needs to be overturned.

In addition, S. 2104 would allow the plaintiff to file a charge from the point he or she is adversely affected by an employment decision. Oddly this same right is not extended to some individuals who, under a consent decree, covered by section 5, are barred from being hired or promoted due to their race, sex, or national origin. They cannot sue when the discrimination occurs.

Under these provisions of S. 2104, employers will be forced to defend charges years after events occurred. The bill also would put prompt remedies further out of reach of the plaintiff. The existing title VII charge filing requirements are adequate and do not need to be expanded.

Finally, Mr. President, section 15 of the bill provides for retroactivity to an extreme. The extreme is the provision which would make voidable final decisions rendered by courts prior to enactment which are inconsistent with the bill. This presents a very serious question of constitutionality. Even for those court decisions which do not constitute final judgments, there is a very serious issue of fairness. These decisions were all made interpreting the law of the land as it stood at the time they were rendered. This bill was not introduced until February of this year. On what basis do we seek to reverse prior judicial decisions, particularly those rendered before introduction of this legislation?

As to the tolling provisions in section 15, there are no safeguards preventing fraud on the courts. Anyone who failed to file timely charges could claim it was due to one or more of the Supreme Court decisions by this bill.

The latest version of S. 2104 is a seriously flawed bill. It stands for the following propositions:

First, hiring the most qualified applicant is no longer a defense to a charge of discrimination;

Second, employment standards will be seriously eroded;

Third, employers will be exposed to massive back pay liability;

Fourth, employers will be exposed to massive back pay liability if their jobs do not reflect statistical balance; that is, quotas, based on race, ethnicity, color, gender, and religion;

Fifth, employers will be required to resort to quota hiring and promotion in order to avoid future liability under the revised theory of discrimination found in this bill;

Sixth, plaintiffs are still able to challenge all of an employer's employment practices upon the mere showing of a racial, ethnic, gender, or religious imbalance in a job;

Seventh, upon the showing of this mere imbalance, this failure to meet the quota, the employer is guilty until it proves itself innocent;

Eighth, a far more onerous burden of justification is placed on employers than exists under the Griggs' decision.

Ninth, some Americans will be denied their equal opportunity to a day in court to assert the most fundamental rights of all: the right to equal protection of the laws and the right to be free of invidious discrimination.

Tenth, title VII will become a litigation bonanza for lawyers.

Eleventh, title VII will be dramatically transformed. It will no longer be a statute encouraging conciliation, settlement of claims, and quick provision of relief to victims of discrimination. It will, instead, be a statute where protracted and costly litigation will be the tool of first resort.

Finally, Mr. President, perhaps the most appalling provision of this bill applies to the Jim Hensons of this world. He was not a party to a lawsuit in which a consent decree was entered. Later, he sought a promotion in the Birmingham Fire Department. He was ranked sixth for promotion. He was passed over by a firefighter ranked 85th because of his race, as a result of the consent decree. He now has a day in court to assert his claim that this action discriminates against him. This bill takes that right away. In fact, it is as if every Senator voting for this bill is tapping Jim Henson on the shoulder in the courtroom and telling him to leave, telling him his rights are not as important as the rights of others. In fact, if he wins his case before this bill becomes law, if it ever does, it takes his victory away from him. And we call this civil rights.

Jim Henson, and others like him in courtrooms all over the South and elsewhere, doesn't have dozens of organizations waiting outside the Senate floor representing his concerns. He does not have ready access to a sympathetic media or glib spokespersons with 10 second sound bites. But he does have his civil rights.

Last week, we passed the Americans With Disabilities Act, legislation guaranteeing that all Americans, including those with disabilities, must be treated like all other Americans. They should not be barred from the American dream. The legislation passed almost unanimously and will be signed by the President. That bill stands as a triumph to the spirit of compromise, the product of a collective willingness to enact equitable and fair legislation.

Today, we are on another civil rights bill, but we are ensnarled in a parliamentary ploy, courtesy has been replaced with frustration, and the threat of a veto looms large on the horizon. We as a body have not changed dramatically in 1 week. The legislation before us has changed.

Where the ADA stood for equality of opportunity, S. 2104 calls for equality of result. Where the ADA helps to guarantee all Americans the same rights, S. 2104 treats some more favorably than others. And where the ADA sought to protect those with disabilities, much of S. 2104 is designed to benefit trial lawyers.

As I said before, the further we as a nation retreat from the principle that all Americans must be treated the same, the closer we come to the quagmire of a spoils system that has more to do with one's birth than one's qualifications. An individual's qualifications and abilities will be less important than the numerical standing of the group to which he or she belongs. And inevitably, group will be pitted against group. The unfortunate fact is that S. 2104 has little to do with the principle or promise of title VII, but it has much to do with creating a brand new era of discrimination.

VISIT TO THE SENATE BY MEMBERS OF THE AGRARIAN AND FOOD COMMITTEE OF THE SUPREME SOVIET

Mr. LEAHY. Mr. President, we have in our Chamber today the Agrarian and Food Committee of the Supreme Soviet.

I ask that we greet our distinguished visitors from the Soviet Union.

[Applause].

RECESS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 minute for the purpose of greeting Mr. Veprev, chairman of the U.S.S.R. Supreme Soviet Agrarian and Food Committee and its delegation.

There being no objection, the Senate, at 7:11 p.m., recessed until 7:12 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. BRYAN].

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair informs the Senate that the time for morning business has expired, pursuant to a previous order.

CIVIL RIGHTS ACT OF 1990

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I am advised that the distinguished Republican leader is at this moment on his way to the floor, at which time it is our intention to proceed with the unanimous-consent agreement to govern disposition of this bill.

Without wanting to inconvenience my friend and colleague from Utah, I am advised Senator DOLE will be here momentarily. I wonder if he might for-

bear until Senator DOLE gets here and then we can proceed.

Mr. HATCH. I will be very happy to do that and interrupt my remarks.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator KENNEDY now be recognized to offer amendment No. 2275 as a first-degree amendment; that there be 75 minutes equally divided for debate on the amendment; that amendments No. 2175 and No. 2131 be withdrawn; that no further amendment or motions be in order to the bill; that the vote on the Kennedy amendment No. 2275 occur at 9 p.m. this evening; that upon disposition of the Kennedy amendment No. 2275, the Senate proceed without any intervening action or debate to vote on the Kennedy-Jeffords substitute amendment No. 2110, as amended, if amended, to be followed immediately, without any intervening action or debate, by third reading and final passage of the bill.

Mr. SPECTER. Reserving the right to object, and I do not intend to object, I had asked the distinguished floor manager, Senator KENNEDY, if I might speak for a few moments before he proceeded. I would appreciate it if the distinguished majority leader would incorporate that into the unanimous-consent agreement.

Mr. KENNEDY. I ask unanimous consent that the Senator from Pennsylvania be able to address the Senate for 3 minutes, and I will be glad to incorporate his time into our time.

Mr. MITCHELL. That time to be charged against the time of the proponents of the bill, and the time to be divided in the usual form.

The PRESIDING OFFICER. You have heard the unanimous-consent request. Is there objection?

Mr. PRYOR. Mr. President, reserving the right to object, Mr. President, this is the first I have heard of this agreement at this moment. I was under the impression that several of us were going to have an opportunity to offer some amendments that we thought would make this bill more acceptable. I am just wondering, will no amendments be offered?

Mr. MITCHELL. Mr. President, might I suggest that we have an opportunity to confer privately with the Senator from Arkansas, and that I put in a quorum call so I may discuss this with him?

Mr. CRANSTON. Mr. President, I would like to speak during this moment, if I may. Just very briefly.

The PRESIDING OFFICER. There is a unanimous-consent request pending before the body.

Mr. MITCHELL. Mr. President, I withdraw the unanimous-consent request.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that the remarks I make be included in the sequence of the pending legislation.

The PRESIDING OFFICER. Is there objection?

The Chair hearing none, it is agreed to.

Mr. SPECTER. Mr. President, the proceedings on the Civil Rights Act have been complicated and frustrating because of the difficulty in arriving at a definition of the term "business necessity." There has been general agreement that it is the intention of all the parties to reverse Wards Cove, to go back to the Griggs' standard, and to incorporate the language of the Beazer decision.

Mr. President, the core problem on dealing with the Civil Rights Act has been the definition on "business necessity." There has been general agreement that Wards Cove ought to be reversed; that the standards in Griggs ought to be reinstated; that the burden of proof ought to go back to the employer because it is an affirmative defense, and the employer has the opportunity and the wherewithal, to establish whether business necessity was present.

In this context, Mr. President, we are dealing with a disparate impact test, not intentional discrimination. Disparate impact raises an inference, in effect, that there has not been fairness for a minority, where, for example, the minority has 40 percent of the community and only 10 percent of the work force. But that might be explained if the employer can show business necessity.

We have labored long and hard, Mr. President, over many hours, many days, and now many weeks to try to define business necessity.

We thought we had an agreement last Thursday. The discussions have involved the President's Chief of Staff, Governor Sununu, the floor manager, Senator KENNEDY, very extensive efforts made by Senator DANFORTH, Senator JEFFORDS, Senator HATCH, Senator DOLE; many, many participants have been involved. Today a group of Senators, Senator DOLE, Senator JEFFORDS, Senator DANFORTH, and I, met with President Bush and Governor Sununu to try to come to grips again with the definition of "business necessity."

The President of the United States is very anxious to have a civil rights bill which will provide fairness for all Americans but which will not produce quotas, which is an objective with which everyone agrees. The civil rights community has been very active in trying to fashion such a definition. But try as we might, after reading Griggs, it is not virtually impossible; it has been impossible to extract from Griggs a definition to which we could all agree. And then we came to the Beazer case, and we all wanted to leave Beazer as the law of the land, but again it was impossible to construct a definition of Beazer to which we could all agree.

I have submitted a very simple resolution to this issue, Mr. President, and it is as follows:

Definition and proof of "business necessity." The decisions of the Supreme Court of the United States in Griggs and Beazer define the term "business necessity." The law shall be returned to its status prior to the decision of the Supreme Court in Wards Cove.

Mr. President, it may be unusual for a statute to recite that the law is as defined by the Supreme Court in two decisions and that the law should be returned to its status prior to a subsequent decision, but that is precisely what we seek to accomplish. But notwithstanding heroic efforts, my many Senators and my many lawyers in the civil rights community and my many nonlawyers, who perhaps have contributed most of all, we have not been able to come to terms as to what Griggs means and what Beazer means and what Wards Cove means.

When we seek a definition, it is abject folly to consider even for a moment that will resolve the specific cases which will later arise, that someone will look to the statute and say, they said it so clearly; we read the statute, and it resolves the problem. That just does not happen.

What happens is a controversy arises. Two lawyers read a statute, they disagree, and they go to court, and then the court interprets what the statute means.

We have already had 19 years of interpretation of the Griggs case, and that includes the Beazer case. Everyone agrees that those definitions and standards ought to remain the law. We have had the decision of the Supreme Court of the United States in Wards Cove, and there is almost unanimous agreement, certainly many more than 51 Senators, that Wards Cove ought to be reversed. That is the view of the administration. That is the view of the counsel to the President. That is the view of the negotiators who have spoken for the President.

I do not have the President's word. I hope he has not taken the time to read Wards Cove. By the same token, I hope that some more Senators have

taken the time to read Wards Cove than among those I have discussed it with because I think, notwithstanding a lot of discussion, some of these cases have not been read, or at least read as carefully as they ought to be. That is why I say, Mr. President, that the short way to do it would be to simply say Griggs and Beazer define the term "business necessity," and the law shall be returned to its status prior to decision in Wards Cove.

I have circulated this last final effort, that is, for this evening, to the managers of the bill. Senator KENNEDY has said that he would consider it. It does not take too much time, but I do not expect this matter to be resolved this evening. We are scheduled to vote in a little more than an hour.

I think it is very unfortunate we are not able to resolve this after the hours and days and weeks of negotiations because I think it is very important we come to terms on what a civil rights bill ought to contain. When you deal with the issue of civil rights, it is very important that there not be division in the country, that there be uniformity about the rights of the minorities, women, and disabled, just like Chief Justice Earl Warren crafted the unanimous Supreme Court decision in the landmark case of Brown versus Board of Education.

As long and as hard as we have worked, and even though there is a lot of frustration in this Chamber and outside of this Chamber and around the country on this issue, this is not the last roundup. We will draw fresh strength tomorrow and come back to the issue, and I hope we can resolve it. But I urge my colleagues to take a look at this simple definition. It is in the definitions which have been interpreted by the courts and whatever we say or do here the courts will come back to interpret further.

My distinguished colleague from California has asked for some time before we reach the hour of 8 o'clock, and I yield the floor and ask unanimous consent that the text of the very brief amendment I have offered be included in the RECORD because it does contain another sentence, which I shall not take the time to read, which expands the burden of proof in what I consider to be a very creative and constructive suggestion made by a very distinguished Philadelphia lawyer, Mark Klugheit of Dechert, Price and Rhoads.

I believe ultimately, Mr. President, we will return to this direct, very oversimplified effort to solve this problem. But even as we move to the conclusion of this chapter, I think unsatisfactorily, I remain confident that we will yet work it out in the interests of the American people.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT INTENDED TO BE PROPOSED BY MR. SPECTER

(Purpose: To amend section 3 of S. 2104)

Strike the language of the pending amendment and insert in lieu thereof the following:

Strike our section 3(o) and insert in lieu thereof the following:

"(o) Definition and proof of "business necessity."

" The decisions of the Supreme Court of the United States in Griggs v. Duke Power Company, 401 U.S. 424 (1971), and New York City Transit Authority v. Beazer, 440 U.S. 568 (1979), define the term "business necessity." The law shall be returned to its status prior to the decision of the Supreme Court of the United States in Wards Cove Packing Company, Incorporated v. Atonio, No. 87-1387, U.S. , 109 S.Ct. 2115 (1989). In deciding whether these standards have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The court may rely on such evidence as statistical reports, validation studies, expert testimony, prior successful experience, and other evidence as permitted by the Federal Rules of Evidence and the court shall give such weight, if any, to such evidence as it deems appropriate.".

The PRESIDING OFFICER. The Senator from California [Mr. CRANSTON] is recognized.

Mr. CRANSTON. I thank my colleague from Pennsylvania for his thoughtfulness. I applaud his work for civil rights. I suggest he join those in the Cloakroom and advise them he no longer needs to be a part of the unanimous-consent agreement if that is the case.

Mr. SPECTER. I shall do so.

CIVIL RIGHTS ACT OF 1990

Mr. CRANSTON. Mr. President, I want to express my strong support for the revised Kennedy-Jeffords substitute to the Civil Rights Act of 1990. The summer of 1989 saw the Supreme Court narrowly interpret law after law to create a civil rights landscape that was unrecognizable by its congressional architects. Rather than broadly construing the Federal laws which seek to eliminate and remedy job discrimination based on race, sex, religion, and national origin, the Court stripped away long-standing protections enacted by Congress against job bias.

Almost 30 years ago, in 1964, the Congress passed a Civil Rights Act which represented a significant step forward in our pursuit of equal justice for all. And since 1964, the Congress has continued to craft legislation which attacks the more obvious forms of discrimination as well as the more subtle and insidious forms. The Civil Rights Act of 1990 continues this tradition. The principles embodied in it would seem to be self-evident cornerstones of our society.

Mr. President, to those taking a cursory view, last year's Supreme Court decisions might appear to be merely technical alterations of current law. But when an employee is faced with the more subtle and sophisticated forms of discrimination, these technical alterations can be crucial to the task of establishing an act or pattern of discrimination. Congress understands that these technical legal issues ultimately affect real people and should not be given the crabbed construction which the Court has applied. The Civil Rights Act of 1990 restores the proper balance between employee and employer rights by conforming the congressional intent regarding the broad scope of our civil rights law.

It has been estimated that by the year 2000, 91 percent of the net growth of the American workforce will come from women and minorities. With skilled employees in all areas at a minimum, our country can scarcely afford not to eliminate the barriers to full and equal participation by all in our Nation's economy. Prejudice that denies this participation is not only morally and legally wrong, but is ultimately self-destructive for each and all of us in this fierce environment of global competition.

Mr. President, I close by saying that we must look upon our country not as a peerless example of democracy and equality in action, but as a country constantly perfecting its own search and journey toward true equal rights for all. With this reality in mind, Congress must be aggressive in its dedication to the perfecting of our civil rights movement. As long as discrimination in the workplace exists, there must be a watchdog. If the Supreme Court refuses to assume this role then Congress must.

I urge adoption of the Kennedy-Jeffords substitute.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 7:55 p.m.

The PRESIDING OFFICER. Without objection, that will be the order.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 8 p.m., and that the time be charged against the bill.

The PRESIDING OFFICER. Without objection, that will be the order.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. GORTON). The period for morning business has expired. The majority leader is recognized.

CIVIL RIGHTS ACT OF 1990

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Mr. President, I would like to comment briefly on a few of the issues raised last night when we were debating Senator KASSEBAUM's substitute amendment to the civil rights bill. I do want to compliment my fine colleague from Kansas, a lady who came to the Senate when I did, a Member of the class of 1978. There were 20 of us in that class. It was the largest class, I think that ever came into the U.S. Senate. I think history might record that, or at least the second largest.

We are a very close group and we always work well together on both sides of the aisle. It is a very interesting group, 11 Republicans and 9 Democrats. She was always one of our most significant contributing Members.

We used to meet once a month together, Democrat and Republican alike. This group was always rather a puzzlement to our respective leaders Senators BYRD and BAKER. We were not out to overturn the Earth, but we did enjoy and do enjoy, each other's company on both sides of the aisle. I want to compliment her. I have watched her work. She is so steady. She is very fair and very reasonable, and I think she has made a very generous compromise offer to the proponents of this legislation.

Frankly, her proposal might even go a bit further than I would go, particularly in the creation of new damage awards for victims of intentional discrimination. But I can certainly accept that because the whole of it is very, very appropriate.

It has been rather interesting to me to see her proposal met with some strong resistance by some on the other side. It was described, and I paraphrase, as "causing more problems than it would solve" by one of the other faith on the other side. Another referred to it as well-intended but mistaken.

Those criticisms are quite amazing, actually. Senator KASSEBAUM's substitute amendment makes some profound changes in our civil rights laws to make it easier for plaintiffs to prevail and to receive larger awards. Look at what her amendment does: It overturns the liberal bogeyman, the Wards Cove decision. It returns us to exactly the language that the Griggs decision contained, something that the bill's proponents have said they always wanted to do.

There are two themes I have heard all of these weeks and months: Nobody wants to have quotas. Is that not right? Yes, that is right. A lot of breast beating and thumping about that.

Then the other theme is, why do we not just go back to the Griggs case? We all want to do that, so if we can only do that. There is a way to do that. I know it is too novel to be acceptable. You just take the language of the Griggs case, take the actual English language of the Griggs case, and you incorporate it. That is how you follow the Griggs case.

So we diddle around here. It is lawyers dancing on the head of a pin for months now talking about if we just took this word instead of that word, if we use "substantial" here, if we use "significant" here, if we use "dominant" here, if we use "manifest" here, and on down through the line.

Having practiced law for 18 years, I know what would happen to me as a litigant in a case like that, or representing a litigant. The judge would very definitely have called a recess about 3 in the afternoon and taken the lawyers into the room and just crashed their heads together, physically almost and literally certainly, and said, You gentlemen and ladies of the bar, just quit dancing on the head of a pin and do what it is you both know so well what has to be done."

I do admire these people so splendidly who practice that craft and who help us legislate. I love the law. A legislature cannot exist without lawyers. That is not a negative; that is a positive. It cannot work. The lawyers of our first Constitutional Convention crafted the documents that we cherish. Lawyers do not overwhelm a system; they make it work. They have not overwhelmed this system and they are very much the yeast and the substance of a legislative body. It is not an elitist statement. Everyone brings something to this procedure—whatever their profession, whatever their craft.

But it is also the lawyer's duty not to just be partisan. It is the lawyer's duty to help craft legislation that is passed from here that can be understood by the American people. That is the function of a lawyer: To help craft the law in a way that it can be understood by the governed. That is the mission; that is the charge—not to see who can get the partisan advantage.

There are many working in this area right now today at this hour, Democrat and Republican alike, who are committed to that, to get the job done, get it in English, get it in understandable form without trying to attempt partisan advantage or ideological advantage, while those who sit in the wings and outside this Chamber, some totally dedicated to partisan advantage, or to ideological advantage, or to help their group, or to raise their membership, or to be sure their executive directors have terrorized their group significantly enough to pick up additional dues on the next call. That is the way that works.

But Senator KASSEBAUM's amendment does what everybody has said they wanted to do. It returns us to exactly the language the Griggs decision contained. It contains a new damages remedy for intentional discrimination for equitable remedies of up to $100,000 and it modifies or overturns the Supreme Court's rulings in Martin versus Wilks, which is the case regarding discriminatory consent decrees, Lorance versus AT&T regarding title VII of the statute and Patterson versus McLean Credit Union as to how broadly certain sections of the United States Code would apply to employment discrimination.

Anyone who contends that these changes are insignificant or counterproductive are really misstating this issue. Perhaps the misstatement is unintentional because this legislation is extremely complicated. I do not believe in my experience in 18 years of practicing I have ever seen a chunk of legislation that was tougher to wrap yourself around in order to determine exactly what it does with the nuances of meaning that are there.

So I say, perhaps that any misstatement is unintentional because of the complexity of the issue. It would be in my observation of it.

Perhaps the misstatement is intentional. It is then simply a political act and I find that quite likely, too, in some circumstances.

The sponsors of this bill are saying—some are saying—if you do not support our version of civil rights legislation, you are against civil rights. I spoke yesterday at how tiresome that is, how crude and offensive and repugnant that is.

Then there are those who simply want the President to veto this bad legislation and hang them with the "anti-civil rights" moniker. George Bush, opposed to civil rights? That will never sell. He was elected on a large groundswell of support from minority groups and he has done nothing at all to ever injure or rupture that sensitive relationship—and he never will. That is George Bush. That is our President.

So that will not work. I reject that approach.

We must always adhere to the fact that none of us in this Chamber, Democrat or Republican, is against civil rights. That does not fit any of us.

But some of us, however, and you may list me in that category, are surely "anti-quota." I will not support civil rights legislation which would force employers to resort to quota-type hiring to defend themselves against lawsuits because all the rules are biased in favor of the plaintiffs.

As we dig around in that, we are finding that is what is in this original proposal. Some of us will not be bullied or run on a guilt trip down the road or down the track into voting with them on a civil rights bill just because the civil rights community believes that this original measure is somehow the litmus test of legislation.

The litmus test. We hear that one. That is a tedious little bit of nomenclature, too.

I think my litmus test as a legislator, and that is what I like to do, that is a craft I chose for myself. I do not lust for more in political life. I like being here in the U.S. Senate. I hope to contribute always during the time I am here. I enjoy working with colleagues on both sides of the aisle, and I greatly respect those who serve here.

So my litmus test is: Does this legislation make any sense? Is it understandable to the governed? Not a bad thing to ask, I think. Is it understandable to the governed? Is it reasonable? Is it fair? Those are the only things that are important to me.

I do not think the original bill is reasonable. I do think it is terribly complex. I think it has a lot of hidden meaning in it, a lot of hidden nuanaces that I think are understood by several, but certainly not by many. They are clearly understood by some of those who would be outside the process, who have cranked up there minions over the months past to say, "do not forget, if we can get this sentence in this paragraph, nobody will know what happened for about 5 years." There are people who live that way in this community. They are always outside the Chamber cranking day and night on every issue.

But I do not think the original bill is reasonable. I think it needs work. I think the Kassebaum bill is pro civil rights and extremely reasonable and very fair and very thoughtful and something that should be embraced.

So I urge my colleagues to reject the politics of the situation. Our leader spoke of that yesterday with some intensity, and I think deservedly so. I am not talking about personalities. I have seen the majority leader and the minority leader several hours after that spirited discussion working closely together in the majority leader's office with Senator KENNEDY, Senator HATCH, Senator JEFFORDS, Senator SPECTER, and Senator DANFORTH. The meeting will go on today and hopefully we can resolve the nuances of language since we all know exactly where we are trying to get. But I certainly hope that the Kassebaum amendment will be supported by the majority of our colleagues. It is a very thoughtful piece of legislation, and certainly I am very proud to try to assist my colleague from Kansas in support and passage of it.

I thank the Chair.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I renew my unanimous-consent request with the modification that the time for debate on the Kennedy amendment be 75 minutes equally divided and controlled in the usual form, and that the vote on that amendment be at 9:15 p.m. this evening.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues and I believe under the agreement, Senator KENNEDY is recognized to offer his amendment.

The PRESIDING OFFICER. Pursuant to the unanimous-consent agreement, amendment Nos. 2175 and 2131 are withdrawn.

The Senator from Massachusetts is recognized.

AMENDMENT NO. 2275 TO AMENDMENT NO. 2110

(Purpose: to provide for a substitute amendment)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. JEFFORDS, proposes an amendment numbered 2275 to amendment No. 2110.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—It is the purpose of this Act to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of employment practices that do not involve selection, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as used in *Griggs v. Duke Power Co.* (401 U.S. 424 (1971)) and to overrule *Ward's Cove Packing Co., Inc. v. Atonio* (109 S. Ct. 2115 (1989)).

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices are required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k), or in the case of an unlawful employment practice under the Americans with Disabilities Act of 1990, other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102 of that Act, as it related to standards and criteria that tend to screen out individuals with disabilities)—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably in-

curred in defending (as a party, intervenor or otherwise) such judgment or order.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties, except that prejudgment interest may not be awarded on compensatory damages.".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, national origin, sex, religion, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex or national origin: *Provided, however,* That nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by section 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by section 4, 5, 7(a)(2), or 12.

SEC. 16. CONGRESSIONAL COVERAGE.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 200e et seq.) is amended by adding at the end thereof the following new section:

"SEC. 719. CONGRESSIONAL COVERAGE.

"Notwithstanding any other provision of this title, the provisions of this title shall apply to the Congress of the United States, and the means for enforcing this title as such applies to each House of Congress shall be as determined by such House of Congress.".

Mr. KENNEDY. Mr. President, it is my intention to take about 2 minutes to describe the changes effected by this amendment, and some other related subject matter that may be familiar to the Members. I then will yield to my colleague, the Senator from Vermont, and then ask for the inclusion of additional matters that have been raised by our colleagues on this side of the aisle.

Mr. President, as I mentioned earlier in the course of the debate, we started off with a business necessity test that included the word "essential." That word was modified to be "substantial" by the amendment of the Senator from Missouri. We have moved with this new modification to "significant." We have amended the business necessity definition by taking language from Griggs: "significantly related to successful performance on the job." That is from page 426 of Griggs. You want Griggs; you have Griggs.

The amendment includes language making clear our intention to codify Griggs and overrule Wards Cove. There have been a number of different proposals here that have been advanced for consideration of the Members of the Senate. We make a very specific inclusion in the statute that this legislation overrules Wards Cove, and we do it not in legislative history, but in the statute.

There has been concern by the administration and others regarding quotas. We believe that the language that has been included in the legislation, as well as the report, makes that clear. But the Senator from Arizona [Mr. DECONCINI], wanted language to indicate that the bill does not require employers to adopt quotas. You do not want quotas; there is clear language for no quotas. I elaborated on that issue earlier in the course of the afternoon, reviewing the exact language.

This amendment also includes other language from Senator DECONCINI confirming that compensatory and punitive damges are not available in disparate impact cases. It has never been our intention to include damages, any form of damages, in disparate impact cases. Only equitable relief is available. We have included specific language to make that evident to all of our colleagues. We have included specific language to make that evident to all of our colleagues.

And finally the amendment includes language making it clear that damages would not be available in similar disparate impact cases under the ADA. That was of concern to many of those in the business community. We have again included language that we think will clarify that.

It also had been my intention, as I indicated to the Senate yesterday prior to the time of the caucus, that we would favorably consider language

to be offered by the Senator from Arkansas [Mr. PRYOR] on statistical imbalances. I reviewed that with the Senator form Arkansas earlier in the course of the afternoon. We will have an opportunity again with him in just a few moments.

I have had the chance to talk with the chairman of the House committee, GUS HAWKINS. We give the assurance to the U.S. Senate that no legislation will come back to this body from the conference without including Senator PRYOR'S language, if we are not able to include it this evening.

I also indicated to our colleagues, although I personally am not in favor of caps, it is quite clear that it is the sense of the Senate that we impose caps on punitive damages. It is evident to me that both sides of the aisle want that. And at time earlier this afternoon, we had a chance to review with the Senator from Arkansas, as well as the Senator from Oklahoma and others, about the importance of reaching a cap.

I have given them the assurance that I would be willing to accept a cap, and that we would take that to conference. I raised that issue with the chairman of the House committee, Congressman HAWKINS. He was unable to give me an indication of what would be the outcome in the House of Representatives or the conference.

But I have given indication to our colleagues that we would be willing to take the amendment that reached the following cap on punitive damages: $150,000 or equal to the amount of compensatory damages, whichever is greater. Later, after a brief statement and the comments of the Senator from Vermont, I will make or permit those that are the principal sponsors to make a unanimous-consent request.

But I want to give the assurance to those, if we are successful in including that cap tonight or not, that we would take this issue to conference and work with our colleagues. Should we enact that cap in the future, we will review that measure month by month, year by year, to see whether justice or injustice is done and come back with other recommendations. I know how strongly Members feel.

I would give that assurance. I see the majority leader. I will be glad to yield to him for a moment.

Mr. MITCHELL. Mr. President, I thank my colleague, the distinguished Senator from Massachusetts.

Before the Senate votes on the pending amendment and the underlying legislation, in accordance with the unanimous-consent agreement now reached, I want to clarify the status of two issues of particular concern to many of our colleagues in connection with this bill.

Those issues are the matter of the cap on the amount of punitive damages which would be available to a plaintiff under the expanded provisions of the bill, and clarification of the definition of disparate impact found in Senator PRYOR'S amendment.

Because of the parliamentary situation in which the Senate now finds itself, amendments on those two matters are not now in order. As a result, Senators who favor the legislation, Senators who favor the expansion of civil rights protection but who are also concerned about excessive awards and frivolous suits, have no legislative manner in which now to address those important concerns.

I therefore will do all I can to see that the substance of the understanding reached earlier today to limit the amounts available under punitive damages to $150,000, or to the amount awarded in compensatory damages, whichever is greater, will be included in the final conference report on this bill.

Similarly, I will do all I can to make certain that the Pryor amendment, which makes it clear that the mere existence of a statistical imbalance in an employer's work force does not constitute a prima facie case of a disparate impact violation, is also part of the final conference language of the bill.

The concerns reflected in these amendments, the concerns reflected by the Senators who want to ensure that these provisions are part of any final legislation, are not frivolous or unnecessary.

They are serious, important, and necessary aspects of this legislation. I will, therefore, work with my colleagues in the Senate and in the House to try to see that these concerns are given practical effect in the bill that is submitted to us for final approval. I hope that, with this assurance, my colleagues who favor the civil rights legislation will be assured that their concerns will remain as much a part of the Senate's intention as if we had voted for the amendments in question directly.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I wish to make a brief comment on the bill and come back to the consideration of the request.

Mr. President, I regret that we have been unable to reach agreement in these negotiations, but I make no apology to the Senate, to Governor Sununu, or to anyone else for refusing to accept so-called compromises that would undermine basic principles of civil rights, and that would not deal fairly with the serious problems of race and sex discrimination that affect millions of women and minorities in the workplace in communities across the country.

For many months, and especially in recent days, we have worked hard and in good faith to meet the concerns raised by the White House. We have agreed with some of those concerns, and we have proposed modifications in our bill to address them. But no one should be misled by the seemingly technical nature of the differences that remain.

The principal issue that continues to divide us is the refusal of the administration to restore the full force of the landmark antidiscrimination law declared by a unanimous Supreme Court in the Griggs case in 1971. That rule was the law of the land for 18 years. It was applied in hundreds of job discrimination cases, until 1989, when it was suddenly overturned by the Supreme Court in the Wards Cove case.

It is fair to say that the primary reason this bill is before the Senate is to overrule the Wards Cove decision. On this all-important issue, all we intend to do—and we shall not accept less—is to restore the prior law as it was from 1971 to 1989. The administration says it wants to overrule Wards Cove, but they are only willing to overrule it part way. They say, restore half of the prior law or three-quarters of the prior law. We say, restore it all, not 50 percent or 75 percent, but 100 percent.

The administration claims that our proposal goes too far, and that it will somehow force employers to rely on quotas. If we were writing the Civil Rights Act of 1990 on a blank slate, perhaps this argument would have some merit, but we are not writing it on a blank slate. We are writing it on the basis of 18 years of experience under the Supreme Court's decision in the Griggs case.

Congress does not have to speculate about the possibility of quotas. We know the answer. We have the evidence. We have 18 years of experience. We know what happened from 1971 to 1989. In all those 18 years, there is not one iota of credible evidence that the anti-job discrimination laws were forcing any employer in America to resort to quotas.

The false hue and cry of quotas is a disservice to the President of the United States, and it is a tactic by those who oppose full civil rights for women and minorities.

Quotas, shmotas. Quotas are not the issue. Job discrimination is the issue. We need a strong law, not a watered-down law, to stop it in its tracks. Let there be no doubt over what is at stake here. The administration is simply not willing to support a bill that bans job discrimination against women and minorities.

The Civil Rights Act of 1990 has profound implications for millions of working men and women who count on Congress to protect their rights as Americans to be free from discrimination.

Today there are 117 million men and women in the work force; 53 million,

almost half, are women; 12 million are black Americans; 9 million are Hispanic Americans. That makes 74 million American workers whose jobs and perhaps their very livelihoods are at stake in the Civil Rights Act of 1990.

Nine million of the working women are either black or Hispanic and are therefore subject to discrimination twice; once because they are black or Hispanic, and the second time because they are women. Twenty-one million of the women in the work force—almost half of all working women—have children; 13 million have children 6 to 17; 8 million have children under 6.

One of the most unacceptable results of the administration's inadequate proposal is that it permits employers to discriminate against women with children in the work force. I say there is no justification for that kind of prejudice.

Millions of women across America want to work or have to work, and it is wrong for the Nation's laws to tolerate discrimination against 21 million working women because they are trying to raise a family and support their children. This is no technical legalistic exercise. This legislation is of vital importance for every woman and all minorities in the work force. It is up to Congress to speak for them, to stand up for them, and to pass a strong Civil Rights Act of 1990.

I yield 6 minutes to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise tonight with somewhat mixed emotions. I must say I am frustrated. The differences in the language—in the actual words—between what we are proposing and what the administration will accept are slight. They are significant, to be sure, but there is no wide gulf between them.

For the past several weeks I have spent hours upon hours in an effort to see if we could bridge this gulf. I have been joined in this effort by many Senators, particularly Senators DANFORTH, SPECTER and KENNEDY.

I have been impressed by the good faith on all sides. There is not a shred of doubt in my mind that the President sincerely wants a solid civil rights bill that he can sign. His representatives, particularly Governor Sununu and Mr. Gray, have devoted a tremendous amount of time and energy to this task.

Unfortunately, we have not been successful in finding that language that will satisfy all sides. No one reneged, no one operated in bad faith, we simply could not reach a meeting of the minds.

It may be that the meeting of the minds will still occur, in the House or in conference. I am dedicated to working with my former colleagues in the House to bring about that result. I certainly hope this will happen in the days ahead.

But for tonight we have no agreement. Tonight we must make a choice.

For some of my colleagues, I know it is not an easy one. It is hard to separate the fact from the sloganeering. "Are you for civil rights or are you not?" "Are you for quotas or are you not?"

None of these questions have any bearing on tonight's vote. My distinguished colleague from Utah, Senator HATCH, is obviously a supporter of civil rights, as are the other Senators who are concerned about this legislation.

But it is equally false to suggest that this bill will put a Senator on record as supporting quotas. This is not a quota bill, pure and simple.

Despite the protestations of the bill's opponents, this bill does return us to the standards that operated quite successfully for almost 20 years.

Almost 20 years ago, a unanimous Supreme Court joined a decision written by Chief Justice Burger in Griggs versus Duke Power Co. which has formed the basis of much of employment discrimination law over the past 2 decades. In that decision, the court held that seemingly benign employment practices that operated as built-in headwinds were illegal.

Last summer, I am afraid it was the Supreme Court itself that built up the headwinds in the faces of those Americans who are confronted by discrimination.

In decision after decision, the Court made it more and more difficult for women and minorities to bring and win meritorious employment discrimination cases. For once it is the supporters of civil rights in Congress who want to turn back the clock—back to the spring of 1989, before this destructive series of decisions began.

Admittedly, however, this bill is not merely restorative. It also contains provisions which are not directly related to the disputed Supreme Court decisions, but rather are designed to strengthen and clarify the existing civil rights laws.

Since its introduction, the Civil Rights Act of 1990 has been both praised by its many supporters and vilified by those who disagree with with its objectives or the means by which it chooses to implement those objectives. The supporters always have been willing to discuss amendments or modifications of the bill. We have listened to the arugments of our colleagues, the administration, the businss community, and other groups and individuals who expressed their opinions regarding this measure. More importantly, not only have we listened, but we have also incorporated many of their suggestions into the bill. This has been done, in all good faith, not only to broaden the base of support for the bill, but also in an effort to make it a better piece of legislation.

Tonight we are making even more changes, changes to address the concerns raised by our colleagues and the administration.

Thus, while we did not reach a final agreement with the administration, those talks were fruitful. My colleagues from Massachusetts clearly outlined those changes as well as others that we can expect in the future.

I am a bit tired and a little frustrated.

However, on one point I am quite certain. This is a solid bill. When we step back from the proposals and counterproposals, we cannot forget we are talking about real Americians, flesh and blood, not statistics, who face subtle and not so subtle discrimination.

They deserve the full protection of our laws. Tonight we can take a giant step toward giving them that.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. I yield 3 minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, first I thank the distinguished floor manager, the chairman of the committee, and also the majority leader for assurance they are going to do everything than can to make sure that this bill comes back from the conference with two very important provisions in it.

I might also say this is not a threat or warning, but if it does not have the Pryor language on a statistical imbalance, and if it does not have the language Senator GORTON and I and others suggested on limitations on punitive damages, then obviously there will be a pretty furious debate on the conference report.

But let me also say, in the almost 16 years I have been in the Senate, this is one of the most curious evenings and days I have ever spent. Here we have a bill that the President's men have been negotiating for some time to try to get it in some kind of order that the President would sign. There are a group of us on this side who filed amendments in anticipation of a cloture vote, to do precisely what the President wanted. We have those amendments. We are ready to offer them.

The people on this side of the aisle, in my opinion, would vote for them almost unanimously to limit punitive damages, even to require 12 person juries, state that a statistical imbalance shall not be considered a prima facie case of a disparate imbalance; all the things that make this bill so much more palatable to the business community of this country, that make the bill fair to both parties. And here we

have the President's party objecting to a consideration of these amendments.

It is one of the most curious paradoxes I have ever witnessed. And there has been the suggestion that the majority leader offered a cloture vote prematurely, but he offered to vitiate the cloture vote on two or three occasions, and that was not acceptable.

So it is a very strange thing. I regret that we cannot offer these amendments. Most of us filed them in anticipation of cloture and got ready to offer them to make this bill more acceptable to the President.

So you do not have to be a rocket scientist to figure out that the whole goal is to make the bill as bad as possible or to try to make it as bad as possible to give the President more cover in vetoing the bill.

So, Mr. President, I again thank the majority leader and the chairman of the Labor Committee, who is managing the bill, for their assurances they will do everything possible to make sure the conference, if not in the Senate, at least in the conference, will accept these amendments which very measurably improve the bill.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, in a moment I intend to ask unanimous consent that I be permitted to modify my amendment in two respects. First, I seek to incorporate the text offered by Senator PRYOR in amendment No. 2201 stating mere statistical imbalance in work force does not create a prima facie case of disparate impact, and second, a request of Senator BOREN seeking to insert in my amendment a cap on the amount of punitive damages an individual may recover under title VII. The cap was described by Senator BOREN earlier today.

Mr. President, I now ask unanimous consent that I be permitted to modify my amendment in the above-described manner, which I now send to the desk.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. WILSON. Mr. President, reserving the right to object.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. Mr. President, I yield myself 1 more minute. I must say that I have had from both sides of the aisle the desire to include the kinds of clarifications on the statistical imbalance. This has been raised at the White House. It has been raised by many Members of the Senate. I indicated I was prepared to do so.

I think it is important in terms of the substance and so people will not misconstrue what the objective is. Now we have seen people talk about quotas on the one hand, and, they now effectively prohibit us from taking action that would address that issue on the statistical imbalance. I regret the action. From the time of our negotiation with the White House there was a strong desire that there be a significant cap, particularly on the punitive damages. Whether this figure accommodated their particular interest or not it was a good-faith effort to try and accommodate that concern. That is not just limited on this side of the aisle.

I wish that we had been able to include it. We had hoped we would be able to do so. I see the principal authors of these two amendments on the floor. I will be glad to yield 2 minutes to each.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, for the benefit of my colleagues I would like to simply read the amendment that I was proposing to offer and the unanimous-consent request by the Senator from Massachusetts would have amended this bill in this way. It is one sentence.

The mere existence of a statistical imbalance in an employer's workforce on account of race, sex, religion, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

Mr. President, very simply this is what most of the small business people in this country have expressed a great deal of fear about in the so-called civil rights bill. This is an attempt—and I am very sorry that the Republican leader has objected to the modification of this legislation—adding this one line which will give small businesses some assurance about this legislation, because what this does very simply is to precisely affirm the law that has been in place in this country since 1971. And to disallow us to be able to modify this amendment at this time, I think is an absolute disgrace.

Many small businesses and employer groups have argued that the current bill would make a statistical imbalance in an employer's work force a violation of title VII and that the employer would then be forced to prove that any such disparity was justified by business necessity. My amendment is intended to clearly address this objection and clarify that this bill would not make a statistical imbalance alone a violation of title VII.

This amendment is intended to make clear that the bill is in accord with preexisting law regarding what must be shown by a plaintiff to establish a prima facie case of disparate impact. The bill, like previous caselaw, requires the plaintiff to show more than a statistical imbalance in an employer's work force. At a minimum, the plaintiff must show that a specific employment practice, or group or combination of practices, results in a disparate impact. My amendment affirms the law that has been in place since the Griggs decision in 1971.

Mr. KENNEDY. I understand that part II of the Wards Cove decision deals with the statistical evidence needed to establish a prima facie case of discrimination. How does the amendment from the Senator from Arkansas relate to that portion of Wards Cove?

Mr. PRYOR. The purpose of the amendment is to reaffirm the law as stated in part II of Wards Cove. Under the majority opinion, a low percentage of minorities or women in a particular job is not by itself, without more, sufficient. The Court held "the 'proper comparison [is] between the racial composition of [the at-issue jobs] and the racial composition of the qualified population in the relevant labor market'." The Court noted in footnote 6 that for relatively unskilled jobs general population figures may be appropriate, but of course the plaintiff would have to prove that the jobs at issue were in fact unskilled. In some circumstances it may be more appropriate for the court to look to the proportion of applicants who were minority or women.

Mr. KENNEDY. Does the amendment make the standard of proof more stringent, or more lax, than under part II of Wards Cove?

Mr. PRYOR. No, the amendment leaves the law where it is under part II.

Mr. KENNEDY. May statistics still be used in establishing a prima facie case of discriminatory effect?

Mr. PRYOR. Yes. A prima facie claim of disparate impact ordinarily relies on statistical evidence. But the statistics must meet the requirements of Wards Cove; mere statistical imbalance, without more, will not suffice to establish a prima facie case.

Mr. KENNEDY. With the understanding, I will accept the amendment.

Mr. NUNN. If a small business with only a dozen employees had a statistical imbalance in its work force, could a plaintiff establish a prima facie case of discrimination?

Mr. KENNEDY. No for two reasons, first, statiscial imbalance alone does not constitute a prima facie case second, an employer with only a dozen employees would not be affected by this legislation at all, since title VII only applies to employers with 15 or more employees.

Mr. NUNN. What about a small business that has more than 15 employees, but with only 5 or 10 employees in a particular job, and relatively little turnover? Could a plaintiff establish a prima facie case just by showing that all of the employees were of one race or sex?

Mr. KENNEDY. Even if there are a significant number of qualified minorities or women in the area, if the

number of promotions or hires is small, any disparity might not be statistically significant—that is, it might be a chance occurrence.

Mr. PRYOR. I agree. Therefore, there will be cases where a relevant work force of one race or sex would not be sufficient to establish a prima facie case if the employer's overall work force is too small or the turnover rate is too low.

Several Senators addressed the Chair.

Mr. KENNEDY. I think I yielded 2 minutes to the Senator from Arkansas, and then I yielded 2 minutes to the Senator form Oklahoma, and then I will yield to the Republican leader.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I also add my voice to that of Senator PRYOR and especially regret that we have not been allowed to offer this particular amendment. The amendment I intended to offer, on behalf of myself and Senators BUMPERS, EXON, FORD, PRYOR, DECONCINI, BAUCUS, and NUNN was to add at the appropriate place in the bill an amendment that would read:

> The amount of punitive damages awarded to an individual under this act shall not exceed the greater of $150,000 or the amount awarded to such individual in compensatory damages which would also include back pay.

Again and again, particularly the small business community has expressed a serious concern about the absence of any cap on punitive damages. I know that is a matter that the administration had also expressed their concern in regard to some kind of cap, at least until we had experience in working under this new law and new procedures, so we will be assured we will not have an overly litigious situation where we all desire to protect the rights of individuals who suffer from discrimination.

Mr. President, I think it would have made the bill a stronger bill, a fairer bill, and would have gone a long way toward addressing the concerns particularly of the business community and especially small businesses.

So I regret that we have not been able or allowed to address what has been given to me as a serious concern overall from small business. I am going to vote for the passage of this bill tonight on the assurance of the Senator from Massachusetts that he will take this provision to conference, that when this proviso comes back to us in the conference report, it will have language along the line that Senator PRYOR suggested and I suggested tonight.

I think it is simply unfortunate; we are not allowed to express the will of the Senate. I think there would be an overwhelming expression in favor of some kind of limitation on punitive damages. I am sorry we are not able to do so.

The Senator from Massachusetts has done everything in his power and has exercised good faith in trying to get the amendment inserted in the legislation. He simply needed the opportunity to do so.

Based on his assurance and that of majority leader that there will be an effort made in conference to adopt this language, I will support the legislation, withholding, of course, final judgment on my final vote until this matter comes back from the conference.

The PRESIDING OFFICER. The time allocated to the Senator from Oklahoma has expired.

Mr. DOLE. Mr. President, I yield myself only 2 minutes now. But I wanted to indicate I did not see anybody shedding any tears on that side when they stripped us of our rights yesterday by voting for cloture.

I find it rather unfortunate out here to hear the same people who voted to limit debate, limit us from offering amendments, to say we want to get consent to offer our amendments even though we took away the rights of the minority yesterday. They cannot have it both ways in this particular case.

They may be good amendments. That was the point we tried to make yesterday. Nobody filibustered this bill or delayed this bill. There had not been one amendment offered to this bill when we had the cloture vote. Cloture should not have been invoked. But, with the exception of the Senator from Nebraska, every single Member from the other side voted to invoke cloture. And now to stand up and say, that, well, they do not get to offer their amendments is like the young man who shot his parents and then pleaded for mercy because he was an orphan.

That is the way it works. Play by the rules. Live or die by the rules. We had to play by the rules imposed upon a minority. Even though this is a civil rights bill, it is somewhat interesting how the rights of the minority were stripped away without even any debate. And all the time we hear talk about protecting the rights of the minority.

Mr. President, we are doing what we think is appropriate under the circumstances. We regret there was no agreement reached. Many have worked many, many hours on both sides of the aisle, including the President of the United States and his representatives, but there was no give on either side of the aisles.

There are many, many questions yet to be resolved. So I hope my colleagues on the other side understand that we did not want cloture invoked. We wanted them to have all the rights they wanted to offer their amendments.

I do not know how many amendments may have been filed, maybe 50, 60, or 70 but here we are having one amendment. So I say to my colleagues, we did not ask for cloture. Most of us did not vote for cloture on this side but we got cloture. And we learned the hard way how the minority is treated at times.

I reserve the remainder of my time.

Mr. GORTON. Will the leader yield?

Mr. DOLE. I yield 3 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 3 minutes.

Mr. GORTON. Mr. President, we are now closing in on the moment at which the consequences of the premature invocation of cloture will become overwhelmingly apparent. The majority in this body will pass a bill with many excuses which both its own leader and the floor leader of the bill admit to be defective. But they cannot change the bill because they have choked off the right to discuss, amend, and reamend a vitally important proposal in the period of just over 24 hours.

The claim, no matter how forcefully expressed, that this bill simply restores the Griggs case does not make it so. Specific language taken from the two landmark cases, Griggs and Beazer, has been rejected by the majority. A proposal simply to state that this bill restores the law to the position prior to the Wards Cove case has been rejected. Phrases different from those used in the Griggs case's principal holdings and in the Beazer case's principal holdings are at the heart of this bill. They will almost certainly and inevitably be interpreted as something different and more stringent than the Griggs language.

There is still an unstated agenda in this bill. The bill denies justice to innocent third parties. Even with the proposed changes which are prevented from being added to this bill on caps on punitive damages, we have changed the entire civil rights focus to one which involves contested litigation, lawyers, attorneys fees, and punitive damages.

This bill is better than the bill which came to the floor, in spite of the fact that for 6 months we have heard that that could not be changed at all without weakening it. Even the only choice is between Kennedy-Jeffords and Kennedy-Danforth, it is not appropriate to vote for this amendment. The net result, however, is not good enough. It will still put the fear and the policy of quotas into the minds and practices of many employers across the country.

I have every fervent hope that by the time this bill comes back from the conference it will be in such condition as all of us can vote for it. The bill is not in that condition now. It is not in

that condition by reason of the failure to be willing to compromise. It is not in that condition by failure of appropriate debate. It is not in that condition because debate was cut off prematurely. The bill on final passage should be rejected as imperfect and destructive and negative toward the cause of civil rights.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts controls 8 minutes, 30 seconds.

Mr. KENNEDY. I yield 4 minutes to the Senator from Nebraska.

Mr. EXON. I thank the manager of the bill and I thank the Chair.

After listening to the minority leader, I hope that he would hear my words because I was with him on yesterday when cloture was invoked.

I thought it was unwise to invoke cloture at that time, but the majority of this body did not agree. I wanted more time to try and work out some of the problems. The two things that I had primarily in mind were the quotas and the imbalance proposition that several of us worked out today, led by the senior Senator from Arkansas, who has already spoken, on the imbalance and quota matter.

In the office with the two Senators from Arkansas, along with my colleague and long-time friend DAVID BOREN from Oklahoma, we put together an imbalance quota proposition. We put together a cap on punitive and compensatory damages. We won an agreement to put those in the bill from Senator KENNEDY and others. I thought that we had a good bill with those in there, a bill that I believe the President of the United States has indicated indirectly if not directly that he could sign.

I was just startled, Mr. President, to hear the minority leader, of all people—could I have the attention of the minority leader and the Senator from Minnesota? I am addressing the minority leader.

I was astonished to hear the minority leader, whom I voted with yesterday, get up and, in essence, say he was not going to allow this to become law because he was going to punish the Democrats for what they did yesterday. Well, you cannot punish this Democrat. He voted with you. Sometimes I am wondering if you are deserving of the support of some of us on this side that do not always join the herd.

Mr. DOLE. I do not get much.

Mr. EXON. I have the floor. I listened very intently, and I do not appreciate the offhand remarks that are muttered by the minority leader. We know how cutting you are, and we know how you can tear the Senate apart, as you almost did yesterday.

I want to know if the Senator from Kansas has any other reasons for blocking these measures that we worked hard to put together, other than to punish the Democrats. How about a civil rights bill that I believed up to this moment the minority leader was for?

When my time is up, I wish the Senator from Kansas could answer those questions.

I find myself in a position, I have always voted for civil rights and I will, Mr. President, vote for this bill, even though it will not formally contain the measures that I and others worked very hard to incorporate in the bill. If those measures are not in the bill when it comes back from conference with the House of Representatives, I will do all that I can to defeat the measure.

That is the only option that I have, after trying to play fair and square, Mr. President, with both the opponents and the proponents of this measure. I am keenly disappointed and I hope the minority leader would reconsider and recognize, in the interests of a good civil rights bill, he should not try to punish people for what I think was unwisely done yesterday.

I reserve the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. DOLE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The minority leader is recognized for 2 minutes.

Mr. DOLE. I am certain the Senator from Nebraska knows the rules. I appreciate his vote yesterday. I do not think I used the words "punish the Democrats." I said we were the ones stripped of our rights, the minority. He happened to be part of that minority yesterday. There were 38 of us—really 40 but we were 1 vote short, so the final vote was 62 to 38.

I agree with the Senator from Nebraska it is unfortunate we have been deprived of our rights to debate this very important bill—all of us. But, since we have been deprived now of our rights, particularly on this side of aisle, 37 of us—39 of us, probably even more—we are supposed to turn the other cheek now and say, well, we got shafted yesterday but we ought to take care of everybody on the other side. And we are not going to do that.

The Senator from Nebraska can say what he wants and vote the way he wants. But if we are going to have these premature cloture votes on every major issue—this Senator has never voted against a civil rights bill but I have never had one shoved down my throat like this one. There are a lot of concerns out there, all across the country, every State that is represented on both sides of this aisle, about a lot of people who have not tuned into the beltway and the civil rights lobby. They are going to find out—maybe the hard way—what this bill does to them. I will explain that in a few moments. So we cannot have it both ways.

I was frustrated by what happened yesterday. Now the Senator from Nebraska is frustrated about what happened today. Do not take it out on me. I did not file the cloture motion, I did not sign the cloture motion, I did not vote for it. Talk to those who voted for cloture—54 out of 55 on that side, a party line vote. It was probably dreamed up at the retreat over the weekend—stick it to the Republicans. Well, you did.

But I do not think we have any obligation to go out of our way to take care of some Democrats who got caught out in the cold.

Mr. President, I yield 3 minutes to my colleague from Kansas, Senator KASSEBAUM.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 3 minutes.

Mrs. KASSEBAUM. Mr. President, there have been many curious twists and turns to debate on this particular and very important piece of civil rights legislation. But there has been an interesting precedent set, it seems to me, here in the U.S. Senate this evening by an agreement that in conference an amendment will be put forward that would provide caps on punitive damages, which would become part of this bill. To my knowledge, this is the first time we have ever agreed to caps on punitive damages.

I personally believe this reflects a growing concern in this country about unlimited damages and their effects on our courts and on our businesses.

I, for one, intend to follow this precedent and address caps on punitive damages in other legislation. I would just like to call the Senate's attention to this and say I believe it is a breakthrough. It is one I think has some value.

Mr. President, briefly I would like to say, regarding the substitute of Senator GORTON and myself, it has been pulled down and put aside because, obviously, there were not the votes for it. But the reason for that substitute was to provide a package that encompassed all five of the civil rights cases in which we wished to redress the wrongs of the decisions of the Supreme Court, the weakening of civil rights laws. And in this substitute, taken as a package, as a whole, we had provided a fair and comprehensive approach that promoted cooperation and negotiations rather than to encourage litigation. By encouraging litigation—which has been addressed many times on this floor—I believe we set a tone

and create an atmosphere that will not help civil rights in this country but will hunt the efforts to correct the discrimination in the workplace. But the substitute was pulled aside, and we moved directly ahead to the Kennedy bill.

Personally, Mr. President, I still believe there are some significant flaws in that approach. But clearly one of the reasons for my substitute was that it was a package to be considered as a whole.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. KENNEDY. I yield to the Senator from Nebraska.

Mr. EXON. I thank the leader of the bill and I thank the Chair.

I am going to make one last appeal to the Republican leader. I believe he is for civil rights. I have no reason to believe he is not for civil rights. He has made a point that a mistake was made yesterday with reard to cloture.

I do remember last night being on the floor and I heard the majority leader say to the minority leader: We are prepared to rescind the cloture vote, to try comity and try to work it out. Please do not punish civil rights by your stand, Mr. Republican Leader. Please let us accept the two amendments that we have offered and say that it is the right thing to do, whether or not you want to penalize the Democrats for what they did, with the help of some Republicans yesterday. Can I appeal to you one more time?

Mr. DOLE. I yield myself 1 minute.

If you will accept a couple of ours, we will accept a couple of yours. How is that?

Mr. EXON. Let us talk it. Let us get the leaders out here and let us talk it. We may still be able to resolve this problem and have a good civil rights bill that all or most of us can support.

Mr. DOLE. The time is running. We have a vote at 9:15.

Mr. EXON. You can get that extended by unanimous consent in short order, as the learned minority leader knows full well.

Mr. DOLE. You did not say I was learned a few moments ago.

But, in any event, I have a couple of nice little amendments. I am going to ask consent there not be quotas in this bill; that language in there does not mean anything; just a declaratory statement. I hope we can get agreement on it. I think we could. I do not know who would object to it unless you are for quotas. So there will be a chance to offer that here momentarily.

There is one other amendment we could work out. Maybe we could each have two, make this a good bill, and we could all vote for it.

I would have to confer with my leader, the distinguished Senator from Utah, and others who are real lawyers. I only got to be county attorney in my State but some of them have gone on to greater things. That is probably why we are in the trouble we are in right now.

In any event, I will be happy to discuss a couple of those with the Senator. I will yield 3 minutes to the Senator from California, Senator WILSON.

The PRESIDING OFFICER. The Senator from California.

Mr. SIMPSON. Mr. President, I would like to make a parliamentary inquiry. That will not run against the time on either side?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator will state his parliamentary inquiry.

Mr. SIMPSON. Mr. President, I think there has been a violation of the Standing Rules of the Senate.

I cite rule XIX, 2:

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

Therefore, I ask unanimous consent that the language of the Senator from Nebraska with relation to the Senator from Kansas be stricken from the RECORD.

The PRESIDING OFFICER. The Senator is making a unanimous-consent request. Is there objection to the unanimous-consent request of the Senator?

Mr. EXON. Mr. President, I would like to have the Senator explain what words I used that were improper. If they were improper, I certainly apologize.

Mr. SIMPSON. Will the reporter please read the language of the Senator from Nebraska to the Senate?

The PRESIDING OFFICER. The Chair would request of the Senator if he would refer to the Chair, for the Chair's information, that language, or where it was reported, that he is referring to so the official reporter may find it.

Mr. SIMPSON. Mr. President, it was very clear and it was very short. I ask that the official reporter read it as one would do. That is what I am requesting. It is very short. Words like muttering and cutting. That is the section please, I would like to hear that.

The PRESIDING OFFICER. The Official Reporter will read the language requested.

The Official Reporter of Debates, Mr. Ronald Kavulick, read as follows:

I was just startled, Mr. President, to hear the minority leader, of all people—could I have the attention of the minority leader and the Senator from Minnesota? I am addressing the minority leader.

Mr. SIMPSON. May we hear that? I would like to hear that.

Mr. CHAFEE. Speak right in the mike, please.

The PRESIDING OFFICER. The Senate will be in order.

The official reporter of debates, Mr. Ronald Kavulick, read further, as follows:

I was just startled, Mr. President, to hear the minority leader, of all people—could I have the attention of the minority leader and the Senator from Minnesota? I am addressing the minority leader.

I was astonished to hear the minority leader, whom I voted with yesterday, get up and, in essence, say he was not going to allow this to become law because he was going to punish the Democrats for what they did yesterday. Well, you cannot punish this Democrat. He voted with you. Sometimes I am wondering if you are deserving of the support of some of us on this side that do not always join the herd.

Mr. DOLE. I do not get much.

Mr. EXON. I have the floor. I listened very intently, and I do not appreciate the off hand remarks that are muttered by the minority leader. We know how cutting you are, and we know how you can tear the Senate apart, as you almost did yesterday.

I want to know if the Senator from Kansas has any other reasons for blocking these measures that we worked hard to put together, other than to punish the Democrats. How about a civil rights bill that I believed up to this moment the minority leader was for?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Let me state that I appreciate my colleague from Wyoming coming to my defense. Those of us who live in the Midwest know we speak this way.

[Laughter in the Chamber.]

Mr. DOLE. I am from Kansas. Senator EXON is from Nebraska. I am not offended by what he said. Maybe I should be, but maybe I—I just as soon we proceed without it.

Mr. SIMPSON. Mr. President, out in my neck of the woods, politics, as Senator BENTSEN from Texas has described it; is also a contact sport. I have noted along with the Senator from Kansas that it is a contact sport. I am going to withdraw the unanimous-consent request, but I can assure you that at any appropriate time, I will renew it.

I think it is very important that we remember that this is very much a place where we must do our business. Sometimes it get pretty tense. I get into it with both feet and those are a 15E.

[Laughter in the Chamber.]

Mr. SIMPSON. I just say that I think from time to time we should recall what we are doing here, what we say here, and that it is a public record, but it will not be that record tomorrow, and that is how it works around this place. I think the American people some day will awake to how each of us goes through that record very night to be sure that these kind of things are corrected. Maybe that will be.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I wish to assure the Senator from Wyoming, and he can check with the Official Reporters—I have been here 12 years—that I have never ever changed a word that I have said on the floor of the U.S. Senate, and I will not change any of the words that I said here tonight.

I have not violated the rules of the U.S. Senate. I just want to assure you that the words I said, as far as this Senator is concerned, will not be changed. Please read them tomorrow and if there is not true, please let me know.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I certainly accept that explanation. I would say again, though, that is not always the case in this Chamber with those on both sides of the aisle.

The PRESIDING OFFICER. Does the Senator withdraw his unanimous-consent request?

Mr. SIMPSON. I withdraw my unanimous-consent request.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed for 1 minute without being charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I want to say again I appreciate the Senator from Wyoming. As I said, out in the Midwest, we talk sort of straightforward talk even in criticism of one another. But I think also one thing you accept as leader, whether the majority leader or minority leader: Sometimes things get a little rough. It is hardball sometimes. Sometimes we do things we would rather not do. I know people sometimes are frustrated. In this case, I was able to hear it. Sometimes they say it in the Cloakroom, and you do not know what they said out in the Cloakroom or somewhere else about the leader or the leadership.

So I have no problem with what was said. It might even be true.

The PRESIDING OFFICER. The Chair will observe that the minority leader controls the remaining time between now and 9:15. And the Democratic manager of the bill, the Senator from Massachusetts, has how much time remaining?

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for debate on the amendment be extended until 9:25 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Under that agreement, the Chair would observe the remaining time controlled by the minority leader is 23 minutes and the majority controls 3 minutes exactly.

Mr. DOLE. I yield 3 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 3 minutes.

Mr. WILSON. Mr. President, years ago in the California State Legislature, my seat mate gave me what he thought to be sage and practical advice. He said never amend a bad bill, just kill it. I was young and idealistic. It seemed to me rather harsh advice; that, instead, we should seek to improve legislation by amendment.

What we have before us is a bad bill. Incredibly, it is the product of much hard work and I think good-faith negotiations. But nonetheless, it is a bad bill because, Mr. President, it is a quota bill. It is a bill that requires hiring by quota. If not in express, explicit language, inevitably that will be its effect. Lawyers advising their clients will say, "Don't take a chance. You really cannot afford to defend this in Federal court. You'd better make certain that your percentage work force matches the percentage of available applicants, or whatever is present in the population."

Mr. President, we have seen tempers flare just a bit because the Senator from Arkansas sought to alleviate a concern that has been understandably generated by this legislation. The amendment that he wanted to offer but which was not accepted would have in some respects improved the legislation, but it would not have gone far enough. But let me now direct your attention to the written description of the Kennedy-Jeffords amendment. It says, "Section 13 is amended to provide expressly that amendments contained in the act shall not be construed to require an employer to adopt hiring or promotion quotas."

That is a pious expression of good intentions. Its legal effect is negligible. Even if it were changed instead to read that the act shall be construed to prohibit an employer from adopting hiring or promotion quotas, it is very much a legal question, a serious question as to whether or not it would have the impact of changing the operative language.

When Senator PRYOR expressed the concern of the business community about disparate impact, about the presumption of causation, the presumption of discrimination, without actually identifying a specific hiring practice, he was in fact speaking of a concern that is held universally throughout the Nation, I suspect.

This amendment will not change the fear that those who have that concern have prompted him to speak to tonight. It just does not do it. A sense-of-the-Senate expression, frankly, is worth little when it is contradicted flatly by the operative language of the legislation, as is this at page 17 of S. 2104, and the Kennedy-Jeffords substitute does not address that point. It has not cured the defect.

Mr. President, in sum, what we are left with is a bad bill, a quota bill. I would submit that you do not cure old wrongs by creating new ones. You do not correct old discrimination by imposing new discrimination, reverse discrimination under a quota system.

The PRESIDING OFFICER (Mr. ROBB). The 3 minutes yielded to the Senator has expired. Who yields time?

Mr. DOLE. I yield 3 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for time chargeable to the Republican leader.

Mr. SIMPSON. Mr. President, I spoke earlier in the day, talked about how we weave such intricacies in language that eventually results in misleading citizens or creating hidden hooks in the law that are not noticed for many years. I think that is exactly what this measure does in the form that it is presented to us. I think that is here on a scale that is really quite boggling.

We are given assurances that this substitute will not require quotas, and yet now we are told that we will handle that somewhere else, in conference or somewhere else, or in the other body. How strange.

Let us look at this a little more closely one more time before many of our colleagues rush like lemmings into an ocean of quotas; because that is where this bill goes.

This substitute could have been written by an association of plaintiffs' lawyers, and maybe it was. I practiced law for 18 years and I was a trial lawyer, and I was part of that.

This bill is an absolute guarantee that a plaintiff's attorney is going to get paid really big bucks. The so-called justification for this is that we are told that potential plaintiffs sometimes do not bring lawsuits because lawyers will not represent them.

There are two big reasons why a lawyer would not take an employment discrimination case. The first is that the case is a loser—there is no merit to the claim. That is a good reason. There are a lot of those. The second—and we hear a great deal of press on this one—is that lawyers will not make enough money. The same old story here. Money, bucks, greed.

This substitute sure cures that evil, does it not? This bill makes certain there are plenty of bucks out there to satisfy a few very, very, greedy lawyers. The bucks will cure the other so-called problem, too. Bucks will make those lawyers file those cases that should not be cluttering up the courts anyway. And hear this: The substitute works another wonder on the problem about winning cases. This substitute makes it impossible for a plaintiff not

to get into court, regardless of whether there is any merit to the claim. The substitute still changes the burden of proof and persuasion, subtly and deftly, so that a defendant is presumed guilty until the defendant either proves his innocence, or finally—and be sure and hear this one—or until the employer asks to settle the case.

Now, that is where greed takes over again. You get a lawyer rich on the back of an employer who never had a discriminatory thought in his life. He was just unfortunate enough to forget to hire strictly according to certain statistics. Statistics and quotas.

And if you are especially good and you are a plaintiff's lawyer, and a case is brought under this bill, there is no limit, no cap for the damages you can claim. Every one of us here who is an attorney knows the first thing you do when you file a claim is to inflate the claim for damages as high as you can get so when the defendant offers to settle, you get more money.

If you are an employer, if you are faced with this as the law of the land and know that you will never be able to get insurance against this kind of liability, what do you do? How will you select your employees? Well, you will do it with a statistician, a demographer, a person that specializes in counting people and putting them in little pigeonholes in a computer model. And you ask this person, how many Asians must I hire; how many blacks; how many women; how many whites; and in what proportion? Quotas and greed, that is what this is all about. It is not about civil rights.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized for up to 10 minutes.

Mr. HATCH. Mr. President, the language in the amendment which overrules Wards Cove makes this bill much worse. This is the first time in all of the Kennedy amendments that they are overruling Wards Cove—the first time. It makes this bill much worse in terms of quotas.

That decision included a very important holding, and everybody better know it. The Court said that in determining what constitutes disparate impact, you cannot compare the percentage of minorities in skilled jobs to the percentage of minorities in unskilled jobs. Justice White said to do so is nonsensical. Justice White said that without this ruling, any employer which had any segment of its work force racially imbalanced will be hauled into court. The only way to avoid that costly exercise is to adopt quotas.

That is what this new substitute does, and they freshly admit it. This bill will overturn that particular ruling in Wards Cove and thereby make this bill 10 times worse than it was.

Secondly, if people will kindly read the RECORD of yesterday, they will find that I offered before cloture to put together a time agreement on this bill and to work to get the amendments narrowed down to a few. I actually offered to do that.

The fact is it was rejected. Now, this is the same Senator who was given the assignment of getting about 300 amendments on the crime bill down to 12 on each side, along with the distinguished Senator from Delaware, Senator BIDEN, and we did it. We could have done it here. It is a little bit funny to come in here today and say we have been deprived of our right to amend.

I would like to move on to the DeConcini language in this bill, that nothing in this act requires quotas. It is totally useless. First of all, we admit the act does not require quotas. It is that the effect of this act does require quotas. We have never argued that the bill expressly requires or demands quotas. But as a result of the way this bill rewrites the disparate impact theory, the only way that employers can avoid costly lawsuits they are almost certain to lose is to adopt quotas.

Mr. President, the latest version of S. 2104, the sixth substitute for this bill, something that was considered a wonderful bill from the beginning by the proponents, is seriously flawed. It stands for the following proposition:

First, hiring the most qualified applicant is no longer a defense to a charge of discrimination.

Second, employment standards are going to be seriously eroded.

Third, employers will be exposed to massive back pay liability.

Fourth, employers will be exposed to massive back pay liability if their jobs do not reflect statistical balance. That is, quotas based on race, ethnicity, color, gender, and religion.

Fifth, employers will be required to resort to quota hiring and promotion in order to avoid future liability under the revised theory of discrimination found in this bill.

Sixth, plaintiffs are still able to challenge all of an employer's employment practices upon the mere showing of a racial, ethnic, gender, or religious imbalance in a job.

Seventh, upon the showing of this mere imbalance, this failure to meet the quota, the employer is guilty until it proves itself innocent. For the first time in American jurisprudence, to my knowledge, we are going to change it to that extent.

Eight, a far more onerous burden of justification is placed on employers than exists under the Griggs decision.

Ninth, some Americans will be denied their right to an equal opportunity to their day in court to assert the most fundamental rights of all: The right to equal protection of the laws and the right to be free of invidious discrimination. This bill incorporates that into law.

Tenth, title VII will become a litigation bonanza for lawyers. You cannot read this bill without concluding that.

Eleventh, title VII will be dramatically transformed. It will no longer be a statute encouraging conciliation, settlement of claims, and quick provision of relief to victims of discrimination. It will, instead, be a statute where protracted and costly litigation will be the tool of first resort.

Finally, Mr. President, perhaps the most appalling provision of all applies to the Jim Hensons of this world. He was not a party to a lawsuit in which a consent decree was entered. Later, he shought a promotion in the Birmingham Fire Department. He was ranked sixth for promotion. He was passed over by a firefighter ranked 85th because of his race, as a result of the consent decree. He now has a day in court to assert his claim that this action discriminates against him. This bill takes that right away. In fact, it is as if every Senator voting for this bill is tapping Jim Henson on the shoulder in the courtroom and telling him to leave, telling him that his rights are not as important as the rights of others. In fact, if he wins this case before the bill becomes law, if it ever does, it takes that victory away from him. We call this civil rights?

Jim Henson, and others like him in courtrooms all over the South and elsewhere, does not have dozens of organizations waiting outside the Senate floor representing his concerns. He does not have ready access to a sympathetic medium of glib spokespersons with 10-second sound bites. But he does have civil rights before this bill passes.

Last week, we passed the Americans with Disabilities Act, legislation guaranteeing that all Americans, including those with disabilities, must be treated like other Americans. They should not be barred from the American dream. The legislation passed almost unanimously, and it is going to be signed by the President. That bill stands as a triumph to the spirit of compromise, the product of a collective willingness to enact equitable and fair legislation.

Today, we are on another civil rights bill, but we are ensnarled in a parliamentary ploy, courtesy has been replaced with frustration, and the threat of a veto looms large on the horizon. We as a body have not changed this dramatically in 1 week. The legislation before us has changed.

Where the ADA stood for equality of opportunities, S. 2104 stands for equality of result. Where the ADA helps to guarantee all Americans the same rights, S. 2104 treats some Amer-

icans more favorably than others. And where the ADA sought to protect those with disabilities, much of S. 2104 is designated to benefit trial lawyers.

As I said before, the further we as a nation retreat from the principle that all Americans must be treated the same, the closer we come to the quagmire of a spoils system that has more to do with one's birth than one's qualifications. An individual's qualifications and abilities will be less important than the numerical standing of the group to which he or she belongs. And, inevitably, group will be pitted against group. The unfortunate fact is that S. 2104 has little to do with the principle or promise of title VII, but has much to do with creating a brand new era of discrimination.

Mr. President, we are going to hear from the distinguished Senator from Massachusetts how women, minorities, blacks, Hispanics, are all going to be helped by this bill. Let me tell you something. This bill is not going to help a lot of people. This bill is going to hurt a lot of people. That needs to be said.

Mr. President, I ask unanimous consent that my remarks with regard to an offer to try to put this thing together on pages S9814 in the CONGRESSIONAL RECORD of July 17, 1990, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. HATCH. Of course, I want up and down votes on my amendments. I have five or six amendments. I limit myself to those and limit them to time agreements. We will check our side to see if anybody wants to have their amendments governed by time agreements as well. We will try and do that. You bet your life. I would love to do it.

In fact, will you check our side, I say to the Republican leader, and let us see if everybody is agreed to go on time agreements, allowing us to vitiate the cloture vote and get a time agreement on this bill? It will certainly give us time to come up with our amendment, and it will certainly give everybody a chance to vote on these on the floor. I think the only fair way to do it is provide up and down votes, and I am limiting myself to five or six amendments.

Mr. HATCH. Mr. President, I thank my dear colleague from Kansas and appreciate his leadership on this bill. It is a tough bill. It has been tough for all of us. I want to tell him how much I personally respect and appreciate his leadership.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator controls 6 minutes and 15 seconds.

THE KASSEBAUM SUBSTITUTE AMENDMENT

Mr. DOLE. Mr. President, first, I want to commend my distinguished colleague from Kansas, Senator KASSEBAUM, for her leadership in crafting a substitute which we are not going to vote on because—we checked fairly carefully—we did not have the votes. It seems to me it may offer cover for some who voted for cloture yesterday, and it would not have been passed. But it was an outstanding effort by the Senator from Kansas [Mrs. KASSEBAUM] and by the Senator from Washington [Mr. GORTON] and others.

It was a broad-based bill. It was a bill to protect individual rights, not group rights. The bill encourages conciliation, mediation, and not enormous legal fees to line the pockets of the members of the bar for decades to come. That, in effect, overturned the Patterson versus McLean Credit Union decision, expanded the coverage of section 1981 to include racial harassment on the job.

It overturns the Lorance versus AT&T decision by allowing workers to challenge discriminatory seniority plans. It expands title VII by creating, for the first time in our Nation's history, a strong Federal remedy to deter and compensate for sexual harassment in the workplace.

Senator KASSEBAUM has worked night and day on this important legislation, and she deserves the thanks and praise of those Senators who are seeking a more reasonable and balanced approach to the very complicated issues raised by the Kennedy-Jeffords amendment.

I would also like to commend my distinguished colleague, Senator SLADE GORTON of Washington, who has been steadfast in his support for a strong, but responsible, civil rights bill. Senator GORTON's input has been invaluable during the negotiating process, and he, too, deserves the Senate's praise for bringing this substitute bill to the floor for consideration.

Mr. President, if the Senate is looking for a bill that promotes racial justice, and not quota justice, if we are looking for a bill that protects individual rights, not group rights, and if we are looking for a bill that encourages conciliation and mediation, and not enormous legal fees that will line the pockets of the plaintiff's bar for decades to come, then the Senate ought to consider, and pass, the Kassebaum-Gorton substitute.

The Kassebaum-Gorton substitute overturns the Patterson versus McLean Credit Union decision by expanding the coverage of section 1981 to include racial harassment on the job.

It overturns the Lorance versus AT&T decision by allowing workers to challenge discriminatory seniority plans even after these plans have been adopted.

It fine tunes the Martin versus Wilks decision in a way that protects court-ordered consent decrees without running rough-shod over the due process rights of the citizens of this country.

It expands title VII by creating—for the first time in our Nation's history—a strong Federal remedy to deter, and compensate for, sexual harassment in the workplace.

The Kassebaum-Gorton substitute proposes more than backpay. More than injunctive relief. It proposes damages up to $100,000, which happens to be more than twice the average damages award under section 1981, the statute outlawing racial discrimination in the making of contracts.

I feel very strongly about the need to protect the women of this country with an adequate Federal remedy for sexual harassment. And, on this score, the Kassebaum-Gorton bill is strong indeed.

The Kassebaum-Gorton substitute also adopts a definition of "business necessity" that codifies the Griggs versus Duke Power decision, that is entirely consistent with subsequent title VII case law, and one that will not lead to de facto racial and ethnic quotas in the workplace.

It avoids the litigation bonanza, which the Kennedy-Jeffords bill would encourage, by removing those provisions allowing unlimited compensatory damage, unlimited punitive damages, and unlimited jury trials.

And the Kassebaum-Gorton substitute overturns the Supreme Court's Wards Cover decision by shifting the burden of proof to the employer.

So, Mr. President, the Kassebaum-Gorton substitute is a real civil rights bill, despite what some of the Beltway critics may say.

And, most importantly, it is a bill that will guarantee—guarantee— a rose garden signing ceremony for later this year.

Mr. President, as far as this Senator is concerned, the administration has gone the extra mile in trying to reach a negotiated agreement with Senator KENNEDY and the other proponents of his bill.

Last night, the President's Chief of Staff, John Sununu, and White House counsel, Boyden Gray, were in the majority leader's office until 12:30 in the morning, trying to negotiate an agreement on the definition of the words "business necessity." President Bush himself telephoned into the meeting to encourage the negotiators in their efforts.

As Senator DANFORTH has indicated, no agreement was reached. The President can hold his head high. He has given it his best shot.

And he should have no regrets about vetoing a bill that gives new meaning to the word "overreaching."

Mr. President, I indicated earlier to the Senator from Massachusetts that I have a little technical amendment that I think he has indicated he would

not agree to let us change the language. But this would just simply take out the DeConcini language and insert:

Nothing in the amendments made by this act, or in any statute amended by this act, shall be construed to require, permit, or result in the adoption of implementation of hiring, promotion, or termination quotas by an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof), on the basis of race, color, religion, sex, or national origin.

It seems to me, if we could agree on this amendment—I have not made the request yet—we could take care of the many problems with the sort of statement in the DeConcini language that is supposed to get a lot of people off the hook—say we do not want quotas. My view is that is meaningless language, as pointed out by the distinguished Senator from Utah.

But I just point out some of the things in this bill some people are going to vote for—not this Senator.

This bill provides for unlimited compensatory damages, unlimited punitive damages, unlimited attorneys fees and unlimited opportunities for the lawyers of this country to line their pockets.

I know that some of my colleagues already expressed they wanted to cap both punitive and compensatory damages, but we have to welcome them to the postcloture world where amendments, no matter how important, are shut out of the process.

This legislation is going to affect virtually every small business in this country. It distorts title VII, not restores it. It boldly declares that "nothing in the amendments made by this act shall be construed to require an employer to adopt hiring or promotion quotas."

Those are nice words, and it is easy for a Senator to claim that he has neutralized the quota issue. But it is a sentence without any legal meaning. From what I have checked out—and I have checked with a lot of lawyers—it has no meaning at all. It is nothing more than a do-nothing, feel-good provision.

To simply assert that a duck is not a duck does not transfer the duck into a pigeon, or a fowl, or some other kind of bird. To simply assert that this is not a quota bill does not change the fact that a combination of unlimited compensatory and punitive damages, along with the restrictive non-Griggs definition of "business necessity," will lead to quota-based workplaces throughout this country.

The Kennedy bill states that employes would not be "required" to adopt quotas, but the Kennedy bill would still allow employers to adopt quotas. In fact, employers—the small businesses of this country—will be forced to "hire by the numbers" as a result of restrictive definition of "business necessity" contained in the Kennedy bill.

This bill is not about racial justice; it is not about equal opportunity or individual rights. This bill is about quota justice, pure and simple. The American people will not be fooled.

Mr. President, I state again that the administration thought they had an agreement with the Senator from Massachusetts. Maybe he was not in a position to carry it out.

I think perhaps the administration has said, not with any relish, that they are prepared to veto the bill in its present form. Maybe that makes a good political issue.

The President also said he wants to sign a civil rights bill. He has been a strong supporter of civil rights. As I said earlier, this Senator never voted against a civil rights bill. I am not certain this is a civil rights bill. If we look at small business and the others who are going to have to deal with it, I think there is no balance in this legislation at all.

I just ask the Senator from Massachusetts, has he had an opportunity to take a look at this technical amendment?

Mr. KENNEDY. Yes, I have. This is not a quotas bill. We deal with the quotas issue within the legislation, so I do not believe that it is necessary or essential, and I would find it unnecessary and not essential. I would object to it.

The language in the bill is: "Nothing in the amendments made by this act shall be construed to require an employer to adopt the hiring or promotional quotas on the basis of race, color, religion, sex, or national origin." I believe that that addresses the issue.

Mr. DOLE. I will make the request, and the Senator would object to it?

Mr. KENNEDY. That is correct.

Mr. DOLE. I make the request.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. I wanted to make sure you objected before I made the request.

I ask unanimous consent that the language be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Nothing in the amendments made by this Act, or in any statute amended by this Act, shall be construed to require, permit, or result in the adoption or implementation of hiring, promotion, or termination quotas by an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof), on the basis of race, color, religion, sex, or national origin.

Mr. DOLE. I knew the Senator did not want to improve the bill, but I wanted to give him one last shot.

The PRESIDING OFFICER. All time controlled by the Republican leader has now expired.

Mr. KENNEDY. Mr. President, how much time do we have?

The PRESIDING OFFICER. Three minutes, five seconds.

Mr. KENNEDY. Mr. President, no matter how many times it is stated by the minority leader and my good friend from Utah, that this is a quotas bill, it is not. It is the restoration of the Griggs ruling, a unanimous Supreme Court decision in effect 17 years. In the time that we have debated this, in the time the matter has been generally before the U.S. Senate, 3 weeks, there has not been one allegation, one report, one finding by any of those that said that this was a quota bill that was substantiated by any of the cases; none, zero. Absolutely zero, Mr. President.

To restate it and restate it, it might suit their purposes, because they do not favor the bill, but that happens to be the fact. And this is a restoration.

Mr. President, if the President keeps an open mind and takes some of the advice he has received with a grain of salt, he will sign this legislation when it reaches his desk. Fifty-three million women and twenty-one million black Americans in the work force cannot be wrong. They live with job discrimination every day, blatant racial prejudice, flagrant sexual harassment. No jobs available. Only second-class jobs available. Talk about being out in the cold.

It is time to end the double standard that denies equal opportunity to women and minorities, no ifs, ands, or buts, and no watered down compromises either. Civil rights is the unfinished business of America. It is always an uphill battle. This is the lesson of all of our history. We fought battles like this many times before, and we will be fighting them again and again and again, until we end discrimination in America and fulfill the promise of this country. It is not over until it is over.

I believe there is a good chance that President Bush will sign this bill. But if he vetoes it, there is a good chance that Congress will override the veto. Congress overrode a civil rights veto under Ronald Reagan, and Congress can now override a civil rights veto under George Bush.

The President's instinct on many different issues is to split the difference, and often that serves him well. But you cannot split the difference on civil rights. It is wrong to split the difference on discrimination.

The President and the Republican Party have a difficult decision to make. Lip service is not good enough

when the issue is civil rights. The party of Lincoln should be the party of civil rights.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. I yield back the remainder of my time.

Mr. GRAHAM. Mr. President, around the globe, nations are looking to the United States to set an example of democracy, justice, and opportunity.

New constitutions and new laws are being drafted to ensure liberties and opportunities for all.

The U.S. history of addressing discrimination is well-known. The struggles date back to the Civil War.

Congressional action dates back to an 1866 law prohibiting racial discrimination in the making and enforcement of private contracts.

Throughout the first half of the 20th century, ethnic minorities and women joined the fight with racial minorities for fair employment opportunities.

The landmark 1964 Civil Rights Act reflected the growing public intolerance for discrimination.

For nearly two decades, the high courts have guided interpretation of civil rights laws with little argument from Congress.

However, a number of cases decided in the last session of the Supreme Court are troubling. The Court seems to have lost touch with public opinion on employment discrimination.

Congress must send a clear message on this matter. Employment discrimination will not be tolerated.

Mr. President, the Civil Rights Act of 1990, as amended, will help ensure competitive and fair employment opportunities for all Americans by overturning several Supreme Court decisions and by providing new remedies for plaintiffs in discrimination cases.

Some claim that this bill will result in quota hiring.

I disagree. Under the substitute bill, an employer must show that a challenged employment practice is required by business necessity.

The substitute expressly defines the term "business neccessity" as "must bear a significant relationship to successful performance of the job" for selection practices.

For 18 years prior to 1989, the 1972 unanimous Court decision in *Griggs* versus *Duke Power Co.* guided the handling of disparate impact cases.

In Griggs, the Court said that the touchstone in determining acceptable employment practices is business necessity.

Duke Power's employment test were rejected because, according to the Supreme Court, the test did not "bear a demonstrable relationship to successful performance of the jobs" for which the test was applied.

So for 18 years, employers and employees have operated under the rules of the Griggs decision.

In a series of four hearings on this bill, the Senate Committee on Labor and Human Resources discovered no evidence to suggest that the Griggs standard—which this bill will return to—has led to quotas.

Second, opposition has been voiced about the allowance under this bill for victims of intentional discrimination to recover compensatory and, in some limited cases, punitive damages.

Under current law—a law dating back to 1886—victims of race discrimination enjoy this privilege, but not victims of sex, or religious discrimination.

I simply cannot understand how the administration can defend this policy any longer.

Opponents argue that this provision will undermine the use of title VII remedial procedures to settle cases and lead to a bonanza of litigation.

A National Women's Law Center study which tracked 10 years of intentional race discrimination cases showed that in 85 percent of the cases, no damages were awarded at all.

Of the remaining cases, the average award was about $40,000.

There is simply no justification for the discrepancy in current law which allows racial minorities certain judicial privileges and bars women and ethnic minorities from enjoying equal privileges.

It is my sincere hope that the President will reconsider his position on what I consider to be fundamental issues of fairness and sign this legislation.

The PRESIDING OFFICER. All time is yielded back. Under the previous order, the question is on agreeing to the amendment of the Senator from Massachusetts.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 34, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—65

Adams	Chafee	Fowler
Akaka	Cohen	Glenn
Baucus	Conrad	Gore
Bentsen	Cranston	Graham
Biden	Danforth	Harkin
Bingaman	Daschle	Hatfield
Boren	DeConcini	Heflin
Bradley	Dixon	Heinz
Breaux	Dodd	Hollings
Bryan	Domenici	Inouye
Bumpers	Durenberger	Jeffords
Burdick	Exon	Johnston
Byrd	Ford	Kennedy
Kerrey	Mitchell	Rockefeller
Kerry	Moynihan	Sanford
Kohl	Nunn	Sarbanes
Lautenberg	Packwood	Sasser
Leahy	Pell	Shelby
Levin	Pryor	Simon
Lieberman	Reid	Specter
Metzenbaum	Riegle	Wirth
Mikulski	Robb	

NAYS—34

Bond	Helms	Pressler
Boschwitz	Humphrey	Roth
Burns	Kassebaum	Rudman
Coats	Kasten	Simpson
Cochran	Lott	Stevens
D'Amato	Lugar	Symms
Dole	Mack	Thurmond
Garn	McCain	Wallop
Gorton	McClure	Warner
Gramm	McConnell	Wilson
Grassley	Murkowski	
Hatch	Nickles	

NOT VOTING—1

Armstrong

So the amendment (No. 2275) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, I rise today to express my intention to vote for the substitute before us, but to express my strong reservations about the form in which the bill will be voted on.

This is an incredibly important proposal. It reverses or modifies a series of Supreme Court decisions which have severely weakened our country's civil rights protections.

It has been said many times that this bill is about fairness. Mr. President, it is also about ourselves as a people. This bill speaks to how our society treats its own people—what it condones and what it condemns.

But, Mr. President, this bill is far from perfect. While I am an original cosponsor of the bill because of my commitment to civil rights, I also have reservations about the language in the bill as it concerns hiring quotas and punitive damages.

Mr. President, any bill that encourages quotas will do more harm than good. That is why I cosponsored the amendment by my colleague from Arizona, Senator DECONCINI. The DeConcini provision, which has been incorporated into the bill, makes it perfectly clear that this bill does not "require an employer to adopt quotas on the basis of race, color, religion, sex, or national origin."

However, I believe that there are two important issues that remain. First, I am disappointed that the parliamentary situation in which the Senate finds itself renders it impossible for us to consider the Pryor amendment on disparate impact. I have cosponsored that amendment because I believe the language in the bill puts small businesses at too great a

risk of being sued under disparate impact. The amendment merely states that "the mere existence of a statistical imbalance in an employer's workforce on account of race, sex, religion, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation."

The second amendment that the Senate is not able to consider, which I have also cosponsored, involves punitive damages. This bill extends important damage provisions to victims of sex and religious discrimination. However, I am concerned that those provisions may result in the filing of frivolous lawsuits. The Boren/Bumpers amendment would place a reasonable cap on the punitive damages available under the bill.

These are very important proposals which merit a vote by the Senate. But, since we are unable to vote on them at this time, my vote for the bill is based on the assurances by the majority leader that these proposals or similar language will be incorporated into the conference report on the bill.

Mr. President, these are not issues that I take lightly. And I appreciate the hard work that many of my colleagues have devoted to this proposal. I look forward to consideration of the conference version of the bill.

Mr. KOHL. Mr. President, I am a cosponsor of the Civil Rights Act. I am proud to support efforts to restore remedies and protections to employees who are victims of discrimination.

While I supported the initial version of the bill, as debate on it evolved it became clear to this Senator that changes were necessary to accommodate the legitimate interests of the business, legal, and civil rights communities. The amendment before us does that to some extent, and it is a significant improvement over the original proposal.

It does not, however, address all of this Senator's concerns. I support the effort made by the Senator from Utah to incorporate the language of Griggs and would have voted for that amendment. It's important to clarify—once and for all—that it is not the intent of this legislation to encourage employers to adopt quota policies. While I do not believe that the language in the amendment before us would lead to quotas, I believe that the language in the Hatch amendment is at least as clear. Additionally, I support the bipartisan agreement to limit punitive damage awards.

As I listened to the debate these past 2 days, I became deeply dismayed by the way in which we considered this crucial civil rights legislation. There are several Senators who sought to offer amendments—Senators on both sides of the aisle who are deeply committed to civil rights and who sought to employ their commitment. But partisan politics—practiced by both sides of the aisle—and manipulation of the rules by both parties, made it impossible for that to happen. As a result, this bill is not as good as it could and should have been. I deeply regret that. The country and the Senate as an institution have been cheated as a result of the posture, and posturing, we have seen over the past few days.

I vote for this amendment and for final passage knowing that this legislation must still be considered by the House of Representatives. And beyond that there is conference. It is my sincere hope that, as this process continues, the partisan bickering that has thwarted full consideration of this bill will cease. It is my sincere hope that the genuine concerns of Members on both sides of the aisle will be addressed.

The elimination of racial, ethnic, religious and gender-based discrimination is critical to our Nation's social progress and well-being. It would be a tragedy if we allowed our partisan disputes to prevent enactment of this legislation.

VOTE ON AMENDMENT NO. 2110, AS AMENDED

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to amendment 2110, as amended, offered by the Senator from Massachusetts.

The amendment (No. 2110) as amended, was agreed to.

Mr. RIEGLE. Mr. President, I rise today to express my support of the Civil Rights Act of 1990 which will restore and strengthen our Nation's civil rights laws banning employment discrimination. Since the landmark Brown versus the Board of Education decision more than 35 years ago, the Supreme Court has played an integral role in our Nation's fight to end various forms of discrimination. Supreme Court decisions and congressional statutes have created a legal framework over the years which provide protections and remedies for victims of discrimination. Last year however, in a reversal from its former role as a vigorous enforcer of Federal equal opportunity laws, the Supreme Court handed down a series of decisions which seriously undermine both the scope and effectiveness of two of our most important Federal employment laws—of 42 U.S.C. 1981 and title VII of the Civil Rights Act of 1964.

Section 1981, one of our oldest civil rights statutes, forbids racial discrimination in the making and enforcing of contracts. It is the only Federal law banning race discrimination in all contracts and has therefore been a crucial tool in striking down racially discriminatory practices in a variety of contexts. One of last year's most egregious Supreme Court decisions, Patterson versus McLean Credit Union, seriously limited the scope of section 1981 by protecting only against discrimination in the making of an employment contract; that is, hiring. The Court held that section 1981 did not prohibit harassment or discrimination on the job.

This decision seriously undermines the equal opportunity laws which have been developed over the years because section 1981 is the only Federal law banning race discrimination that applies to the 3.7 million firms with fewer than 15 employees. As a result, more than 11 million employees in firms that are not covered by title VII lack any protection against racial harassment and other forms of discrimination on the job. Congress has no alternative but to refuse such a narrow interpretation of this statute and to reaffirm our commitment to prohibit discrimination at any point in the employer-employee relationship.

This bill makes another vital correction in our Nation's civil rights law by overturning the recent Supreme Court decision in Wards Cove versus Atonio. For the 18 years prior to Wards Cove, the burden of proof was on the employer to establish that an employment practice with a disparate impact on women or minorities was required by business necessity. The Supreme Court shifted that burden to employees by requiring plaintiffs, or employees, to prove that a challenged practice was not justified by business necessity. This change make little sense, however as it is the employer who designs and evaluates job requirements and possesses all the evidence and information relating to its own hiring practices. The employer is therefore in the best position to decide which practices are needed. The Civil Rights Act of 1990 would return the burden of proof to the employer, where it has been for the past 18 years. Let me stress that this legislation does not require or even encourage quotas or hiring by numbers. The intent is merely to restore the law regarding the burden of proof and business necessity as it existed for 18 years under Griggs versus Duke Power Co. Numerous people have testified that there was no move toward quotas under this Griggs standard.

Our Nation has a regrettable history of bigotry and discrimination. Many people have worked diligently over the past several decades to end this pattern and to provide equal opportunity for women and minorities. Unfortunately, the Supreme Court has effectively "turned back the clock" on the progress which was being made by our Nation's minorities and women. Numerous studies have been conducted which attest that these groups are indeed losing valuable gains and opportunities which have been secured over the years.

For example, on May 24, 1990, Eleanor Holmes Norton, former chair of the Equal Employment Opportunity

Commission, testified before the Joint Economic Committee that one-half of black families with children manage their affairs with only one parent—almost always a mother. Given the various difficulties faced by these households, it comes as little surprise that an appalling 43 percent of all black children live under conditions of poverty. Similar numbers are reflected in other minority communities. These figures underline the often life and death importance of job opportunity to these communities.

Aside from the clear moral imperative, there is also a growing economic need for corrective legislative action. By the year 2000, women will compose 47 percent of the total work force and, when combined with minorities, will represent over 90 percent of the growth in our work force. Unless we are prepared to fully utilize and protect these people, it will be difficult to preserve our Nation's competitive position. I find it abhorrent that we would allow Supreme Court decisions to stand which make it more difficult for employees to bring legitimate cases of job discrimination into the courtroom. Unfortunately, this is already happening. The NAACP Legal Defense and Education Fund has testified that more than 150 claims have already been dismissed due to the Patterson decision alone.

We have a special responsibility to ensure that job discrimination based on race, gender, national origin or religion is not tolerated. Economic discrimination is one of the most insidious types of discrimination imaginable because it robs qualified employees of their jobs, their income, their self-sufficiency and their self-respect. It further jeopardizes their homes, families and communities. Everyone has the right to apply for a job and to be considered regardless of their race, gender or religion. Everyone has the right to work in an environment free of racial and sexual harassment. Congress has not only the power but the duty to ensure this equality of justice for all Americans. For this reason I am pleased to be a cosponsor and strong supporter of the Civil Rights Act of 1990 and I urge its passage.

Mr. KERRY. Mr. President, 26 years ago this month, President Johnson signed into law the Civil Rights Act of 1964, the most sweeping civil rights legislation since the Reconstruction era. Unfortunately, recent actions of the Supreme Court have eroded the rights and protections afforded by that most significant legislation.

Tonight, we will vote on the Civil Rights Act of 1990. Tonight, we attempt to reverse the recent actions of the Supreme Court and restore the full force of the antidiscrimination law we enacted in 1964 and those subsequent laws which have guided us for more than two decades.

Unfortunately, Mr. President, tonight as we attempt to restore those rights, we do so without the full support of the administration. This is unfortunate, given the weeks and weeks of negotiation that Members, from both parties, have gone through in an attempt to bring us to a balanced bill.

Throughout the course of debate on this bill, we have heard several characterizations of the nature of this bill. We have heard that this is a quota bill. We have heard that this will disrupt businesses—small and large—around the country. We have heard much debate on semantics and the need to make it easier for employees to bring suit or for employers to defend themselves in court.

Mr. President, I want to make it perfectly clear. I do not support quotas. I am opposed to quotas. I firmly believe that merit, not race, should determine who is hired for a job. The reality is that this bill is not a quota bill. It's as simple as that. What this bill attempts to do is to restore the 18 years of experience that we have lived under since the Supreme Court ruled in the Griggs case. The false characterization that this bill is a quota bill does a disservice to the administration, to the millions of working men and women in this country and to the millions of minorities who stand to benefit from our actions here tonight.

Mr. President, I want to also point out the Members on this side of the aisle were prepared to offer an amendment designed to help small businesses throughout the country. The amendment would have added a provision to put a limitation on punitive damages. This amendment, Mr. President, wound up consumed into partisan politics and the Republicans objected to including it in the bill we will vote on tonight. That outcome means that we, in essence, thwart the very objectives we are trying to achieve. I believe that virtually every Member in this body supports the goals we espoused in passage of the 1964 Civil Rights Bill and which we are attempting to continue tonight. Unfortunately, we have found ourselves mired in partisan politics and a battle of semantics. This is not how I would have liked to see this bill enacted. Members on both sides of the aisle—Republicans and Democrats alike—have labored long and hard to work out a compromise and to bring us to a point where we can enact legislation acceptable to all. I feel, nonetheless, that we must be about the business of reaffirming this Nation's commitment to equal justice for all.

Mr. President, I want to commend my distinguished colleague from Massachusetts, Senator KENNEDY, for his leadership on this bill. Throughout the past weeks and months, and particularly in the last few days, he has labored tirelessly to ensure that we restore the antidiscrimination rights and protections we enacted back in 1964. These efforts are not new to my colleague. Throughout his tenure in the Senate, my colleague is known for his fights for the disadvantaged; for those less fortunate and for minorities and others negatively impacted by the society in which we live. I commend him for his leadership and for his efforts to work out an equitable solution for all concerned.

I also want to commend the efforts of my colleague from Vermont, Senator JEFFORDS. In the true spirit of bipartisanship, he has labored alongside my colleague from Massachusetts to work on a bill that restores rights. Not a bill that mandates quotas. Not a bill that punishes small business. But a bill that guarantees equal employment opportunities for all Americans and ensures a work environment free from discrimination. My colleague from Vermont should also be commended for his work in this regard.

Mr. President, I will support this bill. This is not—I repeat—is not a quota bill. We have found ourselves dissolved in a semantics situation. It is unfortunate that we cannot pass this bill tonight on the truly bipartisan basis on which it was designed and on which we have labored. I believe, however, that the need to restore equality, equal justice and legal protections for minorities and women demands that we pass the Civil Rights Act of 1990. I urge support for and passage of this bill.

Mr. WALLOP. Mr. President, several years ago Congress considered and passed the Civil Rights Restoration Act. This legislation was necessary, its proponents argued, to rectify the damage a particular Supreme Court decision inflicted on the civil rights of a large segment of our society. In fact, the Supreme Court had only interpreted a statute to mean what it literally said—not simply what its authors had wanted it to mean.

I mention the Grove City debate, Mr. President, to draw attention to the strategy and tactics utilized by certain Members of Congress when they push their civil rights agenda. The Grove City law did not restore civil rights lost by anyone. The civil rights in question were phantom to begin with: They only existed in the minds of the authors. The Grove City law was crafted to broaden the scope of a law that had been narrowly written. The original law did not accomplish what some had hoped, so they were forced to come back and rewrite the law. However, by placing the word restoration in the bill's title, they could foster the impression that the new law would give back that which had been lost.

The Senate is currently engaged in a similar exercise. Although restoration does not appear in the bill's title, it is quite apparent from the debate we

have heard so far that the proponents of the Civil Rights Act of 1990 are characterizing this legislation as restorative in nature. Once again, nothing could be further from the truth.

The proponents of this legislation argue that it is needed to correct the damage created by several decisions handed down by the Supreme Court last year. They claim the Supreme Court ignored past precedent when dealing with discrimination in the workplace. Last summer, after the Court issued these rulings, several bills were introduced in Congress to overturn each of these specific Supreme Court decisions. Later, Senators KENNEDY, JEFFORDS and others introduced an omnibus legislative package, the Civil Rights Act of 1990, to ostensibly correct all of the deficiencies created by these rulings.

As with most liberal programs, though, this measure took on a life of its own. At last count, the Civil Rights Act of 1990 would effectively overturn, in whole or in substantial part, at least 25 Supreme Court decisions. Ironically, the Labor Committee appears unconcerned with the blossoming scope of this bill—despite the narrow focus of its original intent. While the current rhetoric argues for restoration, the Labor Committee proclaims the bill would also "strengthen [existing] civil rights laws that ban discrimination in employment." The committee also acknowledges the bill "fills certain gaps in title VII of the Civil Rights Act of 1964."

In the committee report, the majority freely admits this legislation overturns at least 10 Supreme Court decisions—some dating back as far as 1985. The committee also admits to making substantial changes to title VII itself. The claim that this bill will simply overturn a few regrettable Supreme Court rulings is ludicrous. The committee's own report contradicts the bill's restorative image. However, it sheds real light on the true agenda behind the bill. Under the guise of restoring civil rights, the so-called civil rights lobby is attempting to force quotas, reverse discrimination and endless litigation down our throats. Of course, all of these concepts are antithetical to the letter and spirit of the Civil Rights Act of 1964. But under the banner of civil rights, they hope nobody dares oppose it.

The proponents of the Civil Rights Act of 1990 contend that the Supreme Court's 1989 decision in Wards Cove Packing Co. versus Atonio significantly altered settled case law and Supreme Court precedent in the area of disparate impact cases. The pending bill proposes to rectify the Court's perceived errors affecting the evidence necessary to establish a prima facie case of discrimination and the allocation of burdens in disparate impact cases.

Justice Brennan, who dissented in Wards Cove, wrote for the majority in the 1982 case Connecticut versus Teal and outlined the "three-part analyses of disparate impact claims" which "Griggs and its progeny have established." Justice Brennan confirmed that plaintiffs in disparate impact cases need to identify a particular employment practice which caused the statistical imbalance. He maintained that, in order to "establish a prima facie case of discrimination, a plaintiff must show that the facially neutral employment practice had a significantly discriminatory impact."

The pending legislation would overturn this cornerstone of adjudicating disparate impact claims. If this legislation passes, no longer will a plaintiff be required to identify a particular employment practice responsible for the statistical imbalance. Plaintiffs will have the luxury of establishing a prima facie case by merely submitting evidence of a statistical imbalance and charging that the defendant's employment practices, as a whole, are responsible for the disparity.

The committee's version of the bill states, "If a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact." A later modification contains language which would allow the court to identify—when the plaintiff chooses not to—the specific practice contributing to the disparate impact. However, it is not a court's duty or obligation to indicate for the defendant which of the employer's practices are potentially discriminating. Even Justice Stevens' dissent in Wards Cove makes clear:

> It is elementary that a plaintiff cannot recover upon proof of injury alone; rather, the plaintiff must connect the injury to an act of the defendant in order to establish prima facie that the defendant is liable.

Once a prima facie case is made, Justice Brennan stipulated in Connecticut versus Teal that, according to Griggs, in order to avoid a finding of discrimination at that stage, the employer must demonstrate that "any given requirement [has] a manifest relationship to the employment in question." This was one of the two definitions of "business necessity" provided in Griggs. In describing this second stage of a proceeding, Justice Brennan used language from Griggs to define the burden placed on the employer. Griggs concluded that the standard of "business necessity" could not be met if "an employment practice which operates to exclude [minorities] cannot be shown to be related to job performance." There is no mention of the phrases "essential to effective job performance" or "substantial and demonstrable relationship to effective job performance," as the authors of the pending bill maintain.

On the contrary, Justice White, writing for the majority in Wards Cove, rejected such phraseology by noting that in disparate impact cases, "There is no requirement that the challenged practice be essential or indispensable to the employer's business for it to pass muster: This degree of scrutiny would be almost impossible for most employers to meet, and would result in a host of evils we have identified." Combined with the changes this bill proposes in the use of statistics and the allocations of burden, such a change in the definition of "business necessity" would "almost inexorably lead to the use of numerical quotas in the workplace, a result that Congress and this court have rejected in the past."

Another disturbing element of this legislation is language which would prevent certain victims of reverse discrimination from exercising their constitutional right to challenge in court the arrangement which adversely affects them. Specifically, the bill addresses the case of Martin versus Wilks which provided that individuals not a party to a consent decree or litigated judgment could not be precluded from bringing a subsequent suit challenging the arrangement. The proponents of the pending legislation argue that during the formulation of consent decrees and litigated judgments, opportunities exist for the individuals affected to influence the process and to protect their rights. They argue that once a consent decree or litigated judgment is in effect, it is too late for any individual adversely affected to seek to have the arrangement reviewed by the courts.

What offends the authors of the pending legislation is that consent decrees themselves will be scrutinized. If a decree is fairly constructed and implemented, it will withstand the scrutiny of judicial review. In those cases where the remedies violate Federal civil rights statutes or the Constitution's guarantees of equal protection, they deserve to be invalidated. However, if victims of reverse discrimination are barred from the courthouse—something this legislation proposes—there is no recourse for those innocent third parties. Not surprisingly, the legislation does not preclude individuals who were party to the original consent decree from returning to court to argue that the arrangement to which they agreed insufficiently benefits them.

Mr. President, the final topic I wish to address is the lawyers' bonanza created by this legislation. Since the enactment of the National Labor Relations Act in 1935—the first comprehensive employment law passed by Congress—the pattern in Federal em-

ployment laws has been to eliminate discrimination in the workplace and to provide make whole relief to victims of discrimination.

Make whole relief is designed to provide to the applicant or employee that which he or she lost due to the discriminatory practice. The available remedies include: hiring, reinstatement, promotion, back pay, and in some limited instances, an additional amount of liquidated damages. Purposely omitted from the list of possible means of compensation are those damages characteristic of tort law: pain and suffering, mental anguish and punitive damages. The options included in title VII were chosen for specific purposes. As stated in the minority views of the Labor Committee's report, "the rationale behind foregoing punitive remedies has been to focus employment laws on the promotion of a positive, lasting employment relationship, thus enabling protected workers to obtain and hold jobs free from discriminatory or other illegal treatment.

Likewise, by focusing on make whole remedies, title VII has been successful in encouraging conciliation and settlement between the parties instead of tempting each side to prolong the conflict with the hope of securing the large windfall which might come with victory. In fact, the Equal Employment Opportunity Commission itself was designed, accordingly to Senator Hubert Humphrey, "To investigate complaints and to bring about voluntary settlement." It doesn't take Marvin Mitchelson to figure out that the committee's bill would not be conducive to the goals of conciliation and settlement.

The pending bill would increase the statute of limitations for filing claims under title VII from 6 months to 2 years. It also would dictate that the statute of limitations will commence to operate "not just from the time of the alleged illegal occurrence—as under current law—but also from [the] time the alleged illegal occurrence 'has been applied to affect adversely the person aggrieved, whichever is later'."

Since a fundamental objective of title VII is the prompt resolution of employment discrimination claims, it would be unwise to create any disincentive to the prompt filing of claims. As the chamber of commerce has noted: "If employers are given prompt notice of a problem by the early filing of a charge, they can correct it and provide reasonable compensation to any victims of discrimination. Without prompt notice, the problem may go uncorrected, and an employer's back pay liability will be increased unjustifiably. * * * [And] may well impede another fundamental purpose of title VII—conciliation and settlement of cases."

The pending legislation would overturn the Supreme Court's 1985 decision in Marek versus Chesny by changing title VII to allow "the award of attorney's fees to prevailing parties not as part of the costs, but in addition to the costs." As stated in the report's minority views, the Supreme Court "reasoned that disallowing recovery for plaintiff's attorney's fees for this period of the case in this circumstances will encourage settlement." This bill would grant plaintiffs the luxury of recovering "attorneys' fees for work done after a rejected settlement offer, even when the judgment for the plaintiff turns out to be less than the settlement offer."

Another impediment to settlement is the bill's attempt to overturn Evans versus Jeff D. which protected the rights of parties to waive attorney's fees claims as part of a negotiated settlement. That decision does not force plaintiffs to waive attorney's fees. Plaintiffs are free to reject any settlement offer they find to be unreasonable. The Court correctly asserted that "parties to a significant number of civil rights cases will refuse to settle if liability for attorney's fees remains open. * * * A general proscription against negotiated waiver of attorney's fees in exchange for a settlement on the merits would itself impede vindication of civil rights, at least in some cases, by reducing the attractiveness of settlement."

The pending legislation would allow prevailing plaintiffs to recover the full expense of costly expert witnesses—regardless of how exorbitant the fees—thus removing the statutory limits on these expenses. Since an employer can only recover fees in those instances where a suit is found to be frivolous, this provision would only benefit the employee bringing a suit. In those instances where a third party challenges a settlement between an employee and an employer, the fees incurred by the original plaintiffs—now a defendant—would have to be paid by the employer. All of these changes in current law tend to thwart the likelihood of settlements and thus defeat the intent of title VII.

Before Congress approves a radical overhaul of title VII's remedies, we should keep in mind that there are also numerous State and local statutes—as well as section 1981 claims at the Federal level—which provide varying measures of remedy for victims of discrimination. Where there are legitimate reasons for compensatory or punitive damages, you can rest assured that some lawyer will explore those avenues. We should not create new groundrules—almost boundless in scope—which blatantly contradict the expressed purpose for the remedies Congress has already provided under title VII.

As the Second Circuit Court stated in a pertinent 1984 case:

In an era of burgeoning Federal caseloads, Congress's intent to resolve as many discrimination disputes as possible in agency proceedings rather than in lawsuits comports with sound principles of judicial administration. A system which would permit complainants potentially to recover considerably larger sums if they resist settlement and initiate litigation would undermine this central feature of * * * title VII.

As the committee report's minority views appropriately concluded, conflict in the workplace and costly litigation will become the weapon of first, rather than last resort.

Mr. President, let me conclude by quoting from Justice O'Connor in the 1988 case Watson versus Fort Worth Bank and Trust—A case which actually extended the application of the disparate impact theory to subjective employment practices. Justice O'Connor, along with three other justices, agreed

That the inevitable focus on statistics in disparate impact cases could put undue pressure on employers to adopt inappropriate prophylactic measures. It is completely unrealistic to assume that unlawful discrimination is the sole cause of people failing to gravitate to jobs and employers in accord with the laws of chance. * * * it would be equally unrealistic to suppose that employers can eliminate, or discover and explain, the myriad of innocent causes that may lead to statistical imbalances in the composition of their work forces. Congress has specifically provided that employers are not required to avoid disparate impact as such.

In section 703(J) of title VII.

In words that are quite ominous, considering provisions of the pending legislation, Justice O'Connor also warned that "if quotas and preferential treatment become the only cost-effective means of avoiding expensive litigation and potentially catastrophic litigation, such measures will be widely adopted." If this legislation passes, the mere existence of a statistical imbalance will be sufficient to shift an insurmountable burden of proof onto the defendant, effectively ensuring a judgment of discrimination against an employer. As Justice O'Connor noted in the Watson decision, the "employers' only alternative will be to adopt surreptitious quota systems in order to ensure that no plaintiff can establish a statistical prima facie case." As the proponents of the bill have done here on the floor, the prudent employer will be careful that its programs are discussed in euphemistic terms, but will be equally careful to ensure that the quotas are met. Allowing the evolution of disparate impact analysis to lead to this result would be contrary to Congress' clearly expressed intent and it should not be the effect of our decision today.

Congress and the Supreme Court have always considered quotas and preferential treatment as being diametrically counter to the purpose of

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our civil rights laws. I am left wondering why we are debating—let alone passing—legislation which would lead to quotas and preferential treatment. It is this legislation—not the Supreme Court decisions it overturns—which represents a radical departure from both the letter and the spirit of the Civil Rights Act of 1964.

Mr. LEVIN. Mr. President, I support the Kennedy-Jeffords substitute that we are considering today. I also oppose hiring quotas.

Certain Supreme Court decisions in the 1988-89 term made legislation necessary to ensure that the civil rights laws are carried out in the manner Congress intended. These Court decisions narrowed the application of important civil rights laws and made it more difficult for victims of discrimination to seek judicial remedies. The legislation before us would restore and strengthen our civil rights laws in a way that is both balanced and does not mandate quotas in any way.

Senators KENNEDY and MITCHELL have agreed to a number of additional changes in the legislation which will reemphasize that it will not mandate or lead to hiring quotas. As an opponent of quotas, I support these changes. I regret that the Senate, on procedural grounds, will not be able to vote on all of these changes today, but it is my understanding that the floor manager and majority leader will support these changes in conference.

This bill has been the subject of considerable discussion and debate. At least 14 public hearings were held by the relevant House and Senate committees on this particular bill.

The legislation before us states explicitly that it does not mandate quotas in any fashion. To re-emphasize this point, Senators KENNEDY and JEFFORDS have added a statement in the bill that states that neither shall it be construed to require an employer to adopt hiring or promotion quotas.

Nevertheless, concern has been expressed about the provisions of the bill restoring the 1971 Griggs decision and extending the current right of racial minorities to recover damages for intentional employment discrimination to women, religious and ethnic minorities. I'd like to address both of these concerns.

The bill seeks to restore the unanimous 1971 Griggs Supreme Court decision that was overturned last year by the Wards Cove versus Antonio decision. Since the Supreme Court's decision in 1971, the burden of showing that employment practices that have a disparate impact—that affect qualified minority applicants in a disproportionate manner—are required by business necessity has been placed on employers.

The Griggs rule has been the law for over 18 years and it has not resulted in hiring quotas. It has resulted in increased job opportunities. It was, and remains today, a commonsense decision.

The legislation before us restores Griggs. It takes the definition of business necessity word-for-word from the Griggs decision. Furthermore, the legislation states expressly that the purpose of the definition of business necessity is to codify Griggs. Given that Griggs did not result in quotas, and that the legislation quotes from Griggs and states that its purpose is to codify Griggs, I am convinced that it will not result in quotas.

The second major concern pertains to the provision which strengthens current civil rights laws by granting women and religious and ethnic minorities the same right to recover damages for intentional employment discrimination that racial minorities currently have.

For years, racial minorities have had the right to seek compensatory damages in cases of intentional discrimination. In cases involving intentional and malicious discrimination, such as cases involving physical violence, unlimited punitive damages have been available. In these cases, as provided for under the seventh amendment to the Constitution, both parties have had the right to demand a jury trial. The Civil Rights Act of 1990 simply extends these rights, in cases of intentional discrimination, to women and other minorities.

I see no reason to believe that extending these rights to other minorities should result in a litigation bonanza or hiring quotas, as some have suggested. Under current law, damage awards for intentional employment discrimination have been infrequent.

A study of cases over the last 10 years found that in over 85 percent of the cases where damages were sought, no damages were awarded at all. Of the cases where they were granted, the average award was about $40,000, and in only three cases were the damage awards more than $200,000.

To reassure people on this point, Senators MITCHELL and KENNEDY have agreed to push for language in conference that would cap punitive damages at $150,000 or the amount of the granted compensatory damages, whichever is greater. Such a cap, in opinion, is both fair and appropriate.

The Civil Rights Act of 1990 will restore and strengthen our civil rights laws to the scope which Congress intended and which the courts had interpreted them to have until the 1988-89 Supreme Court term. This is balanced legislation, and I support it.

Mr. BAUCUS. Mr. President, I am supporting the Civil Rights Act of 1990 because we need to address discrimination in the workplace. The Supreme Court decisions in question have weakened civil rights protections and Congress should remedy this.

I am concerned about some provisions in this bill. I support the language offered by Senators PRYOR and BOREN, and wish these provisions had been included in the bill. However, I have been assured by Senator KENNEDY that he will work to include these provisions in the conference report.

The amendments offered by Senators PRYOR and BOREN are designed to meet the legitimate concerns of small businesses. Small business owners should be assured that this bill will not impose quotas or excessive damages. The vast majority of Montana small businesses are committed to civil rights. They shouldn't be subjected to legislation that imposes excessive penalties.

I believe the Pryor-Boren language contributes to a well-balanced package that protects workers and their employers as well.

Mr. CHAFEE. Mr. President, it is obvious that this legislation is not perfect. It has its share of flaws. Nonetheless, it is my intention to vote for the amendment and for final passage and send it along to the House. There further consideration and hopefully corrective action will take place. My vote for the bill does not insure that I will vote for whatever comes back to us from the conference. At that time all of us will have an opportunity to decide whether the bill in its final form is worthy of our support.

Mr. GRASSLEY. Mr. President, last Tuesday, the day the Senate began debate on this bill, we sent a very clear message to the Nation about how we felt about this legislation. By a vote of 63 to 26, the Senate voted to exempt itself from the full mandates of this bill as well as the Civil Rights Act of 1964.

The Senate also did something even more remarkable. In precluding itself from full coverage under this legislation—legislation by the way that is being touted as a restoration act—this body actually stripped away rights already provided for in the Americans with Disabilities Act.

Ironically, in the first amendment to the Civil Rights Act of 1990, this body actually took away civil rights—rights that would have fully extended ADA coverage to Senate employees by giving them the right to vindicate their civil rights in a court of law.

Afterall, the ADA and the Civil Rights Restoration Act are being acclaimed as landmark civil rights bills. But I ask, if the Civil Rights Act is so integral in the fight for civil rights, why isn't Congress joining in the fight, other than by saying, "the bill is good enough for everyone else but not for Congress?"

What an ominous message to the American people. And what a way to begin consideration of a bill titled "civil rights."

Mr. President, I appreciate that many of my colleagues will find it hard to oppose legislation that has the words "civil rights" in the title. As a commentator on race relations, Thomas Sowell Keenly observed:

> Some Congressmen would probably vote for a declaration of war against Canada if it were contained in a bill with the words civil rights in its title. Neither politicians nor the media seem to care what is actually in the law, provided it has those two words in the title. No one wants to look like he's against civil rights.

Well there is no question in my mind that our Constitution mandates equality of opportunity under the law for all individuals.

There is no doubt that our Federal civil rights statutes have been a crucial and pivotal source of enforcement of this constitutional mandate.

I am for civil rights—but I don't think this bill has anything to do with civil rights. The key here is that I just don't define civil rights under the same terms.

My idea of civil rights parallels the words of the 14th amendment:

> No State shall deprive any person of life, liberty, or property, without due process of law; nor deny to any person * * * equal protection of the laws.

I also believe in the words of Martin Luther King when he proclaimed on the steps of the Lincoln Memorial that people should be judged not by the color of their skin but by the content of their character. To me, this principle is the heart and soul of the 14th amendment and the civil rights statutes.

That is why hiring by the color and quota is so offensive to me. After all, eliminating racial barriers is what the Civil Rights Act of 1964 is all about. The essence of our laws, constitutional and statutory, are equality of the individual—regardless of race, or religion, gender, or national origin.

Supreme Court Justice Powell once explained:

> The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal.

Proponents of this bill claim that in five recent decisions, the Supreme Court has "turned back the clock" on civil rights; that the new conservative Court appointed by President Reagan is reversing the trend of protecting civil rights in this country; and that these rulings have weakened the laws and made it harder for victims to prove discrimination.

The response to these decisions is S. 2104. Proponents herald this bill as restorative; as much-needed legislation to overturn these recent decisions. But candidly, this bill is anything but restorative. If anything will turn back the clock on civil rights; it will be this bill. This bill transforms title VII from a statute protecting equality of opportunity for all individuals, into an engine of proportional representation reallocating benefits and burdens on the basis of race.

S. 2104 is a radical measure that would overturn more than 25 Supreme Court cases and hundreds of lower court rulings. The Labor Policy Association, which has carefully studied the original bill, reports that not only would S. 2104 overturn Wards Cove versus Atonio; Price Waterhouse versus Hopkins; Patterson versus McLean Credit Union; Martin versus Wilks; and Lorance versus AT&T Technologies, it would reverse all or part of the following Supreme Court cases:

Watson versus Fort Worth Bank and Trust; Griggs versus Duke Power; Albemarl Paper versus Moody; New York Transit Authority versus Beazer; Teamsters versus United States; Hazelwood School District versus United States; Dothard versus Rawlinson; Connecticut versus Teal; County of Washington versus Gunther; Johnson versus Transportation Agency; U.S. Steelworkers and Kaiser Aluminum versus Weber; United Airlines versus Evans; Delaware State College versus Ricks; Chardon versus Fernandez; Pullman Standard versus Swint; American Tobacco versus Patterson; Crawford Fittings versus J.T. Gibbons; Evans versus Jeff D.; Independent Federation of Flight Attendants versus Zipes; and Library of Congress versus Shaw.

So let us keep a few things straight as we consider this legislation. This legislation is not a simple fix in response to five court opinions. Indeed, this bill wouldn't restore but would dramatically restructure our entire civil rights scheme.

Let's clear away the rhetoric and misconceptions. The title suggests "Civil Rights," but ask whether S. 2104 would actually further civil rights for all Americans? Does it further the colorblind purpose and intent of title VII or change them?

Recall that the Civil Rights Act of 1964 was enacted against a historical backdrop of racial segregation and pervasive discrimination in employment as well as housing and public accommodations. The statute came 10 years following the Brown versus Board of Education, a decision that marked a new era for equality in this country.

The ideal of equal employment opportunity in the public sector was first embodies in our Federal statutes when Congress enacted the Civil Rights Act of 1964. This act implements historic and comprehensive employment civil rights protections.

The Civil Rights Act of 1964 embodies the new era of a colorblind society. No more would it be permissible to judge people based on the color of their skin. No longer would benefits and burdens be allocated on the basis of race.

The employment provisions of the Civil Rights Act were designed to free the labor market of discrimination on the basis of race and other characteristics, while leaving essential market mechanisms intact.

Throughout the consideration and enactment of the statute, establishing a colorblind society was the main theme and the ultimate goal. The colorblind intent of the statute is best evidenced in the oft cited floor statement of Senator Hubert Humphrey. Senator Humphrey, one of the chief architects of the Civil Rights Act of 1964, took to the Senate floor to specifically address the issue of racial preference and quotas. Humphrey explained:

> Section 703(j) of the 1964 act was added to deal with the problem of racial balance among employees. The proponents of this bill have carefully stated on numerous occasions that title VII does not require an employer to achieve any sort of racial balance in his work force by giving preferential treatment to any individual or group. Since doubts have persisted, subsection (j) was added to state this point expressly * * * its states clearly and accurately what we have maintained all along about the bill's intent and meaning.

Unfortunately, this bill is a retreat from the colorblind intent of the 1964 act by mandating and instituting proportional hiring. While the Civil Rights Act of 1964 ushered in a new colorblind era of equality of opportunity, the Civil Rights Act of 1990 would enshrine an era of equality of results.

I have carefully read S. 2104, and I suggest that each of my colleagues read it, too. Read it, look at the language, study the language, and know how this bill will operate. Carefully consider how this legislation will affect your constituents.

With these important points in mind, I would like to now take a section-by-section look at this bill.

Let us turn to section 3, titled "Definitions," which amends section 701 of title VII by adding the following new subsections:

> The term "group of employment practices" means a "combination of employment practices that produces one or more decisions with respect to employment * * *"

This definition section addresses the Wards Cove decision. This provision would allow plaintiffs to allege discrimination without having to identify any particular discriminatory practice or action. Make a note of this provision, I will address it in greater detail later.

Also make a note of subsection (o) which provides:

> The term "required by business necessity" means that the challenged practice or group of practices bears a substantial and demon-

strable relationship to effective job performance.

This language is alleged to restore Griggs. But a simple look at Griggs indicates that this language has nothing to do with that decision; this language is nowhere to be found in the holding of the Griggs decision—at least in the capacity of defining business necessity. You may find it floating around in the opinion's language along with the "ands" and "the's."

This is also the so-called compromise language that was supposed to prevent the legislation from being a quota bill; well, it doesn't work.

Section 4 of this bill is intended to overturn the Supreme Court's decision in Wards Cove versus Atonio. Proponents of this bill claim that Wards Cove overturns Griggs versus Duke Power; that Wards Cove makes it harder for plaintiffs to win discrimination suits and that it "turns back the clock" on civil rights.

Let's take a look at Griggs and then decide whether Wards Cove in fact overturns it. In Griggs versus Duke Power Co., the Supreme Court upheld disparate impact as a type of discrimination prohibited by title VII. The Court held that title VII prohibits not only overt discrimination, but also protects against practices that are neutral on their face but discriminatory in operation or in other words; practices that operate to discriminate on the basis of racial or other impermissible classifications.

Griggs is considered by some to be so crucial because without this theory on which to build a discrimination case, many victims would have no means to prove their case under title VII.

But to those who claim Wards Cove overrules Griggs, I ask you to consider the facts. In Griggs, the plaintiffs attacked two specific and identified employment practices.

The Griggs plaintiffs claimed that the employer's requirements that employees pass a standardized test and receive a high school diploma operated as a discriminatory barrier to minorities. The Court held that the plaintiff succeeded in establishing a prima facie case of discrimination.

Further, the defendants offered evidence that their practices were related to job performance—a "business necessity"; however, the plaintiffs succeeded in persuading the Court that the employer's reasons justifications were merely a "pretext for discrimination." The Griggs court defined "business necessity" as "bearing a manifest relationship to the employment in question."

In Wards Cove, the plaintiffs-employees claimed that the very statistical fact that unskilled jobs were filled predominantly with minority workers and skilled jobs were filled predominantly with nonminority workers, proved that the employers were discriminating against minority workers. The employees filed "disparate impact" and "disparate treatment" claims under title VII against two Alaskan salmon canneries alleging that a variety of the employers' hiring-promotion practices were responsible for the disparate racial composition of the work force.

The workers cited a variety of hiring/promotion practices but failed to identify any specific practices as discriminatory, unlike the plaintiffs in Griggs who challenged two specific practices.

In Wards Cove, the Supreme Court held that statistics alone are not enough for a plaintiff to establish a prima facie case of discrimination. Instead, a plaintiff must identify the discriminatory practices and show, by using the appropriate evidentiary guides, that the practices are causing a disparate impact. The court explains:

> The courts below must require, as part of * * * [the] prima facie case, a demonstration that the statistical disparity complained of is the result of one or more of the employment practices [being challenged] * * * specifically showing that each challenged practice has a significant disparate impact on employment opportunities. Otherwise, any employer who had a segment of work force that was—for some reason—racially imbalanced, could be haled into court and forced to engage in the expansive and time-consuming task of defending the "business necessity" of the methods used to select the other members of his workers.

The Wards Cove court also addressed the allocation of burdens of proof in a disparate impact case. The Court held that once a plaintiff makes a prima facie case by showing a relevant disparity resulting from the employer's practices, the employer has the burden of production of a legitimate reason for the employment practices in question.

The Court held that the burden of persuasion in these cases remains, as always, with the plaintiff. Therefore, if a defendant-employer produces legitimate business reasons for the practice, the burden shifts back to the plaintiff to persuade the trier—the court—that this reason is merely a pretext for discrimination or is not otherwise legitimate.

S. 2104 would upset these commonsense and just rules. First, it would allow a plaintiff to establish a prima facie case of discrimination by statistics alone and without identifying any specific practices that are believed to be operating in a discriminatory fashion; and second, it would change the burden of proof in a civil rights case by forcing a defendant to prove his or her innocence. Once a plaintiff established his or her case—according to the bill's new formula for establishing a prima facie case—the employer would have to prove his innocence by persuading the Court that—

> The challenged practice or group of practices bears a substantial and demonstrable relationship to effective job performance.

With S. 2104, a mere showing of racial imbalance, standing alone, would be enough to brand someone a "discriminator."

Regarding this so-called compromise language that was supposed to prevent this from being a quota bill, I would like someone to explain to me what "Substantial and demonstrable relationship to effective job performance" means? The bill doesn't define it. Griggs doesn't use it.

I suppose what it means is that once again Congress is going to pass the buck to the courts to decide what we meant by what we said.

Additionally, that the burden of persuasion remains with the plaintiff is an elementary part of how our civil justice system works. This is not a new concept dreamt up by a new Supreme Court or a symptom of a court that is insensitive to civil rights. Indeed, rule 301 of the Federal Rules of Evidence, provides that while burdens of production may shift, burdens of proof always remain on the plaintiff.

That the defendant is innocent until the plaintiff proves him guilty is the cornerstone of our justice system.

The Wards Cove case did not turn back any clocks on this score either. It simply held that the innocent until proven guilty concept should not be applied any differently in the civil rights context.

Let me suggest to my colleagues that what this means is all-important: Imagine for 1 minute that each of us as employers here in the Senate were required to meet this standard in a court of law.

Now I realize that we've already exempted ourselves, but let's think hypothetically, as if we were a business with about 30 to 50 employees—the average size of a Senate staff—having to meet a payroll and hire a productive work force. Of course, this is anything but hypothetical to the employers of America.

Let's imagine that our offices are racially imbalanced, which is not unlikely.

Let's further imagine that a prospective minority employee in that Senate office is not hired, because the Senator honestly felt this person was not quite right for the job. Now of course the person had many commendable "objective" qualifications: good education and experience and so on.

But rather, the Senator simply felt that the person just wasn't the best for the job opening—the only opening available.

Then, armed with S. 2104 in place, that person files a complaint. After exhausting administrative remedies, the case lands in Federal court.

The Senator as the employer would then have the burden of proving that whatever reason the Senator had, that reason bore a substantial and demonstrable relationship to effective job performance.

But there are no truly objective measurements of effective job performance for Senate staffers. Indeed, for most jobs on Main Street America, there are few that are susceptible to such precise measuring.

So what happens to our hypothetical Senator-defendant?

He loses. He's branded a "discriminator" just because his work force doesn't meet some statistical "balance."

Maybe that's why a majority of my colleagues want no part of being hauled into court under this bill.

We in the Senate are special—we can vote our self-interest. But the business person on Main Street, and in the factories, and in the service industries, can't vote to exempt themselves from litigation. They are covered, and they will lose these cases every day of the week.

A plaintiff in these cases simply can't miss—it's like catching fish in a barrel. Mr. President, this bill is enough to make you want to go to law school, because after this bill is the law, an employment discrimination lawyer has a license to print money.

And by the way, Mr. President, I used a Senate office for an example, but the same result would follow in a host of other occupations. For example, I look up in the press gallery here in the Senate and can't help but wonder: How many newsrooms in newspapers across America are racially balanced?

I'll bet not many—even among those newspapers that have come out so forcefully for this bill. I've got news for those editorial boards: Get ready to start paying some judgments and settlements in title VII cases.

Or how about the profession that stands to benefit most by the passage of S. 2104—America's lawyers? How many of the major law firms in America are now in racial balance? How could a law firm justify its wanting to hire only those from the best law schools, or with the highest grades, or with the best experience?

These factors may be important, but do they bear a substantial and demonstrable relationship to effective job performance as a lawyer? I doubt it, though only litigation will tell us for sure.

So that means we could have lawyers suing other lawyers for alleged employment discrimination, maybe this bill isn't so bad after all.

Mr. President, the question we are left with is "What's an employer to do?"

The fact is that S. 2104 would leave employers with no other choice but to hire by quota. The quota issue is not a "red herring," it is very real. Don't just take it from me, take it from the traditionally liberally inclined publications and journalists that have either opposed the bill or seriously questioned it.

Charles Kraut Hammer wrote in an article "Quota by Threat," that "racial disproportion would itself be regarded as discrimination until proven otherwise by the accused. The employer must demonstrate that all his employment practices—say, requiring a Ph.D. in hiring a college professor or preferring a member of the law review in hiring at a law firm—have a substantial and demonstrable relationship to effective job performance."

The New Republic magazine opposes the bill in a July 2 article, stating the bill "doesn't mandate quotas in hiring. But it gives employers a strong incentive to adopt them or else face lawsuits alleging discrimination that would be costly to defend and difficult to win."

The Christian Science Monitor, in a May 29 editorial titled "Wrong Road to Civil Rights," writes that the bill:

> * * * would let a plaintiff without any proof of intentional discrimination by an employer, show with statistics that the plaintiff's group is underrepresented in the employer's work force * * * the employer would bear the burden of proving that every one of his hiring criteria is substantially and demonstrably related to effective job performance. This would be an extremely hard test for even the most fair-minded employers to pass. The easiest way to avoid defending such a lawsuit would be to establish hire-by-the-numbers quotas that ensure "proportional" representation of all groups.

Edwin M. Yoder, Jr. writes in the May 25 Washington Post, that Wards Cove "moved the law aback toward the 'colorblindness' ideal of 1964, sacrificing effect to principle. The 1990 correction bill would shift the law back toward the practice prevailing before last year's decision, sacrificing principle to effect."

Mr. President, the fact is that under S. 2104, all plaintiffs would have to show is that somewhere, somehow, there is something, which is producing a discriminatory effect in the workplace. Plaintiffs would not even have to show causation. Causation now requires that the plaintiff show that the defendant's actions caused the plaintiff's injury. That a plaintiff must establish causation is not a new fangled requirement dreamt up by the Rehnquist court. Causation is a necessary element in prima facie cases of all types of tort cases.

In testimony before Congress, former Solicitor General Charles Fried explained that S. 2104 "would allow a plaintiff to win a civil rights case before a jury if he showed that an employer was not hiring in proportion to the number of available workers."

Proponents of S. 2104 claim that because of Wards Cove, it is not as easy to win discrimination suits. This bill certainly would make it easier to win discrimination suits, but it accomplishes this by gutting general notions of civil procedure law as well as eliminating the very tenets of title VII.

I believe the purpose of our Nation's civil rights law is justice, not ease with which a plaintiff can win. And "ease" is not the test to determine whether justice is being served.

At this point, I had planned to ask my colleagues how they would feel if they were considered guilty of discrimination until proven innocent? Of course, they'll never know or have to answer this question because the law won't apply to them. But be assured, our constituents will soon know how to answer this question!

I asked at the outset whether Wards Cove really overturns Griggs. We've looked at the facts and it seems clear that Wards Cove doesn't overturn Griggs, but most certainly, S. 2104 will.

Section 5 of this bill overturns the Price Waterhouse versus Hopkins decision. Justice Brennan authored the plurality decision in Hopkins, a decision that held the burden shifted to an employer in a mixed-motive case to prove that he would have made the same employment decision absent an element of discrimination.

As a general rule in civil cases, the plaintiff must show that the defendant's unlawful conduct caused the injury. In the employment discrimination context, the plaintiff has to show that impermissible discrimination caused the injury; and that's all Hopkins stands for. By the way, the plaintiff in the Hopkins case won.

S. 2104 however, would create a new type of title VII violation whereby a plaintiff would not have to prove that discrimination caused the alleged injury. This represents another radical departure from title VII. An employer would be liable for the mere "bad thoughts" of his hiring of employees, without any proof that these thoughts had anything to do with discrimination. How many of my colleagues would want to be branded a discriminator because of the thoughts of their top aides?

Section 6 of this bill overturns the Martin versus Wilks decision by establishing provisions that would, if you believe the bill, "facilitate prompt and orderly resolution of challenges to employment practices implementing litigated or consent judgments or orders." A more candid assessment is that this section deprives citizens of their fundamental right to a day in court.

The Wilks case arose in response to a 1974 case where discriminatory hiring and promotion practices were alleged in various public service jobs. The parties entered into two consent decrees. The decrees set forth an ex-

tensive remedial scheme, including long-term and interim annual goals for the hiring of blacks as firefighters, and goals for promotion on the basis of race within the department. The district court approved the decrees.

Seven firefighters, who were not parties to the earlier case, filed a complaint against the city seeking injunctive relief to stop the enforcement of the decrees and seeking intervention in the case. The seven claimed that the decrees would operate to illegally discriminate against them on the basis of race.

The Supreme Court affirmed an 11th circuit decision upholding the right to challenge, based upon the principle that parties in a lawsuit cannot dispose of a third-party's claim without that party's agreement. In other words, everyone is entitled to his day in court.

But proponents of S. 2104 claim this fundamental right can't be squared with meaningful relief for victims of employment discrimination. Accordingly, section 6 of this bill overrules it.

Mr. President, our Federal civil rights laws should not condone, support, protect, and prevent from due process challenge, decrees that may be discriminatory and violate others constitutional rights. As the Supreme Court writes in Wilks: The general rule is that a person cannot be deprived of his legal rights in a proceeding to which he is not a party. We have a deep-rooted historic tradition that everyone should have his own day in court.

The legislation states that all you need is to give "actual notice" that a consent decree is being implemented. After that, if a third party does not speak up, then they are forever barred from challenging the decree. What does actual notice mean in this context anyway? It sounds like more of those vague terms we tend to use. I support we'll leave it to the lawyers and courts to figure it out.

Consider this scenario: A Hispanic girl is 8 years old when a consent decree is enacted. The so-called actual notice is provided in accord with S. 2104. Ten years later the girl applies to become a firefighter but is denied employment because of the consent decree, which confers benefits on the basis of race. She is barred from challenging the decree and vindicating her constitutional rights in a court of law—because of this bill.

How is it that a bill to liberalize title VII will operate to prevent others from vindicating their statutory and constitutional rights in a court of law?

Remedies applied to some, which operate to discriminate against others cannot be tolerated—not even under the guise of civil rights.

Moreover, decrees that institute overbroad remedies not aimed at specific discrimination benefit those who are not victims of individual discrimination and discriminate against others not guilty of discrimination.

And why is it that the bill's proponents are all too eager to foreclose rights under section 6 but expand them in section 7, which covers the statute of limitations in regard to the application of challenges to seniority systems.

Section 7's purpose is to overrule the Lorance versus AT&T technologies case. Under current law, there is a statute of limitations on the time in which a person can challenge the legality of a seniority system: The limitation runs for 180 days from the time a seniority plan is adopted, thus assuring some measure of finality of litigation. However, this legislation would allow a seniority system to be challenged every time it is applied to the employee.

The intent of section 7 is to ensure that title VII is liberally applied. If only section 6 were so liberal. Also consider section 11, which provides that "all Federal laws protecting civil rights shall be construed broadly to effectuate the purpose of such laws to eliminate discrimination and provide effective remedies."

But aren't sections 7 and 11 inconsistent with section 6? Section 6 cuts off victims' rights and closes the courtroom door to those whose constitutional rights may be in jeopardy. Meanwhile, section 7 expands rights and section 11 instructs us to view the laws "liberally".

S. 2104 also dramatically departs from the mandates of the 1964 Civil Rights Act by providing for jury trials and punitive damages. The 1964 act was intended to provide victims of discrimination swift and just compensation; conciliation, not litigation was encouraged.

Once again, we can reflect on the original intent of the Civil Rights Act of 1964 and the wisdom of one of its prime sponsors, Senator Javits:

> The real objection [to a jury trial] is that it would simply proliferate the court delays which were a primary element in the struggle here * * * it was without any contemplation that we would simply pyramid the difficulties we already had in court delays running up to 40 months—3 years and 4 months in many jurisdictions * * * as there are many safeguards, with appeals and so forth, and as we have many cases in equity * * * I see no justification for introducing the jury trial except to delay these cases further * * *.

For the above reasons, jury trials were not provided for in the 1964 act or the 1972 amendments; and that is why Congress should not provide for them in 1990 either. Again, I was prepared to ask my colleagues, whether they would be ready to be a defendant before a jury in an employment discrimination case? But they already answered "no" when they voted against my amendment. But every other employer in America will have to face a jury.

S. 2104 institutes further inequities by permitting—in section 9—the unrestricted recovery of expert fees and other litigation expenses. Such fees could range from $200 an hour to thousands of dollars per day. Further, S. 2104 prohibits a court from approving a settlement unless "the parties and their counsel attest that a waiver of all or substantially all of attorney's fees was not compelled as a condition of settlement." This overturns yet another Supreme Court case.

S. 2104 also provides that if an intervenor unsuccessfully challenges a court's remedial order or judgment, the prevailing party in the original suit or settlement could recover from the original defendant—whatever attorney and witness fees the plaintiff incurred in defending against the intervenor—but not from the intervenor itself. This overturns Federation of Flight Attendants versus Zipes. But why should the defendant pay the costs for an improper and unsuccessful intervention by a third party? What's the purpose of this section? Where's the equity in this provision?

At the beginning, I stated that it is difficult to oppose a bill with the words "civil rights" in the title. But frankly, this bill is so overbroad and so poorly drafted that maybe it's not difficult to oppose it afterall. I oppose S. 2104 because I don't believe it has anything to do with civil rights. I also said that I define civil rights under different terms from this bill. My definition of civil rights includes breaking down racial barriers, not creating them. My terms involve "color blindness" not "color consciousness." Civil rights means that we must guarantee that all individuals are accorded the right to equality of opportunity not equality of result.

A true commitment to restoring civil rights could begin by repealing a few of the many laws Congress has passed that keep minorities out of the economic mainstream of America. A good place for us to start is with repealing the Davis-Bacon Act, the 1931 law that requires contractors to pay all workers on federally funded construction projects valued at more than $2,000 the prevailing wage for that type of work.

We don't even need to use the disparate impact theory to find this law discriminatory. The law's legislative history is replete with discriminatory intent. Just take a look at the CONGRESSIONAL RECORD and the statements of the prime sponsors of the bill. It seems that the proponents of Davis-Bacon didn't like the idea of black workers competing with white workers. You see, Representative Bacon first introduced the act after an Alabama contractor won a bid to build a

Federal hospital in his district. Bacon stated:

> The bid * * * was let to a firm from Alabama who brought some thousand nonunion laborers from Alabama into Long Island, NY, into my congressional district.

It seems that Representative Bacon didn't like the idea of black workers who were willing to work for less than local building tradesmen.

Representative Miles Allgood proclaimed on the House floor:

> That contractor has cheap colored labor * * * and it is labor of that sort that is in competition with white labor * * * This bill has merit * * * It is very important that we enact this measure.

Well, Davis-Bacon has operated well to shut minorities out of the work force.

According to Ralph C. Thomas, executive director of the National Association of Minority Contractors:

> The law in its current form is poison to minority contractors [and to] minority employment in general * * * The law stifles the minority contractors' efforts to not only hire as many minority workers as possible, but also hinders minority contractors' efforts to introduce new workers to the construction fields.

If we truly believe in civil rights, we must focus our attention and energies upon ensuring that all individuals have the power to take advantage of equal opportunity.

But this bill won't do anything to bring these goals into focus. This bill won't empower minorities; this bill isn't going to provide minorities with good education; it isn't going to teach skills; it won't eliminate State-imposed regulations that keep minorities out of the economic mainstream; and it most certainly will hurt those it is precisely intended to help. The bottom line is that this bill is not going to provide the means and mobilization required to empower minorities so that they can take advantage of equal opportunity.

Mr. President, there is much more that can and should be said about this bill—it's that bad.

However, I'll leave my colleagues with just two points to keep in mind as they listen to the rest of the debate: First, don't buy the false advertising and sloganeering you hear about this 11th-hour substitute. Rather, read the fine print.

Second, read the bill carefully for another reason: I have heard it said on this floor that we shouldn't be quibbling with the language in this bill—we shouldn't quibble about words.

Well, I am here to say that it is our constitutional duty to quibble over words. We have a responsibility to this country to be picky about statutory language.

Because every letter of every word we enact has a purpose and a profound consequence on the American people. Moreover, a few vague words can create a whole lot of litigation.

We forget this because we are not on the receiving end of the laws we impose on the rest of America. And just the other day, the Senate carried on this tradition by overwhelmingly voting to exclude itself from this bill. But the people of this country will live under it.

It would be an abdication of our constitutional duty not to carefully study each and every word.

Mr. BINGAMAN. Mr. President, last night, the Senate passed the Civil Rights Act of 1990 and in so doing took a great step forward in the ongoing struggle to assure all Americans of their fundamental right to equal opportunity in the workplace. Our vote sent a strong signal to the working women and men of this country that we in the Congress will not tolerate discrimination—we will not give up the fight—even as the Supreme Court abandons the struggle and turns its back on more than 100 years of slow progress toward equality.

Mr. President, I, along with every one of my colleagues, heard repeatedly over the past several days that this bill should be opposed because it was a quota bill. The accusations continue today, and they trouble me deeply. They simple are not true, and they do an incredible disservice to the millions of women and minorities who stand to gain the fundamental right of equality—through passage of this legislation.

No one—not one of the 64 Senators who voted in favor of this bill, nor the 35 who did not—supports quotas. I certainly do not. I firmly believe that merit, not race or sex, should determine who is hired for a job. And through the excellent efforts of Senators KENNEDY, DANFORTH, DECONCINI, and others, the bill's provisions make clear that quotas are not advocated, mandated, or intended.

Although I believe this legislation is critical—even fundamental—to assuring working Americans of all races, genders, and religions equal protection under the law, I, like many of my colleagues, am troubled by a few of the act's provisions. I am particularly concerned with the provisions related to disparate impact cases and jury awards of punitive damages. I had hoped we could have resolved these issues before final passage, but despite the best efforts of many of my distinguished colleagues, we were not able to accomplish this. I am confident, however, that we will reach a compromise on these issues during conference with the House.

I am equally confident that the amendments put forth by my colleagues from Arkansas, Senators PRYOR and BUMPERS, would have passed and would have corrected these problems if partisanship and disagreements over semantics had not prevented them from being offered. These amendments, specifically designed to help small businesses, would have put a limitation on punitive damage awards and would have clarified that in cases involving disparate impact, "the mere existence of a statistical imbalance in an employers' work force on account of race, sex, religion, or national origin is not alone sufficient to establish a prima facia case of disparate impact violation."

Both of these amendments, I believe, were worthy of our full support; and again, I am hopeful that they will be incorporated in the bill that emerges from the Senate-House conference.

Mr. President, in closing, I want to commend the managers of the Civil Rights Act of 1990, Senator KENNEDY and Senator HATCH, Majority Leader MITCHELL, Senator JEFFORDS, Senator DANFORTH, Senator DECONCINI, Senator BUMPERS, Senator PRYOR, and several other colleagues for their dedicated and diligent efforts over the past several weeks and months to craft a bill that will restore our antidiscrimination laws to their full and proper strength without unduly or unfairly burdening America's business community. The degree of effort and patience that went into this bill's drafting, under the capable leadership of Senator KENNEDY, is a testimony to type of cooperation we can achieve, which benefits all Americans, when we lay aside partisan politics.

Mr. President, the evolution of civil rights laws in this country has been slow and arduous. We have by no means reached a point where we can be complacent, as the Supreme Court's decisions in 1989 illustrate. The burden is on us, the members of Congress, to restore equality and equal justice for all Americans. That is the goal of the Civil Rights Act of 1990, and that is a goal to which we must always strive. Thank you.

Mr. SIMON. Mr. President, I am pleased to support Senate passage of S. 2104, as modified by the Kennedy-Jeffords amendment. This bill is perhaps one of the most important civil rights measures of this decade. Ironically, we are at this point because the Supreme Court—long the vigilant protector of the rights of all citizens—has dramatically changed course. The modifications to the bill, crafted by Senator Kennedy, made it clear that Congress has no intention of requiring employers to resort to quota hiring. At the same time, these modifications preserve what I consider an essential component of the legislation—overruling the Wards Cove Packing Co. decision.

In that case, and in the other decisions overruled by S. 2104, the Supreme Court interpreted our Federal civil rights laws in ways that clearly

place procedural and substantive roadblocks in the way of equal employment opportunity for minorities and women.

S. 2104 would require employers to shoulder a strong burden to justify why they should be permited to continue potentially discriminatory employment practices. The allocation of burden of proof and the business necessity standards that have evolved under Griggs versus Duke Power Co. and subsequent Supreme Court cases have worked well. The standards outlined by the Court in Griggs have been used effectively by minorities and women to overcome not only individual bias, but also more subtle employment practices that have been used to screen out entire classes of people. As a result, significant job and career opportunities have opened up to minorities and women.

Mr. President, I strongly support the provisions of S. 2104 that provide for compensatory and punitive damages to all victims of intentional discrimination. I understand that we may have to limit the extent of the amounts that may be paid for such remedies, but it is important and timely that we address a fundamental inequity in our current laws.

Currently, remedies available under Title VII—for race, gender, national origin, and religious discrimination—are limited to injunctive relief, and limited compensation, such as back pay or reinstatement. In contrast, remedies available only to victims of racial discrimination under Section 1981 can include compensatory and punitive damages. The inequities in the types of remedies available to victims of discrimination under these two laws are clear and the need to correct this situation is compelling.

One particularly tragic case was presented in testimony before the Committee on Labor and Human Resources. We heard devastating testimony from Patricia Swanson, a woman from Ingleside, Illinois, who worked at a car dealership and suffered humiliating sexual harassment from her supervisor for over a year. She sued the car dealership, and the district and appeals courts found that she had proved sexual harassment. However, because the appeals court also concluded that Ms. Swanson was fired from her job for other, unrelated reasons, she received no damages for the injustices she suffered. In fact, she is now required to pay over $2,500 for her employer's court costs.

Situations like that faced by Patricia Swanson are an all too frequent tragedy, where victims of employment discrimination are left without any meaningful remedy for their injuries and employers that discriminate are able to avoid meaningful punishment. They are tragedies that we should no longer permit to happen.

All Americans, as part of our birthright as citizens of this great Nation, should have equal opportunity to obtain a job, for promotion and advancement once on the job, and to work in an environment free of discrimination and harassment. Unfortunately, Mr. President, we have not yet reached this goal as a nation. Federal fair employment laws have been and continue to be an important weapon in the Nation's arsenal to eradicate discrimination in the workplace. Today, more than ever, we simply cannot afford to narrow the reach of those laws and turn a blind eye toward racial and gender bias that still surfaces all too frequently in the workplace. To survive in an international marketplace, our Nation must utilize the talents of all of its citizens, particularly those of minorities and women who frequently face the greatest barriers to employment opportunity.

Now, we have taken a significant step toward restoring the civil rights safety net ripped open by the Supreme Court and ensuring that every citizen has a meaningful opportunity for productive employment. This is an issue of basic fairness. I look forward to House passage of this landmark legislation and I urge the President to support it.

Mr. BRADLEY. Mr. President, 26 years ago, on a warm summer night much like last night, I recall sitting up in the gallery of this Chamber as the roll was called and the Civil Rights Act of 1964 became law. For those of us whose lives and vision were shaped by that event, the law was just a beginning, a first step on what we saw as a long path ahead of continuous progress toward the promise of an open, free society envisioned in the Declaration of Independence.

Last night, with the passage of S. 2104, the Civil Rights Act of 1990, we set forth on that path of progress once again. In the 26 summers since that first summer I spent in Washington, our expectations that we would continue to move forward in bringing the promise of civil rights to all Americans at first seemed to be met. Then, during the Reagan years, our progress seemed abruptly to stop, and even to be reversed. Last year, the Supreme Court issued three decisions that undermined the most fundamental standards of fairness that most of us believed were part of the permanent structure of fairness we created in 1964.

In Wards Cove versus Atonio, the Court found that, for a victim of discrimination, it was not enough to demonstrate that a set of employment practices resulted in a racially imbalanced work force, unless the plaintiff could quantify the precise effects of each practice. But victims of discrimination often have no way of knowing exactly how or why they or others like them are being penalized. For 18 years, employers had understood that the burden was on them to demonstrate that inequities in their work forces were the accidental result of legitimate employment practices. For 18 years, this system had worked for employers and it had worked for employees. The Supreme Court had created that original standard unanimously in 1971, but in 1989, five members of a new Court decided that the burden of proof should be on the employee to say just what had gone on behind closed doors that resulted in discrimination. This law makes clear that Congress believes the 1971 standard was the right one.

In Patterson versus McLean Credit Union, the Court decided that a statute dating back to 1866 did not prevent racial harassment on the job, as the Court had earlier ruled. For many of us it was hard to believe that the Court really held such a narrow view of what constituted discrimination. This law makes clear that discrimination is always wrong, whether it occurs before hiring or after.

In Martin versus Wilks, the Court ruled that decades-old agreements carefully worked out to eliminate discrimination could be reopened by people who were not part of the original agreement. By undermining such careful pacts the Court's ruling guaranteed that even the progress we had already made in remedying discrimination could be undone at any time by a clever lawyer.

These three rulings contradicted our deepest sense of what civil rights means. There is still discrimination in employment in this country, and until it is vanquished forever, we are obligated to do all we can to establish a reliable legal structure to prevent it. And with the challenge posed by the Court's rulings, we were further obligated to make clear what the democratically elected representatives of this country really meant by the words "civil rights," in 1964 and in 1990. The meaning has not changed, and with last night's vote, we reaffirmed that part of the meaning of civil rights is a determination to move forward, to do better, to strive toward the ideal of an open society that is our special purpose as a nation.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the question now occurs on final passage of the bill, as amended.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 34, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—65

Adams	Domenici	Levin
Akaka	Durenberger	Lieberman
Baucus	Exon	Metzenbaum
Bentsen	Ford	Mikulski
Biden	Fowler	Mitchell
Bingaman	Glenn	Moynihan
Boren	Gore	Nunn
Bradley	Graham	Packwood
Breaux	Harkin	Pell
Bryan	Hatfield	Pryor
Bumpers	Heflin	Reid
Burdick	Heinz	Riegle
Byrd	Hollings	Robb
Chafee	Inouye	Rockefeller
Cohen	Jeffords	Sanford
Conrad	Johnston	Sarbanes
Cranston	Kennedy	Sasser
Danforth	Kerrey	Shelby
Daschle	Kerry	Simon
DeConcini	Kohl	Specter
Dixon	Lautenberg	Wirth
Dodd	Leahy	

NAYS—34

Bond	Helms	Pressler
Boschwitz	Humphrey	Roth
Burns	Kassebaum	Rudman
Coats	Kasten	Simpson
Cochran	Lott	Stevens
D'Amato	Lugar	Symms
Dole	Mack	Thurmond
Garn	McCain	Wallop
Gorton	McClure	Warner
Gramm	McConnell	Wilson
Grassley	Murkowski	
Hatch	Nickles	

NOT VOTING—1

Armstrong

So the bill (S. 2104), as amended, was passed, as follows:

S. 2104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—It is the purpose of this Act to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of employment practices that do not involve selection, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as used in *Griggs v. Duke Power Co.* (401 U.S. 424 (1971)) and to overrule *Ward's Cove Packing Co., Inc. v. Atonio* (109 S. Ct. 2115 (1989)).

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices are required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under

section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k), or in the case of an unlawful employment practice under the Americans with Disabilities Act of 1990, other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102 of that Act, as it related to standards and criteria that tend to screen out individuals with disabilities)—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties, except that prejudgment interest may not be awarded on compensatory damages.".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, national origin, sex, religion, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex or national origin: *Provided, however*, That nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by section 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by section 4, 5, 7(a)(2), or 12.

SEC. 16. CONGRESSIONAL COVERAGE.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 200e et seq.) is amended by adding at the end thereof the following new section:

"SEC. 719. CONGRESSIONAL COVERAGE.

"Notwithstanding any other provision of this title, the provisions of this title shall apply to the Congress of the United States, and the means for enforcing this title as such applies to each House of Congress shall be as determined by such House of Congress.".

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts, Senator KENNEDY, is recognized.

Mr. KENNEDY. Mr. President, I will just take a moment or two to first of all express my appreciation to the majority leader, Senator MITCHELL. All during the course of the consideration of this legislation, from the early times, to the hearings, to the consideration in our committee, to working out the schedule in a very trying time.

He has not only afforded us every considerable courtesy, which all of us in the institution have become familiar with, but his very strong commitment.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from West Virginia is absolutely correct. The Senate is not in order. The Senate will please come to order. All Senators wishing to converse please leave the floor. The Senate is not in order. We will not proceed until Senators cease discussions. Senator KENNEDY will not proceed until Senators cease discussions. Will Senators please remove themselves from the floor? Will they cease discussion?

Mr. KENNEDY. Mr. President, as I mentioned, his strong commitment on the issue was evident from the beginning. I think this country, when this legislation is enacted, will be a fairer country and a fairer land. I am enormously grateful to him for his patience. It has been a long, continuing process of being patient and supporting our program.

I want to recognize our colleague, the Senator from Ohio, Senator METZENBAUM, who was the principal architect of the Wards Cove section and most, if not all, of the provisions that were drafted and incorporated in the legislation today. He was a key sponsor of that extremely important provision of the legislation. We incorporated his language. He has been a stalwart on not only that provision but the whole program itself, the whole substance of the entire program. I am grateful to him for his constancy on this issue of civil rights.

This legislation was a bipartisan effort. Our colleague from Vermont, one of the newer members of our committee, Senator JEFFORDS, was a key cosponsor, a Republican sponsor, and was there every step of the way and mastered the subject in extraordinary detail, as he has the other matters before the committee, as he did in the House of Representatives. I am thankful to Senator JEFFORDS and Senator DURENBERGER, who had cosponsored this legislation in our committee.

Senator SPECTER is a member of the Judiciary Committee and has taken a special interest in the whole civil rights legislation. I am grateful to him for his support.

Senators JEFFORDS and DANFORTH and SPECTER were extraordinarily helpful and valuable allies as we shaped a bipartisan proposal. They were very much involved in every step of the negotiations. We really would not be here this evening if it had not been for their energy, their knowledge, and their persistence on this program.

My ranking member, Senator HATCH, although he was vigorous in opposition and took strong exception, did so still with great courtesy, and never attempted to obstruct the will of the committee or the activities or consideration of the legislation here. This is typical of his service. We have many areas of agreement; a number of areas of difference. But we still recognize the importance Senator HATCH played ultimately, even though he was opposed to the legislation, but the will of the majority here could have been achieved. He has never indulged us in those kinds of activities. More so, he was someone whose attitude we very much appreciate.

I want to thank many of those who have been involved in the civil rights leadership. We have heard a good deal of abuse for those who represent various organizations who have been struggling in this measure. What I find very extraordinary about this group at this particular time is the overwhelming majority argued Griggs case. They were very familiar with the judicial background and the cases in the different circuits. I found that as a resource, as well as advocates of this legislation, extraordinarily valuable.

I ask unanimous consent that their names be printed in the RECORD at the conclusion of this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. I also wish to thank some of the staff of our committee, and other Members here. I think I depend, as others, on those who serve on our staff with a commitment on many of these issues, and I am enormously grateful to them for their constancy and their help and assistance, the long hours, as well as putting up with the always good humor that is exhibited by their employer. Let me thank Jeff Blattner and Ronald Weich, Meg Meiser, Carolyn Osolinik, Nick Littlefield, who is the staff director of our full committee, Laverne Walker, Annie Rosetti, Amy Reginelli, and Michael Best, Emily Sack, Deborah Rosen. These individuals range from the staff director of our committee to a number of interns from different law schools; they all played a part.

I see my friend from Ohio, Senator METZENBAUM, on his feet. From his staff, James Brudney and Al Cacozza, both of whom were enormously valuable to us, and Senator METZENBAUM. While I mention the Senators, I want to mention their staffs. Senator JEFFORDS: Mike Powden and Reginald Jones. Senator HATCH: Mark Disler and Kevin McGuinness. Senator DANFORTH: Peter Liebold. And Senator SPECTER: Richard Hertling.

I want to also point out as part of the history of this event, and hopefully it will be included in a positive way into law, the excellent staff of our majority leader and the floor staff who we depend on so extensively: Charlie Kinney and Marty Paone, Anita Jensen and Lulu Davis. We are very, very grateful to all of them.

I am again thankful to all of our colleagues on our side of the aisle and the other side of the aisle for their many courtesies. This brought out a good deal of emotion, but the issues of discrimination go back to the time of the Constitution and the Civil War, the marches in the sixties. The efforts that have been made to eliminate the discrimination on race have been extended to the disabled and women in our society. It is part of the whole unfinished business of this Nation. But we will continue to persevere.

I am enormously grateful to all of our colleagues for their courtesies and their support, those who support it and even those who differed with us, for their courtesies as well.

EXHIBIT 1

CIVIL RIGHTS LEADERS

Benjamin Hooks, NAACP.

Ralph Gneas, Mimi Mager, Leadership Conference on Civil Rights.

Judith Lichtman, Judith Winston, Womens Legal Defense Fund.

William Coleman, Elaine Jones, Kerry Scaulm, Eric Schnapper, NAACP Legal Defense Fund.

Marcia Greenberger, Ellen Vargyas, Caroline Newkirk, National Womens Law Center.

Barbara Arnwine, Rick Seymour, Stephen Spitz, Lawyer's Committee for Civil Rights Under the Law.

Jane O'Grady, AFL-CIO.

Mort Halperin, Wade Henderson, Isabelle Pinzlek, ACLU.

John Buchanan, Melanne Verveer, Eliot Mincbery, People for the American Way.

Mario Moreno, MALDEF.

Richard Larsen, MALDEF.

Joel Packer, NEA.

Bill Taylor, Leadership Conference on Civil Rights.

Denise Cardman, ABA.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to commend my colleague and friend, Senator KENNEDY, for his handling of this bill. I have been around this body now off and on since 1974, and with no exception, I have never seen a Member who had the patience and the understanding and the tenacity that he has exhibited in connection with passage of this bill.

He stayed with it. He was meeting at the White House at 7 o'clock in the morning. He stayed when Members had their concerns. He was prepared to meet with them, whatever their concerns were. He came to a tremendous understanding of the legalities and the legal niceties of the legislation that was incomparable. I have a lot of respect for the manner in which he provided leadership on this bill.

Everybody knows that Senator KENNEDY has had an impeccable record with respect to civil rights, going back throughout his entire political career. But the fact is it was more than just a record of civil rights.

It was a record of bringing to the issue the knowledge and the study and the concern to make it a legal instrument that could be passed on the floor of the Senate knowing full well that some Members of this body had some reservations about it and knowing certain commitments had to be made as to what would occur in the conference committee. It was a superb legislative leadership job, and I doff my hat to him. I have not seen any better any time previous in the Senate.

At the same time, I do want to say that the leadership of the majority leader in connection with this bill was impeccable. It was not easy at times. There was an inclination perhaps to take down the bill and move on to some other subject, but he did not do that. He continued on with the bill. He held our nose to the grindstone, and tonight we were successful in passing the legislation.

I publicly want to say how grateful I am to my two staff members, James Brudney and Al Cacozza, who have been on this floor almost as if they had slept here from morning to night, hovering over this bill, keeping me abreast of what was going on, trying to provide such assistance as they could to Senator KENNEDY and his staff, which did such a superb job. This was a great evening in that it not only was a victory for civil rights, it was a great evening in that a legislative leadership was tried and proven, and Senator KENNEDY deserves a tremendous amount of credit for that leadership and support of the majority leader of the Senate.

I yield the floor.

Mr. STEVENS. Mr. President, I have not voted against a civil rights bill before, and I do not do it this time lightly. The Senator from Ohio mentioned the niceties of the law with regard to the bill that has just been passed. There is no question that it is an area of the law that has seen fine distinctions drawn by the Supreme Court. Those of us who are lawyers—and I have been now for almost a half century—understand those decisions and labor with them. The difficulty is in this case of this legislation my colleague from Alaska and I know the facts and we know the difference now between the niceties of the law and the real facts of the situation of the case that was brought before the Supreme Court which has been known as the Wards Cove case.

The niceties of the law apart, it seems to me that the direction that the Senate has now gone is an entirely new direction, and what, in effect, it says is that if there is a central office for a company that owns a series of installations around the country, any one of those installations can be judged by the prevailing circumstances of the area of the home office. In this case, it was Seattle which, as Senator MURKOWSKI pointed out, was the home office for the company that owned the Wards Cove Packing Co., a cannery company in Ketchikan. Senator MURKOWSKI was born there. I have been there many times, spent a great deal of my time in Alaska, and we know that situation very well. It is a case which involved the dispatching of employees from a union hiring hall, and in this case the Senate, in my judgment, has been mislead. The courts have never been mislead. The courts have never found this company guilty of discrimination. And yet the impact of this bill that has just been passed, which I voted against, and I will vote to sustain a veto on, is that those facts do not substantiate the allegations that have been made on this floor concerning the Wards Cove case. The courts have never found Wards Cove to be guilty of discrimination under any test, and yet this case is to be sent back to the courts because some Members of the Senate now want to change the standards once again under which this case has been tried by many courts. It is six times, as Senator MURKOWSKI has pointed out.

Unfortunately, Mr. President, I am not President of the United States and never will be, but if I were, I would probably let this bill become law without my signature in order to teach the Members of the Senate who have just voted for it knowing it is going to be vetoed a lesson. This is bad law and the only thing that is going to prevent it from becoming bad laws is the courage from the President of the United States to veto what is known as a civil rights bill. It is not a civil rights bill, if the Wards Cove situation is any example. We must, I think, be more interested in pursuing the real facts rather than the facts as alleged by advocates before the Supreme Court. I would challenge the Senate—Senator MURKOWSKI and I would be willing to take any Member to the Ketchikan and show them the Wards Cove situation and show them the facilities that have been described on this floor as being discriminatory.

Incidentally, if you want to take the trip, you could also catch some of the finest salmon in the world. But beyond that, the fact of the actual layout of the Wards Cove situation do not justify the statements that have been made on this floor. For that reason and for that reason alone I voted against this bill. It is not a good bill as it seeks to reverse the WArds Cove decision and force that case back into court. Two million dollars that could have been paid to employees have been spent in litigation on that case so far, and this bill has one objective now, to force that case back into court, force someone to knuckle in and say this company made a mistake by attempting to fight a charge of discrimination when it was not true. I do not believe it is true. I do not believe a court of the United States will ever find it to be true even under this new standard.

I thank the Chair.

Mr. DOLE. Mr. President, I want to take about a minute on the bill we have just passed. I think it is unfortunate that many Members on both sides have not had an opportunity to offer their amendments, but that is history. It will now be up to the House of Representatives, and I assume it will be some time before there is action on the House side. Many Members are going to be pummeled by those who are opposed to big attorney fees and jury trials and punitive damages, compensatory damages, no limit, quotas. These are all in there, all in the bill that passed notwithstanding some of the hortatory language that was included to give some Members cover.

I hope, as another one who has voted against a civil rights bill, there is some way to resolve this between now and the time it comes back in the form of a conference report. I note there are 34, 35 pretty solid votes against the bill. I hope that will be an appropriate signal to those who are so eager to pass what is termed a civil rights bill that they will realize there are many who voted for the bill—and I know a number of them—who want to make major changes and, if those changes are made, whether this is a mere accommodation made or a compromise made, that satisfy a number of people who have been fairly objective about the bill, it is not only going to have the support of more of us in the Senate but of the President of the United States. I think that is very important. It is just a political issue; it appears to be fairly partisan; every Member on the other side voted for it, every Member but one voted to shut off debate after there had been no debate. That makes it fairly partisan. Some of the partisanship may have been drained away. Everybody has cast their votes, and they will have to suffer either way with the consequences because I assume it will be 6 to 8 weeks before we see anything come out of the House or out of the conference.

But I say, as the President said today in a meeting he had with a number of us trying to figure out how we could come to grips with this, he wanted a civil rights bill, he wanted to sign a civil rights bill, and he will not sign a quota bill.

Notwithstanding anybody's efforts this is a quota bill. The Presidnet is serious about it. I think many small business people, when they understand the impact, and many others across this country, not just lobbyists who are all here we heard the cheers and screams, the applause—there are others in America who do not make it to Washington. There are others in America who are out there trying to make a living. There are others in America who do not have lobbyists. They cannot afford lobbyists. They cannot afford to come to Washington. They cannot afford, many of them, even a phone call to their Senators or their House Members. Once they understand the impact of this bill, I think there is going to be a huge outcry.

Justice, this is not. Quota justice—if you want quotas, this is a ticket for quotas, a ticket for unlimited attorneys' fees. The Trial Lawyers Association ought to have a big PAC when this is over. They will get a lot of new business and be able to put more money into their political action committees—unlimited damages, jury trials. And even through there is language in there says it is not quotas, you give the employer the option of having a jury trial, unlimited damages, punitive damages, compensatory damages, or going along with some quota system, those other Americans out there do not have the resources, and are going to have to do what they have to do to stay in buiness.

So I want to commend the Senator from Massachusetts for ramming the bill through as quickly as he was able to. I want to thank the President of the United States, and I want to thank Boyden Gray and Chief of Staff John Sununu, Robert Porter, others from the White House, and also present was Senator MCCLURE, members of our staff, members of Senator HATCH's staff, Senator THURMOND, other members.

And to those who did not support the position of most Republicans, that is their right. Hopefully on the next issue they may be on our side.

I would say that there were sincere efforts by a number of Senators, but particularly Senator JEFFORDS, Senator SPECTER, Senator DANFORTH along with numerous Senators, Senator WILSON, Senator MCCLURE, Senator HATCH, Senator GORTON, Senator KASSEBAUM, Senator MURKOWSKI, to try to come to grips and try to work out some of the problems. I know I have left out a number of Senators—STEVENS.

We did not get it done. There is still time. There is still time to rescue this measure and make it truly a civil rights bill so those of us who have an unblemished record in supporting civil rights measures can extend that record.

Mr. President, I thank the Chair. I yield the floor.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator form California.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS AND THE NATIONAL HOUSING PARTNERSHIP—MESSAGE FROM THE PRESIDENT—PM-133

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompany-

ing report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I transmit herewith the 21st annual report of the National Corporation for Housing Partnerships and the National Housing Partnership for the fiscal year ending February 28, 1990, in accordance with the provisions of section 3938(a)(1) of title 42 of the United States Code.

GEORGE BUSH.

THE WHITE HOUSE, *July 18, 1990.*

MESSAGES FROM THE HOUSE

At 1:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 276. Joint resolution designating the week of beginning July 22, 1990, as "Lyme Disease Awareness Week"; and

S.J. Res. 281. Joint resolution to designate September 13, 1990, as "National D.A.R.E. Day."

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 548. Joint resolution designating the week of August 19 through 25, 1990, as "National Agricultural Research Week";

H.J. Res. 554. Joint resolution designating the week of January 6, 1991 through January 12, 1991, as "National Law Enforcement Training Week"; and

H.J. Res. 591. Joint resolution designating the third Sunday of August 1990 as "National Senior Citizens Day."

MEASURES REFERRED

The following joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 554. Joint resolution designating the week of January 6, 1991 through January 12, 1991, as "National Law Enforcement Training Week"; to the Committee on the Judiciary.

H.J. Res. 591. Joint resolution designating the third Sunday of August of 1990 as "National Senior Citizens Day": to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2753. A bill to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act (Rept. No. 101-376).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Rosalie Gaull Silberman, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 1995; and

James M. Stephens, of Virginia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 1995.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOREN (for himself, Mr. PELL, and Mr. MITCHELL):

S. 2865. A bill entitled the "Educational Exchanges Enhancement Act of 1990"; to the Committee on Foreign Relations.

By Mr. ARMSTRONG:

S. 2866. A bill to amend part F of title IV of the Social Security Act to allow States to assign participants in work supplementation programs, to existing unfilled jobs, and to amend such part and the Food Stamp Act of 1977 to allow States to use the sums that would otherwise be expended on food stamp benefits to subsidize jobs for participants in work supplementation programs, and to provide for States and localities to use such programs; to the Committee on Finance.

By Mr. GRAHAM:

S. 2868. A bill to exclude receipts and disbursements of Social Security Trust Funds when calculating maximum deficit amounts, to authorize the investment of such funds in certain State and local government obligations, and for other purposes; to the Committee on Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days of continuous session to report or be discharged.

By Mr. BURNS (for himself, Mr. BAUCUS, Mr. MCCAIN Mr. INOUYE, and Mr. BURDICK):

S. 2869. A bill to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCLURE (for himself and Mr. SYMMS):

S. 2870. A bill to approve the Fort Hall Indian Water Rights Settlement, and for other purposes; to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs, jointly, by unanimous consent with instructions that when one Committee reports, the other Committee have 15 session days to report or be discharged.

By Mr. CRANSTON (by request):

S. 2871. A bill to amend section 3413 of title 12, United States Code, to add an exception authorizing financial institutions to disclose to the Department of Veterans Affairs the names and current addresses of their customers who are receiving payments, by direct deposit or Electronic Funds Transfer into their accounts, of compensation, Dependency and Indemnity Compensation or pension benefits under title 38, United States Code; to the Committee on Veterans Affairs.

By Mr. DECONCINI (for himself, Mr. LEVIN, Mr. HARKIN, Mr. WARNER, Mr. D'AMATO, and Mr. METZENBAUM):

S. 2872. A bill to establish a National Commission to Support Law Enforcement; to the Committee on the Judiciary.

By Mr. BOSCHWITZ:

S. 2873. A bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process; to the Committee on Governmental Affairs.

By Mr. MURKOWSKI (for Mr. DOLE (for himself and Mrs. KASSEBAUM)):

S. 2874. A bill to authorize the reformulation of the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, to provide for the amendment of water service and repayment contracts; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KERREY (for himself, Mr. KENNEDY, and Mr. KERRY):

S. Con. Res. 140. A concurrent resolution expressing the sense of the Congress regarding steps the President should take regarding Cambodia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOREN (for himself, Mr. PELL, and Mr. MITCHELL):

S. 2865. A bill entitled the "Educational Exchanges Enhancement Act of 1990"; to the Committee on Labor and Human Resources.

EDUCATIONAL EXCHANGES ENHANCEMENT ACT

● Mr. BOREN. Mr. President, in the years since World War II, America's standing as leader of the free world has rested by and large on our military strength: Our military authority allowed us to leverage a leadership position in world political and economic spheres. With the Soviet Union and their Warsaw Pact allies looming as a military menace, our friends in Western Europe and Asia naturally deferred to us in policy matters: We were the big player on their team and we called the shots.

But cold war rivalries are fading and suddenly it's a different ball game. With the threat of a major military conflict significantly reduced, our allies are no longer bound by a need for military portection and our one-time enemies are now looking to us for leadership and guidance.

We now have before us the opportunity for a new and different kind of leadership role: Not one based on containment, but on partnership; not one based on military standoffs and survival strategies, but on the fundamental

merits and strengths of the American system.

What are we doing to prepare ourselves for this new leadership role? What are we doing to shift our emphasis from military to economic strength? Our current foreign policy reflects neither the increasing significance of our economic influence nor the increasing irrelevancy of our military might. The United States will be among world leaders in the 21st century only if we recognize and respond to the changing prorities in the world, only if we develop the resources and promote the assets necessary to lead.

Among the skills most basic to a world leadership role is an understanding of the world's languages and cultures. Until now, we have educated our children largely in a vacuum with little regard for the international community in which we live. It was possible for us to get by with this insular and isolationist approach to education when our leadership was based on military strength: The world came to us and spoke our language. That is clearly no longer the case.

With the Soviet Union and the Eastern bloc opening to new economic opportunities, with Asia and Western Europe developing as fomidable market networks, it is urgent that the United States move vigorously to take its place in the international community. Very simply, either our children will develop the skills necessary to function in the international community or they will be shut out of it.

Our ignorance of world cultures and world languages severely limits our ability to enter into global exchange. One hundred percent of high school graduates in Japan speak fluent English: They have to take 6 years of it to graduate. Japanese high schools place a high priority on the study of foreign language. Do you know what percentage of American students studied Japanese here at home? Two one-hundredths of 1 percent. In fact, only about 25 percent of American high school students are enrolled in any foreign language courses at a time when the European Economic Community has adopted as a goal for all of its students fluency in two languages other than their own.

In the now infamous Gallup poll published in the National Geographic Magazine last year, American students between ages 18 and 24 ranked dead last in geographic knowledge among the 10 nations surveyed. The survey reveals some ominous trends: While Soviet students—predictably—scored well above their elders whose educational opportunities were limited, American students scored significantly below older Americans. Soviet students answered nearly a third more questions correctly than we did and the National Geographic Society's chairman, Gilbert Grosvenor, remarked, "Younger Soviets have come a long way toward knowing the world around them." Kindly, he did not comment on how far American youth has to go to achieve that same knowledge. If we expect to be world leaders in the next century, we must—at the very least—be able to understand and communicate with that world.

As we continue to isolate ourselves with our confining educational system, other nations are doing just the reverse: reaching out, establishing ties, learning and working together. It is clear that the rest of the world understands the importance of exposure to foreign cultures and languages—especially the culture and language of the United States: More than 356,000 students from other countries came here to study last year. How many of our students went in the other direction? Only 33,000 American students ventured out of this country for at least a semester of study. Taiwan and Malaysia, countries with a combined population of 37 million, sent more students to the United States than the total of American students who studied abroad.

We must encourage foreign students to come to the United States to study. What better way to promote the economic and political ideals of the United States than for the youth of the international community to see those ideals in action, firsthand? It's no surprise that many of the Chinese students at Tiananmen Square who so valiantly sought freedom for their nation had studied in the United States. They knew what freedom was. They had seen it. One of the best ways we can export American ideals is to have students from other nations come and take them home.

Ironically, this process was understood and routinely practiced by the Communist world in the last decade. The Soviet Union accepted as many as 35,900 students annually from developing countries in the 1980's. In 1986, for example, students from developing nations in Africa studying in the Eastern bloc far outnumbered those studying in the United States. In 1987, Cuba accepted twice as many Angolan students as we did, three times as many Ethiopians. While our country is virtually swamped with students from industrialized Western nations, we have shamefully ignored their counterparts in the Third World.

And while we must welcome students from all over the world, especially those from developing countries, exchange is reciprocal—to communicate, to participate in the international community we, too, must understand the languages and cultures of the world. It is no longer enough that only they understand us.

How do we reverse the isolating effects of our educational system? How do we develop the resources basic to leadership standing in the international community? Senators MITCHELL, PELL, and I are joining together to introduce legislation which will address these vital needs.

Senator PELL and I worked with many of our distinguished colleagues in the bipartisan foreign policy leadership in Congress over a year ago on a proposal to President Bush to create a student exchange agreement with the Soviet Union. Mr. Bush presented the idea to President Gorbachev at the Malta summit and our governments have already signed a general agreement toward the implementation of that accord here in Washington earlier this year. That agreement was a good step forward, but we must go much farther to move out of isolation and into the international community.

"The Educational Exchanges Enhancement Act of 1990" will spark the cultural and educational exchange so critical to our international position. Designed to supplement Fulbright and other successful exchange programs, it provides support for undergraduate study at an age when students form lifelong bonds of friendship, when they are most open to the benefits 6 of foreign study. It will allow students who out of financial hardship could never even travel, much less study abroad, to have that chance. The program provides 5,000 scholarships to American students going abroad and 5,000 to students of other countries coming to the United States. The program keys on countries where exchanges are currently limited—and most needed: It encourages students from the new democracies of Eastern Europe to study in America, for example, and will help fund studies for Americans in nations where the United States is currently underrepresented, such as Asia and South America. Doubling current funding levels for exchange programs, the legislation authorizes an initial $50 million appropriation in 1991 expanding to $200 million in 1994.

We don't suggest that this legislation alone will fully integrate the United States into the international community, that it will entirely eliminate the degree of isolation which has come from the insular nature of our educational system. But it's a first step. It's a step toward spreading and firmly rooting the ideals of democracy and economic freedom around the world. It's a step toward developing the assets we must have to lead a world which is adopting those ideals. The next decade presents us with unique opportunities to prepare this Nation for the changing realities of the next century. We must seize these opportunities now. They may not come again.

Mr. President, I ask unanimous consent that the text of the bill as well as

a summary be printed in the RECORD immediately following this statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2865

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as "The Educational Exchanges Enhancement Act of 1990."

SEC. 2. FINDINGS.—The Congress finds that:

(1) United States educational exchange programs, and in particular the Fulbright Academic Exchange Program and the Humphrey Fellowship Program, have served to promote the free exchange of ideas and knowledge between the United States and other countries and have thus served to promote democratic ideals;

(2) Expanded educational exchange programs between the United States and other countries will support the process of democratization now underway around the world and will, by enhancing mutual understanding, contribute to a more free and peaceful world.

(3) Existing private and foreign government educational exchange programs provide significant opportunities for Americans to study and live in Western Europe as well as provide significant resources for students from certain countries and certain backgrounds to study in the United States;

(4) Expanded U.S. government exchange programs should promote increased exchange of students and scholars between the United States and the Soviet Union, between the United States and the new democracies of Eastern Europe, and between the United States and countries not significantly benefitting from existing exchange of persons programs; and

(5) Further, enhanced U.S. government exchange programs should provide scholarships to students from countries and economic backgrounds not adequately represented in the current U.S. foreign student population.

SEC. 3.—ENHANCED EDUCATIONAL EXCHANGE PROGRAMS.

(a) Not later than September 30, 1994, the number of scholarships provided to foreign students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in the United States shall be increased by five thousand over the number of scholarships provided in fiscal year 1989.

(b) Not later than September 30, 1994, the number of scholarships provided to United States students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in other countries shall be increased by five thousand over the number of scholarships provided in fiscal year 1989.

(c) For the purposes of this section a scholarship shall be defined as a stipend equal to not less than one half the total cost of at least one semester's tuition and living expenses at an United States or foreign university or other institution of higher learning.

(d) Scholarships provided to meet the requirements of subsection (a) shall be available only to students and scholars from the new democracies of Eastern Europe, to students and scholars from the Soviet Union, to students and scholars from countries with fewer than one thousand citizens studying in the United States, and to students who are determined by the Director of the Bureau of Educational and Cultural Affairs to be from economic, social or ethnic backgrounds not represented in the foreign student population in the United States.

(e) Scholarships provided to meet the requirements of subsection (b) shall be available only for study, research, and teaching in the new democracies of Eastern Europe, the Soviet Union, and non-European countries.

SEC. 4.—AUTHORIZATION OF APPROPRIATIONS. To carry out the purposes of this Act and in addition to funds otherwise made available to the Bureau of Educational and Cultural Affairs, there are authorized to be appropriated to the Bureau of Educational and Cultural Affairs of the United States Information Agency $50,000,000 in fiscal year 1991, $100,000,000 in fiscal year 1992, $150,000,000 in fiscal year 1993, and $200,000,000 in fiscal year 1994.

THE EDUCATION EXCHANGES ENHANCEMENT ACT OF 1990

SECTION-BY-SECTION SUMMARY

Section 1

Short Title: "The Education Exchanges Enhancement Act of 1990."

Section 2

Findings:

a. Education exchange programs in the United States have served to promote democratic ideals worldwide;

b. Expanded exchange programs will help support emerging democracies;

c. Existing programs already provide significant levels of exchange between Western Europe and the United States;

d. New exchange programs should send students to countries with limited contact with the United States;

e. New exchange programs should bring students from countries and economic backgrounds underrepresented in the United States.

Section 3

a. The number of exchange scholarships provided to foreign students by the United States Information Agency (USIA) will increase by 5,000 between 1989 and September 30, 1994.

b. The number of exchange scholarships provided to American students by the USIA will increase by 5,000 between 1989 and September 30, 1994.

c. A scholarship is defined here as a stipend equal to not less than half of the total cost of tuition and living expenses for one semester's study in a foreign or American university.

d. Foreign scholarships will be available to students from: the new democracies of Eastern Europe; the Soviet Union; countries with fewer than 1,000 students in the United States; and economic, social or ethnic backgrounds underrepresented in the foreign student population of the United States.

e. American scholarships will be available to students going to: the new democracies of Eastern Europe; the Soviet Union; and non-European countries.

Section 4

Authorization of Appropriations:

Above other funds allocated to USIA, this bill authorizes: $50,000,000 in fiscal year 1991; $100,000,000 in fiscal year 1992; $150,000,000 in fiscal year 1993; and $200,000,000 in fiscal year 1994.●

By Mr. ARMSTRONG:

S. 2866. A bill to amend part F of title IV of the Social Security Act to allow States to assign participants in work supplementation programs to existing unfilled jobs, and to amend such part and the Food Stamp Act of 1977 to allow States to use the sums that would otherwise be expended on food stamp benefits to subsidize jobs for participants in work supplementation programs, and to provide financial incentives for States and localities to use such programs, to the Committee on Finance.

ECONOMIC OPPORTUNITY ACT

● Mr. ARMSTRONG. Mr. President, I rise today to introduce the Economic Opportunity Act of 1990. This bill is companion legislation to H.R. 4916 introduced by my colleague from Colorado in the House of Representatives, Congressman HANK BROWN.

Quite simply, Mr. President, the purpose of this bill is to allow more Americans to exchange welfare checks for paychecks. I firmly believe that, given the chance, most Americans receiving Federal and State support would prefer to be independent. Our bill would further this goal by eliminating the provision in the 1988 welfare reform bill which restricts the types of jobs that can qualify for work supplementation. Specifically, the 1988 welfare reform legislation requires States to use only newly-created jobs in the Work Supplementation Program. Therefore, employers cannot fill any job opening that existed previously with a welfare beneficiary.

Mr. President, this bill increases the pool of jobs available to welfare recipients and ensures them a bigger paycheck if they participate in work supplementation programs. Our legislation changes section 482(e)1 of the Social Security Act and section 16 of the Food Stamp Act to allow States the option of using food stamps along with AFDC grants as benefits payable through and employer in the Work Supplementation Program. This gives States with low AFDC grants the ability to participate in the program and could open up higher paying jobs as a result of more benefits being diverted.

Another issue addressed in our bill is that, under current rules, States receive almost no financial incentive for making the substantial up-front investment necessary to run a successful work supplementation program. Our bill provides this much-needed incentive by making it easier for States to take advantage of Federal contributions to welfare benefits. We change section 482(e)3 of the Social Security Act to allow individual States a share of the savings generated. In other words, under our bill, a State is al-

lowed to claim the maximum amount payable from the Fedeal share of a participant's AFDC payment.

This would work in the following manner: If a mother with two children is getting an AFDC grant of $400 per month, currently half of that is being paid by the Federal Government and half is paid by the State. Under our bill, if the State is able to negotiate a job for the woman by diverting $300 a month to an employer in the form of a wage subsidy, the State would save $100. With this legislation, the Federal Government would pay up to the Federal share of the participant's AFDC payment before the State would be required to pay anything. So, instead of both the State and Federal Government paying $200, we have the Federal Government paying $200 and the State paying $100—a savings of $100 from the present situation.

Finally, our bill specifies that no welfare recipient will take a job that pays him less than 125 percent of his benefit wealth. Again, this was done to address the incentive side of the welfare equation. If one is the head of a household and responsible for feeding and sheltering children, it is difficult to imagine anyone opting for a job that pays him less than his benefit check does.

Mr. President, I believe this legislation has a great potential for putting welfare recipients in good jobs. It removes several significant barriers to the widespread use of the Work Supplementation Program by States and localities. This bill is a step in the right direction, and a step that we, as a nation, need to take. I urge my colleagues to support this legislation.●

By Mr. ARMSTRONG:

S. 2867. A bill to amend the Internal Revenue Code of 1986 to revise the application of the wagering taxes to charitable organizations; to the Committee on Finance.

APPLICATION OF WAGERING TAXES TO CHARITABLE ORGANIZATIONS

● Mr. ARMSTRONG. Mr. President, charitable organizations are vital to our society. Through the use of local and private funds, these nonprofits are able to mobilize the Nation's volunteers to provide temporary shelter to the homeless, soup kitchens, rape counseling, education services, suicide hotlines, transportation to the elderly and disabled, and on and on. In short, charitable groups provide badly needed help and assistance which government at all levels is ill-equipped to provide.

The Congress has long recognized the invaluable service of charitable organizations by providing an exemption from the Federal income tax. Always short on funds and long on worthy goals and pressing problems, no one questions the need to avoid imposing income tax on these organizations.

Nevertheless, there are two taxes in the Internal Revenue Code which threaten the very existence of many nonprofit groups in Colorado. The first is an annual occupational stamp tax of $50 imposed on each and every volunteer who helps with activities such as jar raffles and pull tabs—(section 4411 of the Internal Revenue Code. The second tax is a wagering excise of 0.25 percent of the gross income raised from these same activities—section 4401 of the Internal Revenue Code. Though both of these taxes have been on the books for decades, neither tax has been collected—until now.

It is hard to imagine what tax policy is served by imposing an occupational stamp tax on volunteers. The effect is clear enough, however. The tax drains resources away from the charitable organizations and creates a strong incentive to limit the number of volunteers who may help with vital fund-raising activities.

The purpose of the wagering tax is to create a disincentive from raising money from the general public that, ultimately, inures to the benefit of the organization's membership. For example, a raffle may be used, in part, to reduce membership dues or to fund various activities that benefit primarily the members. Such income, while received through a tax-exempt organization, is really income-in-kind to the members when it is spent for their benefit. In this case, the income should be subject to tax.

Unfortunately, the wagering excise doesn't discriminate between income that inures to the benefit of the membership and income that goes for truly charitable activities. The tax is imposed on all gross receipts from raffles, etc., of the organization irrespective of how the funds are ultimately used. Again, the result is that resources are drained from our charitable organizations.

As disturbing as I find the existence and imposition of these two taxes, I am told that the taxes are only being collected in the State of Colorado and, possibly, one other State. It is grossly unfair that one or two States should be singled-out to suffer from these counterproductive taxes.

Therefore, I am today introducing companion legislation to a bill introduced in the House by Congressman HANK BROWN to reform each of these taxes. My bill would exempt from the occupational stamp tax both charitable organizations as defined under sections 501 or 521 of the Internal Revenue Code, and individuals engaged in receiving wagers on behalf of such organizations.

My bill would also exclude from the wagers subject to the wagering excise any amounts raised which are used for charitable purposes. Consequently, funds raised from raffles, for example, which go to providing benefits to the organizations membership would remain subject to tax, while amounts spent for youth counseling, for example, would be exempt from the tax.

These reforms should have been enacted long ago. They weren't addressed before now because the taxes weren't collected until now. While most Members of Congress have not heard from their constituents because the tax has only been collected in a couple of States, unless reformed the tax will soon be collected nationally, at which time we will all hear a great deal about these taxes. It would certainly help our Nation's charitable organizations if we could reform them before, rather than after, the trauma and the damage is done.●

By Mr. GRAHAM:

S. 2868. A bill to exclude receipts and disbursements of Social Security trust funds when calculating maximum deficit amounts, to authorize the investment of such funds in certain State and local government obligations, and for other purposes; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

EXCLUSION OF SOCIAL SECURITY TRUST FUNDS FROM DEFICIT CALCULATION

Mr. GRAHAM. Mr. President, we are all very aware of the difficulties that are currently being experienced by the American people and by the leadership of the Congress and the President as we attempt to grapple with the very difficult fiscal circumstances of America in the summer of 1990.

Mr. President, I want to project this summer forward 30 years and talk about what the circumstances will be in the summer of the year 2020, a summer we all hope we will have an opportunity to experience. From a demographic standpoint, in the summer of the year 2020 there will be 64.2 million Americans who will be receiving Social Security benefits. There will be 151 million Americans who will be working in order to support the economy of the Nation. That is a ratio of 2.35 working Americans to every retired American.

That contrasts, with today, Mr. President, when we have 133 million working Americans and 39.3 million Social Security recipients, or a ratio of 3.4 to 1. What that says is that in the next 30 years there will be a dramatic shift in the proportion of Americans who are working and the proportion of Americans who are in retirement.

We know that today, in 1990, the Social Security fund, as it is currently structured, is producing a substantial surplus. In fact, we estimate that in this next fiscal year that surplus will be augmented by approximately $60

billion; that that surplus will grow over the next 25 years to in excess of $6 trillion. But by the summer of the year 2020, the large number of retirees, persons born after World War II who have reached the age of Social Security eligibility, will have reached a point that that annual surplus will have gone into reverse. In the year 2020, it is estimated that $121 billion will flow out of the Social Security fund. We will not longer be adding to the surplus. We will be in the process of drawing down that surplus.

If we think that the economic circumstances are difficult given the demographics and the economics of the summer of 1990, I suggest that they will be much more difficult for our colleagues who stand here 30 years from today. I would suggest that they are going to be faced with some very difficult choices.

How are the Members of Congress and the President in the year 2020 going to meet the obligations to this burgeoning number of American retirees? How are they going to do it, particularly if we have to spend the next 30 years, as we have the last 7, using the accumulated surplus of Social Security not as an investment for a trust fund but, rather, to finance our annual budget deficit essentially to pay for this year's consumption out of the fund that was intended to finance the next generation of America's Social Security.

These are some of the choices that our colleagues in the year 2020 are going to have. They will be able to raise taxes from an already reduced tax base as a result of the dramatic demographic shifts. They will be able to borrow more money and add to what then would be an astronomical, as distinct from the merely staggering, national debt that we have today. They could dramatically reduce spending in order to be able to finance the scale of Social Security benefits. Or they could do what I suggest they are probably going to be very enticed to do, and that is reduce Social Security benefits in order to meet the staggering obligations that they will than face, to do so by extending the period of age for eligibility, or by reducing the anticipated level of annual benefits.

Mr. President, those are the options that I suggest our colleagues 30 years from today will be facing if we continue for the next three decades the pattern of behavior that we have followed since 1983.

Today Congressman MATSUI of California and I are introducing similar bills in the House and Senate. These bills are designed to give some increased protection to current and future Social Security beneficiaries. To increase America's investment in itself, and to remove the Social Security trust fund from the budget so that these funds will no longer be used as a mask of the true extent and scale of our Federal deficit.

The essential rationale of the change we suggest is to give greater security and confidence to the Social Security surplus by denying the use of that surplus to the Treasury to mask the deficit by diversifying through market rate lending to qualified State and local governments, and placing the full faith and credit of the Federal Government as a guarantee behind those State and local obligations held by the Social Security Trust Fund.

First the legislation would remove the Social Security Trust Fund from the Gramm-Rudman-Hollings calculations effective at the start of the fiscal year 1992. This simple provision will assure an honest accounting of our Federal budget and not hide the true size of any budget deficit the United States incurs.

The Federal Government has a contract with its people. It is a commitment to the American people that when they retire the Social Security trust funds will be there for their benefit.

In fact, this generation of Americans will be the first to actually pay for the benefits that they will receive through the Social Security Trust Fund. The current process these programs are running is not acceptable in that there is little prospect that this generation will be able to receive their benefits in the year 2020. They will only find IOU's from the Treasury in that trust fund.

The status quo is not credible, it is not acceptable. We must establish the Social Security fund as a true trust fund, a fund that holds real securities, and makes real investments. Investments. We must diversify the investments in the trust fund to secure safe and secure investments in addition to those of the U.S. Treasury, by ensuring that the obligor on investments owned by the trust fund is someone other than the Federal Government; we will be helped in reducing the incentive that we may have to reduce benefits in future years.

Second, our proposal would allow investments to the Social Security Trust Fund surplus in bonds issued by State and local governments. Lending to State and local governments is a secure financial investment for the trust fund. The proceeds of the bonds will be used to finance needed public improvements such as schools, roads, bridges, mass transportation systems, water treatment facilities—all of which are the underpinning of a strong economic base to build America's competitive future.

The legislation therefore stipulates that these investments will be made in qualified tax-exempt bonds as defined by section 103 of the Internal Revenue Code of 1986.

It is not our intention to add additional strings or limitations to State and local governments desiring to sell obligations to the Social Security Trust Fund. We therefore state in our bill that State and local governments will not be subjected to more stringent credit standards or additional covenants and agreements than those commonly applicable in the open market for obligations of similar credit quality.

The bill sets up a State and local obligation investment committee to advise and make recommendations to the Social Security trustees on issues such as how much of the funds should be invested in State and local obligations, what is the proper credit rating to use, and what should be allowed in terms of acquisition of specific issues.

Our bill would allow the trustees to invest the Social Security funds in State and local obligations. In 1991, the assets held by the Social Security fund are predicted to be $296.7 billion all in obligations of the U.S. Government. By the year 2015 the fund's assets will increase to $6 trillion, 152 billion.

Since the yield of these bonds sold to State and local governments will be at a lower rate than equivalent investments in Federal securities as a result of the nontaxability of interest on State and local bonds, we have included a provision which authorizes a permanent annual appropriation to the Social Security Trust Fund to recoup any lost investment income. These appropriations will be offset by the reduction in the tax expenditure currently associated with tax-exempt bond provisions of the Internal Revenue Code and by the displacement of some investors from the tax-exempt bond market to taxable instruments.

In addition the trust fund would have a year's liquidity of the estimated annual Social Security benefits. This reserve would meet the needs of immediate Social Security recipients. Therefore we continue to live up to our responsibility to our senior citizens—those benefiting today and those who look forward to benefits in the future.

Our legislation also protects the trust funds by providing a Federal guarantee for any municipal bonds purchased by the Social Security trust fund.

We are allowing the investments in State and local bonds by the trust fund because we consider them to be a conservative investment. We want to build the economic strength of the United States. We consider investing in infrastructure and education projects as the most fundamental to the long-term economic strength of this Nation.

Also because of the growing debt of the Federal Government, we have moved more of the responsibility from

the Federal Government to State and local governments for important public projects.

Mr. President, we have before us today a proposal from the Secretary of the U.S. Department of Transportation which would have the effect of shifting significantly the responsiblity for financing our transportation system from the current level of Federal support with increased obligations at the State and local level.

That proposal in transportation parallels similar proposals that have been made in areas of education, environmental protection, health care.

At the time we are asking State and local governments to accept a larger share of the cost of funding for these important public needs, we have hampered the ability of State and local governments to effectively pay for those increased costs and responsibilities.

By giving State and local governments another pool of money to draw from, we are providing them with the means by which they can meet these increased obligations. As an example of that reduction of ability, in the 1986 Tax Act we effectively told banks and property and casualty insurance companies that they were no longer encouraged to buy State and local bonds. By that statement we effectively took large buyers from the market of those State and local obligations. We decreased the demand and correspondingly increased the rate of interest that our State and local taxpayers had to pay in order to finance public projects.

Our bill does not modify the existing provisions of the Internal Revenue Code relating to tax exemption of State and local governments' obligations nor does it attempt to establish an unworkable bureaucracy that would actually discourage the purchase of State and local securities by the trust fund.

This bill attempts to use the existing market systems, the existing law relating to tax exemption on State and local government obligations.

Essentially what we propose, Mr. President, is to maintain the market system that is operating for the sale of State and local bonds to maintain the current tax treatment of those bonds but to add as a significant new purchaser for those bonds, the Social Security Trust Fund.

I add, Mr. President, that this proposal is not a novel proposal. It has been said that creativity is the art of disguising one's sources. I am going to disclose an essential source of this proposal; and it is our neighbor to the north, Canada. For several years, the Canadian Government has been using its social security surplus as a means of lending at market rates to the provinces of Canada. Through that system, the provinces of Canada have found an important new source of capital to meet all of their obligations, very similar to the kinds of obligations that we in the United States ask our States and local governments to undertake.

As we develop this idea, we have been working with various groups. We have worked with retirement groups, groups that represent America's older citizens; we have worked with groups that represent financial institutions, State and local government, and economists have reviewed this bill. Some of these groups have come forth now with public support for the concept of our proposal.

As an example, the National Association of Counties and the National League of Cities have recently adopted resolutions in support of the concept of this legislation.

In a speech last month before the National Press Club, on June 14, Felix Rohatyn, a leading investment banker had these comments:

The Social Security System should become what most people think it is, but which it is not: A real trust fund, with real money, and a real savings pool for the American economy. It should not be used to mask the budget deficit. It should be removed from the budget and a trust fund set up which, over the next decade, would probably build up a national savings pool amounting to over $1 trillion. These funds should be invested in U.S. Treasury securities with a portion thereof—say 20–25 percent—eligible for investment in high-grade State and local government bonds, to be used to finance local infrastructure projects. Such a proposal is presently under study by Senator BOB GRAHAM and deserves support.

I concur with the observations of Mr. Rohatyn.

Mr. President, this bill will protect the Social Security Retirement Fund. It will assure tomorrow's children of their expectations for drawing from the Social Security Fund. This bill will also provide another source for infrastructure funds for State and local governments.

I encourage all of my colleagues to give serious consideration to this proposal. To fail to do so places at risk the Social Security Fund and the confidence of the American people in their National Government.

Mr. President, I ask unanimous consent that the text of the bill, a section-by-section analysis, and supporting material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION OF RECEIPTS OF DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is repealed.

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act (42 U.S.C. 911) is amended by—

(1) inserting after "Federal Disability Insurance Trust Fund," the following: "including interest received by the Trust Funds,"; and

(2) striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1991.

SEC. 2. INVESTMENT OF SOCIAL SECURITY TRUST FUNDS IN CERTAIN STATE AND LOCAL GOVERNMENT OBLIGATIONS AUTHORIZED.

(a) IN GENERAL.—Subsection (d) of section 201 of the Social Security Act (42 U.S.C. 401) is amended—

(1) by inserting "(1) after "(d)",

(2) by striking "of the United States" in the second sentence and inserting "of the United States, eligible State or local obligations,",

(3) by striking "(1) an original issue at the issue price, or (2)" and inserting "(A) on original issue at the issue price, or (B)",

(4) by adding at the end of paragraph (1), as designated by paragraph (1) of this subsection, the following new sentence: "The Managing Trustee may purchase eligible State or local obligations on original issue or at the market price in an amount that does not exceed such portion of the Trust Funds as determined for each fiscal year by the State or Local Obligation Investment Committee.", and

(5) by adding at the end thereof the following new paragraphs:

"(2) For purposes of this subsection, the term 'eligible State or local obligations' means State or local bonds (as defined in section 103(c)(1) of the Internal Revenue Code of 1986—

"(A) the interest on which is excluded from gross income for purposes of Federal income taxation under section 103(a) of the Internal Revenue Code of 1986, and

"(B) with such credit ratings as the State or Local Obligation Investment Committee considers sufficient.

"(3) Eligible State or local obligations purchased by the Managing Trustee shall be irrevocably guaranteed as to principal and interest by the United States for so long as such bonds are held by the Trust Funds. Notwithstanding the provisions of section 149(b) of the Internal Revenue Code of 1986, such Federal guarantee shall not adversely affect the exclusion of interest on such bonds from the gross income of subsequent holders thereof for purposes of Federal income taxation.

"(4) There is hereby created a committee to be known as the State or Local Obligation Investment Committee, composed of three members (all of whom may not be from the same political party), who are not members of the Board of Trustees and who shall be nominated by the President for a term of four years and subject to confirmation by the Senate. Vacancies in the membership of the Committee shall not affect the authority of the remaining members to execute the functions of the Committee and shall be filled in the same manner as original appointments to the Committee are made. A person serving on the Committee shall not be considered to be a fiduciary and shall not be personally liable for actions

taken in such capacity with respect to the Trust Funds.

"(5) If, upon receipt of a determination by the Local Obligation Investment Committee under the last sentence of paragraph (1) or paragraph (2)(B), the Managing Trustee disagrees with such determination, the Managing Trustee shall report the disagreement to the Congress and the reasons for such disagreement.

"(6)(A) Not later than 90 days after the end of each fiscal year, the Managing Trustee shall determine for such fiscal year with respect to each of the Trust Funds the excess (if any) of—

"(i) the amount which would have been the return to such Trust Fund for such fiscal year on the investment of such Trust Fund if purchases of obligations pursuant to this subsection had been restricted to obligations of the United States, and

"(ii) the amount which was the actual return to such Trust Fund for such fiscal year on the investment of such Trust Fund pursuant to this subsection, and shall publish the amount of such excess in the Federal Register.

"(B) In addition to any amounts otherwise appropriated to the Trust Funds, there is hereby appropriated to each of the Trust Funds for each fiscal year, out of any moneys in the Treasury not otherwise appropriated, the amount of any excess amount determined under subparagraph (A) for the preceding fiscal year with respect to such Trust Fund. Such appropriation shall be executed on the date of the publication of the excess amount in the Federal Register.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1991.

SECTION-BY-SECTION SUMMARY OF SOCIAL SECURITY/INFRASTRUCTURE BILL

SUMMARY

The bill takes the Social Security Trust Funds off-budget.

Allows the Social Security Trust Funds to invest in state and local municipal bond obligations along with federal Treasury offerings.

Allows the state and local governments to use these funds for capital projects or enhanced infrastructure projects like improving roads, bridges or building schools.

Section 1: Takes the Social Security Trust Funds off-budget and out of the Gramm-Rudman deficit targets effective October 1, 1991.

Section 2: Allows the investment of Social Security Trust Funds in certain state and local government obligations.

Section 2(a)(2):

Eligible State or local obligations means State or local bonds as defined in Section 103(c)(1) of the Internal Revenue Code of 1986.

The interest on the bonds is tax-exempt.

The credit ratings of the bonds are determined by the State and Local Obligation Investment Committee.

The bonds can be purchased at original issue or open market.

The amount of the Trust Funds to be invested is determined by the State and Local Obligation Investment Committee.

Section 2(a)(3): The eligible state or local obligations purchased by the Social Security Trust Funds are guaranteed by the U.S. Government as long as the bonds are held by the Trust Funds.

Section 2(a)(4): Creates the State and Local Obligation Investment Committee with three members who shall be nominated by the President for a term of four years and subject to Senate confirmation. The Committee will advise and make recommendations to the Social Security Trustees on the investment of the Trust Funds in State and Local obligations.

Section 2(a)(5)(A): Ninety days after the end of each fiscal year, the Managing Trustee shall determine the difference in the amount which would have been returned to the Trust Funds if it had only invested in Treasury obligations versus what was actually returned to the Trust Funds under the provisions of this bill.

Any difference will be made up by a permanent annual appropriations.

The effective date is October 1, 1991.

QUESTIONS AND ANSWERS ON SOCIAL SECURITY/INFRASTRUCTURE BILL

(Senator Bob Graham)

What is the purpose behind the introduction of this bill?

The goal is two-fold: First to protect the funds in the Social Security Trust Funds by making sure they are there when Americans retire and want to draw from them and by making sure Americans do not find IOUs from the federal government instead.

Second, to provide another source of funds for state and local governments to meet their infrastructure needs.

Why are you taking the Social Security Trust Funds off-budget?

To give greater security and confidence to the Social Security surplus by denying the use of that surplus to the Treasury to mask the deficit. This will ensure an honest accounting of our federal budget, and not hide the true size of any budget deficit the United States incurs.

When do you take the Social Security Trust Funds off-budget?

The effective date for taking the Trust Funds off-budget and out of the Gramm-Rudman calculations is October 1, 1991 or the start of fiscal year 1992. At that time the contingency fund ratio for the combined funds is projected to exceed 100 percent at the beginning of 1992 or be approximately $80 billion. The Trust Funds would have a year's liquidity of the estimated annual Social Security benefits on reserve to meet the needs of the social security recipients.

What does the Social Security Trust Funds invest in currently?

Only Treasury obligations. Under this bill we would also allow them to invest in high grade state and local bonds.

Who will make the investment decisions for the Social Security Trust Funds?

The bill creates a State and Local Government Obligation Investment Committee to determine and recommend to the Trustees:

How much of the Fund to invest in State and Local Obligations;

What the proper credit ratings are for investment purposes.

It would be made up of three members, appointed by the President and confirmed by the Senate.

How would State and local governments be able to use the bonds?

The proceeds of the bonds would be used to finance needed infrastructure improvements, such as schools, roads, and bridges, other mass transportation systems, and water treatment facilities—as currently defined in Section 103 of the Internal Revenue Code of 1986.

Why include State and local bonds?

First, we want to diversify the risk from just federal government offerings and include state and local government offerings.

Second, in 1989 state and local governments offered approximately $120 billion worth of bonds. We think this number will grow as their needs grow.

Third, state and local government bonds are a conservative investment and by allowing the proceeds to be used for local governmental needs we will be building a strong economic base for the future.

How will you make up the difference between tax-exempt and taxable bonds earnings?

Since the yield on these tax-exempt bonds will be at a lower rate than equivalent investments in federal securities, as currently authorized by the Social Security Act of 1983, we have included a provision which authorizes a permanent annual appropriations to recoup any lost investment income. These appropriations will be offset by the increase in tax revenues attributable to the displacement of investors from the tax exempt market to the taxable market.

How can you ensure Congress will give the annual appropriations and not make it political?

Our bill makes a permanent annual appropriations.

What happens if a State or local government defaults?

Our bill protects the Trust Funds by providing a federal guarantee for any municipal bonds purchased by the Trust Funds. Our understanding is that historically state default rates have been very low.

How would the rate on the bonds be set?

We do not want to disrupt the existing investment patterns in the municipal bond market nor do we want to impact the market rate setting mechanisms. We look forward to continuing to work with all interested parties on this issue.

How much of the market could the trust funds take up without dominating the market?

Felix Rohytan in a speech June 14th before National Press Club said, "These (Social Security Trust) Funds should be invested in U.S. Treasury securities with a portion thereof (say 20-25 percent) eligible for investment in high-grade state and local government bonds, to be used to finance local infrastructure projects."

We have created the State and Local Government Obligation Investment Committee make this determination.

NATIONAL LEAGUE OF CITIES,
Washington, DC, July 17, 1990.

Hon. BOB GRAHAM,
U.S. Senate, 241 Dirksen Building, Washington, DC.

DEAR SENATOR GRAHAM: We are writing to support your efforts to authorize the investment of Social Security Trust funds in state and municipal government obligations if the Trust funds are taken off-budget and in gratitude for your efforts to work with the National League of Cities in structuring this legislation.

We believe the proposed legislation could go far in improving our economy through increased public capital investment in our crumbling public infrastructure. The proposal would help to replace the huge loss of investment capital in municipal bonds caused by the changes in the Tax Reform Act of 1986 as well as provide far greater stability to the municipal market.

Your efforts to seek our input and respond to the questions we have raised are appreciated by our membership.

Sincerely,

BOB BOLEN,
President.
GLENDA E. HOOD,
Second Vice President.

TAXATION AND FINANCE STEERING COMMITTEE RESOLUTION ON INVESTMENT OF SURPLUS SOCIAL SECURITY TRUST FUNDS IN TAX-EXEMPT BONDS

(Endorsement from the National Association of Counties)

Whereas, the nation's public infrastructure and public capital finance needs are critical and continue to grow at rapid rates; and

Whereas, county governments are responsible for an increasingly large share of the burden for building and maintaining vital facilities and services such as roads, bridges, hospitals, schools, jails, environmental facilities and transportation systems; and

Whereas, the United States has not been making the public investment necessary to keep the capital stock adequate to meet the social and economic needs of the nation; and

Whereas, the demand by institutional investors in tax-exempt debt has delcined due to recent tax code changes, forcing a precarious and increased reliance on individual investors in tax-exempt bonds; and

Whereas, proposals to permit the investment of surplus Social Security Trust Funds in tax-exempt bonds issued by state and local governments will substantially increase demand for these securities and reduce the interest rate paid by state and local governments borrowers; and

Whereas, there does not appear to be a threat for direct federal intervention in the issuance process under this program, as the Social Security Trust Fund would only purchase tax-exempt bonds in the secondary market; and

Whereas, investments of Social Security monies in local bonds gives an increased priority to the rebuilding and expansion of public capital stock at a time when other domestic federal financial sources have been eliminated or are declining:

Therefore be it Resolved, that the National Association of Counties supports the authorization of the Investment of Social Security Trust Fund surpluses in State and local A-rated tax-exempt bonds as long as there is no further federal restriction regarding the issuance of such debt.

By Mr. BURNS (for himself, Mr. BAUCUS, Mr. MCCAIN, Mr. INOUYE, and Mr. BURDICK):

S. 2869. A bill to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Big Horn, and for other purposes; to the Committee on Energy and Natural Resources.

MEMORIAL TO INDIANS WHO FOUGHT IN THE BATTLE OF THE LITTLE BIG HORN

Mr. BURNS. Mr. President, I rise today to introduce the Battle of the Little Big Horn Indian Memorial bill.

On June 25, 1876, the Battle of the Little Big Horn, a tragic and well remembered battle took place on the plains of what is now the Crow Reservation in eastern Montana. Today the National Park Service maintains the Custer Battlefield National Monument in tribute to those who fought and gave their lives that fateful day 114 years ago this month.

Today when foreign and domestic visitors travel to this famous battle site they are told the story of the battle and of those brave men, calvary, and Indians alike, who wrote history without even realizing it. During the visit they will hear of the 7th Calvary, numbering about 700 men and the role they played in the famous battle. They will also hear about the action of the Northern Cheyenne and Sioux Indians and how they affected the outcome of the battle.

Ironically, this battle is most remembered for the man who lost the battle, Gen. George Armstrong Custer. The Battle of the Little Big Horn forms a chapter of American history that has provoked intense controversy, been chronicled endlessly, reenacted time and again and earned a lasting place in the Nation's history books and popular folklore. In total defeat, Custer and his men became a legacy and achieved an immortality that even the most dramatic victory could not have won them.

What history seems to forget is who won this famous battle. The Northern Cheyenne and Sioux Tribes rode away the victors on June 26, 1876. Yet they received only a mention in the pages of history.

Mr. President, I feel that it is high time the proud people of the Indian nations that risked their lives and won the battle be fully recognized after what has been far too long a time. These people fought to save what they believed was theirs, and was rightfully theirs. They did what any of us would have done to save and protect our own families and homeland.

Mr. President, it is with great pleasure that I offer this bill to provide for the establishment of a nationally recognized memorial that would give honor to those brave Indians, who lost their lives at the Battle of the Little Big Horn, on June 25 and 26, 1876. This memorial would be placed at the Custer Battlefield National Monument, taking it's rightful place alongside the other historical landmarks that have stood for so long telling the story of Custers last stand and the Battle of the Little Big Horn.

With the passing of this legislation the story will finally be completed and all those who should be recognized will be. I look forward to that day, Mr. President.

Mr. BAUCUS. Mr. President, I rise today in support of the bill that Senators BURNS, INOUYE, MCCAIN, and I are introducing today.

This bill will set in motion a series of steps that will culminate with the construction of a monument honoring those native American warriors who met with and defeated troops of the 7th Cavalry those fateful days in late June 1876, in the Valley of the Little Big Horn.

Mr. President, this monument, when completed, will tell "the rest of the story." That story, so typically Western, is both allegorical, ironic, and mythic.

Allegorical in the sense that the desperate and heroic events of those early summer days in remote Dakota Territory were a reflection of the state of affairs that were becoming manifest throughout the West. Westward expansion invariably brought disparate cultures into conflict. That conflict would ultimately result in the subjugation of an entire culture. However, triumph can be bitter for we all live with the reverberations of that resolution to this very day.

Ironic in the sense that a stunning military defeat, occasioned by arrogance and complacency of command has been remarkably transformed into a historical event with the trappings of triumph. It is a given that history belongs to the victors. But at the Little Big Horn, the victors that day had no voice in the saga that was being written. A great military victory that day could not stop the inexorable tide of history. To those Sioux and Cheyenne warriors that fought and died at the Little Big Horn, the end was in sight.

Mythic in the sense that these events became interwoven into the very fabric of Western consciousness. Sacrifice, stoicism, and heroism are still respected as values worthy of emulation in Montana to this day. Truly, these virtues were on display that day long ago.

Mr. President, as we work to make this monument a reality, let us continue to reflect upon lessons that the events of the Little Big Horn continue to urge upon us. Both victory and defeat are usually transitory but the human values of struggle and sacrifice endure throughout history.

Finally, let us remember that force and power without wisdom or the respect of others can, and usually do, produce disaster or lasting injustice. Let us all one day stand on the slope of "Last Stand Hill" and looking out remember that the sacrifice of all American of many colors and cultures make this great country what it is.

By Mr. MCCLURE (for himself and Mr. SYMMS):

S. 2870. A bill to approve the Fort Hall Indian Water Rights Settlement, and for other purposes; by unanimous consent, referred jointly to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs.

FORT HALL INDIAN WATER RIGHTS ACT

Mr. McCLURE. Mr. President, on behalf of myself and my distinguished colleague from Idaho, Senator SYMMS, I am pleased to introduce for the State of Idaho and the Shoshone-Bannock Tribes a bill to approve "the 1990 Fort Hall Indian Water Rights Agreement." The agreement is the product of 5 years of intensive negotiations between the State, the tribes, the United States and the Committee of Nine, which represented the private water users in the Snake River Basin. The agreement will quantify all claims to the use of water by the tribes, its members, its allottees and the United States on behalf of the tribes, its members and its allottees from the Snake River Basin upstream from Hells Canyon Dam, the lowest of three dams authorized by FERC Project No. 1973.

Unlike many Indian water right settlements Congress has considered in the past, the administration has been fully involved in the negotiations from the outset and endorses the agreement. The U.S. Department of the Interior and the Department of Justice signed the agreement, and the Office of Management and Budget has reviewed the entire agreement and supports its implementation.

Under the agreement, the tribes will be entitled to 581,031 acre-feet of water per year. All of the natural flow and ground water rights will be Winters reserved water rights to be used solely on the Fort Hall Indian Reservation. The agreement also quantifies supplemental storage water rights held by the United States in the Blackfoot River basin that will be used to satisfy the Tribes Blackfoot Winters water right when there is insufficient natural flow in the Blackfoot River to meet the tribes' entitlement. Up to 15,000 acre-feet per year of the Blackfoot storage water may be used for instream flows in reaches of the Blackfoot River. Finally, the tribes will retain existing Federal contract storage rights in American Falls Reservoir and Palisades Reservoir acquired pursuant to the Michaud Act. Under the terms of the agreement, water accruing to this Federal contract storage space may be rented through a tribal water bank created pursuant to State law for any beneficial use within the Snake River Basin within the State of Idaho. Also, the tribes may use water accruing to the Federal contract storage space for instream flows on or adjacent to the reservation.

The agreement contains several provisions to ensure that the Tribal water rights will not adversely affect historic non-Indian water rights from sources other than the Snake River. First, the agreement provides that the existing non-Indian water users in the Blackfoot River basin, whose rights are decreed in the Snake River Basin Adjudication [SRBA], will be entitled to continue diverting the natural flow of the Blackfoot. In times when the natural flow of the Blackfoot is insufficient to fill the water rights of the Tribes and the non-Indian water users, the Tribes have agreed to cease use of the natural flow of the Blackfoot and to instead use their storage water entitlement from the Blackfoot Reservoir to fill their 150,000 acre-feet per year Winters water right from the Blackfoot River basin. In the Bannock Creek basin, the parties will continue to allocate surface water pursuant to the Bannock Creek Decree of 1907; however, the tribes will be entitled to the surface water remaining in Bannock Creek after the entitlements under the Bannock Creek decree are satisfied. Also, the tribes have agreed to not assert the priority date of their Bannock Creek groundwater right against historic non-Indian groundwater rights that are decreed in the SRBA. Finally, the agreement provides that Fort Hall Indian Irrigation Project water users shall continue to receive their full project water entitlements pursuant to their project contracts.

The agreement recognizes a water right of 115,000 acre-feet per year for the tribes from the Snake River. Implementation of this right will adversely affect non-Indian Snake River water users. The agreement provides for the mitigation of the impact on the non-Indian Snake River water users in two ways. First, the agreement provides that the United States will make available to the non-Indian water users approximately 19,000 acre-feet of unallocated storage space in Palisades Reservoir and 80,000 acre-feet of unallocated storage space in Ririe Reservoir. Because of the hydrology, location, and junior status of the storage rights, this space will yield only approximately 40,000 acre-feet of water annually. The stored water will be released as necessary to offset the impact of the tribes' exercise of its Snake River water right. Second, the tribes have agreed to phase in over time 15,000 acre-feet of the Snake River tribal water right. This phase in will provide the non-Indian Snake River water users with some time to find ways of mitigating the balance of the impact created by the tribes' diversion of water from the Snake River.

As can be seen from the brief description of the water rights, the parties have crafted an agreement that results in a true win-win situation. Instead of seeking Federal dollars to develop additional Federal storage projects, the parties have allocated the available water supply in a way that ensures to the extent possible that the needs of each party are met. Where the impact on existing water users could not be avoided, the parties have fairly allocated the responsibility for mitigation among all parties.

There is perhaps no single issue more difficult to resolve in Indian reserved water right cases than the issue of administration of tribal water rights. The agreement provides a process that ensures the delivery of water to Indian and non-Indians alike while giving due respect to the sovereignty of each party. Nothing in the agreement, however, alters the operation of the Fort Hall Indian Irrigation Project or the Bureau of Reclamation storage facilities.

The cost-sharing provided for in the agreement is consistent with the recently adopted settlement policy of the Department of the Interior. The United States will be asked to contribute approximately $22 million over a 20-year period and approximately 100,000 acre-feet of unallocated storage space. Federal moneys will be used to meet, in part, the Federal trust responsibilitis to the tribes. As noted above, the non-Indian Snake River water users share in the cost of this agreement because they will be required to mitigate part of the impact arising from the implementation of the tribes' Snake River water right and to pay the operation and maintenance costs associated with the unallocated storage space they will receive. Finally, the State of Idaho will be required to contribute approximately $500,000 of cash and in-kind services to the settlement. When viewed in light of past settlements; the cost-sharing provided for in this agreement is equitable and does not amount to a raid on the Federal Treasury.

There are significant environmental benefits to the agreement that bear mention. As part of the Federal cost-share, the United States will acquire through purchase certain grazing rights and lands adjacent to Grays Lake. The acquisition of these grazing rights and lands will permit the storage of water in Grays Lake for a longer period of time, which not only will improve the water supply for the reservation but also provide significant benefits to the migratory birds that use the Grays Lake Wildlife Refuge. The renting of water accruing to the tribal Federal contract storage space for instream flows may also provide needed benefits for the anadromous fish runs of the Snake River.

In summary, the State, the tribes, the United States and the private water users are to be commended for the creative solution they found for resolving what could have been a very divisive fight over the waters of the Upper Snake River Basin. I believe this agreement warrants our support.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2870

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fort Hall Indian Water Rights Act of 1990."

SEC. 2. DEFINITIONS.

For the purposes of this Act, and for no other purposes—

(a) The term "Agreement" means the "1990 Fort Hall Indian Water Rights Agreement" between the State of Idaho, the Shosone-Bannock Tribes, the United States, and other participating parties.

(b) The term "Committee of Nine" means the advisory committee of Water District 01, which is the instrumentality created by the Director of the Idaho Department of Water Resources pursuant to Idaho Code § 42-604.

(c) The term "Final Decree" means the partial decree confirming the Tribal water rights described and quantified in Article 7 of the Agreement to be entered after the date of enactment of this Act and following submission of the Agreement as provided for in Article 10 of the Agreement in Civil Case No. 39576 filed in the Fifth Judicial District Court of the State of Idaho in and for Twin Falls County on June 17, 1987 entitled *In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System.*

(d) The term "Fort Hall Indian Irrigation Project" means the federal project constructed to provide water for the irrigation of Reservation lands and certain ceded lands.

(e) The term "Idaho Water Resource Board" means the Idaho State Water Resource Agency constituted in accordance with Idaho Const. art XV, § 7, or any successor agency.

(f) The term "Indian" means any person who is a member of a tribe recognized as eligible for special programs and services provided by the United States because of the person's status as an Indian; is recognized as an Indian under Tribal law; or holds or is recognized by the Secretary as eligible to hold restricted trust property on the Reservation.

(g) The term "Indian lands" means (i) all lands within the exterior boundaries of the Reservation that are held in trust for or owned by the Shoshone-Bannock Tribes or an Indian and (ii) those lands outside the exterior boundaries of the Reservation held in trust for or owned by the Shoshone-Bannock Tribes or held in trust for or owned subject to a restriction on alienation by a member of the Shoshone-Bannock Tribes.

(h) The term "Michaud Act" means the Act of Aguust 31, 1954, chapter 1159, 68 Stat. 1026.

(i) The term "Michaud Contract" means that Memorandum Agreement of April 25, 1957 betwene the Bureau of Reclamation and the Bureau of Indian Affairs relating to the water supply for the Michaud Division.

(j) The term "Michaud Division" means that division of the Fort Hall Indian Irrigation Project authorized by the Act of August 31, 1954, ch. 1159, Stat. 1026.

(k) The term "Party" or "Parties" means any entity or entities that are party to the Agreement.

(l) The term "Reservation" means the Fort Hall Indian Reservation.

(m) The term "Secretary" means the Secretary of the Interior.

(n) The term "Tribes" or "Tribal" means the Shosone-Bannock Tribes, its members and its allottees.

(o) The term "Upper Snake River Basin" means that portion of the Snake River Basin upstream from the Hells Canyon Dam, the lowest of the three dams authorized as FERC Project No. 1971.

SEC. 3. FINDINGS.

The purpose of the Fort Hall Indian Water Rights Settlement Act of 1990 is to achieve a fair, equitable and final settlement of all claims of the Shoshone-Bannock Tribes, its members and its allottees and the United States on behalf of the Shoshone-Bannock Tribes, its members and its allottees to water rights in the Upper Snake River Basin.

SEC. 4. RATIFICATION OF AGREEMENT.

The Agreement is hereby approved, ratified, and confirmed. The Secretary is authorized and directed to implement the Agreement on behalf of the United States.

SEC. 5. PROTECTION OF EXISTING USES.

(a) CONTRACT FOR STORAGE SPACE.—The Secretary is authorized and directed to contract with the Idaho Water Resource Board or another appropriate contracting entity acceptable to the Committee of Nine for 18,900 acre feet (hereinafter referred to as "AF") of storage space in the Palisades Reservoir and the 80,500 AF of storage space in the Ririe Reservoir provided that the contracting entity makes application for the noncontracted storage space within one year of the date of this act and the contracting party agrees to pay all operating and maintenance costs associated with the space. The repayment obligation associated with the construction costs for such noncontracted storage space is hereby deemed repaid by this Act. All exemptions that result from such a repayment shall be deemed to be applicable without further qualification on the part of such contracting entity and provided, further, that with respect to subsequent users of this water, the Reclamation laws shall apply only to the extent such laws would have applied to such subsequent users prior to the date of this Act.

(b) LIMITATION ON SETTING ASIDE FINAL DECREE.—Neither the Committee of Nine nor the State shall have the right to set aside the Final Decree because either fails to make application for the storage space referred to in subsection (a) of this section within one year of the date of this Act.

SEC. 6. USE, TRANSFER AND LEASE OF TRIBAL WATER RIGHTS.

(a) TRANSFER AND LEASE OF TRIBAL WATER RIGHTS WITHIN THE RESERVATION.—The Tribes shall have the right to transfer or lease within the Reservation all or any part of the Tribal water right confirmed in the Final Decree on the terms and conditions set forth in Article 7 of the Agreement.

(b) RENTAL OF THE TRIBES FEDERAL CONTRACT STORAGE WATER.—The Tribes shall have the right to rent, pursuant to Idaho Code §§ 42-1761 through 42-1765 as specified in Article 7 of the Agreement, the water accruing to federal storage space held in trust for the Tribes under the Michaud Act.

(c) INSTREAM FLOWS.—The Tribes shall have the right to use any or all of the water accruing to federal storage space held in trust for the Tribes under the Michaud Act for instream flows for river reaches on or adjacent to the Reservation and up to 15,000 AF per year of the storage water rights described in Articles 7.1.19 and 7.1.20 of the Agreement for instream flows in reaches of the Blackfoot River on the terms and conditions set forth in Article 7.4 of the Agreement.

(d) REQUISITE CONGRESSIONAL APPROVAL.—Ratification of the Agreement as provided for by Section 4 of this Act shall constitute the congressional approval, to the extent it is required by federal law, of the uses described in subsection (a), (b) and (c) of this section.

(e) AMENDMENT OF MICHAUD ACT AND CONTRACT.—the Michaud Act and the Michaud Contract are hereby amended to the extent necessary to authorize the uses described in subsection (a), (b), and (c) of the proprietary rights described in Article 7 of the Agreement.

(f) NO ALIENATION OR TAXATION OF PROCEEDS.—The proceeds from leasing water pursuant to subsection (a) of this section or from renting all or any part of the water accruing to the federal contract storage space pursuant to subsection (b) of this section shall not be subject to any form of taxation or alienation by eitehr the State or the United States.

(g) NO FORFEITURE, ABANDONMENT, LOSS OR CONSTRAINTS ON INCOME.—The Tribes' exercise of the rights described in subsections (a), (b), and (c) of this section or nonuse of the Tribal water rights shall in no event be construed or interpreted as any forfeiture, abandonment, relinquishment, or other loss of all or any part of the Tribal water rights. Nor shall the exercise of the rights described in subsections (a) and (b) of this section be subject to any constraints on the amount of income or other compensation received by the Tribes.

(h) LIMITATION ON OFF-RESERVATION USE.—Except as authorized by this section, no Tribal water rights or water described in the Agreement may be sold, leased, rented, transferred or otherwise used off the Fort Hall Indian Reservation.

SEC. 7. CONTRIBUTION TO SETTLEMENT.

(a) TRIBAL DEVELOPMENT FUND.—There is hereby authorized to be appropriated to the United States Department of the Interior Bureau of Indian Affairs $2 million each year for the five fiscal years following the effective date of this Act for payment to the Tribal Development Fund, which the Secretary is authorized and directed to establish for the Shoshone-Bannock Tribes. Within 60 days of appropriation of monies for the Tribal Development Fund, the Secretary shall allocate and make payment to the Fund. Once the funds are deposited into the Tribal Development Fund, the Secretary shall disburse the funds to the Tribes upon request.

(b) RESERVATION WATER MANAGEMENT SYSTEM.—There is hereby authorized to be appropriated to the United States Department of the Interior Bureau of Indian Affairs the sum of $2 million to be paid in the first fiscal year following the effective date of this Act and an additional $5 million payable in not less than equal annual installments in not more than a twenty-year period following the effective date of this Act for use by the Tribes for development of a Reservation water management system. Within 60 days of appropriation of monies for the Reservation water management system, the Secretary shall allocate and make payment to the Tribes for the purposes described in this section.

(c) ACQUISITION OF LANDS, GRAZING RIGHTS, AND IMPROVEMENTS.—There is hereby authorized to be appropriated to the

United States Department of the Interior Bureau of Indian Affairs $5 million for the primary purposes of acquiring for the Fort Hall Indian Irrigation Project available lands and grazing rights adjacent to Grays Lake to enhance the operation and management of the Project and of making related improvements as well as providing collateral benefits for the operation of the United States Fish and Wildlife Service Refuge at Grays Lake.

(d) LIMITATION ON PER-CAPITA DISTRIBUTIONS.—Under no circumstances may any appropriated funds authorized by Congressional authorization, appropriation and payment of any funds authorized in section 7 of this Act, the Tribes shall be deemed to have executed in return a waiver and release of any and all existing claims against the United States arising in whole or in part from or concerning water rights finally settled by the Agreement and for lands or water that have been inundated by the past construction or enlargement of American Falls Reservoir.

(c) WAIVER OF CLAIMS AGAINST NON-FEDERAL PERSONS.—Upon entry of the Final Decree confirming the Tribal water rights, the United States and the Tribes agree not to make any claims against, or seek compensation from, any non-federal person for lands or water that have been inundated by the past construction or enlargement of American Falls Reservoir.

SEC. 9. INDIVIDUAL MEMBERS AND ALLOTTEES OF THE TRIBES.

The water rights described in the Agreement and confirmed in the Final Decree are in full satisfaction of all water right claims of members of the Tribes and allottees for Indian lands in the Upper Snake River Basin. If any Tribal member or allottee is decreed a water right for Indian lands in Civil Case No. 39576 filed in the Fifth Judicial District Court of the State of Idaho in and for Twin Falls County on June 17, 1987 entitled *In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System,* there shall be a corresponding reduction made in the Tribal water rights set forth in the Agreement and the Final Decree.

SEC. 10. EFFECTIVE DATE.

(a) DISBURSEMENT OF FUNDS UPON EFFECTIVE DATE.—The monies appropriated pursuant to the authorization in section 7 of this Act shall not be disbursed until such time as the Agreement becomes effective. If the Agreement does not become effective, the monies shall be returned to the General Fund of the Treasury, and the Agreement may be voided by any party to the Agreement.

(b) FORCE AND EFFECT.—No provision of this Act shall be of any force unless the Agreement becomes effective as provided by Article 18 of the Agreement.

SEC. 11. DISCLAIMER.

(a) GENERAL DISCLAIMER.—Nothing in the Agreement or this Act shall be construed in any way to quantify or otherwise affect the water rights or water right claims of the city of Pocatello, Idaho or of any Indian tribe, band, or community, other than the Shoshone-Bannock Tribes.

(b) RESERVATION OF TRIBAL CLAIMS.—Nothing in this Act shall be construed to waive any water rights or water right claims of the Tribe or the United States on behalf of the Tribes except as set forth in the Agreement. Nor shall anyhing in the Agreement or this Act affect the water rights or water right claims of any federal agency, other than the Bureau of Indian Affairs, Fort Hall Indian Agency.

(c) RESERVATION OF RIGHTS.—The parties expressly reserve all rights not granted, recognized or settled by the Agreement or this Act.

(d) DISCLAIMER REGARDING OTHER AGREEMENTS.—Except as expressly provided in this Act, nothing herein shall be considered to amend, construe, supersede or or preempt any state law, federal law, tribal law or interstate compact that pertains to the Snake River or its tributaries.

SEC. 12. PROTECTION OF TRIBAL WATER RIGHTS.

The Tribal water rights confirmed by the Final Decree shall bind and inure to the benefit of the Tribes and shall not be taken from them absent their consent and payment of just compensation.

By Mr. CRANSTON (by request):

S. 2871. A bill to amend section 3413 of title 12, United States Code, to add an exception authorizing financial institutions to disclose to the Department of Veterans Affairs the names and current addresses of their customers who are receiving payments, by direct deposit or electronic funds transfer into their accounts, or compensation, dependency and indemnity compensation or pension benefits under title 38, United States Code; to the Committee on Veterans' Affairs.

DISCLOSURE OF ELECTRONIC FUND TRANSFER RECIPIENTS TO THE DEPARTMENT OF VETERANS AFFAIRS

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2871, a bill to authorize financial institutions to disclose to VA the current addresses of individuals who are receiving VA benefits through electronic fund transfers. The Secretary of Veterans Affairs submitted this legislation by letter dated June 25, 1990, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the June 25, 1990, transmittal letter and enclosed section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2871

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Section 3413 of the Right to Financial Privacy Act of 1978 (12 U.S.C. § 3413) is amended by adding at the end the following new subsection:

"(p) Disclosure for proper administration of Department of Veterans' Affairs compensation, Dependency and Indemnity Compensation and pension benefit programs under title 38, United States Code. Nothing in this chapter shall apply to a request for access to, or the disclosure to the Department of Veterans Affairs of, the name and address of a customer, who is or has been receiving payments of compensation, Dependency and Indemnity Compensation, or pension benefits under title 38, United States Code, by means of Government direct deposit or Electronic Funds Transfer into that customer's account at a financial institution, when such disclosure is needed for the purpose of the proper administration of those benefit programs."

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, June 25, 1990.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: The enclosed bill and section-by-section analysis are presented for your consideration as a proposal to assist the Department of Veterans Affairs (VA) in administering our compensation, Dependency and Indemnity Compensation (DIC), and pension programs under title 38, United States Code. The proposal would add a limited exception to the Right to Financial Privacy Act of 1978 (RFPA), 12 U.S.C. §§ 3402-3422, to authorize VA to request and obtain from financial institutions the names and current mailing addresses of certain VA beneficiaries who are receiving payments under these VA benefit programs; this would be done only when a current mailing address is unavailable and needed for proper administration of those programs, and when such payments are being deposited directly either by mailed check or by Electronic Funds Transfer (DD/EFT) into beneficiaries' accounts at those financial institutions.

The Treasury Department, Social Security Administration, and Railroad Retirement Board obtained enactment of an RFPA exception in 1983 to authorize their access to customer names and addresses when necessary to, and solely for the purpose of their proper administration of certain programs. Pub. L. No. 98-21; 12 U.S.C. § 3413(k). This proposal would create a similar exception to authorize VA access to the names and addresses of customers, who are also VA direct deposit or DD/EFT compensation, DIC or pension beneficiaries, when needed for the purpose of VA administration of these benefit programs under title 38, United States Code.

The VA presently pays ongoing benefits to over 3.8 million compensation, DIC and pension beneficiaries under title 38, United States Code. VA is successfully encouraging more and more of these beneficiaries to have their payments deposited directly into their accounts at financial institutions by Electronic Funds Transfer (DD/EFT) means. Over 1.5 million of these beneficiaries now receive DD/EFT payments. This method of payment saves time and administrative costs, and provides improved convenience and safety for beneficiaries. However, there are still significant delays and administrative costs which result because a small but constant percentage of DD/EFT payment beneficiaries fail to keep VA advised of changes in their mailing address. In many cases these costs and delays could be

avoided if we could get current addresses from the financial institutions. For example, about 5 percent of our recent compensation cost-of-living rate increase notice letters to DD/EFT payment beneficiaries have been returned as undeliverable because the VA does not have a current mailing address for them.

The VA needs current mailing addresses to communicate with beneficiaries from time to time for several reasons. In many cases physical examinations must be accomplished to evaluate the current severity of veterans' disabilities; if we do not have their current mailing address and hence cannot communicate with them, we must suspend their benefit payments. This causes significant VA administrative costs and inconvenience to veterans. We must also be able to advise beneficiaries of any legislative changes affecting their benefits. Moreover, continued entitlement to VA pension and parents' DIC benefits depends upon the amount of income of the beneficiary which he or she must periodically report to VA. Again, if the required VA income reporting forms which we periodically mail to those receiving income-dependent benefits (pension and parents' DIC) are not received, completed, and returned on time, then we are required to suspend payment of these benefits. Suspension can be particularly inconvenient and costly, for example, to DD/EFT payment beneficiaries who are having payments directly deposited into their checking or savings accounts, and who have come to rely upon these deposits.

Enactment of this proposal would not result in any additional costs. Savings would occur in that undeliverable mail to beneficiaries, suspension of benefits, and the manual effort of searching for addresses would be reduced because of more timely receipt of a current address.

For all the above reasons, we believe that this proposal creating a very limited exception to the RFPA would improve VA administration of these benefit programs, save administrative costs, and avoid unnecessary delays and inconvenience for many of our beneficiaries.

Thank you for the opportunity to present this legislative proposal for your consideration.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this proposal to Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

SECTION-BY-SECTION ANALYSIS

This proposal would amend the Right to Financial Privacy Act of 1978 (RFPA), 12 U.S.C. §§ 3401-3422, by adding an exception to section 3413. This specific and limited exception would authorize a financial institution to disclose to the Department of Veterans Affairs (VA) the name and address of a customer who is receiving payments of VA compensation, Dependency and Indemnity Compensation, or pension benefits under title 38, United States Code, but only when such payments are being directly deposited either by Government mailed check or by Electronic Funds Transfer (DD/EFT) into that customer's account at the financial institution, and when the disclosure is needed for the purpose of the proper administration of those benefit programs.

By Mr. DECONCINI (for himself, Mr. LEVIN, Mr. HARKIN, Mr. WARNER, Mr. D'AMATO, and Mr. METZENBAUM):

S. 2872. A bill to establish a National Commission to Support Law Enforcement; to the Committee on the Judiciary.

NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

● Mr. DECONCINI. Mr. President, I am pleased that my colleagues, Senators LEVIN, HARKIN, WARNER, D'AMATO, and METZENBAUM have joined me today in introducing legislation which will establish a State and Local Law Enforcement Commission. Often overlooked in our Nation's ongoing battle against illegal drugs and crime, are the men and women who serve in State and local law enforcement. These courageous and dedicated officers are confronted daily by some of the most violent individuals in our society. The burden of stemming the flow of drugs into our communities is placed squarely on their shoulders. These State and local officers, who stand on the frontlines of the drug war, are responsible for approximately 90 percent of drug related arrests.

The challenges these officers face are constantly changing. The drug traffickers and dealers are heavily armed—with the weapon of choice being semiautomatic assault weapons. Officers are no longer able to carry a single-shot revolver; today, most carry 9mm semiautomatic handguns.

While State and local agencies tap all available resources to fight this battle, they do so with minimal increases in personnel and funding. Most departments are understaffed and underfunded, yet the demands continue to rise. Recently, I received a briefing on the infiltration of gang activity in Arizona and the impact such activity is having on local crime. These are no longer unorganized street gangs, but established criminal organizations with resources that in many cases exceed those of State and local law enforcement.

It is disturbing to me that since 1965, when the President's Commission on Law Enforcement and the Administration of Justice last focused on the status of State and local law enforcement issues, these problems have been ignored. In 1988, legislation which I introduced in the Senate was passed by Congress establishing a National Advisory Commission on Federal Law Enforcement. This Commission took a comprehensive look at the critical issues facing Federal law enforcement officers and from their recommendations we have drafted legislation that attempts to address the major concerns outlined in the Commission's study.

It is with that same objective that I have joined Representative SLAUGHTER in introducing legislation which will establish a National Commission on Law Enforcement. This Commission will be directed to conduct a study of issues that impact State and local peace officers. We need to look at how budget cuts at the State and local level have affected law enforcement. Federal dollars have been scarce, with a decline in the amount of funding available through Federal grant programs since the Reagan administration. Although asset forfeiture has provided some relief, distribution of resources is bogged down by the bureaucracy, and the direct benefit to the officer on the street is minimal. Cooperation among agencies in the sharing of equipment and intelligence is essential to maximizing the resources that are available. These are the types of issues that need to be examined and a consensus reached on what can be done to address them.

The Commission will include representatives from Congress, national law enforcement organizations, the Department of the Treasury, the Department of Justice and the Comptroller General who will serve as Chairman. I am hopeful that from the Commission's findings, we can take appropriate legislative action to improve the climate under which our State and local law enforcement officers are asked to perform.

I ask unanimous consent that my full statement and a copy of the bill be entered in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2872

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Commission to Support Law Enforcement Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review 25 years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the

Federal Government, the public, and law enforcement officials.

SEC. 3. ESTABLISHMENT.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this Act as the "Commission").

SEC. 4. DUTIES.

(a) IN GENERAL.—The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 19 members as follows:

(1) 5 individuals from national law enforcement organizations representing law enforcement officers, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(2) 5 individuals from national law enforcement organizations representing law enforcement management, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(3) 2 individuals with academic expertise regarding law enforcement issues, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(4) 2 Members of the House of Representatives, appointed jointly by the Speaker and the minority leader of the House of Representatives.

(5) 2 Members of the Senate, appointed jointly by the majority leader and the minority leader of the Senate.

(6) 1 individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) 1 individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 6. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this Act.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 7. POWERS OF COMMISSION.

(a) HEARINGS.—The Commisson may, for purposes of this Act, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commissin may, if authorized by the Commisssion, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necesary to enable it to carry out this Act. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permited by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 8. REPORT.

Not later than the expiration of the 18-month period beginning on the date of the enactment of this Act, the Commission shall submit to the Congress a report containing the findings of the Commission and specific proposals for legislation and administrative action that the Commission has determined to be appropriate.

SEC. 9. TERMINATION.

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 8.●

● Mr. LEVIN. Mr. President, I am pleased to join with Representative SLAUGHTER and Senators DECONCINI, HARKIN, and WARNER in sponsoring this important legislation to support State and local police by creating a National Commission to Support Law Enforcement.

Crime is one of the most important issues we face today. In ways both subtle and dramatic, crime—and the fear of crime—are changing the way that we live. In cities and in suburban and rural areas alike, crime is taking its toll on our families and our communities. We need to do all that we can to fight back.

Our law enforcement officers—police and sheriffs in communities big and small across the country—need tools to do the job we're asking them to do. They just can't do it with a pat on the back and a pile of new responsibilities.

Law enforcement officers fight the war on crime every day. They risk their lives for us as a matter of routine, and their daily involvement with a world we hope never to see subjects them to severe mental and emotional stress. The dangers they face are increasing every day as the scourge of drugs in this country becomes more widespread and more violent.

We're moving ahead to toughen laws and to take assault weapons away from criminals. But there's more we can do.

We need to stop and take stock of our law enforcement officers in this country and the amount and type of resources we give them for support. We need to reexamine training issues and the working conditions our officers face and how effectively various levels of law enforcement work together to share information, money, and other resources. This Commission will be charged with the responsibility of doing that and making specific recommendations for improvements.

Law enforcement officials in my home State of Michigan have been uniformly enthusiastic in support of this Commission. The sheriff of Ingham County, Gene Wriggelsworth, expressed his wholehearted support for this much needed legislation. The chief of police in Saginaw, Alex Perez, welcomed our commitment to this effort. Noting that cooperative interaction is indeed the key to a successful criminal justice network, Chief Perez urged that the Commission examine funding issues and predicted overwhelming support from communities across the country. Similarly, the chief of police of Adrian, MI, David Emerson, emphasized the importance of cooperation among all levels of law enforcement in order to stem the tide of crime effectively.

Today, the challenge is to give local police and sheriffs support that is statewide and nationwide. The job of the commission is the same as our job in Congress—to help law enforcement do its job.●

● Mr. HARKIN. Mr. President, I am proud to join Senators DECONCINI and LEVIN in sponsoring legislation to establish a National Commission on Law Enforcement to conduct a study on the crucial issues confronting state and local law enforcement. The Commission will examine issues relating to police benefit levels, conditions of employment, the communications and information infrastructure, and the adequacy of federal resources for local law enforcement agencies.

Today, local police serve on the front lines of the war on drugs and crime. Our police and sheriffs make 90 percent of all drug-related arrests. National drug czar William Bennett, in his January drug control strategy report, recognizes the importance of local law enforcement in our Nation's war on drugs:

Street level enforcement remains the best tool that we have for restoring a sense of order and civility to neighborhoods where drugs—with all their attendant crime, violence and decay—have wrought havoc.

The same is true across the country. In Iowa, I have found from my workdays in Des Moines, Bettendorf and elsewhere, and my conversations with local police, sheriffs, and prosecutors that most arrests are drug-related. The abuse of drugs, including alcohol, is a factor in most crimes committed in my State. Unfortunately, drug and alcohol abuse, according to Woodbury County Attorney Tom Mullin, is "the primary societal problem plaguing our communities."

As the drug war escalates, so have the dangers and job-related pressures facing our law enforcement officers. Yet Federal support for crime and drug fighting has been woefully inadequate.

Our cops put their lives on the line every day to make our streets safe from drugs and crime. It's time that the Federal Government match their efforts with sufficient aid, resources, and technical assistance.

Unfortunately, while over the past 20 years there has been a dramatic increase in the number of drug-related crimes and in the number of criminals armed with sophisticated semi-automatic weapons, Federal assistance for local law enforcement has actually decreased.

In the 1970's, the Federal Government, through the Law Enforcement Assistance Agency [LEAA], provided funds to State and local law enforcement. The budget of LEAA approached nearly $900 million in the late 1970's.

But during the 1980's, LEAA was scrapped, and from 1981 to 1989, the Reagan administration provided $666 million for State and local law enforcement. That was the grand total of Federal funds to help States hire police officers, investigators, and prosecutors, and build prisons. It's no wonder that the crime rate and drug problem grew out of control in the 1980's.

To begin to assist crime fighting at the local level, we must first get the facts about what is needed to assist State and local law enforcement agencies in combatting crime and drugs in our communities. The national commission to Support Law Enforcement will be charged with that task.

The National Commission would examine the following issues: sufficiency of Federal funding; conditions of employment; information sharing and infrastructure among law enforcement at Federal, State and local levels; adequacy of equipment and physical and human resources; status of law enforcement training, education, and research; and impact on law enforcement of the criminal justice system.

The Commission would consist of representatives of law enforcement, the public, Congress and other government entities. It would be required to report within 18 months of its appointment.

This legislation is endorsed by 12 major law enforcement organizations, including the National Association of Police Organizations, the Fraternal Order of Police, the International Brotherhood of Police Officers, the Police Executive Research Forum, and the Police Foundation.

The drug and crime problem in America has dramatically escalated. Now is the critical time to control it before it's too late. With sufficient help, we can stem the tide of drug activity. But without this help, the worst problems will become unsolvable.

The National Commission on Support for Law Enforcement takes an important first step toward controlling the drug and crime problems in our local communities. I commend Senator DECONCINI for introducing this important piece of legislation and urge my colleagues to join us in cosponsoring this bill.●

By Mr. BOSCHWITZ:

S. 2873. A bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process; to the Committee on Governmental Affairs.

GARNISHMENT EQUALIZATION ACT

● Mr. BOSCHWITZ. Mr. President, I rise today to introduce legislation which will help reduce the Federal deficit by providing for garnishment of wages of Federal employees in the same manner as allowed for employees working in the private sector.

Under the doctrine of sovereign immunity, the Federal Government cannot be sued without its consent. Because of this doctrine, most Federal employees' wages cannot be garnished. In effect, this shields Federal employees to escape their obligations on loans and other debt obligations. My bill will correct this inequity by treating Federal pay in the same manner as non-Federal pay with respect to garnishment.

In this time of fiscal constraint, it is critical to recoup moneys owed to the Federal Government. There are several ways this bill will help to do just that. One example is student loans. Approximately $142 million is owed to the Federal Government by Federal employees who have defaulted on student loans.

Also, when an individual defaults on a loan, the lender writes off the defaulted loan amount as a business expense, thereby reducing their taxable income. The result for the Federal Government is that its tax share decreases. With this initiative, the lender would be able to recoup the debt; thus, the need to write off the loan would be eliminated, and the Federal Government would receive the taxes due.

A third example of revenue gains from this initiative involves basic support payments—child support and alimony. Frequently, default on basic support payments requires a family to obtain a Federal Subsidy, such as welfare. Based upon a recently released Department of Health and Human Services report, Federal employees owe at least $284.3 million in child support alone. Payment of these debts would result in substantial savings to the Federal Treasury.

Congressman ANDREW JACOBS has introduced nearly identical legislation in the House—H.R. 2418—which currently has 126 bipartisan cosponsors. There is one difference between my bill and H.R. 2418. My bill will include the administrative cost—approximately $50 a case—of garnishing in the debtor's garnishment. Since the debtor has caused the problem, he or she should also be financially responsible for fixing it.

One argument used in support of sovereign immunity is that there is no fund available for the payment of any judgment that may be rendered against the Sovereign. In garnishments, that rationale simply would not apply since the money for the payment of the obligation is available through the payroll system.

A second argument is that the public should not bear the expense of a judgment rendered against the sovereign. This argument must also fail, for there is no additional expense to be borne, since the United States is not a party to the action, must call no witnesses, and is merely the holder of the money. The ultimate financial responsibility rests, as it should, with the Federal employee. Also, in my bill, any minor administrative charges are covered by the debtor.

A third argument is that the sovereign may make a mistake in the withholding of funds; therefore, it would become liable for greater than the amount of money payable to the employee. To hold the Government accountable for errors is no different than holding it accountable for tort, breach of contract, or the many other acts for which it already recognizes liability.

My bill has the support of over 4,000 National and State organizations and businesses, including the U.S. Cham-

ber of Commerce, the National Federation of Independent Business and the American Collectors Association, Inc. [ACA].

Mr. President, the Federal Government continued to struggle to balance its budget. Private sector employees are required to pay their bills; it is only fair to ask the same of Federal employees. I am pleased to be introducing this legislation today and I urge my colleagues to support it.

I ask unanimous consent that a copy of my bill be printed in the RECORD at the conclusion of my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2873

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Garnishment Equalization Act of 1990".

SEC. 2. FEDERAL PAY TO BE TREATED IN SAME MANNER AS NON-FEDERAL PAY WITH RESPECT TO GARNISHMENT AND SIMILAR LEGAL PROCESS.

(a) IN GENERAL.—Notwithstanding any Federal law to the contrary, the pay of any person employed by the United States shall be subject to garnishment in the manner applicable to the pay of persons not employed by the United States.

(b) ADMINISTRATIVE COSTS.—The administrative costs of executing any garnishment to which the provisions of subsection (a) apply may be included in such garnishment.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "person employed by the United States" means (A) an elected officer of the United States and (B) a member of the civil service or of a uniformed service (as such terms are defined in section 2101 of title 5, United States Code); and

(2) the term "garnishment" means garnishment, execution, levy, attachment, and any similar legal process.

SEC. 4. EFFECTIVE DATE.

This Act shall apply to any garnishment order served after the date of the enactment of this Act.●

ADDITIONAL COSPONSORS

S. 307

At the request of Mr. DODD, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 307, a bill to provide for the standardization of advertised yields on savings accounts and investments, to require the uniform disclosure of the key costs of such accounts and investments, and for other purposes.

S. 1236

At the request of Mr. METZENBAUM, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1236, a bill to provide for a waiting period before the sale, delivery, or transfer of a handgun.

S. 1425

At the request of Mr. METZENBAUM, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1425, a bill entitled the "Nutrition Labeling and Education Act of 1989."

S. 1766

At the request of Mr. DANFORTH, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1766, a bill to amend titles XVIII and XIX of the Social Security Act to require providers of services under such titles to enter into agreements assuring that individuals receiving services from such providers will be provided an opportunity to participate in and direct health care decisions affecting such individuals.

S. 1834

At the request of Mr. LIEBERMAN, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1834, a bill to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society.

S. 1981

At the request of Mr. ROTH, his name was added as a cosponsor of S. 1981, a bill to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment and for other purposes.

S. 2044

At the request of Mr. BIDEN, the names of the Senator from California [Mr. CRANSTON] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2222

At the request of Mr. BRADLEY, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2222, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 2283

At the request of Ms. MIKULSKI, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Michigan [Mr. LEVIN], the Senator from Tennessee [Mr. GORE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Ohio [Mr. GLENN], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 2283, a bill to amend the Public Health Service Act to establish a program of grants for the prevention and control of breast and cervical cancer, and for other purposes.

S. 2346

At the request of Mr. REID, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2346, a bill to prohibit certain practices in the raising of calves, and for other purposes.

S. 2393

At the request of Mr. EXON, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2393, a bill to prohibit certain food transportation practices and to provide for regulation by the Secretary of Transportation that will safeguard food and certain other products from contamination during motor or rail transportation, and for other purposes.

S. 2415

At the request of Mr. DOMENICI, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2415, a bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Act of 1978.

S. 2516

At the request of Mr. EXON, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2516, a bill to augment and improve the quality of international data compiled by the Bureau of Economic Analysis under the International Investment and Trade in Services Survey Act by allowing that agency to share statistical establishment list information compiled by the Bureau of the Census and for other purposes.

S. 2585

At the request of Mrs. KASSEBAUM, the names of the Senator from Montana [Mr. BURNS], the Senator from Wyoming [Mr. WALLOP], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 2585, a bill to amend the Food Security Act of 1985 to provide farm program payment fairness and equity to married couples when both the husband and the wife contribute active personal management or labor to the operation of a farm enterprise, and for other purposes.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2641

At the request of Mr. RIEGLE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2641, a bill to amend title XVIII of the Social Security Act to provide for simplification in the

purchase of medicare supplemental insurance.

S. 2645

At the request of Mr. INOUYE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2645, a bill to improve the health status of the urban Indian population and to enhance the quality and scope of health care services, disease prevention activities, and health promotion initiatives targeted at the urban American Indian population.

S. 2821

At the request of Mr. LEAHY, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2821, a bill to resolve emergency funding crises in the Special Supplemental Food Program for Women, Infants and Children, and for other purposes.

S. 2858

At the request of Mrs. KASSEBAUM, the names of the Senator from Wyoming [Mr. SIMPSON], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 2858, a bill to amend the Civil Rights Act of 1964 to strengthen civil rights laws that ban discrimination in employment, and for other purposes.

SENATE JOINT RESOLUTION 48

At the request of Mr. KERREY, his name was withdrawn as a cosponsor of Senate Joint Resolution 48, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

SENATE JOINT RESOLUTION 235

At the request of Mr. HUMPHREY, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of Senate Joint Resolution 235, a joint resolution proposing a constitutional amendment to limit congressional terms.

SENATE JOINT RESOLUTION 277

At the request of Mr. LUGAR, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 277, a joint resolution designating October 6, 1990, as "German-American Day."

SENATE JOINT RESOLUTION 292

At the request of Mr. PELL, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Joint Resolution 292, a joint resolution to designate the year 1991 as the "Year of the Lifetime Reader."

AMENDMENT NO. 2131

At the request of Mrs. KASSEBAUM, the names of the Senator from Washington [Mr. GORTON], the Senator from California [Mr. WILSON], and the Senator from Wyoming [Mr. SIMPSON] and the Senator from Oklahoma [Mr. NICKELS] were added as cosponsors of amendment No. 2131 proposed to S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

AMENDMENT NO. 2220

At the request of Mr. DECONCINI, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of amendment No. 2220 intended to be proposed to S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

SENATE CONCURRENT RESOLUTION 140—REGARDING UNITED STATES ACTION WITH RESPECT TO CAMBODIA

Mr. KERREY (for himself, Mr. KENNEDY, and Mr. KERRY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 140

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should—

(1) withdraw the support of the United States Government for the seating at the United Nations of the delegation representing the resistance coalition Government of Democratic Kampuchea;

(2) exchange interest sections with the existing Government of Cambodia as a means to obtain a better understanding of current events in Cambodia; and

(3) terminate the economic embargo imposed against Cambodia under the authorities of the Trading With the Enemy Act in order to end Cambodia's economic isolation.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. KERREY. Mr. President, I have come to the floor today to talk about an announcement that the Bush administration made today in Paris at a meeting of the permanent five members of the Security Council of the United Nations that they are going to shift their policy away from a recognition of a rebel coalition that is trying to oust Cambodia's Hanoi-backed government in Cambodia itself.

This is a piece of very good news, Mr. President, that the administration is shifting their policy. Our current policy is to support, with direct nonlethal assistance, a coalition composed of three elements, including a member of the former government called the Khmer Rouge. The Khmer Rouge, by everybody's estimation, during the time that they were in power in Cambodia were responsible for the death of in excess of 1 million Cambodians. By some estimates, up to to 20 percent of the entire population was murdered during the reign of Pol Pot and his people. Pol Pot is still alive, Mr. President. He escaped as a consequence of Vietnam's invasion in late 1978. They drove him into seclusion, but he is alive and he is still controlling, in my estimation, the Khmer Rouge forces.

Our policy for years has been to support an insurgency because we look at the Hun Sen government as being illegitimate. We are going to support an insurgency to try to put pressure upon that Hun Sen government to accommodate our desires for a government that is not controlled by the nation of Vietnam.

It is understandable, Mr. President, that we should be trying to get a government that is independent, a government that provides political freedoms, a government that provides economic freedoms to its people. That is understandable.

What has been difficult for most of us to understand is why and how it is that we are able to turn a blind eye to the potential of the Khmer Rouge regaining power in Cambodia. A number of our colleagues, led by the distinguished majority leader, sent a letter recently to the President asking the administration to vacate the United Nations seat that is currently occupied, as a consequence of our efforts, by this coalition government that includes the Khmer Rouge.

The Coalition Government of Democratic Kampuchea, the so-called CGDK, has been recognized in the United Nations as the legitimate government. What this has done, Mr. President, is it has given a political legitimacy to the Khmer Rouge, an extremely dangerous circumstance.

As a consequence of this particular error in policy and the misguided thought that if we support an insurgency on the border and destabilize the Hun Sen government, that that will also produce a satisfactory outcome as a consequence of those two things. As I said, we can make a rational case for them. I understand how we could reach that conclusion. It is an incorrect conclusion, but I understand how, from a distance, it is possible to reach that conclusion. As a consequence of all that, we are now seeing on the ground in Cambodia the terrifying potential of the Khmer Rouge coming back in power.

I happen to believe, having visited the sites on the border and having visited directly with the Khmer Rouge in site 8 in Thailand, that in fact the Khmer Rouge are the most powerful political entity on the ground and the most powerful military entity on the ground as well. I believe, straight line, no change in our policy, the Khmer Rouge will come back in power. They will come back in power, Mr. President, the people who annihilated over 1 million people. Over 20 percent of the people of Cambodia were killed when they were in power. The leaders are still alive, still controlling the Khmer Rouge, and the potential is

there and real for them to come back in power.

This change in policy by the administration is welcome. It should be applauded by all Members of the Senate.

The question we now have before us is what else should we do? What else should the United States of America be doing? I urge my colleagues not to get too complicated in their thinking on this thing, not to try to look through one particular lens or another to reach their conclusion. Because, in point of fact, Mr. President, we have no one on the ground in Cambodia today. Most of our intelligence we are receiving that is reliable is either coming from the Soviet Union's ambassador or from East bloc representatives who are in Phnom Penh and a scattering of intelligence-gathering information that we have. We do not have any reliable information, Mr. President, about what is going on in Cambodia.

Moreover, and perhaps most important, we do not have the basis to impact with our own values. I emphasize that for my colleagues. Our values are important in Cambodia. What we value, what we think people deserve from their government, is extremely important to be heard and to have an impact upon the nation of Cambodia. It does not happen today. We are a long ways away physically, a long way's away culturally, and, as I said on previous occasions, a long ways away, as a consequence of the Vietnam war, emotionally from Southeast Asia.

My hope is that Members of the Senate and House of Representatives will congratulate the administration for its shift, not try to win an argument here, but congratulate the administration for the shift and urge the administration to keep its attention focused upon Southeast Asia and to overcome the political fears—and they are enormous. There are enormous political fears about getting involved in Southeast Asia again. We should declare our friendship for the people of Cambodia, and we should declare our friendship as well for the people of Vietnam.

We need not simply say that we object to what that government is doing and then ignore the people. We can declare friendship for the people in the first instance and declare our belief that they should be free. It is possible. We Americans sometimes underestimate the extent to which it is possible. It is possible for our values, all by themselves, to move the Cambodian people and the Cambodian Government in the right direction.

Do not underestimate the capacity of the people of the United States of America and our values to influence events in that Nation in a positive direction. But do not over estimate our capacity, thousands of miles away, to engage in what is essentially a task to try to pick the right horse. Is it Sihanouk? Is it Son Sann? Is it General Sak? Is it Hun Sen? Who is the person we are going to get behind? It is not a horse race.

We should not be trying to figure out who is the best individual to lead this Nation or whether it should be quadripartite, tripartite, what kind of national supreme council we are trying to put together. It is a dead end. It is our courting of disaster. It is an expression that carries with it too much cliche.

We are, in fact, continuing to court disaster, pursuing it almost, with our policy, believing that somehow our policies that we currently have in place are going to work some sort of magic, if we can get together in Paris and figure this out and if we can get together in Washington and figure this thing out.

Mr. President, I have a concurrent resolution that I send to the desk that asks the U.S. Government to change its policy. It requires the U.S. Government to change its policy in one way I think will be broad support for, in fact hinted at in the administration's change in policy, which is to vacate the United Nations seat currently held by the coalition government that the administration indicates they are going to stop supporting in their comments that they made today.

But it does a second thing, Mr. President, that I think is also very important. That is, it lifts the Trading With The Enemy Act restrictions that we currently have in effect with Cambodia, that makes it possible for people to go there and do business there.

In a companion piece, there is a report that John Gunther Dean is in Phnom Penh, revisiting Phnom Penh. My colleague John Gunther Dean was the last U.S. Ambassador to Phnom Penh. He left in April 1975, and the Khmer Rouge kicked Lon Nol out and took power. John Gunther Dean was the last Ambassador. He is there, Mr. President, to try to pursue business opportunities. He is interested in building a hotel in Phnom Penh.

I have visited Phnom Penh. It has great potential for that kind of investment. John Gunther Dean, all by himself, will influence the people of Cambodia. He understands the political freedom and the importance of it. He knows what a good, decent government can do for its people; it can allow its people to be free. John Gunther Dean's preferences will have an impact. It seems to me, Mr. President, we underestimate the capacity of our own trade on people and our own people's ability.

By the second provision lifting the Trading With The Enemy Act restrictions, this is not to say we are going to give them most-favored-nation status like we have done with China. I am not urging favored treatment. I am suggesting Cambodia should not be treated as an enemy if it is not going to invite Hun Sen and the rest of the people to come in and talk about what ought to be done with the Government. It does not imply a bias with this Government, Mr. President. It does not imply that we somehow recognize the Government of Cambodia. I do not call for the U.S. Government to do that.

Thirdly, Mr. President, we must exchange some sort of diplomatic intersection with this particular government. It does not, again, imply we applaud or recognize what this government is doing. It does not imply anything of that sort at all. It simply says that we are not getting information, we do not know what is going on in Cambodia. Exchange people, Mr. President, so it is possible for us to get information other than just through our increasing contacts with the Soviet Union.

Significantly, Secretary Baker reached the conclusion that this shift should occur in meeting with Foreign Secretary Shevardnadze of the Soviet Union. Increasingly, the Soviet Union and the United States are coming together on their policy in Cambodia. This is good news, I believe, Mr. President. In the past, we played Camboida almost as a pawn in a great power struggle, an old cold war battle that I think has long outlived its usefulness. The change in policy in the administration is a very good piece of news. I hope they take the next step.

I hope Members of the Senate and House of Representatives will not see this as a political battle to be fought out to try to figure out who is right and wrong. We should embrace the change and encourage the administration to increase its interest in Southeast Asia. I repeat, there is a potential for the United States of America to secure a great foreign policy victory at the site of our worst foreign policy defeat if we act as the great Nation that we are. If we come forward believing and trusting in our own values, if we stand as a great Nation and trust in our own values, it is possible for us to achieve an immense foreign policy victory and to move beyond the animosities of the Vietnam war, as the President has so rightfully suggested we should in his State of the Union address now almost 2 years ago.

I applaud the administration for this shift. I hope that we will continue to move in a more positive direction in Cambodia. I believe the United States of America is desperately needed in that nation. I believe we can improve things for the people of Cambodia and I believe they deserve our friendship.

Mr. KENNEDY. Mr. President, I welcome the long overdue shift by the administration in its ill-advised policy toward Cambodia. Today's announce-

ment ending our support for the Khmer Rouge at the United Nations; enhancing critical humanitarian aid and opening of a dialogue with Vietnam is an important half step toward a new and better Cambodian policy. But United States policy remains in need of a coherent strategy to bring peace to Cambodia.

The cold war is over, yet our policy toward Cambodia remains mired in the Vietnam era. We are more concerned with the Hun Sen Government's links with our former enemy Vietnam than with the increasing threat of a return to power by the brutal Khmer Rouge. We continue to fund two resistance forces who share the same military goal as the Khmer Rouge—the overthrow of the Hun Sen regime. Our assistance to the Sihanouk and Son Sann forces clearly benefits the Khmer Rouge. The time has come for the administration to understand that the real enemy of the Cambodian people is the murderous Khmer Rouge, and to shift our policy accordingly.

Despite today's announcement, we continue to lend support to the Khmer Rouge, not to a peaceful settlement of the conflict. We provide covert military and other assistance to the two non-Communist resistance forces. But if the resistance forces achieve their goal of ousting Hun Sen, there is little doubt that the Khmer Rouge will soon take over the government. Yet, today's announcement by the administration maintains this counterproductive assistance.

Hun Sen will have to be part of any political solution in Cambodia, but we continue to oppose him. The administration has at last agreed to send an official to discuss Cambodia with the Vietnamese representatives at the U.N., but it refuses to talk directly with the Hun Sen government. We talk to the North Vietnamese, the Cubans, the Libyans, and many other governments with whom we have strong disagreements. There is no reason not to talk to the Hun Sen government—and urgent reasons to do so.

I commend Senator KERREY for the legislation he has introduced today calling for an end to the US economic embargo against Cambodia and the opening of interest sections in both our countries.

Such steps are long overdue and will help pave the way for a just a lasting peace in Cambodia. I am pleased to be a cosponsor for this legislation.

I believe we should end all aid fueling the war in Cambodia. It is not enough to oppose the Khmer Rouge at the U.N. We must also end support for the Khmer Rouge coalition seeking to overthrow the Hun Sen regime. Our aid is simply enhancing the likelihood of a return to power of the Khmer Rouge. If Prince Sihanouk and Son Sann seek our support, they should abandon their efforts to achieve a military victory in Cambodia.

In addition, I call on the United States to send a high level envoy to Phnom Penh to talk directly with the Hun Sen regime. The threat of a return to power of the Khmer Rouge is real. The future of Cambodia depends on preventing that result. The United States must shift its policy—and use our diplomacy to urge other powers in the region, including China, to follow suit. The administration has taken a step in the right direction. We should do all we can to build on this progress.

AMENDMENTS SUBMITTED

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT

KASTEN AMENDMENTS NOS. 2298 AND 2299

(Ordered to lie on the table.)

Mr. KASTEN submitted two amendments intended to be proposed by him to the bill (S. 2830) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes, as follows:

AMENDMENT No. 2298

Beginning on page 28, strike line 17 and all that follows through page 29, line 17, and insert the following new sections:

SEC. 104. MINNESOTA-WISCONSIN PRICE SERIES REFORM.

(a) INITIATE REFORM.—Within 60 days of the date of enactment of this Act, the Secretary of Agriculture shall commence to consider alternative pricing formula recommendations, as they may relate to the Minnesota-Wisconsin price series used to determine the minimum prices paid under Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in order to amend the orders. Among the alternative pricing formulas to be considered, the Secretary shall consider a price series based on prices paid by milk processors for Grade A milk and manufacturing grade milk that is used in the manufacture of dairy products.

(b) AVAILABILITY OF DATA.—The Secretary shall compile and make available to the public the historical and current data used to compare the alternative pricing formulas considered under subsection (a) with the existing Minnesota-Wisconsin price series.

(c) DEADLINE.—Not later than January 1, 1992, the Secretary shall implement the new Minnesota-Wisconsin price series in Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

SEC. 105. REFORM OF PRICING PROVISIONS OF FEDERAL MILK MARKETING ORDERS.

Not later than January 1, 1992, the Secretary of Agriculture shall—

(1) conclude the national hearings announced by the Secretary on March 29, 1990, regarding changes in the pricing provisions of Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in order to effect any changes in the Federal orders setting minimum prices that milk processors must pay for Grade A milk received from producers; and

(2) implement the changes referred to in paragraph (1).

On page 30, line 14, strike "109" and insert "110".

On page 30, line 19, strike "110" and insert "111".

On page 31, line 1, strike "111" and insert "112".

On page 31, line 5, strike "112" and insert "113".

On page 31, line 16, strike "113" and insert "114".

On page 32, line 1, strike "114" and insert "115".

On page 32, line 5, strike "115" and insert "116".

On page 32, line 12, strike "116" and insert "117".

AMENDMENT No. 2299

In the amendments made by section 1111 and 1121, strike our "value-added" each place that such occurs and insert in lieu thereof "first stage processed".

In the amendment made by section 1111, insert after paragraph (3) in the matter related to section 4 in such amendment, the following new paragraph and redesignate the following paragraphs accordingly:

"'(4) FIRST STAGE PROCESSED COMMODITIES.—The term 'first stage processed commodities' means those commodities that are high in protein, that are fortified or that are bagged or boxed, including non-fat dried milk, butter, or cheese, plant protein products including soybean oil, fruit, nut and vegetable products, and certain forests products determined appropriate by the Secretary.'".

In the amendment made by section 1111, strike out "VALUE-ADDED" in the heading of the matter related to section 111 in such amendment and insert in lieu thereof "FIRST STAGE PROCESSED".

In the amendment made by section 1111, strike out "Value-Added" in the heading of the matter related to subsection (b) of section 204 in such amendment and insert in lieu thereof "First Stage Processed".

In the amendment made by section 1121, insert after paragraph (2) in the matter related to section 103 in such amendment, the following new paragraph and redesignate the following paragraphs accordingly:

"'(3) FIRST STAGE PROCESSED PRODUCTS.—The term 'first stage processed commodities' means those products that are high in protein, that are fortified or that are bagged, including non-fat dried milk, butter, or cheese, plant protein products, fruit, nut and vegetable products, and certain forest products determined appropriate by the Secretary.'".

In the amendment made by section 1121, strike out "Value-Added" in the heading of the matter related to subsection (i) of sec-

tion 302 in such amendment and insert in lieu thereof "First Stage Processed".

BAUCUS AMENDMENTS NOS. 2300 AND 2301

(Ordered to lie on the table.)

Mr. BAUCUS submitted two amendments intended to be proposed by him to the bill S. 2830, supra, as follows:

AMENDMENT No. 2300

On page 429, between lines 2 and 3, insert the following paragraph:

"(6) WOOD AND PROCESSED WOOD PRODUCTS.—The term 'wood and processed wood products' includes logs, lumber (such as boards, timber, millwork, molding, flooring and siding), veneer, panel products (such as plywood, particle board, and fiberboard), utility and telephone poles, other poles and posts, railroad ties, wood pulp, and wood chips.".

On age 445, between lines 19 and 20, insert the following new subsection:

"(n) CONDITIONS FOR WOOD AND PROCESSED WOOD PRODUCTS.—The Secretary shall make guarantees available under subsections (a) and (b) for wood and processed wood products under terms and conditions that are comparable to the terms and conditions that apply to guarantees provided with respect to other agricultural commodities under such subsections.".

AMENDMENT No. 2301

On page 392, line 13, strike "(a)(2)" and insert in lieu thereof: "(a)(1)".

On page 425, between lines 4 and 5, insert the following new paragraph:

"(2) to increase export sales of United States processed, value-added agricultural products;".

On page 425, line 5, strike out "(2)" and insert in lieu thereof "(3)".

On page 425, line 6, strike out "(3)" and insert in lieu thereof "(4)".

On page 425, line 9, strike out "(4)" and insert in lieu thereof "(5)".

On page 425, line 15, strike out "(5)" and insert in lieu thereof "(6)".

On page 425, line 18, strike out "(6)" and insert in lieu thereof "(7)".

On page 429, between line 23, strike out "and".

On page 429, between lines 23 and 24, insert the following new subparagraph:

"(E) and increase the United States share of world markets for processed, value-added products through the multiple benefits derived from such United States exports for American producers, processors, agricultural-industrial exporters and the national workforce; and".

On page 429, line 24, strike out "(E)" and insert in lieu thereof "(F)".

On page 432, line 17, after the comma insert "and value-added".

On page 437, between lines 5 and 6, insert the following new subsection:

"(c) VALUE-ADDED PRODUCTS.—With respect to the trade performance of processed, value-added products under the reviews required under this section, the Secretary, not later than 18 months after the initial 3-year period described in such subsections, shall conduct an interim review under this subsection. Such interim and subsequent reviews shall include reports to the appropriate Committees of the Congress concerning those actions that the Secretary has taken during the reporting period to increase exports of United States processed, value-added agricultural products and the plans of the Secretary pertaining to such actions during the subsequent reporting period.".

On page 466, between lines 15 and 16, insert the following new paragraph:

"(10) Relief from unfair trade practices against particular commodities.—

"(A) COMMERCIAL EXPORT PROMOTION.—

"(i) AVAILABILITY.—The Secretary shall, for each agricultural commodity described in clause (ii), make available some or all of the commercial export assistance that is available under this subtitle to assist in the mitigation or to offset the unfair trade practice serving as the basis for the proceeding described in such subparagraph.

"(ii) APPLICATION.—Clause (i) shall apply in the case of agricultural commodities for which the United States has—

"(I) instituted any dispute settlement proceeding under any international trade agreement;

"(II) been prevented from progressing to a decision in proceedings described in subclause (I) as a result of the failure of a panel to reach a conclusive interpretation of law or the refusal of the party maintaining the unfair trade practice to permit the proceeding to progress; or

"(III) initiated a section 301 investigation into foreign unfair trade practices effecting the article.

"(B) DUTIES OF SECRETARY.—For any agricultural commodity described in subparagraph (A)(ii), the Secretary shall—

"(i) promptly consult with representatives of the industry producing such commodities and other allied groups or individuals regarding specific actions or the development of an integrated marketing strategy that utilizes some or all of the assistance available under this subtitle to assist in the mitigation or to offset the unfair trade practice identified in subparagraph (A)(ii); and

"(ii) ascertain and take into account the industry preference for the practical use of available assistance in implementing subparagraph (A)(i).".

On page 477, between lines 10 and 11, insert the following new section:

"SEC. 407. BUDGET INCENTIVES.

"(a) PROVISION OF ADVISE.—Not later than November 15 of each year, the Secretary shall advise the Secretary of the Treasury and the Director of the Office of Management and Budget concerning the additional United States processed, value-added agricultural exports resulting from the assistance provided by the Secretary under section 302(c)(10).

"(B) ESTIMATION OF REVENUE.—The Director of the Office of Management and Budget shall estimate the amount of additional revenue received by the Treasury as a result of the assistance programs established under this Act to provide for the enhancement of United States processed, value-added agricultural exports.

"(c) DETERMINATION OF BUDGETS.—In determining the budgets of the Department of Agriculture, the President shall, to the maximum extent practicable, provide special consideration for the export assistance programs funded by the Secretary under this Act, based on the increases in Treasury receipts and the balance of payments of the United States with other countries.".

NATIONAL ENVIRONMENTAL EDUCATION ACT

BURDICK AMENDMENT NO. 2302

Mr. CRANSTON (for Mr. BURDICK) proposed an amendment to the bill (S. 1076) to increase public understanding of the natural environment and to advance and develop environmental education and training, as follows:

On page 4, line 5, insert the following:

"(9) Federal natural resource agencies such as the United States Forest Service have a wide range of environmental expertise and a long history of cooperation with educational institutions and technology transfer that can assist in furthering the purposes of the Act."

On page 5, line 7, strike "and".

On page 5, line 14, strike the period and insert in lieu thereof the word "and".

On page 5, line 14, insert the following:

"(9) natural resource management agencies means the United States Forest Service, the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service."

On page 5, line 21, insert after "forts" the following: "in consultation and coordination with other Federal agencies,".

On page 6, line 5, insert after "with" the following: "other Federal agencies,".

On page 6, line 6, insert after "organizations" the following: ", and private sector interests".

On page 7, line 4, insert after "assess" ", in coordination with other Federal agencies,".

On page 7, line 17, insert after "the" the following "United States Forest Service, the Bureau of Land Management, the".

On page 7, line 22, insert after "parks" the following: ", national forests," and insert after the ";" the following: "and multiple use and sustained yield management;"

On page 18, line 17, strike "and".

On page 18, line 21, strike the period and insert in lieu thereof ";"

On page 18, line 22, insert the following:

"(D) The 'Gifford Pinchot Award' to be given in recognition of an outstanding contribution to multiple use and sustained yield land management".

On page 20, line 10, after the period insert the following: "In addition, a representative of the Secretary of Agriculture and a representative of the Secretary of Interior shall serve as ex-officio members of the Council."

On page 23, line 9, insert the following:

"(F) the Bureau of Land Management;"

and reletter the following paragraphs appropriately.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Thursday, July 19, 1990, beginning at 2 p.m., in 485 Russell Senate Office Building on S. 2645, the Urban Indian Health Equity Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a

markup on Wednesday, July 25, 1990, beginning at 2 p.m., in 485 Russell Senate Office Building on S. 1980, the Native American Repatriation of Cultural Patrimony Act and S. 2340, the Indian Child Protective Services and Family Violence Prevention Act, to be followed immediately by a hearing on S. 2770, the Indian Finance Corporation Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, August 1, 1990, beginning at 9 a.m., in 485 Russell Senate Office Building on S. 2770, the Indian Finance Corporation Act and S. 2451, a bill to establish in the Department of the Interior a Trust Counsel for Indian Assets.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, September 12, 1990, beginning at 9 a.m., in 485 Russell Senate Office Building on S. 1554, the Truckee-Carson-Pyramid Lake Water Rights Settlement Act and H.R. 5063, the Ft. McDowell Indian Water Settlement Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce that in addition to the other measures scheduled to be considered at the previously announced July 27 hearing of the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources, the subcommittee will receive testimony on S. 2804, a bill to amend the act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes. The hearing will begin at 9:30 a.m. in room 366 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the public that a bill has been added to the hearing before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources scheduled to take place Tuesday, July 24, 1990, at 2 p.m., in room SD-366 of the Dirksen Senate Office Building, Washington, DC. In addition to the four bills previously announced (H.R. 3694, S. 1118, S. 1932, and S. 1590), the subcommittee will also receive testimony on S. 2716, a bill to amend the Warren Act to expand the purposes for which excess storage or carrying capacity in reclamation projects may be used, and for other purposes.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224-2366.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on July 18, 1990, at 2 p.m., to hold a hearing on the nomination of Jimmy Gurule, to be an Assistant Attorney General and Steven D. Dillingham, to be Director of the Bureau of Justice Statistics.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CRANSTON. Mr. President I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, July 18, at 9 a.m., for an executive session to consider the following:

AGENDA: COMMITTEE ON LABOR AND HUMAN RESOURCES

EXECUTIVE SESSION

(Wednesday, July 18, 1990, 9 a.m., SD-430 Dirkson Building)

1. S. 2114, Excellence in Math, Science and Engineering Education Act of 1990.
2. H.R. 996, Congressional Scholarships for Science, Mathematics, and Engineering Act.
3. S. — —, Reauthorization of the Stewart B. McKinney Homeless Assistance Program.
4. S. — —, Reauthorization of the National Institutes of Health Act of 1990.
5. S. Con. Res. 99, Expressing the sense of the Congress concerning the 25th anniversary of the Older Americans Act of 1965.
6. S. Con. Res. 127, To express the sense of the Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to American Communities.
7. S. Con. Res. 132, Expressing the sense of the Congress that August 30, 1990, be observed as "1890 Land-Grant Institutions Centennial Recognition Day."
8. Nominations:

To be a Member of the Equal Employment Opportunity Commission: Rosalie G. Silberman.

To be a Member of the National Labor Relations Board: James M. Stephens.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m. Wednesday, July 18, 1990, for a business meeting to conduct pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 18, at 9:30 a.m. for a hearing on the subject: oversight of IG operations and needs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Aviation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 18, 1990, at 9:30 a.m. on S. 2851, the Airline Competition Equity Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 18, 1990, at 2 p.m. on the subject of passenger facilitation at U.S. airport points of entry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Wednesday, July 18, 1990, at 10 a.m. to conduct a hearing on the Federal Reserve's Second Monetary Policy Report for 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, of the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, July 18, beginning at 10 a.m., to conduct a hearing on interstate solid waste transport issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT CONTRACTING AND PAPERWORK REDUCTION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Small Business Committee's Subcommittee on Government Contracting and Paperwork Reduction be authorized to

meet during the session of the Senate on Wednesday, July 18, 1990, at 9:30 a.m. The committee will hold a hearing to examine the Federal prison industries competition with small business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, TRADE, OCEANS,, AND ENVIRONMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans, and Environment of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 18, at 2 p.m. to hold a hearing on multilateral aspects of SEED II proposal: the European Bank for Reconstruction and Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, TRADE, OCEANS, AND ENVIRONMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans, and Environment of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 18, at 2:45 p.m. to hold a hearing on the International Development Association replenishment request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relation be authorized to meet during the session of the Senate on Wednesday, July 18, at 9:30 a.m. to hold a hearing on European arms control after the NATO summit.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO LOYD MATHENY

● Mr. PRYOR. Mr. President, one of our State's finest postmasters will be honored at a gathering this week to recognize his long service to the people of Arkansas. Loyd Matheny, postmaster at Bigelow, AR, has embarked on a well-deserved rest from a 30-year career with the Postal Service.

Loyd went to work for the Postal Service in March of 1959 at the main post office in Little Rock as a window clerk. He worked his way through the ranks over the years and was promoted to Postmaster at Bigelow in April of 1972.

Loyd has never been content to let his level of postal activity stop at the end of the work day. As a postal clerk, he attended every national convention of the clerks union, as well as serving in numerous capacities in the local union. When he became a postmaster he became active in both national postmaster organizations—the National Association of Postmasters and the National League of Postmasters. In 1977 Loyd Matheny was elected State president of the National League of Postmasters and from 1981-88 served as chairman of the league's national legislative committee.

It has been my good fortune over the years to have the good counsel of Loyd Matheny on matters of importance to the U.S. Postal Service, to the postal worker, and to the postal customer. I would be hard pressed to name a Federal employee who has displayed more loyalty and dedication to their profession than has Loyd Matheny.

I want to join all those who are gathering this week to pay tribute to Loyd and Geraldine as they pursue a most deserved period of leisure and relaxation.●

PRAISE FOR SCORE

● Mr. BOSCHWITZ. Mr. President, I rise today to place into the RECORD a recent Minneapolis Star-Tribune article praising Bob Bertelsen, the new president-elect of the National Service Corps of Retired Executives [SCORE]. SCORE is a nonprofit organization funded by the Small Business Administration which offers free management expertise to small businesses.

Bob Bertelsen was born in Minneapolis, and after serving in World War II as a bomber pilot, he received a degree in chemical engineering from the University of Minnesota. In 1948, Bob Bertelsen began what would become a 34-year career at the 3M Co. in Hutchinson, MN, a career that ended with his retirement as manufacturing director of 3M's printing and publishing systems divisions.

The contributions of Bob Bertelsen, and 13,000 other retired small businessmen, should be warmly congratulated. It is not easy to log in 20 hours a week as a volunteer for SCORE, but the benefit received by the small business community is incalculable. As the ranking Republican on the Senate Small Business Committee, I have the opportunity to observe up close the contributions of SCORE.

Mr. President, I ask that a copy of the Star Tribune article of July 9, 1990, be printed in the RECORD.

The article follows:

IT'S NO SMALL TASK LEADING SMALL-BUSINESS ADVISERS

(By Jim Jones)

When Bob Bertelsen strides briskly into the Small Business Administration's (SBA) office in Minneapolis, one glimpse of this tall, distinguished, gray-haired former 3M Co. executive is enough to tell that he has done all right for himself in corporate America.

During his 34-year career at the Maplewood-based giant, Bertelsen headed production of Scotch brand tape for 3M's plant in Hutchinson, Minn. In Italy, he managed production of its photographic film manufacturing for two years. Later in St. Paul, he was in charge of photographic film manufacturing in the United States and then headed carbonless paper manufacturing.

He's a savvy individual who knows manufacturing.

"You're making things that people need," he said. "It's not a static thing because people's requirements change. People's desires change. To meet that, you have to have a quality improvement program and a continuing input of new products from your research organization; an inventory control program . . . and a cost reduction program. You have look at ways to reduce cost without deteriorating quality."

He calls the approach a "full team effort" involving the laboratory, engineering, marketing and the factory.

Now Bertelsen's challenge is to transfer his managerial skills to an organization that's dedicated to helping small businesses.

Since 1983, the year after he took early retirement from 3M, Bertelsen has logged about 20 hours a week as a volunteer for the Service Corps of Retired Executives (SCORE), and more recently was elected to a one-year term as SCORE's national president, effective Oct. 1. SCORE, a nonprofit organization funded by the SBA, offers free management expertise to small businesses.

In that capacity, he leads a group of 13,000 retired executives from 387 SCORE chapters throughout the nation, who share their wisdom and experience with rising generations of entrepreneurs.

"I can see Bob there," said Allen F. Jacobson, 3M chairman and chief executive officer. "He has a great deal of experience in corporate management and leadership and some experience outside the U.S."

Jacobson said Bertelsen took a difficult assignment in 3M's Ferrania, Italy, operations in 1966.

"That was a demanding job. At that time it was not doing well, but now it is, and he did a lot to help get that manufacturing system untracked." Bertelsen reorganized the Italian factory, which made photographic, movie and X-ray film, to emphasize quality control, and that helped improve the products' performance in the field.

Bertelsen, a chemical engineer who graduated with honors from the University of Minnesota in 1948, met the challenge head on.

"Bob was a good risk taker," Jacobson said.

It's a trait he learned early. As a World War II bomber pilot, Bertelsen flew 40 missions over Germany.

"I saw guys all around me go down. The worst we had, we lost 22 planes out of 36 over Germany in 1945," he said. "The bullet didn't have my name on it, and I feel pretty lucky."

To hear SBA business development specialist George Saumweber tell it, the SBA is just as lucky to have someone of Bertelsen's background, experience and caliber working with SCORE.

"He's a guy who has obviously been in a leadership position all his life and he's spending three or four days each week in our office without pay working for SCORE and small business," Saumweber said.

Bertelsen is a jovial, spirited conversationalist with varied interests.

"We get into heated discussions over coffee," said Saumweber. "What's in the headlines in today's newspaper always triggers the discussion."

Saumweber, a Vietnam veteran, said that he doesn't always agree with Bertelsen, but that "with him, it's always a discussion where you learn something.

Saumweber has been impressed with Bertelsen's spirit of volunteerism. As regional SCORE director, a position he assumed about two years ago, Bertelsen has overseen the small business counseling and training activities provided by 54 chapters and 2,500 volunteers throughout a six-state region, including Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio.

Bertelsen's SCORE and other volunteer activities fill a void. "After you've painted the house and fixed up the yard and taken a few trips, you find out that retirement is better if you're doing something," he said.

He got involved in SCORE through H. A. (Lex) Schoonover, a friend, who's an alternate district SCORE representative.

But his volunteer activities come as no surprise to Karen, his wife of 43 years, whom he met in a chemistry class at Central High School in Minneapolis.

Their meeting probably was inevitable. She was an Anderson and he's a Bertelsen and the "As" and "Bs" sat together.

Bertelsen's daughter, Jean Pond, said he's a caring father who, despite career pressures, was always there to help with science projects or to be sure that she learned to read her piano music properly.

". . . Even though he ended up in a high-powered position, it didn't seem like the sort of thing you hear about today where the executives are too busy (for their families); he was always there."

The national SCORE office is in Washington, D.C., but Bertelsen will continue to have his office at the Minneapolis SBA district office.

The national president's responsibility is to direct the efforts of the board of directors of SCORE, hold quarterly board meetings and make sure that SCORE meets the obligations of its clients.

SCORE's role is vital considering the number of small businesses: More than 98 percent of all U.S. businesses are classified as small. They employ more than half of the work force. Small businesses account for 38 percent of U.S. sales and 39 percent of the gross national product. They account for 20 percent of exports and provide 66 percent of the initial job opportunities.

But half of all new businesses close by the fourth year; that statistic underscores their needs for management assistance.

"Our challenge for 1991 is to continue to provide service to the small business community with ever-increasing quality of counseling and training, with special emphasis on small business in rural America," said Bertelsen. "Many of our counselors grew up in a Depression era and some even started their businesses in a Depression era, and they know what it's like to go through tough times."

While admittedly not an entrepreneur, Bertelsen said the business principles for running a division for a large corporation are not a lot different from the principles for running a small business. "You still need a plan, you still need financial controls and you still need marketing. You need all of those things," he said.

"3M is really a series of a lot of small businesses and . . . they encourage all of their people to be—within the limits of their own divisions—real entrepreneurs. The difference at 3M is you've got experts to help you, and in a small business you've got to, hopefully, find those experts and, I think SCORE does that."

SCORE has a $2.5 million budget. Its counselors advise and suggest, but leave actual implementation up to the client.

"I think that SCORE's greatest value is in counseling, because so many of our people have gone through the problems that are facing small businesses, that they can give them first-hand experience on how they solved those problems even though they happened some years ago. Problems are still problems and the solutions are still much the same," he said. "You need to control cost and need to get out and sell."

Providing small business assistance is a growth industry that has attracted a variety of vendors, including the SBA-supported Small Business Development Centers, SCORE and the Small Business Institutes, and state-supported vocational-technical schools, as well as an array of private-sector consultants. That leads to competition among the service providers.

"SCORE is a little bit touchy about their turf," said Jack Oman, small business management instructor for Minneapolis Technical College. "They tend to view us (other providers) as encroachers into their delivery system.

"They put on this wonderful Going Into Business seminar and there are loads of people in both the public and private sector who would like to get ahold of all those participants so they, in turn, could sell them their own products and services," he said.

"That must mean that SCORE is doing something worthwhile. . . . I have attended their Going Into Business seminars, and I can certainly testify to the fact that many of the presenters have a good, well-grounded practical sense of what running a business is really all about. But the proliferation of services to small business is a problem."

While acknowledging Oman's point, Bertelsen said, "What SCORE means to small businesses is the opportunity to be able to talk to somebody who has been there at no cost to them."

ROBERT BERTELSEN

Born/May 13, 1924, in Minneapolis.

Family/Wife, Karen. Children, Jean, 37, Ralph, 35.

Home/Edina.

Education/Bachelor's degree in chemical engineering, University of Minnesota, 1948.

Career/1948–1952, chemist for 3M Co.; 1952–56, assistant to 3M plant manager in Hutchinson, Minn.; 1956–61, superintendent for Hutchinson plant; 1961–64, plant manager for 3M in St. Paul; 1964–66, production manager of 3M tape division in St. Paul; 1966–71, manufacturing manager for 3M operations in Ferrania, Italy; 1968–71, manufacturing manager for 3M's photographic products division, St. Paul; 1971–81, manufacturing director of 3M carbonless paper division, St. Paul; 1981–82, manufacturing director, 3M printing and publishing systems division, St. Paul; 1983, joined Service Corps of Retired Executives (SCORE); 1988 elected SCORE director and regional SCORE representative; 1989, elected SCORE national vice president; 1990, elected national SCORE president.

Hobbies/Traveling, gardening, reading.●

CONGRATULATIONS TO SIOUX CITY, IA, FOR THE ALL-AMERICA CITY AWARD

● Mr. GRASSLEY. Mr. President, today is a day of privilege for me. I have the opportunity to congratulate the third largest city in the State of Iowa, Sioux City, for winning the 1990 All-America City Award.

Sioux City has had many accomplishments. Some of Sioux City's recent accomplishments include: First, economic reform which has created 1,048 new jobs and $56.1 million in capital investment; second, consistent and united team efforts for coordinated leadership as a result of the city's changing population; and third, the development of business and industry growth in the Siouxland Tri-State area, which includes Nebraska, South Dakota, and Iowa.

Most Americans remember the tragedy of the 1989 United Airlines flight 232 plane crash, as a result of hydraulic failure, in Sioux City at its airport. The people of the Sioux City area demonstrated the concern and caring that was so heroically and eagerly given to those unfortunate crash victims on that day, and the weeks to follow. The coordination of the disaster relief can also be attributed to the Woodbury County disaster committee, which has developed a multihazard plan in an effort to give aid during disastrous events.

Sioux City is a city of leadership. Other cities in our great Nation could learn from those Sioux City leaders. Sioux City is a sharing city.

I am proud of Sioux City.

Again, I would like to congratulate Sioux City, IA, on their recent accomplishments, and for winning the 1990 All-America City Award.●

COPENHAGEN HUMAN DIMENSION MEETING

● Mr. DECONCINI. Mr. President, recently the United States and the other 34 participating states in the CSCE Conference on the Human Dimension in Copenhagen adopted a far-reaching political document setting forth ambitious new goals in the areas of free elections, rule of law and minority rights.

The 35 countries, including the Soviet Union, agreed that pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms. The Copenhagen document acknowledges that the basis and authority of all governments is the will of the people, freely and fairly expressed through periodic and genuine elections.

In short, Mr. President, the Copenhagen Conference mirrored the new stage which CSCE is entering into—for the political goals set forth in the

Copenhagen document are not just for the Eastern and Central Europeans or the Soviet Union. The goals reflect the striving of all democracies, old and new. The document expresses the conviction that as part of an expanding CSCE process the role of governments in ensuring the rights of individuals is to be strengthened institutionally and procedurally.

Mr. President, I respectfully request that the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE be printed in the RECORD. It reflects the visions of an important time in CSCE history which seek to establish the steps necessary to achieve increased security, stability and human dignity throughout Europe. In the words of Ambassador Max Kampelman who chaired the United States delegation to the Copenhagen meeting, CSCE has become a process that "strengthens those structures and promotes political cultures which cherish pluralism as a precious human and national asset."

The document follows:

DOCUMENT OF THE COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION OF THE CSCE

The representatives of the participating States of the Conference on Security and Cooperation in Europe (CSCE), Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America and Yugoslavia, met in Copenhagen from 5 to 29 June 1990, in accordance with the provisions relating to the Conference on the Human Dimensions of the CSCE contained in the Concluding Document of the Vienna Follow-up Meeting of the CSCE.

The representative of Albania attended the Copenhagen Meeting as observer.

The first Meeting of the Conference was held in Paris from 30 May to 23 June 1989.

The Copenhagen Meeting was opened and closed by the Minister for Foreign Affairs of Denmark.

The formal opening of the Copenhagen Meeting was attended by Her Majesty the Queen of Denmark and His Royal Highness the Prince Consort.

Opening statements were made by Ministers and Deputy Ministers of the participating States.

At a special meeting of the Ministers for Foreign Affairs of the participating States of the CSCE on 5 June 1990, convened on the invitation of the Minister for Foreign Affairs of Denmark, it was agreed to convene a Preparatory Committee in Vienna on 10 July 1990 to prepare a Summit Meeting in Paris of their Heads of State or Government.

The participating States welcome with great satisfaction the fundamental political changes that have occurred in Europe since the first Meeting of the Conference on the Human Dimension of the CSCE in Paris in 1989. They note that the CSCE process has contributed significantly to bringing about these changes and that these developments in turn have greatly advanced the implementation of the provisions of the Final Act and of the other CSCE documents.

They recognize that pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms, the development of human contacts and the resolution of other issues of a related humanitarian character. They therefore welcome the commitment expressed by all participating States to the ideals of democracy and political pluralism as well as their common determination to build democratic societies based on free elections and the rule of law.

At the Copenhagen Meeting the participating States held a review of the implementation of their commitments in the field of the human dimension. They considered that the degree of compliance with the commitments contained in the relevant provisions of the CSCE documents had shown a fundamental improvement since the Paris Meeting. They also expressed the view, however, that further steps are required for the full realization of their commitments relating to the human dimension.

The participating States express their conviction that full respect for human rights and fundamental freedoms and the development of societies based on pluralistic democracy and the rule of law are prerequisites for progress in setting up the lasting order of peace, security, justice and co-operation that they seek to establish in Europe. They therefore reaffirm their commitment to implement fully all provisions of the Final Act and of the other CSCE documents relating to the human dimension and undertake to build on the progress they have made.

They recognize that co-operation among themselves, as well as the active involvement of persons, groups, organizations and institutions, will be essential to ensure continuing progress towards their shared objectives.

In order to strengthen respect for, and enjoyment of, human rights and fundamental freedoms, to develop human contacts and to resolve issues of a related humanitarian character, the participating States agree on the following:

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(1) The participating States express their conviction that the protection and promotion of human rights and fundamental freedoms is one of the basic purposes of government, and reaffirm that the recognition of these rights and freedoms constitutes the foundation of freedom, justice and peace.

(2) They are determined to support and advance those principles of justice which form the basis of the rule of law. They consider that the rule of law does not mean merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order, but justice based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression.

(3) They reaffirm that democracy is an inherent element of the rule of law. They recognize the importance of pluralism with regard to political organizations.

(4) They confirm that they will respect each other's right freely to choose and develop, in accordance with international human rights standards, their political, social, economic and cultural systems. In exercising this right, they will ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration on Principles and other CSCE commitments.

(5) They solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

(5.1) Free elections that will be held at reasonable intervals by secret ballot or by equivalent free voting procedure, under conditions which ensure in practice the free expression of the opinion of the electors in the choice of their representatives;

(5.2) A form of government that is representative in character, in which the executive is accountable to the elected legislature or the electorate;

(5.3) The duty of the government and public authorities to comply with the constitution and to act in a manner consistent with law;

(5.4) A clear separation between the State and political parties; in particular, political parties will not be merged with the State;

(5.5) The activity of the government and the administration as well as that of the judiciary will be exercised in accordance with the system established by law. Respect for that system must be ensured;

(5.6) Military forces and the police will be under the control of, and accountable to, the civil authorities;

(5.7) Human rights and fundamental freedoms will be guaranteed by law and in accordance with their obligations under international law;

(5.8) Legislation, adopted at the end of a public procedure, and regulations will be published, that being the condition for their applicability. Those texts will be accessible to everyone;

(5.9) All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law will prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground;

(5.10) Everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity;

(5.11) Administrative decisions against a person must be fully justifiable and must as a rule indicate the usual remedies available;

(5.12) The independence of judges and the impartial operation of the public judicial service will be ensured;

(5.13) The independence of legal practitioners will be recognized and protected, in particular as regards conditions for recruitment and practice;

(5.14) The rules relating to criminal procedure will contain a clear definition of powers in relation to prosecution and the measures preceding and accompanying prosecution;

(5.15) Any person arrested or detained on a criminal charge will have the right, so that the lawfulness of his arrest or detention can be decided, to be brought promptly before a judge or other officer authorized by law to exercise this function;

(5.16) In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone will be entitled to a fair and public hearing by a

competent, independent and impartial tribunal establishment by law;

(5.17) Any person prosecuted will have the right to defend himself in person or through prompt legal assistance of his own choosing or, if he does not have sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(5.18) No one will be charged with, tried for or convicted of any criminal offence unless the offence is provided for by a law which defines the elements of the offence with clarity and precision;

(5.19) Everyone will be presumed innocent until proved guilty according to law;

(5.20) Considering the important contribution of international instruments in the field of human rights to the rule of law at a national level, the participating States reaffirm that they will consider acceding to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other relevant international instruments, if they have not yet done so;

(5.21) In order to supplement domestic remedies and better to ensure that the participating States respect the international obligations they have undertaken, the participating States will consider acceding to a regional or global international convention concerning the protection of human rights, such as the European Convention on Human Rights or the Optional Protocol to the International Covenant on Civil and Political Rights, which provide for procedures of individual recourse to international bodies.

(6) The participating States declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government. The participating States will accordingly respect the right of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes. They recognize their responsibility to defend and protect, in accordance with their laws, their international human rights obligations and their international commitments, the democratic order freely established through the will of the people against the activities of persons, groups or organizations that engage in or refuse to renounce terrorism or violence aimed at the overthrow of that order or of that of another participating State.

(7) To ensure that the will of the people serves as the basis of the authority of government, the participating States will—

(7.1) Hold free elections at reasonable intervals, as established by law;

(7.2) Permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote;

(7.3) Guarantee universal and equal suffrage to adult citizens;

(7.4) Ensure that votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public;

(7.5) Respect the rights of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination;

(7.6) Respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities;

(7.7) Ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution;

(7.8) Provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process;

(7.9) Ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.

(8) The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law. They will also endeavour to facilitate similar access for election proceedings held below the national level. Such observers will undertake not to interfere in the electoral proceedings.

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(9) The participating States reaffirm that

(9.1) Everyone will have the right to freedom of expression including the right to communication. This right will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of this right may be subject only to such restrictions as are prescribed by law and are consistent with international standards. In particular, no limitation will be imposed on access to, and use of, means of reproducing documents of any kind, while respecting, however, rights relating to intellectual property, including copyright;

(9.2) Everyone will have the right of peaceful assembly and demonstration. Any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standards;

(9.3) The right of association will be guaranteed. The right to form and—subject to the general right of a trade union to determine its own membership—freely to join a trade union will be guaranteed. These rights will exclude any prior control. Freedom of association for workers, including the freedom to strike, will be guaranteed, subject to limitations prescribed by law and consistent with international standards;

(9.4) Everyone will have the right to freedom of thought, conscience and religion. This right includes freedom to change one's religion or belief and freedom to manifest one's religion or belief, either alone or in community with others, in public or in private, through worship, teaching, practice and observance. The exercise of these rights may be subject only to such restrictions as are prescribed by law and are consistent with international standards;

(9.5) They will respect the right of everyone to leave any country, including his own, and to return to his country, consistent with a State's international obligations and CSCE commitments. Restrictions on this right will have the character of very rare exceptions, will be considered necessary only if they respond to a specific public need, pursue a legitimate aim and are proportionate to that aim, and will not be abused or applied in an arbitrary manner.

(9.6) Everyone has the right peacefully to enjoy his property either on his own or in common with others. No one may be deprived of his property except in the public interest and subject to the conditions provided for by law and consistent with international commitments and obligations.

(10) In reaffirming their commitments to ensure effectively the rights of the individuals to know and act upon human rights and fundamental freedoms, and to contribute actively, individually or in association with others, to their promotion and protection, the participating States express their commitment to

(10.1) Respect the right of everyone, individually or in association with others, to seek, receive and impart freely views and information on human rights and fundamental freedoms, including the rights to disseminate and publish such views and information;

(10.2) Respect the rights of everyone, individually or in association with others, to study and discuss the observance of human rights and fundamental freedoms and to develop and discuss ideas for improved protection of human rights and better means for ensuring compliance with international human rights standards;

(10.3) Ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including trade unions and human rights monitoring groups;

(10.4) Allow members of such groups and organizations to have unhindered access to and communication with similar bodies within and outside their countries and with international organizations, to engage in exchanges, contacts and co-operation with such groups and organizations and to solicit, receive and utilize for the purpose of promoting and protecting human rights and fundamental freedoms voluntary financial contributions from national and international sources as provided for by law.

(11) The participating States further affirm that, where violations of human rights and fundamental freedoms are alleged to have occurred, the effective remedies available include

(11.1) The right of the individual to seek and receive adequate legal assistance;

(11.2) The right of the individual to seek and receive assistance from others in defending human rights and fundamental freedoms, and to assist others in defending human rights and fundamental freedoms;

(11.3) The right of individuals or groups acting on their behalf to communicate with international bodies with competence to receive and consider information concerning allegations of human rights abuses.

(12) The participating States, wishing to ensure greater transparency in the implementation of the commitments undertaken in the Vienna Concluding Document under

the heading of the human dimension of the CSCE, decide to accept as a confidence-building measure the presence of observers sent by participating States and representatives of non-governmental organizations and other interested persons at proceedings before courts as provided for in national legislation and international law; it is understood that proceedings may only be held *in camera* in the circumstances prescribed by law and consistent with obligations under international law and international commitments.

(13) The participating States decide to accord particular attention to the recognition of the rights of the child, his civil rights and his individual freedoms, his economic, social and cultural rights, and his right to special protection against all forms of violence and exploitation. They will consider acceding to the Convention on the Rights of the Child, if they have not yet done so, which was opened for signature by States on 26 January 1990. They will recognize in their domestic legislation the rights of the child as affirmed in the international agreements to which they are Parties.

(14) The participating States agree to encourage the creation, within their countries, of conditions for the training of students and trainees from other participating States, including persons taking vocational and technical courses. They also agree to promote travel by young people from their countries for the purpose of obtaining education in other participating States and to that end to encourage the conclusion, where appropriate, of bilateral and multilateral agreements between their relevant governmental institutions, organizations and educational establishments.

(15) The participating States will act in such a way as to facilitate the transfer of sentenced persons and encourage those participating States which are not Parties to the Convention on the Transfer of Sentenced Persons, signed at Strasbourg on 21 November 1983, to consider acceding to the Convention.

(16) The participating States

(16.1) Reaffirm their commitment to prohibit torture and other cruel, inhuman or degrading treatment or punishment, to take effective legislative, administrative, judicial and other measures to prevent and punish such practices, to protect individuals from any psychiatric or other medical practices that human rights and fundamental freedoms and to take effective measures to prevent and punish such practices;

(16.2) Intend, as a matter of urgency, to consider acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, if they have not yet done so, and recognizing the competences of the Committee against Torture under articles 21 and 22 of the Convention and withdrawing reservations regarding the competence of the Committee under article 20;

(16.3) Stress that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture;

(16.4) Will ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;

(16.5) Will keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under their jurisdiction, with a view to preventing any cases of torture;

(16.6) Will take up with priority for consideration and for appropriate action, in accordance with the agreed measures and procedures for the effective implementation of the commitments relating to the human dimension of the CSCE, any cases of torture and other inhuman or degrading treatment or punishment made known to them through official channels or coming from any other reliable source of information;

(16.7) Will act upon the understanding that preserving and guaranteeing the life and security of any individual subjected to any form of torture and other inhuman or degrading treatment or punishment will be the sole criterion in determining the urgency and priorities to be accorded in taking appropriate remedial action; and, therefore, the consideration of any cases of torture and other inhuman or degrading treatment or punishment within the framework of any other international body or mechanism may not be invoked as a reason for refraining from consideration and appropriate action in accordance with the agreed measures and procedures for the effective implementation of the commitments relating to the human dimension of the CSCE.

(17) The participating States

(17.1) Recall the commitment undertaken in the Vienna Concluding Document to keep the question of capital punishment under consideration and to cooperate within relevant international organizations;

(17.2) Recall, in this context, the adoption by the General Assembly of the United Nations, on 15 December 1989, of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

(17.3) Note the restrictions and safeguards regarding the use of the death penalty which have been adopted by the international community, in particular article 6 of the International Covenant on Civil and Political Rights;

(17.4) Note the provisions of the Sixth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty;

(17.5) Note recent measures taken by a number of participating States towards the abolition of capital punishment;

(17.6) Note the activities of several non-governmental organizations on the question of the death penalty;

(17.7) Will exchange information within the framework of the Conference on the Human Dimension on the question of the abolition of the death penalty and keep that question under consideration;

(17.8) Will make available to the public information regarding the use of the death penalty.

(18) The participating States

(18.1) Note that the United Nations Commission on Human Rights has recognized the right of everyone to have conscientious objections to military service;

(18.2) Note recent measures taken by a number of participating States to permit exemption from compulsory military service on the basis of conscientious objections;

(18.3) Note the activities of several non-governmental organizations on the question of conscientious objections to compulsory military service;

(18.4) Agree to consider introducing, where this has not yet been done, various forms of alternative service, which are compatible with the reasons for conscientious objection, such forms of alternative service being in principle of a non-combatant or civilian nature, in the public interest and of a non-punitive nature;

(18.5) Will make available to the public information on this issue;

(18.6) Will keep under consideration, within the framework of the Conference on the Human Dimension, the relevant questions related to the exemption from compulsory military service where it exists, of individuals on the basis of conscientious objections to armed service, and will exchange information on these questions.

(19) The participating States affirm that freer movement and contacts among their citizens are important in the context of the protection and promotion of human rights and fundamental freedoms. They will ensure that their policies concerning entry into their territories are fully consistent with the aims set out in the relevant provisions of the Final Act, the Madrid Concluding Document and the Vienna Concluding Document. While reaffirming their determination not to recede from the commitments contained in CSCE documents, they undertake to implement fully and improve present commitments in the field of human contacts, including on a bilateral and multilateral basis. In this context they will—

(19.1) Strive to implement the procedures for entry into their territories, including the issuing of visas and passport and customs control, in good faith and without unjustified delay. Where necessary, they will shorten the waiting time for visa decisions, as well as simplify practices and reduce administrative requirements for visa applications;

(19.2) Ensure, in dealing with visa applications, that these are processed as expeditiously as possible in order, *inter alia*, to take due account of important family, personal or professional considerations, especially in cases of an urgent, humanitarian nature;

(19.3) Endeavor, where necessary, to reduce fees charged in connection with visa applications to the lowest possible level.

(20) The participating States concerned will consult and, where appropriate, cooperate in dealing with problems that might emerge as a result of the increased movement of persons.

(21) The participating States recommend the consideration, at the next CSCE Follow-up Meeting in Helsinki, of the advisability of holding a meeting of experts on consular matters.

(22) The participating States reaffirm that the protection and promotion of the rights of migrant workers have their human dimension. In this context, they

(22.1) Agree that the protection and promotion of the rights of migrant workers are the concern of all participating States and that as such they should be addressed within the CSCE process;

(22.2) Reaffirm their commitment to implement fully in their domestic legislation the rights of migrant workers provided for in international agreements to which they are parties;

(22.3) Consider that, in future international instruments concerning the rights of migrant workers, they should take into account the fact that this issue is of importance for all of them;

(22.4) Express their readiness to examine, at future CSCE meetings, the relevant aspects of the further promotion of the rights of migrant workers and their families.

(23) The participating States reaffirm their conviction expressed in the Vienna Concluding Document that the promotion of economic, social and cultural rights as well as of civil and political rights is of paramount importance for human dignity and for the attainment of the legitimate aspirations of every individual. They also reaffirm their commitment taken in the Document of the Bonn Conference on Economic Co-operation in Europe to the promotion of social justice and the improvement of living and working conditions. In the context of continuing their efforts with a view to achieving progressively the full realization of economic, social and cultural rights by all appropriate means, they will pay special attention to problems in the areas of employment, housing, social security, health, education and culture.

(24) The participating States will ensure that the exercise of all the human rights and fundamental freedoms set out above will not be subject to any restrictions except those which are provided by law and are consistent with their obligations under international law, in particular the International Covenant on Civil and Political Rights, and with their international commitments, in particular the Universal Declaration of Human Rights. These restrictions have the character of exceptions. The participating States will ensure that these restrictions are not abused and are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured.

Any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law.

(25) The participating States confirm that any derogations from obligations relating to human rights and fundamental freedoms during a state of public emergency must remain strictly within the limits provided for by international law, in particular the relevant international instruments by which they are bound, especially with respect to rights from which there can be no derogation. They also reaffirm that

(25.1) Measures derogating from such obligations must be taken in strict conformity with the procedural requirements laid down in those instruments;

(25.2) The imposition of a state of public emergency must be proclaimed officially, publicly, and in accordance with the provisions laid down by law;

(25.3) Measures derogating from obligations will be limited to the extent strictly required by the exigencies of the situation;

(25.4) Such measures will not discriminate solely on the grounds of race, colour, sex, language, religion, social origin or of belonging to a minority.

III

(26) The participating States recognize that vigorous democracy depends on the existence as an integral part of national life of democratic values and practices as well as an extensive range of democratic institutions. They will therefore encourage, facilitate and, where appropriate, support practical co-operative endeavors and the sharing of information, ideas and expertise among themselves and by direct contacts and co-operation between individuals, groups and organizations in areas including the following:

constitutional law, reform and development,

electoral legislation, administration and observation,

establishment and management of courts and legal systems,

the development of an impartial and effective public service where recruitment and advancement are based on a merit system,

law enforcement,

local government and decentralization,

access to information and protection of privacy,

developing political parties and their role in pluralistic societies,

free and independent trade unions,

co-operative movements,

developing other forms of free associations and public interest groups,

journalism, independent media, and intellectual and cultural life,

the teaching of democratic values, institutions and practices in educational institutions and the fostering of an atmosphere of free enquiry.

Such endeavours may cover the range of co-operation encompassed in the human dimension of the CSCE, including training, exchange of information, books and instructional materials, co-operative programmes and projects, academic and professional exchanges and conferences, scholarships, research grants, provision of expertise and advice, business and scientific contacts and programmes.

(27) The participating States will also facilitate the establishment and strengthening of independent national institutions in the area of human rights and the rule of law, which may also serve as focal points for co-ordination and collaboration between such institutions in the participating States. They propose that co-operation be encouraged between parliamentarians from participating States, including through existing inter-parliamentary associations and, *inter alia*, through joint commissions, television debates involving parliamentarians, meetings and round-table discussions. They will also encourage existing institutions, such as organizations within the United Nations system and the Council of Europe, to continue and expand the work they have begun in this area.

(28) The participating States recognize the important expertise of the Council of Europe in the field of human rights and fundamental freedoms and agree to consider further ways and means to enable the Council of Europe to make a contribution to the human dimension of the CSCE. They agree that the nature of this contribution could be examined further in a future CSCE forum.

(29) The participating States will consider the idea of convening a meeting or seminar of experts to review and discuss co-operative measures designed to promote and sustain viable democratic institutions in participating States, including comparative studies of legislation in participating States in the area of human rights and fundamental freedoms, *inter alia* drawing upon the experience acquired in this area by the Council of Europe and the activities of the Commission "Democracy through Law".

IV

(30) The participating States recognize that the questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary. This framework guarantees full respect for human rights and fundamental freedoms, equal rights and status for all citizens, the free expression of all their legitimate interests and aspirations, political pluralism, social tolerance and the implementation of legal rules that place effective restraints on the abuse of govenmental power.

They also recognize the important role of non-governmental organizations, including political parties, trade unions, human rights organizations and religious groups, in the promotion of tolerance, cultural diversity and the resolution of questions relating to national minorities.

They further reaffirm that respect for the rights of persons belonging to national minorities as part of universally recognized human rights is an essential factor for peace, justice, stability and democracy in the participating States.

(31) Persons belonging to national minorities have the right to exercise fully and effectively their human rights and fundamental freedoms without any discrimination and in full equality before the law.

The participating States will adopt, where necessary, special measures for the purpose of ensuring to persons belonging to national minorities full equality with the other citizens in the exercise and enjoyment of human rights and fundamental freedoms.

(32) To belong to a national minority is a matter of a person's individual choice and no disadvantage may arise from the exercise of such choice.

Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religioius identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. In particular, they have the right:

(32.1) To use freely their mother tongue in private as well as in public;

(32.2) To establish and maintain their own educational, cultural and religious institutions, organizations or associations, which can seek voluntary financial and other contributions as well as public assistance, in conformity with national legislation;

(32.3) To profess and practise their religion, including the acquisition, possession and use of religious materials, and to conduct religious educational activities in their mother tongue;

(32.4) To establish and maintain unimpeded contacts among themselves within their country as well as contacts across frontiers with citizens of other States with whom they share a common ethnic or national origin, cultural heritage or religious beliefs;

(32.5) To disseminate, have access to and exchange information in their mother tongue;

(32.6) To establish and maintain organizations or associations within their country and to participate in international non-governmental organizations.

Persons belonging to national minorities can exercise and enjoy their rights individually as well as in community with other members of their group. No disadvantage may arise for a person belonging to a national minority on account of the exercise or non-exercise of any such rights.

(33) The participating States will protect the ethnic, cultural, linguistic and religious identity of national minorities on their territory and create conditions for the promotion of that identity. They will take the necessary measures to that effect after due consultations, including contacts with organizations or associations of such minorities, in

accordance with the decision-making procedures of each State.

Any such measures will be in conformity with the principles of equality and non-discrimination with respect to the other citizens of the participating State concerned.

(34) The participating States will endeavour to ensure that persons belonging to national minorities, notwithstanding the need to learn the official language or languages of the State concerned, have adequate opportunities for instruction of their mother tongue or in their mother tongue, as well as, wherever possible and necessary, for its use before public authorities, in conformity with applicable national legislation.

In the context of the teaching of history and culture in educational establishments, they will also take account of the history and culture of national minorities.

(35) The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities.

The participating States note the efforts undertaken to protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of certain national minorities by establishing, as one of the possible means to achieve these aims, appropriate local or autonomous administrations corresponding to the specific historical and territorial circumstances of such minorities and in accordance with the policies of the State concerned.

(36) The participating States recognize the particular importance of increasing constructive co-operation among themselves on questions relating to national minorities. Such co-operation seeks to promote mutual understanding and confidence, friendly and good-neighbourly relations, international peace, security and justice.

Every participating State will promote a climate of mutual respect, understanding, co-operation and solidarity among all persons living on its territory, without distinction as to ethnic or national origin or religion, and will encourage the solution of problems through dialogue based on the principles of the rule of law.

(37) None of these commitments may be interpreted as implying any right to engage in any activity or perform any action in contravention of the purposes and principles of the Charter of the United Nations, other obligations under international law or the provisions of the Final Act, including the principle of territorial integrity of States.

(38) The participating States, in their efforts to protect and promote the rights of persons belonging to national minorities, will fully respect their undertakings under existing human rights conventions and other relevant international instruments and consider adhering to the relevant conventions, if they have not yet done so, including those providing for a right of complaint by individuals.

(39) The participating States will co-operate closely in the competent international organizations to which they belong, including the United Nations and, as appropriate, the Council of Europe, bearing in mind their on-going work with respect to questions relating to national minorities.

They will consider convening a meeting of experts for a thorough discussion of the issue of national minorities.

(40) The participating States clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-semitism, xenophobia and discrimination against anyone as well as persecution on religious and ideological grounds. In this context, they also recognize the particular problems of Roma (gypsies).

They declare their firm intention to intensify the efforts to combat these phenomena in all their forms and therefore will

(40.1) Take effective measures, including the adoption, in conformity with their constitutional systems and their international obligations, of such laws as may be necessary, to provide protection against any acts that constitute incitement to violence against persons or groups based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-semitism;

(40.2) Commit themselves to take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property;

(40.3) Take effective measures, in conformity with their constitutional systems, at the national, regional and local levels to promote understanding and tolerance, particularly in the fields of education, culture and information;

(40.4) Endeavour to ensure that the objectives of education include special attention to the problem of racial prejudice and hatred and to the development of respect for different civilizations and cultures;

(40.5) Recognize the right of the individual to effective remedies and endeavour to recognize, in conformity with national legislation, the right of interested persons and groups to initiate and support complaints against acts of discrimination, including racist and xenophobic acts;

(40.6) Consider adhering, if they have not yet done so, to the international instruments which address the problem of discrimination and ensure full compliance with the obligations therein, including those relating to the submission of periodic reports;

(40.7) Consider, also, accepting those international mechanisms which allow States and individuals to bring communications relating to discrimination before international bodies.

(41) The participating States reaffirm their commitment to the human dimension of the CSCE and emphasize its importance as an integral part of a balanced approach to security and co-operation in Europe. They agree that the Conference on the Human Dimension of the CSCE and the human dimension mechanism described in the section on the human dimension of the CSCE of the Vienna Concluding Document have demonstrated their value as methods of furthering their dialogue and co-operation and assisting in the resolution of relevant specific questions. They express their conviction that these should be continued and developed as part of an expanding CSCE process.

(42) The participating States recognize the need to enhance further the effectiveness of the procedures described in paragraphs 1 to 4 of the section on the human dimension of the CSCE of the Vienna Concluding Document and with this aim decide

(42.1) To provide in as short a time as possible, but no later than four weeks, a written response to requests for information and to representations made to them in writing by other participating States under paragraph 1;

(42.2) That the bilateral meetings, as contained in paragraph 2, will take place as soon as possible, as a rule within three weeks of the date of the request;

(42.3) To refrain, in the course of a bilateral meeting held under paragraph 2, from raising situations and cases not connected with the subject of the meeting, unless both sides have agreed to do so.

(43) The participating States examined practical proposals for new measures aimed at improving the implementation of the commitments relating to the human dimension of the CSCE. In this regard, they considered proposals related to the sending of observers to examine situations and specific cases, the appointment of rapporteurs to investigate and suggest appropriate solutions, the setting up of a Committee on the Human Dimension of the CSCE, greater involvement of persons, organizations and institutions in the human dimension mechanism and further bilateral and multilateral efforts to promote the resolution of relevant issues.

They decide to continue to discuss thoroughly in subsequent relevant CSCE fora these and other proposals designed to strengthen the human dimension mechanism, and to consider adopting, in the context of the further development of the CSCE process, appropriate new measures. They agree that these measures should contribute to achieving further effective progress, enhance conflict prevention and confidence in the field of the human dimension of the CSCE.

(44) The representatives of the participating States express their profound gratitude to the people and Government of Denmark for the excellent organization of the Copenhagen Meeting and the warm hospitality extended to the delegations which participated in the Meeting.

(45) In accordance with the provisions relating to the Conference on the Human Dimension of the CSCE contained in the Concluding Document of the Vienna Follow-up Meeting of the CSCE, the third Meeting of the Conference will take place in Moscow from 10 September to 4 October 1991.

COPENHAGEN, *June 29, 1990.*

CHAIRMAN'S STATEMENT ON THE ACCESS OF NON-GOVERNMENTAL ORGANIZATIONS AND THE MEDIA TO MEETINGS OF THE CONFERENCE ON THE HUMAN DIMENSION

The Chairman notes that the practices of openness and access to the Meetings of the Conference on the Human Dimension, as they were applied at the Vienna Meeting and as contained in Annex XI of the Concluding Document of that Meeting, are of importance to all participating States. In order to follow and build upon those practices at forthcoming CSCE meetings of the Conference on the Human Dimension, the participating States agree that the following practices of openness and access should be respected:

Free movement by members of interested non-governmental organizations (NGOs) in the Conference premises, except for the areas restricted to delegations and to the services of the Executive Secretariat. Accordingly, badges will be issued to them, at their request, by the Executive Secretariat;

Unimpeded contacts between members of interested NGOs and delegates, as well as with accredited representatives of the media;

Access to official documents of the Conference in all the working languages and also to any document that delegates might

wish to communicate to members of interested NGOs;

The opportunity for members of interested NGOs to transmit to delegates communications relating to the human dimension of the CSCE. Mailboxes for each delegation will be accessible to them for this purpose;

Free access for delegate to all documents emanating from interested NGOs and addressed to the Executive Secretariat for the information of the Conference. Accordingly, the Executive Secretariat will make available to delegates a regularly updated collection of such documents;

Further undertake to guarantee to representatives of the media:

Free movement in the Conference premises, except for the areas restricted to delegations and to the services of the Executive Secretariat. Accordingly, badges will be issued to them by the Executive Secretariat upon presentation of the requisite credentials;

Unimpeded contacts with delegates and with members of interested NGOs;

Access to official documents of the Conference in all the working languages.

The Chairman notes further that this statement will be an Annex to the Document of the Copenhagen Meeting and will be published with it.●

JACK KEMP AND THE DEMOCRATIC-CAPITALIST IDEAL

● Mr. KASTEN. Mr. President, the world yesterday observed the 200th anniversary of the passing of Adam Smith—the moral philosopher and economist who truly deserves the title "Architect of Modern Prosperity."

America has become the greatest power on Earth—and a hope to all nations—because we have applied Adam Smith's lessons of liberty to our public life.

But truth—to be effective in people's lives—has to be spread and championed. Today, the No. 1 advocate for the humanistic ethics and economics of Adam Smith is my good friend, the Honorable Jack Kemp, U.S. Secretary of Housing and Urban Development.

Secretary Kemp recently took the message of Adam Smith back to its birthplace. I ask that the text of his remarks in Edinburgh, Scotland, be included in the RECORD, along with an assessment of Smith by the editors of the Economist.

The material follows:

(Remarks by Secretary Jack Kemp)

A DEMORACTIC CAPITALIST MANIFESTO AND AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF CITIES, EDINBURGH, SCOTLAND, JUNE 29, 1990

Ladies and gentlemen, I am honored to be able to address this Wealth of Nations: 1990 World Business Conference. It is fitting that we should hold this conference in Edinburgh, Scotland, so close to the place where Adam Smith last looked upon this earth 200 years ago.

Yet, if he were here today, I suspect that even more than the speeches, Smith would be thrilled by the fact that Europe is celebrating the occasion by re-embracing the principles and ideas he espoused in his "An Inquiry into the Nature and Causes of the Wealth of Nations." Indeed, isn't it incredible that the whole world is beginning to rediscover the timeless truths and ideas he laid out in 1776.

Just imagine * * * since the dawn of history * * * all at once * * * in exactly the same year * * * within a few months of each other * * * from opposite sides of the Atlantic * * * two inspired men * * * one a professor of moral philosophy, the other the fiery architect and poet of American Independence * * * gave the world the twin pillars of free society—the moral and inalienable rights to political and economic freedom. Smith's The Wealth of Nations and Jefferson's Declaration of Independence were then and remain today the greatest charters of freedom ever written.

Adam Smith and Thomas Jefferson didn't write a recipe for just individuals to gain wealth; they didn't write just for Anglo-Saxons, Americans, and English-speaking industrialized nations; they didn't describe how America or Britain alone could be free and create wealth and opportunity. They gave witness that free men and women in countries large or small, in any hemisphere or climate, no matter what their color or creed could govern themselves and create wealth, prosperity, and opportunity for all time to come.

In the 19th century, Abraham Lincoln's greatest insights concerning the rights of all human beings to democracy and equality of opportunity came right out of Jefferson and Smith. He said, "Any people anywhere, being inclined and having the power, have the right to rise up, and shake off the existing government, and form a new one that suits them better. This is a most valuable—a most sacred right—a right, which we hope and believe is to liberate the world."

America's foreign policy, and that of our friends and allies in Europe and Asia, has, at its best, long sought to advance the cause of freedom and democracy around the world. But two great things have changed since the end of the Second World War. Europe and Japan have prospered, as we had hoped, and taken their rightful place as world powers. Second, the Soviet Union now holds out to us the hope that it will not be the threat to political order in the future that it has been in the past.

Today, while we do not have to use exactly the same means to achieve a free international order, it is essential, in my view, to maintain and strengthen our friendships and alliances. We must also open our minds, as well as our borders, to the possibilities that lay to the East and to the South.

At this moment of such dramatic change in the world order, it has become increasingly fashionable for some on both sides of the Atlantic to claim that America's ideas and influence in the world are waning. From Yale Professor Paul Kennedy to French minister Jacques Attali, we hear of the "decline of America." Oddly enough, this thesis is just the opposite of Attali's countryman Jean Jacques Servan-Schreiber, who wrote two decades ago with great alarm about an American challenge which he said was threatening to dominate Europe's future.

Both views are not only factually wrong, but in my opinion, extremely naive and pessimistic. But one thing we must say of Mr. Attali and other doomsayers is that at least they are consistent. As a good and loyal socialist, Mr. Attali appears to have little understanding of Smith. He views political economy as essentially a zero-sum game, hence his emphasis on government welfare and redistribution of existing wealth, rather than the creation of new wealth by free people, free markets, free trade, and free democratic societies.

Minister Attali's latest thesis merely transfers this zero-sum theory to politics. In his view, apparently there is only so much greatness to go around. Thus for Europe to gain, America must lose; and for America to proper, Asia must suffer. (or reduction ad absurdum . . . America will become but the breadbasket of Europe.)

My friends, this notion is antithetical to all we've learned about what makes nations great. Is Mr. Attali arguing that America would be a greater nation if we had done all in our power to prevent the postwar recoveries of France, Britain, Germany, and Japan? Does he seriously believe America would be more important if it were the only wealthy nation in a world of mediocrity? Surely, America is better off as a prospering nation in a thriving international economy, just as a thriving global economy is a benefit to America.

Fortunately, most Americans and Europeans agree with Adam Smith's teaching that the growth of Europe is good for America, and the growth of America is good for Europe. And I believe profoundly that a strong Asia is good for both America and Europe. In fact, as Presidents Bush and Salinas expand the trade relationship between the U.S. and Mexico in a western hemisphere free trade zone—like the one we have with Canada—and someday soon extend it to Central and Latin America, the Pacific Rim nations and Europe will also share in new markets and new prosperity from expanding global trade.

The facts do not bear out a dismal picture of the world in which the United States is becoming an enfeebled economic power, losing its leadership in the world.

To the contrary, the last eight years have witnessed a tremendous economic expansion that is the longest in U.S. peacetime history. The U.S. economy is nearly a third larger than it was a decade ago. U.S. manufacturing productivity is now remarkably near to that of Japan in the 1980s. Since 1981, more than 21.5 million jobs have been created—more jobs than have been created in the last decade in all of Europe, Canada, and Japan combined. More than four million new business enterprises, relatively low inflation, and higher standards of living for most of our people testify to the strength of the U.S. economy. And, according to the U.S. Treasury figures, federal income taxes paid by the top one percent of taxpayers has surged by over 80%.

I am particularly pleased to have been helpful in rediscovering the supply-side principles of classical economics. We dramatically lowered the marginal tax rates from 70% down to 28%. And, if a Democratic Congress would give President Bush his recommended reduction in the capital gains tax, the impact would be even more dramatic.

The U.S. has problems, to be sure. But the U.S. budget deficit has already dropped significantly, measured as a portion of the total economy. And the U.S. trade deficit, often cited as a sign of weakness, is in reality a symbol of capital flight from abroad seeking the thriving and profitable opportunities for new investment in the United States.

The U.S. savings rate, often cited as a sign of overconsumption is also misunderstood. It is simple arithmetic to figure out that when the U.S. economy expands by one third and the U.S. savings rate remains roughly constant, that the U.S. savings pool

has accordingly expanded signficantly over the last eight years. In addition, savings figures alone are no assurance, nor measure of prosperity. Witness the Soviet Union and other command economies which have enormous pools of savings, but few opportunities either to spend those funds or invest them in productive activities.

With all due respect, it's not the economy of the United States that is in decline, nor is it the entrepreneurial capitalist model. Professor Paul Kennedy and the other pessimists should have been writing about the decline of state directed economies.

At Stanford University, on his recent visit to America, President Gorbachev admitted that the cold war is over, but then suggested that it doesn't matter who won it. Well, with all due respect, it does matter—it matters a great deal who won and why. I hasten to add that our arms and missiles didn't win the cold war—it was the power of western ideas, the triumph of liberal democracy and free market economies over the stifling hand of communist and socialist economies and dictatorships.

Isn't it incredible that in Moscow, more people are lining up at McDonalds than at Lenin's tomb! I was fascinated recently seeing on satellite TV, demonstrators carrying a banner in Red Square that read "Workers of the world, we're sorry . . . We've seen the future, it doesn't work." I've recently read that Mayor Gavril Popov wants to turn downtown Moscow into a free-enterprise zone and turn public housing over to the residents. Pyotr Filipov of the Leningrad City Council is even more explicit—he says "we must quickly hurry through Marxism-Leninism, through Socialism, to Reaganism!"

By now you're wondering why President Bush's Secretary of Housing and Urban Development is so passionate and outspoken about the cause of spreading democracy and entrepreneurial capitalism around the world. Well, ever since President Bush appointed me, I've been travelling across the United States and visiting thousands upon thousands of poor people living in some of the most desolate and despair-ridden communities in the world.

I've been struck by how similar the problems of America's inner cities are to those of Eastern Europe and even Third World economies. Ironically, both are suffering from the same malady. The malady is socialism.

Because, you see, in America we really have two economies. One economy—our mainstream economy—is democratic capitalist, market-oriented, entrepreneurial, and incentivized for working families whether in labor or management. The mainstream economy rewards work, investment, savings, and productivity. Incentives abound for productive human, economic, and social behavior.

But there is another economy—a second economy—that is similar in respects to the Eastern Europe or Third World "socialist" economy, if you will. It is almost totally opposite to the way people are treated in our mainstream capitalist economy, and it predominates in the pockets of poverty throughout urban and rural America. This economy has barriers to productive human and social activity and a virtual absence of economic rewards.

In the U.S., government tax, regulatory, and entitlement programs, set-up out of a desire to help the poor, in reality have led to a counterproductive economy. Instead of independence, they led to dependency. In an effort to minimize pain, they maximized welfare bureaucracy and social costs that are near pathological.

We in the Bush Administration are making a private sector war on poverty one of our highest priorities. We believe that strengthening the link between effort and reward, increasing incentives for entrepreneurship, job creation, homeownership, and private property can restore hope and opportunity to people in inner city pockets of poverty. We believe that ideas such as Enterprise Zones, where the capital gains tax rate would be eliminated in distressed communities; turning low-income people into homeowners; abolishing income and Social Security taxes on low-income workers; and expanding low-income housing vouchers can help create that ladder of opportunity out of poverty. These are the policies that can work not just in inner cities, but in less developed countries across the world.

I believe we're at a point in history when what we know about creating wealth and opportunity in America's inner cities can work not only in America, but in Eastern Europe; and not only in Europe, but in the Third World, and indeed, in the Soviet Union itself.

Conventional wisdom on the left and the right all too often says the same thing about both inner city America and Eastern Europe—they're both incredibly poor . . . lacking skills and resources . . . too much debt . . . and underdevelopment . . . where recovery, if possible at all, will be painful, hard to endure, And of such duration that not much can be done for either except inject massive doses of government assistance and promise redistributon of wealth. But, ladies and gentlemen, this is exactly the same thing people said and believed about post-war West Germany.

Too few remember that in contrast today, West Germany and all of Western Europe were paralyzed and prostrate in 1945. People had to stand in endless lines waiting for rations of food and other essentials. Their life savings and pensions could only be redeemed in worthless currency. Barter was a way of life. There were price and wage controls, but few jobs, little production, and virtually no investment.

Devastated post-war Berlin was the essence of a zero-sum society. History records that young men fought with senior citizens for food scraps in the ruins and trash bins. The Reichsmark was all but abandoned and replaced by the "Zigaretten Wirtschaft" or cigarette economy. A carton of Lucky Strikes became a unit of account. Food, construction costs, workers' wages . . . just about everything was priced in cigarettes. The German press speculated about a possible U.S. loan of 50 million cartons of cigarettes to support the worthless Reichsmark!

People were losing hope that life would ever rise above this bleak level. In the United States there were worries that democracy itself would fail if prosperity could not be restored. And all of a sudden, something happened.

A finance minister who had studied and read the 18th century writings inquiring into "the nature and causes of the wealth of nations" came to the forefront. In just a few strokes of incredible political courage, vision, and entrepreneurship, Ludwig Erhard changed the course of German history and thus Western hopes for reconstruction.

On one day in June, the 20th of June, 1948, he reformed the currency by abolishing the Reichsmark and substituting the Deuschemark. He crushed inflation by tying the new currency de facto to the stable exchange rate system worked out at Bretton Woods and thus established the integrity of this new West German numeriare.

Henry Wallich, a one time U.S. Federal Reserve Board member, in his book, the Mainsprings of German Revival wrote "[T]he spirit of the country changed overnight. The grey, hungry and dead-looking figures wandering about the streets in their everlasting search for food came to life as, pocketing their 40 D-marks, they went on their first spending spree."

On June 22, because inflation had pushed West German people into extremely high tax rates, Erhard indexed the tax brackets to apply to high incomes, dramatically lowering effective tax rates.

On July 7, he abolished rationing, cancelled hundreds of regulations, and eliminated wage and price controls—against the advice of the U.S. State Department and the military command.

According to the history books, within a year, West German workers were eating more and better food than those in austerity-ridden Britain, which had turned to Socialist government, and, incidentially, had received more Marshall aid. In two years West Germany's real income increased 40 percent. By 1952 her exports had risen 600 percent. Over 12 years from 1950 to 1962, while the U.S. GNP was increasing a healthy 50%, West Germany's rose at a rate five times our own—247 percent. Within a generation an autocratic nation twice defeated in the century's most destructive wars had become not only a strong democracy and a world economic power, but a trusted friend and ally.

What caused this wirtschaftswunder—the economic miracle? Well, first of all, it was not a miracle! Chancellor Adenauer and his Economics Minister Ludwig Erhard both said the Marshall Plan had little to do with it. They didn't try socialism, and it wasn't some government industrial policy. It certainly wasn't a World Bank or IMF-imposed austerity program.

Ludwig Erhart did not discover some magic formula or experience a sudden utopian vision. He simply, yet profoundly applied the socially responsible free market prescriptions of Adam Smith's classical economics.

He established a stable currency, and maintained its integrity as a storehouse of value and a unit of account.

He allowed the markets to work freely in setting prices and wages, and in allocating resources by elmininating, in one bold stroke, all rationing and price controls.

He dramatically reduced the steeply graduated tax rates on working, saving, investing, and producing.

He applied orderly principles of law to private property, patents, and contracts.

And, he began to weave a safety net to take care of those who, for one reason or another, couldn't take care of themselves.

Erhard's reforms all rested on one fundamental principle of democracy: that prosperity, wealth, and opportunity can only be created by people acting freely and entrepreneurially—by strengthening the people and relying on their talents and potential—not government planning. Ladies and gentleman, the key to wealth and prosperity is allowing people freedom—freedom to work, to save, freedom to own their own property and homes, to succeed, and yes, to fail, but try again. The ultimate cause of the wealth

of nations, and indeed, the wealth of cities, is people.

In my view, Eastern Europe's problems are now worse than those of post-war West Germany. The governments of Eastern Europe cannot expect to bring back growth without using the same classical economic approaches that restored prosperity to West Germany, helped revitalize the American economy under the policies of Ronald Reagan, and indeed are the hallmark of the dynamic nations of the Pacific Rim.

Eastern Europe really doesn't need more development banks; it doesn't need industrial policies; it doesn't need government-to-government grants and massive infusions of Marshall-style aid. The people themselves are a source of wealth. All they need is opportunity and the ideas that have been creating wealth and entrepreneurship in the West since the age of Adam Smith.

In what George Gilder, in his book, Microcosm, called the quantum age of the new technology, our greatest assets are not the wealth we see around us, but in the potential which is unseen in the economy of the human mind. With computers able to transmit the entire information contained in the U.S. Library of Congress in literally a flash of light, the capitalist market place has left the centrally-directed economies in the dustbin of history. The new waves of technology and the information revolution have left the socialist economies with but one choice: transform or descend into perpetual decline.

As President Bush said in his inaugural address: "We know what works—freedom works . . . We know how to secure a more just and prosperous life for man on earth: through free markets, free speech, free elections, and the exercise of free will unhampered by the state." The most important lesson of history is that the right policies lead to the right results.

Yet the sudden shift away from communist and socialist central planning has sometimes resulted in great pessimism about the world order. Here are people who have lived with the heavy boot of government central planning and dictatorship on their necks for some forty or fifty years—suddenly breathing the air of freedom and hope—only to be told by some in the West that what they will experience is years of pain and unemployment, sacrifice and difficulty.

To use an example from the left, Alexander Cockburn says that free market reforms would condenm Eastern Europe to permanent third-rate status. He offers no better solution than replacing hard Soviet socialism with "soft" Swedish socialism.

Jeffrey Sachs from Harvard, using the conventional wisdom, advised Poland's first noncommunist government to impose devaluations and austerity. Poland increased taxes, rationed credit, postponed privatization of enterprises, imposed strict wage controls, dramactically devalued the zloty, raised consumer prices, and crushed demand, causing so much pain and bickering that the great movement of Solidarity is breaking up into factions and disputes.

The Washington Post recently reported that the IMF is prescribing what it always prescribes—dramatic price increases in return for imposing more burdensome debt on overextended governments and people.

Well, you can't enrich nations by impoverishing their people. Indeed, neither Eastern Europe nor the U.S.S.R. is poor. There is tremendous wealth, creativity, and innovation in their people. After all, it is the mind and talents of a free people—not their material resources—which is the source of all wealth. The answer to poverty is not austerity. Nor is the answer international welfare. The real answer is economic growth that flows from the freedom of individuals to work, save, invest in each other, and produce new wealth. The role of government is to protect these freedoms, and in so doing invite economic growth and an end to poverty.

This means preserving the value of the people's money, not cheating them out of their savings through devaluation. This will encourage them to produce and save more.

This means defending their property rights through the rule of law, so the people need not fear the confiscation of the fruits of their labors. This will encourage them to labor more.

This means levying taxes carefully, permitting the people to keep as much of their production as possible, thereby encouraging them to produce more.

This means taxing solely to raise revenues for the legitimate needs of the state, not to punish wealth and success to promote egalitarian ends.

This means preserving the competition of the marketplace at all levels of enterprise, resisting the impulse to protect big business and state enterprise at the expense of young and small entrepreneurs who can ultimately create most of the new wealth.

These are the lessons we have learned in the West in the last 200 years, beginning with the linkage of Jeffersonian democracy and Adam Smith's economic system of natural liberty. We have relearned and refined these lessons most recently with Ludwig Erhard's miracle in Germany, Ronald Reagan's revolution in the United States, Margaret Thatcher's revitalization of Great Britain, and now with President Bush's call for the 90s to be the decade of global democracy.

Looking beyond Europe 33 years ago, the great visionary and leader, Winston Churchill, predicted that "As long . . . as the free world holds together . . . and maintains it strength, Russia will find that Peace and Plenty have more to offer than exterminatory war . . . It may well be if wisdom and patience are practiced that Opportunity-for-All will conquer the minds . . . of mankind." How prophetic Churchill was! Just to survive, the Soviet Union must eventually adopt democratic capitalism and free markets. As champions of freedom, we who have long supported socially responsible free enterprise will be the first to welcome Russia back into the family of nations.

In fact, I hope to return to Scotland to help celebrate the ultimate fulfillment of Adam Smith's revolutionary ideal. Because he discovered the "nature and causes of the wealth of nations," we can increasingly look ahead to a world becoming even more united in freedom and democracy, peace and prosperity.

[From the Economist, July 14, 1990]

THE MODERN ADAM SMITH

In 1981, when Ronald Reagan moved into the White House, it was suddenly fashionable for men in Washington, DC, to wear ties bearing the profile of an eighteenth-century Scottish philosopher. Ten years later the same profile can occasionally be seen on T-shirts in Moscow, Warsaw and Prague. Adam Smith died 200 years ago, on July 17, 1790. The system of economic organisation that he so memorably explained and propounded has never felt better.

Smith did not invent economics, Joseph Schumpeter observed that "The Wealth of Nations" did not contain "a single analytic idea, principle or method that was entirely new". Smith's achievement was to combine an encyclopaedic variety of insight, information and anecdote, and to distill from it a revolutionary doctrine. The resulting master-piece is the most influential book about economics ever published. Remarkably, much of it speaks directly to questions that are still of pressing concern.

The pity is that Smith's great book, like most classics (of 900 pages), is more quoted than read. All sides in today's debates about economic policy have conspired to peddle a conveniently distorted version of its ideas. It is fairly safe to assume that a reincarnated Smith would not be a member even of Mr. Neil Kinnock's Labour party; and if his spirit is still monitoring events, it will undoubtedly have celebrated the collapse of communism. But it must also long to meet the politicians who have taken charge of a fine reputation and not-so-fine profile, and put them right on one or two points.

GREED IS NOT GOOD

Today, Smith is widely seen as the intellectual champion of self-interest. This is a misconception. Smith saw no moral virtue in selfishness; on the contrary, he saw its dangers. Still less was he a defender of capital over labour (he talked of the capitalist's "mean rapacity"), or of the rising bourgeoisie over the common folk. His suspicion of self-interest and his regard for the people as a whole come through clearly in one of his best-known remarks: "People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices."

Far from praising self-interest as a virtue, Smith merely observed it to be a driving economic force. In "The Wealth of Nations" he explained how this potentially destructive impulse is harnessed to the social good. What is to prevent greedy producers raising their prices until their customers can afford to pay no more? The answer is competition. If producers raise their prices too high, they create an opportunity for one or more among them to profit by charging less and thus selling more. In this way competition tames selfishness and regulates prices. At the same time it regulates quantities. If buyers want more bread and less cheese, their demand enables bakers to charge more and obliges cheesemongers to charge less. Profits in breadmaking would rise and profits in cheesemaking would fall; effort and capital would move from one task to the other.

Through Smith's eyes, it is possible to marvel afresh at this fabulously powerful mechanism and to relish, as he did, the paradox of private gain yielding social good. Only more so, for the transactions that deliver a modern manufactured good to its customer are infinitely more complicated than those described by Smith. In his day, remember, the factory was still a novel idea: manufacturing meant pins and coats.

A modern car is made of raw materials that have been gathered from all over the world, combined into thousands of intermediate products, sub-assembled by scores of separate enterprises. The consumer need know nothing of all this, any more than the worker who tapped the rubber for the tyres knows or cares what its final use will be. Every transaction is voluntary. Self-interest and competition silently process staggering

quantities of information and direct the flow of goods, services, capital and labour—just as in Smith's much simpler world. Farsighted as he was, he would surely have been impressed. Mind you, modern man has also dicscovered something else. With great effort and ingenuity, and the systematic denial of personal liberty, governments can supplant self-interest and competition, and replace the invisible hand of market forces with collective endeavour and a visible input-output table. The result is a five-year waiting list for Trabants.

Because Smith was convinced that the market would, literally, deliver the goods, he wanted it, by and large, left alone. He said that governments should confine themselves to three main tasks: defending the people from the "violence and invasion of other indepedent societies"; protecting every member of society from the "injustice or oppression of every other member of it"; and providing "certain public works and certain public institutions, which it can never be for the interest of any individual, or small number of individuals, to erect and maintain."

Each of these jobs arises because the market in some way fails. In the first two cases—collective defence and the administration of justice—the failure is the so-called free-rider problem. People disguise what they are willing to pay for a service that must be provided to everybody or not at all; they want to consume it and let others meet the cost. However, the third job—the provision of "certain public works and certain public institutions"—goes much wider. Indeed, to modern minds, it threatens to be all-encompassing. It recognises not only the free-rider problem but also other species of market failure—notably, the effects of private transactions on third parties, or "externalties". Smith had in mind roads, public education, and help for the destitute. As it turned out, millions of teachers, nurses, firemen, postmen, rubbish collectors, bus drivers and 57,000 varieties of civil servant have since marched through this opening.

WELCOME TO THE TWENTIETH CENTURY

Smith's thinking already seems to permit a great deal of government intervention. Add some modern economics and the floodgates open. For instance, theorists have shown that if just one price in an economy is different from the price under competition, efficiency may require every other price to be somewhat distorted as well. Less government intervention, it seems to follow, cannot be assumed to be better. Competition itself has changed out of recognition. Modern economies, it is said, are driven not by countless small producers, but by handfuls of giant enterprises and monopolistic trade unions. And the rapid pace of industrial change has made the externality of pollution far more obvious than before. Smith, admittedly, is a bit thin on global warming.

So "The Wealth of Nations" is no longer relevant? Quite the reverse: the world needs it more than ever. Despite the collapse of communism, despite the triumph of market economics, despite Ronald Reagan and Margaret Thatcher, a big role for the state in nearly every sphere of economic life is accepted uncritically almost everywhere. This is not because the theories of market failure have won the argument. They have not. It is because people have grown so accustomed to pervasive government that they no longer even notice it.

Above all, many have forgotten something that Smith saw clearly: that every advantage granted by government to one part of the economy puts the rest at a disadvantage. Accordingly, he talked not of "intervention"—a too-neutral word—but of "preference" and "restraint". Modern governments offer preference as though it costs nothing; the beneficiaries demand it as of right. Consider a small but revealing example from Mrs. Thatcher's pro-market Britain. Self-appointed representatives of Britain's struggling film industry recently visited the prime minister to ask for a subsidy. Their arguments were (a) the subsidy would be self-financing, thanks to the taxes that would be paid on all the extra income the industry would make, (b) jobs would be spared in the industry and (c) it would be a scandal if Britain no longer made lots of films. Nobody laughed. In fact, the appeal met with a warm response; that evening happy newsreaders announced that £5m of subsidy would indeed be found.

What would Adam Smith have made of this? He would have pointed out that subsidies are financed not by themselves but by taxes. He would have said that taxpayers, forced to spend money on films they do not want, will spend less on other things they do want, so that other producers will sell less, earn less and employ fewer people. And he would have said there is no reason on earth why consumers need the prime minister or Sir Richard Attenborough to tell them whether Britain needs a film industry.

But Smith went further than revealing the penalty in every preference. He also understood that ministers, like markets, fail. A great virtue of unfettered competition, he said, was that "the sovereign is completely discharged from a duty, in the attempting to perform which he must always be exposed to innumerable delusions, and for the proper performance of which no human wisdom or knowledge could ever be sufficient." Many of the reasons why markets fail are also reasons why governments fail at the same task. If the consumer refuses to reveal his preferences in a market setting, how are governments to discover them? All too often, moreover, government intervention is itself a cause of the market breaking down—which becomes the reason for further rounds of intervention, and so on. In Britain think of tax preferences for housing, rent controls, planning regulations; in America think of tax preferences for borrowing, deposit insurance, leveraged buyouts, financial-market regulation.

In one crucial respect, Smith's arguments are even more powerful now than in his day. Naturally, he favoured free trade: "By means of glasses, hotbeds, and hotwalls, very good grapes can be raised in Scotland, and very good wine too can be made of them at about thirty times the expense for which at least equally good can be bought from foreign countries. Would it be a reasonable law to prohibit the importation of all foreign wines, merely to encourage the making of claret and burgundy in Scotland?" Two centuries later, free trade is not just a matter of the cheapest supply; it is also the best way to force producers that might otherwise be near-monopolies to compete. It is perfect folly to complain that today's big companies render the invisible hand powerless, and to conclude that barriers to trade must go up: trade and competition need each other more than ever before.

A SCIENCE THAT WORKS

Smith was a pragmatist. The principles he expounded on the proper role of government are flexible—if anything, too flexible. They are a reminder that imperfect markets are usually cleverer than imperfect governments, but they cannot draw a line to separate good intervention from bad. If governments and voters could be guided by two Smithian precepts, however, the mainly market system that has worked so well would work even better.

First, the competitive clash of self-interest against self-interest, however imperfect, has built-in safeguards. Before governments exert their monopoly power to displace it, they must justify themselves. Let the burden of proof always be on them. Second, when preference or restraint are judged to be necessary, use market forces to apply them. Tariffs are better than quotas; taxes on pollution are better than bans or direct controls; allocating resources by price (eg, in health or education) is better than allocating them by fiat, even if the services are then provided "free" (but never forget those inverted commas) to their consumers.

The anniversary on July 17th will be an occasion for politicians to laud Adam Smith, or to dismiss his views as applying to another world. All of them would do well to spend an hour or two with his greatest work.●

U.S. GLOBAL POWER: ALL MUSCLE, NO BRAINS?

● Mr. HEINZ. Mr. President, a man who lifts weights to increase his strength, and yet neglects to eat, would be considered a foolish man. Any strength gained would be short-lived, as his body would crumble in an undernourished mass.

Today, the United States is such a man. And like him, this country is neglecting its economic nourishment for the sake of military strength. As a percentage of GNP, U.S. research and development [R&D] spending went from 2.1 percent in 1978 to 2.6 percent in 1987.

This gain seems impressive until one looks more closely at the two components which make up this figure, commercial R&D and defense R&D. From that perspective, in the same 9-year period U.S. commercial R&D spending increased only two-tenths of 1 percent from 1.6 to 1.8 percent. Thus, our impressive increase in total R&D expenditures masks a serious imbalance between the military and civilian sectors, and U.S. economic strength is the loser for it. Meanwhile, in that same period, Japanese commercial R&D expenditures jumped from 1.9 to 2.7 percent of GNP. The same trends have continued to the present day.

As a result of this growing disparity, the United States, despite its awesome military capability, is beginning to feel the effects of internal economic neglect as the potential for our continued exercise of world economic leadership in the 21st century steadily slips from our grasp. Like consumer electronics and civil aviation before them, new critical technologies, the backbone of any country's future economic competitiveness, are being commercially developed and produced elsewhere.

That is the clear message of "Emerging Technologies: A Survey of Technical and Economic Opportunities." This report, recently released by the Commerce Department, has put together an indepth study of 12 emerging technologies, their projected annual sales by the year 2000, and the status of the United States industry in each category vis-a-vis its main economic competitors, Japan and the European Community. The outlook for American industry in such critical, high-growth sectors as advanced materials and optoelectronics is far from bright. In fact, Mr. President, it is cause for serious concern.

I have spoken in this Chamber before about the erosion of our industrial base, and this report, among others, only confirms my previous remarks. In the survey are two report cards, one detailing the current standing of U.S. industry in these 12 sectors, the other discussing future trends for U.S. competitiveness in these areas.

Regarding the current status of our domestic industry, the United States is behind Japan in five sectors and ahead in six. In such a competitive age, this achievement is nothing to be ashamed of. Furthermore, against the EC our record is even better as we are behind in only one sector and ahead in nine. However, continued economic growth is predicated on developing and producing the cutting-edge technologies of tomorrow. Thus, the second report card on trends in world competitiveness in these sectors takes on a greater significance, and in this area the fundamental weakness of the American economy is manifest.

In the race to develop and market the critical component products of the 21st century, the United States is either losing or losing badly to Japan in 9 of 12 sectors. We are holding our own vis-a-vis Japan in only three areas. Against the EC, the United States is either losing or losing badly in three sectors and is barely holding its own in six of them. Significantly, the United States is not gaining on Japan in any of the 12 emerging industries and is improving its position against the EC in just 3.

One of these sectors is high-density optical storage, of which I spoke earlier this month. Optical storage disks are the next generation of data storage technology. However, the few American producers of optical storage devices are either small, independent startups which are financially shaky, or large companies whose components and a majority of whose production come from Japan.

As the Commerce Department report clearly shows, this sector is a paradigm for several critical technology industries in the United States, industries which will represent over $350 billion in annual domestic sales alone by the year 2000. But the American public and many Members of Congress seem to want to ignore this fact. HDTV has become the be-all and end-all in the debate over U.S. competitiveness, and this obsession threatens to divert us from the broader message contained in this study. For our future economic health, such a narrow, short-term view must be enlarged. I hope to do this through a series of statements detailing more sectors like optical storage which must be successful domestic industries if the United States is to remain a leading economic and military power; yet they are neglected, unexplored, or surrendered to foreign competitors for the sake of short-term profit and imbalanced defense R&D spending.

The Congress, the Bush administration, and the American public must be made aware of the industrial crisis heading toward us full speed. As a body, we have invested heavily in our external military muscle, but we have failed miserably to nourish our internal economic might in the form of a first rate, flourishing emerging technology industrial base. Bemoaning the growing dependence on foreign suppliers for manufactured components in our defense systems, former Under Secretary for Defense, Robert Costello, said, "You can't fight a war with pizza parlors." I would take Costello's thoughts one step further and say that a country of pizza parlors is not worth defending.

That, Mr. President, is the message of the man who obsessively lifts weights but eats no food. Like him, the United States has built a world-class national security system, yet has neglected its domestic industrial base to the point where it may soon border on second class.

To revitalize and fortify our economic muscle while maintaining a solid national defense posture is the challenge we face in the 1990's and the next century. Therefore, we must develop more dual-use technology like sensors and superconductors than we ever thought possible. It is a momentous task, but I believe in this Nation and in its will to meet such a challenge. I hope, for the sake of my children and my children's children, that I am not mistaken.●

THE URGENCY OF THE WORLD POPULATION PROBLEM

● Mr. BOSCHWITZ. Mr. President, in recent weeks, I have spoken on the floor several times on the issue of world population growth. Today I am here in response to a recent article by Carl Haub in the Washington Post that underscores the urgency of this problem, and I would ask that the article be printed in the RECORD along with my statement.

The United Nations currently projects that the world population will peak at around 11 billion—more than double our current population—in the latter half of the next century. However, the truth may be even worse than that, according to Mr. Haub.

The U.N. projection assumes that fertility in all countries in the world will soon reach "replacement level," the level at which couples simply replace themselves without increasing population—a rate of approximately two children per woman.

Unfortunately, birth rates are now rising all around the world, even in industrialized countries. In the United States, for example, the fertility rate has risen from 1.7 in 1976 to 2.0 today, and is still climbing. If this continues, the U.S. population could reach 421 million by the year 2080.

And the situation is even worse in the developing nations. Many of these nations made progress in population growth during the 1970's, but fertility rates have risen again in recent years due to a lack of emphasis on this issue.

Despite the urgency of this problem, the United States has not done enough to fund international family planning efforts. This year, we will spend $273 million on these programs. I am pleased to see, however, that the House recently approved large increases in population assistance for fiscal year 1991, which could total as much as $347 million, depending on the Agency for International Development's use of some of their flexible funding.

I would urge my colleagues on the Senate Appropriations Subcommittee on Foreign Operations to follow the lead of the House and approve the same, if not even greater increases, in international population assistance. If they read Mr. Haub's article, I am sure they will agree with me on the urgency of the population problem.

The article follows:

[From the Washington Post, July 8, 1990]

2050: STANDING ROOM ONLY?

(By Carl Haub)

World population stands at 5.3 billion, with an additional billion due to arrive every 11 or 12 years. What ultimate size can be expected? When will the growth stop—if it ever does? Following the population-control progress of the 1970s, these questions lost much of their urgency. But recent developments suggest that the optimism was premature, and the '90s may be decisive in determining the final size of future world population.

Even in the most optimistic scenarios, the planet will gain a record 95 million more people each year during this decade. The conventional wisdom is that the number will peak at 10 to 11 billion in the latter half of the next century. (Even then, we will be looking at an India of 1.8 billion—a billion more than today. Nigeria will have 500 million, five times its present size and twice the current U.S. population.) This expected stabilization level derives from frequently cited projections by the United Nations and World Bank.

But projections are only as good as the assumptions on which they are based. And as we approach World Population Day on Wednesday (designated by the U.N. on the anniversary of the day that global population first reached 5 billion—July 11, 1987), many of our familiar assumptions have been cast into doubt.

One is that all countries will see their fertility someday arrive at the replacement level. "Replacement-level" fertility is achieved when each woman in a developed country has two children during her lifetime. At that rate, couples simply "replace" themselves without increasing the size of successive generations. Mathematically, replacement-level fertility is actually about 2.1 children per woman since not all women survive to or through their childbearing years.

The current U.N. projections assume that world population will reach replacement somewhere between 2010 and 2065, with totals ranging from 7.5 to 14.2 billion, with the middle series at 10.2. The spread between low and high prognoses is enormous: South Asia would plateau at anywhere from 2.7 to 4.2 billion; Africa from 1.4 to 4.4 billion. Two recent trends, however, suggest that the low figures are impossibly low and even the middle may not be high enough.

DEFERRED-BIRTH SYNDROME

One trend is a surprisingly sharp increase in the fertility rates of some industrialized countries—in many of which only recently the paramount demographic worry was population decline caused by very low birth rates.

Of course, fertility is still quite low in some developed countries and dropping in others. (Italy now has the world's lowest birth rate at 1.3 children per woman.) But in Sweden, the total fertility rate or TFR—the average number of children a woman will have during her lifetime if the age-specific birth rates of a given year were to remain unchanged—has risen to 2.0 after sinking to 1.6 in the early 1980s. West Germany, which set a world record in 1985 with a very low TFR of 1.28, is back up to 1.42. In the United States, the rate has risen from a low of 1.7 in 1976 to 2.0 today—and is still climbing. Are these increases prophetic of the future of less developed countries?

These "mini baby booms" are probably due to delayed childbearing in the latter half of the 1970s and early '80s, giving a false impression of extremely low lifetime fertility. Now that women are beginning to have the children whose birth they deferred, fertility is rising.

Do these seemingly tiny shifts in fertility really make much difference? Indeed they do. Consider the effect on the United States: The Census Bureau publishes an excellent set of projections offering alternative population scenarios based on different fertility rates. The middle (and most commonly used) projection foresees a total population of 292 million in 2080. Under that scenario, the population would peak in size in 2038 and would be slowly declining by 2080. This assumes a below-replacement TFR of 1.8—a reasonable assumption when the projection was prepared in 1988. Suppose, however, that we substitute a TFR of 2.2, as the bureau does in its "High Fertility" series. The result is a U.S. population of 421 million in the year 2080: 129 million higher than the middle series—and still growing at 20 million per decade.

The higher (2.2) TFR could easily occur in contemporary U.S. society, particularly if couples had more access to child-care. Yet just a ship that veers one degree off course will miss its destination by hundreds of miles, this small shift in TFR could result in a significant population difference.

REVERSING THE TIDE

A second and more troubling trend is the retreat of many developing nations from population progress of the past decade.

In the 1960s, the specter of never-ending growth was quite real. The world rate hit an all time high—2 percent per annum, enough to double the total every 35 years—as that decade ended, with little prospect of a slowdown. A 1963 cover story in U.S. News & World Report cited projects that population would rise from about 3 billion to 22 billion in 2050 and keep growing. Whereas famine and disease had once kept growth in check, better food distribution and medical services were producing a population boom, with the fastest growth rates in the poorer nations. Women in developing countries were averaging about six children each during their lifetime.

POPULATION MOMENTUM

A population does not cease growing even if fertility drops to "replacement" level (i.e., the two-child family) because of the large percentage of young potential parents. The graph below shows projected population for four countries in the year they are expected to reach replacement level, compared with the "ultimate" population when growth is expected to stop.

Charts and graphs are not printed in the RECORD.

WORLD POPULATION: NUMBER OF YEARS TO ADD EACH BILLION

	Year	Years to add
1st billion	1800	(1)
2d	1930	130
3d	1960	30
4th	1975	15
5th	1987	12
Projected		
6th	1998	11
7th	2008	10
8th	2019	11
9th	2033	14
10th	2051	18
11th	2 2100	49

[1] All human history.
[2] About.

Note.—The projections assume that the "two child family" will be attained by about the year 2030.

Then in the '70s, things began to change. Family planning programs in some countries began to receive greater acceptance, with notable successes in Indonesia, Costa Rica, South Korea and Taiwan. By the end of the decade, women in Third World countries were averaging about 4.5 children each. (China's population-control program was a major contributor: Fertility dropped from a late-'60s level of six children per woman to about 2.3 by 1980.) There was a flurry of speculation that the population explosion had been defused, and that optimism has persisted—dangerously—to this day.

True, during the '80s several countries continued dramatic birth-rate declines—Thailand and South Korea are notable examples. Others were not so successful: In India, Tunisia, the Philippines, Egypt and Indonesia the momentum seemed to drain from family-planning programs; in China, the birth rate actually rose again. Perhaps, demographers speculated, it is comparatively simple to bring fertility down to middle levels—say, from six to four children per woman—but much harder to reduce it to a two-child family.

High fertility is normally seen as a response to the perceived need for a large number of children to ensure old-age support for parents, to provide farm labor or to offset high infant mortality. It is hypothesized that as nations industrialize and urbanize, and mortality declines, preferred family size falls. This pattern is usually referred to as the "theory of demographic transition." While such theories often oversimplify the situation, the demographic transition describes the historical experience of developed countries fairly well.

The demographic transition took over 100 years in the developed countries. Today's developing countries do not have that time luxury, and family planning has become a critical factor in the transition process.

A primary goal of population policies today is to brake population growth, thereby buying breathing room for countries to deal with development issues such as rapid urbanization, environmental problems and demands on the educational system. The goal is not to cause population decline, but simply to slow growth so that developing countries will be able to make a "soft landing."

Those possibilities, along with larger concerns for a stable world population, are now engaging the interest of many developing countries. Even in sub-Saharan Africa, 29 out of 47 governments now feel that their birth rates are too high. This represents quite a change from even 10 years ago. But results often lag years behind policy declarations. That is because population growth does not exhibit the characteristics of an explosion as much as it does a glacier. Relatively large numbers of women of childbearing age in a developing country population ensure that growth will continue long after birth rates fall, and even after they reach replacement.

The challenge of the '90s will be to understand these forces. Recently Bangladesh's fertility fell to about five children per woman, suggesting that family planning can work even in the face of poverty and overcrowding. But scores of uncertainties remain. Will India's family planning program regain its momentum? When will Pakistan's and Nigeria's fertility decline begin? Will Iran continue its policy of high birth rates? The answers to these questions will dramatically affect the quality of life on Earth.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES ACTS ON CERTAIN WAIVERS

● Mr. JOHNSTON. Mr. President, on Wednesday, July 18 the Committee on Energy and Natural Resources adopted two resolutions—a waiver of required waiting period for El Paso Natural Gas Co. pipeline in the Kofa National Wildlife Refuge in La Paz County, AZ; and a waiver of required waiting period for Columbia Gas Transmission Co. pipeline in the Monongahela National Forest in West Virginia. I ask at this time that these two committee resolutions be printed in the RECORD for the information of the public and my colleagues.

The resolutions follow:

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES

RESOLUTION

(Waiver of Required Waiting Period for El Paso Natural Gas Co. Pipeline in the Kofa National Wildlife Refuge in La Paz County, AZ)

The Committee on Energy and Natural Resources of the United States Senate, in accordance with section 28(w)(2) of the Mineral Leasing Act of 1920 (30 U.S.C. 185(w)(2)) as amended, hereby waives the waiting period for the granting by the Fish and Wildlife Service of the United States Department of the Interior of a right-of-way across the Kofa National Wildlife Refuge in La Paz County, Arizona for the purpose of constructing and operating a 30-inch diameter pipeline for the transportation of natural gas.

Approved this 18th day of July, 1990.

J. BENNETT JOHNSTON,
Chairman.

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES

RESOLUTION

(Waiver of Required Waiting Period for Columbia Gas Transmission Co. Pipeline in the Monongahela National Forest in West Virginia)

The Committee on Energy and Natural Resources of the United States Senate, in accordance with section 28(w)(2) of the Mineral Leasing Act of 1920 (30 U.S.C. 185(w)(2)) as amended, hereby waives the waiting period for the granting by the Forest Service of the United States Department of Agriculture to Columbia Gas Transmission System of a right-of-way across the Monongahela National Forest in West Virginia for the purpose of constructing and operating a 36-inch diameter pipeline for the transportation of natural gas.

Approved this 18th day of July, 1990.

J. BENNETT JOHNSTON,
Chairman.●

NATIONAL FEDERATION OF BUSINESS ENDORSES CONGRESSIONAL TERM LIMITATION

● Mr. HUMPHREY. Mr. President, the National Federation of Independent Business has polled its membership on the issue of term limitation, and has forwarded those results to me. Not surprisingly, a significant majority of the NFIB membership supports term limitation. I would like to thank the NFIB for their support, and I again urge all Members to cosponsor Senate Joint Resolution 235.

I ask that a letter from NFIB to me, their news release, and an editorial written by NFIB president, John Sloan, be printed in the RECORD.

The material follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, February 5, 1990.

Hon. GORDON HUMPHREY,
U.S. Senate,
Washington, DC.

DEAR SENATOR HUMPHREY: In light of your sponsorship of legislation to limit Congressional terms, I wanted to inform you of a recent survey conducted by the National Federation of Independent Business and the Gallup Organization on this subject that indicates wide spread support for limitations on Congressional terms.

Some time ago, NFIB polled its 570,000 small business members and found that two-thirds of those responding favored term restrictions for Congress. As a result, NFIB commissioned Gallup to expand its probe of the depth and breadth of discontent with elected officials.

We learned that 70 percent of the public and at least 72 percent of small business owners surveyed favored limiting total years of congressional service. In large part, interest in term limitation stems from a belief that incumbent U.S. lawmakers may become influenced by special interest groups (96 percent) and that politicians may lose touch with their constituency (83 percent).

NFIB's members support efforts to restrict Congressional service, and we applaud efforts such as yours that seek to promote effective, responsive government.

Sincerely,

JOHN J. MOTLEY III,
Vice President.

LIMIT ON CONGRESSIONAL TERMS FAVORED BY SENATORS, PUBLIC AND ENTREPRENEURS

WASHINGTON, January 11.—Seven in 10 Americans favor limiting the total number of years a person can serve in Congress, according to a Gallup survey released today by the nation's largest small-business advocacy organization, the National Federation of Independent Business.

"There has been a growing disatisfaction with Congress among small-business owners," NFIB President John Sloan said at a press conference here. "But this survey confirms that their sentiment is shared by the general public and even some members of Congress themselves.

While 70 percent of the public and at least 72 percent of the small-business owners surveyed favor limiting total years of congressional service, only a little more than half of the U.S. senators polled agreed. But U.S. House members strongly opposed the idea by a two-to-one margin and more than half of the state legislators who were surveyed also disagreed.

Prompted by an increasing number of complaints from small-business owners and earlier NFIB polls which found that two-thirds of its 570,000 members favored term restrictions for Congress, the organization commissioned Gallup to expand its probe of the depth and breadth of discontent with elected officials.

When asked if they would favor a constitutional amendment to limit congressional terms to 12 years in each house, a majority of the public, small-business owners and U.S. senators responded favorably. Three out of four U.S. House members and state legislators were opposed.

Although NFIB kicked off a nationwide campaign in 1988 to encourage small-business owners to become more politically active, there are no immediate plans to mount an effort to restrict congressional service, Sloan said, but the organization will actively pursue efforts to force the broader issue of effective government to the forefront of public policy debate. The NFIB-Gallup survey was delivered to all U.S. Senate and House offices on Capitol Hill at the time the business leader announced the results.

"Small-business owners have no interest in Congress-bashing," Sloan said. "What we want is a legislative body that is willing to represent all Americans fairly and equally. But in recent years, there has been a growing trend in Washington to view the business community only as a source of tax revenue to solve problems that Congress refuses to deal with directly."

Almost all (96 percent) of the small-business owners surveyed believe that incumbent U.S. lawmakers may become influenced by special interest groups and most (83 percent) are concerned that the politicians may lose touch with their constituency.

"We believe some members of Congress are out of touch, especially with the problems and concerns of small-business owners," Sloan said.

A higher percentage of the general public (62 percent) than small-business owners (52 percent) favored a mandatory retirement age for federal elected officials. Nine out of 10 U.S. House members (90 percent) and almost as many (86 percent) of the U.S. senators disagreed.

The survey sample was comprised of 750 members of the general public, 399 NFIB members/small-business owners, 302 state legislators, 158 U.S. representatives and 21 U.S. senators.

NFIB, which was founded in 1943, represents small-business owners in Washington and in all 50 state capitals. The median firm among its half-million-plus members is a company that is managed by the owner, has 12 employees and earns a gross annual income of $500,000.

CONGRESS: TIME FOR A TUNE-UP?

(By John Sloan)

If Congress were a car, there would be no end to service department trips. The engine stalls, the gas mileage is out of sight and the old clunker gets more unsafe each day. More repairs or trade-in time?

If the public sentiment expressed in a recent Gallup survey commissioned by the National Federation of Independent Business is accurate, there is growing dissatisfaction with Congress all across the nation. The small-business advocacy organization, in an effort to probe the depth and breadth of voter disenchantment, polled not only entrepreneurs, but the general public, state legislators and members of both houses of Congress. In most cases, the general public's viewpoint paralleled that of the business owners.

Should there be limits on those who are elected to federal offices? Seven in 10 Americans favor limiting the total number of years a person can serve on Capitol Hill. Even a majority of sitting U.S. senators agree.

What about altering the U.S. Constitution to reflect this change in attitudes? A majority of the public, small-business owners and U.S. senators said they would favor a constitutional amendment restricting congressional terms to 12 years in each house. Three out of four U.S. House members and state legislators were opposed.

Although there has been no effort underway since 1988 to encourage small-business owners to become more politically active, the release of this survey is an attempt to force the broader issue of effective government to the forefront of public policy debate.

For almost as long as there have been small-business owners in America, a general consensus among them existed that the U.S. Congress is the chief source of problems, i.e. paperwork, new and more complex taxes, burdensome regulations and unwarranted red tape.

Special treatment is not what small-business owners are seeking. What they want is a national legislative body that is willing to represent all Americans fairly and equally. But in recent years, there has been a noticeable trend in Washington to view the business community only as a source of tax revenue to solve problems that Congress refused to deal with directly.

Can members of Congress be unduly influenced by special interest groups? Almost all, 96 percent, of the small-business owners surveyed by Gallup believe that incumbent U.S. lawmakers are susceptible. More than four-fifths are concerned that politicians may lose touch with their constituency.

Some members of Congress are out of touch, especially with the problems and concerns of entrepreneurs. All it takes is a quick glance at the legislative agenda for the second session of the 101st Congress, now just getting underway. On the schedule for action is a wide variety of proposals which could spell serious trouble for small-business owners in the coming decade.

Health care, the environment, the budget deficit, liability insurance rates and a jury-rigged tax system are among the crises begging for sensible action. But no one should expect adequate solutions to our national problems from a lawmaking body which views re-election as its first priority.

It is probably a good thing that Congress is not a car. The way voters feel today, they might scrap that old lemon.●

PRAISING FBI PERSONNEL FOR A JOB WELL DONE

● Mr. DIXON. Mr. President, I received a copy of a letter sent to FBI Director William Sessions from Carol and David Bartels of Rockford, IL. In their letter, they describe how their lives were violently interrupted by a home invader on June 7, 1990. The invader entered their home, in a peaceful neighborhood of Rockford, during the middle of the day, brandishing a gun. He terrorized the babysitter and the Bartels' children, and kidnaped their baby son, Douglas, at gunpoint, and held him for ransom for 12 hours.

Contrary to the vast majority of kidnapings that take place in the United States, this kidnaping was successfully resolved, and Douglas was returned safely to his parents.

Douglas Bartels was able to be reunited with his parents due to the efforts of the Rockford and Chicago Offices of the FBI. The efforts of Harold Wilhelm, special agent in charge of the Rockford office of the FBI, Gary Fuhr, the agent in charge of the Bartels case, and Phil McClanahan, an agent who was with the Bartels all through the long, difficult, June day, are to be commended.

In these days when so much attention is focused on the enormous S&L bailout, budget deficits, and the Hubble space telescope, it is nice to know on a warm June day in Rockford, IL, when some of my constituents needed their Government's assistance most, the skill and professionalism of the men and women of the FBI came through with flying colors. They are some of this country's finest public servants.

Mr. President, I ask that a copy of the letter from David and Carol Bartels to the FBI Director Sessions be reproduced in the RECORD.

The letter follows:

JUNE 21, 1990.

Director WILLIAM SESSIONS,
Federal Bureau of Investigation,
Washington, DC.

DEAR MR. SESSIONS: Carol and I are the parents of baby Douglas Bartels who was kidnapped from our home at gunpoint by an unknown intruder on Thursday June 7, 1990. He was held for ransom for a twelve hour period before the situation was successfully resolved. A crime such as this is something that you read about, but think that it could never happen to you. When it does happen it is the most devastating thing that could occur in a lifetime. To have the sanctity of your peaceful world violated by someone who walks into your house with a gun in the middle of the day, terrorizes your babysitter and children and takes your baby, holding him for ransom, is incomprehensible.

We were fortunate, in that, by the mercy of God, Doug was returned safely to us. We realize that the great majority of kidnappings do not end this happily. Fortunately, we have a strong family and a network of friends and church who have helped us through these difficult times. We also realize that without the men and women in the Federal Bureau of Investigation, the kidnapper may not have been apprehended and our son may not have been returned safely to us. We will never know the names and roles of all the people involved in bringing our baby back to us safely, but we would like to thank them and recommend them for the highest commendation available. We would also like to single out certain individuals who have worked closely with us and who have helped us through this nightmare: Harold J. Wilhelm, Special Agent in Charge of the Rockford office of the FBI; Gary Fuhr, the agent in charge of the case who has given us emotional support since the kidnapping; and Phil McClanahan, the agent who was with us all day during the kidnapping and after Doug was found.

Most citizens probably do not realize the importance of the FBI in their lives. It is, however, certainly a comfort to know that the skill and professionalism of these individuals is available to any person in the United States should, God forbid, they be needed in a situation such as this.

Once again, we would like to thank and commend all of the agents from the Rockford and Chicago offices of the FBI for helping resolve this nightmare and return our son to us. Fortunately, Doug will probably never suffer permanently from this ordeal, but the emotional suffering and scars will take a long time to heal for the rest of our family.

Sincerely,

DAVID W. BARTELS.
CAROL J. BARTELS.●

CAPTIVE NATIONS WEEK—1990

● Mr. RIEGLE. Mr. President, this year we mark the 31st observance of Captive Nations Week. This annual commemoration provides an important opportunity for citizens of the free world to honor the citizens of the captive nations who, at great personal risk and sacrifice, continue to demand respect for their human rights and political freedom.

During the past 12 months, the world has witnessed extraordinary triumphs in the battle against oppression and tyranny. The opening of the Berlin Wall, the fall of totalitarian governments throughout Eastern Europe, the advent of multiparty politics and free elections in the Soviet Union, the reassertion of national sovereignty in the Baltic States—these remarkable events have made the past year an unprecedented watershed in the struggle for human rights.

Throughout this historic period, the captive peoples of Eastern and central Europe rose up against oppression and took to the streets, armed only with a burning desire for freedom and human rights. And in spite of the seemingly insurmountable forces of military might, economic tyranny, and bureaucratic stagnation opposing them, they prevailed. Never has there been more thrilling proof that, even in the captive nations, the hearts and minds of people always remain free. As long as the dream of freedom stays alive, the captive peoples of the world will, sooner or later, win their struggle for political freedom as well.

Mr. President, the victory of freedom and democracy in the Eastern bloc is by no means complete. Europe's former Soviet satellites are struggling to learn the ways of political democracy after decades of disenfranchisement, in the face of unparalleled economic and environmental devastation left by their Communist rulers. The heroic efforts of the Baltic peoples of Estonia, Latvia, and Lithuania to restore their usurped independence have been thwarted by military intimidation and economic warfare. The people of Ukraine and Byelorussia still suffer every day from the tragedy of Chernobyl—a tragedy compounded by the ongoing lies, coverups, and ineptitudes of Soviet officials. Interethnic tensions in Armenia, Azerbaijan, and Georgia have been exacerbated by Moscow's consistent use of military strong-arm tactics instead of negotiation and local autonomy. And throughout the Soviet Union, President Gorbachev, notwithstanding his worldwide acclaim as a liberal reformer, is still fighting to preserve the moribund Communist Party and the crumbling Russian Empire against the forces of decentralization and democratization.

But despite the many obstacles still to be overcome on the road to freedom, this year we can truly say that the end is in sight.

In his New Year's address to the American people, Soviet President Gorbachev proclaimed:

The 1990's may become a decade when freedom, democracy and equality will begin

to be established on a global scale and in an increasingly irreversible way. * * * Never before were we prepared so well for implementing them as now. * * * Let us work purposefully, patiently, and with belief in their triumph.

As a nation, America must enter the new decade firmly and responsibly, supporting the irreversible move toward freedom, democracy, and equality. In marking this Captive Nations Week, let us reaffirm our commitment to those principles, so that the 1990's might be known as the decade which witnessed the freeing of all the world's captive peoples, with the United States supporting and championing that effort every step of the way.●

MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that there be a period for morning business with Senators allowed to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE VOTE ON MOTION TO PROCEED TO S. 2830 VITIATED

Mr. MITCHELL. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed to S. 2830, the farm bill, be vitiated and that the Senate proceed to consideration of S. 2830 at 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I did want to comment upon the majority leader's vitiation of the cloture vote. I am grateful for that action, and I think we will have to discuss the matters concerning the amendment that may be offered in the form of the bill that was reported by the Agriculture Committee dealing with fisheries inspection at a later date.

Mr. MITCHELL. Mr. President, before the Senator leaves that subject, will the Senator yield?

Mr. STEVENS. I yield to my friend.

Mr. MITCHELL. I thank my colleague. I simply want to thank the Senator from Alaska for his courtesy in permitting us to proceed to the bill tomorrow and agreeing to permit the cloture vote to be vitiated. I am very grateful to him for that.

Mr. STEVENS. I am grateful for those comments, Mr. President.

THE CIVIL RIGHTS BILL

Mr. CRANSTON. Mr. President, I spoke earlier on the civil rights measure. I believe it to be a great step forward for the civil rights of the people of our country, bringing women certain rights that they have been denied, and dealing with backward steps that have stemmed from actions of the Supreme Court.

I want to pay tribute particularly to Senator KENNEDY and Senator METZENBAUM for their leadership on our side of the aisle, to Senator HATCH and those courageous Republicans who voted for cloture yesterday—for their part in all of this.

UNITED STATES POLICY IN CAMBODIA

Mr. CRANSTON. Mr. President, I now want to speak briefly on the subject of Cambodia, a country that has been in great travail since the incursion by the United States into that land which until then had managed to stay out of most of the brutality of the Vietnam war—until we crossed its border.

Since then, I feel that we have had a moral obligation to pay attention to the further travail of the people of that land, and I with others have been working to try to restore peace and tranquility to a land that once knew it in very full measure.

I welcome the first moves of the Bush administration as it at long last rethinks the flawed Cambodian policy that it inherited from the Reagan administration, a policy that the Bush administration itself pursued for the past year and a half.

The steps just now taken are only first steps. More steps are needed and needed now.

Over the past 2 years I have been an outspoken critic of the administration's policy on Cambodia.

The administration's advocacy of unconditional military support for Prince Sihanouk and his non-Communist resistant forces who are in a coalition with the murderous Khmer Rouge has been ineffective at best. The policy has not only hindered efforts to negotiate a peaceful solution to the Cambodian conflict, but it has assisted the one group we should be doing our utmost to stop—the Khmer Rouge.

In recent weeks I have been encouraged by events that have held some measure of promise: The Tokyo conference demonstrated Sihanouk and Sun Sen's willingness to compromise with or without Khmer Rouge representatives. The Perm Five Agreement, which the Bush administration supports, has also been hopeful inasmuch as it expressed support for free and fair elections under the auspices of the United Nations. These events I took as signs of progress toward ending the bloody tragedy of Cambodia.

And today brings more promising news: The announcement that the administration will not support the credentials of the resistance coalition at the United Nations. This is a much needed change of policy. As the Khmer Rouge is the largest and strongest coalition member, seating its delegate at the United Nations is tantamount to bestowing international legitimacy on that murderous group. Cambodia's seat at the United Nations should be filled only by a democratically elected government. The seat should remain empty until such a government exists. I am indeed elated that the administration agrees now with this position.

However, I remain gravely concerned about continuing reports of military cooperation between the Khmer Rouge and the non-Communist resistance. Again, as the Khmer Rouge is the strongest member of the coalition, any successful cooperative efforts benefit it more than its partners. While administration officials maintain that such cooperation does not follow a consistent pattern, there is nevertheless enough evidence to warrant a thorough investigation to ensure that there is no strategic cooperation.

I am also concerned about the isolation of Cambodia and the Hun Sen regime. The people of Cambodia have suffered terribly at the hands of the Khmer Rouge and at the hands of the Vietnamese. Now they suffer for want of humanitarian and development aid. The United States should help by easing restrictions on such aid. The $5 million dollars recently authorized for humanitarian aid for Cambodian children is a start. I strongly urge the administration to implement this program as soon as possible.

I also urge the administration to open a direct dialog with the Hun Sen regime. I understand the administration will shortly hold direct talks with the Vietnamese in New York. This is laudable. Yet talking with the Vietnamese will not in itself solve the Cambodian problem. A dialog of this sort with the Phnom Penh government could prove invaluable.

This is ridiculous, Mr. President. Talking does not bestow legitimacy. Only free and fair elections can do that. What talks could do is to help make such elections possible. We should not delay in initiating such a dialog any longer. Secretary of State Baker, at his press conference earlier today in Paris, made clear that discussion with the government does not confer legitimacy on it. He was speaking of the decision to talk to representatives of the Vietnam Government, and this is what he said. "The change in policy does not constitute a decision to normalize relations with Vietnam. It is a decision simply to begin a dialog with Vietnam about Cambodia."

Mr. President, let me finally say that Congress and my Asian Subcommittee have been trying to awaken the administration to the impending crisis in Cambodia for well over a year. I welcome the changes that the administration has made in this policy, however

slowly they have come. Yet, these changes are not enough.

The day is late. We must have a direct dialog with Phnom Penh. We must allow humanitarian development aid to reach those who have already suffered for too long. And we must press for free and fair elections as soon as possible. Only then can we believe that the United States has contributed to peace, and hopefully prosperity, in Indochina.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. CRANSTON. Mr. President, I ask unanmous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 879, William Pelham Barr, to be Deputy Attorney General.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF JUSTICE

William Pelham Barr, of Virginia, to be Deputy Attorney General.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

BILL REFERRED TO COMMITTEE ON ENERGY AND NATURAL RESOURCES AND SELECT COMMITTEE ON INDIAN AFFAIRS—S. 2870

Mr. CRANSTON. I ask unanimous consent that S. 2870, introduced earlier today by Senator MCCLURE, be referred to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs, with the proviso that upon the report of the bill by either committee the bill be discharged from the other committee within 15 days of the filing of the first committee's report, excluding days when the Senate is not in session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SECURITIES LAW ENFORCEMENT REMEDIES ACT

Mr. CRANSTON. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 645, S. 647, a bill to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 647) to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; EFFECTIVE DATE.

(a) SHORT TITLE.—This Act may be cited as the "Securities Law Enforcement Remedies Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; effective date.

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

Sec. 101. Authority of a court to impose money penalties and to prohibit persons from serving as officers and directors.

Sec. 102. Cease-and-desist authority.

TITLE II—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

Sec. 201. Enforcement of title.

Sec. 202. Civil remedies in administrative proceedings.

Sec. 203. Cease-and-desist authority.

Sec. 204. Conforming amendments to section 15B.

Sec. 205. Signature guarantees.

TITLE III—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

Sec. 301. Civil remedies in administrative proceedings.

Sec. 302. Money penalties in civil actions.

TITLE IV—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

Sec. 401. Civil remedies in administrative proceedings.

Sec. 402. Money penalties in civil actions.

Sec. 403. Conforming amendment to section 214.

TITLE V—AMENDMENTS TO THE CRIMINAL CODE

Sec. 501. Grand jury secrecy.

(c) EFFECTIVE DATE.—The amendments made by this Act shall apply to any conduct occurring after the date of enactment of this Act.

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 101. AUTHORITY OF A COURT TO IMPOSE MONEY PENALTIES AND TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.

Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end thereof the following new subsections:

"(d) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 8A of this title, other than by committing a violation subject to a penalty under section 21A of the Securities Exchange Act of 1934, the Commission may bring an action in the United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 22 of this title, actions under this section shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 8A, each separate violation of such an order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with such an order, each day of the failure to comply with the order shall be deemed a separate offense.

"(e) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any proceeding under subsection (b), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated section 17(a)(1) of this title from acting as an officer or direc-

tor of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports pursuant to section 15(d) of such Act (15 U.S.C. 78o(d)) if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.".

SEC. 102. CEASE-AND-DESIST AUTHORITY.

The Securities Act of 1933 (15 U.S.C. 77 et seq.) is amended by inserting after section 8 the following:

"CEASE-AND-DESIST PROCEEDINGS

"SEC. 8A. (a) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission such other person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule or regulation with respect to any security, any issuer, or any other person.

"(b) HEARING.—The notice instituting proceedings pursuant to subsection (a) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(c) TEMPORARY ORDER.—

"(1) IN GENERAL.—Whenever the Commission determines that the violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (a), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceeding. If the Commission determines that notice of the temporary order would be impracticable or contrary to the public interest, such order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(2) APPLICABILITY.—This subsection shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of any of the foregoing.

"(d) REVIEW OF TEMPORARY ORDER.—

"(1) JUDICIAL REVIEW.—Within 10 days after a respondent has been served with a temporary cease-and-desist order entered pursuant to subsection (c), the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and such court shall have sole jurisdiction to enter such an order.

"(2) COMMISSION REVIEW.—At any time after a respondent has been served with a temporary cease-and-desist order pursuant to subsection (c), the respondent may apply to the Commission to have the order set aside, limited, or suspended, and the Commission may enter such an order.

"(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (1) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(4) EXCLUSIVE REVIEW.—Section 9(a) of this title shall not apply to a temporary order entered pursuant to this section.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (a), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

TITLE II—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 201. ENFORCEMENT OF TITLE.

Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended—

(1) by redesignating subsection (d) as subsection (d)(1);

(2) by inserting after subsection (d)(1) the following new paragraphs:

"(2) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any proceeding under paragraph (1) of this section, the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to subsection (d) of section 15 of this title if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.

"(3) MONEY PENALTIES IN CIVIL ACTIONS.—

"(A) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 21C of this title, other than by committing a violation subject to a penalty pursuant to section 21A, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(B) AMOUNT OF PENALTY.—

"(i) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (I) $5,000 for a natural person or $50,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(ii) SECOND TIER.—Notwithstanding clause (i), the maximum amount of penalty for each such violation shall not exceed the greater of (I) $50,000 for a natural person or $250,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in subparagraph (A) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(iii) THIRD TIER.—Notwithstanding clauses (i) and (ii), the maximum amount of penalty for each such violation shall not exceed the greater of (I) $100,000 for a natural person or $500,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(aa) the violation described in subparagraph (A) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(bb) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(C) PROCEDURES FOR COLLECTION.—

"(i) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(ii) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(iii) REMEDY NOT EXCLUSIVE.—The actions authorized by this paragraph may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(iv) JURISDICTION AND VENUE.—For purposes of section 27 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(D) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 21C, each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

SEC. 202. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

(a) The Securities Exchange Act of 1934 is amended by inserting after section 21A the following:

"CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS

"SEC. 21B. (a) COMMISSION AUTHORITY TO ASSESS MONEY PENALTIES.—In any proceeding instituted pursuant to section 15(b)(4), 15(b)(6), 15B, 15C, or 17A of this title against any person, the Commission or the appropriate regulatory agency may impose

a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(1) has willfully violated any provision of the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), or this title, or the rules or regulations thereunder, or the rules of the Municipal Securities Rulemaking Board;

"(2) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(3) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission or with any other appropriate regulatory agency under this title, or in any proceeding before the Commission with respect to registration, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein; or

"(4) has failed reasonably to supervise, within the meaning of section 15(b)(4)(E) of this title, with a view to preventing violations of the provisions of such statutes, rules and regulations, another person who commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest.

"(b) MAXIMUM AMOUNT OF PENALTY.—

"(1) FIRST TIER.—The maximum amount of penalty for each act or omission described in subsection (a) shall be $5,000 for a natural person or $50,000 for any other person.

"(2) SECOND TIER.—Notwithstanding paragraph (1), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in subsection (a) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(A) the act or omission described in subsection (a) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(B) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(c) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission or the appropriate regulatory agency may consider—

"(1) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(2) the harm to other persons resulting either directly or indirectly from such act or omission;

"(3) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(4) whether such person previously has been found by the Commission, another appropriate regulatory agency or a self-regulatory organization to have violated the federal securities laws, state securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 15(b)(4)(B) of this title;

"(5) the need to deter such person and other persons from committing such acts or omissions; and

"(6) such other matters as justice may require.

"(d) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission or the appropriate regulatory agency may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, the Commission or the appropriate regulatory agency may enter an order requiring accounting and a disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations and orders concerning payments to investors, rates of interest, periods of accrual and such other matters as it deems appropriate to implement this subsection.".

(b) CONFORMING AMENDMENT.—The heading of section 21A of this title (15 U.S.C. 78u-1) is amended to read as follows:

"CIVIL PENALTIES FOR INSIDER TRADING"

SEC. 203. CEASE-AND-DESIST AUTHORITY.

The Securities and Exchange Act of 1934 is amended by adding after section 21B the following new section:

"CEASE-AND-DESIST PROCEEDINGS

"SEC. 21C. (a) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule or regulation, upon such terms and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule or regulation with respect to any security, any issuer, or any other person.

"(b) HEARING.—The notice instituting proceedings pursuant to subsection (a) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(c) TEMPORARY ORDER.—

"(1) IN GENERAL.—Whenever the Commission determines that the violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (a), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. If the Commission determines that notice of the temporary order would be impracticable or contrary to the public interest, such order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(2) APPLICABILITY.—This subsection shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of any of the foregoing.

"(d) REVIEW OF TEMPORARY ORDER.—

"(1) JUDICIAL REVIEW.—Within 10 days after a respondent has been served with a temporary cease-and-desist order entered pursuant to subsection (c), the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and such court shall have sole jurisdiction to enter such an order.

"(2) COMMISSION REVIEW.—At any time after a respondent has been served with a temporary cease-and-desist order pursuant to subsection (c), the respondent may apply to the Commission to have the order set aside, limited, or suspended, and the Commission may enter such an order.

"(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (1) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(4) EXCLUSIVE REVIEW.—Section 25 of this title shall not apply to temporary order entered pursuant to this section.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (a), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

SEC. 204. CONFORMING AMENDMENTS TO SECTION 15B.

Section 15B(c)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(6)(A)) is amended—

(1) by striking "and the nature" and inserting ", the nature"; and

(2) by striking "proposed action and" and inserting "proposed action, and whether the Commission is seeking a monetary penalty against such municipal securities dealer or such associated person pursuant to section 21B of this title; and ".

SEC. 205. SIGNATURE GUARANTEES.

Section 17A(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1(d)(4)) is amended by adding at the end the following:

"(5) A registered transfer agent may not, directly or indirectly, engage in any activity in connection with the guarantee of a signature of an endorser of a security, including the acceptance or rejection of such guarantee, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, to facilitate the equitable treatment of financial institutions which issue such guarantees, or otherwise in furtherance of the purposes of this title.".

TITLE III—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

SEC. 301. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended—

(1) by redesignating subsection (d) as subsection (g);

(2) by inserting after subsection (c) the following new subsections:

"(d) MONEY PENALTIES IN ADMINISTRATIVE PROCEEDINGS—

"(1) COMMISSION AUTHORITY.—In any proceeding instituted pursuant to subsection (b) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person; or

"(C) has willfully made or caused to be made in any registration statement, application, or report required to be filed with the Commission under this title, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such registration statement, application, or report any material fact which was required to be stated therein;

and that such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $5,000 for a natural person or $50,000 for any other person.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(i) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(3) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such person previously has been found by the Commission, another appropriate regulatory agency or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 203(e)(2) of this Act;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(4) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may assess a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business, and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission may impose a penalty under this section, the Commission may enter an order requiring accounting and a disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.

"(f) CEASE-AND-DESIST PROCEEDINGS.—

"(1) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule or regulation, upon such terms and conditions and for such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule or regulation with respect to any security, any issuer, or any other person.

"(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(3) TEMPORARY ORDER.—

"(A) Whenever the Commission determines that the violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceeding, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. If the Commission determines that notice of the temporary order would be impracticable or contrary to the public interest, notwithstanding section 40(a) of this title, such order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(B) This paragraph shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of any of the foregoing.

"(4) REVIEW OF TEMPORARY ORDER.—

"(A) JUDICIAL REVIEW.—Within 10 days after a respondent has been served with a temporary cease-and-desist order entered pursuant to paragraph (3), the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and such court shall have sole jurisdiction to enter such an order.

"(B) COMMISSION REVIEW.—At any time after a respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Commission to have the order set

aside, limited, or suspended, and the Commission may enter such an order.

"(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (A) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(D) EXCLUSIVE REVIEW.—Section 43 of this title shall not apply to a temporary order entered pursuant to this section.

"(5) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (f)(1), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems necessary to implement this subsection."; and

(3) in redesignated subsection (g), by striking "subsections (a) through (c) of".

SEC. 302. MONEY PENALTIES IN CIVIL ACTIONS.

Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) is amended by adding at the end thereof the following new subsection:

"(e) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title or the rules or regulations thereunder, or a cease-and-desist order entered pursuant to section 9(f) of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 44 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 9(f), each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with such order each day of the failure to comply shall be deemed a separate offense.".

TITLE IV—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

SEC. 401. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended by adding at the end thereof the following new subsections:

"(i) MONEY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.—

"(1) AUTHORITY OF COMMISSION.—In any proceeding instituted pursuant to subsection (e) or (f) against any person, the Commission may impose a civil penalty if it finds, upon the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(C) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission under this title, or in any proceeding before the Commission with respect to registration, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such registration statement, application, or report any material fact which was required to be stated therein; or

"(D) has failed reasonably to supervise, within the meaning of section 203(e)(5) of this title, with a view to preventing violations of the provisions of this title and such rules and regulations, another person who commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $5,000 for a natural person or $50,000 for any other person.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(i) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(3) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 203(e)(2) of this title;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(4) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(j) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission may impose a penalty under this section, the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.

"(k) CEASE-AND-DESIST PROCEEDINGS.—

"(1) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that

is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule or regulation with respect to any security, any issuer, or any other person.

"(2) HEARING.—The notice instituting proceedings pursuant to subsection (k)(1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(3) TEMPORARY ORDER.—

"(A) IN GENERAL.—Whenever the Commission determines that the violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (k)(1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. If the Commission determines that notice of the temporary order would be impracticable or contrary to the public interest, notwithstanding section 211(c) of this title, such order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(B) APPLICABILITY.—This paragraph shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of any of the foregoing.

"(4) REVIEW OF TEMPORARY ORDER.—

"(A) JUDICIAL REVIEW.—Within 10 days after a respondent has been served with a temporary cease-and-desist order entered pursuant to paragraph (3), the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and such court shall have sole jurisdiction to enter such an order.

"(B) COMMISSION REVIEW.—At any time after a respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Commission to have the order set aside, limited, or suspended, and the Commission may enter such an order.

"(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (A) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(D) EXCLUSIVE REVIEW.—Section 213 of this title shall not apply to a temporary order entered pursuant to this section.

"(5) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (k)(1), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

SEC. 402. MONEY PENALTIES IN CIVIL ACTIONS.

Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by adding at the end thereof the following new subsection:

"(e) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title or the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 203(k) of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 214 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 203(k), each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

SEC. 403. CONFORMING AMENDMENT TO SECTION 214.

Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended—

(1) by inserting after "all suits in equity" the following: "and actions at law brought to enforce any liability or duty created by, or"; and

(2) by inserting after "Any suit or action" the following: "to enforce any liability or duty created by, or".

TITLE V—AMENDMENTS TO THE CRIMINAL CODE

SEC. 501. GRAND JURY SECRECY.

(a) IN GENERAL.—Chapter 215 of title 18, United States Code, is amended by adding after section 3322 the following new section:

"§ 3323. Disclosure of certain matters occurring before grand jury for use in enforcing securities laws

"(a)(1) Upon motion of an attorney for the government, a court may direct disclosure of matters occurring before a grand jury during an investigation of conduct that may constitute a violation of any provision of the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), to identified personnel of the Securities and Exchange Commission for use in relation to any matter within the jurisdiction of the Securities and Exchange Commission.

"(2) A court may issue an order under paragraph (1) only upon a finding of a substantial need in the public interest.

"(b) A person to whom a matter has been disclosed under this section shall not use such matter other than for the purpose for which such disclosure was authorized.

"(c) As used in this section, the terms 'attorney for the government' and 'grand jury information' have the meanings given to those terms in section 3322 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 215 of title 18, United States Code, is amended by adding after the item relating to section 3322 the following:

"3323. Disclosure of certain matters occurring before grand jury for use in enforcing securities laws.".

Mr. RIEGLE. Mr. President, I rise to speak in favor of the Securities Law Enforcement Remedies Act. This bill

is designed to strengthen the enforcement authority of the Securities and Exchange Commission. I urge adoption of this legislation because it will aid in the elimination of fraud and misconduct in the securities markets and serve to bolster public confidence in this Nation's capital markets.

The SEC is a highly professional agency that does an excellent job with limited resources. We must insure, however, that we give this agency those enforcement tools which will enable it to vigorously and effectively enforce the securities laws. Such enforcement is critical to maintaining public confidence in the integrity, fairness, and efficiency of this Nation's securities markets.

This bill is part of the Banking Committee's continuing effort to work closely with the SEC and other financial regulators to develop an effective enforcement program that detects, prosecutes, and punishes fraudulent and illegal activities in the financial markets. In 1984, Congress passed the Insider Trading Sanctions Act, which authorized the SEC to seek civil money penalties for insider trading. This legislation provides that whenever a person illegally purchased or sold a security while in possession of material nonpublic information, the SEC may seek, and a Federal court may impose, a civil money penalty in an amount up to three times profit gained or loss avoided by the law violator.

This legislation was followed by the Insider Trading and Securities Fraud Enforcement Act of 1988, which requires broker-dealers, investment advisers, and other securities firms to take steps to detect and deter illegal insider trading activity and imposes substantial money penalties on controlling persons for failure to supervise adequately. Finally, just last year as part of the Financial Reform Recovery and Enforcement Act, Congress enacted civil money penalties of up to $1 million a day for violation of certain provisions of the laws governing depository institutions.

While the 1984 and 1988 legislation raised the costs associated with engaging in insider trading, they did not effect enforcement efforts for other provisions of the securities laws. The Securities Law Enforcement Remedies Act is designed to fill this void.

I want to commend Senator DODD, as chairman of the Securities Subcommittee, and Senator HEINZ for their bipartisan sponsorship and strong leadership on this bill. In hearings on this bill, the Securities Subcommittee heard testimony from the chairman of the Securities and Exchange Commission, two former Directors of Enforcement of the SEC, representatives of the corporate and legal community, and individual investors. As Senator DODD will explain the provisions of the legislation, I will turn the floor over to him.

But before I do, I want to congratulate Senator DODD on an extremely productive Congress. This is the second securities bill to pass the full Senate this Congress. The first bill, the Securities Act amendments, is expected to be enacted this year. In addition, the Market Reform Act, also sponsored by Senators DODD and HEINZ, is pending on the Senate floor where we hope it will receive expeditious consideration and passage. This legislative record is a direct tribute to Senator DODD's leadership of the Securities Committee.

Mr. DODD. Mr. President, S. 647, the Securities Law Enforcement Remedies Act gives the Securities and Exchange Commissin important new tools to protect investors and combat fraud and other illegal activity in the Nation's securities markets.

We are considering this bill at a time when the need for tough, effective enforcement has never been greater. In recent years, we have seen financial frauds of historic proportions. Insider trading, market manipulation, penny stock fraud, and ohter illegal activities have trheatened investor confidence. fraud in the thrift industry has cost investors, as well as taxpayers, billions of dollars.

We all know that our capitalist system is founded on free markets, and they must be fair markets as well—makets in which investors have confidence. This bill will give the SEC greater powers to ensure that the Nation's securities markets are fair.

At the outset, let me thank Chairman RIEGLE for his strong support of this legislation, as well as for a number of other bills developed in the Securities Subcommittee during this Congress. This bill was the subject of two hearings in the Securities Subcommittee earlier this year, and, after we strengthened and clarified a number of provisons, Chairman RIEGLE schedule a markup at the earliest possible date. On May 24, 1990, the Committee on Banking, Housing, and Urban Affairs marked up and reported the bill, without opposition.

Let me also thank the ranking minority member of the Securities Subcommittee, Senator HEINZ. He joined with me in March of last year when I introduced the original legislation, and he worked diligently in the development of amendments to address certain concerns raised about the bill. The results is a strong bill, and it sends a strong message to would-be law violators that they will be detected and prosecuted with remedies that fit the crime.

The bill has four major provisions. First, it strengthens and broadens the SEC's enforcement powers by authorizing new civil money penalties for a range of securities violations. The purpose of these fines is to deter unlawful conduct by increasing the financial consequences of securities law violations. Under the legislation, fines may be imposed by courts in civil enforcement actions brought by the SEC, and may also be imposed by the SEC in administrative proceedings.

There are three tiers of maximum penalty amounts. The first tier maximum penalties are $5,000 for each violation by a natural person and $50,000 for each violation by any other person. The second tier maximum penalties, where the violation involves "fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement," are $50,000 for each violation by a natural person and $250,000 for each violation by others. The third tier maximum amounts, where the violation involves "fraud, deciet, manipulation, or deliberate or reckless disregard of a regulatory requirement" and the violation "directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons", are $100,000 for each violation by a natural person and $500,000 for each violation by others.

The legislation also gives the SEC both temporary and permanent cease-and-desist authority to enforce the provisions of the securities laws. This authority will enhance the SEC's ability to protect investor funds when they are at risk and will broaden the SEC's adminsitrative procedures to curb a wider range of securities violations. A permanent order may direct the respondent to refrain from future violations, may order disgorgement of unlawful gains, and may also order the respondent to take affirmative steps to ensure compliance.

A temporary order may be issued if the SEC determines that a violation is likely to result in "significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest." Temporary orders may be issued by the SEC with respect to persons or entities acting as broker-dealers, investments advisers, investment companies, transfer agents, or other persons or entities which are, or are required to be, registered with the SEC or associated with such persons.

In addition, the bill is designed to combat recidivism and protect investors from those whose unlawful conduct demonstrates their unfitness to serve as an officer or director by expressly authorizing courts to bar certain individuals who have engaged infraudulent activity from seving as officers or directors of public companies.

Finally, in provisions similar to those adopted by Congress as part of the Financial Institutions Reform, Recovery and Enforcement Act, the legislation amends the Federal Criminal Code by permitting a court, on motion

by an attorney for the Government, to direct disclosure of grand jury material developed in an investigatiion of conduct that may constitute a violation of the securities laws. This will enhance the SEC's ability to obtain information from criminal law enforcement authorities without engaging in costly and time-consuming duplication of efforts, and it will optimize the use of limited Government resources. The material may be disclosed only to identified personnel of the SEC, and the court must find that there is a "substantial need in the public interest" to release the material.

Mr. President, let me close by saying that effective law enforcement is absolutely critical to preserve the integrity of the securities markets and to maintain the investor confidence so vital for capital formation in this country. Investors must be assured that those who participate in the markets will play by the same rules and that those who break the rules will be detected, prosecuted, and appropriately sanctioned.

The authority provided in this bill is essential for the SEC, with its limited resources, effectively to police a securities market that has grown dramatically in size and complexity in recent years. SEC Chairman Breeden has worked closely with us in developing the legislation, and I am confident that the SEC and its excellent staff will use the broad authority provided under the legislation judiciously, as well as effectively. A companion bill is moving forward in the House, under the leadership of Chairman DINGELL of the Energy and Commerce Committee and Chairman MARKEY of the Subcommittee on Telecommunications and Finance. I am hopeful that this legislation will be on the President's desk before the end of this Congress.

Mr. GARN. Mr. President, our Nation's securities markets have long been considered the fairest and most efficient in the world. This is not an accident of history. Our markets are the most efficient because they operate unencumbered by artificial restraints or barriers. The perception, and it is an accurate one, that our securities markets are the fairest is a result of the vigilant enforcement of Federal securities laws by the Securities and Exchange Commission. Also essential is periodic, responsible updating by Congress to ensure that the Federal securities laws reflect the realities of an ever-changing marketplace.

In fact, the markets have changed significantly in recent years and will continue to evolve rapidly. Internationalization, institutionalization, and technological developments are some of the factors reshaping the financial landscape. While, on balance, these changes clearly benefit all market participants, unfortunately, they also create new opportunities for those who would engage in illegal activities. Advances in the field of telecommunications have made it much easier for some fraud artists to open up "boiler room" shops and target unsuspecting, and oftentimes elderly, investors, bilking them out of their hard-earned savings. The increased incidence of transnational capital flows has made it easier to hide transactions such as insider trading which violate the Federal securities laws.

If left unchecked, these activities will inevitably undermine the public's confidence in the integrity of the securities markets. We can ill afford to have investors, especially small investors, abandon our markets because of a perception that the Federal Government is unwilling to protect their interests. This is not an abstract concern. Fewer investors means a smaller supply of vital investment capital. Those investors that remain in the market may demand a higher return to compensate for the perceived heightened risks. In either event, it raises the costs of doing business in U.S. markets and impairs our competitiveness in the global marketplace.

I believe that the SEC has done an outstanding job with limited resources in meeting its responsibility for enforcing the Federal securities laws, and has time and again demonstrated its willingness to be a tough enforcer. Unfortunately, will alone is not always enough—it has to be accompanied by the means to get the job done. Earlier this year, the Senate voted to give the SEC the monetary resources it needs to conduct an effective enforcement program. Today we are also giving the SEC the enforcement tools necessary to deter those law violators for whom the SEC's current remedies of injunctions and consent decrees are merely a cost of doing business, if not a badge of honor.

Mr. Chairman, I am therefore pleased to support passage of S. 647, the Securities Law Enforcement Remedies Act. This legislation, with the leadership of Senators DODD and HEINZ, as the chairman and ranking member of the Securities Subcommittee, and the counsel of the subcommittee staff, was reported out of the Banking Committee earlier this year. It has the strong support of the committee, the administration, and virtually all the witnesses who testified during its consideration. It would provide the Securities and Exchange Commission with new, potent enforcement tools. We must send a message to the new breed of securities crooks that their illegal activities will be detected and they will be prosecuted. We have recently sent the same message to the crooks in the savings and loan—industry hopefully, this legislation will help discourage in the securities industry the kind of rampant fraud that took place in S&L's.

S. 647 adds four new enforcement authorities to the SEC's arsenal. First, it enables the SEC to fine securities law violators, an authority already possessed by most Federal regulatory agencies. The SEC's ability to obtain fines currently is limited to insider trading violations. Specifically, the SEC would be able to seek civil fines in court proceedings, and impose such fines in administrative proceedings. The amount of the fine would depend upon the nature of the violation but would range as high as $500,000 for particularly egregious violations.

Second, the SEC would be able to issue temporary or permanent cease and desist orders to direct persons to refrain from engaging in conduct or practices which violate the Federal securities laws. The banking regulators and the CFTC already have the authority to issue cease and desist orders. This administrative authority represents an important adjunct to the SEC's current ability to seek emergency relief in courts. I would note that some concern was raised during the consideration of this legislation about the ability of the SEC to issue a temporary cease and desist order without prior notice to the respondent. In response to those concerns, the committee included procedural protections intended to model those in the Federal Rules of Civil Procedure regarding temporary restraining orders.

Third, S. 647 expressly authorizes a court to bar or suspend certain individuals from serving as officers or directors of publicly held companies. Before a bar or suspension could be ordered, a court would have to find that the person violated the fraud provisions of the Federal securities laws and demonstrated substantial unfitness to serve as an officer or director. Quite simply, persons who have demonstrated a blatant disregard for the law should not be put in positions of public trust. Not only are the shareholders of a company at risk, but the integrity of the market as a whole is undermined.

Fourth, S. 647 authorizes a court to approve the disclosure of certain grand jury information to the SEC for its use in enforcing the Federal securities laws. This authority, which is nearly identical to that provided to the banking regulators in FIRREA, will significantly enhance the SEC's ability to use information obtained in cooperation with criminal enforcement authorities and reduce costly and time-consuming duplication of efforts to gather information already in the possession of Government officials. In granting this authority, the committee took care to protect the secrecy of the grand jury process generally. The court can order disclosure of

limited information to the SEC only upon a motion of the Federal prosecuting attorney, and upon a finding that the disclosure is in the public interest.

In addition, S. 647 amends the Securities Exchange Act of 1934 to clarify the SEC's authority to ensure that all depository institutions are treated equally with respect to signature guarantee services.

Mr. President, the legislation we are passing today will strengthen the Federal securities laws to ensure that the SEC has at its disposal the most flexible and effective means of combating securities fraud. As the savings and loan crisis has so painfully demonstrated, we simply cannot afford to let financial fraud go undeterred, undetected, and unpunished. This Senator won't stand for it, and neither will the American public.

Mr. HEINZ. Mr. President, as the ranking member of the Securities Subcommittee, I am pleased to support the Securities Law Enforcement Remedies Act (S. 647). Securities Subcommittee chairman, Senator DODD deserves great credit for his leadership in crafting and advancing this important legislation.

This legislation provides the SEC with the tools it needs to strengthen its enforcement of the Federal securities laws. The markets have grown dramatically over the last decade—but so have the opportunities for fraud. With the exception of insider trading remedies, however, the SEC's arsenal of weapons to combat securities law violations has not kept pace with growing securities markets.

This bill provides the SEC with the authority to impose civil money penalties when necessary to take the profit out of crime. The SEC's current ability to obtain disgorgement is barely a slap on the wrist. Civil money penalties up the ante and will force those who consider disgorgement just a price of doing business to recompute their cost/benefit analysis.

This bill also gives the SEC cease and desist authority that has long been available to other regulatory agencies. Administrative proceeding can be a fair and efficient forum to address violations of the law.

Providing the SEC with greater access to grand jury materials will reduce the SEC's need to duplicate investigations. It is ironic that the SEC devotes considerable resources to assisting grand jury investigations but can be denied access to the materials it helped to obtain.

Mr. President, strong enforcement is critical to the success of our capital markets. Maintaining the integrity of our markets is the best way to promote investor confidence. The SEC has done a good job of policing our markets. This bill will help them do their job even better.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 647) was passed.

Mr. CRANSTON. I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PONCA RESTORATION ACT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 605, S. 1747, regarding Ponca Tribe of Nebraska.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1747) to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Ponca Restoration Act".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "Tribe" means the Ponca Tribe of Nebraska.

(2) The term "Secretary" means the Secretary of the Interior or the designated representative of the Secretary of the Interior.

(3) The term "Interim Council" means the Board of Directors of the Northern Ponca Restoration Committee, Inc.

(4) The term "member" means a person who is enrolled on the membership roll of the Tribe of June 10, 1965, that was compiled by the Bureau of Indian Affairs or is entitled to be enrolled as a member of the Tribe under section 7.

(5) The term "State" means the State of Nebraska.

FEDERAL RECOGNITION

SEC. 3. Federal recognition is hereby extended to the Ponca Tribe of Nebraska. All Federal laws of general application to Indians and Indian tribes (including the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461, et seq.), popularly known as the Indian Reorganization Act) shall apply with respect to the Tribe and to the members.

RESTORATION OF RIGHTS

SEC. 4. (a) All rights and privileges of the Tribe which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Public Law 87-629 are hereby restored and such law shall no longer apply with respect to the Tribe or the members.

(b) Nothing in this Act may be construed to diminish any rights or privileges of the Tribe, or of the members, that exist prior to the enactment of this Act.

(c) The Secretary shall accept any real property that is transferred to the Secretary for the benefit of the Tribe. Such real property shall be accepted by the Secretary (subject to any rights, liens, or taxes that exist prior to the date of such transfer) in the name of the United States in trust for the benefit of the Tribe and shall be exempt from all taxes imposed by the Federal Government or any State or local government after such transfer.

(d) Except as otherwise specifically provided in any other provision of this Act, nothing in this Act may be construed as altering or affecting—

(1) any rights or obligations with respect to property,

(2) any rights or obligations under any contract,

(3) any hunting, fishing, trapping, gathering, or water rights of the Tribe or the members, or

(4) any obligation to pay a tax levied before the date of enactment of this Act.

SERVICES

[SEC. 5. The tribe, and the members, shall be eligible for all services and benefits that are provided by the Federal Government to Indians because of their status as Federally recognized Indians and, notwithstanding any other provision of law, such services and benefits shall be provided after the date of enactment of this Act to the Tribe, and to the members, without regard to the existence of a reservation for the Tribe or the location of the residence of any member on or near any Indian reservation.]

SEC. 5. Notwithstanding any other provision of law, the Tribe and its members shall be eligible, on or after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized tribes without regard to the existence of a reservation for the Tribe. In the case of Federal services available to members of federally recognized tribes residing on or near a reservation, members of the Tribe residing in Knox, Boyd, Madison, Douglas, or Lancaster Counties of Nebraska or Charles Mix County of South Dakota shall be deemed to be residing on or near a reservation.

INTERIM GOVERNMENT

SEC. 6. Until such time as a constitution for the Tribe is adopted in accordance with section 8(a) and tribal officials are elected under section 8(b), the Tribe shall be governed by the Interim Council.

MEMBERSHIP ROLL

SEC. 7. (a) Until a tribal constitution is adopted in accordance with section 8, the

Interim Council shall take such measures as will insure the continuing accuracy of the membership roll of the Tribe.

(b)(1) Until a tribal constitution is adopted in accordance with section 8, an individual shall be eligible for membership in the Tribe, and the name of the individual shall be placed on the membership roll of the Tribe, if—

(A) the individual is living and is not an enrolled member of another Indian tribe that is recognized by the Federal Government, and

(B) the individual—

(i) was listed on the tribal membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs,

(ii) was entitled to be listed on the membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs, but was not listed, or

(iii) is a lineal descendant of an individual, living or deceased, who is described in clause (i) or (ii).

(2) Any individual who is excluded from the membership roll of the Tribe by the Interim Council may appeal to the Secretary for a determination of the eligibility of the individual for membership in the Tribe. The Interim Council shall include on the membership roll any such individual that the Secretary determines in such an appeal to be eligible for membership in the Tribe.

(c) After adoption of a tribal constitution in accordance with section 8, the constitution of the Tribe[, and the bylaws adopted under that constitution,] shall govern membership in the Tribe.

TRIBAL CONSTITUTION

[SEC. 8. (a) Before the earlier of—

[(1) the date that is 60 days after the date on which the Interim Council submits to the Secretary—

[(A) a written request of the Interim Council that an election to adopt a tribal constitution be held, and

[(B) a copy of the membership roll of the tribe that the Interim Council certifies to be an accurate and up-to-date roll, or

[(2) the date that is 1 year after the date of enactment of this Act,

the Secretary shall conduct, by secret ballot, an election to adopt a constitution for the Tribe. Absentee balloting shall be permitted in the election without regard to the residence of the voter. Notice of the election shall be provided to the members of the Tribe at least 60 days prior to the date of the election. In every other regard, the election shall be held according to the procedures applicable to elections under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476).

[(b) By no later than the date that is 120 days after the date on which the Tribe adopts a constitution under subsection (a), the Secretary shall conduct an election by secret ballot to elect officials of the Tribe, as provided in the constitution of the Tribe. The election shall be conducted according to the procedures described in subsection (a), except to the extent that such procedures conflict with the constitution of the Tribe.

[(c) Notwithstanding the previous negative vote by the Tribe in an election conducted under section 18 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 478), the Tribe shall be treated as having made an affirmative vote in an election conducted under section 18 of such Act.]

SEC. 8. (a) Upon the completion of the tribal membership roll and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election to adopt a constitution for the Tribe. Such constitution shall be submitted by the Interim Council to the Secretary no later than 1 year following the date of enactment of this Act. Absentee balloting shall be permitted regardless of voter residence. In every other regard, the election shall be held according to section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

(b) Not later than 120 days after the Tribe adopts a tribal constitution, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution. Said election shall be conducted according to the procedures stated in subsection (a) of this section except to the extent that said procedures conflict with the tribal constitution.

[(d)] *(c)* Notwithstanding any other provision of law, the governing body of the Tribe established under the constitution of the Tribe that is adopted under subsection (a) shall be treated as an Indian tribal government for purposes of the Internal Revenue Code of 1986.

REGULATIONS

SEC. 9. The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

ECONOMIC DEVELOPMENT PLAN

SEC. 10. (a) The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe to establish a plan for economic development for the Tribe;

(2) in accordance with this section, establish such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe (and after consultation with the State and local officials pursuant to subsection (b)), shall submit such plan to the Congress by no later than the date that is 2 years after the date of enactment of this Act.

(b)(1) To ensure that legitimate State and local interests are not prejudiced by the economic development plan established under subsection (a), the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State with respect to the proposed economic development plan. The Secretary shall provide complete information on the proposed economic development plan to such officials, including the restrictions imposed on such plan by subsection (c).

(2) During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess and shall request comments and additional information on the extent of any State or local service to the Tribe.

(c) Any economic development plan established by the Secretary under subsection (a) shall provide that—

(1) real property acquired by or for the Tribe shall be taken by the Secretary in the name of the United States in trust for the benefit of the Tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land held by any person at the time of acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax, and

(B) foreclosure or sale in accordance with the laws of the State of Nebraska pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) The Secretary shall append to the economic development plan submitted to the Congress under subsection (a) a detailed statement—

(1) naming each individual consulted in accordance with subsection (b);

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any individual named in paragraph (1).

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the commmittee amendments en bloc.

The committee amendments were agreed to en bloc.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1747), as amended, was passed as follows:

S. 1747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Ponca Restoration Act".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "Tribe" means the Ponca Tribe of Nebraska.

(2) The term "Secretary" means the Secretary of the Interior or the designated representative of the Secretary of the Interior.

(3) The term "Interim Council" means the Board of Directors of the Northern Ponca Restoration Committee, Inc.

(4) The term "member" means a person who is enrolled on the membership roll of the Tribe of June 10, 1965, that was compiled by the Bureau of Indian Affairs or is entitled to be enrolled as a member of the Tribe under section 7.

(5) The term "State" means the State of Nebraska.

FEDERAL RECOGNITION

SEC. 3. Federal recognition is hereby extended to the Ponca Tribe of Nebraska. All Federal laws of general application to Indians and Indian tribes (including the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461, et seq.), popularly known as the Indian Reorganization Act) shall apply with respect to the Tribe and to the members.

RESTORATION OF RIGHTS

SEC. 4. (a) All rights and privileges of the Tribe which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Public Law 87-629 are hereby restored and such law shall no longer apply with respect to the Tribe or the members.

(b) Nothing in this Act may be construed to diminish any rights or privileges of the Tribe, or of the members, that exist prior to the enactment of this Act.

(c) The Secretary shall accept any real property that is transferred to the Secre-

tary for the benefit of the Tribe. Such real property shall be accepted by the Secretary (subject to any rights, liens, or taxes that exist prior to the date of such transfer) in the name of the United States in trust for the benefit of the Tribe and shall be exempt from all taxes imposed by the Federal Government or any State or local government after such transfer.

(d) Except as otherwise specifically provided in any other provision of this Act, nothing in this Act may be construed as altering or affecting—

(1) any rights or obligations with respect to property,

(2) any rights or obligations under any contract,

(3) any hunting, fishing, trapping, gathering, or water rights of the Tribe or the members, or

(4) any obligation to pay a tax levied before the date of enactment of this Act.

SERVICES

SEC. 5. Notwithstanding any other provision of law, the Tribe and its members shall be eligible, on or after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized tribes without regard to the existence of a reservation for the Tribe. In the case of Federal services available to members of federally recognized tribes residing on or near a reservation, members of the Tribe residing in Knox, Boyd, Madison, Douglas, or Lancaster Counties of Nebraska or Charles Mix County of South Dakota shall be deemed to be residing on or near a reservation.

INTERIM GOVERNMENT

SEC. 6. Until such time as a constitution for the Tribe is adopted in accordance with section 8(a) and tribal officials are elected under section 8(b), the Tribe shall be governed by the Interim Council.

MEMBERSHIP ROLL

SEC. 7. (a) Until a tribal constitution is adopted in accordance with section 8, the Interim Council shall take such measures as will insure the continuing accuracy of the membership roll of the Tribe.

(b)(1) Until a tribal constitution is adopted in accordance with section 8, an individual shall be eligible for membership in the Tribe, and the name of the individual shall be placed on the membership roll of the Tribe, if—

(A) the individual is living and is not an enrolled member of another Indian tribe that is recognized by the Federal Government, and

(B) the individual—

(i) was listed on the tribal membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs,

(ii) was entitled to be listed on the membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs, but was not listed, or

(iii) is a lineal descendant of an individual, living or deceased, who is described in clause (i) or (ii).

(2) Any individual who is excluded from the membership roll of the Tribe by the Interim Council may appeal to the Secretary for a determination of the eligibility of the individual for membership in the Tribe. The Interim Council shall include on the membership roll any such individual that the Secretary determines in such an appeal to be eligible for membership in the Tribe.

(c) After adoption of a tribal constitution in accordance with section 8, the constitution of the Tribe shall govern membership in the Tribe.

TRIBAL CONSTITUTION

SEC. 8. (a) Upon the completion of the tribal membership roll and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election to adopt a constitution for the Tribe. Such constitution shall be submitted by the Interim Council to the Secretary no later than 1 year following the date of enactment of this Act. Absentee balloting shall be permitted regardless of voter residence. In every other regard, the election shall be held according to section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

(b) Not later than 120 days after the Tribe adopts a tribal constitution, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution. Said election shall be conducted according to the procedures stated in subsection (a) of this section except to the extent that said procedures conflict with the tribal constitution.

(c) Notwithstanding any other provision of law, the governing body of the Tribe established under the constitution of the Tribe that is adopted under subsection (a) shall be treated as an Indian tribal government for purposes of the Internal Revenue Code of 1986.

REGULATIONS

SEC. 9. The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

ECONOMIC DEVELOPMENT PLAN

SEC. 10. (a) The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe to establish a plan for economic development for the Tribe;

(2) in accordance with this section, establish such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe (and after consultation with the State and local officials pursuant to subsection (b)), shall submit such plan to the Congress by no later than the date that is 2 years after the date of enactment of this Act.

(b)(1) To ensure that legitimate State and local interests are not prejudiced by the economic development plan established under subsection (a), the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State with respect to the proposed economic development plan. The Secretary shall provide complete information on the proposed economic development plan to such officials, including the restrictions imposed on such plan by subsection (c).

(2) During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess and shall request comments and additional information on the extent of any State or local service to the Tribe.

(c) Any economic development plan established by the Secretary under subsection (a) shall provide that—

(1) real property acquired by or for the Tribe shall be taken by the Secretary in the name of the United States in trust for the benefit of the Tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land held by any person at the time of acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax, and

(B) foreclosure or sale in accordance with the laws of the State of Nebraska pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) The Secretary shall append to the economic development plan submitted to the Congress under subsection (a) a detailed statement—

(1) naming each individual consulted in accordance with subsection (b);

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any individual named in paragraph (1).

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR REFERRAL—S. 1554

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that when the Senate Energy Committee reports S. 1554, the Truckee-Carson-Pyramid Lake Water Rights Settlement Act, that the bill be immediately referred to the Select Committee on Indian Affairs for a period not to exceed 30 calendar days, excluding days the Senate is not in session; and that if the bill is not reported by the Indian Affairs Committee, that it then be automatically discharged and placed on the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ENVIRONMENTAL EDUCATION ACT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 541, S. 1076, the national environmental education and training bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1076) to increase public understanding of the natural environment and to advance and develop environmental education and training.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brack-

ets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1076

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) TITLE.—This Act may be cited as the "National Environmental Education Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Office of Environmental Education.
Sec. 5. Environmental education and training program.
Sec. 6. Environmental education grants.
Sec. 7. Environmental internships *and fellowships.*
Sec. 8. Environmental education awards.
Sec. 9. Environmental Education Advisory Council *and Task Force.*
Sec. 10. Environmental Education Trust Fund.
Sec. 11. Authorization.

SEC. 2. FINDINGS.

The Congress finds that—

(1) Threats to human health and environmental quality are increasingly complex, involving a wide range of conventional and toxic contaminants in the air and water and on the land.

(2) There is growing evidence of international environmental problems, such as global warming, ocean pollution, and *declines in* species diversity, and that these problems pose serious threats to human health and the environment on a global scale.

(3) Effective response to complex environmental problems requires understanding of the natural environment and awareness of environmental problems and their origins, and the skills to solve these problems.

(4) Development of effective solutions to environmental problems and effective implementation of environmental programs requires a well educated and trained, professional work force.

(5) Current Federal efforts to inform and educate the public concerning the natural environment and environmental problems are not adequate.

(6) Existing Federal support for development and training of professionals in environmental fields is not sufficient.

(7) The Federal Government, acting through the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational organizations, *noncommercial educational broadcasting entities,* and private sector interests to support development of curricula, special projects, and other activities, to increase understanding of the natural environment and to improve awareness of environmental problems.

(8) The Federal Government, acting through the coordinated efforts of its agencies and with the leadership of the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational organizations, *noncommercial educational broadcasting entities,* and private sector interests to develop and support methods, practices, and programs to assure the highest level of education and training, including technical and scientific skills, of professionals in environmental fields.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Agency" means the United States Environmental Protection Agency;

(3) "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation;

(4) "Secretary" means the Secretary of the Department of Education;

(5) "local education agency" means any education agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381) [and;] *and shall include any tribally controlled school;*

(6) "not-for-profit" organization means an organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1986, which is exempt from taxation pursuant to the provisions of section 501(a) of such code;

(7) "noncommercial education broadcasting entities" means any noncommercial educational broadcasting station (and/or its legal nonprofit affiliates) as defined and licensed by the Federal Communications Commission; and

(8) "tribal education agency" means a school or community college which is controlled by an Indian tribe, band, or nation, including any Alaska native village, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians and which is not administered by the Bureau of Indian Affairs.

SEC. 4. OFFICE OF ENVIRONMENTAL EDUCATION.

(a) The Administrator shall establish an Office of Environmental Education within the [Office of External Affairs.] *Environmental Protection Agency.*

(b) The Office of Environmental Education shall—

(1) develop and support programs and related efforts to improve understanding of the natural environment, and the relationships between humans and their environment, including the global aspects of environmental problems;

(2) support development and dissemination of model curricula, educational materials, and training programs for elementary and secondary students and other interested groups;

(3) develop and disseminate, in cooperation with educational and environmental organizations *and noncommercial educational broadcasting entities,* environmental education publications and audio/visual *and other media* materials;

(4) develop and support environmental education seminars, training programs, and workshops for environmental *education* professionals, as provided for in section 5 of this Act;

(5) manage Federal grant assistance provided to local education agencies, institutions of higher education, [and] other not-for-profit organizations *and noncommercial education broadcasting entities,* under section 6 of this Act;

(6) administer the environmental internship *and fellowship* program provided for in section 7 of this Act;

(7) administer the environmental awards program provided for in section 8 of this Act;

(8) provide staff support to the [Environmental Education] *Advisory* Council *and Task Force* provided for in section 9 of this Act;

(9) assess the demand for professional skills and training needed to respond to current and anticipated environmental problems and cooperate with appropriate institutions, organizations, and agencies to develop training programs, curricula, and continuing education programs for teachers, school administrators, and related professionals;

(10) assure the coordination of Federal statutes and programs administered by the Agency relating to environmental education and work to reduce duplication or inconsistencies within these programs;

(11) work with the Department of Education, the Federal Interagency Committee on Education, and with other Federal agencies, *including the National Park Service and the United States Fish and Wildlife Service* to assure the effective coordination of programs related to environmental education, *including environmental education programs relating to national parks and wildlife refuges;*

(12) provide technical assistance to local education agencies, State education and natural resource agencies, and others; and

(13) otherwise provide for the implementation of this Act.

(c) The Office of Environmental Education shall—

(1) be directed by a Director who shall be a member of the Senior Executive Service;

(2) include a headquarters staff of not less than ten full-time equivalent employees; and

(3) be supported by not less than one full-time equivalent employee in each Agency regional office.

SEC. 5. ENVIRONMENTAL EDUCATION AND TRAINING PROGRAM.

(a) There is hereby established an Environmental Education and Training Program. The purpose of the program shall be to train educational professionals in the development and delivery of environmental education and training programs and studies.

(b) The functions and activities of the program shall include, at a minimum—

(1) classroom training in environmental education and studies including environmental sciences and theory, educational methods and practices, *environmental career or occupational education,* and topical environmental issues and problems;

(2) demonstration of the design and conduct of environmental field studies and assessments;

(3) [training in] development of environmental *education* programs and curriculum, *including programs and curriculum to meet the needs of diverse ethnic and cultural groups;*

(4) sponsorship and management of international exchanges of teachers and other educational professionals involved in environmental programs and issues;

[(5) maintenance of a library of environmental education materials, information, and literature;]

[(6)] *(5)* evaluation and dissemination of environmental education materials, training methods, and related programs;

[(7)] *(6)* sponsorship of conferences, seminars, and related forums for the advancement and development of environmental education and training curricula and materials, *including international conferences, seminars, and forums;* and

[(8)] *(7)* such other activities as the Administrator determines to be consistent with the objectives of this Act.

Special emphasis should be placed on developing environmental education programs, workshops, and training tools which are portable and can be broadly disseminated [including development of computer networks].

(c)(1) The Administrator shall make a grant on an annual basis to an institution of higher education or other [research] institution which is a not-for-profit institution (or consortia of such institutions) to [establish and] operate the environmental education and training program required by this section.

(2) Any institution of higher education or other [research] institution (or consortia of such institutions) which is a not-for-profit organization and is interested in receiving a grant under this section may submit to the Administrator an application in such form and containing such information as the Administrator may require.

(3) The Administrator shall award grants under this section on the basis of—

(A) the capability to develop environmental education and training programs;

(B) the capability to deliver training to a range of participants and in a range of settings;

(C) the expertise of the staff in a range of appropriate disciplines;

(D) the relative economic effectiveness of the program in terms of the ratio of overhead costs to direct services;

(E) the capability to make effective use of existing national environmental education resources, programs, and networks, including public telecommunications networks;

[(E)] *(F)* the results of any evaluation under paragraph (5) of this subsection; and

[(F)] *(G)* such other factors as the Administrator deems appropriate.

(4) No funds made available to carry out this section shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building.

(5) The Administrator shall establish procedures for a careful and detailed review and evaluation of the education and training program to determine whether the quality of the program being operated by the grantee warrants continued support under this section.

(d)(1) Individuals eligible for participation in the program are teachers, faculty, administrators and related support staff associated with local education agencies, colleges, and universities, employees of State education, environmental protection, and natural resource departments, and employees of not-for-profit organizations involved in environmental education activities and issues.

(2) [Environmental education professionals] *Individuals* shall be selected for participation in the program based on applications which shall be in such form as the Administrator determines to be appropriate.

(3) In selecting individuals to participate in the program, the [Administration] *Administrator* shall provide for a wide geographic representation and a mix of individuals working at primary, secondary, postsecondary levels, and with appropriate other agencies and departments.

(4) Individuals selected for participation in the program may be provided with a stipend to cover travel and accommodations *from grant funds awarded pursuant to this section* in such amounts as the Administrator determines to be appropriate.

SEC. 6. ENVIRONMENTAL EDUCATION GRANTS.

(a) The Administrator may enter into a cooperative agreement or contract, or provide financial assistance in the form of [grants] *a grant or cooperative agreement* to support projects to design, demonstrate, [and] *or* disseminate practices, methods, or techniques related to environmental education and training.

(b) Activities eligible for grant support pursuant to this section shall include, but not be limited to—

(1) design, [and] demonstration, *or dissemination* of environmental curricula, including development of educational tools and materials;

(2) design and demonstration of field methods, practices, and techniques, including assessment of environmental and ecological conditions and analysis of environmental pollution problems;

(3) conduct of special projects to understand and assess a specific environmental issue or a specific environmental problem, [and,] *including international environmental problems;*

(4) [support of] *provision of* training or related education for [personnel, including] teachers, faculty, or [administrative staff.] *related personnel in a specific geographic area or region; and*

(5) design and demonstration of projects to foster international cooperation in addressing and environmental issues and problems.

(c) In making grants pursuant to this section, the Administrator shall give priority to those proposed projects which will develop—

(1) a new or significantly improved environmental education practice, method, or technique;

(2) an environmental education practice, method, or technique which may have wide application;

(3) an environmental education practice, method, or technique which addresses a skill or scientific field identified as a priority in the report developed pursuant to section [9(e)] *9(d)* of this Act; *and*

(4) an environmental education practice, method or technique which addresses an environmental issue which, in the judgment of the Administrator, is of a high [priority; and] *priority.*

[(5) an evaluation of the content and effectiveness of environmental education and training programs and materials.]

(d) The program established by this subsection shall include solicitations for projects, selection of suitable projects from among those proposed, supervision of such projects, evaluation of the results of projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, techniques and processes. The Administrator shall publish regulations to assure satisfactory implementation of each element of the program authorized by this subsection.

(e) Within one hundred and eighty days after the date of enactment of this Act, and no less often than every twelve months thereafter, the Administrator shall publish a solicitation for environmental education grants. The solicitation notice shall prescribe the information to be included in the proposal and other information sufficient to permit the Administrator to assess the project.

(f) Any local education agency, college or university, State education agency or environmental agency, [or] not-for-profit organization, *or noncommercial educational broadcasting entity* may submit an application to the Administrator in response to the solicitations required by subsection (e) of this section.

(g) Each project under this section shall be performed by the applicant, or by a person satisfactory to the applicant. [under the supervision of the Administrator.]

(h) Federal funds for any demonstration project under this section shall not exceed 75 per centum of the total cost of such project. For the purposes of this section, the non-Federal share of project costs may be provided by inkind contributions and other noncash support. In cases where the Administrator determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(i) Grants under this section shall not exceed [$100,000.] *$150,000.* In addition, 25 per centum of all funds obligated under this section in a fiscal year shall be for grants of not more than $5,000.

SEC. 7. ENVIRONMENTAL INTERNSHIPS AND FELLOWSHIPS.

(a) The Administrator shall, in consultation with the Office of Personnel Management and other appropriate Federal agencies, provide for internships by postsecondary level students *and fellowships for in-service teachers* with agencies of the Federal Government.

(b) The purpose of internships *and fellowships* pursuant to this section shall be to provide college level students *and in-service teachers* with an opportunity to work with professional staff of Federal agencies involved in environmental issues and thereby gain an understanding and appreciation of *such issues and* the skills and abilities appropriate to such professions.

[(c) The Administrator shall, to the extent practicable, support not less than one hundred and fifty internships each year.]

(c) The Administrator shall, to the extent practicable, support not less than two hundred and fifty internships each year and not less than fifty fellowships each year.

(d) The internship [program] *and fellowship programs* shall be managed by the Office of Environmental Education. Interns *and fellows* may serve in appropriate agencies of the Federal Government including, but not limited to, the Environmental Protection Agency, the Fish and Wildlife Service, [and] the National Oceanic and Atmospheric Administration, *the* Council on Environmental Quality, *the* Soil Conservation Service, *the* United States Forest Service, *the* National Park Service, and the Bureau of Land Management.

(e) Interns shall be hired on a temporary, full-time basis for not to exceed six months and shall be compensated at a rate of not less than GS-4 and not more than GS-7. *Fellows shall be hired on a temporary, full-time basis for not to exceed twelve months and shall be compensated at a rate not less than GS-7 and not more than GS-11.* Federal agencies hiring interns shall provide the funds necessary to support salaries and related costs.

(f)*(1)* Individuals eligible for participation in the internship program are students enrolled at accredited colleges or universities who have successfully completed not less than four courses or the equivalent in envi-

ronmental sciences or studies, as determined by the Administrator.

(2) Individuals eligible for participation in the fellowship program are in-service teachers who are currently employed by a local education agency and have not less than two years experience in teaching environmental education, environmental sciences, or related courses.

(g) [Students] *Individuals* shall be selected for internships *and fellowships* based on applications which shall be in such form as the Administrator considers appropriate.

(h) In selecting individuals for internships *and fellowships,* the Administrator shall [provide for wide] *provide for representation of* geographic [representation and representation of a range of professions related to the environment.] *regions and minority groups.*

SEC. 8. ENVIRONMENTAL EDUCATION AWARDS.

(a) The Administrator shall provide for a series of national awards recognizing outstanding contributions to environmental education.

(b) [National] *In addition to such other awards as the Administrator may provide for, national* environmental awards shall include—

(A) The "Theodore Roosevelt Award" to be given in recognition of an outstanding career in environmental education, teaching, or administration;

(B) The "Henry David Thoreau Award" to be given in recognition of an outstanding contribution to literature on the natural environment and environmental pollution problems; and

(C) The "Rachael Carson Award" to be given in recognition of an outstanding contribution in print, [or] film, *or broadcast* media to public education and information on environmental issues or problems.

(c) Recipients of education awards provided for in subsection (b) shall be nominated by the Environmental Education Advisory Council provided for in section 9 of this Act.

(d) The Administrator may also provide for the "President's Environmental Youth Awards" to be given to young people in grades kindergarten through twelfth for an outstanding project to promote local environmental awareness.

[(d)] *(e)* The Regional Administrator of each of the ten regional offices of the Environmental Protection Agency [shall] *may* present an "Outstanding Environmental Educator Award" on an annual basis to a teacher or faculty member from a local education agency, college or university, or not-for-profit organization in that region in recognition of a specific, outstanding contribution to environmental education during the past year.

SEC. 9. ENVIRONMENTAL EDUCATION ADVISORY COUNCIL AND TASK FORCE.

(a) There is hereby established a National Environmental Education Advisory Council *and a Federal Task Force on Environmental Education.*

(b)*(1)* The *Advisory* Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this Act. The Office of Environmental Education shall provide staff support to the Council.

[(c)] *(2)* The *Advisory* Council shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Three members shall be appointed to represent primary and secondary education (one of whom shall be a classroom teacher); three members shall be appointed to represent colleges and universities; three members shall be appointed to represent not-for-profit organizations involved in environmental education; three members shall be appointed to represent State departments of education and natural resources; and three representatives shall be appointed to represent business and industry. A representative of the Secretary[, Department of Education,] shall serve as an ex-officio member of the *Advisory* Council. [The Office of Environmental Education shall provide staff support to the Council.] *The conflict of interest provision at section 208(a) of title 18, United States Code, shall not apply to members' participation in particular matters which affect the financial interests of employers which they represent pursuant to this subsection.*

[(d)] *(3)* The Administrator shall provide that members of the Council represent the various geographic regions of the country and that the professional backgrounds of the members include scientific, policy, and other appropriate disciplines.

[(e)] *(4)* Each member of the *Advisory* Council shall hold office for a term of three years, except that—

[(1)] *(A)* any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

[(2)] *(B)* the terms of the members first taking office shall expire as follows: five shall expire three years after the date of enactment of this [title,] *Act,* five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

[(f) The Council shall, after providing for public review and comment, submit to the Congress, within twenty-four months of enactment and biennially thereafter, a report which shall—

[(1) describe and assess the extent and quality of environmental education in the Nation's schools, colleges, and universities;

[(2) provide a general description of the activities conducted pursuant to this Act and related authorities over the previous two-year period;

[(3) summarize major obstacles to improving environmental education and make recommendations for addressing such obstacles; and

[(4) identify personnel skills, education, and training needed to respond to current and anticipated environmental problems and make recommendations for actions to assure sufficient educational and training opportunities in these professions.]

[(g)] *(5)* Members of the *Advisory* Council appointed under this section shall, while attending meetings [or conferences] of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

[(h)] *(6)* Section 14(a) of the Federal Advisory Committee Act relating to termination, shall not apply to the *Advisory* Council.

(c)(1) The federal Task Force on Environmental Education shall advise, consult with and make recommendations to the Administrator on matters relating to implementation of this Act and assure the coordination of such implementation activities with related activities of other Federal agencies.

(2) Membership of the Task Force shall include representatives of the—

(A) Department of Education,

(B) Fish and Wildlife Service,

(C) National Park Service,

(D) Forest Service,

(E) National Oceanic and Atmospheric Administration,

(F) Council on Environmental Quality; and

(G) National Science Foundation.

The Administrator of the Environmental Protection Agency shall chair the Task Force.

(d) The Advisory Council shall, after providing for public review and comment, submit to the Congress, within twenty-four months of enactment of this Act and biennially thereafter, a report which shall—

(A) describe and assess the extent and quality of environmental education in the Nation;

(B) provide a general description of the activities conducted pursuant to this Act and related authorities over the previous two-year period;

(C) summarize major obstacles to improving environmental education, including environmental education programs relating to national parks and wildlife refuges, and make recommendations for addressing such obstacles; and

(D) identify personnel skills, education, and training needed to respond to current and anticipated environmental problems and make recommendations for actions to assure sufficient educational and training opportunities in these professions.

The Federal Task Force on Environmental Education shall review and comment on a draft of the report to Congress.

SEC. 10. ENVIRONMENTAL EDUCATION TRUST FUND.

(a) There is established in the Treasury of the United States a trust fund to be known as the "Environmental Education Trust Fund", consisting of such amounts as may be [transferred to] *deposited in* such Trust Fund as provided in this section.

[(b)(1)] *(b)* Amounts in the Environmental Education Trust Fund shall be available, as provided in appropriation Acts, to the Administrator for the purposes of making expenditures to carry out this Act[, but not in excess of $15,000,000 for each fiscal year.

[(2) Of such sums appropriated in a fiscal year, not more than 40 per centum shall be available for the activities of the Office of Environmental Education, not more than 30 per centum shall be available for the operation of the Environmental education and training program, and not more than 30 per centum shall be available for environmental education grants.

[(c) There are hereby authorized to be appropriated to the Environmental Education Trust Fund, 50 per centum of any penalty paid in response to Federal enforcement action] *Fifty per centum of any penalty collected in response to Federal enforcement action* pursuant to the Clean Water Act, the Clean Air Act, the Solid Waste Disposal Act,

the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, and the Safe Drinking Water Act *shall be deposited in the Environmental Education Trust Fund* unless any such penalty is required to be used for another purpose pursuant to Federal law: *Provided further, That deposits to the fund pursuant to this subsection shall not exceed $15,000,000 in any given fiscal year.*

SEC. 11. AUTHORIZATION.

(a) There is hereby authorized to be appropriated from the Environmental Education Trust Fund to carry out this Act not to exceed $15,000,000 for each fiscal year 1991, 1992, 1993, 1994, 1995, and 1996.

(b) Of such sums appropriated in a fiscal year, not more than 30 per centum shall be available for the activities of the Office of environmental education, not more than 30 per centum shall be available for the operation of the environmental education and training program, and not more than 40 per centum shall be available for environmental education grants.

AMENDMENT NO. 2302

Mr. CRANSTON. Mr. President, I send an amendment to the desk on behalf of Senator BURDICK and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] for Mr. BURDICK, proposes an amendment numbered 2302.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 5, insert the following

"(9) Federal natural resource agencies such as the United States Forest Service have a wide range of environmental expertise and a long history of cooperation with educational institutions and technology transfer that can assist in furthering the purposes of the Act."

On page 5, line 7, strike "and".

On page 5, line 14, strike the period and insert in lieu thereof the word "and".

On page 5, line 14, insert the following:

"(9) 'natural resource management agencies' means the United States Forest Service, the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service."

On page 5, line 21, insert after "forts" the following: "in consultation and coordination with other Federal agencies,".

On page 6, line 5, insert after "with" the following: "other Federal agencies,".

On page 6, line 6, insert after "organizations" the following: ", and private sector interests".

On page 7, line 4, insert after assess ", in coordination with other Federal agencies,".

On page 7, line 17, insert after "the" the following "United States Forest Service, the Bureau of Land Management, the".

On page 7, line 22, insert after "parks" the following ", national forests," and insert after the ";" the following: "and multiple use and sustained yield management;".

On page 18, line 17, strike "and".

On page 18, line 21, strike the period and insert in lieu thereof ";".

On page 18, line 22, insert the following:

"(D) The 'Gifford Pinchot Award' to be given in recognition of an outstanding contribution to multiple use and sustained yield land management".

On page 20, line 10, after the period insert the following: "In addition, a representative of the Secretary of Agriculture and a representative of the Secretary of the Interior shall serve as ex-offico members of the Council."

On page 23, line 9, insert the following:

"(F) the Bureau of Land Management;".

and reletter the following paragraphs appropriately.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2302) was agreed to.

Mr. BURDICK. Mr. President, I rise in strong support of the National Environmental Education Act (S. 1076).

I introduced this legislation with the committee's ranking minority member Senator CHAFEE, Majority Leader MITCHELL, and many others. There are now 34 sponsors of this important bill.

In the years I have served on the Environment and Public Works Committee, environmental problems have become increasingly complex and interrelated. In addition, problems are now global in scale.

To respond to these problems, we need better understanding of environmental issues and increased commitment to protection of our natural environment. The legislation we are considering today is designed to accomplish these goals.

Following the first Earth Day in 1970, Congress passed major environmental statutes, such as the Clean Air Act and the Clean Water Act. These laws form the foundation of our present environmental program.

A key part of this first round of environmental laws was the National Environmental Policy Act, signed into law by President Nixon on October 30, 1970. Unfortunately, this act was repealed in 1981 as part of the Omnibus Budget Reconciliation Act.

The legislation we are considering today renews and restates our commitment to environmental education and to teaching young people about the environment. This legislation is long overdue.

The bill includes many of the provisions of the original Environmental Education Act as well as several new provisions.

Our bill directs the Federal Government to support and encourage environmental education programs and to work with States, local governments, and nonprofit organizations to promote existing efforts.

The bill establishes an Office of Environmental Education at the Environmental Protection Agency. The Office is to manage the various programs provided for in this act, including teacher training, grants to schools, internships and fellowships, and environmental education awards.

A key provision of the bill provides for the development and delivery of environmental education and training programs, including classroom training, field studies, and related activities. The bill makes several million dollars available each year to support training activities.

The bill calls for expenditures of over $6 million each year in grants to school systems, colleges, environmental agencies, and nonprofit organizations for environmental education programs and projects.

An important goal of the bill is to attract young people into careers in environmental protection. The bill provides for up to 250 internships for college students at Federal agencies involved in environmental issues and 50 fellowships for inservice teachers with Federal natural resource agencies each year.

The bill also provides awards to recognize excellence in environmental education including awards for an outstanding career in environmental education, an outstanding contribution to literature on the natural environment, and an outstanding award to public education on environmental issues.

Finally, the bill provides for an Environmental Education Advisory Council, made up of citizens, educators, and other interested parties and for a Federal Task Force on Environmental Education, made up of the various Federal agencies with programs related to environmental education.

We propose a modest authorization of $15 million for this legislation and establishment of an Environmental Education Trust Fund. Half of the amount of any penalty paid by those who violate our major environmental laws would be deposited in the trust fund. The trust fund should come very close to covering the $15 million authorized in this bill.

In the news we see the problems facing our environment—oil spills, global warming, ground water contamination, lead in drinking water, and radon gas in homes and schools. These problems can appear to be both intractable and overwhelming.

Education can bring environmental problems into better focus and establish a foundation on which to build long-term solutions. This legislation is a big step forward in teaching new generations about our natural resources.

I am convinced that educating our children about the environment is the best investment we can make in saving the planet. I know that my colleagues share this view and I am confident that by working together, we can assure the prompt enactment of this vital legislation.

Mr. CHAFEE. Mr. President, I rise today in strong support of a bill which could yield long-term dividends in the protection and improvement of our environment. I am referring, of course, to the National Environmental Education Act, sponsored by Senator BURDICK, myself, Senators JEFFORDS, MITCHELL, COHEN, KASTEN, and others.

The concept of environmental education is not new. In 1970, Congress passed the National Environmental Education Act—a law which was never aggressively implemented by the former Department of Health, Education, and Welfare, and which was repealed in 1981. Also the United Nations sponsored a major intergovernmental conference on environmental education in 1977. Yet, never has the need for a broad, interdisciplinary approach to environmental education, both in formal settings such as school curricula, and informal channels such as the media, been more urgent than today.

Unless we can instill in our population, especially the younger generation, an understanding that everyday actions such as garbage disposal and the burning of fossil fuels have a direct impact on our life-sustaining ecosystem, then prospects for solving environmental problems become greatly diminished.

Until this century, man has been largely incapable of causing irreparable harm to the environment. As Americans we inherited a seemingly limitless expanse of land and water. If we used up the available land, we could always push on further west. Our oceans seemed to supply us with an inexhaustible supply of food, and always rebounded from the impact of human development.

The industrial revolution, however, has dramatically changed this. Within the past few decades we have become painfully aware that the collective action of mankind can wipe out plant and animal species, deplete marine life, cause acid to fall from the sky, deplete atmospheric ozone, and create conditions which cause global warming.

Arguably the most important tool we have to avert these assaults on our environment is education. We must arm the next generation not only with a keen awareness of environmental problems, but also with the skills to solve them.

That is why I and a number of my colleagues have introduced the National Environmental Education Act. The goal of this bill is to expand and improve the level of environmental education in our country. Increased public understanding of environmental problems can lead to widespread public support for measures to address them. Students all across the academic spectrum—from the early grades through postgraduate studies—would benefit from the environmental education provided by this act.

Under the bill, a major university, or a consortium of universities and nonprofit agencies, will be chosen to establish and operate an environmental education and training program. This program will offer teachers and other professionals training in the development and presentation of environmental education curricula and field studies. Funds will be available in the form of grants to local and State education agencies, colleges, and nonprofit organizations to promote environmental education programs and projects.

To attract young people toward careers in environmental protection, up to 250 college level internships in Federal agencies involved in environmental issues will be made available each year to students. And to recognize excellence in environmental education, the bill creates three awards in honor of these great advocates of the environment: Theodore Roosevelt, Henry David Thoreau, and Rachel Carson.

To ensure a cleaner environment for future generations, we must begin to educate children today. The National Environmental Education Act is a positive step in this direction.

Mr. BINGAMAN. Mr. President, I rise today to express my strong support for the National Environmental Education Act. I am pleased to be a cosponsor and I want to congratulate my distinguished colleague from North Dakota, Senator BURDICK, the chairman of the Committee on Environment and Public Works, for his leadership on this bill.

As we all know, environmental concerns confront us daily. It is important that we have the knowledge to understand those concerns and work to resolve them.

I am pleased that my colleagues share my support for the legislation which will be a starting point for a significant increase in environmental education opportunities. As our constituents become more aware of the environmental problems facing our Nation, it is encouraging to see legislation passed which deals effectively with the problems.

A significant need for Federal support for environmental education was recognized in 1979, when Congress passed the National Environmental Education Act. This legislation was sponsored by Senator Gaylord Nelson, the founder of Earth Day and a national leader with efforts to protect the environment.

The purpose of today's legislation is to reestablish that Federal role in environmental education. Moreover, it expands the scope of current environmental programs being implemented by nonprofit organizations, local and State educational agencies, and other Federal agencies.

I am pleased that this piece of legislation is directed toward public education and awareness. In my home State of New Mexico, there is growing interest in participating in environmental education activities. I recently sponsored an environmental conference for educators in Las Cruces, NM, where approximately 100 teachers from grades K to 12 participated in seminars and workshops to better understand key environmental issues of the Southwest including clean water, recycling, and global climate change. The initiatives in this bill further the assistance available to teachers and students.

The bill also establishes grants for our academic institutions and creates a formal branch of education within the Environmental Protection Agency. The bill includes classroom development programs, training and educating workshops, and educational grants to school systems and colleges.

I hope to introduce legislation soon which will also increase the role of our national laboratories in furthering the goals set forth in S. 1076. This initiative will give greater attention to the important role of environmental education.

Mr. DECONCINI. Mr. President, I rise today to applaud the distinguished chairman of the Environment and Public Works Committee for his leadership in authoring and bringing to the floor S. 1076, the Environmental Education Act of 1990. It is a very timely piece of legislation as we examine our future and ask how we might best provide for the stewardship and care of our natural resources. The more information we have about our environment, the better we can provide for its wise management and protection.

This Senator has, through the years, developed a profound respect for the Federal agencies that manage and provide conservation leadership to our country's resources. The Forest Service is one of these agencies. Since 1905 it has been the primary Federal agency responsible for forestry leadership in our country, protecting and managing over 191 million acres of Federal lands and providing research and technical assistance to the managers of America's 1.6 billion acres of forests and rangelands. The national forests are home for nearly 60 percent of the animal species in the Nation, supplying more outdoor recreation than any other Federal lands—more than 40 percent of the total—and is the manager of 79 percent of our Nation's wilderness system. It is the source of over 50 percent of this country's water in the West and is the storehouse of nearly 50 percent of the Nation's softwood sawtimber. It has, at its fingertips, one of the greatest ranges of natural resource experience of any

Federal agency and unparalleled experience in public outreach, education, and management of forest resources.

S. 1076, the environmental education bill creates a new organization, the Office of Environmental Education within the EPA. This legislation also defines the relationship of the National Park Service and Fish and Wildlife Service with respect to their interactions with the new Office of Environmental Education. Does the distinguished chairman intend for the Forest Service to have as strong a role in implementation of this act as the other Federal resource agencies that are mentioned in it?

Mr. BURDICK. I would agree with the senior Senator from Arizona that the Forest Service has unparalleled experience and ability in forest management. There was certainly no intent to exclude this agency from being a major participant in implementation of the Environmental Education Act. The important and professional job of the Forest Service is recognized. The act should renew and reestablish the overall Federal leadership and coordination of environmental education. It is not intended to take away any programs already underway. All Federal natural resource agencies must be part of the implementation of this act if it is to be successful. It is designed to complement existing education programs of Federal agencies such as those by the Forest Service—not replace them. I may point out to the Senator from Arizona that S. 1076 does establish a Federal task force on environmental education of which the Forest Service is a member.

Mr. DECONCINI. I am glad to see that the drafters of this important legislation recognize the contributions that can be made by the Forest Service. We should be building partnerships to solve problems from the bottom up rather than building new bureaucracies from the top down. Environmental issues are best approached through cooperation and partnerships with those that have the experience and the responsibility. The key to education is bringing a range of ideas and people together. The Forest Service is a decentralized agency with over 1,400 offices spread predominately throughout rural America. These offices are already networked with education institutions, environmental, and industry groups. Forest Service personnel are trained and experienced in developing coalitions, coordinating various interests, and reaching consensus on hard issues. This network would be invaluable in implementing a national environmental program. Does the distinguished chairman envision the proposed Office of Environmental Education making use of this strength?

Mr. BURDICK. The Federal task force, of which the Forest Service has membership, has responsibility to make recommendations to the Administrator on the implementation of the act. This assures the coordination of implementation activities. The Forest Service is asked to participate in describing the extent and quality of environmental education in the Nation, summarizing major obstacles to improvement, and identifying the training needed to anticipate future environmental problems. As a member of the Federal task force, it will have a major role in making recommendations for appropriate national actions. It has as much ability to influence this process as any other Federal natural resource agency.

Mr. DECONCINI. Mr. President, I notice that the act also calls for the development of internships by postsecondary students for assignment with Federal agencies. The Forest Service has a longstanding philosophy of management based upon cooperation and agreements across land ownerships and will provide excellent leadership to such an endeavor. Is it the chairman's intention that the Forest Service also participate in the internship program prescribed for in this legislation?

Mr. BURDICK. The Forest Service can facilitate and be a key manager in the development and implementation of fellowships and internships. They will be available and coordinated through the Office of Environmental Education, but carried out by the individual agencies. The success of implementation within an agency such as the Forest Service depends upon how they choose to participate and manage such a program.

Mr. DECONCINI. The Forest Service is often called upon to help other Federal agencies in the implementation of new programs. There is an excellent opportunity to assign a Forest Service person to the Environmental Education Office to provide coordination and expertise in forestry and conservation education. I would like to see such an opportunity provided.

Mr. BURDICK. Nothing precludes that from happening, in fact that is something that can be negotiated between the Chief of the Forest Service and the Administrator of the EPA. I am certain that in these days of trying to leverage our dollars and make the most with what we have, any help provided to the Administrator by other Federal agencies I am sure would be welcomed.

Mr. DECONCINI. I thank the distinguished chairman for clarifying these issues for me. He has once again demonstrated his leadership in the protection and stewardship of our Nation's vital natural resources. The Environmental Education Act is an important piece of legislation that has my support. It will direct the development and implementation of an enhanced environmental program in a coordinated fashion.

Mr. METZENBAUM. Mr. President, I wholeheartedly support this bill, S. 1076, the National Environmental Education Act. I hope that the bill will be enacted into law expeditiously and I congratulate the managers for their efforts.

During my tenure in the Senate, and as the chairman of the Labor Subcommittee, I have been concerned with the health and safety of American workers and the hazardous nature of the work environment. I plan to use my new position on the Environment and Public Works Committee to further pursue these critical issues.

I would appreciate it if my friend, the distinguished chairman of the Environment Committee, could clarify a point about this particular bill.

Throughout the United States there are a number of colleges and universities, such as the University of Cincinnati, with graduate and undergraduate programs which educate and train students in occupational and environmental health sciences. Many of these schools also have outreach programs that teach special courses in occupational and environmental health.

Since the term "environmental education" is not defined in S. 1076, is it the distinguished chairman's intent to include occupational and environmental health sciences education and training within the scope of this legislation?

Mr. BURDICK. Yes, it is.

Mr. METZENBAUM. I thank the Senator for this clarification.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1076

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) TITLE.—This Act may be cited as the "National Environmental Education Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Office of Environmental Education.
Sec. 5. Environmental education and training program.
Sec. 6. Environmental education grants.
Sec. 7. Environmental internships and fellowships.
Sec. 8. Environmental education awards.

Sec. 9. Environmental Education Advisory Council and Task Force.
Sec. 10. Environmental Education Trust Fund.
Sec. 11. Authorization.

SEC. 2. FINDINGS.

The Congress finds that—

(1) Threats to human health and environmental quality are increasingly complex, involving a wide range of conventional and toxic contaminants in the air and water and on the land.

(2) There is growing evidence of international environmental problems, such as global warming, ocean pollution, and declines in species diversity, and that these problems pose serious threats to human health and the environment on a global scale.

(3) Effective response to complex environmental problems requires understanding of the natural environment and awareness of environmental problems and their origins, and the skills to solve these problems.

(4) Development of effective solutions to environmental problems and effective implementation of environmental programs requires a well educated and trained, professional work force.

(5) Current Federal efforts to inform and educate the public concerning the natural environment and environmental problems are not adequate.

(6) Existing Federal support for development and training of professionals in environmental fields is not sufficient.

(7) The Federal Government, acting through the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational organizations, noncommercial educational broadcasting entities, and private sector interests to support development of curricula, special projects, and other activities, to increase understanding of the natural environment and to improve awareness of environmental problems.

(8) The Federal Government, acting through the coordinated efforts of its agencies and with the leadership of the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational organizations, noncommercial educational broadcasting entities, and private sector interests to develop and support methods, practices, and programs to assure the highest level of education and training, including technical and scientific skills, of professionals in environmental fields.

(9) Federal natural resource agencies such as the United States Forest Service have a wide range of environmental expertise and a long history of cooperation with educational institutions and technology transfer that can assist in furthering the purposes of the Act.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Agency" means the United States Environmental Protection Agency;

(3) "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation;

(4) "Secretary" means the Secretary of the Department of Education;

(5) "local education agency" means any education agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381) and shall include any tribally controlled school;

(6) "not-for-profit" organization means an organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1986, which is exempt from taxation pursuant to the provisions of section 501(a) of such code;

(7) "noncommercial education broadcasting entities" means any noncommercial educational broadcasting station (and/or its legal nonprofit affiliates) as defined and licensed by the Federal Communications Commission;

(8) "tribal education agency" means a school or community college which is controlled by an Indian tribe, band, or nation, including any Alaska native village, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians and which is not administered by the Bureau of Indian Affairs; and

(9) "natural resource management agencies" means the United States Forest Service, the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service.

SEC. 4. OFFICE OF ENVIRONMENTAL EDUCATION.

(a) The Administrator shall establish an Office of Environmental Education within the Environmental Protection Agency.

(b) The Office of Environmental Education shall—

(1) develop and support programs and related efforts in consultation and coordination with other Federal agencies, to improve understanding of the natural environment, and the relationships between humans and their environment, including the global aspects of environmental problems;

(2) support development and dissemination of model curricula, educational materials, and training programs for elementary and secondary students and other interested groups;

(3) develop and disseminate, in cooperation with other Federal agencies, educational and environmental organizations, and noncommercial educational broadcasting entities, environmental education publications and audio/visual and other media materials;

(4) develop and support environmental education seminars, training programs, and workshops for environmental education professionals, as provided for in section 5 of this Act;

(5) manage Federal grant assistance provided to local education agencies, institutions of higher education, other not-for-profit organizations and noncommercial education broadcasting entities, under section 6 of this Act;

(6) administer the environmental internship and fellowship program provided for in section 7 of this Act;

(7) administer the environmental awards program provided for in section 8 of this Act;

(8) provide staff support to the Advisory Council and Task Force provided for in section 9 of this Act;

(9) assess, in coordination with other Federal agencies, the demand for professional skills and training needed to respond to current and anticipated environmental problems and cooperate with appropriate institutions, organizations, and agencies to develop training programs, curricula, and continuing education programs for teachers, school administrators, and related professionals;

(10) assure the coordination of Federal statutes and programs administered by the Agency relating to environmental education and work to reduce duplication or inconsistencies within these programs;

(11) work with the Department of Education, the Federal Interagency Committee on Education, and with other Federal agencies, including the United States Forest Service, the Bureau of Land Management, the National Park Service and the United States Fish and Wildlife Service to assure the effective coordination of programs related to environmental education, including environmental education programs relating to national parks, national forests, and wildlife refuges; and multiple use and sustained yield management;

(12) provide technical assistance to local education agencies, State education and natural resource agencies, and others; and

(13) otherwise provide for the implementation of this Act.

(c) The Office of Environmental Education shall—

(1) be directed by a Director who shall be a member of the Senior Executive Service;

(2) include a headquarters staff of not less than ten full-time equivalent employees; and

(3) be supported by not less than one full-time equivalent employee in each Agency regional office.

SEC. 5. ENVIRONMENTAL EDUCATION AND TRAINING PROGRAM.

(a) There is hereby established an Environmental Education and Training Program. The purpose of the program shall be to train educational professionals in the development and delivery of environmental education and training programs and studies.

(b) The functions and activities of the program shall include, at a minimum—

(1) classroom training in environmental education and studies including environmental sciences and theory, educational methods and practices, environmental career or occupational education, and topical environmental issues and problems;

(2) demonstration of the design and conduct of environmental field studies and assessments;

(3) development of environmental education programs and curriculum, including programs and curriculum to meet the needs of diverse ethnic and cultural groups;

(4) sponsorship and management of international exchanges of teachers and other educational professionals involved in environmental programs and issues;

(5) evaluation and dissemination of environmental education materials, training methods, and related programs;

(6) sponsorship of conferences, seminars, and related forums for the advancement and development of environmental education and training curricula and materials, including international conferences, seminars, and forums; and

(7) such other activities as the Administrator determines to be consistent with the objectives of this Act.

Special emphasis should be placed on developing environmental education programs, workshops, and training tools which are portable and can be broadly disseminated.

(c)(1) The Administrator shall make a grant on an annual basis to an institution of higher education or other institution which is a not-for-profit institution (or consortia of such institutions) to operate the environ-

mental education and training program required by this section.

(2) Any institution of higher education or other institution (or consortia of such institutions) which is a not-for-profit organization and is interested in receiving a grant under this section may submit to the Administrator an application in such form and containing such information as the Administrator may require.

(3) The Administrator shall award grants under this section on the basis of—

(A) the capability to develop environmental education and training programs;

(B) the capability to deliver training to a range of participants and in a range of settings;

(C) the expertise of the staff in a range of appropriate disciplines;

(D) the relative economic effectiveness of the program in terms of the ratio of overhead costs to direct services;

(E) the capability to make effective use of existing national environmental education resources, programs, and networks, including public telecommunications networks;

(F) the results of any evaluation under paragraph (5) of this subsection; and

(G) such other factors as the Administrator deems appropriate.

(4) No funds made available to carry out this section shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building.

(5) The Administrator shall establish procedures for a careful and detailed review and evaluation of the education and training program to determine whether the quality of the program being operated by the grantee warrants continued support under this section.

(d)(1) Individuals eligible for participation in the program are teachers, faculty, administrators and related support staff associated with local education agencies, colleges, and universities, employees of State education, environmental protection, and natural resource departments, and employees of not-for-profit organizations involved in environmental education activities and issues.

(2) Individuals shall be selected for participation in the program based on applications which shall be in such form as the Administrator determines to be appropriate.

(3) In selecting individuals to participate in the program, the Administrator shall provide for a wide geographic representation and a mix of individuals working at primary, secondary, postsecondary levels, and with appropriate other agencies and departments.

(4) Individuals selected for participation in the program may be provided with a stipend to cover travel and accommodations from grant funds awarded pursuant to this section in such amounts as the Administrator determines to be appropriate.

SEC. 6. ENVIRONMENTAL EDUCATION GRANTS.

(a) The Administrator may enter into a cooperative agreement or contract, or provide financial assistance in the form of a grant or cooperative agreement to support projects to design, demonstrate, or disseminate practices, methods, or techniques related to environmental education and training.

(b) Activities eligible for grant support pursuant to this section shall include, but not be limited to—

(1) design, demonstration, or dissemination of environmental curricula, including development of educational tools and materials;

(2) design and demonstration of field methods, practices, and techniques, including assessment of environmental and ecological conditions and analysis of environmental pollution problems;

(3) conduct of special projects to understand and assess a specific environmental issue or a specific environmental problem, including international environmental problems;

(4) provision of training or related education for teachers, faculty, or related personnel in a specific geographic area or region; and

(5) design and demonstration of projects to foster international cooperation in addressing and environmental issues and problems.

(c) In making grants pursuant to this section, the Administrator shall give priority to those proposed projects which will develop—

(1) a new or significantly improved environmental education practice, method, or technique;

(2) an environmental education practice, method, or technique which may have wide application;

(3) an environmental education practice, method, or technique which addresses a skill or scientific field identified as a priority in the report developed pursuant to section 9(d) of this Act; and

(4) an environmental education practice, method or technique which addresses an environmental issue which, in the judgment of the Administrator, is of a high priority.

(d) The program established by this subsection shall include solicitations for projects, selection of suitable projects from among those proposed, supervision of such projects, evaluation of the results of projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, techniques and processes. The Administrator shall publish regulations to assure satisfactory implementation of each element of the program authorized by this subsection.

(e) Within one hundred and eighty days after the date of enactment of this Act, and no less often than every twelve months thereafter, the Administrator shall publish a solicitation for environmental education grants. The solicitation notice shall prescribe the information to be included in the proposal and other information sufficient to permit the Administrator to assess the project.

(f) Any local education agency, college or university, State education agency or environmental agency, not-for-profit organization, or noncommercial educational broadcasting entity may submit an application to the Administrator in response to the solicitations required by subsection (e) of this section.

(g) Each project under this section shall be performed by the applicant, or by a person satisfactory to the applicant.

(h) Federal funds for any demonstration project under this section shall not exceed 75 per centum of the total cost of such project. For the purposes of this section, the non-Federal share of project costs may be provided by inkind contributions and other noncash support. In cases where the Administrator determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(i) Grants under this section shall not exceed $150,000. In addition, 25 per centum of all funds obligated under this section in a fiscal year shall be for grants of not more than $5,000.

SEC. 7. ENVIRONMENTAL INTERNSHIPS AND FELLOWSHIPS.

(a) The Administrator shall, in consultation with the Office of Personnel Management and other appropriate Federal agencies, provide for internships by postsecondary level students and fellowships for in-service teachers with agencies of the Federal Government.

(b) The purpose of internships and fellowships pursuant to this section shall be to provide college level students and in-service teachers with an opportunity to work with professional staff of Federal agencies involved in environmental issues and thereby gain an understanding and appreciation of such issues and the skills and abilities appropriate to such professions.

(c) The Administrator shall, to the extent practicable, support not less than two hundred and fifty internships each year and not less than fifty fellowships each year.

(d) The internship and fellowship programs shall be managed by the Office of Environmental Education. Interns and fellows may serve in appropriate agencies of the Federal Government including, but not limited to, the Environmental Protection Agency, the Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the Council on Environmental Quality, the Soil Conservation Service, the United States Forest Service, the National Park Service, and the Bureau of Land Management.

(e) Interns shall be hired on a temporary, full-time basis for not to exceed six months and shall be compensated at a rate of not less than GS-4 and not more than GS-7. Fellows shall be hired on a temporary full time basis for not to exceed twelve months and shall be compensated at a rate not less than GS-7 and not more than GS-11. Federal agencies hiring interns shall provide the funds necessary to support salaries and related costs.

(f)(1) Individuals eligible for participation in the internship program are students enrolled at accredited colleges or universities who have successfully completed not less than four courses or the equivalent in environmental sciences or studies, as determined by the Administrator.

(2) Individuals eligible for participation in the fellowship program are in-service teachers who are currently employed by a local education agency and have not less than two years' experience in teaching environmental education, environmental sciences, or related courses.

(g) Individuals shall be selected for internships and fellowships based on applications which shall be in such form as the Administrator considers appropriate.

(h) In selecting individuals for internships and fellowships, the Administrator shall provide for representation of geographic regions and minority groups.

SEC. 8. ENVIRONMENTAL EDUCATION AWARDS.

(a) The Administrator shall provide for a series of national awards recognizing outstanding contributions to environmental education.

(b) In addition to such other awards as the Administrator may provide for, national environmental awards shall include—

(A) The "Theodore Roosevelt Award" to be given in recognition of an outstanding

career in environmental education, teaching, or administration;

(B) The "Henry David Thoreau Award" to be given in recognition of an outstanding contribution to literature on the natural environment and environmental pollution problems;

(C) The "Rachael Carson Award" to be given in recognition of an outstanding contribution in print, film, or broadcast media to public education and information on environmental issues or problems;

(D) The "Gifford Pinchot Award" to be given in recognition of an outstanding contribution to multiple use and sustained yield land management.

(c) Recipients of education awards provided for in subsection (b) shall be nominated by the Environmental Education Advisory Council provided for in section 9 of this Act.

(d) The Administrator may also provide for the "President's Environmental Youth Awards" to be given to young people in grades kindergarten through twelfth for an outstanding project to promote local environmental awareness.

(e) The Regional Administrator of each of the ten regional offices of the Environmental Protection Agency may present an "Outstanding Environmental Educator Award" on an annual basis to a teacher or faculty member from a local education agency, college or university, or not-for-profit organization in that region in recognition of a specific, outstanding contribution to environmental education during the past year.

SEC. 9. ENVIRONMENTAL EDUCATION ADVISORY COUNCIL AND TASK FORCE.

(a) There is hereby established a National Environmental Education Advisory Council and a Federal Task Force on Environmental Education.

(b)(1) The Advisory Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this Act. The Office of Environmental Education shall provide staff support to the Council.

(2) The Advisory Council shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Three members shall be appointed to represent primary and secondary education (one of whom shall be a classroom teacher); three members shall be appointed to represent colleges and universities; three members shall be appointed to represent not-for-profit organizations involved in environmental education; three members shall be appointed to represent State departments of education and natural resources; and three representatives shall be appointed to represent business and industry. A representative of the Secretary shall serve as an ex-officio member of the Advisory Council. In addition, a representative cf the Secretary of Agriculture and a representative of the Secretary of Interior shall serve as ex-officio members of the Council. The conflict of interest provision at section 208(a) of title 18, United States Code, shall not apply to members' participation in particular matters which affect the financial interests of employers which they represent pursuant to this subsection.

(3) The Administrator shall provide that members of the Council represent the various geographic regions of the country and that the professional backgrounds of the members include scientific, policy, and other appropriate disciplines.

(4) Each member of the Advisory Council shall hold office for a term of three years, except that—

(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(B) the terms of the members first taking office shall expire as follows: five shall expire three years after the date of enactment of this Act, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

(5) Members of the Advisory Council appointed under this section shall, while attending meetings of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(6) Section 14(a) of the Federal Advisory Committee Act relating to termination, shall not apply to the Advisory Council.

(c)(1) The Federal Task Force on Environmental Education shall advise, consult with and make recommendations to the Administrator on matter relating to implementation of this Act and assure the coordination of such implementation activities with related activities of other Federal agencies.

(2) Membership of the Task Force shall include representatives of the—

(A) Department of Education,

(B) Fish and Wildlife Service,

(C) National Park Service,

(D) Forest Service,

(E) National Oceanic and Atmospheric Administration,

(F) Council on Environmental Quality;

(G) the Bureau of Land Management; and

(H) National Science Foundation.

The Administrator of the Environmental Protection Agency shall chair the Task Force.

(d) The Advisory Council shall, after providing for public review and comment, submit to the Congress, within twenty-four months of enactment of this Act and biennially thereafter, a report which shall—

(A) describe and assess the extent and quality of environmental education in the Nation;

(B) provide a general description of the activities conducted pursuant to this Act and related authorities over the previous two-year period;

(C) summarize major obstacles to improving environmental education, including environmental education programs relating to national parks and wildlife refuges, and make recommendations for addressing such obstacles; and

(D) identify personnel skills, education, and training needed to respond to current and anticipated environmental problems and make recommendations for actions to assure sufficient educational and training opportunities in these professions.

The Federal Task Force on Environmental Education shall review and comment on a draft of the report to Congress.

SEC. 10. ENVIRONMENTAL EDUCATION TRUST FUND.

(a) There is established in the Treasury of the United States a trust fund to be known as the "Environmental Education Trust Fund", consisting of such amounts as may be deposited in such Trust Fund as provided in this section.

(b) Amounts in the Environmental Education Trust Fund shall be available, as provided in appropriation Acts, to the Administrator for the purposes of making expenditures to carry out this Act. Fifty per centum of any penalty collected in response to Federal enforcement action pursuant to the Clean Water Act, the Clean Air Act, the Solid Waste Disposal Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, and the Safe Drinking Water Act shall be deposited in the Environmental Education Trust Fund unless any such penalty is required to be used for another purpose pursuant to Federal law: *Provided further,* That deposits to the fund pursuant to this subsection shall not exceed $15,000,000 in any given fiscal year.

SEC. 11. AUTHORIZATION.

(a) There is hereby authorized to be appropriated from the Environmental Education Trust Fund to carry out this Act not to exceed $15,000,000 for each fiscal year 1991, 1992, 1993, 1994, 1995, and 1996.

(b) Of such sums appropriated in a fiscal year, not more than 30 per centum shall be available for the activities of the Office of Environmental Education, not more than 30 per centum shall be available for the operation of the environmental education and training program, and not more than 40 per centum shall be available for environmental education grants.

REFORMULATION OF THE CEDAR BLUFF UNIT

Mr. MURKOWSKI. Mr. President, I send a bill to the desk on behalf of Senators DOLE and KASSEBAUM and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2874) to authorize the reformulation of the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, to provide for the amendment of water service and repayment contracts.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceded to consider the bill.

Mr. DOLE. Mr. President, on November 15, 1989, the Senate passed S. 53, a bill authorizing the reformulation of the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program in Kansas. This bill provides for amendment of water service and repayment contracts so that the reservoir may operate for fish, wildlife, recreation, and other purposes.

This bill, which is not controversial in nature, has been bottled up in the

House because of unrelated problems that affect other parts of a larger package it is attached to. I am advised by committee staff that this impasse may be going nowhere soon and adversely affects the disposition of this noncontroversial bill.

Mr. President, this bill deserves to be passed. It has passed the Senate. My understanding is that standing alone it does not present any problems in the House. I urge my colleagues to again adopt this bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF REFORMULATION.

The Secretary of the Interior (hereafter in this act referred to as the "Secretary"), pursuant to the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, Dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create—

(1) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for groundwater recharge for environmental, domestic, municipal, industrial and irrigation uses, and for other purposes: and

(2) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, for water sales, for fish, wildlife and recreation purposes, and for other purposes.

SEC. 2. CONTRACT WITH THE STATE OF KANSAS FOR OPERATING POOL.

The Secretary may enter into a contract with the State of Kansas for the sale, use and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the state of Kansas to acquire use and control of water in the joint-use pool: Provided, That the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to increase irrigation of lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 3. CONTRACT WITH THE STATE OF KANSAS FOR CEDAR BLUFF DAM AND RESERVOIR.

(a) AUTHORIZATION.—The Secretary may enter into a contract with the State of Kansas, accepting payment of $365,424, and the State's commitment to pay a proportionate share of the annual operation, maintenance and replacement charges for the Cedar Bluff Dam and Reservoir, as full satisfaction of all reimbursable costs associated with irrigation of the Cedar Bluff Unit, including the Cedar Bluff Irrigation District's obligations under Contract No. 0-07-W0064. After the reformulation of the Cedar Bluff Unit authorized by this Act, any revenues in excess of operating and maintenance expenses received by the State of Kansas from the sale of water from the Cedar Bluff Unit shall be paid to the United States and covered into the Reclamation Fund to the extent that operation, maintenance and replacement charge or reimbursable capital obligation exists for the Cedar Bluff Unit under Reclamation law. Once all such operation, maintenance and replacement charges or reimbursable obligations are satisfied, any additional revenues shall be retained by the State of Kansas.

(b) TRANSFER OF FISH HATCHERY.—The Secretary may transfer ownership of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 4. TRANSFER OF DISTRICT HEADQUARTERS

The Secretary may transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached.

SEC. 5. LIABILITY AND INDEMNIFICATION.

The transferee of any interest conveyed pursuant to this Act shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 6. ADDITIONAL ACTIONS.

The Secretary may take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 1 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I might be allowed to speak for 2 minutes in conclusion.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

THE CIVIL RIGHTS BILL

Mr. MURKOWSKI. Mr. President, I think that it is obvious to all at this late hour that we have spent 2 days of the Senate's time on a civil rights bill that unfortunately we could not agree to a compromise on, even though both sides had a number of amendments, but clearly, as evidenced by the cloture vote yesterday, we were precluded from those amendments.

Mr. President, I have been in business for some 25 years. I am not a lawyer, but I can tell you that the impact of the quota potential creates such a burden of proof that an employer would simply look for shelter under the quota because that would provide the employer the only sure way to protect himself from practically unlimited liability.

Much has been made of this, but I think it is appropriate to recognize the realities of doing business and particularly the difficulties associated with small businessmen and small businesswomen in this country.

Mr. President, I would like to pay tribute to Senator DOLE, the minority leader, who has worked in the vineyards I think in a manner befitting the minority side of the Senate.

While there has been obviously disappointments, I think that the record of those of us who, with great regret, have voted against this legislation, that the rationale behind our votes was indicated here tonight by the senior Senator from Alaska on the Wards Cove matter, which in itself addresses the issue of equity and fairness. Here we have seen a company that has had six presentations in front of the court and in all cases the court has found this particular company not guilty of the discrimination charges. They have been litigating for 19 years. That is simply not justice. It is not the civil rights bill that we want to see and it is evidenced I think by the voice of the minority.

So Mr. President, it is the hope of the Senator from Alaska that the President will veto this bill and that the Senate will sustain his veto, so next year this body can get serious about passing some meaningful civil rights legislation that really takes care of the legitimate concerns of those who are not taken into consideration in the bill that was just passed.

I thank the Chair and I thank my good friend and colleague from California.

We have no further business on the minority side that I am aware of at this time.

Mr. CRANSTON. I thank my friend from Alaska. We have worked closely together on the Veterans Committee. It is a pleasure to work closely with him tonight here in the Senate.

Mr. President, the civil rights bill that we have just passed through the Senate will not go in that precise form to the White House. There will be some changes because we have to deal with the House of Representatives. There are Senators with concerns that I believe will be taken into account in the course of the conference with the House, but I trust the bill will retain its principal features and that it will be a bill that the President will sign. It will be a tragedy if his veto led to a failure of this measure to pass.

There will be, of course, if there is a veto, an effort—and I hope it can be a winning one—to override that veto.

ORDERS OF TOMORROW

Mr. CRANSTON. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Thursday, July 19; that following the time for the two leaders, there be a period for morning business not to extend beyond 11 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, the majority leader ask that I remind Senators that on tomorrow, Thursday, the Senate will begin consideration of S. 2830, the farm bill.

RECESS UNTIL 10 A.M. TOMORROW

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess, under the previous order, until 10 a.m., July 19, 1990.

There being no objection, the Senate, at 10:42 p.m., recessed until Thursday, July 19, 1990, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 18, 1990:

THE JUDICIARY

THOMAS G. NELSON, OF IDAHO, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT VICE J. BLAINE ANDERSON, DECEASED.

IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANTS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF LIEUTENANT COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICERS

To be lieutenant commander

CRAIG SIDNEY ABERNATHY
RUFUS SYDNEY ABERNETHY, III
MILTON DARRELL ABNER
MICHAEL WAYNE ACKERMAN
JUDITH L. CROMWELL ACKERSON
JAMES NELSON ACREE
RODNEY MATTHEW ADAMS
MARK HENRY ADAMSHICK
JOSEPH CARANTO ADAN
VICTOR G. ADDISON, JR
DONALD LEWIS AGOLD
KELLY RAY ALEXANDER
MAUREEN ALEXANDER
DAN ALMAZAN
KEVIN WADE ALT
DAVID MILTON ANDERSON
MARY LOU ANDERSON
DOUGLAS M. ANDRE
MICHAEL SCOTT ANISOWICZ
GREGORY EUGENE ANTOLAK
MICHAEL PATRICK ARGO
CATHERINE EILEEN ARMSTRONG
WILLIAM PHILIP ARMSTRONG
DAVID RISLEY ARNOLD
BARON WILLIAM ASHER
LARRY DALE AYERS
RICHARD LAVERNE AYERS
ROBERT C. AYRES
CARLOS EDWARD AYUSO
JACK A. BABBITT
LYNNETTA ARENS BABUCHIWSKI
DAVID THOMAS BAILEY
STUART DEAN BAILEY
CHARLES WAYNE BAISEY
MARK JOSEPH BAKER
ANTHONY PAUL BARNES
JOHN WESLEY BARNHILL
BRIAN EDWARD BARRINGTON
JOHN PATRICK BARRON
RICHARD ROBERT BARTIS
ANDREW J. BARTON
JEFFREY BRIAN BATES
DAVID OTTO BAUER
PETER DURAND BAUMANN
MICHAEL JAMES BAUMGARTNER
SCOTT BRIAN BAWDEN
ALBERT EDWIN BECKER
RICHARD JOSEPH BECKER
WALTER STANLEY BEDNARSKI, JR
DONALD LLOYD BEEM
JOHN ROBERT BEGLEY
EDMUNDO FERNANDO BELLINI
ROBERT ANTHONY BELLITTO
SALLY ANN BENSON
DAVID MELSON BENTZ
BROOKS DELISLE BERG
THOMAS ANDREW BERG
CHRISTOPHER R. BERGEY
FRED VICTOR BERLEY
JONATHAN C. BESS
TRUMAN JOHNSON BEST
LARRY LYDEL BEZOLD
CELESTE ANN BILICKI
GREGORY MITCHELL BILLY
RUSSELL EUGENE BIRD
HAROLD FARNSWORTH BISHOP, II
EMILY MARGARET BLACK
CHARLES RAYMOND BLAKE
KIM DAVID BLAKE
BRENT JOEL BLANCHETTE
BETTY JOYCE BLAND
WILLIAM JOSEPH BLEVINS
RONALD W. BODAMER
JON ROBERT BOE
DAVID PAUL BOETTCHER
MARK R. BOETTCHER
WAYNE JOSEPH BOETTGER
ROCKY STEVEN BOGGS
JOHN WESLEY BOLIN, III
MCWILLIAM V. BOLLMAN
WANDA JEANELLE BORATEN
MARK ALAN BORUP
TIMOTHY LEE BOSILJEVAC
ALLEN ROBERT BOUGARD
DAVID MARTIN BOUTON
KEITH PAUL BOWMAN
JAMES WILLIAM BOYD, JR
SCOTT WILLIAM BOYER
LEANNE JANE BRADDOCK
JAMES DOUGLAS BRADFORD
PATRICK HAHLER BRADY
JOHN DOUGLAS BRAZIL
SHELDON JOSEPH BREAUX, III
DAVID THOMAS BRICE
MARY ALLEN BRIGDEN
ROBERT CHARLES BROWN, JR
SCOTT ARTHUR BROWN
SCOTT S. BROWN
EDWARD LEWIS BROWNLEE
BARRY LEE BRUNER
JOHN EDWARD BRUNS
JEFFREY MICHAEL BRUSOSKI
RICHARD MARK BUCHTER
DAVID LOREN BUCKEY
ANDREW JAY BUESKING
MARTIN EDWARD BUKER
JOSEPH ANTHONY BULGER, III
MICHAEL DAVID BURAN
GEOFFREY RAY BURKE
JAMES RANDOLPH BURKE
JOHN HENRY BURKE
PETER RICHARD BURKE
LAWRENCE A. BURNETT
WILLIAM GEORGE BURNETT
WALLIS JERRIL BURNETTE, JR
ROBERT FREDERIC BURR
LAWRENCE DAVID BURT
EDWARD CORE BURTON
MARK CREGG BURTON
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KENNETH VOORHEES
JOHN M. WACHTER
SCOTT D. WADDLE
JEFFREY F. WADE
DAVID R. WAGNER
KENNETH BRUCE WAGNER
RICHARD S. WAGNER
JONATHAN SPENCER WALL
GARTH K. WALLIN
JOYCELYN BRIDGES WALTERS
JAMES EDWIN WARD
AMY L. WARRICK
HELENE SANDRA WASSERMANN
SYLVIA HELENE WASYLYK
DIANE JO BARBER WATABAYASHI
JAMES LAWRENCE WATERS, JR
MARION EDWARD WATSON, JR
LARRY MICHAEL WATTS
THOMAS H. WEBBER
BRAD MORRISON WEINER
FRANK JOSEPH WEINGARTNER
JOHN P. WELCH
TALA JEAN WELCH
JOHN A. WELLS
LISA R. WERKHAVEN
BRUCE JEFFREY WERTZ
MARILYN SUE WESSEL
ALAN CHARLES WESTPHAL
CHARLES LADD WHEELER
CHRISTY JANE WHEELER
PETER O. WHEELER
DAVID PAUL WHITE
JAMES R. WHITE, JR
WARREN MARSHALL WIGGINS
CYNTHIA MARIA WILBERG
AUSTIN C. WILDE
WILLIAM J. WILKINSON
LAURANNE LOUISE WILLIAMS
STEPHEN BERNARD WILLIAMS
KAREN DONETTE WILLIS
TIMOTHY J. WILLMOTT
ANDREAS M. WILSON
JR ROBERT DANIEL WILSON
ROBERT W. WINSOR
JONATHAN DAVID WINTERS
THEODORE CHARLES WIRGINIS
DONALD WISNESKI
EDWARD RHEGNESS WOLFE
WILLIAM SHERMAN WOLFNER
PATRICIA ANN WOOD
SANDRA REYNOLDS WOOD
CHARLES IRVIN WOODDY
DAVID B. WOODS
JOHN FREDERICK WOODS
ROBIN A. WORMAN
RAYMOND KEITH WYNNE
MICHAEL LEROY YARNOFF
THOMAS PAUL YAVORSKI
H. F. RICK YOUNG, III
JOHN ALLEN ZAWIS
DANIEL ERIC ZELLER
RONALD E. ZIEMBKO
JOAN MARIE ZITTERKOPF
DEREK STEPHEN ZUMBRO

ENGINEERING DUTY OFFICERS

To be lieutenant commander

DWIGHT RUSSELL ALEXANDER
CHARLES D. BEHRLE
BRUCE CHARLES BINNEY
EDWARD YATES BREWSTER
JEFFREY LIND BUCHANAN
JOSEPH FRANCIS CAMPBELL
GLENN ERIC CANN
STEVEN RALPH CHISM
ROBERT LEE COBB
HARRY COKER, JR
EDWARD MICHAEL CONNOLLY
DONALD EUGENE DEMUTH
WILLIAM DAVID DONER
GARY G. DURANTE
JAMES KESTNER EASTON, II
THOMAS J. ECCLES
MARGARET SHANNON PARRELL
GENE CRAIG FRANKLIN
JOSEPH GIAQUINTO
JERRY LYNN GRAYBILL
KENT MARTIN GRIFFIN
JOHANNA LUISE HAFLEY
MARK WORTHINGTON HARTONG
MARK ALDEN HATZENBUEHLER
JOSEPH P. HEIL
VINCENT J. HERDA
RICHARD WILLIAM HOOPER
WERNER FLETCHER HOYT
PATRICK JAMES HUGHES
DANIEL PHILLIP HUNT
DANIEL S. HUNTER
BRIAN P. KOSINSKI
RICHARD D. LANTZ
DONALD JOSEPH LESTER, JR
ALAN DAVID LEWIS
RONALD WILLIAM LUBATTI
RELLE LEWIS LYMAN, JR
MARGARET ANN MCCLOSKEY
JOSEPH LAWRENCE MCGETTIGAN
JOHN GARY MELENDEZ
BRIAN STEPHEN MILLER
KHAYYAM MOHAMMED
JARRATT MOSS MOWERY
JOHN FRANCIS OTOOLE
MARK PHILLIPS
JAMES D. PIATT, JR
SCOTT W. PORTER
ROBERT LEWIS POSEY
RICKY STEVEN POWELL
BYRON KEVIN PRICE
DARREL WAYNE PURDY
JEFFREY S. REED
HENRY CLAUDE REGIS
WILLIAM E. SAALBACH
CHRISTOPHER J. SETZER
DALE EDWARD SIGMAN
WINSTON SMITH
JOHN PATRICK SPENCER
STEPHEN W. STANKO
JOHN K. STENARD
PATRICIA MARY SUDOL
JOSEPH ANTHONY SYCHTERZ, III
PHILIP W. TAYLOR
CAROL A. THOMPSON
RONALD GENE THOMPSON, JR
CLARK EDWARD WHITMAN
ROY LADELLE WOOD, JR

AERONAUTICAL ENGINEERING DUTY OFFICERS (AERONAUTICAL ENGINEERING)

To be lieutenant commander

STEVEN ROGER EASTBURG
STANLEY HAVEN SHOUN
DENNIS RAY SORENSEN

AERONAUTICAL ENGINEERING DUTY OFFICERS (AVIATION MAINTENANCE)

To be lieutenant commander

RICHARD PRICE BALDWIN
EDWARD EARL BAMRICK
STEPHEN WARREN BARTLETT
MICHAEL G. BERKIN
ERICH SHELDON BLUNT, JR
SCOTT ANTHONY BRAY
DONALD JOSEPH BRUNDAGE, JR
STEVEN JAY COBB
SAMUEL GORDON COWARD
JON JOSEPH DOUDERA
BERNARD WILLIAM FARRELL
BRIAN ANDREW FORSYTH
JOHN ALLEN GIBSON
DEMPSEY H. HARRISON
MARTHA ELLEN HARTMANKANTOR
JOHN MICHAEL HINE
JAMES MICHAEL JOHNSON
EDWARD LEONARD KNIGHTON, II
DANIEL J. LAFOND
DUANE W. MALLICOAT
DAVID JOSEPH MCNAMARA
JOSEPH DUANE YUNA

AVIATION DUTY OFFICERS

To be lieutenant commander

JOHN KEVIN BRADY
F. S. GRIFFITH
DOUGLAS F. MCGOWAN, JR
THOMAS DANIEL MCKENNA
CHRISTOPHER M. STEINNECKER
BRUCE ADRIAN VANDENBOS

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be lieutenant commander

ERROL FREDERIC BECKER
RALPH M. BISHOP
KATHLEEN JOANNE BRANCH
WILLIAM CALDERWOOD
FLORENCIO LENNOX CAMPELLO
MICHAEL BEN CARUCCI
SCOTT D. CULP
JEFFRY LOUIS EDGAR
PHILLIP FRANK FIORILLI
RONALD LEE FURLONG
JAMES P. HARGROVE
KIRK NAKASHIMA HARNESS
KEVIN SCOTT HOPKINS
PAUL JEFFREY JAEGER
DAVID KREV
FREDERIC DAVIS LANCASTER
MARK FRANKLIN LANDERS
CHERYL ANN LOCKE
MICHAEL L. MAKFINSKY
FREDERICK F. MARTIN
GREGORY L. POINT
MICHAEL SCOTT ROGERS
FRANCIS RAYMO SLATTERY
GARE MARSHALL WRAGG

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be lieutenant commander

WILLIAM WEST ARRAS
THOMAS CHARLES BAUS
MARY E. BOUFFARD
JEFFERY CARLTON BRADFORD
PAUL FREDERICK BURKEY
ALEXANDER PORTE BUTTERFIELD
DAVID BARTON CAMPBELL
VIRGINIA EILEEN CORNWELL
JEFFREY CHARLES CRAIG
ERIK JOHAN DAHL
MARTIN JEROME DEWING
PATRICK FREDERICK DONOHUE
TIMOTHY JOSEPH DOOREY
TIMOTHY LEE DUVALL
MICHAEL SCOTT EDINGER
JOE GLEN ESTILL
DAVID GREGORY FRAHM
MARK H. FRANKLIN
STEPHEN ALFORD GRIM
DEBRA ANN GUSTOWSKI
JAMES MALCOLM HAM
CHARLES G. HART
RICHARD EUGENE HAYNES
JOSEPH BERNARD HOEING, JR
DONNA SUE WARD HOLLY
CLINTON KAY HOLMES
DOUGLAS M. HOWARD
JOHN I. KITTLE
STEPHAN KOBIELA
DANIEL CRAIG LANOTTE
DAVID RICHARD LONEMAN
EILEEN FRANCES MACKRELL
MICHAEL RAY MICHAELS
FRANK JOSEPH MURPHY
ROBERT MARTIN NAVARRO
DANIEL S. PERE
LAWRENCE TIMOTHY PETER
RICHARD LEE SAUNDERS
JUDY MARIE SLAGHT
WAYNE FOSTER SWEITZER
WILLIAM DAVID TREADWAY
WILLIAM ALEXANDER ULLMANN
JILL ANNETTE WEIGAND
JAMES J. WHITUS
KEITH EDWARD WIXLER
LAWRENCE N. ASH

MARK POWELL WROBLEWSKI

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be lieutenant commander

JOHN MICHAEL ANDREWS
JOHN FREDERICK BRINDLEY
BRUCE ALAN COLE
BRIAN PRICE CULLIN
LEE BOURNE HOLMES, JR
GORDON JAMES HUME
BETSY ROSALYN JENKINS
KENNETH EMIL LUCHKA
JANET ALICIA MESCUS
TIMOTHY STUART OLEARY
KENNETH RAY PATTERSON, JR
PAUL JOSEPH WEISHAUPT
KEVIN MICHAEL WENSING
BRUCE EDWARD WILLIAMS

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be lieutenant commander

JOSE FLORENZ HAYAG ATANGAN
JOHN CASEY CHURCH
GEORGE PRESTON DAVIS, JR
MICHAEL EDWARD DOTSON
LAWRENCE JOSEPH GORDON
ADAM ALBERT KIPPES
BRUCE ROBERT KITCHEN
ANTHONY MARTINEZ
DOUGLAS EDWARD MAYS
ARTHUR ROST PARSONS
MICHAEL DAVID PASHKEVICH
RYAN RUSSELL SCHULTZ
FREDRICK M. TETTELBACH, II
ZDENKA SABA WILLIS

LIMITED DUTY OFFICERS (LINE)

To be lieutenant commander

RAYMOND G. ANDERSON
DENNIS O. BAKER
PHILIP M. BALVOCIUS
ARNOLD L. BENTLEY
DENNIS RAY BERRY
RAYMOND D. BIDDLE, JR
MICHAEL JOHN BOGART
LOU EDWARDS
BOUDREAUX
EDWARD T. CALLAHAN
LEON PAT CANADAY
RONALD L. CARDER
LESTER M. CASTO
ARTHUR S. CATULLO
CALVIN R. CHATTEN
DANIEL M. CHENAULT
MICHAEL J. CHERRY
THOMAS E. CHILTON
JAER J. D. CLINE
WILLIAM K. COLE
BRIAN BERNARD COLEY
MICHAEL G. CONNOLLY
DONNIE JAMES CONRAD
DENNIS MILES CRONIN
GEORGE W. DAVIDSON
LEE E. DENNISON
MICHAEL ALAN DIMMICK
JAMES M. DODMEAD
EUGENE JOSEPH DRONETTE, JR
WILLIAM CHARLES DUKE
STEPHEN C. EASTON
DENNIS E. EDWARDS
ONIEL MICHAEL ESTELA
ROBERT A. FOX
LLOYD E. GALLION
RALPH M. GAMBONE
PATRICK GARCIA, JR
DONALD R. GARLETTS
WILLIAM G. GLENN
THOMAS M. GREENE
JAMES W. GRUBBS
WILLIAM CARL GUPTILL
DALLAS S. HARDY
STEPHEN H. HARRIS
RICHARD ELMER HARRISON
CALVIN NMN HAYES
EDWARD J. HEIDLER
PHILIP M. HOWARD
GARY R. HUBLITZ
BILLY R. INGRAM
ROBERT E. JACKSON
JOHN WESLEY JOHNSON
HOWARD KEVIN JONES
THOMAS E. JONES
LUTHER D. KINSEY
WILLIAM R. LANE, JR
LAWRENCE J. LAWSON
JAMES A. LEONAITIS
BRUCE C. LEWIA
LAWRENCE H. LONG
RAYMOND RICHARD LYNCH
FRANKLIN C. MAGNUSON
GUIDO E. MANGIANTINI
LEO B. MANGOLD
GREGG R. MANGUS
HOWARD WALTER MASTERMAN, JR
ELMER C. MCCLINTOCK
TRAVIS E. MCDONALD
PHILIP MICHAEL MCGUIRE
DOUGLAS R. MILLER
HOWARD P. MILLER
MARTIN CHARLES MOFFETT
CARLOS EDUARDO MOLLER
ARNOLD A. MOUNT
THOMAS F. MURPHY
MICHAEL P. MURRAY
VINCENT JOSEPH MUSCARELLO
JOSEPH O. MYERS, JR
JEROME T. NOVAK
PATRICK T. OBRIEN
CARL W. ODERMAN, JR
TIMOTHY JAMES PATRICK
MONTE R. PERAU
PHILIP T. RE
JERRY D. RICHARDSON
RICHARD S. RIVES
STEPHEN LESLIE ROBERTS
PATRICK WILLIAM ROLFE
DENNIS B. RUTH
RANDALL E. SCOTT
VINCENT L. J. SEIFERD
STEPHEN MICHAEL SENK
LARRY G. SHARP
CALVIN C. SHIRLEY
NOEL A. SMALL
DALE D. SMITH
PAUL REGINALD SMITH
JOHN MERTON SMYTHE
LARRY L. SPRADLIN
FRED EUGENE STITH
MAURICE STONECYPHER
LAWRENCE JOSEPH SULLIVAN
RONALD C. SUTTON
WINFORD J. TAYLOR
MICHAEL WAYNE THAYER
ROBERT WILLIAM THOMPKINS
HARRY R. THOMS, JR
DANIEL C. TOSTEVIN
ERIC M. TREXLER
HOWARD P. URELLO
ROBERT EDWARD VANIDERSTINE
ROBERT L. WALKER
JOSEPH E. WARD
DAVID WESLEY WEAVER
JAMES A. WESELIS
JAMES E. ZALONIS
ERNESTO M. ZAMBRANO

CONFIRMATION

Executive nomination confirmed by the Senate July 18, 1990:

DEPARTMENT OF JUSTICE

WILLIAM PELHAM BARR, OF VIRGINIA, TO BE DEPUTY ATTORNEY GENERAL.

EXTENSIONS OF REMARKS

JOSEPH BRIAN COWAN

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. GUARINI. Mr. Speaker, I want to take this opportunity to recognize an outstanding member of my district, Capt. Joseph Brian Cowan (U.S. Army), and the 1st U.S. Army Support Battalion, the organization in which he and his companions selflessly serve. Joseph and his fellow soldiers are stationed in the Sinai Peninsula, where they are part of the Multinational Force and Observers [MFO], a group established by the Egyptian-Israeli protocol of August 3, 1981.

Since graduating from West Point in 1983, Joseph Brian Cowan has attained the rank of captain. He certainly is an outstanding product from my constituency and a credit to his family's legacy of public service.

Joseph's father, Thomas F. Cowan, is currently a New Jersey State Senator representing the 32d District. He has been an outstanding leader in the State's labor movement and is serving with great distinction as Hudson County's State Senator.

The mission profile of the MFO is to simply observe and report any violations set forth in the Treaty of Peace. This responsibility includes verification of the treaty, freedom of navigation through the Straits of Tiran, reconnaissance patrols, observation posts, and total support of the force. In addition to the 480 American soldiers serving 1 year short tours with the 1SB, who are responsible for the military support of the MFO, the MFO is comprised of soldiers from 11 other countries including Canada, Italy, Colombia, and Fiji.

While the Army teaches its soldiers to act as a unit and a team, I want to take this time to praise an individual member of the 1SB for his sensitivity and overall dedication to his soldiers and his unit: Lt. Col. James M. Colvin. Despite his numerous responsibilities as commander of the 1SB, Lieutenant Colonel Colvin is finding time to communicate with the families of those in his command in order to inform them of the integral role their family members are playing in this volatile region of the world. Lieutenant Colonel Colvin is certainly representative of the human side of our Armed Forces which is many times forgotten. The dedication and leadership of Lt. Col. James Colvin are to be commended. His sensitivity is no doubt a comfort to both his soldiers and their families.

Service in the Armed Forces and all forms of public service are, more often than not, done at great sacrifice to those closest to the service. At this time I would like to salute Capt. Joseph Brian Cowan, Lt. Col. James Colvin, and all the soldiers serving in the 1SB. Though the 1SB is a peacekeeping force, its job is no less dangerous, nor its work no less deserving of praise. As Americans, we must, to quote the 1SB motto, "Support the Force."

I would like to call the attention of my colleagues to the letter sent by Lieutenant Colonel Colvin to the families of those in his command.

DEPARTMENT OF THE ARMY, 1ST U.S. ARMY SUPPORT BATTALION (SINAI), MULTINATIONAL FORCE AND OBSERVERS,

APO New York.

DEAR FAMILY MEMBER, welcome to the 1st U.S. Army Support Battalion, Sinai (1SB) Family. As Americans you can be proud of how the 1SB soldiers represent the United States of America. I am very fortunate and proud to command the 1SB.

As a member of the Family Support Program, you can expect to receive a letter from me every other month. My intent is to keep you up to date and informed on what we do in the Sinai and with the help of the Company Commanders, First Sergeants, and Chaplain, we'll make it happen.

One of the most important things that you need to know is how to resolve questions or problems. With the assistance of the Department of the Army Inspector General, the Red Cross, the personnel from Fort Bragg MFO Operations, and my wife, we hope to handle most of the problems you might encounter. In the event of an emergency, for example, a death in the family, contact your nearest Red Cross Office. The Red Cross has an international notification network and with the proper information, can pass on emergency information in a few hours. If the Red Cross is not available or if you are not sure how to reach them you may contact LTC Haley of MFO Operations at 919-396-7935/3530. LTC Haley is at Ft. Bragg and will notify the Red Cross and me immediately. If this fails, call my wife, Mrs. Patti Colvin at (703) 250-4588.

If the situation is not an emergency, contact the nearest military facility for assistance. If you aren't sure as to which post agency can best assist you: (Army Community Service, the Red Cross, Army Emergency Relief, etc.), contact the Post Inspector General's Office. Once again, if such an effort is unsuccessful, contact LTC Haley at Ft. Bragg, 919-396-7935/3530 or my wife, Mrs. Patti Colvin at (703) 250-4588. Either of them will call us here at 011972-3-561-5773, ext. 2912, which is a 24 hour duty line. Do not hesitate to ask for assistance or information. Your welfare is important to us because it is important to your soldier.

It is important that you learn what we are about over here and likewise we want you to keep in touch with us. This is my first unaccompanied tour. I am now quite aware of the challenges in coordinating a long-distance separation on both sides of the ocean. Communication alleviates that strain and often resolves problems before they are beyond reach. Additionally, mail is the most important morale factor for the soldiers every day. No news is not good news. Staying in touch with you, your concerns and even the little details of life brighten the day for all of us.

Enclosed is a map and summary of the Battalion. I hope it orients you to our mission.

I also hope that you find the Family Support Program informative and helpful. Your thoughts and ideas for improving it are most welcome.

"Support the Force".

Sincerely,

JAMES M. COLVIN, Jr.,

Lieutenant Colonel, Quartermaster

Corps Commanding Officer.

THE MISSION OF THE MFO

The mission of the MFO can be stated very simply: observe and report. Article II of Annex I to the Treaty of Peace establishes four security zones. Of these, three zones are in the Sinai in Egypt and one is in Israel along the international border. Limitations on military forces and equipment within each zone are stipulated.

In all there are four essential tasks assigned to the MFO:

1. Operation of checkpoints, reconnaissance patrols, and observation posts along the international boundary and line B, and within Zone C.

2. Periodic verification of the implementation of the provisions of the Annex to the Treaty of Peace, to be carried out not less than twice a month unless otherwise agreed by the Parties.

3. Additional verifications within 48 hours after the receipt of a request from either Party.

4. Ensure the freedom of navigation through the Strait of Tiran.

LIMITATIONS ON MILITARY PERSONNEL AND EQUIPMENT PERMITTED

Zone A: One Egyptian mechanized infantry division containing up to 22,000 personnel, its military installations, and field fortifications. Early Warning Systems.

Zone B: Four Egyptian border unit battalions manned by up to four thousand personnel, associated military installations and field fortifications, land based low-power short-range coastal warning points.

Zone C: Military components of the MFO only but Egypt may maintain civil police units armed with light weapons.

Zone D: Deployment of up to four Israeli battalions totalling not more than four thousand personnel. Early Warning Systems.

1ST U.S. ARMY SUPPORT BATTALION (SINAI)

The Treaty of Peace between Egypt and Israel, signed on 16 March 1979, provided for phased withdrawal of Israeli forces from the Sinai Peninsula linked to agreed security arrangements. Final withdrawal of Israeli forces and civilians from the Sinai took place on 25 April 1982. The Multinational Force and Observers (MFO) was established by the Egyptian-Israeli protocol of 3 August 1981 to supervise the security arrangements delineated in the Egyptian-Israeli Peace Treaty of 26 March 1979, Camp David Accords. The MFO is an independent agency (not related to the United Nations), responsible to the governments of Egypt and Israel. It is positioned in the Sinai Desert,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

separate from Egyptian and Israeli forces and performs observer functions as specified by the treaty and protocol.

The mission of the MFO is to report any violation of the security measures set forth in the Treaty of Peace. The specific functions include verification of the treaty, freedom of navigation through the Strait of Tiran, operation of checkpoints, reconnaissance patrols, observation posts, and total support of this force. There are eleven nations involved with this force and each has a specific function. The Canadians provide helicopter support to North Camp, while the French provide fixed-wing aircraft support for the entire MFO. The United States, Colombia, and Fiji provide an Infantry battalion for observation throughout the Sinai in Zone C. Italy provides three ships with crews to patrol the Tiran Strait. Norway, United Kingdom, United States and New Zealand provide administrative support for the MFO Commander. The Netherlands provide signal and military police support. Uruguay provides engineer support and vehicle drivers for buses and trucks. Part of the United States' role is to provide a logistical support unit for all elements of support to the MFO.

The military support element for the MFO is the 1st U.S. Army Support Battalion (Sinai), (1SB). This is an independent forward support battalion, part of the XVIII Airborne Corps based at Fort Bragg, North Carolina, and is the only U.S. battalion permanently deployed in the Middle East. It is under the direct operational command of the MFO Force Commander and its role is to provide complete logistical support to the 3,500 plus members of the MFO in the Sinai.

The battalion is split into a Headquarters Company element and five service support companies. The Headquarters and Headquarters Company, Medical Company, Transportation Company and Supply Company are based at North Camp. Support Company, a detachment from the Medical Company, and the Aviation Company are based at South Camp. The 1SB is composed of approximately 480 soldiers who are assigned on a one year short tour in the Sinai Desert.

The 1SB is a unique organization which incorporates many specialities. The diverse range of tasks undertaken by the 1SB include all classes of supply transportation, aviation support, a variety of medical, dental, and veterinary services, vehicle maintenance support, operation of two APO post offices, religious programs, graves registration, personnel administration, explosive ordance disposal, materiel management support, personnel and transport movement control, educational programs, Military Police and financial services.

The soldiers of the Headquarters and Headquarters Company, North Camp, perform a myriad of tasks. These include working on the battalion headquarters staff, the Force Materiel Management Center (FMMC), the Force Movements Control Center (FMCC), the Army Post Office (APO), the Explosive Ordnance Disposal Section (EOD) and the Military Police Section (MP).

The battalion headquarters staff consists of the Chaplain, Finance Section, S-1 (Personnel), S-⅗ (Security/Training and Logistical Operations), S-4 (Supply), two APOs, MPs, and an Education Center. The Chaplain provides all religious services and monthly tours to historically religious sites. The Finance section provides all services for soldiers to include personal check cashing and handles approximately $300,000 per month in transactions. The two APOs handle approximately 2000 pieces of mail and $70,000 in money order business per month. The EOD section is an operational detachment which renders safe and disposes of approximately 3,195 pieces of unexploded ordnance per month. These items which were manufactured in NATO, Warsaw Pact and Middle Eastern countries, range from small arms and mines to artillery projectiles, rockets and bombs. The EOD section provides safety instruction to an average of 328 Force personnel monthly which includes Basic Ordnance Safety, Minefield Evacuation, Explosive ordnance reconnaissance Agent training and other related topics.

The FMMC manages the Force Property Accountability system and provides customer assistance to all MFO customers. The FMMC processes over 2,500 customers requisitions with over 13,000 management actions for all classes of supply (except medical) on a monthly basis.

The FMCC manages the transportation requirements of the MFO. This includes movement of household goods, personnel, connex containers, food, ammunition, expendable supplies, engineer equipment, and all fixed-wing air resupply missions. The FMCC coordinates 320 movements of personnel and equipment monthly.

The Medical Company provides health care to all members of the MFO and on a limited basis to the local civilian Egyptian employees. The Medical Company is responsible for the North Base Clinic and the South Base Clinic. The U.S. provides five physicians, two dentists, one environmental health officer and one veterinarian. The medical clinic provides emergency treatment, limited patient holding facilities, laboratory support, X-Ray capabilities, pharmacy, orthopedics, behavioral science, and drug and alcohol specialists. Co-located with each facility is a dental clinic which can perform all routine dental procedures. Doctors and dentists are also provided from the Dutch, Fijian, Uruguayan and Italian contingents. Medical Supply (Class VIII) and maintenance, preventive medicine, veterinary food inspection and animal care support are provided throughout by the members of the Medical Company. U.S. patients requiring medical evacuation, specialty care, or hospitalization are transported to appropriate hospitals in Israel or evacuated to Europe or the United States. The veterinarian inspects over 3,000,000 pounds of food a year. The Medical Company also supports two Expert Field Medical Badge (EFMB) competitions each year.

The Transportation Company provides assets required to provide both fuel and water in the desert and for container pickup at the seaports and airports in both Egypt and Israel. The Company drives approximately 800,000 miles a year utilizing 6 different types of commercial vehicles, over the 750 mile Main Supply Route (MSR). Approximately 10,000 short tons of cargo are hauled from Israel and Egypt to the MFO in the Sinai Desert. The Water and POL Squads deliver annually approximately 2,900,000 gallons of water; 440,000 gallons diesel fuel; 42,000 gallons of gasoline; and 57,000 gallons of jet fuel to the observation and check points throughout the Sinai.

The Supply Company handles the receipt, storage, and issue of all classes of supply (except Class V-Ammunition and Class VIII-Medical Supplies). The Class I platoon receives and issues 4,000 tons of rations to the four main dining facilities and club systems each year. These rations include all fresh produce, dairy products, and perishable/nonperishable foodstuffs. The company also operates a self-service supply center which provides expendable materiels ranging from general office supplies to bicycle parts. The Bulk Storage section handles office furniture, bottled drinking water, and construction materiels. The Petroleum Supply platoon receives, stores, and tests all fuels. Approximately 3,000,000 gallons of petroleum products are issued on an annual basis. The repair parts platoon operates the commercial and aviation repair parts warehouse. The Central Receiving Point (CRP) has the responsibility of off-loading all trucks which come loaded with supplies from Egypt, Israel, United States and other countries. Each item is checked, processed, and then either sent to a storage location or issued to a customer.

The Support Company at South Base Camp located at Sharm el Sheikh provides a complete range of support functions to the U.S. Infantry Battalion located in the sourthern part of the Sinai. Those tasks include direct support of all supplies, transport movement control, CRP, communications and armament repair facilities, EOD, APO operations, and water/fuel deliveries to the observation posts.

The Aviation Company has ten UH-1H helicopters which are located at the South Base Camp. This unit sponsors the missions of air medical evacuation, aerial observation, troop movement, and logistical resupply to the U.S. Infantry Battalion and the MFO. The twenty-five pilots assigned fly approximately 3,800 hours per year. During the past 12 months the Aviation Company has transported approximately 9,500 personnel and delivered 2,350,000 pounds of supplies by sling-load operations to observation posts manned by U.S. soldiers. Each pilot is trained in desert operations and night vision goggle operation. The unit provides a 24 hour medical capability to support the Force in the movement of injured personnel from the various remote sites to either South Camp or a better equipped medical facility.

The 1st U.S. Army Support Battalion (Sinai) performs all of its missions in a harsh desert enviroment and serves as the "backbone" of the MFO. Without the complete logistical support service provided by the 1SB, the MFO could not continue to perform its peacekeeping mission. The 1SB is a very mission oriented forward support battalion. This one year short tour is an excellent opportunity for each soldier to perform his/her assigned mission. Each soldier works his/her assigned specialty and performs the logistical, transportation, medical or aviation mission in an outstanding manner. The 1st U.S. Army Support Battalion (Sinai) is a key factor in the peacekeeping mission in the Sinai. The motto of the 1SB is "Support the Force".

WELCOMING SOVIET EMIGREES TO PRINCE GEORGES COUNTY

HON. STENY H. HOYER
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. HOYER. Mr. Speaker, as cochairman of the Commission on Security and Cooperation in Europe, known as the Helsinki Commission, I want to welcome 39 Soviet Jewish families who recently arrived in Prince Georges County to begin new lives outside the Soviet Union. This was the first group of emigrees to settle in Prince Georges County through the auspices of the United Jewish Appeal and with the assistance of Prince Georges County Executive Parris Glendening. Many of these families that are now settling in Prince Georges County were once refuseniks on whose behalf the Helsinki Commission sought the right to emigrate from the Soviet Union.

Ms. Vanee Staunton of the Prince Georges Journal recently wrote of the families arrival here in our county and the outpouring of community support. But she also tells of the persecuted lives many of them led in the Soviet Union.

I would like to submit Ms. Staunton's June 21 article for the RECORD and ask my colleagues to join in welcoming these new emgrees to Prince Georges County.

[From the Prince Georges Journal, June 21, 1990]

SOVIET JEWS FIND THE COST OF FREEDOM

(By Vanee Staunton)

When Dmitry and Tanya Novik applied for visas to leave the Soviet Union in 1979, they thought their chances of success were as good as the odds of buying a microwave in Moscow.

Three weeks ago—and 11 years later—they left Leningrad with their son, Lev. But they said the wait was worth it.

The Noviks, now living in Greenbelt, are one of 39 Soviet Jewish families who recently settled in the county. Sponsored by the United Jewish Appeal Federation of Greater Washington and local agencies, the new arrivals stayed with Jewish host families before moving into their own apartments earlier this month.

It was difficult to leave friends and family, said 17-year-old Lev, but he said those they left behind are happier knowing the Noviks are in America.

"Thoughts of my aging parents and other Soviet Jews are disturbing," Dmitry said. ". . . The problem is not easy to fix; it's a disease which has not been treated."

Thousands of Soviet Jews are taking advantage of reforms allowing emigration amid rising anti-Semitism there, according to UJA reports. One-third of the 100,000 emigrants came to the United States. More than 300 settled in the Washington area and 500 more are expected next year. This is the first group to settle in the county.

Tonight, the Nevey Shalom Congregation will welcome the newly settled Soviet Jewish families at a reception in Bowie.

Jewish community volunteers met new arrivals at the airport for the beginning of a weeklong introduction to American life. Bernie and Sheila Bodner of Bowie adopted the Noviks—taking them sightseeing, to medical appointments, synagogue services and grocery shopping.

"Someone received my parents from Poland and now, it's my turn to help other Jews," Sheila Bodner said.

Friends and neighbors joined the effort, offering everything from dishes to living room furniture, she said. "There has been a spontaneous outpouring . . . this experience has awakened my appreciation for America."

The United Jewish Appeal Federation offers immigrants job-placement assistance, counseling services, English tutoring and three months of financial support, said Judy Klein, UJA director of volunteer services for the resettlement office.

She said 88 percent of the Soviet Jews, most of whom are trained architects, engineers and technicians get jobs.

Dmitry Novik, 58, who has a doctorate in electrical engineering, said underemployment and blatant discrimination are facts of life for Soviet Jews. They are desperate for work, he said, and often forced to work beneath their capabilities.

After they submitted visa applications, the Noviks were punished: Tanya, a trained computer programming analyst, was fired and Dmitry was demoted "to the lowest position." Four years later, Tanya, 46, found custodial work.

While state-imposed discrimination decreases, local resentment is said to be increasing.

Lev said because he is Jewish, administrators at a prestigious Leningrad preparatory school rejected his application.

"They did not care that I had won the regional mathematics competition that year," he said.

Even the most deplorable crimes against Jews, Dmitry said, are seldom punished.

Jews are often beaten and prohibited from practicing their religion, he said. "It was a crime to study or teach Hebrew; our religion was taken from us. There have been very good words but very bad deeds."

In 1984, the Noviks received a letter from the government forbidding them to reapply for visas. Dmitry said his hands were tied "until two years ago, when everything started to change."

"It was my choice for my life," he said, "Immigration was right and necessary for our lives—as people and professionals."

The Noviks live in a two-bedroom apartment near several other refugee families. A collection of paintings of Leningrad, letters from friends and copies of Dostoyevsky, Tolstoy and Pushkin classics reminds them of home.

Both parents are still looking for work, and Lev will attend the University of Marland this fall.

"Many helped us take our first steps in the United States," Tanya said. "We are very thankful, but we must work too."

With their parents busy job hunting, Soviet Jewish children have been embraced by Jewish Social Services volunteers who developed a special program aimed at providing the youngsters with personal glimpses of the strange, new land.

So far, the group of 24 children has been to museums, sporting events and theaters. A trip to Wild World Amusement Park is planned for Sunday.

Mark Dorf, a local Jewish community activist, said he created the program four months ago as a goodwill gesture to hundreds of Soviet Jewish immigrants arriving in the Washington area. He said the monthly field trips offer a better picture of America and its people.

"Parents are spending the bulk of their time adjusting to new surroundings," he said. "Many of them don't have the time or money to [take the kids out:] that's what we're here for."

The Noviks say that adjusting has been a slow, arduous process.

"In Russia I had never seen such goods in a grocery store. It was a shock," Tanya said. "The American store had all types of food, it was very, very big—everything was there."

Likewise, she said the instruments she saw in a dentist's office were equally amazing.

"They looked new, modern. The country is very rich," she said. "But I know there are problems, too."

However, here, she said, people are more sure of the future.

"It's another life," Dmitry said, ". . . almost everyone smiles."

The experience of Yefim and Tamara Katsov has been slightly different. Although they have been in the United States for only five weeks, they said the change was quite easy for the family of four.

They, too, blame anti-Semitism and job discrimination for ruining their lives and careers in Moscow, where they said overcrowding and pollution made the situation worse.

"One of the things I noticed here was the clean air," Yefim said.

"And all the squirrels," Tamara quickly added.

"Everything stinks in Moscow," he said, "there are gases everywhere. By the time I arrived home, I would have a headache from the air."

Their son, Erik, 18, marveled at the number of apartments. "For Americans, most have private homes or they can rent an apartment with no problems. This is almost impossible in Russia."

He said the 12-story apartment buildings in Moscow seldom have vacancies and if a Muscovite is lucky enough to find one, it is often filthy.

Viktoriya's short stint at DuVal High School in Lanham, "where the students didn't seem friendly," and her near-perfect English have made the 15-year-old the family's most outspoken critic. She and Tamara agree that American television is "not interesting" and "high schools is too easy."

Instead, Viktoriya spends time at the library.

"I have a card and the system is easy to use," she said. "I'm free there." Too few copies of published materials and limited access prevent most Soviets from using libraries, she said.

Through luck, she got a translated copy of Stephen King's "Firestarter" last year and now says she can't wait to see the American movie on the VCR donated to the family.

Yefim thought his readings on American customs would have prepared him for the transition. However, he said the enormous generosity strangers showed was a little unsettling.

"Americans have a soul, a spirit," he said. "Americans are proud . . . most Soviets don't have pride in their motherland."

CHILDREN'S AND COMMUNITIES' MENTAL HEALTH SYSTEMS IMPROVEMENT ACT OF 1990

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. MILLER of California. Mr. Speaker, today I am pleased to join my colleagues, Messrs. WAXMAN, GOODLING, HOYER, and WALGREN in introducing the Children's and Communities' Mental Health Systems Improvement Act of 1990. And, I especially want to thank the National Mental Health Association for its leadership in the development of this legislation on behalf of children and youth with mental health problems.

The Select Committee on Children, Youth, and Families has made emotional well-being of youth a top priority on its agenda. Our hearings on children's mental health, eating disorders, child abuse, substance abuse, violence and homelessness have documented the significantly increasing risk of emotional problems faced by the Nation's young people and inceasing numbers of families.

Reports of child abuse and neglect have more than doubled in the last decade. Growing numbers of children are living on the street, in out-of-home care, and in shelters. And, an increasing number of babies—as many as 375,000 or as many as 1 in 6—are born exposed to illegal drugs.

These young children and youth are at tremendous risk for developmental and psychological problems, as well as for greatly diminished personal potential and productivity.

According to the Office of Technology Assessment, some 7.5 million children have a diagnosable mental disorder and nearly half are deemed severely disordered or handicapped by their mental illness. In the course of a year, more than 100,000 children are placed in residential care facilities for mental health problems, and about 2 million receive mental health treatment in out-patient settings. Sadly, these children constitute only a fraction of the number believed to suffer from a mental health problem severe enough to require treatment.

The state of children's mental health services today is a national disgrace. Across the country, local mental health clinics are overwhelmed. On the frontlines, only the most violent and disturbed have a chance to get help. In some communities, children are placed on long waiting lines or on adult psychiatric wards, because appropriate services are unavailable. In other communities, as the National Mental Health Association's "Invisible Children" Project documented, children are shipped out of State, far from home, and virtually forgotten.

Last year, the select committee undertook a major review of children in need of out-of-home placement in the child welfare, juvenile justice and mental health care systems. This assessment revealed that the number of children in placement in all systems has risen dramatically over the last several years, and that children with severe emotional problems face a desperate lack of appropriate attention and services. Interagency coordination remains only a wish, and where—or whether—a child gets care depends too often on who pays, not on what is best for the child.

While the number of children in much more costly and inappropriate institutional care has increased, effective community- and family-based interventions remain few and undersupported.

The evidence continues to grow that these interventions can successfully serve children in their own communities, maintain them with their families, and achieve these benefits at far lower cost than residential treatment. The model program in Ventura County, CA, that provides well-coordinated, multi-agency community services, was able to recapture 78 percent of its costs by avoiding institutional placements.

The bill we are introducing today provides assistance to States on a matching basis in establishing local comprehensive systems of care to children and youth under age 22 with severe emotional disturbances. Services include diagnoses and evaluation, 24-hour emergency services, intensive home-based services, day-treatment, respite care, therapeutic foster care, and transitional services, and may be provided by the State or through public or nonprofit private entities. Local systems of care will coordinate the provision of services and establish an office for admitting and following children in care.

This legislation builds on the growing record of success demonstrated by community-based services for children. It adopts a comprehensive, coordinated continuum of care that will operate in local communities where the children and families live and where there individual needs can be addressed. I look forward to our deliberations on this far-reaching measure and urge my colleagues to join me in its support.

The following provides a summary of the proposal:

SUMMARY OF THE CHILDREN'S AND COMMUNITIES' MENTAL HEALTH SYSTEMS IMPROVEMENT ACT OF 1990

This initiative amends Title XIX of the Public Health Service Act to establish a program of grants to states to provide community-based, comprehensive mental health services to children with serious emotional disturbance. Grants would be made to states by the Secretary of the Department of Health and Human Services, acting through the National Institute of Mental Health. For the first fiscal year of the program (FY 1991), the Secretary may make a maximum of 10 grants to states.

Under this Act, states must use the funds to establish and operate one or more local, interagency systems of care for making services available to children and adolescents under age 22 with a serious emotional disorder, a serious behavioral disorder, or a serious mental disorder. Fees for services will be assessed on a sliding scale based on family income, and children whose family income is equal to or less than 100% of the federal poverty level will receive services at no cost.

REQUIRED SERVICES

Each system of care developed under the grant must provide: diagnostic and evaluation services; outpatient services including individual, group and family counseling services, professional consultation, and review and management of medications; emergency services; intensive home-based services when the child is at imminent risk of out-of-home placement; intensive day treatment services; and respite care. Other required services include: therapeutic foster care, in-home services in foster family homes and small group homes, as well as assistance to a child in making the transition from the form of services received as a child to services to be received as an adult.

REQUIRED COLLABORATION

In addition, the system of care must enter into a memoranda of understanding with providers of other services which children may need, including medical, educational, vocational counseling and rehabilitation services and protection and advocacy services. Although funds under this bill cannot be used to pay for these other services, such services must be available to covered children as needed. Case management services must also be available to each child admitted to the system.

FUNDING

Funds for this state grant program are authorized at $100 million for FY 1991, $200 million for FY 1992, and $300 million for FY 1993 and thereafter. Of the amount appropriated, $3 million is to be available for technical assistance. States receiving grants must match at least $1 from non-federal sources for every $3 of federal funds provided by the grant.

TRIBUTE TO KATE HAYES

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor an outstanding young student from my district who has been selected to participate in the 50th annual session of the Junior Statesman Summer School in Washington, DC.

Kate Hayes, from Portsmouth, RI, is one of 240 outstanding young leaders who will be attending the 3-week session in Washington. While in Washington, Kate will study the American Government and politics. The course will include speakers and students on current issues. Kate will have the opportunity to question national leaders, Members of the House and Senate.

I take this time to salute Kate and offer my congratulations on a job well done.

SUPPORT AMERICA'S STUDENTS—OPPOSE THE ELIMINATION OF THE FICA EXEMPTION FOR COLLEGE STUDENTS WORKING ON CAMPUS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. FEIGHAN. Mr. Speaker, the President's recent decision to consider raising taxes is not the first time he has done so. In the administration's fiscal year 1991 budget, America's working college and university students were targeted to be the bearers of the burden of new taxes. Under the guise of extending re-

tirement coverage to these young students, the administration proposed the elimination of the FICA exemption for students working on campus.

I would like to draw attention to an essay written by the Rev. Michael J. Lavelle, who is the president of John Carroll University in Cleveland. In this essay Father Lavelle very clearly points out why we should retain the FICA exemption for working students. I urge all my colleagues to consider this very valid reasoning and to join me in supporting America's students by opposing the elimination of the FICA exemption:

SOCIAL SECURITY BITE ON COLLEGIANS

(By Rev. Michael J. Lavelle, S.J.)

College students, and the colleges and universities that employ them under campus work agreements, may be the next victims of the Social Security Trust Fund scam. That is the thrust of one "revenue enhancement" idea buried in the Bush administration's 1991 budget request, now under review by the House Ways and Means Committee.

The proposal would "make Social Security coverage mandatory for state and local government employees who are not otherwise participating in a public employee retirement system." This means students who work part-time on the campuses of public colleges and universities. Predictably, there is now talk of including students who attend private institutions.

Lip readers understand the purpose of this subterfuge—raise taxes but call it something else. The additional deposits to the Social Security Trust Fund will be misused, as have been the more than $175 billion in surplus deposits already collected. They will be "borrowed" to help mask the true size of our massive federal deficit.

Actuarial tables indicate that, within two decades, the Social Security System will be running annual deficits. Workers will be too few to support retirees. Future retirement expenditures will require massive debt obligations of the U.S. Treasury, substantial increases in the FICA tax rate and an increased income threshold subject to taxation. The middle class, as always, will pick up the bill. Social Security is evolving into a sophisticated Ponzi scheme.

There is strong justification for opposing the proposed tax on educational grounds. For 50 years, section 3121 (b)(10) of the Internal Revenue Code has exempted campus-based earnings of students from FICA taxation. These jobs, along with grants and loans, constitute financial aid.

Only recently has the student exemption been challenged. In 1988, the Reagan administration made a straightforward attempt to eliminate it for all students. Congress rejected the idea, for very sound reasons. First, the tax would impose a substantial financial hardship on students, many of whom work at minimum wage. Second, it would yield only a small gain in revenue and contribute little to retirement security.

Educational institutions, especially private institutions, are under substantial pressure today to keep expenses under control and tuition costs from rising. Among those who express concern are members of Congress and the Bush administration. It is ironic that some of those who exhort educational institutions to achieve greater efficiency also advocate an unwarranted addition to our overhead.

Perhaps a few facts from my institution, John Carroll University, will demonstrate the impact of eliminating the exemption. About half of our 3,000 full-time undergraduate students receive need-based financial aid. An essential component of the financial aid package is campus employment.

In 1989, the university paid $1,085,000 in wages to 771 students. If the FICA exemption is eliminated, the university's FICA tax obligation on this amount would be more than $83,000. This represents the equivalent of forgoing university scholarship assistance to 41 needy students.

What about the impact of an additional $83,000 in taxes on the students we employ? Either they would earn less, work more hours to earn the same take-home pay or ask the university to increase their hourly wage rate. Let's examine these options.

The likely outcome of reduced student income would be increased student indebtedness. Reductions in federal education grants over the past decade, coupled with rising loan indebtedness, have been cited as a cause of declining college enrollment among lower-income students, minority students in particular. Imposing the Social Security tax would worsen the problem.

Should students, then, work more hours per semester, or extend their education over a longer period? Either choice represents a diversion from the purpose of attending college. This is particularly true today, when our nation demands more highly educated workers to compete in a technology-driven world economy.

Should we raise student wages? This would compound the problem already discussed—adding to the university's overhead expenses. Where's the money to come from, other than tuition increases?

None of the options makes sense. As a nation, we ought to be doing everything possible to help students complete their education as economically and as expeditiously as possible. The sooner they do, the sooner they begin to contribute to the nation's economy and competitive position, its quality of life and its tax base.

To summarize, eliminating the FICA tax exemption for students would heighten the scandal that surrounds the current use of Social Security Trust Fund reserves and would erode financial support for higher education. The nation will be better served if national leaders attend to the misuse of Social Security surpluses already entrusted to them and refrain from further abuses.

TO CELEBRATE THE 100TH ANNIVERSARY OF CHILLICOTHE'S (OH) TABERNACLE BAPTIST CHURCH.

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. McEWEN. Mr. Speaker, I rise today to recognize the Tabernacle Baptist Church of Chillicothe OH, on the occasion of its 100th anniversary. This great church, a source of strength to all Ross Countians for now a century, is an inspiration to us all for its record of service, comfort, support, and nurture.

For 100 years, Tabernacle Baptist Church has been a Christian reflection in a darkened world, providing direction and purpose to countless lives. Since 1890, this church has opened its doors to people seeking the Savior. This coming weekend, the glow around the Tabernacle community will be especially warm as the congregation recounts a most noteworthy heritage which spans 10 decades and several generations.

"May All Who Come Behind Us Find Us Faithful," is the theme of the church's 3-day centennial celebration. The Reverend Emeritus Steven Schmidt will lead the congregation in the weekend's festivities, with the able assistance of celebration committee chairperson Rona Throckman. The committee has been working and planning for more than a year, in a manner which reflects the congregation's established tradition for cooperation and unity.

The Tabernacle Baptist Church community is 1,200 members strong. The committee has developed a program which will combine ample opportunities for joy and reflection in a weekend celebration of family and fellowship.

There will be two meditations—one on Friday evening, led by Reverend Schmidt; and a second on Saturday led by Rev. Charles Edgington, who is the chaplain at the nearby Chillicothe Correctional Institute. The church will be recognizing 23 special young people for their extraordinary Christian service.

Music and prayer are on the schedule for Friday evening, and families and friends will reassemble for a fish fry Saturday night.

The celebration culminates with a Sundary church service, where a former pastor, Rev. Charles W. Lusher, will give an anniversary sermon. The service will emphasize the Tabernacle youth, as representatives from each Sunday school class presents their unique thoughts on the importance of Tabernacle Baptist Church to their lives.

"Revive Us" is a special musical cantata planned for Sunday evening. Under the direction of Rev. Robert Milton, who is minister of music and christian education and youth, 50 strong voices will herald the dawning of a second century of the Tabernacle Baptist Church. The cantata will include a surprise feature—a historical slide show tracing the church's illustrious history.

All in all, the upcoming Tabernacle Baptist Church's 100th anniversary celebration promises to be a weekend of historical as well as religious significance, demonstrating the enduring role played by this remarkable church in the life of the community of Chillicothe, OH.

Mr. Speaker, I welcome you and our colleagues to join me in saluting the congregation of the Tabernacle Baptist Church as it observes a most important occasion. We can draw pleasure and inspiration from the church's rich heritage while anticipating its bright future.

THE AMERICAN NEO-NAZI MOVEMENT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. WEISS. Mr. Speaker, racial hatred and discrimination are nothing new in the United States. This bitter legacy is as deep rooted as it is pervasive. As Americans, we have had to reconcile the promise of equality and opportunity for all American citizens—as courageously

stated in the Declaration of Independence—and the ugly reality of that promise. One such reality is that millions of African Americans were enslaved and later relegated to second-class citizenship after the Civil War.

But African Americans do not alone bear the burden of racial hatred in this country. As the July 16 issue of The Nation magazine painfully accounts, Jews too are a favorite target of racists.

There is little that is new in that information. What is new are the tactics and philosophy of these new fangled racists. These modern-day racists and racist organizations look to Adolf Hitler and his National Socialist Party for inspiration. Hitler believed that Jews were the scourge of Europe and had to be eliminated, as coldly calculated in his final solution. Similarly, organized racists in the United States tend to be neo-Nazis, focusing their hostilities on Jews. African Americans still receive their share of hatred, but in the neo-Nazi's view, the Jew is the central threat because Jews are seen to be more powerful and more manipulative.

What's bone chilling about these paranoid delusions of Jewish power is the violence the neo-Nazi groups are willing to wage in their war against the Jew. Many of the groups have compiled impressive arsenals of weapons as well as concocted elaborate schemes of waging a racist revolution, intent on overthrowing Jews and Jew sympathizers.

Most of us believe that these racists are fringe elements, and thus not to be taken too seriously. But I encourage all my colleagues to carefully read the article. It points out that such ideas are gaining acceptance in the American populace, as displayed by the candidacy of David Duke, a former Klansman turned U.S. Senate candidate. A slight downturn in the Nation's economy could unleash these racist passions and all their horror. Such racism is also resurfacing in Europe.

As one of those fortunate to have emigrated before Hitler launched World War II and unleased his terror, it is my fervent hope that such a tragic event as the Holocaust could never be repeated, especially in the United States. Yet there are those in the United States who share and wish to relive Hitler's dream. As we know, Hitler's dream became reality. Six million Jews were exterminated in the Nazi death camps. A fact the neo-Nazis deny, or treat with light regard.

With the neo-Nazis alive and thriving, the possibility of following Hilter's footsteps exists. Information about these groups is vital to thwart their spreading. That is why I am circulating copies of The Nation to the House offices this week.

Hitler carried out his campaign of terror, in part, because of the passive acquiescence of the citizenry. Let us not repeat that mistake.

ADDIE MOCKRISH: DEDICATED TO VFW AUXILIARY FOR 67 YEARS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. SOLOMON. Mr. Speaker, it's my privilege to rise and tell Members about one of the most extraordinary women I've ever known.

Long before this Member was even born, Mr. Addie L. (Connelly) Mockrish of Mechanicville, NY, was serving the Veterans of Foreign Wars Auxiliary. In fact, she comes from a long tradition of public service, a tradition as old as this great country of ours.

One ancestor, Michael Connelly, served in the Revolutionary War with the 6th Regiment of New York. Her great uncle, Thomas Higgins, served in the Civil War. Another ancestor, Angelvine Connelly, served in the Spanish-American War. She is a distant relative of Charles Evans Hughes, who served as Governor of New York, Chief Justice of the U.S. Supreme Court, and Secretary of State. Her brother, Edward Connelly, was killed in action in World War I.

The great tradition continued when her two sons, Edward and Robert Mockrish, both served in the Pacific Theater of World War II. In addition to her sons, she has five grandchildren and six great-grandchildren.

But, Mr. Speaker, Addie Mockrish has her own history of public service, and it is an impressive one. Allow me to list her activities and accomplishments:

She has served the VFW Ladies Auxiliary in many capacities since 1923, including president of Memorial Auxiliary 947, Mechanicville; president of Hudson-Mohawk County Council, 1956–1957; State president, Department of New York; chairman of the national convention; delegate to the Women for National Security meeting in Washington, 1962; and Queen of the Department of New York, VFW meeting held in Syracuse, 1987. She also was chosen to present the national VFW Ladies Auxiliary "Silver Bowl" to the Outstanding Graduate of the U.S. Military Academy at West Point in 1962. The National Home of the VFW sent her a citation on the occasion of its 60th anniversary.

Her service has not been limited to veterans. In 1940 she assisted Red Cross in making cancer pads for cancer patients. In 1942 she began her long service with the Red Cross canteen in Mechanicville. She has worked with blood banks in Mechanicville, Waterford, and West Milton. She is a member of the RSVP, or Retired Senior Volunteer Program of Saratoga County. She was a school lunch program volunteer from 1956 to 1959. She was involved in the Meals on Wheels Program for 12 years. She sold poppies and daffodils and collected funds for March of Dimes, the Kidney Foundation, and the Cancer Fund. She has volunteered 2,500 hours at the Albany VA Medical Center.

Addie Mockrish has also been active in the Mechanicville area Senior Citizens, Pythian Sisters, Sons of Union Veterans of the Civil War, Past Noble Grand of Minnihaha Rebecca Lodge, Friends of the Library, and the Stillwater Review, which she has served as president.

Her many activities with the United Methodist Church have included teaching Sunday School for 20 years.

And, Mr. Speaker, she shows few signs, if any, of slowing down. At a recent installation ceremony of the VFW Auxiliary, she conducted the entire ceremony from memory, without notes. I needn't tell you, Mr. Speaker, how important veterans have been to me ever since I've been in public life. You can imagine, then, how much I admire and appreciate Addie Mockrish and her contributions. And I speak for every veteran in our district, for whom Addie Mockrish has been an inspiration.

I judge a person, Mr. Speaker, by that person's willingness to give time and service to the community. Addie Mackrish has given of herself for 67 years.

Mr. Speaker, on August 12, 1990, she will be honored at an open house reception. Let us rise today to pay our own tribute to Addie Mockrish, a life-long friend of our veterans, a pillar of her community, and an outstanding American.

TRIBUTE TO THE LIFE OF HERBERT J. MALVEAUX, SR.

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to Herbert J. Malveaux, who passed away on Wednesday, June 20, 1990. Mr. Malveaux was born on October 30, 1924 to Oterie Malveaux and Louiska Christien Malveaux in Lafayette, LA. One of nine children, he received his early education in Lafayette and graduated from St. Paul High School.

A World War II veteran, Mr. Malveaux served in Burma and India and was honorably discharged in 1946. He attended Xavier University in New Orelans, graduated with a bachelor's degree in fine arts, and entered the teaching profession. During his college years, he was a member of Omega Psi Phi fraternity. He excelled academically and won honors in fine arts, French and athletics.

He married Sadie B. Foote, also of Lafayette, on November 30, 1952. They established residency in Washington, DC and had four children.

In 1950, Mr. Malveaux began a career at the Office of Personnel Management (formerly the Civil Service Commission) where he served as a retirement supervisor. After 31 years of dedicated service, Mr. Malveaux retired in 1981. Following his retirement he worked as a consultant with the National Association of Retired Federal Employees [NARFE].

A passionate and generous man, Mr. Malveaux was committed to various religious and community organizations including the Knights of Peter Claver, Xavier Alumni Association, Holy Family Alumni Club, President and Treasurer, St. John's Parish Counsel and the Toastmaster's International Club.

Mr. Malveaux, affectionately known to his family as "Pap", was a faithfully husband, a loving father and grandfather and a devout Catholic. He touched the lives of many friends, neighbors and coworkers. His vibrant spirit will live on in the hearts of those who loved him dearly.

I join with his former colleagues from the National Association of Retired Federal Employees in extending warmest sympathy and gratitude to his devoted wife, Sadie and to his children Karen, Delisa, Herb and Ronald. Mr. Malveaux will long be remembered for all that he has contributed to his family, his place of work and his community.

TRIBUTE TO SCOTT MASSE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor an outstanding young man from my district who has been chosen as male athlete of the year for 1989–90.

Scott Masse, of North Smithfield, RI, excelled in football, hockey, and golf while attending North Smithfield High School. This past year Scott finished his baseball season batting 440, while also setting the school's single season rushing record in football.

In addition, to being an outstanding athlete, Scott excels in the classroom and his community as well. Scott graduated 11th in his class and he was president of North Smithfield High's Lettermen's Club, which sponsored collections for less fortunate members of the community.

I take this time to congratulate Scott Masse for his accomplishments and wish him good luck in the future.

HUMAN RIGHTS IN KENYA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. WEISS. Mr. Speaker, over the last several weeks, Kenyan President Daniel arap Moi has attempted to systematically silence political opposition in his country by harassing and jailing prominent human rights lawyers, political figures, and other advocates of multiparty democracy in Kenya. The crackdown is part of a larger pattern of abuses apparently designed to eliminate criticism of President Moi's increasingly repressive one-party regime.

In the July 16 issue of Legal Times, Holly Burkhalter, Washington director of Human Rights Watch, describes the Moi government's continuing mistreatment of lawyers, politicians, church leaders, the media, and others. In response to these gross violations of human rights, Ms. Burkhalter calls for a thorough reassessment of United States aid to Kenya.

Efforts are under way here in Congress to persuade the Bush administration to immediately freeze current United States assistance to Kenya until there is a marked improvement in the human rights situation in that country. Kenya is now the largest recipient of United States assistance in sub-Saharan Africa, and the time has come for the United States to use its considerable influence to bring an end to these abuses.

KENYA'S FINEST IN PRESIDENT MOI'S IRON GRIP

JAILED AND ABUSED HUMAN-RIGHTS LAWYERS NEED U.S. SUPPORT

This September, some 3,000 lawyers from around the world will travel to Nairobi, Kenya, to participate in a meeting of the International Bar Association. Tragically, Kenya's finest lawyers may not be able to attend.

On July 4 and 5, the government of President arap Moi rounded up and jailed three prominent human-rights lawyers, two politicians, and a number of other Kenyan advocates of multiparty democracy. Another well-known attorney, Gibson Kamau Kuria (who in 1988 was awarded the Robert F. Kennedy Memorial Human Rights Award), sought and was granted refuge in the U.S. Embassy in Nairobi on July 7, and human-rights lawyer Paul Muite is said to be in hiding.

The crackdown on lawyers and political figures is but the latest abuse by an increasingly hostile and repressive one-party dictatorship. President Moi appears intent upon systematically dismantling or silencing all independent civilian institutions in Kenya, including the church, the bar association, and the press.

An early casualty was the judiciary, which in 1988 was weakened by a constitutional amendment removing security of tenure from judges, as well as from members of the Public Service Commission responsible for the appointment and discipline of civil servants. Another amendment rushed through at the same time increased from 24 hours to 14 days the period in which people detained for certain offenses might be held incommunicado, without access to a lawyer, a doctor, or family members. This provision greatly enhanced the likelihood of torture during detention—already a serious problem in Kenya, where police have been known to torture prisoners to death.

HARASSMENT

More recently, the government has harassed and intimidated the church, one of the few institutions left to serve as a counterweight to President Moi's monolithic Kenyan African National Union party (KANU). In a shameful episode this March, the government prosecuted Presbyterian Church leader Rev. Lawford Ndege Imunde in a trial wholly lacking in due process. Imunde was abused in detention and pressured into waiving his legal representation during trial. Ultimately, he was sentenced to six years in jail for having made "subversive" entries in his private diary.

The Kenyan press has been similarly hounded. In March 1988, the Christian magazine Beyond was banned, as was the Financial Review, which had reported on government corruption. With the July 4 jailing of Gitobu Imanyara, an outstanding human-rights advocate and editor of The Nairobi Law Monthly, President Moi has silenced one of the country's last remaining independent voices.

The current crackdown appears to be an expression of the government's fury over increasing calls for multiparty democracy in Kenya. Two of those arrested, Charles Rubia and Kenneth Matiba—both former KANU members and government ministers—are outspoken critics of the government's efforts to limit freedom and leading advocates of multiparty democracy. Another measure of President Moi's hostility to multiparty democracy may be seen in a recent editorial in the progovernment press, which urged U.S. Ambassador Smith Hempstone, who had expressed support for the concept, to "shut up."

For now, the future looks bleak for the jailed lawyers and politicians. The government has failed even to acknowledge the detention of one of the lawyers, Mohamed Ibrahim. As a Kenyan of Somali origin, Ibrahim is at particular risk from a government that has harshly discriminated against its ethnic Somali community.

But if these lawyers and other human-rights advocates are not released, the International Bar Association is said to be considering relocating its September meeting. That's exactly the right signal, as the change of venue would cost President Moi dearly in international prestige. Congress should join the effort by limiting foreign aid to Kenya, now the largest recipient of U.S. assistance in sub-Saharan Africa. And lawyers in the United States and around the world should send cables and letters to Kenya protesting the jailing of their colleagues and the destruction of the rule of law.

TRIBUTE TO KRISTEN DUPLESSIE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor an outstanding young woman from my district who has been chosen as female athlete of the year for 1989–90.

Kristen Duplessie, of Franklin High, excelled in field hockey, basketball, and softball for her 4 years at Franklin. For 3 of her 4 years, Kristen was a varsity starter, being chosen as Hockomock League's "Most Valuable Player" in field hockey and softball, in her senior year.

In addition to being an outstanding athlete, Kristen excelled in the classroom and was a community supporter. Kristen graduated 20th in a class of 221 and was a peer counselor, spending 1 hour a week with a third grader, being an unofficial big sister.

I take this time to congratulate Kristen Duplessie for her accomplishments and wish her good luck at Wake Forest University in the fall.

JAMES G. COLLINS, ONE OF SARATOGA SPRINGS OUTSTANDING CITIZENS, RETIRES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. SOLOMON. Mr. Speaker, I measure a man by how much he gives to his community. By that standard, James G. Collins of Saratoga Springs, NY, has been a giant.

Mr. Collins retired June 30 after 22 years of service as executive director of the Saratoga Springs Housing Authority, but that's one of the reasons James Collins is one of the finest men I have ever known.

The son of Michael and Mary Geary Collins, he attended St. Peter's Academy in Saratoga Springs and went on to graduate from Siena College and pursue graduate work at the State University of New York at Albany. His education was interrupted, however, by Army service during the Korean conflict, during which he went to officer's candidate school.

He worked for the Saratogian, a local newspaper, and for Espey Manufacturing & Electronics Corp. In 1965, Jim joined the Urban Renewal Agency of Saratoga Springs until 1968, when he took charge of the housing authority.

His biggest accomplishment during his tenure was renovating a vacant office and recreation building at Jefferson Terrace into a facility to house low-income handicapped individuals. For that, he was recognized here in Washington.

But that was not all. He was a member of the New York State Association of Housing and Renewal Officials and served as State director from 1974 to 1976. He was past president and one of the founders of the Central New York Housing Authority. He was accredited as a professional housing manager by the National Association of Housing & Renewal Officials in 1977. And he was a member of the Public Housing Officials National Organization.

He still found time to serve 9 years on the board of the Senior Citizens Center. It was Jim who suggested a new center, and who then served as cochairman of the site and planning committee.

Jim was president of the St. Peter's Alumni Association for 18 years, president of the St. Clement's Holy Name Society, a charter member of the St. Clement's Parish Council, and a member of the committee for preserving parochial education in Saratoga Springs when the local parochial high school was scheduled to be closed. He is also director of the St. Peter's Athletic Association.

He is a past Grand Knight and past Faithful Navigator of the Knights of Columbus, Council 246, and past president of the Columbian Association. He also is a member of Saratoga Elks Lodge 161, BPOE. And finally, he has been a baseball coach for the Saratoga minor and pony leagues.

Like most men who are active in their communities, Jim Collins is also a devoted family man. He and Jeanne, his wife for 39 years, have eight children, James Jr., Anne, Justin, Michael, Mary Kate, Chris, Brigid, and Tara.

As you can see, Mr. Speaker, Jim Collins is an extraordinary man. In every sphere of activity, whether it be professional, church, or civic, Jim Collins was asked to lead. He always found the time and the energy.

That is why his family and many friends recently got together to honor him on June 16. Mr. Speaker, I ask you and the entire House of Representatives to join me in honoring him today. Please join me in saluting James G. Collins, an outstanding public servant, a pillar of his community, and a great American.

WHY I AM PROUD OF AMERICA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. YOUNG of Alaska. Mr. Speaker, as you know each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. Twelve national scholarships totaling $56,000 are distributed among the top 12 winners. The winner from each State comes to Washington for the final judgment.

The 1989/90 winner from Alaska is Ms. Kelly Kwim O'Connor. Ms. O'Connor won Tenth Place honors in this years scriptwriting contest. Ms. O'Connor resides in Eagle River, Alaska and attended Chugiak High School. She hopes to start this fall at Notre Dame University. Her interests include reading, dancing, gymnastics, skiing, and photography. Kelly has held numerous offices at CHS. She was the student/faculty congress representative, treasurer of the CHS National Honor Society, and the cocaptain of the CHS gymnastics team. Kelly has also distinguished herself academically. She was awarded the CHS Gold Star Award for Achievement of 4.00, Rotarian Certificate of Merit for Outstanding CHS Student, and the Alaska Legislative Excellence in Education Award.

I would like to take this opportunity to submit Kelly's award winning essay to the CONGRESSIONAL RECORD:

WHY I AM PROUD OF AMERICA

(By Kelly O'Connor, Alaska winner, 1989/90 VFW Voice of Democracy Scholarship Program)

In this past year, I have watched the world turn upside down, from China to Eastern Europe, and I have seen it all from my living room chair. I have seen repression, as in China, and I have seen repression abolished, as in East Germany, and I have seen it all from my living room chair.

I have been amazed and joyous, shocked and repulsed. In Germany, a liberated people dance riotously on the Berlin Wall, stomping on this symbol of degradation, and shouting in their euphoria, "freedom". In China, similar people have died screaming out pleas for "democracy", in front of their symbol of hope, and America's symbol of freedom, the Statue of Liberty. I am happy for the East Germans, and I feel for the Chinese, but I must be honest—it doesn't affect me as it should. I can always get out of my living room chair and turn off the T.V.

I am proud of America. I am proud of America because, here, the rest of the world can exist in side a two foot box, and if I need, I can always turn it off; turn off the world and return to the sanity of my life. I am grateful for this freedom. I am grateful for so many freedoms afforded me everyday in hundreds of ways that I am unaware. Liberties I have had since birth, liberties that I feel are an inherent part of my natural rights as a human being; from the freedoms of speech to the freedoms of belief and religion. I am thankful because I would not know life without them.

But I do fear this freedom: As easy as it is to take our freedom for granted, it can also be neglected or taken advantage of. I am afraid for my freedom and for the freedom of my country. Because I realize that this freedom is not free, and that to acquire it one must be willing to sacrifice something, possibly life. And I realize that to continue to possess it is a struggle. Freedom is a responsibility. It is a responsibility of the individual to insure their freedom. It is a responsibility of the individual to understand what has been sacrificed in the past giving them their freedom, a responsibility to understand the rights of the individual in relation to his government, and a responsibility to continue this relation and involve themselves in decision of their government. Because in order to maintain this freedom, the government and the people must be one. Not as in China's ironic, "Republic of the People", but a true union where the individual affects the government and the government is in turn a reflection of the people it represents.

As I watch the young people of Germany dancing on the Berlin Wall, striking at it with pick axes, metal bars, knives, and stones, I am a little saddened. I see them laughing and cheering and crying. I know that they will rejoice to accept their responsibility of freedom. They will not take these freedoms for granted. These boys care more than I do, their country is just beginning and ours may be growing old. These boys who are tearing down the wall of separation and repression are the ones who will build a democratic Germany. They will contribute to their government and they will make a difference.

America, herself, must pull together and reunify. We, the people, must involve ourselves in the success of our country. As privileged members of the United States of America, we have an obligation to help America succeed and what is needed is the acceptance of our responsibility and the realization that our governments prosperity depends solely on us. Now more than ever, America must pull together. We have become a symbol of democracy and as the world turns upside down it looks to America to stabilize it. As the rest of the world turns their yes, their hearts, and their hopes towards America, we must be ready to support them. As leaders of the free world, we must cultivate democracy during its infantile stages and help it to grow. We owe it to freedom.

I am leaving my living room chair, now. I have viewed what life has been without freedom and I know what it could be again. I am even more resolved to carry the torch and protect the freedoms that have been given to me. I am proud of America and will not let her fall.

TRIBUTE TO THE LEGION OF VALOR AND STANLEY L. GINISH

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. MACHTLEY. Mr. Speaker, I rise before you today to pay tribute to the Legion of Valor on celebrating their 100th anniversary. They held a reunion on July 1 through July 5 in Chattanooga, TN. There was a great turnout.

The Legion of Valor is a select group of men who received one of the two highest awards in the Navy, Army, Air Force, or Ma-

rines. Mr. Stanley L. Ginish of Pawtucket, RI, is a member of this select group.

I take this opportunity to congratulate Stanley and the Legion of Valor.

BRING THE CRIMINALS INVOLVED TO JUSTICE

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. CAMPBELL of California. Mr. Speaker, the American people are scandalized by the the HUD scam and the S&L debacle which have wasted billions of their hard-earned dollars. My colleagues and I have been deluged by letters with a simple message: Bring the criminals involved to justice.

FIRREA contains provisions to extend the statute of limitations for crimes related to the S&L debacle. It is high time the same was done for the HUD investigations. Today I am sponsoring legislation that will extend the statue of limitations applicable to any criminal offense which was committed by an officer or employee of the Department of Housing and Urban Development between 1981 and 1988 and which was related to the activities of the Department.

Mr. Speaker, the Attorney General, Dick Thornburgh, has said that the Justice Department is investigating some 1,000 cases of possible wrongdoing at the Department of Housing and Urban Development. Six hundred Justice Department investigations have been known to be conducted by the 93 U.S. attorneys across the country.

According to Mr. Thornburgh, these cases "are difficult cases, as all white-collar crime cases are, because they involve very sophisticated schemes designed to conceal the wrongdoing that's occurred." He also has said, "Rest assured, we're going to follow the evidence in the HUD matter as we would in any other matter to insure that people engaged in wrongdoing are brought to justice."

Mr. Speaker, my bill is an important initiative to give the Justice Department and the independent prosecutor the time needed to pursue the crimminal investigations of wrongdoing at HUD, and to demonstrate the commitment of Congress to redress this debacle. The American people expect no less.

CASA BLANCA KICK IN THE TEETH

HON. JOSE E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. SERRANO. Mr. Speaker, I would like to bring to the attention of Members in the House an editorial that appeared in the July 15 edition of New York City's El Diario-La Prensa Newspaper. The editorial, entitled, "A Kick in the Teeth," aptly describes a recent, 2-week White House Antipoverty Conference to consider proposals from a number of Federal agencies and think tanks concerning such antipoverty programs as expanded family planning services, investment in poor children, and tax credits for the working poor. After all was said and done, as indicated in the article, the White House decided to do nothing about expanding these services because it would cost too much money and that States should be given more flexibility to do demonstration projects. I have to ask myself, since when have these programs become demonstration projects? Below is the article in its entirety.

A KICK IN THE TEETH

Who are they trying to kid? The White House just held a great big anti-poverty conference. It solicited major policy proposals from half the President's Cabinet, paid for advice from national anti-poverty experts, then turned around and said, according to one White House official, "it was fun to think about these things * * * but we realized we didn't have any cash." Since we all know there is cash, this is both a lie and an insult. Quite simply, it is a kick in the teeth.

The President's Domestic Policy Council, a Cabinet-level advisory body, met for two weeks to consider proposals from the Departments of Labor, Education, Agriculture, HUD, and Health and Human Services. They also considered the analyses of outside experts from the Urban Institute, the American Enterprise Institute, New Directions for Policy, and Harvard University. Among the proposals considered were expanded family planning services, investment in poor children, and tax credits for the working poor.

After all the meetings, and all the experts, the Bush Administration rejected the idea of family planning because it would be seen as "encouraging promiscuity" and "will cost money." It acknowledged that an investment in children would have a long-run payoff for America, but it was "not likely to show an immediate reward." It admitted that an increase in the earned income tax credit would raise the standard of living of poor families, but it would currently "exacerbate Federal budgetary problems."

In short, the White House decided to do nothing. It decided to "give states more flexibility to do demonstration projects," which means it told the states "good luck, you're on your own." One White House official actually summarized it by saying they will "keep playing with the same toys. But let's paint them a little shinier."

32 million Americans living in poverty are not "toys." Their lives, and their children's lives, are not a game. Evidently, our "kinder and gentler President" has a lot to learn about the American people he supposedly serves.

The American people need more than a dog and pony show. They need help. After a kick in the teeth from Reagan, they will not accept another one from Bush. And that's exactly what this "anti-poverty conference" was . . . a kick in the teeth.

PENNY ROBINSON'S "WHY I AM PROUD OF AMERICA"

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. LEWIS of Florida. Mr. Speaker, given the Nation's recent focus on the importance of America and its symbols, I thought it would be appropriate to bring to your attention the efforts of an outstanding high school student. Ms. Penny Robinson, a senior in high school in Boynton Beach, FL, was a 1990 State finalist in the VFW Voice of Democracy Contest with her speech titled "Why I Am Proud of America." While many speak of the place the United States of America has in their lives, few, I believe, at Penny's age, speak so eloquently on the subject.

The speech follows:

WHY I AM PROUD OF AMERICA

I am proud to be an American. I speak these words as your sister, sibling of the free and the brave. I am part of one, big happy family. My mother is America. My father is the United States Constitution. My brothers and sisters are all those who live under them. We are a family made up of all the different races of the world, but, unlike other countries, we are all equal and loved the same.

I tell you of this great family of mine because it is what makes me proud . . proud to be an American. Our real mothers and fathers give freedom to grow, guidance, and love. These are the qualities that make up a good family, and, in the same sense, make up a good country. This is what makes America great. . .the strong family unit that holds this country together. Each letter in the word family represents something that makes me proud of America.

F-Freedom: Freedom of speech, religion, press . . . It is for freedom to create, because we, the people are what make America what she is. Our freedoms are written down under the United States Constitution, our father, the enforcer of how we may obtain these privileges.

A-Amiable: Because we are a country, a friendly country, who is able to help other countries in need, as well as those less fortunate and starving in our own. We are able to help the famished in Ethiopia, the 1989 Hurricane Hugo victims in Puerto Rico and in the United States as well as our most recent natural disaster victims, the victims of the October of 1989 California Earthquake . . . What other country is always willing to help with open arms?

M-Motivated: America is a country of people working together, motivating one another to make America bigger . . . better . . . stronger. Americans are always researching and beating the odds. Who ever thought we could learn more about our most distant planet, Neptune? . . . We did! We have advanced technology and continue to keep discovering. This proves we are motivated.

I-Independence: We don't depend on other countries to support us, we often help support other countries. We also have independent people within America striving on their own to be successful.

L-Liberty: We are one united family, not several different families of different races. I believe that if we would have let blacks in as immigrants instead of slaves, we would have discovered earlier what they have contributed to our country. This way America could have prospered much faster . . . much earlier. I also believe this would have made it easier for other races to become part of this country.

Y-Youth: America's youth is our future. We must take the time as we always have to teach and guide them, because they will make America grow . . . together.

This is what makes me proud of America . . . red, white, and blue. Let us all remember these colors as the symbols of how we all started. The red stands for the blood

shed by our proud and brave veterans of war. They risked, and in some cases, lost their lives for our freedom. Their pain will never be forgotten. The white stands for those pure puritan pilgrims who were the first immigrants that set foot on the white sandy beaches of America. The blue stands for the ocean that we all traveled over at one time to get to this great country of ours. This is what makes me proud of America. Family, freedom, amiable, motivated, independence, liberty and youth.

As John F. Kennedy once said, "Ask not what your country can do for you, but what you can do for your country."

Because my family, you are what makes America what she is.

H.R. 5295, THE ANCIENT FOREST ACT OF 1990

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. VENTO. Mr. Speaker, today I have introduced the Ancient Forest Act of 1990. This bill is intended to provide a pragmatic, balanced and permanent solution to the extended and bitter controversy in the Pacific Northwest over old growth forests and the northern spotted owl. The controversy has raged for too long. The people of the Northwest, the economy of the region and the amazing biological diversity of the ancient forest ecosystem will all surely suffer from further delay. We have waited patiently for the President and his administration to provide leadership and to use the authority and extensive resources at their command to take the action to propose coherent policies necessary to solve the old growth forest controversy. Instead, we have gotten words, more study and procrastination. Most recently for instance, the administration announced that they not only lack a long-term solution, but they won't have a proposed solution for even fiscal year 1991 until sometime in September.

September would be too late for open, orderly consideration. The people of the Northwest and the rest of the Nation deserve action and answers. It is clear that the administration is providing neither. If Congress were to wait on the administration the Northwest will truly be faced with dire choices. The best that can be hoped for from the administration at this point would be another temporary fix, tacked on to an appropriations act. The Pacific Northwest and its old growth resources don't need more band aids. We need a permanent prescription.

The solution proposed in my bill is based on what we know today. Its provisions are the result of the latest scientific information available on ancient forest ecosystems. On the advice of leading scientists, instead of focusing on a single species, the measure advances an ecosystem approach that strives to protect all the biological diversity of species dependent on or associated with ancient forests instead of just that important indicator species: The northern spotted owl. Old growth species such as the marbled murrelet, the olympic and del norte salamanders, the red tree vole, the fisher and the pine marten may soon be listed as threatened or endangered if we continue to lose ancient forests at the current rate. If the policy is only enough to solve the spotted owl controversy, it will fall short as we continue to find ourselves embroiled in similar battles far into the future. Such piecemeal approaches will never provide what the ecosystem approach can: A reasonable degree of certainty and stability for the economy and the people of the Northwest. The provisions and process established in the Ancient Forest Act would hopefully solve permanently the dilemma of how to preserve more of the ancient forests with all of its species while at the same time facilitating a stable, sustainable supply of timber for the economy of the Northwest.

Let me share with you the key provisions of the bill:

First, the bill incorporates protecting old growth forest ecosystems into the national multiple use missions of the Forest Service and the Bureau of Land Management.

Second, it creates a 6.3-million-acre ancient forest reserve system on 17 national forests in Oregon, Washington, and northern California and on 6 BLM districts in Oregon and northern California. Commercial timber sales would be prohibited within the system. The size of the system is based on the amount of land area scientists indicate are needed to protect the northern spotted owl and maintain significant old growth forest ecosystems. The boundaries of the system will be designated within 3 years by the Forest Service and BLM after receiving recommendations from the Ancient Forest Scientific Committee established by this bill, composed of some of our Nation's leading scientists. In order to be responsive to new science and new information in the future, the boundaries of the system are dynamic and can therefore be modified within a process over time as long as the total acreage remains the same and the important scientific criteria listed in the bill are adhered to. The legislative policy and the reserve system are designed to regenerate some old growth forests where they once existed.

Third, the bill directs that those forest ecosystems which do not get designated as part of the reserve system are to be managed with ecologically sensitive new forestry methods. This entails leaving both green trees and snags behind with minimum burning.

Fourth, the bill establishes an extensive Ancient Forest Research Program to advance the level of scientific knowledge of these important old growth forest ecosystems.

Fifth, it establishes an important permanent Ancient Forest Scientific Committee to make credible recommendations to the Forest Service and BLM on the location of the ancient forest reserve system boundaries and on the establishment and management of the reserve system, the new forestry methods outside the reserve system and the Ancient Forest Research Program.

Sixth, during the 3-year interim period before the reserve system is in place, the bill protects from timber harvest those areas that the agencies and the Scientific Committee will need to consider for inclusion in the reserve system. They include (a) the 6.3 million acres of habitat conservation areas identified by the Interagency Scientific Committee [ISC] as needed for the viability of northern spotted owl populations, (b) old growth forests protected in Forest Service and BLM management plans; (c) the areas in the BLM's spotted owl agreement with the Oregon Department of Fish and Wildlife, and (d) seven specific areas of special ecological significance.

Seventh, during the same 3-year interim, the bill establishes a Timber Sale Program of at least 2.6 billion board feet for region six of the Forest Service and at least 450 million board feet for the BLM lands in Oregon and northern California.

Eighth, the bill contains an economic assistance package for rural communities:

For 5 years, the amount of national forest receipts returned to the affected counties would rise from 25 to 50 percent. The amount of BLM receipts returned to counties would increase from 50 to 75 percent.

The Forest Service is directed to develop, through its State and private forestry program, a special initiative to improve forest productivity on non-Federal lands in the Pacific Northwest. This will include technical assistance on modernization of mills, improvement of wood utilization techniques, and development of more efficient harvesting methods, as well as assistance in improving timber stands and in accelerating reforestation. This initiative will add over 2 billion board feet to the timber supply in the Northwest within 5 years and billions of additional board feet to the timber supply over the long term. Over 5,000 direct timber related jobs could be created within 5 years.

The Forest Service and BLM are directed to develop a special program to improve the condition of Federal forest lands through work programs such as constructing recreational and interpretive facilities and trails, improving commercial and recreational fisheries, conducting natural resource inventories, implementing new forestry techniques, constructing and maintaining administrative facilities and enhancing wildlife habitat, watersheds, and timber management. This program would create at least 2,500 forestry related jobs within 5 years.

The two secretaries would be required to estabish community assistance task forces at the national and local level to provide displaced workers with retraining, job counseling and job placement and to provide rural communities with grants and loans to help them diversify their economies.

I want to emphasize again, that the President has ample authority without new legislation to be taking action today, to mitigate the effects of protecting owls and old growth forests.

For example, the President could have acted to restrict log exports and thereby increase the domestic supply of logs for timber mills. Instead, Congress has had to develop legislation which is now nearing enactment.

And, the President could have already directed the Forest Service to establish a priority initiative in their State and private forestry program to increase timber supply. Instead, his fiscal year 1991 budget cuts this program by 50 percent. So my bill directs him to establish a priority program that can make available billions of additional board feet of timber.

To institute such a program as soon as possible, I recently joined with other Members of Congress in urging the Appropriations Committee to fund this effort in fiscal year 1991.

I urge my colleagues to support the Ancient Forest Act of 1990. By doing so they will help the people of the Pacific Northwest as well as saving millions of acres of the unique ancient forest ecosystem.

A TRIBUTE TO COL. JOSEPH DAVID SNYDER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today a most distinguished gentleman, Col. Joseph David Snyder of Twentynine Palms, CA. Colonel Snyder, who recently retired from the U.S. Marine Corps, has served his country admirably for over 20 years.

Colonel Snyder graduated from the University of North Carolina at Chapel Hill in 1966 with an AB degree in radio, television, and motion picture production. After completing the fortieth officer candidate course at Quantico, VA, he was commissioned a second lieutenant in the Marine Corps Reserve and reported to the Naval Air Training Command at Pensacola, FL for flight training. In June, 1967, First Lieutenant Snyder was designated a naval aviator.

After receiving specialized helicopter training, he deployed with his squadron as a helicopter aircraft commander to South Vietnam in 1968. In Vietnam, he flew nearly 800 combat flight hours in support of 16 major operations against enemy forces. Arriving home in 1969, Captain Snyder was assigned as a flight instructor with Marine Medium Helicopter Training Squadron and additional duties in the Aircraft Group's Pilot Ground and Instrument Schools in Tustin, CA. After accepting a regular commission in 1970 he was ordered back to Quantico in 1972 and compieted Amphibious Warfare School before his transfer to the Marine Corps Air Station in El Toro. He resigned his commission in 1974 but returned to active duty as Major Snyder in 1976. In 1980, Major Snyder was reassigned to El Toro and promoted to Lieutenant Colonel in 1981. In 1985, he was selected by the Department of the Navy to work at the Pentagon in Washington, DC. He served there for 3 years and was promoted to full colonel in 1988.

Colonel Snyder's personal decorations include the Distinguished Flying Cross with combat "V," the Meritorious Service Medal, the Air Medal with combat "V" and bronze numeral "60" representing 1,200 combat missions flown, the Navy Commendation Medal and the Combat Action Ribbon.

Mr. Speaker and colleagues, please join me today in recognizing the distinguished career of Colonel Snyder. His outstanding contributions are an inspiration not only to his wife Linda and his family, but to all of us. His service to country is certainly worthy of recognition by the House of Representatives today.

"FREEDOM FEVER" TO BE SUPPORTED BY CONGRESS, NOT FORGOTTEN

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. BUECHNER. Mr. Speaker, I would like to address the deplorable situation in Albania that is of mounting concern to freedom lovers around the world. "Freedom Fever" has spread throughout Eastern Europe in unprecedented proportions in the last 2 years, as the world has witnessed in China, Germany, the U.S.S.R., and now Albania. Throwing off the chains of totalitarianism and embracing democratic reform, Albania is in a crucial phase of political change that requires our support.

The last dungeon of Stalinism has received a crack of light and a breath of fresh air. Horrific tales of unfathomable governmental suppression have finally reached the ears of the free world. And I'm happy to say that we have not turned a deaf ear to their crisis; rather, due to the efforts of a combination of determined people from free nations, especially the United States, the Albanian Government has been forced to begin allowing exit visas. This is good. But this is certainly an insufficient measure of the depth of help that need. We in the U.S. Congress should not and cannot cease our demands for justice's full-circle to be served to a nation that has endured such long-term hardship.

Most battles for autonomy don't come without bloodshed, and Albania is no exception. In a statement by Elias Betzios, executive director of the Panepirotic Federation of America-Canada-Australia before the 46th session of the Commission of Human Rights, stories of the horrible tragedy—the Greek Orthodox minority in particular—experienced in Albania were unmasked. The statement elaborates on what Betzios refers to as "gross and flagrant violations of human rights being perpetuated by the Albanian regime," such as "* * * about 100,000 members of the Greek ethnic minority have been forcibly relocated to the north part of Albania and are living in forced labour concentration camps," and "legislation of Albania forbids expressly the right to freedom of opinion and expression and the right to peaceful assembly and association."

According to Betzios, hundreds of Greek minorities, as well as other national and religious minorities, have lost their lives on electrified barbed wire installed on the country's borders. Also, four brothers who attempted to escape Albania to join their family in Greece were arrested, tortured, and dragged by tractor through several villages.

An article in the July 11 New York Times tells the story of the plight of 51 Albanian refugees. The refugees estimated that more than 6,000 of their countrymen jammed Western embassies in the capital, Tirana, over the past month in hopes of attaining political assylum. Bush Sula, a 27-year-old refugee, is one of the 51 who was granted asylum after scaling the Czechoslovakian embassy's walls while "being hit on the legs by police batons," Sula recounted. A 26-year-old artist named Sokol Abdiu was quoted in the article as saying "The United States is the best and most powerful country. I want to go to California. It's a dream for me."

Mr. Speaker, as citizens of the United States, it is incumbent upon us to provide ubiquitous protection of freedom-loving people such as these. I would urge my colleagues, therefore, to pledge their full support and protection of the restoration of all human rights and autonomy of the Greek ethnic minority. For how can we call ourselves Americans with a clear conscience and not act accordingly?

CAPTIVE NATIONS WEEK

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. HERTEL. Mr. Speaker, the observance of the struggle of the "Captive Nations for Liberty" is deeply rooted in this Nation's long commitment to democracy and national self-determination. Some of the Captive Nations have had long and distinguished histories as independent states, others have but briefly tasted liberty, and still others only have been able to yearn for the status that is the norm for most nations in the civilized world. What unites the participants in this observance is the common experience of the subjugation of their ancestral homelands to an alien force, the determination to end that subjugation, and the shared hope that all nations now remaining under the yoke of Russian communism may soon share the fruits of liberty. Given America's long commitment to stand as a beacon of democracy throughout the world, it is altogether fitting that we as a nation show our commitment to their struggle through this annual observance.

It is now obvious that communism is a spent force. No one takes it seriously, and even the Communist Party of the Soviet Union is on the verge of breaking up into old-style totalitarians, social democrats, and a shrinking middle course under Gorbachev and Ivashko which clings desperately to hopes of reforming and salvaging what is left of a system which has never worked. The Iron Curtain that once divided Europe is largely gone. The unnatural division of Germany is ending, according to the will of the German people. Czechoslovakia, Poland, and Hungary are rejoining the ranks of democracies. World War II began over the question of maintaining the independence of such countries, and by supporting them we serve our own national interests as well as theirs.

As we turn our attention to the South, the picture becomes more complex. Romania's new government has seemingly turned back to the classic totalitarian ploy of unleashing one section of its population against another. Bulgaria is still ruled by a Communist government, albeit a fairly liberal one. Albania, which has long pursued its own road to totalitarianism in isolation, presents us with the spectacle we once saw in East Germany, one of people storming foreign embassies to get out and of a reluctant government allowing their evacuation. Yugoslavia, not really a nation at all but a collection of several distinct peoples, is be-

coming a house divided against itself and may ultimately break up into its constituent parts. The Kossovo autonomous region, where the vast majority of the population is Albanian but which contains many sites of historical significance to Serbs, has been denied even the measure of autonomy it really enjoyed. Only the repugnance of Tirana's tyranny and the force of Serbian nationalism keeps Kossovo in Yugoslavia.

The outer empire in East Central Europe, however, seems clearly on the way out of the Russian Communist orbit or is already completely outside it, except for the persistence of the Warsaw Pact as a historical relic. It is the inner empire of the nations inside Soviet borders that still most truly deserve the title of Captive Nations. There the Communist Party still clings to power both at the Union level and in all the republics except Lithuania and the Russian Federation, the latter being by far the largest of the Union republics.

The Baltic States have all shown by the popular support accorded their national fronts their determination to rejoin the ranks of independent states, a status stolen from them in 1940 by Stalin in cynical collaboration with Hitler. Gallant Lithuania, which has led the way for Latvia and Estonia, has been forced to retreat from its demand for immediate independence by economic blockade and physical occupation. Gorbachev's demand that republics offer exorbitant compensation in hard currency for all the ostensible benefits of their having been exploited for decades was especially cynical in view of the fact that the more prosperous Soviet West has had vast amounts of its domestically generated investment capital syphoned off in order to subsidize the economic development of Russia and Soviet Central Asia. Nevertheless, once real negotiations begin, they must of necessity lead to the complete and unconditional independence of the Baltic States.

The sole alternative is suppression by brute force, which, given the constancy of Soviet military strength and the reduction of its external military commitments, is by no means outside the realm of possibility. It is an alternative which America must stand determined to use all its influence to prevent.

Also on the Soviet Union's western rim are Byelorussia—for White Ruthenia—Ukraine, and Moldavia. Byelorussians and Ukrainians are kindered peoples, eastern Slavs related to the Russians—or Great Russians and more closely related to each other. Byelorussia and the Ukraine have a long history, much of it shared as parts of the medieval Grand Duchy of Lithuania. Byelorussians, the fourth largest national group in the U.S.S.R., had a briefly independent state which was conquered by the Soviet Red Army. Byelorussia has long been considered the most Russified of the Soviet Republics Union, but even here there are national stirrings, which we can only expect will grow stronger over the course of time.

The 42 million Ukrainians are second only to Russians in numerical strength among both the people of the Soviet population. Ukrainians, too, had their independent state, which constitutionally guaranteed the rights of non-Ukrainians to their own full and uncensored national-cultural development, brutally suppressed by Lenin. The western Ukraine was later seized at roughly the same time and in the same way as the Baltic States. As Chairman of the Commission on the Ukraine Famine, I have come to gain a special understanding of the genocide which Stalin perpetrated on Ukrainians and the damage done to that nation by long and insidious Russification. Yet, Ukrainians have withstood the ravages of policies that would have destroyed forever nations of lesser spirit, and, in elections held earlier this year, the Popular Movement of the Ukraine [Rukh] was able to sweep three of the country's western regions and the capital city of Kiev, forming governments and creating a strong base for further growth.

It accomplished this in spite of widespread irregularities in nominating candidates, which denied the people of many electoral districts a meaningful democratic alternative and in spite of the fact that the Popular Movement itself was registered, that is, officially legalized, only after the primary elections had been held. It was able to capitalize, where people were allowed to vote for it, on popular disgust with what the people call the "Party Mafia," a disgust recently demonstrated by the cheers which greeted the news of the resignation of the Ukraine's apprartchik president, Volodymyr Ivashko. To be sure, Rukh has extensive grassroots political organizing to do before it can truly compete on an equal footing with one of the U.S.S.R.'s most conservative Communist organizations, but it has made a start, and we must anticipate its ultimate success in building a free and independent Ukraine with constitutional guarantees insuring the fulfillment of all legitimate aspirations of its national minorities. The revival of the Ukrainian Catholic and Orthodox Churches, still hamstrung but nonetheless at last allowed to function openly, cannot but further this process.

Unlike Byelorussians and Ukrainians, Moldavians are not Slavs but speak a romance language related to French and Italian. They speak a regional dialect of Romanian which differs no more from the way people speak in Bucharest than the English spoken in Boston differs from that spoken in Atlanta. There is really no such thing as a Moldavian nation, as almost any Moldavian will tell you. Moldavians are Romanians who were annexed forcibly and made to write their language in the Cyrillic alphabet, which Russians also use, rather than in their own Latin alphabet, which Romanians, Americans and most other Europeans use. Should Romania evolve a truly popular government that people would actually wish to live under, then the Romanians of Moldavia will surely strive to join.

Georgia, Armenia, and Azerbaijan, the republics of the Soviet caucasus, all have strong popular movements dedicated to national self-determination, but there have been all too many times when the responsible leadership of these movements have lost control to popular irredentist passions, as in the bloodshed between Armenians and Azeris over Karabagh or between Georgians and Ossetians. This had also occurred in the Central Asian republics, where Moslems have fought Moslems over who is to have what privileges in which area. Rival historical and demographic claims are too complex for easy solution, whether in Kossovo of Sumgait, but we Americans must stand for the peaceful resolution of such in a spirit of fairness and compromise so that those who must live together can do so under peace and justice.

Given that Armenians have also survived genocide in this country and witnessed the annihilation of their culture in most of the lands that were Armenian only a century ago, we must maintain that it is for the people of Karabagh, the overwhelming majority of whom are Armenian, to have the right to determine their fate democratically and peacefully, without regard for any treaties made without their consent. Moreover, we must urge all nations to remember their common enemy which still holds them within the ranks of the Captive Nations.

One of the most hopeful signs is the rot at the center of the Russian Communist empire, as the Russians themselves strive to attain democratic sovereignty. We must never forget that, while the official ideology of the Soviet Union is Russocentric and while non-Russians have suffered greatly from Russification, the Russian people have never benefited from nor consented to the system of which they, too, have been victims. One must conclude that they have begun to learn one of the great lessons of history, that no nation can be truly free if it oppresses other peoples.

Finally, the Captive Nations of Asia, the Mongolians, who had communism imposed on them in the 1920's; the Chinese, who live with legacy of Tiananmen Square; the Cambodians, who live with the recent memory of genocide; the Vietnamese; and the North Koreans also deserve our attention and support.

America is not just a place; it is an idea, the proposition that legitimate government is of, by, and for the governed. Observing the plight of the Captive Nations is a reaffirmation of the American idea. We are obliged by the commitment we have voluntarily accepted to do so until the term, "Captive Nations," loses its meaning because those now captive shall have been freed. Let us pray for the speedy coming of that day.

FLAG DESECRATON AND NATIONALISM

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. OWENS of Utah. Mr. Speaker, I am proud to be a citizen/elected representative of a country that does not protect its political symbols through the threat of imprisonment or legal sanctions.

Throughout history, in times of nationalism and intolerance, Government leaders have attempted to legislate patriotism. In 1932, the German Government, engulfed by a nationalistic current, adopted statutes to imprison individuals that desecrated national symbols or questioned the legitimacy of governmental institutions. Rather than trying to foster public respect of national symbols through substantive accomplishments, the German Government demanded respect of national symbols through the threat of force and coercion.

Mr. Speaker, threats of imprisonment or other kinds of punishment cannot be used as

a means to increase public respect for national symbols. Ultimately, the symbols of a country will come to represent the institutions of a country. If the ideological foundation and substantive products of those institutions are unfair and unjust, national symbols will not be respected. It is time for this Congress to put to aside the quest for patriotism through threats of legal sanctions against those who desecrate national symbols. We must move on to discuss and resolve the pressing issues that face this Nation—like, the deficit, unbridled environmental destruction and the United States new role in geopolitics brought on by changes in Eastern Europe. The way in which these issues are handled, will ultimately determine the level of respect that people have for both our flag and Government.

I asked the Library of Congress to research the implementation of punishments by Adolf Hitler's government in Germany during the early 1930's. Their findings are not insignificant and make me more satisfied that Congress acted correctly in rejecting a constitutional amendment dealing with this issue.

THE GERMAN FLAG DESECRATION LAW OF 1932

In December 1932, the German Criminal Code was amended by inserting a new section 134a that penalized flag desecration and other profanities of state symbols and institutions.[1] The provision states as follows:

Sec. 134a. Profane Acts Against the German Reich.[2]

Whoever publicly profanes (*beschimpft*) the Reich or one of the states incorporated into it, its constitution, colors or flag, or the German armed forces, or maliciously and with premeditation exposes them to contempt shall be punished by imprisonment.

This provision was inserted into the Criminal Code by a regulation that introduced various measures to maintain internal peace. It was signed by the President of the Reich, von Hindenburg, on December 19, 1932. Hitler was made Chancellor on January 30, 1933. However, by December of 1932, the influence of the National Socialists was increasing rapidly.

Although section 134a of the Criminal Code was repealed in 1946 by a Law of the Control Council for Germany,[3] criminal provisions against flag desecration were again enacted in 1951 [4] and also exist in the current version of the Criminal Code.[5]

FOOTNOTES

[1] Chapter 4, Verodnug des Reichspräsidenten zur Erhaltung des inneren Friedens vom 19. Dezember 1932, *Reichsgesetzlatt* [official law gazette of the German Reich] 1, p. 548. A copy is included as *Appendix A.*

[2] Translation from: V. Gsovski, *The Statutory Criminal Law of Germany* 95 (Washington, D.C., The Library of Congress, 1947).

[3] Law No. 11 of January 30, 1946, *Official Gazette of the Control Council of Germany,* Number 3, p. 55.

[4] Sec. 90 of the Criminal Code, as introduced by Strafrechtsänderrungsgesetz vom 30. August 1951, *Bundesgesetzblatt* [BGBl., official law gazette of the Federal Republic of Germany], I, p. 739.

[5] Secs. 90a and 104, Strafgesetzbuch in der Fassung vom 2. Januar 1975, BGBl., I, p. 1 as amended. A translation of these provisions as contained in J. Darby, *The Penal Code of the Federal Republic of Germany* (Littleton, 1987), is included as *Appendix B.*

FORT HALL INDIAN WATER RIGHTS ACT OF 1990

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. STALLINGS. Mr. Speaker, I am introducing today a bill to ratify the 1990 Fort Hall Indian Water Rights Agreement. In 1987, the State of Idaho commenced a general adjudication of that portion of the Snake River Basin within Idaho for the purpose of determining all claims to the use of water from the river system.

As part of this process, the State court will adjudicate all Federal reserved water right claims. In authorizing the adjudication, the Idaho State Legislature recognized that quantification of Federal reserved water rights has been a very divisive and costly process in the Western United States. As an alternative to the litigation of the Federal claims, the legislature directed the State to first attempt to quantify the Federal claims through negotiations.

The bill introduced today is the product of that negotiation effort. It is the result of hard work and a dedicated effort from many Idahoans who deserve special thanks. I want to emphasize to my colleagues the broad, bipartisan support this agreement enjoys. I am pleased that Congressman CRAIG has joined with me in cosponsoring this legislation.

The agreement has the support of the State congressional delegation, the State of Idaho, the Shoshone-Bannock Tribes, and the affected water users. Furthermore, it has been endorsed by the administration. Both the Department of the Interior and the Department of Justice have signed the agreement and the Office of Management and Budget has reviewed and approved it.

After 5 years of negotiations, the State of Idaho, the Shoshone-Bannock Tribes, the United States, and a group of private water users have reached a settlement of all claims for water of the Shoshone-Bannock Tribes, its members, its allottees, and the United States on behalf of the tribes, its members, and its allottees in the Snake River Basin upstream from Hells Canyon Dam, the lowest of the three dams authorized by FERC Project License No. 1971 as provided in the agreement.

Mr. Speaker, this agreement represents a fair and equitable settlement. No one party bears the full cost of this agreement; instead, each party will contribute to the settlement. The tribes have agreed to exercise some of their Winters water rights in a way that will ensure certain historic non-Indian water uses will be protected and to phase in over time a portion of their Snake River water right.

The non-Indian Snake River water users will be responsible for mitigating a portion of the impact they will suffer as a result of the tribes' exercise of their Snake River water right. The State will contribute approximately $500,000 of moneys and in kind services. Finally, the United States will contribute $22 million over a 20-year period as well as approximately 19,000 acre-feet of Palisades Reservoir and 80,000 acre-feet of Ririe Reservior storage space.

The tribes, its members, and its allottees will be entitled to 581,000 acre-feet of water under the agreement. This water will not require the construction of any new storage facilities. All tribal water rights to natural flow and ground water will be Winters reserved water rights. Storage water rights in the Blackfoot River Basin will be used as a supplemental water supply to fill the tribes natural flow Winters water right from the Blackfoot River and up to 15,000 acre-eet per year of storage water may be used for instream flows in reaches of the Blackfoot River.

The tribes also will retain their Federal contract storage water rights in the American Falls and Palisades Reserviors. Water accruing to this Federal contract storage space may be used for instream flows on or adjacent to the Reservation or rented for any beneficial use, including instream flows, from a tribal water bank created pursuant to State law. All other tribal water rights are for use within the Fort Hall Indian Reservation. The agreement also provides the tribes with the flexibility to lease or transfer their water rights within the reservation.

The parties have fashioned an agreement that accommodates historic water rights that are decreed in the Snake River Basin adjudication [SRBA]. In this regard, the tribes have agreed to exercise their Blackfoot water right so as not to impair the historic non-Indian water rights in the basin.

In times of shortage, non-Indian water users will use natural flow from the Blackfoot River to fill their rights decreed in the SRBA and the tribes will use Blackfoot storage water to satisfy their Winters water right from the Blackfoot River.

In Bannock Creek, the parties have agreed to deliver water rights pursuant to the Bannock Creek decree of 1907. The tribes will be entitled to the water remaining in Bannock Creek over and above that necessary for the diversions under the Bannock Creek decree.

Finally, the tribes have agreed to exercise their Winters ground water right in a manner that protects those historic non-Indian ground water rights decreed in the SRBA.

In order to offset the impact of the tribes' exercise of their Snake River Winters water right, the agreement provides that the United States will contribute approximately 100,000 acre-feet of storage space to the non-Indian water users. Because of the hydrology, the location of the reservoirs and the junior status of the storage space, the space is only expected to yield 40,000 acre-feet per year. The non-Indian water users will mitigate among themselves and remaining impact.

The agreement establishes a framework for the administration of water rights which ensures that all rights will be delivered pursuant to the terms of the final decree in the SRBA.

Mr. Speaker, it also is important to point out that there are significant benefits to the environment from this agreement. As part of the Federal contribution, improvements will be made at Grays Lake that will improve migratory bird habitat at the Grays Lake Wildlife Refuge while achieving a more flexible and reliable water supply for use within the Fort Hall Indian irrigation project.

In addition, the agreement permits the tribes to rent water accruing to Federal contract storage space for instream flows in the Snake River within Idaho, including needed flows for the benefit of anadromous fish.

Once you have reviewed the agreement, I am sure you will find that it represents a fair and equitable accommodation of all interests and is deserving of your support.

THE USE OF FORCE AGAINST AIRBORNE DRUG TRAFFICKERS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. COUGHLIN. Mr. Speaker, I have introduced legislation to give the U.S. Coast Guard limited authority to shoot down drug-smuggling aircraft. In both philosophy and approach, this legislation is dramatically different from previous congressional attempts to provide such authority. While the Bush administration has recognized that the current rules of engagement for our interdiction operations need to be enhanced, they have not endorsed an effective approach to this problem. From a congressional perspective, it is difficult to justify greater expenditures on our air interdiction programs without such enhancements.

Next year, the Federal Government intends to spend $10.6 billion to fight the war on drugs. Of that amount, nearly one-quarter, or $2.37 billion, will be devoted to interdicting drugs at the Nation's borders. Of these activities, the most expensive is air interdiction. It requires intricate radars, expensive chase planes, high-tech command centers, and quick response boats and helicopters. These operations rarely, if ever, capture a drug-smuggling pilot, and only sometimes successfully recover drugs.

Despite the seeming futility of these air interdiction efforts as well as a significant shift in drug smuggling to the land border with Mexico, the future protends a greater investment in these programs. This is because the U.S. military will take a greater role in the drug war—$1.2 billion in fiscal year 1991. And given Mexican sensitivities about United States troops on the border, our military will be forced to play its greatest role in the Caribbean, where air interdiction is most prominent. Moreover, the military is comfortable with air operations because they are rich in technology and assets.

However, the air war has been a phony war despite the dedication and zeal of the men and women in our interdiction agencies. As the President's 1990 national drug control strategy admits, "the overall effectiveness of our air interdiction program, however, is inherently limited by our current rules of engagement." In one of the few disappointing recommendations of the President's strategy, we are offered the solution of revoking the airplane registration of anyone who ignores an order to land—hardly a deterrent to someone who is risking life imprisonment for drug trafficking.

The current rules of engagement have turned our air interdiction operations into, as one administration official put it to me, "a very expensive escort service." Our planes follow a smuggler, watch him drop the drugs at a drop site, while we scramble helicopters or boats to catch anyone picking up the drugs. The smuggling pilot flys back to South America for a marguerita. Sometimes we follow the smuggler for a short distance, but most times we follow the drugs, and of course, there are plenty more where those came from. Our agents are prohibited from taking any actions which would "interfere with the safe operation of the aircraft."

Some in Congress have sought to remedy this problem by giving our law enforcement agencies the authority to shoot down smugglers. Despite its visceral appeal, this raises legal objections since law enforcement agents should follow certain rules of due process before sending a suspect to near-certain death.

There is no doubt, however, that shooting down aircraft would make our air interdiction program markedly more effective by deterring potential cartel pilots. And it is likely the case that very few planes would need to be destroyed before that deterrence took effect.

We know from intelligence reports that many, if not most, smuggling pilots are Americans. This is unusual for the drug cartels who try to limit the access of foreigners for fear of being infiltrated. If there was a pool of trained home-grown pilots, the South American organizations would certainly use them. Moreover, fewer pilots would have the collateral benefit of crimping cartel operations in inaccessible coca growing regions and in Mexico, where drugs are flown before their trip across the United States border. Pilots, therefore, seem to be a cartel vulnerability. We know too that when the United States merely hinted that we were going to station a aircraft carrier battle group off the coast of Colombia, drug smuggling air traffic fell off significantly. So, it seems, these pilots do make rational calculations about their safety.

Previous congressional attempts to provide shoot down authority suffered not only from legal problems, but also from political deficiencies. On Capitol Hill, criticisms of such proposals inevitably came back to one of the most difficult problems in air interdiction, the so-called sorting problem. Out of the hundreds of private planes flying around out there, how do you sort out which one is carrying drugs? Previous shoot down legislation did not solve this problem. It envisioned that air operations be run as they are currently—keep interdiction assets patrolling around the Caribbean to chase potential caches of drugs headed for this country and, to the degree possible, use informant's tips to cover areas thought to be scenes for smuggling activity. When you spotted a plane dropping drugs, and that plane ignored your orders, you would now have the authority to pull the trigger.

Understandably, there were groups, representing aircraft owners, who recognized the inherent difficulties involved in sorting aircraft. They successfully persuaded the Senate that giving very aggressive law enforcement officers the authority to shoot down suspect aircraft placed innocent pilots at risk.

To any experienced interdiction pilot, these concerns made little sense, since no "dentist flying back from the Bahamas with his family" flies at night without lights and suddenly dives to 300 feet before dropping several packages. Nonetheless, opponents of shoot down were able to successfully argue that such authority would create a climate of fear in the air as every potential plane would be a target.

The legislation I have introduced solves the sorting problem—by ignoring it. For given the number of private aircraft, we will never succeed in sorting out everyone. But to create an effective deterrent, we do not necessarily need to cover the entire Caribbean with armed aircraft and sort out every potential target before we fire. We should not be tracking hundreds of aircraft flying toward the United States, we should be creating a potentially deadly threat to a very specific number of drug smugglers.

Therefore, we should run highly concentrated operations directed at a pecific pilot about whom we had very firm intelligence information. We could position our assets to follow the flight of such an aircraft from the time it left South America. We would use several aircraft to follow that pilot, we would have several helicopters and boats near the potential drop site. Most importantly, with so many planes and ships directed at one target, we could use field testing kits to ensure the contraband dropped from the plane was indeed narcotics. If such a test confirmed drugs, we would then have the ability to radio our aircraft, which had never lost sight of the smuggler, to destroy that plane if it failed to obey an order to land.

Film footage of such an operation, played over and over on CNN, would certainly raise the fees of pilots and might even dry up the pool of pilots altogether. In addition, the combination of testing the drugs, hard intelligence information, constant tracking, and the limited number of such operations that could be run, would make the risk to your average aircraft owner almost nonexistent.

In addition, my legislation would provide the authority to fire warning shots in situations where field testing is not feasible but when our interdiction pilots have watched drugs being dropped. The knowledge that our officers now have the authority to use force would provide a great incentive for smugglers to follow and land. The smuggler would never know if a field test was feasible and would wonder if the next shot fired would be into his plane.

What about the legal problems? Again, it seems clear that such an operation could not be run by U.S. law enforcement agencies, and it probably could not be done over U.S. territory, where certain constitutional guarantees would be in force. These were the fatal flaws of previous congressional proposals.

However, these legal hurdles do not apply if such an operation is run outside of the United States by an agency whose mission is to protect U.S. national security, not to collect evidence for a prosecution. These planes should not be treated under the fleeing felon scenario, but the bombing of Libya, terrorism-deterrent approach. United States soldiers did not read Miranda rights to the Panamanian defense forces, despite the President's clear assertion that a primary mission of "Operation

Just Cause" was to eliminate Panama as a drug trafficking center.

In addition, smugglers no longer air drop in U.S. territory. If this really is a drug war, why do we continue to operate under the constraints of U.S. domestic law enforcement in areas where we do not have to? Moreover, the U.S. Coast Guard, is not only experienced in air interdiction operations, but can operate as a military service without all of the contraints of law enforcement.

Would such an action violate international law and various agreements, some fostered by the United States, to protect civilian aircraft—such as the "Chicago Convention?" The answer to that question is that weighty legal opinions can be produced to show that, since World War II, every effective military action taken by the United States to protect its national interest has violated international law. To paraphrase former Justice Robert Jackson, the law is not a suicide pact designed to prevent a nation from protecting itself. This goes double for international law.

Some critics will argue that the air war has already succeeded by shifting the action to the United States-Mexican border and therefore shoot down proposals have been overtaken by events. But as long as airborne smuggling remains relatively risk free, current trends on the border are reversible, especially if Mexican authorities show increased zeal. The next air threat could develop anywhere off the coast of the United States. Moreover, even drugs smuggle across our land borders have, in most cases, been flown into Mexico from South America. Any added threat to cartel pilots may even have a beneficial effect upon our border efforts.

The more severe critics will say that this is all political grandstanding; such operations will not solve the drug problem. They will recite a litany of true but irrelevant facts such as: "the cartels will adjust" or "we need to focus on demand," et cetera. But the reasons for shoot down are really quite measured, that is, we spend too much on air interdiction. We cannot continue to spend hundreds of millions of dollars on fancy equipment to watch and follow around cheap twin engine planes without doing anything about them. If we can diminish the cartel's potential pool of pilots, we can focus our spending on the other emerging interdiction threats such as the Mexican border or cargo containers—we may even have a little money left over for drug treatment and cops on the beat.

I have introduced legislation to give the Coast Guard, with Defense Department assistance, the authority to run such operations. To all my congressional colleagues who have sent home newsletters talking about the drug war as our greatest national security threat—it's time to belly up to the bar.

A PROCHOICE PETITION FOR ELECTED OFFICIALS

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. MOODY. Mr. Speaker, for the benefit of my colleagues, I am including the text of a petition that was circulated at a recent gathering in Milwaukee of religious prochoice supporters. About 850 people signed this petition which supports the legal right of women to choose when to bear children and whether to terminate a pregnancy. I personally support the right of a woman to choose to terminate a pregnancy before fetal viability or when medically necessary to protect the woman's life or health. I also agree that we need to promote efforts to increase family planning services in order to prevent unwanted pregnancies.

PRO-CHOICE PEOPLE OF FAITH: A PETITION TO ELECTED REPRESENTATIVES

As people of faith we affirm and support the constitutional rights of privacy inherent in the Canadian Charter of Rights and the United States Constitution which leave each woman free to follow her own conscience without interference from government in choosing when and whether to bear children.

We oppose attempts to interfere with or inhibit a woman's choice to terminate a pregnancy including legislative attempts which unfairly deny poor and disadvantaged women access to safe and legal abortion.

We support those efforts of government to provide all women access to reproductive and family planning options and urge all governments to promote programs which help prevent unplanned pregnancies and which provide supportive services to those women who choose to bear children.

FLAG DAY ESSAY CONTEST

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. GALLO. Mr. Speaker, we recently conducted an extensive debate on the floor of this House concerning our Nation's symbol, the Stars and Stripes.

I would like to share with my colleagues in the House an award-winning essay written by one of my constituents, Allison Su, a junior at Mount Olive High School in Morris County, NJ.

As the winner of the New Jersey Flag Day Essay Contest sponsored by the National Flag Day Foundation, Allison recently represented the Garden State at ceremonies in Baltimore and spent a day in Washington, DC, including a visit to my office, as well as tours of the White House and the Capitol.

I would like to share Allison Su's winning essay with my colleagues as a reminder that our flag is the symbol of hope to the world:

FLAG DAY

(By Allison Su)

"I pledge allegiance to the flag * * *." These words are echoed throughout the halls of millions of schools every morning. Children all across the nation place their right hands over their hearts and profess their loyalty to this country. On June 14, proud American citizens celebrate National Flag Day. Since its birth in 1777, the American flag has evolved into an emblem consisting of thirteen stripes and fifty stars representing the thirteen original colonies and the present fifty states respectively. However, this flag represents more than that. It symbolizes American freedom, justice, and equality. Americans are accustomed to having these advantages while citizens of other countries have a yen for them. These people are fighting to gain the often overlooked benefits we reap from our society. The actions of these people parrot the actions of Americans over two centuries ago. The emerging altercations for a democratic society in foreign countries mirror the communal attitudes of Americans. We, as Americans, must learn to appreciate our prodigious way of life given to us by our ancestors' struggle for freedom and we must help other countries achieve the same.

The United States of America is a democratic society overflowing with opportunities. One has the liberty to pursue an education, practice one's religion, have a job, and raise a family. However, many Americans get discouraged because these wonderful things are not always easy to obtain. Nothing is effortless. One must work to be successful, and Americans are given the chance to do so. If one would step back for just a moment and observe this society, he would understand why other countries are rebelling. These people want to live in a democratic society. Once Americans realize this, they can help.

The evening news is filled with reports about oppression in foreign countries and the attempts to overcome it. Viewers ponder over how awful it must be but seldom do anything about it. However, there are some who do take action. For example, in my home town, a temple is sponsoring a program to bring Russian families to the United States. I have had the opportunity to meet some of these people, and the overwhelming element of gratitude in them is amazing. I wish American citizens could see this country through those same appreciative eyes. Americans may be aware of the problems in foreign countries, and may feel compassion, but sympathy will not avail these people. One must keep in mind, "The great end of life is not knowledge, but action." (Thomas Huxley)

The United States of America is one of the leading world powers. It is a leader in both politics and economic growth. Because of this, the United States has the ability to aid others in achieving what it already has. This country was created with the hopes of achieving equality, happiness, and justice for all. Does "all" end with U.S. borders? I doubt that is what the founding fathers intended. It is our duty as both American citizens and world leaders to labor to extend our benefits to others. "Leadership is the process of helping other people to do the worthwhile things they want to do." (Anonymous)

As we celebrate Flag Day, let us remember what the flag represents. Let us use this knowledge of our advantages to remind us of the crosses others bear. Only then will we be able to fulfill our roles as true American citizens. We can then rejoice in our freedom.

I am more than just cloth shaped in a design.

I am the refuge of the World's oppressed people.

I am the silent sentinel of Freedom.

("I Am Your Flag"—author unknown).

FORMER SURGEON GENERAL KOOP'S STATEMENT ON BIOMEDICAL RESEARCH

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. DURBIN. Mr. Speaker, there can be no question in anyone's mind that Dr. C. Everett Koop has been an absolutely extraordinary U.S. Surgeon General. During his tenure he advanced the cause of health of Americans enormously. Of course, among his major accomplishments was his work concerned with the serious health consequences of smoking.

However, he has also been concerned about biomedical research. Recently, shortly after his retirement from the U.S. Department of Public Health, he became a director of Research! America, an organization dedicated to a grassroots effort to advance the public support of medical research.

Recently I read, in the Los Angeles Times of June 25, 1990, an article by Dr. Koop about medical research and its important relationship to the health of our people, and also to the cost of health care. I am hopeful that my colleagues will read the article, printed below, so that they may be informed of Dr. Koop's view of the matter:

TO SAVE ON TREATMENT, FIND THE CURES

(By C. Everett Koop)

"Damn near everyone in this country is sick!"

This "discovery" was made by a researcher on my staff who added up the numbers of Americans suffering from various diseases and found that the total exceeded by a good measure the entire population of the United States. Even more remarkable, his total was for physical ailments only; it did not include the estimated 30 million with mental illnesses and psychiatric disorders.

While a good statistician might argue my assistant's conclusion that "everyone" is sick, his estimate is not far off the mark. Sad to say, the great majority of Americans are victims of chronic, crippling or incapacitating diseases ranging from alcoholism to Alzheimer's. Sexually transmitted diseases alone have infected 40 million.

Even if the reported figures represent some overlap or overstatement, the bottom line is mind-boggling and the medical bill is enormous. Last year the United States spent nearly $600 billion for health care. That's nearly 12 percent of our GNP-12 percent of the total value of all goods and services produced by the world's wealthiest nation.

That we spend heavily on health is not at issue. Whether we spend wisely is. One of the biggest problems with our present health-care system is that it focuses so much on treatment and so little on prevention. We spend billions to buy hospital beds, antibiotics and ambulances, but we scrimp when it comes to investing in science to find the causes and cures for our costly maladies. Less than 3 percent of the health-care dollar is earmarked for the scientist at the bench.

Yet it is such basic research that provides the big payoffs. The virtual elimination in this century of such dread diseases as polio, tuberculosis, diphtheria, smallpox and measles has saved the country billions. Polio immunization and vaccines for measles, mumps and rubella, for example, have spared us more than $2 billion in expenses a year. In a very real sense, these vaccines have been a shot in the arm for the economy. Medical research historically offers an excellent return on taxpayer money. Studies show a $13 return for every research dollar invested by the federal government between 1990 and 1975.

There are other direct and indirect spinoffs. More than $40 billion is contributed annually to the GNP from medical discoveries used in non-health-related products. Medical research has spawned more than 100 new high-tech companies—the kind of economic development most needed to make America competitive and build a strong economic base for the future.

Perhaps it's too simple—possibly too sensible—for our federal budget-makers to take seriously, but there is a very strong case to be made for using medical-research spending as a prescription for reducing the deficit. Polls show that a majority of Americans believe that government funds for medical research should be increased by a sizable amount—even in this tight-money era.

Public support would be even stronger if Congress better realized the economic benefits of better health. For instance, the annual cost of multiple sclerosis is at least $2 billion. That includes medical treatment, benefit payments and loss of income to the 250,000 Americans with MS and their families.

Because this crippler of young adults is a "lifetime" disease—people rarely die from it—its economic consequences are much greater than for some of the so-called killer diseases. Solving the mystery of how MS attacks the central nervous system would save the taxpayers billions in Medicare, Medicaid and SDI payments. It would also generate significant additional revenue for the Treasury by reducing dependency and putting the disabled back to work. The sick consume tax revenues; the healthy produce tax revenues.

Efforts to deal with soaring health expenditures currently center on cost-containment programs designed to reduce the duration of hospital stays and unnecessary surgery. Of course, every dollar saved is important. But considering the dimensions of the problem, this is like cutting the lawn with nail clippers.

Businessmen who need to cut overhead identify the biggest expense items in the company budget and then take steps to reduce them. For our country there is no larger expense item than health care. The $1.5 billion a day we now spend to care for the sick is the biggest single line item in the federal budget. Bigger even than defense. We spend $3,000 a year per American for health care. By contrast, the annual federal investment in biomedical research is only $35 per person.

Complete eradication of disease is, of course, not a realistic goal. But so many potential breakthroughs are now in sight that medical research should be steaming ahead at full speed. Yet for lack of funding, three out of four National Institutes of Health research applications judged highly meritorious by a peer-review procedure are going unfunded. The haunting worry is that one of those unfunded applicants might have found the cure for cerebral palsy or some other disease.

In his most famous work, "The Compleat Angler, 17th-Century author Izaak Walton wrote that "health is a blessing money cannot buy." But more money for research would indeed ensure better health for millions of Americans, born and unborn. Spending for biomedical research is smart politics, sound national policy and a good business investment.

DEPOSIT INSURANCE REFORM

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. LEHMAN of California. Mr. Speaker, I would like to bring to the attention of my colleagues the following article which appeared in a recent issue of the Washington Monthly. I hope this article sheds a little insight into some of the problems with our Federal deposit insurance system:

They said they fixed it. But they lied.

Even with a year-long debate, massive legislation, and "never again" assurances from every corner, the S&L bailout failed to address the fundamental threat to our banking system. The shocking result? Though we've just forked up a cool $150 billion, our biggest banking crisis is still ahead of us.

The problem is federal deposit insurance. It began in the 1930s as a sensible way of restoring confidence and preventing bank runs. Yet it also transferred all credit risk in the banking system to the taxpayer, by assuring that the government stood ready to repay depositors whenever some daredevil or dimwit threw money away on nutty loans. Bankers, like trapeze artists, try riskier stunts when they know there's a net beneath them. By 1980, when coverage per account was hiked from $40,000 to $100,000 in a legislative ploy that went virtually unnoticed, that net became more of a fundraising tool for marginal banks than a guardian of the little guy's savings. We learned just how expensive that coverage was when failing S&Ls used deposits attracted by the enlarged federal guarantee to gamble on shopping malls, cattle farms, and junk bonds—and then stuck us with the bill. The price of this blank check? If coverage hadn't been hiked in 1980 and perverted the intent of insured funds, says former FDIC Chairman William Isaac, "We would have saved $50 billion or more."

If those numbers seem big to you, keep counting. Because our 13,000 commercial banks—sporting, at $3 trillion, three times the deposits of the S&Ls—could make today's crisis look pint-sized. There may have been less reason to worry about a blank insurance check in the old days, when banks faced little competition and earned stable profits. But because of dramatic changes since the early 1970s, banking is more vulnerable today than at any time since the Depression. Consider: more commercial banks failed (that's right, not S&Ls) in the past two years than ever before. They've written off $75 billion in bad loans since 1986—when the economy has been strong—compared with just $28 billion over the entire 1948-81 period. Absorbing these hits in the past two years has stuck the FDIC insurance fund with its first losses ever and left the fund holding a historic low of 70 cents for every $100 of insured deposits. Experts say that even a mild recession could now bankrupt the fund completely—and then guess who's on the hook again?

You'd think the potential for a commercial bank sequel to the S&L insurance meltdown would have our leaders sounding the alarm—but you won't find any profiles in

courage when it might mean tampering with what is now perceived as virtually a constitutional right. Any proposal to change deposit insurance coverage is "like saying you're going to take away social security benefits,'" says ex-FDIC chief Isaac. "It would be an enormous political battle." With feel-good politics still the reigning fashion in Washington, there aren't any takers. Treasury Secretary Brady got so scared by the outcry over his early suggestion that depositors pay a tiny fee to help cover the S&L payoff that he's since become The Invisible Man. Politicians who understand the stakes would sooner sacrifice their first-born than talk about reducing the $100,000 coverage. And even normally gutsy free agents like FDIC chairman William Seidman, who told the National Press Club in 1988 that "a deposit insurance system out of control has the potential to 'melt down' and damage the entire U.S. economy," evasively says today, "I haven't got a preferred solution at the moment."

Despite the stakes, villainless themes like "the risks of deposit insurance in a modern banking system" won't inspire press coverage, either. "It's not a concept that lends itself to a picture," laments Rep. Charles Schumer, who sits on the House Banking Committee. "They like to focus on misdeeds—it's much easier to tell a morality story." *Wall Street Journal* editor Robert Bartley thinks the media blows it because the story doesn't fit the conventional wisdoms that untutored journalists rely on to peg complicated issues. "The stereotype [on banking] has been 'deregulation,'" he says. "Deposit insurance doesn't fit that. Until something happens that changes that stereotype, the deposit insurance angle won't catch on."

We may not have the luxury of waiting. Banks, boxed in by 50-year-old restrictions on their activities, may soon get the power to underwrite stocks and sell insurance. This means our tax dollars could be insuring everything from bum public offerings to burning buildings if the federal safety net isn't cut out from under these new "banking" businesses. A decade ago thrifts got precisely this chance to bankroll new fangled investments with Uncle Sam's credit card. Did somebody say *deja vu*?

Meanwhile, Congress wages more important battles against flag burning and homoerotic art. And Treasury—where the leadership should come from—rests on laurels that would make even shiftless bureaucrats blush. The Brady Commission's post-crash report on stock market reform went nowhere. The Brady Plan on developing country debt vanished without a trace. Brady's touted program to get corporate America focused on the long-term was never proposed. Now Treasury and the Congress are sitting on a deposit insurance powderkeg, and the silence is deafening.

How did a certifiably good thing like deposit insurance become an agent of ruin? Understanding the transformation requries a brief trot through banking history. Once upon a time banking was a nice little racket. That's because the collapse of the banking system in the Great Depression prompted government at all levels to legislate banking competition out of existence. Congress and the states set geographic restrictions on bank expansion, including limits on branching and guild-like hurdles to obtaining new bank charters. Commercial banks got the exclusive right to offer checking accounts, which everyone needs. Competition between banks was deterred by slapping ceilings on the interest rates they could offer to compete for funds. With newly enacted deposit insurance thrown in, each bank, whatever its size or pedigree, was as good as any other.

The result was a series of regional cartels in which even comatose bankers were sure to be moneymakers. The system relied on its stranglehold on individual depositors (and mortgage-seekers) like you and me and business and mortgage borrowers. Since nobody had alternatives, being a successful banker didn't exactly take genius—you took in money below the mandated interest ceilings and lent it out at a few points more.

CAPITAL PUNISHMENT

This basic structure worked well for decades. Bank failures seemed to be a relic of some bygone era. But beginning in the ealry 1970s the world changed. First, commercial banks woke up to find their dependable monopolies threatened at every turn. Big business got smart and found they could raise funds more cheaply by issuing their commercial paper directly to the markets—they didn't need a middleman to assess how creditworthy they were. Meanwhile, the banks' consumer business got squeezed as companies like Chrysler, Ford, and GM formed finance subsidiaries to make cheap credit an attractive part of their marketing strategies.

The crowning blow, however, was the takeoff of inflation. This brought higher interest rates as lenders demanded compensation for the value their money lost before repayment. As market rates bumped up against the ceilings that banks could legally offer, investment management firms launched money market funds promising more. Bank depositors fled in droves, removing the captive source of funds that had kept banks fat and happy for decades.

The impact on S&Ls—whose special charter was to funnel our savings in low-rate home mortgages—was even more dramatic, however. When interest rates skyrocketed, the value of these old mortgages plummeted. (Why? Think of it this way; if someone tried to sell you an old $100,000 mortgage paying 6 percent and your alternative was to put your cash in a money market and earn 10 percent, you'd offer him less than $100,000 for the mortgage.) What's worse, the thrifts had to offer higher rates to attract new deposits than they were getting in cash from these old home loans. The result? By the late 1970s, much of the thrift industry was insolvent, though its books didn't show it. (That's because accounting rules let you continue to carry that mortgage mentioned above at a stated value of $100,000, even though everyone knows it's worth less.) When the old interest rate ceilings were finally phased out in 1980, that at least helped commercial banks compete without having to offer us toasters in lieu of higher interest. But it couldn't get the S&L out of their bind.

UNCLE SAM AND MR. PONZI

It was precisely at this point that deposit insurance became nefarious. Like Frankenstein, however, the monster deposit insurance became totally man-made.

Here's what happened. Banks are not like normal businesses when they reach the brink of insolvency. In an ordinary business, if you don't have the cash to make the payroll or pay your suppliers, you close down. In a federally insured bank, however, you simply raise interest rates a little bit higher than the bank next door. That way you attract the cash deposits to meet your expenses and invest what's left over in whatever you think will return enough to get you out of the hole. The depositors don't care that you're insolvent because their money is government-guaranteed. If this sounds like a Ponzi scheme, it is. Except that the government didn't put Ponzi in business.

Agencies that regulate banks exist largely because of this Ponzi-style risk. The single essential thing that regulators must do is close down banks that are insolvent rather than let them try to gamble their way out of trouble. The story of how the Federal Home Loan Bank Board and gaggles of willing legislators were bamboozled by these insolvent thrifts into broadening their investment powers and letting them stay open is familiar. What never grabs headlines, however, is how a single devious stroke added a whopping $50 billion to our bill when deposit insurance was raised from $40,000 to $100,000 in 1980.

Henry Gonzalez, the Texas Democrat who chairs the House Banking Committee, remembers the event well. He and 10 other members were on the floor for other reasons in early 1980 when Rep. Fernand St. Germain, then the powerful Banking committee chair and pawn of the S&L trade association, came in. He asked for unanimous consent to amendments he'd arranged to have proposed in conference on the pending banking bill. There were no copies of the provisions available other than the one the House clerk was holding. The amendments contained the item raising the federal insurance guarantee by 150 percent. Forget the fact that more than 75 percent of U.S. households today (let alone 10 years ago!) have less than $10,000 in liquid assets. This is how $100,000 coverage in a program originally intended to protect the proverbial widows and orphans against bank failure was pushed through.

"There was never one minute's consideration or hearing on that increase," says Gonzalez. "It took minutes—there was no debate." The deadly new provision was equally ignored on the Senate floor.

Debate or no, $100,000 coverage became a bank marketing manager's dream. What's more, since the "limit" applied per depositor per institution, rich folks could spread their money among lots of banks and have all of it totally insured. Professionally managed "brokered funds" were parceled out to insolvent thrifts nationwide in handy $100,000 chunks. By the end of last year, in excess of $130 billion of this "hot money" was on deposit nationwide. What could make it more obvious that we need to immediately restrict insurance to a depositor's total funds? Well, bank ads, for one thing. "Our Bank Investment Contract," boasted one bank in an ad featuring a photo of the Capitol, "Offers the Backing of a Higher Authority." Another, Columbia Savings of California, used the money attracted through Uncle Sam's smiling guarantee to bet the farm on Michael Milken's junk bonds until times got tough.

Not exactly the S&L you knew and loved in "It's A Wonderful Life." Deposit insurance "hasn't gone to those it was intended to cover," says Henry Gonzalez. "It's been completely diverted from its intent."

WITH FIREMEN LIKE THESE . . .

The perverse incentives and unintended beneficiaries of deposit insurance were hardly news to the Brady bunch that had to propose a way out of the S&L mess last year. Assuming you wanted to solve things, there were basically two approaches you could take. The first would be to face depos-

it insurance head-on, limiting taxpayer exposure (and fat-cat benefits) by cutting back the amount of coverage. The other way would be to tighten regulation to reduce the odds that losses requiring insurance payoffs could occur in the first place. Going this route involves upgrading thrift capital standards and assuring that sinking thrifts get closed fast before the Ponzi temptation takes over.

The head-on option got jettisoned at the outset. In December 1988, shortly after Bush's election (after a campaign, recall, in which both parties, dripping with blame, agreed not to raise a peep about the issue), a meeting to discuss S&L solutions was convened in Alan Greenspan's library at the Fed. All the heavyweights from the Federal Reserve and Treasury were there—except Nicholas Brady, who apparently had better things to do than shape the future of the financial system he oversees.

Greenspan floated the idea of a deposit insurance overhaul and talked about abolishing the separate thrift industry. But such ambitions faded, given the three weeks they had to put together a plan. So the group punted by including a Treasury-led study of the deposit insurance issue in legislation, with recommendations due to Congress by February 1991.

This dodge will become a matter of hot debate as the bailout continues to be botched and the political finger-pointing mounts. "It was clear," says Michael Bradfield, former Federal Reserve general counsel and a participant in the December 1988 session, "that you couldn't address these fundamental issues at the same time you were trying to get Congress to appropriate $50 billion for relief."

This missed opportunity to educate the public on the deposit insurance issue (and on the Democrats' responsibility for raising the coverage) is "the Bush administration's biggest mistake thus far," according to The Wall Street Journal's Bartley. "When they had a chance, they didn't propose anything," Bartley says. "The result is they're being blamed for the rising cost of the S&L bailout when it should be Congress."

William Seidman's response to the fuss was more of an excuse than an explanation: "We had a fire to put out." Maybe so. But with firefighters like these, we'd all better start organizing our own bucket brigade. Some highlights from the final S&L bill show why:

Capital: The new thrift standards come advertised as "banklike." That's enough to make you really sweat about the banks. Thrift owners under this so-called "get tough" approach have to put only $3 from their own pockets behind every $100 in loans they make. And the rules are so loose that for five more years the same old accounting tricks will get cash-short operators halfway to that weak level. How'd that happen? "The people who had the power to get it (lenient capital standards) in the first place," says banking expert Ed Kane of Ohio State University, "have the power to get it transitioned out slowly." "They didn't completely succeed," says Henry Gonzalez of the industry's attempt to water down standards, "but we lost some ground." Hill staff members say our fearless leaders shed plenty of tears for thrift owners so low on capital they'd have trouble meeting even these shoddy standards, and thus grandfathered things accordingly. How do discredited S&L executives continue to bend Congress to their will hundreds of billions of dollars later? "They're very personable, they're very earnest," says one aide. "And they're from your district."

Brokered funds: In theory, "troubled institutions" that don't meet the new capital standards can no longer bid for brokered money to fund further growth. That's a little like cutting off a junkie after he's gone through all the drugs. What's worse, mismanaged S&Ls that haven't been shut down yet can still get waivers that allow using brokered funds anyway.

Shaky Thrifts: Even after the bail-out legislation's new rules, the chief causes of the S&L disaster—a toxic combination of institutional recklessness and despositor indifference and greed—are still in full flower. The chairman of Washington Federal Savings, for example, wrote depositors in April that despite the legislation, "insolvent institutions . . . continue to pay excessive rates for deposits . . . increasing our cost of funds."

Prompt Closure: The FDIC gets lots of new powers, but the fundamental discretion about when to take action remains. True, the FDIC has a much better record of supervision than the notoriously lax Home Loan Bank Board. But as long as bureaucrats are human, they'll have an incentive to sweep trouble under the rug. And Seidman, whose personal credibility with Congress won his agency this new role, is already being ousted by President Bush for not being a "team player."

Meanwhile, as the Bush administration stumbles through yesterday's mess and prepares for the biggest real estate fire sale in human history, tomorrow's deposit insurance crisis simmers. Bush, Brady, and Co. are so busy worrying about the political damage coming from the S&L disaster that signs of a new crisis including commercial banks may not even be registering.

Over the past decade, banks—jilted by their most credit-worthy borrowers and squeezed by new competitors—have been forced to take on riskier business to survive. Banking expert Lowell Bryan of McKinsey and Company told the Senate Banking Committee last month that up to one-quarter of the $3 trillion in the U.S. banking system may be vulnerable. Commercial banks now have $150 billion invested in leveraged buyouts and $600 billion in commercial real estate, a risky state of affairs Bryan calls "depressingly reminiscent" of the S&L meltdown.

The FDIC's list of 1,100 "problem" banks (though down from its 1987 peak) now hovers at five times its early-eighties level. Gobs of Third World debt sit like time bombs on bank balance sheets. This spring the big rating agencies even downgraded Citicorp's once-invulnerable credit rating. And with the Brady bunch diverting the best brains to damage control on the high-profile S&L front, there are more rookies minding the store on the bank side. "There's no doubt," says John Bovenzi, William Seidman's deputy at the FDIC. "We've spread ourselves about as far as we can."

The timing couldn't be worse. Past experience suggests that in a recession, bank write-offs will double, with losses concentrated in 20 percent of the industry. Even with recent increases in FDIC insurance premiums, one in five banks could go under and utterly deplete the FDIC backstop long before the last depositor is made whole.

PROFILES IN COWARDICE

"Voiceover: Congressman Jack Doolittle—when he wasn't busy putting convicted killers back on the street, he slashed the insurance that protects your life's savings."

Your nightmares may not take the form of thirty-second attack ads. But you can bet your congressman's do. Getting inside this mentality is the prerequisite for understanding the political obstacles awaiting reform even if some of our leaders wake up. Shortly after the FDIC's Seidman took the helm in 1985, he went to the Hill to discuss cutting back deposit insurance coverage. "I was not successful in getting one single member of either party to even consider proposing it," he told Institutional Investor last year. When Henry Gonzalez dared to opine last fall that $100,000 coverage might not be a "divine right," The New York Times promptly responded that anything less would expose depositors to "horrific anxiety."

"For better or worse," says Kenneth Guenther, executive vice president of the Independent Bankers Association of America (IBAA), the community bank trade group that is the chief advocate of the status quo, "we have a middle class entitlement here."

At first blush it seems strange that the politics of untouchability apply here as they do to Social Security. Like Brazil's new President Collor—who's just frozen most Brazilian bank accounts to curb inflation—you'd think polls here would see that you've got considerable freedom to move on financial measures when only a few voters have enough money to be affected by them. But fear isn't always a rational thing, as most congressional behavior in the face of a 98 percent reelection rate attests. So even otherwise substantive politicians have developed handy non sequiturs to avoid being associated with any reduction of the $100,000 coverage.

Take Brooklyn Democrat Schumer, who sits on the House Banking Committee. In hearings this February and on the phone with me this past May, Schumer led with the argument that "just to move to slash deposit insurance from $100,000 to $50,000 or $40,000 isn't going to accomplish very much," because money brokers will just find a way to lump the funds together and extend their coverage as they do now. But anyone with a brain knows that limiting coverage to a total amount still defeats the brokers. It's a straw man technique and Schumer knows it, but it's useful rhetorically to get past any reporter's first question and to go on the record as pro-$100,000. Only later in a conversation does Schumer fess up about the $100,000 limit: "The political chips that would be expended to change it wouldn't bring a commensurate good."

Jim Leach, the Iowa Republican who went so far as to vote against the S&L bill in part because it failed to take on deposit insurance, has his own brand of entitlement doubletalk. Consider all the dubious arguments and fancy euphemisms Leach can spin in a single sitting to avoid saying."You just can't cut it once it's there": "It's not a political thing as much as a public kind of habit." "There's a 'system-confidence-quotient' in decision-making on deposit insurance that cannot be ignored." "It's a little bit like tax policy—high rates for higher income groups sometimes don't appeal to people in middle income brackets because they hope to become people in higher income brackets themselves." And finally: "Well, the $100,000 is going down 4 percent a year—by inflation—so if there's a case for gradualism, it's occuring." If anyone was looking for evidence that a political career in the age of entitlement is incompatible with a commit-

ment to language as a vehicle for truth *voila*. And this from one of the House's more substantive players.

It's not only congressmen who know how to be cowards, however. Days before George Bush took office, Beryl Sprinkel, chairman of President Reagan's Council of Economic Advisors, ignited a brief firestorm when in his parting Economic Report of the President he dared to propose a reduction in the current $100,000 insurance level as part of a lasting S&L solution. Nicholas Brady denied that such heresies were even being discussed. His instincts about what would fly politically were correct: Days later, he took a media drubbing for publicly entertaining a miniscule 25 cent per $100 fee on depositors' accounts to help pay off savers at failed thrifts. To Brady's credit, the idea was both direct and fair, since depositors are also the ones who benefit from extra-high interest rates when federally insured banks bid for their deposits. And in any event, the alternative (eventually legislated) of charging higher insurance premiums to banks gets passed through to the depositors anyway. But when "Brady's blunder" was called "politically naive" and inept and offensive," the secretary turned yellow and ran.

YELLOW CAPITALISM

Such squirms are a delight to the IBAA's 6,000 small community banks, who feverishly defend the status quo as vital to their ability to compete with big banks in attracting deposits. Since the Continental Illinois bailout in 1985—when all depositors above the $100,000 limit were paid off in full also—they argue that everyone (including the banks themselves) knows that these big banks are considered "to big to fail." Regulators in a crisis may inevitably perceive that allowing uninsured deposits to be lost in a major bank failure would shake confidence in the system and cause macroeconomic disruptions. That's fine, says the IBAA's Kenneth Guenther—but then small banks need some compensating tool to make them seem equally sound.

Of course, that's an argument for insurance in general, not an argument for $100,000. I suggested to Guenther that he could have been making the same passionate case for $40,000 and asked why, really, the IBAA thought the scope of taxpayer liability should be more than double its level in 1980, more than triple what it would be had the original 1935 coverage of $2500 been consistently adjusted for inflation, and up to 10 times the average bank account of an American.

"This is what it is," he told me. "And don't mess with it."

What the IBAA is really concerned with isn't losing individuals' deposits but the ability to offer good-as-gold accounts for small business customers. That's a fine thing to want, but not everything everybody wants can drive public policy. Still, Guenther predicts a "rebellion" should next year's Treasury study recommend cuts in existing levels. He's counting on the credit unions, the small business trade groups, the elderly, and (that's right) the S&Ls to join the IBAA in leading the charge for inertia.

Are legislators quaking already? Maybe not, says Guenther, but "We and our allies will hopefully create that 'sensitivity' in the year ahead."

For those of us not subject to this kind of sensitivity training, some prompt reforms make sense. Luckily the issue has been punted for so long that a ton of promising ideas are out there that can form the basis of a comprehensive overhaul.

On the coverage side, it's time to introduce a deductible into deposit insurance. That's the way insurance companies in every other field—like health or auto—make sure we're not indifferent to the risks we're taking.

In banking, this option's been dubbed the "haircut," because each depositor would get a trim. Accounts might be covered at 100 percent for the first $30,000, to keep faith with the inflation-adjusted guarantee originally legislated in the New Deal. After that, coverage would operate on a sliding scale, with perhaps 50 percent of the next $50,000 covered, and 25 percent of all amounts higher. The numbers can be tinkered with, but the idea is the same: to guarantee without question the savings of the less savvy among us, but to make the rest of us bear some risk so we'll have an incentive to look a little more closely at the institutions we're putting our money in. If as a result, Consumer Reports starts rating banks for us, and the banks fight like hell to stay off the bad list, so much the better. Riskless deposits combined with the S&L's risky investments are what triggered the current debacle in the first place.

Next: Whatever amounts are settled on should apply to an individual's total deposits held in federally insured banks—not on a bank-by-bank basis only, as in the case today. This would eliminate the ability of brokered money—a perfectly legitimate investment approach, it should be remembered—to extend the federal safety net to those it was not meant for. It should also ease the pressure on healthier banks, whose cost of funds raise when marginal banks jack up interest rates to attract these funds.

Greater measures should be taken to assure that insolvent banks get closed fast—since delay beyond insolvency is where the losses rack up. The first step is to introduce some form of market-value accounting, so that the now commonly used methods masking dramatic fluctuations in asset values can no longer hide the truth about solvency from regulators. For assets that aren't publicly traded this will prove a bit thorny, but other proxies for current value can be roughed out; in any event, the difficulty of identifying the relevant measure perfectly is hardly an excuse for sticking with the irrelevant one. These financial statements should be prepared in annual audits performed jointly by two certified public accountants—one hired by the bank, and one by the regulators—to guard against the see-no-evil tendency CPAs too often exhibit when big bank clients hit the skids.

An increasingly strict series of market-value capital "tranches" (as a Brookings Institution Task Force called them) should be established at the same time, with published, nondiscretionary-regulatory consequences flowing from each. What might that mean? The best capitalized banks would be subject to virtually no supervision. Banks whose capital sank to certain marginal levels would be forced to suspend dividend payments and asset growth and to present a plan for recapitalization. Banks descending further into the last capital tranche would face mandatory FDIC takeover and either merger or liquidation—before losses (and thus taxpayer exposure) could mount.

An annual report on what's being done to fix banks floundering in the lower tranches should be required, to make the regulators accountable and to stop Congress from hiding from the facts. Legislators should also be required to log—publicly—with both the ethics and banking committees any discussions they have with regulators on behalf of their hometown favorites, just to keep tomorrow's Keating Fives honest.

If banks finally get the power to compete in other businesses like insurance and securities underwriting, firewalls should also be established to assure that the federal safety net won't extend there. Insured deposits should be invested only in low-risk assets (like T-bills) that can be readily market-valued, so that the solvency of insured funds can be monitored daily. Riskier activities, meanwhile, can be handled by separate banks entities that raise capital and take risks on the open market, not on Uncle Sam's credit card. (Another promising reform would be to privatize deposit insurance on the Lloyd's of London model.)

If our leaders actually show some leadership, these reforms could be packaged into a massive bundle of legislation that would prevent an S&L sequel and make our banks more competitive for 1992. But don't hold your breath. Even good guy Henry Gonzalez knows the odds aren't great. "You reach a point," he says, describing the congressional indifference after coverage was hiked to $100,000 in 1980, "where they make you feel like you're a guy wearing a sandwich board saying 'the world's going to end next Thursday.'" We could really use some politicians smart enough to see that although it's not the world, it's our standard of living, and brave enough to say that if it's not next Thursday, it's some time real soon.

THE SUPREME COURT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 18, 1990 into the CONGRESSIONAL RECORD:

THE SUPREME COURT

The recently concluded session of the Supreme Court, which ran from October to June, marks the 200th anniversary of America's highest judicial body. The Court issued 129 written opinions in criminal law, church-state relations, civil rights, free speech, judicial review, and abortion. Only rarely do Supreme Court decisions come up in my discussions with Hoosiers, but as I review the 1989-90 term, I am impressed once again how the dry legal language of the Court's opinions cloaks the importance of the Court on our daily lives. By any standard, the Court has a powerful and pervasive impact on all of us.

The Court's recent term provided for incremental rather than dramatic change. The Court remains conservative, but it is highly polarized with deep divisions between its ideological wings. In this session one-third of the decisions came by a narrow 5-4 majority. Justice White was frequently the swing vote. Yet, three justices from the Court's liberal wing are in their eighties. Should any of these justices leave the Court, President Bush could appoint a justice who would ensure conservative dominance.

The Court also issued fewer opinions than it has in the past. The 129 opinions from this term represent a decline from 139 decisions two years ago and 22 fewer cases than

in the 1982-1983 term. The number of cases accepted for the upcoming term is also sharply lower. Only 56 cases so far, a ten-year low, await the Court when it resumes sitting this October.

CONSERVATIVE AGENDA

My impression is that the Court continued to advance the conservative agenda in many areas of constitutional law. The conservative majority of the Court (usually composed of Justices Rehnquist, White, O'Connor, Scalia, and Kennedy) controlled the outcome of most cases.

The Court's majority continued to limit protection given to the individual against the interests of the state or community, especially in the area of criminal law. The Court was quite harsh on criminal defendants. It held that the police may stop drivers at roadside checkpoints to test for drunk driving. In another case it ruled that videotapes of a drunk driving suspect's booking at the police station can be used in court even if the suspect did not first receive warnings about self-incrimination and the right to a lawyer. The Court also held that states can make it a crime to possess pornographic photographs of children, carving out an exception to the general right the Court has recognized to view obscene material in private.

The Court rejected challenges to parts of death penalty laws in several states, strengthening the ability of states to use the death penalty. In other cases, the Court limited federal review of death-row appeals by state inmates and ruled that once death-row inmates forego appeals, outsiders may not go to federal court to challenge the death sentence.

In several decisions relating to the separation of church and state, the Court also deferred to majority interest over individual rights. In one case, the Court held that the government may prosecute individuals who use illegal drugs as part of a religious ritual. The Court also ruled that govenments may apply a sales tax to religious organization's sale of books and articles.

The Court continued to struggle with abortion. The Court upheld state laws prohibiting teen-age girls from obtaining an abortion without consent of both parents, provided the state allowed the girl the alternative of obtaining permission from a judge. The Court did not overturn the *Roe* vs. *Wade* decision, but it eroded the precedents and reflected uncertainty over how to evaluate state barriers to abortion. Justice O'Connor has emerged as the key vote on abortion issues, and her position suggests that blocking legislative restrictions on abortion will be difficult.

The Court's conservative bent is also evident from its preference that tough policy issues be worked out in the political process, not in the courts. The Court was much more likely to strictly interpret statutes, deferring to the clearly defined will of the legislature. This is not a Court inclined to stand in the way of the Congress. In the 1960's and 1970's the Court often broadly interpreted laws to pursue a social agenda. This Court is less inclinded to take decisive steps in the social area.

LIBERAL VICTORIES

The moderate or liberal wing of the Court (usually composed of Justices Brennan, Marshall, Blackmun, and Stevens) prevailed in several important decisions. The major surprise of the session was the Court's activist approach in upholding an affirmative action program which awarded federal broadcast licenses to minorities. The Court also enhanced the ability of individuals to take civil rights cases to court, ruling that universities accused of discrimination in tenure decisions must make relevant personnel files available to investigators.

In the area of free speech, the Court ruled that a new federal law to prohibit flag abuse violated the First Amendment's guarantee of free speech. And, in a decision delivering a sharp blow to political patronage, the Court ruled that partisan political consideration cannot be used as the basis for hiring, transferring, or promoting most public employees. Marking a systematic extension of federal power over state or local authority, the Court held that federal judges may order local tax increases to remedy constitutional violations like school segregation.

New ground was broken by the Court when it recognized a constitutional right to discontinue life-sustaining treatment. In the same decision, however, the Court deferred to the political process, holding that state legislatures may require that a person's wishes on the issue be established by "clear and convincing evidence."

CONCLUSION

The Court's deep divisions and its deferential and limited rulings suggest a struggle between the conservatives and the liberals on the Court. My impression is that the conservative wing of the Court is gradually coming together and strengthening, and that it is only one vote away from a dramatic shift to the right on a range of fundamental issues including free speech, abortion rights, and civil rights.

COAL LEASING EQUITY ACT OF 1990

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. RAHALL. Mr. Speaker, yesterday, the Subcommittee on Mining and Natural Resources conducted an oversight hearing on issues relating to the management of Federal coal resources. It should be noted that the Federal Government owns about one-third of the Nation's coal, the majority of which is located in the Western States. Through the Bureau of Land Management, this coal is made available under a leasing program.

There are, to be sure, a number of issues relating to this program that continue to generate controversy as evidenced by the testimony received during the 6-hour long subcommittee hearing. These matters all deserve consideration by the Congress. However, there is one issue in particular that is deeply troubling to this gentleman from West Virginia, the subcommittee chairman.

By most accounts, due to more stringent electric utility emission requirements, pending legislation to reauthorize the Clean Air Act will foster a dramatic increase in demand for federally owned low-sulfur coal reserves in the Western States.

A policy question I explored during the hearing was whether these publicly owned coal reserves would be developed to the detriment of coal already in production from private lands located in the Appalachian and Midwestern States, displace this coal from its historic markets, and consequently, contribute to the loss of employment in the mining of this coal.

I, for one, believe that if market demand is being met with nonpublic coal resources it would not be appropriate for the Federal Government to arbitrarily become a competitor by utilizing its control over publicly owned coal.

However, during yesterday's hearing the BLM Director refused to commit to at least considering the effects the development of a proposed Federal lease might have on coal markets that have traditionally been met by coal produced in the Appalachian and midwestern regions. This refusal to consider the full implications of Federal coal leasing activities is of grave concern to me. In effect, it reflects an inequitable approach to the management of public resources.

The fact is that Federal coal is owned by all of the people of the United States. The Interior Department and the BLM are simply the agents of the people in the management of these resources, and in my mind, good stewardship should include the interests of all of the people, not just a select few.

In an effort to broaden the scope of the BLM's consideration of market demand as it relates to the Federal Coal Leasing Program, today I, along with our colleagues FRANK MCCLOSKEY and CHRIS PERKINS, are introducing the Coal Leasing Equity Act of 1990.

Under existing law, prior to issuing a Federal coal lease, the Secretary of the Interior is required to consider the effects of leasing on communities in the area, the environment, on agriculture, and on other economic activities and public services. The legislation we are introducing today would simply add one additional consideration.

The Coal Leasing Equity Act of 1990 would require the Secretary of the Interior to consider the effects, if any, development of a proposed Federal lease might have on coal production, and the markets for that coal, located east of the 100th meridian. If development of the Federal coal lease would have an adverse effect on the production of this coal by displacing it from its historical markets, the Federal lease could not be issued.

Mr. Speaker, this legislation by no means represents my view that the matter it seeks to address is the only issue involving the Federal Coal Management Program that deserves consideration by the Congress. There are others, and I would imagine that as our investigations continue we will be in a position to consider them in the future as well.

THE SMALL BUSINESS ELECTRONIC DATA INTERCHANGE TECHNOLOGY PROMOTION ACT OF 1990

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. IRELAND. Mr. Speaker, I rise today to introduce legislation that would instruct the Administrator of the Small Business Administration to conduct a study of the impact of electronic data interchange [EDI] technology

on small business concerns. I am pleased that my distinguished colleagues, NORMAN SISISKY, IKE SKELTON, and ESTEBAN TORRES are consponsoring the Small Business Electronic Data Interchange Technology Promotion Act of 1990.

EDI is the future of all business transactions. Just as FAX is indispensable today, yet unknown several years ago, EDI will be the business environment in coming years. It is important that we protect and ensure small business participation.

According to the Electronic Data Interchange Association, EDI is:

a form of computer-to-computer interaction among enterprises as well as government agencies. It is not a fax or electronic mail, but the exchange of strictly standardized, electronic versions of common business documents. These documents include, but are not restricted to such items as purchase orders, invoices, and shipment notices.

This type of business interaction has sped transaction time and dramatically reduced transaction error.

Mr. Speaker, I first became aware of the significance of EDI at a joint hearing of two key Small Business Committee subcommittees on the effects of EDI on small business. This hearing, which was cochaired by our distinguished chairmen, NORMAN SISISKY and ESTEBAN TORRES, demonstrated that even though EDI will herald a new way of doing business, small business could be left out if their concerns are ignored.

To quote, the Rand Institution, private industry has shown us "the question * * * is not whether to use EDI but where and how to implement it first." Therefore, the pivotal question that faces the Small Business Administration is how to protect small businesses from being isolated by the widespread use of EDI due to several reasons:

First, we know that EDI brings increased productivity, reduced costs, reduced leadtime, reduced errors, potential enhancement of small business opportunities, and the potential for an expanded industrial base. It is possible that these advantages will be limited to big business because of restrictive entry costs and so forth.

Second, over the last 20 years, as EDI has evolved, the Government, as well as private industry, has attempted to establish standards of EDI use. But despite these best efforts America has largely failed to establish any type of standard format of EDI. It is up to the SBA to establish groundrules that will permit small business to participate in the procurement process.

My bills, the Small Business Electronic Data Interchange Technology Promotion Act of 1990, will instruct the Administrator of the Small Business Administration to identify costs and benefits of EDI with respect to small business concerns, identify ways the SBA can aid small business in a transition to an EDI-based environment, and identify how to protect small businesses from isolation of EDI in the Federal procurement process. It will also provide baseline information for uniform technical standards of EDI.

Mr. Speaker, I urge all of my colleagues to join with me and my Small Business Committee colleagues in cosponsoring the Small Business Electronic Data Interchange Technology Promotion Act of 1990.

REASSIGNMENT OF BRIG. GEN. BUSTER C. GLOSSON, USAF

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. DICKINSON. Mr. Speaker, I rise today to recognize the many fine achievements of Brig. Gen. Buster C. Glosson, USAF.

As Deputy Assistant Secretary of Defense for Legislative Affairs, he has made enormous contributions to the strong working relationship between the Congress and the Department of Defense. General Glosson will soon take on new responsibilities as the Deputy Commander of the Joint Task Force on the Middle East.

Many of my distinguished colleagues have worked with General Glosson, know of his exceptional competance and great personal commitment to an honest, open dialog between the Congress and the Defense Department. His sound advice and counsel will be missed by all.

Those of us who know him in the legislative setting may not know that General Glosson is a command pilot with more than 3,400 flying hours in F–4's, F–5's, F–15's, and T–38's. A native of Greensboro, NC, he was commissioned as a second lieutenant through the Air Force ROTC program and completed pilot training at Moody AFB, GA, in April 1966. After instructor training at Randolph AFB, TX, the general was assigned as a T–38 instructor pilot with the 3500th Flying Training Squadron, Reese AFB, TX, in August 1966.

In December 1967 General Glosson transferred to Tyndall AFB, FL, where he served as a standardization and evaluation pilot, and operations officer, with the 3250th Pilot Instructor Training Squadron. He completed F–4 training at George AFB, CA, in April 1972 and was assigned as an F–4 commander with the 4th Tactical Fighter Squadron, Da Nang AB, Republic of Vietnam. He transferred with his unit to Takhli Royal Thai AFB and then onto Udorn Royal Thai AFB, both in Thailand. During this period he flew 134 combat missions, a great percentage of which were over North Vietnam.

The General was assigned in April 1973 to Headquarters 13th Air Force, Clark AB, Philippines, where he served as chief of fighter and forward air controller standardization and evaluation. In September 1974, he returned to the United States and was assigned to Headquarters U.S. Air Force, Washington, DC, as chief of the Operations Division and then as special assistant to the director of legislative liaison.

In January 1978, General Glosson was assigned as chief of standardization and evaluation, 56th Tactical Fighter Wing, MacDill AFB, FL. He transferred to Nellis AFB, NV, in June 1979 as executive officer to the commander of the Tactical Fighter Weapons Center. He subsequently served as chief of standardization and evaluation, 37th Fighter Weapons Wing, and then as commander of the 414th Fighter Weapons Squadron, both at Nellis.

The general attended National War College from August 1981 to June 1982. He then was assigned to the Office of the Deputy Chief of Staff for Programs and Resources, Air Force headquarters, as chief of the Tactical Division. A year later he became chief of the Program Division, Directorate of Programs and Evaluation. In August 1984, he transferred to Moody AFB, where he served as vice commander of the 347th Tactical Fighter Wing until February 1985, when he became wing commander. From July 1986 to June 1987 he served as commander of the 1st Tactical Fighter Wing, Langley AFB, VA. General Glosson then was assigned as deputy chief of staff for plans and programs, Headquarters U.S. Air Forces in Europe, Ramstein AFB, West Germany. He assumed his present position in September 1988.

General Glosson's military decorations and awards include the Defense Superior Service Medal, Legion of Merit with two oak leaf clusters, Distinguished Flying Cross, Defense Meritorious Service Medal, Meritorious Service Medal with two oak leaf clusters, Air Medal with four oak leaf clusters, Vietnam Gallantry Cross with Palm.

We extend our heartiest congratulations to Buster on his new assignment, and we wish him and his wife, Vicki, all good things in the coming years.

HONORING MARY-BETH RIPA, MISS MASSACHUSETTS AMERICAN COED

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. CONTE. Mr. Speaker, I rise today to extend my heartfelt congratulations to Miss Mary-Beth Ripa of Holyoke, MA. On June 29–30, Miss Ripa competed successfully against 50 other talented young women in the Miss Massachusetts American Coed Pageant. In this nationally acclaimed pageant, Miss Ripa excelled in the categories of school academic and extra curricular activities, personal interview, evening gown and bathing suit competition. Mary-Beth won the speech competition with her composition based on the pageant's theme, "Youth: Pride of the Present . . . Hope of the Future."

Mary-Beth Ripa is our pride of the present, having graduated sixth in her class from Holyoke High School and continuing on to the prestigious Boston College. Her future is bright with hope as she majors in communications and participates in the Boston College jazz band.

Her future is even more exciting because her victory as Miss Massachusetts American Coed wins her the chance to become Miss American Coed. On August 15–22, she will be in Waikiki Beach, HI competing against 50 other girls to earn the coveted title of Miss American Coed. Along with the crown, the winner will receive a $4,000 scholarship and $1,000 in cash.

Mr. Speaker, Mary-Beth Ripa has shown us the multifaceted dimensions of today's college woman. She possesses beauty and poise and

excels in her academic studies. In addition to this, Mary-Beth manages a parttime lifeguard position and still includes time in her busy schedule to pursue her personal interests, such as playing the saxophone. Ever since her youngest years, Miss Ripa has wanted to win a beauty pageant and now this incredible dream has come true.

I give you my heartfelt congratulations, Mary-Beth Ripa, for this admirable accomplishment and I wish you the best of luck in the upcoming Miss American Coed Pageant.

A TRIBUTE TO MARVIN BELT

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. WALSH. Mr. Speaker, heroism—whether it be in defense of our great Nation or for the cause of liberty in the world—is a timeless quality revered by all of us here today and by all Americans since the Founding Fathers first fought for their freedom and ours.

I rise today to ask my colleagues to join me in remembering, and paying tribute to, one more American hero, Marvin Belt, a former resident of my hometown, who died during the Vietnam conflict and in whose honor a plaque was placed this Memorial Day at the Vietnam Veterans Memorial here in our Nation's Capital.

Marvin Belt, a specialist fourth class who was posthumously promoted to sergeant, has already been honored with a Bronze Star for valor. He was wounded by mortar fire after warning his battlefield superiors of a Viet Cong attack, and later died from those wounds.

The plaque placed at the Vietnam Veterans Memorial in Sergeant Belt's honor this year was presented by the author, Ray Bows, who wrote the book, "Vietnam Military Lore 1959–1973 . . . Another Way To Remember," which tells the stories of some of our heroes.

Sergeant Belt was born in Syracuse on June 14, 1944. He volunteered for the Army during his senior year at Central Technical High School. He served his first tour of duty in Korea, then reenlisted and in July 1965, was assigned to a United States advisory team in Bao Trai, South Vietnam.

Following his death, his comrades-in-arms dedicated their compound at Bao Trai to Sergeant Belt. When U.S. forces were forced to abandon the compound in March 1972, they brought with them the memory of Sergeant Belt.

Now that memory exists not only for those who witnessed the bravery of this fine man, but for future generations who will see the plaque at the memorial.

Those who read about Marvin Belt won't know everything about him, but it is enough that they will know he was a hero—and that America treasures the memory of our heroes.

THE DRUG PARAPHERNALIA ENFORCEMENT FUND

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. GALLEGLY. Mr. Speaker, with the United States deluged by drugs, the trade in drug paraphernalia has become a multibillion dollar annual industry. In spite of this, no consistent and strong effort is being made at the State and local levels to eradicate this menace. Why?

In the experience of the 49 States which have passed antiparaphernalia laws, the majority of the court challenges have been based on the vagueness of these laws. Studies illustrate that because of the difficulty in defining "drug paraphernalia," the investigation and prosecution of drug paraphernalia violations has been a low priority. Police and prosecutors report that the enforcement of antiparaphernalia laws generally receive less emphasis than other drug enforcement priorities. The low priority assigned to drug paraphernalia violations is frequently attributed to one major factor—limited prosecutorial and enforcement resources.

As a former mayor of Simi Valley, CA, with a population of approximately 105,000, we successfully eliminated "head shops" from operating within the city because of the enactment of a city ordinance specifically prohibiting the display and/or distribution of drug paraphernalia.

In an attempt to focus the Nation's attention on the absolute necessity to eliminate head shop operations, I am today introducing legislation, H.R. 5299, which is aimed specifically at providing the resources necessary for law enforcement officers to effectively eliminate the paraphernalia peddlers from operating in our society.

My bill establishes the Drug Paraphernalia Enforcement Fund within the Treasury to be administered by the Attorney General. It would provide grants to State and local law enforcement agencies for the explicit purpose of educating law enforcement officials on enforcing the drug paraphernalia laws and successfully prosecuting those who violate them.

I urge your cosponsorship and support for this bill.

GEORGE POULOS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. LAGOMARSINO. Mr. Speaker, I rise to pay tribute to Mr. George Michael Poulos, a dear firend and one of Ventura's living legends.

Mr. Poulos immigrated to this country from Greece in 1914 and immediately began leaving his mark through business enterprises and a number of civic pursuits. He will probably be best remembered as the founder of the Rest & Aspiration Society—R&A—which brought together local businessmen and Navy and Army officers in an atmosphere where they could share their problems and pleasures. Julius Guis, a longtime friend, remembers Poulos "presiding good-naturedly as its 'chief,' often resplendent in a simulated bemedaled admiral's uniform with abundant gold braid, and levied funds—for charity purposes—on members who drew disfavor."

The society began in World War II and is still welcoming members today.

Mr. Poulos served the community in many other roles: chairman of Ventura's war savings bond drive, member of city council, mayor of Ventura, president of the Greater Ventura Chamber of Commerce, and member of Elk's Lodge. A 1964 Star-Free Press article stated:

Poulos' happy, rewarding and useful life typifies the kind of opportunity America has afforded immigrants from abroad.

George Poulos was a valued member of the community, a good friend of my father and me—sort of the last of the old guard.

I ask the House to join me in paying tribute to George Poulos for his dedication to his community and his zeal for life, and to express our condolences to his wife Helen, his son Milton, daughters Nancy, Marlene, and Kathy, his nine grandchildren and five great-grandchildren.

L.A.W. TO CELEBRATE TENTH ANNIVERSARY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to ask you to join me in paying tribute to Legal Awareness of Westchester [L.A.W.] on their 10th anniversary. Through lectures, seminars, legal clinics, and phone banks, L.A.W. has served as a clearinghouse for information on family-related legal matters in Westchester.

In 1980, several women community leaders in Westchester County came together to incorporate Legal Awareness for Women. Since that time, L.A.W. has provided direct service to more than 40,000 individuals. In 1989, the group changed their name to Legal Awareness of Westchester, to more accurately reflect the services provided.

Today, L.A.W. provides a variety of services through which Westchester residents can acquire knowledge of their legal rights in such matters as divorce, separation, child support, and child custody. In addition, legal information seminars have been provided for older women and men.

Thanks to a team of dedicated and able volunteers, L.A.W. continues to provide essential services to individuals and families in crisis in Westchester. I have been associated with L.A.W. for many years, and am extremely grateful for the support, advice and respect that the organization has given to every individual who seeks assistance.

To commemorate their 10th anniversary, L.A.W. will be honoring the founding board of directors: Doris Allebach, Lillie Campbell, Minna J. Edelman, Esq., Eve J. Epstein, Esq.,

Camille Gianaris, Bobbi Gray, Trudy Green, Martha S. Greenawalt, Mary F. Kelly, Esq., Annette Labelle, Joyce Levin, Hon. Sondra M. Miller, Camille F. Murphy, Virginia Snitow, the late Vickie Stein, Rhoda Witchtel, and Diana G. White.

These 17 women had a vision, and a deep understanding of the needs of women and families in Westchester. I thank them for their unceasing commitment and for their 10 years of service. I hope that others who share their commitment will replicate their service throughout the Nation.

INTRODUCTION OF FORT HALL INDIAN WATER RIGHTS ACT OF 1990

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. CRAIG. Mr. Speaker, I rise today to join my House and Senate colleagues from Idaho in introducing the Fort Hall Indian Water Rights Act of 1990.

This legislation is designed to codify the water rights agreement between the Shoshone-Bannock Tribes, the United States, the Committee of Nine, and the State of Idaho. Today's introduction and the settlement which proceeded it are the product of over 5 years of intense negotiations. The parties involved believe it to be a fair agreement.

Part of an ongoing effort to sort out the water rights in the Snake River basin, the agreement will provide water for irrigation of the Fort Hall Indian Reservation and help develop a water management system for the reservation.

Specifically, the tribes will be entitled to a water supply of 581,031 acre-feet per year, with an option to market about 130,000 acre-feet of storage space per year in Palisades and American Falls reservoirs. The Federal Government will spend $7 million over the next 20 years for the water management system and development of a water code.

Included in the legislation are mechanisms to provide for the purchase of tribal water during dry periods and conflicts between Indian and non-Indian users. Upon ratification of the agreement by Congress, the tribes will be deemed to have waived and released all water rights or claims to water from any source within the Upper Snake River Basin, other than those set forth in the agreement.

Also explicit in the legislation is a provision making clear that under no circumstances may appropriated funds be distribtued on a per capita basis to members of the tribes.

Interior Secretary Manuel Lujan approved this settlement last month, noting that it is the first Indian water rights settlement for Idaho and the Bush administration and could serve as a model for other negotiations around the country. He also stressed the benefit the agreement could have for the endangered whoopng crane and salmon and steelhead fisheries.

Mr. Speaker, I am happy to join in introducing this legislation today and will work for its passage in my role as a member of the Interior Committee. I urge my colleagues to support our efforts by voting for the legislation when it comes to the floor of the House of Representatives for approval.

COMPUTER SOFTWARE DEVELOPMENT LEGISLATION

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. BARTON of Texas. Mr. Speaker, I am pleased to introduce legislation today which will help ensure the vitality of the computer software development industry in this country. This important industry has maintained a world leadership position, but this is now threatened, and unfettered rental of computer software will be a crippling blow. In my view, the Congress must act now. My legislation, the "Computer Software Protection Act of 1990," would provide owners of computer software copyrights the authority to restrict rental of that software.

Rental of computer software is often just a ruse for illegal copying. Such copying denies copyright owners a fair return on investment, yet it is almost impossible to effectively police.

Congress acted in 1984 when similar circumstances faced the recording industry. Seeking to protect the economic interests of that industry from unfair competition, Congress enacted the Record Rental Amendments of 1984. My bill would follow on that precedent, and provide the same type of protection to the computer software industry.

This bill differs in one important respect from similar measures introduced in the 101st Congress. Other bills would distinguish between software based on format and provide no rental restrictions whatsoever for software in the cartridge format which is the primary format in which video games are offered. In contrast, my legislation would provide game copyright owners the authority to restrict rental of these games for 1 year.

Conceptually, there is no reason to differentiate between software for video games and other software applications. Developments must have the same or greater creative talent, and the risks of failure are the same. Good games take months to create and develop, at costs measured in the hundreds of thousands of dollars. Differentiation between types of computer software makes even less sense when one considers that identical software can be offered on either disks or cartridges.

Yet rental of game cartridges is already widespread, while rental of other software is not—a real irony given the exclusion of video games in other proposals. I do not flatly oppose the rental of video games. However, we must recognize that rentals reduce sales, and rentals provide no economic renturn to the parties who invest their time, talent, and capital into the creation of the software. Why should a consumer buy a video game, when it can be rented for a weekend, and played endlessly, for a tiny fraction of the cost? Video games can be rented the day a new title is released.

Owners of copyrights in motion pictures do not face this problem. Movies are released first for theater showing, and this is often followed by network, cable, or pay-per-view television showing. Only when the time is right, in the copyright owners' view, is the movie released in home video format for rental or sale. I believe consumers will understand a modest restriction on their ability to rent video games. Currently they have no guarantee whatsoever that movies can be rented within a year of their initial release.

Mr. Speaker, this legislation is important to the health of all aspects of the computer software industry, and I believe it deserves enactment during this Congress.

HONORING JESSICA LEIGH WILSON

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. COURTER. Mr. Speaker, it is an honor and a privilege for me to recognize Jessica Leigh Wilson, 14, of Morristown, NJ. Jessica is unique in that she has excelled both in and out of the classroom, and her list of achievements, at such an early age, is outstanding. Her determination and discipline have allowed her to develop into a very fine scholar athlete.

At the Frelinghuysen School in Morristown, NJ, Jessica was named the class valedictorian among a group of 262 graduates. In addition, she received the school's highest honor pin, a certificate of academic excellence from the faculty, the William H. Danforth Memorial Award for academic achievement, and a Presidential academic pin.

On the athletic front, Jessica was the starting forward on the Morris County Champion Frelinghuysen girls soccer team and she was awarded the prestigious Presidential Academic Fitness Award. Her other extracurricular activites include a role as a dance captain in her school's play and a "candy striper" at Morristown Memorial Hospital.

I am proud to acknowledge Jessica Leigh Wilson because of her various accomplishments.

S&L DEJA VU

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. STEARNS. Mr. Speaker, I would like to bring to the attention of my colleagues the enormous losses being incurred by the Federal Housing Administration. It has not been operated on a sound basis and it must be restored to actuarial soundness.

Just last month Price Waterhouse released a study of FHA's mutual mortgage insurance fund. This study showed that the fund has been steadily eroding in the last decade. For example, in 1979, FHA had a net worth of $8 billion, but at the end of fiscal year 1989, that net worth dropped to $2.6 billion. That's a loss of $5.4 billion.

More disturbing is the fact that this fund is liable for a total of $300 billion. With only $2.6 billion in capital, even a 5-percent default rate would obliterate FHA. I deeply fear that this may be S&L debate deja vu unless we can work together to address this problem.

Since the release of the Price Waterhouse study there have been several proposals offered to reform the FHA. I commend the originators of these proposals for being willing to take the first step, but question whether their proposals go far enough to address the seriousness of the problem.

I suggest that we attempt to limit taxpayer liability through coinsurance partnerships with government and private insurers. We also need to step up our screening process of prospective borrowers to help eliminate potentional defaults.

As a member of the House Subcommittee I am willing and eager to work with my colleagues to address this FHA problem.

THE 21ST ANNUAL MEETING OF THE NATIONAL LEAGUE OF FAMILIES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. GILMAN. Mr. Speaker, I rise today to bring to the attention of this body, the recent remarks of our esteemed colleague, the gentleman from California [Mr. LAGOMARSINO].

As a vice chairman of the House POW/MIA Task Force, I am honored to serve with Mr. LAGOMARSINO, who serves as the chairman of our task force.

Mr. Speaker, I would like to insert into the RECORD at this point, the text of a speech Mr. LAGOMARSINO gave on July 13, 1990, before the 21st Annual Meeting of the National League of Families, which outlines the efforts being made by the U.S. Congress to fully account for our prisoners of war and missing in action, and summarizes the goals of our task force.

REMARKS OF REPRESENTATIVE ROBERT J. LAGOMARSINO

Thank you Sue and congratulations to the newly elected/re-elected members of the board of directors. You and Ann Griffiths, the executive director, do an outstanding job of representing the families and deserve our praise. As a frequent visitor to Capitol Hill—and Southeast Asia—I think Ann deserves special commendation for her dedication and never-ending efforts. With the very able and appreciated support of the league staff, Ann is responsible, in large part, for a lot of the progress we have achieved to date.

I am sorry that I cannot spend more time with you this morning, however, the House goes into session at 10 and there are votes pending. I, do, though very much appreciate this opportunity to address you.

I see that you will hear today from representatives from all parts of our Government involved in the POW/MIA issue including Vice-President Dan Quayle. As chairman of the House POW/MIA Task Force, I would like to briefly comment on what Congress is doing to help achieve the fullest possible accounting of your loved ones and share some of my perspectives on the future of cooperation with Vietnam.

First, the House task force serves the POW/MIA issue in many ways. The easiest way to describe it is as Congress's "eyes and ears" on this vitally important national concern. As STEVE SOLARZ has described, the task force, as an adjunct to the Foreign Affairs Asia/Pacific Subcommittee, serves as congressional liaison to the league, the intelligence community, the Pentagon, the State Department, the White House and the American public. I believe it is one of the most effective means to maintain close, yet confidential, congressional oversight of the POW/MIA issue.

Underscoring the seriousness Congress attaches to the POW/MIA issue is the very bipartisan nature of the task force. This is not a Republican or a Democratic issue, it is a national one. As a top national priority, the POW/MIA issue is above partisan politics. Exemplifying this is the fact that it is the only official congressional panel chaired by a Republican—a Republican appointed by a Democrat. And, since its creation in the late 1970s, it has always been this way. As a founding member and now serving my second term as chairman, I can corroborate that fact. Congressman SOLARZ deserves much credit for his professionalism, dedication and commitment to you, the families, and to the POW/MIA issue. Despite pressures to politicize this issue, Steve has never done so.

The task force keeps other Representatives, Senators and the public informed through briefings, hearings with the Asia/Pacific Subcommittee and "Dear Colleague" newsletters. For example, over the past 2 months the task force has undertaken a set of lengthy, detailed briefings on the live sighting issue and specific live sighting reports. In addition, we review legislation affecting the POW/MIA issue and recommend measures as appropriate.

The task force strongly supports the Reagan and Bush administrations' determination that the POW/MIA issue is one of highest national priority. We will continue to make sure that this issue receives the attention and resources it warrants. We take our oversight responsibilities very seriously.

One of the most important roles of the task force is signalling to Hanoi that Congress cares deeply about the fate of American POW/MIAs and wants this issue resolved now. Based on the experiences of the Vietnam war and its aftermath, I believe that the Vietnamese are cognizant of the ability of Congress to affect U.S. foreign policy. I strongly believe that progress on humanitarian concerns, especially the POW/MIA issue, should influence our actions on other bilateral concerns. Hence, I continue to believe that strong congressional interest does help increase the pressure on the Vietnamese to more satisfactorily cooperate with us. I also think the Vietnamese are increasingly recognizing the unified, bipartisan support of our POW/MIA efforts.

I am encouraged by General Vessey's missions to Hanoi, the latest being in October 1989, and the Vietmanese agreement to refine and expand the process of joint cooperation. If fully implemented by Vietnam, the research they pledged to conduct plus serious unilateral actions, could resolve hundreds of cases, starting with compelling discrepancy cases—those in which we know that the Vietnamese have more information than has been provided to us to date.

Of greatest interest to the task force has been resolving the live prisoner question. Conclusive evidence has not yet been obtained, but information available precludes ruling out the possibility. Personally, I believe there are live American POWs in Southeast Asia; however, as of this moment, there is not the verified, credible evidence to support taking the actions necessary—military or otherwise—to bring them home. And, every day that passes diminishes the chances of survival. I also believe there are live unaccounted for Americans in Southeast Asia.

Despite the level of joint activity, results in the past 6 months have been disappointing. It is important to recognize that an increased level of activity is not a substitute for results. Accountability can only be achieved on the basis of convincing evidence. Thus far, the greatest results have been obtained through unilateral Vietnamese repatriations of remains. And, even these have not been as productive as they could be. Frankly, we know that the Vietnamese continue to maintain—and I hate to use this terminology but it is the most expressive—a warehouse or stockpile of American servicemen's remains. Opening this warehouse would go a long way to resolving many cases. So, too, could better access to battlefields and the sharing of all historical data. I'm one who believes that actions speak much louder than words. The Vietnamese need to take these kinds of actions to convince me—and you and the rest of the American public—that they stand behind their words of more serious and timely cooperation. The outcome of those actions, the results, are the most important of all.

Cooperation with Laos has been much better, though the extremely inadequate infrastructure in that country makes our work even harder. I am encouraged by the Lao Government's recent agreement to expand our program of joint cooperation into a year-round one throughout Laos. Again, though, I'll make my final judgement based on actions and results. Laos is interested in improving ties with the West and, in particular with the United States.

In Congress, there has been talk about upgrading diplomatic relations to the ambassadorial level. While we would like to encourage greater reforms in Laos and improve our ties, there are three specific humanitarian issues that I believe Congress will weigh heavily when considering any changes in United States-Lao relations. First, while we recognize that most of our men missing in Laos were lost in Vietnamese-controlled territory and the answers about them are in Hanoi, there are some purely Lao discrepancy cases that need immediate attention. While we have gotten commitments to examine two of these cases, we need real action on all of them. The second issue is narcotics. Despite the encouraging words, Laos still has a very poor record in enforcement and eradication. Like the POW/MIA issue the drug issue is also a top national concern. Human rights in Laos is the third matter. The plight of the Hmong, allegations of chemical weapon use, and reports of indiscriminate bombings need to be addressed.

The complex situation in Cambodia does exacerbate POW/MIA accounting efforts there. However, I believe that as in Laos, the answers to the majority of our Cambodian cases are to be found in Hanoi, not Phnom Penh. I know others today will comment more about efforts in Cambodia. I certainly welcome the news we just heard from Senator ROBB and commend him for his efforts.

Last month I led an international delegation to observe the Bulgarian elections. I am still amazed that in just 6 months this country, a bulwark of Stalinist communism linked to the assassination attempt on the Pope, was having its first open, multi-party elections in 45 years. Democratic opposition forces were able, by and large, to engage in a free campaign. The Communist party, which was forced to reform the country and its own structure, had changed its name to the socialists. While the Bulgarians still have a long way to go, they made some incredible first steps and I am optimistic that more reforms are on the way.

I raise this event to emphasize that all over the world—in Nicaragua, Panama, Poland, Hungary, Bulgaria, Namibia—democracy, freedom and liberty are winning. Even in the Soviet Union positive changes are occurring. I hope these events will have an impact on Vietnam. I think they will.

Vietnam's trading partners in the Warsaw Pact are no longer interested in providing aid to Vietnam, education to Vietnamese cadres, or supporting Vietnam's Communist policies. The ever-changing situation in the Soviet Union, coupled with its severe economic crisis, I think will result in less Soviet money, attention and support for Vietnam's outdated, totalitarian ways. While Vietnam has strategic value to the Soviets, the internal situation in Lithuania, Latvia, Estonia, Armenia and Soviet Central Asia have a much higher priority.

Vietnam is one of the world's poorest countries. Years ago it was more prosperous than some of its neighbors. Today, these countries like Malaysia, Indonesia and Thailand are far, far ahead. Vietnam's only real hope for survival is better relations with the West and the ASEAN countries. Vietnam should be aware though, that until our outstanding humanitarian issues—like the POW/MIA issue—are satisfactorily resolved, improved relations, and therefore its national goals, will not be realized.

These factors give me reason to be optimistic. While there are still hardliners in Vietnam's politburo who need to understand the real value of reform and cooperation on humanitarian issues, I am hopeful that other, new emerging leaders will follow the path of reform and openness so many other Communist countries have begun to travel down. Anything can happen. With all of the incredible changes in places I never would have expected, like Bulgaria, I have reason to hope that we'll soon witness similar events in Vietnam. For our sake and especially for you, the families, I hope this happens sooner, rather than later.

The real answers, as well as the obstacles, lie not here in Washington, but in Hanoi. I wish it weren't this way. I don't like or accept Vietnam's delays. They are the sole reason for our continued suffering, frustration and uncertainty. However, despite their obstacles, I do believe additional progress can be made so long as we demonstrate the same determination we have already shown. We have stuck to our positions and not given in to Hanoi's demands for political concessions. Our patience and determination is beginning to pay off. Now is not the time to start giving in.

Two other things I would like to see. I would like the awarding of POW medals to those who are rescued and returned home. Not long ago, I sponsored the amendment to the Defense Authorization Bill which provided for the POW medal. Second, as much as I am honored to serve as the chairman of the House POW/MIA Task Force, I would like to see the disbanding of this task force because we have achieved the fullest possible accounting. Similarly, as much as I appreciate the privilege to speak to you, I would hope that this could be the last league meeting and the need for the league would end.

As I have since coming to Congress in 1974, I will remain steadfast with you, the families, in my commitment to your loved ones missing in Indochina and will keep the faith. The House task force and I will not forget. Thank you.

S&L AND HUD DEBACLE STATUTE OF LIMITATIONS EXTENDED

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. CAMPBELL of California. Mr. Speaker, the American people are scandalized by the HUD scam and the S&L debacle which have wasted billions of their hard-earned dollars. My colleagues and I have been deluged by letters with a simple message: Bring the criminals involved to justice.

FIRREA contains provisions to extend the statute of limitations for crimes related to the S&L debacle. It is high time the same was done for the HUD investigations. Today I am sponsoring legislation that will extend the statute of limitations applicable to any criminal offense which was committed by an officer or employee of the Department of Housing and Urban Development between 1981 and 1988 and which was related to the activities of the Department.

Mr. Speaker, the Attorney General, Dick Thornburgh, has said that the Justice Department is investigating some 1,000 cases of possible wrongdoing at the Department of Housing and Urban Development. Six hundred Justice Department investigations have been known to be conducted by the 93 U.S. attorneys across the country.

According to Mr. Thornburgh, these cases are difficult cases, as all white-collar crimes cases are, because they involve very sophisticated schemes designed to conceal the wrongdoing that's occurred.

He also has said,

Rest assured, we're going to follow the evidence in the HUD matter as we would in any other matter to insure that people engaged in wrongdoing are brought to justice.

Mr. Speaker, my bill is an important initiative to give the Justice Department and the independent prosecutor the time needed to pursue the criminal investigations of wrongdoing at HUD, and to demonstrate the commitment of Congress to redress this debacle. The American people expect no less.

CONGRATULATIONS TO VIRGINIA ROMERO—RECIPIENT OF THE 1990 HISPANIC CHAMBER OF COMMERCE VOLUNTEER COMMUNITY AWARD

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1990

Mr. STARK. Mr. Speaker, I rise today to congratulate Mrs. Virginia Romero who has been selected to receive the Volunteer in Community Services of the Year Award. This award, which is given by the Hispanic Chamber of Commerce of Alameda County, in California's Ninth Congressional District, recognizes those individuals and organizations who set an extraordinary example for the community as both Hispanics and Californians.

Mrs. Romero is a lifelong resident of Oakland, CA. She graduated from McClymonds High School, worked as a court Spanish interpreter for Alameda County, and volunteered for a number of years as a receptionist for St. Anthony's parish, at the same time raising a family. She has been a regular volunteer for the Spanish Speaking Citizen's Foundation for the past 6 years. Since her retirement 2 years ago, she has increased her volunteer hours. She is currently maintaining a regular schedule of 8 hours on Monday, and 4 to 5 hours on Tuesday and Wednesday. The Spanish Speaking Citizen's Foundation is a nonprofit, multiservice organization incorporated in 1965. The foundation's mission is to empower the individual and the community to improve the quality of life while enhancing the Hispanic community's cultural heritage.

At the foundation, Mrs. Romero's main duties include working with the information and referral component. She has, however, also worked as a receptionist, organizer, and spokesperson for the foundation. She is bilingual and is able to assist in the front office which requires a tremendous amount of contact with both monolingual and bilingual Spanish speaking clientele. She is instrumental in administering $11,000 each year for the last 3 years for food vouchers through the United Way. This program serves low income families in the Oakland area.

Mrs. Romero has served as a positive role model for Hispanic youth and family members who seek her out for her advice and understanding. Her reliability and integrity are a source of inspiration to neighborhood youth and an asset to the foundation. Mrs. Romero provides services on a volunteer basis that would be difficult for staff to provide.

The Spanish Speaking Citizen's Foundation has come to love and respect Mrs. Romero for her caring personality, level of commitment to the community and for her longevity as a volunteer. Mrs. Romero has extended her special level of caring to the elderly, homeless, needy, and disadvantaged. Additionally, she has served as teacher, confidant, and positive role model for the hundreds of youths she has come in contact with through her activities at the foundation. Mr. Speaker, I want to take this opportunity to recognize Mrs. Virginia Romero for her steadfast dedication to

the Hispanic community and to congratulate her on her selection as the recipient of the 1990 Hispanic Chamber of Commerce Volunteer Community Service Award.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 19, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 20

9:30 a.m.
Finance
Medicare and Long-Term Care Subcommittee
To hold hearings on S. 1766, to require Medicare and Medicaid providers to make available to their patients information about living wills and other advance directives.
SD-215

Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to examine prospects for a settlement in the Cambodian peace negotiations.
SD-419

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition and Investigations Subcommittee
To hold hearings to examine concentration in the meat packing industry.
SR-332

Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Constance Horner, of the District of Columbia, to be a Member of the Board of Directors of the National Consumer Cooperative Bank.
SD-538

Governmental Affairs
To hold hearings on pending District of Columbia Superior Court nominations.
SD-342

Labor and Human Resources
To hold hearings on the nomination of Julian W. de la Rosa, of Texas, to be Inspector General, Department of Labor.
SD-430

JULY 23

9:30 a.m.
Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To hold hearings on the impact of restructuring the savings and loan industry.
SD-628

10:00 a.m.
Finance
Health for Families and the Uninsured Subcommittee
To hold hearings on problems facing hospitals and doctors who provide care to the medically uninsured.
SD-215

JULY 24

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2800, to permit telephone companies to engage in video programming.
SR-253

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 2807, to direct the Secretary of the Interior to establish and implement power operating criteria at Glen Canyon Dam, and to protect the environmental and recreational resources of Grand Canyon National Park.
SD-366

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on S. 2426, to authorize the President to designate a private nonprofit organization, the National Tree Trust Foundation, to promote tree planting and to establish rural and community tree planting and forest improvement programs.
SR-332

Appropriations
District of Columbia Subcommittee
Business meeting, to mark up proposed legislation making appropriations for fiscal year 1991 for the government of the District of Columbia.
SD-138

Judiciary
To hold hearings to examine methods for combating fraud in the savings and loan industry.
SD-226

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on H.R. 3694, to authorize reimbursement by the Secretary of the Interior of certain expenditures at the Minidoka Project, Idaho and Wyoming, S. 1118, to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District of the State of Colorado, and for the protection of fish habitat on the Conejos River, S. 1932, to provide further relief to the Vermejo Conservancy District from its repayment obligation, and S. 1590, to transfer certain rights-of-way to the Elephant Butte Irrigation District of New Mexico.
SD-366

2:30 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the nomination of Wendy L. Gramm, of Texas, to be a Commissioner of the Commodity Futures Trading Commission.
SR-332

JULY 25

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to review the methods of transporting hazardous materials and on proposed legislation authorizing funds for the Hazardous Materials Transportation Act.
SR-253

1:30 p.m.
Foreign Relations
To hold hearings on the nominations of Townsend B. Friedman, Jr., of Illinois, to be Ambassador to the People's Republic of Mozambique, Kenneth N. Peltier, of Texas, to be Ambassador to the Federal and Islamic Republic of the Comoros, and Genta H. Holmes, of California, to be Ambassador to the Republic of Namibia.
S-116, Capitol

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on S. 2044, to require that tuna products containing tuna caught by methods lethal to dolphins be labeled to inform consumers of that fact.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings to examine the findings and recommendations contained in two recent reports concerning the management and operation of the National Park Service's concessions program.
SD-366

Judiciary
Courts and Administrative Practice Subcommittee
To hold hearings on S. 2465, to revise Federal Criminal Code to establish criminal penalties for the killing of a U.S. national outside the U.S.
SD-226

Select on Indian Affairs
Business meeting, to mark up S. 1980, to provide for the repatriation of Native American groups or cultural patrimony, and S. 2340, to develop and improve child protective service programs on Indian reservations and to strengthen Indian families; to be followed by hearings on S. 2770, to establish the Indian Finance Corporation, an independent, Federally chartered financial institution in which Indian tribes would be directly involved in its administration in an effort to close the gap between the established sources of private capital and Indian country.
SR-485

JULY 26

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the current operations and future mission of the Department of Energy's national laboratories, focusing on ongoing programs at the laboratories and potential new and enhanced programs, and math and science initiatives that could utilize the expertise of the national laboratories.
SD-366

10:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 2177, to improve the collection and dissemination of information relating to the supply of winter heating fuels; and to review the Energy Information Administration's final report, An Analysis of Heating Fuel Market Behavior, 1989-90.
SD-366

JULY 27

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2521, to exchange certain lands in the State of New Mexico, S. 2527, to direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico, S. 2597, to revise the act of June 20, 1910, to clarify in the State of New Mexico authority to exchange lands granted by the United States in trust, and to validate prior land exchanges, and S. 2684, to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, New Mexico.
SD-366

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings to review the final report on the U.S.-Japan Structural Impediments Initiative (SII) talks.
SD-215

JULY 30

9:30 a.m.
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on proposed legislation to promote energy efficiency through the use of waste and recoverable materials.
SD-366

Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To resume hearings on the impact of restructuring the savings and loan industry.
SD-226

2:00 p.m.
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To continue hearings on proposed legislation to promote energy efficiency through the use of waste and recoverable materials.
SD-366

2:30 p.m.
Finance
International Trade Subcommittee
To hold hearings on the impact of environmental concerns on international trade, focusing on proposed legislation to prohibit designation of a control as a beneficiary under the U.S. Generalized System of Preferences or the Caribbean Basin Initiative unless that country has effective pollution control standards and meets those standards.
SD-215

JULY 31

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 2659, to revise and supplement Federal reclamation law to eliminate abuses of the Reclamation program, and H.R. 2567, to authorize funds for the construction of the Buffalo Bill Dam and the Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming.
SD-366

AUGUST 1

2:00 p.m.
Select on Indian Affairs
Business meeting, to mark up S. 2770, to establish the Indian Finance Corporation, an independent, Federally chartered financial institution in which Indian tribes would be directly involved in its administration in an effort to close the gap between the established sources of private capital and Indian country, and S. 2451, to establish in the Department of the Interior a Trust Counsel for Indian Assets.
SR-485

AUGUST 2

9:30 a.m.
Select on Indian Affairs
To hold joint hearings with the House Committee on Interior and Insular Affairs on provisions of H.R. 4117, to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona.
1324 Longworth Building

SEPTEMBER 12

9:00 a.m.
Select on Indian Affairs
Business meeting, to mark up S. 1554, to implement water settlements involving the Pyramid Lake Paiute Tribe, the States of California and Nevada and other parties regarding the waters of the Truckee and Carson Rivers and Lake Tahoe in Nevada and California, and H.R. 5063, to provide for the settlement of the water rights claims of the Fort McDowell Indian community in Arizona.
SR-485